

**MANISTEE CITY
ZONING BOARD OF APPEALS**

Meeting of March 26, 2009
5:30 p.m. - Council Chambers, City Hall, 70 Maple Street,
Manistee, Michigan

AGENDA

I CALL TO ORDER

II ROLL CALL

III APPROVAL OF AGENDA

At this time the Zoning Board of Appeals can take action to approve the March 26, 2009 Agenda.

IV APPROVAL OF MINUTES

At this time Zoning Board of Appeals can take action to approve the February 9, 2009 meeting Minutes.

V PUBLIC HEARING

ZBA-2009-02 - Julian t. & Maralee Cook , 373 Second Street

Julian T. & Maralee Cook own the home at 373 Second Street. The home was built on a split lot circa 1885. Mr. & Mrs. Cook purchased the home in 1989 and are planning to live there full time when they retire. They would like to construct a detached garage to provide off street parking as well as needed storage space.

Mr. & Mrs. Cook are requesting a variance to the 40% Lot Coverage requirement in the R-2 Residential Zoning District to allow the construction of a 16' x 22' detached garage. This would result in 48.7% Lot Coverage.

At this time the Chair will open the public hearing

The Applicant shall present any comments and explanation of the case.

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

The Hearing will be opened for Public Comments.

The Public Comment Period will be closed.

VI BUSINESS SESSION:

Action on Pending Cases

ZBA-2009-02 - Julian t. & Maralee Cook , 373 Second Street

After the Public Hearing is Closed the Zoning Board of Appeals can take action on the request from Julian T. & Maralee Cook 373 Second Street. Mr. & Mrs. Cook are requesting a variance to the 40% Lot Coverage requirement in the R-2 Residential Zoning District to allow the construction of a 16' x 22' detached garage. This would result in 48.7% Lot Coverage.

At this time the Zoning Board of Appeals can take action to approve/deny/approve with conditions the variance request from Julian T. & Maralee Cook 373 Second to allow the construction of a 16' x 22' detached garage which would result in 48.7% Lot Coverage

Old Business

None

Other Business of the Appeals Board

VII PUBLIC COMMENTS AND COMMUNICATIONS

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

VIII ADJOURNMENT



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

MEMORANDUM

TO: Zoning Board of Appeals Members
FROM: Denise Blakeslee 
DATE: March 3, 2009
RE: March 26, 2009 Meeting

Good Morning! We have scheduled a meeting for **5:30 p.m.** on Thursday, March 26, 2009 in the Council Chambers at City Hall.

We have one item on the Agenda as follows:

ZBA-2009-02 - Julian t. & Maralee Cook , 373 Second Street

Julian T. & Maralee Cook own the home at 373 Second Street. The home was built on a split lot circa 1885. Mr. & Mrs. Cook purchased the home in 1989 and are planning to live there full time when they retire. They would like to construct a detached garage to provide off street parking as well as needed storage space.

Mr. & Mrs. Cook are requesting a variance to the 40% Lot Coverage requirement in the R-2 Residential Zoning District to allow the construction of a 16' x 22' detached garage. This would result in 48.7% Lot Coverage.

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

:djb



REQUEST FOR APPEAL
CITY OF MANISTEE
ZONING BOARD OF APPEALS

Name: Julian T. and Maralee Cook
 Address: 4090 Rich Drive
 City, State, Zip Code: Waterford, MI 48329
 Phone Numbers: (work) 248-891-9445 (home) _____
 Agent Name & Phone Number if applicable: _____

FEE FOR APPEAL \$500.00

OFFICE USE ONLY	
Appeal Number: <u>ZBA-2009-0</u>	Date Received: <u>2-27-09</u>
Receipt Number/Fee Amt: <u>\$500.⁰⁰</u>	Hearing Date: <u>3-26-09</u>
Zoning District for Property: <u>R-2</u>	Parcel Code Number: <u>51-51-514-709-11</u>
Type of Request:	
<input checked="" type="checkbox"/> Variance Request	<input type="checkbox"/> Ordinance or Map Interpretation
<input type="checkbox"/> Appeal from Administrative Decision	<input type="checkbox"/> Other Authorized Review

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

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

The house was purchased in 1989 and underwent extensive interior and exterior renovation in the following years. We were awarded the 1996 J.B. Newcombe Award in the Building Historic Rehabilitation Category of the Building Recognition Program by the Manistee Chamber of Commerce. After 20 years of enjoying Manistee as 'part-timers', we look forward to living here full time in our retirement. A garage now becomes a necessary requirement to provide us with off-street parking as well as needed storage space.

