

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for VARIANCE)
by)
LINCO CONSTRUCTION CO.)
from)
MINIMUM BUILDING SITE)
in)
The Komohana Gardens Subdivision)
Unit 1, Waiakea Homesteads)
2nd Series, South Hilo, Hawaii)
_____)

Variance No. 421

VARIANCE PERMIT

The County Planning Commission at a duly held public hearing on September 25, 1974 considered the application of LINCO CONSTRUCTION CO. for a variance from Chapter 8 (Zoning Code), Article 24, Section 2, Hawaii County Code, as Amended, more specifically to allow the creation of a 7,750 square foot lot in lieu of the minimum building site area requirement of 10,000 square feet as required under the Cluster Plan Development Permit granted for the Komohana Gardens Subdivision, Unit 1, at Waiakea Homesteads, 2nd Series, South Hilo, Hawaii, Tax Map Key 2-4-22:118.

The Commission has found that:

1. There exists an unusual circumstance with respect to the subject property that does not generally apply to the surrounding property in the same district. Prior to the start of the construction of the dwelling on Lot 58-A a wrong property pin was used in calculating Lot 58-A's boundaries. Consequently, the construction of the dwelling straddled the side property line of Lot 59-A, resulting in the existing situation. This unusual circumstance also deprives the applicant of substantial property rights which would otherwise be available. In addition, the open space adjacent to the rest of the subject property and the conformance of the proposed dwelling to required setbacks would still in this instance maintain the integrity and spirit of the setback, open space provisions of the Zoning Code.
2. The granting of the variance would not be inconsistent with the general purpose of the district or the intent and purpose of the ordinance. The general purpose of the single-family residential district is to provide for low-density residential areas for urban and suburban family life. Although the lot size will be reconfigured and reduced to

7,756 square feet, the lot affords the applicant enough room to construct a dwelling upon it conforming to all required setbacks and fulfilling the general purpose of the single-family residential zoned district. In addition, the proposed subdivision action will not result in the creation of additional lots other than what presently exists. Therefore, there will be no increase in density or traffic as a result of this proposed action.

3. The granting of the variance will not be materially detrimental to the general public or injurious to improvements or property rights in the near vicinity. The request for the variance is merely to rectify a surveying and subsequent construction discrepancy. This being the case it is determined that there would be no detrimental impact upon the general public if the variance were to be granted. In view of the applicant's situation, the only possible alternative left to the owner of Lot 58-A is to acquire the entire parcel of Lot 59-A, which may be considered a hardship because the siting of the dwelling on Lot 58-A is so that Lot 58-A has a substantial area for lawn or open space purposes and that there is deemed to be adequate area remaining on Lot 59-A which could be subdivided and utilized by the applicant for residential purposes. Therefore, the other alternative is to in this instance, create a new subdivision which will be able to conform to all building setback requirements, as this application is attempting to do.

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 the creation of a 7,750 square foot lot in lieu of the minimum building site area requirement of 10,000 square feet as required under the Cluster Plan Development Permit granted for the Komohana Gardens Subdivision, pursuant to the authority vested in it by Section 7 of said Code, subject to the following conditions that:

1. The applicant, Linco Construction Co., Inc., submit a subdivision plan generally conforming to the layout on the Planning Department's presentation map and secure tentative approval of such plan within one (1) year from the date of approval of this request and also be responsible for securing final subdivision approval; and
2. All applicable rules and regulations be complied with.

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

APPROVED as to
FORM and LEGALITY
Clifford H. F. Jones
CORPORATION COUNSEL
COUNTY OF HAWAII
Date 10/25/74

RECEIVED AT HONOLULU, HAWAII

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