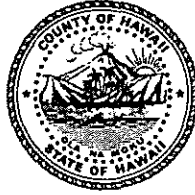


Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Russell Kokubun  
Deputy Director

## County of Hawaii

CERTIFIED MAIL

7000 0600 0024 2904 6891

**PLANNING DEPARTMENT**

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

November 20, 2000

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

Dear Mr. Conventz:

Variance Application WH(VAR 00-064)  
Variance No. 1157  
Applicant: KLAUS D. CONVENTZ  
Owner: KENNETH W. & KEETJA M. LUNDY  
Request: Variance From Minimum Front Yard and Open Space Requirements  
Tax Map Key: 7-6-020: 006

After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow an existing one story single family dwelling with a 14.4 to 14.8 feet front yard in lieu of the minimum 15 feet front yard, and a 4.9 to 9.6 front yard open space in lieu of minimum 10 feet front yard open space as required by Ordinance 96-160, Chapter 25, Article 5, Division 1, Section 25-5-7(a)(1)(A), Ordinance 97-88, and Article 4, Division 4, Section 25-4-44(a).

Please accept our sincere apologies for this tardy confirmation of the approval granted to allow the requested variance. Your patience is appreciated.

The subject property is located at Lot 6 of Kilohana Subdivision, Unit 1-A, File Plan 1304 at Holualoa 1 & 2 North Kona, Hawaii, Tax Map Key: 7-6-020: 006.

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 7,756 square feet of land area.
2. The subject single family dwelling was issued the following building permits:
  - a. Building Permit No. 325 issued on April 3, 1973 for a dwelling and carport.

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- b. Building Permit No. 1524 issued on October 23, 1975 for a lanai addition.
  - c. Building Permit No. 915846 opened on July 15, 1991 for an addition of a bedroom, bath and lanai over existing garage. The permit remains open.
  - d. Building Permit No. 935844 opened on September 1, 1993 for a recreation room. The permit remains open.
3. A survey map prepared by KKM Surveys on July 21, 2000 shows the single family dwelling with a 14.4 to 14.8 feet front yard in lieu of the minimum 15 feet front yard. As such, the dwelling encroaches 2-3/8 inches to 7-1/4 inches into the required 15 feet front yard
  4. The survey map also shows the single family dwelling with a 4.9 to 9.6 feet front yard open space in lieu of the minimum 10 feet front yard open space. As such, the dwelling encroaches 4-7/8 inches to 5 feet 1-1/4 inches into the required 10 feet front yard open space.
  5. When the building permits were approved, the owner received all of the necessary Department of Public Works, Building Division approvals for the dwelling.
  6. There appears to have been a construction staking error in the siting of the structure on the property. This occurred in 1973 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.
  7. 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 they had no control over and have honestly conducted a certified survey to ensure the disclosure of all facts concerning the dwelling and improvements.
  8. The variance application was filed with the Planning Department on August 7, 2000.

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.

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### ALTERNATIVES

1. The owners on their own volition are honestly trying to resolve this long standing problem which was not created by them. 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 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 2-3/8 inches to 7-1/4 inches into the required 15 feet front yard, and 4-7/8 inches to 5 feet 1-1/4 inches into the required 10 front yard 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 Zoning Code requires a minimum 15 feet front yard, and 10 feet front yard open space in this particular case, the encroachment 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

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submitted to the Planning Department within a year from the effective date of approval of this variance.

3. Any encroachments within the County right-of-way shall be removed.
4. Building Permit Nos. 915846 & 935844, Electrical Permit No. EK04356 and Plumbing Permit No. M916068 shall be finalized and closed with the Department of Public Works, Building Division.
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 Roxanne Delaries of this department.

Sincerely,

  
VIRGINIA GOLDSTEIN  
Planning Director

RLD: rld  
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xc: West Hawaii Office