

**VILLAGE OF CHAGRIN FALLS
BOARD OF ZONING APPEALS
January 28, 2014**

Members present: Fricke, Williams, Herdman, Freshman-Johnson, Loomis
Also present: Himes, Lane

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

APPROVAL OF MINUTES

Moved by Mr. Herdman, seconded by Mrs. Freshman-Johnson that the minutes of the meeting held January 7, 2014 be approved. Carried. Ayes: Fricke, Freshman-Johnson, Herdman. Abstain: Williams, Loomis. Nays: None.

Moved by Mrs. Loomis, seconded by Mr. Williams that the minutes of the meeting held November 26, 2013 be approved. Carried. Ayes: Williams, Loomis, Fricke, Freshman-Johnson. Abstain: Herdman. Nays: None.

Mr. Fricke said the minutes of October 22, 2013 included the court reporter's notes with it and I have a couple of corrections. One thing is that my name is "Fricke", and not "Frickle". Page 95, line 9 referenced a "Jan" Gillespie and it should be "Tan". The first word on line 9, page 95 is "from" and it doesn't make any sense, it should be "was". On that same page, line 17, it says "it doesn't does take" and the "does" should come out. Moved by Mrs. Freshman-Johnson, seconded by Mr. Williams that the minutes of the meeting held October 22, 2013 be approved, as amended. Carried. Ayes: Fricke, Williams, Freshman-Johnson, Loomis. Abstain: Herdman. Nays: None.

SWEARING OF WITNESSES

All were sworn in.

KENNETH ROSEN, 30 CHURCH STREET - REQUEST FOR A VARIANCE TO SECTION NO 1145.02(b), NONCONFORMING BUILDINGS, AND SECTION 1125.04(a)(2)(6), AREA, YARD, AND HEIGHT REGULATIONS; ACCESSORY STRUCTURES, PERMANENT PARCEL NO. 932-02-028.

Mr. Himes said Mr. Rosen would like to add a 200 square foot addition to the existing detached garage. The existing garage is nonconforming to lot coverage and height. To put the addition on the building they would need a variance to 1145.02(b) of our code. That is in the nonconforming building section and states that a nonconforming building shall not be added to, altered, or enlarged unless additions and the original building are made to conform with the yard coverage and height regulations of the district. Section 1125.04(a)(2) of our code limits the total lot coverage of an

accessory building to 700 square feet. Their proposed lot coverage is a total of 1,395 square feet. Section 1125.04(a)(6) of our code requires a side yard setback of 3 feet plus 1 foot for every foot in height over 15 feet. The original zoning review letter that I did stated that the existing garage is 19 feet. The architect brought to our attention that our code standard for measurement is the ridge line of the building so they are at 15.5 feet in height. Our code requires us to roundup so it would be 16 feet so their required side yard setback would be 4 feet rather than the 7 feet that I cited in the letter. They are proposing a 3 foot side yard setback so they would still need a variance to that section but it would just be a 1 foot variance.

Mr. Williams said you mentioned that the addition is 200 square feet but the numbers look like 120. Mr. Himes said yes 120, that is my mistake.

Mrs. Freshman-Johnson asked, the existing structure is staying where it is? This is truly just an addition? Mr. Himes said yes.

Steve Ciciretto, architect, said it is a Victorian house. He said Mr. Rosen is starting to do some repairs to the house and has planned some long-term alterations. But, unfortunately, one of the issues is that the garage is only 17 feet in width so although you'll see two garage doors on it, it is basically impossible to get a car in and open the garage door. Putting a single door in would get one car in but not two cars. You'll notice that it is a very deep space that was added on or built that way years and years ago. The odd thing about it is that the zoning ordinance recognizes that it would be a good idea to get two cars in the garage and it actually cites that 19 feet would be the minimum that you could build a garage today. Unfortunately, this is only 17 feet. We looked at it from a couple different avenues and we started to study this project. The garage starts here about 9 or 10 feet to the property line from the edge of the garage. We are looking at 6 feet so that we can put a double garage door up here that would kind of fit the house. The cupola was actually rebuilt when Mr. Rosen bought the house.

