

**MANISTEE CITY ZONING BOARD OF APPEALS**

City Hall, 70 Maple Street  
Manistee, MI 49660

**MEETING MINUTES**

OCTOBER 3, 2011

A meeting of the Manistee City Zoning Board of Appeals was held on October 3, 2011 at 5:30 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

**MEMBERS PRESENT:** Ray Fortier, Mark Hoffman, John Perschbacher, Craig Schindlbeck

**MEMBER ABSENT:** Bill Kracht,

**ALTERNATES PRESENT:** Stanton Haner, Mark Wittlief

**OTHERS:** Kay E. Wagner (523 Second Street), Jackie Kiszelik (535 Second Street), Roger Zielinski (529 First Street), Jon Rose (Community Development Director), Denise Blakeslee (Planning & Zoning)

The meeting was called to order at 5:32 p.m. by Chairman Perschbacher

**APPROVAL OF AGENDA:**

MOTION by Ray Fortier, seconded by Mark Wittlief to approve the October 3, 2011 meeting Agenda.

With a voice vote this MOTION PASSED

**APPROVAL OF MINUTES:**

MOTION by Ray Fortier, seconded by Mark Hoffman to approve the August 2, 2011 Zoning Board of Appeals Meeting Minutes.

With a voice vote this MOTION PASSED

Community Development Director Jon Rose clarified for the members that while Ms. Wagner's narrative for the request included items that will need to be addressed by City Council the only items for consideration by the Zoning Board of Appeals is the three variance requests.

Welcome new Alternate Member Stanton Haner.

**PUBLIC HEARING:**

**Applicant Info**

**ZBA-2011-03 Kay E. Wagner, 523 Second Street – Variances to Section 511 Driveways and Curb Cuts**

Kay E. Wagner, 523 Second Street is requesting Variances to Section 511 Driveways and Curb Cuts as follows:

Variance to increase driveway approach from 20 feet to 23 feet 10 inches

Variance to reduce requirement that driveway curb cuts be placed at least 30 feet from an intersection to 26 feet 3 inches

Variance to reduce requirement that driveway shall be located at least 3 feet from a side yard property line to 0.

Chair Perschbacher opened the Public Hearing.

**Kay E. Wagner, 523 Second Street** – Ms. Wagner spoke to the members of the ZBA of the previous variances received that allowed her to convert the home on the corner of Cedar and Second Street into a garage that is now part of her property. She says she needs the variance to provide better access to the garage. She reviewed the proposals and requested variances with the Board. The driveway is currently about ten feet on inch from the crosswalk and she is proposing for it to be about 6 feet from the crosswalk. She did not anticipate any problems.

**Jon Rose, Community Development Director** – Mr. Rose discussed with members the proposed request. The language for the request to increase the width of the driveway is correct.

He had spoke to Ms. Wagner about the need for a variance and he told her that the driveway had to be 30 feet from the curb line of the intersection and that is how the 26 feet 3 inches was determined. After the request has been noticed it was discovered that the measurement should have been from the edge of the right-of-way or property line. Since that time he determined that the correct measurement should be five feet. The Zoning Board of Appeals should use this measurement for the request.

Ms. Wagner’s third request was for a variance to reduce requirement that driveway shall be located at least 3 feet from a side yard property line to 0. The side of her property for this request fronts on Cedar Street. While the City has discontinued the use of the hill for vehicular use the hill has not been vacated. He considers this to be a front yard and if the Zoning Board of Appeals agrees with his determination there is not a need for a variance.

**Kay Wagner** – Ms. Wagner noted for the board that the intersection is a “T Junction” and there are other locations in the city where driveways are located similar to what she proposes.

**Jackie Kizelik, 535 Second Street** – Ms. Kizelik expressed her concern about the proposal. Ms. Wagner knew the home that she converted into a garage was on the property line. She noted that the neighborhood did not want Cedar Street Hill vacated and this is an example of Ms. Wagner attempting to do it in a different way. She is very concerned with the request that Ms. Wagner is making to City Council and objects to the fencing, cement, etc. Ms. Wagner has a history of taking bits and pieces of the hill and this is another way for her to try to acquire additional property.

