

## **ZONING AND PLANNING BOARD MEETING MINUTES**

**July 22, 2025**, Zoning & Planning Board meeting was called to order at 6:36PM back at City Hall, located at 206 S. Main Street, Three Forks, MT. This was a joint meeting with the Board of Adjustments as well.

Zoning Members present were: Matt Jones, Kelly Smith, Jacob Sebens, Amy Laban, Reagan Hooton and Racheal Tollison were present. Niki Griffis was excused. Board of Adjustment Members present were: Kenny Fendler, Alex Blackburn, Richard Russell, and Reagan Hooton (also a member of this board). Michele McLeod was excused. City Planner Randy Carpenter and City Attorney Susan Swimley were present at City Hall. Lee Nellis (consultant for Impact Fees and Zoning/Subdivision Regulation rewrite) attended via Zoom. (Zoom is a virtual meeting tool allowing people to attend remotely, which started as an option during the COVID-19 pandemic and the City has continued to offer for meetings.) There was a quorum with the attendance of six Zoning Board and four Board of Adjustments members, and the meeting was held. The minutes were completed by City Clerk Crystal Turner after the meeting.

Matt Jones called the meeting to order. She reminded all that the meeting was being recorded.

Public Present: None

**PUBLIC COMMENT** (items not on the agenda): There was none.

### **CONSENT AGENDA**

#### **A. Approval of the 6/18/25 Meeting Minutes**

Amy Laban moved to approve the minutes. Reagan Hooton seconded the motion. Motion passed 6:0.

### **PUBLIC HEARINGS**

There were no public hearings.

### **OLD BUSINESS**

#### **A. Discussion Regarding Chapter 4 – Permits**

This item was skipped for now.

### **NEW BUSINESS**

#### **A. Discussion Regarding Chapter 7 – Appeals and Variance Procedures**

Chairman Jones turned it over to Lee Nellis. Mr. Nellis thanked the Board of Adjustment members for attending tonight. He said their roles are established in Chapter 3, but then the details of how they would handle an appeal are in Chapter 7. He asked the Board members to interrupt if they had any questions.

“The purpose is to setup procedures for appeals from staff decisions. This specifically does not use the exceptions in MCA given, like the “brother-in-law” clauses. We are not going to build loopholes into the code. This chapter explains how to handle an application, how to handle it if it is incomplete, and all through the process,” Lee explained. He added that he does not

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accept the decision by staff that *an application is incomplete*, and rather take that to the Board to decide on whether the staff decision is correct that an application is complete.

“Secondly, the Board could approve or deny zoning permits that were approve or denied,” Lee continued. Lastly, he explained (that this would not happen very often) that staff could interpret the Zoning Map which the applicant could appeal that determination. Lee continued reading the chapter to the Boards, and explained the required timeline to hear an appeal, including the required notice. This chapter also states the staff report and all applicable documentation will be provided to the Board no later than four days prior to the scheduled meeting. “For appeals of staff decisions, if the Board agrees staff was incorrect it would notify in writing the appellant and direct staff to amend its direction in the future regarding that decision. This chapter also addresses findings the Board must make when it decides upon an appeal,” Lee said.

Alex Blackburn questioned where the Chapter says that a letter will be sent to the appellant, and if that would be put together by the Board or the staff? Lee replied that it’s for good documentation, and the decision/direction would be made by the Board but ultimately the letter would be drafted by staff but it would capture the Board of Adjustments conversation and direction, most likely this would be written by Randy Carpenter. Susan Swimley clarified that the Board could designate someone to sign the letter, which is defined in the bylaws. Lee said the conduct of the Board’s business is best defined in its bylaws, which would not be codified in the ordinance since the board could change its internal process without having to change and ordinance, because an ordinance takes time to edit. “If the Board wants to change its meeting date, its operating procedures, etc. it is much easier to do outside of an ordinance,” Lee said. Lee asked for confirmation that there are bylaws for the Zoning & Planning Board, but not drafted for the Board of Adjustment? Kelly Smith replied that is correct. Susan Swimley said she should have asked this morning in the staff meeting, in 11-7-5-C, after the phrase *unnecessary hardship* we should add *which shall not be self-imposed*. Lee said he would add that language. Kelly asked if the Board of Adjustments would be involved in helping draft its bylaws? Lee said yes. Kelly offered for she and Crystal Turner to draft the bylaws, and then hold a mock meeting since there are new members. Kelly believed it has been over a year since the last meeting. Lee said that would be a good idea.

Regarding 11-7-4-B, Alex stated the Board Chair would schedule the meeting? Kelly said that is new, that according to the way it is written staff would go to the Chair first and find a date, and then it would go to the Board to be scheduled.

Kelly asked if the last word in 11-7-4-H should be “variance” and not “appeal”? Lee said yes and that he would change it.

Alex asked if the staff did make an error, how would that be handled, would it come from Susan Swimley? Susan provided an explanation/example, and said the Bylaws should address that clearly.

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Ken Fendler left the meeting.

