

City of Manistee
Zoning Board of Appeals
City Hall
70 Maple Street
Manistee, Michigan

There will be a meeting of the City of Manistee Zoning Board of Appeals to be held on Thursday, March 20, 2003 at 5:30 p.m. in the Council Chambers, 70 Maple Street, Manistee, Michigan

AGENDA

- I Roll Call

- II Public Hearing:
 - 1. Carriage Inn
 - 2. Little Riverside Bar BQ

- III Business Session:
 - A. Approval of Minutes (1/9/03)
 - B. Unfinished Business:
 - 1. Carriage Inn
 - 2. Little Riverside Bar BQ
 - C. Other Business:
 - 1.
 - 2.

- IV Questions, Concerns of Citizens in Attendance

- V Adjournment

cc: Zoning Board of Appeals Members
Bruce Gockerman, City Attorney
Mark W. Niesen, Building Inspector
Mitch Deisch, City Manager
Julie Beardslee, City Assessor

MEMORANDUM

TO: Zoning Board of Appeals Members

FROM: Mark W. Niesen
Building Inspector *M.W.N.*

DATE: March 5, 2003

RE: Zoning Board of Appeals Meeting, March 20, 2003

The Zoning Board of Appeals will be meeting on Thursday, March 20, 2003 at 5:30 p.m. for the following requests:

1. Carriage Inn, 200 Arthur Street. The Carriage Inn is updating the signage on their property. The large sign located on the south property line is allowed under a Special Use Permit and does not figure into the calculation of total signage allowed. They have installed a new face on the south sign and a new awning. They will be updating the sign near the restaurant entrance and will meet the requirements of the ordinance. The proposed sign located on the north end of the property will require three variances. The variances are as follows:

Variance to allow a second free standing sign on their property (sign located on north property line).

AND Variance to reduce the set-back from 10 feet to 2 feet for the sign located on north property line.

AND Variance to increase the height limitation of the north sign from 7 feet to 17 feet.

A copy of the request is enclosed.

2. Little Riverside Bar BQ, 215 Arthur Street. A request has been received from the Little Riverside Bar BQ for a variance to allow a new face to be placed on a non-conforming roof sign. Amor Sign Studio has installed the new face on the sign. A copy of the request is enclosed for your review.

The By-Laws have been approved by City Council and a copy is enclosed for you. We will be having an annual review of the By-Laws during the first meeting of each year.

If you have any questions, please call me at 723-2558.

REQUEST FOR APPEAL
CITY OF MANISTEE
ZONING BOARD OF APPEALS

CARRIAGE INN
 Name
200 ARTHUR ST.
 Address
MANISTEE, MI
 City, State and Zip Code

FOR OFFICE USE ONLY

Appeal Number 2003-03
 Date Received Completed 3-3-03
 Tax Parcel Number 101-250-01
 Fee Received (Amt & Date) \$250.00
 Receipt Number 2412
 Hearing Date 3-20-03
 Board of Appeals Action _____

Phone Numbers (Work) TOM AMOR JR - AMOR SIGN 723-8261
 (Home) _____

FEE FOR APPEAL \$250.00

PLEASE NOTE: All questions must be answered completely. If additional space is needed, number and attach additional sheets.

I. ACTION REQUESTED:

I, (We), the undersign request a hearing before the Manistee City Zoning Board of Appeals for the purpose indicated below:

- | | |
|--|--|
| <input type="checkbox"/> Ordinance or Map Interpretation | <input checked="" type="checkbox"/> Variance |
| <input type="checkbox"/> Appeal from Administrative Decision | <input type="checkbox"/> Other Authorized Review |

II. PROPERTY INFORMATION:

A. Legal description of property affected by this appeal: CARRIAGE INN, 200 ARTHUR ST.

Tax Roll Parcel Code#: _____

B. List of all deed restrictions (attach additional sheets if necessary): _____

C. Names and addresses of all other persons, firms or corporations having a legal or equitable interest in the land: SSBS CORP, 2600 W. PETERSON, SUITE #10
CHICAGO, IL 60659
CONTACT: SALIEN PATEL 773-859-1205

D. This area is: Not platted, Platted, Will be Platted
 If Platted, Name of Plat: _____

E. Present use of property is: HOTEL, RESTAURANT

F. Present zoning district classification of the property is: COMMERCIAL

G. A previous appeal (has has not) been made with respect to these premises in the last ? years. If a previous appeal, re-zoning or special use permit application was made, state the date, nature of action requested and the decision:
 Date: _____ Action Requested: _____
 Decision (approved/ denied) other: _____

III. DETAILED REQUEST AND JUSTIFICATION

A. Interpretation of Zoning Ordinance or Map

1. The applicant respectfully requests the Board of Appeals make an interpretation of:
- (A) The _____ of district boundaries on the _____ Zoning District map as applied to the property described in the application.
 - (B) The provision of Article _____ Section _____ of the Manistee City Zoning Ordinance.
 - (C) Other, (specify) _____
2. Please describe in detail the nature of the property to be interpreted and the reason for the request: _____

B. Variance from the requirements of the Zoning Ordinance.

The appellant respectfully requests the Board of Appeals grant a variance on the above described property.

