

**MANISTEE CITY**  
**ZONING BOARD OF APPEALS**

Meeting of January 3, 2013  
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 3, 2013 Agenda.

**IV APPROVAL OF MINUTES**

At this time Zoning Board of Appeals can take action to approve the December 19, 2012 meeting Minutes.

**V PUBLIC HEARING**

None

**VI BUSINESS SESSION:**

**Action on Pending Cases**

None

**Old Business**

None

**Other Business of the Appeals Board**

**Election of Officers**

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 2013.

**Vice-Chair** - The Zoning Board of Appeals will select a Vice Chair for 2013.

**Secretary** - The Zoning Board of Appeals will select a Secretary for 2013.

**Appointment of a Recording Secretary 2013**

At this time the Zoning Board of Appeals Secretary may appoint a Recording Secretary for 2013.

**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**

**MANISTEE CITY ZONING BOARD OF APPEALS**

City Hall, 70 Maple Street  
Manistee, MI 49660

**MEETING MINUTES**

December 19, 2012

A meeting of the Manistee City Zoning Board of Appeals was held on December 19, 2012 at 5:30 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

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

**MEMBER ABSENT:** None

**OTHERS:** Keith Sigourney and Linda VanSickle (222 Hughes Street), Jon Rose (Community Development Director), 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 Bill Kracht to approve the Agenda as prepared

With a voice vote this MOTION PASSED UNANIMOUSLY

**APPROVAL OF MINUTES:**

MOTION by Ray Fortier, seconded by Bill Kracht to approve the September 10, 2012 Zoning Board of Appeals Meeting Minutes as written

With a voice vote this MOTION PASSED UNANIMOUSLY

## **PUBLIC HEARING:**

### **ZBA-2012-02 Linda VanSickle & Patricia Sundbeck – 719 Kosciusko Street**

Linda VanSickle & Patricia Sundbeck purchased the building at 719 Kosciusko Street with the intention of opening up a restaurant which requires a Special Use Permit. When application was received for a Special Use Permit and the site plan was reviewed staff noted that the following variances were needed before application could be made to the Planning Commission:

- Reduce the Minimum Lot Area requirement from 10,000 sq. ft. to 8,583 sq. ft.
- Reduce the Minimum Lot Width requirement from 80 feet to 62 feet
- Reduce the minimum driveway width from 20 feet to 17 feet
- Reduce the number of parking spaces from 13 to 10
- Eliminate the requirement to provide designated pedestrian walkway, landscape planting islands and perimeter buffers

Ms. VanSickle and Ms. Sundbeck are also asking for a variance for a larger sign

- Increase in the size of proposed signage from 16 sq. ft. to 32 sq. ft in size

Chair Perschbacher opened the Public Hearing at 5:37 pm

Keith Sigourney and Linda VanSickle (222 Hughes Street) presented the case to the members of the Zoning Board of Appeals.

They want to open a diner; this building would meet their needs. Linda VanSickle and Patricia Sundbeck purchased the building; Linda and Keith would operate the diner. With the tables and booths they have purchased the dining room would seat 34-36 people. This building is located between the Hi Way Inn (Bar with food) and the Painted Lady (Restaurant with a Bar). Linda is also part owner of the Hi Way Inn and they do not have a breakfast or lunch crowd. The Painted Lady does not serve breakfast. The proposed diner would be a family style diner that serves breakfast and lunch and would not serve alcohol. They have a great selection of soups and sandwiches that will be on the menu. Over the years they have heard from the Funeral Home across the street that after a funeral people would want to get something to eat but did not want to go to a "Bar" or place that served alcohol, that with kids they did not want that atmosphere. This diner would meet that need and employ between 8 to 10 people.

Jon Rose, Community Development Director - an Eating and Drinking Establishment in the R-2 Zoning District requires key street frontage which this location has. When the applicant brought in their request it was discovered that there were issues with the property that would require a variance before application could be made to the Planning Commission. The request has been

broken down into two components the five variances needed to apply for a Special Use Permit and the variance for an increase in the size of signage which has no impact on making application to the Planning Commission.

Since there were not any members of the public the members of the Zoning Board of Appeals, staff and the applicant began a detailed review of the request.

