

BOARD OF COUNTY COMMISSIONERS

KLAMATH COUNTY, OREGON

IN THE MATTER OF APPEAL FOR)
VARIANCE 78-29 FOR JESSIE)
HURLEY FOR HURLEY/PADDOCK,) O R D E R
APPLICANT)

A hearing was held in this matter at Klamath Falls, Oregon, on July 12, 1978, pursuant to notice given in conformity with Ordinance No. 35, Klamath County, before Klamath County Hearings Officer, Jim Spindor. Mr. Ralph Vaden of Paddock Realty was present on behalf of the applicant.

Evidence was presented on behalf of the Department and on behalf of the Applicant. There were several surrounding property owners present who 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; Opponent's Exhibits 1 through 4, letters in opposition to the granting of the subject Variance.

FINDINGS OF FACT:

1. There are no exceptional and extraordinary circumstances which apply to the Applicant's property which do not apply agenerally to other property owners in the area. The Applicant's property is less than 20 acres because of Highway 62; this condition applies to several pieces of property in this vicinity.

1 2. Adjacent property owners expressed opposition,
2 stating that their intent in purchasing property in this partic-
3 ular zone was to be free from immediate neighbors. Mr. Wedding
4 testified that if a residence were placed on the easterly most
5 portion of Tax Lot 2900 (that portion furthest from Highway 62),
6 that it would obstruct his view. The Hearings Officer personally
7 viewed the property in question and found that if a residence was
8 placed in this position, it would in fact obstruct Mr. Wedding's
9 view, and that it would defeat the purpose of this particular
10 zone.

11 3. However, if DEQ approval could be obtained to allow
12 construction of a residence on the westerly one-half of said prop-
13 erty (that half of the property nearest to Highway 62) within 30
14 days of the date of this order, the applicant will be allowed to
15 reopen this matter for a hearing on the question of whether a
16 Variance should be approved for this purpose.

17 The Hearings Officer, based on the foregoing Findings of
18 Fact, accordingly ordered as follows:

19 That real property described as the parcel of land ap-
20 proximately 15 acres in size and generally located on the east
21 side of State Highway 62 and approximately one-fourth mile north-
22 west of State Highway 62 and State Highway 422 Junction and more
23 particularly described as Tax Lot 2900, Lot 7, Section 8, Town-
24 ship 35 South, Range 7 East of the Willamette Meridian, Klamath
25 County, Oregon, is hereby denied a Variance in accordance with
26 the terms of the Klamath County Zoning Ordinance No. 17.

27 The Planning Department received a letter of Appeal
28 from the Applicant on September 18, 1978, following which a

1 hearing was set before the Board of County Commissioners on
2 October 31, 1978, wherefrom the testimony, reports and information
3 produced at the hearing by the Applicant, members of the Klamath
4 County Planning Department and other persons in attendance, the
5 Board of County Commissioners grants the variance on land
6 described as the parcel of land approximately 15 acres in size and
7 generally located on the east side of State Highway 62 and ap-
8 proximately one-fourth mile northwest of State Highway 62 and
9 State Highway 422 Junction and more particularly described as
10 Tax Lot 2900, Lot 7, Section 8, Township 35 South, Range 7 East
11 of the Willamette Meridaian, Klamath County, Oregon, for Jessie
12 Hurley for Hurley/Paddock.

13 The Board of County Commissioners makes the following
14 Findings of Fact and Conclusions of Law:

15 FINDINGS OF FACT:

16 1. There are exceptional circumstances. The Highway
17 Department created the unusual circumstances by not following a
18 section line. There are only a few such lots in the immediate
19 area.

20 2. A variance is necessary for the preservation and
21 enjoyment of a substantial property right which is possessed by
22 other property owners under similar conditions in the same
23 vicinity and zone.

24 3. The granting of the requested Variance will not be
25 materially detrimental to the public health, safety, convenience
26 and welfare or injurious to the property improvements in the same
27 vicinity and zone in which the property affected is located and
28 will not be contrary to the intent of this Ordinance; and DEQ

1 will determine the acceptable areas when the septic system may be
2 placed. Our Uniform Building Code will determine construction
3 and set back requirements.

4 4. The Variance requested is the minimum variance from
5 the provisions and standards of this regulation which will allevi-
6 ate the hardship. One single family residence on 15 acres will
7 retain the rural atmosphere desired by others in the area.

8 CONCLUSIONS OF LAW:

9 1. There are exceptional or extraordinary circum-
10 stances or conditions applicable to the property involved which
11 do not apply generally to other property in the same vicinity and
12 zone;

13 2. A Variance is necessary for the preservation and
14 enjoyment of a substantial property right of the applicant which
15 right is possessed by other property owners under like conditions
16 in the same vicinity and zone.

17 3. The granting of the requested Variance will not be
18 materially detrimental to the public health, safety, convenience
19 and welfare or injurious to the property improvements in the same
20 vicinity and zone in which the property affected is located and
21 will not be contrary to the intent of this Ordinance; and

22 4. The Variance requested is the minimum variance from
23 the provisions and standards of this regulation which will al-
24 leviate the hardship.

25 DONE AND DATED THIS 4th DAY OF December, 1978.

26 Neil Kruener Hayd L. Kruener Lloyd Giff
27 Chairman Commissioner Commissioner

28 APPROVED AS TO FORM:

By: Walter D. Milne
Appeal - Variance 78-29
Hurlev/Paddock

FEE None

WM. D. MILNE, County Clerk

By: Bernetha Skitsch Deputy

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 5th day of December A.D., 19 78 at 4:44 o'clock P M., and duly recorded in Vol. M78 of Deeds on Page 27392.