1. Indicated below are the Ordinance requirement(s) which are the subject of the variance request.
- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Setback | <input type="checkbox"/> Side Yard | <input type="checkbox"/> Off-street Parking |
| <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Placement | <input checked="" type="checkbox"/> Height of Ground Mount Sign |
| <input checked="" type="checkbox"/> Signs (Qty) | <input type="checkbox"/> Area Requirements | <input type="checkbox"/> Other _____ |

REQUEST VARIANCE TO ALLOW ONE ADDITIONAL SIGN 2. ON SITE.

State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Ordinance. EXISTING SIGN HAS 2' SETBACK. 10' SETBACK REQ'D
WE WANT TO USE AN EXISTING SIGN ON THE NORTH END OF PROPERTY.

3. Describe the characteristics of your property which require the granting of a variance (include dimensional information).

- | | | |
|--------------------------------------|------------------------------------|---|
| <input type="checkbox"/> Too Narrow | <input type="checkbox"/> Elevation | <input type="checkbox"/> Soil |
| <input type="checkbox"/> Too Small | <input type="checkbox"/> Slope | <input type="checkbox"/> Subsurface |
| <input type="checkbox"/> Too Shallow | <input type="checkbox"/> Shape | <input checked="" type="checkbox"/> Other (Specify) |

BUSINESS IS LOCATED ON US-31 ON AN S-CURVE. PROPERTY STREET FRONTAGE IS TOO LONG TO INFORM MOTORISTS OF SITE SAFELY WITH ONLY ONE SIGN ON SITE.

4. Justification for granting the requested variance. The appellant must show that strict application of the provisions of the Zoning Ordinance to his property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the ordinance. In order for the Board of Appeals to determine whether unnecessary hardship exists, the appellant should provide answers to each of the following questions:

- a. Can the property in question be used in a manner permitted by the Zoning Ordinance if a variance is not granted? yes no
If no, what unnecessary hardship or practical difficulty will result if the variance is not made? MOTORISTS TRAVELING FROM NORTH WILL NOT BE INFORMED IN TIME TO MAKE SAFE TURN.
- b. To the best of your knowledge, can you affirm that the hardship or practical difficulty described above was not created by an action of anyone having property interests in the land after the Zoning Ordinance or applicable part thereof became law? yes no
If no, explain why the hardship or practical difficulty should not be regarded as self-imposed (Self-imposed hardships are not entitled to variances). NEW OWNER PURCHASED PROPERTY WITH LEGAL NON-CONFORMING SIGN
- c. Are the conditions on your property the result of other man-made changes (such as relocation of a road or highway?) yes no
If yes, describe A SIGNIFICANT # OF SOUTH BOUND MOTORISTS MAY FAIL TO SEE THE ENTRANCE, AND THIS KEEP DRIVING RATHER THAN TURN
- d. Will strict application of the terms of the ordinance deny use of the property for any purpose to which its reasonably adapted? yes no
If yes, how? APOL
- e. Is the variance applied for due to unique circumstances presented on your property or to the general conditions in the area? yes no
If yes, explain any peculiar or unique conditions, and how many other properties in your area are similarly affected S-CURVE ON US-31 MAKES VISIBILITY OF ENTRANCE HARD.
- f. Would granting the variance change the essential character of the area?
 yes no. If yes, how? _____
- g. Would granting the variance be contrary to any county development plans?
 yes no. or to any local government development plans?
 yes no. Explain NO. IN FACT IT WOULD HELP ENCOURAGE BUSINESS INVESTMENT IN TOURISM.
- h. Would granting the variance be contrary to the intent and purpose of the Zoning Ordinance? yes no. If yes, explain _____
- i. Other Comments in support of the application. _____



Carriage Inn - North Sign



REQUEST FOR APPEAL

CITY OF MANISTEE
ZONING BOARD OF APPEALS

LITTLE RIVERSIDE BAR B Q

Name

215 ARTHUR STREET

Address

MANISTEE, MI 49660

City, State and Zip Code

Phone Numbers (Work) AMOR SIGN - 723-8361

(Home) LR BBQ - 398-9560

FOR OFFICE USE ONLY

Appeal Number 2003-03

Date Received 3-3-03

Tax Parcel Number 51-51-174-702-15

Fee Received (Amt & Date) 250.00

Receipt Number 2413

Hearing Date 3-20-03

Board of Appeals Action _____

FEE FOR APPEAL \$250.00

PLEASE NOTE: All questions must be answered completely. If additional space is needed, number and attach additional sheets.

