

CERTIFIED MAIL

March 11, 1992

Mr. Reynold M. Kaetsu
265 Malaai Road
Hilo, HI 96720

Dear Mr. Kaetsu:

Variance Application (V91-32)
Request: Minimum Front Yard Building Setback Requirement
Tax Map Key 2-4-6:82

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 an addition to the existing carport to be setback a minimum 40 feet from the front boundary in lieu of the minimum 50 feet as required by the Agriculture Zoned District and future road widening designations, 30 feet and 20 feet respectively. The request is also to allow the retention of an existing dwelling/carport structure at minimum 40 feet from the front property boundary. The subject property, consisting of approximately 3.00 acres, is located at the junction (east side) of Malaai Street and Alawaena Street, Waiakea Homesteads, South Hilo, Hawaii, Tax Map Key: 2-4-6:82.

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 variance from the minimum setback requirements for the proposed carport addition and the retention of the existing single family dwelling at a minimum 40 feet from the front property boundary.

The topography of the subject property is sloping immediately to the rear portion of the existing structure and a watercourse traverses the parcel following the sloping terrain.

The existing setback problem did not surface until the applicant submitted a Building Permit application and construction plans for the proposed carport addition. The Planning Department previously approved the building permit and

MAR 12 1992

Mr. Reynold M. Kaetsu
March 11, 1992
Page 2

construction plans for the dwelling/carport structure with the notation that it be setback 40 feet from the front property boundary. The Building Division subsequently issued the building permit and granted final inspection in August 1989. Subsequently, the Planning Department also approved a building permit and construction plans to raise the proposed dwelling to two stories. The Building Division issued and final inspected the structure in 1990.

The setback encroachment occurred when the petitioner followed the Planning Department's imposition of 40 feet front yard setback at the time of construction of the dwelling. The existing dwelling/carport structure encroaches into the 50-foot front yard setback area by 10 feet. This encroachment has being in existence for nearly three 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 of manner of development of the subject property.

ALTERNATIVES

There are no reasonable alternatives in resolving the difficulty of the petitioner. The land is sloping with a watercourse traversing to the rear portion of the existing dwelling. The petitioner could attempt to construct another carport at the northern end of the dwelling. However, this would disrupt the design and function of the building. Further, the alternative would be putting an excessive demand on the petitioner when a more reasonable alternative is available.

The setback encroachment occurred due to the oversight on the Planning Department's imposition of minimum 40 feet front yard setback at the time of approving the building permit application and construction plans. The action taken by the petitioner to legitimize the existing dwelling structure 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 and light circulation, visual, and spatial considerations are

Mr. Reynold M. Kaetsu
March 11, 1992
Page 3

available between structures and property lines. In this particular request, the location of the proposed carport addition and the existing dwelling will still provide for these functions, although it does not meet the minimum 30 foot front yard setback plus 20 foot future road widening setback as required by the Zoning Code.

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 proposed addition to the carport within six (6) 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.

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 Alice Kawaha of this office.

Sincerely,



NORMAN K. HAYASHI
Planning Director

AK:smo
4680D

cc: Building Division, DPW