

BOARD OF ADJUSTMENT

February 16, 2012

Case Number

BOA2012-1

Applicant/Property Owner

Dupuis, Inc.
John Dupuis

Property Location

1326 Central Avenue & 8
14th Street South
Neighborhood Council #9

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 an addition to the existing commercial business.

Recommendation

Deny requested variance but approve an alternate variance allowing an in-line addition.

Project Planner

Charlie Sheets

1326 CENTRAL AVENUE



Synopsis

The applicant is requesting a variance to City Code, Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum side yard setback. The applicant is requesting a zero side yard setback from the east property line adjoining 14th Street South. City Code requires a 10 foot 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 commercial business was built in 1992 and is located at the southwest corner of Central Avenue and 14th Street South. In 1992 the property was zoned B-1 that had no side yard requirement. The subject property has the existing Viking Shop, general sales business along Central Avenue and an existing four unit multi-family apartment building on the rear of the property. The zoning was changed to C-5 Central business periphery district in 2005 as a part of the overall revisions of Title 17 and rezoning of all the properties within Great Falls. At that time a side yard setback for the C-5 district of 10 feet was established.

Mr. Dupuis is proposing to construct a 24 foot by 32 foot studio apartment attached to and extending off the south elevation of 1326 Central Avenue. The apartment is accessory to the business operation. In order to preserve a small yard area and save on construction costs, the applicant is requesting a variance to build the addition up to the property line; a 0 foot side yard setback. This would result in the proposed addition projecting ± 2.5 feet further out than the existing, very visible, east façade of the existing building. In support of the request, the applicant has provided the attached plans and photographs of the 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 February 1, 2012.

As of writing of this report, Staff has received one notice from Carol Perry in opposition to the request (See Attachment G).

Variance Issues:

The subject property is zoned C-5 Central business periphery district. The standard setback from the side property line is 10 feet. This property was developed in compliance with the 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 commercial building along 14th Street South a legal nonconforming structure with no side yard setback. Setbacks established in the Code are provided to promote sound development patterns to regulate the construction of structures and maintain the existing streetscape in various neighborhoods.



View looking south from across Central Avenue.



View looking west at the front of the existing structure.



View looking north from 1st Alley South at the four-unit multi-family structure.

Staff Response:

Staff does not support the request for a 0 foot side yard setback as that would result in the proposed addition projecting ± 2.5 feet beyond the existing east façade of the Viking Shop. However, staff would support an in-line addition—a superior design alternative—that would represent a ± 2.5 foot side yard setback in lieu of the required 10 foot setback.

Staff provides the following Basis of Decision for the proposed alternate 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 commercial business was built in 1992. When the property was given a new zoning designation by virtue of the adoption of the Land Development Code and corresponding zoning map amendments, the building became a legal non-conforming structure. The boulevard along 14th Street South is 22'-6" (back of curb to property line). The existing building is 9'-6" from the pedestrian sidewalk. So the wide right-of-way serves to increase the physical setback. Staff believes that for an in-line addition, the existing boulevard and setback from the pedestrian sidewalk allows safe traffic and is not contrary to public interest.

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

The existing structure was built close to the property line and is at a legally nonconforming side yard setback. Construction of an addition in-line with the existing building is reasonable. A literal enforcement would create additional construction costs and result in an arbitrary 7'-6" recess from the east elevation of the existing Viking Shop.

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

The existing side yard setback provides adequate room and protection to maintain and promote sound development patterns for the subject property and neighborhood.

Staff finds adequate basis and hardship for the alternate variance and supports the granting of the reduction of the side yard setback if the owner keeps the addition in-line with the existing east elevation of the building.



View looking at the existing rear entry of the commercial structure.



View looking at the south elevation of the commercial structure and the two trees to be removed.

