

STAFF REPORT

Community Development | Board of Zoning Appeals

APPLICATION DETAILS

Applicant	Scott Webb, Architect
Location	419 University / 315 Homestead
Owner	D&B Family Limited LLC, c/o Dennis Day
Action Request	Variance to Section 1147.03(c) for minimum front yard setback
Lot Size	7,500 square feet
Lot Width	150 feet
Current Use	Two-Family Dwelling
Current Zoning	R3MS Single-, Two-, and Three-Family Mile-Square Residential District
Surrounding Land Uses	Single-Family Dwellings to north, west and south; University-owned land to east

BACKGROUND

The applicant is requesting a Variance to the minimum front yard setback in the R3MS District in order to accommodate a new porch feature on an existing duplex. Porches are normally subject to the same setback requirements as all other portions of structures (i.e. walls) apart from certain exceptions specified by the Code. Excluding the setback aspect, the project as currently depicted in the submitted plans otherwise seems to demonstrate compliance with all other provisions of the Oxford Zoning Code. In fact, approval of this Variance would actually bring the property into closer compliance with another Code provision found in **Section 1143.07(d)(8)(A)**, part of the Mile Square Design Standards, specifying that *residential structures are encouraged to include porches and stoops as design elements, which serve to enhance the physical and social components of the neighborhood*.

The building currently has three entrances, two facing Homestead and one facing University. The porch element is proposed to be located along Homestead Avenue, providing a covering for the two doorways on that side. The proposed porch area measures 6 feet 4 inches by 42 feet 8 inches, comprising a total area of just over 270 square feet. Immediately to the east of the dwelling is a gravel parking area, accessed by an apron/curb cut off Homestead. The existing building footprint measures approximately 1,400 square feet in area. The Parking Chapter allows for the proposed porch expansion without the need to bring the existing parking area up to current standards (e.g., converting gravel to hard surface), since it expands the structure by less than 25 percent and the improvement in and of itself does not create a new demand for parking. The porch would expand the building footprint by 19.3%.

DESCRIPTION

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

Requirement	Code Section	Standard	Proposal
Minimum Front Yard Setback	1147.03(c)	15 feet	8 feet 8 inches
The subject property is zoned R3MS Single, Two and Three-Family Mile-Square Residential District. In the R3MS district, for front yards there is a minimum setback of 15 feet and a maximum setback of 25 feet. The subject property is a 'triple-frontage' lot in that it fronts public streets on three sides – University Avenue to the west, Homestead Avenue to the north, and Bouden Lane to the east. The existing two-family structure is already positioned approximately 15 feet away from the front lot line along Homestead Avenue. The applicant is asking for a Variance to the 15 foot setback in order to build a front porch facing Homestead measuring 42 feet wide and a little over 6 feet in depth. This would reduce the front yard setback to approximately 9 feet.			

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 set-back variance at 419 University poses no inherent impact on the economy of Oxford. The Economic Development staff have no concerns regarding this project 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

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

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 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
Does not support granting the Variance	There is already beneficial use of the property as a two-family dwelling, and this use may continue even if the Variance were denied. As the applicant notes, the request at hand simply involves a potential improvement to the property.
Criterion B	Whether the variance is substantial
✓ Supports granting the variance	The applicant's request to reduce the front yard setback from 15 feet to 8 feet 8 inches (a difference of 6 feet 4 inches) constitutes a 42.2% reduction from the minimum standard. Given that two other structures in the area (300 Homestead & 430 Bouden Lane) across the street to the north already possess reduced setbacks far less than 9 or so feet, as well as the fact that only a porch addition is proposed (as opposed to expanding the building wall), staff does not believe the request is substantial. Had the request been for a structural expansion of indoor space, staff may have reacted differently to this criterion. The porch is proposed to be open-air (not enclosed), thus lessening any imposing effect on the outdoor street environment, which decreased setbacks can sometimes create.
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 variance	Staff believes the porch addition as proposed will improve the neighborhood setting, while also bringing the property into closer conformance with the Mile Square Design Standards.
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 government services will be adversely impacted. The City Engineer, Fire Chief, and Police Chief all 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	As the applicant admits, a porch addition was not considered at the time the property was purchased.

