

VARIANCE #1275 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 not any special circumstances that exist in this situation other than the patio cover was constructed without building permit approval, and the side street garage setback of 10 feet was missed during plan review.

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 newer subdivision with vacant parcels and homes newly constructed and under construction. There have been similar variances granted for setbacks in and no variances granted to exceed the lot coverage within the same district. Denying the variance for setback would deprive the applicant of rights commonly enjoyed by other tracts in the same district, however denying the lot coverage variance to allow 31% would not deprive the applicant of rights commonly enjoyed by other tracts 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;

The variance for setback of 10 feet will not allow the applicant any special privileges. Similar variances have been granted in the area. The variance to allow 31% lot coverage would allow the applicant a special privilege that is denied by this Chapter for other land within the same area.

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 reduction in the garage setback from the street:

1. The variance from Section 27-308 requiring a minimum setback for a garage entrance from a street of 20 feet to allow a 10-foot setback in a (R-96) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 9, Block 5 of Vintage Estates Subdivision, 5205 Cabernet Lane.
3. Any future re-construction of the existing structure will require compliance with all other zoning regulations and City ordinances that apply at the time of re-construction.

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

No time limit is required since construction is already under way.

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 dwellings with attached garages are allowed in the R-96 zone.