

**CITY OF DELAWARE
BOARD OF ZONING APPEALS
AGENDA**

**CITY COUNCIL CHAMBERS
1 S. SANDUSKY ST.
7:00 P.M.**

REGULAR MEETING

JUNE 8, 2016

1. ROLL CALL
2. APPROVAL of the Motion Summary of the Board of Zoning Appeals meeting held on March 9, 2016, as recorded and transcribed.
3. REGULAR BUSINESS
 - A. 2016-1528: A request by Neal Shine for approval of a side yard building setback variance from 8 feet per Schedule 1134.04 Yard Requirements to approximately 2 feet to construct a two car garage addition on 0.182 acres on property zoned R-3 (One-Family Residential District) located at 148 North Washington Street
4. BOARD MEMBER COMMENTS AND DISCUSSION
5. NEXT REGULAR MEETING: July 13, 2016
6. ADJOURNMENT

**BOARD OF ZONING APPEALS
MOTION SUMMARY
March 9, 2016**

ITEM 1. Roll Call

Chairman Dick called the meeting to order at 7:00 p.m.

Members Present: Beth Fisher, Adam Vaughn, Todd Daughenbauh, Crystal Brewer, Councilman George Hellinger, Vice-Chairman Paul Junk, and Chairman Matt Dick.

Staff Present: Lance Schultz, Zoning Administrator

ITEM 2. Approval of the Motion Summary of the Board of Zoning Appeals meeting held on June 10, 2015, as recorded and transcribed.

Motion: Vice-Chairman Junk moved to approve the Motion Summary for the Board of Zoning Appeals June 10, 2016 meeting, seconded by Mr. Vaughn. Motion approved by a 6-0-1 (Hellinger) vote.

ITEM 3. REGULAR BUSINESS

(A) 2015-0213: A request by Yoav and Schlomo Batch to appeal an administrative decision by the code official requiring the condemnation/demolition of 15 Flax Street on approximately 3.61 acres zoned M-1 (Light Manufacturing District) under the 2000 International Property Maintenance Code.

Chairman Dick swore in the following participants from the public:

Behzad Vedaie, Professional Engineer
IEG Inc.
1901 E. Dublin-Granville Rd., Suite 304
Columbus, Ohio 43229

Scott Gordon, Attorney
82 North Franklin Street
Delaware, Ohio

Jerry Warner, Chief Building Official
City of Delaware
1 South Sandusky Street
Delaware, Ohio 43015

Diana Longworth
37 Flax Street

Delaware, Ohio

James Mardis
6 Flax Street
Delaware, Ohio

APPLICANT:

Behzad Vedaie, Professional Engineer
IEG Inc.
1901 E. Dublin-Granville Rd., Suite 304
Columbus, Ohio 43229

Scott Gordon, Attorney
82 North Franklin Street
Delaware, Ohio

Mr. Vedaie provided an update on repairs and maintenance completed and plans for future repairs.

Mr. Warner discussed current conditions of building and that building is not currently up to city code. Mr. Warner provided information on the permit process and timeline.

PUBLIC PARTICIPATION:

Diana Longworth
37 Flax Street
Delaware, Ohio

Ms. Longworth voiced her concern over the conditions of the property for the past ten years. Ms. Longworth indicated that the grass is overgrown and not taken care of.

James Mardis
6 Flax Street
Delaware, Ohio

Mr. Mardis voiced his concern over a tree being taken down and not cleaned up. Mr. Mardis voiced his concern over the property not being cleaned up.

Motion: Councilmember Hellinger moved to deny the applicants appeal in this case therefore to approve the decision of the code officer requiring condemnation and demolition of the structures located on the property in application 2015-0213, finding beyond a reasonable doubt that the decision factors necessary to consider given the 2000 International Property Maintenance Code have been answered sufficiently by the code official based

upon the evidence presented, seconded by Vice-Chairman Junk. Motion approved by a 6-0-1 (Fisher) vote.

ITEM 4. BOARD MEMBER COMMENTS AND DISCUSSION

ITEM 5. ELECTION OF OFFICERS

Motion: Mr. Junk moved to nominate Mr. Dick as Chairman, seconded by Mr. Vaughn. Motion approved by a 6-0-1 (Dick) vote.

Motion: Mr. Vaughn moved to nominate Mr. Junk as Vice-Chairman, seconded by Mr. Daughenbaugh. Motion approved by a 6-0-1 (Junk) vote.

ITEM 6. NEXT REGULAR MEETING: April 13, 2016

ITEM 7. ADJOURNMENT

Motion: Ms. Brewer motioned to adjourn the Board of Zoning Appeals meeting, seconded by Vice-Chairman Junk. Motion was approved by a 7-0 vote. The Board of Zoning Appeals meeting adjourned at 8:01 p.m.

Matt Dick, Chairman

Elaine McCloskey, Clerk



BOARD OF ZONING APPEALS / STAFF REPORT

CASE NUMBERS: 2016-1528

REQUEST: Variance

PROJECT: 148 North Washington Street

MEETING DATE: June 8, 2016

APPLICANT/OWNER

Neal Shine
148 North Washington Street
Delaware, Ohio 43015

REQUEST

2016-1528: A request by Neal Shine for approval of a side yard building setback variance from 8 feet per Schedule 1134.04 Yard Requirements to approximately 2 feet to construct a two car garage addition on 0.182 acres on property zoned R-3 (One-Family Residential District) located at 148 North Washington Street

PROPERTY LOCATION & DESCRIPTION

The property is located on the southeast corner of North Washington Street and Griswold Street. The zoning of the property is R-3 (Single-Family Residential District) as are all the immediate surrounding properties.

