

CERTIFIED MAIL

December 11, 1985

Ms. Carol Ann Gall
75-5501 D Mamalahoa Highway
Holualoa, HI 96725

Dear Ms. Gall:

Variance Application (V85-24)
Variance From Minimum Setback Requirements
Tax Map Key 7-5-13:55

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 packing shed with a setback of 30'-0" in lieu of the minimum 100'-0" requirement in the Agricultural zoned district. The property is located on the south side of the 50-foot wide road and utility easement within the Hualalai Farms Unit I Subdivision, Hienaloli 3rd and 4th, North Kona, Hawaii, Tax Map Key: 7-5-13:55 .

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

The special circumstances related to this application is with respect to the use of the proposed building. A building of this size (30'x36'), if it was not used as a packing shed, would be permitted as an accessory building with a side yard setback of 20'-0". However, since a portion of it is to be used to sort, pack and refrigerate gardenias that are grown on the premises, the minimum setback requirement is 100'-0" from all property lines. The proposed use will not generate odor, dust, noise, or other effects which have measurable nuisance qualities beyond the property line.

Based on the foregoing, we have concluded that these are special and unusual circumstances which unreasonably interferes with the best use or manner of development of the property.

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ALTERNATIVES

The petitioner did consider alternatives for the proposed building such as meeting with the 100-foot setback requirements from all property lines. This would have resulted in the building being located over 80 feet away from the house and at a lower elevation due to the topography of the property. However, the petitioner's decision to locate the packing plant in its proposed location is primarily due to its accessibility and proximity from the existing dwelling which is occupied by the petitioner. The present farming (gardenia) and proposed packing operation will be run by the petitioner.

The proposed packing shed is a one story structure approximately 13 feet in height with a dimension of 20'x30'. The structure resembles an open type structure of which a portion could be used as a 2-car carport and the remaining area as open storage. It is located approximately 185 feet from the front property line, 130 feet from the rear property line and 30 feet from the side property line. Therefore, we have determined that the proposed packing shed structure will be a relatively minor and compatible structural development in light of the agricultural character and the area.

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 proposed packing, sorting and refrigeration of gardenia use will not create any odor, dust, noise or other effects which will have measurable nuisance qualities beyond the property line. The proposed 30-foot side yard setback would assure that the above effects will be mitigated; in addition, will still employ and afford the air, light and circulatory functions that is the basis of requiring setbacks. The distance from the side property line is more than that which is required for an accessory structure within the Agricultural zoned district.

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Consequently, we have determined that the granting of the variance will 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 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:

- A. The petitioner, its successors or assigns, shall be responsible for complying with all stated conditions of approval.
- B. The construction of the packing shed be started within one year of the date of the variance and be completed within two years thereafter.
- C. The requirements of all other governmental agencies be complied with.

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

Sincerely,



ALBERT LONO LYMAN
Planning Director

MC:aeb

encl: Background Report

cc: Planning Commission