



Legislation Text

File #: 2271-2021, **Version:** 2

Council Variance Application: CV21-044

APPLICANT: Claudia Realty, LLC; c/o Michael Shannon, Atty. and Eric Zartman, Atty.; Underhill & Hodge; 8000 Walton Parkway, Suite 260; New Albany, OH 43054

PROPOSED USE: Auto maintenance and repair.

COLUMBUS SOUTHSIDE AREA COMMISSION RECOMMENDATION: Approval.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The applicant has received a recommendation of approval from Staff and the Development Commission for a concurrent rezoning (Ordinance #2270-2021; Z21-024) to the L-C-4, Limited Commercial District for an intended automotive maintenance and repair facility. The requested Council variance permits a 19-space parking lot with no interior shade trees and no screening along the abutting residentially zoned property. Staff supports both variances as the applicant has committed to providing six street trees and additional landscaping along the Fairwood Avenue frontage, and because the existing building acts as a screening element between the L-C-4 district and residentially-zoned property to the south.

To grant a Variance from the provisions of Sections 3312.21(A), Landscaping and screening; and 3321.09, Screening, of the Columbus City Codes; for the property located at **1646 FAIRWOOD AVE. (43206)**, to permit no parking lot shade trees nor screening along the abutting residential zoning district in the L-C-4, Limited Commercial District (Council variance #CV21-044) **and to declare an emergency.**

WHEREAS, by application #CV21-044, the owner of property at **1646 FAIRWOOD AVE. (43206)**, is requesting a Council variance to permit no parking lot shade trees nor screening along the abutting residential zoning district in the L-C-4, Limited Commercial District; and

WHEREAS, Section 3312.21(A), Landscaping and screening, requires the interior of any parking lot containing ten or more parking spaces to provide one shade tree per ten spaces, while the applicant proposes a parking lot containing 19 spaces with no shade trees provided; and

WHEREAS, Section 3321.09, Screening, requires screening for nonresidential zoning districts abutting residential zoning districts, while the applicant proposes no screening for the adjacent residentially-zoned district to the south as the existing building nearly spans the entire depth of the lot; and

WHEREAS, the Columbus Southside Area Commission recommends approval; and

WHEREAS, the City Departments recommend approval because the requested variances are offset by street trees and additional landscaping along Fairwood Avenue, and the retention of the existing building which acts as a screening element between the L-C-4, Limited Commercial District and residentially zoned property to the south; and

WHEREAS, this ordinance requires separate submission for all applicable permits and a Certificate of Occupancy for the proposed use; and

WHEREAS, said variance will not adversely affect the surrounding property or surrounding neighborhood; and

WHEREAS, the granting of said variance will not impair an adequate supply of light and air to adjacent properties or unreasonably increase the congestion of public streets, or unreasonably diminish or impair established property values within the surrounding area, or otherwise impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Columbus; and

WHEREAS, the granting of said variance will alleviate the difficulties encountered by the owners of the property located at **1646 FAIRWOOD AVE. (43206)**, in using said property as desired;

WHEREAS, an emergency exists in the usual daily operation in the City of Columbus in that it is immediately necessary to pass this ordinance since the property is currently an open lot with no people presence and so there is no real buffer between the convenience store and the neighborhood for the immediate preservation of the public peace, property, health and safety; now therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That a variance from the provisions of Sections 3312.21(A), Landscaping and screening; and 3321.09, Screening, of the Columbus City Codes, is hereby granted for the property located at **1646 FAIRWOOD AVE. (43206)**, insofar as said section prohibits no parking lot shade trees for a parking lot containing 19 spaces; and no screening provided between nonresidential and residential zoning districts; said property being more particularly described as follows:

1646 FAIRWOOD AVE. (43206), being 0.64± acres located on the east side of Fairwood Avenue, 160± feet south of Frebis Avenue, and being more particularly described as follows:

Parcel One:

Situated in the County of Franklin, in the State of Ohio and in the City of Columbus:

Being a part of Three (3) acres off the west side of Lot Number Seven (7) of Nathaniel Merion's Refugee Lands, as the same is numbered and delineated in Plat Book I, page 189, Recorder's Office, Franklin County, Ohio, said part of said Lot 7 being more particularly bounded and described as follows:

Being 140 feet off the south end of the following described tract:

Beginning at a point in the center line of Frebis Avenue, said point being South 87° East 157.74 feet distant from the division line which divides Half Sections 38 from 39;

Thence along the center line of Frebis Avenue North 87° West, 140 feet to a point in said center line; Thence South 3° West, 413.97 feet to an iron stake, passing an iron stake at 25 feet;
Thence South 87° East, 140 feet to an iron stake.

Thence North 3° East, 414 feet to the center of Frebis Avenue and the place of beginning, passing an iron stake at 394 feet, containing one and thirty-three hundredths (1.33) acres of land.

The tract herein covered is 140 feet wide and 140 feet deep. Together with an easement for joint driveway purposes along the west side of said 1.33-acre tract, until Fairwood Avenue is opened for public use; the width of this easement is 15 feet.

