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BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Request )  
for Variance No. 10-84 for )  
William T. McGaughey, )  
Applicant. )

Klamath County Planning  
Findings of Fact and Order

A hearing was held on this matter on October 18, 1984, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Jim Spindor. The applicant was present and was represented by William S. Thornton. The Klamath County Planning Department was represented by Jonathan Chudnoff. The Hearings Reporter was Judy Whitaker.

Evidence was presented on behalf of the Department and on behalf of the applicant. There was testimony by an adjacent property owner.

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

- Klamath County Exhibit A, Staff Report
- Klamath County Exhibit B, Assessor's Sheet
- Klamath County Exhibit C, Plot Plan
- Klamath County Exhibit D, Engineer's Plan, Country Green
- Klamath County Exhibit E, Memo from Henley Land Company
- Director's Meeting
- Klamath County Exhibit F, Letter from Country Green Assoc.
- Klamath County Exhibit G, Letter from Pacific Northwest
- Bell

1       The hearing was then closed, and based upon the evidence  
2 submitted at the hearing, the Hearings Officer made the follow-  
3 ing Conclusions of Law:

4       CONCLUSIONS OF LAW:

5           1. A literal enforcement of the Klamath County Land  
6 Development Code would result in an unnecessary hardship for the  
7 applicant in that the garage in question has already been  
8 constructed and is presently in place and being used.

9           2. The condition causing the above-mentioned hardship  
10 was not created by the applicant.

11           3. The granting of this variance would not be detrimental  
12 to the public health, safety and welfare, nor to the use and  
13 enjoyment of adjacent properties and will not be contrary to  
14 the intent of this code.

15           4. The granting of this variance is consistent with the  
16 goals of the L.C.D.C.

17       FINDINGS OF FACT:

18           This variance has been granted based on the following  
19 findings of fact:

20           1. The applicant is seeking a variance to approve a  
21 garage constructed two feet instead of five feet from the north  
22 property line. The garage was built where it is based on a  
23 mistaken assumption by the builder that the wall along Keller  
24 Road was on the inside of the eight-foot fence easement shown  
25 on the engineer's plan for Country Green (see Exhibit D). After  
26 two neighbors called to complain that the garage was too close  
27 to the property line, the Planning Department made some measure-  
28 ments and located some of the property markers. The

1 investigation by the Planning Department showed that the wall  
2 was on the outside of the easement and that the garage was two  
3 feet from the property line. By this time, the garage was  
4 complete. When the owner and builder were notified of this  
5 error, the variance was applied for. The eight-foot easement  
6 along the north side of this property is not designated for any  
7 specific purpose on the official plat of Country Green. The  
8 underground utilities are all installed elsewhere.

9 2. The property in question is in the Country Green  
10 subdivision and is part of Turner Court in this subdivision.

11 3. Neither the owner nor the builder had any idea that  
12 the garage was not being constructed in accordance with the  
13 required setbacks. The builder, in fact, checked with the  
14 Klamath County Planning Department prior to construction to  
15 make sure he was complying with all of the requirements.  
16 Therefore, the construction of this garage in its present  
17 location was by mistake and not as an attempt to avoid the  
18 setback requirement.

19 4. The garage is two feet from the property line, which  
20 is also the south right-of-way line of Keller Road. The garage  
21 does not impede traffic or reduce visibility on Keller Road  
22 and Turner Court.

23 5. There was objection to the granting of this variance  
24 by other residents of the Country Green subdivision; these  
25 were objections that the law had not been followed. No  
26 evidence was presented showing that there would be any detrimen-  
27 tal effect to the public health, safety or welfare, or any  
28 detrimental effect to abutting property owners.

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

3 The real property described as

4 "Being generally located at 7136 Turner Court,  
5 and more particularly described as being located  
6 in Lot 30, Block 1, Country Green,"

7 is hereby granted a variance in accordance with the terms of  
8 the Klamath County Zoning Ordinance No. 45.2 to allow a reduced  
9 setback from five feet to two feet on the north side of the  
10 property for an existing garage.

11 Entered at Klamath Falls, Oregon, this 2nd day of  
12 November, 1984.

13 KLAMATH COUNTY HEARINGS DIVISION

14 Jim Spindor  
15 Jim Spindor, Hearings Officer

16  
17 Return: Commisioners Journal

18  
19 STATE OF OREGON, )  
20 County of Klamath )  
21 Filed for record at request of

22 on this 6th day of November, A.D. 19 84  
23 at 3:07 o'clock P M, and duly  
24 recorded in Vol. M84 of Deeds  
25 Page 18876

26 EVELYN BIEHN, County Clerk

27 By [Signature] Deputy

28 Fee None