



## **Board of Zoning and Planning Meeting Minutes**

Thursday, May 27, 2021

6:00 PM

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**1) Call to Order**

The meeting was Called to Order at 6:00 pm. To view the live recording, click here: <https://www.youtube.com/watch?v=3-TQRzI03Zo>

**2) Roll Call of Members**

Alissha Mitchell, Sean Turner, Brian Marsh, Jason Fout, Rick Levine, Bob Behal

**3) Public Comments**

There were no public comments.

**4) Approval of Minutes**

Motion to Approve the April 22<sup>nd</sup>, 2021 BZAP Minutes – Brian Marsh, seconded by Alissha Mitchell

Vote: Alissha Mitchell, Sean Turner, Brian Marsh, Jason Fout, Rick Levine, Bob Behal

**5) Staff Report**

A) Staff Report for 5/27/2021

**6) Old Business**

A) Application Number: BZAP-20-22

Address: 471 Northview

Applicant: Nicholas Kinney

Owner: Lidia Kucherski

Request: Privacy fence erection along the northwest property line 15' into the city's right of way

Rose reviewed staff comments with the Board for this application. This application was before BZAP in the August 2020 meeting where they were seeking a 1'4" variance for a fence. Code limits fences to 4' in height. This property is on a corner lot and there were concerns from the neighbor to the west related to the fence potentially limiting traffic view. Staff found that there is a little more than a car-length view for pedestrian and automotive traffic. Vegetation is more of a hinderance and did not allow for visibility. The current city right-of-way is large and if improvements are made it could factor the decision. Rose spoke with the city's engineer and noted that the south edge line of Caroline Avenue may be extended. This location would have 20'

of right-of-way grass before getting to the property line and does not hinder the visibility of pedestrians or traffic. The vegetation is closer to the street and the fence from Caroline would not create an issue of sight.

Nicholas Kinney was sworn in. The applicant reviewed the application with the Board. The owner is comfortable with extending fence 16' beyond the front face of the garage. She wants added privacy from her driveway from street view. Turner said he did not understand the purpose of bringing the fence out. He said that Zoning variances are for hardships or out of necessity. The applicant said that the in between the fence and the corner of the garage is a walkway that goes to the pool. Removing the vegetation would expose the walkway and the owner would like to protect the view from her driveway and shield the guests coming to and from her pool.

Behal asked if vegetation was a problem. Rose said she would speak with Code Enforcement. Behal asked who controlled the vegetation in the right-of-way. Rose said when vegetation is a problem Code Enforcement can cite for it or the Parks Department can remove it. The fence is not as much of an issue as the vegetation. Mitchell asked if the City planted it. Rose said no, typically they plant tall trees. Mitchell asked if the vegetation or the fence was a concern of the line-of-sight being blocked, and would the new fence eliminate the line-of-sight issue. Rose said the city has regulations for corner lots so the sightline is not blocked at intersections. Levine asked if the lower end of the fence is on the property line what is the variance for. Rose said the height. Anything taller than 4' requires a variance. The proposed fence for this application is 5'4".

Angela Niermeyer, resident at 481 N. Drexel Avenue, was sworn in. From her perspective, there is no sidewalk on that street. People are walking on the street and the vegetation has been there for years. This family use their pool all the time. There are people coming and going all summer and it would be beneficial for everyone to have that barrier.

The Findings of Fact and Conclusions of Law for Application No. BZAP-20-22 for the property located at 471 Northview: Upon consideration of the application, proposed variance, and evidence and testimony before it, the Board finds that the applicant has proven that the criteria to grant an area variance to Bexley Code Section 1226.11(c) have been met, and a 1'4" height variance from Bexley Code Section 1264.03(c) to allow 5'4" high fence to 16' from the front north face of the garage and along west side property line shall be granted.

The applicant understood the Findings of Fact.

Motion to Approve the Findings of Fact: Alissha Mitchell, seconded by Jason Fout  
Vote: Rick Levine, Alissha Mitchell, Sean Turner, Brian Marsh, Jason Fout, Bob Behal

## **7) New Business**

- A) Application Number: BZAP-21-13  
Address: 187 S. Cassingham  
Applicant: Ryan Brothers' Landscaping- Ryan  
Owner:  
Request: Change out existing asphalt driveway to pea gravel with limestone edging

Pat Ryan was sworn in.

