

**BENTON COUNTY BOARD OF ADJUSTMENT  
REGULAR HEARING – NOVEMBER 1, 2012 -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:** Brent Chigbrow  
Bob Page  
Aimee Bergeson  
Dean Burows

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

The public hearing was opened. Clark Posey, Planning Staff, read to the Board ex parte issue questions and those wishing to testify during the meeting were sworn in

**APPROVAL OF MINUTES**

**MOTION:** It was moved by Dean Burows and seconded by Brent Chigbrow that the Board of Adjustment minutes from September 6, 2012 be approved as written and that the Chairman sign and date said minutes. Motion carried.

**RECORDED VOTE:**

**FAVOR:** Brent Chigbrow, Bob Page, Aimee Bergeson, Dean Burows  
**AGAINST:** None  
**ABSENT:** None  
**ABSTAIN:** None

**CONSENT AGENDA ITEMS:**

- (1) Special Use Permit – SP 10-05 – Trish Trickett
- (2) Special Use Permit – SP 07-18 – Steve Westermeyer

**DISCUSSION: - SP 07-18 – STEVE WESTERMEYER**

Dean Burows asked the Planner if the signage noted on the side of the mini-storage unit was within the parameters of approval for this special use permit.

The Chairman asked the Planner if the applicant was working on Phase One or Phase Two.

**APPLICANT REPRESENTATIVE:**

**RUSSELL GREGORY – 5208 WEST 10<sup>TH</sup> AVENUE – KENNEWICK, WA 99337**, addressed the questions of the Board. The signage on the side of the building was actually a banner. Phase Two of the project should be completed by December depending on the weather.

Mr. Page asked how many buildings were currently located on site. Mr. Russell replied one.

Mr. Burows again informed Mr. Russell that the signage he felt was not up to code. Mr. Russell replied that he would look into the signage situation.

**MOTION:** Mr. Burows made a motion which was seconded by Mr. Chigbrow that both the Consent Agenda items – SP 10-05 Trish Trickett and SP 07-18 – Steve Westermeyer is granted another year extension in order to complete the conditions of approval. Motion carried.

**RECORDED VOTE:**

**FAVOR:** Brent Chigbrow, Bob Page, Aimee Bergeson, Dean Burows  
**AGAINST:** None  
**ABSENT:** None  
**ABSTAIN:** None

**NULL AND VOID:**

**SP 05-21 – ALBERTO BENAVIDES**

The Planner summarized for the Board reasons as to why the Board should consider null and void status for this special use permit.

**MOTION:** Mr. Burows made a motion, which was seconded by Bob Page that the Board of Adjustment pursuant to the aforementioned controlling factors finds that the application SP 05-21 Alberto Benavides should be declared null and void due to the fact that the applicant has not satisfied the conditions of approval and did not responded to the August 24, 2012 letter from the Benton County Planning Department with regards to the null and void status of his special use permit. 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 decisions made by the Board of Adjustment tonight. Motion carried.

**UNFINISHED BUSINESS:**

**CONDITIONAL USE PERMIT – CUP 12-05 – THE APPLICANT IS REQUESTING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A RETAIL ANIMAL FEED STORE IN AN EXISTING DETACHED BUILDING. THE SITE IS LOCATED AT 10613 S 2058 PR SE – KENNEWICK, WA ON LOT 3 OF SHORT PLAT 441 IN SECTION 9, TOWNSHIP 8 NORTH, RANGE 30 EAST, W.M. APPLICANT: SHELLEY WEBER – 10613 S 2058 PR SE – KENNEWICK, WA 99337**

The Planner summarized said action for the Board of Adjustment and entered into the record by reference the following exhibits: BOAH 2.1, TO BOAH 2.8.

**APPLICANT TESTIMONY:**

**SHELLEY WEBER – 10613 S 2058 PR SE – KENNEWICK, WA 99337** stated she had contacted CID with regards to the manhole cover, provided a road maintenance agreement and documentation from Benton County Public Works as requested by the Board at the September 6, 2012 hearing.

