

CERTIFIED MAIL

January 12, 1989

Mr. William Bonk  
P.O. Box 1648  
Kamuela, HI 96743

Dear Mr. Bonk:

Variance Application (V88-24)  
Tax Map Key 6-4-001:99

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 an addition between two existing buildings with a front yard setback of approximately 20 feet in lieu of the minimum 30 feet as required in the Agricultural (A-40a) zoned district. The subject property which consists of 1.0046 acres and identified by TMK: 6-4-001:99, is located on the north side of Mamalahoa Highway and the west side of the Hawaiian Homes Commission office, Puukapu Homesteads 1st series, Waimea, South Kohala, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances which apply to the subject property. The existing dwelling and study-office/storage building were constructed prior to the adoption of the Zoning Ordinance (Ord. No. 63) for North and South Kohala (eff. date - December 6, 1967). As such, these buildings are considered to be non-conforming since they do not meet with the 30 feet front yard setback requirements. The design of the structure is such that the only reasonable location to construct the addition connecting the two buildings is to continue the existing building line fronting the private roadway which does not meet the present 30 foot setback requirement.

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Therefore, based on the above considerations, we have determined that these are special or unusual circumstances applying to the subject property which exist either to a degree which deprives the owner 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 for the proposed development of this property. The petitioner could attempt to meet with the 30 foot front yard setback requirement. However, in doing so, the existing cesspool location would limit the proposed addition to a width of approximately 14 feet which is inadequate for the intended purpose. As such the proposed design scheme would be a reasonable alternative in light of the existing non-conforming condition of the existing buildings. Although it could be argued that other alternatives may be 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 PURPOSE

The intent and purpose of the setback requirement is to ensure that light, air, 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.

Consequently, we have determined that the granting of the variance shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code and the General Plan. The analysis of the above issues also has 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 character or to adjoining properties.

The variance request is approved subject to the following conditions:

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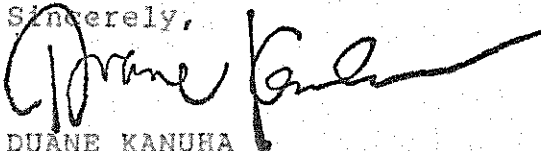
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1. The petitioner, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. A building permit for the addition must be secured within one year of the effective date of the variance and shall be completed 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, this variance request may be deemed null and void.

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

Sincerely,



DUANE KANUHA  
Acting Planning Director

MO:lv

cc: DPW-Building Division