

## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request       ) Variance No. 3-90  
for a Variance for                    ) FINDINGS OF FACT,  
JAY PLEUS.                            ) CONCLUSION OF LAW  
\_\_\_\_\_) AND ORDER

This matter came before Richard C. Whitlock, Hearings Officer of Klamath County, Oregon on May 7, 1990 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. The Applicant appeared at the hearing and testified in favor of the application. The Klamath County Planning Department was represented by Mr. 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, including Exhibits A (staff report), B (assessor's map), C (plot plan), and D (photos). 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 a one (1) acre parcel located at 3907 Bisbee, Klamath Falls, Oregon, on the east side of Bisbee Street, within Altamont Acres Subdivision and is Klamath County Tax Account No. 3909-10-1700. The site is in the RS (Suburban Residential) Zone, which is defined in Land Development Code Section 51.005, and is located within the Urban Growth Boundary.

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2. The Applicant has requested a Variance from the development standards contained in Sections 84.001(E)(1) and 84.001(E)(2) pertaining to age and size requirements for mobile homes within the Urban Growth Boundary in order to allow him to place a single-wide mobile home made in 1972 on the property as a second residence.

3. The Applicant stated he wanted to purchase the property as an investment and place the mobile home (which he already owns) on the property as an additional rental residence to help defray costs. He testified he would clean the place up and that the present owner needs the money for back taxes.

4. There was no testimony in opposition to this application and there is no evidence in the record to suggest that the granting of this variance will be detrimental to the public health, safety and welfare or to the use and enjoyment of adjacent properties. From Exhibit B and the statements of staff, it appears that there are other single-wide mobile homes nearby which do not meet present size and year requirements.

5. The Findings of Fact contained in the Klamath County Planning Department's Staff Report (Exhibit A) are incorporated herein by this reference. The property is serviced by Klamath County Fire District No. 1, City of Klamath Falls water, South Suburban Sanitary District, and PP&L.

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.

2. Section 84.001(E)(1) and (2) of the Land Development Code set forth minimum requirements for a mobile home within the Urban Growth boundary.

3. Section 51.005(B)(7) allows placement of a second residence (mobile home) on property in excess of 20,000 square feet.

**KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:**

A. With respect to the request for a Variance as to the age and size requirements for a mobile home within the Urban Growth Boundary, the following Findings and Conclusions are made:

1. The literal enforcement of this code would not result in practical difficulty or unnecessary hardship. The evidence indicates the Applicant wishes to place this second mobile home on the property as additional business income to defray his purchase of the property. Applicant testified he could make the property payments without this additional placement, but the placement would enhance cash-flow. Applicant now owns the mobile home which he seeks to place, and is unwilling to buy a conforming structure.

2. That the condition causing the difficulty WAS created by the applicant. Applicant seeks to place a mobile home on the property to defray investment costs.

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. There was no testimony in opposition to this application and there is no substantial testimony or evidence in the record which establishes that this variance would have any adverse effects on adjacent properties or to the public generally. There are other single-wide mobile homes nearby.

**ORDER:**

The request for a Variance from the Development Standards of the Land Development Code requiring a mobile home within the Urban Growth Boundary to be 1976 or newer and more than 800 square feet is hereby DENIED.

DATED this 7<sup>th</sup> of May, 1990.

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 9th day  
of May A.D., 19 90 at 11:25 o'clock A M., and duly recorded in Vol. M90,  
of Deeds on Page 8813

Evelyn Biehn, County Clerk

By Pauline Muelandore

FEE none

Return: Commissioners Journal