

PLANNING DEPARTMENT
County of Hawaii
Hilo, Hawaii

APPLICATION FOR ADMINISTRATIVE VARIANCE)
by)
STEVE HURWITZ) ADMINISTRATIVE
from) VARIANCE NO. 41
MINIMUM BUILDING SITE AREA AND BUILDING)
SITE AVERAGE WIDTH REQUIREMENTS)
in)
MAKAPALA, NORTH KOHALA, HAWAII)

ADMINISTRATIVE VARIANCE PERMIT

An administrative public hearing was held by the Planning Director of the County of Hawaii Planning Department on December 10, 1980, on the application of STEVE HURWITZ for a variance from the minimum building site area and building site average width requirements, more specifically, to allow the creation of a 12,730 square foot lot in lieu of the minimum building site area requirement of 15,000 square feet as stipulated within the Single Family Residential - 15,000 square foot (RS-15) zoned district. Also granted is a variance to allow the creation of the 12,730 square foot lot with a building site average width of 55+ feet in lieu of the minimum requirement of 90 feet at Makapala, North Kohala, Hawaii, Tax Map Key 5-2-9:14.

After hearing the case, the Planning Director has found:

1. That there are special circumstances applying to the subject property which do not generally apply to surrounding properties in the same district. The subject property has sufficient land area to create two parcels in excess of the minimum requirement of 15,000 square feet. However, the shape of the parcel and the location of the two existing dwellings limit the alternatives available for subdivision. These factors prevent the proposed subdivision from meeting the minimum building site average width requirement. Furthermore, these factors would require such an irregular configuration for the proposed subdivision, in order to meet the 15,000 square foot requirement, that such a solution is not desired.

2. That the special circumstances described above would deprive the petitioners of substantial property rights if the minimum building site average width and minimum lot size requirements, as stipulated in the Zoning Code, are rigidly imposed. Although the property has the necessary land area for creating two (2) lots, no subdivision would be allowed unless the requested variance is granted.

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 circumstances described previously will adequately distinguish the subject application from others which may be submitted.

4. That the granting of the variance will not be inconsistent with the general purpose of the district or the intent of the Zoning Code and will not militate against the General Plan. The purpose of the minimum building site average width requirement is to assure that any lot created has an adequate buildable area relative to setbacks and other requirements. The purpose of the minimum lot size requirement is to have some control over the density of a given area. Two dwellings already exist on the subject property and no physical changes will be apparent if this variance request is approved. Therefore, the objectives of the affected Zoning Code requirements discussed above will not be affected by the granting of this variance request.

5. That the granting of this variance request will not be materially detrimental to improvements or property rights related to property in the near vicinity. Since all existing conditions will remain the same, impacts to surrounding properties should not differ from present conditions.

Therefore, the Planning Director hereby grants to the applicant a variance to allow the creation of a 12,730 square foot lot in lieu of the minimum building site area requirement of 15,000 square feet as stipulated within the Single Family Residential - 15,000 square foot (RS-15) zoned district. Also granted is a variance to allow the creation of the 12,730 square foot lot with a building site average width of 55+ feet in lieu of the minimum requirement of 90 feet at Makapala, North Kohala, Hawaii, Tax Map Key 5-2-9:14, pursuant to the authority vested in him by the County Charter, subject to the following conditions:

1. That the petitioners or their authorized representative shall secure tentative subdivision approval within one (1) year from the effective date of the Variance permit. The petitioners/representative shall be responsible for securing final subdivision approval within one (1) year from the date of receipt of tentative subdivision approval.
2. That no future variance requests from the minimum setback or minimum lot size requirements for the proposed lots shall be granted. This requirement shall be stipulated in the deed of the properties 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 December 11, 1980.

Dated at Hilo, Hawaii, this 30 day of December, 1980.

Sidney M. Fuke
SIDNEY M. FUCE, Director
Planning Department

APPROVED AS TO FORM AND LEGALITY:

K. Ben Buhayli
Deputy Corporation Counsel
County of Hawaii

Date: 27 Dec 80

December 11, 1980

Mr. Steve Hurwitz
P. O. Box 95
Kamuela, HI 96743

Dear Mr. Hurwitz:

Variance Application (V80-30)
Minimum Building Site Area and
Building Site Average Width Requirements
Tax Map Key: 5-2-9:14

After review of your application and the information presented at the administrative public hearing on December 10, 1980, the Planning Director is hereby certifying the approval of the variance to allow the creation of a 12,730 square foot lot in lieu of the minimum building site area requirement of 15,000 square feet as stipulated within the Single Family Residential - 15,000 square foot (RS-15) zoned district. Also, granted is a variance to allow the creation of the 12,730 square foot lot with a building site average width of 55+ feet in lieu of the minimum requirement of 90 feet.

Approval of this request is based on the following findings:

1. That there are special circumstances applying to the subject property which do not generally apply to surrounding properties in the same district. The subject property has sufficient land area to create two parcels in excess of the minimum requirement of 15,000 square feet. However, the shape of the parcel and the location of the two existing dwellings limit the alternatives available for subdivision. These factors prevent the proposed subdivision from meeting the minimum building site average width requirement. Furthermore, these factors would require such an irregular configuration for the proposed subdivision, in order to meet the 15,000 square foot requirement, that such a solution is not desired.

2. That the special circumstances described above would deprive the petitioners of substantial property rights if the minimum building site average width and minimum lot size requirements, as stipulated in the Zoning Code, are rigidly imposed. Although the property has the necessary land area for creating two (2) lots, no subdivision would be allowed unless the requested variance is granted.

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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 special circumstances described previously will adequately distinguish the subject application from others which may be submitted.

4. That the granting of the variance will not be inconsistent with the general purpose of the district or the intent of the Zoning Code and will not militate against the General Plan. The purpose of the minimum building site average width requirement is to assure that any lot created has an adequate buildable area relative to setbacks and other requirements. The purpose of the minimum lot size requirement is to have some control over the density of a given area. Two dwellings already exist on the subject property and no physical changes will be apparent if this variance request is approved. Therefore, the objectives of the affected Zoning Code requirements discussed above will not be affected by the granting of this variance request.

5. That the granting of this variance request will not be materially detrimental to improvements or property rights related to property in the near vicinity. Since all existing conditions will remain the same, impacts to surrounding properties should not differ from present conditions.

The conditions of approval are as follows:

1. That the petitioners or their authorized representative shall secure tentative subdivision approval within one (1) year from the effective date of the Variance permit. The petitioners/representative shall be responsible for securing final subdivision approval within one (1) year from the date of receipt of tentative subdivision approval.
2. That no future variance requests from the minimum setback or minimum lot size requirements for the proposed lots shall be granted. This requirement shall be stipulated in the deed of the properties 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.

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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. Duke
Planning Director

NH:gs
cc: Planning Commission
bcc: Subdivision Section (via MO/KN)