

CERTIFIED MAIL

April 26, 1984

Mr. Isamu Hokama
Alumside Products, Inc.
20 Kukila Street
Hilo, Hawaii 96720

Dear Mr. Hokama:

Variance Application (V84-7)
Variance from Minimum Rear Yard Setback Requirement
Tax Map Key 2-2-58:31

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 950 square foot addition to an existing warehouse with a zero rear yard setback in lieu of the minimum 20 foot rear yard setback as required in the General Industrial zone district, in South Hilo, Hawaii.

The approval is based on the following:

Special and Unusual Circumstances

The subject property was created from a partitioning action which took place in 1965. The General Industrial zoning for the property and the Zoning Code land area requirements were adopted in December of 1967 and 1968, respectively, after the subject property was subdivided.

The subject property by design is rectangular in shape and consists of 20,000 square feet. The minimum lot size requirement for this General Industrial zone district is 1 acre. The parcel which was zoned for General Industrial uses in 1968 did not take into consideration the fact that it would be a non-conforming lot relative to the designated zoning lot size requirement. The minimum average lot width for the General Industrial zone is 100 feet. In comparison to a 20,000 square

foot lot in the Limited Industrial (ML-20) zoned district, the application of the front and rear yard setbacks of 15 feet result in a net buildable area of 17,000 square feet or 85 percent of the total lot area. For the 20,000 square foot lot in the MG-1a zoned district, the application of the 20 foot front and rear yard setbacks result in a net buildable area of 16,000 square feet or 80 percent of the total lot area. Thus, there is a difference of 1,000 square feet or 5 percent additional net buildable area, simply because of the difference in the amount of setbacks required. This would be so, even if the same type of industrial use were to be established in either zone.

The zoning for the subject property is General Industrial 1-acre. Because the subject property consists of only 20,000 square feet, it is also 23,560 square feet below the minimum requirement 1 acre requirement. For comparative purposes, the minimum front yard and rear yard setback of 20 feet for a typical one acre lot in the General Industrial zone would result in a net buildable area of 37,752 square feet. However, for this non-conforming lot size, the net buildable area results in 16,000 square feet or 58 percent below the net buildable area for a conforming lot. As such, in this instance, the imposition of the Industrial setbacks are based primarily on the zoning of the parcel rather than property's characteristics like lot size, lot configuration, etc. It has to be recognized that when the zoning for the area was adopted, it did not take into consideration as to whether or not the parcels which were being zoned met all of the specific zone district requirements. Based on this consideration, the petitioner is faced with some deprivation of property rights, as a result of the across the board requirements for pre-existing properties.

Therefore, these considerations affect unusual circumstances with respect to the development constraints of the property. These constraints contribute to a deprivation of substantial property rights as well as interfere with the best use or manner of development of the subject property. These factors also constitute special and unusual circumstances which necessitated the application for a variance and if denied would create unreasonable hardship on the petitioner that would deprive them of substantial property rights and interfere with the best manner of development of the subject property.

ALTERNATIVES

The alternative to further develop the property without the variance would cause undue design hardships on the petitioner, when other more reasonable alternatives are available.

Furthermore, it is determined that the denial of the variance would not serve as a reasonable alternative in this situation. The depth of 160 feet after applying the front and rear yard setbacks is not a reasonable area in which to construct a reasonable warehouse building with the necessary parking area, etc. The subject property is recognized as a "grandfathered" subdivision and a legal parcel and is not a fault of the petitioner. The development design problem is not a self-created one, but results from the application of the Zoning Code's minimum front and rear yard setback requirements on a non-conforming lot.

There is a conflicting development potential because of the non-conforming lot sizes of the subject area. Any industrial development on these particular lands in this subdivision will have site planning design difficulties because of the non-conforming lot sizes. Ideally, the minimum lot size for this zoning category is 1 acre or 43,560 square feet. The subject property is only 20,000 or less than one half of the minimum lot size required. Consequently, the feasibility and design of warehouse development does take on a different light. These physical constraints limit the development potential of the property because landscaping and parking functions must also be provided for. Because of the nature of the design development and character of this area, the proposed zero rear yard setback is the most reasonable alternative in light of the constraints and circumstances being applied to the property. Therefore, because of these considerations, any design solution which would have to adhere to the minimum Zoning Code's front and rear yard setback requirements would be unreasonable and foreclose any options in developing the property for the proposed warehouse addition.

Furthermore, any other design alternatives in resolving this issue would only be putting excessive demands upon the petitioner, when a more reasonable solution is available.

INTENT AND PURPOSES

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. In this particular application, the subject property's

rear property line abuts the Hawaiian Telephone Company's baseyard property. The nearest structure on the Hawaiian Telephone Company property is an open shed structure located approximately 50 feet from the rear property line of the subject property. There is approximately 50 feet of open space between the subject building and the structural development on the adjacent property to the east. The building development on the property to the west and the subject building are built right up to the side property line. Therefore, in this instance, the proposed warehouse addition design with no rear yard setback will not interfere with nor violate the intent and purposes of the setback provisions of the Zoning Code. The industrial character of the area, the design and siting of the existing development and the minimal physical and visual impact it reflects make the subject proposal compatible with its surroundings. Additionally, although the proposed design will not have a rear yard setback, we have determined through the site and off-site analysis that in this instance, the rear yard setback is not necessary. Additionally, the proposed warehouse addition will provide for firewall construction which will also provide fire protection functions to the adjoining rear property. Therefore, the analysis of these issues has also concurred that the granting of the variance would not be 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.

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 warehouse addition shall be submitted to the Department of Land and Natural Resources and the Planning Department for Plan Approval within one year from the effective date of approval of this Variance Permit. Final Plan Approval to be granted only after approval has been secured from the Department of Land and Natural Resources.
- C. The construction of the proposed improvements shall commence within one year from the effective date of final Plan Approval and be completed within two years thereafter.
- D. All other applicable State and County rules and regulations shall be complied with.

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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.

Sincerely,



SIDNEY M. FUKU
Planning Director

RHY:wkm
Encl.
cc: Planning Commission

bcc: Billy/PA 551