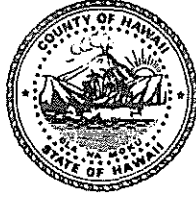


Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

August 23, 2006

Mr. Yen Wen Fang, P.E.
ENGINEERING PARTNERS, INC.
P. O. Box 4159
Hilo, HI 96720

Dear Mr. Fang:

VARIANCE-VAR 04-007

Applicant: ENGINEERING PARTNERS, INC.

**Owner: COUNTY OF HAWAII-
DEPARTMENT OF WATER SUPPLY (DWS)**

**Request: Variance from Chapter 25, Zoning
Minimum yards**

Tax Map Key: 2-7-006:022

After reviewing your application the Planning Director certifies the approval of variance-VAR 04-007 subject to variance conditions. The variance permits construction of proposed "Kaieie Booster Pump Station" building improvements including roof eaves, on subject TMK property with minimum 0.50 feet front yard, minimum 1.50 feet rear yard, and minimum 1.00 feet and minimum 3.00 feet side yards, respectively, according to revised site plan submittal. The variance is from the TMK property's minimum 15 feet front yard, minimum 15 feet rear yard, and minimum 8 feet side yards; and, the attendant minimum 10.00 feet front yard open space, minimum 10.00 feet rear yard open space, and minimum 5.00 feet side yard open space requirements, respectively, pursuant to the Hawaii County Code, Chapter 25, Zoning, Article 5, Division 7, Section 25-5-76, Minimum yards, (a), Section 25-5-77 Other regulations, and Article 4, Division 4, Section 25-4-44, Permitted projections into yards and open space requirements, (a).

BACKGROUND AND FINDINGS

1. **Location.** The subject TMK property containing approximately 0.006 acre (256.00 square feet) is a portion of Kaieie Homesteads 2nd, Series, South Hilo, Hawaii.

The non-conforming sized property is zoned Agricultural (A-10a) by the County and designated Agriculture or "A" by the Land Use Commission (LUC). The property is not within the Special Management Area (SMA).

2. **Variance Application-Site Plan.** The applicant submitted the variance application, original submittals, and filing fee on or about December 23, 2003. The variance application's original and revised site plan maps are drawn to scale and prepared by the applicant for the Kaieie Booster Pump Station Improvements. The revised site plan drawing is dated "JULY 2006" and denotes the proposed CMU building/eave and other improvements on the subject TMK property.

The applicant's original background report dated December 9, 2006 states in part:

"The variance is for locating the proposed 10' by 12' wood framed MCC building 2-4 feet from the property line. This proposed building is to house the new motor control equipment and booster pumps as required for the upgrade of the existing booster pump station. Electrical hazard is the main concern for the new equipment, this new building will provide a dry and safe environment for the DWS field workers to provide maintenance.

The space for the new building at the existing booster pump site is limited to the lot size (16' x 16'). The only available location for the MCC building will be as shown on the attached plan. The list of the property owners within the boundaries as established by Section 25-2-4 of the Zoning Code is attached."

Note: The revised variance site plan map and other drawings denote the position of the proposed 11' x 12' building and do not identify the location of the cesspool or Independent Wastewater System (IWS). The proposed booster pump building's walls will be constructed using CMU building materials. The variance request does not address the location or position of existing fencing and landscaping, etc. along or straddling common boundary lines.

3. **County Building Records:**

The subject TMK property belongs to the County of Hawaii (DWS). According to the applicant, there are existing water system (booster pump) improvements on the property.

4. **Agency Comments and Requirements-VAR 04-007:**

- a. The State Department of Health (DOH) memorandum dated January 23, 2004 states:

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

- b. The Department of Public Works (DPW) memorandum dated January 29, 2004 states:

"We have reviewed the subject application forwarded by your memo dated January 7, 2004 and have the following comments.

Approval of the application shall be conditioned as note below.

All new building construction shall conform to current code requirements.

The minimum setbacks shall be maintained as follows: residential structures-3 ft. side and 3 ft. rear; commercial structures-5 ft. side and 5 ft. rear.

One hour construction less than 5'-0" to the property line. Openings not permitted less than 5'-0" to the property line."

5. **Notice to Surrounding Property Owners.** Proof of mailing notices to surrounding property owners was submitted to the Planning Department. For the record, the first and second notices were mailed on January 8, 2004 and January 14, 2004, respectively, by the applicant. Notice of this application was published in the Hawaii Tribune Herald and West Hawaii Today on January 13, 2004.

6. **Comments from Surrounding Property Owners or Public.** No further written agency comments were received. No written comments or objections from surrounding property owners or the general public were received.

SPECIAL AND UNUSUAL CIRCUMSTANCES

The applicant, on behalf of the County of Hawaii-DWS, submitted the variance application to address the proposed improvements on the subject TMK property. The variance application's site plan map was prepared by an engineer and denotes the location of the proposed DWS improvements and existing site improvements. The buildable area within the existing is limited. The property's metes and bounds results in a lot containing only 256 square feet (16.00 feet by 16.00 feet). The intent of the proposed building is to replace the existing pump improvements and other safety reasons. The proposed improvements are intended to non-habitable and "provide a dry and safe environment for the DWS field workers".

ALTERNATIVES

Alternatives available to the applicant or the DWS to address the proposed pump station improvements include the following actions:

1. Consolidation/resubdivision of the existing TMK property with adjoining property(s) to increase the booster pump station site's area and building envelope; adjusting minimum yards, etc.
2. Relocate the proposed booster pump to another building site, etc.

INTENT AND PURPOSE

The intent and purpose of requiring building setbacks within a subdivision are to assure that adequate air circulation and exposure to light are available between permitted structure(s)/uses and boundary/property lines.

Given the limitation of the existing TMK property's size and nature of the proposed water system improvements for the County-DWS, it is felt that the proposed new non-habitable booster pump building and related site improvements within the existing TMK property will not depreciate or detract from the character of the property, neighborhood, and surrounding land patterns. Therefore, it is felt that these building encroachments or proposed minimum yards identified on the revised variance application's site plan map will not detract from the character of the immediate neighborhood or the subdivision.

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The subject variance application was acknowledged by letter dated January 7, 2004 and additional time to submit a revised site plan and other drawings of the proposed building was necessary. The applicant requested an extension of time to revised building's design and allowed for an extension of time to the Planning Director to render a decision on the variance application.

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, 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.

PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS

This variance request is approved subject to the following conditions:

1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant/owner(s), 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 applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.
2. Portions of a proposed "KAIEIE BOOSTER PUMP AND MCC BUILDING" or and other related site improvements within existing TMK property will not meet the minimum 15 feet front yard, minimum 15 feet rear yard, minimum 15 feet rear yard, and minimum 8 feet side yards and attendant minimum open yard space requirements pursuant to Chapter 25, the Zoning Code, according to the variance application's revised site plan map dated "JULY 2006". The approval of this variance permits the "KAIEIE BOOSTER PUMP STATION IMPROVEMENTS" to be constructed on the subject TMK property in accordance with the revised variance site plan map and/or approved detailed building construction plans.
4. Future or new building improvements and permitted uses within the subject TMK property shall be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

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

Sincerely,



CHRISTOPHER LYUEN
Planning Director

WRY:cd
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xc: Real Property Tax Office-(Hilo)