

City of Oxford
Community Development Department
STAFF REPORT
Board of Zoning Appeals

Case # BZA-04-2010

Date –April 21, 2010

APPLICATION

Petitioner:	Jason Reynolds, Owner
Location:	933 Silvoor Lane
Owner:	Same
Action Request:	Variances to Section 1143.01(c)(2)(C) to allow a deck to encroach into the side yard setback.
Current Use:	Vacant Parcel
Zoning:	“R1A” Single-Family Mile Square Residential District
Surrounding Land Uses:	Single Family

DESCRIPTION

The Appellant is proposing to construct roughly a 24’ x 30’ deck addition onto an existing deck. Including the tie-in into the existing deck, the proposed deck addition will comprise of 777.6 sq.ft. The closest corner of the existing deck is approximately 8’ from the side property line. The proposed deck addition will be approximately 5.7 feet from the property line. The total square footage of decking that would be located in the required 10’ side yard setback is 98 sq.ft (roughly 6% of total deck area).

SITE HISTORY

BZA 05-2002:	Appeal to allow for 2 new lots with insufficient lot width and side yard setbacks. Approved.
PC-ADM-03-2002:	Approval of lot split. (After BZA ruling)

VARIANCES REQUESTED

Section 1143.01(c)(2)(C):	The minimum side yard setback in the “R1A” Single-Family Residential District shall be 10 feet.
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- The Applicant is proposing a 5.7 foot side yard setback for a deck addition.

AGENCY COMMENTS:

Requests for review were made to the Police, Fire, Engineering and Economic Development Departments. The following comments have been received:

Police:	Comment received without comment.
Fire:	Comment received without comment.
Engineering:	Comment received without comment.
Econ. Dev.:	Comment received without comment.

ANALYSIS

The Appellant applied for and received a building permit in May 2009 for the deck addition. At the time of the building review, the Appellant showed they had 12.67’ from the side lot line. The zoning review concluded that the side yard setback was satisfied and signed off on the permit.

In March, CDD received a concerned call from the western neighbor (937 Silvoor Lane) that the proposed deck was potentially located on her property. Upon investigation, research of the property surveys and more discussion with the Appellant, it was determined that the deck was not over the property line, but encroaching into the required side yard setback.

Initially this house (933) was on the same lot as 937 Silvoor. In 2002, the Trust in charge of the property wished to split the property in order to place each structure on its own parcel. Every attempt was made to try to split the property equally down the center of the two houses. 933 Silvoor was granted side yard setback variances for both sides of the existing house and 937 Silvoor was granted a side yard setback variance for the west side of the house.

During the property research for this application, it was determined that there were some discrepancies in the original survey conducted in 2002 when the lot was split, the legal descriptions and the current survey, which was, in some part, why the current property owner was misled on the exact location of the property line. The Appellant thought the property line was parallel to the side of the house; however, the house is slightly angled on the property and the property line gradually slants, causing the continuous deck plane perpendicular to the rear of the house to encroach and to eventually intersect with the property line.

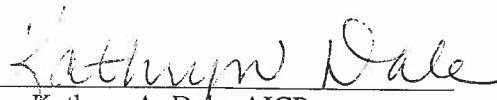
The Appellant ceased all work voluntarily until the issue is resolved and voted on.

Upon review of the Decision Standards, the subject property will continue to yield a reasonable return to use the property as the underlying zoning permits single-family residential. The variance is not substantial considering that less than 10% of the total deck square footage would encroach into the side yard setback. There would likely be minimal effects on the character of the neighborhood for this particular area of the City, as it is predominately wooded and buffered from neighboring properties. There were no comments received from the various City Departments indicating there would be a detrimental effect on government services. The property owner was aware of the zoning restrictions and made every effort to meet the requirements, only to learn during the construction phase that where they thought the property line was, was not accurate. The Appellant cannot feasibly obviate the issue simply, but would have to remove support posts installed, reduce the deck size and redesign the deck layout to conform parallel to the property line. The spirit and intent of the code for this zoning district is to enhance the open space character typically found in this zoning district, furthermore it was recognized 8 years ago that practical difficulty of side yards setbacks being able to be satisfied due to the unique situation of buildings existing prior to the establishment of the lots in which they are located on and the topography of the property.

RECOMMENDATION

Not Applicable.

