CITY OF DELAWARE
BOARD OF ZONING APPEALS
AGENDA

MEETING TO BE HELD VIRTUALLY VIA CISCO Webex **
6:30 P.M.

REGULAR MEETING March 10, 2021

1. ROLL CALL

2. ELECTION of OFFICERS
   a. Chairperson
   b. Vice-Chairperson

3. APPROVAL of the Motion Summary of the Board of Zoning Appeals meeting held on December 9, 2020, as recorded and transcribed.

4. REGULAR BUSINESS

   A. 2021-0331: A request by Salvation Army Central Ohio for approval of a building setback and parking setback variance for a Building Expansion and Parking Lot Expansion at 89 Cheshire Street for The Salvation Army Delaware Worship and Service Center on approximately 0.707 acres and zoned R-4 (Medium Density Residential District).

   Anticipated Process
   a. Swearing in of all applicants and members of the public relating to this case
   b. Staff Presentation
   c. Applicant Presentation
   d. Public Testimony
      PUBLIC HEARING COMMENT OPTIONS:
      - JOIN VIRTUAL MEETING: To provide live public comment please email emccloskey@delawareohio.net or call 740-203-1013 to sign up by 3 p.m. the date of the meeting. **Name and address are required for public comment**. Comments are limited to 3 minutes.

      - EMAIL, LETTER, PETITION: written public comment, maximum of 500 words, is to be received by 3 p.m. the date of the meeting to be presented to the Commission for submission and read into the record. **Name and address are required.**

      - FACEBOOK: Comments received on Facebook will not be presented during the meeting and will be addressed by staff subsequent to the meeting as appropriate.

   e. Commission Action

B. 2021-0433: A request by DGH LLC for approval of a variance to Chapter 1151.02 (a) Enlargement/ Alteration of Nonconforming Building or Structure for a building enlargement at 152 West Central Street on property zoned R-3 (One-Family Residential District).

Anticipated Process

a. Swearing in of all applicants and members of the public relating to this case
b. Staff Presentation
c. Applicant Presentation
d. Public Testimony

PUBLIC HEARING COMMENT OPTIONS:

- JOIN VIRTUAL MEETING: To provide live public comment please email emccloskey@delawareohio.net or call 740-203-1013 to sign up by 3 p.m. the date of the meeting. **Name and address are required for public comment**. Comments are limited to 3 minutes.

- EMAIL, LETTER, PETITION: written public comment, maximum of 500 words, is to be received by 3 p.m. the date of the meeting to be presented to the Commission for submission and read into the record. **Name and address are required.**

- FACEBOOK: Comments received on Facebook will not be presented during the meeting and will be addressed by staff subsequent to the meeting as appropriate.

e. Commission Action

5. BOARD MEMBER COMMENTS AND DISCUSSION

6. NEXT REGULAR MEETING: April 14, 2021

7. ADJOURNMENT

** This meeting will be a virtual meeting. Residents are encouraged to view online through the City of Delaware Facebook page. To comply with the CDC recommendation prohibiting group meetings, no in person attendance by Council, staff, or the public will be available.

BOARD OF ZONING APPEALS
MOTION SUMMARY
December 9, 2020

ITEM 1. Roll Call

Chairman Dick called the virtual meeting to order at 6:32 p.m.

Members Present Virtually: Ben Dariano, Adam Vaughn, Todd Daughenbaugh, Robert Whitmore, Councilman Cory Hoffman, and Chairman Matt Dick

Members Absent: Beth Fisher

Staff Present Virtually: Lance Schultz, Zoning Administrator

Motion to Excuse: Councilman Hoffman motioned to excuse Ms. Fisher, seconded by Mr. Vaughn. Motion approved by a 6-0 vote.

ITEM 2. INTRODUCTION of New Board of Zoning Appeals Member – Ben Dariano, At-Large

ITEM 3. ELECTION of OFFICERS
A. Chairperson
B. Vice-Chairperson

Motion: Councilman Hoffman motioned to table the election of officers until the next scheduled Board of Zoning Appeals meeting, seconded by Mr. Vaughn. Motion approved by a 6-0 vote.

ITEM 4. Approval of the Motion Summary of the Board of Zoning Appeals meeting held on November 11, 2020, as recorded and transcribed.

Motion: Councilman Hoffman moved to approve the Motion Summary for the Board of Zoning Appeals held on November 9, 2020 meeting, seconded by Mr. Daughenbaugh. Motion approved by a 5-0-1(Dariano).

ITEM 5. REGULAR BUSINESS

A. 2020-2586: A request by Delaware City Schools for approval of a Side Yard Setback Variance for a Building Expansion and Site Improvements for Conger Elementary School on approximately 4.05 acres zoned R-4 (Medium Density Residential District) and located at 10 Channing Street

Anticipated Process:

a. Swearing in of all applicants and members of public relating to case

Chairman Dick swore in the following members of the public:

Jason Sherman
Director of Facilities and Transportation
Delaware City Schools
74 West William Street
Delaware, Ohio

Zach Price
Triad Architects
172 East State Street, Suite 600
Columbus, Ohio 43215

Kevin Kindy
Triad Architects
172 East State Street, Suite 600
Columbus, Ohio 43215

b. Staff Presentation
Mr. Schultz reviewed the proposal by the schools for an approximate 4,365 square foot building addition on the northeast portion of the building fronting East Winter Street that would protrude up to 15 feet into the required setback. As the building extends south from East Winter Street it becomes conforming to the setback at a point when it is 40 ft. from the property line because the building is set at an angle to the property line itself. He reviewed the factors to grant a variance based on Section 1128.09 (c) (1) of the Planning and Zoning Code.

c. Applicant Presentation

The applicant voiced no concerns.

d. Public Testimony

The Clerk informed the Commission that there was no public testimony submitted regarding Case 2020-2586.

e. Commission Action

Motion: Councilman Hoffman motioned to approve application 2020-2586, along with staff conditions and recommendations, finding beyond a reasonable doubt that the decision factors necessary for approval of a Variance according to Chapter 1128 of the Planning and Zoning Code are met, seconded by Mr. Whitmore. Motion approved by a 6-0 vote.

B. 2020-2588: A request by DGH Properties LLC., to Chapter 1151.03 (d) (2)

Substitution of Less Nonconforming Use for 152 West Central Street on property zoned R-3 (One-Family Residential District).

Anticipated Process:

a. Swearing in of all applicants and members of public relating to case

Chairman Dick swore in the following members of the public:

Dimitri Hatzifotinos
Willis Law Firm, LLC
1160 Goodale Boulevard
Columbus, Ohio

b. Staff Presentation

Mr. Schultz discussed the location of the property and that the house was constructed in 1910 which a few additions to the building over the years. The front two tenant units are residential units that are currently occupied, and the rear two tenant units have been utilized as commercial units in the past but are currently vacant. The owner is requesting the substitution of less nonconforming uses for the rear two uses from commercial uses to residential uses per Chapter 1151.03 (d) (2). He reviewed the guidelines set in Chapter 1151.03 (d) (2) and staff conditions.

c. Applicant Presentation

Mr. Hatzifotinos discussed purchasing the property in 2014. He discussed interior and exterior upgrades that are needed and will provide a new residential use from the previous commercial use. He discussed the plans to do the exterior all at once and plans for renovations.

d. Public Testimony

The Clerk informed the Commission that there was no public testimony submitted regarding Case 2020-2588.

e. Commission Action

Motion: Councilman Hoffman motioned to approve application 2020-2588, along with staff conditions and recommendations, finding beyond a reasonable doubt that the decision factors necessary for approval of a Variance according to Chapter 1128 of the Planning and Zoning Code are met, seconded by Mr. Whitmore. Motion approved by a 6-0 vote.

ITEM 6. BOARD MEMBER COMMENTS AND DISCUSSION

ITEM 7. NEXT REGULAR MEETING: January 13, 2020.

ITEM 8. ADJOURNMENT

Motion: Councilman Hoffman moved to adjourn the Board of Zoning Appeals meeting, seconded by Mr. Whitmore. The Board of Zoning Appeals meeting adjourned at 6:55 p.m.

_____

Matt Dick, Chairman

_____

Elaine McCloskey, Clerk

EST 1808
CITY OF
DELAWARE
OHIO

BOARD OF ZONING APPEALS / STAFF REPORT

CASE NUMBERS: 2021-0331
REQUEST: Variance
PROJECT: Salvation Army
MEETING DATE: March 10, 2021

APPLICANT/OWNER
Salvation Army Central Ohio
1466 Manning Parkway
Powell, Ohio 43065

REQUEST
2021-0331: A request by Salvation Army Central Ohio for approval of a building setback and parking setback variance for a Building Expansion and Parking Lot Expansion at 89 Cheshire Street for The Salvation Army Delaware Worship and Service Center on approximately 0.707 acres and zoned R-4 (Medium Density Residential District).

PROPERTY LOCATION & DESCRIPTION
The subject 0.707 acre property has been recently purchased by the Salvation Army of Ohio and is located at 89 Cheshire Street between Renner Street and Vine Street. The subject property is zoned R-4 (Medium Density Residential District) as are all the surrounding properties.

BACKGROUND/PROPOSAL
The Salvation Army of Ohio purchased the subject property from the Delaware Church of Hope in February 2021 and plan to utilize the site as a similar use which is permitted by the zoning code. The Salvation Army is intending on operating a worship facility and expanding the building footprint to accommodate a kitchen, fellowship hall, pantry, three offices, two restrooms along with ADA accessibility to the Chapel level and lower level. The existing building encompasses approximately 3,754 square feet while the new expansion would total approximately 2,591 square feet for a new total square footage of approximately 6,345. The building addition would be oriented to the north, south and east. The eastern (rear yard) and southern (side yard) building additions would protrude in the required 40-foot rear and side yard setback. Also, the owner is proposing to expand the parking lot from 22 spaces to 28 spaces and will be extended to the north and protrude into the required 20-foot parking setback to approximately 7.5 feet from the northern property line.

The subject site has the following Board of Zoning Appears (BZA), Planning Commission and City Council history (see attached BZA minutes and Council Ordinances):

- In 2003 (03-044) and 2004 (03-44), the Christian Life Church received building and parking lot expansion variances by the Board of Zoning Appears but the variances expired when the construction for the additions did conclude by January 1, 2006 per a condition of the BZA approval.
- In in April and May 2004, the Planning Commission and City Council approved a Conditional Use Permit (Ordinance 04-89) for a church at this location and a Combined Preliminary and Final Development Plan (Ordinance 04-90) for the subject site. The Conditional Use Permit remains active for this site today, but the Combined Preliminary Development Plan approval expired when the construction did not conclude by January 1, 2006 (BZA variances expired on this date).

Therefore, to construct the proposed building and parking lot expansion, the owner would have to receive a building and parking setback variances from the Board of Zoning Appears. Also, a Combined Preliminary and Final Development Plan approval by the Planning Commission and City Council would be required. In this case, the Board of Zoning Appears would be the first step in the process.

STAFF ANALYSIS

- **PROPOSED VARIANCE:**
  - **BUILDING EXPANSION – REAR AND SIDE YARD SETBACKS:** Chapter 1148.04 Lot Requirements for Conditional Uses indicates in all districts a 40-foot rear and side yard building setback is required for the building expansion.
    - The current church has vested rights with a current eastern building setback (rear yard) of almost 25 feet and a southern building setback (side yard setback) of approximately 47 feet.

- The northern addition would be extended to approximately 8 feet of the property line. A 17-foot extension from the current 25-foot setback.
- The southern addition would be extended approximately 28 feet of the property line. A 19-foot extension into the current 47-foot setback.

- **PARKING LOT EXPANSION – SIDE YARD SETBACKS:** Chapter 1148.04 Lot Requirements for Conditional Uses indicates in all districts a 20-foot side yard parking setback is required for the building expansion.
  - The current church has vest rights with a current eastern parking setback (rear yard setback) of approximately 3 feet and western parking setback of 0 feet (along Cheshire Street).
    - The northern parking lot expansion would be extended to approximately 7 feet of the property line. A 13-foot extension into the required 20 parking setback.
    - The eastern parking lot expansion setback would be expanded from approximately 3 feet to approximately 8 feet.

- **VARIANCE REVIEW:** In considering whether or not a Variance shall be granted, the Board of Zoning Appeals is required to consider certain factors to determine if a practical difficulty exists. As listed below, Section 1128.09(c)(1) of the Planning & Zoning Code sets forth these factors. Following each factor in italics is a brief Staff analysis.

1. Whether the granting of the Variance would be in accord with the general purpose and intent of the regulations imposed by this Ordinance and the district in which it is located and shall not be injurious to the area or otherwise detrimental to the public welfare.

   The current church was constructed in 1965 according to the Delaware County Auditor and has been a good neighbor within the neighborhood. The proposed Salvation Army would have similar uses. The building expansion to 6,345 square feet with intrusion into the east and south building setbacks should be not detrimental with the appropriate screening (fence and/or landscaping) The eastern building expansion would not be directly adjacent to the any single-family house (the building is adjacent to the rear yards of abutting two properties), The parking lot expansion of 6 parking spaces into the northern setback should not be detrimental with a consistent screen of shrubs or the like. Actually the parking lot setback to the east (rear yard) has increased from approximately 3 feet to approximately 8 feet. The parking lot expansion is not directly adjacent to any single-family houses (the parking lot is adjacent to the rear yards of the abutting properties). Therefore the building expansion and parking lot expansion should not be injurious to the area or otherwise detrimental to the public welfare of the neighborhood with the proper screening, The current church has minimal or no screening and has existed in the neighborhood for over 55 years.

2. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or conditions.

   This site has been a church for more than 55 years within an established residential neighborhood and is permitted as a conditional use which would be a special zoning condition.

3. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the Variance. Mere loss in value or financial disadvantage to the property owner does not constitute conclusive proof of practical difficulty; there shall be deprivation of beneficial use of land.

   The owner could expand the building and parking lot while being within the rear and side yard vested setbacks but apparently would not meet the program needs of the Salvation Army.

4. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the Variance.

   Although the building expansion is not compliant with the rear and side yard setback requirements, the character of the neighborhood would not likely be "substantially altered" nor would the "adjoining properties likely suffer substantial detriment" as a result of the Variance because the building has been

at this location since 1955 and the building and parking lot could be screened from the impacted neighbors. As mentioned above, the addition to the east is not directly adjacent to any single-family houses and the parking lot expansion to the north is not directly adjacent to any single family houses.

5. Whether the Variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup.

   The delivery of governmental services, particularly emergency services, would not be impacted with approval of this Variance.

6. Whether the property owner purchased the property with knowledge of the zoning restrictions. Purchase without knowledge of restrictions in itself is not sufficient proof of practical difficulty.

   The applicant has discussed the potential variance requests several times with City staff prior to the Salvation Army purchasing the site.

7. Whether special conditions or circumstances exist as a result of actions of the owner.

   The subject site has been a church since 1965 and the Salvation Army is a similar use per the zoning code.

8. Whether the property owner's predicament feasibly can be obviated through some method other than a Variance.

   The owner could construct a smaller building addition and parking lot expansion that would achieved compliance with the vested rear and side yard building and parking setback requirements but apparently does not meet the Salvation Army program requirements at this location.

9. Whether there is evidence of Variances granted under similar circumstances.

   As mention above, in 2004 BZA approved similar building and parking setback variances for this subject site but they expired in 2006 while in 2004 the Planning Commission approved a Combined Preliminary and Final Development Plan for this site but it also expired in 2006. Also, in 2004, Planning Commission and City Council approved a Conditional Use Permit for this site which remains active for this site. In addition, in 2014 (Case 2014-1397), the BZA approved a building expansion and new parking lot within an established residential neighborhood for the Eastside Mission Church on Joy Avenue

10. Whether the granting of the Variance is necessary for the reasonable use of the land or building, and the Variance as granted is the minimum Variance that will accomplish that purpose.

    The property is currently zoned for a church with conditional use permit approval and will continue to be used as such with or without approval of this Variance. As a result, a Variance is not necessary for the reasonable use of the land.

11. Whether the proposed Variance would impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values of the adjacent area.

    The variance would not likely have a negative impact on any of the above items since the site has been a church since 1965. Additionally, the proposed landscaping and screening proposed adjacent to the building and parking lot expansion would be significantly more than what is on the site today.

12. Whether the granting of the Variance requested would confer on the applicant any special privilege that is denied by this regulation to other lands, structures or buildings in the same district.

    If the Board finds that the standards for approval of a Variance are met then no special privilege is granted.

CONCLUSION

Staff supports the proposed variance request for the following reasons: 1. The Church has been at this location since 1965 and has been good neighbors and the new owner in the Salvation Army has been a good neighbor in the past in other parts of the City; 2. The approximate 2,591 square foot building expansion for a total of 6,345 square feet is not insignificant and would maximize the site but with appropriate screening should not be intrusive to the exiting neighborhood (the current site is underdeveloped per the existing building and parking setbacks); 3.The eastern building expansion is not directly adjacent to any single family houses (the building is adjacent to the rear

yards of abutting two properties); 4. The parking lot should be screened to the neighbors to the north and east and with a minimum 3 foot high shrubs at installation or the like to provide a buffer especially from headlights; 5 The parking lot expansion is not directly adjacent to any single family houses (the parking lot expansion is adjacent to the rear yards of abutting two properties); 6). The BZA approved a similar building and parking setback variance in 2004 but expired in 2006 because it was not constructed; 7.) Planning Commission and City Council approved a Combined Preliminary and Final Development Plan for this site but expired in 2006 because it was not constructed; 8. The approval would require significantly more landscaping than is currently on the subject site.

STAFF RECOMMENDATION – VARIANCE (2021-0331)

Staff recommends approval of a request by Salvation Army Central Ohio for a building setback and parking setback variance for a Building Expansion and Parking Lot Expansion at 89 Cheshire Street for The Salvation Army Delaware Worship and Service Center on approximately 0.707 acres and zoned R-4 (Medium Density Residential District), with the following conditions that:

1. The subject building use shall not permit any overnight accommodations for any individuals.
2. The minimum eastern (rear yard) building setback shall be 8 feet from the eastern property line.
3. The minimum southern (side yard) building setback shall be 28 from the southern property line.
4. The minimum northern (side yard) parking setback shall be 7 feet from the northern property line.
5. The minimum (rear yard) parking setback shall be 8 feet from the eastern property line.
6. All building appurtenances (coping, downspouts, etc.) shall be painted to match the adjacent building color.
7. Any roof top mechanical equipment shall be screened from public view.
8. The Applicant shall submit all building elevations along with material and color samples for all building materials for staff review and approval.
9. The owner shall install a continuous row of evergreen shrubs a minimum 3 feet high adjacent to the parking lot to the north and east.
10. The owner shall install a 6-foot-high fence or a continuous screen of trees adjacent to the building expansion to the east and south.
11. The Shade Tree Commission shall approve all landscaping plans.
12. A Combined Preliminary and Final Development Plan shall be approved by the Planning Commission and City Council.

COMMISSION NOTES:

MOTION: _____ *1st* _____ *2nd* *approved* *denied* *tabled*_____

CONDITIONS/MISCELLANEOUS:

FILE:
ORIGINAL: **3/4/21**
REVISED:

DAVIS WINCE *ltd*
ARCHITECTURE

Great Ideas.
Consistent Follow Through.

February 10, 2021

Lance Schultz
Planning and Zoning
1 South Sandusky Street
Delaware, OH 43015
740.203.1600

RE: BZA Variance Application Narrative for 89 Cheshire St.

Dear Mr. Schultz:

Per the requirements of section 1128.09 – "Variances" of the City of Delaware Zoning Code, and as an agent for the Salvation Army of Central Ohio, I am submitting this narrative to establish and substantiate the justification to grant the variances requested below for the proposed Salvation Army Delaware Worship & Service Center at 89 Cheshire Street, Delaware, OH 43015. The Salvation Army is seeking an Area Variance (section 1128.09.c.1) for two requirements of Chapter 1134 – Residential District Regulations, section 1134.04 – Yard Requirements. For the proposed Delaware Worship & Service center we are seeking relief from the 35-foot rear yard building setback requirement (Schedule 1134.04) and the 20-foot parking lot street ROW setback requirement (Schedule 1134.06).

1. **Rear Yard Variance: Reduction of rear yard building setback from 35 feet to 8 feet.**
   The existing building does not meet the requirements of the zoning code and encroaches on the rear yard setback. The existing lot is narrow with the front and rear yards being on the long edges (East and West) of the property where you would expect the side yards to be located. This configuration creates a very narrow strip of buildable area per the zoning code that the existing building does not comply with and it would be impractical for any improvements to the property to comply with. Additionally, if the rear yard was located at the north and the side yards to the east and west as the property's orientation suggests, the proposed addition would meet all of the yard setback requirements. In fact, the side yard of the neighboring properties is adjacent to the rear yard of this property. Finally, the zoning use of this facility (Worship) is a conditional use in a R-4 zoning district. Therefore, the jurisdiction with authority, the Zoning and Planning Department, can determine how and to what extent the facility needs to meet the zoning code.

2. **Parking Setback Variance: Reduction of parking lot setback from 20 feet to 0 feet.**
   The existing parking lot does not meet the requirements of the current zoning code and encroaches in the Right-of-Way. The proposed parking lot would increase the setback of the parking, improving upon the existing condition. Additionally, there is not sufficient area on the property to get the amount of parking required by the zoning code without a variance for the parking setback. Finally, the zoning use of this facility (Worship) is a conditional use in a R-4 zoning district. Therefore, the jurisdiction with authority, can determine how and to what extent the facility needs to meet the zoning code.

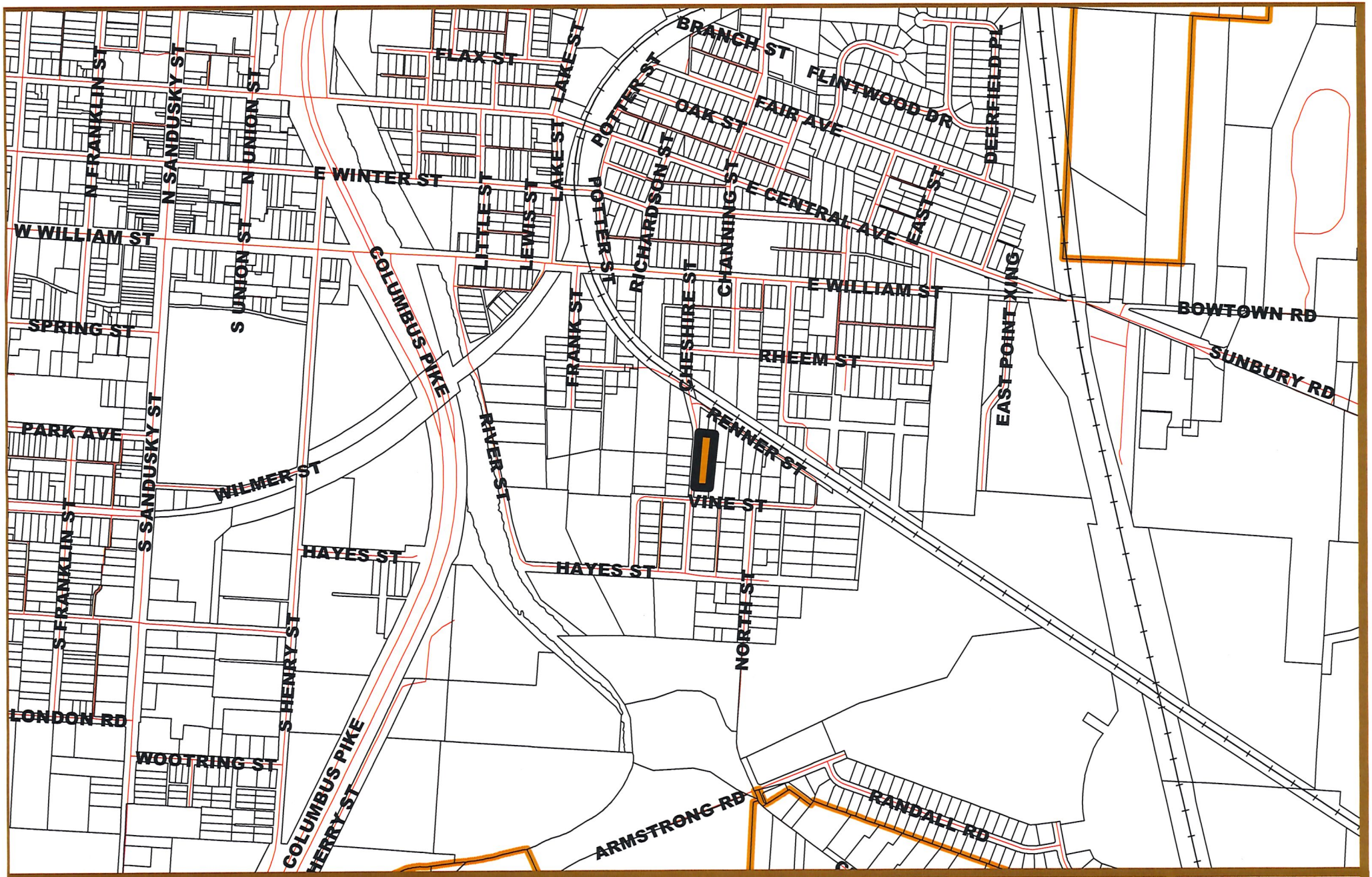
Please contact me if you have any questions or comments regarding this narrative, the proposed plans, or this BZA variance application. Thank you for your time and help in this matter.

Sincerely,

J. David Plunkett, AIA, LEED AP
Davis Wince, LTD

CC: File

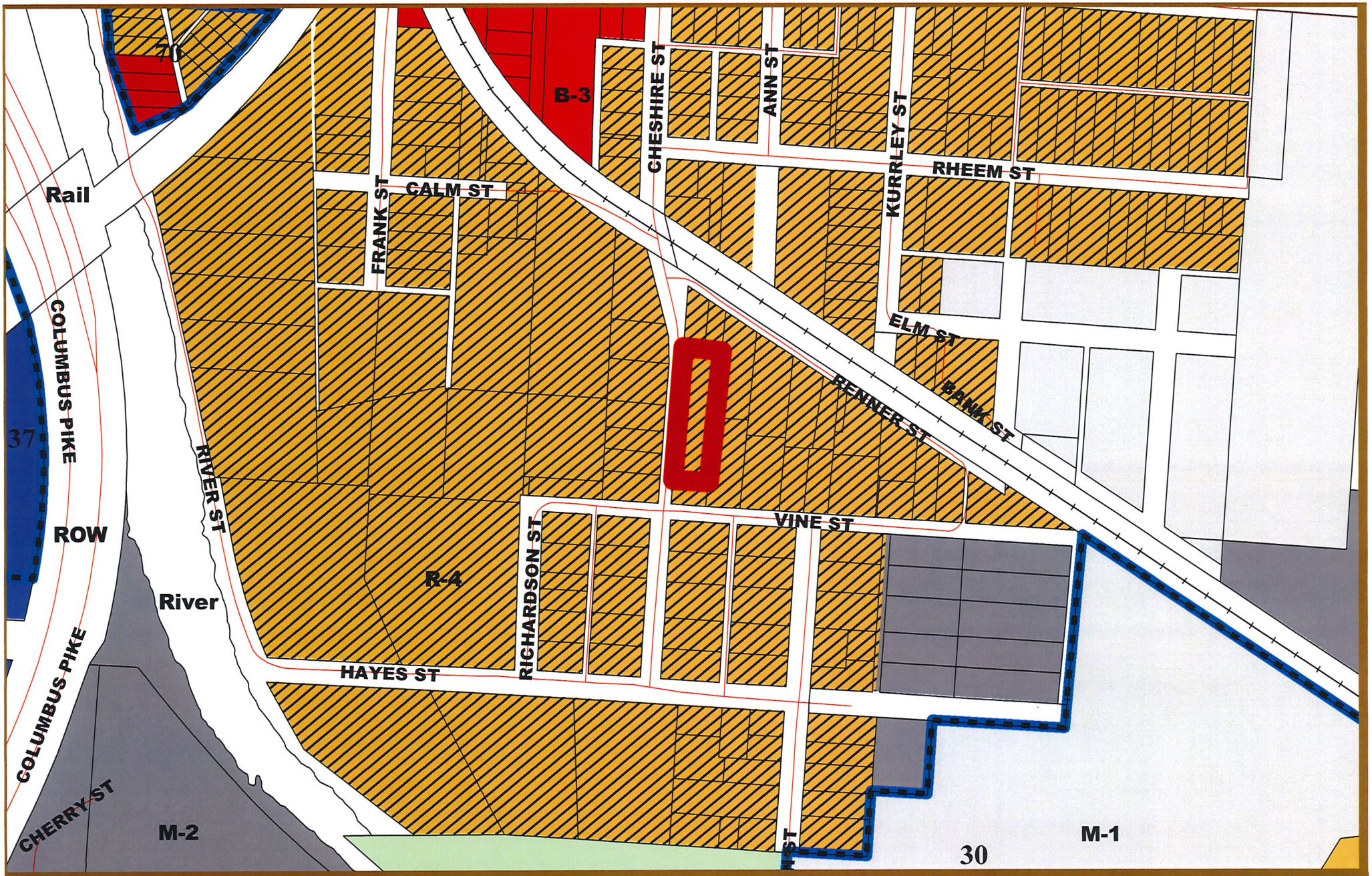
Attachments: Master Application Form
Application Fee Check
Land Title Survey
Proposed Plans: SD-1, 2, 3, & 4



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2021-0331
Building Setback and Parking Setback Variance
Salvation Army Central Ohio - 89 Cheshire Street
Location Map

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EST 1808
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OHIO

2021-0331
Building Setback and Parking Setback Variance
Salvation Army Central Ohio - 89 Cheshire Street
Zoning Map

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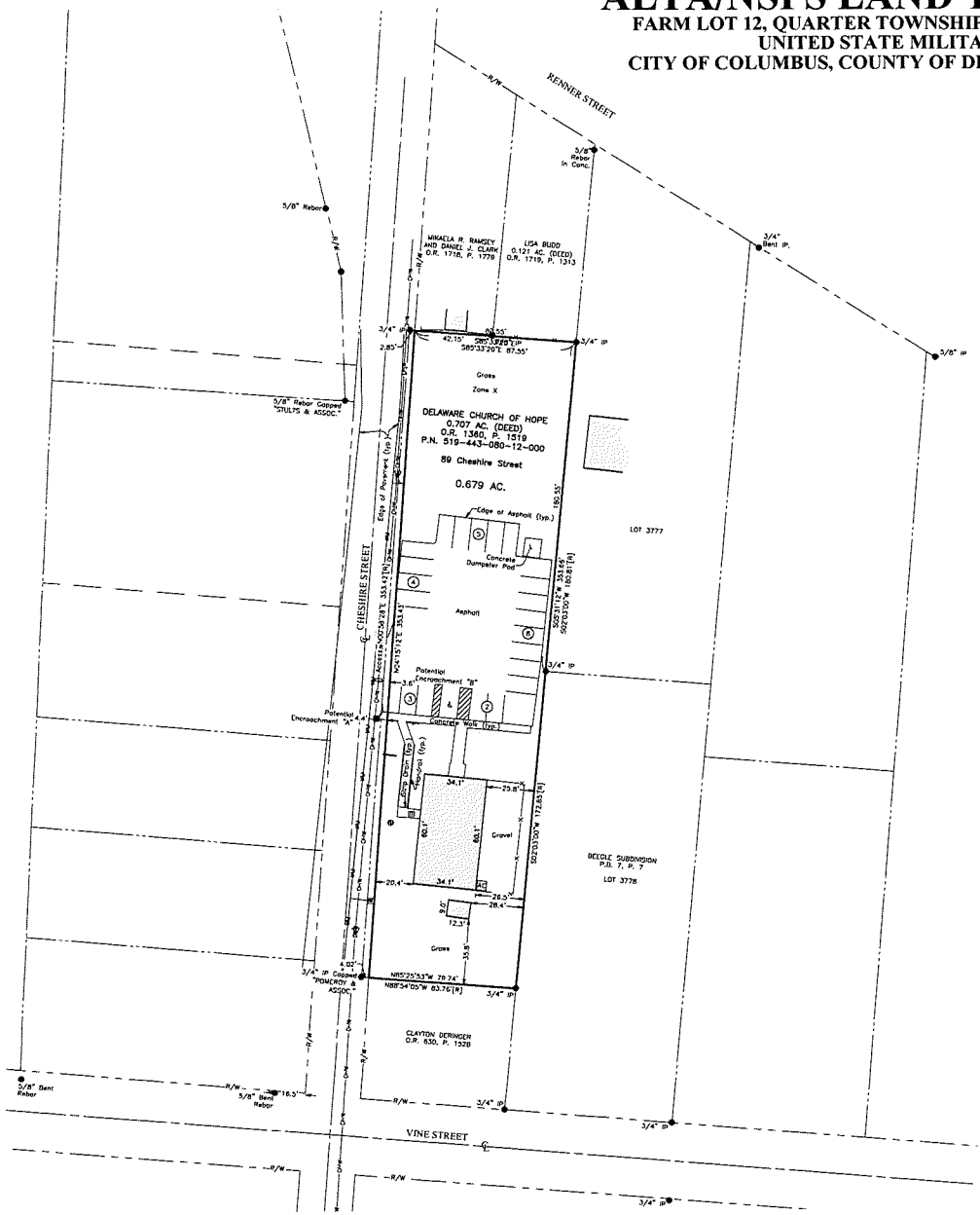
EST 1808
CITY OF
DELAWARE
OHIO

2021-0331
Building Setback and Parking Setback Variance
Salvation Army Central Ohio - 89 Cheshire Street
Aerial (2019) Map

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ALTA/NSPS LAND TITLE SURVEY

FARM LOT 12, QUARTER TOWNSHIP 4, TOWNSHIP 5, RANGE 19
UNITED STATE MILITARY DISTRICT
CITY OF COLUMBUS, COUNTY OF DELAWARE, STATE OF OHIO



DESCRIPTION FROM TITLE COMMITMENT:

Situated in the City of Delaware, County of Delaware, State of Ohio, and is described as follows:
Situated in the State of Ohio, Delaware County, City of Delaware, Quarter Township 4, Range 19, Township 5, Lot 12, United States Military Lands, and being all of that tract of land conveyed to the Trustees of the Christian Apostolic Church, of record in Deed Volume 319, Page 572, and being more particularly described as follows:

Beginning for reference at an iron pipe found in the north line of Vine Street (41.25 feet wide) at the southeast corner of Lot 3778 of Beegle Subdivision, of record in Plat Book 7, Page 7, and also being the southwest corner of Lot 3756 of Bauman Subdivision, of record in Plat Book 6, Page 105;

Thence North 88°54'05" West, along the north line of Vine Street, 90.75 feet to the southwest corner of Lot 3778, being the southeast corner of that tract of land conveyed to Gayland and Norma Breece in Deed Volume 470, Page 539;

Thence North 2°03'00" East, along the common line between Lot 3778 and said Breece tract, 67.01 feet to an iron pipe set with a plastic cap stamped "Pomeroy & Assoc" and being the True Point of Beginning;

Thence North 88°54'05" West, parallel to the north line of Vine Street and being the north line of said Breece tract, 83.76 feet to an iron pipe set with a plastic cap stamped "Pomeroy & Assoc." in the east line of Cheshire Street, being the northwest corner of said Breece tract;

Thence North 00°59'28" East, along the east line of Cheshire Street, 353.42 feet to an iron pipe set with a plastic cap stamped "Pomeroy & Assoc" at the southwest corner of that tract of land conveyed to James Platt in Deed Volume 523, Page 342;

Thence South 89°01'32" East, along the south line of said James Platt tract, and along the south line of that tract conveyed to Viola K. Pratt, Trustee in Official Record 193, Page 521, passing an iron pipe found at the common corner to said tracts at 44.83 feet, a total distance of 90.40 feet to an iron pipe set with a plastic cap stamped "Pomeroy & Assoc." in the west line of Lot 3777 of Beegle Subdivision;

Thence South 2°03'00" West, along the west line of Lot 3777, 180.81 feet to an iron pipe found at the southwest corner of Lot 3777, being the northwest corner of Lot 3778 of Beegle Subdivision;

Thence South 2°03'00" West, along the west line of Lot 3778, 172.85 feet to the point of beginning.

