

July 7, 1971

Mr. John T. Moore, Pres.  
Kamehameha Union Service, Inc.  
1801 Kamehameha Avenue  
Hilo, HI 96720

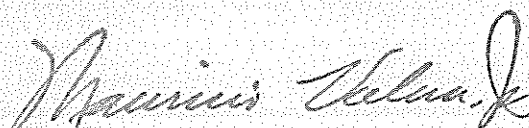
Re: Variance Application  
Tax Map Key 2-1-06:42

The Planning Commission at its preliminary hearing held on July 1, 1971 considered your application for a variance to allow the construction of an addition to an existing nonconforming use (repair shop) within the Resort-Hotel (VHS-.75) District and to allow a 5 foot side yard setback in lieu of the required 8 foot setback requirement on a lot located off Banyan Drive at Waiakea, South Hilo, Hawaii.

Please be informed that the Commission voted not to hold a public hearing on this request inasmuch as they felt that the request is unwarranted for approval.

You may appeal the decision of the Planning Commission to the Board of Appeals of the Planning Department if you find that the Commission's action was based on an erroneous finding of a material fact, or that the Commission had acted in an arbitrary or capricious manner or had manifestly abused its discretion.

Inasmuch as no public hearing will be held on this matter, we will be returning your filing fee as soon as the refund is processed and we will be forwarding you a certified copy of the Order as soon as the document is prepared.



Mauricio Valera, Jr.  
Vice Chairman

For

O. W. Efurd, Jr., Chairman

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cc Corporation Counsel & Building Dept.

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PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal of )  
Kamehameha Union Service, Inc. )

Variance Application

Tax Map Key 2-1-06:42 )  
\_\_\_\_\_ )

No. 243

FINDINGS OF FACT

CONCLUSIONS OF LAW

and

DECISION AND ORDER

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal of	)	
Kamehameha Union Service, Inc.	)	Variance Application
	)	
Tax Map Key 2-1-06:42	)	No. 243
	)	

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FINDINGS OF FACT  
CONCLUSIONS OF LAW  
and  
DECISION AND ORDER

The above-entitled matter was brought on for preliminary hearing before the Planning Commission of the Planning Department, County of Hawaii, on the 1st day of July, 1971, in the County Council Room, County Building, Hilo, Hawaii, at which hearing Andy Anderson, appeared on behalf of the applicant, Kamehameha Union Service, Inc., and the Planning Commission having heard the testimony and having examined the exhibits does hereby declare its Findings of Fact, Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

1. Application requesting variance to allow the construction of an addition to a nonconforming structure, and from the required side yard building setback for property located in Waiakea, South Hilo, was received on April 12, 1971.

2. Preliminary hearing concerning the above matter was held on July 1, 1971.

3. Application requested an addition of 485 square feet to a nonconforming repair shop and a five (5) foot side yard building setback in lieu of a setback of eight (8) feet for a one-story building as required by the VH-S-.75 (Resort-Hotel) zoned district.

4. Section 31-B(1) of Ordinance No. 63 states that a nonconforming use may be enlarged within the building it occupies but shall not be enlarged or increased to occupy a greater area of land ..... thereby necessitating a variance.

5. The existing repair shop and proposed addition do not have the required distance from boundary required for buildings of Group E occupancy.

6. The subject property, consisting of 17,384 square feet, is located between the Dairy Queen and Lewers & Cooke. Presently situated on the subject property are a gas station and a repair shop. The existing repair shop is situated 5 feet from the side property line.

7. The request for an addition to the nonconforming structure and the requested five (5) foot side setback in lieu of the required eight feet does not meet the guidelines set forth for the granting of a variance.

#### CONCLUSIONS OF LAW

1. The Planning Commission has jurisdiction to hear and determine appeals requesting variances from the Subdivision and Zoning Ordinances.

2. All procedural requirements as prescribed by law have been complied with.

3. The requirements for the granting of a variance have not been met.

#### DECISION AND ORDER

Based upon the testimony and exhibits introduced at the hearing and the foregoing Findings of Fact and Conclusions of Law, it is the decision of the Planning Commission and it is hereby ordered that the application of Kamehameha Union Service, Inc. for a variance from the

requirements of Section 31-B(1) pertaining to side yard building setback, of Tax Map Key 2-1-06:42 located in Waiakea, South Hilo, Hawaii, be and is hereby denied on its merits.

Dated at Hilo, Hawaii, this 23rd day of September, 1971.

PLANNING COMMISSION

By C. W. Efund Jr.  
Chairman