

MANISTEE CITY
ZONING BOARD OF APPEALS

Meeting of February 5, 2009

5:00 p.m. - Council Chambers, City Hall, 70 Maple Street,
Manistee, Michigan

AGENDA

I CALL TO ORDER

II ROLL CALL

III APPROVAL OF AGENDA

At this time the Zoning Board of Appeals can take action to approve the February 5, 2009 Agenda.

IV APPROVAL OF MINUTES

At this time Zoning Board of Appeals can take action to approve the January 15, 2009 meeting Minutes.

V PUBLIC HEARING

ZBA-2009-01 - Gladiator Enterprises, LLC/DBA Little Caesars, 537 Cypress Street

Gladiator Enterprises, LLC/DBA Little Caesars are leasing the building at 537 Cypress Street. The Building was constructed in the 1950's as a commercial building and has had several different commercial uses since that time. Gladiator Enterprises, LLC/DBA Little Caesars are asking for a variance that would allow them to continue using the existing pole sign and be allowed up to 93 sq. ft. of signage to be placed on the building. This is the same amount that Commercial Buildings in the C-1, C-2, C-3 and W-F zoning districts are allowed when located on U.S. 31. Because this building is located in the R-2 zoning district it is limited to 16 sq. ft. of signage.

At this time the Chair shall open the public hearing

The Applicant shall present any comments and explanation of the case.

The City Staff and any Consultants serving the City shall present their reports.

The Hearing will be opened for Public Comments.

The Public Comment Period will be closed.

VI BUSINESS SESSION:

Action on Pending Cases

ZBA-2009-01 - Gladiator Enterprises, LLC/DBA Little Caesars, 537 Cypress Street

After the Public Hearing is Closed the Zoning Board of Appeals can take action on the request from Gladiator Enterprises, LLC/DBA Little Caesars for a variance that would allow them to continue using the existing pole sign and be allowed up to 93 sq. ft. of signage to be placed on the building. This is the same amount that Commercial Buildings in the C-1, C-2, C-3 and W-F zoning districts are allowed when located on U.S. 31. Because this building is located in the R-2 zoning district it is limited to 16 sq. ft. of signage.

At this time the Zoning Board of Appeals can take action to approve/deny/approve with conditions the variance request from Gladiator Enterprises, LLC/DBA Little Caesars, 537 Cypress street to continue use of existing pole sign and allow 93 sq. ft. of building signage.

Old Business

None

Other Business of the Appeals Board

VII PUBLIC COMMENTS AND COMMUNICATIONS

At this time the Chair will ask if there are any public comments.

VIII ADJOURNMENT



PLANNING AND ZONING
COMMUNITY DEVELOPMENT
231.398.2805
FAX 231.723-1546
www.ci.manistee.mi.us

MEMORANDUM

TO: Zoning Board of Appeals Members

FROM: Denise Blakeslee 

DATE: January 1, 2009

RE: February 5, 2009 Meeting

Good Morning! We have scheduled a meeting for **5:00 p.m.** on Thursday, February 5, 2009 in the Council Chambers at City Hall.

We have one item on the Agenda as follows:

ZBA-2009-01 - Gladiator Enterprises, LLC/DBA Little Caesars, 537 Cypress Street

Gladiator Enterprises, LLC/DBA Little Caesars are leasing the building at 537 Cypress Street. The Building was constructed in the 1950's as a commercial building and has had several different commercial uses since that time. Gladiator Enterprises, LLC/DBA Little Caesars are asking for a variance that would allow them to continue using the existing pole sign and be allowed up to 93 sq. ft. of signage to be placed on the building. This is the same amount that Commercial Buildings in the C-1, C-2, C-3 and W-F zoning districts are allowed when located on U.S. 31. Because this building is located in the R-2 zoning district it is limited to 16 sq. ft. of signage.

I will forward you copies of the January 15, 2009 organizational meeting as soon as they are completed.

Please note the time change. Due to my absence most of the week of February 9th we have scheduled this meeting between the Historic District Commission Meeting and Planning Commission meeting.

If you have any questions, or are unable to attend the meeting please call me at 398-2805.

