

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

Case # BZA-05-2010

Date –June 16, 2010

APPLICATION

Petitioner:	Jean Pierre Renzi
Location:	606 S. Main Street
Owner:	Jean Pierre Renzi
Action Request:	Variances to Sections 1149.04(a)(1) and 1143.05(c)(4)A3 for front yard parking and front yard lot coverage
Current Use:	Single-Family
Zoning:	"R2MS" Single and Two-Family Mile Square Residential District
Surrounding Land Uses:	Single and Multi-Family

DESCRIPTION

The Applicant is proposing to construct a 16' x 25' driveway (parking area) in the front yard. The proposed size of the driveway would allow the Applicant to satisfy the parking requirement of providing two spaces; however, only one space is permitted in the front yard. In addition, due to the small lot width, the front yard lot coverage would require a variance regardless of whether the Applicant constructs one or two parking spaces in the front yard.

The property is a lot of record, and under Section 1137.05(a) a single-family home was permitted to be constructed provided the lot contained 3,000 sq.ft. of lot area and had a minimum width of 33 feet.

VARIANCES REQUESTED

Section 1149.04(a)(1): One parking space may be located in a required front yard. All other parking spaces required or provided in excess of the minimum requirement shall not be located in the required front yard.

- The Applicant is proposing to locate the two required parking spaces in the front yard.

Section 1143.05(c)(4)A3: The maximum front yard lot coverage for lots with vehicular access from a public street in the "R2MS" Single and Two-Family Mile Square Residential District shall not exceed 25% of the front yard.

- The Applicant is proposing 45% in front yard lot coverage.

AGENCY COMMENTS:

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

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

SITE HISTORY

No Prior BZA History.

The site has a long history in regards to the construction that has occurred on the property. A permit was released in 2007 for the construction of a new single-family house. Prior to the issuance of the permit, the property owner obtained an ingress/egress easement from the neighboring property to the north (604 S. Main Street). This was intended to provide room for a driveway on the neighboring lot, as an accommodation for the long, narrow configuration of the subject lot. The intended driveway was shown on the plans (submitted in 2007) as being provided on the neighboring property with a parking pad at the rear of the new house. However, during construction the Applicant's business partner was told the driveway location would have some effects on the storm water system. Ultimately, the driveway pad was flipped to the south side of the property without City approval and no easement was established with the adjacent southern property owner (608 S. Main Street). This configuration required any occupants of the subject property to trespass on the southern property to obtain access to their parking pad. The driveway as approved on the northern property was never installed. The final inspection was failed as a result of these findings at the time of the inspection.

Due to some interoffice miscommunications, water service was provided to the property, but no Certificate of Occupancy (CO) or rental permit was issued to the property due to the driveway issues. Ultimately the house became occupied illegally. For almost two years staff has been working with the property owners' business partner who was responsible for the construction, until it was necessary to get the property owner involved to rectify the outstanding issues. It appears that poor communication may have been an issue between the business partners.

To add to the complexity of this case, the neighboring property owner to the north applied for and was issued a permit for an addition to an existing residential structure. This addition was permitted because all of the underlying zoning requirements were satisfied and there was no driveway occupying the easement area. Legally, there was no basis for Zoning to deny the permit to the northern property owner. However, the driveway cannot be installed now in the established easement on the northern property unless a variance is granted to the northern property because the installation of the driveway would cause the northern property to exceed its total permitted lot coverage.

For the past six months staff has been working with Mr. Renzi, owner of the subject property, who has actively been negotiating with the southern property owner to acquire an ingress/egress easement. It recently became evident terms for an easement would not be obtainable.

ANALYSIS

The primary goal of staff and the owner is to get the Certificate of Occupancy issued. The outstanding issues regarding this permit have been ongoing for over two years and needs resolution.

As previously referenced the lot width is very narrow. The Applicant is required to maintain all the site development regulations even though the lot width does not conform to the 50' requirement. The house is only 20' wide in order to maintain the required 7.5' side yard setbacks. Driveways are required to be 3' from the house and 2' from the property line. There is no space on either side of the house to install a driveway, thus the reason an easement was obtained from the northern property owner to provide access to a parking pad at the rear of the property to provide onsite parking. As aforementioned, whether one or two spaces are provided onsite or basic ingress/egress in general to this property, the front yard lot coverage would require a variance.

