

October 10, 1990

CERTIFIED MAIL

Mr. William J. Weigang
P. O. Box 2339
Kailua-Kona, HI 96745

Dear Mr. Weigang:

Variance Application (V89-31)
William J. Weigang
Tax Map Key 7-3-17:1

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 retention of a portion of a one-story single family dwelling with a 4-foot side yard setback and 2-foot open clearspace yard in lieu of the minimum requirements of 8 feet and 4 feet, respectively.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum setback requirements for a portion of the existing single family dwelling. The existing setback problem did not surface until the sale of the subject property was in transaction. A building permit for the screened lanai was issued by the Department of Public Works and subsequently final inspection approval was granted in June 1981. However, the family room conversion was subsequently completed without a building permit. The conversion from a screened lanai to a family room was already in existence at the time of the conveyance of the property to the petitioner.

The 6 foot encroachment into the 8 foot side yard setback is located to the rear of the existing dwelling. This encroachment was in existence for nearly ten years.

Considering the foregoing facts, it is determined that there are special or unusual circumstances applying to the subject property which exist either to a degree which deprives the owner or petitioner 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.

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ALTERNATIVES

There are no reasonable alternatives in resolving the difficulty of the petitioner. Removing or remodeling portion of the family room addition is not economically feasible and would disrupt the design and function of the building. This would be putting an excessive demand on the petitioner when a more reasonable alternative is available. The setback encroachment occurred prior to the petitioner's acquisition of the property. The action taken by the petitioner to legitimize the existing improvements is one which is being done on his own accord.

INTENT AND PURPOSE

The intent and purpose of the minimum building setback requirements on a property are to assure that adequate air, light, circulation and visual and spatial considerations are available between structures and property lines. In this particular request, the location of this existing family room addition will still provide for these functions, although it does not meet the minimum 8 foot side yard setback as required by the Zoning Code. The existing dwelling on the adjoining property was constructed since 1975.

In view of the above issues, this variance request would be consistent with the general purpose of the Zoning and Subdivision Codes and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the areas character and to adjoining properties.

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

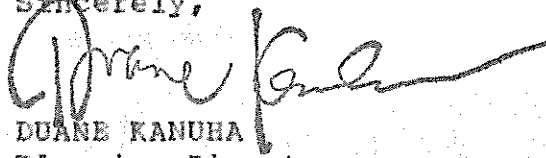
1. The applicant, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The applicant, its assigns or successors, shall be responsible for obtaining a Building Permit from the Department of Public Works for the existing family room addition conversion within three (3) months of this Variance approval.
3. That all future structural additions to the dwelling shall be in compliance with all Zoning Code requirements and no other setback variances shall be considered for any development of this property.

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Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

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

Sincerely,



DUANE KANUHA
Planning Director

MO:aeb

cc: Building Division, DPW

bcc: Bd of Appeals No. 48