

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for VARIANCE)
by)
RICHARD T. TANABE, JR.)
from)
SHORELINE SETBACK RULES AND)
REGULATIONS)
in)
KAUMALUMALU, NORTH KONA,)
HAWAII)

SSV

Variance No. 471

VARIANCE PERMIT

The County Planning Commission at a duly held public hearing on June 24, 1976, considered the application of Richard T. Tanabe, Jr. for a variance from Rule 8, Shoreline Setback Rules and Regulations, Section 8.7.2, more specifically to allow the construction of portions of a single-family dwelling and of 6-foot high fences along the side property lines within the shoreline setback area. The property involved is located along the makai side of Alii Drive, adjacent to the County's Pahoehoe Park in Kaumalumu, North Kona, Hawaii, Tax Map Key 7-7-04:39.

The Commission has found:

That the strict and literal enforcement of the Shoreline Setback Rules and Regulations would cause hardship to the petitioner. Although the subject property consists of 5,799 square feet of land, the imposition of all applicable setbacks to the property results in a net buildable area of 1,040+ square feet. The configuration of the shoreline of this particular parcel is such that the net buildable area narrows to about a one-foot width near the middle of the property. Should the petitioner comply with all of the required setbacks, the proposed single-family dwelling would be approximately one-foot wide in the middle. Such a constraint is determined to constitute a hardship. In addition, it is determined that this situation constitutes an unusual circumstance which deprives the petitioner of substantial property rights and which obviously interferes with the best use or manner of development of the subject property. The petitioner cannot reasonably use his property for its intended zoned use if he were to comply with the existing setback requirements. It should also be noted that prior to the certified shoreline survey of the subject property the petitioner would have been able to comply with the Shoreline Setback Rules and Regulations. The area of

the parcel was originally 9,105 square feet. The dimensions were such that the applicable setbacks could have been met. Prior to the certified shoreline survey, the parcel was also in conformance with the minimum lot size requirement of 7,500 square feet.

It is further determined that the portions of the 6-foot high fences which would lie within the shoreline setback area will not be materially detrimental to the public welfare. The fences are basically for the protection of the property and to assure some privacy. To the south of the property is a County park. Further, it would not be inconsistent with the intent and purpose of the Shoreline Setback Rules and Regulations to allow the erection of the fences along the side property lines in this particular case. The Zoning Code states that fences six (6) feet or less in height shall not be considered to be structures for the purpose of computing yards. The fences would thus be allowed within the side yard setback area from the front property line up to the shoreline setback line on the makai side of the property. It is determined that it would be neither practical nor reasonable to allow the fences to be constructed only from the front property line to the shoreline setback line.

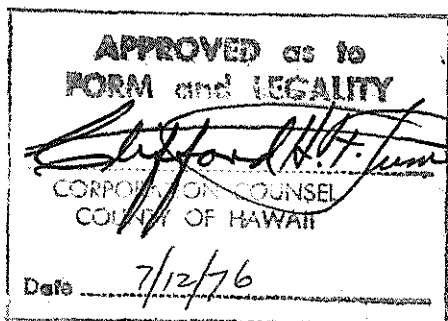
Therefore, the Commission hereby grants to the applicant a variance to allow the construction of portions of a single-family dwelling and of 6-foot high fences along the side property lines within the shoreline setback area, pursuant to the authority vested in it by Section 8.9 of said Rules and Regulations, subject to the following conditions:

1. That the proposed single-family dwelling be set forward towards the front property line by five (5) feet; thus, being setback ten (10) feet from the front property line. In doing so, the setback from the shoreline will be increased from the requested three (3) feet to eight (8) feet.
2. That construction of the dwelling shall be completed within three (3) years from the effective date of approval of the variance.
3. That plans for the fences shall be submitted to the Planning Director for review and approval within one (1) year from the effective date of approval of the variance.
4. That all other applicable rules and regulations be complied with.

Should any of the foregoing conditions not be met, the Variance Permit shall be deemed null and void.

The effective date of this permit shall be from June 24, 1976.

Dated at Hilo, Hawaii, this 15th day of July, 1976.



Leon K. Sterling, Jr.
Leon K. Sterling, Jr., Chairman