



AGENDA
BOARD OF ZONING APPEALS
TUESDAY, January 28, 2025
6:30 P.M.

MEMBERS

Philip Russo, Chair

Baljinnyam Dashdorj
Matt Wyatt

D. Chadwick Smith, Vice Chair
Steve Chaffin, Secretary

STAFF

Sam Perry, Director, Community Development
Zachary Moore, City Planner/GIS Coordinator
Christopher Conard, Law Director

MEETING PROCEDURE: The Board of Zoning Appeals is a quasi-judicial board. Our primary function is to hear testimony and issue decisions. Unlike other City boards and commissions, we only hear relevant, sworn testimony from the Applicant, his/her duly appointed agent or attorney, and any other person with standing to testify in a particular matter. The Applicant has the right to cross-examine any testimony given. Our hearings are open to public attendance, but public comment, opinion and discussion are not considered testimony and will not be heard.

Please wait until you are recognized by the Chair, state your name and address so that your comments may be properly recorded. Applicants are to limit their testimony to fifteen (15) minutes, including any information presented by his/her duly appointed agent or attorney. This time limit may be extended if the Board requests or approves further testimony. Other persons with standing are encouraged to testify and ask questions about the nature of the appeal, but must be acknowledged by the Chair prior to speaking.

- I. Call to Order
- II. Election of Officers and Swearing in BZA Members
- III. Approval of October 22, 2024 Minutes of the Regular Meeting 1
- IV. New Business

 BZA-2024-06, 417 E Withrow Street, VARIANCE to Section 1143.07(c) maximum lot
 coverage, **Scott Webb Architect, Applicant/Agent** 5
- V. Adjournment



OXFORD BOARD OF ZONING APPEALS

Meeting Minutes

Tuesday, October 22, 2024

[Link for website video here](#)

Meeting procedure: The Board of Zoning Appeals is a quasi-judicial Board. Our primary function is to hear testimony and issue decisions. Unlike other City boards and commissions, we only hear relevant, sworn testimony from the Applicant, his/her duly appointed agent or attorney, and any other person with standing to testify in a particular matter. The Applicant has the right to cross-examine any testimony given. Our hearings are open to public attendance, but public comment, opinion and discussion are not considered testimony and will not be heard.

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Roll Call

Philip Russo, Chair

D. Chadwick Smith, Vice Chair

Matt Wyatt

Steve Chaffin, Secretary

Baljinnyam Dashdorj

Time: 11:02

A regular meeting of the Oxford Board of Zoning Appeals was called to order by Chair Philip Russo on Tuesday, October 22, 2024 at 6:30 p.m.

Members in attendance were Philip Russo, D. Chadwick Smith, Baljinnyam Dashdorj, Steve Chaffin and Matt Wyatt

Mr. Dashdorj arrived at the meeting at 6:48 pm

Members excused: None

Staff Members in Attendance

Mr. Zachary Moore, City Planner/GIS Coordinator, Mr. Benjamin Mazer, Assistant Law Director, Ms.

Eunike Miller, Administrative Assistant

Staff Members Excused

Mr. Sam Perry, Director, Community Development

Approval of August 27, 2024 Minutes of the Regular Meeting

Time: 11:48

Mr. Chaffin made a motion to amend the minutes on page 4 to add the reason why he voted no with the following statement: "Mr. Chaffin stated that the applicant failed to provide evidence by preponderance of practical difficulties exists to grant the variance."

Mr. Smith wanted to know if adding comments after a yes or no vote was a normal procedure for this Board.

Mr. Mazer commented the minutes are not intended to be a verbatim summary of what happens as reflected in the Ohio Case Law. A general summary of actions taken is appropriate for minutes.

Motion – To amend the minutes with Mr. Chaffin’s statement

(Roll Call) 1st Mr. Chaffin

2nd Motion was not seconded

Motion – To approve the minutes as written

(Roll Call) 1st Mr. Chaffin

2nd Mr. Wyatt

AYE: Mr. Smith, Mr. Wyatt (2)

NAY: Mr. Chaffin (1)

ABS: Mr. Russo (1)

Mr. Russo abstained from voting since he was not present at the August meeting.

New Business

BZA-2024-03

Time: 15:02

Page 5 of the Agenda Packet

1. BZA-2024-03, 417 E Withrow Street, VARIANCE, to Section 1143.07(c) maximum lot coverage, Scott Webb, Architect, Applicant/Agent

Mr. Mazer informed the Board that the applicant voluntarily withdrew the case from the agenda tonight. The applicant intends to potentially proceed with the case at the next meeting.

BZA-2024-05

Time: 15:45

Page 27 of the Agenda Packet

2. BZA-2024-05, 315 University Avenue, VARIANCE to Section 1143.07(d)(5)(B) minimum roof pitch, Scott Webb, Architect, Applicant/Agent

Mr. Moore was sworn in by Mr. Mazer. Mr. Moore proceeded with presenting the staff report to the board. After the presentation, Mr. Moore answered questions from the Board.

Mr. Webb, Architect, spoke on behalf of the property owner and answered questions from the Board.

Motion – To Enter into Deliberation

(Roll Call) 1st Mr. Wyatt

2nd Mr. Smith

AYE: Mr. Smith, Mr. Chaffin, Mr. Wyatt, Mr. Russo (4)

NAY: None (0)

ABS: Mr. Dashdorj (1)

Mr. Dashdorj arrived late at the meeting. Mr. Mazer, Assistant Law Director, suggested Mr. Dashdorj abstain from voting since he missed the bigger portion of Mr. Moore's presentation.

Comments from the Public

There were no comments from the public related to this case.

Mr. Webb requested to table the case to the next meeting when a full Board is able to vote on this variance request.

Mr. Mazer, Assistant Law Director, offered a comment on the procedure. Mr. Mazer stated there are two options: (1) Mr. Dashdorj missed the large portion of the staff's presentation but heard the applicant's full presentation. Mr. Dashdorj confirmed that he read the staff report. In light of this, Mr. Dashdorj could vote

on the case, explained Mr. Mazer. (2) Table the case to the next meeting.
Mr. Mazer emphasized deferring to the applicant of which option he would choose.

Motion – To Table the Case to the Next Meeting

(Roll Call) 1st Mr. Chaffin 2nd Mr. Russo

AYE: Mr. Smith, Mr. Chaffin, Mr. Wyatt, Mr. Russo (4)

NAY: None (0)

ABS: Mr. Dashdorj (1)

Motion – To Close Deliberation

(Roll Call) 1st Mr. Chaffin 2nd Mr. Smith

AYE: Mr. Smith, Mr. Chaffin, Mr. Wyatt, Mr. Russo (4)

NAY: None (0)

ABS: Mr. Dashdorj (1)

Public Comment

Time: 1:18:19

Mr. Jeff Zeske, Oxford resident, expressed his concern about the bike path that runs next to his newly built house. Mr. Zeske stated the contractor did not do the grating and the seeding as they were supposed to. Mr. Zeske also presented the signatures of those who are affected by this issue.

Mr. Russo explained to Mr. Zeske that this Board does not handle issues like this. Mr. Russo advised Mr. Zeske to reach out to the City Manager's office with his concerns.

Motion to Adjourn Meeting at 7:48 p.m.

