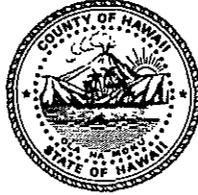


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director
Russell Kokubun
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 293 080 397

July 14, 1997

Mr. Klaus Conventz
P.O. Box 2308
Kailua-Kona, Hawaii 96745

Dear Mr. Conventz:

Variance Application WH(VAR 97-34)
Variance No. 837
Variance from Minimum REAR YARD Requirements
Tax Map Key: 6-4-015: 004

After reviewing your application and the information submitted, the Planning Director certifies the approval of your variance request to allow a **PROPOSED SINGLE FAMILY DWELLING** with a 20 foot rear yard in lieu of the minimum 30 rear yard as required by Chapter 25, Article 5, Division 7, Section 25-5-76(a).

The subject property is located at Puukapu Homesteads, Lot 1, 2nd Series, Waimea, South Kohala, Tax Map Key: 6-4-015: 004.

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

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 1.27 acres of land area.
2. A topographical map prepared by applicant, shows the **PROPOSED SINGLE FAMILY DWELLING** with a 20 foot rear yard in lieu of the required 30 feet rear yard. As such, the single family dwelling would encroach by 10 feet into the required 30 feet rear yard.

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3. The topographical survey also indicates an existing drainage ditch and steep slopes, leaving a very marginal building area. The drainage ditch traverses the property east to west and divides the property in two.
4. The subject property is vacant of any structures.
5. The variance application was filed with the Planning Department on May 19, 1997.

The property is zoned Agricultural-1a and is rectangular in shape. It is bisected by a drainage ditch which traverses the property from east to west. The topography of the land is steep slopes.

Therefore, considering the foregoing facts, the Planning Director has 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

The applicant is trying to develop the subject property with a single family dwelling, but because of the steep slopes and the location of the drainage way on the property, the applicant's alternatives are reduced. The cost of complying with the minimum 30 foot setback requirement would be an excessive requirement with the physical constraints of the property.

Therefore, requiring the applicant to comply with the minimum 30 foot rear yard 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

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 proposed dwelling will provide a 20 foot rear yard. This 20 feet rear yard will not diminish the ability for adequate light, air and open space. Therefore, while the Zoning Code requires a minimum 30 foot rear yard, in this particular case, the physical terrain of the property with

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the size of the property 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 dwelling would comply with the minimum yard 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 Code 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.

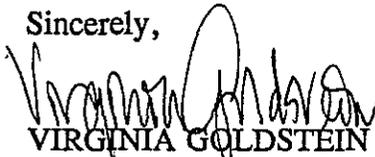
This variance request is approved, subject to the following conditions:

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.

Should you have any questions, please feel free to contact Royden Yamasato of this department.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

EMM: rld

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xc: West Hawaii Office