



Board of Zoning and Planning

Staff Report

August 24, 2023

Kathy Rose, Zoning Officer

New Business:

1) Application Number: BZAP-23-16 – **Tabled from July 27, 2023**

Address: 2529 E. Broad

Applicant: Melissa Rottier

Owner: Melissa Rottier & Marcel Bischoff

Request: The applicant is seeking a special permit to allow a 42” high black aluminum fence in the front yard, along Broad Street.



View looking south west from the corner of Broad and Cassady



View along Broad



View of North West corner of Broad and Cassidy



PROPERTY INSPECTED:
2529 East Broad Street
Columbus, OH 43209

E.1 Variance Worksheet - [Answers from applicant's application \(in blue\)](#)

Variance requests will be heard by the Bexley Board of Zoning and Planning. Variances are based upon a legal determination of whether the request meets the criteria specified by Bexley City Code.

Description of the Proposed Variance. Please provide a thorough description of the variance being sought and the reason why.

[We would like to fence the front and the side of the property with 42 inches in height fence. The main reason is safety concerns since we have 2 kids ages 4 and 1.5 and the house is located between 2 very busy streets.](#)

1. Does the property in question require a variance in order to yield a reasonable return? Can there be any beneficial use of the property without the variance? Please describe.

[Yes. Yes, the house can still be used but the safety concerns will always exist.](#)

2. Is the variance substantial? Please describe.

[No. It is just a fence](#)

3. Would the essential character of the neighborhood be substantially altered or would adjoining properties suffer a substantial detriment as a result of the variance? Please describe.

[No. Surrounding houses all have the same fence we are requesting to be approved](#)

E.2 Variance Worksheet

Edit

4. Would the variance adversely affect the delivery of governmental services (e.g. water, sewer, garbage)? Please describe.

No

5. Did the property owner purchase the property with the knowledge of zoning restriction? Please describe.

No. Looking at the houses around it seems a fence 42 inches in height was allowed

6. Can the property owner's predicament feasibly be obviated through some method other than a variance? Please describe.

No. Safety concerns will only be minimized by a fence

7. Is the spirit and intent behind the zoning requirement observed and is substantial justice done by granting the variance? Please describe.

Yes. The ornamental fence would not obstruct visibility and is the only way to minimize the risks of 2 small kids living by 2 main streets

F.1 Fence Variance Worksheet

Background & Requirements

1. **Side and Rear Yard Restrictions for Interior Lots (non-corner lots):Height Limitations:** Maximum height of 72" (6') as measured from the average grade of the portion of the lot in the rear or side yard. Artificially raising the lot line by the use of mounding, retaining walls or similar means shall be included within the seventy-two inch maximum height restriction.
 2. **Front Set-back Lines:** No side yard fence shall extend beyond the front set-back line or the existing front building facade, whichever is greater.
 3. **Finish Side Rules:** Any fence or wall erected along the front set back line, side or rear property lines must have the finished and no the structural side facing the adjacent property, or street. Interior lots having rear lot lines coincident with alley right-of-way shall be permitted to place the structural side of the fence facing the alley right of way. Chain link, wire mesh or other similar material allowed only along interior lot lines and along rear lot lines coincident with alley right-of-way.
-
1. **Side and Rear Yard Restrictions for Corner Lots: Height Limitations:** No fence, wall or combination thereof shall exceed forty-eight inches in height in the side yard setbacks area as it faces a public or private street.
 2. **Special Permits for Taller Fencing:** Fencing or walls exceeding forty-eight inches in height, as measured from the average grade, 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.

Lot Type:

Corner lot

Narrative description of how you plan to meet the pertinent outlined variance criteria

By not building a fence that is higher than 42 inches in height and by obtaining the special permit. [Fence will only be ornamental.](#)

F.1-F.2 Fence Variance Worksheet: Side and Rear Yard Restrictions for Corner Lots

1. Compatibility: Describe how the proposed side yard fence or wall exceeding forty-eight inches in height and on the street side of a corner lot compatible with other properties in the neighborhood?

[side yard fence will not exceed 48 inches in height](#)

2. Height: Please verify that 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.

[side yard fence will not exceed 48 inches in height](#)

3. Transparency: Fences exceeding forty-eight inches in height should include transparency in the upper 12" to 18" of the fence through the use of latticework, pickets, or other appropriate design elements. Describe how you have satisfied this requirement.

