

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2017-13

Date – October 18, 2017

APPLICATION

Applicant:	Jeff Warnock / Sport Court Cincinnati
Location:	325 Cobblestone Court
Owner:	Steven Walkotte
Action Request:	Variance to Section 1143.01(c)4, R-1A lot coverage and Variance to Section 1141.01(c)(4)(A)(1-2), fence height
Current Use:	Single Family Residential
Zoning:	R1A (Single Family Low Density Residential)
Surrounding Land Uses:	Single Family Residential

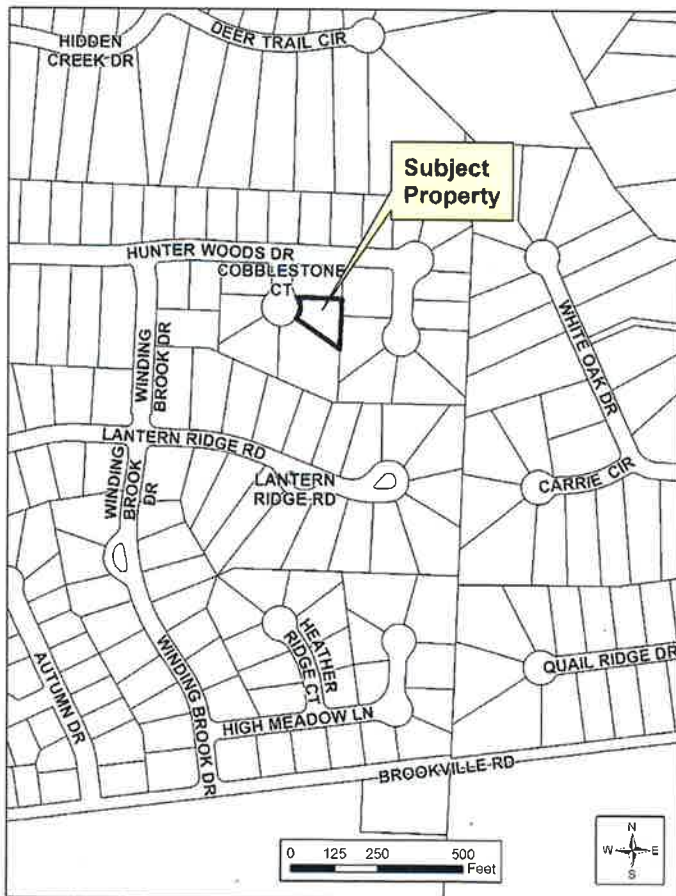
DESCRIPTION

Jeff Warnock of Sport Court Cincinnati is requesting, on behalf of the property owner, two variances regarding a new proposed backyard basketball court at 325 Cobblestone Court. One variance is to exceed the allowable lot coverage by 209 square feet. The second variance is to exceed the allowable fence height by 2 feet.

BACKGROUND

Oxford Zoning Code Section 1141.01(a)(2)B permits "Private Residential Recreational Facilities." The proposed court meets all Oxford Zoning Code regulations except for lot coverage and fence height. The R-1A District, like many other residential districts, limits total lot coverage to 35% of the lot. The current lot coverage is 27%. The proposed lot coverage with the court is 36.6%. Oxford Zoning Code Section 1141.01(c)(4)(A)(1-2) limits fence height to 8 feet in side and rear yards. The proposed fence is a 10 feet tall chain link fence.

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	Not returned
Engineering	Returned without comments
Economic Development	Returned without comments

BZA SITE HISTORY

In 2010, an administratively approved variance was approved by staff for a screen porch addition to encroach two feet into the required rear yard of 40 feet, resulting in a rear yard setback of 38 feet.

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 letters addressing the review criteria (separately for each variance) from Mr. Warnock. 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 variances**: This is clear due to the fact that the property has existed as a residential property since 2006 without the higher lot coverage and fence.

Regarding criterion B, Staff believes that the variances **are not substantial** due to the fact that the coverage increase is 1.6% over the allowable limit of 4,533 (35%) square feet of the 12,952 square foot lot. The fence height is 25% higher than allowed: 10 feet instead of 8 feet.

Regarding criterion C, whether or not the **essential character of the neighborhood** would be negatively altered by the granting of the variances: Staff believes that essential character could be negatively altered. Because of the young age of the subdivision the environment of the neighborhood is largely open and in plain view. Although the court is in the rear yard it would cover a significant portion of the rear yard compared to other lots. The fence, although somewhat transparent as chain link, would be uncharacteristic height in the area.

Regarding criterion D, Staff believes that the **delivery of governmental services** would not be adversely affected by the granting of the variance requests.

Regarding criterion E, **property owner awareness of the zoning restriction** prior to the purchase of the property: Staff findings are that both zoning regulations in question have not changed since the lot was purchased.

Regarding criterion F, the **owner's predicament** appears to be, from the narrative, that the court size cannot change. If that is true, then either the variance would have to be granted or 209 square feet of existing lot coverage such as deck or patio, would have to be removed. If losing balls from the court is also a predicament, evidence of attempts for other solutions not requiring the height variance has not been presented. The BZA does not have a duty to design a project, only to approve or deny based upon findings.

Regarding criterion G, whether **the spirit and intent behind the zoning requirements would be observed and substantial justice done** by granting the variances: The spirit and intent behind zoning requirements at this neighborhood scale could be summarized by 1) minimizing adjacent nuisances and 2) ensuring equal

access to light and air. See Chapter 1123 for general intent or Chapter 1129.04(d) for minor variance criterion. Staff believes that the spirit, intent and substantial justice would be done for the lot coverage increase but not the fence height. The fence height has a more publicly visible impact and other solutions not requiring a variance may be possible.

RECOMMENDATION

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



SUBMITTED BY: _____

Sam Perry, AICP
Planner, Community Development Department

Approximate Lot Location 325 Cobblestone Ct





City of Oxford
Inter-Office Review Transmittal Sheet

Date: 10/2/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-13, 325 Cobblestone Court, variance to 1143.01(c)(4) lot coverage and 1141.01
(c)(4)(A)(1)(2) fence height, **Jeff Warnock, Applicant/Agent**

_____X_____ Review _____ Revisions _____ Other

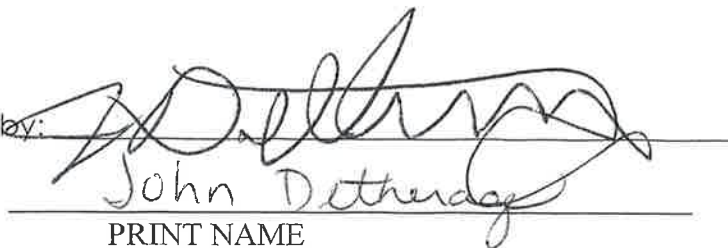
Comments or status update requested by: Lynn Taylor

Please return no later than: 10/12/2017 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 Dethenage
PRINT NAME

Date: 10.2.17

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 10/2/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-13, 325 Cobblestone Court, variance to 1143.01(c)(4) lot coverage and 1141.01
(c)(4)(A)(1)(2) fence height, **Jeff Warnock, Applicant/Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 10/12/2017 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: 10-2-17

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 10/2/2017

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

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-13, 325 Cobblestone Court, variance to 1143.01(c)(4) lot coverage and 1141.01 (c)(4)(A)(1)(2) fence height, Jeff Warnock, Applicant/Agent

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 10/12/2017. 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: GLAF

Date: 10/6/17

PRINT NAME _____



BZA-2017-13 Surrounding Property Owners Map

Legend

- Subject Parcel
- 200 Ft. Buffer
- Oxford Corporation Limit
- Parcel
- Vacated Right-of-Way
- Building Footprint
- Paved Roadway



1 inch = 100 feet

Prepared on Friday, October 06, 2017

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.



325 Cobblestone Court
Oxford, OH 45056

To Whom It May Concern:

Jeff Warnock, owner, Sport Court Cincinnati, has my permission to act on my behalf regarding a petition for zoning variance for 325 Cobblestone Court, Oxford, Ohio, 45056. This is in regard to a backyard recreational court. This permission extends for any Board meeting for which this may be heard through the end of 2017.

Sincerely.



Steven Walkotte

9/14/17

Date:



Internal Use Only:

Case No.

Date Filed

BZA-2017-13

9/18/17

Petition for Zoning Variance

Petitioner Information

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

Name * Jeff Warnock, Owner, Gamechanger Athletics LLC/DBA Sport Court Cincinnati
Mailing Address * P.O. Box 531913
City, State & Zip Code * Cincinnati, OH 45253
Telephone Number(s) * 513-532-1105
Email Address JWARNOCK@GAMECHANGERATHLETICSLLC.COM

Owner Information

Name * STEVEN WALCOTTE
Mailing Address * 325 COBBLESTONE CT
City, State & Zip Code * OXFORD, OH 45056
Telephone Number(s) * 765-977-1716
Email Address WALKO6@AOL.COM

Variance and Lot Information

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

LOT COVERAGE VARIANCE 1143.01 R-1A (c)(4) FENCE HEIGHT RESTRICTION 1141.01(c)(4)(A)(1-2)

Location of Requested Variance * 325 COBBLESTONE CT
Name of Building
Legal Description * LOT 3464, LONG MEADOW SECTION 4
Zoning District * R-1A Total Acreage * 0.2869
Existing Use of Site * RESIDENTIAL

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 *

9-18-17

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>

325 Cobblestone Ct

Oxford, OH 45056

Decision Standards for Lot Coverage Percentage

Zoning Code 1143.01 R-1A(c) (4)

Standard A

The petitioner cannot build a court of proper size for their recreational needs without the variance.

Standard B

The variance requested is to allow for an additional approximate 200 SF of lot coverage. This equates to approximately two percentage points (37% total) over the allowable lot coverage.

Standard C

The character of the neighborhood would not be altered as a majority of the playing surface would be concealed behind the house.

Standard D

The variance would not adversely affect the delivery of governmental services.

Standard E

The property owner did not purchase the property with knowledge of the zoning restriction.

Standard F

The court size cannot be made smaller without jeopardizing the usefulness and practicality of the space. Without the variance, the petitioner cannot use the court for the intended activities.

Standard G

The spirit and intent behind the zoning requirement would be observed as the variance requested is negligible (2% over the allowable coverage)

Standard H

This is a small lot and it is difficult for the homeowner to build a recreational space of ample size. The property owner is attempting to build a space that will be of a benefit to his family/kids where they can grow together. The property owner feels that having the recreational space will encourage his kids to pursue worthwhile activities in a safe environment where they can keep an eye on them; rather than roaming other parts of the neighborhood.

The square footage of the lot is 12,952 SF. By adding this recreational space of 1,230 SF it brings the total square footage of coverage to 4,743 SF. This represents 36.6% of lot coverage, which puts the property owner at 209 SF over the lot coverage percentage.

325 Cobblestone Ct

Oxford, OH 45056

Decision Standards for Lot Coverage Percentage

Zoning Code 1141.01 (c) (4) (A) (1-2)

Standard A

Without fencing of adequate height (10') balls will escape the court and roll into the retention pond, putting the safety of the property owner's family/kids at risk.

Standard B

The variance requested will add two additional feet to the allowable fence height.

Standard C

The character of the neighborhood would not be altered as black fencing (unlike white, galvanized, green, etc.) is discreet and visually unobtrusive.

Standard D

The variance would not adversely affect the delivery of governmental services.

Standard E

The property owner did not purchase the property with knowledge of the zoning restriction.

Standard F

There is no other way to stop balls from escaping the court and jeopardizing the safety of the children other than the use of 10'H fencing.

