



Land Use and Building Department

Findings of Fact, Conclusions of Law, and Order

Application: Request for Variance 2025-04

Hearing Date: November 20, 2025

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a Variance to rebuild a)	VAR-2025-04
structure within 100' of the South Fork of the)	
Boise River on Parcel (RP000590010030))	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
)	AND ORDER
_____)	
)	
)	

In Re: Variance 2025-04: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on November 20, 2025, for a public hearing held pursuant to public notice as required by law, on a request from Mitch Armuth (“**Applicant**”), for a variance of the adopted Zoning Ordinance requirements for removing a current structure and building a new structure within 100’ of the South Fork of the Boise River in Elmore County, Idaho (“**Application**”). The property is zoned Agriculture, with assessors’ parcel number RP000590010030 located in Featherville Summer Subdivision #2 (“**Site**”). The Variance would allow for the new structure to be built within the 100’ setback of the South Fork. The Applicant was previously permitted to maintain the existing structure on the site as a legal nonconforming use pursuant to Zoning Ordinance §7-4-5. The Variance is requested as the Applicant would not be able to remove the current structure and build a new one (removing a current nonconforming use and constructing a new structure) due to the nature of the parcel in relation to the South Fork. The Commission heard from the Applicant and is in support of the Variance. There was no public testimony in support, in neutral or in opposition to the Variance. Upon conclusion of the public hearing, the Commission closed the record to additional evidence and commenced deliberations on the Application. After making findings and conclusions in accordance with the applicable law, the Commission recommended approval of the Variance to the Board of County Commissioners, as hereafter described.

FINDINGS OF FACT

If any of these findings of fact are deemed to be conclusions of law, they are incorporated into the Conclusions of Law section. The following findings shall be based upon the Application, the analysis and recommendations of the Elmore County Land Use and Building Department (the “**Department**”), and the record.

1) The Commission finds that Application is comprised of:

- a) Application form prepared and submitted by Applicant for VAR-2025-04; and
- b) Those supplemental letters, documentation and memoranda submitted by the Applicant or on his behalf, whether submitted in response to questions from employees (the “**Staff**”) from the Department or the Commission in connection with Application to the Commission.

2) The Commission finds that the Applicant is:

Mitchell S. Armuth
851 N Hickory Ave., Ste. 105
Meridian, ID 83642

3) The Commission finds the following facts as to the procedural matters pertaining to the Application:

- I. In accordance with § 7-3-13 (A)(1) of the Elmore County Zoning and Development Ordinance (“**Zoning Ordinance**”), on May 20, 2025, the Applicant completed a pre-application conference with the Department, prior to the submission of the Application.
- II. In accordance with § 7-3-3 of the Zoning Ordinance, the Applicant mailed out Neighborhood Meeting Letters on June 12, 2025, to neighboring property owners within five hundred (500’), giving notice of the time, date, and location of the meeting.
- III. On April 3, 2025, the Department accepted a Variance application per § 7-3-13(A)(2) of the Zoning Ordinance along with payment of the \$400.00 application fee on May 1, 2025.
- IV. In accordance with § 7-3-3 of the Zoning Ordinance, the Applicant conducted the required neighborhood meeting on June 23, 2025.
- V. The Applicant was informed that the previous processes were done out of order per the standards in Title 7 Chapter 3. In particular, The Application was turned in before the Pre-Application and Neighborhood meeting. The process would be started over on June 25, 2025.
- VI. In accordance with § 7-3-3 of the Zoning Ordinance, the Applicant mailed out Neighborhood Meeting Letters on July 25, 2025, to neighboring property owners within five hundred (500’), giving notice of the time, date, and location of the meeting.
- VII. In accordance with § 7-3-3 of the Zoning Ordinance, the Applicant conducted the required neighborhood meeting on August 4, 2025.
- VIII. On August 13, 2025, the Department accepted a Variance application per § 7-3-13(A)(2) of the Zoning Ordinance.

