

BOARD OF ADJUSTMENT/APPEAL AGENDA

June 2, 2011

Case Number

BOA2011-1

Applicant

Sylvester Barros

Property Location

824 47th Street South

Property Information

Zoning of property: R-3 Single-family high density district

Legal description of property: Lot 29, Block 29, Sunrise Terrace 2nd Addition.

Area of property: 8,203 sq. ft. Existing lot coverage: 2,234 sq. ft. or 27% of Lot.

Proposed lot coverage: 2,558 sq. ft. or 31% of Lot.

Existing accessory structure: attached to residence 485 sq. ft.

Proposed accessory structure: detached 324 sq. ft.

Requested Action

Variance to Section 17.20.4.010 of the City Code that would reduce the required front and side yard setbacks from the property lines in order to build a detached carport.

Recommendation

Deny requested variance.

Project Planner

Charlie Sheets

824 47TH STREET SOUTH



Synopsis

The applicant is requesting a variance of City Code Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum front and side yard setbacks. The applicant is requesting consideration for a 10'-0" front yard setback from the east property line and a 3'-6" side yard setback from the north property line. City Code requires a 20'-0" front yard setback from the front property line and a 6'-0" side yard setback from the side property line

17.16.32.040 Basis of decision for a dimensional variance

A dimensional variance shall only be granted when the evidence shows and a finding can be made that each of the following conditions exist:

- The variance is not contrary to the public interest.
- A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.
- The spirit of the Title would be observed and substantial justice done by granting the variance.

BACKGROUND INFORMATION:

The existing residence was built in 1960 and the attached garage was built in 1979. The residence and detached garage were built with a 33'-0" front yard setback and a 3'-6" side yard setback on the north boundary. The subject property is the first residential lot on the west side of 47th Street South. The subject property is bordered to the south by the First Alliance Church Parking Lot, to the north by a single-family residence, to the west by Clara Park and across the street to the east are single-family residences.

Mr. Barros is requesting a variance to place a detached carport on the existing driveway in front of the existing two car garage, in the front yard of his property. He has prepared a letter stating the basis for his request in response to the criteria listed within City Code and photographs of the views from his property. (See Attachments "C, D, E, & F").

The Notice of Public Hearing was mailed to the neighboring property owners and published in the Great Falls Tribune on 4/3/11.

Staff was contacted by one neighboring property owner saying the improvements Mr. Barros has made to date have been very nice but putting a carport out in front of the house would detract from the previous improvements.

Variance Issues:

The subject property is zoned R-3 Single-family high density district. The standard setbacks from the front property line is 20'-0" and the side property line is 6'-0". This district and the setbacks established in the Title are provided to promote sound development patterns and to regulate the construction of structures in that various neighborhoods within the City. The applicant wishes to encroach into the front yard. Typically the front yards in the neighborhood are open and inviting.

Staff Response:

Staff provide the following responses to the Basis of Decision for a dimensional variance:

1. The variance is not contrary to the public interest.

The requested variance is contrary to the public interest because the neighborhood is generally free of encroachments in the front yards and by allowing the reduced setback a precedent would be set that could allow others in the area to request the same variance. In addition, a goal in the City's Growth Policy is to promote an inviting residential neighborhood, allowing a reduced front yard setback does not advance this goal.

2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.

The existing single-family residence and attached two car garage provides the required off-street parking for a typical residence. A literal enforcement does not result in unnecessary hardship because the property owner has the same right to use their property as any other property owners in the R-3 zoning district.