Time: 1:27:31

(Roll Call) 1st Mr. Chaffin 2nd Mr. Wyatt

AYE: Mr. Smith, Mr. Chaffin, Mr. Wyatt, Mr. Russo (4)

NAY: None (0)

ABS: Mr. Dashdorj (1)

Case No:
BZA-2024-06



Meeting Date:
January 28, 2025

STAFF REPORT

Community Development | Board of Zoning Appeals

APPLICATION DETAILS

Applicant	Scott Webb, Architect
Location	417/419 E Withrow Street
Owner	Tres Walnut LLC, c/o Tom Kacachos
Action Request	Variance to Section 1143.07(c) , maximum overall lot coverage
Lot Size	8,940 square feet / 0.21 acres
Lot Width	60 feet
Current Use	Three-Family Dwelling
Current Zoning	R3MS Single-, Two-, and Three-Family Mile Square Residential District
Surrounding Land Uses	Fraternity houses to the south; combination of single-family & two-family uses in all other directions

BACKGROUND

On behalf of the property owner, Architect Scott Webb has **re**-submitted a Variance request for the purpose of allowing an increase in lot coverage on property located at 417 E Withrow Street. This property previously supported a single-family dwelling which was demolished in 2023 to make way for redevelopment. A brand new three-family structure – addressed as 417 E Withrow, 419 E Withrow Unit 101, and 419 E Withrow Unit 201 – now occupies the property.

Construction plans for the new structure were approved and issued by the City in July 2023; the architect had designed these plans such that approximately half of the pre-existing, double-stacked rear parking area was to be excavated away and replaced with seeded ground. The apparent purpose of modifying the parking area was to stay within the Zoning Code’s restriction limiting overall lot coverage to no more than 45%, while also accommodating an increase to the overall building footprint to support two additional dwelling units.

Post-construction, the owner now desires to retain the original “pre-construction” parking configuration, as opposed to embracing the re-configuration previously designed, submitted and approved through the permitting process. The approved plan had provided for a total of 6 parking spaces situated in a single row along the rear alley. In order for the pre-existing parking area (containing 14 spaces) to be found legal, a Variance is necessary to allow an increase in net coverage above the usual Code limit.

DESCRIPTION

The applicant's requested variance can be summarized as follows:

Requirement	Code Section	Standard	Proposal
Maximum Overall Lot Coverage	1143.07(c)	45% max	54.8%
The architect reports the proposed coverage area to be 4,907 sq ft, which is 54.8% of the 8,940 sq ft lot. Section 1143.07(c) of the Oxford Zoning Code prescribes site development regulations for properties being developed in the R3MS District. Such regulations include maximum lot coverage standards, with separate figures pertaining to the overall lot (45% max) as well as for the front yard portion only (15% max for lots with alley access). The previously approved site plan took advantage of the maximum allowable lot coverage by proposing 4,026 square feet of covered/developed area ($4,026 \text{ sq ft} \div 8,940 \text{ sq ft} = 45\%$); thus, a Variance was not initially required for the resulting development. In pursuit of densifying the subject property from a one-family use to a three-family use (an endeavor which the Zoning Code allows by-right for this property), the building footprint previously totaling approx. 1,400 sq ft ended up increasing to 2,500 sq ft, a net increase of 1,100 sq ft. In its previous single-family condition characterized by a 1,400 sq ft building footprint along with a double row of parking spaces in the rear, it is estimated the overall coverage percentage was around 41.5% ($3,710 \text{ sq ft} \div 8,940 \text{ sq ft}$).			

PUBLIC COMMENTS

Notification was mailed to property owners within 200 feet and a sign was placed on the property. No official public comments have been received as of this writing.

DEPARTMENT COMMENTS

Below are comments from City departments:

Department	Respondent	Response
Economic Development	Seth Copenbaker, Economic Development Specialist	Not Returned
Engineering	Scott Otto, City Engineer	Returned without Comments
Fire	John Detherage, Fire Chief	Returned with Comments
<u>Original Comments from Case No. BZA-2024-03, sent 9/12/2024:</u> See attached memo. <u>New Comments sent 11/21/2024:</u> <i>Have not been contacted by applicant. Please refer to previous comments.</i> <u>Update as of 1/22/2025:</u> Chief Detherage reports he has not been contacted by the applicant.		
Police	John Jones, Police Chief	Returned with Comments
<u>Original Comments from Case No. BZA-2024-03, sent 9/10/2024:</u> <i>Allowing the double stacking of parking will create issues of cars blocking one another in. With the new building, the cars are now being parked within a few feet of the building and create an access issue. I believe the variance should be denied, the pavement restored to grass, as in the original submitted plan.</i> <u>New Comments sent 11/18/2024:</u> <i>Previous comments still stand. No follow-up with applicant on my end.</i>		

BZA SITE HISTORY

Past BZA case history for the subject property is outlined in the table below:

Case No.	Request(s)
BZA-2024-03	Variance to Maximum Lot Coverage
The present case, BZA-2024-06, is considered a re-submission of the exact same Variance requested under Case No. BZA-2024-03. This first request was submitted by Scott Webb Architect on July 26, 2024. The case was originally scheduled to be heard on August 27; however, since it was confirmed 4 out of 5 members were expected to attend in August, the applicant opted to delay the matter pending full attendance. The same was true for the September 24 meeting, thus it was postponed once again. A meeting agenda packet, including a complete staff report, was released on Thursday October 17 in preparation for the Tuesday October 22 BZA meeting. Full attendance by all 5 BZA members was expected at the October meeting. The applicant requested a tabling of the case via email the following day on October 18; the reasoning provided by the property owner was <i>to allow us the opportunity to evaluate reports from the OPD and OFD, talk to the OPD and OFD, and to provide additional information to the BZA concerning these issues. This will involve some time and code review.</i> While staff indicated support for a tabling, it was communicated to the applicant that a decision on whether to table the request would be left to the Board to determine. In an email written and sent by Director Sam Perry on October 21, it was explained the outstanding options were to either: (1) request a tabling from the Board; or (2) withdraw and resubmit. The property owner decided to withdraw on October 22. In turn, the applicant re-submitted the same exact application on behalf of his client to the Community Development office on October 29. Assigned Case No. BZA-2024-06, the hearing was delayed in November and December, due to expected member absences. The case now comes before the Board of Zoning Appeals for a hearing on January 28, 2025.	

DECISION CRITERIA

In accordance with **Section 1139.02(c)(1)**, the burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for Variance. Furthermore, per **Section 1139.02(c)(2)** the BZA must find that **practical difficulties** exist that would render strict application of the Code unreasonable. In determining whether such difficulties exist which are sufficient to warrant the Variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the enclosed narrative addressing the review criteria from Mr. Webb.

If the BZA determines that difficulties exist which are sufficient to warrant the Variance, staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the Variance request. If the BZA does approve the Variance it can make separate findings and attach any appropriate conditions it deems necessary as permitted by **Section 1139.02(d)(2)**.

Staff's review of the criteria is outlined in the table on the following pages.

Criterion A	Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance
Does not support granting the Variance	If the Variance were denied, the property owner could continue to yield financial return from the new three-family dwelling which was recently constructed on the property. The consequence for the owner would simply be a mandate to remove the back row of non-conforming off-street parking spaces from the property. By coming into compliance with the maximum lot coverage, the property would still be able to provide the minimum of six (6) off-street spaces required by the Zoning Code (i.e., the max. coverage and min. parking space standards do not compete with one another in this instance).
Criterion B	Whether the variance is substantial
Supports granting the Variance	Within the past 5 years, the BZA has granted lot coverage variances of a similar magnitude for properties in the R3MS District – see Appendix A. Staff also performed a GIS analysis of existing coverages across all R3MS properties, finding that 80% of all parcels sized between 8,000 and 10,000 sq ft in size possess up to 53.73% coverage, with the remaining 20% possessing greater coverage. These findings indicate a serious need to evaluate the appropriateness of a 45% limit imposed on Mile Square residential properties; until a wide-sweeping amendment is considered through the legislative process, the BZA has authority to consider variation on a case-by-case basis. It can further be noted the Planning Commission has recently openly discussed increasing allowable lot coverages in the Mile Square; case in point, a text amendment package currently on its way to City Council proposes increasing allowable lot coverage for alley sites to 80%.
Criterion C	Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance
Supports granting the Variance	The approval of the Variance would enable a pre-existing feature/amenity of the property to remain in place. While the rear parking area is considered non-conforming due to: (1) pavement straddling property lines (lack of 3-foot setbacks); and (2) the presence of more than one double-stacked space; this peculiar parking arrangement along this particular block has been a fixture of the area for decades. Furthermore, the removal of additional pavement could worsen violation activity with vehicles parking on grass, creating mud ruts, etc.

