

City of Manistee
Zoning Board of Appeals
City Hall
70 Maple Street
Manistee, Michigan

There will be a meeting of the City of Manistee Zoning Board of Appeals to be held on Wednesday, November 20, 2002 at 5:30 p.m. in the Council Chambers, 70 Maple Street, Manistee, Michigan

AGENDA

I Roll Call

II Public Hearing:

1. Pail Face L.L.C., 217 Arthur Street
2. Douglas & Judy Piotrowski, 543 Fairview Avenue
- 3.

III Business Session:

A. Approval of Minutes (9/26/02)

B. Unfinished Business:

1. Pail Face L.L.C., 217 Arthur Street
2. Douglas & Judy Piotrowski, 543 Fairview Avenue
- 3.

C. Other Business:

1. By-Law Update

IV Questions, Concerns of Citizens in Attendance

V Adjournment

cc: Zoning Board of Appeals Members
Bruce Gockerman, City Attorney
Mark W. Niesen, Building Inspector
Mitch Deisch, City Manager
Julie Beardslee, City Assessor

MEMORANDUM

TO: Zoning Board of Appeals Members

FROM: Mark W. Niesen
Building Inspector 

DATE: November 7, 2002

RE: Zoning Board of Appeals Meeting, November 20, 2002

The Zoning Board of Appeals will be meeting on Wednesday, November 20, 2002 at 5:30 p.m. for the following requests:

1. John Ball, Pail Face L.L.C., 217 Arthur Street. John Ball owns the car wash located at 217 Arthur Street and would like to convert the Car Wash into an eight unit motel. Mr. Ball is requesting a *variance to reduce the front yard set back from 30 feet to 16 feet*. A copy of the request is enclosed.
2. Douglas & Judy Piotrowski, 543 Fairview Avenue. Mr. & Mrs. Piotrowski constructed a detached garage on their property last year and now would like to construct a breezeway to connect the garage and residence. The request is for a *variance to reduce the side-yard set-back from 10 feet to 4 feet*. A copy of the request is enclosed.

Enclosed is a draft By-Law update. Please note that the new changes are highlighted in orange. We will continue the update after deliberating the requests.

If you have any questions, please call me at 723-2558.

MWN:djb

-

REQUEST FOR APPEAL

CITY OF MANISTEE

ZONING BOARD OF APPEALS

JOHN BALL - PAUL FACE L.L.C.

Name

P.O. BOX 332

Address

MANISTEE, MI 49660

City, State and Zip Code

Phone Numbers (Work) 723-2017

(Home) 723-2017

FOR OFFICE USE ONLY

Appeal Number 2002-10

Date Received 10-22-02

Tax Parcel Number 174-702-15

Fee Received (Amt & Date) \$250.

Receipt Number 1620

Hearing Date 11-20-02

Board of Appeals Action _____

FEE FOR APPEAL \$250.00

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: SEE ATTACHED EXHIBIT "A"

Tax Roll Parcel Code #: S1-51-174-702-1509 - 217 Arthur St

B. List of all deed restrictions (attach additional sheets if necessary): N/A

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: SC THOMPSONS ADDITION

E. Present use of property is: CAR WASH

F. Present zoning district classification of the property is: C-1

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 applicant respectfully requests the Board of Appeals make an interpretation of:
 (A) The _____ of district boundaries on the _____ Zoning District map as applied to property described in the application.
 (B) The provision _____ Article _____ Section _____ of the Manistee City Zoning Ordinance.
 (C) Other, (specify) _____
2. Please describe in detail the nature of the p. _____ 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.
 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. Existing car wash shall be renovated into a motel on the existing building footprint. Existing building does not meet current setback requirements. "change of use" requires the setback variance. 30'-0" to 16'-0"

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)
It is desirable to renovate the existing building. The characteristic is a building located within the setback.

Request for Appeal
Page 3

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? EXISTING BUILDING AND FOUNDATION COULD NOT BE UTILIZED

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? EXISTING BUILDING AND FOUNDATION COULD NOT BE UTILIZED IN THE PROPOSED MANNER REQUESTED.

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 UNIQUE CHARACTERISTIC IS THE EXISTING BUILDING LOCATED IN SETBACK.

