

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2018-04

Date – February 21, 2018

APPLICATION

Applicant:	Scott Webb
Location:	5017 College Corner Pike
Owner:	Michael Libecap
Action Request:	Variance to Section 1143.12(c)(2)A. General Business District Rear Yard Setback – To Reduce from 25' to 15'
Current Use:	Automotive Repair / Body Shop
Zoning:	GB (General Business)
Surrounding Land Uses:	Auto Service/ Retail/ Professional Office

DESCRIPTION

Scott Webb is requesting a reduction in the rear yard setback on behalf of the owner of Carstar Auto Body Repair Shop. A rear addition is proposed that will reduce the setback from 25 feet to 15 feet. The property is located at 5017 College Corner Pike.

BACKGROUND

Oxford Zoning Code Section 1143.12(c)(2)A requires at least 25 feet between the rear of a building and the rear property line. The applicant is planning a 30 foot addition to the existing building that would come within 15 feet of the rear property line.

COMMENT FORMS

Notification was mailed to property owners within 200 feet and a sign was placed on the property. No public comments have been received as of this writing.

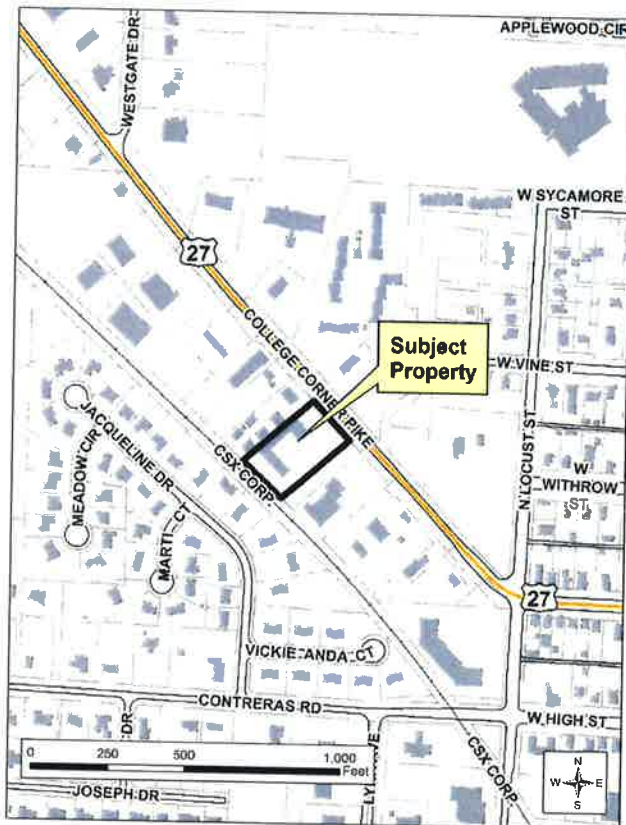
AGENCY REVIEW

The variance request has been reviewed by City departments.

Fire
Police

Returned without comments
Returned with comments

BZA-2018-04



Engineering
Economic Development

Returned with comments
Not returned

BZA SITE HISTORY

There are no past BZA cases of record addressed to 5017 College Corner Pike.

PERSPECTIVE

Below is an oblique aerial photo showing Carstar in the center.



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 enclosed letter addressing the review criteria from Mr. Webb. The staff's review of the criteria is included below.

Regarding Criterion A, Whether or not there can be **any beneficial use of the property without the variance**: Other than the fact that the business is growing, staff is not aware of how the lack of a variance would prevent any beneficial use.

Regarding criterion B, Staff believes that the variance is **not substantial** because rear of the building is abutting a railroad right of way.

Regarding criterion C, whether or not the **essential character of the neighborhood** would be negatively altered by the granting of the variance: This addition would be along a railroad and of similar scale as the existing building and therefore not negatively alter the essential character.

Regarding criterion D, Staff believes that the **delivery of governmental services** could be adversely affected by the granting of this variance request. The City Engineer's memo expresses concern regarding the protection of the sanitary sewer main.

Regarding criterion E, **property owner awareness of the zoning restriction**; the rear yard setback requirement has remained at 25 feet since prior to the 2011 transaction to the current owner.

Regarding criterion F, the **owner's predicament** is stated in the applicant narrative. It appears to be that the owner is limited to this location of the building for expanding square footage.

Regarding criterion G, whether or not **the spirit and intent behind the zoning requirement would be observed and substantial justice done** by granting the variance: Staff believes that if the protection of the sanitary sewer can be provided then the spirit and intent would be observed by granting the variance.

RECOMMENDATION

If the BZA determines that difficulties exist which are sufficient to warrant the variance, the staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance request. At the time of this report, **staff believes there is substantial evidence that supports the variance request**. If the BZA does approve the variance it can attach any appropriate conditions necessary as permitted by Section 1139.02(d)2.

A condition of approval can be:

1. That a plan for adequate protection of the sanitary sewer main be submitted to and approved by the City Engineer prior to the submittal of a building permit application. If such approval is not granted by July 21, 2018, the variance is null and void.



SUBMITTED BY: _____

Sam Perry, AICP
Planner, Community Development Department

City of Oxford
Inter-Office Review Transmittal Sheet



Date: 1/23/2018

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-2018-04

ADDRESS: 5017 College Corner Pike

Variance to Section 1143.12(c)(2) minimum rear yard requirements in a GB District, **Scott Webb**
Appellant

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **2/12/2018** 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: 1-30-18

Drawings printed name: John Ditherage

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 2/9/2018

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2018-04, 5017 College Corner Pike, variance to Section 1143.12(c)(2) minimum rear yard requirements in a GB District, **Scott Webb Appellant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 1/8/2018 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 2-9-18

[Handwritten signature]

Drawings reviewed by:

[Handwritten signature: Victor Popescu]

VICTOR POPESCU

PRINT NAME

Date: 2-9-18



Memo

Service Department
Engineering Division

513/524-5208 fax 513/524-5267

TO: Community Development

FROM: Victor Popescu, P.E.
City Engineer

RE: BZA-2018-04
5017 College Corner Pike

DATE: February 9, 2018

A sanitary sewer main crosses the property close to or under the proposed addition. The drawing that was presented for this case does not indicate the presence of the sanitary sewer main.

Whether the sanitary sewer main is located within an easement or not, structures are not to be built over the sanitary sewer main. Additionally, being a public utility, sufficient area shall be assured for maintenance purposes. The maintenance area extends, at a minimum, 10 linear feet on each side of the sanitary sewer main.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 1/23/2018

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-2018-04

ADDRESS: 5017 College Corner Pike

Variance to Section 1143.12(c)(2) minimum rear yard requirements in a GB District, **Scott Webb**
Appellant

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **2/12/2018** Note: If no comments are received, we will assume the project meets your department's standards.

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

This addition MAY very well increase security of the site and eliminate or reduce hiding areas in the rear of the property where cars may be currently stored outside. There are no objections from the police division regarding this.

"This addition may very well increase security of the site and eliminate or reduce hiding areas in the rear of the property where cars may be currently stored outside. There are no objections from the police division regarding this."

Drawings reviewed by: *[Signature]*

Date: *1/26/18*

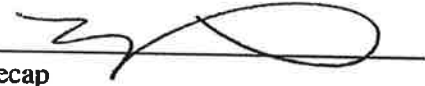
Drawings printed name: *John A. Jones*

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's Board of Zoning Appeals regarding an addition to the Carstar of Oxford at 5017 College Corner Pike.

Thank you,

Signed: 

Mike Libecap

Carstar of Oxford

1-10-18

Date:



Internal Use Only:

Case No.

BZA-2018-04

Date Filed

1/22/18

Petition for Zoning Variance

Petitioner Information

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

Name * Scott Webb

Mailing Address * 103 West Walnut Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 513-523-3838

Email Address scott@scottwebbarchitect.com

Owner Information

Name * Oxford AutoBody / Carstar of Oxford

Mailing Address * 5017 College Corner Pike

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 513-524-1318

Email Address Oxford@carstarusa.com

Variance and Lot Information

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

1143.12(c)(2) Yard Requirements – Rear Yard min. 25' in GB Zoning District

Location of Requested Variance * 5017 College Corner Pike

Name of Building Carstar of Oxford

Legal Description * H4100015000009

Zoning District * GB Total Acreage * 1.3199

Existing Use of Site * Auto Service Business

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.

