

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 prior to zoning and there is some evidence to determine the existing structure has been used as or had been constructed as a duplex dwelling.

- 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 has been developed with single family dwellings. Therefore, denying the applicant a variance for a duplex on an 8,840 square foot lot does not deprive the applicant of 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;**

While there are duplexes on non-conforming lots in other areas of the City and lot size variances have been granted in other locations for duplexes, granting this variance for a duplex on an 8,840 square foot lot in this subdivision would confer a privilege to this applicant that others in the subdivision do not have.

- 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. Duplex dwellings are allowed in the R-70 Zoning District if the lot meets the size requirements.

- 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 of 8,840 square feet for two dwelling units. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 10, Block 1 of Lillis Subdivision, 2nd Filing.
3. Any future construction or re-construction of the existing structure will require compliance with all other zoning regulations and City ordinances that apply at the time of construction or re-construction, including renovations or additions.
4. This variance approval allows conformance with the zoning regulations for the lot size. The variance in no way indicates conformance with any other code, including but not limited to, the International Uniform Building Code Regulations.
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 on a 8,840 square foot lot.

- 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 -7000 zoning allows duplexes and single family dwellings.