

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

3748

**IN RE: VARIANCE REQUEST OF) FINAL ORDER OF COUNCIL
KATHLEEN EBERLEIN) AND CONCLUSIONS OF FACT
FOR PROPERTY LOCATED AT)
31 WALNUT STREET) ADMINISTRATIVE ORDER NO.
) 2013- 69**

This matter is before the Chagrin Falls Village Council pursuant to the request of Kathleen Eberlein ("the Applicant"). The Applicant owns the residence at 31 Walnut Street ("the Subject Property"). The Applicant has requested a variance from Section 1125.03(n) of the Chagrin Falls Codified Ordinances to permit the construction of a carport in lieu of a garage ("Proposed Project").

Section 1125.03(n) states that each residential building shall be served by a garage located on the same lot.

The Village of Chagrin Falls Board of Zoning Appeals met on October 22, 2013, received evidence and testimony, and heard the arguments of the Applicant. The Board of Zoning Appeals, on a vote of 3-2, recommended that Council grant the requested variance.

This Council met on October 28, 2013, 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 the northeast corner of Walnut and Center Streets and is bound by an alley on the east side.
- 2) The Applicant seeks to build a detached carport, twenty-two feet (22') wide by twenty feet (20') deep and thirteen feet eight inches (13' 8") high with a setback of three feet (3') to the rear lot line.
- 3) The Board of Zoning Appeals noted that the neighboring properties were notified pursuant to the Code requirements and no objections were received. No testimony against the Proposed Project was heard at the meeting and one letter of support was received.
- 4) The Board of Zoning Appeals noted that the carport is historically accurate from an architectural standpoint and was approved by the Architectural Review Board.
- 5) The Board of Zoning Appeals noted that the carport reduces the mass that would exist with a garage and, therefore, potentially increases the safety of the location because the lot fronts on two streets and one alley used by residents, school traffic and safety forces.

6) The Board of Zoning Appeals found that the variance is substantial, but is lessened by the reduced mass of a carport at this location.

7) The Board of Zoning Appeals found that the variance does not alter the character of the neighborhood because the house has been fully renovated and the carport, in lieu of the existing parking pad, is an improvement to the neighborhood.

8) The Board of Zoning Appeals found that alternatives exist, but the Applicant has made a case for this variance for this particular house and this particular lot.

9) The Board of Zoning Appeals found that the variance meets the spirit and intent of the Code due to the unusual lot and its configuration.

10) The Board of Zoning Appeals found that the variance is self-created, but the weight of the evidence supports the approval of the variance.

11) This Council finds that the Applicant has demonstrated a practical difficulty in the use of the property, which is a result of the strict application of the Zoning Ordinance. The purposes of zoning regulations are not advanced, in this instance, by denying the Applicant permission to construct a carport.

12) This Council further finds that the requested variances are not substantial. It was noted that the structure is otherwise a compliant accessory building and a variance would not be required if the dwelling had an attached garage.

13) This Council also finds that granting of the variance will not adversely affect the delivery of governmental services.

14) It was noted that the property is uniquely situated being bordered on two sides by public streets and at the rear by the alley.

15) 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.

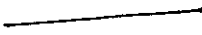
16) This Final Order and Conclusion of Fact is further supported by the fact that the neighbors do not object to the requested variance and the Subject Property will be improved by the Proposed Project.

WHEREFORE, IT IS ORDERED, that the variance requested by the Applicant, the plans for which are on file with the Building Department, be and are hereby granted. The Applicant may construct the project in accordance with the proposed plans. This document is deemed by Council to be the final order in this matter.

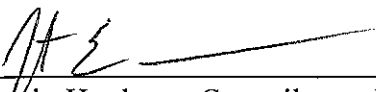
IT IS FURTHER ORDERED, the Clerk of Council shall mail a copy of this Final Order of Council and Conclusions of Fact to the Applicant, and any other parties requesting same, by first class mail, and note the mailing date upon this Order. The decision of this Council shall be deemed final upon the date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

Adopted this 28th day of October, 2013, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

Village of Chagrin Falls Council



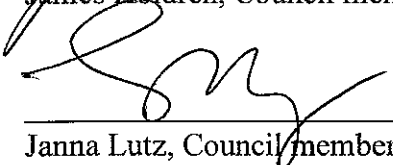
Steven Patton, President of Council




Justin Herdman, Council member



James Holdren, Council member




Janna Lutz, Council member



Jan Evans, Council President Pro Tem



James Newell, Council member



Richard Subel, Council member

Notice mailed this 4 day of November, 2013.



Clerk of Council