

City of Manistee
Zoning Board of Appeals
City Hall
70 Maple Street
Manistee, Michigan

There will be a meeting of the City of Manistee Zoning Board of Appeals to be held on Thursday, January 24, 2008 at 5:30 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

AGENDA

- I Roll Call
- II Site Inspection:
 - 1.
- III Public Hearing:
 - 1.
 - 2.
- IV Approval of Minutes:
 - 1. Approval of Minutes (11/27/07)
- V Business Session:
 - A. Action on Pending Case:
 - 1.
 - 2.
 - B. Old Business:
 - 1.
 - C. Other Business of the Appeals Board:
 - 1. Election of Officers
 - 2. Appointment of Recording Secretary
 - 3. By-Law Review
 - 4. Meeting Dates/Times
 - 5. Misc.
- VI Questions, Concerns of Citizens in Attendance
- VII 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 *DB*
DATE: January 11, 2008
RE: January Meeting

Good Morning! We have scheduled a meeting for 5:30 p.m. on Thursday, January 24, 2008 in the Council Chambers at City Hall. We will hold our annual election of officers, appointment of a Recording Secretary, review our By-Laws (enclosed) and discuss meeting dates and times.

I have enclosed a listing of your Action for 2007 that shows the requests for the past year. We thank you for your dedication to the community!!

MSU Extension will be holding two education opportunities "Planning to Prepare for the New Michigan Economy: Smart Growth/Michigan Strategic Growth" on February 20th and "Zoning Board of Appals Training" on March 27th. If you attend both courses you will be eligible for Master Citizen Planner Credits.

If you are planning to take either of these courses or both please fill out the enclosed registration form (does not matter which one) and bring it with you to the meeting. THE CITY WILL PAY THE REGISTRATION FEE but I need the forms by the 24th so a check can be prepared to meet the registration deadline.

We will see you on the 24th!

:djb

07-21
2-6-07

CITY OF MANISTEE
ZONING BOARD OF APPEALS
BY-LAWS AND RULES OF PROCEDURES

1. AUTHORITY

These By-laws and Rules of Procedures are adopted by the Zoning Board of Appeals of the City of Manistee, County of Manistee, (hereinafter known as Appeals Board) pursuant to Public Act 110 of 2006, as amended, the Michigan Zoning Enabling Act; and the Public Act 267 of 1976, as amended, the Open Meetings Act. Established by Article 25 of the City of Manistee Zoning Ordinance, the Appeals Board also acts as the Construction Board of Appeals as provided for in Chapter 1420 Michigan Building Code and as the Fire Code Board of Appeals as provided for in Chapter 1610 International Fire Code of the Codified Ordinances of the City of Manistee. The duties and responsibilities of the Appeals Board are specified and limited to those identified in the above referenced Article and Chapters.

2. OFFICERS

2.1 Selection. At the Organizational meeting in January, the Appeals Board shall elect a chair, vice-chair and secretary who shall serve for the next twelve (12) months and who shall be eligible for re-election. Vacancies in an office of the Appeals Board shall be filled at the next meeting of the Appeals Board. The membership shall elect one of its members to fill the vacancy until the next annual election.

2.2 Duties. The chair shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein.

The vice-chair shall act in the capacity of the chair in the absence of the chair. In the event of a vacancy in the office of chair, the vice chair will assume the office of chair and the Appeals Board shall select a successor to the office of vice-chair at the earliest practicable time. The Secretary, or a Recording Secretary appointed by the Secretary, shall be responsible for the preparation of minutes, keeping of pertinent public records, delivering communications, reports, and related items of business of the Appeals Board, issuing notices of public hearings and performing related administrative duties to assure efficient and informed Appeals Board operations. In the event the Secretary is absent, the chair or acting chair shall appoint a temporary secretary for such meeting.

2.3 Tenure. The officers shall take office immediately following their election. They shall hold their office for a term of one year, or until their successors are elected and assume office.

3. MEETINGS

3.1 Meetings. Meetings shall be scheduled upon receipt of a complete application. The business which the Appeals Board may perform shall be conducted at a public meeting of the Appeals Board held in compliance with the Michigan Zoning Enabling Act. Public Notice of the time, date, and place of the meeting shall be given in a manner as required by the Michigan Zoning Enabling Act.

