

Minutes
Board of Adjustment Meeting
May 3, 2022, 5:30 p.m.
Virtual Zoom Platform

Board Members Present:

Byron Stahly, Chair
Burton Federman, Vice-Chair
Commissioner Feaver
Tracy Egeline

Staff Present:

Michael Alvarez, Planner II
Lucy Morrell-Gengler, Senior Planner
April Sparks, Administrative Assistant

Board Members Absent:

Camie Smith

Members of the Public Present:

Ben Tintinger, Mosaic Architecture
Doug Greenman, Helena First Church
Sam Carlson, 701 State St

Call to Order:

(0:00:05) Chair Stahly called the meeting to order shortly after 5:30. Roll call was taken, and a quorum was established (4 Board members)

Approval of Minutes:

(0:01:14) The minutes of the Board of Adjustment meeting of April 5, 2022, were approved as submitted.

Public Hearing #1:

(0:03:53) Staff read the three standards of Section 11-5-5 and the seven standards that may be considered.

Staff Presentation:

(0:07:08) Chair Stahly noted that his family firm is involved in the first project, and he himself has no personal involvement. Staff provided a presentation which included photographs of the subject property, a vicinity map, and site plan. Staff summarized the staff report. As of Friday, April 27, 2022, two public comments have been received regarding the proposed variance. Both comments were in opposition.

Questions asked of Staff:

(0:13:45) Vice-Chair Federman asked if there is no Conditional Use allowed yet. Mr. Alvarez stated that it has received recommendation from the Zoning Commission, and that the current facility was built and operates by right. The expansion of the facility is the reason a CUP is needed, and it was decided to handle the variances at the same time, and that the CUP will go to City Commission on Monday, May 9. Vice-Chair Federman asked what would happen if City Commission decided not to grant the CUP, and if there are any additional details to the public comment in opposition, other than they are simply opposed. Mr. Alvarez stated that the public comments primarily address concerns about parking and spill over parking but is not comfortable summarizing the comments and stated that he had sent the comments to the Board.

(0:16:00) Commissioner Feaver confirmed that he had received them and noted additional issues addressed in the comments include noise, traffic congestion, and the youth programs that are run at the church, and noted that the people commenting have lived in the neighborhood for some time and speak from an historical point of view and some of the complaints they articulate in their letters are ones they would have had 15-20 years ago. Vice-Chair Federman asked if these are valid complaints. Commissioner Feaver stated he would argue that they are valid complaints, but the same complaints could be heard around the Civic Center or the Cathedral or any other places you may have on occasion high traffic issues, noise, and congestion. He did not see where the issues raised were life threatening or a threat to property values, although that doesn't mean they don't believe that. Commissioner Feaver stated that the complaints do not seem unusual for a facility this size, and they see the facility getting bigger and that is creating more of a problem.

(0:17:50) Chair Stahly expressed his appreciation of the discussion and stated he had not seen the opposition and had planned to ask Mr. Alvarez about that and suggested that once hearing from the applicant there would likely be additional questions from the Board.

(0:18:34) Mr. Alvarez stated that it is difficult to say if summarizing or validating public comments is something he can do as city staff. Vice-Chair Federman stated he didn't know the history and that is why he asked and wondered if these people knew they could testify during the hearing and asked if it is Mr. Alvarez's understanding that they turned down that opportunity. Mr. Alvarez pointed to the fact that they were not in attendance.