SUBMITTED BY:


Kathryn A. Dale, AICP
City Planner

DATE: March 30, 2010

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/23/2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Documents are being submitted to you for the following:

Case #: BZA-04-2010

ADDRESS: 933 Silvoor Lane

BZA-04-2010 Variance for a deck in the side yard setback, **Jason Reynolds,**
Owner/Applicant

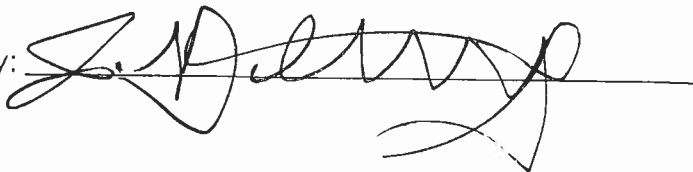
____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 0⁴3/13/2010 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: 3-23-10

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/23/2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Documents are being submitted to you for the following:

Case #: BZA-04-2010

ADDRESS: 933 Silvoor Lane

BZA-04-2010

Variance for a deck in the side yard setback, **Jason Reynolds,**
Owner/Applicant

 X Review

 Revisions

 Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 03/13/2010 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: _____

SSCWE

Date: 3/24/10

Public Comment



ADJUDICATION HEARING

The Oxford Board of Zoning Appeals will hold an Adjudicatory Hearing on a petition for a variance request on **Wednesday, April 21, 2010 at 7:30 p.m. at 118 West High Street (Oxford Court House) Oxford, Ohio.** The following petition will be heard:

BZA-04-2010 933 Silvoor Lane, Section 1143.01(c)(2)C variance for a deck in the side yard setback, Jason Reynolds, Owner/Applicant*

Persons of standing needing additional information or special assistance in order to participate in the hearing should contact Lynn Taylor at 524-5204.

Lynn Taylor
Administrative Assistant
Community Development

Oxford Press: April 2, 2010

*This is a revision to the hearing notice previously sent. The reference to the Section number should have been included.

Have no problem with the variance request

940 Silvoor Lane

Will C. [Signature]