BACKGROUND

The owner is proposing a 28 foot wide by a minimum 20 foot in-depth two car garage addition to the existing south side of the house that would be within 2.3 feet of the south property line. One half of the addition would support a roof top patio and the other would contain a gabled roof matching the house (see attached exhibits). The owner apparently is placing a large emphasis on compatible architecture and high quality materials utilizing wood, various trims, roof tiles and garage doors that match the appearance of the existing house. In addition, a new curb cut would be required on North Washington Street to access the two car garage which would be only a few feet from the neighbor's driveway to the south. Also, there is an approximate 20 inch street tree that would likely be removed with the construction of the proposed driveway that would need to be replaced with another street tree in the same general location. There are houses to the north and west that have attached garages. The existing one car detached garage located behind the house and accessed from a curb cut on Griswold Street would be demolished along with an entrance addition and screened porch also at the rear of the house. The existing curb cut on Griswold Street would be required to be eliminated per the City Engineer.

STAFF ANALYSIS

- **SIDE YARD VARIANCE:** The R-3 zoning district requires an 8 foot side yard setback the while owner is proposing a variance to be within 2.3 feet of the south side yard setback.
- **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 purpose and intent of the R-3 Ordinance is outlined in Section 1134.01 states:

- a) *To regulate the bulk and location of dwellings to obtain proper privacy and useable open spaces for each unit appropriate for the various districts.*
- b) *To regulate the density and distribution of population, avoid congestion, and provide adequate public services.*
- c) *To provide for proper location of institutions and other community facilities so as to increase the general convenience, safety and amenities.*
- d) *To carry out the following specific purposes:*
 - *The R-1, R-2 and R-3 Districts are established to primarily permit the development of low density and medium-low density single-family dwellings with a variety of lot sizes to meet different housing needs and characteristics expected by the residents and to recognize different location and land use characteristics in various parts of the City.*

Approval of the Variance is not in accordance with purpose and intent of the Ordinance and would be considered significant but would not likely be detrimental to the public welfare. There are other attached and detached garages to the west and south of the subject property which are located in close proximity of the property line. The current detached garage on the subject sites appears to be located a maximum 2 feet from the same property line, though at a different location while the detached garage on the property to the south also appears to be within 2 feet of the property line.

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 subject site lot area (7,927 square feet) is less than the 8,775 square foot minimum lot size in an R-3 district and is considered a lot of record and could be interpreted as an irregular lot. The adjacent corner lots are much larger (0.256, 0.325 and 0.342 acres).

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 house was constructed in 1885 per the Delaware County Auditor and will continue to be used as such with or without approval of this Variance. There is an existing detached garage on the site today.

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 request is not compliant with the side yard setback requirements in the R-3 zoning district, the character of the neighborhood would not likely be "substantially altered" if the architecture of the new addition is compatible to the existing house which it appears to be but the "adjoining property to the south could suffer substantial detriment" because of the proposed garage addition and a new curb cut as a result of the Variance.

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.

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

It is not likely any special conditions or circumstances occurred because of the actions of the owner.

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

The owner could construct a smaller garage addition (20 feet wide and achieve compliance with the zoning code) but apparently prefers the proposed large garage layout. Additionally, access to the proposed garage could be from the rear utilizing the existing curb cut on Griswold Street.

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

Staff cannot recall approving a side yard setback attached garage variance in this part of the City for several years.

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 single-family residence 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 could have an impact on street congestion (new curb cut in close proximity of an existing curb cut) and could impair property values of the house to the south because of the close proximity of the addition and the new curb cut.

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.

POTENTIAL OPTION

Staff would recommend the owner consider the option of constructing a rear load access garage for the following reasons: 1.) The owner could utilize the existing curb cut on Griswold Street which would not create two curb cuts in close proximity to each other on North Washington Street as proposed that could impose a potential traffic conflict entering and exiting the driveways, 2.) The existing large street tree along North Washington Street would be saved and the current landscape would remain without the proposed driveway, 3.) The front elevation would be more aesthetically pleasing without the garage doors facing North Washington Street and more compatible with the surrounding houses.

