

CERTIFIED MAIL

January 21, 1985

Mr. Hannibal Chaves Jr.
1048 Mililani Street
Hilo, Hawaii 96720

Dear Mr. Chaves:

Variance Application (V84-41)
Variance from the Minimum Building Site Area Requirement
Tax Map Key 2-2-27:27

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 2-lot subdivision, with one lot having a building site area of 8,535 square feet in lieu of the minimum building site area requirement of 10,000 square feet as required in the Single Family Residential (RS-10) zone district in the Waiakea House Lots Subdivision, 1st Series, South Hilo, Hawaii.

The approval is based on the following:

Special and Unusual Circumstances

The subject property is situated within the Waiakea Houselots Subdivision 1st series, which was created in the 1920's. It contains a land area of 20,000 square feet. The City of Hilo zone map designates the property for Single Family Residential (RS-10) purposes. This residential zoning permits a density of 1 single family dwelling for each 10,000 square feet of land area. With this designated zoning, the petitioner could technically subdivide the property into two lots of 10,000 square feet. However, in this particular case, there are two single family dwellings situated on the property such that the 10,000 square foot land area requirement cannot be complied with. According to the County Tax office records, the dwelling on Lot 12-A was constructed during the 1920's. This dwelling is still being inhabited by the petitioner, while the dwelling on Lot 12-B is occupied by his son. When the dwelling on Lot 12-A

Mr. Hannibal Chaves Jr.
Page 2
January 21, 1985

was constructed, it was sited approximately in the center of the property. This central location now restricts the subdivision of the property into two legal size lots of a practical design. In addition, when the new dwelling on proposed Lot 12-B was constructed, it did meet with all of the minimum zoning density and setback requirements.

It should be noted that landowners have two different options in developing single family residential zone land. The first is to construct the allowable density on the property meeting with all zoning setback requirements. The second option would be to subdivide the property before construction. If one uses the first option and future subdivision action is not planned for, issues like setbacks, access, average width and lot sizes will become a problem. As such, at times, there is an inherent conflict between the Zoning and Subdivision Codes on this issue. If a landowner chooses to develop land for single family residential development prior to subdividing, he undoubtedly will have problems when he decides to subdivide the property. This is the petitioner's predicament, he is trying to develop his property in accordance with today's requirements. However, the special circumstance related to this property is the location of the dwelling on Lot 12-A which took place more than 60 years ago.

As such, we have determined that there are special circumstances applying to the subject property which exist to a degree which obviously interferes with the best use or manner of development of the property.

Alternatives

There are no other reasonable alternatives in resolving the difficulty. In reviewing the possible design solutions to achieve the petitioner's goals and the requirements of the Zoning and Subdivision Codes, we have determined that the only reasonable design solution is the one proposed by the petitioner. The location of the dwelling on Lot 12-A requires a design solution that can best accommodate the requirements of the Subdivision and Zoning Codes. In the proposed design solution, these requirements shall be met.

Technically, a design for two 10,000 square foot lots is possible. However, this means that the dwelling on Lot 12-A would have to be relocated. Since a density of 2 dwelling units is permitted and there already are two dwelling units on the property, relocation is not considered to be the most reasonable alternative. For development purposes, the most practical design solution is the rectangular design for both lots.

Mr. Hannibal Chaves Jr.
Page 3
January 21, 1985

Therefore, in this particular instance, any other design solutions are determined to be inappropriate and excessive.

Intent and Purposes

The granting of the variance shall be consistent with the general purpose of the Zoning District and the General Plan. As stated previously, the property has a land area of 20,000 square feet. The petitioner is allowed a density of 2 single family dwellings without having to subdivide the property. The two dwellings meet with the minimum setback requirements established by the Zoning Code for these lot sizes. The proposed subdivision will not create any major physical or social change in this neighborhood as a result of this action. Unlike other lot size variance requests, the petitioner is not requesting an increase in density. Additionally, the proposed subdivision will comply with all other requirements of the Subdivision and Zoning Codes. As such, 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.

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

1. The petitioner or authorized representative shall submit subdivision plans for tentative approval within one 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 year thereafter.
2. That no other variance requests, i.e., setbacks, shall be applied for.
3. That a five foot future road widening strip be set aside along Mililani Street and delineated on the subdivision plans. The setbacks shall be taken from the future road widening lines.
4. That all other applicable rules, regulations and requirements shall also be complied with.

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

Mr. Hannibal Chaves Jr.
Page 4
January 21, 1985

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

Sincerely,



for ALBERT LONO LYMAN
Planning Director

RHY:wkm

cc: Planning Commission

bcc: Kaoru - Subdivision No. 82-132