

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a
REQUEST FOR VARIANCE

) NO. 21-83
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FINDINGS OF FACT, DECISION
AND ORDER

for
BARRY A. RIGO

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on November 17, 1983, at 1:30 p.m. in the Klamath County Commissioners' Hearing Room. The hearing was held pursuant to notice given in conformity with the Klamath County Development Code and related ordinances. The applicant, BARRY A. RIGO, appeared in person. The following exhibits were offered, received into evidence and made a part of the record: Exhibits "A" through "D".

FINDINGS OF FACT:

1) The applicant is the owner of the subject property which is located in Section 36, Township 39, Range 8 East, Midland subdivision, Lots 28-33, Block 4, Tax Account Number 3908-3641-2800, generally located at the northwest corner of Third and Main Street, Midland, Oregon.

2) The parcel size is 145' x 160'.

3) The applicant is requesting the variance to reduce the side yard setback on the East side from 15 feet to 2 feet. The variance is needed to add a garage to the existing

FINDINGS OF FACT, DECISION AND ORDER
Page 1.

83 NOV 23 PM 2 40

1 house which is already setback only 2 feet from the property
2 line.

3 4) The plan designation is rural community residen-
4 tial, the zone designation is RCR and the adjacent and surround-
5 ing zoning is RCR.

6 5) The square footage of the property is 23,200
7 feet, the vegetation is lawn, garden and trees, and the topo-
8 graphy is level. Access to the property is off of Main and
9 Third Streets, both gravel public roads.

10 6) The new garage would accomodate two (2) cars
11 and would be attached to Mr. Rigo's house. While only 2'
12 from the property line, the garage would be over 20' from
13 the portion of Third Street actually used for traffic, and
14 would not obstruct traffic visibility or flow.

15 7) It appears that the actual right of way for
16 Third Street in front of the applicant's residence is 60'.
17 However, the actual travel portion of the road is considerably
18 less and all of the residences in the area, including the
19 applicant's, have extended their residential use to within
20 a 60' wide easement. In the case of the applicant, his actual
21 fence line adjacent to Third Street is within the 60' right
22 of way.

23 8) The granting of the variance for the construction
24 of the garage will allow for the removal of the applicant's
25 cars from being parked on the right of way and can be parked
26 upon the applicant's property. The applicant needs to construct

1 the garage 2' from the property line in order that: (1) it
2 matches the line of the existing residence; (2) so that the
3 applicant can make use of the current electrical box and service
4 line at the point that they enter the residence and (3) so that
5 the windows toward the rear of the residence, and in particular
6 the bedroom window, are not blocked from sunlight by the con-
7 struction of the garage.

8 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

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

11 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS:

12 1. See Findings of Fact 1-8 above.

13 2. A literal enforcement of this Code would result
14 in a practical difficulty or an unnecessary hardship to the
15 applicant. This difficulty arises from personal circumstances
16 of the applicant which would result in a greater private
17 expense than public benefit of strict enforcement of this Code.

18 3. The condition causing the difficulty was not
19 created by the applicant.

20 4. The granting of this variance will not be materially
21 detrimental to the public health, safety and welfare or to the
22 use and enjoyment of adjacent properties and will not be con-
23 trary to the intent of this Code.

24 STATE-WIDE PLANNING GOALS AND CRITERIA:

25 See Exhibit "BB" attached hereto and incorporated
26 by this reference.

1 CONCLUSIONS OF LAW AND DECISION:

2 A. This request for variance satisfies all applicable
3 Klamath County Development Code criteria and policies governing
4 such.

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

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

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

12 DATED this 22 day of November, 1983.

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16 James R. Uerlings
17 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

20205

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 November 17, 1983 before the Hearings Officer. Notice has been sent to surrounding property owners, the Midland Area Committee, and other concerned 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:

State Goal Issues:

The area is zoned and developed for residential use. The proposed garage would be accessory to an established dwelling and would not be closer to the east property line than the house. A determination of compliance with Section 43.003 (Variance Review Criteria) must be made by the Hearings Officer.

| | 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"/> |
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| K - | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| L - | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Page 1
GOAL NO. 3 - Agricultural Lands

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

20206

Relevant Policies:

State Goal Issues:

The area is zoned, subdivided and developed for residential use. There are no agricultural operations nearby which would be affected by the variance.

GOAL NO. 4 - Forest Lands

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

Relevant Policies:

State Goal Issues:

Area soils have no timber productivity rating. The area is zoned, subdivided and developed for residential use. There are no nearby timber operations which could be affected by this variance.

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

20207

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

Relevant Policies:

State Goal Issues:

There are no inventoried Goal 5 resources on or around the property affected by this variance.

GOAL NO. 6 - Air Water and Land Resource Quality

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

Relevant Policies:

State Goal Issues:

The reduced building setback would not cause added waste discharge or affect air, water or land resource quality.

GOAL NO. 7 - Natural Disaster and Hazards Ar

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

Relevant Policies:

State Goal Issues:

There are no inventoried natural hazards affecting the area.

GOAL NO. 8 - Recreation Needs

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

Relevant Policies:

State Goal Issues:

The reduced setback for the proposed garage would not affect the need for and availability of recreation in Midland.

GOAL NO. 9 - County Economy

20209

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

Relevant Policies:

State Goal Issues:

The reduced setback would not affect the Klamath County economy or employment.

GOAL NO. 10 - Housing

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

Relevant Policies:

State Goal Issues:

The proposed variance would allow for a garage as an accessory use to a house.

GOAL NO. 11 - Public Facilities and Services

20210

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

Relevant Policies:

State Goal Issues:

The reduced setback would not require additional public facilities or services.

GOAL NO. 12 - Transportation

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

Relevant Policies:

State Goal Issues:

The reduced setback would not affect traffic flow or visibility along Third Street. The proposed garage would be over 20 feet from the travelled portion of the street.

GOAL NO. 13 - Energy Conservation

20211

- ☐ 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 a rural community. The variance would not require an urban level of services or facilities.

Ret: Commissioners Journal

Exhibit "BB", Page 7.

STATE OF OREGON: COUNTY OF KLAMATH: ss
I hereby certify that the within instrument was received and filed for
record on the 23rd day of November A.D., 19 83 at 2:40 o'clock P.M.,
and duly recorded in Vol M83, of Deeds on page 20200.

FEE \$ None

EVELYN BIEHN, COUNTY CLERK
by Pam Smith deputy