### **B. Discussion Regarding Chapter 6 – Conditional Use Permits Procedures**

Lee Nellis started off that it is sometimes perceived that a conditional use permit is wide open to list conditions and then be approved. “We need to be clear that this is not the case. The reason we have conditional use permits, is that some uses vary quite a bit, some uses are less easy to determine how to regulate,” he explained. He provided an example of a metal foundry in Red Lodge right downtown.

Reagan Hooton asked what “occupancy H” uses are. Lee explained that they are essentially underdetermined and will need to ensure they are safe for the neighborhood. He stated he has the definition defined in that applicable chapter.

Lee talked about shared parking agreements. He added that he has attempted to clarify nonconforming uses. “The reason I do this is because if you are too strict about nonconforming uses what happens is the owner will let it deteriorate as to not make any changes. We want to limit that as much as possible,” he explained. Kelly asked about making multi-family dwellings not conditional, and a use by right as long as it follows precedented conditions? Lee said he was going to do that and present it to the board on a tiered basis and he suggests the Board make more things available by right. Matt Jones asked if that is for new construction only, or you could just turn your house into a duplex? Kelly said this Board has given the same conditions to all multi-family conditional use permits so far, so that is what we are talking about: continuing those conditions and just allowing it if the applicant meets them, or does the Board want to continue hearing each individual application. Randy Carpenter chimed in that it can be challenging, “The R district now allows multi-family by right.” Lee said the Board will discuss this at a future meeting.

Lee continued explaining to the Board the process of Conditional Use Permits by providing a synopsis of 11-6-4. He mentioned there will be a checklist for everything in these ordinances. Lee then covered the Council’s review as written in 11-6-5. “The City does not authorize construction. The way you can enforce the way something is built is by revoking zoning permits. The Zoning Permit will need to state what the CUP allows,” he said. He continued with how to handle when a permit expires.

Susan Swimley asked if “significant change” is defined in the Definitions Chapter. Lee answered yes, and it is in Chapter 5 as well. Kelly Smith asked where it says things like *the width of the public right of way*, will it be changed in these drafts for us to see those things we have already discussed being consistent throughout. Lee answered he believed Randy was

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already working on that. Kelly stated *working days* and *business days* should be consistent. Randy Carpenter asked Kelly to send him those reference locations.

### C. Discussion Regarding Process for This Project

Lee Nellis asked how many, and which chapters, does the Board want to see next? Kelly Smith said the Board needed to discuss the process first. Kelly added, "How much is too much? We don't want to burn you out. Like, we staff met this morning to review these chapters and made some changes. Matt Jones said, "The Chapter you guys discussed in your staff meeting, why are you doing that so late? Why did you not make those changes and send them out to us before? Why not bring them with the changes to this meeting so we don't have to hear *Oh we already made that change?*" Kelly said that leads to #b below, "I did not feel OK to send out stuff at 5PM on Friday of rodeo weekend for a Tuesday meeting. I don't think that is giving the Board enough time to read things and digest it and come up with questions." Racheal Tollison said it depends on how much is on the agenda, but if they are relatively short we can probably handle two or three chapters. Kelly asked if that includes the ones that are final drafts and ready to be moved on to the Council? Matt answered yes, he thinks those can be hammered through pretty quickly because we've talked about those twice before, and so new chapters could be two or three. Susan Swimley said we want your input on the procedures for sure, and when you get to the discussions of what does density look like in residential for example, that may be a one chapter night. Matt agreed, he said he would like more than 3 days notice. Kelly asked if anyone else what having any other issues that have not been brought up? Amy Laban said she would also like to see clean versions. Susan asked, "If you do not have any applications on your agenda, would you be willing to see Chapters 1-7 to get through the procedural chapters?" The Board agreed; it will hear Chapters 1-5, and 7 at its next meeting to send on to the Council. Chapter 6 will wait until the procedures are defined.

- a. **How many chapters/Pages per Meeting Maximum**
- b. **Lease Number of Days to be Provided Chapters Before Meetings**
- c. **Other Issues**

### D. Discussion Regarding Chapter 5 – Zoning Permit Procedures

Lee Nellis provided an overview with examples of Chapter 5, similar to reading it into the record but not word for word.

Amy Laban said she believed the Board has already spent a lot of time on this. Reagan Hooton asked if all the chapters will come before the City Council at once, or does the Council have the right to limit how many ordinances it hears at once? Kelly said the Council will hear a few at a time.

Lee said that he will be in Montana the third and fourth week of August, and would like to attend a meeting in person, so hoped the Board would move its meeting because he has another engagement on the third Thursday. He would also like to do a training session on going through a hypothetical development and go through the performance standards and checklists. It did not work for most Board members' schedules, so Randy Carpenter suggested moving the training session to September or October.

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### **NEXT CHAPTER(S) TO COME TO THE BOARD:**

Chapters 1, 2, 3, 4, 5, and 7 will be final review and move on to the City Council. Chapters Central Business, Agricultural, Highway Commercial and Public Lands will be reviewed in depth.

### **ITEMS FOR THE NEXT MEETING IN AUGUST.**

There was discussion on the next meeting date. The meeting will be held on the 28<sup>th</sup> of August, which is a Wednesday, at 6:30PM.

Amy Laban moved to adjourn. Jacob Sebens seconded the motion. Motion passed 6:0. Meeting was adjourned at 7:30 PM.

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