3. The spirit of this Title would be observed and substantial justice done by granting the variance.

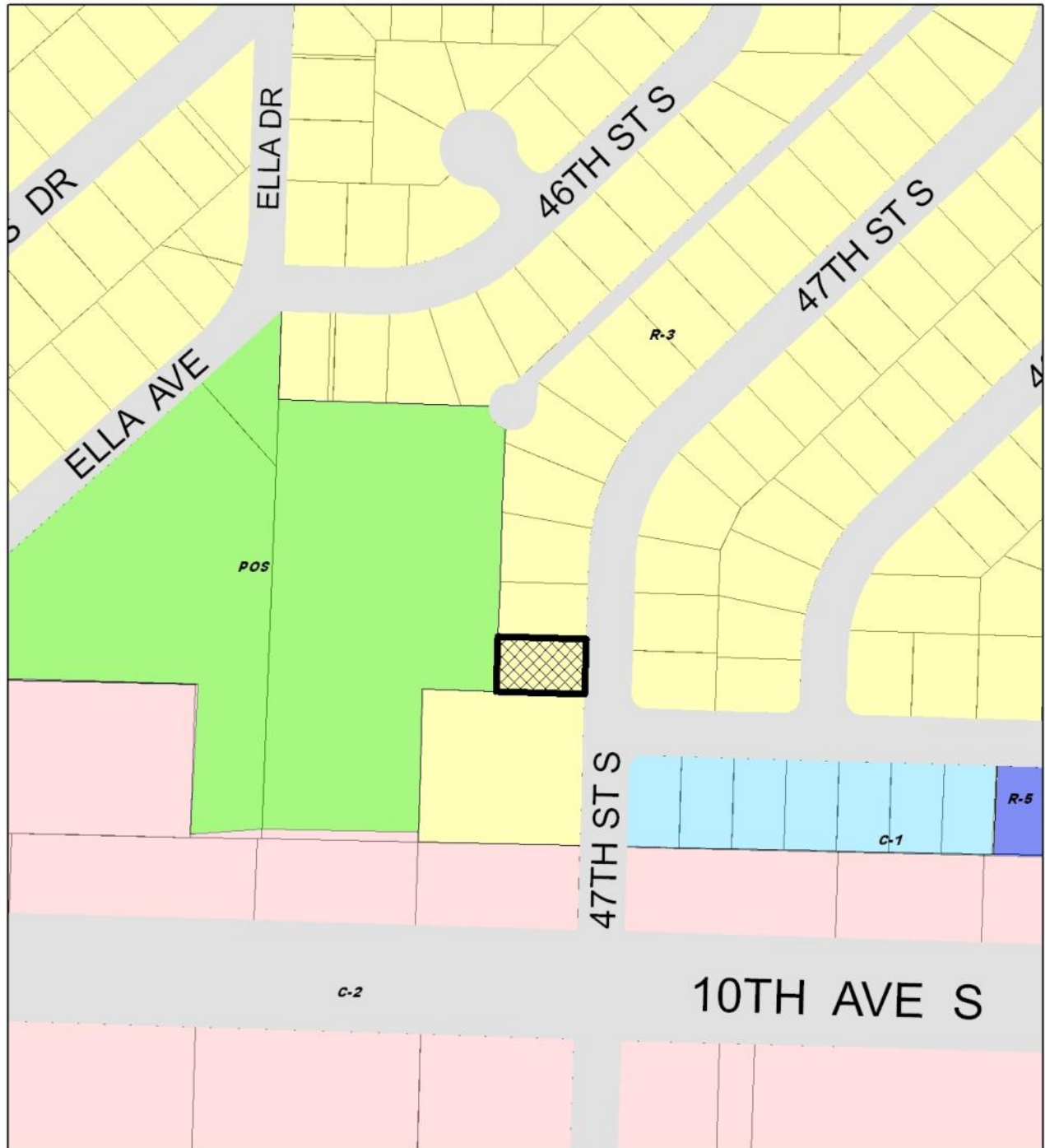
The City Code established the front yard setback to promote sound development patterns for the neighborhoods around the City.


Staff can find no basis or hardship for the granting of the reduction of the front and side yard setbacks.

EXHIBIT A - AERIAL PHOTO



EXHIBIT B - VICINITY/ZONING MAP



 Subject property 824 47th Street South






- | | | |
|---------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
|  R-3 Single-family high density |  C-1 Neighborhood commercial |  POS Parks and Open Space |
|  R-5 Multi-family medium density |  C-2 General commercial | |



EXHIBIT C - APPLICATION

CITY OF GREAT FALLS COMMUNITY DEVELOPMENT DEPARTMENT BOARD OF ADJUSTMENT HEARING REQUEST

Instructions for Completing Application: PLEASE TYPE OR PRINT IN INK. Additional information may be attached on plain or lined sheets of paper. You will be advised by mail of the hearing date.

Condition for Variance: Montana Statutes mention "unnecessary hardship" as a condition for a variance.

