

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the request
for a VARIANCE FOR LEONARD
PUTNAM

VARIANCE
NO. 21-90

This matter came before Neil D. Smith, Hearings officer for Klamath County, Oregon on 1 June 1990 in the County Commissioners' Hearing Room in Klamath Falls Oregon. The Klamath County Planning Department was represented by Mr. Carl Shuck the recording secretary was Ms. Karen Berg. The Klamath County Planning Department file and all the exhibits and other contents therein is incorporated by this reference into this matter.

The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related Statutes and Ordinances. MR. DOUGLAS ADKINS represented the applicant for the above referenced permit, was present and testified. Mr. Adkins' information was received and found to be in favor of the permit.

The report prepared by staff was read and the contents thereof were received in evidence; Exhibit "A" (staff report), Exhibit "B" (a site plan), Exhibit "C" (assessor's plat map) and Exhibit "D" (a plat showing the relative positions of adjacent property) and Exhibit "E" (six photographs). Based upon the evaluation of the testimony and consideration of the evidence received, the Hearings Officer makes the following FINDINGS OF FACT AND CONCLUSIONS.

FINDINGS OF FACT :

1. The Applicant is requesting a Variance to reduce the side yard setback in a Heavy Industrial Zone which is abutting a residential lot. The petitioner is requesting that the 25 foot setback be reduced to 2 feet and the rear yard setback be reduced from 15 feet to 2 feet.

2. The property is located to the West of SUMMERS LANE and south of the O.C. & E. railroad, in Klamath County, Oregon; legally described as "a portion of section 3 TS.39 R9 tax lot 200.

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3. Mr. Adkins testified that the Exhibits above described show the present buildings on this site and the relative location of a residence abutting the property. That residence is adjoining other property upon which heavy equipment such as logging trucks are presently stored.

4. Authority for the proposed variance is found in section 43.003 of Article 43, paragraphs A, B, and C.

5. The Applicant location will not be contrary to the intent of the code in that it should enhance the quiet use of the property adjacent.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA :

1. Article 43 Section 43.003 of the Land Development Code sets forth the criteria for granting a Variance.

A. A variance shall be granted only upon finding by the review authority that it satisfies the following criteria:

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

2. That the condition causing the difficulty was not caused by the applicant.

3. That the granting of the Variance will not be detrimental 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.

CONCLUSION

The literal enforcement of this Code would result in the site considered here being useless. Staff and Mr. Adkins were in agreement that the use proposed is appropriate. The use of the small setback requested will in fact benefit the adjacent property by screening it from both noise (railroad) and sight (present equipment storage) thereby enhancing the residential property.

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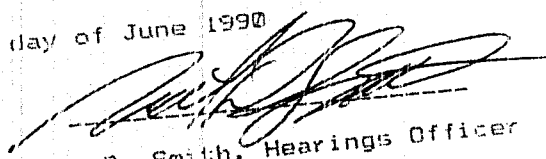
The condition precipitating this request was not caused by the applicant but rather by the uses to which the land is now being put.

There was no testimony from any other party interested in opposition to this application even though adjoining property owners were given adequate notice for this hearing.

ORDER

Based upon the findings and conclusion herein the Variance requested is granted.

DATED this 6th day of June 1990


Neil D. Smith, 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 8th day
of June A.D., 19 90 at 12:45 o'clock AM., and duly recorded in Vol. M90
of Deeds on Page 11093
By Evelyn Biehn County Clerk
Pauline M. Muelken

FEE

none

Return: Commissioners Journal