

JAN 22 2013

  
City Clerk

**ORDINANCE NO. 2994**

**AN ORDINANCE TO GRANT A ZONING CODE VARIANCE TO KYLE T. AND AMANDA S. WITGES FOR THEIR SINGLE FAMILY RESIDENTIAL PROPERTY LOCATED AT 719 CHARLOTTE AVENUE IN THE CITY OF COLUMBIA, ILLINOIS TO ALLOW THE CONSTRUCTION OF AN ACCESSORY BUILDING OF ONE THOUSAND NINE HUNDRED TWENTY (1,920) SQUARE FEET IN SIZE IN EXCESS OF THE ALLOWED NINE HUNDRED (900) SQUARE FEET**

WHEREAS, Kyle T. Witges and Amanda S. Witges, his wife, are the owners of property having the assigned address of 719 Charlotte Avenue in the City of Columbia, Illinois (the "City") and which property is legally described as Part of Lots 1 & 2 Block 4 Columbia Hills Subdivision and Part of Lots 13, 14, 15 & 1 Columbia Hills Subdivision on which property is located a single family residential structure;

WHEREAS, Subsection 17.20.090 of the City's Zoning Code provides and requires an accessory building must be smaller than the primary building and is limited to a maximum exterior perimeter dimension of nine hundred (900) square feet when measured at ground level;

WHEREAS, Kyle T. and Amanda S. Witges ("Witges") have applied for a variance from strict compliance with said accessory building maximum exterior perimeter dimension requirement of the City's Zoning Code to allow for construction of an accessory building one thousand nine hundred twenty (1,920) square feet of maximum exterior perimeter dimension when measured at ground level;

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 the Witges zoning variance application was held before the Columbia, Illinois Zoning Board of Appeals on January 9, 2013, 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 accessory building size variance be granted to Witges;

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 accessory building size variance requested by Witges 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 accessory building location eliminates an exceptional topographical condition or extraordinary or exceptional situation or condition on the subject property which condition is generally not prevalent in the neighborhood as the location of the existing residential structure does not allow for a reasonable expansion of the structure with the installation attached garage or further expansion of the residential structure.

(C) The property owners who own property adjoining or located proximate to the subject property in the neighborhood have not objected to the requested variance.

(D) Requiring strict application of the accessory building size requirement in this R-5 (One Family Dwelling District) in the City for the applicant would result in a peculiar and exceptional practical difficulty for him and would create exceptional and undue hardship for him and the community; whereas the proposed accessory building on the subject property will allow the accessory building to be located on the property with reasonable topography and constructed to a size desired by the property owner, that hardship should be avoided by the granting of the requested variance.

**Section 3.** The accessory building size variance herein requested (increasing the accessory building size from the allowed nine hundred (900) square feet to one thousand nine hundred twenty (1,920) square feet) is hereby granted.

**Section 4.** The City's Building Inspector is directed to attach a copy of this Ordinance to the building permit to be issued to Kyle T. Witges and Amanda S. Witges, his wife, in connection with the authorization to construct an accessory building one thousand nine hundred twenty (1,920) square feet in size on property having the assigned address of 719 Charlotte 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 5.** This Ordinance shall be in full force and effect from and after its passage.

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

YEAS: Aldermen Ebersohl, Agne, Niemietz, Roessler, Huch, Reis and Mayor Hutchinson.

NAYS: None.

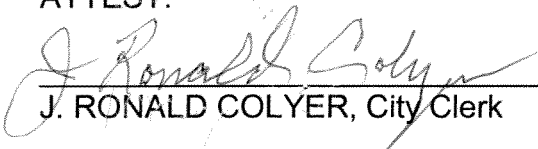
ABSENT: Alderman Mathews.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 22<sup>nd</sup> day of January, 2013.

  
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KEVIN B. HUTCHINSON, Mayor

ATTEST:

  
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J. RONALD COLYER, City Clerk

(SEAL)