

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 structure was built on a lot that is smaller than what is required by current zoning.

- 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 in the 1970's and the majority of the structures on this block are duplexes. Denying this variance would deprive the applicant of a rights commonly enjoyed by other tracts in the same district.

- 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. This duplex fit into the surrounding neighborhood very well.

- 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 variance request:

1. The variance from 27-308 requiring a minimum lot area of 9,600 square feet to allow a minimum lot area of 8,826 square feet for an existing 2-family dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 4, Block 5, Pinnick Subdivision 3rd Filing generally located at 742 and 744 Calhoun Lane.
3. This variance is to be able to rebuild the duplex should the current structure be damaged by more than 50% replacement cost. Any future construction to replace the existing duplex will require compliance with all other zoning regulations and city ordinances that apply at the time of construction or re-construction with the exception of lot square footage.
4. No construction or demolition activity will take place before 7 am or after 8pm.
5. 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**

The requested variance is to ensure the future opportunity to rebuild a duplex on the lot should the existing one be damaged beyond 50% of replacement cost. There is no proposal to rebuild at this time; therefore it is not appropriate to place a time limit on this 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-70 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