

**City of Oxford**  
*Community Development Department*  
**STAFF REPORT**

**Board of Zoning Appeals**

**Case # BZA-2014-03**

**Date – April 16, 2014**

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**APPLICATION**

|                        |                                                      |
|------------------------|------------------------------------------------------|
| Applicant:             | Andy Shea                                            |
| Location:              | 325 West Spring Street                               |
| Owner:                 | EVR Investments LLC (Darren Redpath)                 |
| Action Requests:       | Variance to 1149.03(e), parking space requirement    |
| Current Use:           | Retail                                               |
| Zoning:                | GB, General Business                                 |
| Surrounding Land Uses: | Retail, Service, Multi-Family Residential, Utilities |

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**DESCRIPTION**

Mr. Andy Shea is requesting a variance for a reduction in the required number of parking spaces on behalf of Jamie Shea, the owner of Peak Nutrition and Health. The former business at this location was Spring Street Vitamins. 325 West Spring Street is located on the south side of Spring Street, between Spring Street Treats and Circle K Marathon. An electrical substation is across the street to the north.

The reduction in number of parking spaces stems from a desire to install a new freestanding sign within the existing asphalt parking lot. The sign and associated landscaping would displace two parking spaces. There are not currently any freestanding signs on this property. Based on the 2007 aerial photo enclosed, there are 14 striped parking spaces, two of which are partially in the Spring Street right of way. Subtracting the two partial spaces and one adjacent space, would leave 11 spaces.

The applicant has submitted a boundary survey of the property, a close up detail of the sign location, a narrative relating to the decision criteria and a photograph roughly depicting the approximate size and location of the new sign. There is no elevation drawing of the sign, nor was one required.

**ZONING CODE SECTION**

Section 1149.03(e) Parking Space Requirements, Non-Residential Uses:

**Retail store, personal service establishment: 1 space per 200 square feet of usable floor area.**

The building has 3,000 square feet of usable floor area, which requires 15 parking spaces. Eleven compliant parking spaces would remain after the sign and landscaping installation. Therefore the amount of variance requested is four parking spaces. Based on the plan proposed for the sign, no variances are needed regarding the sign regulations. Only the number of parking spaces. Compliance with the height, setback and area of the sign is expected.

## COMMENT FORMS

Property owners within 200 feet have been notified by letter and a sign has been posted on the property. 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 with comments    |

## SITE HISTORY

There is no record of past BZA actions on this property.

Vicinity Aerial Photo Below:



## ANALYSIS

The burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for variance(s) (Section 1139.02(c)(1)). Further, the BZA must find that practical difficulties exist that would render strict application of the Code unreasonable (Section 1139.02(c)(2)). In determining whether such difficulties exist which are sufficient to warrant a variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the enclosed letter addressing the review criteria from Mr. Shea. The staff's review of the criteria is included in this report below:

Regarding **criterion A**, whether or not the property will yield **reasonable return** or beneficial use without the variance: The applicant notes that the building is set back from Spring Street and therefore a

freestanding sign would provide benefits. Although the building setback does not relate directly to the decreased parking, staff measured the setback of the subject building at 80 feet from the right of way. The gas station canopy to the west is set back 20 feet from the right of way and the drive-through restaurant to the east is set back 35 feet from the right of way.

Regarding **criterion B**, whether or not the **variance is substantial**: A reduction of 2 parking spaces represents 13% less than required. Given that the staff does not have reports of excess parking problems at this property, a 13% reduction is not substantial.

Regarding **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: The reduction in parking spaces, in itself would likely not have a negative impact on the neighborhood. However, the installation of a sign, even in compliance with all dimensional requirements, may be an additional ground feature that impacts driver visibility. There may be a learning curve for the frequent patrons of the businesses in this corridor; particularly those exiting the subject site and the two adjacent sites.

