



Kyle Holland, **Planner II**
Community Development Department
316 North Park Avenue, Room 445
Helena, MT 59623

: Phone: 406-447-8492
: Fax: 406-447-8460
: Email: kholland@helenamt.gov

helenamt.gov

Date: April 26, 2024

STAFF REPORT

To: Helena Board of Adjustment

From: Kyle Holland, City Planner II

Subject: Consideration of:

1. A variance from Section 11-4-2 to decrease the minimum side lot line setback from 5' to 1', for a property with a legal description of The West 15 feet of Lot 19 and all of Lot 20 in Block 6 of the FLOWER GARDEN ADDITION to the City of Helena, Lewis and Clark County, Montana.

The reason for this variance is to expand an existing garage and shop.

This property is located at 1400 Phoenix Avenue

OVERVIEW

GENERAL INFORMATION

DATE OF APPLICATION: Application received March 8, 2024

PUBLIC HEARING DATE: Board of Adjustment - 5:30 p.m., Tuesday, May 7, 2024

APPLICANT: Bryan Johnson

MAILING ADDRESS: 1400 Phoenix Avenue, Helena, MT 59601

CONTACT NUMBER: (406) 439-9994

EMAIL ADDRESS: bjohnson@mt.net

PROPERTY ADDRESSES: 1400 Phoenix Avenue, Helena, MT 59601

LEGAL DESCRIPTION:

The West 15 feet of Lot 19 and all of Lot 20 in Block 6 of the FLOWER GARDEN ADDITION to the City of Helena, Lewis and Clark County, Montana

PRESENT LAND USE: Single dwelling unit with detached garage

ADJACENT LAND USE:

North: R-3-T#25 – Single Dwelling Unit

South: M-I – Multiple Dwelling Unit / BNSF
 East: R-3-T#25 - Single Dwelling Unit
 West: R-3-T#25 – Single Dwelling Unit

PRESENT ZONING: R-3-T#25

VARIANCE PROPOSALS:

1. A variance from Section 11-4-2 to decrease the minimum side lot line setback from 5’ to 1’, for a property with a legal description of The West 15 feet of Lot 19 and all of Lot 20 in Block 6 of the FLOWER GARDEN ADDITION to the City of Helena, Lewis and Clark County, Montana.

And

2. A variance from Section 11-4-2 to decrease the minimum front lot line setback from 10’ to 4’, for a property with a legal description of The West 15 feet of Lot 19 and all of Lot 20 in Block 6 of the FLOWER GARDEN ADDITION to the City of Helena, Lewis and Clark County, Montana.

HISTORY OF APPLICABLE PERMITTING ACTION:

- 1) June 2022, electrical permit
- 2) March 2015, remodel work including roofing, HVAC, plumbing, and electrical
- 3) June – October 1986, 36’ x 28’ garage and electrical for garage
- 4) March 1936, the earliest permit on file is for re-stuccoing the house.

Variances were applied for in June of 2023 to reduce the setback to the alley and to North Roberts Street. The variance to reduce the setback to North Roberts was approved in August of that year. The alley variance was denied at that meeting. Additional information has been provided that shows the type, size, and required operational space for the equipment to be used in the shop portion of the garage.

ZONING EVALUATION for the properties legally addressed as 1400 Phoenix Ave., Helena, MT, located in a R-3-T#25 zoning district.

ZONING REQUIREMENT	Applicable ZONING REGULATION	PRESENT CONDITION	PROPOSAL	VARIANCE REQUIRED
City Code: §11-4-2 (B) (4) LOT REQUIREMENTS FOR ZONING DISTRICTS	The lot line setback is five feet (5') for any lot line that abuts a dedicated public right of way that provides only a secondary means of access to property and is not intended for general travel.	13'	Expand existing garage and shop to 1' from the property line	Yes

BOARD OF ADJUSTMENT VARIANCE CRITERIA

Section 11-5-5 of the Helena Zoning Ordinance includes certain criteria that must be reviewed as part of the variance procedure.

To approve a requested variance for a new building or portion thereof, the board of adjustment shall consider the following standards 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. Strict compliance with the provisions of this title would create unnecessary hardship or practical difficulty.*

In evaluating the standards above, the board of adjustment may consider the following 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.*
- 2. The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.*
- 3. Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.*
- 4. The subsequent imposition of zoning restrictions creating nonconforming lots or parcels, and governmental actions beyond the applicant's control.*
- 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.*
- 6. The extent to which the hardship or difficulty results from the actions of the applicant.*
- 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.*

PUBLIC COMMENT:

As of Thursday, April 25, 2024, no comments have been received.