- 3.2 Meeting Notice. Notice of all meetings shall be posted at City Hall. The notice shall include the date, time and place of the meeting. Any changes in the date or time of the meetings shall be posted and noticed in the same manner as originally established.
- 3.3 Attendance. A member may be removed from office by the appointing City Council for neglect of official duty or misconduct in office after being given a written statement for reasons and an opportunity to be heard thereon. Un-excused absences may be reason for removal and three (3) un-excused absences in a row shall be reported in writing to the City Manager. An un-excused absence is defined as not notifying the Recording Secretary prior to the meeting.
- 3.4 Special Meetings. A special meeting may be called by two members of the Appeals Board upon written request to the Secretary or by the Chairperson. The business which the Appeals Board may perform shall be conducted at a public meeting of the Appeals Board held in compliance with the Open Meeting Act. Public Notice of the time, date, and place of the special meeting shall be given in a manner as required by the Open Meeting Act, and the Secretary or Recording Secretary shall provide notice to members of the Appeals Board by writing, telephone, or e-mail.
- 3.5 Quorum. In order for the Appeals Board to conduct business or take any official actions, a quorum consisting of at least three of the five members and two alternates of the Appeals Board shall be present. When a quorum is not present, no official action, except for the closing of the meeting may take place. The members of the Appeals Board may discuss matters of interest, but shall take no action until the next regular or special meeting. All public hearings without a quorum shall be scheduled for the next regular or special meeting and no additional public notice is required provided the date, time and place is announced at the meeting.
- 3.6 Public Hearings. Hearings shall be scheduled and due notice given in accordance with the provisions of the Acts and Ordinance cited in Section 1. Public hearings conducted by the Appeals Board shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure.
1. The Chair of the Appeals Board shall announce that a public hearing will be conducted on a request.
 2. The Chair shall read the public hearing announcement as published in the newspaper and give a brief description of the hearing subject and the public notice procedure.
 3. The Chair shall announce the following hearing rules:
 - a. The Chair will recognize each speaker. When a speaker has the floor, he/she is not to be interrupted unless time has expired. Persons speaking without being recognized shall be out of order.

- b. Each speaker shall state their name and address for the record and may present written comments for the record.
 - c. Speakers shall address all comments and questions to the Appeals Board and comments will be limited to the subject matter of the Public Hearing.
 - d. Unless waived by the Appeals Board for a specific meeting or a specific speaker, public comment shall be limited to five (5) minutes per speaker. If a group of people wish to be heard on one subject, a spokesperson may be designated who may request that more than five (5) minutes be permitted for collective comments of the group as presented by that speaker.
 - e. The Chair may allow people to speak a second time after everyone has had the opportunity to speak. The Chair may request that repetitive comments be limited or abbreviated in the interest of saving time and allowing others to speak.
 - f. The Chair may establish additional rules of procedure for particular hearings as he/she determines appropriate.
 - g. Normal civil discourse and decorum is expected at all times. Applause, shouting, outbursts, demonstrations, name-calling or other provocative speech or behavior may result in removal from the hearing or an adjournment.
4. Once all public comments have been stated, the Chair shall close the hearing. Any voting member of the Appeals Board may initiate a motion to close the hearing.
5. Public Hearings shall be carried out in the following format:
- a. The Chair shall open the hearing.
 - b. The Applicant shall present any comments and explanation of the case. Applicants presentation shall not be subject to the five (5) minute limitation.
 - c. The City staff and any consultants serving the City shall present their reports.
 - d. The hearing will be opened for public comment.
 - e. The public comment period will be closed.
 - f. Deliberation and discussion by the Appeals Board.
 - g. Disposition of the case by the Appeals Board.

If more than one public hearing has been scheduled for the meeting. The public hearings will be held in the order in which received. Deliberation and disposition by the Appeals Board will be held after all public hearings have been closed.

