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Vol. 1484 Page 4057

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a
REQUEST FOR VARIANCE

for
NED PUTNAM and JUANITA PUTNAM

CASE NO. 22-83

FINDINGS OF FACT, DECISION
AND ORDER

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on December 1, 1983, December 20, 1983, and March 1, 1984, 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 Planning Department was represented by Jonathan Chudnoff. The applicants were represented by NED PUTNAM and at the March 1, 1984, hearing, he was represented by Attorney Forrest Cooper.

The following exhibits were offered, received into evidence, and made a part of the record: Exhibits "A" through "Z".

The Assistant Hearings Officer, after reviewing the evidence, renders the following findings of fact and decision.
FINDINGS OF FACT:

1) The applicants have requested this variance in order to reduce the front yard setback from 75' to 1' in order to expand an existing industrial building. Previous expansions of the building have been allowed through the

FINDINGS OF FACT, DECISION AND ORDER
Page 1.

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1 hearings process.

2 2) The applicants lease the property to Sturdi-Craft,
3 Inc., the manufacturer of wood storage cabinets at the site
4 using principally raw materials from the Klamath Falls Weyerhaeuser
5 plant. The project started in 1970 as a hobby and now has grown
6 to a large business employing 60 employees. Currently, there
7 is one shift but there may be an additional shift added later.

8 3) The opponents of this application have testified
9 that, at the most recent past hearing regarding the extension
10 of the building, they failed to receive notice of the hearing.

11 4) The applicants' site is located in a generally
12 residential neighborhood on a three (3) lane street located
13 within approximately one (1) block of the entrance of Ferguson
14 Elementary School. The extension which the applicants intend
15 to construct, should they be given the variance, would
16 occupy approximately twenty thousand (20,000) square feet, a one-
17 fifth (1/5) increase in the size of their current building and
18 would have a total cost of the construction in the area of
19 \$200,000. The applicants intend to remove all materials and
20 old equipment which is currently stored in the front of this
21 property and some landscaping would be installed. The appli-
22 cants would intend to pave those open areas of the site which
23 are not landscaped after the construction of the addition.

24 5) The applicants intend to use the additional
25 space for storage in conjunction with the expansion of the
26 manufacturing facility elsewhere on the premises. The building
FINDINGS OF FACT, DECISION AND ORDER
Page 2.

1 would be constructed of concrete blocks on the South side
2 and on the East side a portion of the wall would be constructed
3 of concrete blocks and the balance with a fiberglass material
4 capable of allowing light to enter the building.

5 6) The property is located at 2742 Homedale Road,
6 the legal description beings Lots 1, 2, and a portion of Lot 3,
7 Bailey Tracts, Klamath County, Oregon.

8 7) The plan designation is industrial, the zone
9 designation is IH and the adjacent and surrounding zoning is RS.

10 8) The property is 705' x 308.5' consisting of 5
11 acres, rectangular in shape. The topography has a slight slope
12 down to the East and South. The general drainage consists of
13 surface runoff to the streetside drains.

14 9) Access to the property is provided off Homedale
15 Road, a paved three-lane road.

16 10) The unique physical characteristics of the surround-
17 ing lands consists of a developed suburban residential area.

18 11) Sewer is provided by South Suburban Sanitary District
19 to the property and water is provided by the City of Klamath
20 Falls. Utilities serving the property are Pacific Power and
21 Light, Pacific Northwest Bell, and Enterprise Irrigation Dis-
22 trict. The fire district serving the property is County
23 District No. 1.

24 12) The dimensions of the proposed building are 100' x
25 200' and will be what is termed a "butler building", a building
26 installed in varying units which are 20' to 25' feet wide.

1 The applicants indicated that the inside heighth of the building
 2 needed to be at least 20' high so that they could stack
 3 three (3) pallet loads of material in a vertical direction.
 4 The outside heighth of the building was not specifically known
 5 at this time. The applicants indicated that the outside eve
 6 height would be at least 20' high, at least a portion of it;
 7 however, other portions may exceed that height and evidence sub-
 8 mitted by the opponents indicated that an additional 2½' of
 9 wall must be above the roof (on the edge of the roof abutting
 10 the street) to prevent objects from falling to the street.
 11 The opponents indicated that this information came from Don
 12 Gourley of the Building Department. The applicants did in-
 13 dicate that the heighth of the roof would exceed the heighth
 14 of the current addition at its closest point to Homedale Road
 15 due to the slope factors involved.

16 13) The Klamath County Engineer, Earl Kessler, testified
 17 by letter that the construction of the building as planned
 18 would obstruct the view of the driveway located at the residence
 19 located immediately South of the subject property. He indi-
 20 cated that the view would be obstructed of the traffic coming
 21 down from a northerly direction and proceeding down Homedale
 22 Road. Additionally, he indicated that the heighth of the building
 23 would obscure the sun during at least the late afternoon hours
 24 during the winter months.

