

CERTIFIED MAIL

March 29, 1993

Mr. Dennis Hoota
587 Kalanikoa Street
Hilo, Hawaii 96720

Dear Mr. Hoota:

Variance Application (V92-20)
Petitioner: Dennis Hoota
VARIANCE FROM MINIMUM FRONT YARD SETBACK REQUIREMENTS
TMK: 2-2-35:51

FINDINGS AND RECOMMENDATION

After reviewing your variance application and the information submitted in behalf of it, the Planning Director hereby certifies the approval of a variance request to allow a building addition to an existing single family dwelling with a 16 foot front yard setback and 13 foot open clearspace in lieu of the minimum 20 foot front yard setback and minimum 14 foot open clearspace yard as required in Chapter 25 (Zoning Code), Article 4 (RS, Single Family Residential Districts), Section 25-124 (a)(2)(A) (Minimum Yards) and Chapter 25 (Zoning Code), Article 1 (General Provisions), Division 10 (Supplementary Yard and Open Space Regulations, Section 25-66(a)(1) (Projections into required yards and open spaces).

The subject property is on the east side of Kalanikoa Street, approximately 300 feet from the intersection of Kalanikoa/Kekuanaoa Street intersection in the Waiakea Houselots Subdivision in Waiakea, South Hilo, Hawaii, TMK: 2-2-35:51.

The Planning Director has concluded that the variance request from the minimum front yard setback requirements should be approved, based on the following findings:

Mr. Dennis Hoota
March 29, 1993
Page 2

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 the existing single family dwelling.

The original dwelling was constructed in 1954 prior to the adoption of Zoning Code in 1967. The location or portion of the existing dwelling complies with the requirements of the Codes that were in place in the 1950's.

The applicant's proposal for the addition to the subject dwelling will be for an area of 16 square feet at the northwest corner of the existing dwelling, while the remainder of the proposed building to the side and rear of the existing dwelling will comply with the present Zoning Code setback requirements. The existing location and construction of the dwelling being built in 1954 is a circumstance which is beyond the control of the applicant.

Therefore, 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 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

There are no reasonable alternatives in resolving the difficulty of the applicant. Alternatives available to the applicant include redesigning the building improvements to meet the 20 foot setback line. The resiting of the existing single family dwelling built in 1954 to meet the minimum front yard setback is economically unreasonable. The strict observance of requiring a front yard setback in the applicant's building plan would introduce a 16 square foot void at that particular building corner and disrupt existing building design, deprive the owner of usable building area and introduce a negative architecture element into the neighborhood.

Therefore, while there may be design alternatives available to the applicant, they are deemed to be unreasonable and would place excessive demands on the applicant when a more reasonable alternative is available by the granting of this variance application.

Mr. Dennis Hoota
March 29, 1993
Page 3

INTENT AND PURPOSE

The intent and purpose of requiring buildings setbacks within a subdivision is to assure that adequate air and light circulation is available between structures and property lines. The existing dwelling on the subject property meets with and complied with all setback requirements when it was originally constructed. The primary setbacks of the dwelling are being complied with. The proposed addition to the front of the dwelling will make it architecturally compatible with the existing building line and from a impact standpoint, the encroachment will only consist of a 4 foot by 4 foot corner (16 square feet) of building which will be in line with the existing dwelling line.

As such, there will be no dramatic or significant structural change at the front of the dwelling. Although the proposed 4 foot addition will not meet with the minimum 20 foot setback, it is determined that the 16 foot setback would still provide for and allow for the open space area needed for light air and circulation. In addition, the alignment of the 4 foot addition to the present dwelling line will not change the character of the building and the visual and physical impact will be so minor that it will not affect or detract from the Single Family Residential character of the neighborhood.

While the Zoning Code requires a minimum 20 foot rear yard setback, the proposed 16 foot rear yard setback with a minimum 13 foot open clearspace yard in this particular case, is only for one small corner of the dwelling. The rest of the dwelling complies with the minimum yard setbacks and should not have an adverse impact on any surrounding properties.

There were also no objections from any surrounding property owners to the proposed variance request.

Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district, the intent and 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.

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

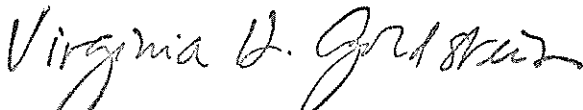
1. The applicant, its assigns or successors, shall be responsible for complying with all stated conditions of approval.

Mr. Dennis Hoota
March 29, 1993
Page 4

2. The building construction plans shall indicate the 16 foot building setback and 13 foot open clearspace yard between the structure and the rear property line approved by this variance. A building permit shall be secured from the Department of Public Works.

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

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

RHY:rld/eti
8387D

xc: West Hawaii Office

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