

Benton County Board of Adjustment
Planning Annex – 7 p.m. December 8, 2011
1002 Dudley Avenue - Prosser, WA 99350

Vice-Chairman Dean Burows opened the Board of Adjustment Hearing and roll call was conducted.

Members Roll Call: Present: Vice-Chairman Dean Burows
Herb Everett - Member
Bob Page - Member
Absent: Brent Chigbrow - Chairman

Planning Staff: Present
Clark A. Posey – Senior Planner – Current
Carel Hiatt – Recorder

MOTION: It was moved and seconded that the Board of Adjustment minutes from September 1, 2011 be approved as written and signed by the Vice-Chairman. Motion carried.

NOTE: The October 6, 2011 Board of Adjustment minutes could not be approved, as the Chairman was not in attendance at the December 8, 2011 hearing.

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

NOTE: The Board members were asked by the Planner and each responded with a “No” that they did not have a personal Conflict of Interest with any of the actions presented to the Board of Adjustment tonight regarding: Consent Agenda: SP 10-19 – David Roberts/Denice Runyon and SP 08-08 – Alan Finch, Withdraw action – SP 10-06 – American Rock Products and New Business: VAR 11-04 – Carol Sollars, VAR 11-05 – Darrell/Jolea Nickerson, CUP 11-08 Paul/Vickie Kitzke, VAR 11-06 – Mike Russell and CUP 11-09 – Jeff/Patti Thompson

EXTENSION REQUESTS:

SPECIAL USE PERMIT – SP 10-19 – DAVID ROBERTS/DENICE RUNYON
SPECIAL USE PERMIT – SP 08-08 – MAYFLOWER METALS – ALAN FINCH

MOTION: Mr. Everett made a motion, which was seconded by Bob Page that the Consent Agenda items SP 10-19 and SP 08-08 be granted a one-year extension request. Motion carried.

NULL AND VOID:

SPECIAL USE PERMIT – SP 10-06 – AMERICAN ROCK PRODUCTS

MOTION: Mr. Everett made a motion, which was seconded by Mr. Page that the Board honor the applicant’s request to let the Special Permit – SP 10-06 expire effective December 31, 2011 as the portable concrete batch plant will not be conducted at this location. Motion carried.

NEW BUSINESS:

VARIANCE REQUEST – VAR 11-04 – the applicant is requesting a variance from BCC 11.16A.080 for a 25-foot reduction from the required 55-foot front yard setback from the centerline of the county road for the construction of a shop. The application was

deemed complete for processing on October 7, 2011. The site is located at 210105 E Perkins Road – Kennewick, WA 99337 in Section 16, Township 8 North, Range 30 East, that portion of the West 202 feet of the Northwest Quarter of the Northeast Quarter of the Southeast Quarter, lying North of the County Road, except for the road right of way on the North. Applicant: Carol Sollars – 210505 E Perkins Road, Kennewick, WA 99337.

Hearing opened on VAR 11-04 for the taking of public testimony by Vice-Chairman Dean Burows.

The Planner summarized said action for the Board and entered into the record the following exhibits: BOAR 1.1 to BOAR 1.3, BOAM 1.1 to BOAM 1.9.

APPLICANT TESTIMONY: CAROL SOLLARS – 210505 E PERKINS ROAD – KENNEWICK, WA 99337 stated that she only needed to be 45 feet off of the 55-foot front yard setback from the centerline of the county road. She wanted only 10 feet off of the 55-foot.

The Planner replied that the applicant asked for ten feet off of the property line in the application.

Mr. Burows asked the applicant if there was a particular reason why she could not utilize the rest of her property.

The applicant replied that the way the shop comes in it is a three bay garage and the other half of that third bay would be right into the residence, so she would not be able to utilize it. She would be unable to drive into the third bay. She continued to state that the DOT came out. The first part they said “No”, but he came out to the house and she showed him and he marked it off and walked out. He did not have a problem. He came up and let you know that DOT said okay and they had changed their opinion on it, stating that it was good. He originally stated that he would grant access to her place right there, but now they do not have a problem with that. She noted to the Board that the change of opinion should be in their record.

Mr. Everett asked if it was the Department of Transportation. The applicant replied that to be correct. The Planner interjected that it was actually the Benton County Public Works Department that came out and inspected her property. The applicant concurred that it was the Public Works Department not the Department of Transportation.

