

CANBY CITY COUNCIL

REGULAR MEETING

MAY 2, 1979

Mayor Robert E. Rapp presiding. Present: Councilmembers Beryl Brown, Beauford Knight, Richard Nichols, Robert Swayze, Leonard Taylor and Robert Westcott.

Also present: Administrator H.A. Wyman, Attorney Wade P. Bettis, City Planner Stephan Lashbrook, Public Works Director Ken Ferguson, Fire Chief Smith French, Secretary Marilyn Perkett, Canby Herald Editor Paul Borsarge, Oregonian Reporter Diana Schmid, David Anderson, John Tatone, Curt McLeod, Maynard Nofziger, Paul Kylo and David Bury.

Prior to the regular meeting, Mayor Rapp and Lynn Weygandt, Mary Zuern and Veronica Schweighardt, American Legion Auxillary members, had publicity pictures taken for "Poppy Week".

Mayor Rapp called the meeting to order at 7:30 p.m., flag salute and roll call following. Minutes of Special Meeting, April 12, 1979 and Regular Meeting, April 18, 1979, were approved with the following correction: April 18, 1979 minutes, page 2, paragraph 6, "Due to conflict of interest, Councilman Westcott was excused from Council." Motion made by Councilman Taylor, seconded by Councilman Westcott, unanimously approved.

Under Non-Agenda items, Mayor Rapp read the Proclamation for May as Poppy Month and May 17, 18 and 19, as Poppy Days.

David Anderson, representing Donald McIntosh property, spoke to the council concerning the zone change of S.E. corner of N. Elm and N.W. First St. Attorney Bettis stated that he had spoke to the attorney, George Hanson, of the estate and stated that Dotta McIntosh, survivor, wishes to pursue the zone change. Proper advertising will be made and the Public Hearing for the zone change has been set for May 16, 1979, after 7:30 p.m. in the Canby Council Chambers.

Regular Meeting was recessed at 7:42 p.m. for the Public Hearing on the Appeal on McLeod Variance.

Planner Lashbrook read the staff report on the McLeod Variance with the following recommendation: That the City Council uphold the decision of the Planning Commission and deny this appeal, as they felt it was a self-imposed hardship. As proponent, Curtis McLeod expressed to the council his desire to save the trees on the property and his efforts to conform his house plans to fit the lot as best he could. Speaking as opponent, David Bury requested council to "go with the Planning Commission's recommendation," also stating that to many variances are allowed and should be curtailed. Councilman Westcott cited Ordinance #512 concerning the preservation of trees. After council discussion, Councilman Swayze moved, that due to exceptional or extraordinary conditions applying to the property which do not apply generally to other properties in the same zone or vicinity, which conditions are a result of a lot size or shape, topography, or other circumstances over which the applicant has no control, that the variance is necessary and therefore, the Council to approve the Curtis and Janice McLeod Variance. Councilman Brown seconded, roll call vote was 5-1, with Councilman Knight voting nay.

May 2, 1979

Attorney Bettis read Resolution #259. Councilman Swayze moved to approve Resolution #259, A Resolution Approving Annexation to the City of Canby, Clackamas County, Oregon (Application of Rufus Kraxberger, et ux, and Charles R. Driggers, et ux, for Tax Lot 900, Section 28DC, T3S, R1E, of the W.M.). Councilman Taylor seconded, approved 6-0.

Under new business, Councilman Taylor moved to approve accounts payable in the amount of \$38,410.62. Councilman Swayze seconded, unanimously approved by roll call vote.

Fire Chief French presented bids for the new fire truck. Councilman Taylor moved to follow the recommendation of the Fire Chief and accept the low bid of \$68,547.80 from Sea Western. Councilwoman Brown seconded, approved 6-0. Attorney Bettis will prepare the Ordinance for the Fire Truck Purchase.

Mayor Rapp asked to step down from his chair and turned the meeting over to President Westcott for a few minutes.

Director of Public Works, Ken Ferguson, presented the bids for the Cushion Turf and Paving of the Maple Street Park Parking lot and basketball court. Councilman Swayze moved to accept the bid from Olympic Construction for the cushion turf in the amount of \$25,200 and the \$13,198 bid from Parker Northwest for the paving of the parking lot and basketball court. Councilman Taylor seconded, approved 6-0. (Prior to the vote of the Council, Mayor Rapp returned to the chair.) Councilman Knight inquired as what work was left to be done at Maple Street Park. Mr. Wyman mentioned the following: lighting on tennis courts, lighting for baseball, horseshoe pits, restrooms on South end, covered picnic area for Senior Citizen Area. Public Works will notify bidders to proceed as soon as possible.