- Reduce the Minimum Lot Area requirement from 10,000 sq. ft. to 8,583 sq. ft.
  - The applicant is unable to acquire additional property; this is the amount of property for this parcel.
- Reduce the Minimum Lot Width requirement from 80 feet to 62 feet
  - There is no way to acquire additional frontage, this is the amount of frontage for the property.
- Reduce the minimum driveway width from 20 feet to 17 feet
  - Mr. Rose scaled the drawing, the engineer had used the width of the existing driveway (17 feet) and did not take into consideration that two feet was on the neighboring property. If a variance were granted the variance would need to read *"Reduce the minimum driveway width from 20 feet to 15 feet"*
- Reduce the number of parking spaces from 13 to 10
  - Member Schindlbeck noted that if the handicap parking space is supposed to be van accessible the space would need to be 8 feet for parking and 8 feet for unloading. The plan is not laid out to reflect the correct number. This may result in the parking spaces being moved over to accommodate the necessary space needed for a handicap parking space that is van accessible. The engineer will need to review this when submitting the plan to the Planning Commission for their consideration.
  - This may also result in the need to relocate the bike rack.
- Eliminate the requirement to provide designated pedestrian walkway, landscape planting islands and perimeter buffers
  - With the reduction of the number of parking spaces it would not be beneficial to loose additional spaces by requiring that landscape planting islands and perimeter buffers be included in the application. Currently the parking for all three buildings is contiguous and shared. Staff said the variance was written to accommodate the needs for this use at this location, that in the future if business were to change hands the owners may not want to share parking and could at that time construct fencing that would eliminate shared access. That is why the variance is needed.
- Increase in the size of proposed signage from 16 sq. ft. to 32 sq. ft in size
  - The applicant wants to reuse the existing internally lit sign frame that is currently located on the side of the building and relocate it to the front of the building as shown on the application. The Hi Way Inn and Painted Lady have signage that is comparable if not larger than the 32 sq. ft. the applicant is requesting.

Chair Perschbacher opened the hearing for public comments – No public in attendance

Chair Perschbacher asked if any correspondence had been received in response to the request – none received.

There were no more additional comments; the Public Hearing was closed at 6:24 pm

**BUSINESS SESSION:**

**ZBA-2012-02 Linda VanSickle & Patricia Sundbeck – 719 Kosciusko Street**

**Variances needed to apply for Special Use Permit for an Eating and Drinking Establishment**

A public hearing was held earlier in response to the request from Linda VanSickle and Patricia Sundbeck for the necessary variances needed to apply for a Special Use Permit for an Eating and Drinking Establishment at 719 Kosciusko Street as follows:

- Reduce the Minimum Lot Area requirement from 10,000 sq. ft. to 8,583 sq. ft.
- Reduce the Minimum Lot Width requirement from 80 feet to 62 feet
- Reduce the minimum driveway width from 20 feet to 15 feet
- Reduce the number of parking spaces to 10
- Eliminate the requirement to provide designated pedestrian walkway, landscape planting islands and perimeter buffers

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 is not contrary to the public interest or to the intent and purpose of this Ordinance.*  
4 - Yes                      Fortier, Hoffman, Schindlbeck, Perschbacher  
1 - No                        Kracht

2. *The requested variance does not establish a use that is not permitted by right or by a special use permit in the zoning district.*  
 5 - Yes            Hoffman, Kracht, Schindlbeck, Fortier, Perschbacher  
 0 - No            None
  
3. *The requested variance does not create an adverse effect upon properties in the immediate vicinity or in the district.*  
 5 - Yes            Kracht, Hoffman, Schindlbeck, Fortier, Perschbacher  
 0 - No            None
  
4. *The requested variance is not of a recurrent nature to require a change in the Zoning Ordinance.*  
 5 - Yes            Hoffman, Schindlbeck, Fortier, Kracht, Perschbacher  
 0 - No            None
  
5. *The requested variance is for property under the control of the applicant*  
 5 - Yes            Schindlbeck, Fortier, Kracht, Hoffman, Perschbacher  
 0 - No            None
  
6. *The requested variance was not self-created by the applicant or property owner.*  
 4 - Yes            Schindlbeck, Fortier, Hoffman, Perschbacher  
 1 - No            Kracht
  
7. *There is not an alternative that would allow the improvement to the property without the requested variance.*  
 5 - Yes            Kracht, Fortier, Hoffman, Schindlbeck, Perschbacher  
 0 - No            None
  
