

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-04-2008

Date – May 21, 2008

APPLICATION

Petitioner:	Scott Webb
Location:	25 W. High Street (Alley – Address TBD)
Owner:	Stewart Developers, LLC (Jim Clawson)
Action Request:	Section 1141.03(e)(4) Requiring buildings to have a principal lot upon a street.
Current Use:	Parking Lot
Zoning:	“UP” Uptown
Surrounding Land Uses:	City Parking Garage, single family home, mix of commercial with residential above.

DESCRIPTION

The property is located in the alleyway behind the former 1st Financial Bank and north of 20 W. Walnut containing approximately 3,456 sq. ft. The Applicant is proposing to construct new 3-story residential building structure with the main entrance facing east along the north/south alley.

The Applicant has received a COA with conditions from HAPC for the design of the proposed building on May 7, 2008. The Planning Commission held a Conditional Use hearing for the ground floor to be utilized as residential on May 13, 2008, resulting in a tie vote and will be reconsidered at the June 10, 2008 meeting. The BZA request is completely separate and independent of any other Board or Commissions actions.

COMMENT FORMS

No public comment has been received from surrounding property owners regarding this request.

AGENCY REVIEW

Requests for review were sent to Engineering, Police and Fire.

Police:	No comments returned to date.
Fire:	No comments returned to date.
Engineering:	No comments returned to date. A comment form was received during the Planning Commission case that discussed utility and water issues and raised concerns on lack of parking.

VARIANCES REQUESTED

Section 1141.03(e)(4):	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.
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ANALYSIS

A variance permits variation from the strict interpretation of this Code so that no specific provision prevents development of a specific site that would otherwise not be possible and that would satisfy the general intent of the Code. Part of the general intent of the Code is to encourage and facilitate orderly, efficient, and appropriate growth and development.

According to the definitions:

§1159.13 (16) LOT OF RECORD - Real estate recorded in the deed records in the Office of the Butler County Recorder as a distinct lot or parcel, the description of which is complete and sufficient, in and of itself, for conveyance purposes without combination with other lots or parcels; or real estate recorded in the subdivision of lots records of the Butler County Recorder's office as a distinct lot or parcel capable of being conveyed without a combination with other lots or parcels.

- A copy of the property deed has been provided. Although the property was conveyed with additional property along High Street, this is a separate parcel and lot. Should the property ever be sold, a separate deed for this lot could be prepared at that time and conveyed solely.

§1159.17 (13) PRINCIPAL ENTRANCE - The place of ingress and egress used most frequently by the public.

§1159.20 (12) STREET - Any vehicular way that: (1) is an existing state, county, or municipal roadway; (2) is shown upon a plat approved pursuant to law; (3) is approved by other official action.

§1159.02 (10) ALLEY - A service, space, or roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Upon review of the BZA case history, similar cases have been held requesting construction in the alley. Below is a list of the case(s) and the decisions rendered:

BZA 05-1996: Lots 39, 40 and 45 (alley between W. Sycamore and W. Vine Streets, near N. Locust Street). Denied.

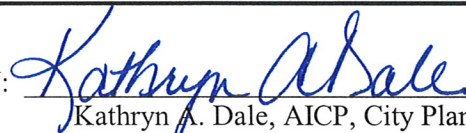
More recent, completed construction of structures in the alley did not come before the BZA for reasons unknown.

RECOMMENDATION

Should the BZA recommend approval, Staff recommends the following conditions:

1. That, the proposed work complies in all other respects with all applicable codes, Ordinances and the City of Oxford Zoning Code.
2. That, the proposed work be constructed as approved with this appeal and that no changes or modifications be made without the consent of this Board.

SUBMITTED BY:


Kathryn A. Dale, AICP, City Planner
Community Development Department

DATE: May 14, 2008

Petition for Zoning Variance
City of Oxford, Ohio

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

Requested Variance:

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

1141.03 (EXA)
Requiring buildings to have a principal lot upon
a street.

Location of Requested Variance:

Legal Description:

Zoning District:

Total Acreage:

Alley site, former parking lot behind 25 W. High St.
Survey provided
UP
.05 Acres (2419 sq. ft.)

Existing Use of Site:

parking lot

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 apartment 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

(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, giving lot numbers and house numbers. (This information is available at the Butler County Auditor's Office.)

(5) A separate narrative statement that explains how the proposed variance satisfies each of the following Decision Standards required to grant the area a variance. A separate response is required for each subsection.

- a) *The variance would not permit or result in a use that is not permitted in the zoning district. Use variances are prohibited; and*
- b) *Conditions of the land, site, structure, or element for which the application is submitted are substantially different from other sites in the same zoning district because of physical characteristics of the land including dimensions, elevation, topographical variations, soil conditions, or other extraordinary situations, and the difference supports the application; and*
- c) *The conditions upon which the application is based are not the result of actions of the applicant; and*
- d) *The variance would not confer a special privilege to the applicant but would relieve a hardship; and*
- e) *The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district; and*
- f) *The variance will be the minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought; and*
- g) *The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code.*

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.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

SIGNATURE OF APPLICANT: _____

Date: April 14, 2008

PRINTED NAME OF APPLICANT: _____

FEE / RECEIPT

\$150 Fee Paid / Receipt Number: pd 13712

Image ID: 00006687485 Type: OFF
Kind: DEED
Recorded: 08/28/2007 at 03:31:11 PM
Fee Amt: \$28.00 Page 1 of 2
Workflow: 1701187
Butler County, Ohio
Dan Crank COUNTY RECORDER
File# 2007-0036836
BK 7944 ps 295

LIMITED WARRANTY DEED

FIRST FINANCIAL BANK, NATIONAL ASSOCIATION, a national bank organized under the various federal laws relating to national banks, successor by merger to The First National Bank and Trust Company of Hamilton and First National Bank of Southwestern Ohio, Grantor, for valuable consideration paid, grant(s) with limited warranty covenants to **STEWART DEVELOPERS, LLC**, an Ohio limited liability company, Grantee, whose tax mailing address is 125 Spring Street, Oxford, Ohio 45056, the following REAL PROPERTY, to wit:

Tract I:

Situate in the Village of Oxford, in the County of Butler, and State of Ohio, and being the west thirteen and three quarter (13 $\frac{3}{4}$) feet of the east fifty-nine and three quarter (59 $\frac{3}{4}$) feet of Inlots Numbered 89 and 90, respectively, as the same are known and designated on the recorded plat of said Village.

Said tract of thirteen and three quarter (13 $\frac{3}{4}$) feet in width extending from north to south at right angles across both of said Inlots.

Parcel ID No. H4100-003.000-022 - cons. with H4100-003.000-031

Tract II:

A part of Inlots on the Plat of said Village Numbered 89 and 90 and described as follows:

Beginning at the northeast corner of said Inlot Numbered 89, thence west with the north line of said Inlot Numbered 89, forty-six (46) feet; thence south parallel with the east line of said Inlots Numbered 89 and 90 to an alley being the south line of said Inlot Numbered 90; thence east with said south line to the southeast corner of said Inlot Numbered 90; thence north with the east line of said Inlots Numbered 89 and 90 to the beginning.

Parcel ID Nos: H4100-003.000-021 - cons. with H4100-003.000-032

Tract III:

Situate in the City of Oxford, County of Butler and State of Ohio and being part of Inlot Numbered 91 as the same is known and designated on the Plat of the said City, bounded and described as follows:

Commencing at the southeast corner of said Lot; thence north along the east line of said Inlot to the northeast corner of said Inlot; thence west along the north line of said Inlot a distance of fifty (50) feet; thence south at right angles and parallel with said east line sixty-six (66) feet to a point in the south line of said Inlot; thence east along said south line to the place of beginning, the premises hereby intended to be conveyed being the east fifty (50) feet of said Inlot.

Parcel ID No. H4100-003.000-033

Grantor and Grantee agree and covenant that from and after the date hereof through December 31, 2027, the aforesaid premises may not be used for, or by any business for the purpose of (i) conducting a commercial or retail banking, thrift, credit union or other financial institution activity, including but not limited to the receipt of demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or loan generation or loan maintenance; or (ii) a mortgage brokerage service or origination company. This is a covenant that shall run with the land and shall be binding on any and all successors or assigns of the parties thereto.

CONVEYANCE 16534
FEES 1785.42 (\$75.00)
EXEMPT

Key Rogers, Butler Co. Auditor

This conveyance has been examined and the grantor has

Real estate taxes and assessments, if any, shall be prorated to the date of closing based upon the latest available tax bill, which shall be a final settlement of real estate taxes and assessments.

Prior instrument reference: Volume 752, Page 733, Volume 941, Page 314 and Volume 941, Page 318 of the Deed Records of Butler County, Ohio, and Volume 6067, Page 1782 of the Official Records of Butler County, Ohio.

First Financial Bank, National Association, by resolution of its Board of Directors duly adopted, has caused these presents to be signed by CLAUDE E. DAVIS, its CHIEF EXECUTIVE OFFICER, this 24 day of September, 2007.

FIRST FINANCIAL BANK, NATIONAL ASSOCIATION

By: Claude E. Davis

STATE OF OHIO, COUNTY OF BUTLER, ss:

The foregoing instrument was signed and acknowledged before me this 24 day of September, 2007 by CLAUDE E. DAVIS, CHIEF EXECUTIVE OFFICER, of First Financial Bank, National Association, on behalf of said bank.

[Signature]
Notary Public, State of Ohio

This instrument was prepared by:
Lee H. Parrish, Attorney at Law



STEPHEN S. MARCUM
Attorney at Law
Notary Public, State of Ohio
Commission Expires 12/31/2010

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

April 14, 2008

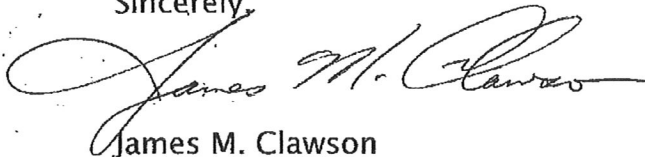
City of Oxford
101 East High Street
Oxford, OH 45056

To Whom It May Concern:

Please be advised that Scott Webb is permitted to act on our behalf for all matters related to the 25 West High Street (front and/or back) project. Scott is authorized to speak and act on our behalf before City Council as well as Board of Zoning Appeals.

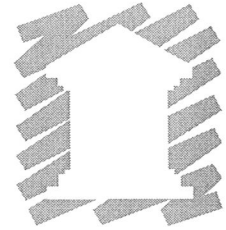
Should you have any questions or concerns, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Clawson". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

James M. Clawson
Stewart Developers, LLC

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



SCOTT
WEBB

Re: Proposed New Building
Alley Site, behind Former First Financial
25 West High Street

A R C H I T E C T

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

April 14, 2008

www.scottwebbarchitect.com

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 (e)(4) requiring a principal entrance to every building upon a street in the UP Uptown Zoning District.

As the attached drawing & Survey shows The proposed new building has been designed on an existing lot of record, the former parking lot behind the former First Financial Bank on High Street. This lot was purchased, as a separate deeded lot, and was not created by the applicant.

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

- a) *The variance would not permit or result in a use that is not permitted in the zoning district;*

Residential uses are permitted in the UP Uptown zoning district.

- b) *Conditions of the land, site, structure, or element for which the application is submitted are substantially different from other site in the same zoning district because of physical characteristics of the land including dimensions, elevation, topographical variations, soil conditions, or other extraordinary situations, and the difference support the application;*

The property is completely landlocked in the alley. There are other such lots in the UP district that have existing buildings or structures, and new lots of this type have been developed.

- c) *The conditions upon which the application is based are not the result of actions by the applicant;*

The lot in question is a separate and distinct lot of record, and has not been created by a lot split, or by the applicant in any way.

- d) *The variance would not confer a special privilege to the applicant, but would relieve a hardship;*

The variance would not confer special privileges to the applicant, as other similar lots exist, have operating businesses or apartment buildings, and have been developed as buildable lots.

- e) *The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district;*

The literal interpretation of the Zoning Code would completely deprive the applicant of the ability to develop this site.

- f) *The variance will be minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought;*

The building as proposed is less than would be allowed in this district, and the only variance requested is the ability to build on this property. Application has been made to Planning Commission for residential on the ground floor as a conditional use.

- g) *The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code;*

The new residential building will be in harmony with the general vicinity. Application has also been made to HAPC, to guarantee it will be aesthetically in harmony as well. The proposed apartments will be far less detrimental to persons & property than would be generated if the building included both commercial and residential uses as prescribed by the zoning district. The new use, which is allowed on upper floors of this district, is not considered hazardous or detrimental to the area.

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 vertical line.

Scott Webb, Architect

VOLUME 51 PAGE 174
BUTLER COUNTY ENGINEER'S
RECORD OF LAND SURVEYS

GRAPHIC SCALE



I HEREBY CERTIFY THAT ALL MEASUREMENTS AND MONUMENTS SET AND/OR FOUND
AS SHOWN. CURVE DISTANCES ARE MEASURED ON THE ARC. ALL WORK PERFORMED
IN ACCORDANCE WITH THE "MINIMUM STANDARDS FOR BOUNDARY SURVEYS IN THE STATE
OF OHIO."

