

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for) VARIANCE NO. 5-88
 a Variance for NED PUTNAM) FINDINGS OF FACT, CONCLUSIONS
) OF LAW AND DECISION

This matter came before Hearings Officer William M. Ganong on June 16, 1988 in the Klamath County Commissioner's Hearing Room. The Hearing was held pursuant to the Notice given in conformity with the Klamath County Land Development Code and related ordinances. The applicant, Ned Putnam, was present at the hearing and was represented by Attorney Forrest Cooper. The Klamath County Planning Department was represented by Carl Shuck and the Recording Secretary was Karen Burg. The Hearing was adjourned at approximately 4:45 p.m. on July 7, 1988. The Klamath County Planning Department files, transcripts and other materials for Variance Applications 76-17, 22-83, 12-87 and 5-88 were incorporated in the record as evidence. In addition, the Applicant and parties opposed to the application introduced numerous exhibits which were all marked, offered and admitted in to evidence and are included in the record of this matter. The Hearings Officer, after reviewing the evidence presented, makes the following Finds of Fact, Conclusions of Law and Decision:

NATURE OF REQUEST:

The Applicant requests a variance from the front yard set back requirement of Klamath County Land Development Code (LDC) Section 62.003. Said Section requires that any industrial use building be set back 75 feet from the front property line when the industrial use abuts a residential use. The Applicant desires to construct an addition to an existing building which said addition would be set back only 22 feet from the front property line.

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BACKGROUND - EFFECT OF VARIANCE NO. 12-87

Approximately one year ago the Applicant applied for and received a Variance for the same purpose. See Variance No. 12-87. However, said Variance contained a requirement that the 22 foot deep front yard be landscaped and not used for any other purpose.

The Applicant appealed the Order granting said Variance to the Klamath County Board of Commissioners pursuant to LDC Article 33. The Board of Commissioners, by Order dated January 6, 1988, upheld the Hearings Officer's Order and provided that said 22 foot front yard:

"... may be planted in lawn or with a low growing ground cover or may be covered with a combination of bark and low growing ground cover. ...

7. No part of the 22 foot strip of land between Homedale property line and the edge of the proposed building shall be used for parking or storage of any material." (B of C Order at pg. 2)

Said Order also required that the Applicant provide drainage and structure items to the Planning Director within 90 days of the date of the Board of Commissioner's said Order. The Applicant failed to comply with said requirement and as of the date of this Order it appears that the Planning Director has not instituted action pursuant to LDC §43.004(G) to enforce or void said Order.

However, the Hearings Officer's Order dated August 12, 1987 required improvements to the Applicant's property and provided:

"The required improvements shall be completed on or before July 31, 1988, or this Variance shall be null and void."

The Board of Commissioners' Orders on Appeal did not eliminate the above said provision. Therefore, as of the date of this Order, Variance No. 12-87 is

in full force and effect, subject however to it becoming void on July 31, 1988 if the improvements required thereby have not been completed.

The Planning Director testified that the Planning Department Staff considers this matter as a totally new application. The Applicant testified that he applied for a new variance because he wanted to use the 22 foot wide front yard area for parking and that the Commissioners' Order as it regulates the use of said strip is excessive.

There are no provisions in the Klamath County Land Use Code which prohibits a person from applying for a Variance when a Variance already exists. The Court of Appeals has held that a County may re-address land use questions so as to be able to continue its ongoing planning activities in achieving the goal of the coordinated use of land. (Kite Ranches, Inc. v. Shipsey, et al., 53 Or. App. 833, 840(1981))

Klamath County legal Counsel, by letter ruling dated June 28, 1988, held that the provisions of the Board of Commissioners' Order dated January 6, 1988 in Variance No. 12-87 are not binding on the Hearing's Officer in this proceeding.

The subject application for a Variance is not barred by the prior Variances granted to the Applicant and shall be reviewed on the record established in this proceeding.

EFFECT OF VARIANCE 76-17

In 1976 the Applicant, in Variance No. 75-17, applied for and received Variances from the back yard and side yard setback requirements of Section 71.005(c) of Klamath County Ordinance No. 17, the zoning ordinance then in effect.