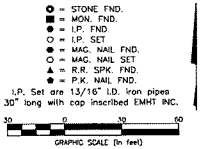
Containing 0.707 acres by survey and being subject to rights of ways, restrictions, and easements of record.

For the purpose of this survey, a bearing of South 2°03'00" West was used for the west line of Beegle Subdivision as shown of record in Plat Book 7, Page 7 and according to an actual field survey performed by Pomeroy & Associates, LTD in December 2003.

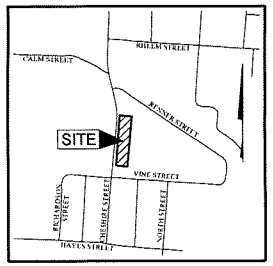
Schedule B Items from Title Commitment No. 7-0811 issued by Stewart Title Guaranty Company with an effective date of September 21, 2020 at 7:00 A.M.

Items 1-14 NOT SURVEY RELATED ITEMS

Item 15 Platted Easements, Covenants, Conditions, Restrictions, or Building setback lines as shown on the recorded plat, recorded in Plat Book 7, Page(s) 7, of the Delaware County records
THE SUBJECT TRACT IS NOT LOCATED IN THE AREA DESCRIBED



LEGEND	
Sign	Yard or French Drain
Disabled Parking	Water Meter
Utility Pole	Fence Line
Air Conditioning Unit	Water Line
Sanitary Sewer Cleanout	Overhead Wires
Catch Basin	



LOCATION MAP AND BACKGROUND DRAWING
NOT TO SCALE

BASIS OF BEARINGS
The bearings shown hereon are based on the Ohio State Plane Coordinate System, North Zone, NAD83 (2011). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of selected stations in the Ohio Department of Transportation Virtual Reference Station network. The portion of the centerline of Cheshire Street, having a bearing of South 04° 15' 12" West and monumented as shown hereon, is as designated the "basis of bearings" for this survey.

FEMA NOTE
According to the Federal Emergency Management Agency's Flood Insurance Rate Map No. 39041C0116L (dated February 17, 2016) the subject tract shown hereon lies within Zone X (areas determined to be outside of the 0.2% annual chance floodplain). Any floodplain lines shown are georeferenced and are not based on actual field elevations.

UTILITY STATEMENT
A Utility Marking request was submitted to OHIO811 on October 29, 2020. The utilities shown hereon have been located from field survey information. Utility plans were not requested and have not been reviewed. The surveyor makes no guarantee that the utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the utilities shown are in the exact location indicated although he does certify that they are located as accurately as possible.

SURVEY NOTE
This survey was prepared using documents of record, prior plats of survey, and observed evidence located by an actual field survey.

PARKING COUNT
22 Regular Spaces
+ 1 Disabled Spaces
23 Total Spaces

POTENTIAL ENCROACHMENT NOTE
Except as noted below and shown hereon, no evidence of potential encroachments was observed in the process of conducting the field work or determined in the course of analyzing the field work and preparing this survey. This includes potential encroachments: (1) extending from the subject tract onto an adjoining tract, (2) extending from an adjoining tract onto the subject tract, or (3) extending into an easement located on the subject tract. The undersigned makes these representations based solely on a physical observation of the subject tract and does NOT make any representation, opinion, or determination as to the legal validity of any potential encroachment that is shown hereon.

A Concrete sidewalk extends 4.4 feet west of the boundary line
B. Edge of asphalt extends 3.6 feet west of the boundary line

CERTIFICATION Commitment No. 7-0811

To: The Salvation Army, Delaware Church of Hope, Stewart Title Guaranty Company, and Northwest Title Family of Companies, Inc.:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 "Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys", jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 7(a), 8, 9, and 13 of Table A thereof. The fieldwork was completed on November 11, 2020.

DRAFT

By _____ Date _____
Heather L. King
Professional Surveyor No. 8307
hking@emht.com

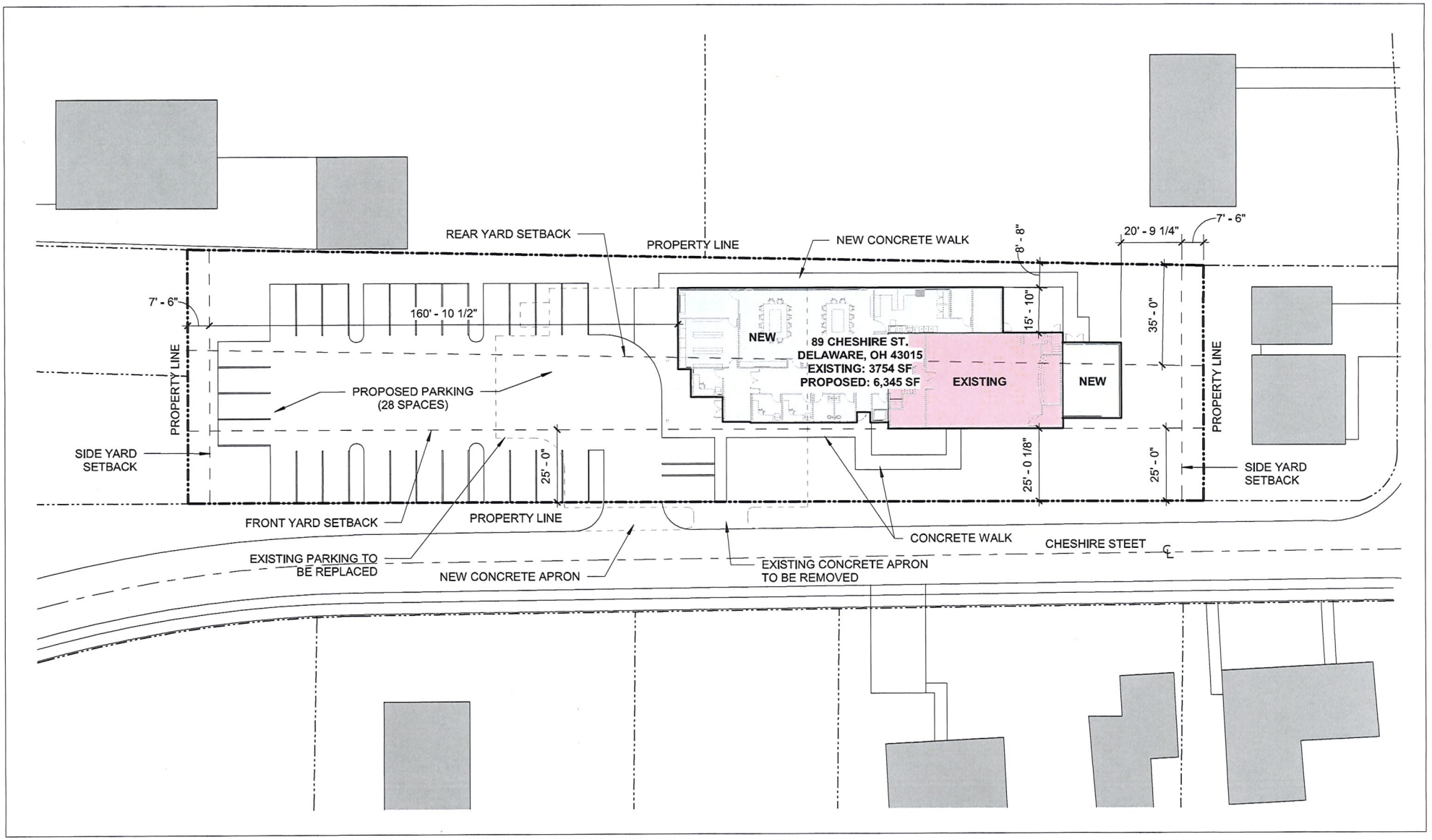
EMHT
Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
5500 New Albany Road, Columbus, OH 43054
Phone: 614.775.4500 Toll Free: 888.775.3648
emht.com

Date:	December 9, 2020
Scale:	1" = 30'
Job No:	2020-1109
Sheet:	1 of 1

REVISIONS

MARK	DATE	DESCRIPTION

89 Cheshire Street ALTA / 20201109-VS-ALTA-01



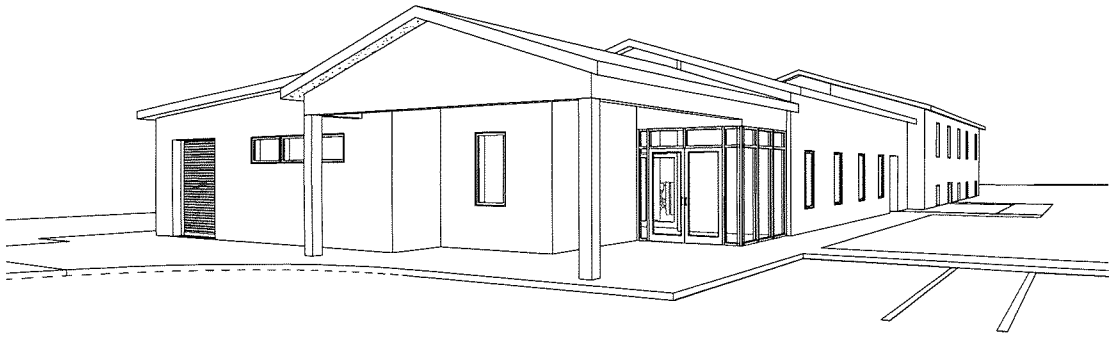
DAVIS WINCE ltd
ARCHITECTURE

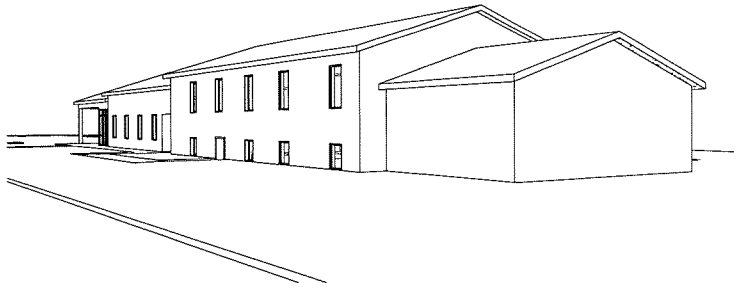
1 A SITE PLAN

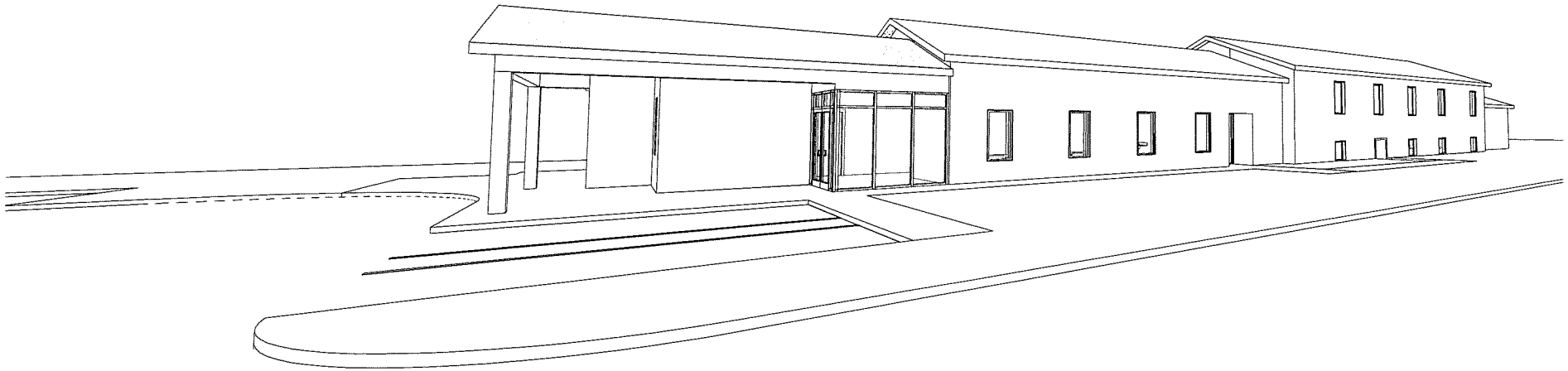
0 30' - 0" 60' - 0" 90' - 0"

The Salvation Army Delaware
Worship & Service Center
89 Cheshire Street

SD-1



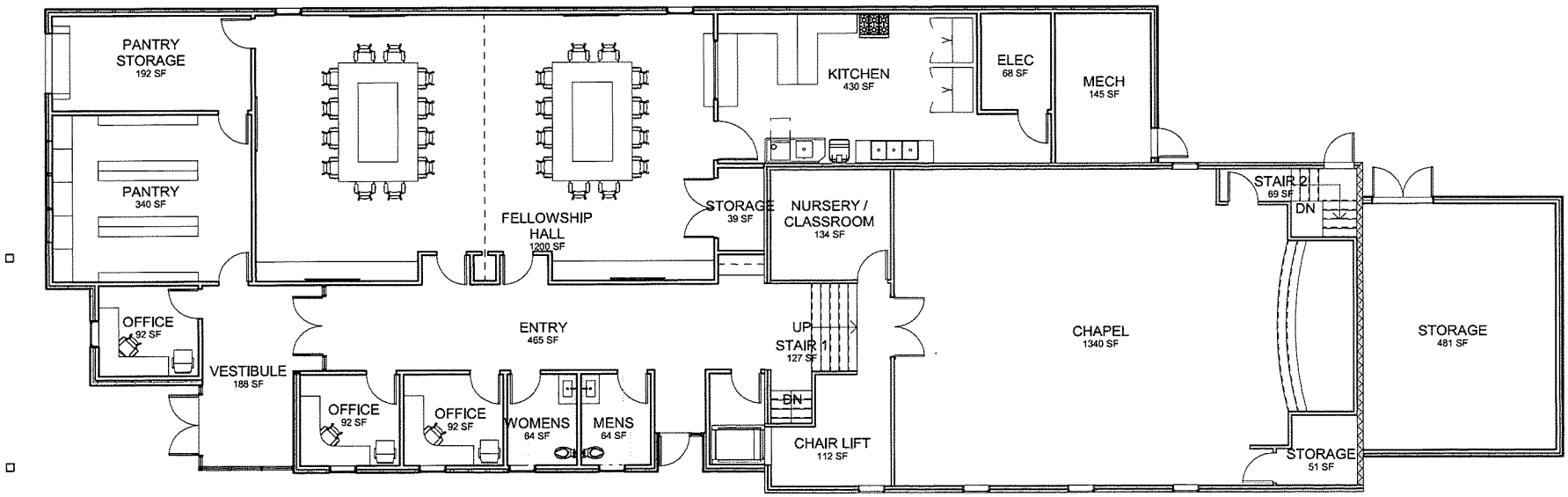




DAVIS WINCE ltd
ARCHITECTURE

The Salvation Army Delaware
Worship & Service Center
89 Cheshire Street

SD-2



DAVIS WINCE ltd
ARCHITECTURE

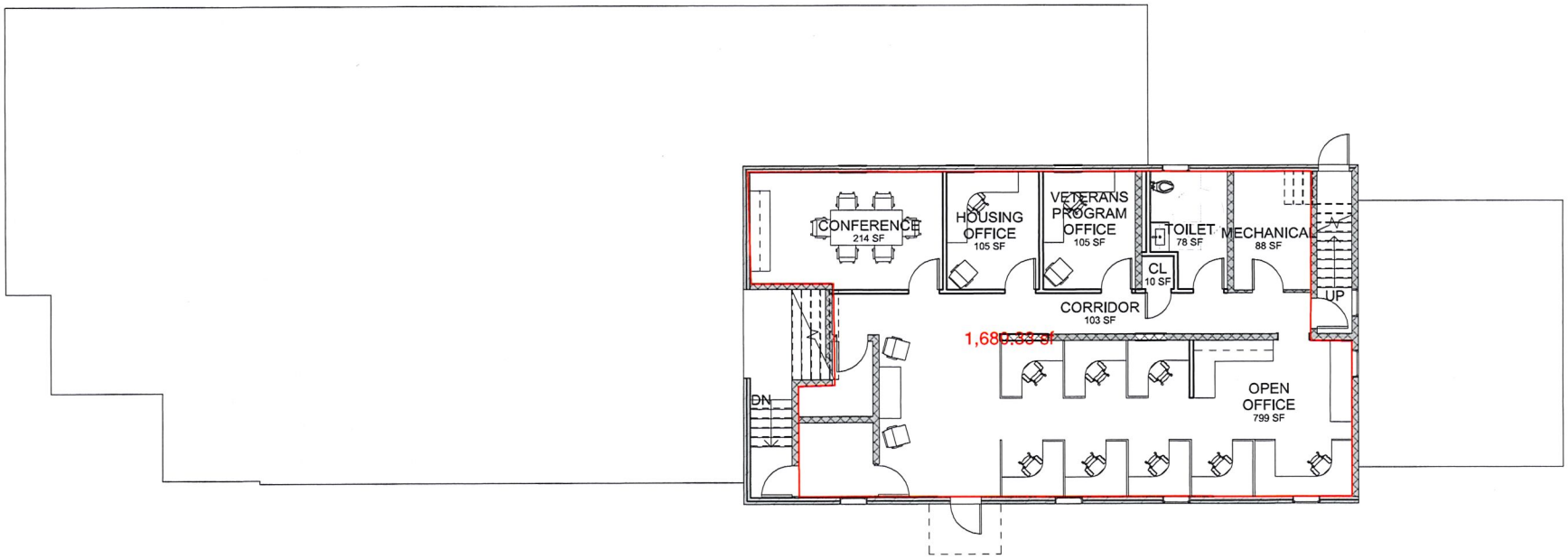
A FIRST FLOOR PLAN

0 8' - 0" 16' - 0" 24' - 0"

N

The Salvation Army Delaware
Worship & Service Center
89 Cheshire Street

SD-3



DAVIS WINCE ltd
ARCHITECTURE

B BASEMENT PLAN

0 8' - 0" 16' - 0" 24' - 0"

N

The Salvation Army Delaware
Worship & Service Center
89 Cheshire Street

SD-4

CITY OF DELAWARE, OHIO
PLANNING & COMMUNITY DEVELOPMENT
MASTER APPLICATION FORM

Project # _____ Case # _____

Planning Commission

- ☐ Amended Final Development Plan
- ☐ Amended Final Subdivision Plat
- ☐ Amended Preliminary Development Plan
- ☐ Amended Preliminary Subdivision Plat
- ☐ Annexation Review
- ☐ Combined Preliminary & Final Development Plan
- ☐ Comprehensive Plan Amendment
- ☐ Concept Plan
- ☐ Conditional Use Permit
- ☐ Determination of Similar Use
- ☐ Development Plan Exemption
- ☐ Final Development Plan
- ☐ Final Development Plan Extension
- ☐ Final Subdivision Plat
- ☐ Final Subdivision Plat Extension
- ☐ Floodplain Permit
- ☐ Lot Split
- ☐ Pre-annexation Agreement
- ☐ Preliminary Development Plan
- ☐ Preliminary Dev Plan Extension
- ☐ Preliminary Sub Plat
- ☐ Preliminary Sub Plat Extension
- ☐ Rezoning
- ☐ Subdivision Variance
- ☐ Substitution of a Non- Conforming Use
- ☐ Vacation-Alley
- ☐ Vacation-Easement
- ☐ Vacation-Street

Board of Zoning Appeals

- ☐ Appeal Administrative Decision or Interpretation
- ☐ Conditional Use Permit
- ☐ Substitution of Equal or Less Non-Conforming Use
- ☒ Variance

Subdivision/Project Name 14403 Del Corp 403 / Salvation Army Del. Worship & Service Center Address 89 Cheshire Street, Delaware OH 43015

Acreage 0.707 Square Footage 6,345 Number of Lots 1 Number of Units 1

Zoning District/Land Use R-4/499 Proposed Zoning/Land Use R-4/499 Parcel # 519-443-08-012-000

Applicant Name Davis Wince, Ltd Contact Person Dave Plunkett, AIA

Applicant Address 1466 Manning Parkway, Powell, OH 43065

Phone 614-785-0505 Fax 614-785-0202 E-mail dplunkett@daviswince.com

Owner Name Salvation Army Central Ohio Contact Person Captain Tricia Brennan

Owner Address 966 East Main Street, Columbus, OH 43205

Phone 614-221-6571 Fax _____ E-mail tricia.brennan@use.salvationarmy.org

Engineer/Architect/Attorney Davis Wince, Ltd Contact Person Dave Plunkett, AIA

Address 1466 Manning Parkway, Powell, OH 43065

Phone 614-785-0505 Fax 614-785-0202 E-mail dplunkett@daviswince.com

The undersigned, do hereby verify the truth and correctness of all facts and information presented with this application and authorize field inspections by City Staff.

_____ Owner Signature

_____ Owner Printed Name

_____ Agent Signature

James David Plunkett Agent Printed Name

Sworn to before me and subscribed in my presence this _____ day of _____, 20__.

Notary Stamp

_____ Notary Public

EST 1808

CITY OF

DELAWARE

OHIO

89 Cheshire Street

Board of Zoning Appeals, Planning Commission and City Council Approval History

DELAWARE BOARD OF ZONING AND APPEALS

Regular Meeting
August 20, 2003 – 7:00 p.m.
City Hall Council Chambers – 2nd Floor

ROLL CALL: Chairman Nabeel El Maasarani called the meeting to order at 7:03 p.m.
Members Present: Suzan Harden, Robyn Moehring, Jim Halter, Joe DiGenova, and Nabeel El Maasarani.
Staff Present: Jim Jennings (Associate Planner) and Elizabeth Corwin (Planning Secretary)

SWEARING IN: El Maasarani swore in the audience members and Staff wishing to speak.

BUSINESS – Consideration of:

JULY 16, 2003 MINUTES

APPROVAL OF THE JULY 16, 2003 REGULAR MEETING MINUTES.

MOTION: Moehring/Harden moved to approve the July 16, 2003 Regular Meeting Minutes. (5 in favor, 0 opposed) **MOTION APPROVED.**

APPROVED

CONSENT AGENDA - REMOVE FROM THE TABLE

CONSENT AGENDA

Application BZA 03-037 – A request by Delco Builders, representing Park Avenue Partners LLC, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1143 to permit reduced building setbacks, to authorize smaller parking setbacks, to build on a B-3 lot with less than the required lot area, to permit a reduction in the required design elements, and to waive the screening and landscaping requirements, to allow chain link fencing that is not a dark, non-reflective material, to permit a fence to be constructed with the supporting members facing away from the property on which the fence is located, to authorize fences without a unified style along a single plane, to waive the fence screening requirements, plus to allow parking closer than 10 feet to the main building; for Variances to Chapter 1151 to authorize non-conforming lots of record to be developed without meeting all of Code requirements; for Variances to Chapter 1161 to allow fewer than the required number of waiting spaces, to permit fewer than the required number of parking spaces, to authorize a reduction in the setbacks for parking spaces and waiting spaces, to permit a reduction in the size of parking spaces and waiting spaces, to allow a reduction in the required size of the driving aisle, to permit an access driveway closer than 20 feet to a side lot line, and to reduce the width and radius regulations for access drives; for Variances to Chapter 1165 to permit a monument sign to be 18 feet (rather than 20 feet from the lot lines) and to allow a reduction in the sign landscaping requirements; plus for Variances to Chapter 1166 to permit reduced landscaping requirements for street trees, yard trees, and yard shrubs, to waive the screening and buffering required for a lot abutting a residential district, to waive the trash receptacle screening requirement, plus to waive the required parking lot landscaping and screening for the property located at the SE corner of Weiser Avenue and S. Sandusky Street.

BZA 03-037 & BZA 03-040

Application BZA 03-040 – A request by Pomeroy and Associates, representing Henkel Corp., for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1161 to authorize a parking lot with no landscaped islands, to permit a parking lot with less than the required buffering and screening, and to allow a parking lot with no curbing or parking blocks; plus for Variances to Chapter 1171 to allow the existing lighting to suffice for the property located at 421 London Road.

REMOVED FROM THE TABLE

MOTION: Moehring/DiGenova moved to remove BZA 03-037 and BZA 03-040 from the Table. (5 in favor, 0 opposed) **MOTION APPROVED.**

Application BZA 03-037 – A request by Delco Builders, representing Park Avenue Partners LLC, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1143 to permit reduced building setbacks, to authorize smaller parking setbacks, to build on a B-3 lot with less than the required lot area, to permit a reduction in the required design elements, and to waive the screening and landscaping requirements, to allow chain link fencing that is not a dark, non-reflective material, to permit a fence to be constructed with the supporting members facing away from the property on which the fence is located, to authorize fences without a unified style along a single plane, to waive the fence screening requirements, plus to allow parking closer than 10 feet to the main building; for Variances to Chapter 1151 to authorize non-conforming lots of record to be developed without meeting all of Code requirements; for Variances to Chapter 1161 to allow fewer than the required number of waiting spaces, to permit fewer than the required number of parking spaces, to authorize a reduction in the setbacks for parking spaces and waiting spaces, to permit a reduction in the size of parking spaces and waiting spaces, to allow a reduction in the required size of the driving aisle, to permit an access driveway closer than

BZA 03-037

DELCO DRIVE-THRU VARIANCES

SE CORNER OF WEISER AVE & S. SANDUSKY ST.

APPROVED, WITH CONDITIONS

20 feet to a side lot line, and to reduce the width and radius regulations for access drives; for Variances to Chapter 1165 to permit a monument sign to be 18 feet (rather than 20 feet from the lot lines) and to allow a reduction in the sign landscaping requirements; plus for Variances to Chapter 1166 to permit reduced landscaping requirements for street trees, yard trees, and yard shrubs, to waive the screening and buffering required for a lot abutting a residential district, to waive the trash receptacle screening requirement, plus to waive the required parking lot landscaping and screening for the property located at the SE corner of Weiser Avenue and S. Sandusky Street.

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND: The Applicant proposes to construct a 49-foot by 65-foot Delco drive-thru carryout on 2 lots. Traffic would enter the site from Weiser Avenue and depart at S. Sandusky Street. The two lots cover a 150-foot by 107-foot area.

STAFF REVIEW: The drawings illustrate the existing and proposed conditions.

REDUCTION IN CODE REQUIREMENTS VARIANCES. None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements

SETBACK VARIANCES: The proposed building would be set back 38 feet from Weiser and 30 feet from S. Sandusky, neither of which meets the required 50-foot setback. Because of the relatively small size of the site (which is actually 2 smaller lots), perhaps a Variance to permit the proposed 30-foot and 38-foot front yards might be warranted

Code requires that the parking setback be 10 feet from the building. The driving aisles to and from the drive-thru bay are a part of the parking and cannot be setback 10 feet from the building or there would be no way to get in the building, so a Variance to permit a 0-foot setback at the drive-thru bay appears to be justified.

Three parking spaces are proposed to be at the building. If they were relocated to 10 feet from the building, they would seem to encroach upon the waiting spaces, an undesirable alternative, so a Variance to permit a 0-foot setback at the building might be merited.

In addition, a side or rear lot line cannot be closer than 20 feet to any parking (including driving aisles), which might be the case at the rear (east) lot line. Because of the size of the 2 lots, maybe such a Variance is merited.

Code requires that a B-3 lot have a minimum lot area upon which to build, including existing lots of record, many of which are too small and so such a Variance is justified.

DESIGN ELEMENTS VARIANCES: The Code requires 40% of the wall of a commercial building facing a public right-of-way to have display-type windows, while none are proposed in the new building. It seems likely that drive-thru carryouts, with their unique designs, were not contemplated when those design criteria were added to the Zoning Code, which suggests that Variances to waive the display-type window requirement is appropriate.

FENCE VARIANCES: The Applicant now proposes to provide a chain link fencing that is of a dark, non-reflective material, so Variances for that are no longer needed

The Applicant is building a privacy fence along the south property line to screen the house but that fence will be on the residence's lot, not the drive-thru's parcel, because of the steep slope. Accordingly, the "smooth", good side of the fence would face the home, which requires a Variance because Code requires fences to be constructed with the supporting members facing the property on which the fence is located.

The privacy fence along the south lot line transitions into the split-rail fence going westward, as well as along the east lot line, which would qualify as a minor deviation meriting a Variance to the requirement that the fences have a unified style along a single plane.

Finally, the Applicant is now screening the fence along the south property line so there no longer is a need to waive the screening requirements.

NON-CONFORMING LOT OF RECORD VARIANCES. A non-conforming lot of record can be developed only if it meets all of the Code requirements, except for lot width, lot area, and lot frontage. If other Variances are granted, then Variances to this provision will be needed, also

SCREENING AND LANDSCAPING VARIANCES. Chapter 1143 requires the parking setback area to be landscaped, as does Chapter 1166. Because of the size of the 3 lots, providing the 20-foot parking setback from the street right-of-way would be difficult, perhaps warranting such Variances.

In addition, Chapter 1166 requires street trees, yard trees, and yard shrubs, screening and buffering for a lot abutting a residential district or use, plus parking lot landscaping and screening. The residential district is the Cemetery and the use is a house on the hill above the proposed facility for which the street trees, yard trees, and yard shrubs, would be of little benefit and might merit such Variances. A privacy fence is proposed for the rear lot line of the residence, which would provide screening and buffering.

The Applicant now proposes to screen the dumpster location, negating the need for such a Variance.

PARKING VARIANCES. Code requires 10 waiting spaces for drive-thru's, which would require 180 feet at a minimum, lined up in a single-file, which is not physically possible on a lot this size. The Applicant now proposes 7 waiting spaces, which seems justified due to the site conditions

A 3,185-square foot retail store would normally require 16 parking spaces. However, the nature of the business does not involve parking but, rather, drive-thru business, so perhaps a Variance to provide 4 spaces (2 for employees + 2 for customers/suppliers) is merited

Code also requires a waiting space to be separated 10 feet from the main building but, if people are to drive up to and through the building, a 10-foot required separation seems unreasonable and impractical. As such, it seems that this Variance to allow a 0-foot waiting space setback from the building is warranted

The Applicant now proposes to provide the proper size of parking spaces and waiting spaces, the driving aisle, and or the Weiser Avenue access drive, so the need for such Variances are no longer needed, except for the 13-foot by-pass lane proposed for the south side of the building. Perhaps the 20-foot lane along the north side is sufficient and the south side could be converted to green space, rather than a substandard driving aisle

SIGN VARIANCES: The request to permit a monument sign to be 18 feet (rather than 20 feet) from the lot lines is a minor deviation of only 10%, which suggests that such a Variance is merited. The Applicant now proposes to do the required sign landscaping, which means that such a Variance is no longer necessary.

STAFF RECOMMENDATION: Staff recommends denial of the following Variances: Chapter 1143 to waive the screening and landscaping requirements, to allow chain link fencing that is not a dark, non-reflective material, and to waive the fence screening requirements, to Chapter 1161 to permit a reduction in the size of parking spaces and waiting spaces; for Variances to Chapter 1165 to allow a reduction in the sign landscaping requirements; plus for Variances to Chapter 1166 to permit reduced landscaping requirements for street trees, yard trees, and yard shrubs, to waive the trash receptacle screening requirement, plus to waive the required parking lot landscaping and screening.

Because these are small, existing lots that are difficult to use, Staff recommends approval of Variances, as presented, to Chapter 1123 to allow reductions in the Code requirements, to Chapter 1143 to permit reduced building setbacks, to authorize smaller parking setbacks, to build on a B-3 lot with less than the required lot area, to permit a fence to be constructed with the supporting members facing away from the property on which the fence is located, to authorize fences without a unified style along a single plane, and to permit a reduction in the required design elements; for Variances to Chapter 1151 to authorize a non-conforming lot of record to be developed without meeting all of Code requirements; plus for Variances to Chapter 1161 to allow fewer than the required number of waiting spaces, to permit fewer than the required number of parking spaces, to authorize a reduction in the setbacks for parking spaces and waiting spaces, to allow a reduction in the required size of the driving aisle on the south side of the building, and to reduce the regulations for access drives; for Variances to Chapter 1165 to permit a monument sign to be 18 feet (rather than 20 feet from the lot lines); plus for Variances to Chapter 1166 to waive the screening and buffering required for a lot abutting a residential district for the property located at the SE corner of Weiser Avenue and S. Sandusky Street, with the conditions that the Variances shall expire.

1. *With a change in use;*
2. *If the lots are not combined into one tax parcel before January 1, 2004; and/or*
3. *If the drive-thru does not receive approval of all final inspections before January 1, 2005*

Mike Williamson, Cornerstone Engineering representing the Applicant, stated that the screening requirement has been addressed by putting a block wall with a wood gate; the parking spaces were 9x18 they are now 9x19; plus the front entrance was originally at 26 feet because it is a one-way but it has been changed to 16 feet. Mr. Williamson stated the entrance on Weiser will be an entrance and exit. Mr. Halter voiced concern with the limited amount of parking spaces available. DiGenova suggested adding a few parking spaces between the wall and the building. Members agreed to add, as an approval condition, a façade with natural materials.

MOTION: DiGenova/Harden moved to adopt resolution BZA 03-037, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (5 in favor, 0 opposed) **MOTION APPROVED.**

MOTION: DiGenova/Harden moved to approve the Variances, as presented, to Chapter 1123 to allow reductions in the Code requirements; to Chapter 1143 to permit reduced building setbacks, to authorize smaller parking setbacks, to build on a B-3 lot with less than the required lot area, to permit a fence to be constructed with the supporting members facing away from the property on which the fence is located, to authorize fences without a unified style along a single plane, and to permit a reduction in the required design elements; for Variances to Chapter 1151 to authorize a non-conforming lot of record to be developed without meeting all of Code requirements; plus for

Variances to Chapter 1161 to allow fewer than the required number of waiting spaces, to permit fewer than the required number of parking spaces, to authorize a reduction in the setbacks for parking spaces and waiting spaces, to allow a reduction in the required size of the driving aisle on the south side of the building, and to reduce the regulations for access drives; for Variances to Chapter 1165 to permit a monument sign to be 18 feet (rather than 20 feet from the lot lines); plus for Variances to Chapter 1166 to waive the screening and buffering required for a lot abutting a residential district for the property located at the SE corner of Weiser Avenue and S. Sandusky Street, with the conditions that the façade be made with natural materials and that the Variances shall expire: with a change in use; if the lots are not combined into one tax parcel before January 1, 2004; and/or if the drive-thru does not receive approval of all final inspections before January 1, 2005. (5 in favor, 0 opposed) **MOTION APPROVED.**

BZA 03-040

HENKEL CORP. VARIANCES

421 LONDON RD

APPROVED, WITH CONDITIONS

Application BZA 03-040 – A request by Pomeroy and Associates, representing Henkel Corp., for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1161 to authorize a parking lot with no landscaped islands, to permit a parking lot with less than the required buffering and screening, and to allow a parking lot with no curbing or parking blocks; plus for Variances to Chapter 1171 to allow the existing lighting to suffice for the property located at 421 London Road.

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND The existing truck staging, loading, and unloading area along the south edge of the buildings has a gravel surface that slopes to the adjacent creek. The Applicant proposes to pave the area with concrete pavement, with curbing only along the creek. A new storm sewer system to control the stormwater runoff will be installed under the pavement. This storm system will have shutoff valves for the collection and disposal of any accidental spill material and to prevent it from entering the creek.

