

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-11-2013

Date – September 18, 2013

APPLICATION

Applicant:	Scott Webb, Architect
Location:	318 South Main Street
Owner:	D & B Family Limited Partnership
Action Request:	Variance to 1149.03(e), requirement for 2.5 parking spaces per unit
Current Use:	Multi-Family Residential (4-family) Apartment Building
Zoning:	R2MS, Single and Two-Family Residential
Surrounding Land Uses:	Single, Two-Family and Multi-Family

DESCRIPTION OF REQUEST

On behalf of D & B Family, Mr. Scott Webb is proposing to add front and rear porches to the existing apartment building at 318 South Main Street. The porches would have approximately a 150 square foot footprint and be accessible from both floors – resulting in two, two-story porches on this building. The porches would take up slightly less than half of the front and rear building facades. The applicant also proposes to demolish the detached garage, then expand and improve the parking area.

The property is zoned R2MS, which does not currently allow this Multi-Family residential land use. However, the land use is existing; therefore it is allowed to continue as a nonconforming use. The current building was built in the late 1960s. There are several similar buildings like this one throughout the Mile Square. The building is a four-family building, permitted for three persons in each unit, for a total of 12 permitted occupants. The provisions of Section 1137, recently adopted earlier this year, do permit some modifications to buildings with nonconforming uses. Per Section 1137.04(a)(4), front porches are exempt from the occupancy reduction requirements of building reconfigurations in Section 1137.04(b)(5). However, although, Section 1137.04(a)(3) and Section 1137(b)(5)(D) reference 25% additions, there is no exemption for rear porches. Therefore, a 30% occupancy reduction will be required with this project, **resulting in an overall occupancy permit reduction from 12 to 8.**

Section 1149.02(a) requires that “any change to a use or structure or site (whether conforming or nonconforming) shall meet the current vehicle management regulations for the entire use and structure and site.” Section 1149.03(e) requires 2.5 parking spaces per unit. Therefore, because of the “change to the structure,” 10 parking spaces would be required. **The applicant is proposing only six parking spaces, therefore, the request is a variance of four parking spaces.**

SITE HISTORY

The BZA denied case # 07-2010 on July 21, 2010 at this property. The project was somewhat similar, in that a two-story front porch was proposed. At the time, the case was categorized as an expansion of a nonconforming use that was not permitted. The request that was reviewed and denied was the expansion of the use, not the parking space issue, currently at hand.



ABOVE: Oblique aerial view from 2012 of subject property.

PROCEDURE AND CRITERIA

Per City of Oxford Code, the applicant shall be required to present reliable and substantial testimony and evidence that supports the request. The BZA will consider the effect of the request on the public health, safety and welfare. Variances shall be granted only upon a determination that practical difficulties exist with respect to the property in question that would render strict application of the Planning and Zoning Code unreasonable. This determination shall be made **without regard to the existence of variances and nonconformities on other land**, sites or structures not presently under consideration. In determining whether practical difficulties exist sufficient to warrant a variance, the BZA shall consider and weigh factors found in Oxford Code Section 1139.02(c)(2)A. through H. Staff has summarized the criteria below and provided staff comments after each.

- A. **Reasonable return:** The property owner has maintained and renewed rental permits for this property for many years, however the city does not keep records on numbers of leases or actual occupancy rates for properties. The continuance of the rental permit by the owner could indicate that a reasonable return already exists. The property was last inspected/passed in June 2012.
- B. **Is the Variance substantial:** Four parking spaces less than the required 10, equates to a 40% variance in parking spaces required.
- C. **Essential character:** The architectural styles in the neighborhood are mixed, however many do have elements of front porches, which are a strong value in Mile Square architecture. The fact

that the current building has no front porch could result in a conclusion that any type of covered porch on the front façade has a positive effect on the essential character of the area. The slight expansion of a rear yard parking area would not substantially alter the essential character.

