

Amended Ordinance 42 - 24

Introduced by: Sam Marcellino

An Ordinance to grant area variances, with conditions, from the minimum lot requirements to the property located at 700 Grandon Avenue zoned R-6 residential in order to allow that single lot to be split and to form two new lots that would not meet existing R-6 minimum lot requirements, and to grant additional variances to the applicable R-6 development standards for minimum yard 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 currently 700 Grandon Avenue, current Franklin County Auditor's parcel number is 020-001821 being Lot 131 of Eastlawn Addition Subdivision recorded in Plat Book 9, page 5 of the records of the Recorder's Office of Franklin County, Ohio is a 40 feet wide by 127 feet deep lot of record zoned R-6 High Density Single-Family Residential District, in the City of Bexley; and

WHEREAS, Bexley City Code Section 1226.02 Nonconforming Lots passed on November 11, 2016 (ordinance 29-16) states:

“(b) If two (2) or more contiguous lots or parcels or combinations of contiguous lots or parcels in single ownership located in the same zoning classification are of record at the time of passage or amendment of this ordinance or anytime thereafter and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance in the zoning district in which the lot(s) or parcels are located, the lands shall be considered to be an undivided parcel for the purposes of this Ordinance.

(c) Lots in Combination. If a vacant nonconforming lot or parcel in any district adjoins one or more lots or parcels in common ownership on the effective date of this Zoning Code or applicable amendment thereto, or any time thereafter, such lots shall be replatted and such parcels shall be combined to create conforming or more conforming lots and/or parcels as a prerequisite for development.”; and

WHEREAS, After the passage of Ordinance 29-16 the vacant lot #132 was combined with the original lot #131, 700 Grandon, upon which a single-story residential structure pre-existed, thus designating it as one undivided parcel; and

WHEREAS, The owner of the property has filed an application with the City, requesting a variance be granted from the minimum R-6 lot requirements to permit the existing combined lots #131 & 132 with dimensions of 80 feet wide by 127 feet deep lot to be subdivided into two

smaller lots of 40 feet wide by 127 feet deep, neither of which would meet the minimum dimensional requirements of the zoning district; and

WHEREAS, The owner has also requested that Council grant the existing primary structure on the Plat #131 a variance from the minimum side yard requirements in the R-6 District which would become non-conforming as a result of the lot split; and the minimum side yard requirements in the R-6 District include shall be one-sixth of the lot width but not to exceed 8 feet. The current integrated residential structure on the property would not meet the minimum side yard along its southern property line; and will require an area variance of 2.62 ft from the south side yard setback; and

WHEREAS, The proposed lot split would restore the Eastlawn Addition original plat #131 and as well as restore the original #132 lot for a residential structure to be built on the 40 feet wide by 127 feet deep lot. Both lots are adjacent to and fronting Grandon Ave. and they require a 10 foot variance from the current R-6 minimum lot width of 50 ft; and

WHEREAS, This Council held a duly noticed hearing upon the owner's application for variances from the requirements in an R-6 zoning district to permit the subdivision of an existing lot that meets the minimum lot and yard standards into the two lots, #131 and #132, that do not meet the minimum lot requirements and the owner's request that this Council grant the variances necessary to permit such lot split; and,

WHEREAS, Bexley City Code Section 1234.10 prohibits the creation of a nonconforming lot and only City Council has the power to grant a variance for the subdivision of property that will not meet the minimum lot requirements of any district as provided by Bexley City Code Section 1226.11(c) when the applicant proves such variances meet the criteria set forth in Section 1226.11(c) by a preponderance of the evidence; and

WHEREAS, Based upon a preponderance of reliable, substantial and probative evidence from the hearing, City Council made a Decision and adopted findings of fact, conclusions of law and determinations as attached hereto; and

WHEREAS, This Ordinance is adopted to put into effect the Decision of Council on the application of the owner;

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

Section 1. Council finds that, following a duly noticed hearing, the Applicants have proven, by a preponderance of evidence, that they meet the factors set forth in Bexley City Code Section 1226.11(c)(1) - (7) necessary for an area variance for the property whose current address is 700 Grandon Ave., being Lot 131 of Eastlawn Addition Subdivision recorded in Plat Book 9 page 5 of the records of the Recorder's Office of Franklin County, Ohio to subdivide a single conforming lot into two lots that do not meet the minimum lot requirements of the R-6 Medium Density Residential District in the City of Bexley.

