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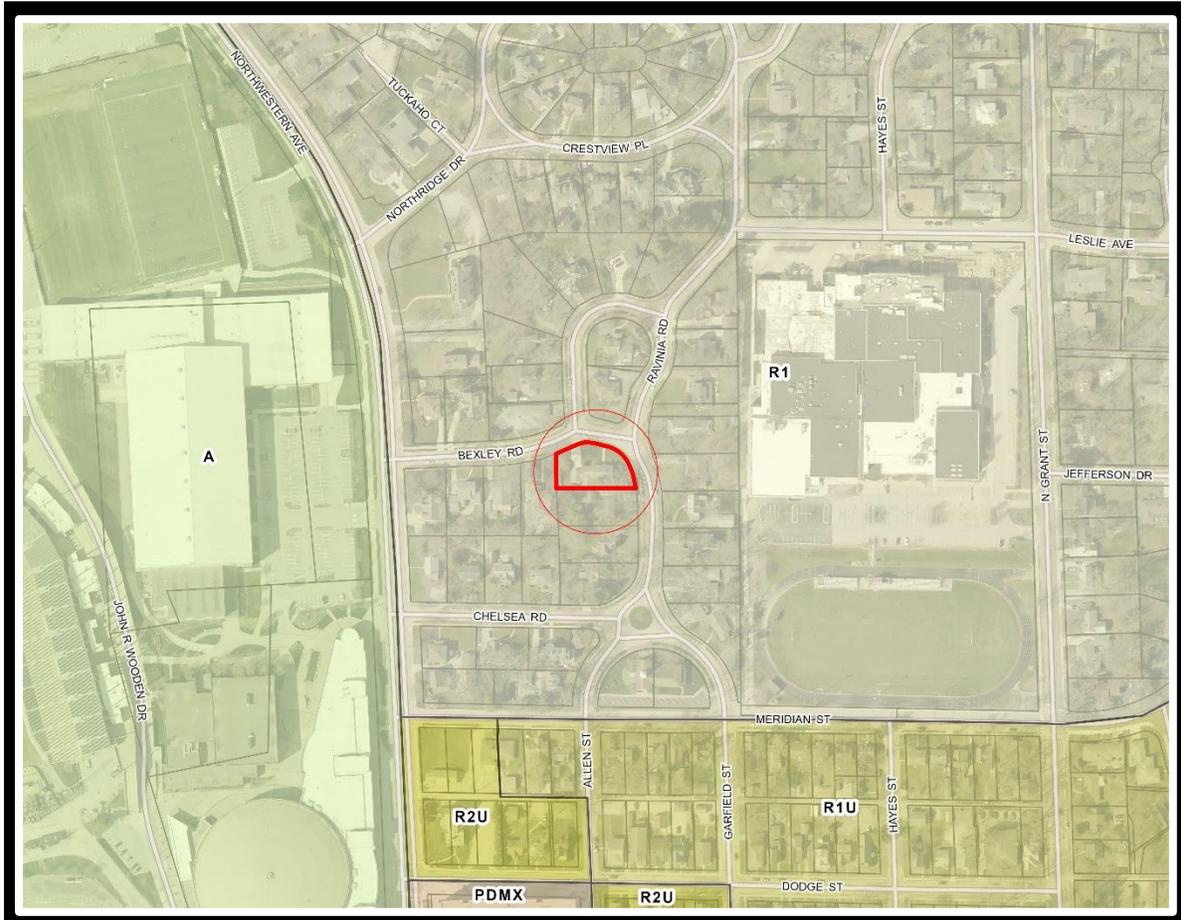
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**BZA-2062**  
**JAMES M. TYLER AND JENNIFER L. NEVILLE**  
**(variances)**

**STAFF REPORT**  
**September 16, 2021**

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**JAMES M. TYLER & JENNIFER L. NEVILLE**  
**Variances**

**Staff Report**  
**September 16, 2021**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioners, who are the owners and represented by attorney Marianne Owen of Stuart & Branigin LLP, are requesting two variances:

1. A 4-foot setback from Ravinia Road instead of the required 25 feet; and
2. A 4-foot setback from Bexley Road instead of the required 25 feet,

to allow for construction of an in-ground swimming pool and a deck. The site is commonly known as 705 Bexley Road, West Lafayette, Wabash 18 (SE) 23-4.

