



BOARD OF ADJUSTMENT VARIANCE APPLICATION

Community Development Department, Planning Division
316 North Park Avenue, Room 445, Helena, MT 59623
406-447-8490; citycommunitydevelopment@helenamt.gov

Date received:

RECEIVED
By April Sparks at 12:54 pm, Dec 12, 2023

APPLICATION FEE: \$125.00
(PAYABLE TO THE CITY OF HELENA)
ALL FEES ARE NON-REFUNDABLE

PROPERTY OWNER: *Primary Contact?*

Name: Seeley Building LLC (Ray Kuntz) Primary Number: 406.422.3785
Address: 708 N. Last Chance Gulch, Helena, MT Other Phone: _____
Email: kayk138@hotmail.com

APPLICANT (If different from property owner): *Primary Contact?*

Name: _____ Primary Number: _____
Address: _____ Other Phone: _____
Email: _____ Company: _____

AUTHORIZED REPRESENTATIVE: *Primary Contact?*

Name: Jacob Augenstein Primary Number: 406.457.0360
Address: 1470 N. Roberts Street, Helena, MT, 59 Other Phone: _____
Email: jacoba@slatearch.com Company: Slate Architecture

Section A: PLEASE PROVIDE THE INFORMATION REQUESTED BELOW.

- Address of Property 630 N. Last Chance Gulch, Helena, Montana, 59601

Address	City	State	Zip Code
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- Legal Description (Block & Lots, Subdivision, COS#) CHESSMAN AND DAVIS CENTRAL ADD, S30, T10 N, R03 W, Lot 9A, ACRES 0.57, COS #3349376, PM 58, SEELEY CONDO MASTER
- Geocode 05-1888-30-2-09-20-7000
- The most recent deed for impacted property
- Lot or Parcel Size (square feet) 40,490 SF
- Current and proposed use of structure or property: Current Use: Mixed Use Business and Residential
- Current Zoning District Downtown Zoning District
- Are there other related Land Use Applications being submitted: Yes No
- Submit proof of current paid taxes
- 1 copy of a scaled site plan and supporting data/documents. The site plan must clearly show the existing standard and the proposed variance to the standard.

Section B: INDICATE WHICH VARIANCE(S) IS (ARE) BEING REQUESTED AND THE EXTENT OF THE VARIANCE.

EXAMPLE: [X] Reduce Front Lot Line Setback: *From the required 10 feet to 3 feet.*

Please provide all the information requested in the Application. An incomplete application may delay the review of your request. Please note: "N/A" is not an acceptable answer alone and requires an explanation if used.

Dimensional Criteria:

- Reduce front lot line setback: _____
- Front lot line setback #2 (corner lot): _____
- Reduce garage entrance setback: _____
- Reduce side lot line setback: _____
- Reduce rear lot line setback: _____
- Exceed building height limitation: _____

Lot Coverage/Area Criteria:

- Lot coverage percentage: _____
- Front porch lot coverage percentage: _____
- Lot area per dwelling unit: _____

Landscaping Criteria:

- Reduce or eliminate landscaping area: _____
- Reduce or eliminate screening: _____

Parking Criteria:

- Exceed the maximum parking spaces allowed: _____
- Reduce the amount of required on-site parking spaces: _____
- Reduce or eliminate loading berths: _____
- Reduce or eliminate required bicycle spaces: _____
- Reduce size of parking space: _____

Sign Criteria:

- Sign area (square footage): _____
- Sign height: _____
- Sign location: _____
- Number of signs: _____

Other: Self Illuminated Signs.

Section C: BOARD OF ADJUSTMENTS VARIANCE REVIEW CRITERIA.

To approve a requested variance for a new building or portion thereof, the Board of Adjustment shall consider the following standards in section 11-5-5 of the Helena City Code and find as follows:

1. The variance will not create a significant risk to the public health, safety, or general welfare;
2. The variance will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located; and
3. Excluding monetary hardship, strict compliance with the provisions of this title would create unnecessary hardship or practical difficulty.

