

Zoning Code Updates

Creating efficiency in the zoning process





Advance City Goals

- Disconnect between stated City goals and zoning code
 - Some code provisions contradict health, sustainability & equity principals
 - Design Review bodies often ask appellants to create non-conforming conditions

City Planning Commission

- Planning expends staff time reviewing commonly approved variances
 - Meeting with applicants, field photos, BZA packets
 - Staff time and resources could be redirected to advance important City goals

Board of Zoning Appeals

- Applicants wait 6-8 weeks to receive an approval
 - Regularly approved variances clog BZA calendars
 - Staff & Board time could be more efficiently utilized
 - Approx. \$7,000 dollars are spent on mailings - could be reduced



Goals of the update:

- Produce better outcomes in the neighborhoods by-right
- Reduce permitting time (new construction & rehab)
- Reduce staff time and public dollars spent on permitting & BZA processes
- Clarify clunky language in the zoning code – Sunday morning test

Achieving the goals by:

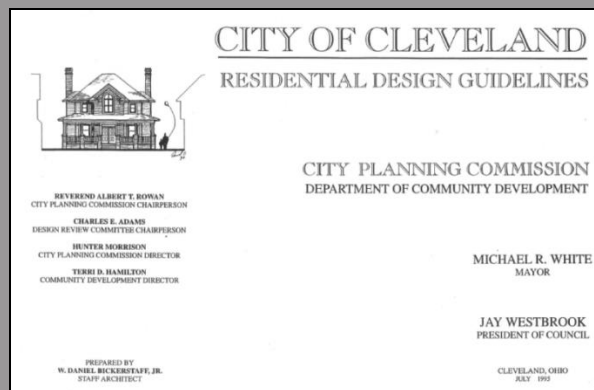
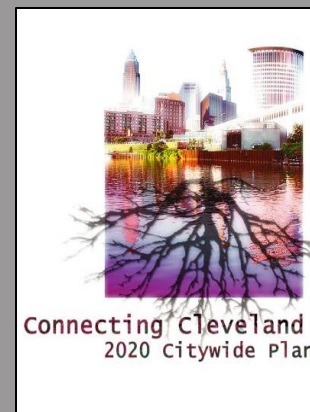
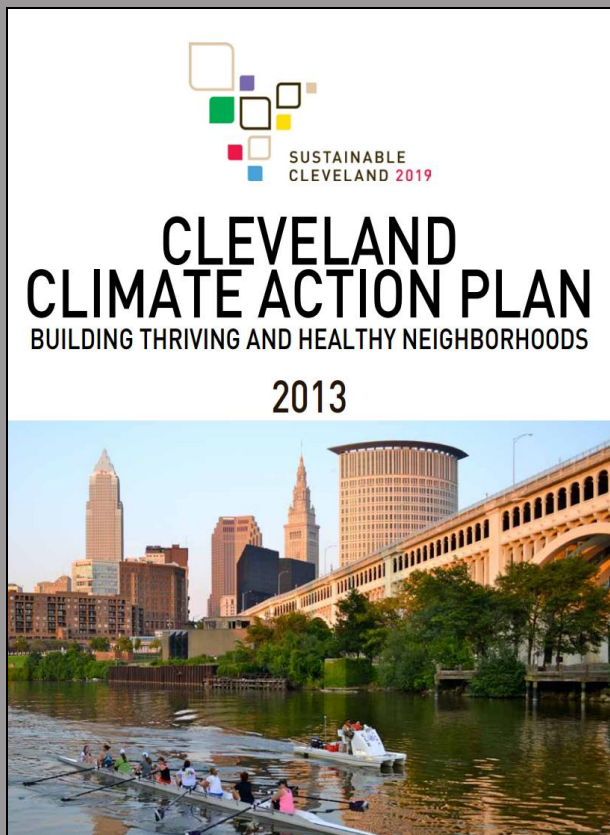
- Add clear language to reflect desired outcomes
- Simplifying existing requirements
- Removing unnecessary text
- Encouraging transparency & community engagement

By incorporating the most common design review comments from Planning Commission and local committees, the updated code will reduce the number of required applicant revisions and speed up the application to permit time.

Supporting Plans



proposed regulations align the zoning code with the city's sustainable initiatives, not by allowing for good design, but by making it the default.



