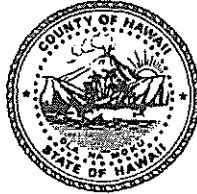


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Brad Kurokawa, ASLA  
LEED® AP  
Deputy Director

County of Hawaii  
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • FAX (808) 961-8742

August 14, 2006

Mr. and Mrs. Raymond Silva  
1770 Hale-O-Lani Street  
Hilo, HI 96720

Dear Mr. and Mrs. Silva:

**SUBJECT: VARIANCE PERMIT NO. 1472 (VAR 04-46)**  
**Applicants: RAYMOND P. SILVA, ET AL.**  
**Owners: RAYMOND P. SILVA, ET AL.**  
**Request: Variance from Minimum Yards**  
**Pursuant to Chapter 25, Zoning**  
**Tax Map Key: 2-4-040:109, Lot 8**

During a routine check of our variance log and files, we note the permit number cited in the first line following "SUBJECT:" on page 1 of your Variance Permit letter dated June 23, 2004 reads as follows: "VARIANCE PERMIT NO. 1457 (VAR 04-046)".

The subject heading of the original variance permit should read as stated above or the first line following "SUBJECT:" on page 1 of Variance Permit letter dated June 23, 2006 should read as follows: "VARIANCE PERMIT NO. 1472 (VAR 04-46)".

We apologize for this error and your patience in this matter.

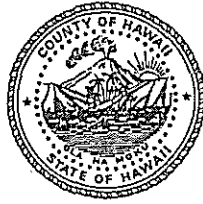
Sincerely,

CHRISTOPHER J. YUEN  
Planning Director

WRY:cd  
P:\WP60\WRY\FORMLETT\VAR04-046ZCSETBACKTMK24040109.SILVA

xc: Real Property Tax Office-Hilo

Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • Fax (808) 961-8742

June 23, 2004

Mr. and Mrs. Raymond Silva  
1770 Hale-O-Lani Street  
Hilo, HI 96720

Dear Mr. and Mrs. Silva:

1472  
**VARIANCE PERMIT NO. 1457(VAR 04-046)**  
**Applicants: RAYMOND P. SILVA, ET AL.**  
**Owners: RAYMOND P. SILVA, ET AL.**  
**Request: Variance from Minimum Yards**  
**Pursuant to Chapter 25, Zoning**  
**Tax Map Key: 2-4-040:109, Lot 8**

After reviewing your application and the information submitted, the Planning Director certifies the approval of your variance request subject to conditions. Variance Permit No. 1457 permits an addition to the dwelling located on subject TMK property (Lot 8) with a minimum 17.5 feet front yard and allow a corresponding 11.0 feet front yard open space according to the applicant's variance site plan map and other plan submittals received with the variance application. The variance request is from the minimum yard requirements of the Hawaii County Code, Chapter 25, Zoning, Article 5, Division 1, Section 25-5-7, Minimum yards, (a) (2) (A), and Article 4, Division 4, Section 25-4-44, Permitted projections into yards and open space requirements, (a).

#### **BACKGROUND AND FINDINGS**

1. **Location**. The subject property, Lot 8 containing 15,272 square feet, is located with Hale-O-Lani Subdivision and situated at Waiakea, South Hilo, Hawaii. The property's address is 1770 Hale-O-Lani Street.

055861

Hawai'i County is an equal opportunity provider and employer.

JUN 25 2004

Mr. and Mrs. Raymond Silva  
Page 2  
June 23, 2004

The property is zoned Single-Family Residential (RS-15) by the County and designated Urban "U" by the Land Use Commission (LUC).

2. **Variance Application-Site Plan.** The applicants/owners submitted the variance application, attachments, and filing fee on or about March 24, 2004. The variance application site plan map drawing is drawn to scale and denotes the location of the dwelling, "AS-BUILT", and proposed addition into the minimum front yard.

The applicant's background states in part:

"The location of the existing carport and the angle at which the dwelling was constructed make it impossible to expand the carport within the same plane of the existing dwellings(sic)."

