

**CITY OF MANISTEE
ZONING BOARD OF APPEALS**

City Hall
70 Maple Street
Manistee, MI 49660

There will be a meeting of the City of Manistee Zoning Board of Appeals to be held on Monday, January 12, 1998 at 5:30 p.m. in the Council Chambers, 70 Maple Street, Manistee, Michigan.

AGENDA

- I. Roll Call
- II. Election of Officers
- III. Matters Pertaining to the General Citizenry:
 - A. Public Hearing:
 - 1. Douglas M. Westervelt
 - 2. John Dalke
 - 3.
 - B. Questions, Concerns of Citizens in Attendance:
 - 1.
 - 2.
- IV. Business Session:
 - A. Approval of Minutes (12/3/97)
 - B. Unfinished Business:
 - 1. Douglas M. Westervelt
 - 2. John Dalke
 - 3.
 - C. Other Business:
 - 1.
 - 2.
- V. Work/Study Session:
- VI. Adjournment

cc: Zoning Board of Appeals Members
Lori Donnan, Administrative Assistant
Jon R. Rose, Community Development Officer
Julie A. Beardslee, City Assessor
R. Ben Bifoss, City Manager
Bruce Gockerman, City Attorney

CITY OF MANISTEE

MEMORANDUM

TO: Board of Appeals Members

FROM: Jon R. Rose 

DATE: December 19, 1997

RE: Zoning Board of Appeals Meeting January 12, 1998

We will be having a Zoning Board of Appeals Meeting on Monday, January 12, 1998 at 5:30 p.m. in the Council Chambers. The first item on the agenda is the Election of Officers for the 1998. I have enclosed a copy of the By-Laws, each member should review them prior to the meeting.

We have two Public Hearings on the agenda. One is for Douglas Westervelt and one for John Dalke Jr. Mr. Westervelt owns property in the Sweetnam's Lake Bluff subdivision. Mr. Westervelt is requesting a variance to the front yard set-back from 30 feet to 23 feet to construct a 7 'x 10' covered porch. Plans are for construction of the new home with porch for this spring.

Mr. Dalke owned both the house located at 904 Ramsdell Street an 908 Ramsdell Street. Mr. Dalke sold the house at 904 Ramsdell Street and is requesting a variance to the side yard set back from ten feet to 7 feet 6 inches to eliminate an encroachment problem. Your packets include information on both of these requests.

1997 proved to be a busy year. This past year we heard 16 requests for Zoning variances, one Construction Board of Appeals hearing and two Maintenance Code Appeals. At this time I would like to thank all of your for your service to the community as volunteers on the Board of Appeals and to wish you and your families a safe and happy holiday season.

If you are unable to attend the meeting of January 12, 1998 please call Denise at 723-2558.

JRR:djm

Enclosures

CITY OF MANISTEE ZONING BOARD OF APPEALS

RULES OF PROCEDURE

Section 1.0 Purpose

The following rules of procedure are hereby adopted by the City of Manistee Zoning Board of Appeals (hereinafter known as Appeals Board) to facilitate the performance of its duties as outlined in Manistee City Zoning Ordinance.

Section 2.0 Officers

- 2.1 **Selection.** At the first scheduled meeting of each year, the Appeals Board shall select from its membership a Chairman, and a Vice-Chairman/Secretary. All officers are eligible for reelection.
- 2.2 **Tenure.** The Chairman, and Vice-Chairman/Secretary shall take office the same meeting of their selection and shall hold office for a term of one year or until their successors are selected and assume office.
- 2.3 **Duties.** The Chairman shall preside at all meetings, and perform such other duties as may be ordered by the Appeals Board.
- 2.4 **Duties.** The Vice-Chairman/Secretary shall act in the capacity of Chairman in his absence and in the event the office of the Chairman becomes vacant, the Vice-Chairman/Secretary shall succeed to this office for the unexpired term and the Appeals Board shall select a successor to the office of Vice-Chairman/Secretary for the unexpired term. The Vice-Chairman/Secretary shall execute documents in the name of the Appeals Board, perform the duties hereinafter listed and shall perform such other duties as the Appeals Board may determine. The Vice-Chairman/Secretary shall be responsible for the record and minutes of each meeting.

Section 3.0 Notice of Appeal

- 3.1 **Filing.** Any interested person, or the person's authorized agent, may appeal or seek a variance in writing on a form provided by the zoning administrator, and upon payment of a fee as may be established from time to time by the governing body. Such Notice of Appeal shall be filed with the zoning administrator not more than 30 days from the date of the decision being appealed. Such request for a variance shall be filed with the zoning administrator at any time.
- 3.2 **Notification.** Within 10 days from the date of the receipt of the request for a variance or Notice of Appeal, the zoning administrator shall contact the Chairman of the Appeals Board and set up a date(s) and time for the Appeals Board to meet to hold a hearing and a meeting to consider and act on the case. Notice of such meeting(s) shall be made by the zoning administrator as specified in Section 4.3 of these rules of procedure. The notice sent to members of the Appeals Board shall include:
 - A. copies of the Notice of Appeal or request for a variance form;