Site Plans

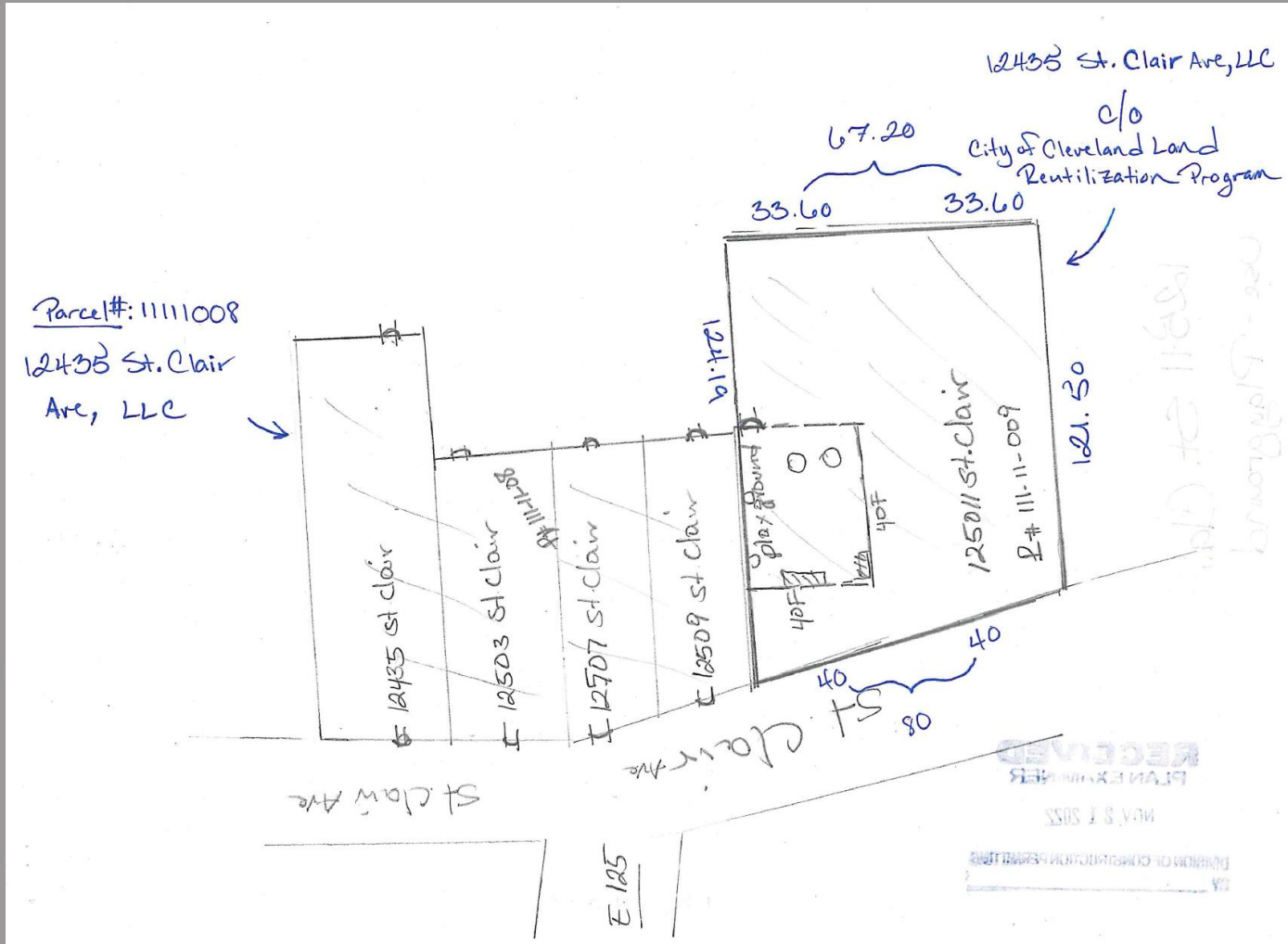
Section 327.02(e)(1)