The Planner stated that the Planning Department's perspective on this variance request was if there were ample ground to construct the garage upon, there would really not be a justification for a variance.

Mr. Burows stated that was part of the requirements here that there has to be some justification for not utilizing the rest of the property and requesting a variance. He replied that a variance for convenience would not be granted, however, if there were a slope to the property, standing water, etc. that necessitated this variance then the situation would be different.

Ms. Sollars outlined the lay of the road on the aerial provided and if the variance were to be granted then there would be no parking on the road.

Mr. Burows asked the applicant to explain why a variance is being request, such as slope or topographic layout of the property.

Ms. Sollars stated the following reasons for necessitating the variance: convenience for pulling her motor home into the bay, wanting three bay garage, doors sized as requested, size of the garage as requested and difficulty walking, thereby necessitating a need for the garage to be closer to her residence.

Mr. Page informed the applicant that if she was to put the building where requested instead of using a 10 foot door install a 16 foot door for bay two and three. The applicant explained how the motor home and car would access the garage.

Mr. Page continued to state that the applicant had three bays that were 10x8. The first bay was 10x8 and change the two 10x8's and the next two bays to a single 16x8 – that would be a double car garage that way and the applicant would be able to access the bay and be able to move back to get the distance needed to park. He asked the applicant if that would be possible. He continued to state that the applicant would be able to move her building back thereby negating the need for a variance. He asked how far was the front of the residence from the 55-foot setback.

Mr. Planner responded that the residence was about 67 feet back.

Mr. Burows stated that the Board does not grant variances for convenience. He continued to explain to the applicant the set of criteria the Board would need to meet with regards to the Findings of Fact.

Ms. Sollars responded that if the building were moved back then it would interfere with the location of an existing tree that shields her residence during the summer months.

Mr. Page asked the applicant if she could move her structure further east and south which would allow her to maintain the easement as required.

Ms. Sollars replied that would make the building farther from her residence necessitating the need for her to walk further. She again stated the need to have the building closer due to her medical condition.

The Planner asked about the existing garage attached to her residence.

Ms. Sollars explained that the garage was being turned into living quarters for her grandchildren, daughter and son in law.

Mr. Page asked the applicant from the east property line to the residence what was the distance. The applicant did not know.

Mr. Page then asked if the applicant would be able to move the garage to the east and still be able to access the other bay. He continued to inform the applicant that she did not have a bonafide reason for the granting of a variance with what was presented to the Board. He stated that the options would be to move the building east and south to maintain the edge of the easement where it needs to be and still be able to access the third bay of the garage. The Board does not grant a variance for convenience. He explained again that the applicant could change the size of the requested doors from three 10-foot doors to one 10-foot door and one 16-foot door then a variance would not be necessary.

Mr. Everett stated that it appears that there are no extenuating circumstances in terms of lot slope, easement constraints or a tree that would preclude moving the shop building to the south nor is there any evidence on the plot plan or pictures provided that would preclude moving the shop to the east if the applicant wanted better access to the third bay. He felt that the shop could be built reasonably within the zoning code requirements, setback wise and that the lay of the land would support this building.

PROPONENT/OPPONENT TESTIMONY: NONE

APPLICANT REBUTTAL: NONE

The Vice-Chairman closed the hearing for the taking of further public testimony and moved onto Board discussion and findings of fact.

Mr. Burows comments were that nothing was presented to base the granting of a variance.

Mr. Page/Mr. Everett concurred.

MOTION: Mr. Everett made a motion, which was seconded by Mr. Page that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Carol Sollars – VAR 11-04 should be **denied** due to the following: (1) there was no evidence submitted to support the granting of a variance and (2) there was adequate land space to construct a garage on site without encroaching into the setback area. 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. (Three in favor of denial.)

VARIANCE REQUEST – VAR 11-05 – the applicant is requesting a variance from BCC 11.13.080 for a garage to be located 21 feet from the northwest edge of the pavement of Neel Loop Road. BCC 11.13.080 requires a 25-foot front yard setback from the property line bordering any public road right of way for any construction. The site is located at 1244 N Neel Loop- Kennewick on Lot 40 of Lampson Homesites in Section 34, Township 9 North, Range 29 East, W.M. Applicants: Darrell/Jo Lea Nickerson.

Hearing on Variance Request VAR 11-05 opened for the taking of public testimony by the Vice-Chairman Dean Burows.

