

PLANNING DEPARTMENT  
County of Hawaii  
Hilo, Hawaii

APPLICATION FOR ADMINISTRATIVE VARIANCE )  
by )  
NATHAN WOOD ) ADMINISTRATIVE  
from ) VARIANCE NO. 8  
Minimum Building Site Area Requirement )  
in )  
Kapoho, Puna, Hawaii )  
\_\_\_\_\_ )

ADMINISTRATIVE VARIANCE PERMIT

An administrative public hearing was held by the Planning Director of the County of Hawaii Planning Department on April 17, 1980, on the application of NATHAN WOOD for a variance from the minimum building site area requirement, more specifically, to allow the creation of a 2.998-acre lot in lieu of the minimum building site area requirement of three (3) acres at Kapoho, Puna, Hawaii, Tax Map Key 1-4-20:3.

After hearing the case, the Planning Director has found:

1. That there are special and unusual circumstances applying to the subject property which do not generally apply to surrounding property or improvements in the same district. The 5.998-acre parcel is approximately 87.12 square feet less than the minimum area required for creating two three-acre parcels. The owner has made a legitimate attempt to acquire the necessary 87.12 square feet, but has been unsuccessful to date. None of the adjoining property owners are willing to sell any portion of their property.

Furthermore, the subject parcel at one time consisted of 6.011 acres. Approximately 566.28 square feet of the subject parcel was conveyed to the State for use as a turning radius at the junction of the 50-foot Government Main Road and the private 16-foot road. This action reduced the area of the subject parcel below the minimum required for the creation of two lots. Since the reduction of the parcel took place prior to the enactment of the Zoning Code, none of the principals involved could have envisioned the consequences of their transaction. By conveying just 566.28 square feet of land to the State the owner of the parcel drastically reduced the options available for the use of the property.

2. That the special and unusual circumstances described above would deprive the owner of substantial property rights if the minimum building site area requirements of the Zoning Code were rigidly imposed. Since there are no feasible alternatives for acquiring the additional area required, no

subdivision of the parcel would be possible. Furthermore, it has been determined that government somewhat contributed to the situation which reduced the property below the minimum area required for subdividing the parcel.

3. That the granting of the variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical district classification. The special and unusual circumstances described above effectively distinguishes this particular application to justify the granting of a variance.

In addition, the granting of the variance will not militate against County General Plan and shall not be materially detrimental to the public welfare or injurious to improvements or property rights. The granting of the variance will not alter the uses already allowed by zoning and General Plan designation. Since sufficient land is available, all setback and other requirements can be met to reduce impacts to surrounding property owners.

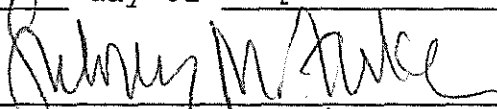
Therefore, the Planning Director hereby grants to the applicant a variance to allow the creation of a 2.998-acre lot in lieu of the minimum building site area requirement of three (3) acres at Kapoho, Puna, Hawaii, Tax Map Key 1-4-20:3, pursuant to the authority vested in him by the County Charter, subject to the following conditions:

1. That the petitioner and/or his authorized representative shall secure tentative subdivision approval within one (1) year from the effective date of the Variance Permit. The petitioner shall be responsible for securing final subdivision approval within one (1) year from the date of receipt of tentative subdivision approval.
2. That all future improvements for proposed Lot B shall comply with the minimum setback requirements. No setback variance shall be granted for any proposed improvements to proposed Lot B. This condition shall be stipulated in the deed of the property and recorded with the Bureau of Conveyances.
3. That all applicable rules, regulations and requirements shall be complied with.

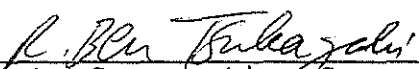
Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void.

The effective date of this permit shall be from April 23, 1980.

Dated at Hilo, Hawaii, this 19th day of September, 1980.

  
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SIDNEY M. FUCE, Director  
Planning Department

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Deputy Corporation Counsel  
County of Hawaii

Date: 12 Sept 80

CERTIFIED MAIL

April 23, 1980

Mr. Nathan Wood  
P. O. Box 895  
Pahoa, HI 96778

Dear Mr. Wood:

Variance Application  
Minimum Building Site Area Requirement  
Tax Map Key 1-4-20:3

After review of your application and the information provided at the administrative public hearing on April 17, 1980, the Planning Director has determined that the request meets the variance criteria, and therefore, is hereby certifying the approval to allow the creation of a 2.998-acre lot in lieu of the minimum building site area requirement of three acres.

Approval of this request is based on the following findings:

1. That there are special and unusual circumstances applying to the subject property which do not generally apply to surrounding property or improvements in the same district. The 5.998-acre parcel is approximately 87.12 square feet less than the minimum area required for creating two three-acre parcels. The owner has made a legitimate attempt to acquire the necessary 87.12 square feet, but has been unsuccessful to date. None of the adjoining property owners are willing to sell any portion of their property.

Furthermore, the subject parcel at one time consisted of 6.011 acres. Approximately 566.28 square feet of the subject parcel was conveyed to the State for use

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as a turning radius at the junction of the 50-foot Government Main Road and the private 16-foot road. This action reduced the area of the subject parcel below the minimum required for the creation of two lots. Since the reduction of the parcel took place prior to the enactment of the Zoning Code, none of the principals involved could have envisioned the consequences of their transaction. By conveying just 566.28 square feet of land to the State the owner of the parcel drastically reduced the options available for the use of the property.

2. That the special and unusual circumstances described above would deprive the owner of substantial property rights if the minimum building site area requirements of the Zoning Code were rigidly imposed. Since there are no feasible alternatives for acquiring the additional area required, no subdivision of the parcel would be possible. Furthermore, it has been determined that government somewhat contributed to the situation which reduced the property below the minimum area required for subdividing the parcel.
3. That the granting of the variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical district classification. The special and unusual circumstances described above effectively distinguishes this particular application to justify the granting of a variance.

In addition, the granting of the variance will not militate against County General Plan and shall not be materially detrimental to the public welfare or injurious to improvements or property rights. The granting of the variance will not alter the uses already allowed by zoning and General Plan designation. Since sufficient land is available, all setback and other requirements can be met to reduce impacts to surrounding property owners.

The conditions of approval are as follows:

1. That the petitioner and/or his authorized representative shall secure tentative subdivision approval within (1) year from the effective date of the Variance Permit. The petitioner shall be responsible for securing final subdivision approval within one (1) year from the date of receipt of tentative subdivision approval.

Mr. Nathan Wood  
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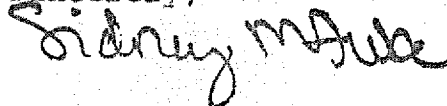
2. That all future improvements for proposed Lot B shall comply with the minimum setback requirements. No setback variance shall be granted for any proposed improvements to proposed Lot B. This condition shall be stipulated in the deed of the property and recorded with the Bureau of Conveyances.
3. That all applicable rules, regulations and requirements shall be complied with.

Should any of the foregoing conditions not be met, the Variance may be deemed null and void.

Please be informed that the official Variance Permit will be forthcoming under separate cover.

Should you have any questions in the meantime, please feel free to contact us.

Sincerely,



Sidney M. Fuke  
Planning Director

EN:gs

cc: Inaba Engineering, Inc.  
Planning Commission