

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

Vol. 70 Page 13926

In the Matter of Request for )  
Variance 79-16, for )  
Dianne Earnest, Applicant )

KLAMATH COUNTY PLANNING  
FINDINGS OF FACT AND ORDER

A Hearing was held in this matter at Klamath Falls, Oregon, on May 9, 1979, pursuant to notice given in conformity with Ordinance No. 35, Klamath County, before Klamath County Hearings Officer, Jim Spindor. The Applicant was present. The Klamath County Planning Department was represented by Carl Shuck. The Hearings Reporter was Barbara Thomson.

Evidence was presented on behalf of the Department and on behalf of the Applicant. There were no adjacent 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, Klamath County Assessor's map of the subject property

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

FINDINGS OF FACT:

1 1. There are exceptional and extraordinary circum-  
2 stances which apply to this property which do not generally  
3 apply to other properties in the vicinity in that the 4.8 acres  
4 in question is cut off from the rest of the property of the  
5 owner by a canal.

6 2. The granting of Variance is necessary for the  
7 preservation and enjoyment of the Applicant's right to make  
8 full use of his property, a right which is possessed by other  
9 property owners in the vicinity.

10 3. If this Variance is not granted undue hardship  
11 would be caused to the owner.

12 4. There was no testimony in opposition to the  
13 Variance and there is no evidence suggesting that there would be  
14 any detrimental affects on the public health, safety, and wel-  
15 fare, or any detrimental affects on abutting property owners.

16 5. The requested Variance will not allow use of the  
17 property for a purpose which is not authorized within the zone  
18 in which the property is located.

19 6. The requested Variance is the minimum Variance  
20 which would alleviate the hardship in question due to the canal-  
21 restricted property.

22 7. The granting of this Variance is consistent with  
23 the goals of L.C.D.C.

24 8. This Variance is approved subject to the follow-  
25 ing conditions:

26 CONDITIONS:

27 1. No residence be built on the 4.8 acres unless  
28 DEQ approval is received.

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2. No residence be built on the 4.8 acres unless the owner receives the ~~deeded~~ access from the neighbors; or, the alternative, if a bridge is built over the canal, the owner shall receive permission from the Bureau of Reclamation.

3. Prior to selling the property owner shall make application for partition with the Klamath County Planning Department.

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

That real property described as the

"parcel of land approximately 4.8 acres in size generally located approximately  $\frac{1}{2}$  mile south of Matney Road, approximately  $\frac{1}{2}$  mile west of Cheyne Road, with C canal bordering subject property on the northeast, and more particularly described as Tax Lot 92, Township 40, Range 10, Section 19, Klamath County, Oregon."

is hereby granted a Variance in accordance with the terms of the Klamath County Zoning Ordinance No. 35, and, henceforth, the required lot size in the AF (Agricultural Forestry) zone will be reduced from 20 acres to 4.8 acres in size.

Entered at Klamath Falls, Oregon, this 8<sup>th</sup> day of June, 1979.

KLAMATH COUNTY HEARINGS DIVISION

BY [Signature]  
Hearings Officer

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Klamath County Planning

this 12th day of June A. D. 1979 at 4:45 o'clock P.M., and

fully recorded in Vol. 470, of Deeds on Page 14426

W. D. ASHNE, County Clerk

By [Signature]