Parcel Two:

Situated in the County of Franklin, City of Columbus and State of Ohio and being part of Lot Seven (7) of Nathaniel Merion's Subdivision of record in Plat Book I, page 189 and being situated in the State of Ohio, County of Franklin, City of Columbus, Section 26, Half Section 28, Township 5, Range 22, Refugee Lands, and being a part of a certain tract deeded to Robert and June Spillman in Deed Book 1411, page 200, Recorder's Office, Franklin County, Ohio, and more particularly described as follows:

Commencing at an iron pin at the southwesterly comer of said Spillman tract (southwesterly comer of the H. Poli and E.R. Smith tract). (Deed Book 1581, page 338);

Thence in a northerly direction along the westerly line of said Spillman and Poli and Smith tracts, a distance of 140.0 feet to an iron pin at the northwesterly comer of said Poli and Smith tract, and the true point of beginning of this description;

Thence easterly across said Spillman tract, and along the northerly line of said Poli and Smith tract, and parallel to the southerly line of said tracts, (Spillman and Poli and Smith) a distance of 140.0 feet to an iron pin at the northeasterly comer of said Poli and Smith tract, and in the easterly line of said Spillman tract;

Thence northerly along the easterly line of said Spillman tract, a distance of 82.5 feet to an iron pin;

Thence westerly across said Spillman tract, a distance of 140.0 feet to an iron pin in the westerly line of said Spillman tract;

Thence southerly along the westerly line of said Spillman tract, a distance of 82.5 feet to the place of beginning, containing 0.265 acre, more or less.

LESS AND EXCEPTING THEREFROM THE FOLLOWING 0.051 ACRE TRACT AS KNOWN AS 3-WD AS CONVEYED IN INSTRUMENT NO. 201509290136582 AND MORE FULLY DESCRIBED AS FOLLOWS:

Situated in the State of Ohio, Franklin County, City of Columbus, Part of Lot No. 7 of Nathaniel Merion's Subdivision recorded in Plat Book I, Page 189, T5N, R22W, Half Section 38, Section 26 Refugee Lands, and being part of a 140 foot by 140-foot parcel and a 0.265 acre parcel conveyed to J 3 M & E, LLC, recorded in Instrument Number 200508290177188 in the Franklin County Recorder's office and being more particularly described as follows:

Being a parcel lying on the right side of centerline of Fairwood Avenue.

Commencing at an iron pin set at the intersection of Moler Road at centerline station KH-00.00 and Fairwood Avenue at centerline station I 0+00.00 (reference the west line of Half Section 38 and the east line of Half Section 39 being South 86° Degrees 05 Minutes 35 Seconds East 6.06 feet);

Thence North 03 Degrees 16 Minutes 21 Seconds East 414.22 feet along the centerline of Fairwood Avenue (50' right of way) to a point on the south line of City of Columbus recorded in Deed Book 2452, Page 507 and a point on the north line of City of Columbus recorded in Deed Book 2371, page 619 at centerline station 14+ 14.22.

Thence perpendicular to the centerline of Fairwood Avenue South 86 Degrees 43 Minutes 39 Seconds East 25.00 feet (passing the west line of Half Section 38 and the cast line of Half Section 39 at 7.40 feet) to an iron pin found at the grantors southwest comer, the northwest comer of a 0.660 acre parcel conveyed to Anna Christine Strait recorded in Instrument Number 201409040116168, the northeast comer of City of Columbus recorded in Deed Book 2371, Page 619, the southeast comer of City of Columbus recorded in Deed Book 2452, Page 507 and the east right of way of Fairwood Avenue at 25.00 feet right of centerline station 14+ 14.22, said iron pin found being the Point of Beginning for the parcel herein described;

Thence from the Point of Beginning North 03 Degrees 16 Minutes 21 Seconds East 222.61 feet along the grantors west line, the east line of City of Columbus recorded in Deed Book 2452, Page 507 and the east right of way of Fairwood Avenue to a pipe found at the grantors northwest comer and the southwest comer of a 0.599 acre parcel conveyed to

S.O.1 Properties #4, LLC. recorded in Instrument Number 199811020279672 at 25.00 feet right of centerline station 16+36.83;

Thence leaving the east right of way of Fairwood Avenue South 86 Degrees 43 Minutes 39 Seconds East 10.00 feet along the grantors north line and the south line of said 0.599-acre parcel conveyed to S.O.I. Properties M, LLC. to an iron pin set at 35.00 feet right of centerline station 16+36.83;

Thence South 03 Degrees 16 Minutes 21 Seconds West 222.61 feet across the grantor to an iron pin set on the grantors south line and the north line of said 0.660-acre parcel at 35.00 feet right of centerline station 14+14.22;

Thence North 86 Degrees 43 Minutes 39 Seconds West 10.00 feet along the grantors south line and the north line of said 0.660-acre parcel to the Point of Beginning.

The above described contains 0.051 acres more or less including the present road which occupies 0.000 acres (0.032 acres from 010-115121-00 and 0.019 acres from 010-089856-00) and is contained in Auditors Parcel Number 010-115121-00 which presently shows 0.450 acres and Auditors Parcel Number 010-089856-00 which presently shows 0.265 acres.

Subject to all legal easements and rights of way.

Parcel Numbers: 010-115121 and 010-089856.

Property Address: 1646 Fairwood Ave., Columbus, OH 43206.

SECTION 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for those uses permitted in the L-C-4, Limited Apartment Residential District, specified by Ordinance #2270-2021; Z21-024.

SECTION 3. That this ordinance is further conditioned on the subject site being developed in general conformance with the site plan titled, "SITE PLAN," dated August 20, 2021, and signed by Eric Zartman, Attorney for the Applicant. The plan may be slightly adjusted to reflect engineering, topographical, or other site data developed at the time of the development and when engineering and architectural drawings are completed. Any slight adjustments to the plans shall be subject to review and approval by the Director of the Department Building and Zoning Services, or a designee, upon submission of the appropriate data regarding the proposed adjustment.

SECTION 4. That this ordinance is further conditioned on the applicant obtaining all applicable permits and a Certificate of Occupancy for the proposed use.

~~SECTION 5. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.~~
That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or 10 days after its passage if the Mayor neither approves nor vetoes the same.