

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for) Variance No. 14-87
a Variance for L. Q. DEVELOPMENT,) FINDINGS OF FACT, CONCLUSIONS
OREGON, LTD.) OF LAW AND DECISION

This matter came before William M. Ganong, the Hearings Officer of Klamath County, Oregon, on August 20, 1987 in the Klamath County Commissioner's Hearing Room. The Hearing was held pursuant to Notice given in conformity with the Klamath County Land Development Code and related ordinances. The applicant was represented by Reg LeQuieu. The Klamath County Planning Department was represented by Carl Shuck and the Recording Secretary was Karen Burg. 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 Order:

FINDINGS OF FACT:

1. The Applicant has requested a Variance from the front yard setback requirement in this residential zone from 20 feet to 14 feet. The subject property is located east of Bristol Avenue, south of the A Canal in a new subdivision known as Tract 1228, Lockford, Lot 9 of Block 2 of said subdivision and is Klamath County Tax Lot No. R3909-011DA-05900-84313.
2. The lot is approximately 102 feet by 62 feet in size, although it is not rectangular in shape as it fronts on a curve in Lockford Drive.
3. Mr. LeQuieu testified that the error was caused by the independent contract who built the single family residence located

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on the subject property. For whatever reason, the contractor located the garage portion of the house too close to the front property line. The error may have been caused because the contractor may have been unaware of the actual property line and may have been measuring from the sidewalk in front of the property. It also may have been caused because the lots located westerly of the subject property are longer and this house was put in line with those houses on those other lots which are set back the proper distance from the front lot line.

4. Notice was sent to all interested parties including the neighboring landowners and no comment was received from anyone.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

The criteria for reviewing an application for a Variance are set forth in Klamath County Land Development Code Section 43.003.

KLAMATH COUNTY CODE FINDINGS OF FACT AND CONCLUSIONS

Pursuant to the review criteria set forth in the Klamath County Land Development Code Section 43.003, the following Findings and Conclusions are made:

A. A literal enforcement of the code provisions requiring a 20 feet setback from the front lot line would result in unnecessary hardship and expense to the landowner in this case without any public benefit. The house has been built and is fully constructed. It would be very expensive to move the house back 6 feet, the garage is not deep enough to merely cut 6 feet off the front of it. Therefore, there is no economically reasonable means of curing the problem. As the property is located on a slight curve, a curve which radiates toward the subject property, the

fact that the house is not set back the whole 20 feet will not result in loss of visibility to automobile traffic traveling along Lockford Drive. There is adequate room to provide the necessary public services and to protect the public welfare.

B. The condition causing the difficulty was created by the landowner. The house was built by an independent contractor who contracted with the landowner. It is the responsibility of the landowner to provide adequate direction and supervision to its employees and contractors to insure compliance with Land Development Code and Building Code Requirements. Apparently, in this case, the landowner did not adequately supervise or review the work of its contractor and did not recognize the error made by the contractor until the building was constructed. Although the finding required by subparagraph B of Code Section 43.003 cannot be made in this case, the unnecessary hardship that would result to the applicant from the strict enforcement of the code provisions without any resulting public benefit justifies a variance from the criteria findings required by the Code.

C. The granting of this 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 the code. Lockford Drive has not been developed to the maximum width provided by the public right of way, nor is it ever likely that the street will be widened beyond its current developed width. There is adequate visibility and access to the subject property for automobile and pedestrian traffic. There is no

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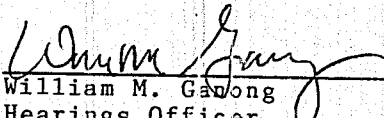
indication that the granting of this Variance will in any way be detrimental to the public health, safety or welfare of the public.

D. The Findings of Facts set forth in the Klamath County Planning Department Staff Report are adopted and incorporated herein by this reference.

ORDER

The subject application for a Variance from the front yard setback requirements of residential zones in the Klamath County Land Development Code from 20 feet to 14 feet for the property described above is hereby granted.

DATED this 4th day of September, 1987.


William M. Galloway
Hearings Officer

Klamath County Land Development Code Section 24.007 provides:

"An Order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of the Code."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Dept. the 9th day
of September A.D., 19 87 at 3:43 o'clock P M., and duly recorded in Vol. M87,
of Deeds on Page 16388.

FEE NONE

Evelyn Biehn, County Clerk

By 

Return: Commissioners' Journal