

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

Case # BZA-11-2010

Date –August 18, 2010

APPLICATION

Petitioner: Errol & Diane Huffman
Location: 6141 Vereker Drive
Owner: Same

Action Request: Variance to Section 1143.01(c)(2)A, to allow the installation of a porch encroaching into the front yard setback.
Current Use: Single-Family
Zoning: "R1A" Single Family Low Density Residential District
Surrounding Land Uses: Single Family

DESCRIPTION

The Appellant is proposing to construct an 8' x 27' covered front porch with a 7' circular step projection that will encroach into the required 30' front yard setback. The edge of the circular steps will be approximately 20.3 feet from the front property line and the covered porch will be 27.5 feet. The purpose of the porch addition is to provide a handicap ramp.

VARIANCES REQUESTED

Section 1143.01(c)(2)A: The minimum front yard setback in the R1A zoning district shall be 30'.

- The proposed porch and stairs will be setback 20.3 feet from the front property line.

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: Comments received regarding access to and protection of existing utilities.
Econ. Dev.: No comments received to date.

SITE HISTORY

No known prior BZA history.

ANALYSIS

According to the Applicant's letter they wish to provide a covered ADA compliant handicap ramp from their driveway to the front door. The Appellants were advised prior to their submission that such ramp could be reviewed administratively without the porch covering. If they provided the porch covering it would have to meet the setback requirement. The primary covering only encroaches 2.5' into the setback. However, according to the Appellant's drawings, they are also proposing an additional 8.6' uncovered, circular stoop that will be 20.3 feet from the front property line. It would seem that the additional variance for this stoop is unnecessary and not the minimum variance needed to accommodate the principle request, which is to provide a handicap ramp.

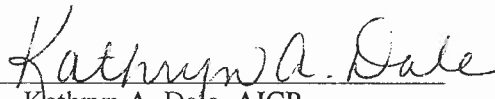
The Appellants have not officially applied for permits, thus they have not officially been denied. Further review for zoning and building code compliance may alter the design of the porch addition once a permit application is received and the Appellant may be subject to additional variances or review by this Board.

The property in question will yield a reasonable return and can be used beneficially without the variance because the property can continue to be used as a single-family without the porch addition; however, according to the Appellants letter it may not be of benefit to them due to recent medical procedures and the necessity for wheelchair use. The request is not substantial as it relates to the other underlying zoning requirements; however, this will be the closest sitting structure as it relates to the street. 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 the Appellants are proposing a porch addition that will fit with the character of the existing house and neighborhood. There were no comments received from the various City Departments indicating there would be a detrimental effect on government services. The property owner's predicament can feasibly be obviated other than a variance by not providing the covering over the handicap ramp. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance because an overall improvement will be made to the property while protecting the handicap ramp from weather elements year round, provided the minimum variance necessary is granted.

RECOMMENDATION

Not Applicable

SUBMITTED BY:


Kathryn A. Dale, AICP
City Planner

DATE: August 3, 2010

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 7/15/2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-11-2010 6141 Vereker Drive

BZA-11-2010 6141 Vereker Drive, Variance to Section 1143.01(c)(2)A, to allow the installation of a porch encroaching into the front yard setback, **Errol & Diane Huffman,**
Owners/Applicants

____X____ Review _____ Revisions _____ Other

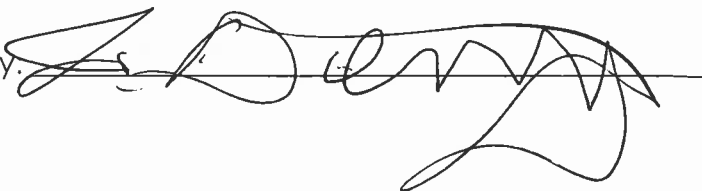
Comments or status update requested by: Lynn Taylor

Please return no later than: **8/10/2010** 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: 7-19-10

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 7/15/2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-11-2010 6141 Vereker Drive

BZA-11-2010 6141 Vereker Drive, Variance to Section 1143.01(c)(2)A, to allow the installation of a porch encroaching into the front yard setback, **Errol & Diane Huffman**,
Owners/Applicants

☒ Review ☐ Revisions ☐ Other

Comments or status update requested by: Lynn Taylor

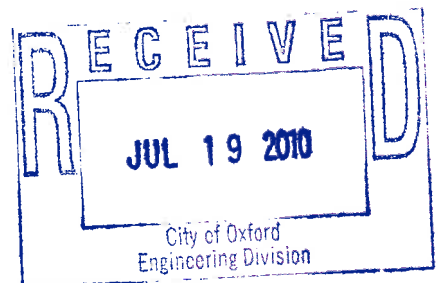
Please return no later than: **8/10/2010** Note: If no comments are received, we will assume the project meets your department's standards.

Drawings are returned: w/comments without/comments

Drawings reviewed by:

A. P. [Signature]

Date: 7-19-10





Memo

Service Department
Engineering Division

513/524-5208 fax 513/524-5267

TO: Community Development

FROM: Victor Popescu, P.E.
City Engineer

RE: Case #: BZA-11-2010
6141 Vereker Drive

DATE: July 19, 2010

The Engineering Division recommends approval of subject case, subject to the following condition:

- Care must be taken so as not to damage any existing underground utilities.
- The water meter pit and the sanitary sewer lateral clean-out must remain easily accessible, and not be covered by the proposed improvement.

If there are questions, please contact the Engineering Division at 513.524.5208.

