

V484
Stephen K. Yamashiro
Mayor

Virginia Goldstein
Director

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Deputy Director



Planning Department

County of Hawaii • 25 Aupuni Street, Room 109 • Hilo, Hawaii 96720 • (808) 961-8238

January 12, 1993

Mr. Richard Ishida
Goodsill Anderson Quinn & Stifel
P. O. Box 2639
Kailua-Kona, HI 96745

Dear Mr. Ishida:

Variance Application (V 92-26)
Applicant: SC Builders, Inc.
Request: Side Yard Setback
Tax Map Key: 6-8-11:43

SC Builders, Inc., through its agent, Mr. Richard Ishida, is requesting a variance to allow an existing dwelling to remain with a side yard setback of 9.85 feet in lieu of the required 10 foot side yard setback requirement within the Single Family Residential (RS-10) zoned district. The property identified by Tax Map Key: 6-8-11:43 is located on the south side of Lahilahi Place, approximately 160 feet west of Lahilahi Street/Lahilahi Place intersection, Waikoloa Village, Waikoloa, South Kohala, Hawaii.

The .15 foot (1.8 inch) encroachment occurs along approximately 12 feet along the west side of the dwelling. The encroachment was the result of an error in setting the foundation corners of the dwelling on the lot.

After reviewing the application and the information submitted in its behalf, the Planning Director by this letter hereby certifies the approval of the variance request to allow the existing dwelling to remain with a side yard setback of 9.85 feet in lieu of the minimum 10 foot requirement within the Single Family Residential (RS-10) zoned district.

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 side yard setback requirement for the existing dwelling.

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The existing setback problem was discovered by the current Responsible Managing Employee (RME), William Cole, after the dwelling was substantially completed. The setback violation was a result of setting the foundation corners in error by an initial RME who is no longer with the contractor. The structure is completed, however, final approval has not been granted by the Building Division until various corrections be completed.

The property is irregular in shape with the side property lines not being parallel to each other. The dwelling as located on the property was built so that it was situated parallel to the east property line. The west property line tapers slightly into the property. The encroachment occurs along the west property line. Had the contractor located the dwelling exactly at the 10 foot side yard setback from the east property line, the dwelling would have met the 10 foot side yard setback along the west property line and not result in the .15 foot (1.8 inch) encroachment.

Therefore, considering the foregoing facts, it is determined that there are special or unusual circumstances applying to the subject property which 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 petitioner include the removal of the approximately 12 feet of wall (approximately .09 sq.ft.) of the dwelling along the west property line to conform to 10 foot side yard setback requirement or acquire a portion of the property from the adjoining property (TMK: 6-8-11:44). The removal of the exterior wall would result in a substantial alternation of the structural system of the dwelling at a substantial cost.

Based on the above cited considerations, there is no reasonable alternative available for remodeling (removal of 1.8 inch depth of wall) without excessive cost and undesirable design changes of the dwelling. Therefore while these alternatives are available to the petitioner, they are deemed to be unreasonable and would place excessive demands on the petitioner when a more reasonable alternative is available by granting of this variance application.

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INTENT AND PURPOSE

The intent and purpose of requiring building setbacks within a subdivision is to assure that adequate air and light circulation is available between structure. The subject dwelling which encroaches 1.8 inch into the side yard setback does not affect the air and light circulation. The nearest structure on the adjoining parcel where the violation occurs is approximately 25 feet away. As such the minor degree of the requested setback variance has a negliable affect on the structures involved.

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 Central 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 states conditions of approval.
2. That all future improvements on the subject property shall be in compliance with all Zoning Code requirements and no other setback variances shall be considered for any development of this property.
3. That a covenant be incorporated in the deed prohibiting the construction of any additional (ohana, etc.) dwelling on the property. This covenant shall be recorded with the Bureau of Conveyances and a copy be submitted to The Planning Department for its file.

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

MO:mjh/7601D

cc: West Hawaii Office
Building Division