

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2017-07

Date – May 17, 2017

APPLICATION

Applicant:	Derek Cook
Location:	214 East Withrow Street
Owner:	Uptown 2 LLC
Action Request:	Variance to Section 1137.04(b)(5)- nonconforming land use occupancy reduction requirement Variance to Section 1149.03(C)(i)-off-street parking requirement
Current Use:	Lodging House
Zoning:	R2-MS (Single and Two Family Mile Square Residential)
Surrounding Land Uses:	Single and Multi-Family Residential

DESCRIPTION

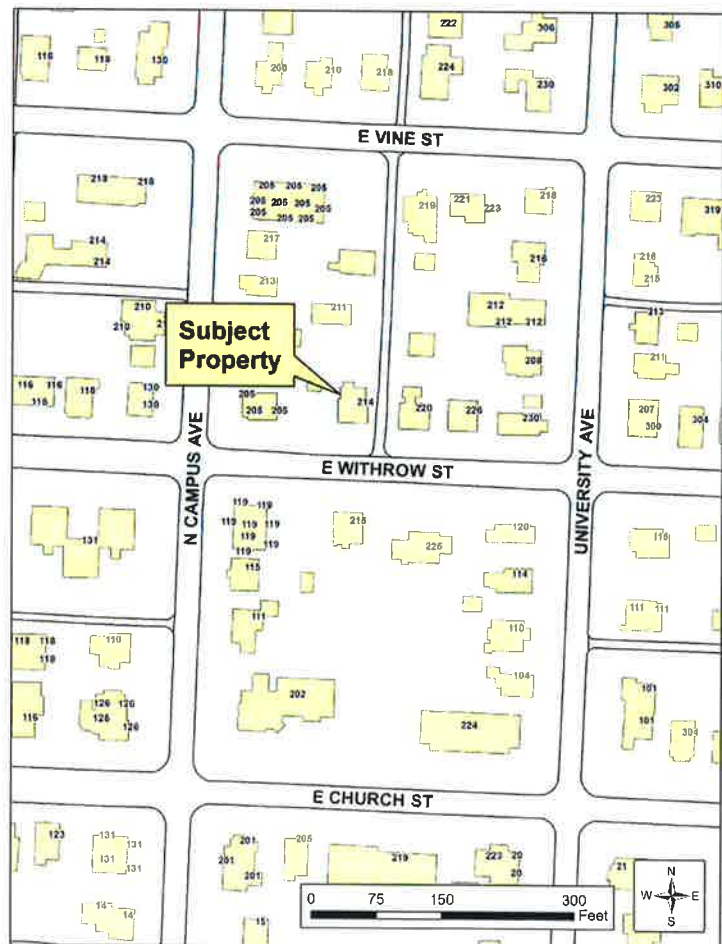
Owner representative Derek Cook, is requesting two variances as part of a proposed interior remodel at 214 East Withrow Street. The rental property has a permit for up to six unrelated occupants. There is no off-street parking provided.

BACKGROUND

Oxford Zoning Code Section 1137.04(b)(5) requires that the permitted occupancy of a nonconforming use be reduced by 30% when a reconfiguration is done to the building. The building is considered a lodging house because it is a single dwelling unit permitted for more than four unrelated occupants. A reduction to four occupants is required. No occupancy reduction is proposed. Additionally, Oxford Zoning Code Section 1149.03(C)(i) requires that two off-street parking spaces be provided for a single-family dwelling. No off-street parking is proposed.

COMMENT FORMS

Notification was mailed to property owners within 200 feet and a sign was



placed on the property. No public comments have been received as of this writing.

AGENCY REVIEW

The variance request has been reviewed by City departments.

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

BZA SITE HISTORY

There are no documented records of prior BZA cases for the subject property. There is a 2001 Housing Agreement between the City and the property owner.

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. Cook. The staff's review of the criteria is included below.

There is an existing single-family lodging house dwelling on the property that has existed as an actively permitted rental for many years. Therefore regarding criterion A, it is staff's determination that the property could **yield a reasonable return without the variances**.

Regarding criterion B, Staff believes that the variances **are not substantial** due to project being interior only and regarding parking, the property is 1,000 feet from the university campus, which substantially minimizes the daily vehicular trips.

Regarding criterion C, whether or not the **essential character of the neighborhood** would be negatively altered by the granting of the variance: The project is interior; therefore, Staff's belief is that there would be no impact on the essential character.

Regarding criterion D, Staff believes that the delivery of governmental services **is not negatively impacted**, with this request as there were no comments from other city departments.

Regarding criterion E, **property owner awareness of zoning restriction**, refer to the applicant's statements of not being aware.

Regarding criterion F, the **owner's predicament** is stated to be no feasible means to improving the property without the proposed change in floor plan. However, no alternative plans have been drawn or suggested.

Regarding criterion G, whether **the spirit and intent behind the zoning requirements would be observed and substantial justice done** by granting the variances: Per Section 1137.01 the intent behind the zoning requirements for nonconforming uses is in part *"to encourage the reduction of nonconformity with Zoning Code in the short term and elimination of nonconformities in the long term, while respecting vested interests in the existing uses and improvements."* Per Section 1149.01 the intent behind the zoning requirement for off-street parking is *"to minimize the traffic impacts of development on public streets and to assure that all developments adequately and safely provide storage and movement of vehicles in a manner consistent with good site design and site engineering practices...."*

Staff's belief is that the spirit and intent of the nonconforming code would not be observed if the variance from occupancy reduction were granted. Staff's belief is that the spirit and intent of the parking requirement would be observed if the variance were granted.

RECOMMENDATION

If the BZA determines that difficulties exist which are sufficient to warrant the variances, the staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance requests. At the time of this report, **staff believes there is substantial evidence that supports the variance request for parking but not for occupancy reduction.** If the BZA does approve the variances it can attach any appropriate conditions necessary as permitted by Section 1139.02(d)2.



SUBMITTED BY: _____

Sam Perry, AICP
Planner, Community Development Department

DATE: May 9, 2017

AGREEMENT

This Agreement made and concluded this 23 day of April, 2001,
by and between the City of Oxford, Ohio, hereinafter referred to as "OXFORD", and David K.
Schmitt, hereinafter referred to as "OWNER".

For and in consideration of the mutual promises and covenants contained herein, the parties
agree as follows:

1. Owner represents that he owns the property located at 214 East Withrow Street, Oxford, Ohio, 45056, hereinafter referred to as "PROPERTY" (and more particularly described in Exhibit "A" attached hereto).
2. The Property is zoned R-4B.
3. The Owner represents that the use of the Property as of the date of this Agreement is a Single-Family residence with an occupancy of no more than 6 persons.
4. Owner agrees to reclassification of the Property as a Grandfathered Lodging House residence with a maximum occupancy of 6 persons. This Agreement is alienable as such by Owner and its successors in interest. It is further understood and agreed that in the event of catastrophic loss or destruction, said Property may be rebuilt in accordance with §1133.05 of the Oxford Zoning Code.
5. The Owner and City agree to this classification to resolve a disputed claim. Both parties further acknowledge that this Agreement shall not be used against the other in this legal proceeding as neither party admits any of the allegations raised, but specifically denies the same, Oxford agrees to dismiss Owner from the suit.
6. Owner shall permit Oxford's Housing Inspector, during regular business hours and with reasonable notice to the Owner, to inspect the Property. If a citation is issued for violation of any Housing Regulations, Owner shall correct such violations within thirty (30) days after date of Owner's receipt of such citation.
7. Owner agrees to comply with all local, state and federal regulations concerning the use of the Property.
8. Owner hereby releases Oxford from any action or cause of action related to the use of the Property or related to the enforcement of any codes regulating the Property, and from any derivative claims arising from any cause of action (including those for attorneys' fees or costs). Owner further agrees to hold Oxford harmless from any damage resulting from such use and hereby waive any right to appeal to the Board of Zoning Appeals, Common Pleas Court and Federal Court with respect to the zoning classification and maximum occupancy agreed upon by the terms of this Agreement.

TRANSFER NOT NECESSARY
KAY ROGERS
BY 11-16-2001 DEPT.
AUDITOR, BUTLER CO., OHIO

9. This Agreement shall not be changed, modified or amended except in writing upon agreement of the parties.
10. The Owner shall notify any immediate successor entitled to the Property of the terms and conditions of this Agreement and, notify the occupants of the Property of the maximum number of persons that are permitted to reside in the Property. This Agreement is to be filed with the Butler County Recorder.
11. This Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the parties and shall continue in full force and effect as long as the Property is used and occupied as contemplated herein.

