



BOARD OF ZONING ADJUSTMENT APPLICATION

City of Columbus, Ohio • Department of Building & Zoning Services
757 Carolyn Avenue, Columbus, Ohio 43224 • Phone: 614-645-7433 • www.columbus.gov

OFFICE USE ONLY

Application Number: #14310-00000-00079

Date Received: 16 Feb. 2014

Commission/Civic: 5th N.W.

Existing Zoning: _____

Application Accepted by: HF

Fee: \$1905

Comments: _____

TYPE(S) OF ACTION REQUESTED

(Check all that apply)



Variance



Special Permit

Indicate what the proposal is and list applicable code sections.

Variance request from the standards of Columbus Code Section
3312.49 (Min. Parking) to allow 16 parking spaces where 45
are required/

LOCATION

1. Certified Address Number and Street Name 909 West Fifth Ave.

City Columbus

State Ohio

Zip 43212

Parcel Number (only one required) 010063103

APPLICANT: (IF DIFFERENT FROM OWNER)

Name Geoff Towne - Zauber Brewing Co.

Address 909 W. Fifth Ave.

City/State Columbus, OH Zip 43212

Phone # 614-205-1304 Fax # _____

Email geoff.towne@zbeers.com

PROPERTY OWNER(S):

Name 909 West Fifth Ave. Ltd.

Address 3169 Walkerview Dr.

City/State Hilliard, OH Zip 43026

Phone # _____

Fax # _____

Email _____

☐ Check here if listing additional property owners on a separate page.

ATTORNEY / AGENT (CHECK ONE IF APPLICABLE)



Attorney



Agent

Name James Robert (Rob) Rishel

Address 300 E. Broad St., Ste. 450

City/State Columbus, OH Zip 43215

Phone # 614-221-0717

Fax # 614-221-1278

Email: rrishel@rrgovlaw.com

SIGNATURES (ALL SIGNATURES MUST BE SIGNED IN BLUE INK)

APPLICANT SIGNATURE Geoff Towne

PROPERTY OWNER SIGNATURE Donna D'Angelo

ATTORNEY / AGENT SIGNATURE James Rishel

PLEASE NOTE: incomplete information will result in the rejection of this submittal.

Applications must be submitted by appointment. Call 614-645-4522 to schedule.

