

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: VAR-2018-01: This matter having come before the Planning and Zoning Commission of the Elmore County, Idaho (the “**Commission**”), the 17th day of October 2018, for a public hearing, held pursuant to public notice as required by law, on a request for a Variance of Setbacks on Applicant’s property (the “**Application**”). The Property is located in the NW ¼ of SW ¼ of section 36, Township 3 South, Range 6 East (the “**Site**”). The Commission heard testimony from the Applicant. Upon conclusion of the public hearing, the Commission duly considered all that was presented to them.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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 record for the Application and those facts which are in common knowledge or of which there is general public awareness.

- I. The Commission finds the Application is comprised of**
 - A. Application form prepared and submitted by Albert Glen Janoushek (the “Applicant”) for the Variance Application.**
- II. The Commission finds that the Applicant is:**

Albert Glen Janoushek
415 West 12th South
Mountain Home, ID 83706
- III. The Commission finds the following as to the procedural matters pertaining to the Application.**
 - A. The Applicant conducted a neighborhood meeting on October 1, 2018 as required by Elmore Zoning and Development Ordinance 2018-03 (the “Zoning Ordinance”) section 7-3-3.**
 - B. The Applicant submitted the Application and paid the required fee of \$400.00 to the Department on September 20, 2018.**
 - C. The Department deemed the Application complete on October 3, 2018.**

- D. The Department mailed Public Hearing notices to landowners within a 300' radius of the Applicant's property on October 5, 2018 pursuant to 7-3-5 of the Elmore Zoning and Development Ordinance 2018-03.
- E. The Public Hearing notice was mailed to agencies on October 5, 2018 pursuant to 7-3-4 of the Elmore Zoning and Development Ordinance 2018-03.
- F. The Public Hearing was published in the Mountain Home News on September 26, 2018 pursuant to 7-3-5 of the Elmore Zoning and Development Ordinance 2018-03.
- G. The Public Hearing was posted on the Applicant's property on October 9, 2018 pursuant to 7-3-5 of the Elmore Zoning and Development Ordinance 2018-03.
- H. The Commission opened the Public Hearing on September 17, 2018 and received verbal information regarding the Application.
- I. At the conclusion of testimony, the Chairman closed the public hearing. The Commission proceeded to conduct deliberations on the Application.
- J. The Commission moved to forward the Variance Application to the Board of County Commissioners for final approval. The motion to recommend approval to the Board of County Commissioners was passed on a 5-0 vote.

IV. The proposed use of the Application as follows:

- A. **The Commission finds** the proposed use is to change the setbacks for the shop on his property.
- B. **The Commission finds** that the Applicant's request to change the setbacks is part of a procedure required in order to apply for a boundary line adjustment on his property.

V. The Commission finds the following pertaining to the Site:

- A. **Site Description:** Township 3 South, Range 6 East, Section 36. A common way of locating the property is to head West on American legion Boulevard, turn left onto N. Main St./Old U.S. 30 E. for approximately ½ mile, continue onto W. 6th S. St./Airbase Road, turn left onto S. 5th W. for approximately .5 miles then turn left onto W. 12th for 440 feet. The property is located on the right.
- B. **Parcel Numbers:** RP 03S06E365420 and RP 03S06E365430
- C. **The "Owner" of the site is:**

Albert Glen Janoushek
415 West. 12th South
Mountain Home, ID 83647

D. Applicant's Property Right in the Site is: Applicant is the owner of the Site.

E. Site Characteristics:

Property Size: One parcel is 8.8 acres in size and the other parcel is .57 acres in size.

Existing Structures: The properties contain a house and a shop.

Existing vegetation: The Vegetation consists of maintained landscaping and farmed land.

Slope: Relatively flat with less than 10% slope.

Flood Zone Status: FEMA defined Zone X located outside of all known flood zones.

Irrigation: This site utilizes water rights.

VI. The Commission Finds the Current zoning of the Site as follows:

The current zoning for the Site is Agriculture pursuant to the adopted Zoning Map, Ordinance 2017-01.

