

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

APPLICATION FOR VARIANCE)
by)
WILLIAM STEPHENS)
from)
MINIMUM FRONT YARD AND)
CLEARSPACE REQUIREMENTS)
in)
Kealakehe, North Kona, Hawaii)

VARIANCE NO. 581

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on June 29, 1979, considered the application of WILLIAM STEPHENS for a variance from Article 3, Section 7 of Chapter 8 (Zoning Code) of the Hawaii County Code, as amended, more specifically, to allow the construction of a single family dwelling with minimum front yard setbacks of ten (10) feet with seven (7) foot clearspace in lieu of the minimum requirements of fifteen (15) feet and ten (10) feet, respectively, as stipulated within the Single Family Residential-7,500 square foot (RS-7.5) zoned district. The property involved is located within the Kona Harbor View Subdivision, Kealakehe, North Kona, Hawaii, Tax Map Key 7-4-16:1.

The Commission has found:

That a relatively unusual set of circumstances applies to the subject property which do not generally apply to surrounding properties. The subject property has a limited buildable area. Based on all required setbacks the subject property has a net buildable area of 42 percent of the total land area. The use of this space is further limited by its irregular shape. At one end the buildable area is approximately 15 feet wide. Such a narrow width imposes serious constraints on the siting of structures. If only the portion of the lot with a 30-foot wide buildable area is considered, the developable area of the property would be approximately 34 percent of the total land area.

The subject property abuts a 20-foot wide road reserve and as such the common property line is considered to be a front. However, in view of the large size of the property on the other side of the road reserve and its development potential it is likely that the road reserve may not be developed into a usable street.

Improvement of this road reserve is a comparatively poor investment for developments along its north side. Should this road be improved additional lots may be created only on one (1) side of the road. However, an interior subdivision road would allow the creation of lots on both sides with little or no increase in cost to the developer. If in fact the road reserve is not improved, or is abandoned the common property line with the subject parcel would effectively be a side property line. Actual side property lines are subject to an 8-foot side yard setback rather than the present 15-foot setback applicable to front yards.

Further, the property under consideration is subject to a 10-foot future road widening setback for Palani Road. The area within this added setback consists of approximately 823 feet of land area, leaving the subject property with a net area of 7,016 feet. This resultant area is below the minimum lot size of 7,500 square feet applicable in this zoned district. Staff would like to point out that within the Single Family Residential zoned districts the required setbacks are determined by the zoning designation or the land area of the property, whichever is smaller. In this case, the usable area of the property is subject to setbacks intended for lots with larger usable areas.

Thus, the subject property has an unusual set of constraints placed upon it, namely the relatively small net buildable area and its irregular shape, the fact that the front yard along its east side may effectively be a side yard, and the fact that the usable area outside of the road widening setback is below the minimum lot size for which the applicable setbacks are intended. These circumstances collectively place comparatively severe constraints on the design and siting of a dwelling on the property, and thus interfere with the best manner of development of the subject property. Were any one (1) of these constraints not present the petitioner's proposed dwelling could be situated on the property in a conforming manner subject to minor design changes such as reducing the size of the garage and converting it to an open carport.

That the granting of the variance request will not be contrary to the purpose and intent of the district regulations. As indicated previously the east side of the subject property may effectively be a side yard should the road reserve remain undeveloped or be abandoned. In that event the proposed 10-foot setback would be in conformance with the required setback of 8 feet. The proposed 10-foot setback from the future right-of-way widening line for Palani Road would not be substantially different from the allowable projection into the setback area. Under the current regulations open type carports may project five (5) feet into a 15-foot setback area. The requirement then is to maintain a 10-foot clearspace from the eave

line to the property line. As the proposed garage would have three (3) foot eaves the actual clearspace would be seven (7) feet. This degree of deviation from the requirements is considered to be reasonable in view of the development constraints imposed on the property. However, in order that the intent of allowing open projections into the setback area is maintained, staff is recommending a condition of approval that would require that nineteen (19) feet of the 24-foot wide side of the garage facing Palani Road be kept open, i.e., either completely open or provided with only a lattice railing not to exceed four (4) feet in height.

Therefore, the Commission hereby grants to the applicant a variance to allow the construction of a single family dwelling with minimum front yard setbacks of ten (10) feet with seven (7) foot clearspace in lieu of the minimum requirements of fifteen (15) feet and ten (10) feet, respectively, as stipulated within the Single Family Residential-7,500 square foot (RS-7.5) zoned district. The property involved is located within the Kona Harbor View Subdivision, Kealahou, North Kona, Hawaii, pursuant to the authority vested in it by Article 1, Section 7 of Chapter 8 (Zoning Code) of the Hawaii County Code, as amended, subject to the following conditions:


1. That the development of the property shall substantially conform to the representations made by the petitioner.
2. That construction of the proposed dwelling commence within one (1) year from the effective date of the Variance Permit and be completed within two (2) years thereafter.
3. That with the exception of a five (5) foot wide bath area the side of the garage facing Palani Road be kept completely open or provided with a lattice railing not to exceed four (4) feet in height.
4. 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 29, 1979.

Dated at Hilo, Hawaii, this 19th day of July, 1979.

APPROVED AS TO FORM
AND LEGALITY:



DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Dated: JUL 10 1979



WILLIAM F. MIELCKE
Chairman, Planning Commission