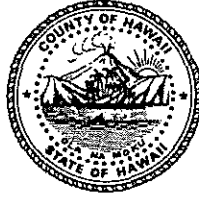


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

CERTIFIED MAIL
P 417 379 110

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

January 29, 1998

Mr. Benjamin Q.T. Woo, AIA
GYA Architects, Inc.
1357 Kapiolani Blvd, Suite 1230
Honolulu, Hawaii 96814

Dear Mr. Woo:

Variance Application WH(VAR 97-94)
Variance No. 889
Applicant: GYA ARCHITECTS, INC.
Owner: STATE OF HAWAII, DEPARTMENT OF EDUCATION
Request: Variance from Minimum Side and Rear Yard Requirements
Tax Map Key: 8-6-010: 009 and 8-6-010: 012

After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow a proposed two story school building 'D' with a 15 feet side yard in lieu of the minimum 20 feet side yard; proposed two story school building 'D' and 'P' with a 10 feet rear yard in lieu of the minimum 30 feet rear yard, as required by Chapter 25, Article 5, Division 7, Section 25-5-76(a).

The subject property is located at Kealia, Kauhako, South Kona, Hawaii,
Tax Map Keys: 8-6-010: 012 and 8-6-010: 009.

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject properties consist of 4.028 acres of land area.
2. The State of Hawaii, Department of Education were issued the following building permits:
 - a. Building Permit No. 871921 opened on October 16, 1987 and closed on December 16, 1987 for an alteration to the building.

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- b. Building Permit No. 880668 opened on April 22, 1988 and closed on August 24, 1988 for the construction of a classroom.
 - c. Building Permit No. 891110 opened on June 8, 1989 and closed on November 7, 1989 for the construction of a classroom.
 - d. Building Permit No. 900895 opened on May 7, 1990 and closed on December 19, 1990 for the construction of a classroom.
 - e. Building Permit No. 905748 opened on May 31, 1990 and remains open for the installation of a computer.
 - f. Building Permit No. 911695 opened on August 8, 1991 and closed on March 31, 1992 for the construction of a portable classroom.
 - g. Building Permit No. 922429 opened on November 25, 1992 and remains open for the repair of student toilets.
 - h. Building Permit No. 931316 opened on July 12, 1993 and closed on November 30, 1993 for the construction of a portable classroom.
 - i. Building Permit No. 941022 opened on July 19, 1994 and remains open for the repair of a classroom.
 - j. Building Permit No. 950789 opened on May 15, 1995 and closed on August 21, 1995 for the construction of a portable classroom.
 - k. Building Permit No. 961549 opened on November 7, 1996 and remains open for the repair of the cafeteria.
3. The Department of Accounting and General Services survey on June 10, 1997, shows the proposed two story school building 'D' with a 15 feet side yard in lieu of the minimum 20 feet side yard. As such the proposed building will encroach 5 feet into the required 20 feet side yard.
4. The survey map shows the proposed two story school building 'D' AND 'P' with a 10 feet rear yard in lieu of the minimum 30 feet rear yard. As such, the buildings will encroach by 20 feet into the required 30 feet rear yard.

5. The general topography of the subject property slopes between 6 % to 20 % from the Mamalahoa Highway to the east down towards the west. The soil composition in the area is Punaluu Series which is characteristically extremely rocky peat.
6. The master plan of the project site takes advantage of the sloping site by creating three terraces to minimize the visual impact of the new buildings from the highway and adjoining properties. The top terrace is closest to Mamalahoa Highway and is where the single story administration building is located. The second terrace is further down site and is where a two story 8 classroom building and a library/cafeteria building are located. The third terrace is where the proposed eight classroom building and for relocated portable classrooms are to be located.
7. In an effort to perpetuate the master plan and considering the topography of the subject property, it was necessary to site the proposed buildings as designed.
8. The variance application was filed with the Planning Department on December 4, 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 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 problem which was not created by them.
2. Any architectural alterations or design changes to the building 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 solution 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 is to assure that adequate air and light circulation is available between structures and property lines. The proposed buildings

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on the subject property will encroach 5 feet into the required 20 feet side yard and 20 feet into the required 30 feet rear yard. These encroachments into the side yard and rear yard 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 side yard and 30 feet rear yard, 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 buildings complies with the minimum yard requirements of the Zoning Code.

There was one objection from a surrounding property owner who stated that she is not in favor of the variance.

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.

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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