



MEETING MINUTES
BOARD OF ZONING APPEALS
TUESDAY, October 26, 2021
6:30 P.M.

I. Call to Order

The October 26, 2021 meeting of the Oxford Board of Zoning Appeals was called to order at 6:35 p.m. by Michael Schnipper.

Those members present: Michael Schnipper, Calvin Conrad, Chris Allison, and Kate Rousmaniere

Those members excused: Roger Ames

Staff members present: Sam Perry, Zachary Moore, Ben Mazer, and Eunike Miller

Staff members excused: None

II. Approval of September 28, 2021 Minutes of the Regular Meeting

Ms. Rousmaniere made a motion to approve the September 28, 2021 minutes as written. Mr. Conrad seconded the motion. All were in favor.

III. New Business

BZA-2021-05, VARIANCE, 310 Bishop Street, rear and side yard setbacks for existing patio, Chris Norman, Applicant/Agent

Mr. Allison made a motion to enter into adjudication hearing. Ms. Rousmaniere seconded the motion. All were in favor.

Mr. Moore, Planner for the City of Oxford, was sworn in by Mr. Schnipper. Mr. Moore provided a few details of the case: (1) location, (2) case number, (3) the applicant, (4) the owner, (5) the current zoning – R3MS, (6) current use, (7) “after-the-fact” Variance application to Code Section 1141.03(c)(6)(F) which requires a minimum rear yard setback of 15 feet and a minimum side yard setback of 5 feet for patio. Mr. Moore mentioned that this is a fairly new Code provision, and it was adopted early this year.

Mr. Moore displayed the Location Map describing where the property is located. The site is made up of two parcels that are under the same ownership. Mr. Moore explained that the Community Development office was contacted by the Delta Kappa Epsilon Fraternity (325 E Sycamore Street) after noticing construction activity.

Mr. Moore displayed the Zoning Map first, then Birds Eye Views looking west and east was shown. Mr. Moore provided some photos from the applicant – before/after pictures. Mr. Moore added that the wooden deck and the brick wall were removed without a permit assuming that an improvement was made to an existing feature. Mr. Moore explained that the deck was replaced with a patio, and the Code addresses these two areas differently. Since the patio is a new feature, it needs to meet the Code requirements.

Mr. Moore displayed additional photos (Aug 2, Oct 18) showing the poured concrete with benches along three sides and a number of 4x4 posts.

Mr. Moore continued his presentation with the Timeline:

7/30 Complaint received

8/2 City official visited the site

8/3 Jim O'Donnell contact was informed to apply for a permit and cease work

9/14 Nick Schubert, representing ownership interest was contacted; miscommunication – work had continued. Mr. Moore asked Mr. O'Donnell to have a survey done; it did not show encroachment

9/22 Preliminary Zoning Review was completed

9/27 Application for Variance received

Mr. Moore referred to Code 1141.03(c)(6)(F) then the Submitted Site Plan was displayed, and Mr. Moore explained that a little less than half of the patio is in City Right-of-Way, in the alley, which is unimproved. Mr. Moore added that the BZA will make a decision on the part of the patio that is on the property. If the variance was approved the Service Department would reach out to the owner to reach an agreement on the encroachment in the City Right-of-Way.

Mr. Moore then discussed the Decision Criteria:

- A) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance. - *does not support granting the variances*
- B) Whether the variance is substantial: the applicant is asking for 100% elimination of this standard. Staff finds it a substantial variance. – *does not support granting the variances*
- 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. – *supports granting the variances*
- D) Whether the variance would adversely affect the delivery of governmental services. – *supports the variances*
- E) Whether the property owner purchased the property with knowledge of the zoning restriction. – *supports the variances*
- F) Whether the property owner's predicament feasibly can be obviated through some method other than a variance. – *supports the variances*
- G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. – *mixed evidence*
- H) Any other relevant factor. – *supports the variances*

Questions from the Board

Ms. Rousmaniere wanted to know whether the new patio is the exact same size as the previous. Mr. Moore was not sure, he believed that judging by the photos it is roughly equivalent.

Mr. Conrad stated that he drove by the property and noticed a lot of trash.

Mr. Schnipper wanted to know whether property maintenance issues should affect the decision. Mr. Moore pointed out that the Department has a new Code Enforcement Officer and she would address these types of issues, so it should not affect the decision making process.

Mr. Norman, Applicant and Agent, was sworn in by Mr. Schnipper. Mr. Norman stated that the facts and evidence support Mr. Moore's presentation. Mr. Norman said the deck was built 50 years ago. Mr. Norman stated that this became an issue when the owner next to the property wanted to purchase this particular property. Mr. Norman mentioned that he helped building the original deck, and setbacks were not observed

at that time. Mr. Norman added where the 4x4 posts are, that was the original wall. Mr. Norman acknowledged the issue with debris, and he is working on this problem.

Mr. Norman believed that Criterion A supports the variance. Mr. Norman explained that the patio gets used a lot. Mr. Norman added there were some recent improvements, such as new roof, new bathroom. Mr. Norman welcomed the idea of the Code Enforcement Officer's visit. Mr. Norman assured the Board that they will apply for a fence permit.

Questions from the Board

Mr. Schnipper wanted to know who Mr. O'Donnell is. Mr. Norman explained that Mr. O'Donnell is a contractor hired for property management. Mr. Schnipper inquired whether Mr. O'Donnell hired the contractors. Mr. Norman believed that most likely the Housing Corporation arranged it. Mr. Schnipper added, the stop work order should have been communicated to the contractors but why it did not happen. Mr. Norman did not know the reason, he stated the work had started before he arrived. Mr. Schnipper inquired how far away Mr. O'Donnell lived.

Mr. Allison wanted to know what would be the impact on the Fraternity if the Variance request will be denied. Mr. Norman stated it would impact physical and social activities, and the cost of the removal.

Mr. Conrad had a question why the stop work order was not adhered to. Mr. Schnipper restated that it was due to miscommunication. Mr. Norman added it could be due to people being on vacation.

Mr. Phil Brown, Secretary of Delta Kappa Epsilon Housing Board, was sworn in by Mr. Schnipper. Mr. Brown distributed a written statement from their Board. The Letter has been added to the packet after the meeting by the request of Mr. Schnipper.

Mr. Brown stated he has been on the Board since 2017. Mr. Brown read the letter to the Board. Mr. Brown did not agree with the survey stating that the Surveyor did not find the corner pin on Bishop Street, it was found only in the north-west corner. Mr. Brown added that a pin was found across the street from Sigma Chi and the Surveyor used that pin.

Mr. Brown stated that the 4x4 posts are on their property. Mr. Brown believed they may get some relief from the debris by having the 5 feet setback. Mr. Brown explained they tried to negotiate with the Fraternity to sign a Right of First Refusal document if Gamma Kappa decides to sell the property in the future. Mr. Brown added they offered to pay for the survey and the variance too but never received a response. Mr. Brown re-emphasized that they would like to maintain the 5 feet setback.

The Board did not have any questions for Mr. Brown.

Mr. Norman wanted to address some of the statements made by Mr. Brown. Mr. Norman stated that the deck has been there for a long period of time and no addition was made. Mr. Norman added that the survey shows there is no encroachment, the setback is the only issue. Mr. Norman noted while the refusal issue is relevant, it is unfair to state that all the damage is coming from Theta Chi.

Mr. Brown, in his answer, said not all the damage is from Theta Chi but evidence suggests that. Mr. Brown believed there is encroachment.

Ms. Rousmaniere made a motion to reconvene to regular session. Mr. Conrad seconded the motion. All were in favor.

Mr. Conrad made a motion to deny the variance request based on Criteria A, B, G. Mr. Allison seconded the motion.

Mr. Perry inquired whether there was any other findings specific to these Criteria. Mr. Conrad believed that Criteria A and B are in violation of the Zoning Code and he was mystified by the mixed evidence.

Roll call was taken.

AYE: Mr. Conrad, Mr. Allison, Mr. Schnipper (3)

NAY: Ms. Rousmaniere (1)

ABS: None (0)

Variance DENIED, the patio needs to be removed forthwith.

BZA-2021-06, APPEAL OF ADMINISTRATOR'S DECISION, 212 N Elm Street, interpretation of setbacks, and calculation of lot coverage, **Terry Dudley, Applicant**

Ms. Rousmaniere made a motion to enter into adjudication hearing. Mr. Conrad seconded the motion. All were in favor.

Mr. Moore, Planner for the City of Oxford, was sworn in by Mr. Schnipper. Mr. Moore started his presentation with explaining what an Appeal of Administrator's Decision is: a challenge to the way staff is interpreting and applying specific sections of Code. Therefore, the decision is to either uphold or reverse Staff's interpretation. The Board essentially has the same power as the Zoning Administrator.

Mr. Moore gave details about the case (1) applicant, (2) owner, (3) current zoning, R1MS, (4) current use. Mr. Moore explained there is a detached garage on the property which will remain, and the applicant would like to build a new single-family dwelling. The previous house was demolished in 2018, and there have been 3 attempts to obtain permit approval for the new project.

The Applicant is appealing to Section 1141.01(a)(1)(D) – interpretation of setbacks, and 1143.03(c) – calculation of lot coverage.

Mr. Moore displayed the Location map and drew attention to the closeness of the structure on 218 N Elm Street, the neighboring property.

Zoning Map then Birds Eye View to west and north were displayed. Mr. Moore explained there is a hole on the site, which could be either a remainder of the basement from the demolished house or it was dug in the anticipation of putting a new basement in.

Recent site photos, taken on October 18th were displayed.

Appeal #1 – “A detached accessory building shall be at least ten feet from any dwelling or other accessory building or structure situated on the same lot or abutting.” – Section 1141.04(a)(1)(D)

Mr. Moore continued his presentation with discussing Staff's interpretations:

- 10 feet minimum between two accessory structures on the same lot – *not applicable*
- 10 feet minimum between an accessory structure and a principal structure (dwelling) on the same lot – *garage and planned dwelling meet this*
- 10 feet minimum between an accessory structure and any other structure (principal or accessory) on an abutting lot – *no direct relevance to the request*

- 10 feet minimum between any structure on a lot and any other structure (principal or accessory) encroaching onto the same lot -**APPEALED**

Mr. Moore explained Staff interpretation is that when a building encroaches over a property line onto another property, the encroachment should be treated as an accessory building. Mr. Moore gave two other things that support the interpretation:

- 1) The spirit of the Code is to have at least 10 feet of spacing between two principal structures in any Residential District
- 2) A lot cannot have more than one principal structure in the Residential District

Mr. Moore then displayed the first two submitted Site Plans, which were very similar. With the third permit, a different Site Plan was submitted that did not use the survey information. Because of this, Mr. Moore explained, a georeferencing attempt was made to see how it related to other existing infrastructure and to the Right-Of-Way. Mr. Moore emphasized it was a poor attempt but it did unveil that the existing structure at 218 N Elm Street encroaches past the lot line. Mr. Moore added that this information was not shown on the first two Site Plans. Mr. Moore also explained that although the second permit application never received a review from all the departments, Zoning approved the plans since there was no knowledge about the encroachment.

The latest Site Plan was displayed which was done by a surveyor. Mr. Moore stated this survey confirmed that there is an encroachment, approximately 2 feet. Mr. Moore displayed a close-up image of the side yard and explained there is a 7.5 feet setback between the planned dwelling and the lot line which complies with the minimum district setback. However, this distance reduces to 5.4 feet where the encroachment from the existing structure is. Mr. Moore summarized that Staff interpretation of the Code is to provide 10 feet between the existing structure and the planned dwelling instead of 5.4 feet. Because of the 2 feet encroachment it means about 12 feet from the northern lot line.

Appeal #2 – Lot Total Maximum 45% of lot according to the Code

Mr. Moore explained the past precedent is “All covered areas (building footprints, parking surfaces, walkways, decks, patios, porches etc.) located within the real property boundaries of the site being developed have counted toward maximum lot coverage, **including any encroachments**” – **APPEALED**

Mr. Moore displayed the Coverage Calculations and explained that the new coverage + existing coverage retained together are 46.16%. With the encroachment, the coverage is 47.44%. The applicant is appealing the inclusion of the encroachment in the calculation. Mr. Moore added if the appeal was granted by the Board, meaning that Staff’s interpretation was reversed, the calculation would stop at 46.16%, which still would not comply with the Code. Mr. Moore added that the applicant needs to provide a site plan that conforms to the 45% or a variance can be sought for the additional coverage to achieve zoning approval.

Mr. Moore included a slide for the Board to help them how to construct the motion since there are not many appeal cases. Mr. Moore noted that the Board would make a motion to affirm or reverse the Zoning Administrator’s decision. Mr. Moore emphasized if the Board were to grant this appeal, it would change the way how the Code is applied for future projects.

Questions from the Board

Ms. Rousmaniere wanted clarification on what happened to the previous house. Mr. Moore said the applicant applied for a demolition permit and the house was taken down. Mr. Moore said the previous house was close to the alley. Ms. Rousmaniere asked since there was a house previously it does not mean that it can be replaced. Ms. Rousmaniere wanted clarification if the garage was torn down how it would affect the 10 feet setback. Mr. Moore said there is no issue between the garage and the planned dwelling, 10 feet setback is between the existing building on 218 N Elm and the planned new house. Ms. Rousmaniere also wanted

clarification on the first two permit applications. Mr. Moore stated the first two permit applications were not fully approved by all departments, therefore they were not issued and both applications expired.

Mr. Allison wanted to know if the Board affirms the Zoning Administrator's Decision, Mr. Dudley can apply for a variance. Mr. Moore said if the BZA affirms the decision on both Code Sections the Applicant will receive a letter stating that the Zoning Administrator's findings stand as written. Mr. Dudley, at this point, would have the option to revise his plans or apply for variance, Mr. Moore added. It is also a possibility that the BZA affirms one decision and reverses the other one since two Code Sections are appealed, Mr. Moore stated.

Mr. Dudley, Applicant and Owner of 212 N Elm St, was sworn in by Mr. Schnipper. Mr. Dudley stated that a site plan drawn by a professional was requested with the first permit application. The Gaslight Project was taking shape at this time too, said Mr. Dudley, and as a result this first permit application expired. In 2020 the second application was submitted, stated Mr. Dudley. Mr. Dudley added that the second permit application was approved by Zoning but Building and Engineering required additional information. Mr. Dudley said because of the Gaslight project, this permit also expired. Mr. Dudley explained that a third application was submitted this year and he was told to provide a Site Plan prepared by a professional. Mr. Dudley said he was not sure why another plan needed when he had a survey done already. Mr. Dudley hired Bayer Becker to have the survey done which showed the encroachment problem. Mr. Dudley reasoned that the encroaching building is not his and he kept 7.5 feet from the side yard. Mr. Dudley believed if he adhered to the Zoning Administrator's interpretation he would have to stay 15 feet + 2 feet (17 feet) from the property line thus leaving him 25.5 feet to build on. Mr. Dudley added that the demolished house was encroaching to the alley which is City property. Mr. Dudley stated that he talked with Mr. Wespiser who had no problem building the house close to the encroachment. Mr. Dudley mentioned that Mr. Moore suggested him to apply for variance but Mr. Dudley felt it is not right, he felt being penalized for something that is not his fault. Mr. Dudley did not agree with Mr. Moore that the encroaching house is an accessory building. According to Mr. Dudley where the porch is the footer is behind the lot line and only the roof is hanging over his property. Mr. Dudley did not understand where the 10 feet setback was coming from, and he added if the garage is grandfathered on the property why the encroaching house cannot be. Mr. Dudley thought the house encroaching onto his property is not an accessory building but a residence.

Ms. Rousmaniere wanted some clarification on where the new house would be built. Mr. Dudley answered and added that he could shorten the driveway and be conforming to the lot coverage. Ms. Rousmaniere made the conclusion that the proposed house is basically a reconstruction of 212 N Elm Street.

Mr. Conrad wanted to know whether the garage was a residence. Mr. Dudley said no, the Code does not allow accessory building to be a residence. Mr. Dudley added if the house on 218 N Elm were to be torn down after his house built, he could not just move the house.

Mr. Webb, Architect, was sworn in by Mr. Schnipper. Mr. Webb stated that in the Code setbacks are defined as distances from property line and not as distance between two buildings. Mr. Webb added that setbacks are appealable. Mr. Webb agreed with Mr. Dudley on the punishment he is suffering from the lot coverage and in setback interpretations.

The Board's Discussion

Ms. Rousmaniere stated Mr. Dudley had more options. Mr. Schnipper agreed with Ms. Rousmaniere. Mr. Schnipper said that Mr. Dudley could modify his plan or he could apply for variance.

Ms. Rousmaniere wanted to know why this plan was not approved when the second application was. Mr. Schnipper helped her to understand it was because the encroachment was not known.

Mr. Allison wished the case would go through a variance and they could hear the Fire Chief's opinion on distances between the buildings. Mr. Allison thought that Mr. Dudley should not be penalized for someone else's mistake.

Mr. Conrad made a motion to affirm the Zoning Administrator's Decision. Ms. Rousmaniere seconded the motion.

Roll call was taken.

AYE: Mr. Conrad, Mr. Allison, Ms. Rousmaniere, Mr. Schnipper (4)

NAY: None (0)

ABS: None (0)

Motion AFFIRMED.

BZA-2021-07, VARIANCE, 822 S Beech Street, front and rear yard setbacks, Scott Webb, Applicant/Agent

Mr. Moore, Planner for the City of Oxford, was sworn in by Mr. Schnipper. Mr. Moore noted that the two requests were approved in September 2020 by the BZA and a permit was submitted in October 2020. Both the permit and the variance expired. Therefore this case is the exact same application. Mr. Moore gave details about the case: (1) Applicant, (2) property owner, (3) zoning – R-1MS, (4) current use, (5) variance request to Section 1143.03(c).

Mr. Moore continued his presentation by displaying the Location and Zoning Maps. Mr. Moore provided site photos which were taken on October 18th. Birds Eye View looking south and west was also displayed.

Mr. Moore next displayed the setback requirements for the R-1MS zoning district:

- 20 feet min. front yard setback – **variance requested**
- 35 feet min. rear yard setback – **variance requested**
- 7.5 feet min. side yard setback

Mr. Moore showed the Submitted Site Plan and explained that the Applicant is requesting 28 feet 10 inches from the rear and 13 feet from the front. Mr. Moore displayed the Front Yard Setback Analysis and noted there is not much uniformity because some structures correspond with the 13 feet setback while others pass that.

Mr. Moore displayed the Rear Yard Setback Analysis and explained that the proposed setback is equivalent with the ones that are already exist. Mr. Moore then showed the Submitted Rendering.

Mr. Moore discussed the Decision Criteria:

- A) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance. - *supports granting the variances*
- B) Whether the variance is substantial: the applicant is asking for 100% elimination of this standard. – *supports granting the variances*
- 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. – *supports granting the variances*
- D) Whether the variance would adversely affect the delivery of governmental services. – *supports granting the variances*

- E) Whether the property owner purchased the property with knowledge of the zoning restriction. – *does not support the variances*
- F) Whether the property owner's predicament feasibly can be obviated through some method other than a variance. – *supports granting the variances*
- G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. – *supports granting the variances*
- H) Any other relevant factor. – *supports granting the variances*

Mr. Moore mentioned that Staff is contemplating to initiate a text amendment to extend the 6 months period to 12 months that is provided in the Code for obtaining a Building Permit and to begin work.

Mr. Conrad inquired whether the front porch on the proposed house is farther out then the house north of it. Mr. Moore said it would be in line with the existing structure.

Mr. Schnipper wanted to know if there is another provision that allows one year time frame. Mr. Moore said the Building Official's approval is for one year.

Ms. Rousmaniere inquired if the amendment for the extension of time period provided in the Zoning Code is approved, will it be retro-active. Mr. Moore answered no. Mr. Moore added currently, there are two options for the applicant: **1)** to request extension of a variance in writing within the six months or **2)** Re-apply for the variance past the six months.

Mr. Webb, Architect for the Applicant/Agent, was sworn in by Mr. Schnipper. Mr. Webb asked the Board for the reconsideration of the original proposal. Mr. Webb explained they kept in mind to reflect the character of the neighborhood in the design. Mr. Webb added they paid attention to the setbacks not to extend farther than any of the neighbors. Mr. Webb stated the parking requirement and lot coverage are met. Mr. Webb thanked the Board for reconsidering the case.

