

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 special circumstances existing on this property creating a hardship that is peculiar to this land. The existing large property with developed YWCA housing and services does not make it possible to separate off a large enough portion of the property to meet the area for the 24-unit development project without affecting the existing developed area. Since the property also is bordered by an alley on the south and an undeveloped road right-of-way on the north, there is no way to expand the foot print of the project to meet the lot area requirement.

- 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 have been 14 variance requests in this area. Four of the 14 variances were requests for lot size reduction, and they were all granted. The other variances were for setbacks or changing from one non-conforming use to another.

- 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. Other similar variances have been granted for existing and new construction in the neighborhood.

- 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 lot size variance request:

1. The variance is from Section 27-308 requiring a minimum lot area of 40,000 square feet for 24 attached dwelling units to allow a minimum lot area of 34,110 square feet to allow the construction of a new supported residential apartment complex in a Community Commercial (CC) zone.
2. The variance is limited to Lots 1-10, YWCA Subdivision (proposed Lot 8A), and vacated 10th St West. Tax ID: A18723. 909 Wyoming Ave.
3. The applicant will submit and obtain a building permit within 6 months, and construction shall be completed within 2 years of Board of Adjustment approval.
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 apartment complex with the exception of this variance.
6. The structure shall be built in substantial conformance to the site plan submitted with this application.
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**

The applicant will submit and obtain a building permit within 6 months of Board of Adjustment 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. Single family and Multi-family structures are allowed uses in the Community Commercial zone under the RMF-R zoning requirements for residential construction.