



**City of Bexley
Board of Zoning and Planning
April 27, 2023**

1) Call to Order

The meeting was Called to Order by Chairperson Behal.

2) Roll Call of Members

Mr. Levine, Mr. Schick, Mr. Hall, Mr. Marsh, and Chairperson Behal. Chairperson Behal explained that a majority of positive votes are needed in order for a motion to be passed.

3) Approval of Minutes

Motion to approve the Minutes from the March 23, 2023 meeting by Mr. Schick, second by Mr. Marsh; all in favor.

4) Public Comments

There were no Public Comments.

5) Old Business

There was no Old Business.

6) New Business:

1) Application Number: BZAP-23-6

Address: 2831 Dale

Applicant: Ryan Brothers' Landscaping- Pat Ryan

Owner: Matthew and Rachel Gold

Request: The applicant is seeking a variance to expand the driveway 4'6" and a variance for a 10" - 12" high retaining wall.

Mr. Schick recused himself from hearing this application.

Mr. Ryan, Tod Friedman, and Mr. Gold were sworn in.

Ms. Rose indicated this case was previously heard under the application number BZAP-22-50 on January 26th and was denied. The applicant has submitted a new application which has a lower fence height in addition to other changes. Ms. Rose explained there is a desire to also expand the width of the driveway.

The applicant stated that this reapplication addresses the Boards' concerns regarding safety and described the grade and line of sight. They explained there is a desire to change the grade to input a 48" fence.

It was explained that the right of way expansion to the south is designed to ease access to and from the garage and to allow room to open vehicle doors.

Chairperson Behal stated this application is better than the last. Ms. Rose explained the driveway width which is greater than the standard width.

The Findings of Fact and Decision of the Board for application No. BZAP-23-6 for property located at 2841 Dale Ave.: 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 variance from Bexley Code Section 1264.03 to allow the 10"-12" high retaining wall that is 6" in width can be located 1' behind the sidewalk with a 1' wide planing bed behind it, and a 48" high fence placed on top and at the back of the planting bed, for a total setback of 2.5' from the sidewalk, with the conditions that the landscape plan is reviewed and approved by the Tree & Public Garden Commission. The Board further finds it appropriate to grant a variance from Bexley Code Section 1262.06(c) to allow the 16' wide driveway to be expanded 4'6" to the south as proposed.

There was discussion of the retaining wall and fence; the applicant understood the Finding of Facts.

Motion to approve the Finding of Facts by Marsh, second by Levine; Marsh – Yes, Levine – Yes, Hall – Yes, and Chairperson Behal – Yes.

2) Application Number: BZAP-23-7

Address: 784 Chelsea

Applicant: Suncraft/James Knox

Owner: Christy and Daniel Conway

Request: The applicant is seeking a Certificate of Appropriateness for a porch addition.

The applicant is also seeking a 1'3" variance from Bexley Code Section 1252.09 (R-6 zoning) to allow an open covered porch addition to the front of the house to encroach into the front yard setback.

Mr. Knox was sworn in.

Ms. Rose described the desires of the application, setback requirements, and how neighboring homes have similar open porches.

Ms. Bokor indicated this application was a recommendation from the ARB and explained there were design suggestions by the Board which had not yet been incorporated into

the drawings. The ARB had asked for a remand back and there was an explanation from Chairperson Behal about the process.

Mr. Knox stated this home does not have a front porch whereas neighboring properties do. The front of the home will be expanded slightly and Mr. Knox explained the design changes, including that there will be one fewer step.

It was clarified that the three homes to the north have open porches that encroach more than this one does.

The Findings of Fact and Decisions of the Board for Application No. BZAP-23-7 for property located at 784 Chelsea: 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 1'3" variance from Bexley Code Section 1252.09 to allow an open porch addition on the front of the house shall be granted in substantial conformance with the renderings and as located on the site plan, subject to the final design return to the Architectural Review Board for approval of the Certificate of Appropriateness.

Motion to approve the Finding of Facts by Marsh, second by Hall; Schick – Yes, Levine – Yes, Marsh – Yes, Hall – Yes, and Chairperson Behal – Yes.

3) Application Number: BZAP-23-8

Address: 2691 E Main Street

Applicant: Sarah Montague

Owner: Matt Davis

Request: The applicant is seeking approval of a Certificate of Appropriateness for a 2-story addition to the front facade and building and site modifications.

The applicant was sworn in.

Ms. Rose explained this building is on Main Street and is therefore to be overseen by the BZAP, however the addition to the front is design review because the parking currently meets Code. At the ARB meeting, there was discussion regarding shifting parking.

