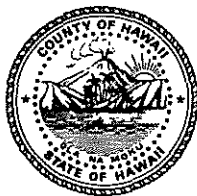


Stephen K. Yamashiro
Mayor



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

March 14, 1995

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

Dear Mr. Haserot:

Variance Application WH(VAR95-07)
VARIANCE NO. 633
Applicant: DENNIS HASEROT
Variance from Minimum FRONT YARD SETBACK Requirements
Tax Map Key: 7-3-042: 015

After reviewing your application and the information submitted in behalf of it, the Planning Director certifies the approval of variance request No. 633 to allow an EXISTING ONE STORY SINGLE FAMILY DWELLING with a 19.6 foot and 19.7 foot front yard setback in lieu of the minimum 20 FOOT FRONT YARD SETBACK as required by Chapter 25 (Zoning Code), Article 18 (UNPLANNED), Section 25-237 (b) (Other regulations)(b).

The subject property is located on the north side of Kaiminani Drive approximately 1,830 feet west of the Kaiminani Drive/Kakaiaka Street intersection in the Kona Palisades Subdivision, Unit III, Kalaoa 5th, North Kona, Hawaii, TMK: 7-3-042: 015.

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 Kona Palisades, Unit III Subdivision consisting of 10,001 square feet of land area.
2. The subject single family dwelling was issued Building Permit No. 793463 on December 21, 1979.

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3. A survey map dated November 11, 1994 was prepared and certified by Wes Thomas & Associates shows the existing 1-story dwelling with a 19.6 foot and 19.7 foot front yard setback. As such, the subject dwelling encroaches into the front yard setback by .4 feet (4 and 7/8 inches) and .3 feet (3 and 5/8 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 1979.
6. It appears that a construction staking error occurred in 1979 when the dwelling was constructed in the siting of the structure on the property. It also appears that a very minor siting error was done at the time of construction with the minuscule encroachments. No other evidence has been found to show otherwise.
7. It has been over 15 years since the construction of the existing dwelling which was approved by the County and the petitioner is trying to resolve a situation which he had no control over 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 FEBRUARY 26, 1995.

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 is a rectangular shaped parcel.
2. The present .4 feet (4 and 7/8 inches) and .3 feet (3 and 5/8 inches) encroachments into the front yard setback are minuscule in relationship to the minimum required 20 foot side yard setback requirements. These minuscule encroachments are not perceptibly visible that it could be readily detected or seen as encroachments into the front yard.

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3. The applicant on their own volition are honestly trying to resolve this long standing problem which was not created by them. The investigation of this particular matter has not shown any deliberate or intentional grounds in allowing the encroachments to occur.
4. Any architectural alterations or design changes to 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 encroachments of .4 feet (4 and 7/8 inches) and .3 feet (3 and 5/8 inches) front on Kaiminani Drive and thus have no impacts on adjacent properties. In addition, these encroachments into the front yard setback are 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 front property line. Therefore, while the Zoning Code requires a minimum 20 foot front yard setback, in this particular case, the encroachments are 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 objections from any of the participating government agencies or any surrounding property owners.

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.


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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.
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

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xc: West Hawaii Office