

BOARD OF ADJUSTMENT

September 6, 2012

Case Number

BOA2012-05

Applicant

David & Sandra Lee

Property Owner

David & Sandra Lee

Property Location

513 22nd Avenue North-east

Property Information

Zoning of property: R-2
Single-family medium density

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 for an addition exterior wall to be flush.

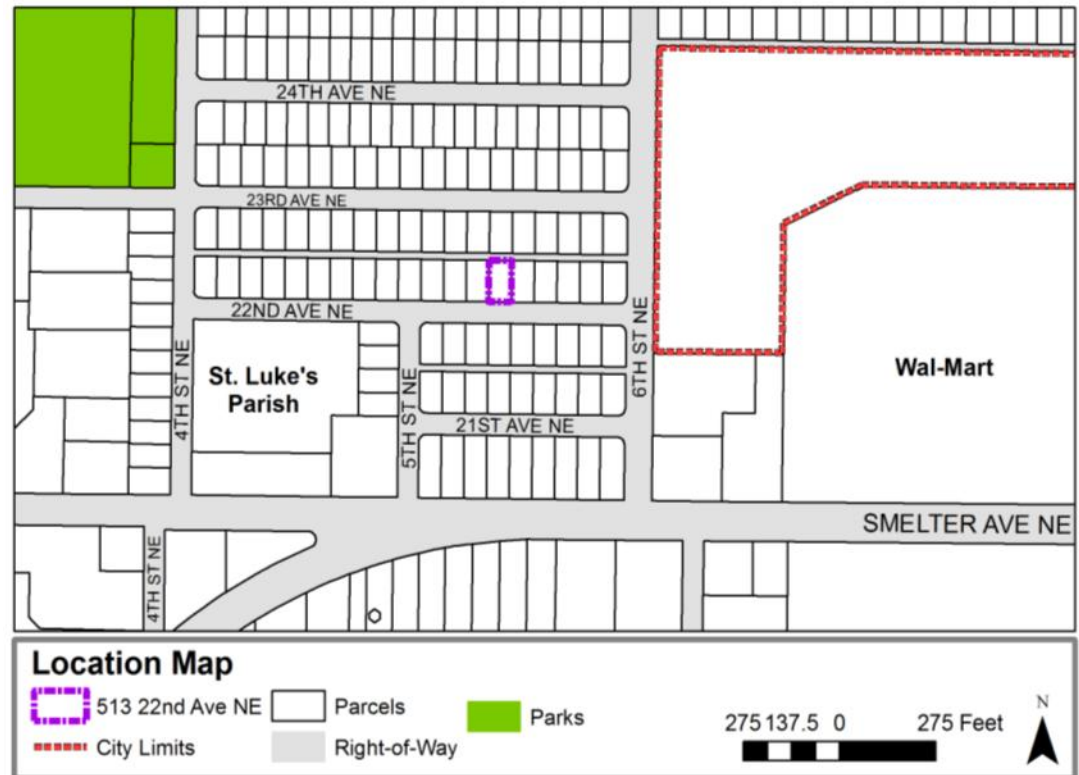
Recommendation

Approve with conditions

Project Planner

Galen Amy

513 22ND AVENUE NORTHEAST



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 residential property. City Code requires an 8-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 on 22nd Avenue Northeast and is legally described as Lot 25, Block 3, North Riverview Terrace Addition Number 3 Part 2, in Section 36, Township 21 North, Range 3 East, Cascade County, Montana. The existing home was constructed in 1962 and the attached garage was added in 1998. The property is zoned R-2 Single-family medium density and is surrounded by R-2 zoned residential properties that have been developed over the past 50 years.

The property owner is proposing construction of an addition to the existing residence that will be comprised of a 26-foot long by 16.5-foot wide bedroom and a 12.5-foot long by 19.5-foot wide kitchen, with a new concrete patio slab (see Exhibit D). City Code requires no more than 35% lot coverage of principal and accessory buildings in R-2 districts. The existing residence and garage and the proposed addition would create a total of $\pm 33\%$ lot coverage.

The property and neighborhood was developed in compliance with the City Code in effect when the residence and garage were constructed. The owner is requesting a variance for a 6-foot side yard setback from the west property line, which will allow for the addition's exterior wall to be in line with the existing residence. The 6-foot side yard setback is consistent with development standards in effect prior to the citywide rezoning in 2005, which increased the side yard setback from 6 feet to 8 feet.

