

BOARD OF ADJUSTMENT

June 20, 2013

Case Number

BOA2013-02

Applicant/Owner

Darrell & Tamara Ogg

Property Location

Northeast of Division Road

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 a garage and additional living space addition

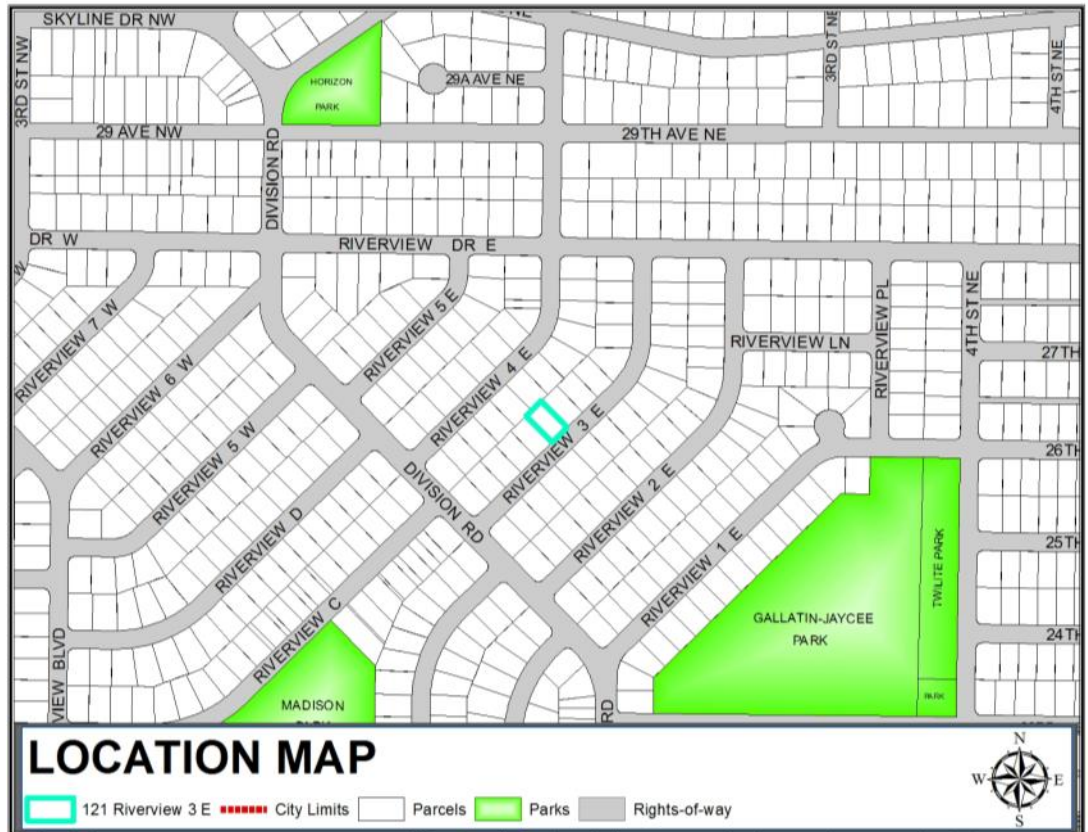
Recommendation

Approve with conditions

Project Planner

Galen Amy

121 RIVERVIEW 3 EAST



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 5-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 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 at 121 Riverview 3 East and is legally described as Lot 9, Block 17, North Riverview Terrace 2nd Addition, in Section 35, Township 21 North, Range 3 East, Cascade County, Montana. The existing 943 square foot home was constructed in 1960. 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 and neighborhood was developed in compliance with the City Code in effect when the residence was constructed. The owner is requesting a variance for a 5-foot side yard setback from the west property line in order to construct an addition to the existing residence which will be comprised of a 33-foot 4-inch by 27-foot 9-inch attached garage with living additional space above (see Exhibit E and Exhibit F).

This addition will be approximately 924 square feet. The subject property is $\pm 8,400$ square feet. City Code requires no more than 35% lot coverage of principal and accessory buildings in R-2 districts. The existing residence and proposed garage addition would create a total of $\pm 22\%$ lot coverage. The applicant provided the attached site plan for the proposed addition (see Exhibit D).

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.

The impact of the proposed addition with the requested 3-foot side yard variance would have minimal effect on the surrounding properties. The applicant also provided signatures from the surrounding neighbors that they understand the proposed project and are not in opposition (see Exhibit G).

