

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for VARIANCE)
by)
HAWAII LAND CORPORATION)
from)
MINIMUM SETBACK REQUIREMENT)
in)
Waiakea, South Hilo, Hawaii)

Variance No. 369

VARIANCE PERMIT

The County Planning Commission at a duly held public hearing on October 25, 1973 considered the application of Hawaii Land Corporation for a variance from Chapter 8 (Zoning Code), Article 15, Section 7, Hawaii County Code, as Amended, more specifically to allow the construction of a warehouse with no rear yard setback in lieu of the required twenty (20) foot setback as regulated by the MG-1a zoned district, proposed to be located in Waiakea, South Hilo, Hawaii. Tax Map Key 2-1-10:11.

The Commission has found:

1. That the strict enforcement of regulations would deny the property owner reasonable and beneficial use of the property and thus amount to confiscation of the property.

Improvements to Silva Street are being considered in the future and provisions have been made on the City of Hilo zoning map to increase the existing 60 foot right-of-way to a 120 foot right-of-way. Based on this proposal, a front yard setback of 50 feet (30 foot right-of-way increase plus 20 foot setback) is required. When considering a 50 foot front and 20 foot rear setback, a net buildable area of 2250 square feet results from the 7500 square foot property (75'x100').

The State Department of Transportation is also considering improvements to Silva Street and their preliminary report calls for a 60 foot wide right-of-way acquisition of the subject property. Based on this proposal, and other applicable setback regulations, no buildable area would be available for development.

However, the State is in no position to initiate acquisition of the property and therefore has no valid legal basis on which to oppose the rear setback request or to impose a 60 foot future right-of-way setback line.

Based on all of the above, no governmental agency is in the position to initiate the ideal solution to the problem which is acquisition of the property. The next best solution, therefore, is to consider a rear setback variance which would allow development to occur towards the rear of the property which would result in a greater front setback

to accommodate future acquisition of the frontal portion of the property. A denial of the variance would amount to confiscation of the property without just compensation since the property cannot be acquired at this time.

Therefore, the Commission hereby grants to the applicant a variance to allow the construction of a warehouse with no rear yard setback in lieu of the required twenty (20) foot setback as regulated by the MG-1a zoned district pursuant to the authority vested in it by Section 7 of said Code, subject to the following conditions:

1. That the construction of the proposed warehouse begin within one (1) year of the date of approval of the variance; and that all other applicable regulations be complied with.

Should this condition not be met, the variance shall be deemed null and void.

The effective date of this permit shall be from October 25, 1973.

Dated at Hilo, Hawaii this 5th day of February 1974.


Arthur W. Martin, Chairman

