

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

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

REGULAR MEETING

December 9, 2020

1. ROLL CALL
2. INTRODUCTION of New Board of Zoning Appeals Member – Ben Dariano, At Large
3. ELECTION of OFFICERS
 - a. Chairperson
 - b. Vice-Chairperson
4. APPROVAL of the Motion Summary of the Board of Zoning Appeals meeting held on November 11, 2020, as recorded and transcribed.
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
- b. Staff Presentation
- c. Applicant Presentation
- d. Public Testimony

Due to the meeting being held virtually, public comment, less than 500 words is requested to be received by 3 p.m. before the meeting through email at emccloskey@delawareohio.net. To request to make a public comment virtually please email emccloskey@delawareohio.net by 3 p.m. prior to the meeting. Comments received on Facebook may have to be addressed by staff subsequent to the meeting.

- e. Commission Action

- 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
- b. Staff Presentation

c. Applicant Presentation

d. Public Testimony

Due to the meeting being held virtually, public comment, less than 500 words is requested to be received by 3 p.m. before the meeting through email at emccloskey@delawareohio.net. To request to make a public comment virtually please email emccloskey@delawareohio.net by 3 p.m. prior to the meeting. Comments received on Facebook may have to be addressed by staff subsequent to the meeting.

e. Commission Action

6. BOARD MEMBER COMMENTS AND DISCUSSION

7. NEXT REGULAR MEETING: January 13, 2020

8. 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
November 11, 2020

ITEM 1. Roll Call

Chairman Dick called the virtual meeting to order at 6:30 p.m.

Members Present Virtually: Beth Fisher, Adam Vaughn, Todd Daughenbaugh, Councilman Cory Hoffman, and Vice-Chairman Paul Junk and Chairman Matt Dick

Members Absent: Robert Whitmore

Staff Present Virtually: Lance Schultz, Zoning Administrator

ITEM 2. Approval of the Motion Summary of the Board of Zoning Appeals meeting held on September 9, 2020, as recorded and transcribed.

Motion: Vice-Chairman Junk moved to approve the Motion Summary for the Board of Zoning Appeals held on September 9, 2020 meeting, seconded by Mr. Vaughn. Motion approved by a 4-0-2 (Vaughn and Fisher).

Chairman swore in the following participants from the public for Case 2020-2309:

Eric Rodriguez
James Knox
James Savinell
Suncraft Corporation Inc.
122 West Johnstown Road
Gahanna, Ohio 43230

ITEM 3. REGULAR BUSINESS

A. 2020-2309: A request by Suncraft Corporation Inc., for a rear yard setback variance for an open porch addition and deck at 476 Grand Circuit Boulevard on property zoned R-4 PUD (Medium Density Residential District with a Planned Unite Development Overlay District).

Mr. Schultz reviewed the property location with is on a corner lot located on the east side Grand Circuit Boulevard and just south of Sundew Court. The owner is proposing to construct an open porch addition and deck on the eastern portion of the house which is considered their rear yard on the corner lot per the zoning code. He reviewed the design and color of the additional. Mr. Schultz reviewed the survey provided by the applicant that indicates the house was constructed

38 feet from the rear yard setback. Staff recommends approval of the request.

APPLICANT:

Eric Rodriguez
James Knox
James Savinell
Suncraft Corporation Inc.
122 West Johnstown Road
Gahanna, Ohio 43230

Motion: Councilmember Hoffman moved to approve 2020-2309, along with all staff conditions, finding beyond a reasonable doubt that the decision factor necessary for approval of a variance according to Chapter 1128 of the Planning and Zoning Commission are met, with the staff conditions as noted and with the additional condition of a setback to by 38 feet from property line as discussed, seconded by Vice-Chairman Junk. Motion approved by a 6-0 vote.

ITEM 4. BOARD MEMBER COMMENTS AND DISCUSSION

ITEM 5. NEXT REGULAR MEETING: December 9, 2020.

ITEM 6. ADJOURNMENT

Motion: Councilman Hoffman moved to adjourn the Board of Zoning Appeals meeting, seconded by Ms. Fisher. The Board of Zoning Appeals meeting adjourned at 6:45 p.m.

Matt Dick, Chairman

Elaine McCloskey, Clerk

APPLICANT/OWNER

Delaware City Schools
621 Pennsylvania Avenue
Delaware, Ohio 43015

REQUEST

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

PROPERTY LOCATION & DESCRIPTION

The subject properties owned by the school total 4.05 acres and are zoned R-4 (Medium Density Residential District) and are located between East Central Avenue and East William Street just east of Channing Street. The properties to the north are zoned R-4 and B-3 (Community Business District) while the properties to the east, west and south are zoned R-4.

BACKGROUND/PROPOSAL

The existing 64,148 square foot elementary school was constructed in 1970 and expanded in 2015. Since 2015, the school district has purchased 3 parcels just east of the school for a building expansion and site improvements. The school is proposing 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.

STAFF ANALYSIS

● **PROPOSED VARIANCE:**

- **BUILDING EXPANSION – SIDE YARD SETBACKS:** Chapter 1148.04 Lot Requirements for Conditional Uses indicates in All Districts a 40-foot side yard building setback is required for the building expansion.
 - The northeastern addition to the school along East Winter Street is located between 25 (along East Winter Street) and 43 (southern portion of the addition) feet from the eastern property line.
 - Therefore, the building would protrude up to 15 feet into the required side yard setback as the proposed building extends along an angle to the property line from East Winter Street from north to south.

- **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 variance request would achieve compliance with the purpose and intent of the zoning code with Conditional Use Permit and Combined Preliminary and Final Development Plan approval and could be considered minimal and would not likely be detrimental to the public welfare for the following reasons:

1. The owner is installing a continuous screen of junipers a minimum 6 foot high adjacent to the proposed building that would help screen the single family house to the east; 2. The front approximate 80% of the building protrudes into the setback but the degree of intrusion into the setback decreases the further the building extends south from East Winter Street (north to south). At the minimum point the building will still be setback 25 ft. from 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.

There are no special conditions or circumstances that are unique to this property except for the School purchased two parcels where the addition is being proposed to address the anticipated future growth of the student population. The school has been on this site for many years essentially nestled in a residential neighborhood. It will continue to be so with this approval and as the school has had to grow the site grows tighter with additional land only becoming available when the school can purchase adjacent property as they have in this case. As a public school, they are a unique land use that grows only in response, typically, to our growing city to provide the required public education opportunity to our citizens.

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 existing 64,148 square foot elementary school was constructed in 1970 and expanded in 2015 with another addition proposed now and will continue to be used as such with or without approval of this Variance. The school has been a good neighbor and the expansion would solidify their investment and commitment to the neighborhood.

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 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 1970 with renovations in 2015.

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 owner knew of the setback requirements when the expansion was discussed with staff during the review and submittal process of the subject property.

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

The owner has owned the property for several years and it is not likely that 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 would not likely be able to construct a smaller addition because the site is limited to accommodate the future projected school enrollment.

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

The BZA approved setback variances for a school (Delaware Hayes High School), a church and nursing home facility to accommodate expansion in the last 10 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 school 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 but is necessary to accommodate the expansion which is itself necessary as a result of enrollment growth.

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 school since 1970. At the minimum point, the structure would still be setback 25 ft. from the property line.

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 front approximate 80% of the building protrudes into the setback but decreases from a 15 foot protrusion down to complying with the setback as the building is set an angle to the property line from East Winter Street southward; 2. The owner is installing a continuous screen of junipers a minimum 6 foot high adjacent to the proposed building that would help screen the single family house to the east; 3. The School has been at this location since 1970 and has been a good neighbor over the years; 4. At the minimum point, the school will still be setback at least 25 ft. from the property line.

STAFF RECOMMENDATION – VARIANCE (2020-2586)

Staff recommends approval of a request by Delaware City Schools for a Side Yard Setback Variance for a Building Expansion for Conger Elementary School on approximately 4.05 acres zoned R-4 (Medium Density Residential District) and located at 10 Channing Street, with the following condition:

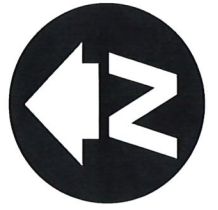
1. The owner shall install a continuous screen of junipers a minimum 6-foot-high adjacent to the proposed building that would help screen the single-family house to the east.

