

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request	)	Variance No. 6-89
for a Variance for KEITH	)	FINDINGS OF FACT,
RICE AND JEAN RICE.	)	CONCLUSION OF LAW
-----	)	AND ORDER

This matter came before Richard C. Whitlock, Hearings Officer of Klamath County, Oregon on September 7, 1989 in the Klamath County Commissioners' Hearing Room. The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related ordinances. Keith Rice, the Applicant was present at the hearing and testified in favor of the application. The Klamath County Planning Department was represented by Mr. J. Kim Lundahl and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence, including Exhibits A and B. The Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. The subject property is located West of the intersection of Long Lake Road and Balsom Drive and is Kalmath County Tax Account No. 3908-index-2101. The site is in the NR (Non-Resource) Zone.

2. The Applicants have requested a Variance from the development standards contained in Section 51.022(D) of the Land Development Code in order to allow him to partition his property and create a 17.7 acre parcel generally northeast of

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Long Lake Road (County Road 774).

3. Applicant testified that the entire parcel of approximately 114 acres was deeded to Jean Rice through an estate proceeding and that Long Lake Road had been in existence for over 100 years. There was no testimony in opposition to this application.

4. The Applicants' proposed parcel contains approximately 17.7 acres. The minimum lot size required by Section 51.022 NR Zone is twenty (20) acres. Therefore, the proposed variance in lot size is only 11.5 percent. The Findings of Fact contained in the Klamath County Planning Department's Staff Report for the Variance are incorporated herein by this reference. The parcel is serviced by K.F.P.A. and Stewart Lennox fire protection facilities and has individual well and septic facilities.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA:

1. Article 43 of the Land Development Code sets forth the criteria which must be addressed in order to grant a Variance.

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

A. With respect to the request for a Variance, the following Conclusions are Made:

1. The literal enforcement of this code would result in practical difficulty or unnecessary hardship. The evidence indicates the proposed parcel includes all ownership of Applicants north of the Long Lake Road, a natural division line. To force the applicant to include another 2.3 acres south of the road would be cumbersome, unnecessary and

without public benefit.

2. That the condition causing the difficulty was not created by the applicant. The location of Long Lake Road is an accident of fate having been in existence for over 100 years and not established by Applicants. If the road had been established a few feet further south, the proposed parcel would have included the necessary 20 acres.


3. 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.

A variance of 11.5% will not be detrimental to the above considerations. There was not testimony or evidence whatsoever to indicate in any manner that the variance would have any adverse affect to anyone.

**ORDER:**

The request for a Variance from the Development standards of the Land Development Code requiring that every parcel be not less than 20 acres in size is granted.

DATED this 13<sup>th</sup> of September, 1989.

  
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Richard C. Whitlock, 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 this Code."

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 14th day of Sept. A.D., 19 89 at 9:06 o'clock A.M., and duly recorded in Vol. M89 of Deeds on Page 17300.

FEE none

Evelyn Biehn County Clerk

By Catherine M. Mueland

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