:djb



REQUEST FOR APPEAL
 CITY OF MANISTEE
 ZONING BOARD OF APPEALS

Name: GLADIATOR ENT, LLC dba Little Caesars
 Address: 389 Badger Rd
 City, State, Zip Code: BEAVERTON, MI 48612
 Phone Numbers: (work) (989) 751-1645 (home) (989) 435-4849
 Agent Name & Phone Number if applicable: _____

FEE FOR APPEAL \$500.00

OFFICE USE ONLY	
Appeal Number: <u>ZBA-2009-01</u>	Date Received: <u>1-12-09</u>
Receipt Number/Fee Amt: <u>\$500.00</u>	Hearing Date: <u>2-5-09</u>
Zoning District for Property: <u>R-2</u>	Parcel Code Number: <u>51-51-654-703.07</u>
Receipt # <u>17784</u>	
Type of Request:	
<input checked="" type="checkbox"/> Variance Request	<input type="checkbox"/> Ordinance or Map Interpretation
<input type="checkbox"/> Appeal from Administrative Decision	<input type="checkbox"/> Other Authorized Review

PLEASE NOTE: All questions must be answered. Incomplete applications will be returned to be completed before processing. If additional space is needed, number and attach additional sheets.

State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Board of Appeals:

SEE ATTACHED

PROPERTY INFORMATION:

Tax Roll Parcel Code # 51-51- 654-703-07

Property Address: 537 Cypress St.

Names & Addresses of all other persons, firms or corporations having a legal or equitable interest in the land.

}

 JOANN KRUS
 18903 MAIDENS Rd
 BEAR LAKE, MI 49614

}

 TENANT }
 Little Caesars
 389 Badger Rd
 BEAVERTON, MI 48612

Present use of parcel: _____

List of all deed restrictions (attache additional sheets if necessary): NONE

Has a previous appeal been made with respect to this property? Yes No

If a previous appeal, re-zoning or special use permit application was made state the date, nature of action requested and the decision: _____

DETAILED REQUEST AND JUSTIFICATION:

Please identify each requested variance:

	Required by Zoning		Requested by Appellant
<input type="checkbox"/> Front-Yard Set-Back	from _____	to _____	_____
<input type="checkbox"/> Side-Yard Set-Back	from _____	to _____	_____
<input type="checkbox"/> Side-Yard Set-Back	from _____	to _____	_____
<input type="checkbox"/> Rear-Yard Set-Back	from _____	to _____	_____
<input type="checkbox"/> Waterfront Set-Back	from _____	to _____	_____
<input type="checkbox"/> Height	from _____	to _____	_____
<input type="checkbox"/> Area Requirements	from _____	to _____	_____
<input type="checkbox"/> Off-street Parking	from _____	to _____	_____
<input checked="" type="checkbox"/> Other <u>Signage</u>	<u>16 sq ft.</u>	<u>to 93 sq ft. on building</u>	<u>& to keep existing pole sign.</u>

Please mark all characteristics of your property which require the granting of a variance.

Dimensional information

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

Variations. 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.

1. Basic Conditions. The Board shall find that a variance request meets all of the following conditions.
 - a. The requested variance shall not be contrary to the public interest or to the intent and purpose of this Ordinance.
 Yes No
 - b. 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 No
 - c. 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 No
 - d. 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 No
 - e. The requested variance shall relate only to property that is under control of the applicant.
 Yes No
 - f. The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner. (Not self-created)
 Yes No

All Yes answers are in agreement with the numerical statements listed. Page 3 of 5

g. 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 No

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

Yes No

2. 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:

a. Where there are practical difficulties which prevent full compliance with the requirements of this Ordinance. Such practical difficulties shall be evaluated in terms of the use of a particular parcel of land. Neither the fact that the appellant could: (a) incur additional costs to achieve full compliance, or (b) receive additional income with less than full compliance shall be determined a practical difficulty for the purposes of this paragraph.

Yes No

Justification: Such limited sign requirements severely limit the owner's ability to lease this property to a well known or in fact any business.

b. 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 No

Justification: Other buildings in this area are residential, yet this building is retail + has always been. The intended use was retail. Zoning was changed through no act of the owner. Retailers need to promote their business to survive. A storefront sign is key to this promotion.

c. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

Yes No

Justification: Upon building a commercial building there was an associated right to signage, in the absence of an ordinance or zoning. This commercial building is penalized due to location's zoning change coupled with new sign regulations relating to a commercial building in a residential area.

