

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-02-2013

Date – January 16, 2012

APPLICATION

Applicant:	Jack Rupp / Ashford Homes LLC
Location:	28 Gardenia Drive
Owner:	Tim and Rita Rhoton
Action Requests:	Variance to 1149.04(b)(6) , driveway width at the right of way
Current Use:	Single Family Residential
Zoning:	R2A, Single and Two-Family Residential
Surrounding Land Uses:	Single Family Residential and Undeveloped Lands

DESCRIPTION

A new home has been completed at 28 Gardenia Drive. The approved site plan showed a 16 foot wide driveway, but a 19 foot, 11 inch driveway was installed. Vehicle Management Zoning Code Section 1149.04(b)(6) requires that a residential driveway be no more than 18 feet wide at the right of way line. The house was designed with two separate 8-foot garage doors, which resulted in a 3-foot, 11 inch gap between the doors. The right door is stepped back slightly to accent the architecture. The majority of garage doors in the neighborhood are single doors opening to an interior space capable of accommodating two cars side by side. A standard double-wide garage door is 16 feet wide. The subject property is different in that there are two separate doors which resulted in the wider overall driveway.

VARIANCE REQUESTED (w/staff comment below in bold)

Variance to 1149.04(b)(6) , Requiring that a residential driveway be a maximum of 18 feet wide at the right of way line.

The actual driveway width at the right of way line is 19 feet, 11 inches, which is nearly 2 feet wider than permitted, which represents an 11% increase in width beyond what is allowed by Zoning Code.

Regarding the essential character, the design, material and size of the home has a much more noticeable impact on the character of the area than an 11% increase in driveway width would. The requested variance is the minimum necessary to allow the driveway width to match the garage door width, without any further modification. The driveway does not extend to the structural building corners as common with some homes, but stays flush with the opening.

An 11% increase in driveway width is hardly noticeable to the casual observer. However, both the driveway apron and the driveway could be tapered from the right of way to the house in order to comply with Zoning Code. Technically, they could either be cut with a concrete saw or demolished and completely re-poured in compliance. An alteration of the existing situation may

require considerable care in cutting and shaping the concrete edge in order to accomplish a finished look that matches the surrounding concrete. **Therefore this predicament could be obviated through at least two means other than a variance.**

The spirit and intent of this particular section of zoning ordinance is to minimize the dominance of vehicles and vehicle infrastructure in a residential neighborhood. The planning principle is that **“people live here, not cars.”** The community’s decision to establish a measurable threshold (18 feet) for driveway width is intended to seek to accomplish this **spirit and intent** in a residential area.

COMMENT FORMS

No public comments were received from surrounding property owners regarding this request.

AGENCY REVIEW

Fire	Returned without comments
Police	Returned without comments
Engineering	Returned without comments
Economic Development	Returned without comments

SITE HISTORY

The building permit for the home was approved in June 2012. There have been no BZA actions on this property.

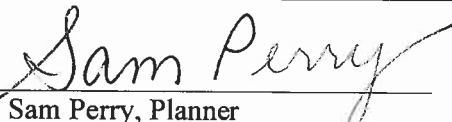
ANALYSIS

While it is technically possible to modify or replace the driveway structure to comply with the Zoning Code, there appears to be adequate evidence that the marginal increase in width will not alter the essential character of the neighborhood.

RECOMMENDATION

If the BZA determines that there is sufficient evidence to find practical difficulties which warrant the approval of the variance request, the staff recommends that the BZA cite the specific evidence and approve the variance request.

SUBMITTED BY:



Sam Perry, Planner
Community Development Department

DATE: January 8, 2013

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 12/19/2012

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-02-2013

ADDRESS: 28 Gardenia

**BZA-02-2013 28 Gardenia, variance to Section 1149.04(b)(6) driveway width at the right-of-way,
Ashford Homes, LLC, Applicant, Agent.**

____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **1/4/13** Note: If no comments are received, we will assume the project meets your department's standards.

.....
Drawings are returned: w/comments without/comments

Drawings reviewed by:



Date: 12-20-12

PRINT NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 12/19/2012

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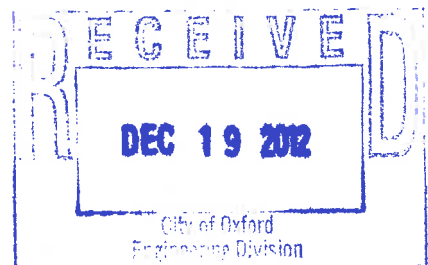
Drawings are returned: w/comments without/comments

Drawings reviewed by: _____

[Signature]

Date: 12-19-12

VICTOR POPESCU, CITY ENGINEER
PRINT NAME



City of Oxford
Inter-Office Review Transmittal Sheet

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 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **1/4/13** Note: If no comments are received, we will assume the project meets your department's standards.