Criterion F	Whether the property owners' predicament feasibly can be obviated through some method other than a variance
✓ Supports granting the variance	Although staff does not believe the desire for a porch feature constitutes a "predicament" as meant by this criterion, staff does concur with the applicant's view that the only way to improve the property in this manner is via the Variance process. Staff views this as an example of an "incremental" improvement of a dwelling unit that is already part of Oxford's older housing stock in the area. Greater scrutiny would probably be applied if the proposal were more significant in scope.
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	The spirit and intent of setback regulations is to ensure adequate spacing, light and air between individual structures and the public roadway, and to ensure visual harmony and rhythm in the resulting urban fabric. It is apparent that most of the housing stock located in this neighborhood has been built without these sorts of considerations in mind, as much of it predates zoning regulations. In areas such as this one containing multiple instances of non-conforming setbacks, the Zoning Code in essence attempts to gradually effectuate a new neighborhood character as new construction projects occur gradually over time. To this end, the general view from staff is that proposals for brand new construction should more closely adhere to current Code standards, while greater exception be allowed for embellishments to existing structures. In other words, less scrutiny should be applied in these instances than for those involving more substantial redevelopment or reconstruction. With the goals of harmonizing and enhancing the neighborhood aesthetic in mind, staff believes granting the Variance would uphold the spirit and intent of the regulation.
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 substantial evidence** to support the Variance request.

SUBMITTED BY:



Zachary Moore, AICP
Planner

DATE: December 16, 2021

BZA MOTION FOR VARIANCES

With regard to the Request for Variance # **BZA-2021-13**, being a Variance to Section 1143.07(c) minimum front yard 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:_____



BZA-2021-13

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

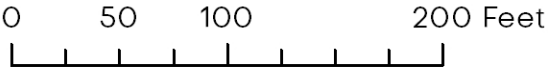
Prepared on Wednesday, December 08, 2021

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.

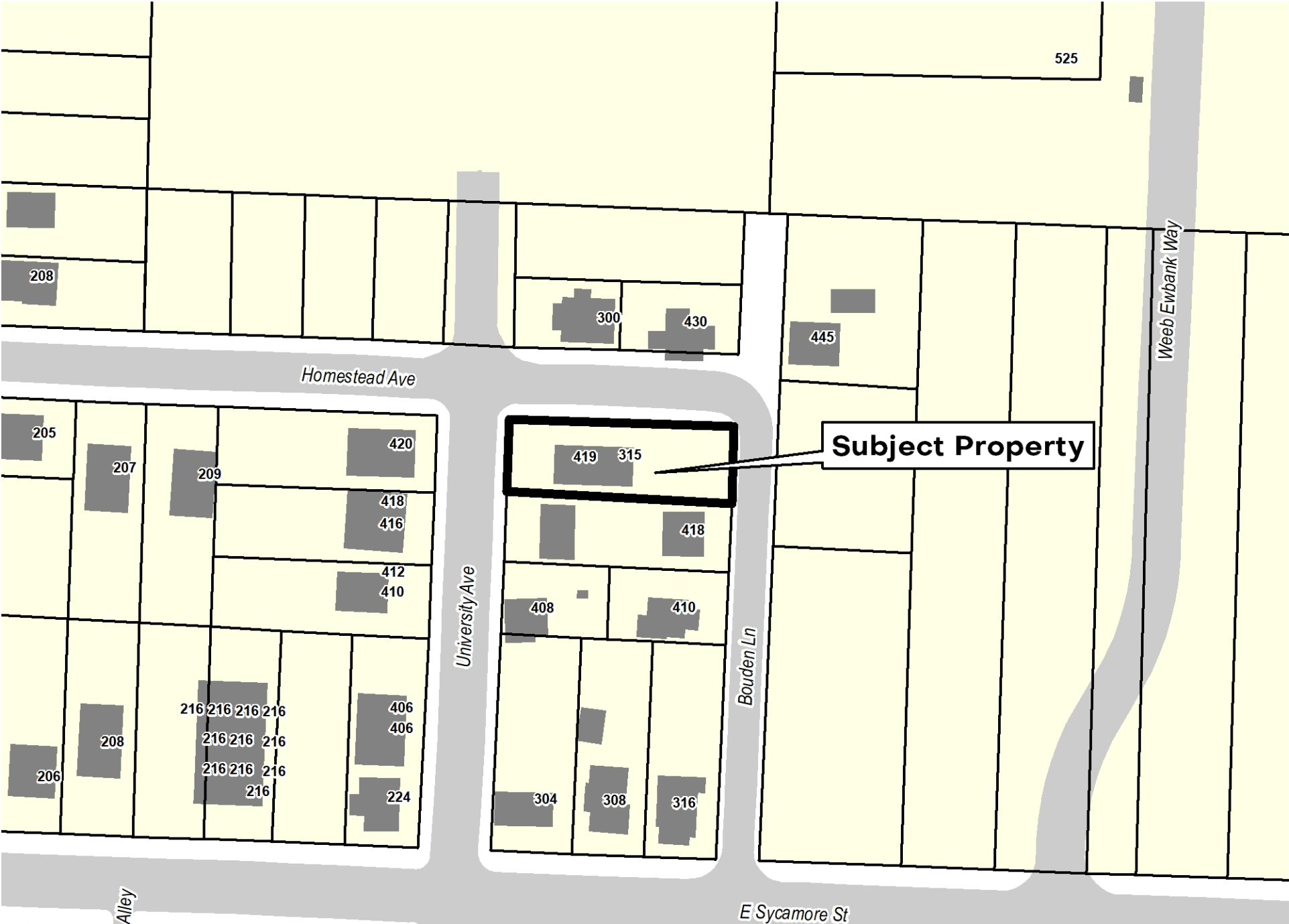
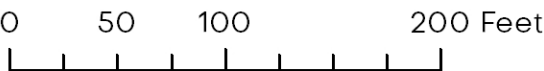


