



Image: 10.7 in x 7.2 in
 Scale: 1 in = 25ft

BZA-2062
JAMES M. TYLER & JENNIFER L. NEVILLE
Variances

Staff Report
November 24, 2021

Please note:

These variance requests were amended just prior to the ~~September 22nd~~ December 1st meeting. The requests are now:

1. to allow a ~~42'~~ 14' setback from Ravinia Road instead of the required 25' and
2. To allow a ~~42'~~ 14' setback from Bexley Road instead of the required 25'.

The staff report below is largely unchanged from the original and staff's recommendation remains unchanged.

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 42'~~ 14' setback from Ravinia Road instead of the required 25 feet; and
2. A ~~4-foot 42'~~ 14' 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 originally filed this request for two 4-foot setbacks to be heard at the September meeting; the case was continued to the October meeting and the requests were amended to 12 feet. Just prior to the staff report being published, the case was again continued to the December meeting (petitioners second and last continuance). Now, petitioners are requesting two setbacks variances of 14' 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 (See UZO 4-1(b)(9)(C)).

The revised site plan shows a proposed addition of a 10' x 29' deck on the east side of the home in this fenced-in area. To the east of this proposed deck would be a trapezoid-shaped, in-ground swimming pool and a 7' x 7' hot tub to the south of the deck, with the concrete apron of the pool being nearest to the street's right-of-way.

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, and we applaud the reduction in the requested setbacks, 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 NOT** common to other properties in the same zoning district. This lot is irregularly shaped and has a smaller backyard than is typical. While this is not necessarily uncommon in Hills & Dales, it is uncommon when compared to the majority of R1-zoned lots; however
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. While attempts to redesign the site with a smaller pool have been made, the lot cannot accommodate an improvement of this size in this location.

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