- IX. On October 26, 2025, the Department deemed the Variance application complete and set the matter for a Public Hearing on November 20, 2025.
- X. In accordance with § 7-3-5 (C) of the Zoning Ordinance, the Department mailed Notice of the Public Hearing to surrounding landowners on November 5, 2025.
- XI. In accordance with § 7-3-4 (A) of the Zoning Ordinance, the Department emailed Public Hearing Notices to agencies on November 5, 2025.
- XII. In accordance with § 7-3-5 (A) of the Zoning Ordinance, the Public Hearing Notice was published in the Mountain Home News (newspaper) on November 5, 2025.
- XIII. In accordance with § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on November 13, 2025.
- XIV. The Commission opened the public hearing on November 20, 2025, and received verbal and written information regarding the Application.
- XV. At the conclusion of the testimony, the Chairperson closed the public hearing.
- XVI. The Commission commenced deliberations on the Application.
- XVII. Thereafter, the Commission moved to recommend approval of the Variance to the Board of County Commissioners and the Commission's decision on the Application is as set forth below.

4) The Commission finds the proposed variance request as follows:

The Variance is requested by the Applicant to remove a current structure and build a new structure within 100' of the South Fork of the Boise River. The Area of Critical Concern Overlay does not allow for development within 100' and the nature of the parcel to the South Fork would make it impossible to build.

5) The Commission finds the following facts and circumstances pertaining to the Site:

A. Assessors' Parcel Number: RP000590010030

B. The "Owner" of the Site is:

Featherville Retreat LLC
851 N Hickory Ave, Ste. 105
Meridian, Idaho 83642

C. Applicant's Right to the Site is:

The Applicants are the owners of the property.

D. Site Characteristics:

Property Size: .41-acre parcel

Existing Structures: Single Family Cabin

Existing Vegetation: The vegetation consists of trees and gravel.

Slope: The proposed site is not on slopes greater than 15%

Flood Zone: The parcel is located in Flood Zone A.

Irrigation: N/A

6) The Commission finds the current zoning of the Site is as follows:

Based on the officially adopted Elmore County Zoning Map (as amended by subsequent Zoning Map Amendments adopted by the Board of County Commissioners), and the Comprehensive Plan, the current zoning for the Site is Agriculture (AG) Zone.

7) The Commission finds the Site is within an existing subdivision surrounded by other residential parcels of similar size.

8) The Commission finds the existing services and access to the proposed site are as follows:

Based on the officially adopted Elmore County Zoning Map (as amended by subsequent Zoning Map Amendments adopted by the Board of County Commissioners) and materials found in the Department's file for VAR-2025-04, the following facts concerning services and infrastructure, are not in dispute, and are adopted as findings of fact in the Commission's Findings of Fact, Conclusions of Law, and Order (FCO):

1. Access Street and Designation: private access E. River Dr which is a private road.
2. Fire Protection: The property is not located in a Fire District.
3. Sewage Disposal: Septic & Leech Field
4. Water Service: Private Well
5. Irrigation District: N/A
6. Drainage District: N/A

9) The Commission finds the following are among the relevant and applicable statutes, ordinances, and land use regulations for consideration of the Application:

A. Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 20, 2014 (the "Comprehensive Plan"); and

B. Zoning Ordinance § 7-3-13, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and

- C. The Local Land Use Planning Act, § 67-6516; and
- D. Other applicable local, state, and federal laws and regulations.

10) The Commission finds the following regarding the Comprehensive Plan.

- A. That the Comprehensive Plan Future Land Use Map (Map 4) has the property classified as Agriculture.
- B. The Application is in conformance with the Private Property Rights section of the Comprehensive Plan.

11) The Commission finds the following regarding the Zoning Ordinance.

- A. The Elmore County Planning and Zoning Ordinance is the document governing the Site.
- B. In order to approve VAR-2025-04, the required three findings pursuant to § 7-3-13 and Idaho Code § 67-6516 shall be made.

12) The Commission finds the three (3) required findings pertaining to a Variance per Zoning Ordinance §7-3-13(C) are met.

