

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

APPLICATION FOR VARIANCE)
by)
WORLD SQUARE)
from)
MINIMUM SETBACK REQUIREMENTS)
AND TO STRADDLE SIDE PROPERTY)
LINES)
in)
Kailua, North Kona, Hawaii)

VARIANCE NO. 584

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on June 28, 1979, considered the application of WORLD SQUARE for a variance from Article 9, Section 7, Chapter 8 (Zoning Code) of the Hawaii County Code, as amended, more specifically, to allow the construction of a third story addition to an existing building with a front yard setback of thirteen (13) feet, a two (2) foot rear yard setback, and side yard setbacks of zero (0) and two (2) feet in lieu of the minimum requirements of twenty (20), twenty (20), twelve (12) feet, respectively; and to allow the construction of a pedestrian access ramp across property lines and with a six (6) foot front yard clear space in lieu of the minimum requirement of fourteen (14) feet as stipulated for properties within the Resort-750 square foot (V-75) zoned district. The properties involved are in the World Square complex, Kailua, North Kona, Hawaii, Tax Map Key 7-5-07:23, 7 and 8.

The Commission has found:

That the granting of the subject request would not be contrary to the General Plan nor the Kailua Village Design Plan. The General Plan designates Kailua as a Major Resort area. Such designations refer to areas which can supply a full range of visitor amenities in addition to providing sufficient visitor units to achieve the necessary economies of scale. In addition to providing visitor units, Kailua currently contains the largest concentration of visitor-oriented retail shops and services on the island. The physical developmental requirements for this commercial core are similar to other shopping complexes which include the diminishing prominence of vehicular traffic as opposed to pedestrian movements, and the grouping of shops and other services so that pedestrian movement between retail areas are convenient. Recognizing these needs, the Kailua Village

Design Plan suggests that no parking be allowed between the street frontage and the commercial establishments. Instead the design plan suggests landscaping in the front with parking on the side or the rear of the property. The proposed thirteen (13) foot setback along Sarona Road for the theatre addition would be consistent with the design plan in that no parking is proposed within the setback area. Further, with proper landscaping the third-story addition would not dominate Sarona Road as only the corner of the structure would be thirteen (13) feet from Sarona Road. The rest of the structure would be set further back to a maximum distance of 43+ feet.

The side and rear yards abut other portions of the World Square complex. The third-story addition, which would follow the existing building lines, would be compatible with the adjoining commercial uses. In this particular case, the minimizing of side and rear yard setbacks would result in a compact commercial area which allows easy pedestrian movement between shops and services. Thus, the proposed rear and side yard setbacks would be compatible with the existing commercial character of Kailua.

Thus, it is determined that the proposed third-story addition would be compatible with the Kailua Village Design Plan, the purpose and intent of the General Plan Major Resort designation for Kailua, and would not be materially detrimental to adjoining property rights or improvements, or the public welfare.

The proposed pedestrian access ramp would provide access to handicapped persons and would thus be consistent with the public interest. Normally, consolidation of the parcels would be desirable. However, in this case as the fee ownership of the properties is not vested in one (1) party, consolidation is not feasible. However, as all properties over which the ramp would pass are owned or leased by the petitioner, it is not anticipated that the straddling of the property lines would present any difficulties relating to property rights.

This situation could, however, change in the future whereby the affected properties could come under the control of different parties. In view of this possibility staff is recommending a condition that the variance to allow the ramp to straddle property lines would become automatically null and void should the three (3) properties not be owned and/or leased by a single party. Should it become necessary at a future time, access to the third story addition could be provided by means of an elevator. However, in view of the current circumstances to require the provision of an elevator is deemed to be an imposition of an unnecessary hardship upon the petitioner.

Further, with the proposed landscaping and sidewalk improvements within the Sarona Road right-of-way the visual impact of the ramp along Sarona Road will be significantly mitigated. With appropriate landscape treatment the lines of the ramp will be broken and its overall impact will be reduced. The proposed sidewalk system will help to channelize pedestrian movements away from the ramp area. This increased distance from the ramp will also mitigate the visual impact of the proposed ramp system.

