



**Minutes
Board of Adjustment Meeting
March 7, 2023, 5:30 p.m.
Virtual Zoom Platform and City-County Building 330**

Members Present:

Tracy Egeline (Chair), Tim Tholt (Vice-Chair), Byron Stahly, Burton Federman, Andy Shirtliff

Call to Order and Roll Call

(0:00:05) Chair Egeline called the meeting to order at 5:32 PM. Roll call was taken, and a quorum was established (5 members). Staff and applicant introductions were made

Public Hearing Items

(0:01:28) Prior to the public hearing Chair Egeline disclosed that her husband is a principle of the architecture firm that designed the project coming before the Board for the two variances, but that she has no vested interest in the project. Mr. Stahly asked for confirmation if Chair Egeline would be participating in discussion, Chair Egeline confirmed that she would be and repeated that she does not have a vested interest in the project. Mr. Stahly stated he was satisfied that Chair Egeline could remain unbiased and would be participating.

(0:02:49) 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

(0:06:05) Mr. Alvarez 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.

(0:13:00) Mr. Stahly asked which is the street the city considers to be the primary access to the site. Mr. Alvarez stated that it is E. Lyndale Ave, and the applicant does not want a front door that opens directly onto a busy highway and would like to out it on the other side, additionally there are some strong prevailing winds the applicant is looking to mitigate.

Applicant Presentation and Questions for the Applicant

(0:14:11) Karli Mosey stated that they were hopeful that their arguments were compelling and help the Board agree that this design would be best suited for the outcomes. There were no questions from the Board.

Public Comment/Board Discussion

(0:14:38) Chair Egeline opened the hearing up to public comment. There was no public comment on this item. Board discussion was opened. Chair Egeline noted that there was a lot of information provided in the packet and that it seemed very straightforward. Chair Egeline acknowledged the fire marshal's concerns about his turning radius. Vice-Chair Tholt also stated his appreciation for the packet. Mr. Stahly stated that it is a great development for the site and specific to the two variances being requested, the Board has heard previous variance for buildings actually downtown and gave variances for some things that just didn't make sense for this site and wouldn't even call this downtown. Mr. Stahly also noted that there is a main thoroughfare going right through the front of the building so if it is at a 0' lot line and MDT comes down with their snowplow at 30 miles an hour, there would be an absolute mess and some things just don't work with downtown zoning at this location and is definitely a hardship to make it functional. With that, Mr. Stahly stated that he is comfortable with the variance being requested.

(0:16:35) Mr. Federman referenced number 5 about the literal interpretation of the provisions: title will deprive the property owner commonly enjoyed by other properties; you can see quite obviously that the rest of the properties thrive because they're in the one block out of the downtown district. Mr. Federman called the proposal excellent. Commissioner Shirliff stated his belief that this project not only adds to the vitality of Helena, it could also strengthen the economy, and he appreciated the applicants bringing it forward. With no additional discussion Chair Egeline asked for a motion.

Motion #1

(0:17:53) Mr. Sathly moved to approve a variance Section 11-9-7-A-3 to decrease the minimum percentage of lot coverage from 50% to 35%, for a property with a legal description of Lots 1 to 6 of Block 53 of the Central Addition No. 3 to the City of Helena, Lewis and Clark County, Montana. TOGETHER WITH the east one-half of vacated and closed Jackson Street adjacent to Lot. (Ref: Resolution 9248 in M Book 2 of Records, page 5059, and Quit Claim Deed recorded in M Book 2 of Records, page 6221) with the condition that a building permit be obtained within one year. Commissioner Shirliff seconded the motion. The motion passed unanimously (5:0).

Motion #2

(0:19:19) Commissioner Shirliff moved to approve a variance from section 11-9-7-B1 to increase the maximum lot line set back from zero to 10 feet for a property with a legal description of Lots 1 to 6 of Block 53 of the Central Addition No. 3 to the City of Helena, Lewis and Clark County, Montana. TOGETHER WITH the east one-half of vacated and closed Jackson Street adjacent to Lot. (Ref: Resolution 9248 in M Book 2 of Records, page 5059, and Quit Claim Deed recorded in M Book 2 of Records, page 6221) with the condition that a building permit be obtained within one year. Mr. Federman seconded the motion. The motion passed unanimously (5:0).

Old Business

(0:20:49) There was no old business identified.

New Business

(0:20:56) Mr. Stahly made note that there will be signed variances come back, but he is going to continue urging the city to revise the sign ordinance, and he wanted to know if there was an update as to when there may be some movement on that. Mr. Alvarez stated that the sign ordinance revision discussion should be moving to the Zoning Commission Work Session in April, that there had been an update in language around a [United States] Supreme Court ruling that has caused the city to be more content neutral, in order to allow for public feedback, it may be a minimum of 4-5 months before this happens.

(0:21:25) Mr. Federman recounted how he has been on the Board for 4 years now and has inquired as to why there was no salute to the flag at the beginning of the meeting, and that all of the boards he has served on over the past 25 years, a meeting was never started without one and received no answers from representatives of the city when asked, just that it had never been done before. Mr. Federman asked as the Board is starting with a new slate of officers if a flag salute can be part of the opening [of the meeting], and noted he had talked to some veterans he knows and they have also been wondering why tradition is being ignored when they and others have fought and bled for the flag. Mr. Federman asked if he could get a motion that this be included in the opening ceremony package. Chair Egeline stated her support. Mr. Stahly stated his support as well, and that he had thought the same thing. Mr. Federman suggested it may have been because of COVID and the online meeting format that it had possibly been discontinued. Mr. Federman made a motion [to recite the Pledge of Allegiance at the opening of every meeting]. Commissioner Shirliff seconded the motion. The motion passed unopposed. Mr. Alvarez stated it would be added to the next agenda.

(0:26:38) Mr. Federman also asked that the Board vote in a roll call vote as in the first year he was on the Board there was an appeal on a decision that had been made to deny the variance and the Board lost as there was not a record of the vote other than a voice vote and that the members should list their reasoning for that vote during the roll call vote. Mr. Stahly stated that he disagreed with that the discussion Mr. Federman is talking about would take place in the discussion part of the motion, meaning there is a motion and a second and during that discussion if a member is inclined to can explain their reasoning and logic on why they are supporting or not supporting per the three statutory requirements that the Board must look at to guide their decision, and that is where the discussion takes place not during the vote. Commissioner Shirliff stated that the City Commission does a roll call vote, but as Mr. Stahly stated if it's yes or no or unanimous, it is implied, but was okay with the roll call vote. Vice-Chair Tholt stated that he is not an expert on that as well and could go either way. Chair Egeline suggested having more discussion and if a member is going to oppose or the reasons being clear on the conversation before the vote. Mr. Federman suggested the Board be more clear on addressing the criteria for granting a variance during their discussion. Mr. Alvarez suggested that city staff would be amenable to working with the Board to provide better prompts or anything like that to link a discussion to a particular piece of language or to provide prompts to the specific criteria reference by each board member before a vote. Chair Egeline stated the more prompts the better.



Member Communications / Proposals for next Agenda

Public Comment

(0:32:56) Ms. Reinhardt reminded Chair Egeline to call for general public comment before adjourning. There was no public comment.

Adjournment

(0:33:18) The meeting was adjourned.