VII. The Commission finds the surrounding land use and zoning as follows:

Land uses to the South are Agriculture/Residential. Land uses to the North are Agricultural/Residential. Land uses to the East are Agriculture/Residential. Land Uses to the West are Agriculture/Residential.

VIII. The Commission finds the existing services as follows:

Access Roads: South 5th West and West 12th South

Fire Protection District: Mountain Home Rural Fire District.

Sewage Disposal: The site utilizes the City of Mountain Home's septic system.

Water Service: The site utilizes an individual well.

IX. The Commission finds the following as the applicable law for the consideration of the Application:

- A. Elmore County Zoning Ordinance 2018-03 (“Existing Zoning Ordinance”); and
- B. The Local Land Use Planning Act, Idaho Code § 67-6516.

X. Zoning Ordinance.

- A. **The Commission Finds** That the Elmore County Planning and Zoning Ordinance is the document governing the Site pursuant to Zoning Ordinance Title 7 Chapter 9.
- B. **The Commission finds** that in order to approve the VARIANCE application, the following findings as set forth in Section 7-9-13 of the Elmore County Zoning Ordinance 2018-03 shall be made.
 - 1. The Variance shall not grant a right of or special privilege that is not otherwise allowed in the base zone;
 - 2. The Variance relieves an undue hardship due to characteristics of the site; and;
 - 3. The Variance shall not be detrimental to the public health, safety, and welfare.

The required findings of Section 7-3-13 of the Zoning Ordinance, stated questions, follow in bold text, followed by the Commission’s findings:

- 1. **Does the Variance grant a right of or special privilege that is not otherwise allowed in the base zone?**

The Commission finds that allowing Applicant a Variance of setbacks for the shop on his property will not grant a right of special privilege that is not otherwise allowed in the base zone.

- 2. **Does the Variance relieve an undue hardship due to characteristics of the site?**

The Commission finds that the Variance will relieve an undue hardship due to the characteristic of the site as Applicant’s shop was built on the property line of the two contiguous parcels in the early 1980’s.

The Commission finds that the Applicant inherited the property and in order to refinance his home separate from his business shop he would have to complete a Boundary Line Adjustment that would result in the shop being on a separate parcel than his residence.

The Commission finds that the Applicant has to be granted a Variance of setbacks for his shop in order to be able to apply for and complete a Boundary Line Adjustment application.

- 3. The Variance shall not be detrimental to the public health, safety, and welfare.**

The Commission finds that the Variance will not be detrimental to the public health, safety, and welfare.

CONCLUSIONS OF LAW

If any of the Conclusions of Law are deemed to be Findings of Fact, they are incorporated in the Findings of Fact section.

- 1. The Commission concludes that the public hearing notice requirements of 7-3-5 of the Zoning Ordinance 2018-03 have been met.**
- 2. The Commission concludes that the Public Hearing notice requirements to Agencies and property owners have been met set forth in 7-3-4 and 7-3-5 of the Zoning and Development Ordinance 2018-03, and Idaho Statute § 67-6509.**
- 3. The Commission concludes that the Application complies with the required findings set forth in 7-3-13 of the Zoning Ordinance 2018-03.**
- 4. The Commission concludes that the Variance Application complies with Idaho Statute § 67-6516.**

ORDER

Based upon the foregoing findings of fact and conclusion of law, the information contained in the Staff reports and the record for the Application, the Commission voted and hereby recommends approval of the Variance Application for setbacks with the following conditions to the Board of County Commissioners for final approval.

- 1. Applicant will adhere to current ordinance standards for setbacks with any future development on property, and/or will obtain appropriate approval/permitting from the "Department" for necessary variations.**

2. Applicant will apply for and complete the boundary line adjustment application process upon approval of Variance of setbacks.

Dated this 7th day of November, 2018.

COMMISSION VOTE:

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



Patti Osborn, Chairperson

ATTEST:



Beth Bresnahan, Director

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

A decision made by the Elmore County Planning and Zoning Commission (the 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's final action. Questions concerning appeals or deadlines should be asked of the Elmore County Land Use and Building Department.