

BOARD OF ADJUSTMENT

September 5, 2013

Case Number

BOA2013-05

Applicant/Owner

Sharman Tokerud

Property Location

West of Meadowlark Elementary School, Fox Farm Rd and Montana Park

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 addition

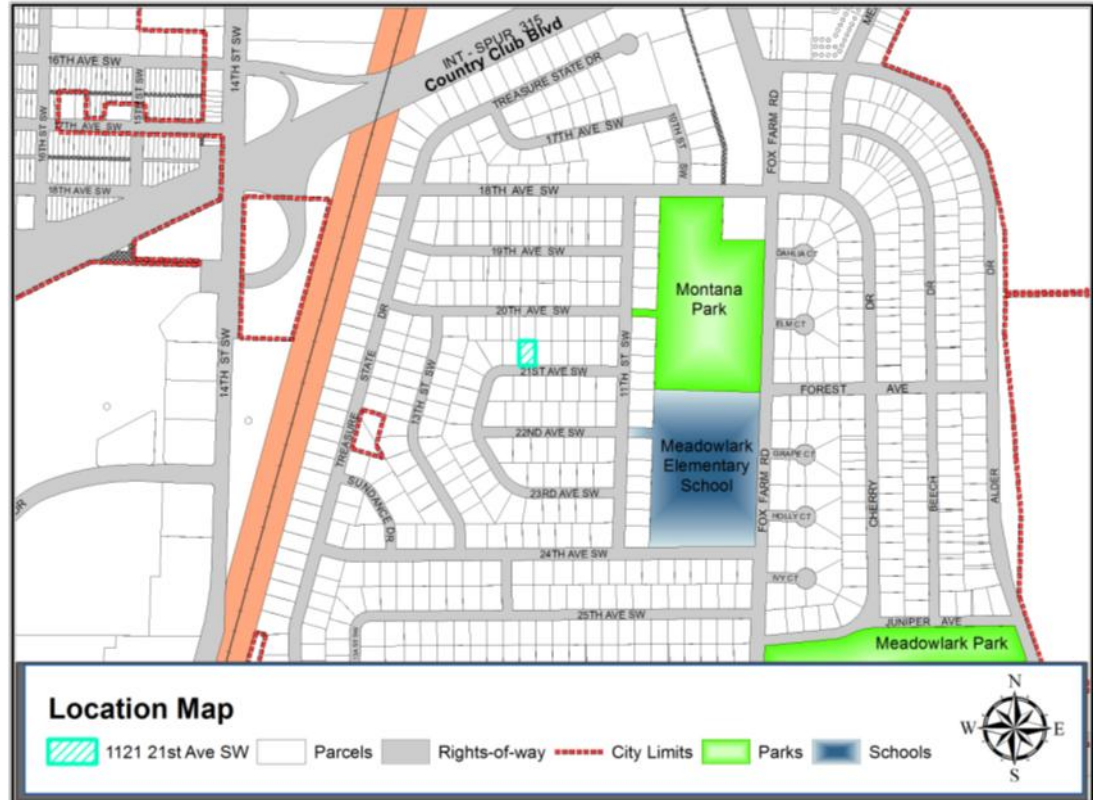
Recommendation

Approve with conditions

Project Planner

Galen Amy

1121 21ST AVENUE 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 setback. The applicant is requesting a 5-foot 9-inch 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 at 1121 21st Avenue Southwest and is legally described as Lot 36, Block 8, Montana Addition. The existing home and garage area was constructed in 1979. 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 40 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 9-inch side yard setback from the west property line in order to construct a 12 feet by 32 feet 8 inch addition to the existing garage (see Exhibit D and Exhibit E).

The existing garage is 675 square feet, and the proposed addition is approximately 392 square feet. The subject property is $\pm 9,600$ 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 $\pm 25\%$ 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 a number of the homes in the vicinity have less than an 8-foot side yard setback, as the side yard setback pre-2005 was 6 feet.