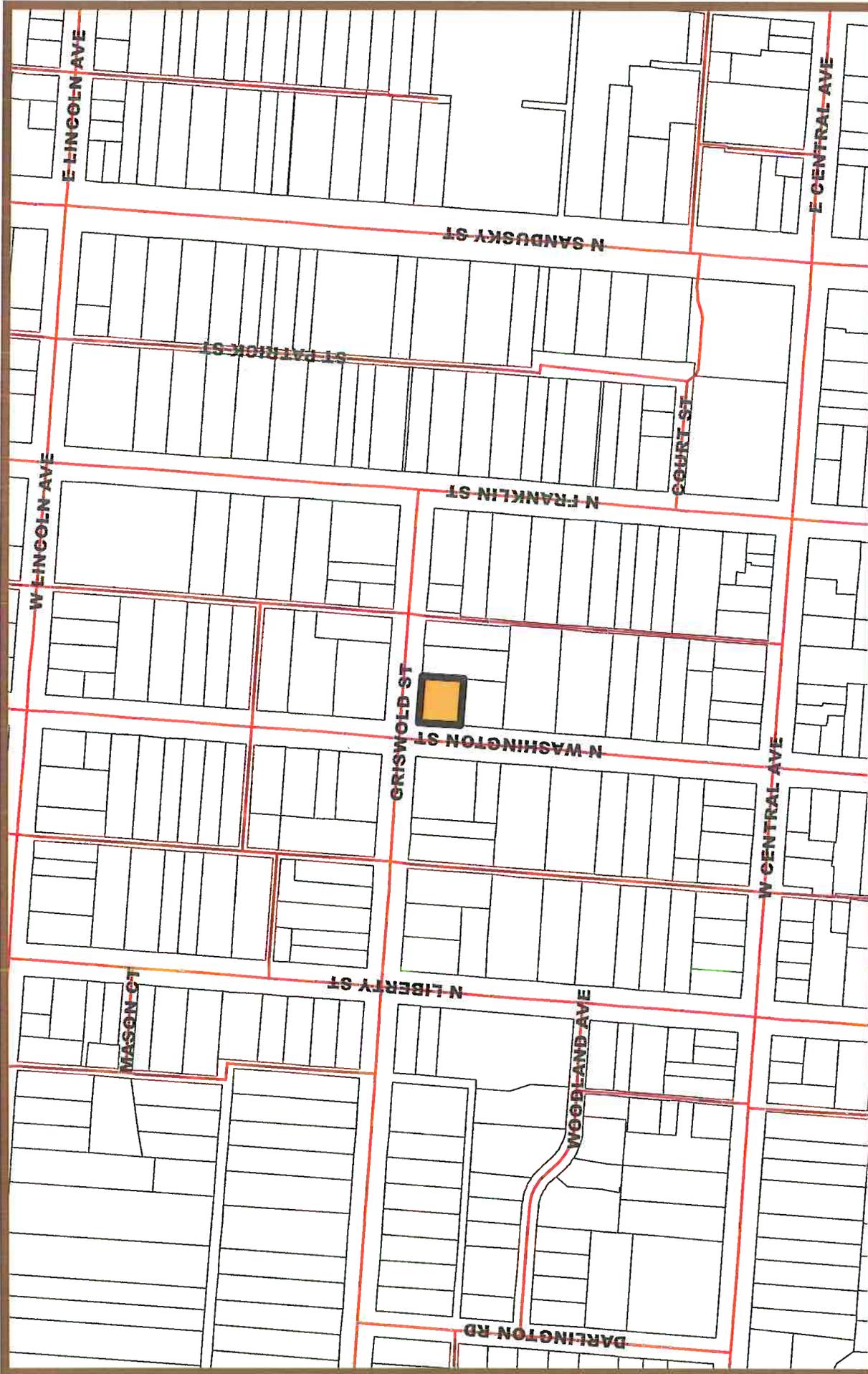
CONCLUSION

The proposed variance does not appear to constitute a hardship or comply with the majority of the practical difficulties to justify a variance request. However, the zoning code would allow a detached garage to be constructed a minimum 3 feet from the property line with a maximum size not to exceed 720 square feet. Therefore if the adjacent neighbors do not have a significant opposition to the proposal, staff would support a lesser variance (3 to 6 foot setback as opposed to the proposed 2 foot setback) for the owner to construct a minimum full 24 foot wide two car garage from a practicality perspective.

STAFF RECOMMENDATION – VARIANCE (2016-1528)

Staff recommends a request by Neal Shine for approval of a side yard building setback variance from 8 feet per Schedule 1134.04 Yard Requirements to 3 to 6 feet to construct a two car garage addition on 0.182 acres on property zoned R-3 (One-Family Residential District) located at 148 North Washington Street, with the following conditions that:

1. The proposed garage addition shall be setback a minimum of 3 to 6 feet from the south property line.
2. The new curb cut shall be a maximum 20 feet wide and shall be shifted to the north as far as possible while still accommodating garage access.
3. The new curb cut and any potential drainage issues shall achieve compliance with minimum engineering requirements.
4. The existing curb cut on Griswold Street and subsequent driveway on the subject property shall be eliminated per engineering requirements.
5. The existing street tree shall be replaced if it is eliminated in the construction of the new driveway.
6. The new garage addition shall achieved compliance with the minimum building requirements.

