

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 existing on this property creating a hardship that is peculiar to this land. The lot is an odd geometry including a principal arterial street frontage, the BBWA Canal on the north, and adjacent buildings built near or at side property lines. The applicant could use the property in conformance with the adopted regulations but re-development for 2 dwelling units would under-develop this property compared to similar land in the area. In order to achieve the required setbacks, the entire structure would have to be demolished and re-constructed. This would result in a property that appears out of character for N 27th Street.

- 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 are several properties in the area that have received variances from the setback requirements (arterial, front, side, rear and side adjacent to street) for new buildings or building additions. There have been many lot area variances granted in this area including a reduction in 2013 that allowed 4 times the density in a R-70 zone (1045 N 25th St) and there are similar development densities in the area that have not received zoning variances. Denial of the variance would deprive this owner of benefits enjoyed by other property 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. Other similar variances have been granted for new construction and for building remodels.

- 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 2011 Infill Policy. Both policies encourage the preservation of neighborhood character and adaptive re-use of existing facilities. Re-development of this property will increase the use of existing city services and facilities where they already exist.

- 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 variances requested:

1. The variance is from Section 27-310(e) requiring dwelling units in a Community Commercial (CC) zone meet the same requirements as a Residential Multi-family-Restricted (RMF-R) zone to allow a lot area of 7,336 square feet for 8 (eight) attached dwelling units; reduce the required front setback from 15 feet to 0 feet; reduce the required arterial centerline setback from 60 feet to 50 feet; reduce the required side

setbacks from 8 feet (2-story) to 0 feet in a Community Commercial (CC) zone. No other variances are intended or implied.

2. The variance is limited to Parcel 1A1, C/S 463, generally located at 1333 N 27th Street.
3. The applicant will provide off-street bicycle parking as recommended in the Bicycle Parking Guidelines. (attached)
4. All exterior lighting, including security lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 15 feet above grade. Exceptions to this requirement are allowed for entry doorway lighting.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. The applicant and owner will allow current and future access along the south side of the BBWA Canal Right of Way as needed. The current and any future owner will not take action to prevent such access.
7. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the new building and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside.
8. The applicant will provide landscaping as shown on the site plan A1-1 dated 3-22-18.
9. The applicant will provide substantial compliance with the submitted site plan for building elevations, floor plans and the parking lot.
10. The applicant shall obtain a building permit for within 6 months of Board approval. The structure and site development will be completed within 3 years of Board approval.
11. Failure to begin or complete the approved actions on the variance will void the approved variance.
12. 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 obtain a building permit for the proposed structure, facilities and site development within 6 months of Board approval and complete the construction within 3 years of Board approval.

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 residential uses are allowed in the CC zone.