Please make all checks payable to the Columbus City Treasurer



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909 WEST 5th AVENUE

CITY OF COLUMBUS

DEPARTMENT OF BUILDING AND ZONING SERVICES

One Stop Shop Zoning Report Date: Fri Feb 28 2014

General Zoning Inquiries: 614-645-8637

SITE INFORMATION

Address: 909 W 5TH AVE COLUMBUS, OH

Mailing Address: 3169 WALKERVIEW DR
HILLIARD OH 43026

Owner: 909 WEST FIFTH AVE LTD

Parcel Number: 010063103

ZONING INFORMATION

Zoning: ORIG, Manufacturing, M
effective 2/27/1928, Height District H-60

Board of Zoning Adjustment (BZA): N/A

Commercial Overlay: WEST FIFTH AVENUE UCO

Graphic Commission: N/A

Area Commission: 5th by Northwest Area Commission

Planning Overlay: N/A

Historic District: N/A

Historic Site: No

Council Variance: N/A

Flood Zone: OUT

Airport Overlay Environs: N/A

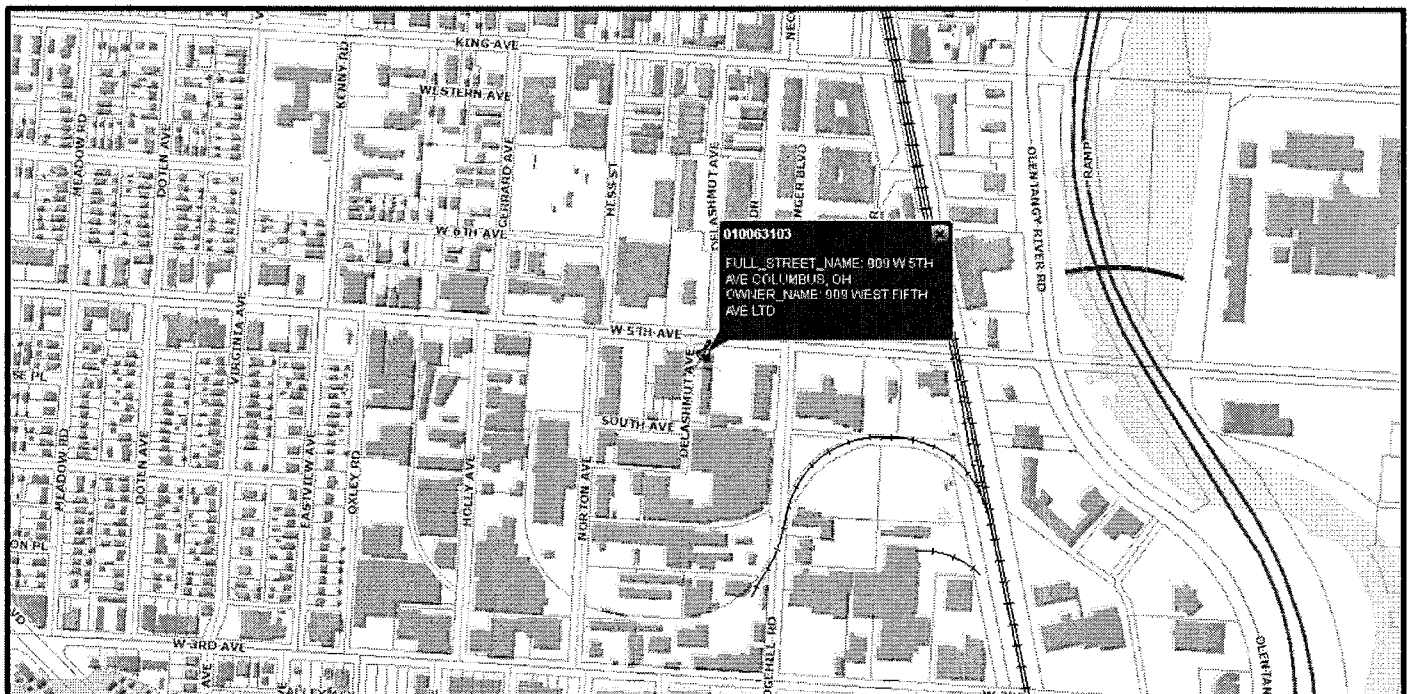
PENDING ZONING ACTION

Zoning: N/A

Board of Zoning Adjustment (BZA): N/A

Council Variance: N/A

Graphic Commission: N/A





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AFFIDAVIT

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909 WEST 5th AVENUE

STATE OF OHIO
COUNTY OF FRANKLIN

Being first duly cautioned and sworn (1) NAME James Robert Rishel
of (1) MAILING ADDRESS 300 E. Broad Street, Suite 450, Columbus, OH 43215
deposed and states that (he/she) is the applicant, agent, or duly authorized attorney for same and the following is a list of the
name(s) and mailing address(es) of all the owners of record of the property located at
(2) per ADDRESS CARD FOR PROPERTY 909 West 5th Ave.
for which the application for a rezoning, variance, special permit or graphics plan was filed with the Department of Building
and Zoning Services, on (3) _____

(THIS LINE TO BE FILLED OUT BY CITY STAFF)

SUBJECT PROPERTY OWNERS NAME
AND MAILING ADDRESS

(4) 909 West Fifth Ave., Ltd.
Attn: John Difrongia
3169 Walkerview Drive
Hilliard, Ohio 43026
Geoff Towne + Zauber Brewing Co.
614-205-1304

APPLICANT'S NAME AND PHONE #
(same as listed on front of application)

AREA COMMISSION OR CIVIC GROUP
AREA COMMISSION ZONING CHAIR OR
CONTACT PERSON AND ADDRESS

(5) 5th By Northwest-Bruce McKibben
1094 Lincoln Rd.
Columbus, Ohio 43212

and that the following is a list of the names and complete mailing addresses, including zip codes, as shown on the County Auditor's Current Tax List or the County Treasurer's Mailing List, of all the owners of record of property within 125 feet of the exterior boundaries of the property for which the application was filed, and all of the owners of any property within 125 feet of the applicant's or owner's property in the event the applicant or the property owner owns the property contiguous to the subject property:

(6) PROPERTY OWNER(S) NAME (6A) ADDRESS OF PROPERTY (6B) PROPERTY OWNER(S) MAILING ADDRESS

☒ (7) Check here if listing additional property owners on a separate page.

