

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-05-2012

Date – April 18, 2012

APPLICATION

Applicant:	Jane Fiehrer, Sign Connection for La Piñata Restaurant
Location:	35 East Church Street
Owner:	Tom Kacachos, Park Place Real Estate Management, Inc.
Action Request:	Variance to Section 1151.05(a)(2)(A)(1), allowing additional wall sign and Variance to Section 1151.05(a)(2)(B)(1), allowing direct illumination of wall sign
Current Use:	Mixed use Commercial/Residential
Zoning:	UP - Uptown
Surrounding Land Uses:	Commercial, Open Space, Institutional, Residential

DESCRIPTION

This property is located on the south side of East Church Street between a surfaced parking lot and an alley. The building is known as Bella Place, completed in 2009. The ground floor of the building was developed for commercial tenants and the upper floors for residential. The La Piñata tenant space faces north toward East Church Street. The applicant desires to place an additional wall sign on the west side of the building, facing a surfaced parking lot, because of potential visibility from the High Street corridor. There are no signs proposed on the alley (east) side of the building. The proposed sign location is not allowed by Zoning Code because it is on a side not facing a secondary roadway. The proposed lighting method for internally illuminated [Section 1159.07(q) Direct Illumination] channel letters is not allowed by the Zoning Code. Subsequently, the requested variances are for location and lighting. The proposed sign is two rows of channel letters: top row, 12 feet long, 20 inches tall, reading “La Piñata” and bottom row, 17 feet long, 13 inches tall, reading “Mexican Grill Bar” with a cactus emblem between the words Grill and Bar. See attached drawing/rendering.

VARIANCES REQUESTED

Section 1151.05(a)(2)(A)(1): (Uptown District Wall Signs) No more than 1 sign per nonresidential occupant as follows, for identification and advertising:

- a. No more than 3 feet in height that extends horizontally across the entire façade of the structure.
- b. Attached between 9 and 18 feet above the adjacent ground.
- c. If a building has more than one business occupant, the owner of the building shall apportion the space allotted for signs among the various business occupants in accordance with the regulations above.
- d. **If a building is on a corner lot or the corner of an alley, it is permissible to have one additional wall sign on the side of the building facing the secondary roadway in accordance with the regulations above.**

Section 1151.05(a)(2)(B)(1): (Uptown District Wall Signs) (Illumination) **Signs shall have only indirect illumination.**

COMMENT FORMS

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

AGENCY REVIEW

Fire	Returned without comments
Police	No comments returned
Engineering	Returned with comments attached
Economic Development	No comments returned

RELATED SITE HISTORY

April 4, 2012 – The Historic and Architectural Preservation Commission (HAPC) denied a Certificate of Appropriateness for a wall sign with direct illumination facing west at this location.

April 4, 2012 – The HAPC approved a Certificate of Appropriateness for a wall sign with indirect illumination facing north at this location.

ANALYSIS

The applicant's attached narrative states that the property owner **did not have knowledge** of the zoning restrictions. The narrative also states that the location and the lighting method of the sign **are substantial** because it will lead to more business and better, quicker success. The narrative also states that the west facing location of the sign will **aid governmental services** because of identification of a side entrance. See attached narrative for additional detail.

The applicant did not specifically state the practical difficulty. However, it appears from the applicant's narrative that the practical difficulty is that a north facing façade is at a disadvantage because it is not visible from High Street. The BZA's role is to determine if a practical difficulty is sufficient to warrant a variance, and to consider the effects of the variance on the public health, safety and welfare. The burden of proof is on the applicant to provide sufficient testimony and evidence.

There are other commercial uses in the Uptown District that do not face High Street. Therefore, if the practical difficulty is the orientation of the commercial storefront, unless additional testimony or evidence is shown, the property can yield **reasonable return** (decision criterion A) without the variances.

Most commercial uses in the Uptown District have signs with indirect illumination, placed facing a street. Therefore, the variances would be **substantial** (criterion B) because of deviation from the essential character of the area.

As noted above, there is sufficient evidence to determine that the **essential character** (criterion C) of the neighborhood would be substantially altered with the variances.

There is no evidence to suggest that the **delivery of governmental services** would be adversely affected by the variances (criterion D).

The property owner purchased the property without **knowledge of the restrictions** (criterion E) regulating location and lighting method. See applicant's narrative.

The Zoning Code requires a minimum commercial use gross floor area of at least 70% of the lot area (not specifically restaurants). Therefore it is expected that commercial tenants would occupy this building.

