

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

Case # BZA-07-2010

Date –July 21, 2010

APPLICATION

Petitioner:	Don Thomas
Location:	318 S. Main Street
Owner:	D & B Family Limited Partnership (Dennis Day)
Action Request:	Variances to Section 1137.04(a) porch addition to a nonconforming land use.
Current Use:	Multi-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 2-story, 10' x 16' covered porch addition for each unit on the street facing façade of the subject structure. The structure contains a nonconforming 4-family use. The proposed addition satisfies all other requirements for this zoning district in regards to setbacks and lot coverage.

VARIANCES REQUESTED

Section 1137.04(a):	A legal nonconforming land use may continue, but shall not be expanded either on the same or adjoining land beyond the building or structure that was occupied by the use at the time the land use became nonconforming, except that such use may be extended throughout those parts of an existing building that were clearly arranged or designed for such use at the adoption of this Code. • The subject property is a four (4) family, nonconforming use.
----------------------------	--

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.:	See comments attached

SITE HISTORY

No Known Prior BZA History.

ANALYSIS

According to the Applicant's letter they wish to provide a porch to improve the plain wall façade of the building which would be in keeping with the surrounding neighborhood. There is no principal entrance facing the street, nor would the porch provide an entrance to all of the units, but it would provide the appearance of an entry facing the street. Currently, the primary entrance to the units is on the northern façade facing the side property line. The proposed porches would only be accessible from within the individual units. The Applicant has indicated that they are agreeable to providing landscaping if the request is approved.

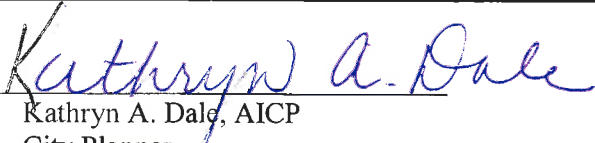
Additionally, the Applicant poses the question if a similar request would be looked upon favorably if they would come back and request similar porches to the rear of the building for the other two-units. Staff would recommend that a separate application be made for such request, or this application tabled to include such request formally, with affirmation if the current request is approved, such proposal for rear porches will be heard on its own merits. It would seem that a rear porch defeats the intent to provide aesthetic improvements in character with the neighborhood versus living improvements.

The property in question will yield a reasonable return and can be used beneficially without the variance because the living space to the units will remain unchanged and can continue to be used as a 4-family without the porch addition. The request is not substantial as it relates to the other underlying zoning requirements, but is substantial due to the potential affect it can have of converting this space to livable space if enclosed in the future. The essential character of the neighborhood would not be substantially altered by the variance and the adjoining properties would not suffer a substantial detriment as a result of the variance as this is a residential area and there are other properties and similar units with porches. There were no comments received from the various City Departments indicating there would be a detrimental effect on government services. There is no practical difficulty to property owner to utilize the property as intended.

RECOMMENDATION

Not Applicable

SUBMITTED BY:


Kathryn A. Dale, AICP
City Planner

DATE: June 21, 2010

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 6/18/2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-07-2010 318 S. Main Street

BZA-07-2010 318 S. Main Street, Variance to Section 1137.04(a), nonconforming land use, porch addition, **Don Thomas, Applicant/Agent**

____X____ Review _____ Revisions _____ Other

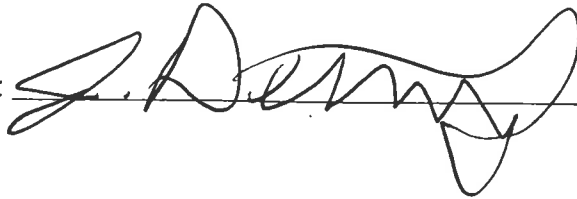
Comments or status update requested by: Lynn Taylor

Please return no later than: **7/09/2010** Note: If no comments are received, we will assume the project meets your department's standards.

.....

