

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for VARIANCE)	
by)	
JAY MANAGO)	
from)	Variance No. 453
MINIMUM FRONT YARD SETBACK)	
FOR PIGGERIES)	
in)	
Kaawaloa, South Kona, Hawaii)	
)	

VARIANCE PERMIT

The County Planning Commission at a duly held public hearing on October 9, 1975 considered the application of JAY MANAGO for a variance from Chapter 8 (Zoning Code), Article 7, Section 31, Hawaii County Code, as Amended, more specifically to allow a 450-foot front yard setback for the construction of another 37 feet by 106 feet piggery in lieu of the minimum requirement of 1,000 feet as stipulated within the Agricultural zoned district in Kaawaloa, South Kona, Hawaii, Tax Map Key 8-1-09:6.

The Commission has found that:

1. There are special and unusual circumstances applying to the subject property or use which do not generally apply to surrounding properties or improvements in the same district. The parcel on which the piggery and slaughter house are located has a maximum depth of approximately 650 feet. Given the 650-foot depth of the parcel, the applicant is unable to comply with the minimum setback requirement and thus cannot either expand or upgrade his operation. This condition is determined to constitute a special and unusual circumstance which does not generally apply to surrounding properties or improvements in the same district;
2. The granting of the variance will not be inconsistent with the general purpose of the district or the intent and purpose of the Zoning Code. Piggeries are permitted use within the agricultural zone with the stipulation that they meet the minimum 1,000-foot setback requirement from any major public road and/or non-agricultural zoned districts. The intent of the setback requirement is to mitigate any effects from the subject use which may be a nuisance or detrimental to the public welfare. In this instance, it is determined that the subject use, which is allowed in the agricultural zone, can be set back less than the minimum requirement without contradicting the

purpose or intent of the setback requirement. The land in question slopes downward from the highway to the ocean. This in effect shields the piggery and slaughterhouse facilities from the highway. They are not visible from the highway. In addition, the distance from the highway and the slope of the land are deemed adequate to ameliorate any adverse effects which may be associated with the subject use. Approval of the variance would thus not be inconsistent with the general purpose of the agricultural zone nor would it be circumventing the intent and purpose of the setback requirement;

3. The granting of the variance will not militate against the County General Plan. A major policy throughout the General Plan, which has been adopted as ordinance, is the protection and assistance of agriculture in the County of Hawaii. The General Plan especially states that diversified agriculture should be promoted. Approval of the subject variance would be in keeping with these General Plan policies in that it would allow the strengthening of an established agricultural activity. The purpose of the variance request is not only for the expansion of that activity but also for the upgrading of facilities so that Federal and State requirements concerning piggeries can be met. The upgrading of the facility would in essence modernize the operation.

Further, although the area is designated for low density urban development on the General Plan Land Use Pattern Allocation Guide Map, that designation is a long-term one and not necessarily one that should be fulfilled in the immediate future. The General Plan Land Use Pattern Allocation Guide Map designations are intended to guide the future development of the County and show appropriate land uses as needs and demand arise. These designations are also intended to be in consonance with the General Plan document, goals, policies and courses of action. It is thus determined that the granting of the variance would be consistent with the General Plan policies; and

4. The granting of the variance would not be detrimental to the public health and welfare. The addition which is proposed by the applicant will meet all Federal and State requirements governing piggeries. The new building will have modifications which will control flies and rats, minimize odors, eliminate diseases and control temperature. These have not been part of the older piggery facilities and the addition will therefore be an upgrading of the operation. These control measures will contribute to a safe and sanitary piggery operation. In addition, the operation is not visible from the highway nor is it particularly noticeable in any other way. As such, approval of the variance request will not interfere with the aesthetics of the area nor will it have an adverse impact on the public health and welfare.

Therefore, the Commission hereby grants to the applicant a variance to allow a 450 foot front yard setback for the construction of another 37 feet by 106 feet piggery in lieu of the minimum requirement of 1,000 feet, pursuant to the authority vested in it by Section 7 of said Code, subject to the following conditions that:

1. The applicant comply with all Federal and State Health regulations relative to piggeries;
2. Construction of the proposed addition begin by the applicant within one year from the date of approval and be completed within two years thereafter; and
3. All other applicable rules and regulations, including plan approval, be complied with.

Should any of the foregoing conditions not be met, the variance shall be deemed null and void.

The effective date of this permit shall be from October 9, 1975.

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


Arthur W. Martin, Chairman

