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CERTIFIED MAIL

May 27, 1987

Mr. William Bonk  
P.O. Box 1648  
Kamuela, HI 96743

Dear Mr. Bonk:

Variance Application (V87-16)  
Tax Map Key 6-4-01:99

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 porch with a front yard setback of 18 feet in lieu of the minimum 30 feet as required in the Agricultural (A-40a) zoned-district. The subject property, which consists of 1.0046 acres and identified by TMK: 6-4-01:99, is located on the north side of Mamalahoa Highway and the west side of the Hawaiian Homes Commission Waimea office, Puukapu Homesteads, 1st Series, Waimea, South Kohala, 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 existing dwelling was constructed prior to the adoption of the Zoning Ordinance (Ord. No. 63) for North and South Kohala (eff. date - December 6, 1967). As such, the existing dwelling which has a front yard setback of 24'-0" is considered as a non-conforming building since it does not meet with the 30-foot front yard setback requirement. The design of the structure is such that the only location to construct the porch addition is along the front and side of the dwelling which is located within the front yard setback area.

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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 proposed development of this property. The petitioner could move the proposed entry and sun porch to conform to the setback requirement. However, in doing so, the entry porch will be of no value since its location would not serve its intended purpose. As such the proposed design scheme would be a reasonable alternative in light of the existing non-conforming condition of the existing dwelling. 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 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 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.

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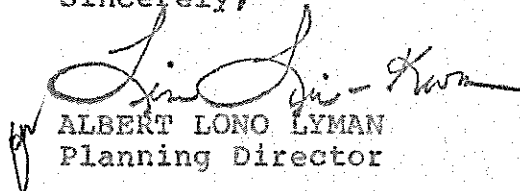
The variance request is approved subject to the following conditions:

1. The petitioner, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. A building permit for the addition must be secured within one year of the effective date of this variance request 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, this variance request may 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:lv

cc: Building Division-DPW