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BEFORE THE HEARINGS OFFICER

Vol. 1286 Page 1573

KLAMATH COUNTY, OREGON

In the Matter of Request for)

Variance 22-85 for Surroz)

Volkswagen, Inc.)

Klamath County Planning

Findings of Fact and Order

A hearing was held on this matter on November 21, 1985, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Brad Aspell. The applicant was represented by Frank V. Surroz. The Klamath County Planning Department was represented by Carl Shuck and Kim Lundahl. The Hearings Reporter was Janet Libercajt.

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

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 Map

Klamath County Exhibit C, Plot Plan

Klamath County Exhibit D, Letter from the Highway Division

The Hearing was then closed, and based upon the evidence submitted at the hearing, the Hearings Officer made the following Findings of Fact:

FINDINGS OF FACT:

1. The applicant, Surroz Volkswagen, Inc., is a contract purchaser of the described real property. It appeared at hearing by and through Frank V. Surroz, it's President. The subject

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1 property is located in Section 10, Township 39 South, Range 9
2 East West Meridian, specifically known as Tax Account No. 3909-
3 10BB-200, with a street address of 3267 Washburn Way. The
4 property is located on the east side of Washburn Way, south of
5 Hilyard Street, is rectangular in shape and comprises 11.12 acres
6 as shown in Exhibit "C".

7 2. The property in question is designated Industrial (I) in
8 the Klamath County Comprehensive Land Use Plan, with a zone
9 designation of Heavy Industrial (IH). The property is surrounded
10 by properties designated Heavy Industrial to the south, east and
11 northeast and General Commercial to the west and northwest. The
12 Hearings Officer takes official notice of the fact that the
13 area of Washburn Way involved in this application contains a
14 number of automobile dealerships and repair shops, heavy industry
15 auto wrecking yards, motorcycle sales and service facilities, a
16 retail discount store, and a credit union.

17 3. Applicant operates a multi-line new and used car
18 dealership, service and repair facilities from the subject site.
19 Applicant seeks a Variance from 100 square feet for up to 500
20 square feet for identification signs for Surroz Volkswagen, Inc.,
21 and to display the marquees of the automobiles sold. In addition
22 to the development described above, the topography of this sub-
23 ject property is generally level, with surface runoff into
24 drainage ditches. Vegetation, soil and timbersite productivity
25 ratings are not applicable. Access to the property is available
26 from both Washburn Way and Hilyard Street, roads improved to
27 County Road Standards. Public facilities and services include
28 water supplied by the City of Klamath Falls, sewer by South
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1 Suburban Sanitary District, fire suppression by Klamath County
2 Fire District No. 1, electricity by Pacific Power & Light and
3 telephone by Pacific Northwest Bell. While subject property is
4 within the attendance areas of Klamath Falls Schools, such is not
5 applicable to this application.

6 4. Applicant seeks a Variance under Section 51.016(D) as
7 applicable to signing, and from the requirements of Klamath
8 County Land Development Code Section 66.007 limiting the overall
9 sign coverage to signs 100 square feet.

10 5. The Hearings Officer takes official notice that the
11 permitted sign location and size found in the Land Development
12 Code Section 66.007 contains designation which permit 300 square
13 foot signs in Commercial General, Commercial Transportation,
14 Commercial Highway zones, but limits signs in the Industrial zone.
15 Applicant's use of the subject property is more consistent with
16 the General Commercial criteria and is permitted specifically
17 within the Heavy Industrial zone.

18 6. The Hearings Officer finds from the testimony of Frank
19 Surroz that the franchise requirements of the manufacturers
20 require certain minimum signs, and that previously John Zingg and
21 the Klamath Falls Army Store Inc., were previously issued a
22 Variance similar in scope to that being requested by the
23 applicant. The Hearings Officer further notes some comments of
24 staff at hearing that the Klamath County Planning Department
25 presently is formulating requested amendments to the Land
26 Development Code, including among them the sign requirements for
27 commercial business. The Hearings Officer further finds that
28 while the exact requirements of the City of Klamath Falls sign
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1 ordinance was not presented at hearing, that they generally per-
2 mit more extensive signs than that allowed by the Klamath County
3 zoning ordinance. The foregoing is a substantial factor due to
4 the close proximity to the incorporated City of Klamath Falls in
5 that the business districts of both the incorporated County and
6 the City overlap. Klamath County Land Development Code,
7 Section 43.003 provides for three review criteria:

8 A. That a literal enforcement of this Code would
9 result in practical difficulty or unnecessary hardship. The
10 difficulty or hardship may arise from the property's size,
11 shape or topography, from the location of lawfully existing
12 buildings and improvements, or from personal circumstances
13 which would result in greater private expense than public
14 benefit of strict enforcement.