Criterion D	Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage)
Mixed evidence	As evidenced in the comments provided by the Fire Chief, the review of a potential Variance has led to the discovery of apparent violations to the Ohio Fire Code (OFC). While the position of the northern edge of the parking pad meets the zoning setback (a minimum of 3 feet from any principal structure), it seems the closer proximity of parking to the new structure has created an issue with respect to adequate egress and availability of space for placing ground ladders. The Fire Chief suggests the situation can be remedied by removing the back row of parking, as well as one space within the first row to accommodate a walkway. The Police Chief has also expressed concerns similar to those of the Fire Chief's. While it is not the BZA's responsibility to administer, interpret, or enforce the provisions of the OFC, the Board may certainly take comments from public safety officials into account when rendering a decision on a zoning Variance. It is the opinion of Community Development staff that although the Chiefs' comments identify important issues that should be adequately addressed moving forward, this issue does not directly relate to the consideration of extra covered surface on the subject lot. To this end, the approval of a Variance may actually help to facilitate a solution that best benefits all. Furthermore, in response to this discovered OFC compliance issue, the City has begun referring Building Permits for new residential construction for review by the Fire Chief moving forward, so issues of this nature may be caught earlier prior to Permit issuance. Previously, only commercial permits were transmitted for Fire review.
Criterion E	Whether the property owner purchased the property with knowledge of the zoning restriction
Does not support granting the Variance	The subject property has been in the same ownership for decades. During an on-site visit on August 19, a representative of the owner revealed they were not initially aware that the architect's site plan would result in the elimination of half the existing off-street parking spaces. Had the owner become aware of this potential loss in parking earlier, perhaps a decision on a coverage Variance could have been rendered by the BZA prior to the redevelopment of the lot.

Criterion F	Whether the property owners' predicament feasibly can be obviated through some method other than a variance
Mixed evidence	The predicament at hand is that a pre-existing number of off-street parking spaces cannot feasibly continue while also complying with the Zoning Code's stipulation for maximum overall lot coverage. Ultimately, the Board must decide which characteristic should preside/dominate over the other. In other words, additional off-street parking spaces above and beyond the Code minimum (6 are required for a three-family use) will not be possible to implement on this site without approval of a Variance; however, the Code does not confer a guaranteed right to provide parking in excess of minimums. Should the Variance be denied, tenants with cars would likely need to locate other long-term parking accommodations in town, or resort to utilizing on-street parking.
Criterion G	Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance
Supports granting the Variance	The general policy intent behind lot coverage standards is to help preserve green space, prevent over-development, and help facilitate storm water infiltration as opposed to exacerbating runoff. Even with approval of the Variance, a significant degree of the lot would still remain devoted to green space (4,033 sq ft of green space ÷ 8,940 sq ft total lot size = 45.11%), which would not meet the letter of the law but still serve its general intents and purposes. Additionally, a well-utilized – albeit nonconforming – feature of the property would be permitted to remain and thus continue to relieve parking demand pressures on nearby public streets.
Criterion H	Any other relevant factor
Supports granting the Variance	Objectives from the Oxford Tomorrow Comprehensive Plan with some relevance to the case at hand include the following: (1) Objective L3, to <i>promote development and redevelopment in targeted areas</i> ; and (2) Objective H4, to <i>maintain an adequate capacity of student housing</i> ; (3) Objective M4, to <i>ensure parking facilities in the Mile Square are adequate and effective in meeting demand</i> ; and (4) Objective C4, to <i>provide high quality, coordinated public safety services</i> . Being less than a block away from the edge of campus, the project at 417/419 E Withrow exemplifies positive contributions toward the first two Objectives, L3 and H4. It appears in this case, the interests of Objectives M4 and C4 are in competition with one another.

CONCLUSION

At the time of this report, staff believes **there is substantial evidence** to support the Variance request. To ensure public safety is adequately addressed, the Board may approve the Variance request on condition that an appropriate solution to Fire Code issues is reached to the satisfaction of the Fire Chief.

SUBMITTED BY:



Zachary Moore, AICP
City Planner / GIS Coordinator

DATE: January 22, 2025

APPENDIX A

ANALYSIS OF PREVIOUS LOT COVERAGE VARIANCES

Note: The standard maximum lot coverage in all Mile Square Districts (R-1MS, R-2MS, and R3MS) is 45%. The table below lists the outcomes of all cases reviewed by the BZA for ***overall lot coverage*** in the past 5 years. ***Front yard coverage*** cases are excluded.

Case No.	Address	District	Proposal	Decision	Description
BZA-2023-02	10/12 N Elm Street	R-2MS	52%	Granted, 5-0	Porch addition
BZA-2023-01	211 S Beech Street	R3MS	66.13%	Granted, 5-0	Church parking
BZA-2021-02	407 N Campus Avenue	R3MS	55.2%	Granted, 5-0	New Three-Family
BZA-2020-07	650 S Campus Avenue	R-2MS	50.4%	Granted, 5-0	New Two-Family
BZA-2019-07	114 W Collins Street	R-2MS	83.3%	Denied, 5-0	Two-Family Conversion

BZA MOTION FOR VARIANCES

In the case of **BZA-2024-06** ...

1) Regarding the variance requested to *Section 1143.07(c)* for maximum lot coverage ...

Mr./Ms. _____ hereby moves that the Board adopt and make the following findings of fact:

- A. The property in question (**will / will not**) yield a reasonable return or (**can / cannot**) be used beneficially without the variances because:_____
- B. The variance (**is / is not**) substantial because:_____
- C. The essential character of the neighborhood (**would / would not**) be substantially altered by the variance and adjoining properties (**would / would not**) suffer a substantial detriment as a result of the variance because:_____
- D. The variance (**would / would not**) adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because:_____
- E. The property owner (**did / did not**) purchase the property with knowledge of the zoning restriction because:_____
- F. The property owner's predicament (**can / cannot**) feasibly be obviated through some method other than a variance because:_____
- G. The spirit and intent behind the zoning requirement (**would / would not**) be observed and substantial justice done by granting the variance because:_____
- H. Other relevant factors, if any, considered include:_____

It is further moved that after considering and weighing these factors, the Board should find that practical difficulty (**is/is not**) shown sufficient to warrant granting the Variance requested, and that the Variance should be accordingly (**APPROVED / DENIED / APPROVED WITH THE FOLLOWING CONDITIONS**). The conditions for approval, if any, include:

Motion Seconded by: Mr. / Ms. _____.

