

PLANNING DEPARTMENT
County of Hawaii
Hilo, Hawaii

APPLICATION FOR ADMINISTRATIVE VARIANCE)
by)
ROBERT ROBERTSON) ADMINISTRATIVE
from) VARIANCE NO. 13
Minimum Front Yard Setback Requirement)
in)
Kapalaalaea 2nd, North Kona, 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 ROBERT ROBERTSON for a variance from the minimum front yard setback requirement, more specifically, to allow the construction of a single family dwelling with a front yard setback of six (6) feet in lieu of the minimum requirement of fifteen (15) feet at Kapalaalaea 2nd, North Kona, Hawaii, Tax Map Key 7-7-10:6.

After hearing the case, the Planning Director has found:

1. That there are special or unusual circumstances applying to the subject property which do not generally apply to surrounding property in the same district. The size of the subject property is such that the buildable area of the property would be reduced by more than 70% if all setback requirements were to be complied with.

In addition, with regard to the front yard setback requirement, the parcel fronting the subject property is an old roadway presently not in use which serves as a driveway for two existing residences. The access on to Alii Drive from the driveway is provided by another parcel owned by the Robertsons consisting of 790 square feet. Thus, the proposed dwelling would be at least 48 feet from the nearest usable public right-of-way which is Alii Drive.

2. That special or unusual circumstances applying to the subject property exists to a degree which obviously interferes with the best manner of development of the subject property. As stated above, the size of the subject property is such that the buildable area of the property would be reduced by more than 70% if all setback requirements were to be complied with. This would barely leave 1,000 square feet of buildable space on the property.

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 combination of a relatively small parcel and the shoreline setback requirement results in a buildable area of approximately 1,028 square feet. Furthermore, access to the nearest usable public right-of-way is provided through two other parcels which currently serves as a driveway. There would be at least 48 feet of clear space between the Alii Drive right-of-way and the closest corner of the proposed dwelling even if the variance is granted. The situation described above is rather unique and distinguishes the subject parcel from other properties under identical district classification.
4. That the granting of the variance will not be inconsistent with the general purpose of the district or the intent and purpose of the Zoning Code. Furthermore, the granting of the variance will not militate against the County General Plan nor be materially detrimental to the public welfare or injurious to improvements or property rights related to property in the near vicinity. The proposed use of the property is consistent with present zoning and General Plan designations for the property. None of the projections beyond the exterior walls of the proposed structure will encroach upon sidewalks, streets, alleys or other property. Therefore, it is felt that the granting of this particular variance with appropriate conditions will not violate the spirit and intent of the minimum setback requirements which are to provide for light, air and circulation nor impede on surrounding properties.

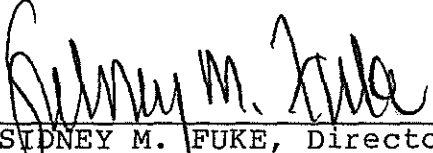
Therefore, the Planning Director hereby grants to the applicant a variance to allow the construction of a single family dwelling with a front yard setback of six (6) feet in lieu of the minimum requirement of fifteen (15) feet at Kapalaalaea 2nd, North Kona, Hawaii, Tax Map Key 7-7-10:6, pursuant to the authority vested in him by the County Charter, subject to the following conditions:

1. That all future improvements shall comply with the minimum setback requirements. No setback variance shall be granted for any future improvement. This condition shall be stipulated in the deed of the property and recorded with the Bureau of Conveyances.
2. That pins designating the shoreline and shoreline setback line be placed on the property for the duration of construction and shall not be removed until final inspection of the residence is completed.
3. That the petitioner or his authorized representative shall investigate the possibility of obtaining the unused roadway and consolidating that parcel with TMK: 7-7-10:6 and 7-7-10:76.
4. 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.

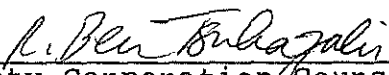
The effective date of this permit shall be from April 29, 1980.

Dated at Hilo, Hawaii, this 26th day of August, 1980.