The original Notice of Public Hearing was mailed to the neighboring property owners and published in the *Great Falls Tribune* on June 2, 2013. That notice referenced the wrong side yard setback being requested. A corrected notice was sent to neighboring property owners and published on June 9, 2013.



Above and below: view northwest at the subject property to the left, in relation to the neighboring property to the right, which would be most impacted by development.



The existing residence on the subject property.

As a courtesy, Patty Cadwell, Neighborhood Council Coordinator, provided the information to Neighborhood Council #2 on June 11, 2013. 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 5-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 1960. Construction of an addition for a garage and additional living space 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; that homeowner, as well as all surrounding property owners, have given their support of the addition (see Exhibit G - Neighbor Signatures). Also, the addition will be consistent with the view corridor along the right-of-way for the general public. The applicant's draft elevations showing the addition to the 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 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. Neighboring properties consistently were constructed and/or have additions that meet the Code requirements prior to citywide rezoning in 2005 (see Exhibit B). City Code permits 35% maximum lot coverage of principal and accessory buildings in the R-2 zoning district, and the current residence only creates $\pm 11\%$ lot coverage. As stated previously, the existing residence and proposed garage addition would create a total of $\pm 22\%$ lot coverage, so there is adequate space on the subject property for the proposed addition. It is also reasonable to conclude that this addition would be the extent of redevelopment by the property owner.

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 and matches the surrounding R-2 residential uses in the neighborhood. There is sufficient space existing on the property in the proposed location to create an addition to the current residence.

Staff finds adequate hardship and basis 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 Darrell and Tamara Ogg, owners of the property addressed 121 Riverview 3 East and legally described in the staff report, as shown in the conceptual development plans contained in the staff report, for the requested variance of City Code 17.20.4.010 Exhibit 20-4, Minimum side yard setback reduction from 8 feet to 5 feet for the west side property line, for the proposed addition to 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.

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

Cc: Patty Cadwell, City Neighborhood Council Representative
Darrell & Tamara Ogg, ogghog@gmail.com

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: 10/22/12
 Application Number: ZON2012-12
 Fee: \$200
 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.

Darrell & Tamara Ogg

Owner / Representative Name:

121 Riverview 3 E, Great Falls, MT 59404

Mailing Address:

406-590-4753

ogghog@gmail.com

Phone:

Email:

Requested Action: A variance from Title: 17 Chapter: 20 Article: 4

Exhibit 20-4 Development Standards for Residential Zoning Districts R-2

Principal building: 8 feet each side;

Basis for Request: We would like to build a double car garage with living space above the garage. In order to build a double car garage we are requesting a variance to build the garage with living space within 5' of our property line. The 8' setback will only allow for a single car garage.

PROPERTY DESCRIPTION LOCATION:

Lot 9	Block 17	2nd Addition
Mark/Lot:	Section:	Township/Block:
121 Riverview 3 E, Great Falls, MT 59404		Range/Addition:
Street Address:		

ZONING:

R2
 Current:

LAND USE:

Single family
 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.

[Signature]
 Property Owner's Signature:

10/22/12

Date:

[Signature]
 Representative's Signature:

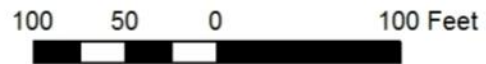
10/22/12

Date:

EXHIBIT B - AERIAL PHOTO

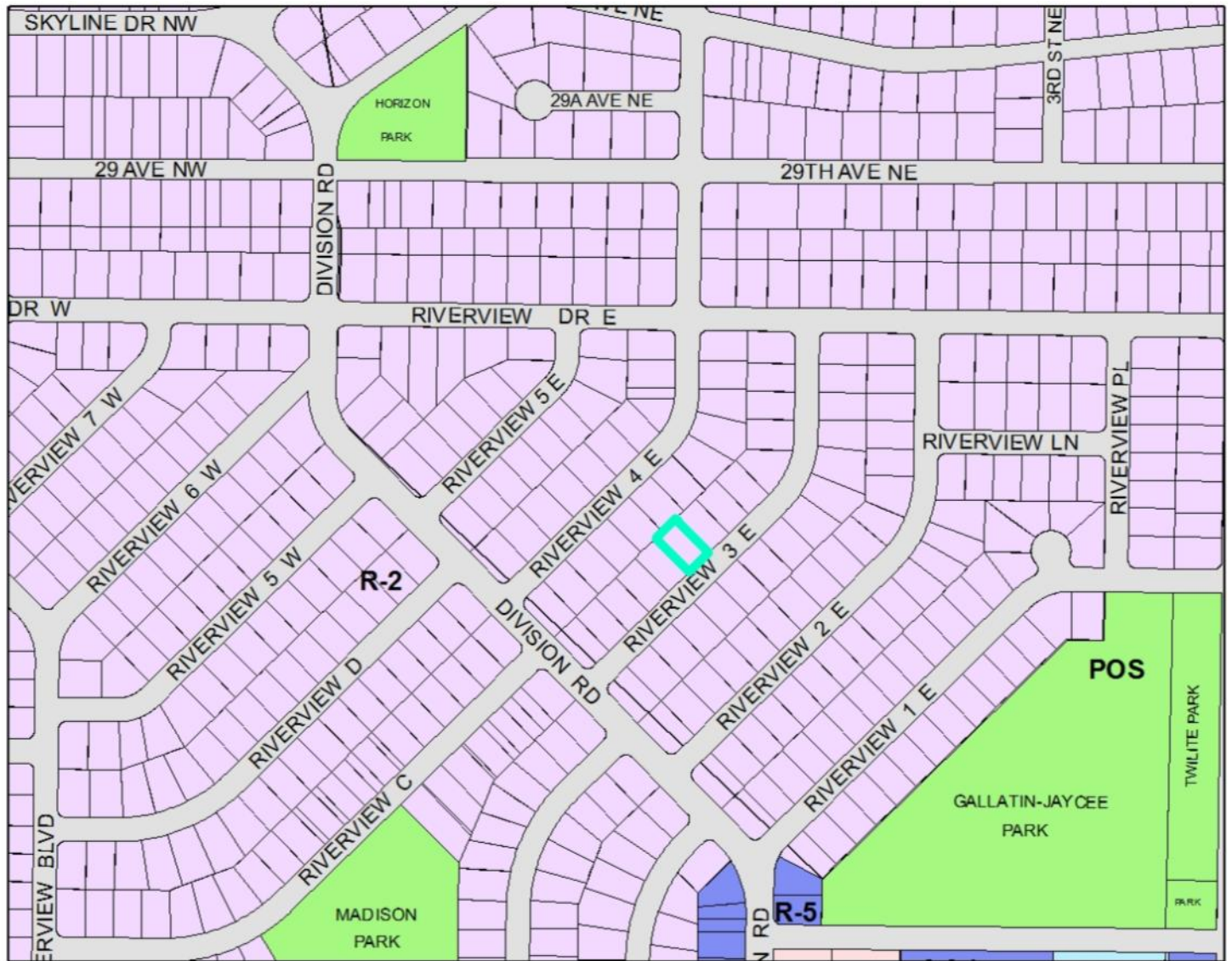



























-  121 Riverview 3 E
-  City Limits
-  Tracts of Land



Darrell & Tamara Ogg Variance

EXHIBIT C - ZONING MAP



 121 Riverview 3 E	 C-5 Central business periphery	 R-1 Single-family suburban
 City Limits	 I-1 Light industrial	 R-2 Single-family medium density
 Tracts of Land	 I-2 Heavy industrial	 R-3 Single-family high density
ZONING	 M-1 Mixed-use district	 R-5 Multi-family medium density
 AI Airport Industrial	 M-2 Mixed-use transitional	 R-6 Multi-family high density
 C-1 Neighborhood commercial	 PLI Public lands institutional	 R-9 Mixed residential
 C-2 General commercial	 POS Park Open Space	 R-10 Mobile home park
 C-3 Highway commercial	 PUD Planned unit development	 Unincorporated
 C-4 Central business core	 right-of-way	

