

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a
REQUEST FOR VARIANCE

NO. 18-82

for

FINDINGS OF FACT, DECISION
AND ORDER

RALPH E. EDWARDS

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on September 2, 1982, at 1:30 p.m. in the Klamath County Commissioners' Hearing Room in the Klamath County Courthouse. The applicant, Ralph E. Edwards, appeared in person and the Klamath County Planning Department was represented by its staff. The following decisions and finding of fact are entered pursuant to said hearing:

FINDINGS OF FACT:

1. The applicant for this variance is Ralph E. Edwards who is the owner of the parcel of land, the legal description of which is Lot 40 of Villa St. Clair subdivision, Klamath County, State of Oregon.

2. The site is located at 4318 Bartlett Avenue, about 500 feet east of Summers Lane in Klamath County, Oregon.

3. The existing land use of the property is a house and mobile home. The plan designation is Urban Residential, and the zone designation is RS.

4. Access to the property is off Bartlett Avenue, a paved County street.

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1 5. The applicant is requesting that the setbacks be
2 reduced in order to allow for a carport to be built. The appli-
3 cant is requesting a reduction in the side yard setback from
4 ten (10) feet to two (2) feet and a reduction in the front yard
5 setback from twenty five (25) feet to six (6) feet.

6 6. The adjacent properties have the following existing
7 land use of Residential with individual houses and mobile homes,
8 and a mobile home park; a plan designation of Urban Residential;
9 and a zone designation of RS.

10 7. No written correspondence for or against or agency
11 input was received.

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

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

16 9. The structures on the applicant's property were
17 built prior to the applicant purchasing the property and were
18 constructed so that the applicant, in order to build a carport
19 on his property, must build according to the plot plan submitted
20 herein. Everything that is currently built on the property
21 now is on the property line. The other dwellings within the
22 same vicinity are not built on the property line and those
23 individuals would have the ability to build a carport without
24 obtaining a variance. The neighbor who resides on the side of
25 the proposed property nearest to the proposed carport has his
26 dwelling situated so that it is a considerable distance from

1 the area in which the carport would be constructed.

2 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

3 1. Klamath County Code Section 43 sets forth the
4 general review criteria for consideration of a variance. These
5 criteria are as follows:

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

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

19 C. That the granting of the variance will not
20 be materially detrimental to the public health, safety or
21 welfare or will not impair an adequate supply of light and air
22 to the adjacent property.

23 2. The Klamath County Code Section 43.001 sets forth
24 the general purpose of Article 43. It states that the purpose
25 of a variance is to permit justifiable departures from the
26 requirements of this Code where their literal application would

1 impose an undue or unnecessary hardship on the citizens
2 of Klamath County or the owners of property within the County,
3 except that no variance shall be granted for a parcel of property
4 which either authorizes a use or activity not permitted by the
5 land use zone regulations governing the parcel of property.

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

8 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS:

9 1. See Findings of Fact 1-9.

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

12 3. Exceptional and/or extraordinary circumstances
13 exist that apply to this property which do not apply generally
14 to the other properties in the same vicinity or zone that result
15 from size and shape and construction of the buildings thereon.

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

19 STATE-WIDE PLANNING GOALS AND CRITERIA:

20 See Exhibit "AA", Pages 1-6, attached hereto and
21 incorporated by this reference.

22 CONCLUSION OF LAW AND DECISION:

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

26 B. This request for variance is in conformity with the
FINDINGS OF FACT, DECISION AND ORDER - Page Four.

1 Klamath County Comprehensive Land Use Plan.

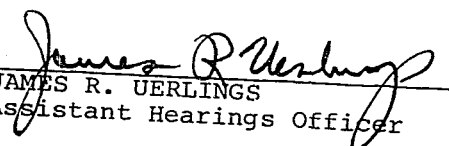
2 C. This request for variance is consistent and
3 complies with the applicable State-wide Planning Goals.

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

6 There is substantial evidence in the record to support
7 this request for variance and no evidence was submitted in
8 opposition thereto.

9 Therefore, it is hereby ordered that this variance be
10 granted.

11 DATED this 10 day of September, 1982.

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16 
17 JAMES R. UERLINGS
18 Assistant Hearings Officer

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20 STATE OF OREGON; COUNTY OF KLAMATH; ss.

21 Filed for record
22 this 14 day of Sept A.D. 19 82 at 10:42 o'clock AM, and
23 duly recorded in Vol. M 82, of Deeds on Page 12169

24 No Fee

25 Commissioners Journal

26
By  EVELYN BIEHN, County Clerk