Zoning Code also requires a minimum of two stories high for the Uptown District. If the practical difficulty is the north facing façade, the floor plan could have been oriented toward High Street. However, floor plans have not been submitted to show evidence that an **alternative is not feasible** (criterion F).

There is insufficient evidence thus far to support the variance; therefore the **substantial justice** (criterion G) is not applicable.

RECOMMENDATION

Based upon the above report alone, the BZA can determine that there is inadequate evidence sufficient to warrant the variances. The Zoning Code also allows the BZA to suspend its review until sufficient evidence has been provided.

Should the BZA determine that there is sufficient evidence to grant the variances, the approval of such variances would in essence reverse the HAPC's denial of this sign. For this reason the BZA may have separate votes for each of the two variance requests. If location were approved but not lighting, then the proposal would have to go back to HAPC because it would be considered a different sign.

SUBMITTED BY:


Sam Perry, Planner
Community Development Department

DATE: April 12, 2012

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/23/2012

To: **Fire Department** Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-05-2012

ADDRESS: 35 E. Church Street

35 E. Church Street, variance to Section 1151.05(a)(2)(A)(1)(d)
to allow for a wall sign facing the Municipal Parking Lot; Section
1151.05(a)(2)(B)(1), to allow for a directly illuminated sign,
Sign Connection, Applicant, Agent

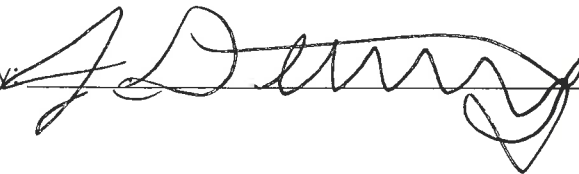
☒ X Review ☐ Revisions ☐ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 4/10/12 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: 3-27-12

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/23/2012

To: Fire Department **Engineering Division** Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

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1151.05(a)(2)(B)(1), to allow for a directly illuminated sign,
Sign Connection, Applicant, Agent

____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

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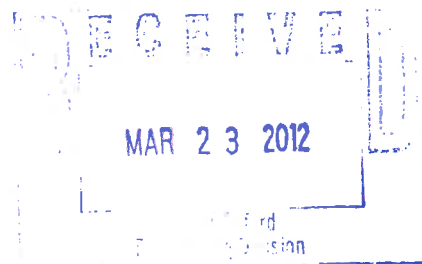
Drawings are returned: w/comments without/comments

SEE MEMO DATED 3-26-2012

Drawings reviewed by: _____

A. Potescu
VICTOR POTESCU

Date: **3-26-12**





Memo

Service Department
Engineering Division

513/524-5207 fax 513/524-5267

TO: Community Development Department

FROM: Michael B. Dreisbach, Service Director *mbd/UAH*

RE: Case #: BZA-05-2012
35 E. Church St.

DATE: March 26, 2012

The Engineering Division has reviewed the proposed variance and offers no comments at this time.



Certificate of Appropriateness

Letter of Approval

April 10, 2012

Ms. Jane Fiehrer
Sign Connection

Re: HAPC-05-2012 Certificate of Appropriateness
35 E. Church Street

Dear Ms. Fiehrer:

At the April 4, 2012 Historic & Architectural Preservation Commission meeting, your application for a Certificate of Appropriateness for an internally illuminated sign to face the Municipal Parking Lot was denied by the HAPC by a vote of 6-1-0 and based their decision upon the following:

The Design Guidelines of the Historic District specifically recommend indirect illumination to all signs located on the outside of a building. The proposed sign does not conform to this recommendation. Additionally, the location of the sign did not meet the location requirement of the zoning district and must be addressed by a Variance Hearing before the Board of Zoning Appeals.

If you have any questions, please feel free to contact us at 524-5204.

Sincerely,

Lynn Taylor
Administrative Assistant

cc: Inspections Department
Mike Smith, Chair
File



NOTICE OF REFUSAL

March 6, 2012

Application Number: 12-029
Address: 35 East Church Street

Applicant: Jane Fiehrer
Sign Connection
90 Compark Rd Ste B
Dayton, OH 45459

Your application received on **March 2, 2012** for a zoning certificate for a **channel letter sign** located at **35 East Church Street, Oxford, Ohio 45056** is hereby refused on this **6th day of March, 2012** under **Chapter 1131, Chapter 1133, Section 1151.05(a)(2)(A)(1)(d) and Section 1151.05(a)(2)(B)(1)** of the Oxford Planning & Zoning Code in that,

Chapter 1131 & 1133 of the Oxford Planning & Zoning Code designates the location of this property as "UP" Uptown District.

