

**BENTON COUNTY BOARD OF ADJUSTMENT
REGULAR HEARING – MAY 1, 2014 -7 P.M.
PLANNING ANNEX – 1002 DUDLEY AVENUE
PROSSER, WA 99350**

**THESE MINUTES ARE A SUMMARY OF THE BOARD OF ADJUSTMENT
HEARING AND NOT A VERBATIM TRANSCRIPT**

CALL TO ORDER

PRESENT: Aimee Bergeson
Dean Burows
Bob Page

ABSENT: Brent Chigbrow

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

APPROVAL OF MINUTES:

MOTION: It was moved by Bob Page and seconded by Aimee Bergeson to approve the minutes of the March 6, 2014 and upon vote the minutes were approved.

Clark A. Posey, Senior Planner, read to the Board ex parte questions for all actions and those wishing to testify during the hearing on actions presented to the Board of Adjustment tonight were sworn in. Members stated that they had no ex parte communication with regards to any of the actions being presented to the Board tonight.

NOTE: In the absence of Chairman Brent Chigbrow, Vice-Chairman Dean Burows will be conducting the Board of Adjustment Hearing for May 1, 2014. The Vice-Chairman then opened the public hearing for items listed on the Board's agenda.

CONSENT AGENDA ITEMS:

- 1) Extension Request – SP 11-03 – Applicant: Alexandria Nicole Cellars**
- 2) Extension Request – SP 10-02 – Applicant: Kurk Watts**
- 3) Extension Request – CUP 13-002 – Applicants: Clifton R/Clifton V and Shirley Steelman**

MOTION: Mr. Page made a motion which was seconded by Ms. Bergeson that the Consent Agenda Items: SP 11-03/SP 10-02/CUP 13-02 should be granted another year extension in order to satisfy the conditions of approval imposed by the Board of Adjustment for each permit. Motion carried.

NEW BUSINESS:

VARIANCE REQUEST – VAR 2014-001 – The applicant is requesting a variance from BCC 11.52.060(3) to allow access to a single parcel of land on a 5.2 acre site that does not have a perpetual, non-exclusive access easement. Access across the United States Department of the Interior – Bureau of Land Management property is needed for an ingress and egress right-of-way. The site is located in the West Half of the Northwest Quarter of the Northeast Quarter, lying westerly of the canal in Section 18, Township 8 North, Range 28 East, W.M. Applicants: Tyler/Eva Tapani.

The Vice-Chairman opened the public portion of the hearing. The Planner summarized said action for the Board and entered the following exhibits into the record by reference. BOAM 1.1 to BOAM 1.12 and BOAR 1.1 to BOAR 1.6.

APPLICANT TESTIMONY: Tyler Tapani – 86316 E Locust Grove Road – Kennewick, WA 99338 stated that he wanted a variance from BCC 11.52.060(3) to allow access to a single parcel of land that does not have a perpetual, non-exclusive access easement across the United States Department of the Interior – Bureau of Land Management property. The applicant is proposing to construct a single family residence on this parcel, thereby necessitating the need for a variance.

Mr. Burows questioned the applicant about the canal right of way. The applicant responded that it was the Kennewick Irrigation District Canal.

Mr. Page noted in the Bureau of Land Management lease agreement there was a statement pertaining to a non-renewal. The applicant replied that if the conditions changed then BLM might not renew the lease. He continued to state that the lease agreement was for 30 years.

OPPONENT/PROPONENT TESTIMONY/APPLICANT REBUTTAL: NONE

The Vice-Chairman closed the public portion of the hearing.

MOTION: Mr. Page made a motion which was seconded by Ms. Bergeson that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Tyler/Eva Tapani – VAR 2014-001 should be approved with conditions and that the Vice-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.

