

CERTIFIED MAIL

August 10, 1987

Mr. Herbert Floyd
c/o Jay Maxner
Old Hawaii Realty
75-5719 L Alii Drive
Kailua-Kona, Hawaii 96740

Dear Mr. Floyd:

Variance Application (V87-34)
Variance Front Yard Setback Requirement
Tax Map Key 7-6-17:01

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 a 6-foot front yard setback in lieu of the required 15-foot front yard setback. The subject property is 5,625 square feet in area, identified by tax map key 7-6-17:01 and is located on the west corner of the access road (Alii Drive Realignment) to Kahakai School/25-foot road approximately 145 feet northwest of Royal Poinciana Drive, Holualoa 1st and 2nd (Beach Section), North 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 lot is small, 5,625 square feet in area, and narrow, with rectangular dimensions of 36 feet by 150 feet. Furthermore, the lot will eventually be reduced in area to 3,825

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square feet as 50 feet of its westernmost length is destined to be acquired for the new Alii Drive Realignment (currently known as the Kahakai School Road).

In the vicinity of Poinciana Drive where the applicant's parcel is located, the lots are mostly 8,000 square feet and larger in area.

The lot's southern boundary fronts a 25 foot "paper" private roadway called Mongoose Lane. Neither the lane nor the applicant's parcel will be allowed access from Kahakai School Road, according to the Department of Public Works letter to the applicant dated January 30, 1987. This will relegate the lane to an unimproved dead end (currently paper) road. Since the lane will therefore not likely extend beyond supplying a west entrance to the parcel, the lane's width will effectively serve as additional buffer space to the south for this parcel and the neighbors on the opposite side of the lane. It is the property's south front yard for which the front yard setback variance is being requested.

ALTERNATIVES

There are few alternatives to developing this lot in a manner meeting the standards of the Zoning Code due to its shallow depth of 36 feet and its eventual decrease in area when a 50 foot segment of its length (1800 square foot area) is eventually taken for the new Alii Drive Realignment.

The most reasonable solutions are to decrease the building and pertinent dimension, decrease the setback requirement, or a combination of both.

In this case, the fact that an additional buffer zone exists in the form of a right-of-way, which for all practical purposes will never be completely built as a roadway (it serves presently as a utilities easement only), adds a compelling factor to allowing the front yard variance since the effective buffer will greatly exceed the standard setback distance. Mongoose Lane, except for the width of a driveway to the lot, will lend its full width of 25 feet as an additional space along the property's front yard. The resultant effective front yard depth would become 31 feet where the code requirement is 15 feet.

INTENT AND PURPOSE

The intent and purpose of the setback requirement is to afford light, air, visual and physical spatial open area between a building and its property lines, as well as consideration of the same elements between adjacent or surrounding properties.

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In this case, granting of the variance will still maintain and in fact exceed the effect of the standard required front yard setback because of the additional 25 foot buffer accorded the situation by the existence of the Mongoose Lane roadway. Because the lane will not be allowed by the county to serve as an access to the new Allie Drive Realignment, it will serve no purpose being built and will thus become additional open space front yard for the applicant's parcel, occupied only by the existing utility poles serving surrounding dwellings.

Based on the foregoing findings, the variance requested 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 south front yard setback of 5'-0" permitted by this variance shall be limited to the roof eaves which shall not exceed 3 feet measured horizontally from the building. No other projections, such as porches, decks or balconies, shall be permitted within this front yard unless the property is enlarged to the applicable county minimum lot size.
3. No other structures shall be permitted on this parcel unless the property is enlarged to the applicable county minimum lot size.
4. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
5. 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.
6. The applicant shall comply with all other applicable State and County rules and regulations.

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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:kb

cc: Building Division