

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2019-14

December 18, 2019

APPLICATION

Applicant:	Sign Connection (c/o Jane Fiehrer)
Location:	36 West High Street
Business:	Doughby's (c/o Beau Hiner)
Owner:	Myers Cameron LLC (c/o Linda Cameron)
Action Request:	Variance to Section 1151.05(a)(2)(B)(1) – indirect illumination
Current Use:	Commercial – Restaurant
Zoning:	UP Uptown District with Uptown Historic Overlay
Surrounding Land Uses:	Commercial/Mixed Use

DESCRIPTION

The applicant, acting as agent for the business owner, is requesting relief from the standard requirement for permanent wall signs in the UP Uptown District to have *indirect illumination*, defined in Section 1151.07(r) as *a source of illumination directed toward a sign so that a beam of light falls on the exterior surface of the sign*. Exterior lights which illuminate the front of a wall sign, such as gooseneck lights, are a permitted form of illumination under this standard. However, the applicant proposes a new wall sign with backlit remote channel letters and a logo medallion atop a ¼" aluminum backer panel, which does not comply with the UP District standard for indirect illumination found in Section 1151.05(a)(2)(B)(1). All components of the proposed sign would total a little over 19 square feet in size, with a 24" tall medallion and 15.5" tall letters spread across a width of over 9 feet. The overall sign depth from the building façade, inclusive of all components, would be a little under a foot.

BACKGROUND

The requirement for indirect illumination has resulted in a large number of businesses in the Uptown area along High Street employing separated exterior "gooseneck" style flood lights to illuminate their signs at night. Starbucks, located at 19 East High Street, is the one business along the corridor that has been granted a variance to this standard in the past in order to install a reverse "halo" lit wall sign, which also included a medallion; this variance had been granted by the BZA on July 19, 2017. Another known halo-lit sign in town is for Millions of Milk Tea, installed this year at Bishop Square. The applicant is proposing a very similar type of setup to Starbucks with aluminum letters and an opaque logo/medallion, all of which would be halo-lit. HAPC has already issued a COA for the proposed sign design on November 13, 2019.

STAFF RECOMMENDATION

If the BZA determines that difficulties exist which are sufficient to warrant the variance, the staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance request. At the time of this report, **staff believes there is substantial evidence to support the variance request** to allow for a backlit halo illuminated wall sign.

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).

COMMENT FORMS

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.

AGENCY REVIEW

The variance request has been reviewed by City departments:

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

BZA SITE HISTORY

There is no prior BZA case history available in city records for this property.

ANALYSIS

The burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for variance (Section 1139.02(c)(1)). Furthermore, the BZA must find that practical difficulties exist that would render strict application of the Code unreasonable (Section 1139.02(c)(2)). In determining whether such difficulties exist which are sufficient to warrant the variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the enclosed letter addressing the review criteria from Ms. Fiehrer. Staff's review of the criteria is included below:

Regarding **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:** Staff agrees with the applicant's assessment that while the business currently yields a reasonable return, an updated illuminated sign would help to draw in customer traffic during evening hours.

Regarding **Criterion B**, **whether the variance is substantial:** The proposed sign does not precisely fit either the definition for *indirect illumination* where a beam of light is directed toward the exterior sign surface, or the definition for *direct illumination* where lighting is enclosed entirely within the sign and not directly visible from the outside. Technically the lighting apparatus would be exposed to the outside, but only within a narrow 1" area between the letters and the backer panel, and from most positions (other than directly below the sign) probably would not be visible to an onlooker on the street. The presence of the existing metal awning below the sign would help to deter direct visibility of the lighting, which will be projected onto the backer panel through clear acrylic backs on the letters. The setup of the sign is more characteristic of a directly illuminated sign, while the visual result is more akin to an indirectly illuminated sign. Apart from the lack of separate exterior lights, the only visual difference between this non-compliant and a compliant sign is the lack of an illuminated sign surface – the building wall area around the sign is illuminated under both circumstances. For these reasons, staff does not believe the variance request is substantial.

Regarding **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:** Halo lit signs are a desirable sign type in many communities, exemplifying a more elegant and upscale quality than conventional internally illuminated cabinet signs. Given the presence of an existing halo lit sign (Starbucks) two blocks away in the same district, the effect in this location should not be any different.