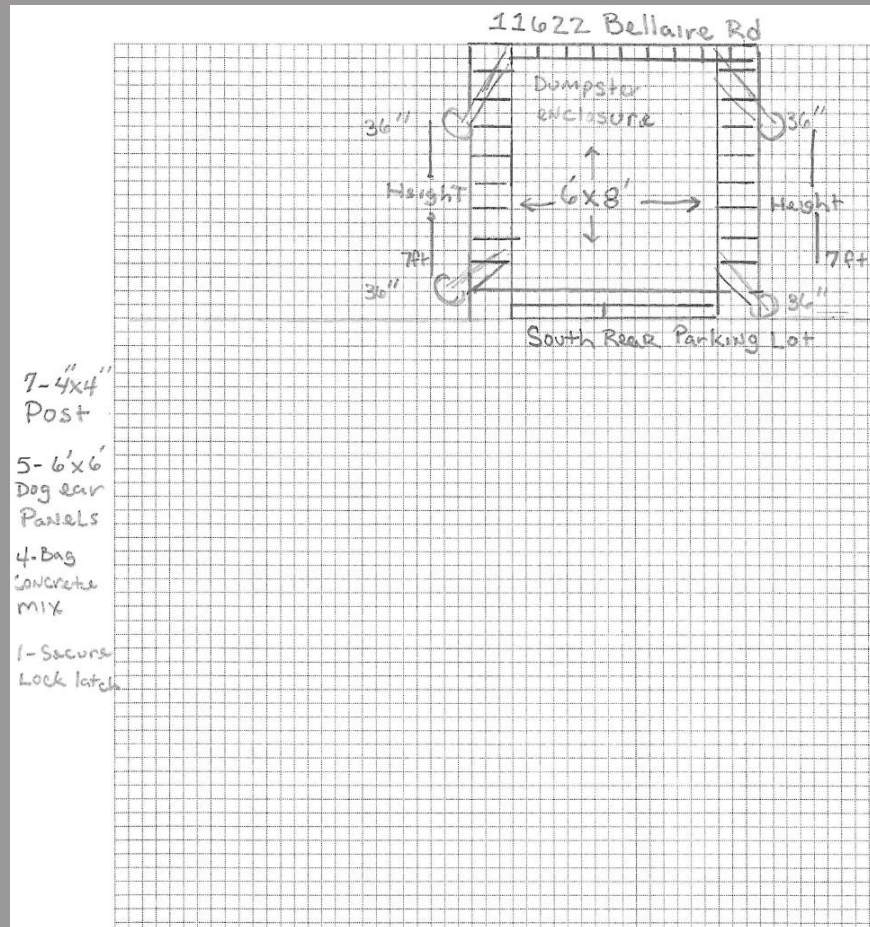


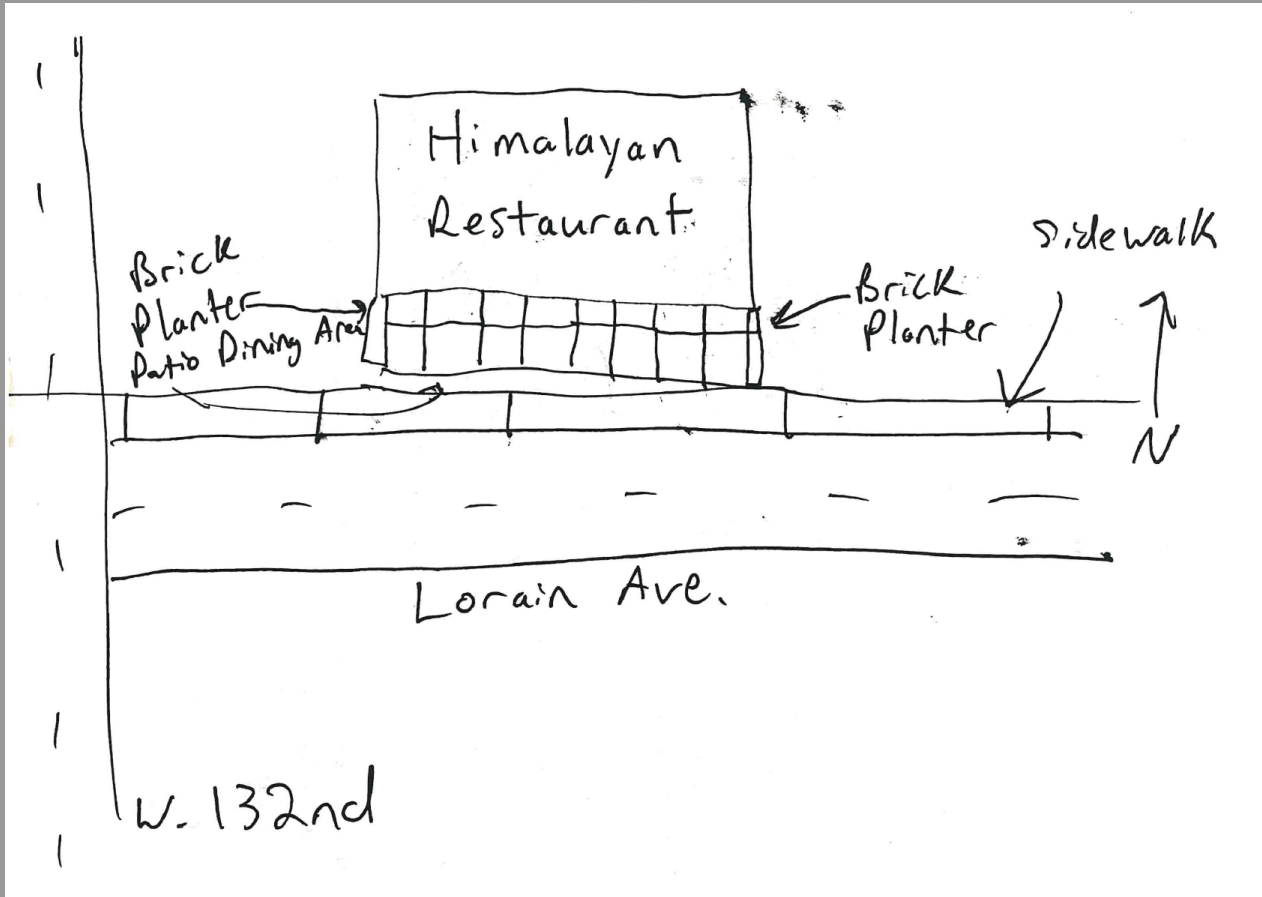


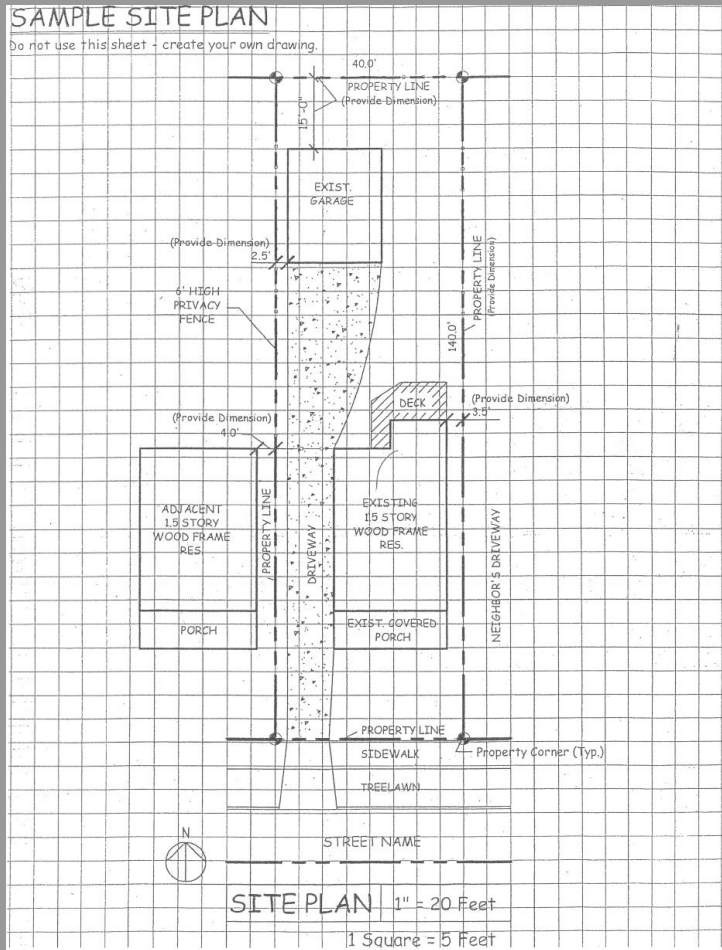
Current Language:

In all instances where yard and open spaces are required by this Zoning Code, a plot plan drawn to scale shall be submitted with the application and shall clearly indicate the proposed yards, the extent of all proposed encroachments beyond required yard lines and the location of and distances to buildings on adjoining premises. The location of front yard lines and side street yard lines shall be checked and approved by the Commissioner of Engineering and Construction of the Department of Public Service before any permit is issued.









Proposed Language:

§327.02(e)[1]: Contents of Site Plan

The following information shall be included on plans for all permit applications:

- (a) A scaled site plan indicating the legal address and street location(s), property lines, all buildings/structures on the lot, existing or proposed accessory structures (such as fences or parking lots), and buildings or structures within 30 feet of all property line(s).
- (a) Detailed plan(s) of the building, including floor plans, where the use or change of use is proposed. These plans should indicate the designation of all spaces, means of egress, windows, type of heating and ventilation, electrical outlets/fixtures and panel box locations, interior partitions, toilet rooms and all other information which is relevant to such use. IF the building is existing, show details of all proposed alterations, including details of heating, electrical and plumbing, etc.