Under unfinished business, Councilman Westcott moved to go into Executive Session according to ORS 192,610, Section E, on a Real Property Transaction. Councilman Swayze seconded, approved 5-1, with Councilman Taylor voting nay. Mayor Rapp recessed at 8:42 p.m.

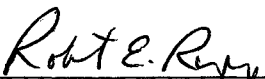
Regular Session was reconvened at 9:22 p.m.

Mayor Rapp reminded Council of the Surprise Appreciation Dinner for Ralph Hulbert on May 19, at the Oregon City Elks Lodge, 6:30 p.m. to be cocktail hour and dinner at 7:30 p.m. Ginny Shirley must know by May 10, if you plan to attend.

Mayor Rapp reminded Council of the workshop on Monday, May 7, 7:30 p.m.

Councilman Knight commented on the excellent job Stephan Lashbrook did at the Chamber of Commerce Lunch, Monday, April 30, on his presentation of the new changes in the City Charter.

Meeting was adjourned at 9:25 p.m.


Robert E. Rapp, Mayor


Harold A. Wyman, Administrator

May 2, 1979

BEFORE THE PLANNING COMMISSION OF THE CITY OF CANBY
COUNTY OF CLACKAMAS, STATE OF OREGON

In the Matter of the Application
of

CURTIS J. McLEOD and JANICE L.
McLEOD; Request for Variance of
Street Side Setback on Property
Described as Tax Lot 211, Sec. 33AA,
T. 3 S., R. 1 E., of the W.M.

ORDER

THIS MATTER came before the Planning Commission on February 28, 1979 concerning the application of Curtis J. McLeod and Janice L. McLeod for a variance to allow the construction of a single family dwelling, encroaching approximately seven (7) feet into a required street side setback of twenty (20) feet. The subject property is described as Tax Lot 211, Sec. 33AA, T. 3 S., R. 1 E. of the W.M.

It appears that the request for a variance requires a public hearing and proper notice was given to all concerned parties. There was one proponent other than the applicant and there were no opponents.

It appears to the Planning Commission that Sections 27 and 28 of the Zoning Ordinance are the applicable provisions. These provisions provide:

"Section 27: Authorization to Grant or Deny Variances. The Planning Commission may authorize variances from the requirements of this ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this ordinance would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance the Planning Commission may attach conditions which it finds necessary to protect the best interest of the surrounding property or neighborhood and to otherwise achieve the purposes of this ordinance."

"Section 28: Conditions for Granting a Variance. No variances shall be granted by the Planning Commission unless it can be shown that all of the following conditions exist:

(1) Exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control.

(2) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.

(3) The authorization of the variance shall not be materially detrimental to the purposes of this ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any city development plan or policy.

(4) The variance requested is the minimum variance from the provisions and standards of this ordinance which will alleviate the hardship."

Based upon the evidence and testimony presented at the hearing and discussion between the applicant, staff and Planning Commission, the Planning Commission makes the following findings of fact:

1. The hardship from which the applicant seeks relief is self-imposed. The overall shape and design of the lot (including the location of the trees) is such that a number of different types of residential designs could be used and still remain within the setbacks.

2. The house was designed after the applicant purchased the lot.

3. Since there are other house plans that could be utilized which would allow for the use of the site without either removing the large trees or encroaching into the setbacks, the Commission is unable to make the finding that there are "exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity". See Section 28(1) of the Zoning Ordinance.

NOW, THEREFORE, IT IS HEREBY ORDERED that the variance application of Curtis J. McLeod and Janice L. McLeod be denied.

DATED this 1 day of April, 1979, nunc pro tunc February 28, 1979.



Gordon L. Ross-Chairman

Yeas: 4
Nays: 0

DATE: April 4, 1979
TO: Honorable Mayor and City Council
FROM: Stephan A. Lashbrook, City Planner
SUBJECT: Appeal of Planning Commission Decision
APPLICANTS/APPELLANTS: Curtis J. and Janice L. McLeod

Attached for your review is a copy of the record of the Planning Commission on this matter. The Commission denied the McLeods' application for a variance on February 28, 1979, and the McLeods' subsequently appealed that decision.

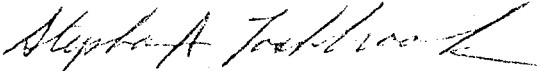
Please note that Section 35 of the Zoning Ordinance requires the City Council to conduct a public hearing on appeals such as this. The City Council has the authority to uphold or overturn the decision of the Planning Commission; or you may modify the decision.

