

PLANNING COMMISSION

Planning Department  
County of Hawaii  
Hilo, Hawaii

APPLICATION FOR VARIANCE	)	
by	)	
H. M. SPIVEY	)	
from	)	VARIANCE NO. 543
MINIMUM SETBACK REQUIREMENTS	)	
in	)	
Waiakea Business and Industrial Lots	)	
Waiakea, South Hilo, Hawaii	)	

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on August 16, 1978, considered the application of H. M. SPIVEY for a variance from minimum setback requirements more specifically, to allow a portion of a proposed building to be constructed within a future road widening strip at Waiakea Business and Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: 2-2-32:22.

The Commission has found:

That there are unusual circumstances applying to the subject property which do not generally apply to properties in the same zoned district or within the general area. Pi'ilani Street is proposed to be widened to a 120-foot right-of-way on the existing City of Hilo Zone Map. This proposal is primarily based on previous plans to connect Pi'ilani Street with Mohouli Street via a bridge over the Waiākea Fish Pond. The purpose of this proposal was to provide efficient access to the old airport terminal for the Waiākea-Uka area. Since the proposal was incorporated into the City of Hilo Zone Map, a new airport terminal has been constructed and Pi'ilani Street serves as a connector between Kanoelehua Avenue and Manono Street.

Pi'ilani Street also serves as a roadway into the existing Ho'olulu Park complex. The need for a 120-foot wide roadway, however, does not appear necessary for this function. It is unlikely that the proposal to connect Pi'ilani and Mohouli Streets will be realized, particularly with the relocation of the airport terminal.

The future road widening strip extends 60 feet into the subject parcel. The depth of the parcel is 200 feet. The future road widening strip occupies 8,400 square feet, or 30% of the total area of 28,000 square feet of the parcel. The 15-foot front yard setback requirement excludes another 2,100 square feet of the parcel from structural development. The 60-foot road widening strip is determined to be an unusual circumstance, particularly in light of the purpose for which it was designated.

Further, these circumstances do not generally apply to other properties in the same zoned district nor does it generally affect surrounding properties. The future road widening strip is delineated along the makai side of Pi'ilani Street between Kanoelehua Avenue and Manono Street. Except for the subject property and the adjacent property to the east which is occupied by Waldron's, no other privately owned properties are affected. The other property along Pi'ilani Street which is affected is publicly owned and is occupied by the Ho'olulu Park complex.

Based on the above, it is determined that these circumstances are also of such a degree that the petitioner would be deprived of substantial property rights which would otherwise be available and which also interfere with the best use and manner of development of the subject property.

It is further determined that approval of the subject request would not constitute a grant of personal or special privilege inconsistent with limitations upon other properties or improvements within the same zoned district. The purpose of the variance provisions of the Zoning Code is to allow reasonable flexibility in those circumstances in which, through no action of the petitioner, the strict and literal enforcement of the law would cause undue hardship to the petitioner. Based on this purpose and the unusual circumstances applying to the subject property, the granting of the variance request would not be a grant of personal or special privilege.

It should be pointed out that Pi'ilani Street may need to be widened at some future time because of its proximity to the Ho'olulu Park complex and its function as a connector between Kanoelehua Avenue and Manono Streets. The Department of Public Works, however, has noted that an 80-foot rather than a 120-foot right-of-way should be adequate for improvements which are appropriate to the function of Pi'ilani Street.

Therefore, the Commission hereby grants to the applicant a variance to allow a portion of a proposed structure to be constructed within a future road widening strip pursuant to the authority vested in it by Article 1, Section 7 of Zoning Code, subject to the following conditions:


1. That the proposed development shall conform to the representations made by the petitioner and the plans submitted with the application.
2. That the petitioner or his authorized representative shall submit plans for plan approval within one (1) year from the effective date of the Variance Permit.
3. That construction of the proposed building shall commence within one (1) year from the date of receipt of final plan approval and shall be completed within two (2) years thereafter.
4. That access to the subject property shall be off of Kalanikoa Street and not off of Pi'ilani Street.

5. That the proposed structure shall maintain a minimum of thirty (30) foot setback from Pi'ilani Street.
6. That all other applicable rules, regulations and requirements 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 August 16, 1978.

Dated at Hilo, Hawaii, this 14<sup>th</sup> day of September, 1978.

  
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William F. Mielcke, Chairman

