

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2016-09

Date – October 19, 2016

APPLICATION

Applicant:	Terry Dudley
Location:	311 West Church Street
Owner:	Dudley Prime Properties LLC
Action Requests:	Variance to 1143.05(c)(2)B, rear yard setback Variance to 1143.05(c)(4)A.1, total lot coverage
Current Use:	Two-Family Residential
Zoning:	R2MS, Single and Two Family Mile Square Residential
Surrounding Land Uses:	Single, Two and Three Family Residential

DESCRIPTION

Mr. Terry Dudley is requesting two variances from the site development regulations of the R2MS Zoning District. The property is located on the south side of the westernmost block of Church Street, before the transition to College Corner Pike. The variances requested are a decrease of the rear yard setback and an increase of the total lot coverage as a result of an unapproved deck addition. A major renovation of the house was completed in 2016 after receiving variance approvals in 2013. Below is the photo as built.



CODE SECTIONS FOR VARIANCES REQUESTED

Section 1143.05(c)(2)B, rear yard setback

The approved rear yard setback for this property is 18 feet. The code requires a minimum of 35 feet. The proposal (built) would decrease the rear yard setback to 4 feet.

Section 1143.05(c)(4)A.1, total lot coverage

The approved total lot coverage is 52%. The proposal (built) increases the lot coverage by 192 square feet.

COMMENT FORMS

No public comments were received from surrounding property owners regarding this request.

AGENCY REVIEW

Fire	No comments returned
Police	No comments returned
Engineering	No comments returned
Economic Development	No comments returned

SITE HISTORY

BZA-2013-15: In 2013, three variances were approved, as part of a major renovation to remove the log cabin addition to the building. The building was nonconforming with regard to rear yard setback, building coverage and lot coverage. The approved variances brought the building/site into closer conformity with the zoning code.

The submitted building permit plans did not show the rear deck or rear door. The deck was noticed after construction.

ANALYSIS

The burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for variance(s) (Section 1139.02(c)(1)). Further, the BZA must find that practical difficulties exist that would render strict application of the Code unreasonable (Section 1139.02(c)(2)). In determining whether such difficulties exist which are sufficient to warrant a variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the three enclosed site plans (previous, approved and existing) as well as the criteria statement from Mr. Dudley. The staff's review of the criteria is included in this report below:

Regarding criterion A, reasonable return: The property received variances without the rear deck setback encroachment and lot coverage increase, therefore, the requested needs for **reasonable return for the property owner were met**. Therefore no further increases should be needed.

Regarding criterion B, The rear yard setback is **substantial** at 88% short of the full compliance of 35 feet. The lot coverage increase is **not substantial** as an increase of 192 square feet.

Regarding criterion C, a rear deck addition would **not alter the essential character** of the neighborhood.

Regarding criterion D, the granting of the variances **would not affect the delivery of governmental services**.

Regarding criterion E, the property owner had **knowledge of the zoning restrictions** based upon the previous case in 2013.

Regarding criterion F, there other means of rear access from the building **that would not require variances.**

Regarding criterion G, Staff believes that the **spirit and intent** behind setbacks and lot coverage is to ensure a predictable amount of open space and use separation which includes access to air and light for the residents of a residential district.