DAVID DOUGLAS SMITH PROFESSIONAL SURVEYOR NO. 7121 DATE

LEGEND

- WATER METER
- ELECTRIC METER
- GAS METER
- UTILITY POLE
- WATER SHUT-OFF VALVE
- CLEANOUT
- MANHOLE
- WATER LINE
- GAS LINE
- OVERHEAD UTILITY
- SANITARY LINE

NOTES AND REFERENCES

NORTH BASED ON AN ASSUMED
MERIDIAN AND IS TO DENOTE
ANGLES ONLY.

DEED REFERENCES

- D.B. 7944 PG. 295
- D.B. 7574 PG. 1207
- D.B. 7112 PG. 2005
- D.B. 7503 PG. 2277
- D.B. 6626 PG. 825
- D.B. 841 PG. 314
- D.B. 6115 PG. 244
- D.B. 6115 PG. 290
- D.B. 6282 PG. 1568
- D.B. 6546 PG. 1176
- D.B. 6282 PG. 1568
- D.B. 1748 PG. 150
- D.B. 6067 PG. 1782
- D.B. 6509 PG. 5361
- D.B. 6606 PG. 847
- D.B. 1706 PG. 6
- D.B. 6607 PG. 804

SURVEYS

- D.B. N PG. 364
- VOL. 49 PG. 342
- VOL. 40 PG. 43
- VOL. 21 PG. 63
- VOL. 5 PG. 236
- D.B. 6607 PG. 804

EASEMENT

- D.B. 6584 PG. 1687

PLAT OF SURVEY

PARTS OF
LOTS 89 90 AND 91
CITY OF OXFORD
BUTLER COUNTY, OHIO

FOR
SCOTT WEBB



SURVEYING, INC.
DAVID DOUGLAS SMITH, P.S.
5905 PARKVIEW ROAD
OXFORD, OHIO 45056
OFFICE (513) 532-4219
FAX (513) 532-4219

PROJECT SURVEYOR:

DATE

SCALE

1" = 20'

DATE

12/19/2007

NOTES

PROJECT NO.

27129



Front View of Proposed New 4-Unit Apartment Building
(Facing Parking Garage)



View of Proposed New 4-Unit Apartment Building from Above
(In Context with Existing & Proposed Adjacent Buildings)



View of Proposed New 4-Unit Apartment Building from North
(Looking South at Site from North-South Alley)



View of Proposed New 4-Unit Apartment Building from Walnut
(Looking North between parking garage and Walnut Street rental house)



Looking South at Alley Site from North-South Alley



Looking South toward parking garage from former Bank Drive-thru



Looking North between parking garage & Walnut Street rental house



Looking North toward lot showing existing stone wall to remain

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-03-2008

Date – May 21, 2008

APPLICATION

Petitioner:	Phyllis Wilkins, Owner & Patrick Reist, Triangle Sign Co.
Location:	5041 College Corner Pike
Owner:	Phyllis Wilkins, Owner
Action Request:	Variances to Section 1151.05(a)(3)C.1.b for a freestanding sign higher than 6 feet.
Current Use:	Commercial Store "Car Quest"
Zoning:	"GB" General Business
Surrounding Land Uses:	Commercial & Offices

DESCRIPTION

The store is located on 27 North across from Kentucky Fried Chicken. During the 27 North road improvements, this sign was compensated for and identified as an effected sign to be relocated. According to the Nonconforming Regulations Section 1137.10(b)1.& 2., any nonconforming sign that is relocated or replaced loses its nonconforming status and must comply with the applicable sign requirements. The Applicant intends to utilize the existing sign case and panels that is at the top of the current pole sign.

Due to a slight slope from the street leading downward to the building, the proposed sign is 8 feet high from finished grade. Sign height is defined as the distance between any part of the sign face area and the natural finished grade directly below it.

VARIANCES REQUESTED

Section 1151.05(a)(3)C.1.b: No combination of a freestanding sign structure and sign shall be higher than 6 feet.

- The proposed sign is 8 feet high from finished grade.

COMMENT FORMS

No public comment has been received from surrounding property owners regarding this request.

AGENCY REVIEW

Requests for review were sent to Engineering, Police and Fire. All returned their comment forms without comment.

ANALYSIS

The Applicant has indicated they intend to locate the sign 6 feet behind the sidewalk. Section 1151.03(d)(1) of the sign regulations require that a freestanding sign shall not be closer to a lot line or the public right-of-way than the height of the sign. According to the ODOT improvements plans for this property, the new right-of-line is approximately 7-8 feet behind the back of the sidewalk. Furthermore,

Section 1151.04(b)(1) states that no privately owned signs may be affixed to or placed within the public right-of-way or on other public property, except as provided for in the Code. When permits are applied for, the Applicant will have to revise the site plan to comply with the setback requirement indicating the sign is at least 14 feet from the back of the sidewalk, unless the Applicant wishes to table this application for an additional variance.

In regards to the variance requested, height of the sign, all of the Decision Standards for a variance would be satisfied.

RECOMMENDATION

Should the BZA recommend approval, Staff recommends the following conditions:

1. That, the proposed work complies in all other respects with all applicable codes, Ordinances and the City of Oxford Zoning Code, including the required setback.
2. That, the proposed work be constructed as approved with this appeal and that no changes or modifications be made without the consent of this Board.

SUBMITTED BY:


Kathryn A. Dale, AICP, City Planner
Community Development Department

DATE: May 15, 2008

Case No. BZA-3-08
Date Filed: 3/31/08

Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner: PATRICK REIST
(Attach a letter of agency if the applicant is not the property owner.)

Mailing Address: 221 N. B ST. HAMILTON, OH 45013

Telephone Number(s): 513-863-2578

Requested Variance:
(Indicate nature of variance
and applicable section(s)
of the Zoning Code.)
REQUESTING A VARIANCE FOR A 6' TALL
X 8' WIDE GROUND SIGN. SECTION
1151.05, B. 1, C - NO SIGN SHALL BE
HIGHER THAN 6'.
1151.05(a)(3)C.1.b

Location of Requested Variance: 5041 COLLEGE CORNER RD.

Legal Description: 1180 ENT

Zoning District: RGB

Total Acreage: .8752 Acres

Existing Use of Site: RETAIL AUTO PARTS SALES

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
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- 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

(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, giving lot numbers and house numbers. (This information is available at the Butler County Auditor's Office.)

(5) A separate narrative statement that explains how the proposed variance satisfies each of the following Decision Standards required to grant the area a variance. A separate response is required for each subsection.

- a) *The variance would not permit or result in a use that is not permitted in the zoning district. Use variances are prohibited; and*
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- d) *The variance would not confer a special privilege to the applicant but would relieve a hardship; and*
- e) *The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district; and*
- f) *The variance will be the minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought; and*
- g) *The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code.*

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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.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

SIGNATURE OF APPLICANT:  Date: 3/31/08

PRINTED NAME OF APPLICANT: PATRICK REIST

FEE / RECEIPT

\$150 Fee Paid / Receipt Number: 13692

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Patrick Reist, with Triangle Sign Company has permission to represent our interest with the City of Oxford and act on our behalf for the BZA hearing May 21, 2008 regarding the Ground Sign Variance at our property located at 5041 College Corner Pike, Oxford, Ohio 45056.

Thank-you,

Angela's Wilk
(Property Owner Name)

(Company Name/Owner/Organization)

4/1/08
Date:

City of Oxford, Ohio
101 East High Street
Oxford, OH 45056-1887

April 3, 2008

Dear Zoning Appeals Committee,

This letter is being written to explain the proposed variance for 5041 Oxford College Corner Rd, Car Quest. This is a retail auto parts store owned by Follick-Wilkins Auto Parts, Inc. The property in question is a currently commercial use, and is owned by Rodefald Realty Company.

The conditions which the application was denied are based on Section 1151.05, B.1.C. which states that no sign may be greater than six (6') in overall height. The sign in question is currently a 6' tall x 8' wide illuminated pylon sign, and is mounted approximately 10' above the finished grade. Because of the road construction on College Corner Rd., Car Quest was required to re-locate their existing sign. The road has been widened, and the existing sign now sits above the sidewalk, and right of way. Currently, it does not meet the restriction of being placed 6' back from the sidewalk (the distance equal to its height). Nor does it meet the requirement of the max height of six feet.

Car Quest is requesting in this variance the permission to re-use and re-locate their current sign, near the middle of the building at a height of approximately 8' above grade. Because of the slope of the grade at the proposed sign location, grade level at the sign location is approximately 30" below the grade of the sidewalk and street. Therefore, the sign must be mounted at least 30" above the ground in order to bring the bottom of the sign up to the street grade level.

The overall condition of the land at the proposed sign location is substantially different than the surrounding businesses because of the change in the width of College Corner Rd. This change in the road has created a small hill in the front of the property. These conditions are not the result of actions by the applicant, but are results of the Ohio Department of Transportation's decision to widen this road. Any denial of this variance would require Car Quest to purchase a totally new sign, thus creating an undue financial hardship on this business entity.

Approval of this variance would allow Car Quest to be in harmony with the rest of the businesses currently located in the general vicinity. There is no additional detriment to public health, safety, or general welfare. It is our belief that this variance will satisfy the general intent of this zoning code.

Regards,

Patrick Reist
Triangle Sign Company
221 North B St.
Hamilton, OH 45013

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-05-2008

Date – May 21, 2008

APPLICATION

Petitioner:	Scott Webb
Location:	112 S. Poplar
Owner:	CKC Rentals, LLC (Jim Clawson)
Action Request:	Section 1143.05(c)(4)A. for a front porch addition lot coverage
Current Use:	Nonconforming 3-family <i>112 S. Poplar – 2-family</i> <i>112.5 S. Poplar – single family</i>
Zoning:	R2MS Single & Two-Family Mile Square Residential
Surrounding Land Uses:	Residential & Holy Trinity Episcopal Church

DESCRIPTION

The property is the first house on the west side of Poplar Street, just past the Holy Trinity Episcopal Church containing approximately 9,220 sq. feet. The property has three structures located on it; a two-story, two-family rental closest to Poplar Street (112 S. Poplar), a one-story, single family rental just behind the two-family (112½ S. Poplar) and a detached garage along the alley.

The Applicant is proposing to construct a front porch addition onto the 112 S. Poplar two-family structure. According to the site plan the proposed porch would be roughly 10' x 26' with the exception of the current entry bump out. The Applicant calculation indicates that the porch addition will contain 192 sq. ft., but the drawing indicated slightly more at approximately 230 sq. ft.

The Applicant has requested a variance for lot coverage for a lot with vehicular access from a public street. The site as it exists contains 49% total lot coverage. With the addition of the front porch, this increases to 51.3%. Total building coverage would increase from 33.7% to 35.8%.

VARIANCES REQUESTED

Section 1143.05(c)(4)A.1.: The maximum lot coverage for a lot with vehicular access from a public street in the "R2MS" district is 35%.

Section 1143.05(c)(4)A.2.: The maximum building coverage for a lot with vehicular access from a public street in the "R2MS" district is 25%.

COMMENT FORMS

No public comment has been received from surrounding property owners regarding this request.

AGENCY REVIEW

Requests for review were sent to Engineering, Police and Fire.

Police: Retuned with no comment.

Fire: Returned with no comment

Engineering: The proposed addition would enhance the appearance of the structure.

ANALYSIS

Upon review of the application, additional variances are necessary that the Applicant did not request on their application. Prior to the release of permits for this proposed addition, the following Sections will need to be granted relief:

1. Section 1143.05(c)(4)B.1. Total Lot Coverage for a lot with vehicular access from a rear or side alley shall not exceed 40% of the lot.
 - As mentioned above the lot coverage would be from 49% to 51.3%.
2. Section 1143.05(c)(4)B.2. Lot Coverage of all enclosed buildings with vehicular access from a rear or side alley shall not exceed 25% of the lot.
 - Total building coverage would increase from 33.7% to 35.8%.
3. Section 1143(c)(2)C. Minimum Side Yard requirement for the "R2MS" zoning district shall be 7.5 feet.
 - The proposed porch addition encroaches into the alley right-of-way.
4. Section 1149.02(a) of the Vehicle Management Chapter states that any new development, redevelopment, or change to a use or structure or site (whether conforming or nonconforming) shall meet the current vehicle management regulations for the entire use and structure and site.
 - The existing gravel parking area would have to conform to the current parking regulations, including paving, unless a variance was granted.

Additional Sections for the Board to consider during deliberations of this case is that it is nonconforming.

Section 1137.05(b) under Nonconforming Lots states:

- (b) *Additions to a conforming/permitted use and structure on a nonconforming lot are permitted if the addition satisfies all dimensional requirements of the code.*

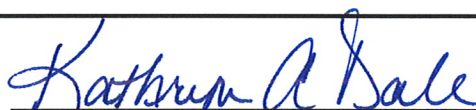
Section 1137.06(a) & (b) under Nonconforming Structures states:

- (a) *Additions to a nonconforming structure are permitted if the addition satisfies all dimensional requirements of the code and the use occupying the building is an approved permitted or conditional use.*
- (b) *No nonconforming building or structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.*

RECOMMENDATION

Table.

