

June 4, 1973

Mr. Tatsuo Araki  
43 Wilder Road  
Hilo, HI 96720

Re: Variance Application  
Tax Map Key 2-5-5-:76

The Planning Commission at its duly held public hearing on May 31, 1973 considered your application for a variance to allow a side setback of 1'-0" and an 8'-0" setback between structures in lieu of the required setbacks of 10'-0" for a proposed carport located fronting Wilder Road, Kaumana, Hilo, Hawaii.

The Commission voted to defer and then later reconsidered and denied your request based on the consideration that there appears other alternatives available to the applicant such as relocation of the carport or structurally attaching the carport to the dwelling. Although there are circumstances which require the relocation of the existing carport, there appear no adverse topographic features which would hinder the location of the carport to meet all required setbacks.

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):

1. Name, mailing address and telephone number;
2. Identification of the property and interest therein;

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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.

We will be forwarding you a certified copy of the Order as soon as the document is prepared. In the meantime, 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

lat

cc Harvey F. Gerwig, Gentry Hawaii  
Paul T. Tajima. Box 2413, Hono. 96804  
Corporation Counsel  
Building Department

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal )  
                  of )  
          TATSUO ARAKI )  
                  ) )  
Tax Map Key 2-5-5:76 )  
\_\_\_\_\_ )

Variance Application

No. 340

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 )  
          TATSUO ARAKI )  
                          ) )  
Tax Map Key 2-5-5:76 )  
\_\_\_\_\_ )

Variance Application  
No. 340

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND  
DECISION AND ORDER

The above-entitled matter was brought on for a public hearing before the Planning Commission of the Planning Department, County of Hawaii, on the 31st day of May, 1973, in the Council Room, County Building, Hilo, Hawaii, at which hearing Paul Tajima appeared in behalf of the applicant. 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 from the minimum side yard building setback and minimum distance between buildings was received on April 27, 1973.
2. A preliminary hearing on the above matter was held on May 10, 1973, after which the matter was then scheduled for a public hearing.
3. A public hearing on the matter was held on May 31, 1973.
4. The application requested a variance to allow a side yard setback of 1'-0" and 8'-0" setback between structures in lieu of the required setbacks of 10'-0" for a proposed two-car carport.

5. The property under consideration is a 16,561 square foot parcel located along Wilder Road in Kaumana Houselots, Kaumana, South Hilo.

6. The applicant intended to relocate the existing carport which was affected by the widening of Wilder Road through an improvement district project. On December 10, 1971, the Planning Commission granted variances on setbacks and minimum lot sizes for properties affected by the improvement district. One of the requests included a five (5) foot front yard setback for the applicant's dwelling. The existing carport which would be within the roadway was to be relocated.

7. It was moved and seconded that action be deferred until the applicant is able to comply with the building code requirement or receives a variance from the Building Board of Appeals. The motion was carried.

8. A motion was made to reconsider the action of deferment. Motion was seconded and carried.

9. It was recommended by staff that the request be denied as there appears other alternatives available to the applicant such as relocation of the carport or structurally attaching the carport to the dwelling. Although there are circumstances which require the relocation of the existing carport, there appear no adverse topographic features which would hinder the location of the carport to meet all required setbacks.

10. It was moved and seconded that the request be denied. The motion 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.

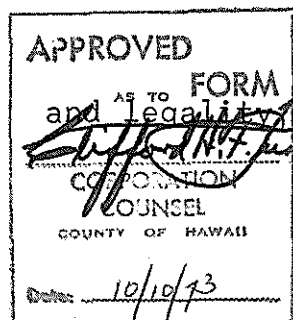
3. Under Section 5-4.3(g) of the Hawaii County Charter, a variance may not be granted unless there are special or unusual circumstances applying to the subject property which would result in unnecessary hardship if the ordinance were literally enforced, and the granting of the variance would not be contrary 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 Conclusion of Law, it is the decision of the Planning Commission and it is hereby ordered that a variance from the requirements of Sections 9 and 30 of Zoning Ordinance No. 63, pertaining to minimum side yard building setback and minimum distance between buildings respectively, of Tax Map Key 2-5-5:76 located in Kaumana Houselots, Kaumana, South Hilo, Hawaii, be and is hereby denied on its merits.

Dated at Hilo, Hawaii, this 25th day of September 1973.



  
Ed C. Watt, Chairman