



Minutes
Board of Adjustment Meeting
May 2, 2023 - 5:30 PM
Virtual Zoom Platform and City-County Building 330

Members Present: Chair Tracy Egeline, Vice-Chair Tim Tholt, Byron Stahly, Burt Federman, Commissioner Andy Shirtliff, Michael Newhouse

City Staff Present: Michael Alvarez – Planner II, Kyle Holland – Planner II, April Sparks – Administrative Assistant

Call to Order and Roll Call

(0:00:00) Chair Egeline called the meeting to order at shortly after 5:30 PM. Roll call was taken, and a quorum was established (5 members). Staff and applicant introductions were made.

Minutes

(0:02:25) The minutes of the February 7th, 2023 and March 7th, 2023 meetings were approved as written.

Public Hearing Items

(0:04:40) Staff read the three standards of Section 11-5-5 and the seven standards that may be considered.

Item 1

Staff Presentation and Questions for Staff

(0:11:33) Kyle Holland, Planner II, provided a presentation which included photographs of the subject property, a vicinity map, and site plan. Staff summarized the staff report. Three letters of public comment had been received on the application.

(0:15:51) Mr. Stahly stated he does not believe that there is a rebuttable presumption due to the potential change of use. He reiterated that the application stated garage with studio above and that this change of use is a key component of this and to make sure that all board members are aware of this. Mr. Holland stated that he will let the applicant speak to their intended usage.

(0:15:56) Mr. Federman asked for more information about the other multi-story garages in the area and if they had received variances for their construction. Mr. Holland stated that they had both received variances.

(0:17:00) Mr. Federman asked a follow up question regarding if we had received an elevation of the proposed structure. Mr. Holland stated that we did not receive building plans for



this application. Michael Alvarez, Planner II, stated that it is not required, the applicant is asking for a footprint variance, not a height variance.

(0:18:35) Vice-chair Tholt requested that the photograph showing the existing two-story garage be brought back to the screen.

(0:19:13) Chair Egeline asked if any information had been provided about the total lot coverage of the property. Mr. Holland stated that the applicant has provided lot coverage calculations stating that he is just barely under the 40% maximum that is permitted.

Applicant Presentation and Questions for the Applicant

(0:19:58) Applicant, Brynn Holt, introduces himself and describes how the existing conditions on the site already provide shade to the alley and how his cleanup efforts have improved the current issues with shade. Mr. Holt also stated the studio space will not be used as an accessory dwelling unit. Instead, it is intended to be an art or writing studio and storage space.

(0:23:28) Chair Egeline asked if Mr. Holt knows what the wall height will be of the building. Mr. Holt stated that he does not know, but that it will be similar to, and certainly not taller than the other garage shown in the picture.

(0:25:00) Vice-chair Tholt referenced the city review comments regarding addressing and stated that it does not make sense if the studio space is not to be used as an apartment. He stated he will make sure it is conditioned to not be used as a dwelling as that is a change of use.

(0:26:01) Mr. Federman asked Mr. Holt about who did the site calculations to show the 40% lot coverage and if they were certified. Mr. Holt stated that he did the calculations based on the lot size and his measurements of the buildings. Mr. Stahly added that they will have to submit these dimensions when applying for the building permit and that he does not have any concern with the lot coverage at this moment.

(0:28:45) Commissioner Shirliff asked the applicant if the property will have running water or windows. Mr. Holt stated that it will have windows but no running water.

Public Comment/Board Discussion

(0:29:33) Larry Dolan, 721 5th Ave., spoke in opposition of the two-story garage. He referenced a letter that was sent by him and other neighbors in January stating their opposition to the proposed multi-story garage. Mr. Dolan's opposition stated that the proposed multi-story garage did not fit the character of the historic neighborhood and the 1920's era garages that line the alley. His opposition also stated that the dense nature of the development on that block creates issues with lack of sun in the alley and yards, which will be made worse by the addition of this garage. Mr. Dolan is not opposed to the rebuilding of a garage in the same footprint, but that the variance should not be used as a springboard to something other than a garage. He reiterated his concerns about ice formation in the alley and how the addition of more shade will increase the

problem. Mr. Dolan continued that when the other two-story garage was built on the block, that the neighborhood did not pay much attention to the notice and that the result was a lot different than anticipated.

