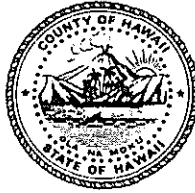


Stephen K. Yamashiro
Mayor



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

Z 095 324 193

October 20, 1998

Mr. Dale Kadota
1081-B Komohana Street
Hilo, HI 96720

Dear Mr. Kadota:

Variance Permit No. 963 (VAR 98-63)

Applicant: DALE KADOTA

Owner: DALE KADOTA

Request: Variance From Minimum Yards, and Permitted Projections Into Yards and Open Spaces, Pursuant to Chapter 25, of the Hawaii County Zoning Code

Tax Map Key: 2-2-018:041, Lot 4

After reviewing your application and the information submitted, the Planning Director certifies the approval of your variance request to permit portions of a proposed carport addition to the existing two (2) story dwelling and portions of a new carport building to be built with: a) a front yard of 3 feet from the respective front yards along Hoku and Mauna Loa Street in lieu of the minimum 15 feet front yard requirement; b) a side yard of 3 feet from the respective side yards in lieu of the minimum 8 feet side yard requirement; c) an open space of 2 feet from the respective two front boundary lines in lieu of the minimum 9 feet open space required from the front boundary lines along Hoku and Mauna Loa Street; and d) an open space of 2 feet in lieu of the minimum 4 feet open space from the respective side boundary lines as required by the Zoning Code, Chapter 25, Article 5, Division 2, Section 25-5-26, Minimum yards, (a), (1), and Article 4, Division 4, Section 25-4-44, Permitted projections into yards and open spaces, respectively.

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FINDINGS AND RECOMMENDATION

The Planning Director has concluded that the variance request to allow the proposed building improvements to be constructed on the subject property within the required minimum front yard and associated open space should be approved based on the following findings:

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The property consisting of 4771 square feet, is Lot 4, Being a Portion of Land Court Application 385, Waiakea, South Hilo, Hawaii. The property is zoned Residential-Duplex (RD-3.75) by the County and designated Urban "U" by the State Land Use Commission (LUC).
2. The property is not within the County's Special Management Area (SMA).
3. The applicant's site plan and detailed drawings dated August 6, 1998, drawn to scale, identifies the location of the existing dwelling and accurately denotes the location of the proposed building improvements.
4. According to real property tax records, the original 2-story dwelling and a detached garage were constructed in the 1920's. In 1995, it appears the original dwelling, garage, and other site improvements were destroyed by fire. During 1997, two (2) building permits were issued by the Department of Public Works (DPW), Building Division in Hilo to reconstruct the existing duplex dwelling. Prior to the fire, the duplex dwelling and separate garage were lawfully in existence on September 21, 1966, before the Zoning Code was formally adopted by the County in 1967 and subsequently zoned RD by the County.
5. The minimum building site area in the RD district is 7,500 square feet. Each building site in the RD district shall have a minimum average width of 60 feet, plus 2 feet for each 500 square feet of required building site area in excess of 7,500 square feet. The subject property contains only 4,771 square feet and has an approximate average width of 50 feet. Therefore, in 1967, the location of the building improvements constructed on the property prior to 1967 became a non conforming building and parcel, respectively, within the RD zoned district.
6. Pursuant to a recent site inspection, it appears the existing neighborhood and the existing dwellings within 300 feet of the subject property were established or constructed before 1967. It appears the character of this neighborhood has not changed during the last 50 years.

7. The Department of Public Works memorandum dated September 23, 1998, states in part:

"We have reviewed the subject application and our comments are as follows:

1. Building shall conform to all requirements of code and statutes pertaining to building construction. Minimum setbacks for residential structures are 3-ft. side and 3 ft. rear.

The projections less than 3-ft. from the property line along the west and south sides shall be one-hour fire resistive construction.

