



Board of Zoning and Planning

Staff Report

September 28, 2023

Kathy Rose, Zoning Officer

Old Business:

1) Application Number: BZAP-23-18 ([tabled at the August 24th BZAP mtg](#))

Address: **2524 Bexley Park**

Applicant: Pat Ryan, Ryan Brothers' Landscaping

Owner: Kaplansky / Kademian

Request: The applicant would like to allow a fence constructed along the East side property line (parallel to S. Cassingham) to remain. The applicant is also seeking a Special Permit in accordance with Bexley Code Section 1264.03(b), which states No fence, wall or combination thereof shall exceed forty-eight inches in height in the side yard setback area as it faces a public or private street.



Site plan



View along Cassingham

****Application Criteria:****

Code indicates that any fence or wall exceeding 48" in height may be allowed with a special permit from the Board of Zoning and Planning. The Board shall consider the following criteria in reviewing such applications:

- (1) The proposed side yard fence or wall exceeding forty-eight inches in height and on the street side of a corner lot is compatible with other properties in the neighborhood.
- (2) The maximum height of such fence or wall shall not exceed seventy-two inches as measured from the average grade, as defined in Section [1230.06](#). Artificially raising the height of the lot line by the use of mounding, retaining walls or similar means shall be included within the seventy-two-inch maximum height.
- (3) Fences exceeding forty-eight inches in height should include transparency in the upper 12" to 18" of the fence panel through the use of latticework, pickets, or other appropriate design elements.
- (4) A landscaping plan must be filed with the application for a fence permit and approved by the Zoning Officer, indicating how such fencing or wall is to be screened from the street side elevation. The landscape plan should be designed in such a way as to mitigate the impact of a solid fence or wall as it relates to the street and other properties.

(5) The installation of such fence or wall shall not create a visibility or safety concern for vehicular and/or pedestrian movement.

(6) No chain link, wire mesh or other similar material shall be installed on lot lines adjacent to public rights-of-way.

Background

The fence was installed in the east side yard, along S. Cassingham at the time the applicant applied for the fence permit. This was a corner lot and what was installed did not meet the setback and/or height limits. The applicant was informed that the fence could be modified to meet code or the owner could consider a Special Permit, subject to meeting the criteria for a Special Permit and Board review. The applicant submitted a BZAP application the next day.

Consideration:

The applicant has provided information to support the criteria established for a Special Permit. If the Board finds it appropriate to grant a Special Permit The property line is approximately 3' behind the sidewalk, which will determine if our staff Landscape Consultant can review the landscape or if the Tree & Public Garden Commission will need to review it, if within the right-of-way.

The only other concern is the proximity of the fence to the driveway entrance; however, it has been in place for over 8 weeks and would only affect the owner when backing out of the property. If it has not been a problem as of yet, it should be fine to allow it in the current location.

4) Application Number: BZAP-23-23 **Tabled until Oct. 26, 2023**

Address: **2200 E. Main** (previously 2160, 2186 & 2188 E. Main Trinity Lutheran)

Applicant: Ryan Pearson

Owner: Continental Real Estate Cos.

Request: The applicant is seeking Preliminary review to allow demo and redevelopment of the vacant Trinity Lutheran apartment structures. Located on Parcel No. 020-000836, 020-000217 & 020-000350. The applicant is also seeking a Special Permit and Conditional Use for a new 5-story building with housing alternatives and variance for a new 6-story missed use building to provide additional housing, restaurant, retail and office space.

STAFF REPORT by: Jason Sudy, City Planner

3) Application Number: BZAP-23-19

Address: **733 Vernon**

Applicant: K Bryon Wernicke

Owner: Barbara Wernicke Trustee

Request: The applicant is seeking a variance from Bexley Code Section 1252.10(a)(2) which requires an accessory structure use and detached structures shall be located a minimum of five feet farther back from the side street property line than the principal structure is allowed; to allow a Garden Screen to remain 1.2' off of the south side property line (along Mound Street).



