

JUL 19 2010

ORDINANCE NO. 2795

*J. Ronald Clegg*  
City Clerk

**AN ORDINANCE TO GRANT A ZONING CODE VARIANCE TO CHRISTOPHER A. KALBFLEISCH, DOING BUSINESS AS QUALITY COLLISION, INC., AN ILLINOIS CORPORATION, FOR HIS AUTO BODY REPAIR, TOWING AND USED CAR SALES BUSINESS TO BE LOCATED ON LOT NO. 1 OF THE QUALITY COLLISION BUSINESS PARK SUBDIVISION HAVING THE ASSIGNED ADDRESS OF 156 SOUTHWOODS CENTER DRIVE IN THE CITY OF COLUMBIA, ILLINOIS TO ALLOW THE FRONT OF THE BUILDING TO FACE THE WEST SIDE LOT LINE INSTEAD OF THE SOUTH FRONT LOT LINE**

WHEREAS, Christopher A. Kalbfleisch and Melissa B. Kalbfleisch, his wife, are the owners of property having the assigned address of 156 Southwoods Center Drive in the City of Columbia, Illinois (the "City") and which property is located in the Quality Collision Business Park Subdivision in the City on which lot they intend to construct and install the building and improvements for the operation of the Quality Collision, Inc. auto body repair, towing and used car and truck sales business;

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 subject Lot 1 in the Quality Collision Business Park Subdivision in the City, is the south lot line and is the lot line adjoining Southwoods Center Drive in the Subdivision;

WHEREAS, Christopher A. Kalbfleisch ("Kalbfleisch") 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 building and improvements appurtenant thereto for the operation of the Quality Collision, Inc. business aforesaid, which is proposed to face the west side lot line of said Lot No. 1 in the subject subdivision which adjoins Southwoods Center Drive 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 Kalbfleisch zoning variance application was held before the Columbia, Illinois Zoning Board of Appeals on July 7, 2010, 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 Kalbfleisch;

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  
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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 Kalbfleisch 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 surrounded on two (2) sides by a steep embankment and 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 in a westerly direction to be highly visible to traffic traveling east on Admiral Parkway Boulevard (a/k/a State of Illinois Route 3) in the City at the subject location.

(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 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 him and would create exceptional and undue hardship for him and the community (i.e., the motoring public on Admiral Parkway Boulevard who would be required to view the side of the building instead of the front of the building while traveling east 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 Quality Collision, Inc. auto body repair, towing and used car and truck sales building to be constructed on the lot to face the west side lot line to be visible for east bound traffic traveling on Admiral Parkway Boulevard [a/k/a Illinois Route No. 3]) 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 Christopher A. Kalbfleisch and Melissa B. Kalbfleisch, his wife, in connection with the authorization to construct and install a Auto body repair, towing and used car and truck sales business building on Lot No. 1 of the Quality Collision Business Park Subdivision having the assigned address of 156 Southwoods Center Drive, 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 and following the recording of the final subdivision plat for the Quality Collision

Business Park Subdivision in the office of the Monroe County, Illinois Recorder in Waterloo, Illinois.

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, Heina, Oberfell, Stumpf,

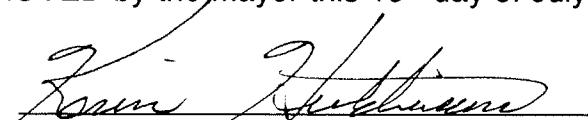
Roessler and Mayor Hutchinson.

NAYS: None.

ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 19<sup>th</sup> day of July, 2010.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)