25 14) The present building is located 105' back from the
 26 property line. After the construction of the building, there

1 will be about 6' to 7' from the western edge of the sidewalk
2 along Homedale Road to the building itself.

3 15) The applicants indicated that the traffic which would
4 be generated by this addition would probably be an increase of
5 one (1) truck per day plus ten to twenty (10-20) new employees.

6 16) The opponents considered the addition as possibly
7 increasing the fire danger in the area, especially due to a
8 1973 fire which already occurred on the premises. However,
9 the testimony indicated that the applicants had since installed
10 a sprinkler system and had enlarged the water line feeding
11 the property and they were confident that the addition would
12 be the type that could be handled by the sprinkler system.

13 17) The building site proposed by the applicants is
14 a standard size building and any changes in the dimensions would
15 cause the cost of the building to go up considerably for
16 the applicants.

17 18) The applicants additionally own industrially zoned
18 property located approximately 2 miles from this site near
19 the Klamath Falls Municipal Airport. No evidence was submitted
20 as to the feasibility of the airport site for additional con-
21 struction.

22 19) The applicants purchased the property in three (3)
23 sales between 1947 and 1950 and used the site for NED PUTNAM'S
24 logging operation. At one time, it consisted of 44 log trucks
25 and numerous pickup trucks and cats which were taken in and out
26 of the property for a period of time from the early 1950's

1 through the early 1970's.

2 20) Francis Roberts, Assistant Director of the Public
3 Works Department of Klamath County, indicated through the
4 Planning Department that the County owned a right of way ex-
5 tending 5' on either side of the far side of the sidewalk
6 which runs parallel with Homedale Road. However, the applicants
7 would be able to minimally landscape that area so long as the
8 landscaping was maintained and did not obstruct the sidewalk.

9 21) The general consensus of those testifying in
10 opposition to this request for variance indicated that they had
11 lived in their respective homes for numerous years, some of
12 them up to 29 years, but then, in almost all instances, they
13 did not purchase their property before the time that the
14 applicants purchased their subject property. One of the prop-
15 erty owners objected to the building because he lived across
16 the street from it and the construction of such a high building
17 would obstruct his view of the sunset and of the mountains
18 in the area. The property owner to the South of the subject
19 property indicated that the construction of the building would
20 be an obstruction to the view that he currently has from the
21 driveway and also would obstruct any view that they currently
22 have from their house up the street to the North. Additionally,
23 they indicated that the height of the building and its proxi-
24 mity to their house would block light to their house and would
25 cause an increase in heating costs. Also, they testified that
26 there may be an adverse effect on the chimney to the house

1 when fires are burning due to a lack of complete air flow
2 over the top of the chimney because of the construction of
3 the building.

4 22) An additional concern was made regarding the
5 drainage from the property. Some of the property owners
6 felt that additional building construction would add to the
7 oil and sawdust draining on the water flowing around the
8 property.

9 23) Opponents submitted pictures intending to indicate
10 the possible height of the building at 20'. The neighboring
11 property owner to the South occasionally has sheep and cows
12 on the back of her property and feels that the current
13 industrial use and any addition to that use would have an
14 adverse effect upon the sheep and cows. The property owners
15 in the adjacent vicinity also indicated that the additional
16 construction would cause a fifteen to twenty percent (15-20%)
17 decrease in property values.

18 24) The applicants have continued to operate and
19 increase the volume of their business at the proposed site
20 and have, in the past, handled the increases in business volume
21 by additions to the storage facility portion of the building
22 located on the subject property.

23 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

24 1. Section 43.001 and Section 43.003 set forth the
25 purpose and review criteria for the granting of variances.
26 Those criteria are as follows:

1
2 A. The purpose of a variance is to permit justifi-
3 fiable departures from the requirements of this Code where
4 their literal application would impose an undue or unnecessary
5 hardship on the citizens of Klamath County or the owners of
6 property within the County, except that no variance shall be
7 granted for a parcel of property which either authorizes a use
8 or activity not permitted by the land use zone regulations
9 governing the parcel of property.

10 B. A variance shall be granted only upon finding
11 by the review authority that it satisfies the following cri-
12 teria:

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

20 (2) That the condition causing the difficulty
21 was not created by the applicant.

22 (3) That the granting of the variance will not
23 be detrimental to the public health, safety, and welfare or to
24 the use and enjoyment of adjacent properties and will not be
25 contrary to the intent of this Code.

26 2) ORS 197.175 requires all zoning and related ordinances
adopted by the County be in conformance with State-wide
FINDINGS OF FACT, DECISION AND ORDER
Page 8.

