

THE FOLLOWING MEMOS HAVE BEEN
SCANNED WITHOUT EXHIBITS FOR THE
HEARING TO BE CONDUCTED BY THE
BENTON COUNTY
BOARD OF ADJUSTMENT
THURSDAY, APRIL 5, 2012 7 P.M. BENTON
COUNTY PLANNING ANNEX – 1002 DUDLEY
AVENUE – PROSSER, WA

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

CONDITIONAL USE PERMIT

CUP 11-10

APPLICANTS:

JEFFREY/YVETTE FITZGARRALD

Benton County Planning Department

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

DATE: FEBRUARY 17, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: CONDITIONAL USE PERMIT – CUP 11-10
JEFFREY/YVETTE FITZGARRALD

The Benton County Planning Department on January 5, 2012 conducted a public hearing in which your conditional use permit CUP 11-10 for the operation of commercial dog kennel for the keeping of up to 12 dogs that are older than six months in age. The site is currently developed with a 1350 sq ft single-family dwelling a 45X50 sq ft garage a 30X50 garage and the new 12X43 building for an indoor kennel. The operation would be for a temporary shelter to house discarded, dumped, injured and abandoned dogs and find permanent homes for them. The site is located on a developed site South of the intersection of Crosby Rd. and McCreadie Rd. in Section 19, Township 9 North, Range 25 East, W.M.

The Board at the January 5, 2012 hearing heard and reviewed testimony presented both for and against this proposed kennel facility. The Board then made a motion to approve said conditional use permit with conditions. In addition to the motion to approve the operation of the kennel facility, the Board also made a motion for the signing of the Findings of Fact/Conclusions of Law and Decision only, disallowing the taking of any additional testimony at the March 1, 2012 hearing.

SPECIAL USE PERMIT

SP 11-01

**APPLICANT:
BRUCE ETZEL**

Benton County Planning Department

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

DATE: FEBRUARY 10, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

HEARING DATE: MARCH 1, 2012

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

RE: EXTENSION REQUEST FOR SP 11-01
APPLICANT: BRUCE EZTEL

The Board of Adjustment on February 3, 2011 conducted a public hearing and approved with conditions the Special Use Permit –SP 11-01 for the construction and operation of an eight unit mini-storage facility totaling 2400 square feet with four units being constructed in Phase One and four units being constructed in Phase Two with each unit being 12'x25' along with 14 outdoor parking spaces. The site is located at 4902 Hicks Road – Grandview in the Southeast Quarter of the Southeast Quarter of the Northwest Quarter of Section 31, Township 9 North, Range 24 East, W.M.

The applicant submitted the enclosed letter dated February 3, 2012 outlining his progress to date on the construction of the mini-storage units. The Board of Adjustment will need to review the documentation presented and make a motion whether to approve, deny or null and void the applicant's extension request.

Enclosure:

1. Applicant's letter dated February 3, 2012
2. Building Permit 26556

SPECIAL USE PERMIT

SP 11-03

**APPLICANT:
ALEXANDRIA NICOLE CELLARS**

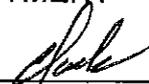
Benton County Planning Department

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

DATE: FEBRUARY 22, 2012

HEARING DATE: MARCH 1, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: EXTENSION REQUEST FOR SP 11-03
APPLICANT: ALEXANDRIA NICOLE CELLARS

The Benton County Board of Adjustment on March 3, 2011 conducted a public hearing in which your special use permit was heard and approved with conditions for the operation of a "glamping business". The site is located at 158422 W Sonova Road – Patterson in Sections 28, 29 and 32 in Township 15 North, Range 24 East, W.M.

The applicant was contacted on February 3, 2012 informing them that the one-year timeframe for the completion of the conditions of approval would expire on March 3, 2012. The applicant submitted the attached email dated February 21, 2012 stating that they are still moving forward on this special use permit and would like to request an extension in order to satisfy the Benton Franklin Health District requirements and finalize their Boundary Line Adjustment as required by the Benton County Planning Department.

The Board will need to review the documentation presented and make a motion whether to approve, deny or null and void the applicant's extension request.

Enclosure:

- February 8, 2012 letter from BFHD
- February 3, 2012 letter from the Benton County Pln. Dept.
- February 21, 2012 email from the applicant
- Vicinity map
- Aerial of the site
- Plot Plans
- Pictures of the glamping sites

**SPECIAL USE
PERMIT**

SP 10-02

**APPLICANT:
KURK WATTS**

Benton County Planning Department

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

DATE: MARCH 13, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

MEETING DATE: APRIL 5, 2012

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

RE: EXTENSION REQUEST FOR SP 10-02 – KURK WATTS

The Benton County Board of Adjustment on April 1, 2010 reviewed and approved Special Use Permit – SP 10-02 for the construction and operation of a mini-storage facility with outside storage with twelve conditions. The project location is the Southeast Corner of Dallas Road and Arena Road in Kennewick in the Northwest Quarter of the Northeast Quarter of the Northwest Quarter of Section 20, Township 9 North, Range 28 East, W.M. The applicant requested and was granted 299 units and to be able to access off onto Dallas Road instead of Arena Road.