The owner for the past six months has been actively in contact with staff regarding the easement negotiations with the property owner to the south. Once it was realized that the southern easement was unobtainable the owner has completed and filed all paper work as staff has requested to come to closure with the outstanding issues. As evident on the site plan, the owner desires to provide some parking for the

residents as opposed to requesting a total waiver on the parking requirement. To further confirm the owners desire to meet the underlying zoning requirements, removal of a portion of the concrete pad in the rear is planned, so as not to have to request any more variances than absolutely necessary.

The requested variances may be considered substantial, but the property in question will not yield a reasonable return, as the owner cannot legally use the property until the Certificate of Occupancy is issued and until the parking situation is resolved. The requests are the minimum variances needed, with the exception of waiving the parking requirement altogether, which the owner does not desire. Staff does not believe the essential character of the neighborhood would be substantially altered by the variance as this is a residential area and there are single-family units directly across the street from this property that also provide parking in front of the structure. There were no comments received from the various City Departments indicating there would be a detrimental effect on government services. There is no other reasonable way to feasibly obviate the issue, and the owner has exhausted all other possibilities with the neighboring properties. Staff believes that substantial justice would be done by granting the variance.

RECOMMENDATION

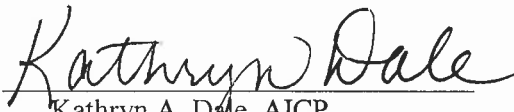
Staff recommends that the requested variances be granted, with the following conditions:

- 1.) All permits are obtained and work is completed in 3 months.

Should the BZA find that parking in the front yard is not appropriate for this area, the BZA may approve a variance to the property with the condition that the variance being approved is to waive the parking requirement altogether [Section 1149.03(e)(2)]. Should the BZA come to this conclusion, the following conditions shall apply:

- 1.) That, a portion of the concrete pad in the rear is removed as necessary to comply with the zoning requirements.
- 2.) All necessary occupancy and rental permits are obtained in 3 months.

SUBMITTED BY:


Kathryn A. Dale, AICP
City Planner

DATE: May 26, 2010

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 5/11/2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-05-2010

ADDRESS: 606 S. Main Street

BZA-05-2010 606 S. Main Street, Sections 1149.04(a)(1) and 1143.05(c)(4)A3 variances for front yard parking and front yard lot coverage, Jean-Pierre Renzi Applicant/Owner

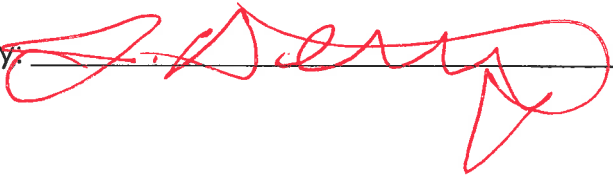
 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 06/04/10 Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

Drawings reviewed by: 

Date: 5-13-10

City of Oxford
Inter-Office Review Transmittal Sheet

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 X Review

 Revisions

 Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 06/04/10 Note: If no comments are received, we will assume the project meets your department's standards.

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

PLEASE SEE MEMO DATED 6-2-10

Drawings reviewed by: *A. P. Renzi*

Date: 6-2-10



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-05 - 2010
606 S. Main St.

DATE: June 2, 2010

The Engineering Division recommends that BZA take the following into account if it desires approval of this case.

- Driveway clearance from property line.
- If approval is granted, effected utilities (i.e. sanitary clean-out, water meter, etc.) must be adjusted to grade, and traffic bearing covers must be installed, if located in the driveway area.
- If the existing catch basin will be located in the proposed driveway, it must be modified into an inlet.
- The Engineering Division is not aware of other properties with parking similar to the proposed.

If there are questions, please contact the Engineering Division at 513-524-5208.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 5/11/2010

