

JUN 18 2007

ORDINANCE NO. 2565

**AN ORDINANCE TO GRANT A ZONING CODE SIDE YARD SETBACK VARIANCE TO PATRICK AND JULIA ARNOLD FOR THEIR HOMESTEAD REAL ESTATE HAVING THE ASSIGNED ADDRESS OF 206 NORTH BRIEGEL STREET, COLUMBIA, ILLINOIS AND WHICH PROPERTY IS LOCATED IN AN R-6 (ONE-FAMILY DWELLING ZONED DISTRICT) IN THE CITY**

  
City Clerk

WHEREAS, Patrick and Julia Arnold (the "Arnolds") are the owners of property having the assigned address of 206 Briegel Street in the City of Columbia, Illinois (the "City") which property is located in an R-6 (One-Family Dwelling Zoned District) in the City;

WHEREAS, Subsection 17.22.090 (G) of the City's Zoning Code provides and requires that no accessory building may be closer to the street than the main building on the lot;

WHEREAS, the main building on the Arnolds' lot at the subject address is located twenty-two feet (22') from the closest right-of-way of Locust Street;

WHEREAS, the Arnolds have applied for a variance from strict compliance with said side yard setback requirement of the City's Zoning Code to allow for construction and installation of a garage disconnected from their residence which garage would be located ten feet (10') from the closest right-of-way of Locust street at the subject location when twenty-two feet (22') is required by the City's Zoning Code;

WHEREAS, Section 17.08.040 of the City's Zoning Code provides and requires that all applications for variances from strict compliance with the City's Zoning Code shall be filed with the City Clerk and forwarded by the City Clerk to the City's Zoning Board of Appeals for public hearing, following publication of the required notice of hearing in a newspaper published in the City;

WHEREAS, a public hearing with regard to Arnolds' zoning variance application was held before the Columbia, Illinois Zoning Board of Appeals on May 30, 2007, following the publication of the required notice of hearing in compliance with the City's Zoning Code requirement and the City's Zoning Board of Appeals has recommended that the requested side yard setback variance be granted to the Arnolds;

WHEREAS, Subsection 17.08.050(A) of the City's Zoning Code provides and requires that when by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the area, the strict application of the area regulations would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property, the City Council shall be empowered to authorize on application in regard to such property, a variance from such zoning district regulation so as to relieve such difficulty or hardship;

WHEREAS, Subsection 17.08.050(C) of the City's Zoning Code provides and requires that in the City Council's consideration of all applications for Zoning Code variances, the City Council shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change, including a variation in use, in the district map and will not impair an adequate supply of light and air to adjacent property, or increase congestion in public streets or increase the danger of fire, or materially diminish, or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the City;

WHEREAS, Subsection 17.08.050(C) of the City's Zoning Code further provides and requires that every variance granted shall be granted by ordinance and that the ordinance granting the variance shall include a written finding of fact based upon testimony and evidence, specifying the reason for granting or denying the variance and the decision of the City Council shall be made a part of any building permit for which a variance is allowed;

WHEREAS, Subsection 17.08.050(D) of the City's Zoning Code provides and requires that the concurring vote of a majority of the Mayor and the City Aldermen holding office shall be required for the granting of a variance from strict application with the City's Zoning Code where the Zoning Board has recommended approval of the granting of the variance; and,

WHEREAS, the City Council of the City has found and determined and does hereby declare that it is necessary and appropriate that the side yard setback variance requested by the Arnolds be granted by this Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

**Section 1.** The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

**Section 2.** The City's City Council has found and determined and does hereby declare that the proposed variance will not constitute a change, including a variation in use, in the City's district map and will not impair an adequate supply of light and air to adjacent property, or increase congestion in public streets or increase the danger of fire, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the City. Further, the City Council of the City has found and determined that, based upon testimony and evidence presented at the public hearing before the City's Zoning Board of Appeals, the requested Zoning Code variance should be granted based upon the following facts:

(A) The proposed construction will not diminish the appearance of the property and will not adversely affect any adjoining or proximately located property or property owner.

(B) The residence location constitutes an exceptional topographical condition or extraordinary or exceptional situation or condition on the subject property which condition is generally not prevalent in the neighborhood in that it is located on a corner lot at the intersection of North Briegel Street and Locust Street in the City; there is a significant lateral separation distance between the subject dwelling house and proposed garage (which is located on a 10,500 square foot lot in a zoned district that allows a minimum lot size of 7,500 square feet) and the proposed location of the garage is elevated approximately four feet (4') above the adjoining street elevation.

(C) The property owners who own property adjoining or located proximate to the subject property in the neighborhood have no objection to the requested variance.

(D) Requiring strict application of the side yard setback requirement in this R-6 (One-Family Dwelling Zoned District) in the City for the applicants who reasonably needs to make the garage improvement aforesaid on their lot for storage and other uses and purposes would result in a peculiar and exceptional practical difficulty for them and would create exceptional and undue hardship for them because the proposed improvement will improve the appearance of their property which has a home that is over 100 years old located on it; will allow for removal of an old shed located in the back yard of the property that is not as attractive as the proposed new garage will be and construction of a masonry retaining wall that will replace an existing timber retaining wall that is significantly deteriorated and unsightly; and, that hardship should be avoided by the granting of the requested variance.

**Section 3.** The side yard setback variance herein requested (allowing a twelve foot [12'] side yard setback encroachment) is hereby granted. The City's Building Inspector is directed to attach a copy of this Ordinance to the building permit to be issued to Patrick and Julia Arnold in connection with the authorization to construct and install the a detached garage for the Arnolds' residence in the side yard of the property adjoining Locust Street located at 206 North Briegel Street, in the City of Columbia, Illinois in accordance with the requirements of Subsection 17.08.050(C) of the City's Zoning Code.

**Section 4.** This Ordinance shall be in full force and effect from and after its passage, as provided by law.

Alderman Unnerstall moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Row, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf and Mayor Hutchinson.

NAYS: None.

ABSENT: None.

ABSTENTIONS: None

PASSED by the City Council and APPROVED by the Mayor this 18<sup>th</sup> day of June, 2007.

  
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KEVIN B. HUTCHINSON, Mayor

ATTEST:

  
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WESLEY J. HOEFFKEN, City Clerk

(SEAL)