

## **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 circumstances existing on this property that would create a hardship. The subject property is relatively flat and there are no physical obstacles that would prevent the fence from meeting the 4' maximum fence height in the front yard setback and the clear vision 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;**

There has only been one fence height variances in the surrounding neighborhoods that was granted for a clear vision area at an alley and street intersection, and staff had recommended denial of that variance request. A literal interpretation of the front yard fence height and clear vision area requirements does not deprive the applicant of 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;**

The variance will confer on the applicant a special privilege that other properties in this area of Colton Boulevard do not enjoy. There has only been one fence height variances in the surrounding neighborhoods that was granted for a clear vision area at an alley and street intersection, and staff had recommended denial of that variance request.

- 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 not in harmony with the general purpose and intent of the zoning regulations and the growth policy. This would be to allow the subject property a taller fence in the front yard setback which reduces visibility for public safety along the public road corridor.

- 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 denial of variance and complete compliance with the existing fence height that is in the clear vision area.

- 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 not recommending approval of the variance, so there is no time limit for meeting variance conditions. The fence should be brought into compliance with all requirements.

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. Fences are an allowed use in all residentially zoned districts in the city. It is the height of the allowed fence that currently does not meet the regulations.

#### **ATTACHMENTS**

- A: Surrounding Zoning & Aerial View
- B: Site Photographs
- C: Application form