- 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.

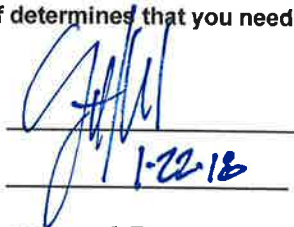
Fees & Receipt

The variance fee is \$200.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00, plus \$10.00 postage charge. **Fees may increase if staff determines that you need more variances.**

Sign and Date

Petitioner Signature *

Date *



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 fees and postage charge, 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).**

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>

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 Rear Yard Setback
Proposed Addition to Oxford Cartar
5017 College Corner Pike

January 22, 2018

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to the Minimum Rear Yard Setback Requirement for an Addition to the Oxford Carstar location on College Corner Pike.

1143.12(c)(2) Yard Requirements – Rear Yard min. 25'

As Oxford AutoBody continues its transition to Carstar of Oxford and continues to grow, the business needs more space inside their building.

Nearly all of the perimeter of the existing building provides access to either the public or service bays, leaving few options to locate an addition. The proposal at hand shows a small addition to the rear of the building, completely out of public sight and adjacent to the railroad Right-of-Way.

The owners seek a variance from the 25' rear yard setback to 15' to allow the proposed addition.

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 growing business continues its need for additional space. An addition in this location would be significantly reduced without a variance.

- b) *Whether the variance is substantial;*

The variance is not substantial, as the proposed addition abuts the 60'-0" Railroad right-of-way. The need to protect the adjacent property with a rear yard setback is not necessary when the neighbor is a railroad track.

- 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 not be affected, as the addition is proposed to the rear of the building, out of sight of the public.

- 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;*

It is unclear whether the property was purchased with the knowledge of the zoning restriction, as the need to examine rear yard setback requirements was prompted by the growth of the business.

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

While it is possible an addition could be located elsewhere on the building, doing so would affect the existing operation of the business, and would not serve their needs.

- 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, when providing separation and protection from the neighboring property is a railroad track and not residential or commercial use.

- h) *Any other relevant factor;*

This redevelopment project aligns with the goals of the Comprehensive Plan, encouraging infill and redevelopment within the City, and encouraging growing businesses to remain.

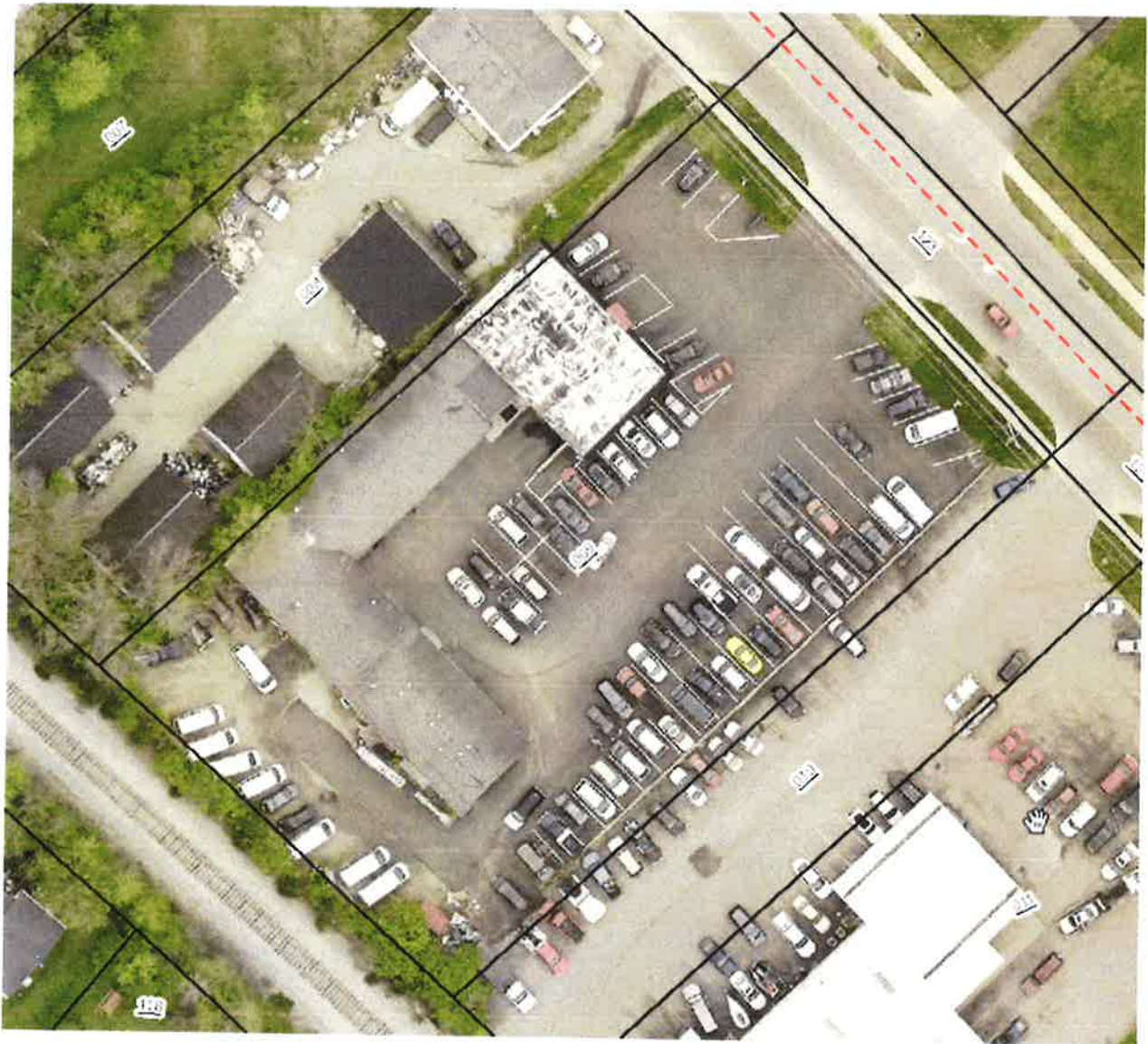
Thank you for your consideration of this application. If you have any questions or need any additional information, please call.

Respectfully,

A handwritten signature in black ink, appearing to read 'Scott Webb', written in a cursive style.

Scott Webb, Architect

Site



Overhead view from Butler County Auditor's Office



Existing Rear of Building showing Addition location



Existing Building Faces (Lack of Alternate Locations)