Applicant Presentation:

(0:19:40) Mr. Ben Tintinger, Mosaic Architecture, presented on behalf of the applicant with a slide presentation. Mr. Tintinger noted that there is also another building that serves as the Youth Building that is kitty corner to this property which includes the church, worship space, and children's building, which has been remodeled. Mr. Tintinger went back over the zoning of the church, and that when the church was built R3 did not require a CUP for a church, and it is only now because the church is expanding that they need to go through the CUP process. Mr. Tintinger stated that the applicant is responding to neighbor concerns and working with them on solutions. Mr. Tintinger walked the Board through the site plan, highlighting the different buildings of the Church "complex" and then the plan for the expansion and remodel of the existing worship facility. In the plan there was a playground outside of the children's building that was designed for school aged children for supervised play during the worship service, and the idea of having a playground so close to a residence is the primary cause of one of the protests, and the applicant now plans to take the playground out of the plan and just have a green space. Mr. Tintinger then walked through the proposed parking areas and noted that most of the variance requests are related to these areas, explaining the need for the variances to the boulevard, parking, and screening. Mr. Tintinger also noted that the variance for lot coverage is necessary to meet the goals of the project and the church. Mr. Tintinger finished his presentation by explaining the space plans and renderings of the proposed project.

Questions asked of Applicant:

(0:33:26) Vice-Chair Federman asked if 9x20 was the official dimensions of the standard parking spaces in Helena. Mr. Tintinger confirmed those are the standard dimensions of parking spaces in Helena and noted differences in other places in Montana as well as the fact that Helena once had a compact car standard.

(0:34:05) Ms. Egeline asked about screening for garbage collection areas and noted that she could not see that on the plans. Mr. Tintinger stated that the garbage area had not yet been defined and that it would most definitely be screened. Mr. Greenman added that the dumpster is currently over at the Youth building (which is diagonal across the street), and all garbage is transported there, and that the Church will do whatever is necessary. Mr. Greenman stated that the team [at the Church] has been disheartened by the complaints they have received as these complaints are new information for them. While there has been a complaint about a driveway being blocked in the past, the Church has worked to remedy that. The Church is also addressing some of the complaints they have received regarding the Youth Center, and their hope is to lessen the impact on the neighborhood by being able to maintain the number of parking spaces they already have and not needing to increase those numbers to meet any newer changes or conditions. Mr. Greenman stated he did look at parking during the Easter at the highest peak service and took photos and there were not any cars parked on the street near the complainants' homes, so these complaints have come as a shock, but the Church is addressing the concerns as best they can.

(0:37:06) Vice-Chair Federman asked if the trees on the site plan presented by Mr. Tintinger are existing. Mr. Tintinger stated that there are currently trees along National Ave, and that those trees do well in hiding the building, further down on National there are no trees, but they do intend to plant more trees. Vice-Chair Federman stated that he drove by the Church at 12:00 the past Sunday and it appeared that the lots were half empty and asked if the Church anticipates growth to those numbers or is this just to accommodate the high holidays. Mr. Greenman stated that currently the Church hold four services to accommodate attendance, so if you would go inside, you would see the seating is maxed out.

Public Comment:

(0:39:59) There was no public comment on this item.

Board Discussion:

(0:40:37) Commissioner Feaver stated that he supports the project and all the variances. The Church has been in the neighborhood for a very long time and is somewhat iconic. Commissioner Feaver would not like to see the Board do something that would cause the Church to go out into the Valley. This is a good place for expansion and renovation and the variances being sought are great. He is happy about the sidewalks that will be going in and noted it fits with one of the goals of the city. Commissioner Feaver also noted that deleting the outside playground will resolve one of the complaints, and the size of the building as it will be rebuilt does not appear to be much larger than what it currently is and will be voting to in favor of the variances to move this project forward.

(0:42:09) Vice-Chair Federman stated he was leery when he first read the application until he went to visit the site, and any improvement to the area would be welcomed. He also noted that he would think that anyone who has that much opposition to what is being proposed would make a good faith effort to appear [at the meeting]. The only change he would make is there needs to be more plantings where it comes closer to the R-3 areas.

