

MANISTEE CITY PLANNING COMMISSION

70 Maple Street
Manistee, MI 49660

MEETING MINUTES

June 5, 2003

A meeting of the Manistee City Planning Commission was held on Thursday, June 5, 2003 at 7:00 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

MEMBERS PRESENT: Bob Davis, Greg Ferguson, Ray Fortier, Joyce Jeruzal, Phil Picardat, John Serocki, Tony Slawinski and Roger Yoder

MEMBERS ABSENT: David Kelley

OTHERS: Alan Marshall (City Council), Merlin Norby (Manistee News Advocate), Tom Amor (Amor Sign Studios), Tom Warman (Heller Signs), Tom Geoghan (286 Dunes Drive), Micheal Ennis (Top Notch Auto), Ken Foster (Capital Equipment), Cyndy Fuller (Harbor Village), Seline Patel (Carriage Inn), Jon Rose (Community Development), Denise Blakeslee (City Staff) and others

Meeting was open at 7:05 p.m. by Chairman Yoder.

PUBLIC HEARING:

Heller Signs/Zoning Amendment - Section 1411.D of the Sign Ordinance.

A Public Hearing has been scheduled to allow public input regarding a proposed amendment to the Sign Ordinance. The proposed change would change Section 1411.D to read:

D. *Signs* which include flashing or ~~moving chasing~~ lights. and ~~Animated Signs~~

Tom Warman, Heller Signs presented a request to amend the Sign Ordinance. Mr. Warman felt that flashing and chasing signs can be a distraction, but felt that scrolling messages do not create a distraction. Mr. Warman used the example of the sign at the House of Flavors Restaurant that has been in use for many years. Mr. Warman said that he was not aware of any accidents that had been caused because of the sign. MDOT uses electronic signs on the S curve in Grand Rapids and Detroit also uses electronic messages on their expressways. These are not unlike the digital reader board signs they have sold in Manistee. These signs provide messages in a safe way and they just installed one at the Visitor Bureau on the Corner of US 31 (Cypress Street) and First Street.

Bob Davis asked what the definition of an Animated Sign. Animated Signs are defined in the ordinance.

John Serocki said that there was a bad accident at that intersection yesterday. Mr. Warman said that the accident happened before they turned on the sign. Mr. Rose said that the way the sign was operating it was not in compliance with the Ordinance. Mr. Warman said that they were testing the sign.

Ray Fortier said that the sign Mr. Warman referred to on the S Curve in Grand Rapids is higher and more visible than the signs in Manistee. Mr. Fortier is concerned with the traffic and congestion on the corner of 31 and First Street that the sign could create problems.

Tom Amor, Amor Sign Studios supports Mr. Warman's request. Mr Amor had prepared proposed language to amend the Sign Ordinance (attached). Mr. Amor sited articles out of the Signline Magazine regarding Message Signs and Electronic Message Centers. Mr. Amor said that Message Centers provide a service to local businesses. Message Centers provide a way to communicate services offered especially helpful to tourists who are coming through town for the first time. These signs may be the only opportunity to get a tourists attention.

Mr. Amor has reviewed the ordinance and would like the Planning Commission to take into consideration the proposed changes to the sign ordinance and the numerous studies on the effect of signs on traffic accidents that have been done as shown in the Signline Magazine. Mr. Amor installed a sign in Grand Rapids that required ZBA approval where concerns over accidents had been expressed. Mr. Amor knows of no accidents at that location that were a result of the sign. Mr. Amor referred to court cases where ordinance language was thrown out trying to regulate signs.

Seline Patel, Carriage Inn. Mr. Patel said that he was told to turn off his sign that it was not in compliance with the Ordinance. Mr. Rose explained to Mr. Patel that he is allowed 8 messages a day on the sign. Mr. Patel was considering a message to be a number of words in length. Mr. Rose said a message is what can fit on the sign. Mr. Patels sign only holds 8 characters. He said that people think his business is not opened because the sign is turned off.

There being no further discussion the Public Hearing Closed at 7:37 p.m.

