

CERTIFIED MAIL

March 21, 1986

Mr. Ronald A. Brown
P.O. Box 1446
Kailua-Kona, HI 96745:

Dear Mr. Brown:

Variance Application (V86-3)
World Square
Tax Map Key 7-5-07:16

After reviewing the above application and the information submitted in behalf of it, the Planning Director by this letter hereby certifies the approval of the above variance request to allow the construction of a stairway within the front yard setback area with a clearspace of 3'-0" in lieu of the minimum 14'-0" requirement within the Resort-Hotel (V-.75) zone district, Kailua Village, Keopu 3rd, North Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

That there are special or unusual circumstances which apply to the subject property which exist to a degree that would otherwise be available and to a degree which obviously interferes with the best use or manner of development of the property. The existing building was constructed prior to the adoption of the Zoning Ordinance and does not meet with the setback requirements of the Resort-Hotel (V-.75) zoning district. The building is considered as a non-conforming building, since it does not meet with the minimum setback requirements. The petitioner proposes to construct a stairway from the second floor walkway to the sidewalk below within the front yard setback.

The existing building is located approximately 16 1/2 feet from the front property line (Alii Drive) with the edge of the second

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floor walkway being 12 feet from the property line. Open type projects are permitted within the front yard setback area provided that a minimum 14 foot clearspace between the edge of the project and the front property line is maintained. The existing projects are also non-conforming.

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 unreasonably interferes with the best use of the property.

ALTERNATIVES

There are no reasonable design alternatives. The stairway could be constructed within the existing building line. However, in doing so, the amount of rentable space would be reduced by the square footage that would be required for the stairway construction.

As noted above, the existing structure is non-conforming. The addition of the stairway will not change the non-conforming status of the building.

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 non-conforming status. 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 area around it. It is a regulatory tool which is also used in determining design compatibility 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.

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 has concurred that the

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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.

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. Plans shall be submitted for Plan Approval within one year of the date of approval. Construction shall commence within one year of the date of Final Plan Approval and be complied within two years thereafter.
- C. Addition landscaping shall be provided around the stairway to minimize its visual impact.
- D. All other applicable rules, regulations and requirements, including those of the Department of Public Works, shall be complied with.
- E. The applicant, its successors or assigns, shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agent under this variance permit or relating to or connected with the granting of this variance permit.

Should any of the foregoing conditions not be complied with, this variance permit 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

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