

AMENDED RESOLUTION NO. 10-21

Introduced by: Jessica Saad

A Resolution granting area variances with conditions from the minimum lot requirements for the property located at 407 Northview Drive zoned R-3 residential, to allow two non-conforming contiguous lots in single ownership being used in combination and considered an undivided parcel under the Bexley City Code to be split to permit two independent lots and parcels that would not meet existing R-3 minimum lot 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 407 Northview Drive in the city of Bexley is owned by a single owner, comprised of two platted lots and a portion of a vacated street, has two Franklin County Auditor's parcel numbers (parcel number 020-004324 and parcel number 020-004325) and the entire property is being used in combination as an undivided parcel with a single family residential use and accessory garage (the "Property"); and

WHEREAS, the Property is located in an R-3 Medium Density Single-Family Residential District and is considered to be an "undivided parcel" under Bexley City Code Section 1226.02 that has a non-conforming lot depth; and

WHEREAS, the owner of the Property would like to demolish the existing residence and accessory garage on the Property and redevelop the Property and has filed an application with this Council requesting that variances be granted to permit the existing undivided parcel to be subdivided to revert back to the originally platted lots as modified by the vacation of the street so that the owner can build a new residential structure on one of the originally platted lots (Lot 19) that was enlarged with a portion of the vacated street and the other originally platted lot (Lot 20) can be separately developed with a new residence as permitted in the R-3 zoning district; and

WHEREAS, neither of those two lots would meet the minimum dimensional requirements of the existing R-3 zoning district; and

WHEREAS, this Council held a duly noticed hearing upon the owner's application for variances from the requirements in an R-3 zoning district to permit the subdivision of an existing lot that meets the minimum lot and yard standards into two lots that do not meet the minimum lot requirements and one that also does not meet the minimum yard requirements

of the R-3 zoning district and the owner's request that this Council grant the variances necessary to permit such lot split.

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

Section 1. The Property before Council has a current street address 407 Northview Drive and includes all of Lot 19 of Second Ruhl Place recorded in Plat Book 17, page 104 in 1926 along with the northern 30 feet of vacated Ruhl Avenue as recorded in Plat Book 62, page 65 of the records of the Recorder's Office of Franklin County, Ohio (collectively "Lot 19" being Franklin County Auditor's parcel number 020-004324) and all of Lot 20 of Second Ruhl Place recorded in Plat Book 17, page 104 ("Lot 20" being Auditor's parcel number 020-004325). The Property (combined parcel) is 173.77 feet wide by 149.5 feet deep with a lot area of 25,978.615 s.f. The Property is located in the R-3 Medium Density Residential District that has the following minimum lot requirements: 90 feet lot width; 160 feet lot depth and 14,400 s.f. lot area. The existing Property does not meet the minimum lot depth requirements.

Section 2. Council finds, following a duly noticed hearing, that the applicant has proven, by a preponderance of evidence presented at the hearing, that the applicant has met the factors set forth in Bexley City Code Section 1226.11(c)(1) - (7) necessary for an area variance that would permit a single "undivided parcel" under the Bexley Zoning Code in the R-3 Medium Density Residential District to be divided into two parcels that do not meet the minimum lot requirements of the District and with each parcel being developed with a new single family residence.

Section 3. Council hereby grants the following area variances from the R-3 District Regulations in Section 1252.09 of the Codified Ordinances of the City of Bexley for the Property subject to the conditions provided herein:

- A. Lot 19 (Parcel No. 020-004324). Lot 19 (including the vacated street) is granted a 10.5 ft. variance from the required R-3 minimum lot depth of 160 feet and the dimensions of the Lot 19 shall be a minimum of 103 feet wide, a minimum of 149.5 feet deep and have a minimum lot area of 15,398.5 as generally shown on Exhibit A attached to this Resolution. Lot 19 will conform to the R-3 minimum yard requirements.
- B. Lot 20 (Parcel No. 020-004325). Lot 20 is granted a 10.5 ft. variance from the required R-3 minimum lot depth of 160 feet, a 20 ft. variance from the required R-3 minimum lot width of 90 ft. and a variance of a 3,935 s.f. from the R-3 minimum lot area of 14,400 s.f. as generally shown on Exhibit A attached to this Resolution. The minimum dimensions of the Lot 20 shall be a minimum of 70 feet wide and 149.50 feet deep with a minimum lot area of 10,465 s.f.

