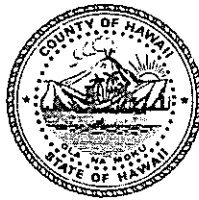


Stephen K. Yamashiro
Mayor



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 417 370 038

May 12, 1998

Mr. Robin M. Hulce
Ms. Shelley R. Hulce
78-6759 Makenawai Street
Kailua-Kona, Hawaii 96740

Dear Mr. Hulce:

Variance Application WH(VAR 98-010)
Variance No. 916
Applicant: ROBIN M. HULCE
Owners: ROBIN M. AND SHELLEY R. HULCE
Request: Variance from Minimum Open Space Requirements
Tax Map Key: 7-5-022: 105

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 with a 3.26 to 3.84 feet side yard open space in lieu of the minimum 4 feet open space as required by Ordinance 96-160, 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 Lono-Kona Subdivision, Lot 64, at Keopu-Honuaula, North Kona, Hawaii, Tax Map Key: 7-5-022: 105.

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SPECIAL AND UNUSUAL CIRCUMSTANCES:

1. The subject property consists of 8,669 square feet of land area.
2. The subject single family dwelling was issued the following building permits:
 - a. Building Permit No. 95889 issued on October 26, 1995 and closed on January 25, 1996 for the construction of a single family dwelling.
 - b. Building Permit No. 965121 issued on February 15, 1996 and closed on May 8, 1996 for a 2-car carport.
 - c. Building Permit No. 985037 issued on January 14, 1998 for the construction of two bedrooms, three baths, lanai and office. The permit remains open.
 - d. Building Permit No. 985038 issued on January 14, 1998 for the construction of three bedrooms, three baths and lanai. The permit remains open.
3. A survey map prepared by Don McIntosh Consulting on December 17, 1997 shows the existing one story single family dwelling with a 3.26 to 3.84 feet side yard open space in lieu of the minimum 4 feet open space. As such, the dwelling, encroaches 1-7/8 inches to 8-7/8 inches into the required 4 feet open space.
4. When the building permit for the single family dwelling was approved, the owner received all of the necessary Department of Public Works, Building Division approvals for the buildings.
5. 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 1995.
6. There appears to have been a construction staking error in the siting of the structure on the property. This occurred in 1995 when the dwelling was constructed. There also appears to have been a very minor siting error made at the time of construction with the encroachments. No other evidence has been found to show otherwise.
7. It has been over 3 years since the construction of the existing dwelling which was approved by the County and the homeowners are trying to resolve a situation which

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they had no control over and have honestly conducted a certified survey to ensure to disclosure of all facts concerning the building.

8. The variance application was filed with the Planning Department on February 24, 1998.

There were no objections from any of the participating government agencies or any surrounding property owners.

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 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 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 on the subject property is presently 1-7/8 inches to 8-7/8 inches into the required 4 feet open space. These encroachments into the 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 4 feet open space in this particular

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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.

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:

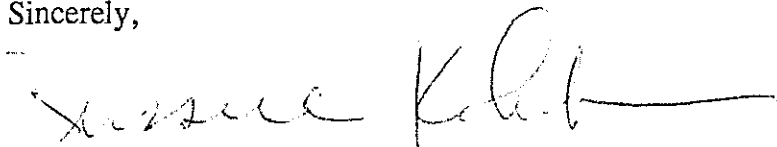
1. The owner, assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The approval of this variance shall be included in the conveyance document for the subject property and a copy of the recorded conveyance document shall be submitted to the Planning Department 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. Any obstructions and/or plants within the intersection area shall be removed or trimmed to comply with Hawaii County Code, Chapter 22, Sections 22-1 and 22-8.
5. All building permits obtained from the Department of Public Works, Building Division shall be closed.
6. 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 at 327-3510.

Sincerely,

A handwritten signature in cursive script, appearing to read "Virginia Goldstein", with a long horizontal line extending to the right.

VIRGINIA GOLDSTEIN
Planning Director

EMM/RK: rld
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xc: West Hawaii Office