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. _____

Request for Appeal
Page 4

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

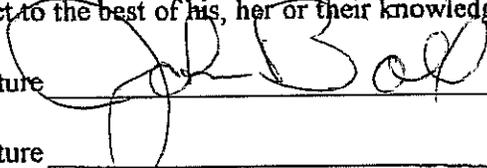
If your request is granted:

A. What are likely to be the positive and negative impacts of this decision on the surrounding land and neighbors? POSITIVE IMPACT IS THE VISUAL IMPROVEMENT OF THE BUILDING AND PARCEL. IMPROVEMENT WOULD COMPLEMENT NEARBY MOTELS.

B. How do you propose to minimize any potential negative impacts which your proposed activity may cause? _____

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 
Signature _____

Date 10/22/02
Date _____

ATTACHMENT A
APPLICATION FOR VARIANCE
CITY OF MANISTEE
PAIL FACE, L.L.C.

Part of Lot B of S.C. Thompson's Addition, described as commencing at a point on the North line of Government Lot two (2), Section one (1), T.21 N., R.17 W., that is 702.60 ft. East of the Southwest corner of Government Lot four (4), Section thirty six (36), T.22 N., R.17 W.; thence S-45°41'00"-W, 250.28 ft. along the East right-of-way of Arthur Street, thence S-06°40'55"-W, 148.48 ft. along said right-of-way to the point of beginning, thence S-87°20'45"-E, 140.01 ft., thence S-17°43'45"-W, 119.30 ft., thence S-88°54'32"-W, 106.15 ft. to East right-of-way line of said street, thence N-07°05'11"-W, 48.90 ft. along East line of said street, thence N-06°40'55"-E, 74.11 ft. along said street to the point of beginning; with all improvements, appurtenances, tenements and hereditaments, to the vendee, subject to easements, restrictions of record, zoning laws, and ordinances affecting the premises.

US 31

WV
X

HYD

Existing
Car
Wash
f.f. = 592.74

30'-0"
SETBACK

1'w.x1" conc. lot divider

PROPOSED
BALCONY

PROPOSED
BALCONY

GRAV

SITE PLAN

SCALE: 1" = 30'-0"

ISSUED: 10-22-02
PROJECT NO. 02016
DRAWN: MRK
REVISION

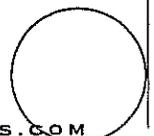
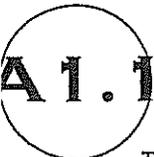
SITE PLAN
PAIL FACE L.L.C.
217 ARTHUR STREET
MANISTEE, MI 49660

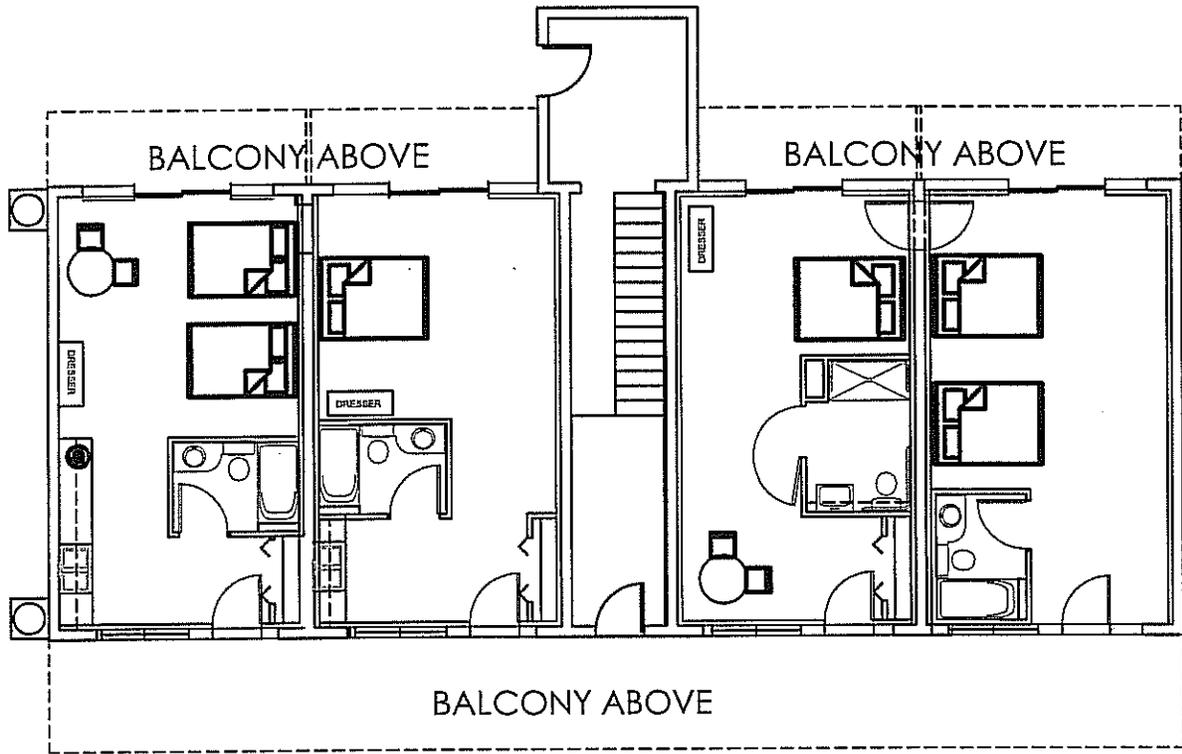
STUDIO ONE
ARCHITECTS
P.L.L.C.

