

THE FOLLOWING MEMOS HAVE BEEN
SCANNED WITHOUT EXHIBITS FOR THE
HEARINGS TO BE CONDUCTED BY THE
BENTON COUNTY BOARD OF ADJUSTMENT
THURSDAY, JULY 7, 2011 AT 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

EXTENSION REQUEST

SP 10-05

APPLICANT: TRISH TRICKIT

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: JUNE 15, 2011

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: EXTENSION REQUEST FOR SP 10-05 –
APPLICANT: TRISH TRICKIT

The Benton County Board of Adjustment at an Open Record Hearing conducted on May 13, 2010 approved with conditions a request for the operation of a customization and restoration business of old cars to include the sale of aftermarket accessories. The site is located at 22206 E Kennedy Road – Benton City on Lot 4 of Short Plat 2653 in Section 16, Township 9 North, Range 27 East, W.M.

Attached is an extension request from the applicant requesting one year in order to satisfy the conditions of approval affixed to her special use permit.

The Board of Adjustment will need to make a decision as to whether or not the extension request will be granted.

Enclosure: Letter from the applicant dated April 26, 2011

RECONSIDERATION

SP 11-02

APPLICANTS:

DWIGHT LYDELL

&

ROBERTA KENYON LYDELL

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: JUNE 27, 2011

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

APPLICANTS/
PROPERTY OWNERS: DWIGHT/ROBERTA KENYON LYDELL
33907 GERARDS ROAD
KENNEWICK, WA 99337

RE: RECONSIDERATION FOR
SPECIAL PERMIT APPLICATION – SP 11-02

SPECIFIC REQUEST: The applicants are seeking a reconsideration of the Board of Adjustments denial of their Special Use Permit Application SP 11-02 for a event center.

BACKGROUND:

On April 7, 2011, the Benton County Board of Adjustment conducted an open recording hearing on Special Permit Application 11-02. On May 18, 2011 the Board of Adjustment issued a written decision denying the application for SP 11-02. On **June 9, 2011**, the Benton County Planning Department received a letter from John S. Ziobro, (**dated May 4, 2011**) Attorney for the applicants, requesting that the Board of Adjustment reconsider their decision pursuant to BCC 11.52.089(c)(1).

BCC 11.52.089(c)(1) states the following:

“(1) Following the conclusion of an open record hearing on a variance or conditional use/special permit application, the Board of Adjustment shall approve, approve with conditions, or deny the requested variance or conditional use/special permit. If the Board of Adjustment grants a variance or a conditional use/special permit, it shall also recite the conditions and limitations that are imposed. The decision shall be in writing and shall include the Board of Adjustments conclusions and the findings of fact supporting such conclusions. **Upon receipt of a written request from an applicant stating the reasons for requesting the reconsideration, it is within the discretion of the Board of Adjustment to reopen the open record hearing on any matter prior to the adoption of such written decision; provided, written notice of such request and any hearing to consider the request must be given to all persons providing evidence to the Planning Department for submittal to the Board of Adjustment or who provided evidence at a hearing on such matter.**”

On May 18, 2011 the Board of Adjustment adopted the Benton County Board of Adjustment Findings of Fact, Conclusions of Law and Decision for SP 11-02.

The letter from Mr. Ziobro was accompanied by a Declaration of Mailing indicating under penalty of perjury that his letter dated **May 4 2011 was mailed on March 5, 2011**. The Declaration of Mailing was dated May 5, 2011. It is unclear why the declaration has a March 5, 2011, mailing dated or what happened to the May 4, 2011, letter. If promptly mailed it would have been received well before the Board issued its decision on May 18, 2011.

As BCC 11.52.09.S. (c)(1) indicates, whether to grant a motion to reconsider and subsequently open the record for the submitted additional information accompanying the motion and response information, if any, from other interested parties is ultimately within the Board's discretion. Consequently, Mr. Ziobro's request for reconsideration on behalf of Dwight and Roberta Lydell is being presented to the Board at this first Board meeting since we became aware of the request.

Given the Declaration of Mailing indicating that the motion was mailed before May 18, 2011, we recommend that you do not deny the motion based on whether it was timely submitted or not. Instead, we suggest that the Board determine whether to grant the motion and re-open the record for additional information without regard to the timeliness issue.