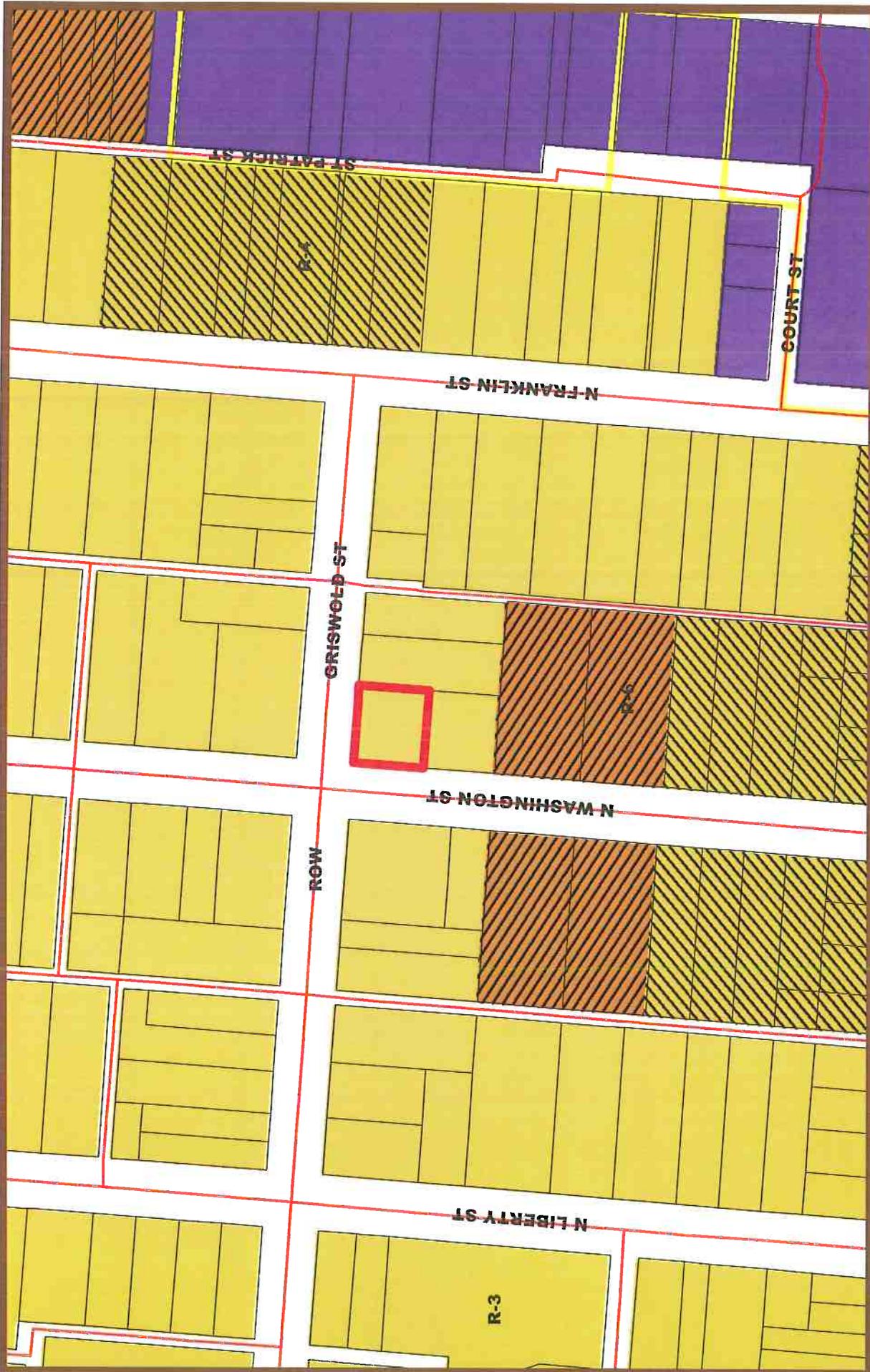


2016-1528
 Building Setback Variance
 148 North Washington Street
 Location Map





2016-1528
Building Setback Variance
148 North Washington Street
Zoning Map





2016-1528
Building Setback Variance
148 North Washington Street
Aerial (2013)





May 20, 2016

Dear Board of Zoning Appeals,

This proposal letter is to request and substantiate the grant for a variance for our property at 148 North Washington Street (Zoned R-3, Single Family Residential) in Delaware, Ohio. We will abbreviate this in the text below as 148NWS. Below, we will describe the basic scope of the project and the justification for the variance.

Project Scope

We are in the preliminary design stage of an attached garage addition. Drawings of the current and proposed lot layouts are included with this letter. Figures 1 and 2 show the current and proposed layouts of the lots, while Figures 3-6 provide a more detailed rendering of our design. While there are some details that have not been finalized, the setback distance for which this variance is based on has been carefully determined to meet the needs of the addition while still being within the spirit of the Planning and Zoning Code.

The property currently has a 1-car detached garage at the South-Eastern corner of the lot with driveway access from Griswold Street at the North-Eastern corner. Additionally, a screened in porch is attached at the rear of the house and a small entrance addition was added to the South. These would all be eliminated as part of the project due to their deteriorated state and unsightliness.

As a proposed replacement, a 2-car attached garage would be built on the South side of the house. A variance is needed to extend this addition to 2 feet (including the eaves) from the neighboring property at 140 North Washington Street (hereby denoted 140NWS). This property is also zoned R-3. The current code for this setback is 8 feet per Chapter 1134.04. One half of the addition would support a roof-top patio, and the other would contain a gabled roof matching the main house. Figures 4-6 provide visualizations that will be very close to the final design. A large emphasis is being placed on the architecture and materials used in the original house. These items will generally not show up in the attached drawings. Because the home is sided in wood, we believe we can match the appearance almost perfectly. Other areas of emphasis include the various trim, roof tiles, and garage doors. Making the addition cohesive with the historical elements of the house and neighborhood is our number one goal.

A new curb-cut would be needed on Washington Street to support the 2-car driveway. At the time this letter was drafted, Jennifer Stachler (Engineer, Public Works) was reviewing the plans before providing a more definitive answer. However, her initial perspective after receiving a thorough description of the project and viewing satellite imagery was in favor of the new curb-cut. A tree currently sits in the proposed driveway within the city's right-of-way, and barring extreme design measures, will have to be removed.

We have personally spoken with members of Public Works, Public Utilities, and Planning & Community Development. We have also contacted Columbia Gas. There are no easements on the property, and no main service lines (water, sewage, electric, gas) would need to be altered. We are yet to find additional roadblocks to this addition other than the setback limitation.

Variance Justification

The setback regulations defined in Chapter 1134.04 ensure reasonable privacy and separation between properties. It is our belief that this distance may be reduced as long as privacy between units is maintained and the neighboring property will not be adversely affected in any way. The list below explains why we believe this to be true.

- 140NWS has a driveway at the Northern edge of the property. The addition would not be encroaching on a side yard, patio, or any other place where people may gather.
- 140NWS does not have any windows on the Northern side of the house. There is a side access door, but it is completely obstructed by an enclosed portico. The addition would not be lessening sunlight entering the home or degrading any views from inside the house.
- The houses at 148NWS and 140NWS are very unique in that they are mirrored designs from the 1800's. Therefore, they will always be the best "comparable" for each other during real estate transactions. Significantly increasing the value of 148NWS will inherently increase the value of 140NWS.
- The owners at 140NWS have been alerted to these plans and do not take issue with the garage placement.

Further, we believe that our plans will benefit an additional neighbor (27 Griswold Street, hereby denoted 27GS) upon completion.

