

## KITTITAS COUNTY BOARD OF ADJUSTMENT

April 19, 2006 – 7:00 PM – Commissioners Auditorium

### MINUTES

#### I. Call to Order.

Chairman Roy Chance called the continuation meeting of the Board of Adjustment to order at 7:00 pm.

Those present: Chairman Roy Chance, Frank Jones, Stan Bossart and Daryl Akkerman

Also present: Director of Community Development Services Darryl Piercy, Staff Planner Scott Turnbull, Clerk of the Board Susan Barret and the appellant.

#### II. Unfinished Business.

##### A. Ward Variance (V-06-02) Appeal

The Chair re-opened the hearing to the Ward Variance (V-06-02) Appeal to Board Discussion.

**Darryl Piercy** spoke to the issue of administrative review authority of a lot line variance and submitted into the record (**Exhibit A**) a four page memorandum consisting of e-mailed correspondence between himself and Chief Civil Deputy Prosecutor James Hurson and Kittitas County Code Chapter 17.84 – Variances.

**Frank Jones** stated that the document presented speaks only to Kittitas County Code; his concern is in RCW 36.70.810 Board of Adjustment Authority by the State sec 2 “application for variances from the terms of the zoning ordinance provided that any variances granted shall be subject to such conditions as will assure etc., etc.” the document presented by Piercy does not address State law and the heart of the issue is which rule supersedes; the ordinance of the county or the law of the state. **Piercy** responded that law of the state allows for local jurisdictions to set rules and provisions are in place that allow local authority to designate process. **Jones** stated that council is needed to speak specifically to state law.

Further discussion ensued surrounding the issue of authority in the process of granting or denying variance requests; county code versus state law and the lack of legal representation present.

**Chance** ruled that the email presented (Exhibit A) was indeed from Hurson and an official opinion from Kittitas County Council that the granting of this variance was within Community Development Services authority.

***Jones moved to continue this meeting to a date to be decided and require Kittitas County provide Council to the Board regarding this issue. Stan Bossart seconded.***

Discussion of the motion ensued. **Chance** stated that the operational and practical task remains to decide the variance appeal and that it is in the best interest of the citizen to make the decision. **Akkerman** stated that the issue of legal council must first be resolved. **Piercy** stated that the ordinance is law of the county; that has never been challenged or overturned in a court of law and therefore must be considered valid. **Chance** requested the motion made last week to continue be read back to the Board. The Clerk read into the record that motion:

***"Frank Jones moved to continue this hearing to Wednesday, April 19, 2006 in the Commissioners Auditorium so that in the interim Kittitas County legal council may be consulted to answer the question: does the Kittitas County Development Services have the authority to make decisions on boundary line variances. Richard Kloss seconded and the motion passed with a 2/1 poll of the board with Roy Chance voting against"***

**Chance** stated that the motion made the previous week has been satisfied by the document presented. **Jones** disagreed stating that the motion has not been satisfied as council was not present.

The motion was restated by Frank Jones. ***Jones moved that this meeting be continued at a date to be decided at which Kittitas County council will appear before the board regarding the issue of variances and authority thereof. Bossart seconded and the motion carried with a 3/1 poll of the board with Chance voting against.***

The meeting shall be continued to a date and time as required for timely notification to all parties. The meeting was adjourned at 7:46 p.m.

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Susan Barret, Clerk of the Board