[side yard fence will not exceed 48 inches in height](#) (Staff: fence to be black metal)

4. Screening: A landscaping plan must be filed with the application for a special permit, 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. Describe how the landscape plan addresses these items.

[It is an ornamental fence. No screening](#)

5. Visibility and Safety: The installation of such fence or wall shall not create a visibility or safety concern for vehicular and/or pedestrian movement. Please describe any visibility/safety concerns with your design.

[None. Ornamental fence not exceeding 48 inches in height](#)

6. Material Compatibility: No chain link, wire mesh or other similar material shall be installed on lot lines adjacent to public rights-of-way. Please verify that your design complies with this requirement.

[An aluminum fence will be used](#)

7. Finished Side: Any fence or wall erected on a lot located at the intersection of two or more streets must have the finished and not the structural side facing the adjacent property, alley or street. Please verify that your design complies with this requirement.

[Yes](#)

Background for 2529 E. Broad

This lot is located at the southwest corner of Broad Street and Cassady Avenue. The front yard appears to be on the Cassady side of the property; however, it is platted to Broad Street, making Broad Street the true front yard.

A fence permit was submitted with a request to locate a fence on the property lines along the Broad Street and Cassady Avenue sides of the property. The owners recently moved in and wanted to provide some type of barrier along the two busy streets.

There are other properties with existing fences along Broad Street, some having landscape at the property line and overhanging the right-of-way. I reached out to our City's Landscape consultant, who had concerns about adequate planting space maintained outside of a fence so plantings do not encroach into the city right-of-way. I find that the excising landscape islands on this property would be more appealing if left outside the fence.

Over the past couple of months, I have also had an opportunity to meet with a newly formed "Front Yard Committee" to establish standards for the type of structures and plantings that residents have shown an interest in having, in order to decide what should be allowed and further insure these items are appropriately installed to soften their interface with the neighborhood.

Many landscape installations over the years appear to wall off the outside as opposed to enhance the streetscape. It was the consensus of the committee that if a front yard fence is allowed, it should be set back 10' from the front property line.

There is currently a fenced in area in the rear yard of this lot that is a little over 1000sq'. **If the Board finds it appropriate to grant a Special Permit, I would suggest that a 10' setback from the Broad Street property line be considered. Any landscaping required should be further subject to review by the city's Landscape Consultant.**

