

PLANNING DEPARTMENT
County of Hawaii
Hilo, Hawaii

APPLICATION FOR ADMINISTRATIVE VARIANCE)
by)
WILLIAM V. BRILHANTE) ADMINISTRATIVE
from) VARIANCE NO. 27
MINIMUM ROADWAY REQUIREMENT)
in)
PONAHAWAI, SOUTH HILO, HAWAII)

ADMINISTRATIVE VARIANCE PERMIT

An administrative public hearing was held by the Planning Director of the County of Hawaii Planning Department on August 19, 1980, on the application of William V. Brilhante for a variance from the minimum roadway requirement, more specifically, to allow the creation of your subdivision with a private roadway easement of twenty (20) feet and a 16-foot wide pavement in lieu of the minimum requirements of fifty (50) and twenty (20) feet, respectively, at Ponahawai, South Hilo, Hawaii, Tax Map Key 2-5-30:1.

After hearing the case, the Planning Director has found:

That there are special and unusual circumstances applying to the subject property which do not generally apply to surrounding properties in the same zoned district.

The petitioner is proposing to subdivide a 43,805 square foot parcel into four (4) lots taking access off an existing private roadway easement. This 20-foot wide easement, which has a 16-foot wide pavement, already serves 6 lots. The Subdivision Control Code allows private roadways serving a maximum of 6 lots to be constructed at the above-stated widths, depending on the zoning. However, to serve more than 6 lots, the existing roadway would have to be increased to a 50-foot wide right-of-way with a 20-foot wide pavement built to dedicable standards. As an alternative to increasing the right-of-way and pavement widths, the petitioner could accommodate the additional lots by providing another roadway along the north property line. This, however, would amount to having two (2) accesses abutting or at least within close proximity of each other, since there is also a private roadway on the adjacent property to the north. With the additional access along that section of Kaumana Drive, further traffic hazards would be created. It would be more efficient and safer to have controlled and limited access onto a major road (Kaumana Drive). Approval of this variance would concentrate traffic from this and the adjacent subdivisions at one (1) common point, thereby minimizing traffic problems along Kaumana Drive.

The granting of this particular variance request will not be injurious to the public health and welfare nor will it be detrimental to surrounding improvements or property rights. By reducing the traffic hazards and minimizing interference with

the movement along Kaumana Drive through the provision of a common access road, the public health and welfare will not be as detrimentally affected as the case would be if a number of direct accesses are allowed from Kaumana Drive. As stated above, as the proposed roadway will be providing access only to lots to be created within the subject property, no adverse impact is anticipated to affect adjoining properties or improvements. Further, as the subdivision roadway will be kept in private ownership, the approval of this particular request will not impose any burden on the general public as the maintenance of the roadway would rest solely on the developer or owners of the proposed lots.

Based on the above, it is determined that the granting of this particular variance will not be materially detrimental to the public welfare nor be injurious to improvements or property rights related to properties in the area.

Therefore, under the circumstances stated above, it is determined that special and unusual circumstances do exist to a degree which deprives the petitioner of substantial property rights which would otherwise be available. It is further felt that the granting of this particular request will not constitute a grant of personal or special privilege inconsistent with the limitations placed upon other properties under identical district classification.


Therefore, the Planning Director hereby grants to the petitioner a variance to allow the creation of your subdivision with a private roadway easement of twenty (20) feet and a 16-foot wide pavement in lieu of the minimum requirements of fifty (50) and twenty (20) feet, respectively, at Ponahawai, South Hilo, Hawaii, TMK: 2-5-30:1, pursuant to the authority vested in him by the County Charter, subject to the following conditions:

1. That the petitioner or his authorized representative secure final subdivision approval within one (1) year from the date of approval of the variance permit.
2. That all buildings shall be setback a minimum of twenty (20) feet from the road easement line.
3. 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.

The effective date of this permit shall be from September 30, 1980.

Dated at Hilo, Hawaii, this 28th day of November, 1980.



