

CERTIFIED MAIL

October 17, 1988

Ms. Jacqueline Horne
P. O. Box 840
Honokaa, HI 96727

Dear Ms. Horne:

Variance Application (V88-12)
Jacqueline Horne
Tax Map Key 4-6-02:8

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 from the Zoning Code to allow the construction of a bedroom addition to an existing single family dwelling with a side yard setback of 14'-6" in lieu of the minimum 20' requirement as required within the Agricultural (A-40a) zoned district. The subject property is 48,139 sq. ft. in area, identified by tax map key 4-6-02:08 and is located along the makai side of the Honokaa-Waipio Road and on the East (Honokaa) side of Kainapahoa Gulch, approximately 1.5 miles to the west of Honokaa (Waipio side), Kuilei 2nd, Hamakua, 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 applicant purchased the entire property from Louis Raymond on March 11, 1988, who owned it since 1986, according to the Real Property Tax Office. According to the applicant, Louis

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Raymond built the bedroom addition which is the subject of this variance application. Unfortunately, the building was constructed without a building permit and was sited within the 20 ft. side yard. The garage to which the bedroom addition is attached, was also built by Louis Raymond. While the applicant was aware of the seller's disclosure that a building permit had not been obtained for the bedroom structure, she was not aware that the garage lacked a building permit nor that a setback violation was involved until she applied for the corrective action of obtaining building permits for numerous additions which lacked them.

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.

ALTERNATIVES

One alternative is to require relocation of the structure to conform with the code requirement. This would mean moving the building 5'6" to the west. While possible, it would cost as much as constructing a new building.

Another alternative is to remove the intruding portion of the building. This would render the bedroom building unusable as it would become a 6' x 10' x 12' trapezoid.

A third alternative is to legitimize the structure by approving the variance request. This alternative can be justified provided it does not disenfranchise the neighbors who in normal circumstances must comply with a 20 ft. side yard setback for their buildings, and provided it does not subvert the purpose of the Zoning Code, General Plan and not be detrimental to the public or the area or adjoining properties.

INTENT AND PURPOSE

The intent and purpose of the Zoning Code's setback requirement is to afford light, air, circulation and spatial considerations (in a scale appropriate to the surroundings) between buildings on separate properties. Where agriculture

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zoned land is considered, a 20 ft. side yard setback is the code standard. Because of the siting of the affected building, there is only a 14'-6" side yard instead. However, the only neighbor in the area, Mrs. H. Tanaka, who is adjacent and east and who would be affected, does not object to the variance application; her dwelling is about 85 ft. away and the intervening space is filled with a dense growth of trees and plantings so that neither house is visible to the other. Otherwise, sugar cane fields surround both houses. Furthermore, the ground quickly slopes makai (north) from the highway, thus the bulk of the garage is partially hidden from view. The 5'-6" of space which is lacking from the current building's setback is not obvious to the viewer. There are no other neighbors within 1/2 mile of the applicant; it is remote. With these factors in place, the variance application meets the criteria for approval.

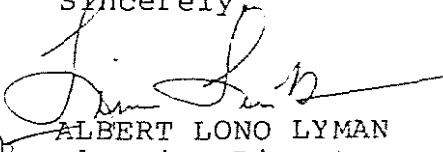
The variance request is approved, subject to the following conditions:

1. The applicant, her assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. Only maintenance and repair shall be permitted for the structures within the 20 ft. setback. No expansion of the improvements within the setback shall be permitted.
3. A building permit for the dwelling must be secured within one year of the effective date of this variance and shall be completed within two years thereafter.
4. All other applicable State and County rules and regulations including those of the Department of Health shall be complied with, including the conditions imposed in the Special Permit issued to the applicant on July 1, 1988.

Should any of the foregoing conditions not be met, this 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

MO:aeb

cc: DPW

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