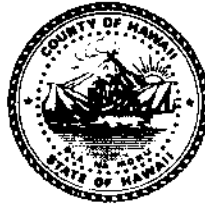


William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

January 6, 2015

Byron Harris
P. A. Harris Electric
73-5617 Maiiau Street, Suite 11 & 12
Kailua-Kona, HI 96740

Dear Mr. Harris:

SUBJECT: Application: VARIANCE – VAR-14-000244
Applicant: BYRON HARRIS/P.A. HARRIS ELECTRIC
Owners: ADAMS FAMILY TRUST
Request: Variance from Chapter 25, Zoning, Article 5, Division 7, and Section 25-5-76 Minimum Yards, Section 25-4-44, Permitted Projections into Yards and Open Space Requirements (Encroachment into the Side (South) Yard Setback)
TMK: 8-1-029:025; (Lot 173)

The Planning Director certifies the **approval** of VAR-14-000244, subject to variance conditions. The variance will allow for the installation of a ground mounted photo voltaic solar panels on Lot 173 with a 10-foot side (south) yard setback and associated side (south) yard open space in lieu of the minimum 20-foot side yard setback and 14-foot side yard open space requirement, in accordance with the Hawai'i County Code, Chapter 25, Zoning, Section 25-5-76, Minimum yards.

BACKGROUND AND FINDINGS

1. **Location.** The subject property consists of approximately 1.063 acres of land and is located in the Hokuli'a Subdivision, at Hokuli'a, South Kona, Hawai'i. The subject property's street address is 81-6426 Kalelehua Way.
2. **County Zoning.** Agricultural – 1 acre (A-1a).
3. **State Land Use.** Agricultural.
4. **Setback Requirements:** 30 feet for front and rear; 20 feet sides.

5. **Variance Application-Site Plan.** The applicant submitted the variance application, attachments, filing fee, and other submittals related to the variance application on October 15, 2014. The variance application's site plan map is drawn to scale and prepared by Max C. Onichak, Architect, and indicates that portion of the ground mounted photo voltaic solar panels built into the side (south) yard setback and side yard open space.

The site plan shows that on portions, ground mounted photo voltaic solar panels encroach 10 feet into the 20-foot side (south) yard setback and 14-foot side yard open space.

6. **County Building Records.** Hawai'i County Real Property Tax Division records indicate that a building permit (B2007-1181K) was issued on August 30, 2007, for the construction of a 4-bedroom and 4-1/2 bath, single-family dwelling.

7. **Agency Comments and Requirements:**

- a. The State Department of Health (DOH) memorandum dated November 18, 2014. (See attached)
- b. The Department of Public Works – Building Division (Kona) memorandum dated November 13, 2014.

8. **Public Notice.** The applicant submitted a copy of notice mailed to surrounding property owners (including affidavits) by U.S.P.S. According to these submittals, the first and second notice(s) were mailed on November 7, 2014. Notice of this application was published in the Hawai'i Tribune Herald and West Hawai'i Today on October 24, 2014.

9. **Time Extension.** The applicant's variance application was received on October 15, 2014 and additional time to review the application was required. The applicant granted the Planning Director an extension of time until January 15, 2015 to issue a decision on the Variance Application.

10. **Comments from Surrounding Property Owners or Public.** No written comments or objections from surrounding property owners or general public were received by the Planning Department.

GROUND FOR APPROVING VARIANCE

Special and Unusual Circumstances

- (a) *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, or to a degree which obviously interferes with the best use or manner of development of the property.*

The variance application meets criteria (a) for the following reasons:

The owner/applicant submitted the variance application to address or resolve the encroachment of the proposed photo voltaic solar panels into the 20-foot side (south) yard setback and 14-foot side yard open space as required by the Zoning Code.

The site plan prepared by Max C. Onichak, L. P. A., shows that the proposed photo voltaic solar panels encroach 10 feet into the side (south) yard setback and 4 feet into the side (south) yard open space.

The applicant has stated that the rocky terrain and foliage in the rear yard makes it difficult to run the necessary conduit and wiring to the back of the house. The side yard is clear and level and will make it easier to connect the electrical wiring to the single-family dwelling.

Therefore, special circumstances exist which justify the current placement of the Photo Voltaic Solar Panels and requiring movement would interfere with the best use of the property.

Alternatives

(b) *There are no other reasonable alternatives that would resolve the difficulty.*

The variance application meets criterion (b) for the following reasons:

Alternatives available to the current owners to address the photo voltaic solar panels encroachments constructed into the affected side yard of the subject property include the following actions:

One option would be to relocate the proposed photo voltaic solar panels into the rear yard. As mentioned earlier, the rocky terrain and foliage make it difficult to run the necessary conduit and wiring to the back of the single-family dwelling.

