

## BOARD OF ADJUSTMENT SPECIAL MEETING

May 29, 2025

Council Chambers  
680 Park Ave

**Members Present:** Nathan Kennedy - Chair, Ron Johnson - Vice-Chair, Jenna Price

**Staff Present:** Naysha Foster, Current Planner, David Peterson, Current Planner, Jacob Beck,  
Assistant City Attorney

**Call to Order:** Nathan Kennedy called the meeting to order at 11:37 a.m.

### **Appeal**

**App25-001:** Appeal of Code Enforcement Plant Nuisance violation.

Foster informed the Board to please remember to speak directly into the microphone. We're using a small recording device to create a transferable record, and it doesn't always capture sound well unless you're speaking clearly into the microphone.

Beck followed up with a reminder that this process is a quasi-judicial proceeding, it's important that everything is properly recorded. The appellant-the person who filed the appeal-will present their case first. Then, the code enforcement officer-the respondent-will have a chance to respond with their testimony and evidence. After that, the appellant may offer rebuttal testimony. As Board of Adjustment members, you're responsible for listening to all testimony and may ask questions at any point to clarify concerns or gather more information. The Board of Adjustment serves as the final decision-maker in this appeal. The Board are the triers of fact, meaning you determine how much weight to give any testimony and ultimately decide the outcome. Although this is a public meeting and the public may attend, public comment is not allowed. Only those called by the appellant or Code Enforcement may provide testimony. After the appellant's rebuttal, the hearing will close, and the Board will deliberate and make a decision. The Boards discussion should be open and deliberate, and it's important to clearly explain your reasoning when making your decision. If any party—whether a citizen, officer, or department—disagrees with the Board's decision, they have 14 days to submit a written notice of intent to appeal to the City Council. Beck clarified the Board of Adjustment's decision is based on a majority vote, not a unanimous one. However, the majority must clearly state the factual basis for the decision. Before beginning, the Chair should acknowledge the presence of a quorum. Once that's confirmed, the appellant may present their case and may also call others to testify. As with other hearings, anyone who testifies must state their full name and address for the record.

Kennedy opened the appeal.

**Applicant:** Alexander Scott Kingsbury, the applicant and occupant of 1796 Charlene Street, Idaho Falls, ID, acknowledged receiving a code violation notice (case #WED25-00005) on May

12, 2025, citing a violation of City Code section 5-8-11. Kingsbury addressed the Board and clarified that he did not display any extreme or inappropriate behavior during his interactions with city staff and disputed any characterization of being "extremely upset." He stated that he remained calm and respectful throughout. Kingsbury noted that he had not intended to contact Code Enforcement but did so at the direction of the City Treasurer in order to proceed with a \$150 payment related to a complaint. He emphasized the urgency of making the payment due to his limited availability to take time off work and expressed appreciation for the professionalism of Officer Hellman and stated he did not believe any city personnel acted with malice or bias. He described the situation as an honest misunderstanding. Kingsbury acknowledged that his front yard did contain plants over 10 inches tall, which had been recently trimmed. He explained that the plants—specifically alfalfa—were intentionally planted for agricultural purposes, namely animal feed for a co-occupant's equestrian activities. He stated that Sarah Parriso, the co-resident, and original addressee of the Code Enforcement letter, is a Massachusetts native who values the ability to pursue equestrian interests in Idaho. Kingsbury described alfalfa as a practical and visually preferable alternative to turf grass and emphasized that their planting was based on a good-faith interpretation of City Code. He stated the plants are ornamental and agricultural in nature and were planted only after reviewing applicable code language. He asserted that the Code Enforcement action appeared to be based on a misunderstanding and reiterated that he does not believe there was any targeting involved. Kingsbury concluded by noting that he has no formal legal training and apologized if his remarks did not follow strict procedural norms. He welcomed any questions from the Board.

Johnson asked where the horses are kept. Kingsbury stated that the horses are kept at R.R. Ranch, owned by Rhonda Skinner, located a bit north of town. It is approximately one mile past the Cowboy Oil Ranch.