The Applicant requested said variances in order to construct an addition 240' x 200' to his existing manufacturing plant. The Applicant's plot plan submitted with the application in that case, shows that the applicant was requesting a "Continuation of same Variance Granted For Existing Bldg.," from the rear (west) property line and a variance to 4.5' for the side (south) property line to the "2 HR Block Walls" of the proposed addition. The Staff report and minutes of the Planning Commission Hearing disclose that the requested variances were from 80' to 6' on the rear (west) yard set back and 80' to 4.5' on the side (south) yard set back.

Several of the Opponents to the subject application allege that the Applicant must obtain an additional variance from the side yard set back for the addition proposed by the Applicant in this proceeding because said addition will be constructed within 4.5 feet of the south (side yard) property line.

The Applicant and the Planning Director disagree. They take the position that Variance No. 76-17 reduced for the side yard set back for the entire length of the south side yard.

Article 113 of Ordinance No. 17 provided in part:

"A variance may be granted only in the event that all of the following circumstances exist:

1. ...
2. ...
3. The granting of the requested variance will not be materially detrimental to the public health, safety, convenience and welfare or injurious to the property improvements in the same vicinity ...
4. The variance requested is the minimum variance from the provisions and standards of this regulation which will alleviate the hardship." (to the Applicant of the restrictions of the ordinance)

The plot plan submitted by the Applicant was an integral part of the application for the variance. In order to make the determinations quoted

above, the Planning Commission had to know precisely where the Applicant intended to construct the building addition and the use which would be made of the addition.

At the Planning Commission Hearing on July 13, 1979, Planning Commission Member Brad Aspell questioned John Howard, an architect representing the Applicant, about the proposed addition, its size, its location on the Putnam property, and its effect on the adjoining land. Mr. Howard testified:

1. That the size of the proposed structure was the minimum size that was economically feasible;
2. That the structure could not be located elsewhere on the property;
3. That the variances requested were the minimum variances which would accommodate the desired space;
4. That the variances would have no adverse effect on the adjacent property owners because the adjacent property was open fields and backyards of a few houses;
5. That Mr. Putnam (the Applicant) was in the process of buying the property to the South of the subject property which was a vacant field;
6. That the proposed addition butts up to vacant lots; and
7. That the addition would be used for storage, not manufacturing.

The record clearly shows that when the Planning Commission considered said application, they were considering the effect of the proposed addition on the surrounding property owners. The Planning Commission did not consider the effect of future building additions built within 4.5 feet of the south property line.

The ordinance required that any variance granted be the minimum from the standards necessary to alleviate the hardship.

The specific motion which was passed by the Planning Commission was:

"... that the Klamath County Planning Commission approve Variance 76-17 for Ned Putnam for a variance from 80 feet to 4 feet 5 inches under Article 17, in an area zoned M-1, in order to build on to an existing building, based on the following findings ..." (Emphasis added)

The said variance was granted for the addition then proposed and for no other reason.

"Any variance by definition is use of property which is otherwise expressly prohibited by law."
Bienz v. City of Dayton, 29 Or. App. 761, 779,
 366 P.2d 904 (1977)

Variance Orders require narrow construction and application.

The Order entered in Variance No. 76-17 did not grant a side yard (south) variance for the addition now proposed by the Applicant and the Applicant must apply for and receive a side yard variance for this project before proceeding with the construction of the proposed addition.

FINDINGS OF FACT:

1. The Applicant has requested a Variance from the front yard setback requirement of Klamath County Land Development Code Section 62.003 from 75 feet to 22 feet to allow the construction of an addition to an existing warehouse.

The subject property is located at 2742 Homedale Road, Klamath Falls, Oregon and is more particularly described as Klamath County Tax Assessor Account No. 3909-243-300. The Hearings Officer viewed the subject property with Planning Staff Member Carl Shuck prior to the 1987 hearings.

2. The applicant proposes to construct an addition to an existing building, which addition will be 80 feet wide by 200 feet long and contain approximately 16,000 square feet. It will be approximately 21 feet in height. The building will be a block structure with a metal roof and will be similar in

appearance and construction to the existing warehouse located on the subject property.

3. This application was vigorously opposed by many other landowners in this area. The testimony of all parties involved demonstrates that the area in which the subject property is located is generally a single family residential neighborhood. The subject property was spot zoned Heavy Industrial at the time the current Klamath County Comprehensive Plan was adopted. Testimony of South Suburban Area Citizens Involvement Committee Chairman J. Clair Browne given in 1983 during public hearings concerning Variance 22-83 indicates that this property was initially proposed for Residential Zoning when the Klamath County Land Development Code was adopted on November 25, 1981, but was subsequently rezoned Industrial at the request of the landowner. All of the adjoining and adjacent property is zoned for residential use. In addition, Ferguson Elementary School is located approximately one block from the subject property.