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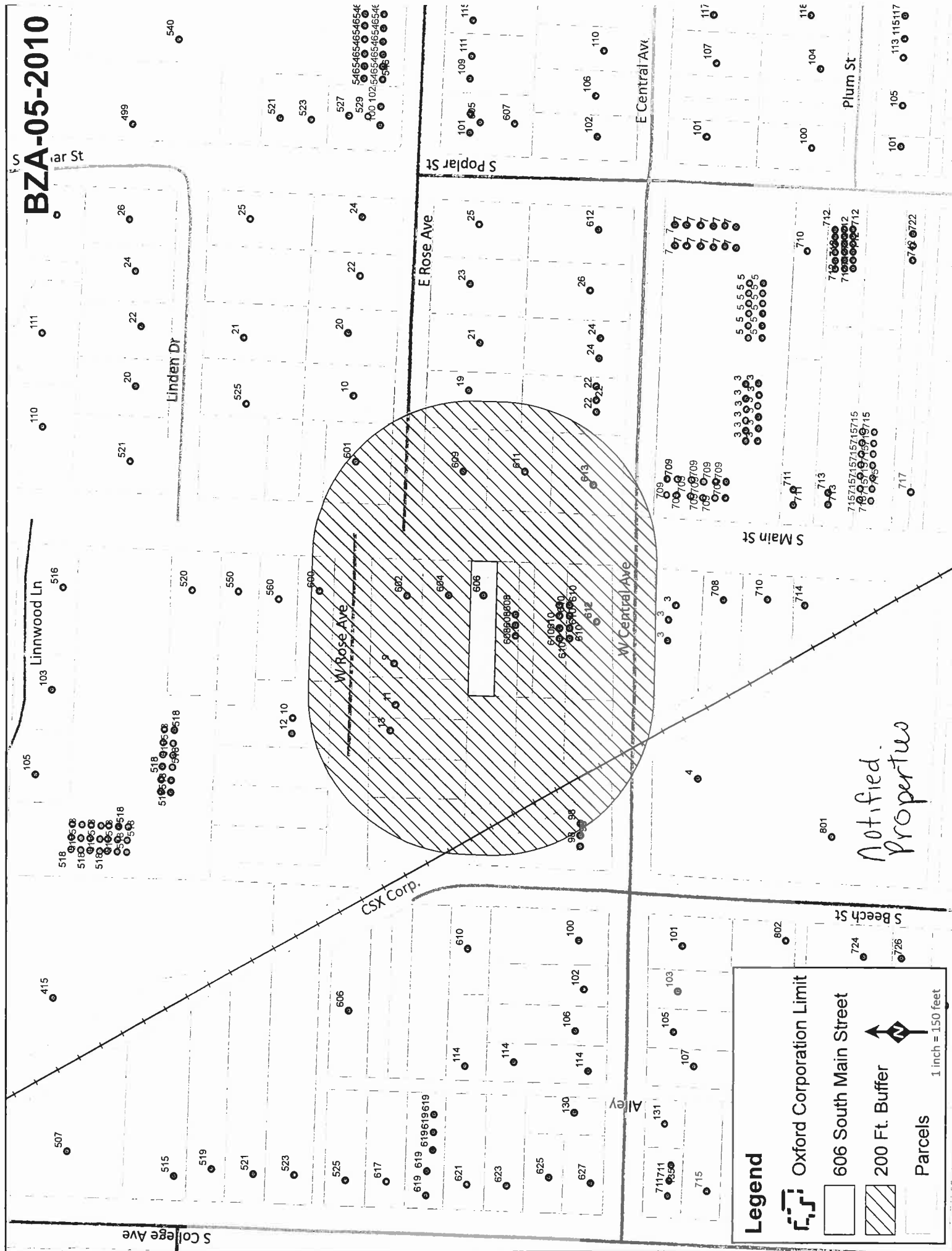
Please return no later than: 06/04/10 Note: If no comments are received, we will assume the project meets your department's standards.

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

NON-ECONOMIC DEVELOPMENT

Drawings reviewed by: *[Signature]*

Date: *5-17-2010*



Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner: Jean Pierre Renzi
(Attach a Letter of Agency if the Applicant is not the property owner.)
Mailing Address: 3985 Oak Pointe Ct Rochester Hills MI 48306
Telephone Number(s): 248 377 0380 586 634 4027
Email Address: jprezzi@yahoo.com
Name of Property Owner: J.P.R. Enterprises Inc
Mailing Address: 6450 Sims Sterling Heights MI 48313
Telephone Number(s): 248 377 0380 586 634 4027
Requested Variance: 2 Front Parking Spaces
(Indicate nature of variance and applicable section(s) of the Zoning Code.)
section 1149.04(a)(1) - 2 parking spaces in front yard
1143.05(c)(4)A.3 - Front yard lot coverage
Location of Requested Variance: 606 S. Main street Oxford
Legal Description: Parcel ID # H4000106000016
Zoning District: R2MS
Total Acreage: .138 Acres
Existing Use of Site: Single Family
Proposed Use: (if applicable) Same as 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 non-standard paper, more copies may be required.

