

**Minutes**  
**Board of Adjustment Meeting**  
**February 1, 2022, 5:30 p.m.**  
**Virtual Zoom Platform**

**Board Members Present:**

Camie Smith  
Burton Federman, Vice-Chair  
Commissioner Feaver  
Tracy Egeline

**Staff Present:**

Michael Alvarez, Planner II  
Ellie Ray, Planner II

**Board Members Absent:**

Byron Stahly, Chair

**Members of the Public Present:**

Mike Newhouse  
Nola Synness  
Matt Santos 1009 Birch St

**Call to Order:**

**(0:00:34)** Vice-Chair Burton Federman opened the meeting at 5:32 p.m. Roll call was taken. A quorum of four (4) was noted.

**Approval of Minutes:**

**(0:03:49)** The minutes of the Board of Adjustment meeting of November 2, 2021 were approved as submitted.

**Public Hearing #1:**

**(0:04:45)** All attendees of the meeting introduced themselves. Staff read the three standards of Section 11-5-5 and the seven standards that may be considered.

**Staff Presentation:**

**(0:08:11)** Staff provided a presentation which included photographs of the subject property, a vicinity map, and site plan. Staff summarized the staff report. As of Monday, January 31, 2022, no public comments have been received regarding the proposed variance. Neighbors on either side of the property contacted the department to ask about the location of the variance, and once told the variance was for a lot line within the neighboring property, they had no objections.

**Questions asked of Staff:**

**(0:09:45)** Vice-Chair Federman asked Mr. Alvarez if lots 1, 2, 3, and 4 were owned by the same applicant. Mr. Alvarez stated that the parcel owners at 1000 Orange and 2600 Dodge are different, and lots 1, 2, 3, and 4 are 2600 Dodge. That owner withheld having a comment.

**(0:12:41)** Commissioner Feaver asked if there was no interest in infill in the space to the east once the line is adjusted. Mr. Alvarez stated that while the applicant could better address this, he does believe that this is in preparation for selling those lots for sale and possible build out. Mr. Mike Newhouse, representing the applicants, stated that is the intent.

Vice-Chair Federman asked if the applicants have asked to buy lots 3 or 4 from the current owners. Mr. Alvarez stated that he is unaware if that has occurred, but that lots 5 and 6 would constitute their own buildable lots. Mr. Newhouse stated there have been no efforts to acquire any parts of lots 1-4.

**(0:15:04)** Ms. Egeline asked to clarify that the lot line is being moved so that the garage is right on the lot line, and that currently the garage is over the lot line by three feet. Mr. Alvarez stated that the property line will be two feet from the garage. Mr. Newhouse stated that the lot line between 6 and 7 as it exists now runs through the garage by about three and a half feet. Mr. Newhouse further stated that the goal of the project is to move the property line so that the garage is completely on lot 7A. The current legal description of the property includes those four lots, but the project will be aggregating those four lots into two and moving the boundary line so there is no encroachment. Ms. Egeline asked after this project is completed, how much is left of lot 6 and how much space is there between the line property line and back of the garage. Mr. Newhouse stated that if the project is approved then lot 5A will be just under 6,000 square feet, the property line on the east side of the garage will be three feet from the garage and three feet from the house. Ms. Egeline asked if there would be enough room to make repairs to the buildings without going over the property line once the lot lines are moved. Mr. Newhouse confirmed this. Ms. Egeline suggested she didn't feel three feet was enough space.

**(0:18:14)** Vice-Chair Federman asked if the owners representative knows if the owner attempted to purchase lot 4 and move everything over instead of adjusting lines and aggregating lots. Mr. Alvarez stated it is his understanding that the applicants are retaining the house and garage and essentially selling off their yard. The applicants don't have to make the adjustment to sell off those two lots, they could sell off the lots with an encroachment agreement with the new owners. The applicants want to provide access to themselves to all sides of the garage while selling off those lots and it will be for the purchaser of those lots to figure out how to put a home on them. Vice Chair Federman stated he understood the intent of the applicants.

**(0:19:58)** With no further questions for staff, Vice-Chair Federman asked if the applicants' representative had anything further for the Board. Mr. Newhouse stated he did not. With no further questions for the applicant, Board discussion was opened.

