

CERTIFIED MAIL

June 29, 1989

Mr. H. William Sewake, Manager
County Department of Water Supply
25 Aupuni Street
Hilo, Hawaii 96720

Dear Mr. Sewake:

Variance Application (V89-3)
Variance from Minimum Front Yard Setback Requirement
Tax Map Key 3-5-4:68

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 7,800 gallon steel reservoir (replacement tank) with front yard setbacks of 5-feet in lieu of the minimum 15-foot requirement (non-conforming lot) as required in the Agricultural zoned district. The subject property which consists of approximately 1,300 square feet and identified by TMK: 3-5-4:68, is located on the northwest corner of the Homestead Roads intersection, approximately 3,800 feet mauka of Laupahoehoe School, Kihalani Homesteads, North Hilo, Hawaii.

The approval is based on the following findings:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances which apply to the subject property. The corner property encompasses an area of approximately 1,300 square feet. Its width ranges from 25 to 40 feet. Presently, the minimum yard setback requirements for this size parcel are 15 feet for the front yards and 8 feet for the side yards. The existing 10,000 gallon tank with a diameter of approximately 12 feet is situated approximately 8 feet from the southwest boundary fronting the gravel road, 20 feet from the southeast boundary fronting the paved road, and 3 feet from the northwest side property line. The tank was sited near the highest point of the property due to the sloping terrain and the hydraulic conditions. As such, the applicant had to consider this topographical constraint as well as the size

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of the parcel in the design of the proposed replacement reservoir. The only reasonable area for the applicant to place the new reservoir that would maintain the same hydraulic conditions as the existing tank is toward the south corner of the parcel, resulting in a 5-foot yard setback from both front property lines and approximately 12+ feet from the south corner. In addition, the location would be closer to existing waterlines and would minimize the connection work to the new reservoir.

Therefore, based on the above considerations, we have determined that there are special or unusual circumstances applying to the subject property which exist either to a degree which deprives the owner or applicant 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 applicant has limited design alternatives for the proposed development of the subject property. The location of the proposed reservoir anywhere else on the parcel because of the topographical conditions would make it unreasonable in terms of its hydraulic conditions, waterline connection and installation costs. Further, it would be unfeasible to dismantle the existing redwood tank and install a temporary storage tank until the proposed reservoir is completed. As such, the proposed location would be a reasonable alternative as the imposition of the other alternatives is considered to be excessive.

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 which considers the location of the existing redwood tank and the proposed reservoir to the south corner of the property 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

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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 substantial or adverse impact to the area's character or to adjoining properties.

The 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. A building permit for the reservoir 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.
4. An extension of time for the performance of conditions within the Variance may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the Variance; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to nullify the Variance Permit.

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

Sincerely,



DUANE KANUHA
Planning Director

AK:lv

cc: Building Division-DPW