



Board of Adjustment / Appeals - November 7, 2024 Agenda
Civic Center 2 Park Drive South, Great Falls, MT
Commission Chamber, Civic Center
3:00 PM

The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>.

The Public may view and listen to the meeting on government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.

Public participation is welcome in the following ways:

- Attend in person.
- Provide public comments in writing by 12:00 PM the day of the meeting: Mail to Planning & Community Development, PO Box 5021, Great Falls, MT 59403, or via email to: jnygard@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether the commenter is a city resident. Written communication received by that time will be shared with the Board Members and appropriate City staff for consideration during the agenda item and before final vote on the matter; and, will be so noted in the official record of the meeting.

OPEN MEETING

1. Call to Order - 3:00 P.M.
2. **Joe McMillen - Chair**
Aspen Northerner - Vice Chair
Antoinette Collins
Pete Fontana
Christian Stone
3. Recognition of Staff
4. Approval of Meeting Minutes - June 6, 2024

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS

BOARD ACTIONS REQUIRING PUBLIC HEARING

5. Variance from Section 17.20.4.010 Exhibit 20-4 of the Official Code of the City of Great Falls (OCCGF) to allow a reduced rear and side yard setback for the construction of a shed for the property located at 1110 Choteau Ave NE.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

COMMUNICATIONS

PUBLIC COMMENT

Public Comment on any matter and that is within the jurisdiction of the Board of Adjustment/Appeals. Please keep your remarks to a maximum of five (5) minutes. Speak into the microphone, and state your name and address for the record.

ADJOURNMENT

(Please exit the chambers as quickly as possible. Chamber doors will be closed 5 minutes after adjournment of the meeting.)

Assistive listening devices are available for the hard of hearing, please arrive a few minutes early for set up, or contact the City Clerk's Office in advance at 455-8451. Wi-Fi is available during the meetings for viewing of the online meeting documents.

Board of Adjustment/Appeals meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. Meetings are re-aired on cable channel 190 the following Friday morning at 10 a.m.

MINUTES OF THE MEETING
OF THE
GREAT FALLS BOARD OF ADJUSTMENT/APPEALS
June 6, 2024

CALL TO ORDER

The meeting of the Great Falls Board of Adjustment/Appeals was called to order by Chair Joe McMillen at 3:00 p.m.

UPDATES CONCERNING PROCESS OF MEETINGS

In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), the City of Great Falls and Planning Advisory Board/Zoning Commission are making every effort to meet the requirements of open meeting laws:

- The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.
- Public participation is welcome in the following ways:
 - Attend in person. Please refrain from attending in person if you are not feeling well.
 - Provide public comments via email. Comments may be sent via email before 12:00 PM on Thursday, June 6, 2024 to: jnygard@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether the commenter is a city resident. Written communication received by that time will be shared with the City Commission and appropriate City staff for consideration during the agenda item and before final vote on the matter; and, will be so noted in the official record of the meeting.

ROLL CALL & ATTENDANCE

Great Falls Board of Adjustment/Appeals members present:

Joe McMillen, Chair
Aspen Northerner, Vice Chair
Antoinette Collins
Pete Fontana
Christian Stone

Great Falls Board of Adjustment/Appeals members absent:

None

Planning Staff members present:

Brock Cherry, Director Planning & Community Development at 3:02 p.m.
Lonnie Hill, Deputy Director Planning & Community Development
Rachel Campbell, Permit Technician

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Sara Doermann, Associate City Planner
Jamie Nygard, Sr. Administrative Assistant

Others present:

Rachel Taylor, Deputy City Attorney

Mr. Hill affirmed a quorum of the Board was present.

MINUTES

Chair McMillen asked if there was a motion to approve the meeting minutes as stated for January 4, 2024. Ms. Northerner moved to approve the minutes, seconded by Mr. Fontana. All in favor, the minutes were approved.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS

None.

