



City of Hamilton Annex
920 New York Avenue
Hamilton, MT 59840

MINUTES OF THE CITY OF HAMILTON
ZONING BOARD OF ADJUSTMENT MEETING
JULY 25, 2016

TOPICS FOR DISCUSSION: CUP2016-03
Philip DiJoseph
105 & 107 Belmont Avenue

 CUP2016-01
Brian & Heather Appel
825 Running Creek

1 The following members were present: Sue Smith, John Trangmoe, Vivian Yang and Donna
2 Larson Shulund
3
4 Clayton Dethlefsen, Darwin Ernst and Donald Ramer were absent
5
6 Staff Present: Land Hansen, Zoning Administrator; Karen Mahar, City Attorney and Kim
7 Charlton, Secretary
8
9 Also present: Doris Stevens, Philip DiJoseph, Doug Shallenberger, Debbie Thacker, Kristen
10 Woods, Heather and Brian Appel
11
12 Vice Chairman Vivian Yang opened the Zoning Board of Adjustment meeting at 5:36 p.m.

13
14 GENERAL PUBLIC COMMENTS: None
15

16
17 NEW BUSINESS: CUP 2016-03
18 Philip DiJoseph
19 105 & 107 Belmont Avenue

20 OLD BUSINESS:
21 CUP 2016-01
22 Brian & Heather Appel
23 825 Running Creek Street
24

25 STAFF COMMENTS:

26 Land Hansen stated duplex dwelling units are allowed in an RS zone with a conditional use
27 permit. More and more residents are looking for these types of units. This conditional use
28 permit request meets or exceeds all of the set-back requirements as well as the parking
29 requirements.

30
31 APPLICANT PRESENTATION:
32 Phillip Di Joseph presented his request to build two (2) duplexes on two city lots within a single
33 family residential zone. Mr. DiJoseph stated the pictures submitted are exactly what his
34 duplexes will look like.

35
36 Hansen noted there is a twenty (20) foot easement that runs behind three (3) of the four (4)
37 subdivided lots. Hansen stated the applicant hopes to pave or rock as his budget allows. Hansen
38 to DiJoseph, please address this with your building permit application.

39
40 Yang asked if it was a private driveway.

41
42 Hansen explained this access is off of the alley to access the four (4) subdivided lots from the
43 rear of the properties.

44
45 Mr. Shallenberger, the current property owner, stated he is aware of the SID requirement that he
46 agreed too when the subdivision was approved for sidewalks, curb and gutter.

47
48 Hansen stated Ravalli Services owns the building across the street.

49
50 Yang stated they received one public comment from neighbor Glenna Scott.

51
52 Mr. Shallenberger stated he is the property owner and he is in favor of the duplex request. He
53 feels it is a good fit for the property. Mr. DiJoseph would like to purchase this property if a
54 conditional use permit is granted.

55
56 Doris Stevens lives next to the property. She asked Mr. Shallenberger if there would be a new
57 alley with this project. He stated no, the alley is city right of way. Mr. DiJoseph clarified they
58 were referring to a dedicated easement created by Mr. Shallenberger from each lot for access to
59 the subdivided lots 1 through 4. Ms. Stevens asked about the water bill. She stated she has a well
60 and would like city water. However, they said it would be 15,000 to connect. She has city sewer
61 and that confuses her. The board explained that she has water use that runs into the sewer so
62 what she refers to as a "water bill" is actually an unmetered service debt for sewer. She is not
63 receiving a bill for water use because she is on a well. If she sold her house they would require
64 the new owner to hook up to city water.

65
66 Yang called for motion.

67
68 **John Trangmoe motioned to approve CUP 2016-03 to build a duplex on two city lots within**
69 **a RS Zone as allowed with a conditional Use Permit.**

70
71 **Seconded by Sue Smith**

72 Yang asked Mr. DiJoseph if he would be adding some gravel to the easements behind the two (2)
73 lots he plans to build on and he said yes, if his budget allows.

74
75 **Donna Larson-Shulund, aye**
76 **Smith, aye**
77 **Trangmoe, aye**
78 **Yang, abstain**

79
80 **Motion carried**

81
82 OLD BUSINESS:

83 CUP 2016-01
84 Brian & Heather Appel
85 825 Running Creek Street

86
87 STAFF COMMENTS:

88 Mahar updated Shulund who was not present at the last meeting and then distributed an
89 extensive memo for board review. Mahar stated the state statute allows this type of daycare
90 center in a residential zone and does not require a conditional use permit. There was a case
91 exactly the same as this that allowed it.

