

City of Oxford
Community Development Department
STAFF REPORT
Board of Zoning Appeals

Case # BZA-02-2011

Date –April 20, 2011

APPLICATION

Petitioner: Scott Webb, Architect
Location: 118 E. High Street
Owner: DuBois Rentals, LLC

Action Request: Variance to Sections 1137.10(b) loss of legal nonconforming status and 1151.05(a)(2)B1 internal illuminated sign in the UP District

Current Use: Mixed-Use Building Under Construction
Zoning: “UP” Uptown District
Surrounding Land Uses: Mix of Housing Types, Commercial and Offices

DESCRIPTION

The Appellant is proposing to reinstall a wall sign that was on the former DuBois building prior to the building being razed and reconstructed. The sign was nonconforming and the Appellant is requesting to reuse the sign on the new building.

VARIANCES REQUESTED

Section 1137.10(b): Loss of Legal Nonconforming Status: A legal nonconforming sign loses the legal nonconforming designation if:

- (1) The sign is relocated;
- (2) The sign is replaced;
- (3) The structure or size of the sign is altered in any way except towards compliance with this Chapter. This provision does not refer to general maintenance, changeable marquees, or face and copy changes.
- (4) The sign is part of an establishment that discontinues its operation for a period of 1 year.
- (5) The sign has not been used for a continuous period of six (6) months.

Section 1151.05(a)(2)B: **PERMANENT SIGNS - UP (UPTOWN DISTRICT)**
Illumination:
(1) Signs shall have only indirect illumination.

AGENCY COMMENTS:

Requests for review were made to the Police, Fire, Engineering and Economic Development Departments. The following comments have been received:

Police: Comments received without comment.
Fire: Comments received without comment.
Engineering: Comments received without comment.
Econ. Dev.: No comments received to date.

SITE HISTORY

BZA 13-1992:

Variance to allow a stairway to project onto the public right-of-way 6 ft., more or less, waiving the requirement of Oxford Code Section 1122.01(c)(5). Approved.

- Variance no longer applies. New building meets all current standards.

ANALYSIS

Direct and Indirect Illumination is defined in the Sign Chapter as follows:

- (q) Illumination. Direct: A source of illumination enclosed entirely within a sign and not directly visible from outside of the sign.
- (r) Illumination. Indirect: A source of illumination directed toward a sign so that a beam of light falls on the exterior surface of the sign.

According to the Appellant's letter they intend to reuse the internally lit sign, and also install light fixtures above the sign to directly illuminate the sign. There are approximately 16 signs in the Uptown District that are internally lit and nonconforming.

The HAPC will have to review the proposed lighting fixtures. If the internal illumination is refused, and a 2D sign manufactured, the sign will also have to be reviewed before the HAPC. In recent years, similar signs as proposed in this application have been requested before the HAPC. The applicants were made aware during the HAPC's hearings the Commission opposed 3D, internally illuminated signs and that the code prohibited indirect lighting. In those instances, the applicants have chosen not to pursue a BZA variance request for direct illumination and modified their signage to a 2D sign. For this application the Appellant was advised to pursue BZA first since it also involved the reuse of a nonconforming sign.

According to the Nonconformities Chapter Purpose Statement, the regulations are intended to encourage greater compliance with the Zoning Code in the short-term and elimination of nonconformities in the long-term. The Appellant's letter acknowledges the removal of the nonconforming sign. Since the sign has been discontinued and lost its nonconforming status, it would be reasonable to consider this application as strictly a variance to the direct (internal) illumination of a new sign.

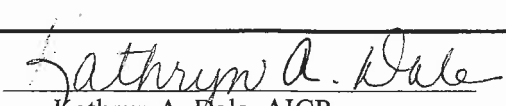
In regards to the Decision Standards, the property in question will yield a reasonable return with or without the variance as a mixed use building. The request is not substantial when taking into consideration the size of the signage and the other, similar signage in this vicinity, nor will it have a detrimental effect on adjoining properties or government services. The character of the Uptown will not be substantially altered in the grand scheme.

However, the code is not prohibiting signage for this location, just how it is illuminated. The intent of the sign Chapter is not met, as nonconforming signs are in the long term supposed to essentially go away. Granting such a request on similar requests could in the long term have a substantial effect on the signage character for the Uptown District. When considering what the actual practical difficulty is for not installing a sign that complies with the illumination regulations there is none. The Appellant has indicated that they already intend to install lighting fixtures, which would meet the direct illumination requirement. The property owner's predicament can feasibly be obviated other than a variance by accepting the regulation requirements and by simply removing the internal illumination apparatus and not installing the electrical connection to the building.

RECOMMENDATION

None.

SUBMITTED BY:


Kathryn A. Dale, AICP
City Planner

DATE: March 29, 2011

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/24/ 2011

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

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-02-2011 118 E. High Street

BZA-02-2011 118 E. High Street, DuBois Bookstore, Variance to Sections 1137.10(b) loss of legal nonconforming status and 1151.05(a)(2)B1 internal illuminated sign in the UP District, Scott Webb, Applicant, Agent

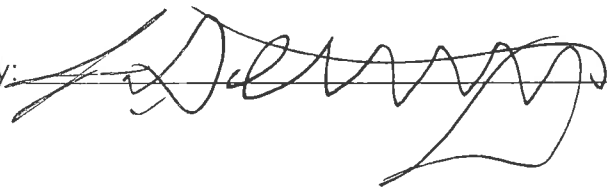
 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **4/8/2011** 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: 3-24-11

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/24/ 2011

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

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____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **4/8/2011** 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: A. Petersen

Date: 3-24-11

RECEIVED

MAR 24 2011

City of Oxford
Engineering Division

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/24/ 2011

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

From: Community Development

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____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **4/8/2011** Note: If no comments are received, we will assume the project meets your department's standards.

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

seems like a great way to re-cycle!