Ms. Rousmaniere made a motion to reconvene to regular session. Mr. Conrad seconded the motion. All were in favor.

Ms. Rousmaniere made a motion to approve the request for variances based on support from Criteria A, B, C, D, F, H. Mr. Conrad seconded the motion.

Roll call was taken.

AYE: Ms. Rousmaniere, Mr. Allison, Mr. Conrad, Mr. Schnipper (4)

NAY: None (0)

ABS: None (0)

Motion PASSED to grant the variance requests.

Mr. Schnipper inquired about the November BZA meeting. Mr. Moore informed the Board there are 5 cases. On November 17th, there will be a BZA training.

V. Adjournment

Ms. Rousmaniere made a motion to adjourn the meeting. Mr. Conrad seconded the motion. All were in favor.
The meeting was adjourned at 8:38 p.m.

STAFF REPORT

Community Development | Board of Zoning Appeals

APPLICATION DETAILS

Applicant	Scott Webb, Architect
Location	Alley Lot behind 207/209 W Collins St
Owner	Clawson Properties LLC
Action Request	Variance to Section 1143.03(c) front yard coverage; Section 1149.06(b)(1) front yard parking; and Section 1149.06(c)(5) driveway width & angle
Lot Size	4,323 square feet
Lot Width	65.12 feet
Current Use	Undeveloped / Off-site parking area for 207/209 W Collins
Current Zoning	R-1MS Single-Family Mile-Square Residential District
Surrounding Land Uses	Four-family dwelling to the north (207/209 W Collins); Lodging House to the east (201 W Collins); Single-family dwellings to northwest, west, and south

BACKGROUND

In pursuit of developing a new single-family dwelling on an alley lot located behind an existing four-family structure at 207 & 209 W Collins, the applicant is requesting Variances to three Zoning Code provisions. The subject parcel has frontage on alley public right-of-way on its southern side, and otherwise adjoins other residential properties on the remaining three sides. The lot immediately to the west (213 W Collins) is also an alley parcel (though fronting on two alleys), and contains a single-family dwelling. The parcel immediately to the north has frontage on a public street (W Collins), and is in the same ownership as the subject parcel. The subject parcel currently contains an off-street parking area with signage identifying the parking spaces as reserved parking for the occupants of 207-209 W Collins St, with walkways leading up to the existing building. However, since it is a separate and distinct parcel from that of the four-unit building, the existing parking is considered “off-site.”

The R-1MS District normally requires a minimum of 6,000 square feet and a lot width of at least 60 feet in order to establish a new single-family dwelling. In this case, the subject parcel meets the width requirement but not the area requirement. Per **Section 1137.05(a)**, *a lot in a residential zoning district that does not satisfy the site development regulations for any permitted use in that District may have erected on it a single-family dwelling if the lot has a minimum area of 3,000 square feet and a minimum lot width of 33 feet*. Given that the subject parcel totals 4,323 square feet, single-family residential is a potentially allowable use even though it does

not meet the minimum R-1MS lot area. The single-family use allowance per **Section 1137.05(a)** applies provided the new dwelling is designed to conform to the height, lot coverage, vehicular access and yard or setback requirements of the District where the property is located. There are particular lot coverage and vehicular provisions that cannot be met based on the current site layout, therefore the applicant is requesting Variances to these provisions. The applicant has otherwise demonstrated compliance with front, side and rear yard setback requirements as are currently interpreted for lots with only alley frontage.

DESCRIPTION

The applicant's requested variance can be summarized as follows:

Requirement	Code Section	Standard	Proposal
Maximum Front Yard Coverage	1143.03(c)	15%	46.2%
The minimum front yard setback in the R-1MS District is 20 feet. The applicant has submitted a site plan showing a dwelling positioned at the front setback line; therefore, all developed surfaces falling between the front lot line and the dwelling are counted toward the overall front yard coverage. The front yard area totals 1,302 square feet, with 602 square feet of proposed coverage within. Therefore, the coverage percentage is 46.2% ($602 \div 1,302$). This represents a more than three-fold increase in allowable coverage.			
Maximum Front Yard Parking	1149.06(b)(1)	1 space	2 spaces
Section 1149.06(b)(1) provides that <i>1 parking space may be located in a required front yard. All other parking spaces required or provided in excess of the minimum requirement shall not be located in the required front yard.</i> In this case, the applicant is providing the minimum amount of two (2) off-street parking spaces for a single-family dwelling. However, both parking spaces are situated in the 20-foot front yard setback area, as opposed to one or both falling behind the 20-foot setback line toward the interior of the lot.			
Maximum Driveway Width & Angle	1149.06(c)(5)	18 feet max 30 degrees max	22 feet 11 inches 63 degrees
Section 1149.06(c)(5) specifies that <i>driveways shall be maximum of 18 feet wide at the street right-of-way line and shall flare no greater than 30 degrees from perpendicular with the right-of-way line.</i> There is past precedent with prior projects to allow for parking spaces oriented perpendicularly to the alley right-of-way, even when exceeding 18 feet in total width; in such cases, parking has been located at the rear of a lot along an alley, while the lot otherwise has frontage along a public street with a structure oriented toward the street. However, given that this alley lot is otherwise being treated similarly to a lot having frontage on a public street (with regard to setbacks, etc.), staff believes the driveway width standard becomes applicable in this case. As such, the applicant proposes increasing the driveway width by 27.3% as compared to the normal Code maximum. The parking spaces are also at a significant angle compared to perpendicular with the right-of-way, at more than double the Code's maximum angle.			

PUBLIC COMMENTS

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

DEPARTMENT COMMENTS

Below are comments from City departments:

Department	Respondent	Response
Economic Development	Seth Copenbaker, Assistant to the City Manager	Returned with Comments
<i>The proposed variances regarding the development at 207 W. Collins do not represent a significant influence on the economy of Oxford. The Economic Development staff do not have any concerns at this time.</i>		
Engineering	Scott Otto, City Engineer	Returned with Comments
<i>It is recommended to provide landscaping along the south side of the proposed parking spots to create a barrier from the alley.</i>		
Fire	John Detherage, Fire Chief	Returned with Comments
<i>In addition to the usual concerns of building in an alley, (emergency access, locating the structure in an emergency, power lines, excessively long hose lays) I would have to ask, is a project that requires this many variances appropriate to consider? This plan shows that this "house is 11' feet wide. Hard to tell in the rendering if it is wider than the dumpster.</i>		
Police	John Jones, Police Chief	Returned with Comments
<i>This house will be difficult to locate from the street. It is using a W. Collins address while the front door is closer to College Ave and faces south. How will the numbers even be visible to anyone on Collins Street. The design of the driveway will lend itself to vehicles blocking the front door and the front windows. The cars will sit very close to the house causing a fire hazard. I also can see cars blocking the alley with this design, especially for those who have larger cars.</i>		

BZA SITE HISTORY

Past BZA case history for the subject property is outlined in the table below:

Case No.	Request(s)
BZA-2018-10	Variance to Rear Yard Setback, Front Yard Coverage, & Front Yard Parking
The applicant had previously submitted a Variance application in early 2018, requesting: (1) a reduction of the 35 foot rear yard setback to 17 feet; (2) an increase in front yard coverage from 5% to 58%; and (3) an increase in front yard parking spaces from 1 to 4. It should be noted the Code's maximum front yard coverage requirement has since increased from 5% to 15%. The Board of Zoning Appeals convened on June 20, 2018 and voted 4-0-0 to deny the applicant's requested Variances, based upon the findings that the variances were substantial, could affect delivery of governmental services, and property owner awareness of zoning restrictions.	

DECISION CRITERIA

In accordance with **Section 1139.02(c)(1)**, the burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for Variance. Furthermore, per **Section 1139.02(c)(2)** the BZA must find that **practical difficulties** exist that would render strict application of the Code unreasonable. In determining whether such difficulties exist which are sufficient to warrant the Variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the enclosed narrative addressing the review criteria from Mr. Webb.

If the BZA determines that difficulties exist which are sufficient to warrant the Variance, staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance request. If the BZA does approve the Variance it can make separate findings and attach any appropriate conditions it deems necessary as permitted by **Section 1139.02(d)(2)**.

Staff's review of the criteria is outlined in the table below:

Criterion A	Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance
Mixed evidence	The property is virtually undeveloped, thus it currently does not provide a <i>direct</i> financial return for the owner. There is at least an <i>indirect</i> benefit by providing off-street parking for the adjoining four-family use at 207/209 W Collins. In cases where lot sizes predate the minimum area required by current district standards, Section 1137.05(a) provides for the possibly of at least a single-family dwelling use to ensure reasonable economic value can be gained. However, it is staff's belief that the spirit of this nonconforming lot provision is most directly applicable to standard lots with frontage on public streets. This parcel, for all intents and purposes, <i>should</i> simply be considered a rear yard for 207/209 W Collins despite the property line division running between. However, staff also recognizes there is a difference between how property <i>should</i> be perceived and function, vs. how it may be developed per current use allowance in the Zoning Code. Staff believes the applicant could still put forth a design which yields a financial return and better complies with Code requirements.
Criterion B	Whether the variance is substantial
Does not support granting the Variance	The applicant is asking for a more than three-fold increase in front yard coverage, a two-fold increase in front yard parking, and a two-fold increase in driveway angles. Staff believes these are substantial requests, and have thus resulted in an abnormal parking configuration.
Criterion 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
Does not support granting the Variance	The attempt to design a single-family structure adhering to setback requirements which also maximizes potential rental occupancy, in staff's opinion, has resulted in a compromised parking and front yard coverage situation. It is clear the parking as designed, coupled with the resulting building footprint and oddly-shaped design, would be uncharacteristic of the surrounding neighborhood.
Criterion D	Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage)
Does not support granting the Variance	Given the Fire and Police Chief comments regarding visibility and emergency access, staff believes granting the Variance and thereby allowing development of a significantly sized single-family structure would have an adverse effect on the delivery of governmental services.

Criterion E	Whether the property owner purchased the property with knowledge of the zoning restriction
Does not support granting the Variance	The most recent transaction for this property was in 2005, when both the parcel in front (207/209 W Collins) and the subject parcel were transferred simultaneously. It is reasonable to assume the investment-backed expectation at that time was only for retention of the existing four-family dwelling. It is true that following a 2017 Code amendment allowing principal entrances on alley lots to face either alley, this opened up the door for potential development on the subject parcel so long as all other relevant Code requirements could be met.
Criterion F	Whether the property owners' predicament feasibly can be obviated through some method other than a variance
Does not support granting the Variance	The owner could choose to construct a single-family dwelling with a smaller footprint, while providing a normal parking and front yard coverage configuration that complies with Code requirements. An example of compliant parking would be a double-stacked driveway with only 1 parking space being located in the front yard. Or, the owner could choose to accept they are already receiving return that is greater than typical by benefitting from a grandfathered four-family dwelling use in front at 207/209 W Collins, and keeping the dedicated off-street parking in place.
Criterion G	Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance
Does not support granting the Variance	Staff does not believe the spirit and intent of the Code is being met when variations to an off-street parking area make way for a structure that is only 11 feet wide and three stories tall. Substantial justice would be better served by maintaining or improving the current use, or by designing a structure more akin to a smaller footprint accessory dwelling unit (ADU) in combination with a redesigned parking area.
Criterion H	Any other relevant factor
N/A	The BZA may rely upon additional factors or evidence contributed by the applicant or other evidence heard during the hearing.

CONCLUSION

At the time of this report, staff believes **there is insubstantial evidence** to support the Variance requests.

SUBMITTED BY:



Zachary Moore, AICP
Planner

DATE: November 14, 2021

BZA MOTION FOR VARIANCES

With regard to the Request for Variance # **BZA-2021-11**, being a Variance to Section 1143.03(c) maximum front yard coverage, Section 1149.06(b)(1) maximum front yard parking, and Section 1149.06(c)(5) driveway width and angle:

Mr./Ms. _____ hereby moves that the Board adopt and make the following findings of fact:

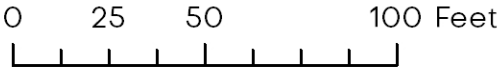
- A. The property in question (**will / will not**) yield a reasonable return or (**can / cannot**) be used beneficially without the variances because:_____
- B. The variance (**is / is not**) substantial because:_____
- C. The essential character of the neighborhood (**would / would not**) be substantially altered by the variance and adjoining properties (**would / would not**) suffer a substantial detriment as a result of the variance because:_____
- D. The variance (**would / would not**) adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because:_____
- E. The property owner (**did / did not**) purchase the property with knowledge of the zoning restriction because:_____
- F. The property owner's predicament (**can / cannot**) feasibly be obviated through some method other than a variance because:_____
- G. The spirit and intent behind the zoning requirement (**would / would not**) be observed and substantial justice done by granting the variance because:_____
- H. Other relevant factors, if any, considered include:_____

It is further moved that after considering and weighing these factors, the Board should find that practical difficulty (**is/is not**) shown sufficient to warrant granting the Variance requested, and that the Variance should be accordingly (**APPROVED / DENIED / APPROVED WITH THE FOLLOWING CONDITIONS**). The conditions for approval, if any, include:

Motion Seconded by: Mr. / Ms. _____.

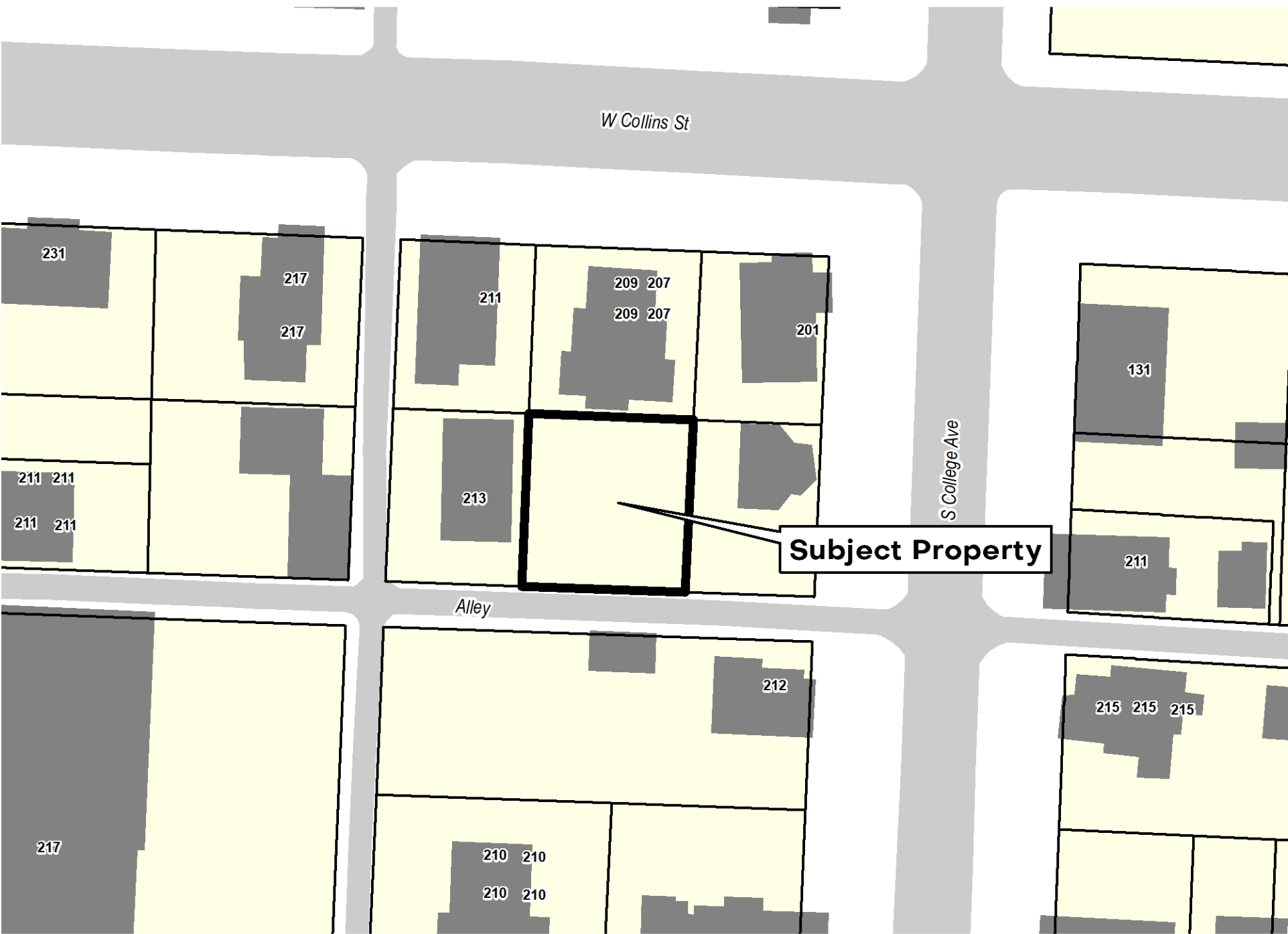
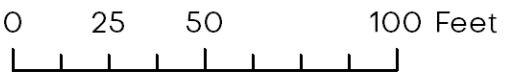
Vote: Aye_____ Nay:_____

Location Map

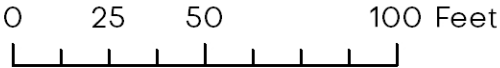


Location Map

 Site

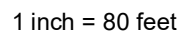


Location Map





 Subject Area
 200 Ft. Buffer
 Oxford Corp. Limit
 Address Point
 16.5' Vacated ROW
 Building Footprint



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-2021-11

Date Filed

10/25/21

Petition for Zoning Variance

Petitioner Information

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

Name * Scott Webb, Architect

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 * Clawson Properties LLC

Mailing Address * 125 West Spring Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 513-524-9500

Email Address jim@hoteledvelopment.net

Variance and Lot Information

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

1143.05(c) Front Yard Lot Coverage

1149.04(a)(1) (1) Max. parking space in front yard

1149.06(c)(5) driveway width & angle

Location of Requested Variance * Alley Lot behind 207/209 West Collins

Name of Building

Legal Description * Parcel #H4000004000103

Zoning District * R-1MS Total Acreage * .099

Existing Use of Site * Vacant Lot

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.*

New Single Family Residence

Required Plans and Documentation

From Section 1139.02(a)².

- (1) Contents of application for variance. **Eight** complete sets of all information shall be submitted with an application. The Zoning Administrator may modify this requirement based upon the type of materials included. **The applicant is encouraged to contact the Zoning Administrator prior to submitting an application to discuss the submission requirement.** If any information is submitted in color or on non-standard paper, more copies may be required.
 - A. Application Fee.
 - B. Description of Use and Site.
 - C. The name, mailing address, and telephone number of the applicant and the property owner.
 - D. If the applicant is not the owner, a statement from the owner that the applicant is entitled to apply on his or her behalf (Letter of Agency).
 - E. A legal description of the site, including all separate lots.
 - F. A description of the existing uses of the site.
 - G. The zoning district in which the site is located.
 - H. A description of the existing and proposed use.
 1. A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles.
 2. The hours of operation.
 - I. The nature and magnitude of the requested variance.
 - J. The Code section from which the variance is requested.
 - K. A separate narrative statement that explains how the proposed variance satisfies **each** of the Decision Standards required to grant a variance ([see Decision Standards section](#)).
 - L. A list of the names and mailing addresses of all landowners within 200 feet of the perimeter of the site ([see Surrounding Property Owners section](#)).
- (2) Site Plan. A scaled site plan shall include the following information in detail. The required information may be submitted on multiple site plans if inclusion of all information on a single plan makes it illegible or difficult to understand.
 - A. North arrow.
 - B. Scale.
 - C. Vicinity map.
 - D. All existing and proposed lot lines within the site.
 - E. Dimensions of all lots and of the entire site and any adjacent rights-of-way.
 - F. Location, height, and use of all proposed and existing structures.
 - G. Location and design of all proposed vehicle management areas.
 - H. Location, size, and type of all proposed signs.
 - I. Location, height, and type of all proposed screening and landscaping.
 - J. Distances to residential zoning districts if within 1,000 feet.
 - K. The use of land and location of structures on adjacent property and across adjacent rights-of-way.
 - L. An indication of the regulation from which the variance is requested.
 - M. Other information as required by the Board of Zoning Appeals.
- (3) Elevations. Elevations of proposed structures, or typical elevations if structures are not yet designed, may be required by the Zoning Administrator if the proposed location, height, or bulk of the structure is such that it may negatively affect an adjacent use.
- (4) Other. Photographs of the existing use and its surroundings and other information regarding the proposed use, site, or surrounding area as may be pertinent to the application or required by the Board of Zoning Appeals.