.....
Drawings are returned: w/comments without/comments

Drawings reviewed by: 

Date: 12/27/12

R. B. HOLZWORTH
PRINT NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 12/19/2012

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

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ADDRESS: 28 Gardenia

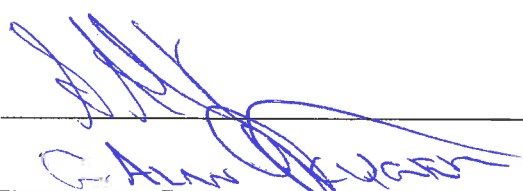
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_____X_____ Review _____ Revisions _____ Other

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Drawings are returned: w/comments without/comments

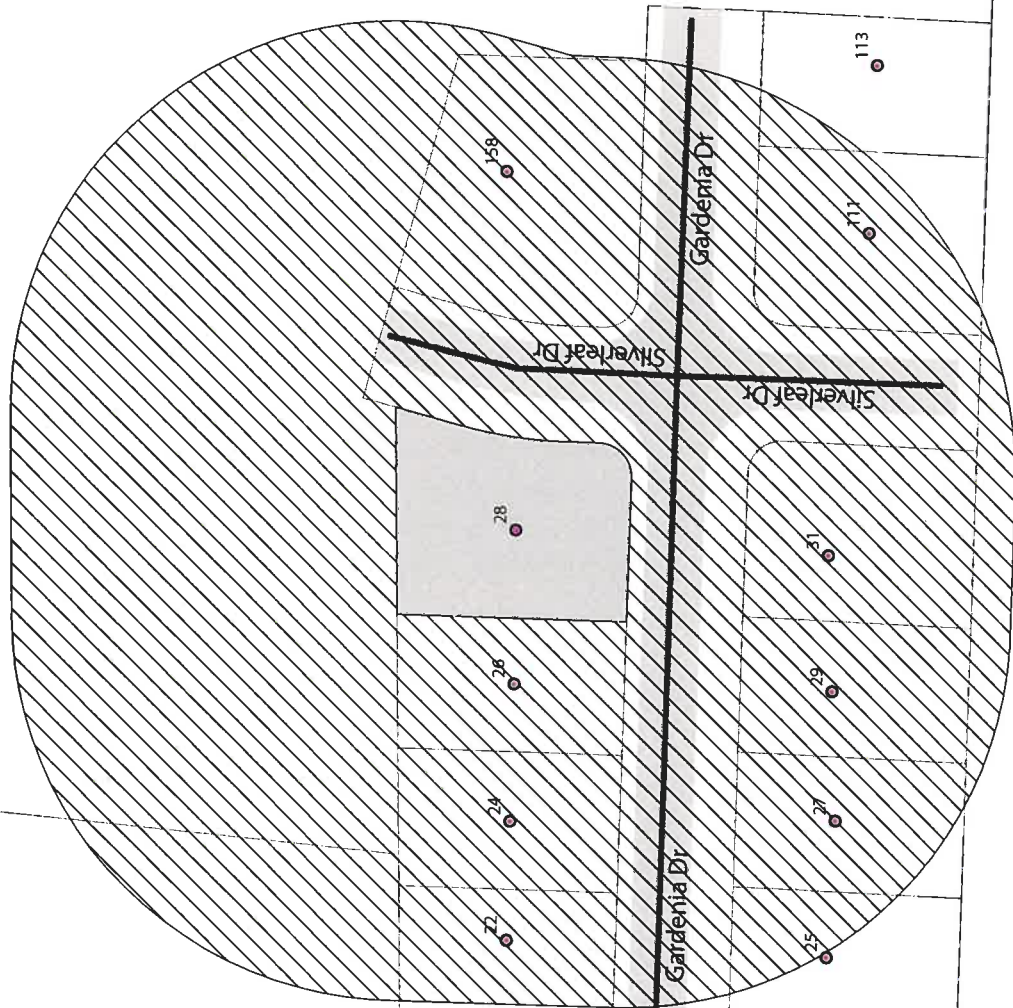
Drawings reviewed by: 

Date: 1-4-13

G. Ann DeWitt
PRINT NAME

BZA-02-2013

Notified Properties



Legend

Oxford Corporation Limit

Address Point

28 Gardenia Drive

200 Ft. Buffer

Parcels



1 inch = 100 feet

Timothy and Laurita Rhoton

28 Gardenia Dr.

Oxford, Ohio 45056

City of Oxford

11/16/12

Board of Zoning Appeals

To whom it may concern:

In the matter of appeal for a variance on the driveway of our newly constructed home located at 28 Gardenia Drive here in Oxford. My wife and I would agree to have Jack Rupp (Ashford Homes) represent us as the expert in new home construction and driveways. Any decisions made between the City of Oxford and Jack will be considerate appropriate and binding.

We plan on attending the meeting also.