Another alternative is to consolidate the subject property with the adjoining side property which is owned by someone else and to resubdivide the property to modify property lines and adjust minimum yard setbacks. Both of these alternatives are not practical; therefore, there are no other reasonable alternatives to resolve these encroachment issues.

Intent and Purpose

(c) *The variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the general plan, and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.*

The variance application meets criterion (c) for the following reasons.

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.

The highest point of the photo voltaic solar panels is approximately 3 feet high. Therefore, it will not compromise the overall open space, air, and light flow between the structures and property lines sought by the zoning height regulations.

The Hokuili'a Community Association, at their Board of Directors Meeting, held on March 17, 2014, gave their approval of the installation of the photo voltaic solar panels into the south side yard agricultural easement and side yard setback. Also, no comments or objections were received from the surrounding property owners or general public in response to the Notification of Surrounding Properties Owners.

Based on the foregoing findings and unusual circumstances, the applicant's request for variance 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.

Based on the above findings, granting of the variance would be consistent with the criteria and intent of approving a variance.

PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS

Based on the variance application's survey map, the proposed photo voltaic solar panels to be built upon the subject property ("LOT 173") will not meet the minimum side yard setback requirements pursuant to Hawai'i County Code, Chapter 25, (Zoning Code).

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

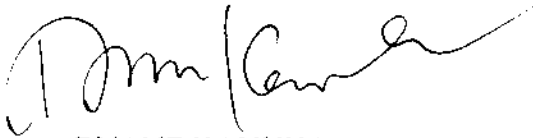
1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant/owner(s), successors or assigns shall indemnify and hold the County of Hawai'i harmless from and against any loss, liability, claim, or demand for the property 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 related to or connected with the granting of this variance.

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P.A. Harris Electric
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3. Subject to provisions of the Zoning Code or State law, which may be changed from time to time, no permit shall be granted to allow an ohana or farm dwelling upon the subject property.
4. Comply with the condition set forth by the Hokuli'a Community Association that landscaping be installed to shield the view of the solar panels from the roadway.
5. Future or new building improvements and permitted uses shall be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

Should any of the foregoing variance conditions not be complied with, the Planning Director may proceed to declare subject Variance 14-000244 null and void.

Sincerely,



DUANE KANUHA
Planning Director

LHN:nci

P:\Admin Permits Division\Variances From Code\Zone8\VAR14-000244\TMK8-1-029-025\AdamsFamily\Trust.doc.rtf

xc: Kona Office
Real Property Tax Office (Kona)
Gilbert Bailado, GIS (via email)

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P.A. Harris Electric
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January 6, 2015

PLANNING DEPARTMENT
COUNTY OF HAWAII

2014 NOV 14 PM 2: 5



BUILDING DIVISION – DPW

COUNTY OF HAWAII – 101 Pauahi Street, Suite 7 – Hilo, Hawaii 96720
Hilo Office (808) 961-8331 • Fax (808) 961-8410 Kona Office (808) 323-4720 • Fax (808) 327-3509

November 13, 2014

To: Duane Kanuha

SUBJECT: Variance VAR 14-000244

TMK: 8-1-029:025 lot 173

This is to inform you that our records on file, relative to the status of the subject discloses that:

- No _____ permit was issued for work done on the premise.
- No building permit was issued for the change of occupancy.
- At the time of completion, the subject complied to all building regulations that were in effect.
- Variance from any building regulation (Building, Electrical, Plumbing, or Sign) was/was not granted.
- The following violations(s) still outstanding:
 - Building
 - Electrical
 - Plumbing
 - Sign
- Others: Building permitt B2008-2443K is not final

This status report reflects Building Division records only and does not include information from other agencies.

Should you have any questions regarding matters contained herein, please feel free to contact Jai Ho Cheng at phone no. (808) 323-4720

Byron Harris
P.A. Harris Electric
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January 6, 2015

NEIL ABERCROMBIE
GOVERNOR




LINDA ROSEN, M.D., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: November 17, 2014

TO: Duane Kanuha
Planning Director, County of Hawaii

FROM: Newton Inouye 
District Environmental Health Program Chief

SUBJECT: Application: Variance - VAR 14-000244
Applicants: BYRON HARRIS/P.A. HARRIS ELECTRIC
Owner: ADAMS FAMILY TRUST
Request: Variance from Chapter 25, Zoning, Article 5, Division 7,
Section 25-5-76 Minimum Yards; (Encroachment into the
South Side Yard Setback).
Tax Map Key: 8-1-029:025; Lot 173

2014 NOV 18 PM 3:33
PLANNING DEPARTMENT
COUNTY OF HAWAII

We recommend that you review all of the Standard Comments on our website:
<http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html>. Any comments
specifically applicable to this project should be adhered to.