Vote: Aye: _____ Nay: _____

Aerial Map

 Site

0 50 100 200 Feet



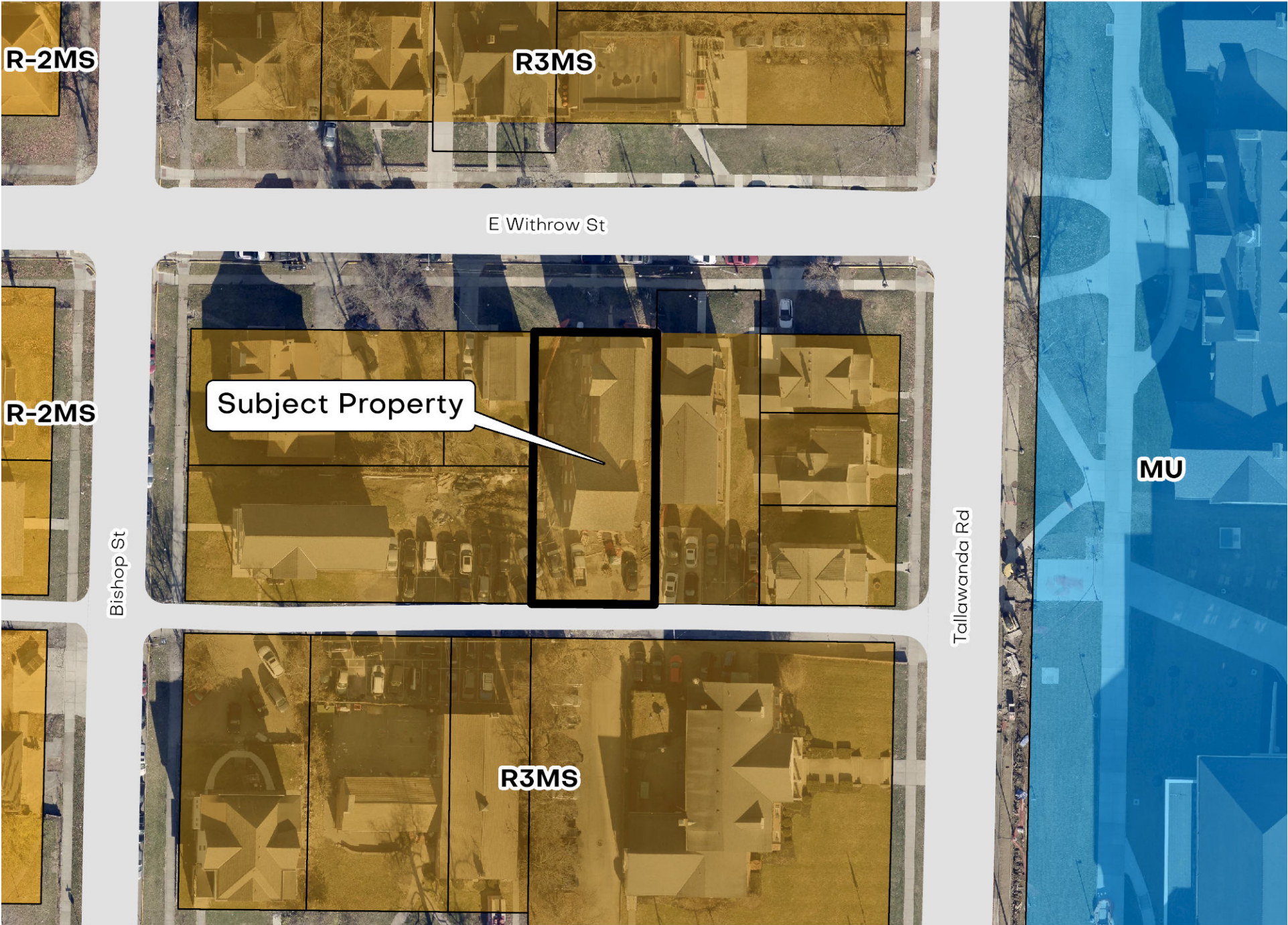
014

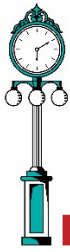


Zoning Map

 Site

0 50 100 200 Feet





MEMORANDUM

Fire Department
513-523-6324

TO: Community Development

FROM: John Detherage
Fire Chief

DATE: 09-12-2024

RE: PBZA-2024-03 | 417 E. Withrow St.

The subject application is **Reviewed with Comments.**

1. The provided picture shows that cars are parked within a few feet of the building. The cars do not give sufficient room for egress from the rear door of the structure and block the path to the public way (alley). Removing this row of parking, as the project was originally designed, would keep the area open for egress as intended. A space in the remaining row will need to be removed to complete the path to the alley. Houses in this area are often used for large parties. Should a group of people attempt to exit this building in an emergency as it is, there would likely be a pile of people should someone fall. OFC 1028.5, 1005.4
2. This parking will also hamper ingress of firefighting personnel should there be a fire in this building. Dragging firehose through this area would be virtually impossible. OFC 504.1
3. There is no access for ground ladders to reach the upper windows should a rescue need to be made due to the cars pulled up to the building. OFC 504.1

To make this structure compliant with the Ohio Fire Code, the row of parking in question will need to be removed and a parking space in the remaining row will need to be removed to provide the required path to the public way. Please see the Code sections and definitions listed below:

(b) 101.2.2 Activities, locations and persons subject to the Ohio Fire Code. Unless specifically exempted or as limited by federal or state law or this code, the provisions of this code are intended to safeguard life and property from fire and explosion and shall apply to all aspects of fire safety at any structures, building, premises, vehicles or other locations within the territorial jurisdiction of the State of Ohio. The scope of this code includes, but is not limited to, property owned by the State of Ohio or other political subdivisions of the state, residential premises (one, two and three family dwellings), and agricultural premises. The scope of this code includes all aspects of fire safety for any occupancy of or any activities at the places subject to this code, including actions of or uses by any individual, corporation,

business trust, estate, trust, partnership, associations, the state, a political subdivision of the state, and any other entity, public or private.

Definitions:

1. **[A] “Public way.”** A street, alley or other parcel of land open to the outside air leading to a street, that has been deeded, dedicated or otherwise permanently appropriated to the public for public use and which has a clear width and height of not less than 10 feet (3048 mm).
2. **[BE] “Exit.”** That portion of a means of egress system between the exit access and the exit discharge or public way. Exit components include exterior exit doors at the level of exit discharge, interior exit stairways and ramps, exit passageways, exterior exit stairways and ramps and horizontal exits.
3. **[BE] “Exit discharge.”** That portion of a means of egress system between the termination of an exit and a public way.

(4) **[BE] 1005.4 Continuity.** The minimum width or required capacity of the means of egress required from any story of a building shall not be reduced along the path of egress travel until arrival at the public way.

(5) **[BE] 1028.5 Access to a public way.** The exit discharge shall provide a direct and unobstructed access to a public way.

Exception: Where access to a public way cannot be provided, a safe dispersal area shall be provided where all of the following are met:

1. The area shall be of a size to accommodate not less than 5 square feet (0.46 m²) for each person.
2. The area shall be located on the same lot not less than 50 feet (15 240 mm) away from the building requiring egress.
3. The area shall be permanently maintained and identified as a safe dispersal area.
4. The area shall be provided with a safe and unobstructed path of travel from the building.

(1) **504.1 Required access.** Exterior doors and openings required by this *rule* or the *building code as listed in rule 1301:7-7-80 of the Administrative Code* shall be maintained readily accessible for emergency access by the fire department. An approved access walkway leading from fire apparatus access roads to exterior openings shall be provided when required by the fire code official.