(0:34:11) Karla Ritten, 721 5th Ave., stated that the previous two-story garage is referred to in the neighborhood as the “Garage-Mahal” and that the neighbors were told that the owners were just going to replace the existing garage. Mrs. Ritten stated that they use the garage to park their car and travel that alley often. During the winter the alley becomes very icy and that at times they have had to use chains to get out of their garage and the alley. Mrs. Ritten stated that the existing garage needs to be replaced and the neighborhood has been excited that someone had bought the house and has been refurbishing it, but they are very concerned about another large garage in the historic neighborhood.

(0:36:25) Joanne Kaucher, 714 Breckenridge, voiced her concern about the removal of the garage. Ms. Kaucher stated that her lot is 3 feet higher than the lot in question and that the removal of the garage without shoring up the property line will cause some of her yard to fall off. Ms. Kaucher continued by addressing the trees that were removed, stating that they were on the west side of the house and did not impact it much but that one was growing at an angle and was a hazard to her property. Ms. Kaucher’s final comments were about the size of the garage and the overall lot coverage. She stated that the current footprint is large and that it will be pretty significant if built taller, and with the current size of the house that it already is looming over her property. She concludes that any new construction should not be a detriment to what is already there, there are 10 single car garages and then the “Garage-mahal” and that it is not a trend that the neighborhood wants.

(0:40:49) Mr. Federman asked for clarification about the last commenters address. She introduced herself as being right next door and stated her address as 714 Breckenridge, while the submitted site plan list the next-door property as 718. The correct address is 714 Breckenridge.

(0:41:52) Chair Egeline asked for clarification that the new garage will be the exact footprint of the old garage or if it has grown. Mr. Holland responded with that the city has not received plans at this time, but that the applicant contends that it will be the same footprint.

(0:43:05) Eric Kirchner, 725 5th Ave., stated that in 1996 he rebuilt his garage and went through the variance procedure with the city at that time as well. Mr. Kirchner stated that at the time he was restricted to a 2-foot setback from the alley and a 3-foot setback from the side property line. He stated he was denied the ability to use 10-foot walls and a six twelve roof pitch at the time as the garage would not be conforming. Mr. Kirchner states that at the time the “Garage-mahal” was constructed, in “the same footprint”, there was no discussion of the elevation change and that it was changed after the city approved it would be allowed in the same footprint. Mr. Kirchner stated he is in favor of denying the proposed garage because he was denied the 10-foot walls and had to build with 8-foot walls and a four twelve roof pitch. Mr. Kirchner continued that he was denied the steeper roof pitch because of runoff on to the neighbor’s property and that he had to



control the runoff. Mr. Kirchner concludes with that setbacks are important for movement through the alley for those that utilize it as primary access to their properties and to look back at his variance request from 1996 to see that the city required him to be conforming to the neighborhood.

(0:48:04) Chair Egeline asked for additional public comment. Previous respondent Joanne Kaucher responded from the gallery that she would like to make it clear that she was ok if he replaces it as is, but that she was not ok with the structure becoming two stories.

(0:48:47) Chair Egeline opened board discussion.

(0:48:54) Mr. Federman inquired if he was allowed by right to have something above a garage in that zone. Mr. Alvarez stated that he was allowed to have space above the garage by right. Mr. Federman further asked if the rebuttable presumption limits to the existing footprint, would the city still allow him to build taller as is by right in the zone. Mr. Alvarez stated that was correct, the city would allow for a taller structure. Mr. Alvarez continued that this body had not conditioned a height on rebuttable presumptions previously. Mr. Alvarez continued that the rebuttable presumption was for the footprint and dealing with the setbacks and would not have anything to do with the height.

