

CERTIFIED MAIL

February 7, 1991

Mr. Robert P. Weygand, Jr.  
75-6132 Alii Drive  
Kailua-Kona, HI 96740

Dear Mr. Weygand:

Variance Application (WHV90-1)  
Petitioner: Weygand Trust  
Variance from Minimum Sideyard Setback Requirements  
Tax Map Key: 7-5-20: 38

We regret to inform you that after reviewing your application and the information presented on its behalf, the Planning Director is hereby denying your variance request. The reasons for the denial are as follows:

SPECIAL OR UNUSUAL CIRCUMSTANCES

The terms special or unusual suggest that a variance is proper only when the property is somehow different from other property, particularly adjacent property.

The properties adjacent to parcel 38 at TMK: 7-5-20 and 7-5-35 have all been required and meet the minimum sideyard setback of 10 feet.

Although the portion of parcel 38 where the variance is requested for is described as long and narrow, the approximate width of the lot is 72 feet. The minimum building site coverage width in an RM zone is 60 feet; therefore, the approximate width of parcel 38 exceeds the required minimum width.

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Unfortunately, the physical conditions of the land are not special or unusual from other land in the general area; parcel 38 is disadvantaged by a zoning setback restriction equally with other property in the area, and issuance of a variance would be improper. The best use or manner of development of the property would not be interfered with.

#### REASONABLE ALTERNATIVES

The second floor level addition that's proposed above the existing garage can be built to meet the setback requirement of 10 feet. This alternative would reduce the floor area of the second floor level, however, not to a degree that would deny use of the habitable area. Reasonable use of the property, therefore, is not denied or substantial.

#### INTENT & PURPOSE

Granting of the variance would be inconsistent with the general purpose of the RM zone district; the intent and purpose of the Zoning Code; the County General Plan will be materially detrimental; and cause substantial, adverse impact to an area's adjoining properties.

Parcel 38 does not suffer from being a substandard lot. Constructing the proposed addition can still be built on this lot under the applicable zoning setback requirements.

The Director's decision is final, except that within thirty (30) days after receipt of this letter, you may appeal the decision in writing to the Planning Commission in accordance with the following procedures:

1. Non-refundable filing fee of one hundred dollars (\$100); and
2. Ten (10) copies of a statement of the specific grounds for the appeal.

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Should you decide to appeal, the Planning Commission shall conduct a public hearing within a period of ninety (90) days from the date of receipt of a properly filed appeal. Within sixty (60) days after the close of the public hearing or within such longer period as may be agreed to be the appellant, the Planning Commission shall affirm, modify or reverse the Director's action. A decision to affirm, modify or reverse the Director's action shall require a majority vote of the total membership of the Planning Commission. A decision to defer action on the appeal shall require a majority vote of the Planning Commission members present at the time of the motion for deferral. If the Planning Commission fails to render a decision to affirm, modify, or reverse the Director's action within the prescribed period, the Director's action shall be considered as having been affirmed.

All actions of the Planning Commission are final except that, within thirty (30) days after notice of action, the applicant or an interested party as defined in Section 25-27.2 of this article in the proceeding before the Planning Commission may appeal such action to the Board of Appeals in accordance with its rules.

All actions of the Board of Appeals are final except that they are appealable to the Third Circuit Court in accordance with Chapter 91 of the Hawaii Revised Statutes.

Should you have any questions, please feel free to contact us.

Sincerely,



NORMAN HAYASHI  
Planning Director

RHY:syw

Enclosure: Background Report

cc/enc: Planning Commission