

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

CITY OF PROSSER, WASHINGTON
BOARD OF ADJUSTMENT
AGENDA
6:00 P.M.
Thursday February 4, 2016

1. **Call to Order by Chair**
2. **Roll Call**
3. **Minutes for June 8, 2015**
ACTION: Approve or deny or make changes
4. **Minutes for April 16, 2015**
ACTION: Approve or deny or make changes
5. **Minutes for April 2, 2015**
ACTION: Approve or deny or make changes
6. **Minutes for October 23, 4**
ACTION: Approve or deny or make changes
7. **Public Hearing for modification to previous Variance request.**

SEE HEARING TYPE BELOW

ACTION: Take public testimony. Approve, deny, or make changes.

ATTACHMENTS: Site Plan, Application, previous Variance, Staff Report, Comment Letters.

8. **Adjournment**

Hearing Type: Quasi-Judicial

This is a quasi-judicial hearing. This means that the hearing must not only be fair but appear to be fair. If you have had any ex parte contact with the applicant or anyone, other than City Staff, then you must disclose that contact and the nature of that contact. In the event that you have already made up your mind regarding the subject of this hearing and cannot rely on the evidence presented to make that decision, then you must disclose that fact. In the event that conflicts would prevent a quorum from making a decision in this matter, then, under the doctrine of necessity, you would be able to hear this matter notwithstanding any conflicts. Do you have any conflicts? Does any member of the public believe that any member has a conflict?

**CITY OF PROSSER
BOARD OF ADJUSTMENT MEETING
MONDAY JUNE 8, 2015
COUNCIL CHAMBERS, CITY HALL
PROSSER, WASHINGTON**

CALL TO ORDER:

The Board of Adjustment meeting from June 4, 2015, was recalled to order by Chairperson Dan Baldwin at 6:00 p.m., on June 8, 2015.

ROLL CALL:

Members present were Dan Baldwin, Bill Riley, Tammy McKeirnan, and Reuel Paradis. Mike Kelley and Idalia Aguilar were absent. One position on the Board is currently vacant. City Staff present were Planner Steve Zetz and City Attorney/Secretary Howard Saxton.

APPROVAL OF MINUTES:

Upon motion made by Bill Riley and seconded by Tammy McKeirnan, the minutes of the May 7, 2015, meeting of the Board of Adjustment were approved.

**PUBLIC HEARING FOR A 40-
FOOT-VARIANCE FOR TWO
LOTS IN THE PROPOSED
RIVER ROAD HOMES
SUBDIVISION:**

The Chair re-opened a public hearing for a forty-foot variance to the sixty-foot front lot width requirement in the Residential Manufactured Home Subdivision Zoning District (RMS). The Chair asked if the Board had any conflict in this quasi-judicial matter. No conflicts were identified. All witnesses were placed under oath before they testified. No public was present. The Chair closed the public hearing. Bill Riley moved and Tammy McKeirnan seconded that the variance be approved. All approved. Upon motion made by Tammy McKeirnan and seconded by Bill Riley, the findings for the approval of the variance were approved.

**APPROVAL OF MOO SUNG
KANG FINDINGS:**

Upon motion made by Bill Riley and seconded by Reuel Paradis, the findings for the Moo Sung Kang public hearing for setbacks were approved.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 6:40 p.m.

Respectfully submitted:

DAN BALDWIN, Chair

HOWARD SAXTON, Secretary

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**CITY OF PROSSER
BOARD OF ADJUSTMENT MEETING
THURSDAY, APRIL 16, 2015
COUNCIL CHAMBERS, CITY HALL
PROSSER, WASHINGTON**

CALL TO ORDER:

The Board of Adjustment meeting was called to order by Chairperson Dan Baldwin at 5:30 p.m., on April 16, 2015.

ROLL CALL:

Members present were Dan Baldwin, Reuel Paradis, Mike Kelley, Tammy McKeirnan, Bill Riley, and Idalia Aguilar. One position on the Board is currently vacant. City Staff present were Planner Steve Zetz and City Attorney/Secretary Howard Saxton.

**PUBLIC HEARING FOR A
CONDITIONAL USE PERMIT
FOR 125 NORTH WAMBA
ROAD:**

The Chair re-opened a public hearing for the conditional use permit. The Chair asked if the Board had any conflict in this quasi-judicial matter. No member of the public was present. No conflicts were identified. Steve Zetz summarized the application and clarified that up to 90 total units could be built on the two parcels. He also informed the Board that the LOS on all affected intersections would not fall below level C. Bill Riley moved and Mike Kelley seconded that the Board approve a conditional use permit to build, maintain, use, and occupy an assisted living care center and uses accessory thereto in the Residential Medium Density District (RM) and approve an exemption for the modification of an existing structure pursuant to the City's Critical Areas Ordinance subject to the following: compliance with the SEPA mitigation measures, compliance with all Prosser Municipal Code Sections applicable to the construction, that all storm water will be retained on site and be capable of retaining water from a 25 year, 24 hour storm; that not more than 90 total residential units may be built without an additional conditional use permit having been issued by the Board of Adjustment, and location of all improvements going through additional environmental review before any additional phases beyond Phase I (12 additional units and accessory spaces) are constructed, and that construction of Phase 1 of the facility be commenced within 24 months from April 16, 2015. All approved.