[Type text]

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 7/15/2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-11-2010 6141 Vereker Drive

BZA-11-2010 6141 Vereker Drive, Variance to Section 1143.01(c)(2)A, to allow the installation of a porch encroaching into the front yard setback, **Errol & Diane Huffman**,
Owners/Applicants

☒ Review ☐ Revisions ☐ Other

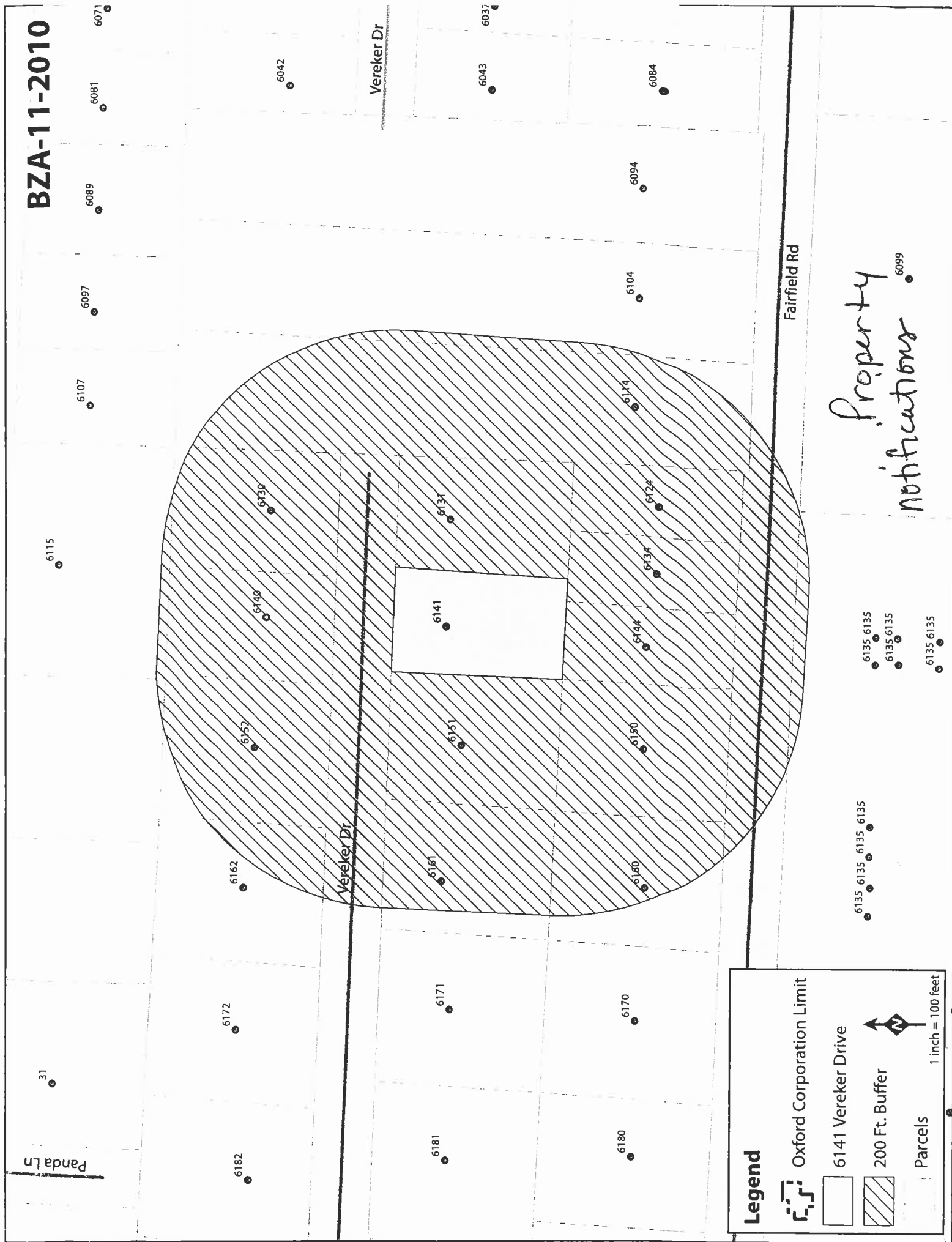
Comments or status update requested by: Lynn Taylor

Please return no later than: **8/10/2010** 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: SS

Date: 7/19/10



Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner: ERROL & DIANE HUFFMAN
(Attach a Letter of Agency if the Applicant is not the property owner.)

Mailing Address: 6141 VEREKER DRIVE, OXFORD

Telephone Number(s): 523-0024

Email Address: dsbhuffman@gmail.com

Name of Property Owner: ERROL & DIANE HUFFMAN

Mailing Address: 6141 VEREKER DRIVE, OXFORD

Telephone Number(s): 523-0024

Requested Variance: Sec. 1143.01(c)(2) A. Minimum front yard depth = 30 feet
(Indicate nature of variance and applicable section(s) of the Zoning Code.) ADA compliant porch desired which is covered
against poor weather.

Location of Requested Variance: 6141 Vereker Drive

Legal Description: H4100017000065

Zoning District: R1A

Total Acreage: 0.2893 Acres

Existing Use of Site: Residential

Proposed Use: (if applicable) Residential
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: Errol Huffman Date: 7-12-10

PRINTED NAME OF APPLICANT: ERROL HUFFMAN

FEE / RECEIPT

\$150 Fee Paid / Receipt Number: 15728, 36

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.

We would like to have a porch that is functional for the use of a wheel chair ramp, and will need the extra two feet eight inches to make it compliant with ADA requirements. Without the extra porch width it would be difficult to maneuver a wheel chair, especially with the bay window which extends approximately 19 inches out from the house. I have had four major leg and foot operations and in the past, with no wheel chair ramp or porch, I have been forced to crawl up the front steps in the rain while the wheel chair is lifted onto the porch by someone else so that I could enter my home. Therefore, without the variance the problem cannot be resolved. My husband and I realize that as we grow older our ability to walk will become more and more problematic and as Oxford becomes more widely known as a retirement community, our ramped porch will become of more practical use to community members who make use of it.

- b) Whether the variance is substantial.

The variance requested is 2 feet and 8 inches which is not 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.

We would be adding just over two and a half feet of an attractive structure on the front of our house which currently has an ugly concrete porch which is crumbling. Any change would be for the better; it could only add to the beauty and value of the structure. It is inconceivable that the neighbors would even be aware that a variance was needed since there are other homes in our neighborhood which are closer than 30 feet to the street.

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

The structure would not affect the delivery of governmental services in any way. Mail is delivered to a mailbox on the street, garbage is collected from the street, and the porch will not interrupt water or sewer transference.