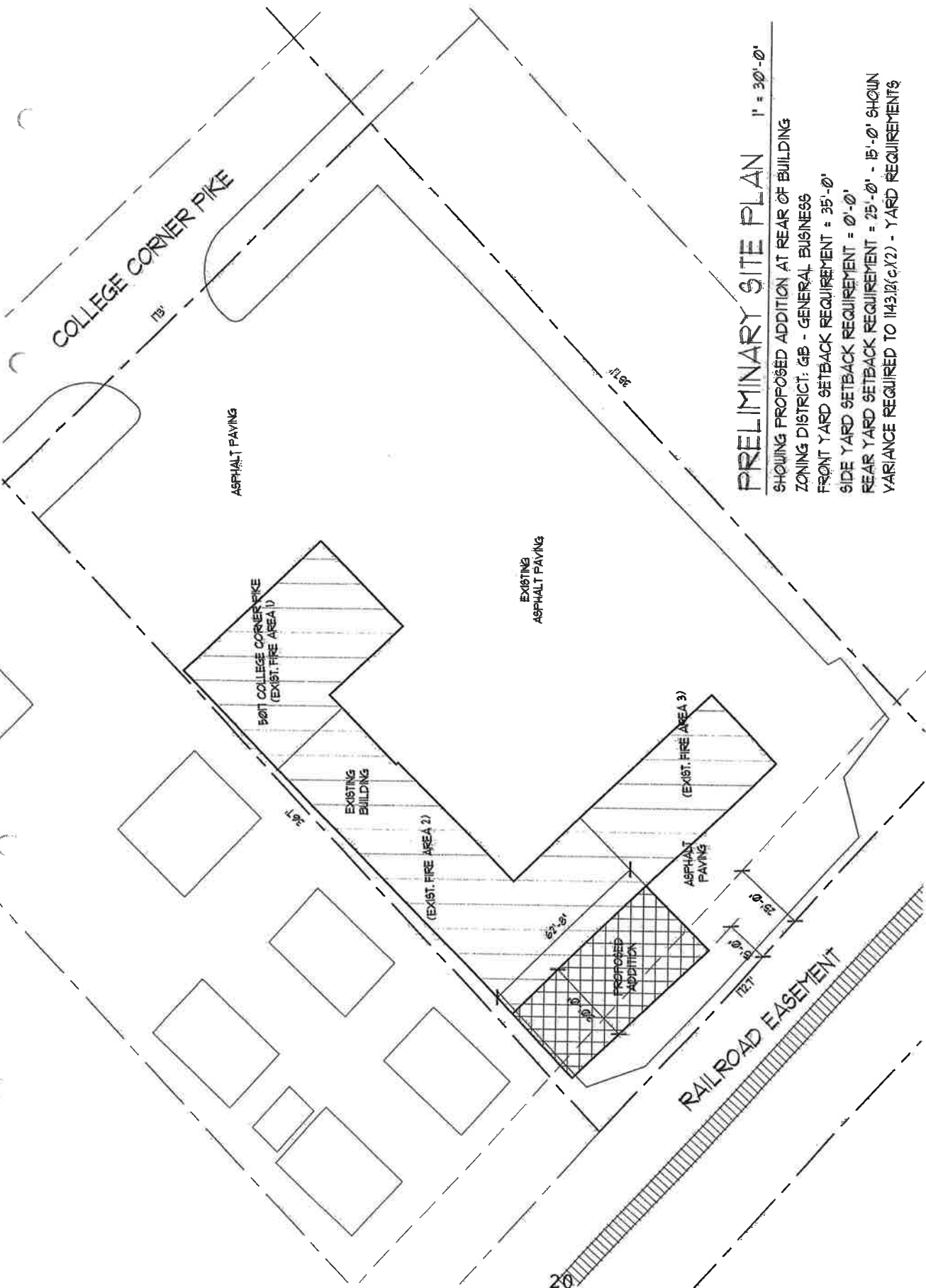


SCOTT WEBB ARCHITECT
103 West Walnut Street
Oxford, Ohio 45059
610.523.3809
www.scottwebbarchitect.com

CARSTAR Oxford
PROPOSED SHOP ADDITION
OXFORD, OHIO 45056
5011 COLLEGE CORNER PIKE

DATE	January 22, 2024
REVISIONS	

A=1



PRELIMINARY SITE PLAN 1" = 30'-0"
SHOWING PROPOSED ADDITION AT REAR OF BUILDING
ZONING DISTRICT: GB - GENERAL BUSINESS
FRONT YARD SETBACK REQUIREMENT = 35'-0"
SIDE YARD SETBACK REQUIREMENT = 0'-0"
REAR YARD SETBACK REQUIREMENT = 25'-0" - 15'-0" SHOWN
VARIANCE REQUIRED TO 1143.12(c)(2) - YARD REQUIREMENTS

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2018-05

Date – February 21, 2018

APPLICATION

Applicant: Scott Webb
Location: 104 West Collins Street
Owner: Mitch Mesler

Action Request: Variance to Section 1143.05(c) Single and Two Family District Front Yard Lot Coverage – To Increase from 30% to 46.3%

Current Use: Single-Family Rental / Lodging House
Zoning: R2-MS (Single and Two Family Mile Square Residential)
Surrounding Land Uses: Single and Two Family Residential

DESCRIPTION

Scott Webb is requesting an increase in the front yard lot coverage on behalf of the owner. A new two-stall driveway is proposed from an existing curb cut on West Collins Street.

BACKGROUND

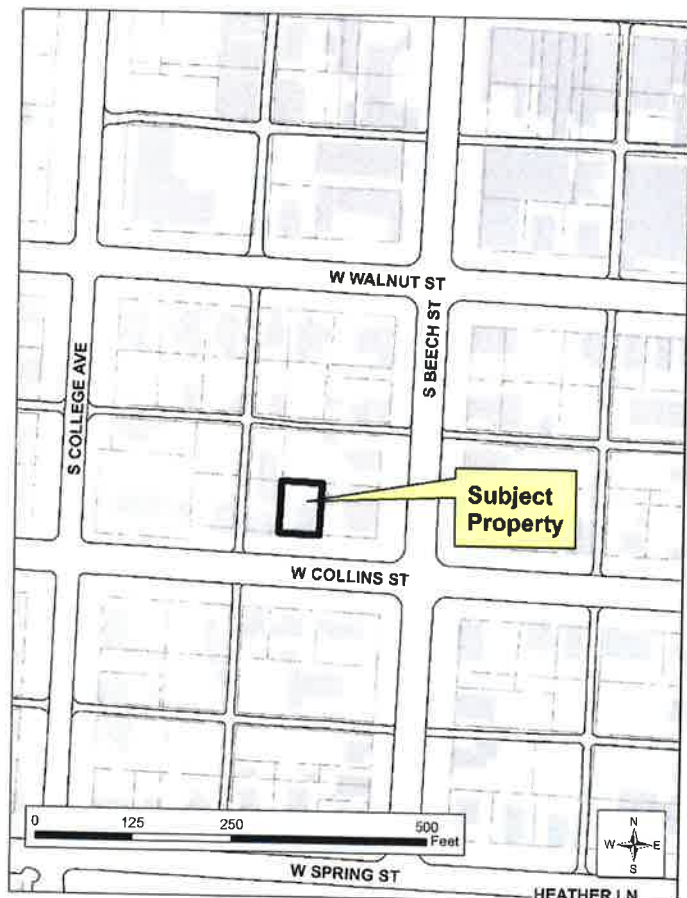
Oxford Zoning Code Section 1143.05(c) limits the front yard lot coverage to 30% in the R2-MS district. This was recently increased from 25% to 30% in 2017 as part of a comprehensive update of Mile Square zoning code and map. The proposed lot coverage after the new driveway is 46.3%. The driveway is a minimum size for two compact cars, at 8' x 36'.

COMMENT FORMS

Notification was mailed to property owners within 200 feet and a sign was placed on the property. No public comments have been received as of this writing.

AGENCY REVIEW

The variance request has been reviewed by City departments.



