

MANISTEE CITY ZONING BOARD OF APPEALS

City Hall, 70 Maple Street
Manistee, MI 49660

MEETING MINUTES

November 6, 2008

A meeting of the Manistee City Zoning Board of Appeals was held on November 6, 2008 at 5:30 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

MEMBERS PRESENT: Ray Fortier, Bill Kracht, Marlene McBride, John Perschbacher

ALTERNATES PRESENT: Nathaniel Neider, Craig Schindlbeck

MEMBER ABSENT: Mark Hoffman

OTHERS PRESENT: Susan Archey, Roger & Janeen McGlynn, Major Jo Langham, Jon Rose (Community Development Director), and Denise Blakeslee (Planning & Zoning)

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

APPROVAL OF AGENDA:

MOTION by Ray Fortier, seconded by Bill Kracht to approve the November 6, 2008 meeting Agenda as changed (the Public Hearing and Action on the Archey request will be held first; Chair Perschbacher has declared a conflict of interest with the request for the Salvation Army; the Public Hearing and Action for the Salvation Army will be held after deliberation on the Archey Request; Vice Chair Hoffman is absent and during deliberation on the Salvation Army Bill Kracht will act as Chair).

With a Roll Call vote motion passed 5 to 0.

Yes: McBride, Schindlbeck, Kracht, Fortier, Perschbacher

No: None

APPROVAL OF MINUTES:

MOTION by Ray Fortier, seconded by Bill Kracht to approve the January 24, 2008 Zoning Board of Appeals Meeting Minutes.

With a Roll Call vote motion passed 5 to 0.

Yes: Kracht, McBride, Schindlbeck, Fortier, Perschbacher

No: None

PUBLIC HEARING:

ZBA-2008-01 - Robert & Susan Archey, 1073 Sweetnam Drive

Robert & Susan Archey reside at 1073 Sweetnam Drive and would like to construct an addition onto an existing garage. The proposed addition would be 8' x 24' the minimum amount needed to accommodate the owners vehicles. The Archey's have a uniquely shaped lot and they have three front yards. The proposed garage addition would require all three of the following variances:

Sweetnam Drive from 30' to 26'; Sweetnam Drive from 30' to 25' 3"; Reigle Street from 30' to 26'2"

Chair Perschbacher opened the Public Hearing.

Susan Archey, 1073 Sweetnam Drive - Ms. Archey spoke of the emergency access road that was constructed on Reigle Street. They had discussed making a change in the access to the garage prior to the washout of Twelfth Street in June. The accumulation of snow in front of the previous entrance results in 3 to 8 foot drifts in the driveway. They would clear the snow and it would accumulate again in 2 to 3 hours after clearing.

The house was moved from the lots across the street in 1990 due to the severe erosion of the bank. They were unaware of the encroachment into the setback and their contractor had already poured the footings for the addition when it was discovered. The lot has an uniquely shaped lot with three front yards. The streets are platted but not developed. The proposed addition would not obstruct any view of adjoining properties.

John Perschbacher - Who decided where the access road would be constructed?

Susan Archey - The City constructed it across Reigle Street to their property line. They had to construct the remainder of the access road across their property.

Bill Kracht - Is their any plan to complete Reigle Street?

Jon Rose - There are buildable lots on Reigle Street. They may use a Special Assessment to construct the street at the adjoining properties expense. The City is also waiting for a determination from FEMA which if they pay to reconstruct Twelfth and Sweetnam may require the removal of the access drive on Reigle Street in order for the City to be reimbursed for the cost of installation.

Bill Kracht - Could the garage be constructed on the rear of the property?

Susan Archey - That portion of the property is lower and flooding is an issue.

Bill Kracht - When was the home purchased? What was the Zoning Regulations in force when the home was purchased?

Susan Archey - They purchased the home in 1997.

Jon Rose - The property was zoned R-2 and required a 30 foot front yard set-back same as what is required in the R-1 Zoning District today.

Craig Schindlbeck - Why is the front yard set back 30'?

