

THE FOLLOWING MEMOS HAVE
BEEN SCANNED WITHOUT
EXHIBITS FOR THE HEARINGS TO
BE CONDUCTED BY THE
BENTON COUNTY
BOARD OF ADJUSTMENT
ON THURSDAY, MAY 10, 2012
AT 7 P.M. – PLANNING ANNEX
1002 DUDLEY AVENUE
PROSSER, WA 99350

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

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: MAY 1, 2012

HEARING DATE: MAY 10, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: EXTENSION REQUEST – SP 10-10
APPLICANT'S: DAVID/CHARLOTTE SCHLOTFELDT

The Benton County Board of Adjustment conducted an open record hearing on April 7, 2011, which was continued to the next regularly scheduled Board hearing on May 5, 2011 for decision making only. Upon review and discussion of all the testimony presented the Board of Adjustment made a decision to grant SP 10-20 for the operation of a recreational vehicle (RV) park and tenting/camp cabin RV park facility. The RV Park is to have approximately 182-pad sites with approximately 170 pull-through and back in RV sites and 12 tenting sites.

The RV Park will have a main clubhouse facility that will include a general supply shop, lounge and eating area, banquet room and kitchen area. An outdoor pool is proposed in the clubhouse area.

The RV Park will have additional buildings separate from the clubhouse. These buildings will include: two (2) shower/restroom/laundry buildings, mini-storage buildings and maintenance sheds. A single-family residence will also be constructed at the southwest corner of the RV Park. The Owner/Proprietor of the RV Park will occupy the single-family residence.

In general RV pad sites will have full service hook-ups to include electrical power, domestic water, sanitary sewer, telephone and cable television. Each pad site will have an outdoor barbeque and sitting area. The special use permit was approved to allow for three gas fire campfire pits within the RV Park. The RV Park will have various on-site recreational areas to possibly include play structures, basketball court, horse shoe-pits, grass turf playfield areas and walking paths.

The parcel number of the site is: 1-1188-201-3292-001 and the 25 acre site is located on Lot 1 of Short 3292 in Section 11, Township 8 North, Range 28 East, W.M.

Condition of approval No. 2 states: If the conditions of approval have not been met and the Planning Department does not issue the special use permit within one (1) year from the time the Board of Adjustment conditionally approved the special use permit, 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.

The applicants were mailed a letter on April 18, 2012 informing them that the special use permit would be placed on the Board of Adjustment's May 10, 2012 agenda for either an extension request, null and void or withdrawal. The applicants responded to the Benton County Planning Department on April 26, 2012 with a letter and attachments requesting an extension.

Enclosed is the applicant's letter without attachments, however, if the Board would like to review these attachments they will be made available at the May 10, 2012 meeting.

The Board will need to review the April 26, 2012 letter and make a motion whether or not to grant the extension to the applicants.

Attachments:

1. Letter from the Benton County Planning Department to the applicants dated April 18, 2012
2. Letter from the applicants dated April 26, 2012 to the Benton County Planning Dept. without attachments

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: MAY 1, 2012

HEARING DATE: THURSDAY, MAY 10, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: NULL AND VOID SPECIAL USE PERMIT – SP 11-05
RATTLESNAKE MOUNTAIN ENTERPRISES, INC.
CHARLES EVANS

The Benton County Board of Adjustment at an open record hearing on May 5, 2011 reviewed and approved a special use permit for the operation of an automotive repair shop in an existing detached accessory building on a 20 acre parcel. The site is located at 108 Acord Road – Benton City, WA 99320 in the East Half of the Southeast Quarter of the Southeast Quarter in Section 36, Township 10 North, Range 26 East, W.M.

Condition of approval No. 2 states: If the conditions of approval have not been met and the Planning Department does not issue the special use permit within one (1) year from the time the Board of Adjustment conditionally approved the special use permit, 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.

The Benton County Planning Department wrote the applicant a letter, which is attached, stating that if the conditions had not been met then the Board of Adjustment may declare its approval null and void. The applicant has not contacted the Benton County Planning Department for either an extension request or withdrawal of the application.

The Benton County Planning Department did conduct a site visit on October 27, 2011 and May 1, 2012 of the applicant's property of which pictures are attached. No progress had been made within a one year time frame with regards to satisfying any of the conditions of approval.

The Benton County Board of Adjustment will need to review this special use permit and proceed with null and voiding this application if that is the Board's decision.

