

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

Case # BZA-03-2012

Date –March 21, 2012

APPLICATION

Petitioner: Bernadette Unger, for Moon Co-Op
Location: 516 S. Locust
Owner: Timothy Goldner, Sole & Managing Member of Goldner Tollgate Mall, Ltd.

Action Request: Variance to Sections 1151.05(a)(3) and 1151.02(k)(2)(B) for additional wall signs in the GB District, one of which does not face the right-of-way

Current Use: Retail
Zoning: "GB" General Business District
Surrounding Land Uses: Commercial, retail and personal services

DESCRIPTION

The application is seeking approval of additional signage for the tenant of an existing shopping center. Currently, there are two free standing signs being used by this retail complex. The proposal before the Board of Zoning Appeals is to add two additional wall signs; one facing Locust Street and one facing the parking lot at the rear of the retail complex. The proposed sign facing Locust Street would be 4' by 6' and installed on the face of the building. The second wall sign, measured to be 3' by 8', will be installed on the cooler.

VARIANCES REQUESTED

Section 1151.05(a)(3) Permanent Signs in the Uptown Zoning District: No more than a total of 2 wall or freestanding signs are permitted per development site.....

- The Applicant is seeking two additional wall signs.

Currently, there are two existing free standing signs.

Section 1151.02(k)(2)(B)the sign number and area permitted based upon each right-of-way shall only be oriented towards the right-of-way upon which the permitted sign area is based.

AGENCY COMMENTS:

Requests for review were made to the Police, Fire, Engineering and Economic Development Departments. The following comments have been received:

Police:	Received without comments.
Fire:	Received without comments.
Engineering:	Comments received.
Econ. Dev.:	No comments received to date.

SITE HISTORY

BZA 12-1996: Variance to allow two ground signs

ANALYSIS

The existing commercial complex, the Tollgate Mall, is uniquely configured, having interior open green space between opposite tenant spaces. The MOON Co-Op is located at the end of this mall and does not

have any "frontage" along the parking lot, or Locust Street. Therefore, in the statement submitted by the Applicant, it was pointed out that the design of this mall creates an attractive green space, but posed a disadvantage for identifying a business located at the rear of the complex.

Currently, there are two ground signs: one along S. Locust Street; the other one in front of the building (Photos attached). The Applicant desires to install two additional wall signs for the purpose of advertising the presence of the retail business. The first sign, measuring 4'x 6', will be installed on the face of the building to replace the existing temporary sign. The second sign, 3' x 8', will be installed on the cooler facing the pedestrian walk.

The Applicant has indicated in their written statement that the tenant space had been vacant for quite a while; therefore, it was questionable that a reasonable return would be materialized if the tenant does not have sufficient exposure/visibility to potential customers. It is commonly acknowledged that retail stores need sufficient exposure to attract customers. It is also the intent of the code to provide a generous formula to accommodate this purpose.

The allowable sign area for this mall collectively is around 260 sq. ft. Currently, there is approximately 71 sq. ft. being used. The Applicant is proposing to add an additional 48 sq. ft. sign area. The requested square footage, if no variance were involved, would have been allowed. The Applicant indicated that the request is not substantial. With the proposed signs, it would not alter the neighborhood character. Furthermore, the signage would not impact any delivery of government services. It might be beneficial for product delivery or waste collection to locate the tenant space.

The site already has three freestanding signs, two of which having been approved in 1996. The current code only allows a total of two wall signs or freestanding signs per development site. The only way to obtain any additional signage is through a variance request to the Board of Zoning Appeals. The Applicant acknowledged that they have gone through extensive research for sites, due to various reasons that they could work out for the retail outlet. It is not the making of the Applicant to create this dilemma since the site was designed in a configuration that the Applicant had very limited ability in modifying the structural elements. As stated earlier, the sign code recognizes the importance of signage to businesses to attract customers in a way that is appealing and uncluttered. It would not be detrimental to the intent and spirit of the code by granting the requested variance.

There are important issues that need to be brought up for consideration: the owner of the complex would need to consider comprehensive signage in case any future tenants or current tenants would require/request additional signage should the Board approve this request. Should the Board stipulate that the requested variance request, if approved, is valid only for retail and would not be transferrable to another retail establishment? Should the Board entertain another variance from other tenants of the complex in the future, should the owner fail to develop comprehensive signage for all tenants?

RECOMMENDATION

None.