Photo Taken by Chief Detherage



VARIANCE APPLICATION

Please print legibly. To apply, email completed form and plans in PDF format to commdev@cityofoxford.org

BOX 1 | APPLICATION DETAILS

Property Address/Location 417 E Withrow	
Total Site Acreage 0.20	Total Building Square Footage 2,505
Project Description New 3-Family Residence	
1143.07(c) Overall Lot Coverage	
Requested Variance(s) Cite Zoning Code Sections	

BOX 2 | APPLICANT INFORMATION

Is the applicant also the current property owner?	
☐ Yes (You may skip Box 3) ☐ No (Do not skip Box 3, and include a Letter of Agency with your submittal)	
Applicant Name Scott Webb, Architect	
Applicant Company Name Scott Webb, Architect	
Mailing Address 103 W Walnut Street, Oxford, OH 45056	
Email Address scott@scottwebbarchitect.com	
Telephone Number (513) 523-3838	

BOX 3 | PROPERTY OWNER INFORMATION ☐ Check if same as Applicant

Property Owner Name Tom Kacachos
Property Owner Company Name Tres Walnut LLC
Mailing Address 116 E High Street, Oxford, OH 45056
Email Address tkacachos@parkplacerealestate.net
Telephone Number (513) 523-2015

BOX 4 | ATTACHMENT CHECKLIST Submit all contents in PDF format. No printed copies are necessary.

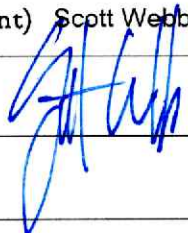
☒ Narrative/Cover Letter addressing all components required by Section 1139.02(a)(1) – more information on Page 3
☒ Site Plan(s) including all details and information required by Section 1139.02(a)(2) – more information on Page 3
☐ Building Elevations of any proposed or modified structures, including dimensions and exterior material details
☐ Floor Plans of building interior(s), and/or typical floor plans if the project involves multiple residential units
☒ Photos of existing site conditions and surroundings
☐ Copy of Preliminary Zoning Review or Permit Zoning Review containing reference to Code section(s) where variance relief is now being requested
Note: Upon checking an application for completeness, staff may require additional information and/or materials above and beyond the items listed above in order to perform a complete evaluation for compliance with relevant Code provisions. You are welcome to contact Community Development at 513-524-5204 ahead of submission to determine whether additional items may be required.

BOX 5 | APPLICANT SIGNATURE

As the owner or owner's agent, I hereby agree all information contained in this application is true, accurate, and complete to the best of my knowledge. I acknowledge the application will first be checked by City staff for completeness prior to determining a hearing date with the Oxford Board of Zoning Appeals. I also acknowledge that one or more signs may be placed on the subject property advertising scheduled public hearings for this application, and assume responsibility for removing signs at the completion of the hearing(s).

Applicant Name (Print) Scott Webb, Architect

Applicant Signature



Date 07/26/24

Processing Fee

The appropriate processing fee amount will be determined during a completeness check by Community Development staff. It may take 1-2 business days for a completeness check to be performed. The applicant will receive a digital copy of a processing fee invoice via email once it is ready. Fees may be paid in-person by check or credit card at the Finance Department window on the first floor of the Oxford Municipal Building, 15 S College Avenue, Oxford OH 45056. For credit card payments, the City accepts Visa, MasterCard, or Discover, and such payments may also be taken over the phone by calling our Finance Department Utilities line at 513-524-5221, Option 1.

Narrative/Cover Letter Requirements For source text see Oxford Zoning Code [Section 1139.02\(a\)\(1\)](#)

- A description of the existing uses of the site.
- The zoning district in which the site is located.
- A description of the existing and proposed use.
- For a proposed commercial use, include: (1) a description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles; and (2) the hours of operation.
- The nature and magnitude of the requested Variance.
- The Code section from which the Variance is requested.
- Separate narrative statements that explain how the proposed Variance satisfies each of the Decision Standards required to grant a variance. If multiple Variances are being requested, including a separate list of narrative statements for each Variance sought.

Site Plan Requirements For source text see Oxford Zoning Code [Section 1139.02\(a\)\(2\)](#)

- North arrow.
- Scale.
- Vicinity map.
- All existing and proposed lot lines within the site.
- Dimensions of all lots and of the entire site and any adjacent rights-of-way.
- Location, height, and use of all proposed and existing structures.
- Location and design of all proposed vehicle management areas.
- Location, size, and type of all proposed signs.
- Location, height, and type of all proposed screening and landscaping.
- Distances to residential zoning districts if within 1,000 feet.
- The use of land and location of structures on adjacent property and across adjacent rights-of-way.
- An indication of the regulation from which the Variance is requested.
- Other information as required by the Board of Zoning Appeals.

Decision Standards For source text see Oxford Zoning Code [Section 1139.02\(c\)](#)

The Board of Zoning Appeals will consider the effect of the request on the public health, safety and welfare.

Variances shall be granted only upon a determination that **practical difficulties** exist with respect to the property in question that would render strict application of the Zoning Code unreasonable. This determination shall be made without regard to the existence of variances and nonconformities on other land, sites, or structures not presently under consideration.

In determining whether practical difficulties exist sufficient to warrant a variance, the Board shall consider and weigh the following factors¹:

- Whether the property in question will yield reasonable return of whether there can be any beneficial use of the property without the variance;
- Whether the variance is substantial;
- Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- Whether the property owner purchased the property with knowledge of the zoning restriction;
- Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- Any other relevant factor.

¹ The first seven factors are collectively known as the "Duncan standards" and are commonly referenced by municipal zoning jurisdictions in Ohio following the State Supreme Court's decision in [Duncan v Middlefield, 23 Ohio St. 3d 83 \(1986\)](#)

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that

Scott Webb

(Applicant Name)

has permission to represent our interest with the City of Oxford regarding

Variance Application for parking at 417 E Withrow

(Application Description)

located at

417 E Withrow

(Property Address/Location)

Thank you,

Tom Kacachos

(Property Owner Printed Name – must be a person)

Tres Walnut, LLC

(Property Owner Company Name – if applicable)



(Property Owner Signature – must correspond to printed name above)

7.26.2024

(Date)

Board of Zoning Appeals
City of Oxford
15 S. College Ave.
Oxford, Ohio 45056



**SCOTT
WEBB**

A R C H I T E C T

103 West Walnut Street
Oxford, Ohio 45056
(513) 523-3838

www.scottwebbarchitect.com

Re: Variance to Lot Coverage and Setback for Paving
New 3-Family Residence
417 E Withrow Street
Oxford, Ohio

July 26, 2024

Board Members,

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for variances to the Lot Coverage restrictions in the R3MS Zoning District.

The New house at 417 E Withrow was permitted with a Site Plan calling for the removal of a portion of the existing parking along the Alley in order to meet the Lot Coverage restrictions of the R3MS Zoning District.

As shown in the attached aerial from before the new construction, there has historically been a continuous swath of parking along the East/West Alley, providing (40) parking spaces for the various student rentals in this block. The spaces have historically been numbered and assigned to the various dwellings.

Current Zoning Regulations would require the removal of (8) parking spaces for zoning compliance adding a shallow "yard" to the rear among the other parking spaces.

The variances requested would allow this area to continue to function as a continuous pocket of off-street parking.

1143.07(c) Restricts overall Lot Coverage to 45% of the lot.

Leaving the existing parking results in 54.8% Overall Lot Coverage, exceeding these limits.

The following are responses to the decisions standards outlined in the application;

- a) *Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;*

The property may remain in its current condition, providing the min. required parking.

- b) *Whether the variance is substantial;*

The 9.8% increase in Lot Coverage is not significant to increase the parking in this neighborhood by (8) additional spaces.

- c) *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance*

The essential character of the neighborhood would be unaffected, with no change to the previous parking arrangement.

- d) *Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage);*

No change in the delivery of utilities & government services is necessitated by this application.

- e) *Whether the property owner purchased the property with knowledge of the zoning restriction;*

The property owner was aware of the zoning restriction, providing a Site Plan in compliance with the regulations. After the new house was constructed, it became obvious that the existing parking could remain with a variance.

