

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

1 In the Matter of Request for)
 2 Variance 10-86 for Roger and) Klamath County Planning
 3 LaJuanda Case) Findings of Fact and Order

4
 5 A hearing was held on this matter on June 5, 1986, pursuant
 6 to notice given in conformity with Ordinance No. 45.2, Klamath
 7 County, before the Klamath County Hearings Officer, Brad Aspell.
 8 The applicant was present. The Klamath County Planning Department
 9 was represented by Kim Lundahl. The Hearings Reporter was Janet
 10 Libercajt.
 11

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

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

17 Klamath County Exhibit A, Staff Report
 18 Klamath County Exhibit B, Plot Plan
 19 Klamath County Exhibit C, Assessor's Map
 20 Klamath County Exhibit D, Letter from City of Klamath Falls
 21

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

25 FINDINGS OF FACT:

26 1. Applicants are the owners of property generally known
 27 as a Portion of the N $\frac{1}{4}$, Lot 13, Block 2, Third Addition to
 28 Altamont Acres. The property will have a street address on
 Austin Street, Klamath Falls, Oregon 97603. The property is

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1 rectangular in shape with dimensions of 100 feet by 99.5 feet,
2 comprising of .23 acre. It was partitioned in Klamath County
3 Partition No. 25-85. The property is situate on the east side
4 of Austin Street, approximately 300 feet north of Laverne Avenue.

5 2. The real property is designated Residential in the
6 Klamath County Comprehensive Land Use Plan and is zoned RS
7 Suburban Residential). Exhibit "E", photos, reveal that the
8 property in question consists of generally uncultivated brush
9 and native grasses surrounded by older single family dwellings,
10 metal shop buildings, assorted pasturage and vacant land. The
11 Hearings Officer specifically notes that he is the conservator
12 for Gladys V. Low, an incapacitated person, and as such assumes
13 responsibility for the Low residence at 3141 Laverne Street,
14 which property is directly across Laverne Street, comprising
15 Tax Lot 2700 as shown on Exhibit "C". As such, the Hearings
16 Officer is familiar with the subject real property. The property
17 in question is generally level with surface drainage from the
18 east to the west. Vegetation on the subject property consists
19 of overgrown vegetation and brush. Access is from Austin Street,
20 a graveled public road. No SCS soils data nor timbersite
21 productivity rating is available to the subject property.

22 3. The property in question is within the Klamath Falls
23 Urban Growth Boundary and is located in a generally marginally
24 developed suburban residential area. Public facilities and
25 services include water (City of Klamath Falls), sewer (South
26 Suburban Sanitary District), and electricity (Pacific Power &
27 Light). The property is located within the attendance area of the
28 Klamath County School District. Fire protection is provided by

1 Klamath County Fire District No. 1.

2 4. Applicant seeks a Variance to the Land Development Code
3 Section 84.001(E) (2), which in part provides that all mobile
4 homes located within the Klamath Falls Urban Growth Boundary shall
5 be at least 20 feet in width with exterior dimensions and closed
6 in space of not less than 800 square feet. Applicant proposes
7 locating a single wide mobile home of 14 feet by 60 feet or 840
8 square feet. Exhibit "D", a letter from the City of Klamath Falls,
9 provides in applicable part:

10 "the allowance of a single wide mobile home within the
11 Urban Growth Boundary could create a non-conforming use
12 if annexed to the City as the City requires mobile homes
13 to be double wide, on a permanent foundation, and in a
properly zoned area (medium density)."

14 5. Applicable provisions of the Klamath County Land
Development Code include LDC Section 51.005(D), RS zone; LDC
15 Section 84.001(E) (2), mobile homes in Urban Growth Boundary; and
16 LDC Section 43.003, Variance review criteria.

17 6. The Hearings Officer finds of the relevant goals and
18 guidelines of the Klamath County Comprehensive Plan as follows:
19 Goal 1 (Citizen Involvement) has been met as notice has been
20 given to adjacent property owners, affected public agencies, and
21 published in the Herald & News, a newspaper of general circulation.
22 In addition a hearing has been held before the Klamath County
23 Hearings Officer and opportunity for public input and comment
24 has been received.

25 Goal 2 (Land Use Planning) has been met. As stated above,
26 the application was consistent with the Klamath County Land
27 Development Code described above.

28 The Hearings Officer finds that Goals 3 through 14 are not
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1 applicable to this application.