STAFF REVIEW: The photographs and drawings illustrate the existing and proposed conditions.

REDUCTION IN CODE REQUIREMENTS VARIANCES. None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements.

CURBING AND PARKING BLOCK VARIANCES. Code requires parking lots to be curbed and for the spaces to have parking blocks. But, those requirements are meant to cover parking for cars, not trucks. Because tractor-trailer trucks need relatively wide-open spaces in which to maneuver, parking blocks could become a traffic hazard and are probably not needed to keep parked trucks separated from each other, anyway. As such, Variances to waive the requirement to provide parking blocks for trucks seems to be warranted.

In terms of the curbing, the Applicant proposes curbing along the stream to assist with stormwater management but proposes to have no curbing, elsewhere, contending that the trucks would destroy it. Again, the large tractor-trailers do need broad maneuvering areas, which might justify Variances to allow the rest of the parking lot to not be curbed.

LANDSCAPED ISLAND VARIANCES: Code requires landscaped islands in order to define the driving aisles plus to break up the sea of pavement. Tractor-trailers do not need such definition of the driving aisles and any islands so provided would most likely soon be demolished by the wide turns required of the trucks. Accordingly, Variances to omit the landscaped islands seems to be merited.

BUFFERING AND SCREENING VARIANCES: As can be seen on the air photo, the entire south property line is fairly heavily-treed, so buffering/screening along there is unnecessary. Similarly, there are building walls almost continuously on the other three sides of the proposed parking area. This suggests that Variances to allow the existing buffering/screening situation to suffice might be warranted.

LIGHTING VARIANCES. The Applicant suggests that parking lot lighting would be destroyed by the maneuvering of the trucks and might become a hazard to the truck drivers. The need for lighting still remains. Perhaps the Lighting Plan used at the Kroger Distribution Center could be applicable here, also. That is, widely-spaced higher intensity lights with down-shielding set in special elevated concrete foundations might be the answer. This suggests that Variances to allow the existing lighting conditions to suffice are not justified.

STAFF RECOMMENDATION. Staff recommends approval, as presented, of the requested Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1161 to permit a truck parking lot with less than the required buffering and screening, to allow a parking lot with no curbing or parking blocks, and to authorize a truck parking lot with no landscaped islands for the southern end of the property located at 421 London Road, with the conditions that the Variances shall expire if the parking lot and stormwater improvements are not completed by August 1, 2004, including the required parking lot lighting.

Brad Smith, Pomeroy & Associates, stated that Henkel is proposing to pave the existing

gravel area to eliminate dust; curb will be added with a guardrail; stormwater control will be added; and provisions for spill containment will be provided.

MOTION: Moehring/Halter moved to adopt resolution BZA 03-040, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (4 in favor, 0 opposed, 1 abstained (El Maasarani)) **MOTION APPROVED**

MOTION: Moehring/DiGenova moved to approve the Variances, as presented, to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1161 to permit a truck parking lot with less than the required buffering and screening, to allow a parking lot with no curbing or parking blocks, and to authorize a truck parking lot with no landscaped islands for the southern end of the property located at 421 London Road, with the conditions that the Variances shall expire if the parking lot and stormwater improvements are not completed by August 1, 2004, including the required parking lot lighting. (4 in favor, 0 opposed, 1 abstained (El Maasarani)) **MOTION APPROVED**

BZA 03-043

TWO SONS CARWASH SIGN VARIANCES

182 S SANDUSKY ST

APPROVED, WITH CONDITIONS

Application BZA 03-043 – A request by Two Sons, Inc. for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1165 to permit a monument sign to be too large, to authorize a freestanding sign to be closer than 20 feet to the lot lines, and to allow a reduction in the sign landscaping requirements for the property located at 182 S. Sandusky Street.

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND The Applicant has removed the previous Dairy Queen building and is in the process of constructing a Touchless Express automatic car wash on the site. The Applicant proposes to place a sign 10 feet from the side yard and 15 feet from the front yard, plus proposes to increase the size of the sign to 38 square feet.

STAFF REVIEW The drawings illustrate the existing and proposed conditions.

REDUCTION IN CODE REQUIREMENTS VARIANCES: None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements.

SIGN SIZE VARIANCES. Code allows a freestanding monument sign to be 0.5 square feet per foot of building frontage, up to a maximum of 40 square feet. It also allows wall signs to be 1.0 square foot per foot of building frontage, up to a maximum of 100 square feet.

The building qualifies the site for 24 square feet but 38 square feet are requested. A wall sign has not been requested (which sign would be very ineffective, anyway, because the building is set back more than 100 feet from S. Sandusky Street), so this would be the site's sole signage. Perhaps this would warrant the larger sign (which would still be less than the 40-square foot maximum), if wall signage were to be limited in the future to, say, one-half of what is permitted (0.5 of 48 square feet = 24 square feet limit).

SIGN LOCATION VARIANCES. If the sign was located 20 feet from all lot lines, as required by Code, it would be in the edge of the entrance drive plus would be located slightly behind the Burger King building façade, which means that it would be a traffic hazard on-site plus would not be seen by southbound traffic until too late. As such, the site conditions appear to justify the requested setback Variances.

SIGN LANDSCAPING VARIANCES The Applicant's Landscaping Plan proposes to do the required sign landscaping, which means that such a Variance is no longer necessary.

STAFF RECOMMENDATION Staff recommends denial of Variances to Chapter 1165 to allow a reduction in the sign landscaping requirements.

Because this is a narrow existing lot, Staff recommends approval of Variances, as presented, to Chapter 1123 to allow reductions in the Code requirements for Variances to Chapter 1165 to permit a monument sign to be 10 feet from the front lot line and 15 feet from the side lot line (rather than 20 feet from the lot lines) plus for the monument sign to be 38 square feet for the property located at 182 S. Sandusky Street, with the conditions that the Variances shall expire:

1. *With a change in use;*
2. *If a wall sign larger than 24 square feet is installed; and/or*
3. *If the sign does not receive approval of all final inspections before January 1, 2004*

Brian Long, Two Sons Inc., 615 Stratford Rd, stated that the proposed sign location is the

best place on the site due to the gas and water lines in that area, in addition to the reasons that Jennings mentioned.

MOTION: DiGenova/Harden moved to adopt resolution BZA 03-043, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (5 in favor, 0 opposed) **MOTION APPROVED**

MOTION: DiGenova/Halter moved to approve the Variances, as presented, to Chapter 1123 to allow reductions in the Code requirements for Variances to Chapter 1165 to permit a monument sign to be 10 feet from the front lot line and 15 feet from the side lot line (rather than 20 feet from the lot lines) plus for the monument sign to be 38 square feet for the property located at 182 S. Sandusky Street, with the conditions that the Variances shall expire: with a change in use; if a wall sign larger than 24 square feet is installed; and/or if the sign does not receive approval of all final inspections before January 1, 2004. (5 in favor, 0 opposed) **MOTION APPROVED**

BZA 03-044

CHRISTIAN LIFE CHURCH VARIANCES

89 CHESHIRE ST

APPROVED, WITH CONDITIONS

Application BZA 03-044 – A request by Christian Life Church for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1148 to permit a place of worship on a lot of less than 2 acres plus to authorize a reduction in the building and parking setbacks; for Variances to Chapter 1151 to enlarge a non-conforming structure; for Variances to Chapter 1165 to permit a monument sign to be 18 feet (rather than 20 feet from the lot lines) and to allow a reduction in the sign landscaping requirements; for Variances to Chapter 1166 to waive landscaping requirements for street trees, yard trees, and yard shrubs, to waive the required screening and buffering, plus to waive the required parking lot islands and landscaping and screening plus for Variances to Chapter 1171 to waive the lighting requirements for the property located at 89 Cheshire Street.

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND: The Applicant proposes to construct a 1,500-square foot sanctuary, 600-foot office area, 150-foot foyer plus a 16-space parking lot to the existing Christian Life Church facility.

STAFF REVIEW. The drawings illustrate the existing and proposed conditions.

REDUCTION IN CODE REQUIREMENTS VARIANCES: None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements

NON-CONFORMING LOT OF RECORD VARIANCES A non-conforming lot of record can be expanded upon only if it meets all of the Code requirements, except for lot width, lot area, and lot frontage. If other Variances are granted, then Variances to this provision will be needed, also.

BUILDING SETBACK VARIANCES Code requires Places of Worship to have 40-foot building setbacks from the front, side, and rear lot lines. The property is only 92 feet wide, which means that only a 12-foot wide church could be built on it. Obviously, the site characteristics justify a Variance for the existing building plus, possibly, the proposed 18-foot rear yard setbacks that are proposed for Additions A and B, as well as the 25-foot side yard setback requested for the Addition A.

PARKING SETBACK VARIANCES: Parking is required to be setback 20 feet from the front, side, and rear lot lines. The existing parking is set back only 10 feet from the front and rear lot lines, while the proposed additional parking would be 10 feet from the rear lot line and 16 feet from the side lot line. It could be suggested that a continuation of the existing rear line of the parking lot would result in a safer, straight line of parking spaces, perhaps meriting such a Variance.

The side of the parking lot is 16 feet from the property line, instead of 20 feet, mainly to provide the bump-out for the cars backing out of the parking spaces. Two parking spaces could be deleted to provide the extra 4 feet of separation that is required but that does not seem to serve the public interest.

NON-CONFORMING STRUCTURE VARIANCES. As shown above, the existing Church lies within the front and rear yard setbacks, making it a non-conforming structure. Code prohibits the expansion of a non-conforming structure or use. If other Variances are granted, then Variances to this provision will be needed, also.

SIGN LOCATION VARIANCES. The Sign Code requires that monument signs be located 20 feet from all lot lines but the existing sign is only 18 feet. That is only 10% less than Code, qualifying it as Minor and justifying an 18-foot setback for the existing sign

SIGN LANDSCAPING VARIANCES *The existing sign is only 4 feet wide and 6-8 inches deep, which means that it would be engulfed by a 50-square foot landscaping area, perhaps meriting such a Variance*
LANDSCAPING VARIANCES *Chapter 1166 requires street trees, yard trees, and yard shrubs, screening and buffering for a lot abutting a residential district or use, plus parking lot islands and landscaping and screening There are no apparent unusual circumstances or conditions unique to this site that might merit such Variances*
LIGHTING VARIANCES *The Lighting Code requires parking lot lighting and the Applicant proposes to have none for the proposed parking. As before, there do not appear to be any unusual circumstances or conditions unique to this site to warrant Variances omitting the required lighting.*
STAFF RECOMMENDATION *Staff recommends denial of Variances to Chapter 1166 to waive the required street trees, yard trees, and yard shrubs, screening and buffering for a lot abutting a residential district or use, plus parking lot islands and landscaping and screening plus denial of Variances to Chapter 1171 to waive the lighting requirements for the property located at 89 Cheshire Street.*

Because this is a long and relatively narrow existing lot, Staff recommends approval of Variances, as presented, to Chapter 1123 to allow reductions in the Code requirements, for Variances to for Variances to Chapter 1148 to permit a place of worship on a lot of less than 2 acres plus to authorize a reduction in the building and parking setbacks, for Variances to Chapter 1151 to enlarge a non-conforming structure; plus for Variances to Chapter 1165 to permit a monument sign to be 18 feet (rather than 20 feet from the lot lines) and to allow a reduction in the sign landscaping requirements for the property located at 89 Cheshire Street, with the conditions that the Parking Lot Variances shall expire:

1. *With a change in use and/or*
2. *If the new parking spaces are not installed before January 1, 2005 and*

the remaining Variances shall expire:

1. *With a change in use and/or*
2. *If Additions A and B do not receive approval of all final inspections before January 1, 2005.*

Joel Rhoades, 6277 Riverside Dr - Dublin, stated that the church has grown over the past few years. Mr. Rhoades stated the landscape islands will eliminate parking spaces. Mr. Rhoades voiced concern with additional lighting to the site because of the residences in the area. Halter stated the lighting does not have to be on all night and can be turned off at night by a switch. Mr. Rhoades asked for an additional 12 months to make the date January 1, 2006. Harden asked why the Variance to Chapter 1166 has been requested and Mr. Rhoades replied one reason is because of the small site and the second is because of cost. Mr. Rhoades stated it's not the intent to not have landscaping; the concern is with the scope of the landscaping. Jennings stated the requirement isn't extensive. Mr. Rhoades withdrew the Variance request to Chapter 1166 and will work with Staff on the requirement.

Mike Wilson, 169 W Hull Dr - Delaware, was present at the meeting.

MOTION: Moehring/DiGenova moved to adopt resolution BZA 03-044, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (4 in favor, 0 opposed, 1 abstained (El Maasarani)) **MOTION APPROVED**

MOTION: Moehring/DiGenova moved to approve the Variances, as presented, to Chapter 1123 to allow reductions in the Code requirements, for Variances to for Variances to Chapter 1148 to permit a place of worship on a lot of less than 2 acres plus to authorize a reduction in the building and parking setbacks; for Variances to Chapter 1151 to enlarge a non-conforming structure; plus for Variances to Chapter 1165 to permit a monument sign to be 18 feet (rather than 20 feet from the lot lines) and to allow a reduction in the sign landscaping requirements for the property located at 89 Cheshire Street, with the conditions that the Parking Lot Variances shall expire: with a change in use and/or if the new parking spaces are not installed before January 1, 2005 and the remaining Variances shall expire: with a change in use and/or if Additions A and B do not receive approval of all final inspections before January 1, 2006. (4 in favor, 0 opposed, 1 abstained (El Maasarani)) **MOTION APPROVED**

BZA 03-045

DOMINION HOMES FENCE SETBACK VARIANCES

SE & SW CORNERS OF US 36W/W. WILLIAM STREET & LEHNER FARMS BLVD

APPROVED

Application BZA 03-045 – A request by Donald Plank, representing Dominion Homes, for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1152 to permit a fence taller than 3 feet in the front yard setback, to authorize a non-open ornamental fence in the front yard setback, plus to waive the fence screening requirement for the properties located at the SE and SW corners of US 36W/W. William Street and Lehner Farms Boulevard.

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND: The 3-rail and privacy fences were approved as part of the Development Plan for the Villages at Lehner Woods condominium project but no height was indicated on the Plan. The Applicant has already installed the non-conforming 3-rail fence

STAFF REVIEW: The drawings illustrate the existing and proposed conditions.

REDUCTION IN CODE REQUIREMENTS VARIANCES: None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements.

FENCE HEIGHT VARIANCES: Code permits fences in a front yard only if they are no taller than 3 feet so that people do not block the front yard views within residential neighborhoods. That provision does not take into account the relatively unique circumstance of a condominium development that wants to define its character with a landscaping and fence treatment along its road frontage, which is the current situation. The 4-foot 5-inch 3-rail fence does not block neighborhood front yard views, which suggests that such Variances are warranted

FENCE TYPE VARIANCES: The Fence Code allows only open ornamental fences in the front yard. The privacy fence along the east property line does not meet this definition and will be in the 30-foot front yard when Grand Circuit Boulevard is extended across US 36 and into the Willowbrook development next door. This provision was intended to keep residents from blocking the front yard views of their neighbors but did not anticipate that that is exactly what is needed when a single-family development abuts a shopping center. Accordingly, it would appear that Variances to permit the proposed privacy fence in the Grand Circuit Boulevard front yard setback are justified.

FENCE SCREENING VARIANCES: Code requires that a privacy fence that is parallel to, and visible from, a street must be screened along at least 50% of its length. No such screening has been proposed. There do not appear to be any unusual circumstances or conditions unique to this site to merit such Variances.

STAFF RECOMMENDATION: Staff recommends approval, as presented, of the requested Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1152 to permit a 4-foot 5-inch 3-rail fence plus a 6-foot tall privacy fence in the front yard setback for the properties located at the SE and SW corners of US 36W/W William Street and Lehner Farms Boulevard.

Don Plank, Attorney for Dominion Homes, stated that one request is to allow a 4.5-foot fence, instead of a 3-foot fence. Mr. Plank stated that they would like a Variance for the 6-foot high privacy fence to screen the residents from the commercial shopping center. Mr. Plank stated that a 4.5-foot fence looks better than a 3-foot fence. Harden asked if there are code revisions in place to deal with this type of development and Jennings replied, yes there will be a separate section for developments with fences. Halter suggested there be a different type of fence on the east side of the property, besides a 6-foot fence that just ends. Mr. Plank withdrew the Variance request for the fence to be within the 30-foot front yard setback.

MOTION: DiGenova/Halter moved to adopt resolution BZA 03-045, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (3 in favor, 2 opposed (Moehring & Harden)) **MOTION APPROVED**

BZA 03-046

HUGHES FARM OPEN SPACE VARIANCES

E SIDE OF BRAUMILLER RD & N OF CHESHIRE RD

DENIED

MOTION: DiGenova/Halter moved to approve the Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1152 to permit a 4-foot 6-inch, 3-rail fence for the properties located at the SE and SW corners of US 36W/W. William Street and Lehner Woods Boulevard. (3 in favor, 2 opposed (Moehring & Harden)) **MOTION APPROVED**

Application BZA 03-046 – A request by Catherine Cunningham, representing Homerock LLC, for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1134 to permit less than the required 20% open space for the 49.678-

acre property known as the Hughes Farm located north of Cheshire Road and on the east side of Braumiller Road.

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND The Applicant proposes to a reduction in the required Open Space from 20 per cent to 8 per cent for the proposed Hughes Farm Subdivision.
STAFF REVIEW The drawings illustrate the existing and proposed conditions
REDUCTION IN CODE REQUIREMENTS VARIANCES None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements
OPEN SPACE VARIANCE As was the case with BZA 03-002 (Meadows at Carson Farms) and BZA 03-041 (Braumiller Development Subdivision), the Applicant understands that Staff is in the process of seeking Planning Commission and City Council approval for a reduction in the amount of required open space to 5%, a more reasonable level.

Currently, Code requires that almost one-third of a residential site be in park and open space uses (10% parkland plus 20% open space). That is an unreasonably large proportion of any site to not be available for development As such, Variances to allow 8% Open Space to suffice seems to be warranted and would be more than the future Code is expected to require.
STAFF RECOMMENDATION Staff recommends approval, as presented, of the requested, with the conditions that the Variances shall expire if:

1. *A Preliminary Subdivision Plat is not approved for the Hughes Farm Subdivision by City Council before July 1, 2004 and/or*
2. *The Zoning Code is not changed to require 5% Open Space in the R-2 District before July 1, 2004*

Catherine Cunningham, Attorney for Homerock, stated the Applicant requested a Variance to 5% because some of the site will include additional parkland. Ms. Cunningham stated that the Code requirement for 20% Open Space plus 10% for Parkland makes it economically impossible to develop a site at that rate and that is why Staff is considering amending the Code. Ms. Cunningham stated they are asking for what other properties have received and, in return, we can provide lower densities and an upscale development.

MOTION: Halter/Moehring moved to deny the requested Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1134 to permit less than 20% open space for the 49.7-acre property known as the Hughes Farm that is located on the east side of Braumiller Road, since all of the conditions to Section 1128.04 have not been met. (5 in favor, 0 opposed) **MOTION APPROVED**

BZA 03-047

HORNSBY FENCE VARIANCES

100 BLUE SPRUCE CT

TABLED TO SEPTEMBER 23, 2003

Application BZA 03-047 – A request by Ted and Dawn Hornsby for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1152 to permit a fence taller than 3 feet in the front yard setback, to authorize a privacy fence in the front yard setback, plus to waive the fence screening requirement for the property located at 100 Blue Spruce Court.

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND The Applicant proposes to place a 6-foot white vinyl privacy fence around their proposed in-ground swimming pool in place of their existing fence, which is a non-conforming fence
STAFF REVIEW The photographs and drawings illustrate the existing and proposed conditions
REDUCTION IN CODE REQUIREMENTS VARIANCES None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements
FENCE VARIANCES The Fence Code permits fences in a front yard only if they are the open ornamental-type and no taller than 3 feet Presumably, this was done so that people do not block the front yard views within residential neighborhoods with 6-foot tall privacy fences In addition, Code requires that the pool be enclosed by a fence that is at least 4 feet tall And, swimming pools are not allowed in the front yard setback and such a Variance is not needed, in this Case

It should be noted that the Applicant is constrained by an underground electric line as to where the proposed pool can be located because the Building Code requires a minimum separation of 5 feet

The Applicant is proposing a 6-foot white, vinyl privacy fence that would now be located about 10-12 feet out from the edge of the house, approximately where the existing gate is situated and in-line with the pine tree at the corner.

This is very similar to BZA 02-041 (Powell Fence Variance for 201 Trestletree Court) where the Applicant occupied an irregular-shaped, corner lot and wanted to place a privacy fence approximately 10 feet from the sidewalk.

The BZA denied that Application, primarily because there were not any unusual circumstances or conditions unique to that property The proposed fence would now be 13-15 feet from the sidewalk, rather than the 5-10 feet requested previously

Code requires that a privacy fence that is parallel to, and visible from, a street must be screened along at least 50% of its length The Applicant now proposes such screening and, so such Variances are not needed
STAFF RECOMMENDATION If the Board of Zoning Appeals decides to grant Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1152 to permit a 6-foot tall fence in the front yard setback and to authorize a privacy fence in the front yard setback, Staff recommends that it be with the condition that the Variances shall expire if either the fence or the pool does not receive approval of a final inspection before July 1, 2004

Ted Hornsby, Applicant, stated that, if they put the fence at the 30-foot setback, it will separate the yard in half. Mr. Hornsby felt that the options given were reasonable and would be willing to add the 50% screening. It was suggested that a 4-foot fence be installed to avoid a Variance and Mr. Hornsby replied that, for safety reasons, a taller fence needs to be installed. Harden suggested that the request be Tabled to explore other options. Mrs. Hornsby stated that, because of utility lines, the pool can't be shifted to the west to accommodate a 25-foot setback. Halter suggested that the Applicant layout exactly where the pool will be to make sure no other Variances are needed.

MOTION: Moehring/Halter moved to Table BZA 03-047 to the September 23, 2003 meeting. (5 in favor, 0 opposed) **MOTION APPROVED**

Application BZA 03-048 – A request by Bowtown Delaware Ltd for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1129 to waive the requirement for curbs and sidewalks on both side of the street plus to waive the bike path requirement for the 64-unit addition to the Village Gates Apartments located at 717 Bowtown Road.

BZA 03-048

VILLAGE GATE APTS ADDITION CURB & SIDEWALK VARIANCES

717 BOWTOWN RD

APPROVED, WITH CONDITIONS

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND The Applicant proposes to add 64 units to the existing Village Gates Apartments plus proposes to omit the Code-required sidewalks and curbing on one side of the street and plus to have no bike paths
STAFF REVIEW The drawings illustrate the existing and proposed conditions
REDUCTION IN CODE REQUIREMENTS VARIANCES None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements
SIDEWALKS, CURBING, AND BIKE PATH VARIANCES Chapter 1129 of the Zoning Code requires that all developments have sidewalks, curbing, and bike paths However, another section of the same Chapter says that "Walkways shall be provided to connect to common open space areas and to provide convenient pedestrian access throughout the development and from the development to other areas of the community." This has been interpreted to mean that, in private developments, sidewalks can be provided on just one side of the street, so such a Variance seems to be warranted

There do not appear to be any unusual circumstance or conditions unique to this site to justify having curbing on just one side of the private streets

If there is to be a bike path, it will be along the extension of Ferguson Drive along the north edge of the 64-unit addition and will merely be a substitution for the otherwise required sidewalk along the south side of Ferguson Again, there do not appear to be any unusual circumstance or conditions unique to this site to merit waiving the required sidewalk or bike path along the south side of future Ferguson Drive
STAFF RECOMMENDATION Staff recommends approval of the requested Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1129 to provide sidewalks on just one side of the street for the 64-unit addition to the Village Gates Apartments located at 717 Bowtown Road, with the condition that the Variances shall expire if

1. *The private road and any associated sidewalks and curbs are not installed before July 1, 2005 and/or*
2. *At least 8 dwelling units have not received approval of at least a Temporary Occupancy Certificate*

Mike Courveur, Kleingers & Associates, stated that, currently, there is no planned bikepath because there is nothing to connect it to currently. The sidewalks are planned to be on the inside of the private streets. Jennings stated there will be a sidewalk or a bikepath on the other side, that's why the provision is there. Jennings asked that the July 1, 2005 be repeated on the recommended

approval condition number two.

Jack Wendell, Applicant, was present at the meeting.

MOTION: Moehring/Harden moved to adopt resolution BZA 03-048, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (5 in favor, 0 opposed) **MOTION APPROVED**

MOTION: Moehring/Harden moved to approve the Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1129 to provide sidewalks on just one side of the street for the 64-unit addition to the Village Gates Apartments located at 717 Bowtown Road, with the condition that the Variances shall expire if: the private road and any associated sidewalks and curbs are not installed before July 1, 2005 and/or at least 8 dwelling units have not received approval of at least a Temporary Occupancy Certificate before July 1, 2005. (5 in favor, 0 opposed) **MOTION APPROVED**

Application BZA 03-049 – A request by Branham Sign Co., representing Guardian Financial, for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1165 to permit two wall signs and to authorize 21 square feet of wall signage (rather than the 13 feet permitted) for the property located at 1178 Columbus Pike.

BZA 03-049

GUARDIAN FINANCIAL SIGN VARIANCES

1178 COLUMBUS PIKE

APPROVED

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND The Applicant proposes to add the words, "FINANCE COMPANY" to the existing, "GUARDIAN" wall sign to identify the service that they supply to the public

STAFF REVIEW The drawings illustrate the existing and proposed conditions.

REDUCTION IN CODE REQUIREMENTS VARIANCES: None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements.

SIGN VARIANCES. The narrow storefront that is occupied by this business qualifies it for only 13 square feet of signage. As can be seen by the photograph, the existing sign is dwarfed and overwhelmed by the much larger signs on either side of it, so much so that its message is nearly lost in the process. This suggests that these unusual site conditions might warrant the requested 21-square foot sign.

STAFF RECOMMENDATION. Staff recommends approval of the requested Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1165 to permit 21 square feet of wall signage (rather than the 13 feet permitted) for the Guardian Financial property located at 1778 Columbus Pike.

Amber Runyon, Applicant, said that it is very difficult to see their sign, especially next to the huge signs on either side.

MOTION: DiGenova/Harden moved to adopt resolution BZA 03-049, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (5 in favor, 0 opposed) **MOTION APPROVED**

MOTION: DiGenova/Harden moved to approve the Variances, as presented, to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1165 to permit 21 square feet of wall signage (rather than the 13 feet permitted) for the Guardian Financial property located at 1778 Columbus Pike. (5 in favor, 0 opposed) **MOTION APPROVED**

BZA 03-050

CENTRAL READY MIX VARIANCES

Application BZA 03-050 – A request by Central Ready-Mix of Ohio LLC, representing TAP Holdings LLC, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1147 to permit a use on a lot with no frontage, to authorize outdoor storage on a gravel surface, to allow outdoor storage without fence

343 CURTIS ST

APPROVED, WITH CONDITIONS

screening, plus to permit a structure that is not appurtenant to exceed the maximum building height; for Variances to Chapter 1161 to authorize the existing gravel parking areas to suffice and to allow an existing substandard gravel access road to suffice; for Variances to Chapter 1166 to permit the existing landscaping to suffice and to waive the screening requirements for trash receptacles and outdoor storage; plus for Variances to Chapter 1171 to authorize a use that creates noise and dust for the property located at 343 Curtis Street.

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND: The Applicant proposes to utilize the site as a concrete batch plant.
STAFF REVIEW: The drawings illustrate the existing and proposed conditions
REDUCTION IN CODE REQUIREMENTS VARIANCES: None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements.
LOT FRONTAGE VARIANCE This is an existing lot, so there appear to be unusual site conditions that might warrant a use on a lot with no frontage.
OUTDOOR STORAGE VARIANCES The requirement for outdoor storage to be on a paved surface was developed with retail situations in mind, not industrial storage of raw materials. Accordingly, such Variances seem to be justified.
HEIGHT VARIANCE The Manufacturing District regulations allow a structure to exceed the maximum building height if it is appurtenant (an appendage or secondary to the primary use), which this would be, if it was the only use on the parcel. While there may or may not be larger and more "primary" uses in the main building now or in the future, these unique site conditions suggest that a Variance to permit the silo (much like the one across the street in the township at Buckeye) might be merited.
PARKING VARIANCES There do not appear to be any unusual circumstance or conditions unique to this site to justify not providing any required paved parking.
LANDSCAPING VARIANCES The proposed location is heavily-screened by existing trees and shrubs to the east and north plus the buildings to the west and south. This is an isolated, out-of-sight location that perhaps warrants Variances to permit the existing landscaping to suffice and to waive the screening requirements for trash receptacles and outdoor storage
NOISE AND DUST VARIANCES The Manufacturing District regulations allow a cement plant as a Conditional Use but the Performance Standards Chapter prohibits uses that "emit fly ash, dust, vapors or other substances that are harmful to health, animals, vegetation or other property or which can cause excessive soiling." Obviously, these 2 Chapters are at odds but, because a cement plant has to go somewhere and an M-2 District is the most reasonable alternative, this suggests that Variances to permit dust and soiling might be justified

There do not appear to be any unusual circumstance or conditions unique to this site to merit not complying with the noise levels required by Code

STAFF RECOMMENDATION: Staff recommends approval, as presented, of the requested Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1147 to permit a use on a lot with no frontage, to authorize outdoor storage on a gravel surface, to allow outdoor storage without fence screening, plus to permit a structure that is not appurtenant to exceed the maximum building height; for Variances to Chapter 1161 to authorize the existing gravel parking areas to suffice and to allow an existing substandard gravel access road to suffice; for Variances to Chapter 1166 to permit the existing landscaping to suffice and to waive the screening requirements for trash receptacles and outdoor storage, plus for Variances to Chapter 1171 to authorize a use that creates noise and dust for the property located at 343 Curtis Street, with the condition that the Variances shall expire if:

1. *There is a change in use and/or*
2. *The complete facility does not receive at least a Temporary Occupancy Certificate before January 1, 2005*

Some Members were concerned with additional dust in the area that would be created with the new plant and Dan Whited, Floyd Browne & Assoc, replied that the EPA has high standards that will regulate many factors, one being dust control. Mr. Whited stated that paving the whole area won't be an issue, which will help with the control of dust.

Chuck Smith Sr. and Chuck Smith Jr., 349 W Central Ave, both are concerned with the additional amount of dust that will be created. They currently have issues with tenants not renting the buildings in the area because of the dust there now and adding another concrete plant will only make the situation worse.

Another concern raised by members was the increased traffic on a road that can barely handle the traffic it carries now.

Pat Paykoff, 2779 Peachblow Rd, stated that this project will create more revenue to keep Liberty Castings in business. Mr. Paykoff stated that trucks can use the easement along Liberty

Castings to London Road to help decrease the amount of truck traffic on Curtis St. El Maasarani stated that a Variance may be needed for the driveway on the easement. Halter stated that he would like to see truck traffic prohibited on the other driveway. Pat Paykoff stated that other business use that driveway daily.

MOTION: Harden/Moehring moved to adopt resolution BZA 03-050, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (3 in favor, 2 opposed (Halter, DiGenova)) **MOTION APPROVED**

MOTION: Harden/Moehring moved to approve, as presented, the Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1147 to permit a use on a lot with no frontage, to authorize outdoor storage on a gravel surface, to allow outdoor storage without fence screening, plus to permit a structure that is not appurtenant to exceed the maximum building height; plus for Variances to Chapter 1166 to permit the existing landscaping to suffice and to waive the screening requirements for trash receptacles and outdoor storage for the property located at 343 Curtis Street, with the conditions that the Variances shall expire if: there is a change in use and/or the complete facility does not receive at least a Temporary Occupancy Certificate before January 1, 2005. (3 in favor, 2 opposed (Halter, DiGenova)) **MOTION APPROVED**

BZA 03-051

TALLEY PORCH ADDITION VARIANCES

290 W CENTRAL AVE

APPROVED, WITH CONDITIONS

Application BZA 03-051 – A request by Todd Talley, representing Vicki Ratliff, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1134 to reduce the front yard setback along Euclid Avenue to 13 feet for a porch addition; plus for Variances to Chapter 1151 to enlarge a non-conforming structure for the property located at 290 W. Central Avenue.

Jennings presented the review (printed italic text is from Staff Report, which Jennings reviewed):

BACKGROUND. The Applicant proposes to construct a porch addition on the south side of the existing residence
STAFF REVIEW. The drawings illustrate the existing and proposed conditions.
REDUCTION IN CODE REQUIREMENTS VARIANCES. None of this can be accomplished unless a Variance is granted to allow a reduction in Code requirements.
SETBACK VARIANCES. Code requires a 30-foot front yard setback. If a porch is built only across one-half of the back wall, probably no Variances would be needed. If it is to be the full width of the back wall, as requested, a Variance to permit a 13-foot front yard setback along Euclid Avenue will be needed.
NON-CONFORMING STRUCTURE VARIANCES. Code prohibits the expansion of a non-conforming structure or use. If other Variances are granted, then Variances to this provision will be needed, also.
STAFF RECOMMENDATION. If the Board of Zoning Appeals grants any of the Variances, Staff recommends that it be with the condition that the Variances shall expire if the Porch does not receive approval of a final inspection before July 1, 2004.

Todd Talley, 290 W Central Ave, stated that a portion of the porch will be 9 feet 8 inches in the setback. Thomas Sampson, 308 W Central Ave, made a comment that was too inaudible to be recorded.

MOTION: Harden/DiGenova moved to adopt resolution BZA 03-051, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (5 in favor, 0 opposed) **MOTION APPROVED**

MOTION: Harden/DiGenova moved to approve the Variances, as presented, to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1134 to reduce the front yard setback along Euclid Avenue to 13 feet for a porch addition; plus for Variances to Chapter 1151 to

enlarge a non-conforming structure, with the condition that the Variances shall expire if the Porch does not receive approval of a final inspection before July 1, 2004, for the property located at 290 W. Central Avenue. (5 in favor, 0 opposed) **MOTION APPROVED**

BOARD MEMBER COMMENTS AND DISCUSSION: None

NEXT REGULAR MEETING – September 23, 2003, 7:00 p.m.

ADJOURNMENT: Moehring/Harden moved to adjourn the meeting at 11:45 p.m. (All Ayes) MEETING ADJOURNED.

Nabeel El Maasarani, Chair

Elizabeth Corwin, Secretary

MOTIONS SUMMARY
DELAWARE BOARD OF ZONING APPEALS

Regular Meeting
January 14, 2004 - 7:00 p.m.
City Hall Council Chambers
One South Sandusky Street – 2nd Floor

1. Roll Call
   Members Present - Jim Halter, Robyn Moehring, Carolyn Riggle, Suzan Harden, and Nabeel El Maasarani
   Staff Present – Jim Jennings (Associate Planner) and Elizabeth Corwin (Planning Secretary)

2. Election of Officers

MOTION: Suzan/Moehring nominated Nabeel El Maasarani as Chair. (4 in favor, 0 opposed, 1 abstained (El Maasarani)) MOTION APPROVED
MOTION: Moehring/Riggle nominated Suzan Harden as Vice Chair. (4 in favor, 0 opposed, 1 abstained (Harden)) MOTION APPROVED.

3. Approval of Minutes for the October 15, 2003 Regular Meeting.

MOTION: Harden/Halter moved to approve the October 15, 2003 Minutes, as presented. (5 in favor, 0 opposed) MOTION APPROVED.

4. Approval of Minutes for the November 19, 2003 Regular Meeting.

MOTION: Moehring/Halter moved to approve the November 19, 2003 Minutes, as presented. (5 in favor, 0 opposed) MOTION APPROVED.