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

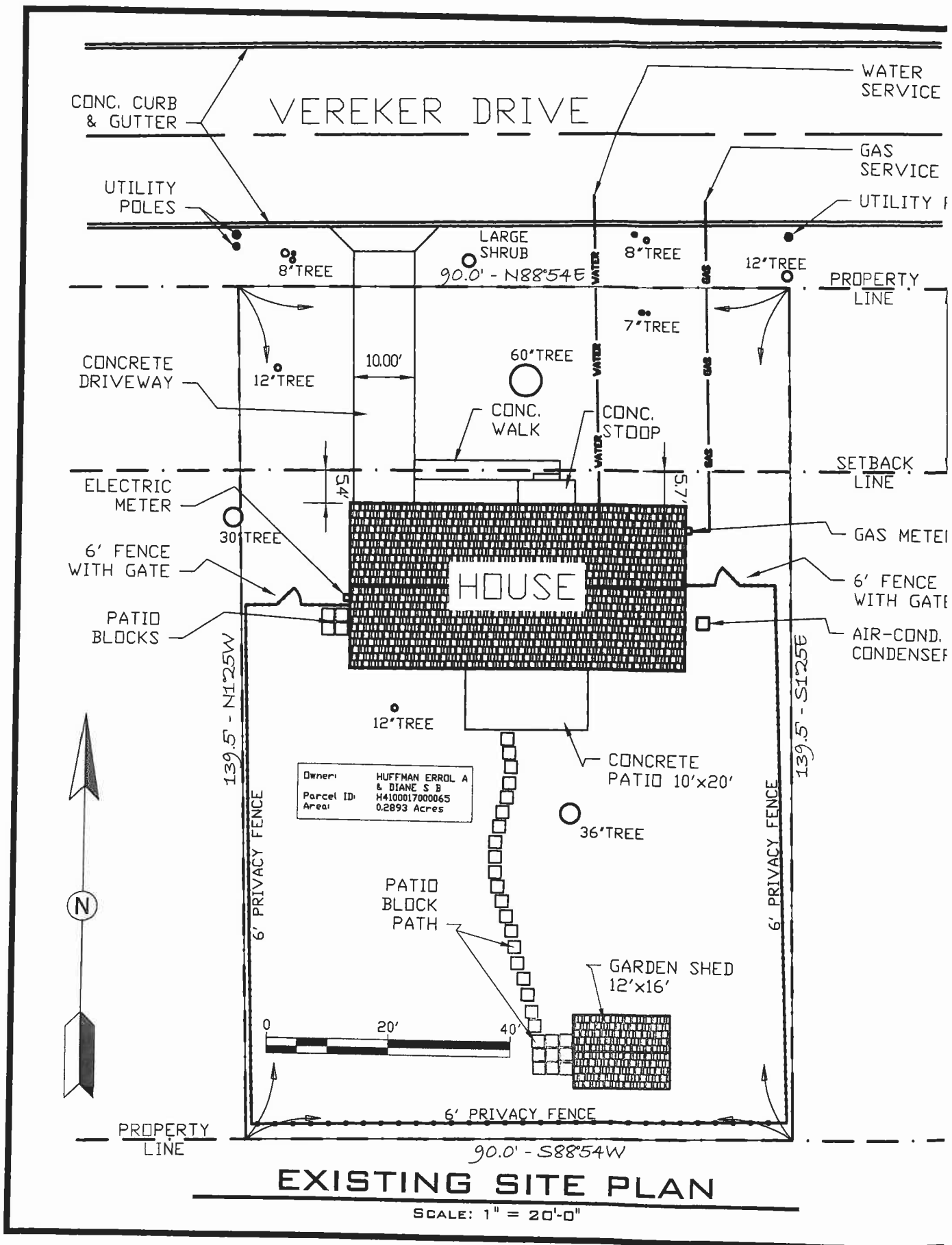
My husband and I only discovered the zoning restriction while discussing our plans with the city office. It came as a surprise since there are many houses in Oxford which are closer than 30 feet to the street.

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

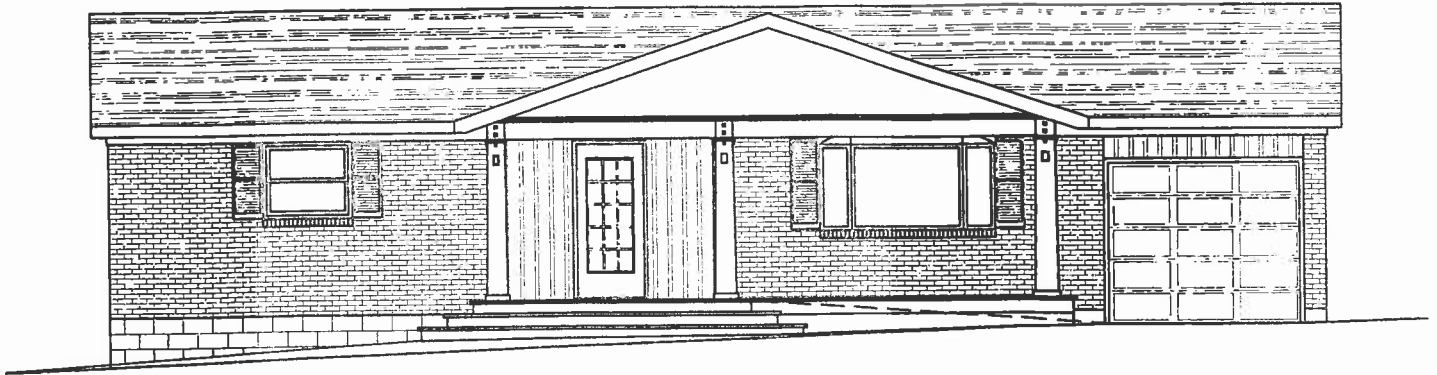
Our goal is to maintain dignity, comfort and functionality as we grow older. Therefore, we wish to continue to use our front door rather than enter the house through the garage or back of the house, which is the only other option. In doing so, we not only reduce the distance needed to gain entrance to the house in inclement weather, we also make our home more beautiful and thus increase the value of other houses in the neighborhood.

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

Since the spirit and intent behind the zoning requirement are not mentioned here, I can only hope that they permit members of the city to better their homes in a manner which enables them to maintain pride and self respect as they grow older. Since the design of the porch is one which will also add to the beauty and property value of the neighborhood, it is a "win-win" for everyone. I would hope that the Board of Zoning Appeals is encouraging all homes in Oxford to become ADA compliant for our aging society, and for the comfort of disabled citizens who may be interested in purchasing a home in our city.