Sincerely

Timothy and Laurita Rhoton

28 Gardenia Dr.

Oxford, Ohio 45056

(513) 280-6231

Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner: Ashford Homes LLC
(Attach a Letter of Agency if the Applicant is not the property owner.)
Mailing Address: 7791 JOAN DR West Chester, OH 45069
Telephone Number(s): 513-445-1806
Email Address: ashfordhomes@fuse.net
Name of Property Owner: Tim & Rita Rhoton
Mailing Address: 28 GARDENIA, Oxford
Telephone Number(s): 513-445-1806
Requested Variance: Subject property driveway exceeds (1149.64 sq ft)
(Indicate nature of variance regulations by 1'-11" - The current regulation is 18'-0" wide;
and applicable section(s) we poured the driveway 19'-11" due to the design of the
of the Zoning Code.) home
Location of Requested Variance: 28 GARDENIA
Legal Description: H4000116000046 (PARCEL) 3659 ENT (Legal Desc. 1)
Zoning District: R1
Total Acreage: .2541 Acres Silverleaf Meadows Sub Sec 1
(Legal Desc. 2)
Existing Use of Site: Primary Residence
Proposed Use: (if applicable) Residential driveway
A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles, and the hours of operation.

REQUIRED INFORMATION

Eight complete sets of all information shall be submitted with an application. The Zoning Administrator may modify this requirement based upon the type of materials included. The applicant is encouraged to contact the Zoning Administrator prior to submitting an application to discuss the submission requirement. If any information is submitted in color or on non-standard paper, more copies may be required.

(1) **SITE PLAN** - A scaled site plan shall include the following information in detail and must be prepared by an Ohio licensed surveyor. The required information may be submitted on multiple site plans if inclusion of all information on a single plan makes it illegible or difficult to understand.

- 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.

(2) **ELEVATIONS** – Elevations of proposed structure, or typical elevations if structures are not yet designed, may be required by the Zoning Administrator if the proposed location, height, or bulk of the structure is such that it may negatively affect an adjacent use.

(3) **OTHER** – Photographs of the existing use and its surroundings and other information regarding the proposed use, site, or surrounding area as may be pertinent to the application or required by the Board of Zoning Appeals.

(4) On a separate sheet, provide the names and mailing addresses of all property owners within 200 feet of all boundaries of the property in question, provide parcel numbers as well. NOTE: The Butler County website (www.butlercountyohio.org/auditor) is very helpful when searching for the mailing address of adjoining property owners. Once the site is up, click on online searches, then click on real estate. It will allow you to search by owner, address or parcel number.

(5) A separate narrative statement that explains how the proposed variance satisfies each of the following Decision Standards required to grant a variance. A separate response is required for each subsection. In determining whether practical difficulties exist sufficient to warrant a variance, the Board shall consider and weigh the following factors:

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

Submit this application with required attachments and **\$400.00 plus Actual Postage fee**, made payable to the City of Oxford, to the office of the Community Development Director, Municipal Building, 101 East High Street, Oxford, Ohio 45056. Any questions should be directed to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

NOTE: Notification and publication requirements must be adhered to. Submit materials 35 days prior to the proposed Board of Zoning Appeals meeting at which the action is requested. City Staff will erect a public hearing sign on the subject property. It is the Applicant's responsibility to remove the signage once the hearing(s) are completed.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

