

APR 21 2008

ORDINANCE NO. 2644

*Wiley J. Jaffee*  
City Clerk

AN ORDINANCE TO GRANT A ZONING CODE  
VARIANCE TO CEDARWOOD DEVELOPMENT, INC. OF  
AKRON, OHIO FOR A CVS PHARMACY BUILDING TO  
BE LOCATED ON LOT NO. 1 OF THE ADMIRAL TROST  
DEVELOPMENT SUBDIVISION IN THE CITY OF  
COLUMBIA, ILLINOIS TO ALLOW THE FRONT OF THE  
BUILDING TO FACE THE REAR LOT LINE (ADJACENT  
TO ADMIRAL PARKWAY BOULEVARD) INSTEAD OF  
THE FRONT LOT LINE (ADJACENT TO ADMIRAL TROST  
ROAD) IN THE CITY OF COLUMBIA, ILLINOIS

WHEREAS, Cedarwood Development, Inc., a corporation, of Akron, Ohio (the "Applicant") is proposing to locate and construct a CVS Pharmacy building and business on Lot 1 of the Admiral Trost Development Subdivision in the City of Columbia, Illinois (the "City"), which lot belongs to the Stephen R. Dickerson Trust;

WHEREAS, Subsection 17.04.030 of the City's Zoning Code provides and requires the front of a building on a zoned lot in the City must face the front lot line and the front lot line for the lots in the Admiral Trost Development Subdivision, including the subject lot, is the lot line adjoining Admiral Trost Road in the Subdivision;

WHEREAS, the Applicant has applied for a variance from strict compliance with said building placement requirement of the City's Zoning Code to allow for construction and installation of a CVS Pharmacy building which will face the rear lot line of their Lot No. 1 in the subject subdivision which adjoins Admiral Parkway Boulevard (a/k/a Illinois Route No. 3 Highway) and Valmeyer Road in the City;

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 Applicant's zoning variance application was held before the Columbia, Illinois Zoning Board of Appeals on March 5, 2008, 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 building placement variance be granted to the Applicant;

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 building placement variance requested by the Bank 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 building 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 highly visible commercial zoned building lot in the City which adjoins a high traffic carrier highway in the City resulting in the best site design, land utilization and community development appearance requiring that the front of the building should face Admiral Parkway Boulevard (a/k/a Illinois Route No. 3) and Valmeyer Road in the City instead of Admiral Trost Road (being an interior subdivision street).

(C) On August 7, 2007 the City Council of the City enacted City Ordinance No. 2584 to authorize a similar zoning code variance for the adjoining property owner of Lot 2 of the Admiral Trost Development Subdivision, on which building lot a Reliance Bank branch bank building is now located which has the front façade of the bank facing the rear of the lot (adjoining Admiral Parkway Boulevard) instead of facing the front of the lot (adjoining Admiral Trost Road) at the subject location so that to face the Applicant's pharmacy building as the zoning code requires would result in lack of uniformity of design and building placement on this block in this subdivision;

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

(E) Requiring strict application of the building placement requirement in this C-3 (Highway Business Zoned District) in the City for the applicant would result in a peculiar and exceptional practical difficulty for the Applicant and would create exceptional and undue hardship for the Applicant and the community (i.e., the motoring public on Admiral Parkway Boulevard who would be required to view the rear of the building instead of the front of the building while traveling on the highway); whereas the proposed placement of the building on the subject lot will improve the appearance of the building and be a community enhancement, and, that hardship should be avoided by the granting of the requested variance.

**Section 3.** The building placement variance herein requested (allowing the front façade of the CVS Pharmacy building to be constructed on this corner lot to face the rear lot line adjoining Admiral Parkway Boulevard [a/k/a Illinois Route No. 3]) and the lot line adjoining Valmeyer Road 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 Cedarwood Development, Inc. of Akron, Ohio in connection with the authorization to construct and install a CVS Pharmacy building on Lot No. 1 of the Admiral Trost Development Subdivision 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 and approval, as provided by law.

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

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

NAYS: None.

ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 21<sup>st</sup> day of April, 2008.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



WESLEY J. HOEFFKEN, City Clerk

(SEAL)