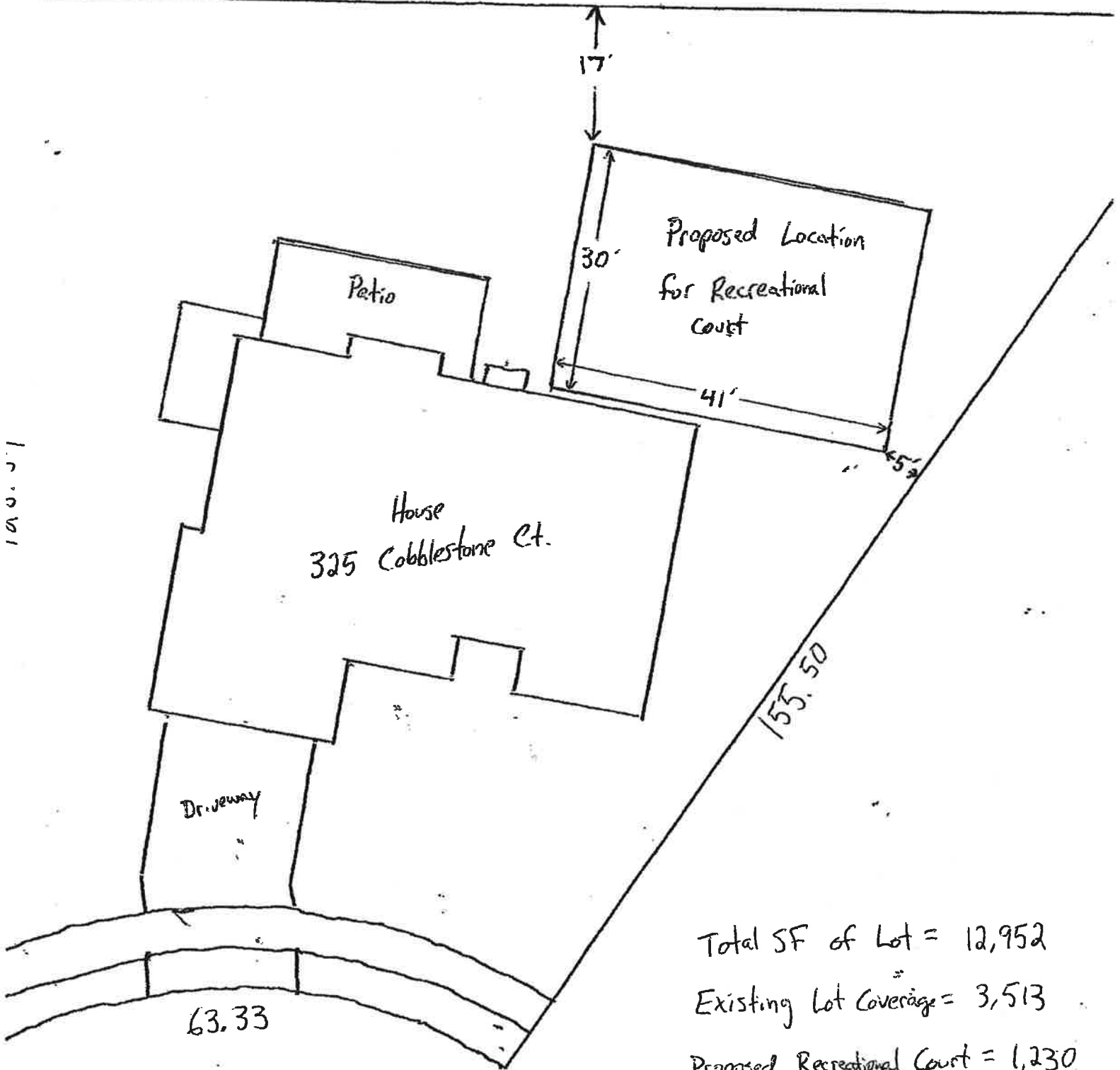
Standard G

The spirit and intent behind the zoning requirement would be observed as the variance would restore a safe environment for the property owner's family.

Standard H

There is a retention pond at the southeast corner of the property. The property owner has young children and fears for their safety if they approach that area. Any loose balls that would escape from the court would likely head in the direction of the pond. The only way to prevent this from happening is to increase the height of the fencing to 10', which is regulation fence height for most recreational courts.

146.23



Total SF of Lot = 12,952
Existing Lot Coverage = 3,513
Proposed Recreational Court = 1,230

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City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2017-12

Date – October 18, 2017

APPLICATION

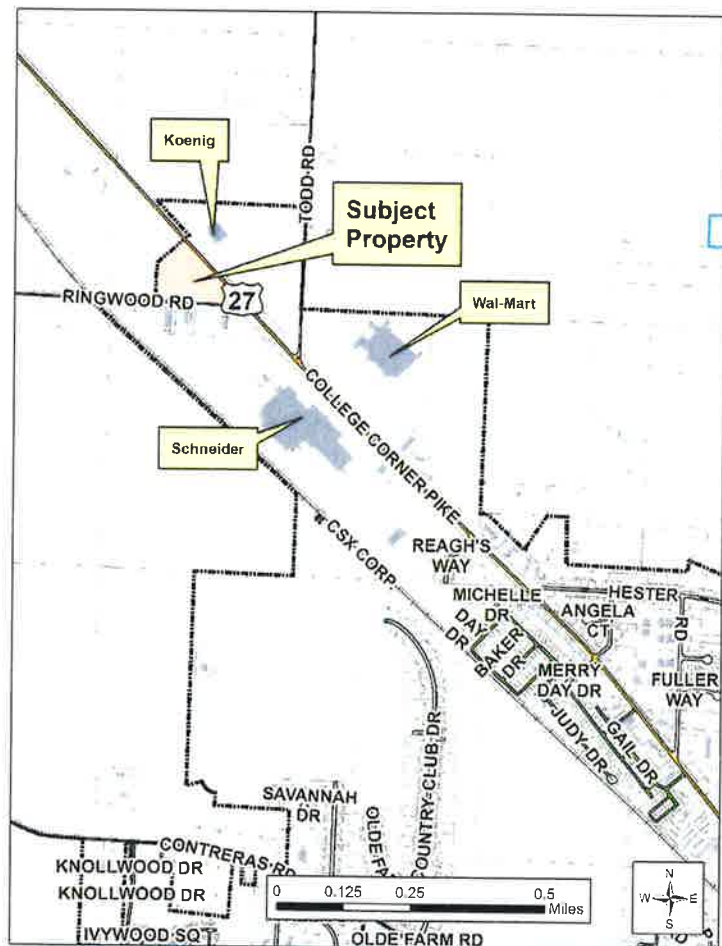
Applicant:	Paul Eichhold
Location:	5745 College Corner Pike
Owner:	GHCOL LLC / Charles Gillman
Action Request:	Variance to Section 1141.01(b)(1)(A), Accessory building size
Current Use:	Retail Sales / Home improvement products
Zoning:	GB (General Business)
Surrounding Land Uses:	Agriculture, Light Industry, Farm Equipment Sales

DESCRIPTION

Paul Eichhold is requesting, on behalf of the owner, a square footage variance to permit a new storage building for dry storage of building materials for Gillman Home Center. The location is the intersection of College Corner Pike and Ringwood Road.

BACKGROUND

Oxford Zoning Code Section 1141.01(b)(1) provides for accessory buildings in "Business and Industrial Districts". These can be larger than accessory buildings such as sheds in residential districts. Subsection (A.) limits the total square foot area of all accessory buildings on a lot to not exceed 1,000 square feet or 10% of the principal structure, whichever is greater. The principal structure is approximately 24,000 square feet, which limits the total accessory building square footage to 2,400. The current accessory building square footage is approximately 13,000 square feet, with an additional 2,048 proposed. This would result in total accessory buildings being 62.7% of the principal structure; rather than 10%.



The submitted plot plan shows the building location closer to College Corner Pike than the main building. The applicant has stated to staff that, if the variance is approved they will revise the plans on the building permit application to shift the building 40 feet back to comply with the accessory building location requirements. The applicant is also planning to install a paved driveway to connect the existing paved drive to the building. The paved connection is a minimal requirement of Oxford Zoning Code due to the existing gravel maneuvering area. If these changes are both shown on the building permit application, all other zoning code requirements will be in compliance.

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 without comments
Engineering	Returned without comments
Economic Development	Not returned

BZA SITE HISTORY

The property was annexed in 2015. There are no documented records of prior BZA cases for the subject property.

PERSPECTIVE

Below is an oblique aerial photo showing Gillman Home Center on the left and Koenig Farm Equipment on the right.



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. Eichhold. 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**: It is clear that some beneficial use can be achieved without the variance due to the existence of the business. However, changing markets can dictate different storage needs for a business such as this with large physical product storage.

Regarding criterion B, Staff believes that the variance is **not substantial** in comparison to the existing accessory buildings exceeding the current limit of 10%.

Regarding criterion C, whether or not the **essential character of the neighborhood** would be negatively altered by the granting of the variance: This area is on the periphery of one of Oxford's commercial areas. The character is currently open and partially undeveloped, being near farm fields and light industry. An additional accessory building, although visible from the roadway, could be hardly noticeable compared to the existing outdoor storage and other similar metal pole barn type buildings on the site and in the area. Please note that the architectural design requirements of the General Business District do not apply to this building since it is not a principal building.

Regarding criterion D, Staff believes that the **delivery of governmental services** would not be adversely affected by the granting of this variance request.

Regarding criterion E, **property owner awareness of the zoning restriction**; the property was not in City of Oxford zoning jurisdiction when the building was built.

Regarding criterion F, the **owner's predicament** is that there is insufficient dry storage space for products. There may be other less desirable options that were not articulated by the applicant.

Regarding criterion G, whether **the spirit and intent behind the zoning requirement would be observed and substantial justice done** by granting the variance: Staff believes that Section 1123.01(a) is applicable in the case of preventing excessive accessory building: "To encourage and facilitate orderly, efficient, and appropriate growth and development." Additionally Section 1143.12, GB District also is applicable because of the wide variety of uses it allows: "This district is intended to provide for a variety of retail, service and administrative establishments...."

Therefore it is staff's belief that the spirit, intent and substantial justice would be done by the granting of 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. Such as, but not limited to:

- That the location be shifted away from College Corner Pike to match the front setback of the enclosed portion of the main building

- That a paved drive be installed between existing paved drive and all building access points.

A handwritten signature in black ink, appearing to read "Sam Perry", with a long horizontal flourish extending to the right.

SUBMITTED BY:

Sam Perry, AICP
Planner, Community Development Department

City of Oxford
Inter-Office Review Transmittal Sheet



Date: 10/2/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-12, 5745 College Corner Pike, variance to 1141.01(b)(1)(A), accessory buildings total square foot area, Paul Eichhold, Applicant/Agent

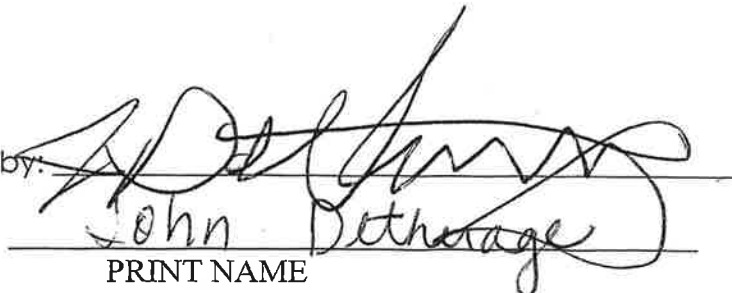
 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 10/12/2017 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 Dethorpe
PRINT NAME

Date: 10-2-17

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 10/2/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-12, 5745 College Corner Pike, variance to 1141.01(b)(1)(A), accessory buildings total square foot area, **Paul Eichhold, Applicant/Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 10/12/2017 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: 10-2-17