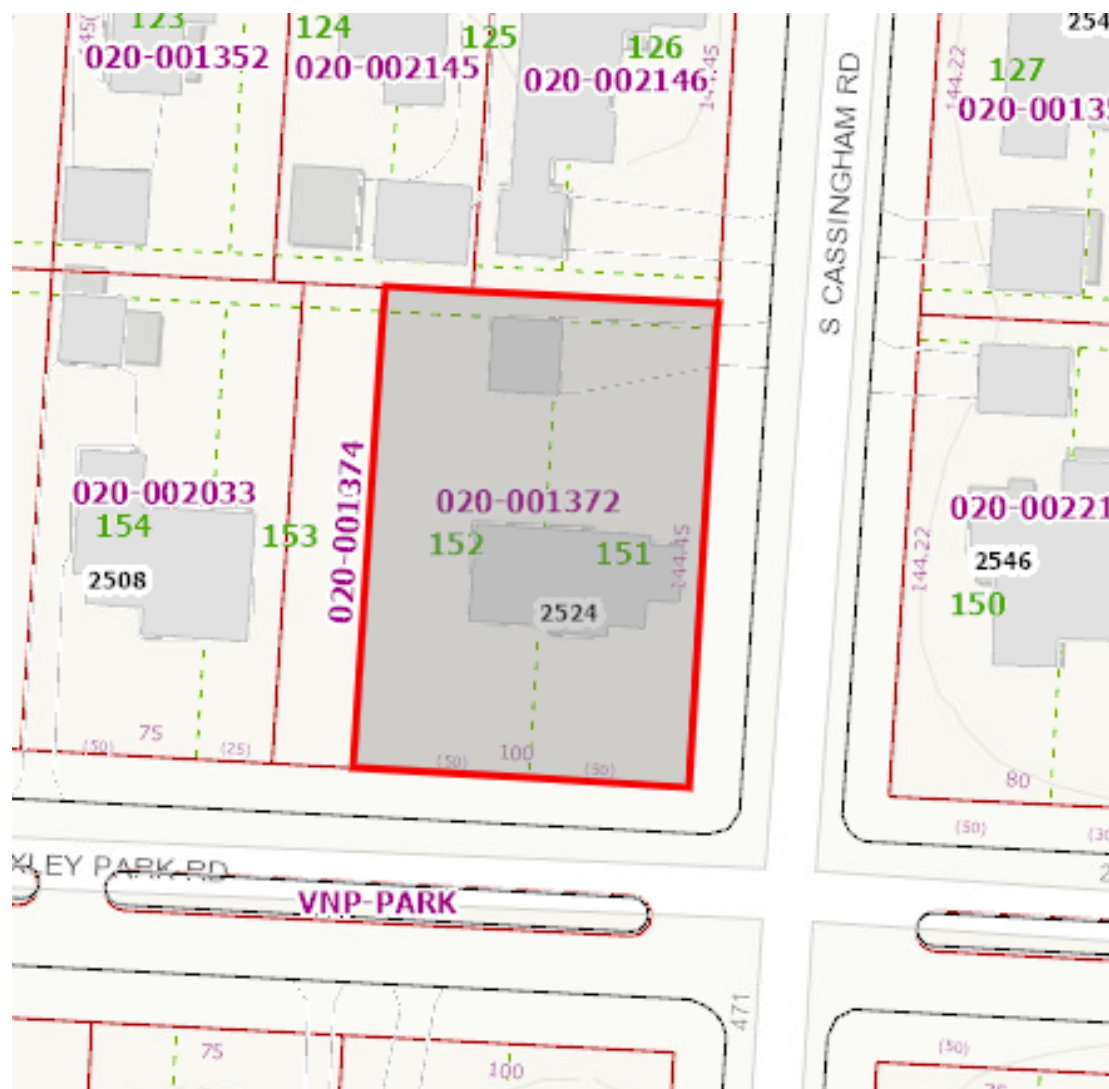
2) Application Number: BZAP-23-18

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 variance from Bexley Code Section 1264.03(3)(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 along the side yard in the rear yard, when the fence permit was applied for. After determining 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 Board review. The applicant submitted a BZAP application the next day.

Staff perspective:

The applicant has provided a fence which meets the criteria. 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 a couple of weeks and would only affect the owner when backing out of the property. If it has not been a problem as of yet, it may fine to allow it in the current location.

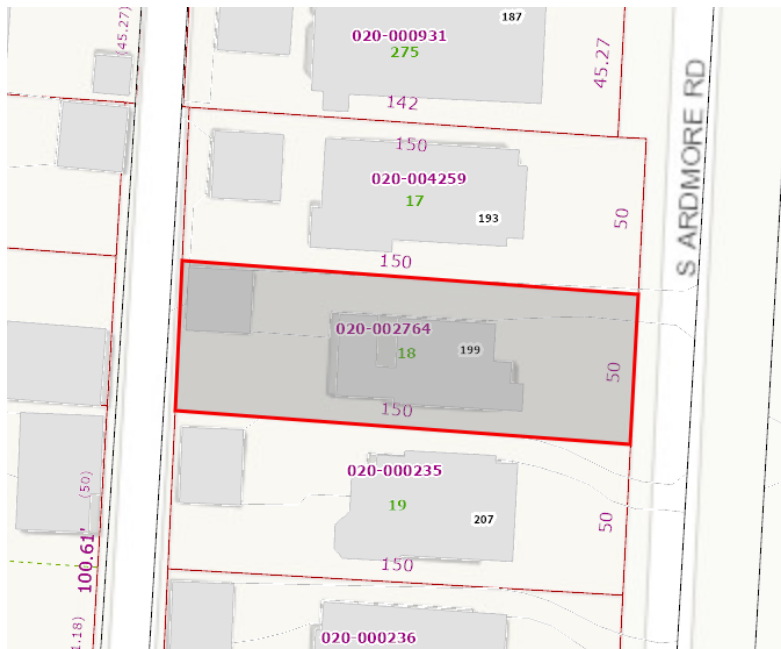
3) Application Number: BZAP-23-22

Address: 199 S. Ardmore

Applicant: Mitch Fries

Owner: Mitch Fires

Request: The applicant is seeking Architectural Review and approval of a Certificate of appropriateness for a new detached garage. The applicant is also seeking a Special Permit to allow a detached garage with a functional dormer.