Drawings reviewed by: _____

J. S. S. S. S. S.

Date: _____

3/25/11

BZA-02-2011

N Poplar St

Alley

S Poplar St

Alley

E Park Pl

E High St

E Church St

S Campus Ave

N Campus Ave

Alley

Alley

Legend



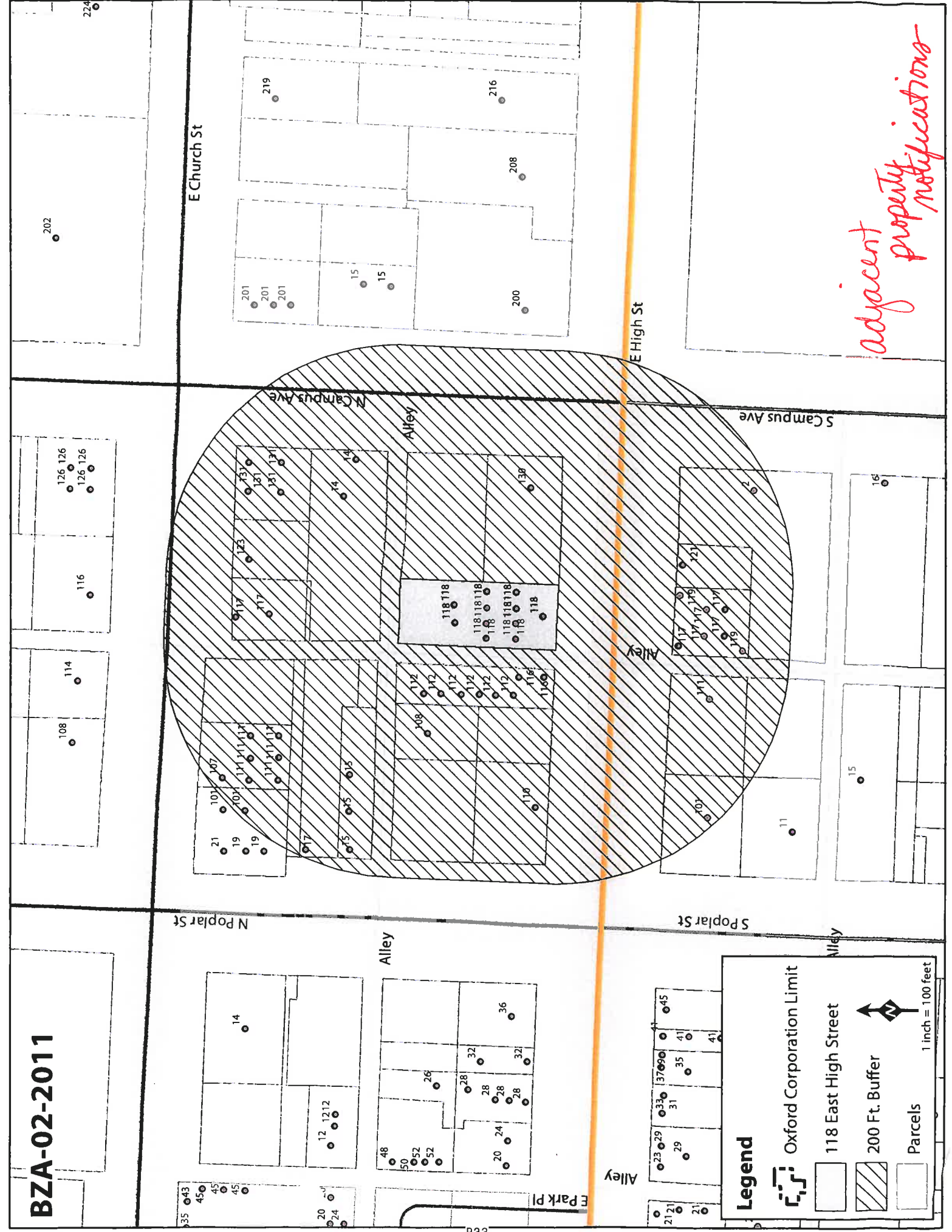
118 East High Street



Parcels



1 inch = 100 feet



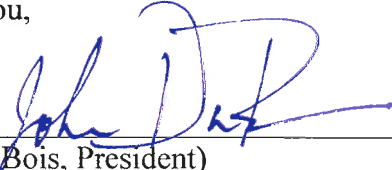
adjacent property notifications

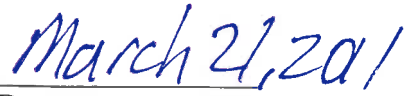
LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Scott Webb, Architect has permission to represent our interest with the City of Oxford and act on our behalf for The Board of Zoning Appeals hearing April 20, 2011 regarding the re-use of our previous sign at our new building located at on the 118 East High Street Oxford, Ohio 45056

Thank-you,

Signed: 
(John DuBois, President)
(DuBois Rentals, LLC)


Date:

Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner: DuBois Rentals LLC / Scott Webb, Architect
(Attach a Letter of Agency if the Applicant is not the property owner.)
Mailing Address: 1434 Riverside Dr. Cincinnati OH. 45202 103 W. Walnut St. Oxford
Telephone Number(s): 523-3838
Email Address: scott@scottwebbarchitect.com
Name of Property Owner: DuBois Rentals LLC
Mailing Address: 1434 RIVERSIDE DR. CINCINNATI OH. 45202
Telephone Number(s): 623-5541
Requested Variance: 1151.05 (2)(2) B1. INTERNAL ILLUMINATION OF
(Indicate nature of variance SIGNAGE IN UPTOWN DISTRICT TO ALLOW REUSE
and applicable section(s) OF EXISTING SIGN.
of the Zoning Code.)
Location of Requested Variance: 118 East High St.
Legal Description:
Zoning District: UP
Total Acreage: 0.107 Acres
Existing Use of Site: New mixed-use building under construction for DuBois Book Store
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.

REQUIRED INFORMATION

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.

(1) SITE PLAN – A scaled site plan shall include the following information in detail and must be prepared by an Ohio licensed surveyor. 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.

- North arrow
- Scale
- Vicinity map
- All existing and proposed lot lines within the site
- Dimensions of all lots and of the entire site and any adjacent rights-of-way
- Location, height, and use of all proposed and existing structures
- Location and design of all proposed vehicle management areas
- Location, size, and type of all proposed signs
- Location, height, and type of all proposed screening and landscaping
- Distances to residential zoning districts if within 1,000 feet
- The use of land and location of structures on adjacent property and across adjacent rights-of-way
- An indication of the regulation from which the variance is requested
- Other information as required by the Board of Zoning Appeals.

(2) **ELEVATIONS** – Elevations of proposed structure, 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.

(3) **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.

(4) On a separate sheet, provide the names and mailing addresses of all property owners within 200 feet of all boundaries of the property in question, provide parcel numbers as well. NOTE: The Butler County website (www.butlercountyohio.org/auditor) is very helpful when searching for the mailing address of adjoining property owners. Once the site is up, click on online searches, then click on real estate. It will allow you to search by owner, address or parcel number.

(5) A separate narrative statement that explains how the proposed variance satisfies each of the following Decision Standards required to grant a variance. A separate response is required for each subsection. In determining whether practical difficulties exist sufficient to warrant a variance, the Board shall consider and weigh the following factors:

- a) Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;
- b) Whether the variance is substantial;
- c) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- d) Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage);
- e) Whether the property owner purchased the property with knowledge of the zoning restriction
- f) Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;
- h) Any other relevant factor.

Submit this application with required attachments and **\$400.00 plus Actual Postage fee**, made payable to the City of Oxford, to the office of the Community Development Director, Municipal Building, 101 East High Street, Oxford, Ohio 45056. Any questions should be directed to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

NOTE: Notification and publication requirements must be adhered to. Submit materials 35 days prior to the proposed Board of Zoning Appeals meeting at which the action is requested. City Staff will erect a public hearing sign on the subject property. It is the Applicant's responsibility to remove the signage once the hearing(s) are completed.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

SIGNATURE OF APPLICANT: _____

Date: _____

PRINTED NAME OF APPLICANT: _____

FEE / RECEIPT

\$400 plus Actual Postage Fee Paid / Receipt Number: 16 396.23

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



SCOTT
WEBB

Re: Re-Use of Previous Sign
DuBois Book Store
118 East High Street

ARCHITECT

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

March 21, 2011

www.scottwebbarchitect.com

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to section 1152.05 (a)(2) prohibiting internally lit signage in the Uptown District. The owners would like to re-use the sign from the previous building in this location.