You will note from the record of the Commission that the requested variance was fairly minor in the sense that it would involve only one residential lot. The amount of variance requested (i.e., a reduction in street yard setback from 20 feet to approximately 12.73 feet) is not great in view of the width of the right-of-way for N. Oak Street (60 feet).

In spite of the relatively minor nature of the variance, the Planning Commission was unable to make the required findings for approval of a variance. Specifically, it was determined that the hardship which necessitated the variance was actually self-imposed because of the particular house plan which the applicants intend to utilize. Noting that other house plans could be utilized which would allow for the use of the site without either removing the large trees or encroaching into the setbacks, the Commission was unable to make the finding that there were "exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity".

The findings required for the approval of a variance are obviously quite stringent. The staff strongly encourages the City Council to review the attached Zoning Ordinance requirements for a variance before making a decision. If the Council chooses to overturn the decision of the Planning Commission, you must find that each of the Zoning Ordinance requirements have been met.

RECOMMENDATION: The staff recommends that the City Council uphold the decision of the Planning Commission and deny this appeal.


Stephan A. Lashbrook

Variances

Section 27: Authorization to Grant or Deny Variances. The Planning Commission may authorize variances from the requirements of this ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this ordinance would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance the Planning Commission may attach conditions which it finds necessary to protect the best interest of the surrounding property or neighborhood and to otherwise achieve the purposes of this ordinance.

Section 28: Conditions for Granting a Variance. No variances shall be granted by the Planning Commission unless it can be shown that all of the following conditions exist:

- (1) Exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control.
- (2) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.
- (3) The authorization of the variance shall not be materially detrimental to the purposes of this ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any city development plan or policy.
- (4) The variance requested is the minimum variance from the provisions and standards of this ordinance which will alleviate the hardship.

Section 29: Variance Procedure. The procedure to be followed and the fees to be charged in applying for and acting on a variance shall be substantially the same as those provided in Sections 15 to 19 of this ordinance for the case of a conditional use except that notice of hearing need only be given by notices mailed to the owners of property abutting or directly across a street from the lot or parcel of land on which the variance is requested.

RECEIVED
MAR 1 1979

March 13, 1979

Curtis J. McLeod
Janice L. McLeod
243 S. E. Third
Canby, Oregon 97013

Honorable Mayor and City Council
City of Canby
Canby, Oregon 97013

Re: Residential Front Yard Setback Variance
Request for Curtis J. and Janice L. McLeod
1315 North Oak Street

Gentlemen:

This letter will serve as an official request for a hearing to appeal the Canby Planning Commission's denial of February 28, 1979 concerning the "Street side setback variance" for the site of 1315 North Oak Street, Canby.

The variance approval would enable me to retain two large fir trees and yet build a home on the site. Our property is located adjacent to the northeast corner of Maple Street Park. Our two large fir trees are presently a part of a row of large trees that enhance the City park as well as our property.

The trees provide a visual barrier between the residential area and the open park area. The arrangement is such that the skyline is outlined with fir trees the width of our lot and beyond the lot directly south. The trees vary between 50-150 feet tall and up to 36 inches in diameter. The trees affected by the variance include one 34-inch and one 28-inch fir. Saving these would maintain the continuous line of trees and avoid the 60-foot gap which would result upon their removal.

The building lot contains over 11,000 square feet and is situated such that no neighboring home is within a 100 foot radius of the area of the variance. The buildable area appears to be best suited for an "L" shaped home such as the one selected in our design (see attached plan). The maximum practical living area on the lot with the trees preserved is less than 1500 square feet. The variance is requested for the northeast corner of the designed home, where only 15 feet is presently available for the width of the main body of the house.

In general, the designed home is 1900-2000 square feet with three bedrooms situated such that there is a small basement and upstairs in addition to the main floor.

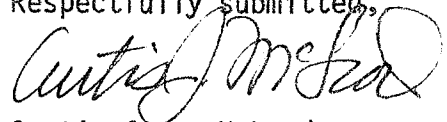
The major thrust in the City Planners recommendation was based on the fact that the variance condition is self imposed. We feel using this as a basis of denial is unjust due to the fact that all variance conditions are self imposed. In effect, this argument eliminates all flexibility of the ordinance to be modified according to the situation and obscures the real intent or purpose for any variance.

A point was brought up concerning traffic hazards due to the reduced setback. The area of the garage is at least 40 feet from the curb and would not be affected by the variance. Site distance is more than adequate for the cars in the driveway. In the paved street, the site distance is unaffected at any point due to the variance.

