

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2019-04

Date – May 15, 2019

APPLICATION

Applicant:	Timothy Hoskins, Triangle Sign Company
Location:	200 W. High Street
Owner:	Rodbro & Myers Investments LLC
 Action Request:	 Variance to Section 1151.05(a)(1) not more than one sign per nonresidential occupant and Section 1151.05(a)(1)(A) wall sign location required between 9 and 18 feet above ground
 Current Use:	 Professional Office
Zoning:	RO (Office Residential)
Surrounding Land Uses:	Multi-Family, Fuel Station, Community Center

DESCRIPTION

Timothy Hoskins is requesting, on behalf of the business owner of Cars Family Auto LLC, relief from the requirements that restrict wall sign location and number of signs in the RO district. The former bank vacated the site over one year ago therefore the signs lost the legal nonconforming status to be reused by a new business.

BACKGROUND

Oxford Zoning Code Section 1151.05(a)(1) limit tenants to not more than one sign per nonresidential occupant and Section 1151.05(a)(1)(A) requires that wall sign locations be between 9 and 18 feet above ground. The two existing lighted box signs would have been allowed to be reused had there not been a gap of time greater than six months between uses. Due to the lack of use, any new signage has to comply with current codes. The RO district is intended to be a buffer district between commercial and purely residential uses therefore the sign provisions are different from the Uptown zone. There is not a provision in the RO district for an additional sign for a corner lot. There is however a provision for a ground sign that does not exist in the Uptown district. The business owner and applicant are pursuing using the existing sign locations rather than new locations.

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 requests. At the time of this report, **staff believes there is not substantial evidence that supports the variance requests for using the existing sign locations.** If the BZA does approve the variances 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 public comments have been received as of this writing.

AGENCY REVIEW

The variance request has been reviewed by City departments.

Fire	Returned without comments
Police	Returned without comments
Engineering	Returned without comments
Economic Development	Not returned

BZA SITE HISTORY: There is no prior BZA case history in available city records.

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)). Further, the BZA must find that practical difficulties exist that would render strict application of the Code unreasonable (Section 1139.02(c)(2)). In determining whether such difficulties exist which are sufficient to warrant 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 Mr. Hoskins. The staff's review of the criteria is included below.

This building has existed for many years as a professional office building in a prominent location. Therefore, regarding criterion A, it is staff's determination that the property could **yield a reasonable return without the variance** for the sign locations to be re-used rather than removed.

Regarding criterion B, Staff believes that the variances are **not substantial** in consideration of the facts that the signs are existing, the building has two facades and there is not a ground sign.

Regarding criterion C, whether or not the **essential character of the neighborhood** could be negatively altered by the granting of the variance: the re-use of the existing signs were approved by HAPC.

Regarding criterion D, Staff believes that the delivery of governmental services **is likely not negatively impacted**, as there were no departmental staff responses on this topic.

Regarding criterion E, **property owner awareness of zoning restriction**: Unknown

Regarding criterion F, whether the **owner's predicament** can be obviated through some method other than a variance. Staff measured the height of the building facade and determined that it would be feasible for a 30" wall sign on the East facade of the building but not on the South facade of the building. A ground sign could also be installed with no wall signs.

Regarding criterion G, whether **the spirit and intent behind the zoning requirements would be observed and substantial justice done** by granting the variance: Consistent with Criterion F, there are other options available therefore granting the variances would not be observing the spirit and intent behind the zoning requirements.

Regarding criterion H, **any other relevant factor**, the building is one-story, which limits the options for wall signage but not ground signage, in this case.

SUBMITTED BY:



Sam Perry, AICP
Director, Community Development Department

DATE: May 10, 2019

City of Oxford
Inter-Office Review Transmittal Sheet



Date: April 17, 2019

To: **Fire Department** Engineering Division Police Department Econ Dev Department

