

STAFF REPORT

1913 Leslie Avenue

Variance

Case# VAR2601-0002

Kyle Holland, AIA
Planner II

Community Development Department
316 North Park Avenue, Room 403
Helena, Montana 59623





City of
Helena

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Section 1 - Project Overview

The applicant, Robert Kirkland, is requesting a variance to bring a prefabricated shed that was placed on the property into compliance with zoning regulations. The proposed shed is approximately 240 square feet and will require a building permit, with permanent foundation and fire rated walls, to bring it into full compliance with City of Helena regulations.

This variance is to decrease the side lot line setback from 8' to 1' due to the location of the existing building and the limited ability to relocate the shed due to the location of other structures on the site.

Section 2 – Variance Request

The applicant has requested the following variances:

1. A variance from Helena City Code Section 11-4-2 to reduce the side lot line setback from 8' to 1' for a structure located in a R-2 zoning district, with the address of 1913 Leslie Avenue, and the geocode of 05188723444220000, and legally described as:

Lot B of the Amended plat of Lots 3 through 12 in Block 173 of the SYNDICATE ADDITION to Helena, as shown on Certificate of Survey filed under Document Number 460738/E, records of Lewis and Clark County, Montana.

Section 3 - General Information

Application Date: January 29, 2026

Public Hearing Dates: Board of Adjustment March 3, 2026

Applicant: Robert Kirkland
1913 Leslie Ave
Helena, MT 59601

Property Owner: Robert Kirkland
1913 Leslie Ave
Helena, MT 59601

Legal Description: Lot B of the Amended plat of Lots 3 through 12 in Block 173 of the SYNDICATE ADDITION to Helena, as shown on Certificate of Survey filed under Document Number 460738/E, records of Lewis and Clark County, Montana.

General location: This property is generally located on the south side of Leslie Avenue, between Linden Street and Joslyn Street.

Present Land Use: Residence, Single-dwelling unit

Present Zoning: R-2

Adjacent Land Uses:

North: R-2 - Residence, single-dwelling unit
 R-2 - Mobile Home Park

South: B-2 - Residence, single-dwelling unit
 Residence, multiple dwelling units

East: R-2 - Residence, single-dwelling unit
 Residence, multiple dwelling units
 B-2 - Residence, single-dwelling unit

West: R-2 - Residence, single-dwelling unit
 B-2 - Residence, single-dwelling unit
 Helena City Limits on the west side of Joslyn Street

History of Applicable Permitting Action:

1989 – Sewer Tap
 1998 – Sewer Inspection
 2016 – Annexation in to the City via Resolution 20243

Tract/Property Size: Approximately 0.19 acres

2025 Land Use Plan Designation(s):

Urban Residential – Urban residential areas are located near Helena’s core and are designated to support moderate- to high-density residential development while accommodating a range of complementary business types. These areas should offer a diverse mix of housing options in addition to single-family detached homes, townhomes, duplexes, and triplexes, and multifamily developments of more than four units to promote greater density and housing variety in a walkable environment. Additionally compatible commercial uses such as small-scale retail, cafes, professional offices, and personal services should be incorporated to encourage mixed-use neighborhoods.

Section 4 - Public Process

- A. Variance applications are filed with the Community Development Department and any required fees must be paid upon submission of an application. The application will then be reviewed by City staff per City Code Section 11-5-1.
- B. The Board of Adjustment shall hold a public hearing and make a determination per City Code Section 11-5-2.

This review process as defined by city code allows for public comment, staff review and vetting through city departments and appointed and elected boards or committees prior to approval. As part

of this process, the Community Development Department sends the application materials to applicable departments for their review and comment. This leads to a full evaluation of potential impacts and helps determine how the proposed conditional use relates to the review criteria.

Public Comment

Two integral parts of the review process are the conducting of public hearings and the solicitation of public comment. As of February 20, 2026, one comment has been received regarding the variance request. Public comment received by this date is located in Appendix B.

Section 5 -Evaluation

The property at 1913 Leslie Avenue currently has the land use of Residence, Single-dwelling unit and is zoned R-2. The applicant is seeking to bring a prefabricated shed that was installed in the setback into compliance.

