

May 11, 1973

Mr. John W. Jett  
Vice-President  
Ward Homes, Inc.  
Suite 908, Financial Plaza  
of the Pacific  
Honolulu, HI 96813

Re: Variance Application  
Tax Map Key 2-6-05:10

The Planning Commission at its preliminary hearing on May 10, 1973 reviewed your application for a variance to allow front setbacks of 15'-0" and 13'-0" in lieu of the required 20'-0" setback for a recreation room and pool respectively. Also requested were variances for an 8'-0" setback between the swimming pool and the existing building and an 8'-6" setback between the swimming pool and the proposed recreational room which requires a minimum distance of 10'-0" between accessory structures.

This is to inform you that the Commission voted to deny your request as it has not been found that special or unusual circumstances or conditions exist with respect to the land involved which would result in unnecessary hardships if the ordinance were literally enforced.

There appear no adverse topographic features such as sloping terrain or depressed areas which would dictate the location of the structures and the need for setback variances. The applicant was aware of all regulations and should have made provisions for these structures when the development was being planned. Any hardships existing would appear to be self-created.

As your request has been denied, you may appeal the decision of the Planning Commission if you find that the action of the Planning Commission was based on an erroneous finding of a material fact, or that the Commission has acted in an arbitrary or capricious manner, or had manifestly abused its discretion.

Should you decide to appeal the decision of the Commission in the denial of your variance request, a petition setting forth the

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following shall be submitted to the Board of Appeals within fifteen (15) days from the date of action and accompanied by a filing fee of ten dollars (\$10.00):

1. Name, mailing address and telephone number;
2. Identification of the property and interest therein;
3. The particular provision of the Zoning Ordinance or Subdivision Ordinance or regulations in question;
4. All pertinent facts;
5. The action of the Commission; and
6. Reasons for the appeal, including a statement as to why the appellant believes that the Commission's action was based on an erroneous finding of a material fact, or that the Commission has 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. We will be forwarding you a certified copy of the Order as soon as the document is prepared.

Should you have any questions regarding the above, please feel free to contact Glenn Miyao or Norman Hayashi of the Planning Department.



Ed C. Watt  
Chairman

cc Corporation Counsel  
Building Department

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal )  
                  of )  
          Ward Homes, Inc. )  
                              )  
Tax Map Key 2-6-05:10 )  
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Variance Application

No. 329

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                    )  
          Ward Homes, Inc.        )  
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Variance Application

No. 329

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND  
DECISION AND ORDER

The above-entitled matter was brought on for a preliminary hearing before the Planning Commission of the Planning Department, County of Hawaii, on the 10th day of May, 1973, in the Courtroom of the District Court of Puna, Keaau Village, Puna, Hawaii, at which hearing Rex Johnson, representative of the applicant, appeared. 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. An application requesting variances from the minimum front yard building setback as regulated by the multiple residential (RM-1) zoned district, Sec. 11-E (1) of Ordinance No. 63, and from the minimum allowable distance between accessory structures, Sec. 30-D (15) of Ordinance No. 63, was received on April 16, 1973.
2. A preliminary hearing on the above matter was held on May 10, 1973.
3. The request was to allow front yard setbacks of 15'-0" and 13'-0" in lieu of the required 20'-0" for a recreation room and swimming pool respectively and to allow an 8'-0" setback between the swimming pool and an existing building

and an 8'-6" setback between the swimming pool and the proposed recreation room in lieu of the required 10'-0" /

4. The proposed structures, part of the 42-unit Coconut Creek Condominium project, will be located fronting Wainaku Avenue, Puueo, South Hilo.

5. According to preliminary plans submitted, a portion of the proposed recreation room will be situated above the parking lot. The swimming pool will be located on the Hilo side of the recreation room.

6. The applicant has stated that:

"The proposed swimming pool and recreation room will be located approximately 10 feet above street elevation, and only the upper portion of the recreation room will be visible from the street. The proposed location of the swimming pool and the recreation room would be within the side yard setback of 14 feet."

7. After due consideration it was recommended by staff that the request be denied based on the following findings:

- a. That no special or unusual circumstances or conditions exist with respect to the land involved which would result in unnecessary hardships if the ordinance was literally enforced.
- b. It was moved and seconded that the request be denied. The motion was carried by a five to zero vote.

#### CONCLUSIONS OF LAW

1. Pursuant to Section 5-4.3(g) of the County Charter, 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.

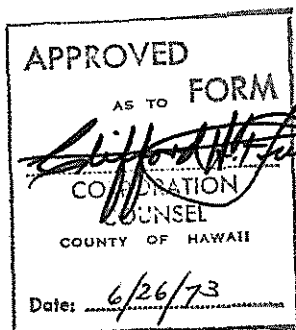
3. Under Section 5-4.3(g) of the Hawaii County Charter, a variance may not be granted unless there are special or unusual circumstances applying to the subject property which would result in unnecessary hardship if the ordinance were literally enforced, and the granting of the variance would not be contrary to the public interest.

4. 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 a variance from the requirements of Section 11-E(1) of Zoning Ordinance No. 63, pertaining to minimum front yard building setback, and Section 30-D(15) of Zoning Ordinance No. 63 pertaining to minimum distance between accessory structures, of Tax Map Key 2-6-05:10 located in Puueo, South Hilo, Hawaii, be and is hereby denied on its merits.

Dated at Hilo, Hawaii, this 13th day of June, 1973.



Ed. C. Watt  
Chairman