SUBMITTED BY:

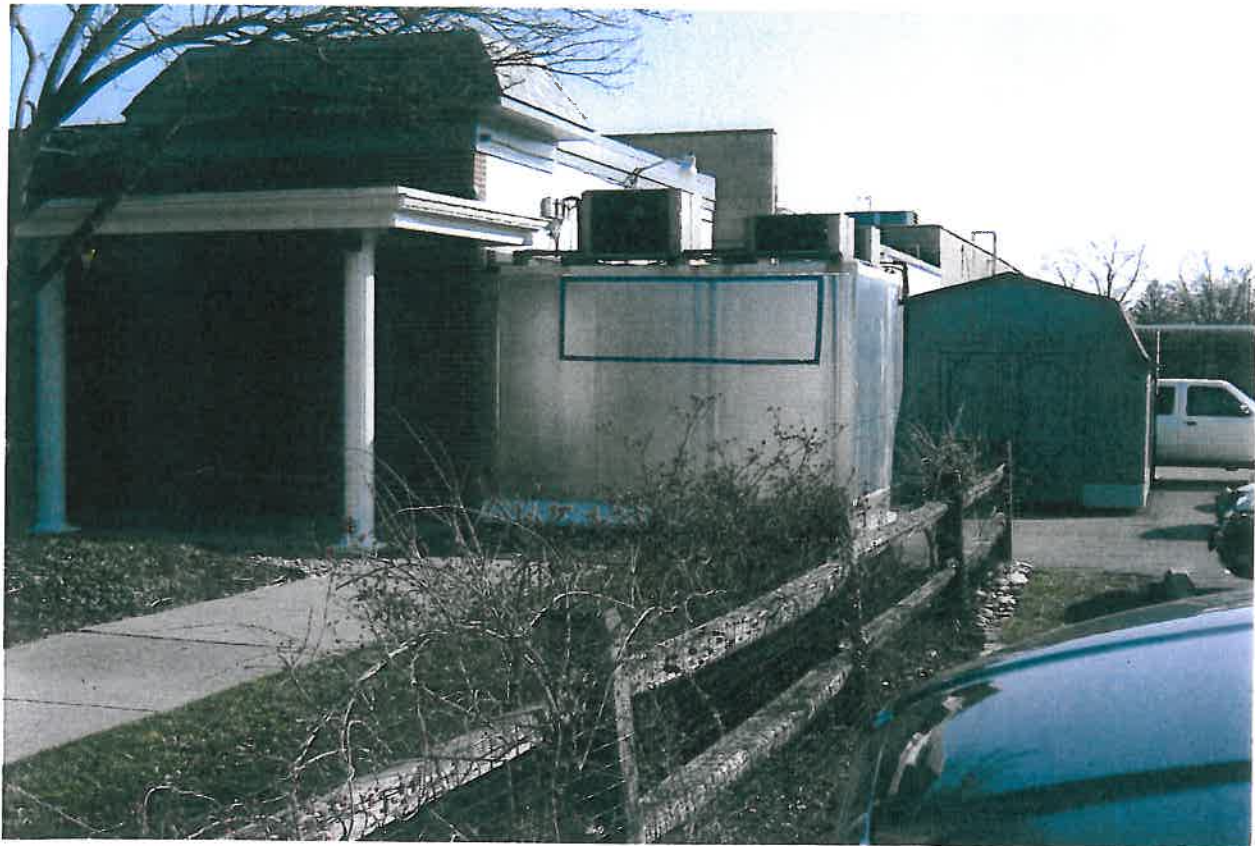

Jung-Han Chen,
Community Development Director

DATE: March 8, 2012

**Proposed Sign
#1**



#2



Existing Signs:
#1



#2



City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/5/2012

To: **Fire Department** Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: **BZA-03-2012**

Description:

BZA-03-2012 516 S. Locust Street, Variance to Sections 1151.02(k)(2)(B), 1151.05(a)(3) to allow additional wall signs in the GB District, one of which does not face the right-of-way, **Bernadette Unger, for MOON Cooperative Services, Inc., Applicant**

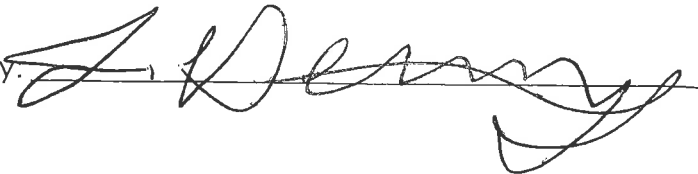
☒ Review ☐ Revisions ☐ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **3/15/2012** 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: 3-7-12