As the attached renderings and photographs show, the existing sign is comprised of internally lit channel letters with white faces. In every other respect, the signs are well within the regulations, including size and number.

It is the owners intention to use indirect lighting on the signs & building face as well, in accordance with the HAPC guidelines. Signs in this district are allowed to be 36" high, and extend the length of the façade. The existing sign is comprised of 24" high letters.

In response to the decision standards outlined in the application, we offer the following:

- a) *Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;*

While the Proposed Variance does directly affect the return on the property, not allowing a business to re-use his existing sign does impose an additional cost to the project.

- b) *Whether the variance is substantial;*

The Variance is not substantial, given that the sign was previously allowed, and is within all current size restrictions.

- 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 affected, as this sign is similar to many existing signs in the district.

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

The variance for the type of sign used has no affect on the delivery of governmental services.

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

The property has been in the hands of the current owner for years. The owner has decided to make a substantial investment in the construction of an entirely new building without having to replace previously approved signage as well.

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

The owner's only option in this case is to discard a previously approved sign and purchase an entirely new one.

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

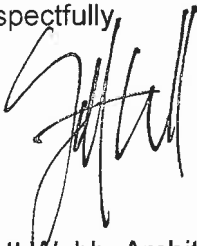
Granting the Variance would allow the owner continued use of a working, previously approved sign that is similar to many other signs in the same zoning district.

- h) *Any other relevant factor;*

While the rules governing signs in the Uptown District have changed repeatedly over the years, every variety of sign remains. Prior to making this application, the Owners walked the Uptown District at night, documenting the existing variety of signs remaining in the district including other identical sign types, full face, internally lit box signs, and even pole signs. The owners have made significant investment in their new building and the streetscape, and would like relief from the requirement that would force them to purchase a new sign, less visible than their existing one.

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

Respectfully,

A handwritten signature in black ink, appearing to read 'Scott Webb', written over a horizontal line.

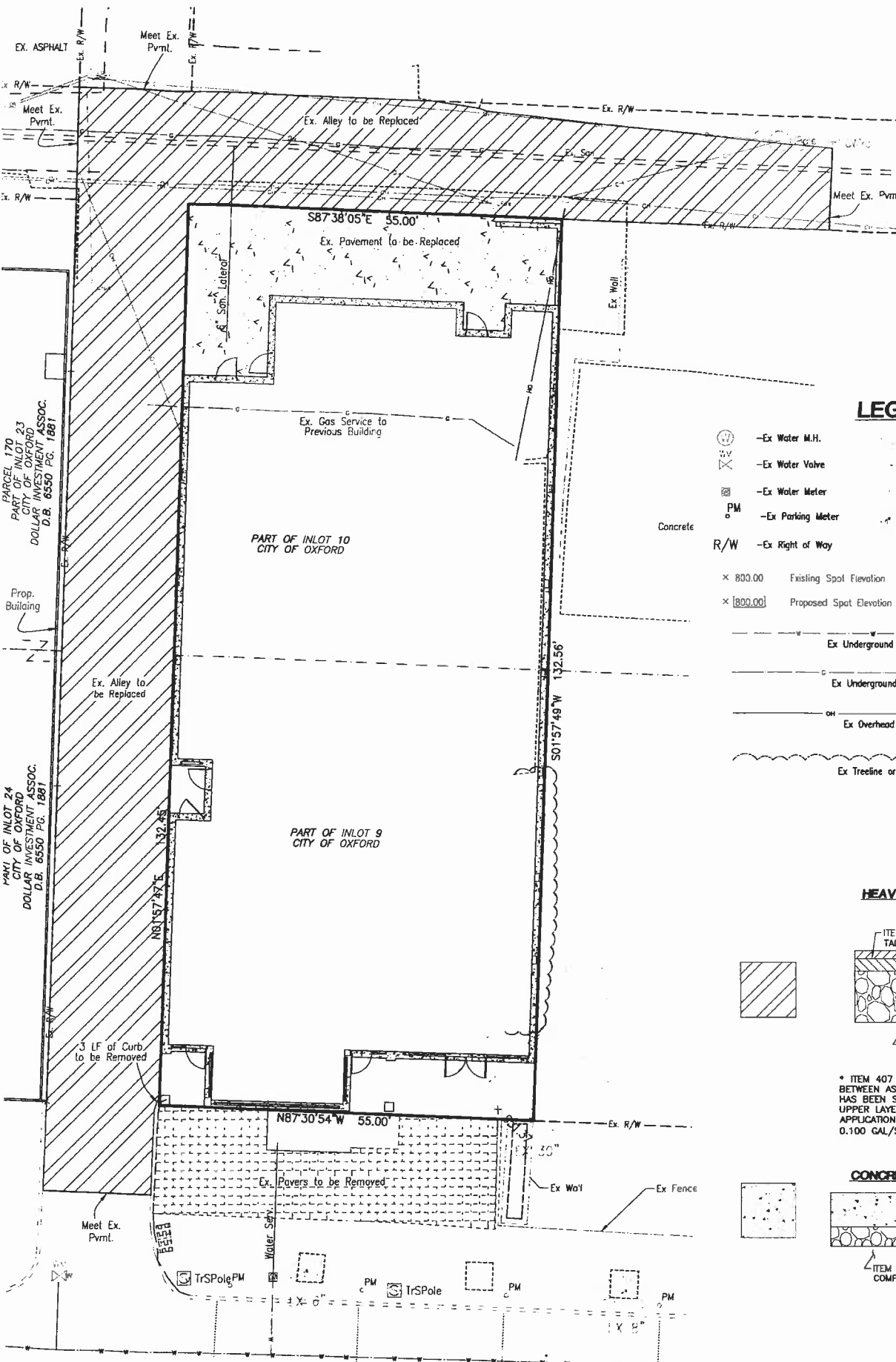
Scott Webb, Architect



PREVIOUS BUILDING SHOWING SIGN TO BE RE-USED



FRONT OF BUILDING SHOWING RE-USED SIGN & LIGHTING

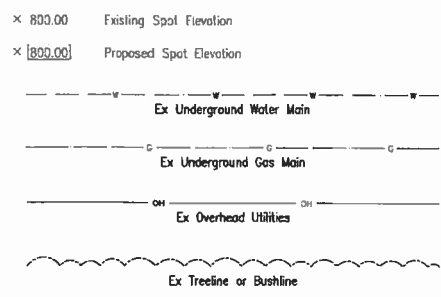


BENCHMARK

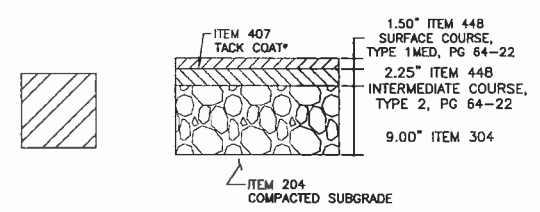
3" BRASS DISK IN SIDEWALK, LOCATED ON THE NE CORNER OF N. PARK STREET AND E. HIGH STREET. ELEV.=956.70

LEGEND

- Ex Water M.H.
- Ex Water Valve
- Ex Water Meter
- Ex Parking Meter
- Ex Right of Way
- Ex Utility Pole
- Ex Guy Wire
- Ex Guy Pole
- Ex Deciduous Tree

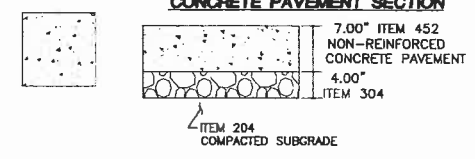


HEAVY PAVEMENT SECTION



* ITEM 407 TACK COAT TO BE PLACED BETWEEN ASPHALT LAYERS WHEN PAVEMENT HAS BEEN SUBJECTED TO TRAFFIC BEFORE UPPER LAYERS OF ASPHALT ARE PLACED. APPLICATION RATE TO BE A MINIMUM OF 0.100 GAL/SQ YD.

