

MANISTEE CITY ZONING BOARD OF APPEALS

City Hall, 70 Maple Street
Manistee, MI 49660

MEETING MINUTES

November 27, 2007

A meeting of the Manistee City Zoning Board of Appeals was held on November 27, 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, Alternate/Nathaniel Nieder, and Alternate/Craig Schindlbeck

Members Absent: Bill Kracht (excused) and Marlene McBride (excused)

Others Present: Michael Hagen (Morton Salt), Mark Lindgren (Morton Salt), Ruth Wolock (Lakeside Restaurant), Marjorie Conklin (Lakeside Restaurant), Jon Rose (Community Development Director), Denise Blakeslee (Planning & Zoning) and others

APPROVAL OF AGENDA:

MOTION by Ray Fortier, seconded by Craig Schindlbeck that the Agenda be approved as prepared.

With a voice vote this MOTION PASSED UNANIMOUSLY

APPROVAL OF MINUTES:

MOTION by Ray Fortier, seconded by Mark Hoffman that the Minutes of the October 25, 2007 Zoning Board or Appeals Meeting be approved as written

With a voice vote this MOTION PASSED UNANIMOUSLY

PUBLIC HEARING:

Case #ZBA-2007-04/Morton Salt Company - 180 Sixth Street

Morton Salt Company is requesting a height variance to relocate the existing 150 foot high boiler exhaust stack north of the present location by 173 feet. AND A height variance to construct an enclosure for a fly ash disposal system (Ash Silo Enclosure) and for emission control equipment (Fan Enclosure). The height of this enclosure is 64 feet and the equipment height is 75 feet.

The Zoning Ordinance Height Limit in the G-I General Industrial District is 50 feet.

Chair Perschbacher opened the Public Hearing.

Michael Hagen, Morton Salt - Mr. Hagen explained the new EPA requirements and the September 2007 deadline for installation of emissions control system for their coal fired boiler to comply with the Federal EPA Guidelines.

Mark Lindgren, Plant Manager - Mr. Lindgren explained that the EPA established three different guidelines and deadlines. The guidelines for coal fired boilers required that the equipment be in place by September 2007. Since that time the guidelines have been challenged in court and have been repealed. It will be a matter of time until the guidelines are reinstated. Federal Air Permits are reviewed every five years. They are 100% current with the permit standards.

Chair Perschbacher asked if there was any public comments and correspondence received in response to the request.

A letter from Fire Chief Scrimger was read into the record (attached)

There being no further public comments and the hearing was closed at 5:40 p.m.

Case #ZBA-2207-05/Lakeside Restaurant - 200 Arthur Street

DECLARATION OF CONFLICT OF INTEREST -Craig Schindlbeck, alternate member of the Zoning Board of Appeals, declared a conflict of interest (under section 4.13B of the By-Laws). Mr. Schindlbeck removed himself from the Zoning Board of Appeals during the Public Hearing and Action relating to the request.

Lakeside Restaurant is requesting a Variance for the installation of a sign on the porch above the restaurant office not to extend beyond the front of the building facade, nor to extend above the roof of the main building. Sign includes blinking lights.

Chair Perschbacher opened the Public Hearing.

Ruth Wolock, Lakeside Restaurant - Ms. Wolock is the owner of the Lakeside Restaurant that is located in the same building as the Roadway Inn. She has been in business since July 2007 and has figures that show that when their temporary sign was in place they had an increase in business. They had applied for and received the maximum number of temporary signs permitted in a year (three permits for 14 days each). She has put over \$200,000 into this business and when the temporary signs were in place there was a distinct increase in their business. Without the temporary sign they have had a decrease in business and have gone from 24 employees to 6. They need the proposed sign and it would be a great asset to their business. Traffic goes by so fast and with the dangerous curve in the road they have been unable to attract street traffic.

Marjorie Conklin, waitress at Lakeside Restaurant - Ms. Conklin said that she has been a waitress since they opened and currently is laid off.

Chair Perschbacher reviewed the list of items from the staff report.

- ▶ Lakeside Restaurant is located in the Roadway Inn at 200 Arthur Street. The property currently has three freestanding signs (pole, ground mount signs) on the property. In addition to the three freestanding signs the structure is allowed approximately 735 square feet of Wall, Window or Marquee Signs.
- ▶ The current ordinance only allows one freestanding sign on a property. The two remaining freestanding signs are legal non-conforming signs.
- ▶ The applicant has applied for and received three temporary sign permits for a portable sign. The ordinance limits temporary sign permits to three per parcel in a calendar year.

