

**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, September 26, 2002 at 5:30 p.m. in the Council Chambers, 70 Maple Street, Manistee, Michigan.

AGENDA

- I. Roll Call

- II Public Hearing:
 - 1. Bison Construction, L.L.C., Lot 18 Industrial Park
 - 2. Danny Barch, 217 Tenth Street
 - 3. Brian Seiferlein, vacant property/U.S. 31 between Taylor & Lincoln Streets
 - 4. Manistee County Convention & Visitors Bureau, 310 First Street
 - 5.

- III Business Session:
 - A. Approval of Minutes (5/23/02)
 - B. Unfinished Business:
 - 1. Bison Construction, L.L.C., Lot 18 Industrial Park
 - 2. Danny Barch, 217 Tenth Street
 - 3. Brian Seiferlein, vacant property/U.S. 31 between Taylor & Lincoln Streets
 - 4. Manistee County Convention & Visitors Bureau, 310 First Street
 - 5.

 - C. Other Business:
 - 1. Review By-Laws
 - 2.

- IV Questions, Concerns of Citizens in Attendance

- V. Adjournment

cc: Zoning Board of Appeals Members
Bruce Gockerman, City Attorney
Jon R. Rose, Community Development
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 *M.W.N.*

DATE: September 13, 2002

RE: Zoning Board of Appeals Meeting, September 26, 2002

We will hold a Zoning Board of Appeals Meeting on Thursday, September 26, 2002 at 5:30 p.m. in the Council Chambers. The meeting is being held in response to the following request:

1. Bison Construction L.L.C., Lot 18 Industrial Park. Greg Ferguson is the owner of Bison Construction and he has recently entered into a purchase agreement with City Council to purchase Lot 18 in the Industrial Park. Mr. Ferguson was granted a Special Use Permit from the City of Manistee Planning Commission on September 5, 2002 to establish a fixed place of business engaged in the construction of new work, additions, alterations, repairs and other maintenance services. A Site Plan Review of the proposed building shows that the building area requirement of 4,000 sq. ft. has not been met. All of the other requirements of the ordinance have been met. Mr. Ferguson is requesting *a variance to reduce the building area requirements in the I-1 Zoning District from 4,000 sq. ft. to 2,880 sq. ft.* Enclosed is a copy of the request for your review.
2. Danny Barch, 217 Tenth Street. Mr. Barch lives at 217 Tenth Street and recently demolished an old detached garage 12' x 20' that was located on his property. Mr. Barch would like to construct a new detached garage 24' x 24'. Mr. Barch is asking for *a variance to the reduce the side-yard set-back from 3 feet to 16 inches AND a variance to the rear-yard set-back from 3 feet to 1 foot.* Enclosed is a copy of the request for your review.
3. Brian Seiferlein, Vacant Property/U.S. 31 between Taylor Street and Lincoln Street. Mr. Seiferlein recently purchased three lots on U.S. 31 between Taylor and Lincoln Street. Mr. Seiferlein intends to build a carwash at this location. There are currently five driveways onto the parcel. Two of the driveways are on Taylor Street and three driveways are on U.S. 31. The proposed plan would improve two of the driveways and eliminate the other three. Mr. Seiferlein is requesting a variance to allow an *increase in the driveway width regulation for an entrance/exit from 35 feet to 40 feet* for a three lane driveway to U.S. 31. Enclosed is a copy of the request for your review.

(Continued)

4. Enclosed is a copy of the Zoning Board of Appeals By-Laws. Chairman John Perschbacher had requested a review of the By-Laws be done. Staff has reviewed the existing By-Laws and some suggestions (for discussion purposes are included). Areas in ~~strikeout~~ are original language that could be replaced by the language that is **highlighted in yellow**. Please take time to review the By-Laws and we will discuss the update at the meeting.

We still have one application for a variance out at this time. If the variance is returned in time we will add it to the agenda and send the information to you. If you are unable to attend the meeting please call Denise at 723-2558. See you at the meeting.

MWN:djb

MEMORANDUM

TO: Zoning Board of Appeals Members

FROM: Mark W. Niesen
Building Inspector *M.W.N.*

DATE: September 17, 2002

RE: Zoning Board of Appeals Meeting, September 26, 2002

We have received another request for a Zoning Variance that has been added to the Agenda for the September 26, 2002 meeting. The request is as follows:

Manistee County Convention and Visitors Bureau, 310 First Street. The Manistee County Convention and Visitors Bureau (MCCVB) has purchased the vacant gas station located on the Corner of First Street and U.S. 31. Their plans are to renovate the existing building into a Visitors Bureau. The existing building is located on the rear of the parcel and site plan review of the project shows proposed parking within the front-yard set-back. The C-1 Zoning District prohibits parking in the front-yard set-back. This has resulted in the request from MCCVB for a variance to the requirements in the C-1 Zoning District to allow parking within the front-yard set-back. A copy of the application is enclosed for your review.

Please bring your calendars with you to the meeting. In the event we do not have enough time to review the By-Laws we will schedule another meeting for that discussion. See you at the meeting!

MWN:djb

REQUEST FOR APPEAL

CITY OF MANISTEE
ZONING BOARD OF APPEALS

Bison Construction Co. LLC

Name

207 SAINT MARYS PARKWAY

Address

MANISTEE, MI. 49660

City, State and Zip Code

Phone Numbers (Work) 590-5311

(Home) 398-9001

FOR OFFICE USE ONLY

Appeal Number 2003-06

Date Received 9-10-03

Tax Parcel Number 155-018-00

Fee Received (Amt & Date) \$250.00 9-10-03

Receipt Number 1279

Hearing Date 9-20-03

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
- Variance
- Appeal from Administrative Decision
- Other Authorized Review

II. PROPERTY INFORMATION:

A. Legal description of property affected by this appeal: _____

Tax Roll Parcel Code #: 155-018-00

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

C. Names and addresses of all other persons, firms or corporations having a legal or equitable interest in the land: CITY OF MANISTEE

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

E. Present use of property is: VACANT

F. Present zoning district classification of the property is: I1

G. A previous appeal (has/has not) been made with respect to these premises in the last SEVERAL 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 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 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 checked="" type="checkbox"/> Other <u>MIN. BLDG SIZE.</u> |

2. State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Ordinance. ESTABLISH A FIX PLACE OF BUSINESS FOR CONSTRUCTION OF NEW WORK, REPAIRS, ALTERATION AND OTHER MAINTENANCE SERVICES

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 checked="" type="checkbox"/> Other (Specify) |

ILL. MIN. BLDG SIZE OF 4000 SQ. FT.
PROPOSED BLDG SIZE OF 2880 SQ. FT.

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

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

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

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 SHAPE OF LOT, # OF EASEMENTS, LOCATION IN RESPECT OF THE RESIDENTIAL NEIGHBORHOOD TO THE WEST

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. THIS PROJECT HAS THE SUPPORT OF CITY COUNSEL & CITY PLANNING COMM.

