

# BOARD OF ADJUSTMENT

August 2, 2012

**Case Number**

BOA2012-04

**Applicant**

Karen Winterrowd

**Property Owner**

Karen Winterrowd

**Property Location**

1525 3rd Avenue Northwest

**Property Information**

Zoning of property: C-2  
General Commercial  
District

**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 a private garage.

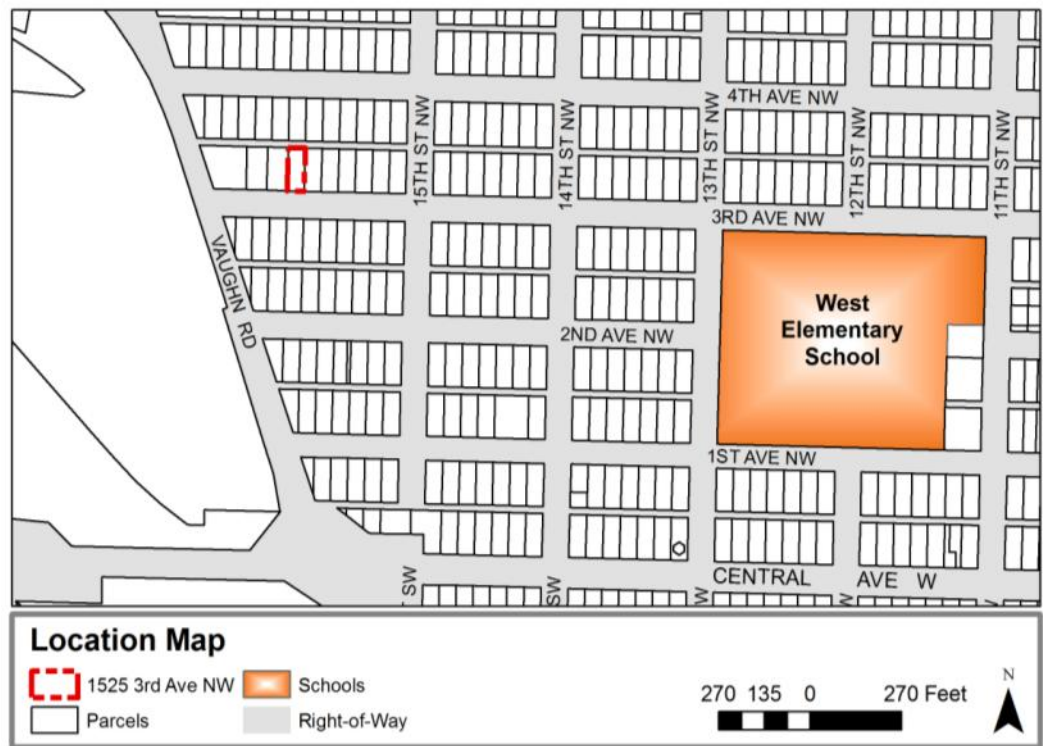
**Recommendation**

Approve with conditions

**Project Planner**

Galen Amy

## 1525 3RD AVENUE NORTHWEST



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 6 foot side yard setback from the west property line adjoining the neighboring commercial property. City Code requires a 10 foot side yard setback from the west 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 subject property is located east of Vaughn Road at 1525 3<sup>rd</sup> Avenue Northwest. The existing mobile home was placed on the lot in 1998. The property was zoned General Commercial/D-Area use prior to citywide rezoning in 2005, and remains zoned C-2 General Commercial. The property has been used for residential purposes since 1998. This is due to the subject property being previously owned, but never developed, by the same original property owner as the three adjacent commercial lots to the west, which are also zoned C-2.

City Code requires in the C-2 zoning district a side yard setback of 10 feet and a 0 foot front yard setback. The mobile home meets the side yard setbacks, and is  $\pm 15$  feet from the front property line. The property owner is proposing construction of a 26 foot by 16 foot detached, private garage on the front southwest portion of the property for her disabled sister (see Exhibit B). City Code requires no more than 40% lot coverage of principal and accessory buildings in C-2 districts. The mobile home, sheds, and proposed garage would create a total of  $\pm 33\%$  lot coverage.