RECOMMENDATION

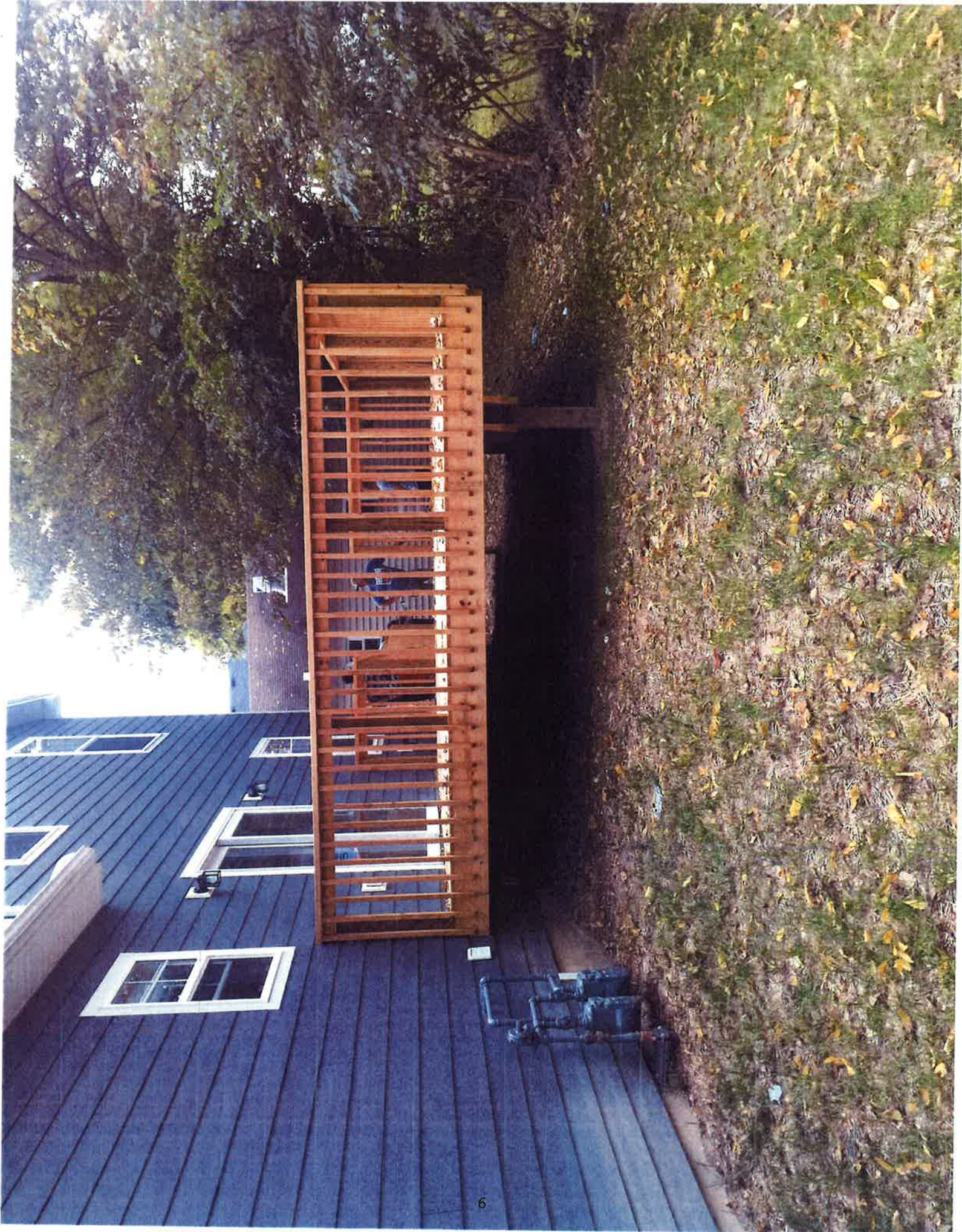
The BZA will need to determine the weights of the different findings within the seven criteria, in its determination of whether or not difficulties exist which are sufficient to warrant the three variances. The staff recommends that the BZA cite the specific evidence (if different than this report) prior to making a final decision. Staff believes at the time of this report, there is not sufficient evidence to support the variance requests.

SUBMITTED BY:



Sam Perry, AICP, Planner
Community Development Department

DATE: October 13, 2016



City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-15-2013

Date – December 18, 2013

APPLICATION

Applicant:	Terry Dudley
Location:	311 West Church Street
Owner:	Thomas M Dudley Trust
Action Requests:	Variance to 1143.05(c)(2)B, rear yard setback Variance to 1143.05(c)(4)A.1, total lot coverage Variance to 1143.05(c)(4)A.2, building coverage
Current Use:	Two-Family Residential
Zoning:	R2MS, Single and Two Family Mile Square Residential
Surrounding Land Uses:	Single, Two and Three Family Residential

DESCRIPTION

Mr. Terry Dudley is requesting three variances from the site development regulations of the R2MS Zoning District. The 100+ year old house at 311 West Church Street has had different additions over the years. Additionally, the lot does not fully extend to the alley. Mr. Dudley wishes to remove the additions due to necessary repairs. The building is a nonconforming structure, because of its setbacks, building and lot coverage. However, it is not a nonconforming use; therefore the occupancy would not have to be reduced. Nonetheless, Section 1137.06, Nonconforming Structures; requires that reconstructed portions of a nonconforming structure satisfy the site development regulations of the underlying zone.