Section 1151.05(a)(2)(A)(1)(d): UP Wall Signs: If a building is on a corner lot or the corner of an alley, it is permissible to have one additional wall sign on the side of the building facing the secondary roadway.

- The proposed sign does not face the secondary roadway (alley).

Section 1151.05(a)(2)(B)(1): UP Wall Signs: Signs shall have only indirect illumination.

- The proposed sign is directly illuminated.

An appeal from this decision to the City of Oxford Board of Zoning Appeals is governed under Section 1129.03 d., Section 1129.09, Section 1129.10 and Chapter 1139 of the City of Oxford Zoning Ordinance.

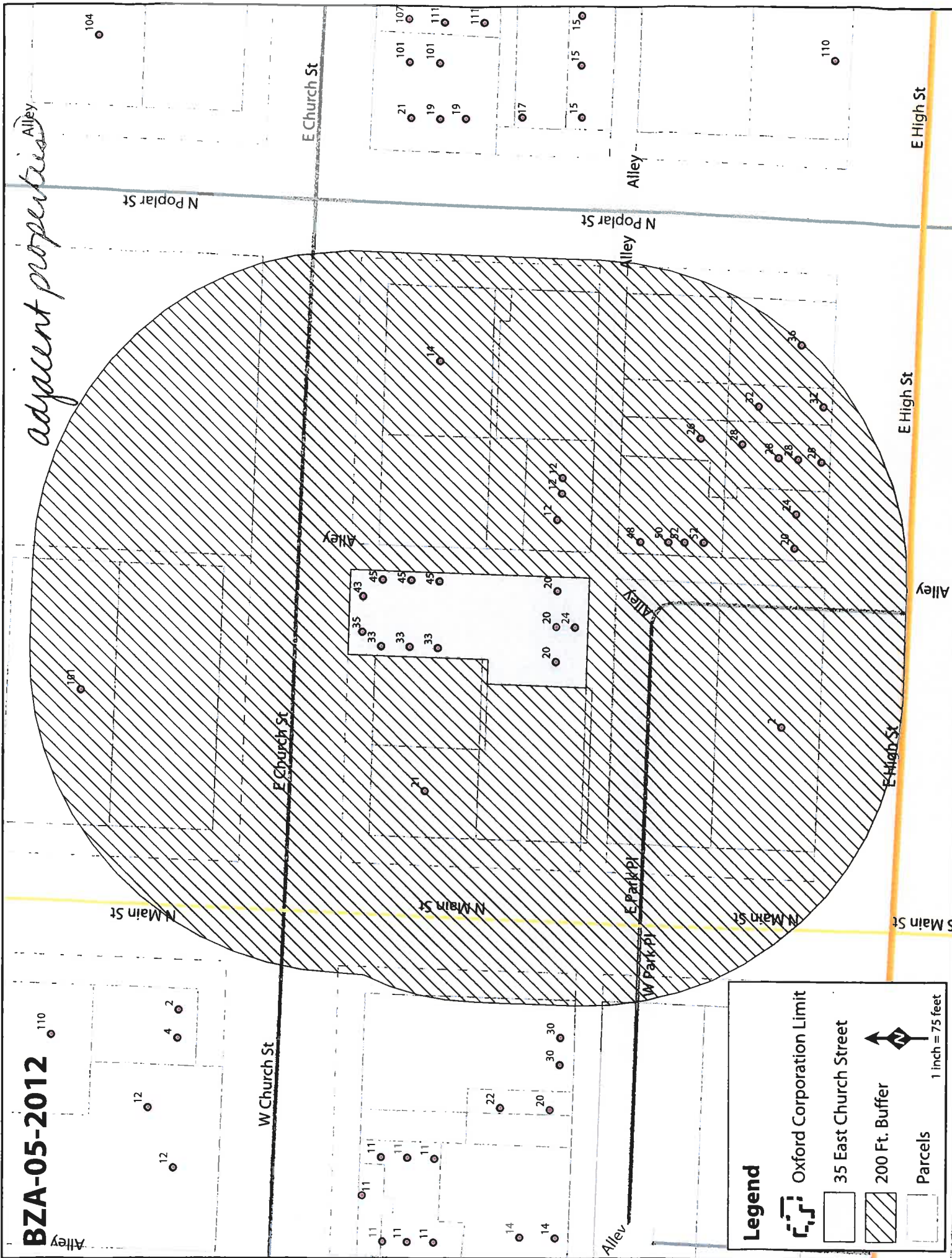
Andrew R. Wilson
Technical Assistant

*Note: The applicant has **30 days** to submit revisions or to appeal this decision to the Board of Zoning Appeals. A new application will be required, including payment of a new fee, if the applicant fails to submit adequate revisions within this time period. Revisions that address these deficiencies may result in further comments relative to these or other Zoning Code provisions. This review is only for compliance with the zoning regulations. Other departments may also have comments that will need to be addressed before any permits can be issued.*

101 East High Street • Oxford, Ohio 45056-1887
Phone: (513) 524-5200 • Fax: (513) 523-7298 • www.cityofoxford.org

BZA-05-2012

adjacent properties



Legend

- Oxford Corporation Limit
- 35 East Church Street
- 200 Ft. Buffer
- Parcels



1 inch = 75 feet

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Sign Connection has permission to represent our interest with the City of Oxford and act on our behalf for the HAPC hearing 4/4/12 regarding the La Pinata Restaurant at our property located at 35 E. Church St., Oxford, Ohio 45056

And BZA hearing 4/18/12
Thank-you,

Signed: Jim Kuhn
(Property Owner Name Printed) TUM KACACHA
(Company Name/Owner/Organization) Park Place

2/29/12
Date:

Petition for Zoning Variance
City of Oxford, Ohio

4/18/12
mtg

REQUIRED INFORMATION

Name of Petitioner:

Sign Connection
(Attach a Letter of Agency if the Applicant is not the property owner.)

Mailing Address:

90 Compark Rd. Ste B
Dayton, OH 45459

Telephone Number(s):

937-435-4070

Email Address

info@signconnectioninc.com

Name of Property Owner:

Park Place Real Estate

Mailing Address:

116 E. High St. Oxford, OH 45056

Telephone Number(s):

513-523-2015

Requested Variance:

(Indicate nature of variance
and applicable section(s)
