

AMENDED ORDINANCE NO. 46 - 04

By: **Mr. Weber**

An Ordinance to grant a variance pursuant to Section 1262.02 of the Codified Ordinances for property located at 659 Vernon Road to allow a fence to be constructed in the front yard.

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

Section 1. Harland Scott, owner of 659 Vernon Road, has requested permission to install a fence in the front yard along the north property line adjacent to the alley.

Section 2. The approval of the variance would not have an adverse effect on the surrounding properties or neighborhood, and alleviates hardship imposed on the use of the front yard, and complies with Council's power and authority to grant variances as set forth in Section 1264.14(c)(2).

Section 3. That this variance is limited to the period of time that the fence approved by this Ordinance is in existence.

Section 4. That the applicant agrees to submit an application for Architectural Review approval with respect to the design of the fence and landscaping.

Section 4. That the application for the variance should be and it is, therefore, granted, ⁵ *subject to the conditions in the staff report dated July 26, 2004, attached as Exhibit A, the rendering attached as Exhibit B and the letter dated July 21, 2004,*

Section 5. That this Ordinance shall go into effect and be in force from and after the earliest period by law.

Passed: 7/27, 2004

from the applicant attached as Exhibit C.

[Signature]
Attest: [Signature], 2004

[Signature]

President of Council

Approved: 7/27, 2004

[Signature]

David H. Madison, Mayor

*6.22.04 Substituted
at Second Reading
7.13.04 Third Reading.
Tabled.
7-27-04 Removed from table
Passed as amended*



July 26, 2004

MEMORANDUM

To: City Council
From: Dorothy Pritchard
Subject: Ordinance 46-04

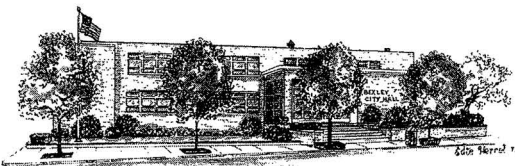
Tabled Ordinance 46-04 is a request by Harlan Scott, owner of 659 Vernon Road, for a front yard fence. Enclosed is a revised plan that requests that the fence extend 29' in front of the front building line of the house. Mr. Scott is proposing to taper the final 4' of the fence and to angle the fence south at the front of the porch so that landscaping can be installed on the alley side of the fence. I continue to have concerns about the precedent created by the approval of this Ordinance. This concern was heightened by discovery of the replacement of a nonconforming front yard fence at 2738 East Broad Street. The Building Department issued a letter requiring that it be removed. Fortunately the property owner will be removing the fence back to the front of the front building line of his home. His other option would have been to request of Council to allow it to remain. (A copy of the letter and picture of the fence are enclosed.)

If Council does approve this Ordinance, I would request that it be amended to 1) allow for a retaining wall along the alley and sidewalk (if needed) and 2) the design of the wall and fence is a part of a landscape plan that must be approved the City's landscape consultants MSI. These provisions would meet the intent of Code Section 1262.02 regarding front yard restrictions. (A copy of the Code Section 1262.02 is enclosed.)

This ordinance will be discussed by the Engineering, Plans and Development Committee on Tuesday, July 27, 2004 at 5:30 p.m.

Dorothy Pritchard (s/jc)

Cc: Mayor David Madison



Rich Weber

7/21/04

Harland Scott
Bexley, Ohio 43209

To: Mrs. Dorothy Pritchard
City Council Members
Bexley, Ohio, 43209

I have reviewed the Council Staff Report of 7/13/04 regarding the variance that I have requested to extend my current fence 25 feet from the face of my home. The staff recommendation in this report does not meet my needs. It does not create a sufficient buffer from the alley traffic, trash, Ritchey's parking lot, lights at the Shell station, Cord Camera, etc. Unless the staff that created the report actually meets with me at the property and sits on my front porch there is no way they can fully understand why I am requesting this variance.