- 3.7 Misfeasance, Malfeasance, or Nonfeasance/Conflict of Interest. A member of the Zoning Board of Appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

- 3.8 Motions. Motions shall be restated by the Chair before a vote is taken. The name of the maker and second of each motion shall be recorded.
- 3.9 Voting. An affirmative vote of the majority of the Appeals Board shall be required for the approval of any requested action or motion placed before the Appeals Board. Voting shall ordinarily be by voice vote; provided however that a roll call vote shall be required if requested by any Appeals Board member or directed by the Chairperson. All members of the Appeals Board including the Chairperson shall vote on all matters, but the Chairperson shall vote last.
- 3.10 Order of Business. A written agenda for all regular meetings shall be prepared as followed. The order of business shall be:
 Call to Order.
 Roll Call
 Approval of Agenda
 Approval of Minutes.
 Site Inspection
 Public Hearings.
 Business Session.
 Action on Pending Case
 Old Business
 Other Business of the Appeals Board
 Public Comments and Communications concerning items not on the agenda.
 Adjournment.
 A written agenda for special meeting shall be prepared and followed, however the form as enumerated above shall not be necessary.
- 3.11 Rules of Order. All meetings of the Appeals Board shall be conducted in accordance with generally accepted parliamentary procedure, as adopted by City Council for all Boards and Commissions within the City of Manistee.
- 3.12 Agenda Items. For an item to be considered at a regular Appeals Board meeting, it must be submitted to the City Community Development Department no later than the established policy of the City prior to the next scheduled Appeals Board Meeting.
- 3.13 Conflict of Interest:
1. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
 - a. A commission member issuing, deliberating, voting or reviewing a case concerning himself.

- b. A commission member issuing, deliberating, voting or reviewing a case concerning work on land owned by himself.
 - c. A commission member issuing, deliberating, voting or reviewing a case involving a corporation, company, partnership, or other entity in which he is a part owner, or any other relationship where he may stand to have a financial gain or loss.
 - d. A commission member issuing, deliberating, voting or reviewing a case which is an action which results in a pecuniary benefit to himself.
 - e. A commission member issuing, deliberating, voting or reviewing a case concerning his spouse, children, step-child, grandchildren, parents, brother, sister, grandparents, parents in-law, grandparents in-law or member of his household.
 - f. A commission member may consider the possibility of declaring a conflict of interest if his/her home falls within a notification radius used for a Public Hearing. Because the sending of the notice automatically presumes some degree of interest, this fact should be recognized by declaring a conflict, particularly if a financial impact is likely.
 - g. A commissioner who feels, in his/her judgement that his/her job, scope of duties and/or position may be at risk, pending the outcome of the permitting process.
 - h. The Planning Commission Representative to the Appeals Board will abstain from any case where as a member of the Planning Commission he/she made a decision which resulted in the appeal.
2. A commission member shall, when he/she has a conflict of interest do the following immediately, upon the first review of the case and determining a conflict exists:
 - a. declare a conflict exists at the beginning of the meeting where the case appears on the agenda, or when the topic brought up so such declaration is recorded in the minutes, and
 - b. refrain from participating in the discussion, site inspection or review of the case, except where specific information has been requested by the commission, and
 - c. refrain from casting a vote on any motion having to do with the case.
 3. Nothing in the above shall preclude a member from recusing him or herself from the board due to a conflict and participating as a member of the public.

4. MINUTES

- 4.1 Preparation. Appeals Board minutes shall be prepared by the Secretary or Recording Secretary of the Appeals Board. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and recording votes; complete statement of the conditions or recommendations made on any action; and recording of attendance. All communications, action and resolutions shall be attached to the minutes.

5. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS

- 5.1 All meetings of the Appeals Board shall be open to the public and held in a place available to the general public.
- 5.2 All deliberations and decision of the Appeals Board shall be made at a meeting open to the public.
- 5.3 A person shall be permitted to address a hearing of the Appeals Board under the rules established in subsection 3.5, and to address the Appeals Board concerning non-hearing matters at the time designated for such comments.
- 5.4 A person shall not be excluded from a meeting of the Appeals Board except for breach of the peace, committed at the meeting.
- 5.5 All records, files, publications, correspondences, and other materials are available to the public for reading, copying, and other purposes as governed by the Freedom of Information Act.

