



## ***Board of Zoning and Planning Meeting Agenda January 26, 2023***

### **1) Call to Order**

The meeting was called to order by Chairperson Behal.

### **2) Roll Call of Members**

Members present: Mr. King, Mr. Levine, Mr. Marsh, Chairperson Behal

It was noted that with four members, three positive votes are required to receive passage of an application.

### **3) Approval of Minutes from December 1, 2022**

Motion to pass the Minutes by Mr. Marsh, second Mr. Levine; all in favor.

### **4) Public Comments**

### **5) Old Business**

### **6) New Business:**

1) Application Number: BZAP-22-46

Address: 2366 Bexley Park

Applicant: Gary Alexander

Owner: Laura S. Schick

Request: The applicant is seeking Architectural review and approval of a Certificate of Appropriateness from the Board of Zoning and Planning, to allow a 2nd floor expansion at the rear of the principal structure. The applicant is also seeking a 0.3' variance from Bexley Code Section 1252.09 (R-6 Zoning) which requires an 8' setback from the side yard property line, to allow the 2nd floor expansion of the principal structure which is located 7.7' from the east side property line.

Mr. Alexander was sworn in.

Ms. Rose described the lot measurements and explained that this house is nonconforming due to proximity to the lot lines. She gave an overview of the project, indicated the request for a minor variance, and mentioned that there was discussion among the ARB members regarding the cantilever.

Ms. Bokor mentioned there were comments and conditions and, while the Board understood the request for the variance and rationale, asked Ms. Bokor to work with Mr. Alexander on the design.

Mr. Alexander stated this project was approved by the ARB and the only request was to look at the bottom of the cantilever, which does not relate to the variance. He said the variance is due to building on the existing side wall, which encroaches 3.5" onto the setback. He explained that this



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solution is more architecturally amenable to other options. Due to the low sloping roof, it has relatively little impact on the adjacent property, he said.

Ms. Bokor clarified that the project was approved by the ARB with conditions.

It was explained that the house is an existing condition and encroaching into the 8' side yard setback.

Mr. Alexander said the structure has been compromised by two previous additions in the back of the home; the siding is not original and therefore the entire home will be painted white.

The Findings of Fact and Decisions of the Board for Application No. BZAP-22-46 for property located at 2366 Bexley Park: Upon consideration of the application, proposed variance and evidence and testimony before it, the Board finds the Applicant has proven that the criteria to grant an area variance in Bexley Code Section 1226.11(c) have been met and a 0.3' variance from Bexley Code Section 1252.09 be allowed for a second story addition at the rear of the principle structure. The Board further finds that after review of the plans and consideration of the application, evidence, and testimony given, and the recommendation from the Architecture Review Board, that a Certificate of Appropriateness should be issued subject to any minor details to be reviewed and approved by the residential Design consultant.

The applicant agreed to the Finding of Fact.

**Motion to approve by Mr. Marsh, second by Mr. King; roll call: Mr. Levine – Yes, Mr. King – Yes, Mr. Marsh – Yes, Chairperson Behal – Yes.**

2) Application Number: BZAP-22-47

Address: 110 S. Stanwood

Applicant: Valerie Halas

Owner: Nathan Render and Tal Bendor

Request: The applicant is seeking approval from the Board of Zoning and Planning for Architectural review and approval, a Certificate of Appropriateness to allow a new detached garage which will replace the existing detached garage. The applicant is also seeking a 3' variance from Bexley Code Section 1252.15(g)(1) which requires a 3' setback from all property and right-of-way lines, to allow the garage to be 3' from the side property line and 8' from the rear property line and at the edge of the city right-of-way easement.

Ms. Halas was sworn in.

Ms. Rose gave an overview of the application, including the lot side and various measurements. She stated this project will be an improvement based on the fact that the current encroaching



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shed will be removed. The ARB recommended this go to the BZAP with the request to remand the case back to the ARB for final design approval, based on the fact that the applicant also has a separate ARB application. If the BZAP were to find this project appropriate, the ARB would like to make sure that this project matches the applicant's two-story addition project at the rear of the home.