The same website also features a Healthy Community Design Smart Growth Checklist
(Checklist) created by Built Environment Working Group (BEWG) of the Hawaii State
Department of Health. The BEWG recommends that state and county planning departments,
developers, planners, engineers and other interested parties apply the healthy built environment
principles in the Checklist whenever they plan or review new developments or redevelopments
projects. We also ask you to share this list with others to increase community awareness on
healthy community design.



APPROVE

MINUTES
Hokulua Community Association, Inc.
Meeting of Board of Directors
Monday, March 17, 2014

Call to Order: Judy Soltz called the meeting to order at 9:00AM.

Report of Quorum: Directors attending in person: President Judy Soltz, Vice-President Bill Adams, Treasurer Bob Helstrom, Director Duane Sather

By phone: Secretary Greg Ogin (until 10:15AM), Director David Metcalf and there is 1 Vacant Position

Invited Guests: Laurie Sokach, Account Executive Associa Hawaii; John Shaw, Eric Bose Sun Kona (absent)

Minutes: February Board Meeting Minutes, Hearing no objections the minutes were unanimously approved as presented.

Reports

Financial Report - John Shaw distributed the 2013 year end unaudited statement and the January 2014 statement. Both were reviewed at the meeting.

Delinquency Report - The current listing of delinquencies was reviewed, lots that became current since the beginning of the calendar year were 16, 219, 110, 146, 241 and 257. There remain 31 lots on the delinquency listing. There continues to be progress made in collection efforts.

Design Review Committee

Monitoring of Construction of Approved Homes - Question was raised by David Metcalf as to who is monitoring construction on the homeowner lots as approval has been granted by DRC, or to ensure that construction does not happen with out approval. Lot 109 has begun construction and the plans they are building with seem to be modified 2007 plans that they submitted. Judy Soltz agreed that the committee does need to tighten up enforcement of construction guidelines. The board agreed that there needed to be paperwork trail to certify that the HCA approved plans are being followed and built and that the burden be on the owner and builder for compliance. The guideline changes proposed to section 6.1, 7.4A new form added - (Notice to proceed form changed to include the grading and excavation). Monitoring details need to be included in the guidelines as were currently submitted.

Bill Adams moved to approve the 2 proposed changes as presented. The guideline changes proposed to section 6.1 adding Grading and Excavation pursuant to a separate permit is treated as "commencing

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KAUAI 4-1579 Kuhio Highway, Suite 102 | Kapaa, Hawaii 96745 | (808) 821-1122 | Fax (808) 821-1131
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construction" under these regulations, 7.4A new form added - Notice to proceed form was created to include the grading and excavation approval process separate from actual construction. The motion was seconded and carried unanimously. The board also delegated to Judy Soltz and John Shaw authority to make additional needed changes to the Construction Guidelines to tighten the process or make necessary edits.

Bill Adams brought to the board his Photo Voltaic proposed plan for his home. The board reviewed the request for part of the panels to be installed on the ground in the easement area.

Duane Sather moved to approve the plan for PV as submitted by Bill Adams for Lot 173 as presented provided that landscaping would shield the view of the panels from the road. The motion was seconded and carried by majority with Bill Adams abstaining.

Club Development Committee Report – John Shaw reported that the pavilion remodeling will begin in April. The rest of the plans are still waiting for the permits to be issued. Once permits have been issued, construction will begin.

Old Business:

Lot Maintenance Program– Shaw/Soltz - Monitoring plan modification submitted to SHPD and DLNR was discussed. This modification plan is necessary in order to be able to proceed with the Lot maintenance program. Acceptance by SHPD and DLNR is pending.

Entrance Design Proposal – Sun Kona has hired Tingly as the contractor and is working on construction documents.

Wastewater Treatment Plant Update - Sun Kona has submitted revised plans to the state and is working to obtain approval in order to proceed with construction..

Agricultural Easements - The work on these requirements remains in process. Harvesting proposal provided by Rebecca Fujikawa was reviewed and discussed. It was agreed that a short term plan needs to be in place and also a long term plan is needed.

Possible amendments to the CC&R's; Design Guidelines; water conservation and discussions with Sun Kona are all the factors being considered in review of the easement requirements and restrictions were all discussion points. The board discussed the burden being shifted to the lot owner due to the overall impact the future fully developed association will have.

Note: Greg Ogin left the meeting at 10:15AM.

Oceanside Bankruptcy - Hearing remains set for April.

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Home rental Rules - Judy Soltz followed up with the question raised on rentals of homes. She emailed the board on the 13th regarding this and the existing rules handling this is section 4. Renting of homes does not provide access to use of the club amenities and facilities. The board agreed to not pursue this further.

New Business:

Reserve Study - John Shaw reported that he has Seal Masters of Oahu coming to inspect the roads and he is waiting for their input on reserve budgeting for the future.