SIGNATURE OF AFFIANT

Subscribed to me in my presence and before me this 6th day of February, in the year 2014

SIGNATURE OF NOTARY PUBLIC

My Commission Expires:

Notary Seal Here

(8) [Signature]

(8) [Signature]



CHRISTOPHER A. RINEHART
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE

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STATEMENT OF HARDSHIP

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909 WEST 5th AVENUE

APPLICATION # _____

3307.09 Variances by Board.

- A. The Board of Zoning Adjustment shall have the power, upon application, to grant variances from the provisions and requirements of this Zoning Code (except for those under the jurisdiction of the Graphics Commission and except for use variances under the jurisdiction of the Council). No variance shall be granted unless the Board finds that all of the following facts and conditions exist:
1. That special circumstances or conditions apply to the subject property that does not apply generally to other properties in the same zoning district.
 2. That the special circumstances or conditions are not the result of the actions of the property owner or applicant.
 3. That the special circumstances or conditions make it necessary that a variance be granted to preserve a substantial property right of the applicant which is possessed by owners of other property in the same zoning district.
 4. That the grant of a variance will not be injurious to neighboring properties and will not be contrary to the public interest or the intent and purpose of this Zoning Code.
- B. In granting a variance, the Board may impose such requirements and conditions regarding the location, character, and other features of the proposed uses or structures as the Board deems necessary to carry out the intent and purpose of this Zoning Code and to otherwise safeguard the public safety and welfare.
- C. Nothing in this section shall be construed as authorizing the Board to affect changes in the Zoning Map or to add to the uses permitted in any district.

I have read Section 3307.09, Variances by Board, and believe my application for relief from the requirements of the Zoning Code satisfies the four criteria for a variance in the following ways:

Please See Attached

Signature of Applicant

Date

1-7-17

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EXHIBIT A

REQUEST FOR VARIANCE and STATEMENT OF HARDSHIP

909 West 5th Avenue, Columbus, Ohio 43212

BZA: _____

The site that is subject to this application consists of a parcel containing a total of 0.416 acres located on the southeast corner of the intersection of West 5th Avenue and Delashmut Avenue. The site is zoned "M" (Manufacturing District). The surrounding properties are located within the City of Columbus and also zoned Manufacturing.

The site is owned by 909 West 5th Avenue, Ltd., and a large portion of the 9,636 sq/ft building is leased by the applicant Zauber Brewing Co. The site had been operated as a retail location for a number of years. The applicant is currently operating a micro-brewery and restaurant in the building. This current operation meets all applicable zoning standards. The applicant proposes to invest \$1.55 million to renovate the building in order to enlarge the operation. This renovation will include construction of outdoor patio areas consistent with the recommendation and standards of the 5th by Northwest Area Plan.

This proposal will enlarge the footprint of the various uses and thus will require a variance of 29 parking spaces (45 required, 16 available). The applicant, and the applicant's counsel have consulted with the zoning staff of the City of Columbus prior to this application to discuss the various options for design to minimize the impact. The proposal that is part of this application is one that has the lowest impact on the neighborhood.

By this application, applicant requests a variance from Columbus City Code Section 3312.49, as detailed herein.

Columbus Code Section 3312.49 - Minimum Number of Parking Spaces Required:

Standard - requires 45 parking spaces for the following uses at the site:

- Manufacturing - 5,543 sq/ft - 6 spaces required***
- Restaurant - 2,673 sq/ft - 27 spaces required***
- Patio - 2,215 sq/ft - 11 spaces required***
- Warehouse - 1,420 sq.ft - 1 required***

TOTAL - 45 Spaces

The size of the site complicates the applicant's ability to provide the parking spaces required by the Code for the intended use. The site itself is long and narrow as shown on the attached site plan. Complicating this is the fact that the City's Transportation Division has determined that no parking can be provided at the "front" of the building along Broad Street because of the proximity of the Right of Way and safety issues. This eliminates the potential for

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909 WEST 5th AVENUE

5-6 additional spaces that could have been provided along Broad Street at the front of the building. Thus, the only area for parking available is along Delashmut Avenue. The proposal provides 16 parking spaces along Delashmut, along with additional outdoor patio seating and a bike rack designed to enhance the pedestrian "feel" of the area. Even if the racks and the patio area were removed the applicant would only gain an additional 5 spaces, and thus, the site is under parked for the allowed uses.

FACTORS:

Can the Property yield a reasonable return or can there be a beneficial use of the property without a variance ?

Certainly there can be. The Manufacturing classification allows for a wide variety of uses. There can be a reasonable return and beneficial use without the variance; just not one that the neighborhood has envisioned. This is because, many of those uses cannot exist on the site without a variance to the parking standard given the shape of the lot. This includes the applicant's proposed use. Further, 5th by Northwest Area Plan calls for "active uses" for ground floor spaces along 5th; including retail and restaurant. This is what is proposed, but it cannot exist without the variance.

Whether the variance is substantial ?

A variance deviation of 29 spaces when 45 are required is very substantial on its face. However, the applicant has recognized this and they have entered into a lease (attached hereto) for a shared parking arrangement as suggested by the 5th by Northwest Area Plan.