8. *The requested variance is the minimum amount necessary to still permit the reasonable use of the land.*  
 5 - Yes            Fortier, Kracht, Hoffman, Schindlbeck, 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:  
 The Zoning Board of Appeals determined to review condition #3 in response to this request

3. *Is the requested variance for a right possessed by other properties in the same zoning district?*

5 - Yes Hoffman, Schindlbeck, Fortier, Kracht, Perschbacher  
0 - No None

MOTION by Mark Hoffman, seconded by Ray Fortier to approve the variance request from Linda VanSickle and Patricia Sundbeck for variances as follows:

- Reduce the Minimum Lot Area requirement from 10,000 sq. ft. to 8,583 sq. ft.
- Reduce the Minimum Lot Width requirement from 80 feet to 62 feet
- Reduce the minimum driveway width from 20 feet to 15 feet
- Reduce the number of parking spaces to 10
- Eliminate the requirement to provide designated pedestrian walkway, landscape planting islands and perimeter buffers

With a Roll Call vote motion passed 4 to 1 with voting as follows:

4 - Yes Hoffman, Schindlbeck, Fortier, Perschbacher  
1 - No Kracht

#### Variance for larger sign

A public hearing was held earlier in response to the request from Linda Vansickle and Patricia Sundbeck for a variance for a larger sign

- Increase in the size of proposed signage from 16 sq. ft. to 32 sq. ft in size

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 is not contrary to the public interest or to the intent and purpose of this Ordinance.*

- 4 - Yes Fortier, Hoffman, Schindlbeck, Perschbacher  
 1 - No Kracht
2. *The requested variance does not establish a use that is not permitted by right or by a special use permit in the zoning district.*  
 5 - Yes Hoffman, Kracht, Schindlbeck, Fortier, Perschbacher  
 0 - No None
3. *The requested variance does not create an adverse effect upon properties in the immediate vicinity or in the district.*  
 4 - Yes Hoffman, Schindlbeck, Fortier, Perschbacher  
 1 - No Kracht
4. *The requested variance is not of a recurrent nature to require a change in the Zoning Ordinance.*  
 4 - Yes Hoffman, Schindlbeck, Fortier, Perschbacher  
 1 - No Kracht
5. *The requested variance is for property under the control of the applicant*  
 5 - Yes Schindlbeck, Fortier, Kracht, Hoffman, Perschbacher  
 0 - No None
6. *The requested variance was not self-created by the applicant or property owner.*  
 3 - Yes Fortier, Hoffman, Perschbacher  
 2 - No Schindlbeck, Kracht
7. *There is not an alternative that would allow the improvement to the property without the requested variance.*  
 3 - Yes Fortier, Hoffman, Perschbacher  
 2 - No Kracht, Schindlbeck
8. *The requested variance is the minimum amount necessary to still permit the reasonable use of the land.*  
 3 - Yes Fortier, Hoffman, Perschbacher  
 2 - No Kracht, Schindlbeck

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:  
 The Zoning Board of Appeals determined to review condition #3 in response to this request

3. *Is the requested variance for a right possessed by other properties in the same zoning district?*  
3 - Yes Hoffman, Fortier, Perschbacher  
2 - No Schindlbeck, Kracht

MOTION by Ray Fortier, seconded by Mark Hoffman to approve the variance request from Linda Vansickle and Patricia Sundbeck for an increase in the size of signage from 16 sq. ft. to 32 sq. ft in size

With a Roll Call vote motion passed 3 to 2 with voting as follows:

- 3 - Yes Hoffman, Fortier, Perschbacher  
2 - No Schindlbeck, Kracht

**Old Business:**

None

**Other Business of the Appeals Board:**

None

**QUESTIONS, CONCERNS OF CITIZENS IN ATTENDANCE:**

None

**ADJOURNMENT:**

The Zoning Board of Appeals scheduled their Organizational Meeting and will certify the minutes from this meeting on Thursday, January 3, 2013 at 5:30 pm

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

Meeting adjourned at 7:04 p.m.

Respectfully Submitted

\_\_\_\_\_  
Denise J. Blakeslee, Recording Secretary

**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 ~~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. 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 judgement 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 \_\_\_\_ day of January, 2013.

\_\_\_\_\_  
\_\_\_\_\_, 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.]

Approved by the City of Manistee Council

\_\_\_\_\_  
Date

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Colleen Kenny, Mayor

For ZBA Review 1-3-13