

VARIANCE STAFF REPORT/DISPOSITION

APPLICATION NO./AGENDA DATE: VAR 9-98 Planning Director Review 8-26-98

APPLICANT/REPRESENTATIVE: **Ruben and Gloria Aldinger**
5010 Bryant
Klamath Falls, OR 97603

REQUEST: Variance 9-98 to reduce required side setback from 10 feet down to 5 feet to allow addition to existing home.

LOCATION: 5010 Bryant Avenue, southeast corner of Bryant Avenue and Wiard Street.

DESCRIPTION: Portion NW1/4 NE1/4 Sec.2, T.39S, R.9EWM; Tax Acct. 3909-2AB-7500.

ACCESS: Bryant Avenue

ZONE/PLAN: RS/Urban Residential

UTILITIES: WATER: City of Klamath Falls FIRE: KCFD No. 1

SEWER: SSSD

ELECTRIC: Pacific Power

EXHIBITS:

- A. Staff Report
- B. Site Plan
- C. Assessor's Map
- D. KCFD No. 1 Comments 7-30-98
- E. City Water Dept. Comments 8-3-98

CONFORMANCE WITH RELEVANT KLAMATH COUNTY POLICIES:

Notice was sent out to 16 surrounding property owners as well as to 5 agencies of concern. No negative response was received from any of the notified property owners or contacted agencies. A variance shall be granted only upon finding by the review authority that it satisfies the following criteria:

- A. That the literal enforcement of this Code would result in practical difficulty or unnecessary hardship. The difficulty or hardship may arise from the property's size, shape or topography, or from the location of lawfully existing buildings or improvements.
- B. That the condition causing the difficulty was not created by the applicant.
- C. 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.

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Literal enforcement of the Code would cause unnecessary hardship because of the location of the existing structure which was built at the time the RS zone permitted a 5-foot side setback. For the applicant to logically tie-in with existing flow and layout, the proposed orientation of the addition is logically placed. The condition causing the difficulty was not created by the applicant. The location of existing improvements and physical surroundings is what causes the difficulty.

In review of this application, it would appear not to be detrimental to the adjacent properties or to the public. Sixteen surrounding property owners and five agencies were notified of this request. Klamath County Fire Dist. No. 1 commented they have no concerns with the proposal. The City Water Dept. commented the water meter is on the north property line and project should not interfere with operation or readability.

RECOMMENDATION:

Order:

The Planning Director, based on the findings and conclusions of the staff report and information supplied by the applicant, hereby approves the requested Variance subject to:

1. Site plan approval in accordance with Land Development Code Article 41 within two years of the approval date set out below or the Variance approval shall expire.

Dated this 26th day of August, 1998

Carl Shuck
Carl Shuck, Planning Director

APPEAL RIGHTS

You are hereby notified this decision of the Planning Director may be appealed to the Klamath County Board of Commissioners by filing with the Planning Department a NOTICE OF APPEAL as set out in Article 33 of the Code, together with the required fee within SEVEN DAYS of the date of mailing of this decision. Appeals must be received by the Planning Department no later than 5:00 p.m. on the seventh day or next business day if the seventh day falls on a weekend or holiday. Failure to file a NOTICE OF APPEAL within the time provided will result in the loss of your right to appeal this decision.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 26th day
of August A.D., 19 98 at 1:44 o'clock P. M., and duly recorded in Vol. M98
of Deeds on Page 31394
Return: Commissioners Journal

FEE No Fee

By Bernetha G. Letsch, County Clerk
Kathleen Rose