

ORDINANCE NO. 2509

NOV 06 2006


City Clerk

AN ORDINANCE TO GRANT A ZONING CODE USE VARIANCE TO THE FIRST BAPTIST CHURCH OF COLUMBIA, ILLINOIS FOR THE CHURCH TO ALLOW THE BETHANY CHRISTIAN SERVICES NOT-FOR-PROFIT ORGANIZATION TO USE AND OCCUPY ONE OF TWO DWELLING UNITS IN A RESIDENTIAL DUPLEX BUILDING BELONGING TO THE FIRST BAPTIST CHURCH AND LOCATED AT 724 BOTTOM AVENUE IN THE CITY FOR A PROFESSIONAL ADMINISTRATIVE OFFICE FOR THE BETHANY CHRISTIAN SERVICES SOUTHERN ILLINOIS OUT-REACH PROGRAM

WHEREAS, the First Baptist Church of Columbia, Illinois, (the "Church" or the "First Baptist Church") is the owner of property having the assigned address of 724 Bottom Avenue in the City of Columbia, Illinois (the "City") which is improved by a two (2) unit duplex residence building and which property is located in a R-6 (One Family Dwelling Zoned District) in the City;

WHEREAS, Section 17.14.020 of the City's Zoning Code describes and provides for the permitted uses allowed in an R-6 (One Family Dwelling Zoned District) in the City and does not include professional office uses as a permitted use in that zoned district;

WHEREAS, the Church has applied for a variance from strict compliance with the permitted use requirement of Section 17.14.020 of the City's Zoning Code to allow for Bethany Christian Services to utilize one of the two units of the subject duplex residence building for professional office uses and purposes for that charitable organization's Southern Illinois Out-Reach Program; same being the unit that is closest to the First Baptist Church parking lot at the subject location;

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 First Baptist Church zoning code use variance application was held before the Columbia, Illinois Zoning Board of Appeals on October 11, 2006, 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 use variance be granted;

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, 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 variance requested by the First Baptist Church 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 use 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) Bethany Christian Church is a pro-life adoption and family-services, non-denominational, faith based not-for-profit agency providing community services in birth-parent counseling and is seeking a license to do international and domestic adoptions.

(B) It is contemplated that only one (1) full time staff member and later one (1) part-time member would be occupying and utilizing the office for administrative services and typically in a week's time only five (5) patrons would visit the office.

(C) The office it is anticipated would be open for business only from eight o'clock A.M. until five o'clock P.M. on Monday through Friday and would not be open nights or weekends.

(D) The office would only be used by the Bethany Christian Church for the uses and purposes aforesaid and should that use cease the property would revert back to the R-6 Zoned District permitted uses and the use variance would end.

(E) All parking for the office would be on the First Baptist Church parking lot and not on Bottom Avenue or at some other location or in front of any residence.

(F) Should Bethany Christian Church wish to expand its operations into the other unit of the duplex residence building it would have to come back to the City to obtain another use variance or it could not occupy and use the other duplex unit for a use not permitted by the City's Zoning Ordinance.

(G) To require strict application of the permitted use requirement of Section 17.14.020 of the City's Zoning Code applicable to R-6 Zoned Districts in the City, in this instance, would result in a peculiar and exceptional practical difficulty and would create an exceptional and undue hardship for the Church if the use variance requested by the Church is not granted, which hardship should be avoided by the City Council of the City granting the requested use variance.

Section 3. The Zoning Code use variance requested by the First Baptist Church herein is hereby granted. The City's Building Commissioner/Ordinance Administrator is directed to attach a copy of this Ordinance to the occupancy permit to be issued to Bethany Christian Services and/or the First Baptist Church to allow the use and occupancy of the dwelling unit of the duplex residence located at 724 Bottom Avenue in the City (which belongs to the Church), which is the dwelling unit that is located closest to the Church parking lot, as a professional administrative office by Bethany Christian Services for its Southern Illinois Out-Reach Program in accordance with the requirements of Section 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 Unnerstall, and the roll call vote was as follows:

YEAS: Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Row, Huch and Mayor Hutchinson.

NAYS: None.

ABSENT: Alderman Koesterer.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 6th day of November, 2006.



KEVIN B. HUTCHINSON, Mayor

ATTEST:


WESLEY J. HOEFFKEN, City Clerk

(SEAL)