The Board then reviewed the proposed findings. Tammy McKeirnan moved and Mike Kelley seconded that the findings be approved as drafted. All approved.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 5:59 p.m.

Respectfully submitted:

DAN BALDWIN, Chair

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

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**CITY OF PROSSER
BOARD OF ADJUSTMENT MEETING
THURSDAY, APRIL 2, 2015
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 April 2, 2015.

ROLL CALL:

Members present were Dan Baldwin, Reuel Paradis, Mike Kelley and Idalia Aguilar. Tammy McKeirnan and Bill Riley were absent. One position on the Board is currently vacant. City Staff present were Planner Steve Zetz and City Attorney/Secretary Howard Saxton.

**PUBLIC HEARING FOR A
CONDITIONAL USE PERMIT
FOR 125 NORTH WAMBA
ROAD:**

The Chair opened a public hearing for a conditional use permit. The Chair asked if the Board had any conflict in this quasi-judicial matter. No member of the public was present. No conflicts were identified. The following testified at the hearing: Steve Zetz. Mr. Zetz provided the following testimony:

- Currently there is a 28-unit assisted living care center at 125 North Wamba Road.
- The applicant proposes in Phase 1 to add an additional 12 units.
- The applicant also wants both lots owned by him to be covered by a conditional use permit to allow a maximum amount of units of 90.
- The applicant is in the process of completing a seven-foot boundary line adjustment between lots 1 and 2 of Short Plat 2273 in order to meet setbacks.
- The 12-unit addition will not cause any of the affected intersections to fall below a LOS of C.
- The comment period for this hearing is not up until April 6, 2015, so the meeting will have to be continued until after that time.
- The critical aquifer recharge area will not be affected by the applicant's project because all stormwater will be retained on site and all wastewater will be discharged to the city's waste water treatment plant. In addition PMC 16.10.110 provides for an exemption to critical area review for the alteration of an existing structure.

- No other critical areas exist on the site.
- The site has irrigation water.
- All notices in accordance with the Prosser Municipal Code have been provided.

The following provided written testimony for the hearing: the city of Prosser, and the applicant. Mike Kelley moved Reuel Paradis seconded that the public hearing be continued to April 16, 2015, at 5:30 p.m. All approved

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 6:25 p.m.

Respectfully submitted:

DAN BALDWIN, Chair

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

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**CITY OF PROSSER
BOARD OF ADJUSTMENT MEETING
THURSDAY, OCTOBER 23, 2014
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 October 23, 2014.

ROLL CALL:

Members present were Dan Baldwin, Gary Krebbs, Bill Riley, Idalia Aguilar, and Mike Kelley. Tammy McKeirnan and Eric Stagg were absent. City Staff present were Planner Steve Zetz and City Attorney/Secretary Howard Saxton.

APPROVAL OF MINUTES:

No minutes were presented for approval.

**PUBLIC HEARING FOR
VARIANCE AT 451 WINE
COUNTRY ROAD:**

The Chair opened a public hearing for a fourteen-foot variance on the maximum size of an entrance in the Commercial Thoroughfare Zoning District (CT). The Chair inquired whether any member had a conflict regarding this hearing. No member identified a conflict. There was no public present. Steve Zetz briefed the Board Members on the application of Capital Growth Real Estate for a variance necessary to complete the Shopko Hometown project. There were no written comments submitted regarding this application and there was no testimony regarding this application. Mike Kelley moved and Bill Riley seconded that the variance be granted provided the project be commenced within 24 months from the decision. All approved. The Board Members considered findings regarding the decision. Bill Riley moved and Mike Kelley seconded that the findings presented to the Board be approved as drafted. All approved.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 6:20 p.m.

Respectfully submitted:

DAN BALDWIN, Chair

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

**CITY OF PROSSER
BOARD OF ADJUSTMENT MEETING
THURSDAY, SEPTEMBER 4, 2014
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 September 4, 2014.

ROLL CALL:

Members present were Dan Baldwin, Gary Krebbs, Tammy McKeirman, Eric Stagg, and Bill Riley. Idalia Aguilar and Mike Kelley were absent. City Staff present were Planner Steve Zetz and City Attorney/Secretary Howard Saxton.

APPROVAL OF MINUTES:

Bill Riley moved and Tammy McKeirman seconded that the minutes for the August 1, 2013, meeting be approved as drafted. All approved.

**PUBLIC HEARING FOR
VARIANCE AT 844 BROWN
STREET:**

The Chair opened a public hearing for a ten-foot variance on the required twenty-foot front yard set back requirement from Park Avenue. Steve Zetz summarized the application for the Board. Alys Means testified on behalf of the applicant. After further review, the applicant indicated that she might change the improvements she intends to construct on the property to avoid the need for a variance. The applicant requested that the Board continue the public hearing to October. The Board by unanimous acclamation continued the public hearing to the October meeting of the Board, unless the applicant withdraws her application.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 6:20 p.m.