The Planner, Clark Posey, summarized said action for the Board, outlined the area on the aerial provided and entered into the record the following exhibits: BOAR 1.1 TO 1.3, BOAM 1.1 TO BOAM 1.15.

Mr. Burows asked the Planner if the drawings for VAR 11-05 are different than those submitted with VAR 10-03. The Planner replied that to be correct.

Mr. Burows asked the Planner for the record the Planning Department's recommendation on this variance request. The Planner replied that for the record it would be to stay with what the Board had originally granted in VAR 10-03. The City recommended the 20-foot setback from the front doors, so that nothing does hang out into the right of way. The Planning Department cannot give approval with regards to the right of way.

APPLICANT TESTIMONY: DARRELL NICKERSON – 1244 N NEEL LOOP stated he was approved on December 2, 2010 for a prior variance request for this same site under VAR 10-03 for a five foot reduction from the required 10 foot side yard setback under BCC 11.08.040(a) and a variance from BCC 11.12.030 for a twenty foot reduction from the required 55 foot front yard setback from the centerline of the county road for the construction of a garage. Now, he presents for a variance to BCC 11.13.080 for a twenty-foot reduction from the required front yard setback of 25 feet from the front property line for the construction of the garage.

The Vice-Chairman asked the applicant to explain the reasoning for the change from the prior variance request to this variance request.

The applicant stated that the drawing submitted with the first request was he trying to maximize the usage of the area in general between existing structures, the road and the property line. He did not realize that he was getting the building design approved; it is a funny shaped design with angled corners. He contracted with Quality Structures in Kennewick and they started laying out some stuff and felt that they could better utilize the ground, if laid out a different way. In fact we set it up the same distance from the roadway as in the original variance, but the building shifted and turned, thereby making the parking different.

Mr. Nickerson stated that in the current application, you could see the difference in how the building sits. He explained the new footprint to the Board. The new proposal disallows for any parking on the road. Pictures submitted BOAH 1.1 to BOAH 1.6 (six pages). The parking in front of the garage would not impede any parking on the existing road – Picture labeled number 1. He continued to discuss slope, driveway, right of way, and distance from garage to road. Discussed the placement of the garage with adjoining neighbors. He stated that he also shares a driveway with an adjoining neighbor, which is noted in the picture exhibits.

Mr. Page asked if the 29x16.5 foot garage noted on the site plan, if that garage was already located on site. The applicant replied that to be correct.

The applicant replied that the residence was built in 1952 and they would like to retain the existing garage structure.

Mr. Burows asked the applicant if he was actually a zero lot line building. The applicant replied no five feet, both sides would be five feet.

Mr. Everett asked for clarification that on the original variance VAR 10-03 the existing garage was going away, is that correct, and now it is proposed to stay. The applicant replied that to be correct.

Mr. Burows noted that the side setback now would be five feet from the neighbors – he had the applicant show on the aerial where the neighbor's residence was situated in relationship to his own. Mr. Burows voiced concern over emergency vehicles being able to access the neighbor's residence in the event of a fire.

The Planner answered that the distance between the two residences would be five feet and that amount was granted under VAR 10-03.

The applicant stated that considering the shape and slope of the land this would be the most logical place to build the garage.

Mr. Everett questioned the driveway access asking if it would be feasible to have the garage doors on the northeasterly side where the existing driveway was currently located. The proposed garage doors would be facing the street side. The applicant replied that to be correct.

Mr. Everett asked the applicant if he would bring it in from the long side of the structure, 32 foot. The applicant replied that it would be a greater than a 90-degree turn. The applicant presented to the Board additional pictures of the site, Exhibit Nos. BOAH 1.7 to 1.15 (nine pages)

Mr. Burows asked how many square feet was the property. The applicant replied .37 acres. Mr. Burows asked the square footage of the existing residence on site. The applicant replied approximately 1900 sq. ft., garage 480, new garage would be 900 sq. ft. plus 120 sq. ft onto new garage.

Mr. Page asked about the distance from the building to the edge of the road in VAR 10-03. The Planner replied approximately 10 feet.

Mr. Burows asked the applicant that now you are asking for five feet. The applicant replied that to be correct.

PROPONENT TESTIMONY: NONE.