The garage will have a  $\pm 10$  foot front yard setback and the owner is requesting a variance to allow a 6 foot side yard setback from the west property line. The property immediately to the west is zoned C-2 General Commercial, and is partially vacant and partially used for parking (see aerial on page 4). The properties to the north, south and east are zoned R-3 Single-family high density residential. City Code requires a 6 foot side yard setback for the principal building and a 2 foot side yard setback for accessory buildings in the R-3 district, therefore the requested side yard setback variance would meet the standards of the adjacent residential neighborhood.

In support of the request, the property owner has spoken with three of her neighbors, including both adjoining property owners to the east and west and one property owner across the street to the southwest. None of the neighbors contacted have objection to the project (see Exhibit C). The applicant also provided the attached site plan for the proposed garage (see Exhibit D). Public Works has been contacted and would approve a curb cut for a garage on this property.

The Notice of Public Hearing was mailed to the neighboring property owners and published in the *Great Falls Tribune* on July 15, 2012. Patty Cadwell, Neighborhood Council Coordinator, provided the information to Neighborhood Council 2 on July 11, 2012. As of writing of this report, Staff has received no comments from the public related to the request.



View looking north from 3rd Avenue Northwest.



View looking north at the front of the existing structure.

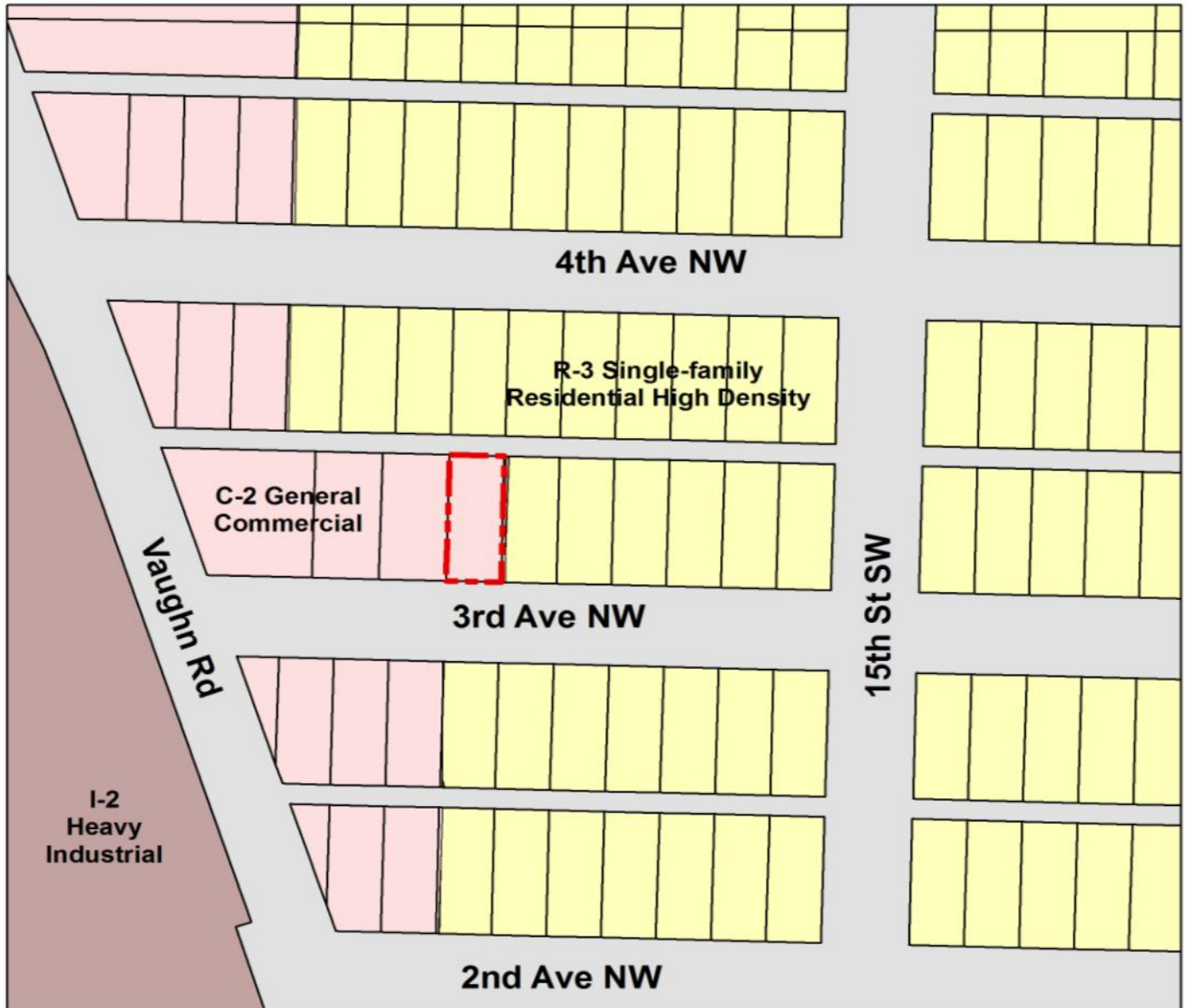


View looking south at the east entry of the existing structure and rear parking area.

Variance Issues:

The subject property is zoned C-2 General Commercial. The required side yard setback is 10 feet. Setbacks established in City Code are provided to promote sound development patterns, to regulate the construction of structures and maintain the existing streetscape in various neighborhoods. In this case, due to the current residential use of the property and the surrounding neighborhood zoning of R-3, the 10 foot side yard setback requirement represents a clear hardship, is uncharacteristic of the surrounding neighborhood, and constrains reasonable development of the site.

## Zoning Map



-  1525 3rd Ave NW
-  Parcels
-  Right-of-Way





Staff Response:

