

CERTIFIED MAIL

August 7, 1984

Mr. Mitsugu Sumada
UHH Hawaii Community College
1175 Manono Street
Hilo, Hawaii 96720

Dear Mr. Sumada:

Variance Application (V84-25)
UHH Hawaii Community College
Variance from Setback Requirement - Side Yard
Tax Map Key 2-4-59:130

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 the side yard setback for an existing residential dwelling to be from 6.75 feet to 7.25 feet instead of the 8 feet as required by the Zoning Code, and a 3.75-foot open clearspace in lieu of the required 4-foot open clearspace yard located in the Hawaii Housing Authority's Mohouli Subdivision.

The approval is based on the following:

1. There are special or unusual circumstances applying to the property with regard to its size and the building's siting relationship to its lot and adjacent property.

The basic rationale for sideyard setback requirements in subdivisions is to achieve and preserve a certain minimum of open space between buildings for light, air, and separation for each building. The applicant's encroachment into the side property line, however, is compensated for by the neighbor's siting of his own building which is 17 feet from the mutual property boundary, instead of the minimum required 8 feet. If both adjacent properties had buildings using the minimum

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requirement, that spacing would be 16 feet (8 feet plus 8 feet). In this overall situation, there is a 23.75 to 24.5 foot building separation between the two existing dwellings. From Popolo Street, which is the front, the distance between the two buildings is about 50% more than usual in the subdivision, consisting of about 24 feet instead of the minimum 16 feet open space.

Construction of the dwelling based on misplaced pins may also be considered an unusual/special circumstance, as there were student apprentice surveyors and carpenters doing the work under a model home project.

2. There are no other reasonable alternatives that would resolve this difficulty, short of cutting off a tapered portion of the dwelling or acquiring the needed land from the adjacent landowner. The first alternative would result in a house not being built square (the entire house is canted on a pivot to the north as a result of the misplaced pins) and would require indefensible costs to restructure. With regard to both alternatives, the discrepancy of .5 feet to 1.25 feet when taken in the full context is very minor in degree, when viewed spatially with the adjacent dwelling. Since the objective of preserving or affording adequate space between dwellings is more than minimally achieved, the variance approval is deemed the most reasonable resolution which still achieves the desired physical separation.

3. Approval of this variance request would be consistent with the County General Plan in that this would still permit a balance between single family residential structures and open space. It would also be consistent with the intent of the zoning district and the zoning code since the spatial separation between the existing structures is more than the minimum required. The discrepancy on the applicant's lot is minimized by the larger than required sideyard of the adjacent lot, thus preserving the overall intent of the sideyard requirement.

Based on the above findings, it has been determined that the purpose and intent of the zoning district, Zoning Code and the General Plan would not be undermined or detracted from, and no materially detrimental effect or adverse impact would be felt by the public or adjacent property.

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

1. The petitioner or authorized representative be responsible for complying with all the stated conditions of approval.
2. Any future additions to the dwelling shall comply with the Zoning Code requirements and no future variances for the sideyard in question shall be granted.
3. All other applicable rules, regulations and requirements be complied with.

Should the petitioner or authorized representative fail to comply with the above conditions, the Variance shall automatically be deemed void.

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

Sincerely,



SIDNEY M. EIKE
Planning Director

DT:lgv

cc: Hawaii Housing Authority,
Attn: Jim Fujimori