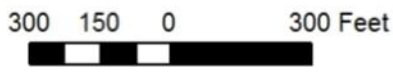


EXHIBIT D - DRAFT SITE PLAN

Riverview 3 East

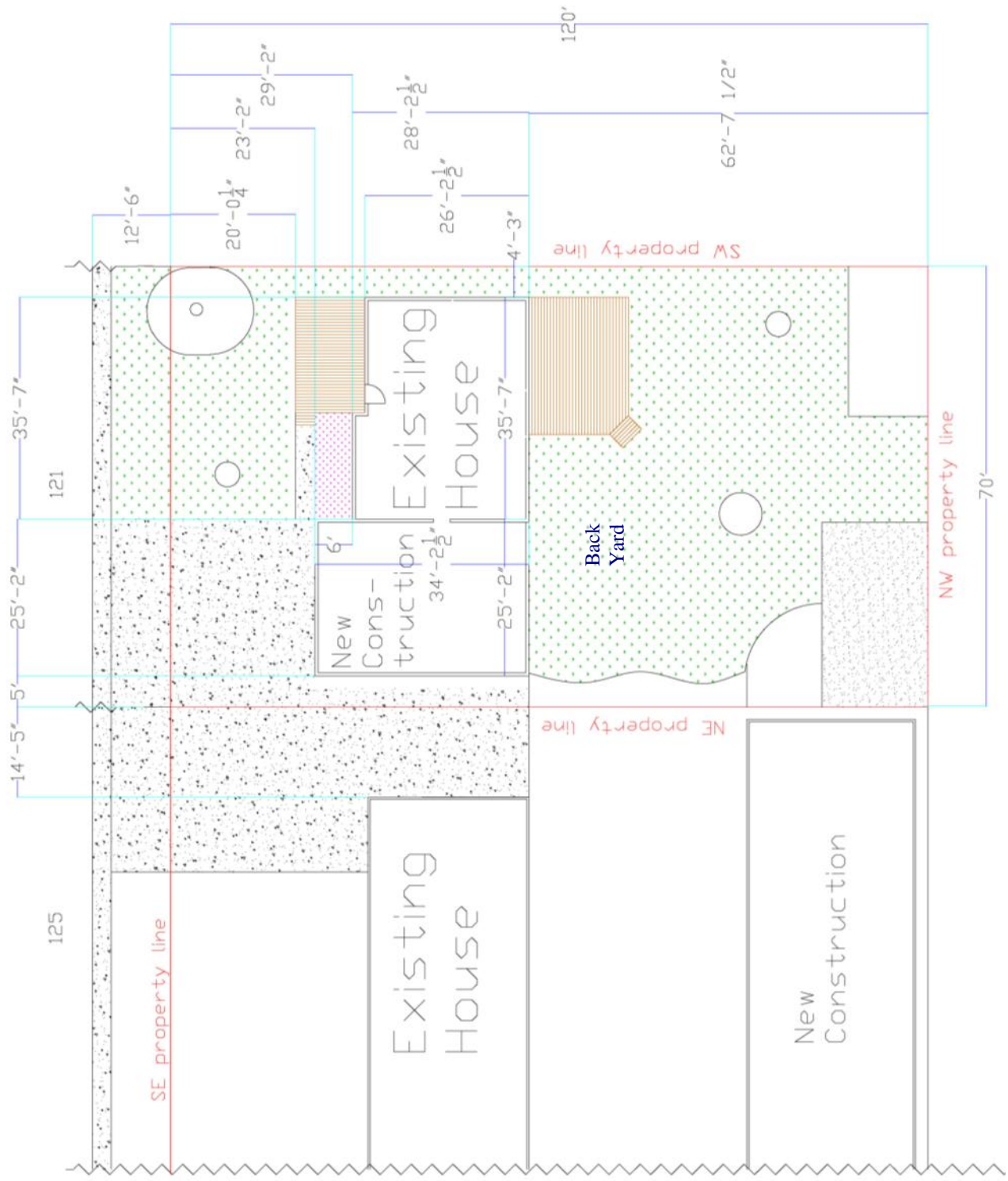
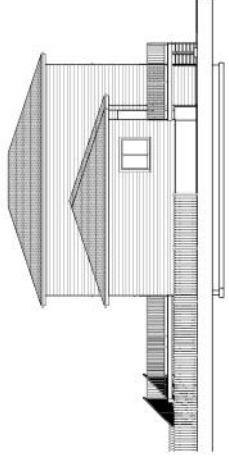
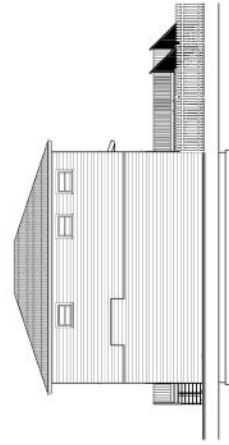
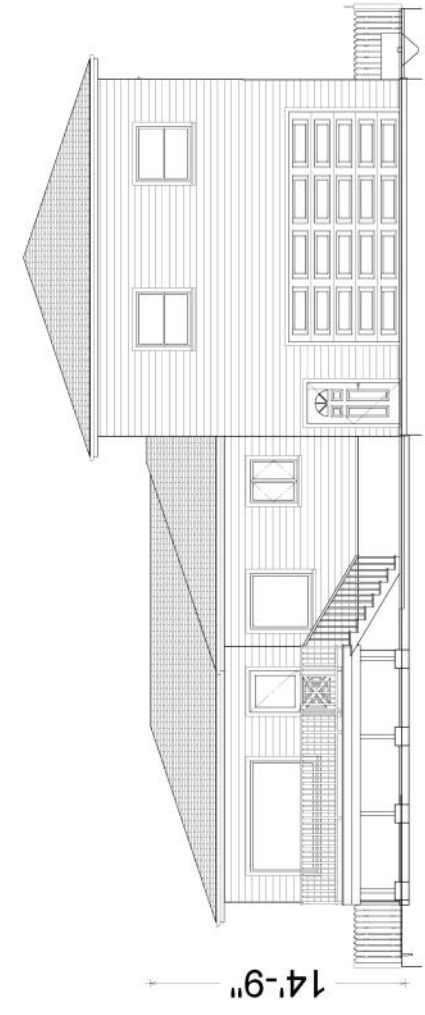
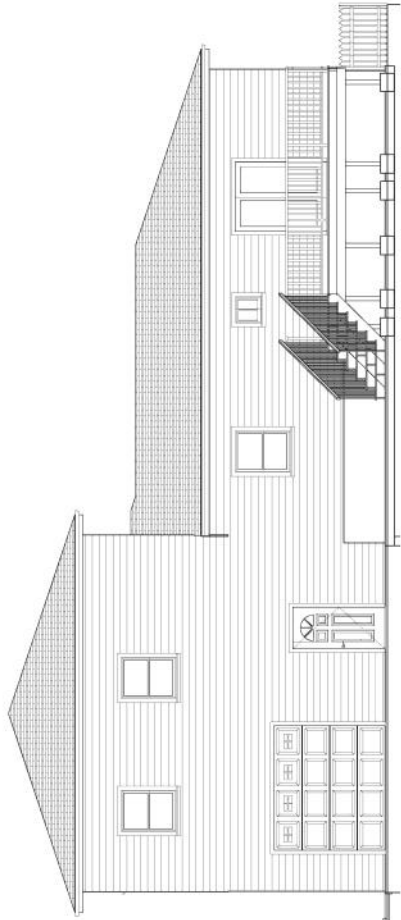