CONCRETE PAVEMENT SECTION



High Street

LAYOUT & UTILITY PLAN

GENERAL NOTES

- REFER TO THE ARCHITECTURAL PLANS FOR EXACT BUILDING DIMENSIONS.
- GRADES SHOWN REPRESENT FINAL PAVEMENT GRADES, UNLESS OTHERWISE NOTED.

2 WORKING DAYS BEFORE YOU DIG

CALL TOLL FREE 800-362-2764

ONE UNPAID PROTECTION SERVICE

UTILITIES SHOWN PER AVAILABLE EXISTING FIELD MARKINGS AND PLANS.

City of Oxford
Community Development Department
STAFF REPORT
Board of Zoning Appeals

Case # BZA-01-2011

Date –April 20, 2011

APPLICATION

Petitioner:	Cindi Zigovits, Property Manager Scott Campbell, Maintenance Supervisor
Location:	Former Candlewood Apartment Complex 615 Ogden Court
Owner:	Phillips Acquisitions, LLC
Action Request:	Variance to Sections 1137.10(b) loss of legal nonconforming status; 1151.05(d)(1) permanent signs, exceeding allowable amount; 1151.03(e)(1) signage setback distance.
Current Use:	Multi-Family
Zoning:	“R3” Multi-Family Residential District
Surrounding Land Uses:	Mix of housing types, Commercial and Offices

DESCRIPTION

The Appellant is proposing to install three ground signs on the property which will all stand 4' x 5.8' but have 15 sq.ft sign faces between the posts. The signs under consideration are identified as sign #3, #4 & #5. Sign #1 & #2 were permitted administratively. Sign #1 was a panel change to an existing brick wall-type ground sign at the southwest corner of Ogden Court and Wells Mill Drive. Sign #2 was a building identification sign affixed to the office building listing the office hours.

Sign #3 is proposed for the southwest corner of S. Locust Street and Wells Mill.

Sign #4 is proposed for the southeast corner of McGuffey Avenue and Wells Mill.

Sign #5 is proposed to be located along McGuffey in front of the units with an address of 625 McGuffey, just east of the Brill Drive and McGuffey Avenue intersection.

The request for signage setbacks is unclear if it's truly being requested. The site plan submitted at the time of the refusal indicated that the setbacks would not be satisfied. However there was no reference to it in the appellant's letter, or on the application and a small notation was added to the site plan indicating that the setbacks would be satisfied, although not illustrated. The setback request has been included in the notifications, but should be clarified by the appellant if it's being requested.

VARIANCES REQUESTED

Section 1137.10(b):	Loss of Legal Nonconforming Status: A legal nonconforming sign loses the legal nonconforming designation if: (1) The sign is relocated; (2) The sign is replaced; (3) The structure or size of the sign is altered in any way except towards compliance with this Chapter. This provision does not refer to general maintenance, changeable marquees, or face and copy changes. (4) The sign is part of an establishment that discontinues its operation for a period of 1 year. (5) The sign has not been used for a continuous period of six (6) months.
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- It is undocumented when the signs were actually installed, likely around the time of the development (1967-1974). All proposed signs are located where original signs were located.
- The metal poles currently on the property are not the originals and did not contain sign panels for over a six month period.
- All existing wood posts and metal poles would be replaced to construct the proposed signage.

Section 1151.03(e)(1):

No freestanding sign shall be closer to a lot line or the public right-of-way than the height of the sign, except as specifically exempted in this Chapter.

- Sign #3 and Sign #5 are proposed to be located 5½ feet and 4½ feet respectively from the property line. Six (6) feet is required.

Section 1151.05(d)(1):

These regulations describe the signs permitted for the purposes of identification of residential land uses in any location. Such signs include addresses, large multi-family identification, and subdivision identification and are permitted in accordance with the following:

- (1) No more than 1 freestanding sign is permitted per development site as follows for identification of residential structures with more than three dwelling units in the R3 zoning district:
 - A. A maximum of 2 sign faces
 - B. No more than 24 square feet in area per sign
 - C. No combination of a freestanding sign structure and sign shall be higher than 6 feet or wider than 12 feet.
 - D. Indirect illumination only.
- There is an existing freestanding, ground mounted brick wall entry sign on the west corner of Ogden Court and Wells Mill. The proposed three signs are in addition to the one (1) permitted sign.

AGENCY COMMENTS:

Requests for review were made to the Police, Fire, Engineering and Economic Development Departments. The following comments have been received:

Police:	Comments received without comment.
Fire:	Comments received without comment.
Engineering:	Comments received without comment.
Econ. Dev.:	No comments received to date.

SITE HISTORY

No known prior BZA history.

ANALYSIS

The property consists of nearly 28 buildings, 304 units, 23 parcels and 14.8 acres. The code clearly refers to signage being permitted for the development site, not individual parcels. According to the Appellants letter they wish to provide additional signage for better identification of the property. The Appellant's letter also acknowledges the discontinuance of the signs by the previous property owners. Since the existing poles have been discontinued without a physical sign panel and are proposing to be completely replaced, it would be reasonable to consider this application as strictly a variance to the number of signs permitted. According to the Nonconformities Chapter purpose statement the regulations are intended to encourage greater compliance with the Zoning Code in the short-term and elimination of nonconformities in the long-term.

The purpose statement of the Sign Chapter states the regulations are intended to provide property owners the opportunity for effective identification while maintaining and enhancing the quality of the City's appearance by limiting the number, height and size to protect districts from the adverse impacts of excessive signs and sign clutter.

To the north and east of the development site is the General Business District. The proposed signs are equivalent and smaller than most of the signs seen in the vicinity. The residential complex to the west has signage at the main entrance of the development site. The appellant could relocate the permitted sign at Wells Mill and Ogden to a more visible area of the property. The property owner is also entitled to a name plate sign on each of the buildings, but due to the size of the complex, there is the issue of sign clutter as described in the purpose statement of the Chapter.

In regards to the Decision Standards, the property in question will continue to yield a reasonable return and can be used beneficially without the variance because the property will continue to be used as a multi-family residential apartment complex.

