

MANISTEE CITY  
ZONING BOARD OF APPEALS

Meeting of March 18, 2010  
5:30 p.m. - Council Chambers, City Hall, 70 Maple Street,  
Manistee, Michigan

AGENDA

I CALL TO ORDER

II ROLL CALL

III APPROVAL OF AGENDA

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

IV APPROVAL OF MINUTES

At this time Zoning Board of Appeals can take action to approve the January 28, 2010 meeting Minutes.

V PUBLIC HEARING

None

VI BUSINESS SESSION:

Action on Pending Cases

Julian T. & Maralee Cook - 383 Second Street

Mr. & Mrs. Cook requested and received a variance from the Zoning Board of Appeals on March 26, 2009. Due to the current economic conditions they have not proceeded with their project. Mr. & Mrs. Cook are requesting an extension from the Zoning Board of Appeals.

The Zoning Board of Appeals can take action to approve or deny the request for an extension.

Old Business

None

Other Business of the Appeals Board

Misc.

VII PUBLIC COMMENTS AND COMMUNICATIONS

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

VIII ADJOURNMENT



PLANNING AND ZONING  
COMMUNITY DEVELOPMENT  
231.398.2805  
FAX 231.723-1546  
[www.ci.manistee.mi.us](http://www.ci.manistee.mi.us)

## MEMORANDUM

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TO: Zoning Board of Appeals Members

FROM: Denise Blakeslee *DB*

DATE: March 9, 2010

RE: Julian T. & Maralee Cook - 383 Second Street

Good Morning!

We have received an extension request from Julian T. & Mralee Cook - 383 Second Street. Enclosed is a copy of the original request and extension letter for your consideration.

We have scheduled a meeting for Thursday, March 18, 2010 at 5:30 p.m. in the Council Chambers.

If you are unable to attend 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: ZBA-2009-0
Date Received: 2-27-09
Receipt Number/Fee Amt: \$500.00
Hearing Date: 3-26-09
Zoning District for Property: R-2
Parcel Code Number: 51-51-574-709-11
Type of Request:
[X] Variance Request
[ ] Ordinance or Map Interpretation
[ ] Appeal from Administrative Decision
[ ] Other Authorized Review

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

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

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 (attache additional sheets if necessary): None

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

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

**DETAILED REQUEST AND JUSTIFICATION:**

Please identify each requested variance:

		Required by Zoning		Requested by Appellant
<input 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

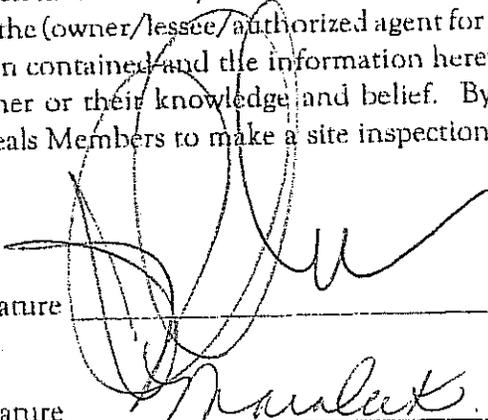
by the variance has taken place within one (1) year after the granting of the variance, unless an extension of time has been granted by the Zoning Board of Appeals.

