

CERTIFIED MAIL

May 1, 1987

Mr. Garrett Webb
P.O. Box 632
Kailua-Kona, HI 96745-0632

Dear Mr. Webb:

Variance Application (V87-7)
Minimum Setback Requirement for Agricultural Building
Applicant: Kalaoa Gardens
Tax Map Key 7-3-23:7

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 use of the ground floor of an existing dwelling as a sales and processing area of agricultural products produced on the premises which has a front yard setback of 60 feet in lieu of the minimum 100 foot front yard requirement within the Unplanned zoned district. The subject property which consists of 22,124 square feet and identified by Tax Map Key 7-3-23:7, is located on the south side of Ahikawa Street, approximately 600 feet west (makai) of the Ahikawa/Holu Street intersection, Kona Coastview Subdivision, Kalaoa 3rd, North Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

The subject property containing a land area of 22,124 square feet was created prior to the adoption of the Zoning Ordinance (March 24, 1967) which designated the property to be within the Unplanned zoned district. The special circumstance in this particular application is with respect to the existing dwelling location and the use of the land. Due to the location of the dwelling, 60 feet from the front property line, only area that can be utilized for selling, parking and processing of the

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nursery is the 10 foot rear portion of the dwelling or the construction of a separate structure or addition that would meet with the minimum 100 foot front yard setback requirement. The applicant is proposing to utilize the existing lower level of the dwelling within the 100 foot setback requirement. The physical appearance of the dwelling will not be altered nor any nuisance (noise, smoke, odor, etc.) will be created by the proposed use.

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.

ALTERNATIVES

The petitioner does not have any other reasonable design alternatives. As noted above, the petitioner could meet with the 100 foot front yard setback requirement. However, in doing so, either a separate structure or an addition will be required to house the sales, processing and packing facility of the Agricultural products produced on the premises. This would result in a greater lot coverage and reduction in land area that could be used for the nursery operation.

The other alternative is to allow the proposed use within the existing building. This would result in no increase in building area and the utilization of an existing area (lower level) of an existing dwelling. Therefore, we have determined that this alternative proposed by the petitioner, is the most reasonable alternative.

INTENT AND PURPOSE

The intent and purpose of the setback requirement 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 used in determining design compatibility and function solutions. Although the existing dwelling does not meet the 100 foot setback requirements for an agricultural building (sales, processing and packing), it still meets with the minimum setback requirements of the Unplanned zoned district. Further, the use of the existing dwelling for the proposed agricultural use will not alter the character of or use of the dwelling and will not cause or create any nuisance (noise, odor, etc.).

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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 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 areas character or to adjoining properties.

This 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 conversion shall be secured within one year of the date of approval of this variance and shall be completed within two years thereafter.
3. All other applicable rules, regulations and requirements of the Building Division and other applicable agencies shall be complied with.
4. The sales, parking and processing activity shall be limited to only those agricultural products that are produced or grown on the premises.

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

MO:lv

cc: DPW/Building Division-Kona