CONDITIONAL USE PERMIT – CUP 2014-001 – The applicant is requesting a conditional use permit for the operation of the following businesses to be conducted on the same site (1) vehicle and furniture upholstery repair business and (2) a retail tool sales business. The site is located at 201104 E Bowles Road Kennewick on Lot 1 of Short Plat 395 in the West Half of the Southeast Quarter of

the Southeast Quarter of the Southeast Quarter of Section 17, Township 8 North, Range 30 East, W.M. on a 1.25 acre site. Applicant: Dan/Dani Flanagan

The Vice-Chairman opened the public portion of the hearing. The Planner summarized said action for the Board and entered the following exhibits into the record by reference. BOAM 1.1 to BOAM 1.19 and BOAR 1.1 to BOAR 1.6.

APPLICANTS: Danny/Dani Flanagan – 2011-4 E Bowles Road – Kennewick, WA 99337-6723 were not in attendance for this hearing item.

NOTE: The Board made a decision to continue to hear this agenda item even though the applicants were not in attendance.

PROPONENT/OPPONENT TESTIMONY: NONE

The Planner informed the Board that CUP 2014-001 was a Code Enforcement action. The applicants had been operating this business for 20 years without any type of approvals or permits. The neighbors have no objections to him operating the business, except they would like to see the area cleaned up. The access road used for ingress and egress by the neighbors; the applicant also utilized for his business. Due to the extensive usage of this access by the applicant there was little gravel left on the road.

The Vice-Chairman closed the public portion of the hearing.

MOTION: Mr. Page made a motion which was seconded by Ms. Bergeson that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Danny/Dani Flanagan CUP 2014-001 should be denied for the following reasons: (1) Code Enforcement Action due to non-compliance, (2) No permits obtained for the operating of the business for over 20 years, (3) endangerment to surrounding property owners as noted in written testimony Exhibits 1.5 to 1.8, 1.9, 1.10 to 1.18, (4) three (3) foot high overgrown grass around a wooden fence constitutes a fire hazard to the surrounding property owners, (5) utilizing a private access for ingress and egress and that the Vice-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. Motion carried. All the Board members were in favor of denying CUP 2014-001.

VARIANCE REQUEST – VAR 2014-002 – The applicants are requesting a seven (7) foot variance to BCC 11.16A.080(4) which is a setback of ten (10) feet from the sideyard property line for the location of an existing storage container. The site is located at 201104 E Bowles Road Kennewick on Lot 1 of Short Plat 395 in the West Half of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 17, Township 8 North, Range 30 East, W.M. containing 1.25 more or less. Applicants: Danny/Dani Flanagan.

The Vice-Chairman opened the public portion of the hearing. The Planner summarized said action for the Board and entered the following exhibits into the record by reference. BOAM 1.1 to BOAM 1.12, BOAR 1.1 to BOAR 1.7 BOAH 1.1. The Planner continued to inform the Board that the variance requested was for the placement of a storage container on the back part of the applicants' property which was placed without first obtaining a building permit. The container was placed at the current location after they were denied placement, prior to this for a different storage unit by the Benton County Building Department who informed the applicant that they would not be able to place the container at this location. The Planning Department was also informed that there was a water easement running through the area of which the container resides.

Mr. Burows commented that for all logical purposes this container was a non-permitted facility on an easement. The Planner replied that to be correct.

APPLICANTS: Danny/Dani Flanagan – 2011-4 E Bowles Road – Kennewick, WA 99337-6723 were not in attendance for this hearing item.

NOTE: The Board made a decision to continue to hear this agenda item even though the applicants were not in attendance.

PROPONENT/OPPONENT TESTIMONY: NONE

The Vice-Chairman closed the public portion of the hearing.

Mr. Burows asked the Planner if the Variance Request was the result of a Benton County Code violation. The Planner stated that to be correct.

Mr. Page commented that the applicants are aware that they are in violation with regards to the placement of the storage container. Permits are required for a purpose and if the applicants did return for a placement permit for the storage container then it would need to be conditioned that the applicants' site be cleaned up, prior to the permit being issued.

Mr. Burows replied that the Board would not be able to grant a permit as the container currently sits on top of an easement.