COMMISSION NOTES:

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

CONDITIONS/MISCELLANEOUS:

FILE:
ORIGINAL: 12/2/20
REVISED:

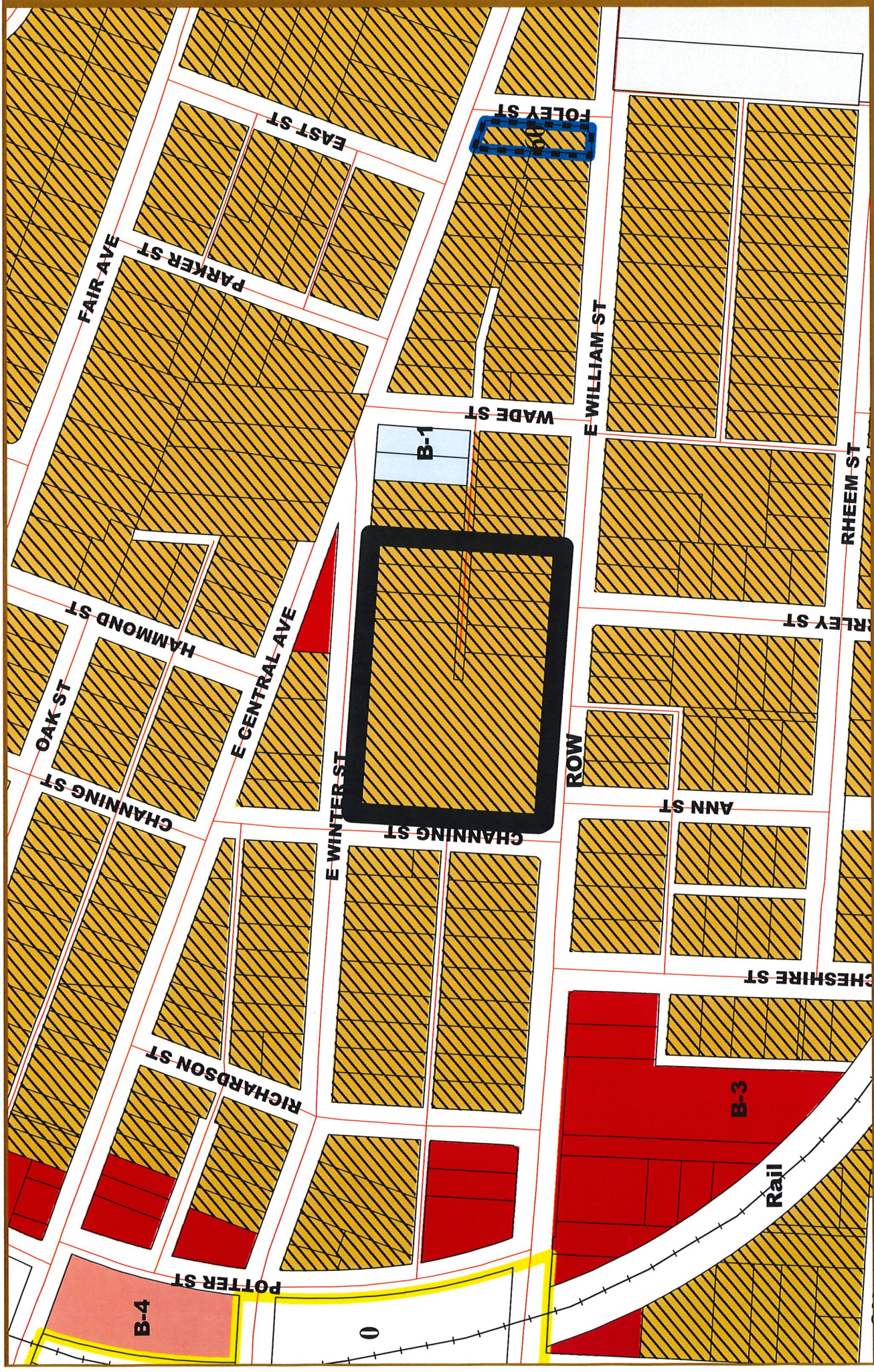


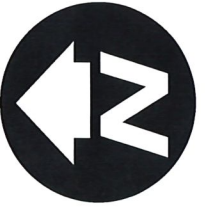
2020-2586
Side Yard Setback Variance
Conger Elementary School - 10 Channing Street
Location Map





2020-2586
Side Yard Setback Variance
Conger Elementary School - 10 Channing Street
Zoning Map

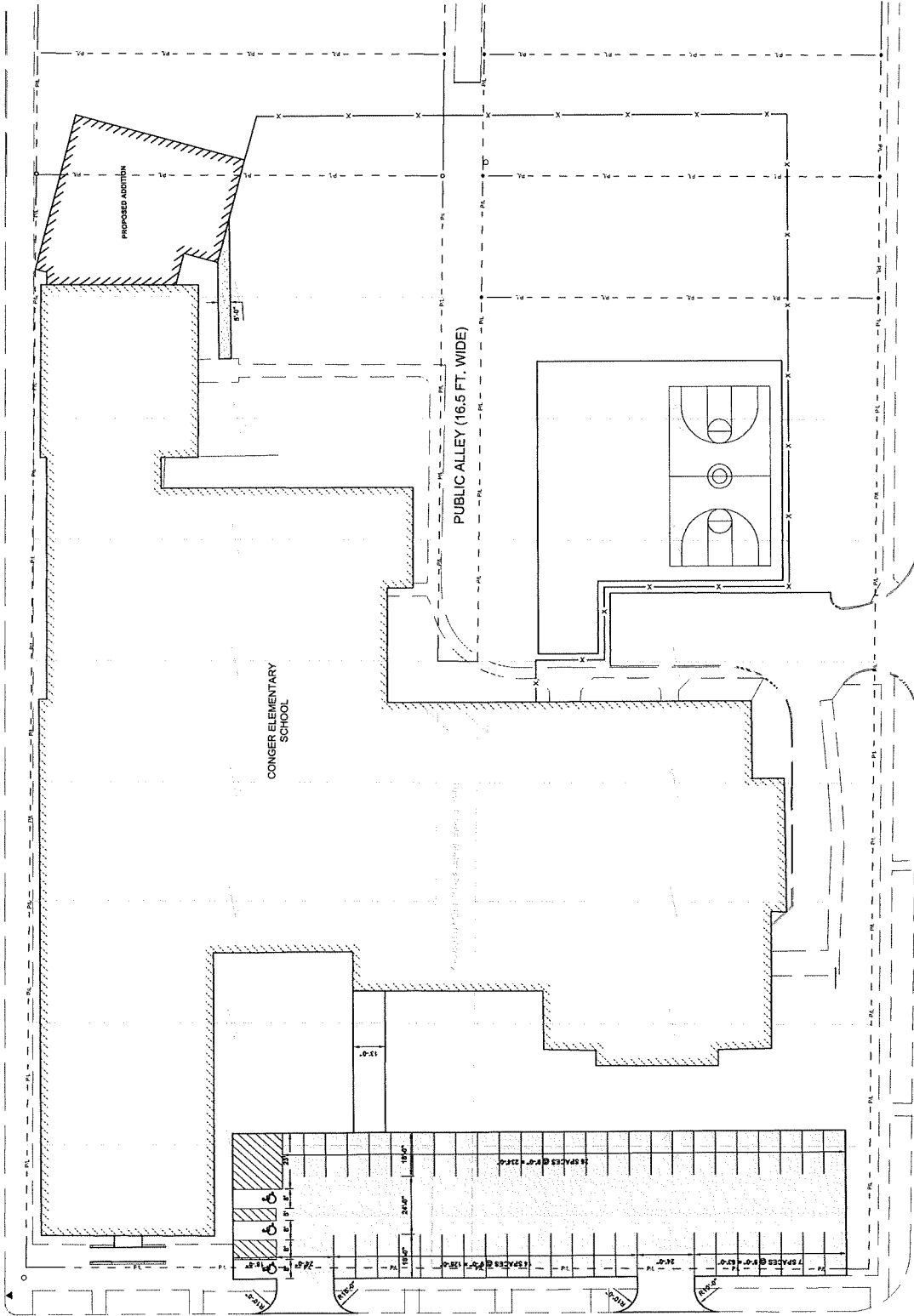




2020-2586
Side Yard Setback Variance
Conger Elementary School - 10 Channing Street
Aerial (2019) Map