Respectfully submitted:

DAN BALDWIN, Chair

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



Board of Adjustment Staff Report

Variance Sign Deviation Conditional Use Temporary Use Other

Meeting Date: February 4, 2016

Prepared by: Steve Zetz

Applicant: Durbin Investments

Location: 1419 Sheridan Ave

Description:

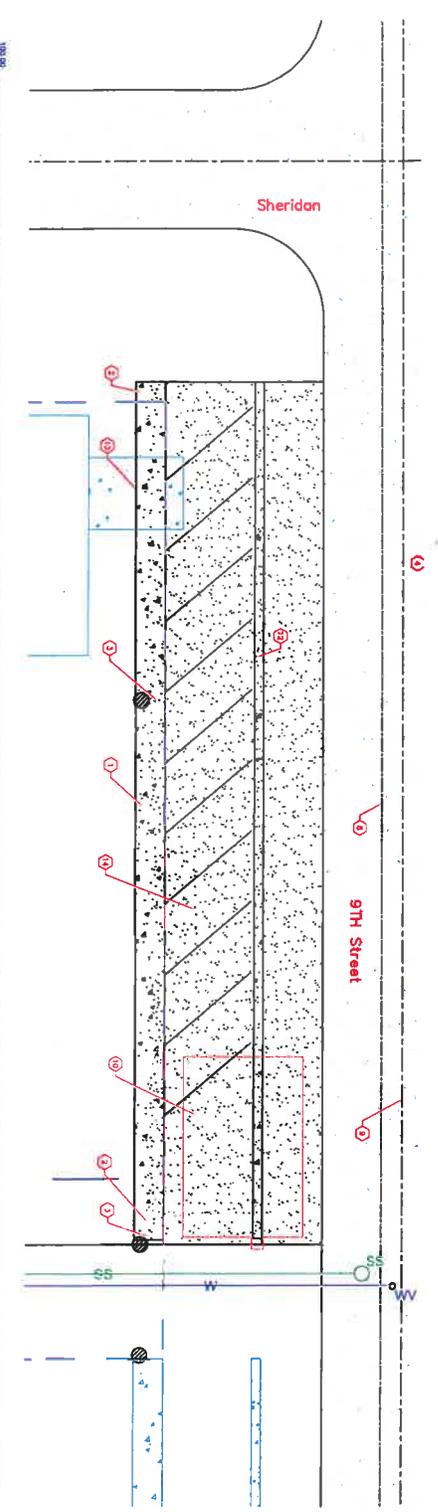
In 2011 Durbin Investments expanded an existing fitness club into a new building that was purchased. As required by Prosser Municipal Code the expansion of any existing use requires Site Review. During the Site Review process it was determined that there was not adequate parking and that a parking lot would have to be constructed, in addition 15.04.090 requires improvements to street frontages be made. Because the lot was on the corner these improvements included Sheridan Avenue and 9th Street. Durbin Investments applied for a Variance that would allow them to construct required parking on the 9th street side of the building as part of the street improvements. This would allow them to use City property for parking rather than using their own property. The Board of Adjustment granted the Variance in 2011. In 2012 the applicant asked for a 2 year extension. A two year extension was granted giving Durbin Investments until December of 2014 to complete the required improvements. Improvements were not made by the deadline.

In early 2015 Mayor Paul Warden met with the Durbins at which time Matt Durbin advised the Mayor that Prosser Memorial Hospital would be making improvements to the existing facility and that the project would allow them to complete the street improvements. A permit was issued with the understanding that a Certificate of Occupancy would not be issued until the required improvements were made. Plans for the street improvement were submitted with the plans for the building improvements.

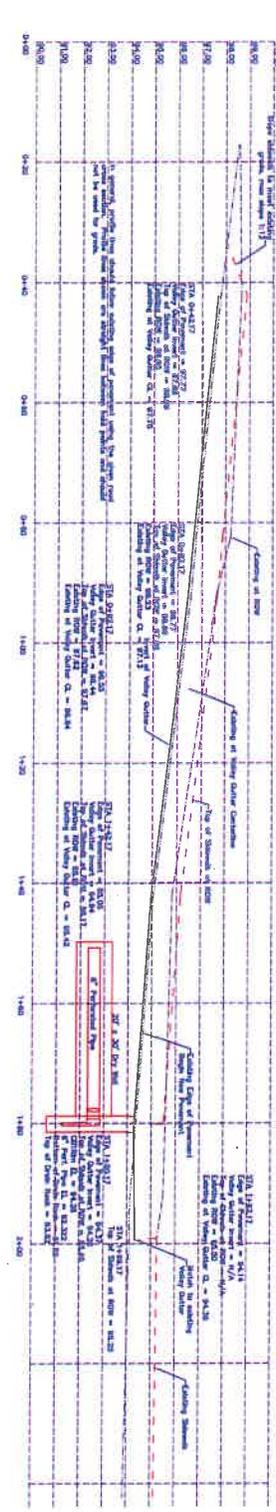
In January 2016 an application was filed with the City to request another extension on the required street improvements.