Surrounding Property Owners

On a separate sheet, provide the parcel numbers, names, and mailing addresses of all property owners within 200 feet of all boundaries of the property in question. The [Butler County Auditor Real Estate Search](#)¹ is helpful when searching for the mailing address of adjoining property owners. It allows you to search by owner, address, or parcel number.

Decision Standards

From Section 1139.02(c)(2). *See Chapter 1139 Variances² for the full text.*

- 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.

Fees & Receipt

The variance fee is \$300.00, 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 *


10/25/21

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, 15 South College Avenue, 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/>

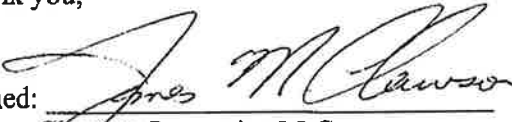
² City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>

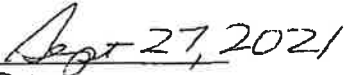
LETTER OF AGENCY

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 a New Single-family Dwelling on the alley lot behind 207-209 West Collins Street.

Thank you,

Signed: 
Clawson Properties LLC


Date:

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 Front Yard Lot Coverage &
Off-Street Parking in Front Yard
New Single Family Residence
207 West Collins Street (Alley Access)

October 25, 2021

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for multiple variances regarding the location of the required off-street parking relating to the construction of a new single family residence.

1143.05(c) Limits Front Yard Lot Coverage to 5% when the site is accessed from an Alley.

As a buildable lot per 1137.05(a) with its only access provided by an alley, the zoning code presents a conflict between this provision and the parking requirement.

The project is proposed with (2) required parking spaces.

1149.04(a)(1) Limits parking in the required front yard to 1 required parking space.

The lot in question is very small and is accessed only from the alley in the center of the block. Any parking provided would need to be located in this front yard.

A variance is required to provide the (2) required parking spaces.

1149.06(c)(5) Limits driveways to a maximum of 18 feet wide at the street right-of-way line and shall flare no greater than 30 degrees from perpendicular with the right-of-way line.

The project is designed to provide the (2) required parking spaces in accordance with Table 1149.04-1 describing Minimum standard parking space and aisle dimensions.

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 property is vacant, and not currently income producing. Since the property meets the guarantees provided in Section 1137.05(a) for a single family residence, to deny the variances would be to prohibit development of a vacant property.

The parking location and resulting lot coverage variances allows parking to be provided for the new occupants, relieving the need for additional on-street parking.

The angle of the parking is provided in accordance with Table 1149.04-1 describing Minimum standard parking space and aisle dimensions.

b) Whether the variance is substantial;

The parking location and resulting lot coverage is mathematically substantial, resulting from the code conflict inherent in the lots location and access from the alley. The variance is required to meet the minimum parking requirement.

The angle of the parking is provided in accordance with Table 1149.04-1 describing Minimum standard parking space and aisle dimensions.

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 not be detrimentally affected by the new dwelling. Most neighboring properties are existing rental houses, and additional Dwelling units exist on each of the flanking lots.

The variance for the parking allows for the continuation of parking provided along this alley.

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

All utilities are available at this location.

The location of the parking and lot coverage does not change the delivery of services.

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

The owner of the property was made aware that this site is a distinct and separate parcel through an inventory of their rentals and the development of the adjacent alley property.

The owner is also aware of the parking requirement, and is seeking relief for the location, lot coverage, and angle of the required parking based on the size of the lot, and the setback requirements.

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

The owner could ask for relief from the parking requirement entirely, rather than the variances required to provide it.

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

Substantial justice is achieved through section 1137.05(a) which guarantees a property owner the use and development of an existing lot of record such as this one.

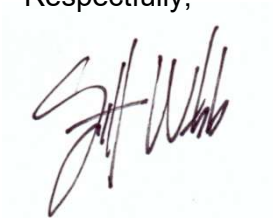
The spirit and intent of the parking restriction is observed, creating parking to lessen the pressure on street parking. Substantial justice is achieved, as parking exists in similar locations on all adjacent properties.

h) Any other relevant factor;

This redevelopment project aligns with the goals of the Comprehensive Plan, encouraging Infill development and redevelopment of underutilized sites as a priority, locating new residences where infrastructure is in place, and encouraging walkability access to public transit, open space, and the Uptown, and Stewart Square commercial districts

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 dark ink, appearing to read "S. Webb", is written over a light blue rectangular background.

Scott Webb, Architect

ZONING

(R-1MS ZONING DISTRICT)

OVERALL LOT AREA: (6,000 SF MIN. FOR 1-FAMILY) 4,323 SF

OVERALL LOT WIDTH: (60' MIN. FOR 1-FAMILY) 65.44 FT

SECTION 1137.05 EXCEPTION: (3,000 SF MIN. FOR 1-FAMILY)

NEW SINGLE-FAMILY CONFORMS TO THE HEIGHT, LOT COVERAGE, VEHICULAR ACCESS AND YARD OR SETBACK REQUIREMENTS OF THE DISTRICT WHERE THE PROPERTY IS LOCATED.

OVERALL LOT COVERAGE

PROPOSED DWELLING UNIT: 613 SF
(2) ANGLED PARKING SPACES & APRON: 485 SF
FRONT PORCH & SIDEWALK TO ALLEY: 95 SF

TOTAL: 1,193 SF

ACTUAL LOT COVERAGE: 1,193 SF / 4,323 SF = 27.6%

ALLOW. LOT COVERAGE: R-1MS = 45%

FRONT YARD LOT COVERAGE

BAY WINDOWS (1141.03(c)(1)(C) - MAX. 36' PROJECTION - MAX. 1/3 FACE 22 SF
(2) ANGLED PARKING SPACES & APRON: 485 SF
FRONT PORCH & SIDEWALK TO ALLEY: 95 SF

TOTAL: 602 SF

FRONT YARD LOT COVERAGE: 602 SF / 1,302 SF = 46.2%

ALLOW. LOT COVERAGE: R-1MS = 30%

PARKING

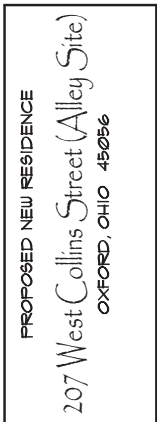
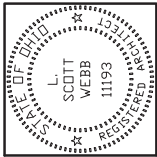
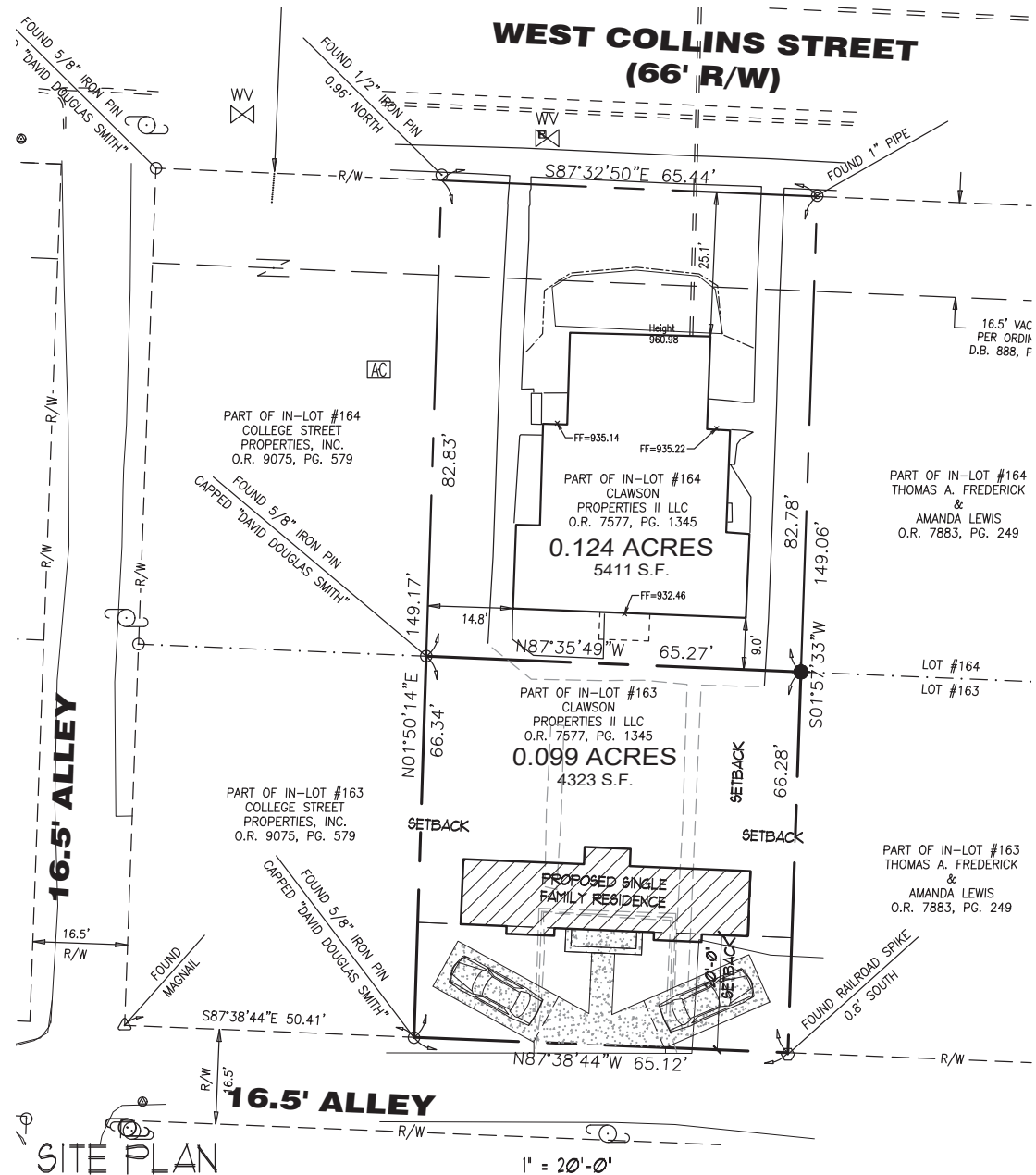
(2) SPACES REQUIRED - (2) PROVIDED)

REQUIRED VARIANCES

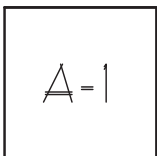
1143.05(c): FRONT YARD LOT COVERAGE

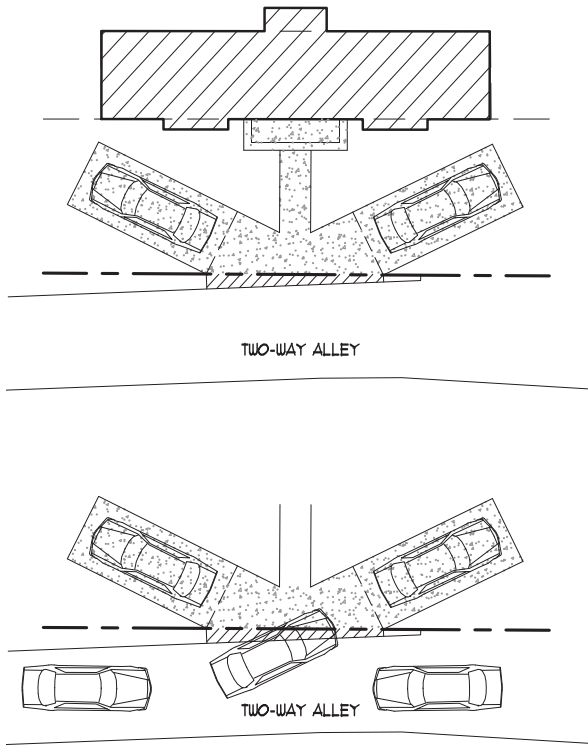
1149.04(a)(1): MAXIMUM OF (1) PARKING SPACE IN FRONT YARD

1149.06(c)(5): WIDTH OF DRIVE & ANGLE OF PARKING

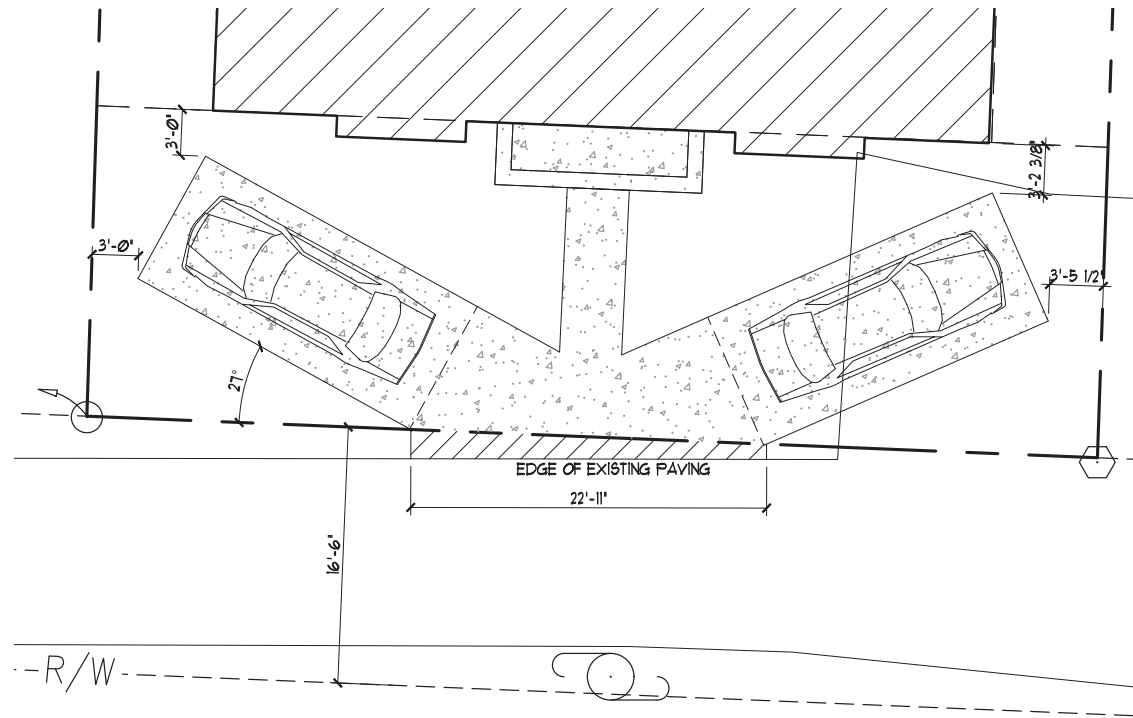


DATE
October 25, 2021
REVISIONS





PARKING ILLUSTRATION



PARTIAL SITE PLAN

SHOWING ADDITIONAL PAVING TO PARKING SPACES

1" = 20'-0"



PROPOSED NEW RESIDENCE
207 West Collins Street (Alley Site)
OXFORD, OHIO 45056

DATE
October 25, 2021
REVISIONS

A-5



PROPOSED NEW DWELLING



PROPOSED NEW RESIDENCE
207 West Collins Street (Alley Site)
OXFORD, OHIO 45056

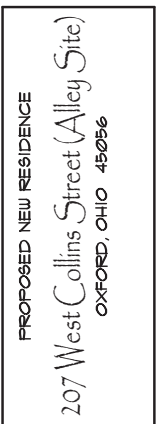
DATE	
October 25, 2021	
REVISIONS	

A-3



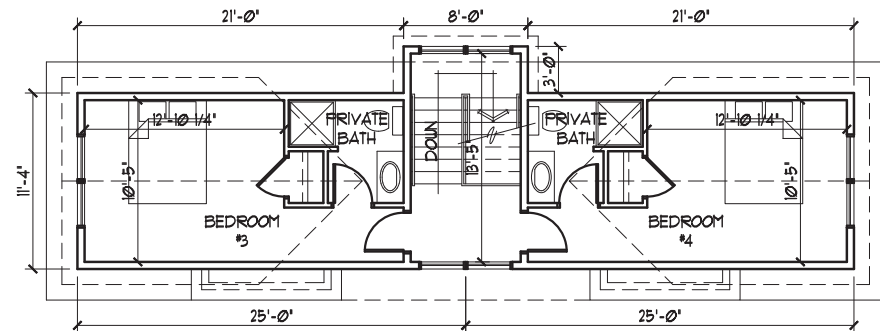
PROPOSED NEW DWELLING

REAR (NORTH) FACE SHOWING REAR BAY



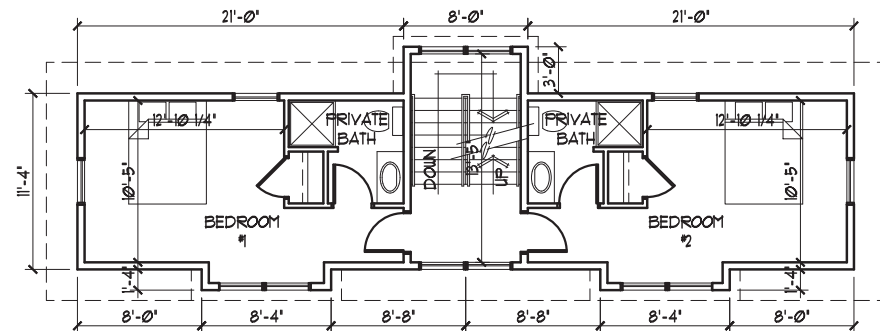
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October 25, 2021	
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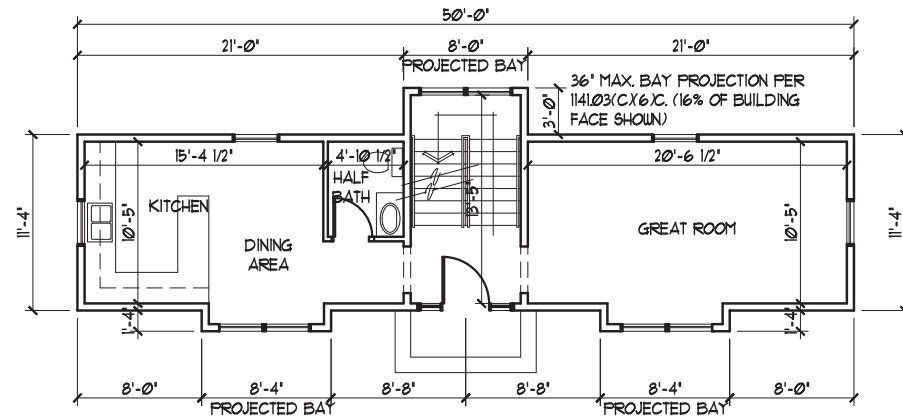
THIRD FLOOR PLAN

1/8" = 1'-0"



SECOND FLOOR PLAN

1/8" = 1'-0"



GROUND FLOOR PLAN

1/8" = 1'-0"



PROPOSED NEW RESIDENCE
207 West Collins Street (Alley Site)
OXFORD, OHIO 45056

DATE
October 25, 2021
REVISIONS

A-2

STAFF REPORT

Community Development | Board of Zoning Appeals

APPLICATION DETAILS

Applicant	Scott Webb, Architect
Location	314 University Ave
Owner	Calista Enterprises LLC
Action Request	Variance to Section 1143.07(c) minimum lot width for a three-family use; and Section 1149.06(b)(3) parking setback
Lot Size	10,192 square feet
Lot Width	56 feet
Current Use	Single-Family Dwelling
Current Zoning	R3MS Single-, Two-, and Three-Family Mile-Square Residential District
Surrounding Land Uses	Two-family dwellings to the west and east; Single-family dwellings to north and south

BACKGROUND

The applicant has requested two Variances to the Oxford Zoning Code in pursuit of redeveloping an existing single-family property at 314 University Avenue with a new three-family structure. The existing structure is a one story built in 1962 and contains a carport wide enough for one vehicle, accessed via a driveway and curb cut on University Avenue. The new structure would contain two stacked units in front, with a two-story unit in back. The front entrances to all three units would face toward the street, thus in compliance with the Zoning Code's principal entrance provision. The project would also entail removal of the existing driveway and curb cut, with off-street parking instead provided off the alley in the rear as is more preferred.

The property is zoned R3MS Single, Two and Three-Family Mile-Square Residential District. The R3MS District permits three-family dwellings so long as the lot in question has a minimum width of 60 feet. The applicant is requesting relief from the 60-foot standard in order to build on a 56-foot wide lot. The property otherwise meets the R3MS minimum lot size standard of 8,000 square feet for a new three-family.