92
93 Ms. Appel owns the property and has met all of the state requirements. She requested a refund
94 of the \$200 fee she paid with her conditional use permit application.

95
96 BOARD COMMENTS:

97 Smith stated the applicant has provided a copy of their license and noted they have met the state
98 requirements.

99
100 Yang asked the secretary what the fees were that have been paid out on her behalf to date for
101 public notices and legal ads.

102
103 The secretary stated that she mailed out approximately thirty-two (32) letters and ran four (4)
104 legal ads through Ravalli Republic for the two meetings. We have not yet been billed for the
105 second set of ads but she will gather that information.

106
107 Ms. Appel felt she didn't need to apply for a conditional use permit.

108
109 Mahar noted the applicant was not aware of the covenants or the state regulations researched and
110 provided to the applicant during public hearings.

111
112 Yang noted that by going through the public meeting process not once but twice, the applicant
113 learned that she had covenants on her property and the city attorney did the research into state
114 laws and regulations on behalf of her request for the Zoning Board of Adjustment. At the very
115 least the fees that the city paid out should come out of the \$200.00 and she doesn't have any
116 issues with the balance being refunded to the applicant.

117

118 There is no motion for CUP2016-01 because the state law overrides city zoning and covenants.
119
120 Public Comments: None
121
122 Shulund made a motion for a full refund
123
124 Yang called for a second
125
126 No second, motion failed
127
128 **John Trangmoe made a motion to refund the balance less the costs for postage and legal**
129 **ads for CUP2016-01.**
130
131 **Seconded by Sue Smith**
132
133 **John Trangmoe, aye**
134 **Sue Smith, aye**
135 **Donna Larson-Shulund, nay**
136 **Vivian Yang, abstain**
137
138 **Motion Carried**
139
140 Yang asked the secretary to gather the costs and process a refund request for the applicant.
141
142 Mahar distributed a draft of the bylaws. She asked the board to please review, write on it and
143 prepare any responses or suggestions to be discussed at our next meeting.
144
145
146 Smith asked for clarification on Paragraph 9.3. Says we should avoid receiving any information
147 prior to a public hearing. When members of the public stop you and ask about a variance or
148 CUP request that will be heard in an upcoming public meeting, you can tell them you cannot
149 discuss it because this hasn't been heard yet in a public forum. Please come to the meeting. No
150 appearance of impropriety.
151
152 Smith stated when the college was approved she walked the property to do her due diligence.
153 Mahar responded that is ok if you disclose it at the meeting. Smith had disclosed it.
154
155 Mahar stated if you can view it in a public place do it. Where there's issue is if you discuss it
156 outside of the public meeting. Mahar asked the members to review 8.7 she reset the meeting
157 order.
158
159 Yang likes public comments in general the beginning so people can leave if they like.
160
161 Trangmoe asked who determines termination of a member. Mahar referred Trangmoe to item C.
162 This will be added to the next agenda and discussed at the next meeting.
163

164 Yang to Mahar, please send all memos to the Zoning Administrator or to the Chair.

165
166 Smith asked about the status of the Ropes Course. The Board requested all new packets for the
167 upcoming meeting.

168
169 Hansen stated you will probably be hearing a cell tower request in September. It will be heard by
170 city council on Tuesday, August 9th.

171

172 MINUTES:

173 **Sue Smith moved to approve the 6/30/15 Minutes as written**

174

175 **Seconded by John Trangmoe**

176

177 **Donna Larson-Shulund abstain**

178 **Sue Smith, aye**

179 **John Trangmoe, aye**

180 **Vivian Yang, abstain**

181

182 **Motion carried**

183

184 This will be the secretary's last meeting with the Zoning Board of Adjustment.

185

186 Yang, Trangmoe and Smith stated Thank you Kim for many years of service to the ZBA and
187 good luck.

188

189 Meeting adjourned at 6:52 p.m.

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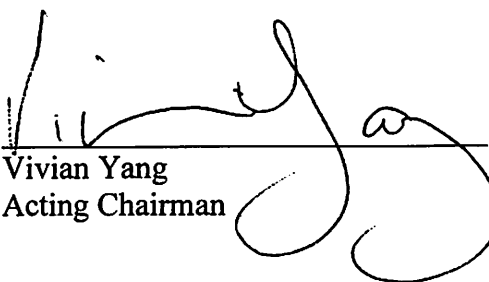
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196

197 
Kim Charlton

198 Secretary


Vivian Yang
Acting Chairman