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/5/2012

To: Fire Department **Engineering Division** Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: **BZA-03-2012**

Description:

BZA-03-2012 516 S. Locust Street, Variance to Sections 1151.02(k)(2)(B), 1151.05(a)(3) to allow additional wall signs in the GB District, one of which does not face the right-of-way, Bernadette Unger, for MOON Cooperative Services, Inc., Applicant

 X Review Revisions Other

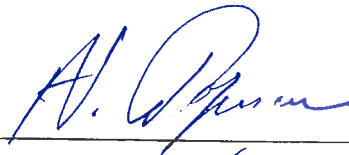
Comments or status update requested by: Lynn Taylor

Please return no later than: **3/15/2012** Note: If no comments are received, we will assume the project meets your department's standards.

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

SEE MEMO DATED 3-7-12

Drawings reviewed by:



VICTOR POPESCU

Date: 3-7-12



Memo

Service Department
Engineering Division

513/524-5208 fax 513/524-5267

TO: Community Development Department

FROM: Victor Popescu, P.E.
City Engineer

RE: Case #: BZA-03-2012
516 S. Locust St.
MOON Cooperative Services, Inc.

DATE: March 7, 2012

The proposed variance is for the purposes of allowing additional wall signs in the GB District.

The Engineering Division has reviewed the proposed variance and recommends its approval. The proposed signs will not alter the character of the area, and will, hopefully, assist in the success of the MOON Cooperative. In the long run, the signs will prevent in having another unoccupied facility in the GB District.

If there are questions, please contact the Engineering Division at 513-524-5208.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/5/2012

To: Fire Department Engineering Division **Police Department** Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: **BZA-03-2012**

Description:

BZA-03-2012 **516 S. Locust Street**, Variance to Sections 1151.02(k)(2)(B), 1151.05(a)(3) to allow additional wall signs in the GB District, one of which does not face the right-of-way, **Bernadette Unger, for MOON Cooperative Services, Inc., Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

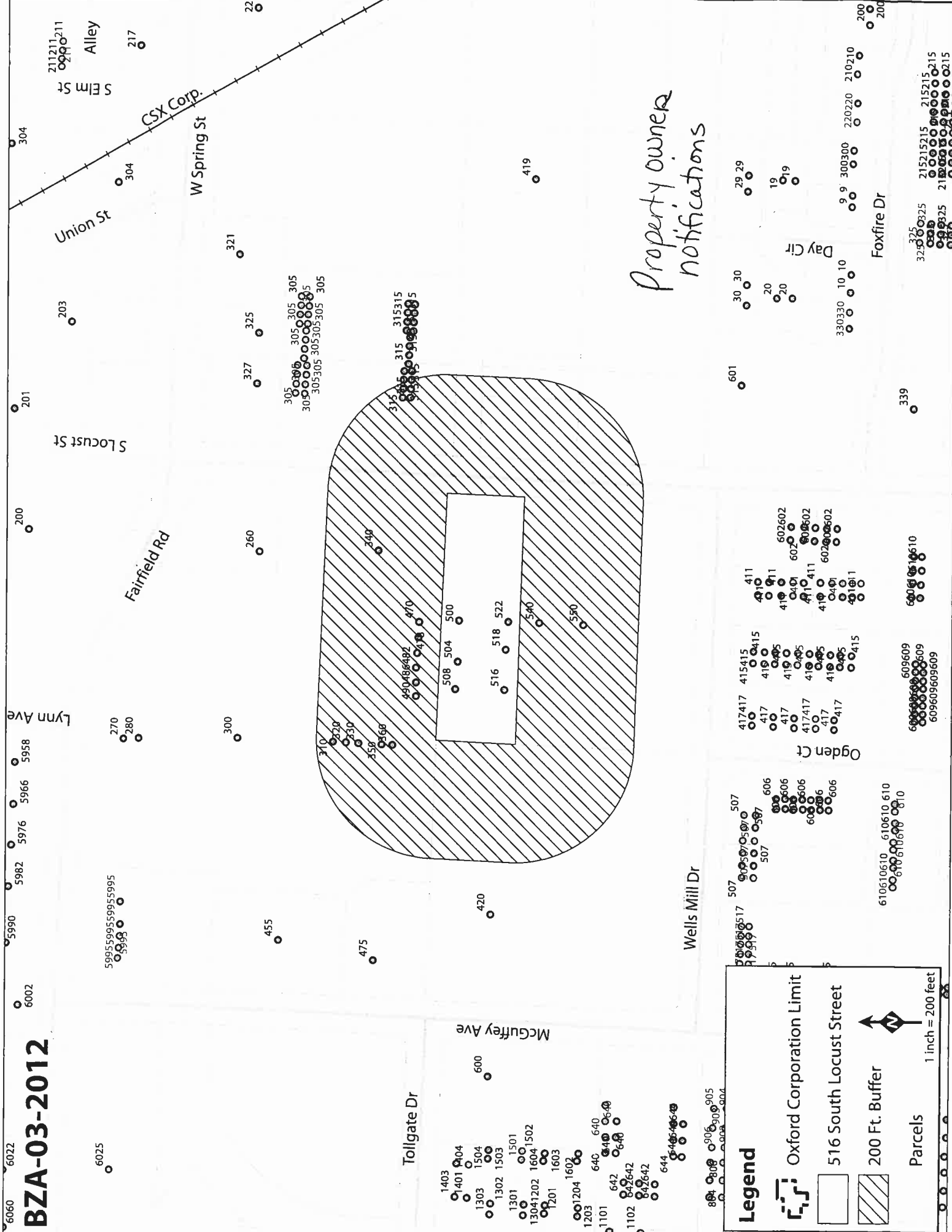
Please return no later than: **3/15/2012** Note: If no comments are received, we will assume the project meets your department's standards.