3. **Agency Comments and Requirements-(VAR 04-046):**

- a. The Department of Public Works (DPW) memorandum dated April 29, 2004, states in part:

"We have reviewed the subject application forwarded by your memo dated April 13, 2004 and have the following comments.

Approval of the application shall be conditioned as noted below.

All new building construction shall conform to current code requirements  
Shall also conform to 1991 UBC Appendix 25.

The minimum setbacks shall be maintained as follows: residential structures-3 ft. side and 3 ft. rear; commercial structures-5ft. side and 5 ft. rear."

- b. The State Department of Health (DOH) memorandum dated May 13, 2004 states:

"The Health Department found no environmental health concerns with regulatory implications in the submittals."

Mr. and Mrs. Raymond Silva

Page 3

June 23, 2004

4. **Notice to Surrounding Property Owners.** Proof of mailing a first and second notice was submitted to the Planning Department. For the record, it appears that first and second notices were mailed on April 24, 2004 and April 26, 2004, respectively, by the applicant.
5. **Comments from Surrounding Property Owners or Public.** No further written agency comments were received. No objections from surrounding property owners or public were received.

#### **SPECIAL AND UNUSUAL CIRCUMSTANCES**

The dwelling was built in 1977. The current owners discovered the dwelling's position was not built parallel to the property's front boundary line shared with the right-of-way. The variance application's site plan map denotes the location of the dwelling position and other site improvements, "AS BUILT", and identifies the proposed building addition. The site plan identifies the dwelling's building position together with other building issues within the property's minimum front yards pursuant to the Hawaii County Zoning Code. The applicants became aware of their limited building options after considering the dwelling's floor plan-roof and other property constraints (driveway access, cesspool location, etc.).

#### **ALTERNATIVES**

Alternatives available to the applicant to address and correct the existing building encroachments include the following actions:

1. Redesigning the proposed addition or modifying the dwelling and addition to fit within the correct building envelope prescribed by the Zoning Code.
2. Consolidation of Lot 8 with the right-of-way and resubdivision to modify property lines and adjust minimum yards.

#### **INTENT AND PURPOSE**

The intent and purpose of requiring building setbacks within a subdivision are to assure that adequate air circulation and exposure to light are available between permitted structure(s)/uses and boundary/property lines.

Mr. and Mrs. Raymond Silva  
Page 4  
June 23, 2004

It is felt that the proposed dwelling addition and small encroachment into the property's minimum front yard will not be physically or visually obtrusive from adjacent property(s) or right-of-way. The proposed building encroachment into the front yard will not change or detract from the character of the surrounding residential neighborhood and surrounding land patterns. Given the original dwelling's (angle) position, roof truss design, and design limitations, the applicant's request is reasonable and the proposed dwelling addition will not detract from the character of the immediate neighborhood or the subdivision.

The subject variance application was acknowledged by letter dated April 13, 2004 and additional time to consider agency comments and complete the variance background was necessary. The applicant submitted a letter to allow additional time for the Planning Director shall render a decision on the subject variance to no later than June 30, 2004.

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, 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.

#### **PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS**

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.
2. The applicant/owner(s), 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.

Mr. and Mrs. Raymond Silva

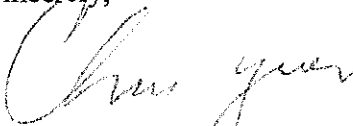
Page 5

June 23, 2004

3. A portion of proposed dwelling addition on subject TMK property will not meet minimum front yard and attendant minimum open yard requirements pursuant to Chapter 25, Zoning. The approval of this variance allows the proposed addition identified on the variance application's site plan map to be constructed on the subject TMK property (Lot 8).
4. The proposed building addition, future dwelling 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

WRY:cd

P:\WP60\WRY\FORMLETT\VARAPPZCTMK22040109.SILVA

cc: Real Property Tax Office - Hilo  
Planning Dept. - Kona