

41170

BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

In the Matter of a) No. 8-84
REQUEST FOR VARIANCE) FINDINGS OF FACT, DECISION
AND ORDER
for)
DAVID LODER)

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on September 6, 1984, at 1:30 p.m. in the Klamath County Commissioners' Hearing Room. The applicant was represented by his father, Don Loder. The Klamath County Planning Department was represented by Jonathan Chudnoff. No persons appeared in opposition to the proposed variance.

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

The Hearing was then closed. The Assistant Hearings Officer, after reviewing the evidence, makes the following decision.

FINDINGS OF FACT:

1. The subject property is owned by David Loder.
2. The property is generally located at 2811 Kane Street, Klamath Falls, Oregon, and is described as the Northerly 65 feet of Lot 12, Bailey Tracts, Klamath County, Oregon.
3. The plan designation is Urban, the zone designation

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1 is RS and adjacent and surrounding zoning is RS to the
2 North, West and South (consisting of single-family homes) and
3 IH to the East (consisting of Strudi-Craft factory).

4 3. The property's dimensions are 65' x 305.02'
5 consisting of .46 acre. The shape is rectangular.
6 Vegetation consists of lawn and trees and the topography
7 is level. General drainage is surface runoff in a southerly
8 direction.

9 4. Access to the property is off Kane Street, a
10 paved street in Klamath County.

11 5. Sewer is provided by South Suburban Sanitary
12 District, and water by the City of Klamath Falls. Utility
13 districts serving the property are Pacific Power and Light,
14 Pacific Northwest Bell, Enterprise Irrigation District and
15 McCaw Cablevision. Fire service is provided by County Fire
16 District #1.

17 6. The applicant desires this variance in order to
18 allow for better placement of a garage/shop on a narrow residen-
19 tial lot. The applicant has requested that the building have
20 a rear yard setback of 1' rather than 5' from the North
21 property line which would allow for a better driveway into
22 the building while conserving more of the yard and use of the
23 lawn space. The proposed building would be 37' from the
24 applicant's home and 56' from the nearest neighbor's home
25 on the property to the North. No adverse effects on neighboring
26 properties were evident.

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1 7. The applicant does not desire to use the
2 property for commercial use and felt that a 2' setback
3 would be the minimum amount necessary in order to comply
4 with the construction project. The current old garage and shop
5 on the premises would be torn down to accomodate the driveway
6 to the proposed new garage/shop.

7 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

8 1. Section 43.001 and Section 43.003 set forth
9 the purpose and review criteria for the granting of variances.
10 Those criteria are as follows:

11 A. The purpose of a variance is to permit justifi-
12 fiable departures from the requirements of this Code where
13 their literal application would impose an undue or unnecessary
14 hardship on the citizens of Klamath County or the owners of
15 the property within the County, except that no variance shall be
16 granted for a parcel of property which either authorizes a use
17 or activity not permitted by the land use zone regulations
18 governing the parcel of property.

19 B. A variance shall be granted only upon
20 finding by the review authority that it satisfies the following
21 criteria:

22 1) That a literal enforcement of this
23 Code would result in a practical difficulty or unnecessary
24 hardship. The difficulty or hardship may arise from the
25 property's size, shape or topography, from the location of
26 lawfully existing buildings and improvements, or from personal

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1 circumstances which would result in greater private expense
2 than public benefit of strict enforcement.

3 2) That the condition causing the difficulty
4 was not created by the applicant.

5 3) That the granting of this variance
6 will not be detrimental to the public health, safety and
7 welfare or to the use and enjoyment of adjacent properties
8 and will not be contrary to the intent of this Code.

9 2. ORS 197.175 requires all zoning and related
10 ordinances adopted by the County be in conformance with
11 State-wide Planning Goals.

12 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

13 1. The literal enforcement of this Code would
14 result in a practical difficulty or unnecessary hardship
15 to the applicants. The difficulty or hardship arises from
16 the property's topography and shape and from the location of
17 lawfully existing buildings and improvements which result
18 in a greater private expense than public benefit of strict
19 enforcement.

20 2. The condition causing the difficulty was not
21 created by the applicant.

