

**VILLAGE OF CHAGRIN FALLS
BOARD OF ZONING APPEALS
April 28, 2015**

Members present: Fricke, Holdren, Herdman, Freshman-Johnson
Also present; Edwards, Lane

The meeting was called to order by Chairman Wade Fricke at 8:00 p.m.

Mr. Fricke said we have finally had a fifth member appointed to the board. The ordinances of the village say that to pass from here needs an affirmative vote of three people. I always let the applicant know that if there are not five that puts a little more stress on you and you are welcome to come back. I just want to make sure that it is clear that we are going to be proceeding with four people tonight as we have not sworn in our fifth member. You will need three affirmative votes out of four to go to council with an affirmative recommendation.

The applicant agreed to go forward tonight.

SWEARING OF WITNESSES

All were sworn in.

PATRICIA AND ANDREW BURNIGHT, 220 SENLAC HILLS DRIVE - REQUEST FOR A VARIANCE TO SECTION 1125.03(h), AREA, YARD, AND HEIGHT REGULATIONS: MAIN BUILDINGS, PERMANENT PARCEL NO. 932-19-063.

Mr. Edwards said this is in a R1-100 zoning district. The applicant is proposing a porch in the rear yard and there is an encroachment into the rear yard setback on the north easterly property line of about 16 feet. Section 1125.03(h) states that the rear yard depth is 50 feet and the applicant is providing a 35 foot setback. The square footage of the porch is 372 square feet and the applicant did go to the Architecture Review Board on April 7, 2015 and received unanimous approval pending the Board of Zoning Appeals' decision.

Bill Childs, architect for the Burnights, said we are requesting a rear yard variance for the setback. The porch addition is approximately 14 foot 8 by 25 feet 4. The Burnights wanted to put this covered structure in this particular place because there is an existing patio that we are basically going on the footprint of and there is an existing chimney, which we are extending so they can use that for the Summer and when there is foul weather. This is the setback line, as you can see, we are approximately 160 square feet into that space. How their house is set up, as far as function and layout, is this is the family room, breakfast, and kitchen so naturally they want to put the covered area where the patio and fire place is.

Mr. Childs said it is basically a Cathedral ceiling, a beamed ceiling. It is a gable with a little bit of a shed roof. We are matching some columns on the existing house. He explained all of the views that the neighbors have. He said we did talk to Mr. and Mrs. Gaskin who is the neighbor that would be affected the most and they put a letter together in support. They reviewed the plans with the Burnights and are in support of the variance and had no issue of having this structure built.

Mr. Childs said the property has a sharp angle. If the house would have been flipped and the driveway was on this side and the function of the covered porch with the patio and family room we wouldn't be here in front of you. It is kind of unfortunate because we would obviously put the porch at the other end of the garage and the living space is really down here. The Burnights really had no idea about setbacks when they purchased the property or when they even did this first patio.

Mr. Fricke said it was unclear from some of the pictures to me. This is a three-season room, these are not walled in? Mr. Childs said it is just an open structure with a roof and four columns. Mr. Fricke said, from our point of view, it is still the same variance request whether it is a four-season room or if it is walled in. Mr. Childs said yes. Mr. Fricke said the only question I always wrestle with is how did you choose the size? Did you consider capping it off here and making it a smaller room? Mr. Childs said we wanted to keep the existing footprint of the whole backyard. If we did pull it this way with the chimney there you would have a furniture problem when you think about laying your furniture out. If we chopped it back where you are suggesting close to the fireplace, whenever you have a fireplace you always want to have at least five or six feet on either side.

Mr. Fricke asked, do you know if the Burnights ever talked to the property owners who sit up the hill on Tartan? Mr. Childs said no. Mr. Herdman asked, will they even notice? Mr. Edwards said yes they would. We did send out notices to neighbors within 300 feet of this property.

Mr. Childs said Andrew did tell me that he talked to the neighbor to the south east but unfortunately both were traveling so we couldn't get a letter but that neighbor had no issue with it either.

Mr. Holdren asked, if this structure was not attached to the house, like if it was a shed, would they need a variance still for 50 feet setback? Mr. Edwards said no, we would treat it as an accessory structure. Because they are attaching it to the house triggers that setback.

Mrs. Freshman-Johnson asked, in the existing patio how does that go into zoning? Mr. Edwards said it is a grade level patio so there were no changes. We treat that like a landscape feature. The fireplace is treated as an accessory structure so it has to comply with the setbacks and height.

Mr. Herdman asked, when that fireplace was built did they envision the possibility of it being enclosed in any way? Is it structured in such a way or does the mechanism work in such a way that it would function properly? Mr. Childs said no, it would have to be much higher and two feet above the ridge.

Moved by Mrs. Freshman-Johnson, seconded by Mr. Herdman to approve the variance to Section

1125.03(h) regarding the property located at 220 Senlac Hills Drive. The variance requested is for 15 feet on an encroachment in the rear yard setback which requires 50 feet normally and currently the plan is to only have 35 feet to the rear yard setback. The current existing footprint is a brick patio that would like to be covered with a roof, however, the room remains open adding a three-season usage of the space. The space can not be created on the other side of the house because of the way the driveway is and the living space in the house is located on that side. The neighbors have all been notified within 300 feet and not one neighbor has claimed to the contrary and the one neighbor closest and most affected by the addition has given a letter of approval that is on record of the committee. The ARB has already approved the plans in anticipation of the variance being approved here so that's all approved. The character of the house is going to be consistent with the existing neighborhood with the look and feel of the patio structure. There is no economical way or functional way to keep the roof smaller within the footprint because of the chimney structure there wouldn't be enough space to have porch furniture in the smaller space to keep the roof small so the request is to approve the variance to allow the living space to remain in the footprint with the roof above it. For all these reasons, I request the motion. To clarify, the variance to be 15 foot 10 inches exactly.

Holdren: I vote aye for all the reasons stated.

Fricke: I am not sure, whether the variance is substantial, I think I might not agree that it is insubstantial since about half of it is going to be in the setback area but I find, overwhelmingly, all the other factors the essential character of the neighborhood, the bizarre setup of the property line, the garage being on the other side all those factors that were stated in the motion I find are overwhelmingly outweighed that I might find this to be a substantial variance so I would vote aye as well.

Freshman-Johnson: Aye.

Herdman: I will vote aye.

Mr. Edwards said this will go to Council for final action on Monday, May 11, 2015.

The meeting adjourned at 8:17 p.m.

Wade Fricke, Chairman
lgb