Recommendation: Improvement requirements are not unique to Prosser and are a matter of standard practice among jurisdictions. The Board of Adjustment previously granted a variance that would benefit Durbin Investments by allowing them to construct required parking in City right-of-way. Several extensions have already been granted with the promises of improvements at future dates. To date no improvements have been made. It is recommended that if the Board of Adjustment grants an extension that it requires the improvements to be bonded and that such bond must be submitted prior to the issuance of a Certificate of Occupancy. This will ensure completion of the required improvements and protect the integrity of the Prosser Municipal Code and the authority of the citizens to ensure development occurs in a manner consistent with the goals and values of the community.

Hearing Type: Quasi-Judicial

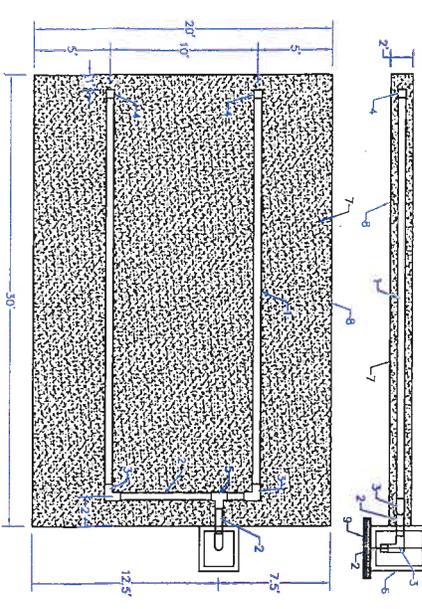


- 1 - 6" perforated PE pipe, centered vertically in drain rock.
- 2 - 6" PE pipe.
- 3 - 8" concrete curb.
- 4 - 8" concrete curb.
- 5 - 6" x 6" x 6" Tee.
- 6 - 1/2" x 1/2" x 1/2" Tee.
- 7 - 1/2" x 1/2" x 1/2" Tee.
- 8 - 1/2" x 1/2" x 1/2" Tee.
- 9 - 4" crushed rock.



Dry Well Details 1 in 6 ft

Invert of Valley Cutter



- 1 - 6" perforated PE pipe, centered vertically in drain rock.
- 2 - 6" PE pipe.
- 3 - 8" concrete curb.
- 4 - 8" concrete curb.
- 5 - 6" x 6" x 6" Tee.
- 6 - 1/2" x 1/2" x 1/2" Tee.
- 7 - 1/2" x 1/2" x 1/2" Tee.
- 8 - 1/2" x 1/2" x 1/2" Tee.
- 9 - 4" crushed rock.



Google earth

Imagery Date: Sep 2005 - 47.123533°N 110.94605°W View: Earth Street View: 10/1/04

4m 10/6



Google earth

© 2015 Google
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© 2015 Google
2:30 PM
2/1/2016

Island of angels child care center llc
425 9th street
Prosser, WA 9350
509 786 0783

RECEIVED
1/28/16
CITY OF PROSSER

January 28, 2016

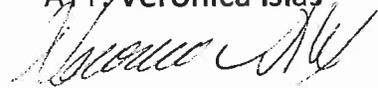
To whom it may concern:

Prosser Family fitness Zone/ Jordan Durbin

Special privilege is not being granted, Because every business has to meet the requirements of street parking, and required street improvements were issued in 2011, and nothing has happened.

The street improvements are required for various reasons, and I do not know why they have not addressed and executed this matter. As a business owner and neighbor, I think another extension should not be granted. If every business has to do their improvements, why there is exceptions for this particular business owners.

ATT: Veronica Islas





**City of Prosser
NOTICE OF
PUBLIC HEARING
&
NOTICE OF APPLICATION**

PROJECT NAME: Variance Modification
Address: 1419/1431 Sheridan Avenue
Parcel # 102841020042028
Applicant: Durbin Investments LLC.
Application Date: January 15, 2016
Issued Date: January 20, 2015

NOTICE IS HEREBY GIVEN by the undersigned City Planner of the City of Prosser, Washington, that the Board of Adjustment will hold a Public Hearing on February 4, 2016 at 6:00 p.m., or as soon thereafter as possible, in the City Council Chambers, City Hall, 601 7th Street, Prosser, Washington, for the purpose of receiving public comment on;

A request to extend a previously issued variance and required street improvements issued in 2011. Applicant is requesting an extension on required improvements for 9th street.

The City Hall Council Chambers is wheelchair accessible. American with Disabilities Act (ADA) accommodations are available upon request to the City Clerk at least 2 days in advance by calling (509) 786-2332.

The public is encouraged to comment and or attend the hearing. All available information and related documents for the application may be viewed at the City Clerk's Office, located at Prosser City Hall, 601 7th Street, Prosser, Washington, between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding official holidays or may be viewed at www.cityofprosser.com. All interested persons may appear and provide testimony or provide written testimony at the public hearing or prior to the public hearing.