- The current driveway for 148NWS runs alongside the Western side of 27GS. Because 27GS sits about 1 foot from the property line, the lower level window views consist entirely of a driveway, cars, and fence. This driveway would be replaced with grass and landscaping.
- There is a paved path at the rear entrance of 27GS. This path has an obstructed view due to the current detached garage at 148NWS. Removal of this garage would again provide better lighting and views to 27GS.

We would like to re-emphasize that the historic characteristics of the house and neighborhood would not be lessened. We are working closely with our architect, Roger Koch, to make sure that the design includes all of the necessary details found on the houses at 148NWS and 140NWS.

One item not shown in this document or its attachments are the countless hours and iterations spent on finding the perfect layout. To understand why this is the only design that works, consider Figure 1. Currently, the yard is broken up in to many small segments. The driveway and garage separate a portion of the yard at the far rear end of the lot. The porch interferes with the main section of the backyard. The side yard, while larger than the backyard, is still quite narrow and is not visible from inside the house or patio. Combining these aspects results in a lot without a functional yard.

Compare this to Figure 2. Garage space will be nearly doubled, patio space will be increased, and all of the remaining yard will be consolidated to a single area. No other design exists which can achieve these three goals simultaneously. Additionally, this is the only location for an addition that doesn't block any windows from the house.

Finally, we would like to explain why the variance is being set at 2 feet. Current architectural design standards have the absolute minimum width for a 2-car garage at 20 feet. Once you add in steps to the main house (required due to the house foundation height and grade difference) and the roof overhang

(which are not modeled in the attached drawings), it becomes impractical to fit it all in anything less. If it helps, there is precedence as well. The existing garage at 148NWS sits 2.5 feet from the property line while the garage at 140NWS sits within 2 feet. Survey markers in the corner of the lot and running between the properties are available. These have been used, in addition to the mortgage survey performed in June of 2015 (Figure 8), to determine the measurements found in the attached drawings.

We thank you for your consideration of the above information in your decision for this variance. We hope you find this document helpful and complete.