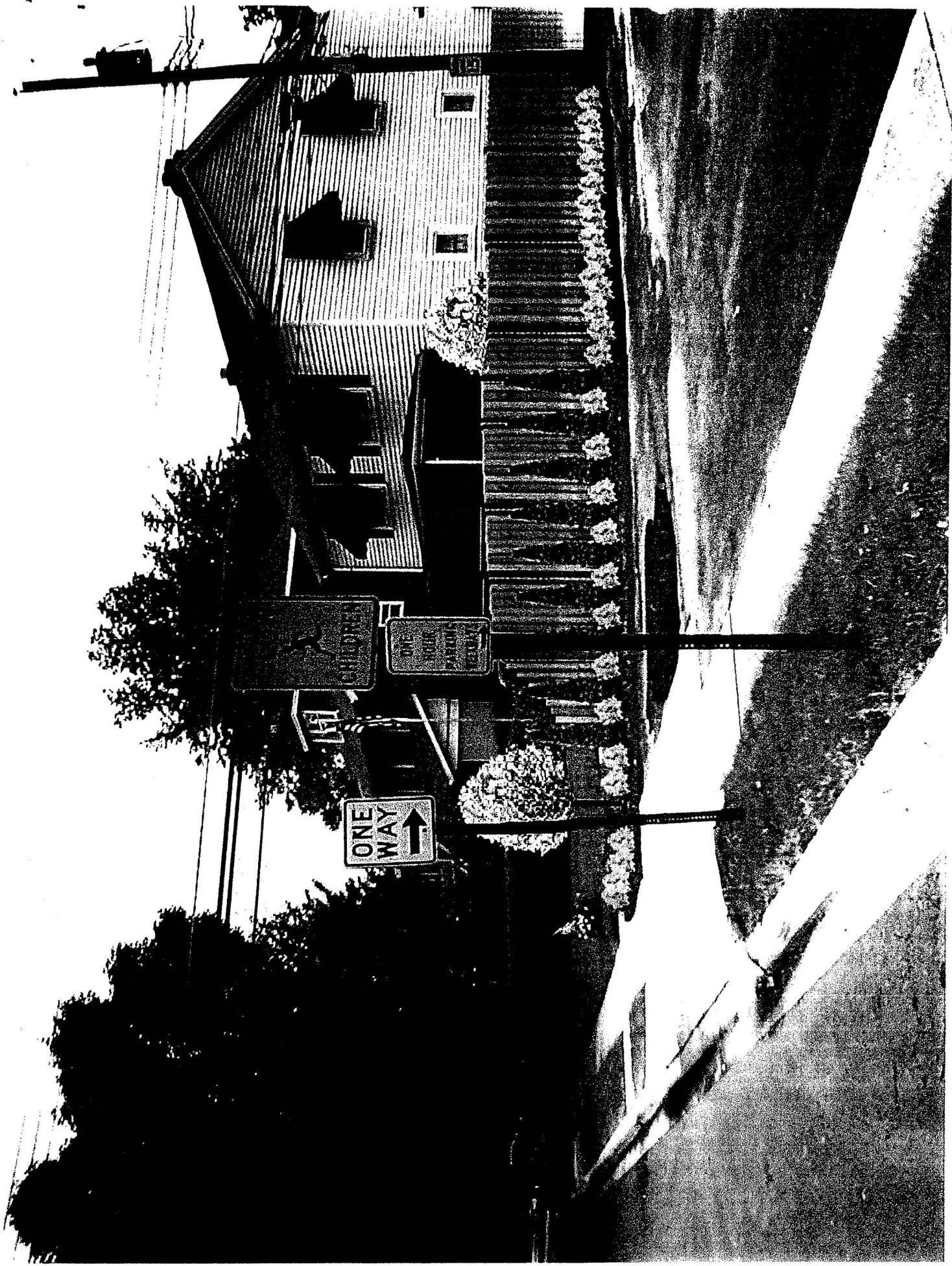
I have been a Bexley resident for 37 years. I fully understand the defining and inviting characteristics of Bexley and the need to preserve these attributes. However, we as a community and city council must be willing to step out of the " box " in certain instances to satisfy the ever changing needs of the residents. Bexley is changing drastically, and for the better. With the growth we are currently experiencing, the privacy of the residents from the commercial sector will become ever more important.

Realizing councils concern regarding alley landscaping to eliminate the " walled " effect my fence might have, I have made some compromises that I feel will satisfy both our needs.