955 Silver LANE 20' 779

Lot = 79,115 sqft

House 4196

Deck 1264

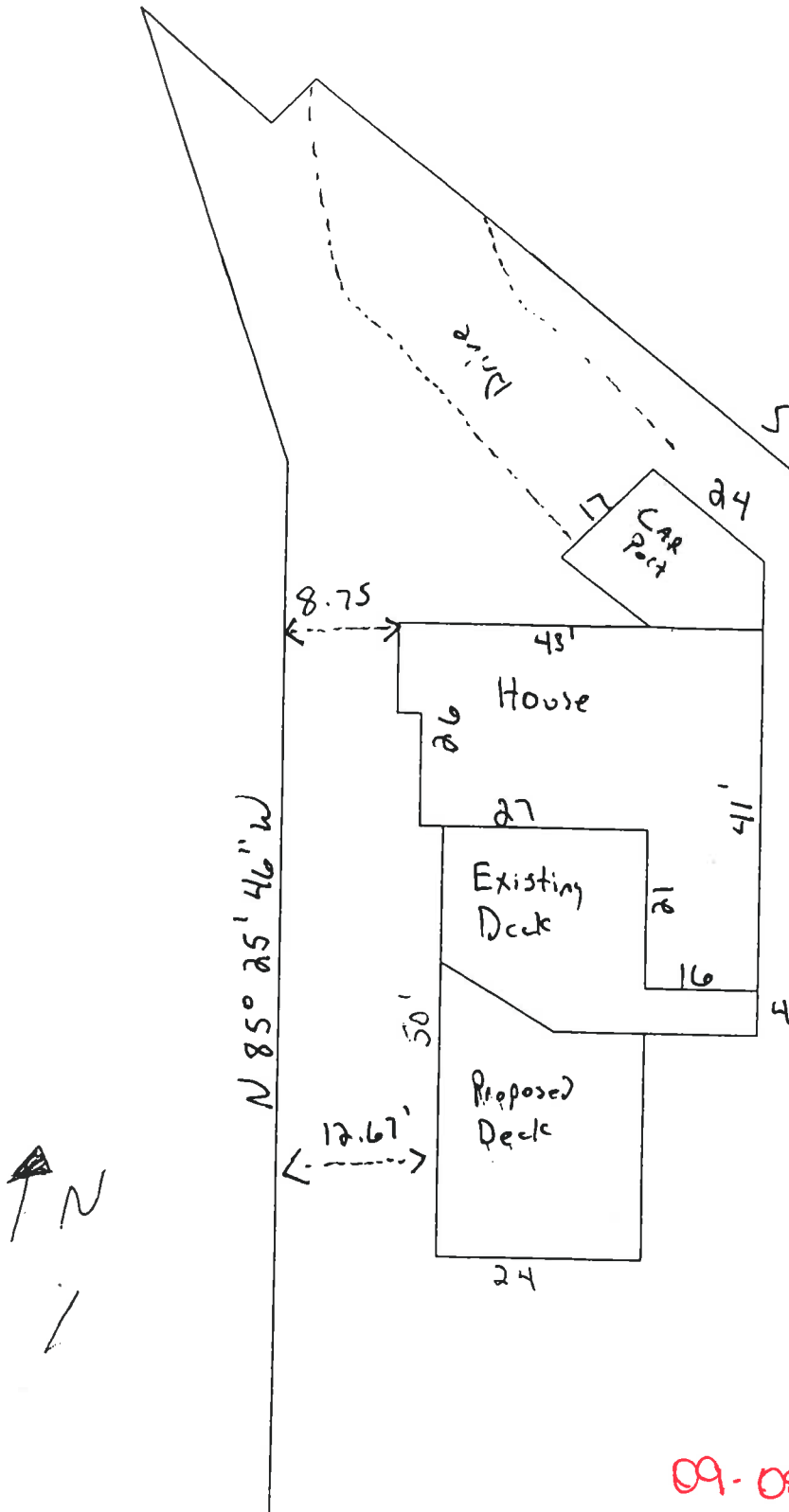
Carport 408

Drive 17x64 1,088

3956 sqft

$3956 / 79115 = 5\%$ Lot Tot

* was approved & issued 5/19/09 because require 10' side yard Setback is shown as being met.



BUILDING DEPARTMENT
APPROVED AS NOTED

DATE 5-15-09

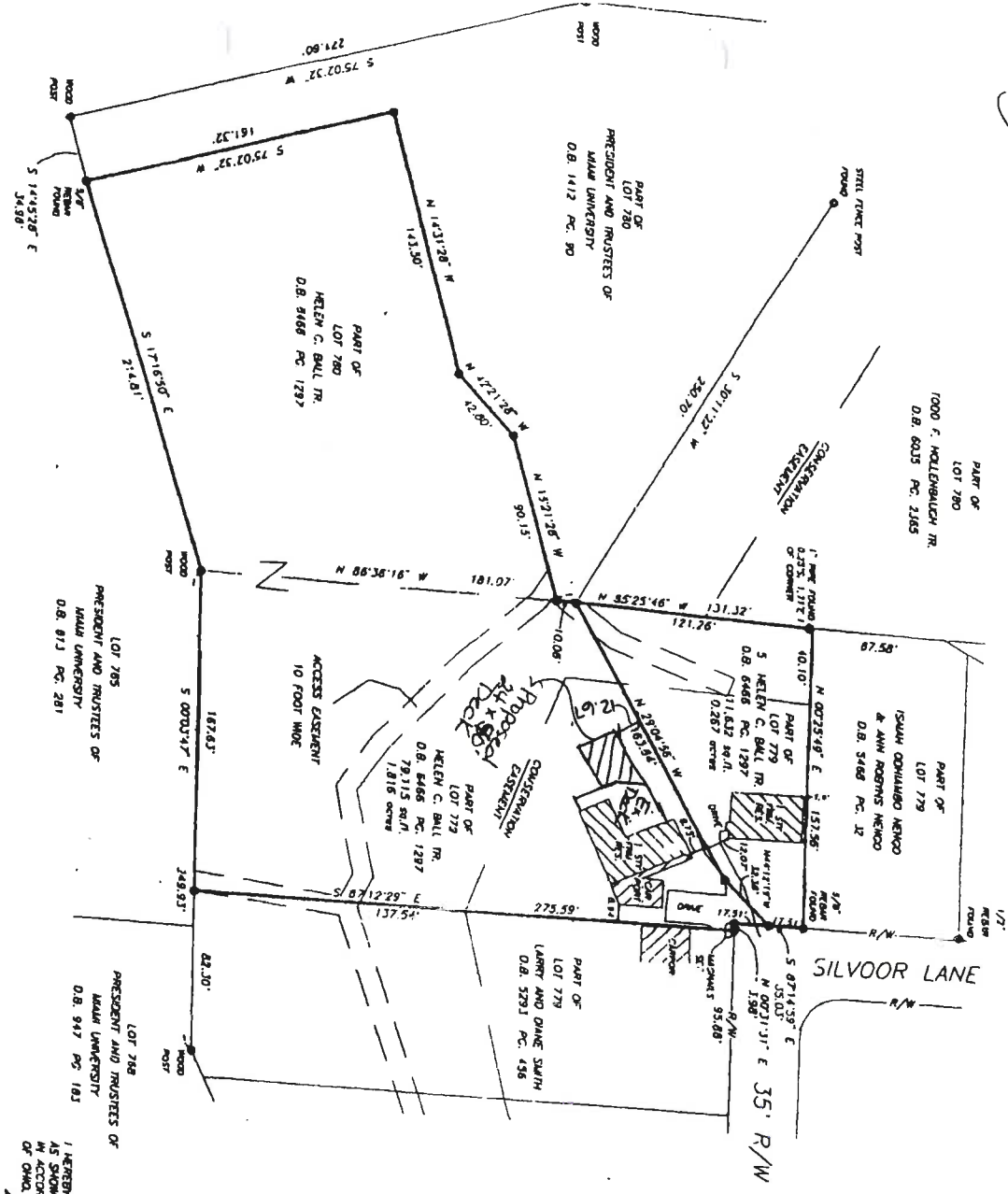
REVIEWER [Signature]

