

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-10-2008

Date – September 17, 2008

APPLICATION

Petitioner:	Jeffrey Toaddy
Location:	5372 Hester Road
Owner:	Jeffrey Toaddy
Action Request:	Variances to Section 1141.01(a)(1)C & Section 1143.02(c)(4)A.1, to allow a detached garage.
Current Use:	Single-family house
Zoning:	R1B Single-Family Medium Density Residential
Surrounding Land Uses:	Single-Family

DESCRIPTION

The property is located on the east side of the north/south Hester Road. The applicant is proposing to construct a 24' x 30' detached garage and expand the driveway leading to the garage.

VARIANCES REQUESTED

- Section 1141.01(a)(1)C:** The total square foot area of all accessory building on a lot shall not exceed 1,000 or 50% of the footprint of the principal structure whichever is smaller.
- The proposed 24' x 30' garage and existing detached shed total approximately 870 sq. ft. The existing house per Butler County Auditor Records is approximately 1,622 sq. ft. The two accessory structures exceed the 50% requirement by 59 sq. ft.
- Section 1143.02(c)(4)A.1:** The total lot coverage requirement for the "R1B" District with vehicular access from a public street is 35%.
- The proposed driveway extension and garage would increase the coverage from approximately 31% to 46%.

COMMENT FORMS

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

AGENCY REVIEW

Requests for review were sent to Engineering, Police and Fire. Engineering, Police and Fire have returned with no comments.

DECISION STANDARDS:

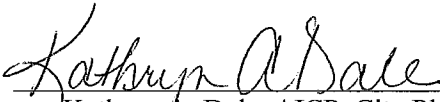
- a). That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and that the hardship is created by the physical character of the property, including dimensions, topography, or soil conditions, or by other extraordinary situations or conditions of such property. No conforming use of neighboring land, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization for a variance or exception. Nor shall personal hardship, or loss or limitation of possibilities for economic advantage or profit, be considered grounds for the authorization of a variance or exception; and
- b). That the special conditions and circumstances do not result from the actions of the applicant; and
- c). That the variance or exception does not confer special privileges or benefits, but relieves a hardship; and
- d). That literal interpretation of the provisions of the Zoning Code would deprive the applicant of basic rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Code and would work unnecessary and undue hardship on the applicant; and
- e). That the variance or exception granted is the minimum variance or exception that will make possible the reasonable use of the land, building, or structure; and
- f). That the grant of the variance or exception will be in harmony with the general intent and purpose of the Zoning Code and that such variance or exception will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- g). That the grant of the variance or exception requested will not permit or allow a use that is otherwise not permitted in the zoning district involved, nor will the grant of the requested variance or exception allow, authorize, or permit any use that is prohibited, either expressly or by implication, by this Zoning Code for the zoning district involved.

RECOMMENDATION

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

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

SUBMITTED BY:


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

DATE: August 22, 2008



NOTICE OF REFUSAL

July 10, 2008

BZA Case No.: _____

Application No.:

08-130

5372 Hester Road

To Applicant: Jeffery Toaddy
5372 Hester Road
Oxford, Ohio 45056

Your application dated **June 26, 2008 & JULY 9, 2008** for a zoning certificate for a **DRIVEWAY EXPANSION & 26' X 30' GARAGE** located at **5372 HESTER ROAD, OXFORD, OHIO 45056** is hereby refused on this **10th DAY OF JULY, 2008** under **Chapter 1131, Chapter 1133, Section 1141.01(a)(1)C, Section 1143.02(c)(4)A.1 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 "R1B" Single-Family Medium Density Residential District.

Section 1141.01(a)(1)C:

The total square foot area of all accessory building on a lot shall not exceed 1,000 or 50% of the footprint of the principal structure whichever is smaller.

- The proposed 26' x 30' garage and existing detached shed total approximately 980 sq. ft. The existing house per Butler County Auditor Records is approximately 1,340 sq. ft.

Section 1143.02(c)(4)A.1:

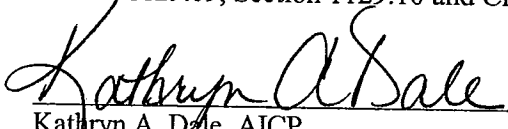
The total lot coverage requirement for the "R1B" District with vehicular access from a public street is 35%.

- The proposed driveway extension and garage would increase the coverage from approximately 26% to 43%.

