

BOARD OF ADJUSTMENT/APPEAL AGENDA

June 2, 2011

Case Number

BOA2011-2

Applicant

Nancy Smith

Property Location

201 Riverview Drive West
Lot 6, Block 24, North Riverview Terrace, Section 2

Property Information

Zoning of property: R-2 Single-family medium density district
Area of property: 9,916 sq. ft.
Existing lot coverage: 1,925 sq. ft. or 19.5%.
Proposed lot coverage: unchanged.
Existing accessory structure: attached to residence 945 sq. ft.
Proposed living space over attached accessory structure.

Requested Action

Variance to Section 17.20.4.010 of the City Code that would reduce the required side yard setback from the property line in order to build living space above and in line with the existing garage

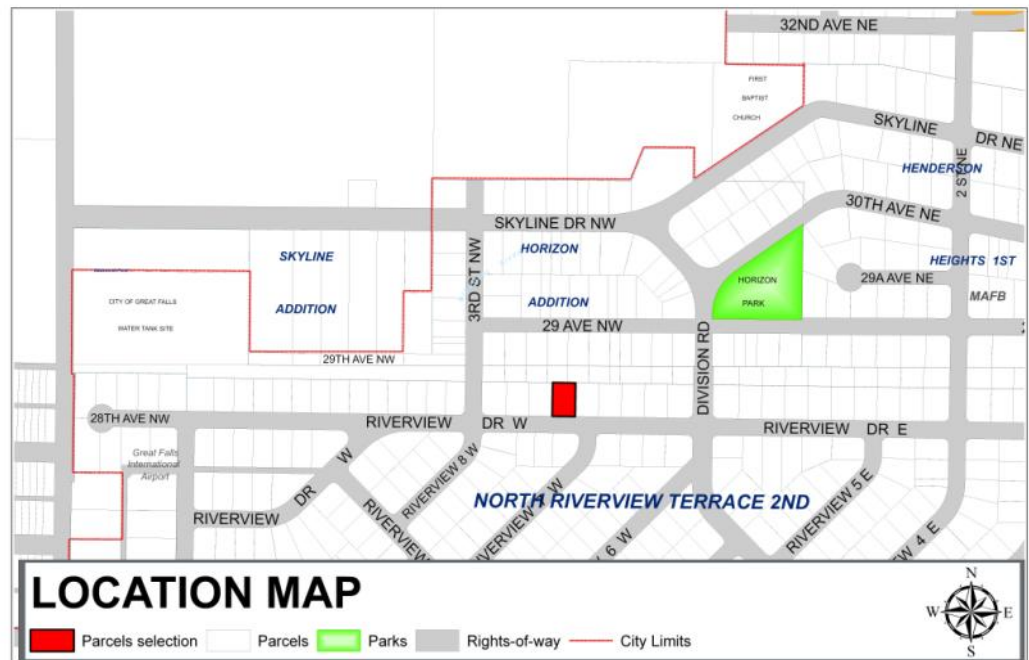
Recommendation

Approve requested variance.

Project Planner

Charlie Sheets

201 RIVERVIEW DRIVE WEST



Synopsis

The applicant is requesting a variance of City Code, Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum side yard setback. The applicant is requesting consideration for a 6'-0" side yard setback from the east property line. City Code requires a 8'-0" side yard setback from the east 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 1964. The attached garage was built in compliance with the City Code and the side yard setback requirement of 6'-0". The subject property is in the center of the block along Riverview Dr West. The subject property is surrounded by single-family residences and all are zoned R-2 Single-family zoning district and built about the same time frame.

Ms. Smith is requesting a variance to construct living space above and in line with the existing garage which is at a side yard setback of 6'-0" in lieu of 8'-0". In support of the request the applicant provides the attached plans and photographs of the property. (See Attachments "C, D, & E").

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

As of writing of this report, Staff has not received any comments from the public or the interdepartmental/agency review .

