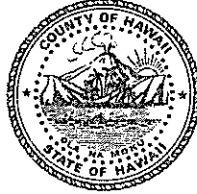


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL

P 101 317 986

September 3, 1999

Mr. Clifford Kaminaka
1620 Alu Street
Hilo, HI 96720

Dear Mr. Kaminaka:

Variance Permit No. 1047 (VAR 99-060)
Applicant: CLIFFORD KAMINAKA
Owners: TOSHIO KAMINAKA, ETAL.
Request: Variance From Minimum Yards,
and Permitted Projections into Yards and Open Space,
Pursuant to Chapter 25, of the Hawaii County Zoning Code
Tax Map Key: 6-4-006:054

After reviewing your application and the information submitted, the Planning Director certifies the approval of your variance request to permit a portion of a proposed commercial building to be constructed on the subject property with minimum rear yard of 0.33 feet and open space of 0.33 feet from the affected rear property lines in lieu of the minimum 15 feet side yard requirement and 10 feet clear space requirement as required by the Zoning Code, Chapter 25, Article 5, Division 10, Section 25-5-106, Minimum yards, (1), and Article 4, Division 4, Section 25-4-44, Permitted projections into yards and open spaces, respectively.

FINDINGS AND RECOMMENDATION

The Planning Director has concluded that the variance request to allow the proposed building improvements to be constructed on the subject property within the required minimum rear yards and associated open space should be approved based on the following findings:

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Mr. Clifford Kaminaka
Page 2
September 3, 1999

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The undeveloped TMK parcel containing 18,966 square feet is Lot 2 of the Kinohou Subdivision, F.P. 1839, being a Portion of Puukapu Homesteads, First Series, and situated at South Kohala, Hawaii. The property is zoned Neighborhood Commercial (CN-7.5) by the County and designated Urban "U" by the State Land Use Commission (LUC).
2. The existing vacant property was previously cleared of vegetation. The subject TMK is located within a windy area and receives approximately 190 to 200 inches of annual rainfall.
3. The applicant's site plan submitted with the variance application is extracted from the preliminary plans to construct the proposed commercial building and paved parking areas. The site plan submittal, is drawn to scale, and identifies the proposed building improvements within the rear yard.
4. The applicant is proposing to construct approximately 450 square feet of the proposed commercial building within the 15 feet wide rear yard.
5. The applicant's "Variance Application (ATTACHMENT)", dated July 2, 1999, states in part:
 - "3. Business franchise requirements and financial commitments to develop the property require a standardized building. The proposed commercial building size and use will require off-street parking to comply with the requirements of the Hawaii County Zoning Code. I understand each standard sized parking space 9 feet by 18 feet deep (perpendicular design stall) will require a 9 feet by 24 feet back up aisle space. The width of the subdivided property limits site development. Furthermore, the nature of the proposed commercial use "wholesale and retail auto part sales" will require periodic shipments and storage of expensive auto parts (metal parts-sensitive to oxidation "rust") and sensitive electronic replacement parts. Long term auto part storage require dry storage conditions and minimum exposure to Kamuela's wet climate conditions. Therefore, to cope with Kamuela's climate , a significant area within the proposed paved parking lot and building will be reserved for the loading/unloading of bulk shipments of auto parts and part storage.

Mr. Clifford Kaminaka
Page 3
September 3, 1999

Therefore, considering the above, it is felt there are special or unusual circumstances applying to the subject property which exist either to a degree which deprive the(sic) me of substantial property rights that would otherwise be available, or to a degree which obviously interferes with the best use or manner of development of the subject property.

There are no reasonable alternatives in resolving the difficulty. It is felt the proposed variance to allow a portion (approximately 450 square feet) of the proposed commercial building, will not significantly affect the character of the adjacent property and surrounding neighborhood. It is felt, the proposed building improvement will not visually, physically or adversely affected(sic) the rights of the property owners of the adjacent or surrounding properties. The portion of the adjacent property (TMK: 6-4-006:009) along the rear boundary line is a paved parking lot. Therefore, it is felt the portion of the proposed commercial building encroachments into the subject TMK property's rear yard will not detract from the character of the adjacent property or the immediate neighborhood.