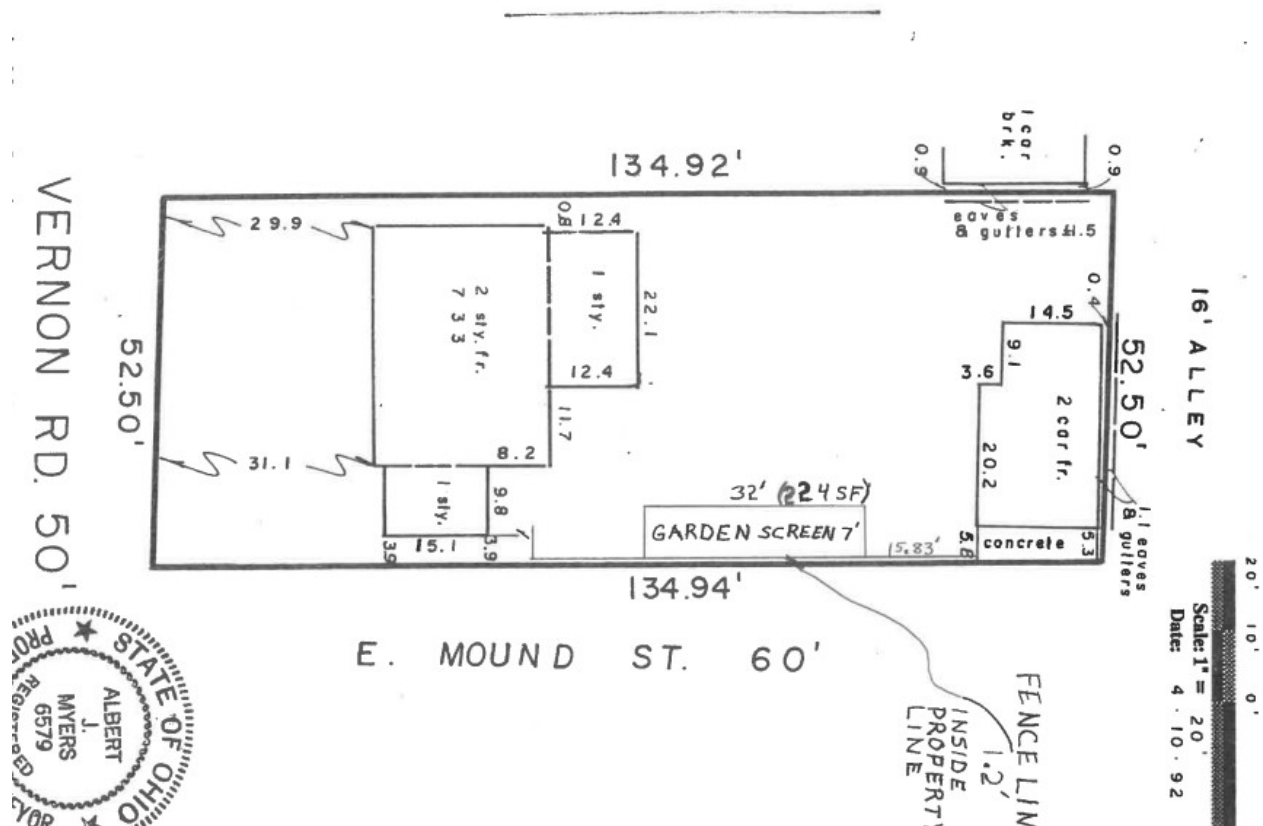
Site Plan view from the north



Site Plan view from south



Mound street



Background – R-6 Zoning District - standard lot size for a corner lots is 70' x 120'
This corner lot is 52.5' x 135'

[Bexley code Section 1252.10](#) requires a 20' setback from the street side property line for this 52.5' wide lot; which further requires an Accessory Structures to be 25' from the street side property line.

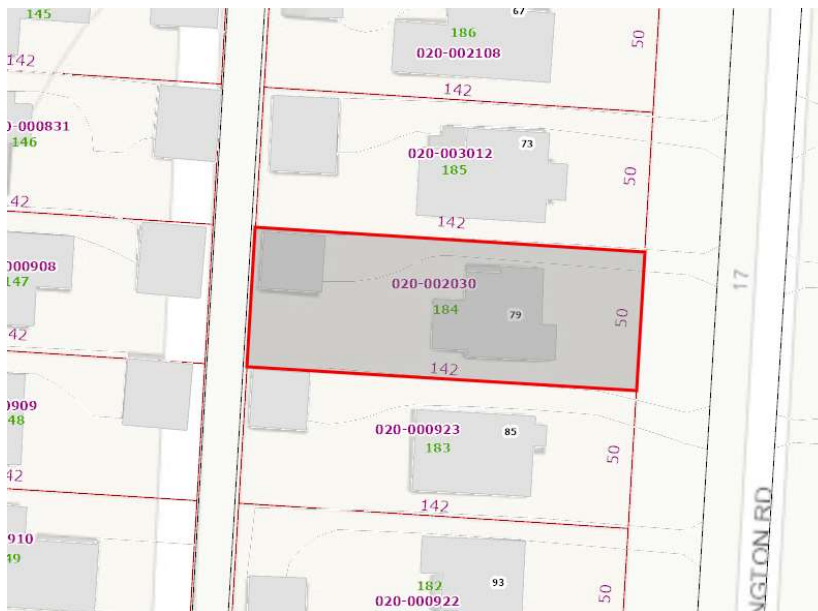
The structure in question was installed without benefit of a review application or building permit. The fact that this is also a little unusual in design and is being called a Garden Screen; makes it questionable as to how it should be classified. The structure is 7' tall at the eave, 8' tall at the ridge, 7' wide and 32' in length. It is constructed 1.2' inside and parallel to the north property line along Mound Street.