Section 2. The following area variances are granted from the R-6 District Regulations in Section 1252.09 of the Codified Ordinances of the City of Bexley for the property whose current address is 700 Grandon Ave., being Lot 131 of Eastlawn Addition Subdivision recorded in Plat Book 9 page 5 of the records of the Recorder's Office of Franklin County, Ohio and conditions imposed:

- A. Lot 131: The minimum lot dimensions of Lot #131 as generally shown on Exhibit A attached to this Ordinance shall be 40 feet wide and 127 feet deep; the minimum front yard setback shall be 30 feet from the western property line abutting Grandon Avenue; the side yard setbacks shall be one-sixth of the property width of 40 ft, or 6.67 feet; and the rear yard setback shall be 25 feet;
- B. New Lot 132: The minimum lot dimensions of the restored lot #132 as generally shown on Exhibit A attached to this Ordinance shall be 40 feet wide and 127 feet deep and the property shall have a new street address number on Grandon Avenue;
- C. Variance Conditions. The variances granted in this Ordinance for the new Grandon lot are all subject to the following conditions:
 - 1. In the event that a site survey shows the existing AC unit and fence as being located on Lot 132, the current owner of Lot #131, addressed as 700 Grandon must move the fence and A/C condensing unit so that it does not encroach onto the new lot #132. The screening of the A/C unit shall meet the requirements in Bexley code section 1266.04, and the fence shall meet the requirements in Bexley code section 1264.
 - 2. A 2.62 ft side yard area variance for the existing residential structure on Lot #131.
 - 3. The current owner of newly created lot 132 shall promptly prepare and file an application for a certificate of appropriateness with the Architectural Review Board to construct a new residence on its proposed New Grandon Lot for a residence and development in substantial conformance with the plans attached as Exhibit B for consideration and determination by the ARB. The new structure may not in any way encroach into the side yard setbacks

in order to maintain the appropriate distance from the existing residential structure on Lot 131. Any substantial modifications to such plans that are approved by ARB shall be subject to review and approval by Council to satisfy this condition.

4. Following final approval of a certificate of appropriateness beyond any necessary final Council approval and right of appeal, 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.
5. If construction of a new residence on the Grandon Avenue Lot 132 has not begun within one year of the final approval of the variances by Council, all variances approved in this Ordinance shall expire as provided in Bexley City Code Section 1226.11(e) and the newly split lots created as a result of the variances granted in this Ordinance shall be combined. Thereafter the Grandon Avenue #Lot 131 and the Grandon Avenue Lot #132 shall be treated as nonconforming lots in single ownership and be considered an undivided parcel for the purposes of any future development as provided in Bexley City Code Section 1226.02(b) irrespective of any lot or parcel combination or replat. The owner is not prohibited from timely applying to Council for an extension of the variances as permitted in Bexley City Code Section 1226.11(e) for consideration by Council.

Section 3. That this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Passed: February 11, 2025

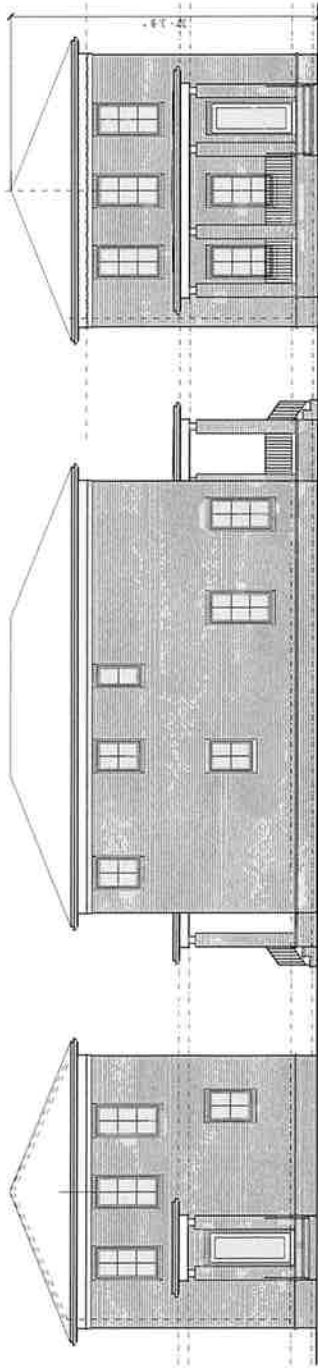
Monique Lampke
Monique Lampke, President of Council

