



## Board of Adjustment Meeting Minutes

A regular meeting of the Okanogan County Board of Adjustment was held on June 21, 2011 at 7:30 p.m. in the Commissioners' Hearing Room, 123 5th Avenue North, Okanogan, Washington.

**BOARD OF ADJUSTMENT MEMBERS** present included: Chair Steve Kunkel, Board Member Loren Holthaus, Board Member Dan DeWeert, and Board Member Dan Christensen.

**OKANOGAN COUNTY STAFF** in attendance included: Director of Planning Perry Huston, Senior Planner Ben Rough, Planner II Randy Johnson, and Administrative Secretary Sharon McKenzie.

**APPELLANT/APPLICANTS OR THEIR REPRESENTATIVES** in attendance: Don Becker, Clayton Belmont, Barb Preston, Jacque Bruns, A. C. Morgan, Laurie Morgan, Wendy Neet, Gary Bleeker, Tony Annalora, Jaqueline Bellinger, and Larry Zimmerlund.

**OTHERS** in attendance: R. H. Golleher, Jerry Henrick, Bill Bullock, Mary Ann Bullock, Robert C. Pierce, Ted Willhite, T. F. Willi, Wayne Wells, James Williams, Daniel Orozco, Jennifer Drader, Aaron Morgan, Melissa Lickfold, Eve Sapp, Daniel Sapp, Verala Booth, Cindy McIntosh, Starr Golleher, Morey Wilken, Roberta Turner, Philip Turner, Sue Skaarvold, Bill Johnson, Kathie Johnson, Joe Booth, Lee Skaarvold, Greg Johnson, Ron L. Schmidt, Brenda Jones, Michael A. Jones, Sue Christopher, Peggy Willis, Stan Carter, Reva Peoples, Daryl Pfitzen, Danielle Denadl, and Bims Paldon.

The meeting was called to order by Chair Steve Kunkel at 7:30 p.m.

### **Approval of the Agenda**

Chair Kunkel requested the Board approve adjournment of this evening's meeting at 9:30 PM. In the event the business of this evening's meeting was not complete, the unfinished items would be continued to the next regularly scheduled meeting on July 19<sup>th</sup> 2011 at 7:30 PM. The Board approved the request.

Board Member Holthaus moved to approve the June 21, 2011 agenda. Board Member DeWeert seconded the motion. Motion passed.

### **Approval of May 17, 2011 Meeting Minutes**

Board Member Holthaus moved to approve the May 17, 2011 meeting minutes as presented. Board Member DeWeert seconded the motion. Motion was passed.

Director Huston said in order to tidy the procedure up, he explained any testimony made by staff, proponents and commenters should all be done under oath. Chair Kunkel asked all persons including staff, proponents and commenters to stand and be sworn in.

### **Public Hearing: Item #1**

#### **❖ WSDOT Early Winters Storage Shed CUP 2011-2 - Continuance**

Chair Kunkel asked Planner II Randy Johnson to present the project summary of the **WSDOT Early Winters Storage Shed CUP 2011-2 – Continuance**. Planner II Johnson stated the project summary had been presented at the last meeting. He stated there was a representative from the Washington State Department of Transportation (WSDOT) present to address questions from the Board.

Chair Kunkel asked the Proponent to come forward to speak to the issue.

Clayton Belmont residing in Wenatchee and representing WSDOT explained the purpose of the application was for WSDOT to build a structure on WSDOT property on Hwy 20 near Winthrop for salt storage. He said WSDOT would build a structure for a loader in the future. He noted the proposed structure had been moved to a different proposed location on the property since the application was submitted. He said the reason for the proposed structure was to reduce the time to transfer de-icing material which is now stored at the Twisp facility. He noted that the continuance was requested by WSDOT because the proper notice had not been posted at the local post office.

Planner II Johnson acknowledged the Planning Department had received the Affidavit of Public Notice which stated the posting had been done correctly.

Chair Kunkel asked if there were any questions for the Proponent from the Board. There being no questions, Chair Kunkel opened the hearing to public testimony.

Ted Willhite residing in Twisp said he is here to testify against the salt shed. He said:

- he is appearing on behalf of skiers, hikers, and other recreationalists and is speaking as a resident and someone who uses the valley and for everyone in Okanogan County
- he has submitted comments which are in the Staff Report.
- the shed is a variance by the zone code.
- WSDOT is seeking a variance.
- the notice procedures were totally inadequate for the affective users and property owners in the area and no notice was given to those who use the trail
- the snow shed is at the heart of the MVSTA Trail Association.
- the application is deeply flawed.
- the shed is not going to be built where WSDOT said it would be built and WSDOT did not receive information from agencies regarding the change.
- in changing the location, WSDOT would be taking out 10,000 sq. ft. of vegetation.
- there is a major deficiency in the letter from Mr. Belmont and the letter changes the entire application.
- the shed should not be built because it is inconsistent with the use in the area.

