

## **County Variance 282 – Proposed Findings of the 7 criteria**

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 circumstances existing on this property that would create a hardship. The subject property is relatively flat and there are no physical obstacles that would prevent the owner from setting the building 3 feet or more from the side property line. The only unusual characteristic of the property is its triangular shape due to the location of the Lockwood Irrigation Canal.

- 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 have been 6 variances of record in this area of Lockwood, and 4 of the 6 have been granted to reduce one or more setbacks. The smallest side setback granted was to 4.5 feet. Two requests have been denied, both in the Eagle Rock Subdivision. The latest variance of record is 1996, when a variance was granted to reduce a side yard from 10 feet to 7 feet at 101 Nightingale Lane for an attached garage. There are several smaller existing detached sheds and accessory buildings in the area that are placed on or near side property lines. There is no apparent new construction of accessory buildings of this size on or near property lines. A literal interpretation of the required side setback for a detached garage does not deprive the applicant of rights commonly enjoyed by other tracts 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 confer on the applicant a special privilege that other properties in this area of Lockwood do not enjoy. No similar variances have been submitted or approved and no similar sized accessory buildings have been recently constructed on or near property lines in this area of Lockwood. In addition, the Board of Adjustment has received credible information from the adjacent owner that at least a portion of the building is over the property line.

- 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 not in harmony with the general purpose and intent of the zoning regulations and the growth policy. Building setbacks provide for public safety by ensuring separation of buildings on adjoining land, preserve the enjoyment of property by adjoining owners and diminish the overcrowding of land.

- 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 denial of variance and complete compliance with the accessory building setback requirements of at least 3 feet.

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**

Staff is not recommending approval of the variance, so there is no time limit for meeting variance conditions. The existing building should be brought into compliance with all requirements. The owner has 2 options in this regard: 1) move or otherwise re-construct the accessory building at the proper setback or 2) purchase land from the adjoining neighbor and move the property line at least 3 feet from the existing building.

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. Accessory buildings are an allowed use in all residentially zoned districts in the county.