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

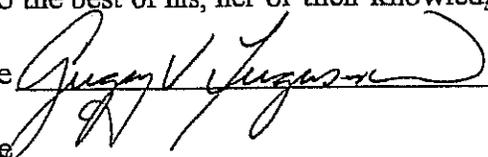
If your request is granted:

A. What are likely to be the positive and negative impacts of this decision on the surrounding land and neighbors? THE Proposed BUDg, IS Designed to Soften the transition From Industry to Residential

B. How do you propose to minimize any potential negative impacts which your proposed activity may cause? LAND SCAPING, (TREES & GREEN AREAS

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 9-9-02

Signature _____

Date _____

SITE PLAN REVIEW

NAME: Bison Construction L.L.C.
 207 St. Mary's Parkway
 Manistee, MI 49660

PROPOSED USE: Construction/Maintenance
 ZONING DISTRICT: I-1

PARCEL CODE:

USE IS: Permitted
 Special
 Not Permitted

BULK REGULATIONS

	REQUIRED BY ZONING	PROPOSED IN PLAN	COMPLIANCE	
			YES	NO
PARCEL SIZE:	12,000 sq. ft.	>12,000 sq. ft.	X	<input type="checkbox"/>
STREET FRONTAGE:	120 ft.	>120 ft.	X	<input type="checkbox"/>
SETBACKS				
FRONT YARD	25 ft.	84 ft.	X	<input type="checkbox"/>
SIDE YARD	10 ft.	50 ft.	X	<input type="checkbox"/>
REAR YARD	10 ft.	27 ft.	X	<input type="checkbox"/>
WATERFRONT	n/a	n/a	X	<input type="checkbox"/>
HEIGHT:	30 ft.	27 ft.	X	<input type="checkbox"/>
PARKING:	Less than 20	20	X	<input type="checkbox"/>
BUILDING AREA:	4,000 sq. ft.	2,880 sq. ft.	<input type="checkbox"/>	X

SPECIAL DISTRICTS

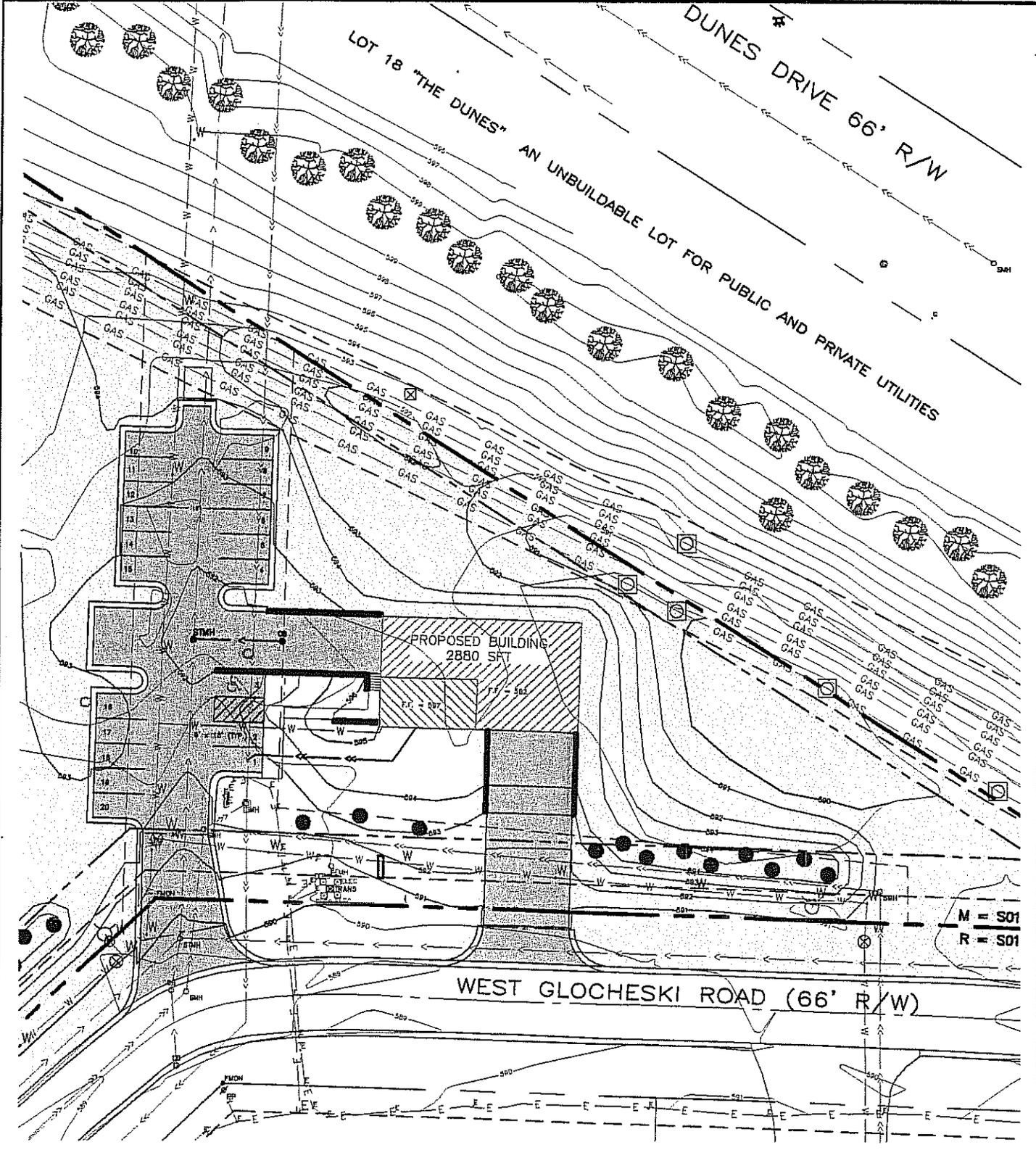
	APPLIES?		APPROVED?	
	YES	NO	YES	NO
HISTORIC OVERLAY:	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
HIGH RISK EROSION:	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
FLOOD PLAIN:	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
SOIL EROSION:	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>

