

CITY OF PULLMAN

Public Works and Planning Departments

325 S.E. Paradise Street, Pullman, WA 99163
(509) 338-3220 or (509) 338-3213 Fax (509) 338-3282
www.pullman-wa.gov

MEMORANDUM

TO: Pullman Board of Adjustment

FROM: Pete Dickinson, Planning Director
Jason Radtke, Assistant Planner *JR*

FOR: Meeting of October 17, 2011

SUBJECT: Zoning Code Variance No. V-11-3
Langdon Side Yard Setback Variance

DATE: October 13, 2011

Staff Report No. 11-9

BACKGROUND DATA

Applicant: Dan Langdon

Property Location: 555 and 557 SW Crithfield Court (See Attachment A, Location and Zoning Map).

Applicant's Request: Obtain a variance to allow an existing structure to continue with a 3.5-foot interior side yard setback, as opposed to the five-foot interior side yard setback prescribed in the zoning code (See Attachment B, Application V-11-3; and Attachment C, Site Plan).

Property Zoning: R2 Low Density Multi-Family Residential.

Applicable Zoning Code Regulations: Subsection 17.75.080(7) states that the minimum required interior side yard setback in all residential districts is five feet.

Property Features: Current Land Use: Duplex.
Lot Area: 7,221 square feet.

Utilities: The property is served by city water and sanitary sewer lines.

Topography: The property is graded for existing residential development on the east side of the property with some moderate slopes at the west side of the property.

Vegetation: There are no significant trees on the property.

Adjacent Zoning
and Land Use:

North: R1 Single Family Residential and R2 district; single family homes, duplexes and vacant properties.

South: R1 and R2 districts; single family homes and condominiums.

West: R1 and R2 districts; single family homes.

East: R2 and R3 Medium Density Multi-Family Residential/MHP Manufactured Home Park Overlay districts; single family homes and manufactured home park.

Access:

SW Crithfield Court, designated as a local access street in the Pullman Comprehensive Plan Arterial Street Plan Map.

Hearing
Notification:

Notice of Public Hearing mailed 10/4/11; Notice of Public Hearing published 10/6/11; Notice of Public Hearing posted at subject property 10/5/11.

Comments of Affected
Departments/Agencies:

Notification of the applicant's request was distributed to affected governmental entities. These entities, and a summary of their responses to the notification, are presented below.

- a. Department of Public Works: No concerns.
- b. Protective Inspections Division: *No response.*
- c. Department of Public Services: *No response.*
- d. Fire Department: No concerns.
- e. Police Department: No concerns.
- f. Pullman School District: *No response.*

PERTINENT PLANNING PROVISIONS

There are a number of provisions contained within the Comprehensive Plan and zoning

code that relate to this variance request. These provisions, which are available for review at the city's web site (www.pullman-wa.gov), are referenced below.

Comprehensive Plan Goals LU4, H2 and their respective policies.
Zoning Code Sections 17.01.050, 17.75.010, 17.75.080 and 17.130.020

ZONING CODE VARIANCE REVIEW CRITERIA

According to Zoning Code Section 17.130.020, a variance may be approved when all of the following findings required by this section can be made.

- (1) Special Circumstances. That because of special circumstances relating to the property, the strict enforcement of the Zoning Code would deprive the owner of development rights and privileges permitted to other properties in the vicinity with the same zoning.
 - (a) Special circumstances include the size, shape, topography, location of the property and surrounding property, and environmental factors such as vegetation, streams, ponds, and wildlife habitats.
 - (b) Special circumstances should not be predicated upon any factor personal to the owner/applicant such as age or disability, extra expense which may be necessary to comply with the Zoning Code, the ability to secure a scenic view, the ability to make more profitable use of the property, or any factor resulting from the action of the owner/applicant.
- (2) Special Privilege. That approval of the variance is not a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning.
- (3) Comprehensive Plan. That approval of the variance is consistent with the Comprehensive Plan.
- (4) Zoning Ordinance. That approval of the variance is consistent with the purposes of the zoning code and the zone district in which the property is located.
- (5) Not Detrimental. That the variance as approved or conditionally approved will not be significantly detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity and same zone.

