MANISTEE CITY
ZONING BOARD OF APPEALS

Meeting of January 25, 2018
5:30 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 January 25, 2018 Agenda.

IV APPROVAL OF MINUTES

At this time Zoning Board of Appeals can take action to approve the January 19, 2017 meeting Minutes.

V PUBLIC HEARING

None

VI BUSINESS SESSION:

Action on Pending Cases

None

Old Business

None

Other Business of the Appeals Board

<u>Election of Officers</u>

According to the By-Laws of the City of Manistee Zoning Board of Appeals their annual election of Officers is held at the January Organizational Meeting. At this time the meeting will be turned over to Denise Blakeslee who will ask for nominations.

Chair - The Zoning Board of Appeals will select a Chair for 2018.

Vice-Chair - The Zoning Board of Appeals will select a Vice Chair for 2018.

Secretary - The Zoning Board of Appeals will select a Secretary for 2018.

Appointment of a Recording Secretary 2018

At this time the Zoning Board of Appeals Secretary may appoint a Recording Secretary for 2018.

By Law Review

According to the By-Laws of the City of Manistee Zoning Board of Appeals they shall annually review their By-Laws at the Organizational Meeting held in January of each year.

At this time the Zoning Board of Appeals can take action to amend their By-Laws if necessary.

VII PUBLIC COMMENTS AND COMMUNICATIONS

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

VIII ADJOURNMENT

Memorandum

Denise Blakeslee
Planning & Zoning Director
70 Maple Street
Manistee, MI 49660
231.398.2805
dblakeslee@manisteemi.gov
www.manisteemi.gov

TO: Zoning Board of Appeals Members

FROM: Denise Blakeslee
Planning & Zoning Director

DATE: January 12, 2018

RE: January 25, 2018 Organizational Meeting

Good Morning!

We have scheduled the Zoning Board of Appeals Organizational Meeting for 5:30 pm Thursday, January 25, 2018. We will hold the Election of Officers, Appointment a Recording Secretary and review our By-Laws. If you are unable to attend please call me at 398-2805.

MANISTEE CITY ZONING BOARD OF APPEALS
City Hall, 70 Maple Street
Manistee, MI 49660

ORGANIZATIONAL
MEETING MINUTES
January 19, 2017

A meeting of the Manistee City Zoning Board of Appeals was held on January 19, 2017 at 5:30 pm in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

ROLL CALL

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

MEMBER ABSENT: None

ALTERNATES ABSENT: Glenn Zaring (excused)

OTHERS: Denise Blakeslee (Planning & Zoning) and others

The meeting was called to order at 5:02 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 Bill Kracht, seconded by Mark Hoffman to approve the March 10, 2016 Zoning Board of Appeals Meeting Minutes.

With a voice vote this MOTION PASSED UNANIMOUSLY

PUBLIC HEARING

None

DRAFT

BUSINESS SESSION

Election of Officers 2017

According to the By-Laws of the City of Manistee Zoning Board of Appeals their annual election of Officers is held at the January Organizational Meeting.

Chair - At this time the meeting was turned over to Denise Blakeslee who asked for nominations for the Position of Chair.

Ray Fortier nominated John Perschbacher for the position of Chair

Nominations were asked for three times, there being no other nominations; nominations were closed.

With a roll call vote, John Perschbacher was elected Chair of the Zoning Board of Appeals for 2017, 5 to 0.

The meeting was turned back to Chair Perschbacher.

Vice-Chair - Chair Perschbacher asked for nominations for the Position of Vice-Chair.

Craig Schindlbeck nominated Mark Hoffman for the position of Vice-Chair
Ray Fortier nominated Bill Kracht for the position of Vice-Chair
Mark Hoffman nominated Craig Schindlbeck for the position of Vice-Chair (Craig Schindlbeck refused the nomination.

Nominations were asked for three times, there being no other nominations; nominations were closed.

With a roll call vote, Bill Krach was elected Vice - Chair of the Zoning Board of Appeals for 2017, 3 to 2.

Bill Kracht for Vice Chair - Fortier, Perschbacher, Hoffman
Mark Hoffman for Vice Chair - Schindlbeck, Kracht

Secretary - Chair Perschbacher asked for nominations for the Position of Secretary

Bill Kracht nominated Ray Fortier for the position of Secretary

Nominations were asked for three times, there being no other nominations; nominations were closed.

With a roll call vote, Ray Fortier was elected Secretary of the Zoning Board of Appeals for 2017, 5 to 0.