Variance Issues:

The subject property is zoned R-2 Single-family medium density district. The standard setbacks from the side property line is 8'-0". This property was developed in compliance of City Code when it was constructed. The City Commission rezoned all the properties within the City in 2005 and established new zoning and setbacks at that time making the existing garage a legal nonconforming side yard setback. Setbacks established in the Title are provided to promote sound development patterns to regulate the construction of structures and maintain the existing streetscape in that various neighborhoods.

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 not contrary to the public interest because the subject property and neighborhood was developed in compliance with the City Code in affect when the garage was built in 1964. The exterior wall of the garage is now 6'-0" setback from the side property line and is a legal nonconforming setback created when the City adopted the new setback requirements. Staff believes a precedent has been set that allows the consideration of this request.

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

The existing side yard of 6'-0" is a legal nonconforming side yard setback and the construction of the living space above it will not increase the existing nonconforming status. A literal enforcement would create additional construction cost to set the wall back to 8'-0" from the side property line and an inferior design from a structural aspect.

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

The existing 6'-0" side yard setback provides adequate room and protection to maintain and promote sound development patterns for the subject property and neighbor, who enjoys benefit of a two-story house.

Staff finds adequate basis and hardship and support the granting of the reduction of the side yard setback.

EXHIBIT A - AERIAL PHOTO

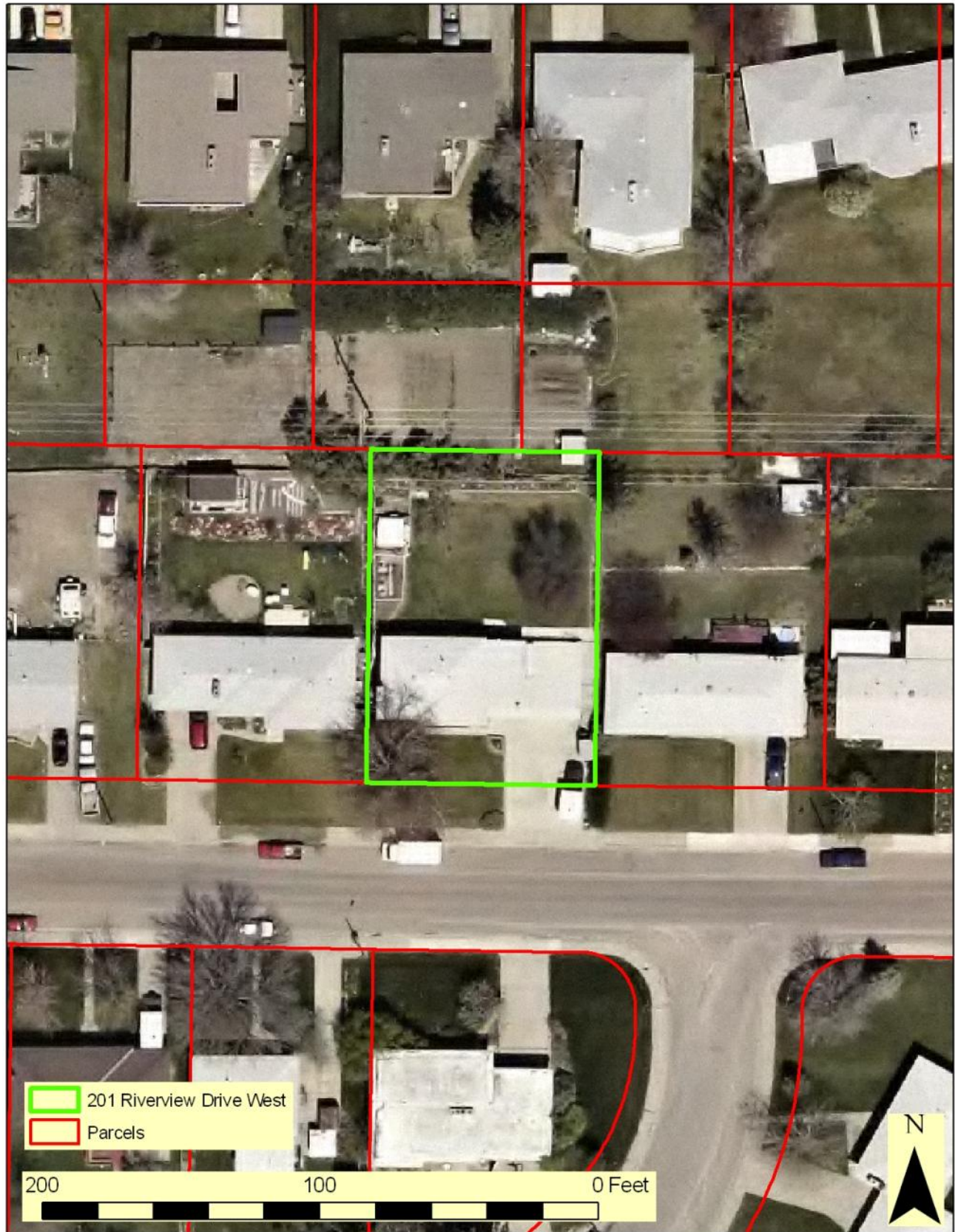


EXHIBIT B - APPLICATION

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

11-00639

\$200

CR# 5130

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: NANCY SMITH TELEPHONE: 454-3557 (Home)
788-5951 (Work)

ADDRESS: 201 RIVERVIEW DR WEST GREAT FALLS MT 59401
Street City State Zip Code

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

ADDRESS: 201 RIVERVIEW DRIVE WEST
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: To build on ground floor garage to match existing houses in neighborhood. Set back from property line will be 6'.

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.

