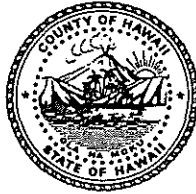


Stephen K. Yamashiro
Mayor



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

VAR 609

CERTIFIED MAIL

COPY

August 10, 1994

Mr. Raymond E. Bolkan
2319 Kilauea
Hilo, HI. 96720

Dear Mr. Bolkan

Variance Application WH(VAR 94-46)
Applicant: RAYMOND E. BOLKAN
Variance from Minimum FRONT YARD SETBACK Requirements
Tax Map Key: 2-5-038:080

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 two story single family dwelling with a 12.80 foot front yard setback in lieu of the minimum 15 foot, Article 4 (Single Family Residential), SECTION 25-124 (a) (1) (minimum yards).

The subject property is located in the Kaumana City Subdivision, Ponahawaii, South Hilo, on the corner of Ua Nahele Street and Saddle Road, TMK: 2-5-038:080.

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

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property is part of the Kaumana City Subdivision consisting of 8037 square feet of the land area.

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2. The subject single family dwelling was constructed in 1991-92 under Building Permit No. 911849 issued on September 9, 1991 and closed on October 12, 1992 by the Department of Public Works, Building Division.
3. A survey map dated prepared by Donald J. Murrey shows that the existing dwelling with 12.80 front yard setback on the east side of the dwelling encroaches into the front yard setback at the FRONT OF THE DWELLING BY 2 FEET-2 AND 1/3 INCHES.
4. The homeowners at that time, received all of the necessary Department of Public Works, Building Division approvals for the dwelling.
5. When the plans were approved by the Planning Department, the plans would have had to show that all minimum required setbacks were going to be adhered to for the proposed dwelling in 1991.
6. It appears that a construction staking error occurred in 1991 when the dwelling was constructed in the siting of the structure on the property. It also appears that a minor error was done at the time of construction with the 2 feet and 1/3 inches encroachment. No other evidence has been found to show otherwise.
7. The petitioner is trying to resolve the situation and has honestly conducted a certified survey to ensure the disclosure of all facts concerning the dwelling.
8. The variance application was filed with the Planning Department on JUNE 13, 1994.

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 present 2 foot-2 1/3 inch encroachment into the east front yard setback is small in relationship to the minimum required 15 feet front yard requirement. This encroachment fronts directly on Ua Nahele Street therefore so no additional frontage can be acquired.

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2. The applicant on his own volition is honestly trying to resolve this problem which was not intentionally created by him. The investigation of this particular matter has not shown any deliberate or intentional grounds in allowing the encroachments to occur.
3. Any architectural alterations or design changes or relocation of the entire structure of the dwelling to conform with the minimum setbacks 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. The existing dwelling on the subject property is presently situated 12.8 feet from the east side property line, fronting Ua Nahele Street.

Therefore, although only a 12.80 foot front yard setback is being provided against the east side property line, the encroachment is so minuscule and are not visually perceptible that it will diminish the ability for adequate light, air and open space between the existing dwelling and the front property line to the street.

Therefore, while the Zoning Code requires a minimum 15 foot front yard setback, in this particular case, the encroachment is so minuscule that 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 obligations from any of the participating government agencies. There was no objections from a surrounding property owner to the proposed variance request.

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 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.
3. 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.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

NO/WP60/bolkan

xc: Ednie Realty