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BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request )  
for a Conditional Use Permit )  
and a Variance for )  
JAMES DANIEL STORY. )

C.U.P. 22-87  
Variance No. 11-87  
FINDINGS OF FACT, CONCLUSION  
OF LAW AND DECISION

This matter came before William M. Ganong, Hearings Officer of Klamath County, Oregon on July 2, 1987 in the Klamath County Commissioners' Hearing Room. The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related ordinances. James Daniel Story was present and represented himself at the Hearing. The Klamath County Planning Department was represented by Mr. Carl Shuck and the Recording Secretary was Donna Verling. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence. The County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. The Applicant has applied for a Conditional Use Permit to locate a mobile home for a relative in the RS Zone pursuant to Land Development Code Section 51.005. The subject property is located at 2775 Avalon, Klamath Falls, Oregon and is Klamath County Tax Assessor 3909-3CA-6700.

2. The Applicant has also requested a Variance from the mobile home siting standards of the Land Development Code in order to allow him to place a mobile home which is less than 20 feet wide on the subject property which is located within the Klamath

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Falls Urban Growth Boundary. The mobile home which the Applicant desires to place on the property is 14 feet wide by 60 feet long and contains 840 square feet.

3. There are seven or eight mobile homes already located in the area of the subject property. There are several nearby lots which contain both a mobile home and a conventionally built home. The lot directly across the street from the subject property contains a single wide mobile home. The mobile home which the Applicant intends to place on the property will be shielded partly from the street by the Applicant's conventionally built home which is also located on the subject property.

4. The Applicant's lot contains less than 20,000 square feet. If the Applicant's lot contained more than 20,000 square feet, no Conditional Use Permit would be required. The Findings of Fact contained in the Klamath County Planning Department's Staff Report for the Variance and the Conditional Use Permit are incorporated herein by this reference.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

1. Article 44 of the Land Development Code sets forth the criteria for granting a Conditional Use Permit.

2. Code Section 51.005 provides that an additional mobile home may be sited on a lot in the RS zone if the lot contains 20,000 square feet in area. Paragraph C of said Section provides that if the lot contains less than 20,000 square feet, a Conditional Use Permit is required.

3. Article 43 of the Land Development Code sets forth the criteria which must be addressed in order to grant a Variance.

4. Article 84 sets forth the standards for siting mobile homes and paragraph E provides, in part, that mobile homes located within the Klamath Falls Urban Growth Boundary shall be at least 20 feet in width and contain at least 800 square feet.

KLAMATH COUNTY GOALS AND POLICY COMPLIANCE:

Goals and Policy Findings of the Klamath County Planning Department Staff report are hereby adopted and incorporated herein by this reference.

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

A. With respect to the application for Conditional Use Permit to site a mobile home on a lot on the RS Zone containing less than 20,000 square feet, the Hearings Officer makes the following findings:

(1) As set forth above under the Klamath County Land Development Code Criteria, the RS Zone allows as a Conditional Use an additional mobile home to be used by a relative when the subject lot contains less than 20,000 square feet.

(2) The location, size, design and operating characteristics of the proposed use are in conformance with the Klamath County Comprehensive Plan. The subject property is served by municipal water and sewer services. The subject lot is of adequate size both in width and depth to site the subject mobile home on the lot in a manner which will provide appropriate access to both the proposed mobile home and the existing buildings on the

lot and provide adequate clear areas between the various buildings on the lot. The mobile home is sited so that municipal services, including fire protection, can be provided.

(3) The location, size, design and operating characteristics of the addition of this mobile home on the subject lot is compatible with and will have no significant adverse affects on the appropriate development and use of abutting properties in the surrounding neighborhood. As set forth above in the Findings of Fact, this neighborhood contains a number of existing mobile homes. It also contains several lots on which are located both a mobile home and a conventionally built home. In addition, the lot directly across the street contains a mobile home. There was no testimony or evidence whatsoever that would indicate in any manner that the siting of a mobile home on this lot for a relative will have any adverse affect on the neighborhood or abutting properties.

B. With respect to the request for a Variance, the following Conclusions are made:

(1) The literal enforcement of the code provision requiring that a mobile home be placed within the Klamath Falls Urban Growth Boundary is an unnecessary hardship. The mobile home which the Applicant intends to place on the property contains 840 square feet and, therefore, contains more square footage than is required by the code for a mobile home within the Urban Growth Boundary. The evidence shows that there are other mobile homes of a similar width located in the immediate vicinity of the subject

property. The Applicant already owns the mobile home which he desires to place on this property and there would be no public benefit served by requiring him to acquire a wider mobile home.

(2) The condition requiring this Variance was not created by the Applicant. The Applicant already owns the subject mobile home and merely desires to move it from its current location to the property described above. Literal enforcement of the code provision would result in no public benefit or detriment to the surrounding neighborhood.

(3) The granting of this Variance will not be detrimental to the public health, safety or welfare or the use and enjoyment of adjacent properties and will not be contrary to the intent of this code. The neighborhood where the subject property is located already contains a number of mobile homes. It also contains several lots containing both a mobile home and a conventional home. Many of the mobile homes located in the neighborhood are single wide mobile homes and do not meet code requirements that the mobile home be not less than 20 feet in width. The Applicant's lot is adequate in size and shape to allow clear space between the subject mobile home and the existing buildings and adequate access to the existing buildings and the proposed mobile home site. The subject lot is served by municipal services including water, sewer and fire protection. There is no evidence in the record whatsoever to indicate that the allowance of the Variance requested by the Applicant will in any way be

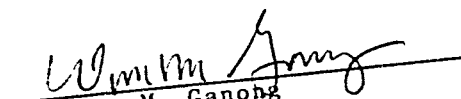
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detrimental to the public health, safety or welfare or in any way adversely effect the enjoyment of adjacent properties.

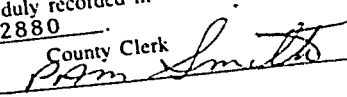
ORDER:

The subject application for a Conditional Use Permit to site an additional mobile home for use by a relative on the above described property is granted. In addition, the request for a Variance from the standards of the Land Development Code requiring that the mobile home be not less than 20 feet in width is granted. This Order is conditioned on the Applicant complying at all times with all requirements of the Klamath County Land Development Code, including without limitation, the requirement that the mobile home be occupied by a relative as defined in the code, with the requirement that the mobile home sited on the property contain not less than 800 square feet and on the Applicant complying with all Klamath County Building Codes, Ordinances and State laws concerning the development of the property.

DATED this 15th day of July, 1987.

  
William M. Ganong  
Hearings Officer

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department the 20th day  
of July A.D., 19 87 at 4:26 o'clock P M. and duly recorded in Vol. M87  
of Deeds on Page 12880  
By Evelyn Biehn, County Clerk  


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NONE

Return: Commissioners' Journal

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