Ms. Bokor stated the garage in this plan was designed to match the materials of the proposed addition to the home; the Board wanted to table this and decrease the amount of detail in the project. This is before the Board now to make sure members are okay with the variance.

Ms. Halas explained the desire to widen the garage in order to fit in two vehicles, while trying to follow the existing driveway lines so it does not need to be redone. The applicant also wants space from the proposed addition, as things get tighter the closer to the house.

It was determined that the 3' at the top is acceptable, but what is problematic is the back of the City's utility's easement. There is currently a shed in the easement and the applicant is asking to be right against the easement. The existing garage has a flat top roof that is 18' by 18' and currently cars cannot be put in due to the garage door height.

Chairperson Behal indicated that most Bexley residents would benefit from additional storage in their garage and would like to build to the easement line; approving the project based on this could be problematic for the Board by building a precedent.

Ms. Rose said that most lines are accessed through the manhole and currently, maintenance is not as intense. However, a shed over the easement is not a good situation. There is no alley, but there are still utilities there; there is a sanitary line in that easement and a manhole at the end of the row of lots.

Ms. Halas said the applicants would not be happy to lose either storage space or yard.

Ms. Rose stated she consulted with the City's Sanitary Department, they want to ensure they have access to the line through the manhole.

There was discussion about the platting and design of these lots. Mr. Marsh indicated that if the City isn't concerned about it, then he would be willing to grant the easement.

Ms. Rose stated she would like to do more research about why a 3' setback is required and if it could be based on the size of the easement depending on whether there is a sanitary line.

Mr. King asked about the lines; Ms. Rose stated she checks for the sanitary lines and there is one in this location.



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Mr. Marsh said they could prove it and acknowledge they could be at risk to have to move it.

Chairperson Behal mentioned that perhaps Code should be changed if building against the easement is no longer problematic. The constriction of the law makes it difficult for him to vote positively.

Ms. Rose said technically, there is still 4 inches of concrete in the easement.

Mr. Marsh stated that it could be passed with the condition of additional approval from the Service Director.

There was further discussion among Board members about easements and the location of a nearby alley.

Ms. Bokor said even if this is approved, she and Ms. Rose will bring it up to City Council.

It was discussed that there are a handful of areas within the City whereas there likely should have been an alley but there is not.

Chairperson Behal stated the applicant could widen the garage without a variance; there was discussion about the practical uses of this. Additionally, he indicated there are guidelines as to when variances are appropriate and the statute is a set of standards that are all to be regarded or considered, but none of them are conclusory.

There was discussion about how to proceed.

Finding of Facts and Decision of the Board for Application No. BZAP- 22-47 for property located at 110 S. Stanwood: The Board of Zoning and Planning finds that upon consideration of the application, proposed variance and evidence and testimony before it, the Applicant has proven that the criteria to grant an area variance in Bexley Code Section 1226.11(c) have been met and a 3' variance from Bexley Code Section 1252.15(g)(1) to allow a new detached garage to be located at the edge of an 8' easement from the rear property line with the following condition: 1) The Bexley Service Director confirm that the location does not substantially affect City services; 2) the Certificate of Appropriateness return to the Architectural Review Board for review and final determination and all improvements and modifications shall be in compliance with the Certificate of Appropriateness approved by the ARB.

The applicant understood the Findings of Fact.



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Motion to approve by Mr. Marsh, second by Mr. Levine; roll call: Mr. Marsh – Yes, Mr. King – Yes, Mr. Levine – Yes, Chairperson Behal – No.

3) Application Number: BZAP-22-49

Address: 2456 Fair Ave

Applicant: Scott Baker

Owner: Anthony & Veronica Bradley

Request: The applicant is seeking Architectural review and approval of a Certificate of approval from the Board of Zoning and Planning for a covered porch at rear of house, and a new detached garage which replace the existing detached garage. The applicant is also seeking variances from Bexley code section 1252.15 to allow a new detached garage to be 2'2" from the side property line (10"), 6' from the rear property line and at the edge of the 6' easement (3'), and an 18'10" overall height (10") and eaves that exceed 9' in height (9"+).

This application was discussed after BZAP-22-51.

Mr. Baker was sworn in.