of the Zoning Code.)

Section 1151.05(a)(2)(A)(i)(1)

Request sign on one additional wall not
along alley.

Section 1151.05(a)(2)(B)(1)

Request sign w/ direct illumination

Location of Requested Variance:

35 E. Church St.

Legal Description:

La Pinata

Zoning District:

Total Acreage:

Acres

Existing Use of Site:

Restaurant

Proposed Use: (if applicable)

Same

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.

- 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) 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: _____

PRINTED NAME OF APPLICANT: _____

FEE / RECEIPT

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

Variance Narrative Statement: La Pinata 35 E. Church St.

- a) The property in question will yield a more reasonable return if the variance is approved. The restaurant will be most visible to the High St. area with a sign on the wall facing the parking lot. An internally illuminated sign will be most visible after dark.
- b) The variance is substantial. Better visibility will bring the restaurant more business and better, quicker success.
- c) The character of the neighborhood would not be substantially altered, and adjoining properties would not suffer a substantial detriment as a result of the variance. Two other properties in the High St. area have comparable internally illuminated signs.
- d) The variance would not adversely affect the delivery of governmental services. It would aid the governmental services by identifying the side entrance to the business.
- e) The property owner did not have knowledge of the zoning restriction.
- f) The variance is the only method of approval for a sign on the most visible part of the business.
- g) The spirit and intent behind the zoning requirement would not be compromised by granting the variance.

35 E. Church St.

12' and 17' wide raceways

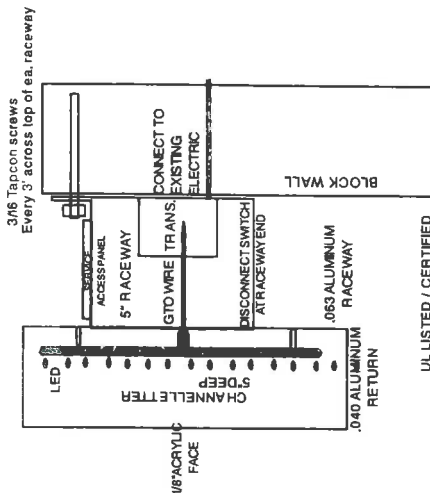
20" tall letters
LA PIRATA
13" tall letters
MEXICAN GRILL BAR

LED channel letter signs, UL approved
red, yellow, and green 1/8" acrylic faces, black plastic trim cap, .040 black aluminum returns
.063 aluminum raceway to match paint on facade



20" and 13" LED channel letters
12' and 17' raceways
36" h x 206.56" w

MOUNTING DETAIL LED ON RACEWAY



UL LISTED / CERTIFIED

OFFICE COPY

APR 06 2012



90 Compark Rd., Ste. B
Centerville, OH 45459

Ph. 937.435.4070 Fax. 937.435.4071

PROOF APPROVAL

This proof must be signed and faxed
to Sign Connection in order to begin
the production process.