DRAFT

Appointment of a Recording Secretary 2017

Once Elected the Secretary may appoint a Recording Secretary to handle the administrative functions of the office.

Ray Fortier appointed Denise Blakeslee to act as the Recording Secretary for the Zoning Board of Appeals for the year 2017.

By Law Review

According to their By-Laws, the City of Zoning Board of Appeals shall annually review their By-Laws at the January Organizational Meeting. No Changes were made

OLD BUSINESS

None

QUESTIONS, CONCERNS OF CITIZENS IN ATTENDANCE

None

Chair Perschbacher thanked the members and Ms. Blakeslee for their service on the board.

Denise Blakeslee spoke to the commission about the Redevelopment Ready Communities Certification the City received and the process to achieve certification.

ADJOURNMENT

There being no further business meeting MOTION by Ray Fortier seconded by Bill Kracht the meeting be adjourned.

Meeting adjourned at 5:52 p.m.

Respectfully Submitted

_____

Denise J. Blakeslee, Recording Secretary

DRAFT

CITY OF MANISTEE
ZONING BOARD OF APPEALS
BY-LAWS AND RULES OF PROCEDURES

1. AUTHORITY

These By-laws and Rules of Procedures are adopted by the Zoning Board of Appeals of the City of Manistee, County of Manistee, (hereinafter known as Appeals Board) pursuant to Public Act 110 of 2006, as amended, the Michigan Zoning Enabling Act; and the Public Act 267 of 1976, as amended, the Open Meetings Act. Established by Article 25 of the City of Manistee Zoning Ordinance, the Appeals Board also acts as the Construction Board of Appeals as provided for in Chapter 1420 Michigan Building Code and as the Fire Code Board of Appeals as provided for in Chapter 1610 International Fire Code of the Codified Ordinances of the City of Manistee. The duties and responsibilities of the Appeals Board are specified and limited to those identified in the above referenced Article and Chapters.

2. OFFICERS

2.1 Selection. At the Organizational meeting in January, the Appeals Board shall elect a chair, vice-chair and secretary who shall serve for the next twelve (12) months and who shall be eligible for re-election. Vacancies in an office of the Appeals Board shall be filled at the next meeting of the Appeals Board. The membership shall elect one of its members to fill the vacancy until the next annual election.

2.2 Duties. The chair shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein.
The vice-chair shall act in the capacity of the chair in the absence of the chair. In the event of a vacancy in the office of chair, the vice chair will assume the office of chair and the Appeals Board shall select a successor to the office of vice-chair at the earliest practicable time.
The Secretary, or a Recording Secretary appointed by the Secretary shall be responsible for the preparation of minutes, keeping of pertinent public records, delivering communications, reports, and related items of business of the Appeals Board, issuing notices of public hearings and performing related administrative duties to assure efficient and informed Appeals Board operations. In the event the Secretary is absent, the chair or acting chair shall appoint a temporary secretary for such meeting.

2.3 Tenure. The officers shall take office immediately following their election. They shall hold their office for a term of one year, or until their successors are elected and assume office.

3. MEETINGS

3.1 Meetings. Meetings shall be scheduled upon receipt of a complete application. The business which the Appeals Board may perform shall be conducted at a public meeting of the Appeals Board held in compliance with the Michigan Zoning Enabling Act. Public Notice of the time, date, and place of the meeting shall be given in a manner as required by the Michigan Zoning Enabling Act.

3.2 Meeting Notice. Notice of all meetings shall be posted at City Hall. The notice shall include the date, time and place of the meeting. Any changes in the date or time of the meetings shall be posted and noticed in the same manner as originally established.

3.3 Board Absences. In order to maintain the maximum participation of all appointed Zoning Board of Appeals members at all scheduled meetings, the following is the attendance guide and Board Member replacement policy for "excused" or "unexcused" absences:

1. When appointed, each Board Member should state his/her willingness and intention to attend each scheduled meeting of the Zoning Board of Appeals.
2. In the event of unplanned personal matters, business trips, family vacation trips, changed job requirements, sickness, or other physical disabilities that prohibit the Board Member from attending the scheduled meeting; the Commission Chair or staff Liaison to the Zoning Board of Appeals should be notified as soon as possible prior to the time of the scheduled meeting of their inability to attend. The Board Member upon this notification will receive an "excused absence" for the involved scheduled meeting.
3. If any Board Member is absent from three (3) consecutive scheduled meetings without an "excused absence" for any of the three (3) meetings, the Board Member shall be reported in writing to the City Manager. The City Manager will contact the Board Member in writing and question his/her continued ability or interest in being on the Commission, giving the member a chance to rectify the attendance issue or submit a resignation.
4. There will be no limit on the number of consecutive "excused absences" for any Board Member. However, if the Board Member is repeatedly absent for at least 50% of the yearly scheduled meetings, that member will also be reported in writing to the City Manager. The City Manager will contact the Board Member in writing and question the member's continued ability or interest to be on the Commission. The Board Member will be considered for an appointment nullification when the absences total six in the calendar year.
5. The appointment nullification action would be initiated by the City Manager and forwarded on to the City Council for official action.