(0:52:03) Mr. Tholt made a statement to Mr. Stahly that his [Stahly] position was that he does not have the rebuttable presumption going up in height, but Vice-chair Tholt's concern was that the rebuttable presumption only applies to footprint. Mr. Stahly responded with that they may need legal counsel to guide them through this, but his understanding was that they are looking at the footprint. Mr. Stahly continued that they are looking at more than the footprint in his opinion and rebuttable presumption covers that if there are not safety issues or other problems to begin with there will be no problem when the same thing is put back. He contends that this was not the same thing going back.

(0:53:15) Mr. Stahly reiterated his belief that this was not a rebuttable presumption. The applicant was asking for a variance and variances are not guaranteed. That by right the applicant can go two stories and that it was relevant for the board to understand that as they have heard from neighbors in similar conditions about shading and other impacts. Mr. Stahly stated that the board got to discuss if it was appropriate for the neighborhood.

(0:54:06) Mr. Stahly mentions the seven criteria that may be considered and mentions the third one that refers to an undue hardship. Mr. Stahly believes that the applicant could argue an undue hardship regarding the replacement of the garage. But Mr. Stahly continued that he believed the applicant would have a hard time making the case that there was a hardship in that the applicant wants more than the present condition.

(0:54:49) Vice-chair Tholt mentions criteria two of the seven criteria that the board can reference, and that they may look at height, location, or dimension or existing structures. Vice-chair Tholt continued that they can get hung up on the definition of rebuttable presumption. Mr. Alvarez stated that legal counsel was online if the board

would like to ask them a question. Mr. Stahly stated that he would like to hear the opinion on rebuttable presumption from legal counsel as it related to a structure going from one to two stories.

(0:55:38) Amiee Hawkaluk, assistant city attorney, introduced herself and stated that yes, the recollection of former city attorney Jodin's opinion was correct, and her opinion does not diverge from that. Ms. Hawkaluk continued that rebuttable presumption is a fact specific analysis and that the board was looking at a rebuttable presumption for the footprint portion, not necessarily as to the entire thing. Mr. Stahly thanked Ms. Hawkaluk for that clarification. Mr. Federman added that they needed that for appeal.

(0:56:53) Chair Egeline asked for clarification that the height has no bearing on a rebuttable presumption. Mr. Alvarez confirms that it is not included, but that the board is welcome to condition the height. Vice-chair Tholt stated that he believes that is within the board's purview and that review item number two covers height and location of existing structures.

(0:57:33) Chair Egeline directs the conversation to the height discussion, stating that it is the biggest issue. Mr. Federman added that he did not understand that the garage would be on the existing footprint and that meant there would not be a second story. Mr. Stahly stated the board understood what the footprint portion of the conversation and that the current discussion was if the board was comfortable with the two stories. Mr. Stahly continued that it would be within the boards purview to approve the setbacks and footprint and limit it to one story of a certain height.

(0:59:00) Chair Egeline asked for the picture of the current garage to be brought back to the screen. Chair Egeline continued that the existing garage does not work for newer vehicles and that if the board allowed for a nine- or ten-foot ceiling height it would give good use of the garage while not allowing the second story. Chair Egeline additionally stated that if they conditioned a slope similar to the public commentor that the applicant can have a nice garage without it getting too tall and impeding on the neighbors.

(1:00:02) Mr. Stahly stated that he agrees that the historical very small garages are not practical for today and that he is on the same lines of thought as Chair Egeline. That the board should determine the tallest that they are comfortable with.

(1:00:41) Mr. Federman clarified that the board is still talking about a twenty-three-foot-wide garage. Vice-chair Tholt stated that it is his opinion that there is a rebuttable presumption for that footprint but that the board can condition the height. Mr. Stahly added that it was his opinion that the board would be approving the footprint and what they could condition was the height. Mr. Federman asked as to what the language would be stating "a one-story garage with the roof above. Is that what it's going to say?" Chair Egeline clarified that you also get to condition the slope [of the roof].

(1:01:51) Chair Egeline stated that if you had a three/twelve roof pitch and a ten-foot wall it would give enough clearance for a nice garage door and half the roof pitch so there will be less shadow on the neighbors and still get a nice garage. Mr. Federman stated



that this is why he wanted an elevation. Chair Egeline replied that elevations are great but not required.