4. The applicant acquired the subject property in three parcels between 1948 and 1953. Testimony of many of the adjacent landowners was that during that same period of time many of the houses which are adjacent to or adjoin the subject property were also constructed. The applicant initially used his property for the storage and repair of logging trucks, tractors and equipment. The business now located on the property was started as a hobby in 1970.

5. The subject property is leased to Sturdi-Craft, a corporation, which manufactures hardboard shelving, bookcases and desks in a precut, unassembled form for sale to the public. The company currently employs 60 full time people plus 20 high school students who work four hours a day packaging the materials. Sturdi-Craft is the largest producer of this type of product in the United States.

6. The business located on the property burned to the ground in 1976 and was thereafter rebuilt by the applicant. At the time it was rebuilt, the applicant installed automatic sprinkler systems throughout the processing plant and warehouses. In order to have an adequate water supply, Sturdi-Craft paid the cost of installing an eight inch watermain from South Sixth Street to the plant site. The plant is currently served by two four inch supply lines which run from the eight inch mainline.

7. A portion of the site is currently used to store what is described as sawmill machinery by the applicant and other miscellaneous used equipment.

3. Sturdy Craft recently purchased one-half million dollars of equipment for manufacturing similar products, but with a rice paper, oak pattern laminated finish. Sturdy Craft will add 21 items to its product line and could add an additional 18 more items. Said new machinery requires 70' x 100' of additional manufacturing space. An eight hour shift for said new machinery will add 15+ employees to the payroll. The Applicant and Sturdy Craft expect that the addition of said new products will double Sturdy Craft's sale volume.

The Applicant and Sturdy Craft are rightfully excited about the addition of said equipment. They correctly emphasized the beneficial impact that said expansion will have on the local economy as a result of the increased employment, increased tax value and increases in the purchase of local supplies and services.

The addition of said equipment represents a material change in circumstances from the Variance Hearings in 1987. In 1987 the proposed addition was needed to provide room to "stage" shipments for up to 15 trailers at a time. However, no material change in the quantity of products produced and shipped was expected.

Now, as stated above, a substantial increase in production and sales is anticipated. As production increases there will be a corresponding increase in the traffic to and from the plant.

9. All traffic entering and leaving the plant site must use Homedale Road. Traffic counts conducted by Klamath County show that the traffic, during 24 hour periods, increased from 5,672 vehicle trips in May, 1984 to 10,813 vehicle trips in June, 1988. Opponents to this application testified that the quantity and speed of the vehicles on Homedale Road pose a substantial danger to the residents along Homedale Road and to the children going to and from Ferguson School.

Ferguson School is located at the end of Delaware Street, one block east of Homedale Road. Delaware Street dead ends into the Ferguson School parking lot and provides the only access to the school. Delaware Street intersects Homedale Road at right angles east of the subject property. Delaware Street does not continue west from Homedale Road. If it did it would divide the subject property in half.

The opponents to this application testified that trucks exiting the subject property block Homedale Road for up to 45 seconds and that the access to the subject property is not safe.

The Applicant and his witnesses testified that the traffic on Homedale Road has decreased, not increased, because of the construction of the Southside

Bypass. The Applicant believes that the access to the subject property is safe.

Neither the opponents nor the Applicant were able to produce information concerning the design capacity of Homedale Road. The Klamath County Comprehensive plan does not contain said information. However, the County's said traffic counts supports the position of the opponents that traffic on Homedale Road is increasing and is a problem. Said traffic counts cast strong doubt on the Applicant's testimony that the traffic has decreased and is not a problem.

The opponents raised the concern that added production at Sturdy Craft will adversely impact the traffic on Homedale Road and supported their objection with substantial objective evidence. The burden of proving that increased traffic generated by Sturdy Craft will not adversely impact Homedale Road and the adjacent land uses is on the Applicant. The Applicant failed to meet his burden on this record.

10. During the 1987 hearings, the Opponents claimed that the existing improvements are located closer to the boundary lines of the subject property than allowed by the prior variances. Said testimony was countered by the engineering drawings submitted by the Applicant.