5. Approval of Minutes for the December 17, 2003 Regular Meeting.

Members requested the Minutes be held for another month.
MOTION: Harden/Halter moved to Table December 17, 2003 Minutes. (5 in favor, 0 opposed) MOTION APPROVED.

CONSENT AGENDA – TABLE INDEFINITELY

A. Application BZA 03-082 – A request by UnionTools for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1147 to allow a lot to be created that has 82.52 feet of frontage (rather than the 200-foot minimum) for the property located at 440 E. William Street.
B. Application BZA 03-083 – A request by UnionTools for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1147 to allow a lot to be created that has 119 feet of frontage (rather than the 200-foot minimum) plus to permit parking closer than 10 feet to a side lot line and closer than 20 feet to a right-of-way for the property located at 440 E. William Street
C. Application BZA 03-085 – A request by Bigham Sign Company, representing Casto Communities, for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1165 to authorize a residential identification sign to be taller than 5 feet and to be closer than 10 feet to a right-of-way for the Troy Farms Apartments located on the west side of Houk Road, just north of the Westfield Shopping Center

MOTION: Moehring/Harden moved to Table BZA 03-082, BZA 03-083 and BZA 03-085 indefinitely. (5 in favor, 0 opposed) MOTION APPROVED.

6. Reconsideration of Application BZA 03-044 – A request by Christian Life Church for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1134 to reduce the approved setback Variances for the proposed additions and revised parking for the property located at 89 Cheshire Street.

MOTION: Moehring/Riggle moved to adopt BZA 03-044, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (4 in favor, 0 opposed, 1 abstained (El Maasarani)) MOTION APPROVED.

MOTION: Moehring/Riggle moved to approve the Variances to Chapter 1123 to allow reductions in the

Code requirements; plus for Variances to Chapter 1134 to permit a 5-foot parking setback on the east side, a 15-foot parking setback on the north side, and a 23-foot parking setback on the west side; plus for Variances to Chapter 1148 to permit the 10-foot and 10-foot rear yard setbacks that are proposed for Additions A and B, respectively, as well as the 20-foot side yard setback requested for Addition A, with the conditions that the Setback Variances shall expire with a change in use and/or if Additions A and B do not receive approval of all final inspections before January 1, 2006, for the property located at 89 Cheshire Street. (4 in favor, 0 opposed, 1 abstained (El Maasarani)) MOTION APPROVED.

7. Application BZA 03-080 – A request by James Gill, representing David Caserta, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1143 to reduce the setback requirement; plus for Variances to Chapter 1165 to permit more than one freestanding sign, to allow a flag pole higher than 30 feet, and to reduce the setback requirement for the proposed American flag and pole at the Chesrown Pontiac-Buick-GMC property located at 1588 Columbus Pike.

MOTION: Harden/Moehring moved to Table BZA 03-080 to the February 11, 2004 Meeting. (5 in favor, 0 opposed) MOTION APPROVED.

8. **Consent Agenda – Remove from the Table**

MOTION: Harden/Halter moved to remove BZA 03-052, BZA 03-071, BZA 03-072, BZA 03-073, BZA 03-074, and BZA 03-075 from the Table. (5 in favor, 0 opposed) MOTION APPROVED.

A. Application BZA 03-052 – A request by John Vickers, representing Creative Paints, for Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1165 to allow a third wall sign on a side of the building that does not have a customer entrance facing a parking lot for the property located at 73 London Road.

MOTION: Riggle/Moehring moved to adopt BZA 03-052, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (2 in favor, 2 opposed , 1 abstained (El Maasarani)) NO ACTION.

Application Tabled indefinitely at the request of the Applicant.

B. Application BZA 03-071 – A request by Randy Reger, representing the Asbury United Methodist Church, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1148 to permit a place of worship on a lot of less than 2 acres plus to authorize a reduction in the building and parking setbacks; for Variances to Chapter 1151 to enlarge a non-conforming structure; for Variances to Chapter 1152 to allow a fence taller than 3 feet in the front yard; for Variances to Chapter 1161 to reduce the number of parking spaces and access drive requirements; for Variances to Chapter 1166 to reduce landscaping requirements for street trees, yard trees, and yard shrubs and to reduce the required screening and buffering; plus for Variances to Chapter 1171 to reduce the lighting requirements for the property located at 55 W. Lincoln Avenue.

MOTION: Halter/Moehring moved to adopt BZA 03-071, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (4 in favor, 0 opposed, 1 abstained (El Maasarani)) MOTION APPROVED.

MOTION: Halter/Moehring moved to approve the Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1148 to permit a place of worship on a lot of less than 2 acres plus to authorize a reduction in the building and parking setbacks; for Variances to Chapter 1151 to enlarge

a non-conforming structure; for Variances to Chapter 1161 to reduce access drive requirements; plus for Variances to Chapter 1171 to reduce the lighting requirements for the property located at 55 E Lincoln Ave, with the conditions that the Parking Lot Variances shall expire: with a change in use and/or if the new parking spaces and access drives are not installed before January 1, 2005 and the remaining Variances shall expire: with a change in use; if the 3 lots are not combined into one tax parcel before July 1, 2004; and/or if the Development Plan items do not receive approval of all final inspections before January 1, 2006. (4 in favor, 0 opposed, 1 abstained (El Maasarani)) MOTION APPROVED.

C. Application BZA 03-072 – A request by Charles Van Gundy for Variances to Chapter 1123 to reduce Code requirements plus for Variances to Chapter 1156 to allow 1,904 square feet of accessory structures (rather than the 1,148 square feet permitted) for the property located at 100 Curtis Street.

MOTION: Moehring/Halter moved to adopt BZA 03-072, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (5 in favor, 0 opposed) MOTION APPROVED.

MOTION: Moehring/Harden moved to approve the Variances to Chapter 1123 to allow reductions in the Code requirements plus for Variances to Chapter 1156 to allow 1,984 square feet of accessory structures for the property located at 100 Curtis Street, with the conditions that the Variances shall expire if the garage does not receive approval of a final inspection before January 1, 2005; if any of the accessory structures are used for a business (other than a legal Home Occupation); if the two accessory structures are not removed; and/or if the 8'x10' shed is not moved, as presented. (5 in favor, 0 opposed) MOTION APPROVED.

D. Application BZA 03-073 – A request by Robert G. Douds, representing Habitat for Humanity, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1134 to permit less than the required lot area for a single-family parcel plus to authorize less than the required lot width for a single-family property; for Variances to Chapter 1151 to allow a non-conforming lot to be used for a single-family house when the lot is on continuous frontage with another lot in the same ownership; plus for Variances to Chapter 1161 to waive the requirement that at least one off-street parking space be in a garage for the property located at 41 Carlisle Avenue.

MOTION: Halter/Riggle moved to adopt BZA 03-073, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (3 in favor, 2 opposed (Moehring, Harden)) MOTION APPROVED.

MOTION: Halter/Riggle moved to approve the Variances to Chapter 1123 to allow reductions in the Code; Variances to Chapter 1151 to allow a non-conforming lot to be used for a single-family house when the lot is on continuous frontage with another lot in the same ownership; Variances to Chapter 1161 to waive the requirement that at least one off-street parking space be in a garage, with the conditions that the Variances shall expire if: the house does not receive approval of a final inspection before July 1, 2005 and/or both required off-street parking spaces are not located behind the building setback line for the property located at 41 Carlisle Avenue. (3 in favor, 2 opposed (Moehring, Harden)) MOTION APPROVED.

E. Application BZA 03-074 – A request by Robert G. Douds, representing Habitat for Humanity, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1134 to permit less than the required lot area for a single-family parcel plus to authorize less than the required lot width for a single-family property; for Variances to Chapter 1151 to allow a non-conforming lot to be used for a single-family house when the lot is on continuous frontage with

another lot in the same ownership; plus for Variances to Chapter 1161 to waive the requirement that at least one off-street parking space be in a garage for the property located at 37 Carlisle Avenue.

MOTION: Halter/Riggle moved to adopt BZA 03-074, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (3 in favor, 2 opposed (Moehring, Harden)) MOTION APPROVED.

MOTION: Halter/Riggle moved to approve the Variances to Chapter 1123 to allow reductions in the Code; Variances to Chapter 1151 to allow a non-conforming lot to be used for a single-family house when the lot is on continuous frontage with another lot in the same ownership; Variances to Chapter 1161 to waive the requirement that at least one off-street parking space be in a garage, with the conditions that the Variances shall expire if: the house does not receive approval of a final inspection before July 1, 2005 and/or both required off-street parking spaces are not located behind the building setback line for the property located at 37 Carlisle Avenue. (3 in favor, 2 opposed (Moehring, Harden)) MOTION APPROVED.

F. Application BZA 03-075 – A request by Robert G. Douds, representing Habitat for Humanity, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1134 to permit less than the required lot area for a single-family parcel plus to authorize less than the required lot width for a single-family property; for Variances to Chapter 1151 to allow a non-conforming lot to be used for a single-family house when the lot is on continuous frontage with another lot in the same ownership; plus for Variances to Chapter 1161 to waive the requirement that at least one off-street parking space be in a garage for the property located at 31 Carlisle Avenue.

MOTION: Halter/Riggle moved to adopt BZA 03-075, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (3 in favor, 2 opposed (Moehring, Harden)) MOTION APPROVED.

MOTION: Halter/Riggle moved to approve the Variances to Chapter 1123 to allow reductions in the Code; Variances to Chapter 1151 to allow a non-conforming lot to be used for a single-family house when the lot is on continuous frontage with another lot in the same ownership; Variances to Chapter 1161 to waive the requirement that at least one off-street parking space be in a garage, with the conditions that the Variances shall expire if: the house does not receive approval of a final inspection before July 1, 2005 and/or both required off-street parking spaces are not located behind the building setback line for the property located at 31 Carlisle Avenue. (3 in favor, 2 opposed (Moehring, Harden)) MOTION APPROVED.

9. Application BZA 03-078 – A request by Village Communities, representing Medrock LLC, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1134 to reduce the required setback from the interior street; for Variances to Chapter 1152 to permit a privacy fence in a front yard and to authorize a fence taller than 3 feet in the front yard; plus for Variances to Chapter 1156 to allow a pool in the front yard and to permit a recreation area closer than 40 feet to an abutting residential lot line for the proposed Villages at Willow Brook Farm property to be located at the NE corner of Houk Road and Cobblestone Drive.

MOTION: Harden/Moehring moved to adopt BZA 03-078, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of

property rights at the property in question. (5 in favor, 0 opposed) MOTION APPROVED.

MOTION: Harden/Moehring moved to approve the Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1134 to reduce the required setback for the pool from the interior street to 18 feet; for Variances to Chapter 1152 to permit a privacy fence in a front yard and to authorize a 4-foot tall fence in the front yard; plus for Variances to Chapter 1156 to allow a pool in the front yard and to permit a recreation area to be 35 feet from an abutting residential lot line for the property located at the NE corner of Houk Road and Cobblestone Drive. (5 in favor, 0 opposed) MOTION APPROVED.

10. Application BZA 03-079 – A request by Willow Brook Christian Communities for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1111 to permit a public sidewalk to be constructed on private property; for Variances to Chapter 1129 to authorize a Tree Preservation Plan to be submitted after the Preliminary Development Plan; for Variances to Chapter 1141 to reduce the front, side, and rear setback requirements, to reduce the required amount of spacing between buildings, and to permit parking closer than 10 feet to a main building; for Variances to Chapter 1161 to reduce the required number of parking spaces; plus for Variances to Chapter 1168 to reduce the tree replacement requirement for the proposed Willow Brook Christian Village 2 to be located on the north side of US 36W/W. William Street, between Carson Farms Boulevard and Applegate Lane.

MOTION: Moehring/Halter moved to adopt BZA 03-079, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (5 in favor, 0 opposed) MOTION APPROVED.

MOTION: Moehring/Riggle moved to approve the Variances to Chapter 1123 to allow reductions in the Code; for Variances to Chapter 1129 to authorize a Tree Preservation Plan to be submitted after the Preliminary Development Plan; for Variances to Chapter 1141 to reduce the front, side, and rear setback requirements; plus for Variances to Chapter 1161 to reduce the required number of duplex parking spaces to a minimum of 52 spaces for the proposed Willow Brook Christian Village 2 to be located at 992-1350 W. William Street, with the conditions that the Variances shall expire if the Final Development Plan does not receive approval of all final inspections before July 1, 2007. (5 in favor, 0 opposed) MOTION APPROVED

MOTION: Moehring/Harden moved to Table Indefinitely the request for Variances to Chapter 1168 to reduce the tree replacement requirement. (5 in favor, 0 opposed) MOTION APPROVED

11. Application BZA 03-081 – A request by Rocky Fork Company, representing M/I Homes, for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1152 to permit a privacy fence in a front yard, to authorize a fence taller than 3 feet in a front yard, to allow an ornamental fence taller than 3 feet in a front yard, and to permit privacy walls and piers in a front yard; plus for Variances to Chapter 1165 to authorize a residential identification sign to be taller than 5 feet and to allow a sign to be located on a fence for the Cheshire Crossing Section 2 – Part 1 Subdivision located south of Cheshire Road, at and near to Braumiller Road.

MOTION: Halter/Moehring moved to adopt BZA 03-081, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (5 in favor, 0 opposed) MOTION APPROVED.

MOTION: Halter/Moehring moved to approve the Variances to Chapter 1123 to allow reductions in the Code; for Variances to Chapter 1152 to permit a privacy fence in a front yard, to authorize a fence no taller than 4 feet in a front yard, to allow an ornamental fence no taller than 4 feet in a front yard, and to permit privacy walls and piers in a front yard to be no taller than 5 feet and to permit privacy walls and piers to be up

to five feet tall in a front yard; plus for Variances to Chapter 1165 to authorize a residential identification sign to be located on a fence for the Cheshire Crossing Section 2 – Part 1 Subdivision located south of Cheshire Road, at and near to Braumiller Road, with the conditions that the fence Variances shall expire if the fencing does not receive approval of a final inspection before July 1, 2004 and the sign Variances shall expire if either sign does not receive approval of a final inspection before July 1, 2004. (5 in favor, 0 opposed) MOTION APPROVED.

12. Application BZA 03-084 – A request by Larry Vance for Variances to Chapter 1123 to allow reductions in the Code requirements; for Variances to Chapter 1147 to permit reduced setbacks; plus for Variances to Chapter 1151 to enlarge a non-conforming structure for the property located at 29 Sheldon Street.

MOTION: Harden/Moehring moved to adopt BZA 03-084, finding beyond a reasonable doubt that all the conditions exist for a Variance according to Section 1128.04. Granting the Variance will not be detrimental to the public health, safety or welfare, or detrimental to adjacent property owners. The conditions of this Variance request are unique to the property for which the Variance is sought. There are exceptional or extraordinary conditions applying to the property in question. The Variance is necessary for preservation of property rights at the property in question. (5 in favor, 0 opposed) MOTION APPROVED.

MOTION: Harden/Moehring moved to approve the Variances to Chapter 1123 to allow reductions in the Code; for Variances to Chapter 1147 to permit reduced setbacks; plus for Variances to Chapter 1151 to enlarge a non-conforming structure for the property located at 29 Sheldon Street, with the conditions that the Variances shall expire with a change in use or if each addition does not receive approval of a final inspection before July 1, 2005, with the additional condition that the siding will be installed consistent with the surrounding properties. (5 in favor, 0 opposed) MOTION APPROVED.

13. Next Scheduled Meeting Date = February 11, 2004

14. Board Member Comments and Discussion – New member Carolyn Riggle was welcomed to the Board. Members asked for direction from City Council on garages. Members discussed the garage Variances that are always requested by Habitat.

15. Adjournment

MOTION: Halter/Moehring moved to adjourn the Meeting at 9:53 p.m. (All Ayes)

Minutes consist of this Motions Summary and the audio recording of the Meeting.

MOTION: Harden/Moehring moved to approve the Motions Summary, as presented, and to accept the audio recording of the Meeting of January 14, 2004. (5 in favor, 0 opposed) MOTION APPROVED.

Nabeel S. Elmaasarani

Nabeel El Maasarani, Chairman

Elizabeth Corwin

Elizabeth Corwin, Secretary

ORDINANCE NO. 04-89

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT APPROVAL FOR THE EXPANSION OF A CHURCH AND PARKING LOT IN AN R-4 ZONING DISTRICT FOR THE CHRISTIAN LIFE CHURCH PROPERTY LOCATED AT 89 CHESHIRE STREET.

WHEREAS, the Planning Commission at its meeting of April 7, 2004 recommended approval a Conditional Use Permit for the expansion of a church and parking lot in an R-4 zoning district for the Christian Life Church property located at 89 Cheshire Street (PC 03-145).

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That the Conditional Use Permit for the expansion of a church and parking lot in an R-4 zoning district for the Christian Life Church property located at 89 Cheshire Street, be and the same is hereby confirmed, approved, and accepted.

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

VOTE ON RULE SUSPENSION: YEAS 6 NAYS 0 ABSTAIN 0

PASSED: May 24, 2004 YEAS 6 NAYS 0 ABSTAIN 0

ATTEST: Robyn Mathias
CITY CLERK

Kenneth Lehr
MAYOR

in favor, 0 opposed) MOTION APPROVED

4. **Application PC 04-020 – Howald Industrial Park – Alley Vacation:** A request by Howald Industrial Park for approval of an Alley Vacation for the right-of-way located along the east boundary of the Industrial Park from the curve in London Road (just west of Liberty Road) northward about 930 feet to the RR tracks. *Table to May 5, 2004*

   Motion: Long/Van Gundy moved to Table PC 04-020 to May 5, 2004. (5 in favor, 0 opposed) MOTION APPROVED

5. **Application PC 04-018 – Verizon – Building & Parking Lot expansion:** A request by Verizon Corp. for approval of a Conditional Use Permit for a paved surface in the Flood Plain for the property located at 2660 Warrensburg Road. *Remove from the Table to Table indefinitely.*

   Motion: Van Gundy/Vonada moved to remove PC 04-018 from the Table to Table it indefinitely. (5 in favor, 0 opposed) MOTION APPROVED

6. **Consent Agenda:** *Remove from the Table for Public Hearings.*
   Motion: Van Gundy/Ebersole moved to remove the Consent Agenda items from the Table for Public Hearings. (5 in favor, 0 opposed) MOTION APPROVED
   A. **Application PC 03-046 – Byers Automotive – Parking Lot expansion:** A request by Byers Chevrolet-Cadillac-Toyota for approval of a Conditional Use Permit for a parking lot for the property located at 994 Stratford Road.
      Motion: Long/Ebersole moved to approve PC 03-046, subject to Staff Recommendations and approval of the Final Development Plan. (5 in favor, 0 opposed) MOTION APPROVED.
   B. **Application PC 03-038 – Byers Automotive – Parking Lot expansion:** A request by Byers Chevrolet-Cadillac-Toyota for approval of combined Preliminary and Final Development Plans for a parking lot for the property located at 994 Stratford Road.
      Motion: Long/Ebersole moved to approve PC 03-038, subject to Staff Recommendations and the Applicant completing the sewer punch out list for the existing house. (5 in favor, 0 opposed) MOTION APPROVED.
   C. **Application PC 04-007 – Verizon – Building & Parking Lot expansion:** A request by Verizon Corp. for approval of a Conditional Use Permit for a Utility Use in the R-6 District for the property located at 2660 Warrensburg Road.
      Motion: Long/Van Gundy moved to approve PC 04-007, subject to Staff Recommendations. (5 in favor, 0 opposed) MOTION APPROVED.
   D. **Application PC 04-008A – Verizon – Building & Parking Lot expansion:** Action on the Administrative Approval for the expansion at the Verizon facility located at 2660 Warrensburg Road.
      Motion: Ebersole/Vonada moved to approve PC 04-008A, subject to Staff Recommendations. (5 in favor, 0 opposed) MOTION APPROVED
   E. **Application PC 04-014 – St. Mary Church – Building & Parking Lot expansion:** A request by St. Mary Catholic Church for a Conditional Use Permit for the proposed School Expansion and Parking Lot reconfiguration for the property located at 66 E. William Street.
      Motion: Long/Ebersole moved to approve PC 04-014, subject to Staff Recommendations. (4 in favor, 1 opposed (Van Gundy)) MOTION APPROVED.
   F. **Application PC 04-013 – St. Mary Church – Building & Parking Lot expansion:** A request by St. Mary Catholic Church for approval of combined Preliminary and Final Development Plans for the proposed School Expansion and Parking Lot reconfiguration for the property located at 66 E. William Street.
      Motion: Long/Vonada moved to approve PC 04-013, subject to Staff Recommendations. (4 in favor, 1 opposed (Van Gundy)) MOTION APPROVED.

7. **Application PC 04-033 – Bud Corp. – new Industrial Bldg.:** A request by KWB Properties II LLC, representing Bud Corp, for approval of combined Preliminary and Final Development Plan for the proposed 22,750-square foot building to be located at the 1020 Pittsburgh Drive.
   To accommodate the Applicant, the Case was moved to the bottom of the Agenda.

8. **Application PC 03-145 – Christian Life Church – Building & Parking Lot expansion:** A request by Christian Life Church for a Conditional Use Permit for the proposed Church and Parking Lot

Expansion for the property located at 89 Cheshire Street.
Motion: Van Gundy/Vonada moved to approve PC 03-145, subject to Staff Recommendations. (5 in favor, 0 opposed) MOTION APPROVED

9. **Application PC 03-146 – Christian Life Church – Building & Parking Lot expansion:** A request by Christian Life Church for approval of combined Preliminary and Final Development Plans for the proposed Church and Parking Lot Expansion for the property located at 89 Cheshire Street.
   Motion: Van Gundy/Vonada moved to approve PC 03-146, subject to Staff Recommendations. (5 in favor, 0 opposed) MOTION APPROVED
10. **Application PC 04-030 – Tanglewood – Golf Course Final Dev. Plan:** A request by David Fisher, representing Tanglewood Golf Course Co., for approval of a Final Development Plan for the proposed 160.444-acre Golf Course (land only) for the properties located about 2,000 feet east of Braumiller Road.
    Motion: Van Gundy/Vonada moved to approve PC 04-030, subject to Staff Recommendation except the Approval Conditions do not have to be met before scheduling the Case at City Council but must be met in a timely manner (5 in favor, 0 opposed) MOTION APPROVED.
11. **Application PC 04-033 – Bud Corp. – new Industrial Bldg.:** A request by KWB Properties II LLC, representing Bud Corp, for approval of combined Preliminary and Final Development Plan for the proposed 22,750-square foot building to be located at the 1020 Pittsburgh Drive.
    Motion: Long/Van Gundy moved to approve PC 04-033, subject to Staff Recommendations and not requiring a boring of Pittsburgh Drive to extend the water line, if the work occurs prior to the resurfacing of the Road. (5 in favor, 0 opposed) MOTION APPROVED.
12. **Consent Agenda:** *Remove from the Table for Public Hearings.*
    A. **Application PC 03-003-D – City of Delaware – TND Standards:** A request by the City of Delaware to amend the Planning and Zoning Code to create a new Chapter 1136 Traditional Neighborhood Design Standards, as proposed in the 2003-2008 Comprehensive Plan

    Motion: Long/Ebersole moved to Table PC 03-003-D indefinitely. (5 in favor, 0 opposed) MOTION APPROVED.
13. Planning Director's Report - None
14. Commission Member Comments and Discussion – The Members noted that Terry Hazlett needed to be excused from the Meeting.

    Motion: Van Gundy/Ebersole moved to excuse Hazlett from the meeting. (5 in favor, 0 opposed) MOTION APPROVED.
15. Next Regular Meeting: April 21, 2004 – 7:00 p.m.
16. Adjournment.

    Motion: Long/Van Gundy moved to adjourn the meeting at 9:33 p.m. (All Ayes)

MINUTES CONSIST OF THIS MOTIONS SUMMARY AND THE AUDIO RECORDING OF THE MEETING.
MOTION: Long/Ebersole moved to approve the Motions Summary, as amended. (5 in favor, 0 opposed, 2 abstained (Hazlett, Morrison)) MOTION APPROVED.

_____
Mary Jane Santos, Chairman

_____
Robyn Moehring, Acting Secretary

ORDINANCE NO. 04-90

AN ORDINANCE APPROVING, WITH CONDITIONS, COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLANS FOR A 3,343-SQUARE FOOT CHURCH EXPANSION PLUS A 41-SPACE PARKING LOT AND RECONFIGURATION FOR THE CHRISTIAN LIFE CHURCH PROPERTY LOCATED AT 89 CHESHIRE STREET.

WHEREAS, the Planning Commission at its meeting of April 7, 2004 recommended approval, with conditions, a combined Preliminary and Final Development Plan approval for a 3,343-square foot church expansion plus a 41-space parking lot and reconfiguration for the property located at 89 Cheshire Street, (PC 03-146).

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That the combined Preliminary and Final Development Plans for a 3,343-square foot church expansion plus a 41-space parking lot and reconfiguration for the Christian Life Church property located at 89 Cheshire Street, be and the same is hereby confirmed, approved, and accepted, including approval of the Planning Commission approval of the Engineering Department recommendation to waive the Traffic Impact Study.

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

VOTE ON RULE SUSPENSION: YEAS 6 NAYS 0
ABSTAIN 0

PASSED: May 24, 2004 YEAS 6 NAYS 0
ABSTAIN 0

ATTEST: Roby Mochrin
CITY CLERK

MAYOR

Application PC 03-145 – Christian Life Church – Building & Parking Lot expansion: A request by Christian Life Church for a Conditional Use Permit for the proposed Church and Parking Lot Expansion for the property located at 89 Cheshire Street.
Motion: Van Gundy/Vonada moved to approve PC 03-145, subject to Staff Recommendations. (5 in favor, 0 opposed) MOTION APPROVED

Application PC 03-146 – Christian Life Church – Building & Parking Lot expansion: A request by Christian Life Church for approval of combined Preliminary and Final Development Plans for the proposed Church and Parking Lot Expansion for the property located at 89 Cheshire Street.
Motion: Van Gundy/Vonada moved to approve PC 03-146, subject to Staff Recommendations. (5 in favor, 0 opposed) MOTION APPROVED

Joel Rhoades, Member of church, as congregation has grown and conditions has changed the facility needs to be updated. Feltz working out stormwater technical details no major issues.

Planning *and* Community Development
CITY OF DELAWARE, OHIO

PLANNING COMMISSION / STAFF REPORT

CASE NUMBER: PC 03-146 and PC 04-145
REQUEST: Combined Preliminary and Final Development Plans and Church Use CUP
PROJECT: Christian Life Church Building and Parking Lot Expansions
MEETING DATE: 04/07/04

APPLICANT & OWNER

Trustees Christian Life Church
P.O. Box 612
Delaware, OH 43015

REQUEST

- Combined Preliminary and Final Development Plans approval for a 3,343-square foot Church expansion plus a 41-space parking lot expansion and reconfiguration.
- Conditional Use Permit approval for the expansion of a Church and Parking Lot in an R-4 zoning district.

PROPERTY LOCATION & DESCRIPTION

The property is located at 89 Cheshire Street, which is on the east side of Cheshire Street, approximately 70 feet north of Vine Street. The site and surrounding zoning is R-4 (Single- and Two-family Residential District).

BACKGROUND

The Applicant is proposing the expansion of their existing church building and parking lot to accommodate recent growth, as well as modernize their 40-year old facility and bring it into conformance with current building codes and ADA requirements. The parking lot is to be expanded to the north and increased in size from 25 to 41 spaces. The sanctuary will seat 156 people, requiring 39 spaces to meet Code. The building will be expanded to the north, east, and south with 612 square-foot, 1,236 square-foot, and 1,495 square-foot additions, respectively.

VARIANCES

At the January 4, 2004 BZA meeting, the proposal received variances to Chapter 1123 to allow reductions in the Code requirements; plus for variances to Chapter 1134 to permit a 5-foot parking setback on the east side, a 15-foot parking setback on the north side, and a 23-foot parking setback on the west side; plus for variances to Chapter 1148 to permit the 10-foot rear yard setbacks that are proposed for Additions A and B, as well as the 20-foot side yard setback requested for Addition A, with the conditions that the setback variances shall expire with a change in use and/or if Additions A and B do not receive approval of all final inspections before January 1, 2006.

STAFF ANALYSIS

- **LAND USE**: The proposed development is to be located in an area on Cheshire Street that is predominantly residential in character (several smaller single-family homes). The Comprehensive Plan recommends Moderate Density Single-Family land use for the subject site; however, this is an existing use, as well as a conditionally-permitted use in all residential districts, making it consistent with the Comprehensive Plan.
- **DENSITY/INTENSITY**: The church has been in this location for many years and seems to fit in well with the community without a negative impact.
- **ROADS, TRAFFIC & ACCESS**: The site has a single access to Cheshire Street. The Engineering Department recommends a waiver for the traffic impact study because the site will produce significantly fewer than 100 vehicles per hour during peak hours (the policy trigger for a full study).
- **WATER**: The site is served by an existing 6-inch water line located along Cheshire Street and will tie the expansion into the existing ¾-inch tap located approximately 40 feet north of their southern property line.
- **SANITARY SEWER**: The site is located in the Henry Tributary Area, which has available capacity to accommodate the project. An 8-inch sanitary sewer line is located along Cheshire Street and the Applicant is proposing to extend the existing 6-inch service line to accommodate the expansion of the facility.
- **STORM SEWER**: There is an existing 18-inch storm sewer located along Cheshire Street. There is an existing 10-inch v.c. tile lying over a 15-inch v.c. tile on the property that flows towards the west to the

existing catch basin at the south end of the parking lot. The Applicant proposes an 8-inch storm connection to an existing catch basin at the south end of the parking area. Parking lot detention will be utilized to meet City requirements. There is an existing 6-inch drain at the south end of the property.

- **PARKLAND AND OPEN SPACE:** Not applicable.
- **TREE PRESERVATION:** Not applicable.
- **DESIGN:** The addition will be finished brick and white stucco to match the existing finishes. Elevations have been provided.
- **LIGHTING:** The Lighting Plan was conditionally approved, with revisions to include the installation of back light shields (house-side shield) plus a maximum of 0.4 footcandles is permitted at the property line, which the site exceeds along the eastern property line.
- **PARKING:** The parking lot is to be expanded to the north and increased in size from 25 to 41 parking spaces. This meets Code.
- **SIDEWALKS:** The Applicant proposes to remove the existing 4-foot sidewalk on the south side of the parking area and replace it with a more ADA-compliant 4-foot sidewalk.
- **LANDSCAPING:** A Landscaping Plan was approved by the Shade Tree Commission on March 23.
- **ENGINEERING:** The Applicant has submitted engineering documents that are currently under review by the Engineering Department.
- **MISCELLANEOUS:** The Variances obtained have been listed on the Development Plan but they need to reflect, in more detail, the conditions of approval and the sections of the Code that were varied from.
- **CODE ISSUES:** There are no other Code issues.

STAFF RECOMMENDATION – DEVELOPMENT PLAN

Staff notes that there are a sufficient number of unresolved issues that, per the Planning Commission policy, the request should be Tabled. If the Commission chooses to take action, Staff recommends Approval with the following conditions being met before the Development Plans can be considered by City Council:

Status as of 04/01/04

CONDITION	COMPLIANCE
1. Planning Commission approval of the Engineering Department recommendation to waive the Traffic Impact Study.	No
2. The Applicant needs to get Final Engineering approvals plus any stormwater and utility issues need to be worked out through the Engineering and Utilities Departments.	No
3. The Lighting Plan must be revised per the Chief Building Official's comments and conditions.	No
4. The Applicant needs to provide building material samples.	No
5. The Plan should be changed to list the Variances received, in detail, and list the Code sections varied from plus include the conditions of their approval.	No

DEVELOPER CONTRIBUTIONS

- Not applicable.

FINDINGS OF FACT

- The proposal is consistent with the Comprehensive Plan.
- The proposal will meet all applicable Code requirements.
- The proposal is a reasonable expansion of an existing use within this neighborhood.

STAFF ANALYSIS – CONDITIONAL USE PERMIT FOR A CHURCH USE

The General Review Criteria for a Conditional Use are listed below:

1. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area.
2. Will not be detrimental to property values in the immediate vicinity.
3. Will not restrict or adversely affect the existing use of the adjacent property owners.
4. Will be designed and constructed so that all access drives, access points to public streets, driveways, parking and service areas shall be in compliance with the regulations set forth in Chapter 1161.
5. Will be properly landscaped in accordance with Chapter 1166.
6. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare.
7. That the establishment of the conditional use in the proposed location will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
8. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
9. That adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets and to maximize public safety.
10. That the establishment of the conditional use will not be detrimental to the economic welfare of the community by creating excessive additional requirements or public cost for public facilities such as police, fire and schools.
11. That there is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible.

Each of these criteria appears to be met or not applicable.

The Specific Review Criteria for a Church Use are listed below:

1. Such uses should be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhoods.
2. In any district, the Planning Commission may require all outdoor children's activity areas to be enclosed by a fence or wall having a height of at least five (5) feet but not exceeding six (6) feet. An entry gate shall be securely fastened.
3. Places of worship and schools may be erected to a height not to exceed fifty-five (55) feet provided that the building is set back from each lot line one (1) foot for each foot of additional building height in excess of the district limitation. For places of worship, steeples/spires may be erected to a height not to exceed seventy-five (75) feet and shall not be subject to an additional setback requirement.
4. All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.
5. All activities, programs and other events shall be directly related to the conditional use permit so granted, and shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.
6. Associated uses such as a convent, faculty residence, cafeteria, fieldhouse, or infirmary shall be located on the same lot as the principal use and comply with the building setback requirements set forth in this Chapter.
7. The development plan shall indicate the parking and emergency entrances or exits and other safety precautions.

Each of these criteria appears to be met or not applicable.

STAFF RECOMMENDATION – CONDITIONAL USE PERMIT

Because the CUP has not been signed and notarized, it is an incomplete Application and cannot be processed at this time. When the Application has been signed properly, Staff recommends approval when the companion combined Preliminary and Final Development Plans are approved.

