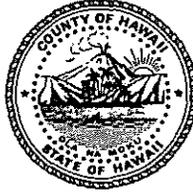


Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Russell Kokubun  
Deputy Director

## County of Hawaii

### CERTIFIED MAIL

Z 328 993 032

### PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

December 16, 1999

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

Dear Mr. Conventz:

Variance Application WH(VAR 99-087)

Variance No. 1075

Applicant: KLAUS D. CONVENTZ

Owner: ROBERT L. CROCKETT

Request: Variance From Minimum Front Yard, Rear Yard and Open Space Requirements

Tax Map Key: 7-7-004: 015

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 with a 9.8 feet front yard in lieu of the minimum 15 feet front yard, a 8.6 feet rear yard in lieu of the minimum 10 feet rear yard, and a 1.8 to 3.6 feet roof eave open space in lieu of the required 5 feet open space as required by Ordinance 96-160, Chapter 25, Article 5, Division 9, Section 25-5-96(1)(2) 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 Holualoa 4th, North Kona, Hawaii, Tax Map Key: 7-7-004: 015.

### SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 5,633 square feet of land area.

011636

DEC 17 1999

Mr. Klaus D. Conventz

Page 2

December 16, 1999

2. Variance No. 292 was issued by the Planning Commission on May 25, 1972 for the construction of a single family dwelling with a 15 feet front yard in lieu of the minimum 20 foot front yard and a 10 foot rear yard in lieu of the minimum 20 foot rear yard setback.
3. The subject single family dwelling was issued the following building permit:
  - a. Building Permit No. 52524 opened on May 31, 1972 and closed on July 10, 1972 for the construction of a single family dwelling.
4. A survey map prepared by Wes Thomas Associates on September 13, 1999 and revised on October 1, 1999 shows the two story single family dwelling with a 9.8 feet front yard in lieu of the minimum 15 feet front yard. As such, the dwelling encroaches 5 feet 2-3/8 inches into the required 15 feet front yard.
5. The survey map shows the two story single family dwelling with a 8.5 feet rear yard in lieu of the minimum 10 feet rear yard. As such, the dwelling encroaches 1 foot 6 inches into the required 10 feet rear yard.
6. The survey map shows the two story single family dwelling with a 1.8 to 3.6 feet roof eave open space in lieu of the minimum 5 feet open space. As such, the dwelling encroaches 1 foot 4-7/8 inches to 3 feet 2-3/8 inches into the required 5 feet open space.
7. When the building permits were approved, the owner received all of the necessary Department of Public Works, Building Division approvals for the dwelling. A copy of the building plans indicate that the two story single family dwelling was to be situated squarely upon the lot. However, the survey map submitted with the application indicates that the two story single family dwelling is situated at an angle thereby creating the need for the present variance.
8. When approved by the Planning Department, the plans would have had to have shown that all minimum required setbacks as approved by Variance No. 292 were going to be adhered to for the dwelling in 1972.
9. There appears to have been a construction staking error in the siting of the structure on the property. This occurred in 1972 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.

Mr. Klaus D. Conventz

Page 3

December 16, 1999

10. It has been over 27 years since the construction of the existing dwelling was approved by the County, and the applicant is trying to resolve a situation which he had no control over and has honestly conducted a certified survey to ensure the disclosure of all facts concerning the dwelling and improvements.
11. The variance application was filed with the Planning Department on October 4, 1999.

There were no objections from any adjacent or 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 to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available.

#### ALTERNATIVES

1. The owner on his own volition is honestly trying to resolve this long standing problem which has been further complicated by the variance granted in 1972.
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. As such, the dwelling encroaches 5 feet 2-3/8 inches into the required 15 feet front yard, 1 foot 6 inches into the required 10 feet rear yard and 1 foot 4-7/8 inches to 3 feet 2-3/8 inches into the required 5 feet open space. These encroachments will not diminish the ability for adequate light and air to circulate and will still provide adequate open space. Therefore, while Variance No. 292 required a minimum 15 feet front yard, 10 feet rear yard and 5 foot 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 complies with the minimum yard requirements of the Zoning Code.

Mr. Klaus D. Conventz

Page 4

December 16, 1999

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.

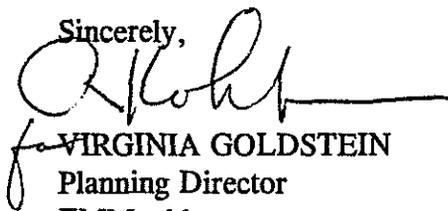
This variance request is approved, subject to the following conditions:

1. The owner, assigns or successors shall be responsible for complying with all stated conditions of approval.
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. The applicant shall obtain a building permit for the unpermitted second floor deck located above the driveway.
4. No additional variances will be considered for the subject parcel.
5. All stone wall encroachments within the County right-of-way on Old Beach Road and Alii Drive shall be removed.
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 Eleanor Mirikitani of this department.

Sincerely,



VIRGINIA GOLDSTEIN

Planning Director

EMM: rld

a:\77004015\vcrockett.app

xc: West Hawaii Office