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Vol. <sup>m</sup> 77 Page 24184.

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Request for )  
Variance 77-1, Lakeshore Gardens ) Klamath County Planning  
Glen Bowen, Applicant ) Findings of Fact and Order

A hearing was held in this matter at Klamath Falls, Oregon, on November 15, 1977, pursuant to notice given in conformity with Ordinance No. 35, Klamath County, before Klamath County Hearings Officer, Del Parks. The applicant was present. The Klamath County Planning Department was represented by Carl Shuck. The Hearings Reporter was Isabel Rodriguez.

Evidence was presented on behalf of the Department and on behalf of the applicant. There were no adjacent property owners present, and no one stated they had objections to the proposed Variance requested by the applicant.

The following Exhibits were offered, received and made a part of the record:

Klamath County Exhibit A, the Staff Report

Klamath County Exhibit B, photos of the subject property

Klamath County Exhibit C, a Klamath County Assessor's map of the subject property

Klamath County Exhibit D, a Klamath County Zoning map of the subject property

Klamath County Exhibit E, Mailing Notices

The hearing was then closed and based upon the evidence submitted at the hearing, the Hearings Officer made the following findings of fact:

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FINDINGS OF FACT:

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2 1. The Hearings Officer finds that the Lakeshore Gardens  
3 Drainage District Ordinance, being Ordinance Number 29, does not  
4 comply with present State Law.

5 2. There is no provision for the granting of a Variance  
6 contained with the zoning content of the Lakeshore Gardens Zoning  
7 Ordinance. And therefore, henceforth, all Variances for Lakeshore  
8 Drainage District Ordinance Number 20 shall be governed by Article  
9 113 of the Klamath County Zoning Ordinance, and all requests for  
10 Variances shall be judged by those standards.

11 3. Judged by those standards, the Hearings Officer finds  
12 that there are exceptional and extraordinary circumstances applicable  
13 to the property as set forth by the testimony of the petitioner in:

14 A. That the property generally is not used for  
15 residences on the side of the road closest  
16 to the lake.

17 B. There is no provision for providing of at  
18 least water utilities to that side of the  
19 road.

20 C. The lake side of the road is generally pasture  
21 and semi-residential agriculture, these uses  
22 being unique to this particular section,  
23 which is otherwise moderate-density  
24 residential.

25 4. The Variance is necessary to preserve the use of the  
26 property for agricultural purposes, and the applicant would be  
27 deprived of a property right if he were not permitted to construct  
28 adjacent agricultural structures in connection with his pasturing.

1           5. No person testified in opposition to the granting of  
2 the Variance, and there was no evidence to suggest that there would  
3 be a material detriment to the adjoining neighbor, or that the  
4 public health, safety, convenience, and welfare would be injured by  
5 the granting of the Variance.

6           6. The Ordinance itself provides for a reduction in the  
7 front setback lines on the basis of natural gradation of the lot if  
8 it exceeds an average of 20 percent, and that the setback may be  
9 reduced one foot for each one percent of gradation over 20 percent.  
10 From the pictures appearing in Exhibit B, it appears that the  
11 gradation does exceed the 20 percent. This, in conjunction with the  
12 distance from the road, is sufficient to suggest that the Variance  
13 is the minimum required to eliminate the hardship.

14           The Hearings Officer, based on the foregoing Findings of  
15 Fact, accordingly orders as follows:

16           That real property described as the

17           "Tax Lot 700, Lot 27-B of  
18           Lakeshore Gardens, approximately  
19           600 feet south of Upper Klamath  
20           Lake and the Dyke, a parcel of  
21           land 96 feet by 411 feet in size,  
22           generally located on the south  
23           side of Lakeshore Drive with a  
24           50 foot drain on the north  
25           Border of the property, Klamath  
26           County, Oregon."

27           is hereby granted a Variance in accordance with the terms of the  
28 Klamath County Zoning Ordinance No. 17 and henceforth the required  
front yard setback requirements will be reduced from 25 feet to 8  
feet and the side yard setback requirements will reduced from 5 feet  
to 4 feet for the purpose of placing a pole barn.

24187

1 Entered at Klamath Falls, Oregon, this 25 day  
2 of November, 1977.  
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KLAMATH COUNTY HEARINGS DIVISION

5  
6 By Del Paul  
7 Hearings Officer  
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# Klamath County - Planning Department

COURTHOUSE — 503-882-2501, Ext. 285 — KLAMATH FALLS, OREGON 97601

IN THE MATTER OF  
MAILING NOTICES FOR  
*Sten Bowen*

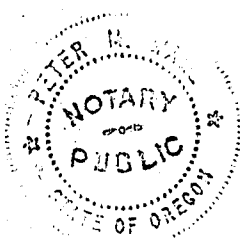
## AFFIDAVIT OF MAILING

STATE OF OREGON  
County of Klamath

I, *Isabel Rodriguez*, being first duly sworn, depose  
and say that I am an employee of the Klamath County Planning  
Department, and that on the *13th of December 1977* I did deposit in  
the U.S. postal system: *4* copies of said MAILING NOTICE,  
a copy of same being attached hereto, in a sealed envelope addressed  
to those individuals on the mailing list attached hereto.

*Isabel Rodriguez*

SUBSCRIBED and sworn to before me this *14th* day of  
*December* 19 *77*.



*Peter M. Wall*  
NOTARY PUBLIC FOR OREGON

My commission expires

*8-3-80*

WE ARE AN EQUAL OPPORTUNITY EMPLOYER

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Copies of the Order for a Variance 77-1 for Glen Bowen  
sent to the following:

Glenn Bowen  
1215 Lakeshore Drive  
Klamath Falls, OR 97601

Board of Commissioners  
Courthouse Annex  
Klamath Falls, OR 97601

Clerk's Office  
Courthouse  
Klamath Falls, OR 97601

Assessor's Office  
Courthouse Annex  
Klamath Falls, OR 97601

STATE OF OREGON; COUNTY OF KLAMATH, ss.

Filed for record at \_\_\_\_\_

this 14th day of December A. D. 19 77 at 2:45'clock P.M., and

July recorded in Vol. 1177, of Deeds on Page 24186

W. D. MILNE, County Clerk

By Bernetha M. Letcher

*no fee*