

City of Prosser, WA
601 7th Street
Prosser, WA 99350

**CITY OF PROSSER, WASHINGTON
BOARD OF ADJUSTMENT MEETING
AGENDA
6:00 P.M.
THURSDAY, September 4, 2014**

1. Call to Order by Chair

2. Roll Call

3. Approval of minutes for August 1, 2013

ACTION: Approve, deny or make changes, or provide direction to staff.

4. Board of Adjustment rules and procedures.

ACTION: Presentation by Staff

5. Public Hearing Variance 844 Brown Street

ACTION: Approve, deny or make changes, or provide direction to staff.

6. Adjournment

FUTURE AGENDA ITEMS

**CITY OF PROSSER
BOARD OF ADJUSTMENT MEETING
THURSDAY, AUGUST 1, 2013
COUNCIL CHAMBERS, CITY HALL
PROSSER, WASHINGTON**

CALL TO ORDER:

The Board of Adjustment meeting was called to order by Chairperson Dan Baldwin at 6:00 p.m., on August 1, 2013.

ROLL CALL:

Members present were Dan Baldwin, Mike Kelley, Bill Riley, and Larry Walter. Tammy McKeirnan and Eric Stagg were absent. Mark Belmares resigned from the Board and his position is currently open. City Staff present were Planner Steve Zetz and Secretary Howard Saxton.

APPROVAL OF MINUTES:

Larry Walter moved and Bill Riley seconded that the minutes for the June 6, 2013, meeting be approved as drafted. All approved.

**PUBLIC HEARING FOR
CONDITIONAL USE PERMIT
FOR 270 GAP ROAD FOR A
CHURCH ON PROPERTIES
ZONED RM AND CG
(BETHEL):**

The Chair opened a public hearing for a conditional use permit to conduct a church on properties zoned Residential Medium Density District (RM) and Commercial General District (CG) on land commonly known as 270 Gap Road. City Staff and Jim Hopwood provided testimony. The City and the Applicant provided written materials for the hearing. Larry Walter moved and Bill Riley seconded that the Board approve the application for a conditional use permit to build, maintain, use, and occupy a Church in the Commercial General (CG) and Residential Medium Density (RM) zoning districts subject to the following: compliance with the findings of the Board, compliance with the SEPA mitigation measures, compliance with all Prosser Municipal Code Sections applicable to the construction and location of all improvements, contingent upon the Proponent going through additional environmental review before any additional phases beyond Phase I are constructed, and that construction of the facility be commenced within 24 months from the date of the Board's findings. All approved. The proposed findings were read to the Board. Larry Walter moved and Bill Riley seconded to approve and adopt the findings as drafted. All approved.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 6:37 p.m.

Respectfully submitted:

DAN BALDWIN, Chair

**HOWARD M. SAXTON, III,
Secretary**

S:\BD\BD-MIN8113.wpd

Prosser Board of Adjustment

Appearance of Fairness Doctrine:

The appearance of fairness doctrine is a rule of law requiring government decision-makers to conduct non-court hearings and proceedings in a way that is fair and unbiased in both appearance and fact. It was developed by the courts as a method of insuring that due process protections, which normally apply in courtroom settings, extend to certain types of administrative decision-making hearings, such as the granting of a conditional use permit. The doctrine attempts to make sure that all parties to an argument receive equal treatment.

The doctrine requires that adjudicatory or quasi-judicial public hearings meet two requirements:

- they must be procedurally fair, and
- must appear to be conducted by impartial decision-makers.

All public hearings held by the board of adjustment are subject to the doctrine.

By following appearance of fairness requirements, local governments have a method for disqualifying decision-makers from quasi-judicial hearings who have prejudged the issues, who have a bias in favor of one side in the proceeding, who have a conflict of interest, or who cannot otherwise be impartial. "Ex parte" communications between a decision-maker and a proponent or opponent of the matter being decided are prohibited. RCW 42.36.060.

If a decision-maker's participation in a quasi-judicial decision violates the appearance of fairness doctrine and that participation is challenged in a timely manner, a court can invalidate the decision. A new hearing and decision will then need to be made without the disqualified decision-maker.

Conflicts of Interest:

Member of the board of adjustment are municipal officers and if you ever feel uneasy about taking an action because you think that action raises conflict of interest issues? If so, your instincts will probably be right. Your common sense should be a good guide to identify a potential conflict of interest although, as explained below, some conflict of interest issues may not be as easy to spot.