WINTER STREET (60 FT. WIDE)

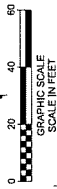


WILLIAM STREET (60 FT. WIDE)

EXISTING
REFER TO SHEET 'S'

PROPOSED

- BULBOUS CURB
- STRAIGHT CURB
- PAVEMENT
- WALK
- FENCE
- PAINTED WHEELCHAIR SYMBOL
- BIPOD
- HANDICAPPED PARKING SIGN
- 1.5" ASPHALT MILL AND 1.5" SURFACE COURSE WITH 1.5" ASPHALT CONCRETE TYPE (A)B1 TO (A)2.2
- LIGHT DUTY ASPHALT
- CONCRETE SIDEWALK



CONGER ELEMENTARY

DELAWARE CITY SCHOOLS
10 CHANNING ST.
DELAWARE, OH 43015

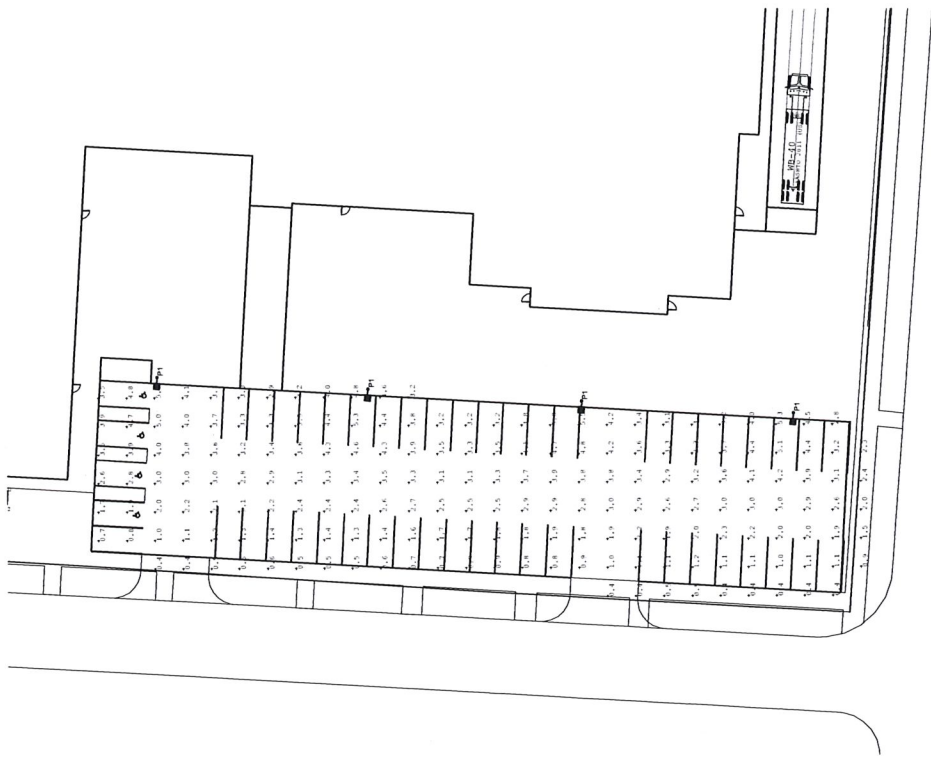
10/23/2020 2024 PM
C:\Users\7474\Documents\1905_CONGER_S0_CENTRAL_R19_7474\1905_CONGER_S0_CENTRAL_R19_7474.dwg



Project Status
Planning Commission Submittal 11/6/2020

DRAWN BY: E.M.
CHECKED BY: J.W.
PROJECT NUMBER: 1905

C-101
STAKING PLAN



A SITE PHOTOMETRIC PLAN
 1" = 20'-0"
 0" 10' 20'

LUMINAIRE SCHEDULE

PARTIAL MODEL NUMBERS MAY BE SHOWN AND ARE INTENDED TO INDICATE ACCEPTABLE MANUFACTURER'S PRODUCT LINE. EXACT MODEL NUMBERS MEETING THE FEATURE DESCRIPTION SHALL BE OBTAINED FROM THE MANUFACTURER'S AGENT. ALL FEATURES MAY NOT BE USED - REFER TO PLAN. DIMENSIONS MAY VARY. REFER TO THE SPECIFICATIONS SECTION 28.01 FOR ASSURANCE REQUIREMENTS TO BE MET BY DRAWINGS. DIMENSIONS SHOWN ARE UNLESS OTHERWISE NOTED.		B. BOLLARD		C. CEILING		C.V. CONE		C. GRABBAR		P. POLE		R. RECESSED		S. SUSPENDED		T. TRACK		U.S. UNDERCABINET		W. WALL		X. UNDERSEA	
TAD	MANUFACTURER	SERIES	MODEL	DESCRIPTION	SOURCE	VOLTAGE	WATTAGE	COLOR TEMP.	LUMENS	DIMMING	9-10V	POLE MOUNTED	ACRYLIC TYPE IV	BY ARCHITECT	APPROVED MANUFACTURERS	OPTION	FINISH/TREAT	LENS	HOUSING	BE CASE ALUMINUM	POLE MOUNTED	ACRYLIC TYPE IV	BY ARCHITECT
P1	LITRONA	D-SERIES SIZE 2	EXCELLED	SINGLE HEAD SITE AREA	LED	180V	18.72	4000K	18,372	0-10V	POLE MOUNTED	ACRYLIC TYPE IV	BY ARCHITECT	PROVIDE WITH 25% SQUARE WITH SHIELD	APPROVED MANUFACTURERS	OPTION	FINISH/TREAT	LENS <td>HOUSING</td> <td>BE CASE ALUMINUM</td> <td>POLE MOUNTED</td> <td>ACRYLIC TYPE IV</td> <td>BY ARCHITECT</td>	HOUSING	BE CASE ALUMINUM	POLE MOUNTED	ACRYLIC TYPE IV	BY ARCHITECT

LUMINAIRE SCHEDULE	
AVERAGE	2.95
MAXIMUM	5.15
MINIMUM	0.15
UNIFORMITY	0.33

D-Series Size 2 LED Area Luminaire

Specifications

Length: 17.5"

Width: 17.5"

Height: 1.5"

Weight: 1.5 lbs

Material: Aluminum

Finish: White

Introduction

The modern styling of the D-Series is widely appreciated. It blends seamlessly with any environment. The D-Series is a high performance, high LED technology area luminaire with excellent performance. The D-Series is a high performance, high LED technology area luminaire with excellent performance. The D-Series is a high performance, high LED technology area luminaire with excellent performance.

Ordering Information

EXAMPLE: EXCELLED P7 30K TSM MOUNT SPA NICHIAZ P730A 03030

Part No.	Description	Part No.	Description
P7	EXCELLED	03030	30K TSM MOUNT SPA NICHIAZ P730A
P730A	30K TSM MOUNT SPA NICHIAZ P730A	03030	30K TSM MOUNT SPA NICHIAZ P730A

CONGR ELEMENTARY
 DELAWARE CITY SCHOOLS
 10 CHANNING ST.
 DELAWARE, OH 43015
 PROJECT NUMBER 1911

ES-100
 SITE LIGHTING CALCULATIONS

Project Name
 Preparing Consultant's Submittal 11/16/2020

DESIGNED BY: Paul Fisher
 CHECKED BY: Bob Brown
 PROJECT NUMBER 1911

CONTROL POINTS			
No.	Northing	Easting	Description
1	200901.125	814278.900	5/8" O.D. Iron Pin Set
2	200902.457	814121.844	Map Nail Set
3	200906.453	813701.030	Map Nail Set
4	200907.625	813700.114	Map Nail Set

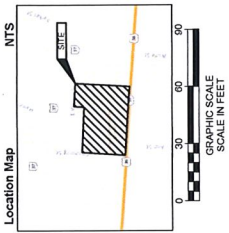
BENCHMARKS	
No.	Description
1	Cotton Gin Spike Set in the Telephone/Power Poles located at the westerly intersection of Channing Street and Winter Street.
2	Corner of East Williams Street and Channing Street.
3	Chiselled Square on the Signal Pole that is located at the northwesterly corner of East Williams Street (U.S. 30) and Channing Street.