VICTOR POPESCU
PRINT NAME



BZA-2017-12 **Surrounding** **Property Owners** **Map**

Legend

 Subject Parcel

 200 Ft. Buffer

 Oxford Corporation Limit

 Parcel

 Vacated Right-of-Way

 Building Footprint

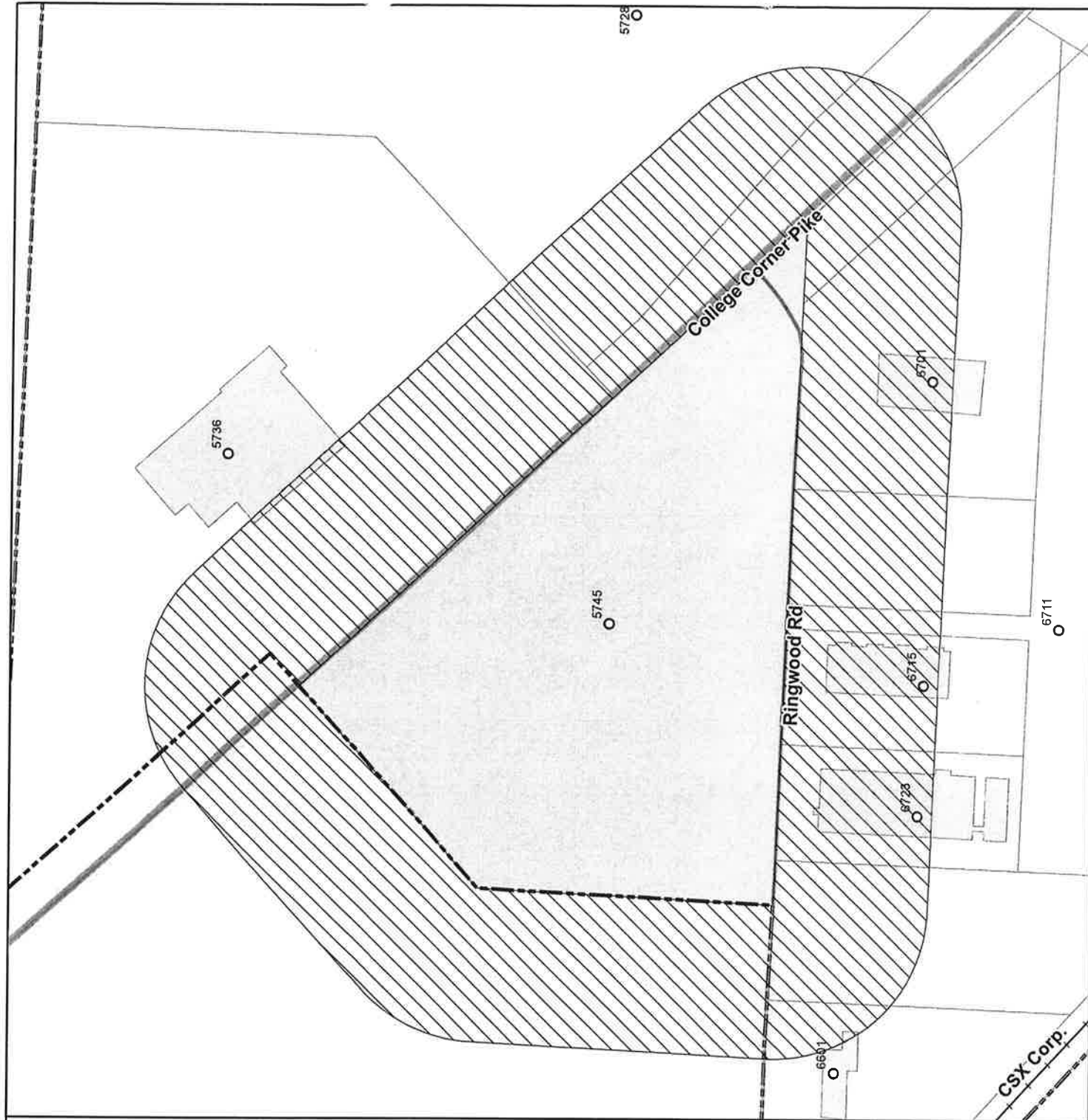
 Paved Roadway



1 inch = 175 feet

Prepared on Friday, October 06, 2017

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 Paul Eichhold has permission to represent our interest with the City of Oxford and act on our behalf for the Board of Zoning and Appeals hearing October 18th 2017 regarding the construction of an additional outbuilding that exceeds allotted square footage per 1141.01(b)(1)(A) at our property located at 5745 College Corner Pike, Oxford, Ohio 45056

Thank-you,

Signed: 
Charles J Gillman
GHCOL LLC

Date:

9/15/17

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that August Alfred has permission to represent our interest with the City of Oxford and act on our behalf for the Board of Zoning and Appeals hearing October 18th 2017 regarding the construction of an additional outbuilding that exceeds allotted square footage per 1141.01(b)(1)(A) at our property located at 5745 College Corner Pike, Oxford, Ohio 45056

Thank-you,

Signed: 
Charles J Gillman
GHCOL LLC

Date:

9/15/17



Internal Use Only:

Case No.

BZA-2017-12

Date Filed

9/15/17

Petition for Zoning Variance

Petitioner Information

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

Name *

PAUL EICHHOLD

Mailing Address *

5745 COLLEGE CORNER PIKE

City, State & Zip Code *

OXFORD, OH 45056

Telephone Number(s) *

513-524-9030

Email Address

paule@gillmanhomecenter.com

Owner Information

Name *

GHCOL - LLC / CHARLES J GILLMAN

Mailing Address *

1162 TEKULVE RD

City, State & Zip Code *

BATESVILLE, IN 47006

Telephone Number(s) *

812-934-4282

Email Address

charlie@gillmanhomecenter.com

Variance and Lot Information

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

A VARIANCE IS REQUESTED TO CONSTRUCT A 32' x 64' OUTBUILDING, THAT EXCEEDS THE ALLOWABLE

SQUARE FOOTAGE PER CODIFIED ORDINANCE 1141.01(b)(1)(A), IN ORDER TO ACCOMMODATE BOTH CURRENT AND FUTURE SALES VOLUMES.

Location of Requested Variance *

5745 COLLEGE CORNER PIKE OXFORD, OH 45056

Name of Building

Legal Description *

POST-FRAME BUILDING / POLE BARN

Zoning District *

GB

Total Acreage *

6.757

Existing Use of Site *

COMMERCIAL

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.

DRY GOODS STORAGE e.g. CABINETS, APPLIANCES, MATTRESSES, FLOORING

- 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.

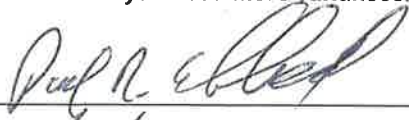
Fees & Receipt

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 *



 9/15/17

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).**

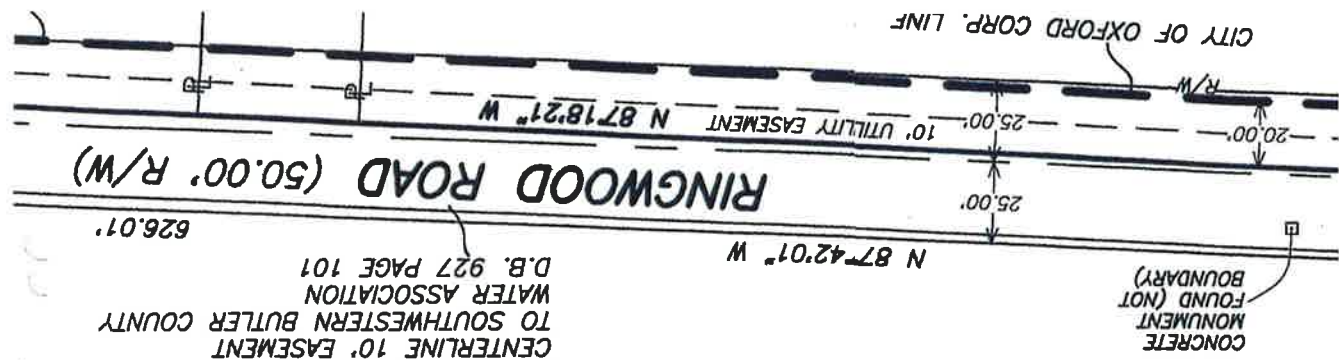
¹ Butler County Auditor Real Estate Search: <http://www.butlercountyauditor.org/>

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

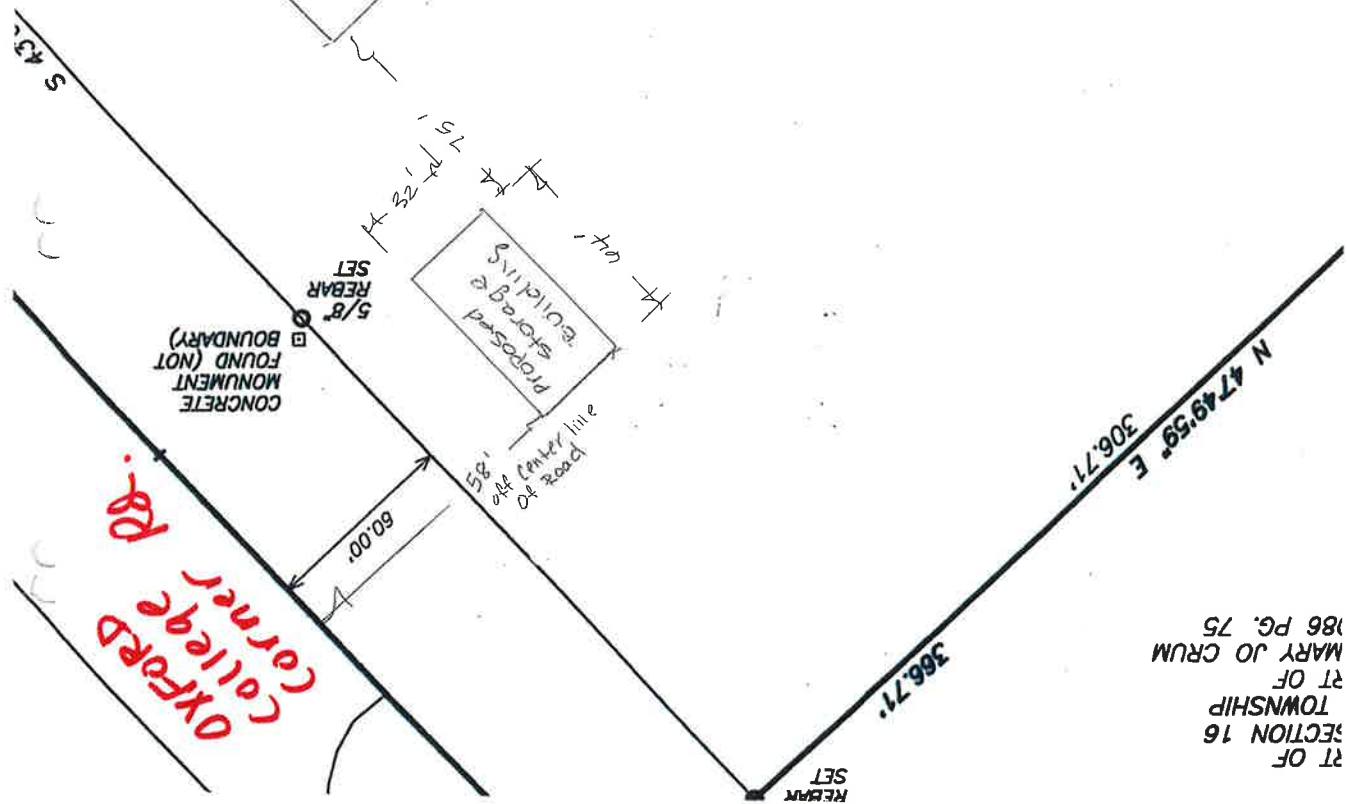
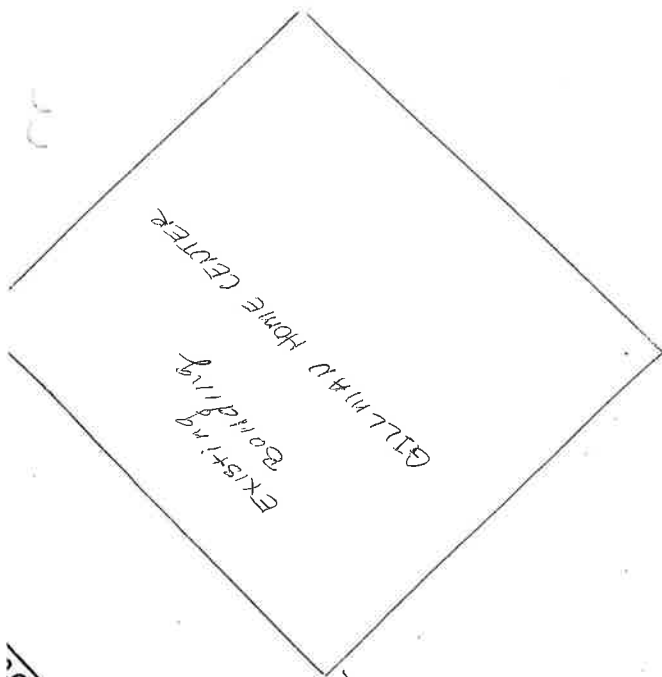
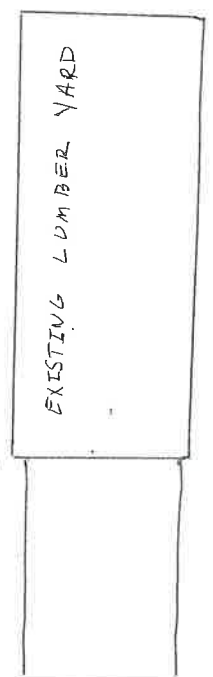
Decision Standards Qualifications

Regarding section(s):

- A. The land area in question is a back corner of the property. The variance being requested is the only feasible way to make it more beneficial to our company.
- B. As our business has grown so have our storage needs. In addition to supplying local residents and contractors with material, we have begun supplying products to large scale projects in our community and outlying communities as well. It is for this reason that additional storage space is needed to ensure that the merchandise we receive and deliver is able to be stored in a safe and dry environment to avoid costly damages to said merchandise.
- C. The neighborhood would be completely unaffected by the construction of a polebarn. The design of the build and covering matches almost every one of the surrounding businesses and farm.
- D. The buildings location is at the rear of the property and would have no effective on any services.
- E. When the property was purchased it was located in Oxford Township which did not fall under the ordinance in question.
- F. The variance is the only way to solve our storage issue.
- G. The spirit and intent of the zoning requirement would be fulfilled by building a structure that falls into the allowable of an outbuilding in relation to the size of the main structure. While the location already has one outbuild that serves everyday contractor and customer needs the additional building would serve to fulfill current and future dry storage space needs that our current facility is deficient in.



