

BENTON COUNTY BOARD OF ADJUSTMENT  
JANUARY 7, 2010 – 7 P.M. REGULAR MEETING  
PLANNING ANNEX  
1002 DUDLEY AVENUE  
PROSSER, WA 99350

The Chairman opened the public portion of the hearing at 7 p.m.

**NOTE:** These minutes is a summary of the testimony presented at the hearing, not a verbatim transcript.

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

**ROLL CALL:**

PRESENT: Brent Chigbrow  
Dean Burows  
Glenn Bestebreur  
Bob Page  
Herb Everett

STAFF: R.J. Lott, Planner  
Carel Hiatt, Recorder

**ELECTION OF OFFICERS:**

**MOTION:** It was moved and seconded that the 2009 Chairman – Brent Chigbrow and Vice-Chairman – Dean Burows be retained for the 2010 year. Motion carried.

**MOTION:** Mr. Bestebreur made a motion and Mr. Page seconded that the minutes of the November 5, 2009 Board of Adjustment Hearing be approved as written. Motion carried.

**CONSENT AGENDA ITEMS:**

**SPECIAL USE PERMIT – SP 05-33 – TIM COLE**  
**SPECIAL USE PERMIT – SP 08-12 – JEFFREY/YVETTE FITZJARRALD**

**MOTION:** Mr. Burows made a motion that SP 05-33 and SP 08-12 be granted a one-year extension request. Seconded by Brent Chigbrow. Motion carried.

**CONTINUED HEARING:**

**VARIANCE REQUEST – VAR 09-04 – DAVID SCOTT**

The Planner informed the Board that the Benton Franklin Health District was contacted today and stated that the applicant had yet to contact them with regards to the location of the new drainfield. The Planner stated that the Board will need to determine whether to null and void this action of continue this variance request.

The applicant was not in attendance for this hearing item.

Mr. Page felt that this action should be continued and that the Planning Department write a letter to the applicant extending this hearing item to the February 4, 2010 Board of Adjustment hearing date. However, if there are no agenda items then this action will be placed on the March 4, 2010 Board of Adjustment agenda.

**MOTION:** Glenn Bestebreuer made a motion and it was seconded by Bob Page that VAR 09-04 be continued to the February 4, 2010 Board of Adjustment Hearing date. However, if no agenda items are received for the February 4, 2010 hearing then this variance request will be automatically placed on the March 4, 2010 Board of Adjustment hearing agenda. The Board instructed the Benton County Planning Department to write a letter to the applicant to provide written documentation from the Benton Franklin Health District regarding the location of the drainfield. If no documentation has been received from the applicant by the March 4, 2010 hearing date then this action will be declared null and void at the February 4 or March 4, 2010 hearing date. Motion carried.

**NEW BUSINESS:**

**VARIANCE REQUEST – VAR 09-08** – The applicant is requesting a variance from BCC 11.08.040(a) for a reduction of four feet from the required 10-foot side yard setback for the addition of a garage onto the existing residence. Location: 4914 W Yellowstone Avenue on Lot 10 of Parkview Acres No. 1 in Section 28, Township 9 North, Range 29 East, W.M. Applicants: Christopher/Monica Burrows – 3105 W Canyon Lakes Drive – Kennewick, WA 99337

**PLANNER’S REVIEW:** Mr. Lott summarized said action for the Board stating that the lot was small and other variances had been granted in this immediate vicinity. Exhibit Numbers 1-16 were entered into the record by reference. It should be noted that Condition No. 5 references an access easement when it should be a property line.

**APPLICANT TESTIMONY: CHRISTOPER BURROWS – 3105 W. CANYON LAKES DRIVE – KENNEWICK, WA 99337** –stated that after the survey was conducted it was noted that the proposed garage would encroach into the setback area, thereby necessitating the need for a variance. He submitted two letters to the Board – one being from Mr. James D. Overturf dated November 25, 2009 and the other from Doug/Nancy/Jennifer Overturf and Andrea Doyle Overturf dated November 26, 2009. Both letters were in support of this variance request. He would comply with the requirements of the City of Kennewick regarding annexation.

**PLANNER:** Letter from Mr. James D. Overturf dated November 25, 2009 will be Exhibit No. 17 and the letter dated November 26, 2009 from Doug/Nancy/Jennifer Overturf and Andrea Doyle Overturf will be Exhibit No. 18.

The Chairman asked the applicant if he had read and understood the conditions of approval, especially Condition No. 1. The applicant replied that he had read and understood the conditions of approval.

