

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 circumstances existing on this property creating a hardship that is peculiar to this land. The lot sandwich between 2 lots zoned HC with intense commercial development and commercial type buildings. The property is larger – 1.95 acres – as compared to similarly zoned property in the area. The property owner could build a smaller accessory building of 1,500 square feet if 2 of the 3 other accessory buildings were removed although this would result in a building not large enough for the intended purpose and additional items would be stored outside in the elements.

- 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 are several properties in the area that have received variances from the accessory building size limitation, the requirement that a primary structure occupy the same lot, and for horizontal siding to allow vertical siding. At least 12 other properties in the area without variances of record have accessory buildings larger than currently allowed and with vertical siding. Denial of the variance would deprive this owner of benefits enjoyed by other property 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 not allow the applicant any special privileges. Other similar variances have been granted for existing and new construction and for building additions.

- 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 including the 2016 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 clear vision variance request:

1. The variance is from Section 27-310 (i) requiring a maximum size of 1,500 square feet to allow a maximum size of 2,240 square feet and from 27-310(i) requiring horizontal siding or siding to match the residence to allow the placement of vertical siding on the accessory building.
2. The variance is limited to C/S 151 in Lot 6 of Holling Ranch Subdivision, a 1.95 acre parcel of land generally located at 2222 ½ Main Street.
3. The 2,240 square foot accessory building will not be used for any commercial purposes, including a home occupation and is for the storage of personal property only. All other zoning requirements except the size limitation and siding requirement must be met.

4. The owner will apply for and receive a building permit within 6 months of Board approval.
5. The owner will complete the construction within 18 months of Building Permit issuance.
6. The owner will meet all required building codes, engineering codes and other city codes applicable at the time of Building Permit application for the accessory structure.
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

The Planning staff recommends a building permit be obtained within 6 months and the construction completed within 18 months of building permit issuance.

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. Detached garages are an allowed use in the RMH zone.