

CERTIFIED MAIL

January 28, 1987

Mr. Matt Luera  
P. O. Box 778  
Volcano, HI 96785

Dear Mr. Luera:

Variance Application (V86-46)  
Matt Luera  
Tax Map Key 1-9-08:78

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 single family dwelling with a front yard setback of 16 feet in lieu of the minimum 20-foot requirement within the Single Family Residential (RS-10) zoned districts. The subject property which consists of 14,250 square feet and identified by TMK: 1-9-08:78, is located on the south side of the 20-foot road within Haunani Tract Subdivision, approximately 950 feet west of Haunani Road, Haunani Tract, Puna, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property. The subject property has a topographic condition which limits the location of the carport. The applicant is proposing to construct a single family dwelling with a carport located on a high spot of the property. The remaining portion of the dwelling will be located over a low spot on the property. In order to meet with the 20 foot front yard setback from the paper road, a stand of ohia trees and a retaining wall for the carport floor must be constructed along the low spot of the property. There is approximately a 4 foot drop from the carport level to the adjoining ground level over which the dwelling is to be constructed.

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In addition, there are no plans or funds available to improve the 50 foot road right-of-way from which the front yard variance is being requested. This 50 foot right-of-way is considered as a paper road since there is physically no improvements on it nor can any vehicle traverse over it.

Therefore, based on the above considerations, we have determined that there are special and unusual circumstances applying to the subject property, which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use or manner of development of the subject property.

#### ALTERNATIVES

The petitioner has limited design alternatives for the development of this property. The petitioner could locate the dwelling to conform to the 20 foot front yard requirement from the paper road. However, in doing so, the petitioner would be required to construct a retaining wall along on side of the proposed carport to hold the fill and concrete floor of the carport. As such, this proposed design scheme would be a reasonable alternative in light of the topographical constraints of the property.

Another alternative would be to construct an open type carport with the edge of the roof being 14 feet from the front property line along the paper road. This alternative would not be feasible due to the climate conditions of the area.

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 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 structural developments and

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property line. 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 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 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.

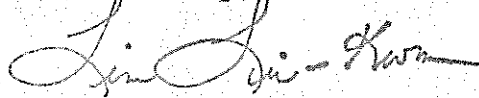
The variance request is approved, subject to the following conditions:

1. The petitioner, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. A building permit for the proposed dwelling must be secured within one year of the effective date of this variance and shall be completed within two years thereafter.
3. All other applicable State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be met, the variance shall be deemed null and void.

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

Sincerely,



for ALBERT LONO LYMAN  
Planning Director

MO:dh  
cc: Building Division