

CERTIFIED MAIL

November 9, 1983

Mr. Vernon Arney
P. O. Box 2987
Kailua, Hawaii 96745

Dear Mr. Arney:

Variance Application (V83-35)
Variance from Minimum Roadway Improvement Requirements
Tax Map Key 7-3-08:66

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 creation of a 2-lot subdivision with a 16-foot wide pavement within an existing 40-foot wide right-of-way in lieu of the minimum 20-foot wide agricultural standard pavement within a minimum 50-foot wide right-of-way as required in the agricultural zoned district in Kaloko, North Kona, 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 either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available or interfere with the best use or manner of development of that property.

The proposed 2-lot subdivision will have an access via a 40-foot wide private road reserve with a pavement of 16 feet in width. These proposed lots cannot be further subdivided by

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virtue of the existing 3-acre zoning. Consequently, the traffic demands on the proposed 16-foot pavement will not be exceeded. The fact that only 4 lots will utilize the 16-foot wide pavement ensures the minimal impact in allowing the reduced roadway pavement width.

VARIANCE CRITERIA NO. 2

There are no other reasonable alternatives that would resolve the difficulty that the petitioner is claiming for the subdivision. The proposed 2-lot subdivision, with 2 other lots having access provided by the 40-foot right-of-way and the 16-foot pavement is considered reasonable. The reasonableness is determined by the minor number of lots which will be served by this roadway. As such, although it could be argued that other alternatives are available to the petitioner, the reasonableness of those alternatives have to be evaluated. As such, the imposition of the other alternatives in this particular situation, is considered to be excessive, when a more reasonable alternative is available.

VARIANCE CRITERIA NO. 3

Based on the foregoing findings, this variance would be consistent with the general purpose of the zoning district, and the intent and purpose of the Subdivision Code and the General Plan. The purpose of the minimum roadway requirements is to ensure that minimum safety standards relative to traffic and drainage are provided for. In addition, these minimum standards were designed to provide for other concerns including accommodation for adequate space for emergency vehicles to maneuver and positioning when required, and to ensure services such as mail delivery, street addresses, road maintenance, etc.

The petitioner's proposal of providing a pavement width of 16 feet will satisfy the subdivision's requirements in ensuring that access will be available to the proposed lots. Additionally, the proposed access will be similar to the minimum access requirements of residential type subdivisions.

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

1. The petitioner, its assigns or successors, shall be responsible for complying with all stated conditions of approval.

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2. The necessary construction plans showing the proposed 16-foot wide pavement within the 40-foot right-of-way shall be submitted for review and approval within 1 year from the effective date of approval of the Variance Permit.
3. The construction of the improvements in compliance with the Department of Public Works requirements shall commence within one year from the date of receipt of final approval of the construction plans and be completed within two years thereafter.
4. The requirements of the Department of Water Supply be complied with.
5. The State Department of Health requirements be complied with.
6. 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 automatically be voided.

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

Sincerely,



Sidney M. Duke
PLANNING DIRECTOR

RHY:lgv

Enclosures: Background and Findings Report

cc: Planning Commission w/enc.
Mr. Don McIntosh w/enc.

bcc: Subd. No. 83-54