CITIZEN QUESTIONS AND CONCERNS:

None

APPROVAL OF MINUTES:

Planning Commission Meeting Minutes, May 1, 2003

MOTION by Joyce Jeruzal, seconded by Tony Slawinski that the minutes of the May 1, 2003 Meeting of the Planning Commission Meeting be approved. Motion approved unanimously.

NEW BUSINESS:

Heller Signs/Zoning Amendment - Section 1411.D of the Sign Ordinance.

A Public Hearing has been held earlier in response to a request from Heller Signs for a Zoning Amendment to change Section 1411.D to read:

D. *Signs* which include flashing or ~~moving~~ chasing lights. ~~and Animated Signs~~

Greg Ferguson asked if the signs that were installed are not permitted under the Ordinance. Mr. Rose explained that they can be programmed to comply with the ordinance by only changing the copy no more than 8 times per day to meet the definitions of a changeable copy sign.

Phil Picardat expressed his concern that by striking out Animated Signs we would be opening ourselves up for a lot of problems in the future.

Members discussed the proposed language and the information that was submitted by Mr. Amor.

MOTION by Bob Davis, seconded by Joyce Jeruzal that the request from Heller Signs for a Zoning Amendment to change Section 1411.D to read; "Signs which include flashing or chasing lights" be postponed until July 10, 2003 at which time a worksession will be scheduled for 6:00 p.m.

Motion passed unanimously.

Kenneth Nowak/St. Joseph Catholic Church - Parcel Split and Combination.

Kenneth Nowak resides at 242 Sixth Street parcel code #51-51-664-704-05 and would like to purchase property from St. Joseph Catholic Church (approximately 49.89' x 100.05') part of parcel code #51-51-664-704-03. Mr. Nowak has had a survey prepared that shows the proposed split and combination request. Review of the request shows that all of the requirements of the Zoning Ordinance have been met.

MOTION by Ray Fortier, seconded by Phil Picardat that the Parcel Split and Combination request from Kenneth Nowak and St. Joseph Catholic Church to split approximately 49.89' x 100.05' of parcel #51-51-664-704-03 currently owned by St. Joseph Catholic Church to combine with parcel #51-51-664-704-05 owned by Mr. Nowak be forwarded to City Council.

Motion passed unanimously.

Harbor Village, Lakeview Condominiums - Site Plan Review.

We have received a request for a Site Plan Review from Harbor Village for the Lakeview Condominiums #7 thru #11. This request shows minor changes to the original footprints and changes to the elevations. Staff Review of the proposed changes shows that all of the requirements of the Zoning Ordinance have been met.

Cyndy Fuller, Harbor Village explained that with the topography of the area they would be able to reconfigure the buildings so the garages would be located on the first level instead of underneath. This resulted in the moving and redesign of the buildings.

MOTION by John Serocki, seconded by Ray Fortier that the site plan for Lakeview Condominiums #7 thru #11 be amended per plans dated 5/29/03 Job. No. M21551REV.

Motion approved unanimously.

Top Notch Auto LLC., 145 Harrison Street.

Top Notch Auto has been selling vehicles from the former Top Notch Marathon Station. Staff has noticed that they have expanded their operations to the vacant lot to the south. This expansion falls under the "open air use" in the C-1 Commercial District requiring approval from the Planning Commission.

Michael Ennis, Top Notch Auto LLC, explained that his original intention was to purchase the property at US 31 and First Street but they encountered environmental concerns. He is currently leasing from Blarney Castle the property where the former Top Notch Marathon Station was located.

Mr. Rose explained that the sale of automobiles was allowed as a legal nonconforming use, on the property that the former Top Notch Marathon Station was located. By expanding the use to the adjacent parcels (separate parcel code numbers) the "open air use" requires approval by the Planning Commission.

Members of the Planning Commission expressed concerns that no site plan was provided. Mr. Rose said that when Mr. Ennis came into the office, he was not told that a site plan was required. Concerns were expressed that the size of the vacant lot would not allow much room for the "open air use". Denise Blakeslee pulled the property record cards which shows that the property that the building is on is 120' x 120'. The property to the south is two separate parcels 60' x 120' each. This clarified the areas of the vacant lots, but raised the concerns if the parcels would require to be combined.