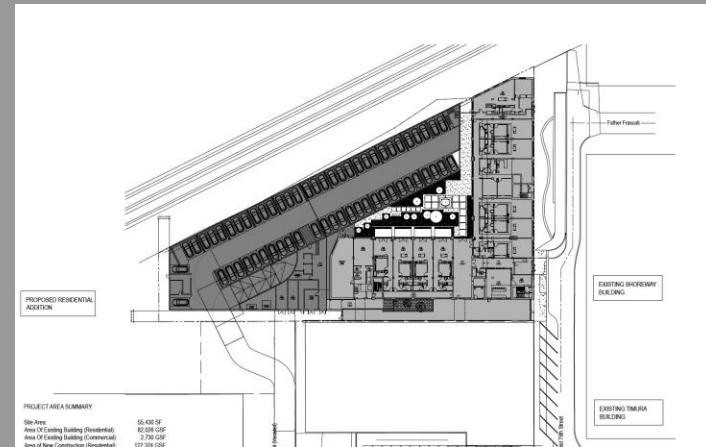
Rear Yard Setbacks in Multi-Family Districts

Section 357.08(a) & (b)





- Rear Yards are required for all residential buildings and all main buildings residential district
- Rear yards must be at least 20 feet, $\frac{1}{2}$ height of main building and if a residential building in nonresidential district– at least 15% of the average depth of lot.
- Simplifies requirements to allow new houses and projects to better match their context by removing min. 10' setback for porches





- Proposing to eliminate rear yard setbacks for Multi-Family Buildings in Multi-Family Districts that are sprinkled
- Simplifies requirements to allow redevelopment that is compatible with existing character and to achieve city goals

Owner: The Shoreway Building LLC **Address:** 1200 West 76 St.

Location: 1200 West 76 St.

Use: Local Retail Business **Area:** B **Height:** 3

Application to erect an additional 10 story apartment building consisting of 73 dwelling units and 183 parking spaces on site of existing 43 dwelling unit building is denied due to the following:

<u>Zoning Code</u>	<u>Text</u>
355.04	In "B" area district, maximum gross floor area is limited to one half the lot area. 27,634 maximum gross floor area is permitted, 161,312 dwelling unit floor area is proposed.
357.08(b)(2)	In a use district other than a Residence District the depth of a required rear yard in connection with a building of Residential Occupancy shall be not less than one-half (1/2) the height of the main building. Approx. 57 foot rear yard is required, none provided.
341.02	Site is a designated Landmark parcel: review and approval of the Cleveland Landmarks Commission is required.

Garage Placement Update

Section 337.23(a)(6)



The Issue

Front loaded garages:

- Eliminate eyes on the street by orienting active uses away from public realm
- Creates inhospitable experience for the pedestrian
- Creates visually unappealing façade; streets start to look like alleys
- Removes street trees; trees improve property values & support Cleveland Tree Plan
- Eliminates on-street parking
- Creates wider lanes on residential streets, which encourage speeding



Rear-loaded Garages:

- Promote eyes on the street
- Support walkable neighborhoods
- Protect pedestrian zone
- Preserve on-street parking
- Encourage tree lined streets
- Create sense of enclosure - reduces speeding



Front-loaded Garages:

- Remove on-street parking
- Create unusable paved areas
- Encourage speeding
- Remove street trees
- Create car/pedestrian conflicts
- Allows parking over the sidewalk



The Issue

A healthy, equitable, sustainable city must be walkable

Front loaded garages create conflicts for pedestrians



Precedent

For safety and aesthetic reasons, many cities have placed restrictions on the placement of garage doors.

Columbus, Philadelphia, Baltimore, Denver, Portland, Chicago, Alexandria, St. Paul, MN, Parkside, IL, Boise, ID

Chicago - Garage Requirements

1. Garage door entrances for individual units are not allowed to face a public street whenever an alley exists or when interior driveways may be used.
2. When garages for individual units must face a public street, the garage door must be set back at least 20 feet from the property line to prevent obstruction of the sidewalk by parked cars.

