



Legislation Text

File #: 1162-2019, **Version:** 1

Council Variance Application: CV19-010

APPLICANT: Main-Miller Company LLC; c/o David Hodge, Atty.; Underhill & Hodge, LLC; 8000 Walton Parkway, Suite 260; New Albany, OH 43054.

PROPOSED USE: Residential private garages.

NEAR EAST AREA COMMISSION RECOMMENDATION: Approval.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The site consists of two undeveloped parcels zoned in the R-3, Residential District. The applicant proposes to reconfigure the site into five parcels and construct private detached garages on four of these lots to serve the four dwellings located directly to the south that front on Oak Street. The fifth parcel, which is only 100 square feet, will likely be combined with the adjacent property to the east. A variance is necessary because private garages can only be accessory uses on residential lots that are developed with dwelling units, and cannot be a principal use on a property. Due to title issues, the lots cannot be combined with the adjacent residential lots that they will be serving. In addition to the use variance, variances to lot width, area district requirements, fronting, building setback, yard standards, and garage size are included in this request. The site is located within the boundaries of the *Near East Area Plan* (2005), which does not contain a land use recommendation for this location, but recommends compatible development for existing housing types. Staff supports the proposed variances as they will expand the useable area of the adjacent residential lots and accommodate enclosed parking. A condition is included in this ordinance stating that the proposed private garages are for the exclusive use of the residents of the four adjacent dwellings. The request will not introduce incompatible uses to the existing neighborhood.

To grant a Variance from the provisions of Sections 3332.035, R-3, Residential District; 3332.05(A)(4), Area district lot width requirements; 3332.13, R-3 area district requirements; 3332.18(D), Basis of computing area; 3332.19, Fronting; 3332.25, Maximum side yards required; 3332.26(B)(1), Minimum side yard permitted; 3332.27, Rear yard; and 3332.38 (A; E; F), Private garage, of the Columbus City Codes; for the property located at **158 LINWOOD AVENUE (43205)**, to permit residential private garages with reduced development standards to be a principal use in the R-3, Residential District (Council Variance #CV19-010).

WHEREAS, by application #CV19-010, the owner of the property at **158 LINWOOD AVENUE (43205)**, is requesting a Variance to permit residential private garages with reduced development standards to be a principal use in the R-3, Residential District; and

WHEREAS, Section 3332.035, R-3, Residential District, does not permit a residential private garage to be the principal use of a residential lot, while the applicant proposes to create four lots and construct private detached garages on each lot to serve the four dwellings located directly to the south on Parcel Numbers 010-030250, 010-023496, 010-051868, and 010-057113; and

WHEREAS, Section 3332.05(A)(4), Area district lot width requirements, requires a lot no less than 50 feet wide, while the applicant proposes lot widths of approximately 32 feet (two lots), 31 feet, 21 feet, and 10 feet for the newly created parcels as indicated on the attached survey; and

WHEREAS, Section 3332.13, R-3 area district requirements, requires that a single-unit dwelling or other principal building shall be situated on a lot of not less than 5,000 square feet in area, while the applicant proposes private garages on lots that are less than 5,000 square feet as indicated on the attached survey; and

WHEREAS, Section 3332.18(D), Basis of computing area, prohibits buildings from occupying more than 50 percent of the lot area, while the applicant proposes a lot coverage of 85± percent; and

WHEREAS, Section 3332.19, Fronting, requires a principal building to have frontage on a public street, while the applicant proposes private garages on lots that will front a rear public alley; and

WHEREAS, Section 3332.25, Maximum side yards required, requires the sum of the widths of the side yards to equal or exceed 20 percent of the width of the lot, requiring a range of approximately 4.2-6.4 feet for the proposed lots, while the applicant proposes maximum side yards of four feet on each of these lots; and

WHEREAS, Section 3332.26(B)(1), Minimum side yard permitted, requires a minimum side yard of three feet, while the applicant proposes a minimum side yard of two feet on each of these lots; and

WHEREAS, Section 3332.27, Rear yard, requires that each dwelling, apartment house, or other principal building shall be erected so as to provide a rear yard totaling not less than 25 percent of the total lot area, while the applicant proposes no rear yard on each of these lots; and