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

Drawings reviewed by: 

Date: 3.12.2012

BZA-03-2012



Legend

- Oxford Corporation Limit
- 516 South Locust Street
- 200 Ft. Buffer
- Parcels

1 inch = 200 feet

GOLDNER MANAGEMENT CO., INC.

5995 FAIRFIELD ROAD, SUITE #5

OXFORD, OHIO 45056

TEL. 513.523.0225

FAX 513.523.1515

goldnermanagement@yahoo.com

February 23, 2012

City of Oxford
101 E. High Street
Oxford, OH 45056

Re: Sign variance application for Moon Co-op – Tollgate Mall

Dear Sirs:

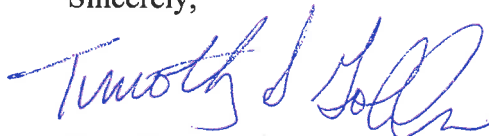
As owner of Tollgate Mall, I am writing in support of Moon Co-op's request for a sign variance in order for people to better locate their business entrance, which is almost at the rear of the south building at Tollgate Mall. This area has a rear alley-like entrance and parking area facing toward the rear loading dock area of Miami University's food prep. building. I approve this area for Moon to use for additional signage, if approved by the City.

I see no reason why the City would object, especially this area being in an alley area. This could really help a local business as this is the main parking area that will be used by their customers.

I have discussed several options they presented banner or rectangular sign on rear, probably on their cooler. This is fine with me.

Thank you for your consideration of Moon Co-op's request.

Sincerely,



Timothy S. Goldner
Sole and Managing Member of
Goldner Tollgate Mall, Ltd.

TSG/dla

Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner:

BERNADETTE UNGER for MOON CO-OP

(Attach a Letter of Agency if the Applicant is not the property owner.)

Mailing Address:

PO Box 29

Telephone Number(s):

store 280-5020 Bernadette Unger 523-3990

Email Address

Unger@brecnet.com

Name of Property Owner:

Tim Goldner

Mailing Address:

5995 FAIRFIELD Rd SUITE 5 OXFORD

Telephone Number(s):

523-0225

Requested Variance:

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

Number of SIGNS, ORIENTATION

1151.02 K2B, 1151.05 a3

Location of Requested Variance:

516 S. LOCUST TOLL GATE MALL

Legal Description:

Zoning District:

Total Acreage:

Acres

Existing Use of Site:

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.*

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 **\$400.00 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: Bernadette Unger Date: 2/17/2012

PRINTED NAME OF APPLICANT: BERNADETTE UNGER

FEE / RECEIPT

\$400 plus Actual Postage Fee Paid / Receipt Number: 17344.30

A. Reasonable Return

Our National Consultants and Market Researchers have expressed concern that the Cooperative's lack of visibility is the principal obstacle affecting the ability to yield a reasonable return.