NEW PORCH NE & ERROL HUFFM



PROPOSED FRONT ELEVATION

SCALE $\frac{1}{8}" = 1'-0"$

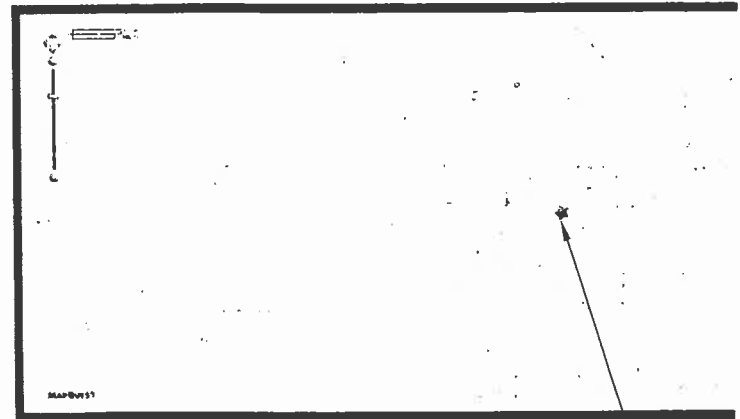
Minimum front yard depth = 30 feet

strict. When the home was built front porches
like other homes in the subdivision the building
set back from the front property line. This was due
to the ordinance. Building Lines were different from front
porches. They determined where the front building wall
was. Porches, stoops and terraces.
When a new zoning ordinance was applied to the
subdivision, it established a 30 foot set-back requirement.
This differs from the building line set-back in that
it applies to all similar structures.

to instruct an ADA Compliant access into the
house to stay in Oxford for their retirement years and
to purchase a house now rather than after they desperately
needed ADA access ramp they need a variance to

Minimum front yard depth = 30 feet

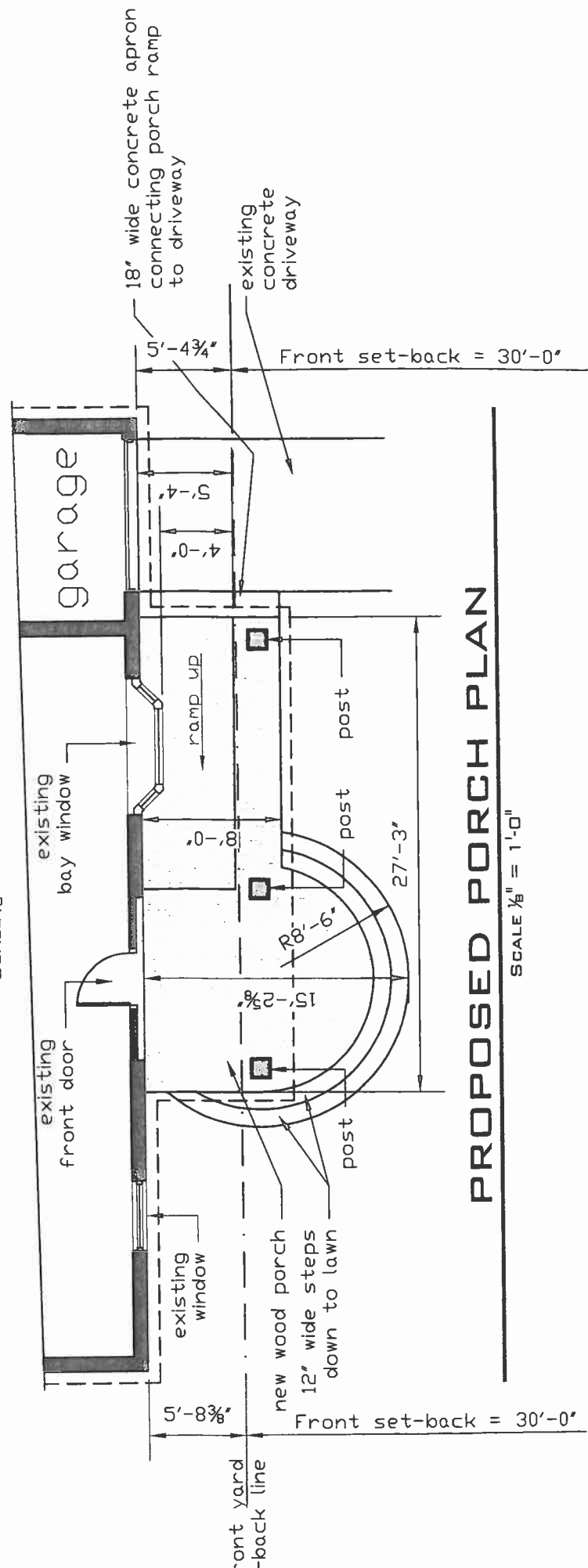
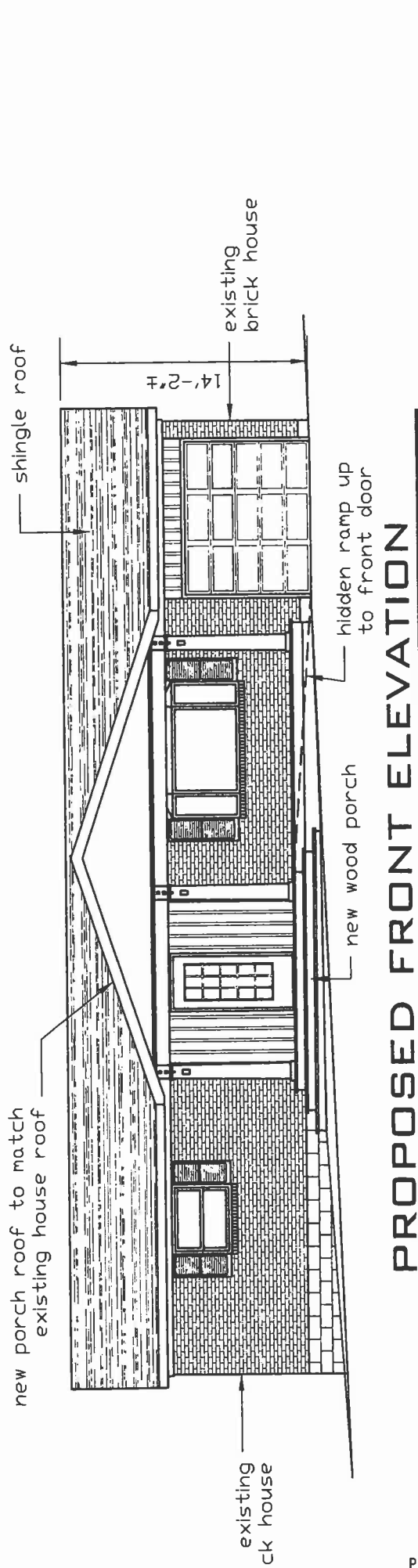
the front yard so that they can construct
a ramp and a partly uncovered turn-around area
I do not believe this variance has any negative
affect on surrounding properties.