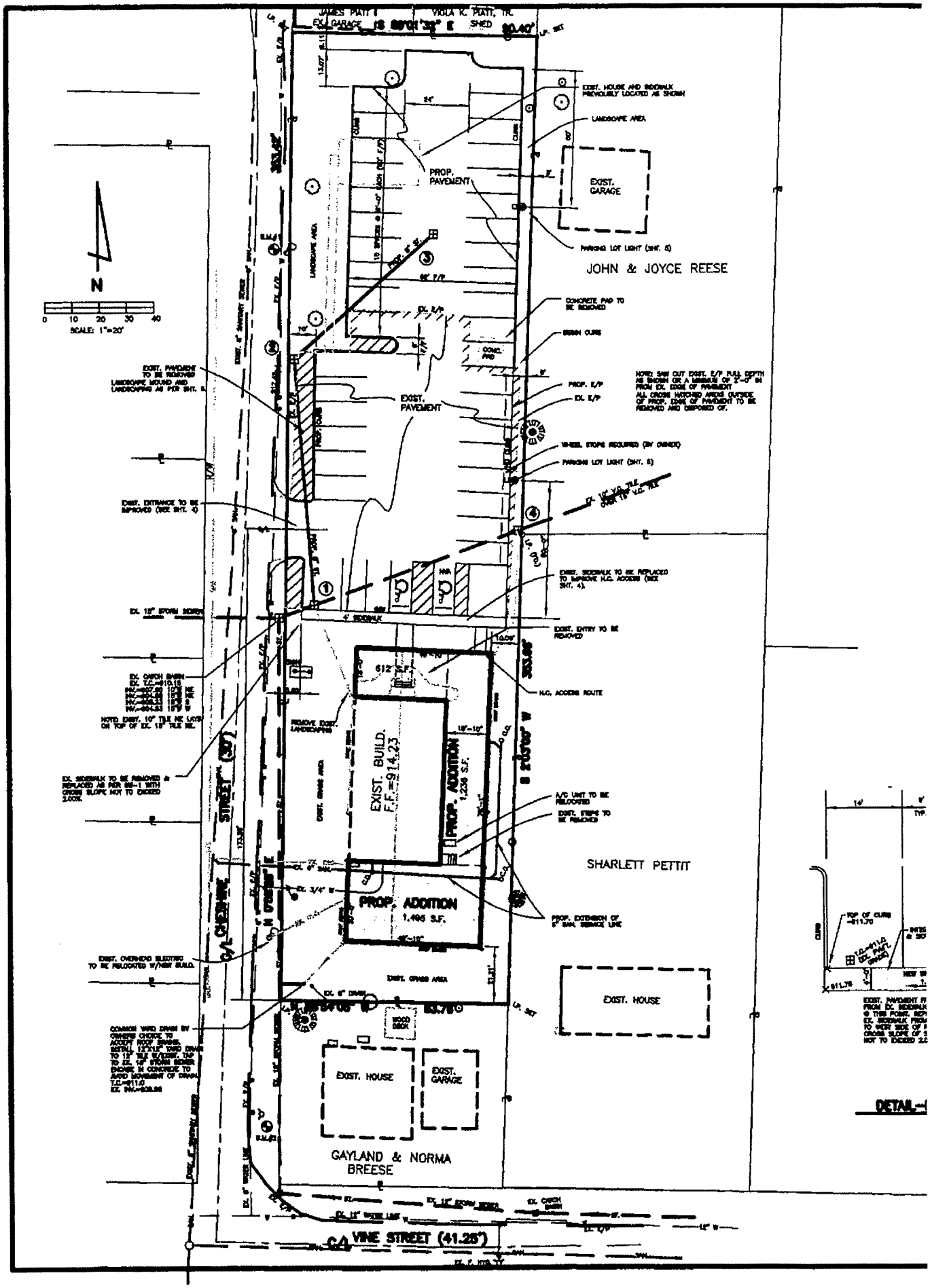
DEVELOPER CONTRIBUTIONS

- Not applicable.

FINDINGS OF FACT

- The application is incomplete.

FILE: PC03-146 CHRISTIANLIFEEXPANSION DEVPLAN RPT2.DOC
ORIGINAL: 3/25/04
REVISED: 4/2/04


JAMES PRATT & VIOLA K. PRATT, TR.
FD. GARAGE
S 89°01'30" E
SHED
80.40'
EXIST. HOUSE AND SIDEWALK PREVIOUSLY LOCATED AS SHOWN
LANDSCAPE AREA
PROP. PAVEMENT
EXIST. GARAGE
PARKING LOT LIGHT (SHT. 5)
JOHN & JOYCE REESE
CONCRETE PAD TO BE REMOVED
BRICK CURB
NOTE: SAW CUT EXIST. E/P FULL DEPTH AS SHOWN OR A MINIMUM OF 2'-0" IN FROM EX. EDGE OF PAVEMENT
ALL CROSS HATCHED AREAS OUTSIDE OF PROP. EDGE OF PAVEMENT TO BE REMOVED AND DISPOSED OF.
EXIST. PAVEMENT TO BE REMOVED LANDSCAPE MOUND AND LANDSCAPING AS PER SHT. 5
EXIST. PAVEMENT
PROP. E/P
EX. E/P
10-WHEEL STOPS REQUIRED (BY OWNER)
PARKING LOT LIGHT (SHT. 5)
EXIST. ENTRANCE TO BE IMPROVED (SEE SHT. 4)
EXIST. SIDEWALK TO BE REPLACED TO IMPROVE H.C. ACCESS (SEE SHT. 4)
EX. 15" STORM SEWER
4' SIDEWALK
EXIST. ENTRY TO BE REMOVED
612 S.F.
H.C. ACCESS ROUTE
EX. DITCH INVERT
EX. T.C.=910.16
NOTE: EXIST. 10" TILE INC LATS ON TOP OF EX. 15" TILE INC.
REMOVE EXIST. LANDSCAPING
EXIST. BUILD. F.F.=914.23
PROP. ADDITION 1,236 S.F.
EX. SIDEWALK TO BE REMOVED & REPLACED AS PER SW-1 WITH CROSS SLOPE NOT TO EXCEED 2.00%
A/C UNIT TO BE RELOCATED
EXIST. STEPS TO BE REMOVED
SHARLETT PETTIT
CHESTNUT STREET (30')
EX. 3/4" W
PROP. ADDITION 1,405 S.F.
PROP. EXTENSION OF 6" SAN. SEWER LINE
EXIST. OVERHEAD ELECTRIC TO BE RELOCATED W/NEW BUILD.
EXIST. GRASS AREA
EX. 6" DRAIN
EXIST. HOUSE
WOOD DECK
COMMON YARD DRAIN BY OWNERS CHOICE TO ACCEPT ROOF DRAINS. INSTALL 12"X12" YARD DRAIN TO 12" TILE W/CONN. 1/4" TO EX. 15" STORM SEWER ENCASE IN CONCRETE TO AVOID MOVEMENT OF DRAIN. T.C.=911.0
EX. INV.=908.96
EXIST. HOUSE
EXIST. GARAGE
GAYLAND & NORMA BREESE
EX. 12" STORM SEWER
EX. DITCH INVERT
EX. 12" WATER LINE
VINE STREET (41.25')
EX. 6" GAS LINE
SCALE: 1"=20'
0 10 20 30 40
TOP OF CURB =911.70
DETAIL

Expansion for the property located at 89 Cheshire Street.
Motion: Van Gundy/Vonada moved to approve PC 03-145, subject to Staff Recommendations. (5 in favor, 0 opposed) MOTION APPROVED

9. **Application PC 03-146 – Christian Life Church – Building & Parking Lot expansion:** A request by Christian Life Church for approval of combined Preliminary and Final Development Plans for the proposed Church and Parking Lot Expansion for the property located at 89 Cheshire Street.
   Motion: Van Gundy/Vonada moved to approve PC 03-146, subject to Staff Recommendations. (5 in favor, 0 opposed) MOTION APPROVED
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    Motion: Long/Van Gundy moved to approve PC 04-033, subject to Staff Recommendations and not requiring a boring of Pittsburgh Drive to extend the water line, if the work occurs prior to the resurfacing of the Road. (5 in favor, 0 opposed) MOTION APPROVED.
12. **Consent Agenda:** *Remove from the Table for Public Hearings.*
    A. **Application PC 03-003-D – City of Delaware – TND Standards:** A request by the City of Delaware to amend the Planning and Zoning Code to create a new Chapter 1136 Traditional Neighborhood Design Standards, as proposed in the 2003-2008 Comprehensive Plan

    Motion: Long/Ebersole moved to Table PC 03-003-D indefinitely. (5 in favor, 0 opposed) MOTION APPROVED.
13. Planning Director's Report - None
14. Commission Member Comments and Discussion – The Members noted that Terry Hazlett needed to be excused from the Meeting.

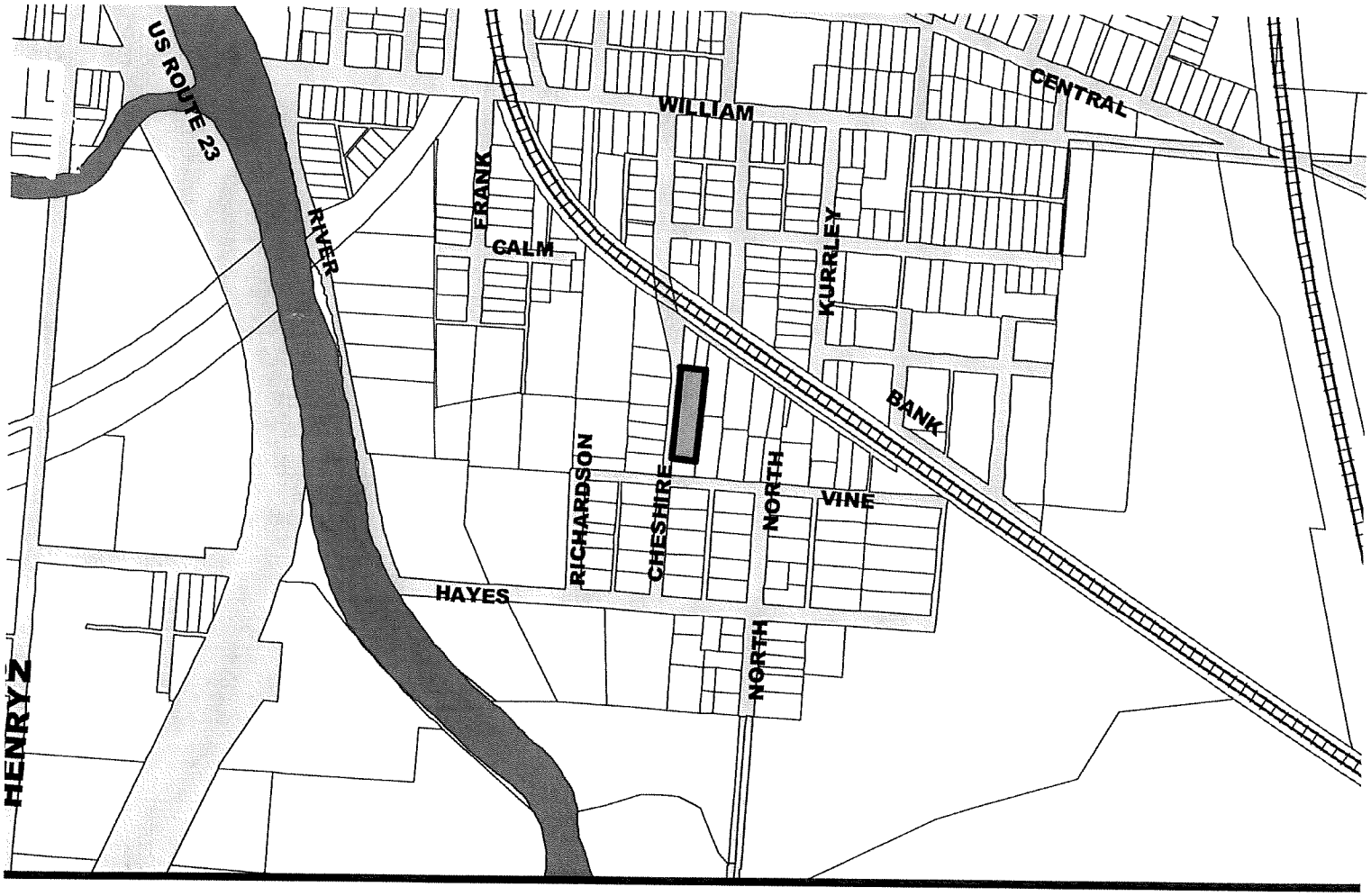
    Motion: Van Gundy/Ebersole moved to excuse Hazlett from the meeting. (5 in favor, 0 opposed) MOTION APPROVED.
15. Next Regular Meeting: April 21, 2004 – 7:00 p.m.
16. Adjournment.

    Motion: Long/Van Gundy moved to adjourn the meeting at 9:33 p.m. (All Ayes)

MINUTES CONSIST OF THIS MOTIONS SUMMARY AND THE AUDIO RECORDING OF THE MEETING.
MOTION: Long/Ebersole moved to approve the Motions Summary, as amended. (5 in favor, 0 opposed, 2 abstained (Hazlett, Morrison)) MOTION APPROVED.

_____
Mary Jane Santos, Chairman

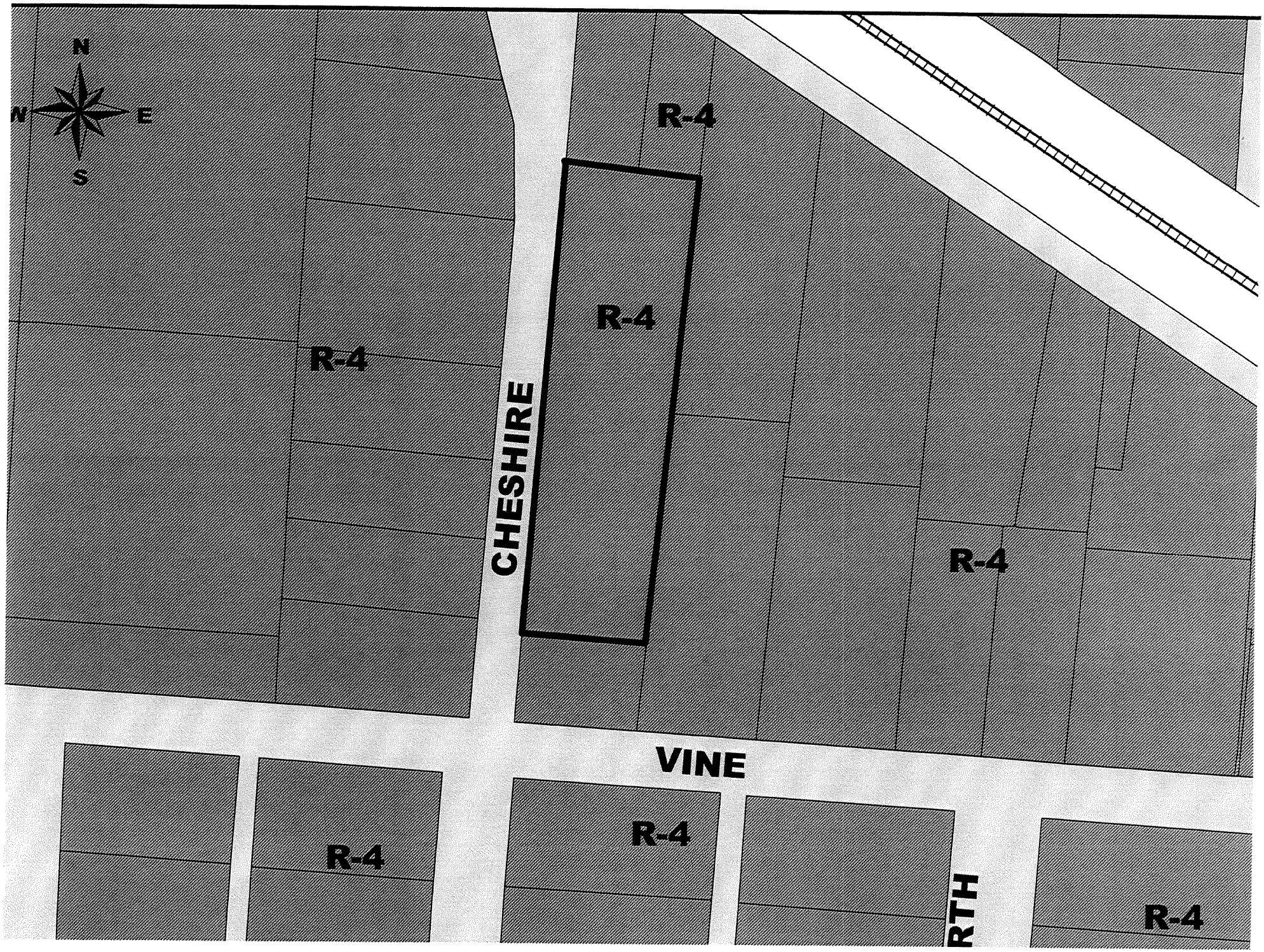
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Robyn Moehring, Acting Secretary

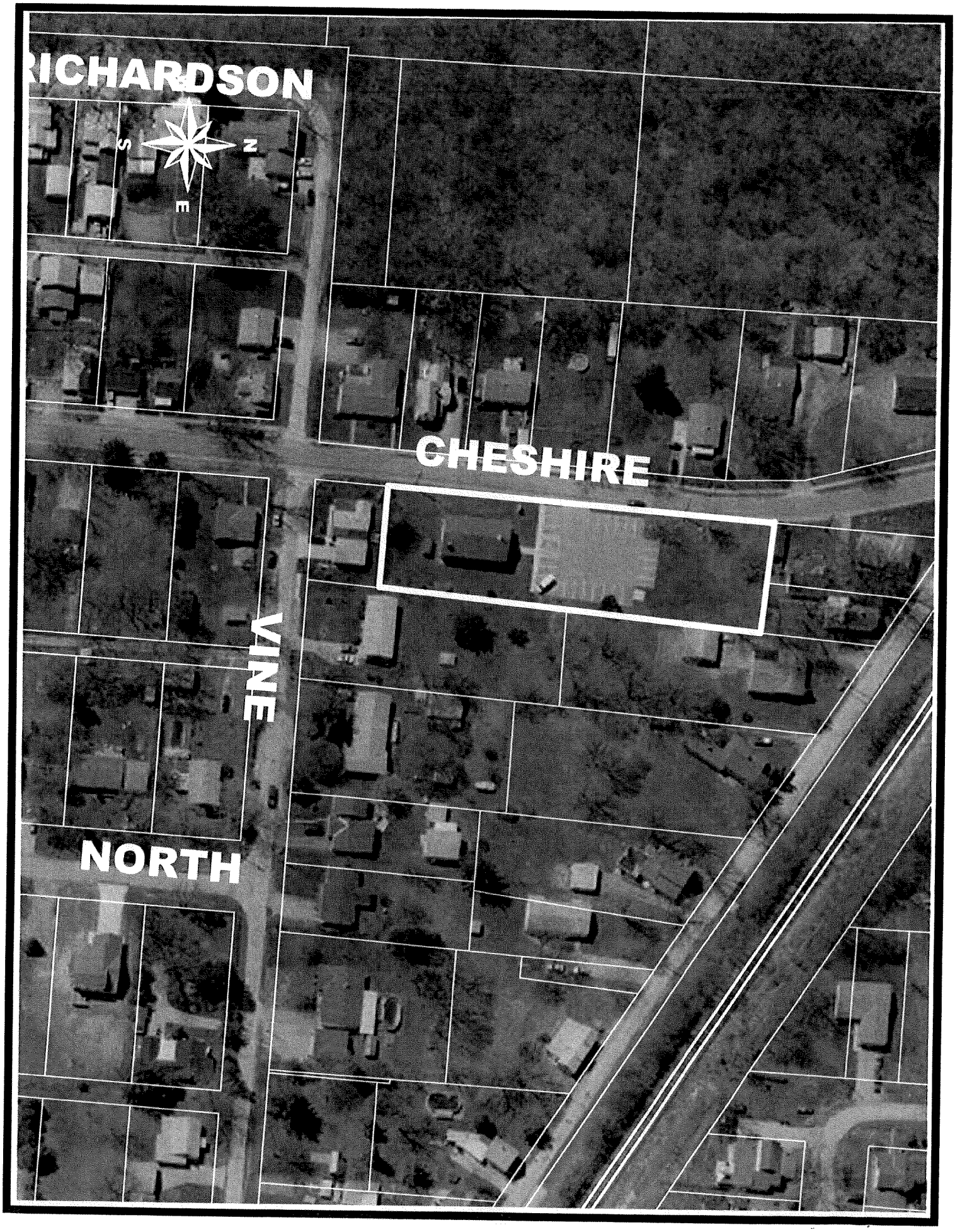


City of Delaware
GIS
Planning & Community Development

PC03-146
CHRISTIAN LIFE CHURCH
89 CHESHIRE STREET

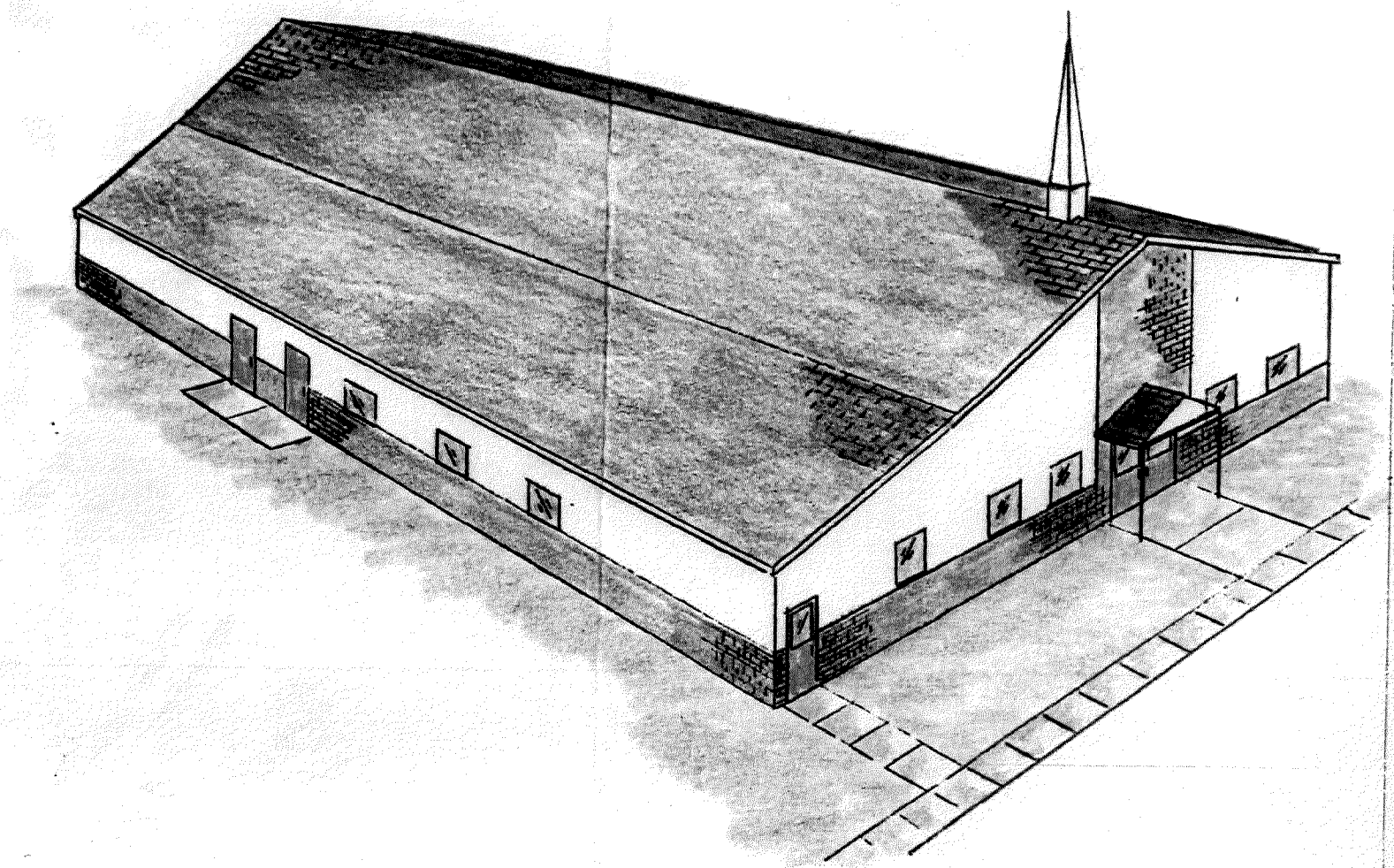
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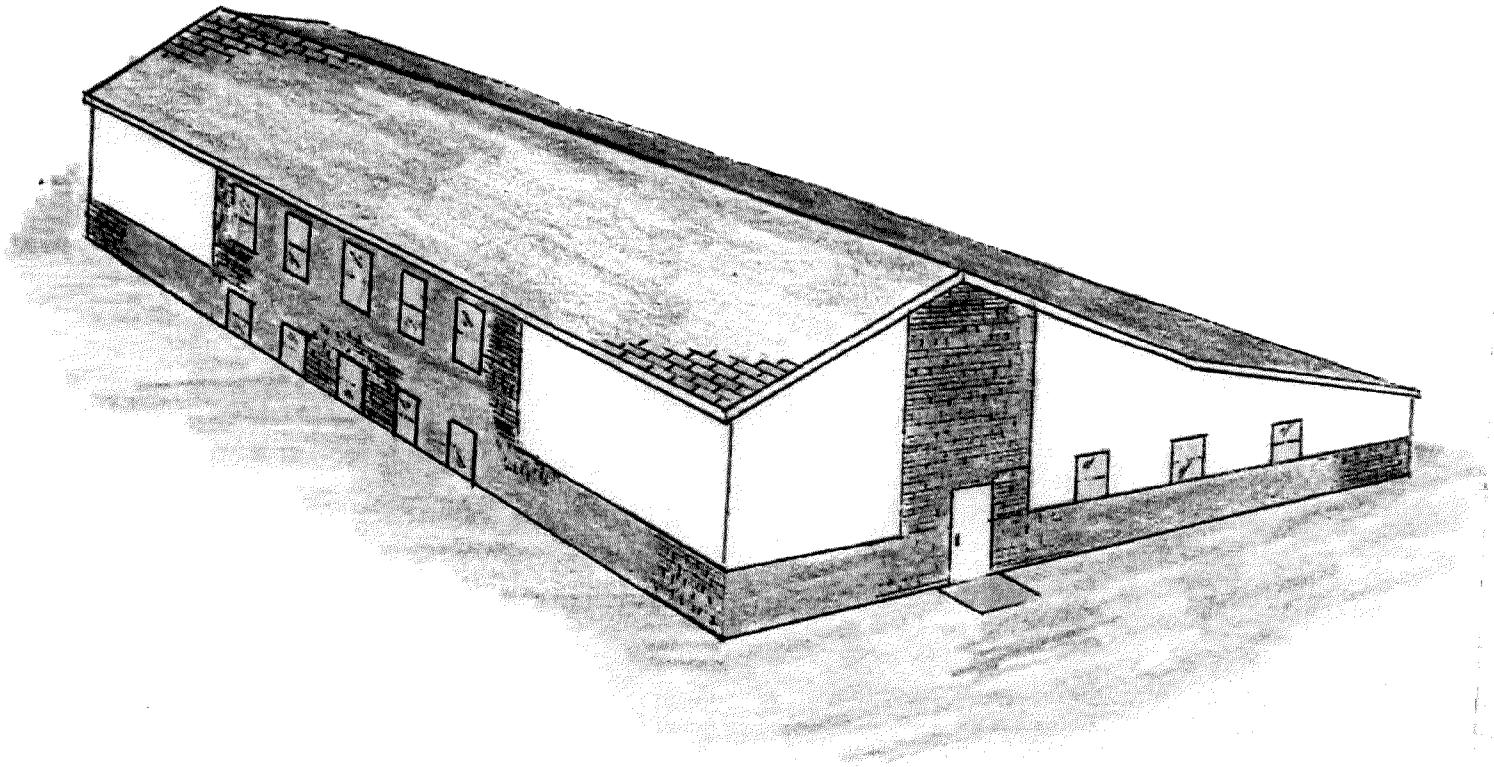

RICHARDSON
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CHESHIRE
VINE
NORTH

CHRISTIAN LIFE CHURCH - ALTERNATE "C"

2-15-09



CHRISTIAN LIFE CHURCH - ALTERNATE 'C' SOUTH ELEVATION 2-21-04



EST 1808
CITY OF
DELAWARE
OHIO

BOARD OF ZONING APPEALS / STAFF REPORT

CASE NUMBERS: 2021-0433
REQUEST: Variance
PROJECT: 152 West Central Avenue
MEETING DATE: March 10, 2021

APPLICANT/OWNER
DHG Properties LLC
1160 Goodale Boulevard
Columbus, Ohio 43212

REQUEST
2021-0433: A request by DGH LLC for approval of a variance to Chapter 1151.02 (a) Enlargement/Alteration of Nonconforming Building or Structure for a building enlargement at 152 West Central Street on property zoned R-3 (One-Family Residential District).

PROPERTY LOCATION & DESCRIPTION
The subject property is zoned R-3 as are the surrounding properties to the north, south, east and west.

BACKGROUND/PROPOSAL
The subject 4,049 square foot house was constructed in 1910 per the Delaware County Auditor and apparently had several mixed uses (residential, office and commercial) over the years prior to City zoning. Also, there have been a few additions to the building over the years. In December 2020, the Board of Zoning Appeals approved a use variance substituting the commercial uses to residential uses only. Therefore, the existing house shall only be permitted to have a total of four residential dwelling units and is considered a legal nonconforming use with conditions which are: 1). The existing four tenant units shall be for single unit residential uses only for each of the four units; and 2).The size and footprint of the existing structure including all the subsequent additions shall not be increased either horizontally or vertically per the current non-conforming enlargement/alteration of non-conforming building or structure requirements. However, the uses and structure could be rebuilt to the extent they exist today – as allowed by this use variance - if destroyed by an act of God and thus would not be considered for the purposes of Zoning to be non-conforming.
Since the approval of the BZA action in December 2020, the applicant consulted an architect and has determined utilizing the existing footing of the previous commercial units to construct a residence is likely not possible. Therefore, the owner is proposing to raze the two previous single-story commercial units and rear garage which totals approximately a 1,931 square foot building footprint and construct a replacement two story duplex with a single garage each that would encompass an approximate 1,775 square foot building footprint that would be 28 feet in height. The existing one-story structure is approximately 16 feet in height to the roof ridge per the architect. Each two-story unit would have a one car garage and encompass approximately 1,461 square feet. The front elevation of each duplex would be 100% hardi-plank siding to meet the R-3 zoning requirements in Chapter 1171.08. To allow the proposed development, the owner would need a variance approval to Chapter 1151.02(a) which would be enlargement/alteration of a nonconforming building and would effectively amend the conditions of the December 2020 variance.
Staff has worked with the owner since last November to support the substitution of the commercial use to residential use which benefits the subject neighborhood and the City. With this proposal, staff highly recommended the owner contact the adjacent neighbors to discuss the proposal which has occurred over the last few months. Staff has been in communication with the owner and neighbors since the first of the year to address any comments, concerns, zoning and City development requirements of the proposal. The neighborhood comments have expressed concerns as documented in the attachment to this report.

VARIANCE REQUEST

- **SECTION 1151.02 (a) ENLARGEMENT/ALTERATION OF NONCONFORMING BUILDINGS OR STRUCTURES:** No nonconforming structure may be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity,
    - The BZA December 2020 approval was for a "use variance" to restrict the use of the four dwelling units to residential only and to restrict the structure so as not to enlarge the current nonconforming structure.

- The owner is proposing to raze the single-story residential portions and garage structure which total approximately 1,931 square feet of building footprint and construct a replacement two-story duplex with a single garage each that would encompass an approximate 1,775 square foot building footprint that would be 28 feet in height,
    - Essentially the owner is adding to the building envelope "cube" by utilizing a slightly smaller building footprint by 156 square feet (1931exisitng building footprint -1775 proposed building footprint = 156) and increasing the height from one story (approximately 16 feet high) to a two story structure (maximum 28 feet high per the submitted drawings while the zoning code permits 35 feet).
        - The proposed two-story duplex would be approximately 12 feet higher and be a total of approximately 901 square feet (2,832 proposed two duplex square footage -1,931 existing one story building footprint) larger than the current one-story structure.
        - Each duplex encompasses 1,416 square feet of living area with a one car garage.
        - The new site plan would yield four on-site parking spaces and four garage parking spaces.
        - The front elevation of the proposed addition would be comprised of 100% hardi-plank which significantly exceeds the zoning requirements of 25% natural materials on the front elevation.
        - Also, the owner is restoring the southernmost one-story unit into a two car garage (this does not require BZA approval).

- **VARIANCE REVIEW:** In considering whether or not a variance shall be granted, the Board of Zoning Appeals is required to consider certain factors to determine if a practical difficulty exists. As listed below, Section 1128.09(c)(1) of the Planning & Zoning Code sets forth these factors. Following each factor in italics is a brief Staff analysis.

1. Whether the granting of the Variance would be in accord with the general purpose and intent of the regulations imposed by this Ordinance and the district in which it is located and shall not be injurious to the area or otherwise detrimental to the public welfare.

From a technical perspective, the owner is constructing the proposed two story duplex on a slightly smaller building footprint by about 156 square feet than the current one story structure and the two story structure is 28 feet high which is about 12 feet higher than the existing structure (the single story structure height is approximately 16 feet). The owner is filling the building envelope "cube" if you will. From a subjective perspective, a new building at this location would be an upgrade to the existing condition of the current building and would likely increase the housing values in this current housing market. Staff understands the land use concerns of the adjacent owner-occupied neighbors being next to a four dwelling unit building but the subject building has had several mixed uses (residential, office and commercial) over the years prior to City zoning and is considered a legal nonconforming use prior to the zoning code. Also, the BZA had already granted the four dwelling units so there is no change in the number proposed. Ultimately staff believes the proposal would not have an adverse impact on the health, safety, and general welfare of the subject property and would not jeopardize the appearance and safety of the community. For example, if the subject structure was a conforming single-family residence, the proposed addition would be approved administratively per the zoning code (the nonconforming use is what triggers a variance for an enlargement/alteration) and could be approximately 2,000 larger and still fit within the horizontal building envelope.

2. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or conditions.

The owner has a legal nonconforming use that permits four residential dwelling units within a single-family district zoned R-3 which is a special condition. It appears all the surrounding houses are single-family dwelling unit houses that comply with the R-3 zoning district.

3. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the Variance. Mere loss in value or financial disadvantage to the property owner does not constitute conclusive proof of practical difficulty; there shall be deprivation of beneficial use of land.

   The main house was constructed in 1910 per the Delaware County Auditor and the property will continue to be permitted to have four units as a legal nonconforming use with or without approval of this variance.

4. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the Variance.

   From a technical perspective, the addition is essentially filling the building envelope "cube "and achieves compliance with the bulk yard requirements (building setbacks, building height, etc.) and shall achieve compliance with Chapter 1171.08 exterior buildings standards (25% natural materials on front elevation, 8 inch over hangs, 4 inch window trim (or shutters), etc. For example, if this house was demolished a new single-family house could be constructed that could yield a building footprint of approximately 6,664 square feet and could be 35 feet in height. From a subjective perspective, the new addition replacing a deteriorating structure should be beneficial to the neighborhood and community and should increase property values in this market. Therefore, staff believes the essential character of the neighborhood would not be substantially altered from the four dwelling units allowed currently and the height of the of proposed building is 7 feet less than allowed in the R-3 zoning district and the adjoining properties would not suffer substantial detriment if the owner achieves compliance with all the City development standards (zoning, building code, engineering, etc.).

5. Whether the Variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup.

   The delivery of governmental services, particularly emergency services, would not be impacted with approval of this Variance.

6. Whether the property owner purchased the property with knowledge of the zoning restrictions. Purchase without knowledge of restrictions in itself is not sufficient proof of practical difficulty.

   It would be very difficult for staff to determine if the owner of the house purchased the property with knowledge of the zoning restrictions. However, since December 2020 staff conveyed to the owner any enlargement/alteration of the of the nonconforming building would require an approved variance by the Board of Zoning Appeals. Additionally, the December 2020 variance approved by the BZA included these specific conditions as well.

7. Whether special conditions or circumstances exist as a result of actions of the owner.

   The owner received a substitution use variance with conditions from the Board of Zoning Appears in December 2020 to allow four residential dwelling units at this location.

8. Whether the property owner's predicament feasibly can be obviated through some method other than a Variance.

   The owner could renovate the existing units without enlarging the use and still have four dwelling units as currently constructed. The enlargement of a nonconforming structure is what requires the variance.

9. Whether there is evidence of Variances granted under similar circumstances.

   Staff cannot recall a similar situation where a request was submitted to the Board of Zoning Appears for the enlargement/alteration of a nonconforming structure.

10. Whether the granting of the Variance is necessary for the reasonable use of the land or building, and the Variance as granted is the minimum Variance that will accomplish that purpose.

    The property is currently a nonconforming use that allows four residential dwelling units and will continue to be used as such with or without approval of this Variance. As a result, a Variance is not necessary for the reasonable use of the land.

11. Whether the proposed Variance would impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values of the adjacent area.