- ☐ Approved With Changes
☐ Change and Fax Again
☐ Approved As Is

Signed

Artwork property of
Sign Connection. Do not
reproduce without permission.

Upon signing, I agree that all spelling, sizes, quantities
and materials are correct and ready to produce.

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-04-2012

Date – April 18, 2012

APPLICATION

Applicant:	Scott Webb, Architect
Location:	15 South Beech Street
Owner:	David Wespiser, Stewart Developers, LLC
Action Request:	Variance to Section 1141.03(b), principal entrance location
Current Use:	1 story commercial, vacant former Oxford Press building
Zoning:	UP - Uptown
Surrounding Land Uses:	Commercial and Residential

DESCRIPTION

This property is located on the east side of South Beech Street, adjacent to an east-west alley. The lot frontage faces west. The application proposes a new mixed use four story building. The attached site plan illustrates the proposed footprint of the building. The lot is approximately 135' x 66' (118.5' x 66' not including vacated front setback).

VARIANCE REQUESTED

Section 1141.03(b): Every building hereafter erected, converted, enlarged, reconstructed or structurally altered shall be located on a lot of record, and shall have its **principal entrance upon a street** bordering such lot. For the purpose of this provision an alley is not considered as a street.

COMMENT FORMS

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

AGENCY REVIEW

Fire	Returned with comments attached
Police	No comments returned
Engineering	Returned with comments attached
Economic Development	No comments returned

SITE HISTORY

March 7, 2012 – The Historic and Architectural Preservation Commission (HAPC) approved a Certificate of Appropriateness for the demolition of the Oxford Press building and the conceptual design of the new proposed mixed use building.

April 6, 2012 – A demolition permit application was submitted to the City – currently being processed.

ANALYSIS

The lot is located in the Uptown zoning district and is currently occupied by a vacant, one-story, commercial building. The applicant's attached narrative states that the lot is encumbered primarily by a utility company's power line setback requirement, which narrows the available street frontage. The applicant's desire is to incorporate residential use for the floors above the commercial space. Although residential use is not a City requirement for this zoning district, it does increase the number of entrances because of the desire for mixed-use. The Zoning Code requires the principal entrance to be "upon a street." Therefore, as the applicant points out, an additional entrance upon the street would take away available street frontage for other uses, in this case, ground level commercial. Subsequently, the applicant has **applied for a variance so that an entrance from the alley would be allowed for the residential use.**

Although the power line setback is not part of the City Zoning Code, it is a practical difficulty. The BZA's role is to determine if the practical difficulty is sufficient to warrant a variance, and to consider the effects of the variance on the public health, safety and welfare. The burden of proof is on the applicant to provide sufficient testimony and evidence.

The Zoning Code requires commercial use on at least 70% of the lot area. The power line setback reduces the available building footprint area by approximately 15%. This leaves 15% left over for design flexibility which would still allow compliance with the 70% commercial space requirement. Code requires that the building be at least two stories, but does not specify minimum floor area ratios for uses other than the minimum 70% for commercial. Because two stories are required, it is reasonable to consider that some space is allotted for a stairway or elevator. These would typically consume less than 15%; therefore unless additional testimony or evidence is shown, the property can yield **reasonable return** (decision criterion A) without the variance.

The variance is **substantial** (criterion B) in terms of potential impact on public health and safety. See Fire Chief's comments.

Although the HAPC has not approved the details of the new building, the HAPC has approved the conceptual design of the building; therefore there is sufficient evidence to determine that the **essential character** (decision criterion C) of the neighborhood would not be substantially altered.

Based upon the Fire Chief's comments, the granting of the variance could affect public health and safety because of more restricted access to an alley entrance, further limited by the potential for fallen power lines to block access. This is directly related to the decision criterion D, "**delivery of governmental services,**" specifically emergency response.

The property owner purchased the property with **knowledge of the requirement** for the principal entrance on the street (criterion E). See applicant's narrative.