CODE SECTIONS FOR VARIANCES REQUESTED

Section 1143.05(c)(2)B, rear yard setback

The current rear yard setback for the structure is nine feet. The code requires 35 feet. The proposal would increase the rear yard setback to 18 feet, which would be still only 50% of the required rear yard setback.

Section 1143.05(c)(4)A.1, total lot coverage

The current total lot coverage is 62.7%. The code limits the lot coverage to 35%. The proposal is to not only remove the additions but also some of the existing paved/patio stone areas. The submitted site plan shows the crosshatched areas for removal. The proposal would decrease the lot coverage to 52%, which would still be 17% short of the required 35% limit.

Section 1143.05(c)(4)A.2, building coverage

The current building coverage, which includes the garage, is 30.7%. The proposal would maintain the building coverage nearly the same at 30%. The code limits the building coverage to 25%. Therefore the proposal would still fall short of the requirement by 5%.

COMMENT FORMS

No public comments were received from surrounding property owners regarding this request.

AGENCY REVIEW

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

SITE HISTORY

There is no prior BZA history for this property. Additionally, there is no record of outstanding or past zoning violations for this property.

ANALYSIS

The burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for variance(s) (Section 1139.02(c)(1)). Further, the BZA must find that practical difficulties exist that would render strict application of the Code unreasonable (Section 1139.02(c)(2)). In determining whether such difficulties exist which are sufficient to warrant a variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the two enclosed site plans (existing and proposed) as well as the criteria statement from Mr. Dudley. The staff's review of the criteria is included in this report below:

Regarding criterion A, **reasonable return**: As the applicant has stated, rental permits have been maintained for many years for this property. Based on that information alone, it could be concluded that the property use can continue without the variances. However, staff does not have any detailed information about the severity of the repairs needed and whether their incompleteness would result in the building no longer being useable by the owner. The BZA may wish to request testimony from the applicant on this issue.

Regarding criterion B, The variances would result in decreased nonconformities on the property, which would be **less substantial than the current condition**. Additionally, although the building contains a log cabin structure which is not believed to be original to the site, its removal would not have a negative impact on historic preservation. The property is not in a historic district, but is within the Mile Square, therefore it would be required to follow Mile Square Architectural guidelines.

Regarding criterion C, Elevation drawings of the proposed additions have not been submitted, so it is difficult to determine a complete picture of any impact on **the essential character of the area**. Although the lot is shorter **depth** than many in the area, it is not the only lot that does not extend to the alley. Additions on turn-of-the-20th century houses are common in the Oxford Mile Square. The location shown for the footprint of the additions would be recessed from the main original two story structure, which would be respectful of the primary façade. However, exact architectural details are not known.

Regarding criterion F, **methods other than a variance**: based on the applicant's statements; repairs are needed to the log cabin structure, which has precipitated this overall project proposal. Based on discussions with the applicant, the cabin structure foundation has settled significantly, and there is not a way to repair it without complete dismantling. Based upon zoning code the dismantling constitutes a reconstruction of a nonconforming structure.

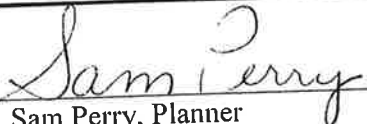
Regarding criterion G, Staff believes that the **spirit and intent** behind setbacks, lot coverage and building coverage is to ensure a predictable amount of open space which includes access to air and light for the residents of a residential district. Natural infiltration of storm water is also a result of coverage limits.

While the proposal does fall short of three site development requirements, it does bring the property closer to compliance.