Regarding **criterion E**, whether the property owner purchased the property **with knowledge of the zoning restriction**: It is unknown exactly when the current owner purchased the property. It is possible that the building was built prior to a zoning code requirement for a minimum of 15 parking spaces. Neither the city nor the county has a record of the original construction/date.

Regarding **criterion F**, whether or not the **property owner's predicament** feasibly can be obviated through some **method other than a variance**: The use, the building and the parking are all existing conditions. It is the plan for the sign which has motivated the business owner to reduce the available parking to make way for the sign. Therefore it can be argued that the predicament is self-created.

Regarding **criterion G**, whether the **spirit and intent of the zoning requirement** would be observed and substantial justice done by granting the variance: The spirit and intent of the requirement for a minimum number of parking spaces is to promote the public health, safety and welfare of vehicular access to business entities. The BZA will need to deliberate further on this issue after hearing all of the evidence.

## CONCLUSION

While the slight reduction of the number of parking spaces may not create a problem, an installation of a new sign may require an adjustment period for vehicle drivers in and out of the property or adjacent properties. The sign location proposed meets all of the height, location and setback requirements. However, because of its wide base, typical of monument signs, it could require drivers to adjust in order to have visibility.

## RECOMMENDATION

The BZA should require the evidence outlined by Section 1139.02(c)(1). The discussion should first focus on the number of parking spaces. If evidence is sufficient for a variance, the discussion should then move to potential negative impacts of the overall proposal, both the parking reduction and the new sign.

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SUBMITTED BY: \_\_\_\_\_

Sam Perry, Planner  
Community Development Department

DATE: April 10, 2014

City of Oxford  
Inter-Office Review Transmittal Sheet

Date: 3/18/2014

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

**BZA-2014-03 325 W. Spring Street, Peak Health Nutrition**, variance to Section 1149.03(e),  
reduction in parking space requirement, for installation of a free-standing sign, **Andy Shea, Applicant,**  
**Agent**

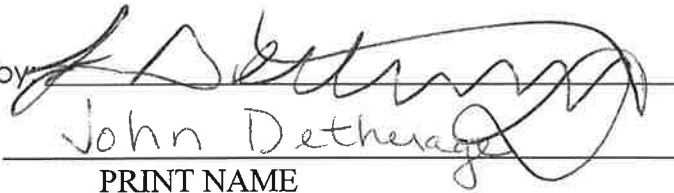
     X Review      Revisions      Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **4/4/14** 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:

  
John Detherage  
PRINT NAME

Date: 3-18-14

City of Oxford  
Inter-Office Review Transmittal Sheet

Date: 3/18/2014

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

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project meets your department's standards.

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

Drawings reviewed by: \_\_\_\_\_



VICTOR POPESCU

PRINT NAME

Date: 3-26-14

City of Oxford  
Inter-Office Review Transmittal Sheet

Date: 3/18/2014

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

**BZA-2014-03 325 W. Spring Street, Peak Health Nutrition**, variance to Section 1149.03(e),  
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  X   Review             Revisions             Other

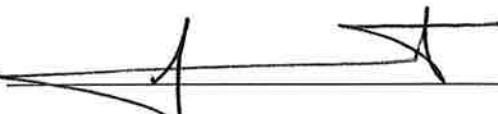
Comments or status update requested by: Lynn Taylor

Please return no later than: **4/4/14** 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:

  
R. B. HOLZWORTH  
PRINT NAME

Date: 3/18/2014



# BZA-2014-03

## Surrounding Property Owners Map

### Legend



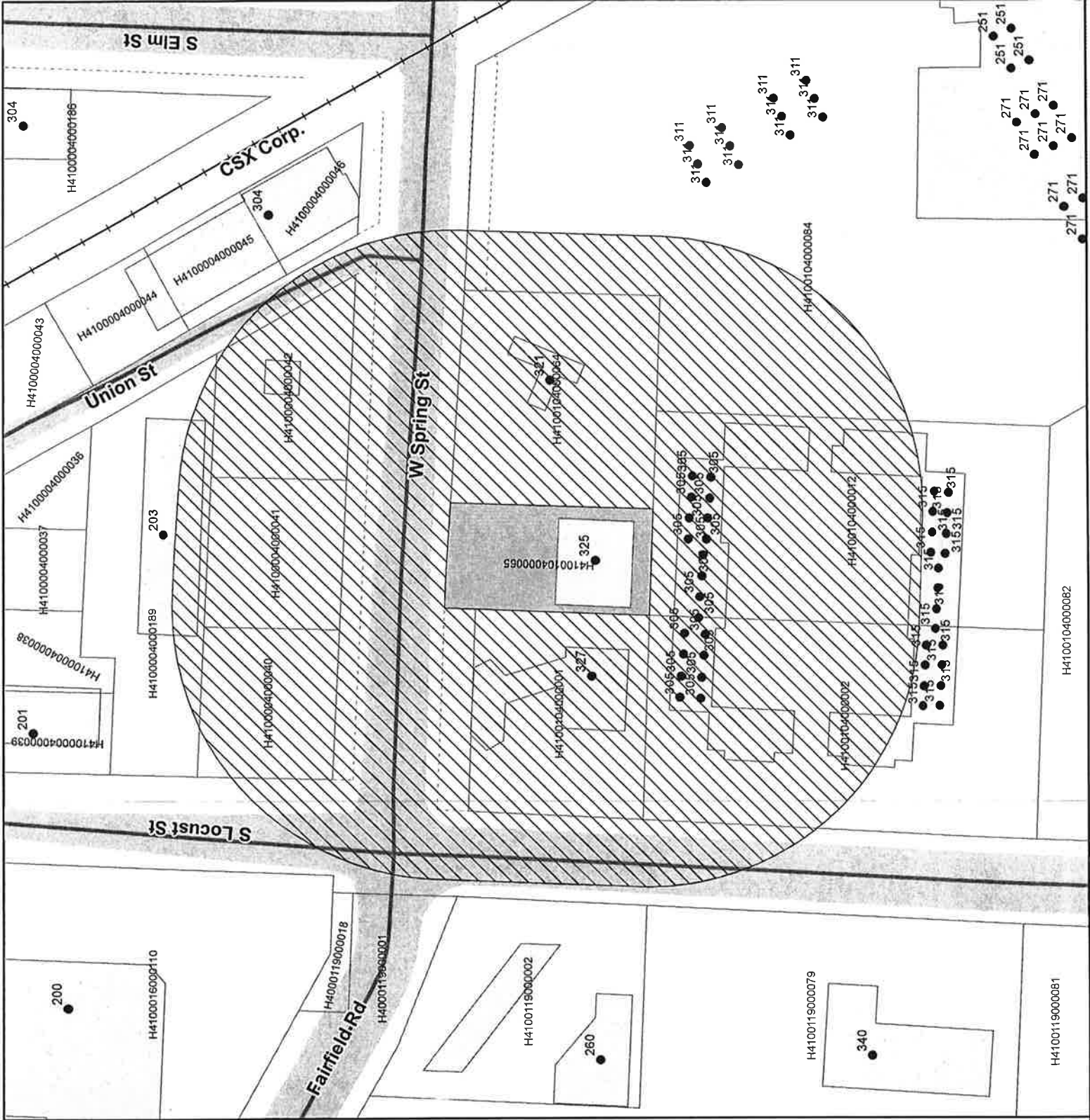
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1 inch = 100 feet



The City of Oxford does not guarantee the dimensional accuracy of this map. Precise dimensional accuracy should be based upon recorded deeds, plats or a professional survey.



**LETTER OF AGENCY**

To Whom It May Concern:

Please be advised that Andy Shea has permission to represent our interest with the City of Oxford and act on our behalf for the free standing sign hearing regarding the at our property located at 325 West Spring Street, Oxford, Ohio 45056.