Attached is a photo of how my property will appear if my requested variance is approved. Please keep in mind that as the plantings mature, and with the natural graying of the cedar boards, within 2 years the fence will be practically unnoticed. You will also see that I have extended the fence an additional 4 feet (total- 29 ft) so that it can be tapered to soften the end of the fence. There will still be 16 feet visibilty to Vernon Rd. You will also see that my plan does not distract from the green space as you approach the residential portion of Vernon Rd. The residence side of the fence will be fully landscaped with annuals and perenials and possibly another Bradford/Cleveland Select Pear Tree.

Your approval of this revised plan will be appreciated.

Harland Scott
Harland Scott



July 21, 2004

Samuel Rubenstein
2738 E. Broad St.
Bexley, Ohio 43209

Dear Mr. Rubenstein:

During a routine site inspection, it was noted that a fence was replaced along your west (side) property line without necessary permits. In accordance with Bexley Code Section 1262.06, repair or replacement of fifty percent (50%) or more of an existing fence shall be deemed to be construction of a new fence and requires a construction permit. The fence is a non-conforming fence installed prior to the current Code which states: "no person shall erect any fence or wall in any residential zoning district, between the front yard setback line and the street". Therefore, I must ask that you remove the fence. Please call the Bexley Building Department at 235-0956, if you have any questions.

