



HEM 1.1

**STAFF REPORT TO THE
BENTON COUNTY HEARINGS EXAMINER
Daniel and Darla Smatlak
Variance to BCC 3.26.080(d)**

FILE NO: VAR 2025-005
MEMO DATE: October 8, 2025
HEARING DATE: October 17, 2025
APPLICANTS/OWNERS: Daniel and Darla Smatlak, 9107 E Pendleton Road, Benton City, WA 99320
LOCATION: General Location: Approximately .34 miles east of the intersection of River Rd and Pendelton Rd in the Benton City area of unincorporated Benton County.
Address: 9107 E Pendleton Road, Benton City, WA 99320
Legal: Lot 1 of Short Plat 1385
Parcel Number: 1-0797-101-1385-001
PROPERTY SIZE: 2.30 acres
AREA TO BE USED: 520 sq. ft. accessory building
LAND USE: Residential
COMPREHENSIVE PLAN: Rural Remote
ZONING: Rural Lands Five Acre District

RECOMMENDATION:

Planning Division recommends approval of the application request, subject to the thirteen (13) Findings of Fact and three (3) Conditions of Approval as outlined in this staff report.

APPLICATION DESCRIPTION:

The applicant is requesting to deviate from BCC 3.26.080(d) to allow for the construction of an accessory building that exceeds the 400 square foot maximum area allowed to construct accessory structures utilizing wet-flood proofed standards in a Special Flood Hazard Area.

The applicant is requesting a variance to construct a 520 square foot accessory building (car port) in a 100 year flood zone to the following wet-flood proofed standards per BCC 3.26.080(d) and BCC 3.26.170(g):

1. Anchored to resist flotation, collapse, and lateral movement;
2. Any portion of the structure located below the BFE will be constructed with flood-resistant materials;
3. Mechanical and utility equipment (if any) will be elevated and floodproofed to or above the BFE;
4. The structure will be floodproofed to protect from hydrostatic pressure by only enclosing two of the four walls of the carport. The two end walls of the carport shall remain permanently open which

will allow for the automatic entry and exit of flood waters. A total area of 10,296 square inches meets the minimum requirement of one square inch for every square foot of closed openings.

PUBLIC NOTICE:

1. The application for VAR 2025-005 was submitted to the Benton County Planning Division on September 11, 2025. (HEM 1.3)
2. The application was declared complete for processing on September 11, 2025. (HEM 1.5)
3. The application documents were distributed to reviewing agencies on September 11, 2025. (HEM 1.6)
4. The Benton County Hearings Examiner Notice of Open Record Hearing for application VAR 2025-005 was published on October 1, 2025 in the Prosser Record Bulletin.
5. Notice was mailed to property owners of record within 300 feet of the outer boundaries of the parcel on September 26, 2025.
6. The Open Record Hearing is scheduled for October 17, 2025. (HEM 1.11)

APPLICABLE STANDARDS/ORDINANCES:

1. *Benton County Comprehensive Plan*
3.3.2.3 Rural Land Use Designations
Rural Remote is the predominant rural land use in the County. This land is located mostly between the agricultural lands (GMA Agriculture), Rural Transition, and the UGAs. Rural Remote land use is intended to enhance and preserve the County's rural character, which includes rural open space, low densities, wildlife habitat, public open space for outdoor recreational activities, and rural home sites on which a limited range of agricultural activities may be conducted. Allowable density in Rural Remote land use is 1DU/5 acres.
2. *Benton County Code (BCC)*
Chapter 3.26, Flood Damage Prevention
Section 3.26.030 Statutory Authorization and Purpose.
(a) Statement of Purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - 1) Protect human life and health;
 - 2) Minimize expenditure of public money for costly flood control projects;
 - 3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - 4) Minimize prolonged business interruptions;
 - 5) Minimize damage to public facilities and utilities, such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in flood hazard areas;
 - 6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
 - 7) Notify potential buyers that the property is in a Special Flood Hazard Area;
 - 8) Notify those who occupy flood hazard areas that they assume responsibility for their actions; and
 - 9) Participate in and maintain eligibility for flood insurance and disaster relief.

(b) Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

- 1) Restricting or prohibiting development that is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- 2) Requiring that development vulnerable to floods be protected against flood damage at the time of initial construction;
- 3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- 4) Controlling filling, grading, dredging, and other development, which may increase flood damage; and
- 5) Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

Section 3.26.040 Definitions

(1) "Accessory Structure" means a subordinate use or building clearly incidental to and located upon the same lot occupied by the main use or building.

(24) "Floodproofing" means a combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Floodproofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

(30) "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements set forth herein.

(39) "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

Section 3.26.070 General Standards

The following standards are required in all areas of special flood hazards:

(a) Anchoring.

