

✓ 504  
approve

April 23, 1993

Mr. Paul Okamoto  
680 Lama Street  
Hilo, HI 96720

Dear Mr. Okamoto:

Variance Application (V 93-8)  
Applicant: Paul Okamoto  
Proposed Building Setback  
Tax Map Key: 2-7-23: 03

You are proposing to construct a single family dwelling on a small, 4,702 square feet lot on the slope of the Puuolelo stream in Pepeekeo which you purchased in 1991. Because of the lot's size and location, you are requesting a variance from the zoning code's building setback requirements. The lot is also encumbered by a roadway easement along 3 sides of its roughly rectangular shape. You have been attempting to purchase the apparently abandoned roadway from the County or the State, but neither one admits jurisdiction. If the old road right of way could be obtained by you, you would have an extra 10 feet width of property along that north end of the lot.

Initially you were proposing a 26' x <sup>20</sup>21' dimension for the dwelling but having been apprised of the Housing Code's 5' setback requirement, you are willing to scale back the structure to meet that requirement. With the site plan you presented, the revision would mean a 16 feet deep by 26 feet long structure, or a variation of those dimensions.

Having reviewed your application and the information submitted with it, the Director has determined that the amended variance application should be approved, with conditions, for the following reasons.

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special or 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 to a degree which obviously interferes with the best use or manner of development of that property.

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The lot is unusually small and located along the banks of the flowing stream. An engineered hollow tile wall has been built as protection for any construction such as a dwelling, rendering the buildable area even smaller. Even with a very small (16' x 26' dimension) dwelling, the structure needs a variance. Thus there is a special and unusual circumstance regarding the property.

One letter of objection was received. The objector is the adjacent property owner, Christian Leialoha who claims his access to the back portion would be adversely affected. Examination by staff finds the road right of way would not be adversely affected.

#### ALTERNATIVES

Being a fully residential-taxed lot, the site is entitled to be built upon, however, with the flooding potential being a daily reminder, the lot needed and now contains a protective, engineer-designed wall above the stream, further decreasing the buildable area to such an extent that an exceptionally shallow (16 feet) house dimension is necessitated, even with a variance of 5 feet being granted.

#### INTENT AND PURPOSE

The intent and purpose of the building setback requirements are to ensure that an adequate amount of air, light, circulation and related spatial considerations are afforded between properties and buildings, especially adjacent ones. In this case, the 5 feet (in lieu of the required 15 feet) front mauka setback will still afford that adjacent property owner adequate open space, air and light between properties. Should the Leialoha's (adjacent neighbor) keep a 10 feet building setback on their property the buildings would be 35 feet apart since the intervening slope, being nearly vertical, would at the very least require a retaining wall. Furthermore, the applicant's building, in total area is destined to be exceptionally small for a dwelling, probably not much larger than 450 square feet, roughly a two-car garage.

The open space between the two above mentioned properties is only very slightly reduced by granting the variance. The overall open area and heavy stands of natural growth, trees and general surroundings will not materially disenfranchise the Leialoha property. In fact, when comparing an "average" 10,000 square feet lot on which a 2000 square feet dwelling is built, the resultant "footprint" or building to land ratio is 1 to 5. In the applicant's case, the ratio will be 1 to 10, a 450 square feet building on a 4700 square feet lot.

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Based on the foregoing, the variance request would be consistent with the general purpose of the zoning code and the county general plan and 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 petitioner, his assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The north front yard for this parcel is permitted to be 5 feet in lieu of the required 15 feet (zoning code) for the construction of a 1-story single family dwelling.
3. Obtain plan approval and a building permit within one year of the effective date of this variance permit; construction shall be completed within 2 years thereafter.
4. 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 proceed to declare the variance null and void.

Sincerely,



VIRGINIA GOLDSTEIN  
Planning Director

DT:mjh  
8824D

cc: Mr. Christian Leialoha  
Engineering