In addition, off-street parking is normally required to maintain a 3-foot setback from lot lines. The applicant proposes a total of 6 parking spaces in the rear of the lot, thus meeting the minimum space requirement for a new three-family dwelling per the Zoning Code. In order to provide spaces that are dimensionally compliant (measuring 9 feet by 18 feet each), the applicant is requesting relief from the 3 foot minimum setback, to reduce to a 1 foot off-set from both the northern property line and southern property line.

DESCRIPTION

The applicant's requested variance can be summarized as follows:

Requirement	Code Section	Standard	Proposal
Minimum Lot Width	1143.07(c)	60 feet	56 feet
The R3MS District specifies a series of minimum lot widths based upon the type of principal residential use. A single-family dwelling requires a minimum width of 40 feet, two-family requires 50 feet, and three-family requires 60 feet. The subject property has a total lot width of 56 feet; therefore, the owner could choose to demolish the existing building and construct either a new single-family dwelling or new two-family dwelling by-right without need for a Variance. Instead, the applicant proposes construction of a three-family dwelling but is 4 feet short of the required lot width.			
Minimum Parking Setback	1149.06(b)(3)	3 feet	1 foot
The applicant proposes a total of six (6) off-street parking spaces oriented in a perpendicular fashion of the rear alley, thus measuring 54 feet in total width (6 spaces x 9 feet of width per space). Because the lot is only 56 feet wide, this would leave 1 foot setbacks on either end of the parking as opposed to meeting the minimum setback of 3 feet on either side.			

PUBLIC COMMENTS

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

DEPARTMENT COMMENTS

Below are comments from City departments:

Department	Respondent	Response
Economic Development	Seth Copenbaker, Assistant to the City Manager	Returned with Comments
<i>The proposed development at 314 University would replace a single family home with a new 3-unit residential building. This project could improve the housing density of this area and increase the overall housing inventory for Oxford. Improved density and increased inventory of residential development are goals for the City of Oxford. The Economic Development staff do not have any concerns at this time.</i>		
Engineering	Scott Otto, City Engineer	Returned without Comments
Fire	John Detherage, Fire Chief	Returned without Comments
Police	John Jones, Police Chief	Returned without Comments

BZA SITE HISTORY

Past BZA case history for the subject property is outlined in the table below:

Case No.	Request(s)
BZA-2018-16	Variances to Lot Width for 3-Family, Parking Setback, Front Yard Coverage, and Number of Parking Spaces
Applicant Scott Webb had submitted an application on July 17, 2018 requesting 4 different Variances in order to establish a new three-family dwelling on the property. The nature of some of the requests, and the proposed site layout, is actually similar to the current request now submitted in 2021. Mr. Webb had requested the same lot width variance at this time, to reduce the required width for a new three-family from 60 feet down to 56 feet, as well as the same parking setback variance to reduce from 3 feet to 1 foot. Two other variances were also requested at the time: (1) front yard coverage, to increase from 5% to 13.25%; and (2) minimum number of parking spaces, to reduce from 8 to 6 (Note: these last two Variances are no longer necessary for the current proposal, due to Zoning Code amendments adopted by Council in early 2021 – in other words, the applicant is now able to comply with front yard coverage and minimum parking requirements). The staff report prepared at the time expressed the belief there was substantial evidence to support the coverage and parking setback requests, but not enough evidence to support the lot width request. The application was withdrawn prior to being heard by the BZA.	

DECISION CRITERIA

In accordance with **Section 1139.02(c)(1)**, the burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for Variance. Furthermore, per **Section 1139.02(c)(2)** the BZA must find that **practical difficulties** exist that would render strict application of the Code unreasonable. In determining whether such difficulties exist which are sufficient to warrant the Variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the enclosed narrative addressing the review criteria from Mr. Webb. If the BZA determines that difficulties exist which are sufficient to warrant the Variance, staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance request. If the BZA does approve the Variance it can make separate findings and attach any appropriate conditions it deems necessary as permitted by **Section 1139.02(d)(2)**.

Staff's review of the Decision Criteria is provided in the table below:

Criterion A	Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance
Does not support granting the Variance	It is evident there is already beneficial use of the property since it is developed with a single-family dwelling. The owner could also choose to redevelop the lot with a two-family dwelling and meet all standards of the Zoning Code without necessitating approval of Variances. A two-family use only requires 4 parking spaces, thus leaving additional room in the rear to meet 3-foot parking setbacks.
Criterion B	Whether the variance is substantial
Does not support granting the Variance	The applicant is asking for a 6.7% reduction in lot width (from 60 ft to 56 ft) and a 66.7% reduction in parking setback (from 3 ft to 1 ft). Staff believes the lot width reduction is substantial and the parking request is not, as had been originally noted in the 2018 staff report.

Criterion 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
Mixed evidence	This particular block of University Avenue (between E Sycamore St and E Vine St) has experienced significant redevelopment in recent years. New single-family dwellings at 316 University and 317 University were constructed in the mid-2010s, and two duplexes at 313 University and 318/320 University were constructed within the past year. It is clear from the abundance of projects taking place on this block that viable redevelopment opportunities exist for one- and two-family residential uses, without the need for requesting greater intensity of use as a three-family. However, it should be noted this property is located within an area of the Mile Square that was up-zoned from R-2MS to R3MS in 2017 for the purpose of increasing allowable density close to campus. However, there are numerous properties in the area which meet the required lot width for three-family. Turning to the proposed dwelling itself, the applicant's rendering shows a two-story dwelling appearing much more complementary to other residential structures within the vicinity, despite the difference in number of units, as compared to the design submitted for the previous 2018 request.
Criterion D	Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage)
✓ Supports granting the variance	Staff does not believe governmental services will be adversely impacted. Engineering, Fire and Police Departments returned the application without comments; had any comments been received, these might have contributed to this criterion.
Criterion E	Whether the property owner purchased the property with knowledge of the zoning restriction
Does not support granting the Variance	The same two Variances were previously pursued in 2018, but withdrawn prior to reaching the BZA. According to the prior staff report, the property was purchased in 2000 by Ned Hoelzer and at the time was zoned R-2, which was a small lot single family zoning district. Therefore, the investment-backed expectation for the property was for a single-family when purchased. The property was rezoned to R-1MS as part of the 2003 Code rewrite, and then later up-zoned to R3MS in 2017.
Criterion F	Whether the property owners' predicament feasibly can be obviated through some method other than a variance
Does not support granting the Variance	The original plat has more or less pre-determined most of the lot widths in this area, many of which do not provide sufficient distance to allow for the highest possible use per the presently zoned R3MS District. Still, there is already beneficial use of the property with a single-family dwelling and it is also possible by-right to densify the lot by razing the existing building and constructing a new two-family dwelling. Staff does not believe a true "predicament" is posed by the current request; only the desire for highest intensity of use.

Criterion G	Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance
Does not support granting the Variance	The general purpose of minimum lot width regulations is to ensure regularity of dimensions and form for specific land uses or districts, resulting in a predictable ratio of building size to lot size. The purpose of regulating density also factors in to the subject of minimum lot widths. When it comes to one-, two-, and three-family uses, the prescribed lot width regulations in the R3MS district are the smallest of all Residential Districts in Oxford, and thus result in the greatest degree of density. For example, the R-1MS District prescribes a 60-foot minimum lot width for single-family uses, and the R-2MS District prescribes a minimum of 50 feet for single-family and 75 feet for two-family. R3MS standards are 40, 50, and 60 feet for single-, two-, and three-family uses respectively. Prior to a text amendment in 2017, the R3MS lot width requirements were 50, 75, and 90 feet for single-, two-, and three-family dwellings respectively. The text amendment was processed and adopted around the same time as the up-zoning of the area (from R-2MS to R3MS), thus it is clear the intent was not to allow three-family on every property just for the sake of increasing density. In other words, decreases in lot widths and rezoning of property were more or less considered together. Entertaining variation in the standards adopted in 2017 would thus mean entertaining a denser residential environment than what was envisioned, and thus probably does not comply with the original spirit and intent of the Code.
Criterion H	Any other relevant factor
N/A	The BZA may rely upon additional factors or evidence contributed by the applicant or other evidence heard during the hearing.

CONCLUSION

At the time of this report, staff believes **there is insubstantial evidence** to support the requested Variances.

SUBMITTED BY:



Zachary Moore, AICP
Planner

DATE: November 14, 2021

BZA MOTION FOR VARIANCES

With regard to the Request for Variance # **BZA-2021-12**, being a Variance to Section 1143.07(c) maximum lot width for a three-family use, and Section 1149.06(b)(3) parking setback:

Mr./Ms. _____ hereby moves that the Board adopt and make the following findings of fact:

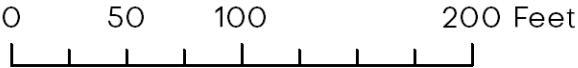
- A. The property in question (**will / will not**) yield a reasonable return or (**can / cannot**) be used beneficially without the variances because:_____
- B. The variance (**is / is not**) substantial because:_____
- C. The essential character of the neighborhood (**would / would not**) be substantially altered by the variance and adjoining properties (**would / would not**) suffer a substantial detriment as a result of the variance because:_____
- D. The variance (**would / would not**) adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because:_____
- E. The property owner (**did / did not**) purchase the property with knowledge of the zoning restriction because:_____
- F. The property owner's predicament (**can / cannot**) feasibly be obviated through some method other than a variance because:_____
- G. The spirit and intent behind the zoning requirement (**would / would not**) be observed and substantial justice done by granting the variance because:_____
- H. Other relevant factors, if any, considered include:_____

It is further moved that after considering and weighing these factors, the Board should find that practical difficulty (**is/is not**) shown sufficient to warrant granting the Variance requested, and that the Variance should be accordingly (**APPROVED / DENIED / APPROVED WITH THE FOLLOWING CONDITIONS**). The conditions for approval, if any, include:

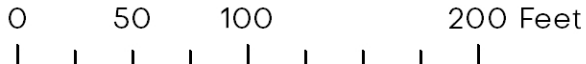
Motion Seconded by: Mr. / Ms. _____.

Vote: Aye_____ Nay:_____

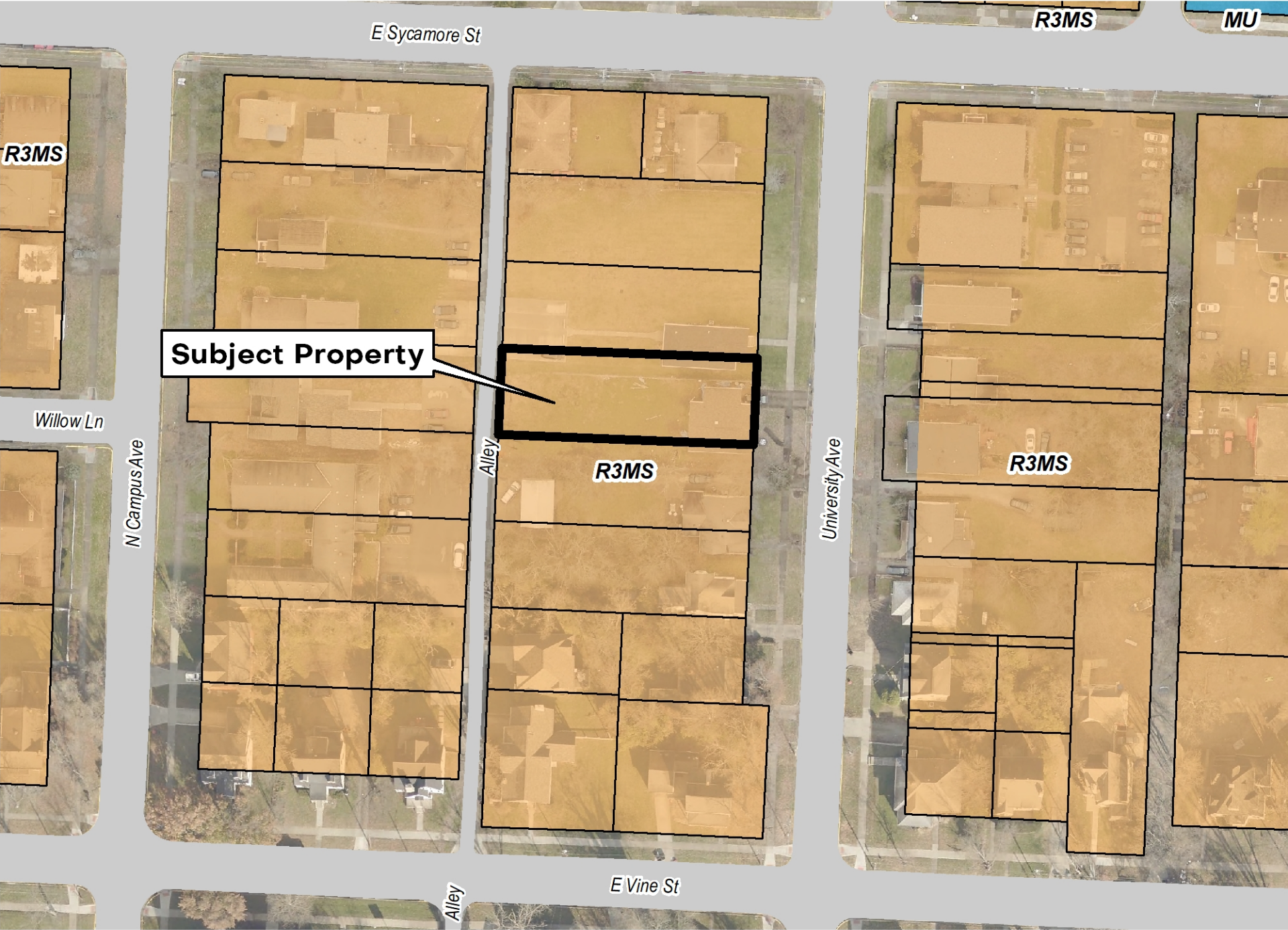
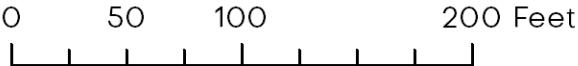
Location Map



Location Map



Location Map





BZA-2021-12

Surrounding Property Owners Notifications Map

Legend

- Subject Area
- 200 Ft. Buffer
- Oxford Corp. Limit
- Address Point
- 16.5' Vacated ROW
- Building Footprint



1 inch = 100 feet

Prepared on Tuesday, November 02, 2021

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-2021-12

Date Filed

10/25/21

Petition for Zoning Variance

Petitioner Information

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

Name * Scott Webb, Architect

Mailing Address * 103 West Walnut Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 523-3838

Email Address scott@scottwebbarchitect.com

Owner Information

Name * Calista Enterprises LLC

Mailing Address * 116 East High Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 523-2015

Email Address tkacachos@parkplacerealestate.net

Variance and Lot Information

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

1143.07(c) Minimum Lot Width

1149.04(a)(3) Parking Setback from Property Line

Location of Requested Variance * 314 University Ave.

Name of Building

Legal Description * Parcel #H4100006000031

Zoning District * R-3MS Total Acreage * .234

Existing Use of Site * Vacant Lot

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.*

New 3-Family Residence

Required Plans and Documentation

From Section 1139.02(a)².

- (1) Contents of application for variance. **Eight** complete sets of all information shall be submitted with an application. The Zoning Administrator may modify this requirement based upon the type of materials included. **The applicant is encouraged to contact the Zoning Administrator prior to submitting an application to discuss the submission requirement.** If any information is submitted in color or on non-standard paper, more copies may be required.
 - A. Application Fee.
 - B. Description of Use and Site.
 - C. The name, mailing address, and telephone number of the applicant and the property owner.
 - D. If the applicant is not the owner, a statement from the owner that the applicant is entitled to apply on his or her behalf (Letter of Agency).
 - E. A legal description of the site, including all separate lots.
 - F. A description of the existing uses of the site.
 - G. The zoning district in which the site is located.
 - H. A description of the existing and proposed use.
 1. A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles.
 2. The hours of operation.
 - I. The nature and magnitude of the requested variance.
 - J. The Code section from which the variance is requested.
 - K. A separate narrative statement that explains how the proposed variance satisfies **each** of the Decision Standards required to grant a variance ([see Decision Standards section](#)).
 - L. A list of the names and mailing addresses of all landowners within 200 feet of the perimeter of the site ([see Surrounding Property Owners section](#)).
- (2) Site Plan. A scaled site plan shall include the following information in detail. The required information may be submitted on multiple site plans if inclusion of all information on a single plan makes it illegible or difficult to understand.
 - A. North arrow.
 - B. Scale.
 - C. Vicinity map.
 - D. All existing and proposed lot lines within the site.
 - E. Dimensions of all lots and of the entire site and any adjacent rights-of-way.
 - F. Location, height, and use of all proposed and existing structures.
 - G. Location and design of all proposed vehicle management areas.
 - H. Location, size, and type of all proposed signs.
 - I. Location, height, and type of all proposed screening and landscaping.
 - J. Distances to residential zoning districts if within 1,000 feet.
 - K. The use of land and location of structures on adjacent property and across adjacent rights-of-way.
 - L. An indication of the regulation from which the variance is requested.
 - M. Other information as required by the Board of Zoning Appeals.
- (3) Elevations. Elevations of proposed structures, or typical elevations if structures are not yet designed, may be required by the Zoning Administrator if the proposed location, height, or bulk of the structure is such that it may negatively affect an adjacent use.
- (4) Other. Photographs of the existing use and its surroundings and other information regarding the proposed use, site, or surrounding area as may be pertinent to the application or required by the Board of Zoning Appeals.

Surrounding Property Owners

On a separate sheet, provide the parcel numbers, names, and mailing addresses of all property owners within 200 feet of all boundaries of the property in question. The [Butler County Auditor Real Estate Search](#)¹ is helpful when searching for the mailing address of adjoining property owners. It allows you to search by owner, address, or parcel number.

Decision Standards

From Section 1139.02(c)(2). *See Chapter 1139 Variances*² for the full text.

- 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.

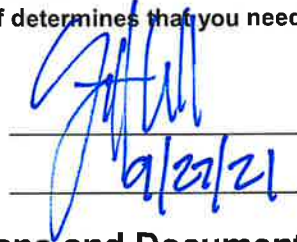
Fees & Receipt

The variance fee is \$300.00, 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, 15 South College Avenue, 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/>

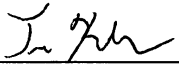
² City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>

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 a New 3-family Dwelling at 314 University Avenue.

Thank you,

Signed: 
Calista Enterprises LLC

9/27/2021
Date:

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 Minimum Lot Width
& Parking Location
Demolition of Existing Single Family Residence
& Construction of a New 3- Dwelling Unit Development
314 University Ave.

September 27, 2021

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for variances to the minimum lot width requirement of the R-3MS Zoning District, and parking location relating to the demolition of an existing Single Family Structure and the construction of a new 3-Dwelling Unit Development at 314 University Ave. in the R-3MS Zoning District.

1143.07(c) Requires a minimum lot width of 60' and 8,000 s.f. of Lot Area for (3) Dwelling Units

The Lot in Question has 56' of Lot Width (over 93% of the width requirement) and 10,192 s.f. of area (over 127% of the area requirement).

Despite the slightly narrower lot width, the design as proposed meets the minimum side yard setbacks.

1149.04(a)(3) Location of parking min. 3' from property lines

Based on the lot width, adherence to this standard would reduce the parking provided or encourage stacked parking. As alleys are now the encouraged parking areas, the offset between parking along the alley is unnecessary.

There are (2) specific requirements for 3-family development in the R3MS District: Lot width and Lot area. The parcel at hand represents over 93% of the width standard and over 127% of the area standard, making this lot appropriate for a variance allowing a new 3-family development in a 3-family district.

None of the lots along this side of University Ave. meet the minimum lot width requirements for the district that was just rezoned to R3MS in Planning Commission's initiative to increase the density in this portion of the Mile Square, however nearly all of the lots in this area exceed the lot area requirement.

Parking variances regarding the location of new parking spaces are necessary for the new development to provide adequate parking and meet the intent of the zoning code.

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 was purchased in a state of disrepair, and while my client has been investing in and maintaining the property, its condition and location have encouraged him to consider a more significant investment; replacing the structure entirely.

The existing frame structure does not meet current building code requirements

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 an outdated structure and improving the living conditions of the residents and neighbors.

