



Board of Zoning and Planning Meeting Staff Report

January 23, 2025

6:00PM

Per 1226.11 Variances.... (c) Area (Non Use) Variances, the following factors shall be considered and weighed by the Board when making a determination upon any area (non-use) variances by a preponderance of the evidence:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- (2) Whether the variance is substantial;
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Old Business

- I) App No: BZAP 24-28 (also filed under BZAP 24-31)
Address: 490 -492 N Cassady
Applicant: Jawad Khan
Owner: Bob Marshall

Request: The applicant is seeking a special permit and a variance from Bexley code section 1254.17 to allow a food trailer/ cart (accessory use/ structure) to be permanently installed in the side yard of 490 N Cassady.

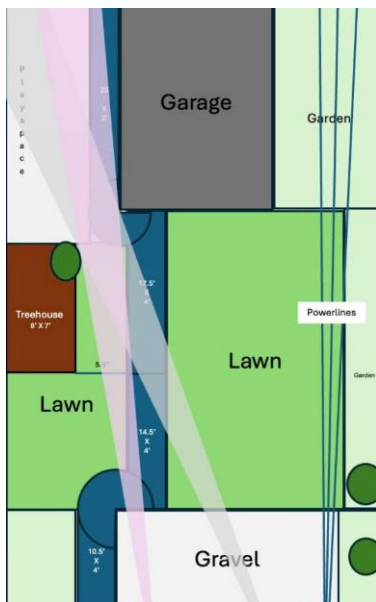
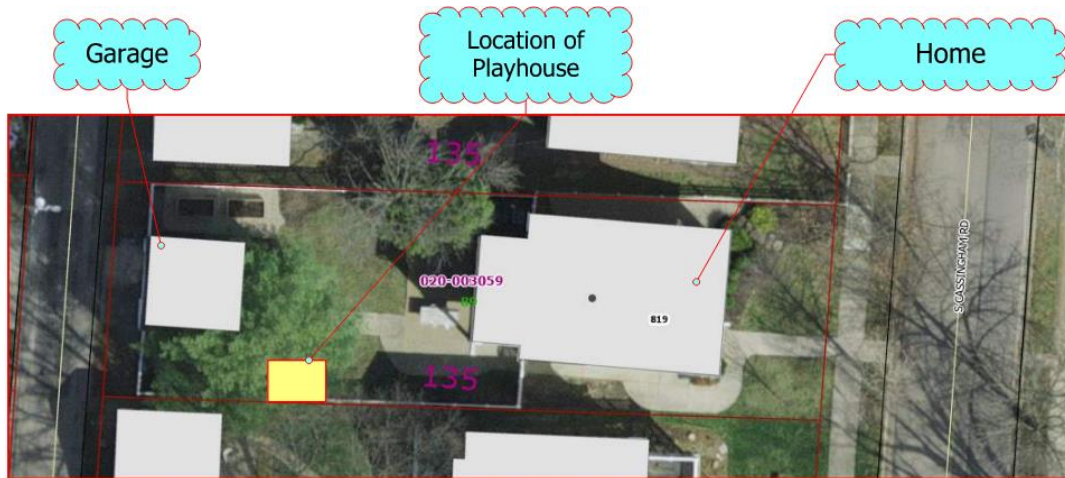
New Business

- I) App No: BZAP 24-39
Address: 819 S Cassingham
Applicant: Amy Music
Owner: Nathan Daynes & Amy Music

Request: Applicant is seeking a variance from Bexley Code Section 1252.15 (g) (1) to allow an accessory structure to be installed within 3 ft of the south property line.

Staff Notes

- R-6 Zoning Interior Lot Lot size: 40' x 135' (5,400 sq ft)
- Accessory structures must be 3 ft from the property line
- Bi level large playhouse for child built too close to the property line
- Playhouse has currently been built without a variance and was noticed on a drive by inspection
- This size of a playhouse could not be built on the opposite side of the yard due to powerlines
- BZAP was just presented a similar case a couple of months ago, and the variance was not granted. The building code does not regulate these structures as they are under 200 sq ft. however the zoning code regulates accessory. This is a free-standing playhouse that can be moved and it should be moved off the property line or built at a lower height in a different location in order to conform to the zoning code.