RECOMMENDATION

The BZA will need to determine the weights of the different findings within the seven criteria, in its determination of whether or not difficulties exist which are sufficient to warrant the three variances. The staff recommends that the BZA cite the specific evidence (if different than this report) prior to making a final decision. Staff believes at the time of this report, there is enough evidence to support the variance requests.

SUBMITTED BY:


Sam Perry, Planner
Community Development Department

DATE: December 10, 2013



Internal Use Only:	BZA-2016-09
Case No.	
Date Filed	9/20/16

Petition for Zoning Variance

Petitioner Information

Attach a Letter of Agency if the Petitioner is not the property owner.

Name * Terry Dudley Dudley Prime Properties
Mailing Address * 6744 Contreras Rd.
City, State & Zip Code * Oxford, Ohio 45056
Telephone Number(s) * (513) 523-1800 255-2604
Email Address KathyDudley@gmail.com
Location of Property * 311-311 1/2 West Church
Name of Building *

Owner Information

Name * SAME
Mailing Address *
City, State & Zip Code *
Telephone Number(s) *
Email Address

Variance and Lot Information

Requested Variance. Indicate the nature of variance and applicable section(s) of the Planning and Zoning Code.

Back Yard Setback 1143.05 (c)(2) B
for an existing deck and lot coverage 1143.05 (c)
sub-(4)A1

Location of Requested Variance * 311-311 1/2 West Church back yard
Legal Description * West 1/2 of lot 480
Zoning District * R2-MS Total Acreage * 82.5 x 82.5
Existing Use of Site * Residential Duplex 6806-SQ FT

Proposed Use (if applicable). 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.

Residential Duplex

- 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.

Fees & Receipt

The variance fee is \$200.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00 plus postage charge. **Fees may increase if staff determines that you need more variances.**

To calculate postage charges, multiply the number of adjoining properties by current postage rate³.

Sign and Date

Petitioner Signature *

Date *

Terry Dudley
9-19-16

Submit Application, Plans and Documentation, and Fees

We will not accept incomplete applications and/or plans and documentation.

Send or drop off this application with required plans and documentation as attachments and a check for fee(s) and postage charges made payable to **City of Oxford**, to Community Development Director, 101 East High Street, Oxford, OH 45056.

Direct questions to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

Note: You must adhere to notification and publication requirements. Submit materials 30 days prior to the Board of Zoning Appeals meeting at which the action is requested. City Staff will place a public hearing sign on the subject property. **The Petitioner is responsible for removing the signage at the completion of the hearing(s).**

For Staff Use Only

Fee Paid Date *

9/19/16

Receipt Number *

\$300 -

¹ Butler County Auditor Real Estate Search: <http://www.butlercountyauditor.org/>

