

MANISTEE CITY
ZONING BOARD OF APPEALS

Meeting of October 25, 2007
5:30 p.m. - Council Chambers, City Hall, 70 Maple Street,
Manistee, Michigan

AGENDA

I Call to Order

II Roll Call

III Approval of Agenda

At this time the Zoning Board of Appeals can take action to approve the October 25, 2007 Agenda.

IV Approval of Minutes

At this time Zoning Board of Appeals can take action to approve the June 18, 2007 meeting Minutes.

V Public Hearing

Interpretation of the definition of "Accessory Use"

The City of Manistee Planning Commission in response to a request from Good Shepherd Lutheran Church for an off site parking lot is requesting the Zoning Board of Appeals determination that the Zoning Administrators interpretation of the definition of "Accessory Use" is correct.

The definition of Accessory Uses, related to uses permitted is as follows: *"A use naturally and normally incidental to, and subordinate to, and devoted exclusively to, the principal use of the land or buildings."*

At this time the Chair shall open the hearing.

The Applicant shall present any comments and explanation of the case.

The City Staff and any consultants serving the City shall present their reports.

The hearing will be opened for public comments

The Public comment period will be closed

VI Business Session:

Action on Pending Case

Interpretation of the definition of "Accessory Use"

At this time the Zoning Board of Appeals will make a determination on the Zoning Administrators interpretation of the definition of "Accessory Use".

Old Business

Other Business of the Appeals Board

VII Public Comments and Communications concerning Items not on the Agenda

At this time the Chair will ask if there are any public comments.

VIII Adjournment



PLANNING AND ZONING
COMMUNITY DEVELOPMENT
231.398.2805
FAX 231.723-1546
www.ci.manistee.mi.us

MEMORANDUM

TO: Zoning Board of Appeals Members
FROM: Denise Blakeslee 
DATE: October 10, 2007
RE: Meeting on October 25, 2007

Good Morning!

We have scheduled a meeting for Thursday, October 25, 2007 at 5:30 p.m. in the Council Chambers, City Hall. This meeting was scheduled in response to a request from the City of Manistee Planning Commission. The Planning Commission reviewed an application for a Special Use Permit from Good Shepherd Lutheran Church for an off site parking lot. There was a question if the Zoning Administrator's interpretation of the definition of "Accessory Use" is correct.

I am enclosing copies of the following:

- ▶ Request from Planning Commission to Zoning Board of Appeals for interpretation.
- ▶ Section 1805 Accessory Uses, Related to Uses Permitted which includes the definition.
- ▶ Draft Planning Commission Meeting Minutes from October 4, 2007.
- ▶ Memo from Jon Rose supporting his interpretation.

The Zoning Board of Appeals will need to interperet the definition of "Accessory Use".

If you are unable to attend the meeting please call me at 398-2805.

:djb



REQUEST FOR APPEAL
CITY OF MANISTEE
ZONING BOARD OF APPEALS

Name: City of Manistee Planning Commission
 Address: 70 Maple Street
 City, State, Zip Code: Manistee, MI 49660
 Phone Numbers: 398-2805

OFFICE USE ONLY	
Appeal Number: <u>ZBA-2007-03</u>	Date Received: <u>10-10-07</u>
Receipt Number/Fee Amt: <u> </u>	Hearing Date: <u>10-25-07</u>
Zoning District for Property: <u> </u>	Parcel Code Number: <u> </u>
Type of Request:	
<input type="checkbox"/> Variance Request	<input type="checkbox"/> Ordinance or Map Interpretation
<input checked="" type="checkbox"/> Appeal from Administrative Decision	<input type="checkbox"/> Other Authorized Review

REQUEST FOR AN APPEAL FROM ADMINISTRATIVE DECISION:

The City of Manistee Planning Commission at their meeting of October 4, 2007 is asking for the Zoning Board of Appeal to review the Zoning Administrators interpretation of the definition of "Accessory Use".

The definition of Accessory Uses, related to uses permitted is as follows:

"A use naturally and normally incidental to, and subordinate to, and devoted exclusively to, the principal use of the land or buildings."

Signature Denise Blakeslee Date 10-10-07
 Denise Blakeslee
 Recording Secretary
 City of Manistee Planning Commission

SECTION 1805 ACCESSORY USES, RELATED TO USES PERMITTED

A. **Definition.** A use naturally and normally incidental to, and subordinate to, and devoted exclusively to, the principal use of the land or buildings.

B. **Regulations and Conditions.**

1. A determination of whether a proposed accessory Special Use is related to uses permitted shall be made by the Planning Commission upon the recommendation of the Zoning Administrator. In preparing such a recommendation, the Zoning Administrator shall evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter, and similar impacts. In addition, the proposed use shall be evaluated to determine the degree to which it may support or conflict with other uses permitted.
2. For purposes of interpreting Accessory Uses Related to Uses Permitted;
 - a. A use may be regarded as incidental or insubstantial if the viability of the principal use is not dependent in any significant way on the accessory use.
 - b. To be commonly associated with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
3. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, greater than or more burdensome than such impacts from the main use on the property.
4. Where an Accessory Use Related to Uses Permitted is proposed, and regulations are contained in this Ordinance for said use, those regulations shall be met; provided, the Planning Commission may impose additional conditions on approval, to protect the health, well being, safety, and economy of the City and its residents



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MEMORANDUM

TO: Zoning Board of Appeals Members

FROM: Jon Rose, Community Development Director

DATE: October 11, 2007

RE: "Accessory Use"

Good Morning! A request has been forwarded to you from the City of Manistee Planning Commission for an interpretation of the definition of "Accessory Use". This issue came up during the October 4, 2007 Planning Commission Meeting while reviewing an application from Good Shepherd Lutheran Church for a Special Use Permit for an off-site Parking Lot.

Good Shepherd Lutheran Church purchased the vacant property on the Corner of U.S. 31 (Cypress Street) and Sixth Street with the intention of constructing an additional parking lot for their facility. They are hoping that the addition of this parking lot will alleviate the congestion they experience during peak seasons and would allow them to hold just one service on Sundays instead of two.

When the Church came to me with this proposal I began review of the Zoning Ordinance to see if this would be allowed. A church is a place of Public Assembly Large and is allowed in the R-2 Residential Zoning District as a Special Use if the property is located on a Key Street Segment. U.S. 31 (Cypress Street) is a Key Street Segment. The Church is considered an existing Special Use under the standards of our Zoning Ordinance.

Review of the standards of the R-2 Residential Zoning District shows that an Accessory Use, related to uses permitted (Section 1805) is a Special Use. After reviewing the Standards and definition of Section 1804 "*A use naturally and normally incidental to, and subordinate to, and devoted exclusively to, the principal use of the land or buildings*" I determined an off-site parking lot complied with the requirements of the Zoning Ordinance as a Special Use.

A concern was raised during the Planning Commission meeting that by allowing an off-site parking lot to be constructed, we would also have to allow the construction of accessory structures (i.e. garages) to be constructed on vacant parcels without a primary structure. While that concern may be valid I believe that my interpretation is correct. If the Planning Commission wishes to restrict off-site accessory uses, the ordinance language can be changed.