(1:02:41) April Sparks, Community Development Department Administrative Assistant, stated that there is a comment from the applicant requesting twelve-foot walls. Chair Egeline responded that twelve-foot walls are getting outside of that neighborhood but will be discussed among the board.

(1:03:24) Mr. Stahly stated that he has eight-foot ceilings in his garage, and it is tight for a half ton pickup truck. He continued that anything could fit in with a nine-foot height and that he could be convinced of ten-foot walls but agreed that anything taller would be outside of the character of the neighborhood.

(1:04:03) Mr. Federman inquired to the direction of the pitch of the roof and if the water will go to the neighbor's property or to the alley. Vice-chair Tholt responded that currently what they have is to go to the alley. Chair Egeline added that no matter what this will still have to be approved by the building department and that he should have a gutter and downspout but that this is not relevant to the variance.

(1:05:41) Chair Egeline asked the board if they are satisfied with the discussion on the height, with a statement that they are probably between nine- and ten-feet. Chair Egeline asked if this requires a vote. Vice-chair Tholt responded that it would be a condition of accepting the setbacks.

(1:06:26) Chair Egeline redirected the conversation back to the setbacks. Vice-chair Tholt stated that he is ok with the setbacks as that is where the existing footprint is. Mr. Stahly concurs with the notion that the setbacks are acceptable.

(1:07:01) Chair Egeline stated that she thinks the board is ready to make a motion. Vice-chair Tholt responded that the board should land on a wall height, so they do not come back to that. Chair Egeline suggests a ten-foot wall and a three/twelve roof pitch. Vice-chair Tholt concurs with that suggestion. Mr. Federman asked if a three/twelve roof pitch will accept a shingle roof. Chair Egeline stated that a three/twelve roof pitch will accept a shingle roof.

(1:08:32) Mr. Federman asked if they are only doing the setbacks. Chair Egeline responded yes. Vice-chair Tholt stated that it is the only item in front of them and that height needs to be a condition of the setbacks. Mr. Federman asked if they do a rebuttable presumption then they can't modify the setbacks. Chair Egeline replied in affirmative.

(1:09:04) Mr. Stahly stated he would try to make the motion and conditions. Mr. Stahly read both motions together. Mr. Alvarez requested for the motions to be read separate. Mr. Stahly stated he would do both [variances in one motion] and they can turn them down if they want.

Motion

(1:09:16) Mr. Stahly moved to approve a variance from Section 11-4-2 to decrease the side lot line minimum setback from 6' to 3' and a variance from Section 11-4-2 to decrease the minimum setback for a 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 from 5' to 0', for a property with a legal description of Lot 13 of Block H of the Blake Addition Amended to the City of Helena, Lewis and Clark County, Montana with the conditions that the wall height does not exceed nine feet, the roof pitch does not exceed three/twelve pitch, and a building permit be obtained within one year. Mr. Federman seconded the motion.

(1:11:26) Mr. Federman asked if the variances get appealed will putting them together make a problem. Mr. Alvarez stated it is his understanding that the board is giving rebuttable presumption to both variances and the condition so it will be fine to combine them. Attorney Hawkaluk concurs with this statement.

(1:12:37) Commissioner Shirtliff asked for clarification for himself and the audience on the definition of three/twelve roof pitch. Chair Egeline responded that three/twelve refers to three inches vertical for twelve inches horizontal. Discussion was ended and a vote called for. The motion passed unanimously (5:0).

Item 2:

Staff Presentation and Questions for Staff

(1:13:23) Mr. Holland, stated the variances and requested that this item be tabled at this time. Mr. Stahly asked for clarification as to the reason for tabling the item, as usually the applicant requests an item to be tabled. Ms. Sparks responded that the tabling was due to the variances be incorrectly advertised.

Motion #1

(1:15:15) Mr. Stahly moved to table the item. The motion passed unanimously (5:0).

Item 3

Staff Presentation and Questions for Staff

(1:15:36) Mr. Holland provided a presentation which included photographs of the subject property, a vicinity map, and site plan. Staff summarized the staff report. No public comment had been received on the application. The city at this time amended the variance to change the setback request from five feet to zero feet, and to add the conditions of installing traffic barrier in Park Ave to prevent North bound travel when leaving the garage and to install boulevard for the length of the need along Park Ave.