Written comments not received by January 28, 2016 10:00 a.m. will not be included in the Board of Adjustment Packet.

The person(s) receiving this notice may request a copy of the final decision in this matter.

The final decisions may be appealed in accordance with the Land Use Petition Act (RCW 36.70C).

A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and copies will be provided at the city's cost or may be viewed online at www.cityofprosser.com

Contact:

Steve Zetz
Prosser City Planner
601 7th Street, Prosser, WA 99350
Phone: 786-2332
szetz@cityofprosser.com



Steve Zetz
Planner
City of Prosser

Published: Prosser Record Bulletin
Publish Date: January 20, 2016



LAND USE ZONING & PERMIT APPLICATION

CITY OF PROSSER, WASHINGTON

APPLICANT'S NAME Prosser Family Fitness Zone / Jordan Durbin

PROJECT NAME Street Improvements on 9th Street.

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

Project Address: 1419 Sheridan Ave. Prosser, WA 99350
(Leave blank if not assigned)

Parcel Number (Property Tax Account Number): 102841020042028

Legal Description: _____

PROPERTY OWNER INFORMATION

Name: Durbin Investments LLC.

Address: 1419 Sheridan City: Prosser State: WA Zip: 99350

Phone: (509) 788-5083 Cell Phone: _____

Email: _____ (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

- Site Review
- Annexation
- Change of Zone
- Accessory Dwelling Unit
- Overlay Zone
- Right-of-Way Use Permit
- Other
- Conditional Use (requires Conditional Use form LUA-S1)
- Variance (requires Variance request form LUA-S2) \$500 deposit
- Similar Use
- Encroachment
- Adult Family Home
- Continuation and/or Minor Alteration of Non-Conforming Use
- SEPA

PROJECT DESCRIPTION _____

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



Project # _____ Deposit \$500

VARIANCE REQUEST

CITY OF PROSSER, WASHINGTON

Supplemental to Land Use application LUA-1

Applicant Name: Jordan Durbin Date 1/15/16

Project Name Road Improvements

Project Location 1419 Sheridan Ave. Prosser, WA

Description of variance: Seeking extension on previously issued variance for the construction of on street parking and street improvements on 9th street.

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.

BEFORE THE BOARD OF ADJUSTMENT

OF THE

CITY OF PROSSER, WASHINGTON

IN THE MATTER OF THE APPLICATION OF)
))
DURBIN INVESTMENTS LLC,) FINDINGS/CONCLUSIONS
))
FOR A VARIANCE TO ALLOW A PORTION OF)
THE REQUIRED PARKING BE PROVIDED)
WITHIN THE RIGHT-OF-WAY INSTEAD OF)
THE APPLICANT’S PROPERTY IN THE)
COMMERCIAL GENERAL ZONING DISTRICT)
(CG))
_____)

Before the Board of Adjustment of the City of Prosser, Washington, in the matter of the application of Durbin Investments LLC (hereafter Proponent) for a variance from the requirement in PMC 18.63 that off-street parking be provided to allow for a portion of the required parking to be on-street provided that Proponent constructs such parking and dedicates it to the City of Prosser, Washington, in the Commercial General Zoning District (CG).

FINDINGS

I.

DETERMINATION OF COMPLETE APPLICATION

The Proponent submitted an application for a site review and a variance on June 27, 2011, and the application was determined to be complete on October 13, 2011, by Administration. The application for the variance is categorically exempt from SEPA. The application for site review is subject to SEPA. The City issued a Determination of Non-significance on November 1, 2011.

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE.FINDINGS

II.

PRELIMINARY DETERMINATION OF CONSISTENCY

The City of Prosser has determined that the application is consistent with the Comprehensive Plan and other planning and zoning requirements. In order to make this determination of consistency the Board of Adjustment must approve a variance allowing the Proponent to construct the required parking on the street right-of-way instead of on the Proponent's real property.

III.

NOTICES

The notice of the application of the hearing was published in the Prosser Record Bulletin on October 19, 2011. Notice was also mailed to land owners within three hundred feet of the Proponent's property. Notice of the hearing and application were provided in accordance with the Prosser Municipal Code (PMC) by publication in the City's official newspaper and by mailing notice to affected landowners. All notices required by the PMC were provided.

IV.

ADDITIONAL FINDINGS

1. Proponent's property is located at 1419 Sheridan Avenue, Prosser, Washington 99350.
2. Proponent's property is identified by Benton County as having parcel number 1-0284-102-0042-020 and is legally described as follows:

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE.FINDINGS

LOTS 7 AND 8, LESS THE SOUTHWESTERLY 5 FEET OF LOT 7, FIRST SUBDIVISION OF PROSSER, ACCORDING TO THE PLAT THEREOF, RECORDS OF BENTON COUNTY, STATE OF WASHINGTON.

