

CERTIFIED MAIL

November 2, 1987

Mr. Jefri A. Metheany, D.C.
P.O. Box 1462
Hilo, HI 96721

Dear Mr. Metheany:

Variance Application (V87-47)
Front Yard Setback Requirements
Tax Map Key 2-6-26:16

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 10-foot high wooden fence with no front yard setback fronting the Hawaii Belt Highway in lieu of the minimum 20 foot front yard setback required within the Single Family Residential- (RS-15) zoned district. The subject property is 13,321 square feet in area, identified by tax map key 2-6-26:16 and is located on the makai side of the Hawaii Belt Highway approximately 700 feet north (Hamakua) of the Nahala Street/Makakai Place intersection, Alae, South Hilo, 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 has its mauka (its mauka front yard) boundary up against the Hawaii Belt Highway. A consequence of its proximity to the highway is its being constantly subjected to heavy traffic noise. The most recent State Highway traffic count printed in 1984 shows 11,852 vehicles daily passing this parcel. In an 18-hour traffic day this means one vehicle every 6 seconds. Two field trips to the site resulted in an actual tally of one vehicle every 4 to 5 seconds at 11 a.m.

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Furthermore, using the department's noise meter on one inspection trip, decibel readings at the dwelling (20 feet from the highway boundary) registered 65 to 68 dB for passenger cars and 70 to 74 dB for trucks. During the infrequent lull periods, the ambient noise level was about 40 dB.

The olive trees which line the boundary are a 20'+ mass of plantings which also visually screen the houses from passing cars on the highway. To a lesser extent they partially help diffuse the traffic noise to the subdivision. A 10-foot high wooden fence as being requested would blend into the trees and would not be visible from the highway. From Makakai Place and adjacent houses, the 10-foot high wooden fence would not be visible because of either the applicant's dwelling or the near parallel angle of the adjacent homes. Besides, heavy landscaping on all the properties obscure any fence along the mauka boundary.

The proposed fence appeared to decrease the decibel level by 5 dB, when utilizing the dwelling's garage to simulate a fence.

All the dwellings on the mauka side of Makakai Place are subjected to the same noise. The continual 4 or 5 second surge of 65 to 74 dB throughout the day was found to be extremely disturbing. Also noted, 3 of the 9 dwellings on that side of the street were up for sale including the applicant's.

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 no design alternatives to the proposal which intent is to attempt to decrease the amount of traffic noise reaching the dwelling and property. More of an enclosure would probably be more effective in helping to decrease the noise level, but the applicant requests only a 10-foot height.

INTENT AND PURPOSE

The intent and purpose of the setback requirement is to ensure that light, air, and spatial relationships between a building and its property lines as well as for those of adjacent

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properties are sufficient to ensure a reasonable amount of privacy without being intrusive to neighbors. In this case, the 10-foot high wooden fence would be invisible to adjacent properties, obscured by the existing plantings, and the need for the spatial elements for the State highway are not necessary in this case.

Based on the foregoing findings, this 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 variance 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 affected setback shall be limited to the 10-foot high wooden fence as described in this variance request.
3. The buffer trees at the highway boundary shall be maintained and not be trimmed or cut below the height of the 10-foot high wooden fence as viewed from both the Hawaii Belt Highway and Makakai Place. Should said trees die or be removed or damaged, the current owner shall replace them with similar plantings.
4. The granting of this height variance shall not supercede any private restrictive covenants to the contrary which would be applicable to this parcel.
5. A building permit for the dwelling must be secured within one year of the effective date of this variance request and construction 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, this variance request shall be deemed null and void.

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If you have any questions on this matter, please feel free to contact us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Albert Lono Lyman", with a long horizontal flourish extending to the right.

ALBERT LONO LYMAN
Planning Director

DT:lv