A structure such as a fence is limited to 48" in height along a street side property line. A new 42" high fence replaced the previous 42" high fence. The garden screen is attached to the new 42" fence.

This application went to the Architectural Review Board on September 14th, for design review; however, the ARB did not provide a recommendation other than to allow the applicant to first present their case to the BZAP to see if they can successfully obtain a variance. Should Board of Zoning and Planning find it appropriate to grant a 23.8' variance to the required 25' setback from the North side property line, it can choose to send it back to the ARB for design review.

If it does receive a variance, will it need to be landscaped along the right-of-way?

Request: The applicant is seeking a variance from Bexley code Section 1264.03(a) which limits the height of a fence for interior lots to 72" in height, to allow a new fence constructed at 85" – 87" in height, along the side and rear property lines to remain.

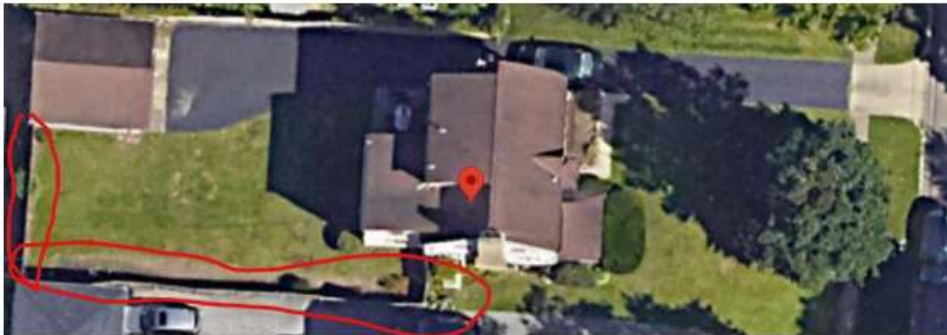


R-6 Zoning standard lot is 50' x 120' - This lot is 50' x 142'

Background:

On July 19, 2023, I was out making inspections and discovered the fence and thought it looked over 72" in height. I stopped and measured the fence which was 87" high, along the alley and could see that it continued along the south side property line. When I checked for a fence permit, I found that on May 19, 2023, Fence Application F-23-65 was submitted with a request to replace the existing 6' fence with a new 6' fence and approved on May 22, 2023.

I immediately contacted the owner through email listed on the fence permit and explained that I had found the fence was not installed per the approved application and that they must modify the fence to meet code or seek a variance. I further indicated that I was not sure if the Zoning Board would look favorably on such a request.



- Replace existing fence that was falling over along the driveway and alley of the property.

The owner purchased the property in December 2022. Due to concerned about being able to see the neighbors, he decided to replace the fence with the current fence that is a standard 72" tall panel with an additional 15" framed lattice above.

Consideration:

The 72" high limit for a fence is pretty standard. The additional height of the fence is lattice, which still allows you to see through. If a variance is approved by the Board, this could be the

first of many more fence variance requests to come. Landscaping is always an option that could be consider by the applicant to obtain the screening they find necessary. I am not inclined to support this variance request.

There should also be concern of setting a precedent in allowing a fence higher than 72" for a property that is not unique from any other standard interior lot in a city block?

6) Application Number: BZAP-23-29

Address: **2434 Bryden**

Applicant: Bryan Savage

Owner: Khaled Ballouz

Request: The applicant is also seeking a Special Permit in accordance with Bexley Code [Section 1264.03\(a\)\(2\)](#) which requires landscaping for fence within 10' of the front façade, and for Bexley Code [Section 1264.03 \(b\)](#), which states No fence, wall or combination thereof shall exceed forty-eight inches in height in the side yard setback area as it faces a public or private street. To allow a 6' fence to be constructed along the east side property and parallel to S. Cassady Avenue, as proposed.