DREAMS DESIGNED

50 FILER ST. SUITE E. MANISTEE, MI 49660

TELEPHONE: 231.723.7660 FACSIMILE: 231.723.7660 EMAIL: MRK@STUDIO1-ARCHITECTS.COM





FIRST FLOOR PLAN

SCALE: NONE

A2.1

ISSUED:	10-22-02
PROJECT NO.	02016
DRAWN:	MRK
REVISION	_____

FIRST FLOOR PLAN
 PAIL FACE L.L.C.
 217 ARTHUR STREET
 MANISTEE, MI 49660

STUDIO ONE
ARCHITECTS
P.L.L.C.

DREAMS DESIGNED

50 FILER ST. SUITE E. MANISTEE, MI 49660

TELEPHONE: 231.723.7660 FASCIMILE: 231.723.7660 EMAIL: MRK@STUDIO1-ARCHITECTS.COM

REQUEST FOR APPEAL

CITY OF MANISTEE
ZONING BOARD OF APPEALS

DOUGLAS, JUDY PIOTROWSKI

Name

543 FAIRVIEW AVE.

Address

MANISTEE, MICH. 49660

City, State and Zip Code

Phone Numbers (Work) 723-6525

(Home) 723-2658

FOR OFFICE USE ONLY

Appeal Number 2002-11

Date Received 10-31-02

Tax Parcel Number 51-51-647-706-05

Fee Received (Amt & Date) \$250.00 10-31-02

Receipt Number 1690

Hearing Date 11-20-02

Board of Appeals Action _____

FEE FOR APPEAL \$250.00

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: _____

Tax Roll Parcel Code#: 51-51-647-706-05

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: _____

D. This area is: Not platted, Platted, Will be Platted
If Platted, Name of Plat: ENGLEWOOD LOT 9 BLOCK 3

E. Present use of property is: RESIDENCE

F. Present zoning district classification of the property is: B-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 _____ of district boundaries on the _____ Zoning District map as applied to property described in the application.

(B) The provision _____ Article _____ Section _____ of the Manistee City Zoning Ordinance.

(C) Other, (specify) _____

2. Please describe in detail the nature of the property 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 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. CONNECT GARAGE TO

THE HOUSE

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) |

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? TO BE ABLE TO GET FROM
HOUSE TO GARAGE
- 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? BECAUSE THE GARAGE AND HOUSE
EXISTANCE
- 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 BECAUSE THEY
EXIST WHERE THEY DO.
- 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

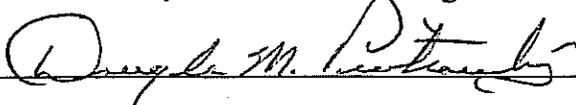
If your request is granted:

A. What are likely to be the positive and negative impacts of this decision on the surrounding land and neighbors? NONE

B. How do you propose to minimize any potential negative impacts which your proposed activity may cause? NONE

V. AFFIDAVIT

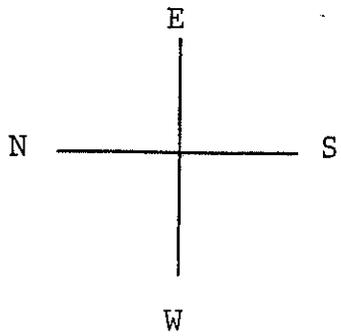
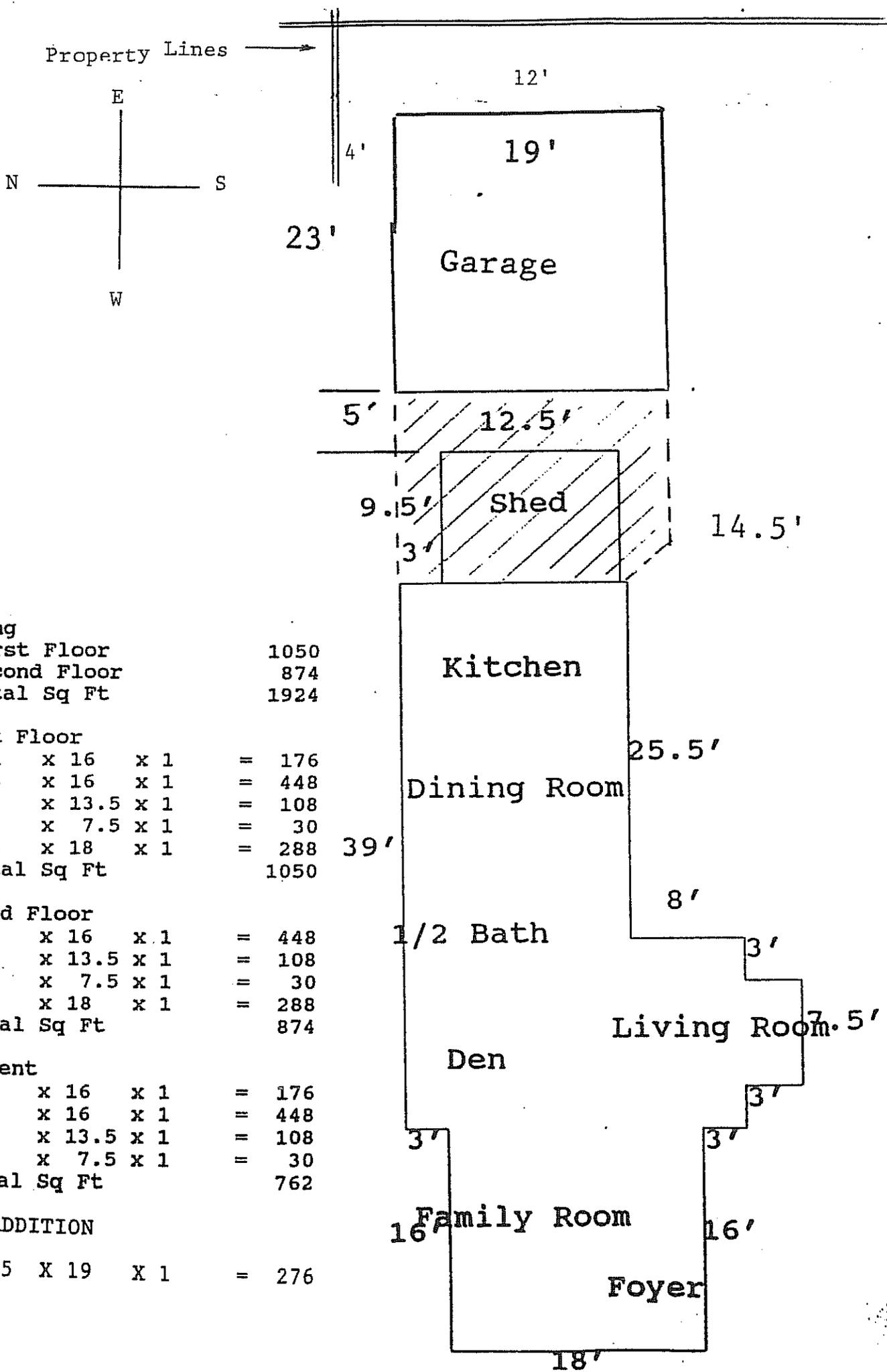
The undersigned acknowledges that if a variance is granted or other decisions favorable to the undersigned is rendered upon this appeal, the said decision does not relieve the applicant from compliance with all other provisions of the City of Manistee Zoning Ordinance; the undersigned further affirms 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 Oct. 31, 2002