Regarding **Criterion D**, **whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage):** 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.

Regarding **Criterion E, whether the property owner purchased the property with knowledge of the zoning restriction**: Staff does not believe this criterion is applicable, since the affected party is a tenant, not the owner. However, the applicant does indicate the business owner was not aware of the restriction when opening up at this location.

Regarding **Criterion F, whether the property owners' predicament feasibly can be obviated through some method other than a variance**: The business owner could choose to install an indirectly illuminated sign (by having separate external lights shine onto the sign), though the applicant points out the presence of windows above the sign area would inhibit even lighting of the sign band.

Regarding **Criterion G, whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance**: The spirit and intent of this zoning requirement is to prevent wall signs that detract from the historic and architectural character of the Uptown District. Staff believes that substantial justice would be done by granting the variance for reasons as previously stated for Criterion B.

Regarding **Criterion H, any other relevant factor**: The sign lighting definitions in the Oxford Zoning Code have not been updated since 2005. This type of sign lighting was not common at the time these standards were written.

SUBMITTED BY:



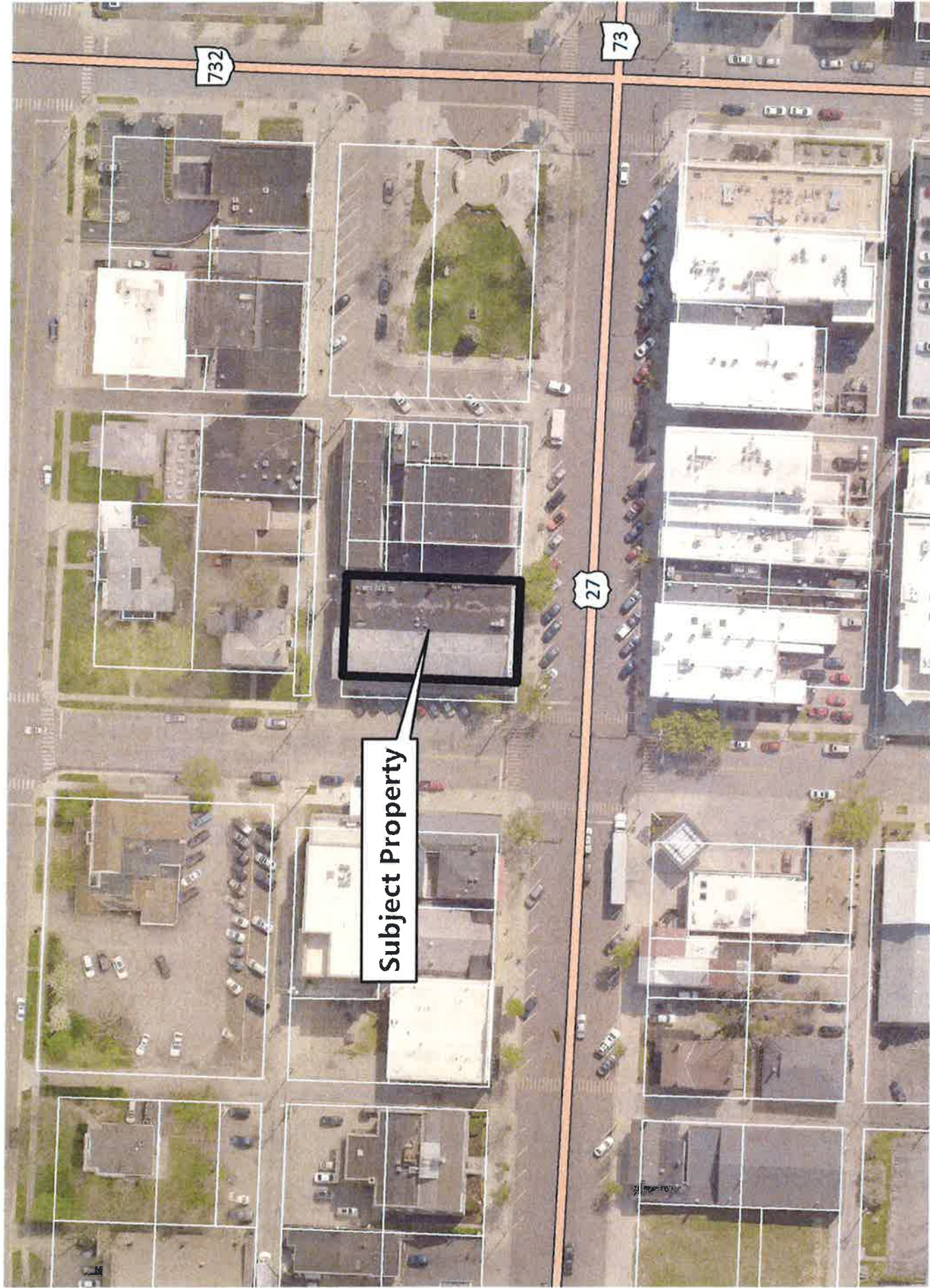
Zachary Moore, AICP
Planner, Community Development Department

