

BENTON COUNTY BOARD OF ADJUSTMENT
APRIL 1, 2010 – 7 P.M. – REGULAR MEETING
PLANNING ANNEX – 1002 DUDLEY AVENUE
PROSSER, WA 99350

The Chairman opened the public portion of the meeting at 7 p.m.

NOTE: The minutes is a summary of the testimony presented at the hearing, not a verbatim transcript.

NOTE: All persons present that wished to testify on any actions presented to the Board of Adjustment tonight had been sworn in.

ROLL CALL:

PRESENT: Brent Chigbrow
Dean Burows
Bob Page

ABSENT: Glenn Bestebreuer
Herb Everett

STAFF: Clark A. Posey, Senior Planner
Carel Hiatt - Recorder

MOTION: Mr. Burows moved and Mr. Page seconded the motion that the minutes of March 4, 2010 be approved as written. Motion carried.

UNFINISHED BUSINESS: None

NEW BUSINESS:

VARIANCE REQUEST – VAR 10-01 - Variance to BCC 11.16.030(c)(b) for a twenty-two (22) foot reduction from the required fifty-five (55) foot front yard setback from an county road leaving a thirty-three (33) foot setback from the centerline of Riverside Drive, for the construction of a 36-foot by 48-foot accessory building. Location: 1414 Riverside Drive on Lot 24 and a portion of Lot 23 of Bridge Acres Plat in the Southeast Quarter of the Southeast Quarter, in Section 5, Township 9 North, Range 28 East W.M. Applicant: Walt Anderson, 1414 Riverside Drive West Richland, WA 99353

PLANNER'S REVIEW: Mr. Posey summarized for the Board the applicant's request for a variance and entered into the record Exhibits 1-17. Exhibit No. 18 letter Stanley/Susan Roy received March 30, 2010 was presented to the Board members.

APPLICANT TESTIMONY: Walt Anderson – 1414 Riverside Drive – West Richland, WA 99353, stated that he was requesting this variance in order to construct a shop.

The applicant outlined the current location of his residence and existing shop that would be demolished and replaced with the new shop on Exhibit No. 17 – aerial of the site. The reasoning for the variance was due to location of the septic system, drainfield, and slope of the property and Corps of Engineers dike location. He had contacted the Benton Franklin Health District and has been placed on the schedule for septic/drain field inspection.

Mr. Burows noted that in the Staff Memo page four comment from the Public Works' Department stated the following "The placement of the structure in the location as shown on the site plan would be materially detrimental to public welfare or injurious to the property or improvements in the in the vicinity under the same zoning classification." Mr. Burows continued to state that is one of the requirements an applicant would need to satisfy in order to be granted a variance. The Public Works Department is stating that a 15-foot variance would suffice for their department vs. the 22-foot variance that you, the applicant is requesting.

Mr. Anderson replied that like anything you are hoping for the best situation and what that will mean is that he would have to cut down on the size of the shop by seven feet.

Mr. Burows asked the applicant if he could comply with the request from the Public Works Department. Would there be some area to the right of the proposed shop that could be utilized or are you encroaching on this for convenience?

Mr. Anderson commented that due to the location of the septic tank and drain field being located so close to the river he wouldn't want to encroach into this area due to the slope of the land. He referenced Exhibit No. 7.

Mr. Burows asked from the corner of the existing shop to the dotted line noted on Exhibit No. 7, what would be the distance. Mr. Anderson replied about eleven feet. He informed the Board that there was an electrical power line buried in the area to the back of his property. He did not want to encroach into that area.

Mr. Burows asked the applicant if there was another easement that ran through his property for a power line. Mr. Anderson replied that the home was built in the 50's and electrical easements do not exist at this point. He installed underground power.

Mr. Anderson commented that if the County wanted to improve the road to 40 feet wide then his request for a 22' variance could create some problems later on. He felt that Riverside Drive would not be expanded as all the lots have been purchased.

Mr. Burows asked the applicant if his property was in the 100-year flood plain. The applicant replied that his property was not.

Mr. Chigbrow asked the applicant if he had talked to the Building Department. The applicant replied he had.

The Planner interjected that the flood plain issue would not present a problem with this lot.

Mr. Chigbrow asked the Planner if he knew whether or not the county would widen Riverside Drive.

The Planner replied that a meeting was conducted with the Public Works Department and the applicant with the outcome being to retain the 40 feet.

Mr. Chigbrow asked the applicant what would be the least amount of setback he could live with. The applicant replied that if the setback were reduced he would not be able to construct the requested size of the shop.

Mr. Chigbrow asked the applicant if he could work with 15 feet. The applicant replied he could.

