

CERTIFIED MAIL

December 29, 1986

Mr. Kerry Watson
RR 1, Box 410
Captain Cook, HI 96704

Dear Mr. Watson:

Variance Application (V86-48)
Ataraxia Farms
Tax Map Key 8-3-10:15

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 farm dwelling with a front yard setback of 15'-0" in lieu of the minimum 30'-0" requirement within the Agricultural (A-1a) zoned district. The subject property which consists of 9.966 acres and identified by TMK: 8-3-10:15 is located on the makai (west) side of Mamalahoa Highway, approximately 1,500 feet north of Honaunau Elementary School, Keel 2nd, South Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances which apply to the subject property. The petitioner is attempting to comply with both the Building Division and Planning Departments requirements in correction violations of the Building and Zoning Codes. The area where the five (5) farm dwellings are to be constructed, the average slope is approximately 18.18 percent. The construction area is limited due to existing agricultural uses (avocado orchards) and structures. Since the farm dwellings are being financed by Farmers Home Administration, certain standards of theirs regarding cut and fill sections must be complied with. In doing so, the resultant plan require that one farm dwelling be constructed a minimum of 15

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feet from the front property line. Presently existing on the property are two (2) non-conforming structures along Mamalahoa Highway. These structures are non-conforming since they do not meet with the minimum front yard setback of 30 feet.

Therefore, based on the above considerations, we have determined that there are special or 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 the property. As noted previously, the construction area is limited due to the extensive use of the property for agricultural use. The petitioner could comply with the minimum 30 foot front yard setback requirement. However, in doing so, extensive grading (cutting) or a combination of cut and fill including the construction of retaining walls must be done. As such the proposed design scheme would be a reasonable alternative. 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 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 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 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 purposes 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 the public's welfare nor cause any substantial or adverse impact to the area's character or to adjoining properties.

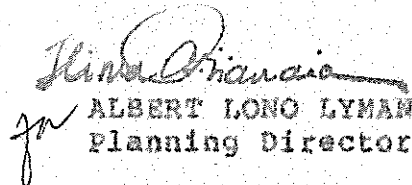
The variance request is approved, subject to the following conditions:

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 farm dwelling must be secured within one year of the effective date of the 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,


ALBERT LONO LYMAN
Planning Director

MO:dh

cc: Building Division
Building Division, Kona

bcc: William Yamanoha