City Attorney's Office:

It is the recommendation of the City Attorney's Office, that staff does not make a recommendation to approve or deny a variance.

CONCLUSION

Montana law states the Board of Adjustment has authority to consider "...upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done." (76-2-323 MCA)

Motion:

Move to Approve or Deny

- 1. A variance from Section 11-4-2 to decrease the minimum side lot line setback from 5' to 1', for a property with a legal description of The West 15 feet of Lot 19 and all of Lot 20 in Block 6 of the FLOWER GARDEN ADDITION to the City of Helena, Lewis and Clark County, Montana.**

If the Board of Adjustment approves the requested variance, the following condition is recommended:

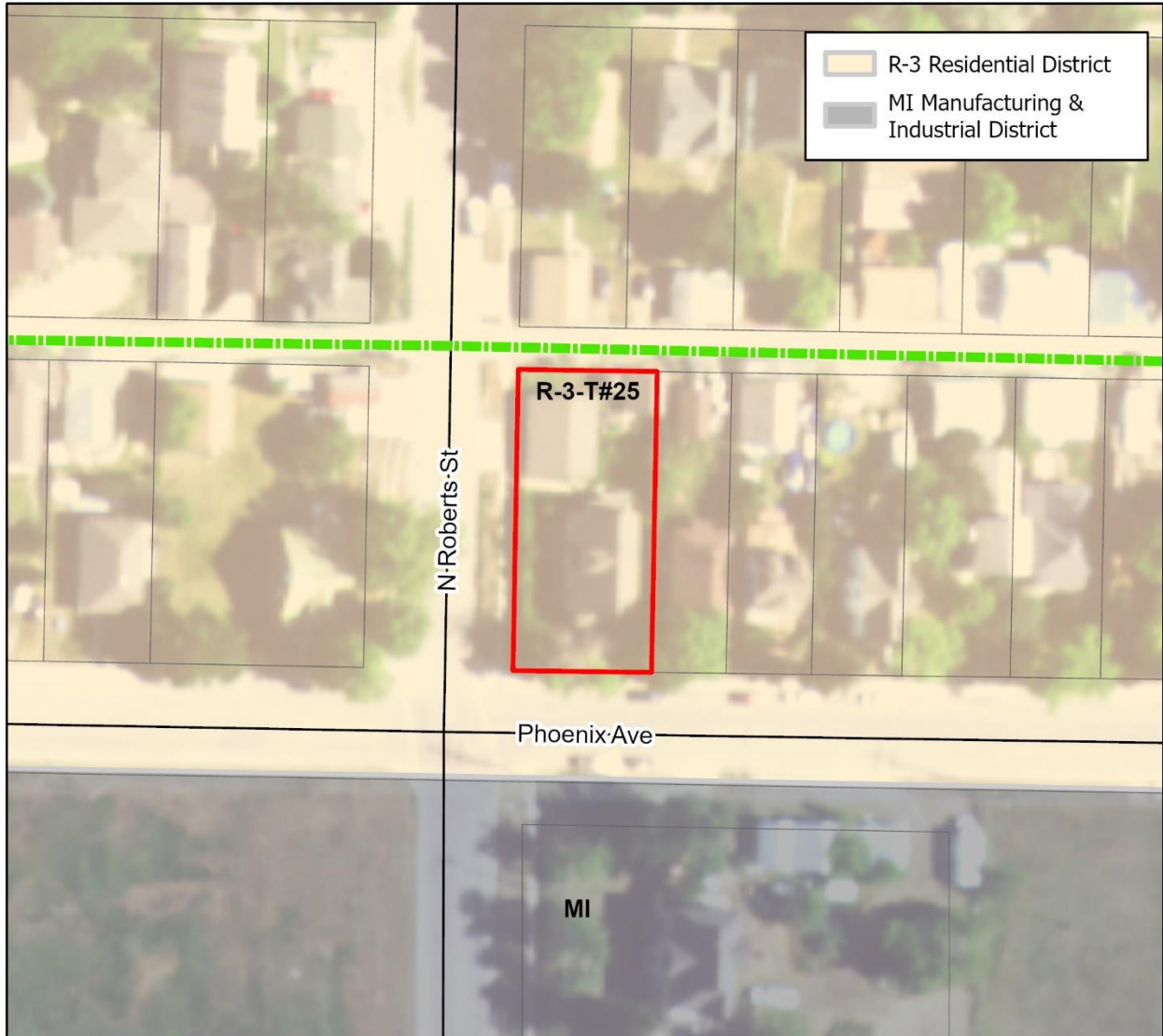
Building Permit: A building permit must be obtained within one (1) year.





