

October 3, 1975

Mr. Hideo Ishigo
P. O. Box 8
Honolulu, HI 96728

Re: Variance Application
Tax Map Key 2-8-14:Portion of 12

The Planning Commission at its preliminary hearing on October 2, 1975 considered your application for a variance to allow the construction of a second single-family dwelling on a 17,856 square foot area situated within the Single Family Residential - 10,000 square foot (RS-10) zoned district at Honolulu, South Hilo, Hawaii.

This is to inform you that the Commission voted to deny your request based on the following findings:

That the applicant has not shown that there are special or unusual circumstances existing on the property that do not generally apply to surrounding properties in the same district. The general intent of the Single Family Residential - 10,000 square foot (RS-10) zoned district is to allow single family residential development on the basis of one (1) dwelling per 10,000 square feet of land area. The deviation of 2,144 square feet of land area (21%) below the minimum building site area requirement is considered unreasonable in this particular case. It has been found that the area under consideration has no special or unusual topographic or similar features which could justify the additional density.

According to the applicant, the ultimate purpose of the variance request is to provide a home for the applicant who is presently living in a unit above the grocery store, situated within the commercially zoned portion of the parcel. However, it must be realized that the intent of variances is to provide flexibility to accommodate those

circumstances in which, through no previous action of the applicant, the strict and literal enforcement of the law would cause undue hardship to the applicant and deprive him of substantial property rights.

The applicant is not faced with this situation. There are other reasonable alternatives available to the applicant to fulfill his desires. Aside from the single-family dwelling which his son resides in, the applicant has two (2) other dwellings on the entire property which he is presently renting. One (1) of these houses could be used by the applicant. If it is contended that these two (2) dwellings are old and in poor condition, then another alternative would be to demolish one (1) of them, and reconstruct a new dwelling.

The front portion of the property which is zoned for village commercial uses has a land area of 14,657 square feet. As permitted within this zoned district, based on 1,250 square feet of land area per unit, a total of eleven (11) rental or dwelling units may be allowed. Thus, it is quite evident that this option is also available to the applicant in fulfilling his intent.

It is therefore determined that granting of this particular variance request would be inconsistent with the general purpose of Single Family Residential - 10,000 square foot (RS-10) zoned district. Furthermore, density variances of this nature should normally be processed as a change of zone application. However, this is not suggesting that the Planning Department would be committed to endorse such a request should the applicant submit such. Any change of zone request would have to be evaluated against the applicable elements of the General Plan document.

As your request has been denied, you may appeal the decision of the Planning Commission if you feel that the action of 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.

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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 within thirty (30) days from the date of action and 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;

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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.

Inasmuch as no public hearing will be held on this matter, we will be returning your filing fee as soon as the refund is processed.

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 the Planning Department at 961-8288.



Arthur W. Martin
Chairman

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cc Corporation Counsel
Building, Public Works

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal)
 of)
 HIDEO ISHIGO)
)
Tax Map Key 2-8-14:portion of 12)
_____)

Variance Application

No. 449

FINDINGS OF FACT

CONCLUSIONS OF LAW

AND

DECISION AND ORDER

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal)	
of)	
HIDEO ISHIGO)	Variance Application
)	
Tax Map Key 2-8-14:portion of 12)	No. 449
)	

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND
DECISION AND ORDER

The above-entitled matter was brought on for a preliminary hearing on the 2nd day of October 1975, before the Planning Commission of the Planning Department, County of Hawaii, in the County Council Room, County Building, Hilo, Hawaii, at which hearing Sam Ishigo appeared in behalf of the application.

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 variances from the maximum allowable density requirement was received on September 10, 1975.

2. The variance request was to allow the construction of a second single family dwelling on a 17,856 square foot area situated within the Single Family Residential - 10,000 square foot (RS-10) zoned district. Based on the minimum building site area requirement of 10,000 square feet, 20,000 square feet is required to construct another dwelling. The area is 2,144 square feet (21%) less than the required land area.

3. The area involved is situated in back of the former Ishigo Bakery, Honomu Village, Honomu, South Hilo, Hawaii, TMK: 2-8-14:portion of 12.

4. The 17,856 square foot RS-10 zoned area is a portion of a 32,513 square foot parcel. The remaining 14,657 square feet of land area is designated as Village Commercial - 10,000 square feet (CV-10).

5. The General Plan land use pattern allocation guide map designates the area for Medium Density Urban Development. This designation map allow single family residential uses at a maximum density of 5.8 units per acre, as well as multiple residential uses at densities of 11 to 35 units per acre. Commercial uses are also allowed within this land use designation.

