

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 lots are a regular shape the current lot area is not conforming to the requirement for duplexes in the R-70 zone. There is no way to re-configure the lots to provide a conforming lot area. The duplexes were constructed in 1968 as duplexes and have not been converted from single family dwellings.

- 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 16 previous variances in the immediate area. The Planning Division identified at least 9 properties in the neighborhood with duplexes on lots less than 9,600 square feet. A lot area variance was also granted in the Central Acres Subdivision to south in 1979 to allow two 5-plexes on lots less than 11,500 square feet.

- 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 16 properties have been granted lot area variances in this subdivision and 1 lot area variance granted in the Central Acres Subdivision. Nine additional properties in Patricia Subdivision have duplexes on lots less than 9,600 but do not have 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 duplex or 2 units on Lot 1, Block 2 (8,450 square feet) and a duplex or 2 units on Lot 2, Block 2 (8,099 square feet), Patricia Subdivision. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 1 & 2 of Block 2 Patricia Subdivision, generally located at 3402/3404 and 3406/3408 Gallatin Place.
3. Any future re-construction of the existing structure will require compliance with other all other zoning regulations and city ordinances that apply at the time of re-construction.

4. 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 the existing structure. 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 allowed in the zoning district – duplex dwellings are allowed in the R-70 zone.