

**MANISTEE CITY ZONING BOARD OF APPEALS**

425 Sixth Street, P.O. Box 358

Manistee, MI 49660

**MEETING MINUTES**

April 21, 2004

A meeting of the Manistee City Zoning Board of Appeals was held on Wednesday, April 21, 2004 at 5:30 p.m. in the Conference Room, City Hall, 425 Sixth Street, Manistee, Michigan.

**MEMBERS PRESENT:** Ray Fortier, Ed Grabowski and John Perschbacher

**MEMBERS ABSENT:** Marlene Mc Bride

**ALTERNATES PRESENT:** William Kracht

**OTHERS PRESENT:** Brom deMink (516 Fourth Avenue), Doug & Polly Schlaff (506 Third Street), Duane Jones (512 Fourth Street), Cyndy Fuller (18 Cottage Lane), Mary Lynn Burchard (107 Lakeshore Drive), Jon Rose (Community Development Director) and Denise Blakeslee (Administrative Assistant) and others

The meeting was called to order at 5:30 p.m. by Chair John Perschbacher.

**PUBLIC HEARING:**

Doug & Polly Schlaff, 506 Third Street

Mr. & Mrs. Schlaff are requesting a variance to reduce the front-yard set-back from 25 feet to 15 feet 2 inches to alter the existing carport into a two stall attached garage (current front-yard set-back is 18 feet 2 inches)

Ed Grabowski asked if they could move the garage back. Mr. Schlaff explained the design of the house. If the garage was moved back they would need to reconfigure their living room which would be costly. A ravine in the back also creates a difficulty in the positioning of the garage. Mr. Grabowski asked if the garage could be smaller in size. Mr. Schlaff said that they have a mini van and it would be difficult to fit into a smaller garage. Cyndy Fuller mentioned that the 20 foot storage units at Harbor Village are difficult to rent because of their size.

Duane Jones owns the property to the south and thinks the plan will enhance the Schlaff's house and neighborhood. Mr. Jones is in favor of the project and sees no reason not to grant the variance.

Jon Rose asked if Mr. Schlaff could incorporate the stairwell into the garage. Mr. Schlaff said that it would require changes to the living room and removal of their picture window which would need to be replaced with a small window. Their home has different levels and it would be more costly.

Duane Jones said that due to the nature of the neighborhood and with people driving SUV's and Mini Vans the plan is consistent with the neighborhood and that a 24x24 foot garage is not out of the normal.

There being no further discussion the public hearing closed at 5:43 p.m.

Brom & Linda deMink, 516 Fourth Avenue

Mr. & Mrs. deMink are requesting a variance to the rear-yard set-back from 10 feet to 1 foot to construct a deck.

Mr. deMink bought the property which had a small old dilapidated which they demolished. They have constructed a duplex on the property and there are two french doors on the rear where he wishes to construct the deck. He has a concern about the water run off and wants to keep the water away from the house and feels that he could accomplish that better with contouring the ground and building the deck above which would cover the unevenness of the ground. The original plans for the house was designed with the deck, the deck would solve the water problem and they will be installing a fence and feels the neighbors will not even notice the deck.

Jon Rose spoke of the 70 square feet of deck/landing/stairs that are allowed within the set-back under the ordinance. This would still allow access from the french doors to the ground.

Mary Lynn Burchard owns the property adjacent to the proposed deck and asked what the height of the fence would be. Mr. deMink said that it would be less than six feet high. Ms. Burchard asked if there would be stagnate water on the site with the water problems Mr. deMink spoke of. Mr. deMink said that the soil is sandy and that there will not be a problem with any water runoff going onto adjacent properties or standing water.

Cyndy Fuller, 18 Cottage Lane asked about the letters sent by owners of Harbor Pointe Estates. Ms. Fuller said that the deck could have impact on the owners at Harbor Village because they would see the deck. Harbor Village has been sensitive to this area while it was being developed by using a lower height and the construction two single family units instead of a duplex on the end next to the adjoining residential area.

Jon Rose said that the parcel in questions is a legal non-conforming parcel in the R-2 Residential Zoning District. R-2 requires 18,000 sq. ft. of parcel area and this parcel only has 6,500 sq. ft. (approx. 1/3 of the required land area). The construction of a duplex doubles the density of the parcel. Our current Ordinance does not have a lot coverage requirement. Four off street parking spaces are required with the construction of a duplex. This construction is a highly intensive use of the parcel compared to the neighborhood. The building could have been constructed to accommodate the deck within the setback area. This is new construction and a self-created hardship.

