

CERTIFIED MAIL

May 22, 1984

Mr. Clarence Esposito  
1941 Kalaniana'ole Street  
Hilo, Hawaii 96720

Dear Mr. Esposito:

Administrative Variance Permit No. 113  
Tax Map Key 2-1-17:55

A review of our files shows that the subject variance permit was granted by the Planning Director effective October 26, 1982 to allow a 27-foot front yard setback in lieu of the minimum 30-foot requirement for a proposed single-family dwelling.

Condition No. 2 of the permit states, "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." Since the effective date of the permit is October 26, 1982, a building permit for the proposed dwelling had to be obtained on or before October 26, 1983.

In checking with the Building Division of the Department of Public Works, as of this date, no building permit has been issued for the proposed dwelling. Therefore, as said October 26, 1983 deadline has passed, we regret to inform you that Administrative Variance No. 113 is deemed void.

The Director's decision is final, except that within thirty (30) days after receipt of this letter, you may appeal the decision in writing to the Board of Appeals in accordance with the following procedures:

1. A non-refundable filing fee of one hundred dollars (\$100).
2. Ten (10) copies of the petition for the appeal incorporating the following:

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- a. The name, address, and telephone number of the appellant and the name, title, and address of the appellant's representative.
- b. A description of the property involved in the appeal, including the tax map key number of the property, and the appellant's interest in the property.
- c. A plain statement of the nature of the appeal and the relief requested.
- d. A statement explaining:
  - 1) How the decision appealed from violates the law; or
  - 2) How the decision appealed from is clearly erroneous; or
  - 3) How the decision appealed from was arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
- e. A clear and concise statement of any other relevant facts.

Should you have any questions, please feel free to contact our office at 961-8288.

Sincerely,

*Sidney Fuke*  
SIDNEY FUKU  
Planning Director

FS:ds

cc: Ronald Nagata

October 26, 1982

Mr. Clarence Esposito  
1941 Kalanianaʻole Avenue  
Hilo, Hawaii 96720

Dear Mr. Esposito:

Variance Application (V82-40)  
Tax Map Key 2-1-17:55

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 twenty-seven (27)-foot front yard setback in lieu of the minimum required thirty (30)-foot front yard setback as required in this Single Family Residential zoned district in Keaukaha, South Hilo, Hawaii.

The approval is based on the following:

1. That there are special and unusual circumstances which apply to the subject property which exist 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 property which was part of the former "Lehia Park Residence Lots" subdivision was created prior to 1948. Thus, it is considered to be a "grandfathered" subdivision in relationship to the present Subdivision and Zoning Codes. When this subdivision was created, the subject property had frontages on three sides of the lot. The average width of the lot is 65 feet and the Zoning Code's minimum average width requirement for 15,000 square foot lots in the Single Family Residential zone is ninety (90) feet. Thus, the lot is also non-conforming by 25 feet with respect to the present Zoning Code requirement of 90 feet. In the adoption of the City of Hilo zone map in 1968, future road widening requirements were imposed on Kalanianaʻole Avenue, Akepa and Nene Streets. These additional setbacks were

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then required to be added to the standard setback requirements as imposed by the Zoning Code for each respective zone district. For this particular property, an additional five (5) feet was required on the Kalaniana'ole Avenue side, an additional ten (10) feet on the Akepa Street side and an additional fifteen (15) feet on the Nene Street side. The minimum front yard setback for the Single Family Residential (RS-S-15) zoned district is twenty (20) feet. Thus, the minimum setback from Kalaniana'ole Avenue is twenty-five (25) feet, from Akepa Street, thirty (30) feet and from Nene Street, thirty-five (35) feet. After imposing these minimum setbacks, the net buildable area is reduced to a width of 25 feet and 255 feet in length. This is approximately 6,375 square feet or 30% of the subject property.

In checking with local building construction supply firms, 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 property, the non-conforming average width of the lot with respect to its present zoning, its long and narrow lot configuration and frontage to three streets, the additional setback imposed by the future road widening of these three streets, constitute special and unusual circumstances which deprive the petitioner of substantial property rights that would otherwise be available, and consequently interfere with the best use and manner of development of the subject site for the intended use.

2. Similarly, whereas the subject property is left with a buildable width of 25 feet after application of the Zoning Code's setback requirements, and the minimum width of a "standard 3 bedroom, 1 bath model home" ranges between 22 to 28 feet, it is determined that there are no other reasonable alternatives available to resolve the difficulty.

Furthermore, the acquisition and subsequent design problem is not a self-imposed hardship, but one which results from the application of the present Zoning Code's minimum setbacks on a "grandfathered" non-conforming lot. Because of these considerations, any design solution which would have to adhere to the minimum Zoning Code's yard set back requirements would be

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so tightly constrained as to foreclose any reasonable options in developing the property for the proposed single family dwelling.

The proposed design which provides for a twenty-seven (27) foot front yard setback from Akepa Street, a seventy (70) foot front yard setback from Kalaniana'ole Avenue, a one hundred eighty-four (184) front yard setback from Nene Street and a ten (10) foot side 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 only be putting excessive demands upon the petitioner, 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, visual and physical 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 standard setbacks imposed by the Zoning Code. Nevertheless, the proposed design solution would still employ and afford the air, light, and circulatory functions that are the basis of requiring setbacks. Therefore, the analysis 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 requirements of the Department of Water Supply and Department of Public Works shall be complied with.
4. That the Department of Health requirements shall also be complied with.
5. That all other 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 stated conditions, the variance shall automatically be deemed void.

Should you have any questions, please feel free to contact our office.

Sincerely,



SIDNEY DUKE  
Planning Director

RHY:smn

cc: Planning Commission  
Ron Negate