(1) **SITE PLAN** – A scaled site plan shall include the following information in detail and must be prepared by an Ohio licensed surveyor. The required information may be submitted on multiple site plans if inclusion of all information on a single plan makes it illegible or difficult to understand.

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

(2) **ELEVATIONS** – Elevations of proposed structure, or typical elevations if structures are not yet designed, may be required by the Zoning Administrator if the proposed location, height, or bulk of the structure is such that it may negatively affect an adjacent use.

(3) **OTHER** – Photographs of the existing use and its surroundings and other information regarding the proposed use, site, or surrounding area as may be pertinent to the application or required by the Board of Zoning Appeals.

(4) On a separate sheet, provide the names and mailing addresses of all property owners within 200 feet of all boundaries of the property in question, provide parcel numbers as well. NOTE: The Butler County website (www.butlercountyohio.org/auditor) is very helpful when searching for the mailing address of adjoining property owners. Once the site is up, click on online searches, then click on real estate. It will allow you to search by owner, address or parcel number.

(5) A separate narrative statement that explains how the proposed variance satisfies each of the following Decision Standards required to grant a variance. A separate response is required for each subsection. In determining whether practical difficulties exist sufficient to warrant a variance, the Board shall consider and weigh the following factors:

- a) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;
- b) Whether the variance is substantial;
- c) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- d) Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage);
- e) Whether the property owner purchased the property with knowledge of the zoning restriction
- f) Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;
- h) Any other relevant factor.

Submit this application with required attachments and a **\$150.00 filing fee**, made payable to the City of Oxford, to the office of the Community Development Director, Municipal Building, 101 East High Street, Oxford, Ohio 45056. Any questions should be directed to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

NOTE: Notification and publication requirements must be adhered to. Submit materials 35 days prior to the proposed Board of Zoning Appeals meeting at which the action is requested. City Staff will erect a public hearing sign on the subject property. It is the Applicant's responsibility to remove the signage once the hearing(s) are completed.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

SIGNATURE OF APPLICANT: J.P.R. Date: 5/10/10

PRINTED NAME OF APPLICANT: Jean Pierre Renzi

FEE / RECEIPT
\$150 Fee Paid / Receipt Number: 15582121

JPR Enterprises, Inc.
6450 Sims
Sterling Heights, MI 48313
586-979-2880 phone
586-979-9933 fax

City of Oxford, Ohio
130 High Street
Hamilton, Ohio 45001

Re: Petition for Zoning Variance: parking spaces
606 S. Main Street
Oxford, Ohio
Parcel ID# H4000106000016

I am requesting a variance of two parking spaces to be placed in the front of the above-mentioned property. There is a man-hole on the right side of the property which originally made the placement of the driveway very complicated. The front parking spaces are necessary because a driveway on either the right or left side of the property is not permissible. A driveway is not permissible on the right because the "right" adjoining property owner, who had previously agreed to an easement, now placed an addition to his property; there is no longer enough space to fit the driveway. The "left" adjoining v property owner will not allow an easement so that the driveway can be placed on the left side.

- a) The variance needs to be allowed so that a proper certificate of occupancy can be issued.
- b) The variance is substantial.
- c) The variance would not alter the essential character the neighborhood. The adjoining properties would not suffer any detriment if this variance is permitted.
- d) The variance would not adversely affect the delivery of governmental services.
- e) The property owner was not aware that the water hole placement would affect the placement of the driveway when purchasing the property.
- f) We have exhausted all other means of finding a suitable solution that satisfies the property owner, the adjoining property owners,

and/or the city. All parties agree that the front parking spaces would solve the problem.

g) If the variance was granted, the spirit and intent behind the zoning requirement would be observed and substantial justice would be done.

h) No other relevant factors apply.