From: Community Development Department

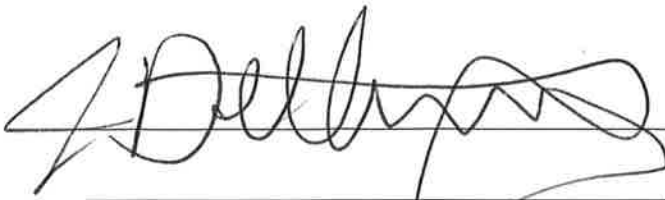
BZA-2019-04, 200 W. High Street, Variance to Section 1151.05(a)(1), to allow for more than one wall sign per nonresidential occupant, and Section 1151.05(a)(1)(A), variance requiring wall signs to be attached between nine and eighteen feet above the adjacent ground **Timothy Hoskins, Triangle Sign Company, Appellant**

 X Review Revisions Other

Please return no later than: **May 6, 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:



PRINTED NAME

Date: 4-18-19

City of Oxford
Inter-Office Review Transmittal Sheet

Date: April 17, 2019

To: Fire Department Engineering Division Police Department Econ Dev Department

From: Community Development Department

BZA-2019-04, 200 W. High Street, Variance to Section 1151.05(a)(1), to allow for more than one wall sign per nonresidential occupant, and Section 1151.05(a)(1)(A), variance requiring wall signs to be attached between nine and eighteen feet above the adjacent ground **Timothy Hoskins, Triangle Sign Company, Appellant**

☒ Review ☐ Revisions ☐ Other

Please return no later than: **May 6, 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: 5/3/19

Scott Otto

PRINTED NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: April 17, 2019

To: Fire Department Engineering Division Police Department Econ Dev Department

From: Community Development Department

BZA-2019-04, 200 W. High Street, Variance to Section 1151.05(a)(1), to allow for more than one wall sign per nonresidential occupant, and Section 1151.05(a)(1)(A), variance requiring wall signs to be attached between nine and eighteen feet above the adjacent ground **Timothy Hoskins, Triangle Sign Company, Appellant**

☒ Review ☐ Revisions ☐ Other

Please return no later than: **May 6, 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 A. Jones