- D. **Governmental services:** The ability of governmental services to be delivered to this site appears to be the same due to the fact that the site access, street and alley frontages are the same as existing, on the site plan. The Service Department had no comments on this variance, therefore it can be concluded that any site work impacting underground water and sewer utilities could be handled administratively.
- E. **Knowledge of the zoning restriction:** At the time the property was purchased by the current owner, 2.5 parking spaces per unit, were required, which is also the current requirement.
- F. **Methods other than variance:** If the end goal of this project is to install porches, there may be other options available to the applicant/owner that would not require a variance, but would require substantial alteration to the floor plan. One option could be to convert the use to a conforming use, such as a two-family dwelling for 8 persons, which would reduce the parking requirement to a total of 4 parking spaces (two per unit required for a two-family use).
- G. **Spirit and intent:** The R2MS district purpose statement is: “This district is designed to preserve and encourage a mix of single-family and two-family residences in the established residential areas of historically significant character.” The current/proposed land use is neither a single nor two family use. However, a front porch addition would make the building more similar to those of historically significant character.
- H. **Any other factors:**
 - a. The grade of the rear of the lot adjacent to the alley is higher than the front of the lot. Adding four additional parking spaces could be challenging because of the grade change. However, additional surface parking would increase the lot coverage well beyond the 40% limit.
 - b. The City Council recently adopted major revisions to the Nonconforming Section of the Zoning code allow modifications to nonconforming uses.

ANALYSIS

The applicant presents an opportunity for a building with very little façade detail to be improved. However, the BZA’s role is to determine primarily the parking variance requested. Firstly, if the known facts lead to a conclusion that a practical difficulty exists, and if so, secondly, whether the granting of the variance would meet all the criteria.

One criterion that could have been more fully addressed by the applicant is F, “Methods Other than a Variance.” Staff does not have the expertise to design buildings, so this would depend on what a designer would find compliant with all codes. However, from purely a zoning perspective, a conversion to a two-family building with a front porch would have the least zoning conflicts, but may not however, be acceptable to the applicant or owner.

The known fact that the City Council recently adopted regulations allowing modifications to nonconforming uses can result in new building permit and variance applications. However, there is no requirement that the BZA is obligated to approve variances in connection with now-permitted use expansions. The BZA should weigh the facts of the parking issue. If the BZA believes that there is sufficient evidence to grant the variance, it could attach any necessary conditions.

Staff suggested conditions, in the case of an approval could be:

- Compliance with all applicable vehicle management regulations, such as, but not limited to a 6 inch raised curb around the parking area.
- Compliance with 1137.04, such as but not limited to the occupancy reduction requirement resulting from the rear porch addition.
- A front porch addition as proposed, in order to address the essential character and spirit and intent decision criteria.

PUBLIC COMMENTS AND INQUIRIES

Notice of the hearing was mailed to property owners within 200 feet, a sign was posted on the property and an announcement was placed in the Oxford Press. No public comments have been submitted at the time of the writing of this report.

AGENCY REVIEW

Fire	Returned without comments
Police	Returned without comments
Engineering	Returned without comments
Economic Development	Returned without comments

RECOMMENDATION

No recommendation at this time.

SUBMITTED BY:


 Sam Perry, Planner
 Community Development Department

DATE: September 12, 2013



July 31, 2013

Scott Webb, Architect
103 W. Walnut Street
Oxford, Ohio 45056

RE: porch additions to 318 S. Main (Permit #13-170)

We have reviewed your proposal submitted July 16, 2013 to build porch additions on the building at the above address. We have the following comments and apparent code conflicts to bring to your attention.

Section 1149.02(a): Vehicle Management Chapter states that any new development, redevelopment, or change to a use or structure or site (whether conforming or nonconforming) shall meet the current vehicle management regulations for the entire use and structure and site.

- Section 1149.03(e) requires 2.5 parking spaces per unit for a multi-family dwelling. The building is a four-unit building, which requires a total of 10 parking spaces. The proposed site plan does not show any changes to what appears to be approximately 5 parking spaces on the site.

Section 1137.04(a)(4.): This nonconforming land use subsection states that a porch addition to the front facade of an existing residential building that contains a nonconforming use may be permitted, provided that the proposed addition satisfies the design standards, setback and lot coverage regulations of the District. The use is nonconforming because multi-family is not allowed in the R2MS zone. This code section does not allow porches in the rear.

Therefore, based on the plans submitted, this permit application is hereby denied. Under the provisions of Oxford Zoning Code Section 1129.03, 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. Other departments may also have comments that will need to be addressed before any permits can be issued.

Please do not hesitate to call or stop by if you have any questions or need clarification on procedures.