SUBMITTED BY:


Kathryn A. Dale, AICP, City Planner
Community Development Department

DATE: May 14, 2008

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/16/08

To: Fire Department Engineering Division Police Department

From: Community Development

Drawings are being submitted to you for the following:

BZA-05-2008 112 S. Poplar, requesting a variance to Chapter 1143.05 R-2MS District, Lot Coverage,
Scott Webb, Architect, Applicant

Description:

____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/12/2008 Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

No Comments

Drawings reviewed by: Sen Endress, Eric Christ

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/16/08

To: Fire Department

Engineering Division

Police Department

From: Community Development

Drawings are being submitted to you for the following:

BZA-05-2008 112 S. Poplar, requesting a variance to Chapter 1143.05 R-2MS District, Lot Coverage,
Scott Webb, Architect, Applicant

Description:

☒ X Review

☐ Revisions

☐ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/12/2008 Note: If no comments are received, we will assume the project meets your department's standards.

Drawings are returned:

w/comments

without/comments

THE PROPOSED ADDITION WILL ENHANCE THE APPEARANCE
OF THE EXISTING STRUCTURE.

Drawings reviewed by:

A. P. P. 4-24-08

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/16/08

To: Fire Department

Engineering Division

Police Department

From: Community Development

Drawings are being submitted to you for the following:

BZA-05-2008 112 S. Poplar, requesting a variance to Chapter 1143.05 R-2MS District, Lot Coverage,
Scott Webb, Architect, Applicant

Description:

☒ Review

☐ Revisions

☐ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/12/2008 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:

SS Eldon 4/22/08

CKC Rentals, LLC
125 West Spring Street — Oxford, OH 45056
(513) 523-7263 / FAX (513) 523-9415

April 14, 2008

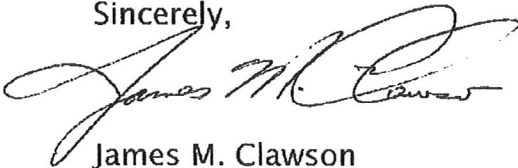
City of Oxford
101 East High Street
Oxford, OH 45056

To Whom It May Concern:

Please be advised that Scott Webb is permitted to act on our behalf for all matters related to the 112 South Poplar Street porch project. Scott is authorized to speak and act on our behalf before City Council as well as Board of Zoning Appeals.

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

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Clawson". The signature is fluid and cursive, with the first name "James" being the most prominent.

James M. Clawson
Stewart Developers, LLC

Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner:

CKC Rentals LLC. / Scott Wilby Architect
(Attach a letter of agency if the applicant is not the property owner.)

Mailing Address:

125 W. Spruce 103 W. Walnut St.

Telephone Number(s):

523-7263 523-3838

Requested Variance:

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

1143.05(c)(4)(a) Lot coverage

Location of Requested Variance:

112 South Poplar Street

Legal Description:

Survey provided

Zoning District:

B2M9

Total Acreage:

.212 Acres

Existing Use of Site:

Residential

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

(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, giving lot numbers and house numbers. (This information is available at the Butler County Auditor's Office.)

(5) A separate narrative statement that explains how the proposed variance satisfies each of the following Decision Standards required to grant the area a variance. A separate response is required for each subsection.

- a) *The variance would not permit or result in a use that is not permitted in the zoning district. Use variances are prohibited; and*
- b) *Conditions of the land, site, structure, or element for which the application is submitted are substantially different from other sites in the same zoning district because of physical characteristics of the land including dimensions, elevation, topographical variations, soil conditions, or other extraordinary situations, and the difference supports the application; and*
- c) *The conditions upon which the application is based are not the result of actions of the applicant; and*
- d) *The variance would not confer a special privilege to the applicant but would relieve a hardship; and*
- e) *The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district; and*
- f) *The variance will be the minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought; and*
- g) *The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code.*

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.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

SIGNATURE OF APPLICANT: _____

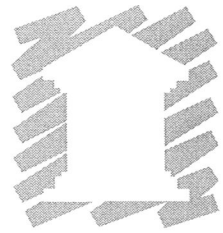
Date: _____

PRINTED NAME OF APPLICANT: _____

FEE / RECEIPT

\$150 Fee Paid / Receipt Number: 13112

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: Proposed Front Porch Addition
112 South Poplar Street

April 14, 2008

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to Section 1143.05(c)(4)(a) Lot Coverage restriction in the R2MS Zoning District, limiting total lot coverage for buildings to 25% and the total lot to 35%. This section was recently updated through Ordinance #2980.

As the attached drawing & Survey shows the existing lot, extending from Poplar Street to the alley to the West. The existing lot contains an historic mile square house (for which the addition is proposed), an "addition" from the 1970s, and a separate garage.

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

- a) *The variance would not permit or result in a use that is not permitted in the zoning district;*

Residential uses are allowed in this residential Zoning District.

- b) *Conditions of the land, site, structure, or element for which the application is submitted are substantially different from other site in the same zoning district because of physical characteristics of the land including dimensions, elevation, topographical variations, soil conditions, or other extraordinary situations, and the difference support the application;*

The lot in question, while large by Mile Square standards, has an existing garage and an "addition", built in the 1970s, prior to the passage of the lot coverage restrictions.

- c) *The conditions upon which the application is based are not the result of actions by the applicant;*

The size and shape of the lot, and the additions allowed prior to the purchase of this property are not the result of actions by the applicant..

- d) *The variance would not confer a special privilege to the applicant, but would relieve a hardship;*

Many, if not most of the houses in this area have porches and/or covered entrances. Since no additional occupants would be allowed by this application, no special privileges would be conferred to the applicant by allowing the porch addition.

- e) *The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district;*

The literal interpretation of the new lot coverage restrictions would deprive the applicant of a front porch, otherwise allowed in this district.

- f) *The variance will be minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought;*

The variance to the lot coverage restriction is the only variance sought. The location of the existing, original house is well behind the setback line, allowing this porch to be constructed without another variance.

- g) *The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code;*

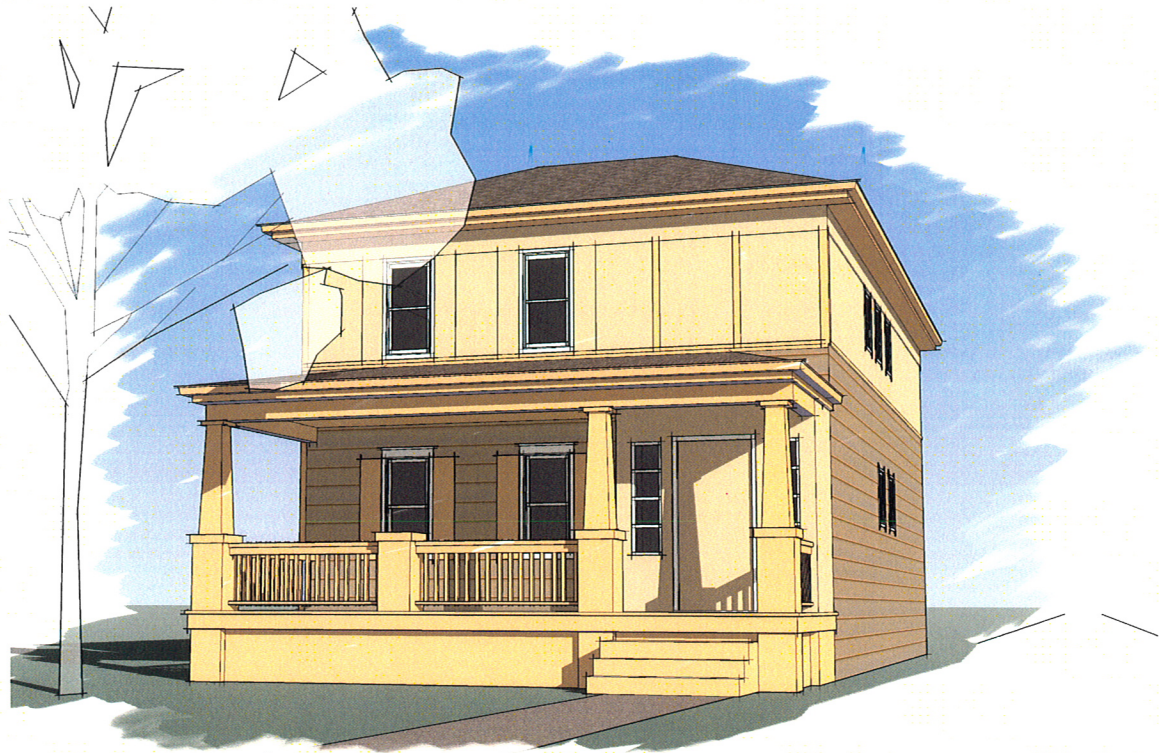
As many, if not all of the existing historic homes in the Mile Square have front porches, the proposed porch will be in harmony with the vicinity, and not be detrimental to public health, safety or general welfare.

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 'Scott Webb', written over a horizontal line.

Scott Webb, Architect



PROPOSED FRONT PORCH ADDITION



Existing Building, facing Poplar Street



Existing Building with Church in Background



Existing "Addition" to rear

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-06-2008

Date – May 21, 2008

APPLICATION

Petitioner:	Robert Treadon, Architect
Location:	2 S. Main (Former Wendy's) H4100003000233 & H4100003000234
Owner:	Main & High Development, LLC (Bernard Rumpke, President)
Action Request:	Section 1143.10(c)(2) Front Yard Setback
Current Use:	Former Wendy's -Vacant
Zoning:	UP Uptown District
Surrounding Land Uses:	Mix of Retail, Office & Residential, Food Services & Parking Garage.

DESCRIPTION

The property is located on the southwest corner of Main & High Streets and contains 8,002 sq. ft as recorded in Book 7574, Page 1207 at the Butler County Recorder's Office. Many properties in the Mile Square are affected by Ordinance No. 103 from 1853 vacating 16.5 feet of the right-of-way. Some properties affected by this Ordinance include the vacated area in their property boundaries, while other properties do not and the property line is significantly setback from the street. This particular property does include the 16.5 foot vacated right-of-way in its boundary description.

The Applicant is proposing to demolish the former Wendy's building and construct approximately a 22,000 sq. ft., three-story (measuring 44 feet), mixed-use building in part of the vacated right-of-way, 6 feet from the property line. The zoning code requires a front yard setback of 16.5 feet in the "UP" Uptown Zoning District except along High Street where the setback is (0) zero. This is essentially to accommodate the vacated right-of-way and another provision of the Code, Section 1141.03(d) Use of the Vacated Right-of-Way which states:

On any lot, having as a portion of its area, land vacated by Ordinance No. 103, the use of that vacated portion shall be restricted to lawn, landscaping, sidewalks and authorized egress and ingress driveways, except that in the Uptown District such land vacated by Ordinance No. 103 may be used for municipally-owned parking or municipally-regulated parking.

The Applicant modified their application to include another provision of the zoning code as it related to the maximum permitted residential gross floor area, specifically §1143.10(c)(3)B.1.b. Upon further review of the application, current Uptown regulations and the definitions in §1159.07(6) Gross Floor Area and §1159.13(7) Lot Area, staff has determined that this additional variance is not required to process this application and is not under the BZA's consideration.

SITE HISTORY

1984: Wendy's constructed.
BZA 07-1984: Variance for a cloth awning.
August 2005: Fire leaving building in present condition.
HAPC 03-2006: COA for demolition of former Wendy's approved with condition that the lot be landscaped with grass and plantings and the lot be routinely maintained.
August 29, 2006: Complaint filed in Butler County Civil Case CV 2006 08 3003
MAIN AND HIGH DEVELOPMENT LLC et al vs. CITY OF OXFORD OHIO.
To date litigation is still pending.
May 7, 2008: HAPC approved COA for demolition of former Wendy's and construction of new mixed use building with conditions.
May 2008: Demolition permit applied for and conceptually approved. Still waiting on the applicant to finalize some minor paperwork details prior to the permit being released.

VARIANCES REQUESTED

Section 1143.10(c)(2): The minimum front yard setback in the "UP" Uptown Zoning District shall be 16.5 feet except on High Street where at least 70% of the building must meet the right-of-way-line.

- The Applicant is requesting a 10.5-foot encroachment to allow for the proposed building to be setback 6 feet from the property line.

COMMENT FORMS

No public comment has been received from surrounding property owners regarding this request.

AGENCY REVIEW

Requests for review were sent to Engineering, Police and Fire.

Police: Returned with no comment.
Fire: Returned with no comment.
Engineering: Informs Applicant that the streetscape project and brick improvements will be occurring and that any utility connections will need to be performed prior to this.

ANALYSIS

The subject property has two parcel ID numbers assigned but one lot description. Proper consolidation of the lots will need to take place prior to construction permits being released.

As listed in the site history, the HAPC has approved a COA for a new building. With this approval, it can be argued that Decision Standard "G" is satisfied and that the proposed building and use is in harmony with the general vicinity.