² City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>

³ The United States Postal Service: <http://www.usps.com/>

Narrative Statements

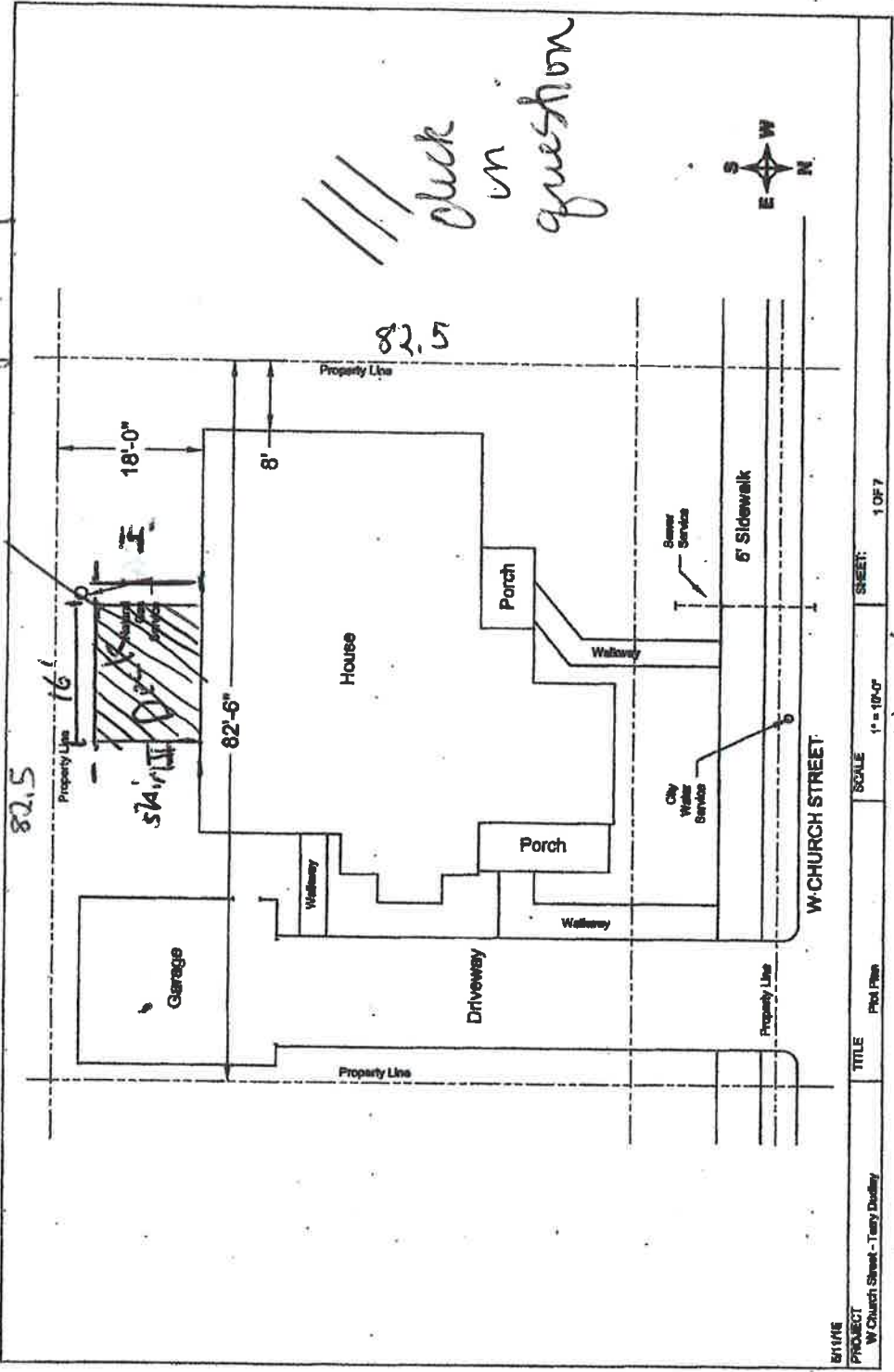
311 and 311 ½ W Church

- A. Granting the variance will make the best use of a very small backyard
- B. The variance isn't substantial
- C. No detriment to neighboring properties would result by this variance
- D. Government services would not be affected by this variance
- E. Property owner thought he had a variance
- F. A variance is required to construct this deck
- G. Construction of the deck completes the total renovation of this property
- H. The deck is farther from the back property line than the existing garage

New Site plan 2016

4' from property line

House 1876
Garage 4108
2284
6806
33.6
sidewalk
634
Drive 800
1434
2284
3718
lot 6806
52.035
lot
corner



/// check in question

BYLINE	TITLE	SCALE	SHEET
PROJECT	Prop Plan	1" = 10'-0"	1 OF 7
W Church Street - Terry Dudley			

111-20'

111-20'

311-3111h

House - 1616
Garage - 378

2054 30%
6806 coverage

lot

82.5

8

sidewalk = 689
Patio

Drive 800

NEW

increased
back yard

18'

5'