SIDNEY M. FUKU, Director
Planning Department

APPROVED AS TO FORM AND LEGALITY:

Robert Kubazaki
Deputy Corporation Counsel
County of Hawaii

Date: *12/10/90*

CERTIFIED MAIL

September 3, 1980

Mr. William V. Brilhante
1388 Kilauea Avenue
Hilo, Hawaii 96720

Dear Mr. Brilhante:

Variance Application
Minimum Roadway Requirement
Tax Map Key 2-5-30:1

After review of your application and the information presented at the administrative public hearing on August 19, 1980, the Planning Director is hereby certifying the approval of the variance to allow the creation of your subdivision with a private roadway easement of twenty (20) feet and a 16-foot wide pavement in lieu of the minimum requirements of fifty (50) and twenty (20) feet, respectively.

Approval of the request is based on the following findings:

That there are special and unusual circumstances applying to the subject property which do not generally apply to surrounding properties in the same zoned district.

The petitioner is proposing to subdivide a 43,805 square foot parcel into four (4) lots taking access off an existing private roadway easement. This 20-foot wide easement, which has a 16-foot wide pavement, already serves 6 lots. The Subdivision Control Code allows private roadways serving a maximum of 6 lots to be constructed at the above-stated widths, depending on the zoning. However, to serve more than 6 lots, the existing roadway would have to be increased to a 50-foot wide right-of-way with a 20-foot wide pavement built to dedicable standards. As an alternative to increasing the right-of-way and pavement widths, the petitioner could accommodate the additional lots by providing another roadway along the north property line. This, however, would amount to having two (2) accesses abutting or at least within close proximity of each other, since

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there is also a private roadway on the adjacent property to the north. With the additional access along that section of Kaumana Drive, further traffic hazards would be created. It would be more efficient and safer to have controlled and limited access onto a major road (Kaumana Drive). Approval of this variance would concentrate traffic from this and the adjacent subdivisions at one (1) common point, thereby minimizing traffic problems along Kaumana Drive.

The granting of this particular variance request will not be injurious to the public health and welfare nor will it be detrimental to surrounding improvements or property rights. By reducing the traffic hazards and minimizing interference with the movement along Kaumana Drive through the provision of a common access road, the public health and welfare will not be as detrimentally affected as the case would be if a number of direct accesses are allowed from Kaumana Drive. As stated above, as the proposed roadway will be providing access only to lots to be created within the subject property, no adverse impact is anticipated to affect adjoining properties or improvements. Further, as the subdivision roadway will be kept in private ownership, the approval of this particular request will not impose any burden on the general public as the maintenance of the roadway would rest solely on the developer or owners of the proposed lots.

Based on the above, it is determined that the granting of this particular variance will not be materially detrimental to the public welfare nor be injurious to improvements or property rights related to properties in the area.

Therefore, under the circumstances stated above, it is determined that special and unusual circumstances do exist to a degree which deprives the petitioner of substantial property rights which would otherwise be available. It is further felt that the granting of this particular request will not constitute a grant of personal or special privilege inconsistent with the limitations placed upon other properties under identical district classification.

The variance is approved subject to the following conditions:

1. That the petitioner or his authorized representative secure final subdivision approval within one (1) year from the date of approval of the variance permit.

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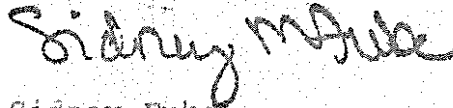
2. That all buildings shall be setback a minimum of twenty (20) feet from the road easement line.
3. That all other applicable rules, regulations, and requirements shall be complied with.

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

It should be noted that the variance is to allow the use of the existing 20-foot easement and a 16-foot pavement for additional lots. It does not sanction or deal with the actual layout and/or lot size. The issue of the lot size will be handled administratively.

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

Sincerely,



Sidney Fuke
Planning Director

NH:gs

cc: Planning Commission

bcc: Subdivision File (via Kaoru)