(1:20:33) Chair Egeline asked Mr. Holland if he know the distance from the garage doors to the back wall. Mr. Holland responded that he would let the applicant speak to his design proposal. The board has no further questions for Mr. Holland.

Applicant Presentation and Questions for the Applicant

(1:21:27) Jacob Augenstein, applicant, introduces himself as the lead professional and design architect for the proposed project. Mr. Augenstein gives a PowerPoint presentation about his design proposal and their firm's research. Mr. Augenstein spoke about his firm's approach to developing a difficult site and their work towards safety and maintaining the spirit of the TR district that the proposal is located in. At the end of his presentation, he addressed Chair Egeline's question from before stating that the garage depth is twenty-one feet.

Public Comment/Board Discussion

(1:21:55) Mr. Federman stated that he went and visited the site for an hour one weekend, noting the level of traffic and speed, and expresses his concern that backing on to Park Ave is not safe. Mr. Federman mentions his history of fighting to keep twenty-foot garage door setbacks, and that it is a beautiful project but a dangerous concept.

(1:33:33) Mr. Augenstein responded that roads by nature will be used, and their calculations came from the city transportation department. He continued that they made their proposal with that in mind and have made a plan that eliminates the ability for a resident leaving their garage to back across multiple lanes of traffic. Mr. Federman asked if that will require the residents to make a U-turn every time they want to head north when leaving. Mr. Augenstein replied in the affirmative.

(1:34:24) Chair Egeline asked the applicant for clarification two car garages and all the street parking will be removed. Mr. Augenstein stated that the parking in front of the project will be removed.

(1:35:12) Chair Egeline opened public comment. There is no public comment.

(1:35:20) Vice-chair Tholt stated that he must abstain as the developer is a close family friend. Mike Newhouse, alternate board member, stated that he would step in for Vice-chair Tholt.

(1:35:08) Mr. Stahly stated that it appeared Mr. Alvarez was raising his hand. Mr. Alvarez stated that Mark Young gave his comments at which point the planning department had a meeting with Mr. Augenstein and Slate Architecture staff where they proposed this streetscape, and that this will not be reviewed by MDT until August. The City and MDT have a shared maintenance agreement on this road.

(1:38:17) Mr. Stahly stated that after Mr. Federman's questions he would like to see the revised site plan again as this was the first time he has been able to review it.

(1:48:35) Mr. Federman inquired to whether sightlines will be impacted by this. Mr. Alvarez responded that the idea is that a car would be able to pull out of the garage and be able to look up and down the street before entering the motor vehicle way and that they would be protected by being behind the curb. That staff and the applicant feel this gives adequate amount of sight line and not be in the roadway. Mr. Federman continued by questioning the total amount of distance to the roadway, 12 feet, and

clarifies that the distance given includes encroaching on the sidewalk. Mr. Augenstein confirms this. Mr. Federman asked what kind of line of sight you will get at this point if there is still 5 feet of the car in the garage. Mr. Augenstein stated this is not that different than a parking lot and that he is comfortable with the sightline for those 12 feet.

(1:41:40) Mr. Stahly asked that the site plan be brought to the screen.

(1:41:54) Mr. Newhouse stated that he thinks the proposal from Slate is a better alternative to that is currently in front of Miller's Crossing and Blackfoot River Brewing. That people in the area have figured out backing out.

(1:42:24) Mr. Stahly ask to see the larger site plan from the applicant's presentation.

(1:43:07) Chair Egeline stated that she is much more comfortable with this site plan than the previous one. She continued that you are not backing into traffic and worried about someone parking in front of somebody's garages.

(1:43:35) Commissioner Shirliff stated that with the traffic calming measures in the middle of the road and only having one direction of traffic to worry about gives a bit more sight line for someone backing out. He continued that he does not know how much pedestrian traffic is on that end of Park Ave and that he appreciates the efforts being made for safety.