Upon review of BZA case history, similar cases have been held requesting construction in the 16.5 foot setback and vacated right-of-way. Below is a partial list of cases and the decisions rendered:

BZA 13-1992: 118 E. High, Dubois – Allow a stairway to project onto the required front yard setback and vacated right-of-way 6 ft. Approved.
BZA 06-2001: 75 S. Main Street & Parking Garage – Allow for the Parking Garage to be setback 6.2 feet from Main Street & 10.5 feet from Walnut, Hotel 1.5 foot from Walnut. Approved.
BZA 14-2002: 36 E. High, Brickstreet – Permit patio within required front yard setback and vacated right-of-way. Approved w/ Conditions.
BZA 09-2005: 45 E. High Street - Demolish the existing greenhouse and rebuild a two-story structure in required front yard setback and vacated right-of-way. Denied.
BZA 10-2005: 11 W. Church, Fey Building – New building in required front yard setback and vacated right-of-way. Approved w/ Conditions.

BZA 17-2005: 16 S. Poplar, Stadium Bar & Grill - Permit encroachment into required front yard setback and vacated right-of-way for a new façade element and patio. Approved w/ Conditions.

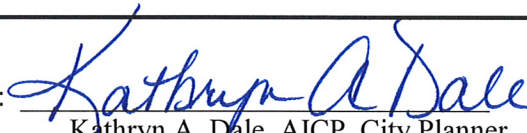
Although this is probably not the extensive list, it does illustrate a pattern of similar requests being made and in most cases being approved. Precedence does not guarantee approval for BZA decisions, however it can be argued that Decision Standard "B" is satisfied in that the request is not substantially different than previous requests or sites in the UP zoning district and "D" is satisfied in that a special privilege would not be granted.

RECOMMENDATION

Should the BZA recommend approval, Staff recommends the following conditions:

1. That, the proposed work complies in all other respects with all applicable codes, Ordinances and the City of Oxford Zoning Code.
2. That, the proposed work be constructed as approved with this appeal and that no changes or modifications be made without the consent of this Board.

SUBMITTED BY:


Kathryn A. Dale, AICP, City Planner
Community Development Department

DATE: May 15, 2008

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/23/08

To: Fire Department Engineering Division Police Department

From: Community Development

Drawings are being submitted to you for the following:

BZA-06-2008 **2 S. Main Street, Wendy's**, requesting a zoning variance to Chapter 1143,
Districts, Section 1143.10 (c)(2) Yard Requirements, **Robert Treadon**,
Architect, Applicant

Description:

____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/12/2008 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: Sen Endress, Fire Chief

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/23/08

To: Fire Department

Engineering Division

Police Department

From: Community Development

Drawings are being submitted to you for the following:

BZA-06-2008 **2 S. Main Street, Wendy's**, requesting a zoning variance to Chapter 1143,
Districts, Section 1143.10 (c)(2) Yard Requirements, **Robert Treadon**,
Architect, Applicant

Description:

_____X_____ Review

_____ Revisions

_____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/12/2008 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 MEMO DATED 5-6-08.

Drawings reviewed by:

A. Person 5-6-08



Memo

Service Department
Engineering Division

513/524-5208 fax 513/524-5267

TO: Community Development Department

FROM: Victor Popescu, P.E.
City Engineer

RE: Case # BZA-06-2008

DATE: May 6, 2008

A streetscape project on High Street, between Main Street and Beech Street, is scheduled to commence late July or early August 2008. So as to prevent damage to the High Street roadway, it is important that the necessary utilities connections be performed prior to the streetscape project.

Presently, it is known what the intent of the developers is for the site. The appearance of the structure may change somewhat in the final building approval. Thus, the Engineering Division is asking that the developers/architect indicate the utilities needed for the proposed development.

Digging into a recently reconstructed roadway is not a good practice.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/23/08

To: Fire Department

Engineering Division

Police Department

From: Community Development

Drawings are being submitted to you for the following:

BZA-06-2008 **2 S. Main Street, Wendy's**, requesting a zoning variance to Chapter 1143,
Districts, Section 1143.10 (c)(2) Yard Requirements, **Robert Treadon**,
Architect, Applicant

Description:

☒ Review

☐ Revisions

☐ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/12/2008 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:





BK: 7574 PG: 1207

WARRANTY DEED

200500040714
 Filed for Record in
 BUTLER COUNTY, OHIO
 DANNY N CRANK
 06-20-2005 At 09:59:53 am
 DEED 28.00
 OR Book 7574 Page 1207 - 1207

Lightning Enterprises, Inc., a corporation organized and existing under the laws of the State of Ohio, for valuable consideration paid, grants with general warranty covenants to **Main & High Development, L.L.C.**, an Ohio limited liability company, its successors and assigns forever, whose tax mailing address is 21 North Poplar, Oxford, Ohio 45056, the following described **Real Property**, to-wit:

Situated in the City of Oxford, Butler County, Ohio and being parts of Lots 71 and 72 of said City and being bounded and described as follows:

Beginning at the northeast corner of said Lot 72, said point being the intersection of the south line of High Street and the old west line of Main Street; thence South 89° 39' East, 16.5 feet to a railroad spike set in the new west line of Main and the real place of beginning for this conveyance (the 16.5 foot course mentioned above is a portion of the right of way which was vacated by Ordinance No. 103 dated May 11, 1853); thence due South along the new west line of Main Street 133.40 feet to a "X" set out in a concrete wall and witnessed by a railroad spike set due South 8.25 feet; thence North 89° 34' West 60.00 feet (passing the old west line of Main Street at 16.5 feet) to a bolt set and being witnessed by a railroad spike due South 8.25 feet; thence due North 133.32 feet to an iron pin set in the south line of High Street and being witnessed by a P.K. nail with no head set due North 15.77 feet; thence South 89° 39' East along the south line of High Street 60.00 feet to the real place of beginning, containing 0.184 acres (8002 square feet), more or less.

Being the same premises conveyed to Lightning Enterprises, Inc., an Ohio corporation, by deed dated October 27, 1999 and recorded on November 18, 1999 in Volume 6426, Page 271 of the Butler County, Ohio Official Records.

In Witness Whereof, grantor has caused its corporate name to be subscribed hereto by George D. Rumpza, its president, thereunto duly authorized by resolution of its board of directors, this fourteenth (14th) day of June, 2005.

Lightning Enterprises, Inc.

by George D. Rumpza
 George D. Rumpza, President

State of Ohio, County of Butler, ss.

Be It Remembered, That on this fourteenth (14th) day of June, 2005, before me, the subscriber, a notary public, in and for said State, personally came, George D. Rumpza, president, of the Grantor in the foregoing Deed, and acknowledged the signing thereof to be his voluntary act and deed, pursuant to authority of its board of directors.

In Testimony Whereof, I have hereunto subscribed my name and affixed my notarial seal on the this day and year aforesaid.

DAN E. HUSS
 ATTORNEY AT LAW
 NOTARY PUBLIC STATE OF OHIO
 My Commission Has No Expiration Date

Dan E. Huss
 Notary Public, State of Ohio

This instrument was prepared by Dan E. Huss, Attorney at Law, Oxford, Ohio.

EX-101
 Ray Rogers, Butler Co. Auditor
 This conveyance has been certified and the grantor has complied with section 319.202 of the revised code.

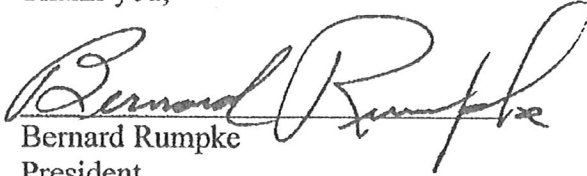
CONVEYANCE # 7948
 DATE 6-20-05
 TIME 10:00 AM
 FILED 6/20/05

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Bob Treadon, with Robert Treadon & Associates has permission to represent our interest with the City of Oxford and act on our behalf for the BZA hearing May 21st, 2008 regarding the Variance Request at our property located at 2 South Main Street Oxford, Ohio 45056.

Thank-you,

A handwritten signature in cursive script, appearing to read "Bernard Rumpke".

Bernard Rumpke
President

Main & High Development, LLC Date:

Case No.: BZA-06-2008Date Filed: 4/14/08

Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner: Robert J. Treadon (Letter of Agency Attached)
(Attach a letter of agency if the applicant is not the property owner.)

Mailing Address: Robert Treadon Associates, Architects
Company Name
300 High Street Suite 612
No. & Street
Hamilton, OHIO 45011
City State Zip Code
Telephone Number(s): (513) 863-7162 (513) 863-1116
Phone Fax
Requested Variance: SECTION 1143.10 (c.2.) Yard Requirements
(Indicate nature of variance and applicable section(s) of the Zoning Code.) 1143.10 (C)(3)(B)(1)(b) MAX RES. FAR Gm (Treadon! ARCHITECTS)
Allow setback of 6.2 feet on Main Street to match existing adjacent parking structure (in lieu of 16.5 feet setback)

Location of Requested Variance: High & Main Street (2 South Main Street)

Legal Description: PARCEL ID H4100003000233-234 (attached)

Zoning District: UPTOWN DISTRICT

Total Acreage: 0.184 ACRES Acres

Existing Use of Site: Vacant Building

Proposed Use: (if applicable) Mixed Use - Ground Floor Commercial with residential above
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 nonstandard 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

(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, giving lot numbers and house numbers. (This information is available at the Butler County Auditor's Office.)

(5) A separate narrative statement that explains how the proposed variance satisfies each of the following Decision Standards required to grant the area a variance. A separate response is required for each subsection.

- a) *The variance would not permit or result in a use that is not permitted in the zoning district. Use variances are prohibited; and*
- b) *Conditions of the land, site, structure, or element for which the application is submitted are substantially different from other sites in the same zoning district because of physical characteristics of the land including dimensions, elevation, topographical variations, soil conditions, or other extraordinary situations, and the difference supports the application; and*
- c) *The conditions upon which the application is based are not the result of actions of the applicant; and*
- d) *The variance would not confer a special privilege to the applicant but would relieve a hardship; and*
- e) *The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district; and*
- f) *The variance will be the minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought; and*
- g) *The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code.*

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.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

SIGNATURE OF APPLICANT: _____

Date: 4/14/2008

PRINTED NAME OF APPLICANT: _____

ROBERT J. REARDON

FEE / RECEIPT

\$150 Fee Paid / Receipt Number: 13712

Location: **Main & High Street (2 S. Main Street)**
 Oxford, Ohio

Zoning District: **UPTOWN DISTRICT**

ZONING VARIANCE REQUEST - ITEM #5

Item 5 Narrative Statement

- a) *The Variance would not permit or result in a use that is not permitted in the zoning district. Use variances are prohibited;*

O.P.Z.C. 1143.10 UPTOWN DISTRICT

- (b) Uses
(1) Permitted Uses.

- A. Single-Family Two-Family, and Three-Family Dwellings on the second floor or higher.
- B. Retail services that do not exceed 10,000 square feet of floor area on the first floor.
- C. Personal and professional services that do not exceed 10,000 square feet of floor area on the first floor.

Proposed buildings shall be mixed use with commercial space and parking occupying the first floor or street level and residential on the second and third floors.

- b) *Conditions of the land, site, structure, or element for which the application is submitted are substantially different from other sites in the same zoning district because of physical characteristics of the land including dimensions, elevation, topographical variations, soil conditions, or other extraordinary situations, and the difference supports the application;*

The intent of this project is to utilize the entire site with the exception of a 6.2-foot setback along South Main Street in order to match the adjacent existing setback of the municipal parking garage and provide an 8 foot alley setback at the lower level only. This plan meets the intent of the current Zoning code as in Ordinance 2980, October 2007 (Amendment to Section 1143), "New Construction must follow the rhythm of facades, overall facing, **setbacks**, and proportions of existing adjacent structures of **that block space** as well as those on the **opposing block face**". The plan also addresses items included in Section 1141, Supplemental Regulations (b, e3 & j) concerning setback requirements for corner lots, double frontage lots and mixed-use buildings. The plan also meets the requirements of frontage on High Street an 8-foot ground floor setback at the south alley. Additionally, the proposed request will not be substantially different from other recently approved projects, such as the adjacent municipal parking garage and hotel.

- c) *The conditions upon which the application is based are not the result of actions of the applicant;*

The proposed structure will occupy all but 6.2 feet of the eastern portion of the site. The restrictive zoning regulations (16.5 foot setback) would prohibit the construction of a commercially viable space that can compete with other uptown properties. It is the desire of the owner to be responsible and to request only minimum relief from the zoning regulations so as to construct a building that is both economically viable within the uptown district architecturally compatible with the surrounding neighborhood. It should also be noted that our proposed new elevated sidewalk and retaining wall matches the existing retaining wall, which occupies the entire 16.5-foot setback.

