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Vol. 1781 Page 17317

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a	)	No. 18-87
	)	
REQUEST FOR VARIANCE	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW AND
for	)	DECISION
	)	
EDDIE AND LONA GRADY	)	
	)	

THIS MATTER came before the Assistant Hearings Officer, JAMES R. UERLINGS, on September 17, 1987, in the Klamath County Commissioner's 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 Kim Lundahl.

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

The 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 back yard setback from 25 feet to 15 feet for the construction of an attached family room to the existing dwelling.

2. The property is located at 5817 Alva Street, in

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
PAGE 1

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SEP 23 PM 2:47

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2 Klamath Falls, Oregon. The location is approximately 110 feet
3 east of Madison and north of Alva, being in the Madison Park
4 Subdivision.

5 3. The property's legal description is Section 1 of
6 Township 39, Range 9, Tax Lot 2100.

7 4. Plan Designation of the property is urban. The zone
8 designation is suburban residential.

9 5. The property consists of a lot 100 x 110 ft,
10 rectangular in shape. The topography is flat with general
11 drainage consisting of surface runoff into existing drain.

12 6. The vegetation of the property consists of lawn and
13 other landscaping features.

14 7. Access to the property is off Alva Street, a paved
15 county road.

16 8. Soil productivity rating and timber site
17 productivity rating are not applicable.

18 9. Unique physical characteristics of surrounding land
19 consists of subdivided lots that average 10,000 to 11,000 square
20 feet. There are other residences within several hundred feet of
21 the applicant's residence that have similarly constructed family
22 rooms requiring variances from side and backyard setbacks in
23 order to construct the additional room.

24 10. Public facilities and services serving the property
25 consist of water by the City of Klamath Falls; sewer by South
26 Suburban Sanitary District; fire by Fire District #1; electricity

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28 FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
PAGE 2

by Pacific Power and Light and school services by Klamath County School District.

KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

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

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.

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

KLAMATH COUNTY GOALS AND POLICIES COMPLIANCE:

1. Goals 1 through 14 - See Exhibit 'A' attached hereto and incorporated by this referenced.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
PAGE 3

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

A. Variance application is to vary the rear yard setback from 25 to 15 feet. The rear of the property is the only area possible to build a family room as the applicants' desire. It is the only area of the lot that is relatively flat. The yard could not be utilized due to the slope of the yard plus the applicant would lose his parking area. Personal circumstance would result in a greater private expense than public benefit from strict enforcement.

B. The condition causing the difficulty was not created by the applicant. It was created by the construction of the dwelling prior to the applicants purchasing it in such a fashion as to create a narrow backyard.

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 this Code.

CONCLUSIONS OF LAW AND DECISION:

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

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

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
PAGE 4

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2 NOW, THEREFORE, IT IS HEREBY ORDERED that this request
3 for variance is granted, subject to the applicant following his
4 plot plan.

5 DATED this 23 day of September, 1987.

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8 James R. Uerlings
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FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
PAGE 5

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Conformance with Relevant Klamath County Policies:

17322

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 rear yard setback from 25 feet to 15 feet to allow for an addition onto existing house.

EXHIBIT 'A'

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Dept.
of September A.D., 19 87 at 2:47 o'clock P.M., and duly recorded in Vol. M87 day
of Deeds on Page 17317

FEE NONE

Return: Commissioners' Journal

By Evelyn Blehn County Clerk 