

MANISTEE CITY ZONING BOARD OF APPEALS

City Hall, 70 Maple Street  
Manistee, MI 49660

MEETING MINUTES

May 17, 2007

A meeting of the Manistee City Zoning Board of Appeals was held on May 17, 2007 at 5:30 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

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

ROLL CALL:

**Members Present:** Ray Fortier, Mark Hoffman, John Perschbacher, Craig Schindlbeck (Alternate)

**Members Absent:** Bill Kracht, Marlene McBride

**Others Present:** Bill and Mary Beth Kennedy (415 Cedar Street) and Denise Blakeslee (Planning & Zoning)

APPROVAL OF AGENDA:

MOTION by Ray Fortier, seconded by Mark Hoffman that the Agenda be approved as prepared.

MOTION PASSED UNANIMOUSLY

APPROVAL OF MINUTES:

MOTION by Ray Fortier, seconded by Mark Hoffman that the Minutes of the January 11, 2007 Zoning Board or Appeals Meeting be approved as written

MOTION PASSED UNANIMOUSLY

PUBLIC HEARING:

Chairman Perschbacher asked if any members of the Zoning Board of Appeals had a conflict. Craig Schindlbeck said that he had been ~~noticed~~ notified as a property owner within 300 feet of the request. The Members of the Zoning Board of Appeals determined that there was no conflict and Mr. Schindlbeck will be acting as a Member of the Zoning Board of Appeals on the request.

**Bill and Mary Beth Kennedy, 415 Cedar Street.**

Mr. & Mrs. Kennedy own the home at 415 Cedar Street and are requesting a variance to increase the height from 35 feet to 42 feet to restore the original roof peak of the home as shown on the 1885 Architectural Drawings.

**Chair Perschbacher opened the Public Hearing.**

Bill Kennedy explained the request to the members of the Zoning Board of Appeals. He spoke to the City of Manistee Fire Chief and they did not object to the increase in height. Mr. Kennedy also supplied the members a letter of support from the Manistee County Historical Museum. Mr. Kennedy had photographs of the building from 1900 and 1921 that showed the original peak. He is requesting the increase to restore the original roof peak from when the home was constructed in 1885. They will also be making a change to the existing dormer that does not require a variance.

The members of the Zoning Board of Appeals were given a staff report that included the support of the Fire Chief and the Museum. The decorative ornament that was on the original photographs would not require a variance.

Letters were received in support of the request from:

Mike Fatke and Molly Cichy, 420 Elm Street  
Gerald Haw, 421 Cedar Street

There were no Public Comments.

There being no further public comments and the hearing was closed at 5:47 p.m.

**BUSINESS SESSION:**

**ACTION ON PENDING CASE:**

**Bill and Mary Beth Kennedy, 415 Cedar Street.**

A Public Hearing was held earlier in response to a request from Bill and Mary Beth Kennedy, 415 Cedar Street. Mr. & Mrs. Kennedy own the home at 415 Cedar Street and are requesting a variance to increase the height from 35 feet to 42 feet to restore the original roof peak of the home as shown on the 1885 Architectural Drawings.

The Zoning Board of Appeals reviewed the request and the requirements of Section 2507.C of the City of Manistee Zoning Ordinance. This portion of the Ordinance is used as the finding of facts by the Zoning Board of Appeals and their responses to the conditions are as follows:

The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height regulations, yard and depth regulations, and off-street parking and loading space requirements provided it finds that **all of the Basic Conditions** and **any one (1) of the Specific Conditions** set forth herein can be satisfied. The appellant shall submit, along with the established fee and other materials, a narrative demonstrating why a variance is sought.

The Board shall find that a variance request meets all of the following conditions.

1. The requested variance shall not be contrary to the public interest or to the intent and purpose of this Ordinance.  
Yes: Fortier, Hoffman, Schindlbeck, Perschbacher  
No: None
2. The requested variance shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a special land use permit is required.  
Yes: Hoffman, Schindlbeck, Fortier, Perschbacher  
No: None
3. The requested variance shall not cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located.  
Yes: Hoffman, Schindlbeck, Fortier, Perschbacher  
No: None
4. The conditions or situations which necessitate the requested variance is not so general or of such recurrent nature as to make the formulation of a general regulation for such conditions reasonably practical.  
Yes: Hoffman, Schindlbeck, Fortier, Perschbacher  
No: None
5. The requested variance shall relate only to property that is under control of the applicant.  
Yes: Schindlbeck, Fortier, Hoffman, Perschbacher  
No: None
6. The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.  
Yes: Schindlbeck, Fortier, Hoffman, Perschbacher  
No: None
7. There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.  
Yes: Fortier, Hoffman, Schindlbeck, Perschbacher  
No: None

8. The requested variance is the minimum variance that will make possible the reasonable use of the land.

Yes: Fortier, Hoffman, Schindlbeck, Perschbacher

No: None

Special Conditions. When **all** of the foregoing basic conditions can be satisfied, a variance may be granted when any **one** (1) of the following special conditions can be clearly demonstrated:

1. Where there are practical difficulties which prevent full compliance with the requirements of this Ordinance. Such practical difficulties shall be evaluated in terms of the use of a particular parcel of land. Neither the fact that the appellant could: (a) incur additional costs to achieve full compliance, or (b) receive additional income with less than full compliance shall be determined a practical difficulty for the purposes of this paragraph.

Yes: None

No: Hoffman, Schindlbeck, Fortier, Perschbacher

2. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district.

Yes: Hoffman, Schindlbeck, Fortier, Perschbacher

No: None

3. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

Yes: Hoffman, Schindlbeck, Fortier, Perschbacher

No: None

MOTION by Ray Fortier, seconded by Mark Hoffman that the request from Bill and Mary Beth Kennedy, 415 Cedar Street for a height variance from 35 feet to 42 feet to restore the original roof peak of the home as shown on the 1885 Architectural Drawings be approved.

With a roll call vote this motion passed 4 to 0.

Yes: Fortier, Hoffman, Schindlbeck, Perschbacher

No: None

## OLD BUSINESS

None

**OTHER BUSINESS OF THE APPEALS BOARD**

Chair John Perschbacher spoke to the members about compensation and a training seminar that he attended.

**PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA:**

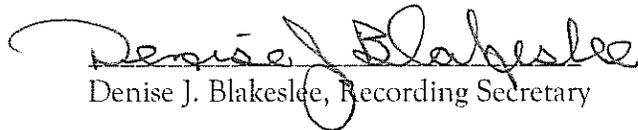
None

**ADJOURNMENT:**

There being no further business meeting motion by Ray Fortier, seconded by Mark Hoffman that the meeting be adjourned.

Meeting adjourned at 6:20 p.m.

Respectfully Submitted

  
Denise J. Blakeslee, Recording Secretary