DATE: December 11, 2019

Location Map

 Site Parcel(s)

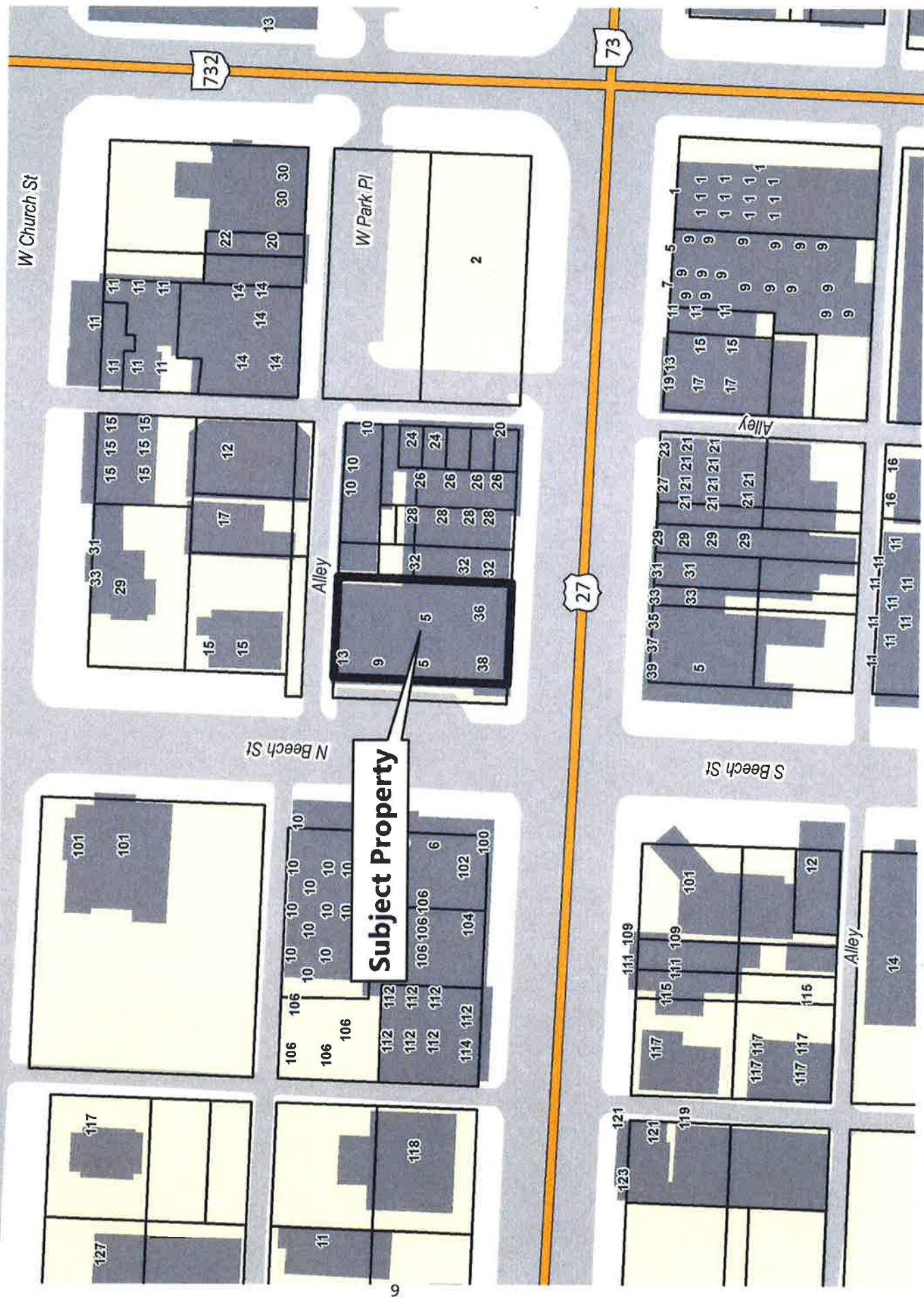
