

BEFORE THE HEARINGS OFFICERS  
FOR KLAMATH COUNTY, OREGON

In the Matter of a  
REQUEST FOR VARIANCE

for

JOHN AND SHARON TOFELL

NO. 11-83

FINDINGS OF FACT, DECISION  
AND ORDER

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on June 2, 1983, at 1:30 in the Klamath County Commissioners' Hearing Room.

The applicants appeared in person, and the Klamath County Planning Department was represented by Jonathan Chudnoff. No persons appeared in opposition to this 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 findings of fact and decision:

FINDINGS OF FACT:

1. The applicants, JOHN AND SHARON TOFELL, are the owners of the subject property located at 7017 Sierra Place, also known as Lot 21, Block 1, SUNSET EAST, Klamath County, Oregon.

2. The plan designation for the property is urban residential and the zone designation is RM. The adjacent and surrounding zoning is RM.

3) The property consists of 80' x 125', approximately

FINDINGS OF FACT, DECISION AND ORDER  
Page 1.

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1 10,000 square feet and rectangular in shape.

2 4) The property has similar residential buildings  
3 on both sides of the property; however, the property to the rear  
4 is undeveloped residential real property.

5 5) The applicants desire the variance in order to  
6 construct a carport 1' from the East property line rather than  
7 the 5' required by the Klamath County ordinance. Compliance  
8 with the setback would make access to the carport more difficult  
9 because of the narrow space between the house and the East  
10 property line which restricts the room available to turn.  
11 The applicant intends to use the carport for the storage of  
12 wood for their fireplace and/or wood stove. The carport would  
13 consist of six (6) posts and a roof without any sides on the  
14 structure. The roof would be constructed to match the roof  
15 as existing on the house currently.

16 6) The applicants desire to construct this carport in  
17 order that their wood may be stored out of the rain and snow,  
18 without the use plastic or other materials to cover the wood.  
19 The applicants indicate that the current use of plastic, in order  
20 to protect their wood from the weather, is not as aesthetically  
21 pleasing in the area as a carport would be. There is currently  
22 on the property a gravel driveway back to the area where the  
23 applicants intend to construct the carport. This was constructed  
24 in conjunction with the property owner on the East side in order  
25 to allow access to both pieces of property by use of the drive-  
26 way. The applicants have spoken with the owner of the residential

FINDINGS OF FACT, DECISION AND ORDER  
Page 2.

1 property on the immediate East side and this owner has indicated  
2 no opposition to the proposed variance.

3 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

4 See Exhibit "AA" attached hereto and incorporated by  
5 this reference.

6 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS:

7 1. See Findings of Fact 1-6 above.

8 2. A literal enforcement of this Code would result  
9 in a practical difficulty or an unnecessary hardship to the  
10 applicants. This difficulty arises from personal circumstances  
11 which would result in a greater private expense than public  
12 benefit of strict enforcement. The construction of the carport  
13 in place of the current material used by the applicants to cover  
14 their wood would create a public benefit in the area from a  
15 more pleasing aesthetic appearance to the area.

16 3. The condition causing the difficulty was not created  
17 by the applicants.

18 4. The granting of this variance will not be materially  
19 detrimental to the public health, safety or welfare nor to the  
20 use and enjoyment of adjacent properties. The granting of  
21 this variance will not be contrary to the intent of this Code.

22 STATE-WIDE PLANNING GOALS AND CRITERIA:

23 See Exhibit "BB" attached hereto and incorporated by  
24 this reference.

25 CONCLUSIONS OF LAW AND DECISION:

26 A. This request for variance satisfies all applicable  
FINDINGS OF FACT, DECISION AND ORDER  
Page 3.

1 Klamath County Development Code criteria and policies governing  
2 such.

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

5 C. This request for variance is consistent with and  
6 complies with all applicable State-wide Planning Goals and  
7 all requirements of State law.

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

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

13 DATED this 7 day of June, 1983.

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JAMES R. UERLINGS

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

8992

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 June 2, 1983. Notice has been sent to the neighboring property owners, concerned public agencies and the South Suburban Area Committee, and published in the Herald and News.

GOAL NO. 2 - Land Use Planning

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

Relevant Policies:

State Goal Issues:

The area is zoned and developed for residential use. The proposed carport is a permitted accessory use. The hearing will be used to determine compliance with the criteria of Section 43.003 of the Land Development Code.

Article 46  
Major/Minor Partition  
Section 46.003 Review Criteria

	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"/>

GOAL NO. 3 - Agricultural Lands

8993

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

The property is in an urbanized area with a typical lot size of 10,000 square feet. The property is not adjacent to farm land and is served by paved streets and all urban utilities.

GOAL NO. 4 - Forest Lands

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

There is not timber site productivity rating for the property, and it is in an urbanized area.

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

8994

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

Relevant Policies:

State Goal Issues:

The reduced setback would not affect any scenic, historic or natural resources.

GOAL NO. 6 - Air Water and Land Resource Quality

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

Relevant Policies:

State Goal Issues:

Reducing the side yard as requested would not add any air, water or land pollution sources.

GOAL NO. 7 - Natural Disaster and Hazards Area

8995

☐ Complies ☐ Does Not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

There are no inventoried natural hazards on or adjacent to the property affected by this variance.

GOAL NO. 8 - Recreation Needs

☐ Complies ☐ Does Not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

The reduced setback would not affect the need for or availability of recreational facilities in the area.

GOAL NO. 9 - County Economy

8996

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

Relevant Policies:

State Goal Issues:

Reducing the side yard by four feet would not affect employment or the Klamath County economy.

GOAL NO. 10 - Housing

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

Relevant Policies:

State Goal Issues:

The proposed carport would be an accessory to the existing house. The reduced setback would not affect the need for or availability of housing.

GOAL NO. 11 - Public Facilities and Services

☒ Complies ☐ Does not Comply

8997

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

The building will be located away from an 8' utility easement. No new utilities or services would be required as a result of this variance.

GOAL NO. 12 - Transportation

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

The proposed carport location would not affect any street or highway. A gravel driveway connects the carport to Sierra Place, a paved street.

GOAL NO. 13 - Energy Conservation

8998

☐ Complies ☐ Does Not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

The reduced setback would not affect energy use or conservation.

GOAL NO. 14 - Urbanization

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

The property is within the Klamath Falls urbanized area.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record .. -

this 9th day of June A.D. 19 83 at 11:30 o'clock A.M., and  
duly recorded in Vol. M83, of Deeds on Page 8987

By EVELYN BIEHN, County Clerk