The most compelling reason for granting approval of this variance is that the requested setback is still larger than what the City has determined is necessary for newly developed residential areas. New plats are being approved with 40 foot right-of-ways and 40 foot paved streets, such as the Sorenson addition approved February 28, 1979. On these plats, setback requirements are such that houses must be a minimum of 20 feet from the curb. In our subdivision the 60 foot right-of-way contains a 10 foot strip between the curb and property line. Therefore, the setback is greater than 20 feet. With approval of the variance, the minimum distance to the curb would be 23 feet. The length of this reduced setback is less than 15 feet measured along the property line.

In summary, We request that this variance be approved. As stated by Mr. Lashbrook, the City Planner, in his staff letter of February 16, 1979, all necessary findings for approval can be made and approval of the application would have no significant adverse impact upon neighboring properties. In approving the variance, the intent of the ordinance has been satisfied, while at the same time preserving the beauty of the existing row of fir trees.

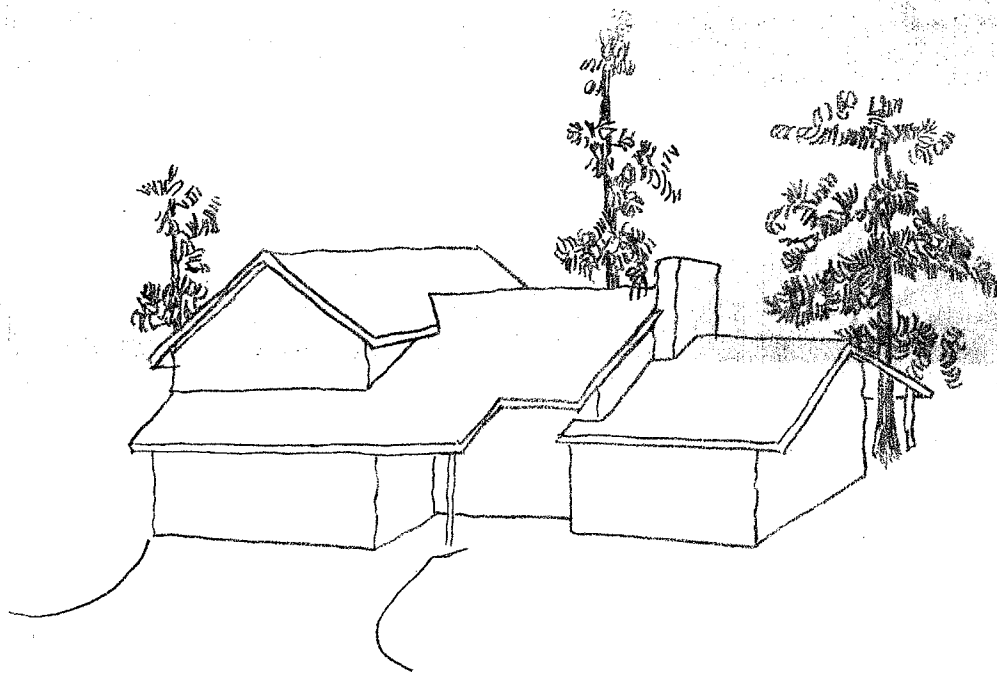
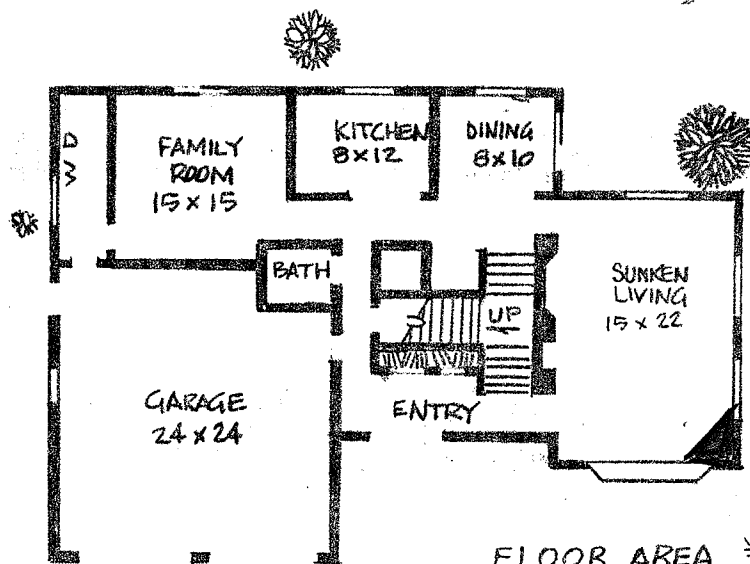
Respectfully submitted,



Curtis James McLeod



Janice Lynne McLeod



MR MRS CURT McLEOD
1315 NORTH OAK ST.

