

**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 Thursday, February 11, 1999 at 5:30 p.m. in the Council Chambers, 70 Maple Street, Manistee, Michigan.

AGENDA

- I. Roll Call
- II. Election of Officers
 - A. Chair
 - B. Vice-Chair/Secretary
- III. Matters Pertaining to the General Citizenry:
 - A. Public Hearing:
 - 1. Dr. Geoffrey Paine
 - 2. David & Marjorie Horton
 - 3.
 - B. Questions, Concerns of Citizens in Attendance:
 - 1.
 - 2.
- IV. Business Session:
 - A. Approval of Minutes (11/18/98)
 - B. Unfinished Business:
 - 1. Dr. Geoffrey Paine
 - 2. David & Marjorie Horton
 - 3.
 - C. Other Business:
 - 1.
 - 2.
- V. Work/Study Session:
- VI. Adjournment

cc: Zoning Board of Appeals Members
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: Zoning Board of Appeals Members

FROM: Jon R. Rose *JR*
Community Development Officer

DATE: February 3, 1999

RE: Zoning Board of Appeals Meeting Thursday, February 11, 1999

We received another request for a Zoning Board of Appeals hearing and were able to add it to the February 11, 1999 Agenda.

The request is from David & Marjorie Horton who want to purchase the home at 813 Concord Street. Mr. & Mrs. Horton would like to extend the existing garage on the property. The garage is 26" from the side-yard set back instead of the required 36". A copy of Mr. & Mrs. Horton's request is enclosed for your review.

If you are unable to make the meeting or have any questions, please call me at 723-2558. See you there!

JRR:djm

Enclosures

REQUEST FOR APPEAL
CITY OF MANISTEE
ZONING BOARD OF APPEALS

David & Marjorie Horton
Name
114 West Clark Street
Address
Davison MI 48423
City, State and Zip Code
Phone Numbers (Work) _____
(Home) 1-810-653-6783

FOR OFFICE USE ONLY

Appeal Number 9902
Date Received 2-3-99
Tax Parcel Number 51-51-670-702-03
Fee Received (Amt & Date) 150.00
Receipt Number _____
Hearing Date 2-11-99
Board of Appeals Action Approved

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:

- | | |
|--|--|
| <input type="checkbox"/> Ordinance or Map Interpretation | <input checked="" type="checkbox"/> Variance |
| <input type="checkbox"/> Appeal from Administrative Decision | <input type="checkbox"/> Other Authorized Review |

II. PROPERTY INFORMATION:

A. Legal description of property affected by this appeal: Ramsdell & Benedict Add, N 52.5' of S 95' of Lot 3, exc E 40' Block A, 813 Concord St.

Tax Roll Parcel Code #: 51-51-670-702-03

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

C. Names and addresses of all other persons, firms or corporations having a legal or equitable interest in the land: Mary ^(Thayer) Thayer (was at 813 Concord St.)
16990 Smokey Hollow Dr., Traverse City MI 49686
616-223-7180

D. This area is: Not platted, Platted, Will be Platted
If Platted, Name of Plat: _____

E. Present use of property is: Residential

F. Present zoning district classification of the property is: R-4

- G. 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

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: _____

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.

1. Indicated below are the Ordinance requirement(s) which are the subject of the variance request.
- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Setback | <input checked="" type="checkbox"/> Side Yard | <input type="checkbox"/> Off-street Parking |
| <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Placement | <input type="checkbox"/> Height |
| <input type="checkbox"/> Signs | <input type="checkbox"/> Area Requirements | <input type="checkbox"/> 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 garage was installed with a set back from the south property line of 2.4' or app. 29", instead of the required 36". The owner needs to add 10' to the rear of the building.
3. Describe the characteristics of your property which require the granting of a variance (include dimensional information).
- | | | |
|--------------------------------------|------------------------------------|--|
| <input type="checkbox"/> Too Narrow | <input type="checkbox"/> Elevation | <input type="checkbox"/> Soil |
| <input type="checkbox"/> Too Small | <input type="checkbox"/> Slope | <input type="checkbox"/> Subsurface |
| <input type="checkbox"/> Too Shallow | <input type="checkbox"/> Shape | <input type="checkbox"/> Other (Specify) |
- Current garage was constructed with permit, too close to the south lot line. There is plenty of room to add 10' to the east end of the garage.