Should the Board concur and treat the motion as timely submitted, then it is still within the Board's discretion to grant the motion and re-open the record or deny the motion. Ordinarily, motions for reconsideration are appropriate when there is newly discovered material evidence that could not have been presented prior to the decision at issue or if the decision maker is persuaded by the legal authorities cited in the motion that he/she might have made a mistake. In such cases, the motion is granted and another hearing is scheduled to allow the person requesting the motion to introduce the new evidence into the record and provide an opportunity for other interested persons to present any rebutting evidence.

However, the Board is certainly within its discretion to deny motions for reconsideration, particularly if the moving party merely submits duplicate materials or evidence that the moving party could have, with due diligence, submitted at the original hearing. The Board is not required to grant the motion and re-open a matter just to let the moving party submit further evidence that it previously did not think of or chose not to present at the original hearing.

In this case, prior to the Board's May 18, 2011 issuance of the findings of fact and conclusions of law and final decision, attorney John S. Ziobro submits, by US Mail, a request for reconsideration of the decision of denial of Special Permit 11-02. The Planning Department Office did not receive this letter of request until after you issued your decision. Consequently, we have scheduled time on the Board of Adjustment's Agenda to consider the motion for reconsideration of Special Permit 11-02 at their July 7, 2011 general meeting.

The procedure used by the Board of Adjustment is that the Board would discuss the request at the July 7, 2011 meeting without taking public testimony on the issue and determine if they want to grant the motion to reconsider the decision on this application. If the Board decides to grant the motion to reconsider the application, an open record hearing would be scheduled for the August 4, 2011, Board of Adjustment meeting and notice of the hearing would be sent to all persons who provided evidence to the Planning Department for submittal to the Board of Adjustment or who provided evidence at the hearing on this application.

At that time, Mr. Ziobro could introduce into the record the additional materials attached to his letter of May 4, 2011, and other interested persons could present rebutting evidence or information.

VARIANCE REQUEST

VAR 11-02

APPLICANT:
TROY L. SIMMS

**EXHIBITS PRESENTED TO THE BOARD OF ADJUSTMENT
FOR A HEARING TO BE CONDUCTED ON JULY 7, 2011
RE: VAR 11-02 – TROY L. SIMMS**

EXHIBIT SHEET 1	E 1	Listing of all the exhibits presented to the Board of Adjustment
BOAR 1	BOAR1.1	Variance Application received by the Benton County Planning Department on April 14, 2011
	BOAR1.2:	Applicant's plot plan
BOAM1 (Staff Memo)	BOAM1.1	Staff Memo Dated June 17, 2011
	BOAM1.2	Site map – Benton County Planning Department
	BOAM1.3	Letter to the applicant from Benton County Pln – April 29, 2011 with attachment BFHD letter – April 18, 2011
	BOAM1.4	Letter to the applicant from Benton County Pln. – June 7, 2011 – attachment BFHD letter – April 18, 2011
	BOAM1.5	Benton County Bld Dept. comments – April 25, 2011
	BOAM1.6	Benton County Fire Marshall comments – April 25, 2011
	BOAM1.7	Benton County Public Works comments – May 5, 2011
	BOAM1.8	Benton Franklin Health District comments – April 18, 2011
	BOAM 1.9	Notice of Open Record Hearing – June 14, 2011
	BOAM 1.10	Pictures of the site taken June 28, 2011
	BOAM 1.11	Benton County Aerial taken 2008 of the site

EXHIBIT SHEET – E-1 – Exhibit listing for VAR 11-02

BOAR – Board of Adjustment Record Exhibits BOAR 1.1 TO BOAR 1.2

BOAM – Board of Adjustment Memo Exhibits BOAM 1.1 TO BOAM 1.11 (including BOAR 1.1 & 1.2

BOAH 1 - Documents presented at the July 7, 2011 Board of Adjustment 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: JUNE 17, 2011
HEARING DATE: JULY 7, 2011
TO: BENTON COUNTY BOARD OF ADJUSTMENT
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: VARIANCE APPLICATION – VAR 11-02

**APPLICANTS/
PROPERTY OWNERS:** TROY L. SIMMS
212604 E 22ND AVENUE
KENNEWICK, WA 99337

SPECIFIC REQUEST: The applicant is requesting a variance to BCC 11.08.040(a) for a four (4) reduction of the required ten (10) foot side yard setback, for a 24X28 addition to the existing garage.

BACKGROUND:

Site Location: The site is located at 212604 E. 22nd Avenue. Kennewick, WA 99337 on Lot 1 Block 18 of Kirby Kove Homesites, located in Section 10, Township 8 North, Range 30 East W.M.