OTHER:

REVIEWED BY: Dj

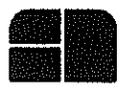
APPROVED BY: R

DATE: August 30, 2002



PRELIMINARY SITE PLAN - Lot 18, Manistee Industrial Park

Bison Construction Co., LLC - 207 St. Mary's Pkwy. - Manistee, MI 49660 SCALE: 1" = 50'

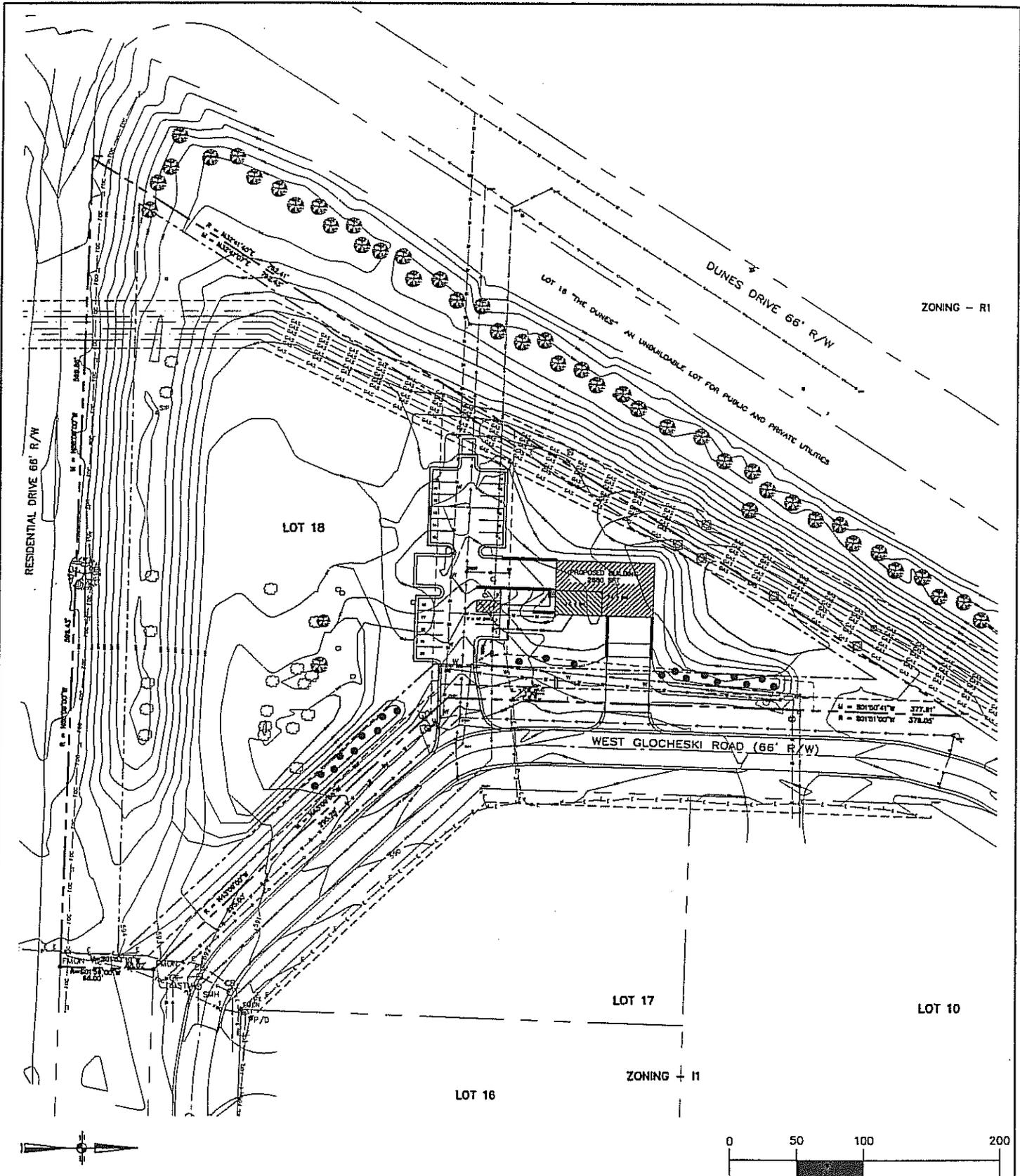


ABONMARCHE CONSULTANTS, INC.

361 FIRST STREET • MANISTEE, MI 49660 • 231.723.1198 • FAX 231.723.1194
 BENTON HARBOR, MI • GRAND HAVEN, MI • SOUTH BEND, IN • FORT WAYNE, IN

JOB NO. M20819SIT

SHT. 1 OF 2



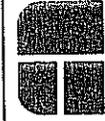
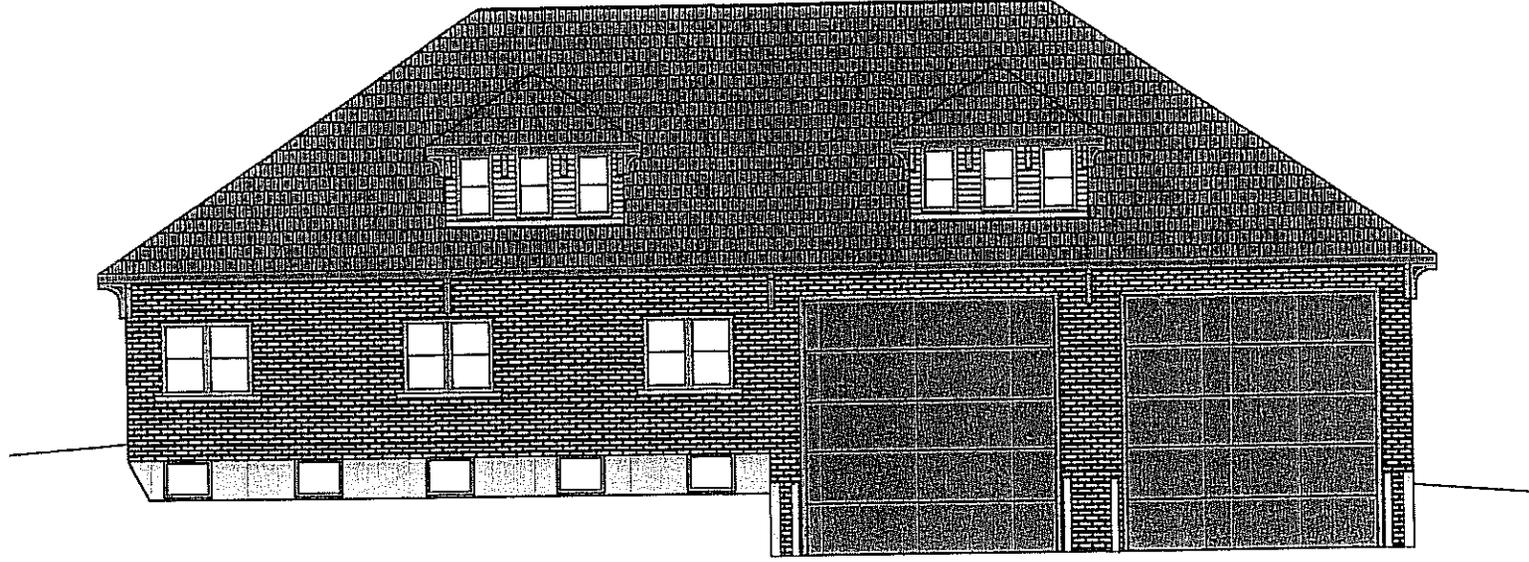
PRELIMINARY SITE PLAN - Lot 18, Manistee Industrial Park
 Bison Construction Co., LLC - 207 St. Mary's Pkwy. - Manistee, MI 49660 SCALE: 1" = 100'



