

## 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;**

The property consists of two lots in the Country Club Heights Subdivision. Although the lot is much larger than required by zoning in R-96 zone, the buildable area is quite restricted due to the extreme topography on the north end of the lots. The topography of the lots creates a hardship that is not applicable to other lots in the same district since most surrounding homes were built prior to the current zoning (1972). These surrounding homes were specifically allowed a 10-foot front setback by the subdivision covenants in place prior to zoning.

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 most homes were built between 1960 and 1970. Many were set back 10 feet from the front property line as allowed by the covenants in place at the time prior to zoning.

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 and adjacent homes encroach on the required zoning setbacks without the benefit of a zoning variance.

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 variance request:*

1. The variance is to decrease the required front setback from 20 feet to 10 feet for the purpose of constructing one single family dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 1A and Lot 2 of Block 7, Country Club Heights Subdivision generally located at 3230 Country Club Circle.
3. The applicant shall receive approval for a building permit within one (1) year of Board approval. Construction of the addition shall be completed within three (3) years of Board approval.
4. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.

5. All construction will require compliance with all other zoning regulations and City ordinances that apply at the time of construction.
6. 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 recommended conditions of approval require the approval of a building permit within 12 months and completion of the improvements within 36 months 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 – residential dwellings are an allowed use in the R-96 zone.