2 7. The Hearings Officer finds that literal enforcement of
3 this Code would result in practical difficulty or unnecessary
4 hardship in that personal circumstances would result in greater
5 private expense than public benefit of strict enforcement in that
6 the subject property is located in a largely undeveloped or
7 underdeveloped residential area in that the existing developments
8 in the area would not be adversely affected by the location of a
9 single wide mobile home. The applicant already owns the mobile
10 home which is presently located in a mobile home park and to
11 require the applicant to sell or trade this mobile home in order
12 to acquire one which would fit the property development standards
13 is not included by this Code. Review Criteria Section 43.003(A)
14 has been met.

15 8. The condition causing the difficulty was not created by
16 the applicant. The subject property was recently included in
17 the Klamath Falls Urban Growth Boundary. The County has supplied
18 different citing standards for this area than those of the City
19 of Klamath Falls. Even though the City of Klamath Falls has not
20 announced any intention to annex this territory into the City,
21 the difficulty was caused by the interrelationship between
22 Klamath County and the City of Klamath Falls. Review Criteria
23 Section 43.003(B) has been met.

24 9. The granting of the Variance will not be detrimental to
25 the public health, safety and welfare, or to the use and enjoyment
26 of adjacent properties and will not be contrary to the intent of
27 this Code. One of the articulated policies of Klamath County in
28 its housing goal is to provide for clean, affordable housing

1 suitably situate to be provided with sufficient level of
2 services as they're regularly required by the homeowner. The
3 property falls within this category. Based upon the lack of
4 adverse comment or testimony from adjacent property owners, upon
5 photos of the subject property, and upon Hearings Officer's
6 knowledge of the neighborhood, the Hearings Officer concludes
7 that granting of the Variance will not be detrimental to public
8 health, safety and welfare, or to the use and enjoyment of
9 adjacent property owners.

10 10. The Hearings Officer specifically finds by virtue of
11 the property's location and the Klamath Falls Urban Growth
12 Boundary, and the possibility that some time in the foreseeable
13 future that the subject property might be annexed to the City of
14 Klamath Falls, the Hearings Officer feels it appropriate to
15 create conditions so as to minimize the possibility of a non-
16 conforming use existing. In this regard finds:

17 A. That this Variance approval shall continue indef-
18 initely except that in the event of sale of the subject
19 mobile home (exclusive of the lot) its destruction or damage
20 costing more than 50 percent (50%) of the replacement price
21 to repair, that the rights granted under this Variance shall
22 immediately terminate, and applicant shall, prior to repair
23 or replacement of the mobile home either:

- 24 a) obtain further Variance approval;
25 b) effect compliance with the Land Development Code.

26 Based upon the foregoing Findings of Fact, the Hearings
27 Officer makes the following Conclusions of Law:

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1 CONCLUSIONS OF LAW:

2 1. That a literal enforcement of this Code would result in
 3 practical difficulty or unnecessary hardship. The difficulty or
 4 hardship may arise from the property's size, shape or topography,
 5 from the location of lawfully existing buildings and improvements,
 6 or from personal circumstances which would result in greater
 7 private expense than public benefit of strict enforcement.

8 2. That the condition causing the difficulty was not
 9 created by the applicant.

10 3. That the granting of the Variance will not be detrimental
 11 to the public health, safety, and welfare or to the use and
 12 enjoyment of adjacent properties and will not be contrary to the
 13 intent of this Code.

14 4. Subject to the conditions as described in Finding of
 15 Fact No. 10(A) herein.

16 The Hearings Officer, based on the foregoing, accordingly
 17 orders as follows:

18 That real property described in Findings of Fact No. 1
 19 herein:
 20 is hereby conditionally granted a Variance in accordance with the
 21 terms of the Klamath County Zoning Ordinance No. 45.2, and,
 22 henceforth, will be allowed a single wide mobile home within the
 23 Urban Growth Boundary in the RS (Suburban Residential) zone
 24 Entered at Klamath Falls, Oregon, this 16 Day of July,
 25 1986.

26 KLAMATH COUNTY HEARINGS DIVISION

27 *Bradford J. Aspell*
 28 Bradford J. Aspell, Hearings Officer

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____
 of July A.D., 19 86 at 10:59 o'clock A M., and duly recorded in Vol. M86
 of Deeds on Page 12432.

FEE NONE

Return: Commissioner's Journal

Evelyn Biehn, County Clerk
 By *Prin Smith*