

CERTIFIED MAIL

August 11, 1987

Ms. Nona Marigold
1431 Terrace Drive
Reno, Nevada 89503

Dear Ms. Marigold:

Variance Application (V87-14)
Variance from Minimum Side Yard Setback Requirement
Tax Map Key 8-2-05:30

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 side yard setbacks of 5'-0" in lieu of the minimum 8'-0" side yard setback as required in the Single Family Residential (RS-10) zoned district. The subject property is 2,079 square feet in area, identified by tax map key 8-2-05:30 and is located on the west (makai) side of Beach Road (Puuhonua Road) approximately 170 feet south of the Napoopoo Road/Beach Road intersection, Waipunaula, South Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property which deprive the petitioner of substantial property rights that would otherwise be available, or which interfere with the best use or manner of development of the property.

The property, generally triangular in shape, is 27'-0" at its widest and tapers to 2'-0" at its narrowest point which is its access to the Beach Road. Its hypotenuse is about 117'-0" long. This parcel presents siting and design problems even with

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the extremely narrow dwelling, 15'-0" wide, being proposed. Compounding the buildable area problem is the narrow access point. Unless the petitioner is able to obtain permission, an easement or acquisition of more adjacent land at this point, the actual construction of a dwelling will present severe obstacles since the access point is only 24 inches and a fraction wide.

The applicant has designed a dwelling to be 15'-0" wide (by 36 1/2 feet long) considerably narrower than typical dwellings, in order to attempt to achieve a setback area of 5'-0" on both sides.

Siting of this proposed dwelling already utilizes the widest dimension. Coupled with the building's very narrow width of 15'-0", this becomes the only reasonable alternative in design and siting which still affords maximum possible light and air space to it and the adjacent properties while still permitting the property to develop to its highest and best use.

However, the building site plans show the dwelling to be situated 12'-0" from the rear boundary but the text of the application describes only the side yard variance being requested. Therefore, inasmuch as there is sufficient land area to the front (northeast) the Zoning Code standards shall apply for the rear yard setback area which is 15'-0"; the decks therefore can only extend 5'-0" into the setback area. Final building plans shall be revised to reflect this.

The Housing Code for the County has different setback standards which apply in the case of multi-story buildings such as this. A variance from the Housing Code provisions will therefore be required.

Also, present State Health Department rules require a minimum land area of 5,000 square feet in order to utilize an individual wastewater system. Therefore, a condition is imposed pertaining to this issue.

These are the special and unusual circumstances applying to the subject property which exist to a degree which deprive the owner of substantial property rights that would otherwise be available, or which unreasonably interfere with the best use or manner of development of the property.

ALTERNATIVES

There are no other reasonable design alternatives available to the applicant's use of this property, given its extreme narrowness. To require an even narrower building than its proposed 15'-0" would be unreasonable.

INTENT AND PURPOSE

The intent and purpose of the setback requirement is to ensure the subject property, as well as the adjacent ones, a certain minimum of light, air, physical and visual circulatory functions between them. Setbacks, therefore, are regulatory agency tools which assist in determining design compatibility and functional substance. In this case, the 5'-0" instead of the 8'-0" sideyards will still allow reasonable proportionate space between adjacent properties while not depriving the applicant's small property of a reasonable development potential. Overall, the resultant ground cover ratio becomes 26%.

Based on the foregoing findings, the variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the area's character and adjoining properties.

Therefore, the Planning Director has concluded that this request be approved subject to the following conditions:

1. The petitioner, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The construction within the two 5'-0" sideyard setback areas permitted by this variance shall be limited to the roof overhang as shown on the scale drawings submitted with the variance application. No other buildings shall be permitted on this parcel unless the land area is enlarged to a County standard lot size. The submitted site plan erroneously places the building and deck closer to the rear and shoreline boundary than is permitted, thus the plans shall be revised so that the entire building shall meet the 20-foot SMA shoreline setback requirements of the County, and the 15-foot exterior wall rear yard setback from the property line.

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3. Prior to or concurrent with the petitioner's seeking a building permit from the County, the applicant shall submit to this department a copy of the sewage disposal system plans for this parcel which have obtained the approval of the State Department of Health.
4. The petitioner shall acquire an easement or right-of-way at the entrance for a 12-foot wide access prior to the County's issuance of a building permit.
5. The petitioner shall file an application for a variance from the Housing Code requirements with the Board of Appeals.
6. A building permit for the dwelling must be secured within one year of the effective date of the variance and shall be completed within two years thereafter.
7. There shall be compliance by the applicant with all other applicable State and County rules and regulations.

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

DT:lv

cc: Betty Yoshikawa
Building Division-DPW