- (6) Minimum Variance. That the approved variance is the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

STAFF ANALYSIS AND RECOMMENDATION

Planning staff is in favor of granting the proposed variance. The applicant wishes to correct a situation in which the duplex was constructed 3.5 feet from the northern interior side property line. In order to bring the structure back into compliance, the applicant is requesting permission to retain the 3.5-foot setback as opposed to altering the structure to meet the standard five-foot setback dimension. The applicant states that he originally attempted to remedy the situation through a boundary line adjustment, but, after pursuing this avenue for almost three years, has found it to be an impossibility. The subject property is located in a secluded neighborhood. The parcel, with five lot lines, is an irregular shape, and there are moderate slopes, up to approximately 2 horizontal:1 vertical, on the property. These conditions made placement of the duplex elsewhere on the property difficult.

Zoning Code Subsection 17.130.020(1) states that a variance may be granted based on special circumstances pertaining to the parcel under consideration. This subsection indicates that special circumstances may include "topography" and "shape of the property." Staff believes that the topography of the parcel combined with the irregular shape of the parcel constitute special circumstances that help justify the proposed variance. Given that these special circumstances exist, the request for a 3.5-foot side setback would not be considered a grant of special privilege compared to other properties in the vicinity. Also, the suggested variance appears to be the minimum necessary to correct the situation.

From staff's perspective, the proposed variance, being relatively minor in nature, would not be detrimental to the public health, safety, and welfare, nor would it be injurious to surrounding properties. The property and existing structure are compliant with all other provisions of the zoning code.

Given the above discussion, staff believes that the applicant's proposal would advance the objectives of Comprehensive Plan Goal LU4 to "preserve opportunities for high quality, diversified life styles within the community's residential neighborhoods" and Zoning Code Subsection 17.01.050(1) to "promote the public health, safety, order, convenience, and general welfare."

FINDINGS OF FACT AND CONCLUSIONS

The applicant has provided proposed findings of fact for this case (See Attachment D). Planning staff has also prepared findings of fact and conclusions for consideration at the

public hearing. Staff's findings and conclusions are incorporated in draft Resolution No. BA-2011-5 (See Attachment E).

