

V494

CERTIFIED MAIL

March 23, 1993

Mr. Damien Wong  
75-699 Alii Drive  
Kailua-Kona, HI 96740

Dear Mr. Wong:

Variance Application (V 92-1)  
APPLICANT: Damien Wong  
Request: Front and Side Yard Setbacks  
Tax Map Key: 7-6-17:14

As the owner since March 1990 of this extremely narrow (31 ft.) lot along a private 25 ft. wide concreted roadway, you are requesting a variance from the respective building setback requirements because of the lot's narrowness. You state that you intend to construct a 15 ft. wide dwelling wherein the front building setback distance would be 9 ft. in lieu of the required 15 ft., and 7 ft. along the lot's internal side boundary (south), in lieu of the required 8 ft. The lot contains an area of only 4,132 sq. ft., further rendering it difficult to build upon with "normal" sized structures. In attempting to make some use of the property, you are willing to build a 15 ft. wide dwelling consisting of one story (changed from two stories which you originally requested).

After reviewing your application and the information submitted in its behalf, the Planning Director by this letter hereby certifies the approval of your variance request slightly modified, to permit your proposed dwelling to be built, revised to a one story height, and sited 5 ft. from the south side boundary and 11 ft. from the front (north) boundary. 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 either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use or manner of development of that property.

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The property, zoned RS 7.5 is unusually small and exceptionally narrow, being 133 ft. long and 31 ft. deep and also a corner lot. An averaged sized modest dwelling is commonly 30 by 40 ft., and such a one could not readily fit the lot without a setback variance. Any dwelling required to meet the standard 15 ft. and 8 ft. setbacks for front and side, would result in an 8 ft. wide dwelling. The situation is indeed considered special and unusual.

Although the owner was aware of the property's dimensions and its inherent building constraints, there is no prohibition against a minimum buildable lot size, the owner has paid his real estate taxes, and the property is zoned RS-7.5.

In order for the owners of these small lots to be able to build on their lots, variances are often necessary; the lots having been created before the comprehensive zoning standards were formulated.

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.

#### ALTERNATIVES

There are no reasonable alternatives to requesting a variance from the zoning code requirements. Meeting the setback standards would result in a dwelling with a depth or width of 8 ft. (15' + 8' less width of lot, 31 ft. = 8 ft.) A house with an 8 ft. dimension is not resonable.

The adjacent property contains an apartment building already in close proximity to the subject parcel, so land acquisition is not possible.

#### INTENT AND PURPOSE

The intent and purpose of the building setback standards are to permit an adequate amount of light, air, open space and related spatial considerations between property lines and buildings.

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

1. The petitioner, his assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The building shall be one story in height and:
  - a. Not exceed 15 ft. in width.
  - b. Shall be sited with a north front yard of 11 ft.
  - c. Shall be sited with a south side yard of 5 ft.
  - d. Shall maintain no more than a 30-inch roof overhang along its variance-granted dimensions.
3. Obtain plan approval for the proposed building within one year of receipt of this variance permit; and a building permit one year thereafter.
4. All other applicable State and County rules and regulations shall be complied with.
5. Because of the proximity of the building to the road, the applicant shall:
  - a. Absolve the County of any responsibility for any damage to the structure or property occurring from any accidents or adjacent public improvements, repair or maintenance of the fronting road. Acceptance of this variance shall be considered as the applicant's immediate acceptance of this condition.
  - b. Should road widening occur, the applicant shall remove any new improvements (added beyond this date) at their own expense to the extent necessary to conform with the standard front yard requirements at that time.
  - c. Within 90 days of receipt of this variance permit, the applicant shall submit to the County, for its review, a written provision encompassing this condition 5 to be included in the deed to this property, to run with the land for as long as this variance is necessitated. Upon acceptance of the provision by the County, the applicant shall, at their own cost, promptly have the document recorded as part of the deed at the State Bureau of Conveyances and submit a copy of the recorded document to this department.

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6. All other applicable State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be met, the Planning Director may proceed with declaring this variance null and void.

Sincerely,  
*Virginia Goldstein*

VIRGINIA GOLDSTEIN  
Planning Director

DT:mjs  
8350D

xc: DPW - Engineering