(1:54:32) Mr. Stahly stated he was not aware of the change and is giving it his due diligence. He had many of the same thoughts as Mark Young when reading through the proposal and thought that there were major traffic and safety concerns, and that this proposal goes a long way. Continuing that if city engineering is comfortable with it, he can probably get comfortable with it. Mr. Stahly expresses concern about bicyclists that use this area, as they are creating a pinch point for bikes and cars. He stated his thoughts on cars backing out over the sidewalk and stated his belief that if there was more area then people would park in front of their garages and overhang the sidewalks. That while the median mitigates the nightmare of backing across two lanes of traffic, he wants to make sure they are not jeopardizing safety at all. Mr. Augenstein reiterates that they would not receive the comments from transportation until later.

(1:47:11) Mr. Stahly stated his appreciation for the city including the comments from the department reviews, and that it provided good feedback.

(1:47:33) Mr. Federman stated it's a beautiful project and if they keep building them the block will eventually become non-usable as far as safety is concerned. Mr. Stahly responded that as housing needs continue, they will continue to develop in challenging areas and that if development up the gulch continued then the city may require a formal traffic report to know if this is safe or not.

(1:48:55) Chair Egeline asked for any additional comment, and if someone would like to make a motion. Mr. Federman says he would, but he is going to reject it.

Motion #1

(1:49:39) Mr. Stahly moved to approve a variance from Section 11-9-7-D-3-a to allow parking to be located at the front of the building, for a property with a legal description of Lots 22, 23 and 24A in Block 1 of the Original Helena Townsite in the City of Helena, Lewis and Clark County, Montana, as shown on the Retracement Survey filed under Doc. No. 3013758, with the condition that the applicant will install a barrier on South Park Avenue that prohibits drivers from entering the north bound lane when exiting their garage. Commissioner Shirliff seconded the motion.

(1:50:16) Chair Egeline opened any board discussion and stated that she was happy with the barriers in the design. She continued that it is an improvement and is much safer. The motion passed with Mr. Federman in opposition (4:1). Mr. Federman added that his opposition was because of traffic safety and the impact on the neighborhood and tourists who will be traveling and investigating without knowledge of traffic coming out.

Motion #2

(1:53:39) Mr. Stahly moved to approve a variance from Section 11-4-2 to reduce the allowable setback of the vehicular entrance of a garage that abuts public right of way from 20' to 0', for a property with a legal description of Lots 22, 23 and 24A in Block 1 of the Original Helena Townsite in the City of Helena, Lewis and Clark County, Montana, as shown on the Retracement Survey filed under Doc. No. 3013758, with the condition that the applicant will install boulevard for the length extent of the need of the property along South Park Avenue. Mr. Newhouse seconded the motion. The motion passed with Mr. Federman in opposition (4:1). Mr. Federman stated his opposition was the same as before.

Item 4

Staff Presentation and Questions for Staff

(1:43:14) Mr. Holland provided a presentation which included photographs of the subject property, a vicinity map, and site plan. Staff summarized the staff report. One letter of support had been received on the application.

(1:57:07) Chair Egeline asked Mr. Holland about the letter of support that had been received and inquired if it was from the neighbor next door. Mr. Holland stated that it was from the neighbor across the alley.

Applicant Presentation and Questions for the Applicant

(1:57:15) The applicant, Kari Christensen, began by stating that the garages across the alley were once part of the same property, but were sold before she purchased the property. Chair Egeline asked the applicant if she had spoken to her neighbors including the neighbor that is directly next to the garage. Ms. Christensen stated that she has

spoken to many of them and she seemed supportive of the proposed new garage. She stated that she has also spoken to the neighbor next door and explained the proposal to him.

(1:59:41) Mr. Stahly asked the applicant if she was the one who had applied for the variance in 2018. Ms. Christensen stated she was the applicant at that time and what was being proposed in 2018 was to build a new garage centered in the property that would have modified the use of her yard and property considerably. Ms. Christensen continued by explaining the benefits of her proposed change to the roof pitch direction with regards to the runoff onto the neighbor's property. She also expanded on the need for raising the garage up to be above the level of the alley to prevent runoff from the right of way into her garage.