SIDNEY M. FUCE, Director
Planning Department

APPROVED AS TO FORM AND LEGALITY:



Deputy Corporation Counsel
County of Hawaii

Date: 22 August 80

CERTIFIED MAIL

April 29, 1980

Mr. Robert Robertson
c/o Wes Thomas & Associates
75-5722 Kalawa Street
Kailua-Kona, HI 96720

Dear Mr. Robertson:

Variance Application
Minimum Front Yard Setback Requirement
Tax Map Key: 7-7-10:6

After review of your application and the information presented at the administrative public hearing on April 17, 1980, the Planning Director is hereby certifying the approval of your variance request to allow the construction of a single family dwelling with a front yard setback of six (6) feet in lieu of the minimum requirement of fifteen (15) feet as stipulated within the Single Family Residential-7,500 square foot (RS-7.5) zoned district.

Approval of this request is based on the following findings:

1. That there are special or unusual circumstances applying to the subject property which do not generally apply to surrounding property in the same district. The size of the subject property is such that the buildable area of the property would be reduced by more than 70% if all setback requirements were to be complied with.

In addition, with regard to the front yard setback requirement, the parcel fronting the subject property is an old roadway presently not in use which serves as a driveway for two existing residences. The access on to Alii Drive from the driveway is provided by another parcel owned by the Robertsons consisting of 790 square feet. Thus, the proposed dwelling would be at least 48 feet from the nearest usable public right-of-way which is Alii Drive.

2. That special or unusual circumstances applying to the subject property exists to a degree which obviously interferes with the best manner of development of the subject property. As stated above, the size of the subject property is such that the buildable area of the property would be reduced by more than 70% if all setback requirements were to be complied with. This would barely leave 1,000 square feet of buildable space on the property.

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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 combination of a relatively small parcel and the shoreline setback requirement results in a buildable area of approximately 1,028 square feet. Furthermore, access to the nearest usable public right-of-way is provided through two other parcels which currently serves as a driveway. There would be at least 48 feet of clear space between the Alii Drive right-of-way and the closest corner of the proposed dwelling even if the variance is granted. The situation described above is rather unique and distinguishes the subject parcel from other properties under identical district classification.

4. That the granting of the variance will not be inconsistent with the general purpose of the district or the intent and purpose of the Zoning Code. Furthermore, the granting of the variance will not militate against the County General Plan nor be materially detrimental to the public welfare or injurious to improvements or property rights related to property in the near vicinity. The proposed use of the property is consistent with present zoning and General Plan designations for the property. None of the projections beyond the exterior walls of the proposed structure will encroach upon sidewalks, streets, alleys or other property. Therefore, it is felt that the granting of this particular variance with appropriate conditions will not violate the spirit and intent of the minimum setback requirements which are to provide for light, air and circulation nor impede on surrounding properties.

The request is approved subject to the following conditions:

1. That all future improvements shall comply with the minimum setback requirements. No setback variance shall be granted for any future improvement. This condition shall be stipulated in the deed of the property and recorded with the Bureau of Conveyances.
2. That pins designating the shoreline and shoreline setback line be placed on the property for the duration of construction and shall not be removed until final inspection of the residence is completed.
3. That the petitioner or his authorized representative shall investigate the possibility of obtaining the unused roadway and consolidating that parcel with TMK: 7-7-10:6 and 7-7-10:76.
4. That all applicable rules, regulations, and requirements shall be complied with.

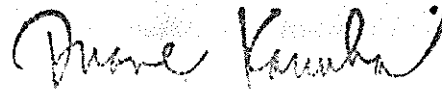
Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void.

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As you are aware, you must still meet the requirements of the State Department of Health, The pending Building Permit will not be signed unless a variance is received from that office. May we suggest that you contact the Department of Health as soon as possible.

Should you have any questions, please feel free to contact Norman Hayashi or Masa Onuma of this office at 961-8288.

Sincerely,



SIDNEY FUKU
Director

NH:lkt

cc: Harold Matsuura (DOH)
Colbert Nozaki (DPW-Kona)

BCC: Masa