- 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

Manuel K. Cook

Date

2/27/09

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

July 2008

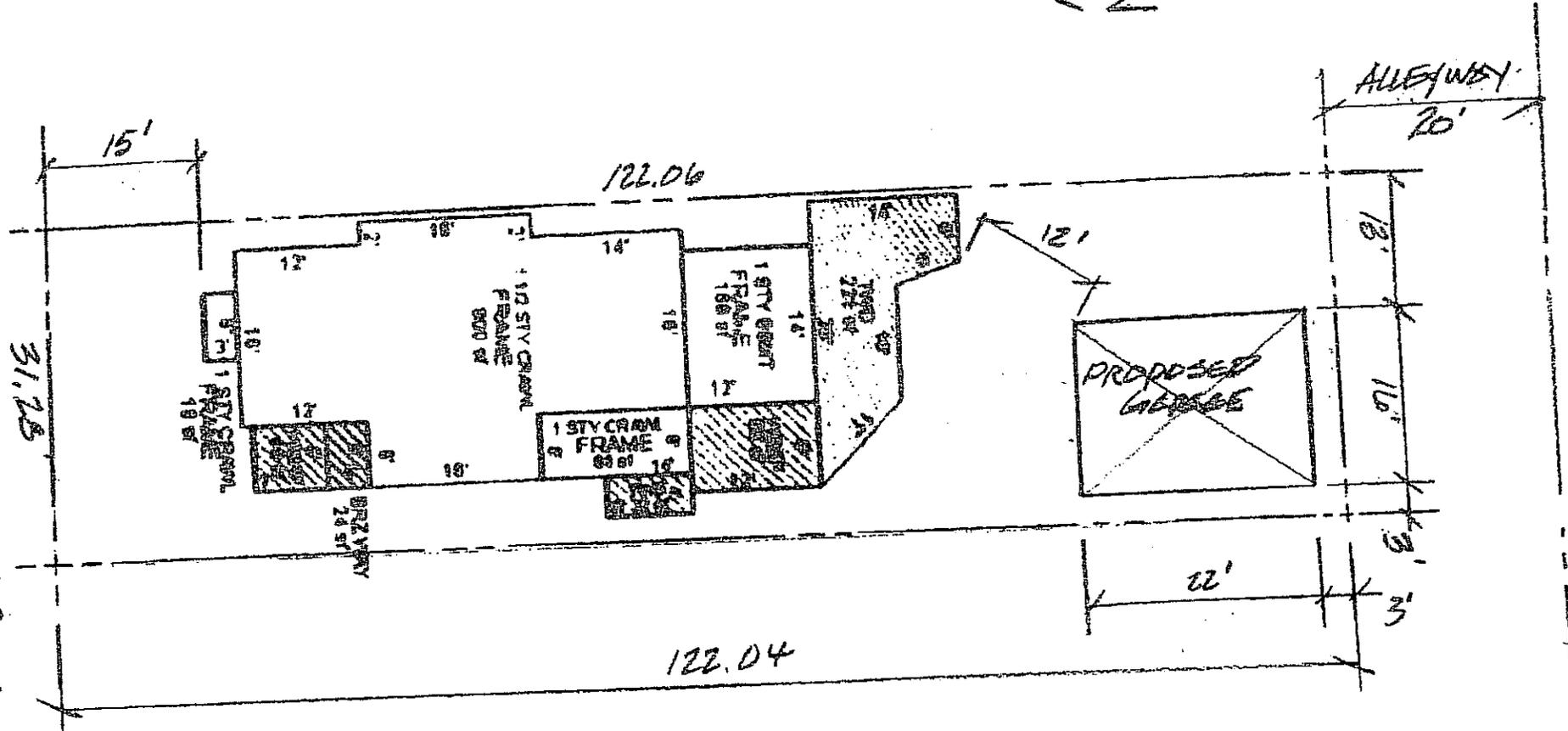
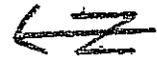
Image/Sketch for Parcel: 51-51-574-709-11

[Back to Non-Printer Friendly Version] [Send To Printer]

