



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

**Thursday, August 25, 2022**

**6:00 PM**

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**1) Call to Order**

The meeting was called to order.

**2) Roll Call of Members**

Members presents: Mr. Turner, Mr. Marsh, Mr. Levine, Mr. Schick, Chairperson Behal, Mr. King.

Mayor Kessler introduced Mr. King; Mr. King explained he is a Bexley resident and public finance professional.

**3) Public Comments**

There were no Public Comments.

**4) Approval of Minutes**

A) Minutes from 7/28/2022 BZAP

Motion to approve by Mr. Schick, second by Mr. Turner; all in favor.

**5) Staff Report**

A) Staff Report

Chairperson Behal explained that going forward, Board members who vote against a case will be asked to briefly explain their rationale, or there may be a discussion about the reason for the vote; this will be made public and can be used should there be an appeal.

Ms. Bokor stated new rules and regulations include the Chair's ability to impose a timelimit in the event there are many speakers; Chairperson Behal explained there will generally be three minutes for a resident with standing to share their position.

**6) Old Business**

A) Application Number: BZAP-22-21

Address: 2844 Elm

Applicant: Heather Mohrman

Owner: Heather Mohrman

**Request:** The applicant is seeking a variance from Bexley Code Section 1252315(g)(1) which limits accessory structures to the rear yard, and from Bexley Code Section 1464.02, which requires a pool/spa to be five feet further back from all other building restrictions lines, to allow a hot tub in the side yard and only 5' from the side lot line.

Jeff Mohrman was sworn in.

Ms. Rose stated this application has been tabled several times and explained this is a corner lot seeking a variance for a hot tub in the side yard. She described the setbacks, fencing in place, and concern for fire equipment access.

Ms. Bokor indicated this hasn't gone before the ARB.

Ms. Rose shared additional information is included in the Staff Report.

Mr. Mohrman detailed the work done in the backyard by the home's previous owners, the proposed area being underutilized and the most private, and that the installation had been completed without a variance.

Ms. Rose stated neighbors have written a letter in support of this project.

Chairperson Behal spoke to the Board about precedence.

Mr. Mohrman stated he has considered other locations such as the side near Gould and between the garage and the northern part of the lot, but movement to these locations would trigger the removal of the patio. This location is also near the electrical panel; he feels this is the most economical and private location.

Mr. Mohrman explained the design and location of the fences and privacy aspects including shrubs.

Mr. Rose explained the rationale for special rules for setbacks.

The findings and decisions of the Board: 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 that a variance from Bexley Code Section 1252.15 is approved to allow a spa to be located in the side yard and 3' variance from Bexley Code Section 1464.02 to allow the spa to be 5' from the west side property line; due to the limits of this corner lot and the private location further supported by the minimal impact on the neighborhood most affected neighbor is in support of the request.

The applicant agreed to the Findings of Fact.

Motion to approve by Mr. Marsh and second by Mr. Turner; in favor

**7) New Business**

A) Application Number: ARB-22-42  
Address: 2774 - 2776 E Main  
Applicant: Edward Khodorkovsky  
Owner: Edward Khodorkovsky

**Request:** The applicant is seeking Architectural Review and approval for artistic improvements in the form of wall art on the east façade of the building for the new K-Gallery.

Mr. Khodorkovsky was sworn in.

Ms. Rose described the location of the lot and explained that Mr. Khodorkovsky will be using the space and his desire to install art in the windows. This has been reviewed favorably by the ARB with recommendations.

Ms. Bokor stated the ARB enthusiastically recommended this project; the only condition is that the panels between the artwork be painted to blend with the trim; this has been completed.

Mr. Khodorkovsky explained his background as a Bexley resident and art collector, and his desire to open a gallery to display the artwork for the community. In indicated the space will function as a museum with the potential for occasional sale, but it will not a retail establishment.

Mr. Khodorkovsky described the artwork in the windows will not be permanent and can be changed; he intends to keep it as such for at least a couple of years before he potentially changes it out.