Ms. Wolock responded- The pole signs are used by the Roadway Inn and the City Zoning Ordinance will not allow another pole sign or to add to the existing signs. Without attracting street traffic they are losing business; people do not realize the restaurant is there. If they could keep the temporary sign permanently that would be great. The motel has new owners who are more cooperative than the last ones.

Mr. Rose clarified that the property has three pole signs. The southern most sign has a Special Use Permit, the sign to the north is a legal nonconforming sign and cannot be altered except for changing the sign face. The sign nearest the restaurant is already at the 80 square foot limitation of the ordinance and additional signage cannot be added to it. It is up to the building owner to allocate signage for their tenants, not the Zoning Board of Appeals.

- ▶ The request to place a sign on the porch above the restaurant office (as shown on the drawings) would make the sign a "projecting sign". Projecting signs are not allowed in the C-1 Zoning District when they have frontage on US 31.

- ▶ Projecting Signs are limited to 16 square feet in the City of Manistee Zoning Ordinance.

Ms. Wolock responded- she does not believe that this sign is a projecting sign. If the sign were flat against the building no one would be able to see it.

Mr. Rose said that review of the request could make the sign a projecting or roof sign. Mr. Rose spoke to the City's Planning Consultant regarding the request. Since the sign projects more than 12 inches from the building it meets the definition of a projecting sign.

- ▶ The request includes "Blinking Lights" for the proposed sign. Prohibited Signs - Section 2104.J of the ordinance reads: "Electronic Message Boards and other signs that include flashing, scrolling, blinking or moving lights or parts, and animated signs located such that they may distract drivers."

Ms. Wolock responded- The temporary sign they used had blinking lights and an arrow on it. They wanted to put a new face on the sign and place it on the roof. She can eliminate the blinking light if needed. This sign would be visible 5 to 6 blocks away.

- ▶ Under Special Conditions - Justification (a.) the applicant notes that the "*structure of the building and location on Highway 31 make it impossible to attract business per attracting street traffic safely, sign allowance from hotel are restricted and limited.*"
- ▶ The building is allowed approximately 735 square feet of signage and there is ample room for installing signage that complies with the ordinance on the building.
- ▶ If the building owner is limiting the amount of signage that the restaurant is allowed, that is an issue between the applicant and the building owner, not the Zoning Board of Appeals.
- ▶ The applicant wants to attract drivers attention on a curved portion of the road. The installation of a sign with blinking lights, while possibly catching the eyes of a motorist, would be a distraction to the drivers and could result in an accident. This concern was the reason that blinking lights are prohibited under the ordinance.
- ▶ The City of Manistee wants to see business succeed. But allowing the installation of a sign that does not meet the requirements of the Zoning Ordinance and could create a safety hazard is not in the best interest of the community.

Chair Perschbacher asked if there were any public comments

None

There being no further public comments and the hearing was closed at 6:10 p.m.

BUSINESS SESSION:

ACTION ON PENDING CASE:

Case #ZBA-2007-04/Morton Salt Company - 180 Sixth Street

A Public Hearing was held earlier in response to a request from Case #ZBA-2007-04/Morton Salt Company - 180 Sixth Street for a height variance to relocate the existing 150 foot high boiler exhaust stack north of the present location by 173 feet. AND A height variance to construct an enclosure for a fly ash disposal system (Ash Silo Enclosure) and for emission control equipment (Fan Enclosure). The height of this enclosure is 64 feet and the equipment height is 75 feet.