PROJECT LOCATION

LOCATION M

SCALE $\frac{1}{8}" = 1'-0"$



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

Case # BZA-10-2010

Date –August 18, 2010

APPLICATION

Petitioner: Pete & Connie McCarthy
Location: 5990 Contreras Road
Owner: Same

Action Request: Variance to Sections 1141.01(a)(1), 1149.04(a)(3), 1149.04(b)3, to allow for a lot split with an existing accessory structure/no principal structure; and allowing existing parking and driveway not meeting setback requirements.

Current Use: Single-Family
Zoning: "R1B" Single Family Medium Density Residential District
Surrounding Land Uses: Single Family

DESCRIPTION

The Appellant is proposing to subdivide the property to create one new parcel to the west of the existing house along Contreras Road. The proposed split meets the underlying zoning requirements for size and width; however, the Appellant wishes to maintain a detached garage that would be located on this new parcel. The Appellant also intends to maintain the existing driveway and parking areas, which do not meet the setback requirements from the proposed new lot line.

The Appellant's property is one acre and is in the R1B zoning district. The Minimum Lot Size requirement is 7,500 sq.ft. and the Minimum Lot Width is 65'. The Appellant has enough land and property to maintain the existing house on a "parent" parcel and create two additional "child" lots.

The following definitions were considered in reviewing this application and preparing this report:

ACCESSORY BUILDING OR STRUCTURE - A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use. Such as fences, garages, and parking spaces.

PRINCIPAL BUILDING – A building on a lot containing the primary use of the lot.

USE - The activity occurring on a lot or parcel for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied, including all accessory uses.

USE, PRINCIPAL - A use which fulfills a primary function of a household, establishment, institution, or other entity.

VARIANCES REQUESTED

Section 1141.01(a)(1):

Accessory Buildings.

- A. No accessory building shall be used as a dwelling unit, sleeping quarters or business.
- C. The total square foot area of all accessory building(s) on a lot shall not exceed 1,000 sq.ft. or 50% of the footprint of the principal structure, whichever is smaller.

- G. Accessory buildings are not permitted in front of the principal structure or front yard.
- *There is no principal structure on the proposed new lot and an accessory structure is not considered to be a principal structure or use.*

Section 1149.04(a)(3): **Residential Parking Regulations.** Parking spaces shall not be located within 3 feet of any lot line.

- *There are existing driveways and parking pad areas that do not meet this requirement from the proposed new property line.*

Section 1149.04(b)(3): **Residential Parking Regulations.** Driveways shall be a minimum of 2 feet from a side lot line.

- *There are existing driveways and parking pad areas that do not meet this requirement from the proposed new property line.*

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:	Comments received, but not relating to Engineering issues.
Econ. Dev.:	No comments received to date.

SITE HISTORY

No Known Prior BZA History.

ANALYSIS

Again, the two requests are to subdivide a lot that will permit the existing parking / driveway and the existing garage to be maintained on the property. The primary concern and focus of this request is to allow the accessory structure to remain on its own lot with no principal use.

Section 1143.02(b)(1)B.: **R1A Zoning Districts Permitted Uses.** Accessory buildings and uses incidental to the principal use that does not include any activity conducted as a business.

Accessory buildings are permitted in a residential district; however, it is our interpretation of the zoning code that an accessory building is not permitted to be on a lot by itself without a principal building or use established. If this parcel is split, leaving the accessory use on the lot by itself, there is no longer a principal use in which it is an accessory to, because the principal use would be on its own separate lot.

The Appellants would like to advertise the sale of the lot, but cannot officially sell or convey the parcel until the split is approved. The Appellant has every right to make such application, and the City has an obligation to process the request; however, the request before the Board may be premature, as the Appellant could advertise the possibility of an additional lot contingent on subdividing and recording the lot. Once an offer is received for the proposed lot, at that time it may be more appropriate for the Appellants to file such an appeal when they know whether the accessory structure will remain or be razed.

As previously stated, the property is large enough for two “child” parcels. Had the Appellant applied for two additional lots, they would have had to follow the preliminary & final subdivision process through the Planning Commission and City Council. Upon analyzing this request, staff believes there is another method of splitting the property that meets the underlying zoning requirements, with the exception of the parking and driveway requests and would maintain the accessory building with the “parent” parcel. This scenario would require the new property line to be located 3 feet to the south of the detached garage, thus creating approximately an 83’ x 100’ (8,300 sq.ft.) lot. As aforementioned, this option would still require

variances to maintain the existing driveway and parking for the time being, however this request is far less substantial than maintaining the garage on a separate parcel. A second option would be to subdivide the other child parcel to the north, which would require no variances at all. Another option, although probably less feasible, but possible, would be for the Appellant to tear down the accessory building and remove part of the driveway/ parking area, but they wish to continue using the building until they have a purchaser for the new lot. According to the Appellants' letter, there are no utilities to the accessory building that would allow for it to be inhabited. This information only confirms the need to regulate how the building is used for storage and further confirms that it cannot or will not become a principal use.

Another concern in the examination of this request is the timeline of events for this split and subsequent construction of a principal use. The request at hand is to allow the split to be recorded with the detached garage to remain on the site with no principal use, inevitably. Traditionally, the lot would not be officially recorded until construction plans are received, reviewed and approved, because the Applicant has six months to substantially start construction. The BZA cannot condition approval attempting to prevent the recording of such lot until plans are received because this would defeat the purpose of the appeal and the request at hand.

