

**Karen Underwood-Kramer**  
Chairperson

**Nancy Bushman**  
Board Member

**Desmond Maaytah**  
Board Member

**George Jonson**  
Board Member

**Michael Samoviski**  
Board Member

**Roll Call: 2 Public Hearings**

Bushman	Jonson	Maaytah	Underwood-Kramer	Samoviski

**Swearing in of Those Providing Testimony to the BZA: City Staff**

**Old Business:** None

**New Business:**

**Agenda Item #1**

**2016-16: Variance Request for 73 Winston Drive**

Two (2) zoning variances to allow a second accessory structure with a height of 20 on the property located at 70 Winston Drive. (Shane Thomas, Applicant/Owner)

- 1) Variance to erect a second accessory structure where only one is permitted.
- 2) Variance to erect an accessory building 20 ft in height where the maximum height is limited to 15 ft.

Staff: Meredith Snyder

Bushman	Jonson	Maaytah	Underwood-Kramer	Samoviski

**Agenda Item #2**

**2016-17: Variance Request for 125 Park Avenue**

Two (2) zoning variances to allow the establishment of eight (8) additional dwelling units at 125 Park Avenue (Mike Dingeldein, Community Design Alliance/125 Park Avenue LLC, Applicant/Owner)

- 1) Variance to Section 1126.31 1) which requires a minimum lot area per dwelling unit of 3,500 square feet.
- 2) Variance to Section 1126.31 2) which requires a minimum of two (2) off-street parking spaces per dwelling unit.

Staff: John Creech

Bushman	Jonson	Maaytah	Underwood-Kramer	Samoviski



**Minutes**

Approval of Meeting Minutes- Written Summary and Audio Recording for the Following Dates:

**November 3, 2016**

<b>Bushman</b>	<b>Jonson</b>	<b>Maaytah</b>	<b>Underwood-Kramer</b>	<b>Samoviski</b>

**Miscellaneous:**

**Adjournment:**





**For the Board of Zoning Appeals Meeting of December 1, 2016**

**To:** Board of Zoning Appeals

**From:** Meredith Murphy

**Subject:** **AGENDA ITEM #1**  
**2016-16-Variance**

Two (2) zoning variances to allow a second accessory structure with a height of twenty feet on the property located at 70 Winston Drive.  
(Shane Thomas, Applicant/Owner)

- 1) Variance to erect a second accessory structure where only one is permitted.
- 2) Variance to erect an accessory building 20 ft. in height where the maximum height is limited to 15 ft.

**Date:** November 21, 2016

**Dear BZA Members:**

**Introduction:**

An application has been submitted regarding two (2) zoning variances to erect an accessory building on the property located at 73 Winston Drive. The construction of the structure had already started when the applicant was notified that a building permit and zoning variances were necessary. This property is approximately .17 acres and is located in an R-1 Single Family Residence District (see attached Zoning map – Exhibit B) and is regulated by Section 1115.00 and Section 1110.00 of the Hamilton Zoning Ordinance (HZO). Mr. Thomas is seeking a variance to the requirements of the zoning ordinance in order to allow a two story accessory structure on the property. The applicant is requesting relief from two parts of Section 1115.00 of the Hamilton Zoning Ordinance. The proposed accessory building will be a total of ten (10) feet by ten (10) feet on its ground floor and nine (9) feet by ten (10) feet on its second floor totaling one hundred and ninety feet (190) total.

The two (2) requested variances are to Section 1115.43.1 of the HZO to allow a second accessory building where only one is permitted with a height of twenty feet (20) feet where fifteen (15) is permitted.

- Section 1115.43.1 states “Only one accessory building is permitted for each dwelling unit on the same lot”
- Section 1115.43.1 states “Height: One story to a maximum of fifteen (15) feet.”

The applicant listed the following information in his application as background to the request

“This project began as a replacement to our old shed which rotted out and didn't have enough space for our kids bikes, toys, and related items. I have 3 sons and a daughter, and all participated in this building project. We chose to put a 9X9 playhouse above our 10X10 shed to save yard space. We used



premium, lasting materials and built the shed above ground level to prevent rotting and rodents. We have continually checked the cities website to ensure we are meeting code (keeping within the 200 square footage max requirement), however, we learned, while in process, that a building permit and zoning approval is required to continue our family project. I have been working with Hamilton's Building and Construction Services Dept. to fully comply with Hamilton's building and construction codes by filing for a permit (Application Number A162379) and have supplied drawings and corrections to address all code requirements to make this a safe structure.

After speaking to our adjacent neighbors, they are more concerned with why I stopped construction than the shed/playhouse building on our property. I have explained to them that I must seek the approval of this board before finishing construction. Here are some images of where we are. The exterior is not finished; there are so many great ideas to choose from! We plan to make this the best looking shed/play house building in the neighborhood!"

This information is attached as Exhibit C – Variance Application & Supporting Material.

### **Zoning Variance Review**

In order to grant a zoning variance, the Hamilton Zoning Ordinance “Section 1170.63 Variances -Findings of the Board” requires that the BZA must find all four of the following facts and conditions below exist beyond a reasonable doubt. The applicant included the following written rationale (*in bold italics*) for the two (2) requested zoning variances. Information/commentary for the BZA to consider is underlined.

1. **1170.63.1 Exceptional Circumstances:** That there are exceptional or extraordinary circumstances or conditions applying only to the property in question that do not apply generally to other properties in the same Zoning District.

*The applicant stated that “***Due to already having a detached garage, which counts as one allowable accessory building per "Zoning Guidelines for Accessory Buildings and Structures in Residentially Zoned Areas," we request to have an additional building, which will be used as a shed/play house combination.***” After reviewing the application there appears to be Exceptional Circumstances (Section 1170.63.1) associated with this request, the property already has an existing accessory structure, a detached garage therefore a variance is necessary, even though it is common for a house to have an attached garage as well as a shed.*

2. **1170.63.2 Preservation of Property Rights:** That such variance is necessary for the preservation and enjoyment of substantial property rights



possessed by other properties in the same Zoning District and the in same vicinity.

*The applicant stated that **“This project began as a replacement to our old shed which rotted out and didn’t have enough space for our kids bikes, toys, and related items. I have 3 sons and a daughter, and all participated in this building project. We chose to put a 9X9 playhouse above our 10X10 shed to save yard space.”** After reviewing the application it appears that the request is a Preservation of Property rights (Section 1170.63.2). As the applicant stated the proposed structure’s size is within the guidelines for an accessory structure footprint that would normally not need a permit, however the height being above fifteen (15) feet requires a variance.*

3. **1170.63.3 Absence of Detriment:** That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.

*The applicant stated that **“After speaking to our adjacent neighbors, they are more concerned with why I stopped construction than the shed/playhouse building on our property. I have explained to them that I must seek the approval of this board before finishing construction.”** After reviewing the application it appears that the request has an Absence of Detriment (Section 1170.63.3). As the applicant stated the property is large and heavily wooded. The proposed building meets all setback requirements. The applicant is also working to receive all necessary permits through the Cities Construction Services Division.*

4. **1170.63.4 Not of a General Nature:** No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which the variance is sought is not of general or recurrent nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

*The applicant stated that **“We used premium, lasting materials and built the shed above ground level to prevent rotting and rodents. We have continually checked the cities website to ensure we are meeting code (keeping within the 200 square footage max requirement), however, we learned, while in process, that a building permit and zoning approval is required to continue our family project.”** After reviewing the application it appears that the request is Not of a General Nature (Section 1170.63.4). As previously stated the applicants property has a detached garage which counts as its one permitted accessory structure. A variance is needed to allow a second accessory structure.*



**Recommendation:**

Based on a review of the information submitted, there is reason to consider approving the two (2) requested variances with the following conditions:

If the BZA approves the request for a Variance, the Department of Community Development requests that the BZA consider the following conditions of approval:

- 1) The construction drawings for the proposed improvements and work be revised subject to any future review requirements of the City of Hamilton Departmental Review.
- 2) All improvements and work indicated on construction plans approved by the City of Hamilton Departmental Review be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Variance.
- 3) Findings for Granting of Variance:
  1. Exceptional Circumstances: There are exceptional or extraordinary circumstances or conditions applying to the subject property that do not apply generally to other properties in the same Zoning District.
  2. Preservation of Property Rights: Such a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.
  3. Absence of Detriment: By authorizing this variance there will not be substantial detriment to adjacent property, and the variance will not materially impair the purposes of this Ordinance of the public interest.
  4. Not of General Nature: By the granting of this variance there is no condition or situation of the specific piece of property for which the variance is sought that is so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

