

STAFF REPORT

CASE NO. AND P.D. REVIEW DATE: VAR 9-94 - SEPTEMBER 28, 1994

APPLICANT, ADDRESS: David & Patricia HURST
5709 Airway Dr.
Klamath Falls, OR 97603

REQUEST: Variance application to legalize frontyard setback variance of 25' to 13' (Sec. 62.040) for an existing 36 x 36 ha' storage/accessory building constructed w/o Planning or Building clearances.

AUTHORITY: Article 43

PROJECT LOCATION: 5709 Airway Dr., north of Airway Dr., east of Homedale Rd.

LEGAL DESCRIPTION: por. E 1/2 E 1/2 SE 1/4 SE 1/4 Sec. 14, T 39S R 9E. T.A. 3909-14DD-100

ACCESS: Airway Dr.

PLAN/ZONE: AGRICULTURE/EFU-C

AGENCIES/PARTIES/NOTIFIED/RESPONDING:

To date, responses as shown on the exhibit list below, were received in response to the notice mailed AUGUST 30, 1994 to the following:

25 property owners
Public Works
County Building

NARRATIVE:

The applicant constructed a 36 x 36 accessory building on a 8.70 acre property. The structure was "red-tagged" by a building inspector and found to be within 13' of the Airway Dr. R/W. The application before the Planning Director is to consider varying the required frontyard setback from 25' to 13' for the existing construction.

EXHIBITS:

- | | |
|-----------------------------------|----|
| a. Staff Report | d. |
| b. Application package & exhibits | e. |
| c. | |

CODE REQUIREMENTS & ORDER:

Article 43, Section 43.040 sets out the requirements for review of Variance requests.

A Variance shall be reviewed against the following criteria:

1. The literal enforcement of this code would result in practical difficulty or unnecessary hardship to the owner. The difficulty or hardship may arise from the property's size, shape or topography, or from the location of lawfully existing buildings or improvements;

The dwelling is existing and was built in ignorance of the required setback. This situation was noticed by a passing Building Inspector and a Correction Notice was posted. The applicant argues it would cause great financial and time hardship to move the building to the correct setback which would result in little, if any, gain.

2. The condition causing the difficulty was not created by the applicant;

The Staff cannot argue this criteria as the difficulty was obviously caused by the applicant, even if ignorant of setback ordinance.

3. The granting of the variance will not be detrimental to the use and enjoyment of adjacent properties, and will not authorize uses or activities not permitted by the zoning applied to the property;

Staff finds there is not a structure or residence immediate to the existing accessory building. Accordingly, the use or enjoyment of adjacent properties will not be impacted. A hay storage building is a permitted accessory use in the EFU-C zone.

4. The granting of the Variance will not be contrary to the intent of this Code;

The construction of a hay storage building is a legitimate request, well within the context of the Land Development Code.

The Planning Director, based on the conclusions and findings of the staff report and information supplied, finds in favor of the applicant and grants the requested variance of the rear yard setback requirement from 25' to 13' to allow the existing hay storage/accessory building subject to Building Department retro-permitting of the structure by **NOVEMBER 1, 1994** with confirmation to the Planning Department.

Dated this 28th day of SEPTEMBER, 1994

Carl Shuck
Carl Shuck, Planning Director

NOTICE OF APPEAL RIGHTS

The Klamath County Land Development Code provides this decision may be appealed to the Board of County Commissioners no later than 7 days following the date of mailing of this decision. For information as to your appeal rights and procedure contact the Planning Department.

STATE OF OREGON: COUNTY OF KIAMATH: ss.

Filed for record at request of Klamath County the 28th day
of Sept A.D., 19 34 at 1:41 o'clock P M., and duly recorded in Vol. M94
of Deeds on Page 30443.

FEE none

Commissioners Journal

Evelyn Biehn County Clerk
By Quylene M. Mikes