BOARD ACTIONS REQUIRING PUBLIC HEARING

Variance to Section 17.20.4 Exhibit 20-74 of the Official Code of the City of Great Falls (OCCGF) to allow a reduced side yard setback for construction of a two car garage for the property located at 1417 1st Avenue North.

Sara Doermann, Associate City Planner, presented to the Board. She gave some project background and stated that the subject property is located at 1417 1st Avenue North and is zoned R-3, Single-family high density on an approximately 7500 square foot lot. She stated that the request is being brought forward to the Board because there are physical constraints on the subject property to include a power pole and a sanitary sewer service line. She stated that the subject property is the only property on the block that has a power pole on the rear property line. She also stated that existing accessory structures, on the block, have current non-conforming setbacks.

Ms. Doermann presented an Aerial Map, Site Photos, and a Proposed Site Plan.

Ms. Doermann stated that the variance request is from OCCGF 17.20.4 Exhibit 20-4, Minimum side yard setback of principle and accessory buildings. The requirement is a 5 foot setback and the applicant is requesting a 2 foot setback, on the east side of the property, to allow the construction of a two car garage. The proposed two car garage would be used for off-street parking spaces and will be roughly 24'x30'.

Ms. Doermann stated that as of the meeting, Staff had not received any inquires or comments from the public.

Ms. Doermann presented the Basis of Decision:

1. Granting the variance would not be contrary to the public interest.
 - The variance will not adversely affect the character of the neighborhood.
 - The proposed placement of the garage is consistent with existing garages in the area.
 - The proposal promotes efficient land use without compromising public health, safety, or welfare, as the project would have to go through the building permit process.
2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.
 - Existing utilities limit available space for construction of a garage.
 - Unique hardships that are not self-imposed.
 - The variance would allow the applicant to use the unencumbered section of the rear property.
 - The development would be consistent with the character of the neighborhood.
3. The spirit of the Title would be observed and substantial justice done by granting the variance.
 - It allows the construction of a garage in lieu of site challenges.
 - It ensures reasonable use of the property and adheres to safety standards.

Ms. Doermann stated that based on the basis of decision findings, Staff recommends approval of the variance request.

Ms. Doermann let the Board know that the applicant was unable to attend the meeting, but was available via phone for any questions.

PROPONENTS

None.

OPPONENTS

None.

PUBLIC COMMENT

None.

BOARD DISCUSSION AND ACTION

Mr. Fontana said that anytime you can move vehicles off of the street, especially on a one-way street, it is a good thing. The other Board Members agreed with him.

MOTION: That the Board of Adjustment, based on the Findings for the Basis of Decision, approve the variance request from OCCGF Title 17, Chapter 20, Article 4, Exhibit 20-4, minimum side yard setback of principle and accessory buildings.

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MADE BY: Mr. Fontana
SECOND BY: Ms. Collins

VOTE: Motion Passed 5-0

COMMUNICATIONS

Mr. Cherry introduced himself to the Board and thanked them for serving. He stated that the Growth Policy is being updated and that there will be more on it in the near future.

PUBLIC COMMENT

None.

ADJOURNMENT

There being no further business, Chair McMillen adjourned the meeting at 3:13 p.m.



Date: November 7,
2024

**CITY OF GREAT FALLS
BOARD OF ADJUSTMENT AGENDA REPORT**

- Item:** Variance from Section 17.20.4.010 Exhibit 20-4 of the Official Code of the City of Great Falls (OCCGF) to allow a reduced rear and side yard setback for the construction of a shed for the property located at 1110 Choteau Ave NE.
- Applicant:** Shawn Crook, Owner
- Representative:** Wess Myhre, Summit Structures
- Presented By:** Tracy Martello, Assistant City Planner
- Action Requested:** Consideration of a reduced side yard setback from the standard of “5 feet” and rear yard setback from the standard of “5 feet” contained in Title 17, Chapter 20, Article 4, Exhibit 20-4 of the OCCGF

Public Hearing:

1. Chairperson conducts public hearing, pursuant to OCCGF 1.2.050 and Title 17, Chapter 6.
2. Chairperson closes public hearing and asks the will of the Board.