The applicant has stated that the building design could be changed which would sacrifice commercial storefront. However, floor plans have not been submitted to show evidence that an **alternative is not feasible** (criterion F).

There is insufficient evidence thus far to support the variance; therefore the **substantial justice** criterion G is not applicable.

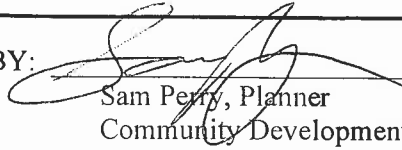
RECOMMENDATION

Based upon the above report alone, the BZA could determine that there is inadequate evidence sufficient to warrant the variance. This could result in a denial which would prevent the

applicant from re-applying for 12 months. The Zoning Code also allows the BZA to suspend its review until sufficient evidence has been provided.

Should the BZA determine that there is sufficient evidence to warrant approval of the variance, the staff recommends that the BZA attach a condition specifying a maximum distance for the alley entrance to be spaced from the front facade, thereby minimizing the negative effect on health and safety.

SUBMITTED BY:


Sam Perry, Planner
Community Development Department

DATE: April 12, 2012

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/23/2012

To: **Fire Department** Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-04-2012

ADDRESS: 15 S. Beech Street

**15 S. Beech Street, former Oxford Press Building, variance
to Section 1141.03(b) to allow a principle entrance face an alley,
Scott Webb, Applicant, Agent**

____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 4/10/12 Note: If no comments are received, we will assume the project meets your department's standards.

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

See attached.

Drawings reviewed by:

F. Denny

Date: 3-27-12

Memo

To: Lynn Taylor
From: John Detherage, Fire Chief 
CC:
Date: 3/27/2012
Re: 15 S. Beech, BZA-04-2012

I have reviewed the application and visited the site. It is my opinion that having the only residential egress into the alley could create a dangerous situation. Should the electric lines be knocked down from the poles by wind or damage from a passing vehicle the residents will have no way to exit the building. This would also create an issue for emergency crews trying to enter the building. I would suggest locating an entry/exit for the upper floors on the southwest corner of the building.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/23/2012

To: Fire Department **Engineering Division** Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-04-2012

ADDRESS: 15 S. Beech Street

15 S. Beech Street, former Oxford Press Building, variance
to Section 1141.03(b) to allow a principle entrance face an alley,
Scott Webb, Applicant, Agent

____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 4/10/12 Note: If no comments are received, we will assume the project meets your department's standards.

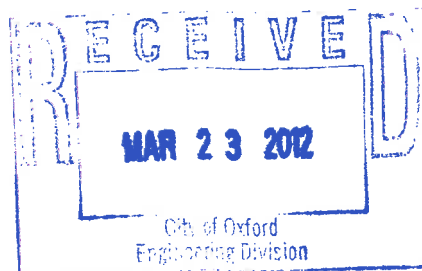
.....
Drawings are returned: w/comments without/comments

SEE MEMO DATED 3-30-12.

Drawings reviewed by: _____



Date: 3-30-12





Memo

Service Department
Engineering Division

513/524-5207 fax 513/524-5267

TO: Community Development Department

FROM: Michael B. Dreisbach, Service Director

MBD/LLH

RE: Case #: BZA-04-2012
15 S. Beech St.

DATE: March 30, 2012

The Engineering Division has reviewed the proposed variance and offers no comments at this time.

BZA-04-2012

adjacent properties



Stewart Development, LLC
125 West Spring Street --- Oxford, OH 45056
(513) 524-9500 / FAX (513) 523-9415

March 20, 2012

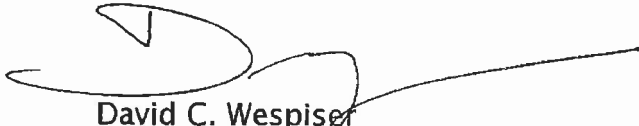
City of Oxford
Board of Zoning Appeal
101 East High Street
Oxford, OH 45056

To Whom It May Concern:

Please be advised that Scott Webb is permitted to act on our behalf for all matters related to the demolition and redevelopment of Stewart Developers, LLC's land at 15 South Beech Street. Scott is authorized to speak and act on our behalf before the Board of Zoning Appeal.

Should you have any questions or concerns, please do not hesitate to contact our office.

Sincerely,



David C. Wespiser
Stewart Development, LLC

Petition for Zoning Variance
City of Oxford, Ohio

4/18/12 mtg.