Ms. Rose stated this lot is larger than the average lot size in the zoning district and gave dimensions for the proposed garage and setback, as well as an overview of the history of this case in front of the ARB.

Ms. Bokor stated the ARB voted on this unanimously as a Consent Agenda item.

Mr. Baker stated this flat roof garage needs work and he would like to build a new garage, as only one bay can be successfully used. He'd like to match roof pitches and the style of the home. Additionally, he tried to break up the massing with a storage shed and shed roof to the side, and stated parking is a big challenge.

Ms. Rose stated this is on a 12' easement, and the variance is 10" at the back.

Ilana Spector, 2444 Fair Ave., was sworn in. She explained she has no objection to this project.

Mr. Baker indicated they are trying to match the roof pitch but believe this can be modified; the location of the garage is the critical issue.

Ms. Rose explained most measurements are given from grade. Mr. Baker stated he can work on this and is happy to work with Staff. Ms. Bokor indicated that the ARB passed this as a Consent Agenda item because it is a small structure and the pitch matching the house was architecturally preferable, but this would require a variance. Ms. Bokor stated the BZAP is the deciding Board in this case.



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If the applicant doesn't get the variance to the west, the garage will have to go to the east, but that is further behind the house, making it difficult to park. If this is pushed forward, it will require another variance because it will be close to the house.

Ms. Bokor stated this does have practical difficulties.

Mr. Baker said he tries to make garages 24', but this is about 21'. He stated the current garage is one foot into the easement. It was determined that many garages on the street are close to the easement.

Mr. Baker said he'll probably lower the wall height but keep the roof pitch the same. Ms. Bokor explained she doesn't think doing this will make it match any less, as the materials will be great.

The Finding of Facts and Decision of the Board for Application No. BZAP-22-49 for Property located at 2456 Fair Ave.: Upon consideration of the application, proposed variance and evidence and testimony before it, the Board finds the Applicant has proven that the criteria to grant an area variance in Bexley code Section 1226.11(c) have been met and a 10" variance from Bexley Code Section 1252.15(g)(1) to allow a new detached garage to be located 2'2" from the side property line, a 3' variance to allow the garage to be 6' from the rear property line and at the edge of the 6' from the rear property line and at the edge of the 6' easement with the following condition: 1) the Bexley Service Director confirm that the location does not substantially affect City services; 2) the Certificate of Appropriateness is approved in accordance with the Architectural Review Board recommendation, subject to final design changes of the modifications discussed with final approval by the Design Consultant.

The applicant understood the Findings of Fact.

**Motion to approve by Mr. Marsh, second by Mr. King roll call: Mr. Levine – Yes, Mr. Marsh – Yes, Mr. King – Yes, Chairperson Behal – No so not to set a precedent.**

4) Application Number: BZAP-22-50

Address: 2831 Dale

Applicant: Ryan Brothers' Landscaping- Pat Ryan

Owner: Matthew Gold

Request: The applicant is seeking a variance from Bexley Code Section 1264.03(b) which limits a fence to 48" in height, to allow the existing 48" high fence to be replaced with a 6' fence to replacing existing 4' fence, and located 2'6" from the east side property line. The applicant is also seeking a variance to allow the driveway to be expanded an additional 4' in width.

Mr. Ryan and Mr. Gold were sworn in.



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Ms. Rose gave an overview of this case, including lot size, platting of this property, and distances from sidewalks and easement. Ms. Rose stated fences are found in easements because they can be removed if access needs be provided, when necessary. The purpose of the fence relocation and height change is to gain yard space. The applicant would like to expand the width of the driveway by 4'; this driveway is already wider than the limit. Ms. Rose stated the approach is not to Code. She said if the fence is extended, it may need to be angled for safety concerns.

There are not plans to move the existing fence further south.

The applicant stated the neighbor has tall arborvitae so this project would not additionally obstruct the line of sight.

Ms. Rose explained the desire to expand the driveway and indicated the addition could be a different material.

Ms. Bokor stated that the fence should look nice with detail work on the top; this breaks down the mass. Ms. Rose indicated that because the proposed landscape is on private property, she would defer that to the Landscape Consultant.