Prior Deed Reference: Vol. 1715, Page 729 of the Deed Records of Butler County, Ohio.

IN WITNESS WHEREOF, the parties hereto have set their hands on the date and year first written above.

WITNESSES:

CITY OF OXFORD, OHIO

Krista Powell
Kimberly C. Nutter
[Signature]
[Signature]

Jane Howington
 By: Jane Howington, Acting City Manager

David K. Schmitt, OWNER

[Signature]
 By: David K. Schmitt

STATE OF OHIO

:
 SS:

COUNTY OF BUTLER

Before me, a Notary Public, this 28 day of June, 2000, personally appeared Jane Howington, Acting City Manager of the City of Oxford, Ohio, and acknowledged the signing thereof to be her voluntary act and deed on behalf of the City of Oxford in her official capacity.

Lora L. Isenhardt
 Notary Public
 LORA L. ISENHART
 Notary Public, State of Ohio
 My Commission Expires Aug. 26, 2001

STATE OF OHIO

COUNTY OF ~~BUTLER~~ ^{Hamilton}

SS:

Before me, a Notary Public, this 23 day of April, 2001, personally appeared David K. Schmitt, and acknowledged the signing thereof to be his voluntary act and deed.


Notary Public

MICHAEL J. TIGHE
Notary Public, State of Ohio
My Commission Expires Oct. 21, 2003

This instrument prepared by:

Stephen M. McHugh - #0018788
ALTICK & CORWIN CO., L.P.A.
One Dayton Centre, Suite 1700
One South Main Street
Dayton, Ohio 45402-2016
(937) 223-1201
Law Director for City of Oxford, Ohio

EXHIBIT "A"

Situate in the City of Oxford, County of Butler and State of Ohio, and being the east sixty (60') feet of the south fifty-three and one-half (53.5') feet on Inlot numbered Three Hundred Twenty-six (326) as the same is designated on the revised list of lots in said City. The same being subject to the payment of an annual ground rent, payable to the Treasurer of Miami University.

Also, the 16 ½ foot portion of East Withrow Avenue adjacent thereto to that part of Inlot 326 hereinabove described vacated by the City of Oxford, Ohio, by ordinance dated May 11, 1853 and recorded in Butler County, Ohio, Deed Records, Volume 888, Page 261.

✓

City of Oxford
Inter-Office Review Transmittal Sheet

Date: ²¹~~4/07~~/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-07, 214 E. Withrow Street, variance to Section 1137.04(B)5 occupancy reduction and Section 1149.03(C)1, reduction of parking spaces, **Kathy Albrecht, Derek Cook, Applicants/Agents**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/9/2017 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: 5-2-17

PRINT NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/²¹~~07~~/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-07, 214 E. Withrow Street, variance to Section 1137.04(B)5 occupancy reduction and Section 1149.03(C)1, reduction of parking spaces, **Kathy Albrecht, Derek Cook, Applicants/Agents**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/9/2017 Note: If no comments are received, we will assume the project meets your department's standards.

Drawings are returned: w/comments without/comments

RECEIVED

APR 21 2017

City of Oxford
Service Department

Drawings reviewed by: *V. Popescu*

VICTOR POPESCU

PRINT NAME

Date: 4-25-17

City of Oxford
Inter-Office Review Transmittal Sheet

21
Date: 4/07/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-07, 214 E. Withrow Street, variance to Section 1137.04(B)5 occupancy reduction and Section 1149.03(C)1, reduction of parking spaces, **Kathy Albrecht, Derek Cook, Applicants/Agents**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/9/2017 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: 4/24/17

John Jones
PRINT NAME

City of Oxford
Inter-Office Review Transmittal Sheet

²¹
Date: 4/07/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-07, 214 E. Withrow Street, variance to Section 1137.04(B)5 occupancy reduction and Section 1149.03(C)1, reduction of parking spaces, **Kathy Albrecht, Derek Cook, Applicants/Agents**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/9/2017 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: 4-17-17

C. Albrecht

PRINT NAME



BZA-2017-07

Surrounding Property Owners Map

Legend

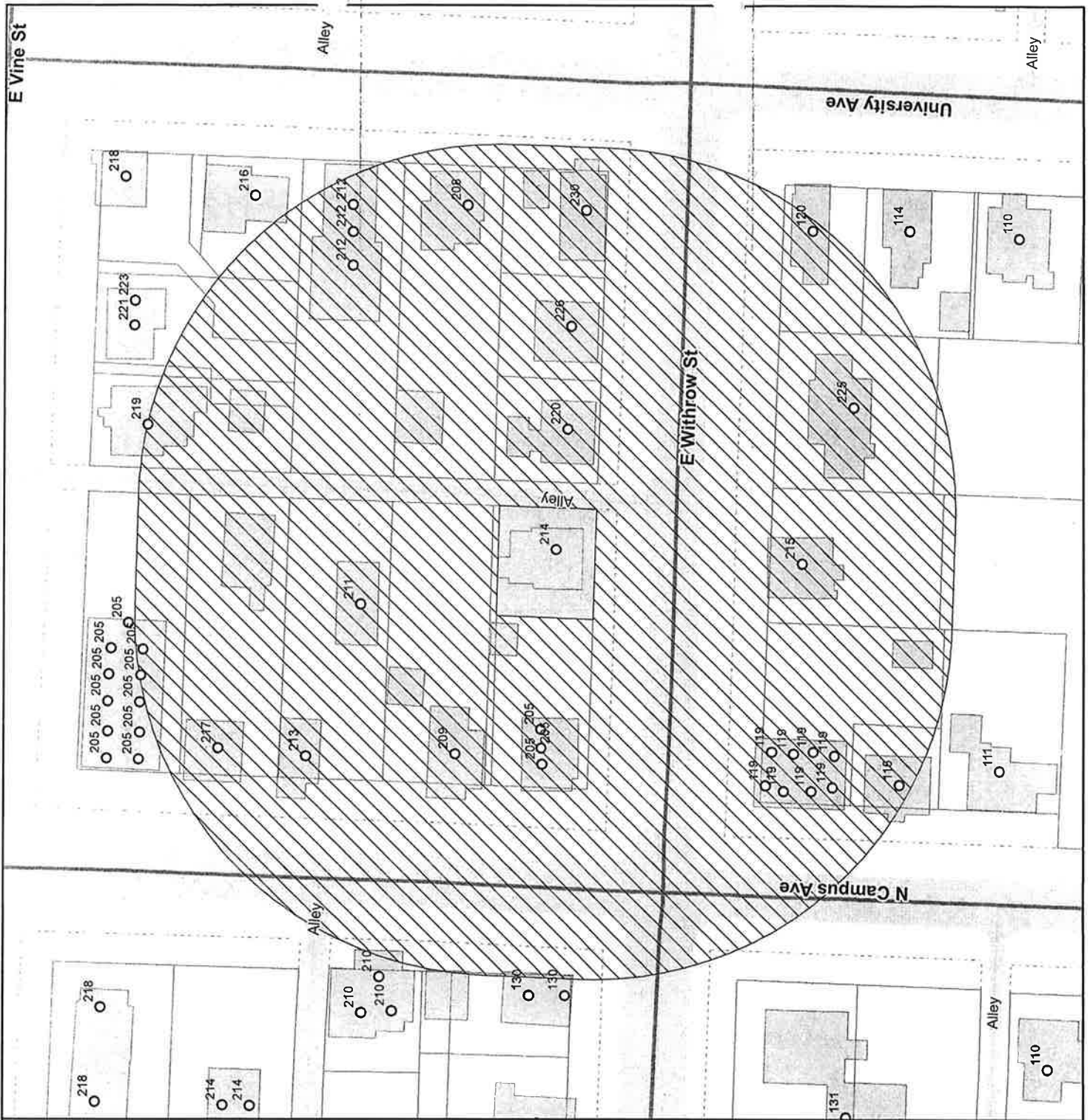
- Subject Parcel
- 200 Ft. Buffer
- Oxford Corporation Limit
- Parcel
- Vacated Right-of-Way
- Building Footprint
- Paved Roadway



1 inch = 75 feet

Prepared on Tuesday, May 02, 2017

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 Derek Cook has permission to represent our interest with the City of Oxford and act on our behalf for the (Board/ Commission) hearing regarding the Renovation at our property located at 214 E. Withrow Street, Oxford, Ohio 45056

Thank-you,

Signed: 
(Dave Schmitt-Owner)
(Uptown 2 Real Estate, LLC)

4-12-17
Date:

To Whom It May Concern:

Thank-you,

4-12-17
Date:



Internal Use Only:

Case No.

