

December 6, 1973

Mr. Mitsuo Egusa
1185 Komohana St.
Hilo, HI 96720

Re: Variance Application
Tax Map Key 2-4-12:34 & 37

This letter is intended to clarify the Planning Commission's action on the preliminary hearing held on November 13, 1973 on your request for a variance to allow a side yard building setback of five (5) feet in lieu of the required ten (10) foot setback resulting from the proposed consolidation and resubdivision of property located in Waiakea Homesteads, Waiakea, South Hilo, Hawaii.

Please be informed that the Commission voted to deny the portion of the variance for a lesser building setback based on the following considerations:

1. There is ample space for compliance with this requirement on the proposed lot containing the existing dwelling and carport. The carport could be relocated on other parts of the lot, and there are no terrain or topographic deficiencies which would make the relocation unfeasible; and
2. Granting such a variance would further diminish the character of the proposed 13,560 square foot lot by virtue of permitting a more crowded appearance. To retain the RS-15 character, the need to have all existing and proposed buildings meeting the required setback is crucial.

As part of your request has been denied, you will be required at the time of subdivision approval to remove or relocate the carport to comply with the required ten (10) foot setback or appeal the decision of the Planning Commission if you feel that the action of

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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 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.

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.

Sidney M. Aube

for Raymond H. Suefuji
Director

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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)
 MITSUO EGUSA)
)
Tax Map Key 2-4-12:34 & 37)
_____)

Variance Application

No. 374-A

FINDINGS OF FACT

CONCLUSIONS OF LAW

AND

DECISION AND ORDER

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

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In the Matter of the Appeal)
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Variance Application

No. 374-A

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, at which hearing Hajime Takata 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 setback requirement and minimum building site area was received on September 17, 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 13,560 square foot lot within the single family residential - 15,000 square foot (RS-15) zoned district, and to allow a side yard setback of five (5) feet in lieu of the minimum requirement of ten (10) feet.
4. The variance results from a proposed consolidation and resubdivision of two (2) lot into three (3) lots of two (2) 15,000 square foot lots and a 13,560 square foot lot.

5. The subject property is located in Waiakea Homesteads, South Hilo, Makai side of Komohana Street, approximately 1,700 feet Hamakua side of Kawailani Street.

6. The staff recommended that the variance from the minimum building site area be scheduled for a public hearing, and that the variance from the minimum setback requirement be denied based on the following findings:

- a. There is ample space for compliance with this requirement on the proposed lot containing the existing dwelling and carport. The carport could be relocated on other parts of the lot, and there are no terrain or topographic deficiencies which would make the relocation unfeasible.
- b. Granting such a variance would further diminish the character of the proposed 13,560 square foot lot by virtue of permitting a more crowded appearance. To retain the RS-15 character, the need to have all existing and proposed buildings meeting the required setback is crucial.

7. The Commission voted to schedule the variance from the minimum building site area for a public hearing.

8. It was moved and seconded that the minimum setback requirement variance 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 3, Section 7 of the Zoning Code (Chapter 8), pertaining to minimum setback requirements, of Tax Map Key 2-4-12:34 & 37 located in Waiakea, South Hilo, Hawaii, be and is hereby denied on its merits.

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


Arthur W. Martin, Chairman

