

THE FOLLOWING MEMO HAS
BEEN SCANNED WITHOUT
EXHIBITS FOR THE HEARING TO
BE CONDUCTED BY THE
BENTON COUNTY BOARD OF
ADJUSTMENT
ON THURSDAY, OCTOBER 6, 2011
– 7 P.M. PLANNING ANNEX
1002 DUDLEY AVENUE
PROSSER, WA 99350

IF YOU WISH TO OBTAIN A
COMPLETE PACKET INCLUDING
THE EXHIBITS PLEASE CONTACT
THE BENTON COUNTY PLANNING
DEPARTMENT
AT 736-3086 FROM TRI-CITIES
OR
786-5612 FROM PROSSER
OR
EMAIL TO
PLANNING.DEPARTMENT@CO.BENTON.WA.US

EXHIBIT LIST FOR VAR 11-03 JESUS MADRIGAL CORIA

BOARD OF ADJUSTMENT APPLICATION EXHIBIT LIST			
	Exhibit #	Document Name	Dated
BOAR 1 INCLUDES:	BOAR 1.1	Variance Application	August 31, 2011
	BOAR 1.2	Site Plan	
BOARD OF ADJUSTMENT STAFF MEMO EXHIBIT LIST			
	Exhibit #	Document Name	Dated
BOAM 1 INCLUDES:	BOAM 1.1	Staff Memo	September 16, 2011
	BOAM 1.2	Site Map	June 2008
	BOAM 1.3	Notice of Open Record Hearing	September 14, 2011
	BOAM 1.4	Fire Marshal Comments	September 9, 2011
	BOAM 1.5	Building Dept. Comments	September 9, 2011
	BOAM 1.6	Benton PUD Comments	September 9, 2011
	BOAM 1.7	BFHD Comments	September 14, 2011
	BOAM 1.8	Benton Co. Public Works Comments	September 19, 2011
	BOAM 1.9	Public Works Approach Document	September 8, 2011
	BOAM 1.10	Picture of Site from Realtor	September 9, 2011
	BOAM 1.11	8 1/2 x 11 Aerial of the Site Benton Co.	2008
BOARD OF ADJUSTMENT HEARING EXHIBIT LIST OCTOBER 6, 2011			
	Exhibit #	Document Name	Dated
BOAH 1 INCLUDES:			

EXHIBIT SHEET – E-1 – Exhibit listing
 BOAR – Board of Adjustment Record Exhibits
 BOAM – Board of Adjustment Memo Exhibits
 BOAH 1 - Documents submitted during the hearing

Benton County Planning Department

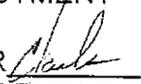
Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

BOAM 1.1

MEMO DATE: SEPTEMBER 16, 2011

HEARING DATE: OCTOBER 6, 2011

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: CLARK A. POSEY, SENIOR PLANNER 
BENTON COUNTY PLANNING DEPARTMENT

RE: VARIANCE APPLICATION – VAR 11-03

**APPLICANT/
PROPERTY OWNER:** JESUS MADRIGAL CORIA
P.O. BOX 128
PLYMOUTH, WA. 99346

SPECIFIC REQUEST: As the lot described below is an irregular size and is bounded on three sides by a county road, the applicant is requesting a variance to BCC 11.08.040(a) for a twenty-five foot (25) reduction of the required fifty-five (55) foot county road setback from SE 1st Place to the South, and a variance from BCC 11.12.050 for a seven (7) foot reduction from the required 55 foot county road setback from SE 2nd Avenue to the North in the Town of Plymouth WA. This variance would allow the applicant to place a 25X44 foot manufactured home on his property.

BACKGROUND:

Site Location: The site is located in the re-plat of Tracts 2-4-6, & 8 of Block 8 in the Town of Plymouth, WA 99346, in Section 7, Township 5 North, Range 28 East W.M.

Land Use: The surrounding land uses are developed as residential and within the Town of Plymouth.

