

**MANISTEE CITY ZONING BOARD OF APPEALS**

City Hall, 70 Maple Street  
Manistee, MI 49660

**MEETING MINUTES**

December 19, 2012

A meeting of the Manistee City Zoning Board of Appeals was held on December 19, 2012 at 5:30 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

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

**MEMBER ABSENT:** None

**OTHERS:** Keith Sigourney and Linda VanSickle (222 Hughes Street), Jon Rose (Community Development Director), Denise Blakeslee (Planning & Zoning)

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

**APPROVAL OF AGENDA:**

MOTION by Ray Fortier, seconded by Bill Kracht to approve the Agenda as prepared

With a voice vote this MOTION PASSED UNANIMOUSLY

**APPROVAL OF MINUTES:**

MOTION by Ray Fortier, seconded by Bill Kracht to approve the September 10, 2012 Zoning Board of Appeals Meeting Minutes as written

With a voice vote this MOTION PASSED UNANIMOUSLY

**PUBLIC HEARING:**

**ZBA-2012-02 Linda VanSickle & Patricia Sundbeck – 719 Kosciusko Street**

Linda VanSickle & Patricia Sundbeck purchased the building at 719 Kosciusko Street with the intention of opening up a restaurant which requires a Special Use Permit. When application was received for a Special Use Permit and the site plan was reviewed staff noted that the following variances were needed before application could be made to the Planning Commission:

- Reduce the Minimum Lot Area requirement from 10,000 sq. ft. to 8,583 sq. ft.
- Reduce the Minimum Lot Width requirement from 80 feet to 62 feet
- Reduce the minimum driveway width from 20 feet to 17 feet
- Reduce the number of parking spaces from 13 to 10
- Eliminate the requirement to provide designated pedestrian walkway, landscape planting islands and perimeter buffers

Ms. VanSickle and Ms. Sundbeck are also asking for a variance for a larger sign

- Increase in the size of proposed signage from 16 sq. ft. to 32 sq. ft in size

Chair Perschbacher opened the Public Hearing at 5:37 pm

Keith Sigourney and Linda VanSickle (222 Hughes Street) presented the case to the members of the Zoning Board of Appeals.

They want to open a diner; this building would meet their needs. Linda VanSickle and Patricia Sundbeck purchased the building; Linda and Keith would operate the diner. With the tables and booths they have purchased the dining room would seat 34-36 people. This building is located between the Hi Way Inn (Bar with food) and the Painted Lady (Restaurant with a Bar). Linda is also part owner of the Hi Way Inn and they do not have a breakfast or lunch crowd. The Painted Lady does not serve breakfast. The proposed diner would be a family style diner that serves breakfast and lunch and would not serve alcohol. They have a great selection of soups and sandwiches that will be on the menu. Over the years they have heard from the Funeral Home across the street that after a funeral people would want to get something to eat but did not want to go to a "Bar" or place that served alcohol, that with kids they did not want that atmosphere. This diner would meet that need and employ between 8 to 10 people.

Jon Rose, Community Development Director - an Eating and Drinking Establishment in the R-2 Zoning District requires key street frontage which this location has. When the applicant brought in their request it was discovered that there were issues with the property that would require a variance before application could be made to the Planning Commission. The request has been

broken down into two components the five variances needed to apply for a Special Use Permit and the variance for an increase in the size of signage which has no impact on making application to the Planning Commission.

Since there were not any members of the public the members of the Zoning Board of Appeals, staff and the applicant began a detailed review of the request.

