

CERTIFIED MAIL

February 11, 1986

Mr. Katsuyoshi Arita
195 Ainako Avenue
Hilo, Hawaii 96720

Dear Mr. Arita:

Variance Application (V85-13)
Variance from Minimum Side Yard Setback
Tax Map Key 2-5-19:60

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 side yard setback of 3 feet to an existing garage in lieu of the minimum 10 foot side yard setback requirement in the single family residential district, Punahoa 1st, South Hilo, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

The subject property which consists of 24,104 square feet is situated within the County's Single Family Residential (RS-10) zoned district. There are special and unusual circumstances related to the land which would warrant or necessitate the narrower side yard setback for the proposed 2-lot subdivision. These special circumstances are: 1) the property fronts Ainako Avenue approximately 400 feet makai of Ernest B. De Silva Elementary School entrance and which serves as the primary road access used to transport students to and from the school, in addition to servicing residents mauka (west) of the property; 2) there exists along the entire frontage of the property a drainage ditch five feet in width with an average depth of four feet; 3) the sloping topography along the west property line; and 4) the existing reinforced concrete common driveway with the adjoining property located on the east side of the property which is to be used as the same access point for the proposed lot 7-B.

FEB 12 1986

Mr. Katsuyoshi Arita
Page 2
February 11, 1986

Based on these considerations, the petitioner opted to create a 2-lot subdivision with a pole located at the present driveway location to minimize the construction of an additional access off of Ainako Avenue. This would minimize the potential traffic hazard of another driveway being constructed off of the heavily traveled Ainako Avenue.

As such, these foregoing factors are considered to be special or unusual circumstances applying to the subject real property which exist either to a degree which interferes with the best use or manner of development of that property. Moreover, we have determined that there is conclusive evidence to show a deprivation of property rights which curtails or reduces existing property rights.

ALTERNATIVES

There are no other reasonable alternatives which the petitioner could use to resolve the difficulty that they are claiming for the proposed subdivision. The petitioner could have relocated the pole of proposed lot 7-B along the west property line. However, this will necessitate the construction of an additional driveway off of the heavily traveled Ainako Avenue. This could cause a potential traffic hazard.

In lieu of this, the petitioner could have revised his subdivision plan to create an easement where the proposed pole of lot 7-B is located. If this were done, there would be no need for a setback variance, however, in order to secure final subdivision approval, the easement would have to be imposed. The resultant action after the improvements were made would be no different from the flag lot concept except that as pointed out earlier, the easement concept would require that the improvements be constructed now.

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

INTENT AND PURPOSE

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 creation of the pole of the flag lot along the side of the

Mr. Katsuyoshi Arita
Page 3
February 11, 1986

garage will still provide a reasonable area for these functions since this area adjoining the garage will be utilized only as an access way. No structures will be constructed within the pole portion of the flag lot leaving in essence an open area.

Consequently, we have determined that 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 analysis of the above issues also concur 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 areas character or to adjoining properties.

The variance request is approved subject to the following conditions:

- A. The petitioner, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
- B. The subdivision plan be revised to show a minimum 5'-0" setback of the garage to the pole reducing it to 10'-0" in width. Further, a 2'-0" wide slope and shoulder easement to be denoted along the entire length of the pole to provide a 12'-0" wide access.
- C. Tentative approval be secured within one year from the date of this variance.
- 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: Mr. Philip Yoshimura
bcc: Subd. 85-22