

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

APPLICATION FOR VARIANCE)	
by)	
DUANE CARLSMITH)	
from)	
MINIMUM BUILDING SITE AREA)	VARIANCE NO. 519
REQUIREMENT)	
in)	
Ponahawai, South Hilo, Hawaii)	
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VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on January 12, 1978, considered the application of DUANE CARLSMITH for a variance from Article 3, Section 5, Chapter 8 (Zoning Code) of the Hawaii County Code, as amended; more specifically, to allow the creation of a 9,596 square foot lot in lieu of the minimum building site area requirement of 10,000 as stipulated in Single Family Residential - 10,000 square foot (RS-10) zoned district, in Ponahawai, South Hilo, Hawaii, Tax Map Key 2-5-35:64.

The Commission has found:

1. That unusual circumstances exist which deprive the petitioner of substantial property rights which would otherwise have been available. The subject property fronts on 'I'iwipōlena Street which is designated as a collector street with a 60-foot future roadway on the City of Hilo Zone Map. In order to accommodate the future roadway width the petitioner has set aside a twenty (20) foot future road widening strip. If 'I'iwipōlena Street were not designated as a collector street, the petitioner would have had to set aside only a fifteen (15) foot future road widening strip to conform to County standards. If only a fifteen (15) foot strip were required, the petitioner would have been able to create the eight (8) lots with areas of 10,000 square feet or more; thus, no variance would have been necessary. Thus, given these circumstances, it is determined that the strict and literal enforcement of the Zoning Code provisions will deprive the petitioner of substantial property rights which would otherwise be available. Further, this deprivation of property rights would not have arose due to actions undertaken by the petitioner but rather are as a result the County designation of 'I'iwipōlena as a collector street.

Further, the granting of the variance will not unreasonably burden public facilities. As part of the subdivision improvements the petitioner improved the portion of 'I'iwipōlena Street fronting the subject property and the portion which lies between the subject property and Kaumana Drive. Thus, rather than burdening public facilities, the petitioner has improved those facilities resulting in increased public safety.

2. That the granting of the variance will not materially detrimental to property rights or improvements in the vicinity nor will it be contrary to the intent of the Zoning Code. The property under consideration has an area of 88,062 square feet exclusive of the land set aside for future roadway widening. Under the RS-10 designation eight (8) single family dwellings could be placed on this property. This proposed subdivision will result in eight (8) residential lots and thus will be equal to the maximum allowable density for the property. Of the eight (8) proposed lots, one (1) lot has an area of 9,596 square feet while the remaining seven (7) lots have areas exceeding 10,000 square feet. However, due to the minimum building site average width requirement and the long and narrow configuration of the lot to be subdivided, it is not possible to create eight (8) lots conforming to all requirements of the Zoning Code. By shifting more area into lot number 8 to make it conforming, non-conformance with respect to the minimum building site average width would be created in one or more of the remaining lots. Of the alternatives, the present variance request seems more appropriate.

Therefore, the Commission hereby grants to the applicant a variance to allow the creation of a 9,596 square foot lot in lieu of the minimum building site area requirement of 10,000 as stipulated in Single Family Residential - 10,000 square foot (RS-10) zoned district, pursuant to the authority vested in it by Article 1, Section 7 of Zoning Code, subject to the following conditions:

1. That final subdivision approval be obtained by the petitioner or his authorized representative within one (1) year from the effective date of the Variance Permit.
2. That all other applicable rules and regulations 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 January 12, 1978.

Dated at Hilo, Hawaii, this 31st day of January, 1978.



William F. Mielcke
Chairman, Planning Commission

APPROVED as to
FORM and LEGALITY

Roxanna Garcia

CORPORATION COUNSEL
COUNTY OF HAWAII

JAN 27 1978

Date

ASSISTANT