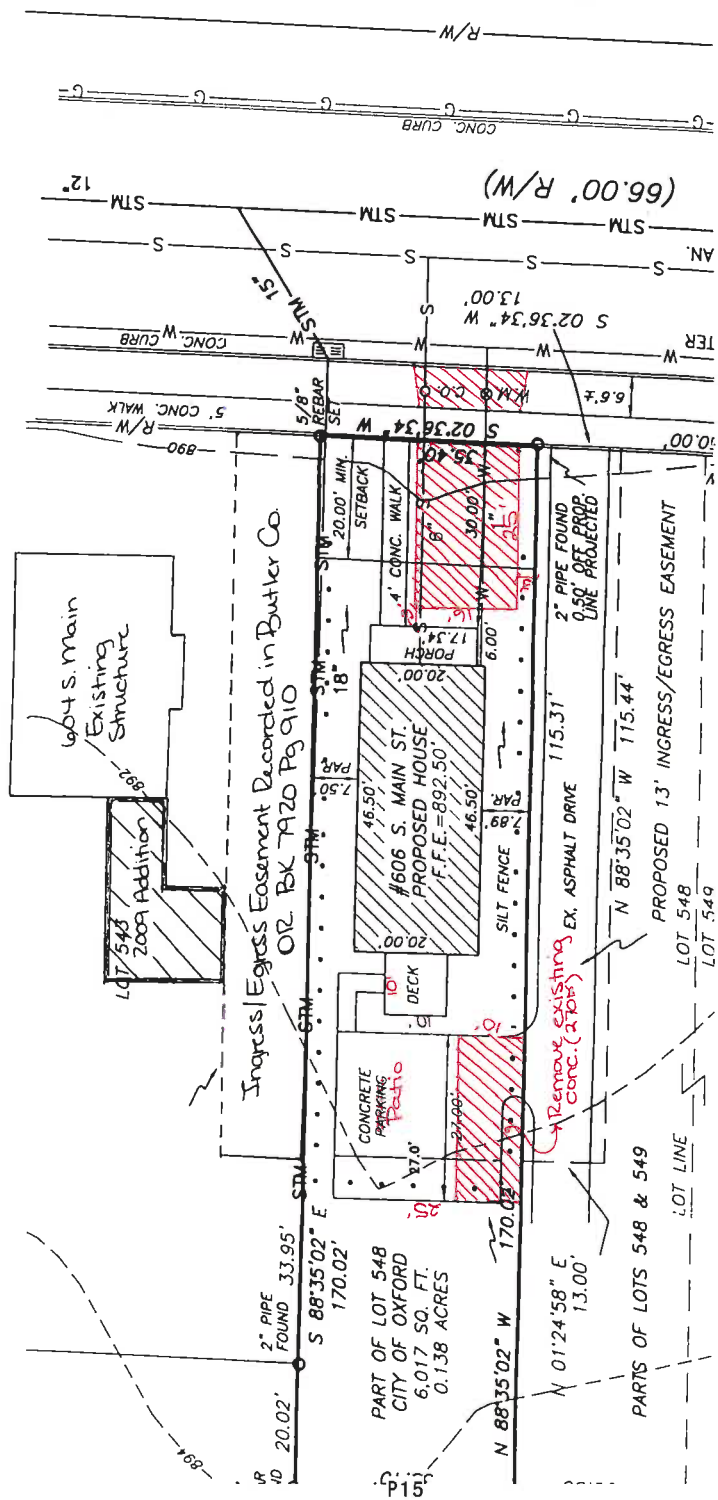


LOT COVERAGE
Driveway = 400
 LOT 6,017 SQ. FT.
 STRUCTURE 930 SQ. FT.
 PORCH 104 SQ. FT.
 PARKING 679 SQ. FT.
 PRIVATE WALK 163 SQ. FT.
 DECK 100 SQ. FT.
TOTAL COVERAGE
 1,976 SQ. FT. *2162*
 6,017 SQ. FT. X 100 = 32.84 %
34.9%

BUILDING COVERAGE
 STRUCTURE 930 SQ. FT.
 PORCH 104 SQ. FT.
 1,034 SQ. FT. X 100 = 17.18 %
 6,017 SQ. FT.

FRONT YARD
 FRONT YARD = 1,068 SQ. FT.
 WALK AREA IN FRONT YARD = 121 SQ. FT.
Driveway = 320/700 = 45%
 121 SQ. FT. X 100 = 11.33 %
 1,068 SQ. FT.

- ⑤ SANITARY MANHOLE
- ⑥ STORM SEWER MANHOLE



BOARD OF ZONING APPEALS

Meeting Minutes

Wednesday, April 21, 2010

Call to Order

Those members present: Todd Hollenbaugh, Gary Meyer, William Houk, George Prentice, and John Barnhart

Those members excused: None.

Staff members present: Lynn Taylor, Rob Jacques, and Kathryn Dale.