**Notification**

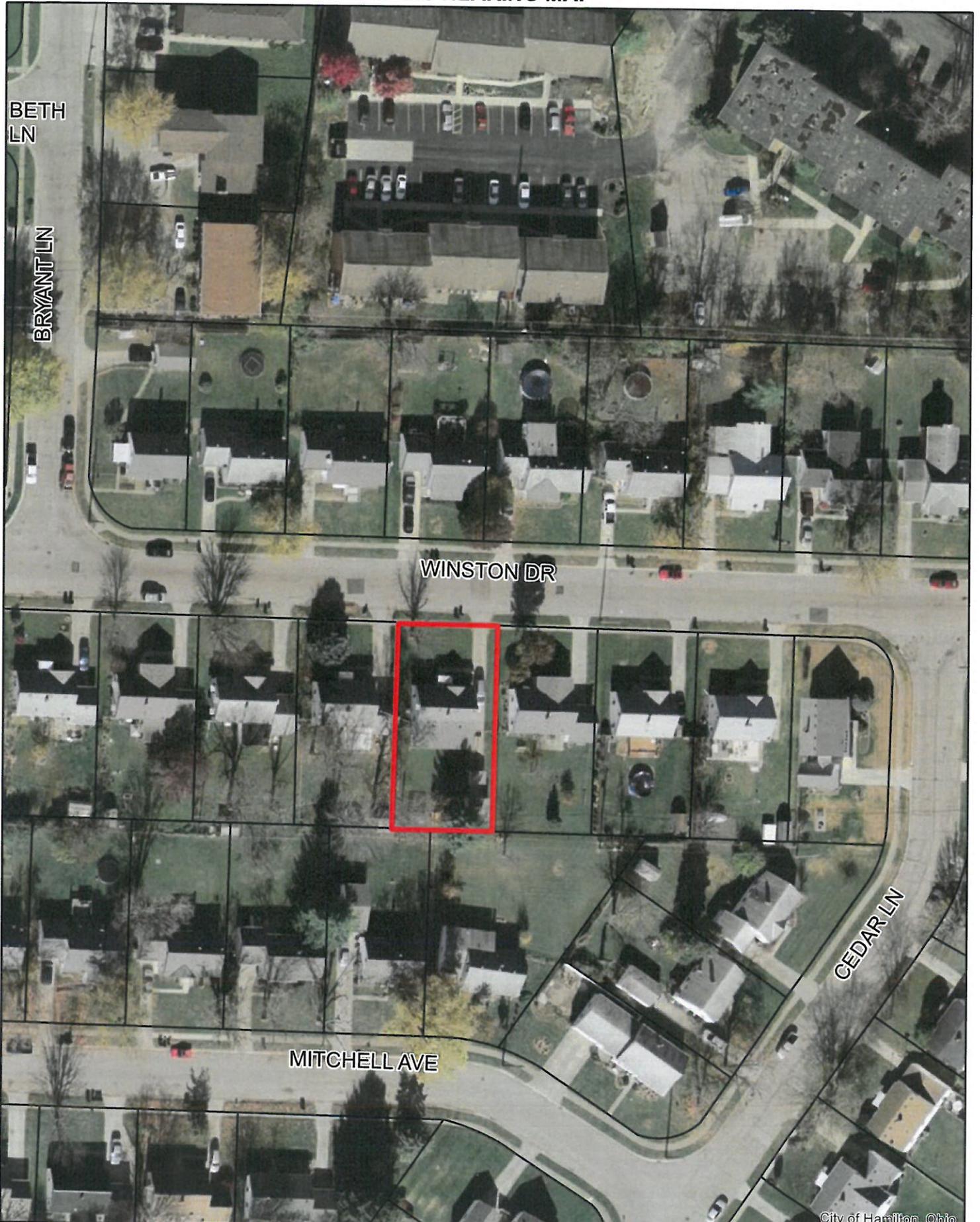
Public Hearing Notices were mailed to the owners of seventeen (17) properties within 100 feet of the property in question. At the time this report was written, no calls from neighboring property owners were received.

**Attachments:**

- 1) Exhibit A - Public Hearing Location Map
- 2) Exhibit B – Zoning Map
- 3) Exhibit C – Variance Application & Supporting Material



73 WINSTON DRIVE  
PUBLIC HEARING MAP



 73 Winston Drive

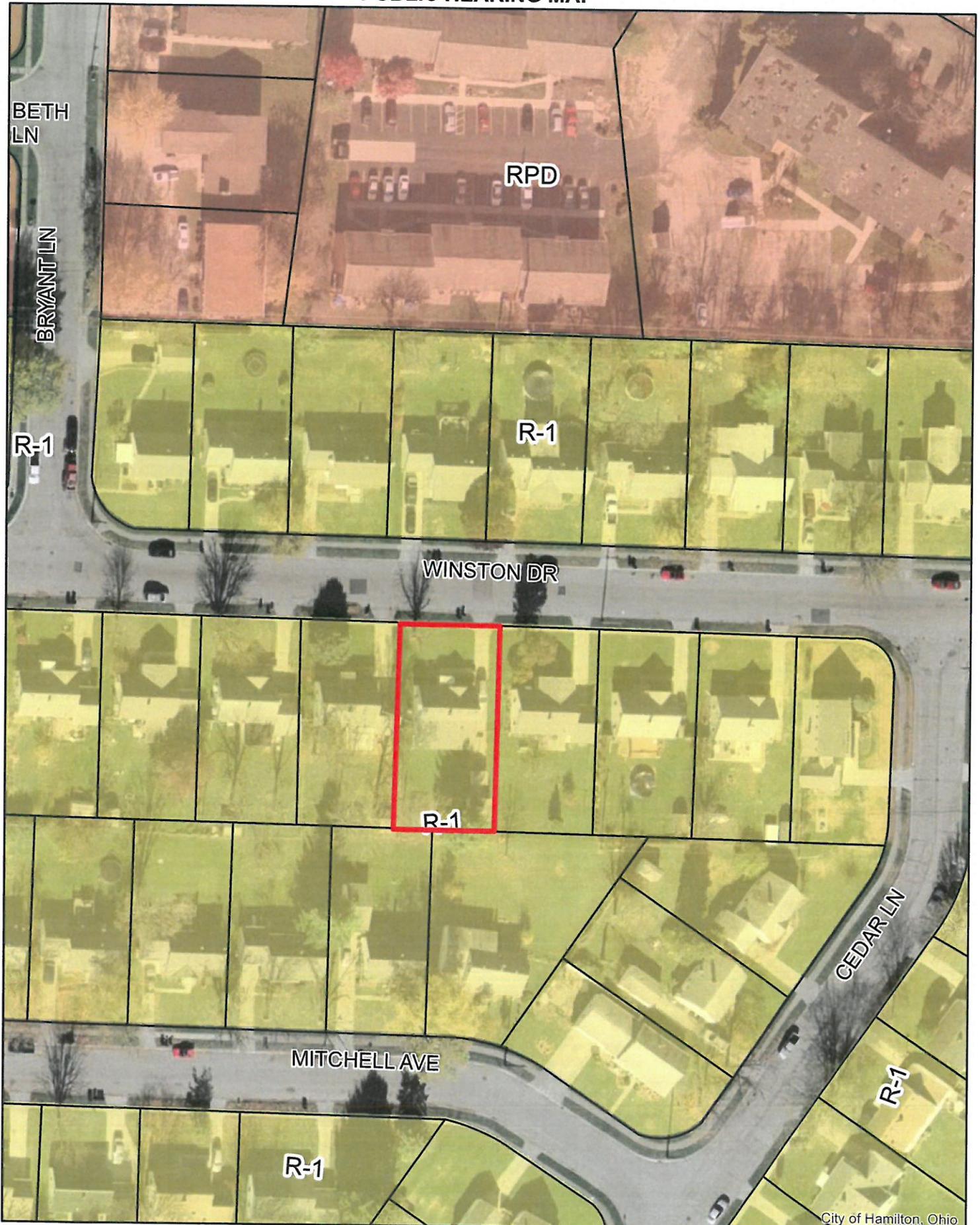
0 30 60 120 Feet



City of Hamilton, Ohio

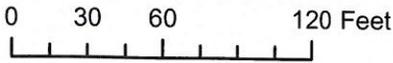


73 WINSTON DRIVE  
PUBLIC HEARING MAP



City of Hamilton, Ohio

 73 Winston Drive





A164129  
A164130

### BOARD OF ZONING APPEALS APPLICATION

Property Address: 73 WINSTON DR HAMILTON, OH

Lot No(s): \_\_\_\_\_

Property Owner: SHANE C THOMAS, ANGELA C THOMAS

Owner's Mailing Address: 73 WINSTON DR HAMILTON, OH

Appellant's Name (If different than owner): \_\_\_\_\_

Appellant's Mailing Address: \_\_\_\_\_

Appellant's Email Address: SHANEANGIETHOMAS@CINCL.RR.COM

Previous Legal Use of Property: \_\_\_\_\_

Date Previous Use Discontinued: \_\_\_\_\_

Proposed New Use of Property: \_\_\_\_\_

Purpose of Application (Check all that apply):

Requesting a variance for signs. Please describe the request below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Requesting a variance other than a sign from the following Sections of the Hamilton Zoning Code (also fill out **Appellant's rational for requesting a Variance**)

1. PROPERTY IS ZONED R-2 RESIDENTIAL, ONLY ONE (1) ACCESSORY STRUCTURE PERMITTED. WE ARE REQUESTING AN ADDITIONAL STRUCTURE.  
2. ACCESSORY STRUCTURE EXCEEDS 15 FEET IN HEIGHT WE ARE REQUESTING TO GO BEYOND 15 FEET

Other – Skip to "Other" Section of Application Form

City of Hamilton  
Date: 11/16/2011  
Office: CNSI  
Acct: 3798388  
Name: \_\_\_\_\_  
Request #: 0177911  
Printed: 11/15/2011 4:22 PM  
Amount: \$200.00  
Paid: \$200.00

**VARIANCES**

**Appellant's Rationale for requesting a Variance:**

Variance-Findings of the BZA: No variance of the provisions or requirements of the Hamilton Zoning Ordinance shall be authorized by the BZA unless the BZA finds, beyond reasonable doubt, that all of the following facts and conditions exist. **Please address each condition below in the space provided.**

Exceptional Circumstances: That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District.