Regards,


A handwritten signature in black ink, appearing to read "Kyle Holland".

Kyle Holland, Planner II
Community Development Department
City-County Building
316 N. Park Ave, Rm 403
Helena, MT 59623

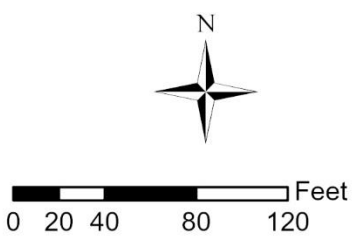
1400 Phoenix Avenue Zoning Map



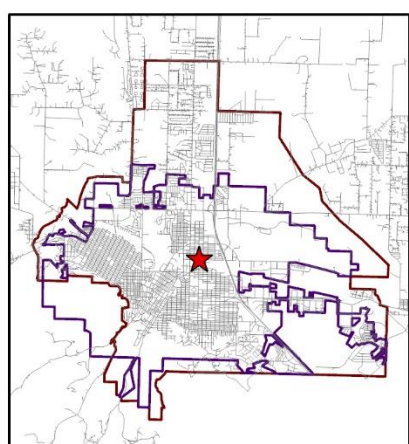
-  1400 Phoenix Avenue
-  Paved
-  Alley
-  MT Parcels w Condos



Community Development
City/County Building
316 North Park Avenue, Rm. 445
Helena, MT 59623



Legal Description: CORBIN
SUBD, S32, T10 N, R03 W,
BLOCK 48, Lot 1 - 36





Kyle Holland, **Planner II**
Community Development Department
316 North Park Avenue, Room 445
Helena, MT 59623

: Phone: 406-447-8492
: Fax: 406-447-8460
: Email: kholland@helenamt.gov

helenamt.gov

Date: April 18, 2024

TO WHOM IT MAY CONCERN: Variances from district dimensional standards requirements are being proposed in your area. Please review the enclosed description, and vicinity map. You may respond to the proposal at the public hearing or submit written comments prior to the May 7, 2024, Board of Adjustments public hearing to the City Planning Division, 316 North Park, Helena MT 59623.

The Helena Board of Adjustments will hold a public hearing on the variance request on Tuesday, May 7, 2024, at 5:30 p. m. via Zoom at <https://zoom.us/j/95139091644>, Meeting ID: 951 3909 1644. Dial in at (346) 248-7799 or find your local Zoom phone number by going to <https://zoom.us/u/abx78Gko9e>.

Interested parties are encouraged to attend this meeting. We may not be able to reach all who may be interested in this application, and we encourage you to talk to your neighbors about this proposal.

PROPOSAL:

1. A variance from Section 11-4-2 to decrease the minimum side lot line setback from 5' to 1', for a property with a legal description of The West 15 feet of Lot 19 and all of Lot 20 in Block 6 of the FLOWER GARDEN ADDITION to the City of Helena, Lewis and Clark County, Montana.

The reason for this variance is to expand an existing garage and shop.

ADDRESS:

