

MANISTEE CITY ZONING BOARD OF APPEALS

70 Maple Street, P.O. Box 358
Manistee, MI 49660

MEETING MINUTES

August 18, 2003

A meeting of the Manistee City Zoning Board of Appeals was held on Monday, August 18, 2003 at 5:30 p.m. in the City Council Chambers of City Hall, 70 Maple Street, Manistee, Michigan.

MEMBERS PRESENT: Ray Fortier, Ed Grabowski, Marlene McBride, John Perschbacher, and Mark Wittlief

ALTERNATES PRESENT: Tom Bramble

ALTERNATES ABSENT: Bill Kracht

OTHERS PRESENT: Guy Finout (Top Notch Auto), Sam Miller (174 Cleveland Street), Richard Capling (1016 Ramsdell Street), David Pratt (Masonic Temple), Denise Blakeslee (Administrative Assistant - Community Development), Jon Rose (Community Development Director) and Mark Niesen (Building Inspector) and others

The meeting was called to order at 5:30 p.m. by Chair John Perschbacher.

PUBLIC HEARING:

Top Notch Auto. Vacant Property South of 145 Harrison Street

On July 10, 2003 the Planning Commission approved an "open air use" for Top Notch Auto to expand their auto sales to the vacant property south of 145 Harrison Street. Top Notch Auto is requesting variances to two requirements of the Zoning Ordinance for the sale of used cars on the vacant parcel south of their building. The requests are:

A variance to reduce the front-yard set-back from 30 feet to 4 feet.

A variance to eliminate hard surface requirements of the ordinance.

Guy Finout an employee of Top Notch Auto spoke on behalf of Top Notch Auto. Mr. Finout spoke about the structures on the property to the north of Top Notch Auto that have between a 5 foot setback from the property line to 6 inches from the property line. Previously U-Haul trucks and

trailers had been rented from the vacant lot. Moving the cars closer to US 31 would move them farther from the residential properties to the west. Top Notch prefers the grass vs the hard surface and intends to only use the area during the summer. If Top Notch were to vacate the premises there would be an empty lot with paving on it.

Ed Grabowski asked how far this four feet would be. Mr. Finout said that the survey indicates that the property line is right up to the side walk. This would mean that the cars would be 4 feet back from the sidewalk.

Jon Rose said that the ordinance requires a 25 foot setback on the corner for visibility and Mr. Finout included that in the site plan.

John Perschbacher asked that if the board were to deny one or both requests if they would have to shut down their business. Mr. Finout said that they would prefer the set-back variance.

Jon Rose gave the example of the car lot across from Mowry's in Parkdale that is on a vacant piece of property with no paving and looks run down. The C-1 Commercial Zoning District runs from the Top Notch property to the north City limits. Many areas meet the current set-backs such as the properties by Grand Rental. The Zoning Ordinance tries to develop bigger setbacks. Using existing non complying businesses as justification does not meet the intention of the ordinance. The new car wash that is located south of Top Notch auto is in the C-4 Commercial Zoning District and had to be designed to meet the set-backs of the ordinance. Mr. Rose said that there was no justifications to not meet the higher standards of the ordinance.

Mr. Niesen handed out a letter from the Auto Value, 166 Cleveland Street that voiced no objections to the variance requests.

Sam Miller, 174 Cleveland Street spoke about the Auto Value which is 5 feet from the sidewalk. Mr. Miller supported the request from Top Notch Auto. There are homes in the area that are within 5 feet of the sidewalk two blocks north of the Top Notch Auto. Mr. Miller would rather see the sale of vehicles on the lot instead of it being vacant.

Ray Fortier spoke about how US 31 was two lanes and with the addition of the two other lanes the road became closer to the existing buildings.

Marlene McBride spoke about just coming around the curve heading north with Top Notch Auto being the next lot. While the other buildings are on a straight stretch of the road.

Mark Niesen said that the cars are currently sitting at 30 feet. Ray Fortier asked if the Zoning Board of Appeals had the right to reduce the variance request. Example from 4 feet to 10 feet. Mr. Rose said that the Zoning Board of Appeals has the right to be more restrictive if they wish.

There being no further discussion the public hearing closed at 5:47 p.m.