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Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.

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Absence of Detriment: That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.

*PLEASE SEE THE ATTACHED SHEET  
FOR RATIONALE AND BACKGROUND.*

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Shane Thomas  
73 Winston Drive  
Hamilton, OH 45013

**Zoning Variance Request; “Absence of Detriment” rationale:**

I am requesting a zoning variance for our property at 73 Winston Drive, Hamilton, Ohio. The variance is required/requested for the following 2 items:

- Our accessory building exceeds the 15 foot height limitation per “Zoning Guidelines for Accessory Buildings and Structures in Residentially Zoned Areas.” Our 2-level structure consists of a shed on the first floor and a play house on the second. **We request to exceed the 15 foot height to allow for the play house.**
- Due to already having a detached garage, which counts as one allowable accessory building per “Zoning Guidelines for Accessory Buildings and Structures in Residentially Zoned Areas,” **we request to have an additional building, which will be used as a shed/play house combination.**

Note: we meet and exceed Zonings’ requirement of 5 feet minimum setback from property lines.

**Background:**

This project began as a replacement to our old shed which rotted out and didn’t have enough space for our kids bikes, toys, and related items. I have 3 sons and a daughter, and all participated in this building project. We chose to put a 9X9 playhouse above our 10X10 shed to save yard space. We used premium, lasting materials and built the shed above ground level to prevent rotting and rodents. We have continually checked the cities website to ensure we are meeting code (keeping within the 200 square footage max requirement), however, we learned, while in process, that a building permit and zoning approval is required to continue our family project. I have been working with Hamilton’s Building and Construction Services Dept. to fully comply with Hamilton’s building and construction codes by filing for a permit (Application Number A162379) and have supplied drawings and corrections to address all code requirements to make this a safe structure.

After speaking to our adjacent neighbors, they are more concerned with why I stopped construction than the shed/playhouse building on our property. I have explained to them that I must seek the approval of this board before finishing construction. Here are some images of where we are. The exterior is not finished; there are so many great ideas to choose from! We plan to make this the best looking shed/play house building in the neighborhood!



Current State



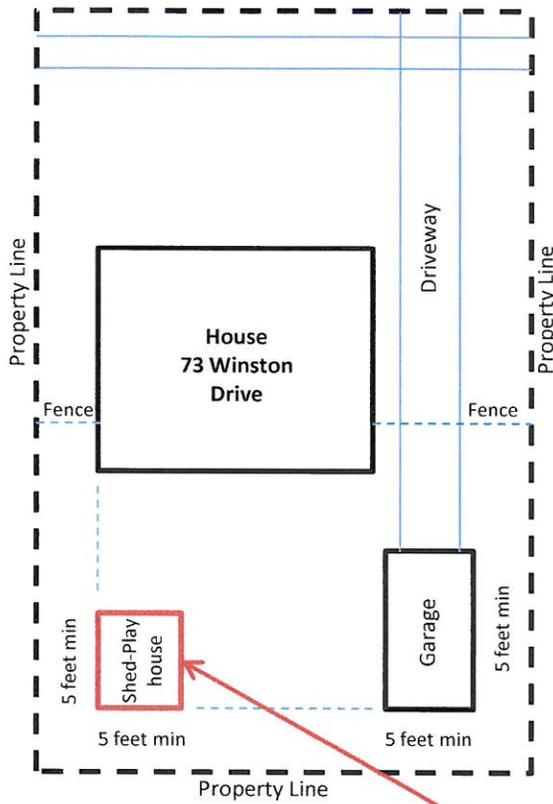
Inside Shed



Inside play house

Shane Thomas  
73 Winston Drive  
Hamilton, OH

### Shed-Playhouse Plans For Zoning Review



Current Structure  
(as seen from house)



Google Maps

DATE OF MEETING: 10/18/16

Present: Pam, Berdie, Whitney, Kim

Absent: Tony - <sup>minutes</sup> WF - 2nd by BC

Report from Board Meeting of PR given by 9/26 for month of August.

Capitol ratio 8.29 %

Loan apps - Total number 26

16 from downtown (14 approved)

17 from Westside (13 approved)

Closed members - # 17 - 2 letters

- New Members 18
- Total # 18 ; 7 Westside, 11 downtown
- 2 Official Family Loans - Name: Amy Bolin & Christy Lindsay
- 0 charge offs

NOTES

3 mtg loans closed for August - WS ATM down for 2 weeks - fixed now - 5/3 - space on ground floor & 2nd floor. Board meeting changed to tonight - Presentation of audit - ~~clear~~ clear

THE NEXT MEETING :

Report from cash audits - ~~collected by~~ ~~other~~ ~~guidelines~~ 3 drawers were short  
Fixed assets.  
Done w/ share. accounts - November's meeting cancelled - NOVEMBER 28 - me Dec 12

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## BZA Application

3 messages

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**Meredith Snyder** <meredith.snyder@hamilton-oh.gov>

Wed, Nov 2, 2016 at 4:37 PM

To: shaneangiethomas@cinci.rr.com

Attached is the Board of Zoning Appeals application please review and let me know if you have any questions.  
Thanks,

Meredith Snyder  
City of Hamilton  
Department of Community Development  
345 High Street, 3rd Floor  
Hamilton, OH 45011  
(513) 785-7356  
[Website](#) | [Facebook](#) | [Twitter](#)



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 **BZA Application 12.02.15.pdf**  
627K

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**Meredith Snyder** <meredith.snyder@hamilton-oh.gov>

Thu, Nov 17, 2016 at 9:55 AM

To: Shane Thomas <shaneangiethomas@cinci.rr.com>

Mr. Thomas,  
I am reviewing your BZA application and I just need to know what the height is of the structure. In your application you only say it exceeds 15 feet. Please let me know through email or if you can give me a call I would greatly appreciate it.  
Thanks,

Meredith Snyder  
City of Hamilton  
Department of Community Development  
345 High Street, 3rd Floor  
Hamilton, OH 45011  
(513) 785-7356  
[Website](#) | [Facebook](#) | [Twitter](#)



[Quoted text hidden]

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**shaneangiethomas@cinci.rr.com** <shaneangiethomas@cinci.rr.com>  
To: Meredith Snyder <meredith.snyder@hamilton-oh.gov>

Thu, Nov 17, 2016 at 2:00 PM

Hi Meredith,



**For the Board of Zoning Appeals Meeting of December 1, 2016**

**To:** Board of Zoning Appeals

**From:** John Creech

**Subject:** **AGENDA ITEM #2**  
**2016-17-Variance**

Two (2) zoning variances to allow the establishment of eight (8) additional dwelling units at 125 Park Avenue (Mike Dingeldein, Community Design Alliance/125 Park Avenue LLC, Applicant/Owner)

1) Variance to Section 1126.31 1) which requires a minimum lot area per dwelling unit of 3,500 square feet.

2) Variance to Section 1126.31 2) which requires a minimum of two (2) off-street parking spaces per dwelling unit.

**Date:** November 22, 2016

**Dear BZA Members:**

**Introduction:**

An application has been submitted regarding two (2) zoning variances to permit the establishment of eight (8) additional dwelling units at 125 Park Avenue. This property is located in an R-O Multi-Family Residence-Office District and within the Rossville Historic District and is regulated by Sections 1119.00 and 1126.00 of the Hamilton Zoning Ordinance (HZO). This property measures approximately 27,889 square feet (.64 acres). The minimum required lot area per dwelling unit in the Rossville Historic District is 3,500 square feet. The applicant is requesting the first variance to reduce the minimum lot area per dwelling unit to 1,162 square feet. In addition, the applicant is requesting a second variance to reduce the minimum required parking from two (2) parking spaces per dwelling unit to 0.87 spaces per dwelling unit (48 parking spaces are required and 26 are to be provided).