15 B. That the condition causing the difficulty was
16 not created by the applicant.

17 C. That the granting of the Variance will not be
18 detrimental to the public health, safety, and welfare or to
19 the use and enjoyment of adjacent properties and will not
20 be contrary to the intent of this Code.

21 7. In this regard the Hearings Officer finds:

22 A. A literal enforcement of this Code would result in
23 practical difficulty or unnecessary hardship to the ap-
24 plicant. The applicant's real property is in fact quite
25 large for a commercial establishment and smaller parcels
26 could have been created on the subject site, each of which
27 would have qualified and would have been entitled to erect
28 signs according to the appropriate zone. But for the

1 fortuity of the zone designation being IH rather than CG
2 the applicant is limited to erect signs of 1/3 the square
3 footage, which otherwise would have been applicable to a
4 commercial establishment occupying a smaller parcel of land.
5 No public benefit will be gained by strict enforcement.

6 B. That the condition causing the difficulty i.e. the
7 anomaly in the Klamath County Land Development Ordinance was
8 clearly not caused by the applicant.

9 C. That the granting of the Variance will not be
10 detrimental to the public health, safety, and welfare or to
11 the use and enjoyment of adjacent properties, in that:

12 1) No other person appeared in opposition to
13 the request.

14 2) The parcel of property in question would be
15 sufficiently large to create at minimum three com-
16 mercial ventures or would permit a zone change to
17 Commercial Highway or Commercial Transportation for
18 which each commercial occupant would be entitled to
19 signs of 300 square feet each. The fact that the
20 applicant has established one business for a number of
21 separate automobile lines (three) should not require
22 that he be forced to create three separate parcels
23 under three separate ownerships so as to erect three
24 separate signs. The Variance requested appears to be
25 the minimum required so as to be able to erect
26 applicant's "Mazda", "Volkswagen, Audi, Porsche" and
27 "AMC/Jeep, Renault" signs, and to permit general
28 identification on the front of the structure.

1 8. As the applicable policies and procedures of the
2 Klamath County Comprehensive Land Use Plan the Hearings Officer
3 finds as follows:

4 A. Goal 1 (Citizen Involvement) has been met. Notice
5 has been mailed to adjacent property owners, affected public
6 agencies and was published in the Herald & News.

7 B. Goal 2 (Land Use Planning) has likewise been met.
8 As the Variance meets the criteria of Land Development Code
9 Section 43.003.

10 C. Goal 9 (Economy) would likewise be met in that the
11 advertising of goods and services would be necessary to
12 enhance a healthy business client.

13 D. Goal 12 (Transportation) would likewise be met
14 providing the sign is erected and maintained according to
15 provisions of the Land Development Code save and except the
16 square foot requirements.

17 E. The Hearings Officer further finds Goals 3, 4, 5,
18 6, 11, 13 and 14 are inapplicable to this application.

19 The Hearings Officer, based on the foregoing Findings of
20 Fact, makes the following Conclusions of Law:

21 CONCLUSIONS OF LAW:

22 1. A literal enforcement of the Klamath County Land
23 Development Code would result in unnecessary hardship to the
24 applicant by unreasonably restricting applicant's ability to
25 raise signs advertising its business.

26 2. The condition causing the above-mentioned hardship was
27 not created by the applicant.

28 3. That the granting of the Variance will not be

1 detrimental to the public health, safety, and welfare or the use **1579**
2 and enjoyment of adjacent properties, will not be contrary to
3 the intent of this Code. A granting of this Variance is
4 consistent with the Goals of the Land Conservation and
5 Development Commission.

6 The Hearings Officer based on the above, accordingly
7 orders as follows:

8 That real property described as

9 "Being generally located south of Hilyard Street and east
10 of Washburn Way, and more particularly described as being
11 located in Section 10, Township 39, Range 9, Tax Lot 200,
Klamath County, Oregon,"

12 is hereby granted a Variance in accordance with the terms of the
13 Klamath County Zoning Ordinance No. 45.2, and, henceforth, will
14 be allowed to vary the square footage from 100 square feet up to
15 500 square feet for identification signs for Surroz Volkswagen,
16 Inc., in the IH (Heavy Industrial) zone.

17 Entered at Klamath Falls, Oregon, this 29th Day of

18 January, 1986.

19
20 KLAMATH COUNTY HEARINGS DIVISION

21 Bradford J. Aspell
22 Bradford J. Aspell, Hearings Officer
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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 29th day
of January A.D., 19 86 at 3:46 o'clock P M., and duly recorded in Vol. N86,
of _____ Deeds on Page 1573.

FEE NONE

Ret: Commissioners' Journal

Evelyn Biehn, County Clerk
By Sam Smith