

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of
REQUEST FOR A VARIANCE

NO. 24-82

for

FINDINGS OF FACT, DECISION
AND ORDER

CHRISTIAN AND MISSIONARY
ALLIANCE CHAPEL

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on December 2, 1982, at 1:30 p.m. in the Commissioners' Hearing Room at the Klamath County Courthouse. The applicant was represented by Mrs. Opal Patzke and Mr. Ambrose Ford. The Klamath County Planning Department was represented by its staff. No person appeared in opposition to the request for variance. The following exhibits were offered, received and made a part of the record:

Exhibits "A" through "D".

The Hearing was then closed.

The Assistant Hearings Officer, after reviewing the evidence, renders the following fact and decision:

FINDINGS OF FACT:

1. The applicant is the Christian and Missionary Alliance of Bly, Oregon.

2. The subject property is described as Lots 3 and 4, Block 4, Bly, Oregon. The property is generally located South of Highway 140 on the East side of Bly, Oregon. The

FINDINGS, DECISION AND ORDER, Page One.

1 parcel size is 100' x 100'.

2 3. The Comprehensive Land Use Plan designation is
3 rural community residential. The land use zone is RCR.

4 4. The public facilities and utilities are
5 water service by Bly Water Company, sanitation by sewer,
6 electrical by Pacific Power and Light, telephone by Pacific
7 Northwest Bell and fire protection by Bly Fire Department.

8 5. The applicant is requesting the variance in
9 order to reduce the side yard from 10' to 5' and the rear
10 yard from 20' to 19'. The variance is requested in order to
11 enlarge the parsonage of the applicant's church.

12 6. The adjacent or surrounding zoning is RCR and CH.

13 7. The Alliance intends to enlarge the parsonage
14 by moving a building from another piece of property and attach-
15 ing it to the rear of the house. The granting of the variance
16 would allow the new building to follow the line of the old
17 one. Due to the shape of the building which is to be
18 moved onto the property, the parsonage cannot be enlarged
19 without a variance being granted.

20 8. Proposed changes in the Klamath County Land
21 Development Code scheduled to take effect on December 21, 1982,
22 would allow the 5' setback on the side yard without the
23 granting of this variance.

24 9. The location and design of the present building
25 limits the area within which expansion can take place.

26 10. Construction plans will have to be substantially

1 altered to realign the two buildings and both buildings may
2 need to be removed from their foundations in order to comply
3 with the current law as set for setbacks. Therefore, an
4 undue hardship would be created. This is a variance request
5 that is the minimum variance which will alleviate the hard-
6 ship due to the positioning of the buildings due to the fact
7 that the variance requested is the minimum to allow the for
8 location of the new buildings. There are no adverse effects
9 on the neighborhood properties and no neighbors have objected.
10 The granting of this variance would not change the permitted
11 use of the property. A proposed addition to the property
12 is to allow for the addition of two bedrooms and a bath to
13 the existing house.

14 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

15 See Exhibit "AA" attached hereto and incorporated
16 by this reference.

17 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS:

- 18 1) See Findings of Fact, 1-10.
- 19 2) A hardship peculiar to this property exists
20 which was not wholly created by an act of the owner.
- 21 3) Exceptional and/or extraordinary circumstances
22 exist that apply to this property and do not apply generally
23 to other properties in the same zone that result from the size
24 and shape and construction of the buildings on the applicant's
25 lot. In particular, as the Findings of Fact indicate, there
26 is no other location upon the applicant's property where
- FINDINGS, DECISION AND ORDER, Page Three.

1 the addition could be placed without a variance. This appears
2 to be true of the applicant's property but not to other
3 property in the same vicinity or zone.

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

8 STATE-WIDE PLANNING GOALS AND CRITERIA:

9 See Exhibit "BB" attached hereto and incorporated
10 by this reference.

11 CONCLUSIONS OF LAW AND DECISION:

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

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

17 C. This request for variance is consistent and com-
18 plies with the applicable State-wide Planning Goals.

19 D. This request for variance is consistent and com-
20 plies 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.

24 Therefore, it is hereby ordered that this variance

25 * * * * *

26 * * * * *

1 be granted.

2 DATED this 10 day of December, 1982

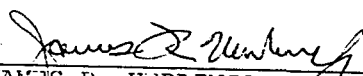
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6 JAMES R. UERLINGS
7 Assistant Hearings Officer
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EXHIBIT "AA"

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES AND STATE
LAND USE GOALS 1 - 14

17869

GOAL NO. 1 - Citizen Involvement

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

1. A hearing on this matter has been set for December 2, 1982. Notice has been sent to neighboring property owners, concerned public agencies and to the Herald and News.

State Goal Issues:

The hearing is open to comments by all affected parties.

GOAL NO. 2 - Land Use Planning

- ☒ Complies ☐ Does not comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

The application will be reviewed against the standards of the Land Development Code and the Klamath County Comprehensive Plan.

GOAL NO. 3 - Agricultural Lands

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

17870

Relevant Policies:

State Goal Issues:

GOAL NO. 4 - Forest Lands

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

GOAL NO. 5 - Open Space, Scenic and Historic Area, and Natural Resources

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

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Relevant Policies:

State Goal Issues:

GOAL NO. 6 - Air Water and Land Resource Quality

- ☒ Complies ☐ Does not Comply
☐ Complies with Conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

The property is connected to the Bly community water and sewer systems.
No new pollution source is expected.

GOAL NO. 7 - Natural Disaster and Hazards Area (

- ☐ Complies ☐ Does Not Comply
☐ Complies with conditions
☒ Not applicable

17872

Relevant Policies:

State Goal Issues:

No natural hazards are known for this area.

GOAL NO. 8 - Recreation Needs

- ☐ Complies ☐ Does Not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

Reducing the setback as proposed would not affect recreational needs.

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

No significant economic impact would result from the reduced yard.

GOAL NO. 10 - Housing

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

The variance would allow for enlarging the parsonage in an economical manner. The addition is an existing building being moved to this site from another property in Bly.

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

The site is served by water, sewer, telephone, and electrical lines.
The variance would not impose an additional burden on public facilities and services.

GOAL NO. 12 - Transportation

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

☐ Complies ☐ Does Not Comply

☐ Complies with conditions

☒ Not applicable

17875

Relevant Policies:

State Goal Issues:

GOAL NO. 14 - Urbanization

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record

this 15 day of Dec A. D. 1982 at 3:58 o'clock P. M. and

duly recorded in Vol. M82, of Deeds on Page 17863

No Fee

EV. LYN BIEHN, County Clerk

By Joyce M. Deane

COMMISSIONERS JOURNAL

EXHIBIT "BB", Page Seven and Last.