I. ACTION REQUESTED:

I, (We), the undersign request a hearing before the Manistee City Zoning Board of Appeals for the purpose indicated below:

- Ordinance or Map Interpretation
- Appeal from Administrative Decision
- Variance
- Other Authorized Review

II. PROPERTY INFORMATION:

A. Legal description of property affected by this appeal: _____

Tax Roll Parcel Code#: 174-702-15

B. List of all deed restrictions (attach additional sheets if necessary): _____

C. Names and addresses of all other persons, firms or corporations having a legal or equitable interest in the land: _____

D. This area is: Not platted, Platted, Will be Platted
If Platted, Name of Plat: _____

E. Present use of property is: RESTAURANT

F. Present zoning district classification of the property is: COMMERCIAL

- G. A previous appeal (has/has not) been made with respect to these premises in the last _____ years. If a previous appeal, re-zoning or special use permit application was made, state the date, nature of action requested and the decision:
Date: _____ Action Requested: _____
Decision (approved/ denied) other: _____

III. DETAILED REQUEST AND JUSTIFICATION

A. Interpretation of Zoning Ordinance or Map

1. The appellant respectfully requests the Board of Appeals make an interpretation of:
 (A) The location of district boundaries on the _____ Zoning District map as applied to the property described in the application.
 (B) The provisions of article _____ Section _____ of the Manistee City Zoning Ordinance.
 (C) Other, (specify) _____

2. Please describe in detail the nature of the problem to be interpreted and the reason for the request: _____

B. Variance from the requirements of the Zoning Ordinance.

The appellant respectfully requests the Board of Appeals grant a variance on the above described property.

1. Indicated below are the Ordinance requirement(s) which are the subject of the variance request.
 Setback Side Yard Off-street Parking
 Lot Coverage Placement Height
 Signs Area Requirements Other _____

2. State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Ordinance. OWNER WISHES TO CHANGE FACES IN A LEGAL NONCONFORMING ROOF SIGN.

3. Describe the characteristics of your property which require the granting of a variance (include dimensional information).

- Too Narrow Elevation Soil
 Too Small Slope Subsurface
 Too Shallow Shape Other (Specify)

* SIGN IS EXISTING AND IS LOCATED IN IDEAL POSITION FOR IDENTIFICATION OF BUILDING. TO CHANGE THIS TO A FREESTANDING SIGN WOULD INTERFERE WITH ALREADY LIMITED PARKING.

4. Justification for granting the requested variance. The appellant must show that strict application of the provisions of the Zoning Ordinance to his property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the ordinance. In order for the Board of Appeals to determine whether unnecessary hardship exists, the appellant should provide answers to each of the following questions:
- a. Can the property in question be used in a manner permitted by the Zoning Ordinance if a variance is not granted? yes no
If no, what unnecessary hardship or practical difficulty will result if the variance is not made? BUT --- EXISTING SIGN IS BEST LOCATION FOR BUILDING IDENTIFICATION.
- b. To the best of your knowledge, can you affirm that the hardship or practical difficulty described above was not created by an action of anyone having property interests in the land after the Zoning Ordinance or applicable part thereof became law? yes no
If no, explain why the hardship or practical difficulty should not be regarded as self-imposed (Self-imposed hardships are not entitled to variances). _____
- c. Are the conditions on your property the result of other man-made changes (such as relocation of a road or highway?) yes no
If yes, describe _____
- d. Will strict application of the terms of the ordinance deny use of the property for any purpose to which its reasonably adapted? yes no
If yes, how? _____
- e. Is the variance applied for due to unique circumstances presented on your property or to the general conditions in the area? yes no
If yes, explain any peculiar or unique conditions, and how many other properties in your area are similarly affected VISIBILITY IS LIMITED ON U.S. 31 BECAUSE OF CURVES IN ROAD.
- f. Would granting the variance change the essential character of the area? yes no. If yes, how? _____
- g. Would granting the variance be contrary to any county development plans? yes no. or to any local government development plans? yes no. Explain _____
- h. Would granting the variance be contrary to the intent and purpose of the Zoning Ordinance? yes no. If yes, explain THE PURPOSE OF THE ORDINANCE IS TO ENCOURAGE EFFECTIVE USE OF SIGNAGE.
- i. Other Comments in support of the application. THIS SIGN WOULD BE LEGAL HAD NOT THE COPY BEEN CHANGED. DENIAL OF THIS APPLICATION COULD BE UNCONSTITUTIONAL. (SEE SUMMARY OF THOMAS TWA CASE.)

