

1 In the Matter of Request for)
Variance No. 10-85 for) Klamath County Planning
2 Norbert F. Werts) Findings of Fact and Order
3)

4 A hearing was held on this matter on May 16, 1985, pursuant
5 to notice given in conformity with Ordinance No. 45.2, Klamath
6 County, before the Klamath County Hearings Officer, Bradford J.
7 Aspell. The applicant was present. The Klamath County Planning
8 Department was represented by Jonathan Chudnoff. The Hearings
9 Reporter was Judy Whitaker.

10 Evidence was presented on behalf of the Department and on
11 behalf of the applicant. There were no adjacent property owners
12 present.

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

15 Klamath County Exhibit A, Staff Report

16 Klamath County Exhibit B, Plot Plan

17 Klamath County Exhibit C, Assessor's Map

18 Klamath County Exhibit D, Photographs

19 Klamath County Exhibit E, Letter from Betty Ahern

20 Klamath County Exhibit F, Note from Earl W. Engart

21 The hearing was then closed, and based upon the evidence
22 submitted at the hearing, the Hearings Officer made the following
23 Conclusions of Law:

24 CONCLUSIONS OF LAW:

25 1. A literal enforcement of the Klamath County Land Develop-
26 ment Code would result in unnecessary hardship for the applicant,
27 and with the location of applicant's residence and garage, a pole
28 building could not be built upon the subject property without the

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1 variance, and access to the garage would be blocked if the pole
2 building was constructed within the setback.

3 2. The variance requested is the minimum needed by the
4 applicant.

5 3. That the condition causing the above-mentioned hardship
6 was not created by the applicant.

7 4. That the granting of this variance would not be detri-
8 mental to the public health, safety and welfare, or to the use and
9 enjoyment of adjacent properties, and will not be contrary to the
10 intent of the Code.

11 5. That the granting of this variance is consistent with
12 the goals of the Land Conservation and Development Commission.

13 FINDINGS OF FACT:

14 The requested variance has been granted based upon the
15 following findings of fact:

16 1. This request is to reduce the required rear yard setback
17 from 5 feet to 3 feet in order to permit applicant to construct a
18 19 foot by 40 foot pole building. The property in question is
19 designated by the comprehensive land use plan as Rural and is
20 zoned residential, 1 acre minimum (R-1).

21 2. The property is a corner lot abutting Karen Drive and
22 Maple Drive near LaPine, Oregon. The property in question consists
23 of approximately 1.02 acres and is presently developed with a
24 house, pump house, garage, and tool shed.

25 3. The applicant proposes a pole building to store firewood,
26 his garden tractor and an 18 foot travel trailer. The required
27 setback for new construction is 5 feet. There is no other place
28 on the applicant's property where construction of a new pole shed

1 can be placed without substantial adverse impact on the applicant's
2 use of the subject property or without the requirement of a variance.
3 The dimensions of the pole shed are not unreasonable.

4 4. That the variance is requested along the back yard of the
5 subject property.

6 5. While the owner of the adjacent property did not appear
7 either in person or in writing in regard to this application, one
8 Betty Ahern, a neighbor, did, recommending that a minimum of 5
9 feet be maintained from the rear property line of all buildings,
10 in that building within 3 feet of a property line does not allow
11 enough room for maintenance or removal of snow from roofs.

12 6. Notwithstanding this fact, Hearings Officer finds that
13 in this particular instance and circumstance, a construction of
14 the pole building where indicated and as designed will not cause
15 difficulty in yard maintenance nor in snow removal, and accordingly
16 finds that proposed construction will have no adverse affect upon
17 the use and enjoyment of other property or that there will be
18 any detrimental effect to the public, health, safety, or welfare
19 of the community in general.

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

22 That real property described as:

23 "being generally located at the southwest corner
24 of Karen and Mabel Drives in River Pine Estates, and
25 more particularly described as Lot 2, Block 11, First
Addition to River Pine Estates,"

26 is hereby granted a Variance in accordance with the terms of the
27 Klamath County Zoning Ordinance No. 45.2, and, henceforth, will
28 be allowed a reduction of his rear yard setback from 5 feet to
Variance 10-85
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1 3 feet in the Rural-1 zone.

2 Entered at Klamath Falls, Oregon, this 5 Day of June,
3 1985.

4 KLAMATH COUNTY HEARINGS DIVISION

5
6 Bradford J. Aspell
7 Bradford J. Aspell, Hearings Officer

8 RETURN: Commissioners Journal
9

10
11 STATE OF OREGON,)
12 County of Klamath)
13 Filed for record at request of

14 on this 6th day of June A.D. 19 85
15 at 9:15 o'clock A M, and duly
16 recorded in Vol. M85 of Deeds
17 Page 8377

18 **EVELYN BIEHN, County Clerk**

19 By Sam Smith Deputy

20 Fee NONE
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