Rose reviewed staff comments with the Board. This applicant has a driveway in front of the house which has been there for several years. They applied for a Permit to replace it but it can not be approved by staff because the drive is in nonconformance with Bexley Code Sections 1262.01(e) and 1262.04(b). The proposed material would be a change from what currently exists and included is a paver drive in place of the existing drive.

The applicant said that there is an elevation change and they are proposing to shave that off. They would be proposing limestone edging and pea gravel instead of replacing with asphalt which is the current material, and would take this up to the gate that is already there. Mitchell asked if it would be sealed. The applicant said it would not, the pea gravel would be free to movement. Mitchell said that the applicant would have to continue to refresh the material on a regular basis. The applicant said it was what the owner wanted and a similar one exists down the street. Fout asked what the homeowner's use of the driveway would be. The applicant said to come and go and added that the garage in the back of the home had a drive that led up to it. Turner asked if this drive stopped at the gate. Mitchell asked if there were no additional pavers. The applicant said it would just be pea gravel and limestone edging. Behal asked if there was anything in the statutes that allowed gravel of any sort in a parking lot or driveway. Rose said it is supposed to be a dust free surface, but the applicant is providing a border of limestone for containment.

Fout said he was less concerned about the material and more concerned about the form. The variance is for a driveway that does not connect to the garage. He asked if this is considered as a like-for-like since it is pre-existing and they are only proposing to change the materials or this is something that needs a variance. Rose said it is nonconforming and she is not aware of a variance for this in her files. Staff does not have the authority to approve replacing this. The applicant can make this conforming or seek a variance from the Board. Turner said a similar one was voted down in a prior meeting by this Board. Rose said it was a property close to a school and they are trying to take parking off the street with the amount of pedestrians on the street. She added that a drive aisle has to lead to an approved parking location. This driveway borders the property line and is alongside the house and stops next to it. The city does not want to encourage front yard parking.

Marsh said this was a great solution and that it looks good architecturally and is in an area that does not get a lot of traffic. Behal wanted to clarify that the property does have a garage and it has a rear entrance. Rose said it did. The applicant said the applicant thought the replacement would be considered as same-for-same and are not adding square footage, only swapping out the material. Rose said if materials were to be changed the applicant would have to request a variance, and added that any asphalt driveway will require replacement but this one requires a variance to allow replacement because it is currently a nonconforming driveway. Behal asked if the Board allows this to occur then there is no overnight parking. Levine said parking on-street would be preferable. Rose said they could park on the side of the house and not in the front. The applicant said that it sits back half-way on the side of the home. Turner said there is already a requirement for no parking in a front yard. Rose confirmed that drive aisles are not parking spaces.

There were no public comments.

The Findings of Fact and Conclusions of Law for Application No. BZAP-21-43 for the property located at 187 S. Cassingham: Upon consideration of the application, proposed variance, and evidence and testimony before it, the Board finds the applicant has proven the criteria to grant an area variance from Bexley Code Section 1226.11(c) has been met, and a variance from Bexley Code Sections 1262.01(e) and 1262.04(b) to allow a driveway in the front and side yard to be replaced be granted in conformance with the plans submitted to the Board for pea gravel and limestone trim.

The applicant understood the Findings of Fact.

Motion to Approve the Findings of Fact: Brian Marsh, seconded by Alissha Mitchell

Vote: Brian Marsh, Rick Levine, Alissha Mitchell, Sean Turner

Against: Jason Fout, Bob Behal

- B)      Application Number: **BZAP 21-18**  
            Address: 481 N Drexel  
            Applicant: Angela K. Niermeyer  
            Owner: Angela K. Niermeyer  
            Request: To move and install new 91 ft long and 6 ft high wood privacy fence 3 ft North to the property line.

Angela Niermeyer remained sworn in from the prior application.

