

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 construct an addition of a second story over the existing garage that currently is at 5 feet from 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;**

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 properties that do not meet the current required setback distance from property lines. The literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district; therefore, denying the applicant a variance to construct a second story at 5-foot setback rather than the required 8 feet would deprive the applicant rights commonly enjoyed by other properties in the 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 not allow the applicant any special privileges. Granting this variance would not 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 approval is in harmony with the general purpose and intent of the zoning regulations and the 2016 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;**

1. The variance from 27-308 requiring a minimum side setback of 8 feet for a 2-story structure to allow a minimum 5-foot side setback to allow the addition of a second story above an existing 2-car garage, 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 2 & 3, Block 2 of Crawford Subdivision, a 14,690 square foot parcel of land. Tax ID: A05776.
3. The owner will meet all required building codes, engineering codes and other city codes applicable at the time of Building Permit application for the addition.
4. The owner will apply for a building permit for the renovations on the property within 6 months of Board approval. Construction shall be completed within 1 year.
5. Failure to begin or complete the actions required by this variance approval will void the variance.

6. 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.
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 property owner shall apply for a building permit for the addition and must comply with all Building codes included in remodeling and shall be completed within one year. Upon completion receive a "Certificate of Final Inspection" for verification of work completed in compliance with the Building Code.

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 additions to single family dwellings.