The applicant anticipates through experience that the use of the property during the day will be mostly focused upon the manufacturing aspect of the micro-brewery. The evening hours, after 5 pm, are when patrons will frequent the restaurant portion. Further, Thursday, Friday and Saturday evenings are likely to be the busiest time for the restaurant portion. Thus, parking will be used mainly during evening hours and weekends.

The lease gives the applicant the right to use the parking lot located on parcel 010-062643, (owned by Goodwill of Columbus) during those "peak" restaurant hours. The lease has a term of 5 years, with two renewal options of 5 years each (total 15 years). The location of the parking area is immediately adjacent to the east border of the site, thus is blends perfectly and does not require patrons to walk a long distance. The parking lot itself is quite large and will provide more than enough parking spaces for the applicant's needs.

Whether the character of the neighborhood would be adversely affected or whether adjoining properties would suffer an adverse impact as a result of the variance?

The variance would have no adverse affect on the neighborhood because the applicant has invested in a lease to ensure there will not be. Indeed, the applicant's proposal would have a beneficial impact in light of the area plan by eliminating parking in front of the building, providing a patio and enhancing the pedestrian experience.

Whether the variance would adversely affect the delivery of government services ?

No

Whether the applicant owner had knowledge of the zoning restriction ?

Yes, the applicant knew prior to leasing the site that the zoning classification for the site permitted the uses he intended, and that the variance would be needed only because of the constricted nature of the site.

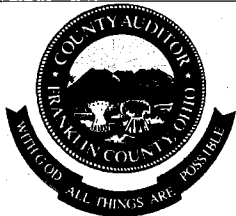
Whether the predicament can feasibly be obviated through another method other than variance?

The applicant is unaware of any other method, and no alternative method has been proposed by City staff. As noted, to accomplish what the applicant proposes, or to provide a use for the site as recommended by the 5th by Northwest Plan a variance is needed. The site is constricted, so the only way to provide more parking would be to demolish a portion of the building, and that is not feasible.

Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

The zoning classification for the site allows for the proposed uses. The 5th by Northwest Plan calls for active uses such as what the applicant is proposing for 5th avenue spaces located on the ground floor. The site itself is constrained to a point that it severely limits the ability to provide those uses. As the City has determined that no parking can be provided in front of the building the applicant has committed to spend funds to construct patio areas to provide a better aesthetic appearance for the site, a better customer experience, and a better pedestrian experience. It is worth noting that if the applicant chose not to provide patio areas the required parking spaces would be reduced by 11. Finally, and most importantly, the applicant sought out and entered into a shared parking lease agreement with the neighbor directly adjacent to the east to provide adequate parking during those hours when it will be most needed. Clearly, the spirit and intent of the parking requirements will be observed and substantial justice will be done by granting this variance request.

The applicant respectfully requests the full consideration of the variance request in light of the above stated conditions.



CLARENCE E MINGO II FRANKLIN COUNTY AUDITOR

MAP ID: S

DATE: 10/25/13



Disclaimer **14310-00000-00079**

Scale = 100



909 WEST 5th AVENUE

This map is prepared for the real property inventory within this county. It is compiled from recorded deeds, survey plats, and other public records and data. Users of this map are notified that the public primary information sources should be consulted for verification of the information contained on this map. The county and the mapping companies assume no legal responsibilities for the information contained on this map. Please notify the Franklin County GIS Division of any discrepancies.

Real Estate / GIS Department



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PROJECT DISCLOSURE STATEMENT

Parties having a 5% or more interest in the project that is the subject of this application.

THIS PAGE MUST BE FILLED OUT COMPLETELY AND NOTARIZED. Do not indicate NONE if none is provided.

APPLICATION # 14310-000000-00079
909 WEST 5th AVENUE

STATE OF OHIO
COUNTY OF FRANKLIN

Being first duly cautioned and sworn (NAME) James Robert Rishel
of (COMPLETE ADDRESS) 300 E. Broad St., Suite 450, Columbus, OH 43215
deposes and states that (he/she) is the APPLICANT, AGENT OR DULY AUTHORIZED ATTORNEY FOR SAME and the following is a list of all persons, other partnerships, corporations or entities having a 5% or more interest in the project which is the subject of this application and their mailing addresses:

NAME

COMPLETE MAILING ADDRESS

Geoff Towne - Zaubers Brewing - 909 W. Fifth Ave., Columbus,
Ohio 43212

909 W. Fifth Ave., Ltd. - 3169 Walkerview Dr., Hilliard,
Ohio 43026

SIGNATURE OF AFFIANT

Subscribed to me in my presence and before me this 6th day of February, in the year 2011

SIGNATURE OF NOTARY PUBLIC

My Commission Expires:

Notary Seal Here



CHRISTOPHER A. RINEHART
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE

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