PRINTED NAME

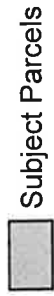
Date: 4-18-19



BZA-2019-04

Surrounding Property Owners Map

Legend



Subject Parcels



200 Ft. Buffer



Oxford Corporation Limit

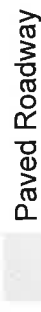


Parcel

Vacated Right-of-Way



Building Footprint



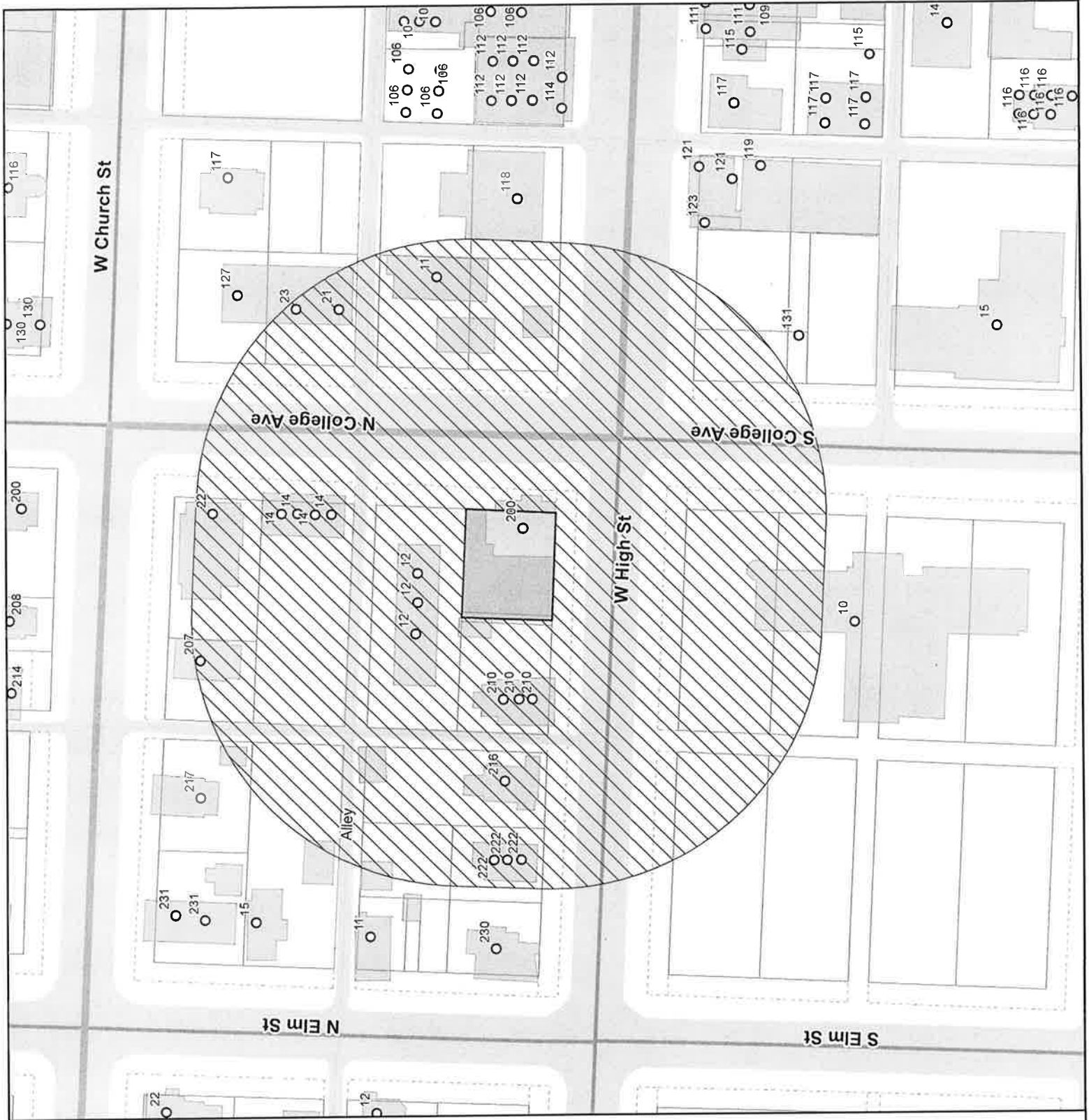
Paved Roadway



1 inch = 100 feet

Prepared on Thursday, May 2, 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.

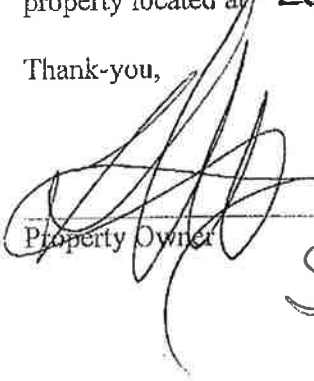


LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Cars Family Auto Group LLC has permission to represent our interest with the City of Oxford and act on our behalf before the Board of Zoning Appeals regarding our property located at 200 W. High St; Oxford, Ohio.

Thank-you,



Property Owner

Sarah Rodbro

5/1/19

(Date)



Internal Use Only:

Case No.

BZA-2019-04

Date Filed

4/15/19

Petition for Zoning Variance

Petitioner Information

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

Name * Timothy Hoskins
Mailing Address * 221 N B Street
City, State & Zip Code * Hamilton OH 45013
Telephone Number(s) * 513 863 2578
Email Address thoskins@trianglesigncompany.com

Owner Information

Name * Rodbro & Meyers Investments, LLC
Mailing Address * PO Box 547
City, State & Zip Code * Oxford OH 45056
Telephone Number(s) * 513 523-9340
Email Address

Variance and Lot Information

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

Section 1151.05(a)(1) provides that there shall be not more than one wall or freestanding sign per nonresidential occupant.

Section 1151.05(a)(1)(A) require wall signs to be attached between nine (9) and eighteen (1) feet above the adjacent ground.

Location of Requested Variance * 200 W High St Oxford OH
Name of Building Cars Family Auto Group LLC
Legal Description * H-4100004222283
Zoning District * R-O Total Acreage * .1847
Existing Use of Site * Cars Family Auto Group LLC

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.

