



City of Bexley

NOTICE OF FILING NOTICE OF APPEAL

BZAP APPLICATION NO. BZAP-20-48
2300 E. Livingston Avenue, Bexley, Ohio

You are hereby notified that on April 23, 2021, a Notice of Appeal of the Decision of the Bexley Board of Zoning Planning in the above Application was filed with Bexley City Council by Appellants who were not the Applicant as provided in Bexley City Code Section 1226.19(a). A copy of the Notice of Appeal filed with the City of Bexley is enclosed.

Bexley City Council shall set a date and time to hear oral argument by the parties. No new evidence or testimony may be presented. The Clerk of Council will post notice of the date, time and place of the oral argument and a summary of the appeal on the City's website at www.bexley.org at least fifteen (15) calendar days before the date of the oral argument.

The Clerk of Council will mail notice of the date, time and place of the argument and a summary of the appeal to you at least fifteen (15) calendar days before the date of the oral argument.

Bill Harvey
City of Bexley
Clerk of City Council

Mailed April 30, 2021

Mayor Ben Kessler

City Council:

Lori Ann Feibel, President
Matt Klingler
Monique Lampke
Troy Markham
Jennifer Robinson
Jessica Saad
Richard Sharp

City of Bexley Ohio
2242 East Main Street
Bexley, Ohio 43209

(614) 559-4200

www.bexley.org

Appeal to City Council and Building Code
21-2

Your Submission

Attachments

Payment

Application Complete & Scheduled for Public Review

Board of Zoning & Planning OR City Council Review

Appeal Result

Your submission

Submitted Apr 23, 2021 at 10:03am

Contact Information

Bryan Hunt

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3300 Riverside Drive Suite 125, upper arlington, OH 43221

Location

2300 E LIVINGSTON AV

Bexley, OH 43209



Appellant Information

Decision Appealing *

Board of Zoning & Planning

Appellant Name(s) *

Ajay Garlapati; Timothy Mason; Fehd Massen; Anna Massen; Susan Plaisted; Dustin Snow; Tiffany Canfield; Leah Turner

Contact Address *

c/o Bryan S. Hunt, 3300 Riverside Drive, Suite 125, Upper Arlington, Ohio 43221

Contact E-Mail Address *

bshunt@lovelandlaw.net

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Reason for Appeal *

The Appellants' grounds for this appeal include, without limitation, the following:

- the BZAP's decision to grant the application was not supported by competent, reliable and/or admissible evidence;
- the BZAP erred by failing to give proper weight to the only evidence before it;
- the Applicant failed to prove that **all** of the factors required for a conditional use to be approved per Section 1226.12(a-h) of the Codified Ordinances of the City of Bexley, Ohio were met;
- pursuant to the Codified Ordinances of the City of Bexley, Ohio, the sought multi-family use is a prohibited use in the Community Service District or, at a minimum, it is ambiguous under the Codified Ordinances of the City of Bexley, Ohio whether the sought use is prohibited or not, and such ambiguity must be resolved before the approval of the sought conditional uses;

- the proper procedure to allow the requested use at the Property would be a rezoning of the Property to a Planned Unit Development per Chapter 1256 of the Codified Ordinances of the City of Bexley, Ohio;
- proper notice was not provided prior to one or more of the hearings involving the application for the conditional use at the Property;
- determinations made by the BZAP as to standing during one or more of the hearings were arbitrary and unlawful;
- the BZAP's decision was based upon certain statements, advice, insight and opinions provided by City Staff related to, among other things, city plans, parking, and uses in the district, that were arbitrary, included incorrect interpretations and applications of the Codified Ordinances of the City of Bexley, Ohio, and/or were otherwise misleading;
- it is unclear from the record whether one or both of the conditional uses allegedly necessary for the proposed use was/were granted by the BZAP;
- the decision is unconstitutional because it represents a taking of property without compensation;
- the decision is unconstitutional because it is based upon portions of the Codified Ordinances of the City of Bexley, Ohio that are vague and/or ambiguous;
- the decision of the BZAP was otherwise unsupported by the record, unreasonable, and/or unlawful.

How to Decision Impacts You *

Applicants are all owners of property near 2300 E. Livingston Avenue, and the decision of BZAP will impact, among other things, the use and enjoyment of their respective properties and the values of their respective properties. Further, the use will be detrimental to the neighborhood in which the Applicants reside.