3. Rules. The following rules shall be applied in the granting of variances:

a. The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.

b. Each variance granted under the provisions of this Ordinance shall become null and void unless: The construction authorized by such variance has received a City zoning permit within one (1) year after the granting of the variance; and the occupancy of land, premises, or buildings authorized

by the variance has taken place within one (1) year after the granting of the variance, unless an extension of time has been granted by the Zoning Board of Appeals.

- c. No application for a variance which has been denied wholly or in part by the Board shall be re-submitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence of changed conditions found, upon inspection by the Board, to be valid. For such newly discovered evidence to be considered, an applicant shall submit a detailed description of such evidence to the Zoning Administrator who shall place it on the agenda of the Zoning Board of Appeals along with a report and recommendation on the nature of such newly discovered evidence and whether it may have been pertinent to the decision of the Zoning Board of Appeals. If the Zoning Board of Appeals determines that the newly discovered evidence would have been pertinent to its decision, it shall direct the Zoning Administrator to accept a new application for the previously denied variance. An application considered under the terms of this subparagraph shall be considered a new application and shall be subject to all hearing, notice and fee requirements of this Ordinance.

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. By signing this affidavit permission is given for Zoning Board of Appeals Members to make a site inspection if necessary.

Signature  - TENANT Date 9 JAN 2009

Signature _____ Date _____

Representation at the Public Hearing by either the applicant or agent is encouraged.

July 2008



Little Caesars

Tenant:
Gladiator Enterprises, LLC
Dbas Little Caesars
389 Badger Road
Beaverton, MI 48612

Re: Manistee, Michigan : Proposed 537 Cypress Street location (key street zoning US 31)

Dear Zoning Board of Appeals:

I respectfully request a variance be granted for signage purposes on the commercial building located at 537 Cypress Street. This building, built in the 1950's, was built and intended for use as a retail commercial structure. The zoning over time has since changed from commercial to R-2 residential, leaving this unit as a business, facing a main highway, with residential behind it on the side streets. At the time the building was built, no sign ordinance existed. The ordinance in place currently does not give this commercial building the same sign flexibility as businesses in the commercial districts facing US-31, due to the change from commercial to R-2 zoning. Please allow this building to follow the requirements of the C-1, C-2, C-3, W-F zoning when facing US-31; to have its existing pole sign as well as store front signage of up to 1.5 x of principle building width to accommodate businesses opening in this location.

I would like to lease this building from Ms. Krus, property owner, for up to 20 years. My plan is to drastically renovate this building with over \$75,000 worth of leasehold improvements. New paint, upgraded utilities, and ceramic tile are just a few of these improvements. We plan on employing a local management team as well as a crew of about 15 team members, many of whom probably live in this very neighborhood. With today's tough economy, spurring local business activity is surely beneficial to Manistee for both economic and tax reasons. I have attached a letter of support from Ms. Krus requesting that a sign variance be allowed for her building. I believe she makes some valid points regarding rental potential and building history.

Appropriate signage is critical to the success of any business. With my substantial investment into this project, I want to do all I can to make sure the business succeeds and having an appropriate trademarked building sign is one of the most important ways I can identify my business. This commercial building is located on a key street, and this highway, US-31, has a speed limit of 40 mph in front of the store. In other commercial locations the speed limit is only 25 mph yet the current sign ordinance affords more sign space to those businesses. With the target market driving at 40 mph and merging a lane in front of the store it takes a little more effort to attract attention to a business.

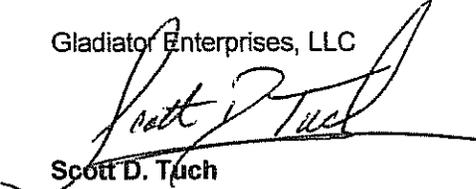
Like most other franchise concepts, Little Caesars has a specific look to their sign requirements. I realize that signage can at times get out of control. I have asked my franchise to be conservative in its signage specifications for this store keeping that in mind. I believe they have achieved this goal, and I have attached a page showing our replacement lens for the existing pylon sign, as well as two variations of potential storefront signage that I would like to investigate. Both sign outline footprints are 30 sq. feet.

The attached drawing shows road frontage of 62 feet facing US-31. At 1.5 x building width, this equates to keeping the existing pole sign and changing the lens, as well as allocating 93 square feet combined of wall, window, and marquee signage on the building storefront facing US-31. Again, I am not requesting any more signage than allowed other businesses in C-1, C-2, C-3, and W-F facing US-31. Please consider, that upon driving US-31 in this area one would note that there are numerous commercial buildings, all with signage of various sizes and shapes as well as pole signs.