This property is located at 1400 Phoenix Avenue

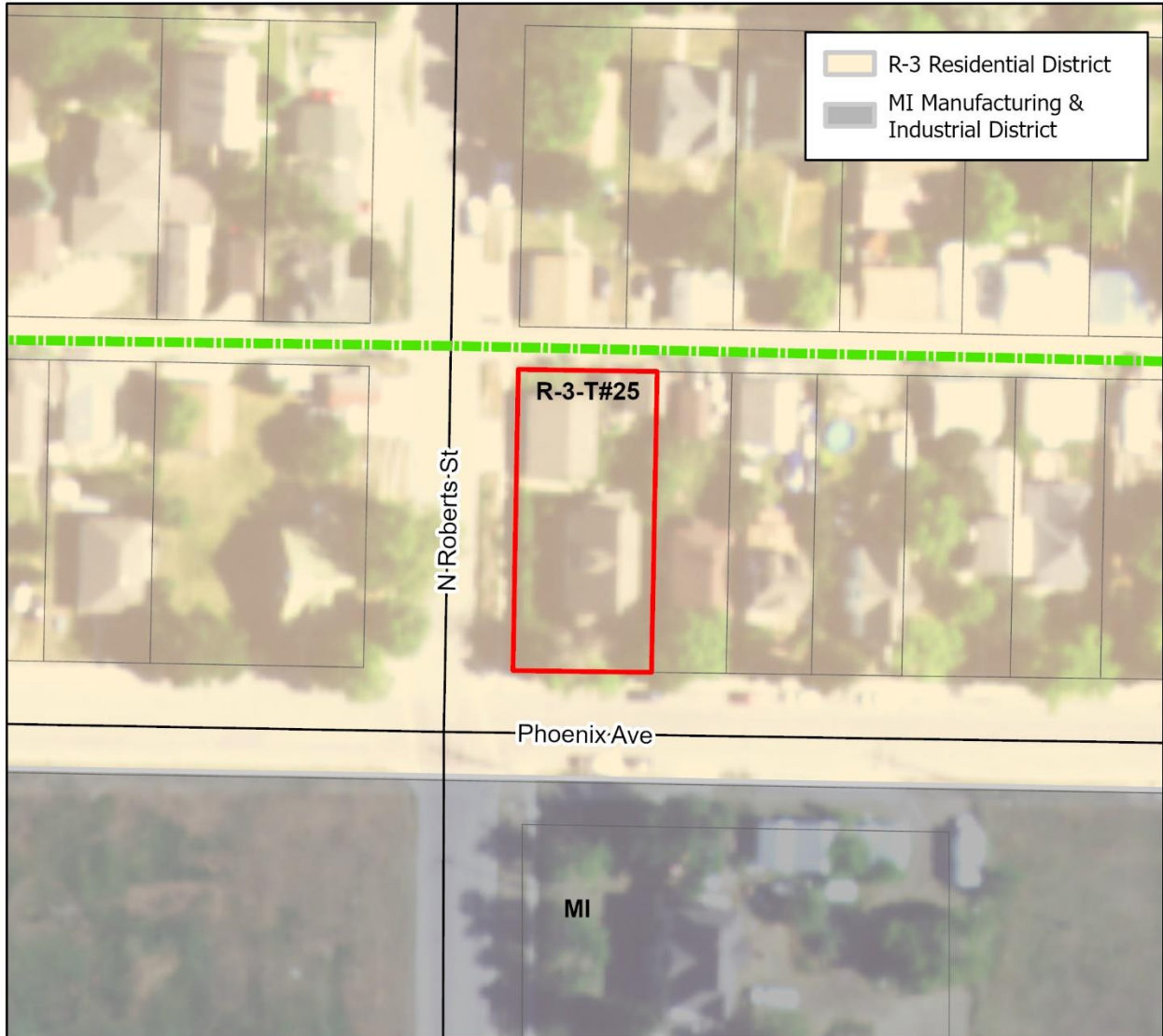
GENERALLY LOCATED:





This property is generally located at the northeast corner of Phoenix Avenue and Roberts Street.


Sincerely,

Kyle Holland, Planner II
Community Development Department
City-County Building
316 N. Park Ave, Rm 403
Helena, MT 59623



1400 Phoenix Avenue Zoning Map



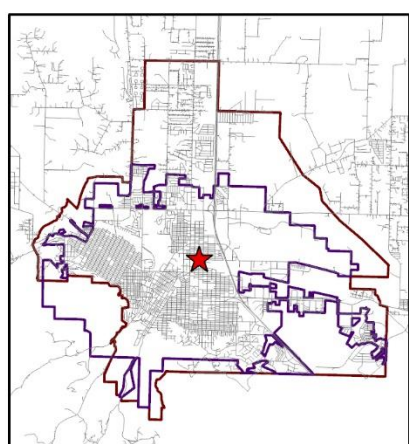
-  1400 Phoenix Avenue
-  Paved
-  Alley
-  MT Parcels w Condos



Community Development
City/County Building
316 North Park Avenue, Rm. 445
Helena, MT 59623

Legal Description: CORBIN
SUBD, S32, T10 N, R03 W,
BLOCK 48, Lot 1 - 36





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:

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

PROPERTY OWNER: Primary Contact?

