

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

APPLICATION FOR VARIANCE)
by)
NANCY TURNEY)
from)
MINIMUM FRONT YARD SETBACK)
AND CLEAR SPACE REQUIREMENTS)
in)
Puua, Puna, Hawaii)
_____)

VARIANCE NO. 580

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on June 14, 1979, considered the application of NANCY TURNEY for a variance from the minimum front yard setback and clear space requirements, more specifically, to allow the retention of a recently constructed dwelling with a front yard setback of five (5) feet and a clear space of one (1) foot in lieu of the minimum requirements of fifteen (15) feet and ten (10) feet, respectively, at Nanawale Estates Subdivision, Unit I, Puua, Puna, Hawaii, TMK: 1-4-52:1.

The Commission has found:

That there are unusual circumstances applying to the construction of the existing dwelling and its location which do not generally apply to surrounding properties or improvements in the same zoned district. In December of 1978, the petitioner did apply for and received a building permit for the construction of the single family dwelling. The plot plan, which was a part of the building plans, did reflect an incorrect dimension of sixty-eight (68) feet instead of the actual dimension of sixty-two (62) feet. This error occurred when the dimensions of the property were originally obtained from the Tax Map Book. At a glance, the dimension on the Tax Map Book does appear to be sixty-eight (68) feet. The building permit and plans were approved by the Planning Department with the noted dimension of sixty-eight (68) feet. Therefore, it appears that the error occurred during the initial stage of development. To a degree, it would appear that by not further verifying the actual dimensions of the property, and by signing the building permit and plans with the incorrect dimension, government contributed somewhat to the present circumstance which lead to the violation.

According to the Department of Public Works, during the initial stage of construction when the foundation was being staked out, a representative from that office did do an investigation. According to the comments received from that department, the inspector did verbally verify with the owner-builder that the building was sufficiently set back from the right-of-way. Since no verification was made by the Department of Public Works' representative by actual measurement, the petitioner proceeded with the construction under the assumption that the minimum setback requirements were being met. During a subsequent inspection conducted by another representative of the Department of Public Works, the setback violation was noted. At this point, the building was already constructed.

Although the petitioner was also negligent in determining the front yard setback from the center of pavement of Kehau Road, it would appear that, in this particular case relative to inspection, government also had contributed to the error at hand.

Based on the above, it is determined that there were unusual circumstances which lead to the situation at hand, and the placement of the dwelling at its present location.

It is further determined that the granting of this particular request will not be materially detrimental to the public welfare nor be injurious to improvements or property rights related to properties in the near vicinity. The building is situated approximately fifty-eight (58) feet from the Kehau Road-Holiday Road intersection, and therefore, will not impede the sight distance and visibility triangle of that intersection. Further, since Kehau Road has a right-of-way width of sixty (60) feet with a 20-foot wide pavement, the building, although being set back only five (5) feet from the front property line, will be approximately twenty-five (25) feet from the edge of the pavement; thus, also will not interfere with the existing traffic circulation.

Therefore, the Commission hereby grants to the applicant a variance to allow the retention of a recently constructed dwelling with a front yard setback of five (5) feet and a clear space of one (1) foot in lieu of the minimum requirements of fifteen (15) feet and ten (10) feet, respectively, at Nanawale Estates Subdivision, Unit I, Puua, Puna, Hawaii, pursuant to the authority vested in it by Article 1, Section 7 of the Zoning Code, subject to the following conditions:

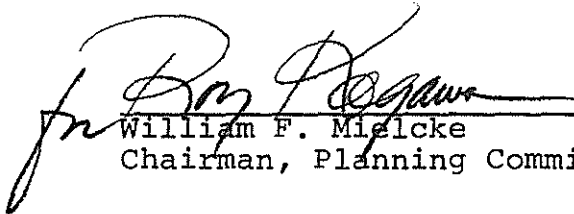
1. That the steps and 4-foot lanai area fronting Kehau Road shall be removed within one (1) month from the effective date of the Variance Permit. The petitioner shall notify the Planning Department as soon as these improvements have been removed.

2. That all future improvements shall comply with the minimum setback requirements. No setback variance shall be granted for any future improvements.
3. 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 June 14, 1979.

Dated at Hilo, Hawaii, this 29th day of June, 1979.



William F. Mielcke
Chairman, Planning Commission

APPROVED AS TO
FORM AND LEGALITY:



DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date: JUN 26 1979