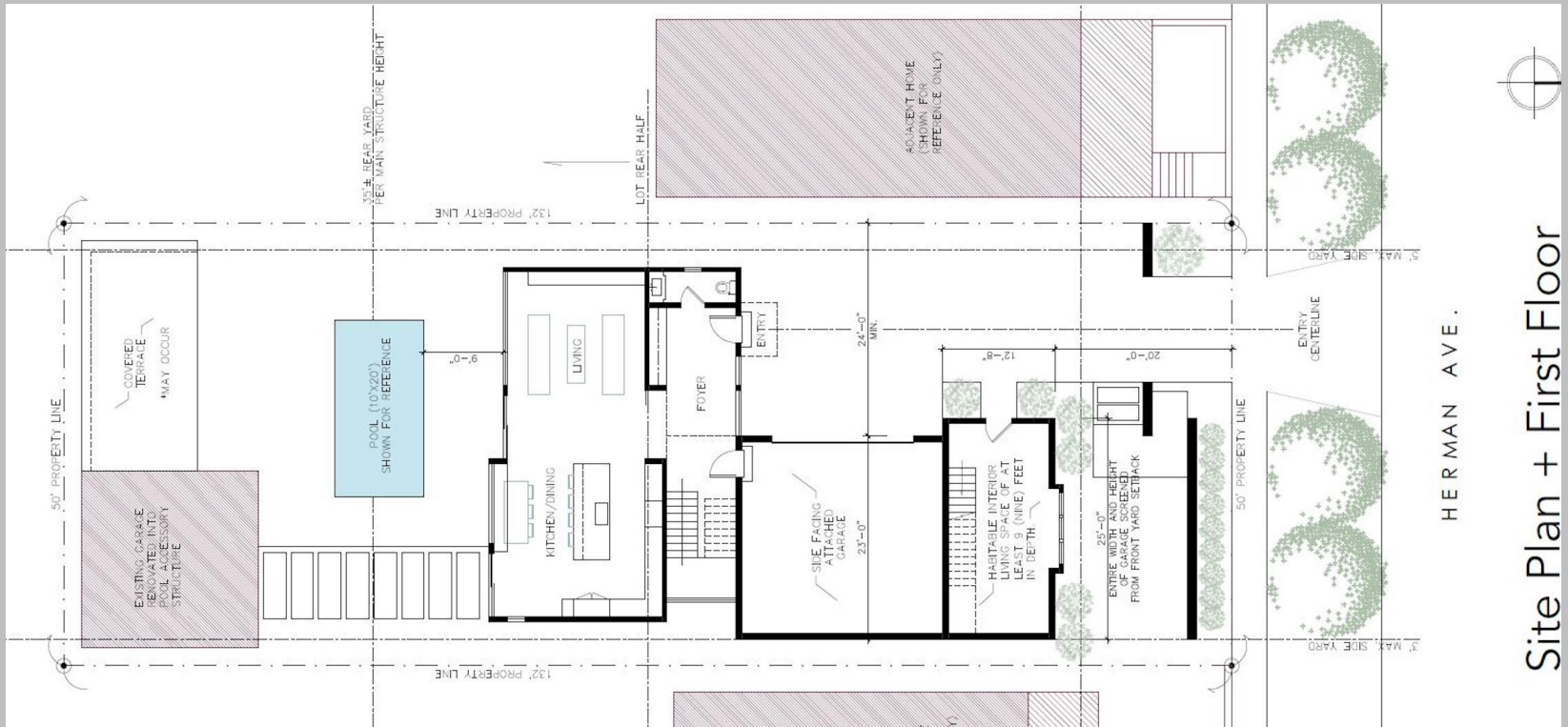


Proposed Language - Lot width: more than 40'

Interior Lots.

Detached garages. Permitted provided they are located in the rear half of the lot.

Attached Garages. Permitted provided they are located in the rear half of the lot, **or provided that they have their entire width and height screened from a required or actual Front Yard Setback Building Line by an Active, Habitable interior living space of at least 9 (nine) feet in depth.**



Local Retail Business Districts

Section 343.01(2)(F), Section 343.01(2)(H)





Goals:

- **Reduce common variance requests**
- **Create predictability in neighborhood development**
- **Promote small business brick and mortar opportunity and equity by permitting a variety of different uses in our neighborhood retail districts**
- **Increase vibrancy and activate storefronts**



Current Language - Alcohol in Local Retail

F. Eating places, lunch rooms, restaurants, cafeterias and places for the sale and consumption of soft drinks, juices, ice cream and beverages, ~~but excluding buildings which provide entertainment or dancing and buildings in which beer and intoxicating liquor are sold for consumption on the premises, provided such building for the sale of beer or intoxicating liquor is within five hundred (500) feet of the boundary of a parcel of real estate having situated thereon a school, church, library, nonprofit recreational or community center building or public playground;~~

F. Eating places, lunch rooms, restaurants, cafeterias and places for the sale and consumption of soft drinks, juices, ice cream and beverages.