I intend to lease the entire building and split it in half. The South end is where the Little Caesars would locate. The North end Tenant at this time is unknown, but will also need some sort of visible signage. The 93 square foot requested would be for the entire building; both businesses combined. Appropriate signage can exist for both businesses, without being overbearing, if this variance is granted. I hope you see this as a reasonable request and please grant this variance.

Sincerely,

Gladiator Enterprises, LLC



Scott D. Tuch
Little Caesars
Owner – Manistee & Grayling

JoAnn Krus

8903 Maidens Road
Bear Lake, MI 49614
231-889-4442

January 8, 2009

Dear Zoning Board of Appeals:

I am writing in support of a signage variance requested for my commercial building located at 537 Cypress Street at the corner of Cypress and Sixth Streets. This building was built by my father in the 1950's, originally as a grocery store/meat market, and has been in my family ever since. Over the years, different businesses have moved in and out of this building, but the use has always been commercial retail.

Throughout this long period, signs of various sizes, shapes, styles, and colors have also been installed and removed as these businesses came and went. Unknown to me, over the course of this time local zoning had changed, and apparently in 2008 a new sign ordinance went into effect that limited signage on my building. I did not realize that this could be an issue some day.

My building has had signage located on the front facing US-31 for most of its history, and thankfully we do have a pole sign. I have recently entered into an agreement with Little Caesar's franchise owner, Scott Tuch, to lease this location for up to 20 years. As mentioned, numerous businesses have gone in and out of the unit, so a 20 year commitment from a major franchise is not only good for the local neighborhood and its economy, but also for my own economic stability over these years. As a franchise, they require certain signage that I feel is reasonable, and I want to support in every way Mr. Tuch's request for a variance.

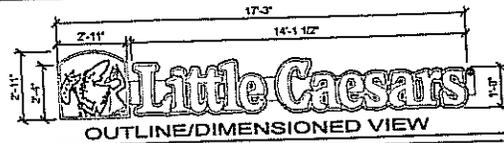
I understand Mr. Tuch is only requesting what all other businesses in Manistee's commercial zoned areas are already currently allowed, and that until recently this building had also. Please keep in mind that my ability to rent my building to any business is hindered without building signage ability. It is located on a key street, US-31, and has always been commercial. The speed limit in front of the property is 40 mph, not 25 mph as in other commercial locations. Also, the highway merges at this very spot, so any business at this location needs a little help attracting potential customers. Thank you and please consider favorably this request for a sign variance for my building.

Sincerely,



JoAnn Krus
Property Owner

28" LITTLE CAESARS & LOGO SIGN SPECIFICATIONS

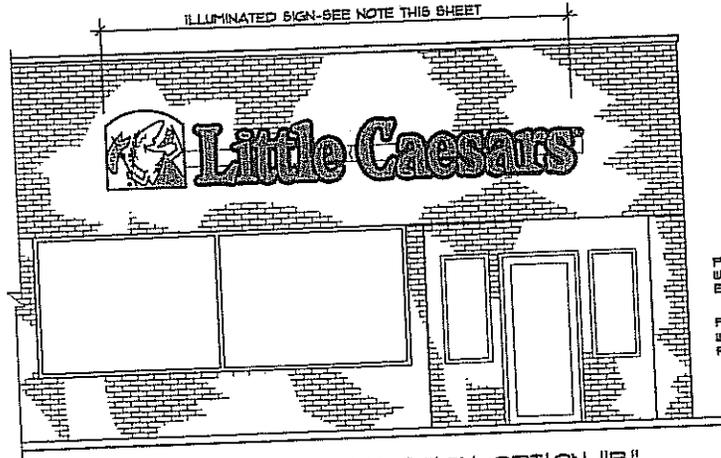


OUTLINE/DIMENSIONED VIEW

NOTE: RACEWAY TO BE PAINTED TO MATCH FACIA BY SIGN INSTALLER PRIOR TO INSTALLATION BY SIGN INSTALLER. LETTERS ARE ILLUMINATED WITH LIGHT EMITTING DIODES (L.E.D.) AND LOGO BY FLUORESCENT TUBES.