Car Sales

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

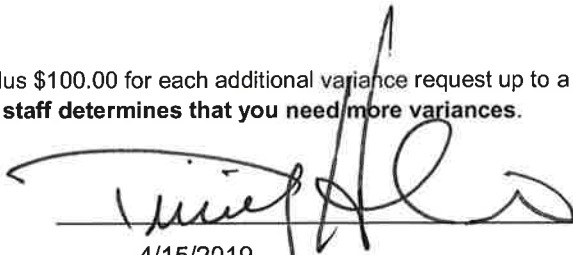
Fees & Receipt

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

Sign and Date

Petitioner Signature *

Date *



4/15/2019

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>



trianglecompany.com
sales@trianglecompany.com

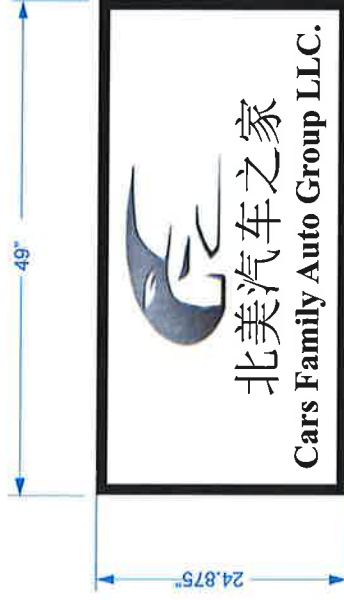
221 North "B" Street • Hamilton, OH 45013 • 513-863-8740 fax • 513-863-2578 tel

March 15, 2019

Petition for Zoning Variance

Decision Standards:

- 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. **The use of the existing non illuminated signs will allow the tenant to economically identify their business. The current sign ordinance would require the tenant to have only one wall sign between nine and eighteen feet above the ground and one free standing sign. The current wall sign requirement would significantly alter the look and architectural design of the building. Also, the property is located on the northwest corner of West High St. and North College Ave. and should be granted the ability to utilize the existing signs on both elevations of the building.**
- B. Whether the variance is substantial;
- a. **Granting the variance would help the tenant identify the business in a reasonable manner.**
- 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;
- a. **No. The existing signs were approved and installed in 2001. We are just applying black vinyl copy to the existing blank sign faces.**
- D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- a. **No. The proposed signs would only enhance the ability of governmental services to locate the business.**
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
- a. **The new tenant assumed that they could utilize the existing signs and was unaware of the loss of the non conforming status if the building had been vacant for more than 6 months.**
- F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- a. **The tenant did not want to install a sign nine foot above the grade and would prefer not to install a ground sign.**
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- a. **The building has been vacant for some time now. The existing signs have been in place since they were approved and installed in 2001. Granting the variance to install vinyl letters onto the existing signs seems like a measured and minor request by the new tenant. The tenant did not want to install a ground sign or new sign nine foot above the grade that would change the look and character of the building.**
- H. Any other relevant factor.



Furnish and install one set of digital printed Vinyl logo with clear laminate and black vinyl letters onto the existing white acrylic background of the single face no illuminated wall sign on the South Elevation of the building.

Note: High Resolution or vectored art of the logo is required.

This is an original, unaltered drawing submitted in connection with a project we are planning for you. It is not to be reproduced, copied, or used in any way without the written permission of Triangle Sign Company.



271 NORTH "B" STREET HAMILTON, OHIO 45013
PHONE 513-863-2578 FAX 513-863-8740

© th Scale: 1" = 1'-0"

TH 4/23/2019

Timothy Hoskins, Partner
Triangle Sign Company, PLLC

Feb 1, 2019 Revision

TH 3/20/2019

REVISIONS

NOTES

DATE

CUSTOMER APPROVAL

Cars Family Auto Group LLC - Jack Li
200 West High St

DATE

Feb 1, 2019

TIME/NO.

19-0316

SHEET 1 OF 3



**Cars Family
Auto Group LLC.**
北美汽车之家
Financial & Title Office

Furnish and install one set of black vinyl letters onto the existing white acrylic background of the single face non illuminated wall sign on the East Elevation of the building.



This is an original, unmodified drawing submitted in connection with a project we are planning for you. It is not to be copied, reproduced, exhibited or shown to anyone without your express written consent. The entire production of Triangle Sign Company.