Mr. Rosen said it was either in the 1930 addition or the 1950 addition and then I restored it when I bought the house in 1989. I haven't lived there for 17 years, I just moved back.

Mr. Ciciretto said what we are really trying to do is widen the section out that would get the two cars in and not tear this back part down, which is sort of unusual that as a garage you would have to stack cars in there. What makes this really unique compared to other projects and other proposals where we might be asking for a variance to side yard and some of these code issues that Ben cited, is that we have actually started to study this as if it were an addition to the building so where we might add a mud room and a laundry room and connect to the garage and the odd thing about that is if we did that we could credit the code to be within 3 feet of the property line with it not being an accessory building or we would be building more structure. I think our intent, as well as in our discussions with the neighbors, was that they preferred to have less building built than more. The unique thing about this is that by keeping this sort of path to the back yard for mowers and such we could offer the neighbor a landscaped buffer with trees, which will soften up the side of the garage more than it is today. In doing that it also reduces the overall mass of the building. We think it really fits in

keeping with what the ordinance is really intending and not creating mansions and these kind of items. Economics also comes into play. Obviously an addition like this could add \$20,000 to Mr. Rosen's investment. Certainly we could consider tearing part of the garage down but the money to do that would be better spent to do the addition. We think we have minimized the amount of structure being built, we get the two-car garage that the code would intend for us to have, and it meets with the approval of the neighbors. We have correspondence from the neighbors, Mark Schumann 104 Center Street and Travis Adams 22 Church Street. We discussed this with them and, as you can tell, with that little addition the only two, we are talking about this property that looks at it and this property that looks at it, offering that buffer. What we didn't like about making the attachment and that extra structure that we talked about was that we would then need to create a path to the back yard around this addition and you would actually eliminate our ability to put landscape buffers to the neighbors. Mrs. Freshman-Johnson asked, so the letters received are from the adjacent neighbors that will be directly next door to the garage addition towards this side yard and across the street? Mr. Ciciretto said yes.

Mr. Herdman asked, can you park a car in the garage as it is currently constructed right now? Mr. Rosen said I can get my daughter's little car in the garage but my other car sits outside.

Mr. Williams said you have a small room on the south side of the building to the left of where the garage space is now, why don't you use that to create the additional space necessary for a two-car garage? Mr. Ciciretto said the peculiar thing about that is that, I am not sure why it was constructed this way, you go down a few steps. Mr. Rosen said that was built for the farm equipment, that little space. So, you actually have the bearing wall on the right there so if you pull that out you have to construct about three walls. There are two bearing walls, one on the inside and one on the outside. It is actually almost a separate structure. Mr. Ciciretto said the grade drops down so you actually step down into that. You would have to tear the wall out to rebuild it. Mr. Williams said that is an important fact because when anybody looks at these plans and say if you are going to make a two-car garage this space exists.

Mr. Rosen said if I could do it for a lot less money I would. Mr. Ciciretto said it is also a little awkward because now we are starting to get behind the house. It is hard to pull out and make that cut. In theory it would be possible but it would just be much more expensive.

Mr. Fricke asked, is there storage above the garage? Mr. Rosen said yes. It is storage but I can't stand in it. Mr. Fricke asked, is there storage in the front and the back? Mr. Rosen said yes.

Mr. Ciciretto said if we had to do the expensive adding on to make this conforming is that a point that we should then look at making the garage bigger and usable upstairs. If we are reconstructing we should be building this two stories high and making extra room because it is no longer an accessory building. We think that wouldn't be very prudent to the neighbors at this point.

Mr. Fricke asked, this will entail expanding the driveway itself as well? Mr. Ciciretto said it will. The dotted line indicates where. Mr. Fricke asked, is it blacktop or cement? Mr. Rosen said cement

and we will be putting down rebar and concrete just widening it a couple of feet. The driveway itself is so narrow.