Elevations are based on NAVD 1988.

LEGEND

□	Telephone Pull Box/Enclosure
□	Electric Meter
□	Electric Utility Pull Box
□	Traffic Pull Box
□	Lighting Pull Box
○	Chain Out
○	Down Spout
○	Staircase Foot Header
○	Fire Hydrant
○	Gas Line Marker
○	Top of Gas Line
○	Record Plan
○	Abandoned Utility
○	Spot Elevation
○	Bottom of Curb Elevation
○	Control Point
○	Triangulation
○	Handicap Ramp
○	Sign
○	Concrete Pavement, Walk, Slab
○	Block Walk

Not all symbols necessarily used.

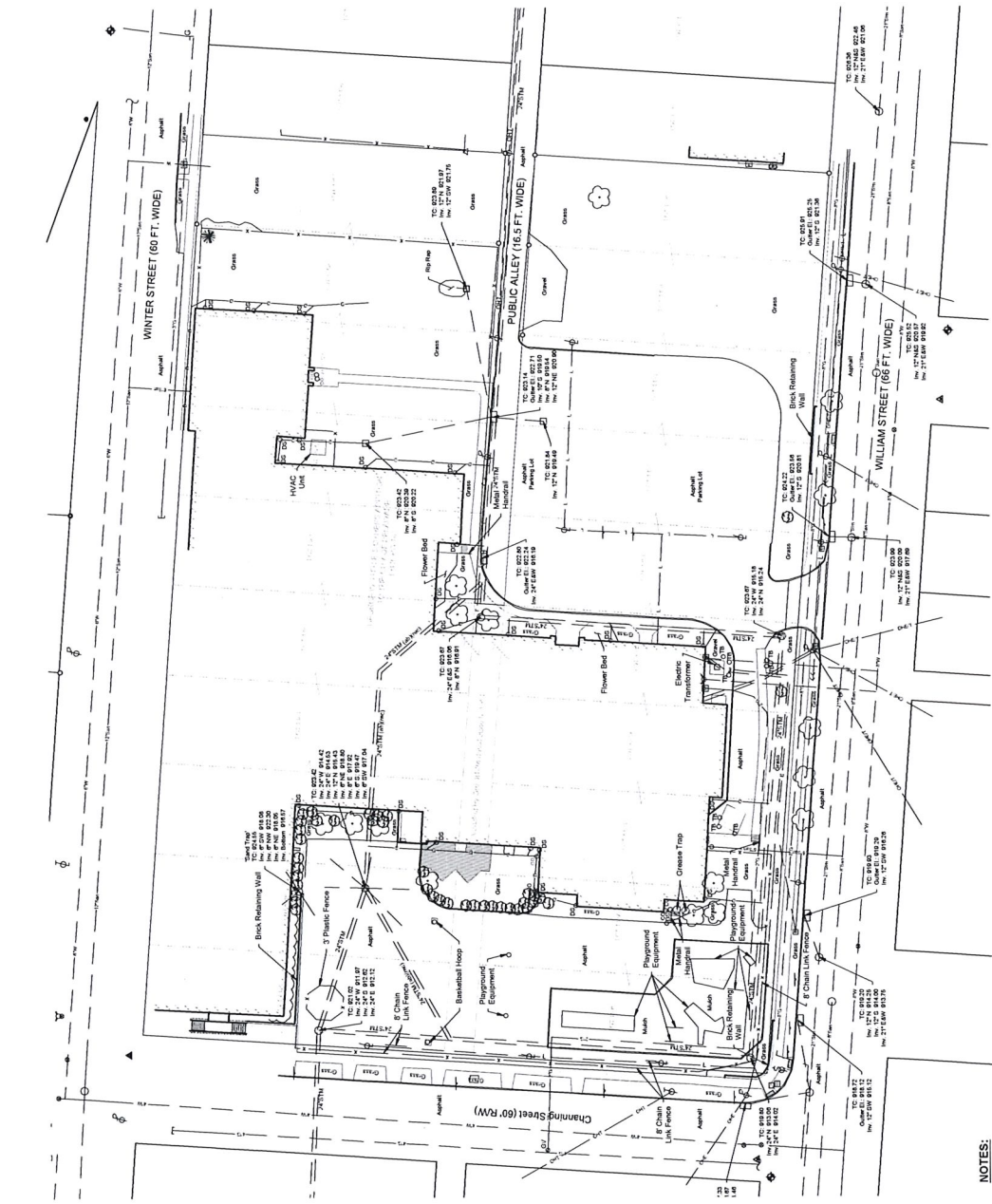


CONGER ELEMENTARY
DELAWARE CITY SCHOOLS
10 CHANNING ST.
DELAWARE, OH 43015

PROJECT SHEETS
 PROJECT NUMBER: 195
 DATE: 11/14/2020
 DRAWN BY: NS
 CHECKED BY: RLO
 PROJECT NUMBER: 195

PROJECT SHEETS
 PROJECT NUMBER: 195
 DATE: 11/14/2020
 DRAWN BY: NS
 CHECKED BY: RLO
 PROJECT NUMBER: 195

195 - CONGER ELEMENTARY
 TOPOGRAPHIC SURVEY
 TS-100



- ### NOTES:
- All underground utility locations are shown as accurately as available based on utility records and field investigation. Utility records are not always accurate and field investigation is not always complete. Utility records are not always complete and field investigation is not always complete. Utility records are not always complete and field investigation is not always complete.
 - The location of the utility lines shown on this plan are based on the utility records and field investigation. The location of the utility lines shown on this plan are based on the utility records and field investigation. The location of the utility lines shown on this plan are based on the utility records and field investigation.
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We hereby certify that this drawing is representative of a site and conditions as shown on the record drawings made by KordaWorsham Engineering, Inc.

Tom W. MacMahon
 Registered Surveyor No. 7799
 Ohio

Progress Submittal

TREES INVENTORY
WITHIN PROJECT LIMITS

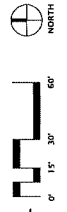
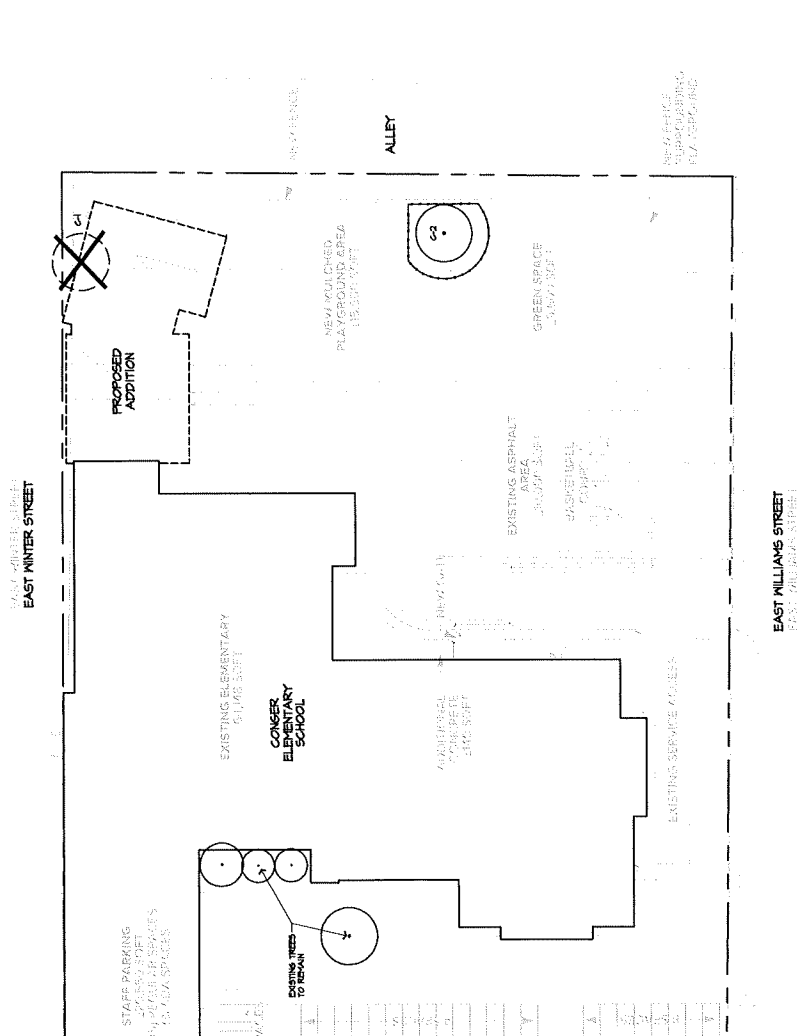
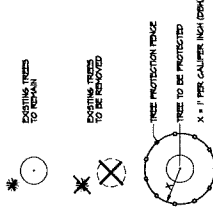
KEY	TREE SPECIES (COMMON NAME)	DBH	CONDITION	COMMENTS
C1	SPRING	14"	FAIR	REMOVE
C2	HAWK	24"	GOOD	PRESERVE

