

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

**Board Members Present:**

Byron Stahly, Chair  
Burton Federman, Vice-Chair  
Tim Toth  
Tracy Egeline

**Staff Present:**

Michael Alvarez, Planner II  
April Sparks, Administrative Assistant

**Board Members Absent:**

Commissioner Andy Shirtliff

**Members of the Public Present:**

Roger Dial  
HCTV

**Call to Order:**

**(0:00:19)** 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:**

**(0:01:54)** The minutes of the Board of Adjustment meeting of May 3, 2022, were approved as submitted.

**Public Hearing #1:**

**(0:03:01)** Staff read the three standards of Section 11-5-5 and the seven standards that may be considered.

**Staff Presentation:**

**(0:07:08)** Staff provided a presentation which included photographs of the subject property, a vicinity map, and site plan. Staff summarized the staff report. It was noted that this item had been tabled at the meeting held on September 20, 2022, and the only public comment received on this item, which was in support, was included in the materials for that meeting and no additional comments had been received.

**Questions asked of Staff:**

**(0:09:24)** Vice-Chair Federman asked about the discrepancy in the distance of the variance being requested from what was just presented and what was stated in the materials received by the Board. Mr. Alvarez stated that with a tabled item the staff report and other materials are not updated, except for what is specifically requested, which was a finalized site plan, which was in question (at the last meeting). A finalized site plan was submitted to Mr. Alvarez, and the staff report was not updated. The current hearing was advertised for the garage entrance depth being 13 feet instead of 20, though since that change is what will be voted on.

**Applicant Presentation:**

**(0:11:59)** Mr. Roger Dail, the applicant, addressed the Board. Mr. Dail first thanked the Board for tabling the item at the last meeting. He stated that as the homeowner, he's been trying to talk with builders, but it has been difficult to find someone, but they are trying to put things in place to proceed with the project next spring if approved. Mr. Dial related how they had the property surveyed several years ago to determine he property lines, and how he has attempted to get the numbers as accurate as possible, and explained his drawing of the site plan, and how it is now drawn there do not appear to be any issues with setbacks on the side or back of the yards.

**Questions asked of Applicant:**

**(0:13:51)** Mr. Toth noted that he lives in this neighborhood and also has an accessory garage. He asked Mr. Dial if he has plans to abandon the tuck under (garage) with this proposal. Mr. Dial stated that the house was built in 1942 and that neither of the family's vehicles will fit in the garage, so they plan to take the existing garage and make it into a "kid room" for their 10-year-old son. Mr. Toth noted his concern that there is not a house in the neighborhood that has a detached garage and an accessory. Mr. Dial stated that the plan would be to convert that with possibly a sliding glass door, but to get rid of the garage doors and make a rec room for his son.

**(0:14:54)** Ms. Egeline asked the applicant if he had measured from the fence or the property line. Mr. Dial stated that they have a fence that was really close when it was surveyed. Mr. Dial stated that he could see the pegs, so it was hard to gauge, but from the fence to the front it is roughly 13 ½ feet, so it is close to 10-15 feet from the front corner, from the sidewalk it looks like right now it's 17 1/2 (feet).

**(0:15:35)** Chair Stahly noted that at the previous meeting they were dealing with a drawing that wasn't scaled and it was more like a four-foot request and then his concern was cars in front of the garage that are hanging over the sidewalk, so they asked for a scale drawing, and Mr. Dial wasn't quite sure what he was actually even proposing. At the time he was showing at 28' by 30' structure, which is quite a large garage, which Chair Stahly did not think would fit the neighborhood either. Chair Stahly expressed his appreciation for the proposal of a more standard garage for the lot at 24'x24', it fits a lot better and that he is getting more comfortable with cars and ideally, they won't park and overlap (the sidewalk), and that was his main concern the last go around.

**(0:16:42)** Ms. Egeline asked about the elevation showing 28'. Mr. Dail stated that he had lowered it. Ms. Egeline asked if the door was going to the side now and the garage door is being centered. Mr. Dial clarified that the door in questions would be on the side of the garage, as they had previously had a detached garage with no side entrance door, and during a power outage had to break through a window to gain access to the garage, so there is likely going to be a 36 inch door for access in the side of the garage in terms of the elevation, and they are fine adjusting as long as they have a proper slope angle. Ms. Egeline stated that by centering the garage door, there is actually a larger distance to from the garage door to the property line, not that the homeowner will be parking up against it, but additional on either side of the garage door there is more space as opposed to just the corner of the garage.