REQUIRED INFORMATION

Name of Petitioner:

Stewart Developers LLC

Scott Webb, Architect

(Attach a Letter of Agency if the Applicant is not the property owner.)

Mailing Address:

125 W. Spring St.

103 W. Walnut St.

Telephone Number(s):

524-9500

523-3838

Email Address

game hotel development.net

scottwebbarchitect.com

Name of Property Owner:

Mailing Address:

Telephone Number(s):

Requested Variance:
(Indicate nature of variance
and applicable section(s)
of the Zoning Code.)

114.03 (b) Principle entrance facing street

Location of Requested Variance:

Legal Description:

Zoning District:

Total Acreage:

15 South Pryor St. (former Oxford Press building)

Survey attached

UP

0.2032

Acres

Existing Use of Site:

Proposed Use: (if applicable)

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.

New mixed-use building

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) 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: _____

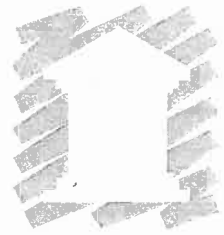
Date: 3/19/12

PRINTED NAME OF APPLICANT: _____

FEE / RECEIPT

\$400 plus Actual Postage Fee Paid / Receipt Number: 17449.13

Board of Zoning Appeals
City of Oxford
101 East High Street
Oxford, Ohio 45056



SCOTT
WEBB

ARCHITECT

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

www.scottwebbarchitect.com

Re: Location of Residential Entrance
Proposed new Mixed-Use Building
15 South Beech Street

March 7, 2012

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to section 1141.03(b) which states:

Every building hereinafter erected, converted, enlarged, reconstructed or structurally altered shall be located on a lot of record, and shall have its principle entrance upon a street bordering such lot. For the purpose of this provision an alley is not considered as a street.

The proposed new mixed use building provides (2) principle entrances facing the street to allow for the potential of (2) separate commercial business on the ground floor facing South Beech Street. While the code does not state that Every principle entrance must face the street, Planning Staff has historically interpreted this section thusly, subsequently requiring application to the Board of Zoning Appeals. Upon Application to the HAPC for this building, Community Development Director Jung-Han Chen has alerted me to the need for an appeal to this section.

The lot in question sits parallel to High Street, facing South Beech Street, with a very visible, public façade along the alley, yet visible from High Street. The usable width of the front of the building is reduced by a requirement of Duke Energy to maintain a 10'-0" setback from the existing power poles that run along this alley. Reconfiguring the utilities in this alley to alleviate this requirement is cost prohibitive, and practically infeasible, as this line powers a significant amount of the Uptown business district.

The resultant reduction of the front façade not only limits the potential storefront area for the new ground floor businesses, but also effectively reduces the overall width. To provide an additional entry to the front of the building would only exacerbate this problem, narrowing the width of the speculative ground floor area to a potentially unusable dimension for future ground floor businesses.

Lastly, the allowable height of the building has been pushed back into the center of the block to allow for a three-story façade along South Beech Street. This subsequently forces the elevator toward the rear of the building. As the elevator is provided for the residential tenants, it makes sense to locate their entrance near this function.

In response to the decision standards outlined in the application, we offer the following:

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

As described above, the effective width of the site is reduced by 10' by a Duke Energy imposed setback requirement along the alley.

The Zoning Code requires a minimum of 70% of the lot area be used for commercial enterprises. The front yard setback, coupled with this Duke Energy setback requires leaves just over 70% of the lot as buildable area. This creates a narrow and deep commercial space on the ground floor. To provide a separated third entrance for the residential tenants on the front face as well, significantly reduces the potential for a reasonable return on the commercial component of the project.

- b) *Whether the variance is substantial;*

The Variance is not substantial, given that the proposed building has (2) potential principle entrances facing the street.

- 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 not be affected, as this building sits directly adjacent to a residential building with its principle entrance on the alley.

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

The variance for the location of a single entrance has no effect on the delivery of governmental services.

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

The property was purchased with knowledge of the current Zoning Code.

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

The building design could be changed significantly, reducing the commercial storefront, and usable lease area to provide an interior hall from the front of the building back to the elevator location.

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

The intent of this provision of the Zoning Code is to prevent building from being placed "sideways" on a lot, and not addressing the street grid. The design of this building clearly faces the street, presenting its principle façade and entrances to South Beech Street. Substantial justice would be done by allowing design flexibility, separating the residential & commercial tenants.