TOTAL TREE CALIPER (DBH) REMOVED = 14"

GENERAL NOTES

- ALL TREES IN THE CONSTRUCTION AREA NOT SPECIFICALLY DESIGNATED FOR REMOVAL SHALL BE PROTECTED WITH HIGH VISIBILITY TREE PROTECTION FENCE AS SHOWN.
- ONLY TREES 4" CALIPER AND LARGER WITHIN DEVELOPMENT LIMITS NOTED ON THESE PLANS.
- PROTECTION FENCING OR BARRIERS SHALL REMAIN THROUGHOUT CONSTRUCTION AND ANY PROTECTION BARRIERS OR FENCING SHALL BE MAINTAINED AT ALL TIMES. COLLAPSED OR DAMAGED BARRIERS OR FENCING SHALL BE IMMEDIATELY REPAIRED OR REPLACED. ALL MATERIALS, DEBRIS, FILL, VEHICLES OR EQUIPMENT BE STORED WITHIN THE BOUNDARY.

LEGEND



1 CONGER ELEMENTARY SCHOOL
SCALE: 1" = 30'

EDGE
1700 MARKET STREET, SUITE 350
COLUMBUS, OHIO 43215
614-460-1841

CONGER ELEMENTARY SCHOOL - ADDITIONS

DELAWARE CITY SCHOOLS
599 PENNSYLVANIA AVE.
DELAWARE, OH 43015

170 EAST STATE ST
COLUMBUS, OH 43215
WWW.EDGEARCHITECT.COM
Project Status
11/04/2020

DELAWARE CITY SCHOOLS
599 PENNSYLVANIA AVE.
DELAWARE, OH 43015
PROJECT NUMBER: 20018
L-101
TREE PRESERVATION PLAN



DELAWARE CITY SCHOOLS CONGER ELEMENTARY SCHOOL ADDITION
PLANNING COMMISSION SUBMISSION

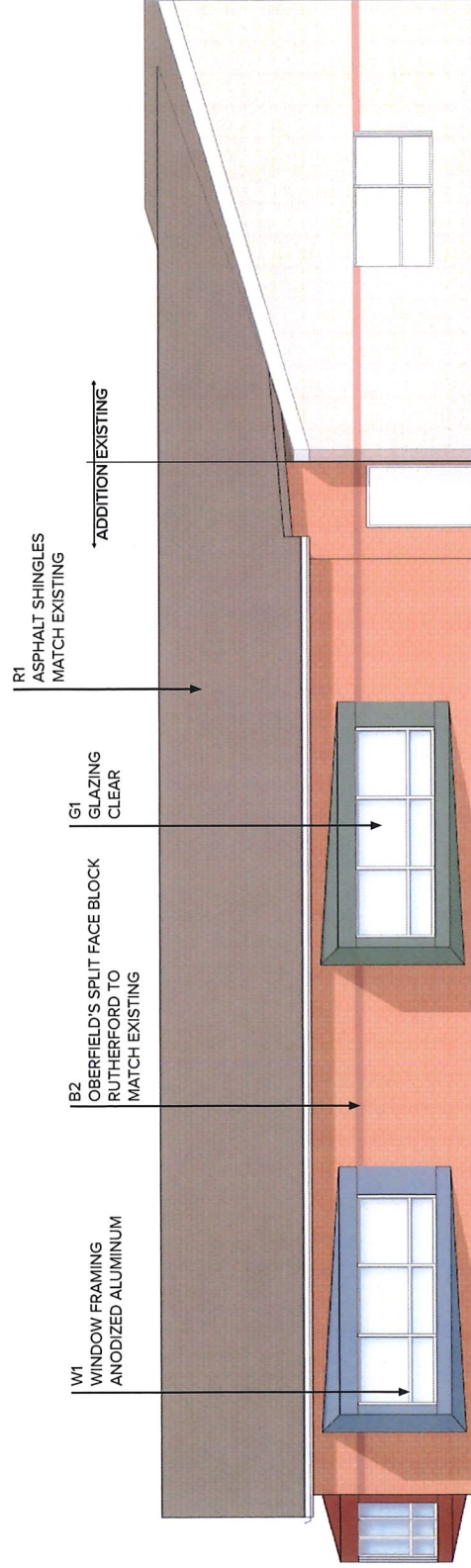
NOVEMBER 04, 2020



TRIAD Architects

SCHEMATIC DESIGN

CONGER ELEMENTARY SCHOOL
EXTERIOR ADDITION ELEVATIONS



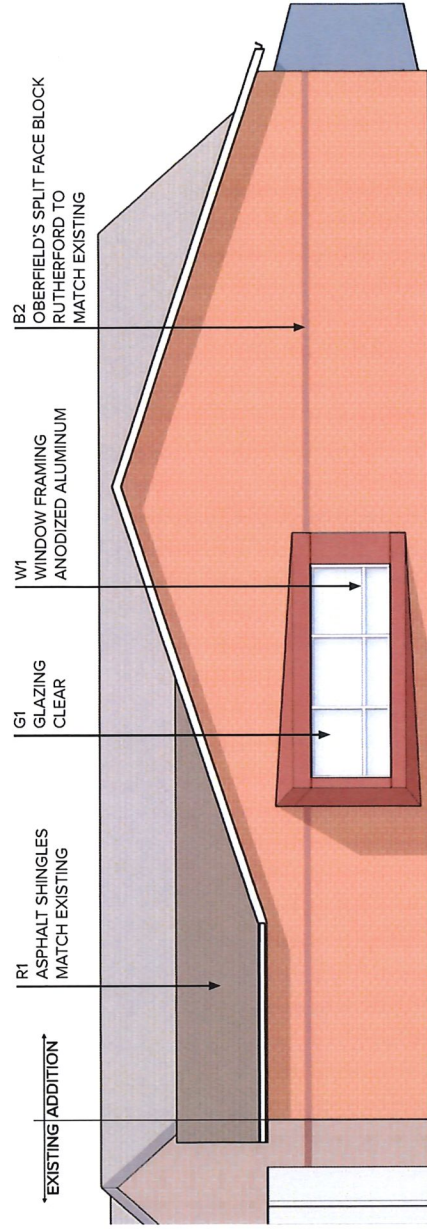
1 NORTH ELEVATION
 1/8" = 1'-0"

- M3 METAL ROOF AND WALL PANELS BRITE RED
- M2 METAL ROOF AND WALL PANELS SLATE BLUE
- M1 METAL ROOF AND WALL PANELS EVERGREEN
- B1 BELDON BRICK MATCH EXISTING