SIGN SQUARE FOOTAGE:
 SIGN OUTLINE = 30
 SIGN SQUARED OFF = 42

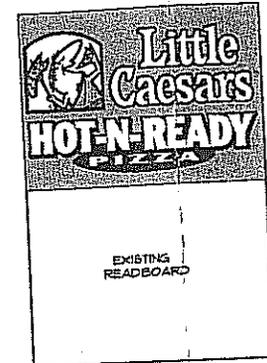
POWER REQUIREMENTS:
 TOTAL WATTS = 228
 TOTAL AMPS = 2.23



EXTERIOR FRONT ELEVATION-OPTION "B"
 SCALE 1/4"=1'-0"

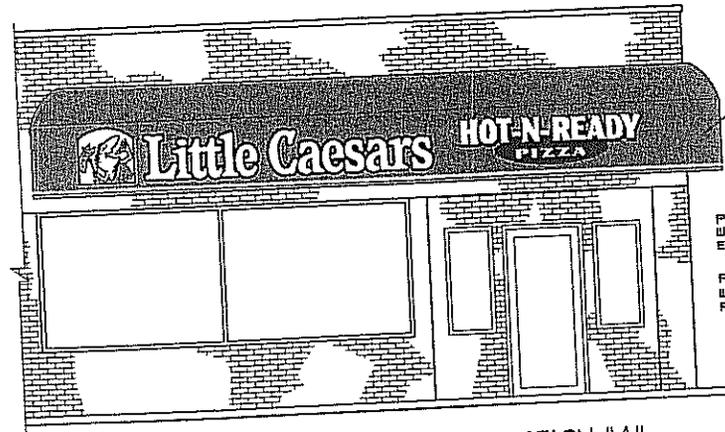
PAINT EXISTING BRICK/BLOCK WALL W/ "BENJAMIN MOORE EDGECOMB GRAY 4C-113"

PAINT ANY EXISTING TRIM W/ "BENJAMIN MOORE REVERE PEWTER 4C-112"



DO NOT USE AS ARTWORK

NEW LENS for EXISTING PYLON SIGN
 NOT TO SCALE



EXTERIOR FRONT ELEVATION-OPTION "A"
 SCALE 1/4"=1'-0"

ILLUMINATED AWNING W/ GRAPHICS "COOLEY BRITE ORANGE 2119"

PAINT EXISTING BRICK/BLOCK WALL W/ "BENJAMIN MOORE EDGECOMB GRAY 4C-113"

PAINT ANY EXISTING TRIM W/ "BENJAMIN MOORE REVERE PEWTER 4C-112"

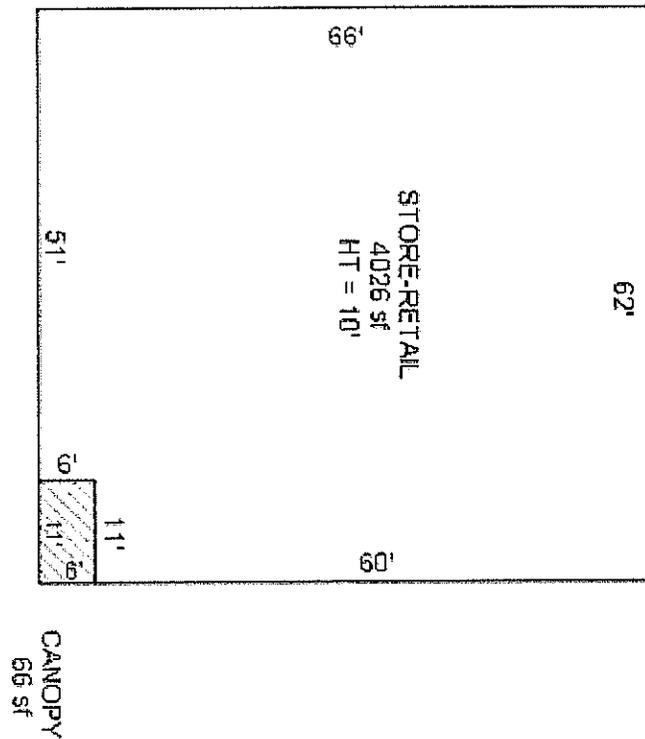
Image/Sketch for Parcel: 51-51-654-703-07

[Back to Non-Printer Friendly Version] [Send To Printer]

Caption: C001

Sketch by Apex Mediana™

$$62 \times 1.5 = 93A$$



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