Name: Bryan Johnson Primary Number: 406-439-9994
Address: 1400 Phoenix Ave Other Phone: _____
Email: bjohnson@mt.net

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

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

AUTHORIZED REPRESENTATIVE: Primary Contact?

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

Section A: PLEASE PROVIDE THE INFORMATION REQUESTED BELOW.

- Address of Property 1400 Phoenix Ave Helena MT 59601
Address City State Zip Code
- Legal Description (Block & Lots, Subdivision, COS#) Lot 20 and 15 feet West of Lot 19, Block 6 of Flower Gard
- Geocode 05188820303010000
- The most recent deed for impacted property
- Lot or Parcel Size (square feet) 9867
- Current and proposed use of structure or property: Home/Business
- Current Zoning District R-3-T #25
- 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: 3 feet to 1 foot
- Exceed building height limitation: _____

Lot Coverage/Area Criteria:

- Lot coverage percentage: approximately 27%
- 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:

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.

No special circumstances or conditions on property. Planning on extending the existing garage 13 feet to the North.

- 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.

Neighboring properties have garages/shops that are at the one-foot setback and have a larger footprint than what is being requested.

- 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 question 2.

- 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.

The request is not the result of government action. Request is needed to improve productivity and safety in my shop.

- 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.

Garage structure already exists. Neighboring properties have structures at the one foot set back, denial of my variance request prevents me from having the same concessions as my neighbors.

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.

Current footprint of garage does not allow space to safely maneuver between equipment and is not optimal for larger fabrication projects.

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.**

Surrounding properties have structures that are at the one-foot setback.

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.**

Existing garage will not be rebuilt. Request is to extend original structure 13 feet to the North.

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

as mentioned previously I am requesting approval to expand my garage to increas productive and safety for

SAFTY. BECAUSE OF THE JACK OF SPACE SEVERAI
PIECES OF EQUIPMENT ARE ON CASTERS (FOR
MOBILITY) BUT ARE SUPPOSED TO BE BOLTED DOWN

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: 3/5/24
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.

102347

First Montana Land Title Company
400 North Park Avenue, Ste 100
Helena, MT 59601

After Recording Return to:
First Montana Land Title Company
400 North Park Avenue, Ste 100
Helena, MT 59601

3291518 B: M51 P: 5480 DEED
06/29/2016 04:02 PM Pages: 1 of 1 Fees: 7.00
Paulette DeHart Clerk & Recorder, Lewis & Clark MT



WARRANTY DEED (JOINT TENANTS)

For Value Received:

Rick A. Frost and Jeannette G. Frost

the grantor(s) do(es) hereby grant, bargain, sell and convey unto

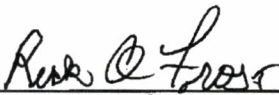
Bryan Johnson and Sarah K. Johnson

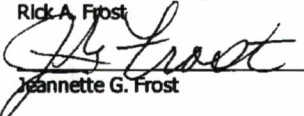
The grantees, as joint tenants (and not as tenants in common), and to the survivor of said named joint tenants and to the heirs and assigns of such survivor, the following described premises, in Lewis and Clark County, Montana, to-wit:

The West 15 feet of Lot 19 and all of Lot 20 in Block 6 of the FLOWER GARDEN ADDITION to the City of Helena, Lewis and Clark County, Montana. (Deed reference Book 235 of Deeds, Page 150)

TO HAVE AND TO HOLD the same premises, with the appurtenances unto said Grantee(s), joint tenants with the right of survivorship (and not as tenants in common) and to the heirs and assigns of the survivor of said named joint tenants forever. And the said Grantor(s) do(es) hereby covenant to and with the Grantee(s), that he/she/they are/is the owner(s) in fee simple of said premises; that is free from all encumbrances SUBJECT to all legal taxes and assessments levied with respect to said premises and that he/she/they will warrant and defend the same from all lawful claims whatsoever.

Dated: 06-29-16



Rick A. Frost


Jeannette G. Frost

STATE OF Montana

COUNTY OF Lewis & Clark

I, a Notary Public of the County and State first above written, do hereby certify that

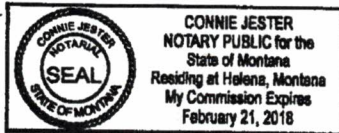
Rick A Frost & Jeannette G Frost personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this day June 29, 2016.