TRIANGLE SIGN CO.
A SIGN OF QUALITY SINCE 1921
221 NORTH "B" STREET HAMILTON, OHIO 45013
PHONE 513-863-2578 FAX 513-863-8740

© th Scale: 1" = 1'-0"

TH
SECTION 22

TH
SECTION 22

Timothy Hoskins, Partner
Triangle Sign Company, PLLC

Feb 1, 2019 Revision

CUSTOMER APPROVAL

Cars Family Auto Group LLC - Jack Li
200 West High St

APPROVED	
DATE:	Feb 1, 2019
DRAWN:	19-0316
SHEET	2 OF 3



200 W High St Oxford OH 45056
H-4100004000083

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2019-03

Date – May 15, 2019

APPLICATION

Applicant:	Scott Webb, Architect
Location:	612 South College Ave
Owner:	Camden Management, Inc (Robert A. Camden) / Oxford House of Butler Co LLC.
Action Request:	Variance to Section 1143.03(c)(7)(D) requirement for deck on rear façade only
Current Use:	Three-Family
Zoning:	R1MS (Single-Family Residential Mile Square)
Surrounding Land Uses:	Single-Family and Multi-Family

DESCRIPTION

Architect Scott Webb is requesting, on behalf of the owners, relief from the requirement that decks are only permitted along the rear façade of a building. Mr. Webb is handling this variance request for a deck that was built on a side facade without a permit, by another agent for the owner. The property is located at 612 South College Avenue, which is part of Oxford Square Apartments ownership.

BACKGROUND

Oxford Zoning Code Section 1143.03(c)(7)(D) requires that any decks added to buildings in the “MS” districts only be located on rear facades, not side or front facades. This requirement was likely added to either to protect the architectural character of Mile Square architecture and/or to direct uncovered outdoor activity spaces to the least visible area of a lot. Per Mr. Webb’s letter, the resident of the subject dwelling unit had a change in health status that limited outdoor access, which led to the installation of the deck.

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 that supports the variance request for the existing deck location.** 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 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
Engineering
Economic Development

Returned without comments
Returned without comments
Not returned

BZA SITE HISTORY

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

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)). Further, the BZA must find that practical difficulties exist that would render strict application of the Code unreasonable (Section 1139.02(c)(2)). In determining whether such difficulties exist which are sufficient to warrant 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 Mr. Webb. The staff's review of the criteria is included below.

This building has existed for many years as a three-family dwelling. Therefore, regarding criterion A, it is staff's determination that the property could **yield a reasonable return without the variance** for the deck to be allowed on a side façade rather than a rear façade.

Regarding criterion B, Staff believes that the variance is **not substantial** in consideration of the fact that it is on the side of a building (rather than front) and is of minimal size for basic outdoor access/enjoyment. It is 128 square feet in area and complies with 7.5' setback and 45% lot coverage requirements.

Regarding criterion C, whether or not the **essential character of the neighborhood** could be negatively altered by the granting of the variance: the building is not historic nor is the adjacent building.

Regarding criterion D, Staff believes that the delivery of governmental services **is likely not negatively impacted**, as there were no departmental staff responses on this topic.

Regarding criterion E, **property owner awareness of zoning restriction**: It is staff's belief that the owner was fully aware of a permit requirement, but perhaps not this specific zoning restriction of deck location. Staff received a phone call about constructing a deck in this very location. The permit and review process was explained but was not followed through by the owner. According to Butler County records, the ownership has not changed since 1997.

Regarding criterion F, whether the **owner's predicament** can be obviated through some method other than a variance. If the predicament is the need for wheelchair outdoor access, no alternative options were presented such as, but not limited to installing wider doors, replacing existing stoops, installing new ramps.

Regarding criterion G, whether **the spirit and intent behind the zoning requirements would be observed and substantial justice done** by granting the variance: Consistent with decision standards B and C, the spirit and intent would be observed.

Regarding criterion H, **any other relevant factor**, the current resident/manager has limited mobility.