Signature _____

Date _____



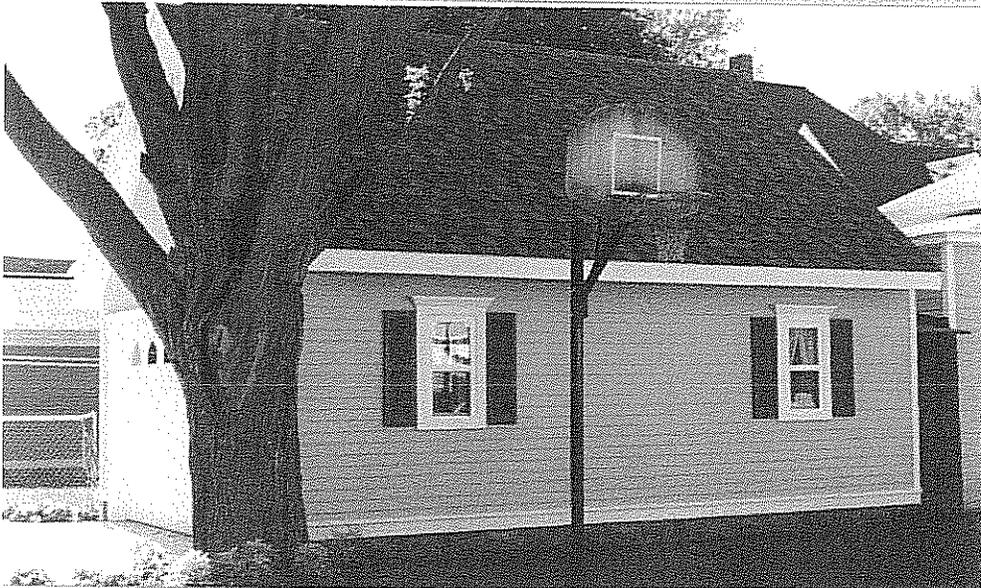
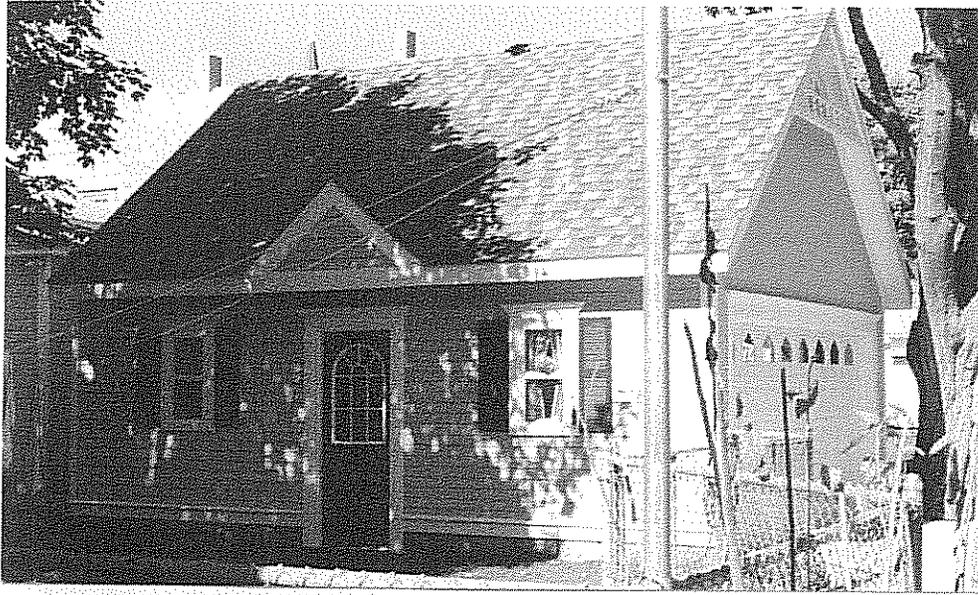
Living		
First Floor		1050
Second Floor		874
Total Sq Ft		1924

First Floor				
11	x	16	x	1 = 176
28	x	16	x	1 = 448
8	x	13.5	x	1 = 108
4	x	7.5	x	1 = 30
16	x	18	x	1 = 288
Total Sq Ft				1050

Second Floor				
28	x	16	x	1 = 448
8	x	13.5	x	1 = 108
4	x	7.5	x	1 = 30
16	x	18	x	1 = 288
Total Sq Ft				874

Basement				
11	x	16	x	1 = 176
28	x	16	x	1 = 448
8	x	13.5	x	1 = 108
4	x	7.5	x	1 = 30
Total Sq Ft				762