The Chairman asked the applicant if on the submitted road maintenance agreement presented to the Board those who signed this agreement do they all live on the road. The applicant replied that to be correct.

The Chairman asked the applicant about the manhole. The applicant replied that CID informed her that it could be filled up with rocks, break it up, cave it in or fill it up with dirt. She would like to break it up and cave in the manhole and then cover it with rock; so that the road could be paved. She continued to state that no agency wants to take ownership of the manhole.

Mr. Burows commended the applicant for presenting the requested information to the Board and being able to meet the conditions.

The Chairman noted in the documentation submitted by the applicant that no delivery trucks would come to the site. The applicant replied that to be correct, product would be picked up in Prosser as it would be more economical.

Hearing closed and findings completed.

**MOTION:** Mr. Page made a motion, which was seconded by Mr. Chigbrow that the Board of Adjustment pursuant to the aforementioned controlling factors finds that the application CUP 12-05 Shelley Weber should be approved with conditions as outlined in the Staff Memo dated August 24, 2012. 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 decisions made by the Board of Adjustment tonight. Motion carried.

**RECORDED VOTE:**

**FAVOR:** Brent Chigbrow, Bob Page, Aimee Bergeson, Dean Burows  
**AGAINST:** None  
**ABSENT:** None  
**ABSTAIN:** None

**NEW BUSINESS:**

**CONDITIONAL USE PERMIT – CUP 12-06/EA 12-20 - THE APPLICANT IS REQUESTING A CONDITIONAL USE PERMIT TO AMEND SP 02-10 TO ADD FIVE ADDITIONAL MINI-STORAGE BUILDINGS TO BE CONSTRUCTED IN PHASES – TWO BUILDINGS 100 FEET BY 40 FEET AND TWO BUILDINGS 90 FEET BY 20 FEET. THE WRITTEN DATE OF COMPLETION WAS AUGUST 31, 2012. LOCATION: THE SITE IS LOCATED IN THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, SOUTH OF THE RAILROAD RIGHT OF WAY PLUS THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER IN SECTION 30, TOWNSHIP 9 NORTH, RANGE 24 EAST, W.M. APPLICANT: A.J. STILL – 273 SOUTH COUNTY LINE ROAD – GRANDVIEW, WA 98930.**

The Chairman opened the public portion of the hearing. The Planner summarized said action for the Board and entered into the record by reference "Exhibit E" which contained all the outlined all the exhibits for this action.

**APPLICANT TESTIMONY:**

**A.J. STILL – 273 SOUTH COUNTY LINE ROAD – GRANDVIEW, WA 98930 –** stated he was currently running the mini-storage business, would like to expand the business, increase the footage, and add new buildings.

The Chairman asked about the number of buildings currently located on site. The applicant replied six or seven.

The Chairman asked about the size of the lot. The applicant replied the site was five acres.

The Chairman then asked the applicant if he had read the conditions of approval and were there any questions. The applicant replied he had and the conditions were acceptable.

The Chairman asked about outside storage currently on site. The applicant replied not outside, just vehicle parking.

The Chairman addressed Condition No. 5 states no outside storage would be allowed within the fenced in area. Mr. Planner was asked if outside storage was allowed in the original application.

The Planner asked the applicant if there was adequate space for outside storage. The applicant replied that there would be space for outside storage, but if restricted he would not allow outside storage to continue.

The Planner informed the Board and applicant that no outside storage would be permitted. If the applicant wanted outside storage then he would need to amend this conditional use permit and come before the Board again. The applicant responded that he would not amend this conditional use permit for outside storage.

The Chairman asked about signage. The applicant replied that there was a 2 foot by 2 foot sign currently on site.

Mr. Page asked if any businesses were run from the storage units. The applicant replied none.