Sincerely,



Sam Perry
Planner

CC: Dustin Huff, Engineering
Mike Dreisbach, Service Director

S:\shared\Plan Reviews\2013\318 S. Main refusal 07-31-13.docx

101 East High Street • Oxford, Ohio 45056-1887
Phone: (513) 524-5200 • Fax: (513) 523-7298 • www.cityofoxford.org

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 8/29/2013

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

CASE #: BZA-11-2013

ADDRESS: 318 S. Main Street

BZA-11-2013 318 S. Main Street variance to Section 1149.03(e) number of parking spaces, **Scott Webb Applicant, Agent**

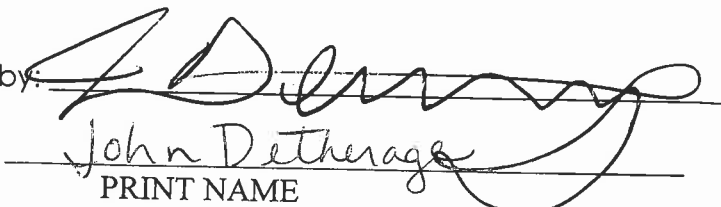
____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **9/10/13** 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:


John Detherage
PRINT NAME

Date: 9-9-13

City of Oxford
Inter-Office Review Transmittal Sheet

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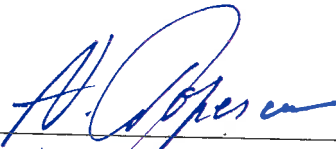
 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **9/10/13** 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: _____


VICTOR POPESCU

PRINT NAME

Date: 9.9-13

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

Drawings reviewed by: _____

Date: 9/3/2013

B. B. Holzworth
PRINT NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 8/29/2013

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

Drawings reviewed by: _____

Date: _____

Alan Kyger
PRINT NAME

BZA-11-2013

Adjoining Properties

Legend

-  Subject Parcel
-  200 Ft. Buffer
-  Oxford Corporation Limit
-  Parcel
-  16.5' Vacated ROW
-  Building Footprint
-  Paved Roadway

