

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for VARIANCE)
by)
MARJORIE STONE)
from)
SIDE YARD SETBACK AND)
HEIGHT (STORY) LIMITS)
in)
Holualoa, North Kona, Hawaii)

VARIANCE NO. 516

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on November 16, 1977 and at its regular meeting on December 19, 1977, considered the application of MARJORIE STONE for a variance from Chapter 8 (Zoning Code), Article 9, Sections 4 & 7 of the Hawaii County Code, as amended; more specifically, to allow the construction of a four (4) story condominium in lieu of the maximum allowable height limit of three (3) stories, and to allow a twelve (12) foot side yard setback in lieu of the required minimum of fourteen (14) feet in Holualoa, North Kona, Hawaii, Tax Map Key 7-6-17:30.

The Commission has found:

That the granting of the variance will not be inconsistent with the intent and purpose of the Zoning Code and General Plan. The petitioner intends to construct a four-story structure which will house six (6) condominium units. No residential units will be included on the ground floor. It will include recreation areas, storage room and a manager's office. The Zoning Code allows, with a variance, the construction of an additional story and/or ten feet. The purpose of this provision is to provide some relief from structural requirements which may be applicable due to tsunami inundation. The parcel is located within an area identified within the the General Plan as a potential tsunami hazard zone. It is in the best public interest that residential units not be allowed on the ground floor. This would be in accordance with the General Plan Flood element goals of protecting and life and preventing damages to man-made improvements by minimizing danger to life and property. At the same time compatible uses would still be permitted.

That the additional floor would not render the building any more conspicuous in relation to its natural surroundings than what is already permitted by the Zoning Code. The Code states that no building shall exceed a height of 45 feet nor contain more than three (3) stories. The proposed building which contains four (4) stories on the makai side, does not exceed forty-five (45) feet, therefore while there is an additional story, the absolute height does not exceed what is permitted in the Zoning Code. Moreover, on the mauka side, the building is only three (3) stories high. Thus the impact on the dominant view plane from Ali'i Drive is no greater than what is allowable through the Code, both in terms of the allowable height limits and the minimum setback, which would have been twelve (12) feet for a three-story building.

That with relation to the side yard setback, there are special and unusual circumstances which apply to the subject property which do not generally apply to surrounding properties in the same district. A 1977 shoreline survey rendered approximately 4,325 square feet of land area undevelopable. This 23% portion was originally included within the surveyed parcel description. Further if all required setbacks including the fourteen (14) foot side yard setback applied to the remaining 13,926 square foot parcel roughly 40% of this land area would be rendered undevelopable. Thus, this special circumstance exists to a degree which deprives the owner of substantial property rights which would otherwise be available.

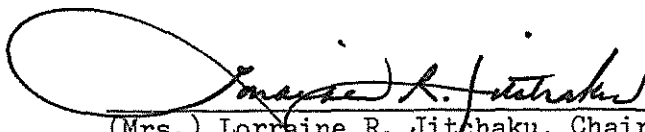
Therefore, the Commission hereby grants to the applicant a variance to allow the construction of a four (4) story condominium in lieu of the maximum allowable height limit of three (3) stories, and to allow a twelve (12) foot side yard setback in lieu of the required minimum of fourteen (14) feet in Holualoa, North Kona, Hawaii, Tax Map Key 7-6-17:30 pursuant to the authority vested in it be Article 1, Section 7 of the Zoning Code, subject to the following conditions:

1. That the proposed building shall be limited to a maximum height of forty-five (45) feet.
2. That the development conform substantially to plans submitted with this application, which reflect no residential units on the ground floor and three stories on the mauka side of the building.
3. That all other conditions of the Special Management Area Use Permit shall be complied with.
4. That the requirements of the Park Dedication Ordinance shall be complied with.
5. That all other applicable rules and regulations shall be complied with.

Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void by the Planning Commission.

The effective date of this permit shall be from December 19, 1977.

Dated at Hilo, Hawaii, this 30th day of December, 1977.


(Mrs.) Lorraine R. Jitchaku, Chairman
Planning Commission