0 50 100 200 Feet



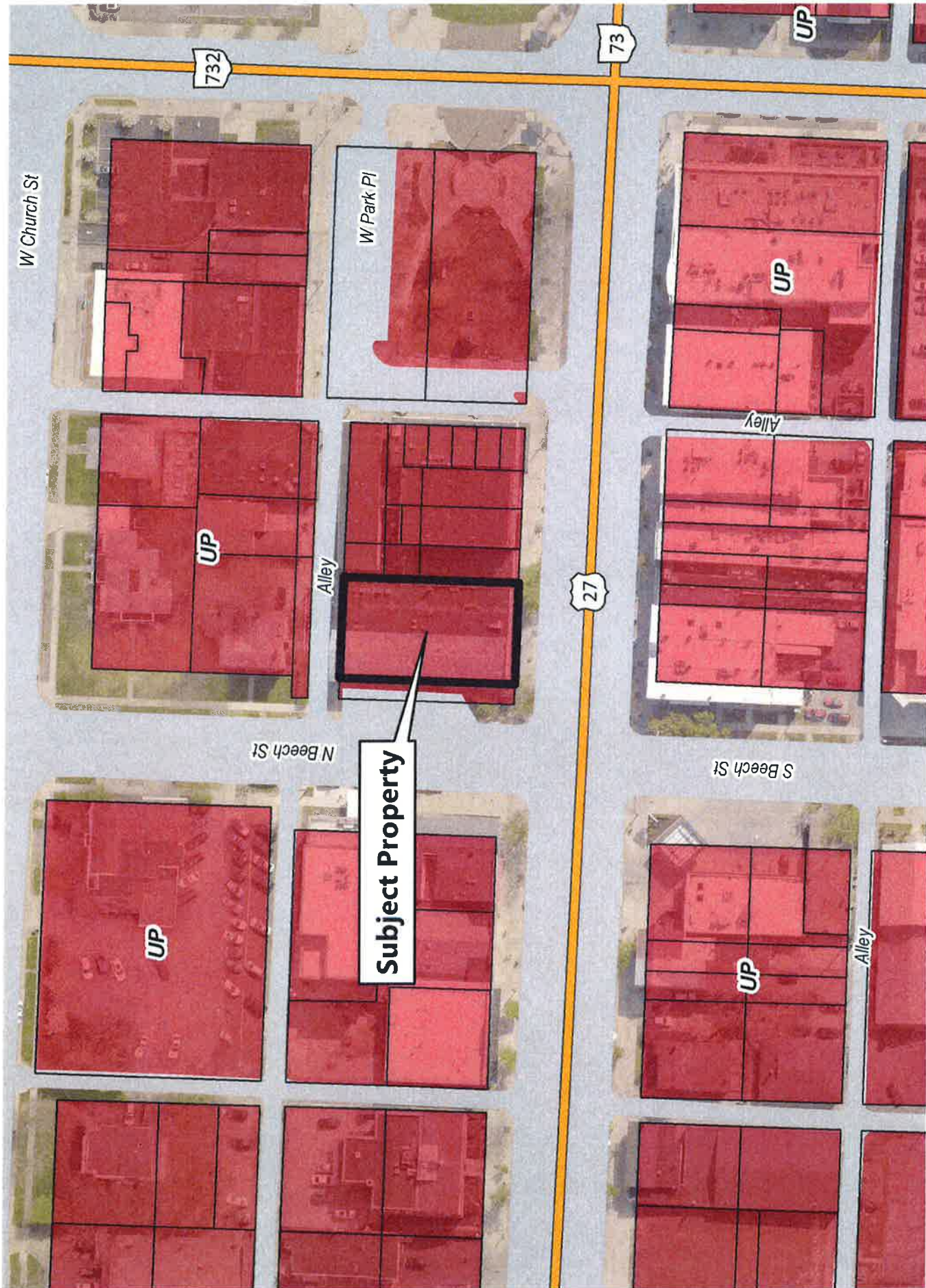
Site Parcel(s)