WHEREAS, Section 3332.38(A), Private garage, states a private garage shall not be an accessory use to a lot in a residential district unless such a lot is occupied by a dwelling or unless a building permit has been issued for and construction started on a dwelling on such a lot, while the applicant proposes private garages on lots not occupied by dwellings; and

WHEREAS, Section 3332.38(E), Private garage, requires a detached garage to not occupy more than forty-five (45) percent of the total rear yard, while the applicant proposes to occupy the entire rear yard on each of these lots; and

WHEREAS, Section 3332.38(F), Private garage, requires no portion of the lot area devoted to a private garage or a carport to exceed the greater of 720 square feet, while the applicant proposes garages that contain 750 square feet; and

WHEREAS, the Near East Area Commission recommends approval; and

WHEREAS, City Departments recommend approval because the requested Council variance to allow residential private garage to be principal uses in the R-3, Residential District will not introduce incompatible uses to this neighborhood. The request will expand the useable area of the adjacent residential lots and accommodate enclosed parking. A condition is included in this ordinance stating that the private garages are for the exclusive use of the residents of the four adjacent dwellings; and

WHEREAS, said ordinance requires separate submission for all applicable permits for the proposed uses; 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 **1685 OAK STREET (43205)**, in using said property as desired; now, therefore:

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

SECTION 1. That a variance is hereby granted from the provisions of Sections 3332.035, R-3, Residential District; 3332.05(A)(4), Area district lot width requirements; 3332.13, R-3 area district requirements; 3332.18(D), Basis of computing area; 3332.19, Fronting; 3332.25, Maximum side yards required; 3332.26(B)(1), Minimum side yard permitted; 3332.27, Rear yard; and 3332.38(A; E; F), Private garage, of the Columbus City Codes; for the property located at **158 LINWOOD AVENUE (43203)**, insofar as said sections prohibit residential private garages to be principal uses in the R-3, Residential District, with reduced lot widths from 50 feet to approximately 32 feet (two lots), 31 feet, 21 feet, and 10 feet; reduced lot area from 5,000 square feet to lots ranging between 100 to 1,045 square feet; an increased maximum lot coverage from 50 percent to 85± percent; a reduction in the maximum side yard from 20 percent of the lot width to four feet; a reduction in the minimum side yard from 3 feet to two feet; a reduction in rear yard from 25 percent to zero percent; and residential private garages on lots not containing dwellings that occupy the entire rear yard and are increased in size from 720 to 750 square feet; said property being more particularly described as follows:

158 LINWOOD AVENUE (43203), being 0.09± acres located on the east side of Linwood Avenue 100± feet north of Oak Street, and being more particularly described as follows:

Tract 1

0.024 Acres (1,033 SF)

Situated in the State of Ohio, County of Franklin, City of Columbus, being part of the 0.029 Acre tract as conveyed to Main-Miller Company LLC, as shown of record in Instrument Number 201805180066289, Franklin County Recorder's Office, and part of Lot 9 of Jas. Fullerton's Subdivision, as shown and delineated upon the recorded plat thereof, of record in Plat Book 4, Page 421, said Recorder's Office, and as conveyed to said Main-Miller Company LLC (Instrument Number 201802150022358) and being more particularly described as follows:

Beginning at a 1" dia. iron pipe found with an orange plastic cap inscribed "MYERS P.S. 6579" at the northwest corner of Lot 5 of said Subdivision, also being the southwest corner of said 0.029 Acre tract, being on the east line of Linwood Avenue (19.50 feet wide);

Thence, along part of the east line of said Linwood Avenue, along the west line of said 0.029 Acre tract and said Lot 9, North 00° 06' 00" East, 33.53 feet to an iron pipe set at the northwest corner of said Lot 9, the intersection of the south line of a twenty (20) foot alley with said east line of Linwood Avenue;

Thence, along part of the north line of said Lot 9, the south line of said twenty (20') foot wide alley, EAST, 31.09 feet to an iron pipe set;