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.*

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 8/25/08

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-10-2008

ADDRESS: 5372 Hester Road

Description:

BZA-10-2008 **5372 Hester Road, Variances to Section 1141.01(a)(1)C, 1143.02(c)(4)A.1 to allow for a garage, Jeffrey Toaddy, Applicant,**

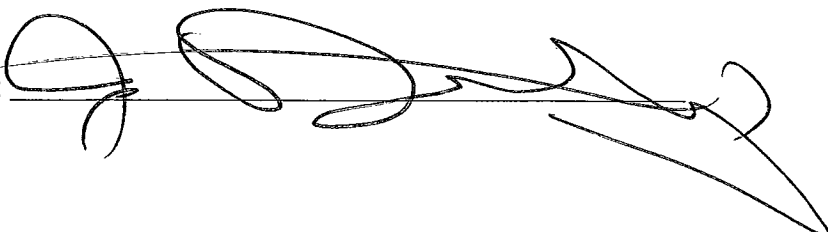
____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 9/9/08 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: 

LH desk @ 3:30 pm

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 8/25/08

To: Fire Department Engineering Division Police Department Economic Development

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_____X_____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 9/9/08 Note: If no comments are received, we will assume the project meets your department's standards.

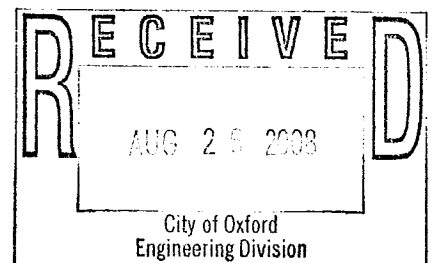
.....

Drawings are returned: w/comments without/comments

Drawings reviewed by: _____

A. [Signature]

8-26-08



City of Oxford
Inter-Office Review Transmittal Sheet

Date: 8/25/08

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-10-2008

ADDRESS: 5372 Hester Road

Description:

BZA-10-2008 **5372 Hester Road, Variances to Section 1141.01(a)(1)C, 1143.02(c)(4)A.1 to allow for a garage, Jeffrey Toaddy, Applicant,**

_____X_____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 9/9/08 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: SSchwer

Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner: Jeffrey M. Toaddy
(Attach a letter of agency if the applicant is not the property owner.)

Mailing Address: 5372 Hester Road

Telephone Number(s): 513.255.6229

Requested Variance: 1141.01(a)(1)C: permission to exceed stated square footage
(Indicate nature of variance
and applicable section(s)
of the Zoning Code.) 1143.02(c)(4)A.1: permission to exceed stated lot coverage

Location of Requested Variance: 5372 Hester Road

Legal Description: 3188 ent; Parcel ID # H4100020000032

Zoning District: R1B

Total Acreage: 0.241 Acres

Existing Use of Site: residential yard

Proposed Use: (if applicable) residential two-car garage
*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.

Foundation 4' from property line (eave 3')

Proposed foundation and driveway 3' from P.L.

Proposed 24'x30'
garage with 1' gable
overhang on entry-side

Single-story with 4:1 standard peak roof
720~~5~~

Existing
10'x15'
shed
150~~5~~

To scale - 164:1

Jeffrey Toaddy
5372 Hester Road
H4100020000032
Lot 70'x150'

North
←

Proposed driveway
addition (shaded)
797 sq. ft.

55'

15'

20' 8"

9' 3"

Existing cement walk

Garden

Porch

Existing Deck

Existing House
~1622 sq. ft.

Existing
cement
1382 sq. ft.

Lot = 10,500

Ex Shed = 150

Ex Drive = 1382

Ex House = 1622

Ex Deck = 176

new Drive = 797

new Garage = 720

Ex = 3,330 / 10,500 =
31%

New = 4,847 / 10,500 =
46%

5372 Hester Road Garage and Driveway Variance Proposal –Jeffrey Toaddy

August 11, 2008

To whom it may concern:

With this application, I am respectfully requesting variance consideration by the Board of Zoning Appeals of the City of Oxford.

I purchased 5372 Hester Road in July of 2005 with the eventual intent to build a detached garage behind the house. The new homes in the area have been built with garages and have prompted me to pursue building my garage such that I may store my cars in a more secure and visually-pleasing manner. The house currently has no garage, thus the cars are currently parked on the driveway, one next to the house, the other in front of the house. The lack of garage devalues my house considerably compared to the other comparable newer constructions in the area.