Based on the foregoing findings, it is felt that this variance request would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan. Furthermore, it is felt the variance request will not be materially detrimental to the public's welfare and will not cause any substantial adverse impact to the area's character and the adjoining properties."

6. The Department of Public Works memorandum dated July 29, 1999, states in part:

"We have reviewed the subject application and offer the following comment:

1. Please refer to the attached Building Division Memo dated July 29, 1999."

The attached July 29, 1999 Building Division-DPW memorandum states:

"We received the attached Planning Director's request for comments on the subject. We recommend referral to the Fire Prevention Bureau of the Hawaii County Fire Department for comments. We have no objections to the proposed variance."

Mr. Clifford Kaminaka
Page 4
September 3, 1999

7. The preliminary plans dated "JUNE 1999" were reviewed by the Fire Department in Hilo on August 31, 1999 and includes the following comments:

"Water requirements and accessibility must be addressed and meet (sic) in the final detailed construction plans submitted with the building application."
8. The Department of Health memorandum dated July 30, 1999, states:

"The Health Department found no environmental health concerns with regulatory implication in the submittals."
9. The Department of Finance-Real Property Tax memorandum dated July 22, 1999, states in part:

"There are no comments at this time."

Comments from the collection section "Current"
10. The applicant submitted letter dated July 28, 1999, and proof of mailing of the first and second notice of the variance application to the surrounding property owners. No written objections to the subject variance application were received by the Planning Department.

The present owner submitted a copy of a site or plot plan, drawn to scale, which identifies the location of the proposed commercial building improvements to be built on the subject property. The site plan denotes the location of the proposed building and the distances from the affected property lines.

Therefore, considering the foregoing facts, circumstances, it is felt there are special or unusual circumstances applying to the subject property which exist either to a degree which deprive the owner of substantial property rights that would otherwise be available, or to a degree which obviously interferes with the best use or manner of development of the subject property.

ALTERNATIVES

There are no reasonable alternatives in resolving the difficulty of the owners. Alternatives available to the owners include constructing the proposed building improvements which meet all minimum yards required by the County Zoning Code. The proposed building's proportion and shape of the building improvements would be architecturally compatible to the surrounding dwellings and within the immediate neighborhood.

Mr. Clifford Kaminaka
Page 5
September 3, 1999

The Planning Department acknowledges there may be other design or building alternatives available to the owner than those recited above. However, these design and building alternatives are deemed to be unreasonable at this time and would place excessive demands on the present owner when a more reasonable alternative is available by the granting of the subject variance request.

INTENT AND PURPOSE

The intent and purpose of requiring building setbacks within a subdivision is to assure that adequate air and light circulation is available between permitted structure(s) and property lines. The proposed setback variance from the rear yard will not hinder adequate light and air circulation around the proposed dwelling. Therefore, it is felt the affected areas of the proposed building improvements within the affected yard and open spaces will not detract from the character of the immediate neighborhood or the subdivision.

The subject variance application was deemed complete on July 2, 1999, and was acknowledged by certified letter dated July 19, 1999.

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

This variance request is approved subject to the following conditions:

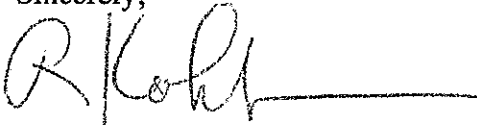
1. The owner, assigns or successors shall be responsible for complying with all stated conditions of approval. The effective date of this permit is August 31, 1999.
2. The approval of this variance is only from the Zoning Code. The owner, successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the owner or owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance pertaining to the construction of the proposed building addition.

Mr. Clifford Kaminaka
Page 6
September 3, 1999

3. The location of the proposed building improvements will not meet the provision of the Zoning Code regarding minimum yards and corresponding permitted projections into yards and open spaces. The applicant shall secure a building permit from the DPW-Building Division, County of Hawaii to construct the proposed commercial building and related site improvements.
4. Future building improvements and permitted uses on the subject property shall be subject to Final Plan Approval, Hawaii County Fire Department, State law and County ordinances and regulations pertaining to building construction and building occupancy.

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

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xc: Real Property Tax Office
Fire Department-Hilo