C. Variance Conditions. The variances granted in this Resolution to allow for division of the Property and separate residential development of Lot 19 and Lot 20 are all subject to the following conditions:

1. No lot split can occur before the existing structures on Lot 19 and Lot 20 have been demolished.
2. A separate Landscape Plan for each lot must be reviewed and approved by the Bexley Tree and Public Gardens Commission or the city's landscape consultant (a Plan for Lot 19 and a Plan for Lot 20) before any lot split.
3. No trees or shrubs shall be removed from the Property before any demolition or the approval of a Landscape Plan for each lot without prior approval of the Bexley Tree and Public Gardens Commission or the city's landscape consultant.
4. 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. Any such subdivision shall be subject to the conditions of the variance.
5. All other provisions of the Bexley City Code shall apply, including but not limited to BCC 1026.16, BCC 1223.05 and BCC Chapter 1480 including the provisions of BCC 1480.02(f).

Section 4. That this Resolution shall be in full force and effect from and after the earliest date permitted by law.



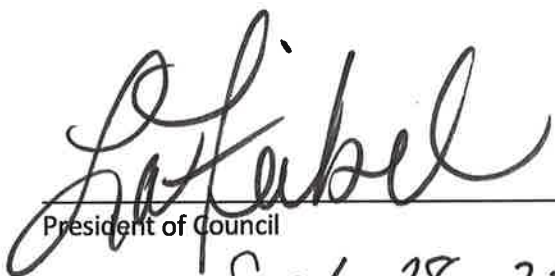
Benjamin J. Kessler, Mayor

Dated: September 28, 2021



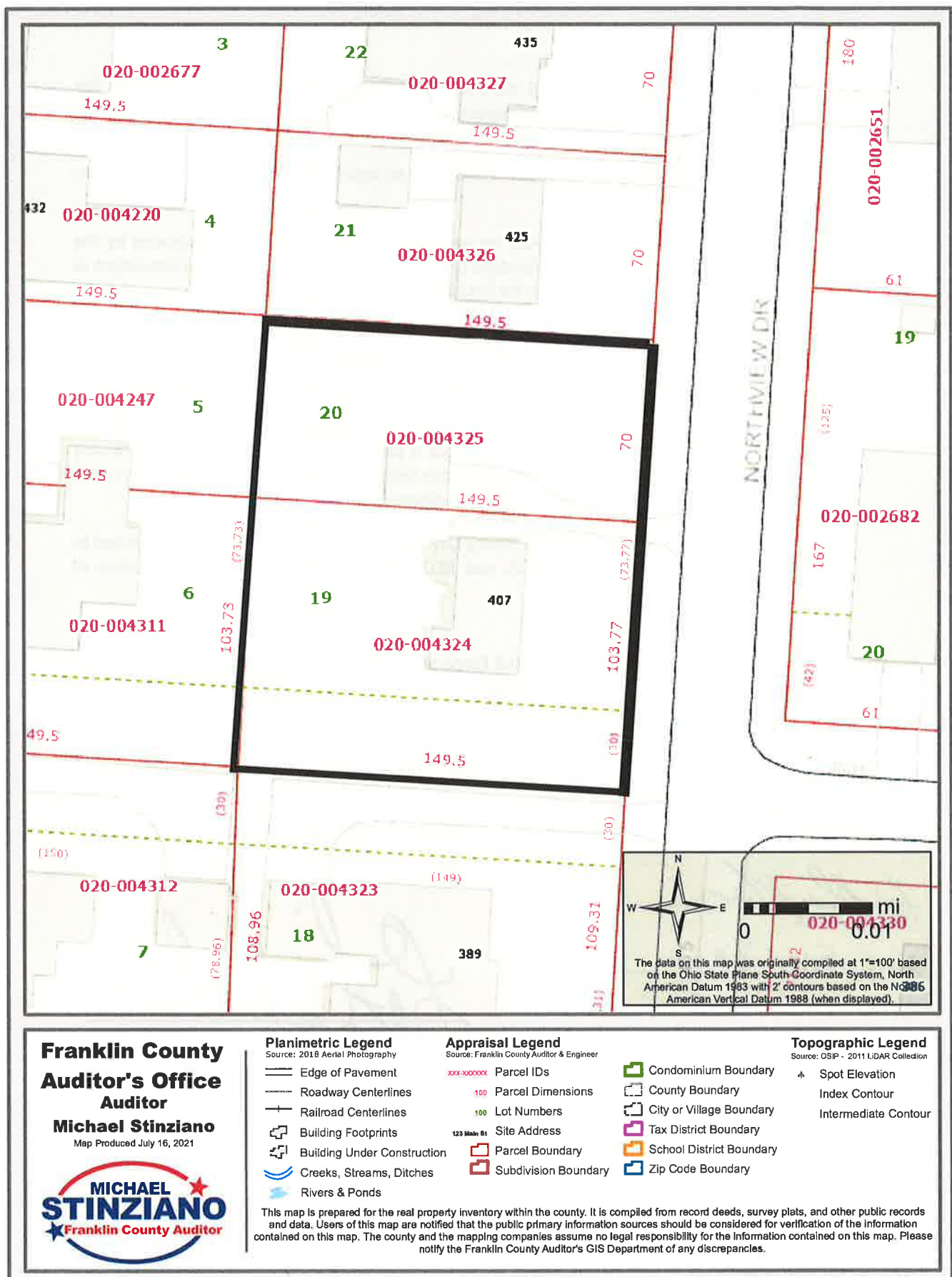
Clerk of Council

Dated: Sept 28, 2021



President of Council

Dated: Sept 28, 2021



CITY OF BEXLEY

Bexley City Council

Decision

Application No: CC # 16235
Ordinance No: Resolution No. 10-21
Application: The applicant is seeking area variances from Bexley Code Section 1252.09, the development standards in the district regulations for an R-3 District, to permit the subdivision of two platted lots (and auditor's parcels) being used in combination as an undivided lot (and parcel) for a single family residence and accessory garage located at 407 Northview Drive (Parcel Nos. 020-004234 and 020-004235) into two lots as originally platted and amended.
Owner: Ji Liu and Fengwu Li
Applicant: Ji Liu
Attorney: Kristin E. Rosan, Attorney for Applicant
Property/Location: 407 Northview Drive (Auditor's Parcel Nos. 020-004234 and 020-004235)
Zoning District: Medium Density Single-Family Residential District (R-3)

