




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: March 10, 2006
RE: Worksession Notes/Updated By-Laws

Good Morning!

I would like to start off by saying what a wonderful ZBA the City of Manistee has. The worksession last night showed how well the board works together and how much respect everyone has for each other. Please accept my sincere appreciation for your service to our community!

Enclosed are notes from last evenings worksession and an updated copy of draft By-Laws.

You will note in the By-Laws there are highlighted changes on Page 1. These were made by Jon this morning. The first is to clarify that the Secretary appoints the Recording Secretary. The second is to include a standard for meetings which includes the Open Meetings Act language that the City wants incorporated in all of the By-Laws. The following pages highlights include the changes from last evenings meeting.

We have reserved the Council Chambers for **Wednesday, April 12, 2006** at **5:00 p.m.** for our next worksession. We will be giving a presentation on the new Zoning Ordinance and I will have your new books!

Thank you again for a productive worksession and we will see you next month!

:djb

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 207 of 1921, as amended, the City and Village Zoning act; the City of Manistee Zoning Ordinance, and the Public Act 267 of 1976, as amended, the Open Meetings Act.

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 or in the event of a vacancy in the office of chair; in which case, 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 Open Meeting Act. Public Notice of the time, date, and place of the meeting shall be given in a manner as required by the Open Meeting 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 Attendance. A member may be removed from office by the appointing City Council for neglect of official duty or misconduct in office after being given a written statement for reasons and an opportunity to be heard thereon. Un-excused absences may be reason for removal and three (3) un-excused absences in a row shall be reported in writing to the City Manager. An un-excused absence is defined as not notifying the Recording Secretary prior to the meeting.
- 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 send written notice of a special meeting to Appeals Board members not less than 48 hours in advance of the meeting.
- 3.5 Quorum. 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. 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. Applicants 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.

3.7 ~~Conflict of Interest. A Conflict of interest shall be announced prior to discussion on request or immediately upon realizing a conflict exists. Any members may be excused from voting only if that person has a bonafide conflict of interest as recognized by the a majority of the remaining members of the Appeals Board. Any members abstaining from a vote shall not participate in the discussion of that item.~~

3.8 ~~Motions. Every Motion shall require a second.~~ 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
 - Site Inspection
 - Public Hearings.
 - Approval of Minutes.
 - 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 governed by *Modern Parliamentary Procedures*.
- 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.

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.

THESE BY-LAWS AND RULES OF PROCEDURES ARE ADOPTED ON THIS ____ DAY OF _____, 2006

CITY OF MANISTEE APPEALS BOARD