- f) *Whether the property owners' predicament feasibly can be obviated through some method other than a variance;*

Existing paving areas can be removed and replaced with grass and meet the min. parking requirements.

- g) *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;*

The spirit of the Zoning Code is observed with regard to the placement of parking off the street and accessed by the alley. The limits on Lot Coverage are provided to preserve/create active outdoor areas and provide greenspace on each property. The greenspace available would not be desirable, located adjacent to a large parking area.

- h) *Any other relevant factor;*

This redevelopment project aligns with the goals of the Comprehensive Plan, encouraging infill and redevelopment within the City and reducing traffic and on-street parking in the Mile Square.

Thank you for your consideration of this application. If you have any questions or need any additional information, please call.

Respectfully,

A handwritten signature in dark ink, appearing to read 'Scott Webb', is written over a light blue rectangular background.

Scott Webb, Architect

Site Pictures



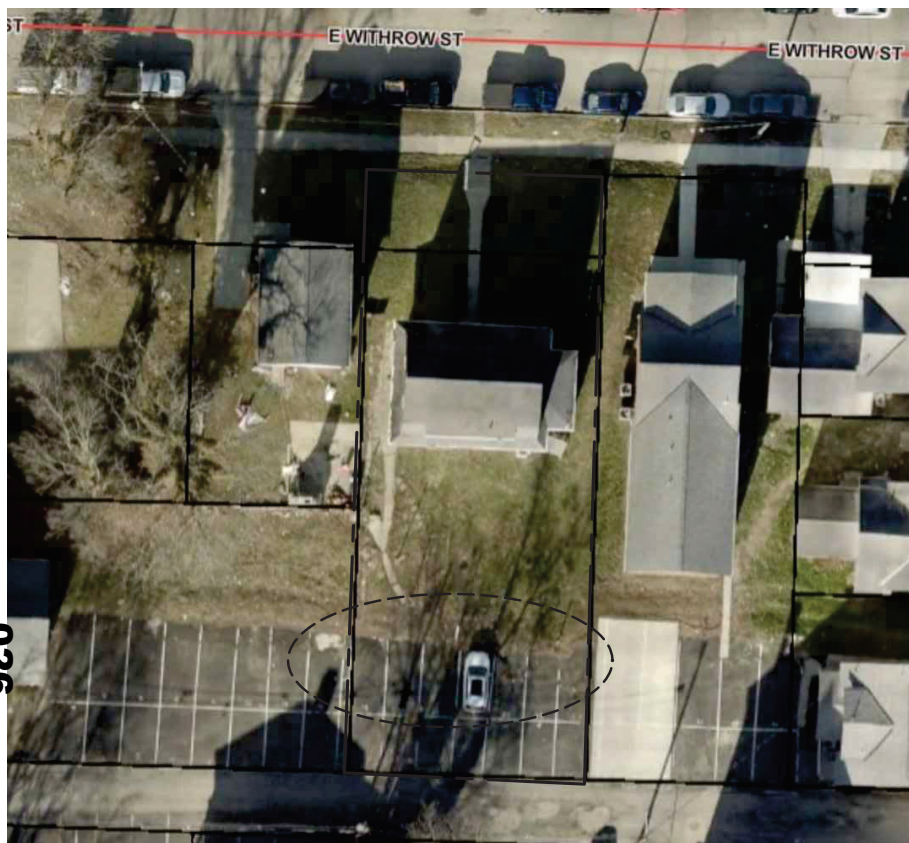
Site Location



Existing Rear Parking



026



EXISTING CONDITIONS

APPROVED SITE PLAN

1" = 20'-0"

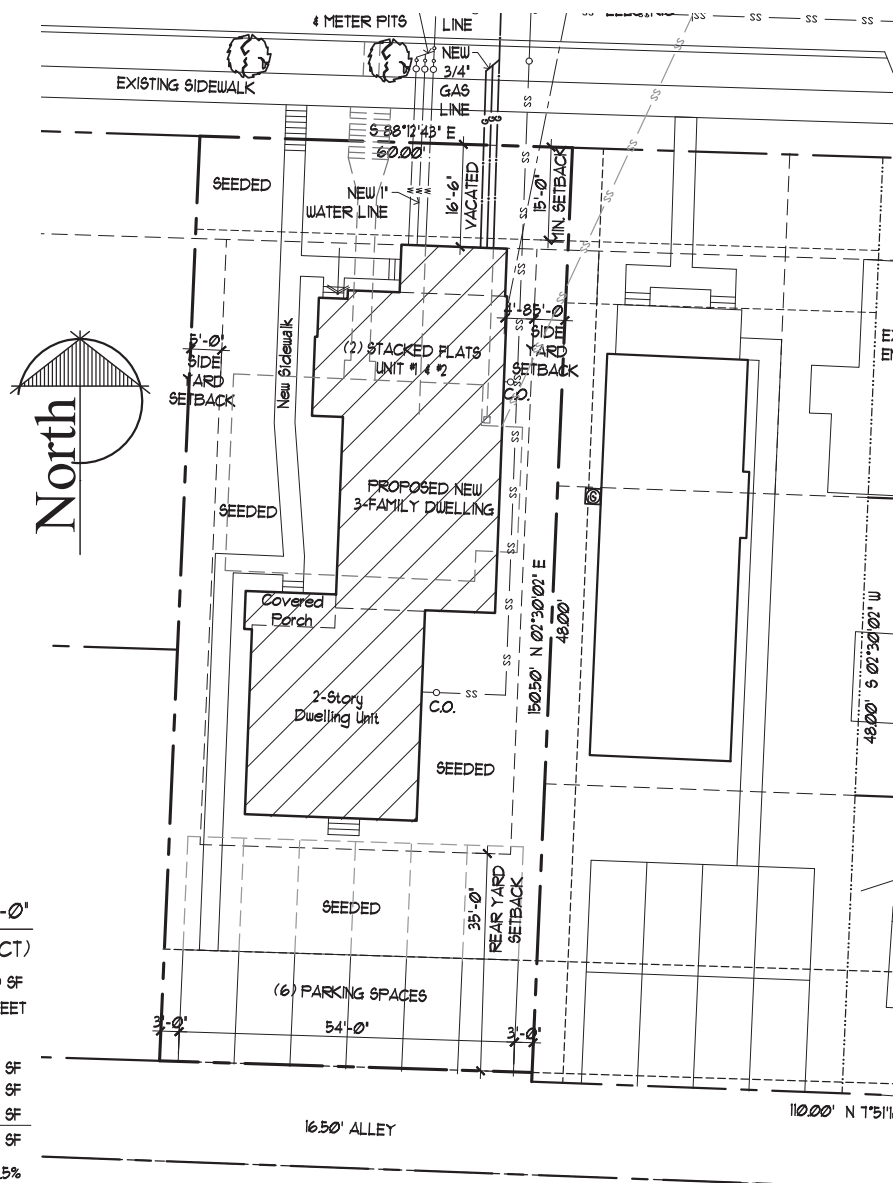
SITE DEVELOPMENT REGULATIONS (R3MS ZONING DISTRICT)

OVERALL LOT AREA: (8000 MIN FOR 3-FAMILY) 8,940 SF
 OVERALL LOT WIDTH: (60' MIN FOR 3-FAMILY) 6000 FEET

LOT COVERAGE REGULATIONS

BUILDINGS: 2,505 SF
 (6) NEW PARKING SPACES (2) PER DWELLING UNIT: 912 SF
 SIDEWALKS: 549 SF
 TOTAL: 4,026 SF

ACTUAL FRONT YARD: 50 SF / 300 SF = 5.5%
 ALLOW. FRONT YARD: R3MS = 15%
 ACTUAL LOT COVERAGE: 4,026 SF / 8,940 SF = 45.0%
 ALLOW. LOT COVERAGE (VEHICLE ACCESS FROM ALLEY): R3MS = 45%

