

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 lot is at the base of the Billings Rims and there are very steep slopes making the north portion of the lot difficult and very expensive to build on. The applicant wishes to rebuild her home after losing the previous one in a gas leak explosion.

- 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 homes surrounding the subject property in this area are built close to the front property because of the steep slopes on the back of the lots. There have been 12 variance requests in the surrounding neighborhood six of those that were granted were for front yard setback reductions.

- 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. Many of the homes currently do not meet current front setback requirements.

- 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.

- 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 is from 27-308 requiring a minimum front setback of 20 feet to allow a front setback of 10 feet to allow the re-construction of a dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to the south 110 feet of Lot 2, Block 6, Lee Heights Subdivision, 2nd Filing generally located at 1415 Granite Avenue.
3. The applicant will submit and obtain a building permit for the new house within 1 year and have the house built within 2 ½ years.
4. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
5. The applicant shall meet all other city code requirements for the proposed house with the exception of this variance.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this 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**

Staff is recommending the applicant have 1 year to obtain the building permit for the house and 2½ years to complete the construction of the house.

- 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.