SUBMITTED BY: _____



Sam Perry, AICP
Director, Community Development Department

DATE: May 9, 2019

City of Oxford
Inter-Office Review Transmittal Sheet



Date: April 17, 2019

To: Fire Department Engineering Division Police Department Econ Dev Department

From: Community Development Department

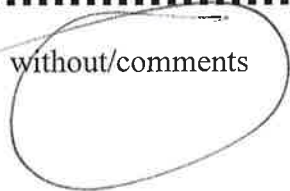
BZA-2019-03, 612 S. College Avenue, Variance to Section 1143.03(c)(7)D, to allow for a deck in the side yard, Scott Webb, Appellant

 X Review Revisions Other

Please return no later than: **May 6, 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:

4-18-19

PRINTED NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: April 17, 2019

To: Fire Department Engineering Division Police Department Econ Dev Department

From: Community Development Department

BZA-2019-03, 612 S. College Avenue, Variance to Section 1143.03(c)(7)D, to allow for a deck in the side yard, Scott Webb, Appellant

 X Review Revisions Other

Please return no later than: **May 6, 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: 5/3/19

Scott Otto

PRINTED NAME

PRINTED NAME



BZA-2019-03 Surrounding Property Owners Map

Legend

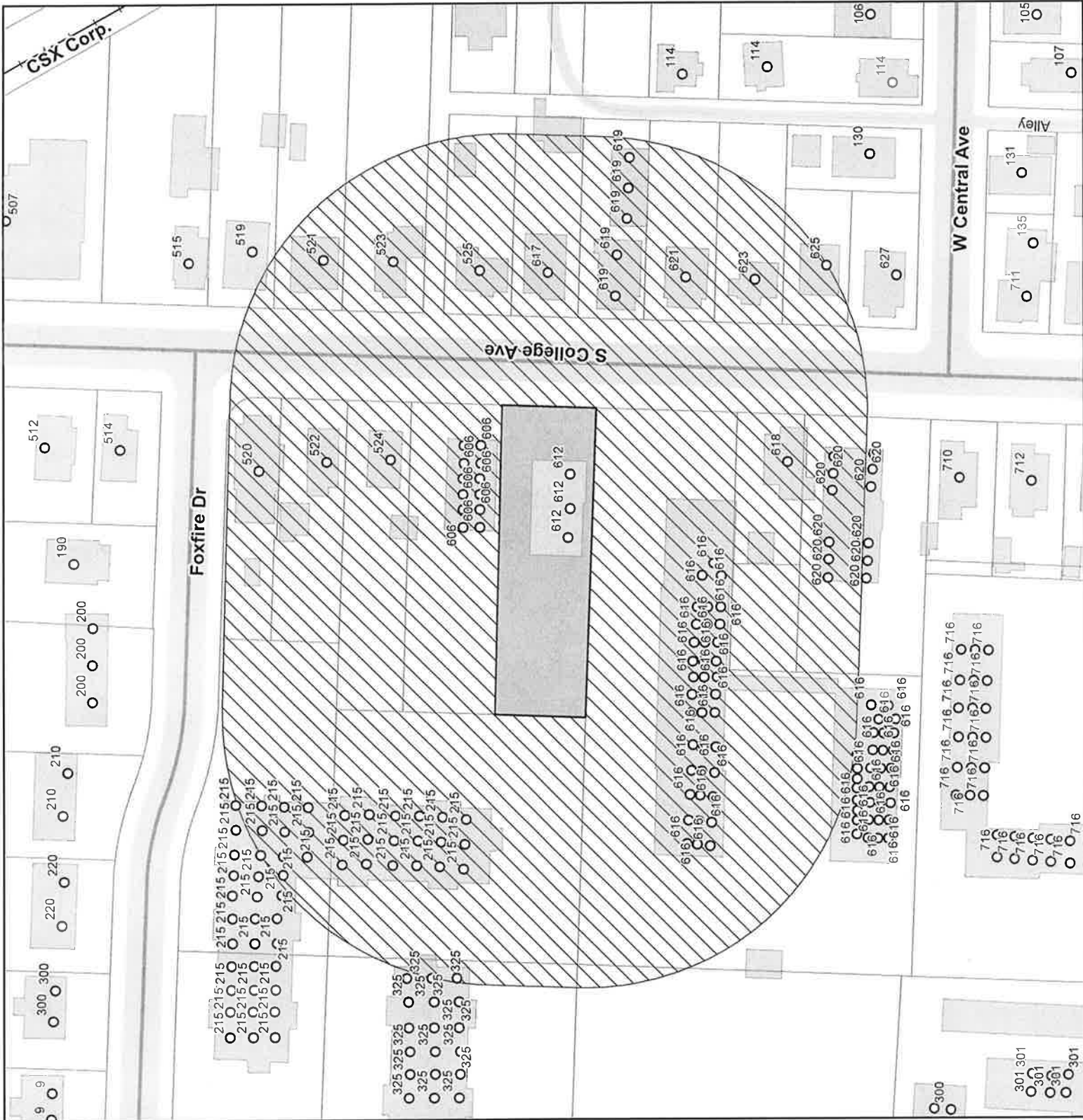
- Subject Parcel
- 200 Ft. Buffer
- Oxford Corporation Limit
- Parcel
- Vacated Right-of-Way
- Building Footprint
- Paved Roadway