The Cooperative is completely hidden from any street or public sidewalk. Innovative urban design was used to create an interior mall and avoid the common "strip" mall appearance. This creates an attractive green space but a disadvantage for identifying the businesses.

It has been over a decade since a retailer has attempted to locate in our location. Prior to our tenancy, the site had been vacant quite a while. Our renovation of this space helps arrest the decline of the Tollgate area and therefore helps fulfill a priority goal of the Oxford Comprehensive Plan. Having adequate and fair signage in this UNIQUE situation will significantly help us achieve a reasonable return and allow us to continue to be part of the revitalization effort.

B. Is the Variance Substantial?

No. Our request is the minimum signage we need and is consistent with other businesses in "normal" situations.

C. Will the Character of the Neighborhood be altered?

No. The signs are professional and attractive and consistent with—if not nicer than—existing signs in the area. The landlord, Tim Goldner, approves this request.

D. Will there be adverse effect on the delivery of government services?

No. this variance will have no adverse effects on the delivery of government services. It may help because the hidden business will be identified more clearly.

Was there knowledge of the zoning restriction?

The Cooperative's site search was exhaustive and lengthy. Over a 2-year period, approximately 20 visible sites were researched and considered. Actual lease negotiations were held on 4 visible sites but either the properties were taken off the market or determined to be unworkable as a store. This hidden site was our only option in a number of respects.

The Cooperative was aware of the sign regulations. However, we felt the intent of the variance process was to allow fair and just relief in unique situations, and our situation is unique. We could think of no other retailer that is as hidden and set as far back from the street. We looked at the other businesses in our zoning district and consulted with City Staff before deciding to move forward with revitalizing the long-vacant space in Tollgate Mall.

E. Can the predicament be feasibly obviated by other means?

No. Advertising efforts can not overcome the lack of business identification.

F. Is the spirit and intent behind the zoning requirement being observed and substantial justice done by granting the variance?

Yes the intent of the Zoning regulation will be upheld. The regulations are intended to allow signs that identify a business while still being attractive and uncluttered; our variance is completely consistent with the spirit of that regulation. It is likely that the regulation was written for conventional businesses with street frontage because the sign allowance is calculated solely based on street frontage. The Cooperative is the only Oxford retailer in a shopping "strip" that is perpendicular to the street and set hundreds of feet back from Locust Street. It is likely that when the regulations were written the Cooperative's situation was not taken into consideration. Therefore, granting the variance will help make the situation more consistent with the intent of the district and create a more just situation.

MOON cooperative Variance

The Cooperative occupies three units in the mall or 78 linear feet facing the landscaped courtyard. The sign area for the mall's collective signs is based on the facades facing Locust St.. The Mall collective sign provided by the landlord can be a maximum of **260 square feet** distributed across 2 signs.

The Tollgate Mall's current "gang" signs

Street sign	30 sq feet	
2 signs behind planters	<u>41 sq feet</u>	
Collective Total	71 sq feet	(permitted by code 260 sq feet)

The Cooperative's portion on the "gang" signs

Locust St collective	5.85 sq feet	
Behind planter collective	<u>9.10 sq feet</u>	
Total	14.95 sq feet	(this is the max. allowed by the lease)

Variances requested for the for the following

Number	Add 2 wall signs
Orientation	One wall sign will face north (the same side as the store's front door)

