



## Legislation Text

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**File #:** 1619-2019, **Version:** 1

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### **Council Variance Application: CV18-053**

**APPLICANT:** Wilcox Communities, LLC; c/o Dave Perry, Agent; David Perry Company, Inc.; 411 East Town Street, First Floor; Columbus, OH 43215, and Donald Plank, Atty.; Plank Law Firm; 411 East Town Street, Second Floor; Columbus, OH 43215.

**PROPOSED USE:** Multi-unit residential development.

**NEAR EAST AREA COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Disapproval. The site is divided into two subareas. Subarea A consists of one parcel developed with a single-unit dwelling in the ARLD, Apartment Residential District. Subarea B consists of one undeveloped parcel in the R-3, Residential District. The requested Council variance will permit the construction of an 18-unit apartment building on each subarea, for a total of 36 dwelling units on 0.78± acres. The variance is necessary because the R-3 district (Subarea B) permits only single-unit residential development. Additionally, the proposed density in the ARLD district (Subarea B) is greater than that which is permitted. Variances for building height, maneuvering, parking lot landscaping, lot area, building setbacks, and minimum side yards are included in this request. The site is within the planning boundaries of the *Near East Area Plan* (2005), which does not contain specific land use recommendations for this location, but it does state that, in general, housing types and density should be consistent with the housing types and densities found in the surrounding area. Furthermore, the Plan recommends that existing housing stock be preserved, avoiding demolitions. While Staff supports residential infill development at this location, Staff does not support the proposed development because it includes the demolition of an existing single-unit dwelling, and because it is not compatible with the neighborhood's character including the surrounding housing types and density as recommended by the Plan.

To grant a Variance from the provisions of Sections 3332.035, R-3, residential district; 3309.14, Height districts; 3312.21 (A)(2);(D)(1), Landscaping and screening; 3312.25, Maneuvering; 3332.21(D), Building lines; 3332.26(F), Minimum side yard permitted; 3333.11, ARLD area district requirements; 3333.18(D), Building lines; and 3333.23(D), Minimum side yard permitted, of the Columbus City Codes; for the property located at **1309 OAK ST (43205)**, to permit multi-unit residential development with reduced development standards in the R-3, Residential District and the ARLD, Apartment Residential District (Council Variance #CV18-053).

**WHEREAS**, by application #CV18-053, the owner of the property at **1309 OAK ST (43205)**, is requesting a Variance to permit multi-unit residential development with reduced development standards in the R-3, Residential District and the ARLD, Apartment Residential District; and

**WHEREAS**, Section 3332.035, R-3, Residential District, lists single-unit dwellings as the only permitted residential use, while the applicant proposes an 18-unit apartment building in Subarea B; and

**WHEREAS**, Section 3309.14, Height districts, requires that within a 35 foot height district, no building or structure shall be erected to a height in excess of 35 feet, while the applicant proposes that the buildings in both Subarea A and Subarea B will be 38 feet in height; and

**WHEREAS**, Section 3312.21(A)(2), Landscaping and screening, requires that interior parking lot trees shall be planted in landscaped islands or peninsulas containing a minimum soil area of 145 square feet per tree with a soil radius of 4 feet per tree, while the applicant proposes a reduced landscape island of 120 square feet and soil radius of 3.4 feet for one shade tree in Subarea A, and a reduced landscape island of 87 square feet and soil radius of 2.15 feet for one shade tree in Subarea B; and

**WHEREAS**, Section 3312.21(D)(1), Landscaping and screening, requires parking lot screening from residentially zoned property be located within a landscaped area at least 4 feet in width and 5 feet in height, while the applicant proposes a reduced landscape width along Elliot Alley of 1.6 feet in Subarea A and 2.6 feet in Subarea B, and a reduced screening height along Elliot Alley of 3 feet for both Subarea A and Subarea B; and

**WHEREAS**, Section 3312.25, Maneuvering, requires every parking space to have sufficient access and maneuvering area anywhere on a lot including aisles or circulation areas, while the applicant proposes and 19.5 feet of maneuvering area for the parking spaces along the west side of Linwood Avenue in both Subarea A and Subarea B, where 20 feet is required; and

**WHEREAS**, Section 3332.21(D), Building lines, requires the building setback line to be the average distance of building setbacks on contiguous lots or parcels, but in no case less than 10 feet, while the applicant proposes a minimum building line of 3 feet from Franklin Avenue in Subarea B; and

**WHEREAS**, Section 3332.26(F), Minimum side yard permitted, requires a side yard of no less than one-sixth of the height of the building for buildings over two and one-half stories in height, or 6.33 feet for a building with a maximum height of 38 feet, while the applicant proposes a minimum side yard of 6 feet along the west property line in Subarea B; and

**WHEREAS**, Section 3333.11, ARLD area district requirements, requires 2,500 square feet per dwelling unit on interior lots, while the applicant proposes 943 square feet per dwelling unit on Subarea A; and

