

CERTIFIED MAIL

February 10, 1987

Mr. and Mrs. Robert E. Kurtz
P.O. Box 1798
Pahoa, HI 96778

Dear Mr. and Mrs. Kurtz:

Variance Application (V86-51)
Applicant: Robert E. & Linda Kurtz
Tax Map Key 1-3-11:28²⁷

W 3/2/87

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 the construction of a carport addition to an existing single family dwelling with a sideyard setback of 11'-6" and a clearance of 7' in lieu of the minimum 20-foot sideyard setback and 14-foot clearance requirement within the Agricultural (A-1a) zoned district. The subject property which consists of 1 acre and identified by TMK: 1-3-11:27, is located on the east side of Road "C" within the Leilani Estates Subdivision approximately 1,500 feet from the intersection of Leilani Avenue/Road "C" intersection, Keahialaka, Puna, 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 exists to a degree which deprives the petitioner of substantial property rights that would otherwise be available or interfere with the best use or manner of development of the property.

The existing dwelling is located approximately 25 feet from the side property line. The dwelling is located on the level area of the property which is the highest point of the property. The area around the north side and east (rear) side of the existing dwelling slopes down from the house level.

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Mr. and Mrs. Robert E. Kurtz
Page 2
February 10, 1987

There is adequate land to construct the proposed carport addition, the topographic conditions of the property and cesspool location is such that the most logical area to construct the carport is within the sideyard setback area.

Based on the foregoing, it is determined that there are special and unusual circumstances applying to the subject property which exists to a degree which deprives the owner of substantial property rights that would otherwise be available or which unreasonably interferes with the best use or manner of development of the property.

ALTERNATIVES

There are no reasonable design alternatives. The petitioner could construct a 10-foot wide carport in front of the dwelling between it and the existing cesspool. However, in doing so, the front entrance of the dwelling will be located within the carport. The other alternative would be to construct the carport to the rear of the existing dwelling. In order to do this, a retaining wall and extensive filling must be done. As such, the proposed design scheme would be a reasonable alternative in light of the topographic constraints and conditions of the property. Although it could be argued that other alternatives are available to the petitioner, the reasonableness and practical application of these alternatives have to be evaluated with respect to the land characteristics and its present usage. In this particular case, the imposition of the other alternatives is considered to be excessive, when a more reasonable solution is available.

INTENT AND PURPOSE

The intent and purpose of the setback requirement is to ensure that light, air, physical and visual circulatory functions are available between the proposed carport addition and the side property line. In this particular application, the establishing an accurate common side yard boundary between the proposed addition and the adjoining parcel to the south (TMK: 1-3-11:26), any future construction on the adjoining parcel will require a minimum 20-foot side yard setback and may ultimately result in a minimum distance of 31.5 feet between building walls. However, due to the existing topographic condition of the adjoining parcel, the distance between any proposed structure on it and the proposed carport addition will be more than 31.5 feet. Therefore, while the proposed addition will not meet the minimum side yard setback requirements as

Mr. and Mrs. Robert E. Kurtz
Page 3
February 10, 1987

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 area's character or to adjoining properties.

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. A building permit for the proposed carport addition must be secured within one year from the effective date of approval of this variance and shall be completed within two years thereafter.
3. All other applicable State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be complied with, the variance 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

MO:lv

cc: DPW-Building Division