

1 BEFORE THE HEARINGS OFFICER

2 FOR KLAMATH COUNTY, OREGON

3 In the Matter of the)
4 REQUEST FOR VARIANCE)

NO. 7-82

5 for)

FINDINGS OF FACT AND DECISION

6 RICHARD WOODWARD,
7 on behalf of
BLY RANGER DISTRICT)

8 THIS MATTER came on for a hearing before the Klamath
9 County Assistant Hearings Officer, JAMES R. UERLINGS, on May 6,
10 1982, at 1:30 p.m. in the Conference Room of the Klamath County
11 Library. The applicant, Bly Ranger District, was represented
12 by its agent Richard Woodward, and the Klamath County Planning
13 Department was represented by its Staff. The following findings
14 of fact and decision are entered pursuant to said hearing.

15 FINDINGS OF FACT:

16 1. The applicant for this variance is the United
17 States Department of Agriculture, Fremont National Forest,
18 Bly Ranger District.

19 2. The District Ranger, Richard Woodward, on behalf
20 of the applicant, appeared at the Hearing.

21 3. Subject property has a legal description of Tax
22 Lot 1300, located in the SW $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 34, Township 36,
23 Range 14, Klamath County, Oregon.

24 4. The site is generally located West of Highway 140,
25 at the North end of Bly.

26 5. The Comprehensive Land Use Plan Classification is

FINDINGS OF FACT AND DECISION, Page One.

15
12 PM
20 MAY '82

1 is Transportation Commercial, the land use zone designation is
2 Commercial Highway.

3 6. Public utilities and facilities to the property
4 are water service by Bly Water District, sanitation by Bly
5 Sewage District, electrical by Pacific Power and Light, and
6 fire protection by the Bly Rural Fire District.

7 7. The original application as filed herein requested
8 a variance for a side yard set back from twenty five (25) feet
9 as required by Klamath County Ordinance to nine (9) feet to
10 accomodate an addition to the Bly Ranger District's Administra-
11 tive Office.

12 8. At the hearing, the applicant amended his applica-
13 tion to request a set back from twenty five (25) feet to fifteen
14 (15) feet and said amendment was accepted.

15 9. The existing land use of the property is a Ranger
16 District Headquarter's Office, residence and equipment shops.

17 9. Physical features of the land include an area
18 generally level near Highway 140 and then the property slopes
19 from the Highway upward toward toward the West.

20 10. The adjoining property on the North belongs to the
21 International Woodworkers of America, Chapter 312. The only
22 building on that property is a Union Hall which would be located
23 approximately 100 feet from the proposed addition. This property
24 line is fenced.

25 11. Adjacent to this fence is a 10 foot wide, poorly
26 developed and maintained, road with a 3 foot ditch along its North

1 side. Traffic is rarely on this road due to its poor condition.

2 12. The site for the proposed addition is the only
3 location where it could be placed without having to do extensive
4 excavation into a hill which would adversely affect a residence
5 adjacent thereto.

6 13. The proposal would extend the North end of the
7 present office twelve (12) feet towards the property line and
8 to thereafter construct a wing for ninety three (93) feet parallel
9 to this line. The distance from the building to the property
10 line as per the applicant's amendment to his petition would
11 be fifteen (15) feet.

12 14. The following Exhibits were offered and received
13 into evidence:

14 Staff Exhibits: "A", "B" and "C".
15 Applicant's Exhibit: #1.

16 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

17 1. Klamath County Code Section 43 sets forth the
18 general review criteria for consideration of a variance. These
19 criteria are as follows:

20 A. That a hardship peculiar to the property and
21 not created by any act of the owner exists. In this context,
22 personal, family or financial difficulties, loss of prospective
23 profits and neighboring violations are not hardships justifying
24 a variance. Further, a previous variance can never have set a
25 precedent, for each case must be considered only on its indivi-
26 dual merits.

1 B. That exceptional or extraordinary circumstances
2 apply to the property which do not apply generally to other
3 properties in the same zone or vicinity and result from size
4 or shape, legally existing prior to the effective date of this
5 Code, topography, or other circumstances over which the appli-
6 cant has no control.

7 C. That the granting of the variance will not
8 be materially detrimental to the public health, safety or
9 welfare or will not impair an adequate supply of light and air
10 to the adjacent property.

11 2. The Klamath County Code Section 43.001 sets forth
12 the general purpose of Article 43. It states that the purpose
13 of a variance is to permit justifiable departures from the
14 requirements of this Code where their literal application
15 would impose an undue or unnecessary hardship on the citizens
16 of Klamath County or the owners of property within the County,
17 except that no variance shall be granted for a parcel of property
18 which either authorizes a use or activity not permitted by the
19 land use zone regulations governing the parcel of property.

