

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 circumstances that exist which are peculiar to the land. The applicant wishes add on to the existing single family dwelling.

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 an addition with a 2-foot setback rather than the required 5 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;**

Granting this variance would not confer a privilege to this applicant that others in the subdivision do not have. There have been 5 variance requests granted in this subdivision for setbacks.

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 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 5-foot side setback to allow a 2-foot side setback for a proposed addition to an existing dwelling in a Residential 6,000 (R-60) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 13 and 14, Block 19 of Broadwater Subdivision, a 7,000 square foot parcel of land. generally located at 1025 Cook Ave. Tax ID: A03652
3. The applicant will submit and obtain a building permit for the addition within 6months of variance approval and have the addition completed within 12 months.
4. The applicant will construct the addition in substantial conformance to the drawings submitted with this variance request.
5. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
6. The applicant shall meet all other city code requirements for the proposed addition with the exception of this variance.
7. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.

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

If the variance is approved; the property owner shall apply for a building permit to construct the addition within 6 months and complete construction within 12 months.

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 districts allow residential remodeling and additions to existing structures.