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(b) Construction Materials and Methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated to or above the base flood elevation or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Section 3.26.080 Specific Standards – Construction and Development

The following provisions are required in all areas of special flood hazards where base flood elevation data has been provided as set forth herein:

(d) Accessory structures for parking or storage. Notwithstanding subsection (b) above, accessory structures that are 400 square feet or less in size and used solely for parking or storage only need to meet the following criteria in addition to those in BCC 3.26.070:

- (1) The structure must be anchored to resist flotation, collapse, and lateral movement;
- (2) The portions of the structure located below the BFE must be constructed with flood-resistant materials;
- (3) Mechanical and utility equipment for the accessory structure must be elevated and floodproofed to or above the BFE;
- (4) The structure shall not be located or encroach into a floodway; and
- (5) The structure shall be floodproofed in a manner to protect the structure from hydrostatic pressure by allowing for the entry and exit of floodwaters, including providing a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Section 3.26.160 Variance Procedure

(a) Except as provided in BCC 3.26.195, the Hearing Examiner shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) The Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the reviewing department in the enforcement or administration of this chapter.

(c) Decisions of the Hearing Examiner may be appealed to the Superior Court, pursuant to Chapter 36.70C RCW, or as otherwise permitted under Washington State law.

(d) In reviewing applications, the Hearing Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- (1) the danger that materials may be swept onto other lands to the injury of others;
- (2) the danger of life and property due to flooding or erosion damage;
- (3) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) the importance of the services provided by the proposed facility to the community;
- (5) the necessity to the facility of a waterfront location, where applicable;
- (6) the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
- (7) the compatibility of the proposed use with existing and anticipated development;
- (8) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (9) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(11) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(e) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 1 through 11 in BCC 3.26.160(d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance shall also increase.

(f) Upon consideration of the factors of BCC 3.26.160(d) and the purposes of this chapter, the Hearing Examiner may add reasonable conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(g) The Planning Department shall maintain the records of appeals to the Hearing Examiner and report variances to the Federal Insurance Administrator, including justification for issuing the variance, upon request.

Section 3.26.170 Conditions for Variances

(a) Variances may be issued for the reconstruction, rehabilitation or restoration of historic structures without regard to the requirements of the rest of this section, provided, the Hearings Examiner makes a determination that the proposed repair, reconstruction, rehabilitation or restoration of the historic structure will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(b) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued upon:

(1) a showing of good and sufficient cause; and

(2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

(3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and

(4) written approval from the Washington State Department of Ecology approving the replacement or reconstruction of any structure within the floodway.

(e) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. Variances primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(f) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except BCC 3.26.160(e), and otherwise complies with BCC 3.26.070.

(g) Variances may be issued for agricultural structures of any size which are not used by the public or for human habitation, or the process, treating or packing of agricultural products and for accessory structures subject to the following:

(i) the structure must be anchored to resist flotation, collapse, and lateral movement;



HEM 1.6

September 11, 2025

Benton County Public Works Department
Benton-Franklin Health District
Benton County Fire District #2
Benton County Building Division
Benton County Fire Marshal
Benton County Floodplain Administrator
Benton County Rural Water Supply Coordinator
Benton REA
City of Benton City
Kiona Irrigation District

RE: Variance Request
File #: VAR 2025-005
Parcel #: 1-0797-101-1385-001
Applicant: Daniel and Darla Smatlak

The applicant is proposing to install a semi enclosed 20' x 26' x 10' metal carport in the 100-year flood zone and is requesting a variance to vent the structure in lieu of elevating it.

Attached please find the application materials submitted for your review.

Please submit your comments to planning.department@co.benton.wa.us by **September 25, 2025**. Please reference file number **VAR 2025-005** in all correspondence.

Thank you.

Benton County Planning Division

Nikki Relyea

From: Rural Water Supply Program
Sent: Thursday, September 11, 2025 2:48 PM
To: Planning Department
Subject: RE: Agency Review - VAR 2025-005 - Smatlak

HEM 1.7

Good afternoon,

Rural Water Supply Program has no comments on VAR 2025-005 Smatlak.

Thank you,

From: Troy Taylor
Sent: Monday, September 15, 2025 10:16 AM
To: Planning Department
Subject: RE: Agency Review - VAR 2025-005 - Smatlak

Building- comply with all current Benton County and fire codes.

From: Planning Department <Planning.Department@co.benton.wa.us>
Sent: Thursday, September 11, 2025 11:09 AM
To: Cristina Woods <Cristina.Woods@co.benton.wa.us>; Shane Elledge <Richard.Elledge@co.benton.wa.us>; Dylan Krantz <Dylan.Krantz@co.benton.wa.us>; Benton Franklin Health District - JoDee Peyton <Jodeer@bfhd.wa.gov>; erin.hockaday@bfhd.wa.gov; Jack Howard <jack.howard@bfhd.wa.gov>; deana.chiodo@bfhd.wa.gov; Firechief@bcfpd2.org; Brad O'Brien <Brad.Obrien@co.benton.wa.us>; Troy Taylor <Troy.Taylor@co.benton.wa.us>; Gary Tiplady <Gary.Tiplady@co.benton.wa.us>; Michelle Mercer <Michelle.Mercer@co.benton.wa.us>; Rural Water Supply Program <Rural.Water@co.benton.wa.us>; Benton REA - Chris Cooke <CCooke@bentonrea.org>; Jason Brown <jabrown@bentonrea.org>; cclerk@owt.com; cmeyer@ci.bnton-city.wa.us; Kiona Irrigation District <kiid@owt.com>
Subject: Agency Review - VAR 2025-005 - Smatlak

Good morning,

Attached you will find the necessary application materials for Daniel and Darla Smatlak who are proposing to install a semi enclosed 20' x 26' x 10' metal carport in the 100-year flood zone and requesting a variance to vent the structure in lieu of elevating it. The proposed project is located at 9107 E Pendleton Road in Benton City.

