

BOARD OF ADJUSTMENT

July 18, 2013

Case Number

BOA2013-03

Applicant

Brian Mader

Property Location

North 50' of the lot located on the northwest corner of 8th St SW and 2nd Ave SW

Neighborhood Council: #2

Property Information

Zone R-3 Single-family high density district

Requested Action

Variance to Section 17.20.4.010 of the City Code that would reduce the required side yard and front yard setbacks from the property lines in order to build a private, detached garage

Recommendation

Approve with conditions

Project Planner

Galen Amy

112 8TH STREET SOUTHWEST



Synopsis

The applicant is requesting a variance to City Code, Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum side yard and front yard setbacks. The applicant is requesting a 3-foot side yard setback from the south property line and an 18-foot front yard setback from the east property line. City Code requires a 6-foot side yard setback from the south property line and a 20-foot front 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 subject property, legally described as the N 50' Lot 8, Block 577, Great Falls Fifth Addition, is generally located on the northwest corner of 8th Street Southwest and 2nd Avenue Southwest, on the lot located on the alley. In 1920 two residences were built on the property, which was later divided by Deed 116427 and Deed 116428 on December 2, 1922. This division created a substandard lot abutting the alley. The applicant owns this lot, which measures 50 feet by 50 feet, or \pm 2,500 square feet. The residence on the property is 665 square feet.

The property is zoned R-3 Single-family high density. To the west is the R-6 Multi-family high density Franklin School Apartments. To the east, south, and immediately to the north is R-3 zoning with C-2 General commercial development along Central Avenue West further north. The applicant is requesting the variance in order to construct a 385 square foot detached garage, as he wishes to clean up the property (see Exhibit E - Site Plan).

In the 2005 citywide rezoning, residential zoning districts were primarily assigned according to lot size, without consideration of setbacks. Resultantly, the aerial photo (Exhibit A) confirms that many of the homes in the vicinity do not meet the required side yard and front yard setbacks for the R-3 district, and all the lots in the area are substandard, being \pm 6,250 square feet (City Code requires lots be at least 7,500 square feet for the R-3 district).

City Code requires no more than 50% lot coverage of principal and accessory buildings in R-3 districts. The existing home and proposed garage would create a total of \pm 42% lot coverage. In support of the request, the property owner has spoken with four of his neighbors. None of the neighbors contacted have objection to the project (see Exhibit C and aerial on Page 3 which provides their addresses).

The Notice of Public Hearing was mailed to the neighboring property owners and published in the *Great Falls Tribune* on June 30, 2013. Patty Cadwell, Neighborhood Council Coordinator, provided the information to Neighborhood Council 2 on July 2, 2013. As of writing of this report, Staff has received no comments from the public related to the request.



View looking east from 8th Street Southwest at the subject property.



View looking southeast, from the alley, at the subject property in relation to the neighbor to the south who would be most impacted by the proposed garage.



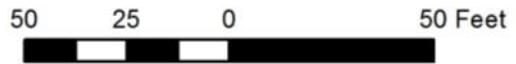
View looking south at the back property line in relation to the existing structures on the abutting property.

Variance Issues:

The subject property is zoned R-3 Single-family high density. The required side yard setback is 6 feet and the required front yard setback is 20 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 two residences established on, and division of, the subject property that occurred in the early 1920s, and similarly dense residential development in the surrounding neighborhood, the 6-foot side yard and 20-foot front yard setback requirement represents a clear dimensional hardship.



112 8th St SW Tracts of Land



Findings for the Basis of Decision:

Staff conditionally supports the request for a 3-foot side yard and 18-foot front yard setback for the construction of a private garage. 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 was developed and divided prior to the adoption of a municipal zoning code. As the neighborhood was developed over time, many properties were developed in a similarly dense fashion. As previously stated, the subject property owner made contact with adjoining property owners who provided no objections to the 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 purpose of the proposed garage is to clean up the lot, which will be beneficial for the neighborhood. The garage will primarily affect the adjoining property to the south, being constructed parallel to their existing attached garage (see aerial on Page 3).

There is a ± 22 -foot wide right-of-way along 8th Street Southwest, with curb cuts and sidewalks. The proposed garage would be ± 40 feet from the curb, which is approximately 4 feet further back than the existing residence, which does not meet the required front yard setback. The wide right-of-way and proposed 18-foot front yard provides adequate visual consistency to the neighborhood, and still allows for the required 2 off-street parking spaces. A standard parking space is 10 feet wide by 19 feet deep, while a compact space is 8 feet wide by 15 feet deep. The garage will provide one standard parking space, and the space in front of the garage will provide the second space. Although this space doesn't meet the length requirement for a standard parking space by 1-foot, it is larger than a compact parking space, and staff feels it is reasonable to allow this space to count towards meeting the off-street parking requirements.