Site Plan



Existing garage



existing garage

Background – R-6 Zoning District Lot size 50' x 120' - This lot is 50' x 150'

Bexley code Section 1252.15 Accessory Uses and Structures limits accessory structures to 624sq' for lots that are 6,000 to 13,999 square feet. The property in question is 7,500 square feet and has an existing 360'sq' (20' x 18') garage. Code allows a 624sq' garage.

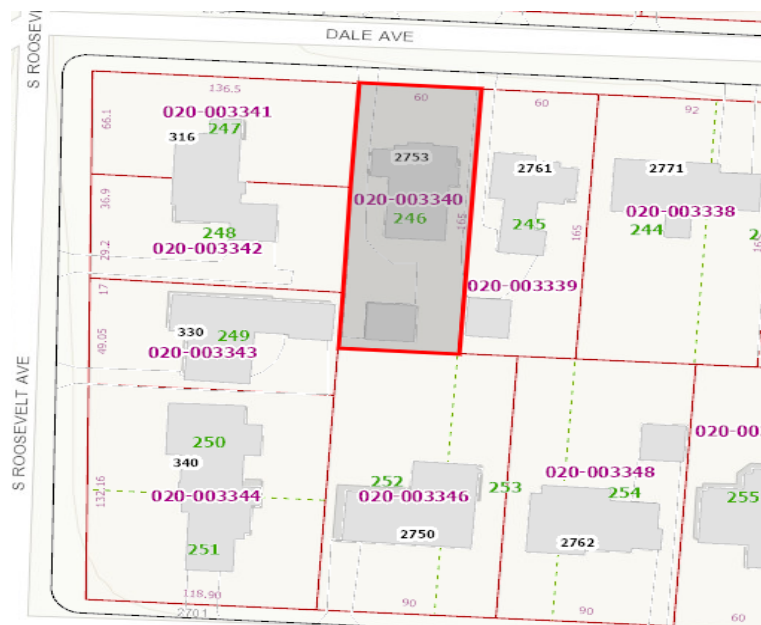
The owner would like to replace the garage with a slightly larger garage (616sq') that has a 2nd floor dormer. Being all of the other code requirements will be met, the applicant is seeking a Special Permit to allow a functioning dormer and also a certificate of appropriateness.

This went to the Architectural Review Board for design review and received a recommendation to the Zoning Board for a certificate of appropriateness, with the condition that the eave details be refined to match the house. There was mention that the applicant may consider the north side setback, which is t 3'; however, code does not require additional setback unless the dormer is outward facing. The proposed dormer faces the interior of the applicant's yard. The eave modifications have since been made and added to the application. If the Board finds it appropriate to grant a Special Permit, staff has no further conditions, but will defer to Karen on any further design details she finds necessary.

4) Application Number: BZAP-23-23

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.

Request: The applicant is seeking Architectural Review and approval of a Certificate of appropriateness for a new detached garage. The applicant is also seeking a Special Permit to allow a detached garage with a functional dormer and also a variance to Bexley code Section 1252.15, which restricts dormers when proposed in accessory structure and in certain proximity to a neighboring property.



There is an existing 22' x 24' detached garage at this location. The property backs up to 4 neighboring properties and does not have an alley. The applicant is looking to install dormers

on the 2nd floor of the existing garage and remodel the interior and exterior to eliminate the enclosed parking to accommodate a rec room on the first and storage on the second floor.

Codes to consider:

Bexley Code Section 1252.15(c) Special permits for functional dormers shall be based upon the following considerations:

- (1) The extent to which proposed dormers would face onto adjacent property; windowed dormers that face inward or onto an alley are preferred over windowed dormers facing onto adjacent property. *(dormer faces neighbor)*
- (2) The setback of the proposed accessory structure; setbacks in excess of district requirements provide a greater distance between adjacent properties and uses and, in instances where windowed dormers face onto adjacent property, are desirable. *(existing setback is 8'3" from rear property line)*
- (3) The design and massing of dormers facing onto adjacent property.
(Dormer faces onto adjacent property – frosted glass proposed on south window)
- 4. 1252.15(d) (3) Dormer ridge height shall be at least one foot below primary ridge height.
(the dormer is at the same ridge height of the garage roof.)
- (g)(2) Accessory structures and uses with outward facing dormers shall be set back at least *ten* feet from property lines. *(structure is 8' 3" from rear property line)*
- (g)(6) A garage must be able to functionally accommodate vehicles, with operational garage by doors and adequate depth for standard sized vehicles. *(The modifications will not longer provide standard sized parking due to the addition of a staircase or accommodate vehicles)*

This application initially came in under BZAP-23-2 application, as an *in-law suite in a detached garage* – complete with kitchenette on the first floor and bedroom and full bath on the second floor, and an attached storage shed.