Thence, across said Lot 9 and said 0.029 Acre tract, South 00° 06' 41" West, 32.93 feet to an 1" dia. iron pipe found with an orange plastic cap inscribed "MYERS P.S. 6579" on the south line of said 0.029 Acre tract, also being the northeast corner of said Lot 5, the northwest corner of Lot 6 of said Subdivision;

Thence, along part of the south line of said 0.029 Acre tract, the north line of said Lot 5, South 88° 54' 00" West, 31.09 feet to the place of beginning **CONTAINING 0.024 Acres (1033 SF)** subject however to all legal highways, easements, leases, agreements, restrictions of record and of records in the respective utility offices. Being 722 SF out of Auditor's Parcel No. 010-039848 and 311 SF out of Auditor's Parcel No. 010-298142. The basis of bearings is the south line of Fair Avenue assumed EAST. Iron pipes set are 30" x 1" with an orange plastic plug inscribed "MYERS P.S. 6579", unless otherwise noted. The foregoing description was prepared from a boundary survey by Myers Surveying in January 2019. Myers Surveying Company, Inc.

Tract 2

0.024 Acres (1,045 SF)

Situated in the State of Ohio, County of Franklin, City of Columbus, being part of the 0.029 Acre tract as conveyed to Main-Miller Company LLC as shown of record in Instrument Number 201805180066289, Franklin County Recorder's Office, and part of Lot 9 of Jas. Fullerton's Subdivision, as shown and delineated upon the recorded plat thereof, of record in Plat Book 4, Page 421, said Recorder's Office and as conveyed to said Main-Miller Company LLC (Instrument

Number 20180210022358) and being more particularly described as follows:

Commencing at a 1" dia. iron pipe found with an orange plastic cap inscribed "MYERS P.S. 6579" at the northwest corner of Lot 5 of said Subdivision, also being the southwest corner of said 0.029 Acre tract, being on the east line of Linwood Avenue (19.50 feet wide);

Thence, along part of the south line of said 0.029 Acre tract, the north line of said Lot 5, North 88° 54' 00" East, 31.09 feet to a found 1" dia. iron pipe with an orange plastic cap inscribed "MYERS P.S. 6579" at the northeast corner of said Lot 5, the northwest corner of Lot 6 of said subdivision and being the **TRUE POINT OF BEGINNING**:

Thence, across said 0.029 Acre tract and said Lot 9, North 00° 06' 41" East, 32.93 feet to an iron pipe set on the north line of said Lot 9, the south line of a twenty (20) foot wide alley;

Thence, along part of the north line of said Lot 9, the south line of said twenty (20) foot wide alley, EAST, 32.04 feet to an iron pipe set;

Thence, across said Lot 9 and said 0.029 Acre tract, South 00° 07' 32" West, 32.32 feet to a found 1" dia. iron pipe with as orange plastic cap inscribed "MYERS P.S. 6579" on the south line of said 0.029 Acre tract, the northeast corner of said Lot 6, the northwest corner of Lot 7 of said Subdivision;

Thence, along part of the south line of said 0.029 Acre tract, the north line of said Lot 6, South 88° 54' 00" West, 31.09 feet to the place of beginning **CONTAINING 0.024 ACRE (1045 SF)**, subject however to all legal highways, easements, leases, agreements, restrictions of record and of records in the respective utility offices. Being 725 SF out of Auditor's Parcel No. 010-039848 and 320 SF out of Auditor's Parcel No. 010-298142. The basis of bearing is the south line of Fair Avenue assumed EAST. Iron pipes set are 30" x 1" with an orange plastic plug inscribed "MYERS P.S. 6579", unless otherwise noted. The foregoing description was prepared from a boundary survey by Myers Surveying in January 2019.

