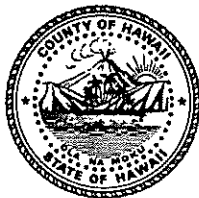


Stephen K. Yamashiro
Mayor



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 293 080 424

September 19, 1997

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

Dear Mr. Conventz:

Variance Application WH(VAR 97-53)

Variance No. 852

Applicant: KLAUS CONVENTZ

Owner: PETER C. SIMONSEN, TRUST

Variance from Minimum FRONT AND SIDE YARD Requirements

Tax Map Key: 7-3-005: 061

After reviewing your application and the submittal, the Planning Director certifies the approval of your variance request to allow an existing one story single family dwelling and attached garage with a 27.1 feet front yard in lieu of the minimum 30 feet front yard and 17.6 feet side yard in lieu of the minimum 20 feet side yard as required by Chapter 25, Article 5, Division 7, Section 25-5-76(a).

The subject property is located in the Kona Acres Subdivision, Unit I, Increment B, Lot 12, at Kalaoa 5th, North Kona, Hawaii, Tax Map Key: 7-3-005: 061.

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

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 44,530 square feet of land area.
2. The subject single family dwelling was issued the following building permit:

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- a. Building Permit No. 852028 opened on November 6, 1985 and closed on June 4, 1986 for the construction of a one story single family dwelling with attached garage.
 - b. Building Permit No. 885261 opened on March 29, 1988 to construct a shed.
3. A survey map prepared by KKM Surveys on July 3, 1997 shows the existing one story single family dwelling with 27.1 feet front yard in lieu of the minimum 30 feet front yard. As such, the dwelling encroaches by 2 feet 10- 7/8 inches into the required 30 feet front yard.
 4. The survey map shows the existing one story single family dwelling with a 17.6 feet side yard in lieu of the minimum 20 feet side yard. As such, the dwelling encroaches 2 feet 4-7/8 inches in the required 20 feet side yard.
 5. The homeowner at that time the building permits were approved, received all of the necessary Department of Public Works, Building Division approvals for dwelling and garage.
 6. 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 and garage in 1985.
 7. There appears to have been a construction staking error in the siting of the structure on the property. This occurred in 1985 when the dwelling and garage were constructed. There also appears that a very minor siting error was done at the time of construction with the encroachments. No other evidence has been found to show otherwise.
 8. It has been over 12 years since the construction of the existing dwelling and garage which was approved by the County and the applicant is trying to resolve a situation which they had no control over and have honestly conducted a certified survey to ensure to disclosure of all facts concerning the dwelling and garage.
 9. The variance application was filed with the Planning Department on July 21, 1997.

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 applicants of substantial property rights that would otherwise be

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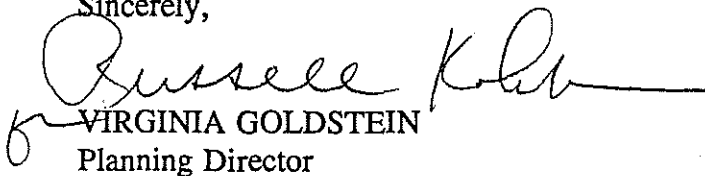
This variance request is approved, subject to the following conditions:

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. If applicable, approval from the Board of Appeals for all Housing and Building Code Violations will be obtained.
4. 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
a:\73005061\simonsen.app

xc: West Hawaii Office