



## Development Services

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### MEMORANDUM

**TO:** Cochise County Board of Adjustment  
**FROM:** Matthew Taylor, AICP, Planning Manager  
**FOR:** Christine McLachlan, AICP, Director  
**SUBJECT:** Docket VAR25-08 (Abernathy Court ADU)  
**DATE:** October 22, 2025

#### Docket VAR25-08 (Abernathy Court ADU)

A Variance request from Section 2.48.170 of the zoning regulations to increase the allowed square footage of an Accessory Dwelling Unit (ADU).

#### I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

**Applicant:** Damien and Melissa Avant  
**Location:** 3901 S. Abernathy Court  
**APN:** 107-60-027  
**Parcel Size:** 3.32 acres  
**Zoning:** RU-4 (Rural District, one dwelling per 4 acres)  
**Plan Designation:** Rural Residential  
**Growth Area:** Category D (Rural Areas)  
**Existing Use:** Residential  
**Proposed Use:** Residential

#### **Surrounding Zoning and Uses:**

Relation to Property	Zoning District	Use of Property
North	RU-4	Undeveloped
South	RU-4	Undeveloped
East	RU-4	Undeveloped
West	RU-4	Single Family Residences

#### II. SITE HISTORY

- 1996 – Hobby Horse Ranch Subdivision (34 lots)
- 2018 – Single family dwelling, site improvements

#### III. REQUEST DESCRIPTION

The applicant requests a Variance from Section 2.48.170 to allow an ADU that exceeds maximum allowed square footage. ADUs are limited in size to 75% of the gross square footage of the principal dwelling or 1,000 square feet, whichever is less.

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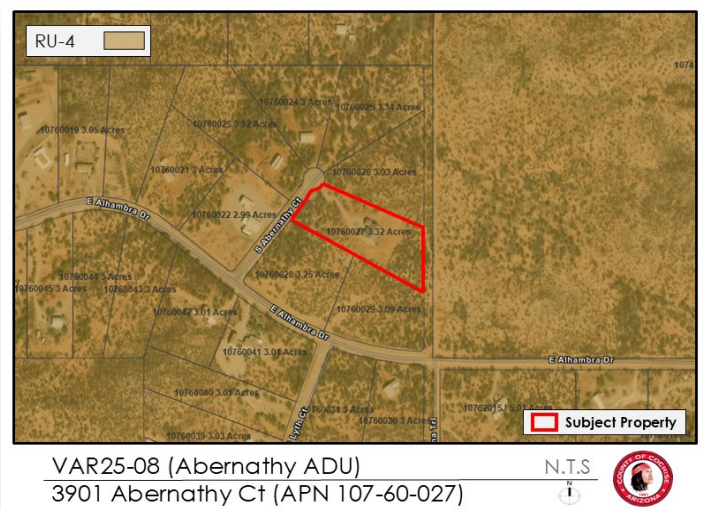
#### **IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH VARIANCE FACTORS**

Section 2.60.010 of the Zoning Regulations identifies eight (8) findings of fact the Board must consider when evaluating Variance applications. Staff uses these factors to determine the suitability of a Variance request, whether to recommend approval of the Variance, and to determine what conditions and/or modifications may be needed. This Variance request fully or partially complies with five (5) findings.

##### **1. There is an unnecessary hardship created by zoning regulations – Does Not Comply**

County zoning regulations allow ADUs on any parcel where a single family residence is permitted, including on parcels with rural zoning. Recent zoning regulation amendments, driven by changes in State law, have increased the number of allowed ADUs from one per parcel to two per parcel (one attached and one detached). One additional ADU is allowed on parcels of one acre or more. The subject property totals about 3.3 acres and nothing in the current zoning regulations necessitates the need for a Variance to increase in size of the proposed ADU.

