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BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGON

Vol. 2788 Page 20954

1 IN THE MATTER OF APPEAL OF HEARINGS)
2 OFFICER DENIAL OF VARIANCE 5-88 FOR)
3 NED PUTNAM

ORDER NO. 89-144

I. NATURE OF REQUEST

4 The Variance requested by applicant, Ned Putnam, to reduce
5 his front yard setback from 75 feet down to 22 feet was denied
6 by the Hearings Officer on July 29, 1988.

7 Applicant appealed the Variance denial within the pre-
8 scribed time to the Board of Commissioners with a hearing date
9 set for September 26, 1988. The hearing was continued to the
10 following dates due to an illness and death of the applicant's
11 representative: October 10, 1988, November 15, 1988, and
12 November 28, 1988.

13 A public hearing before the Board of Commissioners was
14 held on November 28, 1988, in which testimony from Planning
15 Department staff; applicant, Ned Putnam; applicant's represen-
16 tative, Robert Nichols; and those in opposition was heard by
17 the Board of Commissioners.

II. NAMES OF THOSE INVOLVED

18 The Planning Department was represented by Carl Shuck,
19 Planning Director and the recording secretary was Karen Burg.
20 Legal Counsel, David Mannix, was also present. The applicant
21 was Ned Putnam, and his representative was Robert Nichols.
22 Those who spoke in opposition were Ray Kolb, Sam Redkey, and
23 Laverne Smith. Members of the Board of Commissioners at the
24 hearing were Chairman, Roger Hamilton; Jim Rogers; and
25 Ted Lindow.

III. LEGAL DESCRIPTION

26 The site is located in a portion of Section 2, Township
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88 DEC 9 PM 3 23

1 39, Range 9, Tax Lot 300; Lots 1, 2, and a portion of Lot 3 of
2 Bailey Tracts.

3 IV. FINDINGS

4 In reviewing evidence, testimony given by staff, appli-
5 cant, applicant's representative, and those in opposition, the
6 Board of Commissioners overturns the decision of the Hearings
7 Officer and approves Variance 5-88 for Ned Putnam with find-
8 ings and conditions as follows:

9 A. The literal enforcement of the Code section requiring
10 a 75-foot frontyard setback for this heavy industrial use
11 results in an unnecessary hardship due to the fact that sub-
12 ject property is spot-zoned industrial, surrounding property
13 is zoned residential, and applicant cannot expand his business
14 by acquiring adjoining residential property. Applicant's plot
15 plan clearly demonstrates that there is no other location on
16 the subject property where the proposed warehouse could be
17 built.

18 B. The condition causing the difficulty was not created
19 by the applicant as the difficulty was created when the site
20 was spot-zoned for industrial use. This is also a difficulty
21 that is shared by other parcels that have been spot-zoned.
22 The setbacks vary more when an industrial zone abuts a resi-
23 dential zone versus an industrial zone abutting another indus-
24 trial zone. Klamath County's Land Development Code does not
25 require that the applicant's problem be unique to the appli-
26 cant, rather it only requires that the condition causing the
27 difficulty was not created by the applicant and that literal
28 enforcement of the Code would result in practical difficulty

1 or unnecessary hardship.

2 C. Granting this Variance will not be detrimental to the
3 public health, safety, and welfare or to the use and enjoyment
4 of adjacent properties provided applicant meets conditions
5 1-10 of this Order. The proposed use will be for additional
6 storage for their production schedule which will allow
7 Mr. Putnam to fill orders during the times when there is a
8 heavy demand for his product.

9 CONDITIONS

10 1. The entire 22-foot strip of land from the property
11 line on Homedale Road to the easterly edge of the proposed
12 building shall be landscaped to commercial acceptability.

13 2. No trees shall be placed closer than 8 feet to the
14 Homedale Road property line.

15 3. The area from the Homedale property line to the pro-
16 posed building may be planted in lawn or with a low-growing
17 ground cover or may be covered with a combination of bark and
18 low-growing ground cover.

19 4. The applicant may incorporate a concrete or block
20 retaining wall along the easterly property line of Homedale
21 Road if necessary to prevent the applicant's land from
22 sloughing off onto the Homedale Road sidewalk or right-of-way.

23 5. The applicant shall install a fence not less than six
24 feet and not more than eight feet in height along the easterly
25 property line shown on the applicant's landscape plan and
26 shall be constructed of open mesh or materials that do not
27 obscure vision.

28 6. The applicant shall install a wall or screened

1 fencing on the southerly property boundary of 6 feet in height
2 and shall extend from the easterly Homedale Road property
3 line, westerly to the east edge of the proposed building. The
4 fence or wall shall not block visibility from the easterly
5 property boundary to 5 feet westerly and shall be constructed
6 of chain-link type fencing.

7 7. No part of the 22-foot strip of land between the
8 Homedale property line and the edge of the proposed building
9 shall be used for parking or storage of any material.

10 8. The applicant shall remove all scrap iron, wrecked
11 trucks and trailers, and shall properly pave, landscape, and
12 screen as per conditions set forth in this Order.

13 9. The applicant shall provide a site plan per Section
14 41.005 of the Land Development Code and the required drainage
15 and structure information and other items required by this
16 Order to the Planning Director for his review for approval
17 within 90 days of the date of this Order.

18 10. The applicant shall perform on these conditions so
19 set forth in the Order within 120 days from the date of this
20 order. If the above conditions are not met as prescribed in
21 Condition #10, the Variance will be denied. Under Section
22 43.004 of the Land Development Code, Paragraph I, Limitation:
23 No request shall be considered by the Hearings Officer within
24 a one-year period immediately following a previous denial of
25 such request.

26 Therefore, based on the above findings and conditions set
27 forth, the review criteria in the Klamath County Land Develop-
28 ment Code are satisfied, and the application by Ned Putnam for
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- 1 Variance 5-88 shall be granted to allow a reduction in front-
2 yard setback from 75 feet to 22 feet and allow an addition
3 onto his existing warehouse, upon performance of all condi-
4 tions specified herein. Failure to perform shall constitute a
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1 denial of said application.

2 DATED THIS 7th DAY OF December, 1988.

3 BOARD OF COUNTY COMMISSIONERS

4 Roger Hamilton
5 Roger Hamilton, Chairman of the Board

6 Ted Lindow
7 Ted Lindow, Commissioner

8 Jim Rogers
9 Jim Rogers, Commissioner

10 APPROVED AS TO FORM AND CONTENT:

11 David Mannix
12 David Mannix, Deputy County Counsel

13 STATE OF OREGON: COUNTY OF KLAMATH: ss.

14 Filed for record at request of Klamath County the 8th day
15 of Dec. A.D., 19 88 at 3:23 o'clock PM., and duly recorded in Vol. M88,
16 of Deeds on Page 20954.

17 Evelyn Biehn, County Clerk

18 FEE \$none

19 By Paulene Mullendore

20 Return: Commissioners Journal

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