Mr. Page replied that the Board could grant the applicants a permit to relocate the container.

MOTION: Mr. Page made a motion which was seconded by Ms. Bergeson that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Danny/Dani Flanagan VAR 2014-002 should be denied for the following reasons: (1) Code Enforcement Action, (2) Previous attempt to place the container on site without first obtaining a permit, (3) Building Dept. denied the placement of the container at this site, (4) the applicants placed the container atop of a water easement, (5) the container was too close to the existing property line, (6) pictures of the placement area of the container reveals excessive

tall grass that needed to be removed as this vegetation could be a potential fire hazard, (7) current location of the container would adversely affect the safety of anyone who would need to access the recorded water easement due to the container residing onto of the easement (8) the applicants have ample property to relocate the container without necessitating a variance, (9) the Board does not grant variances for convenience of which this variance was requested and (10) the Vice-Chairman stated for the record that the Variance Request does not meet the requirements of the Variance Request checklist for the findings of fact and that the Vice-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. All Board members were in favor of denying VAR 2014-002.

CONDITIONAL USE PERMIT – CUP 2014-002 – The applicant is requesting a conditional use permit for the crushing of concrete waste existing on site. This material needs to be removed from the current stockpile area along the East side of Demoss Road. The site is located along the eastern right-of-way of North Demoss Road, Benton City, WA 99320 in the Southwest Quarter of the Northwest Quarter of Section 8, Township 9 North, Range 27 East, W.M. Applicant: Walt Meglasson

The Vice-Chairman opened the public portion of the hearing. The Planner summarized said action for the Board and entered the following exhibits into the record by reference. BOAM 1.1 to BOAM 1.23, BOAR 1.1 to BOAR 1.4 and BOAH 1.1 to 1.3. The Planner stated that the applicant submitted this application based on a letter that he had received from the Benton County Building Department on September 25, 2013, for the stockpiling of concrete on the property located on Demoss Road. The Building Department and the applicant had worked out an agreement where he needed to comply to remove the concrete from the slope above the road. The applicant needed to move the stockpile back 10 feet and obtain a conditional use permit to crush the material up and remove it from the site or provide a geological study of the area to prove that the stockpiled material does not have an adverse effect to the stability of the slope bank above Demoss Road. The conditional use permit request was a Code Enforcement action. The applicant came to the Planning Department and then he applied for a conditional use permit to get a grading permit through the Building Department. The applicant cannot move the material without first obtaining a conditional use permit. The stipulation that Benton County had was that the crushing would need to be done during a period when there was no fruit or budding on the trees, no harvesting and would need to be done during a dormant period.

Mr. Burows asked the Planner if there was a quasi-deal being proposed by Benton County and the applicant to take care of this issue.

Mr. Page asked the Planner if the applicant could remove, dispose or crush any of the material located on site, except during the period of October 30 to March 15. So, the material will sit on site between now and then with nothing being done. This would include the overhang over Demoss Road.

The Planner stated that the Benton County Public Works Department does want it off of the area. Citations would be issued if the applicant would be unable to remove the material during this period of time.

Mr. Page asked about the existing concrete on site and the duration. The Planner stated that he was unaware of the length of time the concrete had been located on site.

APPLICANT TESTIMONY: Walt Meglasson – 54005 N DeMoss Road – Benton City stated as explained by the Planner we need to remove this concrete. It was accumulated over a period of approximately ten years from various projects. At the time, I assumed that the material would make good road bed base when it was crushed, which he still believes. If allowed to crush the material approximately 30% would go back on the road as road bed base and then top with a two inch layer of 5/8" rock to form the running surface. By the way this is an existing road which is the old railroad right of way which has been in existence for about 80 years.

The material consists of blocks of concrete consisting primarily of walls, footings, patios, curbs, gutters, etc. He would remove any rebar and send that to the scrap yard. The material was taken to this site for the following reason: (1) wanted to use the material as a road bed base to control weeds, stabilization.

