

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL  
CHAGRIN FALLS, OHIO

3873

IN RE: VARIANCE REQUEST OF ) FINAL ORDER OF COUNCIL  
DOUGLAS GONDA AND TAMARA ) AND CONCLUSIONS OF FACT  
HEIDENREICH FOR PROPERTY )  
LOCATED AT 91 OLIVE STREET ) ADMINISTRATIVE ORDER  
) NO. 2015- 27

This matter is before the Chagrin Falls Village Council pursuant to the request of Douglas Gonda and Tamara Heidenreich (“the Applicants”). The Applicants own a residence at 91 Olive Street (“the Subject Property”). The Applicants propose to replace the existing gravel driveway on the Subject Property with a cement driveway.

Section 1125.04(b)(4) of the Codified Ordinances requires driveways to be located a minimum distance of two feet (2') from any adjoining lot line. The Applicants are seeking a variance of five feet (5') from this requirement, to permit the driveway to be located on adjacent property. The current gravel driveway exists across the adjoining lot line to the east by approximately 2.8 feet. The Applicants are in the process of securing a formal easement from their neighbor, Ryan and Heather Schmit, that would be three feet (3') wide, in order to formalize their legal right to keep the driveway in its current location, and improve the existing gravel driveway by making it cement.

The Village of Chagrin Falls Board of Zoning Appeals met on July 28, 2015, received evidence and testimony, and heard the arguments of the Applicants. The Board of Zoning Appeals, on a vote of 4-0, recommended that Council grant the variance to Section 1125.04(b)(4) regarding the setback to the adjoining lot.

This Council met on August 10, 2015, and considered the matter upon the record created by the Board of Zoning Appeals. This Order and the 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 located on Olive Street and has a preexisting nonconforming gravel driveway that exists across the adjoining eastern lot line by approximately two and eight tenths feet (2.8').
- 2) The Board noted that the Subject Property is unique because the current gravel driveway already exists across the adjoining eastern lot line, and has been there for a significant amount of time.
- 3) The Applicant, Douglas Gonda, testified that the distance between the house and the property line will not allow for a setback of two feet (2'), and granting the variance will allow the proposed cement driveway to be eight feet (8') wide, bringing the existing driveway in compliance with current zoning regulations.


- 4) The Applicants' neighbor, Ryan Schmit, testified that he has no objection to the variance and intends to grant an easement of three feet (3'), in order to allow the driveway to be formally authorized to be located across the eastern lot line.
- 5) The Board found that the neighbors were notified of the variance and the Board's hearing and no neighbors attended the hearing to object to the variance.
- 6) The Board found that the variance is not substantial because the existing gravel driveway currently crosses the eastern property line.
- 7) The Board found that the essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment as a result of the variances because the concrete driveway will improve the character of the neighborhood.
- 8) The Board found that the Applicants' predicament cannot feasibly be obviated through some method other than the variances because the current gravel driveway crosses the eastern property line and the location of the house on the Subject Project prohibits the construction of a conforming driveway.
- 9) The Board recommended that the granting of the variance be conditioned upon the Applicants providing the Village with proof of the recording of the easement from Ryan and Heather Schmit.
- 10) This Council finds that the Subject Property will yield a reasonable return and there can be a beneficial use of the Subject Property without the variance, but that the proposed cement driveway enhances the house and the neighborhood.
- 11) This Council finds that the Applicants have demonstrated a practical difficulty in the use of the Subject Property, which is a result of the strict application of the Zoning Ordinance and caused by the preexisting nonconforming gravel driveway at the Subject Property.
- 12) This Council further finds that the Applicants' predicament cannot be feasibly obviated through some method other than the variance because any addition to the house will require some type of variance.
- 13) This Council also finds that granting the variance will not adversely affect the delivery of governmental services.
- 14) This Council also finds and determines that the spirit and intent of the Zoning Code would be observed, and substantial justice will be done, by granting the variance.
- 15) This Final Order and Conclusions of Fact is further supported by the fact that the Subject Property will be improved by the proposed project if the variance is granted.

WHEREFORE, IT IS ORDERED, that the variance from Sections 1125.04(b)(4) of the Codified Ordinances be and is hereby granted. The Applicants may construct the 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 Applicants, 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 10<sup>th</sup> day of August, 2015, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

Village of Chagrin Falls Council

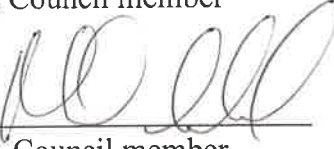
  
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Steven Patton, President of Council

  
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Jan Evans, Council President Pro Tem

  
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Justin Herdman, Council member

  
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James Newell, Council member

  
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Thomas Muscenti, Council member

  
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Richard Subel, Council member

  
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Janna Lutz, Council member

Notice mailed this 11 day of August, 2015.

  
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Clerk of Council