Evaluation by City staff is based on compliance with Helena City Code. This evaluation of the proposed variance with City Code compliance does not constitute a recommendation to the Board of Adjustment and is not based on the Board of Adjustment review criteria outlined in Helena City Code 11-5-5.

The Applicant is requesting the following variances:

1. A variance from Helena City Code Section 11-4-2 to reduce the side lot line setback from 8' to 1' for a structure located in a R-2 zoning district, with the address of 1913 Leslie Avenue, and the geocode of 05188723444220000, and legally described as:

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ZONING EVALUATION for the property legally addressed as 1913 Leslie Avenue, Helena, MT, located in aR-2 zoning district.

ZONING REQUIREMENT	Applicable ZONING REGULATION	PRESENT CONDITION	PROPOSAL	VARIANCE REQUIRED
City Code: §11-4-2 (Table 2) (R-2)	8' minimum Side Lot Line Setback	Approximately 1' to shed from property line	Allow a variance to reduce side setback to allow the shed to stay in its present location for site access.	Yes

Section 11-5-5 of the Helena Zoning Ordinance includes certain criteria that must be reviewed as part of the variance procedure.

- A) *Notice of the board's hearing of each application must be published in a newspaper of general circulation within the city once, at least fifteen (15) days prior to the hearing date.*
- B) *The board of adjustment shall hold a public hearing on the application to gather facts and information. Persons interested in the requested variance and community development department staff may testify at the public hearing.*
- C) *To approve a requested variance for a new building or portion thereof, the board of adjustment shall consider the following standards and find as follows:*
 - 1) *The variance will not create a significant risk to the public health, safety, or general welfare;*
 - 2) *The variance will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located; and*
 - 3) *Strict compliance with the provisions of this title would create unnecessary hardship or practical difficulty.*
- D) *In evaluating the standards in subsection C of this section, the board of adjustment may consider the following factors:*
 - 1) *Special conditions and circumstances that are unique to the applicant's site, including the size of the property, unusual or extreme topography, or unusual shape of the property.*
 - 2) *The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.*
 - 3) *Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.*
 - 4) *The subsequent imposition of zoning restrictions creating nonconforming lots or parcels, and governmental actions beyond the applicant's control.*
 - 5) *Whether a literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.*
 - 6) *The extent to which the hardship or difficulty results from the actions of the applicant.*
 - 7) *Whether granting the variance requested will confer an unreasonable special privilege to the*

subject property that is not available to other properties similarly located in the same zoning district.

- E) *A property owner who desires to reconstruct a nonconforming building or nonconforming portion of a building must apply for a variance. When reviewing the variance to reconstruct a nonconforming building, the property owner is entitled to a rebuttable presumption that the standards in subsection C of this section are met if the property owner can prove the existence of the prior nonconformity and that the nonconformity can be in compliance with building and fire codes.*
- F) *The board of adjustment may impose conditions to minimize adverse impacts that the variance may have on the public health, safety, or general welfare. Any approval that includes conditions is subject to the terms of the conditions. Conditions stated in the approval may include, but are not limited to:*
- 1) A time period in which the proposed structure shall be completed; and*
 - 2) Other conditions necessary to mitigate adverse effects from the variance.*
- G) *Any variance from the maximum number of off street parking spaces, as specified in section 11-22-6 of this title, must require that a minimum of twenty percent (20%) of the parking area be landscaped in accordance with the standards in chapter 22 of this title. This landscaping is in addition to the requirements of chapter 24 of this title. The board of adjustment may also place conditions, within applicable city code provisions, on the location and permissible types of surfacing materials for off street parking and loading areas.*
- H) *If a variance to the zero foot setback is requested in Downtown or Transitional Residential Districts, the maximum setback allowable along the primary and secondary lot line cannot exceed ten (10) ft.*

STAFF ANALYSIS OF EVALUATION FACTORS STATED IN HELENA CITY CODE 11-5-5

1. *Special conditions and circumstances that are unique to the applicant's site including the size of the property, unusual or extreme topography, of unusual shape of the property.*

The site does not have any significant topographic concerns, or unusual shapes or sizes.

2. *The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.*

The site was developed in a diagonal fashion, which limits the areas in the front of the building which would have access to Leslie and allow for enough distance from the right-of-way to allow for parking between the structures and the right-of-way.