Staff supports the request for a 6 foot side yard setback for the construction of a private garage. The proposed setback meets the R-3 residential zoned neighborhood side yard setback requirements for accessory buildings. 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 residential mobile home was placed on the lot in 1998. As previously stated, the subject property owner made contact with adjoining property owners who provided no objections to her proposed project. Construction of a detached, private garage has minimal impact on surrounding properties or the neighborhood in general. The proposed location of the garage is consistent with the character of the neighborhood as there are other properties that do not meet the required setbacks. The garage will primarily affect the adjoining property to the west, which is a commercial business with a 25 foot wide landscaped area with surface parking (see aerial below).

Additionally, there is a ±22 foot wide right-of-way along 3rd Avenue Northwest, with curb cuts, but no sidewalks. The existing mobile home is ±37 feet from the curb, while the proposed private garage would be ±32 feet from the curb. The front yard setback requirement is 0 feet, but the property owner is proposing a ±10 foot front yard setback for the private garage. The wide right-of-way and proposed ±10 foot front yard provides adequate visual consistency to the neighborhood, serves to increase the physical setback than what is required in the C-2 district, and is not contrary to public interest.



 1525 3rd Ave NW  
 Parcels



2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.  
Construction of a detached, private garage next to the existing mobile home is reasonable. Though this property is zoned C-2 General Commercial, it has been used for residential purposes since the mobile home was placed in 1998. A literal enforcement would create restrictions uncharacteristic to the current use of the subject property, and that of the neighboring R-3 residential district to the north, east, and south of the subject property. City Code requires a 2 foot side yard setback for accessory buildings in the R-3 Zoning district, so the variance request is consistent with the surrounding residential zoning requirements. Neighboring properties consistently have detached, private garages, and neighbors to the north and east appear to have garages at a 0 foot side yard setback (see aerial photo below). It is also reasonable that the subject property is not going to be re-developed for commercial use in the near future.
3. The spirit of this Title would be observed and substantial justice done by granting the variance.  
The proposed side yard and front yard setback provides adequate room for construction and maintenance of the private garage, and matches the adjacent R-3 residential uses in the neighborhood. Moreover, as stated by the property owner, the proposed private garage is prompted by the disabled condition of her sister (see Exhibit B) and the neighbors are in support of the request and proposed garage (see Exhibit C).