The concrete in question is ¾'s broken up already into crusher feed. The quarter portion on the one stock pile left would have to be reduced down to one foot minus, which would probably take about 1 ½ days to accomplish, including the removal of the rebar.

He stated that he no issue with waiting until October to March when everything goes dormant to accomplish this work. No more material will be brought to the site. The important thing is to mitigate the problem with the current concrete stock pile and to create a useable product out of it, which will be distributed on the road itself to 6" and everything remaining approximately ¾ would go to GreenBriar Farms. The material currently on site has no hazardous waste in it.

No dust would be emanating from this process as he owns a water truck and all of the material will be thoroughly saturated before it has ever moved, so dust would not be a problem. Duration of the time required to deal with the concrete depends on how much help he could obtain. Generally, felt that the crushing of the material would be accomplished within 3 to 4 weeks with consistent work.

Mr. Burows asked the applicant that it was stated that some of the product came from the Franklin County or Pasco Airport. Commonly with disposal is a signature stating that you are taking debris from the demolition project to a licensed or legal landfill, was that signed when the material was moved.

The applicant replied that it was not.

Mr. Burows asked if that was a requirement.

The applicant responded that it was not. He continued to state that he did not sign anything. He continued to state that it was considered non-hazardous material.

Mr. Page asked during the crushing operation would the material come from the crusher into the transport vehicle.

The applicant replied that it did not.

Mr. Page asked if the material came out on the ground.

Mr. Meglasson said that it comes out on the ground, goes into a stockpile and then it gets loaded into the truck. It could be dropped into a vehicle.

Mr. Page asked that in the course of an 8 hour time period how many truck loads would you assume would come out from the site.

Mr. Meglasson replied that it would depend on how much assistance he would be able to secure. He would assume to be able to crush about 400 yards per day with assistance.

Mr. Page asked if the material would be hauled in a just a truck or a truck and a pup.

The applicant replied a belly dump which would accommodate 20 yards of material. The material would then be transported to Green Briar Farms.

Mr. Page asked if that would make the majority of the material disappear faster than spreading it on the road with a 6 inch base.

The applicant replied that to be correct.

Mr. Burows asked about the purpose of the road.

The applicant replied that he owned 40 acres on Red Mountain on the hill that consisted of three buildable lots. The end purpose of the road and the access up the hill, which was still in dispute, would be to construct a residence on one of these lots. His son would also like to construct a residence on one of these lots, thereby necessitating the need for a road. Currently, the land was completely landlocked as there was no access to the lots. Ultimately, he would need to construct a road to these lots in order to build. He felt he did not make the statement clear for the construction of a road to these lots. The only issue before the Board tonight was the disposal of the concrete.

Mr. Burows stated that the Department of Ecology did have an issue regarding concrete runoff having a high ph. How much runoff from the road base would end up in the Yakima River?

The applicant replied zero.

Mr. Burows asked the applicant if he had done a study to that affect.

Mr. Meglasson replied that based on his experience he would wet the material down. There would be no runoff going down onto Demoss Road. If runoff did make it to the Yakima River it would need to cross Demoss Road, go through a cherry orchard and then somehow get over a dike into the river.

Mr. Burows asked the applicant again if he had done any survey or scientific bases other than opinion on whether or not if the pH which was brought out in the Department of Ecology letter of it making it to the Yakima River. My understanding is that there have not been any studies on this subject.

Mr. Meglasson replied that based on his experience it would not be necessary to do a study as it was very clear that the only water that will be applied to control the dust would be absorbed by the concrete and the existing dirt and rock within the piles of concrete.

Mr. Burows commented that during construction, but in the many years that the roadway would be utilized with natural water and runoff – what about that?

