

PLANNING DEPARTMENT
County of Hawaii
Hilo, Hawaii

APPLICATION FOR ADMINISTRATIVE VARIANCE)
by)
DALE CROWLEY) ADMINISTRATIVE
from) VARIANCE NO. 59
MINIMUM ROADWAY IMPROVEMENT REQUIREMENT)
in)
OLAA RESERVATION LOTS, PUNA, HAWAII)
_____)

ADMINISTRATIVE VARIANCE PERMIT

The Planning Director of the County of Hawaii Planning Department reviewed the application of DALE CROWLEY for a variance from the minimum roadway improvement requirement, more specifically, to allow the interim waiver of the twenty (20) foot wide non-dedicable agricultural standard pavement improvement at Olaa Reservation Lots, Puna, Hawaii, Tax Map Key 1-8-87:5.

After reviewing the case, the Planning Director has found:

That there are special circumstances applying to the subject property which do not generally apply to the surrounding property or improvements in the same district. Rather than providing a common access to the proposed lots, the petitioner could have applied for two flag lots dividing the existing 50-foot wide pole. The result would be two driveways connecting to the government road (North Glenwood Road). If the property were subdivided in this manner, this would eliminate the petitioner's responsibility to provide on-site roadway improvements as each lot would have its own individual access to the government road. However, by providing for a common access via the 50-foot right-of-way, the number of access points along the government road would be reduced to one (1) and improvements be made to the access.

That there is an unusual circumstance applying to the subject property. There is pending before the Court a civil suit (Civil No. 5033) to partition the property that would allocate the proportionate share of the property to those individuals that have interest in it.

That from a planning perspective, the single access alternative is much safer and more practical than having two separate driveway connections to the government road. However, by rigidly imposing the Subdivision Code requirements, the special circumstances described above would interfere with the best manner of development of the subject property.

That the granting of the subject variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical district classification. It should be pointed out that similar variances to waive the 20-foot wide pavement under identical district classification have been approved.

That the granting of the variance will not be inconsistent with the general purpose of the district or the intent and purpose of the Subdivision and/or Zoning Codes, will not militate against the County General Plan nor will it materially be detrimental to the public welfare nor be injurious to improvements or property rights related to property in the near vicinity. The proposed lots will be in excess of the minimum land area requirement of five (5) acres. The other adjoining parcels of land have been approved with access off of the government road. Since the easement will be used by only the proposed two (2) lots, it will not be detrimental to the public welfare nor be injurious to improvements or property rights in the near vicinity.

The County zoning designation for the subject property is Agricultural-5 acres (A-5a). If the land had been zoned Agricultural-1 acre (A-1a), the private roadway improvement requirement for the two (2)-lot subdivision would have been a 16-foot right-of-way with a 12-foot pavement.

In light of the foregoing, it is determined that the granting of this particular request is not inherently inconsistent with the intent of Subdivision Control Code.

Therefore, the Planning Director hereby grants to the applicant a variance to allow the interim waiver of the twenty (20) foot wide non-dedicable agricultural standard pavement improvement at Olaa Reservation Lots, Puna, Hawaii, Tax Map Key 1-8-87:5, pursuant to the authority vested in him by the County Charter, subject to the following conditions:

1. That the 50-foot roadway easement be improved with a 12-foot wide oil-treated surface road with adequate shoulder improvements meeting with the requirements of the Chief Engineer. The roadway construction plans must be approved and completed or bonded within six (6) months of the date of Final Approval of the subdivision.
2. That prior to the granting of final subdivision approval, an agreement shall be executed between the parties involved in the partitioning suit and the County related to the above Condition No. 1. Said agreement shall be duly recorded with the subdivision and shall be binding until Condition No. 1 has been complied with. Further, prior to compliance with Condition No. 3, the Planning Department shall be notified prior to the sale, development or future subdivision of the property. The agreement shall be terminated upon completion of the improvements or a bond and agreement posted to cover the improvements.
3. That the petitioner and/or its authorized representative shall be responsible for securing final subdivision approval within one year from the effective date of approval of the Variance Permit.
4. That should further subdivision and/or development occur in the future, compliance with the 20-foot wide pavement standard would be required. This condition shall be incorporated into the Final Approval of the pending subdivision application and shall be stated in the deed for every lot created by said subdivision. A Copy of the statement shall be promptly filed with the Planning Department.

