

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

APPLICATION FOR VARIANCE)
by)
RALPH RUSSELL) VARIANCE NO. 591
from)
MINIMUM SHORELINE)
SETBACK REQUIREMENTS)
in)
Kaumalumu,)
North Kona, Hawaii)
_____)

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on September 13, 1979, considered the application of RALPH RUSSELL for a variance from the requirements of Rule 8 of the Planning Commission Rules Relating to Administrative Procedures, more specifically, to allow a 6-foot eave projection into the Shoreline Setback Area for a proposed single family dwelling. The property involved is located along the makai side of Ali'i Drive, approximately 1,100 feet north of the Disappearing Sands Beach, Kaumalumu, North Kona, Hawaii, Tax Map Key 7-7-04:44.

The Commission has found:

That approval of the shoreline setback variance request will not be inconsistent with the purpose and intent of the Shoreline Setback Rules and Regulations or with Chapter 205, Hawaii Revised Statutes. The purpose of these statutory provisions is to prevent structural encroachment upon the shoreline area which might disturb the natural shoreline processes and cause erosion. They are also intended to preserve the shoreline and its open space character as well as to restrict the removal of materials such as sand, coral, and rocks to commercial use.

The petitioner is proposing to construct a two-story, 30-foot high single family dwelling on a shoreline property. The only portion of the building which will be within the shoreline setback area is a portion of a 6-foot eave projection. The walls or building lines of the dwelling will be outside the setback area. Thus, there will be no physical encroachment of any portion of the building on the ground within the shoreline setback area. It is therefore determined the proposed eave projection into the shoreline setback

area is not expected to have any significant adverse impacts. It is not anticipated to disturb the natural shoreline processes or otherwise be contrary to the purpose of the Shoreline Setback Rules and Regulations. Since the roof or eave projection will be approximately 16+ feet above the ground level, the shoreline and its open space character will still be preserved and will still continue to be available for public enjoyment.

In this light, the proposed improvement will still complement the goal of the Open Space element of the General Plan which states to "Provide and protect open space for the social, environmental, and economic well-being of the County of Hawaii and its residents." The proposed improvement will not be contrary to the goal and policy of the Natural Resources and Shorelines element of "providing opportunities for the public to fulfill recreational and educational needs without despoiling or endangering natural resources" and that "The shoreline of the island of Hawaii should be maintained for recreational, educational, and/or scientific use in a manner that is protective of resources and is of the maximum benefit to the general public." It is felt that the lateral access along the shoreline and the openness of the area will still be retained.

Based on the above, it is determined that the proposed improvement is not expected to disturb the natural shoreline processes or otherwise be contrary to the purpose of the Shoreline Setback Rules and Regulations, Chapter 205, HRS, and the County General Plan.

It should also be pointed out 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 is irregular in shape and consists of 8,605 square feet in size. The narrowest point of the lot is approximately 27 1/2 feet, while the widest portion is about 85 feet. Taking into account the minimum setback requirements of 15 feet for the front, 20 feet for the rear or shoreline setback area, and 8 feet on the sides, there is a triangular-shaped buildable area of only about 1,750 to 1,800 square feet. As is, the proposed dwelling barely fits within this buildable area. It is therefore felt that the area and 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 (basically, only the roof or eave projection into the shoreline setback area) would result in a dwelling that would either have to be reduced or have no roof overhang on that portion of the dwelling. As such, it is determined that the denial of this particular request would possibly interfere with the best manner of development of the subject property under its present limitations.

Therefore, the Commission hereby grants to the applicant a variance to allow a 6-foot eave project into the Shoreline Setback Area for a proposed single family dwelling. The property involved is located along the makai side of Ali'i Drive, approximately 1,100 feet north of the Disappearing Sands Beach, Kaumalumu, North Kona, Hawaii, Tax Map Key 7-7-04:44, pursuant to the authority vested in it by Rule 8 of the Planning Commission Rules Relating to Administrative Procedures, subject to the following conditions:

1. That construction shall conform substantially to the plans submitted and representations made by the petitioner.
2. That the proposed dwelling shall be constructed within three (3) years from the effective date of the Variance Permit.
3. That no other shoreline setback variance as may be directly affected by this variance shall be granted for future improvements.
4. That since the property is designated as a tsunami inundation area, the requirements of the Department of Public Works relative to tsunami requirements shall be complied with.
5. That all other applicable rules, regulations, and requirements 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 September 13, 1979.

Dated at Hilo, Hawaii, this 15th day of November, 1979.



Chairman, Planning Commission

APPROVED AS TO FORM
AND LEGALITY:


Deputy Corporation Counsel
County of Hawaii
Date: NOV 8 1979