

PLANNING COMMISSION

Planning Department  
County of Hawaii  
Hilo, Hawaii

Application for VARIANCE )  
by )  
HENRY J. SILVA )  
from )  
MINIMUM YARD REQUIREMENT )  
in )  
Kona Palisades Subdivision, )  
Kalaoa, North Kona, Hawaii )  

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Variance No. 382

VARIANCE PERMIT

The County Planning Commission at a duly held public hearing on January 17, 1974 considered the application of Henry J. Silva for a variance from Chapter 8, (Zoning Code), Article 3, Section 7, Hawaii County Code, as Amended, more specifically to allow a 5'-6" side yard setback in lieu of the required 10'-0" for a swimming pool on a 10,047 square foot lot in the Kona Palisades Subdivision, Kalaoa, North Kona, Hawaii. Tax Map Key: 7-3-32:39.

The Commission has found:

1. That governmental error contributed to the situation by failing to adequately note all setback requirements at their proper locations on the approved building plan. The original plot plan submitted for building permit indicated a five (5) foot setback for the affected area and a ten (10) foot setback on the other side. The approving agency made a notation on the plan indicating that the minimum side yard setback is ten feet, and that the minimum rear yard setback is five feet. However, at the time of approval, the proposed five foot setback noted on the plan by the applicant was not omitted ~~nor~~ corrected to read ten feet by the approving agency. Therefore, it was construed by the applicant that the five foot setback was, in essence, the rear yard setback and not the side yard. Consequently, the applicant thought the plan as submitted was in order.
2. Since the subject property is a corner lot with two (2) road frontages, the areas along the roadways are deemed to be the front property lines and both interior lines are the side property lines up until, in this case, a five foot radius at the opposite corner of the road frontages. Setback areas for corner lots are interpreted differently from the standard type lots with only one road frontage. This also contributed to the misinterpretation of the yard areas.
3. That the granting of the variance will not be materially detrimental to the public welfare or injurious to improvements or property rights related to properties in the near vicinity. The entire swimming pool area is surrounded by a six (6) foot high tile wall along the property line which is permitted under the Zoning Code. As a result, the swimming pool is not visible from the roadways nor from the adjacent properties.

Therefore, the Commission hereby grants to the applicant a variance to allow a 5'-6" side yard setback in lieu of the required 10'-0" for a swimming pool on a 10,047 square foot lot pursuant to the authority vested in it by Article 1, Section 7 of said Code, subject to the following condition:

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 January 17, 1974.

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

  
Arthur W. Martin, Chairman