Tract 3

0.024 Acres (1,025 SF)

Situated in the State of Ohio, County of Franklin, City of Columbus, being part of the 0.029 Acre tract as conveyed to Main-Miller Company LLC, as shown of record in Instrument Number 201805180066289, Franklin County Recorder's Office, and part of Lot 9 Jas. Fullerton's Subdivision, as shown and delineated upon the recorded plat thereof, of record in Plat Book 4, Page 421, said Recorder's Office and as conveyed to said Main-Miller Company LLC (Instrument Number 201802150022358) and being more particularly described as follows:

Commencing at a 1" dia.iron pipe found with an orange plastic cap inscribed "MYERS P.S. 6579" at the northwest corner of Lot 5 of said Subdivision, also being the southwest corner of said 0.029 Acre tract, being on the east line of Linwood Avenue (19.50 feet wide);

Thence, along part of the south line of said 0.029 Acre tract, the north line of said Lot 5 and Lot 6 of said Subdivision, North 88° 54' 00" East, 63.12 feet to a found 1" dia.iron pipe with an orange plastic cap inscribed "MYERS P.S. 6579" at the northeast corner of said Lot 6, the northwest corner of Lot 7 of said Subdivision and being the **TRUE POINT OF BEGINNING**:

Thence, across said 0.029 Acre tract and said Lot 9, North 00° 07' 32" East, 32.32 feet to an iron pipe set on the north line of said Lot 9, the south line of a twenty (20) foot wide alley;

Thence, along part of the north line of said Lot 9, the south line of said twenty (20) foot wide alley, EAST, 32.03 feet to an iron pipe set;

Thence, across said Lot 9 and said 0.029 Acre tract, South 00° 08' 19" West, 31.70 feet to an iron pipe set on the south line of said 0.029 Acre tract, the northeast corner of said Lot 7, the northwest corner of Lot 8 of said Subdivision;

Thence, along part of the south line of said 0.029 Acre tract, the north line of said Lot 7, South 88° 54' 00" West, 32.03 feet to the place of beginning **CONTAINING 0.024 ACRE (1025 SF) subject**, however to all legal highways, easements, leases, agreements, restrictions of record and of records in the respective utility offices Being 705 SF out of Auditor's Parcel No. 010-039848 and 320 SF out of Auditor's Parcel No. 010-298142. The basis of bearings is the south line of Fair Avenue assumed EAST. Iron pipes set are 30" x 1" with an orange plastic plug inscribed "MYERS P.S. 6579", unless otherwise noted. The foregoing description was prepared from a boundary survey by Myers Surveying in January 2019.

Tract 4

0.015 Acres (664 SF)

Situated in the State of Ohio, County of Franklin, City of Columbus, being part of the 0.029 Acre tract, as conveyed to Main-Miller Company LLC, as shown of record in Instr. No. 201805180066289, Franklin County Recorder's Office, and part of Lot 9 of Jas. Fullerton's Subdivision, as shown and delineated upon the recorded plat thereof, of record in Plat Book 4, Page 421, said Recorder's Office and as conveyed to said Main-Miller Company LLC (Instr. No. 201802150022358) and being more particularly described as follows:

Commencing at a 1" dia. iron pipe found with an orange plastic cap inscribed "MYERS P.S. 6579" at the northwest corner of lot 5 of said Subdivision, also being the southwest corner of said 0.029 Acre tract, being on the east line of Linwood Avenue (19.50 feet wide);

Thence, along the south line of said 0.029 Acre tract, the north line of said Lot 5, the north line of Lots 6 and 7 of said Subdivision, North 88° 54' 00" East, 95.15 feet to an iron pipe set at the **TRUE POINT OF BEGINNING**;

Thence, across said 0.029 acre tract and said Lot 9, North 00° 08' 19" East, 31.70 feet to an iron pipe set on the north line of said Lot 9, the south line of the twenty (20) foot wide alley;

Thence, along part of the north line of said Lot 9 and a part of a vacated twenty (20) foot wide alley (vacated by ORD. No. 109-65 on 2/1/1965), along the south line of said twenty (20) foot wide alley, EAST, 21.09 feet to an iron pipe set on the centerline of said vacated twenty foot alley, also being the northwest corner of a tract conveyed to Kyle E. Hofmeister (Instr. No. 201506260086101);

Thence, along the centerline of said vacated twenty (20) foot wide alley, along the west line of said Hofmeister tract, across said 0.029 Acre tract, South 00° 09' 13" West, 31.30 feet to an iron pipe set on the south line of said 0.029 Acre tract, the north line of said Lot 8;