- b) *Whether the variance is substantial;*

The variance is not substantial, as the existing property represents over 93% of the required minimum, being 56' wide where the minimum is 60'. This is offset by the fact that the lot provides over 127% of the minimum lot area.

The proposed new development has designed to provide the required side yard setbacks on each side while breaking down the scale of the development into smaller structures.

The parking Variance is not substantial and continues the parking arrangement started by the development of adjacent properties. Further, eliminating the curb cut along University results in an additional street parking 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 essential character of the neighborhood would be simply improved, removing a building that has outlived its life expectancy and replacing it with a new safer development, in line with Planning Commission's rezoning of the area and meeting the Mile Square Design Guidelines.

The Parking Variances improve the neighborhood, eliminating a curb cut, potentially increasing street parking, and removing resident's cars 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 owner was aware of the zoning restriction.

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

Lot widths in the new R3MS district cannot be corrected, as these were platted as original lots. In creating (2) standards for lot size (width and area) Planning Commission & City Council has accounted for slight variances in lot width through the variance process when one standard is exceeded.

The parking variances could be obviated by other variances, allowing more stacked parking spaces, or additional lot coverage.

- 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 a three-family development in a three family district. Substantial Justice would be done by allowing the improvement of a property resulting in a more code compliant structure that reflects Planning Commission & City Council's decision to allow higher density in the Mile Square in such locations.

Further, it reflects Planning Commission's discovery that the lot requirements in the section of the Mile Square do not reflect the lot sizes in the district.

The spirit and intent of the code regarding parking is observed, relocating all parking to the alley & eliminating curb cuts from the street.

- h) *Any other relevant factor;*

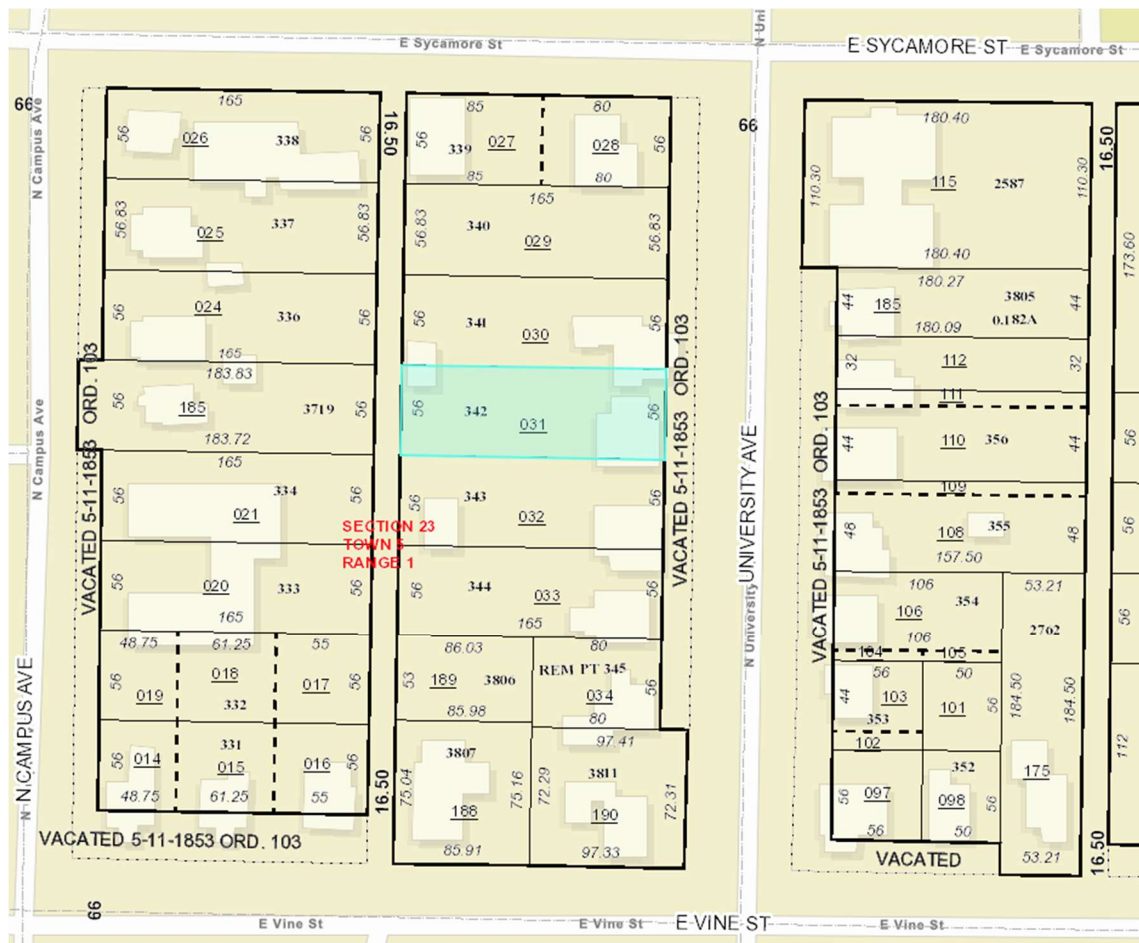
This redevelopment project aligns with the goals of the Comprehensive Plan, encouraging infill and redevelopment within the City, improving the property aesthetically, and with regard to the safety of its occupants.

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

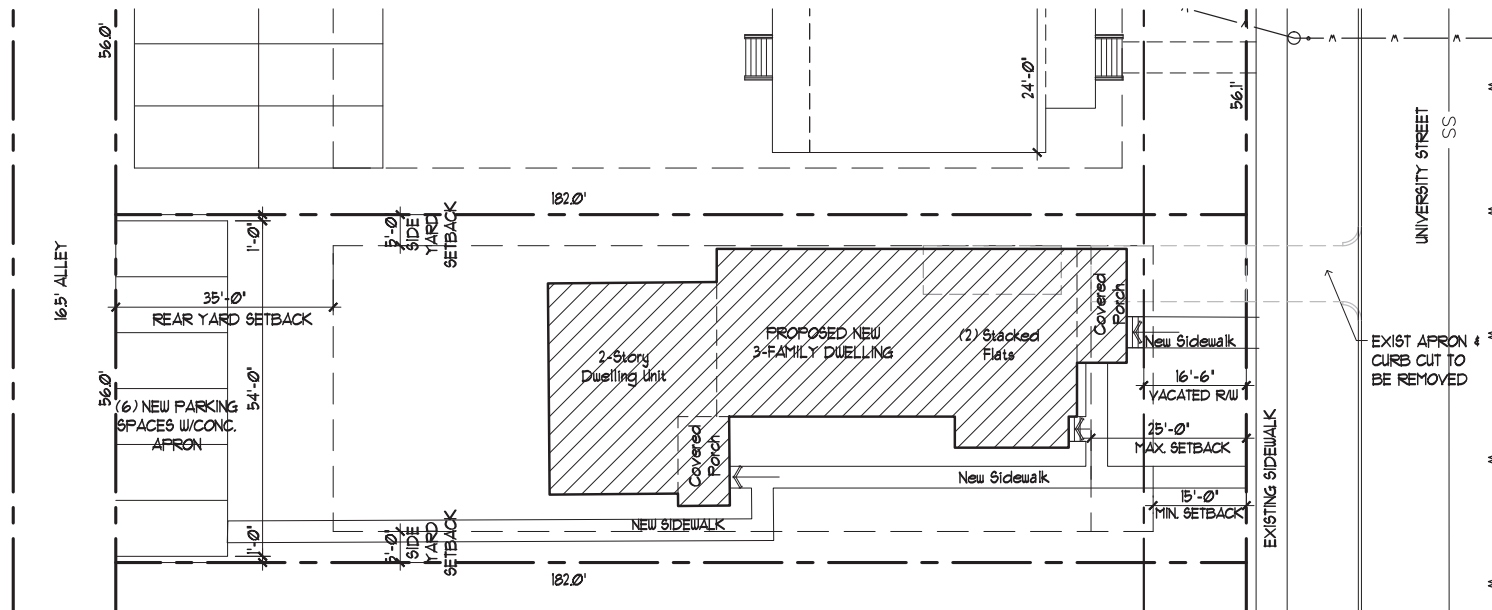
Respectfully,

A handwritten signature in dark ink, appearing to read 'Scott Webb', is written over a light blue rectangular background.

Scott Webb, Architect



Existing Structure



SITE PLAN

1" = 20'-0"

ZONING

(R3MS ZONING DISTRICT)

OVERALL LOT AREA: (8,000 SF MIN.) 10,192 SF

OVERALL LOT WIDTH: (60' MIN.) 56 FEET

LOT COVERAGE

BUILDINGS: 2,165 SF

(6) PARKING SPACES (OFF ALLEY): 912 SF

SIDEWALKS: 184 SF

TOTAL: 4,521 SF

ACTUAL LOT COVERAGE: 4,521 SF / 10,192 SF = 44.35%

ALLOW. LOT COVERAGE: R3MS = 45%

ACTUAL FRONT YARD: 190 SF / 1,208 SF = 15.73%

ALLOW. FRONT YARD: R3MS = 15%

PARKING

PROPOSED PARKING @ 1'-0" FROM LOT LINE AT REAR → 1143.04(a)(3) PARKING SPACES 3' FROM LOT LINE

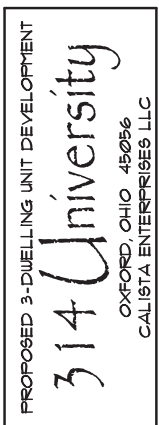
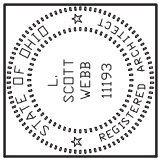
REQUIRED VARIANCES

→ 1143.07(c) 60' MIN. LOT WIDTH FOR 3-FAMILY

PRELIMINARY SITE PLAN

SCOPE OF WORK: 1" = 20'-0"
PROPOSAL INCLUDES THE REMOVAL OF AN EXISTING SINGLE FAMILY STRUCTURE FOR REPLACEMENT WITH A NEW 3-FAMILY DWELLING UNIT IN THE R3MS ZONING DISTRICT

PROPOSAL INCLUDES (3) SEPARATE ENTRANCES TO EACH DWELLING UNIT FACING UNIVERSITY AVENUE

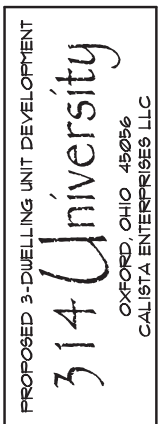


DATE
September 21, 2021
REVISIONS

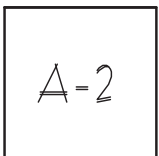




PRELIMINARY STREET VIEW



DATE	
September 21, 2021	
REVISIONS	



Case No:
BZA-2021-09/10



Meeting Date:
November 22, 2021

STAFF REPORT

Community Development | Board of Zoning Appeals

APPLICATION DETAILS

Applicant	Scott Webb, Architect
Location	BZA-2021-09: 5111 Morning Sun Rd BZA-2021-10: 5115 Morning Sun Rd
Owner	H&P Properties Inc., c/o Shane Coffman
Action Request	Variances to <i>Section 1141.03(b)</i> principal entrance location and <i>Section 1143.16(c)(4)</i> maximum lot coverage
Lot Size	40,472 square feet (entire site)
Lot Frontage	5111 Morning Sun Rd: 158 ft 5115 Morning Sun Rd: 219 ft
Current Use	Vacant (two 3-story mixed-use buildings to be developed)
Current Zoning	NB Neighborhood Business District
Surrounding Land Uses	Single-Family Residential to south; Multi-Family Residential to west; Office (Vet Clinic) to north; Hotel to east

BACKGROUND

Architect Scott Webb has submitted applications to request re-approval of Variances pertaining to a new mixed-use project to be developed on vacant land at the northwest corner of Morning Sun Road and West Sycamore Street.

The project involves two triangular-shaped lots:

1. **5111 Morning Sun Road** (Building 1; SW Lot) – corresponds to BZA-2021-09
2. **5115 Morning Sun Road** (Building 2; NE Lot) – corresponds to BZA-2021-10

Each building will contain two (2) commercial tenant spaces on the first floor, as well as two (2) dwelling units situated on the second and third floors. This amounts to a total of four (4) commercial spaces and four (4) residential dwelling units on the overall site. Each building will also have a basement level with garage access from the rear, for the purpose of providing two private parking spots for each residential unit. A total of eighteen (18) off-street parking spaces are also planned behind the buildings, to serve customers patronizing the future first floor business tenants.

PAST APPLICATIONS AND APPROVALS

The table below outlines in chronological order previous steps and City approvals pertaining to the project:

Action	Case/Permit No.	Decision
Request for Lot Split	PC-2020-05	Administratively Approved
The application history for this project dates back to February 2020, when a request to split the subject property into the two triangle lots was administratively approved by the Planning Commission Chair and Community Development Director. This initial request, though approved, became void since the lot split was not recorded with the Butler County Recorder within 6 months of City approval.		
Lot Coverage Variance	BZA-2020-01	Approved, 5-0-0
The first Variance application from the applicant was received proactively, prior to submitting detailed construction plans for Building Permit approval. The NB Neighborhood Business District specifies a maximum lot coverage of 50%. The applicant requested an increase in this percentage to 53.58% for the overall site; this further amounted to 50.53% coverage on the future 5111 (SW) lot and 56.51% on the future 5115 (NE) lot. The BZA approved the request to increase lot coverage up to 56.51% based on the site plan provided at the time.		
Building Permit Application	5111: P2020-0299 5115: P2020-0297	Pending Approval/Issuance
The applicant submitted a Building Permit applications for 5115 Morning Sun Rd on December 11, 2020, and one for 5111 Morning Sun Rd on December 16, 2020. The zoning review of the submittals indicated non-compliance with the Zoning Code's Principal Entrance provision in Section 1141.03(b) , triggering the need for additional Variance applications. Following the BZA's approval of the additional Variances in January 2021, the application eventually garnered zoning approval in March. However, the application did not receive approval by the Building Division until October 12 (upon receiving a proof of a required Cross Pedestrian Access Easement); by this time, the latest Variance approval had expired. As of the writing of this report, the Zoning Division is the only department with an outstanding issue; if the BZA grants re-approval of the Variances, the Building Permits will be eligible for issuance immediately.		
Principal Entrance Variances	BZA-2020-12/13	Approved, 5-0-0
This was the second time this project came before the BZA. Two applications, one for 5111 and one for 5115, were submitted at the end of December 2020 and heard by the BZA on January 20, 2021. The nature of the request had to do with the positioning of residential entrances to the rear of the two buildings, as opposed to being situated upon the street as the Code normally requires. The record and approval reflected the previous lot coverage Variance, and also recognized that additional lot coverage would result in order to provide pedestrian access to the entrances without having to walk through the parking area. The Variance approvals expired on July 20, 2021, since Building Permit approval was not obtained by this date.		
Request for Lot Split	PC-2021-02	Administratively Approved
The owner re-filed with the City for lot split approval in January 2021. The Planning Commission Chair and Community Director again approved the application, and the split was officially recorded with the Butler County Recorder on March 18, 2021. The two triangular-shaped lots now officially exist.		

DESCRIPTION

The applicant's requested variance can be summarized as follows:

Requirement	Code Section	Standard	Proposal
Principal Entrance	1141.03(b)	Upon the street	Not upon the street
The proposal contains 2 mixed-use buildings, each with 2 units located on the second and third floors; this results in a total of 4 units proposed for the site. Taking advantage of the site's downward grade moving away from the public streets, the applicant has planned a series of basement-level garages to support the residential units as well as to meet the Code's minimum parking requirement of 2 spaces per unit. A single common exterior entrance and stairwell is proposed to serve the residential units in each building. The entrances and stairs will also serve as a rear entrance for commercial "shell" spaces proposed in each building. The main commercial entrances comply with the principal entrance provision, since each faces a public street (Morning Sun & W Sycamore). However, the residential entrances do not since they face the private parking area to the rear of the buildings.			
Maximum Lot Coverage	1143.16(c)(4)	50%	56.26%
The NB Neighborhood Business District provides a maximum lot coverage allowance of 50%. The first Variance approval (BZA-2020-01) allowed for a maximum coverage of 56.51%. The overall site coverage at the time of the first approval was 53.58%. The overall site coverage per the latest site plan embedded in the Building Permit submittal is 56.26%.			

PUBLIC COMMENTS

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

DEPARTMENT COMMENTS

Below are comments from City departments:

Department	Respondent	Response
Economic Development	Seth Copenbaker, Assistant to the City Manager	Returned with Comments
<i>The proposed variance regarding the total coverage of the proposed parking lot have been previously approved by the Board of Zoning Appeals. This development could serve as an important step in creating additional mixed-use commercial/residential developments throughout Oxford. The proposed design of the building and lot do not represent a hardship for the community or economy of Oxford. The Economic Development staff do not have any concerns at this time.</i>		
Engineering	Scott Otto, City Engineer	Returned without Comments
Fire	John Detherage, Fire Chief	Returned without Comments
Police	John Jones, Police Chief	Not Returned

DECISION CRITERIA

In accordance with **Section 1139.02(c)(1)**, the burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for Variance. Furthermore, per **Section 1139.02(c)(2)** the BZA must find that **practical difficulties** exist that would render strict application of the Code unreasonable. In determining whether such difficulties exist which are sufficient to warrant the Variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the enclosed narratives addressing the review criteria from Mr. Webb.

If the BZA determines that difficulties exist which are sufficient to warrant the Variance, staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance request. If the BZA does approve the Variance it can make separate findings and attach any appropriate conditions it deems necessary as permitted by **Section 1139.02(d)(2)**.

Staff's review of the criteria is outlined in the table below:

Criterion A	Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance
✓ Supports granting the variances	The applicant has shown good faith in working through the previous Variance approvals and meeting the requirements of departments during the Building Permit review process. It would be unreasonable to require the applicant to undergo a significant redesign of the building when all other Code provisions and department requirements have otherwise been met, with expenses already incurred to get the project to this stage in the process.
Criterion B	Whether the variance is substantial
✓ Supports granting the variances	The relocation of the residential principal entrance from the front of the buildings to the rear, in this particular case, will not have a substantial effect on the overall building design, the ability to service the property, or creating adverse impacts to adjoining properties. Furthermore, the increase in lot coverage from 50% to 56.26% is not found to be substantial with recognition to the overall site design and layout.
Criterion 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
✓ Supports granting the variances	Staff does not believe the essential character of the neighborhood will be negatively affected, but rather will be complemented in a way that embraces the vision for the NB district expressed by the Code. The shared plaza space between the two buildings is a welcome addition and would further contribute to the overall pedestrian orientation of the development. The building design, as a whole, is still oriented toward the public realm by having the main commercial entrances facing Morning Sun Road and Sycamore Street. Locating residential entrances in the rear in this particular case will not compromise the overall design in terms of its street presence, which is in keeping with the spirit of the NB district.

Criterion D	Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage)
✓ Supports granting the variance	Staff does not believe governmental services will be adversely impacted. Engineering, Fire and Police Department did not return comments on the application; had any comments been received, these might have contributed to this criterion. The Fire Chief had previously voiced the location of the residential entrances in the rear of the buildings was acceptable to him from an emergency access standpoint.
Criterion E	Whether the property owner purchased the property with knowledge of the zoning restriction
Does not support granting the Variance	The applicant indicates the owner was made aware of the past interpretation and application of this standard, but chose to proceed with the current plan since it was seen as the most desirable option.
Criterion F	Whether the property owners' predicament feasibly can be obviated through some method other than a variance
✓ Supports granting the variance	Staff would argue the predicament in this case is the need for re-approval of previously approved Variance requests, so that this significant development project may move forward. Staff believes the applicant has acted in good faith up to this point in meeting all standards and requirements imposed by City departments.
Criterion G	Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance
✓ Supports granting the variance	Regarding Lot Coverage: One of the key standards of the NB Neighborhood Business District is to have all parking located to the side or to the rear of the building, in keeping with qualities of a walkable urban neighborhood. In this scenario, the parking-related standards compete with the maximum lot coverage allowance, because side and rear parking require more surface area in order to sufficiently connect to the public street via curb cuts. In addition, a shared patio/plaza space is proposed as an amenity feature to connect the buildings together which also happens to contribute to the bottom line coverage percentage. Staff believes the applicant has made a good faith attempt at adhering to the most important standards of the underlying district, while only slightly compromising the resulting lot coverage. Regarding Principal Entrances: Staff believes the spirit and intent of this zoning provision is three-fold: (1) neighborhood character (no "sideways" buildings); (2) public health and safety (readily apparent access for emergency personnel arriving on the scene); and (3) general navigability (reducing confusion for visitors/deliveries). Staff believes all three of these purposes are upheld, seeing as how: (1) the building will still present itself as being oriented toward the street (due to the main commercial entrances fronting on Morning Sun and W Sycamore); and (2) the private curb cuts and parking lot aisles should be the natural points of access for reaching the upper-level dwelling units, for both emergency responders as well as visitors/deliveries.