ABONMARCHE CONSULTANTS, INC.
 361 FIRST STREET • MANISTEE, MI 49660 • 231.723.1198 • FAX 231.723.1194
 BENTON HARBOR, MI • GRAND HAVEN, MI • SOUTH BEND, IN • FORT WAYNE, IN

JOB NO.	M20819SIT
SHT.	2 OF 2

EAST ELEVATION



ABONMARCHE CONSULTANTS, INC.
361 1st Street
Manistee, Michigan 49660
P: 231.723.1169 F: 231.723.1194
E: info@abonmarche.com
Berrien, Branch, Calhoun, Charlevoix,
Grand Haven, Michigan
South Haven, Indiana
Port Wayne, Indiana

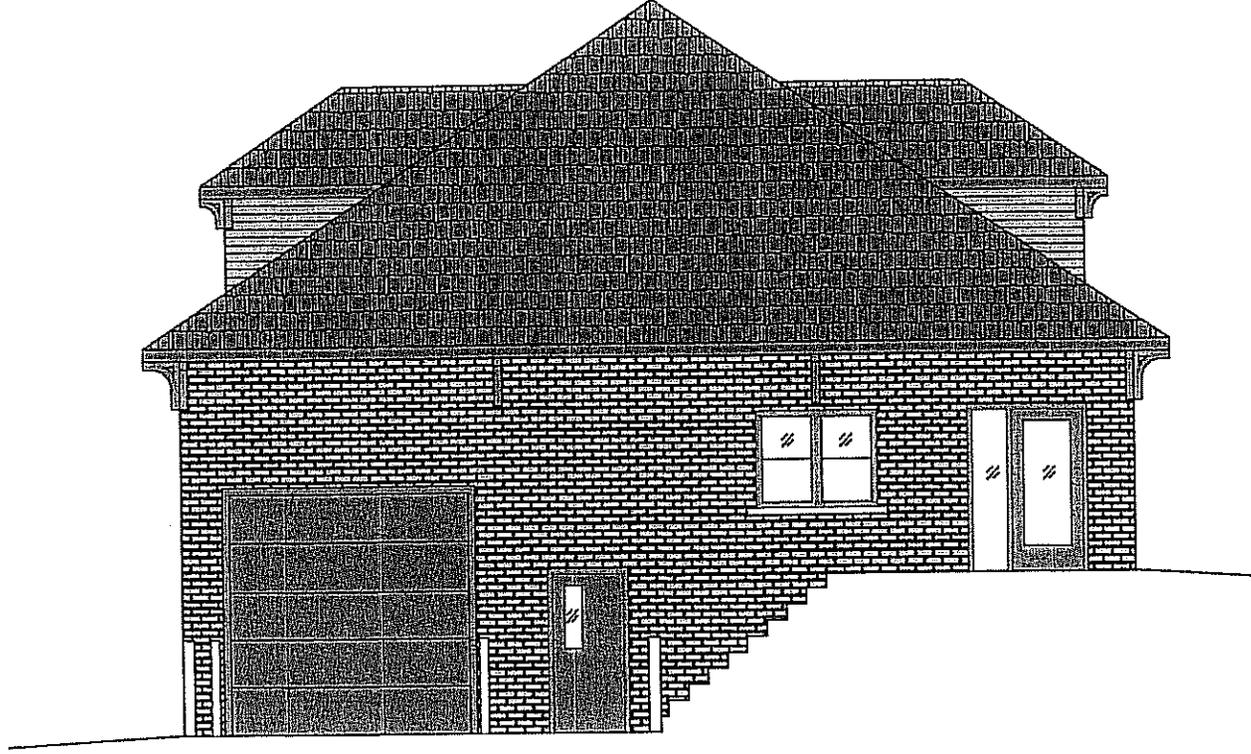
ENGINEERS / ARCHITECTS / PLANNERS / SURVEYORS

08/02
CIS

PROPOSED ELEVATIONS
BISON CONSTRUCTION CO.
MANISTEE, MI 49660

SHEET
A2.1

SOUTH ELEVATION



ABONMARCHE CONSULTANTS, INC.
361 1st Street
Manistee, Michigan 49660
P: 231.723.1196 F: 231.723.1194
E: man@abonmarche.com

Brandon Hansen, Michigan
Cecil Howell, Michigan
South Howard, Indiana
Frost Wayne, Kentucky

ENGINEERS / ARCHITECTS / PLANNERS / SURVEYORS

08/02
CL5

PROPOSED ELEVATIONS
BISON CONSTRUCTION CO.
MANISTEE, MI 49660

SHEET
A2.2

REQUEST FOR APPEAL

CITY OF MANISTEE
ZONING BOARD OF APPEALS

DANNY BARC H
Name

217 10TH ST.
Address

MANISTEE MI. 49660-3165
City, State and Zip Code

Phone Numbers (Work) _____
(Home) (231) 723-6679

FOR OFFICE USE ONLY

Appeal Number 2002-07
Date Received 9-11-02
Tax Parcel Number 51-51-748-746-02
Fee Received (Amt & Date) \$250.00 9-11-02
Receipt Number 1301
Hearing Date 9-26-02
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
- Variance
- Appeal from Administrative Decision
- Other Authorized Review