APPROXIMATE
 CENTERLINE 10' EASEMENT
 TO SOUTHWESTERN BUTLER COUNTY
 WATER ASSOCIATION
 D.B. 927 PAGE 101



RT OF
 SECTION 16
 TOWNSHIP
 MARY JO CRUM
 186 PG. 75



Surrounding properties



[X] = Proposed location

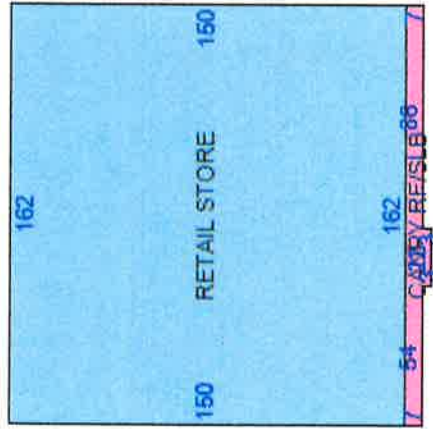

$$j = 5h$$

22
82
92
111

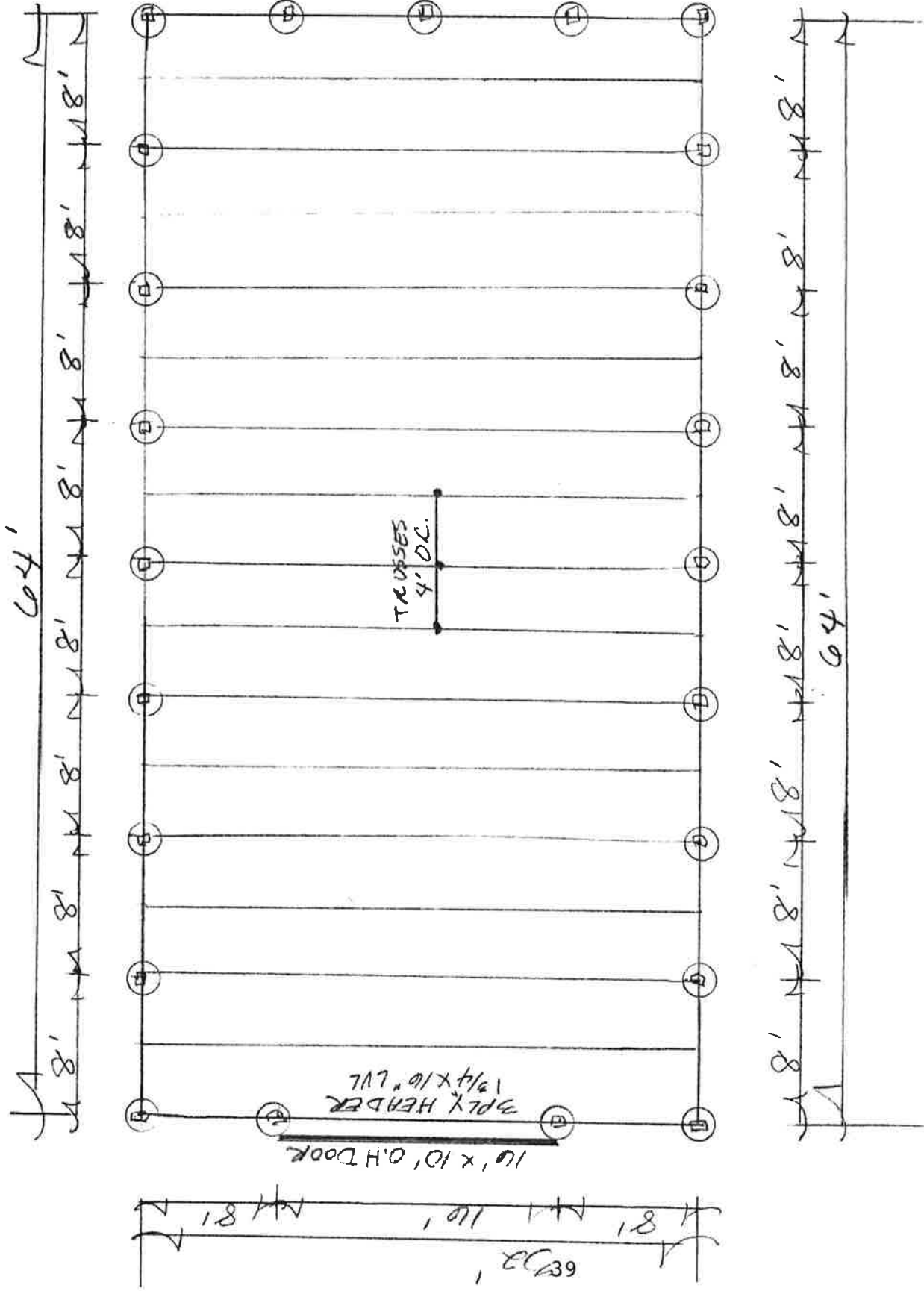
$$\begin{array}{r} 86 \\ 19 \\ 09 \\ \hline 56 \\ 582 \end{array}$$

PARID: H41000280000029
GHCOL LLC

5745 COLLEGE CORNER PIKE

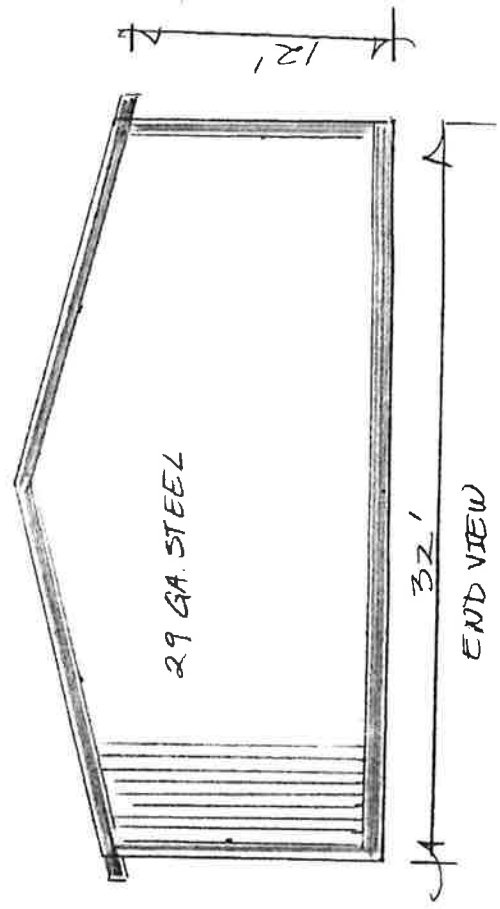
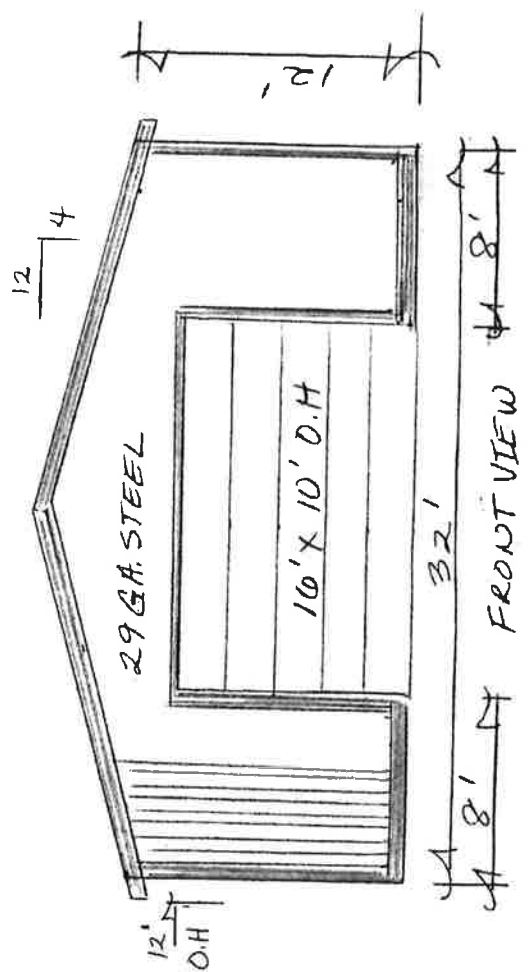
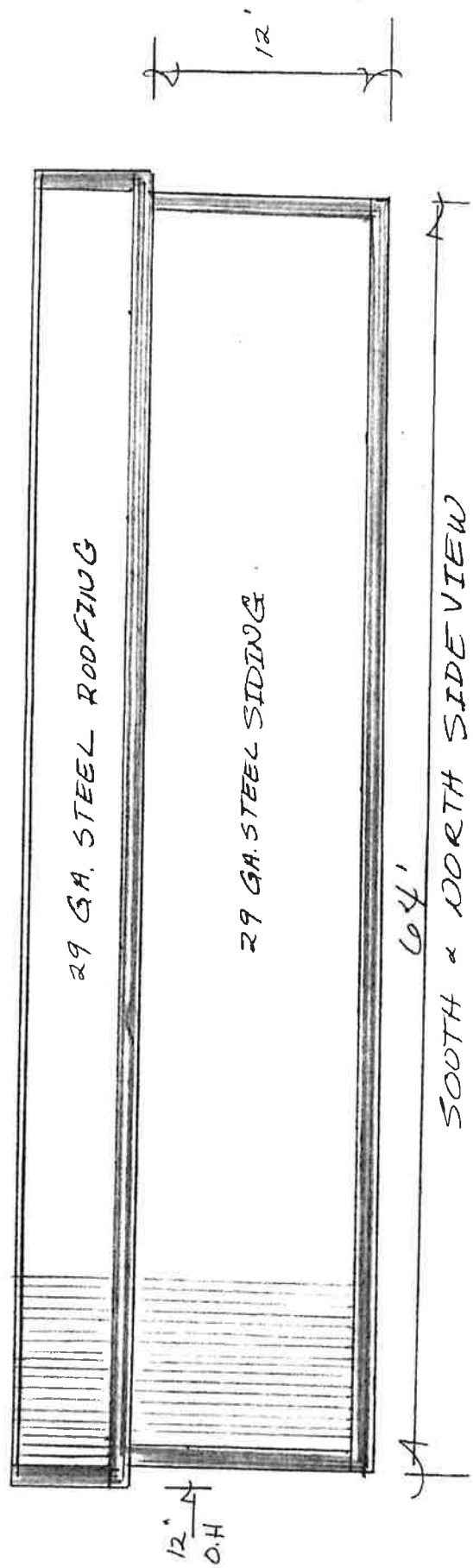


Item	Area
CANPY RF/SLB - CP6:CANOPY ROOF/SLAB	1200
RETAIL STORE - 034:RETAIL STORE	24300
150 POLE M - AP3:ONE SIDE OPEN MTL POLE BLDG	7812
SPRKL R WET - SS1:SPRINKLER SYS WET	24300
LMBR 4S OP - SH6:LUMBER SHED 4 SIDE OPEN	3400
OVRHD DR - OD1:OVERHEAD DR-WOOD/MTL	168
PVG CONCR - CI2:CONCRETE PAVING	23000
FNC CHAIN - WA1:FENCE CHAIN LINK	5220
OVRHD DR - OD1:OVERHEAD DR-WOOD/MTL	80
TRK,TRN WELL - LD4:TRUCK & TRAIN WELLS	7200
OVRHD DR - OD1:OVERHEAD DR-WOOD/MTL	96



SCALE 1/8" = 1'-0"

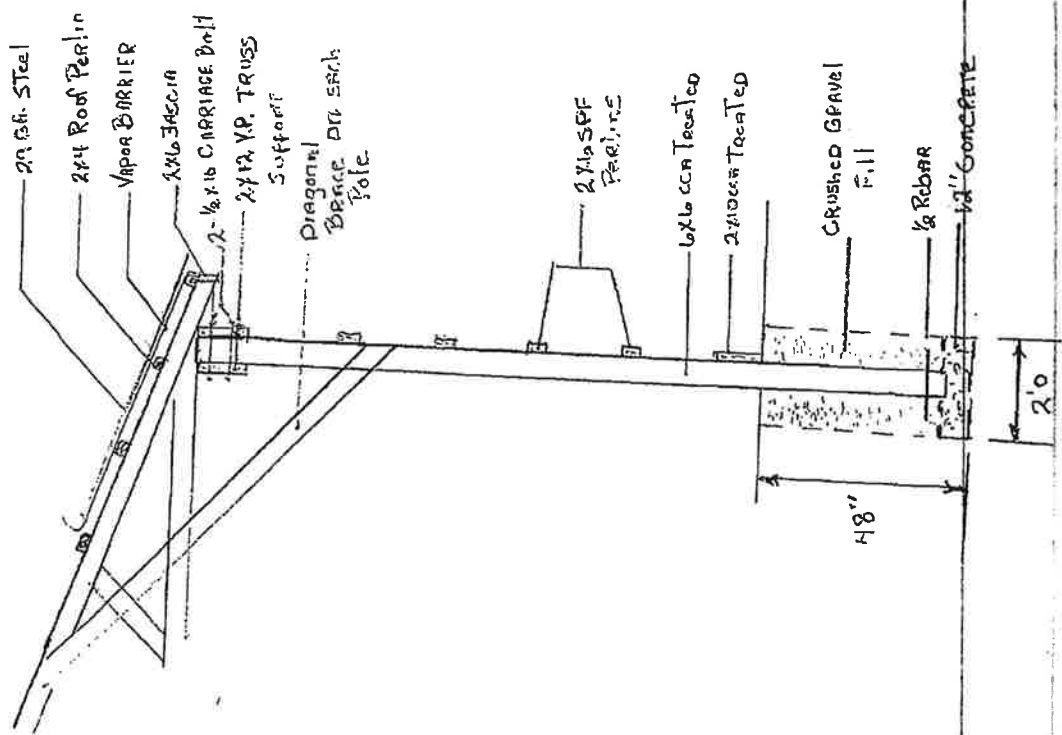
GILLMAN HOME CENTER / STORAGE BUILDING



GILLMAN HOME CENTER / STORAGE BUILDING

SCALE 1/8" = 1'-0"

