

In re Ordinance 39-18

Bexley City Council

Lori Ann Feibel, President
Mary Gottesman
Steve Keyes
Monique Lampke
Troy Markham
Richard Sharp

Brief of Margaret Hedden in Opposition to the Approval of Ordinance 39-18

I am a homeowner at 409 South Parkview Avenue, living there for the past 46 years, and I oppose the variance that is sought by the Paymax Company in Ordinance 39-18 for the property at 387 S. Parkview Avenue (herinafter "387"), an R-3 zoned property. Following are my reasons.

A. Denying Paymax a Lot Split Does Not Impose Any Practical Difficulty

Upon Paymax's Use of 387.

Section 1226.11 of the City Code mandates that:

"City Council shall **only** approve...an area...variance in cases where...

[a] the literal enforcement...will result in **practical difficulty and**

[b] the granting of a variance **complies with the purpose and intent of this Code.**"

The property of 387 has existed in its current configuration of house and yard since 1900. The property has been continually occupied, and ownership has been transferred several times in the normal course of living. There is no practical difficulty in the continued use of the property "as is," which is evidenced by the fact that Paymax is remodeling the house as a single-family home. The location of the existing house on the property has no difficulties with access, drainage, or other features. The yard provides ample space and character in keeping with the surrounding Parkview properties.

No practical difficulty exists in maintaining the present single residence and lot size, and Paymax has not alleged any such difficulty.

B. Granting the Lot Split Variance Would Violate the Purpose and Intent of this Code.

Section 1240.02 states the purpose and intent of the Zoning Code: "to provide standards for orderly development and continue a stable pattern of land use, and **conserve and protect the integrity and character of the City's neighborhoods.**"

Further intent **explicit for R-3 properties** is stated in **1252.05**: "These [R-3 areas of single-family residential development] **need to be**

protected from random new development or redevelopment of a higher density...."

The proposed variance is such "random new development" and out of keeping with the integrity and character of the R-3 zone south of Broad Street; that character is one of a single home on a substantial lot. With the exception of the Planned Unit Residential Development from 281 to 241 South Parkview (#5 on Map of Exhibit A), all but four of the lots on South Parkview Avenue are 250 feet deep. Three of those lots were split before 1928 (331, 325, and 311 South Parkview, #4 on Map of Exhibit A) and complied with the then-existing zoning code. Since 1928 only one lot has been split to build a second single house--436 S. Parkview, in 1975. The character and integrity of the neighborhood has been largely maintained. (On January 8, 2002, City Council read the application for a lot split requested by the then-owner of 379 S. Parkview. On January 30, 2002, that request was heard by the Engineering, Plats, and Development Committee; at the February 25, 2003, Council meeting the request was withdrawn.)

Granting a split of 387 would erode the confidence of Bexley home-owners throughout the R-3 district. If a split such as this is granted to

Paymax when extraordinary circumstances are so clearly lacking and the primary motive is simply to reap a profit from speculation, will not other R-3 homeowners think twice about renovating their home if an unmerited split could happen next to them? In 2017, as evidenced by the city's issuance of \$10.95 million worth of residential building permits, Bexley residents are currently willing to improve their homes with major investments. These add more to the tax base than one extra house being built.

And if Paymax is allowed to split 387, might not other homeowners think about selling their houses and splitting their lots? On what basis would the Council be able to justify refusing these R-3 owners who would want to split their 250-foot-deep lots and cash in? If the current express intention of the zoning code to preserve the character of our neighborhoods is not to be upheld in practice by denying this application, then Council should be forthright and propose to amend the code, allowing all R-3 owners to weigh in on whether they wish their neighborhood to be conserved and protected or to be opened up for doubling the densities.

C. The Paymax Company Application Fails to Satisfy the Seven-Factor Test for a Finding of Extraordinary Circumstances as Required by 1226.11 with Respect to a Variance Request.