The impact of the proposed addition with the requested 5-foot 9-inch side yard variance would have minimal effect on the majority of surrounding properties. The applicant also provided signatures from the two neighbors that would be primarily impacted by the addition, stating they understand the proposed project and are not in opposition (see Exhibit F).

The Notice of Public Hearing was mailed to the neighboring property owners and published in the *Great Falls Tribune* on August 17, 2013. As a courtesy, Patty Cadwell, Neighborhood Council Coordinator, provided the information to Neighborhood Council #6 on August 22, 2013. As of the writing of this report, staff has received no comments from the public related to the request.



View north at the subject property in relation to the neighbor to the west. Note: applicant intends to leave the trees and vegetation to the left.



View looking northeast at the location of the proposed garage addition.



View looking northwest down 21st Ave SW with the subject property on the right.

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.

Findings for the Basis of Decision:

Staff supports the request for a 5-foot 9-inch side yard setback for the construction of a garage addition. The proposed setback is characteristic to the surrounding R-2 Single-family medium density neighborhood development over the past 40 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 1979. Construction of a garage 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; that homeowner, as well as the owner across the street to the south, 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 and site plan showing the addition to the existing residence's front façade provides adequate visual consistency to the neighborhood is not contrary to public interest. The applicant also intends to maintain the large, well established trees in the front yard, which also serve to lessen the potential visual impact of the addition.

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

Construction of an addition to the existing garage 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 existing residence and proposed ±392 square foot garage addition would create a total of ±25% lot coverage, so there is adequate space on the subject property for the proposed addition. The existing garage is 675 square feet, and with the proposed addition this project would still be under the permitted garage area of 1,400 square feet. 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.

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 Lot 36, Block 8, Montana Addition, for a 5-foot 9-inch side yard setback from the west property line, for the construction of a garage addition, subject to conditions 1 and 2.”

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 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 said plan, the proposal shall be resubmitted for review as a new application.

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

Cc: Patty Cadwell, Neighborhood & Youth Council Coordinator
Sharman Tokerud, Owner, icnelk@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

BOA 2013-5

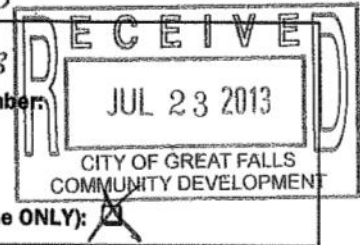
Date: 7/23/13

Application Number:

JUL 23 2013

Fee: \$200

Paid (Official Use ONLY):



CONDITION FOR VARIANCE

Montana Statutes require an *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.

SHARMAN TOKORUD

Owner / Representative Name:

1121 21ST AVE SW GREAT FALLS MT 59404

Mailing Address:

406-868-9176, 406-781-7205 icnelk@gmail.com

Phone:

Email:

Requested Action: A variance from Title:

Chapter:

Article:

RELIEF FROM CURRENT SET BACK REQUIREMENTS OF 8' ON THE SIDE. TO ACCOMMODATE THE CONSTRUCTION OF ANOTHER GARAGE STALL. TO ADD A 12' WIDE GARAGE STALL WOULD LEAVE ONLY A 6' SET BACK.

Basis for Request:

WITH THE HOUSE BEING 6 BEDROOMS A SMALL 2 CAR GARAGE IS INADEQUATE BY ADDING ANOTHER GARAGE STALL IT WILL ELIMINATE ANOTHER CAR FROM BEING PARKED ON THE STREET AND BY CITY DEFINITION A GARAGE IS AUXILIARY

PROPERTY DESCRIPTION LOCATION:

lot 36, Block 8 Montana 15 20N 3E

Mark/Lot/Block:

Addition:

Section:

Township:

Range:

1121 21ST AVE SW GREAT FALLS MONTANA

Street Address:

ZONING:

R-2

Current:

LAND USE:

Residential

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.