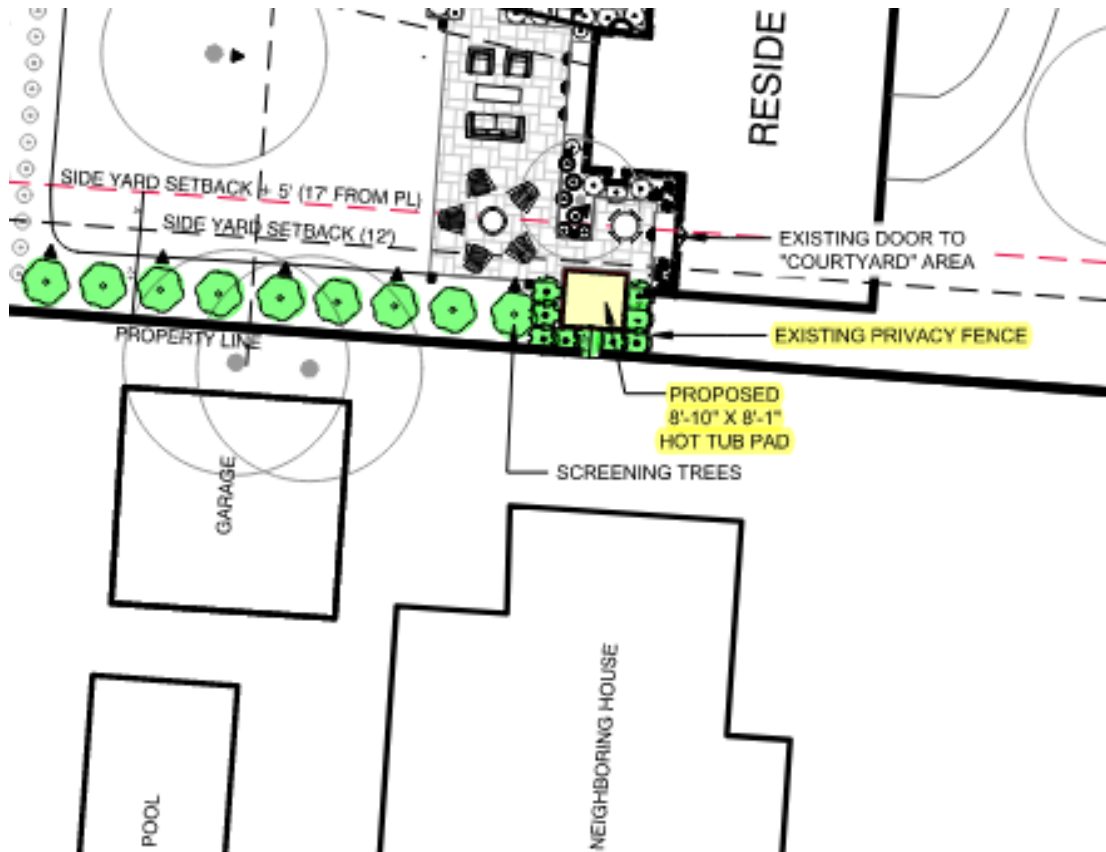


- 2) App No: BZAP 24-46
 Address: 251 Stanbery
 Applicant: Letha Imler
 Owner: Toby & Jennifer Tomlin

Request: The applicant is requesting a 4 ft 3 in. area variance to place a hot tub within the required property line setback.

Staff Notes

- R-3 Zoning
- Lot Size: 115 x 188 (21,560 sq. ft.)
- The zoning code does not specifically regulate locations of “hot tubs”
- The permit fees section says “swimming pools/ hot tub permit” thus staff views them similarly from a zoning standpoint.
- A swimming pool or family pool is considered to be a pool when it exceeds 18” of water depth per 1464.01 & 1464.08
- Per 1464.02 Swimming pools must located 5 ft farther back than all building restriction lines, so in the rear yard that is 3 ft for accessory use + 5 ft = 8 ft
- This hot tub will be 3 ft 9 in off the property line.
- The property has a fence with self-latching gate, as well as privacy screening/ fence around the property line and the proposed hot tub. The application does not show any additional lighting on the hot tub that would affect the surrounding properties. Overall the hot tub is much smaller than a typical pool so occupant load & noise during activities will be minimal or much less than a typical backyard swimming pool. Staff sees no issue with this variance.