An in-law suite is only allowed in R-1, R-2 and R-3 zoning districts as a unit within the single-family dwelling. In the R-6 Zoning district, it is a conditional use, but also only allowed within the existing single-family dwelling. I explained to the applicant that this was not a matter for the BZAP and only city council could consider as a Councilmatic variance.

The applicant next submitted a BZAP application and resubmitted a plan with a recreational room on the first floor, step to provide access to a second floor and dormers on the north and south sides of the roof.

There are codes that require a replacement garage when demolishing a garage as follows:

1223.05 (g) Demolition of Detached Garages. In order to preserve the historic stock of enclosed off-street parking spaces within the City, no detached garage shall be demolished, partially demolished or removed until an application with respect to such demolition or removal has been submitted to and reviewed by the Board, and the Board has issued a Certificate of Appropriateness. In no circumstance shall demolition of a detached garage be approved without a replacement plan, if said demolition would reduce the number of enclosed parking spaces below two enclosed off-street parking spaces.

*There is also **Bexley Code Section 1252.15(g)(6)** A garage must be able to functionally accommodate vehicles, with operational garage bay doors and adequate depth for standard sized vehicles.*

Consideration of the proposed changes:

The garage is being modified into an accessory structure, with modifications which will reduce the parking spaces to less than the adequate depth for standard sized vehicles, and can no longer be used as a garage.

I'm not sure how to view the transition of this garage to accessory structure, when there are codes that require their replacement when demolished. Although this garage is not being demolished, it is being modified to longer meet the intent of the code for parking purposes.

I will defer to the Zoning Board for their view of the matter, in addition to the variance and Special Permit. The applicant did not believe there was a variance involved and I do not have the applicant response to the variance questions from the application.

ARB did review the application for design only and it was the consensus of the Board that the dormer it was appropriate.

Staff recommendation - **only if zoning is approved:**

If the Board finds that it appropriate to grant a variance and special Permit, I would recommend the following **conditions:**

There will need to have two off street parking spaces in the rear yard provided, subject to staff approval.

It shall not be used as a dwelling unit.

If demolished, it was a garage and in accordance with 1223.05(g) it would be required to be replaced with an enclosed garage with a minimum of 2 parking spaces as the original garage.