Rose reviewed staff comments for this application with the Board. This application is for an existing 6' fence along Caroline, which sits 3' south of the north property line, be replaced with a similar 6' fence but would be relocated on the property line. Staff can approve to replace a fence but because they are proposing to relocate the fence on the property 3' from where it is now it needs Board review. A landscaping plan would go before the Tree and Public Garden Commission for their review and approval. The Board normally looks for transparent features on the upper 12" to 18" on a taller fence but the applicant is proposing to replace the fence with a sold wood fence which is similar to what is there now.

The applicant said that they could put lattice on the top but they don't want passerby's to be able to look in. There is a pool on the other side of the fence and they would like it as private as possible. The new fence would be like what exists there now, and they would let ivy grow back on along with other vining plants. They are proposing a new and same fence to what is there now and the only difference is that it would be 3' out from where the current fence is located on the property.

Turner asked if this area will be widened too. Rose said it would. Mitchell asked if the fence comes out 3' more it would not encroach into the street. Rose said that was correct. And any vegetation that would be outside of the fence would be subject to review by the Tree and Public Garden Commission.

Behal asked if the extra 3' would allow more room for the pool. The applicant said it would not be for the pool but would be so there is more room around the pool. Mitchell asked if the pool was already there and if this section would be for more walking space around the pool. She does not understand the request and is not sure that a hardship exists for wanting more walking space. The applicant said that they would be moving this farther out on her property line and once vegetation was added in on the exterior of the fence that is when the city has to approve the trees. She said that this fence would not block the line-of-sight and it would not look any

different that how it does now.

Behal said it looked like there was no sidewalk there now and asked how much pedestrian traffic goes up and down the grassy area versus walking in the street. The applicant said the people who pass by walk in the street. Turner said a recent 6' fence was approved without clearance at the top and it was a similar situation as this. Rose said there was a more open portion of the fence and the applicant chose to install vegetation for screening. Behal said there were similar situations like this in the city where taller fences were proposed without lattice work included. Rose said in this case if the applicant wished to replace the same fence in the same place, then staff could approve the request.

Mitchell asked for clarification on what the spirit of change is for and is curious since the Board indicated other instances where taller fences were approved without lattice work. Rose said this must have been an older variance and the prior owner had been approved for the fence that currently exists, and added that there have been cases where staff has run across homes that have changed hands and the current owners want to replace the existing fence like-for-like. Bokor said she asked for lattice work at the top to break up the visual of the fence so it does not look like a long blank wall. Mitchell suggested that even if they included vining vegetation this particular location could easily take that on and not look like it had a blank wall effect. Bokor said it was dependent on location and there are other ways to break that look up and soften it. Behal asked if a landscape plan currently exists. Rose said smaller vegetation on the interior of the fence and a row of five trees and ivy. Turner asked if there would be landscaping on city property. Rose said that was why it would go before the Tree and Public Garden Commission. The applicant added that a sprinkler system would be installed and maintenance on that portion of greenspace would be taken care of just like the front yard.

There were no public comments.

The Findings of Facts and Conclusions of Law for application No. BZAP-21-18 for the property located at 481 N Drexel: Upon consideration of the application, proposed variance, and evidence and testimony before it, the Board finds that the applicant has proven the criteria to grant an area variance from Bexley Code Section 1226.11(c) has been met, and a 2' variance from Bexley Code Section 1264.03(c) to allow a 6' fence on the north property line be granted, with the following condition: That the applicant submit a landscape plan to the Tree and Public Garden Commission that accomplishes the goal of breaking up the appearance of a solid wall effect of the fence for review and approval.

The applicant understood the Findings of Fact.

Motion to Approve the Findings of Fact: Sean Turner, seconded by Alissha Mitchell  
Vote: Alissha Mithcell, Rick Levine, Jason Fout, Brian Marsh, Sean Turner, Bob Behal

- C)      Application Number: **BZAP 21-19**  
            Address: 2455 **E** Main Street  
            Applicant: Chris Vallette  
            Owner: Mattlin Holdings LLC  
            Request: Patio canopy in front (north side) of building

Rose provided background information to the Board for this application. Previously Café Istanbul came before the Board and was approved for different versions of awnings for their patio, which

were never constructed. They are returning to the Board with structure they would like to propose to use instead.