PROPOSED SECLUDED HOT TUB LOCATION,
WITHIN EXISTING "COURTYARD" & SIDE-
YARD SETBACK



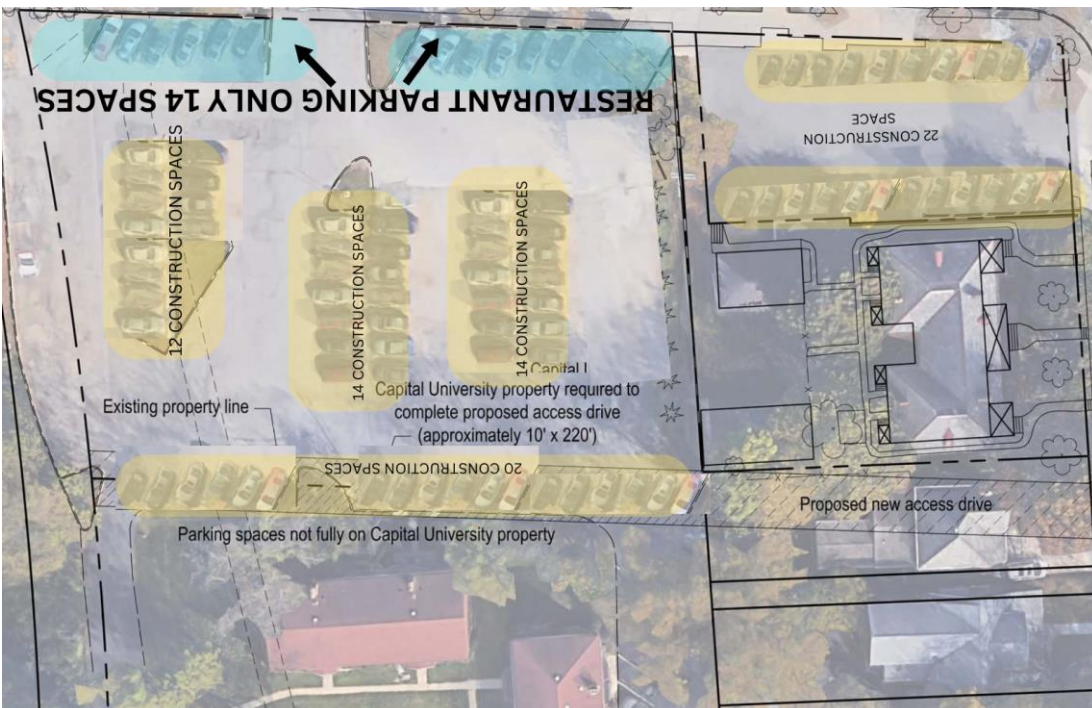
VIEW FROM PROPOSED HOT TUB LOCATION,
WITHIN EXISTING "COURTYARD" & SIDE-
YARD SETBACK

- 3) App No: BZAP 24-47
 Address: 2093 – 2099 & 2143 E Main
 Applicant: Ann Taylor
 Owner: Bexley Gateway Plaza

Request: Applicant is seeking an extension of the 2007 conditional use/ temporary variance granted to allow the commercial parking lot to remain a conditional use per Bexley code section 1254.09.

Staff Comments

- Mixed Use Commercial Zoning District
- Main Street District Overlay
- We all know this as the “overflow parking lot” for the Bexley Gateway restaurants or “Gateway South”. Over the years, the owner, has been gracious enough to allow the public to park in the lot free of charge and has coordinated with the City and public utilities to allow the site to be used for construction staging.
- In 2007, the parking lot was granted a temporary variance/ conditional use that was supposed to be re-applied for on an annual basis. The conditional use renewal has not occurred since 2009, and so they are before you to request the conditional use.
- Per MUC & Main St. standards parking lots should have a 4 ft tall stone wall or metal fence with 3 ft landscape buffer screening the lot from public streets.
- The property owner has agreed to coordinate with the City to improve the landscape buffer on Main St. which will be partly on his land and partly on City Right of Way.
- City staff has met with the owner, and because there is high potential for development in the near future, waiving the code required stone wall / fence requirement is supported by staff.
- The lot is currently being used to accommodate contractor parking for The Fitzgerald development as construction spaces for The Fitzgerald development, as well as providing for general public parking.
- Staff supports the granting of the conditional use for the parking lot, subject to the following conditions:
 - That the City work with the applicant on the design and installation of a rejuvenated landscape buffer, waiving the stone wall/ fence requirement
 - That the conditional use be extended for 2 years.
 - That the property owner agrees to continue to make the parking lot available for general public parking throughout the term of the conditional use.
 - The applicant update the current signage by applying for a sign permit.