5. That all other applicable rules, regulations and requirements be complied with.

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

The effective date of this permit shall be from July 1, 1981.

Dated at Hilo, Hawaii, this 30th day of July, 1981.

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

APPROVED AS TO FORM AND LEGALITY:

R. Ben Tabazolis
Deputy Corporation Counsel
County of Hawaii

Date: 29 July 81

CERTIFIED MAIL

July 1, 1981

Mr. Clifford H. F. Lum
Attorney at Law
192 Kapiolani Street
Hilo, HI 96720

Dear Mr. Lum:

Variance Application (V81-8)
Dale Crowley
TMK: 1-8-87:5

After review of your application and the information presented to date, the Planning Director is hereby certifying the approval of the variance to allow the interim waiver of the twenty (20) foot wide non-dedicable agricultural standard pavement improvements.

Approval of this request is based on the following findings:

That there are special circumstances applying to the subject property which do not generally apply to the surrounding property or improvements in the same district. Rather than providing a common access to the proposed lots, the petitioner could have applied for two flag lots dividing the existing 50-foot wide pole. The result would be two driveways connecting to the government road (North Glenwood Road). If the property were subdivided in this manner, this would eliminate the petitioner's responsibility to provide on-site roadway improvements as each lot would have its own individual access to the government road. However, by providing for a common access via the 50-foot right-of-way, the number of access points along the government road would be reduced to one (1) and improvements be made to the access.

That there is an unusual circumstance applying to the subject property. There is pending before the Court a civil suit (Civil No. 5033) to partition the property that would allocate the proportionate share of the property to those individuals that have interest in it.

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That from a planning perspective, the single access alternative is much safer and more practical than having two separate driveway connections to the government road. However, by rigidly imposing the Subdivision Code requirements, the special circumstances described above would interfere with the best manner of development of the subject property.

That the granting of the subject variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical district classification. It should be pointed out that similar variances to waive the 20-foot wide pavement under identical district classification have been approved.

That the granting of the variance will not be inconsistent with the general purpose of the district or the intent and purpose of the Subdivision and/or Zoning Codes, will not militate against the County General Plan nor will it materially be detrimental to the public welfare nor be injurious to improvements or property rights related to property in the near vicinity. The proposed lots will be in excess of the minimum land area requirement of five (5) acres. The other adjoining parcels of land have been approved with access off of the government road. Since the easement will be used by only the proposed two (2) lots, it will not be detrimental to the public welfare nor be injurious to improvements or property rights in the near vicinity.

The County zoning designation for the subject property is Agricultural-5 acres (A-5a). If the land had been zoned Agricultural-1 acre (A-1a), the private roadway improvement requirement for the two (2)-lot subdivision would have been a 16-foot right-of-way with a 12-foot pavement.

The conditions of approval are as follows:

1. That the 50-foot roadway easement be improved with a 12-foot wide oil-treated surface road with adequate shoulder improvements meeting with the requirements of the Chief Engineer. The roadway construction plans must be approved and completed or bonded within six (6) months of the date of Final Approval of the subdivision.

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2. That prior to the granting of final subdivision approval, an agreement shall be executed between the parties involved in the partitioning suit and the County related to the above Condition No. 1. Said agreement shall be duly recorded with the subdivision and shall be binding until Condition No. 1 has been complied with. Further, prior to compliance with Condition No. 3, the Planning Department shall be notified prior to the sale, development or future subdivision of the property. The agreement shall be terminated upon completion of the improvements or a bond and agreement posted to cover the improvements.
3. That the petitioner and/or its authorized representative shall be responsible for securing final subdivision approval within one year from the effective date of approval of the Variance Permit.
4. That should further subdivision and/or development occur in the future, compliance with the 20-foot wide pavement standard would be required. This condition shall be stipulated in the deed of the property and recorded with the Bureau of Conveyances. Copy of it shall be filed with the Planning Department.
5. That all other applicable rules, regulations and requirements be complied with.

Should any of the foregoing conditions not be met, the 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
Planning Director

SF:wkm

cc: Planning Commission

bcc: Masa