Mr. Meglasson replied that the material once it has been ground up it was stabilized in position on the road and there was no runoff that road at any time. We don't get enough rainfall to even begin to puddle it let alone run it off. He would know if there was any runoff as it would need to cross Demoss Road or land on Demoss Road somehow and there is never any of that. The only runoff which occurs is when Klipsun Vineyards purges their wells and drains their irrigation system which sends a cascade of water down one of the gulley's across my road and down onto the Demoss Road. That is the only runoff that has ever occurred in that area.

Mr. Burows stated that he had seen enough flashfloods that pushes water down off that hillside into the culverts on the side and runs off of the creek not far from the railroad crossing, which was close to the applicant's property. Do you have any scientific factoring findings on this subject matter?

Mr. Meglasson replied that in the 14 years that he had been at this site he had never seen any runoff come off of that site.

Mr. Page asked the applicant if he had any conversation with the Department of Ecology pertaining to this subject.

The applicant replied that he had not. If there is issue regarding the concrete then Green Briar Farms would take all of the material. He felt that there was enough

material on site to rock the road without using the concrete, so he does have that option.

Mr. Burows informed the applicant that the Board would take that into consideration. He then asked the applicant if he had read the packet. The Department of Ecology BOAM 1.6 stated that the applicant would need a site permit to be covered under the Sand and Gravel General Permit, which was part of the conditions of approval to which the applicant was agreeing.

Mr. Burows read from the Department of Ecology letter dated March 27, 2014 – Exhibit No. BOAM 1.6 – The SMP consists of monitoring, erosion sediment control, spill, and storm water pollution prevention plans. Information about the requirements of the SMP including BMP's read pages 18 to 25 of the permit – web address noted in the Department of Ecology letter. Then he continued to read about Wastewater management (industrial storm, process and mine dewatering water). He stated that the information in the Department of Ecology letter was a condition affixed to this site by the Board.

Mr. Meglasson replied that without going into detail he would not proceed with DOE requirements until the Board granted approval to be able to crush the material located on site.

Mr. Burows understood the applicant's position, but he wanted the applicant to be aware of the requirements by the Department of Ecology pertaining to this application.

Mr. Page asked the applicant if it would be possible to truck this material to Green Briar and crush the product at their site.

Mr. Meglasson replied that he was unsure if the material could be moved to Green Briar and crushed at that site. He continued to state that it does not solve the problem; he would like to just crush the product and be done.

Mr. Burows addressed Exhibit BOAM 1.16-pictures, revealing rather large chunks of concrete with some wire or rebar showing. How much of this product will have to have the rebar removed, prior to crushing?

Mr. Meglasson explained how the product would go into the crusher and then the magnet would identify the metal and pull it from the crushed product. Pacific Steel would be the recipient of the metal. Maximum size to go through crusher would be 18 inches otherwise the material would need to be broken down, prior to it going into the crusher. The larger pieces would be broken down with a hydraulic jackhammer that was mounted on a truck. Breaking down of the larger material would take about a day and a half to complete.

Mr. Page asked if water was utilized with the breaking down of the product.

Mr. Meglasson replied that the product would be watered down to control the dust, but not enough to runoff the property.

Mr. Page asked if the applicant had been cited for illegal dumping.

Mr. Burows responded that this action was due to Code Enforcement.

Mr. Meglasson stated that everyone was in agreement to remove the product from the site. He felt that it would be the quickest way, practical and efficient way to proceed. If the Board had any issue about putting any concrete on the road, then he would give it all to Green Briar Farms. The concrete after it is crushed comes out fine with no steel or debris or other product. He explained road bed base.

Mr. Page asked if there was any crushed product on site currently.

Mr. Meglasson replied that there was not.

Mr. Page asked the length from one end of the pile of concrete to the other.

Mr. Meglasson replied about 400 feet.

Mr. Page talked about Exhibit No. 1.18 which showed the current location of the crusher and asked if it was still in the same location.

Mr. Meglasson replied that to be correct.

Mr. Page asked if this would be the location to do the crushing.

Mr. Meglasson replied that to be correct. He wants to get this product crushed and removed.

No more material would ever be brought on site.

