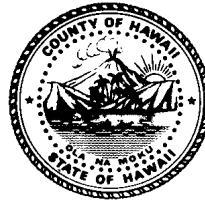


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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



County of Hawai'i

PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

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

May 4, 2022

Kendall Ellingwood III
Design Partners Incorporated
1580 Makaloa St., Ste #1100
Honolulu, HI 96814

Dear Kendall Ellingwood:

SUBJECT: Application: Variance – PL-ZVAR-2021-000007
Applicant: Kendall Ellingwood III, Design Partners Incorporated
Owner: State Of Hawaii. Department of Education
Request Variance from Chapter 25, Zoning, Article 5 Division 10, Section 25-5-76 Minimum Yards and Article 4, Division 4, Section 25-4-44(a) Permitted Projections into Yards and Open Space Requirements (Encroachment into Side Yard Setback and Side Yard Open Space)
Tax Map Key: 5-5-008:024

The Planning Director certifies the **approval** of Variance No. PL-ZVAR-2021-000007, subject to variance conditions. The variance will allow the construction of a single-story rectangular shaped gymnasium of approximately 14,724 square feet. The structure will be located on the east side of parcel 024 between the school's football and track field on the west and existing gymnasium on the east. The height of the structure is 41'-2". The proposed gymnasium will be sited entirely on Tax Map Key [3] 5-5-008: 024 which has an area of 9.510 acres.

BACKGROUND AND FINDINGS

1. **Location.** Located on the makai side of Akoni Pule Highway Kohala High School is bounded by residences to the north, Honomakau Road to the east, Kohala Elementary School and Akoni Pule Highway to the south, and a forested area to the west. The main campus spans two state-owned parcels identified as TMK: (3) 5-4-007:014 and (3) 5-5-008: 024 comprising 11.60 and 9.93 acres respectively. The subject school street address is 54-3611 Akoni Pule Highway Kapa'au, Hawaii. Designated as Tax Map Key: (3) 5-5-008:024.
2. **Zoning.** Agriculture – (A-20a).
3. **State Land Use.** Urban.

4. **Required Setback.** 20-foot side yards of the property. Section 25-5-77, Other requirements for yards and open space: (a) On every building site, yards of the minimum width or depth as specified for the established zoning district shall be maintained open and unobstructed from the ground up, except as specified in sections 25-4-40 through 25-4-47.
5. **Variance Application-Site Plan.** The applicant submitted the variance application, attachments, and filing fee on March 3, 2022, and other submittals related to the variance request and variance application. **(See application)**
6. **County Building Records.** The variance is for a proposed gymnasium – there are building permits that have been issued for the existing gymnasium and High School buildings.
7. **County Planning Department Records.**
 - a. Special Permit – SPP-78-000019 for the continued use of the 3 parcels for public education purposes.
8. **Agency Comments and Requirements.**
 - a. Hawaii Fire Department: Memorandum issued March 8, 2022 – Exhibit A
 - b. State Department of Health: Memorandum issued March 22, 2022 – Exhibit B
9. **Notice to Surrounding Property Owners.** The applicant submitted certificate of mailing to surrounding property owners (including affidavits). According to these submittals, the first and second notices were mailed on March 8th 2022 and April 19th 2022 respectively. Notice of this application was published in the Hawai‘i Tribune Herald and West Hawai‘i Today on March 28, 2022.
10. **Comments from Surrounding Property Owners or Public.**
 - a. None Received .

ANALYSIS OF GROUNDS FOR VARIANCE

No variance will be granted unless it is found that:

1. *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 for the following reasons:

The proposed location of the gymnasium is in the middle of the High School campus along side of a property line of (3) 5-4-007:014 and (3) 5- 5-008: 024 which is located in the center of the campus. Because the High School campus involves the 2 parcels yard encroachments have happened in the past.

The above special and unusual circumstances exist to a degree which if the variance was not granted would obviously interfere with the best use or manner of development of the property.