Neal and Courtney Shine
148 N. Washington St.
(419) 296-2517
n-shine@onu.edu

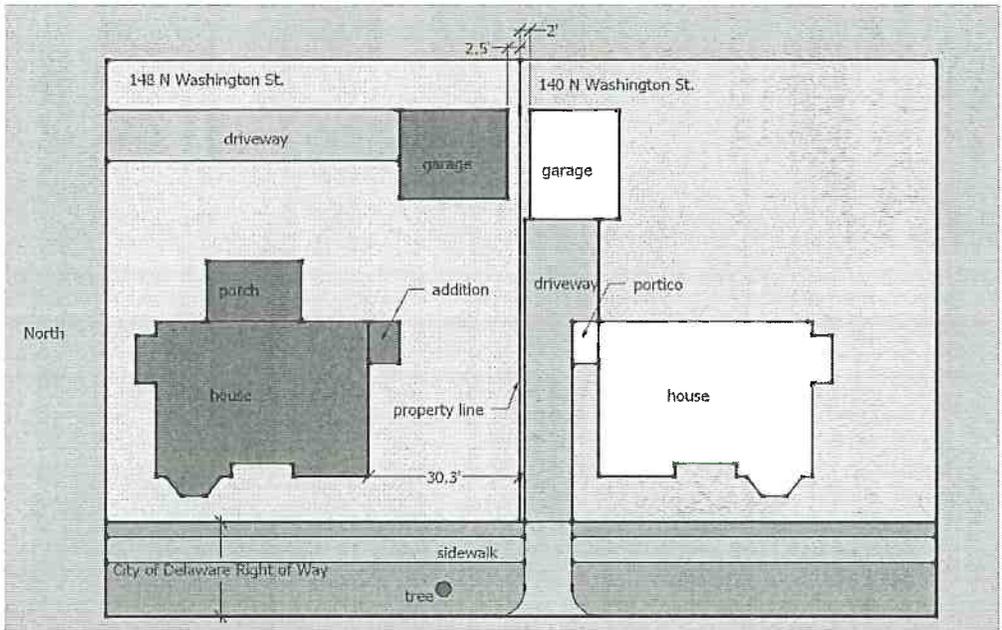


Figure 1 - Current Layout

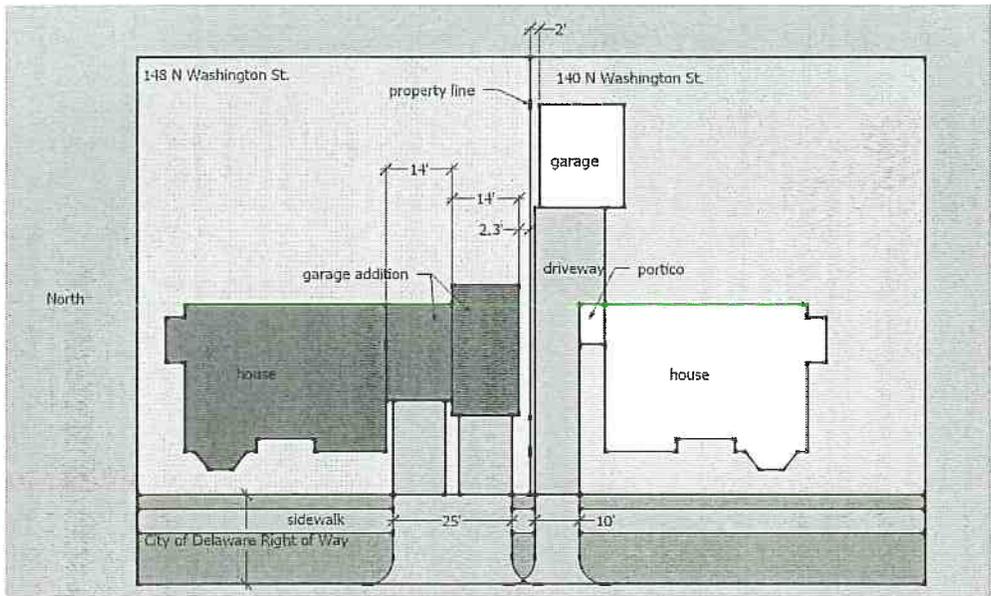


Figure 2 - Proposed Layout

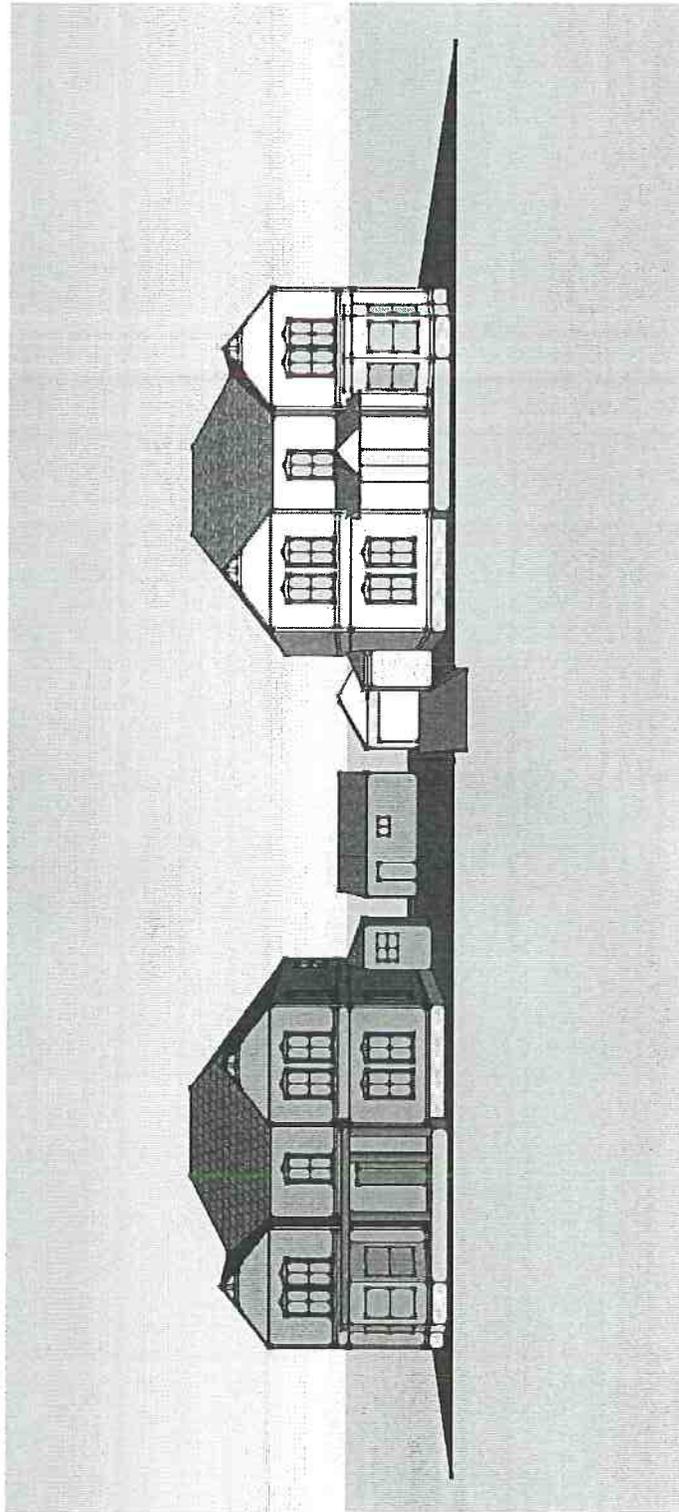


Figure 3 - Current Rendering, Front

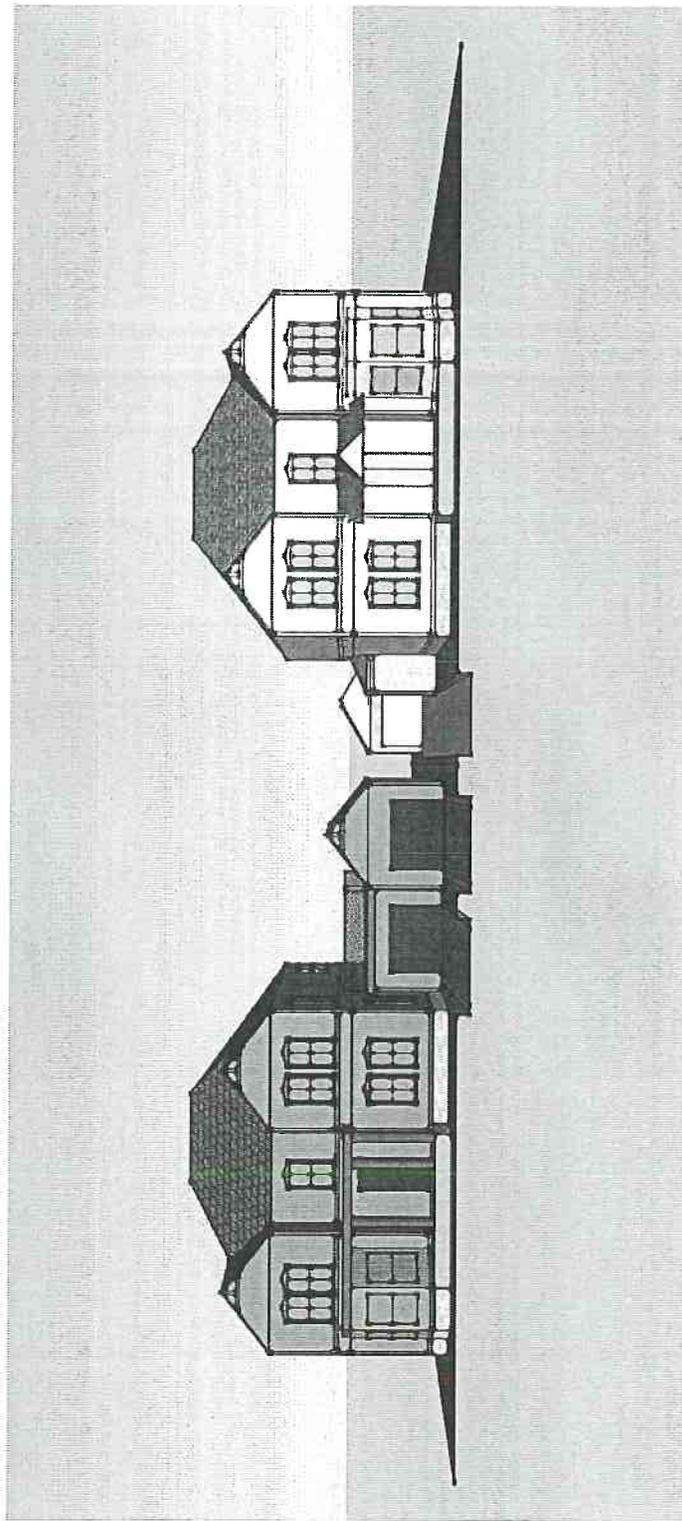


Figure 4 - Proposed Rendering, Front

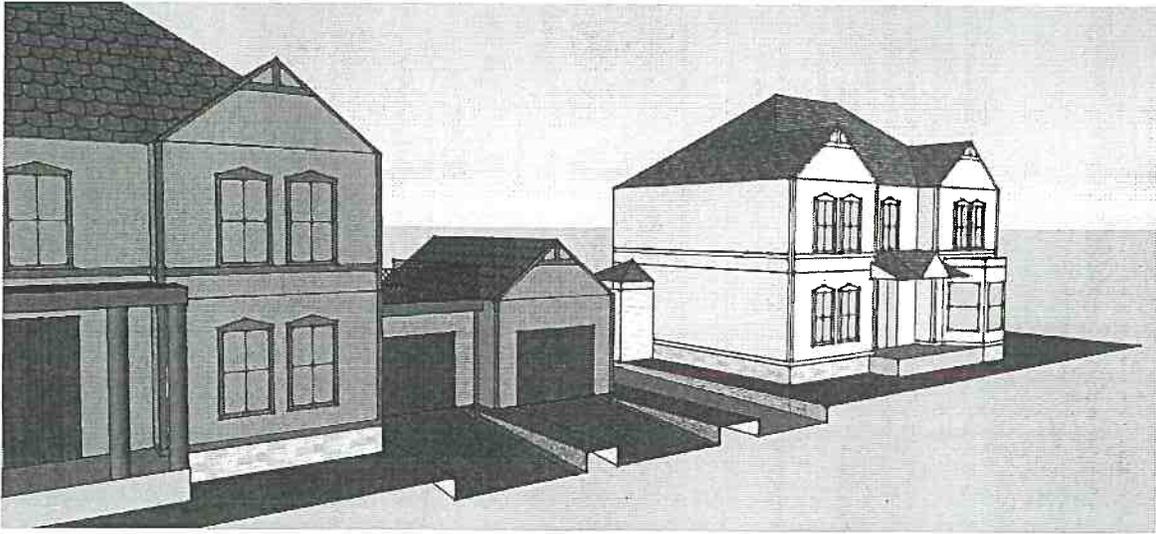


Figure 5 - Proposed Rendering, Angled

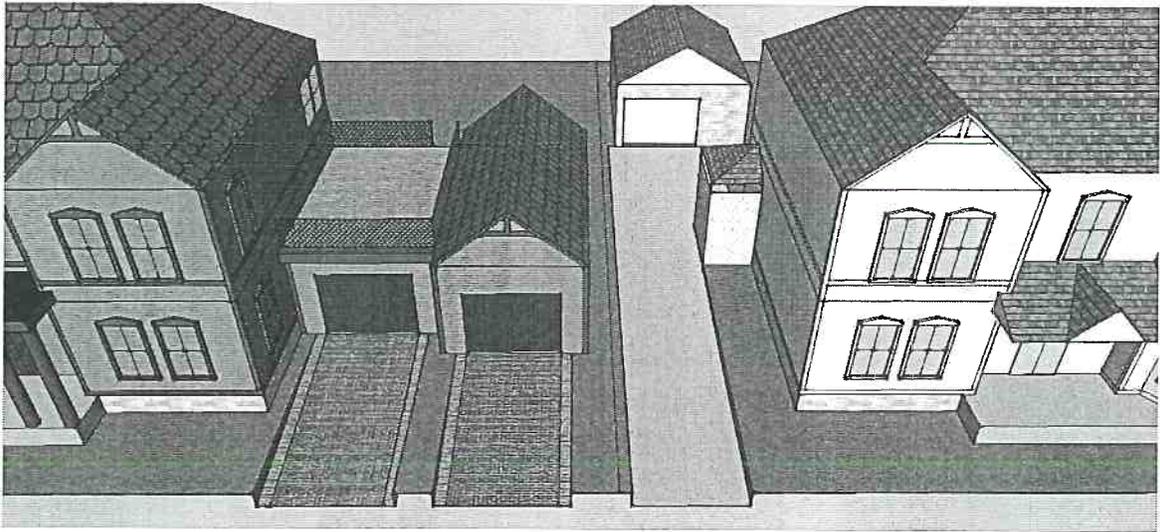


Figure 6 - Proposed Rendering, Above



Figure 7 - Satellite Imagery of Properties in this Report

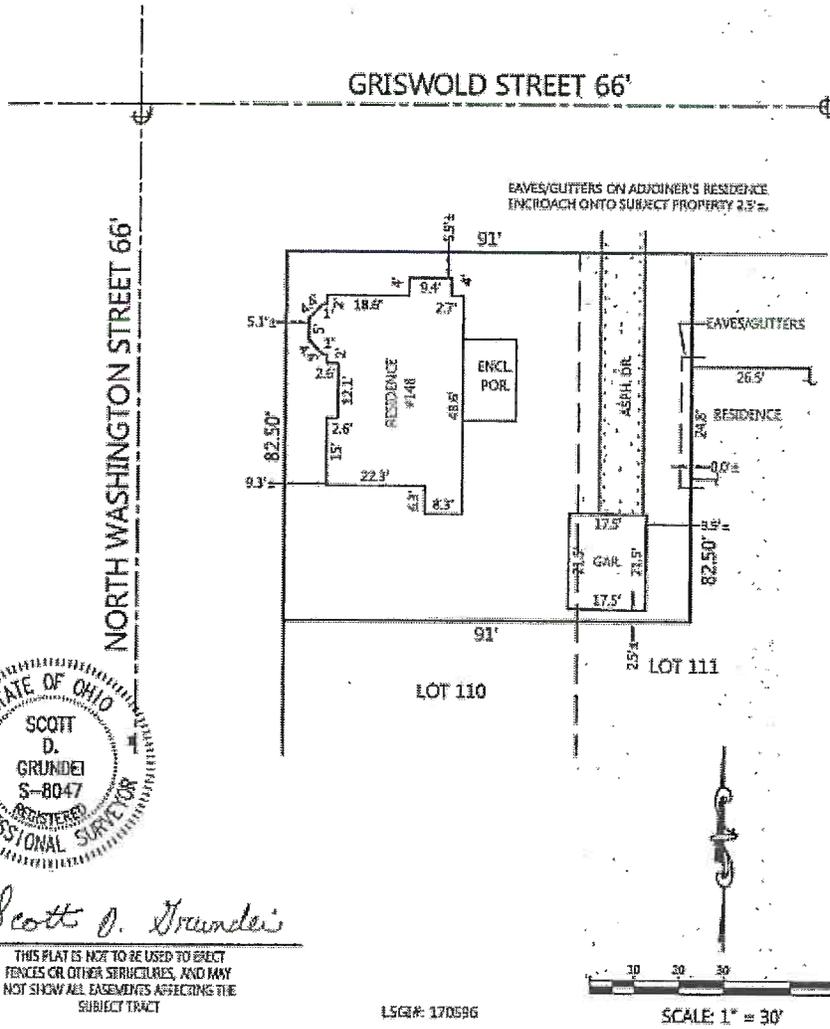


Figure 8 - Survey (Performed for Mortgage in 2015)



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



Project # _____

Case # 2016-1528

Planning Commission

- | | |
|------------------------------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Amended Final Development Plan | <input type="checkbox"/> Final Development Plan Extension |
| <input type="checkbox"/> Amended Final Subdivision Plat | <input type="checkbox"/> Final Subdivision Plat |