**AREA ZONING PATTERNS:**

The subject property and all surrounding land are zoned R1. This pattern has changed very little over the years for this part of West Lafayette. R1U zoning in the New Chauncey Neighborhood can be found a few blocks to the south.

**AREA LAND USE PATTERNS:**

This site and surrounding lots contain single-family homes. The site in question has a very narrow backyard area behind the house and a larger than usual side yard to the east. The West Lafayette Junior-Senior High School is a few blocks to the east and Purdue University is located a block to the west.

**TRAFFIC AND TRANSPORTATION:**

The site is located at the curve where two streets converge. These two streets, Bexley Road and Ravinia Road, are both classified as urban local roads.

**ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

City utilities serve the site.

**STAFF COMMENTS:**

Petitioners are requesting two setbacks variances of 4' instead of the required 25'. The lot in question is irregularly shaped with Bexley and Ravinia Roads curving to form the northern and eastern property lines. With a curving property line, it is not clear where Bexley Road stops and Ravinia Road begins. Because of this ambiguity, petitioner's representative has filed setback variances from both street frontages.

The home has an existing privacy fence in both the back and side yards. This fence runs

along the southern property line as well as the eastern property line towards Ravinia Road near the back of the sidewalk. Typically, fences taller than 42 inches cannot be placed between a house and a street. However, the ordinance permits the Administrative Officer to allow fences in the standard 25' street setback on a corner lot, provided that the vision triangle is not obstructed UZO 4-1(b)(9)(C).

The submitted site plan shows a proposed addition of a 12' x 26' deck on the east side of the home in this fenced-in area. To the east and south of this proposed deck would be an in-ground swimming pool and hot tub, with the concrete apron of the pool being nearest to the street property line.

According to the petition, placing a pool in the existing fenced-in area will have no negative impact on adjacent properties because having a swimming pool closer to a street rather than a neighbor's home will be less disruptive. Additionally, the petition states that the pool will allow for the owners "to provide healthcare services...including [to] their disabled son and aging mother, in limited periods of each year."

While staff does not question the need for these backyard improvements, we do think a smaller pool (such as a lap pool) and deck could be built farther from the property line, perhaps with no setback variance needed.

Regarding the ballot items:

1. The Area Plan Commission at its September 15, 2021 meeting determined that the variances requested **ARE NOT** use variances.

And it is staff's opinion regarding variance #1 and variance #2 that:

2. Granting these variances **WILL NOT** be injurious to the public health, safety, and general welfare of the community. An existing privacy fence encloses petitioner's back and side yard, so the addition of a pool will not be injurious to, and not even seen by the public.
3. Use and value of the area adjacent to the property included in the variance requests **WILL NOT** be affected in a substantially adverse manner. The privacy fence would shield the pool area from adjacent residences.
4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. While this lot is irregularly shaped, this is not uncommon to other lots in Hills & Dales.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. While the desire for the swimming pool is understood, it is the size and location of the pool that is causing a practical difficulty for petitioners. A smaller pool could be redesigned to better fit within the setbacks.

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS** self-imposed or solely based on a perceived reduction of or restriction on economic gain. The size and shape of the lot presents a difficulty to petitioners, but staff cannot find an ordinance-defined hardship in the variances requested.

5b. The variances sought **DO NOT** provide only the minimum relief needed to alleviate the hardship because staff can find no ordinance-defined hardship.

**STAFF RECOMMENDATION:**

Variance #1: Denial

Variance #2: Denial