SIGNATURE OF APPLICANT: Jack Rupp Date: 11/18/12

PRINTED NAME OF APPLICANT: Jack Rupp

FEE / RECEIPT

\$400 plus Actual Postage Fee Paid / Receipt Number: 18328 32

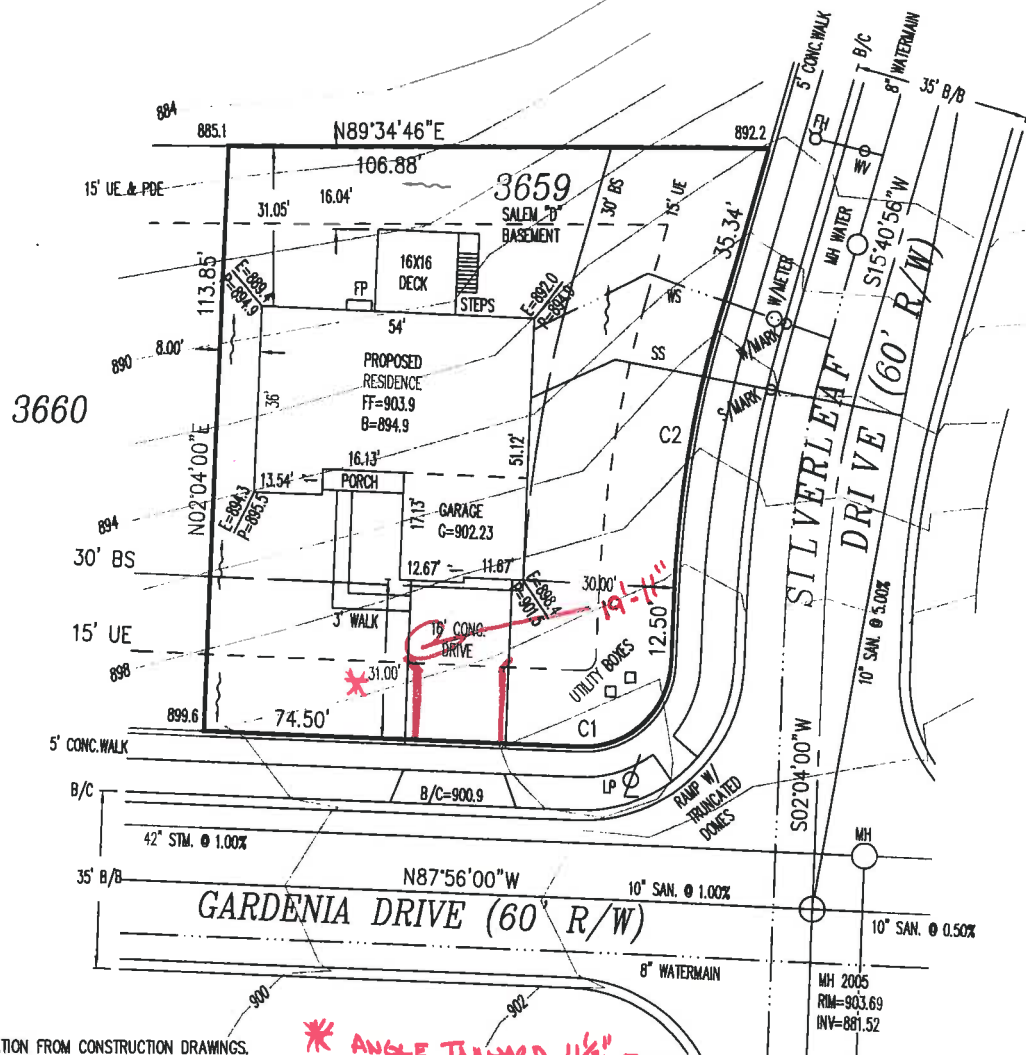
- A) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance: The return is keeping a uniform driveway pattern within the community. If we did not get the variance, it would negatively impact the curb appeal of the community as well as possibly adversely affecting the resale for the homeowner due to the tapered driveway.
- B) Whether the variance is substantial: 1'-11" doesn't justify this request as substantial since we poured the driveway just to the end of the garage doors and not the outside corners of the structure.
- 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: Not in our opinion.
- D) Whether the variance would adversely affect the delivery of governmental services: Not in our opinion.
- E) Whether the property owner purchased the property with knowledge of the zoning restriction: The owner was not aware of the restriction prior to the purchase.
- F) Whether the property owners' predicament feasibility can be obviated through some method other than a variance: Yes, we can cut out the concrete sections that are in the restricted areas and taper 11 ½" on each side to meet the 18' code. Please see my comments on paragraph A for negative consequences that could possibly occur.
- G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: Yes it would be observed.
- H) Any other relevant factor: no



15 0 15 30 45

RHOTEN RESIDENCE
28 GARDENIA

Driveway	644.2 sq. ft.
Apron	145.2 sq. ft.
Sidewalk-Private	106.7 sq. ft.
Sidewalk-Public	1091.8 sq. ft.
Sod	5820.9 sq. ft.
Seed	3096.9 sq. ft.



INFORMATION FROM CONSTRUCTION DRAWINGS.

CONTRACTOR IS TO VERIFY LOCATION AND DEPTH
OF WATER AND SANITARY SERVICES BEFORE
CONSTRUCTION.

ALL ELEVATIONS ARE EXISTING UNLESS SPECIFIED
WITH AN "E" FOR EXISTING OR A "P" FOR PROPOSED.

UNLESS F.F.E., M.O.E. OR M.B.E. ARE FIELD VERIFIED BY AN
ENGINEERING FIRM, CONTRACTOR TAKES FULL RESPONSIBILITY
FOR THE FINISH FLOOR ELEVATION.

STANDARD FORMULA WAS USED TO DETERMINE FINISH FLOOR
GRADE. FINAL FINISH FLOOR ELEVATION IS CONTRACTOR'S
RESPONSIBILITY.

BEFORE CONSTRUCTION, A GEOTECHNICAL REPORT SHALL BE OBTAINED
FROM THE BUILDER. APEX ASSUMES NO RESPONSIBILITY FOR SOIL
CONDITIONS.

REVISED-06-16-12

HOUSE COVERAGE=20%

SETBACKS
FRONT=30'
REAR=N/A
SIDE=8'

C1 R=17.50' L=27.49'
C2 R=230 L=54.66'

PROJECT No. SILVERLEAF

DWG No. 120428PA

DATE: 05-21-12

ASHFORD HOMES

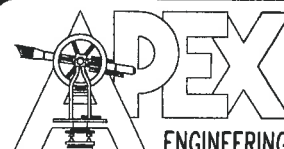
EXHIBIT "A"

PLOT PLAN
LOT 3659 (11,069 SF)
SILVERLEAF MEADOWS SECTION-1
CITY OF OXFORD
BUTLER COUNTY, OHIO

SCALE: 1"=30'

