

MANISTEE CITY ZONING BOARD OF APPEALS
City Hall, 70 Maple Street
Manistee, MI 49660

MEETING MINUTES
February 5, 2009

A meeting of the Manistee City Zoning Board of Appeals was held on February 5, 2009 at 5:00 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

MEMBERS PRESENT: Ray Fortier, Mark Hoffman, Marlene McBride, John Perschbacher

MEMBER ABSENT: Bill Kracht

ALTERNATES PRESENT: Nathaniel Neider, Craig Schindlbeck

OTHERS PRESENT: Scott Tuch (Gladiator Enterprises, LLC/DBA Little Caesars), Dan Korzeniewski (17 Magill Street), Jon Rose (Community Development Director), Denise Blakeslee (Planning & Zoning) and others

The meeting was called to order at 5:00 p.m. by Chairman Perschbacher

APPROVAL OF AGENDA:

MOTION by Ray Fortier, seconded by Mark Hoffman to approve the February 5, 2009 meeting Agenda.

With a voice vote this MOTION PASSED UNANIMOUSLY

APPROVAL OF MINUTES:

MOTION by Ray Fortier, seconded by Nathaniel Neider to approve the January 15, 2009 Zoning Board of Appeals Meeting Minutes.

With a voice vote this MOTION PASSED UNANIMOUSLY

PUBLIC HEARING:

Applicant Info :

ZBA-2009-01 - Gladiator Enterprises, LLC/DBA Little Caesars, 537 Cypress Street

A Public Hearing is being held in response to a request from Gladiator Enterprises, LLC/DBA Little Caesars are leasing the building at 537 Cypress Street. The Building was constructed in the 1950's as a commercial building and has had several different commercial uses since that time. Gladiator Enterprises, LLC/DBA Little Caesars are asking for a variance that would allow them to continue using the existing pole sign and be allowed up to 93 sq. ft. of signage to be placed on the building. This is the same amount that Commercial Buildings in the C-1, C-2, C-3 and W-F zoning districts are allowed when located on U.S. 31. Because this building is located in the R-2 zoning district it is limited to 16 sq. ft. of signage.

Chair Perschbacher opened the Public Hearing.

Scott Tuch, Gladiator Enterprises, LLC/DBA Little Caesars - There was no zoning when this building was built as a commercial building. Now the property is zoned R-2 Residential and faces U.S. 31 where the posted speed limit is 40 mph. They are asking for the same commercial signage as allowed for other commercial buildings on U.S. 31 in other districts. He plans to split the building into two spaces and rent the other space to another business. They have signed a 5 year lease with the option for three renewals. This building sits back from the other building to the North and with the speeds they are asking for the same signage as other commercial buildings. The signage shown for Little Caesars shows just the portion of the building they are using for their business. The other storefront has three windows and the requested signage will be sufficient for both businesses.

Jon Rose, Community Development Director - This building is obviously suited for the commercial use it was built for. There is little chance that it would be converted to residential use. The request is reasonable.

Dan Korzeniewski, 17 Magill Street - Mr. Kozewiewski spoke of the pole sign and in the past there has been credit card signs attached to the sign pylon. Scott Tuch said that when he came into the office to discuss signage it was pointed out to him that this was an issue in the past and that the current Zoning Ordinance does not permit attachments to the pylon. Mr. Tuch removed them the same day.

Mr. Korzeniewski spoke of visibility issues on the corner and the accumulation of snow and parking on the corner. Mr. Tuch said that he intends to reseal the parking lot and will strip the lot to discourage parking on the sidewalk and in the corner area. Mr. Tuch just had snow trucked off site this past week.

A letter from Debra Thomas, 296 Sixth Street was read into the record (attached).

There being no further discussion the Public Hearing Closed at 5:15 p.m.

BUSINESS SESSION:

Action on Pending Case:

ZBA-2009-01 - Gladiator Enterprises, LLC/DBA Little Caesars, 537 Cypress Street

A Public Hearing was held earlier in response to a request the request from Gladiator Enterprises, LLC/DBA Little Caesars for a variance that would allow them to continue using the existing pole sign and be allowed up to 93 sq. ft. of signage to be placed on the building. This is the same amount that Commercial Buildings in the C-1, C-2, C-3 and W-F zoning districts are allowed when located on U.S. 31. Because this building is located in the R-2 zoning district it is limited to 16 sq. ft. of 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, McBride, Hoffman, Neider, Perschbacher
0 - No None
2. The requested variance does 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, Hoffman, Neider, Fortier, Perschbacher
0 - No None
3. The requested variance does 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 McBride, Hoffman, Neider, 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 Hoffman, Fortier, McBride, Neider, Perschbacher
0 - No None

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

MOTION by Ray Fortier, seconded by Mark Hoffman to approve the request from Gladiator Enterprises, LLC/DBA Little Caesars, 537 Cypress street to continue use of existing pole sign and be allowed 93 sq. ft. of building signage.

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

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

Old Business:

None

Other Business of the Appeals Board:

None

QUESTIONS, CONCERNS OF CITIZENS IN ATTENDANCE:

None

The Zoning Board of Appeals will be meeting on February 9, 2009 at 3:00 p.m. in the Second Floor Conference Room to approve the February 5, 2009 Meeting Minutes.

Members were reminded that the next worksession for Citizen Planner Certification is on Wednesday, February 11, 2009 at 6:00 p.m. in the Council Chambers.

ADJOURNMENT:

There being no further business meeting MOTION by Mark Hoffman, seconded by Marlene McBride that the meeting be adjourned.

Meeting adjourned at 5:32 p.m.

Respectfully Submitted

Denise J. Blakeslee, Recording Secretary