

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a) No. 1-87
REQUEST FOR VARIANCE) FINDINGS OF FACT, CONCLUSIONS
for) OF LAW AND DECISION
GIL FOSTER)

THIS MATTER came before the Assistant Hearings Officer, JAMES R. UERLINGS, on February 5, 1987, 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 appeared in person and the Klamath County Planning Department was represented by Carl Shuck.

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

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 applicant is requesting this variance in order to vary the sign requirements of the General Commercial Zone from 300 square feet to 600 square feet. Although the sign proposed by the applicant is only 96 square feet, its addition to the existing signage on the property requires that this variance be given as the total signage area would amount to 600 square feet with this addition.

2. The site of the proposed variance is located at the

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1 southeast corner of Washburn Way and Crosby Streets in Klamath
2 County, Oregon. The legal description is as follows: Section 3,
3 Township 39, Range 9, Tax Lot 800, Klamath County, Oregon.

4 3. The Plan Designation on the property is General
5 Commercial and the Zone Designation is CG, General Commercial.

6 4. The size of the property is 1.84 acres, rectangular
7 in shape. The topography is relatively flat with general drainage
8 consisting of runoff into existing drains.

9 5. Access to the property is off Crosby Street and
10 Washburn Way, Klamath County, Oregon.

11 6. Unique physical characteristics of the surrounding
12 land consist of general commercial development, i.e., a U-Haul
13 dealership and tire shop to the west and a small shopping center
14 to the north. Large new and used car dealerships are located
15 further south along Washburn Way.

16 7. Adjacent and surrounding zoning consists of General
17 Commercial and Light Industrial.

18 8. Public facilities and services to the property
19 consist of water by the City of Klamath Falls, sewer by the South
20 Suburban Sanitary District, fire protection by Fire District No.
21 1, and electricity by Pacific Power & Light.

22 9. Prior to the applicant constructing the sign, a
23 permit will need to be obtained from the Oregon Highway Division.

24 10. The sign will be indirectly lit by internal lights
25 by the applicant.

26 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

27 1. Section 43.003 requires the Hearings Officer to
28 make three specific findings if the variance is to be granted:

Page 2 - FINDINGS OF FACT, CONCLUSIONS OF
LAW AND DECISION

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

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

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

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

17 KLAMATH COUNTY GOALS AND POLICIES COMPLIANCE:

18 1. GOAL 1 - Citizen Involvement: See Exhibit "A"
19 attached hereto and incorporated by this reference.

20 2. GOAL 2 - Land Use Planning: See Exhibit "A".

21 3. GOAL 6 - Air, Water and Land Resource Quality:
22 See Exhibit "A".

23 4. GOAL 9 - County Economy: See Exhibit "A".

24 5. GOAL 11 - Public Facilities and Services: See
25 Exhibit "A".

26 6. GOAL 12 - Transportation: See Exhibit "A".

27 7. GOAL 13 - Energy Conservation: See Exhibit "A".

28 8. GOAL 14 - Urbanization: See Exhibit "A".

1 3. GOALS 3, 4, 5, 7, 8, and 10 do not pertain or are
2 not affected by this application.

3 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

4 See Exhibit "B" attached hereto and incorporated by
5 this reference.

6 CONCLUSIONS OF LAW AND DECISION:

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

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

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

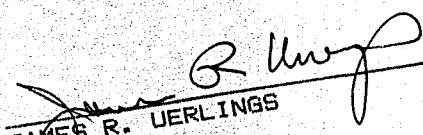
16 A. The applicant is to follow the plot plan as
17 filed herein as Exhibit "E".

18 B. The applicant shall obtain all necessary
19 permits from the State Highway Division.

20 C. The applicant shall use an indirect lighting
21 method in order to illuminate the sign.

22 NOW AND THEREFORE, IT IS HEREBY ORDERED that this
23 request for variance is granted, subject to the above conditions.

24 DATED this 17 day of February, 1987.

25 
26 JAMES R. UERLINGS

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Conformance with Relevant Klamath County Policies:

Goal 1 - Citizen Involvement:

The County shall provide for continued citizen involvement opportunities.

Goal Issues: A public hearing on this matter has been set for February 5, 1987. Notice has been sent to surrounding property owners and to concerned public agencies and published in the Herald and News.

Goal 2 - Land Use Planning:

Goal Issues: Variance must meet the criteria of Section 43.003 of the Land Development Code (see attached "Review Criteria"). The sign allocation in the CH (Highway Commercial) zone is 300 feet.

Goal 6 - Air, Water, and Land Resource Quality:

Goal Issues: The proposed sign would not add any source of air, water, or land pollution.

Goal 9 - County Economy:

Goal Issues: The proposed sign would enhance the business and would help draw more business, as the only sign advertising the business is on the store itself, which sets back off of Washburn Way well over 100 feet.

Goal 11 - Public Facilities and Services:

Goal Issues: This sign would require public facilities and services and would not affect any existing services as electrical services are in the area. The sign will be illuminated.

Goal 12 - Transportation:

Goal Issues: The sign would not block view or access of traffic onto Crosby Avenue.

Goal 13 - Energy Conservation:

Goal Issues: No effects on energy conservation are evident as a result of this variance.

Goal 14 - Urbanization:

Goal Issues: The property affected is within the Klamath Falls urbanized area, and all needed urban facilities and services are available.

VARIANCE REVIEW CRITERIA

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

The proposed sign is the same as existing signs on abutting properties, and it appears the proposed sign, due to location, would not create an access problem or block view.

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

The sign is 96 square feet and is 14 feet high. Both measurements meet Code requirements; however, the applicant has over the allotted amount on the existing building. The location of the building is well over 100 feet back from the highway.

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

It appears the granting of the variance will not be detrimental to the public health and safety as the sign will not create a problem with access and view. With the proposed sign being placed at the proposed site, people will see the type of use of the existing building.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____
of February A.D., 19 87 at 8:49 o'clock A M., and duly recorded in Vol. M87
of Deeds on Page 2682

FEE NO FEE

Evelyn Biehn, County Clerk
By [Signature]

Ret. Commissioner's Journal