

## **Proposed DETERMINATIONS for Variance 1281;**

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 lot is less than required for two dwelling units on the property. The existing structure was built in 1909, before the current zoning was in place.

**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 where much of the development occurred in the early to mid 1900's. There have been similar variances granted in the surrounding neighborhoods. Denying the variance would 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 will not allow the applicant any special privileges. Similar variances have been granted in the 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. Approval of this variance would allow the applicant to remove an older structure and replace it with a more aesthetically pleasing and useful addition to the existing home.

**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 minimum lot size variance request:

1. The variance is to decrease the minimum lot area of 7,000 for 2 dwelling units to allow a minimum lot area of 6,600 square feet, from a minimum rear setback of 20 feet to allow a rear setback of 0 feet; from an 8-foot side setback for a 2-story structure to allow a side setback of 0 feet. No other variance is intended or implied with this approval.
2. The variance is limited to the east 88 feet of Lots 10-12, Block 220, Billings Original Town, 604 S. 35<sup>th</sup> St.
3. The applicant will submit and obtain a building permit for the structure within 1 year and have the construction completed within 2 years.
4. The structure 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. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
7. The applicant shall meet all other city code requirements for the proposed addition with the exception of 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 for the structure within 1 year and have the construction completed within 2 years

**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 – two family dwellings are allowed in the R-60 zone.