Therefore, the Commission hereby grants to the applicant a variance to allow the construction of a third story addition to an existing building with a frontyard setback of thirteen (13) feet, a two (2) foot rear yard setback, and side yard setbacks of zero (0) and two (2) feet in lieu of the minimum requirements of twenty (20), twenty (20), twelve (12) feet, respectively; and to allow the construction of a pedestrian access ramp across property lines and with a six (6) foot frontyard clear space in lieu of the minimum requirement of fourteen (14) feet as stipulated for properties within the Resort-750 square foot (V-75) zoned district, 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 petitioner, or his authorized representative, shall submit plans for and secure final plan approval within one (1) year from the effective date of the Variance Permit.
2. That the plan approval submittal shall include the provision of the required parking for the proposed third-story addition meeting with the approval of the Planning Director.
3. That the plans submitted for plan approval shall include a landscaping plan which mitigates the visual impact of the third story and ramp additions on Sarona Road.
4. That construction of the third-story and ramp additions shall commence within one (1) year from the date of receipt of final plan approval and shall be completed within two (2) years thereafter.
5. That should the ownership and/or lease of the parcels TMK: 7-5-07:23, 7 and 8 not be held by a single party, the variance to allow the ramp to straddle the common property lines shall become automatically null and void.
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 June 28, 1979.

Dated at Hilo, Hawaii, this 12th day of July, 1979.



WILLIAM F. MIELCKE
Chairman, Planning Commission

APPROVED AS TO FORM
AND LEGALITY:



DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date: JUL 10 1979

June 29, 1979

Mr. Ron Brown
World Square
P. O. Box 1446
Kailua-Kona, HI 96740

Dear Mr. Brown:

Variance Applications
SMA Use Permit Application - 103
Tax Map Key 7-5-07:23

The Planning Commission at its duly held public hearings on May 31, 1979, and June 28, 1979, considered the following applications at Kailua, North Kona, Hawaii:

- a) Special Management Area (SMA) Use Permit to allow the construction of a pedestrian ramp and a third floor addition to the existing building for the purpose of establishing a movie theater.
- b) Variance to allow the third floor addition with a front yard setback of thirteen (13) feet, a two (2) foot rear yard setback, a zero (0) and two (2) foot side yard setbacks in lieu of the minimum requirements of twenty (20), twenty (20), and twelve (12) feet, respectively. Also a variance request to allow the construction of the pedestrian ramp across the side property lines and extending beyond the minimum front yard clear space requirement.

The Commission voted to approve your variance applications effective June 28, 1979, subject to the following conditions:

- 1. That the petitioner, or his authorized representative, shall submit plans for and secure final plan approval within one (1) year from the effective date of the Variance Permit.

JUN 29 1979

Mr. Ron Brown
June 29, 1979
Page 2

2. That the plan approval submittal shall include the provision of the required parking for the proposed third-story addition meeting with the approval of the Planning Director.
3. That the plans submitted for plan approval shall include a landscaping plan which mitigates the visual impact of the third story and ramp additions on Sarona Road.
4. That construction of the third-story and ramp additions shall commence within one (1) year from the date of receipt of final plan approval and shall be completed within two (2) years thereafter.
5. That should the ownership and/or lease of the parcels TMK: 7-5-07:23, 7 and 8 not be held by a single party, the variance to allow the ramp to straddle the common property lines shall become automatically null and void.
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 Commission voted to approve your special management area use permit application effective June 28, 1979, subject to the following conditions:

1. That the petitioner, or his authorized representative, shall submit plans for and secure final plan approval within one (1) year from the effective date of the Special Management Area (SMA) Use Permit. Further, that construction of the proposed improvements shall commence within one (1) year from the date of receipt of final plan approval and shall be completed within two (2) years thereafter.
2. That the plans submitted for plan approval shall include a landscaping plan which mitigates the visual impact of the proposed third story and ramp addition on Sarona Road.

Mr. Ron Brown
June 29, 1979
Page 3

3. That an SMA Use Permit be secured for the proposed landscaping within the Sarona Road right-of-way and the necessary parking prior to the issuance of plan approval and/or a building permit for the third story addition and the pedestrian access ramp.
4. That the requirements of the State Department of Health shall be complied with.
5. That all other applicable rules, regulations, and requirements shall be complied with.

Should any of the foregoing conditions not be met, the Special Management Area (SMA) Use Permit may be deemed null and void by the Planning Commission.

We will be forwarding you the official Variance and Special Management Area Use Permits as soon as the documents are prepared. In the meantime, should you have any questions, please feel free to contact the Planning Department at 961-8288.

Sincerely,

ROY KAGAWA/s/

William J. Paris, Jr.
Chairman Pro Tem
Planning Commission

smn

cc: Chief Engineer, Public Works
Building Division, Public Works