BZA-2017-07

Date Filed

4/17/17

Petition for Zoning Variance

Petitioner Information

Attach a Letter of Agency if the Petitioner is not the property owner.

Name * Kathy Albrecht/Derek Cook
Mailing Address * 4600 Mason Montgomery Road
City, State & Zip Code * Mason, OH 45040
Telephone Number(s) * 513-923-5452 or 513-265-1485
Email Address kalbrecht@studenthousingmgmt.com and dcook@studenthousingmgmt.com

Owner Information

Name * Uptown 2 Real Estate, LLC
Mailing Address * 4600 Mason Montgomery Road
City, State & Zip Code * Mason, OH 45040
Telephone Number(s) * 513-923-5452 or 513-265-1485
Email Address kalbrecht@studenthousingmgmt.com and dcook@studenthousingmgmt.com

Variance and Lot Information

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

1137.04-B-5-Required non conforming land use reducing occupancy from 6 to 4 (maintain 6)

1149-03-C-I-Variance of two parking spaces (currently zero) propose zero

Location of Requested Variance * 214 E. Withrow St. Oxford, OH 45056
Name of Building Finding Pinot
Legal Description * Parcel ID-H4100006000007
Zoning District * Residential Total Acreage * .0964
Existing Use of Site * Lodging House

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.

Finishing basement area adding 1 full bath and 2 bedrooms. Services performed by Student Housing Management

Maintenance Staff and Century Contracting. 4 service vehicles and work performed between 8 and 5 p.m.

- 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.

Fees & Receipt

The variance fee is \$200.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00, plus \$10.00 postage charge. **Fees may increase if staff determines that you need more variances.**

Sign and Date

Petitioner Signature *



Date *

4-17-17

Submit Application, Plans and Documentation, and Fees

We will not accept incomplete applications and/or plans and documentation.

Send or drop off this application with required plans and documentation as attachments and a check for fees and postage charge, made payable to **City of Oxford**, to Community Development Director, 101 East High Street, Oxford, OH 45056.

Direct questions to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

Note: You must adhere to notification and publication requirements. Submit materials 30 days prior to the Board of Zoning Appeals meeting at which the action is requested. City Staff will place a public hearing sign on the subject property. **The Petitioner is responsible for removing the signage at the completion of the hearing(s).**

¹ Butler County Auditor Real Estate Search: <http://www.butlercountyauditor.org/>

² City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>

April 17, 2017

4600 Mason Montgomery Road

Mason, OH 45040

Derek Cook-513-265-1485

Kathy Albrecht-513-923-5452

dcook@studenthousingmgmt.com

kalbrecht@studenthousingmgmt.com

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

Dear Board members,

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for variances to the Oxford Zoning Code sections listed below.

The existing site is currently used as Student Housing with current occupancy for 6 with only 4 bedrooms and one bath with exterior only access to the laundry in the basement. We are requesting to renovate the basement which will include two additional bedrooms and one full bath (see attached plans). A variance from the following Ordinance Section is requested to maintain the existing occupancy of 6 occupants and current zero parking.

CE1: 1137.04-B-5

CE2: 1149.03-C-I

The following responses address the decisions standards outlined in the application:

Comment a: Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance:

Response: The renovations will allow the future residents to have access to the basement from the 1st floor thus avoiding going around the exterior building. This will limit the exposure of the residents to being in the alley at night when they use the laundry facilities and if a weather emergency requires they will have immediate access to a safer lower level area.

Comment b: Whether the variance is substantial:

Response: The majority of the renovations will be to the interior of the building and will not have substantial effect on the exterior of the building. The planned renovation will not increase or reduce the lot size.

Comment 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.

Response: The character of the neighborhood would not be substantially altered and adjoining properties would not suffer any detriment as a result of the variance.

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

Response: The variance will have no effect on the delivery of governmental services

Comment e: Whether the property owner purchased the property with knowledge of the zoning restrictions.

Response: The owner was not aware of the restrictions when the property was purchased. We believe there have been changes/adjustments to this over the years.

Comment f: Whether the property owners' predicament feasibly can be obviated through some method other than a variance.

Response: The only way to improve the current conditions of the property is to renovate the basement in order for the 1st floor to have direct access to the area.

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

Response: The spirit and intent of the zoning code is respected, however due to the current conditions of the property, this renovation will increase the overall safety of the building.

Comment h: Any other relevant factors.

Response: With the renovation of the property we will be installing new hardwire smoke detectors, giving direct access to the basement in case of weather related emergencies and reducing the risk of allowing residents to access the laundry facilities from the 1st floor thus avoiding the exterior alleyway.

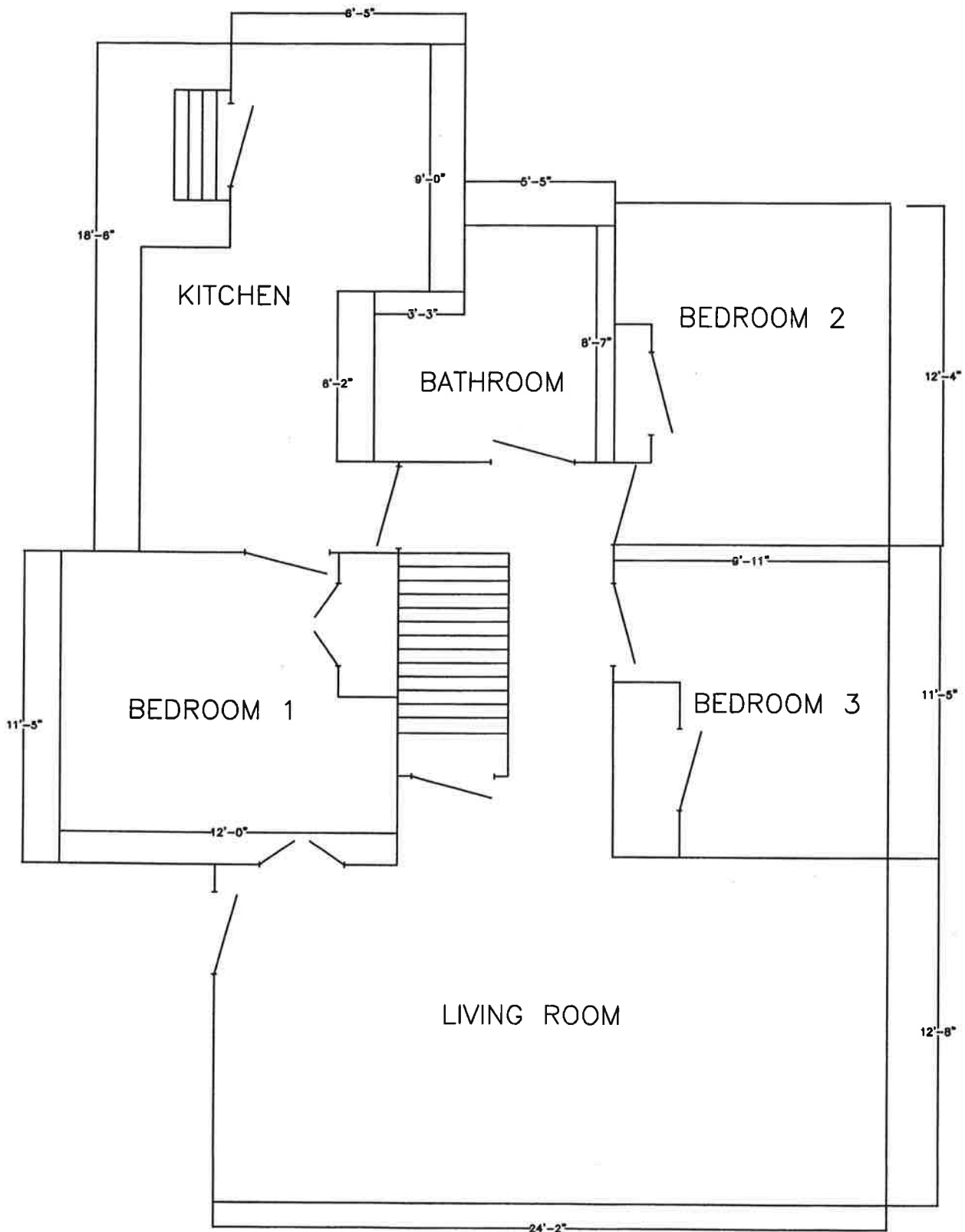
Thank you for your consideration of this applications. Please contact our office if you have any further questions.