Variance Fee: A non-refundable processing fee of \$200.00 is required. All checks or money orders should be made payable to the City of Great Falls. Applications may be addressed to the City of Great Falls, Department of Community Development, P. O. Box 5021, Great Falls, MT 59403.

The following information shall accompany this form:

- (1) Site plan in duplicate, drawn to scale (minimum scale 1"=20') showing the nature, location, and dimension of lot, existing and proposed structures, easements and obstructions on the lot and also, all structures on adjacent lots.

NAME OF APPLICANT: Sylvester BARROS TELEPHONE: 452-8357 (Home)
(Work)

ADDRESS: 824 47th St. S. Great Falls MT. 59405
Street City State Zip Code

NAME OF LANDOWNER(s) if different from applicant: _____

ADDRESS: 824 47th St. S. Great Falls, MT 59405
 LEGAL DESCRIPTION: Lot _____ Block _____ Subdivision _____
 ZONING: Area _____ Use _____

REQUESTED ACTION: Request a variance from Title _____ Section _____
 of the Great Falls Municipal Code which states:

BASIS FOR REQUEST: _____

Applicant hereby certifies that these statements and the information submitted herewith are, to the best of his knowledge, true and correct. NOTE: If the applicant is not the owner of record, the signature of the owner of record must also be obtained.

Sylvester M Barros Applicant 2/15/2011 Date
Sylvester M Barros Owner of Record

EXHIBIT D - APPLICANT'S BASIS FOR REQUEST

Sylvester Barros

824 47th St. Great Falls, Mt. 59405 406-217-7500

To Whom it may Concern,

1. There are exceptional or extraordinary circumstances applicable to the property or to the intended use that do not apply generally to the other property in the same vicinity and zoning district.
2. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, but which is denied to the property in question. As seen in Pictures # 1, 2, 3, and 4

Basis for Request - Due to the close proximity of Commercially Zoned Properties that posse our desired setback, We therefore believe this would demonstrate an exceptional or extraordinary circumstance applicable to this property.

3. The strict application of the ordinance would constitute unnecessary hardship.

Basis for Request – It would provide a safe relief from Ice and Snow Build - Up due to the extreme elements of Montana winters. Which would relieve the unnecessary hardship caused by Ice and Snow Build -Up

4. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity or zone in which the property is located.

Basis for Request – Due to the upscale nature of the design it will not be materially detrimental to the public welfare or injurious to the property. But will only enhance the beauty of this property and neighboring properties. As seen in Picture # 5

Thank You for your Time and Consideration.