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? The garage cannot be enlarged as per purchase agreement.
- 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). Current garage was permitted with current zoning.
- 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? In the eyes of the buyer, yes. He needs to store his fishing boat. This is a seasonal house for the time being. They will become permanent residents.
- 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 If the current garage was allowed with this set back, the additional 10' to be added should not present a problem to anyone.
- 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 I would doubt that any city or County plans would be affected by this variance.
- h. Would granting the variance be contrary to the intent and purpose of the Zoning Ordinance? yes no. If yes, explain Being only a variance of 7", it seems allowable.
- i. Other Comments in support of the application. If this were 6 or 7', this might be a problem,

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? In as much as the neighbors have not been troubled with this south line set back, I doubt that they will be concerned with the slight difference.

B. How do you propose to minimize any potential negative impacts which your proposed activity may cause? The ad should bring forth any objections by nieghbors.

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 David Carlson

Date Feb. 2, 1999

Signature David Carlson For David Horton

Date _____

51-51-670 702 03

SHEET 1 OF 1

MORTGAGE REPORT

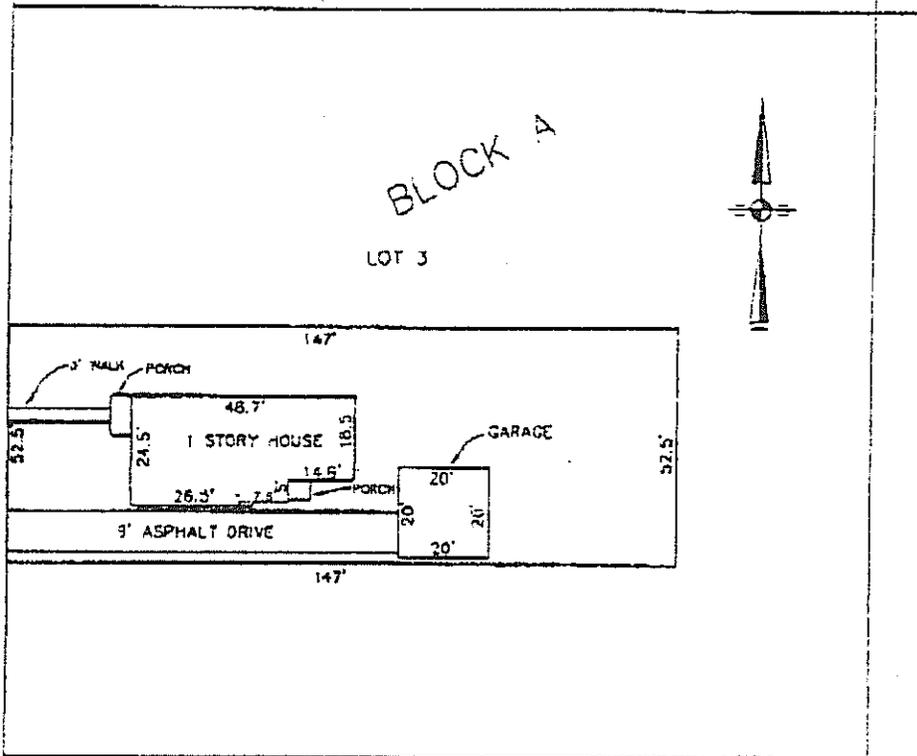
THE UNDERSIGNED, A LICENSED PROFESSIONAL SURVEYOR UNDER THE LAWS OF THE STATE OF MICHIGAN, CERTIFIES THAT THE FOLLOWING DESCRIBED PROPERTY HAS BEEN INSPECTED FOR THE LENDER, HUNTINGTON MORTGAGE COMPANY AND THAT OUR FINDINGS ARE AS HEREON DELINEATED; THAT UNLESS OTHERWISE NOTED, BUILDING DIMENSIONS REPRESENT EXTERIOR WALLS WHICH REST ON A FOUNDATION; AND THAT POSSIBLE BUILDING ENCROACHMENTS, IF ANY, ARE INDICATED.

PART OF LOT THREE (3) OF BLOCK "A" OF RAMSDALE AND BENEDICTS ADDITION, COMMENCING 42 1/2 NORTH OF THE SOUTHWEST CORNER OF SAID LOT, THENCE NORTH 52 1/2 FEET, THENCE EAST 147 FEET, THENCE SOUTH 52 1/2 FEET, THENCE WEST 147 FEET TO PLACE OF BEGINNING ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 2 OF PLATS, PAGE 4, NOW LIBER 2-A OF PLATS, PAGE 2.

