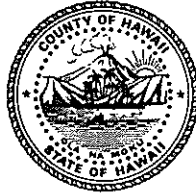


Stephen K. Yamashiro  
Mayor



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

#### CERTIFIED MAIL

August 22, 1994

Mr. Don Anderson  
P.O. Box 1434  
Silverdale, WA 98383

Dear Mr. Anderson:

Variance Application WH(VAR94-42)  
Applicant: DON ANDERSON  
Variance from Minimum FRONT AND REAR YARD SETBACK Requirements  
Tax Map Key: 7-8-14: 41

After reviewing your application and the information submitted in behalf of it, the Planning Director certifies the denial of your variance request to allow a PROPOSED TWO STORY DUPLEX DWELLING with a 10 FOOT FRONT AND REAR YARD SETBACK in lieu of the minimum 20 FOOT FRONT AND REAR YARD SETBACK as required by Chapter 25 (Zoning Code), Article 10 (Resort), SECTION 25-172 (Minimum yards), (a)(1)(2).

The subject property is located on the mauka (east) side approximately 230 feet from Alii Drive, and approximately 520 feet north of the Alii Drive/Makolea Street intersection in Kahaluu, North Kona, Hawaii, TMK: 7-8-14: 41.

#### SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property is part of the Kahaluu Lots Subdivision consisting of 5,419 square feet of land area.
2. The subject property is vacant.
3. The petitioner is proposing to construct a two story duplex with a 2-car carport with 10 foot yard setbacks.
4. The proposed 2-story duplex is approximately 1,162 square feet in size and the proposed carport is approximately 360 feet in size for a total footprint of approximately 1,522 square feet.

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5. The imposition of the required 20 foot front and rear yard, and 10 foot side yard setback requirements would allow for a net buildable area of 1,650 square feet. This is exclusive of any uncovered parking areas.
6. For a 1-story structure, the imposition of the required setbacks of 20 foot front and rear yards and 8 foot side yards would allow for a net buildable area of 1,830 square feet, exclusive of any uncovered parking areas.
7. The subject property is a Parallelogram shaped parcel with a front and rear yard and two side yard setbacks as required by the Zoning Code. There are no special or unusual circumstances related to the property which distinguishes itself from the other lots in the subdivision and would thus necessitate the approval of this variance. There are no distinguishing factors related to this property nor to the proposed improvements which deprives the petitioner of substantial property rights or which interferes with the best use or manner of development of the property.
8. The variance application was filed with the Planning Department on JUNE 17, 1994.

Based on the above circumstances, there are no unusual or special circumstances related to the property or deprivation of substantial property rights which would necessitate the granting of this setback variance.

Therefore, considering the foregoing facts, it is determined that there are no 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 applicant does have available land area in which to construct either a 1-story or 2-story structure on the subject property either for single family or double family design. The imposition of the minimum setback requirements would result in net buildable areas of 1,830 and 1,650 square feet for 1 and 2 story structures, respectively. The proposed footprint for the variance request is approximately 1,522 square feet in size. Therefore, the

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petitioner does have reasonable alternatives on the subject property to develop the property without the need for a variance from the minimum yard setback requirements.

Therefore, there are other reasonable alternatives that would resolve the difficulty.

#### 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. Although the size of the lot is only 5,419 square feet in size, the petitioner is able to reasonably develop the property and provide the required setbacks. With the number of small sized lots in this area, it is more critical for the necessary air, light, and visual proportion between the development of buildings on each lot. Although the petitioner indicates that the roadway fronting his property is only a paper road and not access for his property, the roadway is recognized by the Zoning Code as a front yard. As such, after considering these factors, the variance request to construct within the setback area will diminish the proportion and scale of the necessary air, light, and physical circulation around the dwelling structure and between adjacent properties.

Based on the foregoing findings, this variance request would not 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.

Therefore, this variance request for the construction of the proposed duplex structure with a 10 foot front, rear and side yard setback is hereby denied.

The Director's decision is final, except that within thirty days after receipt of this letter, you may appeal the decision in writing to the Planning Commission in accordance with the following procedures:

1. Non-refundable filing fee of one hundred dollars (\$100); and

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2. Ten copies of a statement of the specific grounds for the appeal.

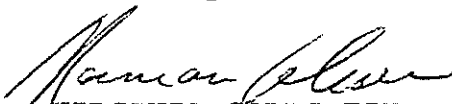
Should you decide to appeal, the Planning Commission shall conduct a public hearing within a period of ninety days from the date of receipt of a properly filed appeal. Within sixty days after the close of the public hearing or within such longer period as may be agreed to be the appellant, the Planning Commission shall affirm, modify or reverse the Director's action. A decision to affirm, modify or reverse the Director's action shall require a majority vote of the total membership of the Planning Commission. A decision to defer action on the appeal shall require a majority vote of the Planning Commission members present at the time of the motion for deferral. If the Planning Commission fails to render a decision to affirm, modify, or reverse the Director's action within the prescribed period, the Director's action shall be considered as having been affirmed.

All actions of the Planning Commission are final except that, within thirty days after notice of action, the applicant or an interested party as defined in Section 25-27.2 of this article in the proceeding before the Planning Commission may appeal such action to the Board of Appeals in accordance with its rules.

All actions of the Board of Appeals are final except that they are appealable to the Third Circuit Court in accordance with Chapter 91 of the Hawaii Revised Statutes.

Should you have any questions, please feel free to contact Royden Yamasato of our office at 329-4878.

Sincerely,

  
VIRGINIA GOLDSTEIN  
Planning Director

RHY:rld  
1080Q

xc: DPW-Building, Kona Office  
West Hawaii Office