Staff finds adequate basis and hardship for the variance and supports granting the reduction of the side yard setback.



**Suggested Motions:**

Board Member moves:

“I move that the Board of Adjustment (approve with conditions) the application of Karen Winterrowd, 1525 3rd Avenue Northwest, 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 setback of 10 feet from the side property line for the proposed 26 foot by 16 foot detached private garage at the front southwest portion of the existing property 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.

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Or:

“I move that the Board of Adjustment deny the application of Karen Winterrows, 1525 3rd Avenue Northwest, for the requested variance of City Code Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum side yard setbacks.”

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

Cc: City Neighborhood Council Rep., Patty Cadwell  
Karen Winterrowd, 616 23rd Street, Black Eagle, MT 59414



# 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: 6.22.12  
Application Number: 12-01472  
Fee: \$200 BOA2012-4  
Paid (Official Use ONLY):

### CONDITION FOR VARIANCE

Montana Statues 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.

KAREN WINTERROWD

Owner / Representative Name:

616 23 ST. Black Eagle, MT. 59414

Mailing Address:

\* (406) 727-5317

Phone:

Email:

Requested Action: A varlance from Title: 17 Chapter: 20 Article: 4 Exhibit 20-4

Request Variance to sideyard setback reduce from required 10' to 6' on order to install a one car garage.

Basis for Request:

see attached

### PROPERTY DESCRIPTION LOCATION:

Lot 19 Block 20 West Great Falls  
Mark/Lot: Section: Township/Block: Range/Addition:

1525 3rd Ave NW Great Falls MT 59404  
Street Address:

ZONING:

LAND USE:

C-2

SFR

Current:

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.

Karen Winterrowd

6-22-12

Property Owner's Signature:

Date:

Representative's Signature:

Date:

## EXHIBIT B - BASIS FOR REQUEST

To The BOARD OF ADJUSTMENTS:

I Am Requesting a Variance on this property Located at 1525 3rd Ave. N.W. that is zoned as C-2, Commercial - but Am using it as A Residential property. The SET BACK in the R-3 district is 6 feet. The Variance will be needed to meet that setback. The Neighbors to the NORTHEAST AND South of the property are all zoned as R-3.

I Am Requesting the R-3 so I can have the extra 4 feet from the property line to Build A wider garage for my sister's CAR to fit into more comfortably and easier access to get in and out of her vehicle. My sister, Julie Black is 100% disabled and this variance will help out her handicap and Any further need in the future if A wheel chair or walker is needed and Becomes a necessity. The proposed garage will be 16x26 feet.

Thank you,  
Karen Winterowd

JUN 26 2012



## EXHIBIT C - NEIGHBOR SIGNATURES

To The BOARD OF Adjustments:

this letter is to inform the  
BOARD that these surrounding neighbors  
Do NOT HAVE A problem with A Garage  
Being built NEXT to KAREN Winterrowd-  
AND Julie Blacks TRAILER AT 1525  
3RD Ave. N.W. GREAT Falls, montana

Sharon Tiedeman

1528-3<sup>RD</sup> Ave N.W.