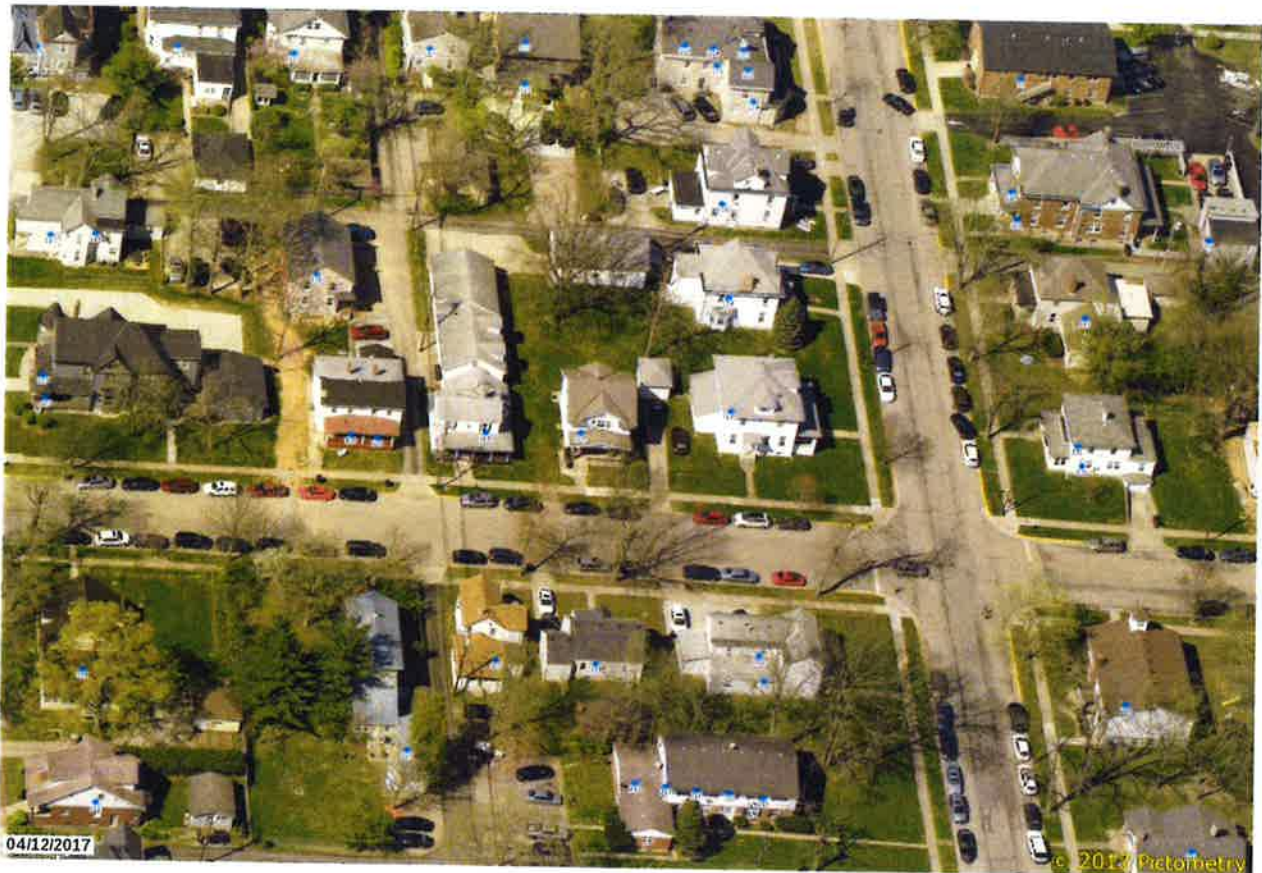
Fire	Returned without comments
Police	Returned with comments
Engineering	Returned without comments
Economic Development	Not returned

BZA SITE HISTORY

There are no past BZA cases of record addressed to 104 West Collins Street.

PERSPECTIVE

Below is an oblique aerial photo showing 104 West Collins in the center.



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 enclosed letter addressing the review criteria from Mr. Webb. The staff's review of the criteria is included below.

Regarding Criterion A, Whether or not there can be **any beneficial use of the property without the variance**: Staff is not aware of how the lack of a variance would prevent any beneficial use. The property has existed without off-street parking as a rental for at least 17 years.

Regarding criterion B, Staff believes that the variance **is not substantial** because the curb cut is existing and the proposed driveway is an absolute minimum dimension.

Regarding criterion C, whether or not the **essential character of the neighborhood** would be negatively altered by the granting of the variance: The proposed driveway is a similar dimension to others in the area and therefore not negatively alter the essential character. The proposed driveway would be hard surface.

Regarding criterion D, Staff believes that the **delivery of governmental services** is not adversely affected by the granting of this variance request, based upon the reviews by the Chief of Police and City Engineer.

Regarding criterion E, **property owner awareness of the zoning restriction**; the front yard lot coverage limit has been in the Zoning Code for decades, well prior to the 2002 ownership transfer. It was most recently increased from 25% to 30% in 2017.

Regarding criterion F, the **owner's predicament** is stated in the applicant narrative. It appears to be that alley access is not possible and that the encroachment of the house into the front yard area causes the increase of the lot coverage.

Regarding criterion G, whether or not **the spirit and intent behind the zoning requirement would be observed and substantial justice done** by granting the variance: Staff believes that the spirit and intent of the zoning requirements would be observed by granting this variance.

RECOMMENDATION

If the BZA determines that difficulties exist which are sufficient to warrant the variance, the staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance request. At the time of this report, **staff believes there is substantial evidence that supports the variance request**. If the BZA does approve the variance it can attach any appropriate conditions necessary as permitted by Section 1139.02(d)2.

A condition of approval can be:

1. That a permanent barrier be placed at the end of the driveway.



SUBMITTED BY: _____

Sam Perry, AICP
Planner, Community Development Department

City of Oxford
Inter-Office Review Transmittal Sheet



Date: 1/23/2018

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-2018-05

ADDRESS: 104 W. Collins Street

Variance to Section 1143.07(c) maximum front yard coverage for properties without alley access, **Scott Webb, Appellant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **2/12/2018** 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: 1-24-18

Drawings printed name: John Dethesage

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 1/23/2018

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-2018-05

ADDRESS: 104 W. Collins Street

Variance to Section 1143.07(c) maximum front yard coverage for properties without alley access, **Scott Webb, Appellant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **2/12/2018** 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: *H. Popescu*

Date: 1-26-18

Drawings printed name: VICTOR POPESCU

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's Board of Zoning Appeals regarding new parking spaces at 104 West Collins Street.

Thank you,

Signed: 
Mitch Mesler

1-22-18
Date:



Internal Use Only:

Case No.

BZA-2018-05

Date Filed

1/22/18

Petition for Zoning Variance

Petitioner Information

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

Name * Scott Webb

Mailing Address * 103 West Walnut Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 513-523-3838

Email Address scott@scottwebbarchitect.com

Owner Information

Name * Mitch Mesler / Myron Mesler Trust

Mailing Address * PO Box 461

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 513-523-6297

Email Address

Variance and Lot Information

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

1143.07(c) Maximum Front Yard Lot Coverage of 30% for properties without alley access

Location of Requested Variance * 104 West Collins Street

Name of Building

Legal Description * H4000004000168

Zoning District * R2MS

Total Acreage * .0991

Existing Use of Site * Single Family Residence

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.

- 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.

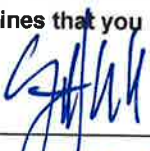
Fees & Receipt

The variance fee is \$200.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00, plus \$10.00 postage charge. **Fees may increase if staff determines that you need more variances.**

Sign and Date

Petitioner Signature *

Date *




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 fees and postage charge, 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).**

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>

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



**SCOTT
WEBB**

A R C H I T E C T

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

www.scottwebbarchitect.com

Re: Variance to Front Yard Lot Coverage
New Off-Street Parking Spaces
104 West Collins Street

January 22, 2018

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to the Maximum Front Yard Lot Coverage Restriction allowing the installation of (2) Off-Street Parking Spaces from an existing curb cut in the R2MS Zoning District.

1143.07(c) Maximum Front Yard Lot Coverage of 30% for properties without alley access

The building does not currently meet the parking requirement for a Single Family dwelling where (2) parking spaces would be required. With access only from West Collins Street, the proposal represents the minimum variance to create the required parking spaces.

An existing curb cut would indicate that there once was a drive in this location, perhaps to an accessory structure that was removed.

The proposed parking area would typically be allowed if the building itself were not currently located in the front yard setback. Along this block of West Collins Street, a number of properties were built closer to the street than would be currently allowed.

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 student rental for many years, and may continue to do so without the variance, continuing to require all occupants to park on the City Street

- b) *Whether the variance is substantial;*

The variance is not substantial, as the proposed new parking area represents the minimum required to meet the parking requirement.

The excess in front yard lot coverage is the result of the placement of the buildings along this face of West Collins Street, with a number of porches in the Front Yard Setback Area

- 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, bringing a property closer to compliance with the parking requirement, and removing a car from the street.

- 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 only way off-street parking can be provided on the site is with this variance.

- 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, providing the required parking. The excess in front yard lot coverage is the result of the placement of the buildings along this face of West Collins Street, with a number of porches in the Front Yard Setback Area

- h) *Any other relevant factor;*

While a minor improvement, this project aligns with the goals of the Comprehensive Plan providing off-street parking to lessen the pressure on street parking in the Mile Square.