This matter came for hearing before City Council of the City of Bexley, Ohio on September 21, 2021 on the Application for variances to permit a lot split for the property located at 407 Northview Drive. The Applicant and Property Owners (collectively "Applicants") were represented by legal counsel, Kristin E. Rosan. Notice was provided for the hearing. The application was unopposed.

The property before Council for consideration is located at 407 Northview Drive and is zoned R-3 Medium Density Single Family Residential. The single-use property is comprised of two nonconforming platted lots and a portion of a vacated street and has two Franklin County Auditor's parcel numbers (parcel number 020-004324 and parcel number 020-004325) (collectively the "Property"). The entire Property is being used in combination as an undivided parcel with a single family residence and accessory garage. Under Bexley City Code ("BCC") 1226.02 when nonconforming lots are being used in combination they are considered a single lot.

The Applicants desire to demolish the existing single family residence and accessory garage on the Property, terminate the existing single use of combined undivided lots and parcels and have the Property revert back to the originally platted non-conforming lots as modified by the vacation of the street. The lots would then be redeveloped for two residences as originally platted and amended rather than be used in combination for a single residence. The new lots would be non-conforming as to lot depth and the northern lot would be become non-conforming as lot width and area.

The Property (combined parcel) is 173.77 feet wide by 149.5 feet deep with a lot area of 25,978.615 s.f. The Property is located in the R-3 Medium Density Residential District that has the following minimum lot requirements: 90 feet lot width; 160 feet lot depth and 14,400 s.f. lot area. The existing Property does not meet the minimum lot depth requirements. If the Property is separated, the dimensions of the individual parcels will be as follows:

- A. Lot 19 (Parcel No. 020-004324). Lot 19 (including the vacated street), the south lot, would be approximately 103 feet wide, 149.5 feet deep and with a lot area of 15,398.5± s.f. It would not meet the zoning requirements for lot depth but would meet the lot width and area requirements in the R-3 district.
- B. Lot 20 (Parcel No. 020-004325). Lot 20, the north lot, would be approximately 70 feet wide and 149.50 feet deep with a lot area of 10,465± s.f. It would not meet any of the development standards for lots in the R-3 district (width, depth or area).