Land Use: The surrounding land uses are developed as residential, with the City of Kennewick to the North.

Zoning: Site and surrounding areas: Residential.

Comprehensive Plan Designation: 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 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 11.08.040 Setback Requirements:**

All lands, structures, and uses in the Residential District shall conform to the following minimum side yard setback requirements;

- (a) There shall be a side yard of at least ten (10) feet on each side of any dwelling, multiple family dwelling, or accessory structure, provided that on a corner lot the side yard on the street side shall be at least fifty-five (55) feet from the centerline of any city, county, or state road right-of-way sixty (60) feet or less in width. If the right-of-way width exceeds sixty (60) feet, the setback shall be at least twenty-five (25) feet from the property line.
- (b) No building shall be hereafter erected or altered so that any portion thereof shall be nearer to the side lot line than the distance indicated by the width of the side yard, EXCEPT:
 - (1) Eaves, cornices, belt courses and similar ornamentations may extend over a side yard for a distance of not more than two (2) feet.
 - (2) Platforms, terraces and steps not over forty-two (42) inches in height may extend into the side yard.
 - (3) Fireplaces may extend into a side yard a distance of not more than eighteen (18) inches.
- (c) There shall be a side yard setback of not less than twenty-five (25) feet from any access and/or combined access and utility easement adjacent to or within the property.

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 Troy L. Simms 212604 E. 22nd Avenue. Kennewick, WA 99337.
2. The applicant is requesting approval for a variance to BCC 11.08.040(a) for a reduction of 4 foot from the required ten (10) foot side yard setback to 6 feet.
3. This site is located at 212604 E. 22nd Avenue Kennewick, WA 99337, Kirby Kove Home Sites, Block 1, Lot 18, in the Southwest Quarter in Section 10, Township 8 North, Range 30 East W.M.
4. The application for VAR 11-02 was submitted to Benton County on April 14, 2011 and was determined a complete application for processing on April 25, 2011.
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 11-02 was published on June 23, 2011, 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 July 7, 2011.
7. The Benton County Building Department required that a building permit be obtained, Benton County Fire Marshal commented that the exterior walls and openings must comply and meet the IBC building requirements.
8. The Benton Franklin Health District provided that the addition to the garage must meet setback requirements from the existing sewage disposal system and 100% replacement area. Their office review of the proposal appears to show that the addition to the garage will **not** meet this department's setbacks to the existing drainfield or the reserve area. The Health District office will **not** approve the addition as proposed.
9. A reduction in the side yard setback of 6 feet would provide for the 24X28 garage addition. The Benton Franklin Health District stated that it would **not** leave enough room for a backup drainfield, therefore, they request **denial** of this request.

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 11-02 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 addition.
4. The applicant for Variance VAR 11-02 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. The variance is limited to a 4-foot reduction of the required 10-foot side yard setback for the garage addition.
6. Written approval submitted to the Benton County Planning Department from the Benton-Franklin Health Department that you have meet the setback requirements from the existing sewage disposal system and the 100% replacement area.

SPECIAL USE PERMIT

SP 11-06

APPLICANT:

ROSE MARY WATERMAN

**EXHIBITS PRESENTED TO THE BOARD OF ADJUSTMENT
FOR A HEARING TO BE CONDUCTED ON JULY 7, 2011
RE: SP 11-06 – ROSE MARY WATERMAN**

EXHIBIT SHEET 1	E 1	Listing of all the exhibits presented to the Board of Adjustment
BOAR 1	BOAR1.1	Special Use Permit Application received by the Benton County Planning Department on June 7, 2011
	BOAR1.2:	Applicant's site plan
BOAM1 (Staff Memo)	BOAM1.1	Staff Memo dated June 27, 2011
	BOAM1.2	Site map – Benton County Planning Department
	BOAM1.3	Notice of Open Record Hearing published June 23, 2011
	BOAM1.4	Benton County Building comments – June 8, 2011
	BOAM1.5	Benton County Fire Marshall comments – June 8, 2011
	BOAM1.6	SVID comments – June 9, 2011
	BOAM1.7	Benton Franklin Health Dept. – June 15, 2011
	BOAM1.8	Benton County Public Works comments June 15, 2011
	BOAM 1.9	Benton PUD comments – June 9, 2011
	BOAM 1.10	Aerial of the site 2008
	BOAM 1.11	Pictures of the site taken June 28, 2011