In this proceeding the Opponents introduced certified copies of the three deeds vesting title to the subject property in the Applicant and his wife, Juanita. Said deeds contain metes and bounds descriptions of three adjoining parcels which form the subject property. The total north-south length of said three parcels is 697.92'.

Exhibit G, the Applicant's plot plan shows that the existing building is 691 feet from North to South and shows a 4.5 foot wide south-side yard and a 5

foot wide north side yard, or a total north-south property length of 700.5 feet.

If the Applicant's plot plan is accurate and if the proposed addition follows the same south line of the existing building it is possible that the building will not be 4.5 feet north of the recorded boundary line between the Putnam property and the Smith property to the south.

The retention of a south side yard is necessary to provide access to drainage structures located near said boundary line. The Applicant bears the burden of providing an accurate plot plan which provides for all necessary structures and uses on the Applicant's land. In addition, when the Applicant's ownership of the land is challenged the Applicant has the burden of establishing said ownership.

In this case the Applicant may have obtained ownership of some of the adjoining land by adverse possession. However, until such time as said ownership is established by Decree of a Court of competent jurisdiction, the County in a land use matter cannot recognize said ownership.

11. The Opponents are concerned that drainpipe for the valley which would be created where the roof of the proposed addition meets the roof of the existing building is not large enough to carry the volume of drainage water from said roofs.

On this record, whether or not said pipe is of adequate size is speculation. However, the Land Use Code charges the County Engineer with the duty (and authority) to ensure that the project will not result in inundation and erosion on the site nor create any drainage problems for neighboring or down-stream properties. (LDC Article 72)

12. The Opponent's alleged that the Applicant's plot plan fails to meet the requirements of LDC §43.004(B) and §41.005 in each of the following particulars:

- a. Exhibit G is not drawn to scale;
- b. The Plot Plan does not show the location, name, width and improvements on and along the adjacent street; and
- c. It does not show the location dimensions (including height) and use of all existing and proposed structures.

The purpose of the plot plan is to insure compliance with the Land Development Code. (LDC §41.001) All of the information listed for inclusion on the plot plan may not be necessary to show compliance with the Code. For example, there is no allegation in this case that any of the structures on the subject property, existing or proposed, exceed the building height restriction for the zone in which the property is located. Therefore, requiring the Applicant to show the height of all existing buildings would probably not add any material information to the record. Unless an objector demonstrates the relevance of missing information, the application will not be denied because the information is missing.

There is material information listed in the code plot plan requirements that is not on the subject plot plan. The Applicant filed this Application because he believes he needs to use the 22 foot front yard for parking. In order to grant a Variance the review authority must find:

"That a literal enforcement of this Code would result in practical difficulty or unnecessary hardship."

If the Applicant wants to use the front yard for parking, he must demonstrate that there is insufficient parking space on the other areas of the subject property.

The opponents demonstrated that the plot plan is not drawn to scale, that the location and size of all structures on the lot are not shown, and that the parking spaces shown on the plot plan do not comply with the requirements of LDC §68.006.

In the absence of a complete and accurate plot plan, it is not possible to find that said area is required for parking.

13. The Opposition renewed the objections made at the 1987 hearings. Said objections are detailed Finding of Fact 10, of the Hearings Officer's August 12, 1987 Order. The following findings are adopted herein:

A. During the hours that the manufacturing process is operating, a substantial amount of noise is generated by what the opponents described as "the blower" and the applicant described as "the bag house". Witnesses in opposition to the application produced a video tape which demonstrates accurately the noise caused by the operating plant. The noise is loud enough that neighboring landowners cannot carry on a discussion in a normal speaking voice. The video tape accurately portrays the noise. The Hearings Officer noted the noise when he toured the property prior to the public hearing in this matter, and the noise is substantial and to the point of being a nuisance. The applicants testified that, between the dates on which public hearings were held in this matter, they changed the configuration of the equipment on the bag house thereby cutting the decibel level of the noise generated in the bag house from approximately 65 to 55. The applicants testified that a decrease in the decibel level of 10 is equal to cutting the noise by a magnitude of one-half.

The Hearings Officer did not visit the property after the said changes were made, however, none of the opposition challenged the statements made by the applicant.