Why should you care? Because acting ethically is the right thing to do. If that isn't sufficient motivation, the ramifications for violations can be serious, including possible monetary penalties, having a contract made in violation of such rules declared void, and possible forfeiture of office for officers who violate these laws.

Washington law governing conflicts of interest regarding municipalities is derived from the State Constitution, statutes, and from law made from court decisions (also known as common law). The general rule from which our state's conflict of interest law derives is that a municipal officer shall not use his or her position to secure special privileges or exemptions for himself, herself, or others. As expressed by our state supreme court many decades ago, the common law principle that a municipal officer is prohibited from adjudicating his or her own cause is "a maxim as old as the law itself." See, *Smith v. Centralia*, 55 Wash. 573 (1909).

Our state law rules regarding conflicts of interest are based on the fundamental principle that municipal officers hold a public trust and they are required to uphold that trust. These rules apply to real and perceived conflicts of interest and, as below described in more detail, include a prohibition against elected officials voting on matters in which they stand to benefit financially.

Open Public Meetings Act (OPMA):

The board is subject to the OPMA. This means that a quorum (four members) of the board can never communicate about board business unless that communication is made during a meeting of the board. This also covers what is known as a serial meeting. A serial meeting occurs when A tells B something about why an application should be denied and then B tells C what A said and C tell D what A said. This type of communication violates the OPMA because a quorum of the governing body discussed what A originally said to B outside of a public meeting.

Public Records Act (PRA)/Decision of the record:

The PRA allows persons to request public records from bodies subject to the PRA. The board is subject to the PRA. You must not use your personal computer/phone/tablet to conduct any business of the board including looking up additional information on you own regarding an application. This would make your personal device subject to inspection by the Courts and the city and potentially by a public records requestor. In addition you must make your decision solely based upon what is placed in the record. Therefore looking up items on your own is also prohibited because you would not be basing your decision solely on what was placed on the public record during the hearing (including what was in your board packet).



LAND USE ZONING & PERMIT APPLICATION

CITY OF PROSSER, WASHINGTON

APPLICANT'S NAME Mike and Alys Means

PROJECT NAME Rental House

PARCEL INFORMATION (Include all parcel(s) information. Attach additional sheets, if necessary.)

Project Address: 844 Brown St. Prosser, WA 99350
(Leave blank if not assigned)

Parcel Number (Property Tax Account Number): 102844040012024

Legal Description: Rich Addition, Block L, Lots 24, 25

PROPERTY OWNER INFORMATION

Name: Mike and Alys Means

Address: 13014 S. 1538 PRSW City: Prosser State: WA Zip: 99350

Phone: (509) 786-6917 Cell Phone: (509) 832-0296

Email: meansma@televar.com (email will not be used for transmittal of official findings)

OWNERS AUTHORIZED AGENT:

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Cell Phone: _____

Email: _____ (email will not be used for transmittal of official findings)

PROJECT INFORMATION

- | | |
|--|--|
| <input type="checkbox"/> Site Review | <input checked="" type="checkbox"/> Conditional Use (requires Conditional Use form LUA-S1) |
| <input type="checkbox"/> Annexation | <input checked="" type="checkbox"/> Variance (requires Variance request form LUA-S2) |
| <input type="checkbox"/> Change of Zone | <input type="checkbox"/> Similar Use |
| <input type="checkbox"/> Accessory Dwelling Unit | <input type="checkbox"/> Encroachment |
| <input type="checkbox"/> Overlay Zone | <input type="checkbox"/> Adult Family Home |
| <input type="checkbox"/> Right-of-Way Use Permit | <input type="checkbox"/> Continuation and/or Minor Alteration of Non-Conforming Use |
| <input type="checkbox"/> Other | <input type="checkbox"/> SEPA |

PROJECT DESCRIPTION Construct rental house - Street frontage variance of 10' (from Park Avenue side.)

City of Prosser
601 7th Street
Prosser WA 99350
(509) 786-2332

RECEIVED
AUG 07 2014
CITY OF PROSSER

PLEASE ATTACH THE REQUIRED VICINITY MAP

ESTIMATED PROJECT VALUATION: \$ 150,000

CONTRACTOR INFORMATION

Company Name: Bierlink Construction Email: _____
Contact Person: Ken Bierlink Contact Phone: 840-2019
Address: Hornby Rd. City: Grandview State: WA Zip: 98930
Contractor's Registration No.: kenbic*055QB Expiration Date: 11/30/14

I, the undersigned, do hereby certify that, to the best of my knowledge, the information on this application and other submitted information is true and correct. In addition, I understand that acceptance of this application and fees does not constitute submittal of a valid application until so informed by the City. I have attached, enclosed, or submitted the applicable fees for this application.

