

## Attachment C

### 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 appear to have been built prior to the zoning restrictions in place.

- 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 variances that have been granted in the area for existing duplex, three-plexes, four-plex and five-plexes on smaller lots than what is allowed by current zoning. There are other properties in the neighborhood that have multiple dwelling units on smaller lots. Some properties have obtained variances while others have not. Therefore, allowing the applicant a variance for an existing duplex and single family dwelling on a 7,000 square foot lot gives the applicant rights commonly enjoyed by other properties 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 for a duplex and single family dwelling on a 7,000 square foot lot would not confer a privilege to this applicant that others in the subdivision do not have. There are many small lots in this subdivision that have existing multi-family buildings 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;**

Staff is recommending the following conditions for the variance request;

1. The variance from 27-308 requiring a minimum lot area of 13,000 square feet to allow a minimum of 7,000 square feet for three existing dwelling units. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 19 & 20, Block 289, Billings Original Town.
3. Any future construction or re-construction of the existing structures will require compliance with all other zoning regulations and City ordinances that apply at the time of construction or re-construction.
4. The applicant must submit for a building permit to complete the renovations of the basement dwelling unit for the duplex within 6 months of this variance approval and must bring the basement unit of the duplex to meet current codes.

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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 one duplex and a single family dwelling on a 7,000 square foot lot. The applicant must submit for a building permit to complete the renovations of the basement duplex within 6 months of 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 – Residential -6000 zoning allows duplexes and single family dwellings.