OFFICE COPY

09-087 Bldg. Permit Application

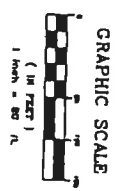
Revised E. Wall
John

VOLUME 42 PAGE 96
 BUTLER COUNTY ENGINEER'S
 RECORD OF LAND SURVEYS



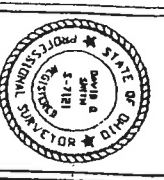
NOTES AND REFERENCES
 NORTH BASED ON STATE PLANE COORDINATES
 AND 81 OMD SOLIN LONE
 DEEDS

AS NOTED
 SURVEY
 P.E. 215 D
 VOL. 4 PC. 172
 VOL. 2 PC. 225
 VOL. 12 PC. 245
 VOL. 4 PC. 172
 CONSERVATION AND ACCESS
 EASEMENT SURVEY BY DCS
 SURVEYING MAY 2001
 LISC.
 © DENOTES 5/8" REBAR SET UNLESS
 OTHERWISE NOTED.



APPROVED BY THE OXFORD PLANNING COMMISSION
 THIS 15TH DAY OF May 2002
David Douglas Smith
 PLANNING COMMISSION CHAIR
Benjamin Langer
 PLANNING DIRECTOR

I HEREBY CERTIFY THAT ALL MEASUREMENTS AND MONUMENTS SET AND/OR FOUND
 AS SHOWN, CURVE DISTANCES ARE MEASURED TO THE M.C. ALL WORK PERFORMED
 IN ACCORDANCE WITH THE LAND SURVEYING STANDARDS FOR BOUNDARY SURVEYS IN THE STATE
 OF OHIO.
David Douglas Smith
 DAVID DOUGLAS SMITH
 PROFESSIONAL SURVEYOR NO. 1121



DAVID DOUGLAS SMITH, P.S.
 P.O. BOX 180
 OXFORD, OHIO 43080
 (614) 451-1121
 PROFESSIONAL SURVEYOR

PRODUCT TITLE:
 PART OF LOT 779
 CITY OF OXFORD
 BUTLER COUNTY, OHIO

NO.	DATE	BY	REVISION
1	3/21/02	DD	1" = 80'
2	3/21/02	DD	1" = 80'
3	3/21/02	DD	1" = 80'
4	3/21/02	DD	1" = 80'
5	3/21/02	DD	1" = 80'
6	3/21/02	DD	1" = 80'
7	3/21/02	DD	1" = 80'
8	3/21/02	DD	1" = 80'
9	3/21/02	DD	1" = 80'
10	3/21/02	DD	1" = 80'

PRODUCT TITLE:
 LOT SPLIT
 PLAT OF SURVEY

09-087 Bldg. Permit App.

