

**Findings of the Review Criteria
Variance 1259 – 922 Royal Avenue**

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 cover a concrete patio area with a sun porch to enjoy the outdoors in the afternoon. The property received a lot coverage variance to 33% in 2014 for the original construction. Subsequent to the construction, the owner added a detached shed of 120 square feet and is now requesting 112 square feet for the patio cover. This would add another 3% lot coverage for a total lot coverage of 36%.

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 newer subdivision and was granted a first variance for lot coverage in 2014. An application to exceed lot coverage for a garage addition at 964 Pegasus Place was denied in 2011. There are no other lot coverage variances of record in the area. Two newly developed properties to the west (902 and 906 Royal Avenue) also exceed the maximum lot coverage (31%) but did not apply for variances. This was either due to plan review error, or a field change in the approved building dimensions without further review by the Planning Division. Some properties have obtained variances while others have not. The literal interpretation of the provisions of this Chapter would deprive the applicant of rights enjoyed by other tracts in the same district; therefore, allowing the applicant a variance to increase the lot coverage to 36% would not deprive the applicant of these rights.

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 36% lot coverage on this property would not be granting a special privilege to this owner. Other lot coverage variances have been granted and other property in the neighborhood are over the 30% maximum without the benefit of a variance.

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 approval (as recommended by Staff) 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 maximum lot coverage of 30% to allow a maximum lot coverage of 36% based on the lot area of 9,917 square feet. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 12, Block 6, Kingston Place Subdivision, generally located at 922 Royal Avenue.

3. The applicant will submit a building permit application within 6 months of Board approval.
4. The applicant will complete the construction of the approved patio cover within 18 months of building permit approval.
5. There will be no construction activity before 7 am or after 8 pm.
6. Failure to start or complete actions required in this approval will void the variance.
7. 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.
8. 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 property owner shall apply for a building permit to construct the sun porch within 6 months of Board approval and complete the construction within 18 months of building permit 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 – R-70 zoning allows sun porches.