#### **NO PROPONENT, OPPONENT OR APPLICANT REBUTTAL**

The Chairman closed the public portion of the hearing. Findings of Fact were completed.

**MOTION:** Mr. Burows made a motion, which was seconded by Mr. Page that the Board of Adjustment pursuant to the aforementioned controlling factors finds that, the application CUP 12-06 A.J. Still should be approved with conditions as outlined in the Staff Memo dated October 16, 2012. 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 decisions made by the Board of Adjustment tonight. Motion carried.

#### **RECORDED VOTE:**

**FAVOR:** Brent Chigbrow, Bob Page, Aimee Bergeson, Dean Burows  
**AGAINST:** None  
**ABSENT:** None  
**ABSTAIN:** None

**VARIANCE REQUEST – VAR 12-06 – THE APPLICANT IS REQUESTING A VARIANCE FROM BCC 11.52.060(3) FOR A NON-EXCLUSIVE PERPETUAL EASEMENT OR INGRESS/EGRESS. THE WRITTEN DATE OF COMPLETION ON THIS ACTION WAS OCTOBER 11, 2012. LOCATION: A PORTION OF THE NORTHWEST QUARTER OF THE**

**SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 5 NORTH, RANGE 27 EAST, W.M.  
APPLICANT: HOMER MORELAND – P O BOX 295 – PLYMOUTH, WA 99346.**

The Chairman opened the public portion of the hearing. The Planner summarized said action and entered into the record all exhibits noted on Exhibit Sheet "E".

**APPLICANT TESTIMONY:**

**HOMER MORELAND, 1203 S OLYMPIA PLACE – KENNEWICK, WA 99336** stated that he had purchased this land a few years ago. He has a building on the way to be placed on this site, thereby necessitating the need for a variance. He explained how he obtained the easement to the site, which was not perpetual but renewable, and that was why he was before the Board tonight.

Mr. Page asked the applicant if he had conferred with the Benton County Fire Marshal. The applicant replied that he had, but would set up another meeting prior to occupancy.

**NO PROPONENT, OPPONENT TESTIMONY OR APPLICANT REBUTTAL**

The Chairman closed the public portion of the hearing. Findings of Fact were completed.

**MOTION:** Mr. Burows made a motion, which was seconded by Mr. Page that the Board of Adjustment pursuant to the aforementioned controlling factors finds that the application VAR 12-06 Homer Moreland should be approved with conditions as outlined in the Staff Memo dated October 19, 2012. 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 decisions made by the Board of Adjustment tonight. Motion carried.

**RECORDED VOTE:**

**FAVOR:** Brent Chigbrow, Bob Page, Aimee Bergeson, Dean Burows  
**AGAINST:** None  
**ABSENT:** None  
**ABSTAIN:** None

**CONDITIONAL USE PERMIT – CUP 12-08 – THE APPLICANT IS REQUESTING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A COMMERCIAL KENNEL FOR THE KEEPING OF UP TO FIVE DOGS. THE WRITTEN DATE OF COMPLETION ON THIS ACTION WAS OCTOBER 5, 2012. LOCATION: 55603 NO FRAZIER ROAD, BENTON CITY ON LOT 1 OF SHORT PLAT 122 IN SECTION 1, TOWNSHIP 9 NORTH, RANGE 26 EAST, W.M. APPLICANT: CLAIRE CHRISTENSEN – 55603 N FRAZIER ROAD – BENTON CITY, WA 99320.**

The Chairman opened the public portion of the hearing. The Planner summarized said action for the Board and entered into the record by reference all exhibits noted on Exhibit "E".