Meeting Schedule: Annual meeting April 9 immediately following the PCSA annual that is set to begin at 9AM

Adjournment Hearing nothing further to come before the board, the meeting adjourned at 10:52AM by unanimous consent.

Submitted by:
Laurie Sokach CMCA, AMS, PCAM
Senior Account Executive
Agent for Hokuia Community Association

Board Approved: 5/12/14


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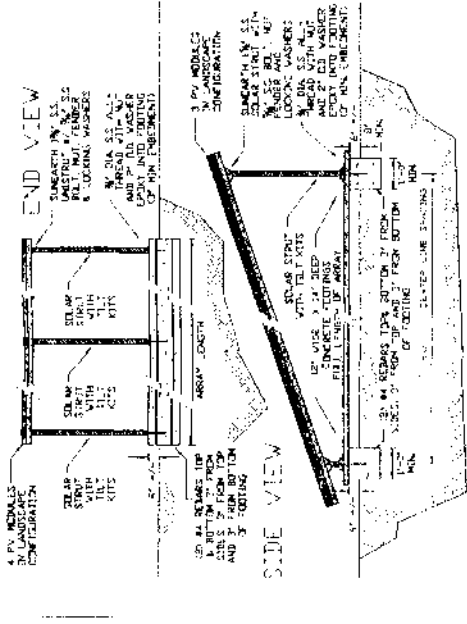
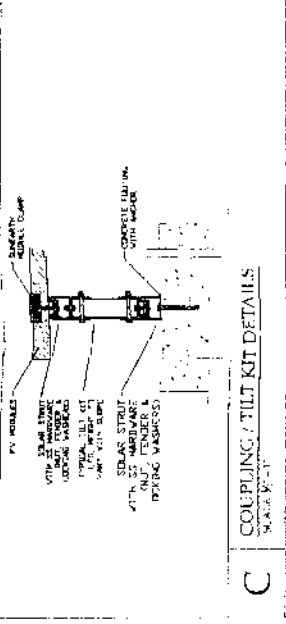
P.A.H.
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 Kailua-Kona, HI 96740
 (808) 322-5784



PROFESSIONAL ENGINEER
 STATE OF HAWAII
 LICENSE NO. 10000
 EXPIRES 12/31/2010

PROJECT: **Adams Family Trust**
SOLAR
 81 - 6426 Kaelehu Way
 TMK: 8 - 1 - 029 : 025

ISSUED DATE	02.25.11
PROJECT NO.	PAH
DESIGNED BY	JDH
REVIEWED BY	ACD
SHEET TITLE	GROUND MOUNT PLAN
SITE PLAN	
MOUNTING DETAILS	
NOTES	
SHEET NO.	PV-1



- E MECHANICAL NOTES**
- CONTRACTOR RESPONSIBLE FOR COMPLYING WITH ALL LOCAL OR NATIONAL CODE REQUIREMENTS AND MANUFACTURERS' MANUALS FOR INSTALLING A PV SYSTEM.
 - GROUND-MOUNT PV SYSTEM ON CONCRETE FOOTINGS, SOLAR STRUT RACKING, AND TILT KITS.
 - DISTANCE BETWEEN FOOTINGS NOT TO EXCEED 6 FT.
 - RAIL OVERHANG FROM FOOTINGS NOT TO EXCEED 24 INCHES. DETAILS SHOWN ARE TYPICAL. SIMILAR DETAILS APPLY TO SIMILAR CONDITIONS. QUESTIONS OF IDENTIFICATION OF APPLICABLE DETAIL OR STRUCTURAL MEMBER SHALL BE BROUGHT TO THE ARCHITECT FOR RESOLUTION BEFORE PROCEEDING WITH WORK. CONTRACTOR SHALL COMPARE STRUCTURAL DRAWINGS WITH ARCHITECTURAL, MECHANICAL AND ELECTRICAL DRAWINGS AS TO LAYOUT, DETAILS, DIMENSIONS AND ELEVATIONS. ALL QUESTIONS, DISCREPANCIES AND CONFLICTS SHALL BE REPORTED TO THE ARCHITECT FOR ADJUSTMENT BEFORE PROCEEDING WITH WORK. CONTRACTOR SHALL PROVIDE TEMPORARY SHORES AND BRACING TO RIGIDLY AND SAFELY SUPPORT STRUCTURAL ELEMENTS, PARTS, OR NEIGHBORING STRUCTURES DURING CONSTRUCTION.
 - CONCRETE SHALL BE NORMAL WEIGHT AND SHALL ATTAIN A MINIMUM ULTIMATE COMPRESSIVE STRENGTH (FC) OF 2500 PSI AT 28 DAYS. REINFORCING STEEL SHALL CONFORM TO ASTM A-615, GRADE 60. NO SPECIAL INSPECTION IS REQUIRED.
- MECHANICAL NOTES**
 S.A.S. 010