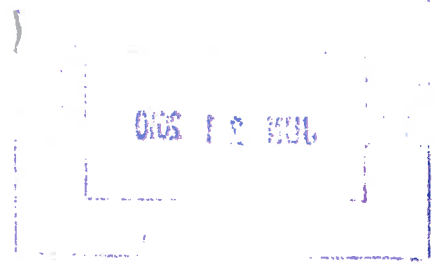
Drawings are returned: w/comments without/comments

Drawings reviewed by:



Date: 6-24-10

City of Oxford
Inter-Office Review Transmittal Sheet



Date: 6/18/2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-07-2010 318 S. Main Street

BZA-07-2010 318 S. Main Street, Variance to Section 1137.04(a), nonconforming land use, porch addition, **Don Thomas, Applicant/Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **7/09/2010** Note: If no comments are received, we will assume the project meets your department's standards.

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

Drawings reviewed by: _____

Date: 6-23-10

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 6/18/2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-07-2010 318 S. Main Street

BZA-07-2010 318 S. Main Street, Variance to Section 1137.04(a), nonconforming land use, porch addition, Don Thomas, Applicant/Agent

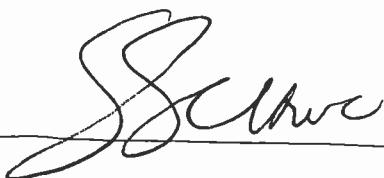
 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **7/09/2010** Note: If no comments are received, we will assume the project meets your department's standards.

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

Drawings reviewed by: _____



Date: 6/18/10

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 6/18/ 2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-07-2010 318 S. Main Street

BZA-07-2010 318 S. Main Street, Variance to Section 1137.04(a), nonconforming land use, porch addition, **Don Thomas, Applicant/Agent**

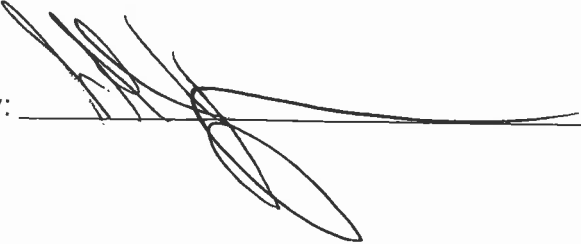
 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

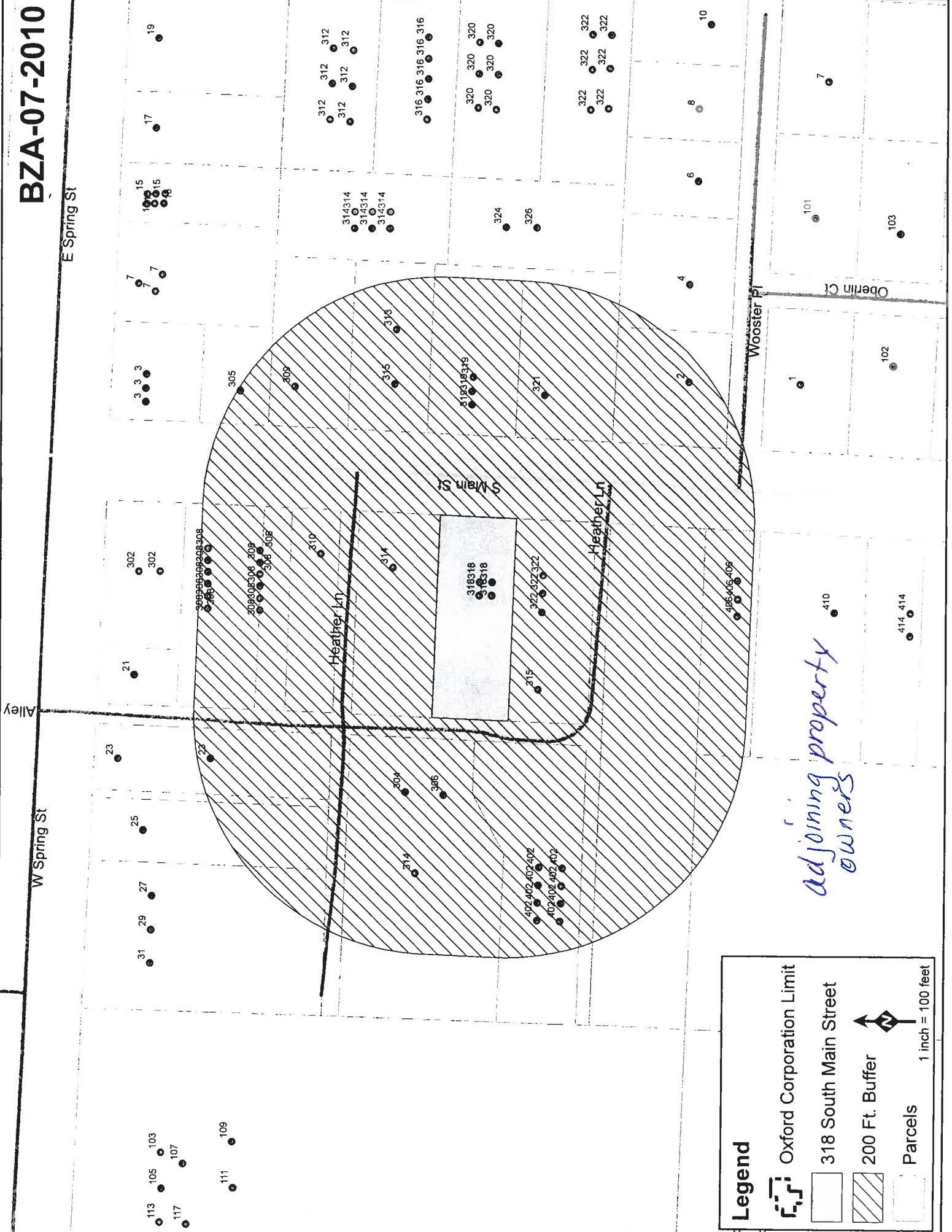
Please return no later than: **7/09/2010** Note: If no comments are received, we will assume the project meets your department's standards.