**APPLICANT TESTIMONY:**

**CLAIRE CHRISTENSEN – 55603 N FRAZIER ROAD – BENTON CITY, WA 99320** stated she has five dogs. When she moved to the County in 1999, she had six dogs. The reason for her moving to the County was because she was told by her real estate agent and we know that they don't ever tell something that is not true, that the County had no max on the number of dogs you could have. Nevertheless, I built a six foot fence around my place before I

had even gotten my boxes unpacked. That had nothing to do with the County requirements or for my neighbors; it was to protect her dogs from the coyotes. It has served well to protect my neighbors from the dogs also. The dogs are not vicious in fact they would probably kiss you to death if you came in the house and I would let them. One neighbor that used to live there said when she learned that I was going to bring five dogs into the neighborhood, she was terrified. The people who had owned the residence before I had one dog and that dog did not want to use its own property to relieve self, so it went to her place. She was tickled to death when I moved in and managed my dogs like I did. In the interim, between then and now I adopted, rescued a bunch of other dogs; so that at one time I had as many as 10 dogs. Dogs die and I only have one left that was with me when I moved here. The other dogs have died a natural death in way to short a time, so far as I am concerned. The dogs that I have now are mostly old. The oldest one that moved here with me is 16 and her life is just sort of a day to day thing. She gets up in the morning and if she is happy then fine. If she gets up in the morning and she is not happy then I begin to wonder when I need to take her in and put her down. I am lucky to have her with me now. I hope to have her with me for many months to come, but I do not know for sure about that. I have some letters of recommendation here BOAH 1.1 – Letter from Shawn Burn dated October 30, 2012, BOAH 1.2 – Letter from Margaret Beus dated October 28, 2012.

She submitted the letters of recommendation from two people who come to her home often. One of the letters is written by someone who has no pets in the house and she says – would you like me to read the letter or do you want me to just summarize the letter. I will summarize the letters to the Board. She says that if she did not know that I had dogs she would never know coming into my home that I had pets in the house. The other letter is from my neighbor to the north and they say too that I manage my animals very well. They do not have any complaints about them. I have protected the neighborhood and passersby, so that my dogs do not rush out and scare them. My dogs are my family. I have told my human family often that my dogs are as important to me as they are of which some of my family does not like to hear that, but that is the way it is. I don't believe that my dogs cause anybody any problem.

Mr. Chigbrow: Have you read all the conditions.

Ms. Christensen: Yes, I have.

Mr. Chigbrow: Do you have any questions on any of them?

Ms. Christensen: No, maybe I had better read them again. What condition do you think I should have a question about?

Mr. Chigbrow: I am not saying that you have any questions on any of them. I am just saying have you read them.

Ms. Christensen: Yes, I have read them. I do have a six foot fence and on two sides the six foot fence is a board fence, so that people cannot see in and my dogs cannot see out; except when they look through a knot hole. The fence between the yard and the pasture is a six foot chain link fence, so the dogs love to go and bark at the chain link fence if the horses or cows get too close.

Mr. Page: On page three of six under findings of fact number 9 the Benton County Public Works Department requires the approach onto Frazier Road to be paved according to the 96-05

Standards if the kennel becomes a commercial operation of which you are applying as you have over three dogs.

Ms. Christensen: What does that mean to me? My driveway is paved, but the house sits 50 feet from the road.

Mr. Page: The access onto Frazier Road from your driveway is it paved?

Ms. Christensen: Yes, the driveway goes directly to the road, the county road.

Mr. Page: Condition No. 12.

Ms. Christensen: One of the problems I have with this application is that this not commercial. These dogs are my family. The only reason I am applying for the variance is because you guys require it, seeing I have over three dogs.

Mr. Page: The problem where that comes up is that you can have three dogs without needing a conditional use permit.

Ms. Christensen: Yes sir, but I have five.

Mr. Page: Seeing that you have five dogs you fall into the commercial category as far as the county is concerned. Therefore, you have to follow the same rules as somebody who is running a commercial kennel.

Ms. Christensen: Breeding, whatever.

Mr. Page: If you were down to three dogs, you would not be here.

Ms. Christensen: Well, I will be down to three dogs one day, but I do not want that day to come very fast.

Mr. Page: Understand.

Mr. Burows: I do not see any statement from the Public Works Department stating that there needs to be an adjustment made to the road.