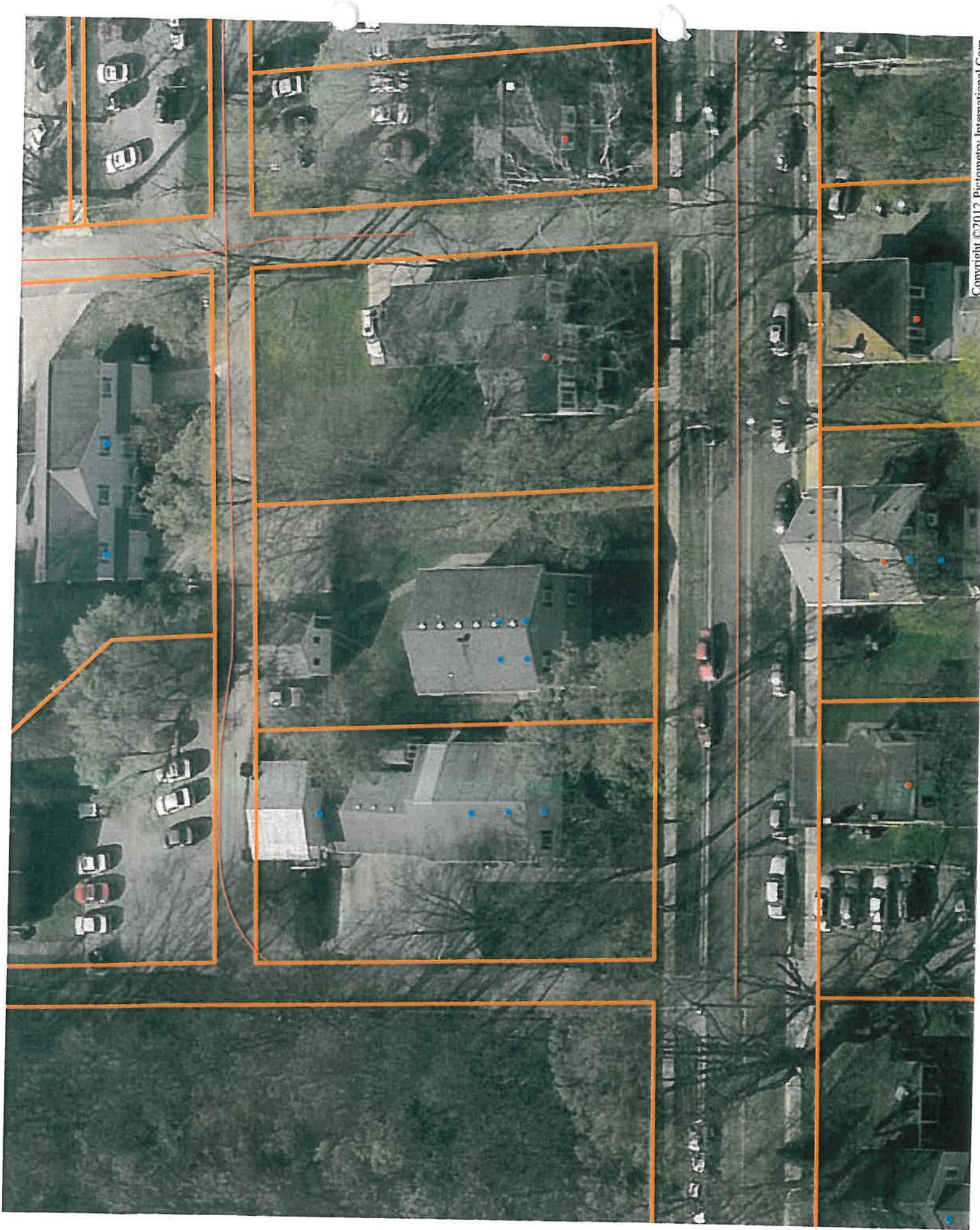


1 inch = 75 feet



The City of Oxford does not guarantee the dimensional accuracy of this map. Precise dimensional accuracy should be based upon recorded deeds, plats or a professional survey.





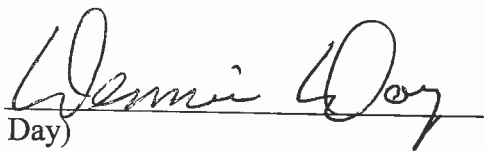
LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Scott Webb, Architect has permission to represent our interest with the City of Oxford and act on our behalf for the Board of Zoning Appeals hearing September 18, 2013 regarding an addition to s 4-family residence at 318 South Main Street

Thank-you,

Signed:



(Dennis Day)

(D & B Family Limited Partnership)

8.15-13

Date:

Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner: Scott Webb, Architect
(Attach a Letter of Agency if the Applicant is not the property owner.)
Mailing Address: 103 W. Walnut St., Oxford Oh. 45050
Telephone Number(s): 523-3838
Email Address: scott@scottwebbarchitect.com
Name of Property Owner: D & B Family Ltd. Partnership
Mailing Address: P.O. Box 249 Oxford Oh. 45050
Telephone Number(s): 523-0917
Requested Variance: 11A9.03 (c) number of parking spaces
(Indicate nature of variance and applicable section(s) of the Zoning Code.)
Location of Requested Variance: 318 S. Main St.
Legal Description: R2MS
Zoning District: .25 Acres
Total Acreage: .25
Existing Use of Site: 4-family residence
Proposed Use: (if applicable) 4-family residence
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.
- North arrow
 - Scale
 - Vicinity map
 - All existing and proposed lot lines within the site
 - Dimensions of all lots and of the entire site and any adjacent rights-of-way
 - Location, height, and use of all proposed and existing structures
 - Location and design of all proposed vehicle management areas
 - Location, size, and type of all proposed signs
 - Location, height, and type of all proposed screening and landscaping
 - Distances to residential zoning districts if within 1,000 feet
 - The use of land and location of structures on adjacent property and across adjacent rights-of-way
 - An indication of the regulation from which the variance is requested
 - 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 **FEES noted below plus actual postage 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: 8/19/13

PRINTED NAME OF APPLICANT: Scott Webb

FEE / RECEIPT

At time of submittal please include postage charge (determined by the number of adjoining property owners x current postage rate – example \$.45) along with the variance fee.

***\$200 plus \$100 for each additional variance request up to a maximum of \$1,000.00 plus actual postage.**

***IT IS POSSIBLE FEES MAY INCREASE IF STAFF DETERMINES MORE VARIANCES ARE NEEDED**

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



SCOTT
WEBB

ARCHITECT

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

www.scottwebbarchitect.com

Re: Variance to Required Parking
Porch Additions to a Non-Conforming
4-Family Dwelling
318 South Main Street

August 19, 2013

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to the parking requirement of the underlying Zoning District relating to the Addition of new Porches to an existing non-conforming 4-Family Dwelling at 318 South Main Street.

While the existing 4-family dwelling is a conforming use located in the R2MS district, the recent changes to the Zoning Code allow additions of two types: 1137.04(3) allows building or structure to be enlarged up to 25% of the existing total gross floor area and 1137.04(4) allows a porch addition to the front façade of an existing residential building.