Construction of the dwelling on the parcel predates the annexation of the property into the City of Helena.

3. *Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.*

As this area was developed prior to annexation into the City of Helena, there are numerous garages, sheds, shops, and dwellings that have less than the minimum 8' side setbacks.

There are also existing non-conformities for front setback, garage setback, and alley setback present in the vicinity.

4. *The subsequent imposition of zoning restrictions creating nonconforming lots or parcels and governmental actions beyond the applicant's control.*

As noted above, this area was annexed in 2016, with the dwelling on this parcel dating to 1999, per Cadastral records. At the time of placement of the primary structure, City of Helena setbacks were not considered. While this does not remove structures added after annexation from zoning requirements, it shows the reasoning for the placement of the previous construction in a manner that may impact future development.

5. *Whether a literal interpretation of the provisions of this title would deprive the property owner of the rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.*

There are similar properties and non-conformities in the area but as many of these predate annexation, and some may not have required building permits after annexation, City Staff are unable to determine if all of these are lawful nonconformities or if they are in violation of the City of Helena zoning ordinances.

6. *The extent to which the hardship or difficulty results from the actions of the applicant.*

While it is the responsibility of the property owner to know the regulations for any proposed development of their property, in this situation a shed manufacturer disregarded building and zoning codes during the construction, sale, and delivery of their product, without informing the property owner of other actions they may be required to take.

7. *Whether granting the variance requested will confer an unreasonable special privilege to the subject property that is not available to the other properties similarly located in the same zoning district.*

This would not create an unreasonable special privilege, as noted elsewhere in this report there are other non-conformities in the nearby R-2 zoning.

8. *Do you think a rebuttable presumption, as identified in City Code Section 11-5-5(E), should apply to your property, yes or no? For example, do you have an existing non-conforming structure that you wish to rebuild in the same location? If yes, show the original footprint of the building. Provide documentation that proves the existence of the prior nonconformity. Document that the nonconformity can be in compliance with building and fire codes.*

No, this is new construction and rebuttable presumption does not apply.

9. *Provide any additional information you would like the Board to Consider.*

Per the applicant, this is a structure to house a 1/3 scale show car, and current options of storing it in a trailer are causing degradation to the wood portions of the vehicle.

Section 6 – Department Comments

During the review process, relevant City departments provide comment on variance proposals. The following responses have been provided by the departments designated representatives.

Transportation:	Although the proposed building is being called a "shed" it will be used as a garage and must conform to the minimum 20' setback from the property line.
Legal:	No comment.
Utility:	Not required.
Fire:	No comment.
Engineering:	No comment.
Building:	IRC Table R302.1(1) - Walls less than 5' from the property line are required to be 1-hour fire-resistant rated construction from both sides. Projections less than 2' are not permitted. Projections 2' to less than 5' from the property line are permitted to be 1-hour on the underside, or heavy timber, or fire-retardant-treated wood. Openings are not permitted less than 3' from the property line.

Section 7 – Variance Motion

It is the recommendation of the City Attorney's Office that staff does not make a recommendation to approve or deny a variance.

If the Board of Adjustment approves the requested variances, the following conditions are recommended:

Building Permit: A building permit must be obtained within one (1) year

Variance Motions:

1. A variance from Helena City Code Section 11-4-2 to reduce the side lot line setback from 8' to 1' for a structure located in a R-2 zoning district, with the address of 1913 Leslie Avenue, and the geocode of 05188723444220000, and legally described as:

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Appendix A - Maps

1913 Leslie Ave Vicinity Map



— Paved
— Unpaved
- - - Alley
[Red Box] 1913 Leslie Ave
[White Box] MT Parcels w Condos

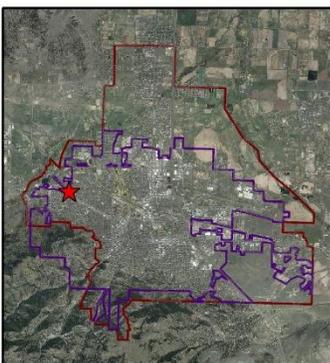


Community Development
City/County Building
316 North Park Avenue, Rm. 445
Helena, MT 59623