1 Planning Goals.

P. 4065

2 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

3 1. The literal enforcement of this Code would
4 result in a practical difficulty to the applicants in the
5 sense that they would not be able to expand their production
6 facility at the current site. This difficulty does arise
7 from the property's size and shape and from the location
8 of lawfully existing buildings and improvements on the
9 property.

10 2. However, the condition causing the difficulty
11 was created by the applicants. The applicants have increased
12 their production facility and volume of business at the
13 current site despite the fact that the existing buildings
14 were not sufficient to handle the increase in volume.
15 Although the property surrounding the applicants did have
16 some industrial or at least commercial use at the time
17 that the applicant purchased the property and was not clearly
18 established as residential in character at that time,
19 within a few short period subsequent to the applicants'
20 purchase of the property, numerous residences were built
21 in the area. The area has consistently developed as a
22 residential area and no new industrial sites have apparently
23 been constructed in the area.

24 3. The granting of this variance would be detrimental
25 to the public health, safety and welfare and detrimental
26 to the use and enjoyment of adjacent properties. The granting

FINDINGS OF FACT, DECISION AND ORDER
Page 9.

1 of the variance would be detrimental to public health, safety
2 and welfare due to the fact that the height of the building
3 would increase the ice and snow hazard existing on Homedale
4 Road as it would prevent rapid solar melting of the ice on
5 the street, especially during the late afternoon period in the
6 winter months. Additionally, the construction of the building to
7 within 1' of the property line would constitute an additional
8 traffic hazard to those persons exiting the driveway of the
9 Smith property located just South of the property. Although
10 there appears to be currently various trees and bushes in
11 that area, they do not totally block the view to the North on
12 Homedale Road as the construction of the building would.
13 Additionally, the granting of the variance would decrease
14 the use and enjoyment of the adjacent properties in the
15 following manners:

16 A. It would tend to decrease the property values;

17 B. It would decrease the available light to the
18 properties on the South side of the proposed site;

19 C. It would decrease the view of the properties
20 to the East of the proposed site and to the properties to the
21 South of the proposed site;

22 D. It would hinder the use of the driveway of
23 the properties lying to the South of the proposed site because
24 it would prevent a clear view of the traffic approaching from
25 the North on Homedale Road;

26 * * * * *

E. It may possibly interfere with the operation of the fireplace and burning stove located in the house just South of the proposed site because the additional height of the building may prevent a free flow of air to the chimney of said house;

F. It would tend to create a more industrial type of atmosphere to the neighborhood which has over the past 30 years been increasing in residential character and decreasing in industrial, commercial character; and

G. Lastly, it would also increase the traffic in the area from new employees traveling to the proposed site and also from shipping vehicles going to and out of the proposed facility.

STATE-WIDE PLANNING GOALS AND CRITERIA:

1. GOAL 1: Citizen Involvement - A public hearing on this matter was set for December 1, 1983, December 20, 1983, and then again on March 1, 1984, before the Klamath County Assistant Hearings Officer. Notice was sent to surrounding property owners, the South Suburban Area Committee and other concerned agencies and was published in the local newspaper, the Herald and News.

2. GOAL 2: Land Use Planning - The property is zoned and developed for industrial use while the surrounding neighborhood is zoned and developed residential. From the findings as set forth above, it has been found that the variance as requested would be detrimental to the use and enjoyment

1 of adjacent properties. It appears from the facts that the
2 size of the property prohibits the additional building of an
3 industrial type facility on the property at least to the extent
4 requested. There do not appear to be any adequate conditions
5 which can be put upon the granting of the variance which will
6 protect the adjacent properties without substantially limiting
7 the size of the addition which the applicants intend to construct.
8 It would be in conflict with the surrounding area consisting
9 of the property to the South owned by Mr. and Mrs. Smith which
10 would be completely walled off by a cinder block wall nearly
11 20' in heighth along most of their property line to the North.
12 The house on the Smith property is about 40' South of the
13 proposed building. Thus, the proposed building would block
14 some light available to the Smith property. In addition to
15 the aesthetic loss of an open view to the North from the front
16 yard of the Smith property, a traffic hazard would result as
17 the driveway would not be visible to Southbound traffic on
18 Homedale Road. While Homedale Road is a main collector street
19 for suburban area traffic, the land use along it is mostly
20 residential and has continued to increase in that use. There are
21 no commercial or industrial uses of the same scale as Sturdi-Craft
22 and the proposed structure would be larger by far and closer to
23 the street than any other building between Sixth Street and the
24 Southside Bypass, a distance of two and one-quarter ($2\frac{1}{4}$) miles.
25 3. GOALS 3 and 4: Argicultural Lands and Forest Lands,
26 * * * * *

1 respectively; and Goal 5: Open Space, Scenic and Historic
2 Areas, and Natural Resources - None of these Goals are applicable
3 to this project.