ADDITION				
14.5	x	19	x	1 = 276



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 the 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~~ Vice Chairman, and Secretary. All officers are eligible for reelection.
- 2.2 Tenure. The Chairman, ~~and Vice-Chairman/Secretary~~ Vice Chairman, and Secretary shall take office ~~the same meeting~~ at the next meeting after 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. Appoint an acting Secretary for a meeting at which the Secretary is absent.
- 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.~~
- 2.4 Duties. The Vice Chairman shall act in the full capacity of the Chairman in the absence of the Chairman and in the event the office of the Chairman becomes vacant, the Vice-Chairman shall succeed to this office for the unexpired term and the Appeals Board shall select a successor to the office of Vice-Chairman for the unexpired term.
- 2.5 Duties. The Secretary shall execute formal documents in the name of the Appeals Board, or his or her designee shall execute documents in the name of the Appeals Board, ~~The Secretary or his or her designee shall~~ perform the duties hereinafter listed and shall perform such other duties as the Appeals Board may determine. The Secretary shall be responsible for the record and minutes of each meeting. The Secretary shall be responsible for copies of the minutes being distributed to each member of the Appeals Board, prepare an Agenda for

each meeting, be responsible for all communications, petitions and reports addressed to the Appeals Board. The Secretary shall keep attendance records and shall notify the City council whenever any member of the Appeals Board is absent from three consecutive regularly scheduled meetings so the City Council can take further action pursuant to Section 4.2 of these rules of procedure and by laws.

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 at any time, and upon payment of a fee as may be established from time to time by the governing body. A meeting will be scheduled within 30 days of receipt of the appeal. ~~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. The Secretary or his or her designee shall schedule a meeting date with the Zoning Administrator and the members of the Appeals Board. Members of the Appeals Board will be mailed a notice no later than five (5) days before the scheduled meeting date. The Secretary or his or her designee ~~Zoning Administrator~~ shall prepare copies of the ~~above~~ following for inclusion in the package sent to Appeals Board members:
 - (i) copies of the Notice of Appeal or request for a variance form;
 - (ii) relevant contents of the Zoning Administrator's file, and/or other file(s) on the case;
 - (iii) other relevant correspondence, permits by other applicable enforcement agencies;
 - (iv) previous zoning permits and record of appeals board actions concerning the property in question; and
 - (v) anything else which is relevant.
 - B. ~~In addition to the above notice requirements, notice~~ 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. Nothing 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 or her 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~~ 30 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.~~

If any member of the Appeals Board has unapproved absences from three consecutive meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the City Council to remove any member of the Appeals Board for nonperformance of duty or misconduct of office, or both.

- B. When a petitioner or their agent 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 or his or her designee. 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 re-advertised 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 five days prior to such meeting and shall state the purpose, time, location of the meeting and shall be posted at the City Hall seven not more than fifteen (15)days/not less than five (5) 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.~~ Three (3) members shall constitute a quorum for the transaction of business and the taking of official action for all matters. Whenever a quorum is not present at a meeting, those present may adjourn the meeting to another day or hold the meeting for the purpose of considering such matters as are on the agenda. No action taken at such a meeting shall be final or official unless and until ratified and confirmed at a subsequent meeting when a quorum is present by acting to approve the minutes fo the meeting at which the quorum is not present.
- 4.6 Order of Business. Agenda. The ~~vice-chairman/secretary~~ 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.
 - 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.)~~
- F. Recess to another night as provided in Section 4.8 ~~4.9~~ of these rules of procedure (optional).
- G. Housekeeping Business. Approval of Minutes
- (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) Old Business
 - (3) Other business of the Appeals Board.
- I. Adjournment.

4.7 Speaking at Meetings. The following order shall be followed for speaking during meetings:

- A. 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.
- B. Members of the Appeals Board shall report on their site inspection and any conversations with the petitioner they may have had.
- C. Members of the public who support the petitioner speak and correspondence is read. At the chairman's option he may:
 - (i) 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.
 - (ii) 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.
- D. Members of the public who oppose the petitioner speak and correspondence is read. At the chairman's option he may:
 - (i) 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.
 - (ii) 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.
- E. 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.

4.7 8 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 9 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 10 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 11 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.

4.1+2 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.

Voting shall be by voice or shall be by roll call and each vote recorded in the minutes. Roll call votes shall only be done upon request of a member or by ruling of the Chairman. 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 Appeal Board casts their votes in favor of the motion. Members must be present to cast a vote.