- d) *The Variance would not confer a special privilege to the applicant but would relieve a hardship;*

Given the setback requirements and the desire of the owner to provide an architecturally responsible solution to this design problem, it is necessary to request relief from the setback requirements so as to allow for a commercially viable space on the first floor level. Although the building fronts on High Street, the majority of commercial space fronts on S. Main Street. The precise use of these commercial spaces is presently unknown, the resulting commercial depth (without the variance) of approximately 41 feet makes it undesirable for most commercial uses. The restrictive depth would also hinder the space requirements for the upper level residential units. Other recent applicants have been provided similar relief and to grant these variance requests will not be in any way detrimental to adjacent properties or the surrounding neighborhood. The owners have also limited the building height to 3 floors (in lieu of 4 allowed), sacrificing additional residential units, in order to maintain the 'loft' floor-to-floor heights common in existing uptown properties.

- e) *The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district;*

To not grant the requested variances would force a situation wherein the owner would have to construct a building which did not provide an architecturally sensitive solution and which was incompatible with the character of the surrounding area. The building as proposed matches existing properties nearby providing a blended solution, which combines aspects of the commercial and uptown residential areas.

- f) *The variance will be the minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought;*

The request to reduce the setback from 16.5 feet to 6 feet allows for utilization of the building site and in no way increases the nonconformity that currently occupies the site. The projection into the 16.5-foot setback allows for the best development of the site. These concessions are necessary so as to allow for the construction of a building, which is compatible with the surrounding areas.

- g) *The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code.*

Great effort has been made to study the surrounding area and the architectural character that presently exists along High and Main Streets. This structure would also block the High Street view of the horizontal openings incorporated into the municipal parking garage and enhance the design aspects of the Main Street elevation. The owners have taken great effort to assure that the design solution presented is in keeping with the historic quality of Oxford's Mile Square and central business district. The overall composition will provide a pleasing addition to Oxford's building stock and is in every way responsible to the community.





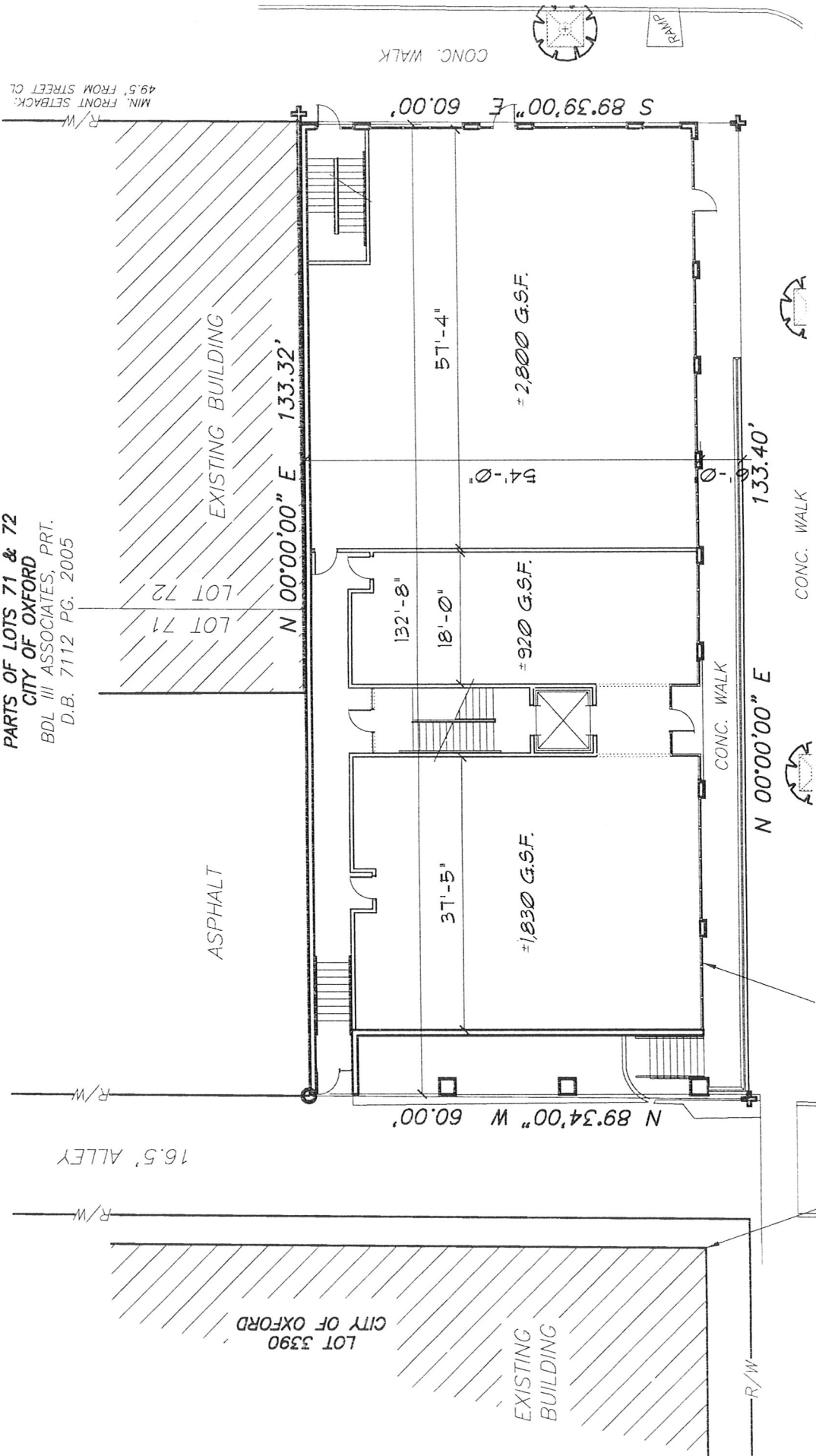
Date: 04/18/08 Sheet No. A2		PROPOSED NEW BUILDING PREPARED FOR: 1 WEST HIGH STREET OXFORD, OHIO	Robert Treadon & Associates Architects 300 High Street, Suite 612 Hamilton, Ohio 45011 (513) 863-7162 Fax 863-1116	<table border="1"> <tr> <th>This Sht.</th> <th>Issue</th> <th>Date</th> <th>Description</th> </tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </table>	This Sht.	Issue	Date	Description																												
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CORNER OF MAIN & HIGH STREET



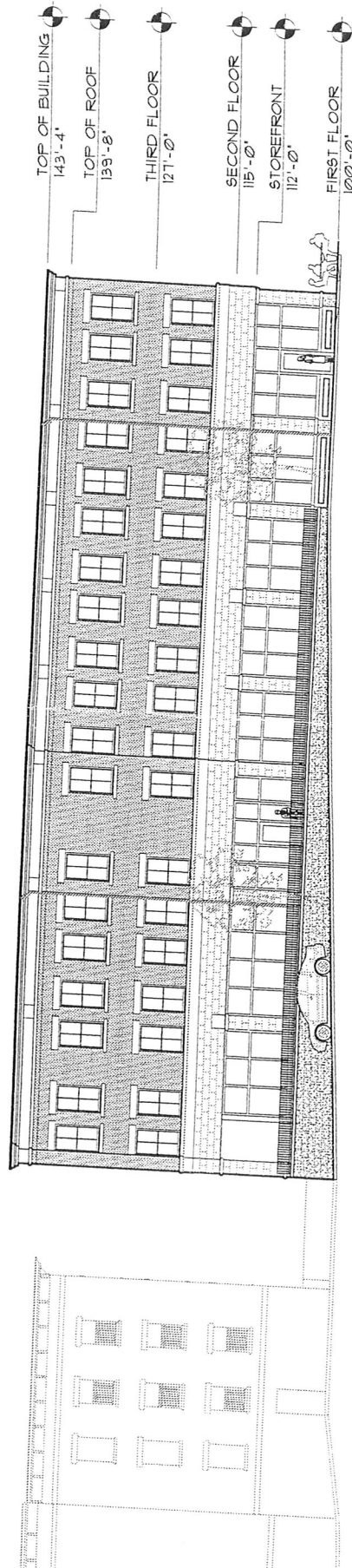
NORTH

MIN. FRONT SETBACK:
49.5' FROM STREET CL



1 SITE PLAN / FIRST FLOOR PLAN

SCALE: 1"=20'

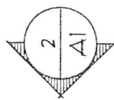


3 MAIN STREET ELEVATION

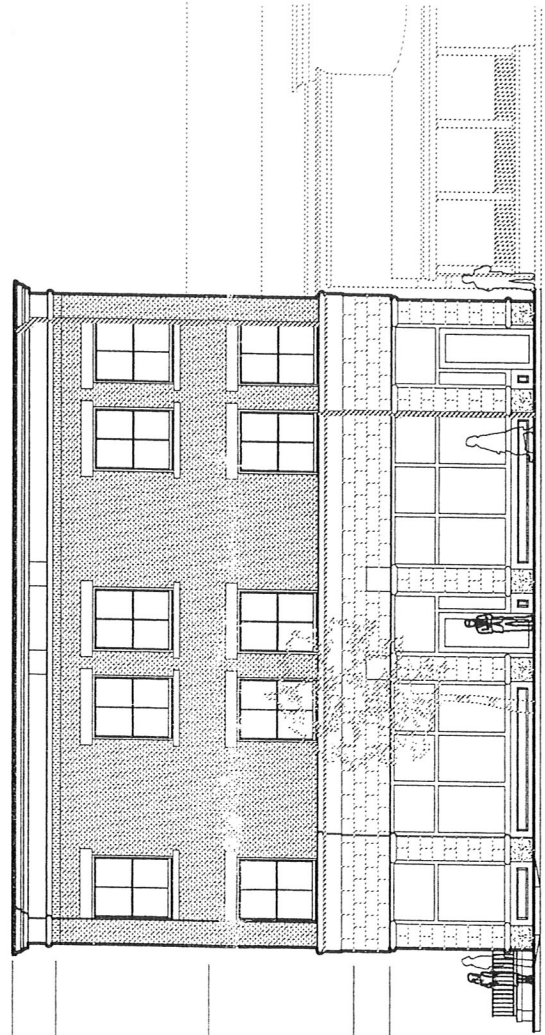
SCALE: 1/16"=1'-0"



HIGH STREET
(99' R/W)



- TOP OF BUILDING
143'-4"
- TOP OF ROOF
139'-8"
- THIRD FLOOR
127'-0"
- SECOND FLOOR
115'-0"
- STOREFRONT
112'-0"
- FIRST FLOOR
100'-0"



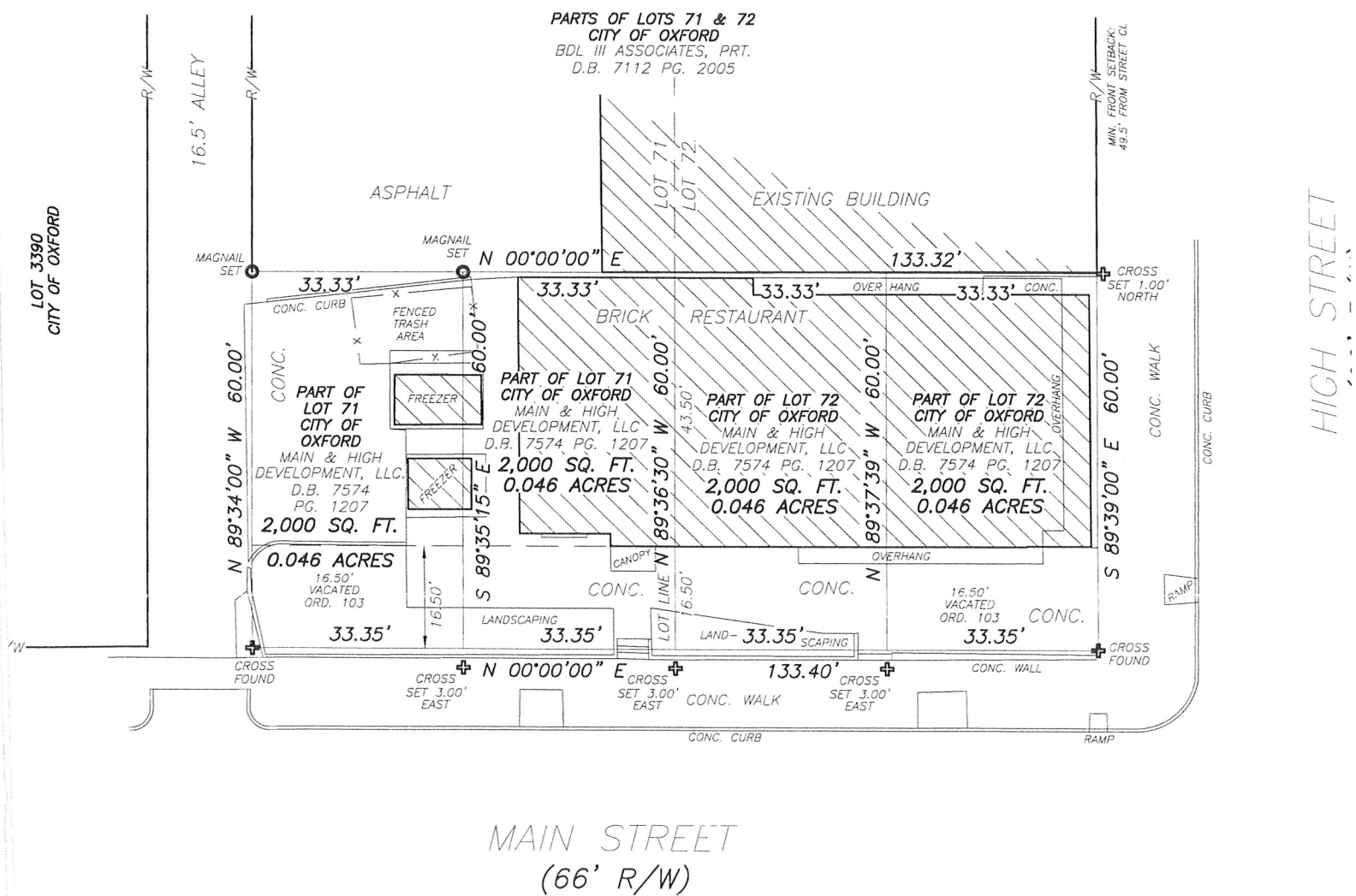
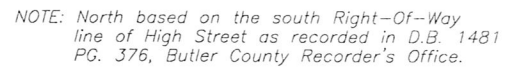
HIGH STREET ELEVATION

2
A1
SCALE: 1/16" = 1'-0"

ert Treadon & Associates
chitects



This Sht. Issue Date



VOLUME 49 PAGE 42
BUTLER COUNTY ENGINEER'S
RECORD OF LAND SURVEYS



VICINITY MAP
(N.T.S.)