Mr. Clark: Probably, the applicant did not need an encroachment permit as the driveway was already paved.

Mr. Burows: Did the review go to the Public Works Department?

Ms. Christensen: What is an encroachment permit, I do not understand.

Mr. Burows: Easement into the road. It is where your driveway ties into the county road. If it is paved and the county has not responded then you are fine.

Ms. Christensen: Okay.

Mr. Chigbrow: Are you going to sell any of these dogs?

Ms. Christensen: No, nobody would want them – they are pets, they are old, they are spayed. They are pretty much useless to anybody but me. The border collie does go and help the neighbor sometimes herding the cows.

Mr. Page: The findings of fact Item 12 which is page 4 of 6 at the top “For sanitary purposes, the housing of dogs inside of residences is not permissible.”

Ms. Christensen: I will not throw my family out in the street. My letter that I brought you says that my home is sanitary even with all the five dogs. These dogs sleep with me. They cannot be thrown out into a kennel.

Mr. Burows: Well, you have to understand the term “kennel” for the Board for the County’s purposes would be a building indoors insulated walls and ceilings, sheetrock, concrete flooring, sanitation, minimize the noise and keep proper ventilation. All kennels in the county have to meet that requirement.

Ms. Christensen: Mine, do not have concrete floors. We live on hardwood floors. The indoor kennel that I keep the small ones in during the day while I am away from home is covered with linoleum.

Mr. Burows: I understand, but this is a condition that you are expected to meet. Your belief that you can retain all the dogs in the residence will only get you into trouble.

Ms. Christensen: I will sell the house before I will do anything else.

Mr. Burows: That is up to you.

Ms. Christensen: I cannot put my family out into a separate place. We sleep together.

Mr. Burows: Understand.

Ms. Christensen: They have indoor crates; they don’t have concrete floors in crates either.

Mr. Burows: Understand, but when you cross that line from three dogs to five dogs then you are in the commercial side of the industry; so you have a different set of codes to go with.

Ms. Christensen: Understand.

Mr. Burows: All I want to do and I am not here to argue with you or tell you what to do is that what it says and if you are going to stay in compliance with it – if it is approved tonight – and you have Code Enforcement there then they will want to see the facility that those dogs would be kept in.

Ms. Christensen: I am going to ask for a variance from that. How do I do that?

Mr. Burows: There is no variance

Ms. Christensen: I cannot put concrete in my house.

Mr. Burows: I am not asking you to do that, but you will need to put up an 8'x12' storage building in the back of your property.

Ms. Christensen: You are kidding.

Mr. Burows: No, that is a standard. We require that for all dog kennels for everybody that comes through here for a commercial kennel, which is a county requirement.

Mr. Chigbrow: That is what happens when you cross from three dogs to more.

Ms. Christensen: Can you tell me when the requirement was made for three dogs, maybe I am grandfathered.

Mr. Burows: Before any of us were here.

Ms. Christensen: Is that right?

Mr. Chigbrow: Yes

Ms. Christensen: Okay

Mr. Chigbrow: You have to understand Ms. Christensen; we do not make the rules. We just try to enforce them.

Ms. Christensen: I understand. I hope that you understand that I am not trying to be difficult to live with, but I simply cannot put my family out.

Mr. Chigbrow: We understand that.

Ms. Christensen: I do not know what else to do besides make that argument somehow. I cannot put them outside. I could go out in my well house which has a concrete floor and build fences in my well house, but that would not be honest as I am not going to keep my dogs in there.

Mr. Burows: We as a Board cannot tell you what to do. We can only tell you the criteria that would necessitate obtaining a conditional use permit from you. What you do past being granted that is your business?

Ms. Christensen: You cannot provide me a conditional use permit with five dogs in my home.

Mr. Burows: I will not.

Mr. Chigbrow: The Board cannot do that.

Ms. Christensen: Can I pretend that they are out on my back porch.