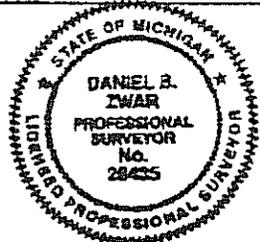
BORROWER(S): DAVID AND MARJORIE HORTON

CONCORD STREET (66' WIDE) (RECORDED AS MADISON STREET)

- 813 Concord -



NINTH STREET (66' WIDE)



DATE: JANUARY 22, 1999

SCALE: 1" = 30'

Daniel B. Zwar
 DANIEL B. ZWAR
 LICENSED PROFESSIONAL SURVEYOR No. 28435
 ABONMARCHE CONSULTANTS, INC.

NOTE:
 THIS REPORT IS NOT A BOUNDARY SURVEY,
 AND IT IS NOT SUITABLE AS A GUIDE FOR
 THE ERECTION OF A FENCE OR ANY TYPE
 OF CONSTRUCTION.

ABONMARCHE CONSULTANTS, INC.
 361 First Street, Hamlet, Michigan 49880
 818-723-1798 FAX: 818-723-1184
 95 West Main Street, Benton Harbor, Michigan 40022
 818-827-2255 FAX: 818-827-4439
 ARCHITECTS / ENGINEERS / LAND SURVEYORS
 ENVIRONMENTAL / CONSTRUCTION MANAGEMENT

JOB NO. 99-078

CITY OF MANISTEE

MEMORANDUM

TO: Zoning Board of Appeals Members

FROM: Jon R. Rose 
Community Development Officer

DATE: February 1, 1999

RE: Zoning Board of Appeals Meeting Thursday, February 11, 1999

We have scheduled a Zoning Board of Appeals Meeting on Thursday, February 11, 1999 at 5:30 p.m. in the Council Chambers.

The Zoning Board of Appeals Meeting is being held in response to a request from Dr. Geoffrey Paine. Dr. Paine has purchased the property at 504 Water Street with the plans to tear down the building on the property and construct a new dental office. A site plan review of the project shows that a variance is necessary to allow two parking spaces in the front yard and a reduction of number of parking spaces required from 27 to 17. The parking lot will be utilized by both dental patients and people using the marina located on the property. Enclosed is a copy of Dr. Paine's application.

If you are unable to make the meeting or have any questions, please call me at 723-2558. See you there!

JRR:djm

Enclosures

REQUEST FOR APPEAL

CITY OF MANISTEE

ZONING BOARD OF APPEALS

Geoffrey R. Paine
 Name
449 River St
 Address
Manistee, MI 49660
 City, State and Zip Code
 Phone Numbers (Work) (616) 723-7957
 (Home) (616) 723-0182

FOR OFFICE USE ONLY

Appeal Number 9901
 Date Received 1-25-99
 Tax Parcel Number 51-51-356-701-13
 Fee Received (Amt & Date) 150.00 1-25-99
 Receipt Number 2483
 Hearing Date 2-11-99
 Board of Appeals Action Approved

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: Sub of Blk C.E. Marshs Add. lots 6, 7, 8, Exc N. 15 ft Thereof also Exc E 15 ft Lot 6, & Pt of E. St N LI Water St & N to within 15 ft of Meander LI of Manistee River, 33 ft adjoining above lots in sub block 1.

Tax Roll Parcel Code #: 51-51-356-701-13

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

C. Names and addresses of all other persons, firms or corporations having a legal or equitable interest in the land: Theodore and Pamela Arens (Land contract holder/seller)
P.O. Box 510628
Livonia, MI 48150

D. This area is: Not platted, Platted, Will be Platted
 If Platted, Name of Plat: Mrs. Clara E. Marsh's Addition to the city of
Manistee

E. Present use of property is: Marina and warehouse storage

F. Present zoning district classification of the property is: C4A

- G. 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

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: _____

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.

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

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Setback | <input type="checkbox"/> Side Yard | <input checked="" type="checkbox"/> Off-street Parking |
| <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Placement | <input type="checkbox"/> Height |
| <input type="checkbox"/> Signs | <input type="checkbox"/> Area Requirements | <input type="checkbox"/> Other _____ |

2. State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Ordinance. A new dental office building, approx 3,000 sq ft., with parking for 17 vehicles. This is instead of the 27 parking spaces required by the zoning ordinance.

