

**Ordinance 42 - 24**

**Introduced by: Sam Marcellino**

**An Ordinance to grant area variances, with conditions, from the minimum lot requirements to the property located at 700 Grandon Avenue zoned R-6 residential in order to allow that single lot to be split and to form two new lots that would not meet existing R-6 minimum lot requirements, and to grant additional variances to the applicable R-6 development standards for minimum yard requirements.**

**WHEREAS,** The codified ordinances of the City of Bexley reserve to and grant Bexley City Council the authority to grant variances from the minimum lot requirements of any zoning district in the Planning and Zoning Code and to attach conditions to any variances granted; and

**WHEREAS,** The property whose street address is currently 700 Grandon Avenue, current Franklin County Auditor’s parcel number is 020-001821 being Lot 131 of Eastlawn Addition Subdivision recorded in Plat Book 9, page 5 of the records of the Recorder’s Office of Franklin County, Ohio is a 40 feet wide by 127 feet deep lot of record zoned R-6 High Density Single-Family Residential District, in the City of Bexley; and

**WHEREAS,** Bexley City Code Section 1226.02 Nonconforming Lots passed on November 11, 2016 (ordinance 29-16) states:

“(b) If two (2) or more contiguous lots or parcels or combinations of contiguous lots or parcels in single ownership located in the same zoning classification are of record at the time of passage or amendment of this ordinance or anytime thereafter and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance in the zoning district in which the lot(s) or parcels are located, the lands shall be considered to be an undivided parcel for the purposes of this Ordinance.

(c) Lots in Combination. If a vacant nonconforming lot or parcel in any district adjoins one or more lots or parcels in common ownership on the effective date of this Zoning Code or applicable amendment thereto, or any time thereafter, such lots shall be replatted and such parcels shall be combined to create conforming or more conforming lots and/or parcels as a prerequisite for development.”; and

**WHEREAS,** After the passage of Ordinance 29-16 the vacant lot #132 was combined with the original lot #131, 700 Grandon, upon which a single-story residential structure pre-existed, thus designating it as one undivided parcel; and

**WHEREAS,** The owner of the property has filed an application with the City, requesting a variance be granted from the minimum R-6 lot requirements to permit the existing combined lots #131 & 132 with dimensions of 80 feet wide by 127 feet deep lot to be subdivided into two

smaller lots of 40 feet wide by 127 feet deep, neither of which would meet the minimum dimensional requirements of the zoning district; and

**WHEREAS,** The owner has also requested that Council grant the existing primary structure on the Plat #131 a variance from the minimum side yard requirements in the R-6 District which would become non-conforming as a result of the lot split; and the minimum side yard requirements in the R-6 District include shall be one-sixth of the lot width but not to exceed 8 feet. The current integrated residential structure on the property would not meet the minimum side yard along its southern property line; and will require an area variance of 2.62 ft from the south side yard setback; and

**WHEREAS,** The proposed lot split would restore the Eastlawn Addition original plat #131 and as well as restore the original #132 lot for a residential structure to be built on the 40 feet wide by 127 feet deep lot. Both lots are adjacent to and fronting Grandon Ave. and they require a 10 foot variance from the current R-6 minimum lot width of 50 ft; and

**WHEREAS,** This Council held a duly noticed hearing upon the owner's application for variances from the requirements in an R-6 zoning district to permit the subdivision of an existing lot that meets the minimum lot and yard standards into the two lots, #131 and #132, that do not meet the minimum lot requirements and the owner's request that this Council grant the variances necessary to permit such lot split; and,

**WHEREAS,** Bexley City Code Section 1234.10 prohibits the creation of a nonconforming lot and only City Council has the power to grant a variance for the subdivision of property that will not meet the minimum lot requirements of any district as provided by Bexley City Code Section 1226.11(c) when the applicant proves such variances meet the criteria set forth in Section 1226.11(c) by a preponderance of the evidence; and

**WHEREAS,** Based upon a preponderance of reliable, substantial and probative evidence from the hearing, City Council made a Decision and adopted findings of fact, conclusions of law and determinations; and