Ms. Bokor stated the ARB supports this as a recommendation to BZAP but would like it to return for final design review. The discussion regarding parking pertained to adding greenery to the side instead of a parking space. Ms. Rose further elaborated that the discussion considered moving the parking space further towards the street, moving the handicap location further south, or moving the entire row of parking.

The applicant explained that this will be a COhatch space and the specifics of how the building will be used were discussed.

Ms. Bokor stated this will be an asset to Main Street and that the ARB would like this to return to review materials.

There was discussion about the location of greenery, the handicap parking space, and the potential inclusion of bike parking.

Findings of Fact and Decision of the Board for Application No. BZAP-23-8 for property located at 2691 E. Main Street: 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 variance from Bexley Code Section 1254.13 to allow a parking space reduction to allow much green space with the following conditions:

- 1) The two (2) bike racks are to be moved to the south of the west entrance and shift the rest of the west parking spaces south,
- 2) The site is to be developed in substantial conformance with the renderings and plans submitted as conditioned and further returning to the Architectural Review Board for final approval of the Certificate of Appropriateness,
- 3) The landscape plan is subject to further review and approval by the Tree & Public Garden Commission.

Motion to approve the Finding of Facts by Marsh, second by Schick; Levine – Yes, Hall – Yes, Marsh – Yes, Schick – Yes, and Chairperson Behal – Yes.

4) Application Number: BZAP-23-9

Address: 17 Stanbery Avenue

Applicant: Jonathan Riewald

Owner: Jonathon and Taylor Riewald

Request: The applicant is seeking a Special permit in accordance with Bexley Code Section 1264.02(c) to allow a 4' high black metal rail fence in the front (south) yard along Broad Street.

Jonathan Riewald was sworn in.

Ms. Rose gave a Staff Report and stated this lot is uniquely shaped on the corner of Broad and Stanberry with an existing City-owned column, arborvitae, and request for a fence higher than allowed by City code.

Mr. Riewald is prepared to fill in arborvitae that have died.

It was explained that this did not come before the ARB and is the first project of a more comprehensive landscaping plan. The front door of this home is located on Stanberry and the fence is proposed to wrap around.

The Findings of Fact and Decision of the Board for Application No. BZAP-23-9 for property located at 17 Stanbery Ave.: 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 variance from Bexley Code Section 1264.02(c) to allow a 48" high fence to be located along E. Broad Street and along the east side property line as part of an overall landscape installation.

Motion to approve the Finding of Facts by Hall, second by Marsh; Marsh – Yes, Levine – Yes, Hall – Yes, Schick – Yes, and Chairperson Behal – Yes

5) Application Number: ARB-23-1/23-2

Appeal Address: 2555 E Main Street

Applicant: James Hughes

Owner: Bexley City Schools

Request: James Hughes is Appealing, to the Board of Zoning and Planning, the staff approval of Sun shades at Montrose Elementary School.

Mr. Hughes was sworn in.

Chairperson Behal stated that Staff made the decision to approve Bexley City Schools' application for sun shades and Mr. Hughes has filed an appeal from the staff decision to the BZAP.

Ms. Rose explained this was on the agenda for another date and that Mr. Hughes asked for this to be tabled until this meeting.

Mr. Dozier was introduced as acting Law Director. He explained that it makes sense to allow Ms. Rose to present what her decision was, how to proceed, and the potential outcomes that the Board can take: affirm the decision, reverse the decision, or modify the decision. He explained that the next layer of appeal is to City Council. Mr. Hughes understood the protocol.

Ms. Rose explained that in accordance with Code section 1226.18(a), she, as the Zoning Officer, has the authority to review and approve accessory structures, which she considered this to be. She explained that before making the decision, she sent a letter to the neighbors of Montrose school on January 27, 2023 and provided a ten day window in which they could respond. Mr. Hughes sent an email stating his opinions, including his concerns about cost. Ms. Rose eventually approved the application with conditions she deemed necessary, such as removing the shades in the fall and reinstalling in the spring, the shades be maintained in good condition, and the poles should be green to match the other poles on the playground.

Mr. Hughes indicated he had come to City Hall and spoke with Ms. Rose, during which time she explained that she approved the decision, that he could appeal to the BZAP if

desired, and that she planned to inquire about planting a tree across from Mr. Hughes' residence, which will be granted. Generally, if Ms. Rose feels uncomfortable with an application, she brings it to the Board.

Ms. Rose detailed the proposed structure, including the shape and colors, and that it will be over only a portion of the play structure. There was discussion about the permeability of the structure.