From a zoning technical perspective, the proposed addition meets all the bulk zoning requirements (building setbacks, building height, etc.), thus the variance would not likely have an impact on any of the aforementioned issues. For example, if this was a conforming use the owner could propose an addition that is 35 feet in height per the zoning code. Additionally, a new modern addition could be more beneficial from a safety perspective because it would have to meet new building standards than merely rehabilitation of the current structure.

12. Whether the granting of the Variance requested would confer on the applicant any special privilege that is denied by this regulation to other lands, structures or buildings in the same district.

    If the Board finds that the standards for approval of a Variance are met, then no special privilege is granted.

CONCLUSION

Although staff understands the concerns of the adjacent owner-occupied residents, but the subject building has had several mixed uses over the years before City zoning and is considered a legal nonconforming use per the City zoning code. Additionally, the December 2020 variance specifically granted the four dwelling units already. Therefore, staff would recommend approval of the subject variance for the following reasons: 1.) The proposed enlargement/alteration is a smaller footprint (1,775 square feet) than the current existing building footprint (1,931 square feet); 2.) The proposed two-story duplex would be 28 feet high which is below the maximum height requirements in an R-3 zoning district of 35 feet; 3). Each duplex unit would have a square footage of 1,416 square feet that achieves compliance with the minimum 1,100 square foot requirements for a three-bedroom single-family unit; 4). In general, a new building addition at this location would be an upgrade to the existing condition of the current building and would likely increase property values in the current housing market while ensuring full compliance with the new structures building codes; 5) If the subject structure was a conforming use, the proposed new structure would be approved administratively per the zoning code; 6). If this house was demolished a new single-family house could be constructed that could yield a building footprint of approximately 6,664 square feet and could be 35 feet in height

STAFF RECOMMENDATION – VARIANCE (2021-0433)

Staff recommends approval of a variance request by DGH LLC to Chapter 1151.02 (a) Enlargement Alteration of Nonconforming Building or Structure for a building enlargement at 152 West Central Street on property zoned R-3 (One-Family Residential District), with the following conditions that:

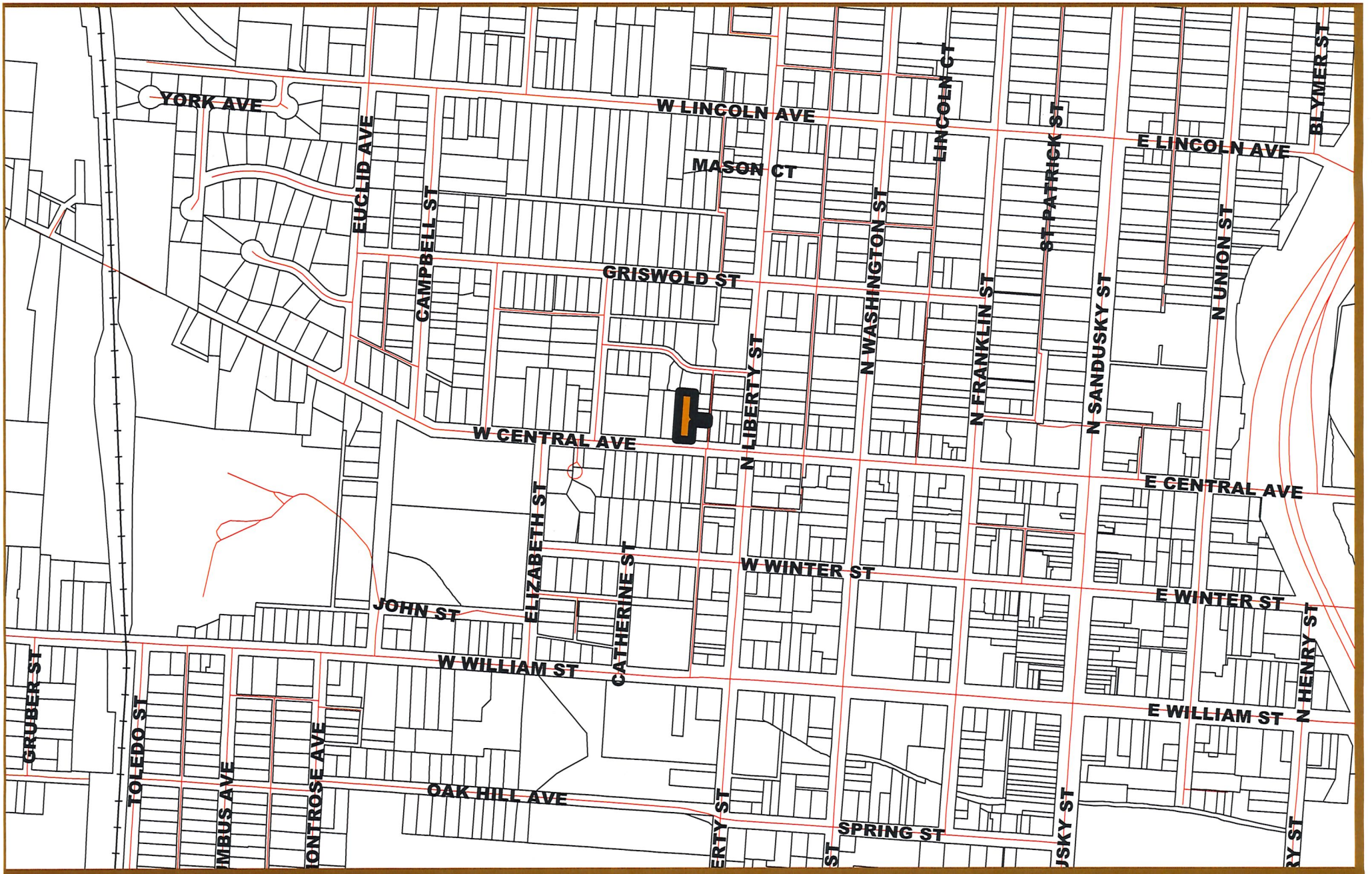
1. The two-unit duplex building footprint (1,775 square feet) shall be on a smaller footprint than current building footprint (1,931 square feet) per the submitted site plan.
2. The building height of the proposed two-unit duplex shall not exceed 28 feet per the submitted building elevation.
3. Each duplex unit shall be a minimum 1,461 square feet per the submitted plans.
4. Each duplex shall have a one car garage per the submitted plans.
5. The site shall have four off-street parking spaces per the submitted plans
6. The existing two story two-unit apartment house shall have a minimum 2 car garage.
7. The proposed development shall achieve compliance with all other City development requirements (building code, engineering, etc.).
8. The existing four dwelling units shall be individually used for single unit residential dwelling uses only.
9. The four unit residential structure could be rebuilt to the extent they exist today – as allowed by the use variance approved by the Board of Zoning Appeals in December 2020 - if destroyed by an act of God and thus would not be considered for the purposes of Zoning to be a non-conforming use.
10. The retaining walls on the site shall be repaired to meet minimum building code requirements.
11. The site shall be maintained to comply with the property maintenance code requirements.
12. Any construction damage to the alley to the east shall be repaired by the owner to meet minimum City requirements.

COMMISSION NOTES:

MOTION: _____ *1st* _____ *2nd* *approved* *denied* *tabled*_____

CONDITIONS/MISCELLANEOUS:

FILE:
ORIGINAL:
REVISED: 03/4/21



EST 1808
CITY OF
DELAWARE
OHIO

2021-0433
Enlargement/Alteration of Nonconforming Building or Structure
152 West Central Street
Location Map

N



EST 1808
CITY OF
DELAWARE
OHIO

2021-0433
Enlargement/Alteration of Nonconforming Building or Structure
152 West Central Street
Zoning Map



EST 1808
CITY OF
DELAWARE
OHIO

2021-0433
Enlargement/Alteration of Nonconforming Building or Structure
152 West Central Street
Aerial (2019) Map

N

WILLIS
LAW FIRM LLC

Writer's Direct Dial
(614) 324-0450
dhatzifotinos@willislawohio.com

February 16, 2021

Lance Shultz
City Delaware, Ohio
Director of Building and Zoning
VIA
EMAIL

Re: 152 W. Central Avenue, Delaware, Ohio 43015

Dear Mr. Shultz:

As you know, I am the owner of DGH Properties, LLC, the titled owner of the above referenced real estate.

As you are further aware, this property is currently a mixed use site which consists of one (1) building with four (4) tenant units. The front two (2) tenant units are residential garden style apartment homes that are occupied, and the back two (2) units are commercial office units which are vacant.

This property was built prior to the development of Delaware's zoning code, and this mixed use property is non-conforming to the current zoning which is R-3 single family.

Due to the COVID crisis, it has become increasingly difficult to lease commercial office space. Additionally, this property is in need of a new roof and complete refurbishment.

I would like to refurbish all four (4) of these units in order to bring them up to the current standard. As you know, I received permission from the BZA in December 2020 to convert the two (2) rear units at the property from commercial use to residential use.

I have employed a new architect, Rick Brown from Brown Callebretta Architects to help with the design of the new residential units.

Upon inspection, it has been determined that a portion of the back structure (previously a barber shop) was actually a garage at some point in the last 100 years. Since that is the case, using the existing footing to construct a residence is likely not possible.

I have provided a new design with this correspondence that indicates my desired construction project.

I have included a site plan and picture description of my proposal for your review. I am seeking to vary the conditions of the previous variance granted at the December meeting to increase

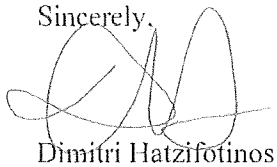
the height of the structure that I will be building on my lot. According to the attached design, the horizontal footprint of the new proposed structure will actually be small than the current horizontal footprint.

In effect, I am asking for a use variance to the requirements of the code relative to building on a non-conforming site. It would be impractical to try to use the existing foundation given that it was a garage previously, and it would be impossible to use the existing foundation to bring the structure up to existing code.

Additionally, the front two (2) residential units are currently occupied. I would not want to displace the current residents, and thus it would be impossible to take down the entire existing structure while occupied.

As a result, I am asking the Board of Zoning Appeals to approve this use variance. I have reached out to neighbors, but I have not received feedback that proposes an alternative. I plan to start a renovation project pending approval in the spring.

Sincerely,

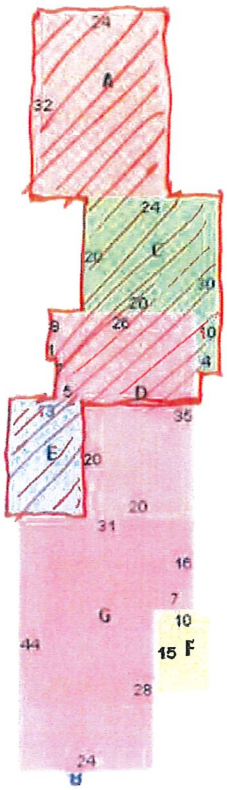


Dimitri Hatzifotinos


DEMO EXIST'G
COMMERCIAL
WITH
TOWNHOME
DUPLEX
DEMO
ADDITION
RESTORE
BACK TO
ORIGINAL
EXIST'G
2 APTS
152 CENTRAL AVE
DELAWARE, OH
40ft

SITE PLAN

Print

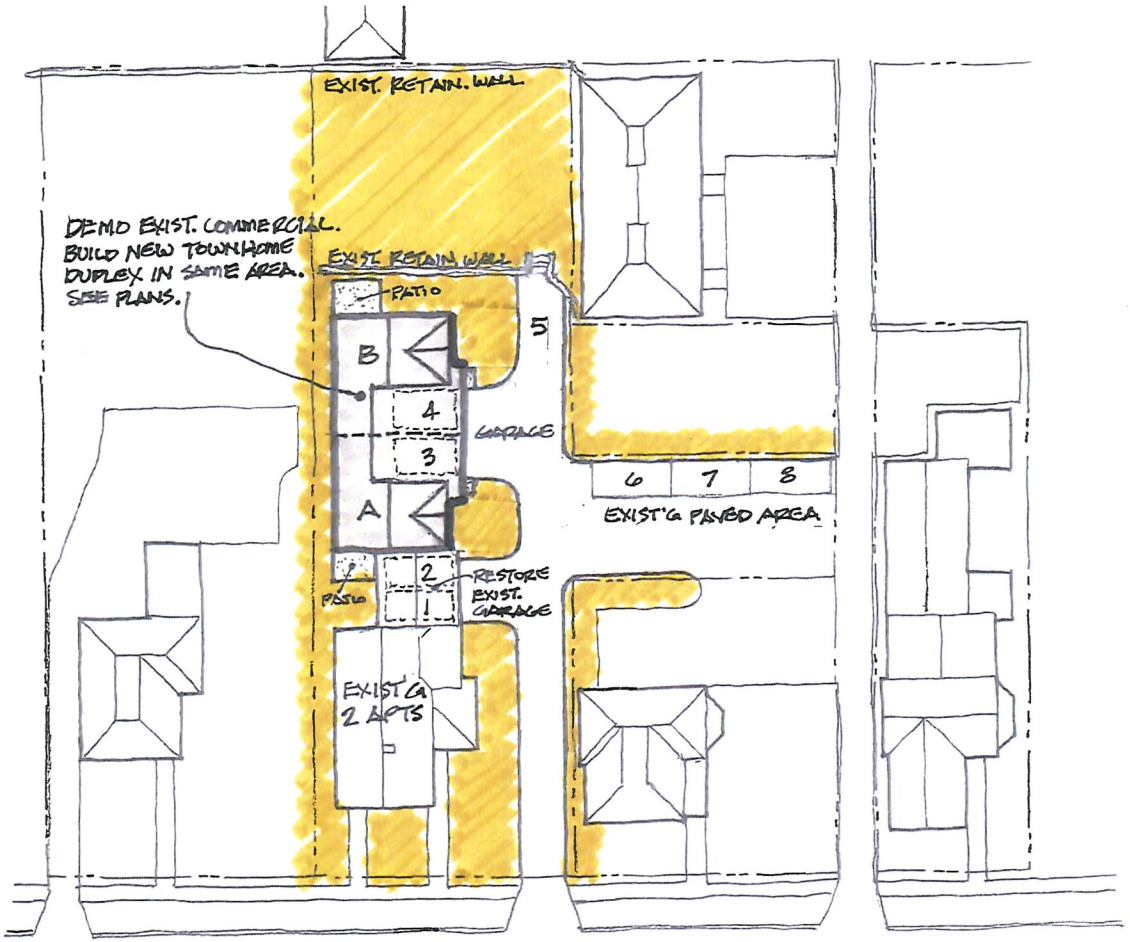


1931 S.F.

0 0.40s

Scale: 10 ft

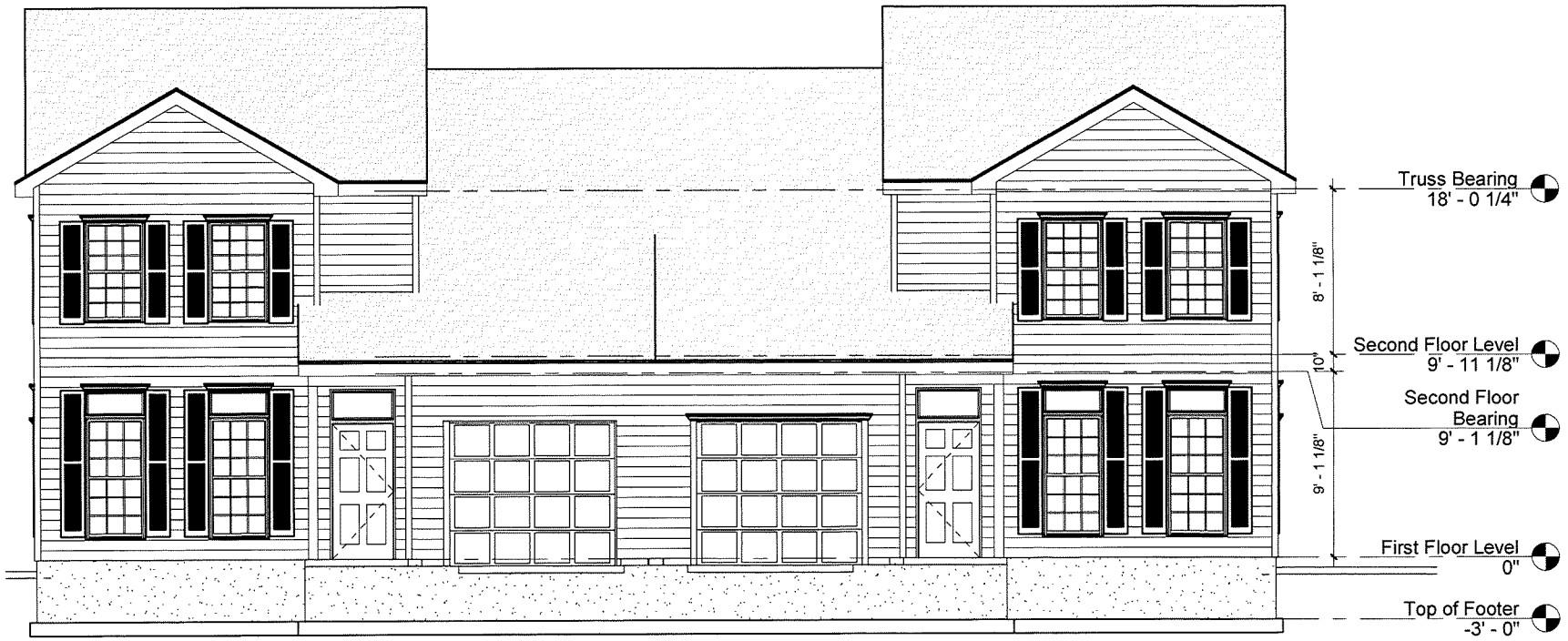
ID	Label	Area	Perimeter	Dimension
A	Fr G	768	112	N/A
B	ST1	24	0	N/A
C	1 s Fr	520	108	N/A
D	1 s Fr / Slab	783	122	N/A
E	1 s Br	260	68	N/A
F	1 s Fr	150	50	N/A
G	2 s Fr / Slab	1168	160	N/A



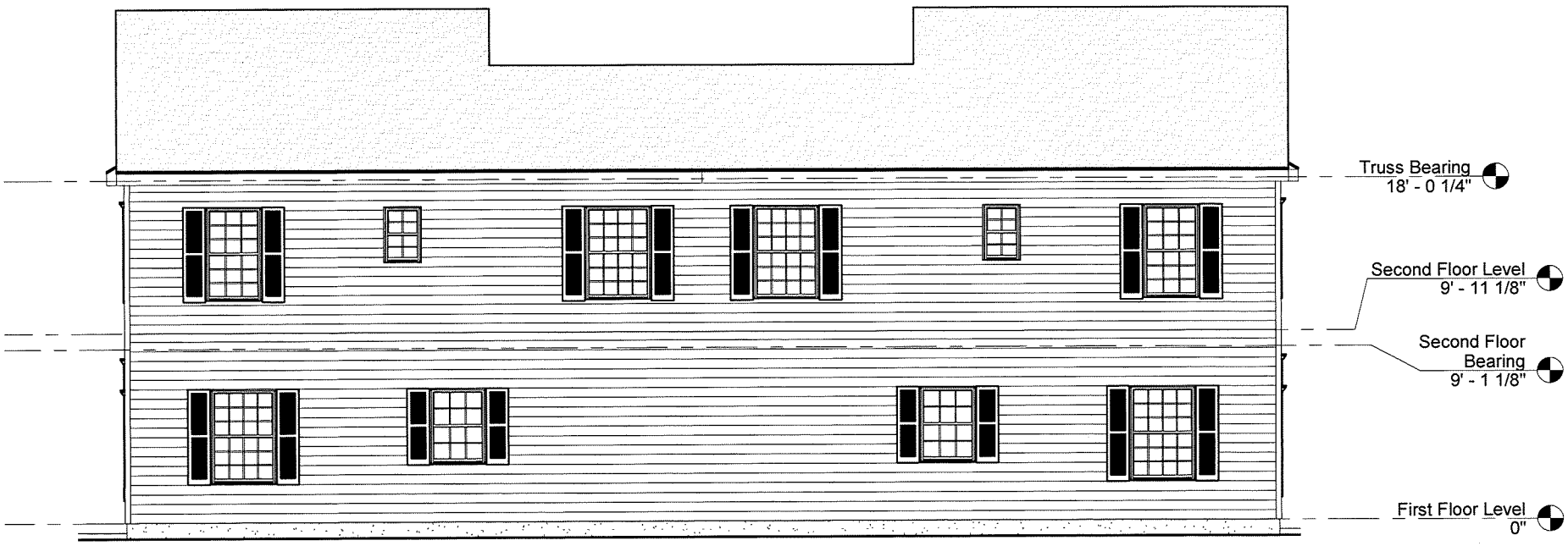
152 CENTRAL AVENUE
DELAWARE, OH 43015
12-15-20 BZA # 2014

NORTH

1" = 30'



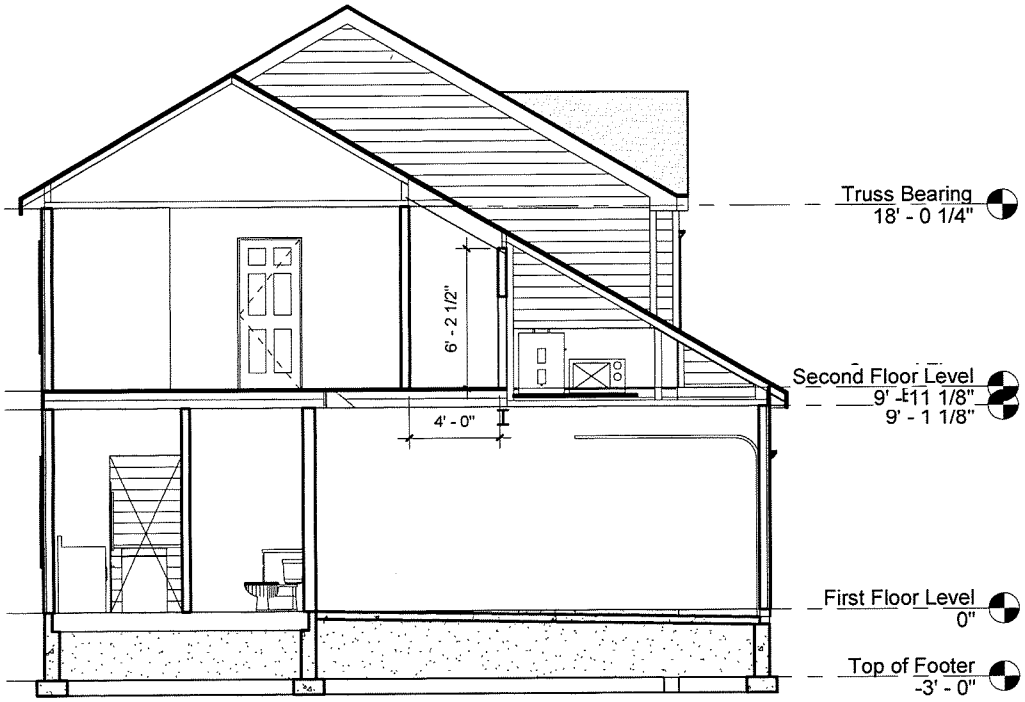
A Front Elevation
3/16" = 1'-0"



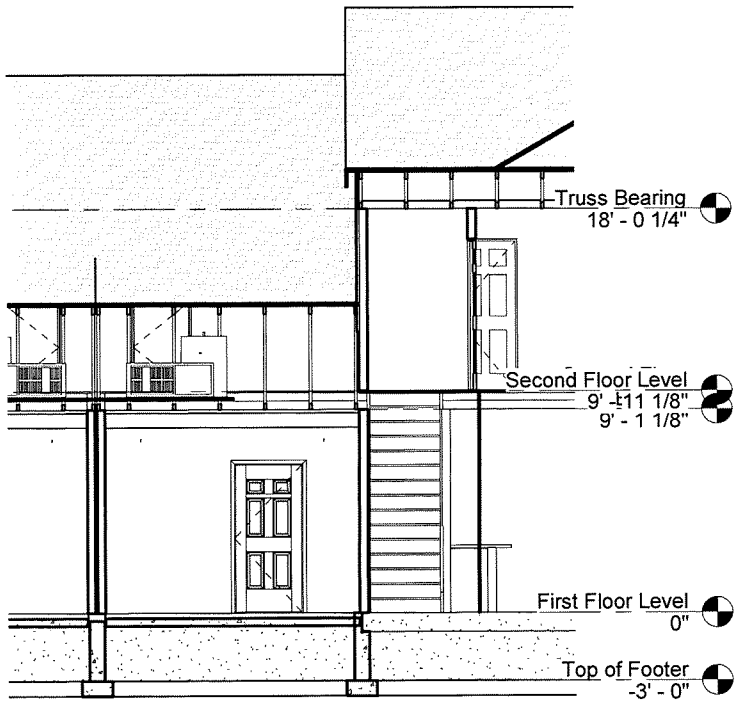
A Rear Elevation
3/16" = 1'-0"



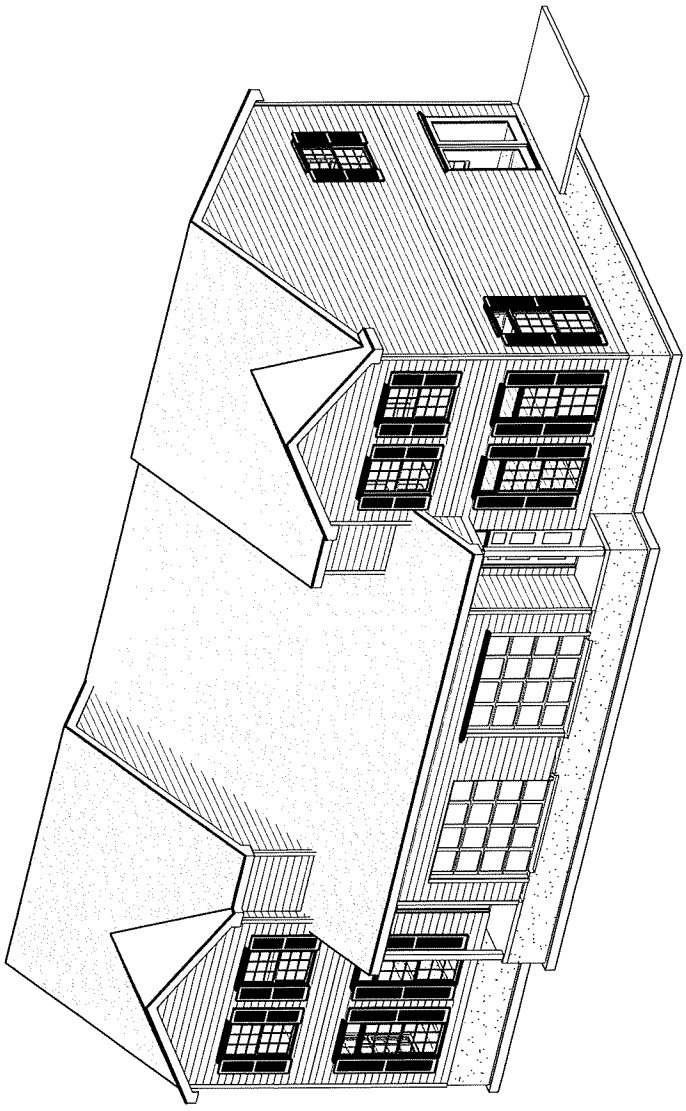
A Right Elevation
3/16" = 1'-0"

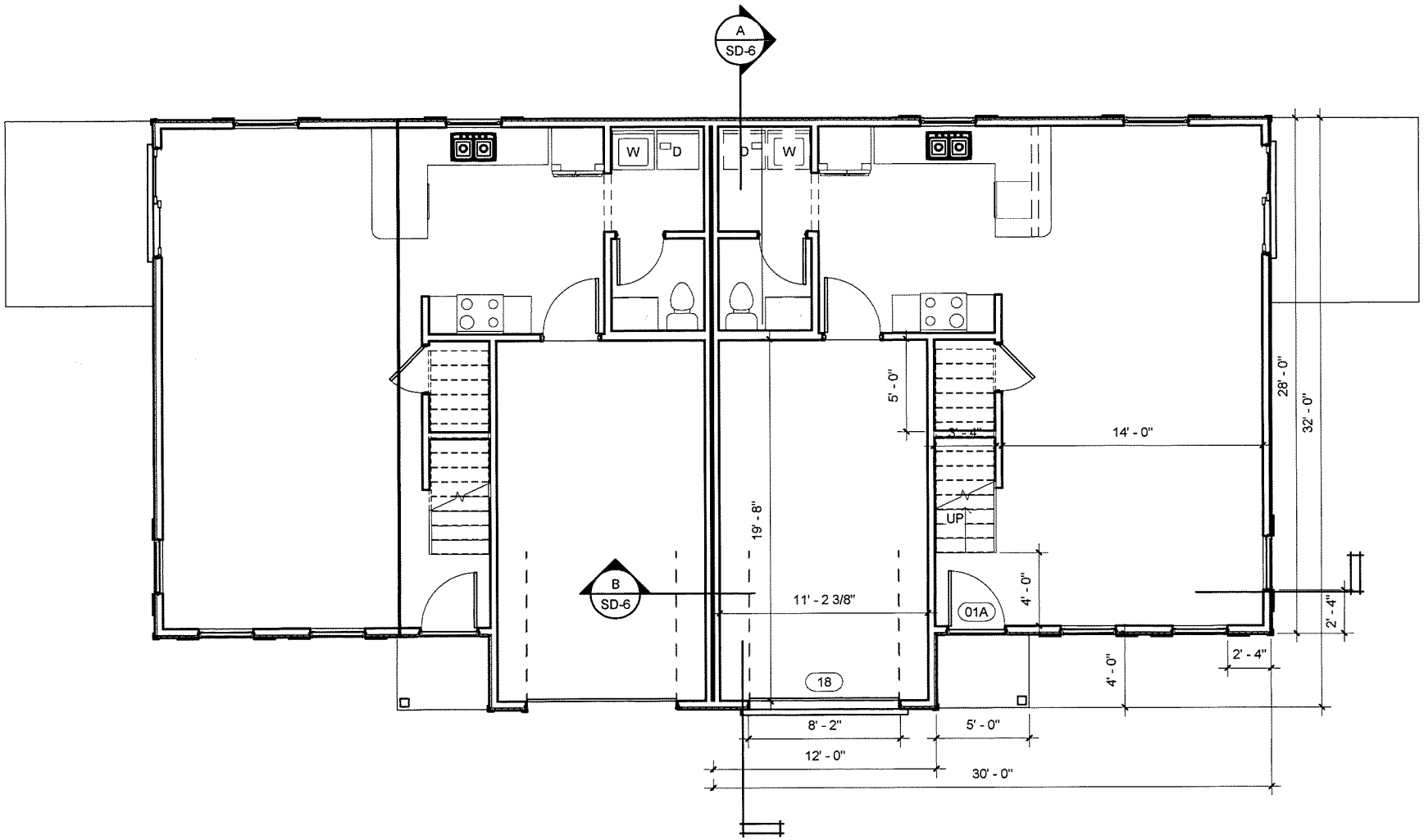


A BUILDING SECTION A
3/16" = 1'-0"

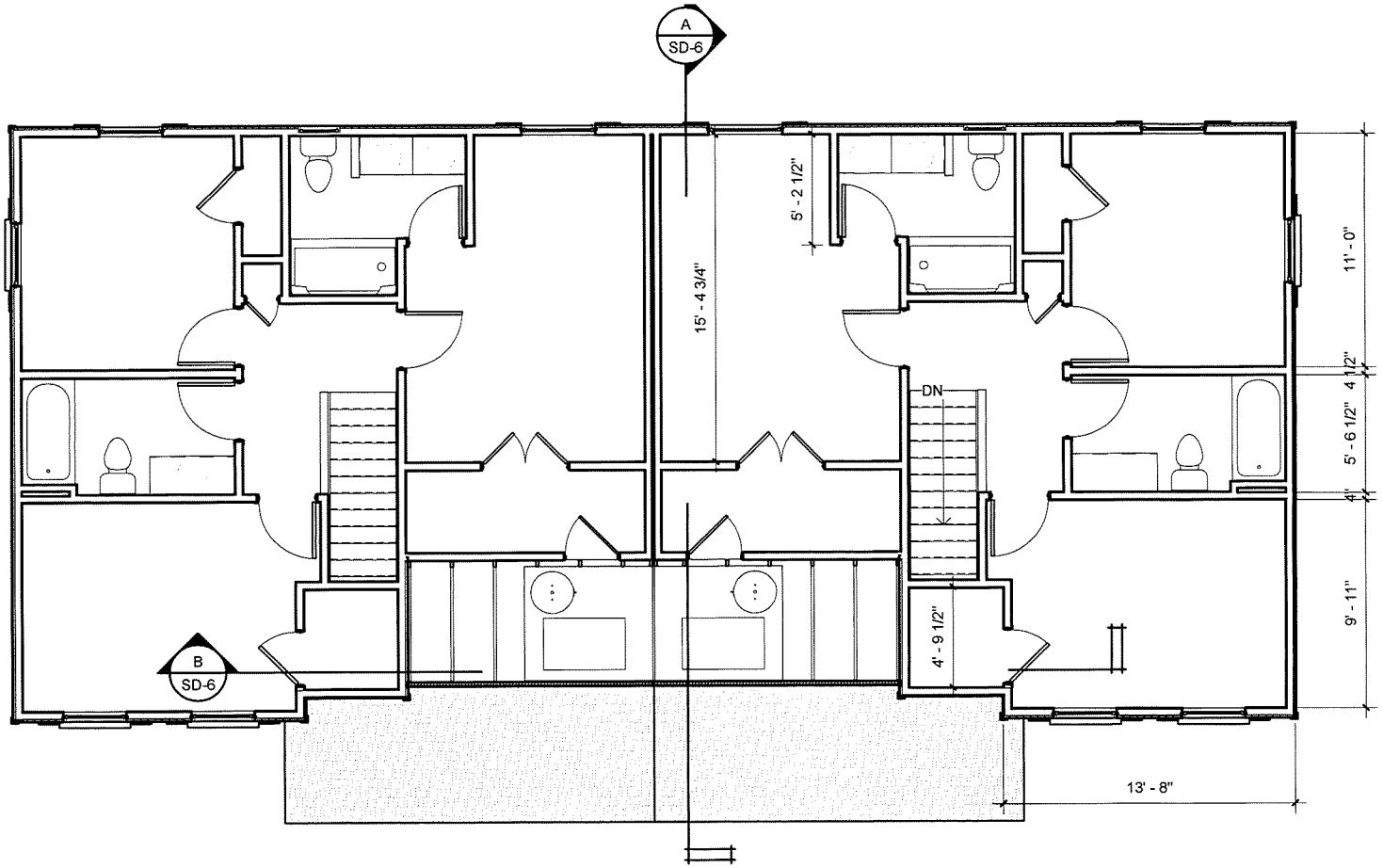


B BUILDING SECTION B
3/16" = 1'-0"





A First Floor Plan
3/16" = 1'-0"



A Second Floor Level
3/16" = 1'-0"









EST 1808

CITY OF

DELAWARE

OHIO

152 West Central Avenue

Residents – Owners Concerns/Communication (Until March 4)

MaryAnn Davis
138 W Central Ave
Delaware. Ohio 43015

February 5, 2021

Re: 152 W Central Avenue

Dear Lance,

Enclosed are clearer copies of my correspondence with Dimiti Hatzifotinos that I sent by email a few days ago. Perhaps these will be easier to read.

I know the neighbors are very upset about this proposed change in our neighborhood. The noise during construction for those of us working from home, the proximity to neighboring buildings and property lines, loss of old trees, increased density and noise in our quiet backyards and alley. Who wants a two story structure where we once only saw trees?

