

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL 3809
CHAGRIN FALLS, OHIO

IN RE: VARIANCE REQUEST OF) FINAL ORDER OF COUNCIL
WEST COTTAGE, LLC) AND CONCLUSIONS OF FACT
FOR PROPERTY LOCATED AT))
47 WEST COTTAGE STREET) ADMINISTRATIVE ORDER NO.
) 2014- 47

This matter is before the Chagrin Falls Village Council pursuant to the request of West Cottage, LLC (“the Applicant”). The Applicant owns the existing vacant parcel at 47 West Cottage Street (“the Subject Property”). The Applicant has requested a variance from Section 1125.03(f) of the Village of Chagrin Falls Codified Ordinances to permit a new dwelling with a front yard setback of twenty-two feet (22'). Under Section 1125.03(f), the minimum front yard setback is thirty-five feet (35'). Therefore, a variance of thirteen feet (17') is needed to construct the proposed dwelling on the Subject Property. The Applicant has also requested a variance from Section 1125.03(e) to have a lot coverage of the main building of 24.5%. The code limits lot coverage of the main building to 20%. Therefore, a variance of 4.5% is requested.

The Village of Chagrin Falls Board of Zoning Appeals met on June 24, 2014, received evidence and testimony, and heard the arguments of the Applicant. The Board of Zoning Appeals, on a vote of 5-0, recommended that Council grant the requested variance.

This Council considered the matter on July 14, 2014, upon the record created by the Board of Zoning Appeals. This Final Order of Council and Conclusions of Fact are predicated upon all of the evidence and testimony on the record before Council and, in consideration thereof, the following conclusions of fact are made:

- 1) The Subject Property is a vacant lot located on the south side of West Cottage Street on a steep slope going down to the south from the street.
- 2) The Subject Property is a hillside lot with an approximately 24% slope.
- 3) The Applicant seeks to build a new dwelling roughly on the same footprint of the previous dwelling that was located on the lot and which was demolished.
- 4) The Board of Zoning Appeals noted that the Applicant has reduced the lot coverage amount to 24.5% from 27% after input from the Architectural Review Board.
- 5) The Board of Zoning Appeals noted that the Village’s hillside ordinance requires a geo-technical report and engineered design to preserve the safety of hillside areas.
- 6) The Applicant testified that his engineers will design the project to have a hillside stability factor of 1.3. Village Engineer Tim Lannon said a stability factor of 1.3 is acceptable and is the standard required by the Village for substantial projects, such as road construction. In fact, the Applicant testified that if his engineers cannot establish a stability factor of 1.3, the project will not move forward.

7) The Applicant testified that from an engineering perspective, this project and his River Walk at Chagrin Falls II project at the base of the hillside at issue are related and, therefore, the engineering work necessary to stabilize the hillside requires that the proposed dwelling be constructed first.

8) The Board of Zoning Appeals noted that the Architectural Review Board requested that the proposed dwelling be wider in design so that it will be pulled back off the hillside and, making the dwelling wider, in conjunction with the attached garage, created the necessity for the lot coverage variance.

9) The Board of Zoning Appeals noted that the lot coverage variance would not be required if the proposed dwelling was constructed with a detached garage.

10) The Board of Zoning Appeals found that the Applicant would not yield a reasonable return and there would not be any beneficial use of the property if the variances were not granted because the proposed dwelling would not be built and the Subject Property would remain vacant.

11) The Board of Zoning Appeals found that the variances are not substantial because the proposed dwelling will be at essentially the same location as the original dwelling and strict application of the zoning requirements would require the proposed dwelling to be located closer to the hillside.

12) The Board of Zoning Appeals found that the variances do not substantially alter the essential character of the neighborhood because a dwelling existed on the Subject Property previously and the proposed front yard setback is similar to that of other dwellings on West Cottage Street.

13) The Board of Zoning Appeals found that granting the variances will improve access for the delivery of governmental services because the dwelling will be moved away from the hillside.

14) The Board of Zoning Appeals found that the Applicant purchased the Subject Property with knowledge of the zoning restrictions.

15) The Board of Zoning Appeals found that the Applicant's predicament cannot feasibly be obviated through some method other than a variance because if the variances were not granted, the proposed dwelling would not be built and the Subject Property would remain vacant.

16) The Board of Zoning Appeals found that the spirit and intent behind the zoning restrictions are met by granting the variances.

17) This Council finds that the proposed dwelling is an improvement to the Subject Property and will not adversely affect the essential character of the neighborhood.

18) The Board of Zoning Appeals determined that the proposed dwelling is in line with the prevailing front setback of the existing homes on the street. The steep slope makes it impractical to place the dwelling at the required setback. This Council finds that the Applicant, therefore, has demonstrated a practical difficulty in the use of the property, which is a result of the strict application of the zoning ordinance.

19) This Council further finds, as recommended by the Board of Zoning Appeals, that the variance is not substantial and that granting of the variance will improve delivery of governmental services because the proposed dwelling will provide access at the main level.

20) This Council finds that the Subject Property is a hillside lot and that the Village Engineer must approve the engineering design, specifications and plans as required by the Village's hillside ordinance.

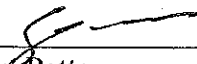
21) This Council also finds and determines that the spirit and intent of the Zoning Code is observed, and substantial justice is done, by granting the variance. This conclusion is supported by the fact that the neighborhood will not be changed by the proposed variances. The Subject Property will be improved by the proposed project.

WHEREFORE, IT IS ORDERED that the variances to Codified Ordinance Sections 1125.03(e) and 1125.03(f) requested by the Applicant, the plans for which are on file with the Building Commissioner, are hereby granted. The Applicant may construct the proposed project in accordance with the proposed plans. This document is deemed by Council to be the final order in this matter.

IT IS FURTHER ORDERED that the Clerk of Council shall mail a copy of this Final Order of Council and Conclusions of Fact to the Applicant, and any other parties requesting same, by first class mail, and note the mailing date upon this Order. The decision of this Council shall be deemed final upon the date the Clerk mails this document, as provided herein.

Adopted this 14th day of July, 2014, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

Village of Chagrin Falls Council



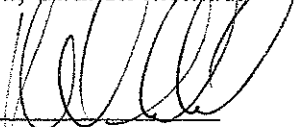
Steven Patton,
President of Council



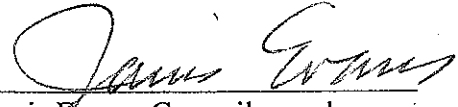
Justin Herdman, Council member



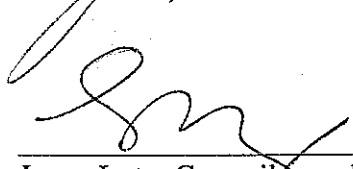
Thomas Muscenti, Council member



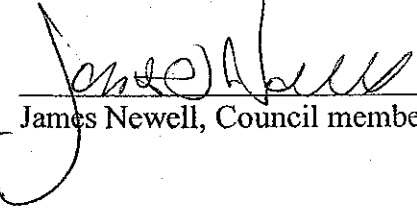
Richard Subel, Council member



Janis Evans, Council member

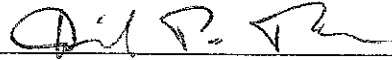


Janna Lutz, Council member



James Newell, Council member

Notice mailed this 1 day of August, 2014.



Clerk of Council