(2:02:23) Chair Egeline requests Mr. Holland to bring back the pictures that show the sidewalk and side yard. The applicant added that there is a rock wall in the picture where the trees are visible.

(2:03:11) Mr. Federman requests that the site plan be brought back to the screen. He asked the applicant for clarification on the door location and pitch and if there would be a problem with moving the garage 3 feet as recommended. With further clarification that the roof will be turned 90 degrees from the current configuration Mr. Federman stated he has no further questions.

(2:15:15) Mr. Stahly comments on the recommendation to move the project three feet to remove the requirement for fire rated construction on the wall and roof and how that would save money but noted the rebuttable presumption and stated that if she wants to keep it a zero, she can. He continued that he understands that moving it three feet would require removal of the existing sidewalk and landscaping.

Public Comment/Board Discussion

(2:16:17) Chair Egeline opened board discussion. Chair Egeline reiterates that it is rebuttable, same place and same condition, and that if it will abide by fire code, she has no problem with that. That the improvement of the roof direction and runoff is not part of the variance and that she does not have any problems with the project.

(2:17:14) Vice-chair Tholt stated that he would concur with the Chair.

Motion #1

(2:17:39) Commissioner Shirliff moved to approve a variance from Section 11-4-2 to reduce the minimum side setback from 8' to 0', for a property with a legal description of The East 8 feet of Lot 4, and the West 30 feet of Lot 5 in Block 65 of the NORTHERN PACIFIC ADDITION to the City of Helena, Lewis and Clark County, Montana, with the condition that a building permit be obtained within one year. Vice-chair Tholt seconded the motion.

(2:08:38) The board discussed further the recommendation from the Fire Department regarding the three-foot recommended setback and the setback from the alley. Mr. Newhouse stated that his company, J Bar T Engineers, was hired to determine how high to raise the garage. He stated that the original plan was to lift the garage and install a new pad underneath, but the builder apparently felt the building was not structurally sound enough for that. He continued that the garage is approximately 7 and a half feet off the alley. The motion passed unanimously (5:0).

Item 5

Staff Presentation and Questions for Staff

(2:11:00) Mr. Holland provided a presentation which included photographs of the subject property, a vicinity map, and site plan. Staff summarized the staff report. No public comment had been received on the application.

(2:13:45) Chair Egeline requests the site plan be brought back to the screen and asked for clarification about the two freestanding signs. Vice-chair Tholt replies that the monument signs are not in the square footage they are looking at and that the request is just for the three signs on the building. Mr. Holland responded that is correct and the monument signs are not part of the request.

(2:15:04) Mr. Stahly asked if the three wall signs are the north, south, and west sides of the building. Mr. Holland stated there is nothing on the east side facing Oakes Street. Mr. Federman says they are definitely needed.

(2:15:41) Vice-chair Tholt asked if there are any other buildings in that neighborhood that they have allowed to go up to 400 square feet or would this be the first. Mr. Holland stated that he is not aware of any other variances for this in the area.

(2:15:59) Mr. Tholt stated that this building is much larger than any other building on this development and a smaller building like Starbucks or Taco Bell would need much smaller signs. Mr. Tholt also addressed Mr. Alvarez about the upcoming revised sign ordinance and that the lesser of 200 square foot or 30% of the façade does not make sense for every big building that is built in the city.

(2:17:26) Mr. Alvarez that's that it had been sent to the zoning commission for their meeting next week and that the signage for B-2 districts has been updated in the proposal. He continued that the changes are still in the early stages, but that current proposal is to maintain the limits but change them from per building to per façade.

Applicant Presentation and Questions for the Applicant

(2:18:21) Tom Cinko, director of facilities for Benifis Health attended on zoom as the representative for the applicant. He stated he does not have anything to present and that he is attending in the event of questions.

(2:19:23) Mr. Stahly asked why the request is for 400 square feet when the math of the three signs is less than that. Mr. Cinko stated that it is so they have some room to work as they go through the final renderings and design. Mr. Stahly stated that as requested they could go with one very large sign and two much smaller signs.