C. Appeal from Administrative decision.

The appellant respectfully requests the Board of Appeals to (reverse/modify) the Zoning Administrator's decision (copy attached) on application number _____ dated _____. It is alleged the Zoning Administrator erred in (the interpretation of article _____ section _____ / his order/his requirement/ his decision/ his determination) regarding the issuance of a _____ permit and that (reversal/modification) of said decision should be granted because _____

Specify decision sought: _____

D. Other authorized reviews

The appellant respectfully petitions the Board of Appeals to grant the following: _____

According to the conditions and provisions of article _____ section _____ granting this authority to the Board of Appeals. Specifically state the problem, decision sought and the justification for the request. _____

IV. IMPACT ON SURROUNDING LANDS

If your request is granted:

A. What are likely to be the positive and negative impacts of this decision on the surrounding land and neighbors? THIS BUILDING IN THE COMMERCIAL DISTRICT WILL NOT LOOK VACANT.

B. How do you propose to minimize any potential negative impacts which your proposed activity may cause? _____

V. AFFIDAVIT

The undersigned acknowledges that if a variance is granted or other decisions favorable to the undersigned is rendered upon this appeal, the said decision does not relieve the applicant from compliance with all other provisions of the City of Manistee Zoning Ordinance; the undersigned further affirms that he/she or they is (are) the (owner/lessee/authorized agent for the owner) involved in the appeal and the answers and statements herein contained and the information herewith submitted are in all respects true and correct to the best of his, her or their knowledge and belief.

Signature *Thomas H. Arce*

Date 3/3/03

Signature _____

Date _____

August 16, 2002

And another content-based sign code bites the dust....

IS IT HARDER TO GAIN SIGN PERMITS?

Are you facing increased sign regulation? Are you facing increasingly restrictive sign codes?

ISA wants to know about your experiences! Please [click here](#) to take ISA's brief online survey. Your participation in this survey is vital to helping ISA know what members are experiencing so we can meet the needs of members and the industry.

UPCOMING EVENTS

SOUTHERN SIGN SHOW

Convention Events: January 23-25, 2003
Exhibit Events: January 24-25, 2003
Cobb Galleria Centre
Atlanta, Georgia
*Hosted by the Southern States Sign Council
For more information, [click here](#).

57th ANNUAL INTERNATIONAL

INTERNATIONAL SIGN EXPO

Convention Events: April 2-5, 2003
Exhibit Events: April 3-5, 2003
Mandalay Bay Hotel
and Convention Center
Las Vegas, Nevada
* Hosted by the Western States Sign Council
For more information, [click here](#).

AFFILIATED COUNCIL AND ASSOCIATION EVENTS

For more information, [click here](#).

If other staff members in your company would like to receive ISA Update, or if you would like to unsubscribe from this service, please [click here](#).

On July 24, 2002, in the U.S. District Court, Northern Division, Judge Lawson ruled on plaintiffs' summary judgment motion in *King Enterprises, Inc., et.al. v. Thomas Township*, 2002 WL 1677687. In his ruling, the judge found most of the provisions of a 1999 sign ordinance "repugnant to the First Amendment of the Constitution" and permanently enjoined enforcement of the offending sections.

The lead plaintiff, without first obtaining a permit, changed the face of a legal nonconforming sign to reflect the name of a new business. The Township contended that the face change triggered conformance to the new sign code. The plaintiff contested this determination and brought suit, along with 21 other plaintiffs—all alleging the code in various sections and ways violated their speech and due process/equal treatment rights under the First and Fourteenth Amendments.

The judge agreed with plaintiffs, finding that the sign code, except where it dealt with setbacks, construction and lighting in a content-neutral manner, unconstitutionally regulated both commercial and noncommercial speech, as well as placed an impermissible prior restraint on a protected activity, and violated equal protection guarantees. The judge specifically held that the triggering of "conformity" upon altering the message or content of the sign itself is unconstitutional, finding that the Township failed to establish any justification, under the Central Hudson four-pronged test, for allowing such a "content-based triggering event. The judge also stated: "A

prior restraint exists when speech is conditioned upon the prior approval of public officials....[t]he ordinance requires engaging the [permit] process whenever there is a proposed 'changing of the message' on a sign. Requiring official permission to change a sign's message is disturbingly suggestive of authority to sanction the message itself. The ordinance contains no language to assuage that concern, which leads to another fatal defect in this section."

In addition the judge ruled on the differing treatment of electronic message centers based upon whether the message conveyed was noncommercial in nature, such as "time and temperature," or commercially-oriented. Commercial messages could not change more than every twenty seconds, while "time and temp" signs could change every five seconds. The judge found this to be another example of impermissibly content-based regulation, and unconstitutional.

ISA members everywhere should cheer mightily this decision.

International Sign Association
707 North Saint Asaph Street
Alexandria, VA 22314-1911
Phone 703-836-4012, FAX 703-836-8353
www.signs.org

For
Y
To
ht
or
to



Little Riverside Bar BQ Sign