NOTES AND REFERENCES

DEEDS

D.B. 7574 PG. 1207
D.B. 7112 PG. 2005
D.B. 7503 PG. 2277
D.B. 6626 PG. 825
D.B. 941 PG. 314
D.B. 6115 PG. 244
D.B. 5242 PG. 190
D.B. 6282 PG. 1568
D.B. 6546 PG. 1176
D.B. 6282 PG. 1568
D.B. 1748 PG. 150
D.B. 6067 PG. 1782
D.B. 6509 PG. 57
D.B. 6638 PG. 1361
D.B. 6606 PG. 847
D.B. 1706 PG. 6

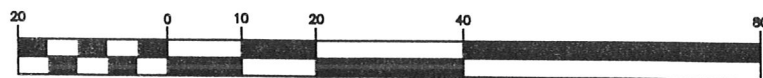
SURVEYS

D.B. N PG. 364
VOL. 40 PG. 43
D.B. 6607 PG. 804

MISC.

TOTAL AREA:
8,001 sq.ft.
0.184 acres

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/10/08

To: Fire Department Engineering Division Police Department

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-03-2008

ADDRESS: 5041 College Corner Pike

Description:

BZA-03-2008 5041 College Corner Pike, Car Quest, requesting a variance to Chapter 1151 Signs, Section 1151.05(a)(3)C.1.b for a freestanding sign, **Patrick Reist, Agent, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/12/2008 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: Sen Endress, Fire Chief

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/10/08

To: Fire Department

Engineering Division

Police Department

From: Community Development

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☒ Review

☐ Revisions

☐ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 5/12/2008 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:

A. Popescu

4-11-08

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/10/08

To: Fire Department Engineering Division Police Department

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.....

Drawings are returned: w/comments without/comments

Drawings reviewed by: _____

SPS
4/11/08

**RULES AND PROCEDURES
OF THE**

BOARD OF ZONING APPEALS OF OXFORD, OHIO

ARTICLE I - MEMBERSHIP

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The Board of Zoning Appeals is established by Section 8.08 of the Oxford Charter. Membership consists of five citizens serving three-year, staggered terms.

ARTICLE II - JURISDICTION AND FUNCTION

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According to Section 8.09 of Oxford's Charter, "The board shall have the power to hear and determine appeals from refusal of building permits and to permit exceptions to and variations from the zoning regulations in individual cases as may be required to afford justice and avoid unreasonable hardship to property owners. The standards in all instances to be applied by the board shall be established by ordinance of Council."

The standards for decisions have been enacted by Council, and they appear as Section 1139.02(c)(2) of Oxford's Code of Ordinances. A copy of Section 1139.02(c)(2) appears as Appendix "A" to these Rules and Procedures.

ARTICLE III - OFFICERS

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Section 1 - At the first meeting of each year, the Board shall elect one of its members as Chair, one as Vice-Chair, and one as Executive Secretary.

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Section 2 - The Chair shall preside at meetings of the Board, call special meetings, and perform such other duties commonly prescribed to such office.

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Section 3 - The Vice-Chair shall perform the same duties as the Chair in his/her absence.

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Section 4 - In the event the Chair and Vice-Chair are absent from a meeting, the three remaining members shall select a Chair Pro-Tem who shall perform the same duties as the Chair for the balance of the meeting.

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Section 5 - The Executive Secretary shall present the minutes of each meeting for approval at the next meeting and attest to the Board's approval of the minutes.

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ARTICLE IV - MEETINGS

Section 1 - The regular meetings of the Board will be held in the Oxford Court House at 7:30 p.m. on the third Wednesday of each month on the call of the Chair. The regular

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meeting date may occasionally change at the direction of the Board with public notice. Special meetings may be called by the Chair, or by two (2) members of the Board, provided that special meetings must be called by the delivering of a written notice thereof to each Board member, or the residence of each member, and to those news media that have requested notification, at least twenty-four (24) hours prior to the time set for the special meeting. Said notice shall contain information as to the date, time, place and purpose of the meeting. No action shall be taken by the Board at a special meeting upon any matter not listed upon said special meeting notice (See appendix "B").

ARTICLE V - VOTING

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Section 1 - No resolution over-ruling an action under interpretation of the Zoning Ordinance by an administrative office of the City shall be adopted except by the affirmative vote of three members of this Board (Section 8.08 of Oxford Charter).

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Section 2 - A majority vote of those members present shall be necessary to carry out all other regular business of the Board and a quorum of three members shall be necessary to conduct business and to constitute on official meeting of the Board.

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Section 3 - The Chair shall vote in all matters under consideration by the Board.

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Section 4 - No Board member shall participate in the discussion or vote in any matter in which the member has a personal interest. That person shall step down from the Board for that portion of the meeting in which the member has an interest.

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Section 5 - A record shall be made in the minutes showing the vote of each member on each question, or, if absent or failing to vote, indicating such fact.

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Section 6 - The Board of Zoning Appeals shall base its decision only upon Section 1129.11 or the Decision Standards in Chapter 1139. A copy of Section 1139.02(c)(2) appears as Appendix A to these Rules and Procedures.

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ARTICLE VI - APPEALS PROCEDURE

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Section 1 - (By Whom)

- (a) An appeal and supporting documentation as provided for in Chapter 1129 and 1139 of the Planning & Zoning Code may be made to the Board by any person aggrieved or by any officer, department, board or bureau of the City of Oxford affected by a decision of the Zoning Administrator within 30 days of the date of the Zoning Administrator decision.

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- (b) If the appellant represents the owner or occupant authority of the premises under consideration, the appellant shall document on the appeal that authority to represent that owner or occupant.
- (c) The application for an appeal shall be submitted pursuant to Chapter 1129 and 1139 of the Planning & Zoning Code.
- (d) Instruction sheets may be prepared and approved by the Board for the guidance of appellants and copies of these rules and procedures shall be available to the public without charge at all times in the office of the Zoning Administrator.

Section 2 - (Action on Application)

- (a) The Zoning Administrator shall notify by regular mail the appellant and all owners of property within 200 feet of the property in question as to the date, time, place and purpose of the hearing at least 10 days prior to the hearing. The notice shall provide a form on which comments may be submitted to the Board of Zoning Appeals. This notice is not jurisdictional and is provided for only as a matter of courtesy. Failure by the Zoning Administrator to mail such notice or failure by a land owner described above to receive such notice shall not invalidate any action resulting from the public hearing.

The Administrator shall also cause an official legal notice, which is jurisdictional, containing the date, time, place and purpose of the hearing to be published once in a local newspaper of general circulation at least 7 days prior to the hearing. At least 7 days prior to the public hearing, the applicant shall post a sign on the site, provided by the City, along, but not in, each public right-of-way that abuts the site and at other locations or intersections near or leading to the site in the right-of-way, at the discretion of the Zoning Administrator. The signs shall state that the site is the subject of a public hearing and shall list the type, time, and place of the hearing, and shall be legible from the public right-of-way. This is a courtesy notice. Failure by the Zoning Administrator to provide such signs as described shall not invalidate any action resulting from the public hearing. Removal of such signs, once set, shall be a violation of this Code in addition to any other laws against their removal that may apply.

- (b) The Zoning Administrator shall transmit to the Board, approximately one week prior to the meeting or as soon thereafter as possible, the appeal application and all papers or information required or necessary for proper hearing of the appeal, and copies as required shall be sent to all Board members.

Section 3 - (Hearings)

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- (a) The Board of Zoning Appeals shall base its review of a variance application upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. If the Board of

Zoning Appeals finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

(b) All meetings and hearings shall be open to the public.

(c) All interested parties shall be permitted to appear and be heard in person, or by his agent or attorney, in opposition to the final order, adjudication, or decision. The Board shall have the right to dismiss the appeal if the appellant or his agent or attorney is not present at the hearing.

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(d) The interested party shall present his position, arguments, and contentions.

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(e) The interested party shall be allowed to cross-examine witnesses purporting to refute his or her position, arguments, and contentions.

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(f) The interested party shall be allowed to offer evidence to refute evidence and testimony offered in opposition to his position, arguments, and contentions.

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(g) The interested party shall be allowed to proffer any such opposing evidence and testimony into the record, if the admission of it is denied by the officer or body appealed from.

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(h) All testimony adduced shall be given under oath.

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(i) The Zoning Administrator will present and explain the case, setting forth the reasons for the Board.

(j) The Board of Zoning Appeals shall prepare a transcript of proceedings containing a report of all evidence admitted or proffered by the Board.

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<#>Following the Zoning Administrator's presentation, all interested parties shall be permitted to appear and be heard in person, or by his agent or attorney, in opposition to the final order, adjudication, or decision. The Board shall have the right to dismiss the appeal if the appellant or his agent or attorney is not present at the hearing.¶

(k) The Zoning Administrator or Board shall file with the transcript, conclusions of fact supporting the final order, adjudication, or decision appealed from.

¶
<#>The interested party shall present his position, arguments, and contentions.¶

(l) Any person shall have the right to ask questions about the subject of the appeal.

¶
<#>The interested party shall be allowed to cross-examine witnesses purporting to refute his or her position, arguments, and contentions.¶

(m) At the request of the appellant or the Zoning Administrator and/or on the motion of the Board, the hearing may be postponed for further evidence or information. Such postponement shall be granted or denied in the sole discretion of the Board, and any postponement of a hearing, once commenced, shall be for more than 45 days, except with a written permission of both the Zoning Administrator and the appellant.

¶
<#>The interested party shall be allowed to offer evidence to refute evidence and testimony offered in opposition to his position, arguments, and contentions.¶

¶
<#>The interested party shall be allowed to proffer any such opposing evidence and testimony into the record, if the admission of it is denied by the officer or body appealed from.¶

(n) At the conclusion of the hearing or hearings the Board will discuss and vote on each appeal and conduct the business section of the meeting to take care of items

¶
<#>All testimony adduced shall be given under oath.¶

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on the agenda. The public may not participate in this section of the meeting except upon request of the Chair or any member of the Board.

- (o) The Board shall keep a record of its proceeding. Findings of Fact shall be included in the minutes of each case of a requested variation or appeal, and the reasons for approving or denying such variation or appeal shall be specified. All records of proceeding findings, determinations and actions of the Board shall be filed immediately in the Zoning Administrator's office and shall be retained for one year.

Section 4 - (Following Hearing)

- (a) The Board of Zoning Appeals shall grant, grant with conditions, or deny a variance application as presented and shall clearly state the findings of fact upon which its decision is based.
- (b) The Zoning Administrator shall inform the appellant by letter as soon as possible following the hearing of the decision of the Board. The Board's decision shall not become final until the expiration of five (5) days from the date such decision is made unless the Board shall certify otherwise.
- (c) The Zoning Administrator shall issue permits to permit the action for which a variance was sought per Chapter 1139.
- (d) No order of the Board permitting erection or alteration of a building or the use of a building or premises shall be valid for a period longer than six (6) months unless a building permit for such erection or alterations is obtained and the work is started within such period, or, where no erection or alteration is necessary, the permitted use is established within such period, or an extension is requested in writing and granted by the Board.
- (e) No application for a variance that is substantially similar to an application that has been denied, wholly or in part, shall be submitted to the BZA for a decision per Chapter 1139.

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APPENDIX “A”

1139.02(c)(2) Decision Standards.

All variances shall satisfy the Decision Standards of this section. Variances and nonconformities on other land, sites, or structures shall not be considered grounds for a variance.