These are the standards your application for variance will be judged on. Your answers in section D should speak to the review criteria.

It is the applicant's burden of proof to show that a variance should be granted. As part of your application, you are required to provide information for each of the following factors including all alternatives considered. Failure to provide adequate responses or requested documentation may result in a returned application.

Section D: EVALUATION FACTORS

- 1. **Special conditions and circumstances that are unique to the applicant's site, including the size of the property, unusual or extreme topography, or unusual shape of the property.**

If the above condition applies, state the specific factors and provide supporting documentation. For example, if the variance request is due to an abnormal lot configuration, provide a survey of the lot that specifically demonstrates the issue.

See attachment A

- 2. **The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.**

Ex: How is the proposed variance compatible with the other structures located on the site or in the vicinity of the site? On the site plan you provide, please represent accurately and to scale the height, location, and dimensions of existing structures.

See attachment A

- 3. **Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.**

If so, what are those nonconformities and provide supporting documentation.

See attachment A

- 4. **The subsequent imposition of zoning restrictions creating nonconforming lots or parcels, and governmental actions beyond the applicant's control.**

Is the need for a variance request a result of government action? For example, the front yard setbacks were increased after construction of the structure, thereby creating the non-conformity. Explain.

See attachment A

- 5. **Whether a literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.**

For example, would the denial of the variance deny the property owner the right to safe placement of a garage where garages are typical? If so, explain.

See attachment A

6. The extent to which the hardship or difficulty results from the actions of the applicant.

Explain the extent of the circumstances that are creating hardship or difficulty in compliance with the City Code and list alternatives and options considered by the applicant. Provide supporting documentation.

See attachment A

7. Whether granting the variance requested will confer an unreasonable special privilege to the subject property that is not available to other properties similarly located in the same zoning district.

See attachment A

8. Do you think a rebuttable presumption, as identified in City Code Section 11-5-5(E), should apply to your property, yes or no? For example, do you have an existing non-conforming structure that you wish to rebuild in the same location? If yes, show the original footprint of the building. Provide documentation that proves the existence of the prior nonconformity. Document that the nonconformity can be in compliance with building and fire codes.

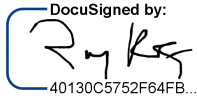
See attachment A

9. Provide any additional information you would like the Board to consider.

See attachment A

IT IS THE POLICY OF THE CITY OF HELENA'S BOARD OF ADJUSTMENT TO NOT ACT ON A PROPOSAL IF THE APPLICANT/PROPERTY OWNER OR REPRESENTATIVE IS NOT PRESENT AT THE BOARD OF ADJUSTMENTS HEARING. CITY STAFF REPRESENT THE CITY AND CANNOT ANSWER QUESTIONS ON BEHALF OF THE APPLICANT AT THE BOARD OF ADJUSTMENT HEARINGS.

I HEREBY CERTIFY AND ACKNOWLEDGE THE STATEMENTS IN THIS APPLICATION AND ANY ATTACHED INFORMATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Signed:  Date: 12/11/2023
Property Owner

Applicant: _____ Date: _____
(If different from Owner)

(Property owner must sign application)

It is recommended that the applicant contact neighbors to inform them of proposal and identify any concerns that the applicant may be able to address.

City Planning Staff represents the City; staff cannot answer questions for the applicant.

After recording return to:

City Attorney's Office
316 North Park Avenue, Room 203
Helena, MT 59623
(406) 457-8595

Return to:
HELENA ABSTRACT & TITLE CO.
PO BOX 853
HELENA, MT 59624-0853

HAAT/0 2077558

SPECIAL WARRANTY DEED

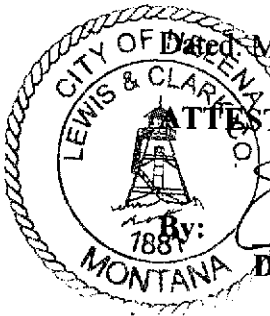
For Value Received, the **CITY OF HELENA**, a self-governing municipal government, 316 North Park Avenue, Helena, Montana, 59623, ("Grantor"), does hereby grant, bargain, sell and convey unto **SEELEY BUILDING, LLC.**, 708 North Last Chance Gulch, Helena, Montana 59601, ("Grantee"), the following described property in Lewis and Clark County, Montana, to-wit:


Lot 9A being a portion of Lots 8, 9 and 10 of the Chessman and Davis Placer, and part of Lot 1, Block 4 of the Central Addition to the City of Helena, Lewis and Clark County, Montana, as shown on the Certificate of Survey filed under Doc. No. 3349376.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto Grantee and its heirs and assigns forever. Grantor does hereby covenant to and with Grantee that it is the owner in fee simple of said premises; that the premises are free from all encumbrances and that it will warrant and defend the same from all lawful claims whatsoever, except the following:

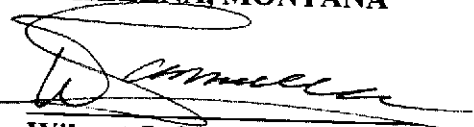
- (a) Easements, covenants, restrictions, reservations, and exceptions of record;
- (b) Any interest, lien or encumbrance that is reasonably obvious by an inspection of said real property;
- (c) Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a survey may disclose; and
- (d) Water rights, claims or title to water;

Dated: March 19th, 2020.



ATTEST:

Dannai Clayborn, Interim City Clerk

CITY OF HELENA, MONTANA

By: 
Wilmot J. Collins, Mayor

CERTIFICATE OF SURVEY

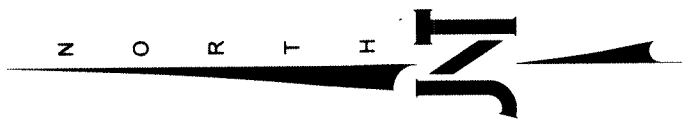
PURPOSE OF SURVEY

This survey was commissioned by the City of Helena for the purpose of retracing Book M4, Page 8659 in Section 30, Township 10 North, Range 3 West, Principal Meridian, Montana. No new parcels were created. This survey is therefore exempt from review under the Montana Subdivision and Platting Act.

LEGAL DESCRIPTION LOT 9A

A tract of land as described in Book M4, Page 8659, being located in the NE1/4SW1/4 of Section 30, Township 10 North, Range 3 West, Principal Meridian, Montana, Lewis and Clark County, Montana, being more particularly described as follows:

Beginning at a survey monument (Mag Nail and 2" washer, marked "17305LS") at the intersection of the westerly right-of-way of Last Chance Gulch with the southerly right-of-way of 13th Street which is coincident with the northeast corner of Book M4, Page 8659; thence from said Point of Beginning S30°19'51"W, 199.92 feet along the westerly right-of-way of Last Chance Gulch to a survey monument; thence N59°40'09"W, 124.17 feet to a survey monument located at the easterly right-of-way of a 20 foot wide alley; thence N30°22'11"E, 199.92 feet along said alley right-of-way to a survey monument on the southerly right-of-way of 13th Street; thence S59°40'09"E, 124.03 feet along said southerly right-of-way to the survey monument at the Point of Beginning, containing 0.57 acres, more or less, and subject to all easements of record or apparent on the ground.



BASIS OF BEARINGS
City of Helena LDP

DATUM: NAD83 (2011) (EPOCH 2010.00)
PROJECTION: TRANSVERSE MERCATOR
CENTRAL MERIDIAN: W 111°57'00" (-111.95°)
PROJECT ORIGIN LATITUDE: N 46°30'00" (46.5°)
SCALE FACTOR AT CENTRAL MERIDIAN: 1,000,191
FALSE NORTHING: 100,000,000 IFT (30,480m)
FALSE EASTING: 200,000,000 IFT (60,960m)

LEGEND

- = Found survey monument, as described
- = Set 5/8" x 24" rebar with orange plastic cap mk'd: "17305LS"
- = Set 1/4" x 2" mag nail w/ washer mk'd "17305LS"