2043



WALL Section 1/4" = 1'0"

GILLMAN HOME CENTER
STORAGE BUILDING

3 of 3

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2017-11

Date – October 18, 2017

APPLICATION

Applicant:	Carolyn Ostendorf
Location:	3,5,7 East Central Avenue, 709 S. Main Street
Owner:	Courtyards of Miami LLC
Action Request:	Variance to Section 1143.05(c)(4)A.1, R-2MS Total Lot Coverage
Current Use:	Multi-Family Residential
Zoning:	R2MS (Single and Two Family Mile Square)
Surrounding Land Uses:	Single, Two and Multi-Family Residential

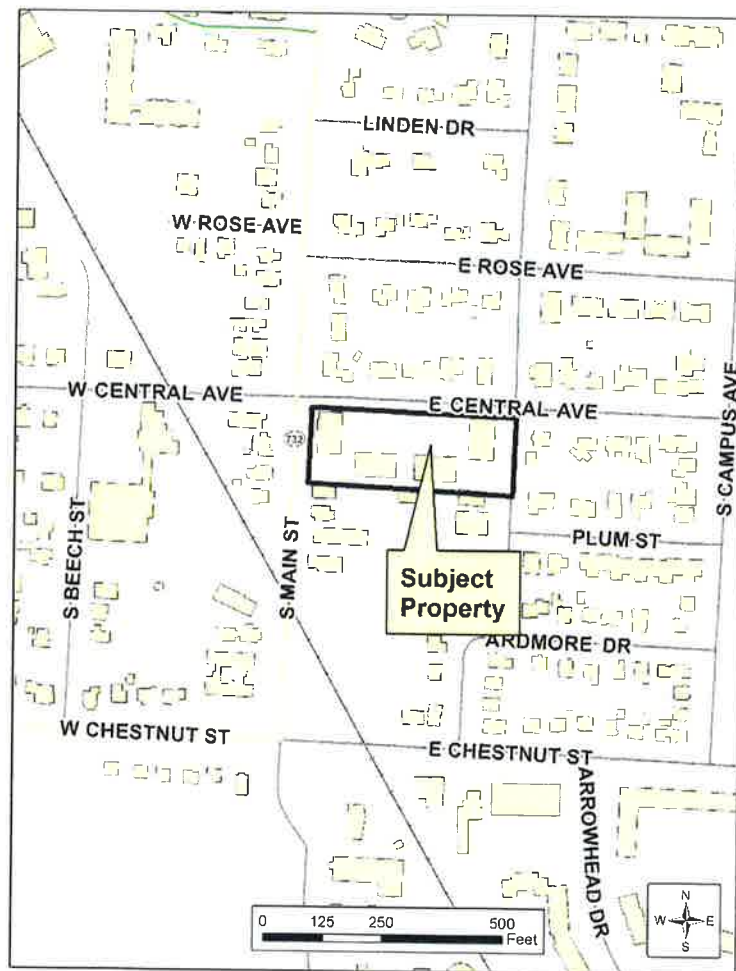
DESCRIPTION

Carolyn Ostendorf is requesting a variance from the lot coverage requirements associated with the recent addition of two bicycle shelters at the Courtyards of Miami apartment complex. The property is located on East Central Avenue at South Main Street. The new shelters were observed by staff as they were being completed.

BACKGROUND

In the R-2MS district, Oxford Zoning Code Section 1143.05(c)(4)A.1. limits total lot coverage to 35%.

The submitted survey from Brosey Surveyors shows that the existing lot coverage is nonconforming at 55.12% and the new lot coverage increases slightly with the bike shelters at 55.97%. The Nonconforming Chapter of Oxford Zoning Code Section 1137.04(b)(2) prohibits "...an increase in the degree of nonconformity..." The owner did not apply for a permit so there was no review by staff to make a determination prior to construction. There is no provisions in Oxford Zoning Code for minor increases in lot



coverage, therefore the applicant chose to seek the variance rather than remove any hardscape or remove the new structures. The owner has agreed to file a building permit to ensure building code compliance if the variance is approved.

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.

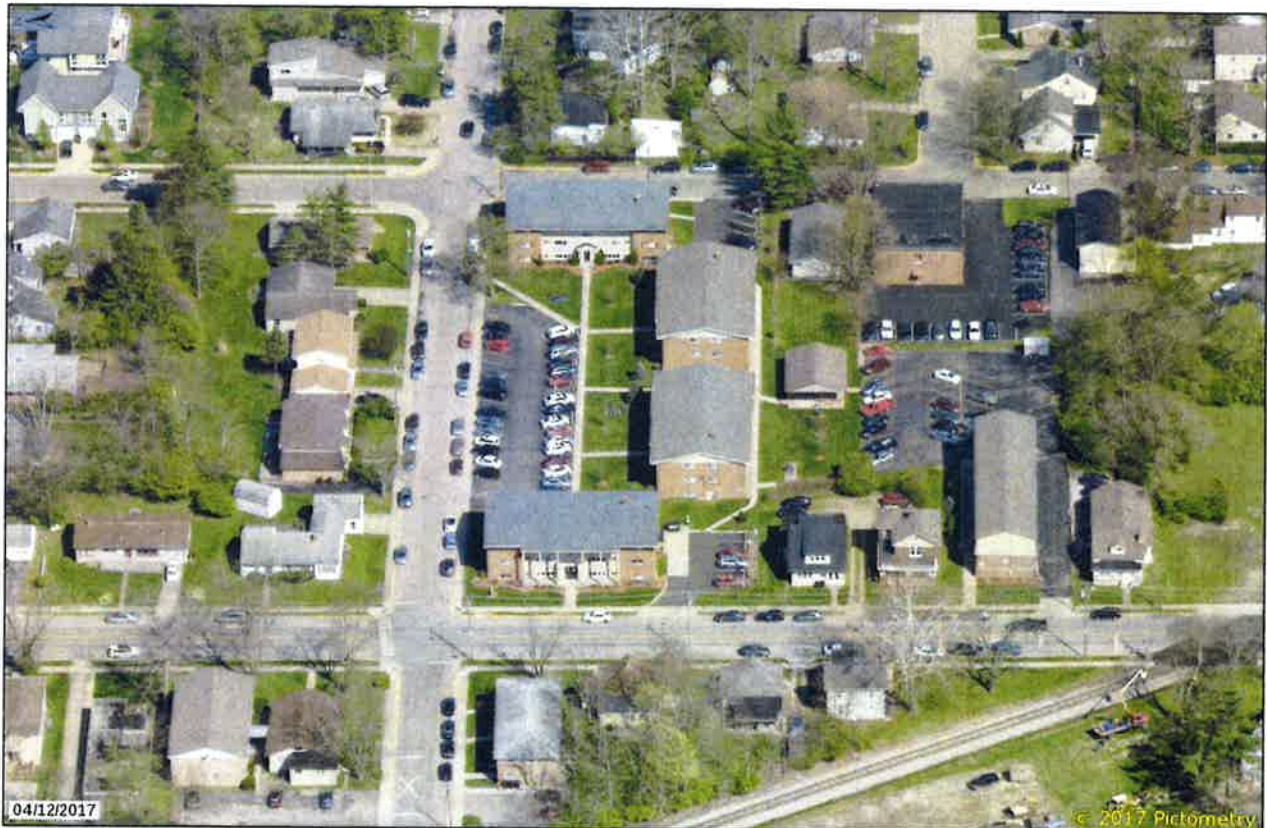
Fire	Returned without comments
Police	Returned without comments
Engineering	Returned without comments
Economic Development	Returned with comments

BZA SITE HISTORY

There are no documented records of prior BZA cases for the subject property.

PERSPECTIVE

Below is an oblique aerial photo looking east with Courtyards of Miami in the center of the image.



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 Ms. Ostendorf. 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**: It is clear that some beneficial use can be achieved without the variance due to the existence of the complex without the shelters.

Regarding criterion B, Staff believes that the variance is **not substantial** in comparison to the existing nonconforming lot coverage. The increase makes the lot coverage 0.85% more nonconforming than it already is.

Regarding criterion C, whether or not the **essential character of the neighborhood** would be negatively altered by the granting of the variance: The shelters are set back from the roadway further than the buildings and are significantly smaller. Therefore the variance would not negatively alter the essential character of the neighborhood.

Regarding criterion D, Staff believes that the **delivery of governmental services** would not be adversely affected by the granting of this variance request.

Regarding criterion E, **property owner awareness of the zoning restriction**; the site was already developed when the current owner purchased the property.

Regarding criterion F, the **owner's predicament** is that demand for bike usage is very high for this property and that there is inadequate covered storage.

Regarding criterion G, whether **the spirit and intent behind the zoning requirement would be observed and substantial justice done** by granting the variance: Staff believes that granting a slight increase in lot coverage for a minimal accommodation for bike storage is within the spirit and intent of the zoning code and that substantial justice would be done. Bike usage as a regular transportation mode is also consistent with recent amendments to Oxford Zoning Code, particularly in Chapter 1149.03(i), Parking and Site Access space requirements, "R-3 Off-Street Parking Reductions-Sheltered Bike Facility".

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. Such as but not limited to:

- That a building permit be obtained for the shelters within 6 months.



SUBMITTED BY: _____

Sam Perry, AICP
Planner, Community Development Department

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 9/11/2017

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

Drawings are being submitted to you for the following:

**BZA-2017-11 Courtyards of Miami, Variance to 1143.05(c)(4)A.1, total lot coverage, bike shelters,
Carolyn Ostendorf, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 10/6/2017 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: 9-11-17

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 9/11/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

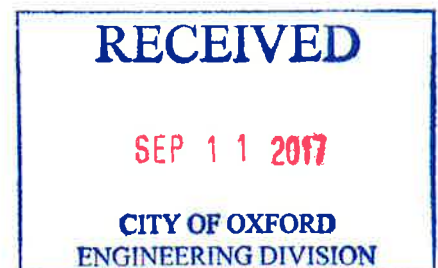
BZA-2017-11 Courtyards of Miami, Variance to 1143.05(c)(4)A.1, total lot coverage, bike shelters,
Carolyn Ostendorf, Applicant

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 10/6/2017 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: *V. Popescu*

Date: 9-12-17

Victor Popescu
PRINT NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 9/11/2017

To: Fire Department Engineering Division (Police Department) Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-11 Courtyards of Miami, Variance to 1143.05(c)(4)A.1, total lot coverage, bike shelters, Carolyn Ostendorf, Applicant

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 10/6/2017 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: CLAG

Date: 9/13/17

John A. Jones

PRINT NAME _____

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 9/11/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

**BZA-2017-11 Courtyards of Miami, Variance to 1143.05(c)(4)A.1, total lot coverage, bike shelters,
Carolyn Ostendorf, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 10/6/2017 Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

SEEMS REASONABLE. SEEMS MINOR.