Jon Rose - That is the requirement in the Low Density Residential District where the lots are larger in size. The ordinance also has a 25' clear visibility requirement at intersections. The front yard setback in the other residential districts is 15'.

Susan Archey - Noted that the change to access from the front to the rear could result in the removal of most of the cement in the front yard of their property. The water from the existing driveway continues down to the intersection of Twelfth and Sweetnam where the washout occurred. The neighbor to the north had moved their driveway from Sweetnam to Twelfth Street when they renovated at the Archey's encouragement.

Roger & Jeanne McGlynn - Mr. & Mrs. McGlynn own Lots 4 & 5 on the West side of Sweetnams Drive. These lots are un-buildable but may provide access to Lake Michigan. They have been unable to get to their property since the washout and want to know how they will access their property in the future? Do not have any concerns about the Archey's request just wanted to know about their access to their property.

Jon Rose - They will either have access from Sweetnam Drive if reconstructed or from Reigle Street.

Bill Kracht - Will their decision on the Archey's request impact the McGlynn's property?

Jon Rose - The McGlynn's access would not be impacted if a variance is granted. The McGlynn's property is un-buildable due to the State High Risk Erosion designation of the property. The State requires additional set-backs from Lake Michigan.

There being no further discussion the Public Hearing Closed at 6:03 p.m.

Action on Pending Case - ZBA-2008-01 - Robert & Susan Archey, 1073 Sweetnam Drive

A Public Hearing was held earlier in response to a request from Robert & Susan Archey, 1073 Sweetnam Drive to construct an addition onto an existing garage. The proposed addition would be 8' x 24' the minimum amount needed to accommodate the owners vehicles. The Archey's have a uniquely shaped lot and they have three front yard the proposed garage addition would require three variances.

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.
5 - Yes Fortier, Kracht, McBride, Schindlbeck, 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 McBride, Kracht, Schindlbeck, 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. **Bill Kracht noted that he was concerned about the addition creating a visual obstruction to adjoining properties. After review of the request did not feel the request impacted adjoining properties view.**
5 - Yes Kracht, McBride, Schindlbeck, Fortier, 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 Schindlbeck, Fortier, McBride, Kracht, Perschbacher
0 - No None
5. The requested variance shall relate only to property that is under control of the applicant.
5 - Yes Schindlbeck, Fortier, Kracht, McBride, 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. **Bill Kracht asked for clarification from Jon Rose. Mr. Rose noted that the topography of the property and the unique shape of the property is not a self-created condition.**
5 - Yes Schindlbeck, Kracht, Fortier, McBride, Perschbacher
0 - 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.
5 - Yes Kracht, Fortier, McBride, Schindlbeck, Perschbacher
0 - No None.
8. The requested variance is the minimum variance that will make possible the reasonable use of the land. **The site plan submitted included the addition. Without the addition there is not enough depth to park the vehicle.**
5 - Yes Fortier, Kracht, McBride, 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:

Zoning Board of Appeals decided to take action on item #2.

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.

5 - Yes Kracht, McBride, Schindlbeck, Fortier, Perschbacher
0 - No None

MOTION by Ray Fortier, seconded by Marlene McBride to approve the variance request from Robert & Susan Archey, 1073 Sweetnam Drive to reduce the three front yard setbacks to allow the construction of an 8' x 24' garage addition.

With a roll call vote this motion passed 5 to 0

Yes: Fortier, McBride, Perschbacher, Kracht Schindlbeck
No: None

PUBLIC HEARING:

Chair Perschbacher took a seat in the audience. Bill Kracht assumed the position of Acting Chair.

ZBA-2008-02 - The Salvation Army Family Thrift Store, 172 Memorial Drive

The Salvation Army is moving their Thrift Store to 172 Memorial Drive. The City of Manistee Zoning Ordinance allows the building at 170/172 Memorial Drive 165 square feet of signage on the side of the building that accesses the two storefronts. The existing signage at 170 Memorial Drive totals 160 sq. ft. was installed prior to the adoption of Signage Regulations in the Zoning Ordinance. The Salvation Army would like to install approximately 43 square feet of signage. A variance to allow 38 square feet of additional signage is being requested.