2. All driveway connections to a County road shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
3. Hoku Street and Mauna Loa Street are County maintained roadways. We do not have any records showing legal ownership of these roadways; therefore, these roadways may still be under private ownership.
4. In reference to, and consistent with Ordinance No. 532 (TMK: 2-2-17:7), a 10-ft. future road widening setback should be established along both right-of-ways (Hoku Street and Mauna Loa Street). In addition, a minimum corner radius of 30-ft. should be established at the intersection of Hoku Street and Mauna Loa Street.

However, the minimum standard for residential zoning is a future road widening setback of one-half the difference between the existing right-of-way (28-ft.) and 50-ft.

5. Wastewater disposal shall meet with the requirements of the DPW, Wastewater Division."

8. The Department of Health memorandum dated September 24, 1998, states:

"The Department of Health has no concerns if the subject property is sewered. If subject property is serviced by an individual wastewater system, minimum building setback requirements would need to be maintained."

9. The REAL- PROPERTY TAX CLEARANCE form for 3-2-2-018-042 dated September 22, 1998, submitted with the variance application states in part:

"Current Real Property taxes are paid through December 31, 1998."
10. The applicant submitted notarized affidavits stating the first and second notice of the variance application were mailed on September 25 and October 9, 1998, respectively, to the surrounding property owners. No telephone and written objections to the subject variance application were received by the Planning Department.
11. Pursuant to previous Planning Department site inspections of the property and recent discussions with Mr. Kadota concerning the property, it is understood that the existing dwelling is still situated upon the foundation of a building which was once destroyed by fire. Remnants of driveway curbing and garage foundations on the property indicate that there was once a driveway access via Mauna Loa Street to a garage structure originally situated on the property.

The present owner submitted a copy of a recent site or plot plan, drawn to scale, which identifies the location of the proposed building improvements to be built on the subject property. The site plan identifies and denotes the distances between the building supports of the proposed improvements from the affected yards and the distances between the roof eave and the remaining property lines.

Therefore, considering the foregoing facts, circumstances, and field inspection of the existing site and building improvements, it is felt there are special or unusual circumstances applying to the subject property which exist either to a degree which deprive the owner 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

There are no reasonable alternatives in resolving the difficulty of the owner. Alternatives available to the owner include constructing the proposed building improvements within the remaining buildable area prescribed by the Zoning Code. The proposed building's proportion and shape of the building improvements would be architecturally compatible and similar to the surrounding dwellings along the existing rights-of-way and within the immediate neighborhood.

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The Planning Department acknowledges there may be other design or building alternatives available to the owner than those recited above. However, these design and building alternatives are deemed to be unreasonable at this time and would place excessive demands on the present owner when a more reasonable alternative is available by the granting of the subject variance request.

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 permitted structure(s) and property lines. The proposed setback variances will not hinder adequate light and air circulation around the existing dwelling. In view of similar dwelling/carport combinations within the immediate neighborhood, the proposed building improvements will not depreciate or detract from the character of the surrounding neighborhood. It appears the existing dwelling's location and original garage constructed in the 1920's did not visually or physically adversely affect the rights of the property owners of the adjacent or surrounding properties. Therefore, it is felt the affected areas of the proposed building improvements within the affected yards and open spaces will not detract from the character of the immediate neighborhood or the subdivision.

The subject variance application was deemed complete on September 15, 1998, and was acknowledged by certified letter dated September 17, 1998.

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, the variance request 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. The effective date of this permit is October 20, 1998.
2. The approval of this variance is only from the Zoning Code. The owner, successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the owner or owners, their successors or assigns, officers, employees, contractors, or agents

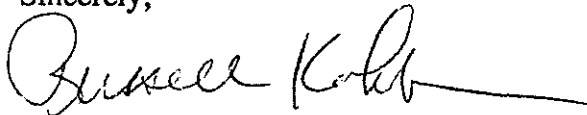
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under this variance or relating to or connected with the granting of this variance pertaining to the construction of the proposed building addition.

3. The location of the proposed building addition to the existing dwelling and new carport building will not meet the provision of the Zoning Code regarding minimum yards and corresponding permitted projections into yards and open spaces.
4. Future building improvements and permitted uses on the subject property shall be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

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xc: Real Property Tax Office