0 50 100 200 Feet

N



Location Map



City of Oxford
Inter-Office Review Transmittal Sheet



Date: November 26, 2019

To: Fire Department Engineering Division Police Department Econ Dev Department

From: Community Development Department

BZA-2019-14, 36 W. High Street, variance to section 1151.05(a)(2)B1, signs shall have only indirect illumination, **Sign Connection, Appellant**

 X Review Revisions Other

Please return no later than: **December 9, 2019** Note: If no comments are received, we will assume the project meets your department's standards.

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

Drawings reviewed by:


John Detherage, Fire Chief

PRINTED NAME

Date: 12.4.19

City of Oxford
Inter-Office Review Transmittal Sheet

Date: November 26, 2019

To: Fire Department Engineering Division Police Department Econ Dev Department

From: Community Development Department

BZA-2019-14, 36 W. High Street, variance to section 1151.05(a)(2)B1, signs shall have only indirect illumination, **Sign Connection, Appellant**

 X Review Revisions Other

Please return no later than: **December 9, 2019** Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

Drawings reviewed by: Scott Otto Date: 12/5/19

Scott Otto
PRINTED NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: November 26, 2019

To: Fire Department Engineering Division Police Department Econ Dev Department

From: Community Development Department

BZA-2019-14, 36 W. High Street, variance to section 1151.05(a)(2)B1, signs shall have only indirect illumination, **Sign Connection, Appellant**

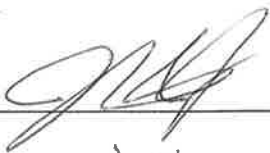
 X Review Revisions Other

Please return no later than: **December 9, 2019** Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

Drawings reviewed by: _____



Date: 12/2/19

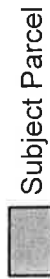
John A. Jones

PRINTED NAME

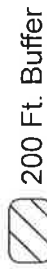


BZA-2019-14 Surrounding Property Owners Map

Legend



Subject Parcel



200 Ft. Buffer



Oxford Corporation Limit



Parcel

Vacated Right-of-Way



Building Footprint



Paved Roadway



1 inch = 100 feet

Prepared on Thursday, December 5, 2019

The City of Oxford does not guarantee the dimensional accuracy of this map. Precise dimensional accuracy should be based upon recorded deeds, plats or a professional survey.



LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Sign Connection has permission to represent our interest with the City of Oxford and act on our behalf for Sign Variance hearing 11/20/19 regarding the Sign at our property located at 36 W. High St. Oxford, Ohio 45056

Thank-you,

Signed: Linda M. Cameron Date: 10.31.19

and BZA



Internal Use Only:	BZA-2019-14
Case No.	
Date Filed	10-26-19

Petition for Zoning Variance

Petitioner Information

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

Name Sign Connection
 Mailing Address 90 Compark Rd. Ste B
 City, State & Zip Code Dayton, OH 45459
 Telephone Number(s) 937-435-4070
 Email Address info@signconnectioninc.com

Owner Information

Name Doughby's
 Mailing Address 36 West High St.
 City, State & Zip Code Oxford, OH
 Telephone Number(s) 765-977-5059
 Email Address beauhiner@gmail.com

Variance and Lot Information

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

Indirectly halo lit sign 1151.05(a)(2)B1
Signs shall have only indirect illumination

Location of Requested Variance 36 W. High St.
 Name of Building Doughby's
 Legal Description Restaurant
 Zoning District UP Total Acreage _____
 Existing Use of Site Restaurant

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.

Restaurant

- D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
- F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- H. Any other relevant factor.

