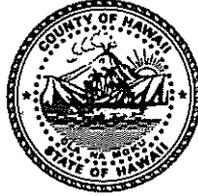


Stephen K. Yamashiro
Mayor



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
P 364 320 391

October 19, 1995

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

Dear Mr. Haserot:

Variance Permit (VAR 704)
Applicant: Dennis W. Haserot
Request: Variance from Minimum Front and Side Yard Setback
Requirements of the Zoning Code
Tax Map Key: 7-8-07:21

After reviewing your application and the information submitted on behalf of it, the Planning Director certifies the approval of your variance request to allow an existing detached garage with a front yard setback of 2.9 feet and clearspace of 1.8 feet and a existing 12 foot high tennis court fence with a side yard setback of 6.2 and 6.3 from the side yard property line in lieu of 25 feet front yard setback and 15 foot side yard setback of the Zoning Code.

The subject property is located at makai side of Kuakini Highway across from the Old Tanaka Quarry Site, Keauhou, North Kona, Hawaii, Tax Map Key: 7-8-07:21.

The Planning Director has concluded that the variance request from the minimum rear yard setback requirement should be approved based on the following findings.

Special and Unusual Circumstances

1. The subject property is part of a consolidation/resubdivision consisting of 33,106 square feet of land area.

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2. A survey map dated April 26, 1995, prepared and certified by Wes Thomas Associates shows the existing garage with a front yard setback of 2.9 feet and existing tennis court with a side yard setback of 6.2 and 6.3 feet.
3. The homeowners at that time received all the necessary Department of Public Works, Building Division approvals for the structures.
4. 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 structures.
5. The property was the subject of a road widening of approximately twenty-five (25) feet which reduced the front yard setback of the existing detached garage to 2.9 feet. The existing tennis court staddled the property line until a consolidation/resubdivision enabled the structure to be on the property with limited setbacks.
7. The applicant on his own volition is honestly trying to resolve this long standing problem which was not intentionally created by him. He has conducted a certified survey to ensure the disclosure of all facts concerning the structures.

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 deprive 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 odd-shaped in light of the consolidation/resubdivision which was done to minimize many other setback encroachments related to other structures on the property. This action appears to be the most reasonable alternative.

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2. The existing structural encroachments as a result of the consolidation/resubdivision minimize the negative impact and compromise what was a greater violation before.
3. The applicant on his own volition is honestly trying to resolve this longstanding 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.
4. Any architectural alternatives or design changes to the dwelling to conform with the minimum setbacks would create undue and excessive hardship to 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

The intent and purpose of requiring building setbacks within a subdivision is to assure that adequate air and light circulation is available between structures and property lines. The existing garage and tennis court on the subject property are presently situated 2.9 and 6.2 and 6.3 feet from the front/side property line. Therefore, although only 2.9 and 6.2 and 6.3 foot front/side yard setbacks are being provided against the front/side property line, the encroachment is not visually perceptible that it will not diminish the ability for adequate light, air and open space between the existing structures and the front/side property line.

Therefore, while the Zoning Code requires a minimum 25 and 15 foot front/side yard setback, in this particular case, the encroachment 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 structures complies with the minimum yard setback requirements of the Zoning Code.

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There was no objection from any of the participating government agencies or surrounding property owners.

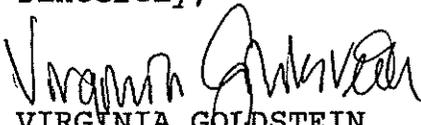
Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the area's character and to adjoining properties.

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 one (1) 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

EC:mjs

xc: West Hawaii Office