In each of the allowable additions described above, the expanded portion complies with all coverage restrictions and site development requirements.

The proposed additions for this building meet all of the site development regulations, including setbacks and lot coverage restrictions.

The existing parking area is considered inadequate for the existing use, requiring (10) spaces for the existing 4-unit building @ 2.5 per dwelling unit, currently providing (3) parking spaces. Additionally, there is an existing garage building at the rear of the site meeting the requirement for an additional off-street space, and a small gravel-paved area for an additional car (though not meeting the zoning standard for the size of a parking space).

The owner has offered to have the garage building removed, allowing a total of (6) parking spaces. The 66'-0" lot width is restricted by the min. 3'-0" setback for parking on each side, allowing (6) 9'-0" wide parking spaces in the net remaining 60' of lot width.

No change in occupancy or intensity of use is proposed with these porch additions.

1149.03(e) Residential Uses

Multi-Family Dwellings shall provide 2.5 spaces per dwelling unit

Existing Parking = 3 spaces + an existing garage

Proposed Parking = (6) spaces with the removal of the existing garage

Practical Difficulty

Strict interpretation of the Zoning Code would prohibit the construction of the proposed porches based on the pre-existing parking arrangement. The owners have proposed improving the parking deficient. To provide all the required parking would create other zoning violations (lot coverage, parking setbacks, etc.).

The existing alley behind this property is substantially higher than the grade at the street. This is currently mitigated by an existing retaining wall & stairs to grade. To provide additional parking above what is proposed would result in stacked spaces and relocation/reconstruction of this retaining condition, or steeply sloped parking spaces.

The following are responses to the decisions standards outlined in the application;

- a) *Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;*

The existing building has been a student rental for many years, and may continue as such. The proposed porch additions are designed to enhance the exterior of the building and provide a new amenity for the residents.

- b) *Whether the variance is substantial;*

The variance is not substantial, as the existing condition provides less parking than is proposed with this application.

- 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*

The essential character of the neighborhood would be simply improved, improving the property and providing additional parking.

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

No change in the delivery of utilities & government services is necessitated by this application.

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

The property was purchased many years ago, and has been made non-conforming based on changes in the Zoning Code over the years.

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

The variance addressed herein, is required to address issues unrelated to the porches themselves.

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

The spirit of the Zoning Code is observed, allowing porches and small additions that do not affect the intensity of the use.

- h) *Any other relevant factor;*

This porch addition project aligns with the goals of the Zoning Code, written specifically to allow such additions and those of the Comprehensive Plan, encouraging infill and redevelopment within the City and improving the property aesthetically.

Thank you for your consideration of this application. If you have any questions or need any additional information, please call.

Respectfully,

A handwritten signature in black ink, appearing to read 'S. Webb', written over the word 'Respectfully,'.