Drawings reviewed by: _____

Date: 9-12-17

G. Alan Kitchen
PRINT NAME



BZA-2017-11 **Surrounding** **Property Owners** **Map**

Legend

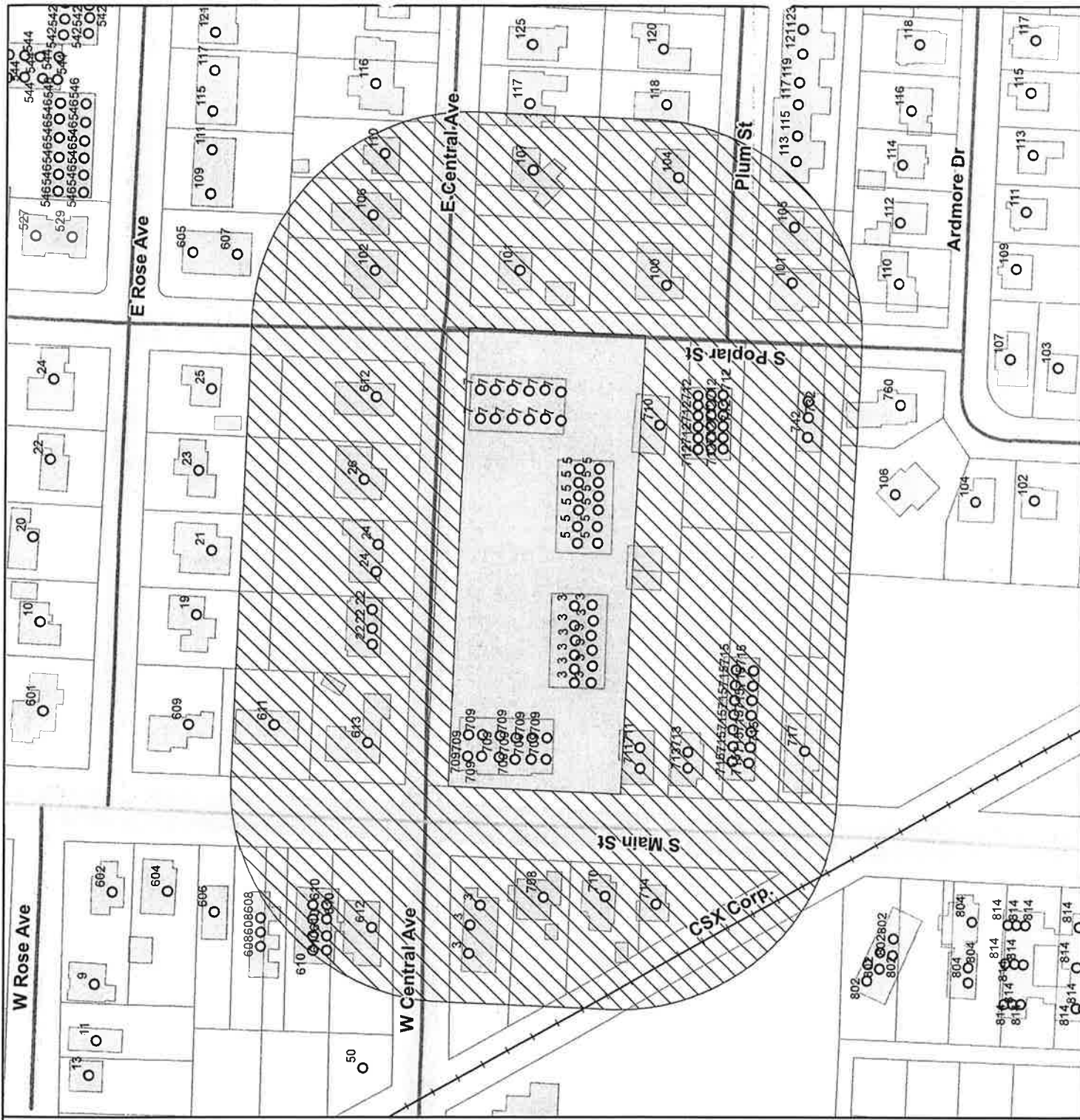
-  Subject Parcel
-  200 Ft. Buffer
-  Oxford Corporation Limit
-  Parcel
-  Vacated Right-of-Way
-  Building Footprint
-  Paved Roadway



1 inch = 125 feet

Prepared on Wednesday, October 04, 2017

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.





Internal Use Only:

Case No.

BZA-2017-11

Date Filed

8/21/17

Petition for Zoning Variance

Petitioner Information

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

Name *

Courtyards of Miami LLC

Mailing Address *

5 E. Central Ave #5

City, State & Zip Code *

Oxford, OH 45056

Telephone Number(s) *

513-659-5671

Email Address

thecourtyardsofmiami@yahoo.com

Owner Information

Name *

Courtyards of Miami LLC

Mailing Address *

5 E. Central Ave #5

City, State & Zip Code *

Oxford, OH 45056

Telephone Number(s) *

513-659-5671

Email Address

thecourtyardsofmiami@yahoo.com

Variance and Lot Information

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

2 Bicycle shelters were built to cover existing bicycle racks already installed on the lot, without a variance.

A variance is requested to 1143.05(c)(4)A.1, total lot coverage. The previous lot coverage was 55.12% pre-construction.

New lot coverage is 55.97% after construction of the shelters for a total change of 0.85% (520.9 sq. ft) in lot coverage.

Location of Requested Variance *

Front of property off of parking area

Name of Building

Courtyards of Miami

Legal Description *

OL 45 S 151.5 of N 170.S (Parcel H4100106000076)

Zoning District *

R2MS

Total Acreage *

1.57 Acres

Existing Use of Site *

Apartment community

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.

Apartment community offers 62 units of housing to approx. 100 tenants. Most tenants are students at university with a majority using bicycles as their primary transportation. Bicycle racks have been installed at least prior to the last transfer in 2007. Bicycle shelters are to provide protection from elements and give incentive for environmentally friendly choices.

- 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 *

Carolyn Osterdorf

Date *

8-21-17

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>

Courtyards of Miami LLC.

513-659-5671 thecourtyardsofmiami@yahoo.com 5 E. Central Ave, #5, Oxford, OH

August 21, 2017

Board of Zoning Appeals
City of Oxford

RE: Zoning Variance Petition - Courtyards of Miami Lot Coverage

This petition is regarding two bicycle shelters which were built over existing bicycle racks on the Courtyards of Miami apartment community property. The property has 62 apartment units and approximately 100 tenants, many of which leverage bicycles as an environmentally friendly and cost effective means of transportation.

The petition as filed requests a variance from the current 55.12% lot coverage to 55.97% lot coverage. Additionally, I am providing this letter with specific answers to the Decision Standards the Board uses to make these decisions.

Decision Standards From Section 1139.02(c)(2).

A. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;

Granting the variance will increase the beneficial use and return of the property by reducing vehicle traffic, increasing resident appeal, and increasing environmentally friendly transportation choices.

B. Whether the variance is substantial;

The variance is NOT a substantial request as it is only a slight increase in lot coverage from 55.12% to 55.97% for a net increase of only 0.85%. Additionally, the area covered already had bicycle racks installed and were previously using the space.

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 character of the neighborhood and adjoining properties will not suffer any detriment and likely the character of the area is improved by the focus and support on environmentally friendly bicycle transportation.

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

The location of the bicycle shelters and the proposed variance does NOT affect the delivery of any governmental service.

E. Whether the property owner purchased the property with knowledge of the zoning restriction;

No, the zoning restriction was not known when purchasing the property or when the structures in question were created.

F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;

No solution known to the property owner is feasible for addressing the needs of the apartment community residents to have their bicycles protected from the elements without requesting this variance.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

It is believed that the zoning requirement is to encourage green space areas and neighborhood character. In this situation, we do believe that the spirit and intent of such requirement is met by granting this variance.

H. Any other relevant factor.

This property is managed as a family business by me and my immediate family. To increase the character and green space areas, we have planted 4 Bib Blue Spruce trees, 4 Maple trees, Norway Spruce trees, Red Bud tree, 2 large Oak trees, numerous bulbs, grasses, vines, and several varieties of bushes.

We certainly enjoy seeing more green and less brick, pavement, and buildings. This bike shelter actually encourages more bike use and enjoyment of Oxford's green spaces. The bicycle racks will be full as students and tenants return for the school year.

No additional plans will be pursued to cover additional lot area and we respectfully request that the Zoning Board will grant this variance and allow the residents of Courtyard of Miami to retain the shelters for their bicycles.

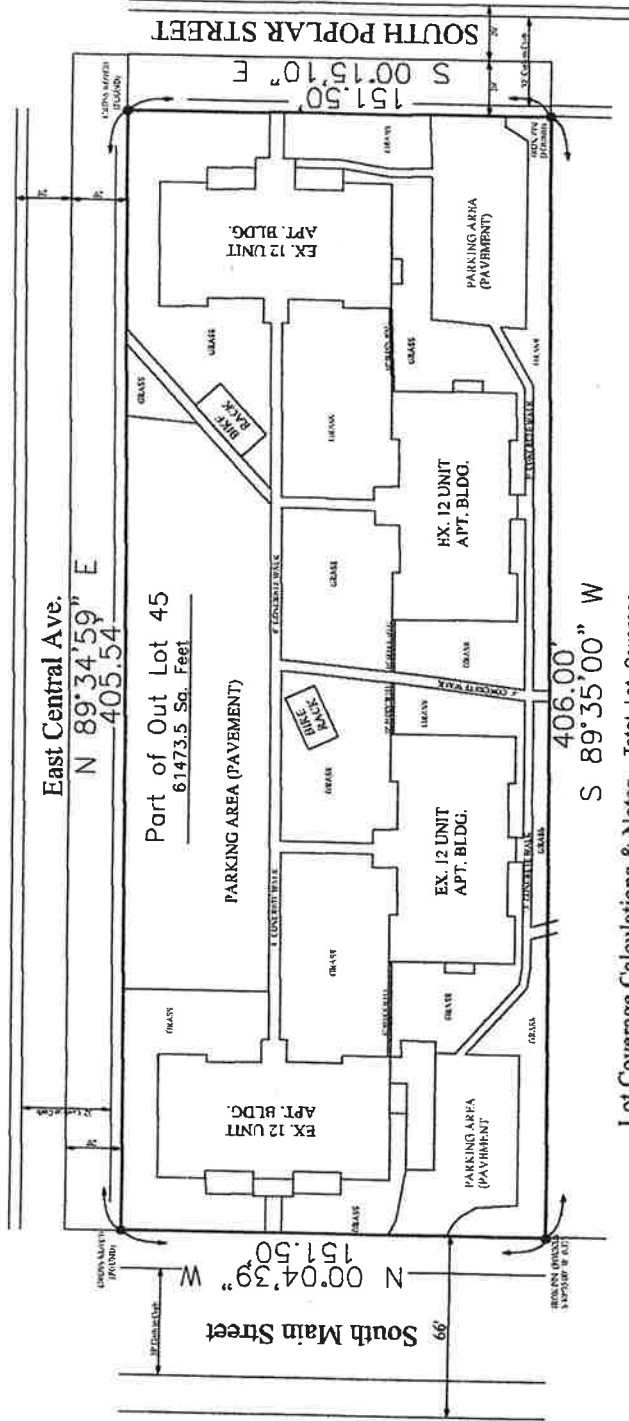
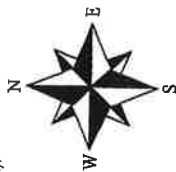
Sincerely yours,



Carolyn Ostendorf

Courtyards of Miami LLC

Bearings shown hereon are based on an assumed meridian and are used to locate angles only.



Lot Coverage Calculations & Notes

Concrete Walks & Pad	Pavement	Apparment Building Coverage	Brick Wall Coverage	Bike Rack Shelter
285.0 Sq. Feet	10256.0 Sq. Feet	3993.3 Sq. Feet	25.0 Sq. Feet	287.4 Sq. Feet
77.8 Sq. Feet	2544.8 Sq. Feet	3544.4 Sq. Feet	15.8 Sq. Feet	+ 233.5 Sq. Feet
81.2 Sq. Feet	+ 2051.2 Sq. Feet	+ 4002.7 Sq. Feet	+ 27.8 Sq. Feet	Total 520.9 Sq. Feet
1010.9 Sq. Feet	Total 14852.0 Sq. Feet	Total 15281.0 Sq. Feet	Total 68.6 Sq. Feet	/ 61473.5 Sq. Feet
134.2 Sq. Feet	/ 61473.5 Sq. Feet	/ 61473.5 Sq. Feet	/ 61473.5 Sq. Feet	0.00847 x100 = 0.85%
342.2 Sq. Feet	0.2416 x100 = 24.16%	0.2486 x100 = 24.86%	0.00136 x100 = 0.14%	
918.3 Sq. Feet				
538.5 Sq. Feet				
+ 147.6 Sq. Feet				
Total 3689.1 Sq. Feet				
/ 61473.5 Sq. Feet				
0.0597 x100 = 5.97%				

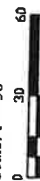
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Total 3689.1 Sq. Feet				
/ 61473.5 Sq. Feet				
0.0597 x100 = 5.97%				

Location & Lot Coverage Survey

Part Out Lot 45,
City of Oxford
Butler County, Ohio

For: Carolyn M. Ostendorf
Date: 8/11/2017
Scale: 1"= 30'



NOTES

- 1) Source documents are as shown hereon.
- 2) Old Part Lot established by Volume 54, Page 23, of the Butler County Record of Land Surveys.
- 3) Current Deed for property in question is Deed Book: 8315 Page: 1285
- 4) Occupation in general fits Survey except as shown.
- 5) Monumentation found is in good condition.
- 6) -o- Indicates 5/8" Iron rod with I.D. cap unless otherwise noted.

Total difference between lot coverage before and after the construction of bike rack shelters in question was (0.85% or 520.9 Square feet)

55.12% Pre Construction
55.97% Post Construction

0.85% change in Coverage (520.9 Square feet) in Bike Rack Shelters

By: Bruce Land Surveyors
—513-463-0237—

I certify that the herein plotted property was measured to acceptable Survey Standards only.

