



Planning Department

County of Hawaii • 25 Aupuni Street, Room 109 • Hilo, Hawaii 96720 • (808) 961-8288

Lorraine R. Inouye
Mayor

Norman K. Hayashi
Director

Tad Nagasako
Deputy Director

CERTIFIED MAIL

November 9, 1992

Mr. James Clay Hutchinson
76-831 Kueni Place
Kailua-Kona, HI 96740

Dear Mr. Hutchinson:

Variance Application (V91-28))
Variance from Front Yard Requirements of 25 feet
Tax Map Key: 7-6-10:35

After reviewing your application and the information submitted in its behalf, the Planning Director certifies the approval of your variance request from the front yard requirements of the zoning code to allow an existing 20' x 36' carport/workshop to remain as sited with an 18.5 feet front yard in lieu of the required 25 feet in an RA-.5 zone.

The subject property is 26,897 square feet in area, identified by tax map key 7-6-10:35 and is located on the west side of Kueni Place, 200 feet north of its intersection with the Kailua-Holualoa Road in the makai section of Holualoa 1 and 2, North Kona.

The Planning Director has concluded that your variance request should be approved. The reasons for the approval are:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject real property which exist to a degree which deprives the owner of substantial property rights that would otherwise be available or which unreasonably interfere with the best use or manner of development of the property.

The land on which the carport structure is sited drops sharply to the rear rendering the existing carport site the only feasible location for it; moreover because of the 20 years that have transpired since its construction. The applicant is also an innocent party to the faulty siting, being the third owner of this dwelling since it was built in 1972.

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Furthermore, from the spatial and visual perspective, the fronting roadway easement has an outside (right edge) curve away from the subject property (which is on the left), creating an expanse of road right-of-way which totals 70 to 80 feet wide instead of a straight road's usual 50 feet. Also, the residential part (as opposed to the carport portion) of the dwelling is 36 feet from its front boundary, therefore, partially compensating for the carport section's being closer than the required 25 feet.

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

ALTERNATIVES

There are no other reasonable alternatives. Moving the carport structure or eliminating the workshop end of it would only penalize the truly innocent party. Obtaining more land to the front is not possible as it is a dedicated public roadway. Granting a variance under these special and unusual circumstances is the only logical and reasonable alternative.

INTENT AND PURPOSE

The intent and purpose of the front yard requirement is to afford an amount of open space, light, air circulation, visual and spatial considerations to properties in an area or community which are suitable and proportional to the lot sizes, densities and character of the the neighborhood. In this case, 25 feet front yards have been the standard and the expectation for over 20 years.

The subject property's encroachment into the 25 feet front yard is tempered by the circumstances described previously, especially by the facts of the extra wide roadway caused by the "going away" curve in front of the carport, the fact that the main portion of the dwelling is 11 feet further back than required which helps to compensate for the carport's shortcoming, and the fact that the applicant did not at all cause the improper siting which occurred 20 years ago.

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Based on the foregoing findings, the variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the area's character and adjoining properties.

Therefore, the Planning Director has concluded that this request be approved subject to the following conditions:

1. The petitioner, his assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The construction within the 25 feet front yard shall be limited to the existing carport-workshop structure and no other structures unless they fully comply with the Zoning Code.
3. All other applicable State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be met, the Director may proceed to declare the variance null and void.

Should you have any questions, please feel welcome to contact Donald Tong of this office.

Sincerely,



NORMAN K. HAYASHI
Planning Director

DT:mlm/smo
6779D

cc: West Hawaii Office
DPW, Building Div. - Kona