

PLANNING COMMISSION

Planning Department  
County of Hawaii  
Hilo, Hawaii

APPLICATION FOR VARIANCE	)	
by	)	
JOHN LEONARD	)	
from	)	VARIANCE NO. 569
MINIMUM SETBACK AND PARKING	)	
REQUIREMENTS	)	
in	)	
Ola'a, Puna, Hawaii	)	
	)	

---

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on February 8, 1979, considered the application of JOHN LEONARD for a variance from Chapter 8 (Zoning Code), Article 11, Section 7 and Article 26, Section 6; more specifically, to allow the temporary retention of a structure with a four (4) foot front yard setback in lieu of the minimum requirement of fifteen (15) feet, and to allow temporary parking stalls with direct off-street accesses in lieu of providing the required back-up space. The property involved is located within the Ola'a Reservation Lots, Ola'a, Puna, Hawaii, Tax Map Key 1-7-19:25.

The Commission has found:

That the granting of the subject request will not be contrary to the purpose and intent of the variance provisions of the Zoning Code. The purpose and intent of the variance provisions are to allow reasonable deviation from the requirements of the Zoning Code in those instances where through no fault of the petitioner the strict and literal enforcement of the Code would cause undue hardships. In this particular case the petitioner acquired the property under the impression that the existing structure was in compliance with the County Zoning Code requirements and that adequate room existed for the provision of the necessary parking. After learning that the property lines were not as represented, the petitioner has initiated action to acquire additional lands to bring the structure and proposed parking into conformance with the Zoning Code requirements. The requested variance would allow the petitioner time to complete the negotiations for the additional land area while allowing the establishment of the dental office use. Since the circumstances involved are not the creation of the petitioner, and further since the variance request is to allow time for the petitioner to rectify the situation, it is determined that the granting of the request would not be contrary to the purpose and intent of the variance provisions of the Zoning Code.

That the granting of the variance request will not be detrimental to the public health or safety. Although the wedge of land between the Volcano Highway and the subject property is part of the old Volcano Road right-of-way, it is not currently used by the general public. The County Department of Public Works has investigated the need for this wedge to remain under County jurisdiction and has concluded that it is of no use to the County.

The Volcano Highway fronting the subject property has an 80-foot right-of-way with a 24-foot pavement. On the east side of the pavement there is approximately 28 feet between the edge of the road surface and the edge of the right-of-way. This 28-foot width should be adequate to allow for a car to pull off from the Volcano Highway. Thus, the use of the wedge portion of the old Volcano Road right-of-way should not create a hazard for vehicles utilizing the Volcano Highway provided that the access to the proposed parking not be directly off the Highway. Within the wedge shaped portion itself there is room for the provision of adequate back-up space to allow for complete turning movements. Thus, cars parking in the proposed stalls can execute the necessary back-up movements prior to exiting onto the Volcano Highway. Thus, the approval of the request should not create traffic hazards to vehicles utilizing the Volcano Highway or other portions of the old Volcano Road right-of-way.

Therefore, the Commission hereby grants to the applicant a variance to allow the temporary retention of a structure with a four (4) foot front yard setback in lieu of the minimum requirement of fifteen (15) feet, and to allow temporary parking stalls with direct off-street accesses in lieu of providing the required back-up space at Ola'a, Puna, Hawaii, pursuant to the authority vested in it by Chapter 8, Article 1, Section 7, subject to the following conditions:

1. That the Variance Permit shall automatically become null and void three (3) months after the Board of Land and Natural Resources action on the right-of-way abandonment request or one (1) year after the effective date of the Variance Permit, whichever comes sooner.
2. That the petitioner shall close the existing access to the Volcano Highway and provide 24-foot oil treated gravel back-up space for the proposed stalls and a driveway meeting with the approval of the Planning Director and Chief Engineer within three (3) months from the effective date of the Variance Permit.
3. That all other applicable rules and requirements shall be complied with.

Should any of the foregoing conditions and requirements of the Variance Permit may be deemed null and void by the

Leonard took longer than 3 mos to start the driveway as reqd by Variance in 78. In 79 Jan., CoFH quitclaimed that por of old Volc Rd to State, so now driveway thru Volc Rd is thru State prop

The effective date of this permit shall be from February 8, 1979.

Dated at Hilo, Hawaii, this 8th day of March, 1979.



\_\_\_\_\_  
WILLIAM F. MIELCKE  
Chairman, Planning Commission

APPROVED as to  
FORM AND LEGALITY:



\_\_\_\_\_  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date: MAR 7 1979