



## Legislation Text

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**File #: 1149-2007, Version: 2**

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**Council Variance Application: CV07-024**

**APPLICANT:** Cup o' Joe; c/o David L. Hodge, Atty.; 37 West Broad Street, Suite 725; Columbus, Ohio 43215.

**PROPOSED USE:** Restaurant.

**GERMAN VILLAGE COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The requested Council variance will permit an expansion to an existing restaurant and will allow two (2) existing second-story residential units to remain in the R-2F, Residential District. A restaurant is not a permitted use in the R-2F, Residential District, which allows only residential uses. The site has been historically used for retail and restaurant uses. Ordinance #2367-91, passed November 25, 1991 (CV91-0062) granted a variance to reinstate abandoned retail commercial uses in the existing building, and allowed an expansion into a garage bay area and an addition to the building. The applicant currently operates a 1,512 square foot coffee shop on the southern portion of the site as approved by Ordinance #563-93, passed March 29, 1993 (CV93-007) which permitted the change of use from retail use to restaurant use for a coffee/dessert shop. The proposal is to expand north into a 1,572 square foot vacant retail space and provide a 728 square foot outside seating area within the boundaries of the existing nonconforming parking lot. The expansion would require a total of twenty-three (23) parking spaces. Since ten (10) of these parking spaces are for the outside seating area, solely a seasonal use, the parking impact is minimized. The applicant proposes zero (0) parking spaces. Approval of this request will not add a new or incompatible use to the area.

To grant a Variance from the provisions of Sections 3332.037, R-2F, Residential district; and 3342.28, Minimum number of parking spaces required; of the Columbus City Codes, for the property located at **625-627 SOUTH THIRD STREET (43206)**, to permit a restaurant and two (2) second-story dwelling units with reduced parking in the R-2F, Residential District and to repeal Ordinances ~~#2367-91, passed November 25, 1991, and #563-93 passed March 29, 1993 (Council Variance # CV07-024).~~

**WHEREAS**, by application No. CV07-024, the owner of property at **625-627 SOUTH THIRD STREET (43206)**, is requesting a Council Variance to permit a restaurant and two (2) second-story dwelling units with reduced required parking spaces in the R-2F, Residential District; and

**WHEREAS**, Section 3332.037, R-2F, Residential District, prohibits a restaurant with two (2) second-story dwelling units, while the applicant proposes to expand the existing 1,512 **square foot** restaurant into a vacant retail space and parking lot, and maintain the two second-story apartment units; and

**WHEREAS**, Section 3342.28, Minimum number of parking spaces required, requires a total of twenty-three (23) parking spaces for the residential units and the existing and expanded area of the restaurant, while the applicant proposes zero (0) off-street parking spaces; and

**WHEREAS**, the German Village Commission recommends approval; and

**WHEREAS**, City Departments recommend approval because this request will not add a new or incompatible use to the area and the site has been historically used for retail and restaurant uses. The requested Council variance will permit an expansion to an existing restaurant and will allow two (2) existing second-story residential units to remain in the R-2F, Residential District. The existing 1,512 square foot restaurant will be expanded north into a 1,572 square foot vacant retail space and provide a 728 square foot outside seating area within the boundaries of the existing nonconforming parking lot. The expansion would require a total of twenty-three (23) parking spaces. The applicant proposes zero (0) parking spaces, and since ten (10) of these parking spaces are for the outside

seating area, solely a seasonal use, the parking impact is minimized; and

**WHEREAS**, the Applicant has been advised by Staff to include variances for the R-2F, Residential District yard and area standards to address the site's existing nonconforming conditions while the Applicant has acknowledged the existing nonconformity to the R2-F District yard and area standards, and chooses to continue such nonconformity; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and 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 **625-627 SOUTH THIRD STREET (43206)**, in using said property as desired; now, therefore:

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

**SECTION 1.** That a variance from the provisions of Sections 3332.037, R-2F, Residential district; and 3342.28, Minimum number of parking spaces required, of the Columbus City Codes is hereby granted for the property located at **625-627 SOUTH THIRD STREET (43206)**, insofar as said sections prohibit a 3,084 square foot restaurant with two second-story apartments and a 728 square foot outside seating area with zero (0) off-street parking spaces; said property being more particularly described as follows:

**625-627 SOUTH THIRD STREET (43206)**, being 0.12 ± acres located on the west side of South Third Street, 155± feet south of Willow Street, and being more particularly described as follows:

Situated in the County of Franklin, State of Ohio, and in the City of Columbus and being more particularly bounded and described as follows:

Being the east one-half of the north one-half (E ½ of the N ½) of Inlot No. 718 of John McGown's Addition to the Inlots of the City of Columbus, as the same is numbered and delineated upon the recorded plat in Deed Book G, Page 70.

Being the east one-half of the south one-half (E ½ of the S ½) of Inlot No. 717 of John McGown's Addition to the City of Columbus, as the said Inlot is numbered and delineated upon the recorded plat thereof, of record in Deed Book G, Page 70.

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**SECTION 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for a restaurant with two second-story dwelling units, **those uses permitted by Ordinance # 2367-91**, or those uses permitted in the R-2F, Residential District.

**SECTION 3.** That this ordinance is further conditioned on **restaurant uses on** the Subject Site being developed in general conformance with the floor plan titled "**CUP O' JOE/MOJOE LOUNGE**," signed by David L. Hodge, Attorney for the Applicant, dated ~~June 28, 2007~~ **July 20, 2007**. 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 adjustment to the plans shall be reviewed and may be approved by the Director of the Department of Development or his designee upon submission of the appropriate data regarding the proposed adjustment.

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

**SECTION 5.** That this ordinance is further conditioned upon and shall remain in effect so long as the following conditions are met:

1. The physical layout shall include a traditional coffee house on one side and a small lounge / restaurant on the other, in substantial conformity with the floor plan attached hereto.

2. The businesses shall maintain one common kitchen and one common set of restrooms, in compliance with the floor plan attached hereto.

3. In consideration of the location within a mixed-use community, hours of operation shall be restricted as follows:

- a. The patio shall close and be empty at midnight from Sunday through Thursday and at 1:00 a.m. Friday and Saturday.
- b. The lounge interior shall close at midnight on Sunday, 1:00 a.m. Monday through Wednesday, and 2:00 a.m. Thursday through Saturday.

4. Refuse removal shall occur after 7:00 a.m.

5. Sound amplification shall be prohibited on the patio.

6. The applicant shall enter into a ~~Good Neighbor Agreement~~ **an Agreement Creating Restrictive Covenants** with the German Village Society, the terms of which shall include, but not be limited to, the provision of off-street parking spaces.

**SECTION 6.** That Ordinances #2367-91, passed November 25, 1991, and #563-93 passed March 29, 1993, be and ~~are~~ **are** hereby repealed.

**SECTION 7.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.