Mr. Chigbrow: That is entirely up to you.

Mr. Burows: I cannot tell you that.

Ms. Christensen: Okay, they are on my back porch.

Mr. Burows: As long as you have a facility and when Code Enforcement comes to see if the kennel has met the proper guidelines, that has the proper amount of size and is enclosed, heated sheet rock and is set up for dogs; that is when you are in compliance.

Ms. Christensen: Great. If they come and they do not like what I have then what, they cite me. I won't lose my dogs. Will they cite me?

Mr. Burows: They will. If you do not have that facility, yes, and this permit to be valid; you have to meet all of those conditions. That is a condition that the facility will be built according to the required kennel guidelines.

Ms. Christensen: I have a well house.

Mr. Burows: As long as it meets those requirements and that the conditions of approval are satisfied within a one year timeframe; then you are in compliance.

Ms. Christensen: But, I couldn't tell them even if I put kennels in my well house, I couldn't honestly tell them that was where my dogs lived as that is not true. I just cannot do that.

Mr. Burows: Nobody here is telling you that you have to or don't have to do that. I am just telling you that is the conditions for the conditional use permit.

Ms. Christensen: I understand. I do not have any other questions. Do you have any other questions? I will not meet that requirement. Who is it that comes?

Mr. Planner: Code Enforcement

Ms. Christensen: Code Enforcement guys.

Mr. Planner: First one will be a ticket and you have an opportunity to pay the ticket. Second one will be criminal, so it is your choice.

Mr. Page: Do you have on your property a space that you could have a kennel of the required size and conditions installed?

Ms. Christensen: I believe that my well house is about 10x12. It is insulated and I could heat it.

Mr. Burows: I think that you are pretty close to meeting the requirements that you need. The only thing you have past that is a conscience decision. I do not have any power over that.

Ms. Christensen: Can I say.

Mr. Burows: I cannot tell you that. The only thing I can tell you is this is what you have to meet.

Ms. Christensen: My two bigger dogs live outside during the day. They have access to the indoor part of my home, so that they can stay warm when it is cold and nasty outside.

Mr. Burows: The dogs have access to the residence during all the day light hours. The time it is dark, the time a normal dog kennel operates the dogs would need to be inside of a facility that is all we can tell you.

Ms. Christensen: Is the facility my house and my yard?

Mr. Burows: A facility by code is not your house.

Ms. Christensen: Is the facility my porch and my yard?

Mr. Burows: No, it is not enclosed and not insulated and not sheet rocked for heating and cooling.

Ms. Christensen: It is enclosed.

Mr. Burows: It is not insulated. I have never been to your residence, so I do not know what you mean by your porch. We cannot tell you. There is a code of which you need to meet the requirements, stay within the law if you can do that fine, if you cannot.

Ms. Christensen: I could pretend that two of my dogs live in the well house during the time I am not at home.

Mr. Page: If you have a facility with a concrete floor, insulated, dry wall, heated and or cooled as required by temperature for a kennel that is what is being requested or required with this permit. Dog kennels when dogs are housed in kennels indoors to minimize the noise with proper ventilation, which is dry wall, insulated.

Ms. Christensen: My indoors is a bedroom with linoleum on the floor.

Mr. Page: Inside the residence is not permissible. But if you have a kennel facility outdoors that meets the criteria.

Ms. Christensen: I could take a couple of grates out to my well house and lie to the Code Enforcement guy when he comes and say this is my kennel. I could keep two dogs out there. If I tell him then I meet the requirements.

Mr. Chigbrow: You could do whatever you want

Mr. Burows: You could do whatever you want Ms. Christensen but, we cannot go there with you.

Ms. Christensen: I cannot lie. I never lie.

Mr. Burows: As I said we are here to enforce the code and regulations. If you can meet those requirements fantastic, we might be able to give you a permit. If you cannot meet those then you need to say that then we could deny it; it is your choice.

