

MANISTEE CITY
ZONING BOARD OF APPEALS
Organizational Meeting of September 16, 2010
5:30 p.m. - Council Chambers, City Hall, 70 Maple Street,
Manistee, Michigan

AGENDA

I CALL TO ORDER

II ROLL CALL

III APPROVAL OF AGENDA

At this time the Zoning Board of Appeals can take action to approve the September 16, 2010 Agenda.

IV APPROVAL OF MINUTES

At this time Zoning Board of Appeals can take action to approve the March 18, 2010 meeting Minutes.

V PUBLIC HEARING

Daniel & Deborah Green, 300 Spruce Street - Variance to front yard set-back

Daniel & Deborah Green, own the home at 300 Spruce Street. The property is a corner lot with frontage on both Spruce Street and Third Street. Third Street is undeveloped, and is where a reduction in the front yard set-back from 15 feet to 8 feet is requested to construct a 24' x 24' attached garage.

At this time the Chair will open the public hearing

The Applicant shall be asked to present their case to the Zoning Board of Appeals.

City Staff and any Consultants serving the City will present their reports

The Hearing will be opened for Public Comments

The Public Hearing will be closed.

VI BUSINESS SESSION:

Action on Pending Cases

Daniel & Deborah Green, 300 Spruce Street - Variance to front yard set-back

After the Public Hearing is Closed the Zoning Board of Appeals can take action on the request from Daniel & Deborah Green, 300 Spruce Street for a variance to reduce the front yard set-back on Third Street (undeveloped) from 15 feet to 8 feet to construct a 24' x 24' attached garage.

At this time the Zoning Board of Appeals could take action to approve/deny/approve with conditions the variance request from Daniel & Deborah Green, 300 Spruce Street to reduce the front yard set-back from 15 feet to 8 feet on Third Street to construct a 24' x 24' attached garage.

Old Business

Other Business of the Appeals Board

Misc.

VII PUBLIC COMMENTS AND COMMUNICATIONS

At this time the Chair will ask if there are any public comments.

VIII ADJOURNMENT



PLANNING AND ZONING
COMMUNITY DEVELOPMENT
231.398.2805
FAX 231.723-1546
www.ci.manistee.mi.us

MEMORANDUM

TO: Zoning Board of Appeals Members
FROM: Denise Blakeslee 
DATE: August 26, 2010
RE: September 16, 2010 Meeting

Good Morning! We have scheduled a meeting for 5:30 p.m. on Thursday, September 16, 2010 in the Council Chambers at City Hall.

We have one item on the Agenda as follows:

Daniel & Deborah Green, 300 Spruce Street - Variance to front yard set-back

Daniel & Deborah Green, own the home at 300 Spruce Street. The property is a corner lot with frontage on both Spruce Street and Third Street. Third Street is undeveloped, and is where a reduction in the front yard set-back from 15 feet to 8 feet is requested to construct a 24' x 24' attached garage.

If you have any questions, or are unable to attend the meeting please call me at 398-2805.

:djb



REQUEST FOR APPEAL
 CITY OF MANISTEE
 ZONING BOARD OF APPEALS

Name: Daniel and Deborah Green
 Address: 300 Spruce St
 City, State, Zip Code: Manistee, MI 49660
 Phone Numbers: (work) 398 6802 (home) 906 940 0645
 Agent Name & Phone Number if applicable: N/A

FEE FOR APPEAL \$500.00

OFFICE USE ONLY

Appeal Number: ZBA 2010- Date Received: 8.23.10
 Receipt Number/Fee Amt: 500/2217 Hearing Date: _____
 Zoning District for Property: R-2 Parcel Code Number: 51-364-720-01

Type of Request:

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

PLEASE NOTE: All questions must be answered. Incomplete applications will be returned to be completed before processing. If additional space is needed, number and attach additional sheets.