OPPONENT TESTIMONY: Robert Brodahl/Karen Larson - 1252 N Neel Loop, Kennewick, WA 99336 – located his residence on the aerial provided, which was next door to the applicant. Mr. Brodahl felt that the location of the proposal would not be compatible with the surrounding area. He would like to have the garage located in a different area or tear down the existing garage and construct the new garage in that footprint.

Ms. Larson replied that if the applicant constructed the garage in the requested site, then her view of the river would be obstructed. Also, expressed concern about a safety issue to have the garage located so close to the road. If the applicant only had a five-foot variance granted then a boat or large vehicle would be out in the road.

ROBIN KRUEGER – 1248 N NEEL LOOP – KENNEWICK, WA 99336 –read into the record her testimony – Exhibit No. BOAH 1.16. She initialed her residence on the aerial provided and was also a neighbor to the applicant.

APPLICANT REBUTTAL: DARRELL NICKERSON – 1244 N NEEL LOOP, KENNEWICK, WA 99336 stated that there was some confusion about being five feet from the road when it is actually 22 feet from the edge of the pavement. He did not feel that with the granting of this variance request it would create a safety issue on this street.

The Planner asked the distance from the property line to the garage doors. The applicant replied 5 feet. The Planner replied then you would still be hanging out in the right of way. The applicant agreed.

The applicant stated that the building would be placed in the same area and no objections were raised with regards to Variance VAR 10-03. Construction of the garage would not inhibit Ms. Krueger's view. Robert Brodahl/Karen Larson has a second story on their residence and with the construction of a garage in the requested area, would not inhibit their view.

The Vice-Chairman closed the hearing for the taking of further public testimony and moved onto Board discussion and findings of fact.

Mr. Page was looking at the prior variance – VAR 10-03, which the Board approved. He was confused why the Board was looking at a variance for a variance.

Mr. Burows commented that in his opinion the difference is parking in front of the garage on the right of way vs. always parking in the right of way. The Board approved the prior variance with the exception that the driveway would come in at such an angle that you would be able to park a vehicle without being in the right of way. However, with this variance request the vehicle would be on the right of way with everything, but a VESBA.

Mr. Page recalled that the city did not have a problem with VAR 10-03. Mr. Burows commented because the applicant would not be situated in the right of way.

Mr. Burows stated that the Board did not have any jurisdiction to grant permission to parking in the right of way. Variance VAR 10-03 allowed for the enjoyment for all parties from the city to the owner for utilization. However, this variance seems to hinge more on a variance for convenience for the owner then for the surrounding property owners.

Mr. Everett's comments were that the previous proposal VAR 10-03 although the configuration was a bit atypical it was cleaner then this proposal. The proposal now of keeping the existing garage and adding the proposed 29x32 with the 12x16 extension creates a couple of situations where you have very little separation between the new structure and the existing structure with only a one to two foot separation. In addition, it appears to be an extension of the amount of the variance in terms of the amount of buildings that would be along the side lot line at 5 foot, plus the rectangular proposal that we see as far as the amount of encroachment of the variance to the street is significantly more then where it just came to the point on the south.

Mr. Everett continued to state that his tendency currently would be to leave it alone and remain with the original variance that the Board approved under VAR 10-03. The new proposal would crowd the buildings and prefers VAR 10-03 as opposed to VAR 11-05.

Mr. Burows expressed again concern over emergency vehicles being able to access the structures.

MOTION: Mr. Everett made a motion, which was seconded by Mr. Page that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Darrell/JoLea Nickerson – VAR 11-05 should be **denied** based on the findings of fact and the following: (1) prior variance VAR 10-03 more compatible with the configuration of the lot, surrounding area and to the owner then VAR 11-05 (2) granting of this variance would deprive the subject property rights and privileges owned by other properties in the vicinity by allowing this expanded plan change for the location of the proposed garage (3) granting of this variance would block views (4) granting of this variance would hinder emergency vehicles from reaching other residential structures or outbuildings due to the allowance of only one to two feet between structures and inability to maneuver emergency vehicles on such a narrow strip of land (5) granting of this variance would place parking or waiting to park vehicles in the proposed location of the garage on the right of way that would block views or impede traffic and (6) a prior variance VAR 10-03 had already been approved that considered the special circumstances afforded to this property for the proposed garage structure. 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. (Three in favor of denial.)