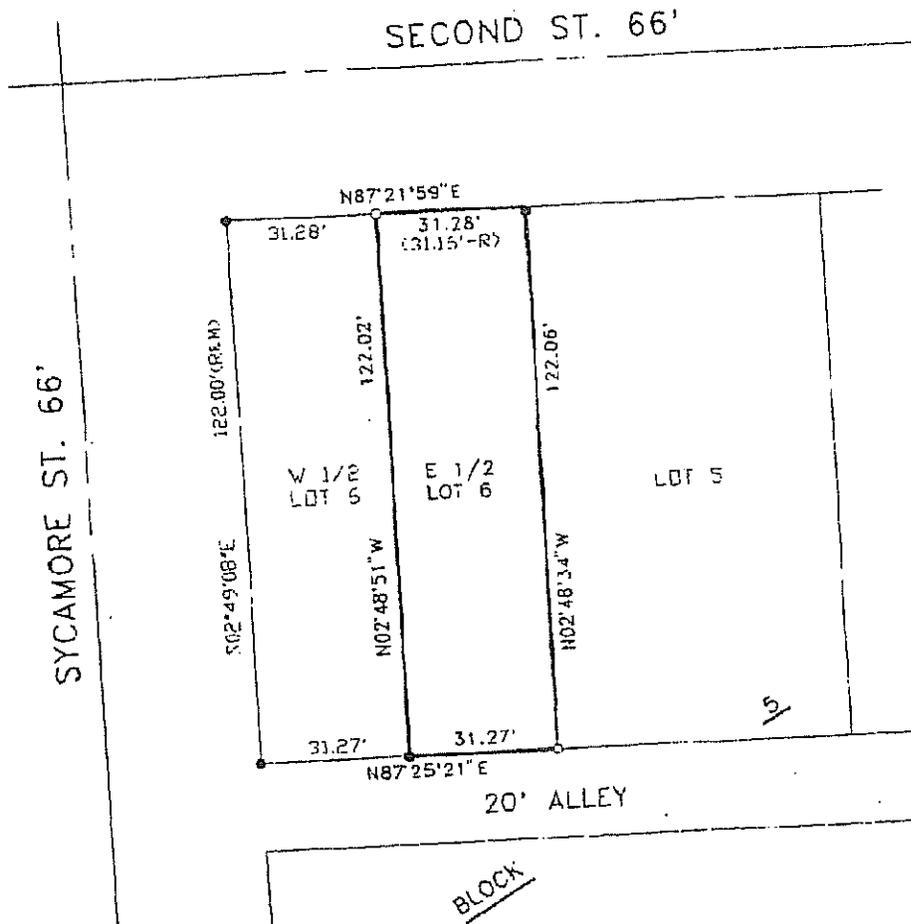
Caption: R001

© 2003 by AAUP/AS

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

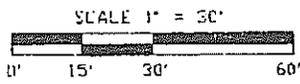


**CERTIFICATE OF SURVEY**  
 THE EAST 1/2 LOT 6, BLOCK 5,  
 TYSON & CO. S ADDITION TO THE CITY  
 OF MANISTEE, MANISTEE COUNTY, MICHIGAN.



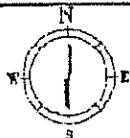
**LEGEND**

- 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 ON THE BASIS OF BEARING TO PREVIOUS SURVEY

