

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;**

The current setback of the residence built in 1911, is 17 feet from the front property line. This is a special condition applicable to this lot. The building setback will not allow a projection in the front setback more than 1 foot closer to the property line.

- 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 dwellings within a 3 block area of N 24th St that do not have the full 20-foot front setback for a dwelling. Many of these were constructed before May 1972, when the current zoning went into effect. In addition, 3 other dwellings on this block of N 24th St have front yard decks closer than 16 feet to the front property line. A literal interpretation of the zoning regulations for this zone would deprive this owner of similar rights enjoyed by others in the same district. The City has processed 11 setback variances in the neighborhood and all but 1 have been approved.

- 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. Several residences on N 24th St have less than the required setback and more projections in the front setback than normally allowed. Similar variances have been granted for new construction in similar situations.

- 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 and the City's Infill 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 building height variance request:

1. The variance is from Section 27-310(g) requiring a maximum front yard projection of 4 feet into the required setback to allow a maximum projection of 7 feet into the required front setback. No other variance is intended or implied. The variance is limited to North 50 feet of the South 125 feet of Lot 4, Block 7, Sunnyside Subdivision, 2nd Filing, generally located at 1010 N 24th St.
2. The owner will apply for a building permit within 6 months of Board approval.
3. The owner will complete the deck within 12 months of Board approval.
4. There will be no construction activity before 7 am or after 8 pm daily.
5. The owner will meet all required building codes, engineering codes and other city codes applicable at the time of Building Permit application.

6. Failure to begin or complete the actions required by this variance approval will void the variance.
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 the building permit application be submitted within 6 months and the front deck completed within 12 months of Board 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 allowed in the zoning district. Residential uses are allowed in the R-70 zone.