II. PROPERTY INFORMATION:

A. Legal description of property affected by this appeal: FREE LAND E 1/2 Lot
7 Block 25 P. ADDR 217 10TH ST.

Tax Roll Parcel Code#: 51-51-748-746-02

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

C. Names and addresses of all other persons, firms or corporations having a legal or equitable interest in the land: NONE

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

E. Present use of property is: RESIDENTIAL HOME

F. Present zoning district classification of the property is: 400-RESIDENTIAL

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 the property described in the application.
- (B) The provision 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 type="checkbox"/> Off-street Parking |
| <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Placement | <input checked="" 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. BUILD A GARAGE

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 checked="" 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) |

LOT SIZE 69.35 wide x 62.33' DEEP.
THE NEW GARAGE WOULD BLOCK THE VIEW
FROM THE LIVING ROOM WITHOUT THE
SET BACKS

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 VIEW FROM THE Living Room
would be Blocked By THE GARAGE Reef.

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? I WOULD NOT BE ABLE TO BUILD
THE GARAGE I PLANNED ON BUILDING.

e. Is the variance applied for due to unique circumstances presented on your property or to the general conditions in the area? yes no

If yes, explain any peculiar or unique conditions, and how many other properties in your area are similarly affected _____

f. Would granting the variance change the essential character of the area?

yes no. If yes, how? _____

g. Would granting the variance be contrary to any county development plans?

yes no. or to any local government development plans?

yes no. Explain _____

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

i. Other Comments in support of the application. _____

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

Specify decision sought: _____

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

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

IV. IMPACT ON SURROUNDING LANDS

If your request is granted:

- A. What are likely to be the positive and negative impacts of this decision on the surrounding land and neighbors? A NEW GARAGE WOULD MAKE A POSITIVE IMPACT. AS FAR AS I KNOW THERE WOULD BE NO NEGATIVE IMPACTS ON THE AREA.
- B. How do you propose to minimize any potential negative impacts which your proposed activity may cause? A NEW GARAGE WOULD NOT HAVE ANY NEGATIVE IMPACT ON MY NEIGHBORS

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.

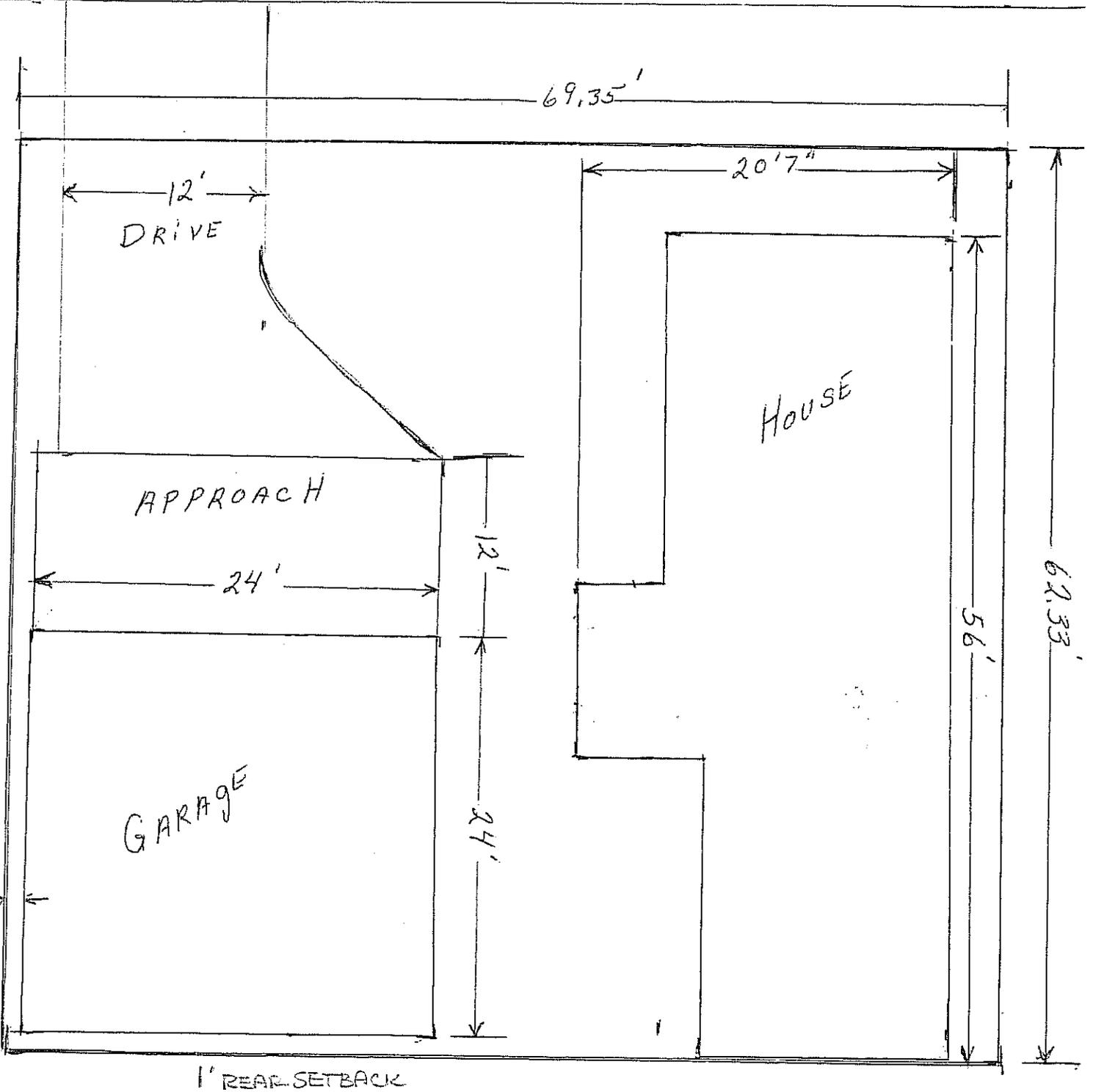
Signature Danny Barch

Date _____

Signature _____

Date _____

10TH ST



LOT SIZE 69.35' WIDE X 62.33' DEEP

SCALE 1" = 10'