Suggested Motion:

1. Board Member moves:
 - I. “I move that the Board of Adjustment, based on the Findings for the Basis of Decision (approve/deny) the variance request from OCCGF Title 17, Chapter 20, Article 4, Exhibit 20-4, *minimum side and rear yard setback of accessory buildings.*”
2. Chairperson calls for a second, discussion, and calls for the vote.

Synopsis:

The subject property, 1110 Choteau Ave NE is within the R-3 Single-family High Density zoning district. The site is ±12,240 square feet with a single-family home including an attached garage and a foundation for a shed. Adjacent properties to the north, east, south and west are also within the R-3 Single-family High Density zoning district, with the property to the east being vacant.

The applicant is requesting a variance to the Zoning Code’s minimum side and rear yard setbacks for accessory buildings. The applicant has specifically requested reducing the minimum side yard setback of an accessory structure from five (5) feet to two (2) feet and the rear yard setback from (5) feet to three (3) feet. The reduced side and rear setbacks are requested along the east and south property lines, bordering the vacant lot to the east and the single family residence of 1113 41st Ave NE to the south.

The variance request would allow the applicant to complete construction of a shed. According to the applicant this request arises from several factors; rising building costs due to COVID-19, the contractor's failure to pull a building permit, and a change in setbacks due to zoning code amendment. When construction began in 2020, the code for accessory structures allowed two-foot side and rear yard setbacks. The foundation work for the shed started in March 2020. However, due to the high costs of materials and labor, the project was put on hold.

In October 2024, a new project representative approached the City to request a variance after discovering that the existing foundation did not comply with current setback requirements. Further investigation revealed that the previous contractor did not apply for a building permit and no review or inspections had been conducted. The applicant is unable to continue the project on the same footprint without issuance of a dimensional variance. Therefore, the location of the existing foundation poses an impediment to meeting the required side yard setback. Staff has determined the proposed location for the shed is practical, as it would allow the use of the existing foundation. The applicant will be required to obtain a building permit if the request is approved.

Findings for the Basis of Decision:

The basis for decision for a variance request is listed in §17.16.32.040 of the OCCGF Land Development Code. The decision of the Board of Adjustment shall consider the three Basis of Decision criteria. Staff provides the following Basis of Decision for consideration by the Board:

1. The variance is not contrary to the public interest.

The decision to grant a side and rear yard setback variance for the accessory structure is based on the finding that such a variance is not contrary to the public interest. This determination considers several factors: The variance will not adversely affect the character of the neighborhood. Adjacent properties to the south and west have existing accessory structures that are located closer than the required five (5) foot side and rear setbacks as seen in the Location Map provided as an attachment to this report. Furthermore, the request will not compromise public health, safety, or welfare, as the construction will adhere to all other relevant building codes and safety regulations. The variance facilitates the property owner's reasonable use of their land, addressing current conditions while preserving the intent of the zoning ordinance.

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

Enforcing a literal interpretation of the zoning code would cause the loss of completed site work, specifically the existing foundation and driveway. The original foundation was constructed to the zoning requirements at the time of work in 2020. When the zoning code was amended in 2021 it caused the foundation to become nonconforming. To complete the project to current standards, the applicant would be required to remove and rebuild the foundation, which staff has determined is an unnecessary hardship. Granting the variance would allow the applicant to use the existing foundation on the rear section of their property without undermining the intent of the zoning code, ensuring that the development is consistent with the character of the neighborhood.

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

The decision to grant a side and rear yard setback variance for the accessory structure is founded on the principle that this action is not in conflict with the spirit of the zoning ordinance. The zoning ordinance is intended to promote orderly development, ensure reasonable use of properties, and maintain neighborhood aesthetics and safety. By allowing the variance, the property owner can construct a functional shed,

addressing the unique circumstance of the nonconforming foundation without disrupting the overall character of the neighborhood. Additionally, substantial justice is served as the variance allows the applicant to continue their shed project, ensuring they are not burdened by the rigid application of the code.

