

CERTIFIED MAIL

October 13, 1982

Mr. Akeshi Hashimoto
P. O. Box 245
Pahoa, HI 96778

Dear Mr. Hashimoto:

Variance Application (V82-36)
TMK: 1-5-11:25

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 the construction of a single family dwelling with a front yard setback of 14'-0" in lieu of the minimum 20'-0" required in the single family residential zone in Pahoa, 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.

The subject property is part of a "grandfathered" subdivision that was created prior to 1948. The average width of the parcel is 50.22 feet, with one end being 47.10 feet wide and the other end being 53.34 feet wide. The length of the property is approximately 200 feet. The subject property is also considered to be a corner lot. The Zoning Code's minimum average width requirement for 10,000 square foot residential lots is seventy (70) feet. The Zoning Code also imposes yard setbacks differently on a corner lot than on an interior lot. The imposition of the Zoning Code's minimum setbacks of this particular property would leave a net building envelope area of 20.5 feet wide by 172 feet in length. In checking with "Hicks Homes" and "Hawaii Planing Mill", concerning information with

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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 3 bedroom home" to the subject property.

In summary, the "grandfathered" status of the subject property, the resultant width of 20.5 feet after applying the Zoning Code's minimum setback requirements, and the fact that if the subject property had conformed to the present subdivision requirements, there would be no need for a variance; these factors constitute special and unusual circumstances which deprive the applicant of substantial property rights that would otherwise be available.

These circumstances related to the subject property cumulatively serve to acknowledge the unreasonable width of 20.5 feet after the application of the Zoning Code's setback requirements, the excessiveness of the zoned district's setback requirements on a "grandfathered" parcel which does not meet the Zoning Code's minimum average width for this zone, that on a general basis, the minimum widths of a "Standard 3 bedroom, 1 bath home" range between 22 and 28 feet in width and thus the denial of the variance would interfere with the best use or manner of development of the subject property.

2. There are no other 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 20.5 feet is not a reasonable area in which the petitioner could construct a reasonable single family dwelling. The property is recognized as part of a "grandfathered" subdivision and a legal parcel and is not a fault of the applicant. The development design problem is not a self-created one, but results from the application of the Zoning 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 a fourteen (14) foot front yard setback and 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 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 air, light, physical and visual circulatory functions are available between structural developments and property lines. In this particular application, the design solution will still provide a reasonable area for these functions, although it would not meet the minimum requirements imposed by the Zoning Code. Nevertheless, the proposed design would still employ and afford the air, light and circulatory functions that are 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 shall be complied with.
4. That the State Department of Health requirements shall also be complied with.
5. That all other applicable State and County rules, regulations and requirements shall be complied with.

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Should the petitioner or authorized representative fail to comply with the above conditions, the variance shall automatically be deemed void.

Should you have any questions, please feel free to contact Keith Kato or Royden Yamasato of this office at 961-8288.

Sincerely,



SIDNEY FUKU
Planning Director

RHY:db

cc: Planning Commission