

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 special conditions or circumstances that exist which are peculiar to the land that prevent the applicant from conformance with the zoning requirements. Although the lot is a regular shape, there is an underground shelter structure south of the existing driveway, the existing placement of the dwelling is not far enough setback from Dahlia Lane to accommodate a detached or attached garage and moving the garage to the north will impinge on the required arterial setback for Poly Drive. These are special conditions that apply to this lot that do not apply to other lots within the neighborhood.

- 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 Planning Division research identified 5 previous variances in the immediate area including a variance granted a few months ago for 1905 Poly Drive and variances for setbacks, obstructions in clear vision areas and lot coverage. The Planning Division identified at least 7 properties in the neighborhood with garage setbacks ranging from 7 feet to 15 feet. Most were likely constructed prior to the current zoning requirements for a 20 foot setback. Denying this variance would deprive the applicant of rights commonly enjoyed by surrounding property owners.

- 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. Staff discovered at 7 properties with similar garage setbacks from streets and 5 similar variances.

- 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 20 to 10 feet:

1. The variance is to allow a 10 foot setback from the east property line for the purpose of constructing a new 840 square foot detached garage. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 6, (less south 10 feet), Block 3, of Sweeney-Carlson Subdivision, generally located at 1934 Poly Drive.
3. The detached garage shall be constructed in substantial conformance to the drawings submitted to the Planning Division with this application.

4. No construction activity will be done before 7 a.m. or after 8 p.m.
5. The owner will complete the Building Permit process for BP-15-01355 within 3 months of Board of Adjustment approval. The owner will complete the construction within 18 months of Board of Adjustment approval.
6. The owner will not park or store any vehicle on the driveway so it extends over the pavement of Dahlia Lane.
7. If sidewalks are constructed in the future on the west side of Dahlia Lane, the owner will not park or store any vehicle on the driveway so it extends over the pavement of the sidewalk.
8. Failure to begin or complete the approved actions on the variance will void the approved variance.
9. 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 complete the pending building permit application within 3 months and complete the project within 18 months 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.