Alip Means 8/7/14
Applicant Signature Date

Alip Means 8/7/14
Owner Signature Date

If the property owner is other than an individual such as a corporation, partnership or agency, please provide proof of signatory authorization.

SITE REVIEW	
<u>Application must include the following.</u>	
1. Critical Areas Worksheet	Deposits are required at the time an application is submitted. You will still get a monthly bill for actual costs incurred. Your deposit will not be refunded until the project has closed. SITE REVIEW \$500.00 Deposit VARIANCE \$500.00 Deposit SITE REVIEW \$500.00 Deposit SEPA \$500.00 Deposit ANNEXATION \$500.00 Deposit ZONE CHANGE \$1000.00 Deposit CONDITIONAL USE \$500.00 Deposit
2. Proof of Legal Lot	
3. Proof of ownership or authority	
4. 25 year Storm Water Calculations stamped by an engineer	
5. Site Plan Drawing which shows....	
<input type="checkbox"/> All existing and proposed lot lines.	
<input type="checkbox"/> The location of all existing structures to remain and the location of all proposed structures.	
<input type="checkbox"/> The location of all utilities proposed to be used.	
<input type="checkbox"/> The proposed number and location of water meters.	
<input type="checkbox"/> The location of all solid waste receptacle areas.	
<input type="checkbox"/> The method of handling storm water removal.	
<input type="checkbox"/> All easements and right-of-ways.	
<input type="checkbox"/> All off-street parking and loading areas.	
<input type="checkbox"/> All driveway locations.	
<input type="checkbox"/> All landscaping, outdoor lighting and fencing.	
<input type="checkbox"/> A north arrow.	
<input type="checkbox"/> Scale of drawing	

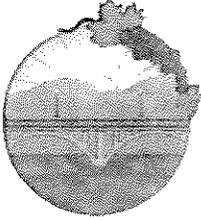
CITY USE ONLY

RECEIVED BY _____ DATE _____

APPROVED BY _____ DATE _____

RETURNED BY _____ DATE _____

REASON FOR APPLICATION RETURN _____



Project # _____ Deposit \$500

VARIANCE REQUEST
CITY OF PROSSER, WASHINGTON
 Supplemental to Land Use application LUA-1

Applicant Name: Alyc and Mike Means Date 8/7/14

Project Name 844 Brown St - Setback Variance

Project Location 844 Brown St., Prosser, wa. 99350

Description of variance: Setback variance for setback from Park Avenue - requesting 10 feet.

INSTRUCTIONS

A variance may be approved when all of the following are found and explained in PMC 18.75.080 (see reverse). **Please write your responses to the following conditions on a separate piece of paper and include with the application.** Be as clear and accurate as possible to avoid misinterpretation of your request.

- A. Special privilege is not being granted, and why.
 - B. The variance is necessary because of special circumstances, and why.
 - C. The granting of the variance will not be materially detrimental to the public welfare, and why.
3. State Environmental Policy Act (SEPA) checklist is required if there is a change in density.