The application *as presented* should be denied. When considering what the actual practical difficulty is, it is very specific and limited; which is, visibility to the major thoroughfares the site abuts. One sign has already been approved for the site and the property owner's predicament can feasibly be obviated other than a variance by accepting the regulation requirements, or as aforementioned, relocating the permitted sign. There is no practical difficulty regarding the setback of the signs since no pre-existing materials are being utilized. The request is substantial as it relates to the underlying zoning requirements for signage in a Residential District and the effects such decision could have on similar requests.

On the other-hand, the request is not substantial when taking into consideration the size of the signage and the other, similar signage in this vicinity as well as the amount of signage that could be placed on the individual structures of this development. The essential character of the neighborhood would not be substantially altered by the variance and the adjoining properties would not suffer a substantial detriment as a result of the variance. The various City Departments also do not indicate there would be a detrimental effect on government services.

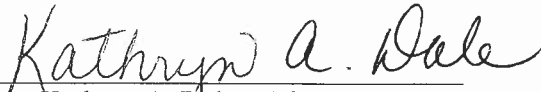
A middle-ground solution may be to:

- 1.) Grant one additional sign to be located along either S. Locust or McGuffey, appellant's choice.
- 2.) Grant two signs, to be centrally located on the site, one facing S. Locust, the other facing McGuffey and remove the existing ground sign at Ogden and Wells Mill.

RECOMMENDATION

No specific recommendation regarding the number of signs. Denial regarding the continuance of nonconforming signs and the setback request for the signs.

SUBMITTED BY:


Kathryn A. Dale, AICP
City Planner

DATE: March 29, 2011

Regulations that would have been in place around the time of the original signs:

1963 Zoning Code did not have language for residential signage. It can be assumed that such signage was not permitted.

1977 Zoning Code

(h) Subdivision, Apartment Complex, and Industrial Planned Unit Development Sign

One sign which identifies a subdivision, apartment complex of three or more housing units or an industrial planned unit development may be displayed on each side of said area whenever such side faces upon a bordering street. Said sign may be indirectly illuminated but may contain only the name and street address of the complex development or PUC and directional information indicating parking facilities. The sign shall not exceed the size limitations and restrictions as set forth in the following:

1. A sign mounted on a single pole or wall may be up to 30 inches high and 30 inches wide at a sign elevation of not more than 69".
2. A sign mounted on a double post may be up to 72" wide and 48" high provided that the bottom edge of the sign must be horizontal at a sign elevation not to exceed 65".
3. Raised letters may be placed on a screening wall or the side of a building utilizing an area no larger than 20' wide and 18" high.
4. No sign shall be painted directly upon a residential structure.



NOTICE OF REFUSAL

March 16, 2011

BZA Case No.: _____

Application No.: 11-030 (#3)
11-031 (#4)
11-032 (#5)
615 Ogden Court

To Applicant: Oxford West Apartments, LLC
615 Ogden Court
Oxford, Ohio 45056

Your application dated **March 16, 2011** for a zoning certificate for **THREE (3) GROUND MOUNTED SIGNS** located at various places on the Property currently known as Oxford West Apartments (formerly Candlewood Apartments) **615 OGDEN COURT, OXFORD, OHIO 45056** is hereby refused** on this **16th DAY OF MARCH, 2011** under **Chapter 1131, Chapter 1133, Section 1137.10(b), Section 1151.03(e)(1), Section 1151.05(d)(1) and Section 1129.01** of the Oxford Planning & Zoning Code in that,

Chapter 1131 & 1133 of the Oxford Planning & Zoning Code designates the location of this property as "R3" Multi-Family Residential District.

Section 1137.10(b):

Loss of Legal Nonconforming Status: A legal nonconforming sign loses the legal nonconforming designation if:

- (1) The sign is relocated;
- (2) The sign is replaced;
- (3) The structure or size of the sign is altered in any way except towards compliance with this Chapter. This provision does not refer to general maintenance, changeable marquees, or face and copy changes.
- (4) The sign is part of an establishment that discontinues its operation for a period of 1 year.
- (5) The sign has not been used for a continuous period of six (6) months.
 - It is undocumented when the signs were actually installed, likely around the time of the development (1967-1974). All proposed signs are located where original signs were located.
 - The metal poles currently on the property are not the originals and did not contain sign panels for over a six month period.
 - All existing wood posts and metal poles would be replaced to construct the proposed signage.

101 East High Street • Oxford, Ohio 45056-1887
Phone: (513) 524-5200 • Fax: (513) 523-7298 • www.cityofoxford.org

Section 1151.03(e)(1):

No freestanding sign shall be closer to a lot line or the public right-of-way than the height of the sign, excepts as specifically exempted in this Chapter.

- Sign #3 (Permit #11-030 ; Corner of S. Locust & Wells Mill) and Sign #5 (Permit #11-032; in front of 625 McGuffey Drive) are proposed to be located 5½ feet and 4½ feet respectively from the property line. Six (6) feet is required.

Section 1151.05(d)(1):

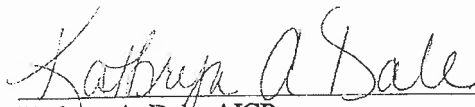
These regulations describe the signs permitted for the purposes of identification of residential land uses in any location. Such signs include addresses, large multi-family identification, and subdivision identification and are permitted in accordance with the following:

- (1) No more than 1 freestanding sign is permitted per development site as follows for identification of residential structures with more than three dwelling units in the R3 zoning district:
 - A. A maximum of 2 sign faces
 - B. No more than 24 square feet in area per sign
 - C. No combination of a freestanding sign structure and sign shall be higher than 6 feet or wider than 12 feet.
 - D. Indirect illumination only.
- There is an existing freestanding, ground mounted brick wall entry sign on the west corner of Ogden Court and Wells Mill. These three signs would be in addition to the one (1) permitted sign.

Section 1129.01:

No building or other structure shall be erected, moved, added to, or structurally altered, nor shall any building, structure, or land use be established or changed in use without a permit therefore issued by the Zoning Administrator.

An appeal from this decision to the City of Oxford Board of Zoning Appeals is governed under Section 1129.03 d., Section 1129.09, Section 1129.10 and Chapter 1139 of the City of Oxford Zoning Ordinance.


Kathryn A. Daje, AICP
City Planner

Note: The applicant has 30 days to submit revisions or to appeal this decision to the Board of Zoning Appeals. A new application will be required, including payment of a new fee, if the applicant fails to submit adequate revisions within this time period. Revisions that address these deficiencies may result in further comments relative to these or other Zoning Code provisions. This review is only for compliance with the zoning regulations. The service and building departments may also have comments that will need to be addressed before any permits can be issued.