Thence, along part of the south line of said 0.029 Acre tract, along part of the north line of said Lot 8, South 88° 54' 00" West, 21.09 feet to the place of beginning **CONTAINING 0.015 ACRES (664 S.F.)** subject, however to all legal highways, easements, leases, agreements, restrictions of record and of records in the respective utility offices. Being 453 SF out of Auditor's Parcel No. 010-039848 and 211 SF out of Auditor's Parcel No. 010-298142. The basis of bearings is the south line of Fair Avenue assumed EAST. Iron pipes set are 30" x 1" with an orange plastic plug inscribed "MYERS P.S. 6579", unless otherwise noted. The foregoing description was prepared from a boundary survey by Myers Surveying in January 2019.

Tract 5 **0.002 Acres (100 SF)**

Situated in the State of Ohio, County of Franklin, City of Columbus, being part of the 0.029 Acre tract conveyed to the Main-Miller Company, LLC as shown of record in Instrument Number 201805180066289, Franklin County Recorder's Office and being more particularly described as follows:

Commencing at a 1" dia. iron pipe found with an orange plastic cap inscribed "Myers P.S. #6579" at the northwest corner of Lot 5 of said subdivision, the southwest corner of said 0.029 Acre tract;

Thence, along part of the south line of said 0.029 Acre tract, the north line of said Lot 5, the north lines of Lots 6, 7 and part of Lot 8 of said Subdivision, North 88° 54' 00" East, 116.25 feet to an iron pipe set at the **TRUE POINT OF BEGINNING**;

Thence, across said 0.029 Acre tract, North 00° 09' 13" East, 10.00 feet to an iron pipe set on the north line of said 0.029 Acre tract, on the south line of a vacated twenty (20) foot wide alley (Vacated by Ord. No. 109-65 on 2/1/1965), also being the southwest corner of a tract conveyed to Kyle E. Hofmeister (Instrument Number 201506260086101);

Thence, along part of the north line of said 0.029 Acre tract, along part of the south line of said vacated twenty (20) foot wide alley, along part of the south line of said Hofmeister tract, North 88° 54' 00" East, 10.00 feet to a 1" dia. iron pipe found with an orange cap inscribed "MYERS P.S. 6579" at the northeast corner of said 0.029 Acre tract, the southwest corner of Lot 5 of James Fullertons Subdivision (Plat Book 5, Page 68), the northwest corner of a 0.024 Acre tract conveyed to Kyle E. Hofmeister (Instrument Number 201506260086103);

Thence, along the east line of said 0.029 Acre tract, along the west line of said 0.024 Acre tract, South 00° 09' 13" West, 10.00 feet to a point, passing an 1" dia. iron pipe found with an orange cap inscribed "Myers P.S. 6579" at 9.00 feet, said point being the southeast corner of said 0.029 Acre tract, the northwest corner of Lot 1 of said James Fullertons Subdivision (Plat Book 5, Page 68), the northeast corner of said Lot 8;

Thence, along part of the south line of said 0.029 Acre tract, along part of the north line of said Lot 8, South 88° 54'

00" West, 10.00 feet to the place of beginning **CONTAINING 0.002 ACRES (100 S.F.)** subject, however to all legal highways, easements, leases, agreements, restrictions of record and of records in the respective utility offices. The basis of bearing are the south line of Fair Avenue assumed EAST. Iron pipes set are 30" x 1" with an orange plastic plug inscribed "MYERS P.S. 6579", unless otherwise noted. The foregoing description was prepared from a boundary survey by Myers Surveying in January 2019.

SECTION 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for residential private garages (one garage per lot) for the exclusive use of the residents of the dwellings on Parcel Numbers 010-030250, 010-023496, 010-051868, and 010-057113.

SECTION 3. That this ordinance is further conditioned on the Subject Site being in general conformance with the attached survey titled "**A BOUNDARY SURVEY PREPARED FOR AND CERTIFIED TO: MAIN-MILLER COMPANY, LLC,**" drawn by Joseph P. Myers, Professional Surveyor, signed by David Hodge, Attorney for the Applicant, and dated April 9, 2019. The survey 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 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 upon the applicant obtaining all applicable permits for the proposed uses.

SECTION 5. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.