The applicant informed the Board that Condition Nos. 4 and 5 dealing with the surveying of the property and building permit have already been accomplished.

**PROPONENT TESTIMONY:** James Overturf – 3648 West 42<sup>nd</sup> – Kennewick, WA 99337 – stated that he was in favor of this variance request. He stated that the placement of the site had to do with the topography of the lot.

Mr. Bestebreuer asked if the dwelling had a basement. Mr. Overturf stated that was correct.

Mr. George Hageman – Contractor GH Construction – 425 S Denna Street – Kennewick, stated that the remodeling of the residence and construction of the garage would enhance the residence and the neighborhood.

**OPPONENT TESTIMONY:** None

**APPLICANT REBUTTAL:** None

Hearing closed by the Chairman.

**MOTION:** Mr. Bestebreuer made a motion and seconded by Mr. Chigbrow that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Christopher/Monica Burrows for a Variance Request – VAR 09-08 should be **approved with the conditions as outlined in the staff report dated, November 19, 2009 with the amendment to Condition No. 5 to delete access easement and add “property line”** 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.

**VARIANCE REQUEST – VAR 09-09:** The applicant is requesting a variance from BCC 11.60.040(c) for a reduction of 15 feet from the required 25-foot front yard setback from any access easement for the construction of a 20-foot by 20-foot hay barn. Location: 17805 S 2085 PR SE in the East Half of the Northwest Quarter of the Northeast Quarter of Section 16, Township 8 North, Range 30 East, W.M. Applicant: Keith Marks – 17805 S 2085 PR SE – Kennewick, WA 99336

Hearing opened by the Chairman

**PLANNER’S REVIEW:** The applicant is Keith Marks and he is requesting a 15-foot reduction from the required 25-foot setback from an access easement for a 20x20 foot accessory building. The accessory structure has already been constructed without a building permit. If the Board reviews the application question number seven, which asks “Are there any special circumstances, such as lot size, slope, topography or necessary size or shape of the building which prevents compliance with the zoning ordinance?” The applicant replied that there were none. The site is relatively flat with no steep slopes. The lot does appear to have adequate area for a 20x20 foot structure and still meet all the setback requirements from the access easement and the property lines. The side yard setback for Rural Estate Zoning District is 10 feet, which may have confused the applicant. However, in that same zoning setback from a private road easement, which exists here, is 25 feet. The easement if you are looking at the map – Exhibit No. 12 – is on the west side of the parcel and extends from Bryson Brown and continues south – inaudible -. Based on the information received as of the date of this hearing, the Benton County Planning Staff recommends that this variance be denied based on the fact that it is a flat lot and there appears to be adequate area for a 20x20 structure to meet all setback requirements. If the Board decides to approve the variance, the planning staff does recommend four conditions as noted in Exhibit No. 1. The Planner stated that he had spoken with the applicant, Keith Marks, this afternoon

that stated that he was ill and would not be able to attend tonight's hearing. He did request that the Board continue said action to the February 4, 2010 Board of Adjustment Hearing. I informed Mr. Marks that the Board would still hear this application and if anyone were in attendance the Board would be compelled to hear the testimony presented. If the Board did or did not want to move this application forward to the next hearing in February that decision would be up to the Board of Adjustment members. Exhibit Nos. 1-12 were entered into the record by reference.

Mr. Burows asked if the white building in the Exhibits was the erected building. The Planner replied that to be correct.

Mr. Burows continued to state that the structure didn't look like it met code. The Planner informed the Board that a building permit was not issued for this structure.

Mr. Page asked if the applicant's residence was as close to the access easement as the structure in question. The Planner replied that it was considerably farther back from the access easement.

Mr. Bestebreuer asked if a neighbor with regards to the placement of the structure had informed the applicant. The Planner replied that perhaps he was given erroneous information that the setback was 10 feet not 25 feet. If 10 feet then this structure would be acceptable. If the applicant had applied for a building permit he would have been informed that the setback was 25 feet not 10 feet.

Mr. Burows was concerned that the location of the structure encroaching into the access easement literally blocks the view of the road. If a child ran after a ball in the road the structure would obstruct a driver's sight.

The Chairman asked if the structure was a pole building or just built on skids. The Planner was unaware.

**APPLICANT TESTIMONY:** The applicant Keith Marks was not in attendance.

**PROPONENT/OPPONENT TESTIMONY:** None.

Chairman closed the hearing.

Mr. Burows stated that there would be no need to waste a variance on a building that (a) shouldn't have been erected and (b) could be moved.