EXHIBIT SHEET – E-1 – Exhibit listing for SP 11-06

BOAR – Board of Adjustment Record Exhibits – BOAR 1.1 AND 1.2

BOAM – Board of Adjustment Memo Exhibits – BOAM 1.1 TO 1.11 INCLUDING BOAR 1.1 AND 1.2

BOAH 1 - Documents presented at the JULY 7, 2011 Board of Adjustment 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

BOAM 1.1

MEMO DATE: JUNE 27, 2011

MEETING DATE: JULY 7 2011

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: SPECIAL PERMIT APPLICATION – SP 11-06

APPLICANT: ROSE MARY WATERMAN
18401 GRIFFIN ROAD
GRANDVIEW, WA 98930-9154

PROPERTY OWNERS: ALBERT & ROSE MARY WATERMAN
18401 GRIFFIN ROAD
GRANDVIEW, WA 98930-9154

SPECIFIC REQUEST: The applicant is requesting approval of a Special Permit for the operation of a long arm quilting, sewing classes, fabric and sewing supplies, photographs taken and sold, antiques, miscellaneous sales and consignment items, eggs, including garden supplies and produce.

BACKGROUND:

The site is located at 18401 Griffin Road Grandview, WA 98930-9154 in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 29, Township 9 North, Range 24 East, W.M.

Land Use: The site is currently developed with a single-family dwelling and several accessory buildings with the surrounding area being developed with a mixture of residential dwellings and agricultural uses.

Zoning: The site and surrounding properties are zoned Unclassified.

Comprehensive Plan: The Benton County Comprehensive Plan designated the site and surrounding areas as "General Commercial".

Washington State Environmental Policy Act: Categorically exempt.

APPLICABLE DEVELOPMENT REGULATIONS:

The Benton County Code Section 11.48.010(h) (In the Unclassified Zoning District) states that: "All other uses of property not otherwise prohibited by laws of Benton County or the State of Washington, in addition to those listed below, may be allowed only by special permit issued by the Benton County Board of Adjustment after notice and public hearing as provided in BCC 11.52.090.

Day care centers

Day care homes.

Residential care facilities.

2. Benton County Code Section 11.52.090(a)

"Conditional Use/Special Permit General Standards. The conditional use/special permit application process allows the Board of Adjustment to review the location and design of certain proposed uses, the configuration of improvements, and the potential impacts on the surrounding area. The application process also allows the Board of Adjustment to ensure development in each zoning district protects the integrity of that district. The notice, hearing, decision and enforcement procedures are as set forth herein and in BCC 11.52.089.

Certain uses are classified as conditional uses/special uses because of their unusual nature, infrequent occurrence, special requirements, or potentially significant impacts to the environment, public infrastructure or adjacent properties, and/or possible safety hazards and other similar reasons.

Once granted, a conditional use/special permit may be transferred by a holder thereof after written notice to the Board of Adjustment; provided the use and location must remain the same and the transferee must continue to comply with the conditions of the permit and, if applicable, the requirements set forth in BCC 11.52.070."

3. Benton County Code Section 11.52.090(d) states:

"Conditional Use/Special Permit—Permit Granted or Denied. A conditional use/special permit shall be granted only if the Board of Adjustment can make findings of fact based on the evidence presented sufficient to allow the Board of Adjustment to conclude that, as conditioned, the proposed use:

(1) is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;

(2) will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district;

(3) would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district;

(4) will be supported by adequate service facilities and would not adversely affect public services to the surrounding area;

(5) would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the applicable zoning district; and

If reasonable conditions cannot be imposed so as to allow the Board of Adjustment to make the conclusions required above, the conditional use/special permit application shall be denied."

FINDINGS OF FACT:

Based on the application and information received the planning staff makes the following findings.

