



Land Use and Building Department

Findings of Fact, Conclusions of Law, and Order

Application: Request for Variance 2024-02

Hearing Date: May 23rd, 2024

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a Variance for building)	VAR-2024-02
setback requirements of the adopted Zoning)	
Ordinance on a .956-acre parcel)	FINDINGS OF FACT,
(RP00061007001GA) in Fruitland Subdivision)	CONCLUSIONS OF LAW,
(Lot 1 Block 7))	AND ORDER
)	
)	
)	

In Re: Variance 2024-02: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on May 23rd, 2024, for a public hearing held pursuant to public notice as required by law, on a request from Kevin and Catherine Keck (“Applicants”), for a variance of the adopted Zoning Ordinance requirements for building setbacks on a portion of a .956-acre parcel in Elmore County, Idaho (“Application”). The property is zoned Agriculture, with assessors’ parcel number RP00061007001GA (“Site”). The variance would require a reduction in the required setback from 20 feet to 10 feet along the front boundary of the property (“Variance”). The Variance is requested as the shape of the lot will not allow the Applicants to construct the shop in a place on the parcel that has easy access to accommodate their needs for an owner with mobility issues. The Commission heard from the Applicants representative in support of the Variance and 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-2024-02; 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:

Kevin and Catherine Keck
10837 Old Hwy 30
Hammett, ID 83627

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

- I. In accordance with section § 7-3-13 (A)(1) of the Elmore County Zoning and Development Ordinance (“**Zoning Ordinance**”), on April 1st, 2024, the Applicant completed a pre-application conference with the department, prior to the submission of the Application.
- II. In accordance with section § 7-3-3 of the Zoning Ordinance, the Applicant mailed out Neighborhood Meeting Letters on April 3rd, 2024, to neighboring property owners within three hundred (300’), giving notice of the time, date, and location of the meeting.
- III. In accordance with section § 7-3-3 of the Zoning Ordinance, the Applicant conducted the required neighborhood meeting on April 13th, 2024.
- IV. On April 15, 2024, the Department accepted a Variance application per § 7-3-13(A)(2) of the Zoning Ordinance along with the \$400.00 application fee.
- V. On May 3rd, 2024, the Department deemed the Variance application complete and set the matter for a Public Hearing on May 23rd, 2024.
- VI. In accordance with sections § 7-3-5 (C) of the Zoning Ordinance, the Department mailed Notice of the Public Hearing to surrounding landowners on May 3rd, 2024.
- VII. In accordance with section § 7-3-4 (A) of the Zoning Ordinance, the Department emailed Public Hearing Notices to agencies on May 3rd, 2024.
- VIII. In accordance with section § 7-3-5 (A) of the Zoning Ordinance, the Public Hearing Notice was published in the Mountain Home News (newspaper) on May 8th, 2024.
- IX. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on May 18th, 2024.
- X. The Commission opened the public hearing on May 23rd, 2024, and received verbal and written information regarding the Application.

- XI. At the conclusion of the testimony, the Chairperson closed the public hearing.
- XII. The Commission commenced deliberations on the application.
- XIII. Thereafter, the Commission moved to recommend approval of the Variance to the Board of County Commissioners with seven (7) conditions of approval 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 Applicants as the shape of the lot will not allow the Applicants to construct the shop in a place on the parcel that has easy access to accommodate their needs for an owner with mobility issues. The Variance would allow a reduction in the required setback from 20 feet to 10 feet along the front boundary of the property.

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

A. Assessors' Parcel Number: RP00061007001GA.

B. The "Owner" of the Site is:

Kevin and Catherine Keck

C. Applicant's Right to the Site is:

The Applicants are the owners of the property.

D. Site Characteristics:

Property Size: .956-acre parcel

Existing Structures: Single Family Dwelling

Existing Vegetation: The vegetation consists of grass and sagebrush.

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

Flood Zone: The parcel is not located in any designated flood zone.

Irrigation: N/A

Views: In a subdivision.

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-2024-02, 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 from a gravel drive taking access from Old Hwy 30 which is maintained by the Glenns Ferry Highway District.
2. Fire Protection: The property is within the King Hill Rural Fire District.
3. Sewage Disposal: Septic Leech Field arrival by Central District Health
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, § 67-6501; § 67-6516 et seq.; 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-2024-02, the required three findings pursuant to § 7-3-13 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

Most of the unincorporated land in Elmore County has a base zone of Agriculture (AG). The parcel zoned AG and is intended to remain designated as agriculture according to the Elmore County future land use map of the Comprehensive Plan. The Comprehensive Plan and AG zone allows a home on any parcel respecting property owner's rights in Elmore County.

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

The proposed site is .956 acres. The site is in the Fruitland Subdivision which is in a platted subdivision. Mr. and Mrs. Keck are the primary owners of the Site. The lot is longer than it is wide, a rifle lot, which makes meeting setbacks difficult. In addition, the property owner has physical limitations with mobility, and the Variance will allow for easier access to the proposed shop.

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

The proposed Variance will not be detrimental to public health, safety, and welfare. There is a residence currently on the site and the proposed shop has had no objections to be constructed at the site from Central District Health, King Hill Rural Fire or the Glens Ferry Highway District.

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

Idaho Code § 67-6516 states that a variance shall not be considered a right or special privilege and may be granted 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.

The lot is longer than it is wide, a rifle lot, which makes meeting setbacks difficult. The Site also only consists of .956 acres, limited the buildable space. In addition, the property owner has physical limitations with mobility, and the Variance will allow for easier access to the proposed shop.

CONCLUSIONS OF LAW

Based on the aforementioned findings of fact, the Commission concludes that VAR-2024-01 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 May 23rd, 2024, public hearing, the Commission unanimously recommends approval of VAR-2024-02 to the Board of County Commissioners with the following conditions of approval:

- 1 Variance (VAR-2024-02) shall be granted to Kevin and Catherine Keck for a variance to building setback requirements on a portion of .956 acres of AG land on parcel number RP00061007001GA.
- 2 The Applicant shall obtain a building permit from Elmore County Land Use and Building Department for the proposed structure.
- 3 The Variance shall comply with the standards set forth in Elmore County Zoning Ordinance § 7-3-13.
- 4 The Applicant shall obtain all necessary building and development permits for the Department before any construction commences.
- 5 The variance shall comply with Idaho Code § 67-6516.
- 6 The Applicant shall keep the property up to date with all taxes related to the uses of the property.
- 7 Failure to comply with any of the above conditions of approval may result in the revocation of the approval.

Dated this _____ day of _____ 2024

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	AYE
MITCH SMITH	VOTED	AYE

Patti Osborn, Chairperson

ATTEST:

Mitra Mehta-Cooper, 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.