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

- | | | |
|---|------------------------------------|--|
| <input type="checkbox"/> Too Narrow | <input type="checkbox"/> Elevation | <input type="checkbox"/> Soil |
| <input type="checkbox"/> Too Small | <input type="checkbox"/> Slope | <input type="checkbox"/> Subsurface |
| <input checked="" type="checkbox"/> Too Shallow | <input type="checkbox"/> Shape | <input type="checkbox"/> Other (Specify) |

To develop parking for 17 vehicles, a variance of 9 ft from the front setback is desired and 7 ft on the northwest corner of the rear setback.

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? if parking is required for 27 spaces, inadequate space would exist for an office and surrounding
- 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). green space.
- 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 Both adjacent properties have parking within the front setback due to limited depth of the properties.
- 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. 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

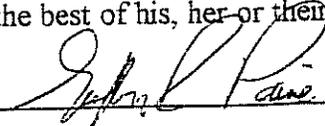
If your request is granted:

A. What are likely to be the positive and negative impacts of this decision on the surrounding land and neighbors? Removal of old warehouse and beautification of building and property. Management of parking so that no overnight camping or trailers are permitted. No negative impacts that I am

B. ~~How do you propose to minimize any potential negative impacts which your proposed activity may cause?~~ aware of other than increasing the property value.
See Attached Sheet (positive?)