The applicants request a modest increase the in allowable square footage of a proposed ADU in relation to the size of the existing primary dwelling. The main residence totals about 3,280 square feet with an additional 1,410 square feet in attached garage space. The zoning regulations limit ADUs to 75% of primary dwelling square footage or 1,000 square feet, whichever is less. Based strictly on the overall size of the dwelling and associated living and non-living areas, the maximum square footage allowed for the applicants is 1,000 square feet. The applicants request a 1,026 square foot ADU which is an increase of 2.6% over what the current zoning regulations allow and negligible when considering the size of the property and adjacent properties.



##### **2. There are peculiar site conditions present – Does Not Comply**

There are no obvious peculiarities associated with the site and no unusual site conditions relative to topography or configuration. The property does not meet the minimum zoning district site area of 4-acres but lots may be less than the minimum zoning site area when located within a platted subdivision per County subdivision regulations. Given the property's overall size, up to three ADUs are allowed by the zoning regulations and site conditions have no impact on proposed ADU size.

##### **3. This is not a self-created hardship – Does Not Comply**

This factor considers whether "The unnecessary hardship does not arise from a condition created by an action of the owner of the property." Per earlier analysis, there are no obvious hardships

justifying the approval of a Variance and an increase in the allowable square footage of the ADU; however, in this case, the proposed ADU is a manufactured home and, while design and features can be customized, the customer has less control of overall size.

**4. This is the minimum to afford relief – Complies**

As identified earlier, the proposed ADU is 2.6% over the allowed square footage allowed by the zoning regulations (1,026SF versus 1,000SF). The minimum to afford relief would be 1,001 square feet but, since the proposed ADU is a manufactured home and not a site built structure, the applicants have little if any control over such a small variation in square footage.

**5. This is a permitted use in Zoning Regulations – Complies**

Accessory dwellings are a permitted use in rural zoning districts, including RU-4, provided they meet applicable site development standards. A Variance is only required if applicable development standards are not met (size, height, setbacks).



**6. There is no adverse impact to surrounding property owners – Complies**

The property's rural zoning allows an ADU and, with recent amendments to the zoning regulations, multiple ADUs are permitted by right. This Variance has nothing to do with the use itself, only the size of the accessory dwelling as the ADU is allowed by the zoning. Given the separation from nearby properties and mature vegetation on the property, adverse impacts to nearby properties are unlikely.

**7. General harmony with the intent and purposes of the Zoning Regulations – Complies**

The purpose of the Zoning Regulations is to conserve and promote public health, safety, convenience, and general welfare, guiding future growth and improvements within Cochise County. Accessory dwellings are allowed by right in rural zoning districts and are subject to applicable site development standards such as setbacks, height, and size (75% of principal structures or 1,000 square feet, whichever is less). Should this Variance be approved, general harmony with the zoning regulations is maintained given separation from adjacent residences and preservation of existing rural residential character.

**8. No violation of state or federal law – Complies**

The requested Variance does not appear contradictory with any applicable state or federal laws.

**V. PUBLIC COMMENT**

Staff published legal notice, mailed notices to property owners within 300', and posted the property September 19 – October 1, 2025.

**VI. SUMMARY AND CONCLUSION**

The applicant requests a Variance to an increase in the size of an accessory dwelling unit. ADUs are permitted by right in zoning districts that allow a single family residences but the size of the accessory dwelling is subject to size limitations since they are intended to function as accessory and not primary residences. The modest increase in allowed square footage as requested is unlikely to specifically impact nearby properties or generally impact the existing rural residential character of the area.

**Factors in Favor**

1. Complies or partially complies with five (5) criteria used to evaluate Variances.
2. ADUs are allowed by right in Rural zoning districts.
3. Support from nearby property owners.

**Factors Not in Favor**

1. Does not comply with three (3) criteria used to evaluate Variances.

**VII. RECOMMENDATION**

Based on the factors in favor, Staff recommends approval of Docket VAR25-08 without special conditions, allowing a 1,026 square foot accessory dwelling.

**Sample Motion**

I move to approve Docket VAR25-08 without special conditions, the factors in favor of approval constituting the findings of fact.