Item #3: Request for approval of a final plat of a subdivision to be called "Sorenson Addition". This property is located north of N.E. 4th Avenue and west of N. Locust Street and described as Tax Lots 8500, 8600, 8800, part of 9100, 10300, part of 10400, 10500, Section 33BD, T3S, R1E and Tax Lot 1400, Section 33CA, T3S, R1E. The applicant is Martin Clark. City Planner Lashbrook gave his presentation and recommended approval. *Commissioner Kahut moved to approve the final plat of Sorenson Addition. The motion was seconded by Commissioner Edgerton. The question was called for and passed unanimously.

Item #4: Request for a Variance to reduce front yard setback to less than twenty feet in order to build a home on the site and save two large trees. The property is located west of N. Oak Street and approximately 200 feet south of N.E. 14th Avenue and described as Tax Lot 211, Section 33AA, T3S, R1E. The applicant is Curt McLeod. City Planner Lashbrook gave his presentation and recommended denial based upon the fact that the variance is requested to alleviate a self-imposed hardship (i.e., the construction of a residence with a particular floor plan when other designs are feasible without necessitating a variance). Curt McLeod (applicant) stated if the house were moved farther back on the lot, a large tree (approx. 28 inches in diameter) would have to be removed. Mr. McLeod stated he had gone over the house plan and could not see how this plan could be redrawn and still be sitting between the trees in question. The buildable area is in an L-shape. The applicant also noted the house had a basement so the square footage was not all on one floor. He stated the house would not create any vision problems in regards to the street. Ron Tatone (developer of the project) stated he supported the variance request. Commissioner Edgerton asked Mr. McLeod whether the house was designed before he purchased the lot. Mr. McLeod stated the house was designed after he purchased the lot. He had an architect design it. *Commissioner Edgerton moved to deny the variance application due to the fact the applicant did not have sufficient findings of fact to show there were exceptional or extraordinary conditions applying to his property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control (Per Section 28 of the Zoning Ordinance). The motion was seconded by Commissioner Kahut. The question was called for and passed unanimously. Chairman Ross explained to Mr. McLeod he would have 15 days to appeal the decision to the City Council.

The Chairman called for a short recess and the meeting reconvened at 9:45 p.m.

Item #5: Public Hearing on proposed changes to Ordinance #583 (Canby Zoning Ordinance). City Attorney Reif stated there is now a question as to whether the City Recorder or the City Planner has the authority to enforce the provisions of the Zoning Ordinance. Chairman Ross opened the public hearing and called for any proponents who wished to speak. There being none, he then called for opponents. None came forth. He asked if anyone had any questions concerning the proposed amendments. When no one came forth to speak, he closed the public hearing.

DATE: February 16, 1979
TO: Canby Planning Commission
FROM: Stephan A. Lashbrook, City Planner
SUBJECT: Street side setback variance
APPLICANT: Curt McLeod

PROJECT DESCRIPTION: The applicant has requested a zoning variance to allow the construction of a single family dwelling, encroaching approximately seven (7) feet into a required street side setback of twenty (20) feet. The subject property is described as Tax Lot 211, Section 33AA, T3S, R1E. of the W.M.

PROCEDURAL INFORMATION: A zoning variance is a quasi-judicial action requiring a public hearing. Sections 27 through 29 of the Zoning Ordinance establish the procedures and legal requirements for a variance. The Planning Commission may approve or deny the application or may approve it subject to conditions.

LOCATION, PRESENT ZONING & LAND USES: The subject property is located on N. Oak Street, northeast of Maple Street Park. The subject parcel is unusually shaped and contains approximately 11,000 square feet in area.

Present zoning of this site and all nearby property is R-1. This is a developing area of the City containing single family dwellings.

ACCESS: The fact that this site is located on an "S" curve and near an intersection (N.E. 13th Avenue and N. Oak Street) necessitates careful consideration of visibility, especially that of vehicles backing out of the driveway of this property.

PUBLIC FACILITIES & SERVICES: All necessary urban facilities and services are available to serve the site.

CONFORMANCE WITH THE COMPREHENSIVE PLAN: The land use map of the adopted City plan designates this area for low density residential development. Streets are designated as "local".

The minor scope of the proposal limits the scope of the relationships between the application and the adopted plan. Approval of this application is not likely to create any conflicts with the adopted plan.

