

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 no special circumstances that exist which are peculiar to the land. The lot is slightly over 4.6 acres, is flat, and soils in the area appear to be suitable for construction. The applicant has not stated a hardship with the property other than the covenant and restriction requiring enclosed storage for all outdoor or recreational equipment. The code allows two 1,500 square foot detached accessory buildings on the lot. The detached garages could be built to meet the size allowed by the zoning regulations.

- 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 literal interpretation of the provisions of this chapter will deprive the applicant rights commonly enjoyed by similar tracts in the area. A 2005 variance to allow 5,000 sf detached barns or garages was approved for all lots in this subdivision. This variance “sunsetting” in February 2012, and 3 lots had already taken advantage of this variance before this date. Similar variances in nearby subdivisions have been granted for garages larger than allowed by zoning including 4 variances in the R-150 zoning district since 2013.

- 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;**

Granting this variance would not confer a special privilege to this applicant as similar sized detached barns and garages existing within this subdivision and in similar neighborhoods.

- 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. The size of the detached garage is not out of character with the surrounding residential properties and will be constructed at the required setbacks. The requested variance to increase the size to 5,000 sf in 1 building is not out of character from 3 other properties in Cold Stone Estates. Conditions are recommended to mitigate any possible negative impacts.

- 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:

1. The variance is to increase in the allowable footprint area for 1 (one) detached garage from 1,500 sf to 5,000 sf and no other variance is intended or implied.
2. The variance is limited to Lot 3, Block 1 of Cold Stone Estates Subdivision at 6500 Cold Stone Lane.

3. The new detached garage will be built in substantial conformance with the submitted site plans. Minor deviations that do not create a violation of another zoning or building requirement are acceptable.
4. There will be no construction prior to 7 am or after 8 pm daily.
5. The applicant will obtain a Zoning Compliance Permit in accordance with the approved variance within 6 months of Board approval.
6. Construction on the approved detached garage will be completed within 3 years of Board approval.
7. 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

Staff is recommending the applicant obtain an approved Zoning Compliance Permit within 6 months and the structure be completed 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.

Granting this variance will not approve a use that is not otherwise allowed in the R-150 zoning district. Detached garages and accessory buildings are allowed in the county residential zoning districts.