

PLANNING DEPARTMENT  
County of Hawaii  
Hilo, Hawaii

APPLICATION FOR ADMINISTRATIVE VARIANCE )  
by )  
KONA MEAT COMPANY, INC. ) ADMINISTRATIVE  
from ) VARIANCE NO. 25  
Expansion of a non-conforming use )  
in )  
Kanakua, South Kona, Hawaii )  
\_\_\_\_\_ )

ADMINISTRATIVE VARIANCE PERMIT

An administrative public hearing was held by the Planning Director of the County of Hawaii Planning Department on July 7, 1980, on the application of KONA MEAT COMPANY, INC. for a variance for the expansion of a non-conforming use, more specifically, to allow a reefer box addition to the existing non-conforming use situated within the Single Family Residential zoned district at Kanakua, South Kona, Hawaii, Tax Map Key 8-1-04:portion of 1.

After hearing the case, the Planning Director has found:

1. That there are special circumstances applying to the present use of the subject property which do not generally apply to surrounding properties and uses in the same zoned district. According to the plans submitted by the petitioner, the proposed addition will consist of a 8' x 20' or 160 square foot platform. The freezer box will sit on this platform and will be 20' long, 8' high, and 8' wide. The area to be used for the proposed addition is presently used as part of the loading area adjacent to the loading dock. Although the subject request is for a structural addition to the existing building, it does not represent structural addition to the area actually being used for the non-conforming use. Therefore, it is determined that this situation constitutes a special circumstance applying to the subject property.
2. That should this variance request be denied, the special circumstances described above would interfere with the best use and manner of development of the subject property. The non-conforming use provision of the Zoning Code states that "A non-conforming use may be enlarged within the building it occupies, but shall not be enlarged or increased to occupy a greater area of land..." A variance is being required because the petitioner is proposing an expansion to the existing structure. However, since the area for the expansion is already being used as a loading area, no real expansion of the use will result.

While this request may be contrary to the letter of the law, in this case Chapter 8, Article 1, Section 9B1 of the Hawaii County Code, it certainly does not violate the spirit and intent of the non-conforming provisions of the code. Therefore, the rigid interpretation of the non-conforming use provision of the Zoning Code would deny the petitioner of substantial property rights which would otherwise be available.

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 circumstance described in No. 1 is sufficient to distinguish this request from others which may be submitted in the future. Furthermore, other similar requests have previously been granted variances in the past.


Therefore, the Planning Director hereby grants to the applicant a variance to allow a reefer box addition to the existing non-conforming use situated within the Single Family Residential zoned district at Kanakua, South Kona, Hawaii, Tax Map Key 8-1-04:portion of 1, pursuant to the authority vested in him by the County Charter, subject to the following conditions:

1. That the petitioner or his authorized representative shall submit plans and receive Final Plan Approval within one (1) year from the effective date of approval of the Variance Permit.
2. That the proposed platform addition will have to be structurally attached to the main building.
3. That construction of the platform addition shall commence within one (1) year from the date of receipt of Final Plan Approval and be completed within two (2) years thereafter.

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 July 16, 1980.

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

  
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SYDNEY M. FUCE, Director  
Planning Department

APPROVED AS TO FORM AND LEGALITY:

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

Date: 12 Sept 80

July 16, 1980

CERTIFIED MAIL

Mr. Louie Costa  
Kona Meat Company, Inc.  
P. O. Box 842  
Kealahou, Kona, Hawaii 96750

Dear Mr. Costa:

Variance Application  
Expansion of a Non-Conforming Use  
Tax Map Key: 8-1-04:1

After review of your application and the information presented at the administrative public hearing on July 7, 1980, the Planning Director is hereby certifying the approval of the variance to allow a freezer addition to the existing non-conforming use situated within the Single Family Residential zoned district.

Approval of this request is based on the following findings:

1. That there are special circumstances applying to the present use of the subject property which do not generally apply to surrounding properties and uses in the same zoned district. According to the plans submitted by the petitioner, the proposed addition will consist of an 8' x 20' or 160 square foot platform. The freezer box will sit on this platform and will be 20' long, 8' high, and 8' wide. The area to be used for the proposed addition is presently used as part of the loading area adjacent to the loading dock. Although the subject request is for a structural addition to the existing building, it does not represent any expansion to the area actually being used for the non-conforming use. Therefore, it is determined that this situation constitutes a special circumstance applying to the subject property.
2. That should this variance request be denied, the special circumstances described above would interfere with the best use and manner of development of the subject property. The non-conforming use provision of the Zoning Code states that "A non-conforming use may be enlarged within the building it occupies, but shall not be enlarged or increased to occupy a greater area of land. . ." A variance is being required because the

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Mr. Louie Costa  
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petitioner is proposing an expansion to the existing structure. However, since the area for the expansion is already being used as a loading area, no real expansion of the use will result.

While this request may be contrary to the letter of the law, in this case Chapter 8, Article 1, Section 9B1 of the Hawaii County Code, it certainly does not violate the spirit and intent of the non-conforming provisions of the code. Therefore, the rigid interpretation of the non-conforming use provision of the zoning code would deny the petitioner of substantial property rights which would otherwise be available.

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 circumstance described in No. 1 is sufficient to distinguish this request from others which may be submitted in the future. Furthermore, other similar requests have previously been granted variances in the past.

The conditions of approval are as follows:

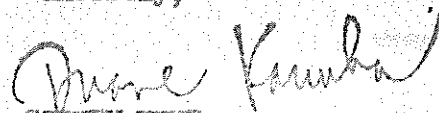
1. That the petitioner or his authorized representative shall submit plans and receive Final Plan Approval within one (1) year from the effective date of approval of the Variance Permit.
2. That the proposed platform addition will have to be structurally attached to the main building.
3. That construction of the platform addition shall commence within one (1) year from the date of receipt of Final Plan Approval and be completed within two (2) years thereafter.

Should any of the foregoing conditions not be met, the Variance Permit 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 FUKU  
Director

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cc: Dept. of Public Works  
Kona Services Office