Thank you,

Signed: Alan Smith Date 3/5/14

Property owner  
Darren Redpath, Redpath Rentals

Signed: Jamie Shea Date 3/5/14

Business owner  
Jamie Shea, Peak Health and Nutrition

**Petition for Zoning Variance**  
City of Oxford, Ohio

4/16/14 mtg

**REQUIRED INFORMATION**

Name of Petitioner: Andy Shea  
(Attach a Letter of Agency if the Applicant is not the property owner.)  
Mailing Address: 3159 Indian Creek Rd. Oxford, OH 45056  
Telephone Number(s): (513) 404-3723  
Email Address: AndyShearacing@aol.com  
Name of Property Owner: Redpath Rentals (Darren RedPath)  
Mailing Address: 853 S. State Rd. Suite 101, Liberty IN 473  
Telephone Number(s): (765) 458-7415  
Requested Variance: Reduce Parking by 2 spaces for construction  
(Indicate nature of variance of Free Standing Sign per the parameters listed  
and applicable section(s) in Hst-05 Section 3 in planning and zoning  
of the Zoning Code.) code / permanent sign 1149.03(e)  
Location of Requested Variance: 325 W. Spring Street Oxford, OH 45056  
Legal Description: \_\_\_\_\_  
Zoning District: GB  
Total Acreage: \_\_\_\_\_ Acres  
Existing Use of Site: Retail  
Proposed Use: (if applicable) Peak Health and Nutrition  
*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.* Selling Vitamins and Sports Nutrition Supplement  
Average Vehicles 3-5 per hour  
Hours of operation M-F 10-7, Sat 10-4

**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.

- a) North arrow
- b) Scale
- c) Vicinity map
- d) All existing and proposed lot lines within the site
- e) Dimensions of all lots and of the entire site and any adjacent rights-of-way
- f) Location, height, and use of all proposed and existing structures
- g) Location and design of all proposed vehicle management areas
- h) Location, size, and type of all proposed signs
- i) Location, height, and type of all proposed screening and landscaping
- j) Distances to residential zoning districts if within 1,000 feet
- k) The use of land and location of structures on adjacent property and across adjacent rights-of-way
- l) An indication of the regulation from which the variance is requested
- m) 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](http://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: \_\_\_\_\_

Date: 3-5-14

PRINTED NAME OF APPLICANT: Andy Shea

**FEE / RECEIPT**

~~\$400~~ plus Actual Postage Fee Paid / Receipt Number: 19670.32  
~~\$200~~

5)a) Whether the property in question will yield reasonable return or whether there could be any beneficial use of the property without a variance.

The property, as it stands now, is of beneficial use. However, the benefit to putting a free standing sign out in front is an increase awareness of the business that otherwise may be overlooked due to the distance of the building from the road.

b) Whether the variance is substantial.

The variance requested is not substantial. The actual size of the sign is to be 4 x 9 with a total landscape design size of 8 x 12

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 requested variance will have no affect on the character of the neighborhood

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

The variance requested is not in proximity to water, sewer, or garbage.

e) Whether the property owner purchased the property with the knowledge of this zoning restriction.

No, upon signing the lease I was unaware of this zoning restriction.

f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance.

No, the city requires a variance for the placement of a free standing sign.

g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting of the variance.

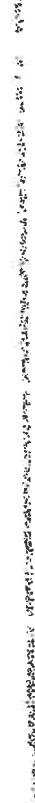
The spirit and intent behind the zoning requirement would be observed and substantial justice done by the granting of this variance. The proposed signage is designed to increase revenue by public awareness as well as maintain the existing character of the area.

h) Any other relevant factor.

Neighboring companies; Jeff Pohlman, Marathon, Circle K, & Walgreens have all increased their presence with the aid of signage. It is my hope that Peak Health & Nutrition will be able to as well.



המחיר הנמוך ביותר של המוצר הוא 1.5 שקלים, והמחיר הגבוה ביותר הוא 2.5 שקלים.



**Abstract**

• •



4' x 9'  
sign  
example