Sincerely,

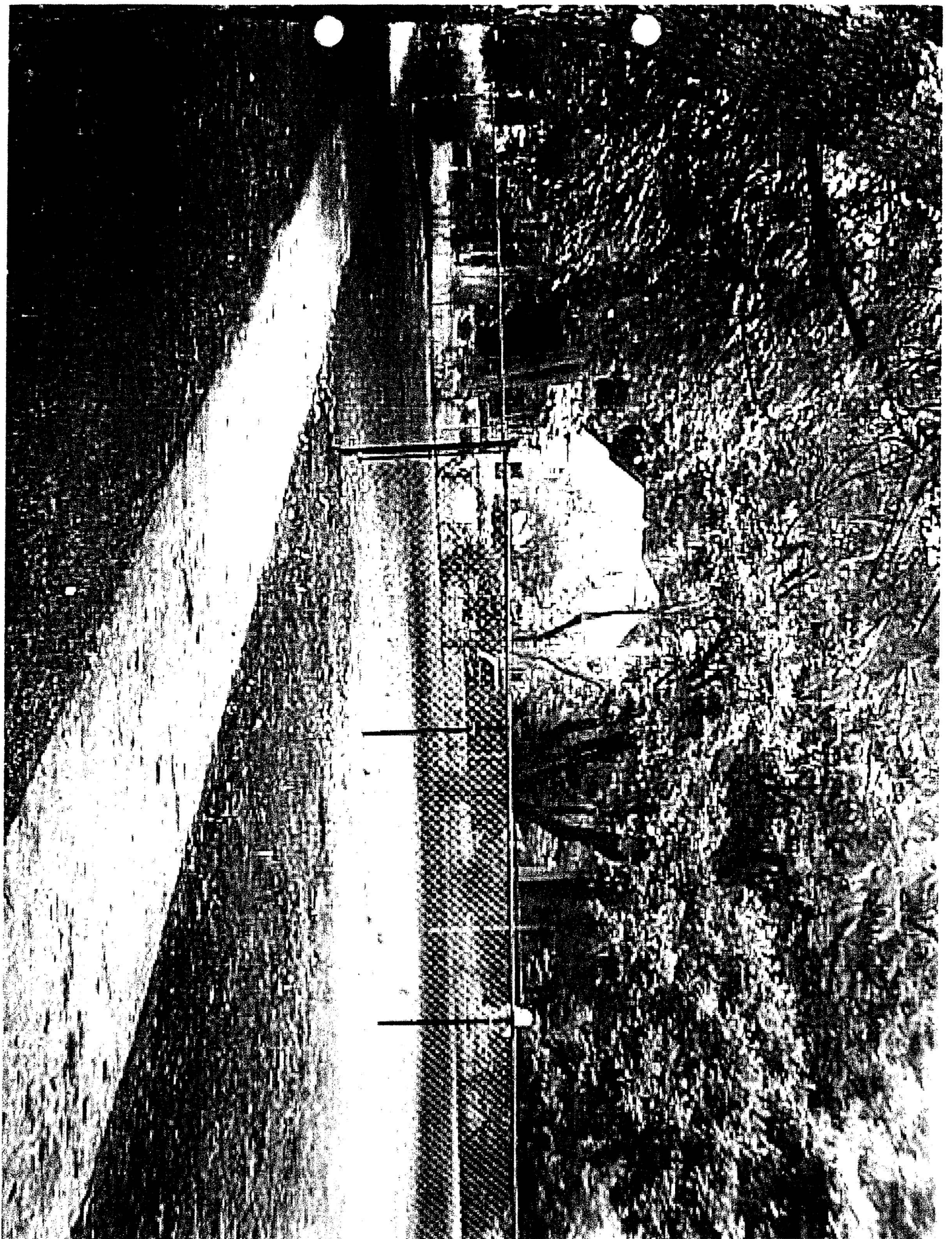
CITY OF BEXLEY, OHIO



Kathy Rose
Building Dept. Mgr.

Cc: Dave Long, Director of Building Services
Melissa McMillon, Code Enforcement Officer
property file ✓





CHAPTER 1262
Fences and Walls

1262.01	Intent.	1262.04	Prohibited fences.
1262.02	Front yard restrictions.	1262.05	Variances.
1262.03	Side and rear yard restrictions.	1262.06	Permit required; fee.
		1262.99	Penalty.

CROSS REFERENCES

Fencing motor vehicle and recreation vehicle storage –
see P. & Z. 1260.14

Private swimming pool fences – see BLDG. & HOUS. 1464.04,
1464.11

1262.01 INTENT.

It is hereby declared to be the intent of this chapter to regulate the placement of fencing, walls or any combination thereof within the front, side and rear yards of any property within residential zoning districts. It is further the purpose of this chapter to maintain clear visibility of vehicular and pedestrian traffic on adjacent streets, alleys and sidewalks that may otherwise be affected by fencing and/or wall locations and heights; to maintain an orderly appearance and reduce any negative impact upon other properties where such fencing or walls are directly visible from and adjacent to public streets; and, therefore, to regulate the location, height and material composition of fences, landscaping and overall general fence characteristics.

(Ord. 25-89. Passed 1-13-89.)

1262.02 FRONT YARD RESTRICTIONS.

No person shall erect any fence or wall in any residential zoning district, between the front yard setback line and the street, except that fences or walls which do not comply with this section may be allowed if approved as part of a detailed development plan for a Planned Unit Residential District by Council pursuant to Section 1264.21; and except that decorative landscaping walls and fences which do not exceed twenty-four inches in height above ground level may be allowed after review in accordance with subsections (a) to (e) hereof, and issuance of a permit by the Building Department; and except that decorative landscaping walls and fences which exceed twenty-four inches in height above ground level but not more than forty-two inches above ground level may be allowed with a special permit from the Board of Zoning Appeals. Fences and walls above forty-two inches in height or any fence or wall located on a City right of way may be allowed with a variance from Council. The Board and Council shall consider the following criteria in reviewing such applications:

- (a) The proposed decorative landscape wall or fence is compatible with other properties in the neighborhood as identified in the Bexley Neighborhood Stabilization Plan.
 - (b) The height of the fence or wall does not exceed the size permitted as above when measured from the average grade of the yard where the fence or wall is to be installed. Artificially raising the height of the lot line by the use of mounding, retaining walls or similar means shall be included in the maximum height.
 - (c) A landscaping plan shall be filed with the application indicating how such fencing and/or wall is to be integrated with existing front yard landscaping.
 - (d) The installation of such fence and/or wall shall not create a visibility or safety concern for vehicular and/or pedestrian movement.
 - (e) No chain link, wire mesh, concrete block or other similar type material shall be installed as a decorative landscape wall or fence unless the applicant can justify the appropriateness of this material in the design and landscape plan.
- (Ord. 78-90. Passed 11-27-90.)

1262.03 SIDE AND REAR YARD RESTRICTIONS.

No person shall erect any fence or wall in any residential zoning district, unless and until such fence or wall is located within a Planned Unit Residential District and is part of the detailed development plan approved by Council pursuant to Section 1264.21 or meets the following requirements:

- (a) Interior Lots. No fence, wall or combination thereof shall exceed seventy-two inches in height as measured from the average grade of that portion of the lot in the rear or side yard. No side yard fence shall extend beyond the front set-back line of the house. 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 restriction. Any fence or wall erected along the front set back line, side or rear property lines must have the finished and not 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.
- (b) Corner Lots. No fence, wall or combination thereof shall exceed forty-two inches in height in the side yard set-back area as it faces a public or private street. 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. Fencing or walls exceeding forty-two inches in height, but in no case higher than seventy-two inches, as measured from the average grade, may be allowed with a special permit from the Board of Zoning Appeals. The Board shall consider the following criteria in reviewing such applications:

Exhibit B



John Rohyars

Exhibit C

7/21/04

Harland Scott
Bexley, Ohio 43209

To: Mrs. Dorothy Pritchard
City Council Members
Bexley, Ohio, 43209

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Your approval of this revised plan will be appreciated.