CONDITIONAL USE PERMIT – CUP 11-08 – the applicant is requesting to amend the approved Special Use Permit – SP 10-14 for the addition of three (3) employees Monday thru Thursday with hours of operation from 11:00 a.m. to 6:00 p.m. and by appointment only for the tasting room of Kitzke Cellars, LLC. The site is located at 72308 E 260 PR NE – in Section 20, Township 9 North, Range 28 East, W.M. Applicant: is Paul/Vickie Kitzke – 72308 E 260 PR NE – Richland, WA 99352.

Hearing on Conditional Use Permit CUP 11-08 opened for the taking of public testimony by the Vice-Chairman Dean Burows.

The Planner, Clark Posey, summarized said action for the Board and entered into the record the following exhibits: BOAR 1.1 TO 1.2, BOAM 1.1 TO BOAM 1.11.

APPLICANT TESTIMONY: PAUL KITZKE – 72308 E 260 PR NE – RICHLAND, WA 99352 – wants to amend SP 10-14 by adding three employees and change the hours of operation as requested in the application as advertised. He would like to request 10 events per year be granted as also noted in the application.

PROPONENT/OPPONENT TESTIMONY/APPLICANT REBUTTAL: NONE.

The Vice-Chairman closed the hearing for the taking of further public testimony and moved onto Board discussion and findings of fact.

Mr. Everett asked currently if the applicant was limited to how many events and now wants to have 10 per year. The Planner replied between 4 to 5 events per year.

Mr. Everett asked about the number of people that would be attending these events. The applicant responded that he was granted only 22 parking spots.

MOTION: Mr. Page made a motion which Mr. Everett seconded that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of CUP 11-08 for Paul/Vickie Kitzke should be approved with conditions 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. (Three in favor)

VARIANCE REQUEST- VAR 11-06 - The applicant is requesting a variance to BCC 11.16A.080 (3). This county code is a side yard setback of ten (10) feet from the property line for any building. This variance would allow the applicant/owner approval to leave his shed constructed on the property line, making a reduction of the required ten (10) foot side yard setback, or no setback for this for his pre-existing 8X16 shed constructed in 2004. The Parcel is located in the Rural Lands 5 Zoning District. Location: 20026 S Finley Road – Kennewick, WA 99337 on Lot 1, Short Plat 1580 in Section 15, Township 8 North, Range 30 East, W.M. The written date of completeness on this action is November 9, 2011. Applicant: Mike Russell – 20026 S Finley Road – Kennewick, WA 99337.

Hearing on Variance Request VAR 11-06 opened for the taking of public testimony by the Vice-Chairman Dean Burows.

The Planner, Clark Posey, summarized said action for the Board and entered into the record the following exhibits: BOAR 1.1 TO 1.9, BOAM 1.1 TO BOAM 1.8.

The Vice-Chairman asked the Planner if the structure was on a foundation or a slab. The Planner thought the building was constructed on a concrete slab.

APPLICANT TESTIMONY: MIKE/LENORA RUSSELL – 20026 S FINLEY ROAD – KENNEWICK, WA 99337, stated that the adjoining property owner does not have an issue with the location of the existing shed. He would relocate the shed if required, but would prefer not. He admits to building the shed on the property line.

Mr. Burows asked if the applicant was requesting a zero lot line adjustment for the keeping of the shed on site in its current location. The Planner replied that to be correct and a zero lot line would not be permitted.

PROPONENT TESTIMONY: NONE

OPPONENT TESTIMONY: Letter entered into the record as BOAH 1.1 – Jeff/Carol Kahler.

APPLICANT REBUTTAL: NONE

The Vice-Chairman closed the hearing for the taking of further public testimony and moved onto Board discussion and findings of fact.

The Vice-Chairman expressed the opinion that the shed could be relocated from the present location thereby negating the need for a variance.

The Board does not grant variances for convenience.

MOTION: Mr. Everett made a motion which Mr. Page seconded that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Mike/Lenora Russell VAR 11-06 Michael/Lenora Russell should be denied for the following reasons and based on the findings of fact: (1) variances are not granted for convenience, (2) granting a variance with a zero lot line would not be permitted, (3) no special circumstances such, as slope, topography, lot size or shape of the existing building warrants the granting of a variance and (4) the shed could be relocated thereby negating the need for a variance. 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. (Three in favor)

CONDITIONAL USE PERMIT – CUP 11-09 – The applicant is applying for a conditional use permit for the operating of an outdoor special event center for weddings of up to six to eight per year during the months of June, July and August and up to 100 parking spots. Located at 28104 S 959 PR SE – Kennewick, WA 99338 Section 22, Township 8 North, Range 28 East, W.M. Applicant: Jeff/Patti Thompson 28104 S 959 PR SE – Kennewick, WA 99338

Hearing on Conditional Use Permit CUP 11-09 opened for the taking of public testimony by the Vice-Chairman Dean Burows.