Once BZA approves a variance it does not expire unless the facts in which were presented were changed. In regards to just the driveway and parking areas, should the variances be approved for the driveway and parking areas, certain conditions should be put in place to ensure the eventual conformity of the lot. Staff recommends that the variances be conditioned such that they apply to the existing pavement and driveway only, and will not apply to any new construction. Staff also recommends that any subsequent construction require a driveway and parking solution that meets all dimensional and setback requirements of the underlying zoning district. In other words, Staff is recommending that if the variances are approved, such approval be conditioned upon temporary application. This would grant no more than what the Applicant is requesting, since the Applicant has stated that the parking variances could be annulled upon application for a building permit for a new house.

The property in question will yield a reasonable return and can be used beneficially without the variance because the property can continue to be used as a single-family without the lot split or variances. Furthermore, a proposed parcel can be created and can be beneficially used without a variance to maintain the accessory structure; however it cannot be created without a variance to maintain the existing driveway and parking areas. The request is substantial because the creation of this parcel is specific to only this owner and there is no guarantee that a principal structure and use would ever be constructed. This presents the likelihood that these variances would create an ongoing nonconformity. The essential character of the neighborhood likely 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 the parent property will visually remain intact until such time a principal structure is constructed, even then, there is no substantial detriment because the proposed lot split meets all underlying requirements. There were no comments received from the various City Departments indicating any detrimental effect on government services. The property owner's predicament can feasibly be obviated other than a variance by either 1.) Removing the accessory structure, 2.) Subdividing the child parcel to the north, and 3.) Subdividing the subject lot so as not to include the accessory structure. The appellant fails to explain what the practical difficulty is and why these other options have not been explored. The spirit and intent behind the zoning requirement would not be observed and substantial justice done by granting the variance because the code in more than one section states that an accessory building is incidental to a principal use.

RECOMMENDATION

Staff declines to make a specific recommendation in this matter. Should the BZA approve the request as presented, the following conditions are recommended:

- 1.) That, the accessory structure shall not be used for off-site storage other than for the owners of 5990 Contreras Road or the owners of the principal use located on the same parcel. Any commercial storage is prohibited.

- 2.) That, the variances granted only apply to the existing driveway and parking areas and not to any subsequent construction.
- 3.) That all subsequent construction shall be designed and built to comply with the underlying zoning requirements and shall not be governed by the approved variances herein.
- 4.) That, all variances herein are terminated and/or annulled upon substantial completion of new construction and the removal of any existing driveway, parking area or detached garage.

SUBMITTED BY:

Kathryn A Dale 8/12/10
Kathryn A Dale, AICP
City Planner

DATE: August 9, 2010



NOTICE OF REFUSAL

July 9, 2010

To Applicant: Peter & Connie McCarthy
5990 Contreras Road
Oxford, Ohio 45056

Your application dated JULY 8, 2010 for subdivision review for a **LOT SPLIT** located at **5990 CONTRERAS ROAD, OXFORD, OHIO 45056** is hereby refused on this **9th DAY OF JULY, 2010** under **Chapter 1101.08(a)(1)B., Section 1141.01(a)(1), Section 1143.02(b)(1)B., Section 1149.04(a)(3), Section 1149.04(b)(3)** of the Oxford Planning & Zoning Code in that,

Chapter 1131 & 1133 of the Oxford Planning & Zoning Code designates the location of this property as "R1B" Single-Family Medium Density Residential District.

Chapter 1101.08(a)(1)B.: **Minor Resubdivision, Lot Splits and Consolidation.** The proposed minor resubdivision, lot split or consolidation meets the dimensional requirement of the underlying district.

- *An accessory structure is not considered as a principal structure or use.*

Section 1141.01(a)(1):

Accessory Buildings.

- A. No accessory building shall be used as a dwelling unit, sleeping quarters or business.
- C. The total square foot area of all accessory building(s) on a lot shall not exceed 1,000 sq.ft. or 50% of the footprint of the principal structure, whichever is smaller.
- G. Accessory buildings are not permitted in front of the principal structure or front yard.
- *There is no principal structure on the proposed new lot and an accessory structure is not considered to be a principal structure or use*

Section 1143.02(b)(1)B.:

R1A Zoning Districts Permitted Uses. Accessory buildings and uses incidental to the principal use that does not include any activity conducted as a business.

Section 1149.04(a)(3):

Residential Parking Regulations. Parking spaces shall not be located within 3 feet of any lot line.

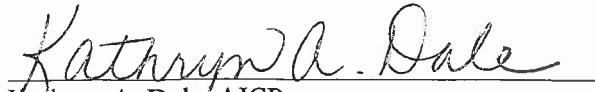
- *There are existing driveways and parking pad areas that do not meet this requirement from the proposed new property line.*

Section 1149.04(b)(3):

Residential Parking Regulations. Driveways shall be a minimum of 2 feet from a side lot line.

- *There are existing driveways and parking pad areas that do not meet this requirement from the proposed new property line.*

An appeal from this decision to the City of Oxford Board of Zoning Appeals is governed under Section 1129.03(d.), Section 1129.11, Section 1129.12 and Chapter 1139 of the City of Oxford Zoning Ordinance.