Attachment:

1. Letter dated April 19, 2012
2. Pictures of the site taken on October 27, 2011
3. Picture of the site taken on May 1, 2012

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: APRIL 20, 2012
HEARING DATE: MAY 10, 2012
TO: BENTON COUNTY BOARD OF ADJUSTMENT
FROM: BENTON COUNTY PLANNING DEPARTMENT
CLARK A. POSEY – SENIOR PLANNER 
RE: VARIANCE APPLICATION – VAR 12-02

APPLICANTS/

PROPERTY OWNERS: CHARLES A. & KENDRA SIMPSON
76205 N. GROSSCUP RD
WEST RICHLAND, WA 99353

SPECIFIC REQUEST: The applicant is requesting a variance to BCC 11.16A.080(a)(1) 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 garage. This reduction will leave a 30 foot setback from the center line of Grosscup Road. After the construction of the new bridge and road named Twin Bridges Rd, Grosscup Rd is no longer a through access road and is now a dead end with a turn-a-round. The Northeast boundary of this property is the Yakima River, this area with shoreline and setbacks make it unavailable to use as a construction area for building.

BACKGROUND:

Site Location: The site is located at 76205 North Grosscup Road – West Richland all on that portion of Tract 9 of Jones' Plat of Benton County in the Southeast Quarter of the Northeast Quarter of Section 25, Township 10 North, Range 27 East, W.M., lying South of the Yakima River and North of Grosscup Road containing 1.45 acres more or less.

Land Use: The surrounding land uses are developed as residential with single-family residential structures with small pasture areas.

Zoning & Comprehensive Plan Designation: Site/surrounding areas: Rural Lands 5.

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 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.

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.

4. **11.16A.080 PROPERTY DEVELOPMENT STANDARDS--SETBACK REQUIREMENTS.** All lands, structures, and uses in the Rural Lands Five Acre District (RL-5) 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 fifty-five (55) feet from the centerline of any public road right-of-way or twenty-five (25) feet from the property line bordering any public road right-of-way, whichever is greater; 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 owners/applicants are Charles A. & Kendra Simpson, 76205 N. Grosscup Rd. West Richland, WA 99353.
2. The applicant is requesting approval for a variance to BCC 11.16A.080(a)(1) of 25 feet reduction from the required front yard setback of 55 feet from the centerline of the county road. The applicant is requesting to construct a garage leaving a 30-foot front yard setback from the centerline of the county road.
3. The site is located at 76205 North Grosscup Road – West Richland all on that portion of Tract 9 of Jones' Plat of Benton County in the Southeast Quarter of the Northeast Quarter of Section 25, Township 10 North, Range 27 East, W.M., lying South of the Yakima River and North of Grosscup Road containing 1.45 acres more or less.
4. The application for VAR 12-02 was submitted to Benton County on April 5, 2012 and was determined a complete application for processing on April 13, 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 12-02 was published on April 24, 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 May 10, 2012.
7. The Benton County Building Department requires that a building permit be obtained.
8. The Benton Franklin Health District states: This office has reviewed this proposal and the existing records we have for the on-site septic system that serves this property. It does not appear that the proposed variance for the placement of the garage will have an adverse effect on to the septic and drain field. An evaluation of the existing on-site septic system must be completed to verify that the adequate replacement drain field has not been compromised
9. The Benton County Public Works right-of-way crew marked the county road right-of-way in the area of Grosscup Road where the proposed construction is to take place. The Public Works Manager determined that the construction of the garage would not have an adverse impact to the surrounding properties or to the existing county road easement.

10. Per Benton County Fire Marshal "Exterior fire wall resistance must meet International Building Code Requirements".

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 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.

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 12-02 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/shop and meet International Building and Fire Codes.
4. The applicant for Variance VAR 12-02 must have a Washington State Licensed Surveyor mark the property line adjacent to the location of the proposed building prior to the inspection by the Building Department.
5. That the Benton-Franklin Health District's requirements are that the construction of the detached garage does not encumber the on-site septic system and its replacement area.
6. An evaluation of the existing on-site septic system must be completed to verify that no encumbrance to this system will occur and that adequate replacement area will be maintained.

Benton County Planning Department

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MEMO DATE: APRIL 27, 2012
HEARING DATE: MAY 10, 2012
TO: BENTON COUNTY BOARD OF ADJUSTMENT
FROM: BENTON COUNTY PLANNING DEPARTMENT
CLARK A. POSEY, SENIOR PLANNER 
RE: VARIANCE APPLICATION – VAR 12-03

**APPLICANTS/
PROPERTY OWNERS:** DWAYNE WIDENER
2100 LARCH PR SE
KENNEWICK, WA 99337

SPECIFIC REQUEST: The applicant is requesting a variance to BCC 3.24.030(b) private swimming pools for a 4-foot 3 inch reduction from the required 5-foot setback from a building wall for the construction of a swim spa. This reduction will leave a 9 inch setback from the common wall to the interior in that area of the existing house.