The character of this neighborhood will be changed forever if you allow this construction to go forward. I own the building on the alley adjacent to the property in question. I do not rent out that building, not even the three garages attached, because it would change the historic, community and tranquil nature of our space. We all enjoy the "warehouse' for neighborhood parties each summer. It is a little surprise from the past for anyone out walking.

When living on such a busy road, everyone needs somewhere quiet. The meadow behind the property gives the neighbors that sense of quiet. Another little surprise in the middle of the city.

We are not a multifamily neighborhood. The offices that are on the 152 W Central Avenue property were always either family businesses or part time office spaces with very little traffic. Mr. Hatzifotimos, with his proposed townhouses, 4 garages and 4 or 5 additional parking spaces may hear money in the bank, but it just noise and congestion to me. If we allow him to increase the density, what is to keep others from buying into the neighborhood to cover all available space with rental property, with no appreciation of the historical appearance of our area? What happens to the historic neighborhoods of downtown Delaware?

These are our homes, where we raise our families and get away from all the hustle and bustle of the outside world. Mr. Hatzifotimos, as an absentee landlord doesn't have to live with this, we do.

Thanks for listening to both sides of this sad story.

Sincerely

MaryAnn Davis

WILLIS
LAW FIRM LLC

January 29, 2021

Writer's Direct Dial
(614) 324-0450
E-mail
dhatzifotinos@willislawohio.com

Mary Ann Davis
138 W. Central Ave.
Delaware, Ohio 43015

Re: 152 West Central

Dear Ms. Davis,

I hope that you and your family and loved ones are healthy and safe during this difficult time with the pandemic. My wife and I own the property at 152 West Central Avenue.

I am sure that you have heard rumors that we would like to develop a part of the property to beautify the neighborhood. We have been contemplating what to do with the property for a number of years. We have had the pleasure of having Faye and Barb as tenants at the property for the entire time we have owned it, and we do not wish to do something that would displace them at this time.

However, we have also been unable to re-rent the vacant commercial spaces at the back of the property for an extended period of time. The pandemic has made the back portion of the building even harder to rent.

Since the back portion of the building is commercial office space, this type of space does not really flow with the residential nature of the neighborhood. As a result, we would ideally like to demolish the back of the building, leave the front of the building in tact as apartments, and renovate the entire structure.

I have attached a drawing of what we would ideally like to build in the back of the building where the office space and garage currently sits. This new building would be two (2) apartments with garages that would be high end rental units.

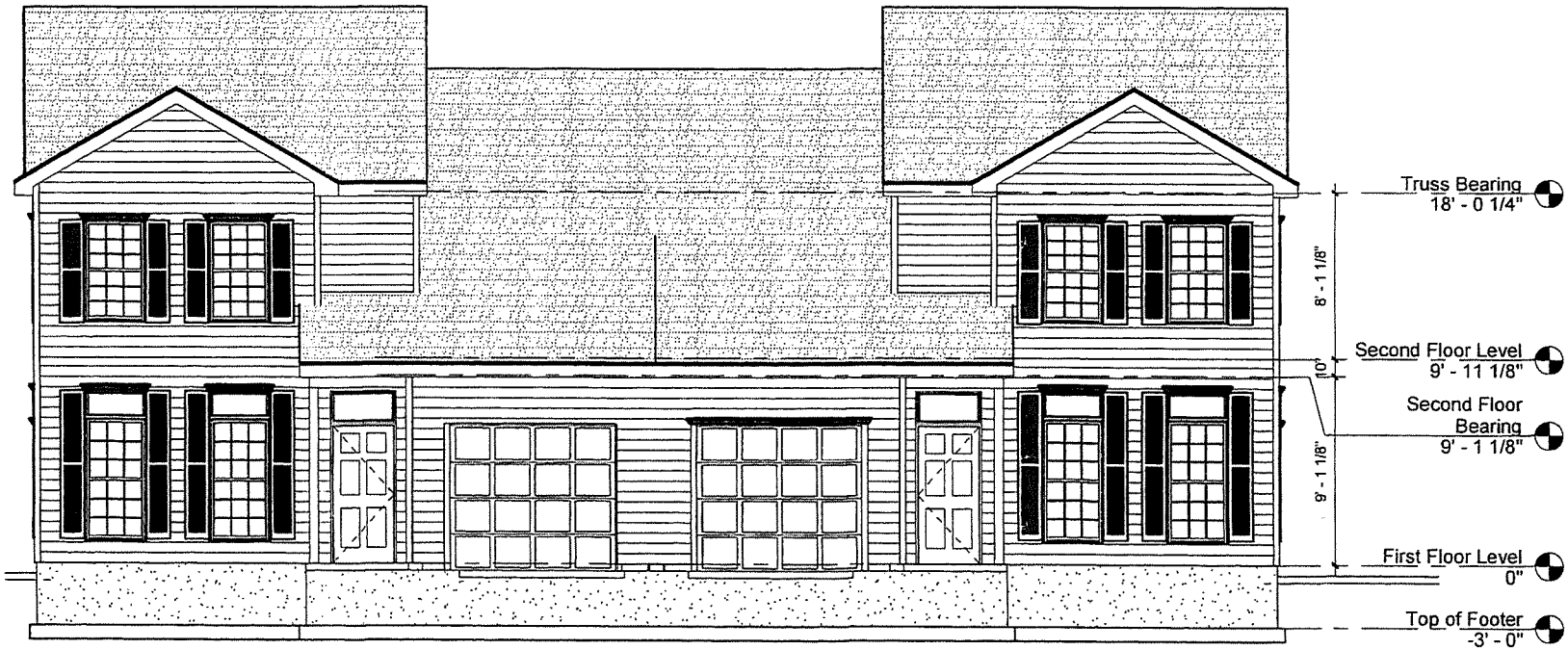
During the construction of the new units, we would also renovate and beautify the front of the building so that the entire structure is renovated and new. We believe that we would actually gain 4 to 5 parking spaces by putting in 4 usable garage spaces in the building. This will cut down on traffic flow in and out of the property. We also intend to beautify the back of the property and create nicer landscaping and new pavement.

I have been in touch with Lance Shultz from the City of Delaware, and he recommended that I get your input on this project prior to going forward with the City. My

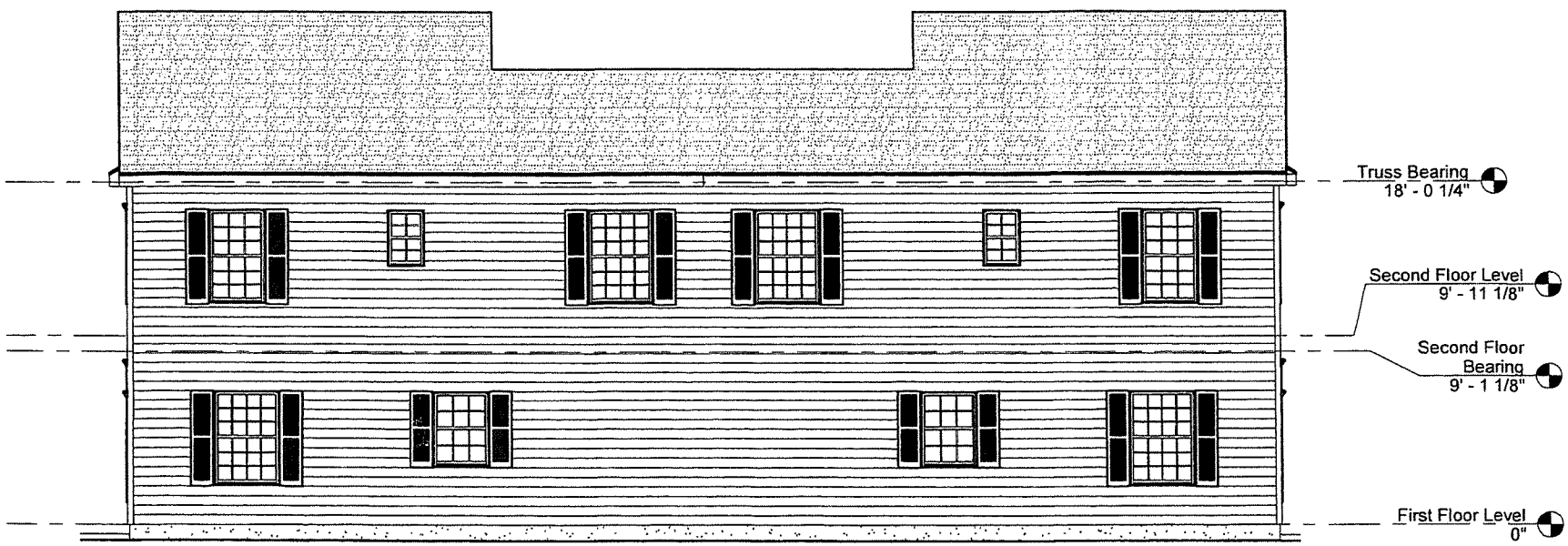
cell phone number is 614.946.2072. Please feel free to call me or email me (email address is above) with any comments, concerns or thoughts that you may have about this project.

Sincerely,

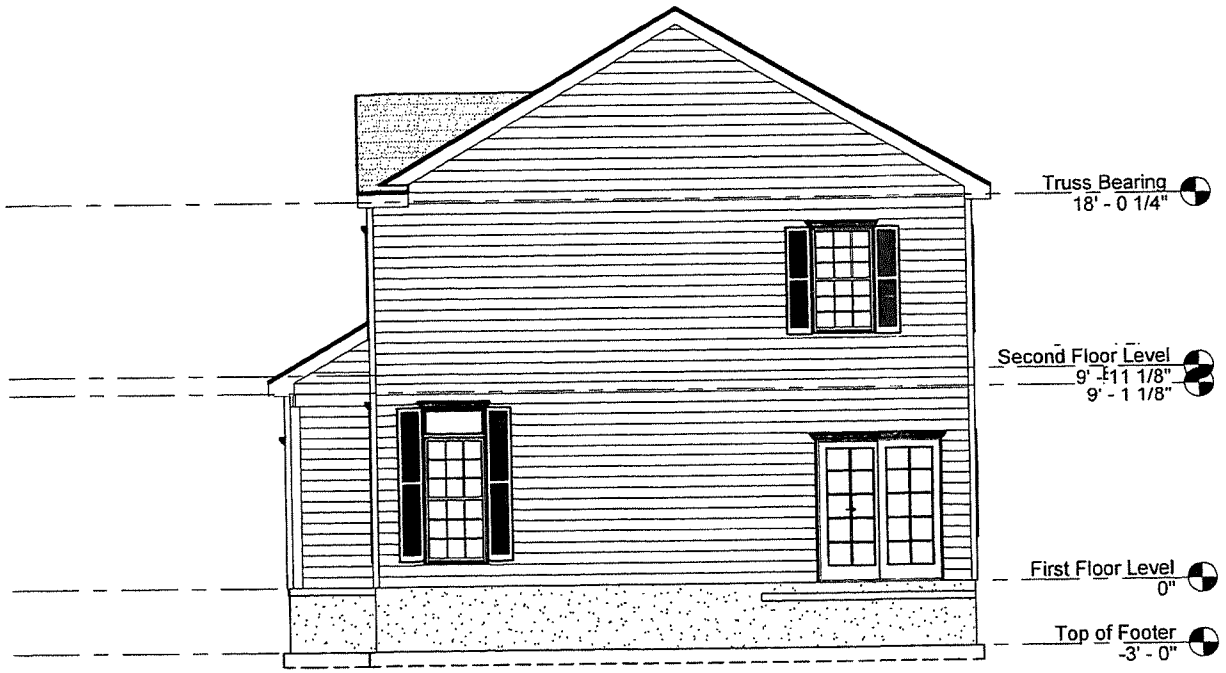
Dimitri Hatzifotinos



A Front Elevation
3/16" = 1'-0"



A Rear Elevation
3/16" = 1'-0"



A Right Elevation
3/16" = 1'-0"

MaryAnn Davis
138 W Central Avenue
Delaware, Ohio 43015

February 16, 2016

Dear Lance,

Here are copies of my latest correspondence with the owner of 152 W Central Avenue.

I think this could be just the beginning of the transformation of the Historic Delaware. It doesn't make financial sense to spend the kind of money necessary, even for a cheap 2 story addition, unless he has plans for more. I think this is what he does for the huge apartment owners in Columbus.

It would be a shame to let this happen at the expense of the local residents and their single family homes.

Sincerely,

MaryAnn Davis

WILLIS
LAW FIRM LLC

February 8, 2021

dhatzifotinos@willislawohio.com
614.324.0450

MaryAnn Davis
138 W Central Ave.
Delaware, Ohio 43015

Re: 152 W Central

Dear Ms. Davis,

Thank you for your letter. I am saddened that you did not think to call me. I think that we could accomplish much by sitting down and discussing your concerns. I believe that you and I spoke about a year ago about a proposal that was much bigger than the current idea. I have come a long way with the city as a partner in order to keep the property in line with the neighborhood.

I believe that your letter is simply a voice in opposition which is full of criticism. I would prefer that you focus on collaboration and solutions. Feel free to call me at 614.946.2072.

I look forward to hearing from you.

Sincerely,

Dimitri Hatzifotinos

MaryAnn Davis
138 W Central Avenue
Delaware, Ohio 43015

February 10, 2021

RE: 152 W Central Avenue

Dear Mr. Hatzifotinos,

I was surprised by your letter to me dated February 8, 2021. You start the letter stating that I 'saddened' you by writing a response rather than calling you on the phone. I had no idea you were such a sensitive person. It must be very difficult being a real estate lawyer, 'representing landlords in about half of Franklin County's eviction cases' (Spectrum News, 9/10/20) as general counsel for the Columbus Apartment Association, and being so tenderhearted. I'm not sure why a written response makes you sad.

I understand from your website that you are expert at all facets of Real Estate litigation, specializing in zoning, variance, rezoning and planning issues, so this is not really a neighbor talking to another neighbor, as you imply. It feels more like Goliath vs a little old lady. And, of course, you have never lived in this neighborhood.

When you say you would prefer me to 'focus on collaboration and solutions' regarding your property, I wonder why you think that is my obligation. I gave you my suggestions several times: Clean up your property! I also suggest you have an engineering study to determine the dangers of more subsidence from the properties behind and west of your property which could result in damage to neighboring houses.

I was not aware of any 'partnership' you have with the city referenced in your letter. I watched the zoom meeting of the Delaware Zoning Board of December, 9, 2020. In that meeting, it was determined that you would not change the footprint of your building, and would not build a second story, to which you agreed. Why, two months later are you sending plans for a two story building on the property? Is this what a rezoning expert 'Super Lawyer, 2021' does to change neighborhoods?

The only history we local residents have with you is as a neighboring property owner of 152 W Central Avenue, and that is a history of your neglect. Can you give us some insight into how you have 'beautified' other older neighborhoods? What other rental properties do you own in Delaware and what changes have you made to rezone those properties? Do you own any other properties in the Delaware Historic Northwest Neighborhood?

Along both sides of W Central Avenue, the houses are very close together with large, tree filled backyards. This is our green space, this is our common area. This is what makes our neighborhood special. You and I also have two old trees along our joint property line that I fear you will attempt remove with your 'beautification'. There are two old walnut trees in the Pezzutti property on the other side of your building. How will you insure that those trees are not disturbed by excavation for a two story building? How very sad for our whole neighborhood. This is how Delaware, the Tree City, becomes like the generic newer constructed neighborhoods: nondescript boxes, void of any endearing architectural enhancement, void of any old world charm, and void of trees.

I see on the internet that you are on the Zoning Board of Appeals in lovely, old Grandview Heights, where you live. Is this how you protect your neighborhood from people like you?

Sincerely,

MaryAnn Davis

Arenstein & Andersen Co.
A Legal Professional Association

G. Gregory Arenstein
Nicholas I. Andersen
Eric R. McLoughlin
Jessica L. Sohner
Mary Lou Ranney
Anthony D. Pezzutti
Ryan L. DeYoung

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Christen M. Shore Co., LPA

Anthony D. Pezzutti
Direct: (614) 364-4175
Email: Anthony@aacolpa.com

February 22, 2021

DGH Properties LLC
Attn: Dimitri Hatzifotinos
141 E. Town Street
Columbus, Ohio 43215

Re: 152 West Central Avenue, Delaware, Ohio 43015

Dear Dimitri:

Kaity and I are in receipt of your letter dated January 29, 2021, regarding your plans to demolish and rebuild the existing structures at 152 West Central Avenue (the "Property") this Spring. A copy of your letter is enclosed for your easy reference. While we appreciate your reaching out and providing us advanced notice of your intentions for renovating the Property, we are also deeply concerned with the nature of your renovation and the negative impact the same will undoubtedly have on us, our property, and the overall character of the Northwest Delaware neighborhood.

From our review of your letter and the December 9, 2020, Staff Report (the "Report") prepared by the Delaware Board of Zoning Appeals (the "Board"), it is clear your plans for the Property have changed significantly from those described in the variance application you submitted in November 2020. A copy of the Report is also enclosed for your easy reference. As you know, the Board's approval of your variance application included the following limitation for any renovations involving the Property's existing structures: "The size and footprint of the existing structure including all the subsequent additions **shall not be increased either horizontally or vertically** per the current non-conforming enlargement alteration of non-conforming building or structure requirements."

Since your updated plan clearly conflicts with the above-referenced condition, we assume you will need the Board to approve a new variance application. We also assume the Board is unlikely to approve such a variance request without local support, hence Mr. Shultz' suggestion to seek input from your neighbors. To that end, Kaity and I want to make it very clear that we do not (and will not) support, condone, or approve your latest proposed alterations to the Property nor the substantial demolition and construction necessary to complete the same. We believe the same will

cause irreversible damage to the nature and character of our property and will severely hinder our ability to use and enjoy the property we have called home for last three years.

Kaity and I did not oppose your November 2020 variance application due to nature of the variance sought, your stated intention to refurbish (not demolish and rebuild) the existing structures, and the renovation limitations clearly delineated in the Board's Report. In fact, we support your wanting to repair the current structures as they are currently in disrepair and would certainly benefit from some attention. However, we do not agree that this new endeavor you propose is the most effective or least intrusive (for your neighbors) way to remedy the Property's current state of neglect or improve the Property's overall visual impact on the neighborhood. Accordingly, please be advised that we (and many of the other property owners in the neighborhood) intend to contact City officials and the Board to voice our concerns and demand that any variance application related to your new proposal be denied.

Please know it is not our intention to be difficult neighbors and that we understand your wanting to make the Property more appealing to renters and therefore more profitable for you as the owner. However, your recent neglect of the Property to this point combined with what you now intend for the Property indicate that your desire to make the Property a more profitable investment far outweighs any concern you have for maintaining the character of the neighborhood or respecting your neighbors' wishes. That being the case, we, and many of the property owners that live in and love this neighborhood, cannot and will not support you if you decide to move forward with plans described in your January 29th letter.

If you have any questions or would like to discuss the specific concerns we have with your new plans, please feel free to call me at (614) 296-7102 or email me at anthony@aacolpa.com.

Very truly yours

ARENSTEIN & ANDERSEN CO., LPA

Anthony D. Pezzutti

ADP/adp
Enclosures
C (via email only) : Mary Ann Davis
Barbara Adams
Jeffrey Rice
Lance Shultz
Jerry Warner
David Efland

WILLIS
LAW FIRM LLC

January 29, 2021

Writer's Direct Dial
(614) 324-0450
E-mail
dhatzifotinos@willislawohio.com

Anthony Pezzutti
Kaitlyn Hord
158 W. Central Ave.
Delaware, Ohio 43015

Re: 152 West Central

Dear Anthony and Kaitlyn,

I hope that you and your family and loved ones are healthy and safe during this difficult time with the pandemic. My wife and I own the property at 152 West Central Avenue. Anthony and I spoke at some point last year.

I am sure that you have heard rumors that we would like to develop a part of the property to beautify the neighborhood. We have been contemplating what to do with the property for a number of years. We have had the pleasure of having Faye and Barb as tenants at the property for the entire time we have owned it, and we do not wish to do something that would displace them at this time.

However, we have also been unable to re-rent the vacant commercial spaces at the back of the property for an extended period of time. The pandemic has made the back portion of the building even harder to rent.

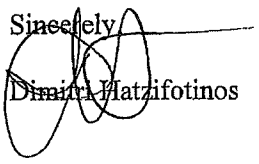
Since the back portion of the building is commercial office space, this type of space does not really flow with the residential nature of the neighborhood. As a result, we would ideally like to demolish the back of the building, leave the front of the building in tact as apartments, and renovate the entire structure.

I have attached a drawing of what we would ideally like to build in the back of the building where the office space and garage currently sits. This new building would be two (2) apartments with garages that would be high end rental units.

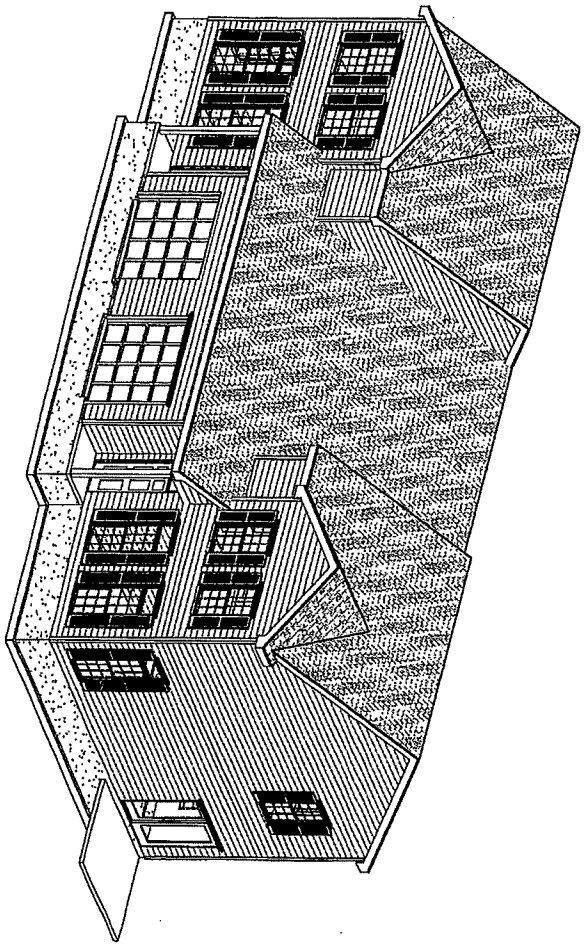
During the construction of the new units, we would also renovate and beautify the front of the building so that the entire structure is renovated and new. We believe that we would actually gain 4 to 5 parking spaces by putting in 4 usable garage spaces in the building. This will cut down on traffic flow in and out of the property. We also intend to beautify the back of the property and create nicer landscaping and new pavement.

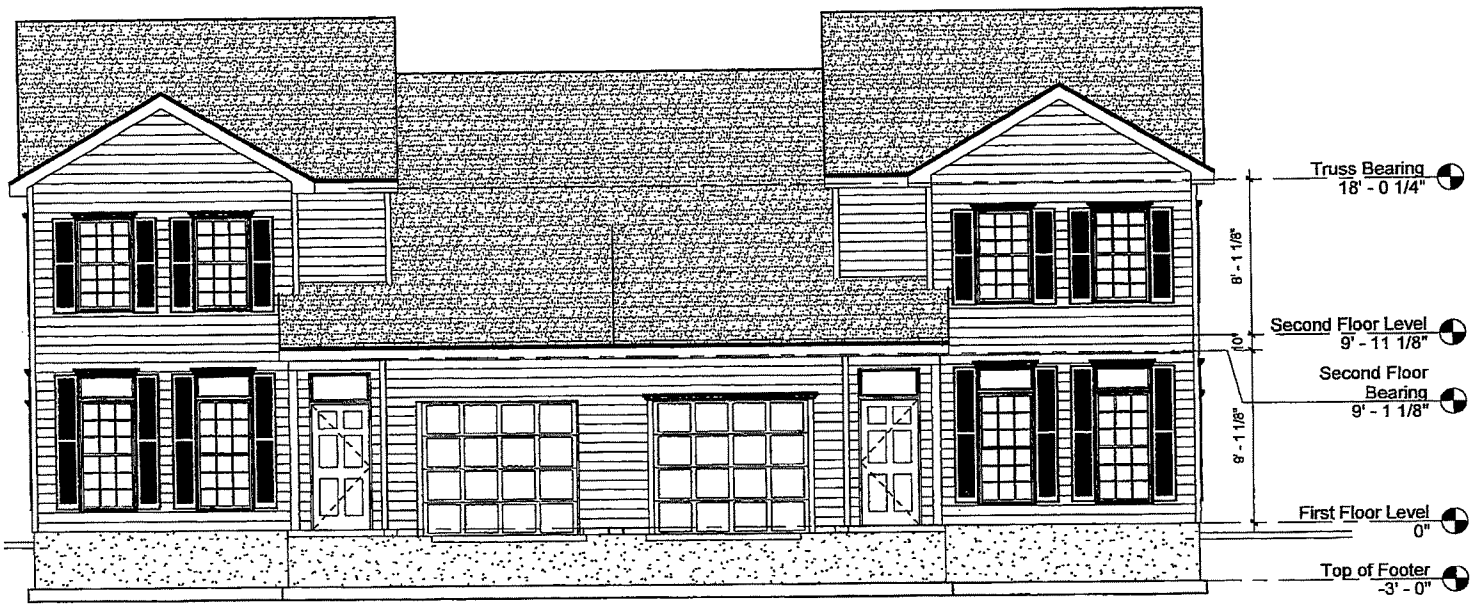
I have been in touch with Lance Shultz from the City of Delaware, and he recommended that I get your input on this project prior to going forward with the City. My cell phone number is 614.946.2072. Please feel free to call me or email me (email address is above) with any comments, concerns or thoughts that you may have about this project.

Sincerely,

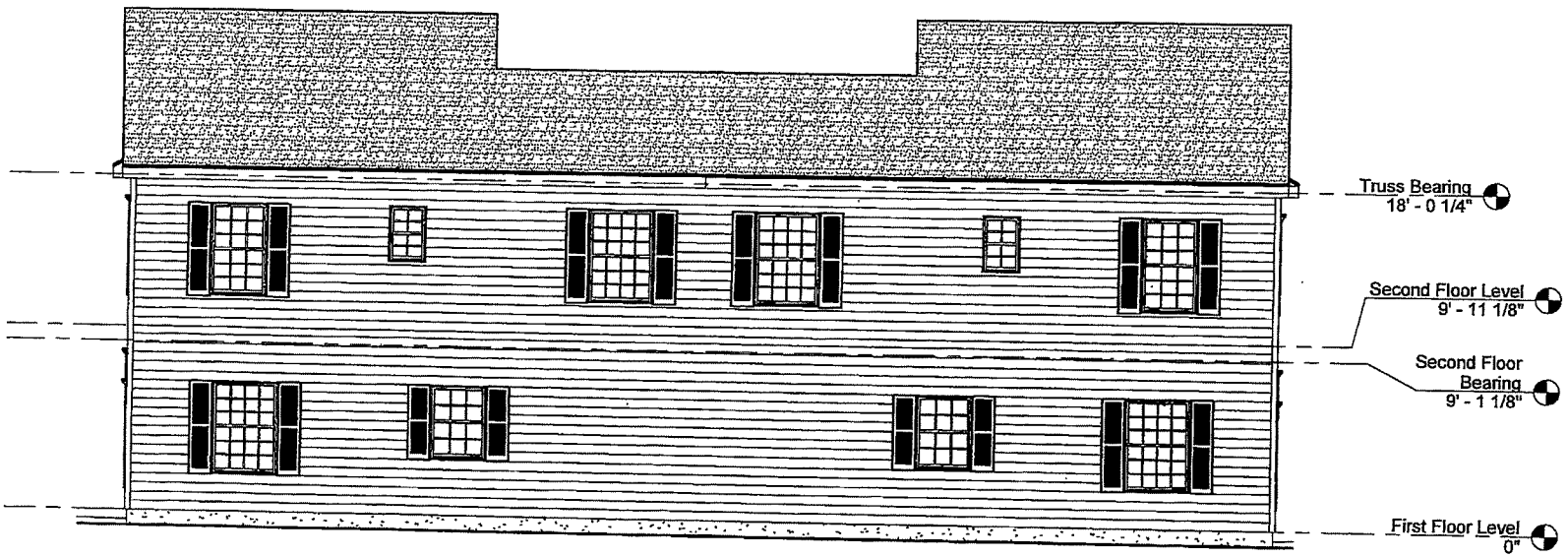


Dimitri Hatzifotinos

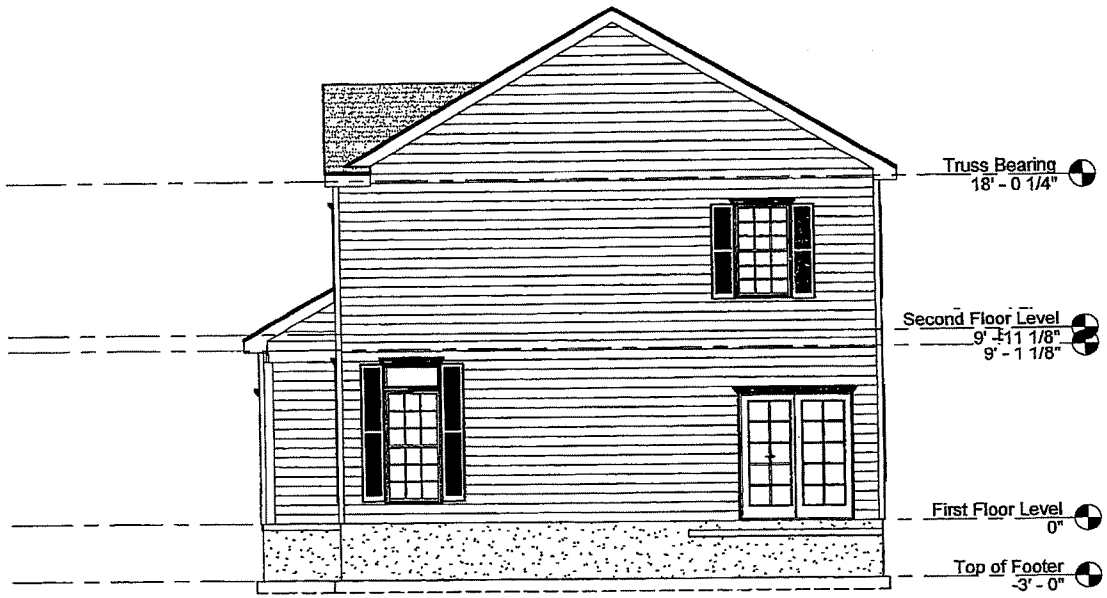




A Front Elevation
3/16" = 1'-0"



A Rear Elevation
3/16" = 1'-0"



A Right Elevation
3/16" = 1'-0"

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CITY OF
DELAWARE
OHIO

BOARD OF ZONING APPEALS / STAFF REPORT

CASE NUMBERS: 2020-2588
REQUEST: Use Variance
PROJECT: 152 West Central Avenue
MEETING DATE: December 9, 2020

APPLICANT/OWNER
DGH Properties LLC
1160 Goodale Boulevard
Columbus, Ohio 43212

REQUEST
2020-2588: A request by DGH Properties LLC., to Chapter 1151.03 (d) (2) Substitution of Less Nonconforming Use for 152 West Central Avenue on property zoned R-3 (One-Family Residential District).

PROPERTY LOCATION & DESCRIPTION
The subject property is zoned R-3 as are the surrounding properties to the north, south, east and west.

BACKGROUND/PROPOSAL
The subject 4,049 square foot house was constructed in 1910 per the Delaware County Auditor and has had mixed-use apparently prior to City zoning. There have been a few additions to the building over the years. The front two tenant units are residential units that are currently occupied, and the rear two tenant units have been utilized as commercial units in the past but are currently vacant. The owner is requesting the substitution of less nonconforming uses for the rear two uses from commercial uses to residential uses per Chapter 1151.03(d)(2).

STAFF ANALYSIS

- **PROPOSED USE VARIANCE:**

  Change or Substitution of Use.

  - Chapter 1151.03(d)(2) - Substitution of "Less Nonconforming" Use. If no structural alterations are made other than those required by enforcement of other codes or ordinances or those necessary for maintenance, a nonconforming use may be changed to another nonconforming use of a less nonconforming, more appropriate nature for the district in which it is located. The Board of Zoning Appeals shall determine if the proposed use is of a less nonconforming, more appropriate nature by using its variance procedures.
    - The request of substituting the two residential uses for the current two commercial uses with the interpretation that commercial uses are more intense than residential uses at this location where the subject house is surround by residential uses, would meet the intent of the above definition of substitution of less nonconforming use. Staff is supportive of this request given the overall residential nature of the surrounding area.
    - The owner indicated he would refurbish all four residential units and would not expand the current building footprint (either horizontally or vertically) per the non-conforming enlargement/alteration requirements.

  - VARIANCE REVIEW: Use Variance - In order to grant a use variance, the Board of Zoning Appeals shall determine that strict compliance with the terms of this Ordinance will result in unnecessary hardship to the applicant. The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

    - The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located.
      - *The current R-3 zoning district only allows single-family uses and such requirement would eliminate three tenant units from the current non-conforming use which would cause a severe economic hardship to the owner because he would lose 3 tenant units.*

- The variance requested stems from a condition which is unique to the property at issue and not ordinarily found elsewhere in the same zone or district.
  - *The permitting of the current four tenant uses some of which have been commercial uses at times is unique to the subject property or any property in a R-3 zoning district. Actually, the request for all residential uses would lessen the intensity of the use by eliminating any future commercial uses.*

- The hardship condition is not created by actions of the applicant.
  - *The owner purchased the property in 2014 and the subject 4 tenant uses were permitted as a legal non-conforming use at the time of purchase. While the applicant wishes to convert two tenant spaces that have been commercial to residential, this represents a more conforming outcome to the code as the site is zoned residential and the surrounding uses are residential.*

- The granting of the variance will not adversely affect the rights of adjacent property owners or residents.
  - *The granting of the uses variance to only residential uses would not likely have a negative impact on the adjacent residences. It would eliminate the commercial uses and align the proposed residential uses with the surrounding residential uses decrease the historic degree of non-conformity that existed previously.*

- The granting of the variance will not adversely affect the public health, safety or general welfare.
  - *There would not be any adverse impacts to the public health, safety or general welfare with the granting of the use variance.*

- The variance will be consistent with the general spirit and intent of the Ordinance.
  - *Chapter 1151.03 (d) (2) Substitution of Less Nonconforming Use allows for the requested use variance. Also, the R-3 zoning district only allows residential uses and the use variance would only permit residential uses at this location for this time forward if approved.*

- The variance sought is the minimum that will afford relief to the applicant.
  - *The use variance to only residential would allow the owner to utilize the existing four tenant units without an increase in tenant uses or building footprint either horizontally or vertically. The only other option would be to rezone the property to a more intense residential zoning district (likey multi-family) which could allow the potential expansion of the use rather than specifically require up to only 4 tenant residential spaces as proposed. Thus, though rarely sought and very strictly examined by staff, a use variance is the minimum and best way to provide reasonable relief to the applicant while ensuring to the extent practical the protection of the surrounding property.*

CONCLUSION

Staff typically would never support a use variance as a change to the zoning of a property is the most appropriate vehicle to seek such change. However, in this unique and long standing circumstance as to the uses on this site, Staff supports the proposed use variance request for the following reasons: 1. The use variance to only residential uses would lessen the intensity of the subject building for the adjacent residents and therefore make it more conforming to the residential district the site is in today; 2. The size and footprint of the existing house would not be increased either horizontally or vertically per the current non-conforming enlargement/alteration of non-conforming building or structure requirements; 3. The residential only uses would be consistent with the surrounding residential uses.