DRAWN: DWM

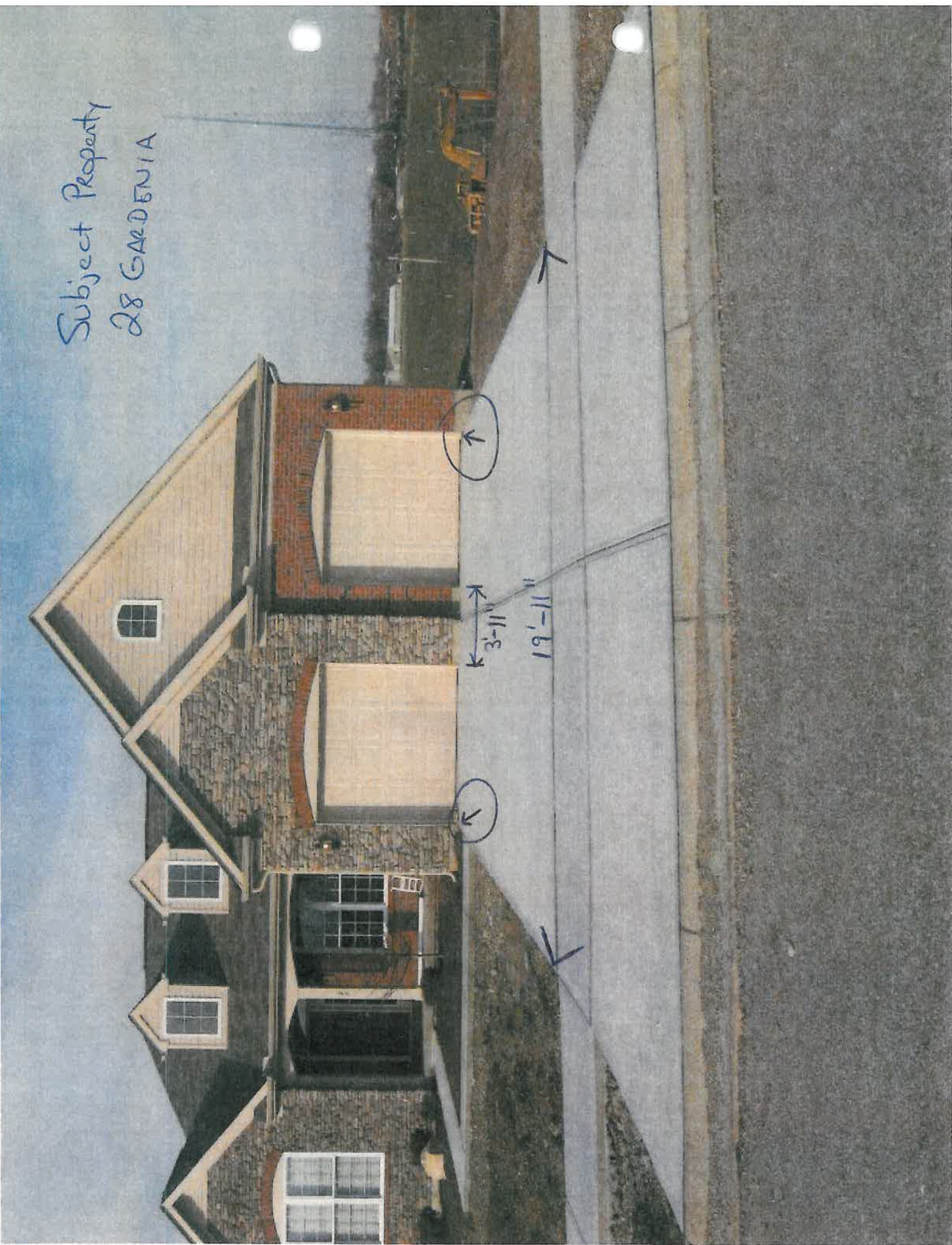
CHECKED: KC



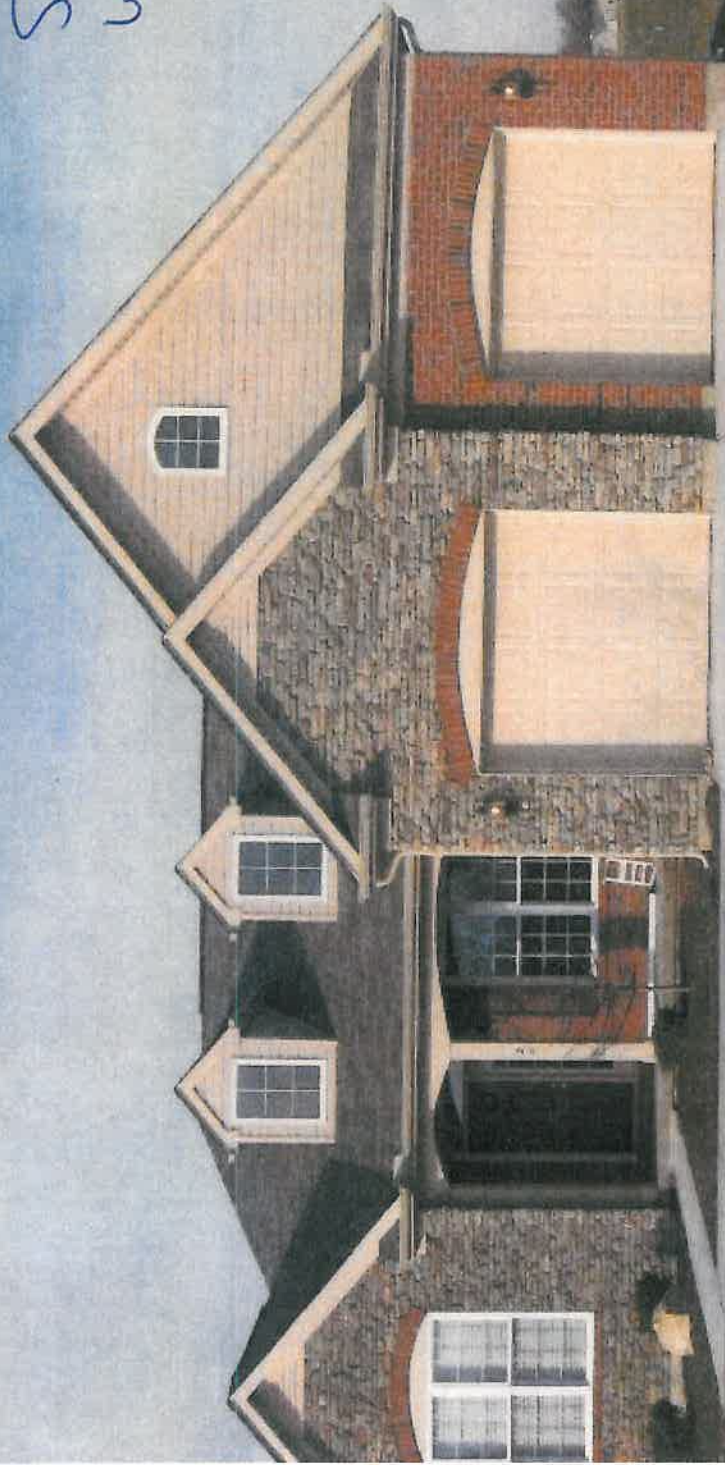
ENGINEERING & SURVEYING, INC.
1068 NORTH UNIVERSITY BLVD. MIDDLETOWN, OHIO 45042
PH.-(513) 424-5202 OR (513) 932-8991 FAX - (513) 424-6202



