

Canby Planning Commission
Special Meeting
October 29, 1980

Members Present: Chairman Kahut, Commissioners Hart, Davis, Sowles, and
MacKenzie

Members Absent: Commissioners Cutsforth and Baller

Others Present: City Attorney R. Roger Reif, City Planner Stephan Lashbrook,
Gordon Ross, Dennis Naumann, Mike Griggs, Mike Harmon, Randy
Orr, Mr. Ganske, Dave Bury, Dr. Davies, Henrietta Orr, and
others.

Item No. 1: A request for a Minor Land Partition and Variance to Lot Width and size requirements of the R-1 zone to allow the division of a .39 acre lot into two smaller lots, one of which is to have an average width of approximately 65 feet. The property is located on the northwest corner of N. E. Tenth Avenue and N. Juniper Street and is described as Tax Lot 3200, Section 33BA, T3S, R1E. The applicant is Dennis Naumann, represented by Gordon Ross. Planner Lashbrook gave his presentation and made a recommendation for approval if all of the required findings of fact can be made for first the variances and then the minor land partition. Commissioner MacKenzie informed the Commission that he is a neighbor of the applicant. Chairman Kahut asked him if he would be able to make an unbiased decision and Commissioner MacKenzie answered in the affirmative. Chairman Kahut then asked the applicant's representative and other interested persons if they had any objections to Commissioner MacKenzie sitting on the Commission for the hearing of this application. Mr. Ross stated he had no objection and no other objections were voiced. Mr. Gordon Ross, representing the applicant, came forward to make his presentation. He stated that Mr. Lashbrook's report had covered most of the material on this application. He stated it was their intent to meet all setbacks without asking for a variance. He further stated that this lot they want to create at one time was a separate tax lot. The man who owned the house bought this additional lot for a garden spot. There are only two undeveloped lots in the area. The applicant understands that the new comprehensive plan will allow smaller lots than the existing zoning ordinance now allows. The city has allowed other small lots in the recent past. Mr. Ross was asked if he knew when the two lots were combined into one lot, and he stated he was not sure. Commissioner Hart asked Mr. Naumann if he had bought the property with the idea of partitioning it, since he had purchased the property in 1980. Mr. Ross stated that Mr. Naumann purchased two parcels at the same time. He moved to the other parcel and now has two buyers for this parcel, if it can be divided. City Attorney Reif asked the City Planner if it would minimize the amount of variance required if they moved the south property line of the new lot 5 foot to the south. Planner Lashbrook agreed that it was possible. Mr. Ross stated that would be acceptable, however it was not their first preference. Chairman Kahut opened the public hearing and asked for proponents to the application. None came forth. The Chairman then asked for any opponents to the application. Mike Griggs, 1075 N. Juniper, said he didn't feel they would be able to build a house on this lot comparable with the houses to the north. He also felt it would be detrimental as it would be too small for the standards in the neighborhood. He presented to