In the 2005 citywide rezoning, residential zoning districts were primarily assigned according to lot size, without consideration of setbacks. Resultantly, the aerial photo (Exhibit B) confirms that most of the homes in the vicinity have less than an 8-foot side yard setback, and there are many variances similar in nature in this neighborhood. The impact of the proposed addition with the requested 2-foot side yard variance would have minimal effect on the surrounding properties. The applicant provided the attached site plan for the proposed addition (see Exhibit D).

The Notice of Public Hearing was mailed to the neighboring property owners and published in the *Great Falls Tribune* on August 19, 2012.



View looking northwest from 22nd Avenue Northeast.



View looking north from 22nd Avenue Northeast



View looking south from the alley at the back of the existing residence.

As a courtesy, Patty Cadwell, Neighborhood Council Coordinator, provided the information to Neighborhood Council #2 on August 21, 2012. As of the writing of this report, Staff has received no comments from the public related to the request.

Variance Issues:

The subject property is zoned R-2 Single-family medium density. The required side yard setback is 8 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 use of the property and the character of the surrounding neighborhood, the 8-foot side yard setback requirement represents a clear hardship and constrains reasonable development of the property.

Staff Response:

Staff supports the request for a 6-foot side yard setback for the construction of a residential addition. The proposed setback is characteristic to the surrounding neighborhood R-2 Single-family medium density development over the past 50 years. Staff provides the following Basis of Decision for the proposed 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 effect when the residence was constructed on the lot in 1962 and the attached garage was built in 1998. Construction of a residential in-line addition has minimal impact on surrounding properties or the neighborhood in general. The proposed addition is consistent with the character of the neighborhood as there are numerous properties that do not meet the updated Code required setbacks. The addition will primarily affect the adjoining property to the west; the home on that lot is at a significant setback from that property line. Also, the addition will not be visible to the general public. The existing wide right-of-way and unchanging, existing residence's front façade provides adequate visual consistency to the neighborhood and is not contrary to public interest.

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

Construction of an in-line addition to the existing residence is reasonable. A literal enforcement would create restrictions uncharacteristic to the current use of the subject property, and that of the neighboring R-2 residential district surrounding the subject property. Where appropriate, a 2-foot wall inset can be visually appealing, but the decision to create such an inset should be based on good design, not variable setbacks. Moreover, the exterior wall that this requirement impacts is not easily viewed by the public, so the perceived aesthetic value of such an inset is invalid. Furthermore, an in-line addition is superior in design to create supplementary interior storage and living space. Neighboring properties consistently were constructed and/or have additions that meet the Code requirements prior to citywide rezoning in 2005 (see Exhibit B). It is also reasonable that the subject property is not going to be redeveloped 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 setback provides adequate room for construction and maintenance of the residential addition, matches the surrounding R-2 residential uses in the neighborhood, and would be a logical, efficient use of space to create an in-line addition to the current residence.

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 David and Sandra Lee, 513 22nd Avenue Northeast, legally described as Lot 25, Block 3, North Riverview Terrace Addition Number 3 Part 2, in Section 36, Township 21 North, Range 3 East, Cascade County, Montana, 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 reduction from 8 feet to 6 feet from the west side property line, for the proposed in-line addition to the north portion of the existing residence 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.

Or:

“I move that the Board of Adjustment deny the application of David and Sandra Lee, 513 22nd Avenue Northeast, 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: Patty Cadwell, City Neighborhood Council Representative
David and Sandra Lee, 513 22nd Avenue Northeast, Great Falls, MT 59404

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: 8/13/12

Application Number: BOA2012-5

Fee: \$200

Paid (Official Use ONLY): ☒ *th*

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.

David + Sandra Lee

Owner / Representative Name:

513 22 Ave NE Great Falls, MT 59404

Mailing Address:

727-9458

Phone:

Email:

Requested Action: A variance from Title: 17

Chapter: 20

Article: 4 010

LOT AREA AND DIMENSIONAL STANDARDS EXHIBIT 20-1

Basis for Request:

The owner is building an addition on the current residence and would like the west exterior wall of the proposed addition to be flush w/ the existing wall. In order to do so, they are requesting a 2' side yard setback variance from 8' to 6'.

PROPERTY DESCRIPTION LOCATION:

25
Mark/Lot:

Section:

3
Township/Block:NRT 3rd
Range/Addition:513 22nd AVE NE
Street Address:

ZONING:

R-2

Current:

LAND USE:

Single Family residence:

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.

