

CERTIFIED MAIL

October 23, 1989

Ms. Avelina Cabel  
P.O. Box 234  
Paauhau, HI 96775

Dear Ms. Cabel:

Variance Application (V89-26)  
Variance from Minimum Front Yard Setback Requirement  
Tax Map Key 4-5-10:109

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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 single family dwelling with the minimum front yard setback of 12 feet in lieu of the required minimum 20 feet for Single Family Residential (RS-10) zoned district. The subject property which consists of 16,940 square feet and identified by TMK: 4-5-10:109, is located on the west side of Plumeria Road approximately 700 feet makai of the Mamalahoa Highway/Plumeria Road intersection, Namoku, Hamakua, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances which apply to the subject property. Final subdivision approval was granted in 1985 which resulted in an irregular shaped lot consisting of 16,940 square feet. The property tapers, following a slight curve and slope, from 81.64 feet wide at the south boundary to 27.21 feet wide at the north boundary. Since the property fronts two roadways, it is considered to have two front yards. After applying the required minimum front yard setbacks of 20 feet and minimum 10 feet side yard setback, the buildable area resulted to approximately 3,600+ square feet. More than 50 percent of the land area could not be used and, as such, limits the available area for the design and construction of the proposed dwelling. Due to the irregular shaped lot, at least portion of the proposed dwelling would still encroach into the front yard setback area.

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Therefore, based on the above considerations, it has been determined that there are special and unusual circumstances which apply to the subject property which exist to a degree which deprives the applicant of substantial property rights that would otherwise be available and to a degree which obviously interferes with the best use or manner of development of the property.

#### ALTERNATIVES

There are no other reasonable design alternatives to resolve the difficulty. The alternative to revise the house plans to reduce the floor area below 2,000 square feet would be an unreasonable and burdensome solution to the applicant. Due to the irregular shaped lot and the buildable area of the subject property, the proposed design scheme with a minimum 12 feet front yard setback for the northwest corner portion of the proposed dwelling fronting the Old Honokaa-Ahualoa Government Road would be a reasonable alternative.

Although it could be argued that other alternatives are available to the applicant, 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 line. 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 20 feet front yard setback requirements imposed by the Zoning Code.

Consequently, it is determined that the granting of 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. 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 adverse impact to the area's character or to adjoining properties.

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The Planning Director has concluded that this variance request be approved subject to the following conditions:

1. The applicant, its assign or successors, shall be responsible for complying with all stated conditions of approval.
2. The construction within the front yard setback area shall be limited to only the northwest corner area of the dwelling.
3. A building permit for the dwelling must be secured within one year of the effective date of the variance and shall be completed within two years thereafter.
4. All other applicable State and County rules and regulation shall be complied with.

Should any of the foregoing conditions not be met, the variance shall be deemed null and void.

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

Sincerely,



DUANE KANUHA  
Planning Director

AK:lv

cc: Department of Public Works