x Nancy Smith Applicant
Nancy Smith Owner of Record
Date 4-5-11

EXHIBIT C - SITE PLAN

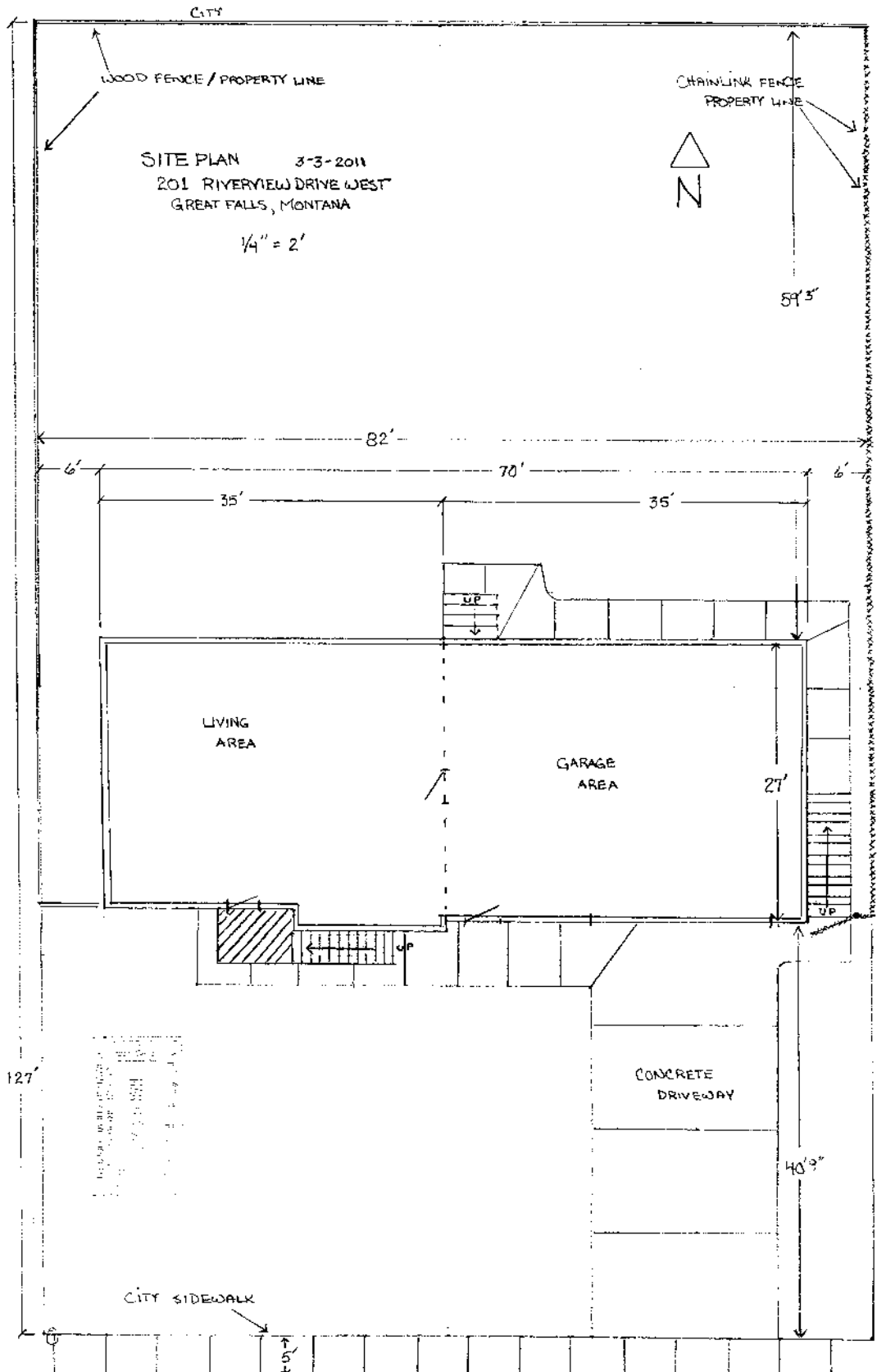
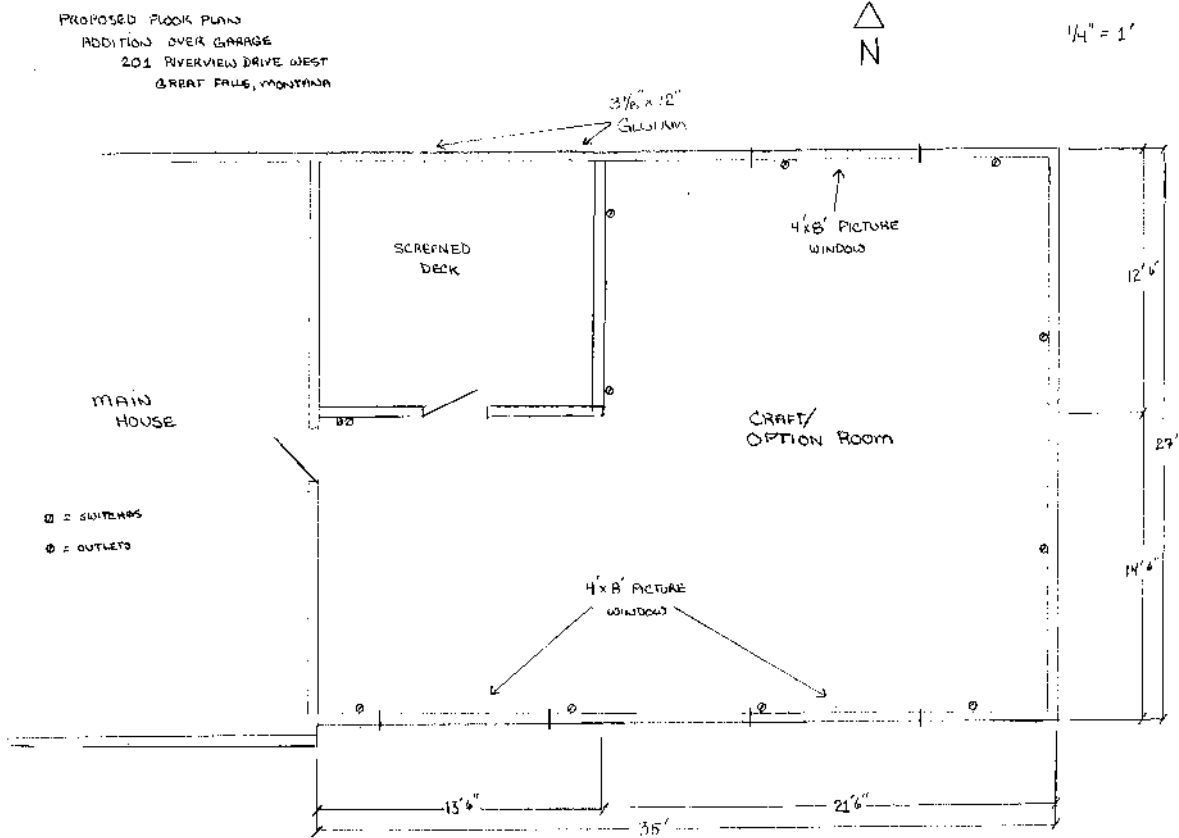