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

IT'S NICE TO SEE OLDER STRUCTURES BEING RENOVATED.

Drawings reviewed by: 

Date: 6-24-10



Legend

- Oxford Corporation Limit
- 318 South Main Street
- 200 Ft. Buffer
- Parcels

1 inch = 100 feet

NOTICE OF REFUSAL

June 4, 2010

BZA Case No.: _____

Application No.:

10-121

318 S. Main Street

To Applicant: Don Thomas
507 S. College Avenue
Oxford, Ohio 45056

To Owner: D & B Family Limited Partnership
Attn: Dennis Day
115 S. Locust Street
Oxford, Ohio 45056

Your application dated **JUNE 2, 2010** for a zoning certificate for a **PORCH ADDITION** located at **318 S. MAIN STREET, OXFORD, OHIO 45056** is hereby refused on this **4th DAY OF JUNE, 2010** under **Chapter 1131, Chapter 1133, Section 1137.04(a) and Section 1129.01** of the Oxford Planning & Zoning Code in that,

Chapter 1131 & 1133 of the Oxford Planning & Zoning Code designates the location of this property as "R2MS" Single and Two-Family Residential District.

Section 1137.04(a): A legal nonconforming land use may continue, but shall not be expanded either on the same or adjoining land beyond the building or structure that was occupied by the use at the time the land use became nonconforming, except that such use may be extended throughout those parts of an existing building that were clearly arranged or designed for such use at the adoption of this Code.

- The subject property is a four (4) family, nonconforming use.

Section 1129.01: No building or other structure shall be erected, moved, added to, or structurally altered, nor shall any building, structure, or land use be established or changed in use without a permit therefore issued by the Zoning Administrator.

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

Kathryn A. Dale, AICP
City Planner

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

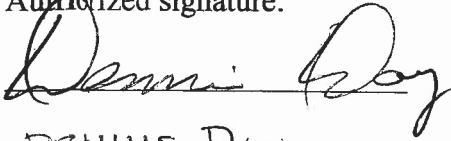
LETTER OF AGENCY

To; City of Oxford
101 E. High St.
Oxford, Ohio 45056

The following signature authorizes Don Thomas to represent us as the owners agent in the zoning appeal for the following property:

318 S. MAIN ST.

Authorized signature:



DENNIS DAY
Printed name

Title: owner

6/10/2010
Date

Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner: DON THOMAS
(Attach a Letter of Agency if the Applicant is not the property owner.)
Mailing Address: 507 S. COLLEGE AVE., OXFORD, OH 45056
Telephone Number(s): 523-5900
Email Address: _____
Name of Property Owner: D & B FAMILY LIMITED PARTNERSHIP
Mailing Address: 115 S. LOCUST ST., OXFORD, OH 45056
Telephone Number(s): 523-3633 615-5545
Requested Variance: EXPAND STRUCTURE BY ADDING A 10' X 16'
(Indicate nature of variance PORCH TO 4 UNIT APARTMENT BUILDING AS
and applicable section(s) IN VIOLATION OF SECTION 1137.04(2) OF
of the Zoning Code.) OXFORD ZONING CODE
Location of Requested Variance: 318 SO. MAIN ST.
Legal Description: _____
Zoning District: R2MS
Total Acreage: _____ Acres
Existing Use of Site: 4 FAMILY APARTMENT
Proposed Use: (if applicable) SAME
A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles, and the hours of operation.

REQUIRED INFORMATION

Eight complete sets of all information shall be submitted with an application. The Zoning Administrator may modify this requirement based upon the type of materials included. The applicant is encouraged to contact the Zoning Administrator prior to submitting an application to discuss the submission requirement. If any information is submitted in color or on non-standard paper, more copies may be required.

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

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

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

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

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

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

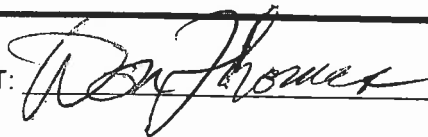
- a) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;
- b) Whether the variance is substantial;
- c) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties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

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

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

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

SIGNATURE OF APPLICANT:



Date: 6/10/2010

PRINTED NAME OF APPLICANT:

DON THOMAS

FEE / RECEIPT

\$150 Fee Paid / Receipt Number: 15655.6

B.Z.A. Narrative
318 S. Main St.

June 10, 2010

a) The property is currently a four unit apartment building. The current rental market for these older apartments, this was built in the 1960's, has become very competitive. It has become increasingly difficult to rent them. It is hoped that the addition of the porch will be beneficial in renting them and will yield a reasonable return for the owners.

b) The variance provides a minimal amount of additional area. All of which is unenclosed porch. It does not add to the enclosed living area but does provide additional space for the tenants.

c) The essential character of the neighborhood is multi-family residential and the adjoining properties would not be detrimentally affected by the variance.

d) No governmental services or utility services would be affected by the variance.

e) The property was purchased prior to the effective date of the current zoning code. The property meets all other requirements of the existing code and this is the only variance needed or wanted.

f) The property owner's predicament, the plain face of this east wall which faces the street, detracts from the "curb appeal" of the building. This variance would improve the "curb appeal" of the building and be more in keeping with the surrounding properties, most of which have porches. It is difficult to get prospects to tour the building if they are unimpressed with the exterior.

g) The intent of the front setback in the zoning code is to provide green space. The current zoning code requires a 20' setback in this R2MS district. This 10' porch conforms to that requirement as existing building is 30' back.

