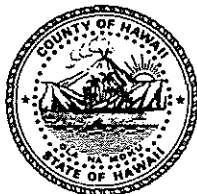


Stephen K. Yamashiro
Mayor



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 188 431 800

May 27, 1999

Mr. Keith Robinson
73-4347 Wela Place
Kailua-Kona, Hawaii 96740

Dear Mr. Robinson:

Variance Application WH(VAR 99-017)
Variance No. 1009
Applicant: KEITH ROBINSON
Owners: KEITH AND MADELENE ROBINSON
Request: Variance From Minimum Side Yard and Open Space Requirements
Tax Map Key: 7-3-041: 007

We regret to inform that after reviewing your application and the additional information submitted, the Planning Director denies the approval of your variance request to allow a proposed 2-car carport with a 3 feet side yard in lieu of the minimum 10 feet side yard and a 1 foot side yard open space in lieu of the minimum 5 feet open space as required by Ordinance 96-160, Chapter 25, Article 5, Division 1, Section 25-5-7(a)(2)(B) and Article 4, Division 4, Section 25-4-44(a), Ordinance 97-88.

Please accept our sincere apologies for this tardy denial of 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 Kona Palisades, Lot No. 126, Unit III, Kalaoa 5th, North Kona, Hawaii, Tax Map Key: 7-3-041: 007.

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 11,399 square feet.
2. The subject property is part of the Kona Palisades Subdivision.

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3. The following building permit was issued:
 - a. Building Permit No. 772354 opened on October 17, 1977 and closed on February 14, 1978 for the construction of a one story single family dwelling.
4. A scale drawn plot map prepared by Keith Robinson, shows the existing one story single family dwelling and proposed carport with a 3 feet side yard in lieu of the minimum 10 feet side yard. The proposed carport would encroach 7 feet into the required 10 feet side yard:
5. The map also shows the existing one story single family dwelling and proposed carport with a 1 foot side yard open space in lieu of the minimum 5 feet open space. The proposed carport would encroach 4 feet into the required 5 feet open space.
6. When the building permit was approved in 1977, the owner received all of the necessary Department of Public Works, Building Division approvals for the dwelling.
7. There are no building permits or plans issued by the Department of Public Works, Building Division for the construction of a lanai and carport.
8. There are no building permits or plans issued by the Department of Public Works, Building Division for the conversion of the carport into a garage.
9. The variance application was filed with the Planning Department on March 15, 1999.

There were no objections from any adjacent or surrounding property owners.

There is no evidence submitted which shows or justifies the necessity for approval of the variance or for any special or unusual circumstances related to the property. Therefore, considering the foregoing facts, the Planning Director has determined that there are no 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.

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ALTERNATIVES

1. The subject property is an irregular shaped parcel at the end of a cul-de-sac with front, rear and side yard setbacks as required by the Zoning Code.
2. The subject property is similar in size with all the surrounding properties in this subdivision.
3. The applicants ability to comply with the minimum side yard setback requirements is available without a variance, although it will involve costs for the applicant, it is not expected to be an unreasonable option due to the circumstance.

The Zoning Code is applied and administered within the frame work of the general plan which is a long range, comprehensive, general plan prepared to guide the overall future development of the County. Within this frame work, the purpose of the Zoning Code is to promote the health, safety, morals, or the general welfare of the County, by regulating and restricting the height and size of buildings or other structures; the percentage of a building site that may be occupied; off-street parking; setbacks; size of yards and courts; open spaces; density of population; location and use of buildings or structures; and the land use for trade, industry, residence, or other purposes.

The applicant has proposed to construct a 2-car carport with a 3 feet side yard in lieu of the minimum 10 feet side yard and a 1 foot side yard open space in lieu of the minimum 5 feet open space. The proposed construction is not suitable and may create features or conditions likely to be harmful or dangerous to the health, safety and welfare of future residents of the proposed subdivision or of the surrounding neighborhood.

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 Zoning Code requires a minimum 10 feet side yard and 5 feet open space, in this particular case, the proposed encroachment will visually and physically impact or be adverse to any adjacent properties or development with the granting of this variance. The rest of the existing dwelling, lanai and garage does not comply with the requirements of the Uniform Building Code Section 504 (a). In addition, a review by the Department of Public Works, Engineering Division indicates that the driveway may not be in compliance with the Hawaii County Code. Chapter 22 requirements.

Base on the foregoing findings, this variance request would not 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. In addition, should this variance application be approved, without regard to the required minimum setbacks, it may lead to similar requests by owners of surrounding properties.

The Planning Director recognizes the desire of people who wish to construct additional structures on their properties. However for the Planning Director to support this particular request in light of the deficiencies noted above would not be consistent with the general purpose of the zoning district and, the intent and purpose of the Zoning Code, Subdivision Code and the County General Plan; furthermore, this variance will be materially detrimental to the public's welfare and will cause substantial adverse impact to the area's character and to adjoining properties.

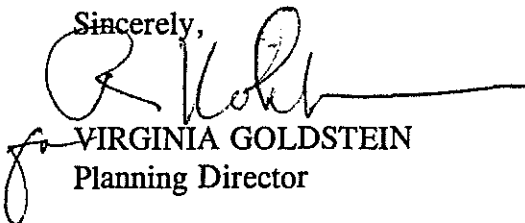
This variance request is therefore denied.

The Planning Director's decision is final, except that within thirty days after the date of the written decision, the applicant may appeal such action to the Board of Appeals. Effective March 3, 1999, the Hawaii County Board of Appeals are be required to hear and determine appeals from final decisions of the Planning Director. This is pursuant to a recent amendment to the County Charter as adopted by the voters of the County of Hawaii at the general election held on November 3, 1998.

An application for an appeal to the Board of Appeals is attached for your convenience.

Should you have any questions, please feel free to contact Eleanor Mirikitani of this department.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

EMM: rld
a:\73041007\vrobinson.app

Enclosure

xc: West Hawaii Office