BACKGROUND:

Site Location: The site is located at 2100 S Larch PR SE – Kennewick in the West Half of the East Half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 7, Township 8 North, Range 30 East, W.M.

Land Use: The surrounding land uses are developed as residential with single-family residential structures.

Zoning & Comprehensive Plan Designation: Site/surrounding areas: UGAR (Urban Growth Area Residential).

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.

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.

3.24.005 ADOPTION OF UNIFORM SWIMMING POOL, SPA AND HOT TUB

CODE. The 1997 Edition of the Uniform Swimming Pool, Spa and Hot Tub Code published by the International Association of Plumbing and Mechanical Officials as now adopted or hereafter amended, is hereby adopted by Benton County and all swimming pools, spas, hot tubs and structures hereafter constructed, enlarged, altered, repaired, relocated and added to shall be done in conformity with the provisions of the Uniform Swimming Pool, Spa and Hot Tub Code, except as expressly provided herein.

3.24.010 DEFINITIONS

(b) "Private swimming pools" shall mean pools capable of holding water of a depth of 24 inches or more which are located on property occupied by a single family residence and maintained for

3.24.016 ACCESSORY STRUCTURE. A swimming pool, spa and hot tub is an accessory structure, building and/or land use for zoning purposes as used in Title 11 BCC as now adopted or hereafter amended.

3.24.030 PRIVATE SWIMMING POOLS - FENCING REQUIRED. (a) The area in which a private swimming pool is located shall be totally surrounded by a building and/or fence of at least five feet in height.

(b) No such building or fence shall be located less than five feet from the edge of the swimming pool.

(c) All fence gates shall be provided with a latch operable only from the pool-side of the fence.

(d) Covers which may be used to enclose or cover the pool shall not be considered to qualify as a substitute for the required fence as a means of providing minimum safeguards to the pool area.

3.24.045 VARIANCES. (a) The Benton County Board of Adjustment may grant variances to the provisions of this chapter that require setbacks between structures or between structures and property lines. Any person seeking such a variance shall submit to the Building Department the following:

(1) A completed application supplied to the Benton County Planning Department, which includes an accurate drawing, drawn at a scale showing the following:

- (i) The boundaries and dimensions of the site.
- (ii) Existing streets, roads, and highways bordering or crossing the site.
- (iii) Interior private roads.
- (iv) Locations and uses of existing and proposed structures.
- (v) Location of parking facilities, including access points.
- (vi) Scale and North Arrow.

- (vii) Vicinity Map showing adjacent properties.
- (viii) Location of drainage facilities.
- (ix) Location of utilities easements.

(2) A non-refundable application fee as established by resolution of the Board of Benton County Commissioners.

(3) Additional information as required by the Planning Director.

(b) Before granting any variance under the provisions of this section, the Board of Adjustment shall hold an open record hearing, at which time the applicant and other interested parties will be given an opportunity to be heard. The open record hearing shall be held not less than ten (10) days after legal notice is given.

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 Dwayne Widener, 2100 S. Larch PR SE. Kennewick, WA 99337.
2. The applicant is requesting a variance to BCC 3.24.030(b) Private Swimming Pools, for a 4-foot 3 inch reduction from the required 5-foot setback from a building wall for the construction of a swim spa. This reduction will leave a 9 inch setback from the common wall to the interior of that part of the existing house.
3. The site is located at 2100 S Larch PR SE – Kennewick in the West Half of the East Half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 7, Township 8 North, Range 30 East, W.M.
4. The application for VAR 12-03 was submitted to Benton County on April 26, 2012 and was determined a complete application for processing on April 27, 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 12-03 was published on April 28, 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 May 10, 2012.
7. The Benton County Building Department requires that the applicant obtain a building permit and that the glass is tempered on the reduced side and not accessible for walking.

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 12-03 then the following are suggested conditions recommended by the Planning Department:

1. Any conditions imposed by the Board of Adjustment shall be completed prior to the Planning Department issuing the variance. The applicant shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the variance until those conditions have been met. The variance shall not become effective until issued by the Planning Department.
2. If the conditions of approval have not been met and the Planning Department does not issue the variance within one (1) year from the time the Board of Adjustment conditionally approved the variance, the Board of Adjustment may declare its approval null and void at a regular Board of Adjustment meeting. Prior to doing so, the applicant shall be notified in writing at the applicant's last known address at least twelve (12) days in advance of the upcoming Board of Adjustment meeting.

3. The applicant will need to obtain a building permit from the Benton County Building Department for the construction of the swimming pool.