EXHIBIT A - APPLICATION

CITY OF GREAT FALLS
 PLANNING & COMMUNITY DEVELOPMENT DEPT.
 P.O. BOX 5021, GREAT FALLS, MT, 59403-5021
 406.455.8431 • WWW.GREATFALLSMT.NET

VARIANCE APPLICATION

Date: 1/23/12
 Application Number: 12-00131
 Fee: \$200
 Paid (Official Use ONLY): OK # 0708

CONDITION FOR VARIANCE

Montana Statutes mention "unnecessary hardship" as a condition for a variance. Variance means a grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

Dupuis, Inc. / John Dupuis

Owner / Representative Name:

1326 Central Avenue, Great Falls, Mt. 59401

Mailing Address:

406-452-2211

jviking@3rivers.net

Phone:

Email:

Requested Action: A variance from Title:

Chapter:

Article:

Basis for Request: The variance would allow us to build up to the property line which would save a 30 year old tree and allow for a grass area to the west of the addition. We currently have a similar variance for the existing building and have created no problems we are aware of.

PROPERTY DESCRIPTION LOCATION:

7 355
 Mark/Lot: Section: Township/Block: Range/Addition:
1326 Central Avenue
 Street Address:

ZONING:

commercial

Current:

LAND USE:

retail

Current:

I (We) the undersigned understand that the filing fee accompanying this application is not refundable. I (we) further understand that the fee pays for the cost of processing, and the fee does not constitute a payment for approval of the application. I (we) further understand that other fees may be applicable per City Ordinances. I (We) also attest that the above information is true and correct to the best of my (our) knowledge. NOTE: If the applicant is not the owner of record, the signature of the owner of record must also be obtained.


 Property Owner's Signature:

1-23-2012

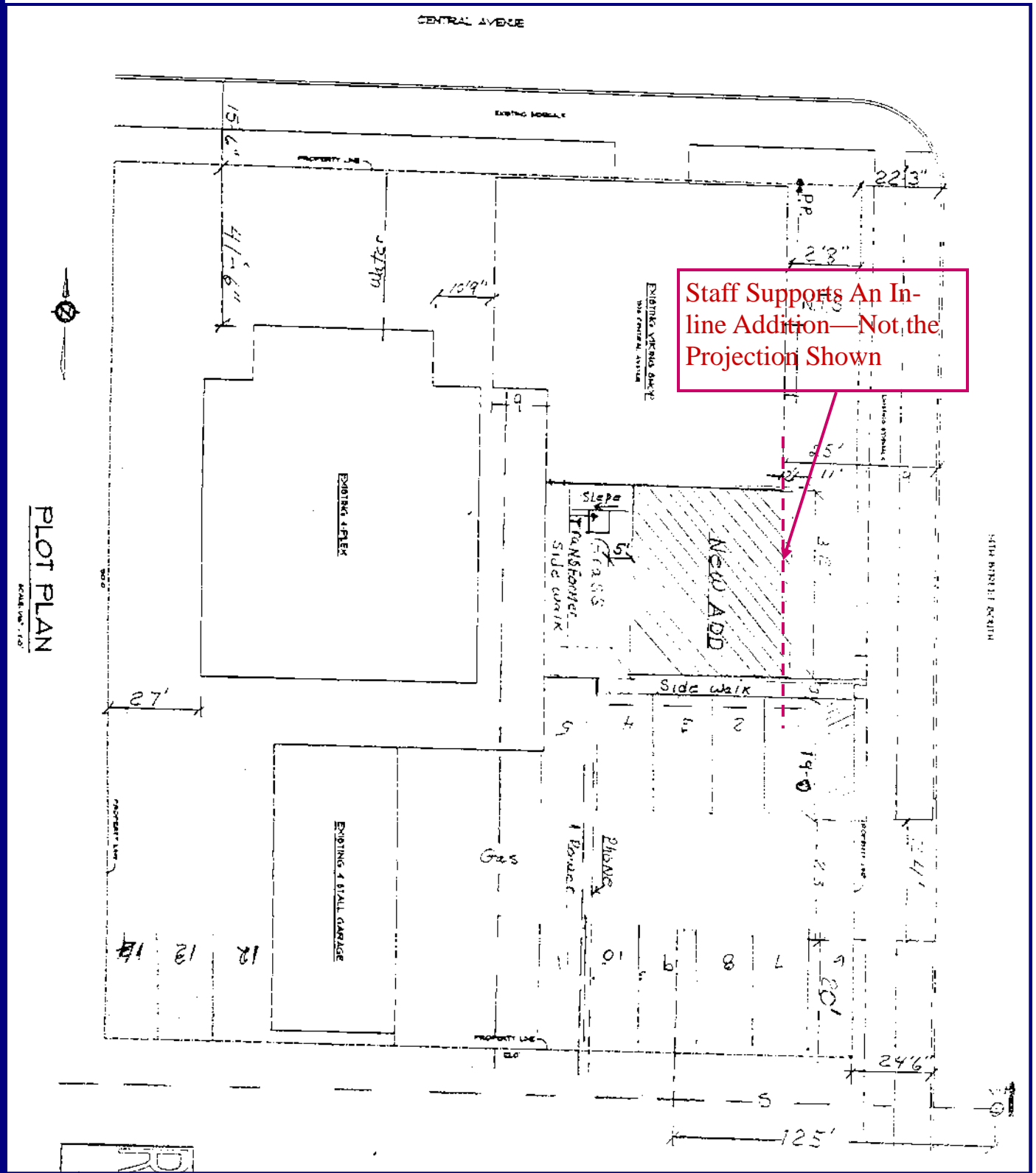
Date:

Representative's Signature:

Date:

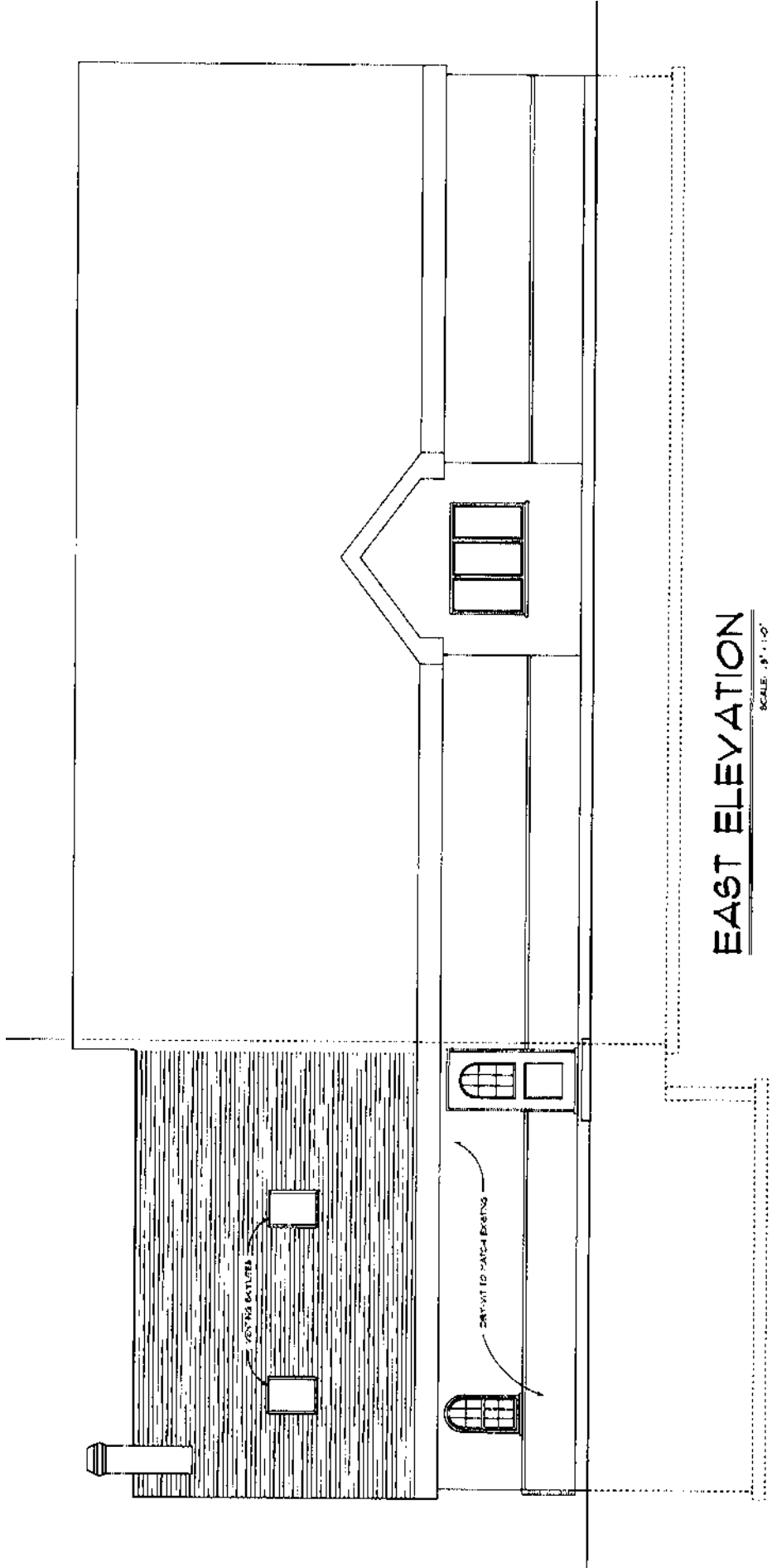
EXHIBIT B - AERIAL PHOTO

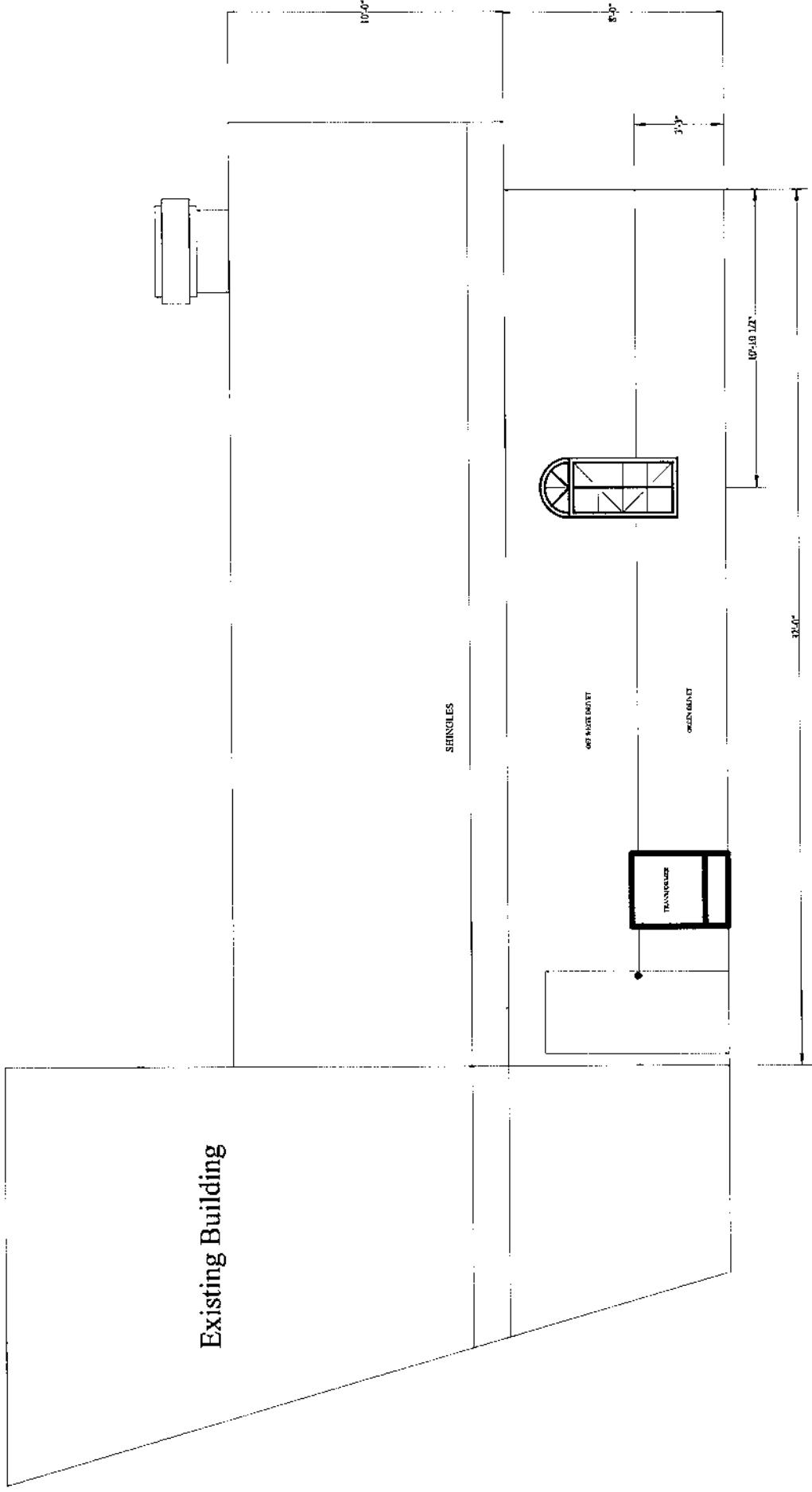




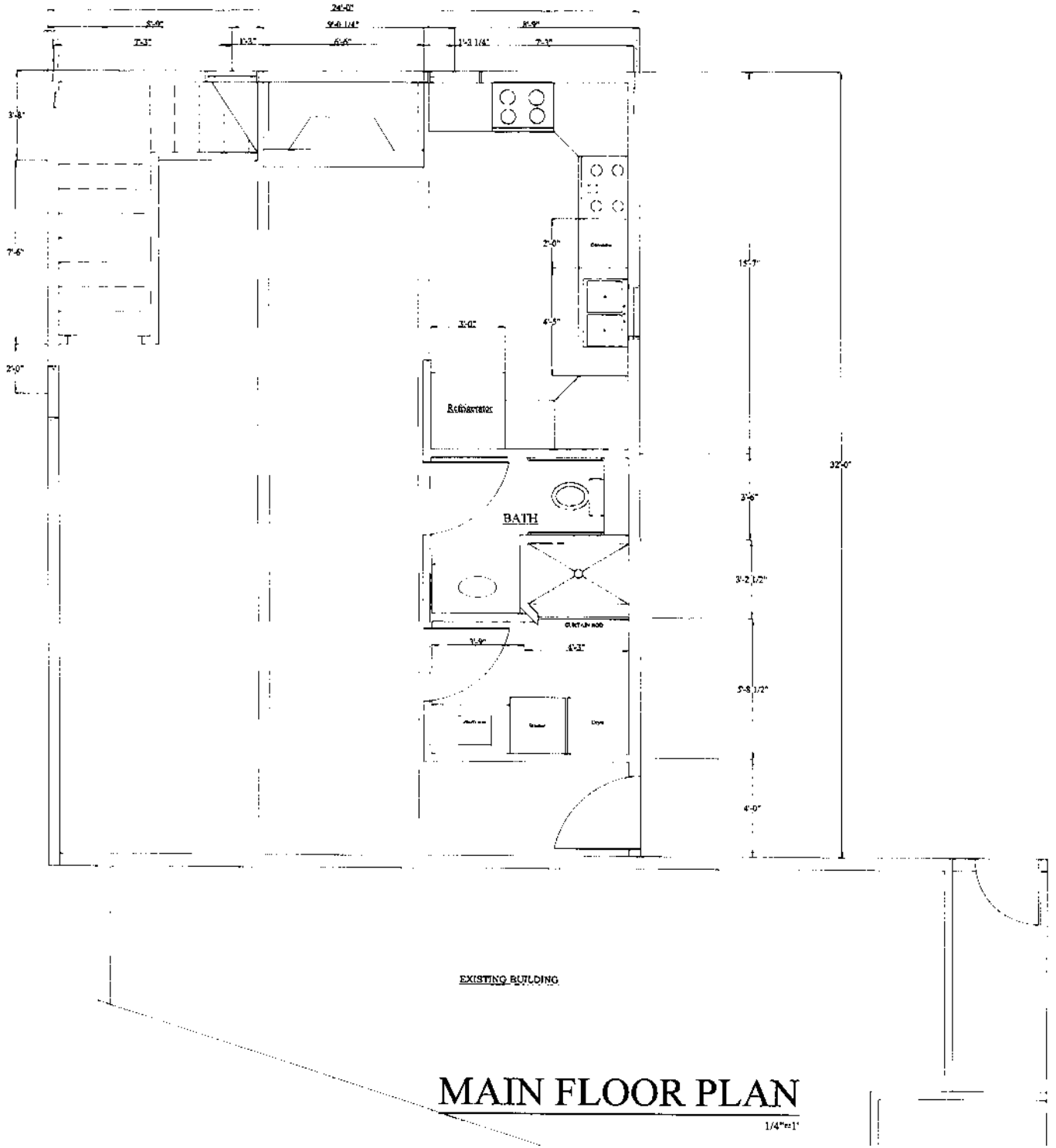
SCALE: 1/8" = 1'-0"
PLOT PLAN







WEST ELEVATION





NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY given that the Great Falls Board of Adjustment will hold a public hearing in the Commission Chambers, Civic Center Building, Great Falls, Montana, on Thursday, February 16, 2012, at 4:00 p.m. to consider a variance submitted by Dupuis, Inc., owner of the property located at 1326 Central Avenue, legally described as East 25' of Lot 5, all of Lots 6-7, Block 355, Great Falls First Addition. The applicant is requesting