State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Board of Appeals:

Attached garage which would encroach on setback - see Attachment #1

PROPERTY INFORMATION:

Tax Roll Parcel Code # 51-51- _____

Property Address: 300 Spruce St. Manistee MI

Names & Addresses of all other persons, firms or corporations having a legal or equitable interest in the land. None

Present use of parcel: Single Family residence

List of all deed restrictions (attache additional sheets if necessary): None

Has a previous appeal been made with respect to this property? Yes No

If a previous appeal, re-zoning or special use permit application was made state the date, nature of action requested and the decision: _____

DETAILED REQUEST AND JUSTIFICATION:

Please identify each requested variance:

		Required by Zoning	Requested by Appellant
<input checked="" type="checkbox"/>	Front-Yard Set-Back (corner lot)	from <u>15 ft</u>	to <u>8 ft</u>
<input type="checkbox"/>	Side-Yard Set-Back	from _____	to _____
<input type="checkbox"/>	Side-Yard Set-Back	from _____	to _____
<input type="checkbox"/>	Rear-Yard Set-Back	from _____	to _____
<input type="checkbox"/>	Waterfront Set-Back	from _____	to _____
<input type="checkbox"/>	Height	from _____	to _____
<input type="checkbox"/>	Area Requirements	from _____	to _____
<input type="checkbox"/>	Off-street Parking	from _____	to _____
<input type="checkbox"/>	Other	_____	_____

Please mark all characteristics of your property which require the granting of a variance.

		Dimensional information
<input checked="" type="checkbox"/>	Too Narrow	<u>See attached</u>
<input type="checkbox"/>	Too Small	_____
<input type="checkbox"/>	Too Shallow	_____
<input type="checkbox"/>	Elevation (height)	_____
<input checked="" type="checkbox"/>	Slope	<u>See Attached</u>
<input checked="" type="checkbox"/>	Shape	<u>See Attached</u>
<input type="checkbox"/>	Soil	_____
<input type="checkbox"/>	Subsurface	_____
<input type="checkbox"/>	Other (Specify)	_____

Variations. The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height regulations, yard and depth regulations, and off-street parking and loading space requirements provided it finds that all of the Basic Conditions and any one (1) of the Specific Conditions set forth herein can be satisfied. The appellant shall submit, along with the established fee and other materials, a narrative demonstrating why a variance is sought.

1. Basic Conditions. The Board shall find that a variance request meets all of the following conditions.
 - a. The requested variance shall not be contrary to the public interest or to the intent and purpose of this Ordinance.
 Yes No
 - b. The requested variance shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a special land use permit is required.
 Yes No
 - c. The requested variance shall not cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located.
 Yes No
 - d. The conditions or situations which necessitate the requested variance is not so general or of such recurrent nature as to make the formulation of a general regulation for such conditions reasonably practical.
 Yes No
 - e. The requested variance shall relate only to property that is under control of the applicant.
 Yes No
 - f. The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.
 Yes No

g. There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.

Yes No

h. The requested variance is the minimum variance that will make possible the reasonable use of the land.

Yes No

2. Special Conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

a. Where there are practical difficulties which prevent full compliance with the requirements of this Ordinance. Such practical difficulties shall be evaluated in terms of the use of a particular parcel of land. Neither the fact that the appellant could: (a) incur additional costs to achieve full compliance, or (b) receive additional income with less than full compliance shall be determined a practical difficulty for the purposes of this paragraph.

Yes No

Justification: See Attached #2

b. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district.

Yes No

Justification: See Attached #2

c. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

Yes No

Justification: The requested variance is a preferred alternative to abandonment of Third Street due to occasional use by other property owners.

3. Rules. The following rules shall be applied in the granting of variances:

a. The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.

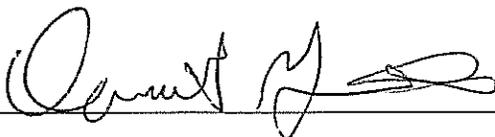
b. Each variance granted under the provisions of this Ordinance shall become null and void unless: The construction authorized by such variance has received a City zoning permit within one (1) year after the granting of the variance; and the occupancy of land, premises, or buildings authorized

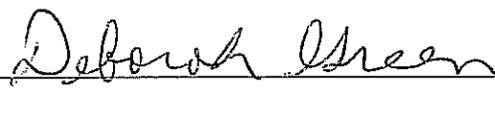
by the variance has taken place within one (1) year after the granting of the variance, unless an extension of time has been granted by the Zoning Board of Appeals.

- c. No application for a variance which has been denied wholly or in part by the Board shall be re-submitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence of changed conditions found, upon inspection by the Board, to be valid. For such newly discovered evidence to be considered, an applicant shall submit a detailed description of such evidence to the Zoning Administrator who shall place it on the agenda of the Zoning Board of Appeals along with a report and recommendation on the nature of such newly discovered evidence and whether it may have been pertinent to the decision of the Zoning Board of Appeals. If the Zoning Board of Appeals determines that the newly discovered evidence would have been pertinent to its decision, it shall direct the Zoning Administrator to accept a new application for the previously denied variance. An application considered under the terms of this subparagraph shall be considered a new application and shall be subject to all hearing, notice and fee requirements of this Ordinance.