Chairman Perschbacher read the letters that were been received in response to the two requests. The first letter was from Steve and Cindy Peterson in support of the Doug & Polly Schlaff variance request (attached).

Mr. Perschbacher read three letters in opposition to the Brom and Linda deMink Request from Roy & Sue Hawthorne, Dan & Debe' Zeh, and Sally Kuipers (attached).

Mr. Rose wanted to state that Mr. & Mrs. deMink's project as built meets the requirements of the ordinance and that there were no improprieties. The deck is the only item in question. Mr. deMink said that he wants to be a good neighbor and it was not his intent to upset the neighbors.

There being no further discussion the public hearing closed at 6:25 p.m.

**BUSINESS SESSION:**

Approval of Minutes February 12, 2004

MOTION by Ray Fortier, supported by William Kracht that the minutes from the February 12, 2004 Zoning Board of Appeals Meeting be approved. After discussion Ray Fortier amended his motion seconded by William Kracht to approve the minutes from February 12, 2004 Zoning Board of Appeals Meeting as corrected. MOTION APPROVED.

Doug & Polly Schlaff, 506 Third Street

A public hearing was held earlier in response to a request from Doug & Polly Schlaff, 506 Third Street. Mr. & Mrs. Schlaff are requesting a variance to reduce the front-yard set-back from 25 feet to 15 feet 2 inches to alter the existing carport into a garage.

Members of the Zoning Board of Appeals reviewed the Findings of Fact.

Findings of Fact:

1. Do special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same Land Use District?  
4 - Yes  
0 - No
2. Would the literal interpretation of the provisions of this Ordinance deprive the applicant of rights commonly enjoyed by other properties in the same Land Use District under the terms of this Ordinance?  
4 - Yes  
0 - No
3. The special conditions and/or circumstances are NOT the result of actions taken by the applicant or the previous property owner since adoption of the current Ordinance?  
4 - Yes  
0 - No

4. Would granting of the variance be in harmony with the general purpose and intent of the Ordinance and would NOT be injurious to the neighborhood, or otherwise detrimental to the public welfare?  
4 - Yes  
0 - No
5. Do the reasons set forth in the application justify the variance and is the requested variance the minimum variance that will make possible the reasonable use of the land, building or structure?  
4 - Yes  
0 - No
6. Does the requested variance include the allowance for a use which is not permitted in the Land Use District in question? [If Yes, the variance CANNOT be granted]  
0 - Yes  
4 - No
7. Are there any conditions, safeguards or guarantees, in conformity with the Ordinance, that the Board feels are necessary if a variance is granted?  
0 - Yes  
4 - No

MOTION by Ray Fortier, seconded by Ed Grabowski that the request from Doug & Polly Schaff for a variance to reduce the front-yard set-back from 25 feet to 15 feet 2 inches to alter the existing carport into a garage be granted.

MOTION APPROVED UNANIMOUSLY

Brom & Linda deMink, 516 Fourth Avenue

A public hearing was held earlier in response to a request from Brom & Linda deMink, 516 Fourth Avenue. Mr. & Mrs. deMink are requesting a variance to the rear-yard set-back from 10 feet to 1 foot to construct a deck.

Members of the Zoning Board of Appeals reviewed the Findings of Fact.

Findings of Fact:

1. Do special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same Land Use District?  
4 - Yes  
0 - No

2. Would the literal interpretation of the provisions of this Ordinance deprive the applicant of rights commonly enjoyed by other properties in the same Land Use District under the terms of this Ordinance?
- 0 - Yes  
4 - No
3. The special conditions and/or circumstances are NOT the result of actions taken by the applicant or the previous property owner since adoption of the current Ordinance?
- 0 - Yes  
4 - No
4. Would granting of the variance be in harmony with the general purpose and intent of the Ordinance and would NOT be injurious to the neighborhood, or otherwise detrimental to the public welfare?
- 0 - Yes  
4 - No

MOTION by William Kracht, seconded by Ray Fortier that the request from Brom & Linda deMink for a variance to reduce the rear-yard set-back from 10 feet to 1 foot to construct a deck be denied.