Ms. Christensen: I am not going to get rid of my dogs and I have just recently redone my home.

Mr. Burows: The pictures look like you have done a good job.

Ms. Christensen: So, I do not want to sell it. So, I have two problems here.

Mr. Burows: You have a code and a moral piece.

Ms. Christensen: Yes, I do.

Mr. Burows: You do have the capability of meeting the code. It is just your choice.

Ms. Christensen: If I wanted to let my dogs; make my dogs stay out in my well house.

Mr. Page: If you can turn your well house into a kennel then you have met the requirements.

Ms. Christensen: I will turn my well house into a kennel, but the dogs do not have to stay there, right!

Mr. Burows: I cannot tell you that.

Mr. Chigbrow/Mr. Burows: You are not going to get an answer from us like that.

Mr. Planner: The flip side to that is if you do not meet the requirements, you would need to get down to three dogs and if you do not get down to three dogs then you do not meet the requirements. If you are over three dogs you will be cited.

Ms. Christensen: I understand.

Mr. Burows: There is nothing else as a quasi-judicial board we can do for you.

Ms. Christensen: I am going to lie to the Code Enforcement Officer guy.

Mr. Chigbrow: You are going to meet all of these requirements.

Ms. Christensen: I am going to meet these requirements according to what I tell the Code Enforcement guy.

Mr. Planner: You need to remember that this meeting is being electronically recorded.

Ms. Christensen: That is okay, I would not like him to know that I was not telling the truth. I am in a difficult position, these are my family.

Mr. Chigbrow: We understand that.

Ms. Christensen: I was misled into believing that in the county there was no problem with me having five dogs.

Mr. Chigbrow: That does not have bearing on any kind of decision we make now. I think it is a bad deal that your realtor told you that.

Ms. Christensen: So do I, but it is too late.

Mr. Chigbrow: We are a volunteer group. We said when we took this job that we wanted to do our part in the county. We do that by coming here once a month and going through these things and learn the Benton County Code. I have been doing it for over 20 years. I am just telling you that all we are trying to do is let you know that we have a set of a guideline that we have to go by and that is how we make out decision. You can do whatever you want.

Ms. Christensen: I am going to put a couple of crates out in my well house and call that a kennel.

Mr. Burows: That is a great start and I am not going any further with you on it. There is a requirement in there for what a kennel is composed of, please review that.

Ms. Christensen: The well house does have a concrete floor; it is insulated, heated and lighted.

Mr. Burows: There is a code and you can look it up on the internet that states what you need to have for a kennel.

Ms. Christensen: I tried to look up that code and I could not find it. I can go to the WAC but could not find the RCW. Can you give me a site?

Mr. Burows: Off of the top of my head I cannot tell you that, but it is there.

Ms. Christensen: I know that it is there because you tell me – but I do not know how to find it.

Mr. Planner: I will send you a copy of the RCW.

Ms. Christensen: Will you Clark, that you be great.

#### **NO PROPONENT/OPPONENT TESTIMONY OR APPLICANT REBUTTAL.**

The Chairman closed the public portion of the hearing, Board discussion and then Findings of Fact completed.

Mr. Chigbrow: Conditions 6, to 12 are conditions that need to be met.

Mr. Burows: I have no problem granting this conditional use permit as long as the conditions are met. I hope that the applicant understands that there are additional pieces that have to be met. This application has to be completed and complied with in the first year otherwise it is null and void and no longer be allowed and you would have to get down to three dogs only.

**MOTION:** Mr. Page made a motion, which was seconded by Mr. Chigbrow that the Board of Adjustment pursuant to the aforementioned controlling factors finds that the application CUP 12-08 Claire Christensen should be approved with conditions as outlined in the Staff Memo dated October 19, 2012. 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 decisions made by the Board of Adjustment tonight. Motion carried.