The two (2) requested variances are to Section 1126.31 of the HZO as follows:

- Section 1126.31 1) which requires a minimum lot area per dwelling unit of 3,500 square feet.
- Section 1126.31 2) which requires a minimum of two (2) off-street parking spaces per dwelling unit

The scope of the proposed project involves the establishment of eight (8) lower level dwelling units within the existing building footprint and the reconfiguration of the existing parking lot to create 5 new parking spaces for a total of 26 parking spaces. The existing building contains 16 dwelling units and there are 21 parking spaces on the property. Information provided by the applicant in support of the two (2) zoning variances is attached as Exhibit C – Variance Application & Supporting Material.



## Zoning Variance Review

In order to grant a zoning variance, the Hamilton Zoning Ordinance “Section 1170.63 Variances -Findings of the Board” requires that the BZA must find all four of the following facts and conditions below exist beyond a reasonable doubt. The applicant included the following written rationale (*in bold italics*) for the two (2) requested zoning variances.

1. **1170.63.1 Exceptional Circumstances:** That there are exceptional or extraordinary circumstances or conditions applying only to the property in question that do not apply generally to other properties in the same Zoning District.

*The applicant stated that “**With the city's focus and investment in a Main Street Revitalization initiative ... this property becomes a catalytic opportunity to re-set the perception and reality of rental property in the Main Street business corridor. The greater unit density DOES allow for a higher redevelopment budget pro-forma and DOES NOT negatively impact the site, the block, and the corridor...in fact, it allows for putting more people in the Main Street neighborhood to support new retail development.**”*

2. **1170.63.2 Preservation of Property Rights:** That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and the in same vicinity.

*The applicant stated that “**The significant restoration of these apartments to market rate units improves property values in the entire Main Street corridor.**”*

3. **1170.63.3 Absence of Detriment:** That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.

*The applicant stated that “**The variance proposes NO additional square footage to this building or site. ALL of the expansion is within existing volume of the building. The lowest level was designed by Frederick G. Mueller and built with future expansion in mind in 1903, but in 1913, the flood change everything and plans for completion of the lower level phase were scrapped. For the passerby and observer, no external changes will be evident beyond a slight expansion of the parking lot on the existing lot.**”*

4. **1170.63.4 Not of a General Nature:** No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which the variance is sought is not of



general or recurrent nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

*The applicant stated that “This property is a unique, well design, signature building in a revitalization corridor of Hamilton. It has fallen into significant disrepair over the past 30 years. The variance provides an economic opportunity to reset the building, the block, and the district Any conditions placed by BZA for the specifics desired for this improvement are encouraged in exchange for consideration of the variance requested.”*

**Recommendation:**

Based on a review of the information submitted, there is reason to consider denying the two (2) requested variances for the following reasons:

- 1) Although final occupancy is unknown, in a worst case scenario the proposed eight (8) additional dwelling units could have up to four (4) unrelated individuals per dwelling unit for a total of 32 additional building occupants. Each occupant could in turn own an automobile – so there could be 32 additional automobiles on the property.
- 2) The granting of the parking variance could exacerbate existing parking issues in the area, particularly for business uses along Main Street.

However, if the BZA approves the request for two (2) Zoning Variances, the Department of Community Development requests that the BZA consider the following conditions of approval:

- 1) If not already, the 26 parking spaces should be assigned to individual dwelling unit. The applicant should explore alternative or additional parking options/agreements with adjacent properties.
- 2) The construction drawings for the proposed improvements and work be revised subject to any future review requirements of the City of Hamilton Departmental Review.
- 3) All improvements and work indicated on construction plans approved by the City of Hamilton Departmental Review be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Zoning Variances.
- 4) Findings for Granting of Variance:
  1. Exceptional Circumstances: There are exceptional or extraordinary circumstances or conditions applying to the subject property that do not apply generally to other properties in the same Zoning District.



2. Preservation of Property Rights: Such a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.
3. Absence of Detriment: By authorizing this variance there will not be substantial detriment to adjacent property, and the variance will not materially impair the purposes of this Ordinance of the public interest.
4. Not of General Nature: By the granting of this variance there is no condition or situation of the specific piece of property for which the variance is sought that is so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

**Notification**

Public Hearing Notices were mailed to the owners of eighteen (18) properties within 100 feet of the property in question. At the time this report was written, no calls from neighboring property owners were received.

**Attachments:**

- 1) Exhibit A - Public Hearing Location Map
- 2) Exhibit B – Zoning Map
- 3) Exhibit C – Variance Application & Supporting Material



125 Park Avenue  
PUBLIC HEARING MAP



Subject Property

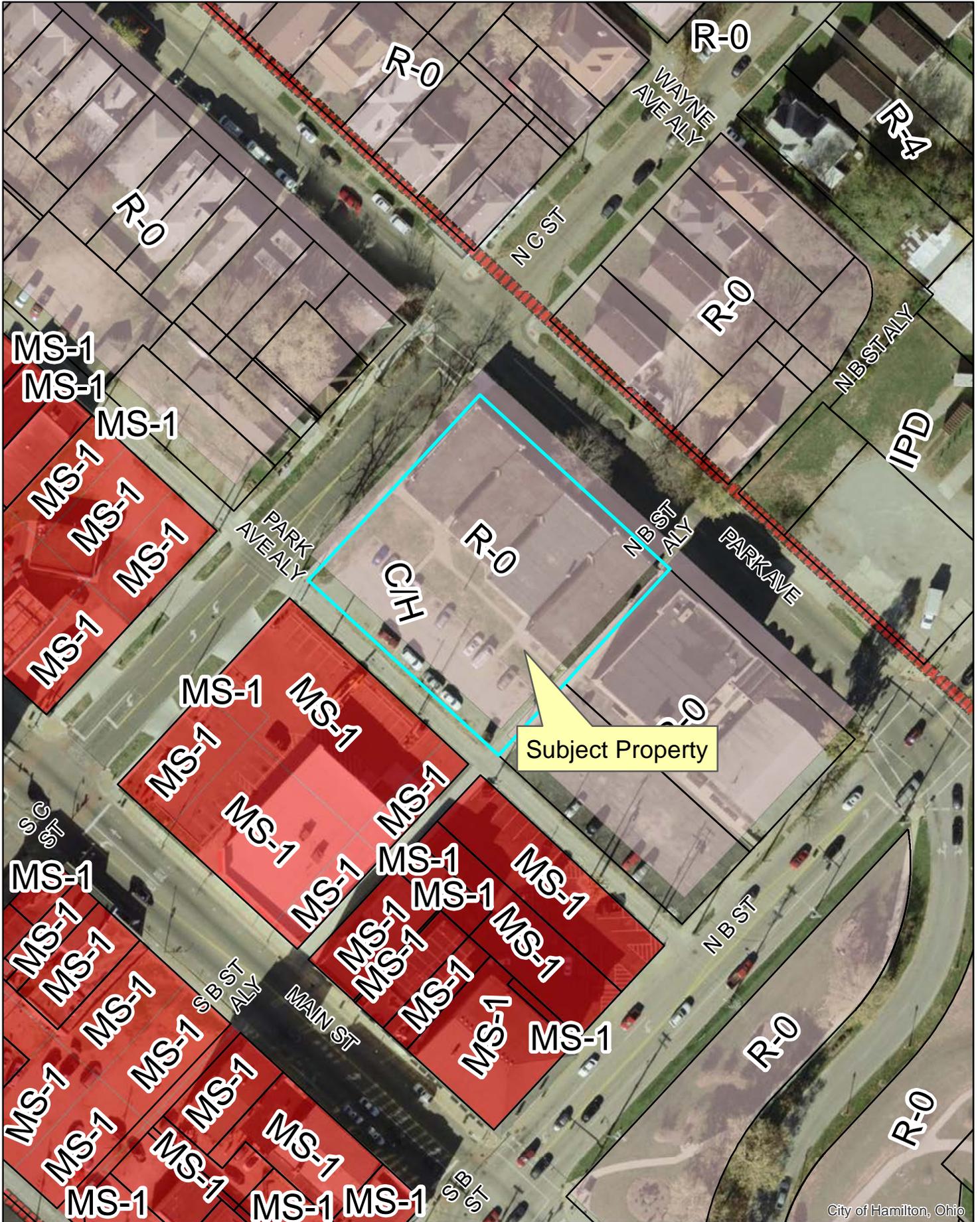
125 Park Avenue

0 30 60 120 Feet

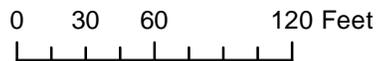
City of Hamilton, Ohio



125 Park Avenue  
ZONING MAP



 125 Park Avenue





A164173  
A164174

**BOARD OF ZONING APPEALS APPLICATION**

Property Address: 125 Park Avenue

Lot No(s): \_\_\_\_\_

Property Owner: P6411001000032 *Dr. Brian Noblas  
Chiropractic Wellness Center*

Owner's Mailing Address: 1755 S Erie Highway, Hamilton, OH 45011

Appellant's Name (if different than owner): Community Design Alliance

Appellant's Mailing Address: 236 High Street, Hamilton, OH 45011

Appellant's Email Address: mike@cdalliance.net

Previous Legal Use of Property: Multi-Tenant Residential

Date Previous Use Discontinued: \_\_\_\_\_

Proposed New Use of Property: Multi-Tenant Residential

Purpose of Application (Check all that apply):