Attest: Matt McPeck
Matt McPeck, Clerk of Council

Approved: February 11, 2025

Benjamin J. Kessler
Benjamin J. Kessler, Mayor

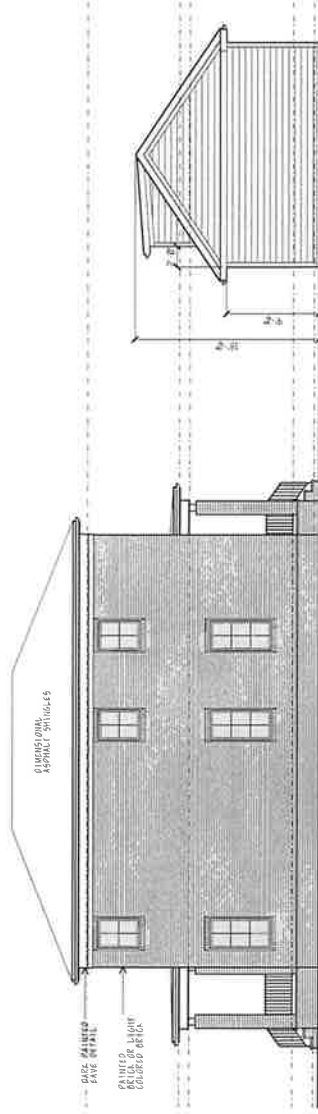
First Reading: November 19, 2024
Second Reading: December 3, 2024
Third Reading: December 10, 2024
Passed: February 11, 2025



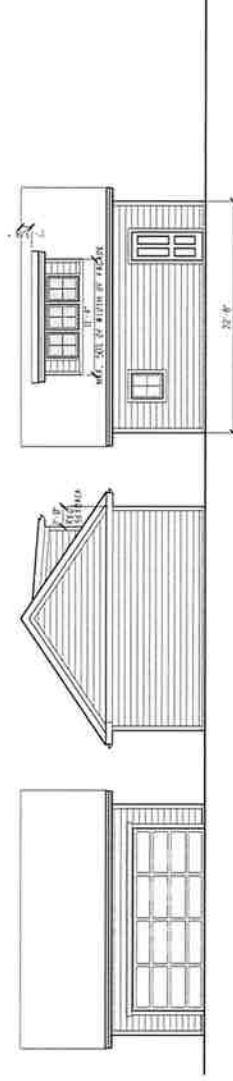
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NORTH ELEVATION
SCALE: 1/8" = 1'-0"

WEST ELEVATION
SCALE: 1/8" = 1'-0"