Staff members excused: None.

Executive Session

Chairman Hollenbaugh invited a motion for approval of the agenda with the deletion of the Executive Session.

Mr. Meyer made motion to approve the agenda with the deletion of the Executive Session. Mr. Barnhart seconded the motion. The motion passed 5-0-0.

Chairman Hollenbaugh advised for a variance petition to prevail, an Applicant would have to garner three votes from the Board. Chairman Hollenbaugh noted that he would have to recuse himself from hearing BZA-04-2010 as he was a neighbor. Mr. Jason Reynolds, acknowledged the information, and wished to proceed.

Adjudication Hearing

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

Mr. Myers made motion to adjourn to Adjudication Hearing BZA-04-2010. Mr. Barnhart seconded the motion. All were in favor.

As earlier noted, Mr. Hollenbaugh recused himself from BZA-04-2010 discussion. Mr. Hollenbaugh is a neighbor of the Appellant.

Mr. Houk, Vice-Chair, conducted the Hearing.

Ms. Dale referred to a 2002 lot split of the property. During the lot split, variances were granted allowing for insufficient lot width and side yard setbacks. The family of the properties had wanted to create two lots. Ms. Dale stated the lot was split down the center of the property as well as it possibly could. Also, Ms. Dale stated during the time of the lot split, discrepancies in the surveys, legal descriptions and perception of where the property lines were located occurred.

Ms. Dale stated the Appellant was proposing to construct a 24'x30' deck addition onto an existing deck. Including the tie-in into the existing deck, the proposed deck addition would comprise of 777.6 sq. ft. The closest corner of the existing deck was approximately 8' from the side property line; the proposed addition would be approximately 5.7 feet. The total square footage of decking that would be located in the required 10' side yard setback was 98 sq. ft. (roughly 6% of the total deck area).

Ms. Dale stated the Appellant applied for and received a building permit in May 2009 for the deck addition. At the time of the building review, the Appellant showed being 12.67' from the side lot line. The zoning review concluded that the side yard setback was satisfied, and signed off on the permit and the permit was issued. Ms. Dale stated in March 2010 a concerned neighbor called inquiring if the deck was on her property. Ms. Dale stated that upon review the deck was not on the adjoining property, but was encroaching into the required side yard setback. Ms. Dale stated that the Appellant ceased working on the deck until the situation was taken care

of.

The Appellant, Mr. Jason Reynolds, was sworn in. Mr. Reynolds stated he purchased the property in 2005 from the nephew of the neighbor who was located at 937 Silvoor. Mr. Reynolds described how the property line ran. Basing the design of the new deck on how the current deck was placed on the property, Mr. Reynolds designed it square to the house. Mr. Reynolds explained the importance of the deck to him: that there was nowhere for the kids to play; no front yard; backyard consisted of a steep hill overlooking a wildlife sanctuary; no flat useable land and there being foot traffic of students in the backyard; the deck became the next best step and why it is so large. Mr. Reynolds believed he was 12.67 feet off the property line, had already installed the beams and joists. Mr. Reynolds stated the City came out to review when received the complaint and discovered the angle in (the closer to the house the farther away from the property line) in the corner back being only 5.7 feet away from the property line. Mr. Reynolds stated he wouldn't have built the deck if the neighbor's enjoyment was compromised.

Mr. Prentice inquired if Mr. Reynolds considered reconfiguring the deck so it would be in compliance. Mr. Reynolds stated the 16-foot posts would have to be removed; basically would have to tear out posts on that side.

Ms. Suzette Shahin, 937 Silvoor Lane, was sworn in by Mr. Houk. Ms. Shahin stated she has lived on Silvoor for 14-15 years. Ms. Shahin described how the properties ran; described how the entrances (driveways shared) ran. Ms. Shahin loved when Mr. Reynolds's moved in; has no problem accommodating Mr. Reynolds. Ms. Shahin stated she was afraid if Mr. Reynolds would sell what problems could occur; would the encroachment cost me later on if Ms. Shahin wished to expand.

