

## MANISTEE CITY ZONING BOARD OF APPEALS

425 Sixth Street, P.O. Box 358

Manistee, MI 49660

### MEETING MINUTES

June 10, 2004

A meeting of the Manistee City Zoning Board of Appeals was held on Thursday, June 10, 2004 at 5:30 p.m. in the Conference Room, City Hall, 425 Sixth Street, Manistee, Michigan.

**MEMBERS PRESENT:** Ray Fortier, Mark Hoffman, Bill Kracht, Marlene McBride, and John Perschbacher

**ALTERNATES PRESENT:** Linda Albee and Craig Schindlbeck

**OTHERS PRESENT:** Robert Gault (579 Ramsdell Street #16), Cindy and Steve Peterson (490 Fourth Street), Allan Marshall(914 Vine Street), Jon Rose (Community Development Director) and Denise Blakeslee (Administrative Assistant)

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

#### **PUBLIC HEARING:**

Robert Gault, Vacant Property East of Cherry Street and North of the undeveloped portion of Twelfth Street

Mr. Gault is requesting a variance to Parcel Width requirement of the R-3 Zoning District. This request would allow parcel #51-51-311-375-08 to be split into four parcels with three of the parcels having a parcel width of 90.5 feet rather than the required 100 feet.

Mr. Gault explained the history of the parcel and how property was sold for the development of Twelfth Street. He spoke of the zoning of the property and how the realtor told him the property was zoned R-4 and there was an error on the assessment card that reflected R-4 Zoning for the parcel. He spoke of a split that was approved for the previous property owner. Mr. Gault wants to build his "dream home" and will not have enough room to meet the set-backs if the other three lots have to meet the required 100 foot of frontage required in the R-3 Zoning District. He spoke of his interpretation of the Zoning Map and how approximately 30 feet of the parcel is zoned R-4. Mr. Gault has received approval from the Planning Commission and City Council to split the parcel into four lots that meet the R-3 Zoning requirements.

Jon Rose explained that under section 1807. Rules of Interpretation the boundary indicated would follow a recorded Parcel Line or a Property Line. Mr. Rose explained the difference between R-4 and R-3 Zoning. Mr. Rose also explained that the Assessors Office is not the Zoning Authority for the City and that any Zoning questions or interpretation must come through the Community Development Department.

Alan Marshall, 914 Vine Street said he was aware of the problem that Mr. Gault stated. He said he asked that the problem be addressed through the City Manager's Office and that any future problems of this nature should be taken care of.

Mr. Gault said that it was very important to him to be able to build his home on this property. Ms. McBride asked Mr. Gault if he had considered splitting the three lots he wanted to sell into two larger parcels that would allow him to keep the necessary property for his home. Mr. Gault said that he had put his life's savings into this property and needed to sell three parcels to be able to afford his home.

John Perschbacher read a memo from Jon Rose relating to the request from Mr. Gault. There was no other correspondence received regarding this request.

There being no further discussion the public hearing closed at 6:04 p.m.

Steve & Cindy Peterson, 490 Fourth Street

Mr. & Mrs. Peterson are requesting a variance to reduce the 25 foot front-yard set-back (from undeveloped portion of Third Street) to 10 feet for the construction of an accessory structure.

Cindy Peterson spoke of the history relating to the property. Originally the property was the Canfield Barn Site, the barn was tore down and the house was constructed in 1935 using the brick from the barn. The Peterson's desire is to maintain the historical integrity of the property and they have been researching and investing in this restoration. The original windows from the home have been restored with double pane glass and reinstalled this past year. One of these windows was not reinstalled in the house will be used for the shed. The shed was designed with this window as a focal point and will reflect the historical character of the home.

The Peterson's were unaware that the vacant City property behind their house was actually a platted road. This was not discovered until they went to apply for a building permit for the shed. They have talked about vacating the road right-of-way with the City Manager and may pursue it in the future. In the mean time they have had to put their contractor, cement work and landscaping on hold to try to obtain the variance necessary to construct the shed.

Ms. Peterson spoke of the unique features on the property a ravine that runs along the back half of their property and a pond constructed in 1935 which make the placement of the shed at another location of the property difficult. They are asking for a 10 foot set-back which would be the requirement for a side or rear-yard set-back if they only had two front yards (corner lot) instead of the three front yards (because of the undeveloped Third Street Right-of-Way).