Mr. Hughes presented to the Board and explained his objection, stemming from the letter he received, that there was no knowledge of this project until he received Ms. Rose's letter. Mr. Hughes lives on Montrose Ave., directly across from the proposed structure. He explained that unless he was involved in the school, he otherwise would have had no concrete information about this project; he is unsure which other homes surrounding the school would have been aware.

Ms. Rose indicated she sent a letter to homes on Montrose and Remington, despite not being required to.

Chairperson Behal indicated a desire to focus on what was problematic with the concept, rather than the procedural issues, unless a procedural issue was the issue. A rendering was displayed and Mr. Hughes explained that the canopy is approximately 1.5 feet above the second floor gutter lines nearby on Montrose homes. He objected to this view, described the condition of the playground structure, and explained that he does not feel the canopy is necessary. He explained he believes other remedies can be used to combat sun exposure and questioned the language about congregating in sparse areas of shade due to sun exposure. Furthermore, he stated that a survey was sent to 500 recipients but only about half were returned; he felt the language used in reporting the results did not accurately represent the total data. Additionally, he mentioned the temperature studies and felt other solutions could be implemented instead of the sun shades. Furthermore, Mr. Hughes indicated his belief that this type of shade is not prevalent elsewhere in Bexley.

Mr. Hughes stated that of the temperature study, there were 14 locations, only two of which are of concern. He reiterated that the canopies have to be taken down in the winter and that the view from his home will change. He stated that if the school was willing to put in the work to install and remove the shades every year, why not just change the equipment?

Mr. Hughes answered Chairperson's Behal's questions and Ms. Rose explained that this project is acceptable from the perspective of an accessory structure and the owner has every right to have this structure.

Other than the poles, there is not a vertical aspect to this project. It was determined that the schools could build other accessory structures; Mr. Hughes stated there could also

be other ways to create shade. He stated his belief that the feel of the neighborhood will change with this addition.

Sun exposure was discussed.

Mr. Hughes summarized that he was never informed of this project and that this will affect many homes. Had he been part of the process, he stated he would have offered other solutions, however he did not know whether or not the school's deciding body had considered additional options.

Mr. Hughes discussed the current and former trees at the location, as well as other solutions.

Discussion of Staff and Board roles were discussed.

Mr. Hughes answered Board members' questions about the trees on his property.

Legal counsel and Chairperson Behal explained the Board will vote whether or not to overturn the decision of Ms. Rose and what potential next steps may be.

Ms. Rose stated her decision for approval, including the conditions.

No members of the Board wanted to make a motion to modify Ms. Rose's decision.

There was a motion made to affirm Ms. Rose's decision, but no second.

Motion to reverse the decision of the Zoning Officer's conditional approval of the Sun-shades for the Montrose School playground by Mr. Schick, seconded by Mr. Marsh; Mr. Schick - voting No, based on the fact that this is a unique situation being a large unprotected lot that gets very hot and with 50-100 kids at times that use the playground he believed the sun-shades are appropriate and the least evasive structure to prevent sunburn and excessive heat, and the fact that the city further notified neighbors separate from the school's process, Mr. Marsh voting No, noting that the sun-shades are an appropriate structure for a school, Mr. LeVine – voting No, based on the lack of evidence to indicate that Staff did anything wrong, and the compelling justification for the school's application, Mr. Hall – voting No, based on the fact that the sun-shades fit within the Zoning Code and are appropriate shade structure designed to provide maximum protection from the sun, and Chairman Behal – voting No, based on the fact that there were no particular grounds stated to sway his decision, most of the obstruction from Mr. Hughes, view from his house is mostly horizontal with only a minor 4' vertical aspect to it and that Mr. Hughes has overstated his case in that regard, what we know today that we didn't know when I was a kid was how much

the sun does causes potential harm and some kids have skin this very sensitive to the sun, and we need to be careful and error on the side of safety of the kids to protect them from some long term skin condition , this is the least obstructive way to take action by allowing sun-shades to safely provides protection from sun and heat, and it is in line with the city code; motion failed.

Motion to affirm the decision of the Zoning Officer by Mr. Marsh, second by Mr. Schick; Mr. Hall – Yes, Mr. LeVine – Yes, Mr. Marsh – Yes, Mr. Schick – Yes, and Chairman Behal – Yes for all the reasons stated in the previous motion which justify the decision made by the Zoning Officer; motion passed.

7) Other Business

There was no other business.

8) Adjourn

The meeting was adjourned.