

CERTIFIED MAIL

August 29, 1989

James M. McKeague, AIA  
55 Kalakaua Street  
Hilo, HI 96720

Dear Mr. McKeague:

Variance Application (V89-6)  
Applicant: Mr. and Mrs. Robert Duerr  
Front yard and Sideyard Setback  
Tax Map Key: 2-7-15:9

After reviewing your application and the information submitted on behalf of it, the Planning Director by this letter hereby certifies the approval of your variance request to allow a carport with a 15-foot front yard setback and 12-foot clearspace in lieu of a 25-foot front yard setback and 19-foot clearspace, and a 10-foot sideyard in lieu of a 15-foot sideyard at the east (makai) side of Honolii Place, approximately 450 feet south (Hilo side) of the Paukaa Drive/Honolii Place, Paukaa, South Hilo, Hawaii, TMK: 2-7-15:9.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are 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.

The land is sharply sloping between 20 and 22 percent from the roadway for approximately 125 feet of depth. At that point, the land drops vertically as a cliff down to the ocean some 25 feet below. As a result, although platted at 20,821 square feet, the useable gross area is 13,306 square feet (7,515 square feet being lost to the sea). Adding a safety factor of 20 feet from the dwelling because its proximity to the cliff (which has necessitated

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a fence) at that point, the net useable area of the lot comes to less than 10,000 square feet. The only land area available for reasonable improvement and expansion is the front which is the subject of this variance application.

This lot is also the shallowest of the thirteen (13) makai lots in this Honolii Tract subdivision which have the pali along their rear yards. Being the shallowest, its useable land area is the smallest in the neighborhood. The mauka lots are not encumbered by the pali and have more useable land.

Based on the foregoing, it has been determined that there are special and unusual circumstances applying to the subject property which exist to a degree which deprive the owner of substantial property rights that would otherwise be available or which unreasonably interfere with the best use or manner of development of the property.

#### ALTERNATIVES

There is no other lateral direction for the proposed additions to go, as the existing building is 9 and 19 feet from the two side setback lines while the front space is 35 to 37 feet. Toward the rear, the precipice is a dangerous 19 feet from the building. The desired swimming pool and covered lanai cannot be placed above the building.

#### INTENT AND PURPOSE

The intent and purpose of the setback requirements are to assure that open space, light, air, and related spatial considerations are afforded between properties and buildings in a scale proportionate to the surroundings and the immediate community's expectations and duly adopted standards.

In this case, the dwelling is on a 20,821 square foot platted lot in an RS-20 zoned district, but the only area available for reasonable expansion is toward the front, toward the 30-foot wide right-of-way named Honolii Place, a cul de sac.

The subject addition to the dwelling, swimming pool, covered lanai, and study are within the required setback area, but the proposed carport would not be. However, given the reduced size (depth) of the carport which itself is an open structure, the

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projection into the front yard setback area is considered to be a reasonable variance from the standard. It would specifically be a 15-foot front setback situation which is standard for lots of less than 10,000 square feet which is the net useable area for this parcel due to the topographical constraints inherent in the lot which are not found in this degree of severity by the other homesites in this subdivision whose average total land area is 26,700 square feet.

The open type construction of this carport will not present a mass which would protrude heavily into the front yard nor sideyard as it would be 20 feet by 20 feet in area with structural support columns instead of solid walls.

Based on the foregoing findings, the amended 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; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the area's character and adjoining properties.

The variance request is approved subject to the following conditions:

1. The petitioner, his assigns, or successors shall be responsible for complying with all stated conditions of approval.
2. The construction within the front and sideyard setback areas shall be limited to a 20' x 20' open carport as shown on the applicant's revised sketch dated July 14, 1989, where the front yard shall contain a 15-foot building setback and 12-foot clearspace, and the south sideyard shall contain a 10-foot building setback and 7-foot clearspace.
3. Heavy screening landscaping shall be planted along the front and south sideyards to obscure the building additions; said landscaping shall be subject to plan approval.
4. 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.

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5. All other applicable State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be met, the Director may proceed to declare the variance null and void.

If you have any questions on this matter, please feel free to contact Donald Tong of this office.

Sincerely,

*William L. Moore*

DUANE KANUHA  
for Planning Director

DT:syw

cc: Mr. and Mrs. Robert Duerr