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 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.
5 - Yes Fortier, Hoffman, Schindlbeck, Neider, Perschbacher
0 - 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.
5 - Yes Hoffman, Schindlbeck, Neider, Fortier, Perschbacher
0 - 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.
5 - Yes Schindlbeck, Neider, Fortier, Hoffman, Perschbacher
0 - 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.
5 - Yes Neider, Hoffman, Schindlbeck, Fortier, Perschbacher
0 - No None
5. The requested variance shall relate only to property that is under control of the applicant.
5 - Yes Fortier, Hoffman, Schindlbeck, Neider, Perschbacher
0 - No None

6. The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.
4 - Yes Neider, Fortier, Hoffman, Perschbacher
1 - No Schindlbeck
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.
5 - Yes Neider, Hoffman, Schindlbeck, Fortier, Perschbacher
0 - No None
8. The requested variance is the minimum variance that will make possible the reasonable use of the land.
5 - Yes Fortier, Hoffman, Neider, Schindlbeck, Perschbacher
0 - 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.
5 - Yes Fortier, Hoffman, Neider, Schindlbeck, Perschbacher
0 - No None

MOTION by Ray Fortier, seconded by Mark Hoffman that the request from Morton Salt Company for a height variance to relocate the existing 150 foot high boiler exhaust stack north of the present location by 173 feet. AND A height variance to construct an enclosure for a fly ash disposal system (Ash Silo Enclosure) and for emission control equipment (Fan Enclosure). The height of this enclosure is 64 feet and the equipment height is 75 feet.

With a roll call vote this motion passed 5 to 0.

Yes: Fortier, Hoffman, Neider, Schindlbeck, Perschbacher
No: None

VARIANCE GRANTED

Case#ZBA-2207-05/Lakeside Restaurant - 200 Arthur Street

A Public Hearing was held earlier in response to a request from Case#ZBA-2207-05/Lakeside Restaurant - 200 Arthur Street for a Variance for the installation of a sign on the porch above the restaurant office not to extend beyond the front of the building facade, nor to extend above the roof of the main building. Sign includes blinking lights.

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 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.
0 - Yes None
4 - No Fortier, Hoffman, Neider, Perschbacher
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.
4 - Yes Hoffman, Neider, Fortier, Perschbacher
0 - 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.
3 - Yes Hoffman, Neider, Perschbacher
1 - No Fortier
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.
0 - Yes None
4 - No Hoffman, Fortier, Neider, Perschbacher
5. The requested variance shall relate only to property that is under control of the applicant.
4 - Yes Fortier, Neider, Hoffman, Perschbacher
0 - No None
6. The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.
3 - Yes Fortier, Hoffman, Perschbacher
1 - No Neider

- 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.
0 - Yes None
4 - No Hoffman, Fortier, Neider, Perschbacher

- 8. The requested variance is the minimum variance that will make possible the reasonable use of the land.
1 - Yes Neider
3 - No Fortier, Hoffman, Perschbacher

The Zoning Board of Appeals looked at photographs that were submitted in response to the request and made some suggestions to Ms. Wolock for placement of signage that would comply with the requirements of the ordinance.

MOTION by Ray Fortier, seconded by Nathaniel Neider that the Zoning Board of Appeals denies the request from Lakeside Restaurant for a Variance to install a sign on the porch above the restaurant office not to extend beyond the front of the building facade, nor to extend above the roof of the main building. Sign includes blinking lights.

With a roll call vote this motion passed 4 to 0 with Member Schindlbeck having declared a conflict of interest and abstaining in voting .

Yes: Neider, Fortier, Hoffman, Perschbacher
No: None

REQUEST DENIED

OLD BUSINESS

None

OTHER BUSINESS OF THE APPEALS BOARD

Ms. Blakeslee spoke of upcoming training that is being scheduled early in 2008 for the Zoning Board of Appeals. Mr. Neider was asked if he would be interested in taking the Citizen Planner Training on line. Mr. Neider said he would be. Information will be forwarded to him.

PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA:

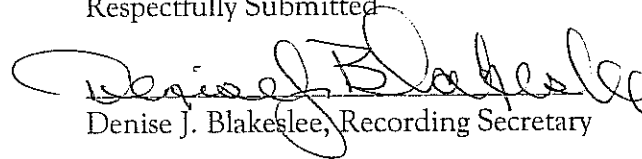
Ms. Wolock thanked the Zoning Board of Appeals for giving her suggestions for signage.

ADJOURNMENT:


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

Meeting adjourned at 7:00 p.m.

Respectfully Submitted



Denise J. Blakeslee, Recording Secretary

MEMO TO: Denise Blakeslee
FROM: Sid Scrimger, Fire Chief 
DATE: November 7, 2007
SUBJECT: Morton Salt Variance

I have reviewed the construction and site plans for the Morton Salt boiler compliance project. In addition, I have visited the site. I do not find any fire department issues or problems with this project.