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. By signing this affidavit permission is given for Zoning Board of Appeals Members to make a site inspection if necessary.

Signature  Date 8/19/10

Signature  Date 8/17/10

Representation at the Public Hearing by either the applicant or agent is encouraged.

July 2008

Supplemental Statement for Application for Variance

1. State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Board of Appeals:

We intend to construct a 24 by 24 attached garage on the north side of the existing house at 300 Spruce Street, which will encroach upon the 15 foot setback for the Third Street ROW. Third Street at this location is an unopened right-of-way leading into the ravine area between Spruce and Elm Streets. The encroachment will be less than 7 feet, leaving at least an 8 foot setback from the Third Street right of way line. 300 Spruce Street is technically a corner lot, principally fronting on Spruce Street with the Third Street right of way as an undeveloped side street to the north. Property to the north and west is undeveloped ravine.

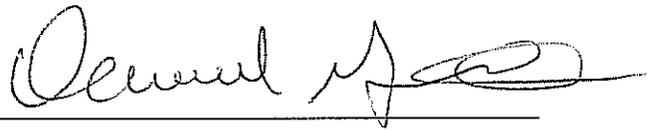
The attached garage is part of a general upgrading and remodeling project which will bring an abandoned and deteriorating structure up to be our permanent retirement residence. An attached garage is a necessary part of our plans for a year- round retirement home.

2. Attached is a drawing which shows the general plan of the existing lot and the planned improvement, demonstrating our reasons for requesting a variance. Note the following:

- a. The general topography of the area slopes from the south down toward the north and west, and drops off sharply on the north and west property lines. Our lot has been substantially filled at some time in the past, and lies above the Third Street right of way, and the adjoining lots to the west and north.
- b. Third Street at Spruce is unlikely to be opened as a thru street because the slope would be too steep, but has not been abandoned because some property owners use it for occasional access to the rear portions of their property. The area served by the right of way is unsuitable for development because of topography and drainage issues of the ravine. During heavy rain storms, substantial flow and erosion occurs in the ravine area.
- c. The proposed location of the garage on the north side of the residence would not interfere with any use of the Third Street right-of-way, since our lot is already substantially above the existing right of way grade. At the location where the garage would be located, our lot is approximately 8 feet above the Third Street grade.
- d. An attached garage on the west side is prevented by the existing roof slope of the house and is incompatible with the existing floor plan. A detached garage in the backyard area does not further our purpose of a retirement

home with ease of access and limited snow issues. Also, we have been told by a former owner, Ms. Hull, that spring runoff and heavy rains flow from Spruce Street across south of the house, across the back yard into the ravine area.

- e. The garage cannot be conveniently located on the South side of the existing building due to the shape and slope of the lot. That location would require excavation close to the property line which could impact an unstable neighboring building and the retaining wall. The south side is wet and has surface flow during heavy rains. Locating the garage to the south is also incompatible with the existing floor plan of the house.
- f. The proposed site has an existing curb cut serving our lot from Spruce Street, which would serve the proposed garage.
- g. The requested variance is a preferred alternative to abandonment of Third Street, due to its occasional use by neighbors for access to the rear of their properties.
- h. The north property line of the property was located for us by Abonmarche surveyors. The proposed garage location would allow at least an 8 foot setback from the line.