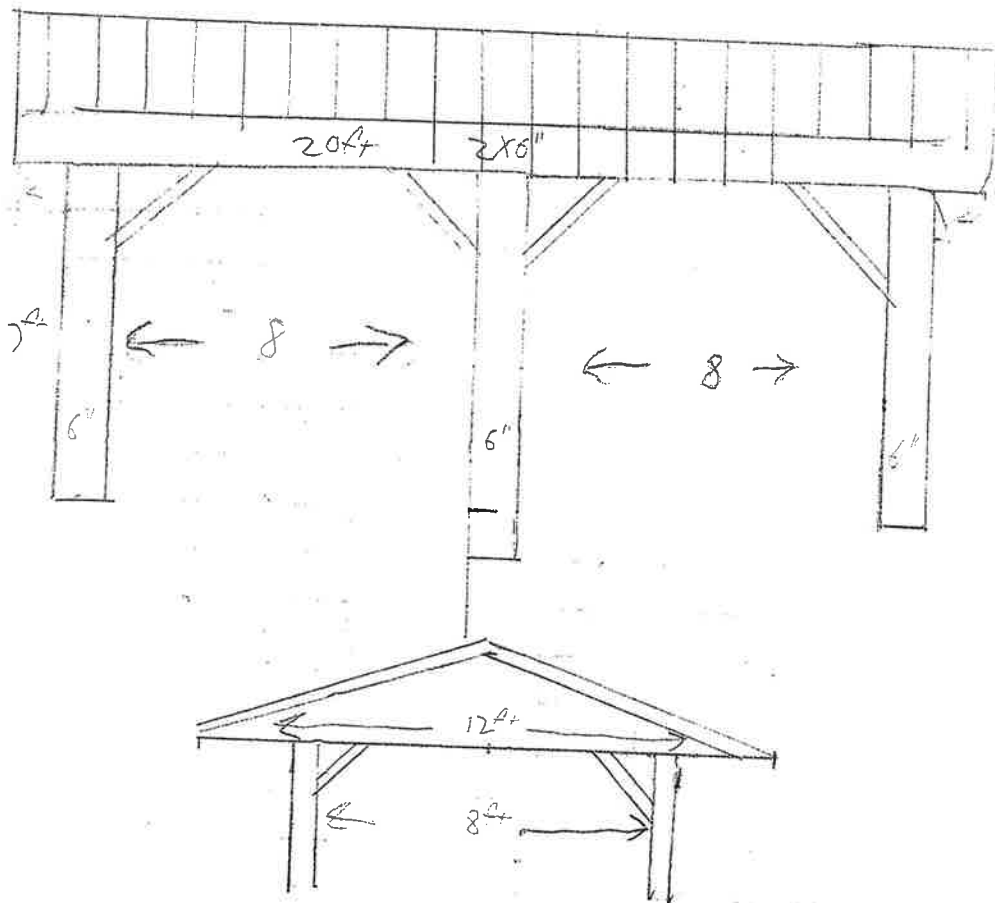
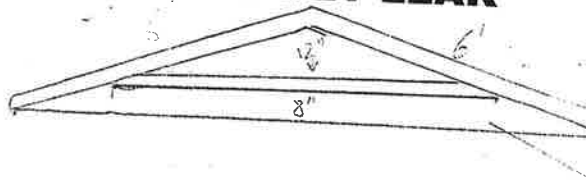
Daniel R. Brosey
Registered Surveyor, 6492 in Ohio



AQUA-LINE

• LEAK DETECTION SERVICES •
1-888-GET LEAK

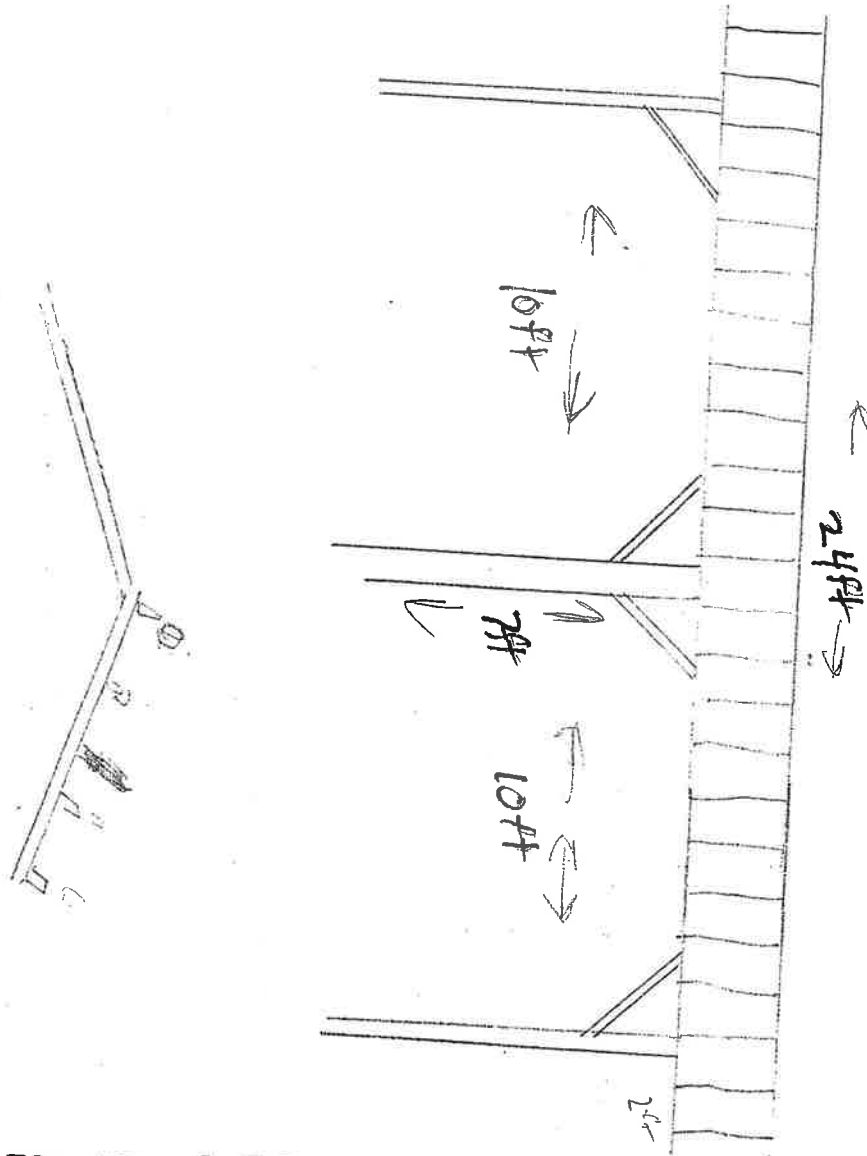
15° = 30



TOLL FREE 1-888-GET LEAK (888-438-5325)
FAX: 419-424-0510 • www.aqua-line-inc.com

AQUA-LINE

• LEAK DETECTION SERVICES •
1-888-GET LEAK



TOLL FREE 1-888-GET LEAK (888-438-5325)
FAX: 419-424-0510 • www.aqua-line-inc.com

Bike Rake #1



Bike Rake #2



Memo



To: Board of Zoning Appeals
From: Sam Perry, Community Development 
Date: 10/11/2017
Re: Review of Rules of Procedure Revisions

Based on discussion at the September Work Session, the following changes to the Rules are proposed. If approved at this meeting these would go into effect immediately. City Council approval is not required.

1. Oath of Office
2. Meeting time change
3. Voting

**RULES OF PROCEDURE
OF THE BOARD OF ZONING APPEALS OF OXFORD, OHIO –**

PROPOSED CHANGES FOR REVIEW ON OCTOBER 18, 2017

ARTICLE I – MEMBERSHIP

The Board of Zoning Appeals is established by Section 8.08 of the Oxford Charter. Membership consists of five citizens serving three-year, staggered terms.

ARTICLE II - JURISDICTION AND FUNCTION

According to Section 8.09 of Oxford's Charter, "The Board shall have the power to hear and determine appeals from refusal of building permits and to permit exceptions to and variations from the zoning regulations in individual cases as may be required to afford justice and avoid unreasonable hardships to property owners. The standards in all instances to be applied by the Board shall be established by Ordinance of Council."

The Decision Standards have been enacted by Council, and they appear as Section 1139.02(c)(2) of Oxford's Code of Ordinances. A copy of Section 1139.02 (c)(2) appears as Appendix "A" to these Rules and Procedures.

ARTICLE III – OFFICERS

Section 1 - At the first meeting of each year, the Board shall elect one of its members as Chair, one as Vice-Chair, and one as Executive Secretary. At the first meeting of each year, the Law Director or his or her designee shall administer an oath of office to all members of the Board.

Section 2 - The Chair shall preside at meetings of the Board, call special meetings, and perform such other duties commonly prescribed to such office.

Section 3 - The Vice-Chair shall perform the same duties as the Chair in his/her absence.

Section 4 - In the event the Chair and Vice-Chair are absent from a meeting, the three remaining members shall select a Chair Pro-Tem who shall perform the same duties as the Chair for the balance of the meeting.

Section 5 - The Executive Secretary shall present the minutes of each meeting for approval at the next meeting and attest to the Board's approval of the minutes.

ARTICLE IV – MEETINGS

Section 1 - The regular meetings of the Board will be held in the Oxford Courthouse at 7:30 p.m. 6:30 p.m. on the third Wednesday of each month on the call of the Chair. The regular meeting date may occasionally change at the direction of the Board with public notice of the meeting. Special meetings may be called by the Chair, or by two (2) members of the Board, provided that special meetings must be called by the delivering of a written notice thereof to each Board member, or the residence of each member, and to those news media that have requested notification, at least twenty-four (24) hours prior to the time set for the special meeting. Said notice shall contain information as to the date, time, place and purpose of the meeting. No action shall be taken by the Board at a special meeting upon any matter not listed upon said special meeting notice (See appendix "B").

ARTICLE V – VOTING

Section 1 - No motion to over-rule the decision of an administrative office of the City shall be adopted except by the affirmative vote of three member56s of this Board (Section 8.08 of Oxford Charter). No

variance shall be approved except by the affirmative vote of three members of this Board.

Section 2 - A majority vote of those members present shall be necessary to carry out all other regular business of the Board and a quorum of three members shall be necessary to conduct business and to constitute on official meeting of the Board.

Section 3 - The Chair shall vote in all matters under consideration by the Board.

Section 4 - No Board member shall participate in the discussion or vote in any matter in which the member has a personal interest. That person shall recuse themselves from the Board for that portion of the meeting in which the member has an interest.

Section 5 - A record shall be made in the minutes showing the vote of each member on each question, or, if absent or failing to vote, indicating such fact.

Section 6 - The Board of Zoning Appeals shall base its decision only upon Section 1129.11 or the Decision Standards in Chapter 1139. A copy of Section 1139.02(c)(2) appears as Appendix A to these Rules of Procedures.

ARTICLE VI - APPEALS PROCEDURE

Section 1 - (By Whom)

- (a) An appeal and supporting documentation as provided for in Chapter 1129 and 1139 of the Planning & Zoning Code may be made to the Board by any person who has been denied a building permit, or who desires an exception to or variance from the Planning and Zoning Code, or by any officer, department, board or bureau of the City of Oxford affected by a decision of the Zoning Administrator within 30 days of the date of the Zoning Administrator decision.
- (b) If the appellant represents the owner or occupant authority of the premises under consideration, the appellant shall document on the appeal that authority to represent that owner or occupant.
- (c) The application for an appeal shall be submitted pursuant to Chapter 1129 and 1139 of the Planning & Zoning Code. The Board will not hear any appeal on an application the Board deems incomplete under Section 1139.02
- (d) Instruction sheets may be prepared and approved by the Board for the guidance of appellants and copies of these Rules of Procedure shall be available to the public without charge at all times in the office of the Zoning Administrator.

Section 2 - (Action on Application)

- (a) The Zoning Administrator shall notify by regular mail the appellant and all owners of property within 200 feet of the property in question as to the date, time, place and purpose of the hearing at least 10 days prior to the hearing. The notice shall provide a form on which comments may be submitted to the Board of Zoning Appeals. This notice is not jurisdictional and is provided for only as a matter of courtesy. Failure by the Zoning Administrator to mail such notice or failure by a land owner described above to receive such notice shall not invalidate any action resulting from the public hearing.