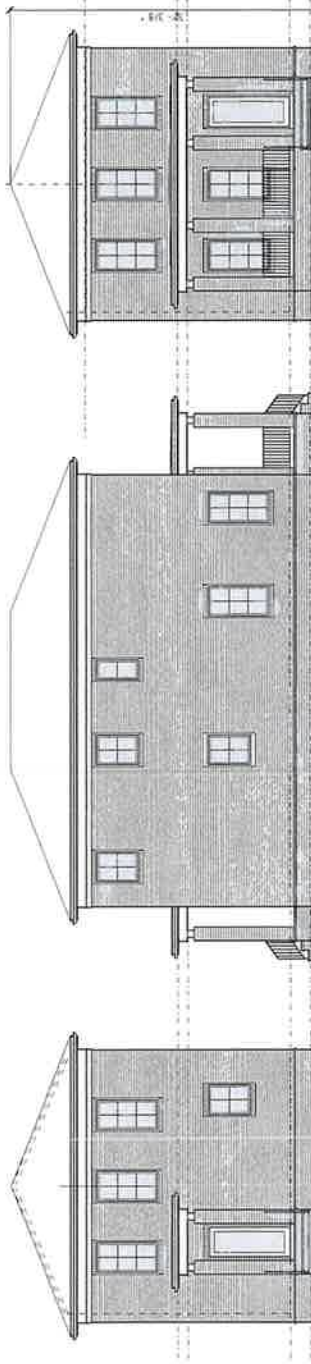
SOUTH ELEVATION
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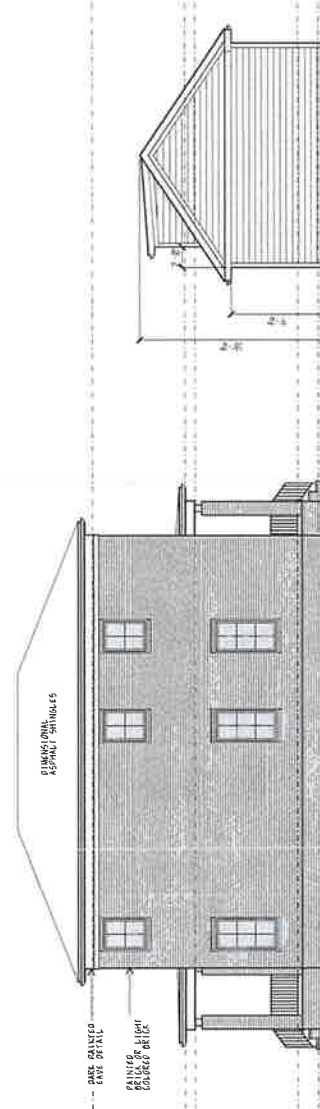
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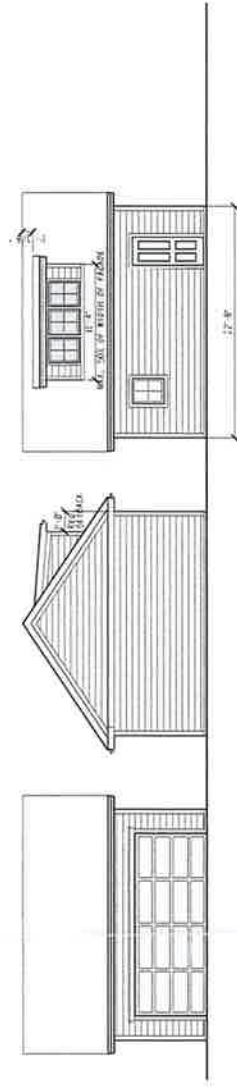
WEST ELEVATION
SCALE: 1/8" = 1'-0"



○ EAST ELEVATION SCALE: 1/8" = 1'-0"
○ NORTH ELEVATION SCALE: 1/8" = 1'-0"
○ WEST ELEVATION SCALE: 1/8" = 1'-0"



