

DETERMINATIONS

The Board of Adjustment shall make the following determinations prior to granting a variance:

- 1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are no special conditions or circumstances that exist which are peculiar to the land, the lot is a large lot but zoning regulations require a large setback which takes up a considerable amount of the lots square footage.

- 2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;**

Several of the neighboring properties have homes built on them that do not meet the current requirements for setback from an arterial street. Denying this variance would deprive the applicant from a reduced setback that several neighbors to the west currently have.

- 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;**

Granting the variance would not grant a privilege to the applicant that is not already enjoyed by others in the neighborhood. When doing research for this variance staff only went two blocks to the west and found 10 other properties with houses built closer than 70 feet from center line of Poly. This leads staff to believe if the search were widened farther west and east we would find many other structures that do not meet current code.

- 4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

Granting the variance does not conflict with the general purpose and intent of the zoning regulations and the growth policy.

- 5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

Staff is recommending the following conditions for the decrease in setback from 70 feet to 50 feet:

1. The variance is to decrease a minimum setback of 70 feet from the centerline of a minor arterial street to allow a minimum setback of 50 feet from the centerline of Poly Drive for the construction of a new two-car detached garage. No other variance is intended or implied with this approval.
2. The variance is limited to Parcel 1B1 of amended C/S 375 generally located at 1905 Poly Drive.
3. The garage shall be constructed in substantial conformance to the drawings submitted to the planning department with this application.
4. No construction activity will be done before 7 a.m. or after 8 p.m.

5. The owner will submit a building permit application within 1 year of Board of Adjustment approval and complete the construction within 2 years of Board of Adjustment approval.
6. Failure to begin or complete the approved actions on the variance will void the approved variance.
7. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and

Staff recommends the applicant be required to submit a building permit application within 1 year and complete the project within 2 years of the variance approval.

7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

The granting of this variance would not allow a use that is not allowed in the zoning district – detached garages are allowed in the R-96 zone.

ATTACHMENTS

- A: Surrounding Zoning & Site Location
- B: Site Photographs
- C: Site Plan and Elevations
- D: Applicant Letter and Application