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 

Date JANUARY 20, 1999

Signature _____

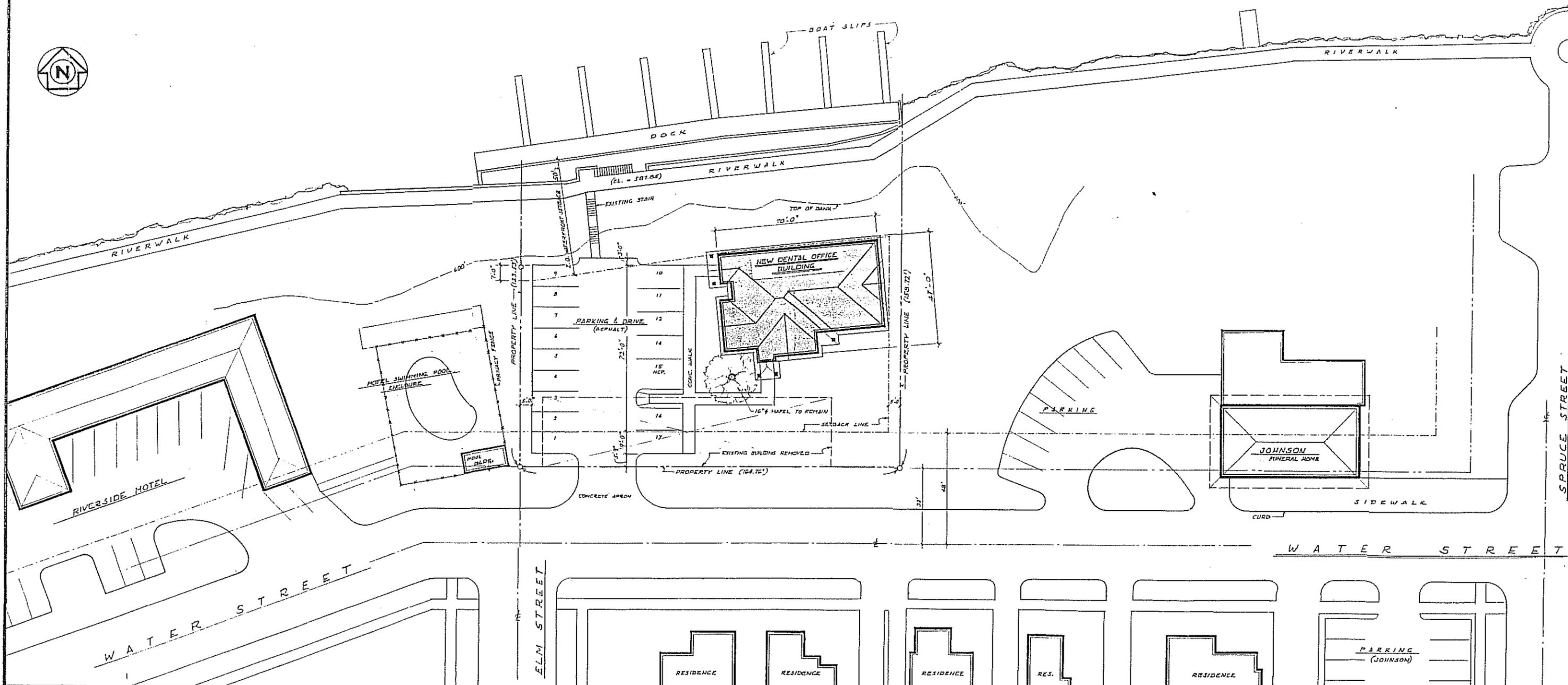
Date _____

4.i. The parking requirement for the 27 spaces (17 for proposed office, 10 for the marina use) could be consolidated into 17 spaces due to the needs of the two functions. The dental office need for parking is monday through friday, 8:00 to 5:00 except for holidays. Whereas the marina's primary need for parking is on saturday and sunday or holidays, when the office is closed. Weekdays in the summer, some boaters occaisionally use the parking, but mainly after 5:00pm. The majority of the marina use occurs in June, July, and August when in our office we have a shortened schedule and most of our vacation time is taken.

I believe both uses can share the parking effectively without having to pave the majority of the green space. The only negative impact I can foresee, would be an increase in traffic and activity in the area. This increase would only occur during the daytime and be steady throughout and not a large number of cars at any one time. I do not think it would hinder the parking demands of the adjacent businesses either.

RECEIVED DEC 30 1998

MANISTEE RIVER
(PL. 590.89')



NEW DENTAL OFFICE BUILDING FOR DOCTOR GEOFFREY R. PAINE, D.D.S. AT 490 WATER STREET IN MANISTEE, MICHIGAN

Legal Description of Parcel:

THE SOUTH 80 FEET OF LOTS 6, 7 AND 8, EXCEPTING THE EAST 15 FEET OF LOT 6 OF THE SUBDIVISION OF BLOCK NO. 1 OF CLARA E. MARSH'S ADDITION TO THE VILLAGE (NOW CITY) OF MANISTEE; ALSO LOTS 6, 7 AND 8 OF BLOCK 1 OF MRS. C.E. MARSH'S ADDITION TO THE VILLAGE (NOW CITY) OF MANISTEE, EXCEPTING THE SOUTH 80 FEET OF SAID LOTS 6, 7 AND 8 OF SAID BLOCK 1; AND ALSO EXCEPT THE NORTH 15 FEET OF SAID LOTS 6, 7 AND 8 OF SAID BLOCK 1; AND ALSO EXCEPT THE EAST 15 FEET OF LOT 6 OF SAID BLOCK 1; ALL IN MRS. C.E. MARSH'S ADDITION TO THE VILLAGE (NOW CITY) OF MANISTEE, MICHIGAN; ALSO THAT PORTION OF ELM ST. AS LAID OUT ON THE PLAT OF THE SUBDIVISION OF BLOCK 1; MRS. C.E. MARSH'S ADDITION TO THE CITY OF MANISTEE, MI., WHICH LIES NORTH OF THE NORTH LINE OF WATER ST. AND NORTH TO WITHIN 15 FEET OF THE MEANDER LINE OF MANISTEE RIVER AS ESTABLISHED AT THE TIME OF ENTRY OF A CERTAIN DECREE OF THE CIRCUIT COURT OF MANISTEE COUNTY, MICHIGAN, WHICH DECREE FURTHER VESTED TITLE TO SAID LANDS IN JOSEPH R. BURNS OR HIS PREdecessOR IN TITLE AND WHICH DECREE IS

Project Description:

1. The site is presently occupied by a one-story green wooden building extending across the street side. This will be demolished and removed.
2. The proposed new office building is being designed to house the dental practice of Dr. Geoffrey R. Paine D.D.S. which has outgrown its present offices on River Street. The building will have a single floor designed to house only Dr. Paine's practice. It will contain a full basement (for storage and utilities only) and a small second floor space to house Dr. Paine's personal office.
3. The gross area occupied by the building is approximately 2939 sq. ft. and the net usable area of the main floor is approximately 2639 sq. ft.
4. This preliminary submittal is being made with a request for consideration of a variance to resolve a conflict between setback and parking requirements of the Zoning Ordinance. To meet the parking requirements it has been necessary to encroach approximately seven feet into the waterfront setback and nine feet into the frontyard setback.
5. With a variance for parking and setbacks as shown the project can proceed. The remaining required site information (utility locations and connections, surface and underground drainage, outdoor lighting, etc.) will be designed and submitted for approval with the final construction documents.