Chair Kunkel asked if there were any questions from the Board for Mr. Willhite.

Board Member DeWeert noted the building was moved to be less visible. Mr. Willhite disagreed stating it is inconsistent to have a salt shed in a recreational area.

Planner II Johnson clarified the application is not for a variance but for a Conditional Use Permit. He stated moving the building was due to the fact WSDOT became aware the building as originally proposed was in a flood plain and WSDOT proposes to move the building out of the flood plain. He said WSDOT is not allowed to have salt storage in a flood plain.

Chair Kunkel asked if there was anyone else who wished to give testimony.

Peggy Willis residing in Twisp said she wished to add comments to her letter of May 2<sup>nd</sup>. She said the notice WSDOT posted adding the addendum to the SEPA acknowledged the removal of 10,000 sq. ft. of vegetation. She stated WSDOT would reduce light pollution. She said the changes do not mitigate the impacts in a rural residential area. She noted the closeness of the campground which is a few hundred feet away and the proximity of the trails. She said this is an unnecessary use of funds in this economic time. She suggested alternatives be considered such as using the existing facility in Twisp. She said the North Cascade Highway is closed in the winter. She urged the Board to deny the request.

Addressing questions from the Board, Planner II Johnson said the area will be fenced and no hours will be set since hours depend on weather.

Chair Kunkel called Mr. Belmont back to answer questions. Mr. Belmont requested Don Becker of WSDOT come forward to address the questions.

Don Becker of Brewster and a driver for WSDOT addressed the question regarding the transfer of material from Twisp to Winthrop. He said adding the facility in Winthrop will solve a major time issue. He noted from the Winthrop site, the trucks would be moving up to take care of the pass for avalanches. He said the operations are during late autumn and early spring and the facility would not be operating in the summer.

Director Huston asked the record to show the SEPA checklist was processed by WSDOT as the lead agency. He noted the location of the project was identified in the SEPA. He said the Conditional Use Permit location is the same. He said to make a SEPA determination there must be a reasonably thorough discussion. He said the Board of Adjustment can place any conditions on the project provided they are consistent with the County Comprehensive Plan, zoning requirements, compatible and not onerous.

In addressing questions from the Board regarding time, Mr. Becker responded the proposed shed would cut two hours off the operating time saving approximately \$10,000. He said WSDOT still maintains the highway up to Early Winters during the winter due to all the recreational activities. He noted the trail head is plowed by WSDOT so there is a place for the people using the trail to park.

Chair Kunkel asked if there was any further discussion by the Board Members

Mr. Willhite asked to come forward. He stated the project is not a new facility, and the 10,000 sq. ft. vegetation removal was not in the SEPA.

Chair Kunkel asked Mr. Belmont to return to address the question of the 10,000 sq. ft. vegetation removal and if it had been addressed in the SEPA addendum. Mr. Belmont noted the original location of the building was in the flood plain thus it had to be moved to another location on the property. He said the addendum to the SEPA noted moving the building site and Section 4 of the addendum addressed the removal of 10,000 sq. ft. of vegetation. He said the addendum was dated May 16, 2011.

Chair Kunkel said if there is no further discussion, he would entertain a motion

Board Member Christensen moved to approve the **WSDOT Early Winters Storage Shed CUP 2011-2** subject to the Findings of Fact, Conclusions of Law, and the Conditions of Approval. Board Member Holthaus seconded the motion. Motion passed.

### **Public Hearing: Item #2**

#### **❖ Seam VAR 2011-2**

Chair Kunkel asked Planner II Randy Johnson to present the project summary of the **Seam VAR 2011-2**. Planner II Johnson distributed the Affidavit of Public Notice and additional comments received. Planner II Johnson explained the variance was for the construction of a 24' x 36' barn. The setback being requested was for a 15' and 5' setback. The required setbacks are 25' and 25'. The property is located north of Winthrop on Chewuch Road. The variance request is due to the extreme terrain of the property, the flood plain, location of the drain field and the septic system.

Chair Kunkel requested the Staff Report, Affidavit of Public Notice and additional comments be entered into the record.

Chair Kunkel asked the Proponent to come forward to speak to the issue.