Existing site plan

Background

The lot is platted to Bryden. The east side property line is approximately 14.5' behind the city walk along Cassady Avenue. The site plan submitted also shows the fence proposed in-line with the front façade. Any fence within 10' of the front façade is required to be landscaped per Bexley [Code Section 1264.03\(a\)\(2\) requires it to be landscaped in such a way as to mitigate the impact of a solid fence as it relates to the street side elevation](#)) - I do not see a landscape plan, so any approval should be subject to review and approval by the TPGC, if the fence is located on the property, as the landscaping will be in the city right-of-way, unless it is pushed back 2'.

Consideration:

Cassady is a busy street and a Special Permit should be considered in accordance with the criteria established. Which includes a landscape plan, and the upper 12" – 18" of the proposed fence being an "open" design. The fence design submitted does not include an open design.

If the Board finds it appropriate to grant a Special Permit in accordance with [Bexley Code Section 1264.03\(a\)\(2\)](#) , it should be conditioned upon: 1) Landscape plan be

submitted for review and approval by the Tree & Public Garden Commission, if fence is on the property line; and 2) the upper 12"-18" should be an open design.

7) Application Number: BZAP-23-30

Address: 202 S. Columbia

Applicant: Nathan Sampson

Owner: Bexley Next LLC

Request: The applicant is seeking a Certificate of Appropriateness, to allow a modification to the north side terrace. The applicant is also seeking a variance from Bexley Code Section 1252.15(g)(1), which states: Accessory structures and uses shall be permitted only in the rear yard and shall be at least three feet from all property and right-of-way lines; to allow a therapeutic bath within a proposed courtyard on the north side of the principal structure.

BACKGROUND

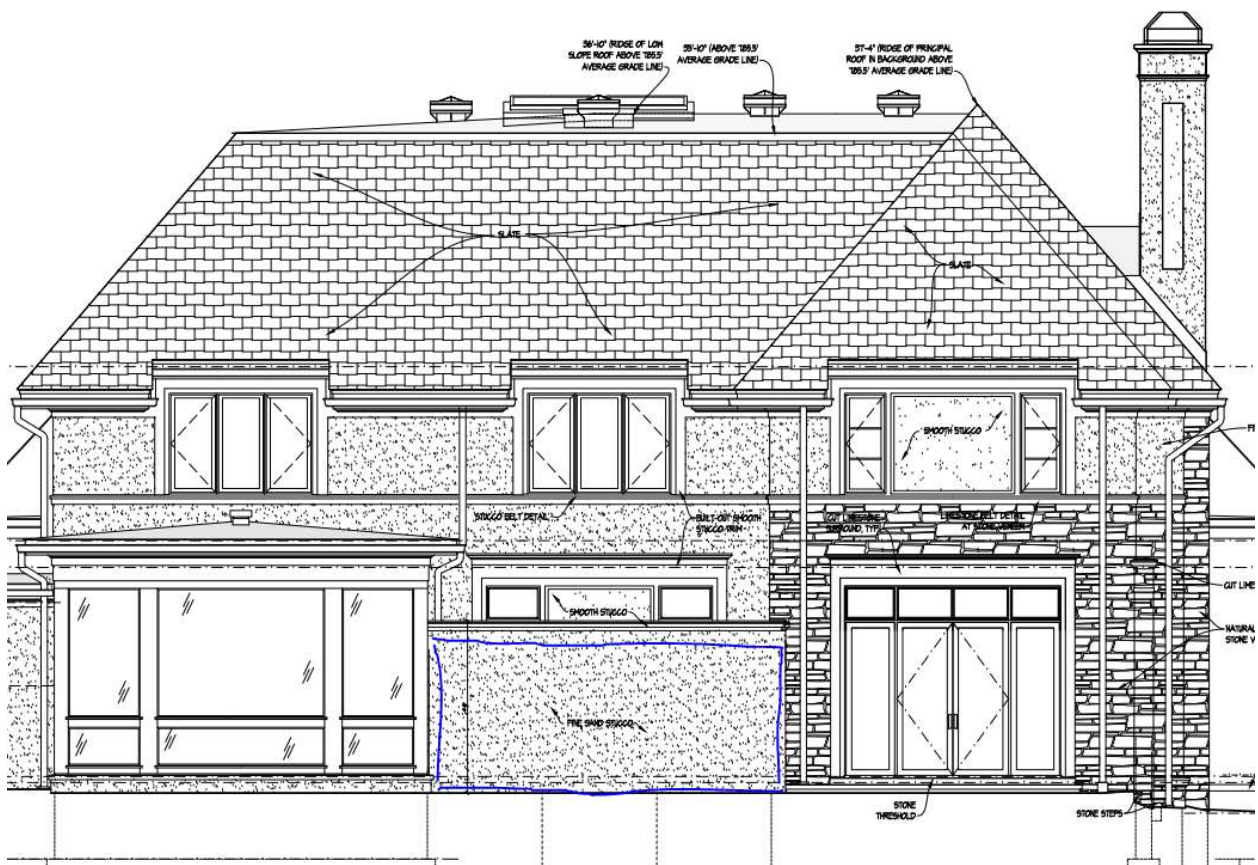
R-3 Zoning District - standard lots 90' x 160' - This lot is 139' x 300'

