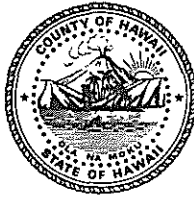


Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Norman Olesen  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-9615

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#### CERTIFIED MAIL

January 26, 1994

*mailing address*  
151  
151  
Mr. and Mrs. Robert Y.W. Lee, Jr.  
151 Mauna Loa Street  
Hilo, HI 96720

Dear Mr. and Mrs. Lee:

VARIANCE APPLICATION (V 93-55)  
PETITIONER: ROBERT Y.W. LEE, JR., ET AL  
VARIANCE FROM MINIMUM 15 FEET REAR YARD SETBACK REQUIREMENT  
AND MINIMUM 10 FEET REAR CLEARSPACE REQUIREMENT  
TAX MAP KEY: 2-2-18:08

#### 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 new single family dwelling to be constructed with a 8.7 feet rear yard setback and 5.0 feet rear clearspace yard in lieu of the minimum 15 feet rear yard setback and minimum 10 feet rear clearspace as required in Chapter 25 (Zoning Code), Article 5, (RD, Double Family Residential Districts), Section 25-132 (Minimum yards), Article 4 (RS, Single Family Residential Districts), Section 25-124 (a)(1)(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's address is <sup>131</sup>135 Mauna Loa Street, Hilo, Hawaii, 96720. The subject property is located on the makai side of Mauna Loa Street approximately 100 feet south of the Mauna Loa Street/Hoku Street intersection in an area in Hilo commonly referred to as Villa Franca. The subject property is commonly referred to as tax map key parcel number 2-2-18:08 (TMK: 2-2-18:08).

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The Planning Director has concluded that the variance request from the minimum 15 feet rear yard setback requirement and minimum 10 feet rear clearspace should be approved, based on the following findings:

#### SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum setback requirements to construct a new single family dwelling on the subject parcel with a stated land area of 4,439 square feet. The configuration of the subject property appears to be parallelogram form and appears to be level with the Mauna Loa Street right-of-way. The original dwelling, detached carport, and laundry room was demolished and verified by Planning Department staff on October 21, 1993. The original post and pier dwelling, detached carport, and laundry room was built and established before the Zoning Code was adopted in 1967. The original structure did not meet minimum front, side, and rear yard setback requirement(s).

The site plan submitted by the applicant included the existing building footprint on the following tax map key parcels: 2-2-18:7, 2-2-18:9, 2-2-18:10 and 2-2-18:47. The site plan submitted with the Variance application purports the original dwelling on the subject property was originally 7' ± from the rear property line and was originally 9' ± feet away from the carport/dwelling on the adjacent property (TMK: 2-2-18:47). The level topographical features between the subject property and the adjacent parcels (TMK: 2-2-18:47) allow for an adequate separation from each other.

The letter dated October 12, 1993, from the applicant's consultant, Imata & Associates, states:

"The parcel is zoned Double Family Residential (RD-3.75). There is an existing dwelling (1,606 sq. ft.) which the Lees want to demolish and replace, however, to build the new structure, a variance to allow an 8.7-ft. rear building setback is requested in lieu of the required minimum of 15 ft. based on the following:

1. The alignment makes the lot depth approximately 47.7 feet. With the front building setback of 15-ft. and a proposed building width of 24 feet, the rear building setback will be approximately 8.7 feet.
2. If the minimum front and rear setbacks of 15 feet are imposed, the buildable width available is 17.7 feet.

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Normal residential building widths start from 24 feet. At 17.7 feet, the building supply company and the contractor will have difficulties.

3. The existing building has a present existing rear setback of 7 feet. The proposed dwelling will provide a little more clearance.
4. The existing structure is a post and pier and is similar to a two-story building because of storage area beneath the building. We are proposing a one-story slab on grade building which will be more aesthetically pleasing.
5. Although the present zoning allows two (2) residential dwellings, we are proposing a single-family dwelling.

The approval of the variance will not be detrimental to the surrounding properties or the public's health or welfare."

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 applicants. Alternatives available to the applicants include reducing the proposed dwelling's footprint or build the proposed dwelling within the defined buildable area of the property prescribed by the Zoning Code. The non-conforming size of the lot limits the width of the proposed new single family dwelling. The available buildable area within the parcel will result in a narrow building which is physically and economically unreasonable and would disrupt the function and architecture of the proposed dwelling. The building's proportion and volume exhibited by the proposed dwelling's design is more desirable and will preserve the character of the area and be architecturally compatible to the surrounding and existing dwellings within the Villa France area. The proposed dwelling will meet front and side yard building setback requirements.

Based on the above cited considerations, the required reduction of the dwelling's floor area to fit the building envelope without

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design changes to the dwelling's architecture will result in a narrow dwelling undesirable to the character of the area. Therefore while there may be alternatives available to the applicants, they are deemed to be unreasonable and would place excessive demands on the petitioner when a more reasonable alternative is available by the granting of this variance application.

#### INTENT AND PURPOSE

The intent and purpose of requiring building setbacks within a subdivision is to insure that adequate air and light circulation is available between structures and property lines. The existing dwelling on the subject property met with and complied with all setback requirements when it was originally constructed. The encroachment will only consist of approximately 5 foot  $\pm$  by 66 foot  $\pm$  area (330 square feet) of building which will be encroaching into the rear yard setback. The proposed new single family dwelling fits into the Single Family Residential character of the neighborhood. The most directly affected property is the makai property commonly identified as tax map key parcel 2-2-18:47 (TMK: 2-2-18:47). The proposed dwelling on the subject parcel will be constructed within the 24 feet by 66 foot building envelope. As such, the minor building 330 square feet encroachment into the rear yard setback will not visually, physically or adversely affect the rights of the property owners of parcel 47 of which the livable area is situated on and along the makai side property line. The approximate distance between the proposed new single family dwelling on the subject property to the carport attached to the dwelling on parcel 47 is approximately 12 feet which provides an adequate space for the necessary light, air and circulatory requirements. As such, the applicant's proposed building encroachment into the rear yard setback will not visually, physically or adversely affect the rights of the property owner(s) of parcel 47.

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

Based on the foregoing findings, this variances 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:

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1. The applicant, its assigns or successors, shall be responsible for complying with all stated conditions of approval;
2. The approval of this variance is only from the Zoning Code;
3. The proposed new dwelling shall conform to all requirements of Codes and Statutes pertaining to building construction; and,
4. Future building improvement shall be subject to State and County regulations pertaining to occupancy and building construction.

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

WRY:eti  
1646D

xc: PA 2895