Richard Capling, 1016 Ramsdell Street

Richard Capling owns the house at 1016 Ramsdell Street. Mr. Capling would like to construct a deck on the south side of the home that would be 24' x 20'. This request requires a reduction in the side-yard set-back from 10 feet to 5 feet.

Two letters of support were attached to the application. The letters were from Ronald Krzyzanowski 246 12th Street and Frank & Sandra Gregorski, 1031 Davis Street.

Mr. Capling entered the meeting. Mr. Capling explained that he wanted a large deck to accommodate a picnic table, future hot tub and his family.

Mr. Capling was asked if the configuration of the deck could be change to allow the same footage but meet the set back requirements. Mr. Capling said that he would have to go around the gas meter, water spigot, and air conditioner to the east. To the west he has some landscaping.

Mr. Rose asked for some clarifications to the math on the application. Mr. Capling said that he had 27 feet from the house to the property line. Mr. Rose said that Mr. Capling has one of the larger lots in the neighborhood and most lots in the R-5 district are smaller. Mr. Rose spoke about the set-back requirements and fire protection.

There being no further discussion the public hearing closed at 6:07 p.m.

BUSINESS SESSION:

Minutes

MOTION by Ray Fortier, supported by Marlene McBride that the minutes from the March 20, 2003 Zoning Board of Appeals Meeting be approved.

MOTION PASSED UNANIMOUSLY

Top Notch Auto, Vacant Property South of 145 Harrison Street - Front Yard Set Back

A public hearing was held earlier in response to a request from Top Notch Auto for a variance to reduce the front yard set back from 30 feet to 4 feet for the "open air use" sale of used cars on the vacant property south of 145 Harrison Street.

Chairman Perschbacher went through each of the Findings of Fact and polled the members for their votes. The poll was as follows:

Findings of Fact:

1. Do special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same Land Use District?
5 - Yes Fortier, Grabowski, McBride, Perschbacher, Wittlief
0 - No
2. Would the literal interpretation of the provisions of this Ordinance deprive the applicant of rights commonly enjoyed by other properties in the same Land Use District under the terms of this Ordinance?
3 - Yes Grabowski, McBride, Wittlief
2 - No Fortier, Perschbacher
3. The special conditions and/or circumstances are NOT the result of actions taken by the applicant or the previous property owner since adoption of the current Ordinance?
5 - Yes Fortier, Grabowski, McBride, Perschbacher, Wittlief
0 - No
4. Would granting of the variance be in harmony with the general purpose and intent of the Ordinance and would NOT be injurious to the neighborhood, or otherwise detrimental to the public welfare?
5 - Yes Fortier, Grabowski, McBride, Perschbacher, Wittlief
0 - No
5. Do the reasons set forth in the application justify the variance and is the requested variance the minimum variance that will make possible the reasonable use of the land, building or structure?
0 - Yes
5 - No Fortier, Grabowski, McBride, Perschbacher, Wittlief

MEMBERS WERE POLLED FOR A MINIMUM SETBACK

- | | | | |
|---|---|---------|-----------------------------------|
| 2 | - | 10 feet | Fortier, McBride |
| 3 | - | 15 feet | Grabowski, Perschbacher, Wittlief |

MINIMUM SETBACK WILL BE 15 FEET

6. Does the requested variance include the allowance for a use which is not permitted in the Land Use District in question? [If Yes, the variance CANNOT be granted]
- | | | | |
|---|---|-----|---|
| 0 | - | Yes | |
| 5 | - | No | Fortier, Grabowski, McBride, Perschbacher, Wittlief |

MOTION by Ed Grabowski, seconded by Mark Wittlief that the request from Top Notch Auto for a variance to reduce the front yard set back be approved with a 15 foot setback.

MOTION APPROVED UNANIMOUSLY - WITH A 15 FOOT FRONT YARD SETBACK

Top Notch Auto, Vacant Property South of 145 Harrison Street - Hard Surface Requirement

A public hearing was held earlier in response to a request from Top Notch Auto for a variance to eliminate the hard surface requirements of the zoning ordinance.

Chairman Perschbacher went through each of the Findings of Fact and polled the members for their votes. The poll was as follows:

Findings of Fact:

1. Do special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same Land Use District?
- | | | | |
|---|---|-----|---|
| 0 | - | Yes | |
| 5 | - | No | Fortier, Grabowski, McBride, Perschbacher, Wittlief |

MOTION by Ray Fortier, seconded by Ed Grabowski that the request from Top Notch Auto for a variance to eliminate the hard surface requirements of the Zoning Ordinance be denied.

