

47959

BEFORE THE HEARINGS OFFICER  
FOR KLAMATH COUNTY, OREGON

In the Matter of a	)	No. 5-85
REQUEST FOR VARIANCE	)	
for	)	FINDINGS OF FACT, CONCLUSIONS
	)	OF LAW AND DECISION
MAX NEFF	)	

THIS MATTER came before the Assistant Hearings Officer, JAMES R. UERLINGS, on the 4th day of April, 1985, 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, MAX NEFF, was represented by realtor, Bill Noonan. The owners of the subject property are Michael and Terry Beeson.

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

The Assistant Hearings Officer, after reviewing the evidence presented, makes the following findings of fact, conclusions of law and decision.

FINDINGS OF FACT:

1. The subject property is located on Madison Street, between 3008 and 3036 Madison Street. The legal description of the property is the East 120 feet of the southerly 50 feet of Lot 18, Independence Tracts, Klamath County, Oregon.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
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1                   2. The plan designation of the property  
2 is Urban, the zone designation is RL and the adjacent and/or  
3 surrounding zoning is RS.

4                   3. The property's physical characteristics are as  
5 follows: dimensions, 50' x 120', consisting of 6,000 square  
6 feet; the shape is rectangular; the vegetation consists of  
7 lawn and shrubs; the topography is level and the general drain-  
8 age consists of surface runoff.

9                   4. Access to the property is off of Madison Street.

10                  5. Public facilities and services serving the  
11 property consist of the Klamath County School District, South  
12 Suburban Sanitary District provides sewer and water is provided  
13 by the City of Klamath Falls.

14                  6. Utility districts serving the property include  
15 Pacific Power and Light, Pacific Northwest Bell, McCaw  
16 Cablevision and Enterprise Irrigation District. The fire  
17 district serving the property is County District No. 1.

18                  7. This request for a variance is to allow a  
19 single-wide 14' x 70' mobile home in the Klamath Falls  
20 Urban area. The applicant owns the mobile home which is  
21 currently located in a mobile home park in Merrill, Oregon.  
22 The applicant is buying a 50' x 100' lot on Madison Street  
23 and proposes to relocate the mobile home to that property.  
24 The mobile home was formerly occupied by one of the applicant's  
25 sons.

26                  8. The grounds being set forth for the variance

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

are as follows:

A. The applicant already owns the home and wishes to relocate it from a rented space to his property;

B. The long, narrow lot is more suited to a smaller home;

C. The mobile home has been occupied by a single person and a larger home is not required; and,

D. The nearby mobile homes in Independence Tracts include both single and double-wide.

KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

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

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

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

(1) That a literal enforcement of this Code would result in practical difficulty or unnecessary hardship.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 The difficulty or hardship may arise from the property's size,  
2 shape or topography, from the location of lawfully existing  
3 buildings and improvements, or from personal circumstances  
4 which would result in greater private expense than public  
5 benefit of strict enforcement;

6 (2) That the condition causing the  
7 difficulty was not created by the applicant.

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

12 2. ORS 197.175 requires all zoning and related  
13 ordinances adopted by the County be in conformance with  
14 State-wide Planning Goals.

15 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

16 1. The literal enforcement of this Code would  
17 result in a practical difficulty or unnecessary hardship to  
18 the applicant. The difficulty or hardship arises from the  
19 property's topography and shape and from the location of law-  
20 fully existing buildings and improvements which result in a  
21 greater private expense than public benefit of strict  
22 enforcement.

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

1 STATE-WIDE PLANNING GOALS AND CRITERIA:

5703

2 Compliance with the State-wide Planning Goals and  
3 review criteria was met by Klamath County on the subject prop-  
4 erty at the time of the acknowledgement of Klamath County's  
5 Comprehensive Plan.

6 CONCLUSIONS OF LAW AND DECISION:

7 1. This request for a variance on the subject  
8 property meets all applicable Klamath County Development Code  
9 Criteria and policies governing such.

10 2. This request for a variance is consistant with,  
11 and complies with, all applicable State-wide Planning Goals  
12 and review criteria.

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

16 A. That the applicant follow the plot plan  
17 as filed herein as Exhibit "B".

18 NOW AND THEREFORE, IT IS HEREBY ORDERED that this  
19 request for variance is granted, subject to the above condition.  
20 DATED this 15 day of April, 1984.

21  
22  
23  
24  
25  
26  
James R. Uerlings  
JAMES R. UERLINGS

Return: Commissioner's Journal

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
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STATE OF OREGON: COUNTY OF KLAMATH:ss  
I hereby certify that the within instrument was received and filed for  
record on the 19th day of April A.D., 19 85 at 11:43 o'clock A M,  
and duly recorded in Vol M85, of Deeds on page 5699.

Fee: \$ None

EVELYN BIEHN, COUNTY CLERK  
by: L. Ann Smith, Deputy