Barb Preston of Pinto Design residing in Mazama and representative for the Proponent explained the project and stated no trees were to be removed. She said the issue is the ponderosa pine locations in relationship to the barn. She clarified the location of the pines in question. Ms. Preston contacted a PHD in forestry and the person told her the trees will not be harmed by the location of the barn. She noted there will be no concrete floor but a dirt floor. She said the Building Department will request a building permit be issued rather than granting an agricultural exemption if the variance is approved due to the location of the barn to the property lines. Ms. Preston stated the overhang will be within the 5' setback.

Chair Kunkel asked if there were any questions for the Proponent from the Members of the Board. There being no questions, Chair Kunkel opened the hearing to public testimony. There being none, Chair Kunkel closed hearing to public testimony

Board Member DeWeert moved to approve the **Seam VAR 2011-2** subject to the Findings of Fact, Conclusions of Law, and the Conditions of Approval. Board Member Holthaus seconded the motion. Motion passed.

### **Public Hearing: Item #3**

#### **❖ Jones Communications Tower CUP 2011-4**

Chair Kunkel asked Planner II Randy Johnson to present the project summary of the **Jones Communications Tower CUP 2011-4**. Planner II Johnson distributed the Affidavit of Public Notice to the Board Members. Planner II Johnson explained the project is for a 120' communications tower and an 8' x 10' equipment storage building. He reviewed the zoning and comprehensive plan designations. He said a wetland is outside of the area of the proposed tower. Planner II Johnson said the purpose of the tower will be to host high speed internet and have two microwave antennas. He said the project is located in the Aeneas Valley.

Chair Kunkel asked the Proponent to come forward to speak to the issue.

Jackie Bruns residing in Okanogan and representing NCI Datacom stated Planner II Johnson had covered the purpose of the project. She said the tower would be a microwave tower for broadband internet.

Chair Kunkel asked if there were any questions for the Proponent. There being no questions, Chair Kunkel opened the hearing to public testimony. There being none, he closed the public hearing to public testimony.

Board Member DeWeert moved to approve the **Jones Communications Tower CUP 2011-4** subject to the Findings of Fact, Conclusions of Law, and the Conditions of Approval. Board Member Christenson seconded the motion. Motion passed

### **Public Hearing: Item #4**

#### **❖ Morgan & Son Solid Waste Lagoon CUP 2011-3**

Chair Kunkel asked Planner II Randy Johnson to present the project summary of the **Morgan & Son Solid Waste Lagoon CUP 2011-3**. Planner II Johnson submitted the Affidavit of Public Notice and additional comments to the Board Members. Planner II Johnson explained the application was submitted for a 100' x 100' x 8' solid waste lagoon. He said the lagoon will hold sewage from septic tanks. He said after processing, the material will be land applied off site on land that is approved by the Department of Ecology (DOE). He said the location of the proposed lagoon is on Greenacres Road in Omak. Planner II Johnson explained the proposed project met zoning, comprehensive plan designation and commercial setback requirements. He said the three mitigation measures were for odor, leakage and concerns by the airport regarding birds. He said several comments expressed concern on the containment due to the aquifer, and clarified the project is for a containment facility. He noted concerns for odor and birds can be mitigated.

Chair Kunkel requested the Staff Report, Affidavit of Public Notice and additional comments be entered into the record.

Chair Kunkel opened the discussion with a concern on the appearance of fairness. He said at his work, there was discussion amongst fellow employees about the proposed project. He said

he told the employees he was not able to discuss the project. Chair Kunkel asked if anyone in the audience had any objection to him remaining seated. There were no objections. He asked if any member of the Board had any ex-parte communications regarding the proposed project. The Board Members responded no. Chair Kunkel asked the audience if anyone believed a member of the Board should not remain seated. There were no objections by any member of the audience to any Board Member remaining seated.

Chair Kunkel asked the Proponent to come forward to speak to the issue.

A.C. and Laurie Morgan residing in Okanogan representing Morgan & Son, Inc. came forward. A.C. Morgan discussed the location. He said the goal is to receive approval for a Conditional Use Permit for a 100% containment lagoon next to the Herriman site which had been approved for a sewage lagoon a few years earlier. He explained there was only one permitted lagoon in the County which is now closed. He explained the Okanogan Public Health District and the Department of Ecology (DOE) were allowing land application as an emergency measure but this emergency measure is problematic. Mr. Morgan explained the Washington Administrative Code (WAC) which controls septic businesses. He stated Morgan and Son have met or exceeded all WAC requirements for sewage lagoons. He explained the monitoring of the lagoon, the lagoon design and leakage plan and that all is consistent with the DOE requirements per the WAC. He said the lagoon site will be bermed, fenced and landscaped as per the requirement of the WAC. Mr. Morgan said if birds become an issue, Morgan and Son will work with the airport for a resolution. He noted the Bluewater lagoon was next to the Brewster Airport and there were no problems with birds at that location. Mr. Morgan stated that odor from lagoons is controlled according to the WAC. He said if a problem occurs, he will discuss a solution with other lagoon owners on how they solved the problem.

