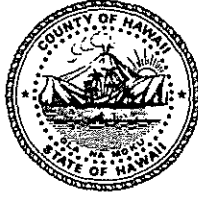


Stephen K. Yamashiro
Mayor



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) 961-8742

CERTIFIED MAIL
P 417 379 086

January 29, 1998

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

Dear Mr. Conventz:

Variance Application WH(VAR 97-84)
Variance No. 885
Applicant: KLAUS CONVENTZ
Owners: CLARIS E. POTTER TRUST
Request: Variance from Minimum Side Yard and Open Space Requirements
Tax Map Key: 7-7-003: 034

After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow an existing one story single family dwelling, garage and storage shed with a 14.4 to 14.8 feet side yard in lieu of the minimum 15 feet side yard; and a 9.6 to 9.7 feet side yard open space in lieu of the minimum 10 feet side yard open space, as required by Chapter 25, Article 5, Division 5, Section 25-5-56(2) and Chapter 25, Article 4, Division 4, Section 25-4-44(a).

Please accept our sincere apologies for this tardy confirmation of the approval granted to allow the requested variance. We have been working within the department to improve the efficiency of this process which will hopefully result in more timely responses to future applications. Your patience is appreciated.

The subject property is located in the Kona Sunshine Subdivision, Lot D, being a Portion of R.P. 8289, L.C. Aw. 7228 to Loe, at Holualoa, North Kona, Hawaii,
Tax Map Key: 7-7-003: 034.

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 27,834 square feet of land area.

00887

JAN 30 1998

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

1. The owners 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 revealed any deliberate or intentional grounds in allowing the encroachments to occur.
2. Any architectural alterations or design changes to the dwelling, garage and storage shed to conform with the minimum setbacks would create undue and excessive hardships for the applicants when other more reasonable options are available.

Based on the above cited considerations, there are no reasonable solutions available without excessive demands being placed on the owners 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 existing dwelling, garage and storage shed on the subject property presently encroaches 2-3/8 inches to 7-1/4 inches into the required 15 feet side yard. In addition the dwelling, garage and storage shed encroaches by 3-5/8 inches to 4-7/8 inches into the required 10 feet open space. These encroachments into the side yard and open space will not diminish the ability for adequate light and air to circulate and will still provide adequate open space. Therefore, while the Zoning Code requires a minimum 15 feet side yard and 10 feet open space in this particular case, the encroachments are relatively minor and 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, garage and storage shed complies with the minimum yard requirements of the Zoning Code.

There was one objection from a surrounding property owner pertaining to the encroachment of the driveway into the adjoining lot E. The applicant in a letter dated November 15, 1997, has resolved this encroachment by the removal of the encroachment in the adjoining lot E.

Mr. Klaus Conventz
Page 4
January 29, 1998

Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan. Furthermore, this variance 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 owner, 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 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,


for VIRGINIA GOLDSTEIN
Planning Director

EMMARK: rld
a:\77003034\potter.app

xc: West Hawaii Office