PROPERTY INFORMATION:

Tax Roll Parcel Code # 51-51- 574-709-11

Property Address: 373 Second Street, Manistee, 49660

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

Present use of parcel: Single family residential

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

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

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

DETAILED REQUEST AND JUSTIFICATION:

Please identify each requested variance:

	Required by Zoning	Requested by Appellant
<input type="checkbox"/> Front-Yard Set-Back	from _____	to _____
<input type="checkbox"/> Side-Yard Set-Back	from _____	to _____
<input type="checkbox"/> Side-Yard Set-Back	from _____	to _____
<input type="checkbox"/> Rear-Yard Set-Back	from _____	to _____
<input type="checkbox"/> Waterfront Set-Back	from _____	to _____
<input type="checkbox"/> Height	from _____	to _____
<input type="checkbox"/> Area Requirements	from _____	to _____
<input type="checkbox"/> Off-street Parking	from _____	to _____
<input checked="" type="checkbox"/> Other Lot Coverage	<u>40% Max.</u>	<u>48.7%</u>

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

Dimensional information

- Too Narrow _____
- Too Small _____
- Too Shallow _____
- Elevation (height) _____
- Slope _____
- Shape _____
- Soil _____
- Subsurface _____
- Other (Specify) The property is 3,816 Sq. Ft. The existing coverage with the addition of a 16'x22' garage will be 1,858 sq. ft. = 48.7% which exceeds the 40% allowable coverage, (by new ord. 3/27/06) by 8.7%.

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

1. **Basic Conditions.** The Board shall find that a variance request meets all of the following conditions.

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

- g. There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.
 Yes No
- h. The requested variance is the minimum variance that will make possible the reasonable use of the land.
 Yes No

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

- a. Where there are practical difficulties which prevent full compliance with the requirements of this Ordinance. Such practical difficulties shall be evaluated in terms of the use of a particular parcel of land. Neither the fact that the appellant could: (a) incur additional costs to achieve full compliance, or (b) receive additional income with less than full compliance shall be determined a practical difficulty for the purposes of this paragraph.
 Yes No

Justification: Additional property would have to be purchased to allow the construction of this garage and to conform with the 40% coverage limit. There is no available property adjacent to this parcel.

- b. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district.
 Yes No

Justification: The house was built on a split lot circa 1885. 38% of the parcel is covered by the existing structure. The size of this lot as split now requires a variance (since 3/27/06) to allow the construction of a garage.

- c. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
 Yes No

Justification: Of the homes on this block which exist on 1/2 lots, 50%, 2 of 4, have a garage. We are 1 of only two homes on this block with no garage. Many of the other houses in our immediate neighborhood occupy more than 40% of the square footage of their lot.

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

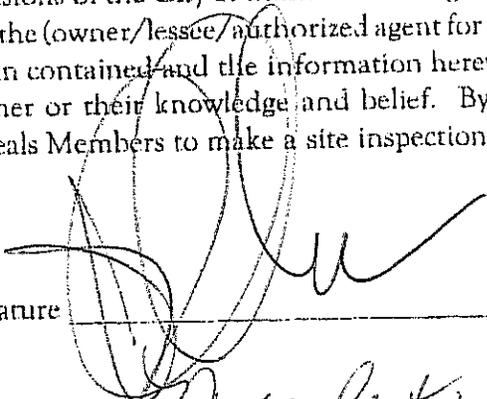
- a. The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.
- b. Each variance granted under the provisions of this Ordinance shall become null and void unless: The construction authorized by such variance has received a City zoning permit within one (1) year after the granting of the variance; and the occupancy of land, premises, or buildings authorized

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

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

AFFIDAVIT:

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

Signature  Date 2/27/09

Signature Maulek Cook Date 2/27/09

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

July 2008

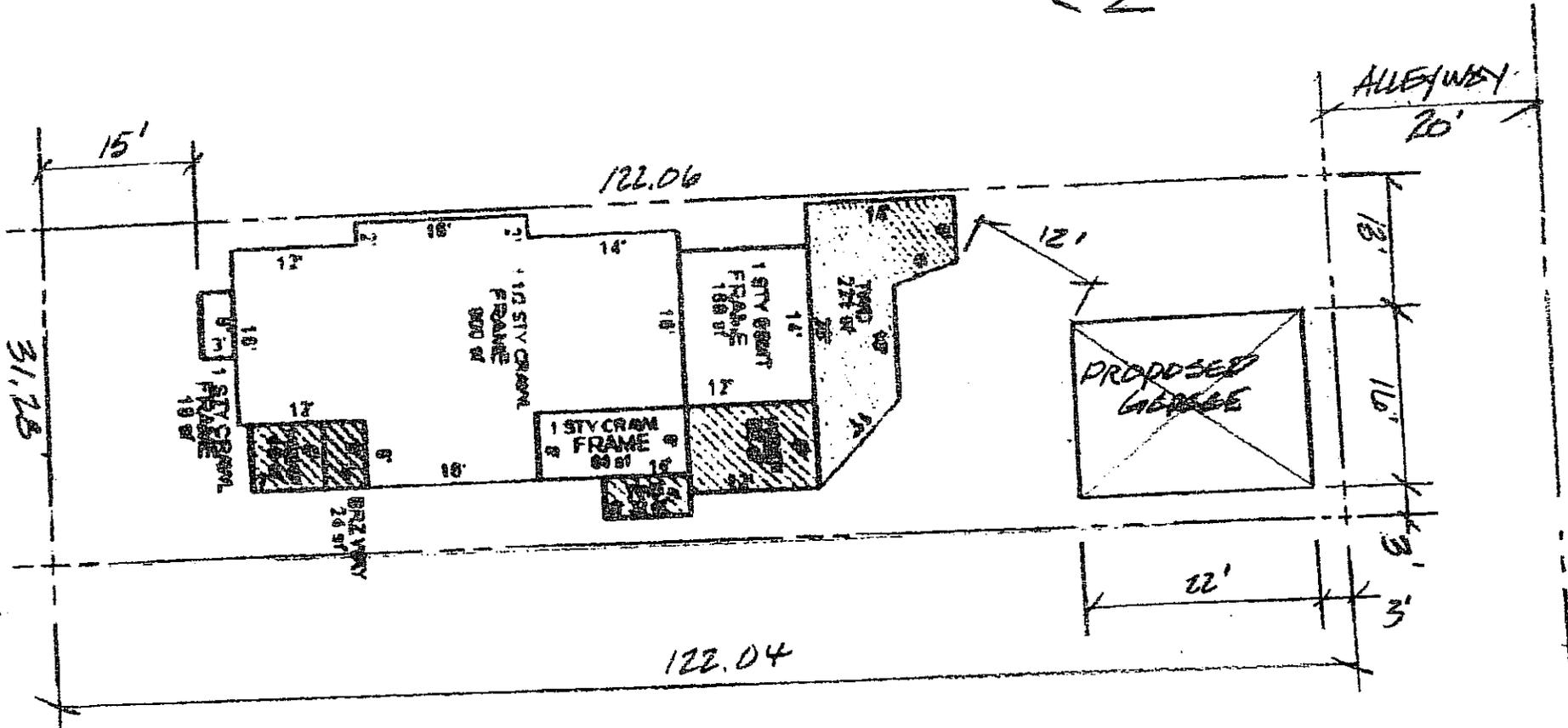
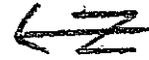
Image/Sketch for Parcel: 51-51-574-709-11

