

PLANNING COMMISSION

Planning Department  
County of Hawaii  
Hilo, Hawaii

Application for VARIANCE )  
by )  
CJS GROUP ARCHITECTS/LESTER GAMBLE )  
from ) Variance No. 534  
MINIMUM FRONT YARD AND SHORELINE )  
SETBACK REQUIREMENTS )  
in )  
Kahauloa Houselots, Kahauloa 1st, )  
South Kona, Hawaii )  
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VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on June 15, 1978, considered the application of CJS GROUP ARCHITECTS/LESTER GAMBLE for a variance from Article 3, Section 7 of Chapter 8 (Zoning Code), Hawaii County Code, as amended, and from Article 26, Section 7 of the Zoning Code as well as Rule 8 of the Planning Commission, "Rules and Regulations Relating to Shoreline Setback," more specifically, to allow the construction of a single family dwelling on 3,940 square feet of land with a front yard setback of five (5) feet eight (8) inches in lieu of the minimum requirement of fifteen (15) feet stipulated in the Single Family Residential - 15,000 square foot (RS-15) zoned district and an approximately fourteen (14) foot shoreline setback in lieu of the minimum requirement of twenty (20) feet at Kahauloa Houselots, Kahauloa 1st, South Kona, Hawaii, Tax Map Key 8-2-06:12.

The Commission has found:

That there are unusual circumstances applying to the subject property which do not generally apply to surrounding properties or improvements in the same zoned district. The parcel involved consists of 3,940 square feet and is nearly trapezoidal in shape. Because of the shape of the parcel, the buildable width narrows to about 7 1/2 feet on the eastern side. The proposed dwelling has been designed to comply with the side and rear yard setbacks but will protrude into the front yard setback area. The area and the shape of the subject parcel are determined to be unusual circumstances. In addition, these are of such a degree that the petitioner, in this particular case, would be deprived of property rights in that compliance with all setback requirements would result in a dwelling that would be of small size and an odd shape and would interfere with the best manner of development of the

subject property. Further, the proposed dwelling consists of two stories. There will be a bedroom on the ground level, but the garage and lanai are designed to allow "flow-through" because the property is situated within the potential tsunami inundation area.

Although there are other non-conforming lots in the surrounding area, almost all of them are buildable. There is only one lot which is smaller in size than the subject parcel; however, there is already a single family dwelling on it. Three lots in the general area are between 4,200 and 4,500 square feet in size and are vacant. Other lots are 6,000 square feet or larger and setback requirements could be complied with.

Further, approval of the request will not be inconsistent with the general purpose of the zoned district or the intent and purpose of the Zoning Code. The intent of the setback provisions of the Zoning Code is to assure that there is adequate light, air and circulation for structures and between properties. In this particular case, encroachment into the front yard setback area will not interfere with light, air and circulation for the proposed dwelling or other dwellings in the area. It is also not expected to interfere with the State-owned roadway lot. The subject parcel is, in fact, surrounded by State-owned lands except on the west and the side yard setback requirement on the western side will be complied with. Approval of the variance is, thus, not expected to be materially detrimental to the public welfare or to improvements or property rights related to property in the near vicinity.

The protrusion of the second floor lanai into the shoreline setback area is also not expected to be materially detrimental to the public welfare. The lanai will be approximately ten feet above grade and will be open in character. It should not be subject to high seas or otherwise endangered by ocean actions. The nature of the proposed improvement is not contrary to the intent and purpose of the shoreline setback regulations, which are to prevent disturbance of natural shoreline processes and massive development of the shoreline as well as to protect residential dwellings and other structures from tsunami and high wave damage. As proposed, the lanai will essentially have no effect on the shoreline setback area in that the major impact resulting from development of the subject property will be from the proposed dwelling which meets setback requirements.

In addition, there is an unusual circumstance applying to the subject property. The subject parcel does not abut the certified shoreline but is separated from it by a sliver of State-owned land. The proposed structure meets the rear yard setback and projection requirements which would apply if the parcel had not been within twenty feet of the certified shoreline. Further, the

configuration and size of the parcel compound the unusual circumstances of the property. By encroaching into the front yard setback area, the projection of a portion of the proposed structure into the shoreline setback area is minimal.

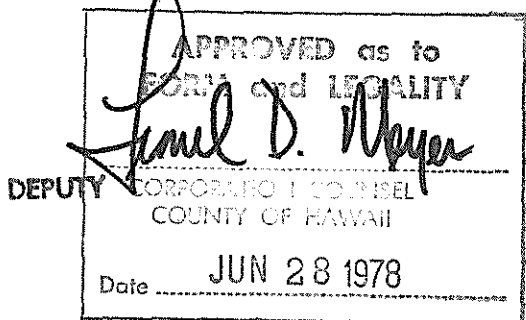
Therefore, the Commission hereby grants to the applicant a variance to allow the construction of a single family dwelling on 3,940 square feet of land with a front yard setback of five (5) feet eight (8) inches in lieu of the minimum requirement of fifteen (15) feet stipulated in the Single Family Residential - 15,000 square foot (RS-15) zoned district and an approximately fourteen (14) foot shoreline setback in lieu of the minimum requirement of twenty (20) feet, pursuant to the authority vested in it by Article 1, Section 7 of the Zoning Code and by Section 205-35, Hawaii Revised Statutes and Rule 8.8 of the Planning Commission, "Rules and Regulations Relating to Shoreline Setback," subject to the following conditions:

1. That the proposed development shall conform substantially to the representations made by the petitioner and the plans submitted with the application.
2. That the petitioner or his authorized representative shall submit plans to the State Historic Preservation Officer for review and approval prior to any clearing or grading of the subject parcel or applying for a building permit.
3. That construction of the dwelling shall commence within one year from the effective date of approval of the Variance Permit and be completed within two years thereafter.
4. That should any archaeological or historical sites or remains be found during land preparation activities, work shall immediately cease and the petitioner or his authorized representative shall notify the State Historic Preservation Officer and the Planning Department. Work shall not resume until a review and clearance of the affected site or sites has been obtained from the State Historic Preservation Office and the Planning Department.
5. That all other applicable rules, regulations and requirements, including those of the State Department of Health, shall be complied with.

Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void by the Planning Commission.

The effective date of this permit shall be from June 15, 1978.

Dated at Hilo, Hawaii, this 29th day of June, 1978.



*William F. Mielcke*

William F. Mielcke, Chairman  
Planning Commission