Jason Sudy reviewed Zoning information to the Board for this application. For this project they are referring to the details in the Main Street Guidelines. This location is on Main Street and in a two district mixed-use overlay. There are issues on the Main Street district which are applied here and are instrumental for the Board to review. One would be how to consider the physical structure and determine if it would be considered an auxiliary structure and not an addition, if it is not connected to the slope of the roof with a gutter system. If found to be a separate structure it would require variances in some form. Also under consideration would be: is a separate structure allowed to be in front of the existing building and is the size in excess of 35 percent of the original building. This is an unusual case. It is the largest patio outside of a building on Main Street. The patio is a success but is it appropriate to put a structure there and if so, is this the right structure. There are remnant light fixtures on the building that are leftover from the previous use and were not addressed, and staff would like to see that. There is currently some parking on the side of the building and is behind a small lawn and not screened. One idea is to have screening put in place and can be with review and approval by the Tree and Public Garden Commission. The bigger issue is whether or not to approve to have it in this location and what are some of the architectural questions, with an understanding that there is a likelihood this would be remanded to the Architectural Review Board for those issues. For this Board, is it appropriate to have a structure like this on Main Street, and if it is the right architectural solution. Other questions to consider are how enclosed the structure would be, what it would look like throughout the different seasons, and the impact on signage, which would need to be moved. Because of the unanswered questions the Board might want to consider Tabling the application to a future meeting and recommend conditions.

Bokor reviewed architectural comments with the Board. She said it is a wise idea to have this application before the Board of Zoning and Planning to get a feel for the allowance of the structure. Architecturally there is not a true idea yet of how it mechanically and aesthetically fits in. Conceptually it is a great patio and would benefit from a partial cover. Staff would like to see the sign preserved but are also concerned with the way to cut the structure, the way it is placed, and how or if it would be connected to the building. The proposal is indicative of a thought process in the preliminary stages, is sensitive to the current landscaping, but staff would like to see it tie in in a way that is sensitive to cover the metal posts and blend into the structure.

Mitchell asked about a concept for drainage. Bokor said staff can not support this as a final drawing but it this Board's prerogative to bring it to a final vote if they want to. She thinks it should be Tabled and remanded back to the ARB and include a recommendation to bring this back to BZAP for further development placement and site coverage. Mitchell said even if it goes back to ARB there is still a gap between the building and this structure does not physically abut to the building. Mr. Sudy said they asked the applicant for a gutter system but are still concerned about the interface.

Chris Vallette was sworn in. The applicant reviewed information with the Board for this application. Behal asked the applicant what was going on with this proposal and how he envisioned it working through the different seasons and weather. The applicant said that the awnings in this structure are retractable, and it does have an internal gutter system. Water is

collected inside the columns and then flows onto the ground. There is a gap in this structure between it and the building, but the size can be changed and the gap would not provide the space for a large downpour that could happen if it had a shed or pitched roof. The outdoor patio at this location is used frequently and when it is hot or raining, that reduces the amount of seating available outside. The owners of the café do not plan to enclose this structure. The signage would be kept where it is currently, and the size of the awning can be reduced so it remains exposed. The owners have a nice outdoor patio and would like to have this structure help with the patio's occupancy.

Turner asked how big was the awning that was previously approved. Rose said it was canvas and had not been constructed and was a lower profile to see the top of the existing building. Turner asked how big it was coverage wise and if it covered the whole patio. Rose said it did and had a cut out for the door.

Behal said it sounds like they are at a point where they can say to the applicant to go to the ARB for more design work, get their take, and Table the discussion for tonight. Mitchell said she liked the idea to give them the opportunity to flush out the challenges, but thinks it is a great addition to the district and area, and as an increase to the café's service. Marsh said he would like to know what the Architectural Review Board says. He thinks it is a great patio and having some type of coverage is a great addition but thinks this looks too massive. Fout said he is in favor of the idea but the execution of it needs to be correct. He agrees that the proposal to Table this application is the wisest way. Turner also is in favor of this and said that the patio at this space is a major asset. Bokor suggested further development would have to happen before going to ARB to get the most out of that review.