The applicant discussed the portions of the landscape that would be removed and said there is a proposed landscape plan. They would like to push the gate back to be even with the garage. If the home owners can park at an angle, they won't obstruct the sidewalk. The applicant indicated that due to the shortness of the sidewalk, angling wouldn't make much of a difference.

Mr. Gold stated that when he goes into the driveway, he almost has to touch the garage door and his vehicle almost sticks onto the sidewalk. When one car is parked in the driveway, there is not enough width to back another car out of the garage. Furthermore, the boxwoods and gate prohibit opening the doors of cars that are parked in the driveway. He stated there are a lot of little things that were not considered when the fence was installed.

There was discussion that angling the fence won't make a difference to allow the driver of a vehicle backing out to see someone on the sidewalk.

Board members expressed concern about the visibility of someone on the sidewalk while backing out of the garage.

Ms. Rose discussed various fence heights, as well as visibility from the neighbor's driveway towards the sidewalk.



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Chairperson Behal indicated he would feel more comfortable with an angled fence. It was determined that the piece of fence in question is about 11'.

The safety issue of pushing the fence farther out and decreasing visibility was discussed by Board members.

The applicant said that the priority was removing old foliage and increasing privacy.

Ms. Rose stated that if the fence was moved inline with the face of the garage and there was landscaping along Gould, a concrete pad could be added; the applicant is not interested because it would take up much of the yard. The property line and easement were discussed, as was approved parking spaces and setbacks.

It was determined that the applicant would be okay giving up the one foot and putting a lattice on anything above 4'.

Ms. Rose indicated that on a corner lot, a side fence is limited to 48" in height, within 20 feet of the property line.

It was discussed that proximity and lack of depth to the driveway make this a unique situation.

Mr. Marsh indicated this is a safety issue and doesn't want to make it more of a safety issue.

Ms. Bokor and Ms. Rose stated the current fence could be made taller.

Tod Friedman, the attorney representing the homeowner, was sworn in and stated the trees in place currently prohibit visibility; he is unsure that much would be changed if the fence was left but made taller. He stated a belief that the situation would be helped to not allow tall trees to be there.

Ms. Bokor stated that if they decided on a 6' fence, it can be stipulated that it is not just decorative and also that the top would be transparent; this would give more privacy as well as transparency. Ms. Bokor would work with the team on this. She agreed that the applicant may just decide to put really tall trees.

Chairperson Behal stated the Board cannot stipulate what the homeowner puts on the inside of his fence. The homeowner said he has never not been able to see and has never felt unsafe while backing out of the driveway.

Chairperson Behal stated he feels the fence is so far off the street that he would only need to get a certain amount of the vehicle out of the garage before being able to see up and down the street.





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He does not feel this poses a safety issue at present, but there may be one if the fence moves. Now, he says that angling it doesn't make anymore sense than giving up one foot.

Chairperson Behal stated there are alleys behind home that have 6' high fences that come almost right to the sidewalk, and he feels those types of situations are more dangerous; two in particular were discussed.

The request was reviewed: Change the 48" tall fence to 6' in the same location with transparency on top. The applicant said the driveway is a two-car driveway, although it is slightly narrower than most. There is a desire to move the fence to be able to open the car door and put 4' of additional width on the driveway. Ms. Rose stated a driveway is limited to 12.5' unless there is a doublewide garage, which is typically put straight out. This is existing non-conforming, but in order to expand it, a variance would be needed; the Board could opt to allow just the expansion just past the sidewalk or determine whether or not it is appropriate to have it straight out and cut into the radius. She said the current angled approach is odd and it's hard to get a  $\frac{5}{6}$  radius where there is such a short curb of grass. In order to not see as much hardscape across the street, typically there is a request for the expansion to happen beyond the sidewalk.

Images were viewed and various options were discussed, including parking might block another car from getting out of the garage. There is a desire to be able to park one foot over so that a driver can exit the garage safely. The 4' feet will be more for loading/unloading as opposed to parking.

