

CERTIFIED MAIL

November 22, 1982

Mr. Norman E. Catton
Kona Lure Sportfishing Charters
P. O. Box 4438
Kailua-Kona, HI 96740

Dear Mr. Catton:

Variance Application (V82-41)
Variance From Maximum 500 Foot Limit for Off-site Parking
Tax Map Key 7-5-06:10

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 provision of an off-site parking stall approximately 600 feet from a proposed kiosk in lieu of the maximum distance limitation of 500 feet and the waiving of the easement requirement for the off-site parking stall, in Kailua Village, North Kona, Hawaii.

The approval is based on the following:

1. That there are special or unusual circumstances applying to the use of the proposed building which do not generally apply to surrounding property or improvements in the same district. Approval of the subject request is in keeping with and will serve to implement the goals and objectives of the Kailua Village Design Plan, which was adopted as Ordinance No. 217 by the County Council in July 1976. The petitioner is a charter boat businessman and plans to establish and continue his charter boat service on the subject property. This type of resort oriented business serves as an attraction for visitors in the Kailua area by nature of the type of business and its unique relationship to the Kona area. This type of business is in keeping with the Kailua Village Design Plan goal "To maintain and improve the Kailua Village atmosphere as a slowmoving, natural, casual, relaxed, low-rise village."

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That the strict interpretation of the Zoning Code requirements to provide parking at the time any structure is erected will interfere with the best manner of development of the subject property. Although the subject property is already extensively developed, the petitioner's proposal will provide a resort oriented service for the property as well as the village of Kailua. As stated earlier, approval of the request will serve to implement the goals and objectives of the Kailua Village Design Plan. However, if the Variance is denied, the petitioner would not be able to establish his business on the subject property.

2. That there are no other reasonable alternatives to resolve the difficulty. This same request was granted a parking variance in December of 1979. A parking variance also has previously been granted for the adjoining property to the north with conditions. The subject property has no existing parking area on the property nor is there any area available on the property to provide for such functions. In keeping with the minimization of vehicular impact in the village, it would be unreasonable and excessive to require the petitioner to meet the parking requirements for this particular application, when another more reasonable alternative is available.
3. Based on the foregoing, the granting of the variance will be consistent with the general purpose of the district and the intent and purpose of the Zoning Code. In addition, approval of the variance will not be materially detrimental to the public welfare or to adjoining properties.

In regard to the provision of parking for this particular portion of the village, the Kailua Village Design Plan explicitly states that:

"Off-street parking requirements for commercial buildings should be waived when the properties participate in an improvement district combining the parking space requirements in a common public parking area. Property not immediately adjoining this combined public parking must provide their own separate independent loading space."

This course of action is based on the Plan's objective of emphasizing the natural features of the area, which in this case is Kailua Bay, as well as the objective of facilitating pedestrian movement and reducing the prominence of the automobile. By waiving and conditioning the parking requirement for the proposed charter service

kiosk, the attractiveness of this portion of Kailua Village can be enhanced and the objectives of the Kailua Village Design Plan can be implemented.

It is necessary to note that that approval of the subject request will not in fact alleviate the petitioner's responsibility to provide for the parking need generated by the charter boat service. The petitioner is providing the minimum parking required for the charter boat kiosk by renting a parking stall on Kailua Pier.

Further, the request to waive the easement requirement for the proposed off-site parking stall is not contrary to the purpose and intent of the Zoning Code. The purpose of this particular provision is to ensure that any off-site parking stall provided will continue to be available for the proposed use. In this particular case, a waiver from this provision can be approved in keeping with the intent of the Zoning Code provided that the petitioner submit documents to the Planning Department every six (6) months showing that the parking stall on the Kailua Pier is being rented by the petitioner. Should the parking stall rental be terminated the kiosk can easily be removed given its small size and portable nature with no extensive permanent foundations. Thus, through compliance with recommended conditions the intent of the Zoning Code provisions can be maintained.

The variance request is approved, subject to the following conditions:

1. That the petitioner or authorized representative shall be responsible for complying with all the stated conditions of approval.
2. That the petitioner or authorized representative submit plans for "Plan Approval" within one (1) year from the effective date of approval of the Variance Permit.
3. That a "Building Permit" be secured and approved for the already constructed kiosk within one (1) year from the effective date of final "Plan Approval."
4. That prior to issuance of an occupancy permit, the petitioner or authorized representative shall submit documents showing that a parking stall on the Kailua Pier is being rented by the Petitioner. Further, such documents shall be submitted every six (6) months from the date of issuance of the occupancy permit.

Mr. Norman E. Catton

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5. Should the parking stall rental on the Kailua Pier be terminated, the variance permit shall automatically become void, and the subject kiosk shall be removed within one (1) week after official notification of the Variance Permit nullification.
6. That all other State and County rules, regulations and requirements shall be complied with.

Should the petitioner or authorized representative fail to comply with any of the above stated conditions, the Variance shall automatically 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 on this matter, please feel free to contact us.

Sincerely,



SIDNEY M. FUCE
Planning Director

RHY:gs

cc: Henry K. Boshard
Amelia Burgess
Planning Commission

December 16, 1982

Mr. Norman E. Catton
P O. Box 4438
Kailua-Kona, HI 96740

Dear Mr. Catton:


Variance Application (82-41)
Variance from Maximum 500 Foot Limit for Off-site Parking
Tax Map Key 7-5-06:10

As noted in our letter of November 22, 1982, the effective date of approval of the subject variance would not be until after the ten (10) day appeal period has passed and provided that no requests for a review of the Planning Director's decision by the County Planning Commission is received.

It has been eleven (11) working days from November 30, 1982, which is the date of receipt of our notices to Ms. Amelia Burgess and Reverend Boshard. As such, since no requests have been made, we have determined that the ten (10) day appeal period has expired and that the variance is approved as of the date of this letter.

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

Sincerely,


for SIDNEY FUKU
Planning Director

RHY:db

cc: Ms. Amelia Burgess
Reverend Henry Boshard
Planning Commission