Kennedy asked what the property is zoned? Beck said if the Board has questions about the zoning code, they may ask staff for clarification. It was confirmed the property is zoned R1, however, any detailed discussion or interpretation of what R1 entails should not influence today's decision. Staff intends to address the R1 zoning code further after the Board completes their deliberations on this matter. Beck explained that testimony will be heard first, and code discussion will follow at the appropriate time.

Amber Hillman, a Code Enforcement Officer with the City of Idaho Falls Police Department since January 2025, received three anonymous complaints about weeds at 1796 Charlene St. between March and May 2025. After inspecting the property on April 1, she found only a few tall weeds—not enough to issue a violation. A second inspection on May 6 revealed significant overgrowth, later identified as Alfalfa. She opened a case (WED25-00005), took a photo, and issued a violation letter. A third complaint on May 13 included a photo, but no further action was needed as the case was already in progress. On May 16, 2025, Amber Hillman was informed that the property owner of 1796 Charlene St. filed an appeal and was upset about being unable to reach Code Enforcement. Hillman did not receive the owner's name or contact information, though she had two missed calls on May 15 and 16, with no voicemail or text. She emphasized that she was not targeting the property but was responding to citizen complaints, as part of her routine duties covering six sections on the west side of Idaho Falls. Reviewing the appellant's claim regarding the cultivation of alfalfa for ornamental and agricultural purposes, Officer

Hillman referenced city code definitions. She explained that ornamental plants must be grown primarily for decorative purposes, unlike alfalfa, which is classified as an agricultural plant. To support this, she presented a memo from the city horticulturist, which was provided to the appellant and the Board. Officer Hillman then invited questions from the Board.

Prior to the rebuttal portion of the hearing, Beck provided clarification regarding the relevance of zoning in the Board's deliberations. It was noted that while a reference to zoning (specifically residential zones) was included in the Board's packet, the violation letter issued to the appellant pertained solely to the weed ordinance under the general municipal code and did not cite zoning-specific regulations. Beck advised the Board that the zoning designation of the property (R1) should not factor into their deliberation or decision-making, as it was not part of the official notice of violation. The Board was further instructed that it is legal counsel's opinion that the page on residential zoning included in the packet should not be referred to in their consideration of the matter. Beck indicated an intention to address the zoning code topic in more detail at a future time, following the conclusion of this hearing.

Kingsbury provided a brief rebuttal and acknowledged the validity of citizen complaints but asserted that complaints alone do not confer legal standing unless the subject of the complaint violates established law. He referenced a newly presented memorandum from a horticulturist (Mr. Dustin Edwards), which classified the plant in question (alfalfa) as an agricultural crop. The appellant argued that no forestry code is cited in municipal code and that he is subject only to city ordinance. Kingsbury stated that the alfalfa in his front yard does not meet the city's definition of a weed and is not listed as a noxious weed under the referenced IDAPA 06.02.22. Kingsbury clarified that while the alfalfa may eventually be used for horse feed, its primary purpose is ornamental, as he finds it more aesthetically pleasing than turf grass. He also noted he had only recently become a co-owner of one horse and had no prior experience growing alfalfa.

Johnson inquired about the appellant's experience with growing alfalfa and the feasibility of harvesting it within city code height limitations (10 inches). Concerns were raised about the agricultural viability and nutritional quality of alfalfa if harvested prematurely.

The Board discussed the applicability of code section 5-8-11 regarding "Removal of Plant Nuisances" and whether the alfalfa qualified as a "permitted planting." Alfalfa was determined not to fall under this category, as it is not grown primarily for decorative purposes. The Board considered whether alfalfa qualifies under permitted plantings grown for agricultural or food production purposes. It was noted that other residential properties within Idaho Falls have front-yard gardens containing plants that exceed 10 inches in height. Kingsbury concluded by reaffirming his willingness to learn and to accept guidance, acknowledging his limited experience in both horse care and alfalfa cultivation.