G.F. MT 59404

Sharon Tiedeman 6/22/12

Jim Highwood

1821 3rd Ave NW

GF MT. 59404

Tim Highwood

6/23/12

Roger May

217 Vaughn Rd

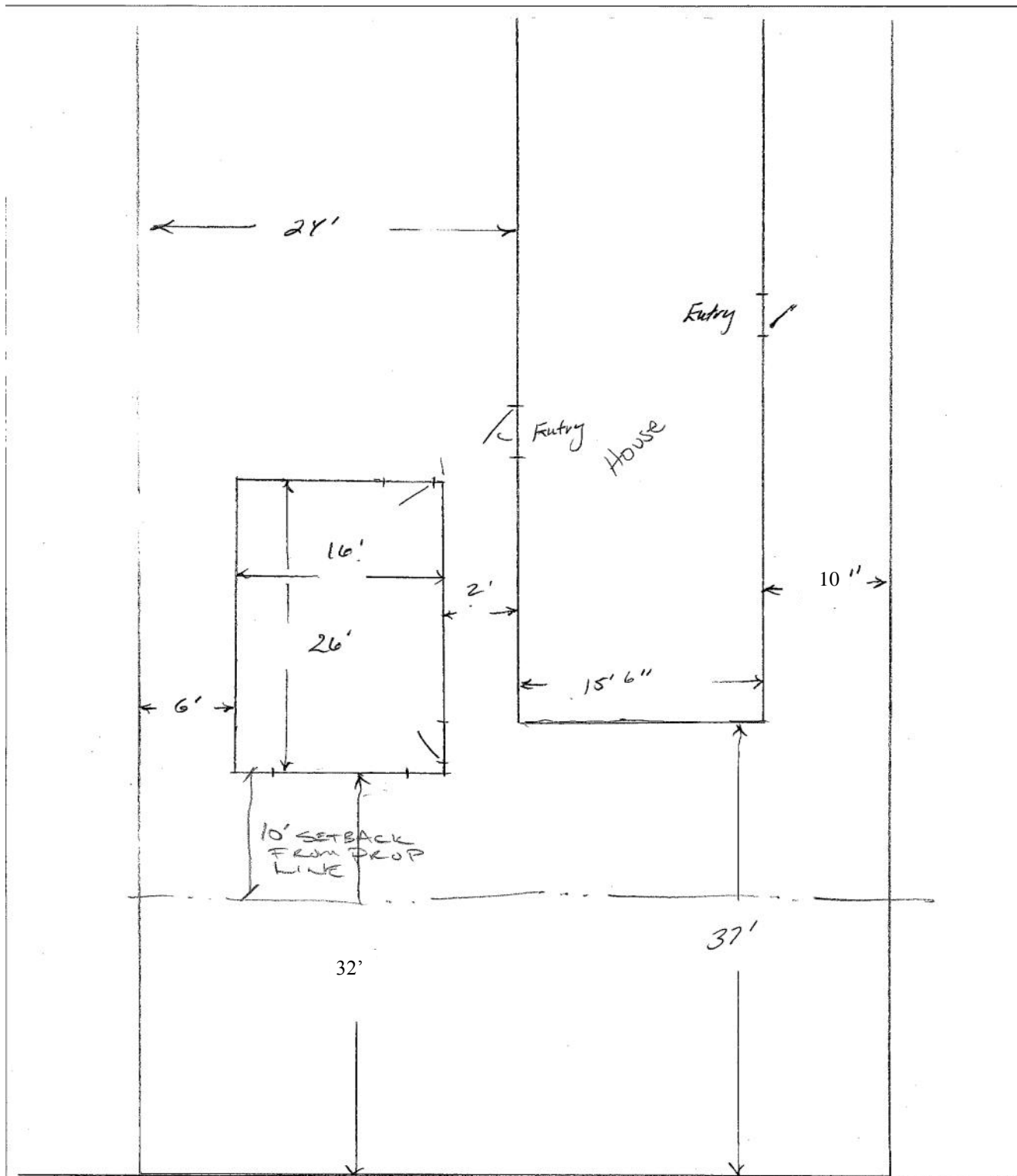
GF Mt 59404

Roger May

6/26/12

JUN 26 2012

# EXHIBIT D - SITE PLAN



3rd. Ave. N.W.

1525 3rd. Ave. N.W.

Tilton Const.  
# 88-0187