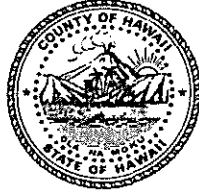


Stephen K. Yamashiro
Mayor



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 417 370 256

April 27, 1999

Mr. Melvin Teramoto
233 Olu Street
Hilo, Hawaii 96720

Dear Mr. Teramoto:

Variance Application WH(VAR 99-005)
Variance No. 994
Applicant: MELVIN TERAMOTO
Owner: PAUL T. TERAMOTO
Request: Variance From Minimum Front Yard and Side Yard Requirements
Tax Map Key: 7-7-007: 028

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 13 feet front yard in lieu of the minimum 30 feet front yard and 16 to 19 feet side yard in lieu of the minimum 20 feet side yard as required by Ordinance 96-160, Chapter 25, Article 5, Division 7, Section 25-5-76(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 Pahoehoe 1st to Kapalaalaea 2nd (Mauka Mid. Sec.), North Kona, Hawaii, Tax Map Key: 7-7-007: 028.

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 1.1805 acres of land area.
2. The subject single family dwelling was issued the following building permit:

APR 28 1999

003630

Mr. Melvin Teramoto

Page 2

April 27, 1999

- a. Building Permit No. 25999 opened on June 1, 1962 and closed on January 3, 1963 for the construction of a dwelling.
 - b. Building Permit No. 81 opened on September 29, 1972 and closed on November 29, 1972 for demolition of a portion of the dwelling.
 - c. Building Permit No. 1074 opened on November 1, 1974 and closed on May 28, 1976 for the construction of a room.
3. The survey map shows the existing two story single family dwelling with a 13 feet front yard in lieu of the minimum 30 feet front yard. As such the dwelling encroaches 17 feet into the required 30 feet front yard.
 4. The survey map shows the existing two story single family dwelling with a 16 to 19 feet side yard in lieu of the minimum 20 feet side yard. As such the dwelling encroaches 1 foot to 4 feet into the required 20 feet side yard.
 5. When the building permit was approved, the owner received all of the necessary Department of Public Works, Building Division approvals for the dwelling.
 6. 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 1962.
 7. It has been over 37 years since the construction of the existing dwelling was approved by the County, and the applicant is trying to resolve a situation he had no control over and has honestly conducted a survey to ensure the disclosure of all facts concerning the dwelling.
 8. The variance application was filed with the Planning Department on February 17, 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 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.

Mr. Melvin Teramoto
Page 3
April 27, 1999

ALTERNATIVES

1. The owner on his own volition is honestly trying to resolve this long standing problem which was not created by him. 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 encroaches 17 feet into the required 30 feet front yard and 1 foot to 4 feet into the required 20 feet side yard. These encroachments into the front yard and side 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 30 feet front yard and 20 feet side yard, 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.

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

Mr. Melvin Teramoto

Page 4

April 27, 1999

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 encroachments within the County right-of-way must be removed.
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:\77007028\vteramoto.app

xc: West Hawaii Office