Findings of Fact and Decision of the Board for Application No. BZAP-22-50 for property located at 2831 Dale: Upon consideration of the application, proposed variance and evidence and testimony before it, the Board finds the Applicant has proven that the criteria to grant an area variance in Bexley code Section 1226.11(c) have been met and a 3' variance from Bexley Code Section 1264.03(b) to allow a 72" fence 3.5' from the east side property line, which is also the location of the existing fence, be allowed, and also a variance to Bexley Code Section 1262.01(e) to allow the existing 16' wide driveway to be expanded to the south by 4'. This is all subject to final review and approval of the landscape plan by the City Landscape Consultant and City Staff for the final design of the 6' fence.

The Applicant agreed to the Finding of Fact.

**Motion to approve by Mr. Marsh, second by Mr. Levine; roll call: Mr. Marsh – No, Mr. Levine – Yes, Mr. King – No, Chairperson Behal – Yes; the variance did not pass.**

The applicant can receive advice from City Staff about what can be done or not.

5) Application Number: BZAP-22-51



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Address: 381 S. Drexel

Applicant: Valerie Halas

Owner: Sara Luck

Request: The applicant is seeking Architectural review, approval of a Certificate of Appropriateness approval from the Board of Zoning and Planning for a new detached garage which will replace the existing detached garage. The applicant is also seeking variances from Bexley Code Section 1252.15(a), which requires a 3' side yard setback, to allow the detached garage to be 2' from the side property line, and also to allow the garage to be 78sq' greater than the 720sq'size limit.

This application was heard immediately after agenda item 6-2.

Ms. Halas was sworn in. Ms. Rose gave an overview explaining lot size, the original garage, the plans for this project, the history of this project in front of the ARB, and maximum square footage as related to lot sizes and building footprints. Ms. Bokor stated they encouraged the applicant to move one of the variances, so they're only looking at one.

Ms. Halas explained that the only variance being looked at right now is the garage footprint, they are looking at 798 sq' to have a three car garage because they will be within the lot coverage percentage. The current plan has 3' off the south, so now the variance is just due to the size of the garage. This is a family of six with a lot of equipment and know they will eventually have more than two drivers. Ms. Rose stated requirements are now based on size of the lot, not zoning districts. Part of the driveway is shared, but there is a fence.

Mr. Marsh stated he doesn't have a concern with this, due to the large lot size.

Chairperson Behal suggested City Council codify different guidelines for lot size.

Ms. Rose stated that this garage is meeting the standard for a lower lot size in terms of height and eaves.

Ms. Halas said drainage from the roof will go into the drywell, which will be covered with grass and will not be visible. Ms. Rose stated it is acceptable as long as it doesn't create a drainage issue for adjoining lots. The existing garage is .7 feet from the property line and is encroaching on the setback.

Finding of Fact and Decision of the Board for Application No. BZAP-22-51 for property located at 381 S. Drexel: The Board of Zoning and Planning finds that upon consideration of the application, proposed variance and evidence and testimony before it, the Applicant has proven that the criteria to grant an area variance in Bexley Code Section 1226.11(c) have been met and the garage now meets the 3' side yard setback, so a 78sq' variance from Bexley Code Section 1252.15(a) to allow a new detached garage to be 798sq' to replace the existing garage and a Certificate of



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Appropriateness is approved in accordance with the Architectural Review Board recommendation. Any minor changes are subject to review and approval by the Design consultant

The applicant understood the Findings of Fact.

**Motion to approve by Mr. Levine, second by Mr. Marsh; roll call: Mr. Levine – Yes, Mr. King – Yes, Mr. Marsh – Yes, Chairperson Behal – No so as not to establish a precedent.**

6) Application Number: BZAP-22-52

Address: 2521 Bexley Park

Applicant: Craig Hiibner

Owner: Andrew and Deanna Flora

Request: The applicant is seeking Architectural review, approval of a Certificate of Appropriateness from the Board of Zoning and Planning for a pergola. The applicant is also seeking a variance from Bexley code section 1252.10(a)(2) which requires detached structures shall be located a minimum of 25' from the street side property for a 100' wide lot, to allow a proposed pergola in the rear yard to be 17" from the side property line along Cassingham Road.

Andrew Flora and Craig Hiibner were sworn in.

