

CERTIFIED MAIL

August 10, 1987

Mr. Ken Flodstrom  
6711 Larsen Lane  
Aberdeen, Washington 98520:

Dear Mr. Flodstrom:

Variance Application (V87-15)  
Variance from Side Yard Setback  
Tax Map Key 7-8-14:12

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 6'-0" side yard setbacks in lieu of the 8'-0" requirement. The subject property is 2,918 square feet in area, identified by tax map key 7-8-14:12 and is located on the east (mauka) side of Alii Drive approximately 1000 feet north of Kahaluu Beach Park, Kahaluu, North Kona.

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 existing parcel, which is non-conforming as to size, is small, being 2,918 square foot in area, compared with the County's minimum allowable lot size under the Zoning Code of 7,500 square foot. The width dimension is 34 feet, barely half the County's minimum allowable width. Building design constraints are thus imposed on the owner which are not reflected in other nearby and surrounding properties.

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The State Department of Health furthermore requires a minimum land area of 5,000 square feet in order to permit the use of a cesspool for sewage disposal.

Based on the foregoing it has been determined that there are 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 few alternatives open to the owner. Reduced building width is the only reasonable alternative and the question thus revolves around - how narrow - can a residential dwelling be and still be considered reasonably functional in size and appearance.

Small scale single family dwellings in the County are found usually to be no less than 24 feet in width. The applicant requests that his building width be 22 feet (with 40 feet length resulting in a building area of 880 square feet), but doing so would require 6 foot side yard setbacks instead of the standard 8 feet. An 18-foot wide dwelling would otherwise be necessitated to comply with the code requirement of 8 feet side yards. An 18-foot width is considered exceptionally narrow and confining, and reason dictates that, in this situation, a 22-foot wide building is warranted. Also, because the owner has offered to forego building any of the projections, such as decks, which are normally permitted into setback areas.

#### 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 the proposed dwelling and the side property lines. The requirement also helps to determine design compatibility and functional solutions. In this situation, the proposed solution, a narrowed side yard setback (by 2 feet) will still provide a proportionately reasonable area for light, air and circulation between building and boundary. Coupled with the fact that the applicant has himself agreed not to build any extensions, such as decks, into the reduced side yard of 6 feet, the side yard setback space reduction becomes a reasonable solution. The roof overhang only will be allowed to protrude as described in the conditions imposed below.

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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 6'-0" side yard setback shall consist only of the roof overhang not to exceed 3 feet in length. No decks or other protrusions into the side yard shall be permitted.
3. The dwelling shall be a single story structure and no additional structures shall be permitted on this property unless its land area is increased to at least the County's applicable minimum standard lot size.
4. Concurrent with or prior to applying for a County building permit, the applicant shall submit to the Planning Department, a copy of the sewage disposal system plans for this property's development which have been approved by the State Department of Health.
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. 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

DT:kb

cc: Building Division

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