****The Applications for the purpose of building permit filing are created as three separate application permit numbers. For the purpose of this letter and any potential BZA appeal, the application will be processed under one (1) application. All three signs are being refused for the same code sections, unless otherwise noted**

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/24/ 2011

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

From: Community Development

Drawings are being submitted to you for the following:

Case #: BZA-01-2011 615 Ogden Court

BZA-01-2011 615 Ogden Court, formerly Candlewood Apartments; Variance to Sections 1137.10(b) loss of legal nonconforming status; 1151.05(d)(1) permanent signs, exceeding allowable amount; 1151.03(e)(1) signage right-of-way distance, **Cindi Zigovits, Property Manager, Oxford West Apartments, Petitioner**

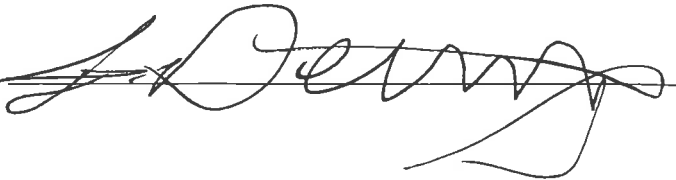
____X____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **4/8/2011** 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:

3-24-11

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/24/ 2011

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

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Drawings are returned: w/comments without/comments

Drawings reviewed by: _____



Date: 3-24-11

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Comments or status update requested by: Lynn Taylor

Please return no later than: **4/8/2011** Note: If no comments are received, we will assume the project meets your department's standards.

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

very fast turn!

Drawings reviewed by: _____

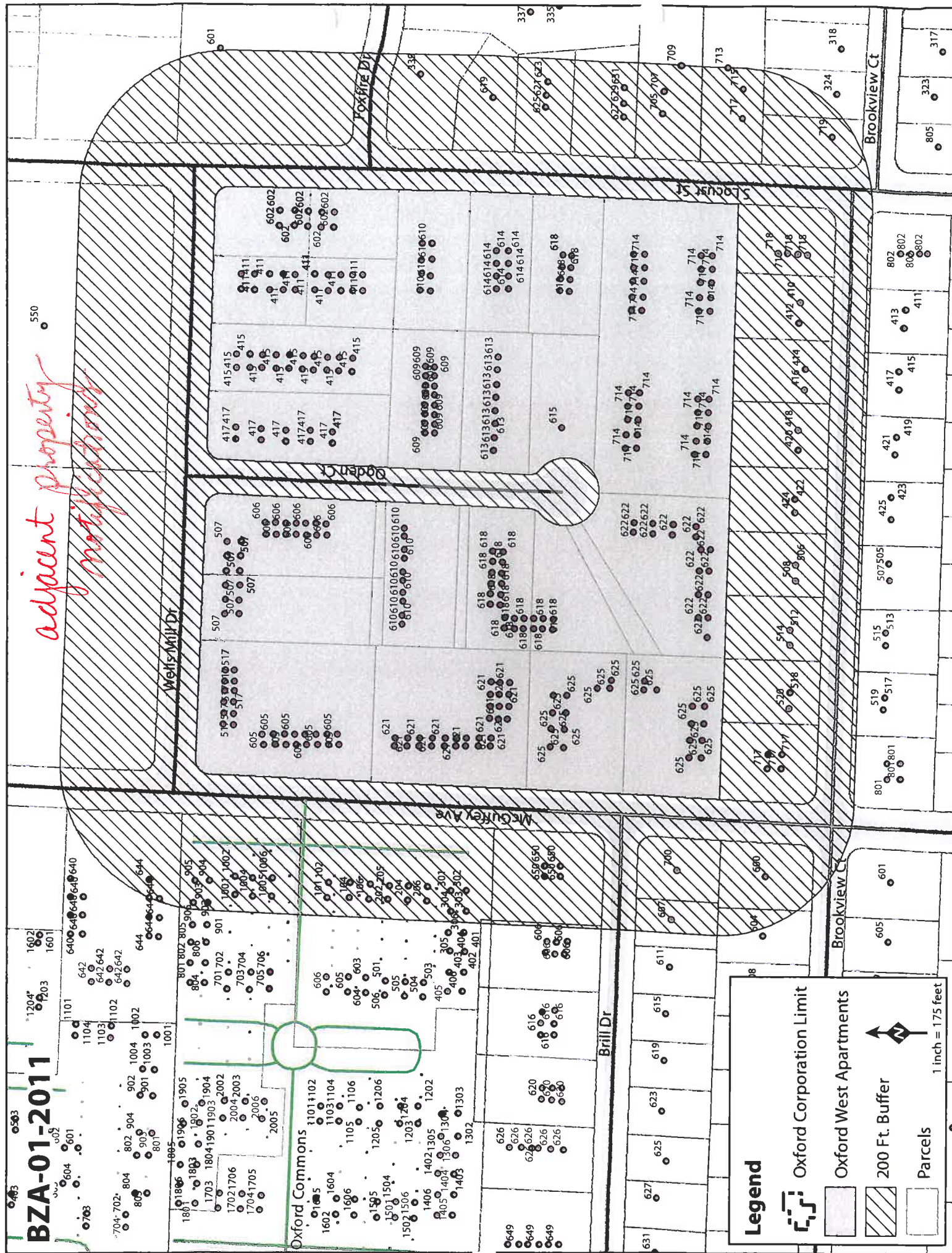
J. Scimen

Date: _____

3/25/11

550

adjacent property
of notification



Petition for Zoning Variance
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Petitioner:	Cindi Zigovits, Property Manager (Attach a Letter of Agency if the Applicant is not the property owner.)
Mailing Address:	615 Ogden Court Oxford OH 45056
Telephone Number(s):	(513) 523-6004
Email Address	pm@oxfordwestapartments.com
Name of Property Owner:	Oxford Apartments, LLC - DBA Oxford West Apartments
Mailing Address:	615 Ogden Court Oxford OH 45056
Telephone Number(s):	(513) 523-6004
Requested Variance: (Indicate nature of variance and applicable section(s) of the Zoning Code.)	Requesting permits for three additional signs, that at one time, were permitted by the City of Oxford. Previous owner neglected to maintain signs after they were damaged. This lapse in time has caused the current signs in place to be in violation of Zoning Code 1151, more specifically, 1151.05(d)(1) "... no more than 1 freestanding sign is permitted per development site...".
Location of Requested Variance:	Perimeter of Oxford West Apartments. See attached site plan
Legal Description:	See attached.
Zoning District:	R-3 Multi-Family Residential
Total Acreage:	14.85 Acres
Existing Use of Site:	Multi-Family Residential
Proposed Use: (if applicable) <i>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.</i>	

REQUIRED INFORMATION

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.

(1) **SITE PLAN** – A scaled site plan shall include the following information in detail and must be prepared by an Ohio licensed surveyor. 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.

- (2) **ELEVATIONS** – Elevations of proposed structure, 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.
- (3) **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.
- (4) On a separate sheet, provide the names and mailing addresses of all property owners within 200 feet of all boundaries of the property in question, provide parcel numbers as well. NOTE: The Butler County website (www.butlercountyohio.org/auditor) is very helpful when searching for the mailing address of adjoining property owners. Once the site is up, click on online searches, then click on real estate. It will allow you to search by owner, address or parcel number.
- (5) A separate narrative statement that explains how the proposed variance satisfies each of the following Decision Standards required to grant a variance. A separate response is required for each subsection. In determining whether practical difficulties exist sufficient to warrant a variance, the Board shall consider and weigh the following factors:
- Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;
 - Whether the variance is substantial;
 - 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;
 - Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage);
 - Whether the property owner purchased the property with knowledge of the zoning restriction
 - Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
 - Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;
 - Any other relevant factor.