COMPLIANCE WITH STATEWIDE PLANNING GOALS: The applicant has submitted no information which specifically addresses the Goals. The following minor points are readily apparent, however:

- 1) Most of the Goals are not applicable to this application because the site is developable whether or not the variance is approved. The Planning Commission is reviewing this proposal for design rather than for the use of the site.

- 2) The Transportation Goal (#12) is somewhat applicable because it requires safety, convenience, and economy in transportation facilities. The Planning Commission should address this in terms of the proposed plot plan submitted with the application.

OTHER REQUIRED FINDINGS: The applicant has not specifically addressed the "public need" and "need best met" requirements for quasi-judicial actions. The staff notes that these are very minor considerations for a project of this scope, however. The public hearing and evaluation of the other material submitted by the applicant should provide ample information to allow for these findings.

Section 28 of the Zoning Ordinance requires that the following findings be made before any variance can be approved:

- 1) Exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control.
- 2) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.
- 3) The authorization of the variance shall not be materially detrimental to the purpose of this ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any city development plan or policy.
- 4) The variance requested is the minimum variance from the provisions and standards of this ordinance which will alleviate the hardship.

The applicant has submitted information relative to these requirements.

DISCUSSION & RECOMMENDATION: This application presents a fundamental question for the Planning Commission to answer: are the trees on this lot of greater significance to the community than is a strict adherence to the setback requirements? To further compound this issue, the following factors should be considered:

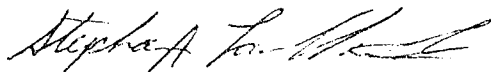
- 1) The hardship from which the applicant seeks relief is self-imposed. The overall shape and design of the lot (including the location of the trees) is such that a number of different types of residential designs could be used and still remain within the setbacks. Mr. McLeod evidently feels

that the particular design he prefers has special merits which should be considered.

- 2) By approving the application the Planning Commission could specify which trees are to be maintained. However, if the application is denied, the City has no way to prevent the applicant from removing any or all of the trees.
- 3) N. Oak Street has a 60' right-of-way. Recent Planning Commission actions on subdivisions have indicated that the need for 20' of right-of-way beyond the curbs (40' paving) is not as great as had been thought. Noting that the proposed structure would be nearly 23' from the curb, the significance of the variance is somewhat reduced.

The staff recommends denial of the application based upon the fact that the variance is requested to alleviate a self-imposed hardship (i.e., the construction of a residence with a particular floor plan when other designs are feasible without necessitating a variance).

The staff does note, however, that all of the necessary findings for approval can be made and approval of the application would have no significant adverse impact upon neighboring properties.

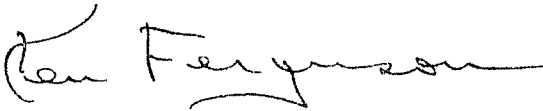


Stephan A. Lashbrook
City Planner

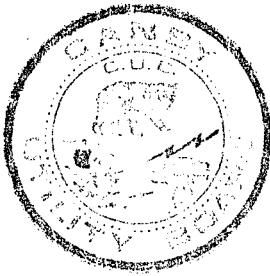
SAL:mlp

DATE: February 22, 1979
TO: Canby Planning Commission
FROM: Ken Ferguson, P.E.
Public Works Director
SUBJECT: Variance Request - Curt McLeod

The Public Works Department has no recommendations or objections to the above Variance request.

A handwritten signature in cursive script, appearing to read "Ken Ferguson". The signature is written in dark ink and is positioned above the printed name.

Ken Ferguson



CANBY UTILITY BOARD

111 N. W. 11th Avenue, Canby, OR 97009
PHONE 338-1111

BOARD MEMBERS

CHAIRMAN
MEMBER
MEMBER

CHAIRMAN
MEMBER
MEMBER

February 15, 1979

MANAGER
SECRETARY

MANAGER
SECRETARY

Mr. Gordon L. Ross, Chairman
Canby Planning Commission
P.O. Box 930
Canby, OR 97013

FILE CPC59

SUBJECT: Curt McLeod Variance.

Gentlemen:

Reference is made to your letter of February 12, 1979 which forwarded a copy of the preliminary plat - vicinity map for the Curt McLeod Variance to reduce front yard setback for property located West of N. Oak and approximately 200 feet south of N.E. 14th Avenue and described as Tax Lot 211, Section 33AA T3S, R1E.

Our recommendations and comments are as follows:

Both electrical and water services are available to the property.

The Utility Board has no objections to the proposed variance. We do, however, wish to remind the property owner that if any utility lines need to be relocated because of the change in right-of-ways allowed by the variance, any cost for that relocation will be charged to the property owner.

