

MANISTEE CITY ZONING BOARD OF APPEALS

City Hall, 70 Maple Street
Manistee, MI 49660

MEETING MINUTES

November 18, 2010

A meeting of the Manistee City Zoning Board of Appeals was held on November 18, 2010 at 5:30 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

MEMBERS PRESENT: Ray Fortier, Mark Hoffman, John Perschbacher

MEMBER ABSENT: Bill Kracht (excused), Vacancy

ALTERNATES PRESENT: Mark Wittlief

ALTERNATE ABSENT: Craig Schindlbeck (excused)

OTHERS PRESENT: David Hendricks (700 Pine Street), Kendra Thompson (Architect),
Denise Blakeslee (Planning & Zoning)

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

APPROVAL OF AGENDA:

MOTION by Ray Fortier, seconded by Mark Wittlief to approve the November 18, 2010 meeting Agenda.

With a voice vote this MOTION PASSED UNANIMOUSLY

APPROVAL OF MINUTES:

MOTION by Ray Fortier, seconded by Mark Hoffman to approve the September 22, 2010 Zoning Board of Appeals Meeting Minutes.

With a voice vote this MOTION PASSED UNANIMOUSLY

PUBLIC HEARING:

ZBA-2010-02 David & Susan Hendricks, 700 Pine Street - Variance to side yard set-back

David & Susan Hendricks, own the home at 700 Pine Street. Mr. & Mrs. Hendricks are requesting a variance to reduce the side-yard set back from 10 feet to 7 feet 9 inches to construct an addition to accommodate new main level bedroom, laundry area and ancillary spaces.

Chair Perschbacher opened the Public Hearing.

David Hendricks, 700 Pine Street - Mr. Hendricks spoke to the commission about the request. Mr. Hendricks had a lung transplant last spring and the additional space would provide a bedroom that could accommodate his needs in the future if he were to have to go back on oxygen. Also to move the laundry area from the basement to the first floor (he does the laundry in their household). The additional kitchen space would allow seating that they currently do not have. They are asking to replace the existing deck with living space. Two and a half feet does not sound like a lot but the oxygen tanks take up more space than people realize and the difference is significant for them. The roof design ties into the house and makes it look original. The design is very attractive and meets their needs.

Jon Rose, Community Development Director - Mr. Rose was out of town, a memo he prepared prior to his absence was read into the record.

A request has been received for David and Susan Hendricks, 700 Pine Street for a variance to reduce the side-yard set-back from 10 feet to 7 feet 9 inches. The proposed addition would have the same set-back as the existing deck. Review of the file shows that the deck appears to have been constructed without a permit. The side-yard set-back at that time was 10 feet so the deck encroachment cannot be used to justify the proposed encroachment.

It is the responsibility of the applicant to demonstrate to the ZBA that the new living space could not have been designed to meet the set-back requirements and still accommodate both a laundry area and bedroom space.

Kendra Thompson, Architect - Ms. Thompson said that it was irregardless if the deck was there or not. They explored many options and if the addition was added onto the west side of the building it would look out of place. This design is in character with the historic structure and more sympathetic than an addition that would be out of character with the neighborhood. A smaller bedroom would not meet Mr. Hendricks health needs.

Questions were asked by the commission and answered by Mr. Hendricks and Ms. Thompson as follows:

- Q. How long have you owned the home?
- A. Mrs. Hendricks has owned the home since 1974.

Q. How much time was spent to try to meet the set-back requirements?

A. They have spent several months on the design.

Q. Do all of the neighbors know of the project?

A. Once they staked the property the neighbors asked about the project and they supported the change.

Q. Will you try to maintain the current vegetation?

A. They are trying to keep the row of cedars. When the basement is put in if any are damaged they will be replaced.

Q. A basement will be added under the addition?

A. Yes, with the frost levels in Michigan it only makes sense to add a basement.

Q. What type of soil is in the area?

A. They assume clay. The basement will have a waterproofing system and drain tile.

Q. Will the addition create any runoff issues?

A. Gutters are currently on the house and the addition will have them also. The water will be carried to the current location.

Public - No Public in attendance

Correspondence

A note was sent from Jim Bond (Melvin Ritter Trust), 614 Pine Street - "No objection at all, should boost home values for surrounding properties. Looking forward to it."

There being no further discussion the Public Hearing Closed at 5:48 p.m.

BUSINESS SESSION:

Action on Pending Case:

ZBA-2010-02 David & Susan Hendricks, 700 Pine Street - Variance to side yard set-back

A public hearing was held earlier in response to the request from David & Susan Hendricks request for a variance to reduce the side-yard set back from 10 feet to 7 feet 9 inches to construct an addition to accommodate new main level bedroom, laundry area and ancillary spaces.

The Zoning Board of Appeals reviewed the request and the requirements of Section 2507.C of the City of Manistee Zoning Ordinance. This portion of the Ordinance is used as the finding of facts by the Zoning Board of Appeals and their responses to the conditions are as follows:

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.

The Board shall find that a variance request meets all of the following conditions.

1. The requested variance shall not be contrary to the public interest or to the intent and purpose of this Ordinance.

4 - Yes Fortier, Hoffman, Wittlief, Perschbacher
0 - No None

2. 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.
4 - Yes Hoffman, Wittlief, Fortier, Perschbacher
0 - No None

3. 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.
4 - Yes Wittlief, Hoffman, Fortier, Perschbacher
0 - No None

4. 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.
4 - Yes Hoffman, Wittlief, Fortier, Perschbacher
0 - No None

5. The requested variance shall relate only to property that is under control of the applicant.
4 - Yes Fortier, Wittlief, Hoffman, Perschbacher
0 - No None

6. The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.
4 - Yes Wittlief, Fortier, Hoffman, Perschbacher
0 - No None

7. 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.
4 - Yes Hoffman, Wittlief, Fortier, Perschbacher
0 - No None

8. The requested variance is the minimum variance that will make possible the reasonable use of the land.
4 - Yes Fortier, Hoffman, Wittlief, Perschbacher
0 - No None

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:

1. 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.
4 - Yes Hoffman, Wittlief, Fortier, Perschbacher
0 - No None

2. 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.

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

MOTION by Mark Hoffman, seconded by Ray Fortier to approve the variance request from David & Susan Hendricks request for a variance to reduce the side-yard set back from 10 feet to 7 feet 9 inches.

With a roll call vote this motion passed 4 to 0

- 4 - Yes Hoffman, Fortier, Wittlief, Perschbacher
0 - No None

Old Business:

None

Other Business of the Appeals Board:

None

QUESTIONS, CONCERNS OF CITIZENS IN ATTENDANCE:

None

The Zoning Board of Appeals will be meeting on Thursday, December 2, 2010 at 2:30 p.m. in the Second Floor Conference Room to approve the November 18, 2010 Meeting Minutes.

ADJOURNMENT:

There being no further business meeting MOTION by Mark Hoffman, seconded by Ray Fortier the meeting be adjourned.

Meeting adjourned at 6:10 p.m.

Respectfully Submitted

Denise J. Blakeslee, Recording Secretary