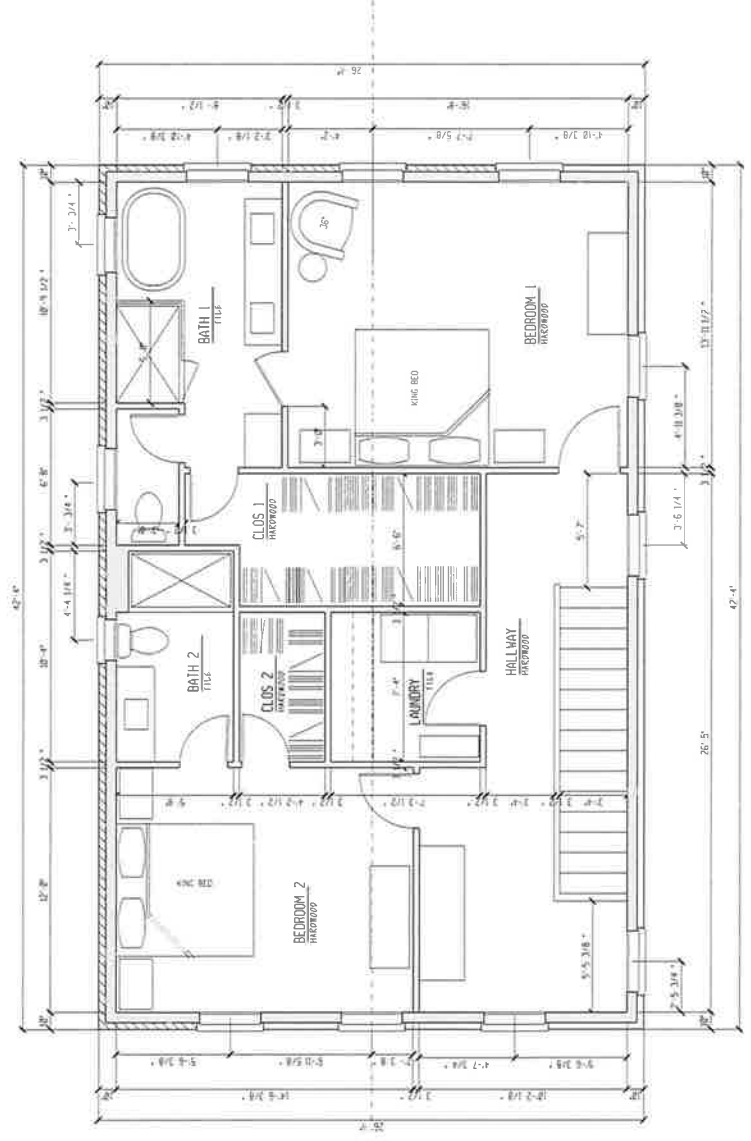
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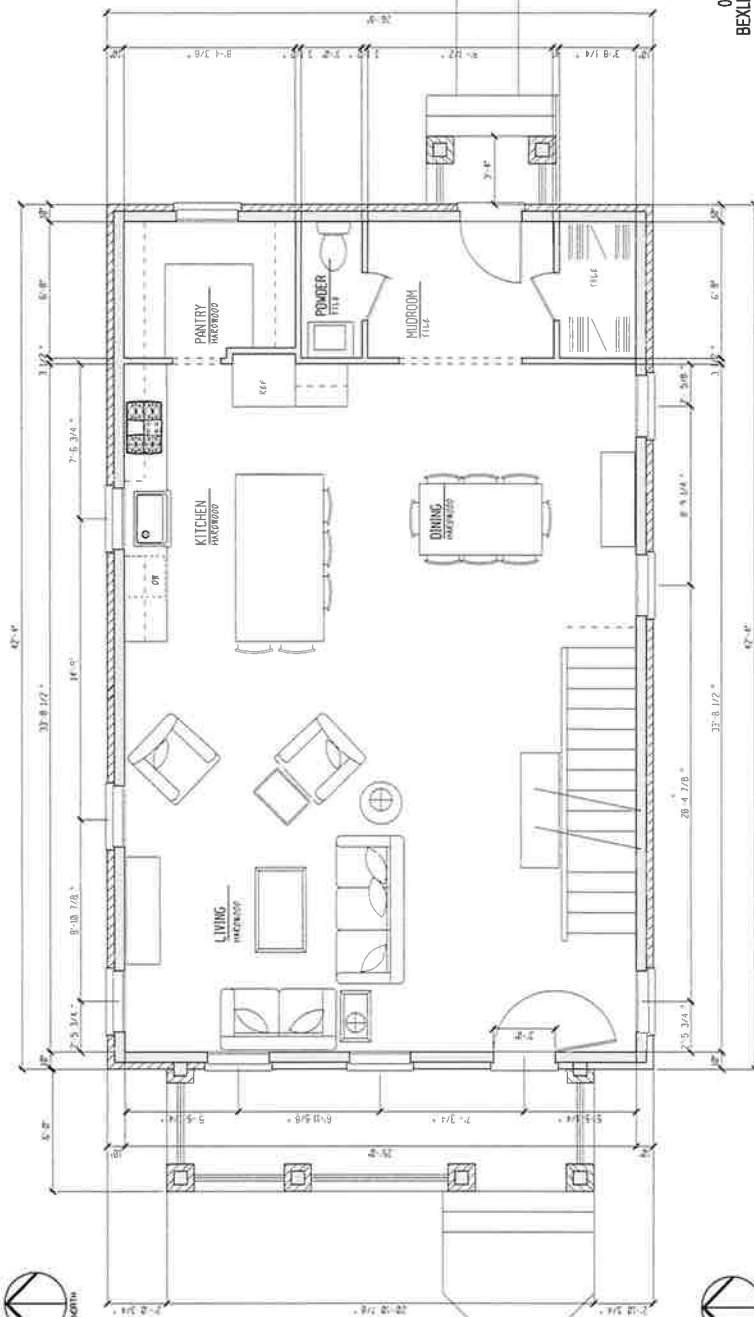
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○ NORTH ELEVATION SCALE: 1/8" = 1'-0"
○ WEST ELEVATION SCALE: 1/8" = 1'-0"

10/16/24

020-001248
BEXLEY OHIO 43209



PROPOSED
SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0"