3. The property is located on the South side of Sheridan Avenue and on the West side of Ninth Avenue.
4. The property is accessed by Sheridan Avenue and by Ninth Avenue.
5. Proponent's property is a legal lot of record in the City of Prosser.
6. The Proponent's site plan provides for a 3020 square foot addition to the existing fitness center.
7. PMC 18.63.030(B) requires the Proponent to construct eight off-street parking spaces, one parking space for each 400 square feet of floor area of their addition in the CG Zoning District.
8. Proponent proposes approximately nine parking spaces on public property, within the right-of-way of Ninth Avenue.
9. Proponent's property does not front a residential zoning district.
10. Providing parking spaces in the right-of-way with direct street access is consistent with Downtown Prosser.
11. The Property is currently zoned Commercial General District (CG). Other properties in the immediate vicinity are zoned CG.
12. Granting a variance to the Proponent would not be a grant of a special privilege because the number of parking stalls required by the construction of the structure will be provided

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE.FINDINGS

on-street with direct street access in the same manner as they are provided in the Downtown area.

13. There is an existing building which is being renovated on Proponent's lot and the vacant portion of Proponent's lot is not of sufficient size to accommodate the required parking.
14. The small size of the lot and the pre-existing structure creates a special circumstance relating to the property's size which supports the need for a variance in this case.
15. The granting of the variance is not detrimental to the public welfare because granting the variance will allow the expansion of a fitness center which will provide additional recreational opportunities within the City of Prosser.
16. The property is identified as Commercial in the City's Comprehensive Plan.
17. PMC 18.43.020(H) allows private recreational businesses to be located in the CG Zoning District. Proponent's fitness center is a private recreational business.
18. The construction of a fitness center is a permitted use in the CG Zoning District.

V.

TESTIMONY

The City of Prosser participated in the hearing, and no public was present. The City of Prosser, the Proponent, Benton County, Sunnyside Valley Irrigation District, and Benton County Public Utility District Number 1 submitted written materials.

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE.FINDINGS

VI.

DETERMINATION BY THE BOARD OF ADJUSTMENT

The Board of Adjustment approved the provision of parking as required by the Prosser Municipal Code within the right-of-way, contingent upon construction of the road and parking improvements commencing within 12 months from the approval, contingent upon that Proponent signing a no-protest LID waiver to provide for future improvements to Sheridan Avenue (to account for the failure to make improvements to the frontage of Sheridan Avenue), and contingent upon the parking area within the right-of-way being dedicated to the City of Prosser, and further contingent upon Proponent completing site review in accordance with PMC 18.75.040 before constructing the parking area and before remodeling the structure on the premises.

THE BOARD OF ADJUSTMENT SO FINDS.

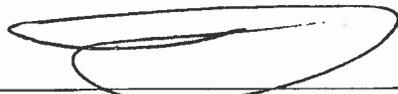
ADOPTED BY THE BOARD OF ADJUSTMENT on this 3rd day of November, 2011.

Date of Notice of Decision to affected parties: 4 Nov., 2011.



LARRY WALTER, CHAIR OF THE BOARD
OF ADJUSTMENT

Attested to by:



HOWARD M. SAXTON, III, SECRETARY OF THE
BOARD OF ADJUSTMENT

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE.FINDINGS

NOTICE OF APPEAL

PLEASE BE ADVISED THAT THERE IS NO ADMINISTRATIVE APPEAL OF THE BOARD OF ADJUSTMENT'S DECISION. ANY APPEAL MUST BE FILED WITH THE BENTON COUNTY SUPERIOR COURT WITHIN 21 DAYS FROM THE DATE OF THE ISSUANCE OF THIS DECISION PURSUANT TO RCW CHAPTER 36.70C.

S:\BDD\DURBIN.VARIANCEPARKING.doc

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE.FINDINGS



**City of Prosser
Washington
Determination of Non-significance (DNS).**

Description of proposal: Variance Request for On Street Parking and Site Review for expansion to 1419 Sheridan Ave, a fitness club.

Proponent: Durbin Investments

Location of proposal: 1419 Sheridan Ave

Lead Agency: City of Prosser

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

- There is no comment period for this DNS.
- This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.
- This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by _____.

Responsible Official: Charles Bush
Position/Title: City Administrator
Address; 601 7th Street, Prosser WA 99350
Date: October 24, 2011

Signature Charles P. Bush Date 11/11/11

- You may appeal this determination to _____ by sending your written comments
Prosser City Hall, 601 7th Street, Prosser, WA. 99350 (509) 786-2332 no later than
_____. You should be prepared to make specific factual objections. Contact
Prosser City Hall to read or ask questions about the procedures for SEPA appeals.

- There is no agency appeal

**CITY OF PROSSER
BOARD OF ADJUSTMENT MEETING
THURSDAY, NOVEMBER 1, 2012
COUNCIL CHAMBERS, CITY HALL
PROSSER, WASHINGTON**

CALL TO ORDER:

The Board of Adjustment meeting was called to order by Chairperson Larry Walter at 6:00 p.m., on November 1, 2012.

ROLL CALL:

Members present were Larry Walter, Dan Baldwin, Mike Kelley, Eric Stagg, Susan Barbus, and Tammy McKeirman. City Staff present were Planner Steve Zetz and Secretary Howard Saxton.