Mr. Page – Exhibit No. 15 – what would be the distance from the building to the lid on the septic tank. Mr. Anderson looked at Exhibit No. 7 – stating 5 feet from the edge of the inspection hole.

Mr. Page asked if the applicant had been able to locate the edge of the septic tank. The applicant could not address that until after the health department inspection was completed. The applicant may be able to obtain another five feet depending on calculations that will be completed after the septic/drain field inspection.

PROPONENT/OPPONENT TESTIMONY/APPLICANT REBUTTAL: NONE

The Chairman closed the public portion of the hearing.

Mr. Chigbrow stated that if the County wants a 40-foot wide road. Thirty feet above the 100-year flood; there must be quite an elevation difference.

Mr. Burows agreed with the elevation difference. Fifteen feet to maintain the 40 feet would be acceptable.

Mr. Page stated that he would be receptive to postponing the decision in order to locate the edge of the tank with the Health Department. The applicant seemed accepting of the 40 feet and 15-foot variance request.

Mr. Burows felt that the Board could grant the 15 feet.

Mr. Chigbrow noted no reason to postpone the decision.

MOTION: Mr. Burows made a motion and it was seconded by Mr. Page that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application Walt Anderson – VAR 10-01 should be **approved with the conditions as outlined in the staff report dated, March 10, 2010 with the amendment that the variance be granted for 15' not 22'** and that the Chairman, in conjunction with the Secretary of the Board of Adjustment, prepare and adopt written findings and conclusions that articulate and are consistent with the findings, conclusions and/or decisions made by the Board of Adjustment tonight. Motion carried.

SPECIAL USE PERMIT – SP 10-02 - construction of mini-storage units to be done in three Phases. Nine enclosed storage buildings ranging in size from 40 feet by 150 feet to 50 feet by 400 feet will house 302 storage units ranging in size from 10 feet by 10 feet to 20 feet by 25 feet will be constructed. Outside storage will consist of two 35 feet by 230 foot areas. The site is located on Lots 1 and 2 of Short Plat 1401 in Section 2, Township 9 North, Range 28 East, W.M. off of Arena Road. Applicant: Kurk Watts – 10612 West Court Street – Pasco, WA 99301.

The Chairman opened the public hearing. The Planner summarized said action for the Board and entered into the record Exhibit Nos. 1-28.

Mr. Chigbrow questioned the Planner about Exhibit No. 28 – Ken Williams – Fire Marshal – regarding fire flow. Question what happens when the project is finished and there is not 1000 gallons per minute of fire flow at that remote hydrant. Who would be responsible for this testing if the Board approves the project and then the applicant finds out he does not have 1000 gallons per minute at that hydrant?

The Planner replied that it would be the applicant's responsibility to meet the 1000 gallons pressure as required by the Fire Marshal. He may grab another line from West Richland across the road. The Planner continued to inform the Board that the applicant has now been granted permission to access off of Dallas Road instead of Arena Road.

APPLICANT TESTIMONY: Kurk Watts, 10612 West Court Street – Pasco, WA 99301 outlined on Exhibit No. 25 where the mini-storages would be located. The construction of the mini-storage units would be done in three phases. He would keep this business neat and tidy like his other facilities located in Benton County. He would like to gravel the lot, as this is more conducive to storm water. Upon completion of the first phase then construction will start on phase two.

Mr. Burows asked how many units would be constructed. The applicant replied about 300 to 302. Mr. Burows then asked about an office on site seeing there would be over 300 units. The applicant replied no office, so he would keep the units under 300.

Mr. Chigbrow informed the applicant that he would need to obtain an encroachment permit. The applicant replied he would obtain that in order to access onto Dallas Road.

Mr. Burows asked if the fencing would be similar to his other units. The applicant replied that to be correct. He would like to put in block fencing due to cost. He will be having directional lighting on the facility itself.

Mr. Page asked if the applicant would allow his units to be used as body shops or businesses. The applicant replied that would not be allowed in any of these storage units.

Mr. Burows asked again how many units. The applicant replied that the total number of units would be less than 300.

Mr. Page asked if the applicant had his water supply locked in. The applicant stated he had discussed this with Rick Simon and it was in writing.

The Planner informed the applicant that he would need to talk with the Fire Marshall with regards to fire hydrant locations.

Mr. Page asked and the applicant responded that there would be a keypad entry system for these units.

Mr. Chigbrow asked about fencing, site distance and right of way. The applicant replied that the entry way would be designed so as to not create a site obstruction.

PROPONENT/OPPONENT TESTIMONY/APPLICANT REBUTTAL: NONE

The Chairman closed the public portion of the hearing.

Mr. Burows stated that anything over 300 units has to have a manned office on site, so the number of units to be approved would be 299.