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Caption: R001

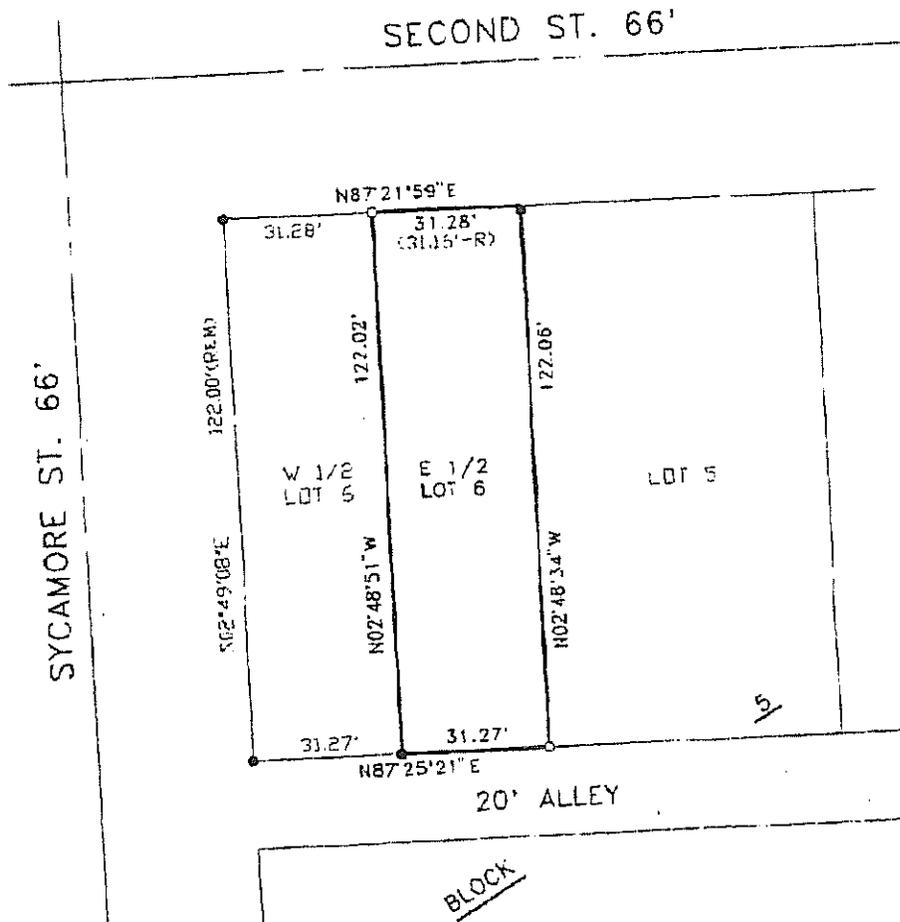
Sketch by Ryan Anderson

E 1/2 LOT 6 BLK 5
373 2ND STREET



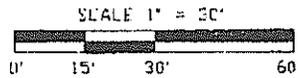
MIN DISTRICT

CERTIFICATE OF SURVEY
 THE EAST 1/2 LOT 6, BLOCK 5,
 TYSON & CO. S ADDITION TO THE CITY
 OF MANISTEE, MANISTEE COUNTY, MICHIGAN



LEGEND

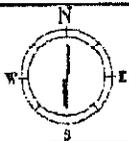
- IRON FND ⊗ MONUMENT FND
- IRON SET ⊕ MONUMENT SET
- ▲ P.K. FND (R) RECORD
- △ P.K. SET (M) MEASURED



I, THE UNDERSIGNED, BEING A REGISTERED LAND SURVEYOR, HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE ABOVE PARCEL OF LAND, THAT THE RATIO OF CLOSURE OF THE UNADJUSTED FIELD OBSERVATIONS IS NOTED, AND WITHIN LIMITS AND THAT I HAVE FULLY COMPLIED WITH THE REGULATIONS OF ACT 132, P.A. 1970 AS AMENDED. THE BASIS OF BEARING IS: PREVIOUS SURVEY

ERROR OF CLOSURE IS 1/

R.L.S. No. 25850



Jenema Land Surveys
 82 Division St.
 Manistee, MI 49660
 (231) 725-7950
 Fax: (231) 725-5761

FOR: TY COOK

DATE: JUNE 17, 2003

SHEET: 1 OF 1

DWN.: WAP

CHK: EJJ

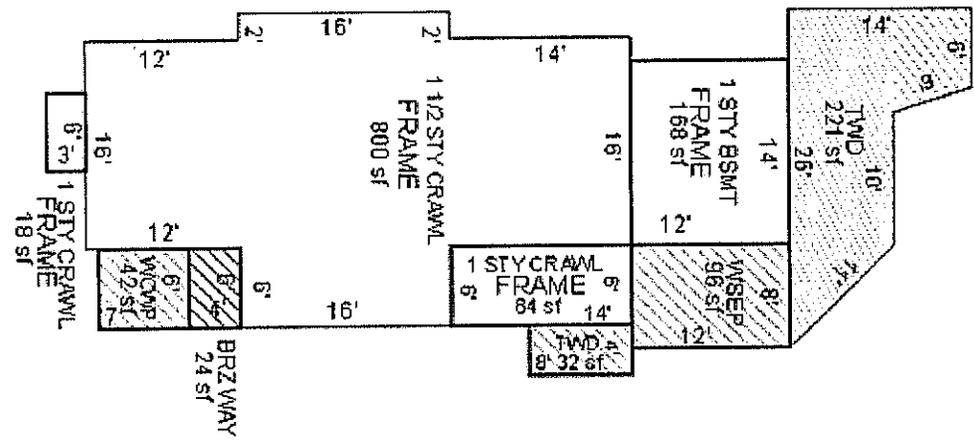
FILE #: 03192

Image/Sketch for Parcel: 51-51-574-709-11

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Caption: R001

Sketch by Apex Media



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