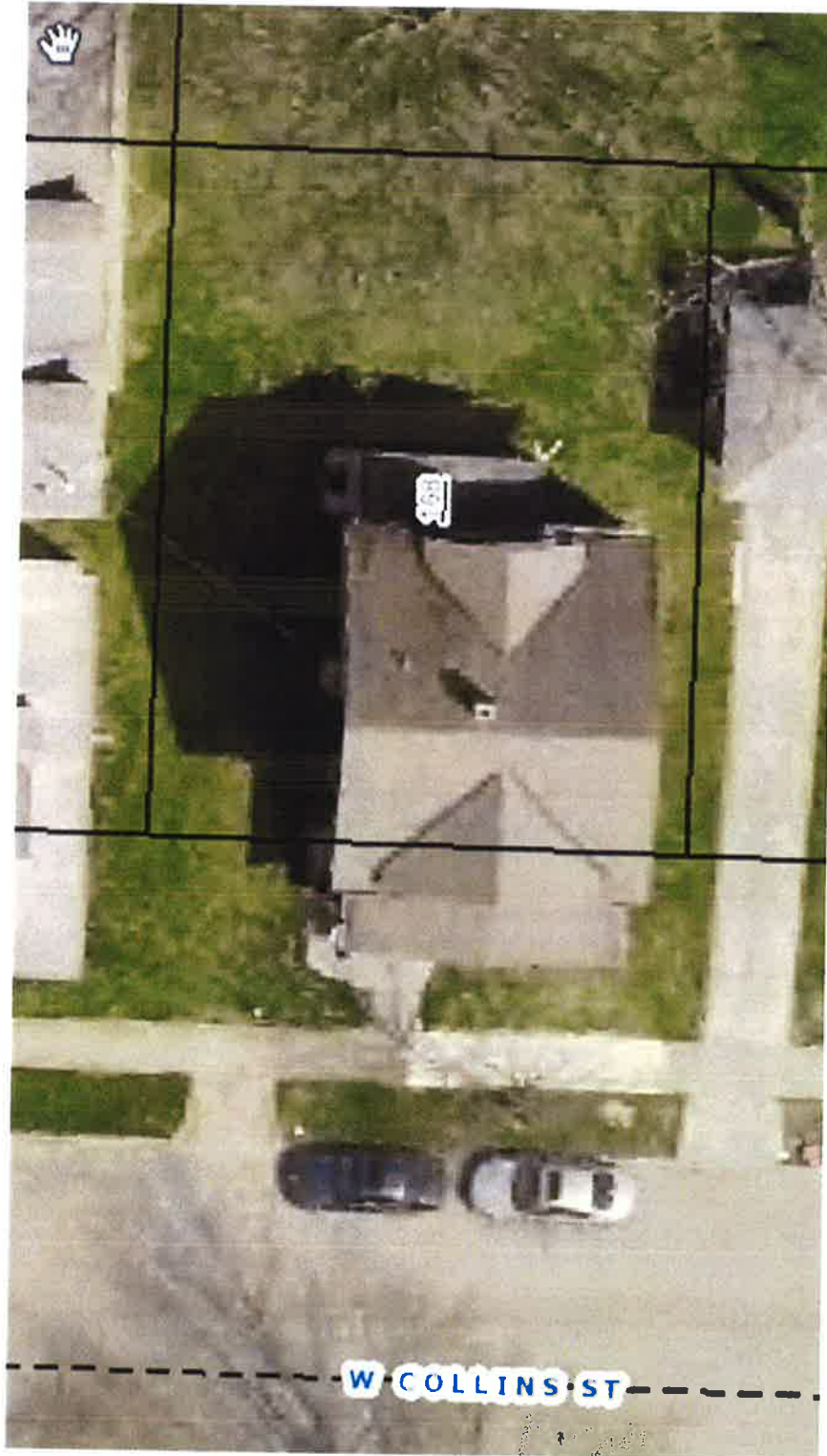
Thank you for your consideration of this application. If you have any questions or need any additional information, please call.

Respectfully,

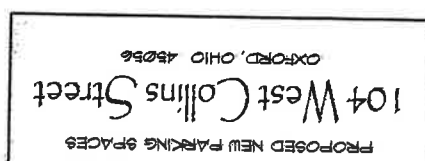


Scott Webb, Architect

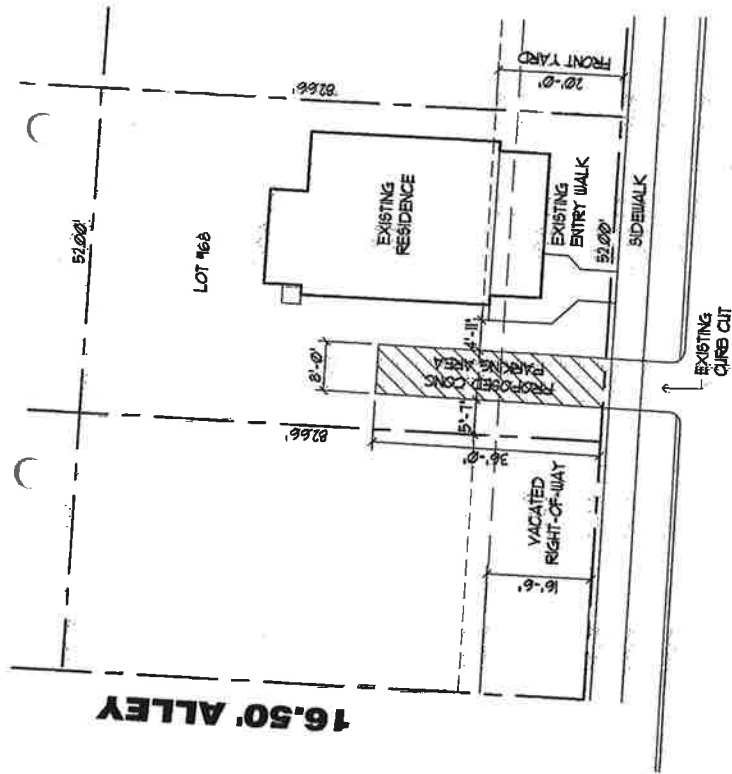
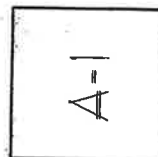
Site



Overhead view from Butler County Auditor's Office
Showing existing curb cut



DATE	January 3, 2018
REVISIONS	



WEST COLLINS STREET
SITE PLAN

SCOPE OF WORK:
PROPOSAL INCLUDES THE INSTALLATION OF (2) STACKED
PARKING SPACES USING AN EXISTING CURB CUT

ZONING (R2MS ZONING DISTRICT)

OVERALL LOT AREA: (1500 SF MIN)	4,298 SF
OVERALL LOT WIDTH: (15' MIN)	52 FEET
LOT COVERAGE	
BUILDINGS:	1,053 SF
PROPOSED DRIVEWAY PARKING	320 SF
EXISTING SIDEWALKS:	122 SF
TOTAL:	1,495 SF