Location Map

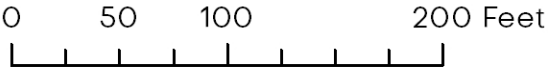
 Site



Location Map



Location Map





Internal Use Only:

Case No.

BZA-2021-13

Date Filed

11/29/21

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

Telephone Number(s) * 5135233838

Email Address scott@scottwebbarchitect.com

Owner Information

Name * D & B Family Ltd.

Mailing Address * PO Box 849

City, State & Zip Code * Oxford

Telephone Number(s) * 513-523-0917

Email Address hometownstudentrenataals@gmail.com

Variance and Lot Information

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

1143.07(c) Front Yard Setback

Location of Requested Variance * 419 University

Name of Building

Legal Description * Parcel # H4000010000054

Zoning District * R3MS Total Acreage * .172

Existing Use of Site * 2-Family Dwelling

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.

Covered Porch Addition in Front Yard Setback Area

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 *

11/29/2021

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 Front Porch Addition at 419 University Ave..

Thank you,

Signed:


D & B Family Ltd.

11-29-21
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: Variance to Front Yard Setback requirements
Proposed Porch Addition
419 University Ave.

August 17, 2020

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to the Front Yard Setback requirement in the R3MS District for a covered porch addition to an existing 2-family dwelling.

The existing 1913 building and previous addition, sits on a corner lot, facing both University and Homestead Avenues with parking provided off of Homestead. The owner would like to provide a covered porch along the Homestead façade covering each of the entry doors used by the residents. No change in occupancy is intended, nor is any additional parking required by this porch addition.

1143.07(c) Requires a min. 15' Front Yard Setback

The proposal at hand is to reduce the front yard setback to 8'-8" in order to provide a covered entry connecting each dwelling unit to the parking area.

Located north of the original Mile Square, the Lot in question is part of the 1909 Homestead Subdivision and is currently considered part of the Mile Square historic district. The proposed porch addition is designed to reflect the Mile Square Design Guidelines, encouraging porches over stoops, and adding depth to an otherwise uninteresting façade.

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 2-family dwelling may continue to yield a reasonable return without the porch addition. The addition is proposed to improve the property.

b) *Whether the variance is substantial;*

The Front Yard setback variance is mathematically substantial, reducing the Front Yard Setback by nearly half. The location of the existing 1913 house and previous addition precludes any porch addition.

- 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 Porch Addition, and would in fact be improved, providing depth and historical details to an otherwise blank and uninteresting facade.

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

The proposed Porch Addition has no effect on public utilities.

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

The property at hand has been under the current ownership for over 20 years. A Porch Addition was not previously considered.

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

The existing 1913 house provides entrances to each dwelling unit along Homestead Avenue, currently accessed by uncovered concrete "stoops", also in the Front Yard Setback Area. No porch addition to this long façade is possible without a variance.

- 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 would be observed, maintaining a significant setback from the sidewalk with improving the existing structure.

The proposal at hand respects the spirit and intent of the Mile Square Guidelines.