3.4 Special Meetings. A special meeting may be called by two members of the Appeals Board upon written request to the Secretary or by the Chairperson. The business which the Appeals Board may perform shall be conducted at a public meeting of the Appeals Board held in compliance with the Open Meeting Act. Public Notice of the time, date, and place of the special meeting shall be given in a manner as required by the Open Meeting Act, and the Secretary or Recording Secretary shall provide notice to members of the Appeals Board by writing, telephone, or e-mail.

3.5 Quorum. In order for the Appeals Board to conduct business or take any official actions, a quorum consisting of at least three members of the Appeals Board shall be present. When a quorum is not present, no official action, except for the closing of the meeting may take place. The members of the Appeals Board may discuss matters of interest, but shall take no action until the next regular or special meeting. All public hearings without a quorum shall be scheduled for the next regular or special meeting and no additional public notice is required provided the date, time and place is announced at the meeting.

3.6 Public Hearings. Hearings shall be scheduled and due notice given in accordance with the provisions of the Acts and Ordinance cited in Section 1. Public hearings conducted by the Appeals Board shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure.

1. The Chair of the Appeals Board shall announce that a public hearing will be conducted on a request.
2. The Chair shall read the public hearing announcement as published in the newspaper and give a brief description of the hearing subject and the public notice procedure.
3. The Chair shall announce the following hearing rules:
   a. The Chair will recognize each speaker. When a speaker has the floor, he/she is not to be interrupted unless time has expired. Persons speaking without being recognized shall be out of order.
   b. Each speaker shall state their name and address for the record and may present written comments for the record.
   c. Speakers shall address all comments and questions to the Appeals Board and comments will be limited to the subject matter of the Public Hearing.
   d. Unless waived by the Appeals Board for a specific meeting or a specific speaker, public comment shall be limited to five (5) minutes per speaker. If a group of people wish to be heard on one subject, a spokesperson may be designated who may request that more than five (5) minutes be permitted for collective comments of the group as presented by that speaker.
   e. The Chair may allow people to speak a second time after everyone has had the opportunity to speak. The Chair may request that repetitive comments be limited or abbreviated in the interest of saving time and allowing others to speak.
   f. The Chair may establish additional rules of procedure for particular hearings as he/she determines appropriate.
   g. Normal civil discourse and decorum is expected at all times. Applause, shouting, outbursts, demonstrations, name-calling or other provocative speech or behavior may result in removal from the hearing or an adjournment.
4. Once all public comments have been stated, the Chair shall close the hearing. Any voting member of the Appeals Board may initiate a motion to close the hearing.
5. Public Hearings shall be carried out in the following format:
   a. The Chair shall open the hearing.
   b. The Applicant shall present any comments and explanation of the case. Applicant's presentation shall not be subject to the five (5) minute limitation.
   c. The City staff and any consultants serving the City shall present their reports.
   d. The hearing will be opened for public comment.
   e. The public comment period will be closed.
   f. Deliberation and discussion by the Appeals Board.
   g. Disposition of the case by the Appeals Board.

If more than one public hearing has been scheduled for the meeting. The public hearings will be held in the order in which received. Deliberation and disposition by the Appeals Board will be held after all public hearings have been closed.

3.7 Misfeasance, Malfeasance, or Nonfeasance/Conflict of Interest. A member of the Zoning Board of Appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

3.8 Motions. Motions shall be restated by the Chair before a vote is taken. The name of the maker and second of each motion shall be recorded.

3.9 Voting. An affirmative vote of the majority of the Appeals Board shall be required for the approval of any requested action or motion placed before the Appeals Board. Voting shall ordinarily be by voice vote; provided however that a roll call vote shall be required if requested by any Appeals Board member or directed by the Chairperson. All members of the Appeals Board including the Chairperson shall vote on all matters, but the Chairperson shall vote last.