ACTUAL LOT COVERAGE: 1,495 SF / 4,298 SF = 34.8%
ALLOW LOT COVERAGE: R2MS = 45%

ACTUAL FRONT YARD: 482 SF / 1,040 SF = 46.3%
ALLOW FRONT YARD: R2MS = 30%

1143.05(2) SITE DEVELOPMENT
REGULATIONS: VARIANCE TO
MAX. FRONT YARD LOT
COVERAGE

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2018-06

Date – February 21, 2018

APPLICATION

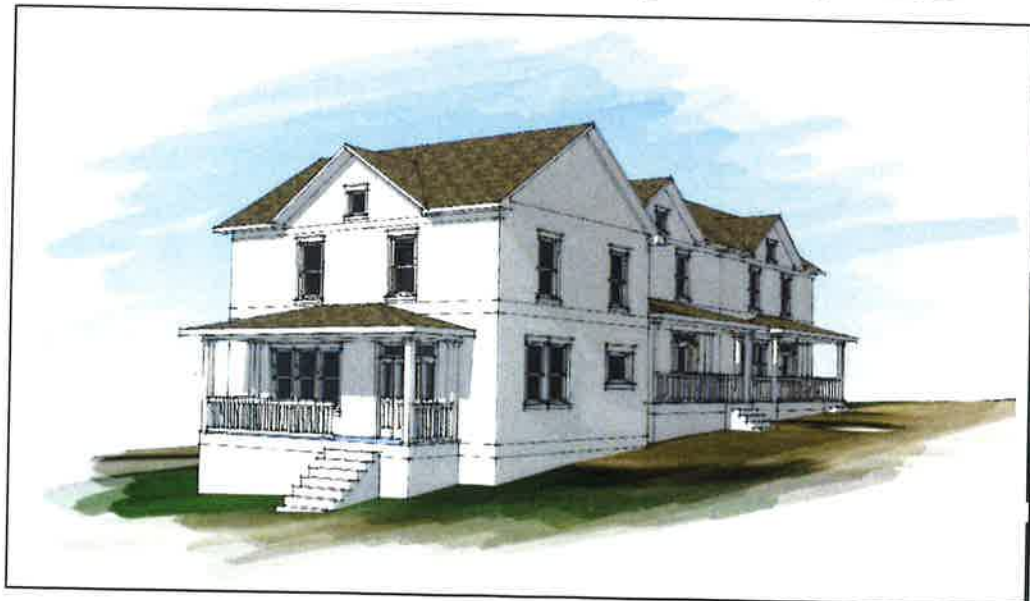
Applicant:	Scott Webb
Location:	112 South Poplar Street
Owner:	CKC Rentals (Jim Clawson)
Action Request:	Variance to Section 1141.03(b) to allow principal entrances not facing the street
Current Use:	Three-Family
Zoning:	R3-MS (Single, Two and Three Family Mile Square Residential)
Surrounding Land Uses:	Institutional, Single, Two and Multi Family Residential

DESCRIPTION

Scott Webb is requesting, on behalf of the owner, a variance for two of three principal entrances to not face the street. One of the entrances would face Poplar Street; while the other two would face the alley. The proposal is to clear the site and construct a new three-family building.

BACKGROUND

Two variances were granted last month for this proposed project. It was not known in sufficient time prior to that meeting, that this additional variance would be required. Oxford Zoning Code Section 1141.03(b) requires that principal entrances “be upon” (face) the street. The proposed three family building does not meet this requirement. Below is a rendering of the proposed building with two alley entrances.



COMMENT FORMS

Notification was mailed to property owners within 200 feet and a sign was placed on the property. No public comments have been received as of this writing.

AGENCY REVIEW

The variance request has been reviewed by City departments.

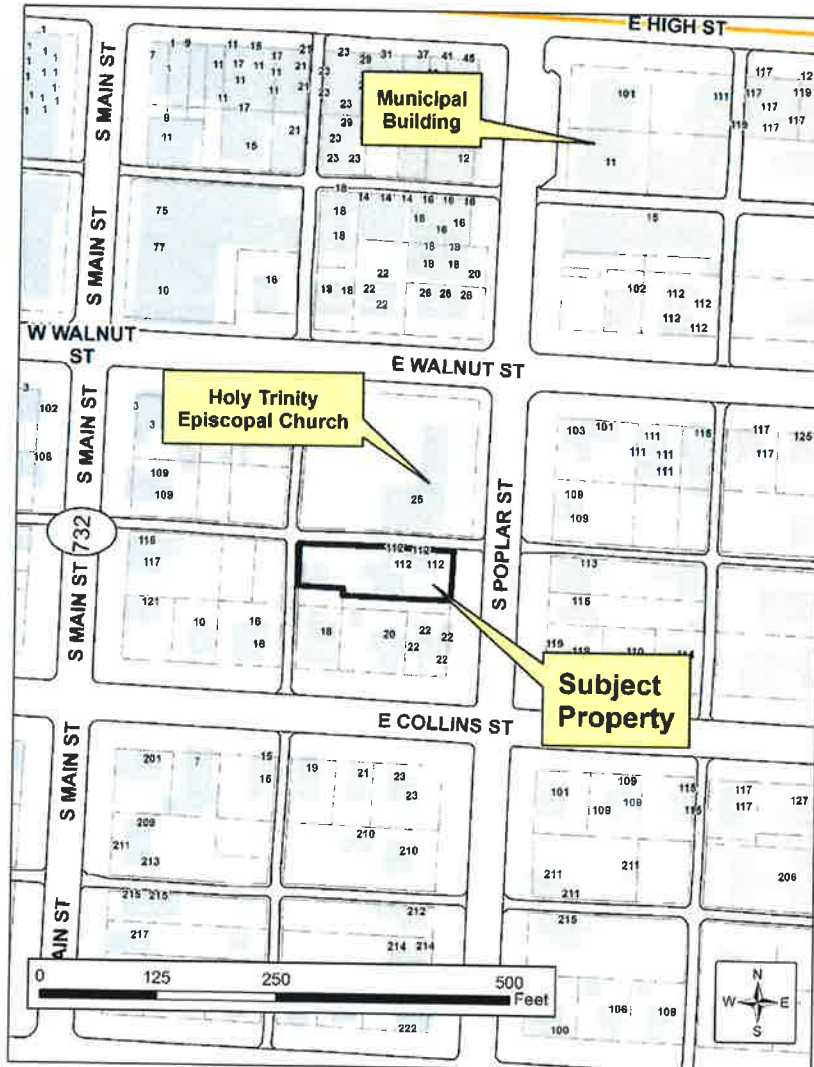
Fire	Returned with comments
Police	Returned with comments
Engineering	Returned without comments
Economic Development	Not returned

BZA SITE HISTORY

Case # BZA-2008-05 for a front porch addition with five variances was tabled by the BZA and then later withdrawn by the applicant.

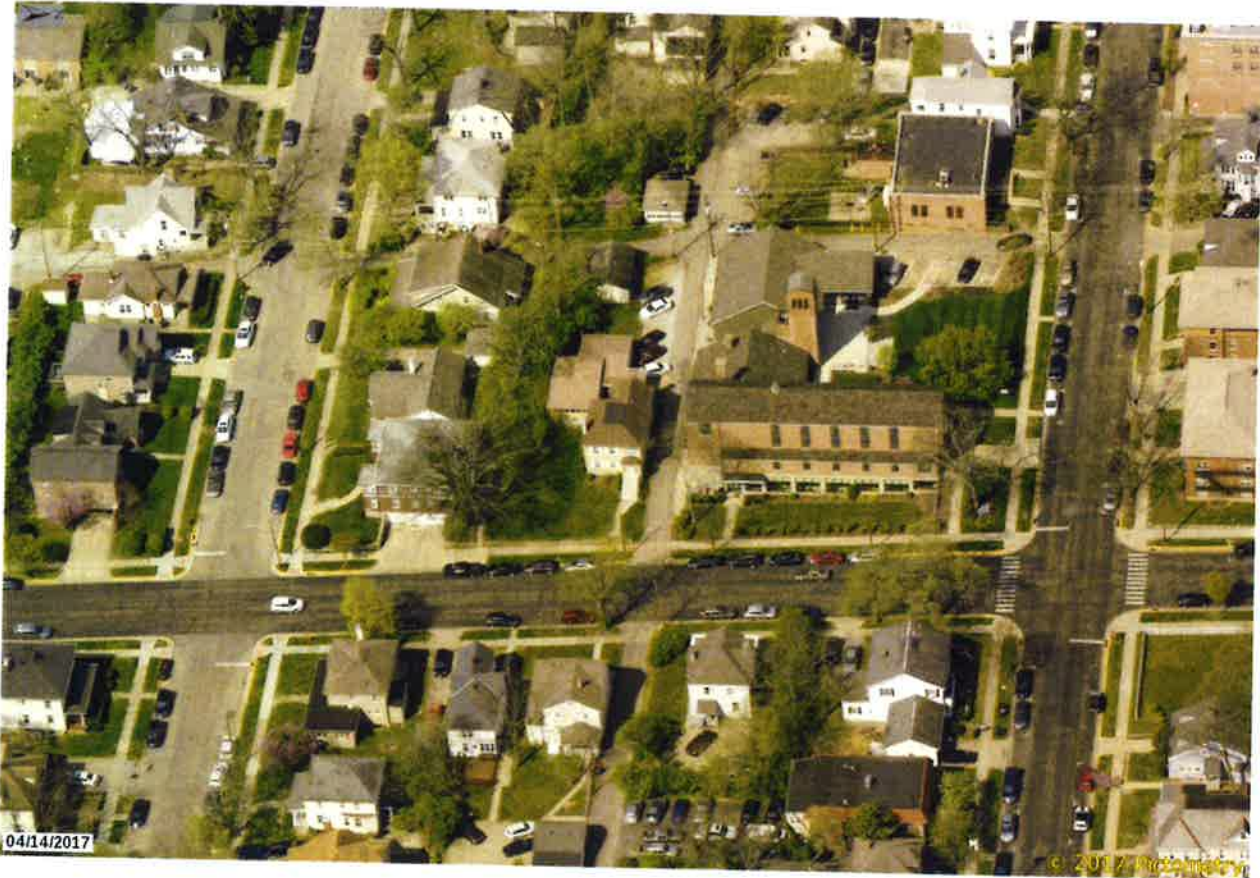
Case #BZA-2018-03 for lot width and front yard coverage was approved by BZA last month.

