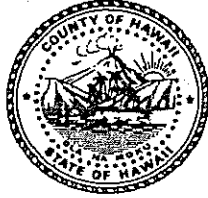


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

March 21, 2001

Ms. Ann Leilani Arruda
P. O. Box 35
Honomu, HI 96728

Dear Ms. Arruda:

Variance Permit No. 1193 (VAR 01-11)
Applicant: ANN LEILANI ARRUDA
Owner: ANN LEILANI ARRUDA
Request: Variance From Minimum Yards
Pursuant to Chapter 25, Hawaii County Zoning Code
Tax Map Key: 2-5-028:022, Lot 1

After reviewing your application and the information submitted on behalf of it, the Planning Director certifies the approval of your variance request. Variance Permit No. 1193 allows the construction of a dwelling with a front yard of 15 feet in lieu of the minimum 20 feet and side yards of 5 feet in lieu of the minimum side yard of 8 feet as required by the Zoning Code, Chapter 25, Article 5, Division 7, Section 25-5-7, Minimum yards, (a), (1), (A & B) and Article 3, Section 25-3-8 (b) Future Width Lines.

The Planning Director has concluded that the variance request from the minimum side yard and open space requirements should be approved based on the following findings:

1. The subject property containing 4,321 square feet is Lot 1, portion of Piihonua, South Hilo, Puna, Hawaii. The lot is irregular in shape with a frontage along Waianuenue Avenue of 45.56 feet and maximum depth of 117.93 feet. At its narrowest point, the lot is approximately 24 feet.
2. The property is zoned Single-Family Residential (RS-15) by the County.

002548

MAR 27 2001

Ms. Ann Leilani Arruda

Page 2

March 21, 2001

3. A new two-story single family dwelling with a front yard of 15 feet along the Waianuenue Avenue frontage is being proposed to replace the existing one-story single family dwelling with 2.31 feet front yard along Waianunue Avenue.
4. The new two-story dwelling is proposed to have 35 feet front yard from the Road right-of-way to the Department of Water Supply's Reservoir. A minimum of 15 feet is required.
5. The new two-story dwelling is proposed to have side yards of five feet along both side property lines. The existing dwelling has 5 feet side yards along both side property lines.
6. In support of the application, the applicant states in part:

"The purpose of this variance is to allow construction of a residential dwelling of five feet from the sides and fifteen feet from the front and back property boundary lines."

"The general purpose of this area is residential. Approval of this variance will not cause adverse impact to the area or to adjoining properties."

"The existing structure's front boundary is approximately five feet from the front boundary line."

"The approval of this variance would allow construction of a family home."

"A family home can not be built without a variance. There are no other reasonable alternatives to resolve this difficulty."

7. The Department of Finance-Real Property Tax memorandum dated January 30, 2001, in the variance file states in part:

"There are no comments at this time

"Current Real Property taxes are paid through December 31, 2000.

Ms. Ann Leilani Arruda

Page 3

March 21, 2001

8. The State Department of Health (DOH) memorandum dated February 5, 2001, in the subject variance file states:

"The subject lot is located in the Critical Wastewater Disposal Area where cesspools are not allowed because of water pollution concerns. Any development on this lot would require all wastewater to be disposed into a Septic Tank System or into public sewer when accessible. All setback requirements for the wastewater system needs to be met unless approved by a DOH variance."

9. The Department of Public Works (DPW) memorandum dated February 22, 2001 states in part:

"Buildings shall conform to all requirements of code and statutes pertaining to building construction. The minimum setbacks for residential structures are 3-ft. side and 3-ft. rear. No openings in the exterior walls are permitted less than 3-ft. from the property line.

"All driveway connections to a County road shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.

"Piionua Road, fronting the subject property, is a County road. It has an existing 50-ft. wide right-of-way. The City of Hilo zoning map requires a 60-ft. wide right-of-way. Planning Department will determine the necessary width of the future road widening setback needed.

"The County Reservoir Road, fronting the subject property on the southerly side, is a County road. This roadway has an existing 20-ft. wide right-of-way, and is under E.O. 224 to the Department of Water Supply for the reservoir site. Consult with the DWS for roadway access restrictions.

Ms. Ann Leilani Arruda
Page 4
March 21, 2001

“The City of Hilo zoning map requires a 60-ft. wide right-of-way. Planning Department will determine the necessary width of the future road widening setback needed.

“The subject property is found within Flood Zone "X", according to the Flood Insurance Rate Map dated September 16, 1988.”

10. The subject variance application was acknowledged by certified letter dated May 20, 1999.
11. The applicant submitted proof of service to serve first and second notice of the application on the designated and surrounding property owners. The first notice was mailed on February 1, 2001 notice was mailed on February 13, 2001, to the surrounding property owners.
12. There were no objections filed by any of the surrounding property owners.

ALTERNATIVES

The petitioner has limited design alternatives for the use of this property due to its configuration and size. The project as proposed is largely the replacement of an existing single family dwelling which will result in a larger front yard along Waianuenue Avenue than the existing dwelling.

There are no reasonable alternatives in resolving the difficulty of the applicant.

SPECIAL AND UNUSUAL CIRCUMSTANCES

The subject property containing 4,321 square feet is Lot 1, portion of Piihonua, South Hilo, Puna, Hawaii. The lot is non-conforming in area. It is irregular in shape with a frontage along Waianuenue Avenue of 45.56 feet and maximum depth of 117.93 feet. At its narrowest point, the lot is approximately 24 feet.

The intent and purpose of requiring building setbacks is ensure that adequate air, light, physical and visual circulation is available between permitted structure(s) and property lines. The minimum yard requirements are established to direct structures toward the “center” of building sites (lots). The proposed structure is sited in the “center” of its widest portion with the extensions into the “narrowest” portions of the lot maintaining a similar spatial relationship.

Ms. Ann Leilani Arruda

Page 5

March 21, 2001

After considering the foregoing facts, there are special or unusual circumstances applying to the subject property. These circumstances deprive the owner 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.

Granting of 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, the variance request 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 applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval. The effective date of this permit is March 17, 2001.
2. The approval of this variance is only from the Zoning Code. The applicant/owner, successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.
3. The location of the proposed dwelling on the subject property will not meet Chapter 25, the Zoning Code's, minimum yard and related permitted projections into yards and open space requirements. The approval of this variance allows the proposed building improvements identified on the plot or site plan dated August 3, 1999 and submitted with this Application to be built on the subject property.
4. The owners, their assigns or successors shall comply with all applicable State and County rules and regulations pertaining to building construction and land use.

Ms. Ann Leilani Arruda

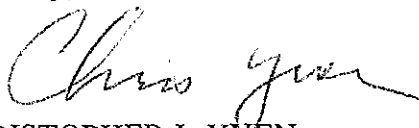
Page 6

March 21, 2001

5. Future building improvements and permitted uses shall be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

RKN:cps

\\P:\WP60\RODNEY\2001-1\VARArruda1.doc

cc: Department of Public Works, Engineering Division
Real Property Tax Office
Department of Health