

ZONING AND PLANNING BOARD MEETING MINUTES

November 17, 2022, Zoning & Planning Board meeting was called to order at 7:00PM at City Hall at 206 Main Street, Three Forks, MT 59752, and via Zoom (Zoom is a virtual meeting tool being used due to COVID-19 and social distancing guidelines).

Members George Chancellor, Kelly Smith, Amy Laban, Matt Jones, were present at City Hall. Niki Griffis attended via Zoom. City Planner Randy Carpenter and City Attorney Susan Swimley were also at City Hall.

Public Present: Rick and Valerie Lamb, Mike and Gloria Howland were all present at City Hall.

Chairman Chancellor reminded everyone the meeting was being recorded.

PUBLIC COMMENT (items not on the agenda): There were no public comments on items not on the agenda.

CONSENT AGENDA

Minutes from the meetings held on 10/20/2022

Amy Laban moved to approve the minutes. Matt Jones seconded the motion. Crystal Turner explained she misspelled Kevin Underwood's name in the first paragraph and had an extra "a" in the first paragraph where Randy Carpenter is explaining the staff report. Crystal has fixed both those edits.

Motion Passed Unanimously.

NEW BUSINESS

There was no New Business.

PUBLIC HEARINGS

Public Hearing and Recommendation on an Amendment to an approved Conditional Use Permit for Rick and Valeria Lamb, as A & L Investments, LLC, for the property located at Lot 4-A-1, Block 12 of Headwaters Addition, Commonly Known as 95787 MT-Hwy 2/Frontage Road. This application requests to complete an awning on the southwesterly and southeasterly side of the storage building. Application also requests to complete a 1-bedroom apartment within the storage building, to be rented year-round, including adding stairs and a deck attached to the outside of the service building on the southeasterly side, with designated parking, as well as move the proposed fire pit location.

Randy Carpenter clarified first that he has been informed the applicant is no longer requesting the apartment in this application tonight. George Chancellor confirmed this. Randy Carpenter read his staff report into the record, including a brief detail of the timeline and history since the original application and amendments. For the awning and fire pit location only...(he was interrupted).

Susan Swimley asked to speak. She said this application was submitted with three requests: the awning the fire pit and the apartment. When she read the staff report – frankly there needs to be a lot more analysis regarding the apartment. "It's obviously been an issue that has been addressed multiple times, but I asked that we separate the apartment and hear that in January and you will get a staff report only focused on the

ZONING AND PLANNING BOARD MEETING MINUTES

apartment at that time,” Susan said. She hopes the Board will not have to hold a meeting in December, and she will prepare more information for input on the staff report for January’s meeting.

Randy continued that for just the fire pit location and the awning he recommends approval of the conditional use permit amendment.

Applicant Presentation: Rick Lamb introduced himself and said that he and his wife, Valerie, just want to finish the storage building and add the awning on the outside, and put back in a fire pit location which was discussed in the first proposal with the additional 20 RV slots. He wants to provide a nice shaded area for his guests and the fire pit would be in that area.

Public Comment: Chairman Chancellor read the letters from Diane Fuhrman and D.K. Brooks into the record, both of which recommended denial due to numerous changes from what was originally presented to the City Council. Susan Swimley asked that both letters be included in the packet when the apartment is discussed in January. Mike Howland spoke that he thought there was something that was signed that basically said if he [Lamb’s] changed anything the entire thing would be revoked. “I agree with D.K., what is the point of having the rules if no one has to follow them? Why not just unincorporate and let people do whatever they want?” Mr. Howland posed to the Board. Susan Swimley replied she will address that when public comment is over. Gloria Howland spoke that the building was approved for “personal use” only, that is what the applicant said it would be used for.

Chairman Chancellor closed public comment.

Susan Swimley spoke to provide clarity – she understands that people want to voice their frustrations about the apartment. She was a part of the documented amendment agreement, and she was a part of the original inspection, and there is nothing in the amendment that precludes the owners from coming back and seeking a permit. The apartment is not supposed to be used, and it is not being used. It needs to have its own focus on what has happened, what has been done, and what can be done within the confines of the law. “I ask you to focus on amending this permit to allow the awning and moving the fire pit to the newly proposed location, and what impacts those two things have on the overall conditional use permit,” Susan directed to the Board.

Applicant Rebuttal: Valerie Lamb said this going to be beautiful project, we will not make anything awful. We are making a place that anyone can use. “I would just ask that you would please let us at least finish our building before winter. It will be shade for our people and there is nothing else it will be used for. Our fire pit, we have been in many campgrounds that each slot has a fire pit. We don’t want that, we want a communal fire pit. This is a safe spot and a fire truck could come in. Fire pits are nice to relax to, and we do not currently provide that. It will not be a danger or hassle for anybody. We have really good guests that come to our campground who are respectful, law-abiding people and if they are not they are asked to leave,” Mrs. Lamb said.

Susan Swimley asked if the Lamb’s already have quiet hours, and Valerie Lamb said yes, quiet time is at 10:30.

Board Questions/Comments: George Chancellor spoke on the history of applications, work done, with and without permits and timeline of various violations. He said allowing Mr. Lamb to do what he is asking now

ZONING AND PLANNING BOARD MEETING MINUTES

invalidates the Board's previous recommendations, the City Council's decision(s), and the city government as a whole, "Why have a CUP? Just do it," he said. As a Board we need to leave the agreement that Rick Lamb chose to sign in full effect.

Amy Laban said she read the signed agreement and believes it to read that changes to what has been done and agreed upon are allowed.