Acting Chair Kracht opened the Public Hearing.

Major Jo Langham, The Salvation Army Family Thrift Store, 172 Memorial Drive - Major Langham said that they are moving their Thrift Store to 172 Memorial Drive and would like to install a lighted sign over the door and a small sign on the door. They have a letter from the Owner of the property that says they will bring the signage at 170 Memorial Drive into compliance when the tenant moves.

Jon Rose, Community Development Director - It was discovered that there is only five feet of signage remaining on that side of the building. The Family Dollar Sign was installed prior to regulating signs under the Zoning ordinance.

Marlene McBride - Is this sign considered a roof sign?

Jon Rose - No it is a wall sign which is allowed by the Ordinance. The other signs that are requested in the Sign Permit Application comply with the Ordinance. The only issue is that there is not enough signage remaining after the Family Dollar sign was calculated. The Zoning Board of Appeals can condition approval on the letter received from the property owner that says the signage will be brought into compliance when Family Dollar moves.

There being no further discussion the Public Hearing Closed at 6:36 p.m.

Action on Pending Case - ZBA-2008-02 - The Salvation Army Family Thrift Store, 172 Memorial Drive

A Public Hearing was held earlier in response to a request from The Salvation Army Family Thrift Store, 172 Memorial Drive to allow 38 square feet of additional signage.

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.
5 - Yes Fortier, Kracht, McBride, Neider, Schindlbeck
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 McBride, Kracht, Schindlbeck, Neider, Fortier
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 Kracht, McBride, Neider, Schindlbeck, Fortier
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 Schindlbeck, Fortier, McBride, Kracht, Neider
0 - No None
5. The requested variance shall relate only to property that is under control of the applicant. **Jon Rose noted that the letter from Oleson's addresses this issue.**
5 - Yes Neider, Schindlbeck, Fortier, Kracht, McBride
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.
5 - Yes Schindlbeck, Kracht, Neider, Fortier, McBride
0 - 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.
5 - Yes Neider, Kracht, Fortier, McBride, Schindlbeck
0 - No None
8. The requested variance is the minimum variance that will make possible the reasonable use of the land.
5 - Yes Fortier, Kracht, McBride, Neider, Schindlbeck
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:

Zoning Board of Appeals decided to take action on item #3.

3. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
5 - Yes Schindlbeck, Fortier, McBride, Kracht, Neider
0 - No None

MOTION by Ray Fortier, seconded by Marlene McBride to approve with condition the variance request from The Salvation Army Family Thrift Store, 172 Memorial Drive to allow 38 square feet of additional signage.

Condition: When Family Dollar moves from 170 Memorial Drive that the new Tenant will only be allowed 50% of the frontage for calculating the size of the Tenant's new sign. This caveat also applies to the side wall of the building with the intention that both Tenants will then be in compliance with the then existing City sign Ordinance.

With a roll call vote this motion passed 5 to 0

Yes: McBride, Neider, Fortier, Schindlbeck, Kracht
No: None

Old Business:

None

Other Business of the Appeals Board:

Jon Rose noted that changes have been made to the Planning Enabling Act regarding decisions by the Zoning Board of Appeals. In order for an applicant to be issued a Land Use Permit the meeting minutes either have to be approved by the Board.

A meeting will need to be scheduled to approve the minutes. Chairman Perschbacher scheduled a meeting for Thursday, November 13, 2008 at 2:30 p.m. for the purpose of approving the meeting minutes.

QUESTIONS, CONCERNS OF CITIZENS IN ATTENDANCE:

None

ADJOURNMENT:

There being no further business meeting MOTION by Bill Kracht, seconded by Marlene McBride that the meeting be adjourned. Meeting adjourned at 6:45 p.m.

Respectfully Submitted

Denise J. Blakeslee, Recording Secretary