Kathryn A. Dale, AICP
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.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 7/15/2010

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-10-2010 5990 Contreras

BZA-10-2010 5990 Contreras Road, Variance to Sections 1141.01(a)(1), 1149.04(a)(3), 1149.04(b)3, to allow for a lot split with an existing accessory structure/no principal structure; and allowing existing parking and driveway not meeting setback requirements, **Peter & Connie McCarthy, Owners/Applicants**

____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **8/10/2010** 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: 7-19-10

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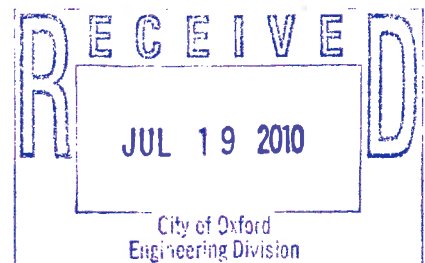
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.....
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Drawings reviewed by: _____

A. Popson

Date: 7-21-10



City of Oxford
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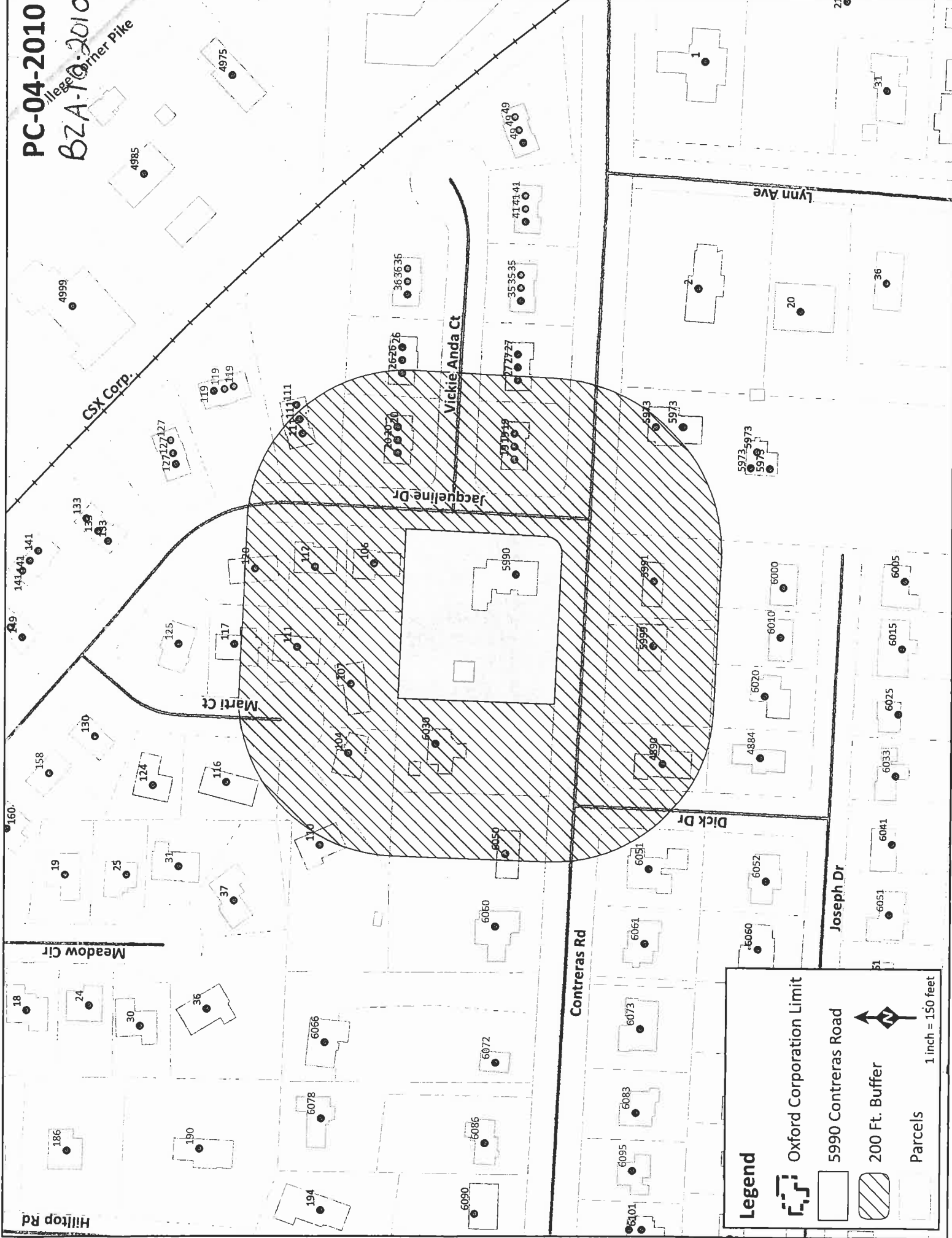
Drawings reviewed by: _____

SSchur

Date: _____

7/19/10

PC-04-2010
 BZA-10-2010
 Illeg. Corner Pike



Legend

Oxford Corporation Limit

5990 Contreras Road

200 Ft. Buffer

Parcels
 1 inch = 150 feet

Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner: Peter + Connie McCarthy
(Attach a Letter of Agency if the Applicant is not the property owner.)
Mailing Address: 5990 Contreras Rd
Telephone Number(s): 523-3541
Email Address: _____
Name of Property Owner: Peter + Connie McCarthy
Mailing Address: 5990 Contreras Rd
Telephone Number(s): 523-3541
Requested Variance: Section 114.01(a)(1) keep existing accessory garage
(Indicate nature of variance on proposed new lot even though no principal structure.
and applicable section(s) Section 1149.04(a)(3) + 1149.04(b)(3) keep the concrete
of the Zoning Code.) driveway + parking area that connects Lot 2 to Lot 1
for as long as both lots are owned by the same owner.
Location of Requested Variance: 5990 Contreras
Legal Description: Lot 119, D.B. 6703 Pg. 1192
Zoning District: R1B
Total Acreage: 1 Acres
Existing Use of Site: Residential
Proposed Use: (if applicable) NA
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:

Peter McCarthy *Connie McCarthy* Date: 7-18-10

PRINTED NAME OF APPLICANT:

Peter McCarthy *Connie McCarthy*

FEE / RECEIPT

\$150 Fee Paid / Receipt Number: 15729.2

Owner's statement to accompany Petition to Appeal Administrator's Position

The property at 5990 Contreras Rd. is a one acre lot on the corner of Jacqueline Dr. and Contreras Rd. in the R1B District. Frontage along Contreras Rd. measures approximately 214 ft. Frontage along Jacqueline Dr. measures approximately 204 ft. The minimum size lot in the R1B district is 7500 square ft with 65 ft. of frontage. Our lot split application proposes to divide the property into two lots. Lot 1, that contains the existing house, would be 26,622 square ft with 130.5 ft of frontage. Lot 2, that contains a separate accessory garage that is not heated or air conditioned and has no plumbing (not habitable), would be 16,932 square ft with 83 ft of frontage. Both lots are well over the minimums and larger than typical lots in the area. The lot split itself is allowed under the current zoning code and requires no variance. The variance is to keep the accessory garage and concrete pavement intact. We are applying for the lot split to provide options for the future of the property, which is for sale. The house and Lot 1 could then be sold with an option to purchase Lot 2. We would like to retain ownership of Lot 2 should that option not be taken. It is our intent to remain in Oxford after the house sells and we would like the opportunity to build a house on that lot. The existing garage is set back far enough to allow ample space to build a house in front of it as the code requires. If the variance is not granted and we had to remove the garage in order to split the lots, another garage would be built when a house, a principal structure, is built. The variance prevents the waste of removing a structure that will likely be rebuilt in the same general location.