(0:43:19) Chair Stahly noted that the Church has been in the neighborhood for many years and sees the concerns of those neighbors when the Church has large services and cars spill over into what they perceive as theirs. With that in mind Chair Stahly asked if the option of putting up signs like those near the Civic Center, stating "Residential Parking Only" had been discussed as it seems appropriate in this area to give those residential homeowners the peace of mind that the street won't be overloaded at certain times if

that type of sign is provided. Mr. Tintinger stated that idea of signage has not come up, but Mr. Greenman has gotten several cross-parking agreements with businesses to the south and east to make sure people were not parking in the neighborhood, so there are quite a few parking spaces to the south and east of the Church. Mr. Greenman added the Church got agreements for 177 parking stalls with the businesses, and that the design Mosaic has come up with has the primary entrance [to the Church] on the opposite side of the residential area and most people would naturally want to park on would be the southern, business side instead of the residential area. Chair Stahly stated he is familiar with the screening requirements given his personal experience, but with a street buffering, additional screening requirements may detract from the neighborhood feel of the area and would support eliminating screening where it had been proposed. Chair Stahly also indicated his support for the minimum parking spaces, as the city did have compact spaces in the past and the reality is it will be inconvenient for people with larger vehicles and will typically not park there more than once and would support a sign at the entrance to the reduced area that says compact vehicles only. Chair Stahly reiterated that he felt signs along the residential areas would be a good faith measure, but stated he plans to support all the variances as well.

(0:48:35) Mr. Alvarez noted that the neighborhood would need to petition the Commission for the type of signage Chair Stahly is suggesting. Mr. Alvarez added if the neighborhood were to petition for that, there is a parking allowance for up to 90% of a worship facilities parking to be covered by on street parking so long as it is connected by a sidewalk, so worship facility has that 90% cut out that the Civic Center does not. Whether that influences the Commission one way or the other is up to the Commission, but that would be part of that discovery or presentation. Mr. Tintinger added there are no sidewalks on the residential side of the building, so on street parking cannot be counted [towards the parking requirement]. Chair Stahly thanked both Mr. Alvarez and Mr. Tintinger for the additional information.

(0:50:52) Vice-Chair Federman had further comment after looking at the site plan and noticed there was no lighting in the parking lot, only up lighting on the building. Mr. Tintinger stated there will be some lighting in the parking lot, and Wednesday night services are typically in the dark, especially in the winters so best practices would be to have enough lighting in the parking lot. Vice-Chair Federman asked if the pictures that the Board is seeing at night the north parking lot shows just wall mounted down lights. Mr. Tintinger stated that [the pictures] are conceptual and lighting for the parking lots are not shown.

Motion for Variance #1:

(0:52:57) Commissioner Feaver motioned to approve a variance from Section 11-4-2 to increase the allowable maximum lot coverage percentage from 40% to 43.4% maximum, for a property with a legal description of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 in Block 33 of the Grand Avenue Addition to the City of Helena, Lewis and Clark County, Montana, together with the alley vacated per ordinance no. 2080 adjacent to those, lots all in Block 33 of the Grand Avenue Addition to the City of Helena, Lewis and Clark County.

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

Motion for Variance #2:

(0:54:51) Vice-Chair Federman motioned to approve a variance from Section 11-24-4 to increase the minimum distance of a parking space to the trunk of a tree from 35' to 55' in the northeast parking lot, for a property with a legal description of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 in Block 33 of the Grand Avenue Addition to the City of Helena, Lewis and Clark County, Montana, together with the alley vacated per ordinance no. 2080 adjacent to those, lots all in Block 33 of the Grand Avenue Addition to the City of Helena, Lewis and Clark County.

Commissioner Feaver seconded the motion. The motion passed unanimously (4:0).

Motion for Variance #3:

(0:56:10) Ms. Egeline motioned to approve a variance from Section 11-24-5 to eliminate screening on the north side of the northeast parking lot, for a property with a legal description of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 in Block 33 of the Grand Avenue Addition to the City of Helena, Lewis and Clark County, Montana, together with the alley vacated per ordinance no. 2080 adjacent to those, lots all in Block 33 of the Grand Avenue Addition to the City of Helena, Lewis and Clark County.