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 residence is reasonable. Though this property is zoned R-3 Single-family high density, a literal enforcement would create restrictions uncharacteristic with the residential use of the property, and that of the neighboring R-3 residential district to the north, east, and south of the subject property.

When the property was divided in 1922, a substandard 50 feet by 50 feet lot was created. If the property was vacant and current setbacks were applied, of the $\pm 2,500$ total lot square feet, $\pm 1,740$ square feet would be restricted due to setback requirements, leaving ± 760 square feet of actual buildable area. It would be difficult to build on any property that size while still meeting the development standards of the City Code. For this specific property, the residence was constructed on the property in 1920, and is now a legal nonconforming structure, which City Code permits to continue so long as it remains otherwise lawful, subject to the conditions provided in Section 17.64.030. Additionally, the proposed garage would meet other development standards such as lot coverage and height required for the R-3 district.

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

The proposed side yard and front yard setbacks provides enough room for construction and maintenance of the private garage. The property owner wishes to clean up the property, and the proposed development is consistent with the surrounding R-3 neighborhood characteristics.

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

EXHIBIT A - AERIAL MAP



 112 8th St SW  Tracts of Land

200 100 0 200 Feet



Recommended Motion:

Board Member moves:

“I move the Board of Adjustment, based on the Findings for the Basis of Decision, approve a variance on the property legally described as the north 50 feet of lot 8, block 577, Great Falls 5th Addition, for a 3-foot side yard setback from the south property line and an 18-foot front yard setback from the east property line, for the construction of an accessory garage, subject to conditions 1 through 5.”

Conditions of Approval

1. 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.
2. If after the approval of the conceptual development plan by this Board, the owner proposes to expand or modify said plan, 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 said plan, the proposal shall be resubmitted for review as a new application.
3. The owner shall comply with City Code pertaining to Home Occupations (5.02.200 and 17.20.7.070). Failure to comply, or providing false information or misinformation, will result in an inspection of the owner's premises and the possible revoking of the Home Occupation Permit.
4. The nonconforming fence encroaching upon the boulevard and exceeding height standards shall be removed prior to issuance of any permits by the City for garage construction.
5. No outside storage or rubbish is permitted on the property which is visible from a public street, alley, and adjoining properties. The applicant shall clean up the property to be in compliance with City Ordinance Title 8, Chapter 51, Maintenance and Sanitation of Premises, which states: *Any person owning, leasing, occupying, or having charge or possession of any premises in the City, and the agent thereof, shall keep and maintain such premises and the right-of-way abutting such premises in a safe, clean, orderly, sanitary and aesthetic condition.*

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

Cc: Patty Cadwell, Neighborhood & Youth Council Coordinator
Brian Mader, 112 8th Street Southwest, Great Falls, MT 59402

EXHIBIT B - APPLICATION

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

Date: 5/22/13
 Application Number: BOA 2013-3
 Fee: \$200
 Paid (Official Use ONLY):

VARIANCE APPLICATION

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.

Brian Moder

Owner / Representative Name:

112 8TH ST. S.W

Mailing Address:

(406) 453-1839 (406) 999-1839

Phone:

Email:

Requested Action: A variance from Title:

Chapter:

Article:

17.20.4 EX 20-4 minimum side yard setback
 And minimum front yard setback

Basis for Request:

Storage / new detached garage (3PS 58FT)

PROPERTY DESCRIPTION LOCATION:

N 50' lot 8

S11

T20N / Block 577 R3E GF 5th

Mark/Lot:

Section:

Township/Block:

Range/Addition:

Same as above

Street Address:

ZONING:

LAND USE:

A-3 Single Family high density

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.

B. Bluh

5-17-13

Property Owner's Signature:

Date:

Representative's Signature:

Date:

EXHIBIT C - NEIGHBOR SIGNATURES

I Brian Mader 5-22-13
 living at 112 8th St. S.W. Great Falls
 Mt. Plan to build a 17'6" X 22' Garage
 Next to my house.

