



## Land Use and Building Department

### Findings of Fact, Conclusions of Law, and Order

Application: Request for Variance 2025-02

Hearing Date: July 17, 2025

### BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a Variance for an Accessory Dwelling Unit (ADU) building of 1,900 sq. ft. the adopted Zoning Ordinance on a 40-acre parcel (RP05S11E173010A)	)	VAR-2025-02
	)	
	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
	)	AND ORDER
	)	
	)	
	)	

**In Re:** Variance 2025-02: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on July 17, 2025, for a public hearing held pursuant to public notice as required by law, on a request from Neil Helmick (“Applicant”), for a variance of the adopted Zoning Ordinance requirements for building of an ADU of 1,900 sq. ft. on a portion of a 40-acre parcel in Elmore County, Idaho (“Application”). The property is zoned Agriculture, with assessors’ parcel number RP05S11E173010A (“Site”). The variance would allow for a dwelling of 1,900 sq. ft. instead of the required size of 900 sq. ft. The Variance is requested as the Applicant would like to build a single-floor dwelling since the Applicant and his wife are getting along in age and is finding it harder to get up and down the stairs of their current dwelling (2,368 sq. ft.) 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-2025-02; 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:**

Neil Helmick  
3534 N Yellow Rose Land  
King Hill, ID 83633

**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 December 16, 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 December 18, 2024, to neighboring property owners within five hundred (500’), 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 January 11, 2025.
- 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 12, 2025, the Department deemed the Variance application complete and set the matter for a Public Hearing on July 17, 2025.
- 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 June 24, 2025.
- VII. In accordance with section § 7-3-4 (A) of the Zoning Ordinance, the Department emailed Public Hearing Notices to agencies on June 24, 2025.
- 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 July 2, 2025.
- IX. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on April 18, 2025.
- X. The Commission opened the public hearing on July 17, 2025, 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 one (1) condition 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 Applicant to build a 1,900 sq ft dwelling. The Variance would allow a 1,900 sq ft dwelling instead of a 900 sq ft dwelling which is the allowable size.

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

**A. Assessors' Parcel Number:** RP05S11E173010A

**B. The "Owner" of the Site is:**

Neil Helmick  
3534 N Yellow Rose Lane  
King Hill, Idaho 83633

**C. Applicant's Right to the Site is:**

The Applicants are the owners of the property.

**D. Site Characteristics:**

Property Size: 40-acre parcel

Existing Structures: Single Family Dwelling, Out building of appx 511 sq. ft,  
Shed 1 of appx 1,566 sq. ft, Barn appx 2,381 sq ft, Shed 2 652 sq ft,  
Shed 3 appx 516 sq ft.

Existing Vegetation: The vegetation consists of grass, sagebrush, and crops.

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

**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 not 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-2025-02, 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 E. Sudduth Rd which is maintained by the King Hill Highway District.
2. Fire Protection: The property is within the King Hill Rural 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-2025-02, 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. The parcel is currently zoned Agriculture and is intended to remain designated as agriculture according to the Elmore County future land use map.

According to the Elmore County Allowed Use Table 7-2-26(B) found at §7-2-26 of the Zoning Ordinance, ADUs are allowed with administrative approval when following the general standards under § 7-2-96. One such standard is §7-2-96(D)1 stating an ADU “shall not be larger than nine hundred (900’) square feet.” The Applicant seeks to build a 1,900 sq. ft. ADU, which is 1000 sq. ft. above the requirement of the Zoning Ordinance. Therefore, the Department has required a Variance for the intended use (“VAR-2025-02”).

The purpose of allowing ADUs in Elmore County is defined at §7-2-96(A) as, *“The purpose of accessory dwelling units is to provide more affordable housing; provide additional density with minimal costs and disruption to existing neighborhoods. A house with an accessory dwelling unit is similar to that of a duplex but can be distinguished from a duplex because of its less intense use, smaller size...”*

The Applicant wishes to build a 1,900 sq. ft dwelling unit on this parcel, which does not fit the aforementioned purpose of the ADUs. The proposal is for a second home on the property, which would require a separate process of subdividing the parcel, as discussed at the pre-application meeting with the Director.

After hearing from the Applicant at the public hearing, the Commission finds that the approval of VAR-2025-02 would NOT grant a special privilege to the Applicant that is not otherwise allowed in the base zone.

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

The Site is 40 acres, and the existing primary dwelling unit consists of 3-stories with 2,368 sq. ft. The Applicant seeks a variance to build a 1,900 sq. ft. ADU that is a single-story home in order to accommodate mobility complications from aging. Additionally, a portion of the site is actively used for Agriculture. The Applicant seeks to add an ADU in order to accommodate future

assistance in ongoing upkeep of the land. Despite such challenges, the Applicant does not wish to apply for a smaller ADU allowed within the Zoning Ordinance, request a more reasonable variance, or propose a subdivision of the parcel as discussed at the pre-application meeting with the Director.

At the Public Hearing, the Applicant stated that his current residence is not suitable for him and his wife with the primary dwelling being 3-stories as they are getting up in age. He wants to have a more accessible dwelling and that 900 sq ft is not acceptable to him and his wife. There is no other parcel that he owns next to this current property that suitable to build on. The Applicant stated that he did not want to build up on another parcel also because of the cost of a new septic and water well, and that area to the north of the house is on a hill. The Applicant stated that he cannot add on to his current main level of the house because of the basement with windows for light to come in would be blocked and not allow light into the basement and also with the area being on rock. Furthermore, the Applicant wants to be near the outbuildings, so he doesn't have to walk that far.

After hearing this testimony from the Applicant, the Commission finds that the Applicant is facing an undue hardship due to the characteristics of the site.

**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 granted, the building permit will be subject to the Zoning Ordinance regulations and review of the Central District Health, Glenns Ferry Highway District, and King Hill Rural Fire District. The existing structures on the parcel were all approved by Central District Health, Glenns Ferry Highway District, and King Hill Rural Fire District.

**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. After robust a 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 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-2025-02 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 July 17, 2025, public hearing, the Commission unanimously recommends approval of VAR-2025-02 to the Board of County Commissioners with the following conditions of approval:

- 1 Recommendation to approve the variance to build a 1,900 sq ft accessory dwelling unit on the property as indicated and that the home would never be split or sold separately from property and would stay in one ownership.
- 2 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	ABSENT
SUSAN FISH	VOTED	AYE
ED OPPEDYK	VOTED	AYE
K.C.DEURIG	VOTED	AYE
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.