

**Manistee City Planning Commission
City Hall
70 Maple Street
Manistee, Michigan**

WORKSESSION NOTES

June 26, 2003

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

MEMBERS ABSENT: Phil Picardat

OTHERS : Tom Warman (Heller Signs), Tom Amor Jr. (Amor Sign Studios), Micheal Ennis (Top Notch Auto), Guy Finout (Top Notch Auto), Eric Guerin (Varnum, Riddering, Schmidt, Howlett LLP), Fred MacDonald (Manistee County Convention and Visitors Bureau), Jon Rose (Community Development), and Denise Blakeslee (City Staff) and others

Worksession began at 7:00 p.m.

Two items were postponed at the June Planning Commission Meeting until the July 10, 2003 Meeting. The Planning Commission scheduled a special worksession on June 26, 2003 to allow additional discussion on these requests.

Mr. Warman & Mr. Amor allowed a change in the agenda to allow the discussion on Top Notch Auto to be placed first on the Agenda.

Top Notch Auto, LLC, 145 Harrison Street - Open Air Use.

Top Notch Auto has been selling vehicles from the former Top Notch Marathon Station. This open air use was allowed on the parcel where the building was located as a nonconforming use. By expanding the use onto the two adjoining parcels the "open air use" in the C-1 Commercial District requires approval from the Planning Commission. Additional zoning requirements for this use include:

- The three separate parcels will be required to be combined into one parcel.
- The set-backs of the Zoning Ordinance must be met (Section 5004).
- The area where the cars are parked will require to be hard surface (Section 5004.4.d).
- Any lighting would have to be installed to comply with the ordinance (Section 5004.4.c).
- A buffer next to the residential property consisting of ... (Section 5004.C.2)

Eric Guerin, Varnum, Riddering, Schmidt, Howlett Attorneys at Law spoke on behalf of his client Micheal Ennis, Top Notch Auto. Mr. Guerin told the Planning Commission that he had advised his client not to submit the site plan previously requested by the Planning Commission. It is Mr. Guerin's opinion that Top Notch Auto use of the adjoining parcels is a legal non-conforming use. Mr. Guerin has been in contact with

the City's Attorney Bruce Gockerman and read a letter from Richard Wilson, Gockerman, Wilson, Saylor and Hesslin on another nonconforming use issue. Mr. Guerin said that he believed our section in the Zoning Ordinance regarding non use of a nonconforming use is not valid. He indicated that he believed it was also necessary to demonstrate the owners intent to abandon a nonconforming use.

Mr. Guerin said that the setback requirements make no sense. Other buildings are located closer than 30 feet to the road. Mr. Guerin said that the requirement of a buffer area next to the adjoining residence was not practical. That the 50 foot buffer would cause too much loss of use of the property and that to construct a four foot fence would not create a real buffer because the house is on a hill. Mr. Guerin said that if his client submits a site plan the site plan will not show a 30 foot front yard setback.

Ray Fortier said that by allowing a business to operate within the 30 foot setback we would have to allow it for any other business because we have set a precedence. Mr. Guerin said that his position is that it is a valid nonconforming use and they do not have to ask for any variances.

Bob Davis spoke of the requirements that were listed in the letter that was sent to Mr. Ennis. Mr. Davis said that as a member of the Planning Commission he could not approve any request that he did not have the required information. Mr. Guerin said that if a site plan is submitted it will not show a 30 foot front yard setback.

Roger Yoder asked about the requirement that the parcels be combined. Mr. Guerin said that he did not think that was an issue and asked a representative from Blarney Castle who said they did not think it was an issue.

Greg Ferguson asked how you define an abandoned use. Mr. Guerin pointed out to the aerial photograph taken in approximately 1997 that showed a trailer and other item parked on the property.

Joyce Jeruzal asked Mr. Ennis about the statement that was made at the June meeting by him that the vehicles for sale are newer vehicles. Mrs. Jeruzal is concerned about any leakage from older vehicles that could contaminate the groundwater. Mrs. Jeruzal said that last week there was an old rusted bronco from the early 80's and another older model car that was parked on the vacant parcel. Mr. Guerin said that was not a zoning issue.

Ray Fortier spoke about the visibility problems when the vehicles were parked closer to the curb, before they were moved back to meet the front yard setback requirement. Mr. Guerin said that there are buildings in the area that do not meet the front yard setback requirements. Jon Rose said that when the letter was sent to Mr. Ennis asking him to move the vehicles back, Mr. Ennis moved them back. Mr. Ennis said that since the vehicles have been moved back he has not sold one of them.

Chairman Yoder said that this is a worksession and that no action can be taken by the Planning Commission until the July 10, 2003 meeting. Mr. Guerin said that he will be continuing his discussions with the City's Attorney and did not expect the Planning Commission to make a decision without the presence of legal council.

The members of the Planning Commission had no additional questions regarding the Top Notch Auto - Open Air Use. Mr. Guerin and the members in the audience for Top Notch Auto left the Worksession.

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

A public hearing was held at the June 5, 2003 Planning Commission in response to a request from Heller Signs to amend Section 1411.D of the Ordinance to read:

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

Information was received from Heller Signs and Amor Sign Studios who are supporting the request.

Tom Warman, Heller Signs presented a drawing which depicted the size of a sign that could be constructed under the ordinance vs the sign that was constructed for the Visitors Bureau. It was noted that some of the computations were incorrect on the sheet. Mr. Warman spoke about the interpretation in the ordinance on what is a "message". Under the Zoning Ordinance the Zoning Administrator is the person who interprets the Ordinance. If someone believes that the interpretation is incorrect they can then go before the Zoning Board of Appeals.

Tom Amor Jr. handed out photographs of older changeable copy signs (plastic letters placed on the sign) that are located along U.S. 31.

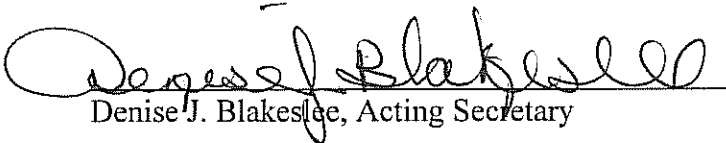
There was discussion on how the signs are being used under the ordinance. The Planning Commission will be hiring a consultant to rewrite the ordinance in the near future.

Fred MacDonald from the Manistee County Convention and Visitors Bureau spoke about the sign that is at their location. Mr. MacDonald spoke about the number of people who have been stopping at their office and the benefits to the community.

The Planning Commission will hold a worksession at 6:00 p.m. before their meeting on July 10, 2003. This was a motion by the Planning Commission during their meeting on June 5, 2003.

There being no further discussion the worksession closed at 8:58 p.m.

MANISTEE CITY PLANNING COMMISSION


Denise J. Blakeslee, Acting Secretary