EXHIBIT E - SITE PLAN & ELEVATIONS

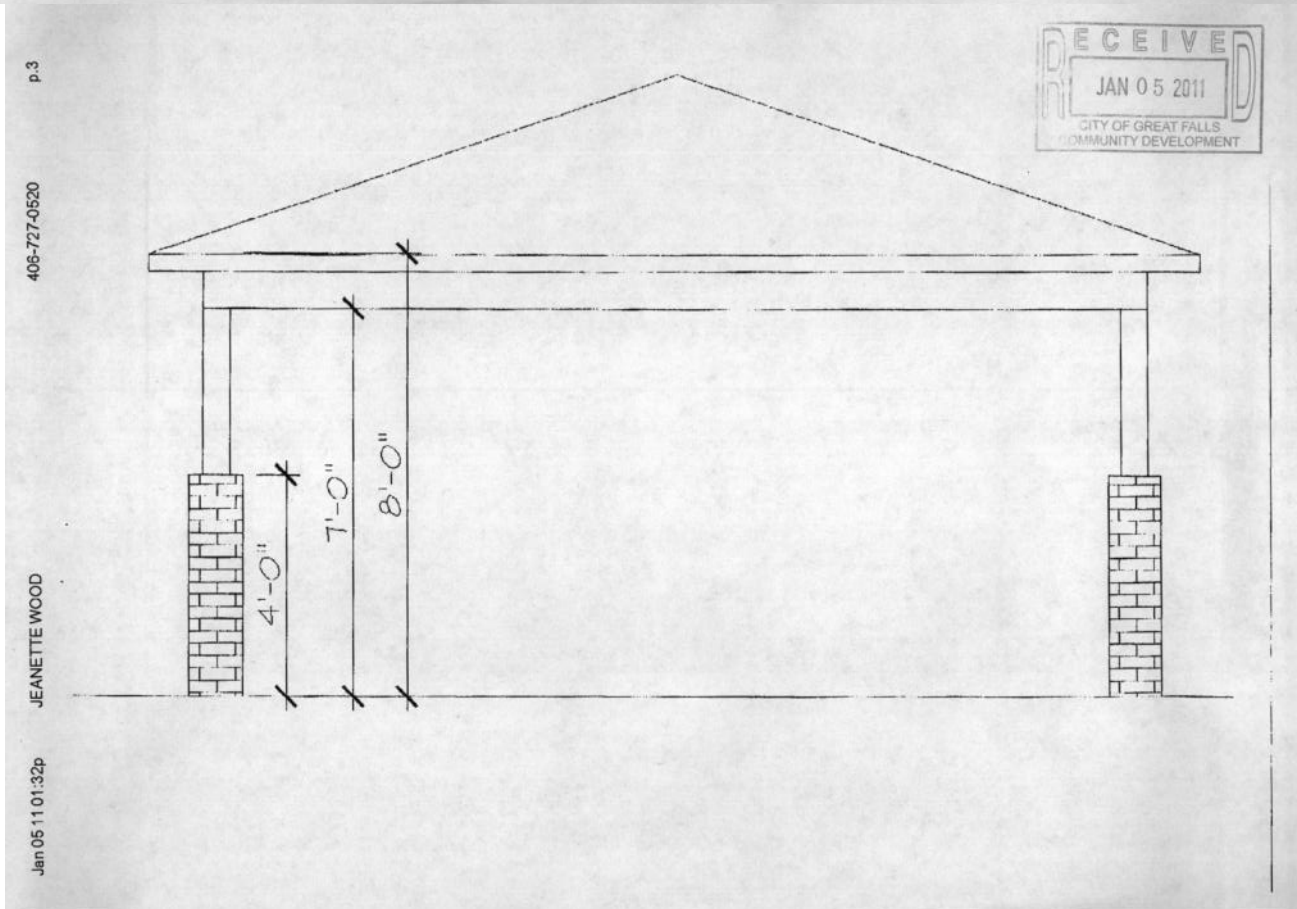
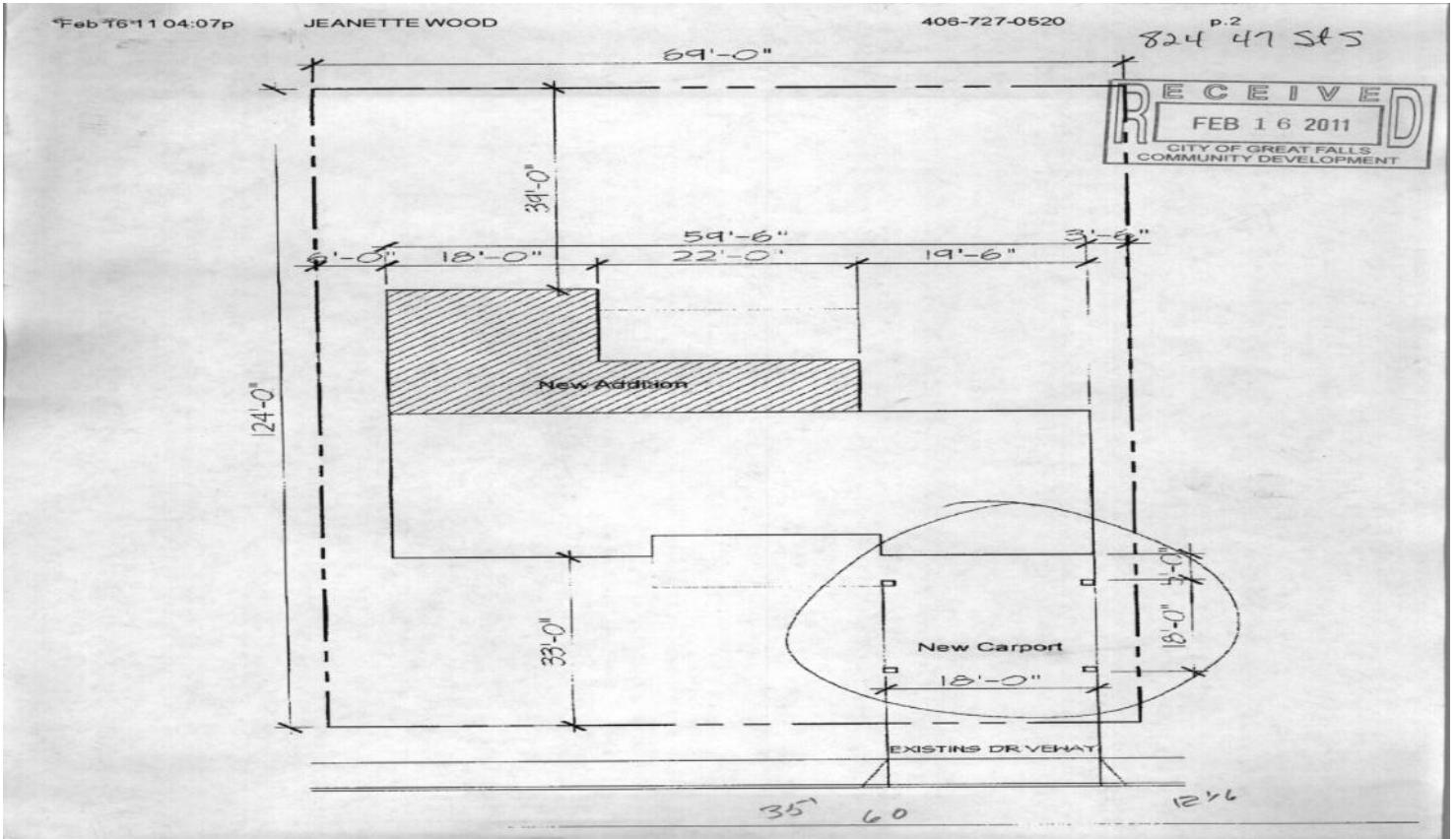
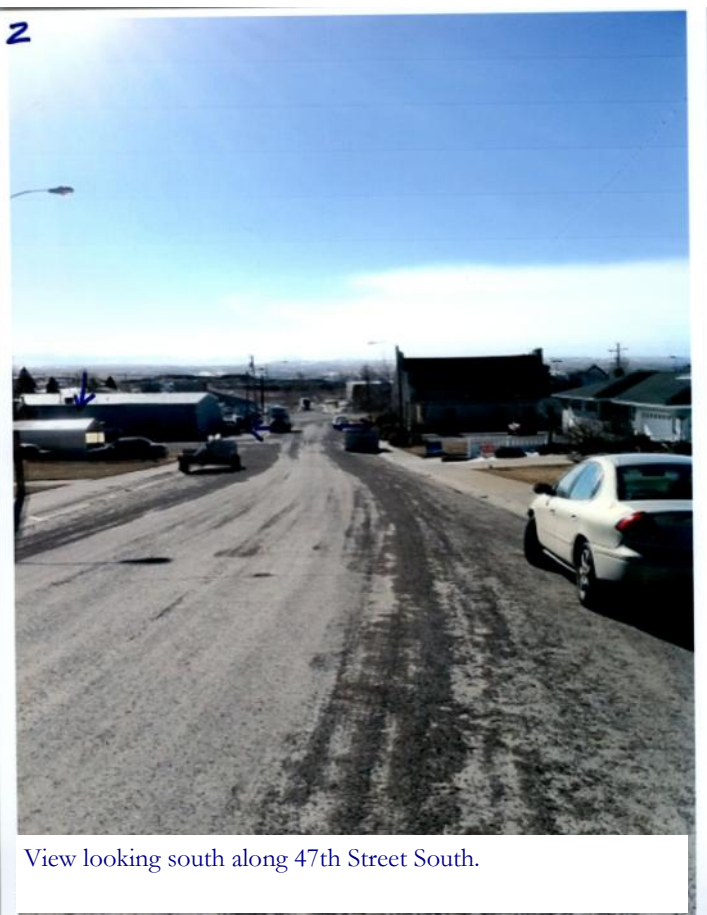


EXHIBIT F - PHOTOS



Subject property as viewed from the neighbors driveway looking south.



View looking south along 47th Street South.



Subject property as viewed from the Church parking lot.



Example of type of carport proposed for 824 47th Street South.