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

26 * * * *

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1 STATE-WIDE PLANNING GOALS AND CRITERIA:

2 See Exhibit "AA" attached hereto and incorporated by
3 this reference.

4 CONCLUSIONS OF LAW AND DECISION:

5 1. This request for a variance on the subject
6 property meets the applicable Klamath County Development
7 Code criteria and policies governing such.

8 2. This request for a variance is consistent with,
9 and complies with, all applicable State-wide Planning Goals
10 and review criteria.

11 3. The following conditions are deemed applicable
12 to protect the public health, safety and welfare of the
13 citizens of Klamath County:

14 A. That the building be constructed no larger
15 than shown on the applicant's plans, i.e. Exhibits "B-1"
16 and "B-2", i.e. 30' x 48' and a height of 17'6";

17 B. That the building be no closer to the nearest
18 neighbor's house than as shown on Exhibit "B-1", with the
19 exception that the setback shall be a minimum of 2', rather
20 than the 1' requested by the applicant;

21 C. That a continuous gutter shall be installed
22 along the North eave of the building designed to keep water
23 off the adjoining lot;

24 D. No commercial use of the property shall occur;

25 E. The old garage/shop on the property shall be
26 removed upon the commencement of the construction of the

FINDINGS OF FACT, DECISION AND ORDER

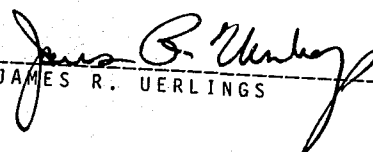
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1 new facility.

2
3 THEREFORE, it is hereby ordered that this request
4 for a variance is granted, subject to the above conditions.

5 DATED this 12 day of September, 1984.

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9 JAMES R. UERLINGS

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JAMES R. UERLINGS
ATTORNEY AT LAW
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COMPREHENSIVE PLAN POLICIES AND STATE
LAND USE GOALS 1 - 14

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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 September 6, 1984. Notice has been mailed to 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 variance request is being reviewed against the criteria of Section 43.003 of the Land Development Code.

Subject to the recommended conditions above, the proposed variance appears to comply with these criteria.

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. 5 - Open Space, Scenic and Historic Areas, and Natural Resources

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

Relevant Policies:

State Goal Issues:

There are no inventoried Goal 5 resources on or adjacent to this property.

GOAL NO. 6 - Air Water and Land Resource Quality

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

Relevant Policies:

State Goal Issues:

No adverse effects on air, water or land resource quality are apparent as a result of this variance.

GOAL NO. 3 - Agricultural Lands

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

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Relevant Policies:

State Goal Issues:

The property is within the Klamath Falls urbanized area. No agricultural land would be affected.

GOAL NO. 4 - Forest Lands

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

Relevant Policies:

State Goal Issues:

The property is within the Klamath Falls urbanized area. No forest land would be affected.

GOAL NO. 7 - Natural Disaster and Hazards Area

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

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Relevant Policies:

State Goal Issues:

No natural hazards are known to affect the area.

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.

GOAL NO. 9 - County Economy

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

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Relevant Policies:

State Goal Issues:

The reduced setback would not affect local 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 not affect the need for or availability of housing in the area.

GOAL NO. 11 - Public Facilities and Services

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

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Relevant Policies:

12. "Development proposals shall not be approved unless the types and levels of public facilities and services required are available or are to be provided concurrently with defined levels of development within urban and rural areas."

State Goal Issues:

The reduced setback would not alter the need for public facilities or services.

The property has water, sewer, gas, telephone and electrical service and is within County Fire District No. 1.

GOAL NO. 12 - Transportation

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

The reduced setback would not affect access or traffic safety.

GOAL NO. 13 - Energy Conservation

☐ Complies ☐ Does Not Comply

☐ Complies with conditions

☒ Not applicable

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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. The proposed use is consistent with urban development.

Return: Commissioners Journal

STATE OF OREGON: COUNTY OF KLAMATH:ss
I hereby certify that the within instrument was received and filed for
record on the 13 day of September A.D., 19 84 at 1:52 o'clock P M,
and duly recorded in Vol M84 of Deeds on page 15821.

EVELYN BIEHN, COUNTY CLERK

by: Sam Smith, Deputy

Fee: \$ None