David M. Lee
Property Owner's Signature:

Date:

13-Aug 2012

Sandra Lee
Representative's Signature:

Date:

8/13/12

EXHIBIT B - AERIAL PHOTO



 513 22nd Ave NE
 Parcels


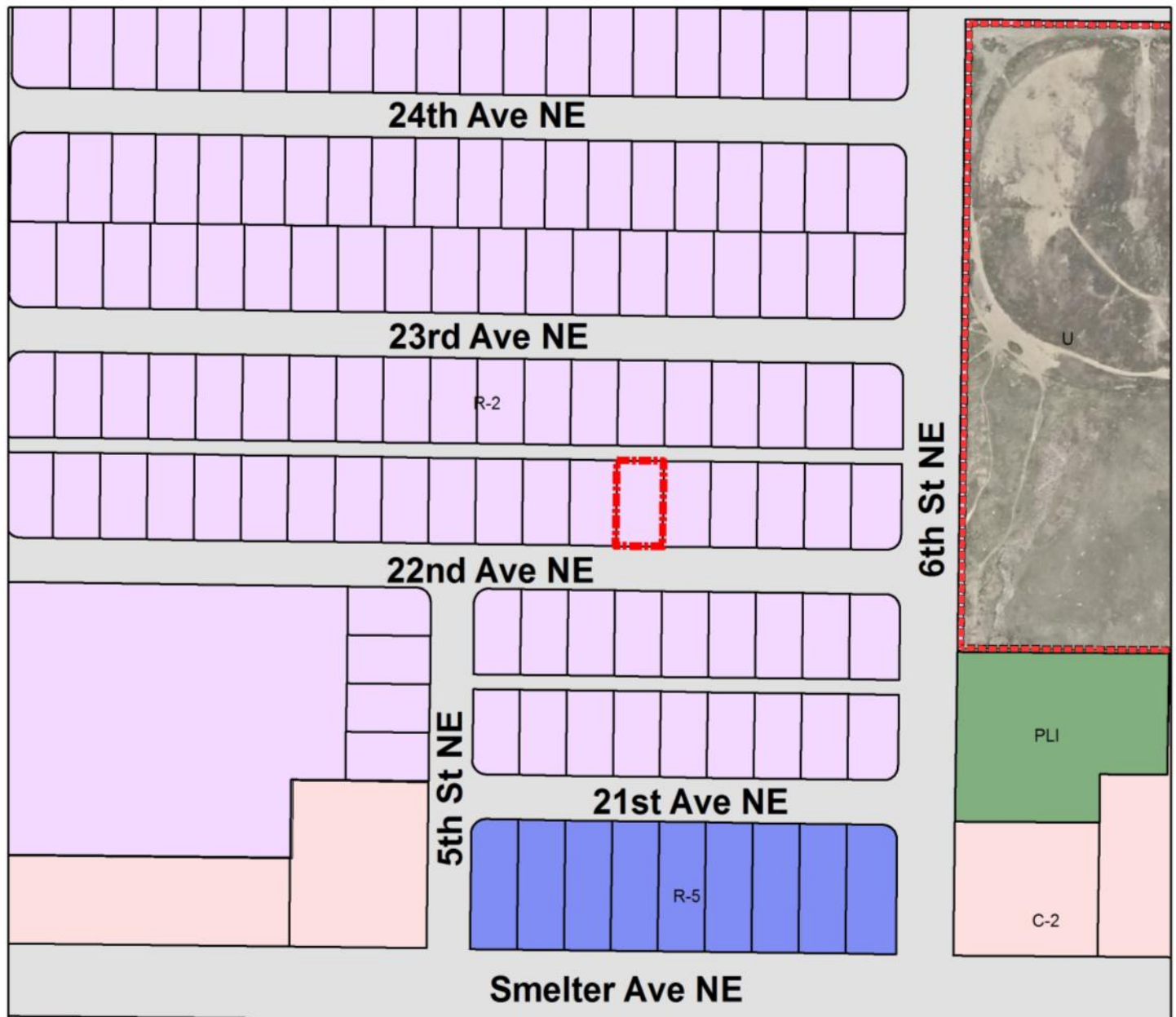
25 12.5 0 25 Feet




EXHIBIT C - ZONING MAP



513 22nd Ave NE



Parcels



Right-of-Way



AI Airport Industrial



C-1 Neighborhood commercial



C-2 General commercial



C-3 Highway commercial



C-4 Central business core



C-5 Central business periphery



I-1 Light industrial



I-2 Heavy industrial



M-1 Mixed-use district



M-2 Mixed-use transitional



PLI Public lands institutional



POS Park Open Space



PUD Planned unit development



R-1 Single-family suburban



R-2 Single-family medium density



R-3 Single-family high density



R-5 Multi-family medium density



R-6 Multi-family high density



R-9 Mixed residential



R-10 Mobile home park



Unincorporated Enclave

N



8040 0 80 Feet



EXHIBIT D - SITE PLAN

10, 13, 17