Planner Lashbrook three letters which were read into the record at the end of the public hearing. Mike Harmon, 1045 N. Juniper Street, stated that he was raised in Canby, lived in Portland for a while - moved back to Canby for the rural atmosphere. He felt that creating lots like this will be detrimental to the area and give a crowding effect. Randy Orr, 1170 N. Juniper Street, stated that he felt this would be a lower income or rental property. Mr. Ganske, 184 N. E. Tenth Avenue, felt that if they allow this it would set a precedent for smaller lots throughout the neighborhood. Dave Bury, 360 S. Township, said he views this as speculation and wishes the applicant to address this portion of the variance and also the possibility of placing the south property line of the new lot closer to the existing dwelling. Chairman Kahut stated the applicant could address this in the rebuttal period. Dr. Davies, 179 N. E. 11th Avenue, also the owner of a house at 152 N. E. 10th Avenue, which he has for sale at the present time, said that this area has large lots which makes for breathing room - which makes for good living. He grew up in congested area - came to Canby because he liked the openness and would not like to see the neighborhood brought down to small lots and very small homes which would destroy the character of the pattern of living. Henrietta Orr, 1170 N. Juniper Street, stated that if N. E. 12th Avenue were opened up they and their neighbors could put a house on the back of their property the same size as being requested this evening. She is against it and always has been because they wanted a larger lot for their family. Dave Bury, 360 S. Township, requested that if the variance and minor land partition are approved that no further variances be requested. There being no further opponents, Chairman Kahut offered the applicant the opportunity for rebuttal. Mr. Ross stated there was no problem in building a dwelling of sufficient size and meeting all the setbacks. It seems that all of these people like large lots which is fine, but every purchaser can not afford or would like to maintain a large lot. He pointed out that they were not asking for any portion of the neighbors lots, but are asking for this particular lot in order to give a buyer a place to build. The existing lots were all divided at a previous time. He stated that he was only asking for the same privilege those existing neighbors received some years ago. The Chairman closed the public hearing. Planner Lashbrook read the letters from Jean Warren, 1105 N. Juniper Street; James D. and Anita L. Johnson, 1156 N. Juniper Street; and, Doris M. Seefurth, 1114 N. Juniper Street. These letters in opposition have been made a part of the permanent record. Chairman Kahut asked the planner if he had any further recommendations for the Commission regarding this partition and variance. Planner Lashbrook stated the neighbors across the street have lots approximately 80 feet wide. He asked the Chairman to take a five minute recess so that he could get the plat-book to be certain of the size. Chairman Kahut called for a five minute recess. Chairman Kahut reconvened the meeting. He asked how wide the lots across the street are. Planner Lashbrook stated they are 80 feet wide. Chairman Kahut stated that it seemed the Commission had two alternatives: rather than creating a substandard lot in terms of area they could require a variance on the five (5) foot setback on the house and have two standard lots. This would give the minimum lot required in the City of Canby. Mr. Ross stated the applicant would have no objections to the procedure outlined by the Chairman. In order to do the variance on the existing house, we would have to have a condition of approval that the dwelling built on the newly created lot be a minimum of twenty (20) feet from the existing house. Planner Lashbrook reminded the Commission they were still looking at a variance, but it was a different type of variance. If they can make the proper findings of fact it is possible. The Planner also expressed the opinion that placing the property line of the proposed lot five feet further

to the south would be a lesser variance than the one presently requested. Discussion followed regarding the different possibilities open to the Commission. The Commission was asked to consider this application as though it was in their own neighborhood. Chairman Kahut stated that all applications are considered for the good of the whole community. Dr. Davies stated that he was sure there was no bias on the part of any of the Commissioners. Commissioner Sowles expressed the feeling that if the Commission were to take the option of moving the south property line in order to create a lot which was in conformance with the zoning code, we should approve the request for a variance and minor land partition. The lots in the area are large, but this new lot would meet the minimums required. Discussion followed regarding the cost, size of dwelling, and the future of small lots as opposed to maintaining large lots. Commissioner Davis stated that she would find it difficult to approve this application with the opposition from the neighbors as finding #3 requires that it not be injurious to the neighborhood. Agrees with smaller lots, however this is an already established neighborhood with larger lots. Chairman Kahut stated the fact that a great deal of testimony had been presented to night and if the Commission so desired they could table this application for decision only at the next Planning Commission meeting which would be on November 12, 1980. Commissioner Hart moved to postpone this application for decision only until November 12, 1980. The motion was seconded by Commissioner Baller. Commissioner Sowles stated that since the people in the audience were so opposed to this application, he would like to take another look at the property in question. Chairman Kahut asked Planner Lashbrook to gather information for the Commission on any other lots in the city that had been developed in this manner. The motion passed unanimously.

Planner Lashbrook informed the audience that the Commission members were not to be lobbied outside of an open meeting. If members of the audience contact any of the Commission members in an effort to lobby them they may have to disqualify themselves or at any rate it is not likely to help the process.

Dr. Davies asked that the Commission keep in mind that other things have been done in other neighborhoods but this is one neighborhood, and each should be studied separately.

There being no further business, the meeting was adjourned.

This meeting has been recorded on tape.

Respectfully submitted,


Virginia J. Shirley, Secretary
Canby Planning Commission