VOLUME 42 PAGE 96
BUTLER COUNTY ENGINEER'S
RECORD OF LAND SURVEYS



NOTES AND REFERENCES
NORTH BASED ON STATE PLANE COORDINATES
AND 43 CHD SOUTH ZONE

BEARS

AS NOTED

SURVEY

P.L. 215.0 173

UCL 2.0 PC 223

UCL 2.0 PC 243

UCL 2.0 PC 263

CONVEYANCE AND ACCESS

TO BE SHOWN BY DEEDS

SUBJECT MATTER, 2001

NOTE

© RIGHTS 5/4" REMAIN UNLESS

PROVIDED HEREIN

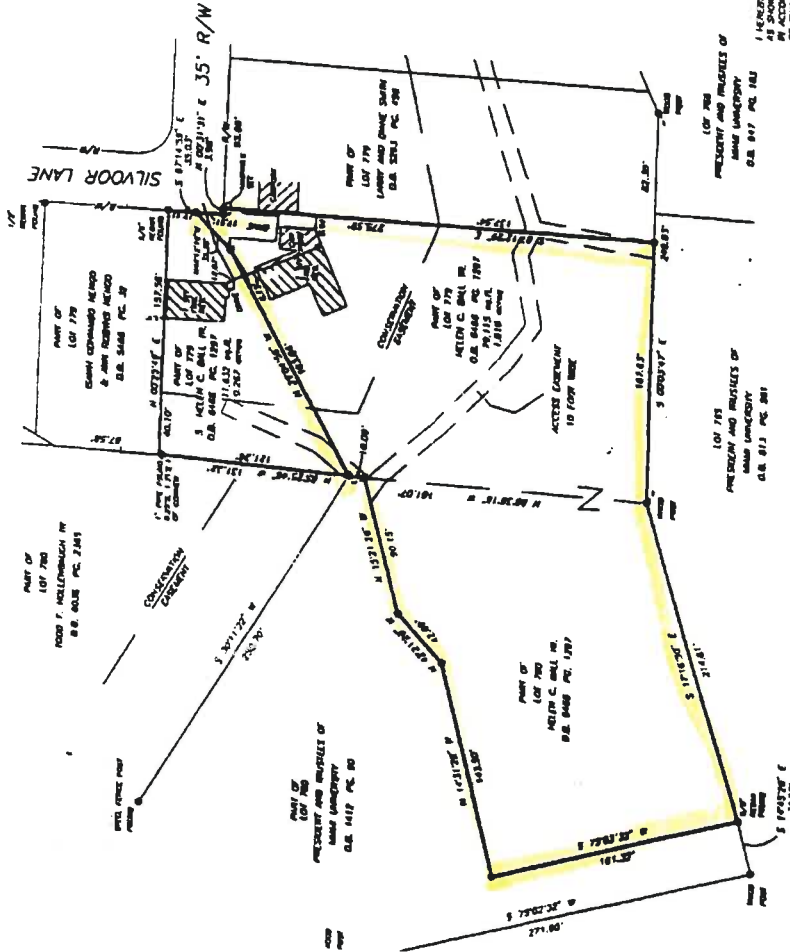
APPROVED BY THE BUTLER COUNTY ENGINEER
DATE 12/15/2002
Paul J. Brandy
Butler County Engineer
Professional Seal No. 1721