ERROR OF CLOSURE IS 1/ \_\_\_\_\_ R.L.S. No. 25850



**Jenema Land Surveys**  
 82 Division St.  
 Manistee, MI 49660  
 (231) 723-7930  
 Fax: (231) 723-5761

FOR TY COOK

DATE: JUNE 17, 2003

SHEET: 1 OF 1

DWN.: WAP

CHK.: EUL

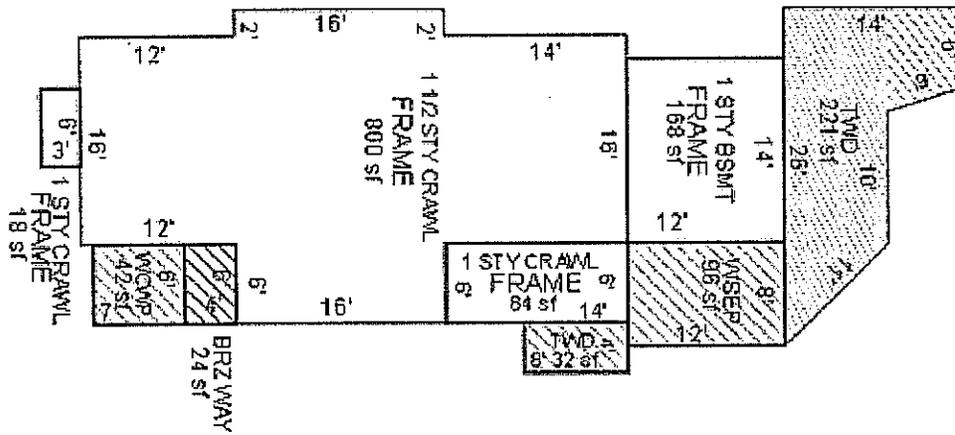
FILE #: 03192

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

[Back to Non-Printer Friendly Version] [Send To Printer]

Caption: R001

Sketch by Apex Medina™



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MANISTEE CITY ZONING BOARD OF APPEALS

City Hall, 70 Maple Street  
Manistee, MI 49660

MEETING MINUTES

March 26, 2009

A meeting of the Manistee City Zoning Board of Appeals was held on March 26, 2009 at 5:30 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

**MEMBERS PRESENT:** Ray Fortier, Mark Hoffman, Marlene McBride, John Perschbacher

**MEMBER ABSENT:** Bill Kracht (excused)

**ALTERNATES PRESENT:** Craig Schindlbeck

**OTHERS PRESENT:** Julian "Ty" & Maralee Cook (373 Second Street), Jon Rose (Community Development Director), and Denise Blakeslee (Planning & Zoning)

The meeting was called to order at 5:36 p.m. by Chairman Perschbacher

**APPROVAL OF AGENDA:**

MOTION by Ray Fortier, seconded by Mark Hoffman to approve the March 26, 2009 meeting Agenda.

With a voice vote MOTION PASSED UNANIMOUSLY

**APPROVAL OF MINUTES:**

MOTION by Ray Fortier, seconded by Mark Hoffman to approve the February 9, 2009 Zoning Board of Appeals Meeting Minutes as corrected. (Jon Rose was not at the meeting).

With a Roll Call vote motion passed 5 to 0

Yes: McBride, Hoffman, Schindlbeck, Fortier, Perschbacher

No: None

**POTENTIAL CONFLICT OF INTEREST**

Prior to the Public Hearing Mark Hoffman informed the Zoning Board of Appeals that his home is two doors down from the Appellant. The Board Discussed Mr. Hoffman's request for the Zoning Board of Appeals to determine if he has a Conflict of Interest and should abstain from voting on the request. The Board unanimously determined that there was not a Conflict of Interest and Member Hoffman could vote on the request.

PUBLIC HEARING:

Applicant Info :

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

A Public Hearing is being held in response to a request from Julian T. & Maralee Cook, 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.

Chair Perschbacher opened the Public Hearing.

Julian "Ty" Cook, 373 Second Street - Mr. Cook said most of the supporting documentation was included in the members packets. The plans are to sell their home downstate and move to Manistee and retire. They would like to have a garage and that is the reason for the request. They have owned the home since the late 1980's and would like a garage.

John Perschbacher - Is the proposed garage large enough for their needs?

Mr. Cook - They wanted to keep the size to a minimum because they have such a small lot and wanted to keep some yard.

Craig Schindlbeck - Can the side and rear-yard setbacks be met?

Jon Rose - They meet the setback requirements. The only issue is lot coverage.

Mark Hoffman - Concerned that they may want a larger garage at a later date.

Jon Rose - Because of the noticing requirements the Zoning Board cannot approve more than requested. If they wanted a larger garage they would have to make another application to the Zoning Board of Appeals.

Marlene McBride - Does the deck stay?

Mr. Cook - Yes it is shown on the plan along with the amount of yard that would remain.

The hearing was be opened for public comments - No correspondence was received in response to the request and no public was in attendance.

There being no further discussion the Public Hearing Closed at 5:47 p.m.