Daniel Green
300 Spruce Street
Manistee, MI 49660

Retaining Wall

Drop Off to
Third Street ROW

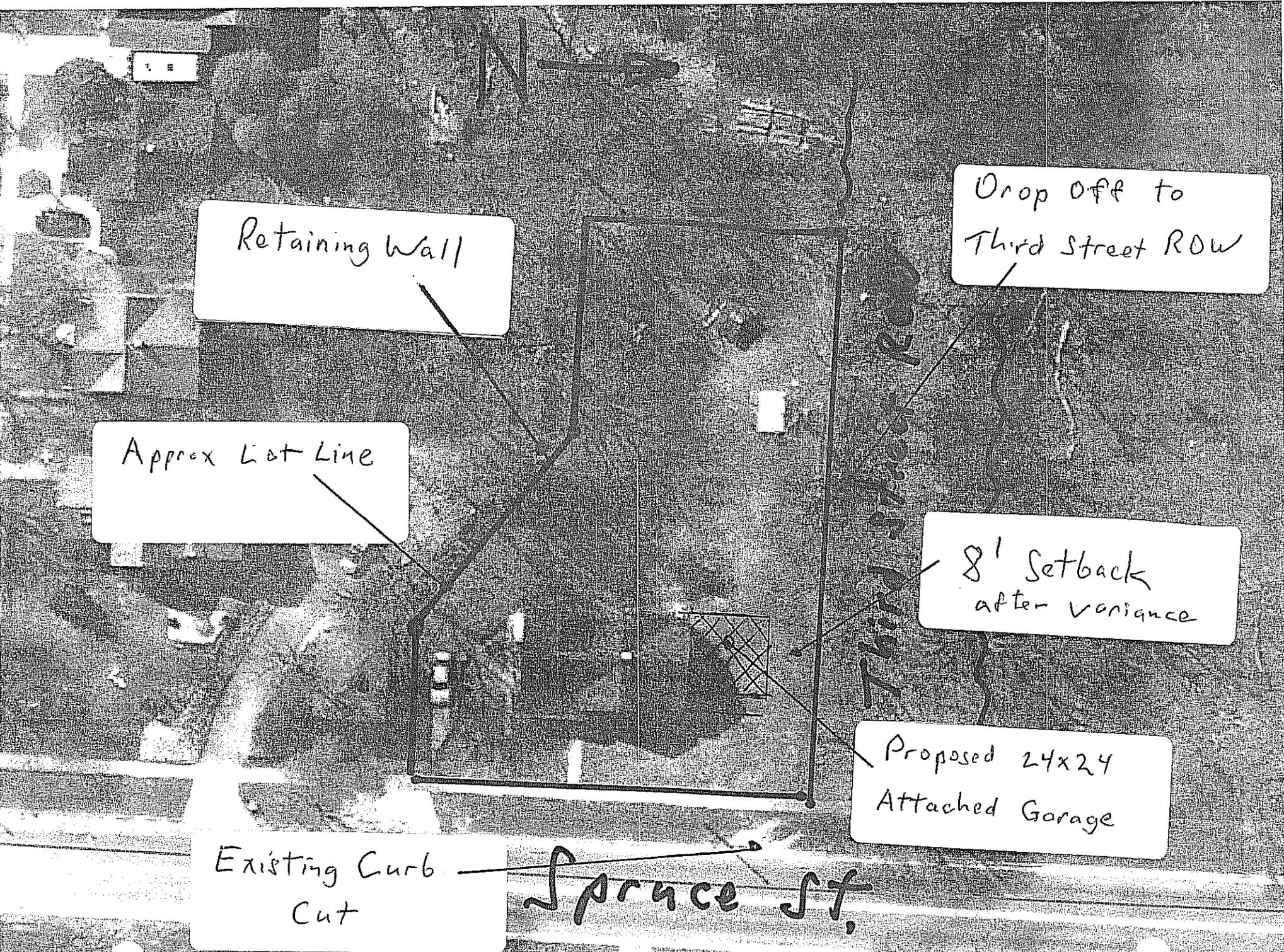
Approx Lot Line

8' Setback
after variance

Proposed 24x24
Attached Garage

Existing Curb
Cut

Spruce St.



8/30/10

Jon Rose
Community Development
City of Manistee
P. O. Box 358
Manistee, Mi. 49660

Re: 300 Spruce St.; Request for side yard pet-back
Variance for a garage addition.

I have no problem with the
proposed addition of a garage
to the property located at 300
Spruce St. Go For It! Thanks
for adding value to Spruce
Street Hill!

Mary Kowalski Wilhelm,
owner
478 Fourth St.
Manistee

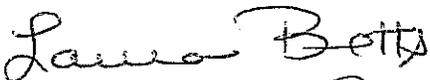
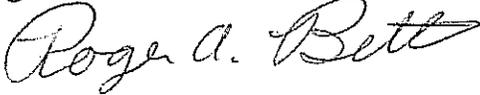
September 6, 2010

Dear Mr. Rose,

We are writing in response to the Zoning Variance Notice we received in reference to 300 Spruce Street. We fully support the plan for an attached garage to be added to the house at 300 Spruce Street.

The addition of an attached garage will enhance the property, thus raising its value and in turn enhance the neighborhood. The portion of Third Street in question will, in all likelihood, never be developed so to make productive use of the land is in the community's best interest.

Sincerely,

Laura and Roger Betts
469 Third Street
Manistee, MI