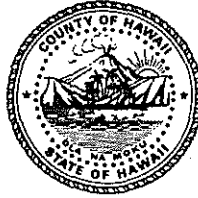


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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VAR 511

COPY

CERTIFIED MAIL

February 28, 1994

Mr. & Mrs. Benjamin Conklin
74-5138 Iluna Place
Kailua-Kona, Hawaii 96740

Dear Mr. & Mrs. Benjamin Conklin

Variance Application WH(VAR93-43)
Applicants: BENJAMIN & KATHERINE CONKLIN
Variance from Minimum SIDE YARD SETBACK Requirements
Tax Map Key: 7-4-11: 35

After reviewing your application and the information submitted in behalf of it, the Planning Director certifies the approval of your variance request to allow an existing one story single family dwelling with a 5 foot side yard setback in lieu of the minimum 8 foot side yard setback as required by Chapter 25 (Zoning Code), Article 4 (RS, Single Family Residential Districts), SECTION 25-124 (a)(1)(B)(Minimum yards).

The subject property is located on the west side of Iluna Place approximately 70 feet north of the Iluna Place/Palihiolo Street intersection in the Queen Liliuokalani Subdivision Unit 1-A, Keahuolu, North Kona, Hawaii, TMK: 7-4-011: 035.

The Planning Director has concluded that the variance request from the MINIMUM SIDE YARD SETBACK requirements should be approved, based on the following findings:

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property is part of the Queen Liliuokalani Subdivision Unit 1-A consisting of 3,500 square feet of land area.
2. The subject single family dwelling was constructed in 1971 under County of Hawaii Council action under Act 108 SLH 1970 for experimental and demonstration housing.

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3. The approved side yard setbacks for this development was a 5 foot side yard setback. The applicant intends to continue the same building line which was approved in 1971.
4. The petitioner is proposing to enclose an existing open lanai which is at 5 feet from the side property line. The enclosure of the existing lanai will follow the side wall line of the existing single family dwelling which is also at 5 feet.
5. It has been over 23 years since the original development of the Queen Liliuokalani Subdivision. Since then, Housing, Health and Zoning Code regulations have changed which prevent the renovations of structures within this development to occur. The original idea of the experimental housing has proven to be compatible as all housing units in this subdivision have the same circumstances with the same type of setback requirements.
6. The variance application was filed with the Planning Department on DECEMBER 20, 1993.

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

1. The subject property consisting of 3,500 square feet is a rectangular parcel.
2. The present 5 foot side yard setback is a typical setback for all housing units within the Queen Liliuokalani Village Subdivision development.
3. The requirement of the Zoning Code's present 8 foot sideyard setback would create undue and excessive hardships of the applicant when other more reasonable options are available.

Based on the above cited considerations, there are no reasonable available solutions without excessive demands placed on the applicant when a more reasonable alternative is available by the granting of this variance application.

INTENT AND PURPOSE

1. 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. At the time of the development of the Queen Liliuokalani Village in 1971, it was determined that the 5 foot setback for this experimental housing would be sufficient to provide for the necessary light, air and open space between the existing dwelling and adjacent properties. Therefore, while the Zoning Code requires a minimum 8 foot side yard setback, in this particular case, the granting of the variance will allow the petitioner to follow the original wall line at the approved 1971 5 foot setback line as well as keep the architectural integrity of the dwelling in place. In as much as the proposed addition will adhere to the existing 5 foot side yard setback requirement, it will not visually or physically impact or be adverse to any adjacent properties or development with the granting of this variance. The rest of the existing dwelling complies with the minimum yard setbacks requirements of the Zoning Code.

There were no objections from any of the participating government agencies. 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 approval of this variance shall be included in the conveyance document for the subject property and a copy of the recorded conveyance document shall be submitted to the Planning Department within a year from the effective date of approval of this variance.


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3. The applicant shall prepare plans for a building permit for the proposed addition and shall secure a building permit from the Department of Public Works, Building Division within 1 year from the official date of approval of this variance permit.
4. The applicant shall also comply with the requirements of the State Department of Health.
5. All other applicable State and County rules and regulations shall be complied with.

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

Should you have any questions, please feel free to contact us.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

RHY:rld:pak
2809D

xc: DPW-Building, Kona Office
West Hawaii Office