Sincerely,

CANBY UTILITY BOARD

Pat Maynard
Pat Maynard,
Project Coordinator

PM/jet

cc: Curt McLeod
P.O. Box 215
Canby, OR 97015

Canby Fire Protection District No. 62

230 S. GRANT ST.

CANBY, OREGON 97013

PHONE (503) 266-5851

RECEIVED
FEB 14 1979

February 14, 1979

TO: CANBY PLANNING COMMISSION
FROM: CANBY FIRE MARSHAL
SUBJECT: Variance for Mr. Curt McLeod

At this time our department has no recommendations or comments concerning the proposed variance.

Sincerely,

Jack Stark
Jack Stark
CANBY FIRE MARSHAL

JS:np

APPLICATION FOR VARIANCE

City of Canby Planning Commission
City Hall
Canby, Oregon

Date of Hearing 2-28-79
Receipt No. 9270 Fee \$50.00
Present Zone R-1

Name of Applicant: Curt McLeod Phone 266-5106

Mailing Address: P.O. Box 215, Canby

Who Holds Title to Property: Same as Above

Signature: *Curt J. McLeod* Date Acquired June 1978

Same as Above

(Address)

(City)

(State)

(Phone)

LEGAL DESCRIPTION OF PROPERTY INVOLVED IN APPLICATION

1. Location Lot 3, Block 2, Amundson Estates
2. Between 13th and 14th Street and Oak Street
3. Tax Lot No. 211 Section 33AA, T 3S, R 1E

(IF YOURS IS A METES AND BOUNDS DESCRIPTION, PLEASE ATTACH SEPARATE SHEET)

1. Square footage of property: 11,000[±]
2. Present use of this property is: Residential
3. Describe briefly the variance requested and reason for requesting the variance. Front setback variance to build home on the site and save the two large trees.

4. I HEREBY CERTIFY THE STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

January 26, 1979
Date

Curt J. McLeod
Applicants' Signature

January 26, 1979

Stephen Lashbrook, City Planner
Members of the Planning Commission
City Hall
Canby, Oregon 97013

Re: Setback Variance

Gentlemen:

Enclosed you will find the fee and application requesting a variance from the twenty foot front setback required of residential building sites.

The form attached herein lists the requirements for a complete submittal and I have attempted to present these items, each referenced to ease the processing.

Item No. 1, the Plot Plan, is drawn to a scale of 1" = 8' on the enclosed drawing. The area of the request is on North Oak Street, address 1315 North Oak, Canby, Oregon. This lot, as shown on the vicinity map, is part of the Amundson Estates subdivision, Lot 3, Block 2.

In reference to Item No. 2, I am the legal owner, having purchased the lot in June, 1978.

Item No. 3, the vicinity map, is contained on the plot plan as mentioned earlier.

Item No. 4 is broken into four areas, as outlined on the general information sheet:

a. Exceptional Conditions

The exceptional conditions which make this lot unique are its trees, its irregular shape and the fact that it borders the City Park for the extent of the lot's west boundary.

As can be seen on the plot plan, the lot is roughly 100' deep at the widest point, continuing through an "s" curve to 20' deep on the far north end. It contains over 11,000 square feet and, most important, 12-14 Douglas Fir trees varying from 50 to 150 feet tall and up to 36" in diameter.

The nearest home to the north of this lot is more than 130 feet away, separated by a parcel of land intended as an access to the City Park. As stated earlier, no building sites are situated west of the property due to the City Park. South of the lot, the nearest home is 20 feet and more than 70 feet from the area where the variance is requested. The building site on Lot 7, Block 1, east of the variance area will face the side yard and City Park. The front yard of the home on Lot 5, Block 1, faces 13th Street, therefore, no area is directly affected by the variance requested.

b. Necessity of Variance

The purpose of this variance is for an area on the north east corner of the house designed for this lot. The house is modest in size, between 1800-2000 square feet, typical of the surrounding neighborhood.

Although the house is ten feet into the property from the back setback requirement, this is a necessity to save the two large trees located close to the house. If required to move the house back ten feet to be within the setback, then both of these large trees must be cut down. This alternative is unacceptable because of the value the property would lose, aesthetically, if the 32" and 15" diameter trees were to be removed.