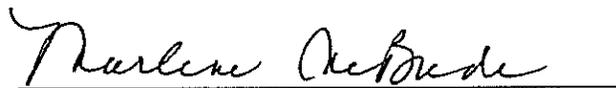
6. ANNUAL REVIEW OF BY-LAWS

The Appeals Board shall annually review their By-Laws at their Organizational Meeting in January after the election of Officers.

7. AMENDMENTS

These rules may be amended by the Appeals Board by a concurring vote to subsection 3.7, during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

I HEREBY CERTIFY that the above Bylaws were adopted the 11th day of January, 2007.

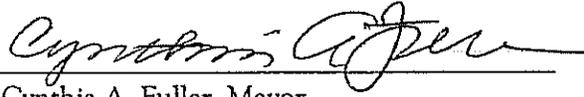


Marlene Mc Bride, Secretary

Approved by the City of Manistee Council

02-06-07

Date



Cynthia A. Fuller, Mayor

Zoning Board of Appeals - 2007

#	Received Hearing date	Name	Parcel Code/Address	Request
n/a	1/11/07	Election of Officers		Chair - John Perschbacher Vice Chair - Bill Kracht Secretary - Marlene McBride Recording Secretary - Denise Blakeslee
n/a	1/11/07	Review of By-Laws		Adopted new By-Laws
ZBA-2007-01	4/26/07 5/17/07	Bill & Mary Beth Kennedy	415 Cedar Street 51-51-341-702-01	Variance to increase the height limitation for the primary structure from 35 feet to 42 feet to restore the original roof peak of the home as shown on the 1885 Architectural drawings. Approved by Zoning Board of Appeals 5/17/07
ZBA-2007-02	5/29/07 6/18/07	Jeremy Logan	183 Washington Street 51-51-146-730-05	Appeal from Administrative Decision to determine if existing garage attached to the home by a covered roof is part of the primary structure. OR Variance for a reduction in the side-yard set-back from 10 feet to 7 feet to construct an garage addition with living space. Approved by Zoning Board of Appeals 6/18/07
ZBA-2007-03	10/10/07 10/25/07	Planning Commission	n/a	Interpretation of the definition of "Accessory Use". Zoning Board of Appeals overrule the Zoning Administrators interpretation of the definition of "Accessory Use"

Zoning Board of Appeals - 2007

<p>ZBA-2007-04</p>	<p>10/30/07 11/27/07</p>	<p>Morton Salt Company</p>	<p>180 Sixth Street 51-51-712-150-01</p>	<p>A height variance to relocate the existing 150 foot high boiler exhaust stack north of the present location by 173 feet</p> <p>AND</p> <p>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.</p> <p>The Zoning Ordinance Height Limit in the G-I General Industrial District is 50 feet.</p> <p>Approved by Zoning Board of Appeals 11/27/07</p>
<p>ZBA-2007-05</p>	<p>11/1/07 11/27/07</p>	<p>Lakeside Restaurant</p>	<p>200 Arthur Street 51-51-101-250-01</p>	<p>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.</p> <p>Denied by Zoning Board of Appeals 11/27/07</p>

WHO SHOULD ATTEND:

Local planning commissioners, elected officials, zoning administrators, professional planners, Realtors, developers, lawyers, and others interested in the future of Michigan and what local units of government's role will be to make that future.

INSTRUCTOR:

Kurt H. Schindler,

MSU EXTENSION REGIONAL LAND USE EDUCATOR

Kurt Schindler is a specialist in land use (planning and zoning), providing training for local government members of planning commissions, zoning boards, zoning appeals boards, and professional planners.

Schindler is a member of the Michigan State University Extension Land Use Team and a member of the MSU Extension LeadNet (leadership development) team.

QUESTIONS:

Call: NW Michigan Council of Governments
231 929 5000

MSU is an affirmative-action, equal-opportunity employer. Michigan State University Extension programs and materials are open to all without regard to race, color, national origin, gender, gender identity, religion, age, height, weight, disability, political beliefs, sexual orientation, marital status, family status or veteran status. Persons with disabilities have the right to request and receive reasonable accommodations.

Accommodations for persons with disabilities may be requested by contacting NW Michigan Council of Governments 231 929 5000 by no less than one week to make arrangements. Requests received after this date will be fulfilled when possible.