Greg Ferguson noted that the letter from Top Notch Auto requested an "open air use" on both lots 19 & 20. This is the property that the building is located on not the two vacant lots in questions.

MOTION by Greg Ferguson, seconded by Bob Davis that the request dated May 27, 2003 from Top Notch Auto for an open air use on Lots 19 & 20 be denied. Voting as follows:

Yes: Bob Davis, Greg Ferguson, Ray Fortier and Roger Yoder
No: Joyce Jeruzal, Phil Picardat, John Serocki and Tony Slawinski

Motion denied.

Phil Picardat stated that the Planning Commission knows that the lots mentioned in the letter are in error, but felt that the Planning Commission understands what property Mr. Ennis is referring to and would like to finish the request. Several members felt that without a site plan they did not feel that they could make a determination.

MOTION by John Serocki, seconded by Bob Davis that the request from Top Notch Auto for an "open air use" be postponed until the July 10th meeting at which time a site plan would be submitted for the request. Voting as follows:

Yes: Bob Davis, Ray Fortier, Joyce Jeruzal, John Serocki, Tony Slawinski and Roger Yoder
No: Greg Ferguson and Phil Picardat

Motion Passed

Brian Seiferlein, 146 Cleveland Street - Site Plan Review.

The Planning Commission approved a lot split and combination for Mr. Seiferlein (B.N.C. Corp) in August 2002. The Zoning Board of Appeals approved a variance to allow an increase in the driveway width regulation for a entrance/exit from 35 feet to 40 feet for a three lane driveway to U.S. 31 in September 2002.

The plans do not show any elevations of the proposed building or a signage plan. Approval could be granted contingent upon the building meeting the height requirements and submission of a signage plan and approval by the Zoning Administrator.

Ken Foster, Capital Equipment presented the request for Mr. Seiferlein. Mr. Foster explained a change that was made to the width of the driveway which eliminates a left turn on US 31 was required by MDOT. Mr. Foster said that he has the building plans ready for submission and the building will only be 15 to 16 feet in height. Mr. Foster said that they will submit a signage plan to Mr. Niesen for review.

MOTION by Tony Slawinski, seconded by Phil Picardat that the Site Plan Review for Brian Seiferlein, 146 Cleveland Street be approved.

Motion approved unanimously.

UNFINISHED BUSINESS:

None

OTHER COMMUNICATIONS:

Joyce Jeruzal expressed concerns that the Dial-A-Ride is not opening the restrooms in their building on the corner of Memorial Drive and Washington Street. This was part of the site plan that was presented before the Planning Commission that the building would provide public restrooms. Jon Rose said that he would look into the matter.

WORK/STUDY SESSION:

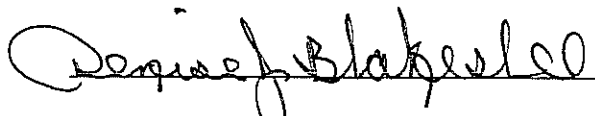
A worksession is not scheduled for June. Planning Commission members discussed holding a worksession on June 26th to allow sufficient review for the two requests that have been postponed until the July 10th meeting. Denise will notify Mr. Warman, Mr. Amor and Mr. Ennis.

ADJOURNMENT:

MOTION by Ray Fortier, seconded by Tony Slawinski that the meeting be adjourned. Motion passed unanimously.

Meeting adjourned at 9:23 p.m.

MANISTEE PLANNING COMMISSION

A handwritten signature in black ink, appearing to read "Denise J. Blakeslee". The signature is written in a cursive style with a large, looping initial "D".