Sincerely,

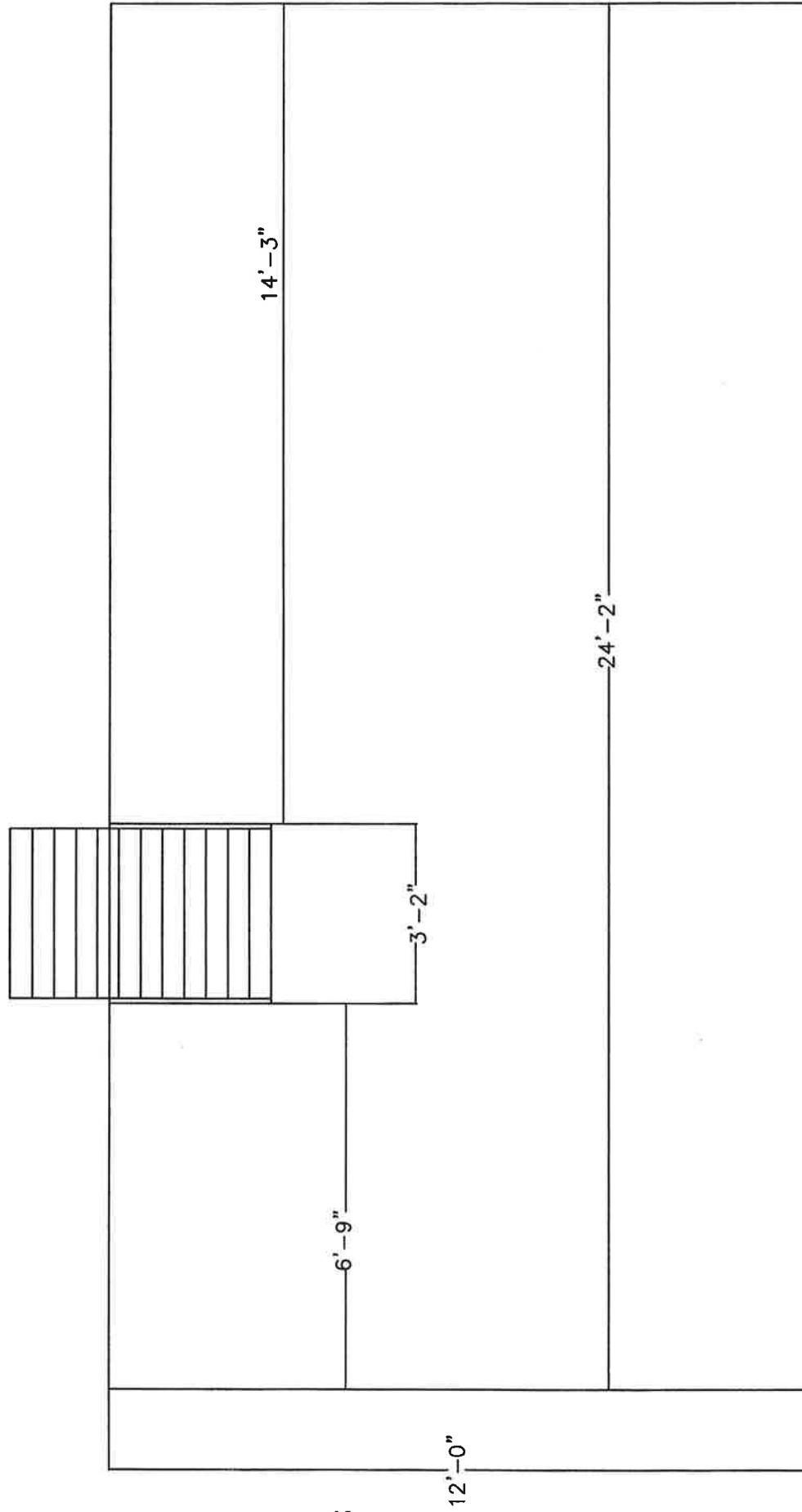
A handwritten signature in black ink, appearing to read 'Derek Cook', with a stylized flourish extending to the right.