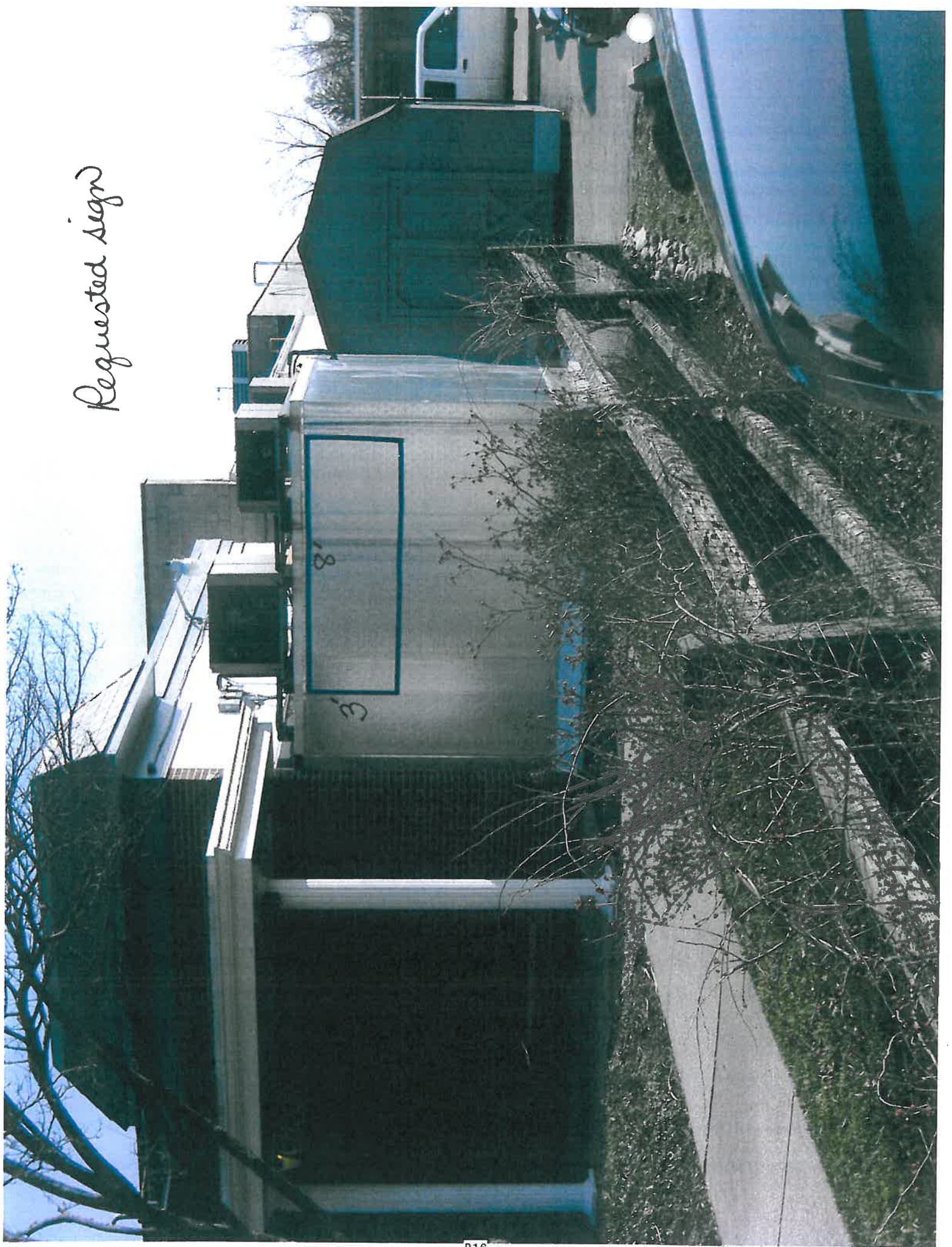
Details of request

One wall sign facing East (facing the Locust St. parking lot) 4 feet wide x 6 feet long = 24 sq feet . The cooperative currently has a sign allowed under the temporary sign regulations. We hope to keep the current banner until it needs to be replaced. The landlord requests that eventually the vinyl be replaced with more permanent material. The size of the sing is based on the proportions of the logo.

One wall sign facing north on the side with eth store's front door. This will face the pedestrian walk way used by residents in the area. 3 feet long and 8 feet wide. A cooler has been built on to the building and the sign would be on side of the cooler.

The cooperative considers these variances to be fair and just relief from a hardship created by the sign code due to the unique configuration of the property.

Requested sign





Existing



Requested
currently a
banner -
want to
make into
permanent

EXISTING

 **CAPITOL**
DRY CLEANING • SHIRT LAUNDRY
ALTERATIONS • TUXEDO RENTAL

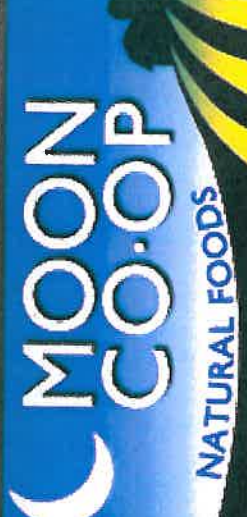
 **NATIONAL STAFF
DEVELOPMENT COUNCIL**

Dr. Richard Kennedy, D.M.D.
Pediatric Dentist

RENTAL INFO
513-523-0225

 **Little Caesars**

CLASSIC HAIR DESIGN
513-523-3379

 **MOON
CO-OP**
NATURAL FOODS