Mr. Perschbacher read a memo from Jon Rose relating to the Peterson's request and a letter from Jane Cole in support of the request.

Craig Schindlbeck said that if he were allowed to vote on this request he would need to abstain due to a business conflict.

There being no further discussion the public hearing closed at 6:27 p.m.

**BUSINESS SESSION:**

Approval of Minutes April 21, 2004

MOTION by Bill Kracht, supported by Marlene McBride that the minutes from the April 21, 2004 Zoning Board of Appeals Meeting be approved.

MOTION PASSED UNANIMOUSLY

Robert Gault, Vacant Property East of Cherry Street and North of the undeveloped portion of Twelfth Street

A Public Hearing was held earlier in response to the request from Robert Gault for a variance to Parcel Width requirements of the R-3 Zoning District. This request would allow parcel #51-51-311-375-08 to be split into four parcels with three of the parcels having a parcel width of 90.5 feet rather than the required 100 feet.

Members of the Zoning Board of Appeals reviewed and discussed the Findings of Fact for this request.

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?
  - 2 - Yes (Kracht, Perschbacher)
  - 3 - No (Fortier, Hoffman, McBride)
  
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?
  - 3 - Yes (Hoffman, Kracht, Perschbacher)
  - 2 - No (Fortier, McBride)
  
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?
  - 5 - Yes (Fortier, Hoffman, Kracht, McBride, Perschbacher)
  - 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?
  - 2 - Yes (Kracht, Perschbacher)
  - 3 - No (Fortier, Hoffman, McBride)

MOTION by Marlene McBride, seconded by Ray Fortier that the request from Robert Gault for a variance to Parcel Width requirements of the R-3 Zoning District to allow three parcels to have a parcel width of 90.5 feet rather than the required 100 feet be denied.

Voting on Motion to deny as follows:

Yes	-	Fortier, Hoffman, McBride
No	-	Kracht, Perschbacher

MOTION APPROVED - REQUEST DENIED

Steve & Cindy Peterson, 490 Fourth Street

A public hearing was held earlier in response to a request from Steve and Cindy Peterson, 490 Fourth Street. Mr. & Mrs. Peterson are requesting a variance to reduce the 25 foot front-yard set-back (from undeveloped portion of Third Street) to 10 feet for the construction of an accessory structure.

Members of the Zoning Board of Appeals reviewed and discussed the Findings of Fact for the request.

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?  
5 - Yes (Fortier, Hoffman, Kracht, McBride, Perschbacher)  
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?  
5 - Yes (Fortier, Hoffman, Kracht, McBride, Perschbacher)  
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?  
5 - Yes (Fortier, Hoffman, Kracht, McBride, Perschbacher)  
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?  
5 - Yes (Fortier, Hoffman, Kracht, McBride, Perschbacher)  
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?  
5 - Yes (Fortier, Hoffman, Kracht, McBride, Perschbacher)  
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  
5 - No (Fortier, Hoffman, Kracht, McBride, Perschbacher)
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  
5 - No (Fortier, Hoffman, Kracht, McBride, Perschbacher)

MOTION by Ray Fortier, seconded by Marlene McBride that the request from Steve & Cindy Peterson for a variance to reduce the front-yard set-back from 25 feet to 10 feet to construct an accessory structure be approved.

MOTION PASSED UNANIMOUSLY - VARIANCE GRANTED

**OTHER BUSINESS:**

Communications:

New member and alternates were welcomed and asked to give a little background information on why they wanted to be on the ZBA.

Denise Blakeslee spoke of the Citizen Planner Training and that the course will be offered in Mason County, information will be forwarded to members as available. Also Jay Kilpatrick will be meeting with members of the ZBA on Wednesday, June 16<sup>th</sup> from 6:00 p.m. - 8:00 p.m. to discuss the re-writing of the Zoning Ordinance.

**ADJOURNMENT:**

There being no further business meeting motion by Ray Fortier, seconded by Bill Kracht that the meeting be adjourned. Meeting adjourned at 7:38 p.m.

Respectfully Submitted

  
Denise J. Blakeslee, Recording Secretary