

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for) VARIANCE NO. 22-87
a Variance for ROGER BABCOCK.) FINDINGS OF FACT, CONCLUSIONS
) OF LAW AND DECISION

This matter came before William M. Ganong, the Hearings Officer of Klamath County, Oregon, on November 19, 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. Roger Babcock was present and represented himself. 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 application is for a Variance from the side and rear yard set back requirements of the CG zone of 25' to 4.6' and 15' to 4.6' respectively, to allow the expansion of a commercial automobile repair facility.
2. The subject property is located on Summers Lane, approximately 325 feet north of Shasta Way, and is Klamath County Assessor's tax lot 3809-35CC-2700.
3. The Applicant owns the adjoining property which will be effected by the subject request.

4. The Applicant has maintained the existing facility in a clean and orderly manner. No person or agency has objected to this request.

5. The subject property is served by full municipal utilities and services and has adequate access and parking.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

Klamath County Land Development Code Section 43.003 sets forth the criteria which must be addressed in reviewing an application for a Variance.

KLAMATH COUNTY CODE FINDINGS OF FACT AND CONCLUSIONS

The following Findings of Facts and Conclusions are made concerning the review criteria set forth in Section 43.003 of the Land Development Code:

1. It appears that the Applicant could accomplish the planned expansion without a variance by adjusting the boundary line between the subject property and the adjoining parcels owned by the Applicant. However, such an adjustment would create a long narrow adjoining lot, which may then be functionally useless. The literal enforcement of the Code would cause unnecessary hardship and practical difficulty for the Applicant. The size of the existing lot will not allow the reasonable expansion of the shop without great expense to the Applicant unless the variance is granted.

2. The growth of the Applicant's business and the need to segregate and rearrange the equipment used in the business have caused the need for the subject variance. There is no evidence in the record that the Applicant intentionally arranged the existing

21971

building so that a variance would be necessary to expand the building.

3. The granting of the variance will not be detrimental to the public health and safety or to adjacent properties, so long as the Applicant complies with the conditions set forth below. The Applicant can control any potential adverse effort on adjacent properties because he owns the parcels which are most directly effected by the subject application. The Applicant can protect the public health and safety by maintaining the subject property and adjoining property in an orderly and clean condition and by maintaining adequate access to the property.

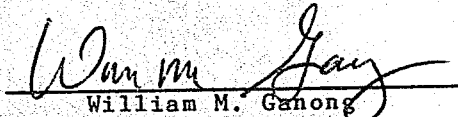
ORDER

The subject application for Variances from the rear and side yard set back requirements of the Code, as more particularly described above, is granted subject to the following conditions:

1. The Applicant shall comply at all times with the requirements of the Klamath County Land Development Code, Building Code, Weed Abatement Code and Health Services Department rules; and

2. The Applicant shall maintain adequate access for fire and safety equipment to the subject property and between the subject shop building and improvements, dwelling, garages, etc. on the adjoining property

DATED this 2nd day of December, 1987.


William M. Ganong
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 Department the 8th day
of December A.D., 19 87 at 9:26 o'clock A M., and duly recorded in Vol. M87,
of Deeds on Page 21969.

Evelyn Biehn, County Clerk
By *Sam Smith*

FEE

NONE

Return: Commissioners' Journal