The Planner, Clark Posey, summarized said action for the Board, stated it was a Code Enforcement Action and entered into the record the following exhibits: BOAR 1.1 TO 1.6, BOAM 1.1 TO BOAM 1.24.

Mr. Burows asked if this action was being conducted on a private road. The Planner replied that to be correct.

Mr. Burows read Exhibit BOAR 1.9 from the Benton Franklin Health District, which states: "This department has not conducted an inspection of the site to determine the suitability of the sewage disposal system for the proposed use." He stated that was not standard.

The Planner replied that he could not speak for the Health District as to why they had not conducted an onsite visit with regards to this proposal. The applicant stated on their application that they would bring in port-a-potties and that they utilize the pool bathroom.

Mr. Burows continued to comment that if the applicant had an additional bathroom on site then the Health District should have conducted an inspection and convey whether or not the septic system had the capacity to take the additional number of people. If the bathrooms were strictly port a johns then that would be a different situation, but if there were disposal then the Health District should be there.

The Planner noted in the Exhibit BOAR 1.9 that the Health District commented that the current on-site sewage disposal system is designed for a single-family residence, not an event center.

Mr. Page asked if the portable toilets had been approved currently in use for a facility on a permanent basis and multiple use events. The Planner replied that the Planning Department had not permitted the use of any port-a-potties.

Mr. Everett asked the Planner about the length of time this event center had been in operation. The Planner new it had been over a year, but for the exact year count that would be a question for the applicant.

Mr. Burows commented that without the Health District's recommendation for the facility, the only way the Board could grant approval we be if the Board disallowed any use of the existing facility.

Mr. Everett stated that if the action were approved the application would need to obtain Health District approval, prior to operation.

Mr. Page said that the Board would also condition this action that the usage of portables would not be allowed for more then one event.

Mr. Everett again stated that the applicant would need to meet the Health District's approval be either portable or permanent.

Mr. Burows commented on the usage of private driveways or private roads.

APPLICANT TESTIMONY: JEFFREY/PATTI THOMPSON – 28104 S 959 PR SE – KENNEWICK – submitted Exhibit BOAH 1.1 –which contained the following: Christy/Ken Uskoski email dated December 8, 2011, XPROI – George T. Penn Owner letter dated

December 4, 2011, Mary Ann Breshears – Breshears Professional Photography letter dated December 8, 2011, Email Breshears Professional Photography dated December 8, 2011, Jerry Morris, Benton County 1 Fire Commissioners letter, Mike/Brenda Meads letter dated November 28, 2011, copy of an envelope Mike/Brenda Meads, Sight/Sound Services – Bob Kreider letter, and applicant's testimony. The applicant summarized his testimony and letters submitted to the Board.

Mr. Burrows asked the applicants how long they had been operating at this site.

Mrs. Thompson replied that the first wedding was conducted in June of 2006 and since then have conducted 21 weddings.

Mr. Burows asked the applicants if at any time did they feel that they were operating the business without first obtaining the proper permits and approvals from the County.

Mrs. Thompson replied absolutely not. She continued to state that they purchased the site in 2004, met with the County and were informed that the wedding event center would be an allowed use in the specific zoning district. They did obtain a business license and felt that they were now in compliance. Received a letter from Code Enforcement in the spring of 2011, which was the first indication that the event center was not in compliance.

Mr. Burows asked the applicant if they had obtained permission from everyone who owns the private road to utilize it for a commercial operation including insurance liability for anything that happens on that road

Mr. Thompson replied that they had not obtained permission.

Mrs. Thompson replied that they did go to a HOA meeting upon purchasing of the property and informed the residents that they – applicants – were planning on doing weddings and received no negativism. Upon hearing no negative comments, they were confident that the event center would be acceptable to the surrounding residents.

Mr. Everett how many parcels were serviced on this road and was the road paved. The applicant replied about 24 out of the 32 lots and the road was paved.