3.10 Order of Business. A written agenda for all regular meetings shall be prepared as followed. The order of business shall be:

- Call to Order.
- Roll Call
- Approval of Agenda
- Approval of Minutes.
- Site Inspection
- Public Hearings.
- Business Session.
  - Action on Pending Case
  - Old Business
  - Other Business of the Appeals Board
- Public Comments and Communications concerning items not on the agenda.
- Adjournment.

A written agenda for special meeting shall be prepared and followed, however the form as enumerated above shall not be necessary.

3.11 Rules of Order. All meetings of the Appeals Board shall be conducted in accordance with generally accepted parliamentary procedure, as adopted by City Council for all Boards and Commissions within the City of Manistee.

3.12 Agenda Items. For an item to be considered at a regular Appeals Board meeting, it must be submitted to the City Community Development Department no later than the established policy of the City prior to the next scheduled Appeals Board Meeting.

3.13 Conflict of Interest:

1. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
   a. A commission member issuing, deliberating, voting or reviewing a case concerning himself.

b. A commission member issuing, deliberating, voting or reviewing a case concerning work on land owned by himself.
c. A commission member issuing, deliberating, voting or reviewing a case involving a corporation, company, partnership, or other entity in which he is a part owner, or any other relationship where he may stand to have a financial gain or loss.
d. A commission member issuing, deliberating, voting or reviewing a case which is an action which results in a pecuniary benefit to himself.
e. A commission member issuing, deliberating, voting or reviewing a case concerning his spouse, children, step-child, grandchildren, parents, brother, sister, grandparents, parents in-law, grandparents in-law or member of his household.
f. A commission member may consider the possibility of declaring a conflict of interest if his/her home falls within a notification radius used for a Public Hearing. Because the sending of the notice automatically presumes some degree of interest, this fact should be recognized by declaring a conflict, particularly if a financial impact is likely.
g. A Board Member who feels, in his/her judgment that his/her job, scope of duties and/or position may be at risk, pending the outcome of the permitting process.
h. The Planning Commission Representative to the Appeals Board will abstain from any case where as a member of the Planning Commission he/she made a decision which resulted in the appeal.

2. A commission member shall, when he/she has a conflict of interest do the following immediately, upon the first review of the case and determining a conflict exists:
   a. declare a conflict exists at the beginning of the meeting where the case appears on the agenda, or when the topic brought up so such declaration is recorded in the minutes, and
   b. refrain from participating in the discussion, site inspection or review of the case, except where specific information has been requested by the commission, and
   c. refrain from casting a vote on any motion having to do with the case.
3. Nothing in the above shall preclude a member from recusing him or herself from the board due to a conflict and participating as a member of the public.

4. MINUTES

4.1 Preparation. Appeals Board minutes shall be prepared by the Secretary or Recording Secretary of the Appeals Board. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and recording votes; complete statement of the conditions or recommendations made on any action; and recording of attendance. All communications, action and resolutions shall be attached to the minutes.

5. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS

5.1 All meetings of the Appeals Board shall be open to the public and held in a place available to the general public.

5.2 All deliberations and decision of the Appeals Board shall be made at a meeting open to the public.

5.3 A person shall be permitted to address a hearing of the Appeals Board under the rules established in subsection 3.5, and to address the Appeals Board concerning non-hearing matters at the time designated for such comments.

5.4 A person shall not be excluded from a meeting of the Appeals Board except for breach of the peace, committed at the meeting.

5.5 All records, files, publications, correspondences, and other materials are available to the public for reading, copying, and other purposes as governed by the Freedom of Information Act.

6. ANNUAL REVIEW OF BY-LAWS

The Appeals Board shall annually review their By-Laws at their Organizational Meeting in January after the election of Officers.

7. AMENDMENTS

These rules may be amended by the Appeals Board by a concurring vote to subsection 3.7, during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

I HEREBY CERTIFY that the above Bylaws were adopted the 3rd day of January, 2013.

Ray Fortier

Ray Fortier, Secretary

[Annotation: As approved by the City Council at their June 2, 2009 Meeting - Council authorized the bylaw amendments for all Boards and Commissions to include the new Board Absences language; directed all boards or commissions to implement and follow these changes as Council has requested; and authorized the Mayor to sign the amended bylaws.]
[Annotation: on January 3, 2013 the Zoning Board of Appeals amended the first sentence of Section 3.5 Quorum as follows: In order for the Appeals Board to conduct business or take any official actions, a quorum consisting of at least three ~~of the five~~ members ~~and two alternates~~ of the Appeals Board shall be present.]

Approved by the City of Manistee Council

1/15/13

Date

Colleen Kenny

Colleen Kenny, Mayor