Mr. Morgan presented a list of those present who would speak to the issue. Each came forward as follows:

Tony Annalora of Belgrade, MT and representing Headwater Lining discussed the type of liner to be used on the project. He said the material that is being installed is the primary product for the company. He explained:

- polyethylene which is to be used for the liner is designed to handle material worse than sewage.
- polyethylene sheets are welded together with four welds per layer.
- system is double lined.
- any potential leakage will travel to a sump location.
- can get 20 years life from the material.
- incorporate monitoring so mediation techniques are available, if necessary.
- Material must be installed correctly.
- explained the testing procedure that is done on site prior to the installation.

Wendy Neet of Yakima WA and representing DOE explained the procedure for compliance with bio solids (sewage). She said she does inspections and deals with compliance issues. She said she makes sure the site and the application are within the regulations. Ms. Neet stated she has seen these at landfills which is a common application. She said she feels it is a good liner.

Gary Bleeker residing in Yakima and representing DOE said he has been involved with larger applications with similar design which include the leak detection system. He said this proposal is the most current up to date and state of the art design. He said these projects are occurring around the state because of new requirements since 2007. He said design changes have been made due to changes in regulation and installations must follow the new design standards which include a leak detection system. He said there were only a couple dozen in the state at this standard.

JJ Bellinger residing in Okanogan and representing the Okanogan Public Health District said she has not had a lot of experience with septage systems but has had with the containment system at the land fill. She said they are able to clean and inspect the material on a regular basis. Ms. Bellinger said the HDPE is holding up very well with nastier stuff than septage. She said she was asked to make a statement on behalf of the Public Health District in support of the project as the only permitted lagoon is out of operation. She noted the Public Health District has authorized emergency land application. She said the treatment plants in the area are not designed to process the sewage. She stated the emergency practice of land application is not a good practice and not in compliance with State regulations. She noted as development is continuing, the demand for proper septage treatment is increasing. She said she does not understand the concerns about ground water. She noted current design requirements and approvals come from DOE and are sufficient to protect the groundwater. She noted the site location is adjacent to a septage application site permitted in 1988. She said bird attraction is not likely at a lagoon. She explained the source of odors and how the aeration process at the lagoon would help prevent odors and if properly operated, the odor issue can be addressed. She said the lagoon can be done safely and if operated correctly, should be supported.

Larry Zimmerlund an engineer from the Methow explained the engineering of the liners. He stated liners have no penetrations. He explained how they are designed to detect leakage. He explained the processing of the sewage through a vault where it is treated with lime and then to another vault and then into a grinder to take things out that should not be in the system.

Mr. Morgan came forward with a closing statement saying Morgan and Son have met or exceeded codes set for septage waste lagoons. He said there is a need due to all the homes. He said this lagoon would provide a service to the public. He said a septic system that is installed without permits and/or not properly maintained will do more damage to the environment. He noted DOE will have access to the facility at all times.

Chair Kunkel asked if there were any questions for the Proponent from the Board. There being no questions, Chair Kunkel opened the hearing to public testimony.

Chair Kunkel stated the comments would be limited to two minutes and asked commenters to be concise and succinct

Jerry Henrick of Oroville and Chairman of the Coleman Butte Water Association said the lagoon should not be located on top of the Duck Lake Aquifer. He said the aquifer provides water to 100 residences. He explained his concern with the location of the association well and the proximity to the sewage lagoon. He asked why take a chance when there are other locations in the County.

Morey Wilken residing in Okanogan said a residence produces 360 gallons of sewage per day. He said there is a trailer park generating 2460 gallons a day and every 114 days, 300,000 gallons of sewage is being produced with maybe permitted septic systems. He said if the systems are actually permitted, they are not built to current standards. He said his figures do not include the new residences which produce another estimated 300,000 gallons a day. He said the systems are all installed in the location of the Duck Lake Aquifer. He said the argument is inconsistent comparing open septic systems and a closed sewage lagoon.

Ron Schmitt presented the well log showing the wells' relationships to the sewage lagoon. He said there are lots of places to locate the lagoon other than over the aquifer. He said it should be put somewhere else.