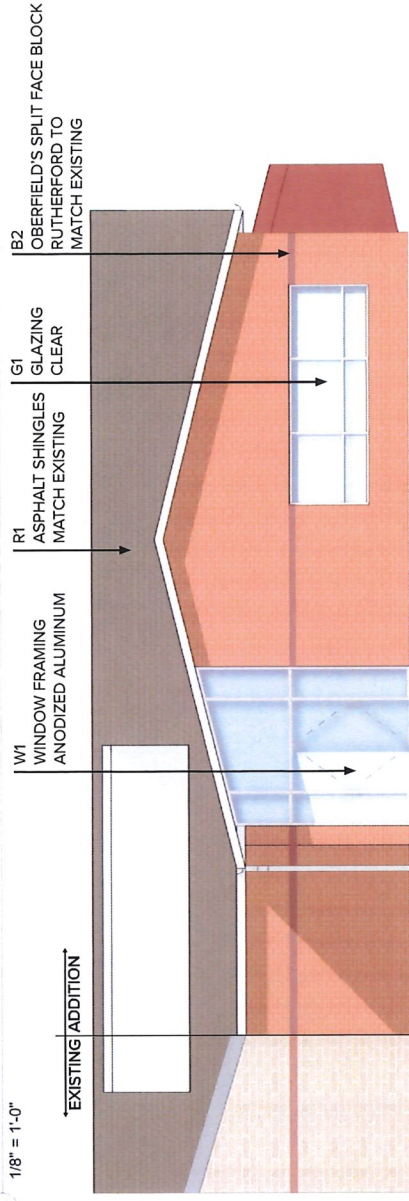


DELAWARE CITY SCHOOLS
 CONGER ELEMENTARY SCHOOL

CONGER ELEMENTARY SCHOOL
EXTERIOR ADDITION ELEVATIONS



2 EAST ELEVATION
 1/8" = 1'-0"



1 SOUTH ELEVATION
 1/8" = 1'-0"



M3 METAL ROOF AND WALL PANELS BRITE RED



M2 METAL ROOF AND WALL PANELS SLATE BLUE



M1 METAL ROOF AND WALL PANELS EVERGREEN



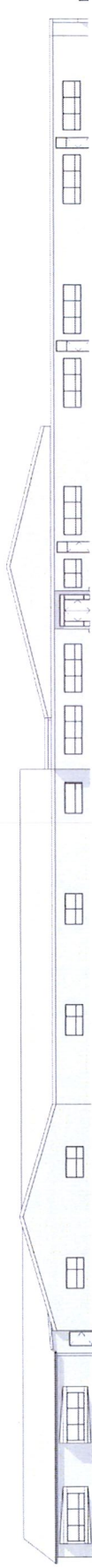
B1 BELDON BRICK MATCH EXISTING



CONGER ELEMENTARY SCHOOL



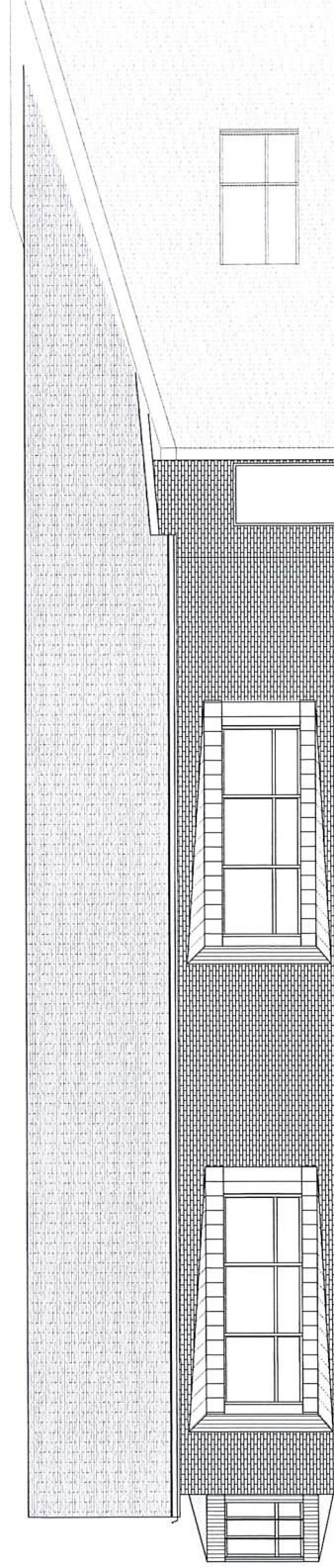
1 WINTER STREET ELEVATION
1/32" = 1'-0"



2 WINTER STREET ELEVATION
1/32" = 1'-0"



CONGER ELEMENTARY SCHOOL
EXTERIOR ADDITION ELEVATIONS

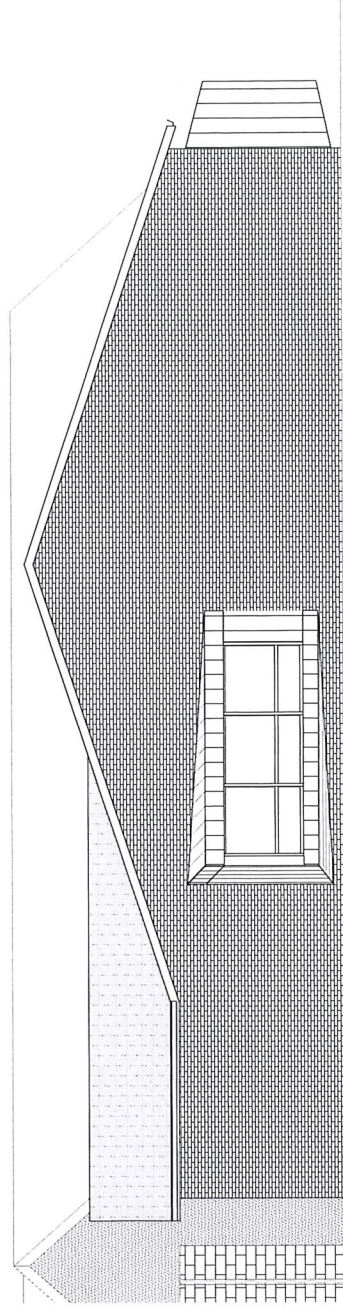


1 NORTH ELEVATION
1/8" = 1'-0"

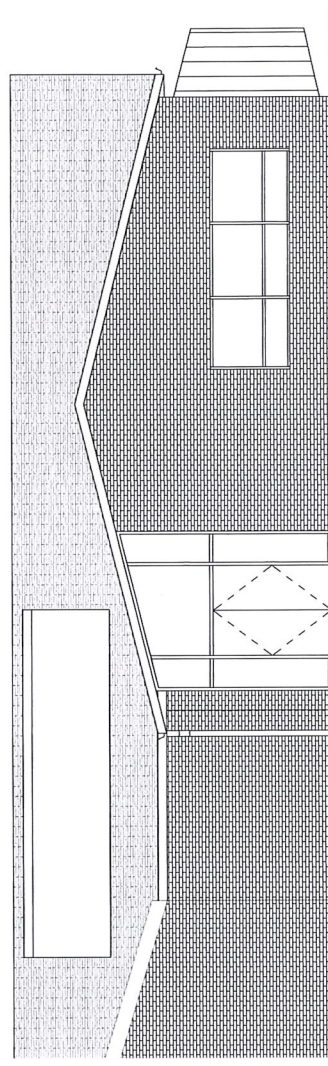


DELAWARE CITY SCHOOLS
CONGER ELEMENTARY SCHOOL

CONGER ELEMENTARY SCHOOL
EXTERIOR ADDITION ELEVATIONS



③ EAST ELEVATION
1/8" = 1'-0"



① SOUTH ELEVATION
1/8" = 1'-0"





Delaware City Schools
Conger Elementary School Additions and Site Improvements
10 Channing Street
Delaware, OH 43015
City of Delaware Submission
November 4, 2020

NARRATIVE

Delaware City Schools has deemed there is a need to add three additional classrooms at Conger Elementary to meet current enrollment projections. They have also identified site layout issues they would like to address. This submission proposes to address both of those issues with a building addition and site modifications. Delaware City Schools recently acquired three adjacent residential parcels, one on the north half of their site along Winter Street and two on the south half of the site along William Street.

A building addition is proposed at the north east corner of the existing building to contain the needed two additional classrooms plus a third classroom to replace one that is currently in the existing footprint of the building but is being converted to corridor space to the new addition and a set of group restrooms. With this being a prominent side of Conger Elementary, Delaware City Schools would like to construct an addition that takes some aesthetic cues from the various existing portions of the building but provides an interesting end to the building visible from Central Avenue. The proposed addition is scaled to blend with the nearby residences. The proposed addition encroaches over the side yard setback and this application requests a variance for this proposition. Delaware City Schools has been in contact with this residential neighbor and the neighbor is agreeable to the building addition's size and position. Opaque landscape screening is proposed along the east property line to visually separate the building addition and the adjacent residential property.