Derek Cook-Agent for the Owner

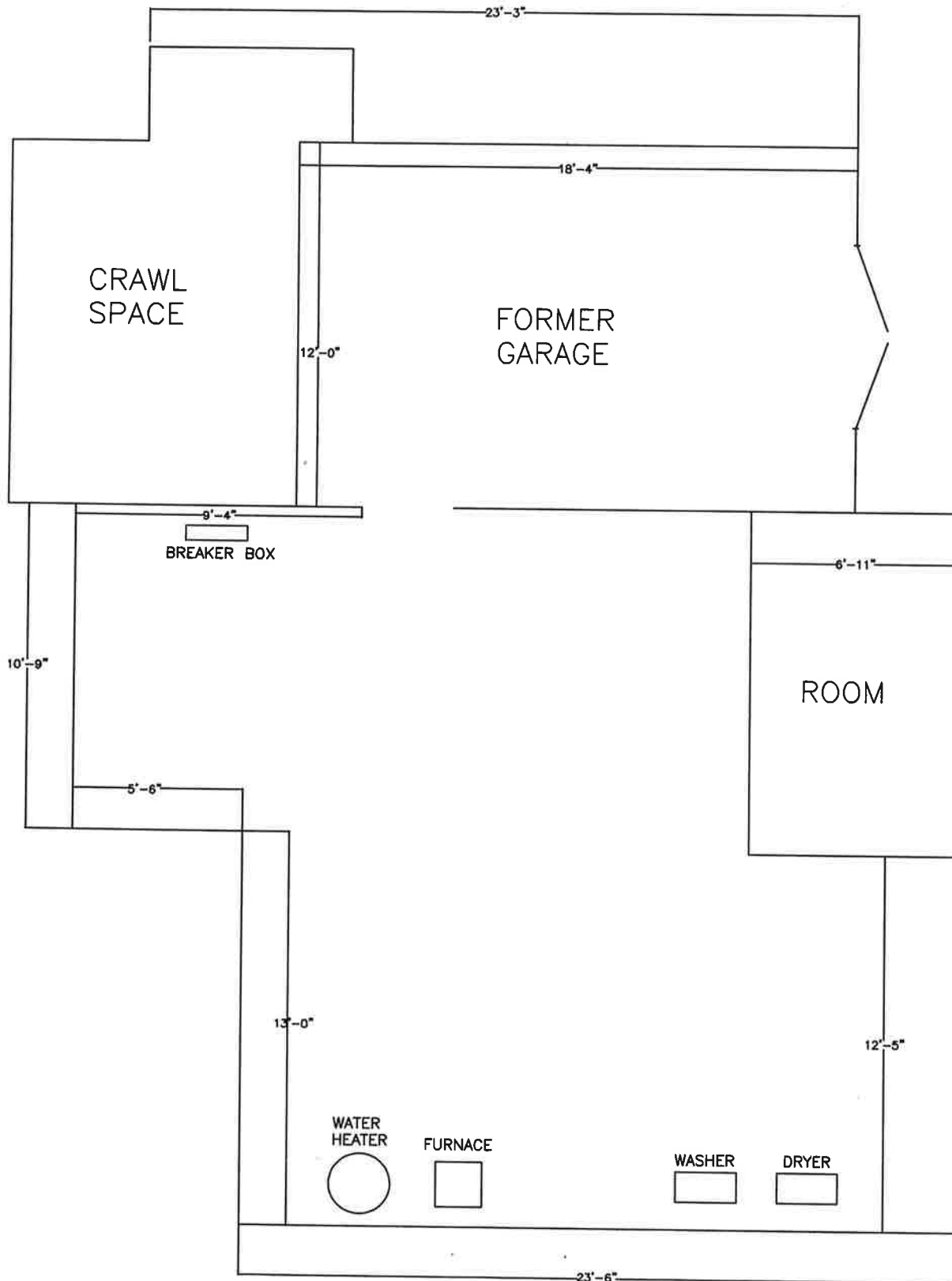
214 1ST FLOOR



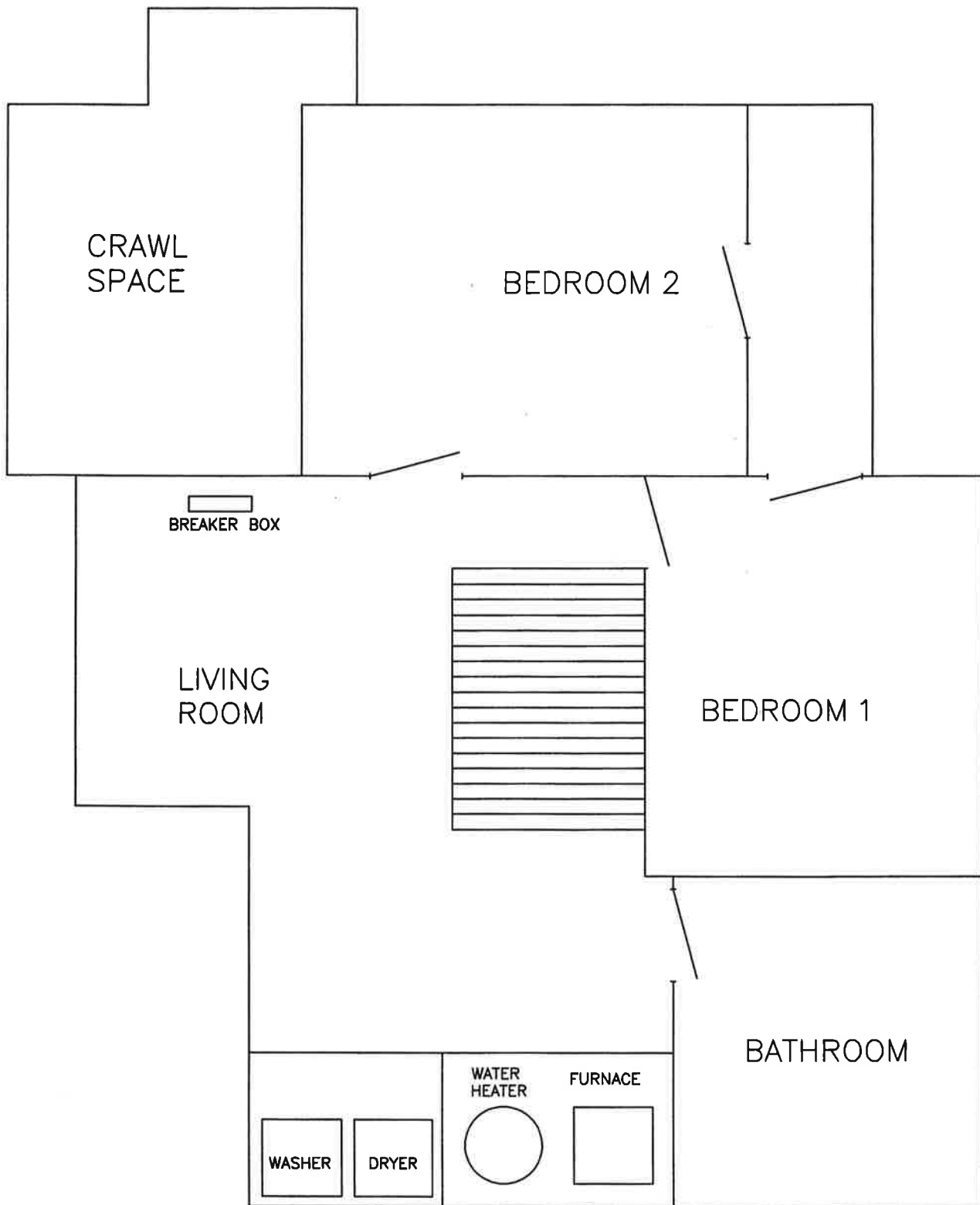
214 2ND FLOOR



214 BASEMENT



214 BASEMENT RENOVATION NO DIMS



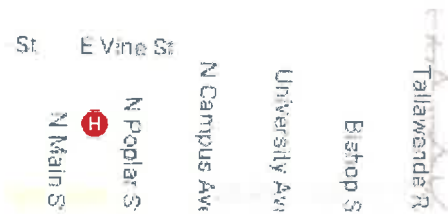
Google Maps 218 E Withrow St



Image capture: Jul 2013 © 2017 Google

Oxford, Ohio

Street View - Jul 2013



Home Property Records Dogs Homestead Departments About the Office Cont

Profile	PARID: H4100006000007				
Transfers	UPTOWN 2 LLC	214 E WITHROW ST	1 c		
Residential	Parcel		Return to Se		
Manufactured Homes	Parcel Id	H4100006000007	Actions		
Commercial	Address	214 E WITHROW ST	 Printable S		
Out Buildings	Class	RESIDENTIAL	 Printable V		
Permits	Land Use Code	S10, R - SINGLE FAMILY DWELLING, PLATTED LOT	Reports		
Land	Neighborhood	0001D016	Mailing List E		
Photos	Total Acres	.0964	Csv/Buffer Ex		
Tax Detail 2016	Taxing District	H41	Property Rep		
Tax Detail 2015	District Name	OXFORD CORP TAL DL			
Tax Detail 2014	Gross Tax Rate	71.29			
Tax Detail 2013	Effective Tax Rate	43.255862			
Tax Detail 2012	Non Business Credit	.099538			
Tax Detail 2011	Owner Occupied Credit	N/A			
Tax Detail 2010					
Tax Detail 2009	Dwelling		Links		
Tax Detail 2008	Stories	1.5	\$ Pay My Tax B		
Tax Detail 2007	Gross Living Area	1,632	Tax Codes, Des		
Tax Detail 2006	Construction	ALUM/VINYL	Formula and R		
Tax Detail 2005	Total Rooms	6	Special Assessm		
Sketch	Bedrooms	3	Codes		
Value History	Year Built	1929	Pending Specta		
Maps	Finished Basement	0	Land Use/sketc		
Special Assessments			Commercial Str		
	Current Value				
	Land (100%)		\$33,500		
	Building (100%)		\$197,210		
	Total Value (100%)		\$230,710		
	CAUV		\$0		
	Assessed Tax Year	2016			
	Land (35%)		\$11,730		
	Building (35%)		\$69,020		
	Assessed Total (35%)		\$80,750		
	Incentive District Parcels <u>What is this?</u>				
	Parcel Identifier	Value Type	value		
	H4100006000007	Base Parcel	230,710		
		Total Value	230,710		
	Homestead Credits <u>How do I qualify?</u>				
	Homestead Exemption	NO			
	Owner Occupied Credit	NO			
	100% Disabled Veteran Exemption	NO			
	CAUV & Agricultural District <u>What is this?</u>				
	CAUV	NO			
	Agricultural District	NO			
	Current Year Real Estate Taxes				
	TAX TYPE	Prior Year	First Half Tax	Second Half Tax	Total
	Real Estate	0.00	1,572.62	1,572.62	3,145.24
	Tot Payments	0.00	-1,572.62	0.00	-1,572.62
	Total:	0.00	0.00	1,572.62	1,572.62
	Owner and Legal				
	Owner 1	UPTOWN 2 LLC			
	Owner 2				

Legal 1
Legal 2
Legal 3

326 E60 OF S53.5' & PT VAC ST

Taxbill Mailing Address [Can I change my mailing address?](#)

Mailing Name 1	UPTOWN 2 LLC
Mailing Name 2	
Address 1	4600 MASON MONTGOMERY RD
Address 2	
Address 3	MASON OH 45040