MOTION PASSED UNANIMOUSLY - REQUEST DENIED

Richard Capling, 1016 Ramsdell Street

A Public Hearing was held earlier in response to a request from Richard Capling for a reduction in the side-yard set-back from 10 feet to 4 feet to construct a deck.

Chairman Perschbacher went through each of the Findings of Fact and polled the members for their votes. The poll was as follows:

Findings of Fact:

1. Do special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same Land Use District?
5 - Yes Fortier, Grabowski, McBride, Perschbacher, Wittlief
0 - No

2. Would the literal interpretation of the provisions of this Ordinance deprive the applicant of rights commonly enjoyed by other properties in the same Land Use District under the terms of this Ordinance?
5 - Yes Fortier, Grabowski, McBride, Perschbacher, Wittlief
0 - No

3. The special conditions and/or circumstances are NOT the result of actions taken by the applicant or the previous property owner since adoption of the current Ordinance?
5 - Yes Fortier, Grabowski, McBride, Perschbacher, Wittlief
0 - No

4. Would granting of the variance be in harmony with the general purpose and intent of the Ordinance and would NOT be injurious to the neighborhood, or otherwise detrimental to the public welfare?
0 - Yes
5 - No Fortier, Grabowski, McBride, Perschbacher, Wittlief

MOTION by Ray Fortier, seconded by Ed Grabowski that the request from Richard Capling, 1016 Ramsdell Street for a reduction in the side-yard set-back from 10 feet to 4 feet to construct a deck be denied.

MOTION PASSED UNANIMOUSLY - REQUEST DENIED

OTHER BUSINESS:

John Perschbacher requested a letter from the City Manager addressing Mr. Perschbacher's desire to have someone other than Mark Niesen act as the recording secretary for the meetings. Mr. Perschbacher feels it is inappropriate.

John Perschbacher spoke about the sign at the KTS Optical on Sixth Street and US 31. They have added a "Sunglasses" sign to the pole of their existing sign. Mr. Niesen had discussed this with Chief Bachman who felt that people did not pull up far enough. Mr. Niesen said that if they remove the sign after the summer season they will not be allowed to install it again. If they do not remove

it he will call and ask if they would consider moving it to the other side of the sign due to the concerns expressed.

Mr. Perschbacher spoke about people installing landscaping rocks and stones up to the sidewalk. Mr. Rose said that in most areas of the City the City property from the road goes about 18 inches past the sidewalk. The area that people are placing the rock is on City Property. The ordinance makes maintenance of the grass the responsibility of the adjoining property owners but they are not allowed to construct within the City owned property. This can create problems for the sidewalk plow during the winter.

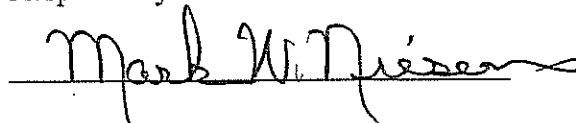
John Perschbacher spoke about the church bells/chimes at the Congregational Church. The Church would like to see the bells back in operation. They are using the original wind up system that requires someone to turn them on and off every day. Mr. Perschbacher asked if they could let the bells ring every hour 24 hours a day. Jon Rose said that under the ordinance the bells must be turned off between 10:00 p.m. and 7:00 a.m. Mr. Perschbacher asked if the ordinance could be changed. Mr. Rose said this is not a Zoning Ordinance it is under the Codified Ordinances and they would have to make a request to City Council.

David Pratt is a member of the Masonic Temple and asked about the status of their property at 342 Fifth Street. There has been some change over in board members and he understands that they have obtained a Special Use Permit. Mr. Rose explained that a Special Use Permit can be granted if they can meet the Parking requirements. Mr. Pratt has been invited to stop into the Community Development Office to be brought up to date on the requirements necessary.

ADJOURNMENT:

There being no further business meeting motion by Ed Grabowski, seconded by Mark Niesen that the meeting be adjourned. Meeting adjourned at 7:10 p.m.

Respectfully Submitted

A handwritten signature in cursive script that reads "Mark W. Niesen". The signature is written in black ink and is positioned above a horizontal line.

Mark W. Niesen, Recording Secretary