

CERTIFIED MAIL

June 5, 1991

Mr. Jack Shoop
P.O. Box 1805
Kailua-Kona, HI 96745

Dear Mr. Shoop:

Variance Application (V90-44)
Minimum Sideyard Setback Requirement
Tax Map Key: 7-3-46:78

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 20' x 12' agriculture product processing building to be located 20 feet and 40 feet from the west and north, respectively, side boundaries in lieu of the 100 feet stipulated by the Zoning Code in an Agriculture zoned district. The subject property is 50,302 square feet in area, identified by Tax Map Key: 7-3-46:78, and is located at the east corner of Nehiwa and 'Ilau Street in the Kona Acres Subdivision, Increment A, Kalaea 5th, North Kona, Hawaii.

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.

This agriculture zoned lot tapers toward the east has four sides but almost resembles a triangle. A single family dwelling site occupies a third to the eastern portion, a citrus orchard occupies the center and the western end will contain a 28 1/2' x 96' greenhouse, on a total land area of 50,032 square feet. According to the scale-drawn plot plan and accompanying photographs, the only area remaining for a packing room is to

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the north of the greenhouse now under construction. For practical and efficiency purposes also, the packing room should be as close as possible to the greenhouse, where the sunflower sprouts are grown.

With the code requirement being 100 feet from all property lines, there is nowhere on this lot where such a structure could be located and still meet the 100-foot setback distance.

The State Department of Health has also recommended that the packing room and the products grown in the greenhouse be physically separated.

These factors make the north end of the greenhouse the only practical and reasonable available space for the 20' x 12' packing structure.

ALTERNATIVES

Because of the setback requirement of 100 feet from all property lines for such uses, there is no alternative for this parcel of land but to request a variance from that requirement due to the configuration of the subject property's small size and dimensions. Nowhere on this parcel can a 100-foot setback distance from all property lines be accommodated for a packing building. The proposed placement of the building is also the only reasonable and practical site on the lot.

INTENT AND PURPOSE

The intent and purpose of the 100-foot setback distance in this particular case from all property lines is to provide a buffer from food processing and packing noises, smells and related effects which are common characteristics of such activities. The distance generally helps minimize the effects of noise from canning, bottling, machinery, loading, smell and any odors which might be caused by the processing activity.

In this case, the packing of the sunflower sprouts products will be performed during normal work day hours and consists of hand labor for relatively noiseless operation. Hand packing them in plastic bags and placing them in coolers which would themselves be loaded onto a station wagon comprise the process performed entirely by hand. The planting, growing and harvesting of sprouts is odorless and also quiet. There are no odors emanating from these procedures. Only about 3 or 4 persons will be involved in the process, and they will work day

hours during the week. No night work is planned. Vehicles for the operation deliver up to twice a day at the most. Thus, the 100-foot "buffer," even if possible on this parcel, would not be necessary to protect the public or neighbors from any disturbances.

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.

Therefore, the Planning Director has concluded that this request be approved subject to the following conditions:

1. The applicant, its assigns or successors shall be responsible for complying with all stated conditions of approval.
2. All employees and farm-related parking shall be provided on site (off the street); the driveway to the greenhouse shall be paved from 'Ilau Street for a minimum of 20 feet in length. Driveway entrance shall be built to County standards.
3. The applicant or landowner shall be responsible for keeping the public roadway fronting the driveway free and clear of any debris or rubbish caused by the farm use and workers' vehicles.
4. Siting of the packing facility shall be as indicated on the plot plan submitted with this variance application.
5. Any future expansion of the packing facility shall be along its east-west dimension eastward where the north sideyard building setback distance shall be maintained at no less than 40 feet.
6. The packing structure, its parking and driveway shall secure plan approval within one year from the effective date of this variance approval.
7. A building permit for the packing structure must be secured within one year from the date of plan approval and shall be completed within two years thereafter.

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8. 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 initiate proceedings to revoke the permit.

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

Sincerely,



NORMAN K. HAYASHI
Planning Director

AK:mra
1999D

cc: Building Division, DPW
West Hawaii Office
Mr. Akemi Anbe