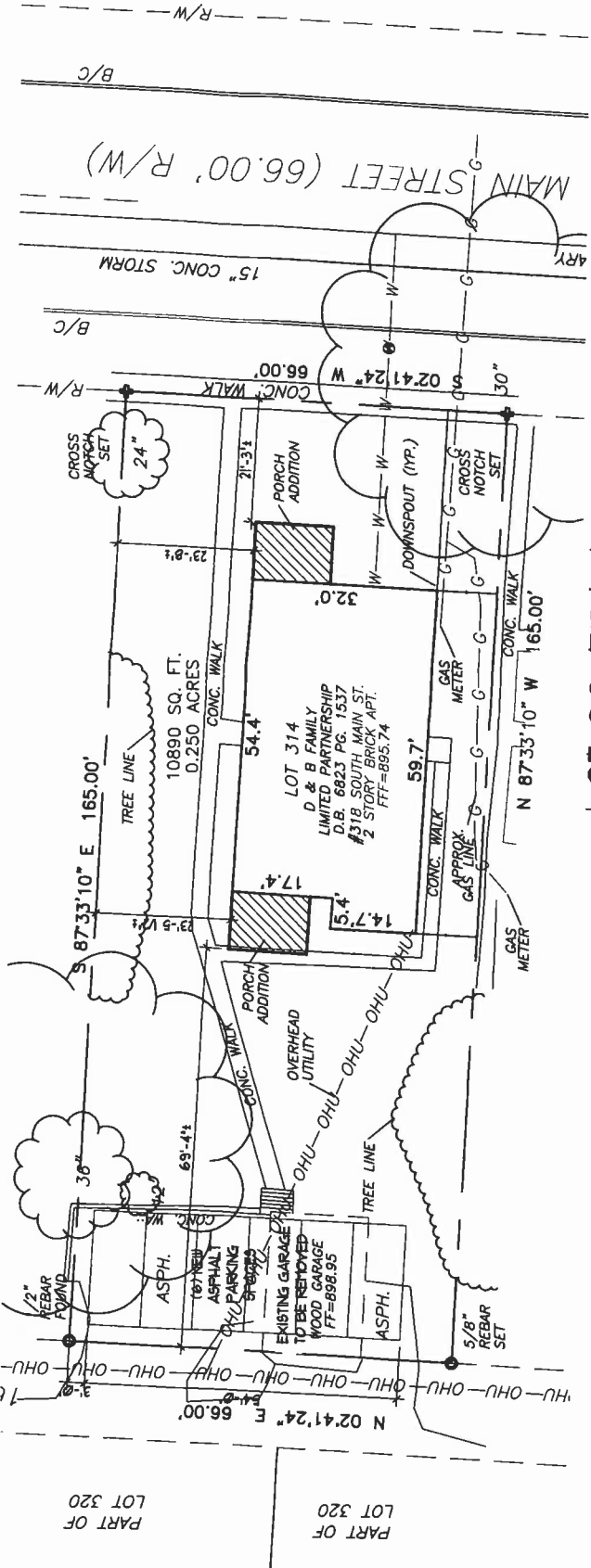
Scott Webb, Architect



PROPOSED NEW PORCH ADDITION
318 South Main Street
OXFORD, OHIO 45056

DATE	August 19, 2013
REVISIONS	

A-1



LOT COVERAGE (ZONING DISTRICT R2MS)

OVERALL LOT AREA:	10,890 SF	REMOVE GARAGE & PROVIDE NEW PARKING AS SHOWN	2,351 SF (21.6%)
EXISTING BUILDINGS:	2,081 SF		
EXISTING GARAGE:	62 SF		
NEW PORCHES (2) 10'-0"x13'-6":	210 SF		
TOTAL ENCLOSED BUILDINGS:	2,419 SF (22.2%)		
(2) 4'x4' STOOPS:	32 SF		
115 LF. OF 3'-0" SIDEWALK:	345 SF		
73 LF. OF 2'-4" SIDEWALK:	170 SF		
10'x15' PARKING AREA:	150 SF		
25'x30' PARKING AREA:	150 SF		
TOTAL LOT COVERAGE:	3,866 SF		
ACTUAL FRONT YARD ALLOW. FRONT YARD:	1,441 SF / 10,890 SF = 13.2%		
ACTUAL ENCLOSED BUILDING ALLOW. ENCLOSED BUILDING:	2,419 SF / 10,890 SF = 22.2%		
ACTUAL LOT COVERAGE:	3,866 SF / 10,890 SF = 35.5%		
ALLOW. LOT COVERAGE:	R2MS (VEHICULAR SIDE ACCESS) = 40%		

SITE PLAN

1" = 20'-0"