P.O.B. = Point of Beginning

(R1) = Record per Doc. No. 538568

(R2) = Record per Doc. No. 3227780

(R3) = Book M4, page 8659



CERTIFICATE OF SURVEYOR

I, Jared A. Lay, a licensed Professional Land Surveyor in the State of Montana, do hereby certify that this is a true representation of a survey made under my direct supervision:

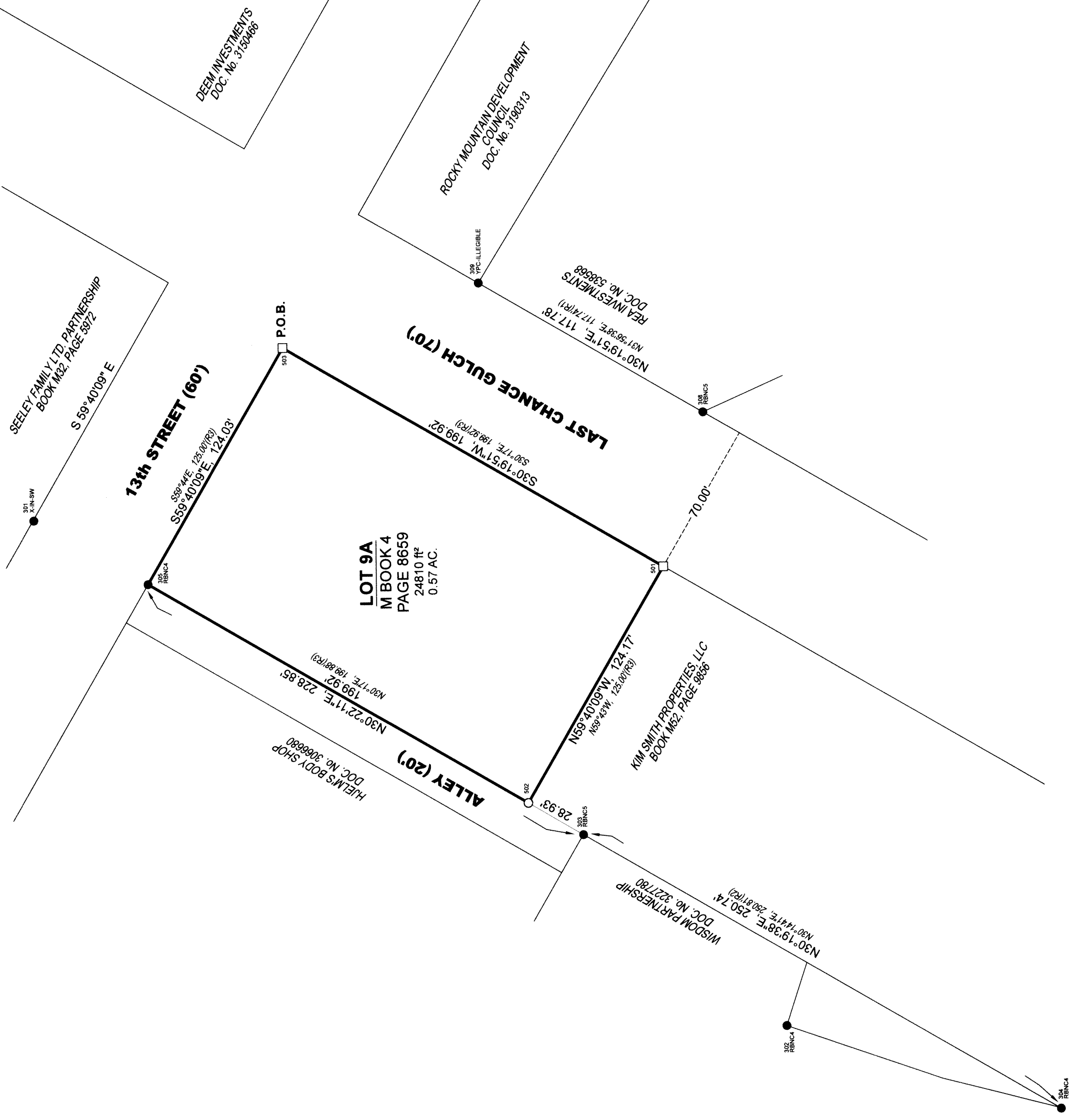
Jared A. Lay, Montana Reg. No. 17305LS
Date: 01/23/2020

