

BEFORE THE HEARINGS OFFICER  
FOR KLAMATH COUNTY, OREGON

In the Matter of the  
REQUEST FOR VARIANCE

for

JOSEPH GLASSCOCK

NO. 9-82

FINDINGS OF FACT  
AND DECISION

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on June 3, 1982, at 1:30 p.m. in the Conference Room of the Klamath County Library. Karen Glasscock appeared on behalf of the applicant; and the Klamath County Planning Department was represented by its staff. The following findings of fact and decision are entered pursuant to said hearing.

FINDINGS OF FACT:

1. The applicant is the owner of subject property, the legal description of which is the Southerly 132 feet of Lot 7, Block 1, Bryant Tracts No. 2, being Tax Lot 10,200. The general location of the site is the Northeast corner of Shasta Way and Derby Streets in Klamath Falls.

2. The physical feature is a generally level area. There is a house with trees and other landscaping.

3. Subject property's existing land use is residence, plan designation is general commercial, and zone designation is commercial general. Access to the property is from Shasta Way and Derby Streets.

4. Adjacent property's existing uses are residential,

1 i.e., houses and mobile homes. The plan designation is general  
2 commercial, and urban residential, and zone designation is  
3 CG, RM, and RS.

4 5. No written correspondence for or against was  
5 received or presented.

6 6. The following exhibits were offered and received  
7 into evidence:

8 Klamath County Exhibits: "A", "B" and "C".  
9 Applicant's Exhibit: #1

10 7. The applicant is requesting a side yard variance  
11 in order to build a new two-car garage replacing a present one-  
12 car garage. The present garage is about 5 feet from the East  
13 property line that faces Shasta Way. The proposed garage  
14 would face Derby Street and would lie 7 feet from the property  
15 line. The required setback is 10 feet in this area due to the  
16 commercial zone. However, the area is predominately used for  
17 residences and if it was zoned for residential use, would not  
18 require the 10 foot setback.

19 8. The adjoining lot buildings are considerably dis-  
20 tant from the property line so that the building of this structure  
21 7 feet from the property line would not result in a lack of  
22 light or air or view to the adjoining property buildings.

23 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

24 1. Klamath County Code Section 43 sets forth the  
25 general review criteria for consideration of a variance. These  
26 criteria are as follows:

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

8                   B. That exceptional or extraordinary circumstances  
9 apply to the property which do not apply generally to other  
10 properties in the same zone or vicinity and result from size or  
11 shape, legally existing prior to the effective date of this Code,  
12 topography, or other circumstances over which the applicant has  
13 no control.

14                   C. That the granting of the variance will not be  
15 materially detrimental to the public health, safety or welfare  
16 or will not impair an adequate supply of light and air to the  
17 adjacent property.

18                   2. The Klamath County Code Section 43.001 sets forth  
19 the general purpose of Article 43. It states that the purpose  
20 of a variance is to permit justifiable departures from the  
21 requirements of this Code where their literal application would  
22 impose an undue or unnecessary hardship on the citizens of  
23 Klamath County or the owners of property within the County, ex-  
24 cept that no variance shall be granted for a parcel of property  
25 which either authorizes a use or activity not permitted by the  
26 land use zone regulations governing the parcel of property.

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

KLAMATH COUNTY DEVELOPMENT CODE FINDINGS:

1. See Findings 1-8 under Findings of Fact above.

2. A hardship peculiar to this property exists and was not created by any act of the owner.

3. Exceptional or extraordinary circumstances exist that apply to the property which do not apply generally to other properties in the same vicinity or zone that result from the size and shape of the subject property.

4. The granting of this variance will not be materially detrimental to the public health, safety, or welfare nor will it impair an adequate supply of light or air to the adjacent property.

STATE-WIDE PLANNING GOALS AND CRITERIA:

See Exhibit "AA", Pages 1-6.

CONCLUSION OF LAW AND DECISION:

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

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

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

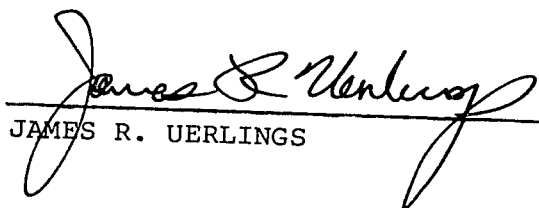
D. This request for variance is consistent and complies with all the requirements of State law.

There is substantial evidence in the record to support

1 this request for variance and no evidence was submitted in  
2 opposition thereto.

3 Therefore, it is hereby ordered that this variance  
4 be granted subject to the condition that the applicant follow  
5 the proposed plot plan as Applicant's Exhibit #1.

6 DATED this 8 day of June, 1982.

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11 JAMES R. UERLINGS  
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COMPREHENSIVE PLAN POLICIES

GOAL 1: CITIZEN INVOLVEMENT  
Relevant Policies:

7174

Notice of the hearing on this matter has been sent to neighboring property owners, concerned agencies, the South Suburban Area Committee, and to the Herald and News. A hearing has been scheduled for June 3, 1982, before the Klamath County Hearings Officer.

GOAL 2: LAND USE PLANNING  
Relevant Policies:

The property is on Shasta Way, two blocks east of the East Side Bypass. The Shasta Way frontage is zoned CG (General Commercial) with the rest of the area zoned residential. Most of the commercial lots are still in residential use. The proposed 7' setback on the east side of the property would place the new garage about two feet further from the line than the old one. The new garage would be at least 20 feet from the nearest building on adjoining property.

GOAL 3: AGRICULTURAL LANDS  
Relevant Policies:

The property is a developed urban homesite-goal does not apply.

7175

GOAL 4: FOREST LANDS  
Relevant Policies:

The property is a developed urban homesite-goal does not apply.

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

7176

There are no inventoried scenic, historic or natural resources in the area which would be affected by a reduced setback.

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

Air, water, or land resource quality would not be affected by reducing the building setback from 10 feet to 7 feet.

GOAL 7: NATURAL DISASTER AND HAZARDS AREA  
Relevant Policies:

The area is not known to be subject to natural hazards.



GOAL 8: RECREATION NEEDS  
Relevant Policies:

7177

Reducing the side yard would not affect recreational needs.

GOAL 9: COUNTY ECONOMY  
Relevant Policies:

Reducing the setback would not affect Klamath County's economy.

GOAL 10: HOUSING  
Relevant Policies:

Locating the new garage close to the line is partly necessitated by the location of the house on the property. Moving the garage three feet to the west would interfere with windows and the door on the north (back) side of the house.

GOAL 11: PUBLIC FACILITIES AND SERVICES  
Relevant Policies:

7178

Allowing the garage to be built closer to the property line would not affect the need for or availability of public facilities and services.

GOAL 12: TRANSPORTATION  
Relevant Policies:

The new garage will face Derby Street, resulting in safer street access. At the present time users of the garage must back out to Shasta Way which is the major collector street serving the east side of the Klamath Falls urban area.

GOAL 13: ENERGY CONSERVATION  
Relevant Policies:

Reducing the setback would not affect energy conservation.

GOAL 14: URBANIZATION  
Relevant Policies:

7179

The property is within the Klamath Falls urbanized area.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record

this 9 day of June A.D. 1982 at 11:36 o'clock A.M. and  
duly recorded in Vol. M 82, of Deeds on a 7169

No Fee

By Evelyn Biern

EVELYN BIERN, County Clerk

Commissioners Journal