Zoning: Site and surrounding areas: Rural Lands 1-3. (Zoning adopted 9/1/2011).

Comprehensive Plan Designation: Town of Plymouth.

APPLICABLE DEVELOPMENT REGULATIONS:

1. **The Revised Code of Washington RCW 36.70.810**, requires that the following findings be made prior to the granting of the variance and the applicant should be prepared to demonstrate before the Board of Adjustment that such findings exist.
 - a. Variances granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations on the other properties in the vicinity and the zone in which the property is situated.
 - b. That strict application of the Zoning Ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity

and under identical zoning classification because of special circumstances applicable to subject property including size, shape, topography, location or surroundings

- c. That the granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity and zone in which the subject property is situated.

2. **Benton County Code Section 11.52.088(b) states:**

"Variance—General Standards. The variance application process allows the Board of Adjustment in specific cases, as provided in RCW 36.70.810, to grant a variance to the provisions of this title when it can be demonstrated that such variance is in harmony with the general purpose and intent of this title and is accordance with the requirements of this section. However, the Board of Adjustment shall not grant variances to land uses or density requirements."

3. **Benton County Code Section 11.52.088(e) provides:**

"Variance—Permit Granted. (1) A variance shall be granted only if the Board of Adjustment concludes that based on its findings and the conditions imposed, if any, that:

- (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;
- (ii) special circumstances such as lot size, slope, topography or necessary size or shape of the building prevent compliance with the applicable property development standards;
- (iii) due to special circumstances applicable to the subject property, strict application of the zoning district property development standards would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning district classification;
- (iv) the problem sought to be addressed by the variance is related to the physical features of the particular property or building and would exist regardless of the identity of the owner;
- (v) the problem sought to be addressed is not common for other properties in the surrounding area;
- (vi) the variance would not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity under the same zoning classification;
- (vii) the variance will not adversely affect the health or safety or persons residing or working in the neighborhood in which the variance is being requested; and,

- (viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.
- (4) **The Board of Adjustment** may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by subsection (e)(1) above.
- (5) **BCC 11.08.040 Setback Requirements:**

All lands, structures, and uses in the Residential District shall conform to the following minimum side yard setback requirements;

 - (a) There shall be a side yard of at least ten (10) feet on each side of any dwelling, multiple family dwelling, or accessory structure, provided that on a corner lot the side yard on the street side shall be at least fifty-five (55) feet from the centerline of any city, county, or state road right-of-way sixty (60) feet or less in width. If the right-of-way width exceeds sixty (60) feet, the setback shall be at least twenty-five (25) feet from the property line.
 - (b) No building shall be hereafter erected or altered so that any portion thereof shall be nearer to the side lot line than the distance indicated by the width of the side yard, EXCEPT:
 - (1) Eaves, cornices, belt courses and similar ornamentations may extend over a side yard for a distance of not more than two (2) feet.
 - (2) Platforms, terraces and steps not over forty-two (42) inches in height may extend into the side yard.
 - (3) Fireplaces may extend into a side yard a distance of not more than eighteen (18) inches.
 - (c) There shall be a side yard setback of not less than twenty-five (25) feet from any access and/or combined access and utility easement adjacent to or within the property.

FINDINGS OF FACT:

If the Board of Adjustment makes a decision to either approve or deny this proposal, the Board shall include in a written record of the case the findings of fact upon which the action is based. The following is information compiled by the Planning Staff as of the date of this memo. The following should be considered by the Board of Adjustment and may be used in the Board's findings of fact for this proposal.

1. The property owner/applicant is Jesus Madrigal Coria. P.O. Box 128, Plymouth, WA 99346.
2. The applicant is requesting a variance from the 55' (55) foot setback from SE First Street on the North side of his property –BCC 11.10.080(1) leaving a 30 foot setback. In addition the applicant is also requesting a variance on the South side of his property of 7' (7) feet from the 55' (55) foot setback leaving a 48' (48) foot setback, to allow for the placement of a 25X44 foot manufactured home to fit on the property and meet Health District requirements of the existing septic and drain field.

