

28875

BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

Vol. 1783 Page 18774

Klamath County Planning
Findings of Fact and Order

1
2 In the Matter of Request for)
3 Variance No. 17-83 for)
4 Kenny D. Walls, Applicant)
5

6
7 A hearing was held on this matter on September 15, 1983,
8 pursuant to notice given in conformity with Ordinance No. 45.1,
9 Klamath County, before the Klamath County Hearings Officer,
10 Jim Spindor. The applicant was present. The Klamath County
11 Planning Department was represented by Jonathan Chudnoff. The
12 Hearings Reporter was Karen Alberto.

13 Evidence was presented on behalf of the Department and on
14 behalf of the applicant. There were adjacent property owners
15 present.

16 The following exhibits were offered, received, and made a
17 part of the record:

18 Klamath County Exhibit A, Staff Report
19 Klamath County Exhibit B, Plot Plan
20 Klamath County Exhibit C, Assessor's Map
21 Klamath County Exhibit D, Building Diagram
22 Klamath County Exhibit E, Photo

23 The hearing was then closed, and based upon the evidence
24 submitted at the hearing, the Hearings Officer made the following
25 Conclusions of Law:

26 CONCLUSIONS OF LAW:

27 1. A literal enforcement of the Klamath County Land Develop-
28 ment Code would result in unnecessary hardship for the applicant
in that the residence already in existence on the lot in question

783 SEP 29 PM 1 47

1 is situated so that the proposed garage and shop building cannot
2 be constructed, as requested by the applicant, without the grant-
3 ing of this variance.

4 2. The condition causing the above mentioned hardship was
5 not created by the applicant.

6 3. The granting of this variance will not be detrimental to
7 the public health, safety and welfare, or to the use and enjoyment
8 of adjacent properties, and will not be contrary to the intent of
9 this Code, so long as the conditions set forth hereinbelow are
10 followed.

11 4. The granting of this variance is consistent with the goals
12 of the LCDC.

13 5. The granting of this variance is subject to the following
14 condition:

15 CONDITION:

16 That the applicant follow the plot plan as submitted in
17 Exhibit "B" herein, as well as the further plot plan submitted in
18 Exhibit "D" herein.

19 FINDINGS OF FACT:

20 The requested variance has been granted based on the follow-
21 ing findings of fact:

22 1. The applicant requests a variance from 25' to 4' to allow
23 for construction of a 28' x 32' garage and shop building. The zone
24 in question is suburban residential.

25 2. Due to the location of the existing house on the lot,
26 there is no room for a structure of the size proposed without a
27 setback variance. The new building would be to the north of the
28 nearest neighbor and would cast no shadows on that house. The 4'

1 rear setback is needed to preserve the 6' space between the house
2 and the garage required by Section 62.006A of the Land Development
3 Code.

4 3. There was testimony from opponents that they did not wish
5 the applicant to be allowed to do automotive work in his garage,
6 and further, that they felt such a garage would obstruct the view
7 of the surrounding neighbors. However, there was no evidence
8 presented that there would be any detrimental effect to the public
9 health, safety or welfare, or any detrimental effect to abutting
10 property owners.

11 The Hearings Officer, based on the foregoing Findings of
12 Fact, accordingly orders as follows:

13 That real property described as

14 "being generally located at 5862 Delaware, and more
15 particularly described as Tax Lot 2600, located in
16 the SW $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 1, Township 39, Range 9,
Klamath County, Oregon,"

17 is hereby granted a Variance in accordance with the terms of the
18 Klamath County Zoning Ordinance No. 45.1, and, henceforth, will be
19 allowed a reduction in rear setback to allow for construction of
20 a garage and shop building in the RS (Suburban Residential) zone.

21
22 Entered at Klamath Falls, this 28th Day of Sept., 1983.

23
24 KLAMATH COUNTY HEARINGS DIVISION

25
26 B. E. Spindler
27 Hearings Officer

28
Variance 17-83
Page 3

STATE OF OREGON: COUNTY OF KLAMATH: ss
I hereby certify that the within instrument was received and filed for
record on the 29th day of September A.D., 19 83 at 1:47 o'clock PM,
and duly recorded in Vol M 83, of Deeds on page 16774.

EVELYN BIEHN, COUNTY CLERK

Fee \$ None

by Ann Smith deputy