The Board of Adjustment at their April 7, 2011 hearing under Consent Agenda reviewed and approved the applicant's request for another extension in order to complete the conditions of approval affixed to this special use permit. In addition, the applicant requested from the Board to be able to open the facility with just one building to begin with, so that he could start renting out the units. He would complete the other two after opening for Phase One of this project. The Board at their hearing on April 7, 2011 did approve the applicant's request to allow him to open one building and phase the other storage units.

The applicant submitted a letter to the Benton County Planning Department to be forwarded to the Benton County Board of Adjustment for review at the April 5, 2012 hearing, which is attached.

The Board will need to review the extension request letter and make a motion whether or not to approve or deny the applicant's request.

Enclosure: Applicant's Letter dated March 13, 2012
Vicinity Map
Plot Plan showing the units

VARIANCE REQUEST

VAR 12-01

**APPLICANT:
LINK SHERMAN**

EXHIBIT LIST FOR VAR 12-01 – LINK SHERMAN

BOARD OF ADJUSTMENT STAFF MEMO EXHIBIT LIST			
BOAM 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAM 1.1	Staff Memo	February 14, 2012
	BOAM 1.2	Notice of Open Record Hearing	February 8, 2012
	BOAM 1.3	BFHD comments	February 7, 2012
	BOAM 1.4	Building Dept. comments	February 7, 2012
	BOAM 1.5	Fire Marshal's comments	February 7, 2012
	BOAM 1.6	City of Kennewick	February 7, 2012
	BOAM 1.7	Benton PUD comments	February 8, 2012
	BOAM 1.8	Benton PUD comments	February 13, 2012
	BOAM 1.9	Site Plan	February 8, 2012
	BOAM 1.10	Pictures of the site (2)	February 2, 2012
	BOAM 1.11	Aerial of the site	2008

BOARD OF ADJUSTMENT – APPLICATION EXHIBIT LIST			
BOAR 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAR 1.1	Variance Application	February 3, 2012
	BOAR 1.2	Kennewick Residential Setback Req.	
	BOAR 1.3	Kennewick, Plot Plan 18.12-8	
	BOAR 1.4	Plot Plan	
	BOAR 1.5	Hidden Meadows Plat Lot 10	

BOARD OF ADJUSTMENT HEARING MARCH 1, 2012			
BOAH 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE

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

Benton County Planning Department

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

MEMO DATE: FEBRUARY 14, 2012
HEARING DATE: MARCH 1, 2012
TO: BENTON COUNTY BOARD OF ADJUSTMENT
FROM: CLARK A. POSEY, SENIOR PLANNER 
BENTON COUNTY PLANNING DEPARTMENT
RE: VARIANCE APPLICATION – VAR 12-01

**APPLICANT/
PROPERTY OWNER:** LINK SHERMAN
501 E. 31st COURT
KENNEWICK, WA 99337-4950

SPECIFIC REQUEST: The applicant is requesting a variance to BCC 11.13.080(a)(2). This county code is a rear yard setback of twenty-five (25) feet from the property line for any building. This variance would allow the applicant/owner approval to add on to the existing home, making a reduction of the required twenty five (25) foot rear yard setback, to a fifteen (15) feet setback allowing for the 10'X17' family room addition. The parcel is located in the Urban Growth Area Residential Zoning District.

BACKGROUND:

Site Location: The site is located at 501 E. 31st Court. Kennewick, WA 99337-4950 on Lot 10 of Hidden Meadows Subdivision, located in Section 18, Township 8 North, Range 30 East W.M.

Land Use: The surrounding land uses are developed as residential, with the city limits of Kennewick located to the West of the subject property and the remainder of the adjoining properties are the Urban Growth Area of Kennewick.

Zoning: Site and surrounding areas: Urban Growth Area Residential.

Comprehensive Plan Designation: UGA.

APPLICABLE DEVELOPMENT REGULATIONS:

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

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

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

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

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

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

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

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

(viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.