MICHIGAN STATE
UNIVERSITY
EXTENSION
Bringing Knowledge to Life



Two education opportunities

February and March 2008

- Planning to Prepare for the New Michigan Economy: Smart Growth/Michigan Strategic Growth
- Zoning Board of Appeals Training

In a Community Near You:

Charlevoix
Traverse City
Manistee

For more locations and maps to locations see: <http://web5.msue.msu.edu/lu/ES/index.html>

Space is limited, so please sign up soon.

The curriculum for "Planning and Zoning to Prepare for the new Michigan Economy: Smart Growth and Michigan Strategic Growth" will be:

1. Review of Michigan historic economy, and past transitions.
2. The current economic transition Michigan is undergoing.
3. What to be aware of, and to prepare for so a community can better prepare for the new economy.
4. Smart Growth & Michigan Strategic Growth.
5. Review of the 10 Smart Growth Tenets.
6. Review of the three elements of "Michigan Strategic Growth."
7. Example of one application: New Designs for Growth.
8. Review of Smart Growth Tool Kit (Smart Growth America)
9. Review of Smart Growth Readiness Assessment Tool.
10. Review of related Extension programs (e.g., Cool Cities, etc.)

The curriculum for "Zoning Board of Appeals Training" is:

1. The statutory requirements for a Zoning Board of Appeals (ZBA)
 - a. The Statute
 - b. ZBA duties
 - c. ZBA membership
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2. The job members of a ZBA have.
 - a. Appeal of a decision of the Zoning Adm.: (I) text, (ii) Map
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4. The meeting mechanics.
 - a. Rules of procedure
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Planning to Prepare for the new Michigan Economy: Smart Growth and Michigan Strategic Growth: \$55.

- Charlevoix: Charlevoix Public Library, 220 W. Clinton Street, Charlevoix, Mich.: 7-9:30pm, March 4, 2008
- Manistee: Manistee City Hall, 70 Maple Street, Manistee, Mich.: 6:30-9pm, Feb. 20, 2008
- Traverse City: Traverse Area District Library, 610 Woodmere Ave, Traverse City, Mich.: 6-8:30pm, Feb. 19, 2008

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If you choose to attend both you can receive 0.4 Masters Citizen Planner Credits.

To Register:

To register for the workshop, please complete this form and send with a check for \$55 (or \$110 for both) so it is **postmarked at least 8 days before** the date of the workshop(s) you plan to attend. Registration after the deadline is \$70 (or \$140 for both). Send this form to:

Northwest Michigan Council of Governments
P.O. Box 506
Traverse City, Michigan 49685-0506

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- Charlevoix
- Manistee
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- Traverse City
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Registration form:

Name: _____

Title/position: _____

Please check one: Planning Comm/Zoning Board, Appeals Board, Zoning Administrator, Planner, Elected Official, Other _____.

Organization/government: _____

Address: _____

City, State: _____, Michigan

Zip Code _ _ _ _ - _ _ _

Your e-mail: _____@_____

Are you from a township, village or city, county, or Other _____

Daytime Phone (_ _ _) _ _ _ - _ _ _ _

Amount Enclosed: \$ _ _ _ . _ _ _

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P.O. Box 506
Traverse City, Michigan 49685-0506

Name: _____

Title/position: _____

Please check one: Planning Comm/Zoning Board, Appeals Board, Zoning Administrator, Planner, Elected Official, Other _____

Organization/government: _____

Address: _____

City, State, Zip Code: _____ Michigan _____ - _____

Your e-mail: _____ @ _____

Day time phone (____) _____ - _____

Are you from a township, village or city, county, or Other _____

NOTICE
City of Manistee Planning Commission
and Zoning Board of Appeals

Members of the City of Manistee Planning Commission and Zoning Board of Appeals will be attending training seminars on February 20, 2008 and March 27, 2008 at City Hall in the Council Chambers from 6:30 p.m. till 9:00 p.m.

This notice was posted by Denise J. Blakeslee to comply with Sections 4 & 5 of the Michigan Open Meetings Act (P.A. 267 of 1976) at 12:00 noon, Tuesday, February 12, 2008 on the on the bulletin board at the south entrance to City Hall.

Signed: 
Denise J. Blakeslee