



ZONING OVERVIEW

Presentation for the Schumacher Place Civic Association

Agenda

- What is Zoning?
- Purpose of Zoning
- Variances
- Use Variance v. Area Variance
 - Use Variance Criteria
 - Area Variance Criteria
- How to voice concerns?
- Schumacher Place

What is Zoning?

- Local legislative process that regulates and controls the use, placement, spacing and size of private property.
- Divides a political subdivision into zoning districts that determine what uses are allowed.
- Regulates lot size, building height and other dimensional requirements by enacting uniform regulations within the zoning districts.



Purpose in Legalese

3301.01 - Purpose.

This Zoning Code, pursuant to the Columbus City Charter and Article XVIII, Section 3, of the Ohio Constitution which grants municipalities the legal authority to adopt land use and control measures, is enacted to preserve and promote the public health, safety and welfare by means of regulations and restrictions enacted pursuant to a comprehensive plan designed to, among other purposes, encourage the orderly growth and development of the city; provide for adequate light, air, open space and convenience of access; protect against fire and natural hazards; and maintain and enhance the value of buildings, structures and land throughout the city.

Purpose in English

Zoning is in place to:

- Promote public health and safety
- Use land for the most suitable purpose
- Protect and maintain property values
- Protect the stability and preservation of residential neighborhoods
- Manage density through orderly, manageable, and predictable growth of the city
- Provide for more orderly development
- Encourage economic stability and growth
- Protect health, safety and welfare of the public
- Assist with the implementation of community planning goals
- Separate conflicting land uses
- Regulate land uses to achieve and maximize public benefits

Zoning v. Development Plan

- Zoning is the “law” applicable to development.
- A plan is a “guide” for development.
- Natural Tension
 - Economic Development v. Neighborhood Preservation

Zoning Variances

- A zoning variance permits an applicant to develop property or use property in a manner not otherwise permitted by a community's zoning regulations.
- There are two types of variances: 1) an “area variance,” which varies regulations pertaining to setbacks, yards, height and other “dimensional” requirements; and 2) a “use variance,” which varies the permitted use of property.

When Are Variances Granted?

- A zoning variance is granted in cases where the literal application of zoning regulations would result in:
 - a practical difficulty or an unnecessary hardship that inheres in and is peculiar to the premises because of physical size, shape or other characteristics of the premises or adjoining premises which differentiate it from other premises in the same district.

Use vs. Area Variances

- Courts in Ohio have differentiated between “*area variances*” and “*use variances*” with respect to the criteria considered by a Board of Zoning Appeals (Zoning Administrator/Council) in granting a variance.
- In granting a *use variance*, the Board must find that denial of the variance would result in an “*unnecessary hardship*” for the applicant. In granting an *area variance*, the Board must find that denial would result in a “*practical difficulty*” for the applicant – a less stringent standard.

Use Variances

- In granting a Use Variance, the Board shall determine that all of the following conditions are met by the request.
 1. The property cannot be put to any economically viable and appropriate use under any of the permitted uses in the zoning district;
 2. The Variance requested stems from conditions that are particular to the subject property and are not applicable, generally, to other properties within the same zoning classification;
 3. The hardship condition is not created by actions of the applicant;
 4. Granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 5. Granting of the variance will not adversely affect the community character, public health, safety or general welfare;
 6. The Variance will be consistent with the general spirit and intent of the Zoning Code; and
 7. The Variance sought is the minimum that will afford relief to the applicant.

Area Variances

- Duncan Factors (Duncan v. Middlefield, Ohio Supreme Court)
 1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
 2. Whether the variance is substantial.
 3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
 4. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, refuse service).
 5. Whether the property owner purchased the property with knowledge of the zoning restriction.
 6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.
 7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Parking Variances

- Use or Area?
- Generally, a variance sought to reduce the number of required parking spaces is viewed as an 'area' variance. *Winfield v. Painesville*, 2005-Ohio-3778, ¶ 5
- Converting parcel into parking lot - Use
- 3312.29 - Parking space.
- 3312.49 - Minimum numbers of parking spaces required.
- 3312.47 - Calculation methods.

BZA Variance

3307.09 - Variances by Board of Zoning Adjustment.

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 the applicant has demonstrated practical difficulties that unreasonably deprive the applicant of the permitted use of the property. The board shall weigh the following factors in determining whether the applicant has encountered practical difficulties in the use of the property.

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
2. Whether the variance is substantial.
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
4. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, refuse service).
5. Whether the property owner purchased the property with knowledge of the zoning restriction.
6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Council Variance

3307.10 - Variances by city council.