20 3. ORS 197.175 requires that this Land Use Action be
21 in conformity with State-Wide Planning Goals.

22 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS:

- 23 1. See Findings 1-14 under Findings of Fact.
24 2. A hardship peculiar to this property exists and
25 was not created by any act of the owner.
26 3. Exceptional or extraordinary circumstances exist

1 that apply to the property which do not apply generally to
2 other properties in the same vicinity or zone that result from
3 size and shape and particularly the topography of the subject
4 property.

5 4. The granting of this variance will not be materially
6 detrimental to the public health, safety, or welfare nor will
7 it impair adequate supply of light or air to the adjacent prop-
8 erty.

9 STATE-WIDE PLANNING GOALS AND CRITERIA:

10 See Exhibit: "AA", Pages 1-6.

11 CONCLUSION OF LAW AND DECISION:

12 A. This request for variance satisfies all
13 applicable Klamath County Development Code Criteria and policies
14 governing variances.

15 B. This request for variance is in conformity
16 with the Klamath County Comprehensive Land Use Plan.

17 C. This request for variance is consistent and
18 complies with the applicable State-Wide Planning Goals.

19 D. This request for variance is consistent and
20 complies with all requirements of State Law.

21 There is substantial evidence in the record to support
22 this request for variance and no evidence was submitted in
23 opposition thereto. Therefore, it is hereby ordered that this

24 * * * * *

25 * * * * *

26 * * * * *

FINDINGS OF FACT AND DECISION, Page Five.

1 variance be granted.

2 Nunc pro tunc May 6, 1982.

3 DATED this 19 day of May, 1982.

4
5
6 
7 Assistant Hearings Officer
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

COMPREHENSIVE PLAN POLICIES

6268

GOAL 1: CITIZEN INVOLVEMENT Relevant Policies:

Notice of the hearing on this matter has been sent to neighboring property owners, concerned public agencies and to the Herald and News. A hearing has been scheduled for May 6, 1982, before the Klamath County Hearings Officer.

GOAL 2: LAND USE PLANNING Relevant Policies:

The proposal is for an addition to the Bly Ranger District Office of the Fremont National Forest. The applicant reports that the only feasible building site is along the north property line due to the location of existing buildings and a hill. The nearest building to the proposed addition is the Woodworkers Union Hall, which is about 100 feet away and separated from the addition by a fence, dirt road and ditch. The land use in the general area is a mixture of residential, commercial, light agricultural and civic.

GOAL 3: AGRICULTURAL LANDS
Relevant Policies:

6269

The property is within the rural community of Bly and is developed and used for non-farm purposes. Goal 3 does not apply.

GOAL 4: FOREST LANDS
Relevant Policies:

The site is developed and used for non-forest purposes. Goal 4 does not apply to this variance.

GOAL 5: OPEN SPACE, SCENIC AND HISTORIC AREAS,
AND NATURAL RESOURCES
Relevant Policies:

6270

There are no inventoried scenic, historic, or natural resources that would be affected by the proposed setback reduction from 25 feet to 9 feet.

GOAL 6: AIR, WATER AND LAND RESOURCE QUALITY
Relevant Policies:

Reducing the setback would not have adverse effects on air, water, or land resource quality.

GOAL 7: NATURAL DISASTER AND HAZARDS AREA
Relevant Policies:

There are no known natural hazards in the area that would be affected by the smaller setback.

GOAL 8: RECREATION NEEDS
Relevant Policies:

6271

No effects on recreational needs are evident.

GOAL 9: COUNTY ECONOMY
Relevant Policies:

Reducing the setback would save on applicant's construction cost since the need for extensive excavation would be eliminated. No other economic impacts are evident.

GOAL 10: HOUSING
Relevant Policies:

Reducing the setback as proposed would not affect the need for or availability of housing in the Bly area.

GOAL 11: PUBLIC FACILITIES AND SERVICES
Relevant Policies:

6272

Electrical and telephone service are available. The property is served by the Bly community water and sewer systems and is within the Bly Fire Protection District.

GOAL 12: TRANSPORTATION
Relevant Policies:

The property fronts on State Highway 140. A letter from the Oregon Highway Division indicates no problem with the proposed variance.

GOAL 13: ENERGY CONSERVATION
Relevant Policies:

The proposed variance would conserve some energy during construction since building the addition elsewhere would require major site preparation work.

GOAL 14: URBANIZATION
Relevant Policies:

6273

The property is within the unincorporated rural community of
Bly. The surrounding uses are all urban in nature.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record

this 20 day of May A. D. 1982 at 12:15 o'clock P.M. and
duly recorded in Vol. M 82, of Deeds on Page 6262

NO Fee

By EVELYN BIEHN County Clerk
Joyce McQuinn