- A. The variance would not permit or result in a use that is not permitted in the zoning district. Use variances are prohibited; and
- B. Conditions of the land, site, structure, or element for which the application is submitted are substantially different from other sites in the same zoning district because of physical characteristics of the land including dimensions, elevation, topographical variations, soil conditions, or other extraordinary situations, and the difference supports the application; and
- C. The conditions upon which the application is based are not the result of actions of the applicant; and
- D. The variance would not confer a special privilege to the applicant but would relieve a practical difficulty; and
- E. The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district; and
- F. The variance will be the minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought; and
- G. The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code.

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APPENDIX "B"

RULES AS REQUIRED BY R.C. 121.22, COMMONLY KNOWN AS THE SUNSHINE LAW

SECTION 1: All meetings of the Board of Zoning Appeals, other than authorized Executive Sessions, shall be open to public attendance.

SECTION 2: The Board will fully comply with both the letter and the spirit of R.C. 121.22.

SECTION 3: The regularly scheduled meetings of this body shall be held on the third Wednesday of each month in the Oxford Court House, commencing at 7:30 p.m. The regular meeting date may occasionally change at the direction of the Board with public notice. Within the context of this rule, a special meeting is deemed to be any meeting scheduled or called for a date or place or time other than as herein above specified. Such special meeting, as so defined solely for the purpose of this rule, may be for the purpose of:

- (1) Continuing or commencing a regular meeting of the Board in discussing and acting upon all such business as may come before the Body; or
- (2) A true Special Meeting within the context of parliamentary definition wherein the purpose of the meeting shall be to consider only specific and enumerated matters, and in which action will not be taken on matters unrelated to the matter, or matters, for which such a meeting is held. No special meeting, as defined herein, shall be held unless the Zoning Administrator shall have given at least 24 hours advanced notice of the date, time and place and purpose of such meeting, to those news media that have requested notification except in the event of an emergency. An emergency exists when immediate official action is necessary and in that event the member, or members, calling such a meeting shall immediately notify such news media as have requested notification of the date, time, place and purpose of such meeting.
- (3) Any person may determine the date, time and place of regularly scheduled meetings by phoning or contacting the Zoning Administrator at the City Building.
- (4) Any person may determine the date, time, place and purpose of special meeting, as defined herein, by making such a request, in writing, to the Zoning Administrator and sending forth their name, address and telephone number. The Zoning Administrator shall notify such person of the date, time, place and purpose of special meetings, either by mail or telephone and will in any case endeavor, with all reasonable effort and dispatch, to make such notification immediately.

When time permits reasonable anticipation of timely mail delivery, the Zoning Administrator may notify such person by mail. When, in the judgment of the Zoning Administrator, it seems reasonable to believe mail notification will not be timely, the Zoning Administrator will make all reasonable efforts to contact such person by telephone. Long distance calls will only be placed collect.

SECTION 4: Any person desiring information as to any specific business to be discussed at a meeting, may obtain advance notification of the proposed discussion by securing a copy of the meeting agenda by any or all of the following methods:

- (1) Agendas for regularly scheduled meetings will be available, without charge, at the Police Department Dispatcher's office on the Saturday, Sunday, Monday or Tuesday preceding the regularly scheduled meeting.
- (2) Agendas for special meetings will be available immediately upon their preparation at the Police Department Dispatcher's office, without charge.
- (3) Persons paying an annual fee of \$10.00 to the Zoning Administrator, and providing said Zoning Administrator with self-addressed business-size envelopes (approximately 9" x 4"), with sufficient first class postage affixed thereto, will be mailed all Board agendas upon their preparation, for so long as the Zoning Administrator has a supply of the required envelopes. It shall be the sole obligation of the person requesting such mailings, to determine that the Zoning Administrator has sufficient envelopes to continue mailing agendas for so long as such person desires to receive agendas. The fee required hereunder shall be a calendar year fee and shall be due once each calendar year regardless of the date upon which the request for such mailings is filed.

SECTION 5: This Resolution promulgating the foregoing rules and procedures shall be effective immediately.



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BOARD OF ZONING APPEALS

Meeting Minutes

Wednesday, April 16, 2008

The April 16, 2008 meeting of the Oxford Board of Zoning Appeals was called to order at 7:30 p.m. by Todd Hollenbaugh, Chair.

Call to Order

Those members present: William Houk, Todd Hollenbaugh, Chair, George Prentice, and John Barnhart.

Those members excused: Gary Meyer, Vice-Chair.

Staff members present: Kathryn Dale, Planner; Scott Liberman, Legal Counsel; and Lynn Taylor, City Staff.

Staff members excused: None.

George Prentice moved to approve agenda, with removal of an Executive Session . William Houk seconded. The motion passed with the following roll call:

AYE: William Houk, Todd Hollenbaugh, Chair, George Prentice, John Barnhart (4)

NAY: None (0)

ABS: None (0)

Executive Session**Public Hearing***

BZA-02-20 08 5154 College Corner Pike, Everything's a Party, requesting a variance to Chapter 1151 Signs, Sections 1151.03(d)(4) and 1151.07(ff)(gg) for an illuminated roof mounted sign, Patrick Reist, Agent, Applicant

Mr. Hollenbaugh provided the Applicant a choice in having a full Board present to hear her case, as Mr. Meyer was absent at this meeting. Ms. Phyllis Wilkins chose to move forward with her hearing.

George Prentice moved to enter into public hearing BZA-02-2008 . John Barnhart seconded. The motion passed with the following roll call:

AYE: William Houk, Todd Hollenbaugh, Chair, George Prentice, John Barnhart (4)

NAY: None (0)

ABS: None (0)

Ms. Dale provided a staff report regarding this proposed signage noting the location of the property and the intended location of the sign. Ms. Dale stated that prior to this tenant, there had been an existing roof sign. Ms. Dale stated that had the signage not been removed, the Applicant could have requested a face or panel change to the sign and no variances would have been necessary. Ms. Dale stated the Applicant was requesting to install a 3' x 9' sign and that adjacent businesses had identical signage to what she was requesting for approval.

Ms. Dale stated staff felt the Decision Standards had been met, that the location of the proposed sign was the only location possible to identify this particular business and that the re-roofing of the building and removal of the existing non-conforming sign was not due to the actions of the Applicant.

Ms. Dale reviewed conditions of this case, that the proposed work complied in all other respects with all applicable codes, Ordinances and the City of Oxford Zoning Code; that the proposed work be constructed as approve with this appeal and that no changes or modifications be made without the consent of the Board of Zoning Appeals.

Ms. Dale provided the Board a statement from adjacent property.

Mr. Hollenbaugh asked if any Board members had questions. There were none.

The Applicant, Phyllis Wilkins, business owner, was duly sworn in by Mr. Hollenbaugh. Ms. Wilkins stated she would have preferred to have not been required to request a variance. Ms. Wilkins stated she would have considered somewhere else to place a sign; however, there was nowhere else to install one. Ms. Wilkins stated customers have come in and stated they had a hard time finding her business due to lack of signage.

Mr. Hollenbaugh inquired about the lighting, confirming it was only directly back lighting and no flashing lights. Ms. Wilkins reiterated the sign was almost identical to the neighboring Domino's signage.

Reconvene to Regular Meeting

William Houk moved to reconvene to regular meeting . George Prentice seconded. The motion passed with the following roll call:

AYE: William Houk, Todd Hollenbaugh, Chair, George Prentice, John Barnhart (4)
NAY: None (0)
ABS: None (0)

read conditions into motion proposed work complies listen to this part of video. this is the motion

Mr. Houk stated he wished there not have to be a need for an illuminated sign; however there i no other choice. Mr. Prentice stated this signage was consistent with other signage. Mr. Prentice asked if everyone on the Board felt all criteria had been met as most criteria had been described by Triangle Sign Company.

Mr. Hollenbaugh stated he was in agreement and that this releaved a hardship, noting the signage was there before and was identifical to neighboring business nor was it a violation of code.

Mr. Barnmhart inquired if previous sign was lighted. Ms. Dale stated she couldn't tell by old photographs; however, it was reiterated that illumination was allowed.

The Decision Standards were reviewed. The Board was in agreement all Decision Standards that applied were met, and that the Applicant note the conditions made by staff.

William Houk moved to approve BZA-02-2008 with staff conditions and meet all Decision Standards that apply.. George Prentice seconded. The motion passed with the following roll call:

AYE: William Houk, Todd Hollenbaugh, Chair, George Prentice, John Barnhart (4)
NAY: None (0)
ABS: None (0)

Staff Report

Supporting Documents

Approval of Minutes of the March 12, 2008 regular meeting*

Mr. Hollenbaugh's noted a change on page 18 of the agenda packet, referring to the driveway at the 218 N. University address, that it should state "that gravel would probably be denied" (not the driveway). Also, a change under Executive Session, verbage should be added that adjourning to executive session was for the purpose of discussing pending litigation. It was also suggested to add a time when BZA returned from Executive Session. It was noted that it was 8:31 p.m.

John Barnhart moved to approve Minutes of the March 12, 2008 regular meeting with corrections. William Houk seconded. The motion passed with the following roll call:

AYE: William Houk, Todd Hollenbaugh, Chair, George Prentice, John Barnhart (4)
NAY: None (0)
ABS: None (0)

Minutes

Old Business

There was none

Other Business

A. Rules of Procedure Approval as suggested by Legal Council in March, 2008

Mr. Houk in reviewing the edited copy of the Rules of Procedure, inquired about the word "hardship" being

changed to "practical difficulties" as he preferred hardship. Mr. Liberman stated that it was Case Law that now required it be practical difficulties. It was asked if the Board could include in their code a definition for "practical difficulties". Mr. Liberman stated it was really not a definable term as it was really what case law suggested practical difficulties was. Mr. Houk inquired if the term could be summarized and how the Board should apply the term. Mr. Liberman stated the Decision Standards were really the elements of practical difficulties.

Mr. Prentice requested receiving a clean copy of the Rules of Procedure.

Rules of Procedure Document

Adjournment

The meeting was adjourned at 7:55 p.m.

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**AGENDA
BOARD OF ZONING APPEALS**

Wednesday, May 21, 2008

**7:30 p.m.
Oxford Courthouse – 118 W. High Street**

MEMBERS

Todd Hollenbaugh, Chair

Gary Meyer, Vice-Chair
William Houk

George Prentice
John Barnhart

STAFF

Kathy Dale, Planner
Jung-Han Chen, Director, Community Development
Scott Liberman, Legal Counsel

MEETING PROCEDURE: The Board of Zoning Appeals is a quasi-judicial Board. Unlike other City Boards and Commissions, we accept only sworn testimony that is germane to the case(s) on the agenda during the public hearing. Please wait until you are recognized by the Chair, proceed to the podium, state your name and address so that your comments may be properly recorded and limit your remarks to a period of three minutes or less. Once the Board has returned to regular meeting, no further public comment is permitted. Applicants are to limit their presentation/testimony to 15 minutes.

- I. Call to Order
- II. Executive Session
- III. Public Hearing*

BZA-03-2008 5041 College Corner Pike, Car Quest, requesting a variance to Chapter 1151 Signs, Section 1151.05(a)(3)C.1.b for a freestanding sign, **Patrick Reist, Agent, Applicant**

Reconvene to Regular Meeting

Discussion of **BZA-03-2008** – Variance Petition

BZA-04-2008 Alley, former parking lot behind 25 W. High Street, requesting a variance to Chapter 1141.03(e)(4) Front Yards, **Scott Webb, Architect, Applicant**

Reconvene to Regular Meeting

Discussion of **BZA-04-2008** – Variance Petition

BZA-05-2008 112 S. Poplar, requesting a variance to Chapter 1143 Districts, Section 1143.05(c)(4)A - R-2MS District, Lot Coverage, **Scott Webb, Architect, Applicant**

Reconvene to Regular Meeting

Discussion of **BZA-05-2008** – Variance Petition

BZA-06-2008 Main & High Street, former Wendy's, requesting a variance to Chapter 1143 Districts,
Section 1143.10(c)(2) Yard Requirements, **Robert Treadon, Applicant, Agent**

Reconvene to Regular Meeting

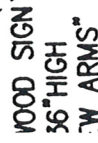
Discussion of **BZA-06-2008** – Variance Petition

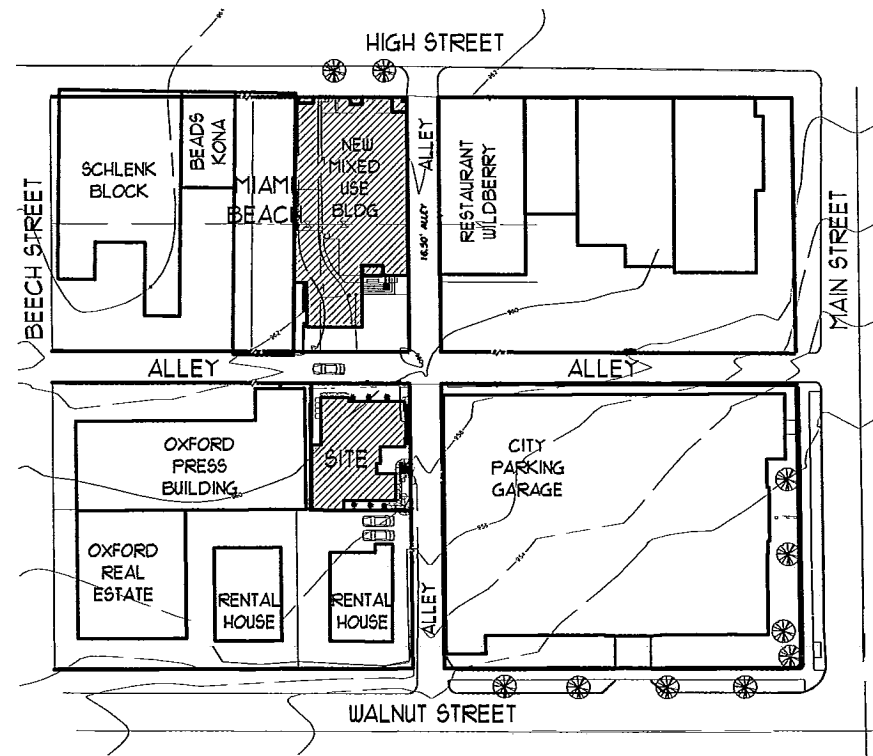
- IV. Approval of Minutes of the April 16, 2008 regular meeting*
- V. Old Business
 - BZA Rules and Procedures
- VI. Other Business
- VII. Adjournment

.