City council may grant the following zoning variances:

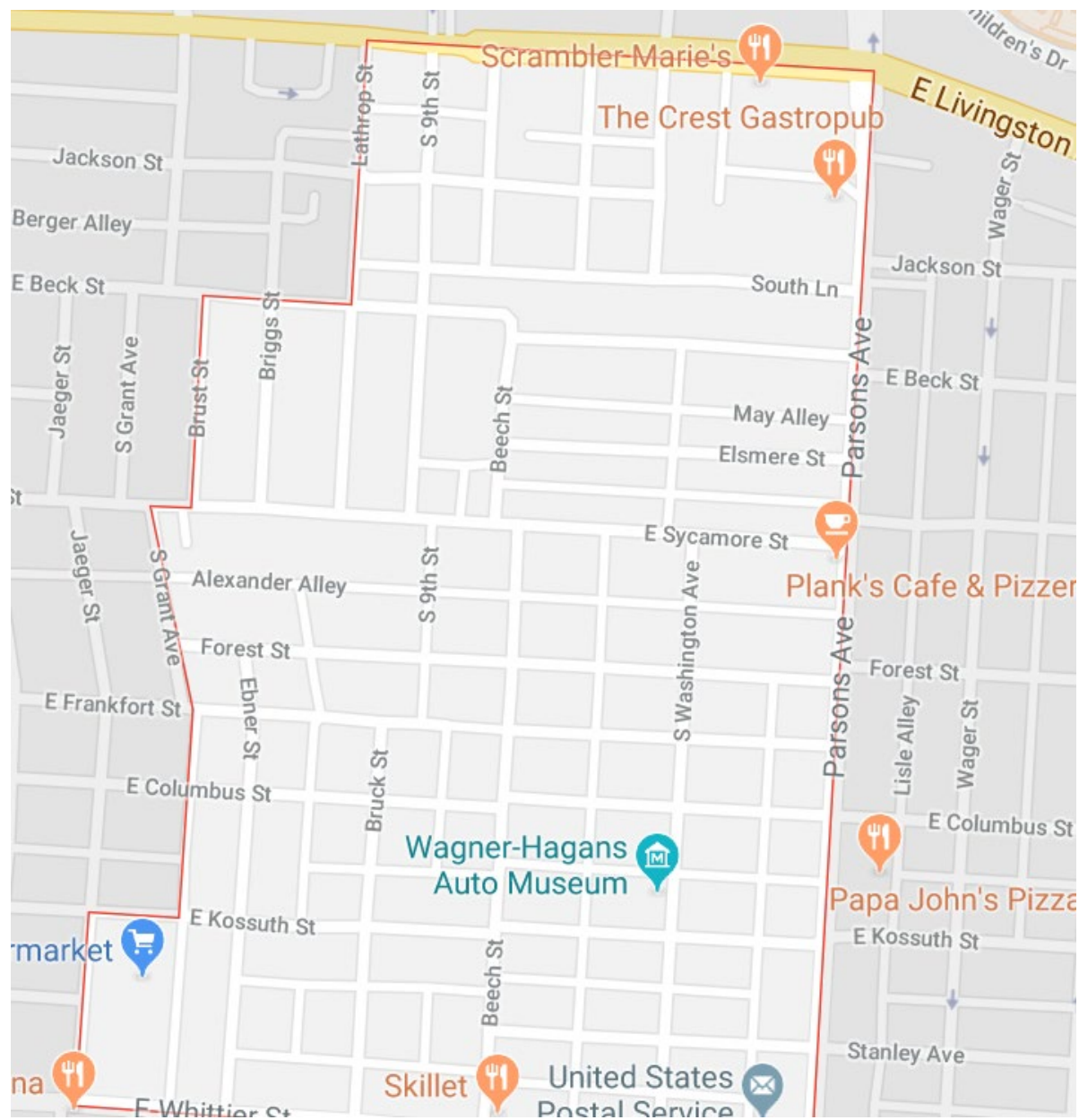
A. Permit a variation in the yard, height or parking requirements of any district only in conjunction with a change in zoning or a use variance and only where there are unusual and practical difficulties in the carrying out of the zoning district provisions due to an irregular shape of lot, topography, or other conditions, providing such variance will not seriously affect any adjoining property or the general welfare.

Before authorizing any variance from the Zoning Code in a specific case, city council shall first determine that such variance will not impair an adequate supply of light and air to the adjacent property, unreasonably increase the congestion of public streets, increase the danger of fires, endanger the public safety, unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city.

