

## **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. The applicant is requesting this variance in order to utilize a property that has not been developed.

- 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. There have been variances that have been granted in the area for existing single family and multiple dwelling units on smaller lots than what is allowed by current zoning. There are other properties in the neighborhood that have single family and multiple dwelling units on smaller lots. Some properties have obtained variances while others have not. Therefore, allowing the applicant a variance for 2 single family dwellings each on a 5,250 square foot lot would give the applicant similar 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 2 single family dwellings each on a 5,520 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 single 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 6,000 square feet to allow a minimum lot area of 5,250 square feet for the proposed boundary line adjustment and aggregation to create two (2) 5,250 square foot lots for development of single family dwellings in a Residential-6,000 Zone. No other variance is intended or implied with this approval.
2. The variance is limited to lots 13, 14 & 15, Block 219, Billings Second Addition, a 10,500 square foot parcel of land.
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.
4. The applicant must submit an application for the lot line relocation and aggregation within 6 months of variance approval.
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**

Per condition #4 the applicant must submit an application for the lot line relocation and aggregation within 6 months of 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 single family dwellings.