Requesting a variance for signs. Please describe the request below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Requesting a variance other than a sign from the following Sections of the Hamilton Zoning Code (also fill out **Appellant's rational for requesting a Variance**)

See attached for appellants rational for variance

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other – Skip to "Other" Section of Application Form

City of Hamilton  
Date: 11/18/2016  
Time: 1:57:46 PM  
Case#: 187467  
Applicant: 01080875  
Payment Total: \$200.00  
City of Hamilton  
Office: CHST  
Consys  
1/17/2016 3:55 PM  
\$200.00

**VARIANCES**

**Appellant's Rationale for requesting a Variance:**

Variance-Findings of the BZA: No variance of the provisions or requirements of the Hamilton Zoning Ordinance shall be authorized by the BZA unless the BZA finds, beyond reasonable doubt, that all of the following facts and conditions exist. **Please address each condition below in the space provided.**

Exceptional Circumstances: That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District.

see attached

Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.

see attached

Absence of Detriment: That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.

see attached

Not of General Nature: No grant of variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

\_\_\_\_\_  
\_\_\_\_\_  
*see attached*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OTHER:** Please check the reason for the Application and Explain.

- Substitution of Non-Conforming Use  Temporary Use  
 Appeal of Decision of Architectural Design Review Board  Appeal of Interpretation

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

**CERTIFICATION:**

I certify that all of the information contained in this Application is complete, true and accurate.

*[Signature]* \_\_\_\_\_ *11/17/16*  
Appellant's Signature Date

*Michael P. Dingelde*  
Appellant's Printed Name

*Dr. Brian Hobbs* \_\_\_\_\_ *11/17/16*  
Property Owner's Signature Date

*125 Park Avenue, LLC*  
Property Owner's Printed Name

**Park Terrace Apartments**

125 Park Avenue

Parcel# P6411001000032

**Board of Zoning Appeals - Variance Requests**

- 1) Variance from lot area for total number of units**
- 2) Variance from off-street parking per unit**

Building Footprint = 10,127 s.f.

Lot Area = 27,848 s.f.

Bldg:Site coverage = 36.37%

16 Existing UNITS - 3&4 BEDROOM 929sf - 1,154sf

Existing lot area per unit = 1,740.50 sf/unit

Parking = 21 spaces

Base Zoning = R-0:

Min Lot area/unit = 1,500sf

1.5 parking spaces/unit

Overlay Zoning = AC/H (Rossville Historic District)

Min Lot area/unit - 3,500sf

2 off-street parking spaces/unit

**Exceptional Circumstances:**

With the city's focus and investment in a Main Street Revitalization initiative...this property becomes a catalytic opportunity to re-set the perception and reality of rental property in the Main Street business corridor. The greater unit density DOES allow for a higher redevelopment budget pro-forma and DOES NOT negatively impact the site, the block, and the corridor...in fact, it allows for putting more people in the Main Street neighborhood to support new retail development

**Preservation of Property Rights:**

The significant restoration of these apartments to market rate units improves property values in the entire Main Street corridor.

**Absence of Detriment:**

The variance proposes NO additional square footage to this building or site. ALL of the expansion is within existing volume of the building. The lowest level was designed by Frederick G. Mueller and built with future expansion in mind in 1903, but in 1913, the flood change everything and plans for completion of the lower level phase were scrapped. For the passerby and observer, no external changes will be evident beyond a slight expansion of the parking lot on the existing lot.

**Not of General Nature:**

This property is a unique, well design, signature building in a revitalization corridor of Hamilton. It has fallen into significant disrepair over the past 30 years. The variance provides an economic opportunity to reset the building, the block, and the district. Any conditions placed by BZA for the specifics desired for this improvement are encouraged in exchange for consideration of the variance requested.

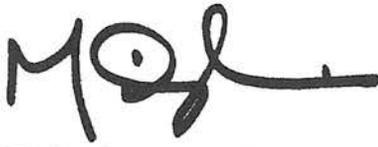
Sincerely,

**Community** Design Alliance

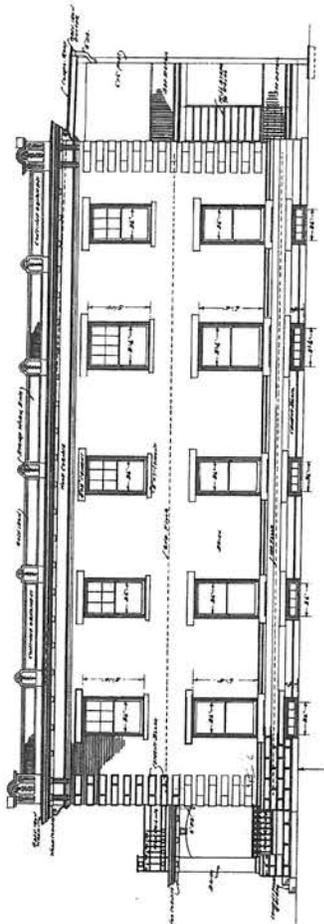
236 High Street

Hamilton, Ohio 45013

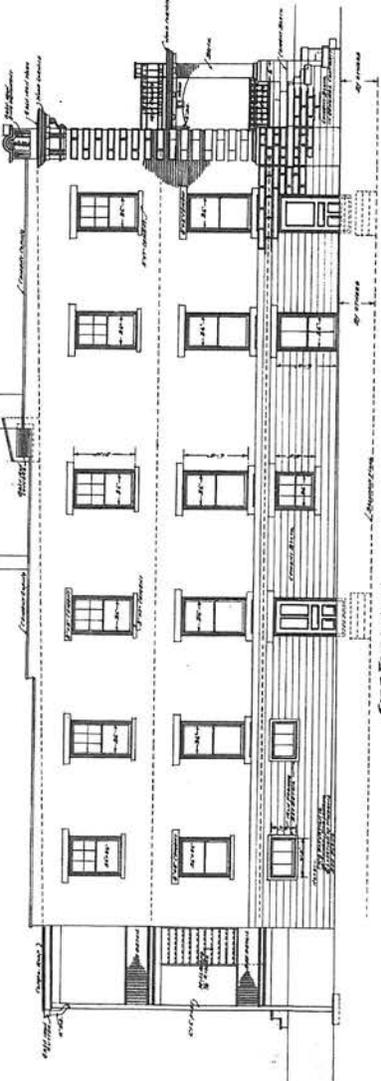
513-275-1740

A handwritten signature in black ink, appearing to read 'M. Dingeldein', with a long horizontal flourish extending to the right.

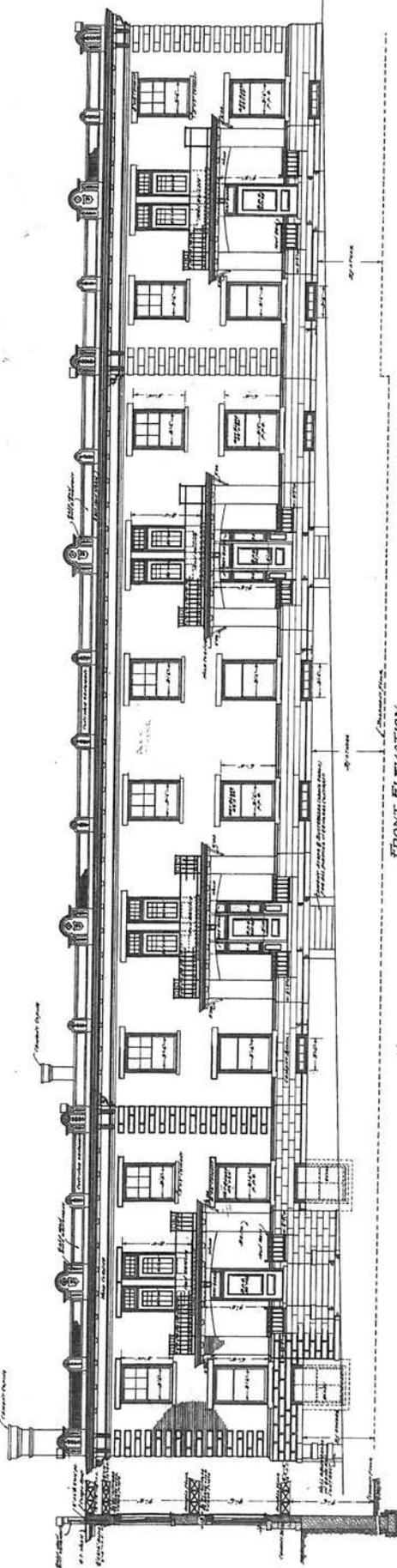
Michael P. Dingeldein, AIA, LEED-AP, CNU-A



