

CERTIFIED MAIL

August 23, 1983

American Fence Company
111 Silva Street
Hilo, HI 96720

Gentlemen:

Variance Application (V83-18)
Variance From Minimum Rear Yard Setback Requirement
Tax Map Key 2-1-10:9

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 proposed warehouse with a zero rear yard setback in lieu of the minimum twenty-foot rear yard setback as required in the General Industrial zoned district in South Hilo, Hawaii.

The approval is based on the following:

VARIANCE CRITERIA NO. 1

There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or applicant of substantial property rights that would interfere with the best use or manner of development of that property.

According to the County Tax Office, the subject property was subdivided prior to 1948. As such, it is a "grandfathered" parcel. Because it was subdivided prior to the present Subdivision Code, it also is considered a non-conforming lot in terms of lot size. The parcel which was zoned for "General Industrial uses" in 1967 also did not take into consideration the fact that it would be a non-conforming lot relative to the designated zoning lot size requirement. The minimum lot size in the General Industrial (MG) zoned district is 20,000 square feet. The minimum average lot width is 100 feet. After

AUG 24 1983

applying the minimum setbacks (20 feet front and rear yard) for a building in a typical 20,000 square foot lot (100 feet by 200 feet) the net buildable area results in 16,000 square feet or 80 percent of the lot.

After application of the minimum setbacks on the subject property, the net buildable area results in approximately 6,000 square feet or 60 percent of the lot. Relative to the typical 20,000 square foot lot, there is a difference of 6,000 square feet or 20 percent between the net buildable areas of both lots. At the location of the proposed building, the imposition of the minimum setbacks leaves an area of 60 feet in depth and 100 feet in width.

Therefore, these considerations affect unusual circumstances with respect to the development constraints of the property. These constraints contribute to a deprivation of substantial property rights as well as interfere with the best use of manner of development of the subject property.

VARIANCE CRITERIA NO. 2

There are no other reasonable alternatives that would resolve the difficulty.

The alternative to develop the property without the variance would cause undue design hardships on the petitioner, 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 depth of 60 feet after applying the front and rear yard setbacks is not a reasonable area in which to construct a reasonable warehouse building.

The subject property is recognized as a "grandfathered" subdivision and a legal parcel and is not a fault of the petitioner. The development design problem is not a self-created one, but results from the application of the Zoning Code's minimum front and rear yard setback requirements on a non-conforming lot.

The conflicting development potential because of the non-conforming lot sizes of the subject area are reflected in the reasons for the two other rear yard setback variances which were granted in 1973 and 1977. For those two variances the future road widening requirement of Silva Street was a primary reason in granting of the variances. However, the Silva Street future road widening requirement has since been deleted.

American Fence Company

Page 3

August 23, 1983

Nevertheless, any industrial development on these particular lands in this subdivision will have site planning design difficulties because of the non-conforming lot size. Ideally, the minimum lot size for this zoning category is 20,000 square feet. The subject property is only 10,000 square feet or one-half of the minimum lot size required. But the overall site development area is 15,000 square feet. The 5,000 square foot lot on the south side of the subject property will be utilized to satisfy the minimum parking requirements for the proposed warehouse development.

Consequently, the feasibility and design of warehouse development does take on a different light. These physical constraints limit the development potential of the property because landscaping and parking functions must also be provided for. Because of the nature of the design development and character of this area, the proposed zero rear yard setback is the most reasonable alternative in light of the constraints and circumstances being applied to the property.

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

Furthermore, any other design alternatives in resolving this issue would only be putting excessive demands upon the petitioner, when a more reasonable solution is available.

VARIANCE CRITERIA NO. 3

The variance shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes, and the County General Plan and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.

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.

August 23, 1983

In this particular application, TMK: 2-1-10:09's rear property line is TMK: 2-1-10:44's side property line. TMK: 2-1-10:44 is the parcel immediately to the rear of the subject property and shares a common boundary with the subject property. As such, the Zoning Code will allow any design proposals for parcel 44 to design development up to this side property line. Therefore, the proposed design with no rear yard setback will not interfere with nor violate the intent and purposes of the setback provisions of the Zoning Code in this instance. The industrial character of the area, the design and siting of existing development and the minimal physical and visual impact it reflects, make the subject proposal compatible with its surroundings.

Therefore, although the proposed design solution will not have a rear yard setback, we have determined through the site and off-site analysis that in this instance the rear yard setback is not necessary. Additionally, the proposed warehouse building will provide for firewall construction which will also provide fire protection functions to the adjoining rear property. 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.

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

1. The petitioner, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. This variance is being granted only from the rear yard setback requirements. No portion of the proposed building will be permitted to encroach into the front yard setback.
3. The plans for the proposed warehouse and parking area, a detailed landscaping plan, including the proposed parking agreement be submitted for "Plan Approval" within one year from the effective date of approval of the Variance Permit.
4. The construction of the improvements in compliance with the Department of Public Works, Building Code, shall commence within one year from the date of receipt of final "Plan Approval" and be completed within two years thereafter.

American Fence Company
Page 5
August 23, 1983

5. All outstanding building code violations shall be rectified with the Department of Public Works, prior to the issuance of the occupancy permit for the proposed warehouse.
6. The requirements of the Department of Water Supply be complied with.
7. The State Department of Health requirements be complied with.
8. That all other applicable Federal, State and County rules and regulations shall be complied with.

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

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

Sincerely,



SIDNEY M. LUKE
Planning Director

RHY:gs

cc: Wes Segawa
Planning Commission