MOTION APPROVED UNANIMOUSLY - REQUEST DENIED

**OTHER BUSINESS:**

Communications:

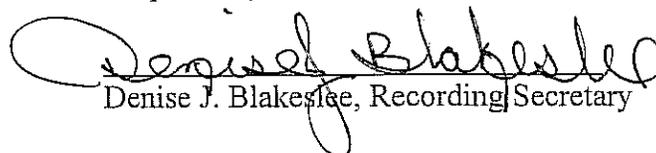
John Perschbacher spoke of the Advanced Citizen Planner Training notification he received, the training session on May 3, 2004 at Manistee Township Hall, and read a letter dated 3/1/04 from Mitch Deisch, and a copy of a letter of resignation from Ed Grabowski. Mr. Perschbacher thanked Mr. Grabowski for his service on the Zoning Board of Appeals.

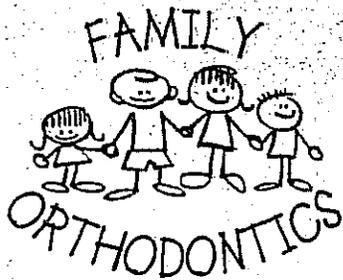
Mr. Kracht submitted a copy of information from the 2004 - 2005 Budget on 2004 Council Goals which will be forwarded to ZBA members.

**ADJOURNMENT:**

There being no further business meeting motion Ed Grabowski, seconded by William Kracht that the meeting be adjourned. Meeting adjourned at 7:00 p.m.

Respectfully Submitted

  
Denise J. Blakeslee, Recording Secretary



Stephen W. Peterson, D.D.S., M.S.  
Orthodontic Specialist.

April 20, 2004

Jon R. Rose  
City of Manistee  
P.O. Box 358  
Manistee, MI 49660

Re: Doug & Polly Schlaff – Variance

Dear Mr. Rose:

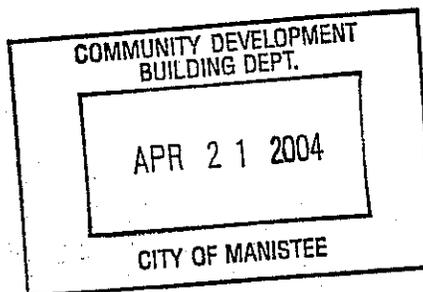
As we are unable to attend the City of Manistee Zoning Board of Appeals Public Hearing in regards to the request from Doug & Polly Schlaff, we would like to inform you of our opinion as property owners in the vicinity.

The Schlaff's house and existing car-port is within full view of our home. We feel that an addition of a garage in place of the car-port would not only certainly benefit the homeowners, but improve the looks of their home and thereby enhance the entire neighborhood.

We give a hearty "thumbs-up" to the project and wish Doug & Polly the best in their home improvement endeavors.

Sincerely,

Steve & Cindy Peterson  
490 4<sup>th</sup> St.  
Manistee, MI 49660



April 18, 2004

Mr. Jon R. Rose  
Community Development Director  
City of Manistee  
P.O. Box 358  
Manistee, Michigan 49660

Dear Mr. Rose

I own property at number 3 Harbor Point Lane, Manistee and have owned that property since 1996. I am writing to you about the request at 516 Fourth Avenue, which is before the City of Manistee Zoning Board of Appeals. I have seen the property and understand the request before you and have several comments. First I am surprised that this issue came up. The office that issued the building permit should have stopped the building before the process ever started. The owner's have obviously disregarded any building restrictions in favor of their greed. They have utilized every possible square foot of that property with complete disregard to their neighbors and the future owner's ability to get along with their neighbors. Where will the occupants park their vehicles, in the street? I am sure their neighbors across the street will appreciate that. Condominiums provide a high density of living and the integration of that type of property must be carefully planned and maintained when it is required to be next to city neighborhoods.

We do not support this request and hope as the city community development director you will not as well.

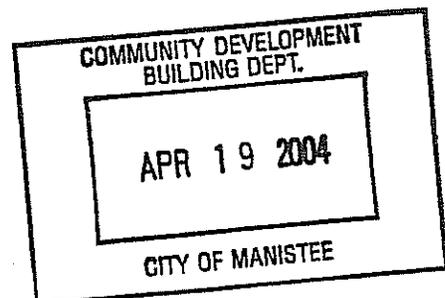
The development of Manistee has gone very well over the past several years, but my wife and I are concerned about the future. The potential coal fired utility plant and now this development particularly in our front yard is troubling.