Criterion H	Any other relevant factor
✓ Supports granting the variance	There has been very little change in the facts and conditions between the latest BZA approval in January 2021 and now. The main reason the applicant must come before the BZA again for the same requests is due to the Zoning Code's timing provision in <i>Section 1139.02(e)(2)</i> , which requires a Building Permit to be obtained and work begun within 6 months of a BZA approval. This time horizon has proven hard to meet for many other applicants, especially in a market still experiencing effects from the pandemic. Staff is currently contemplating the initiation of a text amendment to extend out the BZA approval time horizon, possibly from 6 months to 12 months. However, until that happens, the BZA may well continue to see additional extension requests and/or re-applications in the near future.

CONCLUSION

At the time of this report, staff believes **there is substantial evidence** to support the Variance requests.

SUBMITTED BY:



Zachary Moore, AICP
Planner

DATE: November 14, 2021

BZA MOTION FOR VARIANCES

With regard to the Request for Variance # **BZA-2021-09**, being a Variance to Section 1141.03(b) principal entrance upon a street:

Mr./Ms. _____ hereby moves that the Board adopt and make the following findings of fact:

- A. The property in question (**will / will not**) yield a reasonable return or (**can / cannot**) be used beneficially without the variances because:_____
- B. The variance (**is / is not**) substantial because:_____
- C. The essential character of the neighborhood (**would / would not**) be substantially altered by the variance and adjoining properties (**would / would not**) suffer a substantial detriment as a result of the variance because:_____
- D. The variance (**would / would not**) adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because:_____
- E. The property owner (**did / did not**) purchase the property with knowledge of the zoning restriction because:_____
- F. The property owner's predicament (**can / cannot**) feasibly be obviated through some method other than a variance because:_____
- G. The spirit and intent behind the zoning requirement (**would / would not**) be observed and substantial justice done by granting the variance because:_____
- H. Other relevant factors, if any, considered include:_____

It is further moved that after considering and weighing these factors, the Board should find that practical difficulty (**is/is not**) shown sufficient to warrant granting the Variance requested, and that the Variance should be accordingly (**APPROVED / DENIED / APPROVED WITH THE FOLLOWING CONDITIONS**). The conditions for approval, if any, include:

Motion Seconded by: Mr. / Ms. _____.

Vote: Aye_____ Nay:_____

BZA MOTION FOR VARIANCES

With regard to the Request for Variance # **BZA-2021-10**, being a Variance to Section 1141.03(b) principal entrance upon a street and Section 1143.16(c)(4) maximum lot coverage:

Mr./Ms. _____ hereby moves that the Board adopt and make the following findings of fact:

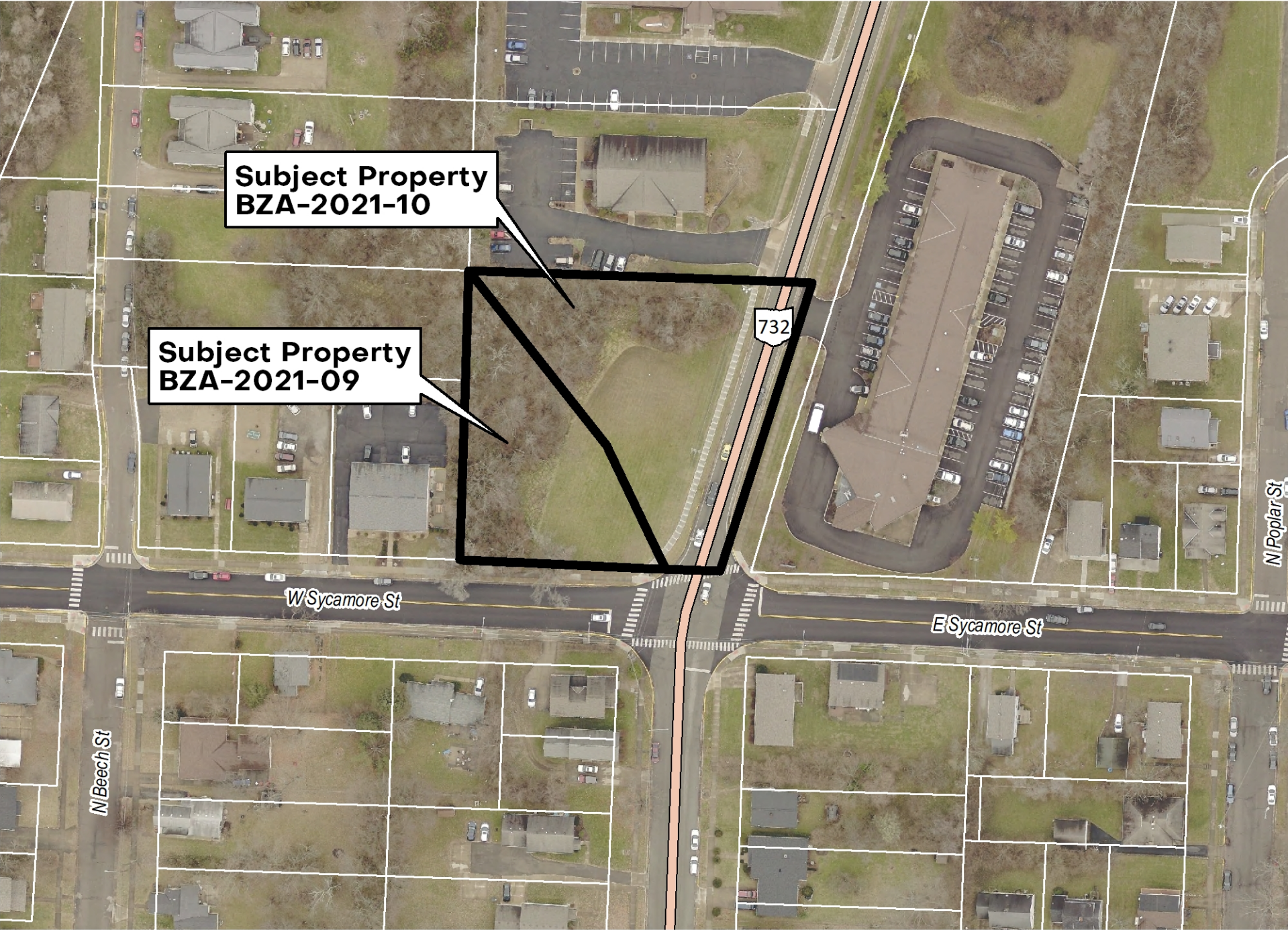
- A. The property in question (**will / will not**) yield a reasonable return or (**can / cannot**) be used beneficially without the variances because:_____
- B. The variance (**is / is not**) substantial because:_____
- C. The essential character of the neighborhood (**would / would not**) be substantially altered by the variance and adjoining properties (**would / would not**) suffer a substantial detriment as a result of the variance because:_____
- D. The variance (**would / would not**) adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because:_____
- E. The property owner (**did / did not**) purchase the property with knowledge of the zoning restriction because:_____
- F. The property owner's predicament (**can / cannot**) feasibly be obviated through some method other than a variance because:_____
- G. The spirit and intent behind the zoning requirement (**would / would not**) be observed and substantial justice done by granting the variance because:_____
- H. Other relevant factors, if any, considered include:_____

It is further moved that after considering and weighing these factors, the Board should find that practical difficulty (**is/is not**) shown sufficient to warrant granting the Variance requested, and that the Variance should be accordingly (**APPROVED / DENIED / APPROVED WITH THE FOLLOWING CONDITIONS**). The conditions for approval, if any, include:

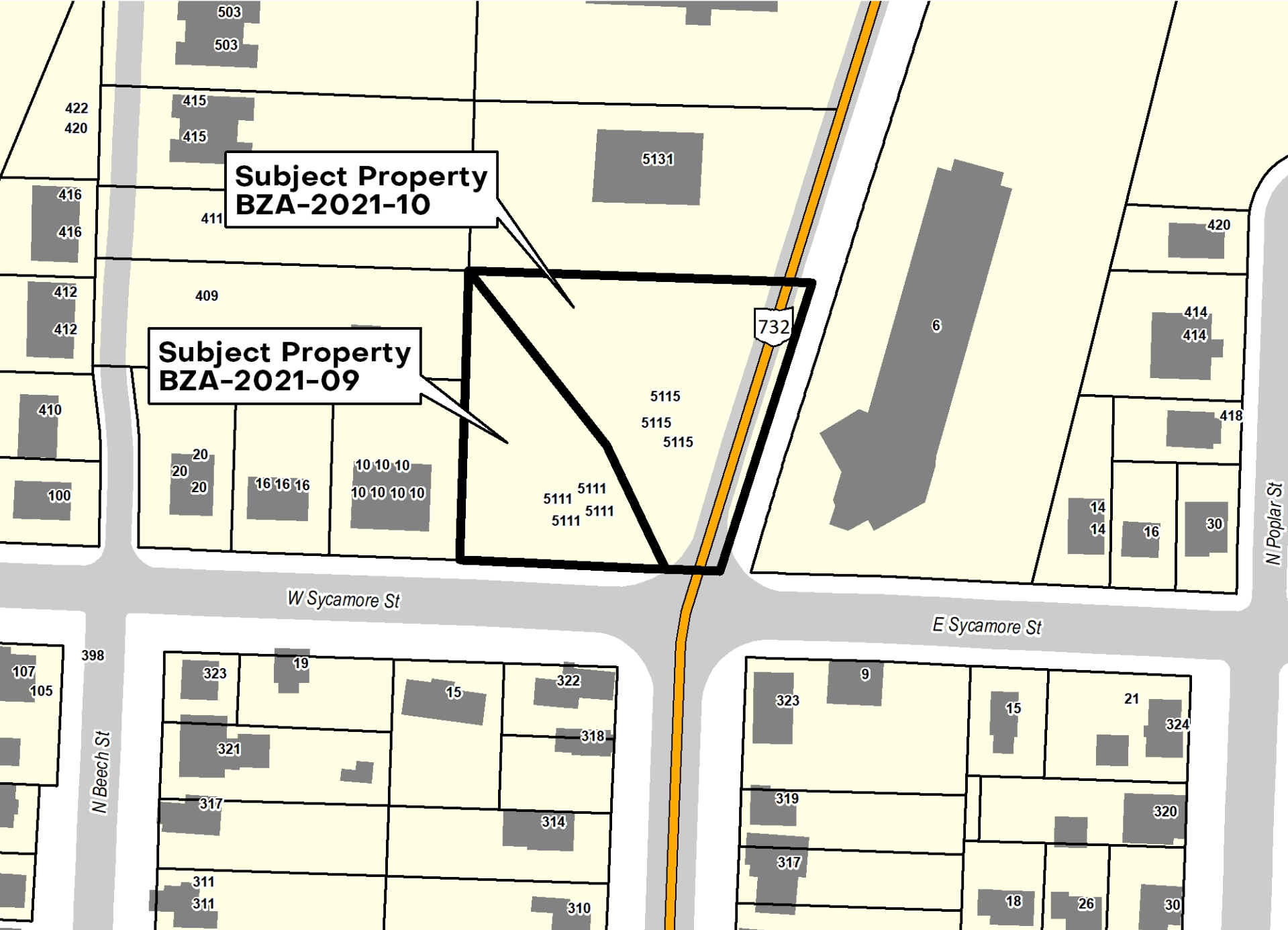
Motion Seconded by: Mr. / Ms. _____.

Vote: Aye_____ Nay:_____

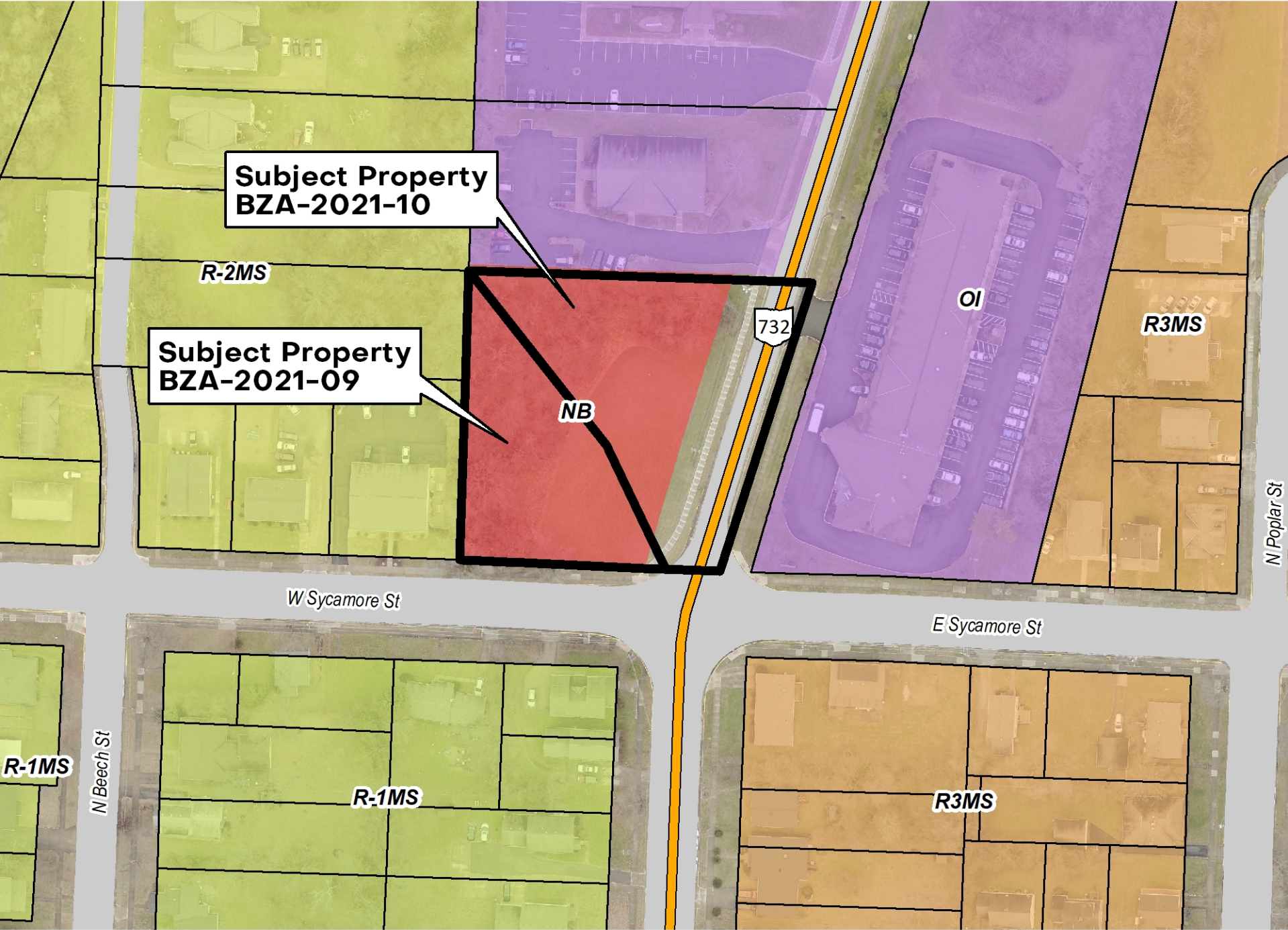
Location Map



Location Map



Location Map





BZA-2021-09
BZA-2021-10
Surrounding
Property Owners
Notifications Map

Legend

- Subject Area
- 200 Ft. Buffer
- Oxford Corp. Limit
- Address Point
- 16.5' Vacated ROW
- Building Footprint



1 inch = 100 feet

Prepared on Tuesday, November 02, 2021

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-2021-09

Date Filed

10/25/21

Petition for Zoning Variance

Petitioner Information

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

Name *

Scott Webb, Architect

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 *

H & P Properties

Mailing Address *

5282 Booth Road

City, State & Zip Code *

Liberty, Indiana 47353

Telephone Number(s) *

765-458-7896

Email Address

shanebcoffman@aol.com

Variance and Lot Information

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

1141.03(b) requires every building to have its principal entrance upon a street bordering the lot

Location of Requested Variance *

5111 Morning Sun Road

Name of Building

Legal Description *

Parcel #H4100011000104

Zoning District *

NB Neighborhood Business

Total Acreage *

.458

Existing Use of Site *

Vacant

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.

New Mixed-Use Development

Required Plans and Documentation

From Section 1139.02(a)².

- (1) Contents of application for variance. **Eight** complete sets of all information shall be submitted with an application. The Zoning Administrator may modify this requirement based upon the type of materials included. **The applicant is encouraged to contact the Zoning Administrator prior to submitting an application to discuss the submission requirement.** If any information is submitted in color or on non-standard paper, more copies may be required.
 - A. Application Fee.
 - B. Description of Use and Site.
 - C. The name, mailing address, and telephone number of the applicant and the property owner.
 - D. If the applicant is not the owner, a statement from the owner that the applicant is entitled to apply on his or her behalf (Letter of Agency).
 - E. A legal description of the site, including all separate lots.
 - F. A description of the existing uses of the site.
 - G. The zoning district in which the site is located.
 - H. A description of the existing and proposed use.
 1. A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles.
 2. The hours of operation.
 - I. The nature and magnitude of the requested variance.
 - J. The Code section from which the variance is requested.
 - K. A separate narrative statement that explains how the proposed variance satisfies **each** of the Decision Standards required to grant a variance ([see Decision Standards section](#)).
 - L. A list of the names and mailing addresses of all landowners within 200 feet of the perimeter of the site ([see Surrounding Property Owners section](#)).
- (2) Site Plan. A scaled site plan shall include the following information in detail. The required information may be submitted on multiple site plans if inclusion of all information on a single plan makes it illegible or difficult to understand.
 - A. North arrow.
 - B. Scale.
 - C. Vicinity map.
 - D. All existing and proposed lot lines within the site.
 - E. Dimensions of all lots and of the entire site and any adjacent rights-of-way.
 - F. Location, height, and use of all proposed and existing structures.
 - G. Location and design of all proposed vehicle management areas.
 - H. Location, size, and type of all proposed signs.
 - I. Location, height, and type of all proposed screening and landscaping.
 - J. Distances to residential zoning districts if within 1,000 feet.
 - K. The use of land and location of structures on adjacent property and across adjacent rights-of-way.
 - L. An indication of the regulation from which the variance is requested.
 - M. Other information as required by the Board of Zoning Appeals.
- (3) Elevations. Elevations of proposed structures, or typical elevations if structures are not yet designed, may be required by the Zoning Administrator if the proposed location, height, or bulk of the structure is such that it may negatively affect an adjacent use.
- (4) Other. Photographs of the existing use and its surroundings and other information regarding the proposed use, site, or surrounding area as may be pertinent to the application or required by the Board of Zoning Appeals.

Surrounding Property Owners

On a separate sheet, provide the parcel numbers, names, and mailing addresses of all property owners within 200 feet of all boundaries of the property in question. The [Butler County Auditor Real Estate Search](#)¹ is helpful when searching for the mailing address of adjoining property owners. It allows you to search by owner, address, or parcel number.

Decision Standards

From Section 1139.02(c)(2). *See Chapter 1139 Variances*² for the full text.

- 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.

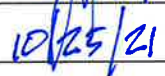
Fees & Receipt

The variance fee is \$300.00, 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, 15 South College Avenue, 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>



Internal Use Only:

Case No.

BZA-2021-10

Date Filed

10/25/21

Petition for Zoning Variance

Petitioner Information

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

Name * Scott Webb, Architect

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 * H & P Properties

Mailing Address * 5282 Booth Road

City, State & Zip Code * Liberty, Indiana 47353

Telephone Number(s) * 765-458-7896

Email Address shanebcoffman@aol.com

Variance and Lot Information

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

1141.03(b) requires every building to have its principal entrance upon a street bordering the lot

1143.16(c) (4) Maximum Lot Coverage

Location of Requested Variance * 5115 Morning Sun Road

Name of Building

Legal Description * Parcel #H4100011000032

Zoning District * NB Neighborhood Business Total Acreage * .473

Existing Use of Site * Vacant

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.