IT IS 70' TO MARTON'S SIDE LINE

REQUEST FOR APPEAL
CITY OF MANISTEE
ZONING BOARD OF APPEALS

BRIAN SEIFERLEIN

Name

2221 OLD LANE

Address

WATERFORD, MI 48327

City, State and Zip Code

Phone Numbers (Work) _____

(Home) (248) 673-9865

FOR OFFICE USE ONLY

Appeal Number 2008-08

Date Received 9-13-02

Tax Parcel Number _____

Fee Received (Amt & Date) \$250.00 9-13-02

Receipt Number 1315

Hearing Date 9-26-02

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: SEE ATTACHED

SURVEY
Tax Roll Parcel Code#: _____

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: _____

E. Present use of property is: VACANT

F. Present zoning district classification of the property is: C4

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

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- (A) The _____ of district boundaries on the _____ Zoning District map as applied to the 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 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 checked="" type="checkbox"/> Other <u>DRIVEWAY</u> |

2. State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Ordinance. SAFE INGRESS/EGRESS FROM/ ONTO US31

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 checked="" type="checkbox"/> Other (Specify) |

THE US31 ENTRANCE IS PROPOSED AT 40 FEET TO SAFELY ALLOW A 16 FT ENTRANCE LANE, ALONG WITH A 12 FT LEFT TURN LANE AND A 12 FT RIGHT TURN LANE.

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? HOWEVER, REDUCED WIDTH WILL REDUCE THE SAFETY FACTOR

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 MEMORIAL BRIDGE ALIGNMENT

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? SEE 4. a.

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 THE PROXIMITY TO THE US31/TAYLOR/MEMORIAL DRIVE INTERSECTION, CREATES UNIQUE TRAFFIC DIFFICULTIES

f. Would granting the variance change the essential character of the area?

yes no. If yes, how? OTHER THAN IMPROVE SAFETY

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. THERE ARE CURRENTLY FIVE DRIVEWAYS ON TO THE PARCEL, TWO ALONG TAYLOR AND THREE ALONG US31. WE PROPOSED

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? WE FEEL THE ADDITIONAL 5 FOOT WIDTH WILL HAVE NO NEGATIVE IMPACTS, AND HAVE POSITIVE IMPACTS WITH REGARDS TO TRAFFIC FLOW
- B. How do you propose to minimize any potential negative impacts which your proposed activity may cause? THERE ARE NO NEGATIVE IMPACTS

V. AFFIDAVIT

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

Signature [Handwritten Signature]

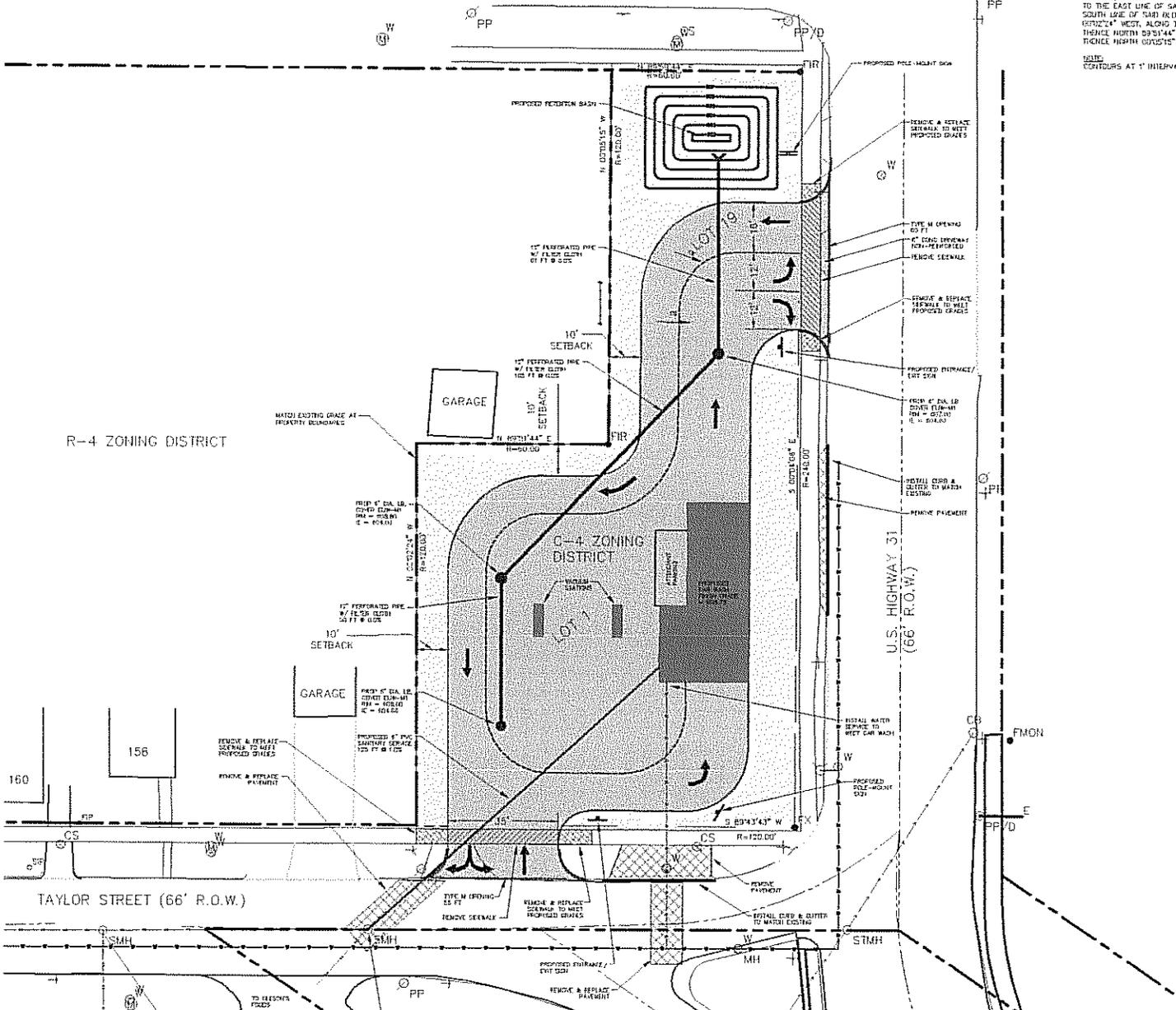
Date 9/13/2

Signature ON BEHALF OF BRINN SEEFOLLETH

Date _____

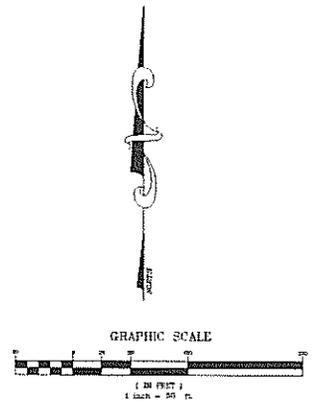
LINCOLN STREET (66' R.O.W.)