Notary Public

My Commission Expires:

(SEAL)





Shopping Cart: 0 items [\$0.00]

New Search

History

Payoff

PayTaxes

Help

Property Tax ID: 6659

Status: Current
Realware#: 188820303010000
Receipt: 21109

2023 Owner(s):
JOHNSON BRYAN

Mailing Address:
1400 PHOENIX AVE
HELENA, MT 596011037

Levy District:
01-01, Tax District 01

2023 Value:

Market: \$422,700
Taxable: \$5,706

Detail

2023 Taxes:

View Pie Charts

First Half:	\$2,268.07	Due: 11/30/2023
Second Half:	\$2,268.04	Due: 5/31/2024
Total:	\$4,536.11	

Detail

2023 Payments:

First Half:	\$2,268.07
Second Half:	\$0.00
Total:	\$2,268.07

(May include penalty & interest)

2023 Legal Records:

Geo Code: 05-1888-20-3-03-01-0000 **Deed Book:** M51 **Page:** 55480 **Instru#:** 3291518 **Date:** 2016-06-29

Property address: 1400 PHOENIX AVE, HELENA MT 59601
Subdivision: (FLG) SubDiv FLG **Block:** 6
TRS: T10 N, R03 W, Sec. 20
Legal: FLOWER GARDEN ADDN, S20, T10 N, R03 W,
BLOCK 6, LOT 20 & W15' OF LOT 19
Acres: 0.21

Note: The accuracy of this data is not guaranteed. Property Tax data was last updated 04/08/2024 09:00 AM.

Send Payments to:
Lewis & Clark County
316 North Park Ave; Room #113
Helena, Montana 59623

Phone: (406) 447-8329
Email: propertytax@lccountymt.gov



From: bjohnson@mt.net
Subject: space recommendations
Date: 04/08/2024 10:59 AM
To: kholland@helena.mt.gov

good morning, i hope this is what you wanted.

i have several large and heavy pieces of equipment that are on casters but are recommended to be bolted down for safe and smooth operation but with the lack of space they need to be mobile in my garage because lack of space.

5'x10' plasma table which has a footprint of 14x6 which is not mobile and weighs approx. 8000 lbs.

48" pan press brake (on casters) which is used to bend metal approx. 1800 lbs. safe work area 6'x6'

slip roller (on casters) weighs approx. 800 lbs. used for rolling metal safe work area of 6'x6.'

5x10 welding table (on casters) approx. 1200 lbs. need approx. 2' all the way around for working 9'x14'

3 welders are all on carts for mobility size roughly 3'x3' each.

planishing hammer used for hammering and bending metal mobile 5'x5.'

English wheel safe work area approx., 3'x3'

please let me know if you need anything else

thanks for your help

(No subject)

