

CERTIFIED MAIL

May 22, 1984

Mrs. Chrystal Thomas Yamasaki  
Wes Thomas and Associates, Inc.  
75-5722 Kalawa Street  
Kailua-Kona, HI 96740

Dear Mrs. Yamasaki:

Shoreline Setback Variance Application  
Petitioners: Bryan Herrmann and Clyde Crocket  
TMK: 7-8-14:81

The Planning Commission at its duly held public hearing on May 17, 1984, voted to approve your application, Variance Permit No. 619, at Kahaluu, North Kona, Hawaii.

Approval of this request is based on the following:

The Shoreline Setback Law was enacted by the State Legislature in 1970 for the protection of the shoreline from undue man-made improvements. Many of the improvements have disturbed the natural shoreline processes and have caused erosion of the shoreline. To prevent unnecessary encroachment of structures and other improvements upon the shoreline, the Legislature felt that it is in the best public interest to establish shoreline setbacks and to regulate the uses and activities within the shoreline setback area.

The Legislature, however, also recognized that certain improvements may be required to be constructed within the shoreline setback area for the protection of certain shoreline properties and their improvements. In recognizing this need, the Legislature authorized the respective authorities within the various counties, in our case, the Planning Commission, to grant variances for certain improvements within the shoreline setback areas. In accordance with Section 205-35(b) of the Hawaii Revised Statutes, and Section 8.9 of the Planning Commission's Rule No. 8, the Planning Commission may grant variances for

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certain improvements within the shoreline setback areas if it is found that:

1. Such structures, activity, or facility is in the best public interest; or
2. Hardship will be caused to the applicant if the proposed structure, activity or facility is not allowed on that portion of the land within the shoreline setback.

The request includes the construction of a concrete and rock masonry wall and a thirty-inch wide concrete pedestrian walkway throughout the length of the makai property line; the placement of topsoil material and landscaping; the installation of a water sprinkler system; and the roof encroachment of approximately 36 square feet and a lanai encroachment of about 16 square feet within the shoreline setback area.

With regards to the construction of the proposed wall, it is felt that the denial of it would cause undue hardship to the petitioner. The existing portion of the single-family dwelling is built upon concrete piers. However, as evidenced by the site inspection conducted on the property, some of the piers have been damaged from the huge boulders as a result of unusual wave action. In this particular case, it is felt that the wall is necessary for safety reasons as well as to protect portions of the property from wave damages. The proposed wall will increase protection to the existing dwelling and its proposed additions from wave-driven boulders into the house footings and post/piers.

It should be pointed out, however, that a wall at the height of 8-1/2' to 9 feet is not necessary. The walls of the adjacent properties on both sides have been constructed at a height of about 6 feet. It appears that those walls do provide adequate protection for the dwellings on the adjacent properties from wave action. Therefore, staff is modifying the petitioner's original request by allowing, instead, a wall that is no more than 6 feet in height. Such restriction shall be imposed as a condition of approval.

With regards to the construction of the 30-inch wide lateral pedestrian access, it is felt that such improvement will be in the best public interest. The shoreline fronting the property is quite rocky in character. The construction of the walkway will make it much more accessible for the general public to traverse along the shoreline.

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It should also be noted that the petitioner does not intend to provide a mauka-makai access from Alii Drive to the shoreline. However, such provision for this particular property is not necessary since the Planning Commission previously imposed such a condition for a property which is situated approximately 300 feet south of this property (Longs).

While the landscaping of the area and installation of a sprinkler system may not necessarily meet the above-mentioned criteria, since it will be done mauka of the proposed wall, it is not expected to disturb the natural shoreline processes of the area. It could be concluded that the landscaping activity could enhance the present quality and scenic beauty of this section of the Kona coastline.

Finally, it is felt that the granting of the variance to allow the limited encroachment of portions of the lanai and roof overhang also will not have any adverse impact to the shoreline. In fact, the encroachment of approximately 36 and 16 square feet, respectively, would be quite negligible.

Based on the foregoing, it is determined that the proposed improvements will be consistent with the Shoreline Setback Law pursuant to Chapter 205-31, Hawaii Revised Statutes, and with the criteria established in Rule No. 8 of the Planning Commission's Rules and Regulations.

Approval of this variance request is subject to the following conditions:

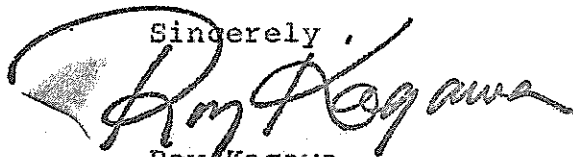
1. The petitioner, its assigns or successors, shall be responsible for complying with all of the stated conditions of approval.
2. The concrete and rock wall shall not exceed the height of the existing walls on the adjoining properties.
3. A 30-inch wide lateral public pedestrian access along the shoreline shall be provided. The public shoreline access plan, in conjunction with the plans to the addition of the dwelling and the landscaping and retaining wall plans shall be submitted to the Planning Director for review and final approval prior to the initiation of these improvements.

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4. Construction of all of the proposed improvements shall commence within one year from the date of final approval of the plans and shall be completed within one year thereafter.
5. Comply with the structural requirements of the Department of Public Works relating to Flood Ordinance No. 778.
6. Comply with all other rules, regulations, and requirements.
7. Should the Planning Department determine that any of the foregoing conditions have not been met, the Shoreline Setback Variance Permit shall be void.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Roy Kagawa  
Chairman, Planning Commission

cc: Mr. John P. Dinmore  
Real Property Tax Division  
Chief Engineer  
Building Dept.  
Kona Services Office  
Dept. of Water Supply

bcc: Plan Approval Section