EXHIBIT D - FLOOR PLAN, ELEVATIONS



ADDITION OVER GARAGE
 201 RIVERVIEW DRIVE WEST
 GREAT FALLS, MONTANA

SOUTH (FRONT) ELEVATION

1/4" = 1'

ADDITION OVER GARAGE
 201 RIVERVIEW DRIVE WEST
 GREAT FALLS, MONTANA

EXIST ELEVATION

1/4" = 1'

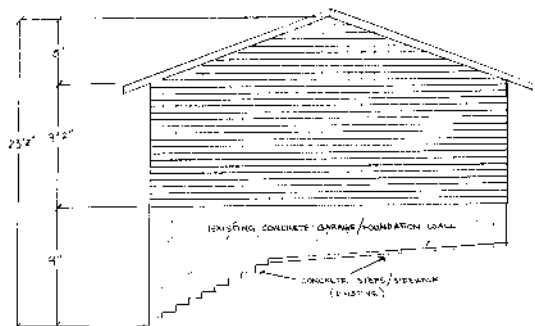
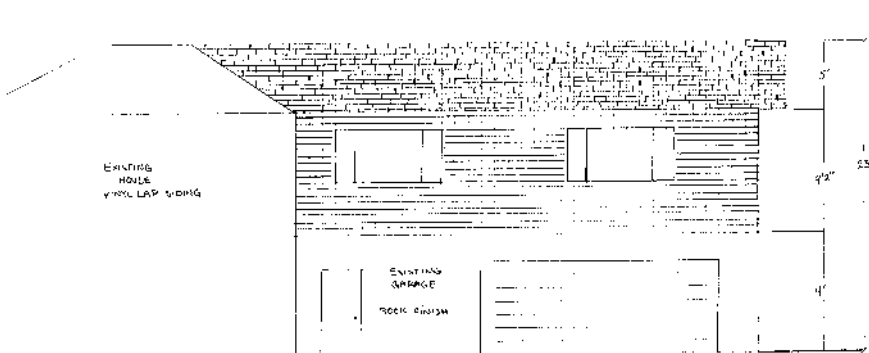


EXHIBIT E - PHOTOS



Recommendation

Suggested Motions:

Board Member moves:

“I move that the Board of Adjustment deny the application for the requested variance of City Code Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum side yard setbacks.”

Or;

“I move that the Board of Adjustment (approve with conditions) the application for the requested variance of City Code Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum side yard setbacks of a 6'-0” side yard setback from the east property line for the living space above the existing garage subject to the following conditions.”

- The proposed project shall be developed consistent with the conditions in this agenda report, all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
- If after the approval of the concept development plan as amended by this board, the owner proposes to expand or modify the conceptual development plans, the Director of the Planning and Community Development Department shall determine in writing if such proposed change would alter the concept for one or more review criteria. If such proposed change would alter the plan, the proposal shall be resubmitted for review as a new application.

Chairman calls for a second, discussion, inquiries from the public, and calls the vote.

Cc: Nancy Smith, 201 Riverview Dr West, Great Falls MT 59404