Project Information

Project Name

The Community Builders - Multi-family Building

Project Address

2300 E. Livingston Avenue

Decision Date 

02/25/2021

BEFORE THE CITY COUNCIL OF THE CITY OF BEXLEY, OHIO

Ajay Garlapati
981 Francis Avenue
Bexley, Ohio 43209,

Timothy Madison
956 Pleasant Ridge Avenue
Bexley, Ohio 43209,

Fehd Massen
994 Francis Avenue
Bexley, Ohio 43209,

Anna Massen
994 Francis Avenue
Bexley, Ohio 43209,

Susan Plaisted
718 Francis Avenue
Bexley, Ohio 43209,

Dustin Snow
990 Francis Avenue
Bexley, Ohio 43209,

Tiffany Canfield
990 Francis Avenue
Bexley, Ohio 43209,

and

Leah Turner
993 Francis Avenue
Bexley, Ohio 43209,

APPELLANTS,

-vs-

City of Bexley,
Board of Zoning and Planning
2242 E. Main Street
Bexley, Ohio 43209,

APPELLEE.

**NOTICE OF APPEAL FROM THE
BOARD OF ZONING AND PLANNING
OF THE CITY OF BEXLEY**

CASE NO. BZAP – 20 – 48

Decision Rendered February 25, 2021

Minutes Approved March 25, 2021

NOTICE OF APPEAL

Pursuant to Section 1226.19(a) of the Codified Ordinances of the City of Bexley, Ohio, notice is hereby given that Ajay Garlapati, owner of the real property at 981 Francis Avenue, Bexley, Ohio 43209; Timothy Madison, owner of the real property at 956 Pleasant Ridge Avenue, Bexley, Ohio, 43209; Fehd Massen, owner of the real property at 994 Francis Avenue, Bexley, Ohio 43209; Anna Massen, owner of the real property at 994 Francis Avenue, Bexley, Ohio 43209; Susan Plaisted, owner of the real property at 718 Francis Avenue, Bexley, Ohio 43209; Dustin Snow, owner of the real property at 990 Francis Avenue, Bexley, Ohio 43209; Tiffany Canfield, owner of the real property at 990 Francis Avenue, Bexley, Ohio 43209; and Leah Turner, owner of the real property located at 993 Francis Avenue, Bexley, Ohio 43209 (collectively, “the Applicants”), appeal to the City Council of Bexley, Ohio (“City Council”) from the decision of the Bexley Board of Zoning and Planning (“the BZAP”), made on or about February 25, 2021, that granted the application of The Community Builders, c/o Nicole Boyer (“the Applicant”), for conditional uses to allow the property located at 2300 E. Livingston Avenue, Bexley, Ohio 43209 (“the Property”), to be used for multi-family housing.

STATEMENT OF ERRORS

The Appellants’ grounds for this appeal include, without limitation, the following:

1. the BZAP’s decision to grant the application was not supported by competent, reliable and/or admissible evidence;
2. the BZAP erred by failing to give proper weight to the only evidence before it;
3. the Applicant failed to prove that *all* of the factors required for a conditional use to be approved per Section 1226.12(a-h) of the Codified Ordinances of the City of Bexley, Ohio were met;

4. the Applicant failed to prove that the conditional uses will not be detrimental to the public health, safety or general welfare of the City of Bexley or the neighborhood in which it is proposed;

5. pursuant to the Codified Ordinances of the City of Bexley, Ohio, the sought multi-family use is a prohibited use in the Community Service District or, at a minimum, it is ambiguous under the Codified Ordinances of the City of Bexley, Ohio whether the sought use is prohibited or not, and such ambiguity must be resolved before the approval of the sought conditional uses;

6. the proper procedure to allow the requested use at the Property would be a rezoning of the Property to a Planned Unit Development per Chapter 1256 of the Codified Ordinances of the City of Bexley, Ohio;

7. proper notice was not provided prior to one or more of the hearings involving the application for the conditional use at the Property;

8. determinations made by the BZAP as to standing during one or more of the hearings were arbitrary and unlawful;

9. the BZAP's decision was based upon certain statements, advice, insight and opinions provided by City Staff related to, among other things, city plans, parking, and uses in the district, that were arbitrary, included incorrect interpretations and applications of the Codified Ordinances of the City of Bexley, Ohio, and/or were otherwise misleading;

10. it is unclear from the record whether one or both of the conditional uses allegedly necessary for the proposed use was/were granted by the BZAP;

11. the decision is unconstitutional because it represents a taking of property without compensation;

12. the decision is unconstitutional because it is based upon portions of the Codified Ordinances of the City of Bexley, Ohio that are vague and/or ambiguous;

13. the decision of the BZAP was otherwise unsupported by the record, unreasonable, and/or unlawful.

This appeal is proper for the foregoing reasons. Accordingly, and pursuant to Section 1226.19(j) of the Codified Ordinances of the City of Bexley, Ohio, City Council should reverse, or at a minimum vacate, the decision of the BZAP.

Respectfully submitted,

By: 
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*Attorney for Appellants Ajay Garlapati,
Timothy Madison, Fehd Massen, Anna Massen,
Susan Plaisted, Dustin Snow, Tiffany Canfield, and
Leah Turner*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Notice of Appeal from the Board of Zoning and Planning for the City of Bexley was submitted to the City of Bexley this 23rd day of April, 2021.



Bryan S. Hunt (0095519)