B. The opposition produces substantial evidence showing the accumulation of sawdust on adjoining property and other property in the general vicinity. The dust is very fine and accumulates on cars, laundry and any other materials stored outside and not under cover. It creates dust in the houses and, together with the noise generated by the bag house, prevents many of the residents from leaving their windows open and thereby having adequate ventilation during the summer months. The applicant testified that the plant does not produce dust and that the applicant has been accused of causing dust when, in fact, the pollutant in the air was pollen. The Hearings Officer does not find the applicant's testimony credible when compared to the overwhelming evidence submitted by the opposition that, in fact, the plant does introduce substantial quantities of sawdust into the air.

C. Many of the opposition feel that the construction of the building will block the sunlight radiating on Homedale Road and thereby cause ice to accumulate in the winter months.

D. The opposition believes that the construction of the subject building will interfere with their view, especially the view of the people living directly across Homedale Road from the subject property. However, it appears to the Hearings Officer that the view of those people is already blocked by the existing improvements located on the property which extend along the entire westerly boundary of the property from its north boundary to its south boundary.

Said Order states:

"12. With respect to the concerns raised by the neighbors, there is no question but that the noise, as it existed at the time the Hearings Officer viewed the property, and the sawdust emanating from the property are a nuisance to the neighborhood. The extent of that nuisance is such that it has a devaluing effect on nearby properties, and greatly interferes with the residential use made of those properties. However, there is no substantial testimony in the record from which a conclusion can be drawn that the construction of the subject addition to the warehouse will exacerbate this condition. The Hearings Officer also finds that there are a number of trees and other buildings along Homedale Road that approach the same height as the proposed warehouse addition and are located within 20 feet of the boundary of Homedale Road which, if an ice problem is created, are already creating a problem. The Hearings Officer can make no finding based on substantial evidence that the proposed addition will in fact create an ice problem on Homedale Road."

At the time said Order was entered the uncontradicted testimony was that there would be no material increase in the number of hours the production lines would operate. That is no longer the case. The Applicant now expects production to double. Said material increase in production will substantially increase said problems and materially increase the interference of this industrial use on the nearby residential uses.

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. Section 43.005 requires that a plot plan be submitted in accordance with Article 41, Section 41.005 of the Code. Section 65.005 sets forth the minimum

landscaping requirements. Section 64.002 sets forth the minimum required fencing. Section 62.003 sets forth the minimum front yard setback from which the subject Variance is requested. Finally, Section 68.005 sets forth the required parking facilities.

VARIANCE REVIEW CRITERIA FINDINGS AND CONCLUSIONS

The following findings are made concerning the review criteria set forth in Section 43.003 of the Land Development Code:

A.1. Review Criteria:

"That the 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."

A.2. Findings and Conclusions:

The Order entered in Variance No. 12-87 found that the addition to the warehouse would allow Sturdy Craft to be more efficient without materially increasing the adverse impact of this light industrial use on the neighborhood. It held that a literal enforcement of the Code would create an unnecessary hardship on the Applicant.

In determining whether or not a hardship is unnecessary, the private expense of the Applicant must be balanced against the public benefit accruing from strict enforcement of the Code. Said Order determined that no public benefit would be served by enforcing the code.

The anticipated doubling of Sturdy Craft's production and sales changes said balancing. The purpose of building set backs and yards is:

"... to ensure adequate privacy, desirable and safe visibility and outlook from nearby roads and buildings; natural light, ventilation and sunlight; access to and around buildings; buffering between uses; and space for landscaping,

gardening, and recreation." (LDC §62.001)

As the traffic generated by the use increases, the public need for safe visibility increases. This is particularly true where the arterial serving the property is burdened by high use and provides the only access to an elementary school located one block from the subject property and which is accessed by a street which intersects Homedale Road at a point between the two entrances to the subject property.

In addition, as the industrial use on the subject property increases, the need for buffering between uses also increases. The existing facilities and level of use has had a material devaluing affect on the nearby residential property and it greatly interferes with the residential use made of the property. If the intensity of said use doubles or triples, as anticipated by Sturdy Craft, the additional interference with the residential uses in the neighborhood will be substantial.

In balancing the public benefit accruing from the set back and front yard requirements of the Code against the hardship to the Applicant, the required finding of unnecessary hardship cannot be made.

Nor can it be found that the Code is causing a practical difficulty in this case. There is nothing unusual about the size, shape or topography of the subject property.