Subject Property
28 GARDENIA

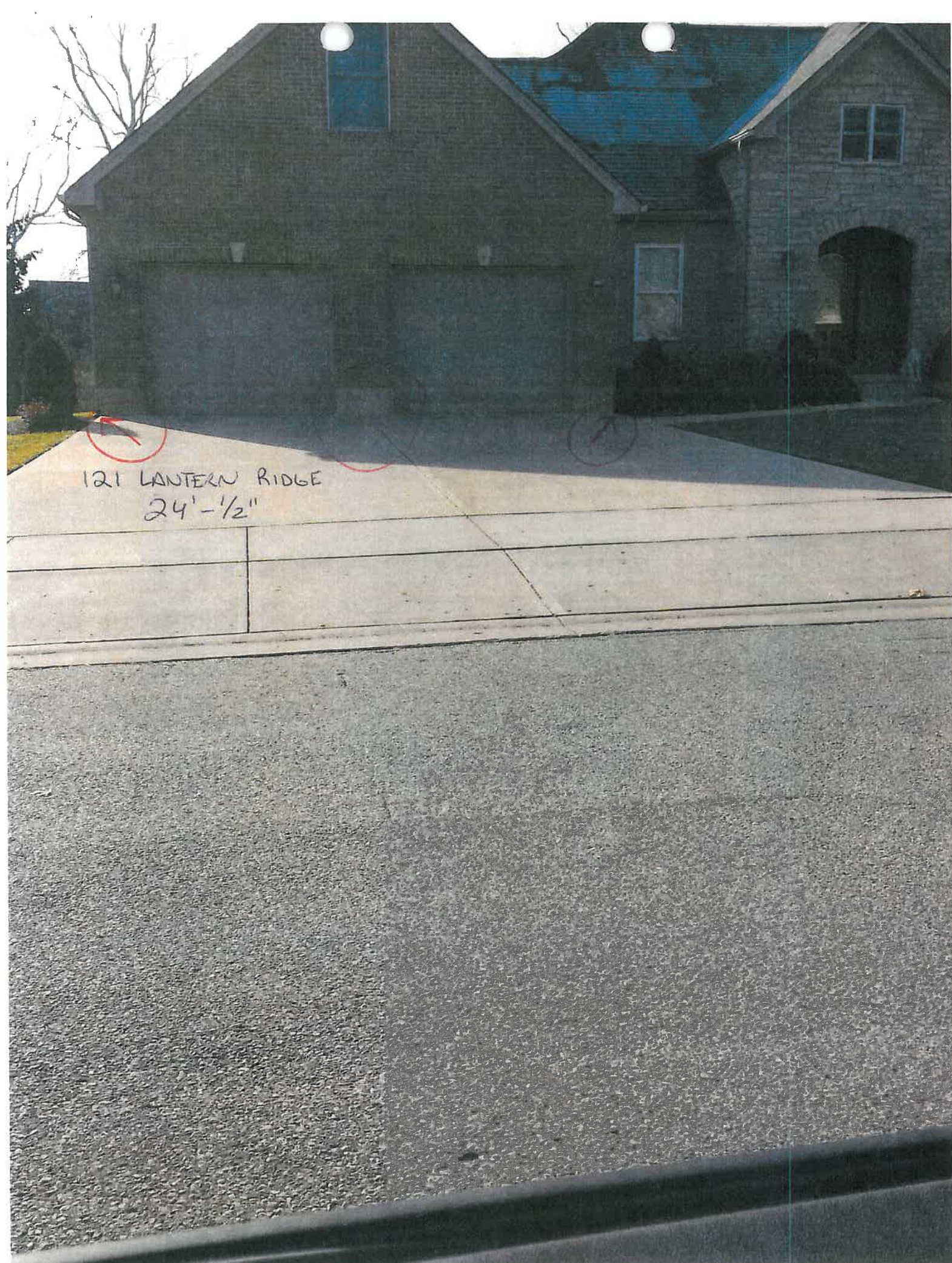


Subject Property,
Without Variance



11 1/2

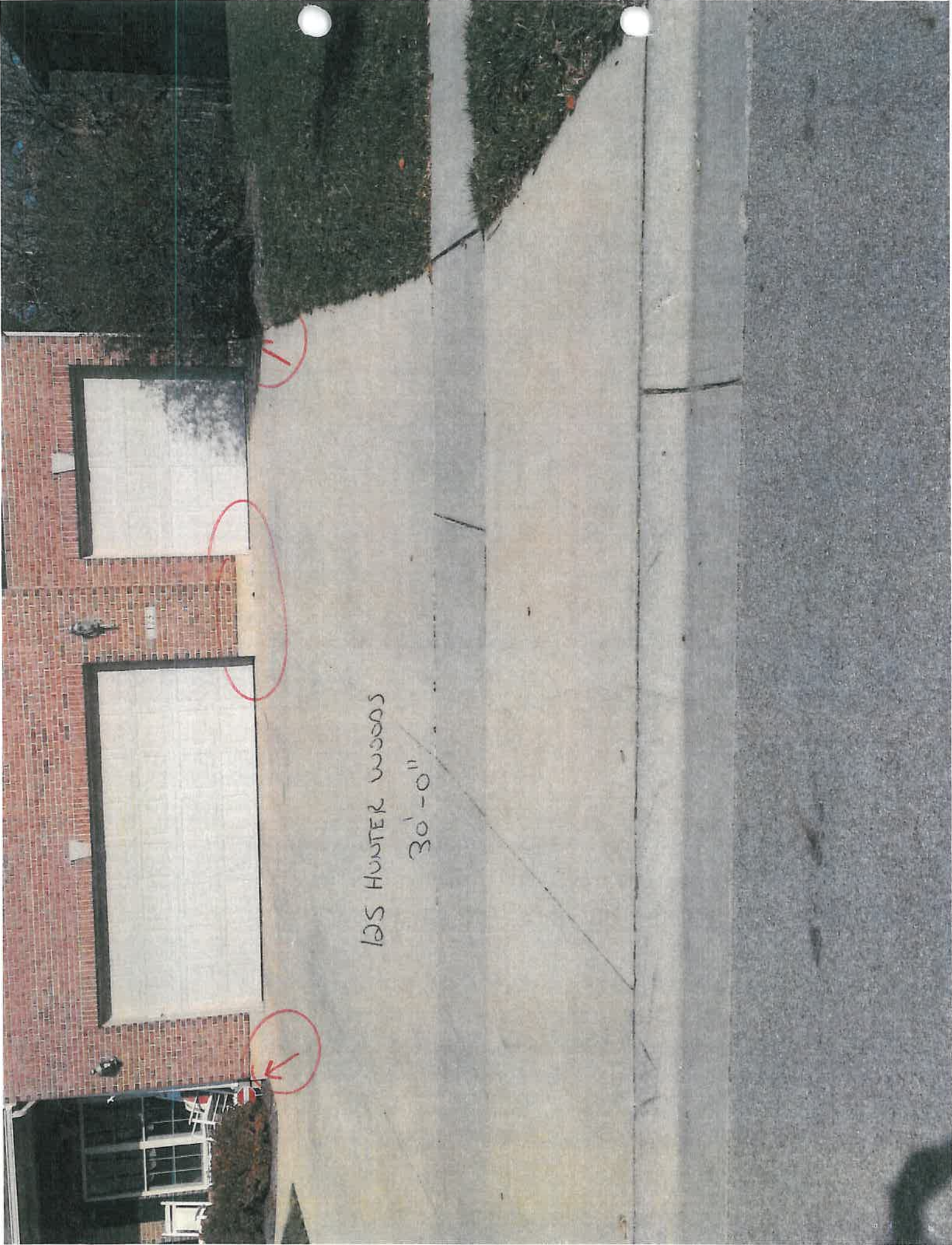
11 1/2



121 LANTERN RIDGE
24'-1/2"



98 LANTERN RIDGE
21'-0"



125 HUNTER WOODS
30'-0"

Memo



To: BZA Members
From: Sam Perry
Date: 1/14/2013
Re: BZA Case 01-2013 – 15 North Poplar Street Fence Variance

BZA Members:

This case has been withdrawn due to the fact that a 6 foot fence in a rear yard of the Uptown Zoning District can be approved without a variance, per City of Oxford Codified Ordinance Section 1141.01(C).

Public notice did go out for this application, so this memo serves as a record that the case has been withdrawn and is no longer needed.

Let me know if you have any questions.

**Community Development
Department**

Jung-Han Chen, AICP –
Community Development Director
Sam Perry - Planner
Lynn Taylor – Administrative Assistant

Board of Zoning Appeals

Annual Report - 2012

2012 BZA Members

Todd Hollenbaugh
Gary Meyer
Paul Brady
John Barnhart
Prue Dana

**2012 BOARD OF ZONING APPEALS
ADJUDICATION HEARINGS
CASES**

BZA-01-2012 38 Christopher Drive, Variance to Section 1143.02(c)(2)(B) minimum rear yard setback, Sheila Croucher, Applicant

Approved w/condition 1/18/2012

BZA-02-2012 516 S. Locust Street, Moon Co-Op, Variance to Section 1151.05(a)(3) to allow additional signage for an existing grocery store, Moon Cooperative Services, Inc., Applicant, Bernadette Unger, President

Withdrawn by Applicant 1/3/2012

BZA-03-2012 516 S. Locust Street, Variance to Sections 1151.02(k)(2)(B), 1151.05(a)(3) to allow additional wall signs in the GB District, one of which does not face the right-of-way, Bernadette Unger, for MOON Cooperative Services, Inc., Applicant

Approved 3/21/2012

BZA-04-2012 15 S. Beech Street, former Oxford Press, Variance to Section 1141.03(b) to allow a principle entrance face an alley, Scott Webb, Applicant, Agent

Approved 4/18/2012