1 inch = 100 feet

Prepared on Thursday, May 2, 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 Scott Webb has permission to represent
our interest with the City of Oxford and act on our behalf for the
hearing on _____ regarding the
_____ at our property located at
612 S College Ave., Oxford, Ohio 45056

Thank-you,

Signed: R. A. Camden

Date: 3-19-19

Robert A. Camden
Camden Management, Inc.
Oxford House of Butler County, LTD



Internal Use Only:

Case No.

BZA-2019-03

Date Filed

4/15/19

Petition for Zoning Variance

Petitioner Information

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

Name * Scott Webb, Architect

Mailing Address * 103 West Walnut Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 523-3838

Email Address scott@scottwebbarchitect.com

Owner Information

Name * Camden Management

Mailing Address * 612 S College Ave

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * 523-5526

Email Address lorraine@camdenmanagement.com

Variance and Lot Information

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

1143.03(c)(7)(D) prohibiting decks in side yards

Location of Requested Variance * 612 S College Ave

Name of Building Oxford Square Rental Office & Resident Manager

Legal Description * H4100105000043

Zoning District * R1MS Total Acreage *

Existing Use of Site * 3-family Structure/Resident Manager's Office

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.

Deck Construction in Side Yard to create an accessible exterior space at the floor level of the existing residence.

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

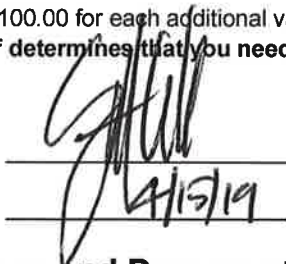
Fees & Receipt

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

Sign and Date

Petitioner Signature *

Date *



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>

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



**SCOTT
WEBB**

A R C H I T E C T

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

www.scottwebbarchitect.com

Re: Variance to Limitations on Deck Locations
Camden Management Inc.
612 South College Avenue

April 15, 2019

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to the requirement that prohibits the construction of private decks in the Side Yard.

The Resident Managers of the Oxford Square Apartments reside in a single family home, facing South College Avenue, adjacent to the northern entrance to the apartment complex. The structure in question has (2) additional rental units attached to the rear, making part of a 3-Family Structure.

A change in the health status of one of the occupants made the need for an accessible outdoor space a priority for the occupants. With only a very small stoop on the front façade and no access to the rear, the occupants replaced a kitchen window with a door on the side of the structure, and built a small deck at the existing floor level, allowing wheelchair access to an outdoor area.

1143.03(c)(7)(D) Provides that decks shall only be permitted in along the rear façade of a building. Staff has determined the existing deck is located along a side façade, since it is subject to the side yard setback standard

The Practical Difficulty lies in the fact that with no rear yard, the deck was constructed on the only available side of the structure.

The owners were unaware of the restriction and the entire process, and in fact constructed the deck without a making an application for a building permit. The newly constructed deck sits in line with and adjacent to existing decks along this side of this 3-family structure.

Though they did not construct the deck in question, in an effort to help a friend/acquaintance, Dave DeWitt of D.S. DeWitt Construction prepared a drawing for a building permit (after the fact), only to be made aware of the zoning restriction and the fact that the permit could not be considered without addressing the zoning issue.

Once a formal denial was issued from the Community Development Department, the residents reached out to my office for assistance in the variance process.

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;*

While the property can yield a reasonable return without private, accessible, outdoor space, the current and future residents will benefit from this amenity, already provided for the other dwelling units in this 3-family structure.