1/4	SEC.	T.	R.
<input checked="" type="checkbox"/>	30	10N	3W
<input type="checkbox"/>			
<input type="checkbox"/>			



J BART ENGINEERS, LLC
1093 HELENA AVE.
HELENA, MT 59601
(406) 449-1306
JBARTENGINEERS.COM

County: LEWIS AND CLARK P.M., M. Date: 1/23/2020



CERTIFICATE OF EXAMINING LAND SURVEYOR

Reviewed for errors and omissions in calculation and drafting this 2nd day of January, 2020, pursuant to Section 76-3-611 (2) (a), M.C.A.

Jared A. Lay
Examining Land Surveyor
Reg. No. 117446

3349376 C05
01/23/2020 04:17 PM Pages: 1 of 1 Fees: 90.50
Paulette DeHart Clerk & Recorder Lewis & Clark mt



PROJECT NAME: Seeley Building – 630 N. Last Chance Gulch
 PROJECT NO.: 19052
 DATE: December 11, 2023

Zoning 11-9-7.5.b Wall Signs:

b. Wall Sign	Maximum 30% of primary building facade square footage (not to exceed total sign area permitted)	Signs may be externally illuminated with down directed, fully shielded fixtures only. Reference Figure 9
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Existing Condition:

The following are the existing conditions for this variance request.

- The building signs were designed and installed with internal illumination.
- The sign permit and review were not completed by Signs Now before the signs were ordered and installed.
- In September 2023, the sign permit was completed by Slate Architecture on the building tenants' behalf. It was written that the self-illumination would be turned off until a variance could be granted.





Proposed Variance Modifications:

The tenants of this building are requesting that the self-illumination be allowed to be turned back on for the following reasons;

- Many of the surrounding signs currently have self-illuminating signs.
- As most of the tenants (3 of 4) are health care services, it is in the public interest for wayfinding to allow self-illuminating signs. In the winter, the sun is not up until 8:12, and for those with visual impairments, having extra help navigating to their healthcare provider's office is a public benefit.

(Part C) BOARD OF ADJUSTMENTS VARIANCE REVIEW CRITERIA. To approve a requested variance for a new building or portion thereof, the Board of Adjustment shall consider the following standards in Section 11-5-5 of the Helena City Code and find as follows:

- 1. The variance will not create a significant risk to the public health, safety, or general welfare;***

Not only will the variance not create a risk to public health or safety, but it will assist those traveling to their healthcare providers in the morning to find their way. As most of the tenants (3 of 4) are health care services, it is in the public interest for wayfinding to allow self-illuminating signs. In the winter, the sun is not up until 8:12, and for those with visual impairments, having extra help navigating to their healthcare provider's office is a public benefit.

- 2. The variance will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located and***

There will be no reduction or impairment to the peaceful use of this property if the variance is granted. This is evident in that until the city notified the tenants that there was a violation of the zoning ordinance, these signs were illuminated without any issues.

- 3. Excluding monetary hardship, strict compliance with the provisions of this title would create unnecessary hardship or practical difficulty.***

As many of the other buildings in the vicinity already have self-illuminating signage, these tenants do feel there is a hardship for not enjoying similar presentations of their businesses. In addition to the need to help direct the public in the health care requirement, clearly defining the businesses within this building is essential.

It is the applicant's burden of proof to show that a variance should be granted. As part of your application, you are required to provide information for each of the following factors including all alternatives considered. Failure to provide adequate responses or requested documentation, may result in a returned application.