Bryan Johnson <bjohnson@capcity.club>

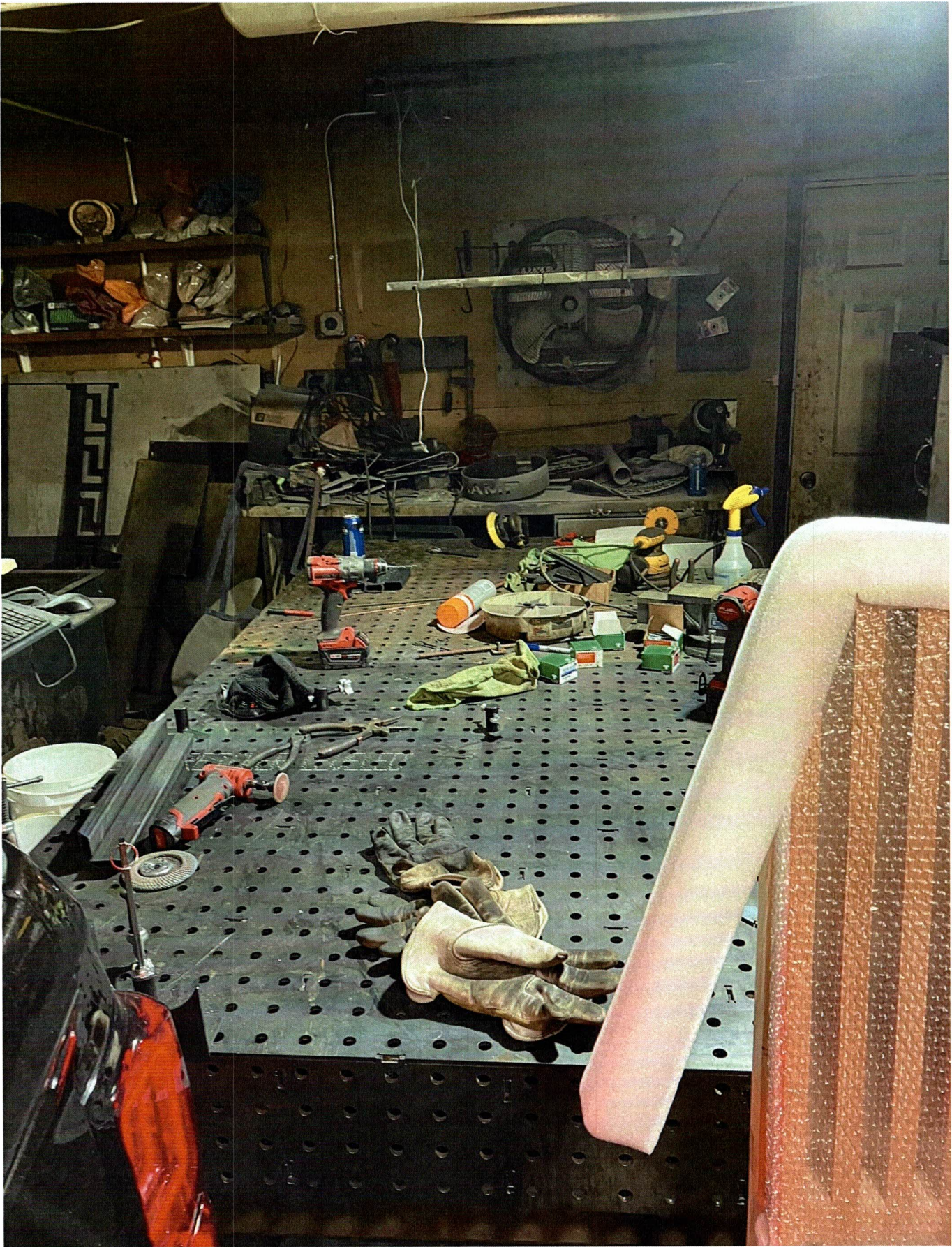
Fri 3/8/2024 11:10 AM

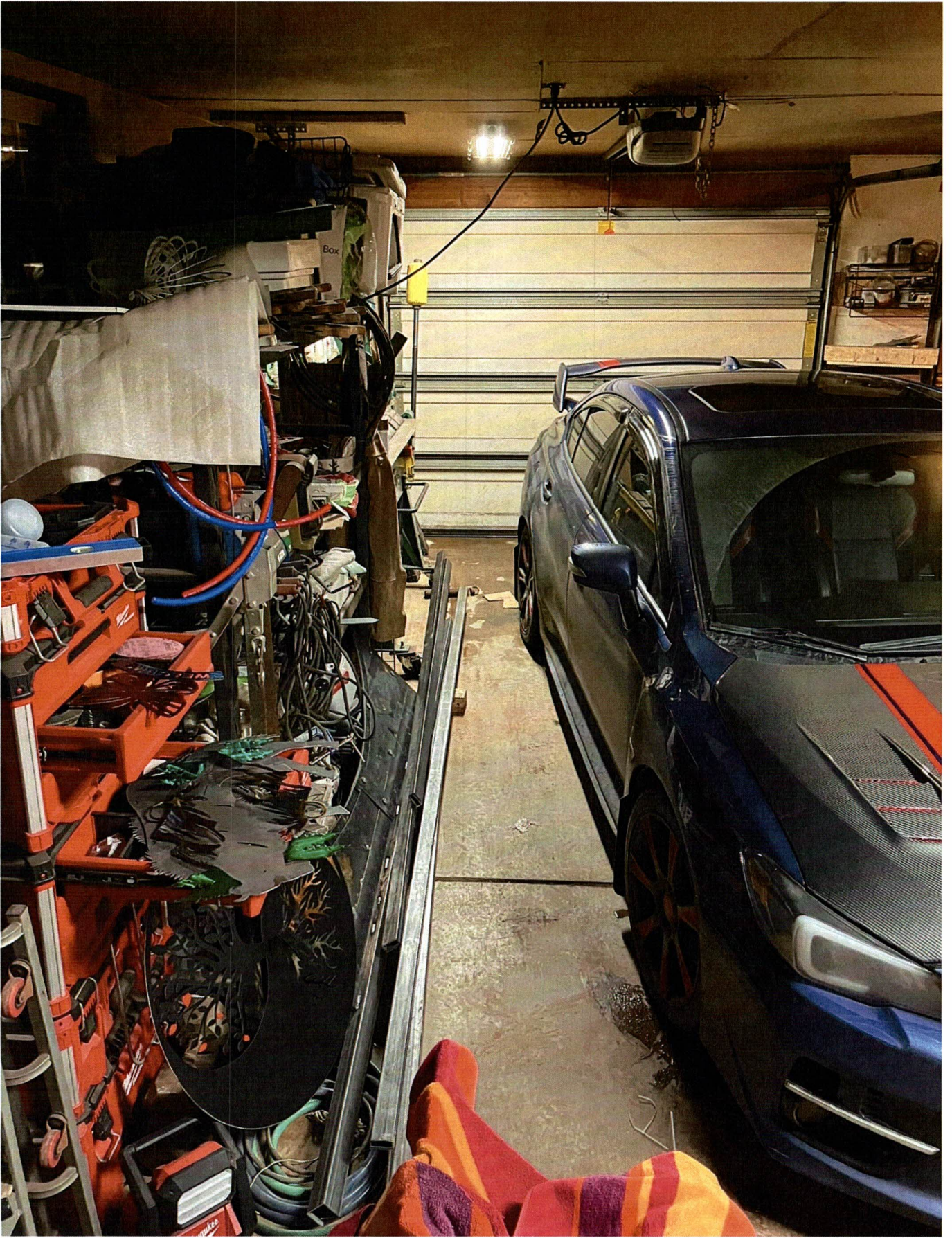
To: Bryan Johnson <bjohnson@capcity.club>