Mr. Turner asked about the approval of the artwork; Ms. Bokor said the ARB differed in discussion here but the proposal require Staff Review unless Staff wanted to bring this to the Board. Mr. Turner stated the Board had to approve the awning; Ms. Rose said the Code update allows Staff to approve signage so long as it falls within the Main Street Guidelines and Codes.

There was discussion about the potential for car accidents near the intersections but it was explained that there is a traffic light at the intersection.

The findings and decisions of the Board: The Board of Zoning and Planning finds that upon consideration of the application, and evidence and testimony before it, the Applicant has proven that the criteria to grant a Certificate of Appropriateness subject to the following condition:

1) Staff is to review the new artwork as it changes.

The applicant agreed to the Findings of Fact.

Motion to approve by Mr. Marsh, second by Mr. Turner, all in favor.

B) Application Number: ARB-22-46 (BZAP-22-38)  
Address: 698 S Cassingham  
Applicant: Darryl Haas  
Owner: Darryl and Paula Haas

**Request:** The applicant is seeking Architectural review and approval and a Certificate of Appropriateness for a one-story addition at the rear of the house. The applicant is also seeking a variance from Bexley Code Section 1252.09 (R-6 Zoning) which limits lot coverage to 35% and requires a 6.6' side yard setback; to allow the proposed

addition to be 5' from the north side property line and to allow the lot coverage to be 36%. The applicant is also seeking a variance from Bexley Code Section 1252.15(a) which limits a detached garage to 18' in height; to allow a detached garage to be 20' in height.

Ms. Rose shared a Staff Report and highlighted the screen report and dormer. She stated she'd like for the fence to be discussed at next meeting.

Ms. Bokor stated the Board is to look at the variance for the house; the dormer and fence should not be part of today's discussion. The ARB recommended this for approval and stated the applicant received strong support from the Board and neighbor; the ARB would like this remanded back for final details.

Mr. Haas explained he and his wife would like to stay in their home but adapt it for additional living space. Additionally, they would like to expand the garage because it is dilapidating and would like it to be more spacious.

Michael Lange lives immediately to the north; he and his wife are wholeheartedly in favor of the project.

The findings and decisions of the Board: 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 that a variance from Bexley Code Section 1252.15(a), to allow a detached garage to be 20' in height; to allow a 3' variance to Bexley Code Section 1252.09(R-6) to allow a one-story addition be 5' from the north side property; which is an improvement from the existing structure that will be removed and allow a 1% variance the 35% lot coverage limit. The Board further finds it appropriate to grant a Certificate of Appropriateness for the design as submitted and includes the options to allow a second floor balcony as submitted to the Board.

There was discussion about remanding this back to the ARB.

The applicant agreed to the Finding of Facts.

Motion to approve by Mr. Turner and second by Mr. Schick; all in favor. Chairperson Behal explained his reasoning for approving this project being only 1% lot coverage change and the existing screened porch.

- C)     Application Number: BZAP-22-33  
         Address: 70 S Parkview  
         Applicant: Dehlco Construction Services LLC  
         Owner: Tanja Agriesti

**Request:** The applicant is seeking a variance from Bexley code Section 1264.03(b) No fence, wall or combination thereof shall exceed forty-eight inches in height in side yard setback areas as it faces a public or private street; to allow a proposed 55" high aluminum fence along the south end of this lot along Powell Avenue.

Discussion of this application occurred near the end of the meeting.

Ms. Rose discussed the desire to build an aluminum fence along a heavily landscaped portion of

the lot, which would make it difficult to see.

Mr. Luekhard described it would be partially 6 foot and partially 55 inch fence.

Ms. Rose stated the need to submit landscape plans are unnecessary in this case.

Board members stated this this will be a nice addition and discussed setback.

The findings and decisions of the Board: 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 that a 7" variance from Bexley Code Section 1264.03(b), to allow a 55" high wrought iron style fence to be located in the south side yard as shown in the plan reviewed at the August 25 th , 2022 BZAP meeting; as it will be screened by the existing landscaping and vegetation in the south side yard.