SIDE ELEVATION



FRONT ELEVATION



WEST ELEVATION

APARTMENT BUILDING  
MRS. E. J. FARRELL & CO. ARCHT.  
NEW YORK CITY

Scale 1/4" = 1'-0"

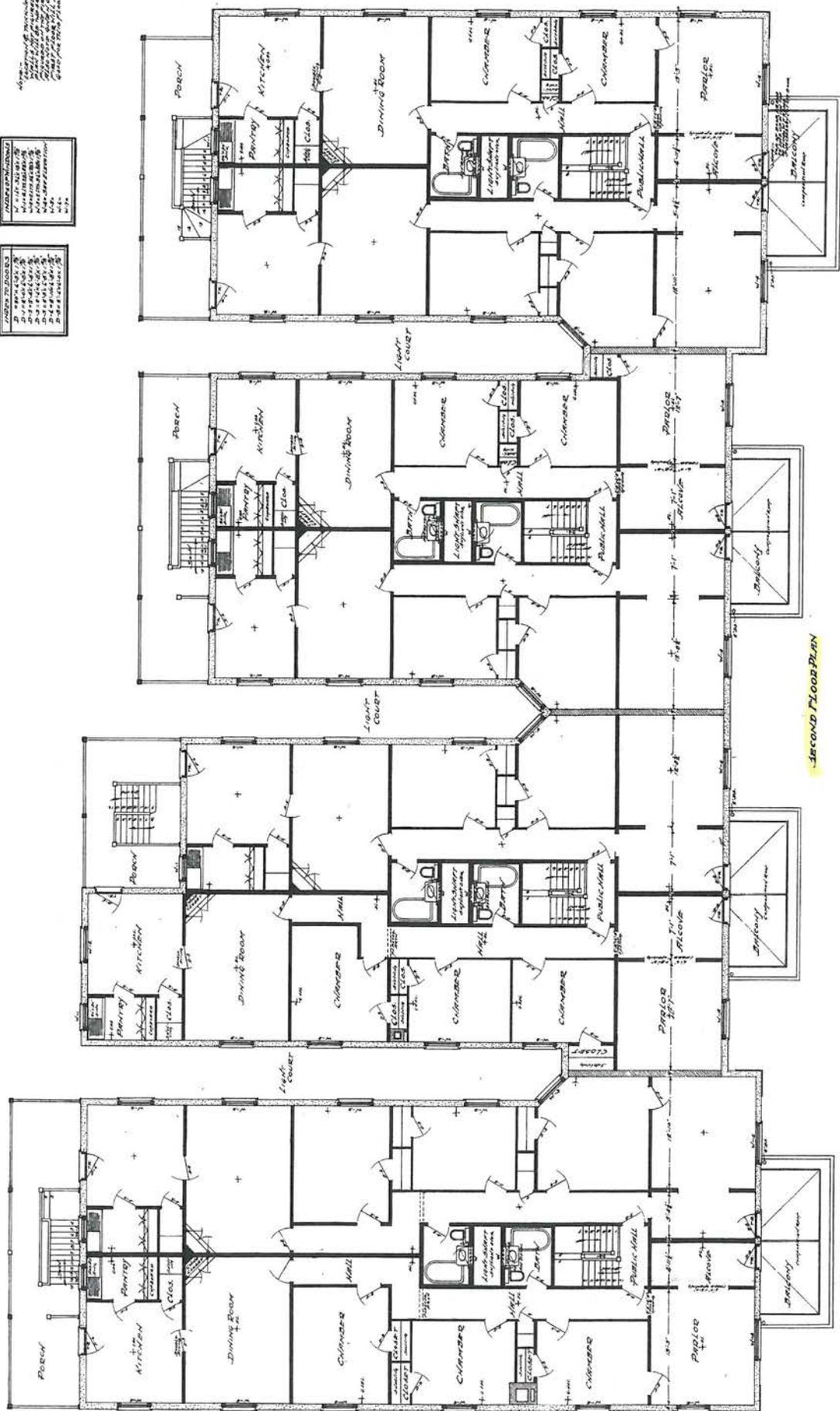




40. The floor plan shows the layout of the building, including the location of the entrance, the main hall, the dining room, the kitchen, and the restrooms. The plan also shows the location of the stairs and the elevators.

41. The floor plan shows the layout of the building, including the location of the entrance, the main hall, the dining room, the kitchen, and the restrooms. The plan also shows the location of the stairs and the elevators.

42. The floor plan shows the layout of the building, including the location of the entrance, the main hall, the dining room, the kitchen, and the restrooms. The plan also shows the location of the stairs and the elevators.

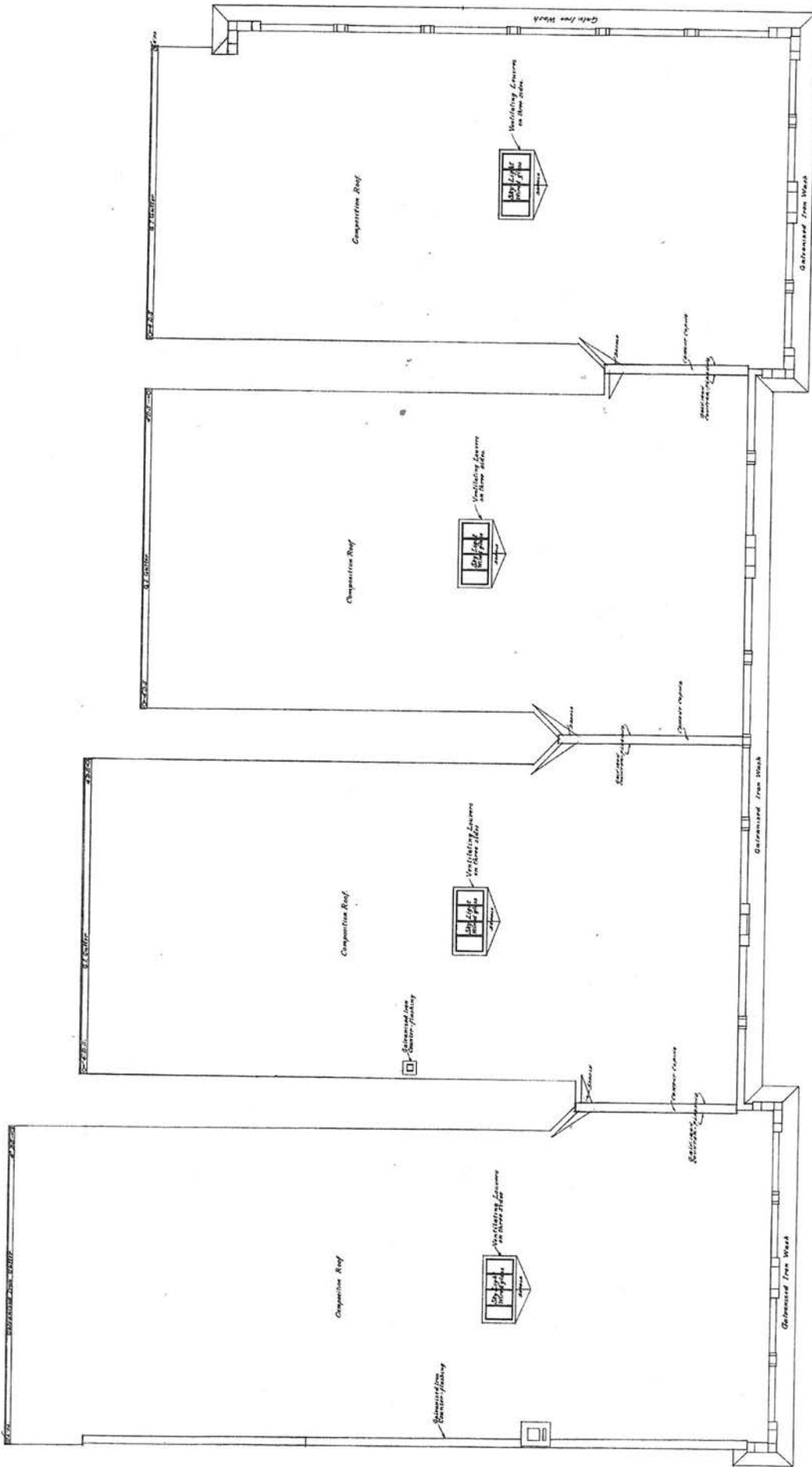


**SECOND FLOOR PLAN**

43. The floor plan shows the layout of the building, including the location of the entrance, the main hall, the dining room, the kitchen, and the restrooms. The plan also shows the location of the stairs and the elevators.