#### **Board Discussion:**

**(0:20:45)** Commissioner Feaver stated his intent to motion to approve the variance request as it makes sense and helps infill in a neighborhood that supports infill, resolves what could become a property dispute, and resolves the question of how one sells a property when their structures are on the lot line.

**(0:21:25)** Ms. Ray noted that there did not appear to be an opportunity for public comment on this item and that Vice-Chair Federman may want to open public comment before having any further Board discussion. Public comment was opened.

#### **Public Comment:**

**(0:21:54)** There was no public comment, Board discussion resumed.

#### **Board Discussion:**

**(0:22:05)** There was no further discussion. Vice-Chair Federman asked for a motion.

### **Motion for Variance #1:**

**(0:22:15)** Commissioner Feaver motioned to approve a variance from Section 11-4-2 to decrease the allowable minimum side setback from 8 ft to 3 ft for a property with a legal description of Lots 5, 6, 7 and 8 in Block 2 of Cambridge Addition to the City of Helena, Lewis and Clark County, Montana with the following condition: a building permit must be obtained within one (1) year.

Vice-Chair Federman seconded the motion. The motion passed unanimously (4:0).

### **Public Hearing #2:**

#### **Staff Presentation:**

**(0:24:17)** Staff provided a presentation which included photographs of the subject property, a vicinity map, and site plan. Staff summarized the staff report. As of Monday, January 31, 2022, no public comments have been received regarding the proposed variance.

#### **Questions asked of Staff:**

**(0:26:45)** With no questions, Vice-Chair Federman invited the applicant to address the Board.

#### **Applicant Presentation:**

**(0:27:15)** The applicant stated with the variance she can expand the garage to store items inside which she is currently storing outside. And the project will improve the look of her home which will bring it up to the neighborhood standards.

#### **Questions for the Applicant:**

**(0:27:58)** Commissioner Feaver confirmed that the applicant wants to extend the current structure on already flat ground. Ms. Synness confirmed.

**(0:28:38)** Vice-Chair Federman asked about the side of the home on Allison Street, that he saw a car parked there and asked why you wouldn't put a garage there. Ms. Synness stated because it is too close to Allison Street and the interior of the house does not lend itself to putting a garage there. The two cars are sitting there as they were moved so the applicant could take proper photographs of the area, she wanted to show the Board. Vice-Chair Federman asked if there was a window there that would put people off on the other side of the house. Ms. Synness stated that the kitchen has two windows on that side of the house, and that simply the location and the type of approach to a garage in that area does not make sense, where the proposed location is basically an unused space.

**(0:28:43)** With no additional questions for the applicants, public comment was opened.

#### **Public Comment:**

**(0:30:52)** There was no public comment. Vice-Chair Federman opened the session to the Board for discussion, comments, and motions.

**Board Discussion:**

**(0:31:05)** Commissioner Feaver stated that he visited the neighborhood, and he thinks it is a good project that will enhance the house and make it conform better with the neighborhood. He also thinks that the garage should be set back off of Le Grande and not Allison, and that a variance would likely be needed to build it in the location off Allison Street.

**(0:31:40)** There was no further Board discussion.

**Motion for Variance #1:**

**(0:31:43)** Commissioner Feaver motioned to approve a variance from Section 11-4-2 to decrease the allowable minimum front setback from 10 ft to 6 ft for a property with a legal description of Lots 17, 18, 19 and 20 in Block 113 of the Collins and Neill Subdivision of the Cannon Addition to the City of Helena, Lewis and Clark County, Montana with the following condition: a building permit must be obtained within one (1) year.

Ms. Smith seconded the motion. The motion passed unanimously (4:0).

**New/Old Business:**

**(0:33:24)** There was no new or old business.

**Public Comment:**

**(0:33:44)** There were no public comments.

**Next Meeting:**

**(0:33:52)** The next regularly scheduled meeting is March 1, 2022, however there are currently no applications. There should be applications for the scheduled meeting on April 5, 2022.

**Adjournment:**

**(0:34:47)** With no further business before the Board, the meeting adjourned at approximately 6:06 PM.