APPROVAL OF MINUTES:

Eric Stagg moved and Tammy McKeirman seconded that the minutes for the October 4, 2012, meeting be approved as drafted. All approved.

**APPROVAL OF FINDINGS
FOR PUBLIC HEARING FOR
AN EXTENSION OF A
PARKING
VARIANCE-DURBIN:**

The Members reviewed the findings prepared by staff for the public hearing held on October 4, 2012, for an extension of a parking variance. Eric Stagg moved and Tammy McKeirman seconded that the findings be approved as drafted. All approved.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 6:07 p.m.

Respectfully submitted:



LARRY WALTER, Chairperson

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

BEFORE THE BOARD OF ADJUSTMENT

OF THE

CITY OF PROSSER, WASHINGTON

IN THE MATTER OF THE APPLICATION OF)
)
DURBIN INVESTMENTS LLC,) FINDINGS/CONCLUSIONS
)
FOR AN EXTENSION OF THE DEADLINE)
FOR A VARIANCE TO ALLOW A PORTION OF)
THE REQUIRED PARKING BE PROVIDED)
WITHIN THE RIGHT-OF-WAY INSTEAD OF)
THE APPLICANT'S PROPERTY IN THE)
COMMERCIAL GENERAL ZONING DISTRICT)
(CG))
_____)

Before the Board of Adjustment of the City of Prosser, Washington, in the matter of the application of Durbin Investments LLC (hereafter Proponent) for an extension of the deadline for a variance from the requirement in PMC 18.63 that off-street parking be provided to allow for a portion of the required parking to be on-street provided that Proponent constructs such parking and dedicates it to the City of Prosser, Washington, in the Commercial General Zoning District (CG).

FINDINGS

I.

DETERMINATION OF COMPLETE APPLICATION

The Proponent submitted an application for a site review and a variance on September 14, 2012, and the application was determined to be complete on September 17, 2012, by Administration. The application for the variance is categorically exempt from SEPA.

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE EXTENSION FINDINGS

II.

PRELIMINARY DETERMINATION OF CONSISTENCY

The City of Prosser has determined that the application is consistent with the Comprehensive Plan and other planning and zoning requirements. In order to make this determination of consistency the Board of Adjustment must approve an extension to a variance authorized by the Board of Adjustment on November 4, 2011, that allowed the Proponent to construct the required parking on the street right-of-way instead of on the Proponent's real property but required all improvements be complete within one-year of the grant of the variance.

III.

NOTICES

The notice of the application of the hearing was published in the Prosser Record Bulletin on September 19, 2012. Notice was also mailed to land owners within three hundred feet of the Proponent's property. Notice of the hearing and application were provided in accordance with the Prosser Municipal Code (PMC) by publication in the City's official newspaper and by mailing notice to affected landowners. All notices required by the PMC were provided.

IV.

ADDITIONAL FINDINGS

1. Proponent testified that due to the economic downturn their business did not have the resources to complete the improvements by November 4, 2012, as required by the previous variance.

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE.FINDINGS

2. Proponent's property is identified by Benton County as having parcel number 1-0284-102-0042-020 and is legally described as follows:

LOTS 7 AND 8, LESS THE SOUTHWESTERLY 5 FEET OF LOT 7, FIRST SUBDIVISION OF PROSSER, ACCORDING TO THE PLAT THEREOF, RECORDS OF BENTON COUNTY, STATE OF WASHINGTON.
3. The property is located on the South side of Sheridan Avenue and on the West side of Ninth Avenue.
4. The property is accessed by Sheridan Avenue and by Ninth Avenue.
5. Proponent's property is a legal lot of record in the City of Prosser.
6. The Proponent's site plan provides for a 3020 square foot addition to the existing fitness center.
7. PMC 18.63.030(B) requires the Proponent to construct eight off-street parking spaces, one parking space for each 400 square feet of floor area of their addition in the CG Zoning District.
8. Proponent proposes approximately nine parking spaces on public property, within the right-of-way of Ninth Avenue.
9. Proponent's property does not front a residential zoning district.
10. Providing parking spaces in the right-of-way with direct street access is consistent with Downtown Prosser.
11. The Property is currently zoned Commercial General District (CG). Other properties in the immediate vicinity are zoned CG.

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE EXTENSION FINDINGS

12. Granting an extension of time to comply with the existing variance to the Proponent would not be a grant of a special privilege because the number of parking stalls required by the construction of the structure will be provided on-street with direct street access in the same manner as they are provided in the Downtown area and the economic downturn has been documented in the media and the effects on the Proponent's business were explained by the Proponent.
13. There is an existing building which is being renovated on Proponent's lot and the vacant portion of Proponent's lot is not of sufficient size to accommodate the required parking.
14. Paved off-street parking has been installed on Sheridan Avenue.
15. The small size of the lot and the pre-existing structure creates a special circumstance relating to the property's size which supports the need for a variance in this case.
16. The extension of the grant of the variance is not detrimental to the public welfare because granting the variance will allow the expansion of a fitness center which will provide additional recreational opportunities within the City of Prosser and on-street parking has been provided for on Sheridan Avenue.
17. The property is identified as Commercial in the City's Comprehensive Plan.
18. PMC 18.43.020(H) allows private recreational businesses to be located in the CG Zoning District. Proponent's fitness center is a private recreational business.
19. The construction of a fitness center is a permitted use in the CG Zoning District.

