

PLANNING COMMISSION

Planning Department  
County of Hawaii  
Hilo, Hawaii

Application for VARIANCE )  
by )  
R. AND F., INC. )  
from )  
MINIMUM SIDEYARD SETBACK )  
REQUIREMENTS )  
in )  
The Luana Gardens Subdivision )  
Ponahawai, South Hilo, Hawaii )  
\_\_\_\_\_ )

Variance No. 420

VARIANCE PERMIT

The County Planning Commission at a duly held public hearing on September 25, 1974 considered the application of R. AND F., INC. for a variance from Chapter 8 (Zoning Code), Article 3, Section 7, and Article 26, Section 4.H, Hawaii County Code, as Amended, more specifically to allow a 6' - 2" sideyard setback for a Single Family Dwelling in lieu of the minimum sideyard setback requirement of ten (10) feet as stipulated within the Single Family Residential - 10,000 square feet (RS-10) zoned district and also a variance to allow a 2' - 8" clear space between the eave of the building and the side property line in lieu of the minimum requirement of five (5) feet as required in Article 26, Section 4.H of the Zoning Code, in the Luana Gardens Subdivision, Ponahawai, South Hilo, Hawaii, Tax Map Key 2-5-52:14.

The Commission has found that:

1. There is an unusual circumstance applying to the subject building which does not generally apply to surrounding improvements in the same district. The unusualness applies to the fact that when the subject dwelling was surveyed before construction, a wrong property pin was used to determine the side boundary line. This resulted in the dwelling to be constructed 6 feet 2 inches from the side yard boundary instead of the required 10 feet. This discrepancy was not discovered until the dwelling on parcel 15 was constructed.
2. The granting of the variance will not be materially detrimental to the public welfare nor will it be injurious to improvements or property rights related to property in the near vicinity. It is felt that because the particular design of the dwelling on parcel 15 has the carport located to that side of the property line, there would be no conflict with the two dwellings being 2 feet 8 inches

closer to each other in that there is 37 feet between the living area wall line of the dwelling on parcel 15 and the living area wall line of the dwelling on parcel 14. In addition, because of the previously mentioned design considerations of the subject dwelling the integrity and spirit of the setback provision would still be maintained.

In view of the foregoing, it is felt that the granting of the variance will not abuse the granting of a personal or special privilege inconsistent with the limitations upon other properties under identical district classifications.

Therefore, the Commission hereby grants to the applicant a variance to allow a 6' - 2" sideyard setback for a Single Family Dwelling in lieu of the minimum sideyard setback requirement of ten (10) feet as required within the Single Family Residential - 10,000 square foot (RS-10) zoned district and to allow a 2' - 8" clear space between the eave of the building and the side property line in lieu of the minimum requirement of five (5) feet, pursuant to the authority vested in it by Section 7 of said Code, subject to the following conditions that:

1. The applicant, R. and F., Inc., be responsible in informing anticipated buyers of the dwelling on parcel 14 of the existing sideyard setback situation; and
2. The applicant, R. and F., Inc., be also responsible in submitting a letter of acknowledgment by the buyer of the dwelling stating the buyer's awareness of the sideyard setback encroachment be made a part of the deed and be duly recorded with the Bureau of Conveyances of the State of Hawaii.

Should these conditions not be met, the variance shall be deemed null and void.

The effective date of this permit shall be from September 25, 1974.

Dated at Hilo, Hawaii, this 23rd day of October, 1974.

  
Arthur W. Martin, Chairman