The variance requested would allow these trees to be used in the lot design as planned and allow the proposed home to be built.

c. City Plans and Policy

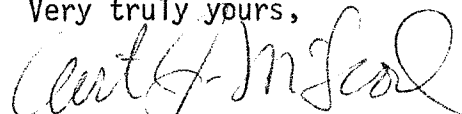
The variance requested does not oppose any City policy or development plan. This will be a personal residence for my wife and I and is zoned a residential area.

d. Variance Requested

The variance requested is for a length of 15 feet minimum and depth varying from 0 to 8 feet. This area is shown on the plot plan to better explain the request. For the reasons stated earlier, this is the most effective solution to saving the landscape and building a home comparable with the neighborhood. Because of the "s" curve and 10-foot strip of land from the property line to the curb line, the area of the house which projects into the setback will not be obvious from any direction of traffic flow, and is obscured from direct sight by the nearest neighbor, meaning the house to the south.

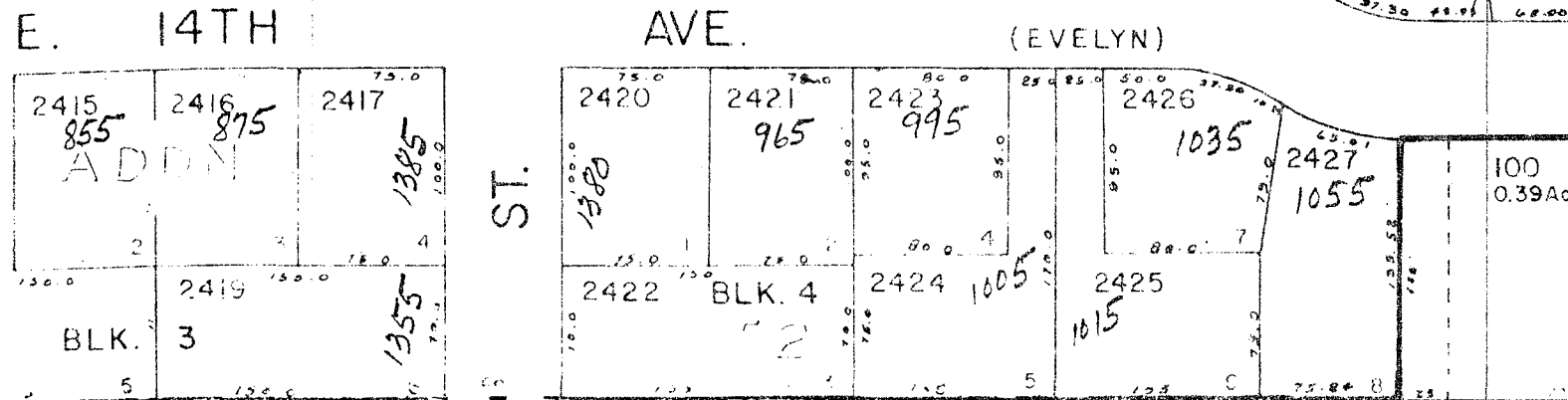
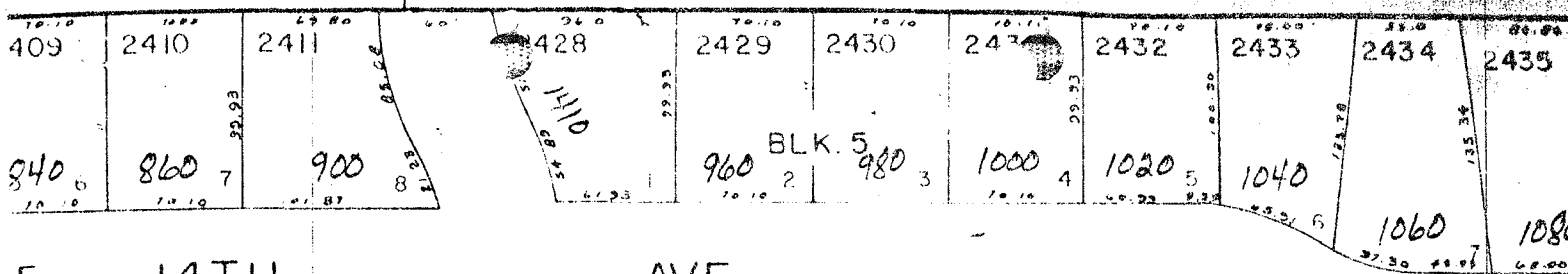
In conclusion, I feel this variance is merited as a condition which does not violate the basic premise of a setback ordinance. The unique layout of this lot still offers more open area than most residences, while also offering clear lines of sight into the park.

Very truly yours,


Curt J. McLeod

CJM:gm

Enclosure



↑
N
Scale - 1" = 100'
Maple Street
Park

DENS

6-02