Mr. Barnhart moved to close the Public Hearing. Mr. Meyer seconded the motion. All were in favor

Mr. Prentice inquired if, as a neighbor With Standing she was agreeable to his request. Ms. Shahin inquired about how this would cost her in the future if she wanted to build. Mr. Prentice stated that it wasn't within BZA's perview to answer; Ms. Shahin would have to apply for a variance permit, and present just like Mr. Reynolds's has; it is all based on the facts of the case and what is presented during the hearing and the law in effect at the time. Mr. Houk added that she could look at in a number of ways; ask yourself is there any reasonable way you would build 10 feet within where your house sits; we can't guarantee anything in the future; if you build something that encroaches into the 10' line you would be in the same position as Mr. Reynolds-asking for a variance.

Mr. Meyer stated it would not make it harder or easier for Ms. Shahin to get a variance; it wouldn't affect her getting a variance in the future. Ms. Shain stated she wanted Mr. Reynolds to stay; understood with children; attend the same church. Mr. Shahin stated she was upset with the City not returning her call. Mr. Houk apologized and stated we should have been more communicative.

Discussion followed. The BZA discussed possibly altering the deck by taking off footage on the edge in question; previous side yard setbacks granted prior to the establishment of the lot on which the subject property is located, the unique configuration of the lot and its relation to Ms. Shahin's property, the rugged topography of the property, and the Appellant's testimony regarding his belief of where the property lines were located, all were factored in.

The BZA deliberated and made the following Findings of Fact regarding the variance request to allow the deck to project into the side yard setback:

1. The subject property can continue to yield a reasonable return without the variance, as the underlying zoning permits single-family residential uses and the property can be used as such without the variance.
2. The variance is not substantial, considering that less than 10% of the total deck square footage would encroach into the side yard setback. Based on the previous variance granted for side yard setback encroachment on this side of the property, the requested variance is minimal.

3. The request would not affect the essential character or substantially alter the neighborhood, as the area is predominately wooded and buffered from neighboring properties. It is merely an extension of an existing deck. Although the Board heard testimony from the neighboring property owner as to unspecified concerns about the future development of her own property, these concerns were speculative and the neighbor expressly declined to object to the variance.
4. No reports were received from the various City Departments indicating any detrimental effect on the delivery of governmental services, and no such effect is anticipated.
5. The property owner was aware of the zoning restrictions for side yard setbacks, and made efforts to comply with the Zoning Code. The non-compliance was based on the property owner's mistaken, but reasonable, belief as to the exact location of his property line. The error was not detected until a formal survey was conducted at the property owner's request.
6. The property owner could obviate the issue by removing support posts and concrete footings already installed and reducing the deck layout to conform to the setback requirement. While feasible, the Board finds that the minimal nature of the variance outweighs the extraordinary effort and expense required to do so.
7. The spirit and intent of the Zoning Code would still be observed, and substantial justice would be done, by granting the variance.

George Prentice moved to approve BZA-04-2010 933 Silvoor Lane, Section 1143.01(c)(2)C variance for a deck in the side yard setback, based on Findings of Fact. Gary Meyer seconded. The motion passed with the following roll call:

AYE: Gary Meyer, William Houk, George Prentice, John Barnhart (4)

NAY: None (0)

ABS: Todd Hollenbaugh (1)

Approval of Minutes of the March 17, 2010 Regular Meeting

Mr. Houk made motion to approve the March 17, 2010 minutes as written. Mr. Barnhart seconded the motion. All were in favor.

Old Business

Mr. Meyer inquired about the Wal-Mart parking lot trees having been cut down. Ms. Dale responded by stating that Wal-Mart had supplied at the time of construction what was required and that the cutting down of the parking lot trees did not affect the level of the requirement. Ms. Dale noted that this was not a BZA issue.

New Business

Mr. Hollenbaugh shared some sign violations he had observed. The Subway sign was still flashing, pizza signs have been popping up all over town (at intersections, railroad crossings, etc.). Mr. Hollenbaugh also shared his concern regarding banners, larger than allowed, and over the amount allowed. Ms. Dale stated banner issues have been looked into, and that the violators have until April 30 to remove the banners.

Mr. Prentice inquired about the sign on front of Kroger' and if that was what they had approved. Ms. Dale stated the coffee shop signage initially was Starbucks but they changed to Seattle's Best, and that the sign now was actually smaller square footage; therefore, they were within or less than what was approved by BZA.

Mr. Meyer inquired about the RDI parking lot and their landscaping requirement. Ms. Dale stated the work had been completed, and the parking lot had been paved.

Adjournment

Mr. Houk made motion to adjourn the meeting. Mr. Meyer seconded the motion. All were in favor. The meeting adjourned at 8:33 p.m.