For site modifications, Delaware City Schools has a desire to reduce the amount of traffic entering or exiting the property from William Street. The existing parking lot along the south portion of the site is for staff parking. This staff parking lot is proposed to be relocated to the west side of the school. This will allow for all staff traffic entering/exiting the site to occur on Channing Street which is less busy than William Street. Landscape screening is proposed at the west side of the parking lot facing Channing Street. Parking lot site lighting as required is proposed.

A portion of the existing parking lot will be repurposed for a service truck turn-around and asphalt play surface. The southeast portion of the site is proposed to be green space for the playground on the added parcels. Between the asphalt play surface, green space along the south and the building to the north, a mulched playground area is proposed. Relocation of the existing storm water retention basin is also proposed for this area.

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 (likely 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:

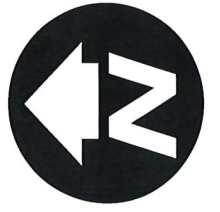
1. The existing four tenant units shall be for single unit residential uses only for each of the four units
2. The size and footprint of the existing structure including all the subsequent additions shall not be increased either horizontally or vertically per the current non-conforming enlargement/alteration 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* _____

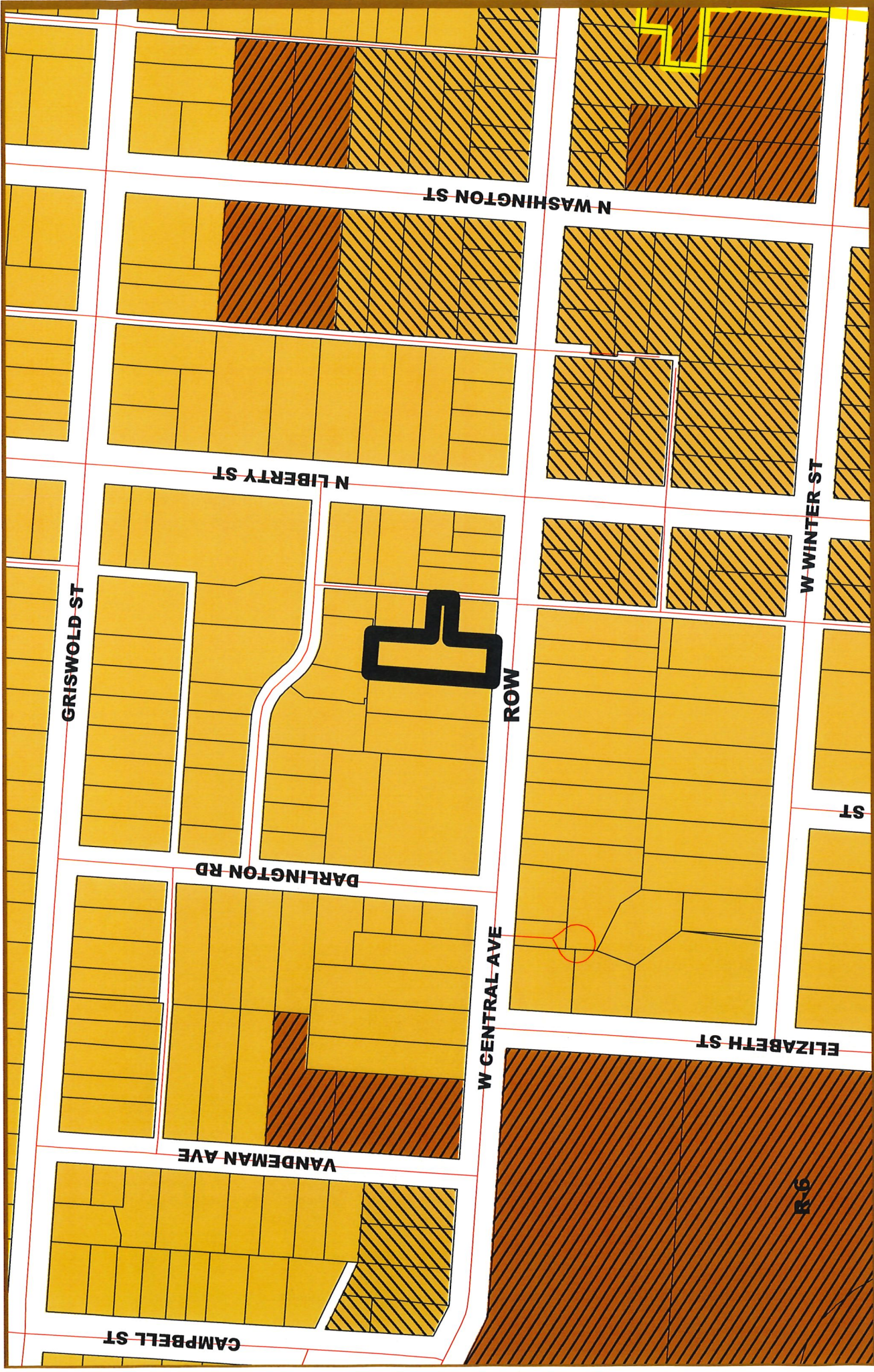
CONDITIONS/MISCELLANEOUS:

FILE:
ORIGINAL: 12/1/20
REVISED:



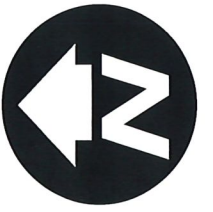
2020-2588
Substitution of Less Nonconforming Use
DGH Properties - 152 West Central Street
Location Map





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





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



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.

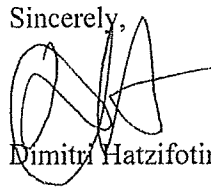
Since I plan to refurbish all four (4) units, I would also like to convert the rear two (2) units in this structure from a commercial use to a residential use. While this use is technically non-conforming, it is less non-conforming than the current use and thus able to be approved under the current zoning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

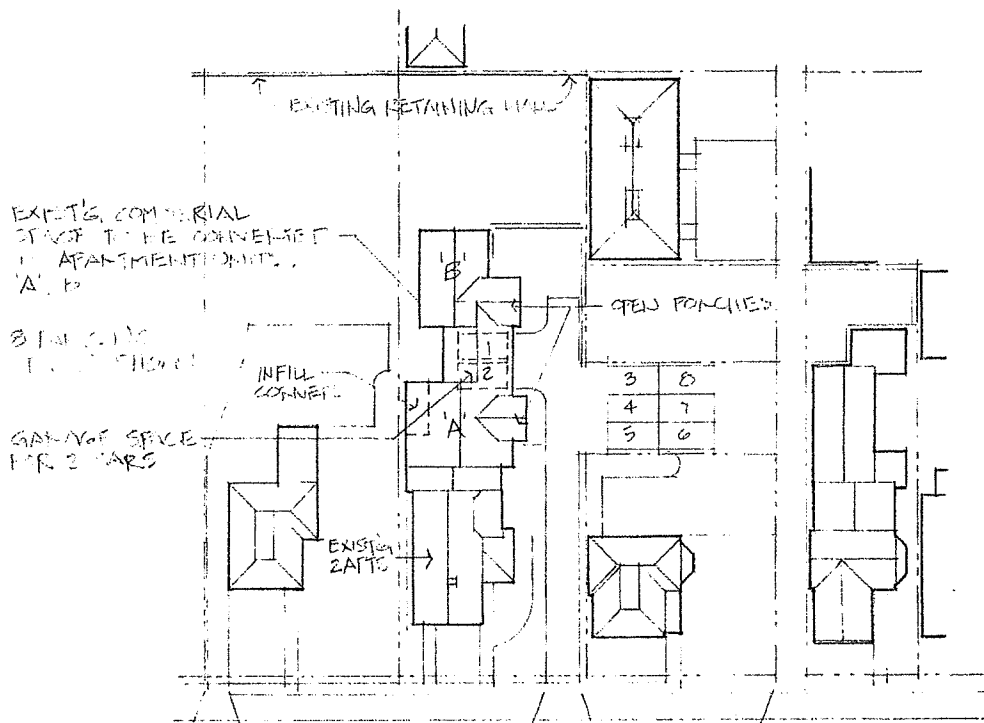
Substitution of "Less Nonconforming" Use. If no structural alterations are made other than those required by enforcement of other codes or ordinances or those necessary for maintenance, a nonconforming use may be changed to another nonconforming use of a less nonconforming, more appropriate nature for 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



