

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

1
2
3 In the Matter of a) No. 7-83
4 REQUEST FOR VARIANCE)
5 for)
6 BRUCE LOVELACE)

7
8 THIS MATTER came on for a hearing before the Klamath
9 County Assistant Hearings Officer, JAMES R. UERLINGS, on
10 April 21, 1983, at 1:30 p.m. in the Commissioners' Hearing
11 Room at the Klamath County Courthouse. The applicant was
12 represented by himself; however, the deedholder, WALLACE I. ORTH,
13 signed the application. Klamath County Planning Department
14 was represented by Jonathan Chudnoff. No person appeared in
15 opposition to the request for variance.

16 The following exhibits were offered, received and
17 made a part of the record: Exhibits "A" through "D".

18 The Hearing was then closed.

19 The Assistant Hearings Officer, after reviewing the
20 evidence, renders the following findings of fact and decision:

21 FINDINGS OF FACT:

22 1. The applicant, BRUCE LOVELACE, desires this request
23 for variance in order to place a mobile home upon the property,
24 thus reducing the rear yard setback from 25' to 9'. There is a
25 currently existing house on the property which is not habitable
26 due to electrical problems. The applicant has indicated that

1 this house was previously a garage and that he intends to
2 have the building remain on the property and use it as a garage
3 and/or shop.
4

5 2. The subject property is described as Lot 16,
6 Lost River Court, Merrill, Oregon, Tax Account Number 905-16.
7 The property has a plan designation of rural residential,
8 a zone designation of RR and the adjacent and surrounding
9 designation is RR with a use of a mixture of houses and mobile
10 homes. The lot dimensions are 65' x 104' consisting of 6,760
11 square feet. The lot shape is rectangular, and the topography
12 is level. The general drainage is towards the west to a drain
13 canal. The applicant has been hired as a new police officer
14 in the City of Merrill, Oregon, and must move within the
15 city limits of Merrill. The applicant has previously owned
16 this mobile home and had it installed in Klamath Falls. Now
17 he must move it within the city limits of Merrill. This is
18 one of the few locations within the city limits of Merrill
19 in which the applicant could place his mobile home.

20 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:
21 See Exhibit "AA" attached hereto and incorporated
22 by this reference.

23 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS:

- 24 1. See Findings of Fact 1 and 2.
25 2. A literal enforcement of this Code would result
26 in a practical difficulty or an unnecessary hardship to the
applicant. This difficulty arises from personal circumstances

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1 which would result in a greater private expense than public
2 benefit of strict enforcement. This personal circumstance
3 consists of the fact that the applicant, as a Merrill city
4 employee, must move within the City limits and currently has
5 a mobile home of his own which he must move with him. This
6 lot is one of the few locations on which the applicant can
7 place the mobile home and a variance is required in order
8 to place the mobile home there.

9
10 3. The condition causing the difficulty was not
11 created by the applicant.

12 4. The granting of this variance will not be
13 detrimental to the public health, safety, and welfare or
14 to the use and enjoyment of the adjacent properties and will
15 not be contrary to the intent of this Code.

16 STATE-WIDE PLANNING GOALS AND CRITERIA:

17 See Exhibit "BB" attached hereto and incorporated
18 by this reference.

19 CONCLUSIONS OF LAW AND DECISION:

20 A. This request for variance satisfies all applicable
21 Klamath County Development Code criteria and policies governing
22 such.

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

25 C. This request for variance is consistent with and
26 complies with the applicable State-wide Planning Goals and
all requirements of State law.

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

THEREFORE, it is hereby ordered that this variance be granted.

DATED this 26 day of April, 1983.

JAMES R. UERLINGS

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KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

SECTION 43.003 - REVIEW CRITERIA

A Variance shall be granted only upon finding by the review authority that it satisfies the following criteria:

A. That a literal enforcement of this Code would result in practical difficulty or unnecessary hardship. The difficulty or hardship may arise from the property's size, shape or topography, from the location of lawfully existing buildings and improvements, or from personal circumstances which would result in greater private expense than public benefit of strict enforcement.

B. That the condition causing the difficulty was not created by the applicant.

C. That the granting of the Variance will not be detrimental to the public health, safety, and welfare or to the use and enjoyment of adjacent properties and will not be contrary to the intent of this Code.

COMPREHENSIVE PLAN POLICIES AND STATE
LAND USE GOALS 1 - 14

6477

GOAL NO. 1 - Citizen Involvement

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

Relevant Policies:

1. "The County shall provide for continued citizen involvement opportunities..."

State Goal Issues:

A public hearing on this matter has been set for April 21, 1983. Notice has been sent to surrounding property owners, the City of Merrill and other public agencies and published in the Herald and News.

GOAL NO. 2 - Land Use Planning

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

Article 46
Major/Minor Partition
Section 46.003 Review Criteria

Relevant Policies:

	Complies	Does not Comply	N.A.
A -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
L -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

State Goal Issues:

The property is zoned and developed for residential use. There is a mixture of houses and mobile homes. The proposed mobile home is allowed outright by the RR zone.

GOAL NO. 3 - Agricultural Lands

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

Relevant Policies:

State Goal Issues:

The property is a small lot within the Merrill Urban Growth Boundary. It has city water and sewer and is on a street developed for residential use.

GOAL NO. 4 - Forest Lands

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

Relevant Policies:

State Goal Issues:

The property is a small lot within the Merrill Urban Growth Boundary. It has city water and sewer and is on a street developed for residential use.

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

6479

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

Relevant Policies:

State Goal Issues:

There are no inventoried scenic, historic or natural resources affected by this request for a reduced setback.

GOAL NO. 6 - Air Water and Land Resource Quality

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

Relevant Policies:

4. "Urban and rural residential use shall be designated only when approved sewage disposal alternatives have been identified."

State Goal Issues:

The property is on the Merrill City sewer system.

6480

GOAL NO. 7 - Natural Disaster and Hazards Area

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

Relevant Policies:

State Goal Issues:

There are no inventoried natural hazards affecting this area.

GOAL NO. 8 - Recreation Needs

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

Relevant Policies:

State Goal Issues:

The property is within the Merrill Park District. Recreational facilities are available at Merrill School and city park.

GOAL NO. 9 - County Economy

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

Relevant Policies:

State Goal Issues:

The reduced setback would not affect the county economy.

GOAL NO. 10 - Housing

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

Relevant Policies:

10. "The County shall encourage the siting...of individual mobile homes within the County."

State Goal Issues:

The variance would allow the applicant to place a moderate cost dwelling close to his work place.

GOAL NO. 11 - Public Facilities and Services

6482

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

The property has water, sewer, electrical and telephone service. It is within the Merrill Fire Protection District. The reduced setback would not affect the need for public services.

GOAL NO. 12 - Transportation

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

The property fronts on a paved street. The variance is at the back of the property and would not affect the road.

GOAL NO. 13 - Energy Conservation

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

Relevant Policies:

State Goal Issues:

The reduced setback would not affect energy conservation.

GOAL NO. 14 - Urbanization

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

Relevant Policies:

State Goal Issues:

The property is within the Merrill Urban Growth Boundary.

ATTEST: IN; COUNTY OF KLAMATH; ss.

Filed for record

This 28 day of April A.D. 1983 at 1:40 o'clock P. ., and
duly recorded in Vol. M83, of Deeds on Page 6472

no fee

By EVELYN BIEHN, County Clerk

COMMISSIONERS JOURNAL

EXHIBIT "BB", Page 7