Mr. Page asked the approximate length from the driveway to the PR.

Mr. Burows asked about the number of accesses from the PR to the applicant's site. The applicant replied they have two driveways.

Mr. Burows asked the applicant to explain the extra bathroom and did they inform the Health District about the utilization of this extra bathroom for events. The applicant replied that the pool bathroom was utilized and no the Health District had not been informed or come to the site.

The applicant continued to explain that the number of events had been only 6 this year, small in nature with the biggest being a relative wedding. She realizes that the sewage system was for a four-bedroom residence not an event center. In addition, most of the events are small, such as 75 people.

Mr. Burows asked the applicant to address crowd control. The applicant replied that seven people assist at each wedding.

Mr. Burows asked if the people were paid or volunteers. The applicant replied that the people were friends and they volunteered their time for the events. He asked who covers the liability when the volunteers are utilized. The applicant responded that they have an umbrella policy and the brides are required to obtain event insurance.

The Planner explained the difference between the operation of a winery and an event center in this zoning district.

Mr. Burows informed the applicant that Health District approval would need to be obtained, secondly would be permission from all parties utilizing the private road to allow for the applicants to conduct a commercial business off of this PR.

Mr. Everett asked if the applicants were aware of a road maintenance agreement.

PROPONENT TESTIMONY: Ken/Brenda Kessie – 28006 S 959 PR SE, Kennewick, WA 99338 – Next door neighbor and marked her residence on the aerial provided. She expressed support for this event center.

KEN KESSIE – 28006 S 959 PR SE KENNEWICK, WA 99338 stated that he was also in support of the event center. He felt that the applicant's – to the best of their knowledge – went to all the right County Departments, prior to beginning their commercial business. It was upsetting to them to find out that the information received was incorrect. He asked the Board to explain the applicant's recourse if the conditional use permit was denied.

Mr. Burows stated that the applicants could appeal the decision to Superior Court.

LAURA PRUITT – 1516 WEST 51ST AVENUE – KENNEWICK, WA 99337 assisted with the weddings. She would not sue her friends if something went array. The applicants are creating something that was much needed in the county. Disappointing to hear that the information presented to the applicants was incorrect.

MIKE PRUITT – 1516 WEST 51ST AVENUE – KENNEWICK, WA 99337 – felt that the applicants were misguided. He asked if the Board would grant the applicants time to satisfy the conditions of approval.

Mr. Burows explained the Board's process with regards to the applicants meeting the conditions of approval and timeframe.

The Planner clarified to the Board and the applicants. If the applicants went to the Health District then they might be ok. I don't want anyone doing anything until a decision has been made because the last thing we want anyone to do is go out and expend funds for anything additional, if the outcome is not what you want. He continued to state that we are not telling you to go out and do anything on this, prior to receiving some type of decision or assuming that if we do this it will be ok.

Mrs. Thompson responded that they did not contact the Health District, as that was the Planner's advice when the application was submitted. The advice given was to submit the application and then await the decision by the Board of Adjustment, prior to contacting anybody; so the applicants did not contact them. Her understanding was that the application was going to

be approved or discussed and instructions would be given to them as to what would happen next in order for it to be completed.

The Planner responded that the worst case we see would be was when people come in after the fact. Really everything changes it changes for the Board and the Planning Department. If an applicant was not coming in to get a permit then they are coming in to get something that had been in existence for five years or more.

NOTE: The following written exhibits were submitted to the Board for review: BOAH 1.2 – letter dated November 22, 2011 from Lori Pruitte, BOAH 1.3 – letter from Mike/Brenda Meads dated November 28, 2011, BOAH 1.4 – letter from Jerry Morris – Benton County 1 Fire Commissioner received Planning Department November 30, 2011.

OPPONENT TESTIMONY: NONE

APPLICANT REBUTTAL: JEFF THOMPSON – reiterated that he felt all the right departments had been contacted. The conditions imposed on this conditional use permit might or might not be economically possible to complete.

Mr. Burows asked the applicant if he had read the conditions of approval affixed to the conditional use permit and could they be obtained. He also informed the applicants that business could not be conducted until all the conditions of approval had been satisfied.

Mr. Thompson understood they have a year to comply, but not certain due to the costs involved.

Mrs. Thompson asked if private weddings would be allowed.

Mr. Burows replied private events would be permitted.