- h) *Any other relevant factor;*

This redevelopment project aligns with the goals of the Comprehensive Plan, encouraging reinvestment in the Mile Square and preservation of original historic homes

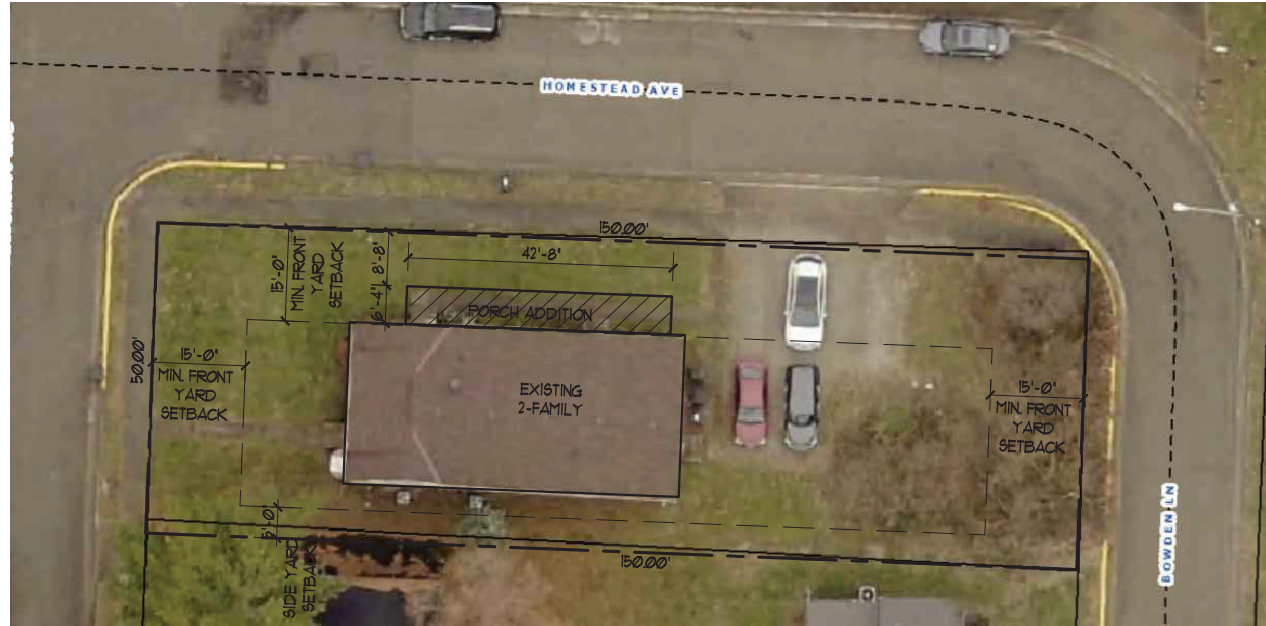
Encouraging density, improvements, and Infill development of underutilized sites in this area north of Sycamore was a goal of Planning Commission based on its adjacency to Miami's campus.

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



SITE DEVELOPMENT REGULATIONS

EXISTING LOT AREA: (6,000 SF MIN. FOR 2-FAMILY) 7,500 SF
OVERALL LOT WIDTH FOR 2-FAMILY: (50' MIN.) 150.00'

MIN. FRONT YARD SETBACK (15'-0') NEW PORCH = 8'-8" → 1143.07(c) FRONT YARD SETBACK

LOT COVERAGE

EXISTING 2-FAMILY DWELLING:	1,408 SF
PORCH ADDITION:	270 SF
EXISTING GRAVEL DRIVE & PARKING:	±900 SF
TOTAL:	2,578 SF
ACTUAL LOT COVERAGE:	2,578 SF / 7,500 SF = 34.4%
ALLOW. LOT COVERAGE:	R3MS = 45%

FRONT YARD LOT COVERAGE

PORCH ADDITION:	270 SF
EXISTING GRAVEL DRIVE & PARKING:	±460 SF
TOTAL:	730 SF
ACTUAL FRONT YARD:	730 SF / 3,300 SF = 22.1%
ALLOW. FRONT YARD (ACCESS FROM STREET):	R3MS = 35%

PARKING

EXISTING GRAVEL PARKING FOR ± 4 CARS

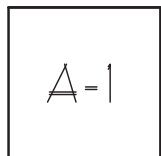
PRELIMINARY SITE PLAN 1" = 20'-0"

ZONING (R3MS ZONING DISTRICT)

EXISTING LOT AREA: (6,000 SF MIN. FOR 2-FAMILY) 7,500 SF
OVERALL LOT WIDTH FOR 2-FAMILY: (50' MIN.) 150.00'



DATE
November 29, 2021
REVISIONS





PROPOSED PORCH ADDITION

NEW PORCH FACING HOMESTEAD



EXISTING FACADE

FACING HOMESTEAD



DATE	
November 29, 2021	
REVISIONS	

