

VAR 521

August 9, 1993

CERTIFIED MAIL

Mrs. Elizabeth Stack  
P.O. Box 497  
Honolulu, Hawaii 96809

Dear Mrs. Stack:

Variance Application (WHV93-3)  
Applicants: Elizabeth M. Stack  
Variance from Minimum Front Yard Setback Requirements  
Tax Map Key: 8-6-11: 1

FINDINGS AND RECOMMENDATION

After reviewing your variance application and the information submitted in behalf of it, the Planning Director hereby certifies the approval of your variance request to allow the construction of a foot bridge to an existing Agricultural Building with a 15 foot front yard open clearspace yard setback in lieu of the minimum 24 foot front yard open clearspace yard setback as required by Chapter 25 (Zoning Code), Article 1 (General Provisions), Division 10 (Supplementary Yard and Open Space Regulations), Section 25-66(a) (Projections into required yards and open spaces).

The subject property is located on the makai side of the Mamalahoa Highway approximately 1,100 feet south of the Mamalahoa Highway/Old Government Road intersection in Kalahiki, South Kona, Hawaii, TMK: 8-6-11: 1.

The Planning Director has concluded that the variance request from the minimum front yard setback requirements should be approved, based on the following findings:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum setback requirements for the proposed foot bridge to the existing two story ranch office/warehouse building.

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The subject property has a level area adjacent to the highway but approximately 15 feet inside of the property, the topography drops off approximately 8 feet. Therefore, there is a difference of approximately 8 feet in elevation between the subject property and the ground level of the existing two story structure. The design of the two story office/warehouse ranch structure is such that the construction of the foot bridge will enable and facilitate access to this portion of the building via the area adjacent to the highway. Without the foot bridge to this second floor level, access would have to be gained from a stairway and a ramping system which would allow handicapped access to the office.

Therefore, considering the foregoing facts, it is determined that there are special or unusual circumstances applying to the subject 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 the subject property.

#### ALTERNATIVES

There are no reasonable alternatives in resolving the difficulty of the applicant. Alternatives available to the petitioner include a construction of a stairway and a huge ramping system to provide access for the handicapped. This alternative is not considered viable due to the topographical constraints and changes relative to the building design. The resiting or remodeling of the improvements is economically unreasonable and would disrupt the design, function and architecture of the existing improvements.

Based on the above cited considerations, there is no reasonable available area for resiting and/or remodeling the improvements without excessive cost and undesirable design changes. Therefore while alternatives are available to the petitioner, they are deemed to be unreasonable and would place excessive demands on the petitioner when a more reasonable alternative is available by the granting of this variance application.

#### INTENT AND PURPOSE

The intent and purpose of requiring open type projections into setback areas is to allow for accessibility purposes, such as landings, porches, stairways, footbridges, etc.. The subject two story office/warehouse structure is situated below the highway elevation with a difference of approximately 8 feet.

This change in topography from approximately 15 feet inside of the property from the Highway necessitates another access alternative. Therefore, although the open clearspace between the proposed foot

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bridge and the front property line will only be 15 feet, there is deemed to be sufficient clearance between the foot bridge and the front property line at this location so as not to adversely impact the intent and spirit of allowing open type projections into the setback areas.

In this particular case, the primary impacted property would be the Highway. While the Zoning Code requires a minimum 24 foot open clearspace yard from the open projection to the front property line, in this particular case the 15 foot open clearspace is deemed to be adequate considering the topographical constraints and the fact that no properties or adjacent structures will be impacted by the granting of this variance.

In addition, the Department of Public Works had no objections to the proposed variance request.

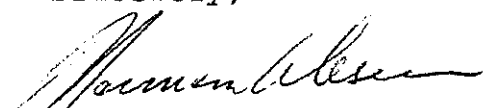
Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the areas character and to adjoining properties.

This variance request is 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. The petitioner shall be required to secure a building permit for the proposed foot bridge within one (1) year from the effective date of approval of this variance.

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

Sincerely,

  
VIRGINIA GOLDSTEIN  
Planning Director

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xc: West Hawaii Office