Transfers *(Date represents time of transfer)*

Date	Sale Amount
06-OCT-11	
06-OCT-11	
07-APR-06	



Butler County Auditor
130 High Street
Hamilton, OH 45011
Map Location

Board of Commissioners

Office Ho
8 AM-5 PM

Conveyan
closes da

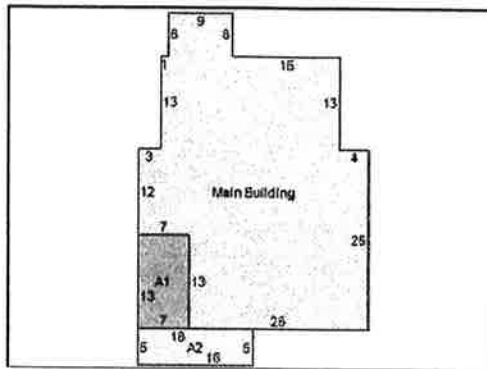
Phone: 513

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PARID: H4100006000007
UPTOWN 2 LLC

214 E WITHROW ST

1 of 2
Return to Search Results



Actions

- Printable Summary
- Printable Version

Reports

- Mailing List Export
- Csv/Buffer Export
- Property Report Card

Go

Links

\$ Pay My Tax Bill

Tax Codes, Descriptions, Calc
Formula and Rollback Rates

Special Assessment Project
Codes

Pending Specials

Land Use/sketch Codes

Commercial Structure Codes

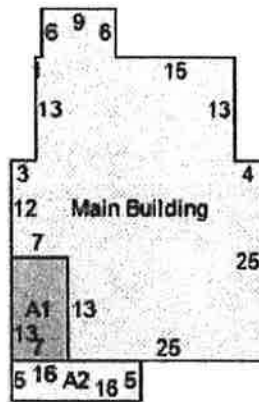
Options

Type	Line #	Item	Area
Dwelling	0	Main Building	1,088
Dwelling	1	A1 - 11:OPENFRAME PORCH	91
Dwelling	2	A2 - 35:MAS STOOP/TERRACE	80

Click on an item to display it independently.

PARID: H4100006000007
UPTOWN 2 LLC

214 E WITHROW ST



Item	Area
Main Building	1088
A1 - 11:OPEN FRAME PORCH	91
A2 - 35:MAS STOOP/TERRACE	80

Printed on Tuesday, April 11, 2017, at 12:51:57 PM EST

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2017-06

Date – May 17, 2017

APPLICATION

Applicant: Sarah (Sally) Mayer-Swift
Location: 423 West Chestnut St
Owner: Sally Mayer-Swift

Action Request: Variance to Section 1149.03(a) requirement for hard surface parking

Current Use: Single Family Residential
Zoning: R1A (Single Family Residential)
Surrounding Land Uses: Single-Family Residential

DESCRIPTION

Owner Sally Mayer-Swift is requesting a variance in response to a zoning violation notice from the City. An existing concrete driveway was expanded with gravel at 423 West Chestnut Street. The request is to permit gravel material instead of hard surface.

BACKGROUND

Oxford Zoning Code Section 1149.03(a) requires that *"All off-street parking and maneuvering areas shall be hard surfaced (includes concrete, asphalt, brick, stone or bonded gravel). Loose materials are not permitted."* The owner has installed loose gravel with a landscape timber perimeter.

COMMENT FORMS

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

AGENCY REVIEW

The variance request has been reviewed by City departments.



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

BZA SITE HISTORY

There are no documented records of prior BZA cases for the subject property.

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 Ms. Mayer-Swift. The staff's review of the criteria is included below.

There is an existing single-family house on the property that has existed for many years. Additionally on-street parking is not prohibited in this location. Therefore regarding criterion A, it is staff's determination that the property could **yield a reasonable return without the variance**.

Regarding criterion B, Staff believes that the variance is **not substantial** due to the size and perimeter design of the expansion.

Regarding criterion C, whether or not the **essential character of the neighborhood** would be negatively altered by the granting of the variance: Of the fourteen homes in this block, one other has a gravel drive. Therefore gravel drives are the exception rather than the standard, in this neighborhood. Staff's belief is that this additional gravel drive would not negatively alter the essential character of the neighborhood.

Regarding criterion D, Staff believes that the delivery of governmental services is **not negatively impacted**, with this request.

Regarding criterion E, **property owner awareness of zoning restriction**, refer to the applicant's statements of not being aware.

Regarding criterion F, the **owner's predicament** is not articulated. The predicament appears to be avoidance of on-street parking and avoidance of blockage of owner's personal garage door.

Regarding criterion G, whether **the spirit and intent behind the zoning requirement would be observed and substantial justice done** by granting the variance: Section 1149.01(a) states one purpose is *"to minimize traffic impacts of development on public streets"* and (c) the code includes *"...provisions.....to minimize dust and debris...."*

Staff's belief is that the spirit and intent of the hard surface parking code would not be observed if the variance to permit loose gravel is approved.

RECOMMENDATION

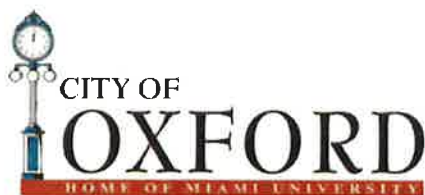
If the BZA determines that difficulties exist which are sufficient to warrant the variance, the staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance request. At the time of this report, **staff believes there is not substantial evidence that supports the variance request**. If the BZA does approve the variance it can attach any appropriate conditions necessary as permitted by Section 1139.02(d)2.



SUBMITTED BY: _____

Sam Perry, AICP
Planner, Community Development Department

DATE: May 9, 2017



**COMMUNITY DEVELOPMENT DEPARTMENT
ZONING VIOLATION**

February 14, 2017

Current Resident
423 West Chestnut Street
Oxford, Ohio 45056

RE: 423 West Chestnut Street gravel parking

To Whom It May Concern:

Following my visit to the property in late 2016, I am sending this letter. Please be advised that the City of Oxford's Community Development Department (CDD) has received photographic evidence dated January 18, 2017 that zoning violation(s) are occurring at the above property. This property is located in the "R1A" Single-Family Low Density Residential Zoning District. Attached is a photograph documenting the violation(s). Below are the applicable code sections.

- Chapter 1149.03(a) of the Oxford Zoning Code states "All off-street parking and maneuvering areas shall be hard surfaced."
- Chapter 1129.01 of the Oxford Zoning Code states that "...no land use shall be established or changed in use without certificates therefore issued by the Zoning Administrator."
- Chapter 1129.05 of the Oxford Zoning Code states that "Failure to obtain a Zoning Certificate or Certificate of Code Compliance shall be a violation of this Ordinance."

As shown in the photograph, a gravel parking area has been installed. There is no record of approval for this parking expansion on file in our office. Please remove the gravel and restore the yard within 30 days of this letter. If we do not hear from you and the gravel remains in place after March 14, 2017, further enforcement action will proceed.

You may appeal this determination per Section 1129.11. Please contact us if you have any questions.

Sincerely,

Sam Perry, AICP
Planner, Community Development Department
sperry@cityofoxford.org
513-524-5204

CC: Jung-Han Chen / Development Director
Lt. Fening / Police/Parking

January 18, 2017 picture of 423 West Chestnut gravel parking



City of Oxford
Inter-Office Review Transmittal Sheet



Date: 4/07/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-06, 423 W. Chestnut Street, variance to Section 1149.03(a) off-street parking areas shall be hard surfaced, **Sarah Mayer-Swift, Applicant**

_____X_____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/5/2017 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 Dethlefsen
PRINT NAME

Date:

4-18-17

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/07/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-06, 423 W. Chestnut Street, variance to Section 1149.03(a) off-street parking areas shall be hard surfaced, **Sarah Mayer-Swift, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/5/2017 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 4-13-17

Drawings reviewed by: *H. Popescu*

Date: 4/13-17

 VICTOR POPESCU

PRINT NAME



Memo

Service Department
Engineering Division

513/524-5208 fax 513/524-5267

TO: Community Development Department

FROM: Victor Popescu, P.E.
City Engineer

RE: BZA-2017-06
423 W. Chestnut Street

DATE: April 13, 2017

Section 1149.03 of the Codified Ordinances allows “bonded gravel” as a hard surface.

The applicant is asking for a variance to use gravel.

The applicant is not specific if the intended material is “loose gravel” or “bonded gravel.”

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/07/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-06, 423 W. Chestnut Street, variance to Section 1149.03(a) off-street parking areas shall be hard surfaced, **Sarah Mayer-Swift, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/5/2017 Note: If no comments are received, we will assume the project meets your department's standards.

