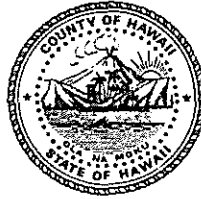


Stephen E. Yamashiro
Mayor



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 417 370 032

~~APR 11~~
March 14, 1998

Mr. Gean W. Cannon
P.O. Box 164
Holualoa, Hawaii 96725

Dear Mr. Cannon:

Variance Application WH(VAR98-006)
Variance No. 913
Applicant: GEAN W. CANNON
Owner: HISASHI SUZUKI
Request: Variance from Minimum Side Yard and Open Space Requirements
Tax Map Key: 7-5-022: 053 Lots 115, 116 and 117

After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow the following:

(1) An existing two story multiple-family residential building with a 9.6 to 9.8 feet side yard in lieu of the minimum 10 feet side yard, and an open stairway with a 1.9 to 4.3 feet side yard open space in lieu of the minimum 5 feet side yard, as required by Ordinance 96-160, Chapter 25, Article 5, Division 3, Section 25-5-36(1)(2) and Chapter 25, Article 4, Division 4, Section 25-4-44(a). The subject property is located at Lot 115, of Lono Kono Subdivision, being a portion of R.P. 4475, L.C. Aw. 7713, Ap. 5 to V. Kamamalu, at Keopu 2nd and Keopu 3rd, North Kona, Hawaii;

(2) An existing two story multiple family residential building with a 9.8 to 9.9 feet side yard in lieu of the minimum 10 feet side yard, and an open stairway with a 1.8 to 4.3 feet side yard open space in lieu of the minimum 5 feet side yard, as required by Ordinance 96-160, Chapter 25, Article 5, Division 3, Section 25-5-36(1)(2) and Chapter 25, Article 4, Division 4, Section 25-4-44(a). The subject property is located at Lot 116, of Lono Kono Subdivision, Being a portion of R.P. 4475, L.C. Aw. 7713, Ap. 5 to V. Kamamalu and Grant 3148, Ap 1 to William P. Leleiohoku, at Keopu 2nd and Keopu 3rd, North Kona, Hawaii;

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APR 23 1998

Mr. Gean W. Cannon
Page 2
April 14, 1998

(3) An existing two story multiple-family residential building with a 9.7 to 9.9 feet side yard in lieu of the minimum 10 feet side yard, and an open stairway with a 2.4 to 4.5 feet side yard open space in lieu of the minimum 5 feet side yard, as required by Ordinance 96-160, Chapter 25, Article 5, Division 3, Section 25-5-36(1)(2) and Chapter 25, Article 4, Division 4, Section 25-4-44(a). The subject property is located at Lot 117, of Lono Kono Subdivision, Being a portion of R.P. 3148, Ap. 1 to William P. Leleiohoku, at Keopu 2nd and Keopu 3rd, North Kona, Hawaii.

Lots 115, 116 and 117 are located on Tax Map Key 7-5-022:053.

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.

SPECIAL AND UNUSUAL CIRCUMSTANCES

A. LOT 115

1. The subject property consists of 7,500 square feet of land area.
2. The subject multiple family residential dwelling was issued the following building permit:
 - a. Building Permit No. 47859 opened on September 6, 1971 and closed on November 10, 1971 for the construction of the multiple family residential building.
3. A survey map prepared by Wes Thomas Associates on January 6, 1998, shows the existing two story multiple-family residential building with a 9.6 to 9.8 feet side yard in lieu of the minimum 10 feet side yard. As such the building encroaches 2-3/8 inches to 4-7/8 inches into the required 10 feet side yard.
4. The survey map also indicates an open stairway with a 1.9 to 4.3 feet side yard open space in lieu of the minimum 5 feet open space. As such the open stairway encroaches 8-3/8 inches to 3 feet 1-1/4 inches into the required 5 feet open space.

B. LOT 116

5. The subject property consists of 7,500 square feet of land area.

6. The subject multiple family residential building was issued the following building permit:
 - a. Building Permit No. 46991 opened on August 5, 1971 and closed on November 10, 1971 for the construction of the multiple family residential building.
7. A survey map prepared by Wes Thomas Associates on January 6, 1998, shows the existing two story multiple-family residential building with a 9.8 to 9.9 feet side yard in lieu of the minimum 10 feet side yard. As such the building encroaches 1-1/4 inches to 2-3/8 inches into the required 10 feet side yard.
8. The survey map also indicates an open stairway with a 1.8 to 4.3 feet side yard open space in lieu of the minimum 5 feet open space. As such the open stairway encroaches 8-3/8 inches to 3 feet 2-3/8 inches into the required 5 feet open space.
- C. LOT 117
9. The subject property consists of 7,500 square feet of land area.
10. The subject multiple family residential building was issued the following building permit:
 - a. Building Permit No. 46469 opened on March 12, 1971 and closed on November 10, 1971 for the construction of the multiple family residential building.
11. A survey map prepared by Wes Thomas Associates on January 6, 1998, shows the existing two story multiple-family residential building with a 9.7 to 9.9 feet side yard in lieu of the minimum 10 feet side yard. As such the building encroaches 1-1/4 inches to 3-5/8 inches into the required 10 feet side yard.
12. The survey map also indicates an open stairway with a 2.4 to 4.5 feet side yard open space in lieu of the minimum 5 feet open space. As such the open stairway encroaches 6 inches to 2 feet 7-1/4 inches into the required 5 feet open space.
13. When the building permits were approved, the owner received all of the necessary Department of Public Works, Building Division approvals for the building.

INTENT AND PURPOSE

The intent and purpose of requiring building setbacks is to assure that adequate air and light circulation is available between structures and property lines. The existing building on Lot 15 is presently 2-3/8 inches to 4-7/8 inches into the required 10 feet side yard and the open stairway is 8-3/8 inches to 3 feet 1-1/4 inches into the required 5 feet open space. On Lot 116 the existing building is presently 1-1/4 inches to 2-3/8 inches into the required 10 feet side yard and the open stairway is 8-3/8 inches to 3 feet 2-3/8 inches into the required 5 feet open space. On Lot 117 the existing building is presently 1-1/4 inches to 3-5/8 inches into the required 10 feet side yard and the open stairway is 6 inches to 2 feet 7-1/4 inches into the required 5 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 10 feet side yard and 5 feet open space in these particular cases, 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 were no objections from any of the participating government agencies or any surrounding property owners. There were letters in support of the variance request.

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.

Mr. Gean W. Cannon
Page 6
April 14, 1998

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,



VIRGINIA GOLDSTEIN
Planning Director

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xc: West Hawaii Office