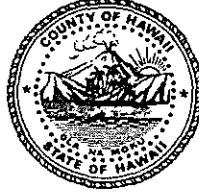


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

CERTIFIED MAIL
P 417 379 093

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

February 6, 1998

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

Dear Mr. Conventz:

Variance Application WH(VAR97-87)
Variance No. 888
Applicant: KLAUS CONVENTZ
Owner: GARRET L. WYKOWSKI
Variance from Minimum Front Yard and Open Space Requirements
Tax Map Key: 7-8-014: 024

After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow an existing non conforming one story single family dwelling, attached carport and lanai with a 3.6 to 8.7 feet front yard in lieu of the minimum 20 feet front yard, a 0.0 to 3.4 feet front yard open space in lieu of the minimum 14 feet open space, as required by Chapter 25, Article 5, Division 9, Section 25-5-96(1) 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 at Kahaluu, Land Commission Award Number 6030, Apana 1 to Naholowaa, Kahaluu, North Kona, Hawaii, Tax Map Key: 7-8-014: 024.

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 6,603 square feet of land area.

01215

FEB 09 1998

Mr. Klaus Conventz

Page 2

February 6, 1998

2. The subject single family dwelling was issued the following building permits:
 - a. Building Permit No. 14553 issued for the construction of a single family dwelling in 1953.
 - b. Building Permit No. 007877 opened on December 8, 1986 and closed on January 8, 1987 for repairs to existing lanai.
3. A survey map prepared by KKM Surveys on November 7, 1997, shows the existing non conforming one story single family dwelling, attached carport and lanai with a 3.6 to 8.7 feet front yard in lieu of the minimum 20 feet front yard. As such the structure encroaches 11 feet 3-5/8 inches to 16 feet 4-7/8 inches into the required 20 feet front yard.
4. The survey map shows the existing non conforming one story single family dwelling, attached carport and lanai with a 0.00 to 3.4 feet open space in lieu of the minimum 14 feet open space. As such, the structure encroaches by 10 feet 7-1/4 inches to 14 feet into the required 14 feet open space.
5. When the building permits were approved, the owners received all of the necessary Department of Public Works, Building Division approvals for the dwelling.
6. When approved by the Planning Department, the plans would have had to have shown that all minimum required setbacks were going to be adhered to for the proposed dwelling in 1953.
7. There appears to have been a construction staking error in the siting of the structure on the property. This occurred in 1953 when the dwelling was constructed. There also appears to have been a very minor siting error at the time of construction with regard to the encroachments. No other evidence has been found to show otherwise.
8. It has been over 44 years since the construction of the existing dwelling was approved by the County, and the applicant is trying to resolve a situation which he had no control over and has honestly conducted a certified survey to ensure the disclosure of all facts concerning the dwelling.
9. The variance application was filed with the Planning Department on November 10, 1997.

Mr. Klaus Conventz

Page 3

February 6, 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 applicant on his own volition is honestly trying to resolve this long standing problem which was not created by him. 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 to conform with the minimum setbacks would create undue and excessive hardships for the applicant when other more reasonable options are available.

Based on the above cited considerations, there are no reasonable available solutions without excessive demands being 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 non conforming one story single family dwelling, attached carport and lanai on the subject property is presently 11 feet 3-5/8 inches to 16 feet 4-7/8 inches into the required 20 feet front yard. In addition the structure encroaches 10 feet 7-1/4 inches to 14 feet into the required 14 feet open space. These encroachments into the front 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 20 feet front yard and 14 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 complies with the minimum yard requirements of the Zoning Code.

There was one objection from a surrounding property owner regarding substantial erosion of the minimum setback requirements and the threat to Alii Drive with residences that have been built too close to the road, affecting the safety and aesthetic factors.

Mr. Klaus Conventz

Page 4

February 6, 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. The owner shall remove any encroachments within the County right-of-way.
5. The owner shall comply with the Uniform Building Code relating to one-hour fire rated construction.
6. The owner shall obtain building permits for all non-permitted structures.
7. 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

Mr. Klaus Conventz
Page 5
February 6, 1998

xc: West Hawaii Office