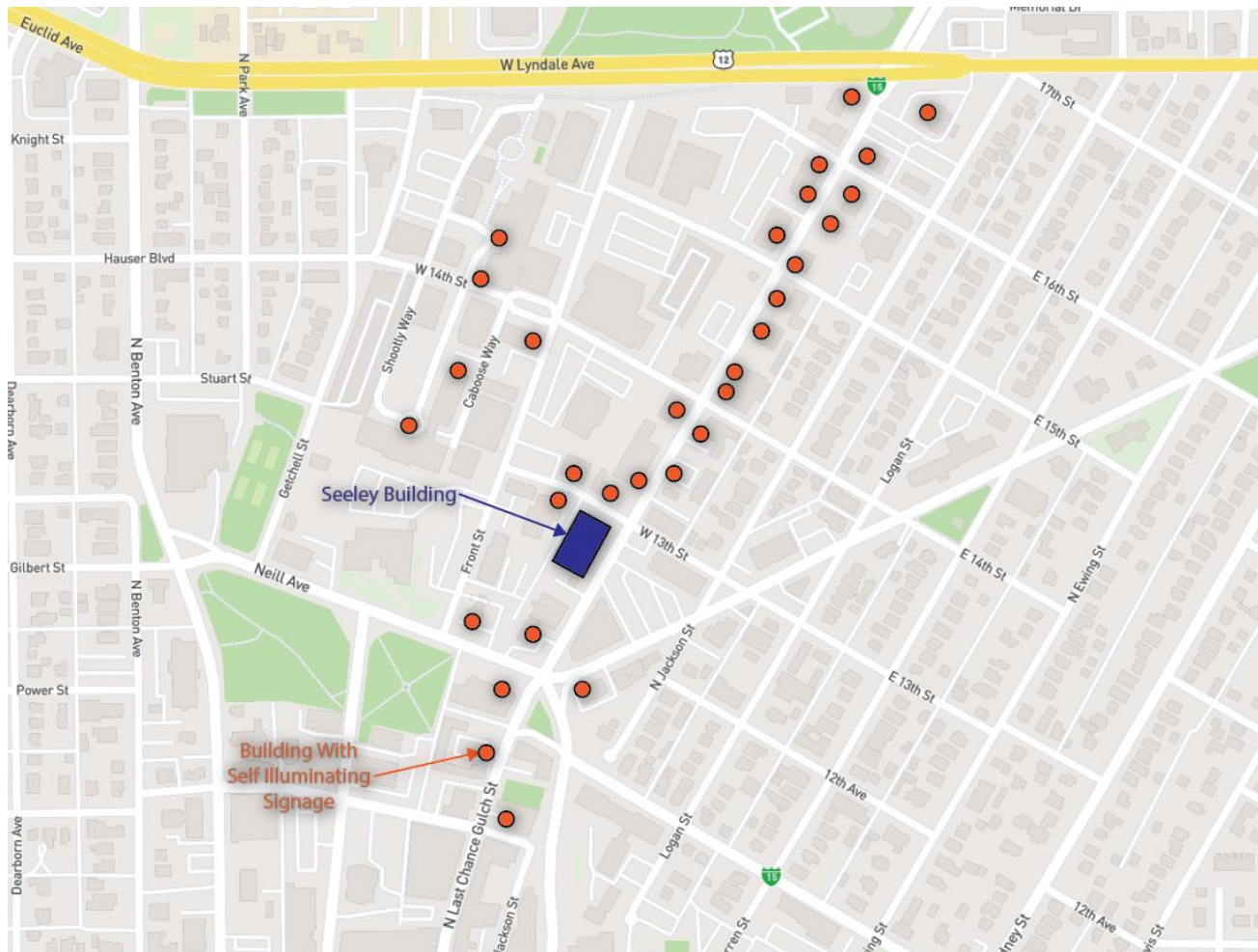
- 1. Are there special conditions and circumstances that are unique to the applicant's site, including the size of the property, unusual or extreme topography, or unusual shape of the property? If so, please state the specific factors and provide***

supporting documentation. For example, if the variance request is due to an abnormal lot configuration, provide a survey of the lot that specifically demonstrates the issue.

None Applicable.

2. How is the proposed variance compatible with the other structures located on the site or in the vicinity of the site? Provide a site plan that accurately and to scale represents the height, location, and dimensions of both existing structures, and proposed structures.