**RECORDED VOTE:**

**FAVOR:** Brent Chigbrow, Bob Page, Aimee Bergeson, Dean Burows  
**AGAINST:** None  
**ABSENT:** None  
**ABSTAIN:** None

**CONDITIONAL USE PERMIT – CUP 12-09 – THE APPLICANT IS REQUESTING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A COMMERCIAL KENNEL FOR THE KEEPING OF UP TO EIGHT DOGS. THE WRITTEN DATE OF COMPLETION ON THIS ACTION WAS OCTOBER 5, 2012. LOCATION: 55403 N FRAZIER ROAD ON LOT 2 OF SHORT PLAT 122 IN SECTION 1, TOWNSHIP 9 NORTH, RANGE 26 EAST, W.M. APPLICANT: DAN DUTT – 55403 N FRAZIER ROAD – BENTON CITY, WA 99320**

The Chairman opened the public portion of the hearing. The Planner summarized said action for the Board and entered into the record all exhibits noted in Exhibit “E”.

Mr. Chigbrow: Does Mr. Dutt’s property come out onto Frazier Road.

Mr. Planner: Yes

Mr. Chigbrow: Does Ms. Christensen and Mr. Dutt share a driveway. Is the driveway paved?

Mr. Planner: No.

Mr. Chigbrow: Are there any comments from the Public Works Department and were they sent notification with no response.

Mr. Posey: No comments on this proposal from Public Works and yes they were sent notification.

**APPLICANT TESTIMONY:**

**DAN DUTT – 55403 N FRAZIER ROAD, BENTON CITY, WA 99320** was a neighbor of Ms. Christensen. The applicant replied that he had eight dogs and is still trying to understand how he ended up with eight dogs. The dogs on site were stray and abandoned dogs. He enjoys the dogs and was before the Board to make the keeping of the number of dogs to be in compliance. He was unaware that there was a limit on the amount of dogs being three. He was also unaware of having to pave the approach. He was in the process of remodeling an existing building for the housing of the dogs and will add concrete.

Mr. Chigbrow: Did you read and understand the conditions of approval?

Mr. Dutt: Yes and they are acceptable.

Mr. Chigbrow: The age of the oldest dog.

Mr. Dutt: 12 years old.

Mr. Chigbrow: Will any of the dogs be replaced when they expire?

Mr. Dutt: No, eight dogs is a bit extreme. Five of the dogs together only weight about 40 pounds.

**PROPONENT TESTIMONY:**

**CLAIRE CHRISTENSEN – 55603 N. FRAZIER ROAD – BENTON CITY** –lives next door to the applicant. She appreciates them taking in unfortunate dogs and doesn't want them to have to make a choice to get rid of the dogs.

**OPPONENT TESTIMONY – NONE – APPLICANT REBUTTAL – NONE**

The Chairman closed the public portion of the hearing and findings of fact were completed.

**MOTION:** Mr. Burows made a motion, which was seconded by Mr. Page that the Board of Adjustment pursuant to the aforementioned controlling factors finds that the application CUP 12-09 Dan Dutt should be approved with conditions as outlined in the Staff Memo dated October 19, 2012. 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 decisions made by the Board of Adjustment tonight. Motion carried.

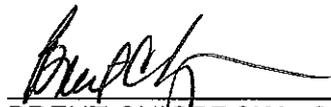
**RECORDED VOTE:**

**FAVOR:** Brent Chigbrow, Bob Page, Aimee Bergeson, Dean Burows  
**AGAINST:** None  
**ABSENT:** None  
**ABSTAIN:** None

**PLANNING DEPARTMENT REPORTS AND DISCUSSION:**

Mr. Posey introduced to the Board Mr. Lloyd Becker who was at the Board hearing tonight to observe as he had applied to volunteer on the Board of Adjustment.

The Chairman adjourned the Board of Adjustment Hearing at 8:30 p.m.

  
BRENT CHIGBROW - CHAIRMAN  
Benton County Board of Adjustment

  
Date Signed

Recorder: Carel Hiatt