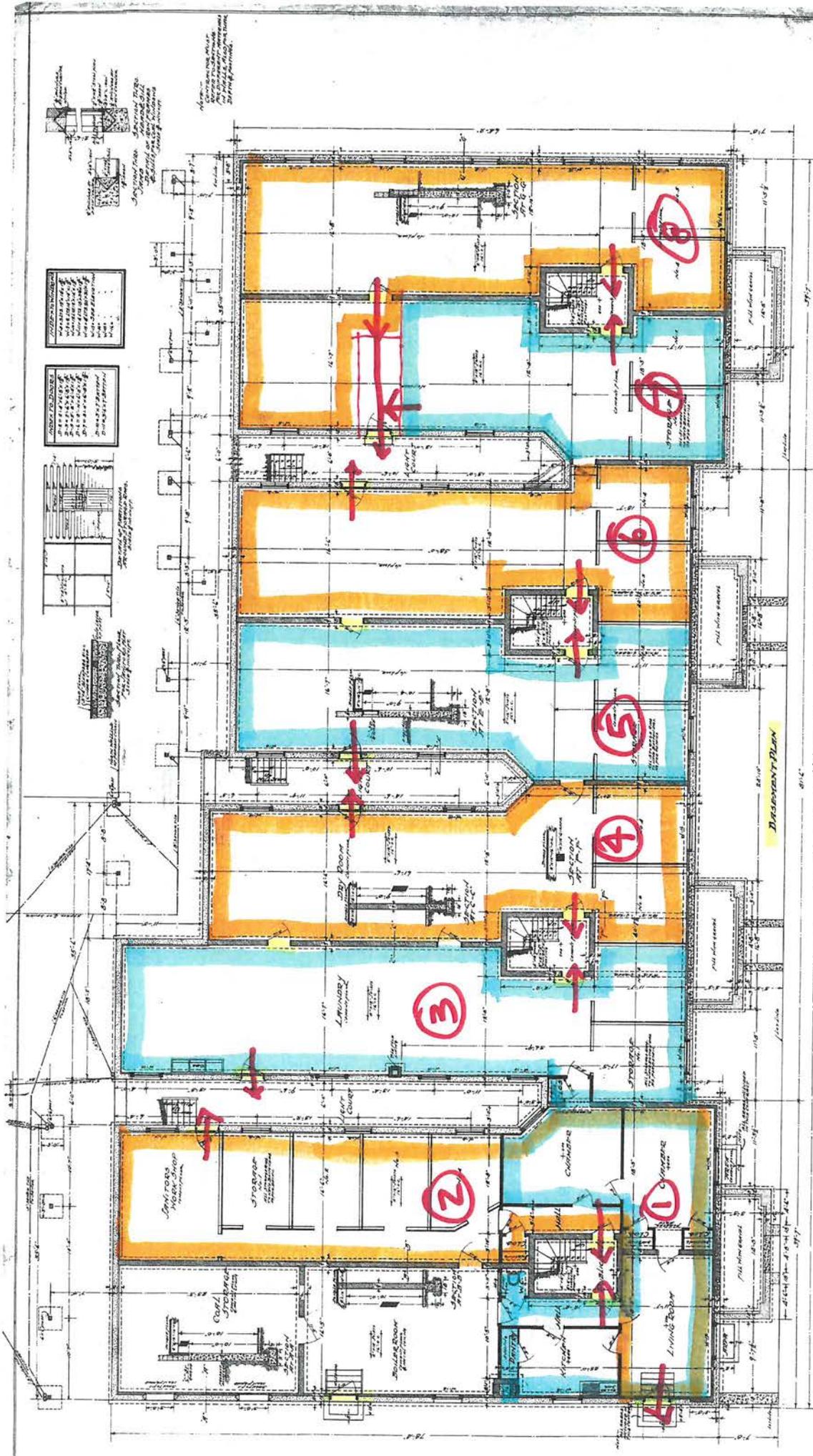
44. The floor plan shows the layout of the building, including the location of the entrance, the main hall, the dining room, the kitchen, and the restrooms. The plan also shows the location of the stairs and the elevators.

45. The floor plan shows the layout of the building, including the location of the entrance, the main hall, the dining room, the kitchen, and the restrooms. The plan also shows the location of the stairs and the elevators.



ROOF PLAN

Sheet  
 No. 5  
 Corvallis, Or.  
 1914



1608

ALL EXPOSED WALLS  
TO BE PAINTED TO MATCH

By Mrs. April W. B. Brooks

Address of the  
Structural Engineer



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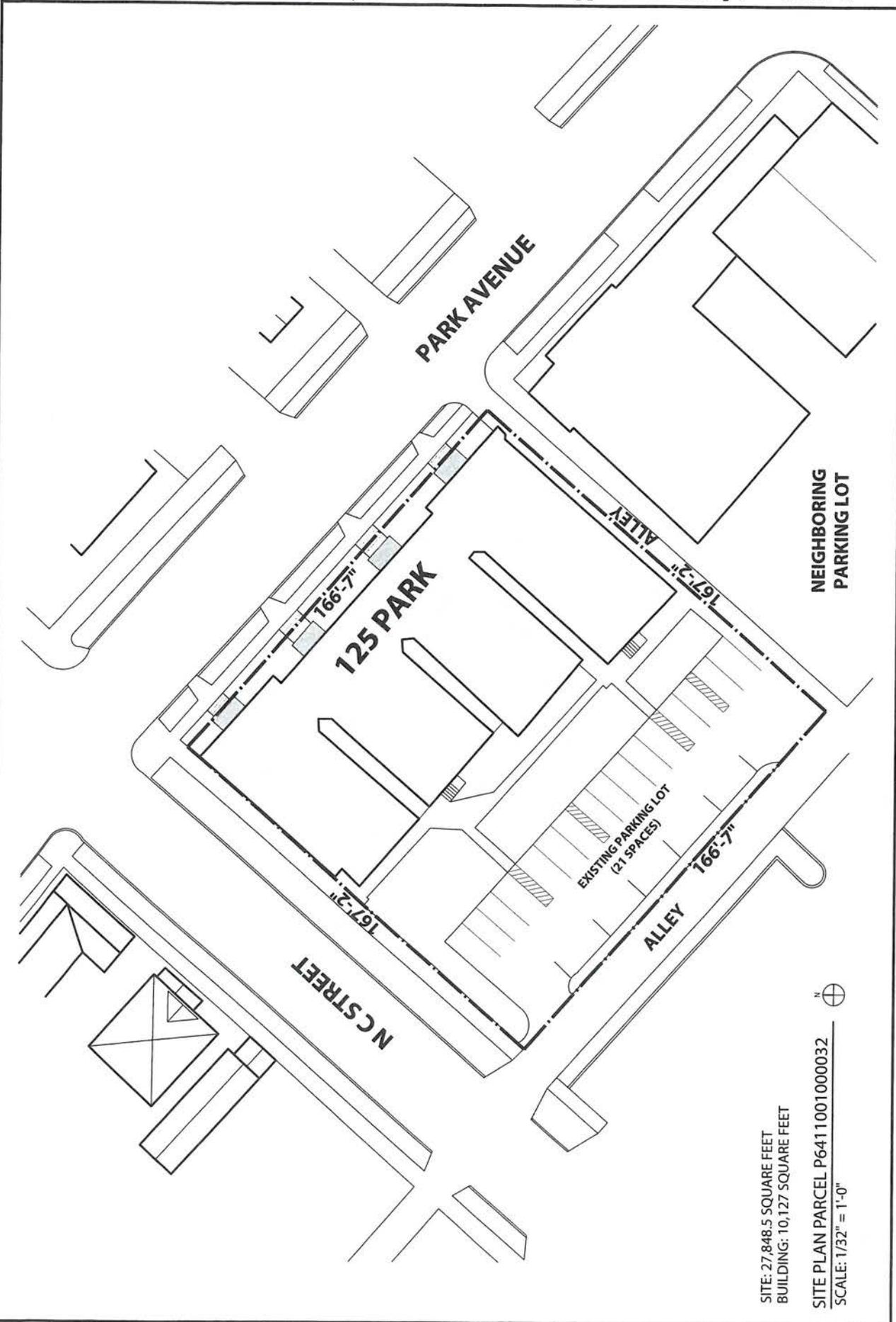
DATE: NOVEMBER 17, 2016



**ALTERATION TO MULTI-TENANT RESIDENTIAL BUILDING**  
 125 PARK AVENUE  
 HAMILTON, OHIO 45013

EXISTING  
 SITE PLAN  
 DATE: NOVEMBER 17, 2016  
 SHEET NO.

