

**MANISTEE CITY ZONING BOARD OF APPEALS**

City Hall, 70 Maple Street  
Manistee, MI 49660

**MEETING MINUTES**

May 9, 2013

A meeting of the Manistee City Zoning Board of Appeals was held on May 9, 2013 at 5:30 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

**MEMBERS PRESENT:** Ray Fortier, Mark Hoffman, Bill Kracht

**MEMBER ABSENT:** John Perschbacher, Craig Schindlbeck (excused)

**OTHERS:** Gary Buren (Faith Covenant Church), John Soltes (1054 Oak Street), Alan Marshall (914 Vine Street), Jon Rose (Community Development Director), Denise Blakeslee (Planning & Zoning) and others

The meeting was called to order at 5:34 p.m. by Vice Chair Hoffman

**APPROVAL OF AGENDA:**

MOTION by Ray Fortier, seconded by Bill Kracht to approve the Agenda as prepared.

Yes Fortier, Kracht, Hoffman  
No None

With a roll call vote this MOTION PASSED 3 to 0.

**APPROVAL OF MINUTES:**

MOTION by Ray Fortier, seconded by Bill Kracht to approve the January 3, 2013 Zoning Board of Appeals Meeting Minutes.

Yes Kracht, Fortier, Hoffman  
No None

With a roll call vote this MOTION PASSED 3 to 0.

**PUBLIC HEARING:**

**ZBA-2013-01 Faith Covenant Church - Appeal to the decision/determination of the Zoning Administrator**

Faith Covenant Church is requesting an appeal to the decision/determination of the Zoning Administrator relating to Large Place of Public Section 1868.B.1.b “A Large Place of Public Assembly that includes an Eating and Drinking Establishment shall meet the standards of Section 1835, hereof.”

Eating and Drinking Establishments Section 1835.B.6 “Within the R-2 and R-3 districts, Eating and Drinking Establishments shall front on and be accessed primarily from a key street segment, as defined herein.”

Vice Chair Hoffman opened the Public Hearing at 5:36 pm

**Gary Buren, representative for Faith Covenant Church** presented their case to the Zoning Board of Appeals. The Church plans to construct a teen center on their property on Twelfth Street across the street from the High School. They applied for and received a Zoning Amendment that allows Large Places of Public assembly with more than five acres of property not to front on a Key Street. This brings their property into compliance with Zoning and allows them to apply for a Special Use Permit for the Teen Center. When staff reviewed the site plan it was discovered that they intend to construct a kitchen and snack bar. While they may charge for a pop or slice of pizza this is not a retail establishment. They are appealing the Zoning Administrators determination. The Church was constructed under the previous Zoning Ordinance and the Church has a kitchen which is customary for Church’s for fellowship and gathering.

**Jon Rose, Community Development Director** – Mr. Buren is right with his statement that churches have kitchens/food. The definition of Eating and Drinking Establishments and definition of Retail do not exempt the appellant in the ordinance.

The intent of the amendment was to allow Large Places of Public Assembly on more than five acres not to have to front on a key street. The requirements for an Eating and Drinking Establishment in the R-2 and R-3 Zoning District to front on a key street segment was not considered because they were not reviewed at that time, if they were they would have asked for an amendment to include that section also.

Vice Chair Hoffman opened the hearing for public comments.

**John Soltes, 1054 Oak Street** – Mr. Soltes is an adjoining property owner and has lived there for 40+ years. Mr. Soltes said he had a lot of concerns relating to the appeal. The concerns included:

- The request did not list the property number.
- There parcel has 11+ acres, and already has a place of public assembly located on it. How many places of public assembly can be located on one parcel?
- They have a Special Use Permit in place, why was ~~it~~ it not included in the application.
- Special Use Permits run with the land, what relevancy does it have with the request.
- The application did not comply with the requirements of 2507.C
- The proposed use will have an impact on the adjacent parcel; 600 feet of it adjoins the Church property, he can't get anyone to say they want to build next to a teen center, which effects his ability to sell the property.
- The two homes on Tamarack had difficulties in selling due to the High School and he wants to sell his property.
- This is a self-created hardship; they got a change, now they want another change.
- They can use the property without a snack bar.
- The request does not meet the requirement of the ordinance.