The Administrator shall also cause an official legal notice, which is jurisdictional, containing the date, time, place and purpose of the hearing to be published once in a local newspaper of general circulation at least 7 days prior to the hearing. At least 7 days prior to the public hearing, the applicant shall post a sign on the site, provided by the City, along each, but not in, the public right-of-way that abuts the site and at other locations or intersections near or leading to the site in the right-of-way, at the discretion

of the Zoning Administrator. The signs shall state that the site is the subject of a public hearing and shall list the type, time, and place of the hearing, and shall be legible from the public right-of-way. This is a courtesy notice. Failure by the Zoning Administrator to provide such signs as described shall not invalidate any action resulting from the public hearing. Removal of such signs, once set, shall be a violation of this Code in addition to any other laws against their removal that may apply.

- (b) The Zoning Administrator shall transmit to the Board, approximately one week prior to the meeting or as soon thereafter as possible, the appeal application and all papers or information required or necessary for proper hearing of the appeal, and copies as required shall be sent to all Board members.
- (c) An appellant may, at his or her request, postpone an application that has been submitted, but not yet been heard, if a hard copy letter stating such request is submitted to and acknowledged by the Zoning Administrator at least seven (7) days prior to the scheduled meeting. This allows adequate time for rescheduling meetings and/or amending agendas as appropriate. In the case of unexpected emergencies resulting in a postponement request less than 7 days prior to the hearing, the Administrator and the Chair or Vice-Chair of BZA shall allow flexibility. A postponement may result in an additional fee paid to the City.

Section 3 - (Hearings)

- (a) The Board of Zoning Appeals shall base its review of a variance application upon the complete application, upon any staff report, and upon any relevant and credible public testimony and evidence presented during the adjudication hearing. If the Board of Zoning Appeals finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.
- (b) All meetings and hearings shall be open to the public, provided, however, that hearings are adjudicative in nature and are not a forum open to public comment and discussion. Public participation in meetings will be limited as set forth in subsection (p), below.
- (c) The Applicant shall limit his/her testimony to fifteen (15) including any information presented by his/her duly appointed agent or attorney. The Chair or Vice-Chair may allow additional time, if requested by the applicant.
- (d) For the purposes of these Rules of Procedure, a person has standing to testify at an adjudication hearing before the Board, with or without counsel, if that person has a substantial right that will be directly affected, in a manner that is different from the effect on the general public, by the determination under consideration by the Board.
- (e) All interested parties with standing shall be permitted to appear and be heard in person, or by his/her agent or attorney, in opposition to the final order, adjudication, or decision. The Board shall have the right to dismiss the appeal if the appellant or his/her agent or attorney is not present at the hearing.
- (f) The interested party with standing shall present his/her position, arguments, and contentions.
- (g) The interested party with standing shall be allowed to cross-examine witnesses purporting to refute his/her position, arguments, and contentions.
- (h) The interested party with standing shall be allowed to offer evidence to refute evidence and testimony offered in opposition to his/her position, arguments, and contentions.
- (i) The interested party with standing shall be allowed to proffer any such opposing evidence and testimony into the record, if the admission of it is denied by the officer or body appealed from.
- (j) All testimony adduced shall be given under oath.
- (k) The Zoning Administrator will present and explain the case, setting forth the reasons

for the Board.

- (l) The Board of Zoning Appeals shall have prepared minutes of the proceedings containing a report of all evidence admitted or proffered by the Board.
- (m) Any person with standing shall have the right to ask questions about the subject of the appeal.
- (n) At the request of the appellant or the Zoning Administrator and/or on the motion of the Board, the hearing may be postponed for further evidence or information. Such postponement shall be granted or denied in the sole discretion of the Board, and any postponement of a hearing, once commenced, shall be for more than 45 days, except with a written permission of both the Zoning Administrator and the appellant.
- (o) The Zoning Administrator or Board shall file with the minutes, conclusions of facts supporting the final order, adjudication, or decision appealed from.
- (p) At the conclusion of the hearing or hearings the Board will discuss and vote on each appeal and conduct the business section of the meeting to take care of items on the agenda. The public may not participate in this section of the meeting except upon request of the Chair or any member of the Board.
- (q) The Board shall keep a record of its proceeding. Findings of Fact shall be included in the minutes of each case of a requested variation or appeal, and the reasons for approving or denying such variation or appeal shall be specified. All records of proceeding findings, determinations and actions of the Board shall be filed immediately in the Zoning Administrator's office and shall be retained for one year.

Section 4 - (Following Hearing)

- (a) The Board of Zoning Appeals shall grant, grant with conditions, or deny a variance application as presented and shall clearly state the findings of fact upon which its decision is based.
- (b) The Zoning Administrator and/or the Zoning Administrator's Assistant shall inform the appellant by letter as soon as possible following the hearing of the decision of the Board. The Board's decision shall not become final until the expiration of five (5) days from the date such decision is made unless the Board shall certify otherwise.
- (c) The Zoning Administrator shall issue permits to permit the action for which a variance was sought per Chapter 1139.
- (d) No order of the Board permitting erection or alteration of a building or the use of a building or premises shall be valid for a period longer than six (6) months, and upon the expiration of such period shall automatically be deemed revoked, unless a building permit for such erection or alterations is obtained and the work is started within such period, or, where no erection or alteration is necessary, the permitted use is established within such period, or an extension is requested in writing and granted by the Board.
- (e) No application for a variance that is substantially similar to an application that has been denied or granted, wholly or in part, or revoked, shall be submitted to the BZA for a decision per Chapter 1139.

APPENDIX "A"

1139.02(c)(2) Decision Standards.

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 inequitable. 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 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.

APPENDIX "B"

RULES AS REQUIRED BY R.C. 121.22, COMMONLY KNOWN AS THE SUNSHINE LAW

SECTION 1: All meetings of the Board of Zoning Appeals, other than authorized Executive Sessions, shall be open to public attendance.

SECTION 2: The Board will fully comply with both the letter and the spirit of R.C. 121.22.

SECTION 3: The regularly scheduled meetings of this body shall be held on the third Wednesday of each month in the Oxford Courthouse, commencing at 7:30 p.m. The regular meeting date may occasionally change at the direction of the Board with public notice. Within the context of this rule, a special meeting is deemed to be any meeting scheduled or called for a date or place or time other than as herein above specified. Such special meeting, as so defined solely for the purpose of this rule, may be for the purpose of:

- (1) Continuing or commencing a regular meeting of the Board in discussing and acting upon all such business as may come before the Body; or
- (2) A true Special Meeting within the context of parliamentary definition wherein the purpose of the meeting shall be to consider only specific and enumerated matters, and in which action will not be taken on matters unrelated to the matter, or matters, for which such a meeting is held. No special meeting, as defined herein, shall be held unless the Zoning Administrator shall have given at least 24 hours advanced notice of the date, time and place and purpose of such meeting, to those news media that have requested notification except in the event of an emergency. An emergency exists when immediate official action is necessary and in that event the member, or members, calling such a meeting shall immediately notify such news media as have requested notification of the date, time, place and purpose of such meeting.

- (3) Any person may determine the date, time and place of regularly scheduled meetings by phoning or contacting the Zoning Administrator at the City Building.
- (4) Any person may determine the date, time, place and purpose of special meeting, as defined herein, by making such a request, in writing, to the Zoning Administrator and sending forth their name, address and telephone number. The Zoning Administrator shall notify such person of the date, time, place and purpose of special meetings, either by mail or telephone and will in any case endeavor, with all reasonable effort and dispatch, to make such notification immediately.

When time permits reasonable anticipation of timely mail delivery, the Zoning Administrator may notify such person by mail. When, in the judgment of the Zoning Administrator, it seems reasonable to believe mail notification will not be timely, the Zoning Administrator will make all reasonable efforts to contact such person by telephone. Long distance calls will only be placed collect.

SECTION 4: Any person desiring information as to any specific business to be discussed at a meeting, may obtain advance notification of the proposed discussion by securing a copy of the meeting agenda by any or all of the following methods:

- (1) Agendas for regularly scheduled meetings will be available, without charge, at the Police Department Dispatcher's office on the Saturday, Sunday, Monday or Tuesday preceding the regularly scheduled meeting.
- (2) Agendas for special meetings will be available immediately upon their preparation at the Police Department Dispatcher's office, without charge.
- (3) Persons paying an annual fee of \$10.00 to the Zoning Administrator, and providing said Zoning Administrator with self-addressed business-size envelopes (approximately 9" x 4"), with sufficient first class postage affixed thereto, will be mailed all Board agendas upon their preparation, for so long as the Zoning Administrator has a supply of the required envelopes. It shall be the sole obligation of the person requesting such mailings, to determine that the Zoning Administrator has sufficient envelopes to continue mailing agendas for so long as such person desires to receive agendas. The fee required hereunder shall be a calendar year fee and shall be due once each calendar year regardless of the date upon which the request for such mailings is filed.

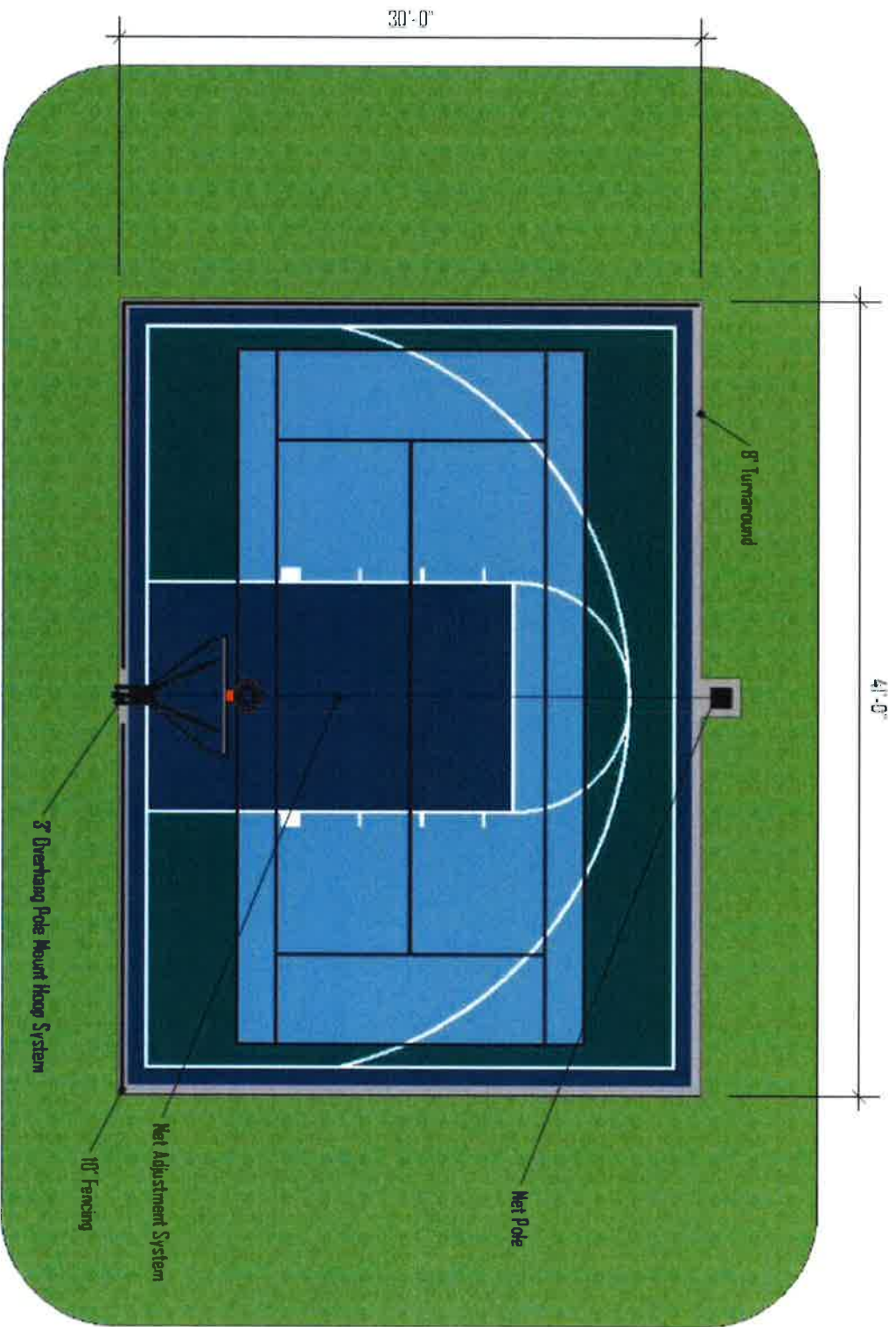
SECTION 5: This Resolution promulgating the foregoing Rules of Procedure shall be effective immediately.



Example of 10' black fencing

Example of a similarly sized recreational court





DESCRIPTION: Basketball Court 30' x 41' 10' Fencing Net Pole Net Adjustment System 3' Overhang Pole Mount Hoop System 8' Turnaround		DESIGNER: CC SCALE: 1/8" = 1' SHEET: 2 of 3	
PROJECT: 40 W. Greentown Road, Cincinnati, OH 45246		TITLE: SPORT COURT CINCINNATI DATE: September 25, 2017 PROJECT: (800) 555-5446	