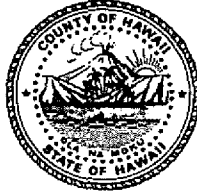


Stephen K. Yamashiro
Mayor



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 417 370 142

September 25, 1998

Mr. Karl H. Klaassen
P.O. Box 4385
Kailua-Kona, HI 96745

Dear Mr. Klaassen:

Variance Application WH(VAR 98-047)
Variance No. 953
Applicant: KARL H. KLAASSEN
Owners: HENRY R. SMITH AND FAITH CARLIN-SMITH
Request: Variance From Minimum Front Yard Requirements
Tax Map Key: 7-5-020: 047

After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow a proposed enclosed entryway to an existing one story single family dwelling with a 14.2 feet front yard in lieu of the minimum 20 feet front yard, as required by Ordinance 96-160, Chapter 25, Article 5, Division 1, Section 25-5-7(a)(2)(A), and Ordinance 97-88.

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 Lot 15, Being a Portion of L.C. Aw. 4887, at Puapuaa 1st, North Kona, Hawaii, Tax Map Key: 7-5-020:047.

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 18,310 square feet of land area.
2. The subject single family dwelling was issued the following building permit:

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- a. Building Permit No. 564 opened on December 16, 1952 and closed on July 21, 1956 for the construction of a dwelling and garage.
3. A site map prepared by Karl H. Klaassen shows the proposed enclosed entryway to an existing one story single family dwelling with a 14.2 feet front yard in lieu of the minimum 20 feet front yard. As such the proposed enclosed entryway will encroach 5 feet 9-5/8 inches into the required 20 feet front yard.
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 dwelling in 1952.
6. The property is rectangular-shaped at approximately 12 to 14 feet above mean sea level. The topography of the properties is fairly level to slightly sloping. The surface soil in the project area is Kaimu which are characterized as well drained, thin, organic soils over aa lava. Specifically the soils are classified as Kaimu extremely rocky peat (6 - 20% slopes).
7. The project site takes advantage of the sloping site to minimize the visual impact from the highway to the shoreline.
8. This project is consistent with the General Plan's Environmental Quality, Natural Resources and Shoreline elements, with the respective goals, policies and courses of action.
 - a. Protect and conserve the natural resources of the County of Hawaii from undue exploitation, encroachment and damage.
 - b. Protect and promote the prudent use of Hawaii's unique, fragile, and significant environmental and natural resources.
 - c. Ensure that alterations to existing land forms and vegetation, except crops, and construction of structures cause minimum adverse effect to water resources, and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake.

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9. It has been over 46 years since the construction of the existing dwelling were approved by the County. The applicants have honestly conducted a certified survey to ensure the disclosure of all facts concerning the dwelling and the proposed addition.
10. The variance application was filed with the Planning Department on July 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 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 building setbacks within a subdivision is to assure that adequate air and light circulation is available between structures and property lines. The proposed enclosed entryway to the existing dwelling will encroach 5 feet 9-5/8 inches into the required 20 feet front yard. This encroachment into the front 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 front yard, in this particular case, the encroachment will not visually or physically impact or be adverse to any adjacent properties or development with the granting of this 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

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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.

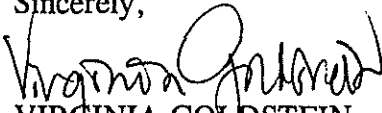
This variance request is approved, subject to the following conditions:

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 construction must comply with Chapter 27 of the Hawaii County Code.
5. 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
a:\75020047\vsmlth.app

xc: West Hawaii Office