Sharma Tokorud

Property Owner's Signature:

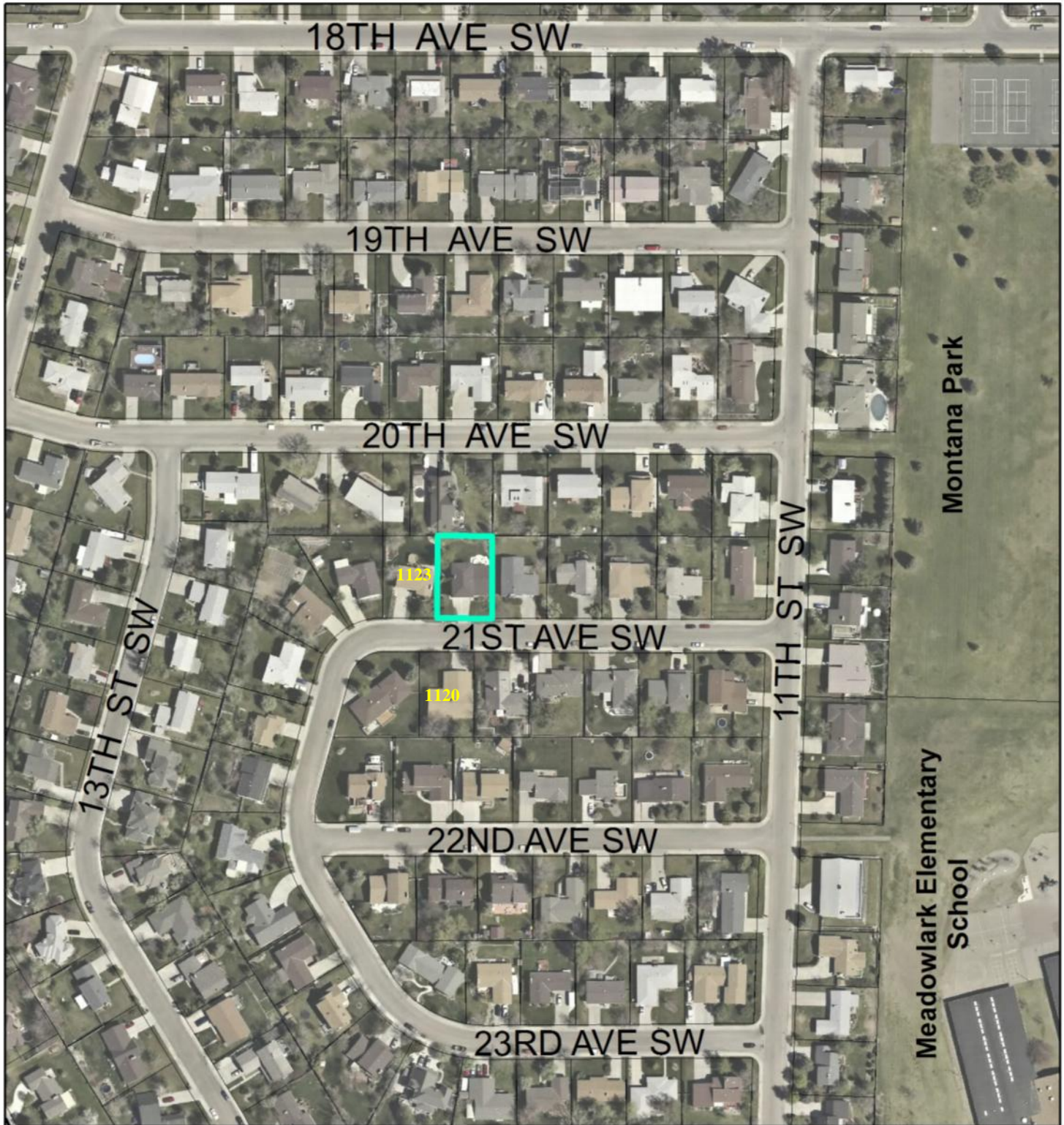
July 10, 2013

Date:

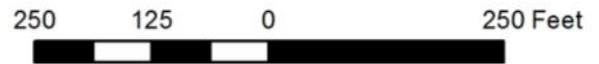
Representative's Signature:

Date:

EXHIBIT B - AERIAL PHOTO

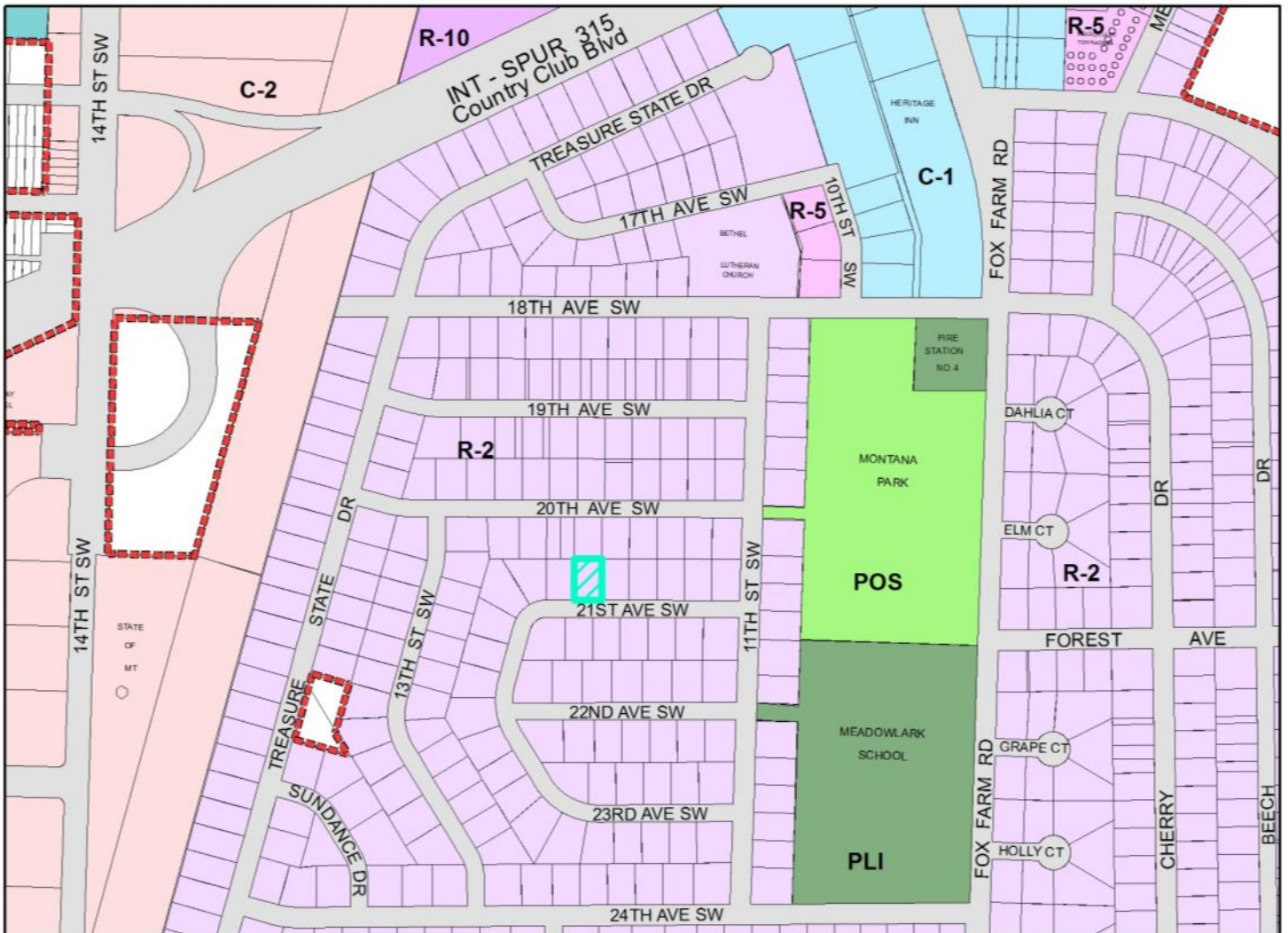


1121 21st Ave SW Tracts of Land



Addresses of neighbors contacted

EXHIBIT C - ZONING MAP



400 200 0 400 Feet



1121 21st Ave 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

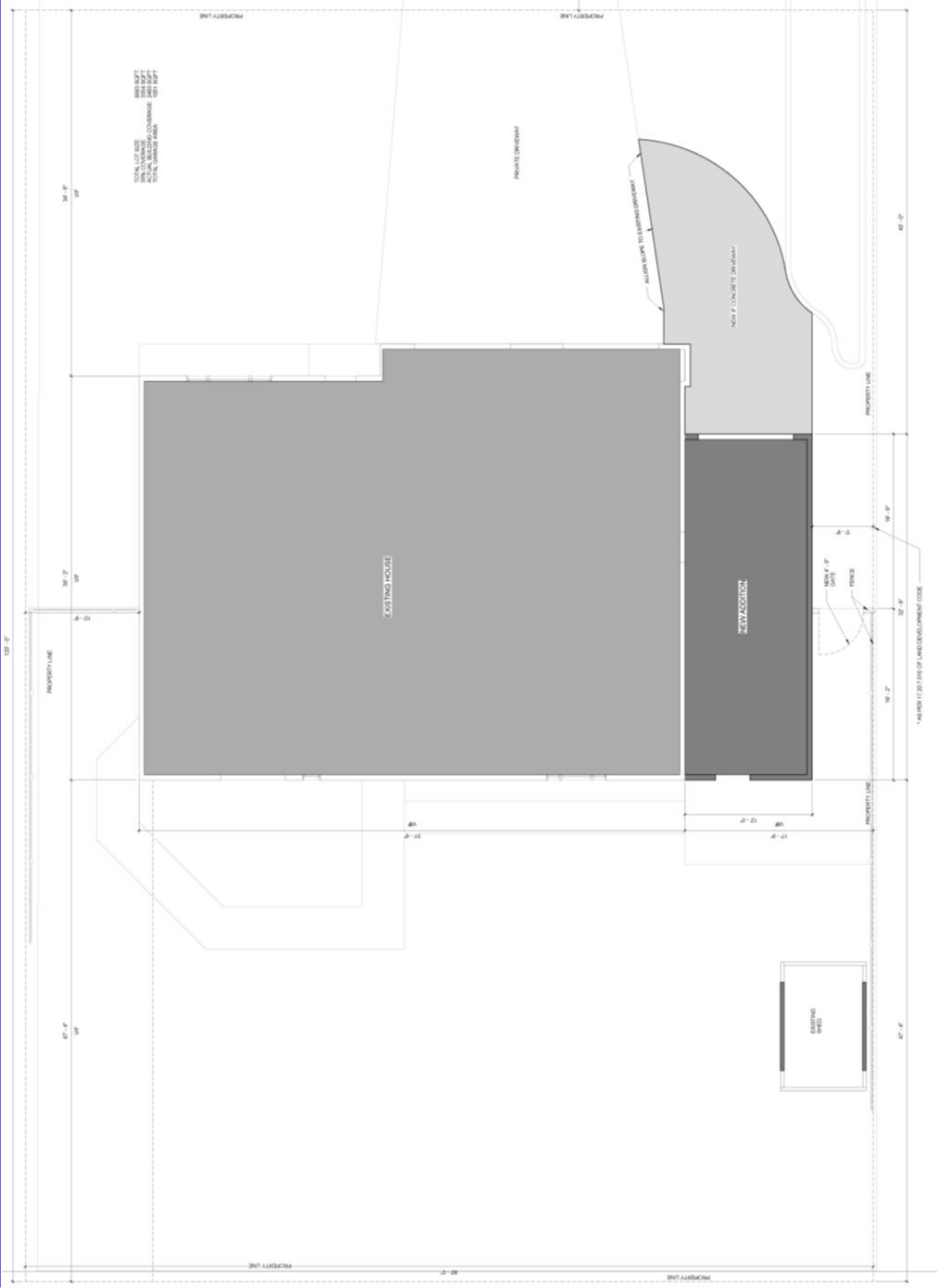