B. relevant contents of the zoning administrator's file, and/or other file(s) on the case;

3.2 Notification (continued)

C. other relevant correspondence, permits by other applicable enforcement agencies;

D. previous zoning permits and record of appeals board actions concerning the property in question; and

E. anything else which is relevant.

The zoning administrator shall prepare copies of the above for inclusion in the package sent to Appeals Board members. In addition to the above notice requirements, notice of such meeting shall be delivered in person or by first class mail to:

A. the Manistee City attorney's office,

B. the Manistee City Manager's office,

C. any other interested persons,

D. the landowner,

E. adjacent landowners and occupants,

F. and a notice sent by first class mail to the person and/or agent seeking the appeal or variance.

3.3 Deadline for Action. The above notwithstanding, the Appeals Board shall hear the case and render and file its decision with a statement of reasons for the decision with the zoning administrator not more than 30 days after receipt of the case, unless a longer period of time is mutually agreed upon by the petitioner and Appeals Board.

3.4 Site Inspection. The Appeals Board, if the chairman considers it necessary, may conduct a site inspection at the site at issue. In such instance, the site inspection shall be posted as part of the public meeting/hearing. A quorum of the Appeals Board shall not ride in the same vehicle to or from a site inspection or to or from a meeting. The site inspection, if posted as part of the same meeting/hearing shall always be held the same day and as the part of the same meeting as the start of the public hearing on the case. Noting in this paragraph shall prevent members of the Appeals Board from individually and separately visiting a site in question at their own expense and time. A quorum of the Appeals Board shall not make site inspections or otherwise discuss a Notice of Appeal except during posted open meetings of the Appeals Board.

3.5 Notice of Decision. The Vice-Chairman/Secretary, or his designate, shall cause to have notices of the Appeals Board decision delivered in person or by first class mail to the zoning administrator; to the City Attorney's office; and to anyone else requesting a copy in writing. Further, notice of the decision to the petitioner, or his agent, filing the case shall be sent by first class mail.

Section 4.0 Meetings.

4.1 Regular Meetings. Meetings of the Appeals Board will be called as needed in response to receipt of a Notice of Appeal, so long as the meeting is scheduled within 20 days of

the Notice of Appeal. The meeting can be called by the zoning administrator of the City of Manistee, the chairman of the Appeals Board, or, in his absence, the Vice-Chairman/Secretary.

4.2 Attendance.

A. If any member of the Appeals Board is absent from more than three meetings in a row, then that member shall be considered delinquent. Delinquency shall be grounds for the Manistee City Council to remove any member for nonperformance of duty or misconduct, upon hearing, from the Appeals Board. The elected Vice-Chairman/Secretary, or acting secretary in the absence of the elected Vice-Chairman/Secretary shall --and the zoning administrator may-- keep attendance records and shall notify the Manistee City Council whenever any member of the Appeals Board is absent from more than three meetings in a row, so that the City Council may consider further action allowed under law. If a regular member of the Appeals Board finds that he/she will be unable to attend a meeting, he/she shall notify the Assessor's office at least five days in advance of the meeting, so that an alternate board member can be notified to attend.

B. When a petitioner fails to appear at a properly scheduled meeting of the Board of Appeals, the Chairman may entertain a motion from the Board to dismiss the case for want of prosecution. In the absence of a motion by the Board, the chair shall rule. In cases which are dismissed for want of prosecution, the petitioner will be furnished written notice of the action by the Secretary of the Board. The applicant shall have seven (7) days from the date of the notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file a written request with the Secretary for reinstatement. Reinstatement shall be at the discretion of the Chairman for good cause shown, and upon payment of a fee set from time to time by the Manistee City Council. In all cases reinstated in the above described manner, the case will be docketed and readvertised in the usual manner prescribed for new cases.

4.3 Other meetings. Meetings shall be called by delivering meeting notice by first class mail or by personal delivery to members of the Appeals Board at least seven days prior to such meeting and shall state the purpose, time, location of the meeting and shall be posted at the City Hall seven days prior to such meeting.

4.4 Public. All meetings, hearings, records and accounts shall be open to the public, and posted in compliance with P. A. 267 of 1976, being the Michigan Open Meetings Act.

4.5 Quorum. Half the total membership of the Appeals Board shall constitute a quorum for the transaction of business and the taking of official action for all matters.

