

CERTIFIED MAIL

September 1, 1988

Mr. Teaune Tominaga
State Public Works Engineer
Department of Accounting and
General Services
P.O. Box 119
Honolulu, HI 96810

Dear Mr. Tominaga:

Variance Application (V88-13)
Variance from Minimum Front Yard Setback
Tax Map Key 8-6-10:9 & 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 the construction of a 10-foot high chainlink fence along the front property line in lieu of the minimum 30-foot front yard setback as required within the Unplanned zoned district. The subject properties, which consists of 2.037 and 1.996 acres and identified by TMK: 8-6-10:9 & 12, is located on the Hookena Elementary School grounds, Kauhako, South Kona, 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 that would otherwise be available or to a degree which obviously interferes with the best use or manner of development of the property. The existing property, which contains a total land area of 4.033 acres, is below the present Department of Education requirement of 8 acres for an elementary school complex. The present buildings are located across the middle of the property with the playground area located between them and the front property

SEP 2 1988

line. The average depth of the existing playground is approximately 150 feet. Due to the present usage of the property, this area is the only area that is available for the school's recreational program. The proposed 10-foot high fence along the front of the property line would prevent balls from going onto the main highway (Mamalahoa Highway) which would create a traffic hazard. In addition by keeping the balls within the property it would eliminate the danger of students being hit by cars in retrieving errant balls that go over the existing 4-foot high fence.

Therefore, based on the above circumstances, we have determined that there are special and unusual circumstance applying to the subject property which exist either to a degree which deprives the petitioner 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 has limited design alternatives to resolve the present situation. They could construct an 8-foot high chainlink fence along the front property line without meeting with the 30-foot front yard setback requirement. However, in doing so, the petitioner would not minimize the present situation in preventing balls from going over the fence onto the highway. As such the proposed 10-foot high fence would be a reasonable alternative in light of the present situation. Although it could be argued that other reasonable 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 other alternatives is considered to be excessive, when a more reasonable solution is available.

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 structural development 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.

Mr. Teaune Tominaga
Page 3
September 1, 1988

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. Also, the analysis of the above issues have concurred that the 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 welfare or to adjoining properties.


The variance request is approved subject to the following conditions:

1. The petitioner, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. A building permit for the addition must be secured within one year of the effective date of the variance and shall be completed within two years thereafter.
3. 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 this office.

Sincerely,


ALBERT LONO LYMAN
Planning Director

MO:lv

cc: DPW-Building Division