

CERTIFIED MAIL

October 11, 1983

Mr. Richard Fujioka  
20 Malaai Street  
Hilo, HI 96720

Dear Mr. Fujioka:

Variance Application (V83-29)  
Variance From Minimum Front Yard Setback Requirement  
Tax Map Key 2-4-54:22

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 two-story family room and garage addition to an existing single family dwelling with a front yard setback of 30 feet in lieu of the minimum 40 feet as required by the Zoning Code in the Waiakea Lani Subdivision, Waiakea Homesteads, 2nd Series, South Hilo, Hawaii.

The approval is based on the following:

Special and Unusual Circumstances

The existing single family dwelling which was approved in 1969 is approximately 44 feet from the front property line. Since the plans for the approved dwelling are not available, nor can any record of them be found, we cannot ascertain that the future road widening setback was imposed in the approval of those plans. However, in 1973, the approval for the storage addition was approved with a 30-foot front yard setback by the Planning Department which did not include the 20-foot future road widening setback requirement. Therefore, the petitioner concluded that he could utilize this as a criteria for any future development of his property. With this understanding, the petitioner decided to design and construct a new garage and family room addition utilizing the 30-foot front yard setback.

Mr. Richard Fujioka  
Page 2  
October 11, 1983

The Hilo Community Development Plan does not recommend any urbanization of this Planning Area (Planning Area No. 25); thus, the existing roadway will suffice to serve the localized traffic and not warrant the imposition of any road widening at this time. The Transportation element of the Hilo Community Development Plan does not address nor recommends the improvement of Malaai Street to its proposed 80-foot right-of-way. In addition, the Department of Public Works does not have any plans nor projects any plans for any request to include the widening and improvement of Malaai Street in the County's Capital Improvement Program.

As such, there exists special and unusual circumstances in two respects. First, there is evidence of governmental error which imposes an unreasonable hardship on the petitioner. Secondly, there are no plans to urbanize this area in the near future and thus no time commitment from government to implement the proposed road widening of Malaai Street. Present traffic loads do not require and 80 foot right-of-way.

Thus, we have concluded that these are special and unusual circumstances which unreasonably interferes with the best manner of development of the property.

#### ALTERNATIVES

The petitioner does have other design alternatives. However, the reasonableness of these alternatives have to be weighed against the physical, visual and social impacts that the proposed addition may have in this area. The petitioner's decision to locate the addition in its proposed location is due to its functional relationship to the active living areas of the existing dwelling. The proposed family room will be connected to the living room by a stairwell. The location of the addition to any other portion of the existing dwelling would have unreasonable design constraints to deal with, in light of the location of the existing carport/storage and the existing bedroom and kitchen windows.

Thus, the proposed design is traditional in the sense, it is attempting to maintain the active from the passive areas of the dwelling. Additionally, the proposed addition is two stories, 23 by 24 feet and 1,104 square feet in size, located approximately 10 feet from the side property line and 30 feet from the front property line. It is a relatively minor and compatible structural development in light of the single family residential character of the area.

Mr. Richard Fujioka  
Page 3  
October 11, 1983

Therefore, although other alternatives are available, based on the foregoing, we have determined that the most reasonable alternative is the one proposed by the petitioner.

#### INTENT AND PURPOSES

The intent and purpose of delineating future road widening lines is to ensure that sub-standard road and street rights-of-way in the County will be provided with the adopted minimum right-of-way standards. This method of anticipatory planning strives to ensure that minimum standards for roadways adopted by the County will be implementable when and if an area is being prepared for development. 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. It is a regulatory tool which is also used in determining design compatibility and functional solutions.

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. The proposed 30-foot front yard setback off of Malaai Street would still employ and afford the air, light, and circulatory functions that is the basis of requiring setbacks. The distances from the side and front property lines is compatible with the normal single family residential setback requirements and will ensure that both the visual and physical impacts are minimized to the point where it should have a minor rather than a major impact on the area in light of the 30 feet front yard setback being granted for this variance.

Additionally, since the area is not being prepared for intensive development and government does not have an implementation schedule for the proposed road widening of Malaai Road, it would be unreasonable and excessive to impose such conditions upon the petitioner at this time.

Consequently, we have determined that the granting of the variance shall be consistent with the general purpose of the zoning district, the intent and purposes of the Zoning Code and the General Plan. The analysis of the above issues also has concurred that granting of the variance will not be materially detrimental to the public's welfare nor cause any substantial or adverse impact to the area's character or to adjoining properties.

Mr. Richard Fujioka  
Page 4  
October 11, 1983

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

- A. The petitioner, its successors or assigns, shall be responsible for complying with all stated conditions of approval.
- B. The plans for the proposed garage and family room addition shall be submitted for Building Permit approval within one year from the date of receipt of this Variance Permit.
- C. The construction of the proposed improvements shall commence and be completed within two years thereafter.
- D. All other applicable State and County rules and regulations be complied.

Should any of the above conditions not be complied with, the variance shall automatically be deemed void.

If you have any questions on this matter, please feel free to contact us at 961-8288.

Sincerely,



SIDNEY M. DUKE  
Planning Director

RHY:gs

cc: Planning Commission