Ms. Rose gave a Staff report and stated this is in the R-6 zoning District. There is an existing swimming pool in the rear yard with a patio; the applicant would like to add a pergola centered along the pool; the corner post would be 20 feet from the east side property line and the overhang would be 17 feet from the east side property line. She would consider this 20 feet from the property line and is only encroaching 5 feet which is the setback for accessory structures on corner lots. The pool likely received a variance and also encroaches, but is closer to the lot line than the proposed pergola. The actual distance from the proposed pergola to the street curb is a little over 35'. The pergola is an open structure with working louvers for weather protection when needed. Ms. Rose stated that if approved, if additional landscape is suggested, it should be subject to Staff review and approval by the Landscape Consultant.

This project is before the Board due to the location.

The applicant stated this location is based upon the existing pool and patio, the pergola would cover the existing patio; to meet setback requirements would negate the purpose of the pergola. The alley location was discussed.

Finding of Fact and Decision of the Board for Application No. BZAP-22-52 for property located at 2521 Bexley Park: The Board of Zoning and Planning finds that upon consideration of the application, proposed variance and evidence and testimony before it, the Applicant has proven that the criteria to grant an area variance in Bexley Code Section 1226.11(c) have been met and a



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5' variance from Bexley Code Section 1252.10(a)(2) to allow a pergola to be 20' from the east side property line as submitted.

**Motion to approve by Mr. Marsh, second by Mr. Levine; roll call: Mr. King – Yes, Mr. Levine – Yes, Mr. Marsh – Yes, Chairperson Behal – Yes.**

7) Application Number: BZAP-22-53

Address: 394 S Columbia

Applicant: Yoaz Saar

Owner: Yoaz Saar

Request: The applicant is seeking a variance from Bexley code section 1262.01(e) which limits a driveway to 12.5' in width, to allow a 14' wide driveway.

Yoaz Saar was sworn in.

Ms. Rose stated the existing lot is 133' wide by 250' deep; a new house has replaced the original structure but that project is not yet complete. The original driveway jogged slightly to the north and was straightened out when replaced, but the contractor did not realize that the site development approval was not yet issued for the drive and it was brought to their attention. The new driveway was widened at a point to where a side load attached garage was proposed, the entire drive was replaced in line with an expansion at the garage which was 14' wide at the street. Code allows garages to be 8'-12.5' for all zoning districts. It is believed the original driveway was close to about 8.5'. Because the lot is 133' wide, this does not impact any city trees or seem to be as much of an impact as a standard 90' lot in the district. If the 1.5' variance is approved, it would not require anything further.

Mr. Saar stated he just wanted to widen the driveway and it makes sense to them because the lot is so wide.

Mr. Levine asked about ownership; Mr. Saar stated he owes the company that owns this lot.

Ms. Rose explained why documents may have been written to include Mr. Saar's name and there was discussion about Yoaz vs. Yore Fine Homes.

FOF 2:13:25

The Finding of Fact and Decision of the Board for Application No. BZAP-22-53 for property located at 394 S. Columbia: The Board of Zoning and Planning finds that upon consideration of the application, proposed variance and evidence and testimony before it, the Applicant has proven that the criteria to grant a 1.5' variance from Bexley Code Section 1262.01(e) to allow the driveway to be 14' in width.



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Motion to approve by Mr. Marsh, second by Mr. King; roll call: Mr. Marsh – Yes, Mr. Levine – Yes, Mr. King – Yes, Chairperson Behal – Yes.

The owner agreed to the Finding of Fact.

**7) Other Business**

Ms. Bokor stated City Council approved and adopted the Design Guidelines.

Ms. Rose stated that with the Zoning Code change, Staff approval is allowed on some items. Montrose Elementary submitted a request for shades over playground equipment; this can be signed off as a modification for an accessory structure. Ms. Rose stated she sent out notice to neighbors and posted it online so it can be viewed and she can be reached with questions or concerns. If she is not comfortable going forward, she will bring it to the ARB. This is all design, there is no BZAP approval needed.

Ms. Bokor stated they will try to make a habit of letting Board members know ahead of time of upcoming projects that it would be helpful for Board members to be aware of.

**8) Adjourn**

The meeting was adjourned.