

July 29, 1985

Mr. H. William Sewake, Manager  
Dept. of Water Supply  
County of Hawaii  
25 Aupuni Street  
Hilo, HI 96720

Dear Mr. Sewake:

Variance Application (VB5-14)  
Department of Water Supply  
Tax Map Key 2-4-06:20, Lot 1-B

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 0.5 million gallon concrete water reservoir with a rear yard setback of 15'-0" in lieu of the minimum 25 feet requirement in the Agricultural District.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

- The subject property was created by subdivision action (Subdivision No. 5181) with a land area of 28,173 square feet. Exclusive of the pole, the area of the parcel is approximately 20,800 square feet in size.

The parcel is a parallelogram in shape with a depth of approximately 110 feet. The standard 0.5 million gallon concrete reservoir is 72 feet in diameter. In applying the setback requirements of 15 feet front yard and 25 feet rear yard, the resultant minimum buildable width is 70 feet which is less than the concrete reservoir diameter.

Although the south property line is considered as the rear lot of the subject property, in applying the setback requirements to the adjoining property (TMK: 2-4-06:20) this common south property line is deemed as a side property line for that parcel.

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These factors constitute special and unusual circumstances which necessitated the application for variance and if denied would create unreasonable hardship on the petitioner that would deprive him of substantial property rights and interfere with the best manner of development of the subject property.

#### ALTERNATIVES

The petitioner has limited design alternatives for the development of this property. The design of the reservoir is a standard plan that the Department uses in all of its concrete reservoirs throughout the County. The next standard concrete reservoir (0.30 MG) has a diameter of 63 feet. This size reservoir could be placed on the property, however, due to a lesser capacity of 0.20 MG, it would have a limited capability to furnish water for future developments or growth of the area.

As such, the proposed design scheme is a reasonable alternative in light of the constraints of the property and design limitations. Although it could be argued that other alternatives are available to the petitioner, the reasonableness and practical application of those alternatives have to be evaluated with respect to the land characteristics. 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 requirements are 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 does not meet the minimum requirements imposed by the Zoning Code. However, the proposed 15'-0" setback would meet with the minimum side yard setback requirement.

Consequently, we have determined that the granting of this 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 determined 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.

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

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- A. The petitioner, its successors, or assigns, shall be responsible for complying with all stated conditions of approval.
- B. The plans for the proposed development shall be submitted for Plan Approval within one year from the effective date of approval of this Variance Permit.
- 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. A landscaping plan shall be incorporated to minimize the visual appearance of the tank.
- E. All other applicable State and County rules and regulations shall be complied with.

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,

*Hinda P. Lyman*  
for: ALBERT LONG LYMAN  
Planning Director

MO:aeb

cc: Chief Engineer