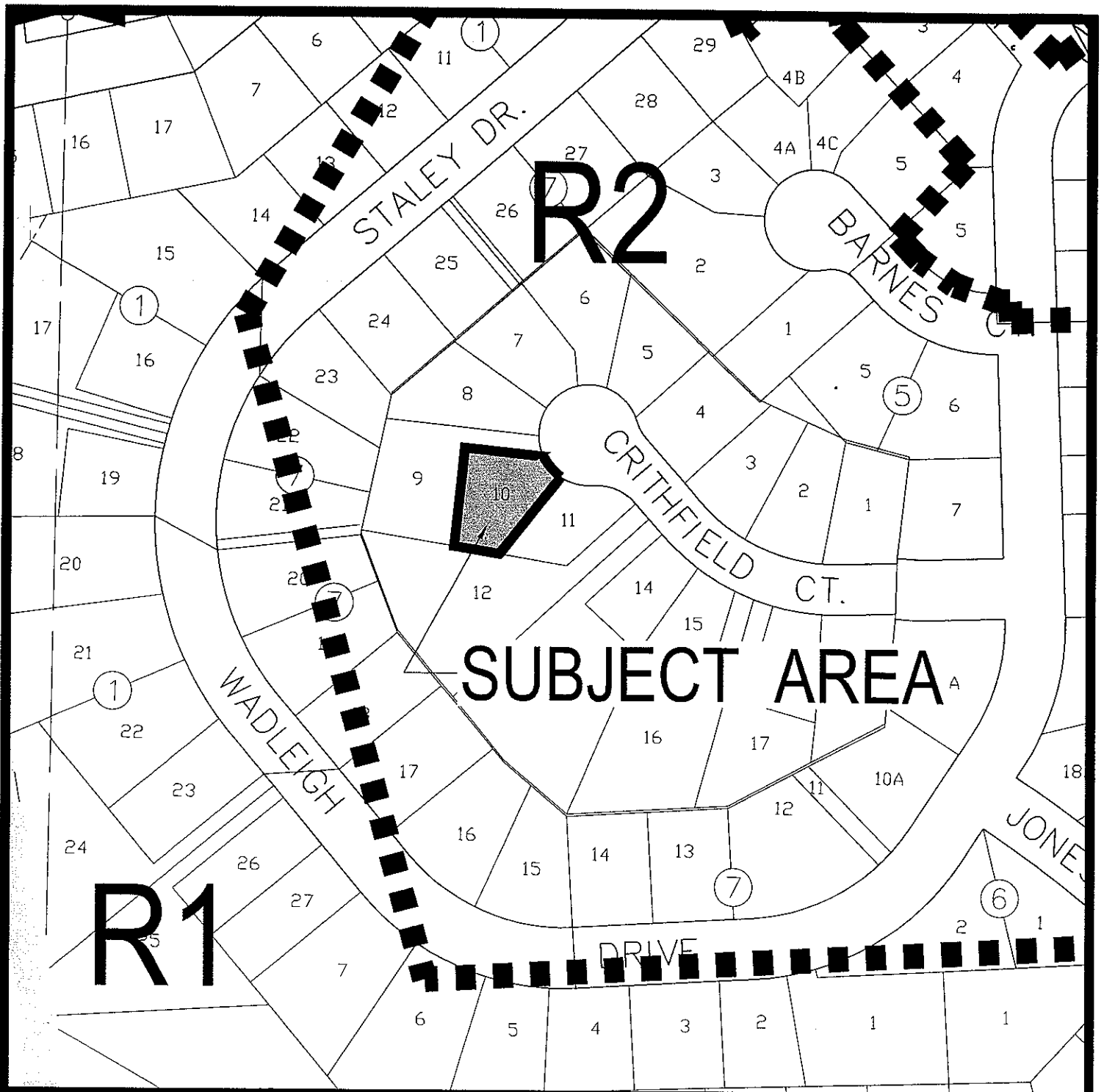
Prior to making a decision to approve or deny a zoning code variance, the Board must adopt findings of fact and conclusions which specify the basis for its decision. The Board may abstract findings and conclusions from the applicant, staff, public, or Board of Adjustment members.

ACTION REQUESTED

- A. Establish rules of procedure and ask Appearance of Fairness questions.
- B. Accept staff report.
- C. Take testimony on the request for a zoning code variance.
- D. Adopt, by motion, Findings of Fact.
- E. Adopt, by motion, Conclusions.
- F. Move to approve or deny the granting of the zoning code variance. If the motion is to approve, the same motion should include any conditions the Board wishes to apply.

ATTACHMENTS

- "A" Location and Zoning Map
- "B" Variance Application
- "C" Site Plan
- "D" Applicant's Proposed Findings of Fact
- "E" Draft Resolution No. BA-2011-5



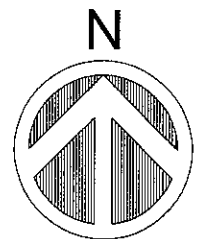
SUBJECT PROPERTY

CITY LIMITS



ZONING DISTRICT BOUNDARY

P:\Engr & CAD\PLANNER\LOCMAPSv-11-3.dwg



LOCATION & ZONING MAP

CASE NUMBER
V-11-3

ATTACHMENT "A"

RECEIPT NO.: 41740
DATE APPLICATION RECEIVED: 9-19-11
DATE APPLICATION ACCEPTED AS COMPLETE: _____

CITY OF PULLMAN
ZONING CODE VARIANCE APPLICATION
Pullman City Code 17.130

APPLICANT:

NAME: DAN LANGDON
ADDRESS: 456 SW 191ST ST NORMANDY PARK, WA. 98166
TELEPHONE: 206 - 909-8650
STATUS (property owner, lessee, agent, purchaser, etc.): PRESIDENT, QUINCY LAND CO. LLC

PROPERTY OWNER (if different than applicant):

NAME: QUINCY LAND COMPANY, LLC
ADDRESS: 456 SW 191ST ST. NORMANDY PARK, WA. 98166
TELEPHONE: 206 - 909-8650

PROPERTY LOCATION (general or common address):

TOWNHOUSE DUPLEX AT 555 & 557 SW CRITHFIELD COURT
PULLMAN, WA. 99163.
(LOT 10 OF STALEY 8TH ADDITION AS RECORDED UNDER # 622722)

VARIANCE REQUESTED:

State Pullman City Code section(s) involved, and give description of and reason for request.

THE TOWNHOUSE DUPLEX, AS CONSTRUCTED IS IN VIOLATION
OF THE FIVE FOOT SIDE YARD SETBACK CODE. THE DISTANCE
BETWEEN THE FRONT PORCH CORNER POST AND THE NORTHERN PROPERTY
LINE IS 3.5 FT. THIS CORNER POINT IS THE ONLY PORTION OF THE
STRUCTURE THAT VIOLATES THE SET BACK REQUIREMENT.

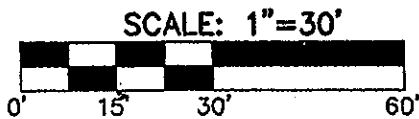
THE CONTRACTOR HAD AN EXTREMELY DIFFICULT TIME PLACING
THE STRUCTURE ON LOT 10 GIVEN THE IRREGULAR SHAPE OF THE LOT,
THE STEEP SLOP, AND SIGNIFICANT AMOUNT OF TOPSOIL THAT HAD TO
BE REMOVED IN ORDER TO FIND SUITABLE GROUND FOR THE FOOTINGS.

THE ORIGINAL INTENT WAS TO REMEDY THE ENCROACHMENT
WITH A BOUNDARY LINE ADJUSTMENT. AFTER PURSUING THIS
AVENUE FOR ALMOST THREE YEARS, IT HAS PROVEN TO BE
IMPOSSIBLE TO ACCOMPLISH.

All information provided in this application is said to be true under penalty of perjury by the laws of the State of Washington.

Dan Langdon
Applicant's Signature

September 14, 2011
Date



existing
boundary

Lot 9

7.85' SETBACK
AS BUILT

3.5' SETBACK
AS BUILT

78.75'

COVERED PORCH

WALKWAY

drive

existing duplex
Lot 10

drive

COVERED PORCH

WALKWAY

8.3' SETBACK
AS BUILT

Lot 11

N 06°01'50" 97.96'

S 38°37'58" W
97.91'

N 80°24'25" W 206.58'

45.47'
25.50'

68.61'

existing
10' wide
utility
easement

Lot 12

APPLICANT'S PROPOSED FINDINGS OF FACT

Applicant: Dan Langdon

Date: September 14, 2011

1. SPECIAL CIRCUMSTANCES:

Because of the irregular shape, steep slope, and extreme depth of organic soil found on the building lot, it became extremely difficult if not impossible to place the structure on the lot within the defined setback rules outlined in the building code.

2. SPECIAL PRIVILEGE:

The approval of this variance request is not a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity within the same zoning.

3. COMPREHENSIVE PLAN:

The approval of this variance request has no direct or indirect impact upon and is consistent with the Comprehensive Plan.

4. ZONING CODE:

The approval of this variance request has no direct or indirect impact upon and is consistent with the purposes of the Zoning Code and the zone district in which the property is located.

5. NOT DETRIMENTAL:

The variance as approved or conditionally approved will not be significantly detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity of the same zone.