6. A single family dwelling which is rented out is already situated within the RS-10 zoned area. This structure is over twenty-two (22) years of age.

7. Within the CV-10 portion of the property are two (2) single family dwellings. One (1) of the dwellings is occupied by the applicant's son, while the other is rented out. Also situated within this area is a structure which is used as a repair shop/garage and a rental living unit. Another structure houses the grocery store and the former Ishigo Bakery. The applicant presently lives in a unit on the second floor of the grocery store structure. All of the structures situated within the CV-10 portion of the property were constructed prior to 1930.

8. Surrounding land uses include the Honomu Odaishisan Church, sugar cane fields, single family dwellings, the Honomu commercial area, and the former Peace Corps training facility. There are approximately 162 lots in the immediate Honomu area zoned for Single Family Residential uses. The lots range in size from 1,200 square feet to 21.5 acres. Approximately ten (10) of these lots are presently vacant.

9. Access to the residential zoned area is from a nine (9) foot wide paved easement through the Honomu Odaishisan Church property.

10. In request of the variance, the applicant has stated the following:

"The subject property is part of a larger property owned by me and my father before me. He bought it about 1930.

"I wish to remain in Honomu where I was born and raised and where I raised my family. There are no available residential lots reasonably priced in Honomu.

"Granting me a variance to construct a new house in Honomu could not be considered a special privilege as my neighbors are not objecting to this request for a variance.

"The house will be built on a residentially zoned property, in conformance with the zoning and County General Plan.

"Being that the house site will be bordered by a neighbor's rear garden to the north, a sugar cane field to the east and open garden areas to the south and west directions, the rest of my property, granting the variance will not injure the neighbors value or the property right.

"Dwelling 1 is occupied by a renter at \$65.00 per month. House is over 20 years old.

"Dwelling 2 (new) will be occupied by applicant who has to move from home above store when it is renovated into offices."

11. All cooperating agencies had no comments on or objections to the subject request.

12. The staff recommended denial of the application at the preliminary hearing on October 2, 1975, based on the following findings:

That the applicant has not shown that there are special or unusual circumstances existing on the property that do not generally apply to surrounding properties in the same district. The general intent of the Single Family Residential - 10,000 square foot (RS-10) zoned district is to allow single family residential development on the basis of one (1) dwelling per 10,000 square feet of land area. The deviation of 2,144 square feet of land area (21%) below the minimum building site area requirement is considered unreasonable in this particular case. It has been found that the area under consideration has no special or unusual topographic or similar features which could justify the additional density.

According to the applicant, the ultimate purpose of the variance request is to provide a home for the applicant who is presently living in a unit above the grocery store, situated within the commercially zoned

portion of the parcel. However, it must be realized that the intent of variances is to provide flexibility to accommodate those circumstances in which, through no previous action of the applicant, the strict and literal enforcement of the law would cause undue hardship to the applicant and deprive him of substantial property rights.

The applicant is not faced with this situation. There are other reasonable alternatives available to the applicant to fulfill his desires. Aside from the single-family dwelling which his son resides in, the applicant has two (2) other dwellings on the entire property which he is presently renting. One (1) of these houses could be used by the applicant. If it is contended that these two (2) dwellings are old and in poor condition, then another alternative would be to demolish one (1) of them, and reconstruct a new dwelling.

The front portion of the property which is zoned for village commercial uses has a land area of 14,657 square feet. As permitted within this zoned district, based on 1,250 square feet of land area per unit, a total of eleven (11) rental or dwelling units may be allowed. Thus, it is quite evident that this option is also available to the applicant in fulfilling his intent.

It is therefore determined that granting of this particular variance request would be inconsistent with the general purpose of Single Family Residential - 10,000 square foot (RS-10) zoned district. Furthermore, density variances of this nature should normally be processed as a change of zone application. However, this is not suggesting that the Planning Department would be committed to endorse such a request should the applicant submit such. Any change of zone request would have to be evaluated against the applicable elements of the General Plan document.

13. At that preliminary hearing, the Planning Commission voted to deny the variance requests for the reasons as outlined by the staff. The vote to deny was recorded as five (5) ayes and one (1) no.

CONCLUSIONS OF LAW

1. Pursuant to Section 5-4.3(g) of the Hawaii 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.

DECISION AND ORDER

Based upon testimony and exhibits introduced at the preliminary 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 the variance from the requirements of Article 3, Section 8-A pertaining to the maximum allowable density requirements of Tax Map Key 2-8-14:portion of 12 located in Honomu, South Hilo, Hawaii be and is hereby denied.

Dated at Hilo, Hawaii, this 6th day of November, 1975.


Arthur W. Martin, Chairman