1. The applicants/owners of the property are Albert and Rose Mary Waterman. The site is located at 18401 Griffin Road Grandview, WA 98930-9154 in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 29, Township 9 North, Range 24 East, W.M. on 3.90 acres.
2. The applicant is requesting approval of a Special Use Permit for the operation of a long arm quilting, sewing classes, fabric and sewing supplies, photographs taken and sold, antiques, miscellaneous sales and consignment items, eggs, including garden supplies and produce.
3. The application for SP 11-06 was submitted to Benton County on June 7, 2011 and was deemed complete for processing on June 8, 2011.
4. The notice for the Benton County Board of Adjustment Open Record Hearing for application SP 11-06 was published on June 23, 2011 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 July 7, 2011.
5. Special Permit Application SP 11-06 is categorically exempt from the requirements of the Washington State Environmental Policy Act.
6. The site is currently developed with a single-family residence and outbuildings.
7. The Benton County Comprehensive Plan designates the site and surrounding areas as "General Commercial".
8. The surrounding areas have been developed with residential structures and agricultural uses so the proposed use as shown in the application would not hinder or discourage the development of permitted uses on neighboring properties in the Unclassified Zone
9. The Benton-Franklin Health District commented: "This office has reviewed our existing data on the property in question and determined that it is served by a single family well and an existing on-site septic system that is sized for a maximum of three bedrooms. After reviewing the proposal this office has the following requirements:
 - (1) Due to the proposed sewing classes that would be given at this location, the single family well serving this property must be approved as a public water supply.
 - (2) An Existing Septic System evaluation must be completed by this office to determine how many sewing classes and attendees are proposed for each day and if the existing on-site septic system could handle the increase in daily use. If the proposed increase in daily use exceeds the capacity of the existing on-site septic system then the applicants would be required to apply for a permit to either expand the septic system or have a separate on-site system installed that is permitted, inspected and approved by this office.
10. The Benton County Fire Marshal had no comment.
11. Benton County Building Department commented, "Building Permits will be required".

12. The Benton County Public Works Department commented that the approach to Griffin Road had already been paved.

13. The applicant has requested that the business hours of operation be Tuesday thru, Saturday, 9 a.m. to 6 p.m. and by appointment.

14. Applicant stated only one sign on the building of 4 x 4 and one freestanding sign of 2 x 2 would be used for the business activity and would not be in the county right-of-way.

15. If this application is approved the applicant must keep the property picked up and cleaned up and that all waste created in association with the business as a result of this special permit must be disposed of off-site in a timely manner.

DISPOSITION OF THE APPLICANT'S REQUEST:

A conditional use/special permit shall be granted only if the Board of Adjustment can make findings of fact based on the evidence presented sufficient to allow the Board of Adjustment to conclude that, as conditioned, the proposed use:

(1) is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;

(2) will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district;

(3) would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district;

(4) will be supported by adequate service facilities and would not adversely affect public services to the surrounding area;

(5) would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the applicable zoning district; and

CONDITIONS OF APPROVAL:

If the Board of Adjustment decides to approve Special Permit Application 11-06, based on the information presented at the public hearing and after making such findings that support that decision, the Planning Department recommends that the following conditions be included:

1. Applicant shall not conduct any of the activities within the scope of Special Permit 11-06 until the applicant is in compliance with the following conditions. 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 special permit until those conditions have been met. The special permit 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 special permit within one (1) Year from the time the Board of Adjustment conditionally approved the special permit, the Board of Adjustment may declare it's 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. For zoning restrictions, all of the business activities must be contained to the areas located within the site plan submitted with the application.
4. That the applicant continues to comply with the Benton Franklin Health District codes and regulations. Any changes or modifications to the original submitted plan must be approved by the Health District and verification provided to the Benton County Planning Department. The applicant shall continue to meet all such requirements while Special Permit SP 11-06 is in effect.
5. No parking within any part of the County Right of Way of Griffin Road will be allowed. The applicant shall continue to meet all such requirements while Special Permit SP 11-06 is in effect.
6. That the presence of customers/clients and non-resident employees at the business activity shall be limited to Tuesday through Saturday between the hours of 9:00 a.m. to 6:00 p.m. and by appointment. The applicant shall continue to meet all such requirements while Special Permit SP 11-06 is in effect.
7. That any proposed outdoor lighting associated with this special use permit is deflected downward to avoid unnecessary glare on neighboring parcels. The applicant shall continue to meet all such requirements while Special Permit SP 11-06 is in effect.
8. That the property owner and the proprietor(s) of the business shall comply with all the requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin District Health Department, and all other local, state and federal regulations pertinent to the special permit pursued. The requirements of or permission granted by the Board of Adjustment shall not be construed as an exemption from such regulations.
9. The Benton County Planning Department, Benton County Building Department, and the Benton County Fire Marshal must approve any changes or modifications to the original submitted application. The applicant shall continue to meet all such requirements while Special Permit SP 11-06 is in effect.
10. Any waste created in association with the business as a result of this special permit must be disposed of off-site in a timely manner and in compliance with all local, state and/or federal regulations. The applicant shall continue to meet all such requirements while Special Permit SP 11-06 is in effect.