2. *There are no other reasonable alternatives that would resolve the difficulty.*

The variance application meets criteria for the following reasons:

Alternative solution for the proposed gymnasium location would be to demolish the existing gymnasium and build a new one on the same site as the existing. The significant drawback to this option was that demolishing the existing would mean the school would not have a gymnasium for basketball and volleyball sports and school functions for the duration of construction. Competitive sports would have to be played at alternative gymnasiums in the community or at another school's gymnasium.

A second option was to retain the existing gymnasium and build a new gymnasium to the immediate west of it. This option would have the new gymnasium "straddling" the property line between parcels 024 and 014. After completion, the existing gymnasium would be demolished and replaced by a new parking area. In researching this option of "straddling" it was determined that this would not be allowed and so this turned into research into consolidation of the parcels. The parcels in question are owned by the State of Hawaii but under different department control than the Department of Education. The length of time and coordination process to obtain approval to proceed with the consolidation application process will be very cumbersome and complex and will exceed the time needed for the new gymnasium by the school.

3. *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 criteria for the following reasons:

The variance will not affect the light and air circulation nor will it affect direct access to fire and emergency vehicles. The impact to the area's character are minimally impacted as the encroachments are not visually obtrusive.

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

Based on the variance application's site map, the request will allow the construction of a single-story rectangular shaped gymnasium of approximately 14,724 square feet. The structure will be located on the east side of parcel 024 between the school's football and track field on the west and existing gymnasium on the east. The height of the structure is 41'-2". The proposed gymnasium will be sited entirely on Tax Map Key [3] 5-5-008: 024 which has an area of 9.510 acres.

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 relating to or connected with the granting of this variance.
3. Should the structures on the subject property be destroyed by fire or other natural causes, the replacement structure shall comply with the Hawai‘i County Code, Chapter 25, (Zoning) and be subject to State law and County ordinances and regulations pertaining to building construction occupancy.
4. Future or new building improvements and permitted uses shall be subject to State Law and County Ordinances and Regulations pertaining to building construction and occupancy.

Should any of the foregoing variance conditions not be complied with, the Planning Director may proceed to declare subject Variance PL-ZVAR-2021-000007 null and void.

Sincerely,

Zendo Kern
Zendo Kern (May 18, 2022 14:28 HST)

ZENDO KERN
Planning Director

DEB:deb

P:\public\Admin Permits Division\Variance\2021\PL-ZVAR-2021-000007 TMK 5-5-008-024 Designs Partners for Kohala HS - Approval
cc: West Hawaii Office

HAWAII FIRE DEPARTMENT . COUNTY OF HAWAII .
HILO, HAWAII 96720

DATE March 8, 2022

Memorandum

TO : Planning Department, County of Hawaii

FROM : Fire Inspector II Edward Kawasaki, Fire Prevention Branch, County of Hawaii

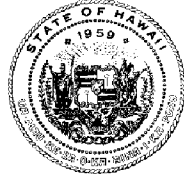
SUBJECT : Application: PL-ZVAR-2021-000007
Applicant: Kendall Ellingwood III, Design Partners Inc.
Owner: State of Hawaii
Request: Variance from Chapter 25, Zoning.

The Hawaii County Fire Department has no issues with this request.
Email questions or concerns to: Edward.kawasaki@hawaiicounty.gov.

Mahalo.



Edward Kawasaki
Fire Inspector II
Fire Prevention Branch



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

MEMORANDUM

DATE: March 22, 2022

TO: Mr. Zendo Kern
Planning Director, County of Hawaii

FROM: Eric Honda
District Environmental Health Program Chief

SUBJECT: Application: Variance- PL-ZVAR-2021-000007
Applicant: Kendall Ellingwood III, Design Partners Incorporated
Owner: State of Hawaii Department of Education
Request: Variance from Chapter 25, Zoning, Article 5, Division 10
Section 25-5-76 and Article 4, Division 4, Section 25-4-44(a)
TMK: 5-5-008:024

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