Recommendation:

Based on the findings for the Basis of Decision, staff recommends approval of the variance request.

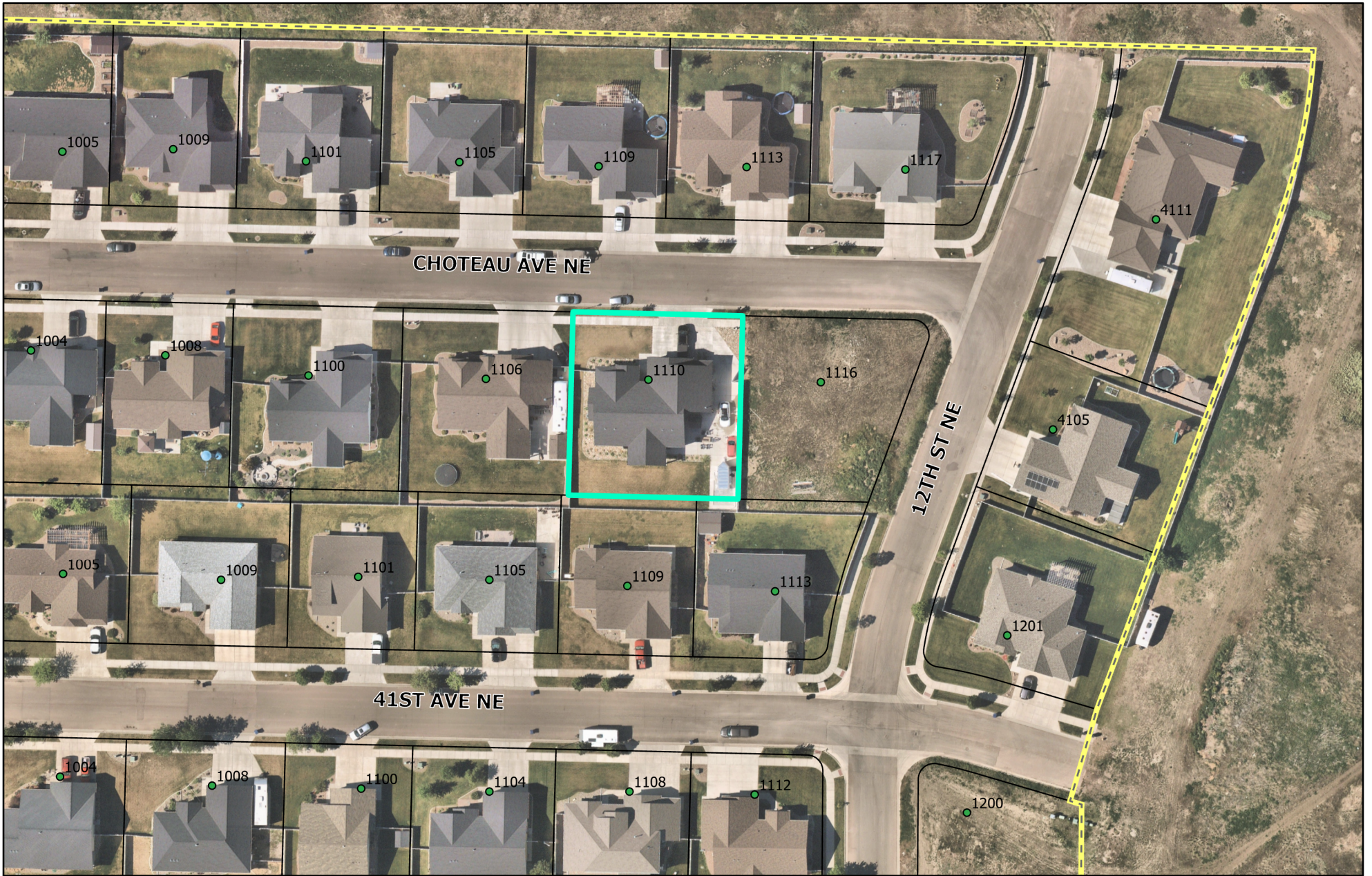
Alternative:

The Board of Adjustment could choose to deny the variance request if the Board determines the request does not meet each of the basis of decision criteria. For such action, the Board must provide separate Basis of Decision findings to support the denial.