Bedroom

Bath

Bedroom

Dining Bedroom

Family Room

Kitchen

Porch

Bath

Patio

Bedroom

Bedroom

Garage

Drive way

82.5

lot

82.5

52 e/c

coverage

church ST

Approved in 2013

N

★ Prior to Renodel

311-311 1/2 W Church

House - 1712 sq
Garage - 328
- 2090
30.7 sq ft

sidewalk 828

Drive 800

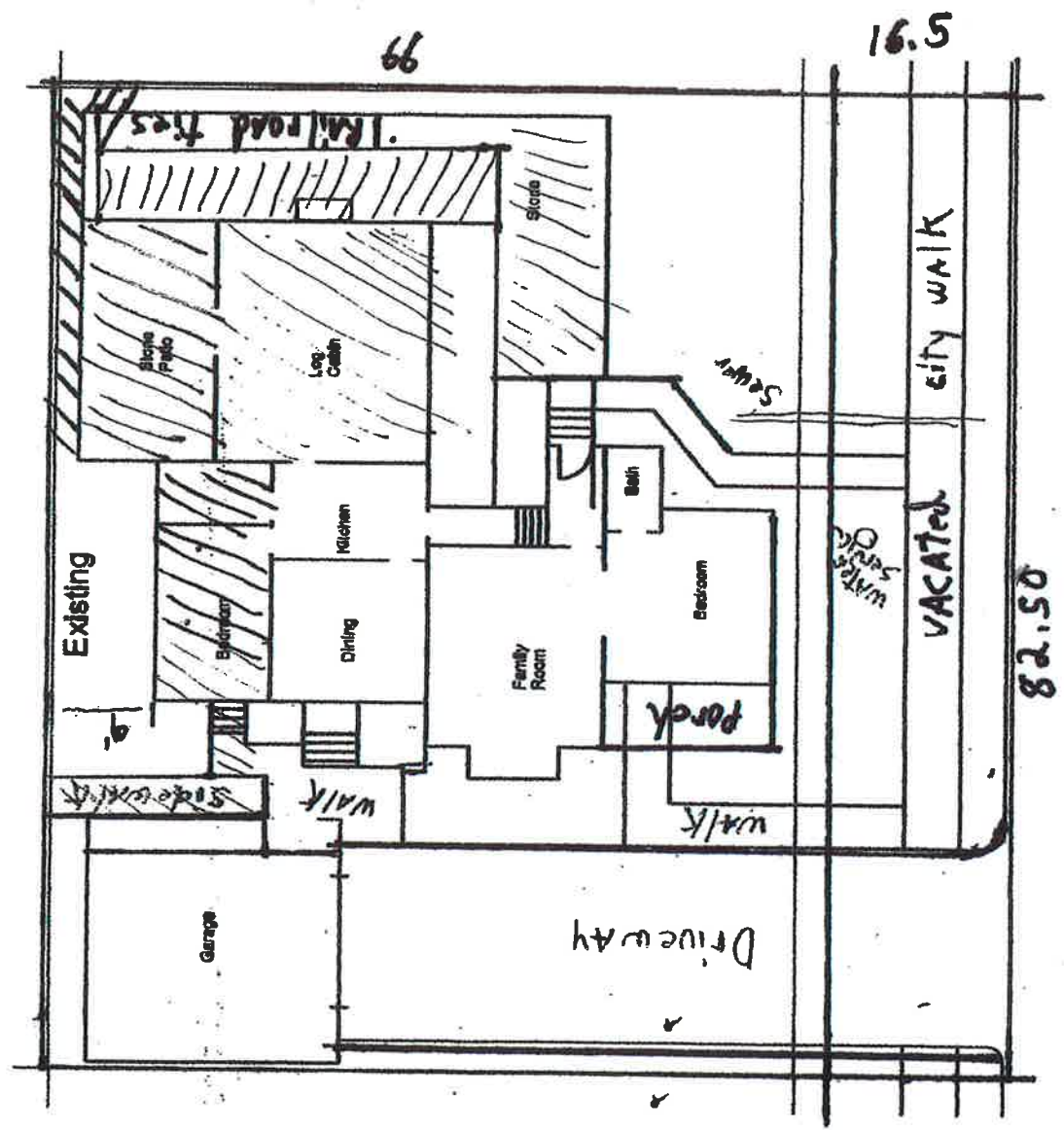
Stone patio 549

Total - 4267

lot - 6806.25

62.7%
10%
CONCRETE

////// Arc
to be removed



Church St

↓ N