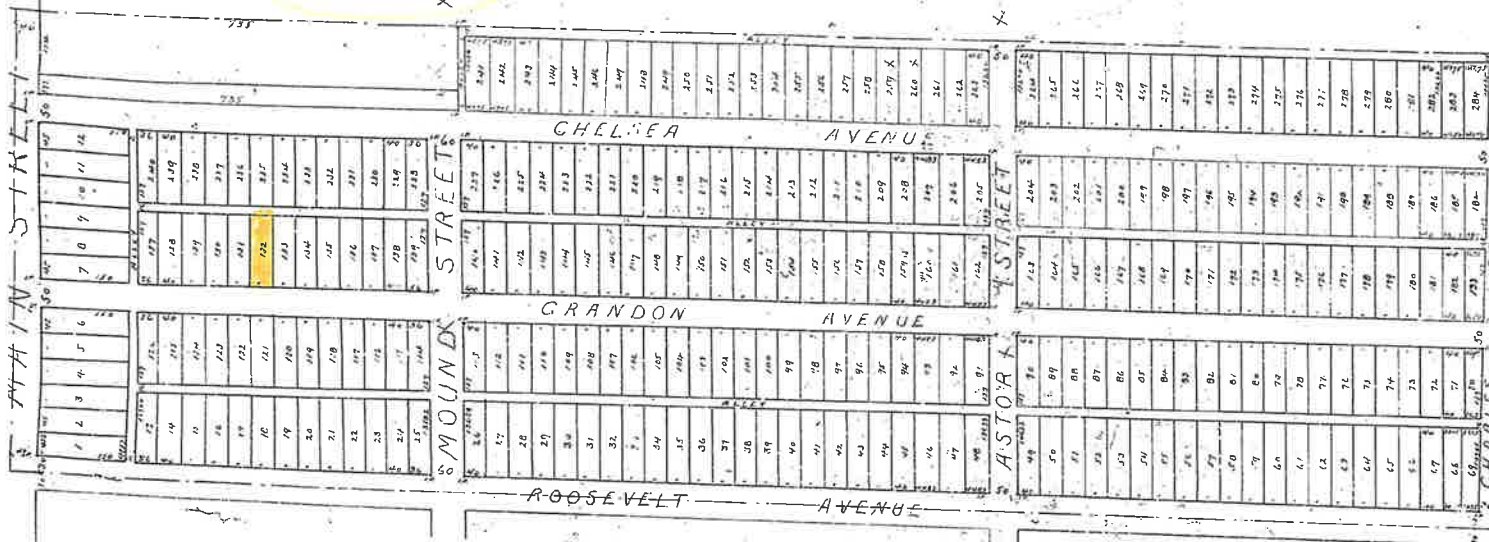


020-001248
BEXLEY OHIO 43209

EASTLAWN.

BOOK 9 PAGE 15

Lot 132



WE HEREBY CERTIFY THAT WE HAVE SURVEYED THE ABOVE
TABLE, AND THAT THIS PLAT IS CORRECT.
WILLIAM J. DOLAN
SURVEYOR

I DO HEREBY CERTIFY THAT THE ANNEXED PLAT CORRECTLY REPRESENTS MY EASTLAWN ADDITION, BEING AN AMENDED SUBDIVISION OF LOTS NO. 1 TO 100 INCLUSIVE OF MY CURE ADDITION OF RECORD IN PLAT 2000B, PAGE 15 FRANKLIN COUNTY RECORDS, FRANKLIN TOWNSHIP, FRANKLIN COUNTY, OHIO, CONVEYED TO J.A. SMITH, TRUSTEE, BY CLARENCE J. COLEMAN, BY DEED OF RECORD IN DEED BOOK VOL. 177, PAGE 177 IN THE RECORDERS OFFICE OF SAID COUNTY. THE STREETS AND ALLEYS SHOWN ON ANNEXED PLAT AND NOT HERETOFORE DEDICATED AND HEREBY DEDICATED TO THE COUNTY COMMISSIONERS FOR HIGHWAY PURPOSES FOREVER. THE SIZE OF LOTS, STREETS AND ALLEYS ARE GIVEN IN FEET AND DECIMALS OF A FOOT. THE LOTS ARE NUMBERED FROM 1 TO 104 IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND SEAL THIS 17th DAY OF MAY, A.D. 1909.

STATE OF OHIO, CUYAHOGA COUNTY, ss.