6. MINIMUM VARIANCE:

The approved variance is the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

**BEFORE THE BOARD OF ADJUSTMENT
FOR THE CITY OF PULLMAN**

In the Matter of Zoning
Zoning Code Variance
Application No. V-11-3

) Resolution No. BA-2011-5
)
) A Resolution Adopting Findings of Fact and
) Conclusions Representing the Official
) Determination of the City of Pullman
) Board of Adjustment

WHEREAS, a zoning code variance application was duly filed by Dan Langdon for a variance to reduce the standard interior side yard setback for an existing duplex at the property described in Exhibit "A," attached hereto and by this reference made a part hereof as though set forth in full herein; and,

WHEREAS, a notice of the Board of Adjustment public hearing on this matter was mailed to the applicant and property owners within 300 feet of the subject property on October 4, 2011, said notice was posted at the subject property on October 5, 2011, and said notice was published in the Daily News on October 6, 2011; and,

WHEREAS, a public hearing was held before the Board of Adjustment on October 17, 2011, in the Council Chambers at City Hall, 325 SE Paradise Street, Pullman, Washington, at which time public comment from persons favoring and opposing this zoning code variance application was solicited, and after hearing public comment thereon, Board members deliberated over the matter in open session; and,

WHEREAS, this Board now considering it appropriate to enter its formal written decision, makes and enters the following

Findings of Fact

1. On September 19, 2011, Dan Langdon filed a zoning code variance application with the planning department to allow an existing duplex to continue with a 3.5-foot interior side yard setback as opposed to the five-foot minimum setback prescribed in the zoning code at 555 and 557 SW Crithfield Court; said application was labeled by planning staff as No. V-11-3.
2. The subject property is located within an R2 Low Density Multi-Family Residential zoning district.
3. Subsection 17.75.080(7) states that the minimum required side yard for interior property boundaries in all residential districts is five feet.

4. The subject property is approximately 7,221 square feet in size and is occupied by a duplex.
5. The property is graded for residential development on the east side of the property with some moderate slopes at the west side of the property.
6. The subject property is served by city water and sanitary sewer lines.
7. There are no significant trees on the subject property.
8. The area to the north is zoned R1 Single Family Residential and R2 is occupied by single family houses, duplexes and vacant properties, the area to the south is zoned R1 and R2 and is occupied by single family houses and condominiums, the area to the west is zoned R1 and R2 and is occupied by single family houses; the area to the east is zoned R2 and R3 Medium Density Multi-Family Residential with an MHP Manufactured Home Park Overlay and is occupied by single family houses and a manufactured home park.
9. Access to the subject property is gained by way of SW Crithfield Court, designated as a local access street in the Pullman Comprehensive Plan.
10. Staff Report No. 11-9, dated June 16, 2011, includes the following description of responses from agencies to which a notice of the subject application was transmitted:

Department of Public Works: No concerns.

Protective Inspections Division: *No response.*

Department of Public Services: *No response.*

Fire Department: No concerns.

Police Department: No concerns.

Pullman School District: *No response.*

11. Staff Report No. 11-9 states that the following Pullman Comprehensive Plan and zoning code provisions pertain to the subject application:

Comprehensive Plan Goals LU4, H2 and their respective policies.

Zoning Code Sections 17.01.050, 17.75.010, 17.75.080 and 17.130.020.

12. According to Zoning Code Section 17.130.020, a variance may be approved when all of the following findings required can be made:
 - (1) Special Circumstances. That because of special circumstances relating to the property, the strict enforcement of the Zoning Code would deprive the owner of development rights and privileges permitted to other properties in the vicinity with the same zoning.