## BUSINESS SESSION:

### Action on Pending Case:

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

A Public Hearing was held earlier in response to a 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.

The Zoning Board of Appeals reviewed the request and the requirements of Section 2507.C of the City of Manistee Zoning Ordinance. This portion of the Ordinance is used as the finding of facts by the Zoning Board of Appeals and their responses to the conditions are as follows:

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.

The Board shall find that a variance request meets all of the following conditions.

1. The requested variance shall not be contrary to the public interest or to the intent and purpose of this Ordinance.  
5 - Yes          Fortier, McBride, Hoffman, Schindlbeck, Perschbacher  
0 - No          None
  
2. The requested variance does 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.  
5 - Yes          McBride, Hoffman, Schindlbeck, Fortier, Perschbacher  
0 - No          None
  
3. The requested variance does 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.  
5 - Yes          McBride, Hoffman, Schindlbeck, Fortier, Perschbacher  
0 - No          None

4. The conditions or situations which necessitate the requested variance are not so general or of such recurrent nature as to make the formulation of a general regulation for such conditions reasonably practical.  
5 - Yes Hoffman, Schindlbeck, Fortier, McBride, Perschbacher  
0 - No None
5. The requested variance relates only to property that is under control of the applicant.  
5 - Yes Schindlbeck, Fortier, McBride, Hoffman, Perschbacher  
0 - No None
6. The requested variance is not necessitated by any self-created condition or action taken by the applicant or property owner.  
5 - Yes Schindlbeck, Fortier, McBride, Hoffman, Perschbacher  
0 - No None
7. 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.  
5 - Yes Fortier, McBride, Hoffman, Schindlbeck, Perschbacher  
0 - No None
8. The requested variance is the minimum variance that will make possible the reasonable use of the land.  
5 - Yes Fortier, McBride, Hoffman, Schindlbeck, Perschbacher  
0 - No None

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:

The Zoning Board of Appeals chose to discuss Condition #2

2. 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.  
5 - Yes McBride, Hoffman, Schindlbeck, Fortier, Perschbacher  
0 - No None

MOTION by Ray Fortier, seconded by Mark Hoffman to approve 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

With a roll call vote this motion passed 5 to 0.

Yes: Fortier, Hoffman, McBride, Perschbacher, Schindlbeck  
No: None

The Zoning Board of Appeals will be meeting on April 2, 2009 at 5:30 p.m. in the Second Floor Conference Room to approve the March 26, 2009 Meeting Minutes.

Old Business:

None

Other Business of the Appeals Board:

John Perschbacher spoke of a training being held in Onekama on April 2, 2009 from 6 - 9 p.m.

Denise Blakeslee asked members about Citizen Planner Training and what times and length of meetings are best for the members. They are trying to schedule training for the remainder of 2009 and need to establish the best way for members to attend to receive their certification.

QUESTIONS, CONCERNS OF CITIZENS IN ATTENDANCE:

None

ADJOURNMENT:

There being no further business meeting MOTION by Marlene McBride, seconded by Craig Schindlbeck that the meeting be adjourned.

Meeting adjourned at 6:23 p.m.

Respectfully Submitted

  
Denise J. Blakeslee, Recording Secretary

# NOTICE OF MEETING

## City of Manistee Zoning Board of Appeals

The City of Manistee Zoning Board of Appeals will hold a Meeting in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan on Thursday, March 18, 2010 at 5:30 p.m..

The Meeting has been scheduled in response to a request from Julian T. & Maralee Cook, 373 Second Street for an extension of the variance granted on March 26, 2009.

Meetings and Worksessions of the Zoning Board of Appeals are open to the Public and interested parties are welcome to attend.

This notice was posted by Denise J. Blakeslee to comply with Sections 4 & 5 of the Michigan Open Meetings Act (P.A. 267 of 1976) at 12:00 noon, Wednesday, March 10, 2010 on the on the bulletin board at the south entrance to City Hall.

Signed:

  
Denise J. Blakeslee