- b) *Whether the variance is substantial;*

The variance is not substantial. The deck in question is relatively small and is located adjacent to existing exterior patios.

- 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*

This 3-family structure sits parallel to the multi-family building to the north, with rear yards facing each other.

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

No change in the delivery of utilities & government services is necessitated by this application.

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

The property owners were not aware of this zoning restriction or the permit requirements for small decks in general.

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

In the existing 3-family arrangement, there is simply no rear façade of this street-facing unit where a deck could be built 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 of the Zoning Code is observed, allowing an outdoor space for this street facing unit that is accessible, built at grade level for the residents.

- h) *Any other relevant factor;*

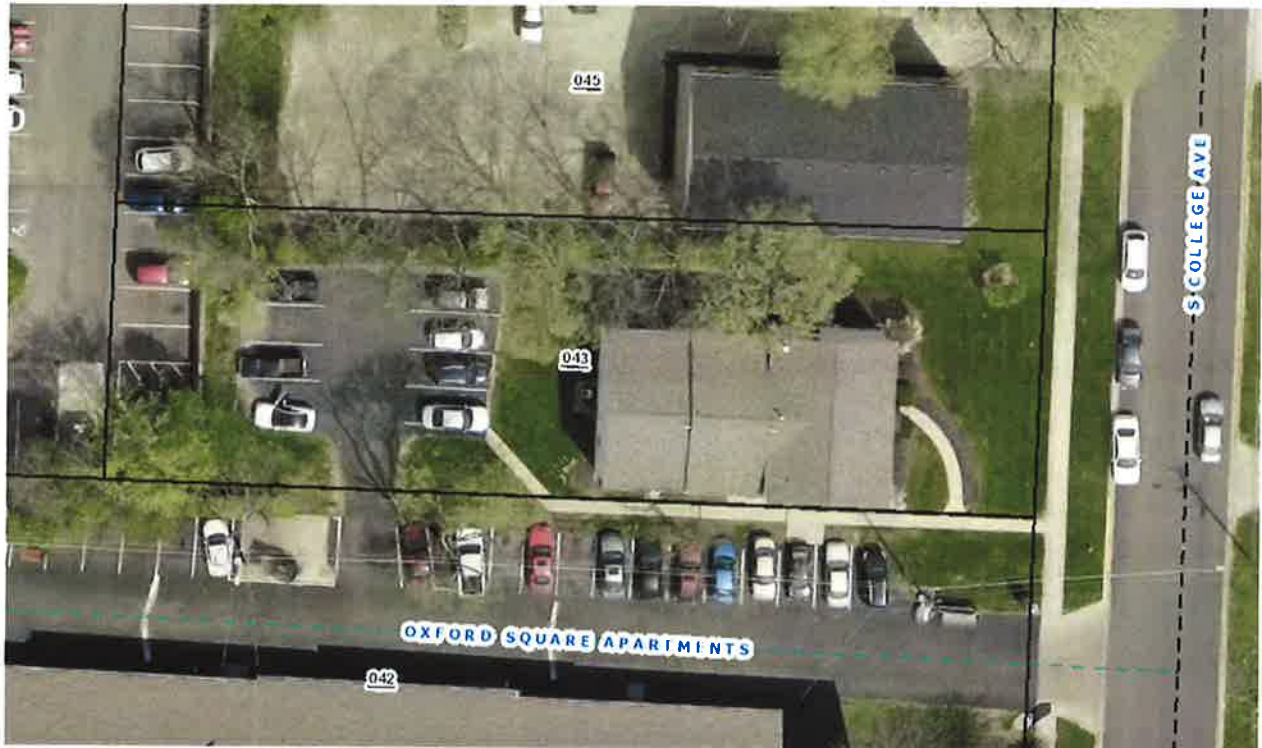
While a grade level patio is not prohibited in this location, it does not serve the needs of the residents who require an outdoor space that is accessible and at the living level of the home.

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

Respectfully,



Scott Webb, Architect



Aerial View showing arrangement of 3-family Structure



Front Elevation from South College Avenue



Existing Deck



Existing deck & Adjacent Patios