

CERTIFIED MAIL

July 18, 1983

Mr. Jitsuo Ishimoto
Nichiren Sect Mission of Hawaii
P. O. Box 222
Papaikou, HI 96781

Dear Mr. Ishimoto:

Variance Application (V83-15)
Variance from Minimum Side Yard Setback Requirements
Tax Map Key 2-2-52:33

After reviewing your application and the information submitted in behalf of it, the Planning Director by this letter hereby certifies the approval of your variance request to allow the construction of a new altar house with a side yard setback of 11 feet and open clear space of 7 feet in lieu of the minimum side yard setback of 20 feet and open clear space of 14 feet as required in the Agricultural zoned district, in the Panaewa House Lots Subdivision, Waiakea, South Hilo, Hawaii.

The approval is based on the following:

VARIANCE CRITERIA NO. 1

There are special or unusual circumstances applying to the subject real property which exist to a degree that would interfere with the best use or manner of development of that property.

The subject property is relatively flat in character with the exception of a mounded area on the northeast portion of the property. This is in the location of the present and proposed altar house. The physical configuration of the mound is such that any building construction on it would require it to be located on the north-easterly portion. This is due to the slope and height of the mound itself and the physical ability of the mound to accomodate the

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proposed altar structure. The proposal to site the proposed altar house is an architectural related concept based on documented historical religious architectural site planning. In viewing historical religious architectural site planning, harmonious building-site relationships have evolved and developed with the entire site as a whole. Additionally, the orientation of primary and secondary buildings, and other environmental factors play an important design and religious significance in the development of the overall scheme. The imposition of traditional zoning requirements on this type of holistic site planning in certain instances bears an undue burden in satisfying site development goals. The placement of the proposed altar structure is based on an axial relationship with the existing church structure. This alignment and distance of the proposed structure from the side property line has been determined not to impose any negative physical, visual or social impact on the adjacent property with this design. As such, because of the religious architectural design requirements and the topographical constraints of the mounded area, the selection of the proposed building location on the mound is the most logical and most reasonable in view of the circumstances.

These considerations effect unusual circumstances with respect to the development constraints of the property. These constraints contribute to an interference with the best use or manner of development of the subject property.

VARIANCE CRITERIA NO. 2

There are no other reasonable alternatives that would resolve the difficulty.

The development design problem is not only a self-created one, but one which also results from the application of the Zoning Code's minimum sideyard setback requirements for a conditionally permitted non-agricultural use in the agricultural zone. The alternative to develop the property without the variance would cause an undue hardship on the petitioner, even if other alternatives are available. The reasonableness of alternatives are also viewed in terms of the physical, visual and social impact to the general public and the adjacent and surrounding properties. In this particular case, the physical location of the proposed altar structure is based on religious architectural site development criteria. While religious beliefs in and of itself should not be considered grounds for approval of a variance, when these beliefs are interfaced within the context of historical architectural site planning and social impact, it should be given some merit. Additionally, the proposed altar house is not intended to be used for any congregational or group type of services. Its function is more related to a symbolic structural axial relationship with the existing church structure. Thus, although it could be argued that

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there is available land area remaining to accomodate the proposed use, we have determined that the alignment based on historical temple architecture and locational requirements and proposed use of the structure itself, would be insignificant in terms of its impact to the surrounding and/or adjacent properties. Based on the foregoing considerations, we have determined that the denial of the variance would not serve as a reasonable alternative in this situation. We have also concluded that any other alternatives although available, would be excessive and unreasonable, when a more reasonable alternative is available. Therefore, because of these considerations, any design solution which would have to adhere to the minimum Zoning Code's side yard setback requirements would be unreasonable and foreclose any options in developing the property for the proposed altar house.

VARIANCE CRITERIA NO. 3

The variance shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes, and the County General Plan and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.

The granting of the variance shall be consistent with the general purpose of the Zoning District, the intent and purpose of the Zoning Code and the General Plan. The intent and purpose of the setback requirements is to ensure that air, light, physical and visual circulatory functions are available between structural developments and property lines. In this particular application, the proposed design solution will still provide a reasonable area for these functions, although it would not meet the minimum requirements imposed by the Zoning Code. Nevertheless, the proposed 11 foot side yard setback would still employ and afford the air, light, and circulatory functions that is the basis of requiring setbacks. The subject property is situated within the State Land Use Commission's "Urban" zoned district. The County General Plan designates this area for "Low Density" Uses. Low Density is rated at a density of not less than 4 units per acre. In view of the Urban and "Low Density" use designation of the General Plan, the proposed 11 feet side yard setback would be complementary to the Residential zoning setbacks. Consequently, the review of setbacks has to be afforded this planning evaluation with respect to specific types of variance requests. In this particular case, the special land use designation circumstances for the property require this balanced type of review. As such, the analysis of these issues has also concurred that the granting of the variance is consistent with the intent and purpose of the General Plan and the Zoning Code and is not considered to be materially detrimental to the public's welfare nor cause any substantial or adverse impact to the area's character or to adjoining properties.

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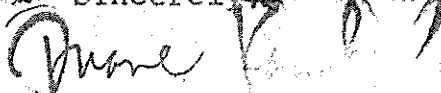
The variance request is approved, subject to the following conditions:

1. The petitioner, assigns or its successors shall be responsible for complying with all stated conditions of approval.
2. The plans for the proposed altar house be submitted for "Plan Approval" within one (1) year from the effective date of approval of the Variance Permit.
3. The construction of the proposed altar house will commence within one (1) year from the effective date of final "Plan Approval" and be completed within two (2) years thereafter.
4. The requirements of the Department of Public Works and the Department of Water Supply be complied with.
5. That the State Department of Health requirements be complied with.
6. That all other applicable Federal, State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be complied with, this variance shall be automatically be voided.

If you have any questions on this matter, please feel free to contact us.

Sincerely,



SIDNEY M. FUKÉ
Planning Director

RHY:smn

cc: Planning Commission