- Reduce the Minimum Lot Area requirement from 10,000 sq. ft. to 8,583 sq. ft.
  - The applicant is unable to acquire additional property; this is the amount of property for this parcel.
- Reduce the Minimum Lot Width requirement from 80 feet to 62 feet
  - There is no way to acquire additional frontage, this is the amount of frontage for the property.
- Reduce the minimum driveway width from 20 feet to 17 feet
  - Mr. Rose scaled the drawing, the engineer had used the width of the existing driveway (17 feet) and did not take into consideration that two feet was on the neighboring property. If a variance were granted the variance would need to read *"Reduce the minimum driveway width from 20 feet to 15 feet"*
- Reduce the number of parking spaces from 13 to 10
  - Member Schindlbeck noted that if the handicap parking space is supposed to be van accessible the space would need to be 8 feet for parking and 8 feet for unloading. The plan is not laid out to reflect the correct number. This may result in the parking spaces being moved over to accommodate the necessary space needed for a handicap parking space that is van accessible. The engineer will need to review this when submitting the plan to the Planning Commission for their consideration.
  - This may also result in the need to relocate the bike rack.
- Eliminate the requirement to provide designated pedestrian walkway, landscape planting islands and perimeter buffers
  - With the reduction of the number of parking spaces it would not be beneficial to loose additional spaces by requiring that landscape planting islands and perimeter buffers be included in the application. Currently the parking for all three buildings is contiguous and shared. Staff said the variance was written to accommodate the needs for this use at this location, that in the future if business were to change hands the owners may not want to share parking and could at that time construct fencing that would eliminate shared access. That is why the variance is needed.
- Increase in the size of proposed signage from 16 sq. ft. to 32 sq. ft in size
  - The applicant wants to reuse the existing internally lit sign frame that is currently located on the side of the building and relocate it to the front of the building as shown on the application. The Hi Way Inn and Painted Lady have signage that is comparable if not larger than the 32 sq. ft. the applicant is requesting.

Chair Perschbacher opened the hearing for public comments – No public in attendance

Chair Perschbacher asked if any correspondence had been received in response to the request – none received.

There were no more additional comments; the Public Hearing was closed at 6:24 pm

**BUSINESS SESSION:**

**ZBA-2012-02 Linda VanSickle & Patricia Sundbeck – 719 Kosciusko Street**

**Variances needed to apply for Special Use Permit for an Eating and Drinking Establishment**

A public hearing was held earlier in response to the request from Linda VanSickle and Patricia Sundbeck for the necessary variances needed to apply for a Special Use Permit for an Eating and Drinking Establishment at 719 Kosciusko Street as follows:

- Reduce the Minimum Lot Area requirement from 10,000 sq. ft. to 8,583 sq. ft.
- Reduce the Minimum Lot Width requirement from 80 feet to 62 feet
- Reduce the minimum driveway width from 20 feet to 15 feet
- Reduce the number of parking spaces to 10
- Eliminate the requirement to provide designated pedestrian walkway, landscape planting islands and perimeter buffers

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 is not contrary to the public interest or to the intent and purpose of this Ordinance.*  
4 - Yes                      Fortier, Hoffman, Schindlbeck, Perschbacher  
1 - No                        Kracht

2. *The requested variance does not establish a use that is not permitted by right or by a special use permit in the zoning district.*  
 5 - Yes            Hoffman, Kracht, Schindlbeck, Fortier, Perschbacher  
 0 - No            None
  
3. *The requested variance does not create an adverse effect upon properties in the immediate vicinity or in the district.*  
 5 - Yes            Kracht, Hoffman, Schindlbeck, Fortier, Perschbacher  
 0 - No            None
  
4. *The requested variance is not of a recurrent nature to require a change in the Zoning Ordinance.*  
 5 - Yes            Hoffman, Schindlbeck, Fortier, Kracht, Perschbacher  
 0 - No            None
  
5. *The requested variance is for property under the control of the applicant*  
 5 - Yes            Schindlbeck, Fortier, Kracht, Hoffman, Perschbacher  
 0 - No            None
  
6. *The requested variance was not self-created by the applicant or property owner.*  
 4 - Yes            Schindlbeck, Fortier, Hoffman, Perschbacher  
 1 - No            Kracht
  
7. *There is not an alternative that would allow the improvement to the property without the requested variance.*  
 5 - Yes            Kracht, Fortier, Hoffman, Schindlbeck, Perschbacher  
 0 - No            None
  
8. *The requested variance is the minimum amount necessary to still permit the reasonable use of the land.*  
 5 - Yes            Fortier, Kracht, Hoffman, 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:  
 The Zoning Board of Appeals determined to review condition #3 in response to this request

3. *Is the requested variance for a right possessed by other properties in the same zoning district?*