Matt Jones said he would hate to see the list of violations George may have on himself, and then asked George where he got that information. George replied it was all compiled from city records. Matt said he thought that anyone could apply to change something in a conditional use permit. "Taking the apartment out of the equation, an awning on the side of the building, or a fire pit being moved from one location to another does not appear to me to impact the overall CUP," Matt said. "In response to your list of violations, I don't see an impact on this or anything needing to be mitigated." (Lost audio briefly in the Zoom link so the recording is missing a minute or so of discussion, which Crystal recapped to Niki Griffis once the audio connection was restored.)

Niki Griffis agreed with Matt. "Maybe I wasn't involved in the previous things as much so I am looking at it a little differently. I am separating out the fire pit and awning issues and I don't see a reason that would be an issue, or cause adverse effects, in the community."

George Chancellor said, "I don't have an issue with having an awning. I do have an issue that Rick signed an agreement saying there will be NO MORE CHANGES to that building unless he came before the City. He did not do that. I feel that approving this CUP amendment will be an issue for the Zoning Board and the City Council, the City government as a whole, because we haven't held him to the agreement that he chose to sign."

Matt Jones asked Susan Swimley to clarify the intention at the time that the agreement was drafted, does that mean nothing could ever be changed? Susan said no, that was not the intention. George argued that he does not have issue with the requested change, "He has that right to request a change. But we have a right to the citizens that opposed him all along who gave input for the conditions based on the community's input, then disregarded them [conditions] and changed [the building] without permission first." Matt Jones tried to understand George's take on amendments to approved conditional use permits. George said, "He applied for X, and he signed an agreement that X is all that was to be done. But then built X+." Susan Swimley said that she disagrees with George's take on the process. Susan said, "The agreement says he won't use the building or do anything to the building without asking for permission. They are here now to ask permission to install the awning and put a fire pit on the property. I understand your ire and frustration, regardless of the personal feelings the Board needs to look at the application is and what the impacts are and if they can be mitigated." George replied, "The impacts are that we agreed to an agreement, but everyone else sees it as "A CUP doesn't mean a [expletive] thing'."

Kelly Smith read City Ordinance #11-20-5(A) No person shall hereafter erect or construct, or proceed with the erection of or construction of, any building or structure or externally add to or enlarge, alter, repair, remove or convert, extend or demolish any building or structure without obtaining a permit. Then she also read MCA 76-2-308 which states, "In case any building or structure is erected, construction, converted...is used in violation

ZONING AND PLANNING BOARD MEETING MINUTES

of this part or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality...may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration...or use..." Kelly continued, "I'm not opposed to the awning or the fire pit but I am opposed to people doing stuff and not following zoning. It's getting worse and worse, they build a shed without permits, they build on the property line. We have no authority to stop them, what is going to stop them?" Susan Swimley said in this situation it was the City enforcing, rather than filing a lawsuit and spending months to enforce we entered into an agreement with the City. If they change the building without permission then we could immediately go to a judge and remedy that situation. Regardless of all the history it is really inappropriate to take out your frustrations on enforcement of any ordinances on this application. Kelly replied there has been work done, after the agreement was settled. "Shouldn't there have been a signed amendment to the agreement that heaters were going to be installed but it is unsigned still, and the heaters are installed and in there?" Kelly asked. "We have a violation of the original agreement because there is not a signed amendment yet," Kelly said. Susan Swimley replied that this Board needs to have a meeting, without an application, and have a frank discussion about the real processes that work and the cost. Then the Budget Committee will need to rethink what they are doing with their budget and how they react to uses of the budget.

George Chancellor made a motion to table this until first discussion. Susan Swimley questioned why it would be tabled, to which George replied that she just said we needed further discussion. Susan corrected him, "On enforcement." George continued, "My notion for enforcement on this case is to not allow the awning, not allow the steps or deck, whatever." Susan questioned the impact. George replied, "The impact is this: I don't care of the fire pit, but this community sees this man break rules all the time, comes back for forgiveness, we let it slide, and he gets to do whatever he wants. He signed a document that said he is not going to make any changes to the building." Susan Swimley said George is penalizing the applicant. "He has put heaters in the apartment, and now he wants to put the awning on. He can take his [expletive] ledger off and put the siding up," George argued. Rick Lamb stated that heaters are in the new building. Valerie Lamb asked if they could provide more public comment and George said no, that public comment has been closed and so is the applicant comment closed, unless the Board has a specific question of the applicants. George continued, "It is my contention that is we let anything go with this agreement that he has signed, it is going to go a mile, and he has done that with the heaters. He installed them without the appropriate permission," George said in frustration. Susan Swimley stated she has provided advice to the Board and it sounds like George will not be taking that advice.

Matt Jones said he is not up to speed on the heaters, but it sounds to me like you are punishing for a grief, and not actually dealing with the matter at hand so, I move to approve the addition of the awning on the building and the placement of the fire pit. Amy Laban seconded the motion, "Based on the fact that from what I read in the agreement they are allowed for additional amendments to the CUP and that is what is happening. As far as the fire pit and awning go alone and singularly, I will second that motion." Susan Swimley encouraged the Board to add findings into the record. Matt Jones there is no impact to the community, the neighbors around that RV park (in my eyes that says) the addition of that awning will impact them in any way. I don't think it needs hidden by trees, the fire pit was always initially intended in the RV park plan. No one had a problem with the fire pit in the past, so I don't think those need mitigated. Amy Laban agreed. Niki Griffis asked if the fire pit is located far enough from any buildings that it will be able to be safe? Rick Lamb answered yes.

ZONING AND PLANNING BOARD MEETING MINUTES

Motion Passed 4:1, George Chancellor opposed.

OLD BUSINESS

There was no Old Business.

Amy Laban moved to adjourn. George Chancellor seconded the motion.

Motion Passed Unanimously.

Meeting was adjourned at 7:42PM.