Below is a location map of the property:



PERSPECTIVE

Below is an oblique aerial photo showing 112 South Poplar Street in the center.



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 enclosed letter addressing the review criteria from Mr. Webb. The staff's review of the criteria is included below.

Regarding Criterion A, Whether or not there can be **any beneficial use of the property without the variance**: Staff is not aware of how the lack of a variance would prevent any beneficial use. According to the Butler County Auditor, the current owner has owned the property since 2002 and has used it as a residential rental. Additionally, there is a complete list of permitted uses that can be found in Section 1143.07.

Regarding criterion B, Staff believes that the variance **could be substantial** if the concerns of Police and Fire are not correctly mitigated.

Regarding criterion C, whether or not the **essential character of the neighborhood** would be negatively altered by the granting of the variance: The proposed building is similar scale and style to buildings in the neighborhood.

Regarding criterion D, Staff believes that the **delivery of governmental services** will be affected if this variance is granted:

1. The Northeast corner of the existing building currently encroaches two feet into the alley right of way. If this third variance were granted, then the result would be the removal of the encroachment. The use of the alley can be considered a governmental service.
2. The Police and Fire Chiefs both have submitted comments of concern about finding the alley entrances of the proposed building. The ability for emergency responders to find building entrances can be considered a governmental service.

Regarding criterion E, **property owner awareness of the zoning restriction**; the principal entrance requirement has been in the Oxford Zoning Code, well prior to the 2002 ownership transfer. It was most recently reviewed in the 2017 update. Lots with no street frontage were exempted from the requirement.

Regarding criterion F, the **owner's predicament** is stated in the applicant narrative. It appears to be that building a new three-family building is a guaranteed right, which is incorrect. The district permits many land uses including single and two family buildings, which may not require as much building façade for an approved entrance location.

Regarding criterion G, whether or not **the spirit and intent behind the zoning requirement would be observed and substantial justice done** by granting the variance: Staff believes that the spirit and intent of the zoning requirement could be observed if the Police and Fire Chiefs approve a satisfactory plan for addressing. The physically identification method of the location of the proposed alley entrances would have to meet their requirements or substantial justice would not be done.

RECOMMENDATION

The applicant contends in the narrative letter that this code section has been interpreted incorrectly. However, an appeal of the code interpretation has not been submitted for review. The applicant should choose which review process is desired before the BZA votes on this case.

If the BZA determines that difficulties exist which are sufficient to warrant the variance, the staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance request. At the time of this report, **staff believes there is substantial evidence that supports the variance request if the recommended condition is added.** If the BZA does approve the variance it can attach any appropriate conditions necessary as permitted by Section 1139.02(d)2.

A condition of approval can be:

1. That a detailed signage and addressing plan be submitted to the Police and Fire Chiefs for review and approval prior to the submittal of a building permit. If the plan is not approved by July 21, 2018, the variance is null and void.



SUBMITTED BY:

Sam Perry, AICP
Planner, Community Development Department

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 1/23/2018

To: Fire Department Engineering Division Police Department Economic Development
From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-2018-06

ADDRESS: 112 S. Poplar Street

Variance to Section 1141.03(b) principal entrance upon a street, **Scott Webb, Appellant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **2/12/2018** Note: If no comments are received, we will assume the project meets your department's standards.

Drawings are returned: w/comments without/comments

Structures placed like this make it significantly more difficult for emergency crews to locate the appropriate address.

Drawings reviewed by: 

Date: 01-24-18

Drawings printed name: John Dethier

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 1/23/2018

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-2018-06

ADDRESS: 112 S. Poplar Street

Variance to Section 1141.03(b) principal entrance upon a street, **Scott Webb, Appellant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **2/12/2018** 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: 1-26-18

Drawings printed name: VICTOR POPESCU

LETTER OF AGENCY

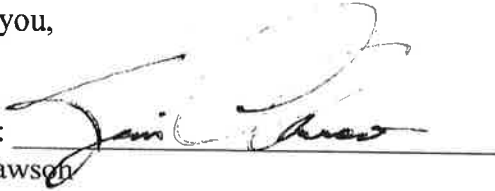
To Whom It May Concern:

Please be advised that Scott Webb, Architect has permission to represent our interest with the City of Oxford's Board of Zoning Appeals regarding redevelopment of the property at 112 South Poplar Street.

Thank you,

Signed:

Jim Clawson

A handwritten signature in dark ink, appearing to read "Jim Clawson", written over a horizontal line.

Dec 15, 2017
Date:



Internal Use Only:

Case No.

BZA-2018-06

Date Filed

1/22/18

Petition for Zoning Variance

Petitioner Information

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

Name * Scott Webb

Mailing Address * 103 West Walnut Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 513-523-3838

Email Address scott@scottwebbarchitect.com

Owner Information

Name * CKC Rentals

Mailing Address * 125 West Spring Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 513-523-7263

Email Address jim@hoteldevelopment.net

Variance and Lot Information

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

1141.03(b) Requirement for all buildings to have their principal entrance on a Street

Location of Requested Variance * 112 South Poplar

Name of Building

Legal Description * H4000003000137

Zoning District * R3MS Total Acreage * .2047

Existing Use of Site * 3-Family Dwelling Unit

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.

Redevelopment of an existing non-conforming 3-family structure into a new 3-family structure

- 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.

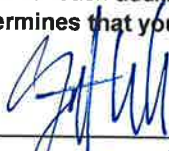
Fees & Receipt

The variance fee is \$200.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00, plus \$10.00 postage charge. **Fees may increase if staff determines that you need more variances.**

Sign and Date

Petitioner Signature *

Date *


1-22-18

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 fees and postage charge, 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).**

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>

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



**SCOTT
WEBB**

A R C H I T E C T

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

www.scottwebbarchitect.com

Re: Variance to Location of Front Entrances
Demolition of Existing Non-Conforming Structures
& Construction of a 3-Family Dwelling
112 South Poplar Street

January 22, 2018

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to the requirement that every building shall have its principal entrance upon a street.

The site is currently occupied by an existing non-conforming Two-Family Dwelling with an additional dwelling unit attached by a porch connection.

- The original Two-Family dwelling was constructed over the property line to the North, creating an encroachment of nearly 2 feet into the 16.5' Alley Right-of-Way.
- This building is non-conforming, based on the occupancy of (5) in one unit and (3) in the other.
- While the western building addition is a conforming dwelling unit with (4) occupants, it does not meet the goals of the Mile Square Design Guidelines, nor those governing dwelling unit additions.

