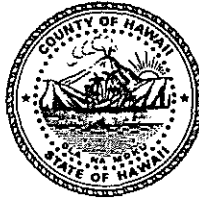


Stephen K. Yamashiro
Mayor



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

June 19, 1998

CERTIFIED MAIL

P 417 370 075

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

Dear Mr. Conventz:

Variance Application WH(VAR 98-025)
Variance No. 930
Applicant: KLAUS D. CONVENTZ
Owner: CAROL J. HOLLOWAY ETAL.
Request: Variance From Minimum Open Space Requirements
Tax Map Key: 7-8-018: 033

After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow an existing two story single family dwelling, carport and deck with a 1.4 to 4.2 feet side yard open space in lieu of the minimum 5 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 at Kuakini House Lots, Lot 19-B, Being a Portion of R.P. 4475, L.C. Aw. 7713: 6 to V. Kamamalu, at Kahaluu, North Kona, Hawaii,
Tax Map Key: 7-8-018: 033.

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 15,001 square feet of land area.

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2. The subject single family dwelling was issued the following building permits:
 - a. Building Permit No. 39242 was issued on July 25, 1968 for the construction of the dwelling.
 - b. Building Permit No. 00548 opened on July 29, 1981 and closed on December 1, 1983 for the construction of a carport.
 - c. Building Permit No. 905504 opened on March 30, 1990 for the addition of a bedroom and hobby room. The permit remains open.
3. A survey map prepared by KKM Surveys, on April 2, 1998, shows the existing two story single family dwelling, carport and deck with a 1.4 to 4.2 feet side yard open space in lieu of the minimum 5 feet open space. As such the dwelling encroaches 9-5/8 inches to 3 feet 7-1/4 inches into the required 5 feet open space.
4. When the building permit was approved, the owner received all of the necessary Department of Public Works, Building Division approvals for the dwelling.
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 1968.
6. There appears to have been a construction staking error in the siting of the structure on the property. This occurred in 1968 when the dwelling was constructed. There also appears to have been a very minor siting error made at the time of construction with the encroachment. No other evidence has been found to show otherwise.
7. It has been over 30 years since the construction of the existing dwelling was approved by the County, and the applicants are trying to resolve a situation which they had no control over and have honestly conducted a certified survey to ensure the disclosure of all facts concerning the dwelling.
8. The variance application was filed with the Planning Department on April 13, 1998.

There was one objection from a surrounding property owner stating that the variances sought by the applicant were to extreme. There and no objections by any government agencies.

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

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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 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 on the subject property is presently 9-5/8 inches to 3 feet 7-1/4 inches into the required 5 feet open space. This encroachment 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 5 feet open space in this particular case, the encroachment is 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.

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detrimental to the public's welfare and will not cause substantial adverse impact to the area's character and to adjoining properties.

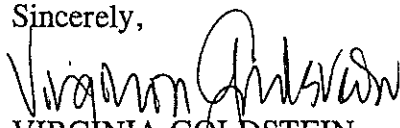
This variance request is approved, subject to the following conditions:

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 applicant shall comply with the requirements of the Department of Public Works, Engineering Division.
5. The applicant shall have all records with the Department of Public Works, Building Department 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.

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