- 4) App No: BZAP 24-48
Address: 218 N Parkview
Applicant: Will Lehnert
Owner: Jonathan & Lori Feibel

Request: The applicant is seeking an area variance from Bexley code section 1252.15.g.1 to allow an accessory use, swimming pool, in the front yard and a height variance to allow a 48" tall black metal pool front yard fence to meet pool enclosure requirements.

Staff Comments

- R-2 Zoning District – Corner Lot
- Lot Size is 125' x 245' (30,625 sq. ft.)
- Corner of N Parkview & Commonwealth
- Front yard is platted to Commonwealth Park N
- Front door faces side yard – Parkview
- 30 ft street-side side yard setback
- 1252.15.g.1: Accessory structures and uses only permitted in rear yard.
- 1252.16 – A private swimming pool shall be permitted as accessory use ...
- 1264.02 – Front yard fences can be up to 42" with special permit from BZAP.... Proposed is 48"
- This is a quirky situation. The "L" shaped house faces Parkview and the structures are generally located on the northern part of the property, thus the only outdoor space is their front yard as you can see in the site layout. There is heavy landscaping along Commonwealth and the neighbors to the East almost making the house and yard hidden from view which is a positive. Owner is going to enhance the plantings even more making the space more private.
- Even though the house is platted to Commonwealth, the whole property sets up to face Parkview and the area in question does feel more like a rear/ side yard. The pool & pool deck is encroaching into the front yard minimally as most of it will be hidden from view behind the house. The 48" fence is a requirement for pools thus a 6" height variance is needed if the pool variance is approved. Staff supports this variance request as there is a hardship with the layout of the property, and there is past precedent for situations such as this.

Property Exhibit on next
page

- 5) App No: BZAP 24-49
Address: 2300 E Livingston
Applicant: Bill Downing
Owner: Bexley Apartments LLC

Request: The applicant is seeking a conditional use permit per Bexley code section 1254.09 to permit first floor residential use within a new multi-family building in a Mixed-Use Commercial District as well as a variance from section 1264.05.a to allow the required property fence to step down in height as it approaches Francis Ave

Staff Comments

- Mixed Use Zoning District
- NW Corner of Livingston & Francis
- New Multi-family development proposed in the Mixed Use Commercial district on Livingston Ave. This proposes 27 affordable housing units offering a mixture of 1,2,3-bedroom options.
- 1254.09 – MUC district conditionally allows dwelling units on all or any of portion of the first floor.
- 1264.05 – (Fences) requires commercial uses abutting a residential zoning district to have a 96" fence built. This applicant proposes a fence that steps down as it gets closer to Francis Ave for safety and site lines. Staff is in support of this step down in the fence.
- See Jason Sudy's report for more information.
- This application was moved to BZAP **without a positive or negative recommendation** from ARB however if approved by BZAP, then ARB would like to have the applicant return to them for final certificate of appropriateness. There is much work to be done on the design.





