

CERTIFIED MAIL

March 21, 1985

Mr. Wendell K.S. Foo
c/o Carlsmith, Wichman, Case,
Mukai & Ichiki
P. O. Box 1720
Kailua-Kona, HI 96745-1720

Dear Mr. Foo:

Shoreline Setback Variance Application

TMK: 7-5-19:16

The Planning Commission at its duly held public hearing on March 13, 1985, voted to approve your application, Shoreline Setback Variance Permit No. 84-7, to allow certain structural renovations and additions including a third-story addition to an existing single family dwelling within the 20-foot shoreline setback area at Kahului, North Kona, Hawaii.

Approval of this request is based on the following:

The construction of the garage is found to be in the best public interest. The depth of the front yard varies from 0-5 feet. The severely restrictive frontage has created undesirable and hazardous parking conditions along Alii Drive as noted by the Department of Public Works. The construction of a garage would provide immediate relief to an unacceptable parking situation and would clearly be in the interest of public safety.

The non-conforming structure comprises over 51 percent of the total 1,565 square foot area. Due to the limited buildable area, the construction of the garage necessitates converting one ground level bedroom for parking use. The conversion will reduce the living area by 144 square feet. The loss of a bedroom coupled with the lack of site alternatives places hardship on the owner which can be alleviated with the addition of a third floor bedroom.

The bedroom addition does not constitute a change in present residential use nor an increase in density. Furthermore, the third level does not militate against the

MAR 22 1985

Mr. Wendell K.S. Foo
Page 2
March 21, 1985

45-foot height limit established for the resort-hotel zoned district. The intrusion would be a vertical projection within the confines of the existing south (side) and west (rear) wall lines. The proposed north (side) and east (front) wall lines will, in fact, be setback an additional 3-1/2 feet and 4 feet, respectively, from the existing exterior wall lines. An administrative variance from the front and south side yard requirements would, nevertheless, be required. Also, a variance from the Housing Code which imposes an 11-foot side yard requirement for the third story addition is necessary.

Moreover, transferring 144 square feet of habitable floor area to an elevation higher than 10-foot mean sea level will promote the well-being of the residents and furthers the provisions of Section 27-29 of the Hawaii County Code relating to Flood Control which requires "all new construction and substantial improvements of residential structures in a flood fringe area shall have the lowest habitable floor . . . elevated to or above the base flood elevation."

A part of the north stairway leading to the basement is situated within the Alii Drive right-of-way as per the Department of Public Works' comments. In addition, a water tank, a rock wall, concrete box and miscellaneous structures are located within the right-of-way. The Hawaii County Code states the following:

"Section 25-40. District classification of streets. Unless otherwise designated the area of any street, right-of-way or easement . . . shall not be used for any purpose other than that for which it was established.

"Section 25-47. Use of streets. Except as permitted by the council, no street shall be used for the display, sale, or private storage of any commodity or any material, nor shall any structure be placed therein other than a driveway, ramp or similar structure that is necessary for vehicular access to the adjoining property."

Accordingly, the demolition of existing on-ground structures situated within the right-of-way is being made a condition of this variance approval.

The construction of a sea wall and cap on the existing deck together with foundation repairs will help to protect the property from high wave action and continued erosion. The plans do not extend beyond the present foundation lines and is deemed a reasonable extension and preservation of property rights.

Mr. Wendell K.S. Foo
Page 3
March 21, 1985

Applying new stucco to the outer railings will improve the present deteriorated state of the building exterior.

Although the subject parcel is located within Kona Field System (Site #6601), the proposed addition and structural improvements are being made to and on top of an existing structure. It is also unlikely that subsurface archaeological features will be unearthed during driveway site preparation. However, should this occur, work stoppage and notification of the State Division of Parks (DLNR) is recommended.

The coastal waters of Kahului Bay should not be adversely affected by the addition and alterations as the proposed use and density will remain the same.

Since there are no endangered flora or fauna identified in the area, any adverse environmental impacts should be negligible.

Although there will be some noise and dust accompanying the construction, these will be minimal and of a temporary nature.

Based on the foregoing, it is determined that the garage conversion, third story bedroom addition, the proposed sea wall, and related improvements to the railings and foundation are consistent with the intent and purpose of Rule 8 of the Planning Commission relating to shoreline setback.

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

1. The petitioner, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Secure an administrative variance from the side and front yard requirements of Chapter 25 (Zoning Code), Hawaii County Code, from the Planning Department.
3. Secure Final Plan Approval within one year from the effective date of approval of the Shoreline Setback Variance.
4. Commence construction within one year from the date of receipt of Final Plan Approval and complete construction within one year thereafter.
5. Should any previously unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human

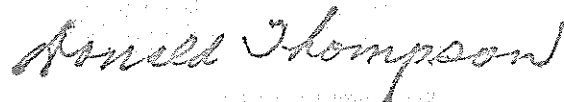
Mr. Wendell K.S. Foo
Page 4
March 21, 1985

burials, rock or coral alignments, pavings, or wall be encountered, construction shall cease immediately and the Division of State Parks notified for further mitigative recommendations.

6. Comply with the requirements of the State Department of Health.
7. Demolish all on-ground structures, except the retaining wall, which is situated within the Alii Drive right-of-way fronting the subject property. This demolition activity shall commence within one (1) year from the date of receipt of final Plan Approval.
8. Obtain a variance from the yard requirements of Chapter 11 (Housing Code), Hawaii County Code, from the Board of Appeals.
9. Comply with all other applicable rules, regulations and requirements.
10. Should the Planning Department determine that any of the foregoing conditions have not been met or substantially complied with in a timely fashion, the Shoreline Setback Variance shall be void.

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

Sincerely,



Donald Thompson
Chairman, Planning Commission

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
County of Hawaii, Kona Office

bcc: Plan Approval Section