

## 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 that exist which are peculiar to the land. The structure was built in 1956 and will require a setback variance to be compliant with zoning. The lot is an odd shape and may have required the house to be built closer to the front property line. The applicant wishes to add on to the existing structure with a garage closer than 20 feet.

- 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 and over the years many changes and additions have happened that may or may not meet current code. There have been variances that have been granted in the area for side setbacks, and arterial setbacks. The literal interpretation of the provisions of this Chapter would not deprive the applicant of rights commonly enjoyed by other properties in the same 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 in part for the existing structure built in 1956, would not confer a privilege to this applicant that others in the subdivision do not have for the existing structure. Approval of this variance for the 12' setback for the new addition to the existing structure would confer a privilege that other land in the same district 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 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 front setback of 20 feet to allow a minimum front setback of 10 feet for an existing dwelling, and a minimum front setback of 12 feet for a new addition in a Residential 9,600 (R-96) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 3, Morse Subdivision and Lot 3, Kolstad Subdivision, 2518 Sunnyview Lane.
3. The applicant will submit and obtain a building permit within 6 months and have the addition completed within 1 year.
4. The addition shall be built in substantial conformance to the site plan submitted with this application.
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**

Staff is recommending the applicant have 6 months to obtain the building permit for the addition and 1 year to complete the construction.

- 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 districts allow residential structures and additions.