

CERTIFIED MAIL

August 18, 1982

Ms. Mitsuko Lau  
SRC 23-B  
Keeau, HI 96749

Dear Mrs. Lau:

Variance Application (V82-26)  
Minimum Setbacks Requirements  
Tax Map Key 1-7-22:5

After reviewing your application and the information submitted in behalf of it, the Planning Director by this letter hereby certifies the approval of your variance request to allow a fourteen (14)-foot front yard setback and a ten (10)-foot side yard setback in lieu of the minimum twenty-five (25) and fifteen (15)-foot setback requirements, respectively, in Puna, Hawaii.

The approval is based on the following:

1. That there are special and unusual circumstances which apply to the subject property which exists to a degree that deprives the applicant of substantial property rights that would otherwise be available and to a degree which obviously interferes with the best use or manner of development of the property.

This Mauna Lani Tract subdivision and the Mauna Lani Lots subdivision to the rear of the subject property are "Grandfathered" subdivisions being created prior to 1948. When the Mauna Lani Lots Subdivision was partitioned, a thirty (30)-foot wide segment was subdivided from the subject property for a roadway access to this subdivision. This action reduced the width of the subject property from 85.88 feet to 55.88 feet.

AUG 19 1982

The Zoning Code's minimum average width requirement for a half-acre lot is one hundred (100) feet. The partitioning action for the access also made the subject property a corner lot. The Zoning Code minimum yard setback requirements for this zone district are twenty-five (25) feet for front and rear yards and fifteen (15) feet for side yards. The Zoning Code imposes yard setbacks differently on a corner lot than on an interior lot. The imposition of the Zoning Code's minimum setbacks on this particular property would leave a net building envelope area of 15.88 feet wide by 469.88 feet in length. In checking with Hicks Homes and Hawaii Planning Mill concerning information with regard to a "standard 3 bedroom, 1 bath model home," the widths range from 22 to 28 feet and lengths range between 36 to 48 feet. These are typical dimensions, which are being used in this context to show the average applicability of an "average model home" to the subject property.

In summary, the grandfathered status of the subject subdivision, the subsequent "grandfathered" partitioning action for the roadway parcel from the subject property, which reduced the lot width to 55.88 feet, the resultant width of 15.88 feet after applying the Zoning Code's minimum setback requirements, and the fact that if the subject property was in a subdivision which conformed to present subdivision requirements, there would be no need for a variance, constitute special and unusual circumstances which deprives the applicant of substantial property rights that would otherwise be available.

These circumstances related to the subject site cumulatively serve to acknowledge the unreasonable width of 15.88 feet after the application of the Zoning Code's setback requirements, the excessiveness of the zoned districts setback requirements on a parcel which does not meet the Zoning Code's minimum average width for this zone, that on a general basis, the minimum width's of a "standard 3 bedroom, 1 bath model home" ranges between 22 and 28 feet in width and the denial of the variance would interfere with the best manner of development of the subject site.

2. There are no reasonable alternatives to resolve the difficulty. The alternative to develop the property without the variance would cause undue design hardships on the applicant, when other more reasonable alternatives are available. Furthermore, it is determined that the denial of the variance would not serve as a reasonable alternative in this situation. The width of 15.88 feet is not a reasonable area in which the applicant could construct a single family dwelling. The property which is recognized as part of a "Grandfathered" subdivision and a legal parcel, is not a fault of the applicant. The acquisition of the property and subsequent development design problem is not a self-created one, but results from the application of the Zoning

Ms. Mitsuko Lau  
Page 3  
August 18, 1982

Code's minimum yard setback requirements on a "Grandfathered" non-conforming lot.

Therefore, because of these considerations, any design solution which would have to adhere to the minimum Zoning Code's yard setback requirements, would be unreasonable and foreclose any options in developing the property for the proposed single family dwelling.

The proposed design provides for a ten (10)-foot side yard setback and fourteen (14)-foot front yard setback is determined to be reasonable in light of the constraints and circumstances being applied to the property. Any other design alternatives in resolving this issue would not only be putting excessive demands upon the applicant, when a more reasonable solution is available.

3. The granting of the variance shall be consistent with the general purpose of the Zoning District, the intent and purpose of the Zoning Code and the General Plan. The intent and purpose of the setback requirements is to ensure that light, air and circulatory functions are available between structural developments and properties. In this particular application, the design solution will still provide for these functions, although it would not meet the minimum required setbacks imposed by the Zoning Code. Nevertheless, the proposed design would still employ and afford the air, light and circulatory functions that is the basis of requiring setbacks. Therefore, the analysis of these issues has also concurred that the granting of the variance would not be considered to be materially detrimental to the public's welfare nor cause any substantial or adverse impact to the area's character or to adjoining properties.

Based on the foregoing, the Planning Director has concluded that this request be approved subject to the following conditions:

1. That the petitioner or authorized representative be responsible for complying with all the stated conditions of approval.
2. That a "Building Permit" be secured for the proposed single family dwelling within one (1) year from the effective date of approval of the Variance and be completed within two (2) years thereafter.
3. That the Department of Public Works requirements relative to grading, drainage, and driveways shall be complied with.
4. That the State Department of Health and the Department of Water Supply be complied with.

Ms. Mitsuko Lau  
Page 4  
August 18, 1982

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

Should any of the foregoing conditions not be met, the Variance Permit shall be deemed void.

Finally, since the Planning Department did receive a letter of objection to the variance, we have the legal responsibility to inform the "interested party" that they do have a right to appeal the Planning Director's decision.

Chapter 8 (Zoning Code), Article 1, Section 7.05 allows any "interested party" to request that the Planning Commission review the Director's action. Such request must be made within ten (10) working days after notice of the Director's decision and shall be in writing containing a statement of its grounds.

Therefore, the variance will not be effective until after the ten (10) day "appeal period" has passed and if no request is made by the "interested party." Should the "interested party" make a request, we shall inform you of the procedures that must be complied with.

If you have any questions, please feel free to contact us at 961-8288.

Sincerely,



SIDNEY FUKU  
Planning Director

RHY:gs

cc: Planning Commission  
Mrs. Augustina M. Correa

1410 East Abila Street  
Carson, CA 90745