

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.

- 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 variance approved for lot coverage in the neighborhood for 32% (not 39% as requested in this application), however there are some properties in the area that are close to or over the lot coverage, none of them appear to be more than 35%.

- 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 39% lot coverage may confer a special privilege since there have not been similar variances granted in the area.

- 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 is from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 34% for a proposed detached garage of 400 square feet in a Residential 9,600 (R-96) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 9, Block 13 of Evergreen Subdivision, 2nd Filing.
3. The proposed building will be located and oriented in substantial conformance with the submitted site plan. Minor adjustments to the site plan are allowed.
4. 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.
5. The applicant must submit for a building permit within 6 months of this variance approval.
6. No construction activity will be done before 7 a.m. or after 8 p.m.
7. 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**

A building permit must be applied for and approved within one year of the date of 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 -9600 zoning allows accessory structures to single family dwellings.