STAFF RECOMMENDATION – VARIANCE (2020-2588)

Staff recommends approval of a request by DGH Properties LLC., to Chapter 1151.03 (d) (2) Substitution of Less Nonconforming Use for 152 West Central Avenue on property zoned R-3 (One-Family Residential District), with

the following conditions:

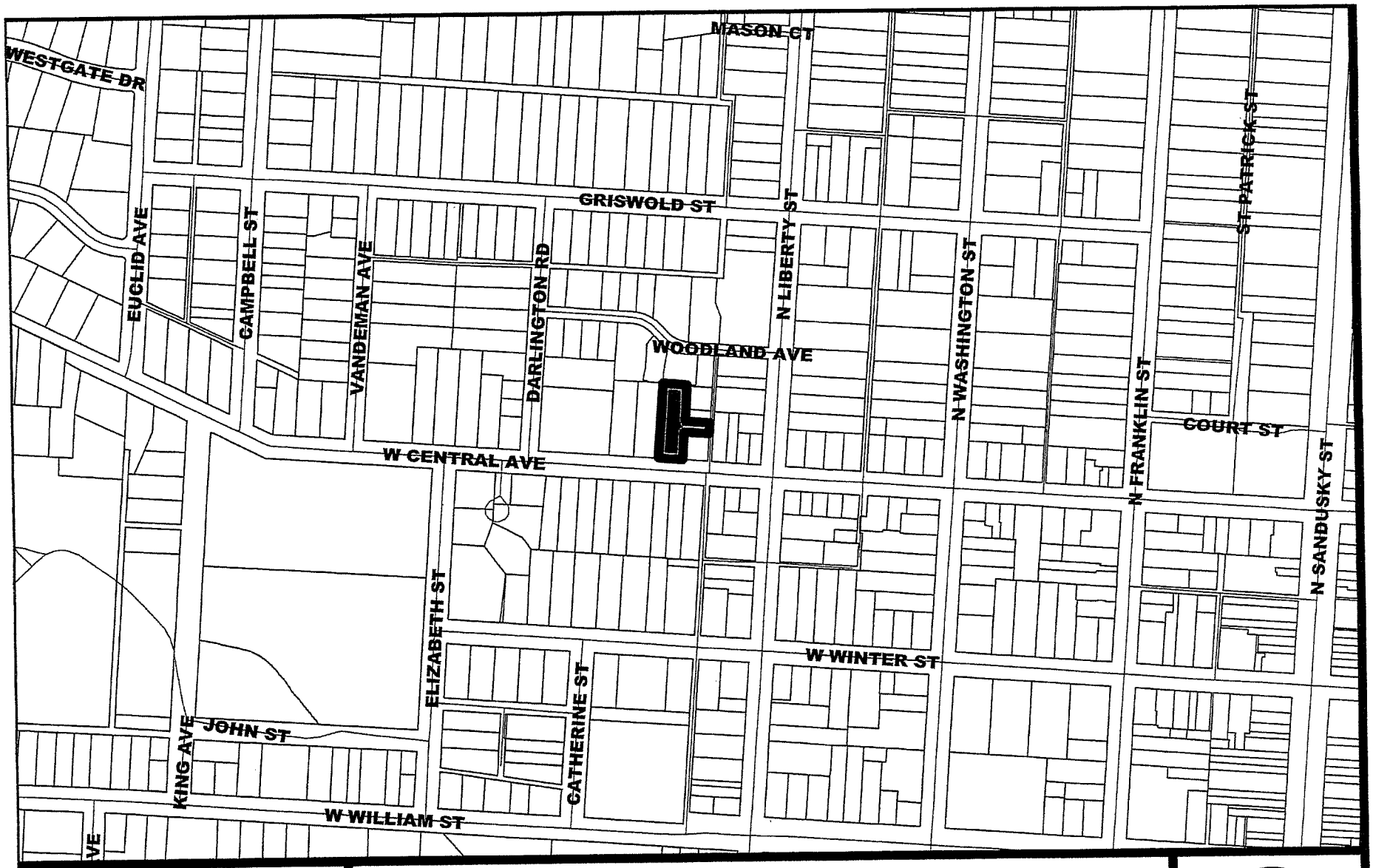
1. The existing four tenant units shall be for single unit residential uses only for each of the four units
2. The size and footprint of the existing structure including all the subsequent additions shall not be increased either horizontally or vertically per the current non-conforming enlargement/alteration of non-conforming building or structure requirements. However, the uses and structure could be rebuilt to the extent they exist today – as allowed by this use variance - if destroyed by an act of God and thus would not be considered for the purposes of Zoning to be non-conforming.

COMMISSION NOTES:

MOTION: _____ *1st* _____ *2nd* *approved* *denied* *tabled*_____

CONDITIONS/MISCELLANEOUS:

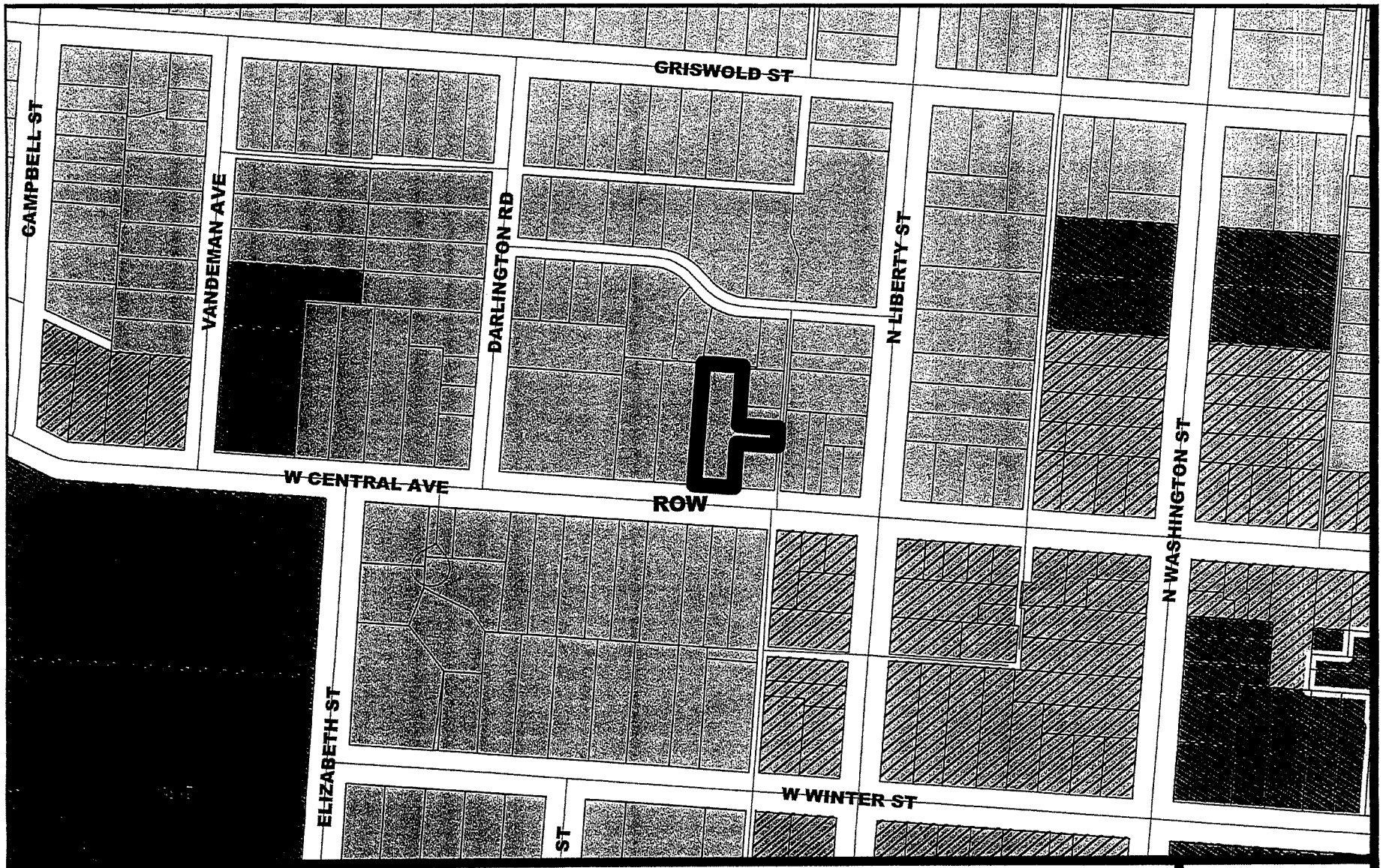
FILE:
ORIGINAL: **12/1/20**
REVISED:



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DELAWARE
OHIO

2020-2588
Substitution of Less Nonconforming Use
DGH Properties - 152 West Central Street
Location Map

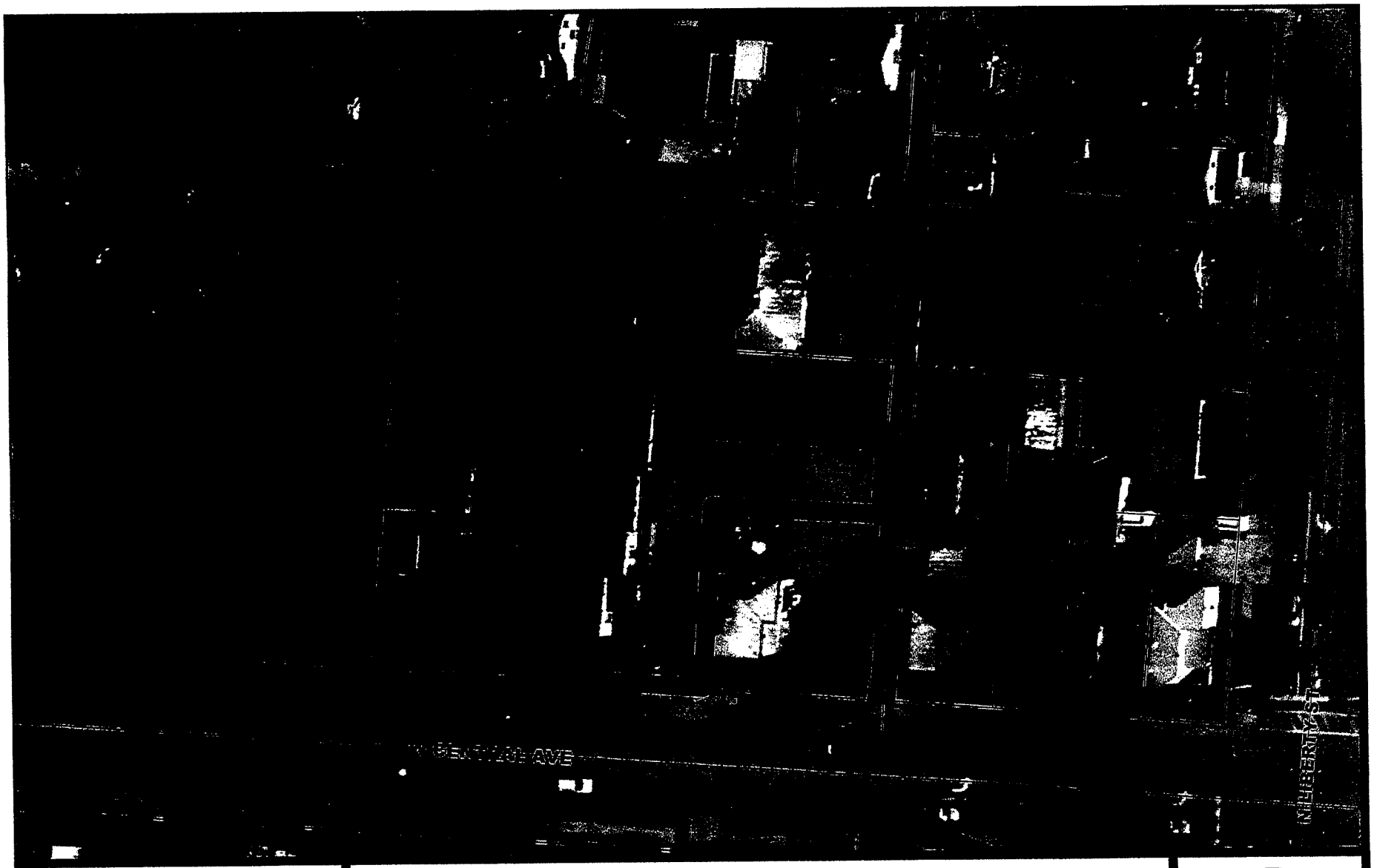
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2020-2588
Substitution of Less Nonconforming Use
DGH Properties - 152 West Central Street
Zoning Map

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2020-2588
Substitution of Less Nonconforming Use
DGH Properties - 152 West Central Street
Aerial (2019) Map

N

WILLIS
LAW FIRM LLC

Writer's Direct Dial
(614) 324-0450
dhatzifotinos@willislawohio.com

November 6, 2020

Lance Shultz
City Delaware, Ohio
Director of Building and Zoning
VIA
EMAIL

Re: 152 W. Central Avenue, Delaware, Ohio 43015

Dear Mr. Shultz:

As you know, I am the owner of DGH Properties, LLC, the titled owner of the above referenced real estate.

As you are further aware, this property is currently a mixed use site which consists of one (1) building with four (4) tenant units. The front two (2) tenant units are residential garden style apartment homes that are occupied, and the back two (2) units are commercial office units which are vacant.

This property was built prior to the development of Delaware's zoning code, and this mixed use property is non-conforming to the current zoning which is R-3 single family.

Due to the COVID crisis, it has become increasingly difficult to lease commercial office space. Additionally, this property is in need of a new roof and complete refurbishment.

I would like to refurbish all four (4) of these units in order to bring them up to the current standard.

Since I plan to refurbish all four (4) units, I would also like to convert the rear two (2) units in this structure from a commercial use to a residential use. While this use is technically non-conforming, it is less non-confirming than the current use and thus able to be approved under the current zoning pursuant to Delaware City Code Section 1151.03(d)(2), which states:

> Substitution of "Less Nonconforming" Use. If no structural alterations are made other than those required by enforcement of other codes or ordinances or those necessary for maintenance, a nonconforming use may be changed to another nonconforming use of a less nonconforming, more appropriate nature for the district in which it is located. The Board of Zoning Appeals shall determine if the proposed use is of a less nonconforming, more appropriate nature by using its use variance procedures. (ORD 03-78 Passed September 22, 2003)

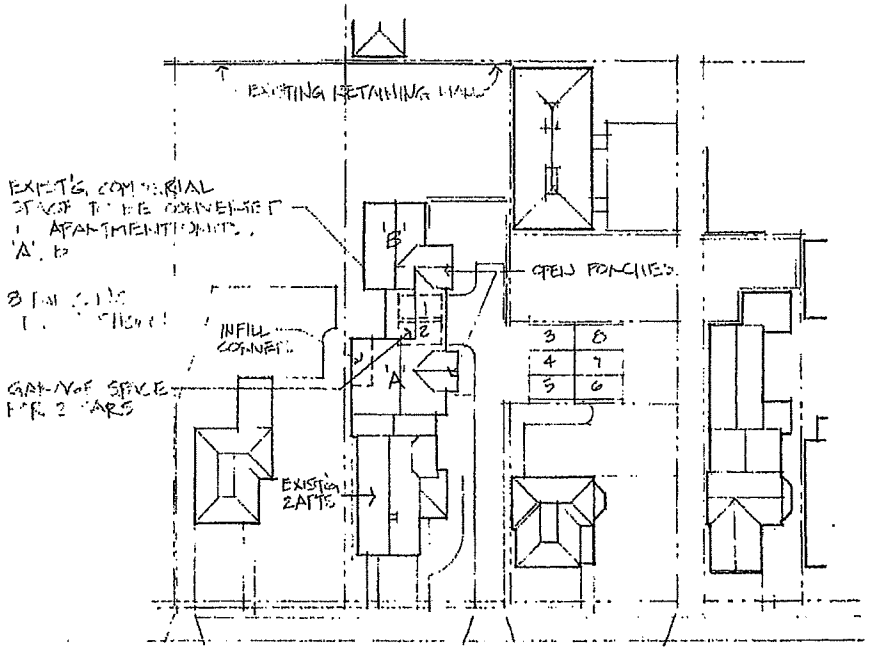
I believe that a four (4) family residential structure on this site which is refurbished with modern apartment homes is much more congruent to the residential neighborhood where this property is located than older commercial office space.

I have included a site plan and picture description of my proposal for your review.

As a result, I am asking the Board of Zoning Appeals to approve this use variance for a less non-conforming four (4) unit residential building. I plan to start a renovation project pending approval in the spring.

Sincerely,

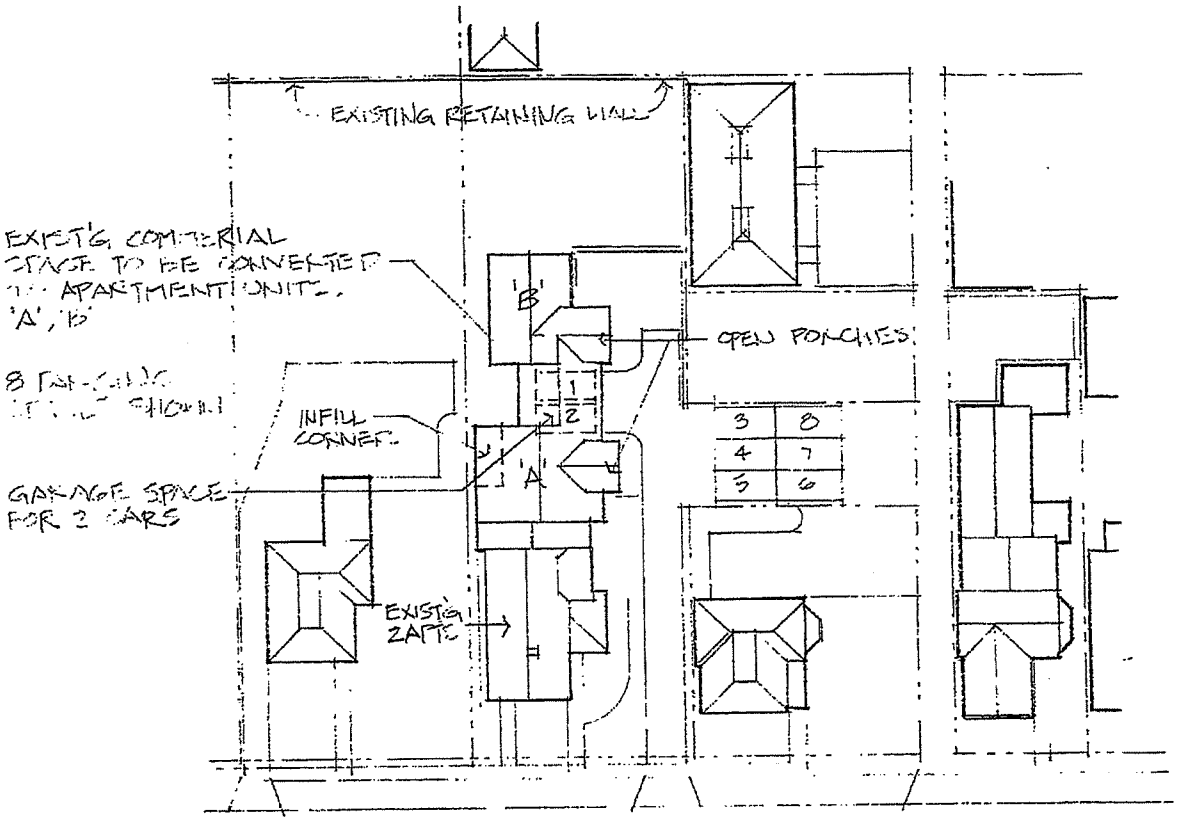
Dimitri Hatzifotinos



152 CENTRAL AVENUE, DELAWARE, OH
SCALE 1"=30'-0"
10·30·20

NORTH

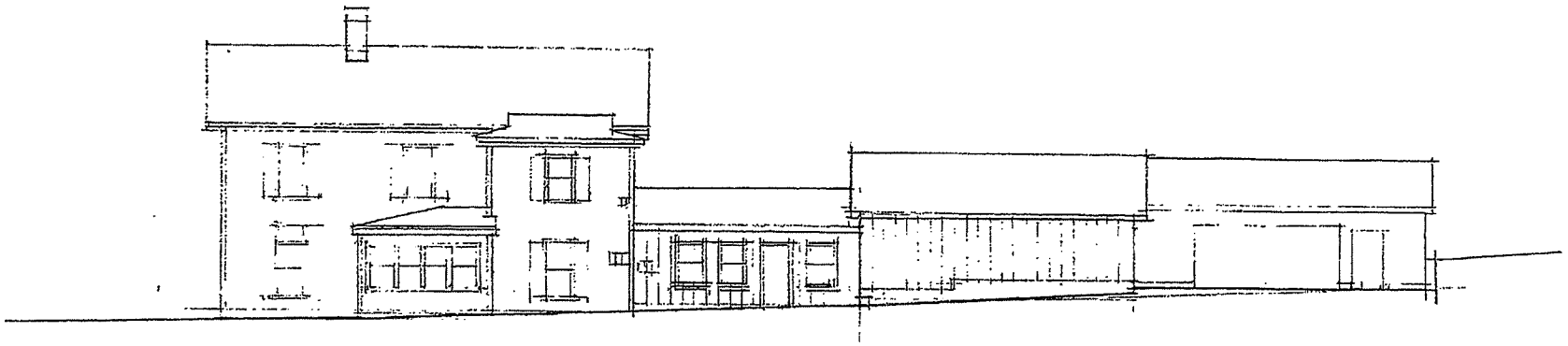
SCA # 20070



152 CENTRAL AVENUE, DELAWARE, OH
SCALE 1" = 30'-0"
10-30-20

NORTH

SCA # 20070



WEST ELEVATION - EXISTING
SCALE 3/32" = 1'-0"

152 CENTRAL AVE., DELAWARE, OH

SCA # 20070
10-30-20

CITY OF DELAWARE, OHIO
PLANNING & COMMUNITY DEVELOPMENT
MASTER APPLICATION FORM

EST 1808 CITY OF DELAWARE OHIO

Project # _____ Case # _____

Planning Commission

- ☐ Amended Final Development Plan
- ☐ Amended Final Subdivision Plat
- ☐ Amended Preliminary Development Plan
- ☐ Amended Preliminary Subdivision Plat
- ☐ Annexation Review
- ☐ Combined Preliminary & Final Development Plan
- ☐ Comprehensive Plan Amendment
- ☐ Concept Plan
- ☐ Conditional Use Permit
- ☐ Determination of Similar Use
- ☐ Development Plan Exemption
- ☐ Final Development Plan
- ☐ Final Development Plan Extension
- ☐ Final Subdivision Plat
- ☐ Final Subdivision Plat Extension
- ☐ Floodplain Permit
- ☐ Lot Split
- ☐ Pre-annexation Agreement
- ☐ Preliminary Development Plan
- ☐ Preliminary Dev Plan Extension
- ☐ Preliminary Sub Plat
- ☐ Preliminary Sub Plat Extension
- ☐ Rezoning
- ☐ Subdivision Variance
- ☐ Substitution of a Non- Conforming Use
- ☐ Vacation-Alley
- ☐ Vacation-Easement
- ☐ Vacation-Street

Board of Zoning Appeals

- ☐ Appeal Administrative Decision or Interpretation
- ☐ Conditional Use Permit
- ☒ Substitution of Equal or Less Non-Conforming Use
- ☐ Variance

Subdivision/Project Name _____ Address 152 W Central Ave

Acreage _____ Square Footage _____ Number of Lots 1 Number of Units 4

Zoning District/Land Use _____ Proposed Zoning/Land Use _____ Parcel # 519-432-15-013-000

Applicant Name DGH Properties LLC Contact Person Dimitri Hatzifotinos

Applicant Address 1160 Goodale Blvd Columbus OH 43212

Phone 6149462072 Fax 6143240450 E-mail dhatzifotinos@willislawohio.com

Owner Name DGH Properties LLC Contact Person Dimitri Hatzifotinos

Owner Address 1160 Goodale Blvd cols, OH 43212

Phone 614 324 0450 Fax 614 324 0460 E-mail dhatzifotinos@willislawohio.com

Engineer/Architect/Attorney David Vittero Contact Person _____

Address _____

Phone _____ Fax _____ E-mail _____

The undersigned, do hereby verify the truth and correctness of all facts and information presented with this application and authorize field inspections by City Staff.

_____ Owner Signature

Dimitri Hatzifotinos Owner Printed Name

_____ Agent Signature

_____ Agent Printed Name

Sworn to before me and subscribed in my presence this 25th day of November, 2020

TARA L. ARTHUR NOTARY PUBLIC, STATE OF OHIO My Commission Expires 9/17/2024

Tara L Arthur Notary Public

s/planning/forms

Lance Schultz

From: Arthur Sisler <apsisler@yahoo.com>
Sent: Wednesday, February 24, 2021 1:37 PM
To: Lance Schultz
Cc: madr138@hotmail.com
Subject: Construction proposal

Caution! This message was sent from outside your organization.

Mr. Schultz,

I was contacted or approached by a few of my neighbors about the construction proposal that has been designed for 152 W Central Ave. Mr. Hatzivontinos(aka Mr. H and owner of 152 W Central) sent me and others in a letter from a law office with his ideas to restructure that property and make more residential units. This idea in our already established neighborhood is a bit intrusive for me and the others adjacent, caddy-corner, and others close by to this property.

I own and live at 146 W Central which is a single-family home now and is directly next to where this project is planned to go. I have no screening or real noticeable boundaries as it is. So privacy, space, and parking are all concerns as it is. At this time our little area of the neighborhood is how we like it. We all know each other and respect each other. That is why many of us have owned and or lived there for as long as we have.

Mary Ann Davis(owner of 138 W Central) has approached me and I agree with her being against this proposal for many of the same reasons. I am aware and have already read her letter to Mr. H and to you. So you can refer to that letter as I would have written it as well, just maybe not as well.

We feel Mr. H is attempting to create a situation to not beautify the NW Neighborhood, but rather make money instead at the expense of our privacy and current living situation. He does not live there or even in Delaware to the best of our knowledge. He has done little at all to make any improvements at 152 since he purchased...leaking roof, no yard maintenance, peeling paint, etc. So now all of a sudden he wants to beautify that property!?! Hmmm... It seems more like an idea to warehouse more tenants in an already tight spot to make more money. This is predominately a single-family neighborhood, not an apartment complex. We are not saying Mr. H does not have the right to build housing in the city, we just don't feel like this is the appropriate time and or place to do so.

Mary Ann has taken lead on this and I would contact her in further regards to this matter. However, if you have any further questions or inquiries for or from me, please do not hesitate to reach out.

Thanks for your time and consideration in regards to our neighborhood concerns.

Sincerely and respectfully

Arthur Philip Sisler
Owner of 146 W Central Ave
(740) 972-3291

Lance Schultz

From: Barbara Adams <badams8979@gmail.com>
Sent: Thursday, February 25, 2021 7:46 AM
To: Dimitri Hatzifotinos
Cc: Drew Farrell; Lance Schultz; David M. Efland
Subject: Re: 152 West Central Ave

Caution! This message was sent from outside your organization.

Thank you for your letter, Mr. Hatzifortinos.

I am happy to know you are willing to work with and listen to those of us who border your property. What you intend to do affects the entire Northwest Neighborhood (NNA) as a whole, as I'm sure you understand.

I appreciate your wanting to create a better footprint for your plan to upgrade the building as that is a plus for those of us living near your property. However, after the hearing last month, I was under the impression you were not to build a new structure on your property, just fix or repair what is currently there?

I am also happy to know of your plans to get back to keeping up with the rear part of your property — by the retaining wall — as that has been neglected the entire 5 years I have lived here. I hope you remove the two renegade trees that weren't there when I moved in and which are blocking any view from my property. As you can well imagine, the spores from the rampant poison ivy and wild growth have affected my yard as well as your tenants.

Some of the neighbors are concerned with increased use of the alley. No large trucks of any kind can maneuver the narrow part of it on the north end. Perhaps the City can weigh in on this concern at some point.

Look forward to further discussions and/or ideas.

Barb Adams

On Feb 17, 2021, at 3:59 PM, Dimitri Hatzifotinos <dhatzifotinos@willislawohio.com> wrote:

Dear Barbara,

I hope that this email finds you well. Lance Shultz from the City of Delaware forwarded me an email that you sent to the City in response to my letter. First and foremost, I would like for you to know that I would be happy to speak with you and any of the neighbors in the area and get any input from you regarding my proposed project. One of my main goals is to update the entire site so that it is in good repair now and into the future. I decided to write a letter to you because I was worried about coming door to door due to the COVID pandemic.

I am excited to have the opportunity to discuss this project with you. I would like to build new residential units with new landscaping and beautification of the site. One of the reasons for the height of the proposed project is that we are planning to bring 4 parking spaces into the structure in the form of garages. My architect thought that it would be better for the community to have less parking

outside. Taking the cars inside the building would alleviate parking conundrums and allow for more green space.

The proposed project would actually be shorter in length than the current building. As a result, the proposed project would not impact the current retaining wall. However, we intend to have our onsite construction team look at the retaining wall, fortify it if necessary, and put in landscaping in the back to make sure that it is in good repair. I would be happy to look into that further with you if you have specific concerns on that issue.

I am always available to discuss this project or the property by cell phone at 614.946.2072. I do have onsite maintenance that can do anything onsite including landscaping if needed. I would be happy to work with you any time on those issues as well as the project.

Please give me a call or email me back at your convenience to discuss this matter further.

I look forward to speaking with you.

Sincerely,

/s/ Dimitri Hatzifotinos
Willis Law Firm, LLC
1160 Goodale Blvd.
Grandview Heights, Ohio 43212
(614) 324-0450
(614) 324-0460 fax

Lance Schultz

From: Barbara Adams <badams8979@gmail.com>
Sent: Monday, March 01, 2021 6:37 PM
To: Dimitri Hatzifotinos
Cc: Lance Schultz; David M. Efland; Drew Farrell
Subject: Re: 152 West Central Ave

Caution! This message was sent from outside your organization.

Mr. Hatzifotinos,

I appreciate your making this new request clearer for me as far as the new height of the back two rental units.

I am glad to see your plan to redo the back part of your property in order to keep the wild trees and undergrowth under control, which has been neglected the past 5 years. However, there will be increased use of the alley and I am concerned about that. The fire trucks have to exit and enter from Central Ave. since the north end of the alley is too narrow for large trucks. That is a concern.

I appreciate your intention to learn more about the retaining wall and maybe there IS a way to learn what is going on with that. My home and lot tilt slightly in that direction so it seems that it may not be a good idea to excavate at the wall itself, for fear of loosening up the soil behind it? Maybe infrared photos would provide information?

I am available if you want to talk.

Barb Adams
614-929-8979

On Feb 25, 2021, at 12:53 PM, Dimitri Hatzifotinos <dhatzifotinos@willislawohio.com> wrote:

Dear Barb,

Thank you for responding to my email. I do appreciate the opportunity to work with the community to address any concerns with my proposal. Let me start by making sure that you have the most up to date information:

1. The square footage of the rear portion of my building is about 1,925.00 square feet.
2. A portion of that square footage between the current 2 story double and what used to by Planned Parenthood is on a garage foundation.
3. There is also a garage behind the office portion of the building that used to be the Planned Parenthood space.
4. Since there are 2 sections of garage foundation, my architect determined in December that we could likely not use the existing foundation to do what was previously contemplated.

Since we found out that we were at a point in December that we were going to have to demolish portions of the back structure, my architect, Rick Brown from Brown Calabretta Architects, indicated to me that it would be best for the site to bring parking inside.

The idea behind bringing parking inside is to allow for more turning radius space inside my property without having to impede the alley. Since 4 cars would be able to park in the 4 garage spaces that are contemplated (that would be 1 garage space per unit) we would only arguably have at most 4 cars parked outside of the structure at any given time assuming all tenants had 2 cars.

My guess is that my current tenants will stay, so I think that they will each only have 1 car. As a result, the cars can turn and maneuver on my lot. Keeping the cars inside a garage is also going to allow us to do landscaping and perhaps some benches for sitting in what is currently the retainage space directly behind your house. That whole area will be excavated and planted as part of this proposal.

Yesterday I hired an individual to create a rendering of what I hope this looks like when it is done. The rendering will include the green space and the lot itself. I will share the rendering with you as soon as I have it. I think that the rendering will truly show the improvement to the neighborhood.

Although the back portion of the current structure will be taller than it is currently, we are actually decreasing the square footage of the back structure by 200 square feet. As a result, that back structure will look smaller and blend better with the front portion of the building. I will also re-side the whole structure so that it is uniform. My hope is that it will be hard to tell that this is multi-family from the road. From your viewpoint you should only see 1 person's back yard which is green and pleasant. The trees you speak of and any ivy back there will be removed.

I hope that this gives you some amount of assurance that this is an improvement. I understand that 4 residential units that are occupied will inevitably create more cars in the alley, but this building was always a 4 unit structure since the zoning code was written, so the amount of cars on the site has always been consistent with 4 units. I am not proposing to increase the amount of units greater than what is already there, so there should be no greater traffic impact in the alley.

Please feel free to call or email me any time with any additional questions or thoughts.

Thanks!

/s/ Dimitri Hatzifotinos
Willis Law Firm, LLC
1160 Goodale Blvd.
Grandview Heights, Ohio 43212
(614) 324-0450
(614) 324-0460 fax

From: Barbara Adams <badams8979@gmail.com>
Date: Thursday, February 25, 2021 at 7:46 AM
To: Dimitri Hatzifotinos <dhatzifotinos@willislawohio.com>
Cc: dfarrell@delawareohio.net <dfarrell@delawareohio.net>, Lance Schultz <lschultz@delawareohio.net>, defland@delawareohio.net <defland@delawareohio.net>
Subject: Re: 152 West Central Ave

Thank you for your letter, Mr. Hatzifortinos.

I am happy to know you are willing to work with and listen to those of us who border your property. What you intend to do affects the entire Northwest Neighborhood (NNA) as a whole, as I'm sure you understand.

I appreciate your wanting to create a better footprint for your plan to upgrade the building as that is a plus for those of us living near your property. However, after the hearing last month, I was under the impression you were not to build a new structure on your property, just fix or repair what is currently there?

I am also happy to know of your plans to get back to keeping up with the rear part of your property — by the retaining wall — as that has been neglected the entire 5 years I have lived here. I hope you remove the two renegade trees that weren't there when I moved in and which are blocking any view from my property. As you can well imagine, the spores from the rampant poison ivy and wild growth have affected my yard as well as your tenants.

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Sincerely,

/s/ Dimitri Hatzifotinos
Willis Law Firm, LLC
1160 Goodale Blvd.
Grandview Heights, Ohio 43212
(614) 324-0450
(614) 324-0460 fax

March 2, 2021

To Delaware City:

My name is Virginia Barber and I live at 9 Woodland Avenue. It has come to my attention that 152 W. Central Ave., behind me, may become new apartments. As I understand it, new tenants could be students from OWU, as many as maybe 5 to a unit and if there are 4 apartments, that could be as many as 20 people living there! Is there room for all those cars? Do we want more traffic in the alley? Definitely not!

My house is at the top of the alley and I've lived here a very long time. I've had trucks knock off a couple of bricks that border my flower bed on that side of the front of my house because it is so narrow! Some trucks have to back up a long way to turn around! I especially worry about fire trucks not being able to maneuver easily through there.

I do NOT think this is a good idea and wanted to let you know. Could you please let me know if you plan to widen the alley by me?

Thank you.

Virginia Barber
9 Woodland Avenue
Delaware, Ohio