Mr. Everett asked how many paid events would be conducted per year.

Mrs. Thompson replied four normally, but was requesting 6 to 8. The wedding event center was more a hobby to them then a commercial enterprise. They do not provide any food or beverage for weddings, just the site.

The Planner again informed the applicants that they would need to discuss water, sewage system, port a potties with the Health District.

The Vice-Chairman closed the hearing for the taking of further public testimony and moved onto Board discussion and findings of fact.

Mr. Everett stated that he was inclined to entertain approval of the conditional use permit with conditions.

Mr. Burows comments were that this was a unique position – if the answer to my question was it a viable business would have been as seen in other places were it was stated to have 25 events and we have to have 300 people for every event, I would take a different approach to this. If all the conditions and the additional conditions were met and it was six events per year and permission was granted from all the owners of the road and the rest of the conditions, I would have no issue with it. The private road and a commercial entity have to have total agreement from those folks who own that road to make it not a public nuisance or a safety hazard.

Mr. Everett disagreed with Mr. Burows on obtaining all signatures of people who utilize the private road. The road was an easement it was an easement for people that have the right to go in and out of that. It is actually a public easement because anyone can go on it.

Mr. Burows interjected that other than you and I going on it is a service for the folks that reside there, they own the road. The difference between these particular sets of road is that there were agreements by all the people who utilize that road are taking responsibility for that road. If that is the case then all owners have a right of say of how the road is to be maintained and up keep and what that road would be used for and that would fall into one of the Board's conditions in making certain that we are not harming anybody else. The road maintenance was a written contract between the homeowners that maintain the road.

The Planner informed the Board that they did not have the authority to condition this application with regards to the percentage of maintenance of the road to the applicant.

Mr. Page did not have a problem with the granting of this conditional use permit, if the applicant can satisfy all the conditions of approval.

Mr. Burows commented that the PR was wide enough for two emergency vehicles without any issue and in addition there were turn around spots. In addition, this PR was paved not gravel.

Mr. Everett did not have a problem with the granting of six events per year. In addition, he felt that there would be no impact to the Amon Wasteway with regards to vehicle waste.

Mr. Burows would like to add a condition that those applicants obtain signatures from all owners who utilize the PR.

Mr. Everett disagreed with obtaining signatures of all road owners, as ability to obtain 100% may not be feasible. He would agree with a majority percentage with regards to road maintenance.

Mr. Burows countered with the applicants obtaining approval from the HOA with regards to a road management agreement, which the Board would accept. Condition No. 15: The applicants are to obtain permission from the road association to operate a commercial business off of the private road.

Mr. Page would like a condition placed on the application that portable bathrooms be allowed for a one-time function only.

Mr. Everett felt that the Board needed to differ this requirement to the Health District.

Mr. Page would like specific wording for the Health District with regards to a ruling on the utilization of portables for a wedding event. He would like to limit the number of automobiles allowed at an event.

The Planner asked the Board to review condition nos. 10 and 3.

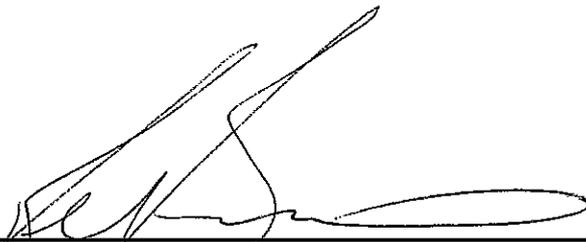
Mr. Everett would like condition no. 16 to limit the number of paid events per year to six (6).

MOTION: Mr. Everett made a motion which Mr. Page seconded that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of CUP 11-09 – Jeff/Patti Thompson should be approved with conditions as outlined in the staff memo dated November 28, 2011 with the following added conditions: Condition No. 15 – The applicants are to obtain permission from the road association to operate a commercial business off of the private road. Condition No. 16 – That the applicants limit the number of paid events per year to six (6) 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. (Three in favor)

PLANNING DEPARTMENT REPORTS AND DISCUSSION: NONE.

UNSCHEDULED VISITORS: NONE.

The Vice-Chairman adjourned the Board of Adjustment Hearing at 10:25 p.m.



R. DEAN BUROWS, VICE-CHAIRMAN
BENTON COUNTY BOARD OF ADJUSTMENT

Recorder: Carel Hiatt