Commissioner Feaver seconded the motion. The motion passed unanimously (4:0).

Motion for Variance #4:

(0:57:25) Vice-Chair Federman motioned to approve a variance from Section 11-24-5 to eliminate screening on the east side of the south parking lot, for a property with a legal description of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 in Block 33 of the Grand Avenue Addition to the City of Helena, Lewis and Clark County, Montana, together with the alley vacated per ordinance no. 2080 adjacent to those, lots all in Block 33 of the Grand Avenue Addition to the City of Helena, Lewis and Clark County.

Commissioner Feaver seconded the motion. The motion passed unanimously (4:0).

(0:58:37) Chair Stahly asked if the Board could make a motion to add the condition of obtaining a building permit separately from the motions for the variances. Mr. Alvarez stated that the Board could add the condition to the last variance to go with all the variances. Chair Stahly was unaware that the 5th variance had not been voted upon. Vice-Chair Federman asked why the condition was being set at two years instead of one. Mr. Alvarez explained that this had been brought up in the Zoning Commission meeting and it was expanded to two years to allow the Church time for fundraising and final design.

Motion for Variance #5:

(1:00:12) Commissioner Feaver motioned to approve a variance from Section 11-22-5 to reduce the minimum length of a parking spot from 20' to 16 for parking in the northeast lot, for a property with a legal description of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 in Block 33 of the Grand Avenue Addition to the City of Helena, Lewis and Clark County, Montana, together with the alley vacated per ordinance no. 2080 adjacent to those, lots all in Block 33 of the Grand Avenue Addition to the City of Helena, Lewis and Clark County with the following condition: a building permit must be obtained within two (2) years.

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

Public Hearing #2:

Staff Presentation:

(1:02:20) Staff provided a presentation which included photographs of the subject property, a vicinity map, and site plan. Staff summarized the staff report. As of Friday, April 27, 2022, one public comment has been received in support of the proposed variance.

Questions asked of Staff:

(1:05:44) Chair Stahly asked which neighbor was in support. Mr. Alvarez stated it was 704 State St, and read the letter, and noted the neighbor was across the street. Vice-Chair Federman asked if that is the one that shows an arrow from the lot directed towards the site, looking at the zoning map, and the left property. Sam Carlson, the applicant, stated 704 must be on the north side of State St, and based upon the knowledge that odd numbered properties are on the south side of the street, it [the comment] did not come from the adjacent property.

Applicant Presentation:

(1:08:33) Mr. Carlson added that the project had been discussed with the neighbors immediately to the east prior to applying for the variance and received no indication of an objection. Mr. Carlson stated that they want some covered storage space on the small lot, and only have one option to place it while respecting the setbacks, which is their patio and seating area. They feel that it would be a detriment to the property to repurpose that space with the placement of a shed, as the property borders a city park, and from the patio there is vegetation and a garden near, with a nice open feel, and the proposed location of the new shed, is where a shed currently exists. The current shed, which predates Mr. Carlson's ownership of the home, is smaller than the one that has been proposed and, in his opinion, makes poor use of the space. It is unknown if the current shed ever received an official variance to be built, but it sits on an existing slab and in a dark corner of the property, where there is not a lot going on, so making the most of that space would be an overall benefit to the property.

Questions asked of Applicant:

(1:11:35) Ms. Egeline asked the applicant what roofline he intends to use on his shed. Mr. Carlson requested that Mr. Alvarez show the plans included with the application again. Ms. Egeline stated that she was asking as she is concerned about drainage. Mr. Carlson stated that the roofline, like that of the house, drains to the east, and if you compare the existing shed to the proposed shed, the roof hardly differs at all. The roofline runs near the property line, and has a gutter attached which then drains to the north. Mr. Carlson noted that there isn't much option other than to mimic what currently exists without major remodeling of the living space of the house. Ms. Egeline asked for clarification that there is a single slope going to the east. Mr. Carlson confirmed that fact. At this time, Mr. Carlson shared his screen to the meeting showing the plans he had for the shed. Mr. Carlson noted that most of the construction of the house predates his ownership, and that the specific portion of the house has a single slope roof, which drains to the east. It was noted that the existing shed's overhand is indicated by a dashed line and that it continues the single slope draining to the east and had a gutter. Mr. Carlson showed the extent of the proposed shed and stated that the slope and design would allow them to keep any runoff in their yard. Mr. Carlson also noted that the neighbor's fence is set a couple of feet into their property and not along the property boundary, which he sees as an oddity to the property.

(1:15:47) Chair Stahly stated that he had looked at the property and that Mr. Carlson had confirmed that stormwater would drop in it and run north and not onto the adjacent property. Mr. Carlson also noted that there is an existing slab and that there is not a lot

of infiltration going on in that corner of the property as it is. Mr. Carlson proceeded to show some photos of the current shed, slab, and gutter.

Public Comment:

(1:19:17) There was no public comment.

Board Discussion and Motion:

(1:19:31) Vice-Chair Federman made a motion for a variance from section 11-4-2 to decrease the allowable minimum sidelot set back from 8 foot to 0 feet for a property with legal description of lot 10 in Block 532 of the easterly addition to the city of Helena, Lewis and Clark County, Montana. With the proviso that the applicant obtains a building permit within one year.

(1:20:17) Mr. Alvarez informed the Vice-Chair Federman that there needed to be a motion to either approve or deny.

(1:20:37) Vice-Chair Federman made a motion to approve a variance from section 11-4-2 to decrease the allowable minimum sidelot set back from 8 foot to 0 feet for a property with legal description of lot 10 in Block 532 of the easterly 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.

Commissioner Feaver seconded the motion.

(1:21:22) Chair Stahly asked Mr. Alvarez that is this variance is specifically for the construction of the proposed shed, why is that not explicitly stated in the motion language, as there is a question as to whether the applicant could then use the variance for other purposes. Mr. Alvarez stated that the Board is more than welcome to specify that in the motion, and also asked if his error could be corrected and instead of 6 feet the motion can read 8 feet.

(1:22:30) Vice-Chair Federman asked if there were dimensions for the proposed shed. Chair Stahly stated that he felt the Board would be covered if it was stated "a shed as noted in the application." Mr. Alvarez stated that "As described in the application materials" is language that has been used in the past and would be acceptable in this instance.

(1:23:24) Vice-Chair Federman made a motion to approve the installation of a shed as shown on the application, a variance from section 11-4-2 to decrease the allowable minimum sidelot set back from 8 foot to 0 feet for a property with legal description of lot 10 in Block 532 of the easterly addition to the city of Helena, Lewis and Clark County, Montana. With the proviso that the applicant obtains a building permit within one year.

Commissioner Feaver seconded the motion.

(1:24:28) Commissioner Feaver stated that he had driven by the property and throughout the neighborhood there is a lot of nonconforming use or a lot of variances approved, so there's nothing unusual about the request in terms of the neighborhood, it actually seems to conform to the immediate block, and with that he will be supporting the variance.

(1:24:59) A vote was called. The motion passed unanimously (4:0).

Old/New Business:

(1:25:31) Chair Stahly noted that there had been some prior discussion about reappointments of some of the Board members. Vice-Chair Federman stated that those had been taken care of, and that he had Chair Stahly had been officially reappointed to the Board by the City Commission. Commissioner Feaver confirmed that the reappointments were in progress and that there was no opposition from the Commission for Board members continuing their terms of service. There was no new business.

Public Comment:

(1:28:02) There was no public comment.

Next Meeting:

(1:28:29) The next regularly scheduled meeting is June 7, 2022. There are currently no applications.

Adjournment:

(1:30:06) With no further business before the Board, the meeting adjourned at approximately 7:00 PM.