Attachments:

- Location Map
- Application
- Project Narrative
- Site Plan

Location Map



- City Limit
- Parcels
- Subject Property





CITY OF GREAT FALLS
PLANNING & COMMUNITY DEVELOPMENT DEPT.
P.O. BOX 5021, GREAT FALLS, MT, 59403-5021
406.455.8430 • WWW.GREATFALLSMT.NET

BY:

VARIANCE APPLICATION Variance Fee: \$2,500

Name of Project (If applicable): Shawn Crook Project Address: 1110 Choteau Avenue

Applicant/Owner Name: Shawn Crook *phone number 406-429-9674*

Mailing Address: 1110 Choteau Avenue Great Falls MT 59404

Phone: 660 429 9674 Email: scrook@atsu.edu

Representative Name: Wes Myhre

Phone: 406 403 4502 Email: wess.myhre@summitstructures.com

LEGAL DESCRIPTION:

Lot/Block/Subdivision: Lot 23 A, Block 2 Stone Meadows Addition Phase 2

Section/Township/Range:

ZONING AND LAND USE (TO BE COMPLETED BY STAFF):

Existing Zoning: Existing/Proposed Land Use:

VARIANCE REQUEST:

See attachment.

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 public hearing notice requirements and associated costs for land development projects are my (our) responsibility. 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

[Signature]
Shawn Crook (See 23, 2024 22 58 MD)

Applicant/Owner's Signature:

9-29-24

Date:

[Signature]

9/30/2024

Representative's Signature:

Date:

Shawn Crook Variance Request Sept 2024

Shawn Crook of 1110 Choteau Avenue; Great Falls, Montana is seeking a variance to build a structure on an existing foundation, which is to be utilized for cold storage and lawn tools. This project began in the summer of 2020, and the final concrete pour for the pad was completed on April 28, 2021 by Baer Construction.

Planning Department verified that a building permit was not issued. The home owner was not aware that work was being done without a permit.