6) Application Number: BZAP-23-25

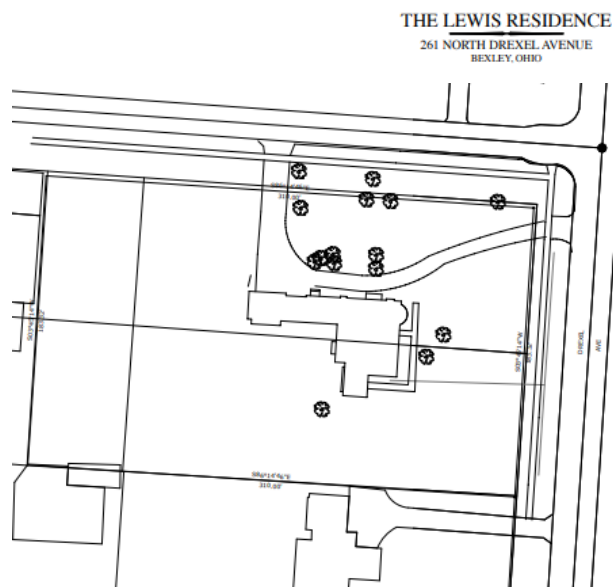
Address: 261 N. Drexel

Applicant: David Stock

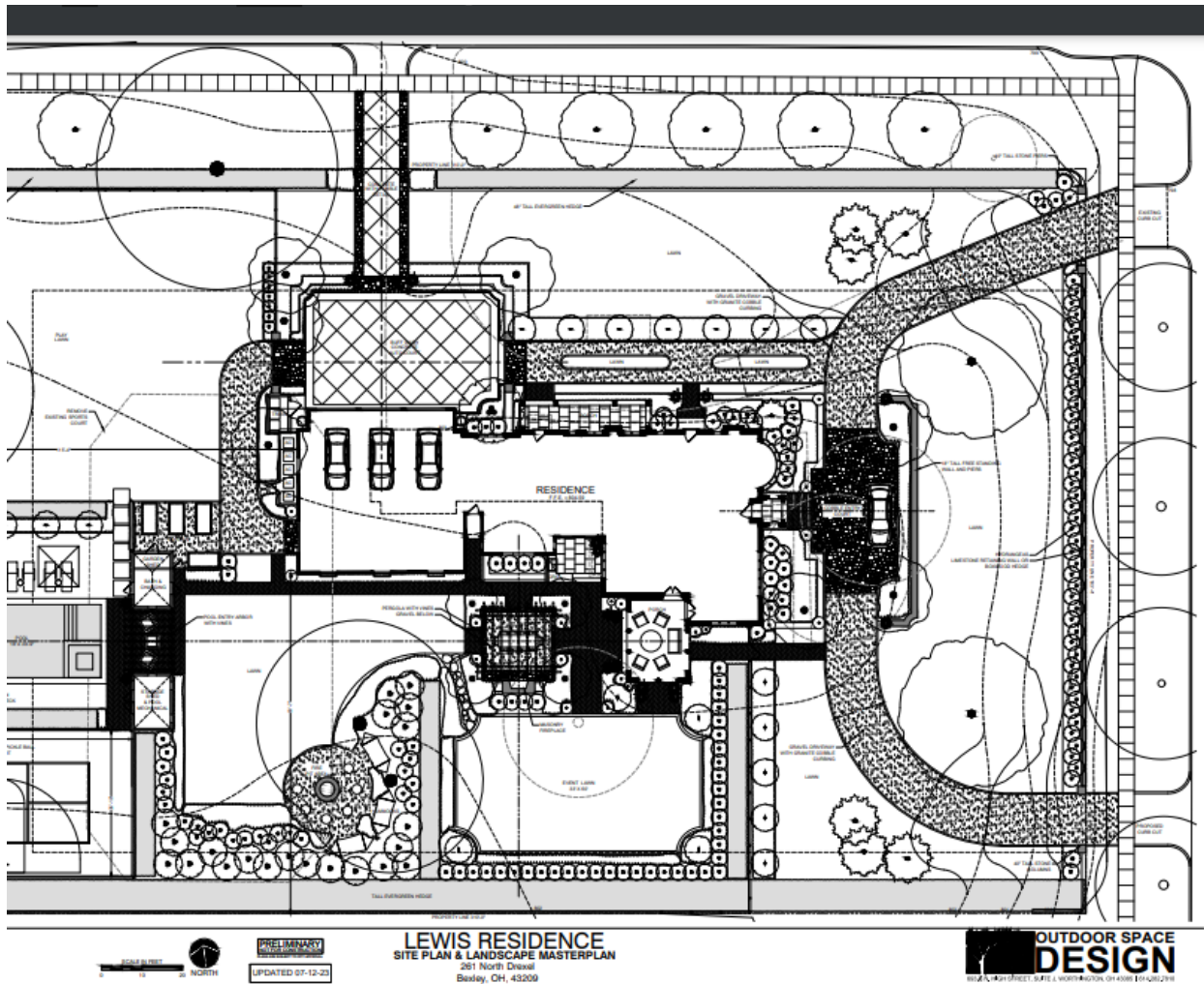
Owner: Jamie & Margo Lewis

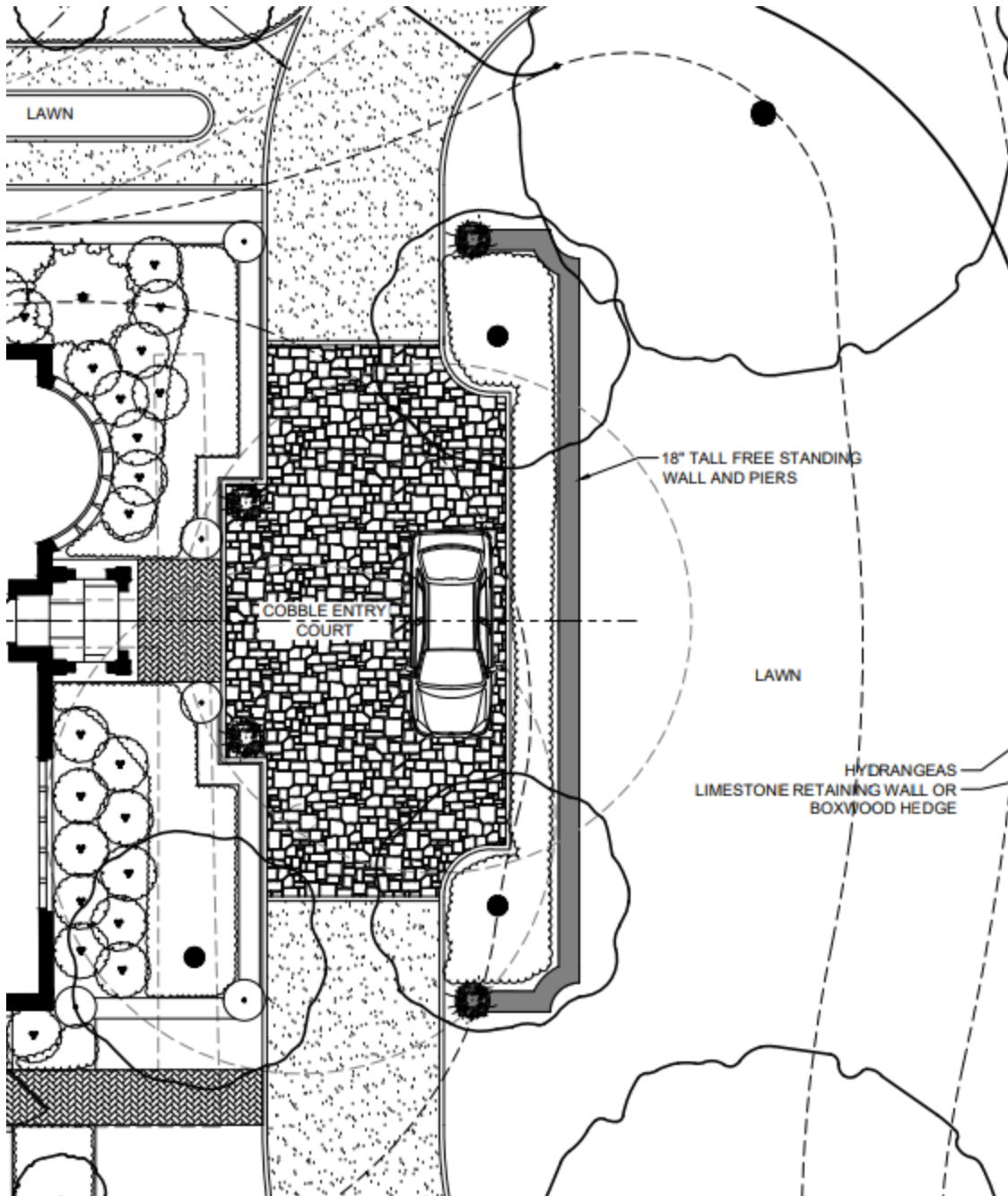
Request: The applicant is seeking a variance from Bexley Code Section 1262.01 (e) which states access drives shall not be less than 8 feet and no larger than 12.5 feet in width and shall

not occupy more than 25% of the front yard. To allow a drop-off area at the front entrance to be expanded to 21'.



Existing site plan





Background

The proposed expansion is centered on the driveway at the front entry. It technically requires a 5.5' variance for the portion that widens along the east side of the driveway, for a distance of 30'. The applicant also has a low free-standing wall proposed along the outside of the drop-off area.

The applicant will provide a landscape plan for the exterior side of the free-standing wall which would additionally screen the expanded driveway area.

This is not uncommon to see the expanded drives in the district and it is requested for drop-off purposes. If the Board should find it appropriate to grant a variance, it should include conditions: 1) that it not be used for overnight parking and 2) a landscape plan to screen the drop-off area, subject to further review and approval by the Landscape Consultant.

7) Application Number: BZAP-23-26

Address: 1011 S. Remington

Applicant: Caleb Frost

Owner: David Gruenberg

Request: The applicant is seeking a Certificate of Appropriateness to allow 1) a detached pergola that overhangs the rear 1-story portion of the house, or 2) a covered porch addition to the rear of the house. The applicant is also seeking a variance from Bexley Code Section 1252.09 R-6 Zoning, which requires an 8' side yard setback, to allow the new covered porch to be 5.8' from the south side property line.