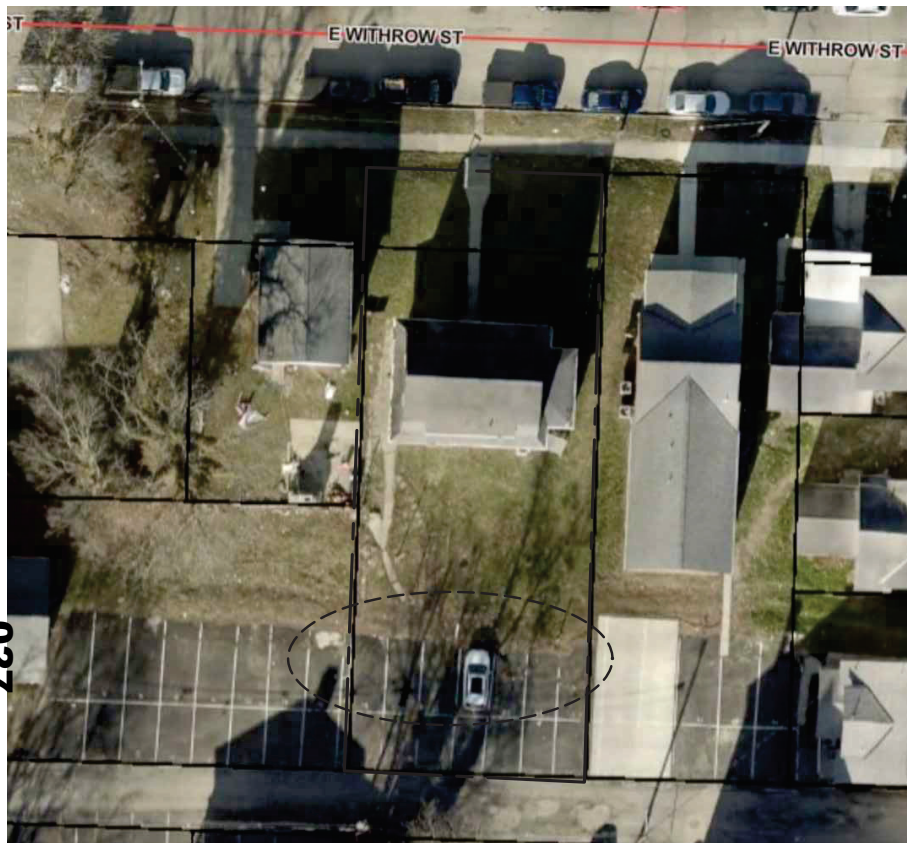


SCOTT WEBB
 ARCHITECT
 103 West Walnut Street
 Oxford, Ohio 45056
 (513) 523-3838
www.scottwebbarchitect.com

PROPOSED NEW 3-FAMILY RESIDENCE
417 E. Withrow
 OXFORD, OHIO 45056
 HOELZER/HOELZER RENTAL INC.

DATE
July 24, 2024
REVISIONS

A-1



EXISTING CONDITIONS

REVISED SITE PLAN

1" = 20'-0"

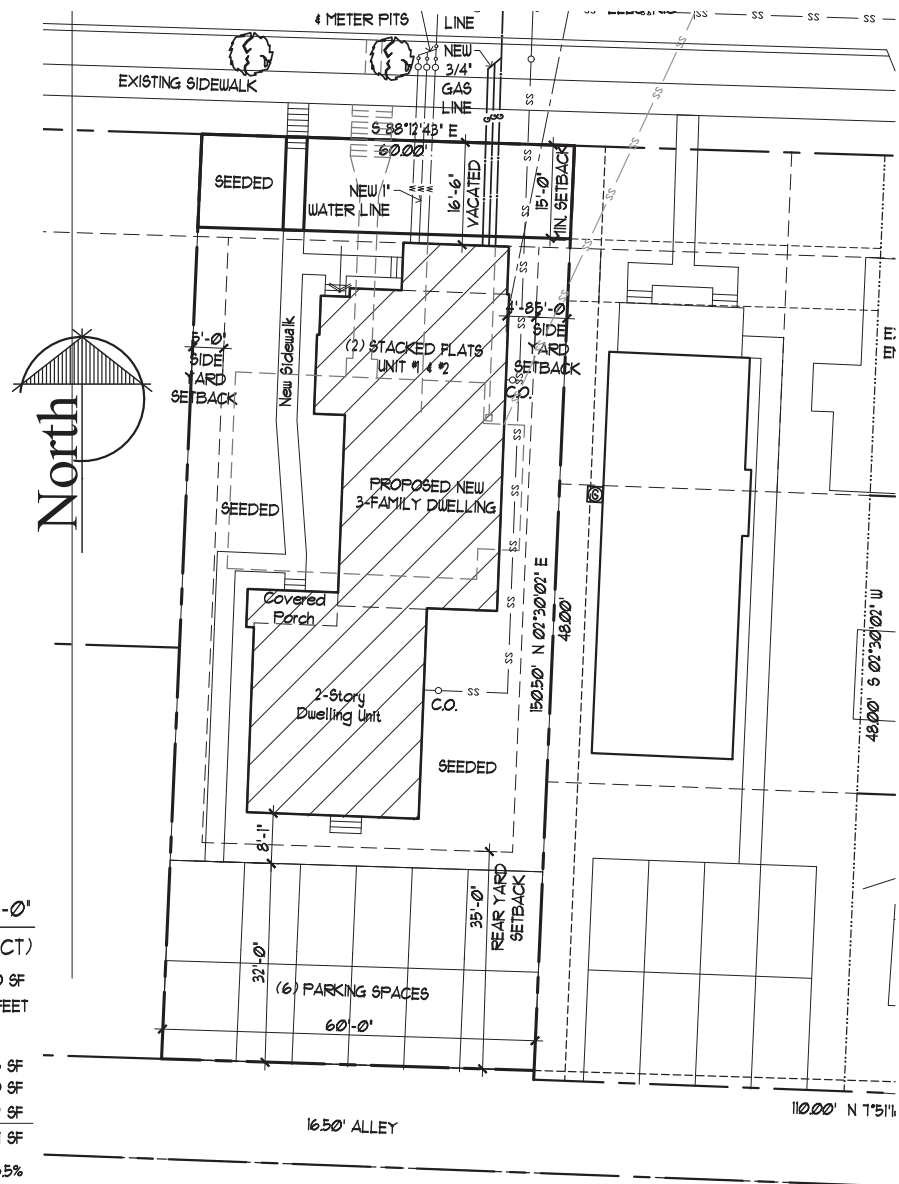
SITE DEVELOPMENT REGULATIONS (R3MS ZONING DISTRICT)

OVERALL LOT AREA: (8000 MIN FOR 3-FAMILY)	8,940 SF
OVERALL LOT WIDTH: (60' MIN FOR 3-FAMILY)	6000 FEET

LOT COVERAGE REGULATIONS

BUILDINGS:	2,505 SF
(6) NEW PARKING SPACES (2 PER DWELLING UNIT):	1,920 SF
SIDEWALKS:	482 SF
TOTAL:	4,907 SF

ACTUAL FRONT YARD:	50 SF / 300 SF = 5.5%
ALLOW. FRONT YARD:	R3MS = 15%
ACTUAL LOT COVERAGE:	4,907 SF / 8,940 SF = 54.8%
ALLOW. LOT COVERAGE (VEHICLE ACCESS FROM ALLEY):	R3MS = 45%



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PROPOSED NEW 3-FAMILY RESIDENCE
417 E. Withrow
OXFORD, OHIO 45056
HOELZER/HOELZER RENTAL INC.

