

CERTIFIED MAIL

February 9, 1987

Mr. Charles A. Anderson
P.O. Box 640
Honokaa, HI 96727

Dear Mr. Anderson:

Variance Application (V86-47)
Tax Map Key 6-8-16:26

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 an existing single family dwelling with a side yard setback of 8.30 feet in lieu of the minimum 10 foot side yard setback requirement within the Single Family Residential (RS-10) zoned district. The subject property which consists of 10,571 square feet, is located on the west side of Lina-Poepoe Street approximately 50 feet north of Lina-Poepoe/Pakuna Street intersection, Waikoloa Village, Unit 1-D, Waikoloa, South Kohala, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

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 and manner of development of the property. The approved plans shows the dwelling located approximately 57 feet from the front property. The house was constructed approximately 65 feet from the front property line. This slight deviation in the setback created the bathroom lavatory (1'-6" x 6'-0") to encroach into the side yard setback area. In addition, due to the existing topographic condition of the property, the grading (cut and full) of the property caused the dwelling and garage to be built on the property as it now

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exist. The setback error was not discovered until the dwelling was almost completed. Therefore, the denial of the variance from the minimum side yard setback would impose an undue economic, as well as a design hardship on the petitioner.

ALTERNATIVES

That there are no reasonable alternatives to resolve the difficulty. The alternative to remove that portion (1'-6" x 6'-0") of the bathroom to comply with the minimum 10 foot side yard setback requirements would be putting excessive demands upon the applicant, when a more reasonable solution is available. This removal alternative would be unreasonable and burdensome to the petitioner since it would require the demolition of this 9 square foot area and relocation of the bathroom lavatory (counter, windows, plumbing, etc.) within the existing bathroom. If this 1'-6" x 6'-0" projection was part of a fireplace (chimney), it would have been an allowable projection into the setback area. In view of the above considerations, any other alternative (demolition) in resolving this issue would only be putting excessive demands upon the applicant when a more reasonable solution is available.

INTENT AND PURPOSE

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 that light, air, physical and visual circulatory functions are available between structure and property lines. In this particular application, there is adequate separation between the existing dwelling and the dwelling located on the adjoining property to the south. The existing 8.5 foot side yard setback meets with the requirements of the Housing Code. Therefore, while the existing dwelling does not meet the minimum side yard setback requirements as stipulated by the Zoning Code, it is felt in this instance, that adequate air, light, and circulatory functions will still be provided for.

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

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This variance request is approved subject to the following conditions:

1. The petitioner, its successors or assigns, shall be responsible for complying with all stated 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 single family dwelling shall be permitted under the non-conforming provision of the Zoning Code.
3. All other applicable State and County rules, regulations and requirements shall be complied with.

Should any of the foregoing conditions not be complied with, this variance request shall automatically be deemed void.

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

Sincerely,



ALBERT LONO LYMAN
Planning Director

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cc: DPW-Building Division