SOUTH ELEVATION - EAST LIVINGSTON AVENUE



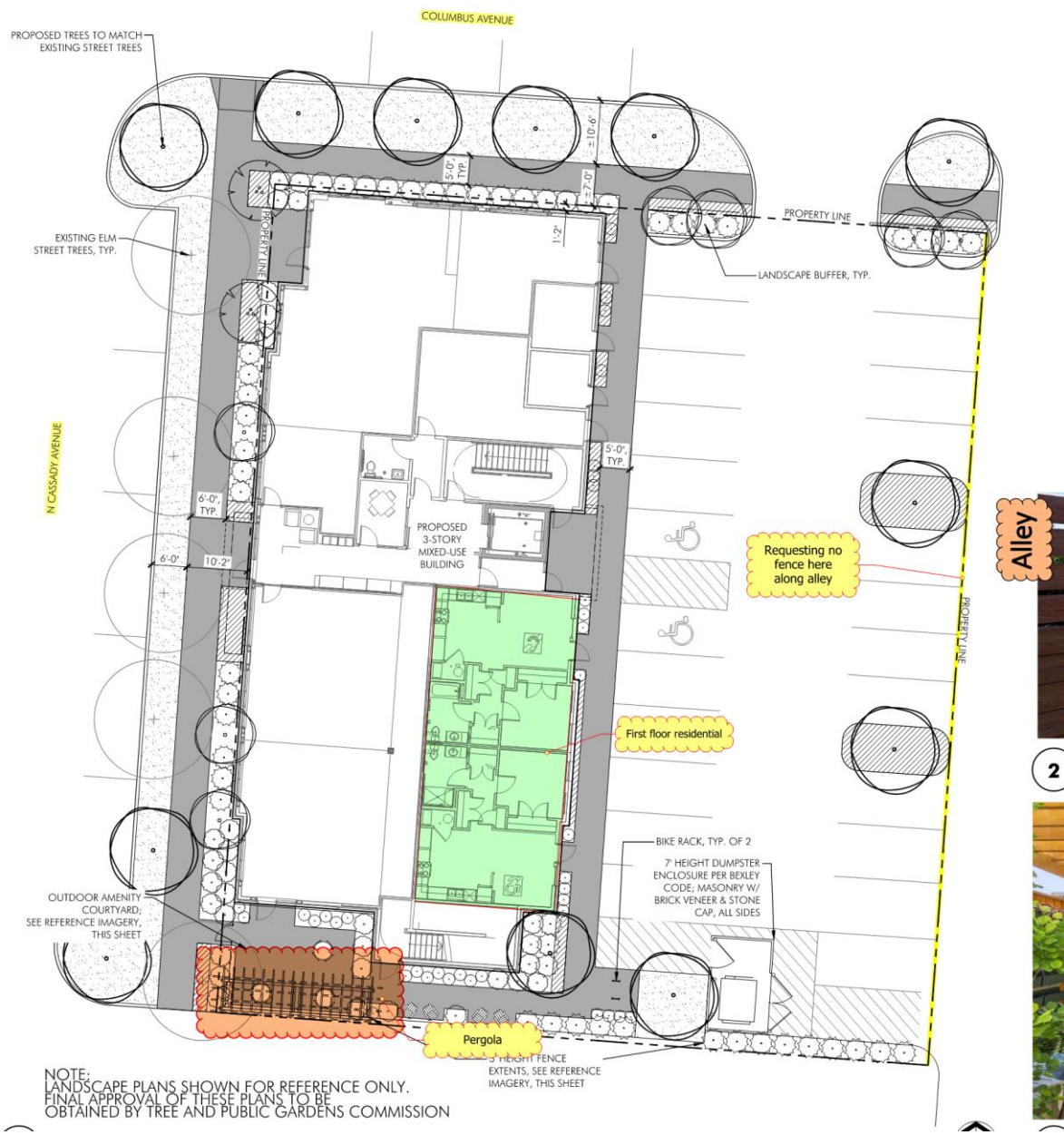
EAST ELEVATION - FRANCIS AVENUE

- 5) App No: BZAP 24-50
 Address: 420 N Cassady
 Applicant: Bill Downing
 Owner: Bexley Apartments LLC

Request: The applicant is seeking a conditional use permit per Bexley code section 1254.09 to permit first floor residential use within a new multi-family building in a Mixed-Use Commercial District; a variance from section 1254.17 to allow an accessory structure (pergola) in the side yard; a variance to waive the fence requirement per Bexley Code section 1264.05

Staff Comments

- Mixed Use Commercial District
- Current Bexley Senior Center
- 3 story building with 16 units, mix of 1-2 bedrooms and nearly 3,500 sq ft of 1st floor commercial space which is anticipated to be the new Senior Center.
- 1254.09 – MUC district conditionally allows dwelling units on all or any of portion of the first floor.
- 1264.05 – (Fences) requires commercial uses with a residential zoning district located across a public alley to have a 96” fence built.
- 1254.17 – Accessory structures in Commercial districts - Permits accessory structures in rear yards only
- This applicant is proposing a couple of first floor units which is why the conditional use is needed. The waiver for the fence requirement is needed for ease of access in and out of the rear parking lot from the alley.
- The applicant has proposed a pergola on the south side of the building as a part of an outdoor seating area. This is located in the side yard of the property.
- See Jason Sudy’s report for more information.





3. WEST ELEVATION (NORTH CASSADY AVENUE)



4. NORTH ELEVATION (COLUMBUS AVENUE)