

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON.

In the Matter of the Request	)	C.U.P. 69-89
for the Conditional Use Permit	)	Variance No. 9-89
and a Variance for WILLIAM	)	FINDINGS OF FACT,
L. HAWKINS.	)	CONCLUSION OF LAW
	)	AND ORDER

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This matter came before Richard C. Whitlock, Hearings Officer of Klamath County, Oregon on October 6 and October 20, 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. Charles Neil Hawkins, the authorized agent for the Applicant, was present at both hearings and testified in favor of the application. The Klamath County Planning Department was represented by Mr. Carl Shuck and the Recording Secretaries were Karen Burg and Leanne Mitchel. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence, including Exhibits A, B, C and 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 initially requested a Variance from the mobile home siting standards of the Land Development Code in order to allow him to place mobile home which is less than 20 feet wide, contains less than 800 square feet and was manufactured prior to 1976.

2. At the Hearing on October 6, 1989, it became

apparent that the Applicant would also need to apply for a Conditional Use Permit to place the mobile home in the RS Zone (Suburban Residential) "for those persons related to the owner" where the lot is less than 20,000 square feet in area pursuant to Land Development Code Section 51.005(c)(6).

3. The subject property is located at 2828 Summers Lane, Klamath Falls, Oregon, and is legally described as SE 1/4, SE 1/4 of Section 3, Township 39, Range 9, Tax Lot 3900. The property is located in the RS (Suburban Residential) Zone and is approximately 12,700 square feet in area. The mobile home which Applicant desires to place on the property was manufactured in 1965, is 10 feet wide by 50 feet long, and contains a total of approximately 500 square feet.

4. Charles Neil Hawkins testified at the hearing that he is the father of the applicant and that the mobile home would be used by the witness as his permanent residence. Mr. Hawkins testified that it was necessary to purchase a single-wide mobile home for placement on the property because the maximum clearance at entry onto the property is approximately eleven feet. Mr. Hawkins stated it would have been virtually impossible to have placed anything but a ten (10) foot single-wide mobile home. Mr. Hawkins also promised that all setback requirements would be complied with in the final placement of the mobile home.

5. There are other single wide mobile homes already located in the area of the subject property and there is also a mobile home park nearby which contains single-wide mobile homes. There was no testimony in opposition to either

application.

6. The Applicant's lot is located within Klamath County Fire District No. 1 boundaries, has electricity, water and sewer facilities. Access will be off Summers Lane and placement of the mobile home as requested will comply with required setback requirements.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA:

1. Article 44 of the Land Development Code sets forth the criteria for granting a Conditional Use Permit.

2. Code Section 51.005(c)(6) provides that a mobile home for persons related to the owner may be sited on a lot of less than 20,000 square feet in the RS Zone by Conditional Use Permit.

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

4. Article 84 sets forth the standards for siting mobile homes and paragraph E provides, in part, that mobile homes located within the Klamath Falls Urban Growth Boundary shall be at least 20 feet in width, shall contain at least 800 square feet and shall be manufactured after June 15, 1976.

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

A. With respect to the application for Conditional Use Permit to site a mobile home for persons related to the owner on a lot of less than 20,000 square feet in the RS Zone the Hearings Officer makes the following findings:

(1) As set forth above under the Klamath County Land Development Code Criteria, the RS Zone allows a mobile

home for persons related to the owner as a Conditional Use on lots of less than 20,000 square feet in area. The proposed occupant of the mobile home is the applicant's father.

(2) The location, size, design and operating characteristics of the mobile home placement are in conformance with the Klamath County Comprehensive Plan. The subject property is served by water, electrical and sewer services. The subject lot is of adequate size both in width and depth to site the subject mobile home on the lot in a manner which will meet all setback requirements.

(3) The location, size, design and operating characteristics of the addition of this mobile home on the subject lot is compatible with and will have no significant adverse effects on the appropriate development and use of abutting properties and the surrounding neighborhood. As set forth above in the Findings of Fact, this neighborhood contains a number of existing mobile homes including a mobile home park situated nearby. There was no testimony or evidence whatsoever that would indicate in any manner that the siting of a mobile home on this lot for a relative will have any adverse affect on the neighborhood or abutting properties.

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

1. The literal enforcement of the code provision allowing only double-wide mobile homes to be placed within the Klamath Falls Urban Growth Boundary will result in practical difficulty, is an unnecessary hardship and would result in greater private expense as compared with any public benefit of

strict enforcement. The evidence shows that only a single-wide mobile home could be placed on this property and there are other single-wide mobile homes of a similar size located in the immediate vicinity of the subject property. The additional mobile home can be placed on the lot so that it complies with all set-back requirements of the Code and is completely compatible with the surrounding neighborhood.

2. The condition causing the need for this Variance was not caused by the Applicant because the physical lay-out of the property necessitates a single-wide mobile home placement. The subject mobile home is already owned by the applicant and his father who will occupy the mobile home and no benefit will result to the public if the Applicant's request is denied.

3. The granting of the subject application will not be detrimental to the public health, safety and welfare or to the use and enjoyment of the adjacent properties and will not be contrary to the intent of this code.

ORDER:

The subject application for a Conditional Use Permit to site a mobile home for the use of persons related to the owner or contractual purchaser on the above described property is granted. This Conditional Use Permit is specifically restricted to use of the mobile home for use of persons related to the owner or contractual purchaser of the property and any mobile home placed on the property shall comply with all existing property development standards, including setbacks. In addition, the request for a Variance from the

standards of the Land Development Code requiring that the mobile home be not less than 20 feet in width, not less than 800 square feet and manufactured prior to 1976, is granted. This Order granting the variance is restricted to the 1965, 10'x50' mobile home presently applied for and shall not extend to replacement of that unit by any other single-wide mobile home. Any other mobile home intended to be placed on this site in the future shall comply with Urban Growth Boundary requirements or applicant may seek another variance from Klamath County.

DATED this 24th of October, 1989.

Richard C. Whitlock
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."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 26th day
of Oct. A.D., 19 89 at 9:13 o'clock A.M., and duly recorded in Vol. M89
of Deeds on Page 20509.

FEE none

Evelyn Biehn County Clerk
By Pauline Mullendore

Return: Commissioners Journal