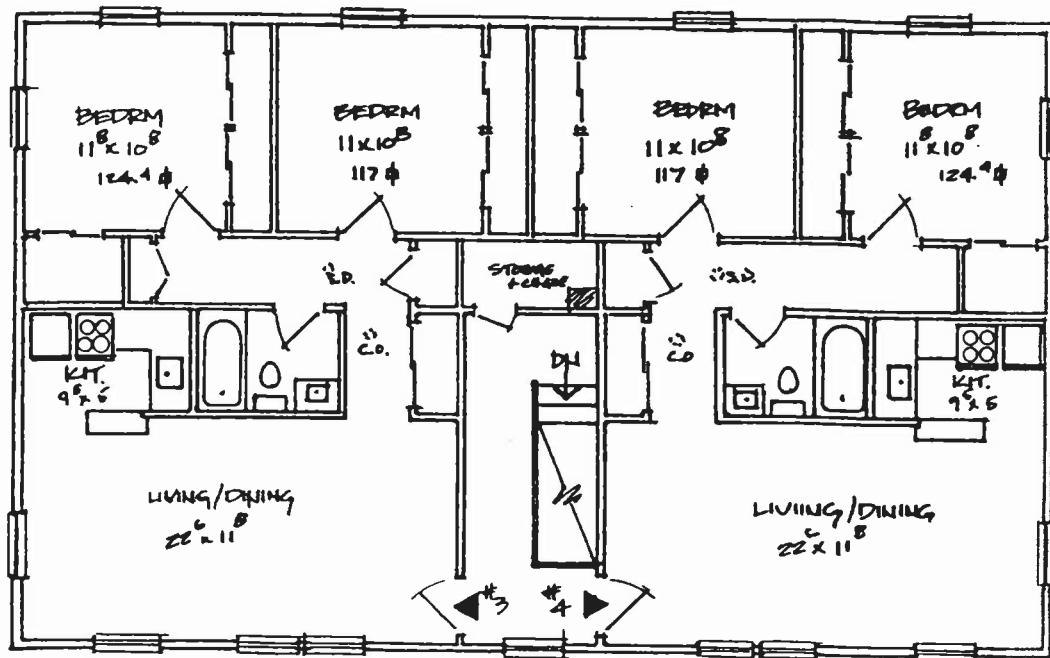
h) The owner would agree to provide landscaping if required. The possibility exist to have steps from the entrance sidewalk of the building to the 1st floor porch. That would provide an additional entrance/exit for the 1st floor tenants. It may be necessary to provide similar porches for the two rear units. That depends on the wishes of those tenants. That would, of course, also be an expansion of this nonconforming use. Would the Board give approval of that at this time instead of a separate submission at a later date? Total lot coverage would still be within the allowance.



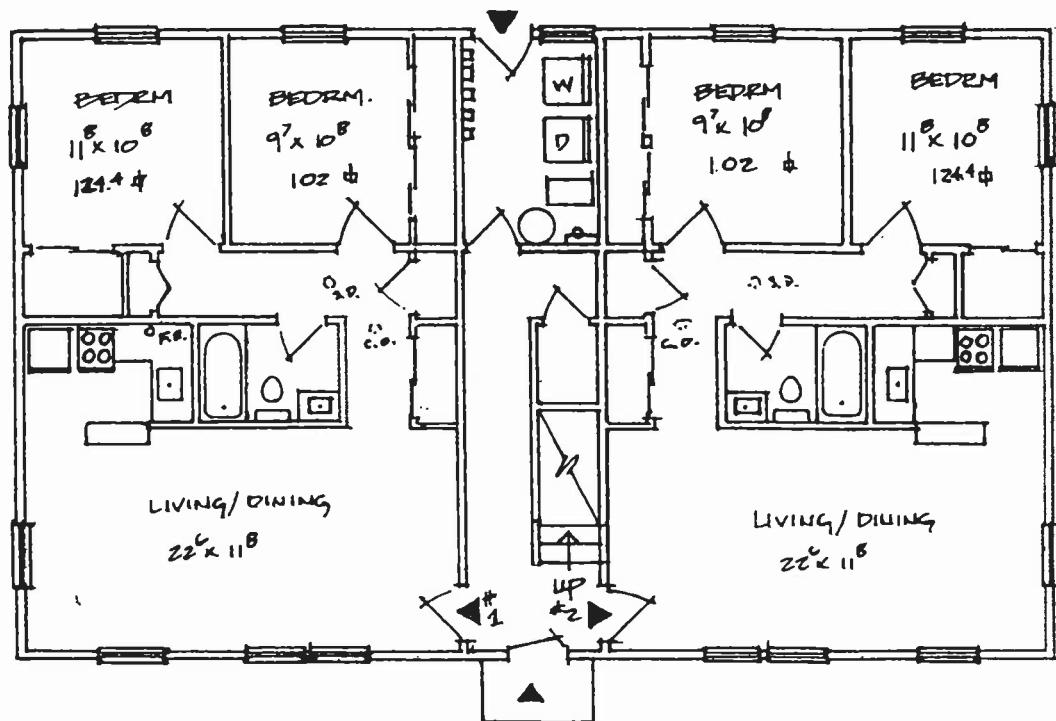
Y.I.
DECKING
FLUSH
TOP OF
FIN. GR

2:50 MIN.





2ND FLOOR



1ST. FLOOR

NORTH



318 SOUTH MAIN ST.

2/10/06
Mike [signature]