The therapeutic bath is proposed on the north side of the principal structure, but would be built into the terrace off of the master bath, and within an enclosed courtyard.

The bath could be considered a "pool" being it's deeper than 18" and a pool is an accessory structure, which is limited to the rear yard. The minimum setback required for a pool is 8'.

The fact that the courtyard did not have a roof, I decided to err on the side of caution and have the Board confirm what I find to be acceptable due to the fact that it is proposed within an enclosed space that is inside the building setback lines, on what was originally an open terrace. The proposed wall of the courtyard would be located 12' from the north side property line and a continuation of the wall of the principal structure.

SIDE NOTE: This application also included a wall at the north end of the swimming pool, but it is of a size and location that meets code and can be approved by Staff.



Consideration

The courtyard therapeutic bath, as presented, should have a low impact on the neighboring property and is screened by a wall, proposed landscaping, and existing trees and shrubs that will also remain between the courtyard and the north property line.

I do not see a concern, but simply want to allow the Board to confirm my findings, that it may not technically be “in the side yard” when it is within the building setback lines and walls of the principal structure.

The Board can confirm my findings or provide a motion, if they need to consider this as a variance from Bexley Code Section 1252.15(g)(1) for accessory structures in a side yard.

7) Application Number: BZAP-23-31

Address: **869 Grandon**

Applicant: Taylor Patterson

Owner: Daniel Williamson

Request: The applicant is seeking Special Permit in accordance with Bexley Code Section 1264.03(b), which states: No fence, wall or combination thereof shall exceed forty-eight inches in height in the side yard setback area as it faces a public or private street; to allow a 6' fence to be constructed along the east side property and parallel to S. Cassady Avenue, as proposed



R-6 Zoning District Standard lot size 50' x 120' - This lot is 50' x 135'

Background

VARIANCE FOUND IN THE FILE FROM 1992 AND STAFF CAN APPROVE REPLACEMENT WITH CONDITION THAT THE OWNER WORK WITH STAFF ON LANDSCAPE REVIEW.

8) Application Number: BZAP-23-32

Address: **222 N. Remington**

Applicant: Daniel Hurley

Owner: Daniel Hurley

Request: The applicant is seeking a variance from Bexley Code Section 1264.04(b) no spaces, aisles, or any portion of a driveway that does not access a rear yard parking space or garage shall be located in the front yard in an R-1, R-2, R-3, R-6, R-12, or OS District.



Aerial of house at 222 N. Remington

Background

The owners submitted a Site Development application for review and approval. I sign off on a permit when the proposed work meets code or when an approved application and information can be verified for a variance approved to allow a non-conforming situation.

In this case the applicants were requesting to replace an existing driveway that does not lead to off-street parking in an approved location (rear yard).

Back in the 1992 – I performed an inventory sheet that included all existing non-conforming driveways in Bexley which is helpful in tracking when something is modified without a permit or approval.

I did not find a variance application in the property file for the non-conforming driveway as it currently exists.

I reviewed my 1992 inventory list, and it was found that the front yard driveway at 222 N. Remington was on my list as existing at that time, and had both an asphalt approach and asphalt driveway.

Daniel Hurley purchased the property in 2018, so the existing non-conforming driveway was in place when the current owners purchased the property.

Code requires a driveway “approach” to be concrete. The owners are proposing Asphalt, concrete, or stone. If the Board finds it appropriate to grant a variance to allow the existing driveway to be replaced, The approach should be concrete. I would defer to the Board as to whether they find it necessary to specify asphalt or stone.

Stone is either cobblestone, or stone within a cobblestone or brick border along the sides and must be dust free.

Kathy Rose

Zoning Officer