

Stephen K. Yamashiro  
Mayor



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## County of Hawaii

### PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
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CERTIFIED MAIL

P 417 370 164

October 28, 1998

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

Dear Mr. Conventz:

Variance Application WH(VAR 98-058)  
Variance No. 965  
Applicant: KLAUS D. CONVENTZ  
Owner: VERNON D. GRAY TRUST  
Request: Variance From Minimum Side Yard and Open Space Requirements  
Tax Map Key: 5-3-008: 026

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After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow a proposed addition to a two story single family dwelling with a 2.00 feet side yard in lieu of the minimum 20 feet side yard and a 2.00 feet side yard open space in lieu of the minimum 14 feet open space as required by Ordinance 96-160, Chapter 25, Article 5, Division 7, Section 25-5-7(a) and Article 4, Division 4, Section 25-4-44(a) 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 Portion of Grant 661 to Kealoha and R.P. 7800, L.C. Aw. 8718 to Kakeoiki, at Halawa, North Kohala, Hawaii, Tax Map Key: 5-3-008: 026.

#### SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 9.03 acres of land area.

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2. The subject single family dwelling was issued the following building permits:
  - a. Building Permit No. 851841 opened on October 8, 1985 and closed on May 20, 1987 for the construction of a dwelling.
  - b. Building Permit No. 851881 opened on October 16, 1985 and closed on February 18, 1986 for the construction of a garage.
  - c. Building Permit No. 880396 opened on March 11, 1988 and closed on September 2, 1988 for the construction of an ohana dwelling.
3. A survey prepared by John S. Terada, shows the proposed addition to the two story single family dwelling with a 2.00 feet side yard in lieu of the minimum 20 feet side yard. As such the proposed dwelling would encroach 18 feet into the required 20 feet side yard.
4. The survey shows the proposed addition to the two story single family dwelling with a 2.00 feet side yard open space in lieu of the minimum 14 feet open space. As such the dwelling would encroach 12 feet into the required 14 feet open space.
5. The survey also indicates existing steep slopes, gulches and a stream bed, leaving a very marginal building area. The gulch and stream bed traverses the lands from east to west and surrounds the property site.
6. The variance application was filed with the Planning Department on August 25, 1998.

The property is zoned Agricultural-20a and is irregular in shape. The topography of the land is steep slopes, gulches and a stream bed which surrounds the property.

Although the owner was aware of the property's topography and its inherent building constraints, the gulch, stream bed and dense tropical forest separate the adjoining properties. There is approximately 400 feet of open space between houses.

There was one objection from the adjacent property owners stating their reasons to condition the variance upon the construction of a fence along the property boundary and the re-routing of two gray-water plumbing waste lines that currently discharge on their property.

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 buildings setbacks within a subdivision is to assure that adequate air and light circulation is available between structures and property lines. The existing dwelling would encroach 18 feet into the required 20 feet side yard and 12 feet into the required 14 feet open space. These encroachments into the 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 20 feet side yard and 14 feet open space in this particular case, the encroachments 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 comply 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.

Mr. Klaus D. Conventz

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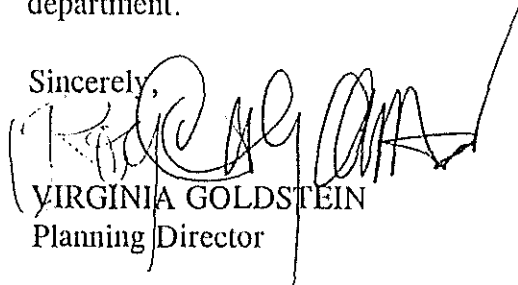
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2. The approval of this variance shall be included in the conveyance document for the subject property and a copy of the recorded conveyance document shall be submitted to the Planning Department within a year from the effective date of approval of this variance.
3. If applicable, approval from the Board of Appeals for all Building Code Violations will be obtained.
4. Wastewater disposal systems shall comply with the requirements of the Department Health.
5. A fence approximately 130 feet in length shall be erected along the property's east boundary in compliance with the Building and Zoning Codes.
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

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xc: West Hawaii Office