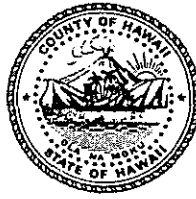


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL
P 101 317 743

October 6, 1998

Mr. Jon G. Pharis
91-1029 Kaihuopala'ai Street
Ewa Beach, Hawaii 96706

Dear Mr. Pharis:

Variance Application WH(VAR 98-53)
Variance No. 959
Applicant: JON G. PHARIS
Owner: CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS
CHRIST LATTER-DAY SAINTS
Request: Variance From Minimum Height Requirements
Tax Map Key: 7-5-003: 022

After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow a proposed steeple with a 73.0 feet height limit in lieu of the minimum 55 feet height limit, as required by Ordinance 96-160, Chapter 25, Article 5, Division 7, Section 25-5-73 and Article 4, Division 2, Section 25-4-22(a).

Please accept our sincere apologies for this tardy confirmation of the approval granted to allow the requested variance. We have been working within the department to improve the efficiency of this process which will hopefully result in more timely responses to future applications. Your patience is appreciated.

The subject property is located at 75-230 Kalani Road, Being a Portion of Lanihau 1st and Honuaula, North Kona, Hawaii, Tax Map Key: 7-5-003: 022.

SPECIAL AND UNUSAL CIRCUMSTANCES

1. The subject property consists of 7.016 acres of land area.

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2. The subject church of Jesus Christ Latter-Day Saints was issued the following building permits:
 - a. Building Permit No. 830673 opened on May 6, 1983 and closed on October 21, 1987 for the construction of a church and antenna.
 - b. Building Permit No. 861893 opened on November 13, 1986 and closed on October 6, 1988 for ceiling fans and chapel glass shading alteration.
 - c. Building Permit No. 891849 opened on July 13, 1989 for an addition to the chapel. The permit remains open.
 - d. Building Permit No. 895850 opened on July 13, 1989 for the construction of a storage area. The permit remains open.
 - e. Building Permit No. 921212 opened on June 29, 1992 and closed on December 30, 1993 for the addition of classrooms, office, storage, cultural hall and replacement of existing air conditioning.
 - f. Building Permit No. 935282 opened on March 19, 1993 and closed on December 30, 1993 for a revision to existing 2nd floor classrooms.
3. Special Permit No. 79-337 was approved by the Planning Commission on April 19, 1979 for the development of a church and related improvements.
4. The architectural renderings, site map and building plans prepared by Pharis & Associates on July 22, 1998, shows the proposed steeple with a 73.0 feet height limit in lieu of the minimum 55 feet height limit. As such the proposed steeple would protrude 18 feet into the maximum 55 feet height limit.
5. The applicant proposes to construct an additional one story structure of approximately 9,000 square feet for religious instruction and ceremonies. This structure includes the religious spire to extend beyond the allowable 55 foot height limitation. The spire is both an architectural as well as religious symbol for the church. The design elements of the building, and the pedestal are all proportionately designed to complement each other.
6. The applicant will landscape the perimeter of the building with ground cover, shrubbery and trees to enhance its setting. There is also a bank on the side of the

property which faces Queen Kaahumanu Highway. The bank contains a large kiawe tree and other plantings which the church proposes to maintain.

7. The view of Mokuaikaua Church steeple landmark would not be compromised with the proposed spire.
8. The topographical survey also indicates a portion of the parcel is located within the AE flood zone. Zone AE is defined as areas susceptible to 100 year flooding. The flood plain will not be built upon.
9. The variance application was filed with the Planning Department on August 7, 1998.

Therefore, considering the foregoing facts, the Planning Director has 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

1. The owners on their own volition are honestly trying to comply with the Zoning Code. The investigation of this particular matter has not revealed any deliberate or intentional grounds in allowing the encroachments to occur.
2. Any architectural alterations or design changes to the church to conform with the minimum height requirements would create undue and excessive hardships for the applicant when other more reasonable options are available.

Based on the above cited considerations, there are no reasonable solutions available without excessive demands being placed on the owners when a more reasonable alternative is available by the granting of this variance application.

INTENT AND PURPOSE

Section 25-4-22 (Exemptions from height limitations) states that the following structures are exempt from zoning district height limits under the specified restrictions: (a) Chimneys, spires, belfries, water tanks, monuments, steeples, antennae, flag poles, vent pipes, fans, structures housing or screening elevator machinery and other similar features, not to exceed ten feet above the governing height limit.

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The intent and purpose of requiring buildings setbacks within a subdivision is to assure that adequate air and light circulation is available between structures and property lines. The proposed steeple will protrude 18 feet into the maximum 55 feet height limit. The additional height above the fifty-five foot height limit is necessary as the spire is the religious symbol and is proportionately designed to complement the design elements of the structure. This encroachment will not diminish the ability for adequate light and air to circulate and will still provide adequate open space. Therefore, while the Zoning Code requires a minimum 55 feet height limit, in this particular case, the encroachment will not visually or physically impact or be adverse to any adjacent properties or development with the granting of this variance. The rest of the existing church complies with the minimum yard and height requirements of the Zoning Code.

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

This variance request is approved, subject to the following conditions:

1. The owner, assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The approval of this variance shall be included in the conveyance document for the subject property and a copy of the recorded conveyance document shall be submitted to the Planning Department within a year from the effective date of approval of this variance.
3. All construction must comply with Chapter 27 of the Hawaii County Code.
4. The applicant shall provide additional tree plantings, preferably in the form of palm trees on the side of the building which fronts Queen Kaahumanu Highway.
5. All other applicable State and County rules and regulations shall be complied with.

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

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Should you have any questions, please feel free to contact Royden Yamasato of this department at 327-3510.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

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xc: West Hawaii Office