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CERTIFIED MAIL

February 15, 1989

Mr. Joseph Mattos
563 Kaumana Drive
Hilo, HI 96720

Dear Mr. Mattos:

Variance Application (V88-32)
Variance from Minimum Front Yard Setback Requirement
Tax Map Key 2-4-06:119

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 to an existing dwelling with a front yard setback of 35 feet in lieu of the minimum 50 foot (30 feet plus 20 feet future road widening) front yard setback requirement as required within the Agricultural (A-3a) zoned district. The subject property which consists of 3.56 acres and identified by TMK: 2-4-06:119, is located on the west side of Malaai Road approximately 1,350 feet south of the Hoaka Road/Malaai Road intersection, Waiakea Homesteads, South Hilo, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

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.

When the plans for the existing dwelling was approved in 1984, the minimum front yard setback as noted on the plans was noted at 30 feet. The dwelling was constructed 35'-0" from the front property line in conformance with the approved plans.

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Final approval of the dwelling was granted on August 7, 1984, and it was assumed that the dwelling complied with all governmental regulations. The present owner (Mr. Mattos) had no knowledge of this violation since the dwelling was constructed by the prior owners (Mr. & Mrs. Darrell Lee) of the property. Therefore, the denial of the variance from the minimum front yard setback would impose an undue economic, as well as a design hardship on the applicant.

ALTERNATIVES

That there are no reasonable alternatives to resolve the difficulty. The alternative would be to relocate the entire dwelling to conform to the minimum 50 foot front yard setback requirement. This alternative would be putting an excessive demand upon the applicant, since the existing dwelling was constructed by the prior owners of the property and had the appropriate governmental approval for its existence. The action of the applicant is to legitimize the structure and to allow an addition which would maintain the existing building line and setback. In view of the above considerations, any other alternatives in resolving this issue would only be putting excessive demands upon the applicant when a more reasonable solution is available.

INTENT AND PURPOSE

The granting of the variance is consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code, and the General Plan. The intent and purpose of the setback requirements are to ensure that air, light, 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 of the Zoning Code. The proposed 35 foot front yard setback off of Malaai Road would still employ and afford the air, light and circulatory functions that are the basis of requiring setbacks.

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

Consequently, we have determined that the granting of the variance shall be consistent with the general purpose of the

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zoning district, the intent and purpose 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:

1. The applicant, its successors or assigns, shall be responsible for complying with all stated conditions of approval.
2. The plans for the proposed addition shall be submitted for building permit approval within one year from the date of receipt of this variance permit.
3. The construction of the proposed improvements shall commence and be completed within two years thereafter.
4. 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.

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

Sincerely,



DUANE KANUHA
Planning Director

MO:lv

cc: Building Division-DPW