BZA-05-2012 35 E. Church Street, Variance to Section 1151.05(a)(2)(A)(1)(d) to allow for an additional wall sign to face parking lot; Section 1151.05(a)(2)(B)(1), allow for a directly illuminated sign, Sign Connection, Applicant, Agent

Denied 4/18/12

BZA-06-2012 Vine Street, Parcel #H4100006000035 Variance to Sections 1141.03(b) principal entrance upon an alley and 1143.03(c)(3)(D)(3)front yard coverage, Dave & Pamela Kellems, Applicants (Tabled 6/20/12)

Withdrawn by Applicant 7/18/12

BZA-07-2012 15 S. Beech Street, Variance to Section 1143.10(c)(3)(B)(1) increase in gross floor area ratio and Section 1143.10(c)(3)B(1)(b) increase in residential floor area ratio, permitted in the Uptown (UP) District, Scott Webb, Applicant, Agent

Approved w/conditions 7/18/12

BZA-08-2012 201 E. Chestnut Street, Miami Village, Variance to Sections: 1137.08(e) occupancy reduction; 1141.03(a) multiple buildings on a lot; 1143.06(c)(2)(A) front yard setback; 1143.06(c)(4)(A)(1) lot coverage; 1149.03(e) parking spaces; 1149.04(3) parking setback; 1149.05(e)(4)(F) parking islands; 1149.05(e)(5)(B)(1)(a) parking trees; 1149.05(e)(4)(B) perimeter screening, Scott Webb, Applicant, Agent

Postponed 8/15/2012

Approved and Denied 9/19/2012

BZA-09-2012 Vine Street, Parcel #H4100006000035 Variance to Sections 1141.03(b) principal entrance upon an alley and 1143.03(c)(3)(D)(3)front yard coverage, Dave & Pamela Kellems, Applicants

Postponed 8/15/2012; Denied 9/19/2012

BZA-10-2012 36 Lynn Avenue, Taco Bell, Variance to Sections 1151.05(a)(3)(C)
number of freestanding signs; 1151.05(a)(3)C1B freestanding sign height;
1151.05(a)(3)B1a wall sign height, **Kathryn Peterka Owner, Applicant**
Approved w/conditions 9/19/2012

BZA-11-2012 800 S. Maple Street, Oxford Bible Fellowship, Variance to Section
1141.01(a)(1)C total square foot area of accessory buildings on a lot, **Richard Pettitt, Jr.,**
Applicant/Agent **Withdrawn by Applicant 10/8/2012**