

CERTIFIED MAIL

August 13, 1987

Mr. Richard McFee
P.O. Box 1165
Kapaa, HI 96755

Dear Mr. McFee:

Variance Application (V87-21)
Richard McFee
Tax Map Key 5-5-02:54

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 with a side yard setback and clearspace of 10 feet in lieu of the minimum 20 foot side yard setback and 14 foot clearspace as required in the Agricultural (A-20a) zoned district. The subject property which consists of 3.013 acres and identified by TMK: 5-5-02:54, is located on the west side of Kaauhuhu Road along the south side of the Kohala Ditch, Kaauhuhu Homesteads, North Kohala, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property. The subject property has a topographic condition which limits the location of where the carport can be built. The present single family dwelling is located on the highest portion of the property. The land slopes sharply away from the dwelling on the north (makai) side of the property. The proposed carport location is to the rear of the dwelling and is also located on the slope and would be approximately 8 feet below the floor level of the dwelling. In order to meet with the 20 foot side yard setback, the petitioner will either have to construct a retaining wall to hold the fill material or further cut into the slope thereby result in the floor level of the carport being more than 8 feet below the level of the dwelling.

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The nearest dwelling located on the adjoining property is located over 100 feet away and is situated at a higher elevation. The proposed carport will be located along the property line of the lot located to the rear of Ms. Raynette Younge's property.

Therefore, based on the above considerations, we have determined that there are special and unusual circumstances applying to the subject property, which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use or manner of development of the subject property.

ALTERNATIVES

The petitioner has limited design alternatives for the development of this property. The petitioner could locate the carport to conform to the 20 foot side yard setback requirement. However, in doing so, the petitioner would be required to construct a retaining wall to hold the fill and concrete floor of the proposed carport. This alternative however would create a steep driveway to the carport.

Another alternative would be to lower the grade of the proposed carport below the present level which is approximately 8 feet below the house level. This additional excavation would result in the carport level being between 10 to 12 feet below the house level. Access from the carport to the dwelling would necessitate the construction of a stairway.

Although it could be argued that other reasonable alternatives are available to the petitioner, the reasonableness and practical application of those alternatives have to be evaluated with respect to the land characteristics and present usage. In this particular case, the imposition of 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 structural developments and property line. It is a regulatory tool which is also used in determining design compatibility and functional solutions. In

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this particular application, since the proposed carport will be located approximately 8 feet below the grade of the adjoining property, this difference in elevation provides a natural topographical feature to ensure that light, air, physical and visual circulatory functions are available.

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 ~~the~~ adjoining properties.

The 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 must be secured within one year of the date of the effective date 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 ~~the~~ Planning Director may nullify the Variance Permit.

Please be aware that since an objection was filed on your request, the opponents have ten (10) working days in which to file to the Planning Commission to review the Planning Director's decision. Any work contemplated during this appeals period is proceeding at your own risk.

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

Sincerely,



ALBERT LONO LYMAN
Planning Director

MO:dh

cc: Building Division
Ms. Raynette Younge