

CERTIFIED MAIL

September 12, 1991

Mr. Buddy Soares
1411 Wailuku Drive
Hilo, HI 96720

Dear Mr. Soares:

Variance Application (V91-16)
Rear Yard Setback Distance
Tax Map Key 2-2-36:82

The Planning Director has concluded that the variance request to allow the retention of an existing single family dwelling with a rear yard setback of eight feet is warranted for property located in the Waiakea House Lots, First Series, Waiakea, South Hilo, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property which deprive the applicant of substantial property rights that would otherwise be available, or which obviously interferes with the best use or manner of development of the property.

This corner lot can only be subdivided roughly perpendicular to its long axis to keep its proportions in conformance with standards of the Zoning Code. But in doing so, what would have originally been the side yard of a corner lot would become, in the new "non-corner" lot, a rear yard. Rear yards in RS-10 zones are required to have 20 ft. building setback distances.

Situations such as this one only occur with corner lots where the act of partitioning results in a side yard becoming a rear yard for the second lot (the resultant non-corner lot).

It is also not a case where the existing dwelling is being moved. Instead, it is a case where the dwelling will remain where it has for over 50 years.

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The land's zoning designation and size permits subdivision. In all other aspects, such as topography and infrastructure adequacy, the existing lot is eminently subdividable.

ALTERNATIVES

There are no alternatives to subdividing other than as shown on the submitted plats, and therefore, any partitioning of the property would result in the original lot's side yard becoming the new smaller lot's rear yard. Dividing the 22,500 sq. ft. lot by a boundary running east-west (instead of north-south as proposed) would create impractical lots too long and narrow to be permitted by the Zoning Code. It would also result in another property line being too close to the house and garage.

A variance request is the only reasonable and practical solution to the subdivision. It would not further disturb any of the properties since the 8 ft. setback situation has been there for 50 years or more.

INTENT AND PURPOSE

The intent and purpose of the setback distances is to ensure that adjacent properties have an adequate amount of light, air, open space, and related spatial considerations between them consistent with the neighborhood and community expectations. In this case, the 8 ft. situation between the adjacent property to the south and the applicant's dwelling has existed for more than 50 years and will not be decreased, as the building will continue to remain there. Thus, the appearance and character of the neighborhood will not change by virtue of the variance being granted.

Based on the foregoing findings, the variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the area's character and adjoining properties.

Therefore, the Planning Director has concluded that this request be approved subject to the following conditions:

1. The applicant, his assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. Complete all requirements for obtaining final subdivision approval within one year of receipt of this variance permit.


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3. All other applicable State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be met, the Director may proceed to declare the variance null and void.

If you have any questions on this matter, please feel free to contact Donald Tong of my staff.

Sincerely,



NORMAN K. HAYASHI
Planning Director

DT/NH:lm
3043D

cc: Sub. 91-64