4.6 Order of Business. Agenda. The vice-chairman/secretary or his designate shall prepare an agenda for each meeting and the order of business therein shall be as follows:

A. Call to order and roll call.

- B. Site inspection, then recess (optional, if the meeting is posted to include a site inspection).**
 - C. Reconvene and roll call (if following a site inspection).**
 - D. Election of officers, if necessary.**
- 4.6 Order of Business (continued)**
- E. Public Hearings. The Chairman will declare a public meeting open and state its purpose.**
 - (1) The Chairman shall summarize, provide copies, or conspicuously post the procedure for public hearing as outlined in Sections 4.6, 4.7, 4.8 and 4.9 of these rules of procedure for any members of the public in attendance, or provide copies.**
 - (2) Case Number _____.**
 - (i) The zoning administrator presents the petitioner's request, his action on the matter and reasons for his decisions plus a written copy of the petitioner's request.**
 - (ii) The petitioner --through himself, his agent, his lawyer-- may present his case, including presenting witnesses on his behalf. No time limit will be imposed on the petitioner.**
 - (iii) Members of the Appeals Board shall report on their site inspection and any conversations with the petitioner they may have had.**
 - (iv) Members of the public who support the petitioner speak and correspondence is read. At the chairman's option he may:**
 - (a) may recess the meeting for a short time to allow those in support to caucus in order to have one speak on their behalf for an unlimited period of time if there are a large number of people present on an issue.**
 - (b) may allow many to speak in favor of the petitioner and can impose a time limit for the speaker that is three (3) minutes or more per speaker.**
 - (v) Members of the public who oppose the petitioner speak and correspondence is read. At the chairman's option he may:**
 - (a) may recess the meeting for a short time to allow those in opposition to caucus in order to have one speak on their behalf for an unlimited period of time if there are a large number of people present on an issue.**
 - (b) may allow many to speak in opposition of the petitioner and can impose a time limit for the speaker that is three (3) minutes or more per speaker.**
 - (vi) Rebuttal. Anyone may ask the Chairman questions on presentations or speeches given at this hearing. The Chairman will seek an**

answer to the question. Answers shall be given to the Chairman. No discussion, questioning or answering shall take place between any two or more people except between the Chairman and the individual who has the floor.

(vii) Close the Public Hearing. (At this point all public participation on the issue ends.)

4.6 Order of Business (continued)

F. Recess to another night as provided in Section 4.8 of these rules of procedure (optional).

G. Housekeeping Business.

(1) Approval of minutes from previous meeting.

(2) Other.

H. Business Session.

(1) Action on pending case number _____.

(i) Discussion: Review of the facts based on all information presented (from the application, written request for appeal, zoning ordinance, physical characteristics of the parcels, staff reports, hearing testimony). Discussion continues until a member is confident enough to propose a motion that includes a "finding of fact" and/or "conclusions", and "rationale explaining why conclusions are reached" and "conditions" if any.

(ii) Motion is proposed on "finding of fact".

(iii) Discussion on the motion.

(iv) Action on the motion

(v) Discussion focusing on standards and requirements of the ordinance.

(vi) Motion is proposed on "rationale, conclusions, conditions".

(vii) Discussion on the motion.

(viii) Action on the motion.

(2) Other business of the Appeals Board.

I. Adjournment.

4.7 Comments Out of Order. The chairman shall rule out of order any irrelevant remarks; remarks which are personal, about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or any other remarks which are not about land use.

- 4.8 Recesses.** The Chairman may recess a public hearing and/or meeting to another time if it is after 11 p.m., if the meeting (not including site inspections) has been in session over three hours, or for other reasons. In order for a recess to be in order, the time, day, month, date, year and location to reconvene shall be stated as part of the action to recess. If a meeting and/or public hearing reconvenes over 36 hours after the action to recess, the reconvened meeting shall be posted at least 18 hours before the time of the reconvened meeting, to comply with Section 4.4 of these rules of procedure. Upon reconvening, a roll call vote shall be taken as the first order of business.
- 4.9 Parliamentary Procedure.** Meetings shall be conducted in a formal manner, and parliamentary procedure shall be governed by Roberts Rules of Order if not specifically dealt with in these rules of procedure.
- 4.10 Motions.** Motions shall be reiterated by the Chairman before a vote is taken.
- A. Motions dealing with an appeal or variance concerning Manistee City Zoning Ordinance shall be stated with the following parts or stated as two motions:**
- (1) The list of facts which is the information pertinent to making a decision on the matter, structured as a "finding of fact" on the case.**
 - (2) The conclusion, decision, of the Appeals Board. This motion, or part of a motion, shall include the following parts:**
 - (i) The rationale, reasons, for why the conclusion was made. The rationale, reasons shall contain, at a minimum:**
 - a. If the property can not be used in conformance with the ordinance without the requested variance.**
 - b. If the problem is due to a unique situation not shared in common with nearby property owners.**
 - c. If granting the variance would not alter the essential character of an area.**
 - d. If the problem requiring a variance was not self-created. (NOTE: All four of the above points must be found true, or in the affirmative, or a variance shall not be granted.)**
 - e. Other specific standards for variances that may be in the Manistee City Zoning Ordinance.**
 - f. An explanation how the facts support the conclusion.**
 - (ii) The conclusion or decision.**
 - (iii) Any conditions upon which a variance may be issued, if applicable. Conditions shall be listed in detail, and based on regulations or standards already in Manistee City Zoning Ordinance.**
 - (iv) Reasons why the conditions are imposed.**
- B. Motions dealing with an ordinance interpretation, or an appeal or an administrative decision, shall be stated with the following parts, or stated as two motions.**
- (1) The list of facts which is the information pertinent to making a decision on the matter.**
 - (2) The conclusion or decision of the Appeals Board. This motion, or part of the motion shall contain the following parts:**

- (i) The rationale, or reasons, to explain how the facts support the conclusion.
 - (ii) The conclusion or decision.
- C. Any other motion shall be stated in prose or in the form of a resolution.

