

CERTIFIED MAIL

June 17, 1985

Mr. Jeffrey M. Citron, General Manager
Captain Cook Coffee Co., Ltd.
P.O. Box 818
Captain Cook, HI 96704

Dear Mr. Citron:

Variance Application (V85-10)
Variance from Minimum Front Yard Setback Requirement
Captain Cook Coffee Co., Ltd.
Tax Map Key 8-3-03:19

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 storage room addition to an existing building with a front yard setback of 22'-0" in lieu of the minimum 30'-0" front yard as required in the Agricultural zone district by Section 25-156(a)(1) of the Zoning Code in Kahauleoa 2nd, South Kona, Hawaii, TMK: 8-3-03:19.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property which exists to a degree which deprives the petitioner of substantial property rights that would otherwise be available or interfere with the best use or manner of development of the property.

There exist on the property an existing building to which the storage addition is proposed. The present building is non-conforming since it does not meet with the present 30-foot front yard setback requirement. The petitioner proposes to add to this existing non-conforming building maintaining the present building line fronting the highway.

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Although there is adequate land to construct the proposed addition, the topography (severe slope) of the property is such that in order to construct the addition to the present grade of the existing structure, extensive filling and construction of a retaining wall would be required.

Further, the use of the facility relies heavily on the vehicular traffic for loading and unloading of coffee. Without constructing the retaining walls and doing an extensive filling, the addition would be of no-use.

Based on the foregoing, it has been determined that there are special and unusual circumstances applying to the subject property which exists to a degree which deprives the owner of substantial property rights that would otherwise be available or which unreasonably interferes with the best use or manner of development of the property.

ALTERNATIVES

There are no reasonable design alternatives. As noted previously, the building could be designed to meet with the 30'-0" front yard setback. However, in doing so, due to the severe topographical condition (land slopes down from the highway) a retaining wall and extensive filling must be done in order to construct the 12' x 16' storage addition. As such, the proposed design scheme would be a reasonable alternative in light of the topographic constraints of the property. Although it could be argued that other alternatives are available to the petitioner, the reasonableness and practical application of these alternatives have to be evaluated with respect to the land characteristics and its present usage. In this particular case, the imposition of the other alternatives is considered to be excessive, when a more reasonable solution is available.

INTENT AND PURPOSE

The intent and purpose of the setback requirement is to ensure that light, air, physical and visual circulatory functions are available between the proposed addition and the front property line. It is a regulatory tool which is also used in determining design compability and functional solutions. In this particular application, the proposed solution will still provide a reasonable area for these functions, although it would not meet the minimum requirements imposed by the Zoning Code.

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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 the 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.

____ This 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. A building permit for the propose storage addition must be secured one year from the effective date of approval of this variance and shall be complied within two years thereafter.
- C. The conditions of Special Permit NO. ^{556 W6/28} ~~566~~ shall be complied with.
- D. All other applicable State and County rules and regulations shall be complied with.

Should any of the foregoing 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,


ALBERT LONO LYMAN
Planning Director

MO:lv

cc: Colbert Nozaki, DPW-Building Div. (Kona)