**WHEREAS,** This Ordinance is adopted to put into effect the Decision of Council on the application of the owner;

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:**

**Section 1.** Council finds that, following a duly noticed hearing, the Applicants have proven, by a preponderance of evidence, that they meet the factors set forth in Bexley City Code Section 1226.11(c)(1) - (7) necessary for an area variance for the property whose current address is 700 Grandon Ave., being Lot 131 of Eastlawn Addition Subdivision recorded in Plat Book 9 page 5 of the records of the Recorder's Office of Franklin County, Ohio to subdivide a single conforming lot into two lots that do not meet the minimum lot requirements of the R-6 Medium Density Residential District in the City of Bexley.

**Section 2.** The following area variances are granted from the R-6 District Regulations in Section 1252.09 of the Codified Ordinances of the City of Bexley for the property whose current address is 700 Grandon Ave., being Lot 131 of Eastlawn Addition Subdivision recorded in Plat Book 9 page 5 of the records of the Recorder's Office of Franklin County, Ohio and conditions imposed:

- A. Lot 131: The minimum lot dimensions of Lot #131 as generally shown on Exhibit A attached to this Ordinance shall be 40 feet wide and 127 feet deep; the minimum front yard setback shall be 30 feet from the western property line abutting Grandon Avenue; the side yard setbacks shall be one-sixth of the property width of 40 ft, or 6.67 feet; and the rear yard setback shall be 25 feet;
- B. New Lot 132: The minimum lot dimensions of the restored lot #132 as generally shown on Exhibit A attached to this Ordinance shall be 40 feet wide and 127 feet deep and the property shall have a new street address number on Grandon Avenue;
- C. Variance Conditions. The variances granted in this Ordinance for the new Grandon lot are all subject to the following conditions:
  - 1. In the event that a site survey shows the existing AC unit and fence as being located on Lot 132, the current owner of Lot #131, addressed as 700 Grandon must move the fence and A/C condensing unit so that it does not encroach onto the new lot #132. The screening of the A/C unit shall meet the requirements in Bexley code section 1266.04, and the fence shall meet the requirements in Bexley code section 1264.
  - 2. A 2.62 ft side yard area variance for the existing residential structure on Lot #131.
  - 3. The current owner of newly created lot 132 shall promptly prepare and file an application for a certificate of appropriateness with the Architectural Review Board to construct a new residence on its proposed New Grandon Lot for a residence and development in substantial conformance with the plans attached as Exhibit B for consideration and determination by the ARB. The new structure may not in any way encroach into the side yard setbacks

in order to maintain the appropriate distance from the existing residential structure on Lot 131. Any substantial modifications to such plans that are approved by ARB shall be subject to review and approval by Council to satisfy this condition.

4. Following final approval of a certificate of appropriateness beyond any necessary final Council approval and right of appeal, the owner shall prepare and file with the Board of Zoning and Planning an application for a subdivision without a plat as provided and required by Bexley ordinances, including Bexley City Code Section 1236.11.
5. If construction of a new residence on the Grandon Avenue Lot 132 has not begun within one year of the final approval of the variances by Council, all variances approved in this Ordinance shall expire as provided in Bexley City Code Section 1226.11(e) and the newly split lots created as a result of the variances granted in this Ordinance shall be combined. Thereafter the Grandon Avenue #Lot 131 and the Grandon Avenue Lot #132 shall be treated as nonconforming lots in single ownership and be considered an undivided parcel for the purposes of any future development as provided in Bexley City Code Section 1226.02(b) irrespective of any lot or parcel combination or replat. The owner is not prohibited from timely applying to Council for an extension of the variances as permitted in Bexley City Code Section 1226.11(e) for consideration by Council.

**Section 3.** That this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

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Benjamin J. Kessler, Mayor

Dated: \_\_\_\_\_

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Matt McPeek, Clerk of Council

Dated: \_\_\_\_\_, 2024

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Monique Lampke, President of Council

Dated: \_\_\_\_\_