When I purchased the home I inquired about my ability to build the garage behind my house, and learned at that time of the minimum distances from the structure to the property line. In July of 2008, when my building permit application was rejected, I learned of Sections 1141.01(a)(1)C and 1143.02(c)(4)A.1, which my application did not meet.

I spoke with Butler County about the listed square footage of the house (1,336) as being incorrect, as the County has the property listed with a garage. Prior to my purchase of the house, the former garage had been fully finished into a bedroom and bathroom. An unofficial recalculation of the correct square footage is approximately 1622 sq. ft. The proposed garage would cover 720 sq. ft.; together with the existing 150 sq. ft. shed, the total accessory building coverage would be 870 sq. ft., which is 53.6% of the recalculated square footage of the house.

To design the driveway to cover as little area as functionally possible, I chalked various designs on a parking lot and drove around the design in a number of different ways.

If it so pleases the Board, I will come to the meeting prepared to show any additional photographs as requested and a 3-d computer model of the site and proposed building.

Thank you for your consideration.

Sincerely,

Jeffrey Toaddy
5372 Hester Road
Oxford, Ohio 45056
513.255.6229

Item 5 responses:

- a. *The variance would not permit or result in a use that is not permitted in the zoning district. Use variances are prohibited; and*
Use of the proposed driveway and garage in a residential manner is in accordance with the regulations of the zoning district.
- b. *Conditions of the land, site, structure, or element for which the application is submitted are substantially different from other sites in the same zoning district because of physical characteristics of the land including dimensions, elevation, topographical variations, soil conditions, or other extraordinary situations, and the difference supports the application; and*
The house as purchased features a fully-finished bedroom and bathroom in place of a garage. The way the house is situated on the lot, there is no other place a garage may be reasonably constructed. Other newer houses in the area have garages. Renovating the existing finished bedroom and bathroom into a garage would substantially reduce the value of the property, and thus is not a viable option.
- c. *The conditions upon which the application is based are not the result of actions of the applicant; and*
The former garage was fully converted into a bedroom and bathroom prior to the purchase of the property by the applicant. The applicant has made no substantial changes. Thus, the conditions of this request are not resultant of any action by the applicant.
- d. *The variance would not confer a special privilege to the applicant but would relieve a hardship; and*
The variance would allow the applicant to build a garage, which other newer properties in the area already have.
- e. *The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district; and*
Literal interpretation of the Zoning Code would preclude the applicant from constructing a garage in any reasonable location on the property.
- f. *The variance will be the minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought; and*
Significant effort has been undertaken by the applicant to ensure that the proposed structure is no larger than necessary and is as visually pleasing as possible. The applicant modeled the driveway for minimum usable dimensions and drove the proposed driveway to ensure no excess cement would be poured.
- g. *The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code.*
Other properties in the vicinity have two-car garages, which is in line with this proposed construction. The building and driveway will be constructed in such a way that maintains the natural flow of water and will be built according to all applicable building codes. The building will be sided and roofed with the same materials as the existing house and shed. Upon completion, the site will be landscaped and a garden will be installed between the proposed garage and existing shed.

5372 Hester Road Garage and Driveway Variance Proposal –Jeffrey Toaddy



Facing East from the North-East corner of 5372 Hester. The proposed driveway would cover the old gravel left by the previous owner. The proposed garage would be situated against the tall weeds in the adjacent lot (H4100020000081 on 425 Jacob).



Facing West at 5372 Hester and the South wall of 5386 Hester. The proposed garage would be situated on this gravel left by the previous owner and extend up to meet the existing driveway under the car in the picture.

5372 Hester Road Garage and Driveway Variance Proposal –Jeffrey Toaddy



Facing North, North-East toward houses on Jacob. North-West corner of existing shed at 5372 Hester pictured. Proposed garage site would cover largest part of gravel in the center of the picture. Space between the shed and proposed garage will be planted as a garden.



Looking South, South-West at the shed and house at 5372 Hester, and the back (West wall) of 5386 Hester. The proposed driveway is seen as a lighter-colored strip in the middle of the picture, with the proposed garage site on the left.

Diagram illustrating the style and orientation of the proposed garage. The building will be finished with the same roofing and siding materials as the house and existing shed