Public Hearings

- Council Variances
- Board of Zoning Adjustment
 - Recommendations Made Prior to Hearings

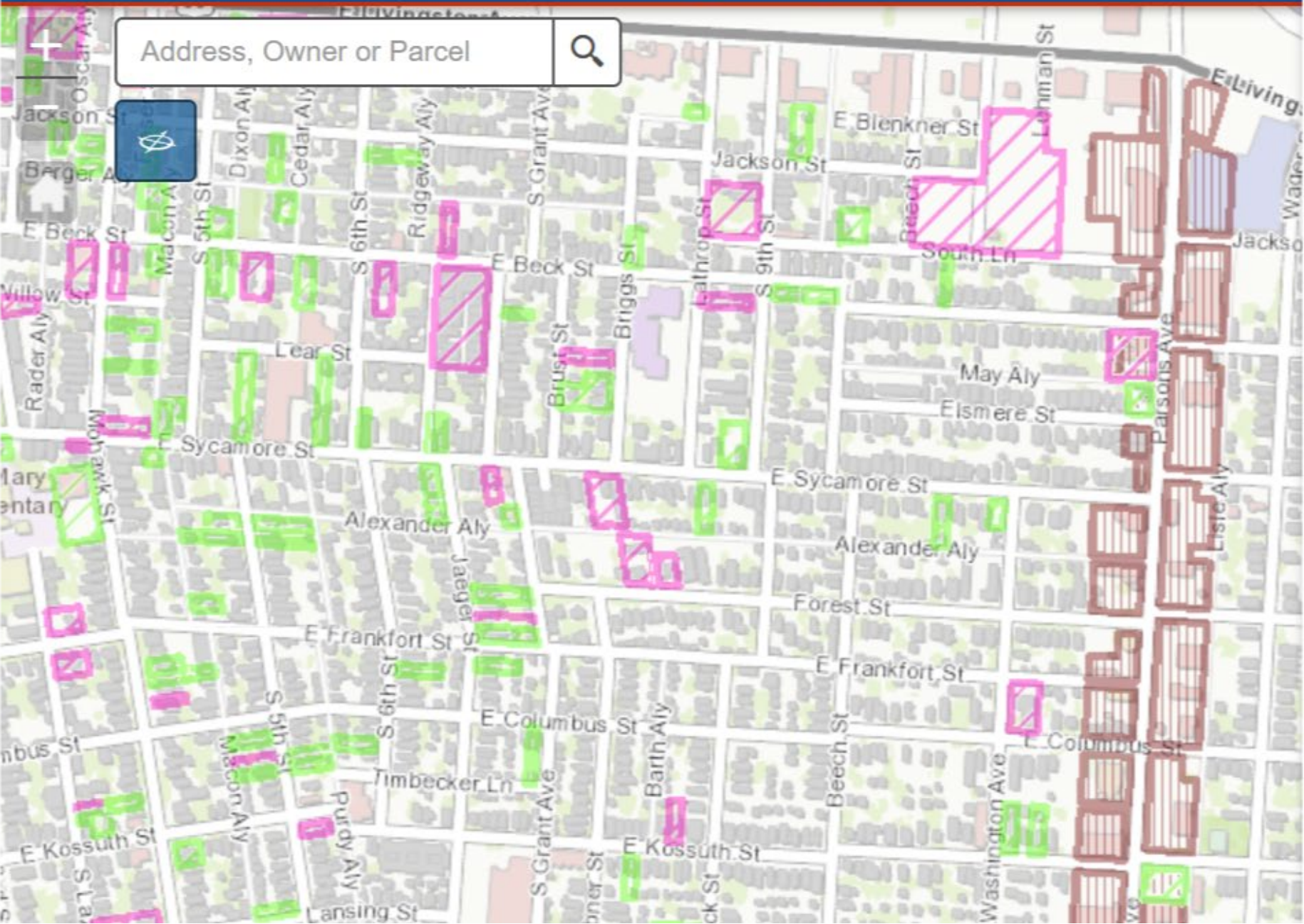
Schumacher Place



Columbus Zoning Map

Layer List

Address, Owner or Parcel



- Zoning
- Proposed Graphics Variance
- Proposed BZA Variance
- Proposed Council Variance
- Proposed Rezoning
- Graphic Variance
- BZA Variance
- Council Variance
- Special Parking Areas
- Historic Properties
- Historic Districts