

## **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 existing on this property creating a hardship that is peculiar to this land, other than these lots were developed prior to the current zoning requirements.

- 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 22 variance requests in this subdivision. Six of the variances were requests for lot size reduction, one was denied, and five were 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 subject property is in an older neighborhood where there is a mix of single family, two-family and multi-family dwellings as well as commercial property. 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 27-308 requiring a minimum lot area of 8,500 square feet for an existing three-unit multi-family dwelling to allow a minimum lot area of 5,250 square feet in a Residential 6,000 (R-60) zone. No other variance is intended or implied with this approval.
2. The variance is limited to on Lot 37 and the West ½ Lot 38, Block 2, Yellowstone Addition Subdivision. Tax ID: A18872. 518 Broadwater Avenue.
- 3.. If the dwelling units are re-constructed in the future, they must meet all other city code requirements with the exception of this variance.
4. 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 requested variance is to ensure the ability to reconstruct the existing buildings in the future. No timeline is necessary for this variance.

- 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 R-6000.