

AUG 19 2013

ORDINANCE NO. 3055

J. Ronald Colyer
City Clerk

AN ORDINANCE TO GRANT A ZONING CODE VARIANCE TO G & C FAMILY TRUST FOR THEIR SINGLE FAMILY RESIDENTIAL PROPERTY LOCATED AT 714 RUECK ROAD IN THE CITY OF COLUMBIA, ILLINOIS TO ALLOW THE RETAINING OF FOUR (4) ACCESSORY BUILDINGS ON A LOT IN THE PROPOSED HUEBNER HEIGHTS SUBDIVISION WITHOUT CONSTRUCTION OF A MAIN BUILDING HAVING COMMENCED

WHEREAS, G & C Family Trust (the "Trust"), is the owner of property having the assigned address of 714 Rueck Road in the City of Columbia, Illinois (the "City") and which property is legally described as Part of Tax Lot 4A of U.S.Survey 417, Claim 228, in Township 1 South, Range 10 West of the Third Principal Meridian which property is proposed to be subdivided with the platting of Huebner Heights Subdivision as stipulated in the Settlement Agreement for the acquisition of right-of-way for the Rueck Road Improvement Project approved by Ordinance No. 2256 dated April 19, 2004;

WHEREAS, Subsection 17.42.030 of the City's Zoning Code provides and requires no accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced;

WHEREAS, the Trust has applied for a variance from strict compliance with said requirement no accessory building to be upon a lot without a main building of the City's Zoning Code to allow for continuation of four (4) existing accessory buildings to be located on a proposed lot of Huebner Heights Subdivision;

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 Trust zoning variance application was held before the Columbia, Illinois Zoning Board of Appeals on August 7, 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 allowing of the four (4) accessory buildings on a lot without a main building variance be granted to the Trust;

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 allowance of accessory buildings without a main building on a lot variance requested by the Trust 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 allowance of the four (4) accessory buildings will not diminish the appearance of the property and will not adversely affect any adjoining or proximately located property or property owner.

(B) The existing accessory buildings 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 accessory buildings do currently exist and have been situated on the Trust's property for an extended period of time.

(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 no accessory building 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 the Trust and would create exceptional and undue hardship for the Trust and the community; whereas the allowance of the existing accessory buildings on the subject property will allow their continued use until such time as the proposed lot in Huebner Heights is developed, that hardship should be avoided by the granting of the requested variance.

Section 3. The accessory building variance herein requested (allowing four (4) existing accessory buildings on a proposed lot of Huebner Heights Subdivision without a main building on the lot) is hereby granted.

Section 4. The City's Zoning Enforcement Officer is directed to attach a copy of this Ordinance to the approved plat for Huebner Heights Subdivision to be submitted by the Trust, in connection with the approval of the subdivision of property having the assigned address of 714 Rueck Road, 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 Reis moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Roessler, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Niemietz, Roessler, Huch, Mathews, Reis, Holtkamp and

Mayor Hutchinson.

NAYS: None.

ABSENT: Alderman Agne.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 19th day of August, 2013.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)