Denise J. Blakeslee, Recording Secretary

Petition for Zoning Amendment

City of Manistee

I. ACTIONS REQUESTED:

1. Amend Article 14 Section 1411- D

- Eliminate the Prohibition of Animated Signs

2. Allow Message Centers

In crafting a code provision to address the variable electronic message sign, it is necessary to clearly define the types of signs and their "changeable" features that are to be regulated. Offered below is an example description and regulatory treatment:

- **Electronic Variable Message Sign.** Any sign, display, device or portion thereof with lighted messages that change at intermittent intervals by electronic process or remote control. Electronic Variable Message signs are not identified as rotating, revolving or moving signs.
- **Allow in District Sections:** 1419: CHURCHES, SCHOOLS & GOVERNMENT; 1420: CIVIC CENTER ZONING DISTRICT; and 1421: COMMERCIAL ZONING DISTRICTS

III. Statement of Justification

Current interpretation is that an electronic variable message sign when used in a scrolling right to left, up/down and other modes, is an *Animated Sign*. An Electronic Variable Message sign's main purpose is to convey messages effectively and to have the ability to change them efficiently. The federal government recognizes an Electronic Message Center as being different from the regulated animated signage which mimic movement or have high-intensity-flashing lights "depicting action or creating a special effect" as would a blinking arrow, star, lighted design, scene or graphic in order to gain the viewer's attention.

All businesses have the need to communicate in a timely manner to their most immediate potential customers – those driving by the business at a particular moment. An electronic variable message sign allows the business to have great flexibility to control and change their own message to meet their needs and the needs of their customers. A tourist related business has no alternative means to reach the ever changing group of people who may be their 'one time only' customer than to try to communicate with them as they are passing their doors.

3. Amend Definition: CHANGEABLE COPY SIGN

- Eliminate the second sentence "A *Sign* on which the message changes more than eight times per day shall be considered an *Animated Sign* and not a *Changeable copy Sign* for purposes of this ordinance".
- Eliminate the third sentence segregating content specific reference to Time/Temperature.

A more concise definition in lieu of "Changeable Copy Sign" is (provided the ordinance contains a definition for electronic message signage):

- **Readerboard Sign.** Any sign with manually changeable copy or message, except an electronic variable message sign.

Commentary: It is necessary to specifically define "animated sign," as it must be differentiated from "changeable copy," "flashing" or "variable electronic message center" signs.

- **Animated Sign.** Any sign that uses movement or change of lighting to depict action or to create the illusion of movement without actual physical movement or to create a special effect or scene.
- **Flashing Sign.** Any sign, the illumination of which exhibits sudden or marked changes in lighting effects at intervals of less than one (1) second duration, including lights which "blink" on and off randomly or in rapid succession or sequence.

III. Statement of Justification

The government dictating the amount of times a message may be changed amounts to a sanction on the message itself and similar wording has been struck down by numerous courts on First Amendment Constitutional violation grounds. Content specific wording such as Time/Temperature segregation has had the same outcome.

Additional Considerations

The electronic variable message center (EVMC) - like other types of signage - when properly designed, placed, maintained, and illuminated does not cause traffic accidents, and may in fact, prevent them because of their superior legibility, readability and conspicuity. This enhanced legibility also gives a motorist additional time to read and react appropriately, thereby increasing traffic safety.

Numerous Federal Highway Administration studies have concluded that there is no credible statistical evidence existing to support the assumption that electronic or variable message center signs negatively impact road safety. Several states have conducted studies on the safety of roadside signs, including electronic message center signs, and none have found an increase in traffic accidents – and in some cases have found a significant decrease in accidents – related to the signs.

Exceptional visibility is accompanied by exceptional versatility, due to the sign's automated dimming and focusing systems which make it possible for it to respond nearly instantaneously to any change in communication or visibility needs. Our local bank offers a clear example of EVMC versatility. The bank uses its device to advertise their specials at peak commuter hours. During other hours, the bank changes the display to offer community service messages. This kind of flexibility permits coordination with traffic profiles and times of day, as well as changes in weather.

Additionally, state highway departments for many years have recognized the value of EVMC's, and are increasingly using them to inform and direct traffic in large metropolitan areas, thereby easing traffic congestion and promoting traffic safety. Large-scale urban studies are currently being done to expand message center use in this area, with other "intelligent" components, to create integrated transportation systems. In the federal highway system, they are extensively utilized for regulatory, warning, and guidance purposes. And, the EVMC is also a critical component of the AMBER alert system.