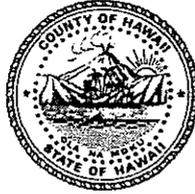


Stephen K. Yamashiro  
Mayor



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 101 318 303**

July 6, 1999

Dr. Roy M. Koga, M.D.  
1981 Komohana Extension  
Hilo, HI 96720

Dear Dr. Koga:

Variance Permit No. 1028 (VAR 99-044)

Applicant: ROY M. KOGA, M.D.

Owners: ROY M. KOGA, ETAL.

Request: Variance From Minimum Yards, and Permitted Projections Into Yards and Open Spaces, Pursuant to Chapter 25, of the Hawaii County Zoning Code

Tax Map Key: 2-4-004:153, Lot 4

After reviewing your application and the information submitted, the Planning Director certifies the approval of your variance request to permit a proposed boat shed to be constructed upon the existing concrete driveway located on the subject property with minimum side yard of 3 feet and open space of 3 feet from the affected side property lines in lieu of the minimum 20 feet side yard requirement and 14 feet clear space requirement as required by the Zoning Code, Chapter 25, Article 5, Division 7, Section 25-5-76, Minimum yards, (a), and Article 4, Division 4, Section 25-4-44, Permitted projections into yards and open spaces, respectively.

#### **FINDINGS AND RECOMMENDATION**

The Planning Director has concluded that the variance request to allow the proposed building improvements to be constructed on the subject property within the required minimum side yards and associated open space should be approved based on the following findings:

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**SPECIAL AND UNUSUAL CIRCUMSTANCES**

1. The subject property's address is 1981 Komohana Street Extension. The TMK parcel containing 3.007 acres is Lot 4 of the Haihai Homesites Subdivision, being a Portion of Grant 10,612 to Helen K. Kapela, being also a portion of Lot 1099, Waiakea Homesteads, Third Series, and situated at Waiakea, South Hilo, Hawaii. The property is zoned Agricultural (A-3a) by the County and designated Agriculture "A" by the State Land Use Commission (LUC).
2. The existing dwelling and other site improvements were constructed under three building permits issued by the Department of Public Works (DPW) in Hilo.
3. The applicant's site plan submitted with the variance application is extracted from the original approved site plan to construct the existing dwelling. The site plan submittal, is drawn to scale, and identifies the location of the existing building improvements and the proposed boat shed's location.
4. Recent photographs taken of the affected area of the existing concrete driveway located on the property were submitted with the variance application.
5. The subject TMK is subject to a flood inundation area that meanders over a portion of Lot 4 as determined from "Flood Insurance Study, Hawaii County, Federal Management Agency" (FEMA), dated September 30, 1988, and is shown on surveyor's map prepared by Clyde Kiyomi Matsunaga, Registered Land Surveyor, dated May 2, 1990.
6. The existing building improvements on the property were constructed on the property in the 1990's; and, it appears that all permitted site improvements located on the property were located outside any areas on the property which are prone to flood inundation. The proposed boat shed is proposed to be located on the existing concrete driveway which is outside the areas on the property which are prone to flood inundation.
7. The applicant's "Variance Application (ATTACHMENT)", dated May 12, 1999, states in part:

"There are no reasonable alternatives in resolving the difficulty of providing covered protection for my boat. At this time my family parks our boat on the existing concrete driveway located near the southern most corner of the property. The purpose of boat shed (sic) is for sun protection and protection

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from other adverse climate conditions. Canvas or plastic tarps used to protect the boat during prolonged storage periods have been found to be unsatisfactory. The "tarps" often break, retain moisture, and promote mildew smell and growth.

The available buildable area to park and wash the boat after use within our driveway is limited between the existing swimming pool and said corner of the property. The proposed boat shed structure will be located on the existing concrete driveway outside the flood inundation areas. The location of the existing dwelling, swimming pool, concrete driveway, and established landscaping improvements were purposely located on the usable area on the property outside the flood inundation areas designated by the Department of Public Works.

My family would like to continue to park the boat on the existing concrete driveway. The proposed boat shed's overall proportion, roof shape, and exterior building colors would be architecturally compatible with the surrounding building improvements. The proposed boat shed's location will meet minimum DPW yard requirements.