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

- 1) Expansion does NOT create a safety or parking issue.
- 2) May help to keep vehicles off street
- 3) We have received parking complaints for vehicles parking on unapproved gravel driveways for a neighboring home but NOT this address

Drawings reviewed by: _____



Date: 4-14-17

John A. Jones, Police Chief
PRINT NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/07/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-06, 423 W. Chestnut Street, variance to Section 1149.03(a) off-street parking areas shall be hard surfaced, **Sarah Mayer-Swift, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/5/2017 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: _____



G. ALAN KYCER

PRINT NAME

Date: 4-12-17



BZA-2017-06 **Surrounding** **Property Owners** **Map**

Legend

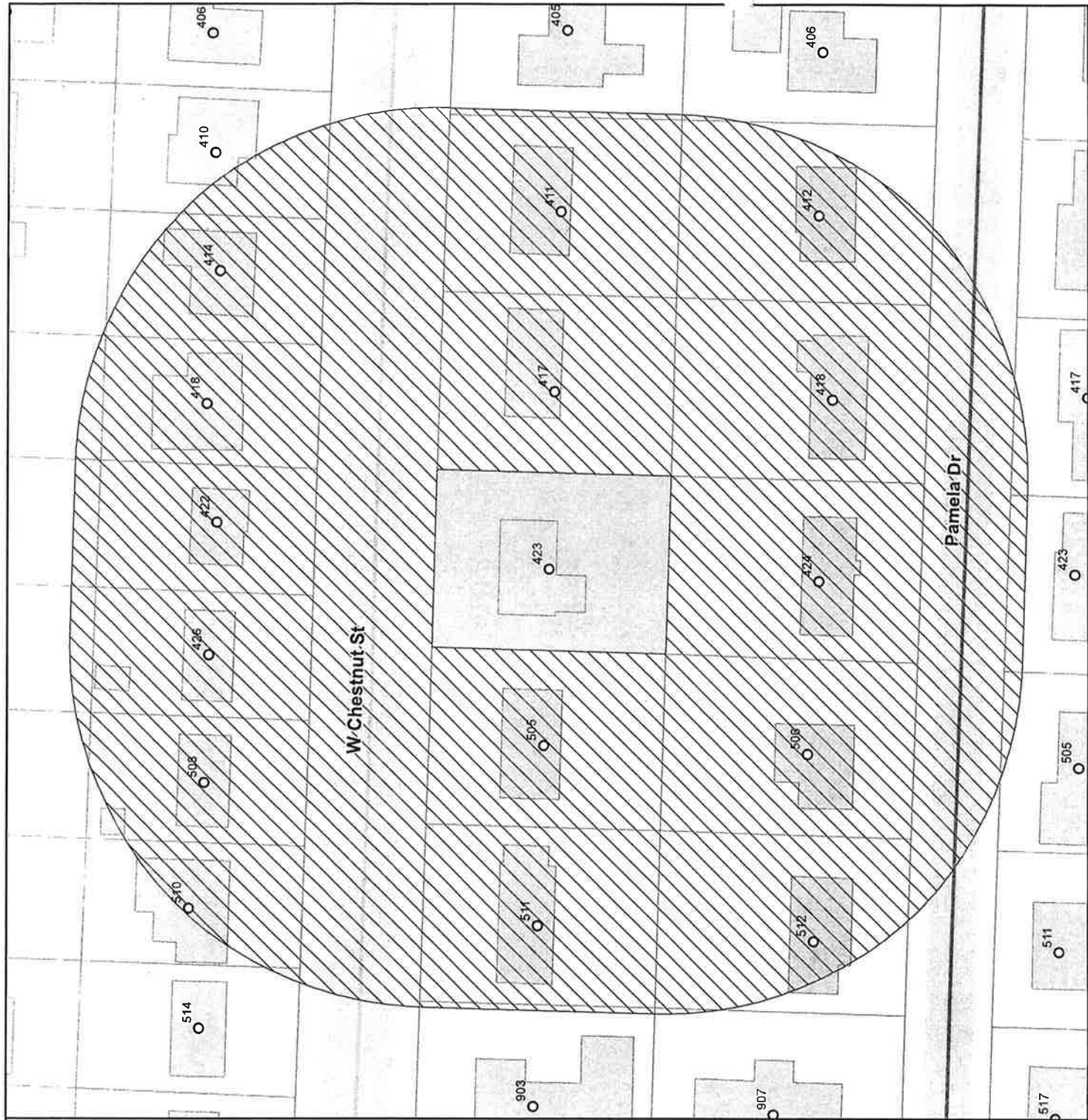
-  Subject Parcel
-  200 Ft. Buffer
-  Oxford Corporation Limit
-  Parcel
-  Vacated Right-of-Way
-  Building Footprint
-  Paved Roadway



1 inch = 75 feet

Prepared on Tuesday, May 02, 2017

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.





Internal Use Only:

Case No.

BZA-2017-06

Date Filed

3-31-17

Petition for Zoning Variance**Petitioner Information**

Attach a Letter of Agency if the Petitioner is not the property owner.

Name *

Sarah (Sally) Mayer-Swift

Mailing Address *

423 W. Chestnut St.

City, State & Zip Code *

Oxford OH 45056

Telephone Number(s) *

505-426-5095

Email Address

csswift@zianet.com

Owner Information

Name *

Same

Mailing Address *

City, State & Zip Code *

Telephone Number(s) *

Email Address

Variance and Lot Information

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

Single family Residential Code section 1149.03 (a)

Request to have variance for a gravel pull off next to the driveway.

Location of Requested Variance *

423 W. Chestnut St Oxford

Name of Building

Legal Description *

Zoning District *

RIA Single Family

Total Acreage *

single lot

Existing Use of Site *

Private Residence

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.

N/A

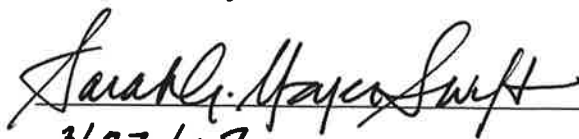
- D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
- F. Whether the property owners' predicament feasibly can be obviated through some method 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.

Fees & Receipt

The variance fee is \$200.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00, plus \$10.00 postage charge. **Fees may increase if staff determines that you need more variances.**

Sign and Date

Petitioner Signature *


3/27/17

Date *

Submit Application, Plans and Documentation, and Fees

We will not accept incomplete applications and/or plans and documentation.

Send or drop off this application with required plans and documentation as attachments and a check for fees and postage charge, made payable to **City of Oxford**, to Community Development Director, 101 East High Street, Oxford, OH 45056.

Direct questions to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

Note: You must adhere to notification and publication requirements. Submit materials 30 days prior to the Board of Zoning Appeals meeting at which the action is requested. City Staff will place a public hearing sign on the subject property. **The Petitioner is responsible for removing the signage at the completion of the hearing(s).**

¹ Butler County Auditor Real Estate Search: <http://www.butlercountyauditor.org/>

² City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>

Decision Standards:

A. The benefit of the gravel pull off was to avoid cars having to be parked on the street. I have a full sized Toyota Tundra that takes up most of the driveway.

B. I don't see it as a substantial variance, as according to code the pull off would of been allowed if it was a different material, not a different size, or location.

C. Part of my decision making process included what else was going in the neighborhood. My next door neighbor has a gravel pull off and if you walk two blocks in any direction from this site there will be more than half a dozen gravel driveways and or pull offs.

D. The variance will not adversely effect any services.

E. To give you background on my state of mind when making the decision to use gravel, it may be helpful to know that I was born and raised in Oxford, and came back to live here this past year after 35 years. In those 35 years I mostly lived in very rural areas of Texas and New Mexico with the last homesite of 13 years in remote New Mexico which was partially off grid. I had not lived in a restricted residential area in quite sometime and therefore did not consider the code as I took the information from my surroundings, (the other existing gravel driveways on my street and others) as an option in creating a pull off. I tend to lean to more "green" solutions in my daily choices and thus am not pro-concrete. I was also interested in keeping this street as much as I could, from being another one that is highly parked on daily as so many streets have become.

F. It would be detrimental financially and ideally to have to redo this pull off. I would be open to suggestion as to how to try and make it a win/win if it was within budget as I have other landscaping that is necessary this spring to keep the property attractive and I will be spending money on that.

