

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, there are no structures currently on the property.

- 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 no other properties in the neighborhood that have larger detached structures than are allowed under the zoning code. Therefore, denying the applicant a variance for a new 2,200 square foot single detached structure and a total of 3,000 square feet of detached accessory structure area, would 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;**

Granting this variance for a new 2,200 square foot single detached structure and a total of 3,000 square feet of detached accessory structure area 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 growth policy, however granting the variance would not be in harmony with the purpose and intent of the zoning code.

- 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;**

IF The Board of Adjustment votes to approve the variance request;

Staff is recommending the following conditions;

1. The variance from 27-310(i)(3) requiring a maximum floor area of 1,500 square feet per detached accessory structure and not more than 2,000 square feet total detached accessory structure floor area to allow 2,200 square feet for a single detached structure and a total of 3,000 square feet of detached accessory structure area in a Residential 9,600 (R-96) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 5 through 10, of Westfield Subdivision, a 3.731 acre parcel of land. This variance is for the parcel in its entirety as a 3.731-acre parcel and will no longer be valid if the parcel is reduced or divided at any time to less than 3.731 acres. Any reduction in size or division of this parcel will void the variance.
3. Any future construction or re-construction of the structure(s) will require compliance with all other zoning regulations and city ordinances that apply at the time of construction or re-construction.
4. The property owner has 6 months to apply for and receive an approved building permit, and 1 year to complete construction of the accessory structures.
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, if approved requires the property owner a maximum of 6 months to apply for and receive an approved building permit, and 1 year to complete construction of the accessory structures.

- 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, but has a limit to the maximum size of a detached structure. Granting the variance would be giving a special privilege to the applicant in that they would be allowed a greater size and more than maximum allowed square foot of accessory buildings placed on other property in the district.