Sincerely,

*Roy & Sue Hawthorne*

Roy & Sue Hawthorne  
3 Harbor Point Lane  
Manistee, Michigan 49660

Or  
12472 Pamela Court  
Hartland, Michigan 48353



April 19, 2004

Mr. Jon R. Rose, Community Development Director  
City of Manistee  
Zoning Board of Appeals  
425 Sixth Street  
Manistee, Michigan

Dear Mr. Jon R. Rose,

This letter has been written to inform you that we are in receipt of the letter dated April 8, 2004 regarding Brom and Linda DeMink of Kalamazoo requesting a variance to reduce the rear-yard set-back from 10 feet to 1 foot to construct a deck to the back side of a newly constructed 2 unit dwelling. After viewing the site, it appears that Mr. and Mrs. DeMink have built the dwelling on or past the rear boundary of the building envelope and to include a deck on the backside of this dwelling, they need to request a variance.

We are **very much opposed** to this request. Our stand is that Mr. and Mrs. DeMink knew full well that they were outside of the current guidelines of the 10-foot set back and the building of this dwelling continued as planned. After viewing the newly constructed dwelling, it appears that they have built to the capacity of their lot and now they need to ask for a variance to complete their project. There is space earmarked for a common courtyard between the buildings that could have been utilized to create space for the outside deck. This variance should have been asked for prior to the building foundation placement. We feel that to protect each and every homeowner there has been property boundaries with guidelines established to govern homeowners and builders. Mr. and Mrs. DeMink have ignored these guidelines and are taking advantage of the appeal process in showing their own caused hardship. This hardship would be that a lakefront home will not be able to have the benefit of an outside deck, with workable dimensions, and this will/may lower home buyer potential.

We sincerely hope that the Zoning Board of Appeals will study this issue to the maximum. If this is approved you now have set a new set of guidelines and what will be the next issue on another piece of property along Lakeshore Dr. Also, what does this do to the property that backs up to that boundary? Are the current or future homeowners now able to build within 1 foot of their property line or are they now mandated to follow the current standards that have been set with a 10 foot set back so not to encroach on their neighbors.

We understand that new development will occur, but we hope that new development will be a positive instead of a negative in regards to building the biggest possible dwelling that you can and forget the concept of harmony to the surrounding area. Yes, we all enjoy the lake front properties, but we need to be sensitive to the surrounding area and the currently built dwellings and the impact a new dwelling has to the community. The current project seems to ignore many of those factors.

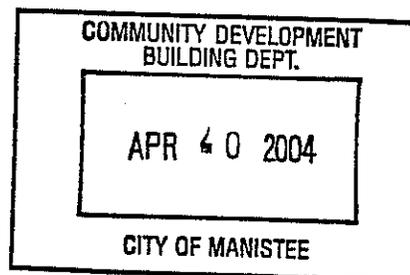
We sincerely hope you take our views into consideration before a decision is made. Thank you for your interest in this matter and we hope that what ever the decision is on this matter; it is the best for the community and future development and not justifying builder greed.

Respectfully,

Dan and Debe' Zeh  
7 Harbor Point Lane  
Manistee, Michigan

or

40477 Beechwood Court  
Northville, Michigan  
734-953-9517



City of Manistee  
Jon R. Rose  
Community Development Director  
Fax 231 723-1546

April 20, 2004  
City of Manistee Zoning Board of Appeals

Dear Board Members,

This letter is written in response to one I received concerning a request for a variance from Brom and Linda deMink to reduce the rear-yard set-back from 10 feet to 1 foot to construct a deck. The location of the request is 516 Fourth Avenue.

As the elected president of Harbor Village Estates, an association that connects to this property, I am representing 10 homeowners.

It is our understanding that the lot in question is a sub-standard lot, one that is smaller than required by current zoning but is a legal non-conforming lot. The housing constructed on this lot was built to set-back lines as required by law. These laws have not changed since construction was begun.

Therefore, we feel this appeal for variance is one based on hardship that was self-created by the owner/builder.

As our property lines connect with this lot, this variance does affect us. We do not feel this variance should be granted and ask you not to grant this variance.

We appreciate your involvement in the development of the very beautiful community of Manistee.

Sally A. Kuipers  
President of Harbor Point Estates  
9 Harbor Point Lane  
Manistee, Mi 49660  
231 723-0779

8820 West S Ave.  
Schoolcraft, Mi 49087  
269 668-3190