New Mixed-Use Development

Required Plans and Documentation

From Section 1139.02(a)².

- (1) Contents of application for variance. **Eight** complete sets of all information shall be submitted with an application. The Zoning Administrator may modify this requirement based upon the type of materials included. **The applicant is encouraged to contact the Zoning Administrator prior to submitting an application to discuss the submission requirement.** If any information is submitted in color or on non-standard paper, more copies may be required.
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 - B. Description of Use and Site.
 - C. The name, mailing address, and telephone number of the applicant and the property owner.
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 - E. A legal description of the site, including all separate lots.
 - F. A description of the existing uses of the site.
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 2. The hours of operation.
 - I. The nature and magnitude of the requested variance.
 - J. The Code section from which the variance is requested.
 - K. A separate narrative statement that explains how the proposed variance satisfies **each** of the Decision Standards required to grant a variance ([see Decision Standards section](#)).
 - L. A list of the names and mailing addresses of all landowners within 200 feet of the perimeter of the site ([see Surrounding Property Owners section](#)).
- (2) Site Plan. A scaled site plan shall include the following information in detail. The required information may be submitted on multiple site plans if inclusion of all information on a single plan makes it illegible or difficult to understand.
 - A. North arrow.
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 - D. All existing and proposed lot lines within the site.
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 - I. Location, height, and type of all proposed screening and landscaping.
 - J. Distances to residential zoning districts if within 1,000 feet.
 - K. The use of land and location of structures on adjacent property and across adjacent rights-of-way.
 - L. An indication of the regulation from which the variance is requested.
 - M. Other information as required by the Board of Zoning Appeals.
- (3) Elevations. Elevations of proposed structures, or typical elevations if structures are not yet designed, may be required by the Zoning Administrator if the proposed location, height, or bulk of the structure is such that it may negatively affect an adjacent use.
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Decision Standards

From Section 1139.02(c)(2). *See Chapter 1139 Variances² for the full text.*

- 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.

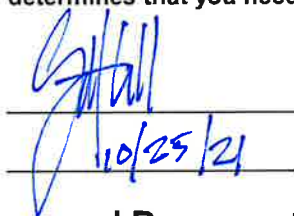
Fees & Receipt

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Sign and Date

Petitioner Signature *

Date *



Handwritten signature and date: 10/25/21

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, 15 South College Avenue, Oxford, OH 45056.

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

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 necessary variances for our properties at 5111 & 5115 Morning Sun Road

Thank you,

Signed:


H & P Properties

10-25-21

Date:

Board of Zoning Appeals
City of Oxford
15 South College Avenue
Oxford, Ohio 45056



SCOTT
WEBB

ARCHITECT

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

www.scottwebbarchitect.com

Re: Previously Approved Variance
to Primary Entrance requirement
5111 Morning Sun Road
New Mixed Use Development in the
Neighborhood Business District

October 25, 2021

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing as a reapplication to an expired variance for the location of the residential entrances, granted January of 2021. This application is for a new conforming lot created as half of a proposed overall development of the City's first Neighborhood Development Lot

The newly created Neighborhood Business Zoning District encourages small-scale retail and services on sites in or near residential areas, while having little impact on them. Development is intended to be compatible with the scale of surrounding residential areas and through its defined, permitted uses, encourages mixed-use structures in residential scale buildings.

Parking however is required for both commercial and residential uses and per 1143.16(d)(9) shall be located to the side or to the rear of the building. Given the grade of the site and the accessibility requirements of the ADA, the required commercial parking is located along the side of the building. The grade continues to fall, giving the opportunity for lower level garages in a "walk-out basement" accessed from the rear.

This arrangement accomplishes two program requirements: competition for parking between the residents and the businesses is eliminated and residential parking is located behind & under the building to preserve greenspace.

While the precedent for requiring situations such as these to seek a variance has been established by staff, BZA and Planning Commission have historically understood the benefit of separating these entrances for different uses in mixed-use buildings and developments, granting variances or encouraging it through a PUD process.

1141.03(b) requires "every building to have its principal entrance upon a street bordering the lot". Staff has interpreted this to mean that a principle entrance for every use must meet this standard.

The development at hand is unique, in that it uses two lots to create a mini mixed-use development, similar to Stewart Square, where storefronts face the street and residential parking is behind & under the buildings.

Through shared access easements, on-site traffic and service vehicles have access to all sides of the building from all directions. Additional directional signage could be provided to assure clarity of wayfinding for service vehicles and visitors.

The entrance location variances were previously approved as BZA-2020-12 & BZA-2020-13 in January of 2021

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 property has remained undeveloped for a number of years. Variance is necessary to accommodate the buildings and parking allowed by the new Zoning District and the practical difficulties presented by the topography of the lot.

- b) *Whether the variance is substantial;*

The variance is not substantial, recognizing the unique situation presented by the topography and the mitigation provided by the comprehensive planning of the two adjoining lots.

- 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 improved, developing a long vacant lot with new buildings that reflect the design guidelines of the Mile Square.

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

All utilities & government services are available at this location. Care has been taken to allow (2) entrances to the development to assist in emergency access, facilitated through a shared access agreement between the two parcels.

In comments prepared before the Hearing and in comments at the Hearing, the Fire Chief supported this proposal.

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

The property owner was made aware of staff's likely interpretation, but has chosen to proceed through the variance process for an arrangement that better serves the commercial businesses/customers & residential occupants of the building.

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

The Ground Floor commercial spaces could be compromised to provide a "ceremonial" residential entrance on the front of the building, but with all residential parking behind the building and a full story below, this entrance would simply never be used.

- 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 parking in the rear and side of the building as required, and separating them by uses. The proposed building provides distinct entrances adjacent to, and convenient for, each function for a successful mixed-use project.

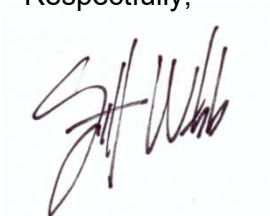
- h) *Any other relevant factor;*

Developed separately, the rear location of the residential entrance a story below on a dead-end drive would be potentially problematic. The comprehensive planning of these two lots allows for a clear and distinct location of the residential entrances and parking clearly separated from the commercial uses its parking.

This redevelopment project aligns with the goals of the Comprehensive Plan, encouraging infill and redevelopment within the City, and providing the first Neighborhood Business District development that compliments the neighborhood.

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 dark ink, appearing to read "S. Webb", is written over a light blue rectangular background.

Scott Webb, Architect

Board of Zoning Appeals
City of Oxford
15 South College Avenue
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: Previously Approved Variances to
Maximum Lot Coverage & Location of Residential Entrances
5115 Morning Sun Road
New Mixed Use Development in the
Neighborhood Business District

October 25, 2021

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing as a reapplication to expired variances for the maximum lot coverage of a lot in the new Neighborhood Business Zoning District for a new mixed-use Structure granted in May of 2020 and the location of the residential entrances, granted January of 2021. This application is for a new conforming lot created as half of a proposed overall development of the City's first Neighborhood Development Lot.

The Variance for the location of the residential entrance

1143.16(c) (4) Limits the maximum total lot coverage to 50% of the lot

The Proposed Development slightly exceeds this maximum with 56.51% total proposed lot coverage.

The proposal at hand represents the first Neighborhood Business District development proposal. Combined with the other lot that makes up the development, lot coverage is exceeded by the amount of driveway necessary to meet the requirement that all parking be in the side or rear yard and the owner's desire to provide a shared exterior plaza between the proposed buildings.

The variance was previously approved as BZA-2020-01 in May of 2020

1141.03(b) requires "every building to have its principal entrance upon a street bordering the lot". Staff has interpreted this to mean that a principle entrance for every use must meet this standard.

The development at hand is unique, in that it uses two lots to create a mini mixed-use development, similar to Stewart Square, where storefronts face the street and residential parking is behind & under the buildings.

Through shared access easements, on-site traffic and service vehicles have access to all sides of the building from all directions. Additional directional signage could be provided to assure clarity of wayfinding for service vehicles and visitors.

The entrance location variances were previously approved as BZA-2020-12 & BZA-2020-13 in January of 2021

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 property has remained undeveloped for a number of years. Variance is necessary to accommodate the buildings and parking allowed by the new Zoning District.

- b) *Whether the variance is substantial;*

The variance is not mathematically substantial, representing a minor increase in lot coverage in order to provide the required parking and a unique shared outdoor space.

The Entrance Variance is not substantial, recognizing the unique situation presented by the topography and the mitigation provided by the comprehensive planning of the two adjoining lots

- 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 improved, developing a long vacant lot with new buildings that reflect the design guidelines of the Mile Square.

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

All utilities & government services are available at this location. Care has been taken to allow (2) entrances to the development to assist in emergency access, facilitated through a shared access agreement between the two parcels.

With regard to the location of the entrance, in comments prepared before the Hearing and in comments at the Hearing, the Fire Chief supported this proposal.

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

The property owner was made aware of the lot coverage restriction during the Zoning Map Amendment process but felt a variance was warranted to provide additional parking and outdoor space.

The property owner was made aware of staff's likely interpretation of the entrance location, but has chosen to proceed through the variance process for an arrangement that better serves the commercial businesses/customers & residential occupants of the building

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

The development meets the minimum parking requirements for a retail use on the ground floor. In order to reduce the lot coverage, the exterior plaza connecting the two buildings could be eliminated.

The Ground Floor commercial spaces could be compromised to provide a "ceremonial" residential entrance on the front of the building, but with all residential parking behind the building and a full story below, this entrance would simply never be used.

- 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 in the rear and side of the building and providing inviting, active outdoor space in a comprehensively designed development.

The spirit of the Zoning Code is observed for the entrance location, providing the parking in the rear and side of the building as required, and separating them by uses. The proposed building provides distinct entrances adjacent to, and convenient for, each function for a successful mixed-use project.

- h) *Any other relevant factor;*

Developed separately, the rear location of the residential entrance a story below on a dead-end drive would be potentially problematic. The comprehensive planning of these two lots allows for a clear and distinct location of the residential entrances and parking clearly separated from the commercial uses its parking.

This redevelopment project aligns with the goals of the Comprehensive Plan, encouraging infill and redevelopment within the City, and providing the first Neighborhood Business District development that compliments the neighborhood.

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 dark ink, appearing to read 'Scott Webb', is written over a light blue rectangular background.

Scott Webb, Architect

NEW SOUTHWEST LOT: 19,831 S.F. REQUIRED VARIANCES

PART LOT 1532

2,500 S.F. GROUND FLOOR COMMERCIAL SPACE

(2) UPPER LEVEL DWELLING UNITS

SITE DEVELOPMENT REGULATIONS:

MIN. LOT SIZE: NONE PER 1143.16(c)(1)

SETBACK REQUIREMENTS:

FRONT YARD: INSIDE MILE SQUARE = 20'-0"

REAR YARD: BUILDINGS UP TO 35' IN HEIGHT = 40'-0"

SIDE YARD: BUILDINGS UP TO 35' IN HEIGHT = 10'-0"

LOT COVERAGE:

PARKING & DRIVES: 6,221 S.F.

BUILDING LOT COVERAGE: 2,500 S.F.

SIDEWALKS: 1,303 S.F.

TOTAL LOT COVERAGE 10,024 S.F.

MAX. LOT COVERAGE: (MAX 50%) $10,024 / 19,831 = 50.53\%$ → 1143.16(c)(1) 50% MAX. LOT COVERAGE

PARKING REQUIREMENTS:

MAX 50% OF FRONT YARD MAY BE USED FOR PARKING

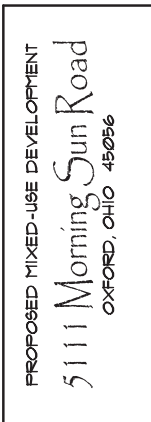
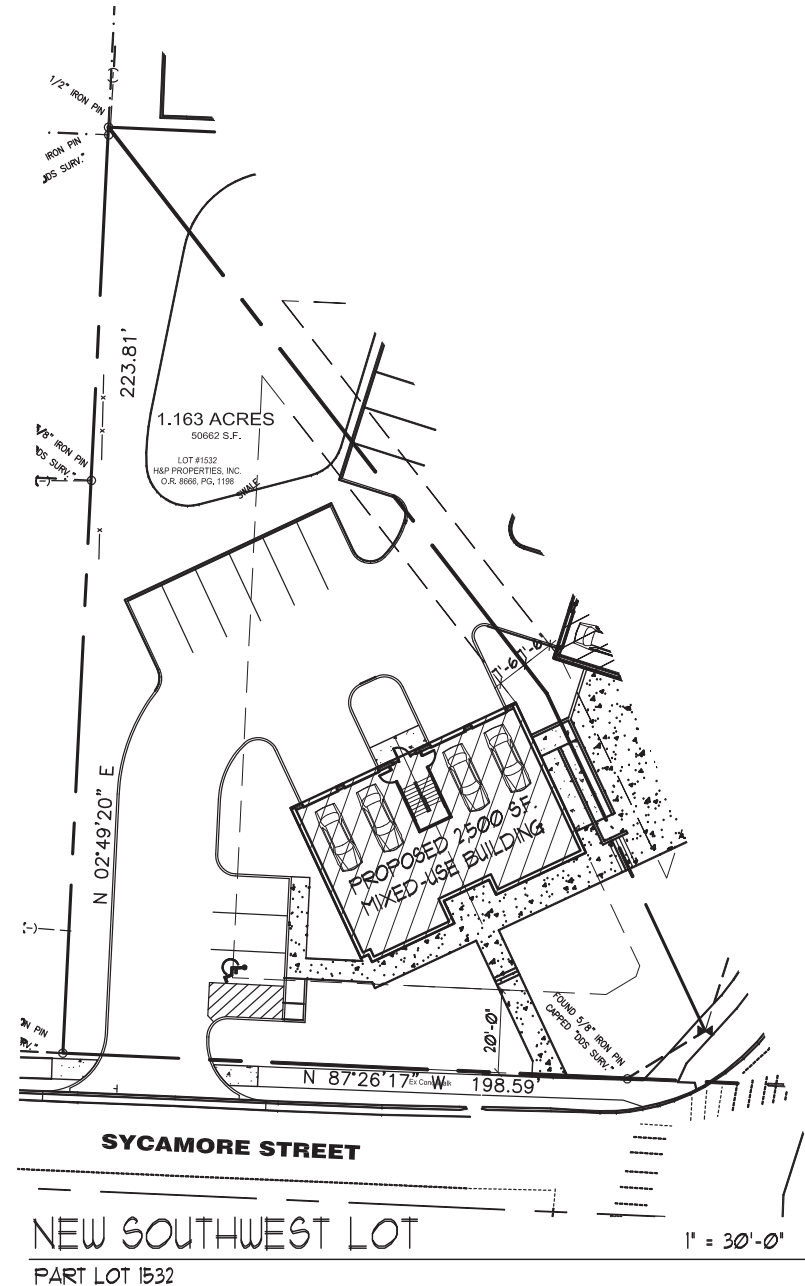
RESIDENTIAL PARKING REQUIREMENT:

(4) REQUIRED • (2) PER DWELLING UNIT

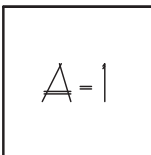
(4) PROVIDED IN PRIVATE GARAGES

COMMERCIAL PARKING:

(9) SPACES PROVIDED



DATE	
February 11, 2020	
REVISIONS	



NEW NORTHEAST LOT: 20,608 S.F. REQUIRED VARIANCES

PART LOT 1532
2,500 S.F. GROUND FLOOR COMMERCIAL SPACE
(2) UPPER LEVEL DWELLING UNITS

SITE DEVELOPMENT REGULATIONS:

MIN. LOT SIZE: NONE PER 1143.16(c)(1)

SETBACK REQUIREMENTS:

FRONT YARD: INSIDE MILE SQUARE = 20'-0"
REAR YARD: BUILDINGS UP TO 35' IN HEIGHT = 40'-0"
SIDE YARD: BUILDINGS UP TO 35' IN HEIGHT = 10'-0"

LOT COVERAGE:

PARKING & DRIVES: 6,491 S.F.
BUILDING LOT COVERAGE: 2,500 S.F.
SIDEWALKS: 2,056 S.F.
TOTAL LOT COVERAGE 11,647 S.F.

MAX. LOT COVERAGE: (MAX 50%) $11,647 / 20,608 = 56.51\%$ → 1143.16(c)(1) 50% MAX. LOT COVERAGE

PARKING REQUIREMENTS:

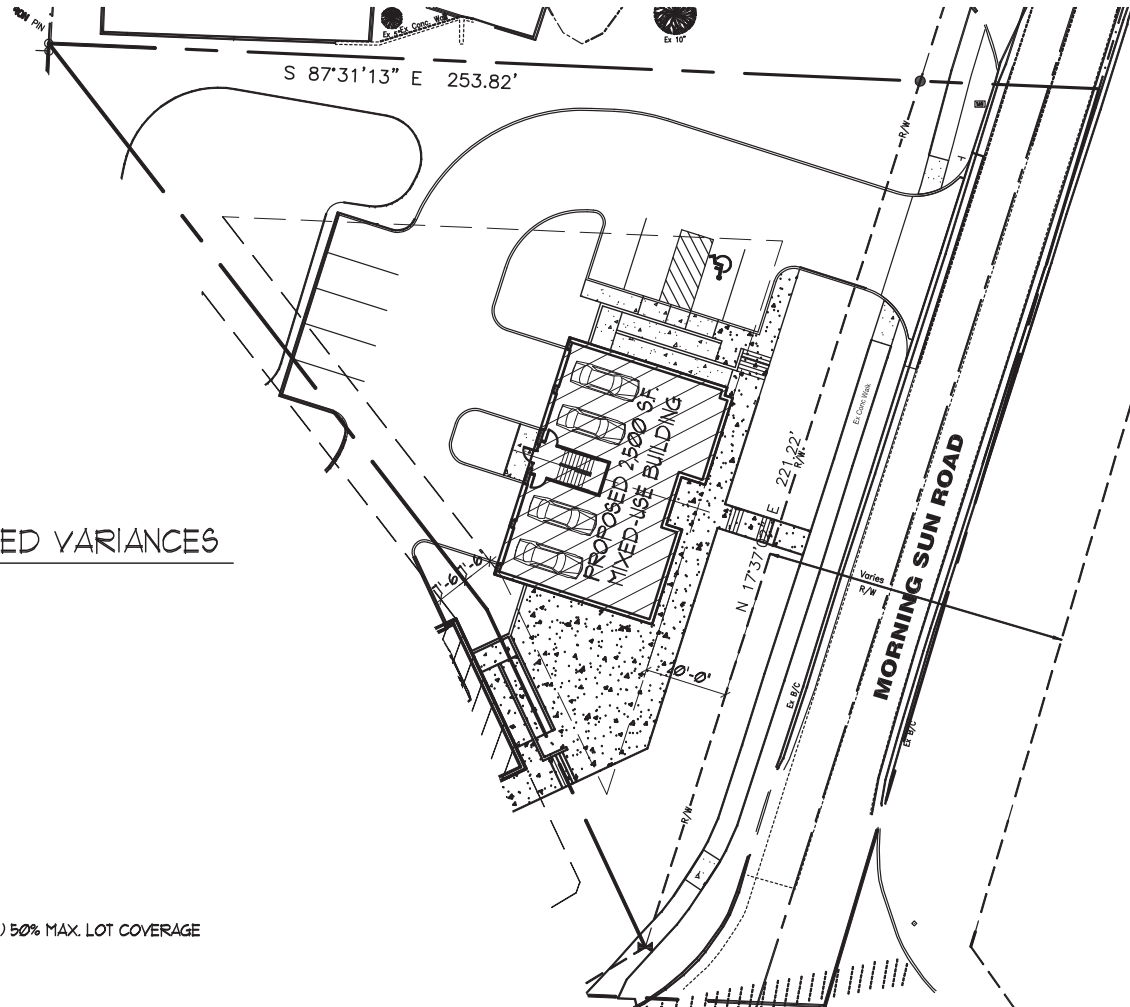
MAX 50% OF FRONT YARD MAY BE USED FOR PARKING

RESIDENTIAL PARKING REQUIREMENT:

- (4) REQUIRED • (2) PER DWELLING UNIT
- (4) PROVIDED IN PRIVATE GARAGES

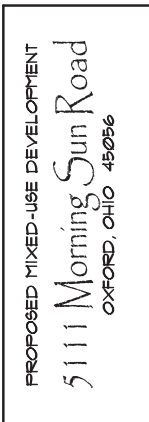
COMMERCIAL PARKING:

- (9) SPACES PROVIDED

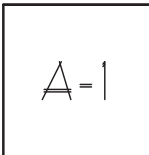


NEW NORTHEAST LOT
PART LOT 1532

1" = 30'-0"



DATE	
February 11, 2020	
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NEW NORTHEAST LOT: 30,673 S.F.
LESS MORNING SUN ROAD
RIGHT-OF-WAY: -10,065 S.F.