Please review and provide any comments by **Thursday September 25, 2025.**

Have a wonderful week,

Nikki Relyea

Permit Technician

Benton County Community Development Department

Planning Division

Nikki.Relyea@co.benton.wa.us

Planning.Department@co.benton.wa.us

(509) 786-5612



Nikki Relyea

From: Shane Elledge
Sent: Tuesday, September 16, 2025 3:18 PM
To: Planning Department
Subject: RE: Agency Review - VAR 2025-005 - Smatlak

Good afternoon,

Public Works has no comments.

Thank you.



R. Shane Elledge • *Engineering Associate*
Benton County Public Works
102206 Wisner Parkway , Kennewick WA, 99338
(509) 786-5611 Ext: 5531

From: Planning Department <Planning.Department@co.benton.wa.us>
Sent: Thursday, September 11, 2025 11:09 AM
To: Cristina Woods <Cristina.Woods@co.benton.wa.us>; Shane Elledge <Richard.Elledge@co.benton.wa.us>; Dylan Krantz <Dylan.Krantz@co.benton.wa.us>; Benton Franklin Health District - JoDee Peyton <Jodeer@bfhd.wa.gov>; erin.hockaday@bfhd.wa.gov; Jack Howard <jack.howard@bfhd.wa.gov>; deana.chiodo@bfhd.wa.gov; Firechief@bcfpd2.org; Brad O'Brien <Brad.Obrien@co.benton.wa.us>; Troy Taylor <Troy.Taylor@co.benton.wa.us>; Gary Tiplady <Gary.Tiplady@co.benton.wa.us>; Michelle Mercer <Michelle.Mercer@co.benton.wa.us>; Rural Water Supply Program <Rural.Water@co.benton.wa.us>; Benton REA - Chris Cooke <CCooke@bentonrea.org>; Jason Brown <jabrown@bentonrea.org>; cclerk@owt.com; cmeyer@ci.bnton-city.wa.us; Kiona Irrigation District <kiid@owt.com>
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Please review and provide any comments by **Thursday September 25, 2025.**

Have a wonderful week,

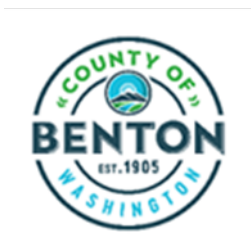
From: Michelle Mercer
Sent: Thursday, October 2, 2025 2:59 PM
To: Planning Department
Subject: RE: Agency Review - VAR 2025-005 - Smatlak

HEM 1.1

Please see the Floodplain Administrator's comments below:

1. The applicant is proposing to vent a 520 sq. ft (26'x20') partially enclosed carport built at grade on asphalt drive associated with Building Permit # 39462.
2. Per the submitted elevation certificate dated 8/28/2025:
 - a. The top of bottom floor at an elevation of 461.10' as shown on the does not meet the minimum Regulatory Flood Elevation of 464.4'.
 - b. The applicant is proposing 10,296 sq. inches of openings by leaving two sides of the structure open which meets the minimum required openings of 520 sq. inches.
3. The following conditions must be met if the structure is to be flood vented:
 - a. The structure must be anchored to resist flotation, collapse, and lateral movement;
 - b. Any portion of the structure located below the Regulatory Flood Elevation of 464.4' must be constructed with flood-resistant materials;
 - c. Any mechanical and utility equipment (electrical) must be elevated and floodproofed to or above the BFE of 464.4';
 - d. The structure shall be floodproofed in a manner to protect the structure from hydrostatic pressure by allowing for the automatic entry and exit of floodwaters, including providing a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - i. Per the updated construction plans, the carport will be partially enclosed meaning both end walls will remain full open, with both side walls enclosed.
 - e. The bottom of all openings shall be no higher than one foot above the adjacent exterior grade.
 - f. A minimum of 520 sq. inches of openings must remain open and never be enclosed for the life of structure unless additional permitting is approved by this office.
4. A final elevation certificate is required to be submitted to the Planning Division prior to the final inspection.

For questions regarding flood requirements, please contact the Planning Division at 509-786-5612.



Michelle Mercer • *Planning Manager*
Benton County Community Development Department - Planning Division
Benton County Courthouse, 620 Market Street, Prosser, WA 99350
Benton County Public Services Office, 102206 E Wisner Parkway, Kennewick, WA 99338
Michelle.Mercer@co.benton.wa.us
(509) 786-5612