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Vol. 181 Page 6295

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGONIn the Matter of a
REQUEST FOR VARIANCE
for
GREG LARA

No. 3-87

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND DECISION

THIS MATTER came before the Assistant Hearings Officer, JAMES R. UERLINGS, on April 2, 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 "D".

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 side yard setback on the East side of the property from 5 feet to 3 feet. The applicant is requesting this variance in order that he may extend his current garage upon the property to allow for the placement of four more vehicles within the garage.

2. The additional facility will have the roof sloping in the same direction as the current garage and there should be

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AND DECISION

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1 no runoff onto adjacent properties but only onto the applicant's
2 property.

3 3. The property is located on the South side of
4 Hilyard Street, approximately 100 feet West of Walton Drive. The
5 legal description of the property is Section 11, Township 39,
6 Range 9 East, Tax Lot 100, Klamath County, Oregon.

7 4. The Plan Designation is Urban and the Zone
8 Designation is Suburban Residential.

9 5. The property consists of .05 acre, rectangular in
10 shape and relatively flat in topography. General drainage
11 consists of surface runoff towards Hilyard Street.

12 6. Access to the property is off Hilyard Street, a
13 paved County road.

14 7. Unique physical characteristics of the surrounding
15 lands consists of lots zoned Residential that range in size from
16 3/4 acre to 1/5 acre. Adjacent and surrounding zoning consists
17 of Suburban Residential and Medium Density Residential.

18 8. Water to the property is provided by the City of
19 Klamath Falls, sewer by South Suburban Sanitary District, fire
20 protection by Fire District No. 1 and electricity by Pacific
21 Power and Light.

22 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

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

25 A. That a literal enforcement of this Code would
26 result in practical difficulty or unnecessary hardship. The
27 difficulty or hardship may arise from the property's size, shape
28 or topography, from the location of lawfully existing buildings

1 and improvements, or from personal circumstances which would
2 result in greater private expense than public benefit of strict
3 enforcement.

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

6 C. That the granting of the variance will not be
7 detrimental to the public health, safety and welfare or to the
8 use and enjoyment of adjacent properties and will not be contrary
9 to the intent of this Code.

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

13 KLAMATH COUNTY GOALS AND POLICIES COMPLIANCE:

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

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

17 3. GOALS 3-14 do not apply or do not pertain or are
18 not affected by this application.

19 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

20 1. The literal enforcement of this Code would result
21 in a practical difficulty or unnecessary hardship to the
22 applicant. The property site of construction is the only site
23 upon the applicant's property where he could use existing
24 structures to their best benefit causing little, if any,
25 detrimental effect to adjacent property owners. The difficulty
26 or hardship arises from the size and shape of the applicant's
27 property and from the location of existing buildings and
28 improvements. Literal enforcement of the Code would result in a

1 greater private expense than public benefit of strict
2 enforcement.
3

4 2. The condition causing the difficulty was not
5 created by the applicant as the structures existed upon the
6 property at the time the applicant purchased it.

7 3. The granting of this variance will not be
8 detrimental to the public health, safety and welfare nor to the
9 use and enjoyment of adjacent properties and will not be contrary
10 to the intent of the Code. The garage itself is an allowed use
11 with the Suburban Residential zone and the nearest house to the
12 subject property is approximately thirty (30) feet away.

13 4. No persons appeared in opposition to the request
14 for variance.

15 5. Any runoff from the proposed addition would run
16 onto the applicant's property.

17 CONCLUSIONS OF LAW AND DECISION:

18 1. This request for variance on the subject property
19 meets all applicable Klamath County Development Code Criteria and
20 policies governing such.

21 2. This request for variance is consistent with, and
22 complies with, all applicable State-wide Planning Goals and
23 review criteria.

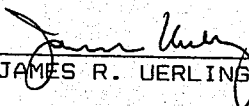
24 3. The following condition is deemed applicable to
25 protect the public health, safety and welfare of the citizens of
26 Klamath County:
27 ///

28 ///

1 A. The applicant is to follow the plot plan,
2 Exhibit "B", as filed with the Application for Change of Land
3 Use.

4 NOW, THEREFORE, IT IS HEREBY ORDERED that this request
5 for variance is granted, subject to the above condition.

6 DATED this 14 day of April, 1987.

7
8 
9 JAMES R. UERLINGS

Conformance with Relevant Klamath County Policies:

Citizen Involvement:

The County shall provide continued citizen involvement.

Notice of this hearing was published in the Herald and News, posted in public places, and mailed to adjacent property owners and concerned public agencies.

Land Use Planning:

The variance review criteria set out in Section 43.004 of the Land Development Code require the following findings for approval.

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

Goals 3 - 14 do not apply or do not affect this application as this is a variance request for a side yard setback from 5 feet to 3 feet in order to add onto an existing garage.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department the 14th day of April A.D., 19 87 at 3:43 o'clock P M., and duly recorded in Vol. M87 of Deeds on Page 6295.

FEE

NO FEE

Return: Commissioners' Journal

Evelyn Biehn, County Clerk
By Sam Smith