GRAPHIC SCALE



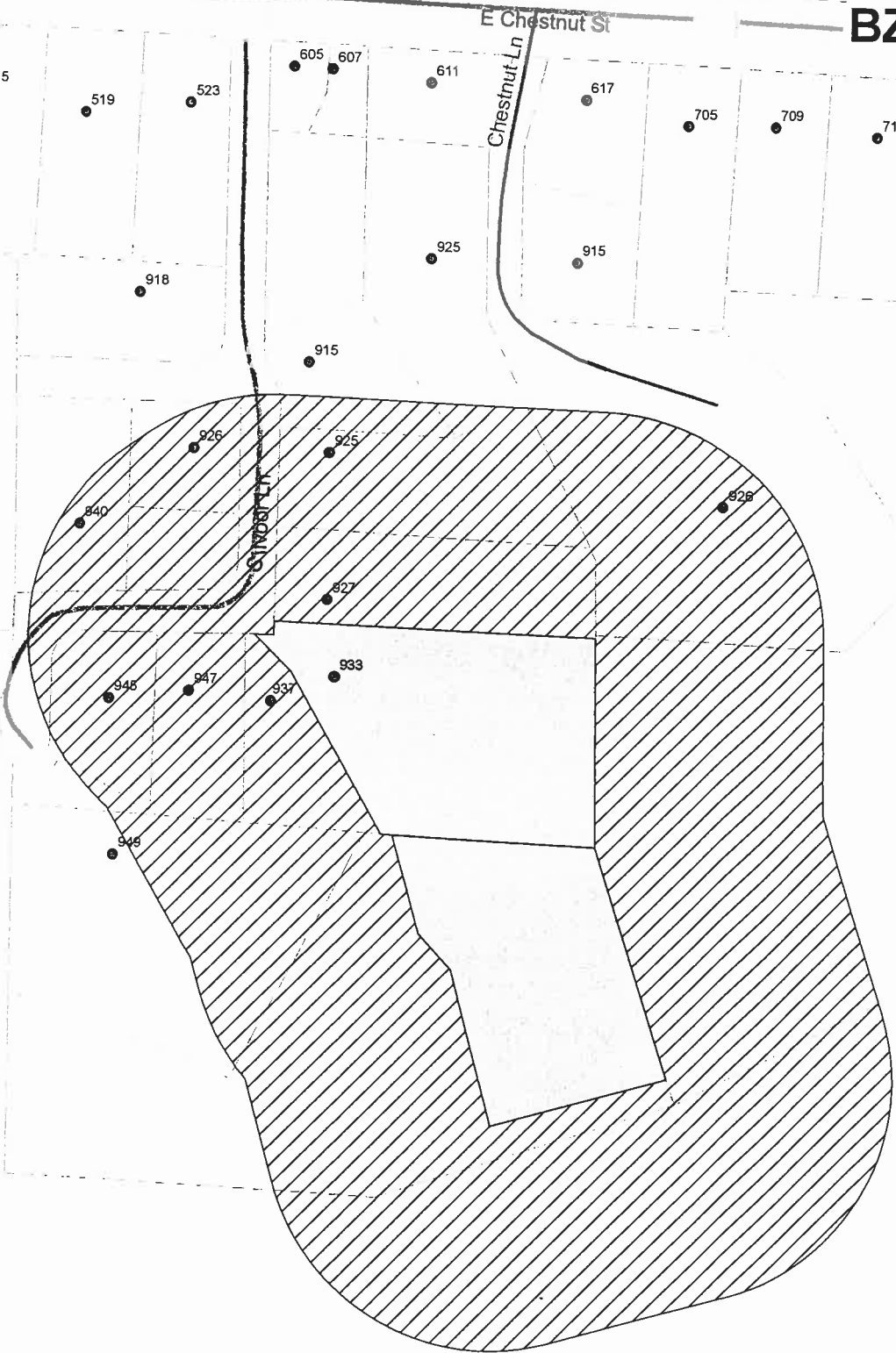
THESE CERTS THAT ALL MEASUREMENTS AND CALCULATIONS SET AND ARE FOUND
AS SHOWN, HAVE BEEN MADE WITH CARE AND ACCURACY AND THAT ALL MEASUREMENTS
OF CHD, AND ALL CALCULATIONS, HAVE BEEN MADE WITH CARE AND ACCURACY
AND THAT THE SURVEYOR HAS NOT BEEN AFFECTED BY ANY OTHER SURVEYS IN THE STATE

DAVID DOUGLAS SWAN, PROFESSIONAL SURVEYOR NO. 1721



		DAVID DOUGLAS SWAN PROFESSIONAL SURVEYOR NO. 1721	
PROPERTY TITLE PART OF LOT 779 CITY OF OXFORD BUTLER COUNTY, OHIO		LOT SPLIT PLAT OF SURVEY	
DATE	12/15/2002	DATE OF DEED	12/15/2002
BY	DAVID DOUGLAS SWAN	BY	DAVID DOUGLAS SWAN
WITNESSES		WITNESSES	
NOTARY PUBLIC		NOTARY PUBLIC	

Adjoining Properties



Property notifications

Legend

-  Oxford Corporation Limit
-  933 Silver Lane
-  200 Ft. Buffer
-  Parcels

1 inch = 150 feet



Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner:

Jason Reynolds

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

Mailing Address:

933 Silver Lane Oxford OH 45056

Telephone Number(s):

513-312-9061

Email Address:

SREYNOLDS25@worldnet.att.net

Name of Property Owner:

Jason and Stephanie Reynolds

Mailing Address:

933 Silver Lane Oxford, OH 45056

Telephone Number(s):

513-312-9061

Requested Variance:

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

Encroachment of deck into the side yard setback

Section 1143.01(c)(2)C

Location of Requested Variance:

933 Silver Lane

Legal Description:

779 S 275.59

Zoning District:

R2A

Total Acreage:

1.816 Acres

Existing Use of Site:

Single Family

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.

