

June 14, 1984

Mr. Donald L. Holden
15 Hina Street
Hilo, Hawaii 96720

Dear Mr. Holden:

Variance Application (V84-16)
Donald L. Holden
Tax Map Key 2-3-22:5

After reviewing your application and the information submitted in behalf of it, the Planning Director by this letter hereby certifies the approval of your variance request to allow a carport which has been constructed with a 2-foot front yard setback and a 1-foot sideyard setback in lieu of the minimum 15-foot front yard and 8-foot sideyard setbacks as required in this Single Family Residential zoned district.

The approval is based on the following:

1. That there are special and unusual circumstances which apply to the subject property which exist to a degree that would otherwise be available and to a degree which obviously interferes with the best use or manner of development of the property.

A building permit (#40606) was issued for the carport on January 23, 1969, to Mr. Edison McEntire. The approved plans are no longer in the Building Department's file. There are various notations on the building permit noting that there was a problem related to the setback requirements including a correction notice being issued. However, there is no documentation as to what transpired thereafter or any follow-up on the violation until the Planning Department became aware of it when a permit application was applied for by Mr. Donald Holden on March 8, 1983, to repair and alter the carport.

Mr. Donald L. Holden

Page 2

June 14, 1984

The setback violation of the existing carport cannot be attributed to the petitioner's own negligence, as it was not a self-created problem, but one that was passed onto him. Therefore, the denial of the variance would impose an undue hardship on the petitioner.

2. That there are no other reasonable alternatives to resolve the difficulty. The alternative to relocate the carport to comply with the minimum setback requirements would be an unreasonable solution. This relocation alternative would be unreasonable and burdensome to the petitioner, as it was not a self-created problem, but one which was attributed to possible governmental error made 15 years ago. The relocation of corrective action would involve 144 square feet of the 620 square foot structure. The action of the petitioner to legitimize the structure is one which is being done in response to our citing him for the violation that was not created by him. In view of the above considerations, any other alternatives in resolving this issue would be putting excessive demands upon the applicant when a more reasonable solution is available.
3. That the granting of the variance is consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code, and the General Plan. The intent and purpose of the setback requirements are to ensure light, air, physical and visual circulatory functions are available between structures and property lines. In this particular application, the location of the existing carport with the 1-foot side yard, will still provide for these functions, although it would not meet the minimum as required by the Zoning Code. The dwelling on the adjacent lot (parcel 4) is located approximately 30 feet from the edge of the carport. Therefore, although there is only 1 foot from the side property line, the aforementioned circumstances give credence to the existing location which still employs and affords a measure of the air, light and circulatory functions that is the basis of requiring setbacks.

In view of the above issues, it is further determined that the granting of the variance could not be considered to be materially detrimental to the public's welfare nor cause any substantial or adverse impact to the area's character or to adjoining properties.

Mr. Donald L. Holden
Page 3
June 14, 1984

The variance request is approved, subject to the following conditions:

1. The petitioner, its assigns or successors, shall be responsible for complying with all conditions of approval.
2. All future additions, renovations and improvements on the subject property shall be in conformance with the requirements of the Zoning Code. Repair and maintenance of the non-conforming part of the carport shall be permitted under the non-conforming criteria established in the Zoning Code.
3. All other State and County rules, regulations and requirements shall also be complied with.


Should any of the foregoing conditions not be complied with, the variance application shall automatically be voided.

Please note that the variance must be utilized (building permit secured) within two years of the date of this variance approval. Otherwise, it shall become void.

In addition, the requirements of the Building Department must be complied with.

If you have any questions on this matter, please feel free to contact us.

Sincerely,


SIDNEY M. FUKÉ
Planning Director

MO:wkm

cc: Department of Public Works,
Building Construction and Inspection Division