The applicant understood the Findings of Fact.

Motion by Mr. Schick, second by Mr. Turner; all in favor.

D) Application Number: BZAP-22-34

Address: 216 S Columbia

Applicant: Nate Sampson

Owner: Michael Glmcher

**Request:** The applicant is requesting approval from the Board of Zoning and Planning for a lot split and amendment to the previous variance conditions.

Chairperson Behal recused himself; Mr. Marsh served as Chair.

Ms. Rose stated this application is a request for a lot split and gave background information that in 2014 a variance was granted to build an accessory structure to be built at the rear end of the north lot on the condition that the tax parcels shall be treated by a single, undivided parcel and neither should be separately transferred. The owner is before the Board to request that the previous variance be amended so that the parcels can be split into slightly new configurations to meet requirements and a new principal structure to be built on the north lot. A principal structure would not prohibit the lots from being separate, but a condition of construction of a new principal structure if the Board approves an amendment.

The ARB approved a Certificate of Appropriateness to allow a new principal structure with conditions. See more at 55-59.

Ms. Cunningham stated this is a variance amendment and it is in this Board's jurisdiction now because each individual lot will meet the standards of the zoning district. This is a different process if they were not required by the condition to be combined to a single parcel. There was some discussion about adjusting the lot lines; if this happens, there are further subdivision codes and jurisdiction to do this. There is not jurisdiction over lot size or use variances. She further shared a strong suggestion that if the lot gets split and the drive is on the adjacent property as a condition of the approval, the applicant should come to the city to show a driveway easement.

Chairperson Marsh and Ms. Cunningham discussed the parcel lines.

Ms. Rose explained the reason for moving the property line is to stay within setback requirements.

Mr. Sampson was sworn in.

Mr. Sampson explained that the project has been before the ARB, recommending unanimously to the BZAP. For the lot split, he said this would require legitimation for the poolhouse and the area calculations in the 2014 application met the lot width at the time. He said Both lots are in the R3 zoning district and exceed the minimum lot dimensions. The new proposed structure fulfills the requests at the time to keep the lots separate so that a future family member or owner could build a home on that lot. A shared driveway is allowed; the only questions are explaining the lot split, they are just dealing with the existing pool house; trying to return the lots to what was platted, and the 3' adjustment to minimize variances.

Erica McIntyre (172 S Columbia) was sworn in and asked how the 2014 variance can be amended. Ms. Rose said at the time the pool and pool house were accessory structures to the home on the other lot, but the proposal to build a house on the north lot means those structures will be accessory to that home, legitimizing this should there be a lot split. The lot split is contingent upon a house being built on the north lot. Ms. McIntyre said that in 2014, as the neighbor she would have appealed it; it was not clear at that time that the lots can be separated if something could be built there.

Chairperson Marsh explained that this is a unique situation but this is something seen when homes built on multiple lots. Ms. Rose explained that was probably the only option at the time so that they wouldn't be merged into one parcel. Ms. McIntyre shared this didn't seem right to her or the neighbors.

A board member explained his understanding of this wording because they could not have an accessory structure without a primary structure. Ms. McIntyre stated she known this background at the time, she would have protested, and it was her understanding it would not be sold nor sold to have a pool house; she finds the poolhouse confusing. It was explained that currently the property owner can't build these things, but they are here to amend the variance to do this.

Ms. Cunningham explained a change of conditions is proposed so it is permitted use; the ways she reads the condition doesn't force the lots to be combined and the way it is created will be a condition with just a pool.

Mr. McIntyre stated the property to the south is at a disadvantage because there is no way to have a driveway on the south and no one will want to share a driveway.

Ms. Rose stated there was never a home on the north lot; the primary structure was built in 1931. Mr. Sampson was at the hearing in 2014 and said the ruling was to allow an accessory structure without a primary structure on the separate lot, so they roped them together. At the ARB meeting, Mr. Sampson stated the applicant agreed to add screening to the mechanical systems and since then, decided not to relocate the equipment behind the garage.