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE FINDINGS

V.

TESTIMONY

The City of Prosser and the Proponent participated in the hearing, and no public was present. The City of Prosser and the Proponent submitted written materials.

VI.

DETERMINATION BY THE BOARD OF ADJUSTMENT

The Board of Adjustment approved the extension of the provision of parking as required by the Prosser Municipal Code within the right-of-way, contingent upon construction of the road and parking improvements commencing within 24 months from this approval, and contingent upon the parking area within the right-of-way being dedicated to the City of Prosser, and further contingent upon Proponent completing site review in accordance with PMC 18.75.040 before constructing the parking area and before remodeling the structure on the premises.

THE BOARD OF ADJUSTMENT SO FINDS.

ADOPTED BY THE BOARD OF ADJUSTMENT on this 1st day of November, 2012.

Date of Notice of Decision to affected parties: NOV, 2012.



LARRY WALTER, CHAIR OF THE BOARD
OF ADJUSTMENT

Attested to by:



HOWARD M. SAXTON, III, SECRETARY OF THE
BOARD OF ADJUSTMENT

BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE EXTENSION FINDINGS

NOTICE OF APPEAL

PLEASE BE ADVISED THAT THERE IS NO ADMINISTRATIVE APPEAL OF THE BOARD OF ADJUSTMENT'S DECISION. ANY APPEAL MUST BE FILED WITH THE BENTON COUNTY SUPERIOR COURT WITHIN 21 DAYS FROM THE DATE OF THE ISSUANCE OF THIS DECISION PURSUANT TO RCW CHAPTER 36.70C.

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BOARD OF ADJUSTMENT
DURBIN INVESTMENTS LLC
VARIANCE.FINDINGS

RECEIVED
JAN 18 2016
CITY OF PROSSER

Notice

City of Prosser
NOTICE OF
PUBLIC HEARING
&
NOTICE OF APPLICATION
PROJECT NAME: Variance Modification
Address: 1419/1431 Sheridan Avenue
Parcel # 102841020042028
Applicant: Durbin Investments LLC
Application Date: January 15, 2016
Issued Date: January 20, 2016

NOTICE IS HEREBY GIVEN by the undersigned City Planner of the City of Prosser, Washington, that the Board of Adjustment will hold a Public Hearing on February 4, 2016 at 6:00 p.m., or as soon thereafter as possible, in the City Council Chambers, City Hall, 601 7th Street, Prosser, Washington, for the purpose of receiving public comment on;

A request to extend a previously issued variance and required street improvements issued in 2011. Applicant is requesting an extension on required improvements for 9th street.

The City Hall Council Chambers is wheelchair accessible. American with Disabilities Act (ADA) accommodations are available upon request to the City Clerk at least 2 days in advance by calling (509) 786-2332.

The public is encouraged to comment and or attend the hearing. All available information and related documents for the application may be viewed at the City Clerk's Office, located at Prosser City Hall, 601 7th Street, Prosser, Washington, between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding official holidays or may be viewed at www.cityofprosser.com. All interested persons may appear and provide testimony or provide written testimony at the public hearing or prior to the public hearing.

Written comments not received by January 28, 2016 10:00 a.m. will not be included in the Board of Adjustment Packet.

The person(s) receiving this notice may request a copy of the final decision in this matter.

The final decisions may be appealed in accordance with the Land Use Petition Act (RCW 36.70C).

A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and copies will be provided at the city's cost or may be viewed online at

www.cityofprosser.com

Contact:
Steve Zetz
Prosser City Planner
601 7th Street, Prosser, WA 99350
Phone: 786-2332
szetz@cityofprosser.com
Steve Zetz
Planner
Published: Prosser Record Bulletin
City of Prosser
Published January 20, 2016

AFFIDAVIT OF PUBLICATION

STATE OF WASHINGTON }
County of Benton } ss.

Tim Miser

_____ , being
first duly sworn on oath, deposes and says that he is the

Production

_____ of the
PROSSER RECORD-BULLETIN, weekly newspaper. That said newspaper is a legal newspaper and has been approved as a legal newspaper by order of the Superior Court in the county in which it is published and it is now and has been for more than six months prior to the date of the publications hereinafter referred to, published in the English language continually as a weekly newspaper in Prosser, Benton County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That

annexed is a true copy of _____

City of Prosser

Public Hearing / Application

Durbin Investments, LLC

as it was published in regular issues (and not in supplement form) of said newspaper once a week for a period of 1 consecutive weeks

commencing January 20, 20 16

ending January 20, 20 16

both dates inclusive and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee

charged for the foregoing publication is the sum of \$ 63.00, which amount has been paid in full.

Subscribed and sworn to before me this 21st

day of January, 20 16

Debra Raymond Breitenfeldt
Notary Public in and for the State of Washington, residing at Prosser, Washington