1. Examples of Included uses: restaurants

bakery, cake shop

juice bards, smoothie shops

bar/tavern/pub

ice cream, yogurt shops

brewpub

mobile food shops as regulated in §241.36-38

coffee, tea shop

micro-brewery, distillery, winery



- Technical update to remove from Cleveland Zoning Code.
- Limiting alcohol within 500 feet of school was found in conflict with state statutes regulating liquor control in Square Deal Coal Hauls & Yardmen’s Club Inc. v. City of Cleveland (CCCCP No. 722.322), January 24, 1961’
- Westlake v. Mascot Petroleum Company, Inc. (61 Ohio St. 3d 161, 573 N.E.2d 1068) – 1991 reiterated pre-emption of liquor regulation by local zoning.

Local Retail & Alcohol



Riccardi, Richard

To: Leonard, Shannan



Thu 10/7/2021 9:22 AM

The particular provision, limiting alcohol consumption within 500 feet of a school, was specifically found to conflict with state statutes regulating liquor control in Square Deal Coal Haulers and Yardmen’s Club, Inc. v. City of Cleveland (CCCCP No. 722.322), January 24, 1961, and the pre-emption of liquor regulation by local zoning was most recently reiterated in Westlake v. Mascot Petroleum Company, Inc. (61 Ohio St.3d 161, 573 N.E.2d 1068) 1991. The ordinance language, being unenforceable since 1961, should have been removed from the Cleveland Zoning Code decades ago.

Richard M. Riccardi
Assistant Commissioner/Zoning Administrator
Division of Construction Permitting
Department of Building and Housing
Room 505, Cleveland City Hall
601 Lakeside Avenue
Cleveland, Ohio 44114
rriccardi@city.cleveland.oh.us

“Today’s tomorrows are the future of now.”



Current Language - Proposing Tattoo & Indoor Recreation/Entertainment <2,000 sf

G. Amusement & Indoor Recreation: The following uses are permitted subject to the regulations of §347.12 provided that the place or building in which such amusement or recreation use is operated is sufficiently sound-insulated to confine the noise to the premises.

1. Examples of Included Uses (not all inclusive)

Boutique Fitness Center

Health & Wellness Center (Reiki, Physical Therapy, 1 on 1 Health Coaching, Yoga, etc)

Meeting Spaces

Performing Arts Space (small theatre, dance practice, spoken word, musical instrument practice space)

Small Class Space (Cooking, Painting, Crochet, STNA, CPR, After school tutoring, stem training)

Billiards

Tattoo & Piercing

Competitive Gaming Spaces for Youth & Adults

Sip & Paint

Escape Rooms

Martial Arts

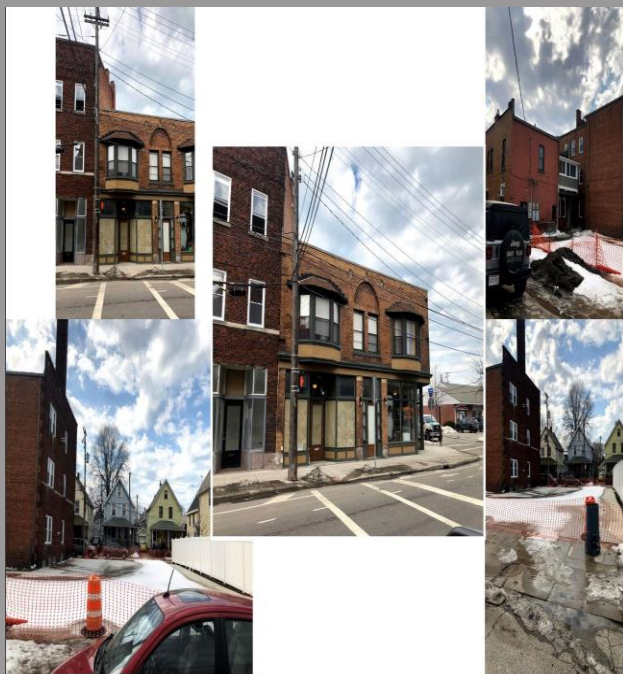
Bocce Ball & Indoor Corn Hole

Axe Throwing & other similar uses

Inflatable playground, jumping house facility



- BZA 21-014
- March 1, 2021
- 9508 Lorain Ave



Pinnacle Property, owner, proposes to establish tattooing use in a C1 Local Retail Business District. The owner appeals for relief from the strict application from the following sections of the Cleveland Codified Ordinances:

1. Section 343.01(b) which states that tattooing use is not permitted in a Local Retail Business District.
2. Section 347.12 (b)(1) which states that even when tattooing use is in an appropriate zoning district, it must be at least 1,000 feet from a Residential District; proposed use is abutting a Residential District. (Filed February 8, 2021)

Ruling: Granted





- BZA 20-184
- November 30, 2020
- 7427 Detroit Ave

Cal. No. 20-184
7427 Detroit Ave.
Ward 15



Est. No. 21-18
8508 Lorain Ave.
Ward 16



Travis Peebles, Blazing Saddles Prop LLC, owner, and Olive Ink LLC., tenant, propose to establish tattooing use in a K3 Local Retail Business District. The owner appeals: 1. Section 343.01 which states that tattooing use is not permitted in a Local Retail Business District, first permitted in a General retail Business District per Section 343.11(b)(2)(P), and also subject to the regulations of Section 347.12(b) requiring a one thousand foot separation of the use from residential districts, schools, churches and libraries. Proposed tattooing use abuts a residential district and the Waverly Elementary School at 1422 West 74th Street, and within 1,000 feet of the La Sagrada Familia Church at 7719 Detroit Avenue, and the Cleveland Public Library Walz branch at 7910 Detroit Avenue. (Filed November 2, 2020)

Ruling: Granted



Current Language - Proposing Tattoo & Indoor Recreation/Entertainment <2,000 sf

- G. Amusement & Indoor Recreation Uses that meet these criteria are not subject to the spacing and separation requirements of §347.12, and the minimum number of parking spaces otherwise required by this Zoning Code shall be reduce by 66%.



Fences in Side Street Yards & Semi Industry Districts

Section 358.04(a)





Current Language - Proposing Fences in Side Street Yards

1. 1. Fences in Residential Districts which states: *Height and Opacity*. Fences in actual front yards and in actual side street yards shall not exceed four (4) feet in height and shall be at least fifty percent (50%) open, except that, in an actual side street yard, a fence that is set back at least four (4) feet from the side street property line may be a maximum of six (6) feet in height and may be open or solid. Fences in actual rear yards and in actual interior side yards shall not exceed six (6) feet in height and may be solid or open. No fence shall be higher than its distance from a residence building on an adjoining lot or from the permitted placement of a future residence on such lot, if such fence will be generally parallel to and adjacent to the closest wall of the residence.

2. Add Section 358.04(e) which should state: *Height and Opacity*. Fences in actual side street yards shall not exceed four (4) feet in height and may be open or solid.

a. Fences five (5) feet in height may be on the property line provided the top one (1) foot of the fence is at least fifty percent (50%) open.

b. Fences six (6) feet in height must be set back two (2) feet from the side street property line and the top two (2) feet of the fence must be at least fifty percent (50%) open.

c. Fences in actual side street yards may not exceed six (6) feet in height.



Current Language - Proposing Fences in Side Street Yards





Current Language - Proposing Fences in Side Street Yards



Increase safety + balance privacy





Current & Proposed: Fencing in Semi-Industry Districts

1. Section 358.05(a)(2) which states that in Non-Residential Districts other than General and Unrestricted Industry Districts, fences in actual front yards shall not exceed four (4) feet in height and shall be at least fifty percent (50%) open above two (2) feet in height. The appellant is proposing to erect a 6-foot high commercial grade aluminum fence in the actual front yard of 10' specific setback.

1. Add Semi-Industry Districts adjacent to residential Districts to permit six foot fences, at least 50% open.



Front Yard Setback Relief

Section 357.06 (f)





Current & Proposed: Front Yard Setback Relief

1. Amend Encroachment Beyond Required Setback Building Line to add
 - a. The Zoning Administrator may grant Administrative Relief of an encroachment beyond the required setback building line at a maximum of 20% of the determined setback distance.
 1. IF the required setback distance is less than 10 feet – the Board of Zoning Appeals may grant a variance greater than 20%, but no more than 5 feet.

Why?

- Will permit the Zoning Administrator to give small relief or to allow BZA to strictly grant a variance
- Reduce excessive staff time and development time as will not require legislation to grant
- Increase flexibility to meet compatibility and context.
- Give property owners the opportunity to increase square footage of useable space reasonably
- Will not increase the ability to change front yard setback extensively or in a way that damages the setback & character of nearby property owners.



- The 10' mapped setback would reduce the number of parking spaces in the rear.
- By reducing the mapped setback the development enhances the walkability of Hough Avenue and is consistent with the goals of the Form Based Code. (20% would be 8 Ft, BZA could reduce additional 3 FT for Variance Request)



Front Setback
Proposal: 5.0 Ft

