

June 1, 1973

Mr. Kenneth B. Wersing  
1420 Kilauea Avenue  
Hilo, HI 96720

Re: Variance Application  
Tax Map Key 2-4-19:68

The Planning Commission at its preliminary hearing on May 31, 1973 reviewed your application for a variance to construct an additional dwelling on a 24,420 square foot parcel zoned for single-family residential use with an allowable density of one dwelling per 15,000 square feet of land area located in Waiakea Homesteads, South Hilo, Hawaii.

This is to inform you that the Commission voted to deny your request based on the following consideration that the general intent of the RS-15 zoned district is to permit residential development on the basis of one (1) dwelling per 15,000 square feet of land area. The deviation of 5,580 square feet below the minimum area requirement is considered unreasonable and contrary to the intent of the RS-15 zoned district and to the general character of the immediate surrounding area characterized by lot sizes averaging approximately one-half acre. Requested density variances of this nature are normally processed as change of zone applications.

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 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):

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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 regulation 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 at 935-5721, extension 221.



Ed C. Watt  
Chairman

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cc Corporation Counsel  
Building Department

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal )  
                  of )  
KENNETH B. WERSING )  
                  ) )  
Tax Map Key 2-4-19:68 )  
                  ) )  
                  ) )  
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Variance Application

No. 334

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	)	
KENNETH B. WERSING	)	Variance Application
	)	
Tax Map Key 2-4-19:68	)	No. 334
	)	

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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 31st day of May, 1973, in the Planning Department's Conference Room, County Building, Hilo, Hawaii, at which hearing Kenneth B. Wersing, 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 a variance to construct an additional dwelling on a parcel zoned for single-family residential use with an allowable density of one dwelling per 15,000 square feet of land area was received on May 16, 1973. The property under consideration is located in Waiakea Homesteads, South Hilo.
2. A preliminary hearing on the above matter was held on May 31, 1973.
3. The subject property is 24,420 square feet in size and fronts Pohakulani Street, approximately 850 feet Puna side of the Kawailani Street-Ainaola Drive junction.

4. The General Plan land use allocation guide map designates the area for low density urban development. It also indicates that the property is situated within the flood plain zone.

5. The variance requested would result in essentially allowing the additional dwelling to be constructed on a 9,420 square foot lot which falls 5,580 square feet below the minimum area required.

6. In request of the variance, the applicant intends to build the additional dwelling on the subject property to be nearer and more readily able to help his parents without infringing on their privacy since his father is incapable of helping himself and much of his needs are too strenuous for his mother to bear alone.

7. It was recommended by staff that the request be denied as it was found that the general intent of the RS-15 zoned district is to permit residential development on the basis of one dwelling per 15,000 square feet of land area. The deviation of 5,580 square feet below the minimum area requirement is considered unreasonable and contrary to the intent of the RS-15 zoned district and to the general character of the immediate surrounding area characterized by lot sizes averaging approximately one-half acre. Requested density variances of this nature are normally processed as change of zone applications.

8. After discussion, it was moved and seconded that the request be denied. The motion was carried.

#### 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 9 of Zoning Ordinance No. 63, pertaining to maximum density, of Tax Map Key 2-4-19:68 located in Waiakea Homesteads, South Hilo, Hawaii, be and is hereby denied on its merits.

Dated at Hilo, Hawaii, this 2nd day of November 1973.



Ed C. Watt, Chairman