We also want to be able to keep all elements of the entire property intact if a buyer should decide to purchase both lots or if we decide to take the house off the market. Either way the existing garage is a useful structure that we want to keep. The pavement is an extension of the driveway. Should the request for the garage variance be granted we request that the pavement be allowed to remain as well to provide a smooth path from the driveway. At the time that one of the lots is sold and there are separate owners, it would be appropriate that the pavement variance be annulled and the driveway and parking setbacks be upheld.

It is possible to create a legal sized lot that does not extend back into the concrete or garage. However, this would not be in keeping with the adjacent lot depths. Because of the likelihood that we will remain the owners of that lot we would much prefer to keep the lot dimensions as requested on our application.

Respectfully,
Pete and Connie McCarthy

BASIS OF BEARING
NORTH BASED ON STATE PLANE
COORDINATES NAD 83 OHIO SOUTH
ZONE.

DEED REFERENCES
D.B. 1724 PG. 674
D.B. 6120 PG. 483
D.B. 6040 PG. 321
D.B. 6413 PG. 132

SURVEYS
VOL. 1 PG. 39
P.E. 759 A

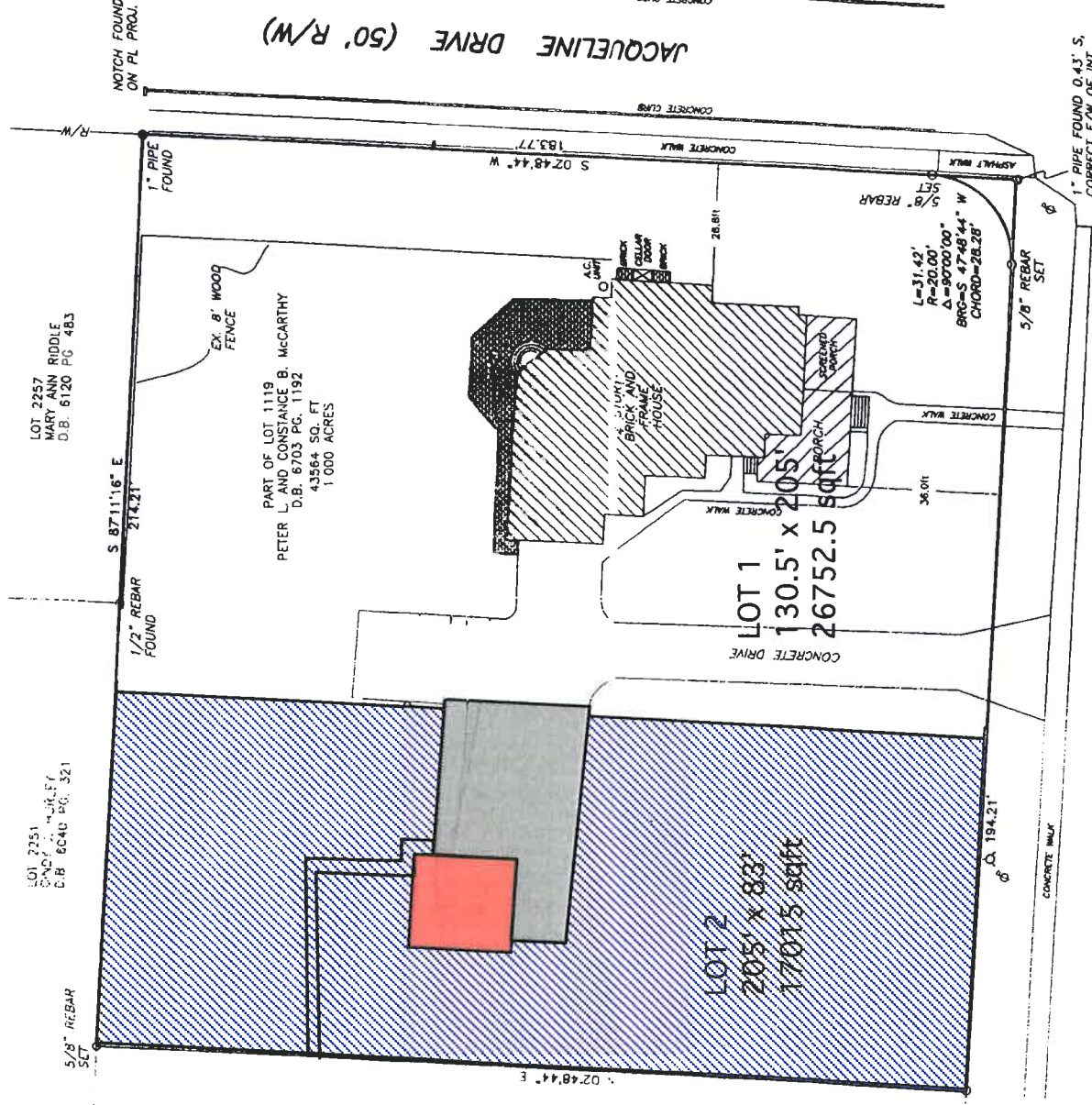
SYMBOL LEGEND

- Set 5/8" Iron Pin
- Set Spike
- Set Concrete Monument
- Set Mag Nail
- Existing 5/8" or 1/2" Iron Pin
- Existing Spike
- Existing Concrete Monument
- Existing Mag Nail
- △ Existing Stone
- Existing Iron Pipe
- ◆ Existing Axle
- Existing Nail

VICKIE ANDA COURT
(50' R/W)

JACQUELINE DRIVE (50' R/W)

CONTRERES ROAD (60' R/W)





LOT 2

LOT 1



