

OCT 01 2007

ORDINANCE NO. 2593

AN ORDINANCE TO GRANT CITY OF COLUMBIA, ILLINOIS ZONING CODE SIDE YARD SETBACK VARIANCES, A REAR YARD SETBACK VARIANCE AND A VARIANCE FROM THE MINIMUM PARKING SPACE REQUIREMENT FOR A DAY CARE OR DAY NURSERY BUILDING FOR THE COLUMBIA KINDER COLLEGE BUSINESS BELONGING TO DAVID AND DEBORAH KILLY ON A LOT HAVING THE ASSIGNED OF 218 SOUTH RAPP AVENUE IN THE CITY OF COLUMBIA, ILLINOIS


City Clerk

WHEREAS, David and Deborah Killy (the "Killys") are the owners of property having the assigned address of 218 South Rapp Avenue in the City of Columbia, Illinois (the "City") which property is located in a C-2 (General Business Zoned District) in the City;

WHEREAS, pursuant to Section 17.04.030 (Definitions) of the City's Zoning Code the front lot line of a corner lot is a line separating the narrowest frontage of the lot from the street and the narrowest frontage of the subject lot having the assigned address of 218 South Rapp Avenue is on Rapp Avenue so that the front of the building to be constructed on the lot (which is required to face the front lot line) is on Rapp Avenue (notwithstanding the entrance to the building is on Cherry Street) in the City;

WHEREAS, Subsection 17.28.040 (Yard area) in a C-2 (General Business Zoned District) of the City's Zoning Code provides and requires that a corner lot that abuts a residential zoned district is required to have a side yard setback for the building on the lot of not less than one-half (1/2) the front yard setback requirement in the abutting residential zoned district, but in no case required to exceed ten feet (10');

WHEREAS, the subject building lot abuts an R-6 (One-Family Dwelling Zoned District) where the front yard setback requirement is forty feet (40') so that the minimum side yard setback for the subject lot is ten feet (10');

WHEREAS, Section 17.28.040 (Yard area) of the C-2 (General Business Zoned District) of the City's Zoning Code requires a minimum rear yard building setback of twenty feet (20');

WHEREAS, the subject Columbia Kinder College daycare business to be conducted in the building to be constructed on the subject lot is a "special use" in this C-2 (General Business Zoned District) and the parking space requirement for that use as required by Zoning Code Section 17.40.010 (Special use exceptions, requirements and procedures), Requirement Designation k(12) is one (1) parking spot per two (2) employees, plus one (1) parking spot for five (5) children; so that eight (8) parking spots for the subject building is required by the City's Zoning Code;

WHEREAS, the Killys have applied for variances from strict compliance with said side yard setback requirements, rear yard setback requirement and parking space requirement of the City's Zoning Code to allow for construction of a building on a corner lot at 218 South Rapp Avenue which will be located one (1) foot ten (10) inches from the side lot line on Cherry Street (when a ten [10] foot setback is required by the Zoning Code); to be located six (6) foot one (1) inch from the opposite side lot line (when a ten [10] foot setback is required by the Zoning Code); to be located five feet (5') from the rear lot line (when a twenty foot [20'] setback is required by the Zoning Code) and to have four (4) parking spaces for the building on the premises (when eight [8] parking spaces are required by the 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 Killys' zoning variances application was held before the Columbia, Illinois Zoning Board of Appeals on September 12, 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 and rear yard setback variances and parking space variance be granted to the Killys;

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 Zoning Code variances requested by the Killys 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 improve and shall not diminish the appearance of the property and will not adversely affect any adjoining or proximately located property or property owner.

(B) The business 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 Rapp Avenue and Cherry Street opposite the Columbia City Hall on the opposite corner of Cherry Street and Rapp Avenue; the subject building will be adjacent to the existing Columbia Kinder College business building on Cherry Street at 114 West Cherry Street and will be compatible therewith; and, there will be no other buildings in this block on the subject site of the block except the other Columbia Kinder College building.

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

(D) Requiring strict application of the yard space and parking requirements in this C-2 (General Business Zoned District) in the City for the applicants who reasonably need to make the business expansion and building improvement aforesaid on their lot 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, the neighborhood and the community and will serve a worthwhile and beneficial community use and; and, that hardship should be avoided by the granting of the requested Zoning Code variances.

Section 3. The rear yard and side yard setback variances and parking space variance requested (allowing an eight [8] foot two [2] inch side yard setback encroachment on Cherry Street, a three [3] foot eleven [11] inch side yard encroachment on the opposite lot boundary and a fifteen [15] foot rear yard setback encroachment and allowing a minimum of four [4] parking spaces on the premises instead of the Zoning Code required eight [8] parking spaces) 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 David and Deborah Killy in connection with the authorization to construct and install a daycare or day nursery building on the lot having the assigned address of 218 South Rapp Avenue, 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 Agne moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Hejna, and the roll call vote was as follows:

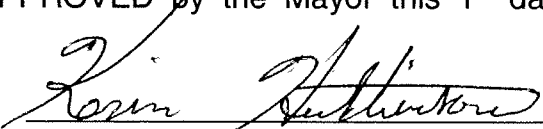
YEAS: Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell and Stumpf and Mayor Hutchinson.

NAYS: None.

ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 1st day of October, 2007.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



WESLEY J. HOEFFKEN, City Clerk

(SEAL)