- h) *Any other relevant factor;*

The building has been given a Certificate of Appropriateness from the HAPC, who appreciated the reduction in height from the allowable 4-story structure, the three-story façade on South Beech Street, moving this allowable height toward the center of the

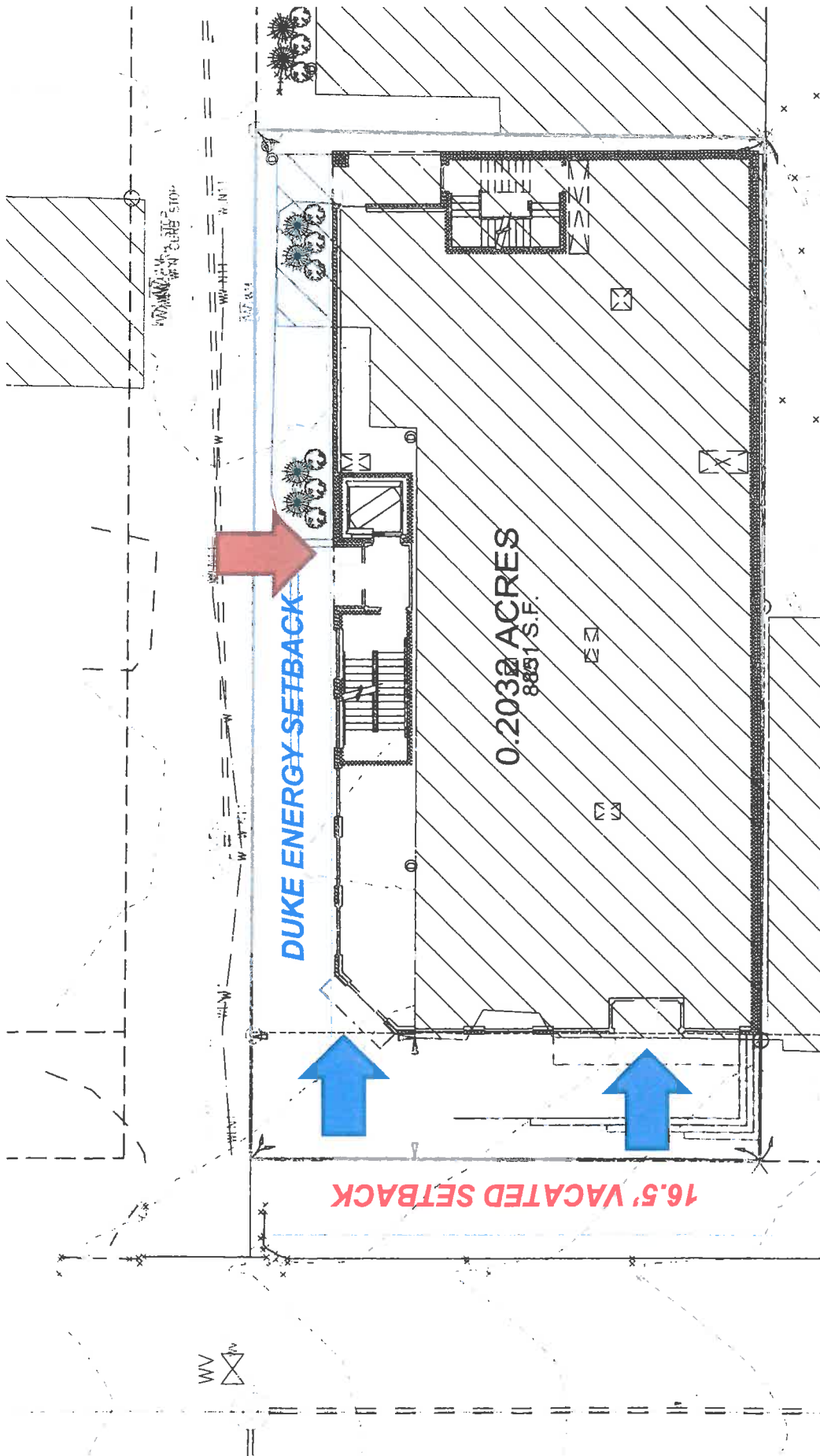
block. As described above, this necessitates the location of the elevator deeper into the building, farther from Beech Street. To provide a long corridor from the front of the building back to this elevator location significantly affects the leasable commercial space on the ground floor.

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 black ink, appearing to read 'S Webb', written over a horizontal line.

Scott Webb, Architect



SITE PLAN

SHOWING BUILDING SETBACKS