

Proposed DETERMINATIONS for Variance 1282;

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 Planned Development agreement restricts the height. The PD agreement in this case makes allowances for height in the MF-4 area with a variance approval. The PD agreement allows 3 story structures in the MF-4.

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 is for multi-family structures. There have been other developments with multi-family housing in the area, constructed on the east and west of South 44th Street West, on the parcel south of the subject property.

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. Similarly developed property are in the area. The development is compatible with surrounding land uses. The property is annexed and located within an already approved PD which contemplates a variety of housing choices including multi-family. The adjacent parcels to the south and east are currently developing as multi-family housing with 3 story structures.

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 complete the design of the planned development with 2 new multi family structures with 3 stories. In addition, there are several multi-family developments in progress on adjacent parcels.

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 approval is for a variance from Lenhardt Square PD Exhibit "B" as amended requiring a maximum building height of 34 feet to allow a maximum building height of 46 feet in the PD-MF-4 zone. The purpose of the variance is to allow the construction of 2 new 86-unit 3-story apartment buildings. No other variance is intended or implied with this approval.
2. The variance is limited to Parcel 2A of C/S 2063.

3. The applicant will submit and obtain a building permit for the structures within 2 years and have the construction completed within 5 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 structures within 2 years and have the construction completed within 5 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 – multi-family dwellings are allowed in the PD.