4.11 Voting. Voting shall be by voice vote, and shall be recorded by yeas and nays. Members must be present to cast a vote. A quorum of three (3) regular or alternate members, with a maximum of five (5) members, must be present to take any action. A motion is only adopted if three or more of the members of the Appeals Board casts their votes in favor of the motion.

Section 5.0 Records

5.1 Preparation. A record of each meeting, including hearings and site inspections, shall be prepared by the Vice-Chairman/Secretary, or his designate.

5.2 Content. The record of each meeting shall include the following items:

- A. A copy of the meeting posting as required in Section 4.4 of these rules of procedure.
- B. A signed statement indicating that notices, as required in Section 3.2 of these rules of procedure, were sent out, with a list of to whom, and an indication of by whom, and a copy of a newspaper notice, if one was published.
- C. A copy of the request for a variance or notice of appeal, whichever is applicable, including any maps, drawings, site plans, etc.
- D. The original of the minutes of the meeting (including the hearing and site inspection) which shall include, in chronological sequence of occurrence:
 - (1) That the meeting was called to order and the time.
 - (2) A list of voting members present, absent, and vacancies, if any.
 - (3) An indication of other officials, guests or public present.
 - (4) Action concerning the minutes of the previous meeting.
 - (5) A summary or text or summary of points of all reports (including reports of what was seen and discussed at a site inspection) given at the meeting and who gave the report and in what capacity.
 - (6) A summary of all points made by the petitioner, officials, guests, or public made at a public hearing and an indication of who made the comments.
 - (7) The full text of all motions introduced, whether seconded or not, and who made the motion and who seconded it, if any. Motions includes each type of motion: main motion, amendments, subsidiary motions, incidental motions and privileged motions.
 - (8) Who calls the question.
 - (9) The type of voting and its outcome, including:
 - (i) A list of members who abstained.
 - (ii) A list of members in attendance at the meeting but were not present during the vote.
 - (iii) If a roll call vote, a list of votes by "yes" voters and "no" voters or

Upon adoption of these rules of procedure by the Appeals Board and the Manistee City Council, they shall become effective and all previous rules of procedure, as amended, shall be repealed.

Section 9.0 Amendments

These rules may be amended at any regular or special meeting by a majority vote of the total members of the Appeals Board and the Manistee City Council, so long as such amendment does not result in a conflict with state law, zoning ordinance or court decision.

**ADOPTED BY CITY OF MANISTEE ZONING BOARD OF APPEALS
AUGUST 7, 1990.**

REQUEST FOR APPEAL

CITY OF MANISTEE
ZONING BOARD OF APPEALS

Douglas M Westervelt

Name

2091 Alfred St.

Address

Tray MI 48098

City, State and Zip Code

Phone Numbers (Work)

(Home) 248-579-1958

FOR OFFICE USE ONLY

Appeal Number 9801

Date Received 12.5.97 DEC 15 1997

Tax Parcel Number 51-51-373-702-07

Fee Received (Amt & Date) 150.00 12.16.97

Receipt Number 1271

Hearing Date 1-12-98

Board of Appeals Action _____

* Returned for signature 12.5.97

FEE FOR APPEAL \$150.00

PLEASE NOTE: All questions must be answered completely. If additional space is needed, number and attach additional sheets.

I. ACTION REQUESTED:

I, (We), the undersign request a hearing before the Manistee City Zoning Board of Appeals for the purpose indicated below:

- Ordinance or Map Interpretation
- Appeal from Administrative Decision
- Variance
- Other Authorized Review

II. PROPERTY INFORMATION:

A. Legal description of property affected by this appeal: Sweetnam's Lake

Bluff, Lots 2&3, Block 2.

Tax Roll Parcel Code #: 51-51-373-702-07

B. List of all deed restrictions (attach additional sheets if necessary): _____

None (R-2 zone)

C. Names and addresses of all other persons, firms or corporations having a legal or equitable interest in the land: N/A

D. This area is: Not platted, Platted, Will be Platted

If Platted, Name of Plat: Sweetnam Sub Div

E. Attach a site plan drawn to the scale of one (1) inch equals ten (10) feet, showing all existing structures on the property, all proposed structures and marking those structures that will be removed or razed. Also the general shape, size and location of all existing structures within 100 feet of the property along with their uses shall be depicted on the site plan, along with all abutting roads, streets, alleys or easements.

