

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for VARIANCE)
by)
HARRY HASEGAWA)
from)
MINIMUM SIDE YARD REQUIREMENT)
in)
Kealakehe Homesteads, 1st Series,)
North Kona, Hawaii)
_____)

VARIANCE NO. 517

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on December 19, 1977, considered the application of HARRY HASEGAWA for a variance from Chapter 8 (Zoning Code), Article 3, Section 6 of the Hawaii County Code, as amended, more specifically, to allow the retention of a storage addition to an existing single family dwelling with a 7'-4" side yard setback in lieu of eight (8) feet as stipulated within the Single Family Residential - 7,500 square foot (RS-7.5) zoned district at Kealakehe Homesteads, 1st Series, North Kona, Hawaii, Tax Map Key 7-4-14:83.

The Commission has found:

That the granting of the variance will not be inconsistent with the intent of the Zoning Code. The intent of the Zoning Code side yard setback provisions is to insure adequate light, air and circulation between buildings and to provide a reasonable area of open space. The proposed addition encroaches ten (10) inches into the side yard setback. The Building Code requires wood frame single-family residential structures to have a five (5) foot setback to insure adequate light, air and circulation and to prevent fire exposure problems. Thus, it is determined that the granting of the variance will not pose health or safety problems for the adjoining property. As mentioned above, the additional intent of the Zoning Code side yard setback requirement is to provide a reasonable amount of open space. The ten (10) inch encroachment of the addition into the side yard setback area is not considered to be of such magnitude so as to violate the intent of the Zoning Code, although it does not comply with the letter of the law.

That the granting of the variance is not considered to be materially detrimental to existing improvements or property rights in the near vicinity. The property adjacent to and Kawaihae side of the subject site currently has a house on it. This house is situated further back from the street than the house on the subject site and has a side yard setback of 7'-10". In total the distance between the two (2) houses is 15'-0" or 1'-0" less than the minimum distance as stipulated by the Zoning Code. However, given the relative placement of the houses and the deviation being requested, it is not felt that approval of the variance will be materially detrimental to existing improvements. Further, the ten (10) inch deviation in the side yard setback being requested is deemed to not be materially detrimental to adjoining property rights.

That special circumstances exist in that government may have contributed to confusion as to the appropriate location of the addition. The County Code requires that all driveways shall meet the front property line at a minimum distance of six (6) feet from the side property line. The dropped curbing for driveway access in the Kona Macadamia Acres Subdivision was constructed by the subdivider. On August 27, 1974, the subdivider was informed by the County that the roadway improvements in the Kona Macadamia Acres Subdivision were completed according to County of Hawaii standards. By this action government approved the improper driveway location which may have led the applicant to an erroneous assumption as to the proper location of the addition.

Therefore, the Commission hereby grants to the applicant a variance to allow the retention of a storage addition to an existing single family dwelling with a 7'-4" side yard setback in lieu of eight (8) feet as stipulated within the Single Family Residential - 7,500 square foot (RS-7.5) zoned district at Kealakehe Homesteads, 1st Series, North Kona, Hawaii, Tax Map Key 7-4-14:83 pursuant to the authority vested in it by Article 1, Section 7 of the Zoning Code, subject to the following conditions:

1. Prior to the resumption of work, plans for the carport be revised so that there are no walls, slats, or other enclosures higher than four (4) feet on the northeast side.
2. That construction shall be completed within one (1) year from the effective date of approval of the Variance Permit.

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, Hawaii County Planning Commission

ASSISTANT	APPROVED as to
	FORM and LEGALITY
	<u>Roxanna Garcia</u>
	CORPORATION COUNSEL COUNTY OF HAWAII
Date	JAN 9 1978