Ms. Cunningham discussed whether or not a home can be built on the north lot at the present time.

Mr. Sampson explained they are two separate deeds.

Ms. McIntyre asked about a primary structure; Ms. Cunningham stated that what is proposed would not be a primary structure.

Ms. Cunningham and Mr. Sampson discussed the language and what will need to happen to make this a possibility.

Larry Rubin (140 S Columbia) was sworn in and shared his thoughts that this may be emotional for the McIntyres and others who have made investments in the area, but he is not a proponent of shared driveways in Bexley. In this case, he said he understands that at a later date, a different family may be living there and may build a separate driveway.

Gilli Zofan (209 S Columbia) understood some changes have been made in the McIntyre's favor and while the shared driveway may work for the incoming family, this will hurt the community on Columbia and that parking will be difficult with a shared driveway.

A board member asked why a shared driveway would be an issue for anyone other than the incoming owners; Mr. Zofan said the owners not communicating will result in parking difficulties if there is a party and people will need to park on the street; Mr. Levine stated new owners will not be surprised when buying the house that there will be a shared driveway. Mr. Zofan thinks the price point will decrease.

Mr. Sampson said the initial intent is that if the owners agree to share the driveway, the onus is on the owner to share and maintain it. There was discussion at the ARB meeting about a second driveway which can be done in the future and discussion about the history of the driveway at the home. Mr. Sampson indicated there is a prospective buyer who requested the shared driveway.

Ms. Rose read a preliminary Findings of Fact which the applicant understood.

A board member questioned the reasoning for requiring a variance of the pool and poolhouse; Ms. Rose said the accessory structure code has changed since those were built. Mr. Sampson asked them to be legitimized and Mr. Sampson said in case of damage, they are able to rebuild.

Mr. Levine asked about using the language "amend" rather than allowing them to be split.

The findings and decisions of the Board for application number BZAP-22-34 for the property located at 216 S. Columbia Avenue: 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 that a 44.6% & 55% variance from Bexley Code Section 1252.15 is approved to allow a pool and pool house on the north lot to remain as constructed, a lot split is approved to amend the original Zoning Application Number 14-056, to now allow the properties to be

treated as separate parcels, and will subdivide a portion of the north lot and attach it to the south lot in the plan submitted, with the following conditions:

- 1) A plan be submitted to accommodate 2 driveways (one on each property) as an option;
- 2) The lot split is conditioned upon a principal structure to be built on the north lot as recommended and conditioned by the Architectural Review Board;
- 3) While the shared driveway remains, a driveway easement is to be filed and approved by the city

Motion by Mr. Levine, second by Mr. Turner; Mr. Schick - No, Mr. Levine - Yes, Mr. Turner - Yes, Mr. King - Yes, Chairperson Marsh - Yes.

## **8) Other Business**

### **A) City Zoning Updates**

Mayor Kessler provided updates on the following:

- Council heard an appeal to 81 N Drexel and have not rendered their decision. In the future, Board members will be notified when these occur.
- Regarding the Solar Panel ordinance; this is being worked on the with the ARB and Mayor Kessler anticipates they will formally sign up on it.
- A recent BZAP decision was overturned; Bexley believes the judge erred and an appeal to the 10th district court of appeals is necessary: the City will proceed accordingly. Mayor Kessler feels it is necessary to defend the City's decision.

Ms. Bokor said design guidelines will be presented to ARB at the next meeting, then they will be reviewed by ARB and this board, and finally go to Council.

Mayor Kessler said Council is considering an expansion of the use variance of the carriage house at 216 North Columbia -- the existing carriage house has a variance to allow it to be a resident for someone not paying rent. This is a councilmatic use variance; the structure is confirming, as would the expansion.

Furthermore, Mayor Kessler encouraged members to visit Livingston Ave. There was discussion about medians and what is there now.

## **9) Adjourn**

The meeting was adjourned.