4. **The Board of Adjustment** may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by subsection (e)(1) above.
5. **BCC 11.13.080 Setback Requirements: Urban Growth Area Residential (UGAR)**

PROPERTY DEVELOPMENT STANDARDS--SETBACK REQUIREMENTS All lands, structures, and uses in the Urban Growth Area District shall meet the following setback requirements, and if applicable, the setback requirements set forth in Title 15 BCC (Protection of Critical Areas and Resources).

(a) Setback Requirements. The following minimum setbacks shall apply:

- (1) Each dwelling unit, accessory building, and accessory use on a parcel shall have a setback of twenty-five (25) feet from the property line bordering any public road right-of-way, and a setback of twenty-five (25) feet from the closest edge of any legally-established boundary line of a private access easement.
- (2) Each dwelling unit shall have a setback of twenty-five (25) feet from the rear parcel lines.
- (3) Each accessory building and accessory use shall have a setback of ten (10) feet from all alleys and the rear parcel lines.
- (4) Each dwelling unit, accessory building, and accessory use on a parcel shall have a setback of ten (10) feet from the side parcel lines.
- (5) All shelters, coops, or other structures used for the habitation of livestock shall have a setback of at least thirty (30) feet from every property line of the parcel on which it is located, unless a greater setback is otherwise required under Benton County Code.
- (6) All dwelling units and swimming pools shall have a setback of one hundred fifty (150) feet from any parcel located partially or wholly within the Growth Management Agricultural Act District (GMAAD) and from any adjacent orchard, hop field or vineyard (or combination thereof) of ten (10) acres or more on one parcel or on contiguous parcels under common ownership.
- (7) Cornices, eaves, belt courses, sills, fireplace chimneys, and open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project from a building three (3) feet into any required setback area; provided, none of these architectural features may be located within any easements.
- (8) Ground floor uncovered, unenclosed porches, platforms, or landings may extend or project from a building six (6) feet into the setback area but no closer than five (5) feet to any parcel line; provided, none of these architectural features may be located within any easements.

FINDINGS OF FACT:

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

1. The property owner/applicant is Link Sherman 501 E. 31st Court. Kennewick, WA 99337-4950.
2. The applicant is requesting approval for a variance to BCC 11.13.080(A)(2) for a reduction of ten (10) feet from the required twenty-five (25) foot back yard setback leaving the new setback of fifteen (15) feet.
3. This site is located at 501 E. 31st Court. Kennewick, WA 99337-4950, Lot 10, of Hidden Meadows Subdivision in the Northwest Quarter of the North West Quarter in Section 18, Township 8 North, Range 30 East W.M.
4. The application for VAR 12-01 was submitted to Benton County on February 3, 2012 and was determined a complete application for processing on February 7, 2012.
5. The proposed variance application did not require that a Notice of Application be published.
6. The notice for the Benton County Board of Adjustment Open Record Hearing for application VAR 12-01 was published on February 16, 2012, in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundaries of the parcel. The Open Record Hearing is scheduled for March 1, 2012.
7. The Benton County Building Department required that a building permit be obtained prior to construction.
8. Benton County Fire Marshal commented that the exterior walls and openings must comply with IBC building requirements.
9. The Benton Franklin Health District provided that VAR 12-01 will not have a negative impact as applicant is connected to city services (water and sewer).
10. A reduction of the back yard setback of ten (10) feet would allow for the addition of the requested 10'X17' family room addition and still leave a fifteen (15) foot rear yard setback.

DISPOSITION OF THE APPLICANT'S REQUEST:

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

- (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;
- (ii) special circumstances such as lot size, slope, topography or necessary

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

CONDITIONS:

The Board of Adjustment may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by the subsection above. If the Board of Adjustment decides to approve Variance Request – VAR 12-01 then the following are suggested conditions recommended by the Planning Department:

1. Any conditions imposed by the Board of Adjustment shall be completed prior to the Planning Department issuing the variance. The applicant shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the variance until those conditions have been met. The variance shall not become effective until issued by the Planning Department.
2. If the conditions of approval have not been met and the Planning Department does not issue the variance within one (1) year from the time the Board of Adjustment conditionally approved the variance, the Board of Adjustment may declare its approval null and void at a regular Board of Adjustment meeting. Prior to doing so, the applicant shall be notified in writing at the applicant's last known address at least twelve (12) days in advance of the upcoming Board of Adjustment meeting.
3. The applicant will need to obtain a building permit from the Benton County Building Department for the construction of the garage addition.
4. The applicant for Variance VAR 12-01 must have a Washington State Licensed Surveyor mark the rear property line adjacent to the location of the proposed building prior to inspection by the Building Department.
5. The variance is limited to a ten (10) foot reduction of the required twenty-five (25)

foot rear yard setback for the construction of a family room addition to the existing home. This will leave a fifteen (15) foot setback from the rear property line.