0 35 70 140 210 Feet

Legal Description: SYNDICATE
ADDN (HELENA), S23, T10 N,
R04 W, BLOCK 173, Lot B,
SERIAL # 47995720766,



1913 Leslie Ave Zoning Map



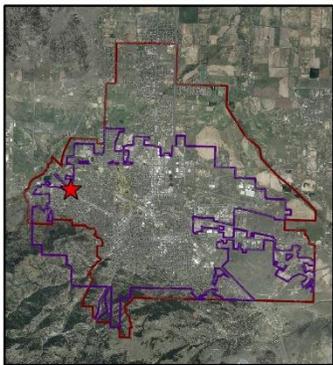
- Paved
- Alley
- ▭ 1913 Leslie Ave
- ▭ MT Parcels w Condos
- ▭ R-2 Residential District
- ▭ B-2 General Commercial District



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Legal Description: SYNDICATE
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1913 Leslie Ave Utility Map



— Paved
— Alley
— 1913 Leslie Ave
— MT Parcels w Condos

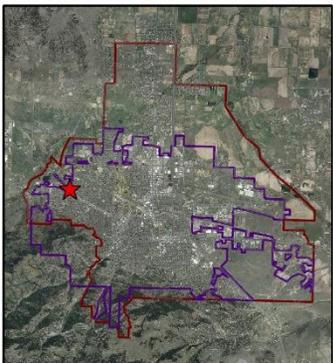


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0 10 20 40 60 Feet

Legal Description: SYNDICATE
ADDN (HELENA), S23, T10 N,
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1913 Leslie Ave Future Land Use



— Paved
- - - Alley
▭ 1913 Leslie Ave
▭ MT Parcels w Condos
2025 LUP - Future Land
▭ Urban Residential

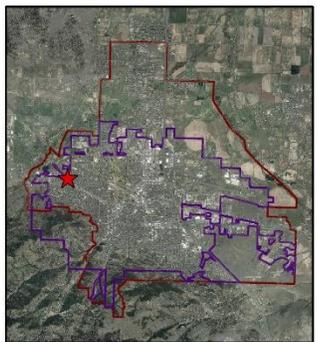


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Appendix B – Public Comment

To: Kyle Holland
City of Helena Community development dept.

I am the neighbor next to Rob Kirkland. Regarding the shed that is near the property line, I have no issue with this. It doesn't bother me at all. If you have any questions, feel free to reach out.

-Ben

Benjamin Smith
1909 Leslie Ave
Helena, MT
406-461-9555



Kyle Holland, **Planner II**
Community Development Department
316 North Park Avenue, Room 445
Helena, MT 59623

: Phone: 406-447-8492
: Fax: 406-447-8460
: Email: kholland@helenamt.gov

helenamt.gov

Date: February 12, 2026

TO WHOM IT MAY CONCERN: Variances from district dimensional standards requirements are being proposed in your area. Please review the enclosed description, and vicinity map. You may respond to the proposal at the public hearing or submit written comments prior to the March 3, 2026, Board of Adjustments public hearing to the City Planning Division, 316 North Park, Helena MT 59623.

The Helena Board of Adjustments will hold a public hearing on the variance request on Tuesday, March 3, 2026 at 5:30 p. m. in person in the Commission Chambers and via Zoom at <https://us06web.zoom.us/j/86825428972> Meeting ID: 868 2542 8972. Dial in at (346) 248-7799 or find your local Zoom phone number by going to <https://zoom.us/u/abx78Gko9e>.

Interested parties are encouraged to attend this meeting. We may not be able to reach all who may be interested in this application, and we encourage you to talk to your neighbors about this proposal.

PROPOSAL:

1. A variance from Section 11-4-2 to reduce the side lot line setback from 8'-0" to 1'-0" in a R-2 zoning district for a property located at 1913 Leslie Avenue, and the Geocode of 05188723444220000.

The reason for this variance is to bring a prefabricated shed on the property into zoning compliance.

ADDRESS:

This property is located at 1913 Leslie Ave with geocode 05188723444220000.