I will not elaborate on six of these seven factors because I have read the opposition brief submitted to Council by Mr. and Mrs. Niedecken, Dr. and Mrs. Adler, and Mr. Hedden, and I agree with the arguments presented therein.

However, I wish to say more about the factor at 1226.11(c)(3):

"the variance would not substantially alter the essential character of the neighborhood or cause substantial detriment to adjoining properties."

1) The character of the neighborhood would be substantially altered.

As stated above, the standard lot on South Parkview is 250 feet deep with a single house on it. Putting two homes in the space is very much out of character. Unlike the houses on Westland behind 331, 325, and 311 S. Parkview which are hidden from the Parkview side, the current 387 house would be very visible, as it would continue to sit well above any home built on the front of the lot.

2) The building of a second house on the front half of 387 would cause substantial detriment to adjoining properties.

The Paymax company request will also cause substantial detriment to the properties at 399 and 375, both of which share the sloping ground of 387. The 387 house sits on the only elevated and flat piece of that property, for about two-thirds of 387's lot is below street level--more than 44 inches below street level. I have seen the original 1900 blueprint of the 387 lot; it has lines indicating a stream running from south to north through the eastern third of the lot. There is no stream today, but there is a hole at the deepest part of the yard, and I have seen pools of rain accumulate there which take some time to drain.

Paymax might argue that engineering can deal with the problem, but suppose it doesn't? Who will be responsible for water damage from the deep depression on 387 that extends north into 375? (The owner of the lot where the properties of 427-407 Westland now sit originally proposed 11 more units below the crest of the street. The engineers had said it was a 100-year floodplain, but the owner of property further north on Westland testified that he had seen the part of the lot where 11 condos were planned under water a number of times. Those 11 units were not built.)

3) The R-3 Zone South of Broad Has Been Chipped Away at its Edges

Enough.

Primarily three streets--Parkview, Columbia, and Drexel--make up the R-3 zone south of Broad. This slender area should be protected all along and within its present boundaries.

Since I moved to 409 S. Parkview in January, 1972, these single-family homes around the edges of "my block" have been torn down and other uses permitted:

- 1972, Holzman home at 505 replaced with apartments, making that block completely apartments (#1 on Map on Exhibit A);
- 1974, former Columbus mayor's home on SW corner of Dale and Parkview replaced with 10 lots and 7 homes (#5 on Map on Exhibit A);
- 1981, home on Bryden Road replaced with 7 homes and Columbia Place (#7 on Map on Exhibit A);
- 1999, Smith home on Westland (#2 on Map on Exhibit A) replaced with 7 homes (427-407 Westland), joining with 8 condos of 397-383 Westland Court (#3 on Map on Exhibit A), making 1/2 of the west side of Westland non-R-3;

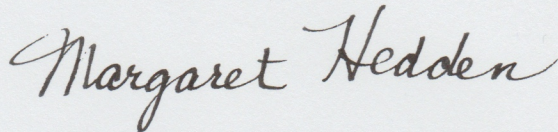
- 2008, homes on S. Parkview replaced with the Alexander at 500 S. Parkview (#8 on Map on Exhibit A) .

The Paymax request would assault the main area of Parkview itself. It seems to me that the integrity of R-3 "on my block" is in great danger from piecemeal changes. ENOUGH!

D. Conclusion

As stated above, the purpose of the zoning code is to protect the R-3 zone from **random development** and to **preserve and protect** the integrity and character of the neighborhood. Presumably, the new zoning code was adopted in 2016 to carry out these express intentions. **Allowing the lot split would fly in the face of the language and spirit of the code and the expectation of Bexley home owners.** The application should be denied.

Respectfully submitted,







Margaret Hedden
409 South Parkview Avenue



One attachment: Exhibit A--Detailed section of Bexley Zoning Map

Exhibit A

Single Family Residential

-  R-1 Low Density
-  R-2 Intermediate
-  R-3 Medium Density
-  R-6 High Density

Multi-Family Residential

-  R-12 Low Density Multi-Family Residential
-  PUR Planned Unit Residential