- F. Present use of property is: Vacant land
- G. Present zoning district classification of the property is: R-7
- H. A previous appeal (has has not) been made with respect to these premises in the last _____ years. If a previous appeal, re-zoning or special use permit application was made, state the date, nature of action requested and the decision:
 Date: _____ Action Requested: _____
N/A
 Decision (approved/ denied) other: _____

III. DETAILED REQUEST AND JUSTIFICATION

A. Interpretation of Zoning Ordinance or Map

- 1. The appellant respectfully requests the Board of Appeals make an interpretation of:
 - (A) The location of district boundaries on the _____ Zoning District map as applied to the property described in the application.
 - (B) The provisions of article _____ Section _____ of the Manistee City Zoning Ordinance.
 - (C) Other, (specify) _____

2. Please describe in detail the nature of the problem to be interpreted and the reason for the request: The current ~~ordinance~~ ordinance allows for a porch of no more than seventy sq. ft. to be allowed in the set back area

B. Variance from the requirements of the Zoning Ordinance (w/out a roof) Continued →
The appellant respectfully requests the Board of Appeals grant a variance on the above described property.

1. Indicated below are the Ordinance requirement(s) which are the subject of the variance request.

- Setback Side Yard Off-street Parking
- Lot Coverage Placement Height
- Signs Area Requirements Other _____

2. State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Ordinance. The current front

"set back" allows for an intrusion of seventy sq. ft. for the purpose of building a porch. I would like to cover the porch.

3. Describe the characteristics of your property which require the granting of a variance (include dimensional information).

- Too Narrow Elevation Soil
- Too Small Slope Subsurface
- Too Shallow Shape Other (Specify) _____

The city building code allows for an intrusion of seventy sq. ft. for the purpose of a front porch. However, it does not allow for a roof to be erected on that porch.

4. Justification for granting the requested variance. The appellant must show that strict application of the provisions of the Zoning Ordinance to his property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the ordinance. In order for the Board of Appeals to determine whether unnecessary hardship exists, the appellant should provide answers to each of the following questions:

a. Can the property in question be used in a manner permitted by the Zoning Ordinance if a variance is not granted? yes no
If no, what unnecessary hardship or practical difficulty will result if the variance is not made? _____

b. To the best of your knowledge, can you affirm that the hardship or practical difficulty described above was not created by an action of anyone having property interests in the land after the Zoning Ordinance or applicable part thereof became law? ~~yes~~ no
If no, explain why the hardship or practical difficulty should not be regarded as self-imposed (Self-imposed hardships are not entitled to variances). The

c. Are the conditions on your property the result of other man-made changes (such as relocation of a road or highway?) yes no
If yes, describe _____ See attached sheet.

d. Will strict application of the terms of the ordinance deny use of the property for any purpose to which its reasonably adapted? yes no
If yes, how? It prevents the use of the porch by at least 60% during the year.

e. Is the variance applied for due to unique circumstances presented on your property or to the general conditions in the area? ~~yes~~ no
If yes, explain any peculiar or unique conditions, and how many other properties in your area are similarly affected _____

f. Would granting the variance change the essential character of the area?
 yes no. If yes, how? _____

g. Would granting the variance be contrary to any county development plans? yes no. or to any local government development plans?
 yes no. Explain The porch area is already allowed; I just want to add a roof!

h. Would granting the variance be contrary to the intent and purpose of the Zoning Ordinance? yes no. If yes, explain _____

Other Comments in support of the application.
Please see attached sheet.

C. Appeal from Administrative decision.
The appellant respectfully requests the Board of Appeals to (reverse/modify) the Zoning Administrator's decision (copy attached) on application number _____ dated _____. It is alleged the Zoning Administrator erred in (the interpretation of article _____ section _____ / his order/his requirement/ his decision/ his determination) regarding the issuance of a _____ permit and that (reversal/modification) of said decision should be granted because _____

Specify decision sought: _____

D. Other authorized reviews
The appellant respectfully petitions the Board of Appeals to grant the following: _____

According to the conditions and provisions of article _____ section _____ granting this authority to the Board of Appeals. Specifically state the problem, decision sought and the justification for the request. _____

IV. IMPACT ON SURROUNDING LANDS

If your request is granted:

A. What are likely to be the positive and negative impacts of this decision on the surrounding land and neighbors? An improved looking home, helping to creating a better looking subdivision.

B. How do you propose to minimize any potential negative impacts which your proposed activity may cause? To use materials and design, to create the most attractive home that I can.

V. AFFIDAVIT

The undersigned acknowledges that if a variance is granted or other decisions favorable to the undersigned is rendered upon this appeal, the said decision does not relieve the applicant from compliance with all other provisions of the City of Manistee Zoning Ordinance; the undersigned further affirms that he/she or they is (are) the (owner/lessee/authorized agent for the owner) involved in the appeal and the answers and statements herein contained and the information herewith submitted are in all respects true and correct to the best of his, her or their knowledge and belief.

Signature X [Handwritten Signature]

Date X 12-8-97

Signature _____

Date _____

Sec III, Question B, part 4b

the City, but in Filer Twp prior to its being annexed. I believe Mr Sweetnam used a different standard than Mavis Lee's code when establishing the layout of his subdivision.

Prior to the annexation, two homes were built on either side of my property, thus creating the current "set back" we are now dealing with.

