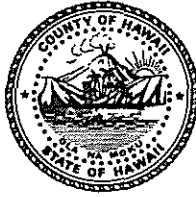


Stephen K. Yamashiro
Mayor



VAR 521

Virginia Goldstein
Director

Norman Olesen
Deputy Director

file
copy

County of Hawaii

PLANNING DEPARTMENT

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

CERTIFIED MAIL

November 9, 1994

Mr. Dennis Haserot
P.O. Box 6251
Kamuela, HI. 96743

Dear Mr. Haserot:

Variance Application (VAR 94-58)
Applicant: DENNIS HASEROT
Owner: Peter & Bridgitte Abplanalp
Variance from Minimum SIDE YARD SETBACK Requirements
Tax Map Key: 7-5-027:019

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 CARPORT with a 4.5 foot side yard setback in lieu of the minimum 8 foot setback as required in Chapter 25 (Zoning Code), Article 18 (Unplanned), Section 25-124 (Minimum Yards) (a)(1)(B).

A survey conducted by Patrick M. Cummins, Professional Land Surveyor, Certificate # 5078 was conducted June 9, 1994, shows the sideyard setback encroachment of 3.5 feet in addition to a lanai and carport roof encroachment into the clear space requirement. The applicant has agreed to have the carport roof and lanai roof cut back to conform to the 4 foot open clear space requirement of the Zoning Code.

The subject property is located on the south side of Aloha Kona Drive approximately 73 feet east of the Pelekila Place/Aloha Kona Drive intersection in the Kona Heights subdivision, Heinaloli, North Kona, Hawaii.

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

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SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The Residence and carport were constructed in 1974, by a prior owner under County Building Permit No.690. The first floor of the residence and the structural wall of the carport are constructed of concrete block masonry. The setback violations went unnoticed by the subsequent two owners, possibly due to the "skewed" placement of the structure on the lot..
2. The encroachment of the carport into the setback area on the easterly sideyard is a triangle measuring approximately 3.5 feet. The total area of the encroachment is 14 square feet.
3. The violation is minor in magnitude since it does not occur along the full sideyard of the structure. The average setback distance along the easterly side of the structure is in excess of the code requirements and does not adversely effect the adjacent property.

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. Any architectural alterations to the dwelling to conform with the minimum code requirements would create undue and excessive hardship to the applicant.
2. Cutting back the carport structure to conform to the setback requirements would make the carport unusable for its intended purpose.

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.

Mr. Dennis Haserot
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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.

Therefore, while the Zoning Code requires a minimum 8 foot side yard setback, in this particular case, the encroachment is such that it will not significantly 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.

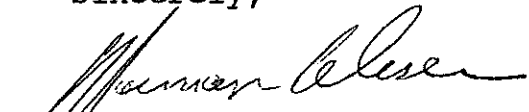
There was no objection from any of the participating government agencies. There was no objection from any surrounding property owners to the proposed variance request.

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 applicant will contract to have the carport roof and lanai roof cut back to comply with the 4 foot clearspace requirement of the Zoning Code.
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:pak
WP60/haserot

xc: Kona Office