MOTION: Mr. Burows made a motion and it was seconded by Mr. Page that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application for Kurk Watts – SP 10-02 should be **approved with the conditions as outlined in the staff report dated, March 24, 2010 with the amendment that the special use permit be granted for only 299 units to be constructed on site and that the memo reflects that the request from the City of West Richland will be stricken from the memo and that access be allowed off of Dallas Road instead of Arena Road** and that the Chairman, in conjunction with the Secretary of the Board of Adjustment, prepare and adopt written findings and conclusions that articulate and are consistent with the findings, conclusions and/or decisions made by the Board of Adjustment tonight. Motion carried.

RECONSIDERATION OF THE BOARD OF ADJUSTMENT'S DECISION TO DENY VARIANCE REQUEST - VAR 09-09 – The applicant is requesting a variance from BCC 11.60.040(c) for a reduction of 15 feet from the required 25-foot side yard setback from any access easement for the construction of a 20-foot by 20-foot hay barn. Location: 17805 S 2085 PR SE in the East Half of the Northwest Quarter of the Northeast Quarter of Section 16, Township 8 North, Range 30 East, W.M. Applicant: Keith Marks – 17805 S 2085 PR SE – Kennewick, WA 99336

The Planner summarized the reconsideration that was on the Board's agenda. The Board originally denied this variance request on January 7, 2010. The only new information for the Board was the applicant's letter received February 3, 2010, which stated the reasoning, why he was unable to attend the hearing. He would like the Board of Adjustment to reconsider the denial of his variance.

Mr. Chigbrow stated that there would be no testimony from the applicant at this hearing unless the Board requested. The Chairman would take comments from the Board.

Mr. Burows stated with no new evidence provided, he saw no reason to hear this item. It is the applicant's responsibility to prove that the variance request meets all of the requirements, which had not been accomplished.

Mr. Chigbrow noted that requests are not granted on convenience, but on necessity. No evidence has been provided to the Board with regards to the necessity of this variance. The Chairman agreed with Mr. Burows that there was no evidence to reconsider this variance request.

Mr. Page's felt that the applicant had been given ample opportunity to provide new evidence to the Board. He does not see any reason to reconsider this variance request.

The Chairman asked for a motion, but the applicant's attorney presented herself to the Board. The Chairman informed the attorney that the Board would accept no new testimony.

The Attorney asked for an offer of proof for the purposes of preserving an appeal.

Janet Taylor, attorney for the applicant, Mr. Burows interjected that she had not been sworn in. She stated that was fine she just wanted to address the Board.

Janet Taylor was then sworn in. The Chairman stated she could have two minutes and present a burden of proof.

Janet Taylor, Attorney for the applicant. It was their understanding in coming to the hearing last month, that the purpose of last month's hearing was to decide whether or not the Board was going to reconsider the denial of this variance request. Mr. Marks could not attend due to illness. He would provide testimony, photographs and additional information this evening. We have taken photographs, which depict the location of the existing, mobile as well as pump house that is within the 25-foot side yard setback requirement. An adjoining property, just to show that this is a conforming uses. How the properties are currently being used. Due to the location of Mr. Marks drain field and septic the structure needs to be closer to the road to allow him to be able to drive up to the building and unload hay. Mr. Marks was going to respond to Mr. Page's query as to why he did not obtain a building permit. He did not believe that a building permit was required for a non-enclosed structure. Also, he thought that the setback was 10 feet due to the location of the existing mobile, trees and other buildings located along the road. So, if it pleases the Board we would respectfully request an opportunity to present testimony and receive the Board's attention. Thank you.

Mr. Burows asked the Planner if there was any additional new evidence presented in the Board's packet tonight. The Planner replied that there was not.

Mr. Chigbrow did not see anything new to warrant reconsideration on this variance request. He respected the fact that the applicant was ill and could not attend. However, it has been over a month and no new evidence has been presented. If there is evidence tonight that should have been given to the Board before this hearing. He did not believe that the Board would reconsider this variance request.

MOTION: Mr. Burows made a motion and seconded by Mr. Chigbrow that the applicant's request for a reconsideration of Variance Request – VAR 09-09 be denied due to the following: (1) no new information presented in the Board's packets for the April 1, 2010 hearing, (2) prior evidence presented did not show or totally prove that the applicant needed the variance, (3) the applicant could not satisfy the requirements for a variance, (4) the original application was denied, (4) no reason for reconsideration of the variance request. Motion carried.

The Chairman closed the Board of Adjustment Hearing at 8:00 p.m.

BENTON COUNTY BOARD OF ADJUSTMENT



BRENT CHIGBROW, CHAIRMAN

RECORDER: CAREL HIATT