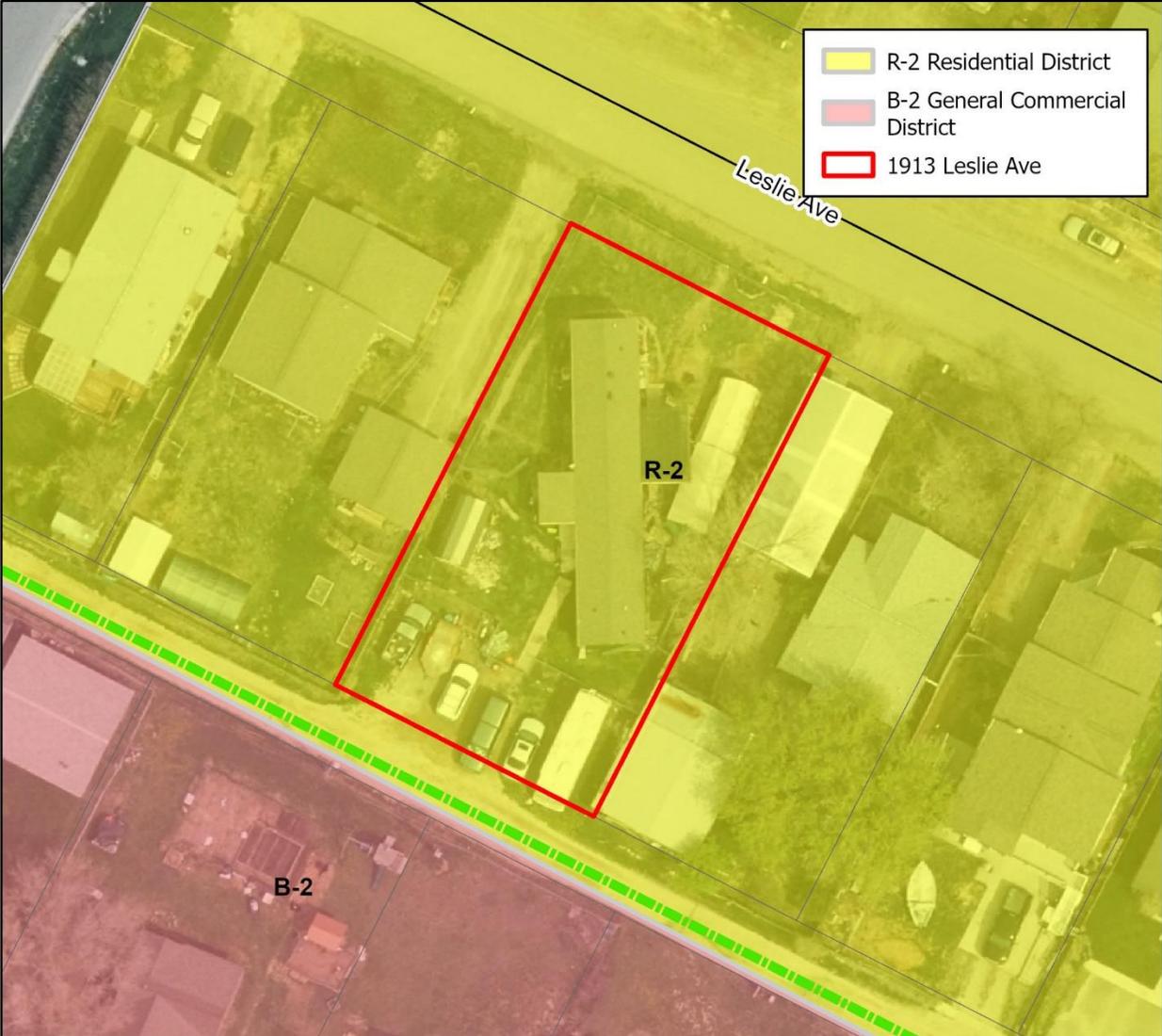
GENERALLY LOCATED:

This property is generally located on the south side of Leslie Avenue, between Linden Street and Joslyn Street.

Sincerely,

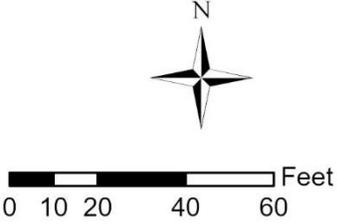
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1913 Leslie Ave Zoning Map



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