- 1. The variance shall not grant a right or special privilege that is not otherwise allowed in the base zone; and**

The Zoning Ordinance §§ 7-2-41(B)5 and 7-5-5 detail Area of Critical Concern Overlay and Hillside regulations which require 100' setback for any new development from the South Fork of Boise River. The combination of the Site being near the river as well as the Area of Critical Concern Overlay create a special consideration for development at the Site. The original development was established prior to the adoption of the Overlay and Ordinance and has received legal, non-conforming status pursuant to Zoning Ordinance §7-4-5. Because the new proposal does not seek to enlarge or expand the existing non-conforming use, the legal non-conforming use status may remain.

- 2. The variance relieves an undue hardship due to characteristics of the site;**

The Site is 0.41 acres and located in Featherville Summer Subdivision #2. The subdivision was platted in 1978, well before the adoption of the Zoning Ordinance, which added requirements for Hillside Developments Standards found in § 7-5-5 as well as Area of Critical Concern Overlay in § 7-2-41. The existing dwelling, which is being replaced, is currently located within 100' setback of the South Fork of Boise River. The Applicant will not be able to

rebuild their home without a Variance, due to the proximity of the South Fork of Boise River and the inability due to the nature of the parcel to move the residence farther from the South Fork of the Boise River. Therefore, the Variance would relieve undue hardship for the Applicant.

3. The variance shall not be detrimental to the public health, safety, and welfare.

The proposed variance would not be detrimental to public health, safety, and welfare. If approved, the building permit will be subject to the Zoning Ordinance regulations and review by Central District Health along with the County Engineer. The new structure will not be permitted to be closer to the river than the existing structure. .

13)The Commission finds the following pertaining to a Variance per Idaho Code § 67-6516.

In order to grant a variance, the Board of County Commissioners shall comply with Idaho Code § 67-6516, which states that: “A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest”.

As discussed in the Required Findings for the Zoning Ordinance above, the Applicant presented arguments to justify undue hardship due to site characteristics at the public hearing and the inability for the Applicant to move the new structure further than 100’ from the South Fork of Boise River due to the size and nature of the parcel. After a robust deliberation between staff, Commission, and the Applicant, the Commission finds that it is an undue hardship due to characteristics of the Site and as a result, the Variance will not result in granting the Applicant a right or special privilege that is not otherwise allowed in the base zone.

CONCLUSIONS OF LAW

Based on the aforementioned findings of fact, the Commission concludes that VAR-2025-04 has complied with the following legislative documents governing the proposal:

- A. Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 20, 2014; and
- B. Zoning Ordinance, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- C. The Local Land Use Planning Act, Idaho Code § 67-6501; 67-516 et seq.

ORDER – CONDITIONS OF APPROVAL

Based on evidence presented at the November 20, 2025, public hearing, the Commission unanimously recommends approval of VAR-2025-04 to the Board of County Commissioners with the following conditions of approval:

1. Recommendation to approve the variance to remove and build a new structure within the Area of Critical Concern and that the new structure will not be built any closer to the river than the current structure.
2. Failure to comply with any of the above conditions of approval may result in the revocation of the approval.

Dated this ____ day of _____, 2025

COMMISSION VOTE:

CHAIRPERSON PATTI OSBORN	VOTED	AYE
VICE CHAIRMAN JEFF BLANKSMA	VOTED	AYE
SUSAN FISH	VOTED	AYE
ED OPPEDYK	VOTED	AYE
K.C.DEURIG	VOTED	ABSENT
MITCH SMITH	VOTED	AYE

Patti Osborn, Chairperson

ATTEST:

James Roddin, Interim Director

NOTICE PURSUANT TO IDAHO CODE § 67-6519(5)(c)

The Applicant shall have the right to request a regulatory taking analysis pursuant to Idaho Code § 67-8003. An applicant denied an application or aggrieved by a final decision concerning matters identified in Idaho Code § 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by Title 67, Chapter 52, Idaho Code.

NOTICE PURSUANT ZONING ORDINANCE SECTION 7-3-10 E-F

A decision made by the Elmore County Planning and Zoning Commission may be appealed to the Board of Elmore County Commissioners provided the appeal application is complete and appeal fee is submitted to the Land Use and Building Department within fourteen (14) calendar days of Commission action. Questions concerning appeals or deadlines should be asked of the Elmore County Land Use and Building Department.