PRELIMINARY SITE PLAN

SCALE: 1" = 20' - 0" DATE: December 23, 1998

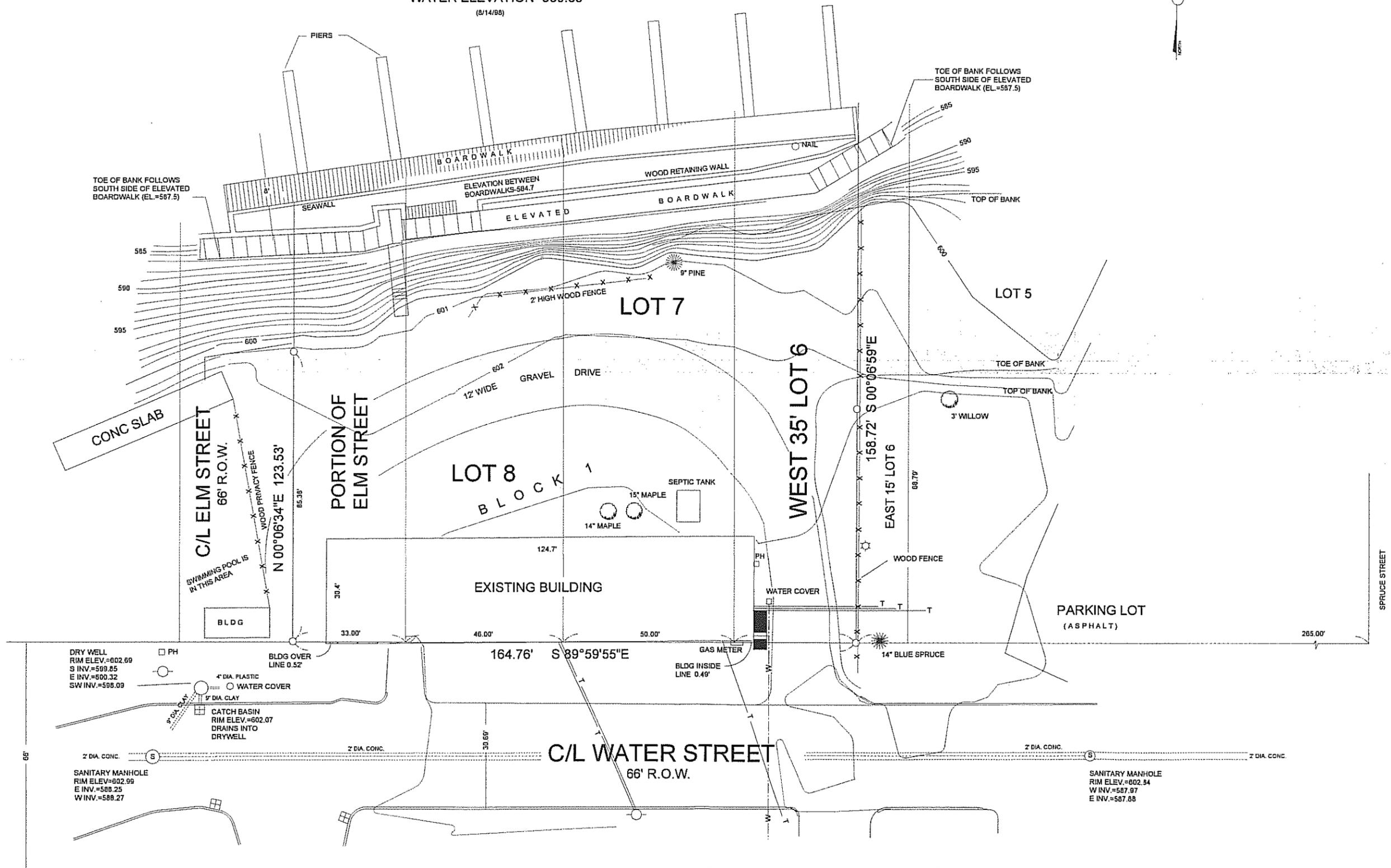
APPLICANT AND OWNER:

Dr. Geoffrey R. Paine, D.D.S. 449 River St. Manistee MI 49660

DESIGNERS:

Total Health Environment Design Inc. Austin, Texas

WATER ELEVATION=580.89
(8/14/88)



LEGEND

SCALE: 1" = 30'-0"