

October 26, 1973

Mr. Joseph Cathcart
RR #1, Box 204
Holualoa, HI 96725

Re: Variance Application
Tax Map Key 7-8-15:25

The Planning Commission at its preliminary hearing on October 25, 1973 reviewed your application for a variance to allow the creation of a 71 foot wide lot in lieu of the required 100 foot lot width within the Kahaluu-Keauhou Houselots, Kahaluu, North Kona, Hawaii.

This is to inform you that the Commission voted to deny your request based on the following considerations:

1. There are not found any unusual circumstance characterizing this situation which does not characterize other lots in the area. In this regard, the applicant's existing 1+ acre lot contains sufficient dimensions to readily create a rear lot meeting the average width requirement. The creation of an easement for example, over the front lot would permit this.
2. There is not found the depriving of property rights to a degree which would warrant granting a variance. There are reasonable options or alternatives available to the owner in the form of other subdivision layouts, and the lopping off of a small portion of the existing driveway or a slanted property line are not deemed to create substantial hardships to the landowner in creating a subdivision.

As your request has been denied, you may appeal the decision of the Planning Commission if you find that the action of the 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.

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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;
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 Donald Tong or Norman Hayashi of the Planning Department at 935-5721, extension 221.



Ed C. Watt
Chairman

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cc Corporation Counsel
Chief Engineer, Public Works

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal)
 of)
 ELLEN D. CATHCART)
)
 Tax Map Key 7-8-15:25)

)

Variance Application

No. 360

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)
 ELLEN D. CATHCART)
)
Tax Map Key 7-8-15:25)
_____)

Variance Application

No. 360

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 25th day of October 1973, in the County Council Room, County Building, Hilo, Hawaii. 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 building site average width was received on October 1, 1973.
2. A preliminary hearing on the above matter was held on October 25, 1973.
3. The requested variance was to allow the creation of a 71 foot wide lot in lieu of the required 100 foot lot width for a proposed subdivision, situated within the Residential Agriculture - .5 acre (RA-.5a) zoned district.
4. The property under consideration is located in the Kahaluu-Keauhou Houselots subdivision, Kahaluu, North Kona, Hawaii.
5. The applicant intended to subdivide a 1.07 acre parcel into two (2) lots consisting of 24,381 and 22,532 square feet. As a result of the subdivision action, the existing single-family dwelling will be situated on the

24,381 square foot lot.

6. It was recommended by the staff that the request be denied based on the following considerations:

- a. That there are not found any unusual circumstance characterizing this situation which does not characterize other lots in the area. In this regard, the applicant's existing 1+ acre lot contains sufficient dimensions to readily create a rear lot meeting the average width requirement. The creation of an easement for example, over the front lot would permit this.
- b. There is not found the depriving of property rights to a degree which would warrant granting a variance. There are reasonable options or alternatives available to the owner in the form of other subdivision layouts, and the lopping off of a small portion of the existing driveway or a slanted property line are not deemed to create substantial hardships to the landowner in creating a subdivision.

7. It was moved and seconded that the request be denied. 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 Codes.

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 Article 6, Section 6 of the Zoning Code (Chapter 8), pertaining to minimum building site average width, of Tax Map Key 7-8-15:25 located in Kahaluu-Keauhou Houselots, Kahaluu, North Kona, Hawaii, be and is hereby denied on its merits.

Dated at Hilo, Hawaii, this 9th day of February, 1974.


Arthur W. Martin, Chairman