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.

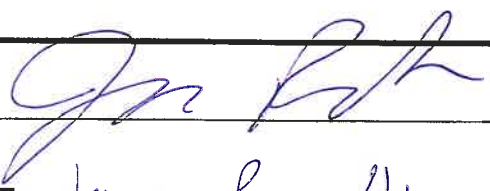
(5) A separate narrative statement that explains how the proposed variance satisfies each of the following Decision Standards required to grant a variance. A separate response is required for each subsection. In determining whether practical difficulties exist sufficient to warrant a variance, the Board 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 a **\$150.00 filing 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: 3-22-2010

PRINTED NAME OF APPLICANT: Jason Reynolds

FEE / RECEIPT

\$150 Fee Paid / Receipt Number: 15448

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

Our property has many great qualities, but as our family has grown to three children under 4 years old we found there is no suitable place for them to play. The lot has a unique configuration with the front of our house tightly positioned between both neighbors. We do not have a front yard and the driveway entrance is also shared with both neighbors. Our house sits atop a steep hill with no sizeable flat area. A conservation easement runs through our property and there is heavy foot traffic mostly by college students whose activities can be questionable. As the Curator of Silvoor Biological Sanctuary I want to keep the natural habitat preserved for the community. The variance allows a deck which will provide the adequate safe space needed for my growing family.

- b) **Whether the variance is substantial;**

The proposed deck variance is not substantial only needing 7.92 inches closest to the house and increases to 4.3 feet in the very corner of the deck. The total variance is 98 square feet spread along the length of the deck. ↗ to encroach (5.7' from Property line)

- 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 property line creating a need for the variance is situated over a steep cliff area that is currently covered by honey suckle and brush. The same grade and unmaintained environment extends throughout the immediate neighbor's backyard. The neighboring lot's residence is angled away from the proposed deck and the natural sightlines of the property would not be impaired. There is plenty of screening including maturing pine trees, honey suckle and other landscaping creating a natural barrier with the property line. I plan on keeping the property line natural to maintain privacy for all parties. I own 1.816 acres mostly all in the rear of my property where the proposed deck is designated. There are no residences directly in back of the proposed deck and all joining property lines are natural/wooded.

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

No

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

The previous owner described the property line to me as running parallel with my residence upon purchasing the property in 2005. My decks design was based on a 2002 survey of the property that only showed the front corner side yard setback of my house. I submitted my approved building permit application on the assumption that if I continued on the same lines as the existing deck and square with my house I had 12.67 feet from the property line. The property line came into question after I set all my posts in concrete and installed the joists/beam construction. I immediately stopped work and researched the property line with the firm Bayer Becker. Based on the computerized version of the survey it was confirmed the property line angled toward my residence/proposed deck giving me less side yard setback than originally informed. I contacted Kathy Dale with my findings and presented her a survey with more detailed measurements.

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

After the property line was confirmed I began working with Bayer Becker to arrive at a non-variance type solution, but once informed by Kathy Dale that I was in a zoning district requiring a 10 ft. side yard setback those solutions were not feasible. A large investment in time and resources would be lost if my installed posts and beam/construction had to be redesigned. The proposed rectangular shape follows the contours of the existing deck and house and most efficiently maximizes the space. The decks position is also in the ideal sight from our residence so we can better monitor our children's activities.

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

The proposed deck is an uncovered open air design. The deck is on the same level plane as the lower level (basement) of the residence and neighboring residences. The deck is not readily noticeable from the street. Although the front of the property is closely configured, the rear of the property is in stark contrast being surrounded by many acres of woods and natural habitat. The proposed deck does not compromise the open feeling described in the R-1A District.

A lot split in 2002 developed the property line in focus and created a unique lot configuration that needed a variance for approval. (BZA 05-2002) The current zoning's 10 ft. side yard setback is not met on either side of the residence.