R-6 Multi-family high density

R-9 Mixed residential

R-10 Mobile home park

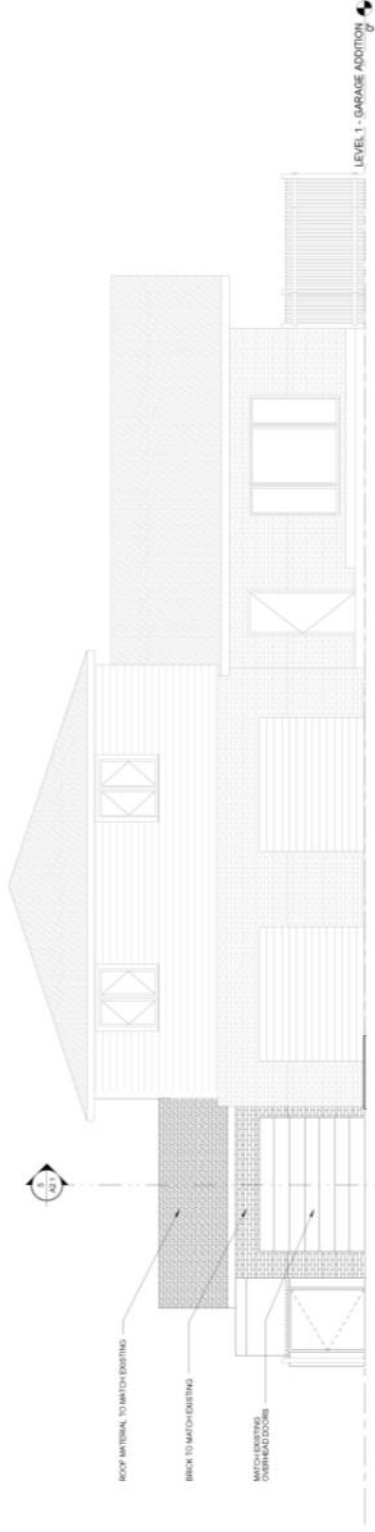
Unincorporated

Right of Way

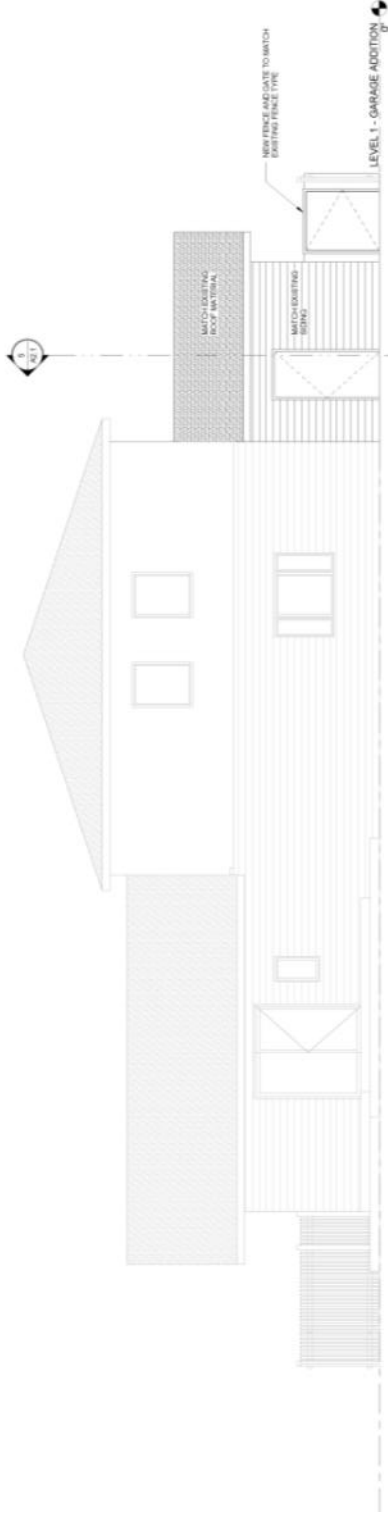


1 SITE PLAN
1/4" = 1'-0"

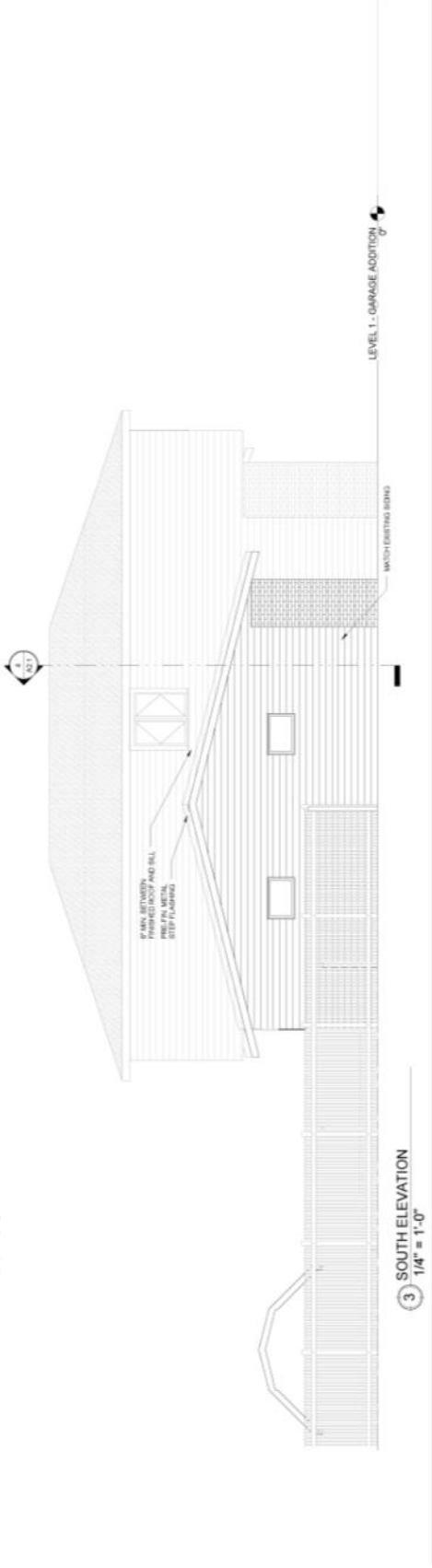
EXHIBIT E - DRAFT ELEVATION



1 EAST ELEVATION
1/4" = 1'-0"



2 WEST ELEVATION
1/4" = 1'-0"



3 SOUTH ELEVATION
1/4" = 1'-0"

EXHIBIT F - NEIGHBOR SIGNATURES

August 12, 2013

Great Falls, MT

We are aware of the proposed addition of an attached garage stall on the west ^Sside of the residence at 1121 21st Ave SW in the city of Great Falls. The proposal to reduce the setback from the side property line to 5'9" from the 8'0" that is required by City Code 17.20.4.10 Exhibit 20-4 does not concern us. We do expect the finished garage to be finished in a manner that fits the existing structure.

Name: MRPZ


Address: 1123 21st Ave SW

Great Falls, Montana 59404

August 12, 2013

Great Falls, MT

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Name: Tom & Sharm Alfrej 

Address: 1120 21st Ave SW

Great Falls, Montana 59404