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

MOTION by Mark Hoffman, seconded by Ray Fortier to approve the variance request from Linda VanSickle and Patricia Sundbeck for variances as follows:

- Reduce the Minimum Lot Area requirement from 10,000 sq. ft. to 8,583 sq. ft.
- Reduce the Minimum Lot Width requirement from 80 feet to 62 feet
- Reduce the minimum driveway width from 20 feet to 15 feet
- Reduce the number of parking spaces to 10
- Eliminate the requirement to provide designated pedestrian walkway, landscape planting islands and perimeter buffers

With a Roll Call vote motion passed 4 to 1 with voting as follows:

4 - Yes Hoffman, Schindlbeck, Fortier, Perschbacher  
1 - No Kracht

#### **Variance for larger sign**

A public hearing was held earlier in response to the request from Linda Vansickle and Patricia Sundbeck for a variance for a larger sign

- Increase in the size of proposed signage from 16 sq. ft. to 32 sq. ft in size

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 is not contrary to the public interest or to the intent and purpose of this Ordinance.*

- |         |   |
|---------|---|
| 4 - Yes | Fortier, Hoffman, Schindlbeck, Perschbacher |
| 1 - No  | Kracht                                      |
2. *The requested variance does not establish a use that is not permitted by right or by a special use permit in the zoning district.*
- |         |   |
|---------|---|
| 5 - Yes | Hoffman, Kracht, Schindlbeck, Fortier, Perschbacher |
| 0 - No  | None  |
3. *The requested variance does not create an adverse effect upon properties in the immediate vicinity or in the district.*
- |         |   |
|---------|---|
| 4 - Yes | Hoffman, Schindlbeck, Fortier, Perschbacher |
| 1 - No  | Kracht                                      |
4. *The requested variance is not of a recurrent nature to require a change in the Zoning Ordinance.*
- |         |   |
|---------|---|
| 4 - Yes | Hoffman, Schindlbeck, Fortier, Perschbacher |
| 1 - No  | Kracht                                      |
5. *The requested variance is for property under the control of the applicant*
- |         |   |
|---------|---|
| 5 - Yes | Schindlbeck, Fortier, Kracht, Hoffman, Perschbacher |
| 0 - No  | None  |
6. *The requested variance was not self-created by the applicant or property owner.*
- |         |                                |
|---------|--------------------------------|
| 3 - Yes | Fortier, Hoffman, Perschbacher |
| 2 - No  | Schindlbeck, Kracht            |
7. *There is not an alternative that would allow the improvement to the property without the requested variance.*
- |         |                                |
|---------|--------------------------------|
| 3 - Yes | Fortier, Hoffman, Perschbacher |
| 2 - No  | Kracht, Schindlbeck            |
8. *The requested variance is the minimum amount necessary to still permit the reasonable use of the land.*
- |         |                                |
|---------|--------------------------------|
| 3 - Yes | Fortier, Hoffman, Perschbacher |
| 2 - No  | Kracht, 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 Zoning Board of Appeals determined to review condition #3 in response to this request

3. *Is the requested variance for a right possessed by other properties in the same zoning district?*  
3 - Yes Hoffman, Fortier, Perschbacher  
2 - No Schindlbeck, Kracht

MOTION by Ray Fortier, seconded by Mark Hoffman to approve the variance request from Linda Vansickle and Patricia Sundbeck for an increase in the size of signage from 16 sq. ft. to 32 sq. ft in size

With a Roll Call vote motion passed 3 to 2 with voting as follows:

- 3 - Yes Hoffman, Fortier, Perschbacher  
2 - No Schindlbeck, Kracht

**Old Business:**

None

**Other Business of the Appeals Board:**

None

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

None

**ADJOURNMENT:**

The Zoning Board of Appeals scheduled their Organizational Meeting and will certify the minutes from this meeting on Thursday, January 3, 2013 at 5:30 pm

There being no further business meeting MOTION by Mark Hoffman, seconded by Ray Fortier the meeting is adjourned.

Meeting adjourned at 7:04 p.m.

Respectfully Submitted

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Denise J. Blakeslee, Recording Secretary