**Jon Rose** clarified some of the statements. This is not a variance request, this is an appeal to the decision/determination of the Zoning Administrator relating to Large Place of Public Section 1868.B.1.b "A Large Place of Public Assembly that includes an Eating and Drinking Establishment shall meet the standards of Section 1835, hereof." The Zoning Board of Appeals is only looking at the determination. The church has not applied for a Special Use Permit and any issues relating to the Special Use Permit will be reviewed and determined by the Planning Commission.

**John Soltes** questioned the Special Use Permit in Place, he feels the application is incomplete.

**Alan Marshall, 914 Vine Street** – Mr. Marshall was on council when the request for an amendment was granted. He believes the request would have been granted by council if it had included a snack bar. He feels the request should be granted.

**Gary Buren, Faith Covenant Church** noted that the Church wants to bring everything into compliance with the Ordinance. The Church has an approved kitchen and they want the snack bar for the Teen Center to comply with the ordinance.

Vice Chair Hoffman asked if any correspondence had been received in response to the request.

No correspondence was received.

There were no more additional comments; the Public Hearing was closed at 6:20 pm

**BUSINESS SESSION:**

**ZBA-REQUEST # INFO**

**ZBA-2013-01 Faith Covenant Church - Appeal to the decision/determination of the Zoning Administrator**

A Public Hearing was held earlier in response to the request from Faith Covenant to appeal the decision/determination of the Zoning Administrator relating to Large Place of Public Section 1868.B.1.b "A Large Place of Public Assembly that includes an Eating and Drinking Establishment shall meet the standards of Section 1835, hereof."

Eating and Drinking Establishments Section 1835.B.6 "Within the R-2 and R-3 districts, Eating and Drinking Establishments shall front on and be accessed primarily from a key street segment, as defined herein."

The Zoning Board of Appeals discussed the request.

MOTION by Ray Fortier to approve the request from Faith Covenant Church that the Zoning Administrator erred in his interpretation of the Zoning Ordinance.

Motion failed due to a lack of a second.

Bill Kracht expressed his concern about the impact an Eating and Drinking Establishment could have for places of Public Assembly Large.

Jon Rose pointed out that an Eating and Drinking Establishment was a ~~differed~~ different use under the ordinance and that the use under discussion was a Place of Public Assembly with an Eating and Drinking Accessory Use.

Jon Rose read the definition of Accessory Use to the board. Accessory Use reads:

*ACCESSORY USE: A use naturally and normally incidental to, subordinate to, and devoted exclusively to, the principal use of the land or buildings and located on the same parcel as the principal use.*

MOTION by Bill Kracht, seconded by Ray Fortier since a Large Place of Public Assembly which is located on a parcel of land with a minimum area of five (5) acres does not need to front on or be accessed primarily from a key street segment, if that Large Place of Public Assembly were to include an Eating and Drinking Establishment as an accessory use, and is located in the R-2 or R-3 districts, it would not need to front on or be accessed from a key street segment.

With a roll call vote this MOTION PASSED 2 to 1.

Yes Kracht, Fortier,

No Hoffman

**Old Business:**

None

**Other Business of the Appeals Board:**

None

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

Gary Buren thanked the Board for their consideration.

John Soltes stated that he was confused by the application.

Jon Rose said that this is only the second request that we have received to appeal the decision/determination of the Zoning Administrator.

Denise Blakeslee said that the narrative portion of the application was the only part that pertained to the request. The rest of the application would have been appropriate if it were for a variance request. In the future applicants will only need to provide a narrative.

**ADJOURNMENT:**

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

Meeting adjourned at 7:10 p.m.

Respectfully Submitted

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Denise J. Blakeslee, Recording Secretary