

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 not any special circumstances that exist in this situation other than the proposed detached structure side wall is taller than the existing house side wall.

- 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;**

The subject property is in a subdivision where most development occurred in the 1950's. There are several properties within this subdivision with multiple buildings on a single lot and several with multi-family buildings on a single lot. This neighborhood is a mix of housing choices and lots of buildings. Staff feels this property owner should have the right to use his property as he would like and he is not asking for an excessively tall building on his property.

- 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;**

The variance will not allow the applicant any special privileges. A detached structure is allowed in this zoning area. There are much taller buildings on this block.

- 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;**

The variance is in harmony 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 reduction in minimum lot size variance request:

1. The variance is allow the wall height of a detached garage to be taller than the wall height of the residence. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 7&8, Block 1, Pioneer Park Subdivision generally located at 519 Avenue D.
3. The applicant will meet all other City of Billings codes, including building, fire, engineering and zoning, other than side wall height, with the proposed new detached structure.
4. The applicant will obtain an approved building permit within 18 months of Board approval and complete the construction within 2 years of permit issuance.
5. There shall be no construction or demolition work on the site before 7 am or after 8 pm daily.
6. Failure to begin or complete conditions or actions required by this approval within the time limits provided will void the variance approval.

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 is recommending an 18 month time limit to obtain an approved building permit and 2 years to complete the project from the time of permit issuance.

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 duplexes are allowed in the R-60 zone.

ATTACHMENTS

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