

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL 3872
CHAGRIN FALLS, OHIO

IN RE: VARIANCE REQUEST OF)	<u>FINAL ORDER OF COUNCIL</u>
RICHARD PAULSON)	<u>AND CONCLUSIONS OF FACT</u>
FOR PROPERTY LOCATED AT)	
255 BELL STREET)	<u>ADMINISTRATIVE ORDER</u>
)	<u>NO. 2015- 26</u>

This matter is before the Chagrin Falls Village Council pursuant to the request of Richard S. Paulson (“the Applicant”). The Applicant owns the vacant residential lot at 255 Bell Street (“the Subject Property”). The Subject Property is located in the R1-60 Zoning District. The Applicant proposes to build a new house on the property and is seeking five variances which are set forth below.

Section 1125.03(e) of the Codified Ordinances limits the maximum lot coverage of the main building to twenty percent (20%). The Applicant is seeking a variance of seventeen and nine-tenths percent (17.9%) to permit a maximum lot coverage of thirty-seven and nine-tenths percent (37.9%).

Section 1125.03(f) of the Codified Ordinances requires a front yard setback of thirty five feet (35'). The Applicant is seeking a variance of twelve feet (12') to permit a front yard setback of twenty-three feet (23').

Section 1125.03(g) of the Codified Ordinances requires a side yard setback of five feet (5'). The Applicant is seeking a variance of two feet (2') to permit a side yard setback variance of three feet (3') on the eastern lot line.

Section 1125.03(h) of the Codified Ordinances requires a rear yard setback of forty feet (40'), or thirty percent (30%) of the lot’s depth (whichever is less). The Applicant is seeking a variance of seventeen and seven-tenths feet (17.7') to permit a rear yard setback of twenty-two and three tenths feet (22.3').

Section 1125.04(b)(3) of the Codified Ordinances limits the maximum coverage for improved area for parking and driveway to thirty percent (30%). The Applicant is seeking a variance of twenty seven percent (27%) to permit a maximum improved area for parking and driveway to be fifty-seven percent (57%) of the lot.

The Village of Chagrin Falls Board of Zoning Appeals met on July 28, 2015, received evidence and testimony, and heard the arguments of the Applicant. The Board of Zoning Appeals, on a vote of 3-1, recommended that Council deny the variances to Section 1125.03(e) regarding maximum lot coverage, Section 1125.03(f) regarding the front yard setback, Section 1125.03(g) regarding the side yard setback, Section 1125.03(h) regarding the rear yard setback and, Section 1125.04(b)(3) regarding the maximum parking and driveway area.

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 Bell Street and is a preexisting nonconforming lot as to size.
- 2) The Subject Property had a dilapidated house on it prior to Applicant purchasing the property. The Subject Property was in foreclosure and purchased by a developer who demolished the dilapidated house. The Applicant purchased the Subject Property from the developer as a vacant lot.
- 3) The title work for the Applicant's purchase of the Subject Property incorrectly represented that the Subject Property was 24 feet deeper and slightly wider than the property's actual size. The Applicant purchased the Subject Property with plans to build a new house that would not require variances.
- 4) When the Applicant became aware that the Subject Property was significantly smaller than represented in the title work, he attempted to purchase additional property at the rear of the Subject Property from the neighbor to the east with no success.
- 5) The Applicant's representative, architect Bill Joyce, testified that the Subject Property presents a grade issue because the lot is much higher than the street and the sidewalk.
- 6) Mr. Joyce testified that the east side of the house was designed with three "bump overs" to stay away from the east side of the property.
- 7) Mr. Joyce testified that the Applicant wants a home that will provide first floor living, including a first floor master bedroom and an attached garage. He testified that the rear entry attached garage, as opposed to a front facing attached garage, reduced the amount of coverage.
- 8) Mr. Joyce testified that the proposed house was designed to match the front yard setbacks of the other houses on Bell Street. He said the Applicant tried to design a house that is functional for their lifestyle but similar to the existing houses on Bell Street. The Applicant did reduce the size of the rear porch and the master bedroom.
- 9) Mr. Joyce said he did not try to design a footprint that would require no setback variances because the proposed house would have to be reduced in size by twenty-four feet (24'), which would cut the house in half.
- 10) The Board found that the variances, five in total, are substantial, especially the lot coverage variance being almost a one-hundred percent (100%) variance.

- 11) The Board found that the essential character of the neighborhood would be substantially altered and adjoining properties would suffer a substantial detriment as a result of the variances.
- 12) The Board found that granting the variances will not adversely affect the delivery of governmental services.
- 13) The Board found that the Applicant purchased the Subject Property with knowledge of the applicable zoning restrictions.
- 14) The Board found that the Applicant's predicament can feasibly be obviated through some method other than the variances because the proposed house can be redesigned to reduce the required variances.
- 15) The Board found that the spirit and intent behind the zoning requirement would not be observed and substantial justice would not be done by granting the variances.
- 16) The Board found that the variances are not based on circumstances that are self-created or exist as a result of the actions of the Applicant.
- 17) This Council finds that the Subject Property could yield a reasonable return, and there can be a beneficial use of the Subject Property without the variances that have been requested. Specifically, the residence could be designed to reduce size and impact of the proposed variances.
- 18) This Council finds that the Applicant has not demonstrated a practical difficulty in the use of the Subject Property, which is a result of the strict application of the Zoning Ordinance.
- 19) This Council further finds that the Applicants' predicament can be feasibly obviated through some method other than the variances because, again, the Applicant can redesign the proposed house to reduce the variances.
- 20) This Council also finds and determines that the spirit and intent of the Zoning Code would not be observed, and substantial justice will not be done, by granting the variances.

WHEREFORE, IT IS ORDERED, that the variances from Sections 1125.03(e), 1125.03(f), 1125.03(g), 1125.03(h) and 1125.04(b)(3) of the Codified Ordinances be and are hereby denied. 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 10th 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



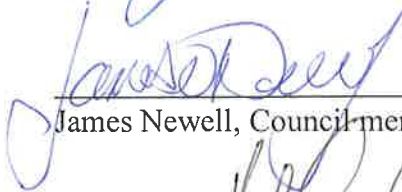
Steven Patton, President of Council



Jan Evans, Council President Pro Tem



Justin Herdman, Council member



James Newell, Council member



Thomas Muscenti, Council member



Richard Subel, Council member



Janna Lutz, Council member

Notice mailed this 11 day of August, 2015.



Clerk of Council