EXHIBIT F - DRAFT ELEVATION

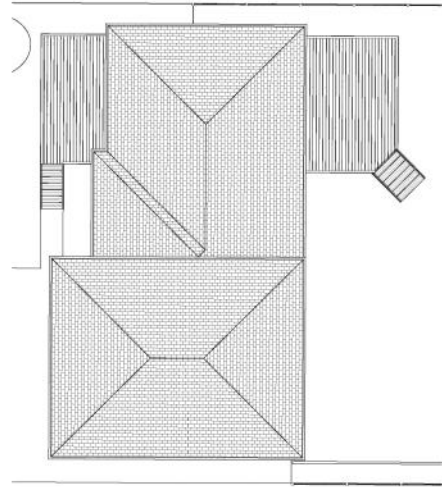
23'-9"



Cross Section 3



Cross Section 5



DRAWINGS PROVIDED BY:		PROJECT DESCRIPTION:	SHEET TITLE:	NO. DESCRIPTION BY DATE	
DATE: 10/19/2012		house remodel 5' setback	SHEET TITLE		
SCALE:					
SHEET:					
A-1					

EXHIBIT G - NEIGHBOR SIGNATURES

Dear Neighbors,

We (Darrell and Tammie Ogg) residing at 121 Riverview 3 E, Great Falls, MT would like to expand our living arrangements. We would like to build an attached garage with a second floor. In order to do this we are requesting a variance from the city. The city is requesting that we get approval signatures.

Name	Address	Signature
Vincent Munson	120 Riverview 3E	VAM
Dave Elmquist	116 Riverview 3E	D.E.
Brad Fernandez	124 Riverview 3E	B.F.
CHRIS BOILER	117 Riverview 3E	C. Boiler
Janet Murphy	125 " "	J. Murphy
Diane Linder	116 Riverview 4E	Diane Linder
Gayle Rainig Corrigan	120 Riverview 4E	Gayle Rainig Corrigan