DATE	July 24, 2024
REVISIONS	

A-1

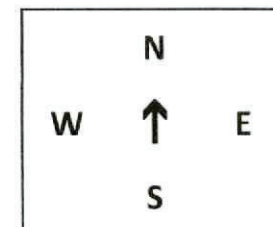
TALLAWANDA PARKING LOT

028

113-115 N BISHOP			116 TALLAWANDA		114 TALLAWANDA		421 E WITHROW	PARK PLACE								423 E WITHROW		112 TALLAWANDA		
113-115 N BISHOP HOUSE	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40
	1	3	5	7	9	11	13	15	17	19	21	23	25	27	29	31	33	35	37	39
112 TALLAWANDA HOUSE																				

SPOTS 1-6: 113-115 N Bishop
SPOTS 7-10: 116 Tallawanda
SPOTS 11-14: 114 Tallawanda
SPOTS 15-16: 421 E Withrow
SPOTS 17-30: PARK PLACE
SPOTS 31-34: 423 E WITHROW
SPOTS 36-40: 112 Tallawanda

Early schematic provided by applicant prior to Variance app submission. This illustrates how property owners use/assign spaces along the northern side of the E-W alley between Bishop St. and Tallawanda Rd.



Zachary Moore

From: Zachary Moore
Sent: Thursday, November 14, 2024 9:48 AM
To: John Jones; John Detherage
Cc: Sam Perry
Subject: RE: 417 E Withrow

Email Chain with Police &
Fire Chief ... Police Chief
notes a complaint received
(copy attached)

Good morning JJ,

Thanks for sharing this complaint with me.

To answer your questions:

- 417-419 E Withrow is a new 3-unit building permitted for up to 4 unrelated occupants per unit; thus 12 occupants in total.
- The Zoning Code typically only requires 6 spaces for a 3-unit building (minimum of 2 per unit).
- If the lot coverage variance was not approved, the back row of 7 spaces would need to be eliminated and converted to lawn/grass, thus reducing total spaces from 14 to 7.
- Of course, even if a variance were approved, it does not resolve the building proximity concern that you and Chief Detherage have.
- The schematic below shows how parking is distributed among properties along the south side of E Withrow. All properties identified on this schematic are owned by Park Place (Tres Walnut LLC); so, with management more centralized, I imagine some tenants' spaces are simply being assigned "off-site" from where their rental unit is physically located.

TALLAWANDA PARKING LOT

113-115 N BISHOP			116 TALLAWANDA		114 TALLAWANDA		421 E WITHROW	PARK PLACE								423 E WITHROW		112 TALLAWANDA
113-115 N BISHOP HOUSE	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36
	1	3	5	7	9	11	13	15	17	19	21	23	25	27	29	31	33	35

SPOTS 1-6: 113-115 N Bishop
SPOTS 7-10: 116 Tallawanda
SPOTS 11-14: 114 Tallawanda
SPOTS 15-16: 421 E Withrow
SPOTS 17-30: PARK PLACE
SPOTS 31-34: 423 E WITHROW
SPOTS 36-40: 112 Tallawanda

Early schematic provided by applicant prior to Variance app submission. This illustrates how property owners use/assign spaces along the northern side of the E-W alley between Bishop St. and Tallawanda Rd.

W

Thanks,

Zachary Moore, AICP
City Planner / GIS Coordinator
513-524-5204



From: John Jones <JJones@cityofoxford.org>
Sent: Wednesday, November 13, 2024 4:42 PM
To: Zachary Moore <zmoore@cityofoxford.org>; John Detherage <jdetherage@cityofoxford.org>
Cc: Sam Perry <sperry@cityofoxford.org>
Subject: RE: 417 E Withrow

Zach,

This complaint recently came in. I understand that they are talking about on-street parking and I will respond with the process of how to get a zone made into a Residential Parking Permit area. But I noted the address is from the new building where this parking variance is being sought. I'm curious if you know how many people this entire building (417-419) is permitted to have. The resident states that 3 spaces are provided for a 4 person unit. In looking at the site picture, it looks like the owner would have 14 spaces. I'm curious if they are renting out their spaces or if that many people live there. This complaint may actually support the need to keep the parking, but I still would stand by my comments that cars are too close to the building and that double stacking the cars will lead to vehicles driving through the grass as they get blocked in. But thought I would share this with you.

Thanks,
JJ

From: Zachary Moore <zmoore@cityofoxford.org>
Sent: Monday, November 11, 2024 9:57 AM
To: John Detherage <jdetherage@cityofoxford.org>; John Jones <JJones@cityofoxford.org>
Cc: Sam Perry <sperry@cityofoxford.org>
Subject: RE: 417 E Withrow

Thanks John

Zachary Moore, AICP
City Planner / GIS Coordinator
513-524-5204



From: John Detherage <jdetherage@cityofoxford.org>
Sent: Monday, November 11, 2024 9:40 AM
To: Zachary Moore <zmoore@cityofoxford.org>; John Jones <JJones@cityofoxford.org>
Cc: Sam Perry <sperry@cityofoxford.org>
Subject: RE: 417 E Withrow

Haven't heard from them.

John P. Detherage
Fire Chief
City of Oxford Fire Department
217 S. Elm St.
Oxford,
Ohio 45056
513-523-6324

From: Zachary Moore <zmoore@cityofoxford.org>
Sent: Monday, November 11, 2024 8:35 AM
To: John Jones <JJones@cityofoxford.org>; John Detherage <jdetherage@cityofoxford.org>

Cc: Sam Perry <sperry@cityofoxford.org>

Subject: 417 E Withrow

Good morning John and JJ,

I was wondering whether Scott Webb or Tom Kachos has reached out to either of you, in response to your comments given on Case No. BZA-2024-03. This case entailed a requested variance to maximum lot coverage for a new three-family dwelling constructed at 417-419 E Withrow St.

[Here is a link to the Pertinent Documents that were prepared for the October BZA meeting.](#)

The Variance was planned to be heard by the BZA on October 22, but Mr. Kachos withdrew the case earlier that day with the stated purpose of looking further into staff concerns, particularly those voiced by the two of you. A new application was later submitted on October 29, consisting of the exact same materials as the original.

I would appreciate any new comments or updates you are able to share.

Thank you,

Zachary Moore, AICP

City Planner / GIS Coordinator

513-524-5204



Report A Concern

Print

Submitted by: Storm Smitherman
Submitted On: 2024-11-11 10:40:53
Submission IP: (104.28.76.193)
proxy-IP (raw-IP)
Status: Acknowledged
Priority: Normal
Assigned To: Police Dispatch
Due Date: Open

Report a Concern



* Date

11/11/2024

Format: MM/DD/YYYY

* First Name

Storm

Enter your First Name

* Last Name

Smitherman

Enter your Last Name

* Email

stormsmitherman3@gmail.com

Phone

6144417488

* Preferred Method of Contact

Email



. . .

* Type of Response/Service Request

General Question



*** Describe Your Issue**

There is insufficient parking for the residents of 419 E Withrow Street due to non residents of this street parking on the street in front. Additionally, there is only 3 parking spots for a unit of 4 people. I request that parking permits be required for parking on E Withrow Street, so that we can actually find parking.

Address of Needed Service (if applicable)

419 E Withrow Street

Upload a File (if applicable)

No file chosen

Attach pertinent images, documents, etc