**Roger Zielinski, 529 First Street** - Mr. Zielinski had the width of his driveway reduced as part of the Cedar Street project. Adding three feet doesn't seem to make a big difference, he wanted his bigger and they reduced his. The neighbor lost almost 15 feet. The Board will be setting a precedence if they grant the variance. They need to use the rules that have been established. If they grant her a variance they need to start doing it for everyone. When he went by her property she had two cars parked in the driveway. It is harder to get his motor home in the yard and he wanted the same width driveway that he had before, but he has to live with it.

**Correspondence** - None

There being no further discussion the Public Hearing Closed at 6:04 p.m.

**BUSINESS SESSION:**

**Action on Pending Case:**

**ZBA-2011-03 Kay E. Wagner, 523 Second Street – Variances to Section 511 Driveways and Curb Cuts**

A public hearing was held earlier in response to the request from Kay E. Wagner, 523 Second Street is requesting Variances to Section 511 Driveways and Curb Cuts. The Zoning Board of Appeals will discuss each request separately.

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.

**Variance to reduce requirement that driveway shall be located at least 3 feet from a side yard property line to 0.**

Discussion by the Zoning Board of Appeals determined that Mr. Rose's interpretation of the ordinance was correct and that a variance was not required.

MOTION by Ray Fortier, seconded by Mark Hoffman that the Zoning Board of Appeals has determined that there is not a need to for a variance to reduce requirement that driveway shall be located at least 3 feet from a side yard property line to 0 because the property line in question fronts on Cedar Street and is a front yard.

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

Yes Hoffman, Schindlbeck, Fortier, Wittlief, Perschbacher  
No None

**Variance to increase driveway approach from 20 feet to 23 feet 10 inches**

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

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:

The Board reviewed all three special conditions and voted on the following:

3. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.  
 Yes None  
 No Hoffman, Schindlbeck, Wittlief, Perschbacher
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.  
 Yes Hoffman, Wittlief, Fortier, Perschbacher  
 No Schindlbeck

MOTION by Mark Hoffman, seconded by Mark Wittlief to approve the variance request from Kay E. Wagner, 523 Second Street for a variance to increase driveway approach from 20 feet to 23 feet 10 inches.

With a roll call vote this motion passed 4 to 1.

Yes Hoffman, Fortier, Wittlief, Perschbacher  
No Schindlbeck

**Variance to reduce requirement that driveway curb cuts be placed at least 30 feet from an intersection to five feet.**

1. The requested variance shall not be contrary to the public interest or to the intent and purpose of this Ordinance.  
Yes Fortier, Kracht, Wittlief, Perschbacher  
No Schindlbeck
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.  
Yes Hoffman, Schindlbeck, Wittlief, Fortier, Perschbacher  
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.  
Yes Hoffman, Wittlief, Schindlbeck, Fortier, Perschbacher  
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.  
Yes Hoffman, Schindlbeck, Fortier, Wittlief, Perschbacher  
No None
5. The requested variance shall relate only to property that is under control of the applicant.  
Yes Wittlief, Schindlbeck, Fortier, Hoffman, Perschbacher  
No None
6. The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.  
Yes Wittlief, Fortier, Hoffman, Perschbacher  
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.  
Yes Wittlief, Fortier, Hoffman, Schindlbeck, Perschbacher  
No None

8. The requested variance is the minimum variance that will make possible the reasonable use of the land.

Yes Fortier, Hoffman, Wittlief, Perschbacher

No Schindlbeck

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:

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.

Yes Hoffman, Wittlief, Fortier, Perschbacher

No Schindlbeck

MOTION by Mark Hoffman, seconded by Ray Fortier to approve the variance request from Kay E. Wagner, 523 Second Street is requesting a variance to reduce requirement that driveway curb cuts be placed at least 30 feet from an intersection to five feet.

With a roll call vote this motion passed 4 to 1.

Yes Hoffman, Fortier, Wittlief, Perschbacher

No Schindlbeck

**Old Business:**

None

**Other Business of the Appeals Board:**

None

**QUESTIONS, CONCERNS OF CITIZENS IN ATTENDANCE:**

None

Members of the Zoning Board of Appeals were given Zoning Ordinance Updates. Discussed training opportunities, waiting until Spring.

The Zoning Board of Appeals will be meeting on Thursday, October 6, 2011 at 2:30 p.m. in the Second Floor Conference Room to approve the October 6, 2011 Meeting Minutes.

**ADJOURNMENT:**

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

Meeting adjourned at 6:55 p.m.

Respectfully Submitted

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Denise J. Blakeslee, Recording Secretary