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CERTIFIED MAIL

March 23, 1993

Dr. and Mrs. Robert Atebara
1573 Lanihau Place
Hilo, Hawaii 96720

Dear Dr. & Mrs. Atebara:

Variance Application (V92-22)
Petitioner: Robert M. and April J. Atebara
VARIANCE FROM MINIMUM REAR YARD SETBACK REQUIREMENTS
Tax Map Key: 2-4-61:65

FINDINGS AND RECOMMENDATION

After reviewing your variance application and the information submitted in behalf of it, the Planning Director hereby certifies the approval of your variance request to allow a carport/storage building addition to an existing one story single family dwelling with a rear yard setback of 10 feet and 6 foot open clearspace yard in lieu of the minimum 20 foot rear yard setback and minimum 14 foot openspace 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 located at the east end of Lanihau Place, a 400 foot long cul-de-sac, southwest and off Maunakai Street in the Mauna Kai Circle Subdivision, Waiakea Houselots, South Hilo, Hawaii, TMK: 2-4-61:65.

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

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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 subject property abuts upon the Mauna Kai Circle Subdivision open space area which was developed and approved under the Cluster Plan Development by the Planning Department. This concept allowed for common areas for drainage and open space areas between the lots within the subdivision. The existing open space common area is not maintained and is presently overgrown with vegetation and/or landscaped by adjacent landowners.

There also is approximately a 140 foot distance between the rear yard of the subject property and TMK: 2-4-61:78 opposite the subject property. The existing overgrown vegetation within the open space common area restricts or obstructs the view of the subject property from parcel 78.

Therefore, 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 applicants. Alternatives available to the applicants include a possible detached garage structure on the west side of the property or designing the addition adjacent to the existing garage. The resiting or remodeling of the proposed improvements is economically unreasonable and would disrupt the building architecture and function between existing improvements. The 15 foot wide drainage easement location along the entire west side property line and the pentagonal configuration of the property has made the eastern portion of the property more attractive for building construction.

Based on the above cited considerations, there is no reasonable available area for resiting and/or redesigning the proposed building improvement without excessive cost and undesirable design changes. Therefore while there may be alternatives available to the applicants, they are deemed to be unreasonable and introduce excessive demands on the petitioner when a more reasonable alternative is available by the granting of this variance application.

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INTENT AND PURPOSE

The intent and purpose of requiring buildings setbacks is to assure that adequate air and light circulation is perpetuated between structures and property lines. The existing dwelling on the subject property was built and complied with all building setback requirements. The proposed garage/storage addition is not intended to be used for habitation. The closest property which may be impacted by the granting of this variance would be parcel 78, situated approximately 170 feet away.

The Cluster Plan Development introduced the common open space lot between lot clusters to help minimize any potential visual or physical impacts. In addition, the fact that the existing open space lot is not maintained and overgrown with vegetation minimizes any potential impact on the proposed improvements.

The Zoning Code requires a minimum 20 foot rear yard setback. The proposed 10 foot rear yard setback with a minimum 6 foot open clearspace yard, in this particular case, is for one corner of the proposed carport/storage addition. The majority of the proposed carport/storage building addition will meet the minimum rear yard setback.

The Department of Public Works stated that "The housing/building code would permit a 5'-0" setback when single story and attached to a dwelling." 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.
2. The building construction plans shall denote and indicate the 10 foot building setback and 6 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.

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Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare the subject variance permit null and void.

Sincerely,

A handwritten signature in cursive script that reads "Virginia Goldstein". The signature is written in dark ink and is positioned above the typed name.

VIRGINIA GOLDSTEIN
Planning Director

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xc: West Hawaii Office