Both homes in question are ~~located~~ located on different streets with the rear of their homes facing my property. There is no other home on 12th St. facing north for approx two hundred or so feet and only three homes in all before reaching Cherry St.

Sec III, Question B, part 4h.

I believe my request is a reasonable one for the following reasons:

A. It sets no new precedents; it just modifies an already existing variance to the City Code.

B. It has no adverse effects on my two neighbors as both of their homes are located on two different streets and only the rear of their homes face my property. Also, my home will be the sole home on that section of 12th St.

C. I further believe that the addition of a roof over the porch would not only ^{allow} much greater use of the porch, but would greatly enhance the appearance of the new tire house.

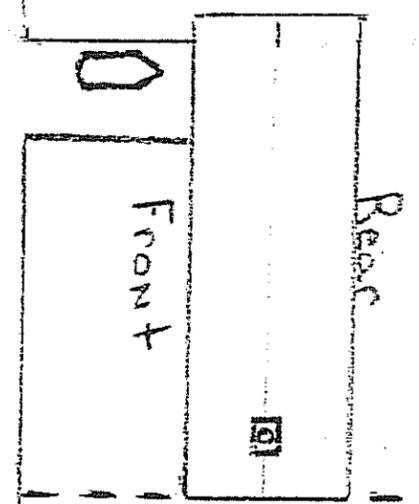


Lot line
↗

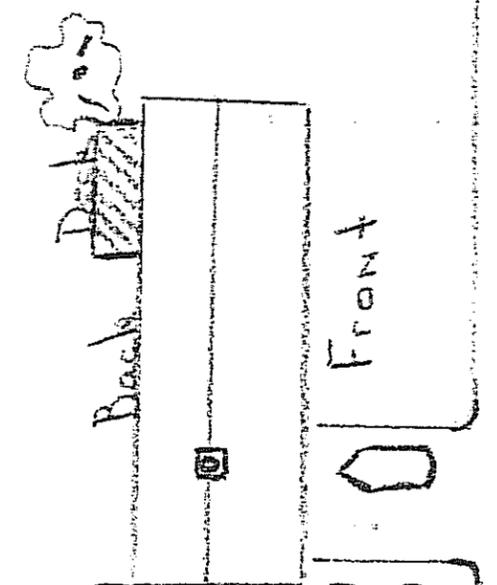
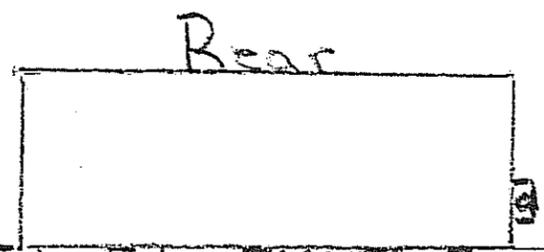
Lot line
↘

Lot line
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Pearce Rd



* Tall bushes on lot line



* Set back Line:

Ditch

7x10
Porch

Proposed porch:
(Ordinance already allows for it's
construction, but w/out a roof.)

12th Street

Sweetnam Dr
"M L B"

Golf Course



REQUEST FOR APPEAL

CITY OF MANISTEE
ZONING BOARD OF APPEALS

JOHN DALKE JR.

Name

7185 PINE CREEK RD.

Address

MANISTEE, MI, 49660

City, State and Zip Code

Phone Numbers (Work) 723-2577 EXT. 252

(Home) 723-6828

FOR OFFICE USE ONLY

Appeal Number 9803

Date Received 12-17-97

Tax Parcel Number 51-51-748-739-03

Fee Received (Amt & Date) 150.00 12-17-97

Receipt Number 1230

Hearing Date 1-12-98

Board of Appeals Action _____

FEE FOR APPEAL \$150.00

PLEASE NOTE: All questions must be answered completely. If additional space is needed, number and attach additional sheets.

I. ACTION REQUESTED:

I, (We), the undersign request a hearing before the Manistee City Zoning Board of Appeals for the purpose indicated below:

- Ordinance or Map Interpretation
- Variance
- Appeal from Administrative Decision
- Other Authorized Review

II. PROPERTY INFORMATION:

A. Legal description of property affected by this appeal: FREELAND N 1/2 LOT 2

BLOCK 22

Tax Roll Parcel Code #: 51-51-748-739-03

B. List of all deed restrictions (attach additional sheets if necessary): NONE I KNOW

OF

C. Names and addresses of all other persons, firms or corporations having a legal or equitable interest in the land: MARK MELCHERT 904 RAMSDALE ST.

MANISTEE, MI, 49660

D. This area is: Not platted, Platted, Will be Platted

If Platted, Name of Plat: _____

E. Attach a site plan drawn to the scale of one (1) inch equals ten (10) feet, showing all existing structures on the property, all proposed structures and marking those structures that will be removed or razed. Also the general shape, size and location of all existing structures within 100 feet of the property along with their uses shall be depicted on the site plan, along with all abutting roads, streets, alleys or easements.