J.A. SMITH, TRUSTEE

BEFORE THE UNDERSIGNED, A NOTARY PUBLIC, IN AND FOR SAID COUNTY PERSONALLY APPEARED THE ABOVE NAMED J.A. SMITH, TRUSTEE, WHO ACKNOWLEDGED THE SIGNING OF THE ABOVE CERTIFICATE TO BE HIS VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES THEREIN MENTIONED.

IN TESTIMONY WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THIS 17th DAY OF MAY, A.D. 1909.

H.W. CARROLL

NOTARY PUBLIC IN AND FOR SAID COUNTY

I, THE UNDERSIGNED EMMA J. MCCLURE DO HEREBY JOIN IN THE DEDICATION OF ALL STREETS, ROADS AND ALLEYS AS SHOWN ON THE ANNEXED PLAT OF EASTLAWN ADDITION, THE SAME TO BE USED AS PUBLIC HIGHWAYS.

STATE OF OHIO, MUSKINGUM COUNTY, ss.

EMMA J. MCCLURE

BEFORE THE UNDERSIGNED, A NOTARY PUBLIC, IN AND FOR SAID COUNTY PERSONALLY APPEARED THE ABOVE NAMED EMMA J. MCCLURE, WHO ACKNOWLEDGED THE SIGNING OF THE FOREGOING DEDICATION OF STREETS, ROADS AND ALLEYS TO BE HER VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES THEREIN MENTIONED.

IN TESTIMONY WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THIS 16th DAY OF MAY, A.D. 1909.

JOHN B. SMITH

NOTARY PUBLIC IN AND FOR SAID COUNTY

APPROVED THIS 20th DAY OF MAY, 1909, AND THE ROADS, STREETS AND ALLEYS THEREIN DEDICATED TO PUBLIC USE ARE HEREBY ACCEPTED AS SUCH FOR FRANKLIN COUNTY, OHIO.

WALTER A. MASON COUNTY COMMISSIONER
MORTON HAYES
JAMES H. HADSON

APPROVED MAY 20th 1909 WALTER BRAUN

TRANSFERRED MAY 21st 1909
FRANKLIN COUNTY AUDITOR

FILED FOR RECORD MAY 21st 1909
RECORDED MAY 21st 1909
W.T. FLETCHER COUNTY CLERK

5

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709		711	
717		718	

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

The owners of the property located at 700 Grandon Ave. filed an application for an area use variance of this property. (Application no. 19529) The owner of the property is Jason Deskins. Attorney Connie Klema represents the property owner.

Ordinance 42-24 was introduced by City Council to address this application. The area variance in this case is governed by Section 1226.11(c) of the Bexley Codified Ordinances. This provision grants the Bexley City Council the authority to hear area variances such as the present case.

The City properly noticed the hearing which was held on January 28, 2025. At the hearing, the City Building and Zoning Administrator presented the application. Based on the criteria set for in section 1226.11(c), Mr. Klingler recommended City Council approve the application based on the criteria contained in the City ordinance.

In reviewing an application for an area variance, City Council is required to consider the following criteria:

- (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;
- (2) Whether the variance is substantial;
- (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;
- (4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

The applicant must establish, by a preponderance of the evidence, that the area variance is warranted.

The applicant addressed the above-criteria in its initial application. The applicant did not submit new evidence at the hearing. No evidence or arguments in opposing the application were presented at the hearing.

After viewing the facts presented in this case, City Council concludes that the applicant has met his burden of proof to support approval of the area variance subject to the qualifications set for in Ordinance 42-20.

1. Although the evidence shows the property in question is already part of 700 Grandon Ave., the specific area to be severed does not yield a reasonable return and the lot split and resulting area variance would address this criterion.

2. The area variance is not substantial. The new south platted lot will not be substantially different than other properties in the area.
3. The area variance will not impact the essential character of the neighborhood.
4. The area variance will not impact the delivery of government services.
5. The applicant purchased this property knowing the restriction, however, City Council does not find this factor to be controlling.
6. The applicant seeks to split the south platted area of the property to build a single family home which is consistent with the neighborhood use. This cannot be done without a lot split and area variance.
7. Granting the application is consistent with the spirit and intent of the zoning code.

Based on the evidence and applicable criteria, City Council hereby grants the area variance requested for 700 Grandon Ave. in application 19529, subject to the terms and conditions set forth in Ordinance 42-20.