

CERTIFIED MAIL

January 3, 1990

Peter and Jean Redman
75-5888 Alii Drive
Kailua-Kona, HI 96740

Dear Mr. and Mrs. Redman:

Variance Application (V89-22)
Building Setback
Tax Map Key: 9-2-107:30

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 the establishing of a processing and packing shed (for protea cultivation) 10 feet from the property line in lieu of the required 100 feet as required by the Zoning Code at a cultivated 3-acre protea farm at the southwest corner of Koa Lane and Coral Parkway in the Hawaiian Ocean View Estates Subdivision in Kahuku, Kau, Hawaii, TMK: 9-2-107:30.

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 applicant of substantial property rights that would otherwise be available or which interfere with the best use or manner of development of the property.

The side yard involved is on the middle of three adjacent lots all owned by the applicants and would be 10 feet from the bottom lot's north boundary. Also, with each of the three lots being 122'-6" wide, only 22'-6" remain to accommodate any such use and side setback. Were the subject middle and the bottom lot consolidated, the setback distance of the structure would be 133 feet, which would meet the setback requirement of 100 feet.

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Therefore, from a purely physical point of view, the packing shed would be 133 feet from the nearest neighboring property, since the subject three contiguous lots have the same owners.

Excluding the residence on the top lot (Parcel 29), the entire acreage of the three lots is used for protea planting except where the strata of blue rock has precluded cultivating.

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 are limited alternatives.

One would be to consolidate the lots. However, the applicants prefer to keep the lots as separate entities in order that any residential dwellings they may decide to build would not be complicated by the conversion of three lots or two lots into one.

Another would be to move the building site elsewhere. However, given the dimensions of the 1-acre lot to begin with, 122' x 356', even a 10-foot wide building would be at the most 56 feet from both side boundaries and would still need a variance from the 100-foot setback requirement. Additionally, it would mean taking out of production the amount of tillable land needed for the building, thereby doubling the non-productive areas which would then consist of the field of blue rock as well as the land area occupied by the building.

INTENT AND PURPOSE

The intent and purpose of the 100-foot setback requirement in this case is to limit or control the usual amount of noise, disturbances, odors and related effects inherent in packing and processing activities, from disturbing one's neighbors.

In this case, the adjacent parcel which would be 10 feet away from the packing and processing activity is also owned by

the applicants. Therefore, any deleterious effects on the adjacent affected property would be self-imposed and wholly controllable by the applicants themselves.

Granting this variance request with the conditions described below would, therefore, not constitute an action contrary to the intent of the Zoning Code.

Based on the foregoing findings, 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; 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 applicant, his assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The construction within the variance-permitted 10-foot side yard shall be limited to the 16' x 24' packing and processing structure as indicated on the site plan submitted with the application.
3. The building permit for the structure shall be secured within one year of the effective date of this variance permit and shall be completed within two years thereafter. Plan Approval for the structure must also be obtained prior to the issuing of the building permit.
4. If any of the three parcels is individually leased, sold or their ownership is otherwise transferred away from the present farm operation whose owners who are the subject applicants, then the packing and processing building on Parcel 30 shall be relocated, removed or otherwise made to conform with the Zoning Code requirements then current.
5. The location of the packing/processing building shall be permitted only for this protea farm use. Any cessation of this farm activity shall require the building to be

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relocated or otherwise conform with the Zoning Code without variances.

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

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

Sincerely,

William L. Moore

W. L. Moore
DUANE KANUHA
Planning Director

DT:syw

cc: Mr. Eugene Gorman