There are similar dwelling/storage building combinations adjacent Ainalako Road and within the immediate neighborhood, and, therefore, it is felt the proposed boat shed will not depreciate or detract from the character of the immediate and surrounding neighborhoods. It appears that other older garages and existing building encroachments into the minimum building yards have not visually, physically or adversely affected the rights of the property owners of the adjacent or surrounding properties. Therefore, it is felt the proposed boat shed will not detract from the character of the subdivision and the immediate neighborhood (sic) The proposed boat shed will not be considered and increase of "living area" to the existing farm dwelling located on the TMK property. Appropriate landscaping materials, fencing, or other appropriate buffers may be built or planted adjacent the boat shed later.

Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district and the intent and purpose of the Zoning Code, Subdivision Code and the County General Plan."

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8. The Department of Public Works memorandum dated May 28, 1999, states in part:

"We have reviewed the subject application and our comments are as follows:

1. All new building construction shall conform to current code requirements.
2. The minimum setbacks shall be maintained as follows: residential structures-3 ft. side, 3 ft. rear; commercial 5 ft. side, 5 ft. rear.
3. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawaii County Code.
4. A portion of the subject property is located within flood zone AH, according to the Flood Insurance Rate Map dated September 16, 1988. Any new construction within the designated flood zone will be subject to the requirements of Chapter 27-Flood Control, of the Hawaii County Code.

Should there be any questions concerning this matter, please feel free to contact Casey Yanagihara in our Engineering Division at ext. 8327."

9. The Department of Health memorandum dated May 25, 1999, states:

"The Health Department found no environmental health concerns with regulatory implication in the submittals."

10. The Department of Finance-Real Property Tax memorandum dated May 24, 1999, states in part:

"This property is being assessed at market value."

"Current Real Property taxes are paid through June 30, 1999."

11. The applicant submitted letter dated May 25, 1999, and proof of mailing of the first and second notice of the variance application to the surrounding property owners. No telephone or written objections to the subject variance application were received by the Planning Department.

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The present owner submitted a copy of a site or plot plan, drawn to scale, which identifies the location of the proposed building improvements to be built on the subject property. The site plan identifies and denotes the distances between the building supports of the proposed improvements from the affected yards and the distances between the roof eave and the affected side property lines.

Therefore, considering the foregoing facts, circumstances, and recent field inspection of the existing site and building improvements, it is felt there are special or unusual circumstances applying to the subject property which exist either to a degree which deprive the owner 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 owner. Alternatives available to the owner include constructing the proposed building improvements within the remaining buildable area prescribed by the Zoning Code. The proposed building's proportion and shape of the building improvements would be architecturally compatible to the surrounding dwellings and within the immediate neighborhood.

The Planning Department acknowledges there may be other design or building alternatives available to the owner than those recited above. However, these design and building alternatives are deemed to be unreasonable at this time and would place excessive demands on the present owner when a more reasonable alternative is available by the granting of the subject variance request.

#### INTENT AND PURPOSE

The intent and purpose of requiring building setbacks within a subdivision is to assure that adequate air and light circulation is available between permitted structure(s) and property lines. The proposed setback variances will not hinder adequate light and air circulation around the existing dwelling. Therefore, it is felt the affected areas of the proposed building improvements within the affected yards and open spaces will not detract from the character of the immediate neighborhood or the subdivision.

The subject variance application was deemed complete on May 13, 1999, and was acknowledged by certified letter dated May 20, 1999.

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

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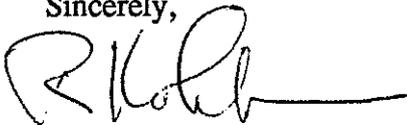
Code and the County General Plan. Furthermore, the variance request will not be materially detrimental to the public's welfare and will not cause substantial adverse impact to the area's character and to adjoining properties.

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. The effective date of this permit is June 30, 1999.
2. The approval of this variance is only from the Zoning Code. The owner, successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the owner or owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance pertaining to the construction of the proposed building addition.
3. The location of the proposed building improvements will not meet the provision of the Zoning Code regarding minimum yards and corresponding permitted projections into yards and open spaces. The applicant shall secure a building permit from the DPW-Building Division, County of Hawaii to construct the proposed boat shed as described in the variance application.
4. Future building improvements and permitted uses on the subject property shall be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

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

WRY/RK:gp

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xc: Real Property Tax Office