PROPONENT TESTIMONY: NONE.

OPPONENT TESTIMONY: Ron Shippy – 46902 N Demoss Road – Benton City, WA 99320 – read into the record his testimony – Exhibit BOAH 1.4 – objects to the noise, dust, feels the material should be removed and crushed elsewhere not in this area where there are adjacent residences reaping the unpleasant benefits of this rock crushing operation.

SHARON SHIPPY – 46902 N Demoss Road – Benton City, WA 99320 – read into the record her testimony – BOAH 1.5 objects to the tremendous noise and dust. The Board should require the applicant to remove the material from the site.

TERRI HANSEN – 45204 N Demoss Road – Benton City, WA 99320 submitted to the Board the following exhibits: (1) BOAH 1.6 – Information on Exposure to Silica, (2) BOAH 1.7 to 1.21 Pictures of the site, (3) BOAH 1.22 – Decibel Exposure Time Guidelines. Listed are Ms. Hansen's objections to this

conditional use permit operation: (1) unable to haul this material to another location, (2) crusher was located immediately in front of Ms. Hansen's driveway, which after measuring it was 170 feet to the other side of the county road from the edge of her house, (3) considerable noise from the crusher, (4) crusher was located only 30 feet from the main county road with a 50 mph speed limit, (5) concern for public safety of bike riders, (6) Clean Air discussed basalt crushing not concrete crushing, (7) concern over silica damage to lungs due to the crushing of concrete products, (8) 14 years of stock piled concrete on site, (9) no buffer, (10) Code Enforcement Action (11) not compatible with the surrounding area (12) more than one pile to be crushed (13) one pile was about 350 feet long, (14) another pile was 366 feet, (15) if the Board approves this action to crush on site - there will be dust generated (16) how can the applicant utilize the crusher in the cold winter months without utilizing some sort of chemical to prevent the hoses from seizing up - that is an additional worry to property owners, (17) concern over lack of follow through from the Code Enforcement Officer (18) incompatibility with surrounding properties (19) operation was not permitted, (20) felt that the material should be removed to Green Briar and crushing should be done at that site. The Board should deny this request.

PHIL MEES - 46915 North River Road - Benton City, WA 99320 resides on the opposite side of the river. He summarized his testimony from Exhibit BOAH 1.3. Benton Clean Air Authority issued a permit for basalt not concrete waste. The permit would expire in 2020. He felt that the application was for a mining operation not crushing of concrete waste. Crushing of this material on site should be the last option given to the applicant. The applicant's proposal was not compatible with the surrounding area. The area can be very windy thereby causing a great dust control issue. Issue over a Clean Air Authority for basalt not concrete needed to be reissued.

The Planner interjected that the applicant does have a current Clean Air Authority report that was verified on April 4, 2014. The report goes with the machine not with the project. The crusher was portable, so the applicant had to obtain a current license.

Mr. Mees asked the Planner if the crusher was for basalt or concrete.

The Planner responded that the applicant could crush anything with the machine.

Mr. Mees also noted that the Staff Report listed this application as short term. However, short term definition would be to go in and get the project completed, but the staff report says from October to March that is not short term, but seasonal. The applicant testified that he would be able to crush this material within a few weeks to a month. The Board needs to hold the applicant to this period of time, if approved. November would be a better month to crush. Air Pollution Control said no dust would be allowed to leave the property, but the crusher sits currently on the edge of the property line. The applicant testified that there would be no dust.

The applicant needs to relocate the crusher, but where in order to eliminate dust. He would be in favor of this application if the applicant could crush the material within a month's time only between November and March.