Submit this application with required attachments and **\$400.00 plus Actual Postage fee**, made payable to the City of Oxford, to the office of the Community Development Director, Municipal Building, 101 East High Street, Oxford, Ohio 45056. Any questions should be directed to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

NOTE: Notification and publication requirements must be adhered to. Submit materials 35 days prior to the proposed Board of Zoning Appeals meeting at which the action is requested. City Staff will erect a public hearing sign on the subject property. It is the Applicant's responsibility to remove the signage once the hearing(s) are completed.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

SIGNATURE OF APPLICANT: _____

Cindi Zigovits

Date: 03/21/2011

PRINTED NAME OF APPLICANT: Cindi Zigovits

FEE / RECEIPT

\$400 plus Actual Postage Fee Paid / Receipt Number: 002115



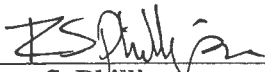
PHILLIPS
Acquisitions

To Whom It May Concern:

Please be advised that Cindi Zigovits, Property Manager & Scott Campbell, Maintenance Supervisor of Phillips Property Management, LLC, managing Oxford West Apartments (Formerly Candlewood Terrace) both have permission to represent our interests with the City of Oxford and act on our behalf before the Board of Zoning Appeals regarding the freestanding signage at our property located at 615 Ogden Court, Oxford, OH 45056.

Sincerely,

Oxford Apartments, LLC by its agent Phillips Acquisitions, LLC



Robert S. Phillips
President, Phillips Acquisitions, LLC

3/21/2011

Date



Section 5 - Required Information - Narrative

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

A majority of the apartment communities, throughout Oxford, Ohio, have one access road, alleviating the necessity of having more than one identifying sign. Oxford West, however, has multiple entry points. In addition, its direct location, which borders S. Locust Street and McGuffey Avenue, two heavily trafficked roads, serves as a pivotal point for unique identifiers. The property would thus suffer a reasonable return, as signage is extremely important to identify a business and attract customers, or in this situation, potential residents.

B) Whether the variance is substantial;

The proposed variance is substantial, in a positive way. The proposed signs, at one time, were permitted by the city, however, after a period of time of being down, and a lack of attention by the previous owner, they were no longer authorized. New signage would not only attract more residents and increase the property's current standing in the community, but it would help to restore the property to its original condition, in a fully permitted and appealing way. The proposed signage is conservative, that would stand to not "jump-out" to the community, but accent the property very elegantly.

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 current neighborhood is comprised of a significant amount of retail on the S. Locust/Wells Mill side, and a residential neighborhood on the McGuffey side. The current signs that are erected, are not only an "eye-soar", but in direct violation of the city's zoning ordinances. By working together with city to erect proper signage, that is not only up to code, but attractive, would enhance the neighborhood in an extremely positive way. Oxford West is one of the largest apartment complexes in Oxford, taking up a 15 acre city block, next to one of the largest shopping centers in town. It is essential that this property look attractive, as it is a direct reflection of the community. Oxford West is infusing over \$400,000 in to the property, at the start, to significantly impact the exterior of the property and the surrounding community in a positive way. In addition to the signage, all parking lots will be resurfaced, the entire property will be re-landscaped, and all of the buildings will be properly maintained, inside and out. This complex is one of Oxford's oldest, but this fact does not warrant its current condition, nor should it be accepted, especially in a town with such a prestigious university.

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

The variance would not adversely affect the delivery of governmental services, it would only serve to improve them. The entire complex would be identified appropriately, and facilitate a much more efficient and effective delivery and pick-up for all types of services, especially police, fire, and rescue.

E) Whether the property owner purchased the property with knowledge of the zoning restriction

The current owners were not aware of this violation with the city, and in fact, were deceived as these unauthorized signs were erected by the previous owner once the property was being marketed for sale. As soon as this issue came to the owner's attention, immediate action was taken to remedy the situation.

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

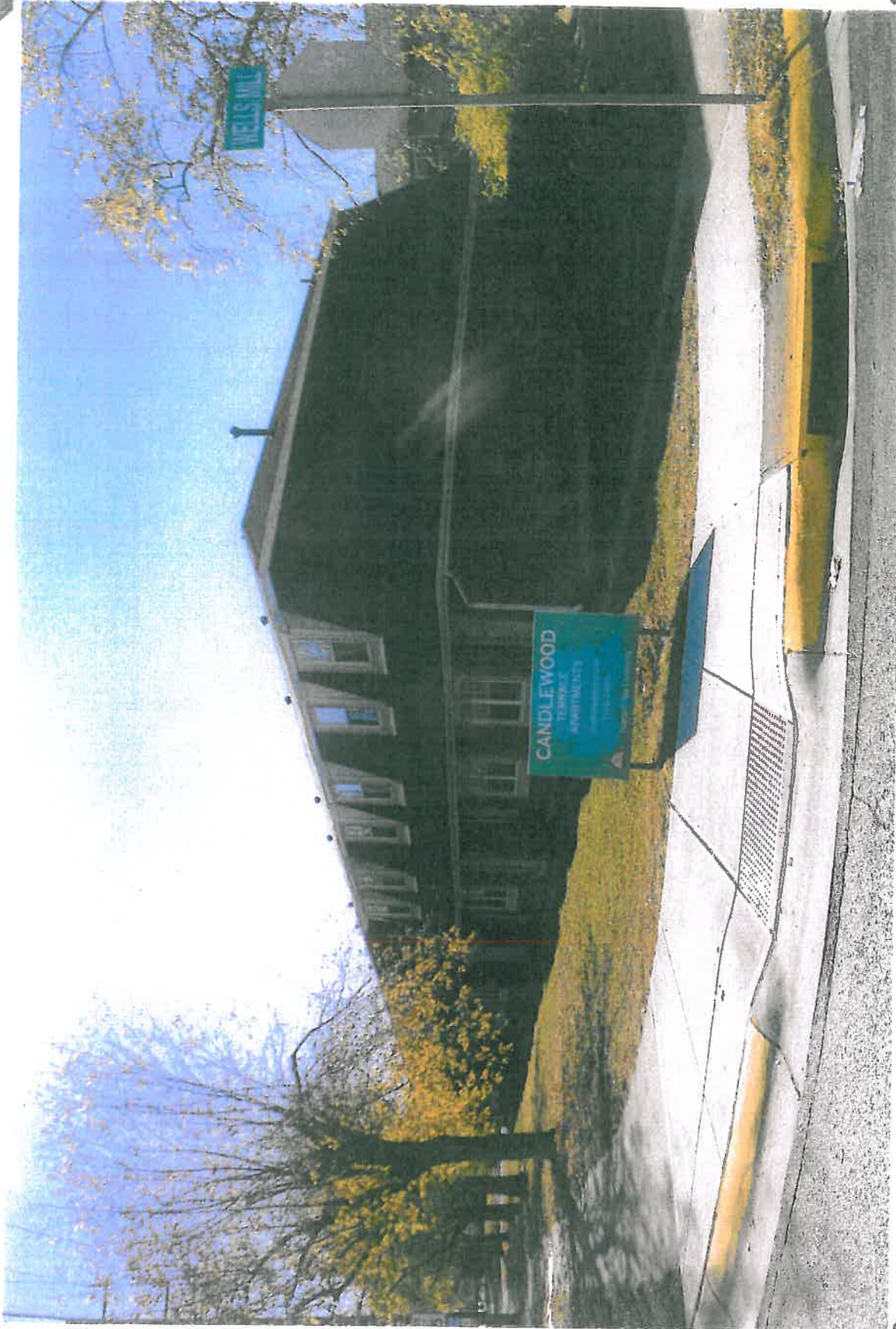
Signage is extremely important for potential residents to find the community. At this point in time, no feasible solution has been found. Temporary event signs would only serve to ineffectively communicate this property's, soon to be, prominence in the community.

