

**ORDINANCE NO. 29-05**

By: Mr. ~~Weber~~ *McClelland*

An Ordinance to withdraw the Councilmatic Variance granted by Amended Ordinance No. 7-04 permitting certain uses of an accessory structure on the property at 2653 Fair Avenue in the City of Bexley, Ohio.

*Whereas*, Amended Ordinance No. 7-04 granted a Councilmatic Variance to permit the use of the proposed accessory structure on property known at 2653 Fair Avenue, Bexley, Ohio, as living space consisting of a sitting room/bedroom for a family member or employee providing child care for their family; and,

*Whereas*, the structure was constructed as a garage with storage space only; and,

*Whereas*, the property owners were required to give written Notice to the City and to all property owners within 200' feet of the property before March 1, 2005, if they intended to seek an extension of the variance beyond April 27, 2005, and they have failed to do so, further, the property has been listed for sale. **NOW, THEREFORE**,

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

Section 1. That the Councilmatic Variance granted by Amended Ordinance No. 7-04 is hereby withdrawn and that said variance and ordinance shall, with the consent of the owners of the subject property, be void and of no further force and effect.

Section 2. That this Ordinance shall go into effect and be in force from and after the earliest period allowed by law.

Passed: 4.12, 2005

*John B. Paly*  
President of Council

Attest: *[Signature]*  
Clerk of Council

Approved: 4/12, 2005

*[Signature]*  
David H. Madison, Mayor

*3.08.05 First Reading  
3-29-05 Second Reading  
4.12.05 Third Reading.  
Passed*

**AMENDED ORDINANCE NO. 7 -04**

By: **Richard F. Weber**

An Ordinance to grant a Councilmatic Variance to permit certain uses of an accessory structure on the property at 2653 Fair Avenue in the City of Bexley, Ohio.

Whereas, on August 14, 2003, the Bexley Board of Zoning Appeals granted Variance No. 177-03 to permit the construction of a 2-story detached garage, with the second floor approved for storage space only, on the property known as 2653 Fair Avenue, Bexley, Ohio; and

Whereas, the present owners of said property, Matthew and Joanna Rosen, have a young child with health problems, and they wish to now use the second story of the structure for living space consisting of a sitting room/bedroom for a family member or employee providing child care for their family; and

Whereas, Bexley Code Section 1260.11(b) prohibits the use of accessory structures for living space; and

Whereas, the design and size of the accessory structure is appropriate to the architecture of the property and the neighborhood and has received a certificate of appropriateness and two area variances from the Bexley Board of Zoning Appeals;

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

Section 1. That a Councilmatic Variance is hereby granted to permit the use of the second floor of the detached garage on the property known as 2653 Fair Avenue, Bexley, Ohio, as living space, subject to the following conditions:

- (a) There shall be no expansion of the existing accessory structure beyond what was approved by the Board of Zoning Appeals on August 14, 2003;
- (b) The second floor of the accessory structure (i) shall be used only as a sitting room/bedroom by one person who shall be over the age of 18 and who shall be either a member of the owners' family assisting in, or an employee of the owners providing, child care to the owners' children in the principal structure on the property, (ii) shall not be used for any purpose other than storage space or as specified in the preceding clause (i), including, without limitation, as a dwelling unit, guestroom, playroom or other recreational or entertainment space, and (iii) shall not be rented to any person;

- (c) The living space may be heated and air conditioned <sup>(except by window units)</sup> and may include a sink and a toilet but shall not include a bathtub, shower, kitchen or kitchenette;
- (d) The occupant of the accessory structure shall be required to utilize off-street parking on the property;
- (e) The use variance granted by this Ordinance shall automatically expire on the earlier of (i) the closing of the sale of lease of the property by the current owners or (ii) April 27, 2005; provided that said variance may be extended on the same conditions by Ordinance of this Council for an additional period expiring not later than April 27, 2006;
- (f) If the current owners intend to seek an extension of the variance beyond April 27, 2005, they shall give written notice to the City and to all property owners within 200 feet of the property line before March 1, 2005;
- (g) Upon expiration of the use variance granted by this Ordinance, (i) the sink and toilet shall be removed, (ii) the plumbing shall be capped, (iii) neither the sink nor toilet shall thereafter be reinstalled, and (iv) the second floor of the accessory structure shall be used solely for storage;
- (h) The conversion of the second floor of the accessory structure from storage space to living space shall comply with all applicable building code requirements;
- (i) Subject to the time limitations in condition (f) which shall not be extended by this condition, in the event the accessory structure is damaged by fire, explosion, flood, riot, or any other act of God, the structure may be repaired and the use authorized by this variance may be continued as before any such calamity, provided that if the cost of such repair exceeds 90 percent of the structure's replacement cost, continued use of the structure as living space will require a further variance from Council; and
- (j) The current owners, for themselves, their successors and assigns, shall agree in writing in recordable form to the foregoing conditions and shall further agree to permit the City to enter onto the premises and to inspect the accessory structure, without obtaining an administrative search warrant, at all reasonable times during and after the variance period for the purpose of determining compliance with the limitation on the use of the second floor of the accessory structure.

Section 2. That this Ordinance shall go into effect and be in force from and after the earliest period allowed by law.

Passed: 4-27, 2004

John B. Paly  
President of Council

Attest: \_\_\_\_\_  
Clerk of Council

Approved: 4/27, 2004

D. Madison  
David H. Madison, Mayor

4-27-04 Ord 7-04 removed  
from table. Amended  
Ordinance 7-04 substituted.  
Passed