Harland Scott



SLOW
CHILDREN

ONE
HOUR
PARKING
WEEKDAYS

ONE
WAY
↑

15

6/7/04

Harland Scott
659 Vernon road
Bexley, Ohio 43209
237-5326

To: City Council Members,

Subject: Request for Variance to Extend Existing Alley Fence at 659 Vernon

This is a request for permission to extend my existing fence (along alley) 33 feet from the face of my home. This would bring the fence to within 11 1/2 feet from the curb at Vernon Road. The 33 feet would consist of 25 feet at 6 feet high; 4 feet tapered to a 4 foot section that would be 3 1/2 feet in height. The fence will be a shadow box style.

This request is based on a need for additional privacy/screening from the businesses/parking lot we see from our front porch. It would also provide screening from increased pedestrian traffic to and from Montrose School playground. Blowing trash (candy wrappers, cigarette butts, food and beverage containers...etc) is an increasing problem as well as people cutting through our property and the noise from Main street.

The 11 1/2 foot clearance from the end of the fence to the curb on Vernon Rd. plus the 3 1/2 foot high (4ft.) section would give 15 feet of visibility for approaching vehicles and pedestrians.

The area between our home and the fence will be landscaped in keeping with the Bexley charm. It will consist of at least one(1) tree in the front (probably a Cleveland Select Pear) and other plantings. The alley side of the fence will be kept clean as it has been for the last 37 years.

Your emergency approval without the required 3 readings would be appreciated so that we can enjoy our summer screen porch.



Harland Scott

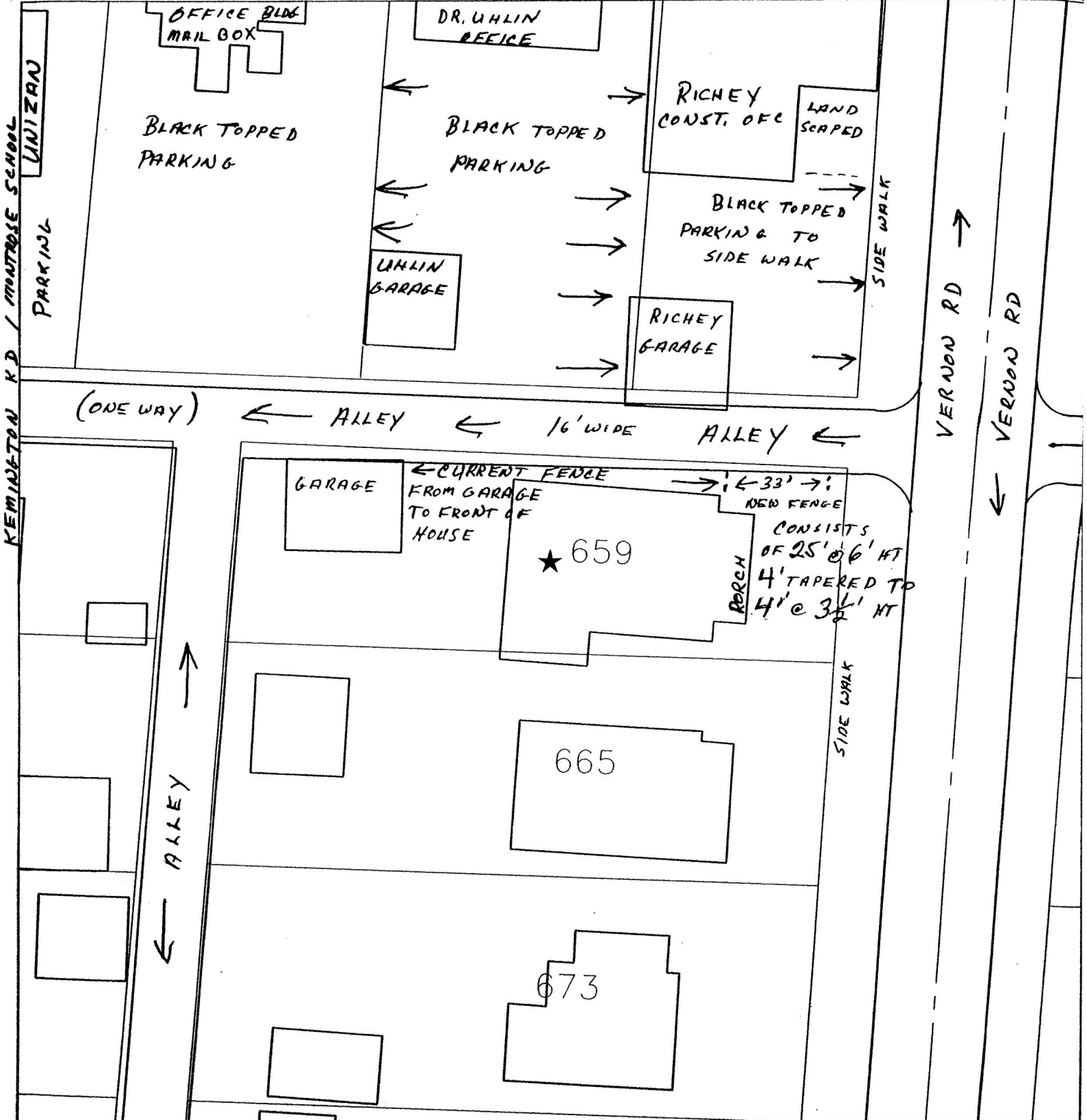
Atch: Photos of area
mapvue
diagram of fence

