

## 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 with the land that create a hardship. In this situation, the structures were built prior to the current zoning requirements.

- 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 that began developing many years ago and over the years many changes and additions have happened that may or may not meet current code. There have been a number of variances granted to date in this neighborhood.

- 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 this variance would not confer a privilege to this applicant that others in the subdivision do not have. There are several small lots in this subdivision and surrounding neighborhood that have multiple dwelling structures on them.

- 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;**

Because the applicant has demolished the existing front house and dug a hole in anticipation of constructing a new house staff has added conditions 4 and 5.

Staff is recommending the following conditions for the variance request:

1. The variance from 27-308 requiring a minimum lot area of 7,000 square feet to allow a minimum lot area of 6,250 square feet in a R-60 zone for 2 existing dwellings. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 39 and 40, Block 2, Fairview Subdivision generally located at 4120 and 4118 Buchanan Avenue.
3. Any future construction to replace either currently existing building will require compliance with all other zoning regulations and city ordinances that apply at the time of construction or re-construction.
4. 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.
5. Failure to begin or complete the approved actions on the variance will void the approved variance.
6. No construction or demolition activity will take place before 7 am or after 8pm.

7. Should the applicant wish to build a detached garage instead of a 2<sup>nd</sup> dwelling unit they must meet all current zoning, building and fire department requirements in place at the time of construction.

8. 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 already allowed in the zoning district – R-60 zoning allows 2 dwelling units on a single lot.

**ATTACHMENTS**

- A: Surrounding Zoning & Site Location
- B: Site Photographs
- C: Application Form
- D: Applicant Letter
- E: Proposed Site Plan