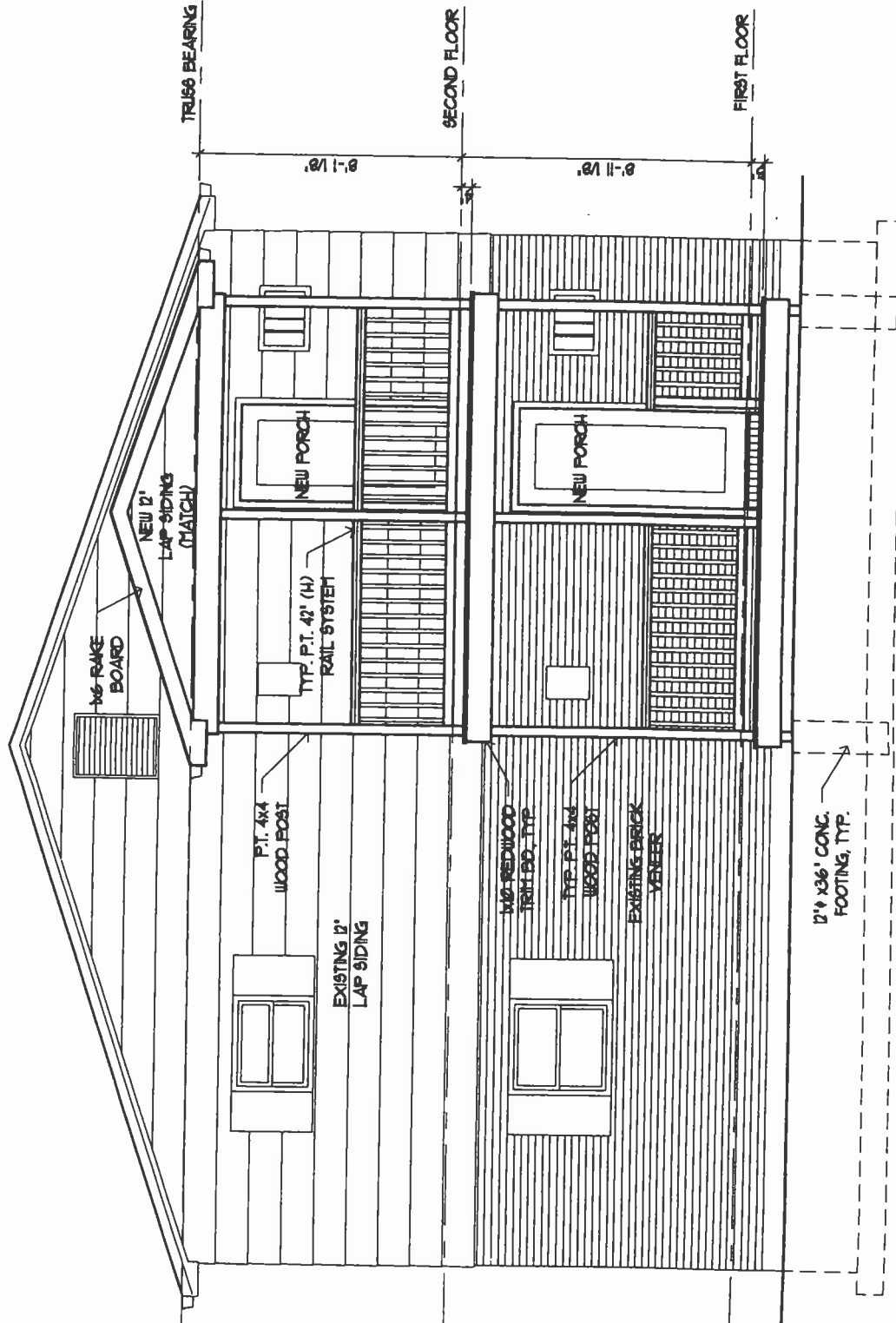
318 South Main Street

PROPOSED NEW PORCH ADDITION

OXFORD, OHIO 45056

JULY 15, 2013

A=1

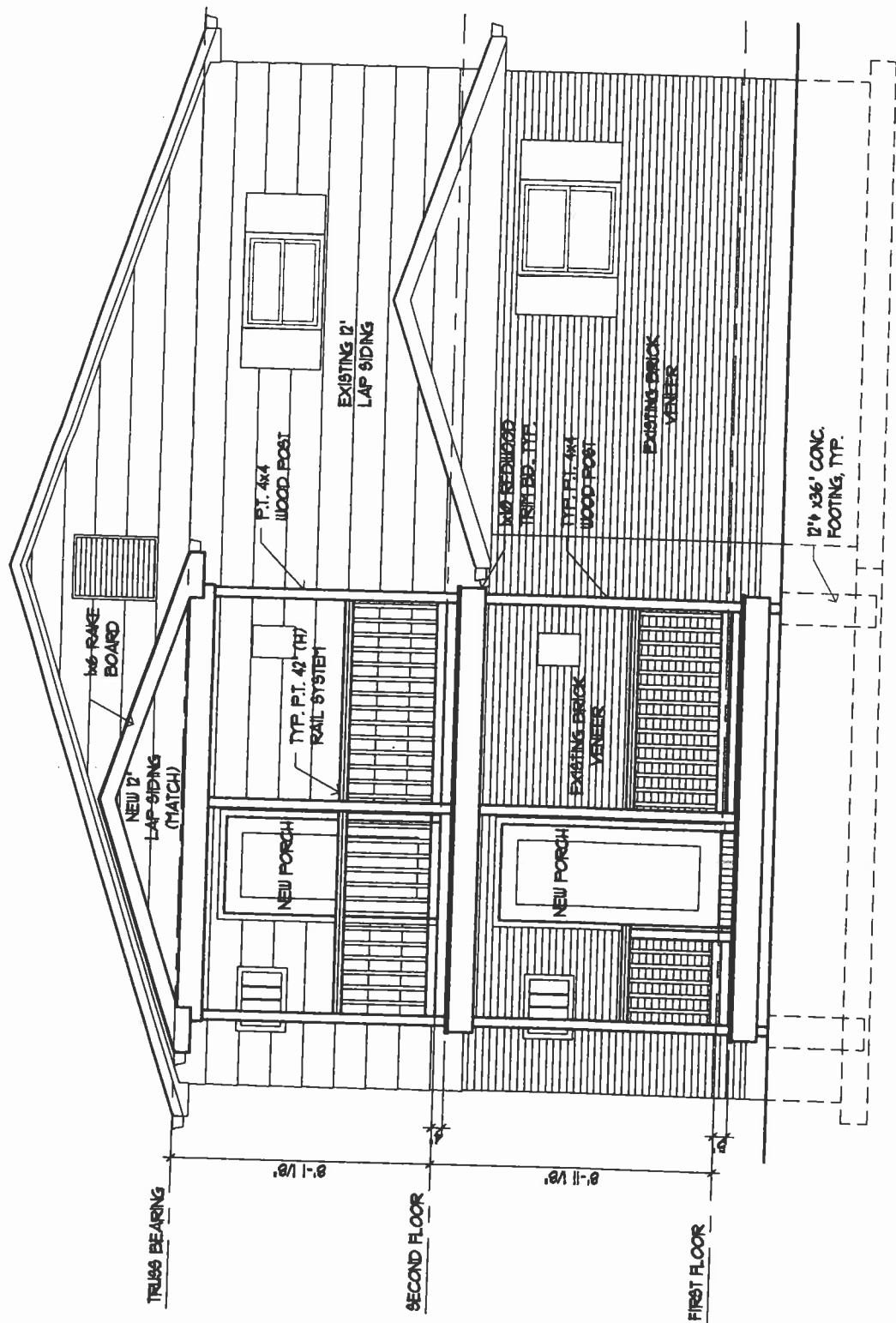


RECEIVED

1/4" = 1'-0"

FRONT ELEVATION

CITY OF OXFORD



REAR ELEVATION

BZA-04-2013

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

Re: Variance to Minimum Lot Width
Reconstruction of a 2-Family Dwelling
215 North University Street

September 5, 2013



SCOTT
WEBB

ARCHITECT

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

www.scottwebbarchitect.com

Board Members,

Please accept this letter as a formal petition for an extension of the variance granted for the reconstruction of a 2-Family Dwelling at 215 North University Street.

As you know, the construction season and the university calendar go hand in hand, and when a job cannot be completed in time for the rental season, it gets postponed to the next one. Such is the case here, where once BZA approval was granted, time had run out for construction.

Therefore, we are asking for an extension of nine months, allowing construction to begin no later than May 2014.

No changes have been considered to the approved plan that would change the variance that was granted; simply more time is required to get to the building permit application.

Thank you for your consideration of this application. If you have any questions or need any additional information, please let me know.

Respectfully,

Scott Webb, Architect



Community Development Department
Phone: 513-524-5204

January 17, 2013

Mr. Scott Webb
103 W. Walnut Street