**WHEREAS**, Section 3333.18(D), Building lines, requires the building setback line to be the average distance of building setbacks on contiguous lots or parcels, but in no case less than 10 feet, while the applicant proposes a minimum building line of 3 feet from Oak Street in Subarea A; and

**WHEREAS**, Section 3333.23(D), Minimum side yard permitted, requires a side yard of no less than one-sixth of the height of the building for buildings over two and one-half stories in height, or 6.33 feet for a building with a maximum height of 38 feet, while the applicant proposes a minimum side yard of 6.23 feet along the west property line of Subarea A; and

**WHEREAS**, the Near East Area Commission recommends approval; and

**WHEREAS**, City Departments recommend disapproval of the requested variance because, although Staff supports residential infill development at this location, Staff does not support the proposed development as it includes the demolition of an existing single-unit dwelling, and because it is not compatible with the neighborhood's character, including the surrounding housing types and density as recommended by the *Near East Area Plan*; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and Certificates of Occupancy 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 **1309 OAK ST (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; 3309.14, Height districts; 3312.21(A)(2);(D)(1), Landscaping and screening; 3312.25, Maneuvering; 3332.21(D), Building lines; 3332.26(F), Minimum side yard permitted; 3333.11, ARLD area district requirements; 3333.18(D), Building lines; and 3333.23(D), Minimum side yard permitted, of the Columbus City Codes; for the property located at **1309 OAK ST (43205)**, insofar as said sections prohibit an 18-unit apartment building in the R-3, Residential District (Subarea B); with increased building height from 35 feet to 38 feet for both Subareas A and B; reduced minimum soil area from 145 square feet to 120 square feet with reduced soil radius from 4 feet to 3.4 feet for one shade tree in Subarea A, and reduced minimum soil area from 145 square feet to 87 square feet with reduced soil radius from 4 feet to 2.15 feet for one shade tree in Subarea B; reduced landscaping width along Elliot Alley from 4 feet to 1.6 feet in Subarea A and 2.6 feet in Subarea B, with reduced landscaping height from 5 feet to 3 feet in both subareas; reduced maneuvering area from 20 feet to 19.5 feet for parking spaces along the west side of Linwood Avenue for both Subareas A and B; reduced building line from 10 feet to 3 feet along Franklin Avenue in Subarea B; reduced minimum side yard from 6.33 feet to 6 feet along the west property line of Subarea B; reduced lot area from 2,500 square feet per dwelling unit to 943 square feet per dwelling unit in Subarea A; reduced building line from 10 feet to 3 feet along Oak Street in Subarea A; and reduced minimum side yard from 6.33 feet to 6.23 feet along the west property line of Subarea A; said property being more particularly described as follows:

**1309 OAK ST (43205)**, being 0.78± acres located along the west side of Linwood Avenue between Oak Street and Franklin Avenue, and being more particularly described as follows:

**SUBAREA A:**

Situated in the State of Ohio, County of Franklin, City of Columbus, being a 0.39± acre tract of land, said 0.39± acre tract being more particularly described as follows:

Being all of Lot Numbers Sixty-Three (63), Sixty-Four (64) and Sixty-Five (65) of the Horace Wilson and E.P. Sharp's Second Addition, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 2, Page 360, Recorder's Office, Franklin County, Ohio, with said Lot Sixty-Three (63) being conveyed to John F. Whitlock of record in Official Record 33836, Page A13 and said Lots Sixty-Four (64) and Sixty-Five (65) also conveyed to John F. Whitlock of record in Instrument No. 200104030068220;

**SUBAREA B:**

Situated in the State of Ohio, County of Franklin, City of Columbus, being a 0.39± acre tract of land, said 0.39± acre tract being more particularly described as follows:

Being all of Lot Numbers Fifty-Four (54), Fifty-Five (55) and Fifty-Six (56) of the Horace Wilson and E.P. Sharp's Second Addition, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 2, Page 360, Recorder's Office, Franklin County, Ohio, with said Fifty-Four (54), Fifty-Five (55) and Fifty-Six (56) being conveyed to John F. Whitlock of record in Instrument No. 199906100148462;

Property Address: 1039 Oak St., Columbus, OH 43205

Parcel Number: 010-035794 (Subarea A) & 010-004233 (Subarea B)

**SECTION 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for an 18-unit apartment building on each subarea, for a total of 36 units, or those uses permitted in the ARLD, Apartment Residential District (Subarea A) and the R-3, Residential District (Subarea B).

**SECTION 3.** That this ordinance is further conditioned on substantial compliance with the site plan drawing titled, "**ZONING VARIANCE PLAN FOR THE ELLIOT**," dated October 11, 2018, drawn by Advanced Civil Design Engineering, and signed David B. Perry, Agent for the Applicant, and Donald Plank, 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 adjustment to the plan shall be reviewed and may be approved by the Director of the Department of 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 and Certificates of Occupancy 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.