The elimination of the non-conforming structure will result in a new three-family dwelling in a three family district. All other requirements of the zoning district including lot coverage, parking, building height, setbacks etc. are met by this application.

At the January 17, 2018 BZA meeting, variances were granted for lot width and front yard lot coverage paving the way for redevelopment of this property.

The Site Plan presented to BZA for the aforementioned variances showed a 3-unit structure with a single unit facing South Poplar Street and (2) additional units facing north toward the east/west alley.

1141.03(b) requires "Every building hereafter erected, converted, enlarged, reconstructed or structurally altered shall be located on a lot of record, and shall its principal entrance upon a street bordering such lot. For the purpose of this provision, an alley is not considered a street"

The intention of this Code Section is to discourage buildings from being set "sideways" on the lot, not addressing the streetscape or reflecting the surrounding housing stock. The building as designed meets the intent of this code requirement, as well as the design requirements for the Mile Square.

The redevelopment project as designed provides a principal entrance and a deliberate front façade facing the street as required.

There are a multitude of examples of multi-family buildings throughout the City where not every entrance is facing the street that either granted variances or never required to apply.

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 buildings have been student rentals for many years, originally converted from a single family home to a two-unit structure. An entire ranch house was added to the building sometime prior to the 2003 Zoning Map Amendment, creating the third dwelling unit on the site.

The existing frame structure does not meet current building and zoning code requirements, and in fact is constructed over the City Right-of-Way at the East/west alley to the North.

While the property may continue in its current configuration and continue to yield a reasonable return, the project described herein represents a major investment in the neighborhood replacing outdated structures, improving the living conditions of the residents, and eliminating encroachments and other non-conformities, as well as bringing the site into compliance with the intentions of the Zoning Code for this area.

- b) *Whether the variance is substantial;*

The variance is not substantial, as the redevelopment respects the intent of the Code Section, providing a principal entrance facing the street, and not sitting "sideways" on the lot.

- 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, removing a building encroaching on the Right-of-Way and the incongruous addition in favor of a new safer structure, meeting the Mile Square Design Guidelines.

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

The delivery of utilities & government services is improved by this application, removing an encroachment into the public right-of-way.

- 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 proposed new 3-family structure could be designed differently, providing a single common entrance as a typical multi-family apartment building. Based on the width of the lot and restrictions on lot coverage, it is likely that the result would be a three-story building. It is our contention that the configuration as shown would be more compatible with the surrounding properties.

- 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 the replacement of a non-conforming Three-family structure in a Three-family district. Substantial Justice would be done by allowing the improvement of a property resulting in a more code compliant structure and the elimination of existing encroachments

- h) *Any other relevant factor;*

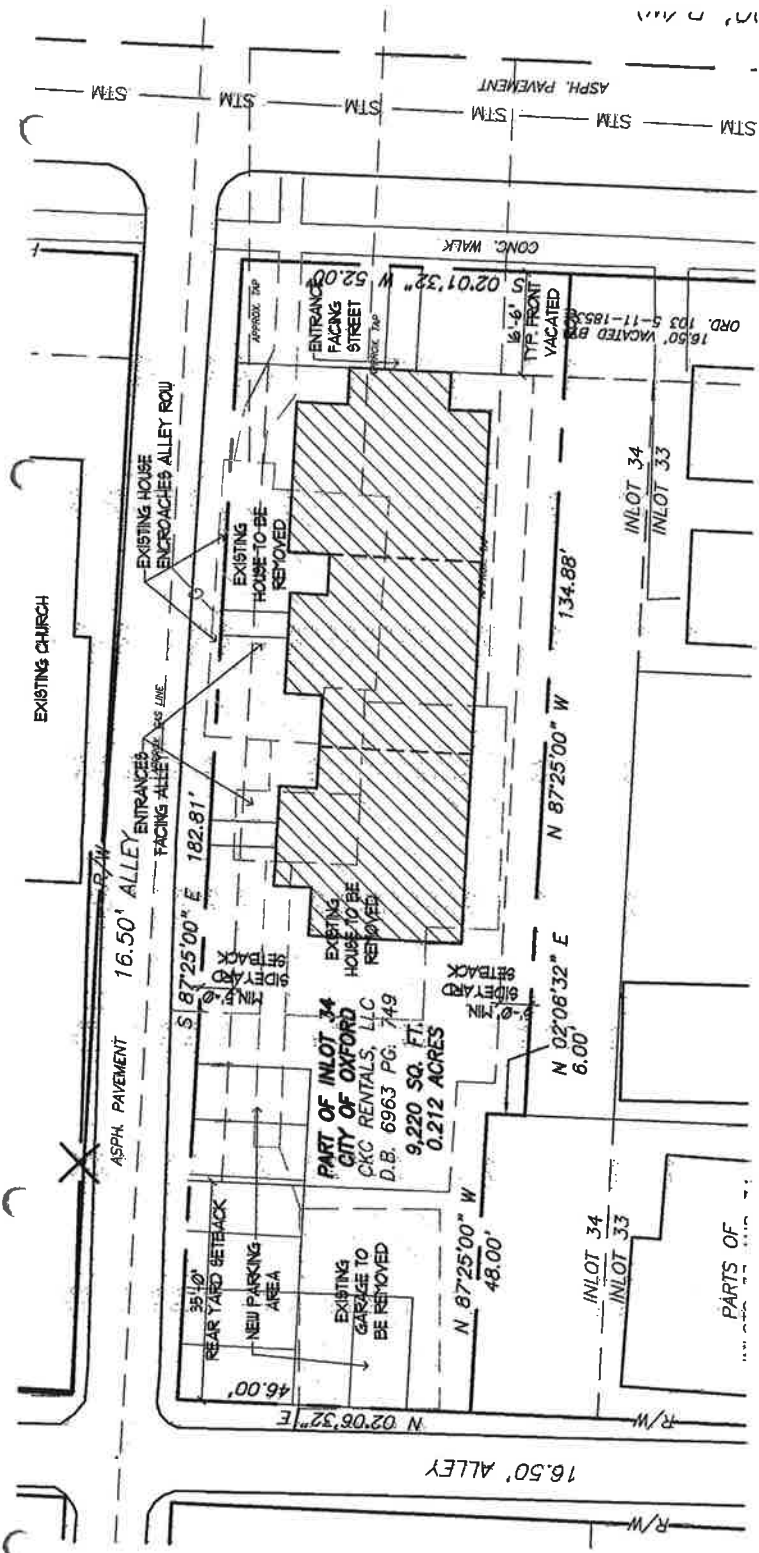
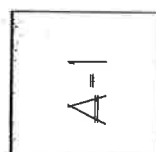
This redevelopment project aligns with the goals of the Comprehensive Plan, encouraging infill and redevelopment within the City, improving the property aesthetically, and with regard to the safety of its occupants.

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 'Scott Webb', written in a cursive style.

Scott Webb, Architect



PRELIMINARY SITE PLAN

SCOPE OF WORK:
PROPOSAL INCLUDES THE REMOVAL OF AN EXISTING
NON-CONFORMING 3- UNIT STRUCTURE WITH A NEW CONFORMING
3-UNIT BUILDING IN THE R3M2 ZONING DISTRICT

REQUIRED VARIANCES

APPROVED BY VARIANCE

47	ZONING (R3MS ZONING DISTRICT)
OVERALL LOT AREA: (8,000 SF MIN)	9,220 SF
OVERALL LOT WIDTH: (60' MIN)	52.00 FEET
LOT COVERAGE	
BUILDINGS:	2,495 SF
DRIVEWAY PARKING (OFF ALLEY):	1296 SF
SIDEWALKS:	166 SF
TOTAL:	3,957 SF
ACTUAL LOT COVERAGE:	4,055 SF / 9,220 SF = 43.9%
ALLOW LOT COVERAGE:	R3M5 = 45%
ACTUAL FRONT YARD:	82 SF / 858 SF = 9.5%
ALLOW FRONT YARD:	R3M5 = 5%
PARKING	
(15) SPACES REQUIRED @ 2.5 PER UNIT - (8) PROVIDED	