Fees & Receipt

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

Sign and Date

Petitioner Signature


 10-26-19

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:

² City of Oxford Codified Ordinances:



City of Oxford
Community Development Director
15 S. College Ave.
Oxford, OH 45056

Answers to questions for BZA concerning Doughby's Restaurant, 36 W. High St.
Oxford, OH – Application for variance concerning back lit identification sign.

- 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 in question currently yields a reasonable return although the existing sign is not illuminated. The illumination will benefit the business during evening hours that they are open, making it easier for existing and potential customers to see the name of the business after dark.

- B. Whether the variance is substantial?

The variance is substantial because the literal interpretation of the current zoning code permits only "indirect lighting" which by definition refers to signs that direct light in a direction to bounce off the wall, diffusing the light evenly. However, the zoning code is interpreting "indirect lighting" as external illumination, a source to shine downward directly on the surface below, not contained within the sign itself.

- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance?

The character of the neighborhood would be improved with a new back lit sign designed to look more architectural and coordinate with the character of the building than the current non-illuminated cabinet sign.

90 Compark Rd. Ste. B, Dayton, OH 45459 937.435.4070



- D. Whether the variance would adversely affect the delivery of governmental services?

The new back lit sign should aid in the delivery of services during evening hours when it is dark outside.

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

The business owner did not have knowledge of the zoning restriction when choosing the property for his business location.

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

The business owner would not need a variance for an externally illuminated sign. However, there are windows on the building above the sign band that will inhibit even lighting of the sign with external illumination.

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

The spirit and intent behind the zoning requirement is to keep the historical and architectural nature of the building in character. The new sign will be an enormous improvement to the appearance of the storefront, and the indirect illumination will be attractive and also beneficial to the business since it operates during evening hours.

The interpretation of the zoning code is a prevalent factor in the decision of this case. Indirect illumination has clearly been interpreted as an approved back lit sign for other existing businesses in the historical district (Starbucks). External illumination may be possible for the proposed sign, however the existing windows on the building above the sign location will most likely make the illumination for this sign uneven, and unattractive.

90 Compark Rd. Ste. B, Dayton, OH 45459 937.435.4070



Signed

Jane Fiehrer

11-18-19

Jane Fiehrer, Owner Sign Connection
Agent for Beau Hiner, Doughby's Restaurant

90 Compark Rd. Ste. B, Dayton, OH 45459 937.435.4070

Address: 36 W. High St.

109.5"



DOUGHBYS

24"

15.5"

Qty: 1 set

Size: 24" diameter logo, 15.5" letters

Materials: backlit remote channel letters & logo

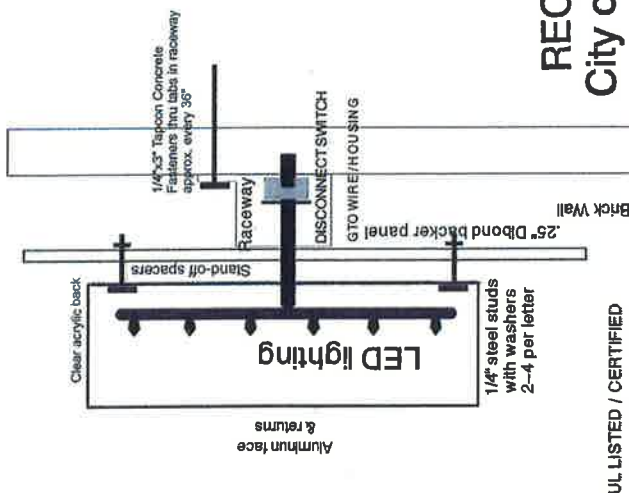
Sides: 1

Other: paint faces black, white halo glow LED

Full color digital print applied to face of logo capsule



Mounting Detail:



UL LISTED / CERTIFIED

RECEIVED
City of Oxford

NOV 21 2019

18 SF on 26.5 ft. frontage



90 Compark Rd., Ste. B
Centerville, OH 45459

Ph. 937.435.4070 Fax. 937.435.4071

info@signconnectioninc.com

Artwork property of
Sign Connection
Community Development
reproduce without permission.

SIGN PERMIT APPLICATION