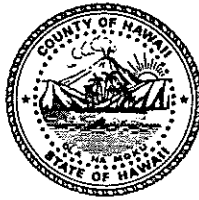


Stephen K. Yamashiro
Mayor



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

Z 095 324 140

April 16, 1997

Ms. Joanne V. Baptist, RA
Century 21 Big Island
586 Kanoelehua Avenue, #100
Hilo, HI 96720

Dear Ms. Baptist:

Variance Permit No. 817 (VAR 97-10)
Applicant: ROBERTA M. RODRIQUEZ
Request: Variance From the Minimum Side Yard Requirements of Chapter 25, Zoning
Tax Map Key: 1-4-081:025, Lot 215

After reviewing your application and the information submitted on behalf of it, the Planning Director certifies the approval of your variance request. Variance Permit No. 817 allows the existing building (single story farm dwelling) and water tank situated on the subject property to have one side yard being minimum five and one-half feet (5.5' or 5'-6") in lieu of the minimum eight (8) foot side yard required for the subject property zoned Agricultural (A), Division 7, pursuant to Section 25-5-77, Minimum yards, (a), and Section 25-4-44, Permitted Projections Into Yards and Open Spaces.

The subject property is Lot 215, being a Portion of Nanawale Estates Subdivision, Unit 3-B, F.P. 1045, situated at Puua, Puna, Island and County of Hawaii. The property and existing building improvements thereon are more commonly identified by the tax map key parcel number, Tax Map Key: 1-4-081:025, Lot 215.

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6. The applicant's statements included with the subject variance application imply the approved building and existing building encroachments within the effected side yard went undetected by the County, other government agencies, and the public.

The owner(s)/applicant(s) recently discovered and identified the existing building encroachments within the effected side yard. The applicants became aware of the building encroachments during a pending real estate transaction and after a modern survey by a Registered Land Surveyor was prepared for the variance application and examination by the Planning Department.

Therefore, considering the foregoing facts and existing site improvements, it is felt there are special or unusual circumstances applying to the subject property which exist either to a degree which deprive the owner(s)/applicant(s) 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

There are no reasonable alternatives in resolving the difficulty of the owner(s)/applicant(s). Alternatives available to the applicant include the following: removing the existing building encroachments together with the effected roof eaves resulting in a smaller living space; acquiring additional property from the adjacent property or relocate the dwelling or construct a new dwelling within the correct building envelope prescribed by the Zoning Code, on the non-conforming sized lot and other similar design alternatives, etc. The removal of the building encroachments or the re-sitting, redesign, and remodeling, etc. of the existing dwelling would be economically unreasonable and possibly disrupt the dwelling's building integrity, existing interior room circulation, and disrupt other existing site improvements.

The current owner(s) or applicant(s), on their own volition, are honestly trying to resolve four year old building encroachment problems. No evidence has been found to show indifference or remediation by the previous owners or builder in 1993 to deliberately or intentionally allow the building encroachments to occur.

The Planning Department acknowledges there may be other design or building alternatives available to the owners/applicants recited above. However, these design and building alternatives are deemed to be unreasonable at this time and would place excessive demands on the present owners when a more reasonable alternative is available by the granting of the subject variance request.

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2. The applicants/owners have identified and acknowledged the subject building encroachments and residential use were built and established within one of the side yards of the subject property. A portion of the existing farm dwelling and water catchment tank does not comply with the minimum side yard requirements prescribed by the Chapter 25, Zoning dated December 7, 1996. The applicants/owners, successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.
3. The approval of this variance is only from the Zoning Code minimum side yard requirements.
4. Future building improvements and permitted uses shall be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

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

WRY:mlm

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xc: Real Property Tax Office