*** Attachments**

- new OPOT R/W

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LOCATION PLAN 1" = 100'-0"

ZONING CODE REVIEW

PROPOSED THREE STORY RESIDENTIAL STRUCTURE CONTAINING (4) 4-BEDROOM APARTMENTS REQUIRING CONDITIONAL USE APPROVAL FOR GROUND FLOOR RESIDENTIAL IN THE UP ZONING DISTRICT

ZONING DISTRICT: UP - UPTOWN DISTRICT

LOT AREA: 3,456 SF. - .079 ACRES

FLOOR AREA RATIO

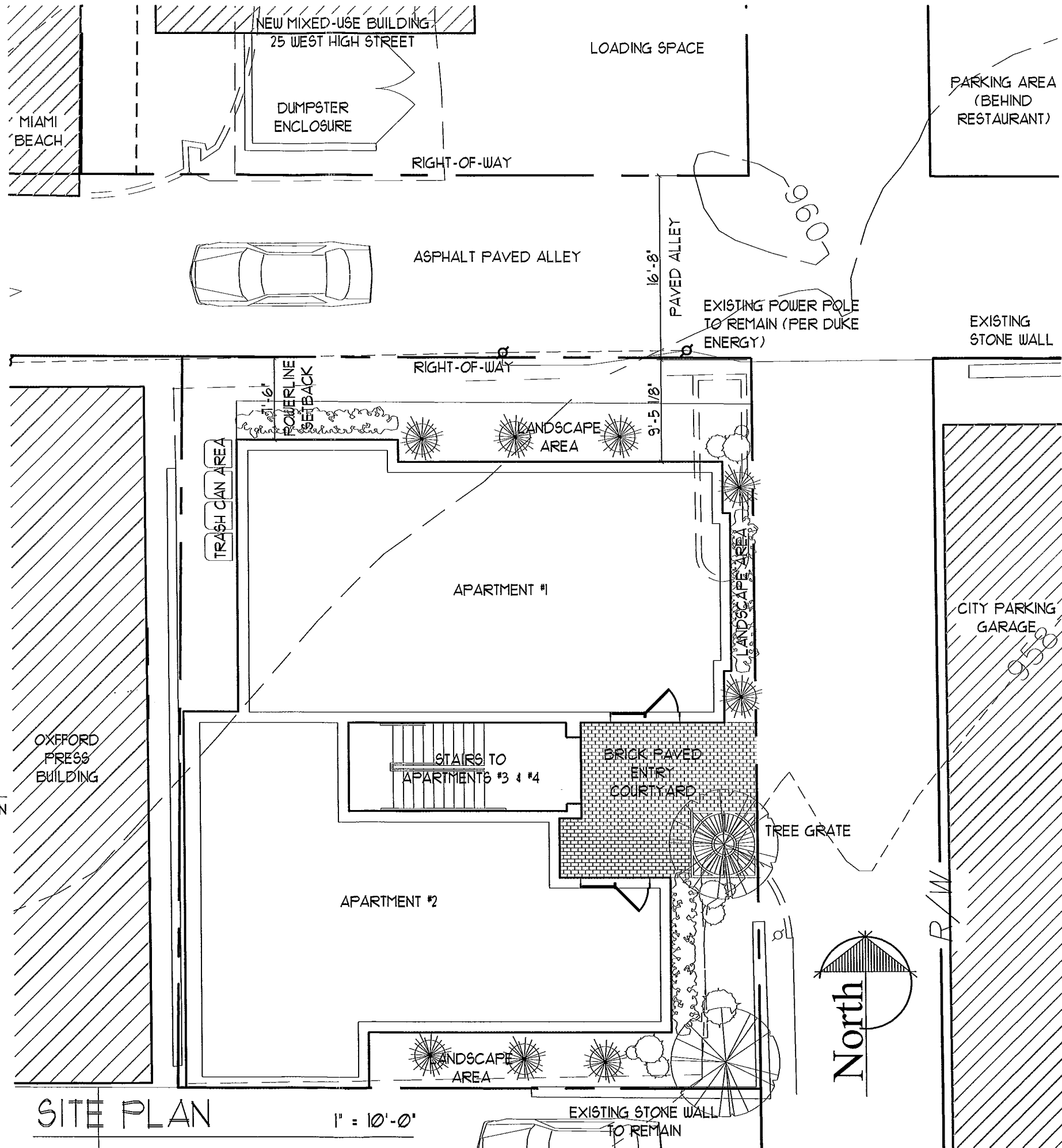
S.F. REQUIREMENTS (GROSS)	BUILDING AS SHOWN (GROSS)
MIN. 1ST FLOOR COMMERCIAL 2,419 SF	0 SF - CONDITIONAL USE APPLICATION
MAX. RESIDENTIAL (GROSS) 6,912 SF	6,831 SF (2,271 SF EACH OF 3 STORIES)
MAX 2x LOT AREA	
MAXIMUM BUILDING (GROSS) 10,368 SF	6,831 SF TOTAL BUILDING AREA
MAX 3x LOT AREA	

MIN. APARTMENT SIZES IN UP DISTRICT

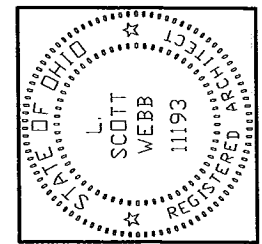
S.F. REQUIREMENTS (GROSS)	BUILDING AS SHOWN (GROSS)
4- BEDROOM APARTMENTS 1,400 SF	± 1,600 SF

SETBACK REQUIREMENTS & PARKING

NO SETBACKS REQUIRED IN UP DISTRICT
 SETBACK OF 1'-6" FROM OVERHEAD ELECTRIC LINES
 REQUIRED BY DUKE ENERGY
 NO PARKING REQUIRED IN UP DISTRICT



SITE PLAN 1" = 10'-0"

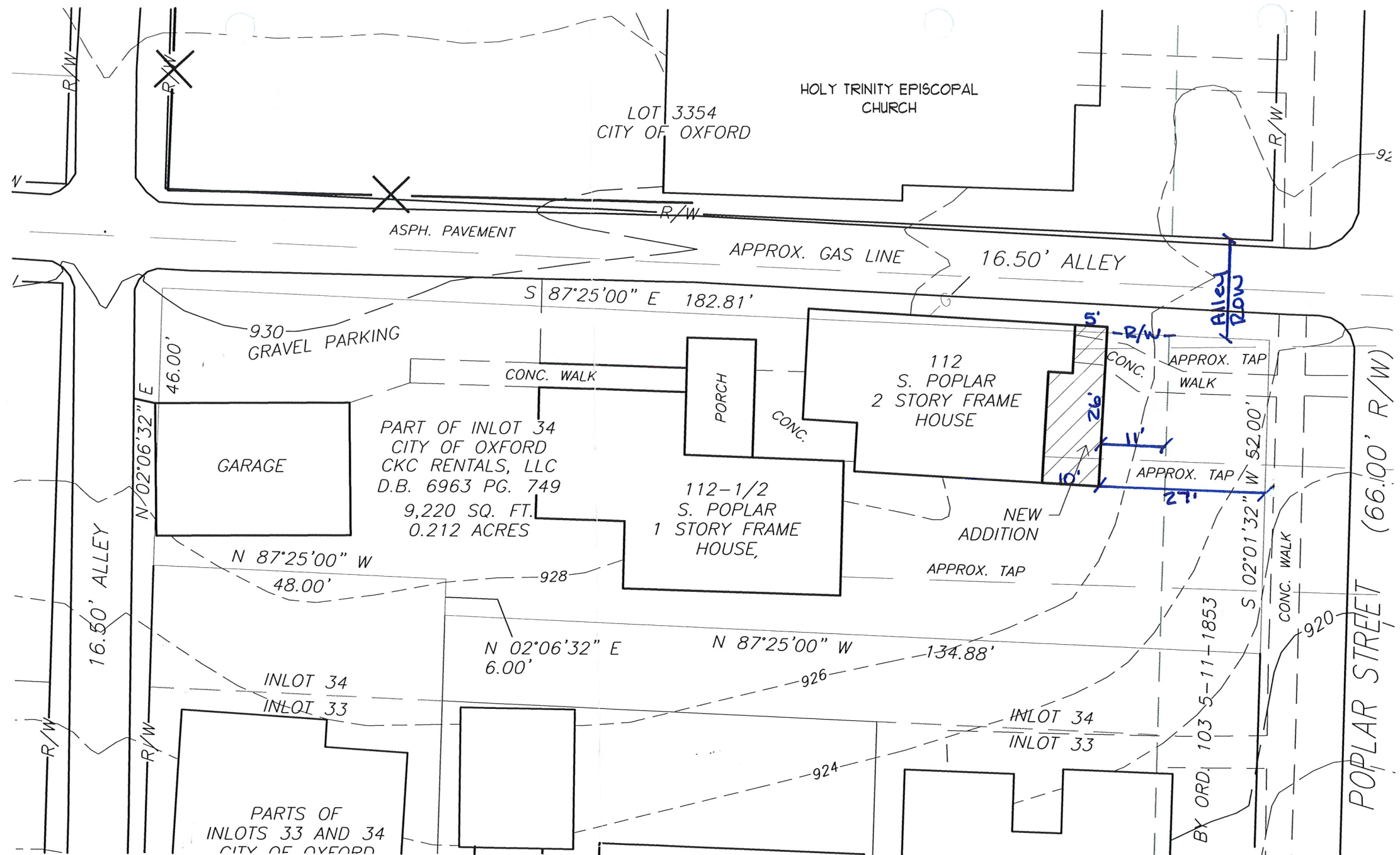


SCOTT WEBB
 ARCHITECT
 103 West Walnut Street
 Oxford, Ohio 45056
 (513) 523-3838
 www.scottwebbarchitect.com

PROPOSED NEW 4-UNIT APARTMENT BUILDING
West Walnut Street Alley Site
 (parking lot behind 25 West High)
 OXFORD, OHIO 45056

DATE	March 26, 2008
REVISIONS	

A-1



LOT COVERAGE

OVERALL LOT AREA:	9,220 SF
EXIST. BUILDINGS:	3,108 SF
EXIST. GRAVEL PARKING:	928 SF
EXIST. SIDEWALKS:	504 SF
PROPOSED ADDITION (FRONT PORCH):	192 SF
TOTAL:	4,732 SF
ACTUAL LOT COVERAGE:	4,732 SF / 9,220 SF = 51.3%
ALLOW. LOT COVERAGE:	R-2MS = 40%

SITE PLAN

1" = 20'-0"

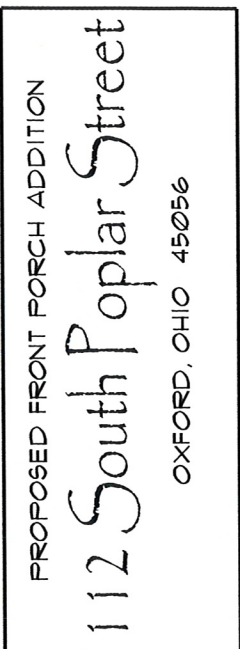
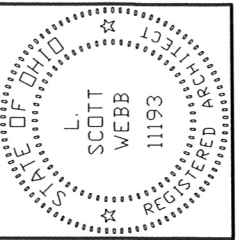
SURVEY INFORMATION FROM: DDS SURVEYING, LLC.
 PLAT OF SURVEY, PART OF INLOT 34, CITY OF OXFORD
 FOR CKC RENTALS, LLC.
 D.B. 6963 PG. 149
 FILE: 28021.DWG DATE: MARCH 20, 2008

Side yard setback 7.5' (1143.05(c)(2)(C).)

Total Bldg. Cov. = 25% Ex. = 3108/9220 = 34% (33.7)
 (1143.05(c)(4)B.2)

Prop. = 3300/9220 = 36% (35.8)

1149.02(a) - Gravel must be paved



DATE
April 14, 2008
REVISIONS