Mr. Everett agreed with Mr. Burows. The applicant had adequate property to locate the structure elsewhere on the property. If the applicant did make application for a real 20x20 foot building at that location that there would not be circumstances that the Board could rely on to grant a variance as the applicant had plenty of other places to locate the accessory building.

Mr. Page thought the structure was 8x16 feet which is oversized as far as a not permit application. The structure was not building to code.

**MOTION:** Mr. Everett moved and Mr. Page seconded the motion that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application

of Keith Marks for a Variance Request – VAR 09-09 should be denied based on the findings of fact as noted by the Board 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.

**SPECIAL USE PERMIT – SP 09-09** – The applicant is seeking a special use permit for the operation of a home-based breeding kennel for the keeping of up to ten adult dogs. Location: 8229 West 10<sup>th</sup> Avenue on Lot 3 of Short Plat 2864 in Section 7, Township 8 North, Range 29 East, W.M. Applicants: Terry/Gayla Davis – 8229 West 10<sup>th</sup> Avenue – Kennewick, WA 99336

**PLANNER’S REVIEW:** The Planner informed the Board that the applicant had submitted a letter withdrawing their application.

**MOTION:** Mr. Everett made the motion and Mr. Bestebreur seconded that the Board of Adjustment recognize the request from the applicants – Terry/Gayla Davis – to withdraw their special use permit application – SP 09-09. Motion carried.

**NEW BUSINESS:**

**SPECIAL USE PERMIT – SP 09-10** – The applicant is requesting a special use permit for the operation of a tree trimming and removal business at 20615 S. Haney Road. The site is located at 20615 S. Haney Road – Kennewick on Lot 2 of Short Plat 601 in Section 15, Township 8 North, Range 30 East, W.M. Applicant: Jeffery D. Curtis, Sr. 20615 S Haney Road – Kennewick, WA 99337

Hearing opened by the Chairman

**PLANNER’S REVIEW:** The Planner entered into the record Exhibit Nos. 1-15. He continued to summarize the proposed operation of a tree trimming business. He outlined the site on Exhibit No. 14 – aerial. Adjacent to the applicant’s residence was an approved house moving business that was approved by a special use permit. Nine residents are located within 700 feet of the applicant’s site.

Mr. Burows asked where a Mr. Dave Adams – Exhibit No. 15 - residence was located in correlation to the applicant’s proposed business location. The Planner outlined said residence on Exhibit No. 14. No more than four non-resident employees, hours of operation would be 7 a.m. to 5p.m. Monday to Friday and two marked vehicles. The Planner stated that the applicant should explain to the Board how wood debris would be stored on site, chipping process, would this be done on or off site, noise issues pertaining to the wood chipper, location of the equipment, such as inside the shop, outside, fenced area, etc. He asked the Board to note the Fire Marshal’s comments with regards to wood storage on-site.

The Chairman asked if the bricks were on the applicant’s property or not. The Planner stated that the material was located on the adjacent parcel.

The Chairman was concerned over the Benton County Public Work’s Department requiring that the applicant pave the approach onto Haney Road.

**APPLICANT TESTIMONY:** Jeffrey/Hilary Curtiss, Sr. 20615 S Haney Road –

Kennewick, WA 99337 – stated that he was looking to start up a complete tree service business. He would just be parking his vehicles, probably 50% on his property. The equipment usually stays on the job site if it will last more than one day.

Mr. Chigbrow asked the applicant to state the numbers of equipment to be utilized. The applicant replied two bigger trucks, two chippers and a stump grinder. He would like to add that the chippers are never in motion on his property. The chips never hit the ground. He stated that you put the branch into the back of the chipper of which is then shredded into small pieces of wood and then blown into the back of his chip dump truck and when it is full it is brought over to a client's residence and dumped.

Mr. Burows asked if there would be any storage at his place of residency. The applicant replied not wood chips, but there will be occasional storage of "bucked rounds". He gives this material away for free; so it does not stay on site for extended periods of time. He was not in the business to store firewood.

Mr. Burows noted in the Public Works comments that the approach had already been paved. Will any chipping operations be conducted on site? The applicant replied that all the work would be done on the job site.

The applicant informed the Board that the cinder block materials noted in the exhibits on pallets was going to be utilized to construct a six-foot high fence separating the two neighboring parcels.

Mr. Page asked the applicant where would his equipment be parked. Mr. Curtis outlined the parking area on Exhibit No. 14. The applicant not neighboring property owners should only notice the equipment.