SMH



LEGAL DESCRIPTION:
 A PARCEL OF LAND IN THE PLAT OF ENGELMANN'S ADDITION AND IN SECTION 1, TOWNSHIP 23 NORTH, RANGE 17 WEST, CITY OF MANISTEE, MANISTEE COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF LOT 19, BLOCK B, ENGELMANN'S ADDITION; THENCE NORTH 89°24'44" EAST, ALONG THE NORTH LINE OF SAID LOT 19, 60.00 FEET, TO THE EAST LINE OF SAID BLOCK; THENCE SOUTH 89°14'43" WEST, ALONG SAID EAST LINE 239.25 FEET, TO THE SOUTH LINE OF SAID BLOCK; THENCE SOUTH 89°14'43" WEST, ALONG SAID SOUTH LINE, 120.14 FEET, THENCE NORTH 89°24'44" WEST, ALONG THE WEST LINE OF LOT 1, BLOCK B, 110.89 FEET, TO THE SOUTH LINE OF LOT 19, BLOCK B; THENCE NORTH 89°14'43" EAST, ALONG SAID SOUTH LINE 60.04 FEET, TO THE WEST LINE OF SAID LOT 19, BLOCK B; THENCE NORTH 00°00'00" WEST, ALONG SAID WEST LINE 119.75 FEET TO THE POINT OF BEGINNING.

NOTE:
 CONTOURS AT 1' INTERVALS



NO.	REVISION DESCRIPTION	BY	DATE
BRIAN SEIFERLEH 2321 OLD LAND WATERFORD, MI 48327			
ABONMARCHÉ CONSULTANTS, INC. <small>181 First Street Manistee, Michigan 231-223-1159 Fax 231-223-1158</small>			
<small>ARCHITECTS / ENGINEERS / SURVEYORS / PLANNERS</small>			
DRAWING TITLE PRELIMINARY SITE PLAN			
<small>SCALE: VERTICAL: NA HORIZONTAL: 1" = 50'</small>	SHEET <div style="font-size: 2em; text-align: center;">1</div>		
<small>DATE: SEPTEMBER 2002 PLOTTED: 11 DRAWN: THAMES APPROVED: RSJ JOB NO. M0272501</small>	<small>OF 1 SHEETS</small>		

REQUEST FOR APPEAL

CITY OF MANISTEE
ZONING BOARD OF APPEALS

Fred MacDonald - MCCVB Director

Name

PO Box 13

Address

Manistee

City, State and Zip Code

Phone Numbers (Work) 231 723 7975

(Home) Same

FOR OFFICE USE ONLY

Appeal Number 2002-09

Date Received 9-17-02

Tax Parcel Number 51-51-448-726-03

Fee Received (Amt & Date) \$250.00 9-17-02

Receipt Number _____

Hearing Date 9-20-02

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 Attachment #1

Tax Roll Parcel Code #: 51-51-448-726-03-310 1st St

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: _____

E. Present use of property is: Abandoned

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 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 property described in the application.
- (B) The provision 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 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. RENOVATION OF CURRENT BUILDING AS A VISITOR CENTER. REFER TO ATTACHED PLANS CHANGE IN USE FROM GAS STATION TO VISITOR CENTER REQUIRES ADDITIONAL PARKING.

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 checked="" 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) |

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? USE OF THIS PARCEL BY ORDINANCE WOULD NOT BE PERMITTED WITHOUT VARIANCE.

b. To the best of your knowledge, can you affirm that the hardship or practical difficulty described above was not created by an action of anyone having property interests in the land after the Zoning Ordinance or applicable part thereof became law? yes no

If no, explain why the hardship or practical difficulty should not be regarded as self-imposed (Self-imposed hardships are not entitled to variances). _____

c. Are the conditions on your property the result of other man-made changes (such as relocation of a road or highway?) yes no

If yes, describe _____

d. Will strict application of the terms of the ordinance deny use of the property for any purpose to which its reasonably adapted? yes no

If yes, how? _____

e. Is the variance applied for due to unique circumstances presented on your property or to the general conditions in the area? yes no

If yes, explain any peculiar or unique conditions, and how many other properties in your area are similarly affected SMALL SIZE OF LAND PARCEL IS THE UNIQUE CIRCUMSTANCES

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. THE BUILDING RESTORED WOULD BE A SIGNIFICANT IMPROVEMENT TO THIS HIGH EXPOSURE AND PROMINANT LOCATION

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 ASPECTS INCLUDE ELIMINATION OF AN "EYESORE" FROM NEIGHBORS AND COMMUNITY

B. How do you propose to minimize any potential negative impacts which your proposed activity may cause? THE SITE DESIGN BEST UTILIZES AND MAXIMIZES PARKING OFFSITE.

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 9-12-02

Signature _____

Date _____

Attachment #1

COVENANT DEED

KNOW ALL MEN BY THESE PRESENTS, that MARATHON OIL COMPANY, an Ohio corporation, whose address is c/o 539 South Main Street, Findlay, Ohio 45840, GRANTOR, for the consideration of Ninety Thousand and no/100 Dollars (\$90,000.00), received to its full satisfaction of MANISTEE COUNTY CONVENTION AND VISITORS BUREAU, GRANTEE, whose TAX MAILING ADDRESS will be P. O. Box 13, Manistee, Michigan 49660, does grant, bargain, sell, remise, release, alien and confirm unto said GRANTEE, its successors and assigns forever, the following described real estate in the City of Manistee, County of Manistee and State of Michigan, to-wit:

Lot Seven (7), except the East 56 feet thereof, all of Lot Eight (8), all of that part of Lot Nine (9), which lies Easterly of a line 43 feet Easterly of (measured at right angles and parallel to the construction centerline of US Highway 31, as now surveyed), Block Fourteen (14), Filer and Smith's Addition to the City of Manistee, Michigan; also except that parcel conveyed to State Highway Transportation Department as described in Liber 430, Page 624. According to the plat thereof, as recorded in Liber 1 Deeds, Page 468, Manistee County Records.