- F. Present use of property is: HOUSED OF MARK MELCHERT
- G. Present zoning district classification of the property is: _____
- H. A previous appeal (has/has not) been made with respect to these premises in the last _____ years. If a previous appeal, re-zoning or special use permit application was made, state the date, nature of action requested and the decision:
Date: _____ Action Requested: _____
- Decision (approved/ denied) other: _____

III. DETAILED REQUEST AND JUSTIFICATION

- A. Interpretation of Zoning Ordinance or Map
- The appellant respectfully requests the Board of Appeals make an interpretation of:
 (A) The location of district boundaries on the _____ Zoning District map as applied to the property described in the application.
 (B) The provisions of article _____ Section _____ of the Manistee City Zoning Ordinance.
 (C) Other, (specify) _____
 - Please describe in detail the nature of the problem to be interpreted and the reason for the request: _____
- B. Variance from the requirements of the Zoning Ordinance.
The appellant respectfully requests the Board of Appeals grant a variance on the above described property.
- Indicated below are the Ordinance requirement(s) which are the subject of the variance request.
 Setback Side Yard Off-street Parking
 Lot Coverage Placement Height
 Signs Area Requirements Other _____
 - State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Ordinance. TO CORRECT
ENCROACHMENT
 - Describe the characteristics of your property which require the granting of a variance (include dimensional information).
 Too Narrow Elevation Soil
 Too Small Slope Subsurface
 Too Shallow Shape Other (Specify) _____

4. Justification for granting the requested variance. The appellant must show that strict application of the provisions of the Zoning Ordinance to his property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the ordinance. In order for the Board of Appeals to determine whether unnecessary hardship exists, the appellant should provide answers to each of the following questions:

- a. Can the property in question be used in a manner permitted by the Zoning Ordinance if a variance is not granted? yes no
If no, what unnecessary hardship or practical difficulty will result if the variance is not made? ENCROACHMENT WILL NOT BE CORRECTED
- b. To the best of your knowledge, can you affirm that the hardship or practical difficulty described above was not created by an action of anyone having property interests in the land after the Zoning Ordinance or applicable part thereof became law? yes no
If no, explain why the hardship or practical difficulty should not be regarded as self-imposed (Self-imposed hardships are not entitled to variances). _____
- c. Are the conditions on your property the result of other man-made changes (such as relocation of a road or highway?) yes no
If yes, describe _____
- d. Will strict application of the terms of the ordinance deny use of the property for any purpose to which its reasonably adapted? yes no
If yes, how? _____
- e. Is the variance applied for due to unique circumstances presented on your property or to the general conditions in the area? yes no
If yes, explain any peculiar or unique conditions, and how many other properties in your area are similarly affected _____
- f. Would granting the variance change the essential character of the area? yes no. If yes, how? _____
- g. Would granting the variance be contrary to any county development plans? yes no. or to any local government development plans? yes no. Explain _____
- h. Would granting the variance be contrary to the intent and purpose of the Zoning Ordinance? yes no. If yes, explain _____
- i. Other Comments in support of the application. _____

C. Appeal from Administrative decision.

The appellant respectfully requests the Board of Appeals to (reverse/modify) the Zoning Administrator's decision (copy attached) on application number _____ dated _____. It is alleged the Zoning Administrator erred in (the interpretation of article _____ section _____ / his order/his requirement/ his decision/ his determination) regarding the issuance of a _____ permit and that (reversal/modification) of said decision should be granted because _____

Specify decision sought: _____

D. Other authorized reviews

The appellant respectfully petitions the Board of Appeals to grant the following: _____

According to the conditions and provisions of article _____ section _____ granting this authority to the Board of Appeals. Specifically state the problem, decision sought and the justification for the request. _____

IV. IMPACT ON SURROUNDING LANDS

If your request is granted:

A. What are likely to be the positive and negative impacts of this decision on the surrounding land and neighbors? PROPERTY LINE WILL BE CLOSER TO
CAMPYING WITH ORDINANCE

B. How do you propose to minimize any potential negative impacts which your proposed activity may cause? NO NEGATIVE IMPACT.

V. AFFIDAVIT

The undersigned acknowledges that if a variance is granted or other decisions favorable to the undersigned is rendered upon this appeal, the said decision does not relieve the applicant from compliance with all other provisions of the City of Manistee Zoning Ordinance; the undersigned further affirms that he/she or they is (are) the (owner/lessee/authorized agent for the owner) involved in the appeal and the answers and statements herein contained and the information herewith submitted are in all respects true and correct to the best of his, her or their knowledge and belief.