Bill Johnson residing in Omak presented a petition, well log and diagram. His concerns were:

- wanted to know how the lagoon would be monitored and who would monitor any leaks.
- the lagoon will be 65 feet over the aquifer.
- who would be responsible for the cleanup and who would supply clean water to the residence of the area
- noted there are over 30 homes in the area.
- Bluewater was not allowed to dump at Brewster lagoon when the fly in was occurring due to the odor.
- neighbor decided not to buy property and other neighbors decided not to build due to the lagoon.
- lots have lost value and the value of the 30 homes would drop
- how would the devaluation of the property be handled.

Joe Booth residing in Omak stated he has sent a letter to the Planning Department. He said he is concerned that property values will go down. He said there is no impermeable layer in the area so this is not the right place for the lagoon. He said it should not be on Greenacres Road. He said people do not want to build and take a chance with the water. He said the water table is 40 – 50 feet in the area.

Melissa Licfold residing in Omak said she would be closest in location to the lagoon. She said:

- her child and animals are now free to roam and this would limit their lifestyle.
- she does get odor from the Herriman's site.
- this lagoon would hinder air quality.
- this site would have an impact on the airport
- birds and bugs would be attracted to loads of human excrement.
- there is an impact regardless of the WAC, laws and rules.

She said she is protesting the location.

Wayne Wells residing in Omak and a Board Member of the Duck Lake Water Association said he is concerned about water quality. He noted there needs to be a sewage lagoon but not over the top of the aquifer. He said there would be an impact to the airport. He said he was concerned with the transfer of sewage during the winter because of the road restrictions.

Thomas Wille residing in Omak said he worked around pits before. He said he is concerned with the issues of birds, bugs, and leakage. He said there will be a problem with any manmade

product. He said pipes break and dump sewage into the ground. He said this is not a good idea.

Roberta Turner residing in Omak said she moved here seven years ago. She said she is President of a water association for the area. She noted many liners are installed and they do not leak. She asked if people looked at the proposed liner, know if they have leaked and how many have been installed in the state of Washington. She said she is concerned that Ms. Neet has not worked with the liners. She said with all the rain and temperatures, she wanted to know what the problems would be with the amount of water, bugs and mosquitoes.

Michael Jones residing in Omak said he is concerned with air quality, water and odor. His said he is concerned with the animals such as quail, gross, along with deer. He said mosquitoes will be a problem and there will be disease.

Due to the hour, Chair Kunkel said he would entertain a for a continuance of this hearing.

Director Huston clarified the motion must be date specific. He suggested the record remain open for additional public testimony. He clarified the two minute limit for public comment will be continued. He also noted per statute, the Proponents will have an opportunity to respond at the end of public testimony.

Before the motion to continue was made, Mr. Annalore representing the liner company came forward to address questions since he will be unavailable for the next meeting. He said there have been no failures of the liner based on those properly installed and that the company installs approximately five million sq. ft. per year.

Board Member DeWeert moved to continue the **Morgan & Son Solid Waste Lagoon CUP 2011-3** to the next regularly scheduled meeting on July 19<sup>th</sup>, 2011 at 7:30 PM, public testimony will continue and there would be a two minute limit for public testimony. Board Member Christensen seconded the motion. Motion passed.

**Old Business:**

Chair Kunkel asked if there was any old business. There was none.

**New business:**

Chair Kunkel asked if there was any new business. There was none.

Chair Kunkel adjourned the meeting at 9:30 PM.

## Summary of Motions

*Board Member Holthaus moved to approve the June 21, 2011 agenda. Board Member DeWeert seconded the motion. Motion passed*

*Board Member Holthaus moved to approve the May 17, 2011 meeting minutes as presented. Board Member DeWeert seconded the motion. Motion was passed.*

*Board Member Christensen moved to approve the WSDOT Early Winters Storage Shed CUP 2011-2 subject to the Findings of Fact, Conclusions of Law, and the Conditions of Approval. Board Member Holthaus seconded the motion. Motion passed.*

*Board Member DeWeert moved to approve the Seam VAR 2011-2 subject to the Findings of Fact, Conclusions of Law, and the Conditions of Approval. Board Member Holthaus seconded the motion. Motion passed.*

*Board Member DeWeert moved to approve the Jones Communications Tower CUP 2001-4 subject to the Findings of Fact, Conclusions of Law, and the Conditions of Approval. Board Member Christenson seconded the motion. Motion passed.*

*Board Member DeWeert moved to continue the Morgan & Son Solid Waste Lagoon CUP 2011-3 to the next regularly scheduled meeting on July 19<sup>th</sup>, 2011 at 7:30 PM, public testimony will continue and there would be a two minute limit for public testimony. Board Member Christensen seconded the motion. Motion passed.*

Respectfully submitted,  
Sharon S. McKenzie  
Administrative Assistant  
Okanogan County  
Office of Planning & Development