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

With exception of the use of multiple signs, all zoning requirements have been observed. Oxford West is not proposing to put a sign on every parcel, building, or at every address, but merely identify the property in key locations. The approval of these signs would be substantial and justified, as it would serve to be a kick-off to the property's future success and improvement to its reputation in the community.

H) Any other relevant factor.

First impressions are everything, when a person's experience is difficult or inconvenient with a business or a person, it can dramatically hurt all future relations. It is essential that Oxford West's reputation in the community is a positive one, from the start.



Current

Corner of Locust and Wells Mill
Existing pole sign



Proposed

Corner of Locust and Wells Mill
Sign change



Current

Corner of McGuffey and Wells Mill

Existing pole sign



Proposed

Corner of McGuffey and Wells Mill
Sign change



Current

McGuffey entrance (across from Brill Dr.)
Existing pole structure

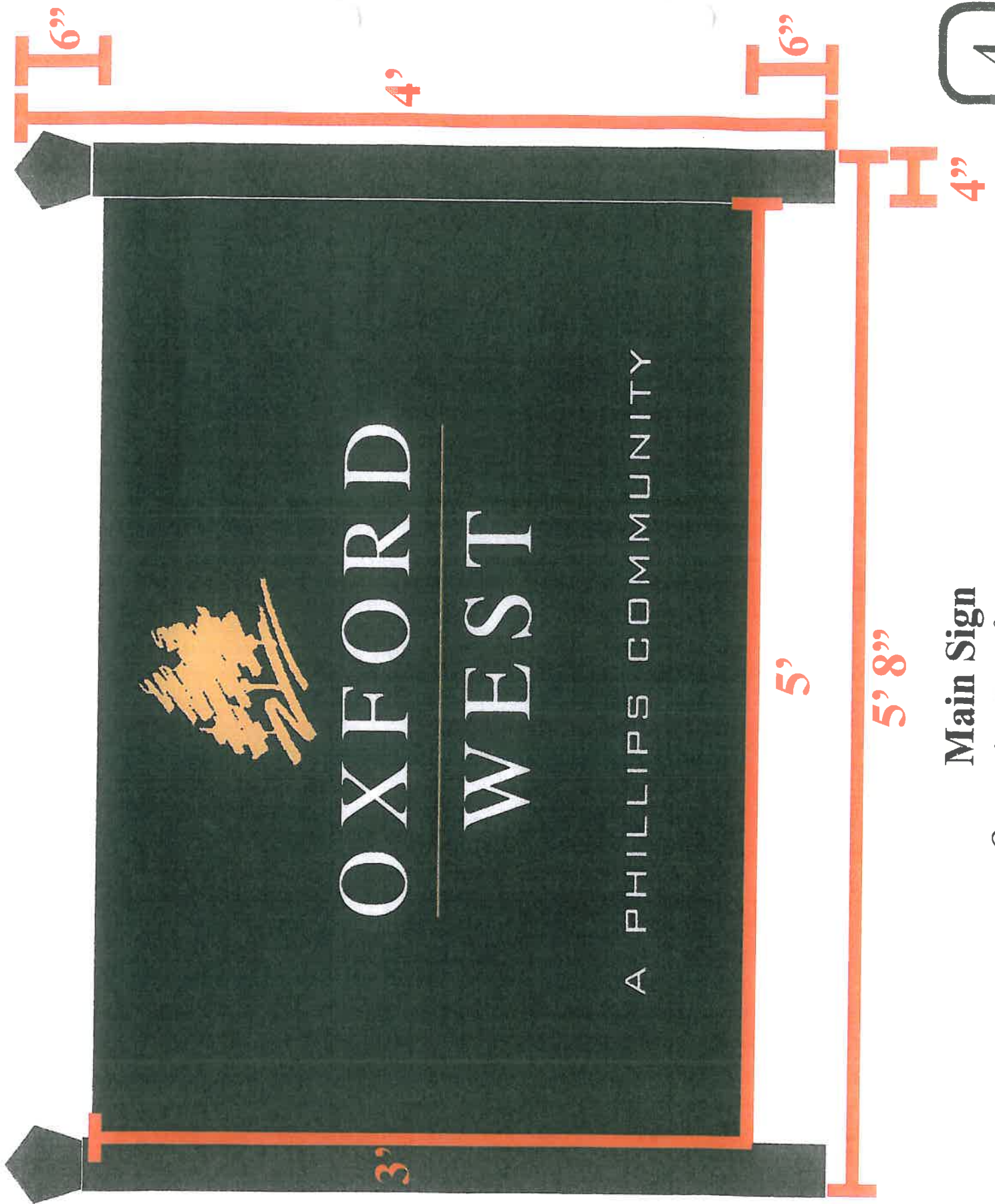


Proposed

McGuffey entrance, across from Brill Drive

Sign Change

(only poles exist currently)



Main Sign

On perimeter of property





PHILLIPS

Acquisitions

Legal Description

PARCEL I: SITUATE IN THE VILLAGE OF OXFORD, BUTLER COUNTY, OHIO, AND BEING PART OF LOT NUMBER EIGHT HUNDRED NINETY FIVE (895) IN SAID VILLAGE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EAST LINE OF SAID LOT LOCATED 310 FEET NORTH OF THE NORTHEAST CORNER OF LOT #1655; THENCE FROM SAID POINT OF BEGINNING SOUTH 88°24' WEST 438.22 FEET; THENCE NORTH 0°53' WEST 200.00 FEET; THENCE NORTH 88°24' EAST 438.22 FEET TO A POINT IN THE EAST LINE OF SAID LOT #895; THENCE SOUTH 0°53' EAST ALONG THE LOT LINE 200 FEET TO THE POINT OF BEGINNING CONTAINING 2.012 ACRES MORE OR LESS.

PARCEL II: SITUATED IN THE CITY OF OXFORD, IN THE COUNTY OF BUTLER AND STATE OF OHIO AND BEING MORE PARTICULARLY KNOWN AND DESCRIBED AS LOTS NUMBERED 1828, 1829, 1830, 1831, 1832, 1882, 1883, 1864, 1885, 1666, 1667, 1888, 1889, 1890, 1891, 1892, 2077, 2078, 2079, 2080 OF THE CONSECUTIVE NUMBERS OF THE LOTS ON THE REVISED PLAT OF SAID CITY OF OXFORD.

Official Survey - 2 of 2

