

October 26, 1982

Mr. Richard I. Nakamura, et al  
297 Haihai Street  
Hilo, Hawaii 96720

Dear Mr. Nakamura:

Variance Application (V82-39)  
Minimum Lot Area Requirement  
Tax Map Key 2-2-34:8

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 creation of a 9,100-square foot parcel for the proposed two (2) lot subdivision in lieu of the minimum 10,000 square feet required in the Single Family Residential (RS-10) zoned district, Waiakea Houselots, South Hilo, Hawaii.

The approval is based on the following:

1. There are special circumstances applying to the property which exist to a degree which obviously interferes with the best use or manner of development of the property. The property proposed to be subdivided is 20,000 square feet in size. Since the zoning of the area is within the Single Family Residential (RS-10) district, the petitioner could technically subdivide the area into two (2) lots meeting the minimum building site area requirement of 10,000 square feet. There is however, an existing single family dwelling on the property. This dwelling according to the County Tax Office records show that it was constructed prior to 1944. It is still being inhabited and is sited on the property in such a manner that it restricts the subdivision of the property in two (2) legal sized lots of a practical design.

The major problem which the petitioner is faced with is that if the proposed 9,100 square foot sized lot were to be increased to meet the minimum 10,000 square foot requirement, the minimum side yard setback would not be able to be met and the existing dwelling would have to be relocated. Under the present design solution, the dwelling will meet the minimum side yard setback requirement of ten (10) feet as the shed structure which encroaches into this side yard setback will be demolished.

2. That there are no other reasonable alternatives in resolving the difficulty. In viewing the possible design solutions to achieve the petitioner's goals as well as the requirements of the Zoning and Subdivision Codes, the only reasonable design solution is one which the petitioner is proposing. The location of the existing dwelling on the property requires a design solution that can best accommodate the requirements of the Subdivision and Zoning Codes and still not be unreasonable to a point where it serves to put excessive demands upon the petitioner when a more reasonable solution is available.

A design solution to technically have the minimum 10,000 square feet for each lot is possible, but would have to have an offset alignment in terms of the side property line. This is not considered to be the most practical as the offset area becomes a negligible area in terms of the building envelope. The most practical design solution is the rectangular design for both lots. The denial of the variance and a decision to require the petitioner to relocate the dwelling so as to meet the minimum requirements is determined to be undue and excessive in light of the constraints being applied to the property.

3. The granting of the variance shall be consistent with the general purpose of the Zoning district and the General Plan. As stated previously, the entire property has a land area of 20,000 square feet. Therefore, without subdividing the area, the petitioner could construct another dwelling. Therefore, unlike other lot size variance requests, the petitioner is not requesting an increase in density by creating a lot which is less than the minimum building site area requirement. Therefore, we have determined that the granting of this particular request will not be materially detrimental to the public's welfare nor cause any substantial or adverse impact to the area's character.

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Based on the above-cited circumstances and reasons, we have determined that the special and unusual circumstances exist to a degree which deprives the petitioner of substantial property rights which would otherwise be available and also to a degree which obviously interferes with the best use or manner of development of the property.

Therefore, the variance approval is hereby granted, subject to the following conditions:

1. That the petitioner or authorized representative shall submit subdivision plans for tentative approval within one (1) year from the effective date of approval of the Variance. The petitioner or representative shall also be responsible for securing final subdivision approval within one (1) year thereafter.
2. That no other variance requests, i.e. setbacks, shall be applied for.
3. That a five-foot wide road widening strip be set aside along Mililani Street and Hualalai Street and delineated on the subdivision plans. The setbacks shall be taken from the future road widening lines. Further, the setbacks of the RS-10 zoned district shall be used for the 9,100-square foot sized lot.
4. That all other applicable rules, regulations and requirements shall be complied with.

Should any of the foregoing conditions not be complied with, this variance shall be automatically be deemed void.

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

Sincerely,



SIDNEY FUKU  
Planning Director

RHY:smn

cc: Planning Commission  
Clyde Matsunaga  
Michael Seto