3. Location: Re-plat of Tracts 2, 4, 6, & 8 of Plymouth Block 8 in Section 7, Township 5, North, Range 28 East, WM. Plymouth, WA.
4. The application for VAR 11-03 was submitted to Benton County on August 31, 2011 and was determined a complete application for processing on August 31, 2011.
5. The proposed variance application did not require that a Notice of Application be published.
6. The notice for the Benton County Board of Adjustment Open Record Hearing for application VAR 11-03 was published on September 22, 2011, in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundary of the parcel. The Open Record Hearing is scheduled for October 6, 2011.
7. The Benton County Building Department required that a placement permit be obtained.
8. The Benton County Fire Marshal's comments are that "Given streets surround the property on three sides, approving this request does not place Mr. Madrigal's home, or the homes across the street in undue danger from fire."
9. The Benton Franklin Health District stated: "A representative of this office has reviewed the variance proposal submitted by Mr. Madrigal. It would appear that this proposal would maintain required setbacks from the location of the proposed home to the existing septic tank and drain field. Therefore, this office does not have any objection with the approval of this variance."
9. The applicant is asking for a setback variance on two sides of his property as he has a non-typical lot and the dimensions and size will not allow him placement of the home and stay out of normal county setbacks. The septic and drain field is pre-existing, limiting the placement of the manufactured home.
10. A reduction in the setbacks to 30 feet on the South and 48 feet on the North of the applicant's lot would provide the applicant room for the placement of a 25X44 foot manufactured home.

DISPOSITION OF THE APPLICANT'S REQUEST:

A variance shall be granted only if the Board of Adjustment concludes that based on its findings and the conditions imposed, if any, that:

- (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;
- (ii) special circumstances such as lot size, slope, topography or necessary size or shape of the building prevent compliance with the applicable property development standards;
- (iii) due to special circumstances applicable to the subject property, strict

- application of the zoning district property development standards would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning district classification;
- (iv) the problem sought to be addressed by the variance is related to the physical features of the particular property or building and would exist regardless of the identity of the owner;
 - (v) the problem sought to be addressed is not common for other properties in the surrounding area;
 - (vi) the variance would not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity under the same zoning classification;
 - (vii) the variance will not adversely affect the health or safety of persons residing or working in the neighborhood in which the variance is being requested; and,
 - (viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.

CONDITIONS:

The Board of Adjustment may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by the subsection above. If the Board of Adjustment decides to approve Variance Request – VAR 11-03 then the following are suggested conditions recommended by the Planning Department:

1. Any conditions imposed by the Board of Adjustment shall be completed prior to the Planning Department issuing the variance. The applicant shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the variance until those conditions have been met. The variance shall not become effective until issued by the Planning Department.
2. If the conditions of approval have not been met and the Planning Department does not issue the variance within one (1) year from the time the Board of Adjustment conditionally approved the variance, the Board of Adjustment may declare its approval null and void at a regular Board of Adjustment meeting. Prior to doing so, the applicant shall be notified in writing at the applicant's last known address at least twelve (12) days in advance of the upcoming Board of Adjustment meeting.
3. The applicant will need to obtain a placement permit from the Benton County Building Department for the placement of the manufactured home.
4. The applicant for Variance VAR 11-03 must have a Washington State Licensed Surveyor mark the property line adjacent to the location of the proposed manufactured home prior to the inspection by the Building Department.
5. The applicant shall be limited to the reduction in the setbacks leaving a 30' (ft) setback on the South side of the property and a 48' (ft) setback on the North side of the property. This would provide the applicant room for the placement of a 25X44 foot manufactured home.

6. This lot by size is limited and has been designed for the placement of the 25X44 foot manufactured home shown in the site plan with the application. Any changes in size of any manufactured home will not be allowed without prior Health District approval and the amended variance application approved by the Benton County Board of Adjustment.