Yes, many of the other buildings in the area have self-illuminated signage. See the examples below.









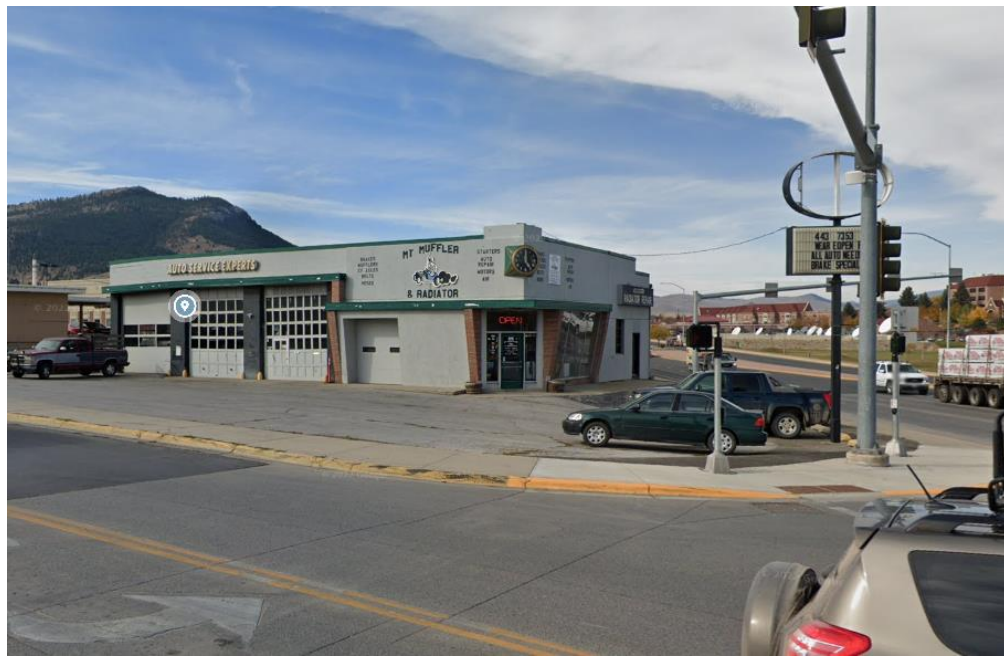














3. *Describe whether there is a prevalence of nonconformities in the vicinity of the applicant's site that are similar to the variance requested. If so, what are those nonconformities and provide supporting documentation.*

There is a large number of nonconformities in this vicinity. As you can see in the answer to item 2, there are 31 properties with self-illuminating signs within the vicinity of this property.

4. *Is the need for a variance request a result of government action? For example, the zoning changed after construction of the structure therefore creating the nonconformity. Please specify.*

No.

5. *Would a literal interpretation of the provisions in this title deprive the property owner of rights commonly enjoyed by other similar properties in the same zoning district? If so, please explain.*

It is prevalent that more of the signs in the vicinity are self-illuminated than aren't on Last Chance Gulch. By not allowing the Seeley building to self-illuminate its signs, there is an unfair right not enjoyed by similar properties.

6. *Explain the extent of the circumstances that are creating hardship or difficulty in compliance with the City Code and list alternatives and options considered by the applicant. Provide supporting documentation.*

The hardship is the fact that so many other properties have self-illuminating signs in the vicinity. In addition, helping patients find health services in this building will be much more difficult without the self-illuminating signage.

7. *Describe whether or not granting the variance requested will confer an unreasonable special privilege to the subject property that is not available to other similar properties located in the same zoning district and provide supporting documentation.*

As many of the signs in this vicinity already have similar self-illumination, we do not see that granting this request will provide unreasonable privilege.

8. *Do you think a rebuttable presumption, as identified in City Code Section 11-5-5(E), should apply to your property, yes or no? If yes, show the original footprint of the building. Provide documentation that proves the existence of the prior nonconformity. Document that the nonconformity can be in compliance with building and fire codes.*

No.

9. *Provide any additional information you would like the Board to consider.*

NA