RECEIVED
 AUG 07 2014
 CITY OF PROSSER

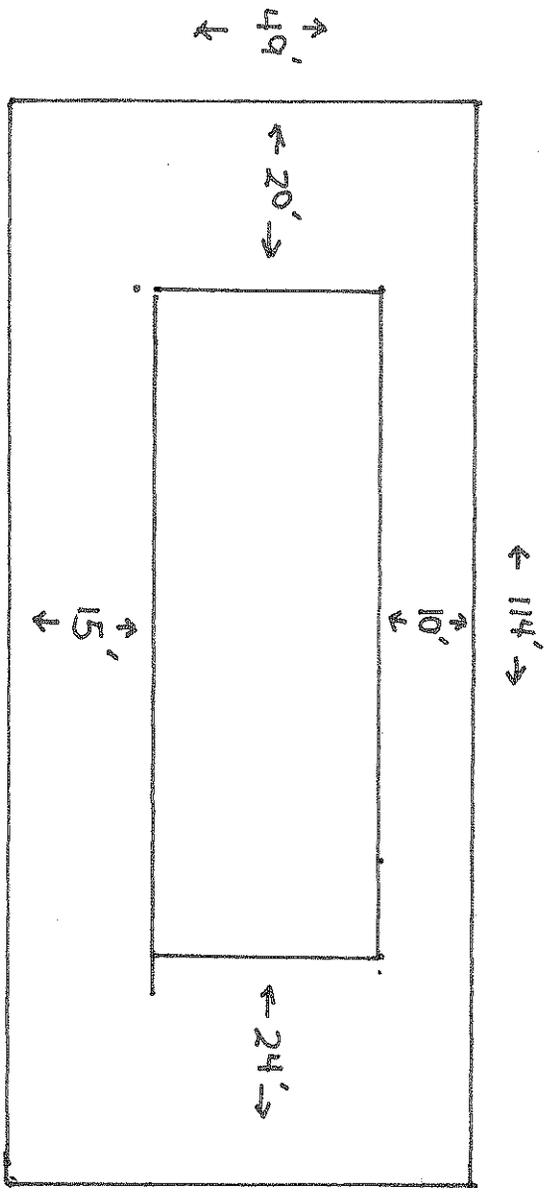
Instructions

- (A) Other structures in vicinity do not meet setbacks as required under section #18. of the City Municipal Code. My request would not constitute a special grant or privilege.
- (B) The lot is small (missing 12') and I request to set it back a safe distance from Park Avenue.
- (C) The project will result in a single family residence in accordance w/ zoning and ~~exists~~ existing nearby structures.