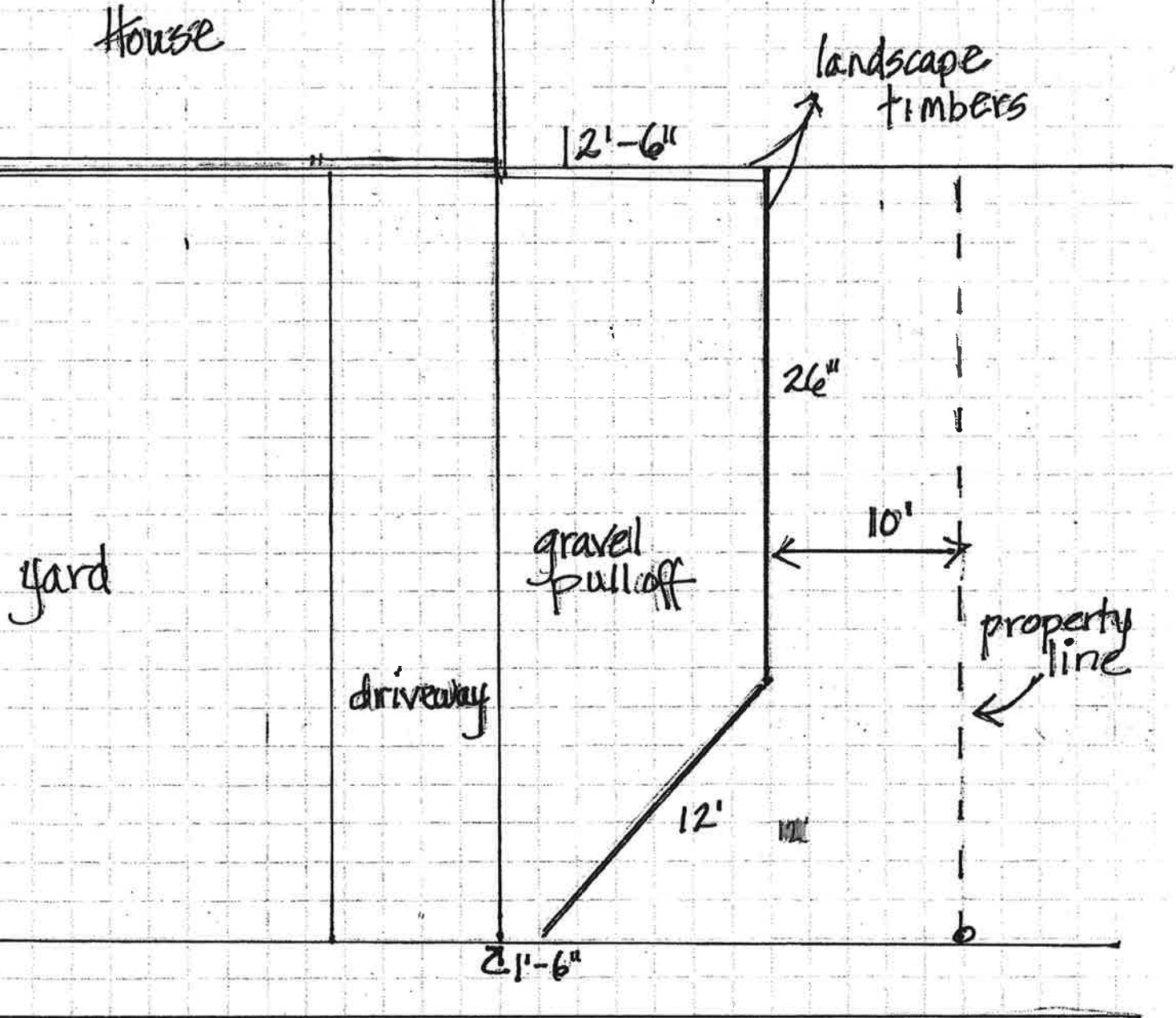
G. I understand and agree with the City's desire to keep the residential areas in town in good condition and something that we all can be proud of, especially due to the high volume of homes now used for temporary student housing. I don't see the other installations that used gravel as unattractive or as diminishing their street appeal. Good

appeal all depends on who is living there and how they are taking care of their property whether its gravel or concrete. Due to my overall lack of knowledge of the code and because I used other like installations as a part of my decision making I don't think it would be unjust to grant this variance. Also, I will probably be keeping my truck for another couple of years and would like for it to be properly parked on the property

Thank you for your consideration in this matter

Sincerely, Sally Mayer-Swift

Property of
Sarah (Sally) Mayer-Swift



423 W Chestnut St.

13,500 sq ft

100x135' lot size

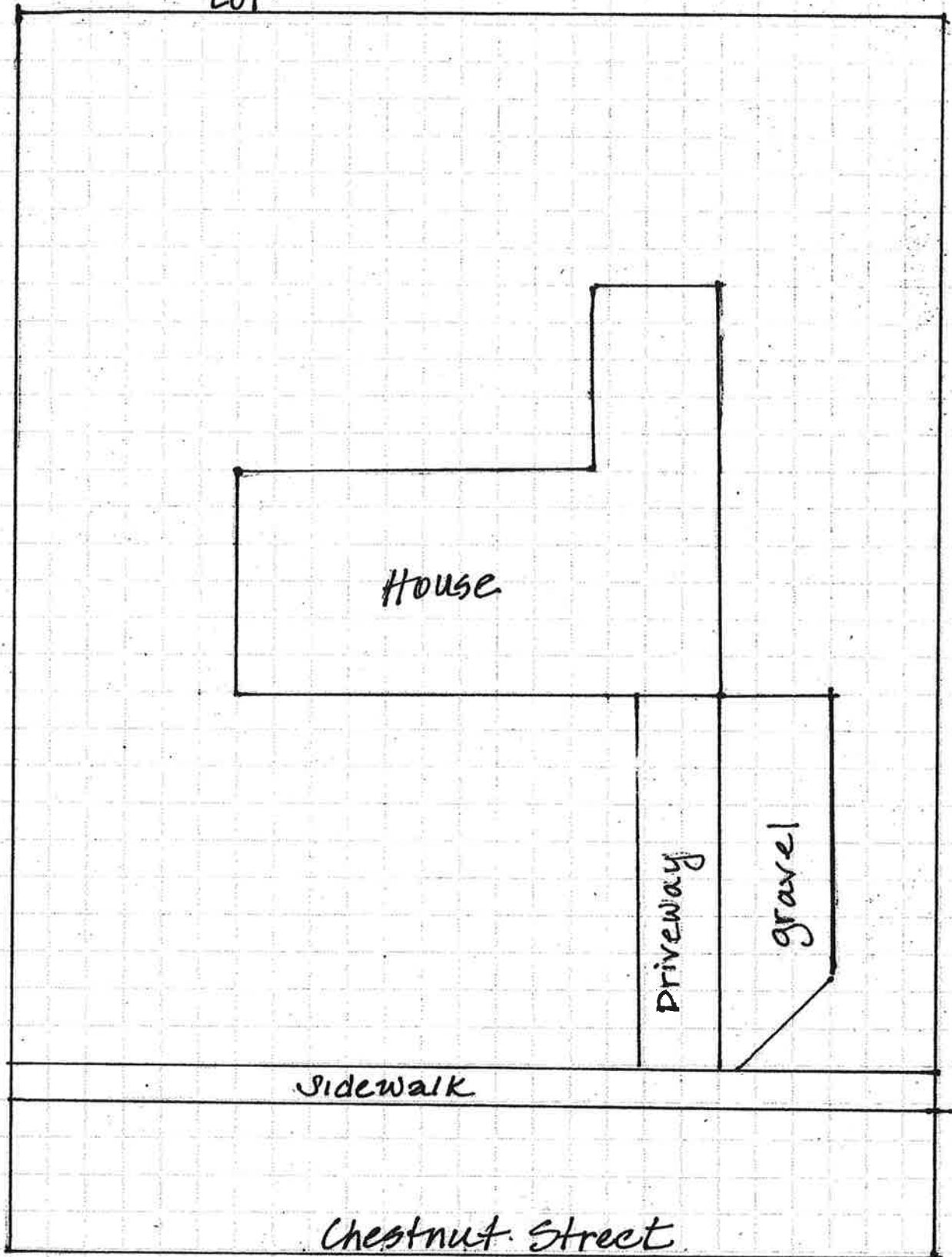
19

$\frac{1}{4}" = 2'$



Sally Mayer-Swift

LOT



$\frac{1}{4} = 4'$

100' x 135' lot