**(0:18:19)** Chair Stahly asked Ms. Egeline for confirmation on her point being the garage door will be set back farther than the garage itself. Ms. Egeline confirmed that was her point.

**(0:18:44)** Vice-Chair Federman asked if there was any reason that the garage could not be made narrower and pull it further back from the lot line. Mr. Dail stated that based upon their research in order to have a two car garage, 24 feet is the standard width, additionally as far as moving back the garage, while their preference would be a 10

foot setback, they are trying to work with the Board. Mr. Alvarez stated that given concerns Chair Stahly expressed at the last meeting, if the Board wishes to condition it so only a 24' by 24' garage can be constructed, they can. There would be a certain amount of leeway granted if there were deviations from the site plan that was submitted, but the applicant would not be able to come any farther forward than that. Mr. Toth asked Mr. Alvarez if it would be possible to condition that the other two [existing] garage doors be abandoned, as his concern is that he does not know of another house in the specific neighborhood that has four garage doors. Mr. Alvarez confirmed this could be added as a condition.

**(0:21:29)** Chair Stahly stated that he would be comfortable with a condition limiting the size to 24' by 24', as that is standard with some of the larger vehicles people have, so while he is comfortable with that, he would hate to see if be larger than that, and therefore likes the idea of the condition regarding size. Chair Stahly then asked to his original concern if the applicant could change his site plan after approval and move the garage back to a 15- or 16-foot setback, with the applicant having that latitude why doesn't the Board just move that back. Mr. Dail stated that in looking at moving the setback more than 13' there are concerns with drainage, as currently the yard has a perfect slope away from the neighbors, as well as the existence of a large tree that is likely over 100 years old, and considering the character of the neighborhood, the applicants as well as all the neighbors would not want to tear down as many trees as possible.

**(0:23:10)** Ms. Egeline asked for clarification as to where the trees are on the site plan. Mr. Dail pointed out where the tree in question is between the back patio and the garage. Mr. Dail stated with their current plan they are only removing 3 trees and keeping the large one, if the garage were to be pushed back, they would have to remove the large tree as well.

**Public Comment:**

**(0:24:27)** There was no public comment on this item.

**Board Discussion:**

**(0:24:40)** Ms. Egeline stated that she is fine with the location of the garage, on the driveway. She noted that there is still a chance for overhang depending on how people park, which you cannot control, but she is comfortable with this proposal. Mr. Toth stated as he is familiar with the nature of the neighborhood, he would like to see the abandonment of the other two garage doors, as there are no other four stall garages in the neighborhood. Chair Stahly stated that he is also comfortable with this and would hope that the two conditions which have been proposed are part of the motion [24' by 24' limit on the size of the garage and abandonment of the old two garage entrances]. Vice-Chair Federman stated that the only reason he would consider voting for this would be that there are a couple of garages shown with much less setback than this one does and that there are only four Board members present.

**Motion for Variance:**

**(0:29:06)** Ms. Egeline motioned to Approve a variance from section 11-4-2 to decrease the garage entrance set back from 20 feet to 13 feet for a property with a legal description of the West 1/2 of the South 1/2 of Lot 10, and the west one-half of Lots 11 and 12 in Block 21 of the Hauser Addition to the City of Helena, Lewis and Clark County, Montana with the following conditions: that the garage will be no greater than 24' by 24', the existing garage doors are to be abandoned and the space no longer used for vehicles, and that a building permit is obtained within one (1) year.

Mr. Toth seconded the motion. The motion passed unanimously (4:0).

**Old/New Business:**

**(0:30:48)** There was no old or new business

**Public Comment:**

**(0:31:01)** There was no public comment.

**Next Meeting:**

**(0:31:20)** The next regularly scheduled meeting is December 6, 2022.

**Adjournment:**

**(0:31:52)** With no further business before the Board, the meeting adjourned at approximately 7:00 PM.