- (a) Special circumstances include the size, shape, topography, location of the property and surrounding property, and environmental factors such as vegetation, streams, ponds, and wildlife habitats.
 - (b) Special circumstances should not be predicated upon any factor personal to the owner/applicant such as age or disability, extra expense which may be necessary to comply with the Zoning Code, the ability to secure a scenic view, the ability to make more profitable use of the property, or any factor resulting from the action of the owner/applicant.
- (2) Special Privilege. That approval of the variance is not a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning.
 - (3) Comprehensive Plan. That approval of the variance is consistent with the Comprehensive Plan.
 - (4) Zoning Ordinance. That approval of the variance is consistent with the purposes of the zoning code and the zone district in which the property is located.
 - (5) Not Detrimental. That the variance as approved or conditionally approved will not be significantly detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity and same zone.
 - (6) Minimum Variance. That the approved variance is the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

13. Staff Report No. 11-9 states the following:

Planning staff is in favor of granting the proposed variance. The applicant wishes to correct a situation in which the duplex was constructed 3.5 feet from the northern interior side property line. In order to bring the structure back into compliance, the applicant is requesting permission to retain the 3.5-foot setback as opposed to altering the structure to meet the standard five-foot setback dimension. The applicant states that he originally attempted to remedy the situation through a boundary line adjustment, but, after pursuing this avenue for almost three years, has found it to be an impossibility. The subject property is located in a secluded neighborhood. The parcel, with five lot lines, is an irregular shape, and there are moderate slopes, up to approximately 2 horizontal:1 vertical, on the property. These conditions made placement of the duplex elsewhere on the property difficult.

14. Staff Report No. 11-9 includes the following paragraph:

Zoning Code Subsection 17.130.020(1) states that a variance may be granted based on special circumstances pertaining to the parcel under consideration. This subsection indicates

that special circumstances may include "topography" and "shape of the property." Staff believes that the topography of the parcel combined with the irregular shape of the parcel constitute special circumstances that help justify the proposed variance. Given that these special circumstances exist, the request for a 3.5-foot side setback would not be considered a grant of special privilege compared to other properties in the vicinity. Also, the suggested variance appears to be the minimum necessary to correct the situation.

15. Staff Report No. 11-9 states the following:

From staff's perspective, the proposed variance, being relatively minor in nature, would not be detrimental to the public health, safety, and welfare, nor would it be injurious to surrounding properties. The property and existing structure are compliant with all other provisions of the zoning code.

16. Staff Report No. 11-9 reads, in part, as follows:

Given the above discussion, staff believes that the applicant's proposal would advance the objectives of Comprehensive Plan Goal LU4 to "preserve opportunities for high quality, diversified life styles within the community's residential neighborhoods" and Zoning Code Subsection 17.01.050(1) to "promote the public health, safety, order, convenience, and general welfare."

From the foregoing Findings of Fact, this Board now makes the following

Conclusions

1. The strict enforcement of the zoning code in this instance would deprive the applicant of development rights and privileges permitted to other property owners because there appear to be special circumstances associated with this proposal; those special circumstances relate to topography and the irregular shape of the lot with five lot lines.
2. Approval of this variance request would not be a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning.
3. Based on the above conclusions, the proposed variance appears to be consistent with the applicable goals and policies of the Comprehensive Plan.
4. Based on the above conclusions, the proposed variance appears to be consistent with the general purposes of the zoning code and the purposes of the zone district in which the property is located.
5. The granting of this variance would not be detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity and same zone.

6. The approval of this variance is the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Adjustment for the city of Pullman that, based upon the foregoing Findings of Fact and Conclusions, this Board now makes and enters its formal

Decision

Zoning Code Variance Application No. V-11-3 is hereby approved without conditions.

DATED this _____ day of _____, 2011.

Mark Yrazabal, Vice Chairperson
Pullman Board of Adjustment

ATTEST:

Pete Dickinson, Planning Director

LEGAL DESCRIPTION

V-11-3

In the county of Whitman, State of Washington, to wit:

Lot 10 of Staley 8th Addition, according to the plat thereof recorded under Auditor's File Number 622772, records of said county.

Approved for Form:


 10-3-11
Engineering Technician Date

EXHIBIT "A"