

CERTIFIED MAIL

March 21, 1985

Mr. Michael Krochina
P. O. Box 4613
Kailua-Kona, HI 96745

Dear Mr. Krochina:

Shoreline Setback Variance Application
Owner: Robert Brand
TMK: 7-9-05:13

The Planning Commission at a duly advertised public hearing on March 13, 1985, considered your request for a shoreline setback variance in accordance with Chapter 205-35, Hawaii Revised Statutes, and Section 8.9 of the Planning Commission's Rule 8, to allow the construction of a swimming pool deck, a 12-foot high retaining wall, landscaping and related improvements within the 40-foot shoreline setback area at Honalo, North Kona, Hawaii.

The Commission voted to deny the shoreline setback variance based on the following findings:

The construction of a swimming pool deck, a 12-foot high retaining wall, landscaping and related improvements within the 40-foot shoreline setback area will not be in the public interest. The only interest to be served by the approval of the subject application would be the private interest of the property owner.

The petitioner states that "The basic reason for this request is to insure the safety of the single family residence. By constructing the rock retaining wall the wave action during periods of high surf would be substantially reduced and considerable damage to the residence itself can be avoided." It should be noted, however, that the same wall, offering the same level of protection, could be constructed without intruding into the 40-foot shoreline setback area. It should be further noted that the 18-foot elevation above mean sea level, coupled with the proposed height of 30 feet above mean sea level at the top of the wall, would greatly exceed the 14-foot coastal hazard designation for the subject area.

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The petitioner further states that "The overall design and floor plan layout of the extensive house 'footprint' requires the swimming pool and deck as located on the enclosed set of drawings. By forcing the owner to comply with the existing 40'-0" shoreline setback, the deck, the pool and landscaping would be severely restricted and be a detriment to the overall design of the residence." On the contrary, the site plan indicates that the pool and major portions of the deck are already situated outside of the 40-foot shoreline setback area. Furthermore, there is a sizable area to the south of the pool which could be utilized for additional deck space should the owner desire. It should be further noted that even if the 40-foot shoreline setback is imposed, the petitioner would still have a sizable buildable area, in excess of 15,000 square feet, to enjoy. As such, it is determined that no hardship will be caused to the applicant if the subject application is denied.

A denial by the Commission of the desired use shall be appealable to the Circuit Court in which the land is situated and shall be made pursuant to the Hawaii Rules of Civil Procedure.

Should there be further questions on this matter, please feel free to contact the Planning Department at 961-8288.

Sincerely,

Donald Thompson

Donald Thompson
Chairman, Planning Commission

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
County of Hawaii, Kona Office
DLNR Planning Office, P.O. Box 621, Hon. 96809
bcc: Plan Approval Section