Sent from my iPhone











Pic

Bryan Johnson <bjohnson@capcity.club>

Fri 3/8/2024 11:35 AM

To: Bryan Johnson <bjohnson@capcity.club>

Sent from my iPhone









Project Reviews

City of Helena

Project Number: ZBOA2403-001

Description:

Applied: **3/8/2024**

Approved:

Site Address: **1400 PHOENIX AVE**

Closed:

Expired:

City, State Zip Code: **HELENA, MT 59601**

Status: **RECEIVED**

Applicant: **<NONE>**

Parent Project:

Owner: **JOHNSON BRYAN**

Contractor: **<NONE>**

Details:

LIST OF REVIEWS

SENT DATE	RETURNED DATE	DUE DATE	TYPE	CONTACT	STATUS	REMARKS
Review Group: ALL						
4/11/2024	4/22/2024	4/25/2024	TRANSPORTATION SYSTEMS	Mark Young	SEE COMMENTS	
Notes:						
- It would appear that this request was already heard and denied (3:2) on 22 August 2023 (see ZBOA2306-001) - The 3-car garage is already larger than all adjacent property garages. The one-foot (1') setback for the R-3-T #25 zone is smaller than the typical five-foot (5') alley setback required in R-3 zones. I do not see how "strict compliance with the provisions of Title 11 would create unnecessary hardship or practical difficulty". However, aside from encroaching close to the overhead power lines, there is no transportation related objection to the request.						
Review Group: AUTO						
3/8/2024		3/11/2024	DIRECTOR REVIEW	Christopher Brink		
Notes:						
Review Group: ZONING						
4/11/2024	4/17/2024	4/25/2024	BUILDING	Kim Mack	APPROVED	
Notes:						
Full building code review will be completed when addition is submitted for permitting. North and west sides of garage abut public right-of-way.						
4/11/2024		4/25/2024	CITY ATTORNEY	AIMEE HAWKALUK		
Notes:						
4/11/2024	4/17/2024	4/25/2024	FIRE	Lou Antonick	APPROVED	
Notes:						
4/11/2024		4/25/2024	HCC	Peggy Benkelman		
Notes:						

Project Reviews

City of Helena

4/11/2024		4/25/2024	PARKS	DOUG SMITH		
Notes:						
4/11/2024		4/25/2024	POLICE	Jayson Zander		
Notes:						
4/11/2024	4/17/2024	4/25/2024	PUBLIC WORKS	JAMIE CLARK	NO COMMENT	
Notes:						