PRIOR INSTRUMENT REFERENCE: Liber 669, Page 83
Manistee County Records, Michigan

PARCEL ID NUMBER: 51-51-448-726-03

COMMONLY KNOWN AS: 310 First & Cypress Streets

Subject to:

1. (a) taxes and assessments (both general and special) not now due and payable; (b) zoning ordinances, subdivision and planning laws and regulations and building code restrictions and all laws, rules and regulations relating to land and structures and their use, including but not limited to governmental regulations relating to buildings, building construction, building line and use and occupancy restrictions, and violations of any of the foregoing; (c) easements, conditions, reservations, agreements and restrictions of record, if any; (d) such a state of facts as an accurate survey might show; and (e) all legal roads and highways.
2. Upon acceptance of this conveyance, Grantee agrees that for a period of five (5) years from and after the date of this conveyance, the Premises shall not be used for a convenience store and that for a period of twenty-five (25) years from and after the date of this conveyance, the Premises shall not be used for the sale, marketing, storage or advertising of petroleum fuels or motor oils and that these restrictions shall be a covenant running with the land and shall be contained in and made a part of every deed, mortgage, lease or other instrument affecting the title to said premises.

This deed is also subject to the following reservations, restrictions and conditions which shall be covenants running with the land and shall be binding upon Grantee, its successors, assigns and all future owners of the premises, and their respective directors, officers, employees, contractors, agents, representatives, lessees, licensees, invitees, and any user or occupant of all or any portion of the premises (collectively, "Grantee", for purposes of these reservations, restrictions and conditions):

CITY OF MANISTEE ZONING BOARD OF APPEALS RULES OF PROCEDURE

Section 1.0 Purpose

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

Section 2.0 Officers

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

Section 3.0 Notice of Appeal

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

members of the Appeals Board shall include:

- A. copies of the Notice of Appeal or request for a variance form;
- B. relevant contents of the zoning administrator's file, and/or other file(s) on the case;
- C. other relevant correspondence, permits by other applicable enforcement agencies;
- D. previous zoning permits and record of appeals board actions concerning the property in question; and
- E. anything else which is relevant.

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

- A. the Manistee City attorney's office,
- B. the Manistee City Manager's office,
- C. any other interested persons,
- D. the landowner,
- E. adjacent landowners and occupants,
- F. and a notice sent by first class mail to the person and/or agent seeking the appeal or variance.

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

3.4 **Site Inspection.** The Appeals Board, if the chairman considers it necessary, may conduct a site inspection at the site at issue. In such instance, the site inspection shall be posted as part of the public meeting/hearing. A quorum of the Appeals Board shall not ride in the same vehicle to or from a site inspection or to or from a meeting. The site inspection, if posted as part of the same meeting/hearing shall always be held the same day and as the part of the same meeting as the start of the public hearing on the case. 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, shall cause to have notices of the Appeals Board decision delivered in person or by first class mail to the zoning administrator; to the City Attorney's office; and to anyone else requesting a copy in writing. Further, notice of the decision to the petitioner, or his agent, filing the case shall be sent by first class mail.

Section 4.0 Meetings.

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

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

4.2 Attendance.

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

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

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

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

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

4.6 Order of Business. Agenda. The vice-chairman/secretary 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 of these rules of procedure (optional).

- G. Housekeeping Business.
 - (1) Approval of minutes from previous meeting.
 - (2) Other.
- H. Business Session.
 - (1) Action on pending case number _____.
 - (i) Discussion: Review of the facts based on all information presented (from the application, written request for appeal, zoning ordinance, physical characteristics of the parcels, staff reports, hearing testimony). Discussion continues until a member is confident enough to propose a motion that includes a "finding of fact" and/or "conclusions", and "rationale explaining why conclusions are reached" and "conditions" if any.
 - (ii) Motion is proposed on "finding of fact".
 - (iii) Discussion on the motion.
 - (iv) Action on the motion
 - (v) Discussion focusing on standards and requirements of the ordinance.
 - (vi) Motion is proposed on "rationale, conclusions, conditions".
 - (vii) Discussion on the motion.
 - (viii) Action on the motion.
 - (2) Other business of the Appeals Board.
- I. Adjournment.

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

4.8 Recesses. The Chairman may recess a public hearing and/or meeting to another time if it is after 11 p.m., if the meeting (not including site inspections) has been in session over three hours, or for other reasons. In order for a recess to be in order, the time, day, month, date, year and location to reconvene shall be stated as part of the action to recess. If a meeting and/or public hearing reconvenes over 36 hours after the action to recess, the reconvened meeting shall be posted at least 18 hours before the time of the reconvened meeting, to comply with Section 4.4 of these rules of procedure. Upon reconvening, a roll call vote shall be taken as the first order of business.

4.9 Parliamentary Procedure. Meetings shall be conducted in a formal manner, and parliamentary procedure shall be governed by Roberts Rules of Order if not specifically dealt with in these rules of procedure.

4.10 Motions. Motions shall be reiterated by the Chairman before a vote is taken.

- A. Motions dealing with an appeal or variance concerning Manistee City Zoning Ordinance shall be stated with the following parts or stated as two motions:
 - (1) The list of facts which is the information pertinent to making a decision on the matter, structured as a "finding of fact" on the case.

- (2) The conclusion, decision, of the Appeals Board. This motion, or part of a motion, shall include the following parts:
 - (i) The rationale, reasons, for why the conclusion was made. The rationale, reasons shall contain, at a minimum:
 - a. If the property can not be used in conformance with the ordinance without the requested variance.
 - b. If the problem is due to a unique situation not shared in common with nearby property owners.
 - c. If granting the variance would not alter the essential character of an area.
 - d. If the problem requiring a variance was not self-created.
(NOTE: All four of the above points must be found true, or in the affirmative, or a variance shall not be granted.)
 - e. Other specific standards for variances that may be in the Manistee City Zoning Ordinance.
 - f. An explanation how the facts support the conclusion.
 - (ii) The conclusion or decision.
 - (iii) Any conditions upon which a variance may be issued, if applicable. Conditions shall be listed in detail, and based on regulations or standards already in Manistee City Zoning Ordinance.
 - (iv) Reasons why the conditions are imposed.
- B. Motions dealing with an ordinance interpretation, or an appeal or an administrative decision, shall be stated with the following parts, or stated as two motions.
 - (1) The list of facts which is the information pertinent to making a decision on the matter.
 - (2) The conclusion or decision of the Appeals Board. This motion, or part of the motion shall contain the following parts:
 - (i) The rationale, or reasons, to explain how the facts support the conclusion.
 - (ii) The conclusion or decision.
- C. Any other motion shall be stated in prose or in the form of a resolution.

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

Section 5.0 Records

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

- 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 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.

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.

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 or his or her designee 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 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 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 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.

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.