Beck addressed the Board with clarification regarding the applicable code and the Board's responsibilities: Counsel emphasized that the Board must determine whether the alfalfa planted at the appellant's property qualifies as a plant grown for agricultural purposes or food production, as outlined in the relevant city ordinance. The Board was advised to evaluate the credibility of testimony provided, including the appellant's statement that the alfalfa is intended for use as horse feed. Legal counsel reiterated their earlier instruction that the zoning information

included in the meeting packet should be disregarded, as it was not referenced in the violation notice issued to the appellant. The matter before the Board is limited to the weed ordinance cited in that letter. Counsel stated that any discussion concerning the zoning code or additional interpretations would take place following the conclusion of the hearing.

**Kennedy closed the public hearing.**

**Board Discussion:**

The Board entered deliberations to determine whether the Code Enforcement Officer's interpretation and application of city code was proper regarding the appellant's use of alfalfa in the front yard.

Johnson expressed concern over the appropriateness of growing alfalfa in a residential front yard, stating it is unconventional and typically reserved for agricultural fields. He said that alfalfa is neither ornamental nor aesthetically appealing, and that it may not be suitable for a front yard setting. Price acknowledged those concerns but differentiated between aesthetics and code compliance, emphasizing that the question before the Board is whether the alfalfa qualifies as a plant grown for agricultural purposes or food production, as referenced in City Code. Board members collectively affirmed that alfalfa does not meet the definition of an ornamental plant and that the key issue was determining whether the appellant's planting qualifies as agricultural. Beck reiterated that the Board's role is to interpret the ordinance and determine whether the Code Enforcement Officer applied it properly and consistently. Discussion acknowledged that while alfalfa is not commonly planted in residential yards, testimony had been given by the appellant stating that the alfalfa was being grown to feed horses, thus supporting an agricultural purpose. The Board noted that although the method of cultivation might not align with standard agricultural practices, the intended purpose—animal feed—still meets the threshold for agricultural use under the ordinance. The Board discussed that beauty is subjective and code enforcement should be based on use, not appearance. A consensus appeared to form that the evidence and testimony support a conclusion that the planting of alfalfa qualifies as agricultural use. The deliberation concluded with an acknowledgment that while the city may continue to receive complaints from neighbors, the Board's duty is to interpret and apply the code based on intent and use, not public opinion or aesthetics.

Foster advised the Board that when making a motion, it should clearly state whether the motion is to uphold the Code Enforcement Officer's determination of a violation or to uphold the appellant's position, including a statement of reasons. This is necessary to draft a formal decision document, which the Chair will be required to sign at the next meeting. Beck clarified that no citation was issued to the appellant. Instead, a letter of violation was sent as a procedural step, informing the property owner of a potential violation, and providing an opportunity to correct the issue prior to formal enforcement. He said that such letters are standard practice in code enforcement—they serve as notice and an opportunity for compliance before escalating to citation.

Johnson raised a point of confusion: the letter of violation was addressed to Sarah Parisso, who was not present at the hearing. Kingsbury clarified that he and Ms. Parisso are co-owners of the property, and she was unable to attend due to work obligations. Her position was represented in the jointly signed written appeal submitted to the Board. Kingsbury confirmed that he is named on the deed and is a legal co-owner of the property.

**Kennedy moved to uphold the appellants defense based on the code written as 5-8-11, section B-2, Plants grown for agricultural purposes or food production, which is considered a permitted plant. Price seconded the motion. Kennedy, yes; Johnson, no; Price, yes. The motion passed with a vote of 2-1.**

### **Additional Comments and Legal Clarification**

Beck thanked Kingsbury for his participation and informed all parties that if anyone disagrees with the Board's decision, an appeal may be submitted to the City Council in writing within 14 business days. Post-decision clarification was provided by Beck regarding zoning. Beck said that while today's decision addressed the weed ordinance only, staff noted that R1 zoning regulations prohibit agricultural uses. Although this issue was not part of the current violation notice, and thus not considered in this hearing, the city retains the authority to pursue future enforcement under zoning code if appropriate. Kingsbury was made aware of this distinction and potential for future zoning-related concerns, though no such action had yet been initiated.

**Adjourned at 12:28 p.m.**

**Respectfully Submitted,  
Ann Peterson, Recording Secretary**