EXIST'G. COMMERCIAL
STREET TO THE CORNER
1. APARTMENT UNITS,
'A', 'B'

3' IN. C.I.V.
1. IN. SHOW

GARAGE SPACE
FOR 2 CARS

IN-FILL
CORNER

EXIST'G.
ZAFFO

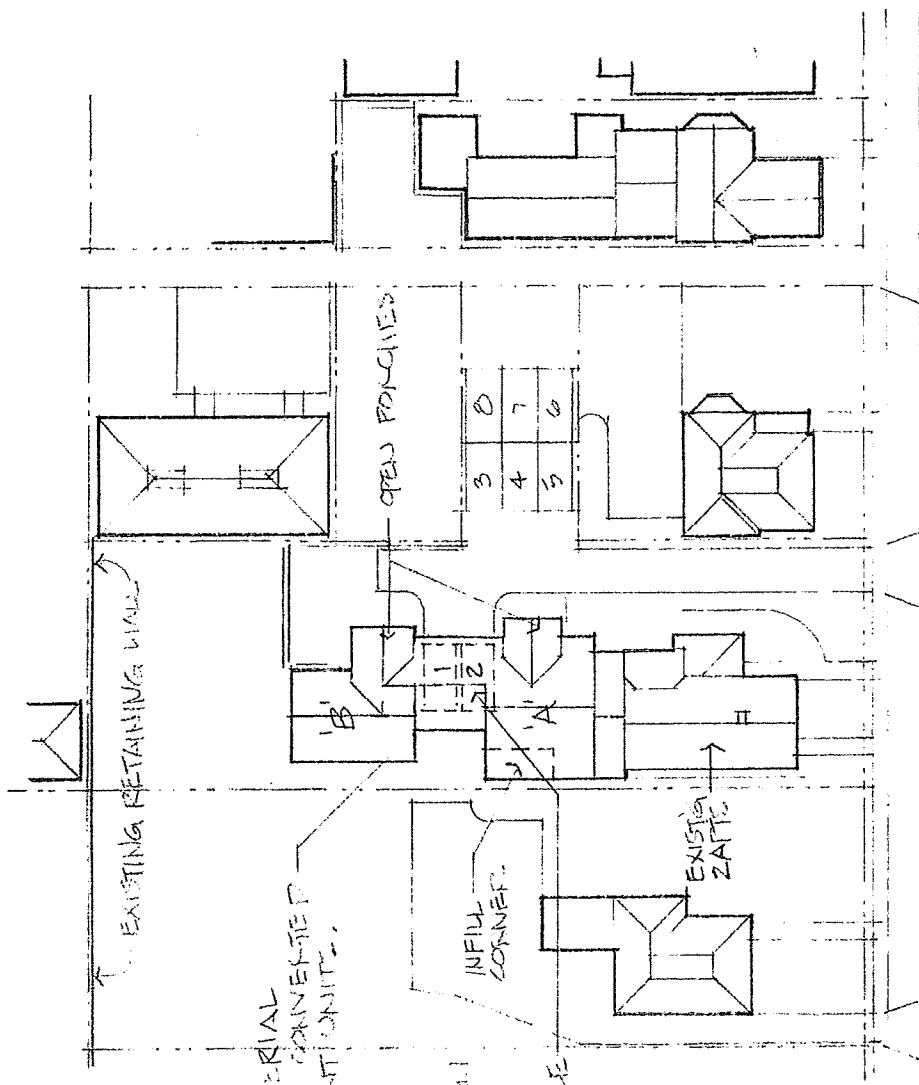
OPEN PORCHES

3	8
4	7
5	6

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

▲
NORTH

SCA # 20070



EXIST'G. COMMERCIAL
 SPACE TO BE CONVERTED
 TO 2 APARTMENT UNITS,
 'A', 'B'

3 PART CARPORT
 NEW CONCRETE

GARAGE SPACE
 FOR 2 CARS

INFILL
 CORNER

EXIST'G
 ZONE

NEW POND

EXISTING RETAINING WALL

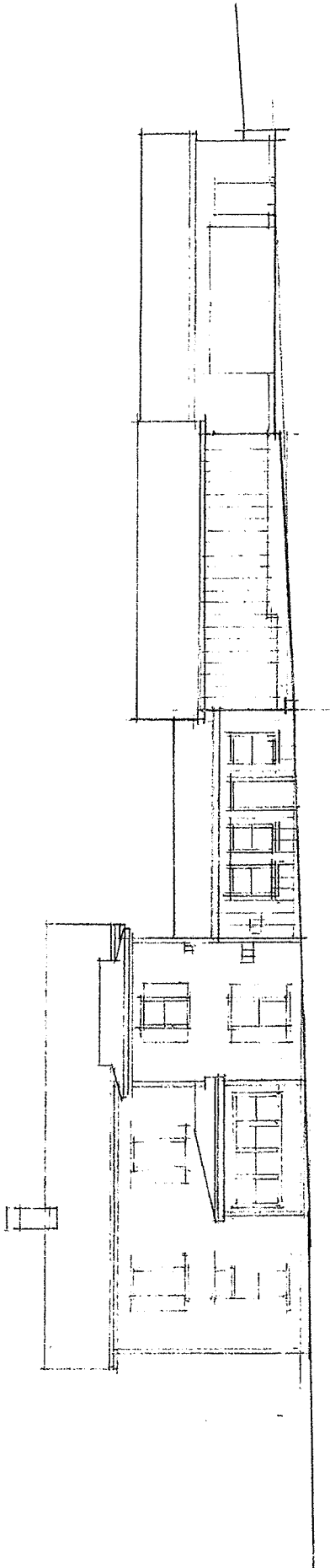
152 CENTRAL AVENUE, DELAWARE, OH

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**



Project # _____ Case # _____

Planning Commission

- | | | |
|------------------------------------------------------------------------|-----------------------------------------------------------|--------------------------------------------------------------------------------------|
| <input type="checkbox"/> Amended Final Development Plan | <input type="checkbox"/> Final Development Plan Extension | <input type="checkbox"/> Substitution of a Non-Conforming Use |
| <input type="checkbox"/> Amended Final Subdivision Plat | <input type="checkbox"/> Final Subdivision Plat | <input type="checkbox"/> Vacation-Alley |
| <input type="checkbox"/> Amended Preliminary Development Plan | <input type="checkbox"/> Final Subdivision Plat Extension | <input type="checkbox"/> Vacation-Easement |
| <input type="checkbox"/> Amended Preliminary Subdivision Plat | <input type="checkbox"/> Floodplain Permit | <input type="checkbox"/> Vacation-Street |
| <input type="checkbox"/> Annexation Review | <input type="checkbox"/> Lot Split | Board of Zoning Appeals |
| <input type="checkbox"/> Combined Preliminary & Final Development Plan | <input type="checkbox"/> Pre-annexation Agreement | <input type="checkbox"/> Appeal Administrative Decision or Interpretation |
| <input type="checkbox"/> Comprehensive Plan Amendment | <input type="checkbox"/> Preliminary Development Plan | <input type="checkbox"/> Conditional Use Permit |
| <input type="checkbox"/> Concept Plan | <input type="checkbox"/> Preliminary Dev Plan Extension | <input checked="" type="checkbox"/> Substitution of Equal or Less Non-Conforming Use |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Preliminary Sub Plat | <input type="checkbox"/> Variance |
| <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 | |

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 # S19-432-15-013-000

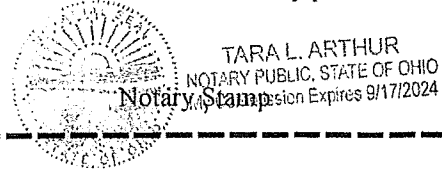
Applicant Name DGH Properties LLC Contact Person Dimitri Hatzifotinos
 Applicant Address 1160 Goodale Blvd Columbus OH 43212
 Phone 614 946 2072 Fax 614 324 0450 E-mail dhatzifotinos@willislawohio.com
 Owner Name DGH Properties LLC Contact Person Dimitri Hatzifotinos
 Owner Address 1160 Goodale Blvd 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 3rd day of November, 2020



Tara L. Arthur
 Notary Public