4.13 Conflict of Interest. As used here a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:

- A. A member of the Appeals Board issuing, deliberating, voting or reviewing a case where he/she is:
 - (1) an applicant, or
 - (2) has a direct interest in the case, or
 - (3) chooses to intervene in a case and is done in such a manner that the appeals member feels, in his/her judgement, that his/her job, scope of duties and/or position may be a risk, pending the outcome of the permitting process.
- B. A member of the Appeals Board issuing, deliberating, voting or reviewing a case:
 - (1) 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, or

- (2) which is an action which results in a pecuniary benefit to himself, or
 - (3) concerning his spouse, children, step-child, grandchildren, parents, brother, sister, grandparents, parents in-law, grandparents in-law or member of his household.
- C. The Planning Commission Representative to the Appeals Board will abstain from any case where as a member of the Planning Commission he or she made a decision which resulted in the appeal.
- D. When a member of the Appeals Board determines a conflict of interest exists he or she shall do the following immediately:
- (1) notify staff and Chair to allow opportunity to contact an alternate member, and
 - (2) 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
 - (3) refrain from participating in the discussion, site inspection or review of the case, except where specific information has been requested by the commission, and
 - (4) refrain from casting a vote on any motion having to do with the case.

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 or her 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 a statement that the vote was unanimous.~~~~
- ~~(10) An indication that the person who made a motion withdraws it from consideration.~~
- ~~(11) An indication of all Chairman's rulings.~~
- ~~(12) The time of the start and end of each recess, and the time of adjournment, or motions for the same.~~
- ~~(13) The full text of any resolution introduced by motion.~~
- ~~(14) A summary of any announcements.~~
- ~~(15) An indication of informal actions (no vote or motion but general agreement).~~
- ~~(16) Time of final adjournment.~~
- ~~E. The records of any action on a case by the Zoning Administrator.~~
- ~~F. The records of all past records regarding the property involved in a case (previous permit, special use permit, variances, appeals).~~
- ~~G. Any relevant maps, drawings, photographs, presented as evidence at a hearing.~~
- ~~H. Copies of any correspondence received or sent out in regard to a case.~~
- ~~I. A copy of relevant sections, or a list of citations of sections of the zoning ordinance.~~
- ~~J. A copy of any follow-up correspondence to or from the petitioner regarding the decision.~~

5.3 2 Content/Retention. ~~The record of each meeting shall be kept on file, with a copy filed with the Manistee City Clerk. All the pertinent documents and minutes for each case before the Board of Appeals shall be copied and filed with the Zoning Administrator's office. Copies of the minutes shall be distributed to each member of the Appeals Board within ten days of the meeting. Copies of the minutes shall be available to the public within seven days of the meeting.~~

- A. The original minutes from the meeting shall be kept on file by the City Clerk.
- B. The following items will be placed into the property record file in the City Assessors office:
 - (1) The original request for a variance or notice of appeal, whichever is applicable, including any maps drawings, site plans or other information submitted by the applicant
 - (2) A copy of the meeting posting

- (3) A copy of the notice of publication to the newspaper
 - (4) A copy of the mailing list, and Affidavit of Mailing
 - (5) Copy of the minutes from the meeting
 - (6) Copy of any correspondence received or sent in regard to the case.
 - (7) A copy of any follow-up correspondence to or from the petitioner regarding the decision.
- C. The following items will be placed on file in the Zoning Administrators Office:
- (1) A copy of the meeting agenda
 - (2) A copy of the meeting minutes
 - (3) A copy of the memo sent to the members of the Appeals Board
 - (4) A copy of the variance or notice of appeal, whichever is applicable, including any maps drawings, site plans or other information submitted by the applicant
- D. Copies of the minutes shall be distributed to each member of the Appeals Board prior to their next meeting.
- E. A copy of the minutes shall be available to the public within seven days of the meeting by posting a copy in the lobby of City Hall.

Section 6.0 Per Diem and Mileage

Mileage and per diem may be paid to members of the Appeals Board at rates established by the Manistee City Council for attending Appeals Board meetings, and other authorized meetings and trips, if those members submit a bill for the same. Only mileage may be paid for attendance at site inspection meetings, if those members submit a bill for the same. No mileage or per diem is paid to any members unless authorized and budgeted by the Manistee City Council.

Section 7.0 Other Duties

The Appeals Board may also formulate and provide advice and may advise policy to the planning commission or any committee thereof, on issues dealing with administration, text, map and enforcement of the zoning ordinance.

Section 8.0 Adoption and Repeal

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.