

ORDINANCE NO. 2738

SEP 08 2009

J. Ronald Colby
City Clerk

AN ORDINANCE TO GRANT A ZONING CODE REAR YARD SETBACK VARIANCE TO STACEY LAWRENCE FOR HIS HOMESTEAD REAL ESTATE HAVING THE ASSIGNED ADDRESS OF 167 JULIANA COURT, COLUMBIA, ILLINOIS AND WHICH PROPERTY IS LOCATED IN AN R-4 (ONE-FAMILY DWELLING ZONED DISTRICT) IN THE CITY

WHEREAS, Stacey Lawrence (the "Lawrence") is the owner of property having the assigned address of 167 Juliana Court in the City of Columbia, Illinois (the "City") and which property is located in an R-4 (One-Family Dwelling Zoned District) in the City;

WHEREAS, Subsection 17.20.050(C) of the City's Zoning Code provides and requires that each lot upon which a building or structure is constructed in an R-4 (One-Family Dwelling Zoned District) in the City, shall have a rear yard of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is larger, but the rear yard need not exceed fifty (50) feet in depth;

WHEREAS, Lawrence has applied for a variance from strict compliance with said rear yard setback requirement of the City's Zoning Code to allow for construction and installation of a roof over an existing twelve foot (12') foot by sixteen foot (16') patio, which patio would be extended four additional feet (4') to create a sixteen foot (16') by sixteen foot (16') patio that is attached to his residence and which roofed in patio would encroaches approximately eleven feet (11') into the rear yard setback of his homestead real estate lot at the address aforesaid;

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 Lawrence zoning variance application was held before the Columbia, Illinois Zoning Board of Appeals on August 5, 2009, 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 voted unanimously to recommend to the City Council the granting of the variance;

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 of 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, a simple majority vote of the City Council is required for the granting of the variance under Section 11-13-10 of the Illinois Municipal Code (65 ILCS 5/11-13-10) and Subsection 17.08.050(D) of the City's Zoning Code provides where, as here, the City's Zoning Board of Appeals has recommended in favor of the granting of a variance from strict application with the City's Zoning Code; and,

WHEREAS, the City Council of the City has found and determined and does hereby declare that it is necessary and appropriate that the back yard setback variance requested by Lawrence shall 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 enhance the appearance of the property and will not adversely affect any adjoining or proximately located property or property owner;

(B) All of the neighbors who potentially could be affected by the granting of the variance requested were notified and none have appeared at the public hearing to object to the granting of the variance and property located directly behind the Lawrence property is covered with weeds and unmowed grass and is a very difficult lot to build on due to a power line easement located on that property and the size, location and configuration of the lot , so that there is not currently a rear yard neighbor who will be affected by the roofed in patio and isn't likely to be one for the foreseeable future or maybe ever;

(C) The elevation, location and configuration of the subject lot at 167 Juliana Court constitute topographical conditions and/or an extraordinary or exceptional situation or condition, which condition is not prevalent in the area which will result in peculiar and exceptional practical difficulties or exceptional and undue hardship for Lawrence if strict application of the rear yard setback requirement of Subsection 17.20.050(C) of the City's Zoning Code is strictly enforced with regard to the subject property and the improvements located thereon; which hardship can be avoided by the granting of the requested variance.

Section 3. The rear yard setback variance requested by Lawrence for his homestead property located at 167 Juliana Court, Columbia, Illinois is hereby granted. The City's Building Commissioner is directed to attach a copy of this Ordinance to the building permit to be issued to the applicant, Stacey Lawrence, in connection with the authorization to construct and install a roof over the to be enlarged patio (which patio when enlarged will not be roofed over and area larger than sixteen feet (16') by sixteen feet (16') in the rear yard of his residence that is attached to his dwelling at 167 Juliana Court, Columbia, Illinois in accordance with the requirements of Subsection 17.08.040 and 17.08.050 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 Oberfell, and the roll call vote was as follows:

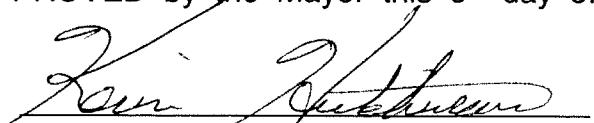
YEAS: Aldermen Ebersohl, Agne, Niemietz, Row, Hejna, Oberfell, Stumpf and Roessler.

NAYS: None.

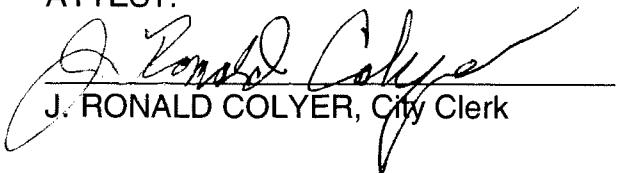
ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 8th day of September, 2009.


KEVIN B. HUTCHINSON, Mayor

ATTEST:


J. RONALD COLYER, City Clerk

(SEAL)