NEW NORTHEAST LOT: 20,608 S.F.
PART LOT 1532

2,500 S.F. GROUND FLOOR COMMERCIAL SPACE
(2) UPPER LEVEL DWELLING UNITS

SITE DEVELOPMENT REGULATIONS:

MIN. LOT SIZE: NONE PER 1143.16(CX1)

SETBACK REQUIREMENTS:

FRONT YARD: INSIDE MILE SQUARE = 20'-0"
REAR YARD: BUILDINGS UP TO 35' IN HEIGHT = 40'-0"
SIDE YARD: BUILDINGS UP TO 35' IN HEIGHT = 10'-0"

LOT COVERAGE:

PARKING & DRIVES: 6,491 S.F.
BUILDING LOT COVERAGE: 2,500 S.F.
SIDEWALKS: 2,656 S.F.
TOTAL LOT COVERAGE 11,647 S.F.

MAX. LOT COVERAGE: (MAX 50%) 11,647 / 20,608 = 56.51%

REQUIRED VARIANCES

PARKING REQUIREMENTS:

MAX 50% OF FRONT YARD MAY BE USED FOR PARKING

RESIDENTIAL PARKING REQUIREMENT:

(4) REQUIRED @ (2) PER DWELLING UNIT
(4) PROVIDED IN PRIVATE GARAGES

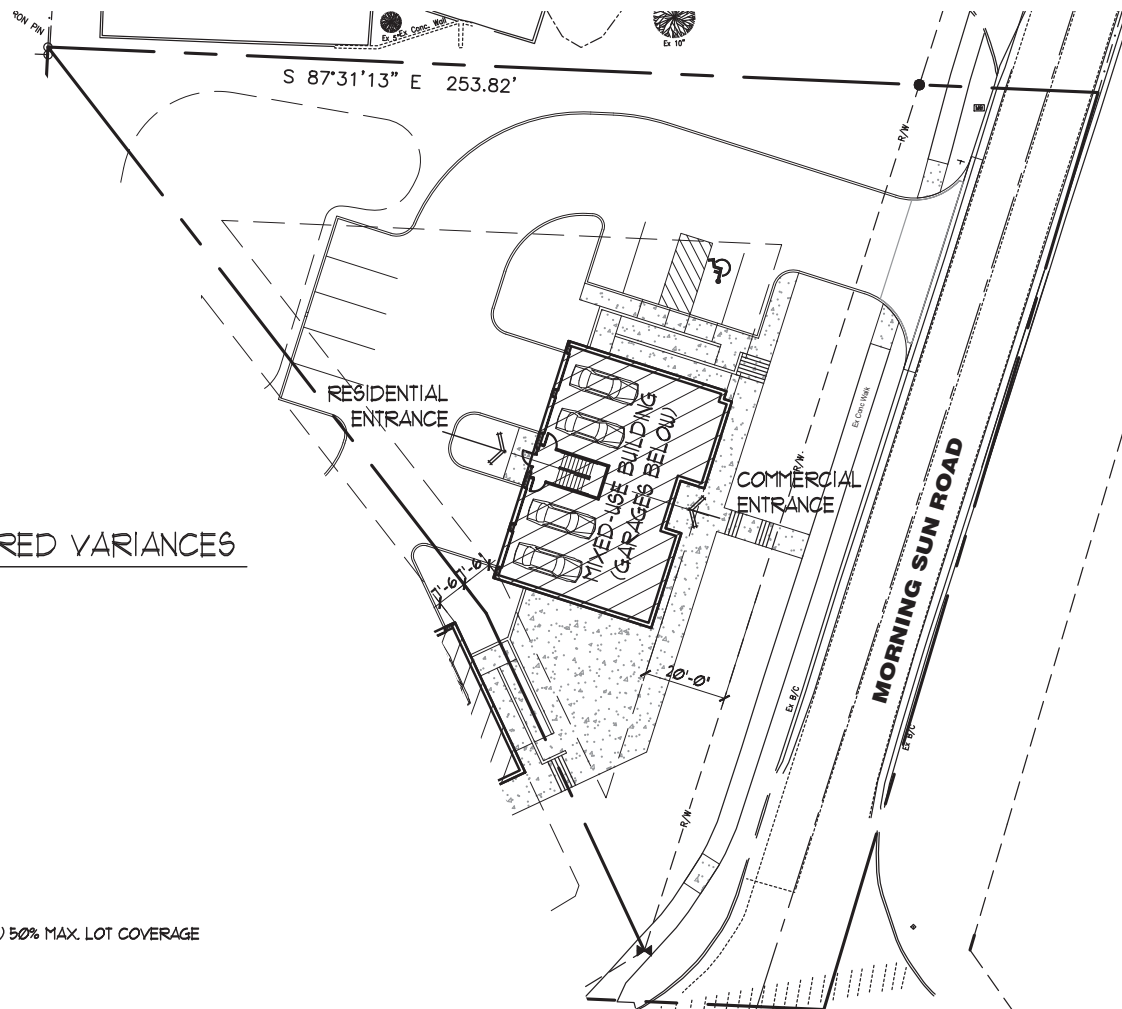
COMMERCIAL PARKING:

(9) SPACES PROVIDED

PRINCIPLE ENTRANCE REQUIREMENTS:

RESIDENTIAL ENTRANCES SHOWN ON REAR OF BUILDING

1141.03(B) PRINCIPLE ENTRANCE UPON A STREET



NEW NORTHEAST LOT

PART LOT 1532

1" = 30'-0"



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PROPOSED MIXED-USE DEVELOPMENT
5115 Morning Sun Road
OXFORD, OHIO 45056

DATE
February 11, 2020
REVISIONS

A-1

LOT AREA CALCULATIONS

TOTAL LOT AREA PER SURVEY 50,662 S.F.

TOTAL LOT AREA
(LESS RIGHT-OF-WAY) 40,435 S.F.

NEW NORTHEAST LOT: 20,608 S.F.

2,500 S.F. GROUND FLOOR COMMERCIAL SPACE
(2) UPPER LEVEL DWELLING UNITS

LOT COVERAGE:

PARKING & DRIVES: 6,491 S.F.

BUILDING LOT COVERAGE: 2,500 S.F.

SIDEWALKS: 2,656 S.F.

TOTAL LOT COVERAGE 11,647 S.F.

MAX. LOT COVERAGE: (MAX 50%) $11,647 / 20,608 = 56.51\%$

NEW SOUTHWEST LOT: 19,831 S.F.

2,500 S.F. GROUND FLOOR COMMERCIAL SPACE
(2) UPPER LEVEL DWELLING UNITS

LOT COVERAGE:

PARKING & DRIVES: 6,221 S.F.

BUILDING LOT COVERAGE: 2,500 S.F.

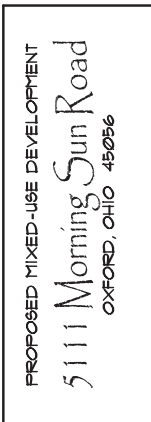
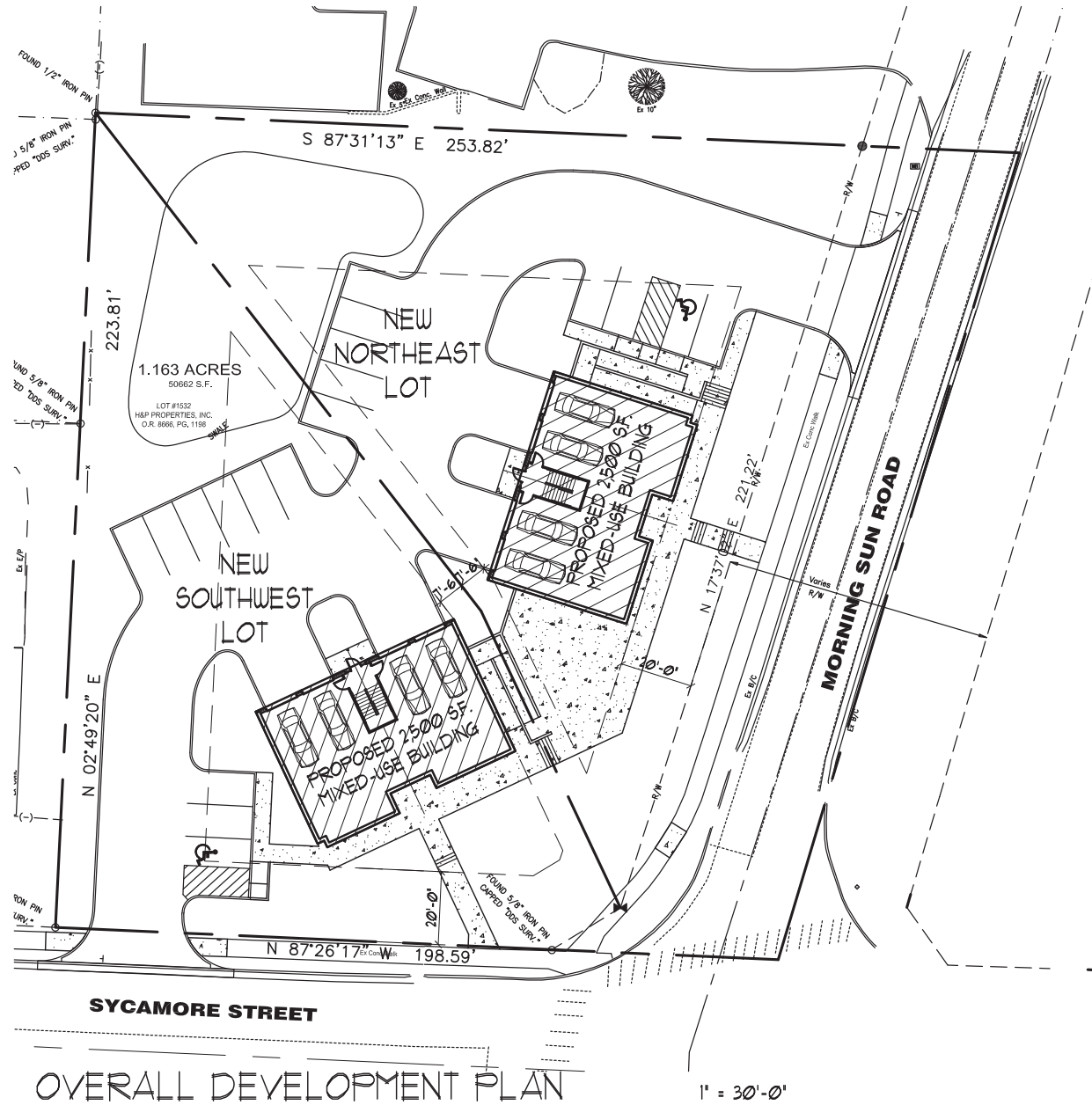
SIDEWALKS: 1,303 S.F.

TOTAL LOT COVERAGE 10,024 S.F.

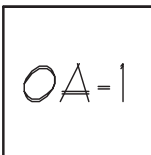
MAX. LOT COVERAGE: (MAX 50%) $10,024 / 19,831 = 50.53\%$

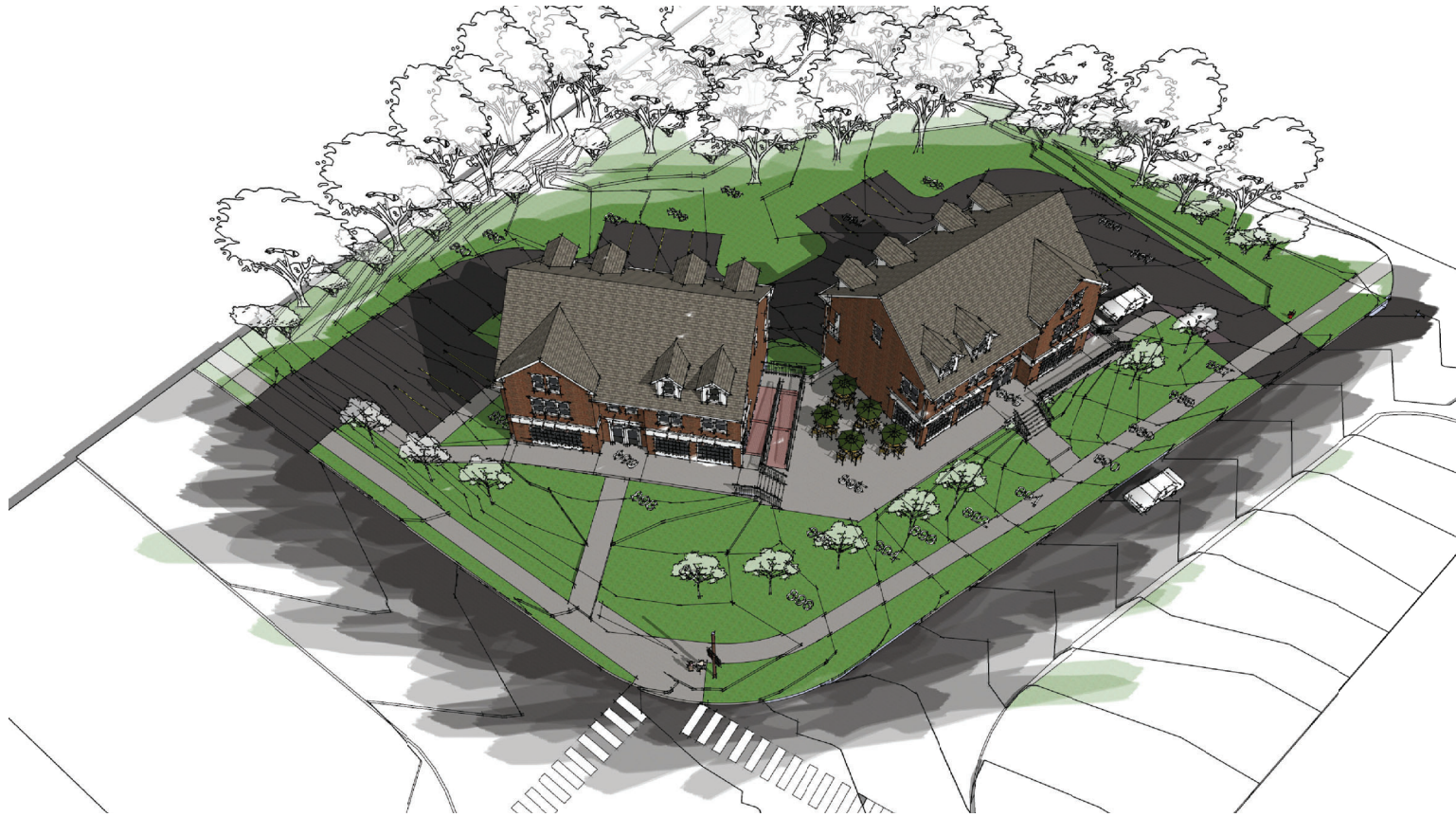
SHARED ACCESS AGREEMENT

SHARED ACCESS BETWEEN LOTS FOR PARKING
& EMERGENCY ACCESS



DATE	
	February 11, 2020
REVISIONS	





PROPOSED MIXED-USE DEVELOPMENT
5111 Morning Sun Road
OXFORD, OHIO 45056

DATE	
February 11, 2020	
REVISIONS	

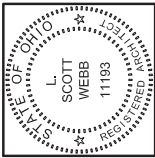
OA-2



PROPOSED MIXED-USE DEVELOPMENT
5111 Morning Sun Road
OXFORD, OHIO 45056

DATE	
February 11, 2020	
REVISIONS	

OA-3



PROPOSED MIXED-USE DEVELOPMENT
5111 Morning Sun Road
OXFORD, OHIO 45056

DATE	
February 11, 2020	
REVISIONS	

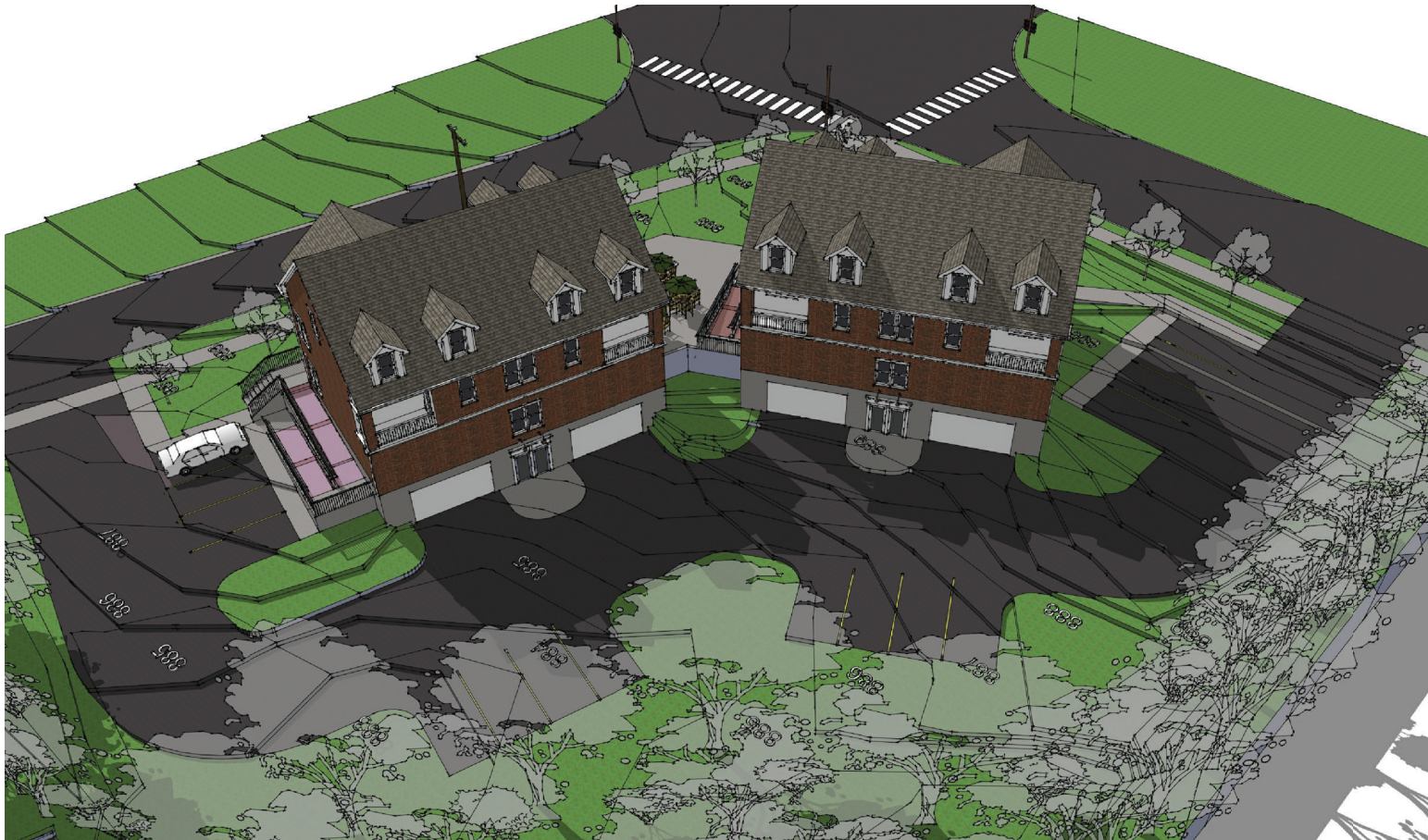
OA-4



PROPOSED MIXED-USE DEVELOPMENT
5111 Morning Sun Road
OXFORD, OHIO 45056

DATE	
February 11, 2020	
REVISIONS	

0A-5



PROPOSED MIXED-USE DEVELOPMENT
5111-5115 Morning Sun Road
OXFORD, OHIO 45056

DATE	
December 21, 2020	
REVISIONS	

OA-6