

CERTIFIED MAIL

March 12, 1990

Mr. Ronald Mitchell  
P.O. Box 571  
Kapaau, HI 96755

Dear Mr. Mitchell:

Variance Application (V89-39)  
Lone Palm Farm - Side Setbacks  
Tax Map Key: 5-5-08:30

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 a processing-packing shed to be located 20 feet from the property's side boundaries where the Zoning Code requires 100 feet at a 2-acre lot 300 feet northeast of a junction off Hoesa Road which is 5,700 feet north of its intersection with the Hawi-Niulii Road in Kahei, North Kohala, Hawaii, identified by Tax Map Key: 5-5-08:30.

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.

For this intensive type agricultural use, the large land area requirements such as for more traditional farm products as papaya, macadamia, oranges, are not necessary, beansprouts being cultivated indoors. Thus, the 2 acre lot is more than adequate for the product which would be grown and harvested within the confines of a building 4,000 sq. ft. in size. The typical minimum 2 acre lot's dimensions allowed by the Zoning Code today would be 140 ft. wide. This particular lot is just 91 ft. wide, having been created prior to the current Zoning Code's dimensional requirements.

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Furthermore, neither the standard typical 2 acre lot nor the subject lot would be able to contain any building required to meet the 100 ft. setback from all property lines requirement. Even a single family dwelling would have only 51 ft. of width latitude for its ground coverage placement or "footprint" siting (two 20 ft. side yards for a 91 ft. wide lot) because of the lot's existing narrow dimension.

#### ALTERNATIVES

Except by acquiring additional land from the adjacent side property owners (which would render their non-conforming lots even more so), a variance request is the only other option available to the applicant because of his lot's width. His agricultural pursuit is permitted by the Zoning Code and this alternative--seeking a variance from the regulations--is his only recourse aside from seeking a larger parcel of land which would be totally unnecessary for the product being grown and the nature of its cultivation.

#### INTENT AND PURPOSE

The intent and purpose of the regulation's 100 ft. setback requirement for packing and processing buildings is to give adjacent properties a buffer, by distance, from any noise, dust, odor, etc. which generally accompanies or is often inherent in a processing/packing plant engaged in food production. Some products, however, do not have these characteristics, and the raising and processing of beansprouts is such a one. As described by the applicant, the entire process of raising, harvesting, processing and distribution of beansprouts is a quiet, non-odorous and dust-free series of activities contained entirely within a building. Essentially, the 100 ft. buffer for this agriculture activity is found not necessary, as none of the processing stages convey any of these "disturbances" to neighboring property.

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.

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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 driveway and turnaround area shall be paved with an all-weather dust-free surface.
3. The subject building shall be limited in size to that described in the application. Siting of the building shall respect the 100 ft. front and rear setback requirements and only the side yards are permitted to be 20 ft. in this case.
4. The building shall be painted so that its surfaces are non-reflective.
5. A building permit for the packing/processing building must be secured within one year of the effective date of the variance and shall be completed within two years thereafter.
6. County water usage shall be limited to 600 gallons per day under the existing 5/8-inch water service to the lot, unless otherwise approved by the Department of Water Supply.
7. All other applicable State and County rules and regulations shall be complied with, including Plan Approval.

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 us.

Sincerely,



DUANE KANUHA  
Planning Director

DT:syw

cc: West Hawaii Planning Coordinator