APPLICANT REBUTTAL: Walt Meglasson 54005 N Demoss Road – Benton City, WA 99320 stated that he wanted to get a road up the hill and get rid of the concrete. He has a right to get a road up the hill, live on his property and retire. The only way to accomplish that would be to build a road. The dust conditions which are emanating from the site due to the crushing operation are inadequate as testified. He would water the product down thoroughly, prior to it being crushed thereby eliminating any dust. Crushing the product on site would be the quickest, cleanest, most expedient and cost effective way to get rid of this material. If he didn't crush the material on site, but instead removed the material that would entail considerable truck traffic, dust and additional expense. The applicant stated that it was his dream to build a home on his lot at the top of the hill. He wants to move forward by crushing the concrete and remove it from the site.

Mr. Burows informed the applicant that the Board was dealing with just the material on site and the crushing of the material; not the road. The material would not be utilized on the road. The Board's purpose was to make certain that the applicant followed specific codes legally and correctly.

Mr. Meglasson realized that in the past things on this site were not done correctly. He stated that he wanted to clean up the road, get rid of the concrete, get the weeds under control and later address the road situation.

Mr. Page asked the applicant if he were to begin crushing today what would be the anticipated ending date.

Mr. Meglasson replied if he was to crush by himself the project would last about two months and less if assisted. No crushing would be done in front of Terri Hansen's house.

The Vice-Chairman closed the public portion of the hearing.

Mr. Burows understood the needs of the property owners. However, he needed to concentrate on the facts at hand pertaining to this application, such as this was an illegal dumping operation from the beginning. He could not see a rock crushing/concrete crushing operation on this site. It is harmful to the community and area. It makes no more harm to load the material into a truck, haul it off to the farm down the way and crush it with a portable crusher then crushing the material on site, probably less harm then crushing it on site. The crusher was portable.

Mr. Page stated that if the crusher was relocated then there would be trucks that would haul the material off site or take a bucket, front loader, and scoop up the material and dump it into the trucks. This in turn would generate considerable

noise and a considerable amount of dust. The lesser of the two evils would be if it could be done in a two month timeframe. If the project was not completed within a 60 day period of time then the crushing operation ceases and the entire product will be hauled off of the site.

Mr. Burows commented that if the material was not gone within the 60 day period of time then the action would be turned over to Benton County Code Enforcement.

Mr. Page said to condition the application that the period would be good for a 60 day period only from November to December.

Mr. Burows felt that the month of November-December could be an issue due to the colder weather. His decision on this matter would be if the operation would be harmful to the surrounding property.

Mr. Page noted that if the material was loaded into a truck, removed from the site this would create a considerable dust issue. If required to remove the product off of the site that should be done after harvest.

Mr. Burows replied that the product would need to be watered down to avoid dust issues. He agreed the removing of the product should be done upon conclusion of harvest, such as the winter months. It is not fair to the rest of the community or the county to bend the rules.

MOTION: Mr. Burows made a motion which was seconded by Ms. Bergeson that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Walt Meglasson – CUP 2014-002 should be denied and that the Vice-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 decision made by the Board of Adjustment.

Discussion: Mr. Page stated the following: (1) if the Department of Ecology and Benton Clean Air Authority find no reason that that this operation could not continue as their comments are based on the pH runoff. If the two entities have no objection then Mr. Page would like to see a complete plan and have the applicant resubmit his application, if the applicant feels the need to do so. Mr. Burows stated that there are more mitigating measures with regards to this project than just the Department of Ecology and Benton Clean Air, such as more studies need to be done with regards to this crushing operation. The applicant could then return to the Board with the requested reports. Mr. Burows feels that the burden of proof with regards to compatibility with the surrounding properties was not met.

The Board continued with the motion to deny this conditional use permit. Motion carried.

PLANNING DEPARTMENT REPORTS AND DISCUSSION:

The Board of Adjustment Hearing date of July would be the 3rd discussion with the Board members to change the date to July 10, 2014.

MOTION: It was moved and seconded that the regular Board of Adjustment Hearing date - July 3, 2014 - be changed to July 10, 2014. Motion carried.

There being no further business before the Board of Adjustment the meeting was adjourned at 9:01 p.m.

Dean Burrows for Dean Burrows

DEAN BUROWS, VICE-CHAIRMAN

DATE