The applicant said he understood the feedback and asked how much of a reduction to consider. He added they would need to have a rendering done before submitting to architectural review. Bokor said she would be more than willing to speak to the applicant to prepare for that. The applicant wanted to make sure they could have everything prepared and ready to present for the ARB meeting in June but agreed to Table the application until then.

There were no public comments.

Motion made to Table the application until the June 24<sup>th</sup>, 2021 Board of Zoning and Planning meeting: Brian Marsh, seconded by Alissha Mitchell

Vote: Alissha Mitchell, Rick Levine, Jason Fout, Brian Marsh, Sean Turner, Bob Behal

D)      Application Number: **BZAP-21-22**  
            Address: 361 N. Parkview  
            Applicant: Glen Dugger  
            Owner: Howard Belford Trust  
            Request: Lot split to place house on one tax parcel to permit conservation easement conveyance to city.

Rose said that this is for a lot-split and staff needs legal descriptions for this application. It is something the Board can vote on but also requires Council action. Because staff did not have the legal descriptions for the Board, Rose talked to the applicant and he sent an email requesting that this case be Tabled until the June 24<sup>th</sup>, 2021 BZAP meeting.

Motion made to Table: Rick Levine, seconded by Alissha Mitchell

Vote: Alissha Mitchell, Rick Levine, Sean Turner, Jason Fout, Brian Marsh, Bob Behal

- E) Application Number: **BZAP-21-23**  
Address: 155 S Roosevelt  
Applicant: Brian Marzich  
Owner: David Ornstein  
Request: Proposed one story to the northwest corner of the structure to provide a larger kitchen, mudroom and covered rear porch.

Brian Marzich, David Ornstein, and Michelle Ornstein were sworn in.

Rose reviewed information to the Board for this application. This was initially submitted for design review but after reviewing the dimensions it was determined the addition encroached into the side yard setback. The applicant filed a BZAP application and a two-week notice was mailed out. The addition changes the setback on portions of the existing structure along the north property line. The lot coverage is adequate and meets the separation between the home and the fence.

Bokor said that ARB approved this and thought it was a nice design.

The applicant said that the owner wanted to do something with the kitchen and gain a mudroom space and covered deck area off to the back. The interior scale of the kitchen would match the house, and a portion of the house is already nonconforming. The bump out in the setback is only a few inches and this addition would encroach an additional 2'1". Bokor added that communication with their neighbor has been positive. Behal said that there is a reason for side yard setbacks, and he is skeptical for side yard reductions unless it is an unusual situation or there is something that would make the request different than other cases. He asked if the Board is setting a precedent if approved.

There were no public comments.

The Findings of Fact and Conclusions of Law for Application No. BZAP-21-23 for the property located at 155 S. Roosevelt Avenue: 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 from Bexley Code Section 1226.11(c) have been met, and a 2' variance from Bexley Code Section 1252.09 (R-6) Zoning to allow a one-story addition should be granted as submitted.

The applicant understood the Findings of Fact.

Motion to Approve the Findings of Fact: Sean Turner, seconded by Alissha Mitchell  
Vote: Alissha Mitchell, Rick Levine, Jason Fout, Brian Marsh, Sean Turner  
Against: Bob Behal

The Findings of Fact and Conclusions of Law for Application No. BZAP-21-23 for the property located at 155 S. Roosevelt Avenue: The Board finds that a Certificate of Appropriateness should be granted in accordance with the Decision and Record of Action from the Architectural Review Board at its May 13<sup>th</sup>, 2021, meeting as submitted.

The applicant understood the Findings of Fact.

Motion to Approve the Finding of Facts for the Certificate of Appropriateness: Sean Turner,



seconded by Jason Fout

Vote: Jason Fout, Rick Levine, Alissha Mitchell, Brian Marsh, Sean Turner, Bob Behal

**8) Other Business**

**9) Adjourn**

The meeting Adjourned at 7:56 pm.