4 3. GOAL 6: Air, Water and Land Resource Quality -
5 The building addition and the newly paved parking lot could
6 add to the storm water runoff. Because the new building will
7 be located next to a residential lot which has a fireplace,
8 it may block the air flow to the residence creating a
9 problem with the fireplace ventilation. Although the planned
10 addition is to be used for storage, forklifts and other equip-
11 ment will be in and out of the building adding to the noise
12 levels, especially as experienced by the residential lot to
13 the South.

14 4. GOAL 7: Natural Disaster and Hazards Area and GOAL
15 8: Recreation Needs. Neither of these goals are applicable.
16 There are no known natural hazards in the area and the reduced
17 setback would not affect the need for or availability of
18 recreational facilities in the area.

19 5. GOAL 9: County Economy - Relevant policies include
20 that "the County shall encourage and support development of
21 secondary and tertiary timber industries" and "the County
22 shall encourage plans and methods that emphasize expansion of
23 and increased productivity from existing industries and firms
24 as a means to strengthen local and regional development."

25 The variance would allow for expansion of a local
26 industry. The firm currently employs 60 to 75 workers and

1 the expansion would allow for 10 to 20 more to be added.
2 Raw material for this plant comes from the Weyerhaeuser mill,
3 providing an outlet for a local timber product which is
4 distributed nationally.

5 6. GOAL 10: Housing - While the variance would not
6 affect the need for or availability of housing in the suburban
7 area, there could be adverse effects on the marketability
8 and value of the adjacent home to the South.

9 7. GOAL 11: Public Facilities and Services - Relevant
10 policies include that "developmental proposals shall not be
11 approved unless the types and levels of public facilities
12 and services required are available or planned in the area."

13 As to State Goal issues, the property has electrical,
14 telephone, water, sewer and gas service. It is within County
15 Fire District No. 1, with a station about 3/4 mile away
16 at 6th and Gettle Streets. There could be a conflict between
17 the building as designed and the powerline along Homedale
18 Road (See Exhibit I).

19 8. GOAL 12: Transportation - The property fronts
20 on a paved, three-lane country road. The reduced building set-
21 back could cause a hazard by blocking the view of the driveway
22 on the Smith property and by reducing the sunlight available
23 to melt ice and snow on Homedale Road (See Exhibit F).

24 9. GOAL 13: Energy Conservation - The variance would
25 conserve energy by concentrating manufacturing, warehousing
26 and shipping at one location.

FINDINGS OF FACT, DECISION AND ORDER
Page 14.

1 10) GOAL 14: Urbanization - Relevant policies include
2 that "when considering the development of urban land, the County
3 shall consider the following factors:

- 4 A) The availability of public facilities and services;
5 B) Availability of sufficient land for various
6 uses to insure choices in the market place;
7 C) The Klamath County Comprehensive Plan Goals; and
8 D) The encouragement of development within urban
9 areas before conversion of urbanizable areas."

10 As to State Goal issues, the property is within the
11 Klamath Falls urbanized area and is served by all needed
12 urban utilities and services.

13 CONCLUSIONS OF LAW AND DECISION:

14 1) This request for a variance on the subject property
15 does not meet the applicable Klamath County Development Code
16 criteria and policies governing such.

17 2) This request for a variance is not consistent with,
18 nor does it comply with, all applicable State-wide Planning
19 Goals. See Findings on Goals, 1) through 10) incorporated herein.

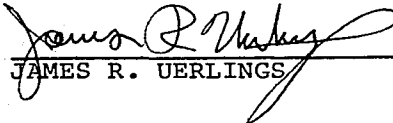
20 However, it is specifically ordered that, should the
21 applicants decide that a smaller size addition to their property
22 would be acceptable, they shall be allowed to move for recon-
23 sideration of this decision, based upon a smaller requested
24 setback.

25 * * * * *

26 * * * * *

1 THEREFORE, it is hereby ordered that this request
2 for a variance on the subject property described herein is
3 denied.

4 DATED this 8th day of March, 1984.

5
6
7 
8 JAMES R. UERLINGS

9
10
11 Return: Commissioners Journal
12
13
14

STATE OF OREGON: COUNTY OF KLAMATH:ss

I hereby certify that the within instrument was received and filed for
record on the 13th day of March A.D., 1984 at 3:05 o'clock P.M.,
and duly recorded in Vol M84, of Deeds on page 4057.

EVELYN BIEHN, COUNTY CLERK

Fee: \$ None

by: Pam Smith Deputy

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FINDINGS OF FACT, DECISION AND ORDER
Page 16.