

PD Var 403

CERTIFIED MAIL

September 10, 1990

Ms. Carol Jean Gilliland
P.O. Box 142
Holuualoa, HI 96725

Dear Ms. Gilliland:

Variance Application (V90-4)
Variance from Front and Side Yard Setback Requirements
Tax Map Key 7-5-01:49

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 a single family dwelling to be sited with a twenty (20) foot front yard and ten (10) foot side yard building setbacks in lieu of the required thirty (30) foot front yard and twenty (20) foot side yard building setbacks for a one (1) acre Agriculture (A-1a) zoned lot. The subject property is identified by Tax Map Key 7-5-01:49 and consists of 1.06 acre of land off of Mamalahoa Highway, 500 ft. south of Keopu Mauka Drive in Keopu 3rd, North Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject real property which exist to a degree which deprives the applicant of substantial property rights that would otherwise be available and interferes with the best use or manner of development of the property.

The subject property is situated within the 100-year flood zone as defined on the U.S. Army Corps of Engineers Flood Insurance Rate Map (FIRM). Most of the property is situated within the "AE" (flood fringe) designation, which would require certification by a registered professional engineer or architect that the flood construction requirements in accordance with Chapter 27, Hawaii County Code, have been met. A flood study would be required to make this determination.

The proposed 1,400 square foot residential structure could be situated on the southern corner of the property which is sufficiently elevated outside of the flood fringe designation if the relief from the required front and side yard setback requirements are considered.

ALTERNATIVES

In terms of other reasonable alternatives available which would resolve the difficulty, the applicant could seek the certification of a registered engineer or architect to permit the proposed dwelling to be situated within the flood fringe "AE" designation of the 100-year flood plain. A detailed flood study would be necessary to determine the extent of structural elevation and other flood proof construction requirements.

Given that the intent of designating flood prone areas is to minimize private and public losses due to flood conditions and protect human life and health, the alternative as requested by the applicant could similarly accomplish this intent.

INTENT AND PURPOSE

The granting of the variance request would be consistent with the general purpose of the zoned district, the intent and purpose of the zoning code and the General Plan, and will not be materially detrimental to the public welfare or cause substantial adverse impact to the area's character or to adjoining properties.

The purpose and applicability of the setback provisions is to afford light and air circulation, as well as to retain open space and related spatial considerations between properties and buildings in a scale commensurate with the zoned lot sizes of the surrounding neighborhood. In this case, the greater setbacks are reflective of the larger lot sizes in this zoned district.

However, it is determined that the reduction in setbacks along the front and side yards is a fair trade off in exchange for situating a residential structure outside of a designated flood fringe area, especially when the designated flood fringe area encompasses most of the subject property. From this standpoint, the public welfare is better enhanced and the reduced setbacks should not cause substantial adverse impact to the surrounding area or to adjoining properties.

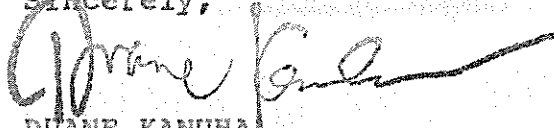
This variance request is further approved subject to the following conditions:

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1. The applicant, successors, or assigns shall be responsible for compliance with all of the stated conditions of approval.
2. No structural encroachments (eaves, cornices, canopies, porches, balconies, stairs, etc.) shall be allowed to project into either front or side yard setback areas.
3. All applicable requirements of the County Department of Public Works including the provisions of Chapter 27, if applicable, shall be complied with.
4. All other applicable State and County laws, rules, regulations, and requirements shall be complied with.

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

Sincerely,



DUANE KANUHA
Planning Director

DT/DK:lm

cc: Kona Planning Department