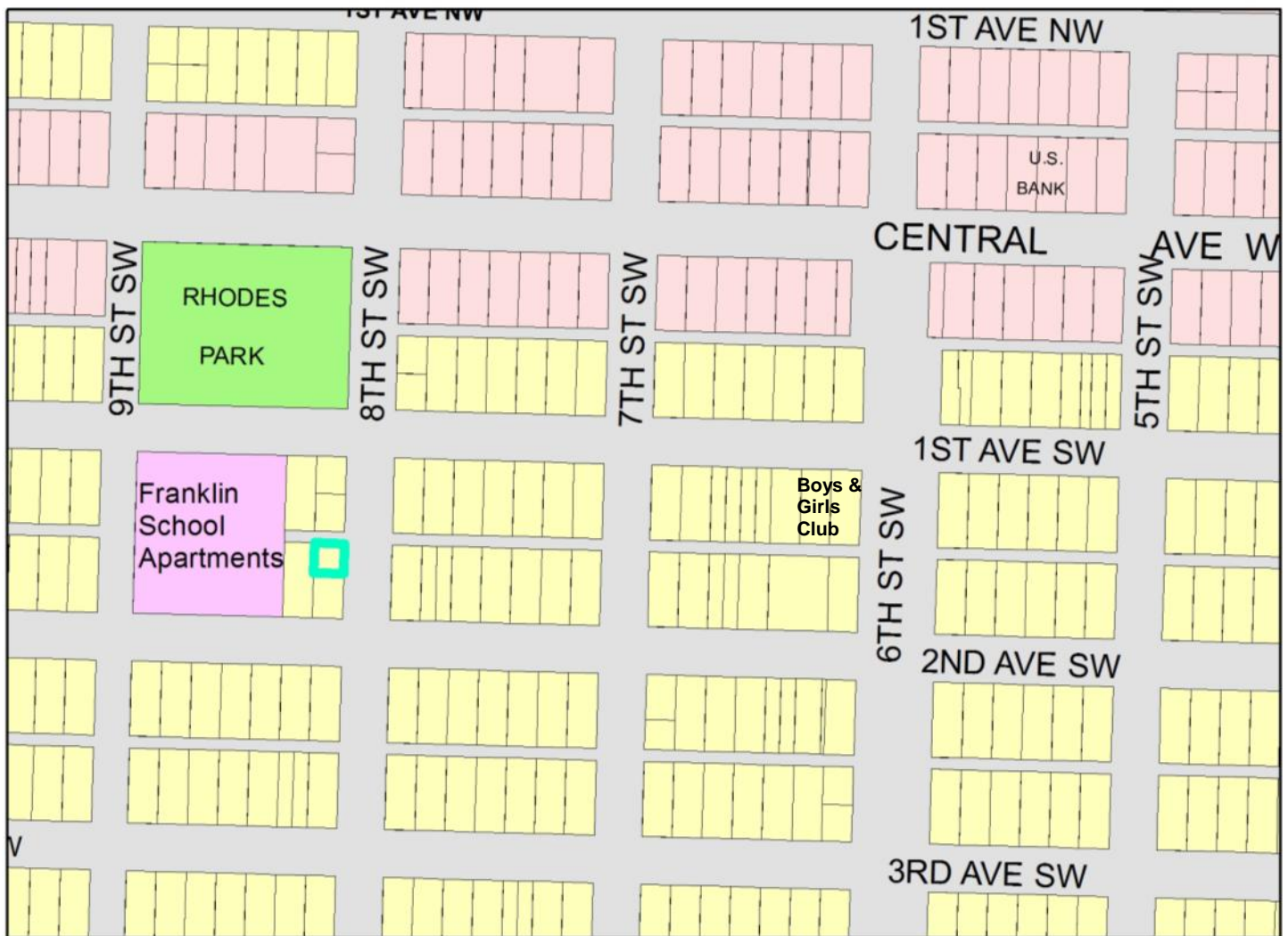
Name Joseph E. Dancy Phone # 788 8268
 Address 807 2nd Ave S.W.
 Comments

Name [Signature] Phone # 406 899-3678
 Address 806 1st Ave SW
 Comments

Name Donald O March Phone # 406-799-8190
 Address 725 2nd Ave SW
 Comments

Name John K. Olson Phone # 7616132
 Address 110 8th St S.W.
 Comments it OK and fine with me

EXHIBIT D - ZONING MAP



225 112.5 0 225 Feet



112 8th St SW

City Limits

Tracts of Land

ZONING

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

Right of Way

EXHIBIT E - SITE PLAN

