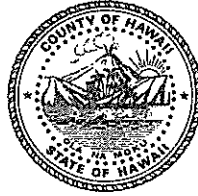


Stephen K. Yamashiro
Mayor



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 328 993 056

January 24, 2000

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

Dear Mr. Conventz:

Variance Application WH(VAR 99-097)
Variance No. 1086
Applicant: KLAUS D. CONVENTZ
Owners: JOHN & ALICE RANDAZZO
Request: Variance From Minimum Side Yard and Open Space Requirements
Tax Map Key: 7-5-022: 018

After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow a proposed 4-story multiple family dwelling with a 12.0 feet side yard in lieu of the minimum 14.0 feet side yard, and a 7.0 open space in lieu of the minimum 9.0 feet side yard open space as required by Ordinance 96-160, Chapter 25, Article 5, Division 3, Section 25-5-36(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. At the present time there is a shortage of staff. This personnel shortage will be resolved and result in more timely responses to future applications. Your patience is appreciated.

The subject property is located at Lono Kona Subdivision, Keopu-Honuaula, North Kona, Hawaii, Tax Map Key: 7-5-022: 018.

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SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 25,869 square feet of land area.
2. A site plan prepared by Architects Studio shows the proposed 4-story multiple family dwelling with a 12.0 feet side yard in lieu of the minimum 14 feet side yard. As such, the proposed multiple family dwelling would encroach 2 feet into the minimum 14 feet side yard.
3. The site plan also shows the proposed 4-story multiple family dwelling with a 7.0 feet side yard open space in lieu of the minimum 9 feet side yard open space. As such, the proposed multiple family dwelling would encroach 2 feet into the minimum 9 feet side yard open space.
4. The property is zoned Multiple-Family Residential (RM-1) and is triangular in shape. The applicant states that because of the odd shape land, the owner would have to reduce the footprint by a combined total of 4 feet.
5. The applicant's building plans indicate that the first 3-stories would require a 12.0 feet side yard setback and the fourth floor, the penthouse, a single unit, would be setback approximately 15 feet to 20 feet from the side yard.
6. The variance application was filed with the Planning Department on November 19, 1999.

The property is zoned Multiple-Family Residential (RM-1) and is triangular in shape. The topography of the land is slightly sloping. The parcel is presently vacant of any structures. The surrounding properties are zoned Multiple-Family Residential (RM-1), Double-Family Residential (RD-3.75) and Village Commercial (CV-7.5). Land uses surrounding and adjacent to the subject property consist of office complexes, various multiple-family residential and single family residential units.

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 investigation of this particular matter reveals that construction of the proposed four story structure with a 12.0 feet side yard and 7.0 feet open space will not visually or physically impact or be adverse to any adjacent properties or development with the granting of this variance.
2. The minimum required side yard and open space for the proposed 4-story condominium to conform with the minimum setbacks would create undue and excessive hardship 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. The proposed 4-story multiple family dwelling would encroach 2 feet into the minimum 14 feet side yard and 2 feet into the minimum 9 feet side yard open space. These encroachments into the side 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 14 feet side yard and 9 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 proposed multiple family dwelling will 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.

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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. 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

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xc: West Hawaii Office