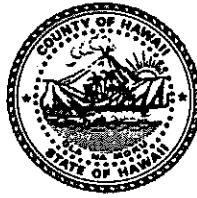


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

CERTIFIED MAIL

7000 0600 0024 2904 6969

PLANNING DEPARTMENT

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

November 1, 2000

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

Dear Mr. Conventz:

Variance Application WH(VAR 00-56)
Variance No. 1153
Applicant: KLAUS D. CONVENTZ
Owner: GERALDINE BUSHMAN
Request: Variance From Minimum Front Yard, Side Yard and Open Space
Requirements
Tax Map Key: 7-3-022: 103

After reviewing your application and the additional information submitted, the Planning Director certifies the approval to allow an existing one story single family dwelling with lanai, carport and storage area (garage) with a side yard of 10.2 to 11.1 feet in lieu of the minimum 15 feet side yard; 7.9 feet side yard open space in lieu of the minimum 10 feet side yard open space; a 15 feet front yard in lieu of the minimum 25 feet; and a 13.0 feet front yard open space in lieu of the minimum 19.0 feet front yard open space as required by required by Ordinance 96-160, Chapter 25, Article 5, Division 1, Section 25-5-7(a)(3)(A)(B), 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 19, Kona Coastview Subdivision-Unit 1, Portion of Grant 1606 to Kanehailua at Kalaoa 3rd, North Kona, Hawaii, Tax Map Key: 7-3-022: 103.

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 20,541 square feet of land area.
2. The subject single family dwelling was issued the following building permits:

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- a. Building Permit No. 28677 issued on January 21, 1964.
 - b. Building Permit No. K05425 opened on April 26, 1982 and closed on March 10, 1983 for a two car garage attached to the dwelling with a roof and breezeway.
3. A survey map prepared by KKM Surveys on July 18, 2000 shows the one story single family dwelling with a 10.2 to 11.1 feet side yard in lieu of the minimum 15 feet side yard. As such, the dwelling encroaches 3 feet 10-7/8 inches to 4 feet 9-5/8 inches into the required 15 feet side yard.
 4. The survey map shows the one story single family dwelling with a 7.9 feet side yard open space in lieu of the minimum 10 feet side yard open space. As such, the dwelling encroaches 2 feet into the required 10 feet side yard open space.
 5. The survey map shows the one story single family dwelling with a 15 feet front yard in lieu of the minimum 25 feet front yard. As such, the dwelling encroaches 10 feet into the required 25 feet front yard.
 6. The survey map shows the one story single family dwelling with a 13.0 feet front yard open space in lieu of the minimum 19.0 feet front yard open space. As such, the dwelling encroaches 6 feet into the required 19 feet front yard 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.
 8. There appears to have been a construction staking error in the siting of the structure on the property. This occurred in 1964 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.
 9. It has been over 36 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.
 10. The variance application was filed with the Planning Department on July 19, 2000.

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

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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.

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 building setbacks within a subdivision is to assure that adequate air and light circulation is available between structures and property lines. As such, the single family dwelling encroaches 3 feet 10-7/8 inches to 4 feet 9-5/8 inches into the required 15 feet side yard; 2 feet into the required 10 feet side yard open space; 10 feet into the required 25 feet front yard and 6 feet into the required 19 feet front yard open space.

These encroachments into the side yard, front 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 15 feet side yard, 10 feet side yard open space, 25 feet front yard, and 19 feet front yard open space in this particular case, these 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.

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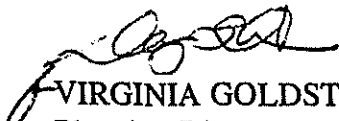
This variance request is approved, subject to the following conditions:

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. Plumbing permit number M995094 shall be finalized with the Department of Public Works-Building Division.
4. A building permit shall be secured to remove the framing, walls and roof of the existing garage located at the southeast corner of the parcel to the 15 feet setback.
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 at 327-3510.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

RLD: rld
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xc: West Hawaii Office