

CERTIFIED MAIL

July 27, 1988

Mr. Duane J. Rapoza
320 Malaai Road
Hilo, HI 96720

Dear Mr. Rapoza:

Variance Application (V88-11)
Variance from Minimum Front Yard Setback Requirement
Tax Map Key 2-4-07:43

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 carport addition to an existing dwelling with a front yard setback of 30 feet in lieu of the minimum 50 foot requirement within the Agricultural (A-3a) zoned district. The subject property which consists of 5.0 acres and identified by TMK: 2-4-07:43, is located on the west side of Malaai Road approximately 800 feet north (Hamakua) of the Malaai Road/Ainaloa Drive intersection, Waiakea Homesteads, South Hilo, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

That there are special and unusual circumstances which apply to the subject property which exist to a degree which obviously interferes with the best use or manner of development of the property.

The existing single family dwelling which was constructed over 25 years ago was built prior to the adoption of the Zoning Ordinance (Ord. No. 63) for the City of Hilo which imposed a 20 foot future road widening setback line for the subject property. The building is located approximately 44 feet from the existing front property and is considered as a non-conforming building relative to setback.

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Further, area to the north side of the existing dwelling is sloping away from the house and the remaining area around the dwelling is located within Flood Zone A for which no base flood elevation has been determined. The construction of the carport along the front of the house would minimize any flood damage and is the most logical location to construct the addition due to its present design and driveway location. The addition would meet the present 30 foot front yard setback requirement if there was no future road widening setback line for Malaai Road.

Therefore, based on the above consideration, 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 does have other design alternatives. However, the reasonableness of these alternatives have to be weighed against the physical, visual and social impacts that the proposed addition may have in this area. The petitioner's decision to locate the carport addition in its proposed location is due to its functional relationship to the existing dwelling and its access into it from the carport. Although it would not meet with the minimum 50 foot front yard requirement which includes the future road widening, it does meet the minimum 30 foot front yard setback requirement of the Agricultural district. 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 PURPOSES

The intent and purpose of delineating future road widening lines is to ensure that sub-standard road and street rights-of-way in the County will be provided with the adopted minimum right-of-way standards. This method of anticipatory planning strives to ensure that minimum standards for roadways adopted by the County will be implementable when and if an area is being prepared for development. The intent and purpose of the setback requirements is to ensure that air, light, 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. The proposed 30 foot front yard setback off of Malaai Street would still employ and afford the air, light, and circulatory functions that is the basis of requiring setbacks. The distances from the side and front property lines is compatible with the normal single family residential setback requirements and will ensure that both the visual and physical impacts are minimized to the point where it should have a minor rather than a major impact on the area in light of the 30 feet front yard setback being granted for this variance.

Additionally, since the area is not being prepared for intensive development and government does not have an implementation schedule for the proposed road widening of Malaai Road, it would be unreasonable and excessive to impose such conditions upon the petitioner at this time.

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 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.

This variance request is approved, subject to the following conditions:

- A. The petitioner, its successors or assigns, shall be responsible for complying with all stated conditions of approval.
- B. The plans for the proposed garage and family room addition shall be submitted for Building Permit approval within one year from the date of receipt of this Variance Permit.
- C. The construction of the proposed improvements shall commence and be completed within two years thereafter.
- D. All other applicable State and County rules and regulations be complied with.

Should any of the above conditions not be complied with, the Planning Director may nullify this variance permit.

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

Sincerely,



ALBERT LONO LYMAN
Planning Director

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cc: Building Division-DPW