Mike and Olga Means
8/7/14

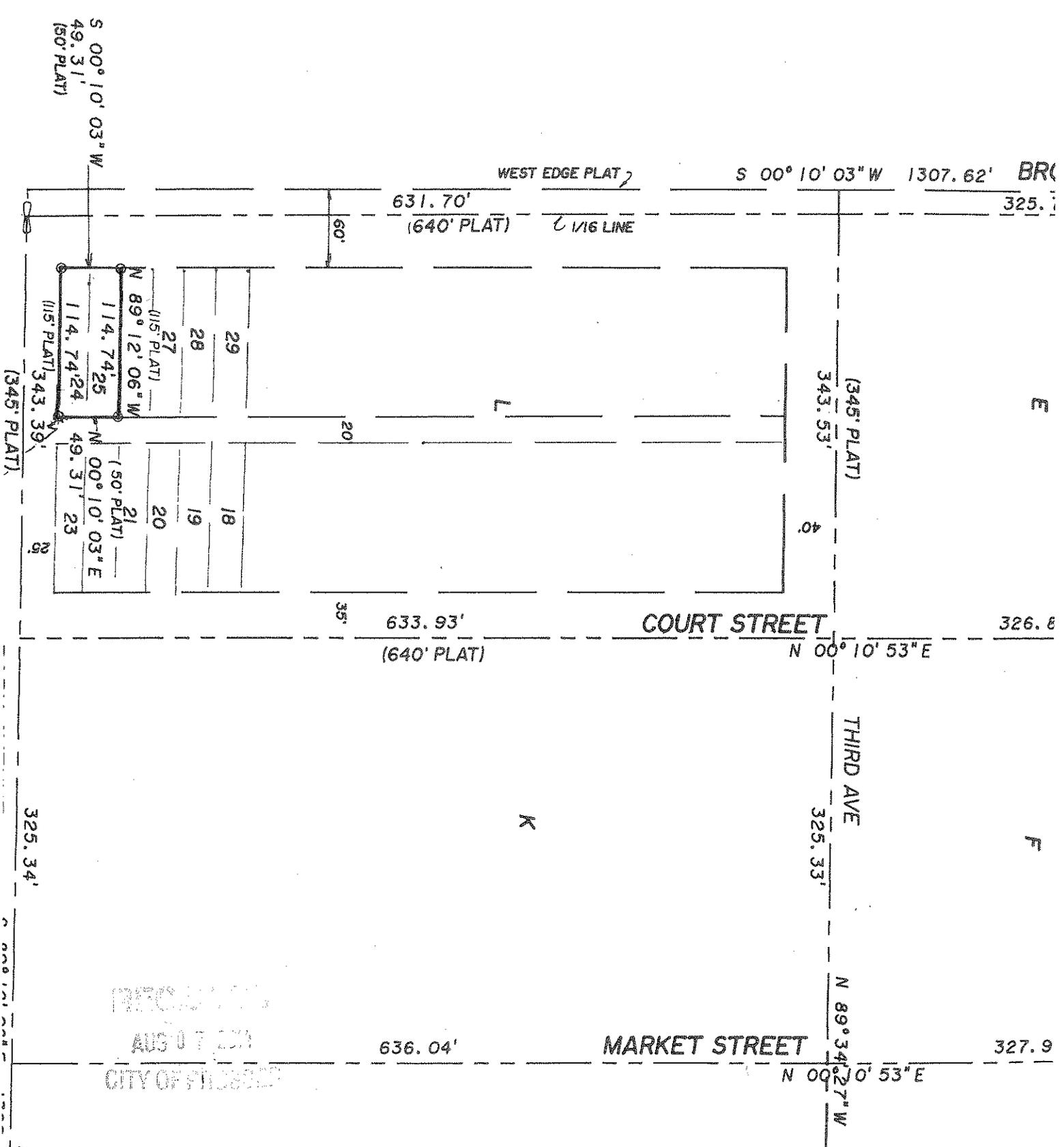
N

BROWN ST.



PARK AVE.

RECEIVED
AUG 07 2014
CITY OF PRUSSER



WEST EDGE PLAT

S 00° 10' 03" W 1307.62' BR

631.70'
(640' PLAT)

325.1

1/16 LINE

60'

S 00° 10' 03" W
49.31'
(50' PLAT)

N 89° 12' 06" W
(115' PLAT)

114.74' 25

114.74' 24

27

28

29

L

20

(345' PLAT)
343.53'

E

40'

(345' PLAT)

N 00° 10' 03" E
(50' PLAT)

49.31' 23

20

19

18

35'

633.93'

COURT STREET

326.6

(640' PLAT)

N 00° 10' 53" E

THIRD AVE

325.33'

F

K

325.34'

N 89° 34' 27" W

MARKET STREET

327.9

636.04'

N 00° 10' 53" E

PRECEDENCE
AUG 07 2008
CITY OF PROSSER

G

H

329. C

TREE
S 00° 10' 03" W
1320.28'

YAKIMA AVENUE

330.87'

320.21'

N 00° 07' 51" E

NOTES

1. BASIS OF BE OF BENTON COUNT
2. SET 5/8" IR 13352" AT PROPEI
3. EQUIPMENT U. STANDARD OF ERR
4. THE WESTERN PLAT DISTANCE FI FOUND IRON PIN, ESTABLISH THE CI
5. THE LINES OF NOT MATCH THE SI OCCUPATIONS LINI WENT SOUTH AT TH

3/32 = 1
SCALE

Note- All records show these to be two 25' lots and with a total of 50' wide. On a present Survey in November 1983 it shows that the lot bordering Park avenue is only 13' wide, and not 25' as listed at the Court house. This Survey was done from the court house survey stakes, and not from the center line of Park avenue. Court house Records show that these lots were plotted in 1893 and shows that they were plotted as two 25' lots.

With the backs set from Park avenue measuring 25' from the center of the road to the first stake is where the property line starts, with an easment allowing a 10' set back from property line on park avenue instead of 15' we would have a total of 38' to build on. There is 12' missing out of these two lots, but with this easment we could build on the 38' left.

PARK AVE.

89° 12' 06" W 331.45'

N 89° 12' 06" W 319.82'

TO PIN

SE CORNER SECTION 2, T8N, R24E
FND 3/4" I. PIPE W/CAP IN CASE

AUDITOR'S OFFICE
FILED FOR RECORD
_____, 1995, A.
M., AND RECORDED
2086, AT THE
INC., P.S.

RECORDED
AUG 07 2001
CITY OF PROSSER

Bobbie Gagn
BENTON COUNTY AUD

RECORD SURVEY NUM

Prosser Municipal Code 18.75.80

Variances are heard and decided by the board of adjustment, in accordance with Title 19.

Variances will be approved only when all of the following are found:

- A. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property, on behalf of which the application was filed, is located; and
- B. That such variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and
- C. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located. (Ord. 1917 § 1 (part), 1997).

Yes and no answers will not be accepted.

All applications must be legible.

A SEPA checklist must be submitted.

No red ink.

Electronic submissions will not be accepted.

Applications must be delivered or mailed to the City Clerk

Prosser City Clerk
601 S 7th St.
Prosser WA
99350