The prior zoning ordinance, which was in effect in 1975 when the Applicant built the initial manufacturing plant, was more severe than the existing Code. Ordinance No. 17 required an 85 foot front yard set back with a 50 foot wide front yard which should have been landscaped and not used for parking, loading or storage. Said Ordinance required 80 foot side and rear yard set backs which

could be used for parking or storage of items not exceeding six feet in length.
(Ordinance No. 17, §71.005)

The County granted Variances to the rear and side yards for the buildings and additions thereto constructed by the Applicant. The front yard landscaping requirements were apparently not enforced. However, at all material times the Applicant had notice of the development standards applicable to the subject property.

Any practical difficulty now experienced by the Applicant results from his management and marketing skills which have caused Sturdi Craft to expand at levels not experienced by most other businesses in this area. The result is that the business has outgrown the subject site. Said difficulty does not provide a basis for granting a Variance.

B.1. Criteria:

"That the condition causing the difficulty was not created by the applicant."

B.2. Findings and Conclusions:

The Applicant has done nothing to decrease the quantity of the property he owns or to make parts of the property unavailable for this use, or done anything else to cause the difficulty he is now facing.

The business of the Applicant's tenant has increased to the point that the subject site, as limited by the property development standards, is too small. As the business continues to expand, the problem will increase. Undoubtedly, when the Applicant rebuilt the manufacturing buildings on the subject property in 1975-76, he did not anticipate the success he has realized.

In the context of the Land Use Code, the Applicant did not cause the difficulty he is now experiencing.

C.1. Criteria:

"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."

C.2.

Findings and
Conclusions:

LDC §10.002 provides:

"The purpose of the Land Development Code is to coordinate Klamath County regulations governing the use and development of land; and more specifically;

A. ...

B. To promote and to protect the public health, safety, and general welfare of the citizens of Klamath County;

C. To regulate land use in a manner that will encourage and support the orderly development and beneficial use of lands within the County;

D. ..."

When the County zoned the neighborhood in which the subject property is located, it zoned the land to reflect the use that was being made of the land at that time. As the subject property is surrounded by single family residential uses, the subject property was spot zoned industrial and all the adjoining land was zoned residential.

The Applicant's land was initially zoned residential to conform to the prevailing use in the neighborhood, but was rezoned industrial at the request of the Applicant.

The effect of the spot zoning of this area was, and is, to limit the expansion of the Applicant's industrial use to the Applicant's property. However, the Applicant's expansion on his own property is further limited by the Code provision, such as the set back requirements, which are intended to

protect the public health, safety and welfare; buffer the industrial use from the surrounding residential uses; and to protect the beneficial use and value of the surrounding property from the adverse impacts of the subject industrial use.

There is no question but that the expansion of the Sturdy Craft facility, at least partially caused by the expansion of the manufacturing area, will have a significant adverse impact on the use and enjoyment of adjoining property by causing additional noise and dust, additional large truck traffic and additional employee traffic. Said impacts are also detrimental to the public safety and welfare.

ORDER

This land use application is the perfect example of the need for land use planning. The undeveloped areas of the County which are zoned for industrial use are buffered from conflicting land uses by less intensive commercial zoning, open areas and/or physical or geological buffers.

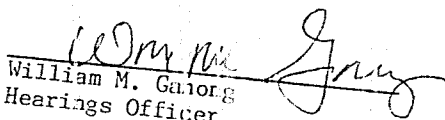
In this case, the surrounding residential uses were developed before the zoning ordinance was enacted and the Applicant's use of his property has become increasingly more intense. It is too late to provide buffers between the conflicting uses except by applying the Codes development standards to the Applicant's (and the surrounding) land.

At the time the zoning ordinance was adopted and this neighborhood was zoned, a policy decision which restricts the expansion of industrial uses in this area was made. Re-evaluation of that policy lies with the Planning Commission and Board of Commissioners in the Comprehensive Plan Update process.

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For the reasons set forth above, the Findings required by LDC §43.003 cannot be made. The subject Application for a Variance from the front yard setback requirements of the Land Development Code is denied.

Dated July 29, 1988.


William M. Garborg
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
of Aug. A.D., 19 88 at 4:23 o'clock P.M. and duly recorded in Vol. M88
of Deeds on Page 12400
FEE none
By Evelyn Biehn County Clerk
By Pauline Mulken