| <input type="checkbox"/> Amended Preliminary Development Plan | <input type="checkbox"/> Final Subdivision Plat Extension |
| <input type="checkbox"/> Amended Preliminary Subdivision Plat | <input type="checkbox"/> Floodplain Permit |
| <input type="checkbox"/> Annexation Review | <input type="checkbox"/> Lot Split |
| <input type="checkbox"/> Combined Preliminary & Final Development Plan | <input type="checkbox"/> Pre-annexation Agreement |
| <input type="checkbox"/> Comprehensive Plan Amendment | <input type="checkbox"/> Preliminary Development Plan |
| <input type="checkbox"/> Concept Plan | <input type="checkbox"/> Preliminary Dev Plan Extension |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Preliminary Sub Plat |
| <input type="checkbox"/> Determination of Similar Use | <input type="checkbox"/> Preliminary Sub Plat Extension |
| <input type="checkbox"/> Development Plan Exemption | <input type="checkbox"/> Rezoning |
| <input type="checkbox"/> Final Development Plan | <input type="checkbox"/> Subdivision Variance |

Substitution of a Non-Conforming Use

Vacation-Alley

Vacation-Easement

Vacation-Street **2016**

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 148 N. Washington St.

Acreage 0.132 AC Square Footage _____ Number of Lots _____ Number of Units _____

Zoning District/Land Use R-3 Proposed Zoning/Land Use _____ Parcel # 519-432-12-004-000

Applicant Name Neal Shine Contact Person _____

Applicant Address 148 N. Washington St., Delaware, OH 43015

Phone (419) 296-2517 Fax _____ E-mail n-shine@onu.edu

Owner Name _____ Contact Person _____

Owner Address _____

Phone _____ Fax _____ E-mail _____

Engineer/Architect/Attorney Roger Koch Contact Person _____

Address _____

Phone (740) 595-3350 Fax _____ E-mail rogerkoch6@gmail.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.

Neal Shine
Owner Signature

Neal Shine
Owner Printed Name

Agent Signature _____

Agent Printed Name _____

Sworn to before me and subscribed in my presence this 20th day of May, 2016



Julie Williams
Notary Public, State of Ohio
My Comm. Expires 08-30-2018

Notary Stamp

8/30/2020

Julie Williams
Notary Public