The Applicants have the burden to prove, by a preponderance of the evidence, that they have met the criteria of BCC 1226.11 for the area variances they are requesting that would permit two lots being used in combination to be separated and become more non-conforming under the Bexley City Code. The Applicant must show that the literal enforcement of the BCC will result in practical difficulty and the granting of a variance complies with the purpose and intent of the code. BCC 1226.11(b) and (c). Council must consider and weigh the seven non-exclusive factors in BCC 1226.11(c)(1)-(7). No single factor controls and Council must determine whether the variance complies with the purpose and intent of the Bexley Planning and Zoning Code rather than the strict letter of the zoning ordinance.

Upon due consideration of the application, record, testimony, and arguments presented at the hearing, and based upon a preponderance of the substantial, reliable and probative evidence on the whole record, applying the standards for area variances set for the BCC 1226.11 including the seven factors of BCC 1226.11(c)(1)-(7), City Council makes the following findings and conclusions on the criteria for a variance:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Council finds there was no evidence that the property will not yield a reasonable return without a variance. It could continue or be redeveloped as a combined lot. However, the owner testified that he desired to redevelop only one of the lots with a new house which would leave a second lot vacant and available for redevelopment.

- (2) Whether the variance is substantial;

Council finds the variances are not substantial and separation of the combined lots to restore them to their original dimensions, as amended by vacation of a street, is in keeping with existing conditions in the neighborhood. All of the adjacent and surrounding lots have the same lot depth and many have the same lot widths. Although a few adjacent and neighborhood lots in the R-3 district are used in combination for a

single residence, most are not, including adjacent lots and lots both north and south on the west side of Northview Drive and the east side N. Drexel Avenue in the same block.

- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

Council finds that the essential character of the neighborhood would not be substantially altered and there is no evidence of any detriment to adjoining properties. No adjoining property owner appeared at the hearing or opposed the lot split, and the lots will be identical or similar to the surrounding lots in the R-3 zoning classification that are not being used in combination.

- (4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

Government services will not be adversely affected by a lot split which would permit one additional single family residence to be constructed in Bexley. The city can deliver governmental services to one more single family residence in this developed neighborhood.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

It is undisputed that the property owner purchased the property with knowledge of the zoning restriction. Council recognizes that this, alone, is not a sufficient basis to deny a variance and considers it as one of the factors it must weigh.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

The owner desires to demolish the existing structures on 407 Northview Drive and separate two lots that were used in combination for that residence to permit them to redevelop as individual lots, each with a single family residence. The owner's lot cannot be subdivided or split to permit such development through any method other than a variance because Lot 20 will become more nonconforming and will not meet the minimum lot depth, width or area required in an R-3 District.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Council finds the proposed variances meet this criterion.

Upon weighing the facts and evidence before it, and considering and weighing the seven factors set forth in BCC 1226.11(c)(1)-(7), Council finds that Applicants have proven, by a preponderance of evidence, that the requested variances should be granted to allow the combined use and lots to be separated and individually developed:

Lot 19 (Parcel No. 020-004324) is granted a 10.5 ft. variance from the required R-3 minimum lot depth of 160 feet.

Lot 20 (Parcel No. 020-004325) is granted a 10.5 ft. variance from the required R-3 minimum lot depth of 160 feet, a 20 ft. variance from the required R-3 minimum lot width of 90 ft. and a variance of 3,935 s.f. from the R-3 minimum lot area of 14,400 s.f.

Council imposes the following conditions on the variances granted:

1. No lot split can occur before the existing structures on Lot 19 and Lot 20 have been demolished.
2. A separate Landscape Plan for each lot must be reviewed and approved by the Bexley Tree and Public Gardens Commission or the city's landscape consultant (a Plan for Lot 19 and a Plan for Lot 20) before any lot split.
3. No trees or shrubs shall be removed from the Property before any demolition or the approval of a Landscape Plan for each lot without prior approval of the Bexley Tree and Public Gardens Commission or the city's landscape consultant.
4. 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. Any such subdivision shall be subject to the conditions of the variance.
5. All other provisions of the Bexley City Code shall apply, including but not limited to BCC 1026.16, BCC 1223.05 and BCC Chapter 1480 including the provisions of BCC 1480.02(f).

Proposed Resolution No. 10-21 relating to the application for variances shall be revised and considered in accordance with this Decision.


Lori Ann Feibel, President of Council

Dated: Oct 12, 2021


Jessica Saad

Zoning and Development Chair

Dated: Oct 12, 2021