Mr. Page asked if the applicant could see Mr. Adam's property. The applicant replied that to be correct. Mr. Page asked if Mr. Adams would be able to see the applicant's equipment. The applicant replied that he was not certain about this matter.

Mr. Page asked the applicant if he would be parking two trucks, two chippers and a stump grinder. The applicant stated that one chipper and stump grinder are all on their own trailers with the exception of one or at times both chippers being pulled behind a truck. Mr. Page asked where would the wood be stacked. He outlined the site on Exhibit No. 14.

Mr. Page asked how much wood is stored on site at one given time. The applicant replied no more than one truckload and that would be stacked behind his residence in a garden area. He stated again that he does not want wood storage at his place of residency.

Mr. Page asked the applicant if he currently was in business at this site. The applicant replied not until he gets the special use permit approved.

Mr. Bestebreuer asked the applicant about his tree trimming education. The applicant replied he is more of an estimator. His son and friends had been in this type of business for a few years.

Mr. Bestebreuer asked if the applicant resided on site permanently. The applicant replied

that to be correct and he owned the site outright.

The applicant stated that Mr. Cope did not have a problem with this type of business operating next to his site. However, he was concerned over the noise of the equipment, so that is the reasoning for the construction of the wall.

Mr. Everett asked if Mr. Cope had a lot of house moving equipment on site. The applicant responded that was correct indeed.

Mr. Everett stated that in Exhibit No. 15 – Mr. Adams noted that considerable burning was done on site. The applicant responded that the only burning being done was his personal yard waste about once a week, but no wood burning.

Mr. Page asked the applicant to estimate truck trips per day. The applicant responded 50%. Mr. Page calculated about 15 day per month.

Mr. Burows stated that would not be a big impact onto Haney Road. The applicant stated that the majority of the time they leave onto Bryson Brown Road and sometimes Perkins

Mr. Chigbrow asked the applicant if he had read and understood the conditions of approval affixed to this special use permit. The applicant replied that he had and they were acceptable.

The Planner informed the Board that the applicant would not need to pave the approach onto Haney Road.

**PROPONENT/OPPONENT TESTIMONY: NONE**

Hearing closed by the Chairman

Mr. Page does not have a problem with this special use permit for a tree trimming business, as no wood products will be stored on site.

Mr. Burows stipulated that this business be conditioned to allow no more than four to five trucks to be allowed at this time for the operation of the tree trimming business.

Mr. Chigbrow would like the business to have established hours of operation. The Planner informed the Board that the applicant had requested Monday to Friday 7 a.m. to 5 p.m.

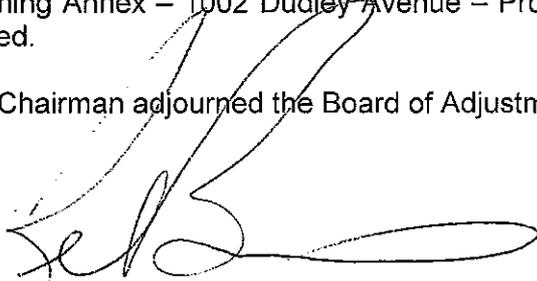
Mr. Everett informed the applicant that he would have to meet the conditions of approval, prior to the operating of this type of business at this site. The applicant replied that he would be the estimator for this business, but would not begin services until the conditions and approval from the Board had been satisfied.

**MOTION:** Mr. Burows made a motion and seconded by Mr. Chigbrow that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Jeffery/Hilary Curtiss, SR for a Special Use Permit – SP 09-10 should be approved with the conditions as outlined in the staff report dated, December 18, 2009

with the following **added Condition No. 7** – “**That no more then five vehicles be allowed on the site**” and **amend Condition No. 6** “**That the hours of operation be limited to Monday to Friday – 7. am. To 5 p.m . . .** “ 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.

**MOTION:** Mr. Burows made a motion to rescind the original motion on Variance VAR 09-04 that it be continued to the March 4, 2010 instead of the February 4, 2010 hearing due to the lack of agenda items by the Board of Adjustment to be conducted at 7 pm. – Planning Annex – 1002 Dudley Avenue – Prosser, WA seconded by Mr. Page. Motion carried.

The Chairman adjourned the Board of Adjustment Hearing at 8:10 p.m.

A handwritten signature in black ink, appearing to read 'Brent Chigbrow', written over a faint circular stamp.

**BRENT CHIGBROW, CHAIRMAN  
BENTON COUNTY BOARD OF ADJUSTMENT**

Recorder: Carel Hiatt