Signature [Handwritten Signature]

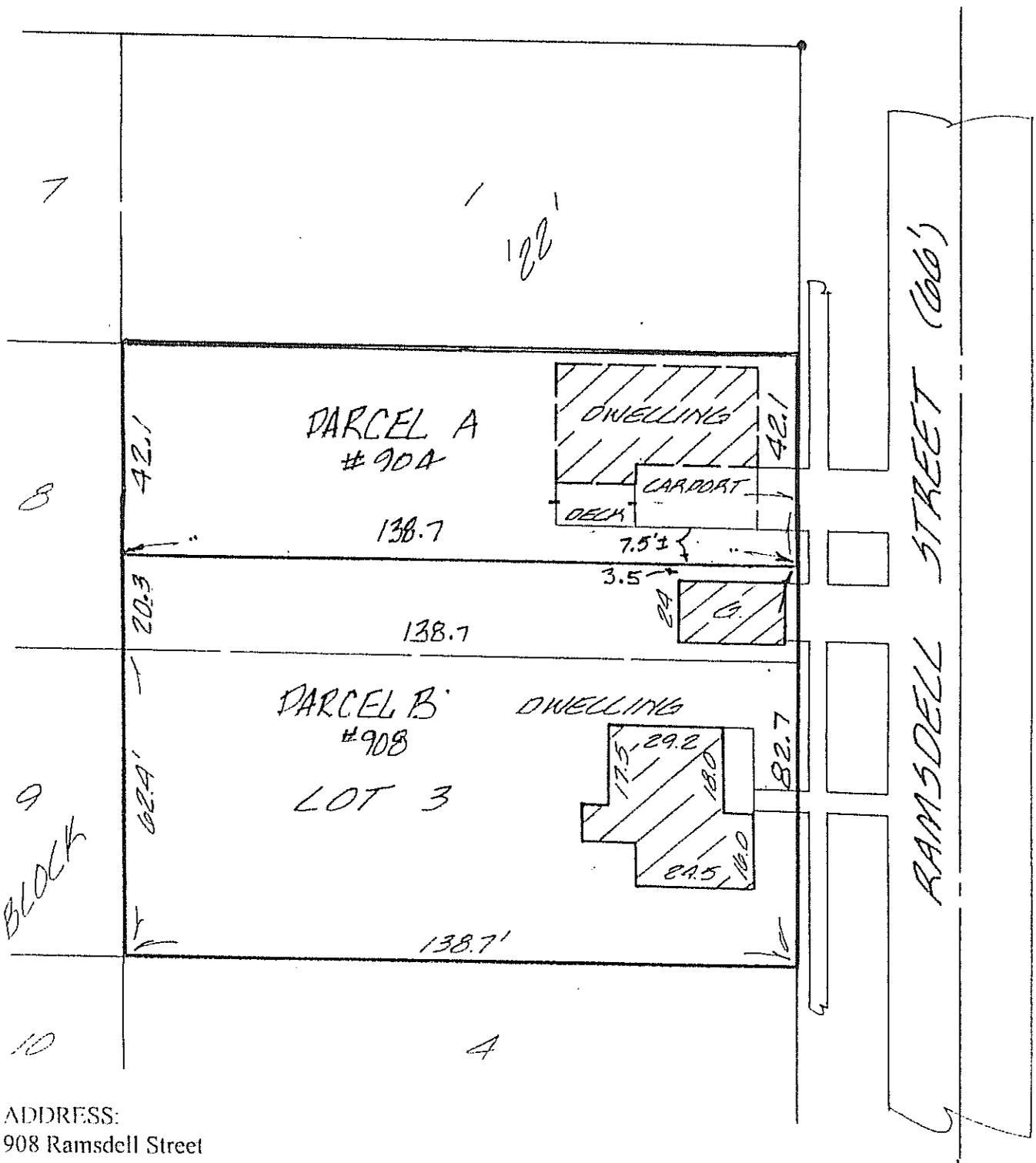
Date 12-4-97

Signature _____

Date _____

MORTGAGE REPORT

NINTH STREET (66')



ADDRESS:
908 Ramsdell Street
Manistee, MI. 49660

DESCRIPTION: PARCEL "A"-The North 42.1 ft. of Lot 2, Block 22, Freeland Addition to the City of Manistee, Manistee County, Michigan. According to the recorded plat thereof.
PARCEL "B"-Lot 3 and the South 20.3 ft. of Lot 2, Block 22, Freeland Addition to the City of Manistee, Manistee County, Michigan. According to the recorded plat thereof.

LEGEND

- ⊕ MONUMENT FND.
- IRON FND
- ▲ NAIL FND.

ALL BOUNDARY & EASEMENT DIMENSIONS ARE RECORDED UNLESS OTHERWISE NOTED.

SCALE 1"=30'

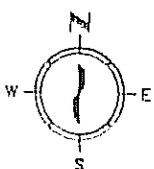


I hereby certify that I have inspected the property hereon described; that there are improvements located as shown; that said improvements are within property lines; and that there are no visible encroachments upon the land and property described, unless otherwise noted. All utilities and easements may / or may not be shown.

This inspection is for mortgage purposes only.

Bruce J. Curran

R.L.S. No. 25850



Jenema Land Surveys

50 Clay Street
Manistee, MI 49660
616-723-7930
Fax 616-723-5761

REV 12-15-97

FOR: John D. (Jr.) & Sally L. Bronson

Northwestern Savings Bank

DATE: May 1, 1996

SHEET

DWN.

JMM

CHK.

B.J.J.

FILE NO. 96301