Oxford, OH 45056

RE: BZA-04-2013 VARIANCE PETITION

Dear Mr. Webb:

On April 17, 2013 the Board of Zoning Appeals voted 4-1-0 to approve your variance request to Section 1143.05(c)(1) minimum lot width for a two family residential property located at 215 University Avenue.

The BZA deliberated and after considering and weighing the facts and circumstances, the Board found that practical difficulty was shown sufficient to warrant granting the variance request, and voted to **APPROVE** the application.

The Decision Standards were reviewed:

1. The property in question would yield a reasonable return. All were in agreement.
2. Whether the variance is or is not substantial. Vote 3-2-0, is not.
3. The character of the neighborhood would not be substantially altered. All were in agreement.
4. The variance would not affect the delivery of government services. No it would not.
5. Did the property owner purchase the property with knowledge of the zoning restriction. NA
6. The property owner's predicament feasibly can or cannot be feasibly obviated through some method other than the variance. Cannot.
7. The spirit and intent behind the zoning requirement would or would not be observed and substantial justice done or not done by granting the variance. Vote 4-1-0, would be and substantial justice would be done by granting the variance.
8. No other relevant factors.

If you have any questions or need additional information regarding this action, please contact the Community Development Department at 524-5204.

Sincerely,

Jung-Han Chen, AICP
Director
Community Development Department