**1.00**



SITE: 27,848.5 SQUARE FEET  
 BUILDING: 10,127 SQUARE FEET  
 SITE PLAN PARCEL PG411001000032  
 SCALE: 1/32" = 1'-0"



Michael Engelstein, PE (0418820)  
Expiration Date: 12/31/17

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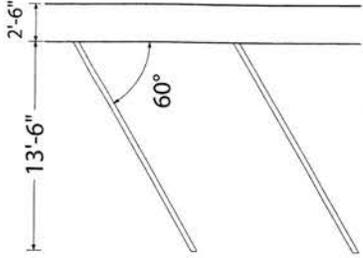


**ALTERATION TO MULTI-TENANT RESIDENTIAL BUILDING**  
125 PARK AVENUE  
HAMILTON, OHIO 45013

NEW SITE PLAN  
DATE: NOVEMBER 17, 2016

SHEET NO.

**2.00**



PARKING SPACE PLAN  
SCALE: 1/8" = 1'-0"

NEIGHBORING  
PARKING LOT

PARK AVENUE

125 PARK

NEW PARKING LOT (26 SPACES  
+ 1 HANDICAPPED ACCESSIBLE)

NEIGHBORING  
PARKING LOT

ALLEY

NC STREET

ALLEY

NEW ENTRANCE  
TO PARKING LOT



SITE: 27,848.5 SQUARE FEET  
BUILDING: 10,127 SQUARE FEET  
NEW DOUBLE LOADED WALL TO  
WALL WITH CONTINUOUS CONCRETE  
CURB PARKING LOT



SITE PLAN PARCEL P6411001000032  
SCALE: 1/32" = 1'-0"

**WRITTEN SUMMARY  
BOARD OF ZONING APPEALS  
MEETING MINUTES  
Thursday, November 3, 2016  
1:30 p.m.**

The Board of Zoning Appeals meeting was called to order by Madam Chair Underwood-Kramer at 1:30 p.m.

**Members Present:**

Ms. Nancy Bushman, Mr. George Jonson, Mr. Desmond Maaytah, and Madam Chair Karen Underwood-Kramer.

**Members Absent:**

Mr. Michael Samoviski.

**City Staff Present:**

Mr. John Creech, Ms. Kathy Dudley, Mrs. Heather Hodges, Ms. Kim Kirsch, and Mrs. Meredith Snyder.

Madam Chair Underwood-Kramer gave an overview of the process of the meeting.

**Swearing in of Those Providing Testimony to the BZA:**

Ms. Dudley swore in the audience member who was going to testify.

**Old Business:** None

**New Business:**

**Agenda Item #1 - 2016-15: Variance Request for 3461 Tylersville Road**

**Staff: Meredith Snyder**

**A Request by ABC Signs for two variance requests to allow an off premise sign and to reduce the minimum setback for a freestanding sign from five (5') feet to zero (0') feet, on property zoned I-1 Light Industrial District, located at 3461 Tylersville Road. (ABC Signs/BDM Storage, Applicant/Owner).**

Mrs. Snyder gives a summation of the current item before the Board of Zoning Appeals, and shows a map with the subject property outlined in blue. She also shows all supporting documentation, including the Application for the BZA with the Applicant's rationale for the request of the two variances, site plan, Staff information, and a picture of the proposed monument sign.

Mrs. Snyder also states that notices were mailed out to 4 properties, and there was no feedback received.

Based on a review of the information submitted, there is reason to consider approving the requested variance with the following conditions:

If the BZA approves the request for a Variance, the Department of Community Development requests that the BZA consider the following conditions of approval:

1) Findings for Granting of Variance:

1. Exceptional Circumstances: There are exceptional or extraordinary circumstances or conditions applying to the subject property that do not apply generally to other properties in the same Zoning District.
2. Preservation of Property Rights: Such a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.
3. Absence of Detriment: By authorizing this variance there will not be substantial detriment to adjacent property, and the variance will not materially impair the purposes of this Ordinance of the public interest.
4. Not of General Nature: By the granting of this variance there is no condition or situation of the specific piece of property for which the variance is sought that is so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

2) All improvements and work be approved by City of Hamilton Public Works Department and be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Variance.

With no questions from the Board for Mrs. Snyder, the Public Hearing was opened.

Present on behalf of the applicant was Ms. Nicole Duckworth. She gave a bit more information about the reason for their request. Mr. Jonson asked about where the easement was on the picture, and Mr. Creech showed it to him, along with the right-of-way.

With no further questions and no one else in the audience wishing to speak on the item, Mr. Jonson made a Motion to close the Public Hearing. With a 2<sup>nd</sup> by Mr. Maaytah and all "ayes" to roll call vote, the Public Hearing was closed.

Mr. Jonson made a Motion to approve the variances, with all recommended conditions. With a 2<sup>nd</sup> by Mr. Maaytah and roll call vote of all "ayes", the request was approved by a vote of 4-0.

Mr. Creech advised Ms. Duckworth that the variances were approved as presented, that the Board's decision becomes effective 5 days after the date of the meeting, and that the Applicant will receive a letter confirming the Board's decision within 5 days.

## **Agenda Item #2 - Board of Zoning Appeals Rules of Procedure**

**Staff: John Creech**

Section 1160.30 of the Hamilton Zoning Ordinance outlines the process for the filing of an Appeal by any person impacted or “aggrieved” by a decision of either the Building and Zoning Administrator or decisions of the Architectural Design Review Board (ADRB). Examples of such appeals include enforcement of zoning setback rules for buildings and driveways – these zoning setback rules are enforced by the Community Development Department for new construction, building additions and driveways. In addition, the zoning code specifies that appeals of ADRB decisions in connection with the issuance or refusal to issue a Certificate of Appropriateness (COA) can also be appealed to the BZA. The Section (1160.30) further states that “Such appeal shall be taken within such time as shall be prescribed by the Board by general rule”. The general rule reference is the timeline or deadline to file an appeal of the decision of the Zoning Administrator or ADRB.

A separate document, called the “BZA Rules of Procedure” specifies the rules and guidelines for the filing of appeals. In terms of time limits or deadline to file an appeal, there is only a single reference in the Rules of Procedure found in Article VI, Appeals Procedure, Section 1, BZA Rules of Procedure:

(2) There shall be no time limit to file an appeal following a decision of the Building Commissioner. (1160.30)

This essentially means that if a zoning permit is submitted to the city and denied by the Zoning Administrator, there is no time limit or deadline that the applicant would have to make an appeal. Because the ADRB COA denial appeal issue is not addressed, it is also unclear what time line or deadline is appropriate for an appeal in certain cases.

The lack of a deadline to appeal in certain cases creates an issue when work is performed without a COA and subsequently denied by the ADRB. An example is a homeowner painting their house without ADRB approval and then seeking approval and being denied – the general rule (as stated in (2) above) does not provide a deadline for the filling of an application for appeal.

The Hamilton Zoning Ordinance, Section 1126.00 Architectural Conservation/Historic Districts, specifies the process and procedure for the ADRB to review COA applications from property owners for exterior improvements to buildings and properties within designated historic districts. The issuance of a COA by the ADRB is required before changes can be made to historic buildings and properties. Section 1126.50 states that if the ADRB refuses to issue a COA, the ADRB shall attempt to reconcile an alternative plan with the application is acceptable to both the application and the ADRB. If the ADRB and application are unable to reconcile, the applicant may appeal the decision of the ADRB to the BZA, pursuant to applicable provisions.

It is recommended that the BZA consider amending the Rules of Procedure to add the following to Article VI, Appeals Procedure, Section 1, BZA Rules of Procedure:

(3) The time limit to file an appeal following a decision of the ADRB for work already performed shall be thirty (30) calendar days after the decision of the ADRB.

Madam Chair Underwood-Kramer asked Mr. Creech what the letter of denial to an Applicant gives as options for further action. He replied that it is (1) Restore it back to the way it was (2) Do a new COA application, or (3) Appeal to the BZA. He went on to say that if the customer who has been denied a COA by the ADRB Board chooses to appeal the decision to the BZA, the fee of \$200.00 is waived.

Ms. Bushman asked if someone can get an extension if they need more time, and Mr. Creech replied that the customer would just need to give a Notice of appeal within the time frame decided on, they don't have to actually appear before the Board in that time.

After discussion by the Board, Mr. Jonson made a Motion to set the Appeal time to 60 days. With a 2<sup>nd</sup> by Mr. Maaytah and all "ayes", the Motion passes with a vote of 4-0.

**Minutes:**

Approval of Meeting Minutes - Written Summary and Audio Recording for the following dates: **October 10, 2016**

Mr. Jonson made a Motion to accept the minutes as presented. With a 2<sup>nd</sup> by Ms. Bushman and all "ayes", the Motion passes and the minutes are approved.

**Miscellaneous:**

Madam Chair Underwood-Kramer advised that she will be out of town for the next two meetings.

**Adjourned:**

With nothing further, Mr. Maaytah made a Motion to adjourn. With all "ayes", the meeting is adjourned.

Respectfully submitted,

Ms. Kim Kirsch  
Administrative Assistant

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Mr. John Creech  
Secretary

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Karen Underwood-Kramer  
Madam Chair