(2:21:36) Chair Egeline asked if there are any elevations or anything showing the signage. Mr. Cinko stated he thought it would have been in the package.

(2:22:17) Mr. Federman stated they can't just allow an infinite number of signs. Mr. Stahly clarifies that the submission shows the signs and stated a quantity of three.

(2:24:37) Mr. Stahly stated that what Mr. Cinko described was not exactly what the package showed and that they should make the motion clarifying what they are approving. He stated they might be able to give them a little bit more but set a maximum for each façade, so they don't get the potential of one large and two small signs.

(2:23:11) Mr. Federman and Vice-chair Tholt have a brief discussion about the total area of the signs, with Vice-chair Tholt saying they can solve any issues by limiting the size of the signs to 130 square feet each.

Public Comment/Board Discussion

(2:23:52) There is no public comment.

(2:24:00) Chair Egeline opened board discussion.

(2:24:07) Mr. Stahly stated that over on the right the application says 112.32 square feet per sign, and that he would be more than comfortable with what Vice-chair Tholt just said, even lowering it to 120 or one 125 square feet. That it will give the applicant a little leeway and still keep it under the 400 square feet for all of them.

(2:34:57) Chair Egeline stated the signs are approximately 112 square feet for a total of 337 square feet and bump that up to 350 square feet for the limit as opposed to 400 square feet, and asked Mr. Stahly if he meant limiting it by façade. Mr. Stahly stated he would ask for a total area of 375 square feet with the condition that no sign would be larger than 125 square feet. Chair Egeline responded in agreement and asked if anyone would make a motion.

Motion #1

(2:26:55) Vice-chair Tholt moved to approve a variance from Section 11-23-10 to increase the aggregate area of wall signage from 200sf to 375sf, for a property with a legal description of Lot 3-A of the C. W. Cannon Addition to the City of Helena, Lewis and Clark County, Montana, as described on COS #3397792, with the condition one, that no sign may be greater than 125 square feet, and condition 2, that a sign permit be procured within one year. The motion is seconded by Mr. Stahly. The motion passed unanimously (5:0).

Item 6

Staff Presentation and Questions for Staff

(2:28:21) Mr. Holland, stated the variances and requested that this item be tabled at this time. Vice-chair Tholt clarified that this is also the city's request and asked if the homeowner knows it will be tabled. Mr. Alvarez responded that he has been in contact with the homeowner, and they are not in attendance because they are expecting it to be tabled.

Motion #1

(2:29:56) Vice-chair Tholt moved to table the two variances. Mr. Stahly seconded the motion. The motion passed unanimously (5:0).

Old Business

(2:20:50) Chair Egeline brought back the prior discussion about reciting the Pledge of Allegiance before meetings and asked if there has been any public comment. Mr. Federman stated that it has not been advertised. Mrs. Sparks stated that no public comment has been received and clarifies that it was available on the website and was in the agenda and that constitutes public notice as required by the City Clerk's office.

(2:31:39) Chair Egeline asked if they need to vote on this. Mr. Federman stated they voted on it already. Ms. Sparks clarified that because it was not publicly noticed at the time of that vote, it needed to be voted on again and opened for public comment. Chair Egeline called for public comment. There was no public comment.

(2:32:45) Mr. Stahly made a motion that it be part of the process to recite the Pledge of Allegiance at the beginning of the meetings. Commissioner Shirliff seconded the motion. The motion passed unanimously (5:0).

New Business

(2:33:10) There was no new business.

Member Communications / Proposals for next Agenda

Public Comment

(2:33:10) Ms. Sparks reminded Chair Egeline to call for general public comment before adjourning. Ms. Sparks reminded the board that for the July meeting, the first Tuesday of that month would be the 4th of July and they will need to decide on when to move the meeting to.

(2:35:38) Mr. Stahly asked Mr. Alvarez if the draft of the sign code was available. Mr. Alvarez stated he was not sure he would call it a draft but was more a bunch of materials that he had grouped together for the Zoning Commission work session. Ms. Sparks stated that they were sent out at the end of the day before this meeting, and she has not had time to make them available yet.



Adjournment

(2:36:35) The meeting was adjourned.