WEST

EAST

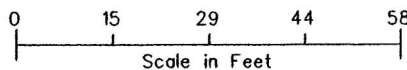
MAIN STREET

COR
CAMERA

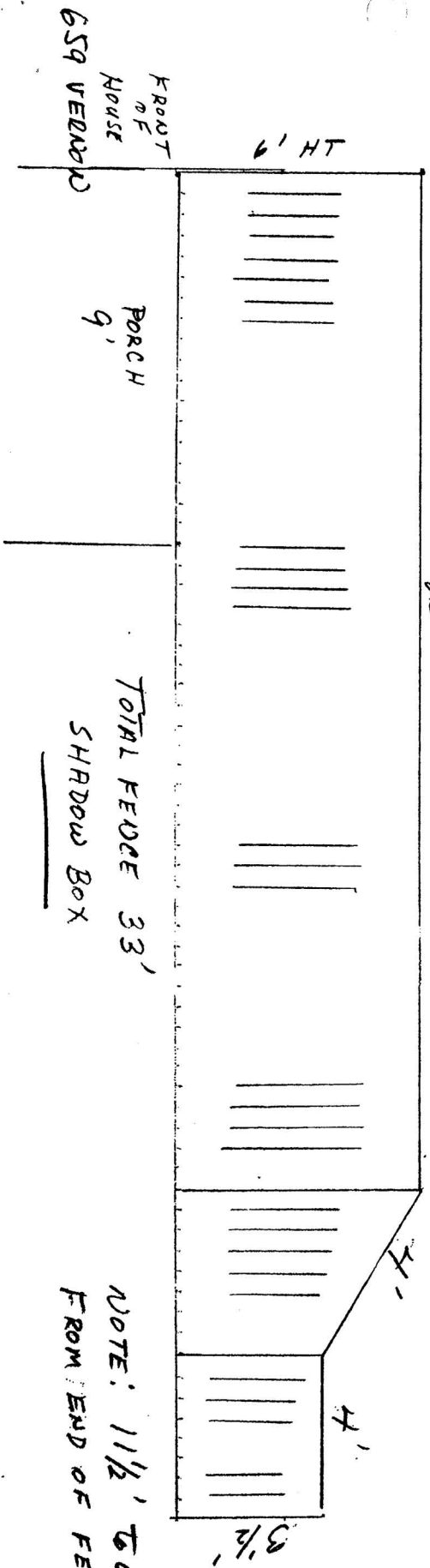


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MapVUE



14:04
JUN 2, 2004



VERMONT RD