E.1 Variance Worksheet – From the applicant's application

Edit

Variance requests will be heard by the Bexley Board of Zoning and Planning. Variances are based upon a legal determination of whether the request meets the criteria specified by Bexley City Code.

Description of the Proposed Variance. Please provide a thorough description of the variance being sought and the reason why.

[detached or attached structure roof built 5.8' of property line](#)

1. Does the property in question require a variance in order to yield a reasonable return? Can there be any beneficial use of the property without the variance? Please describe.

2. Is the variance substantial? Please describe.

3. Would the essential character of the neighborhood be substantially altered or would adjoining properties suffer a substantial detriment as a result of the variance? Please describe.

[no](#)

E.2 Variance Worksheet

Edit

4. Would the variance adversely affect the delivery of governmental services (e.g. water, sewer, garbage)? Please describe.

[no](#)

5. Did the property owner purchase the property with the knowledge of zoning restriction? Please describe.

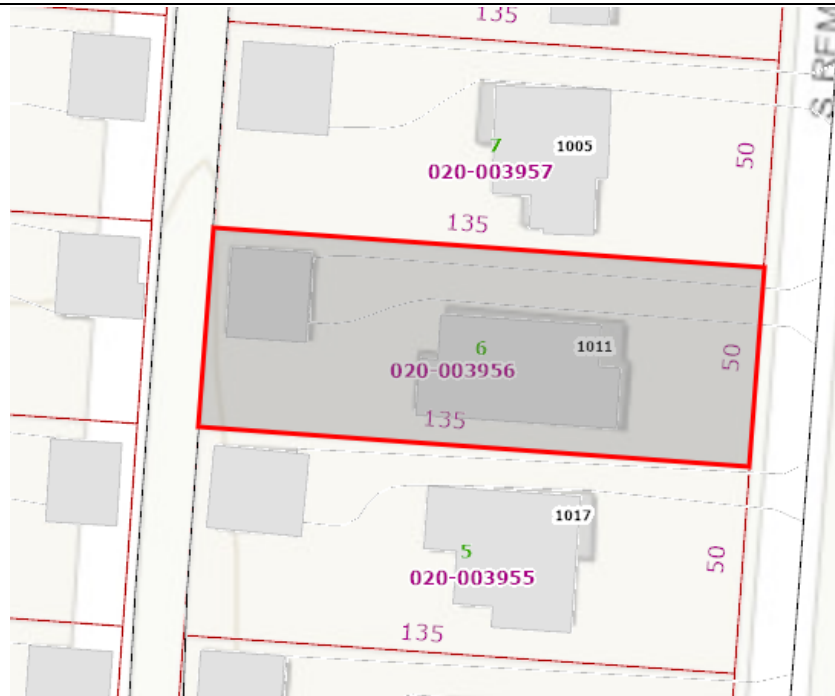
[no](#)

6. Can the property owner's predicament feasibly obviated through some method other than a variance? Please describe.

no

7. Is the spirit and intent behind the zoning requirement observed and is substantial justice done by granting the variance? Please describe.

yes



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



Aerial of house at 1-11 S. Remington

Background

There was an application received under a Minor Architectural Review application which included a 16' x 16' hip roof timber frame pavilion over an existing patio. The new structures roof was close enough for the roof to overhang the house roof. Staff did not find the proposed manner in which it was located to be ideal or it may not function properly in situations such as snow accumulating where the structures overlap.

The Design Consultant had concerns of the overall appearance. We suggested the applicant pull the structure further from the house; however, the applicant was trying to center the structure over an existing paver patio. We also suggested an addition instead of the free-standing structure proposed.

The applicant has submitted a porch roof addition as well; which if approved, would require a 2.2' variance from the required 8' setback from the side property line under code section 1252.09. The pergola – as a free-standing structure is required to be 3' from the side property line.

Staff will defer to the Board on the appropriate design. This has not been before the ARB and if the BZAP finds either design to be appropriate – final design review of the porch roof addition can be deferred to the ARB on September 14th, or to the Design Consultant for the detached pergola, based on any recommendations from the BZAP.

Kathy Rose

Zoning Officer