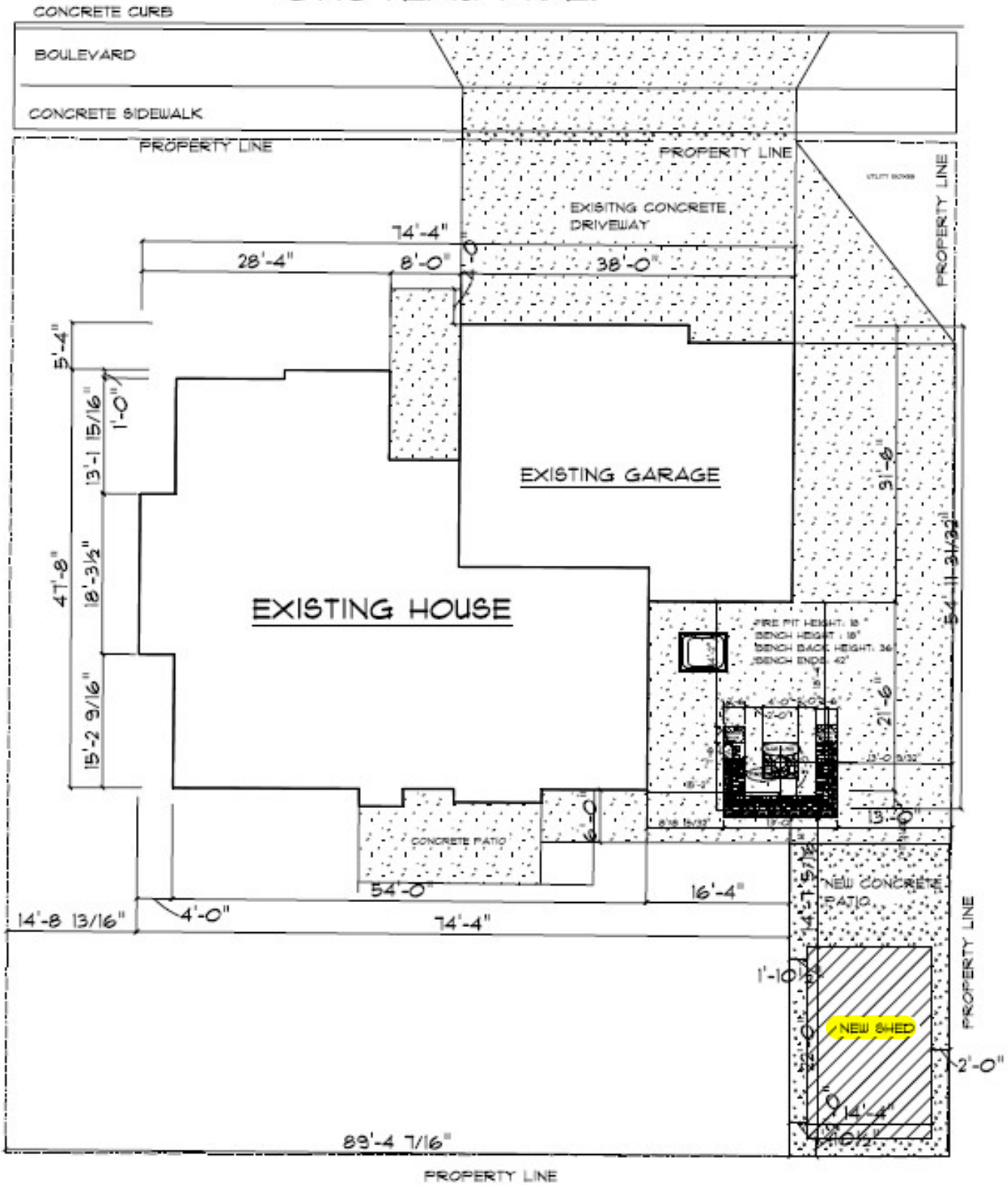
Due to the amount of concrete needed and the scope of the three pours, Shawn's budget was depleted and halted the building of the structure. Therefore, in the next three and half years, Shawn continued to build up his budget to complete this project.

The rear offset from the foundation wall to the back fence is 3 feet 8 inches.

The east side offset from the foundation wall is 2 feet 9 inches.

Due to meeting prior codes and zoning requirements, this variance would not be contrary to the public interest: however, a literal enforcement of the new regulations would result in unnecessary hardship in removing the foundation walls to meet the current standards which could change in the future. Following the old regulations with a 1-hour firewall could accomplish the same outcome as having 2 feet 3 inches of setback. Thus the spirit of the setback regulations would be observed and substantial justice done by granting this variance. Thank you for your time and consideration.

CHOTEAU AVE.



A link to enhance these plans has been provided in the email.

Brock Cherry

From: Jamie Nygard
Sent: Wednesday, October 30, 2024 3:57 PM
To: Tracy Martello; Lonnie Hill; Brock Cherry
Subject: FW: In support of a variance request by Shawn Crook

FYI.

From: Adam Elliott <adiott@gmail.com>
Sent: Wednesday, October 30, 2024 2:56 PM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: In support of a variance request by Shawn Crook

To Whom It May Concern:

As an owner of 1106 Choteau Ave, Great Falls, MT, I am supportive of and have no concerns about the variance request submitted by my neighbor Shawn Crook at 1110 Choteau Ave, Great Falls, MT.

Sincerely,
Adam Elliott