

CERTIFIED MAIL

June 13, 1990

Wayne Kukita  
P.O. Box 1004  
Kealahou, HI 96750

Dear Mr. Kukita:

Variance Application (V 89-14)  
Building Setback  
Tax Map Key: 8-2-8: 37

We regret to inform you that after reviewing your application and the information presented in its behalf, the Planning Director is hereby denying your variance request. The reasons for the denial are as follows:

FINDINGS AND RECOMMENDATIONS

Having review the subject variance request, the Planning Director has concluded that the variance request to allow side setbacks for a single family residence to be 10 ft. in lieu of the required 20 ft. in an Unplanned zone district be denied.

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are not found to be the 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.

Although the subject property is unusual in shape, the lot was platted prior to departmental records being kept. However, 5 of the surrounding 10 lots in the immediate vicinity have similar characteristics, and they all have reasonable building area locations. It is possible to situate a residential dwelling on the property without encroachment into the building setbacks and therefore, property rights would not be deprived of nor would development of the property be foreclosed.

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### ALTERNATIVES

There are reasonable alternatives available to the applicant.

1. The structure could be shortened from its 40 ft. to fit the set back requirements;
2. Its shape could be an "L" or a "T" or some variation of them; or
3. It could be turned 90 degrees or less so the long axis of the lot would be more utilized. As applied for, the long axis of the dwelling would use the short axis of the lot.

Finally, there is no compelling reason given for the proposed siting. This particular lot even while meeting the 20 ft. sideyard requirement still can contain a 50 ft. wide dwelling up to 125 ft. long while centered in the wide portion of the lot if it were turned 90 degrees. Described another way, this 1,200 sq. ft. dwelling has approximately 6,000 sq. ft. of land for siting purpose on this parcel, so the applicant's choice of this precise location necessitating sideyard variances need not be solely restricted to just his preferences.

The applicant was aware of the lot's shape and dimensions when it was purchased in 1989.

### INTENT AND PURPOSE

The intent and purpose of the building setback distance is to afford a fairly consistent standard amount of open space, light, air circulation and related spatial considerations between adjacent properties at a scale appropriate to the area. In this case, Unplanned zones have a 5 acre minimum lot size with agriculture zone setbacks of 30 ft. front and rear, 20 ft. sides. The request would allow a residential size setback equivalent to RS-10, to apply to this 1.2 acre lot in this fairly remote and rural area.

By utilizing the long axis of the lot for the long axis of the structure which is a very reasonable expectation for most home builders, the 1,200 sq. ft. dwelling can readily be accommodated while respecting the agricultural setback requirements.

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The Director's decision is final, except that within thirty days after receipt of this letter, you may appeal the decision in writing to the Planning Commission in accordance with the following procedures:

1. Non-refundable filing fee of one hundred dollars (\$100);
2. Ten copies of a statement of the specific grounds for the appeal.

Should you decide to appeal, the Planning Commission shall conduct a public hearing within a period of ninety days from the date of receipt of a properly filed appeal. Within sixty days after the public hearing or within such longer period as may be agreed to by the appellant, the Planning Commission shall affirm, modify or reverse the Director's action. A decision to affirm, modify or reverse the Director's action shall require a majority vote of the total membership of the Planning Commission. A decision to defer action on the appeal shall require a majority vote of the Planning Commission members present at the time of the motion of deferral. If the Planning Commission fails to render a decision to affirm, modify, or reverse the Director's action within the prescribed period, the Director's action shall be considered as having been affirmed.

All actions of the Planning Commission are final except that, within thirty days after notice of action, the applicant or an interested party as defined in Section 25-27.2 of this article in the proceeding before the Planning Commission may appeal such action of the Board of Appeals in accordance with its rules.

All actions of the Board of Appeals are final except that they are appealable to the Third Circuit Court in accordance with Chapter 91 of the Hawaii Revised Statutes.

Should you have any questions, please feel free to contact us.

Sincerely,



DUANE KANUHA  
Planning Director.

DT:aan

Enc: Background Report

cc: Planning Commission (w/enc.)

JUN 15 1990