a variance of City Code Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, minimum side yard setbacks of 10'-0". The applicant is requesting consideration for a zero side yard setback along 14th Street South.

Materials further describing subject property and requested variance are available in the Planning and Community Development Department, Civic Center, #2 Park Drive South, Room 112. Any interested person may appear and speak for or against and/or submit written comments regarding said variance to the Great Falls Board of Adjustment prior to or during said public hearing.

If special accommodations for disabilities are needed, please call 771-1180 Ext 458 (TDD 454-0495).

Great Falls Board of Adjustment
 (204367) 23.

They need to move on and find another property to fit their needs.

It sits along a highway and a ZERO side yard set back is not acceptable. 20 ft at least.

Chris Lowry

GREAT FALLS MT 594

03 FEB 2012 PM 1 T



*Great Falls Board of Adjustments
 Civic Center
 #2 Park Drive S.
 Great Falls, MT.
 59401*

5940134006



in 112

Suggested Motions:

Board Member moves:

“I move that the Board of Adjustment deny the application of Dupuis, Inc., John Dupuis, 1326 Central Avenue, 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 of Dupuis, Inc., John Dupuis, 1326 Central Avenue, as shown in the conceptual development plans contained within this report, for the requested variance of City Code Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum side yard setbacks of a 10’-0” side yard setback from the east property line for the accessory living space expansion to the rear of the existing commercial retail building 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 conceptual 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.
- The proposed addition must be in-line with the east elevation of the existing structure and shall not project any farther into the side yard setback than the existing structure.

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

Cc: City Engineering, Dave Dobbs
City Neighborhood Council Rep., Patty Cadwell
Dupuis, Inc., John Dupuis, 1326 Central Avenue, Great Falls MT 59401