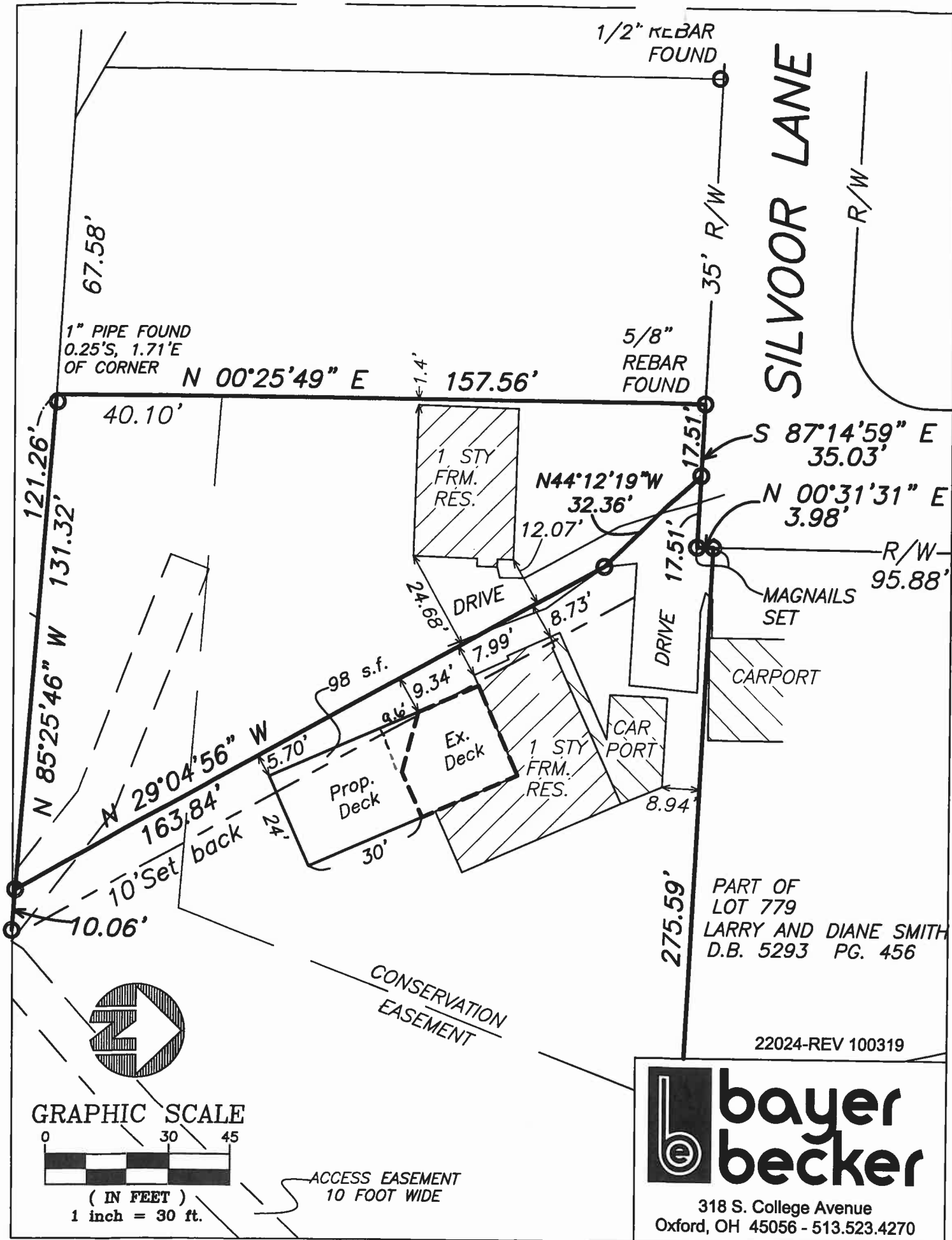




Fig 1: Shared drive entrance. Applicant's residence shown in center.



Fig 2: View of applicant's residence from the rear.



Fig 3: View from ~~East~~ West depicting setting of property line and neighboring backyard.



Fig 4: View of proposed deck from neighbor's residence, 937 Silvoor. Note: Debris is not on applicant's property.



Fig 5: View of proposed deck .



Fig 6: View of proposed deck in relation to layout of applicant's residence.