Moved by Mr. Williams, seconded by Mrs. Loomis to recommend approval of the variance requests by the owner of 30 Church Street to Council. The variance requests are to Section 1145.02(b), nonconforming structures, which have to be brought into conformance if any changes are made or any additions are made. The variance to Section 1125.04(a)(2), outbuildings are allowed 700 square feet maximum, the original building that exists there is 1,275 square feet and the owner is requesting to increase that square footage by an additional 120 square feet with an addition to make the garage a two-car accessible garage. It is only 120 square feet additional but the variance itself is actually the 695 square feet from the 700 square foot requirement. Section 1125.04(a)(6) requires a 4 foot side yard setback from the north side of the building. The applicant is requesting a 3 foot setback, which will be a 1 foot variance. The original building is 1,275 square feet, which was done before the current ordinances were put into place for the 700 square feet. I believe you said the building was constructed in its current form somewhere between 1930 and 1950 and so the building has been there a long time and in its current condition it is grand-fathered in but hence the variance requests that are needed in order to make this two-car accessible. The existing width of the entire building can not be used in order to create a two-car accessible garage because there is an interior load bearing wall, which it can not be easily or economically moved to allow for a two-car garage, hence the necessity for a 120 square foot addition, which will make the building about six feet wider than it currently is at the moment but will allow for that 18.5 foot width door for the two-car garage. The applicant has demonstrated practical difficulty in trying to create further access, or better access, to his garage for the two vehicles that he owns. Will the property yield a reasonable return or will there be any beneficial use of the property without the variance? It probably would but the overall improvement is being supported by the two neighbors. There are two letters in support of the variance requests and there have been no written or verbal objections to it. Is the variance substantial? The variance is not substantial given that they are looking for a one foot side yard setback. The variance for the overall size of the building could be larger considering it is a 695 square foot variance to the 700 foot maximum allowed for an outbuilding, but the original building is 1,275 square feet so he is really adding just an additional 120 square feet, again with no objections from the neighbors. Would the essential character of the neighborhood be substantially altered or would adjoining properties suffer a substantial detriment as a result of the variance? No, it is a substantial improvement to the existing building, again with the support of the neighbors. Would the variance adversely affect the delivery of governmental services? No, it shouldn't impede the delivery of typical governmental services or safety services in the event that they are needed. Did the property owner purchase the property with knowledge of the zoning restriction? No, he did not. Can the property owner's predicament feasibly be obviated through some method other than a variance? It can not because of that interior load bearing wall for the structure, which would have been the obvious choice for creating a two-car accessible garage. But, for the impediment, the variance wouldn't be necessary. How would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting the variance? Yes it would be. It is a small but meaningful improvement to the overall structure and the preservation of the historic nature of Church Street.

Williams: Aye.

Loomis: Aye.

Fricke: I would vote aye and I would also make sure that the two letters will be added to the record, Mark Schumann 104 Center Street and Travis Adams 22 Church Street. I would also add that if the applicant chose to connect the current garage to the house he wouldn't need a variance at all and I think that would create more of a disruption to the neighborhood and would be undesirable so I would add that to my voting aye.

Freshman-Johnson: Aye.

Herdman: I will vote aye and I would also add that as it currently stands the owner is not able to park in the garage as it is currently constructed and I do think that that would affect his ability to use the property as it currently stands. So, for that reason, I vote aye.

Mr. Himes said this will go to Council for final action on Monday, February 10, 2014 at 8:00 p.m.

SPILLWAY, LLC, 218 CLEVELAND STREET - REQUEST FOR A VARIANCE TO SECTION 1148.03(c)(1), GENERAL PROVISIONS (FENCES), PERMANENT PARCEL NO. 931-15-031.

Mr. Himes said the variance is for the lot at the corner of Low Street and Cleveland Street. It is a parking lot in the parking district. It abuts the residential district on Low Street. Spillway, LLC proposes to install a solid fence on the west property line abutting the adjacent residential property. The solid wood fence is permitted by code, however, it would require a three foot setback. They are proposing to put the fence on the property line and that code section is 1148.03(c)(1). They did meet with the neighbors on Low Street and have come to some agreement with them that the neighbors signed and would prefer the solid fence to help with privacy when the lot is being used.

Mr. Fricke said we are okay with the location of the fence, we are seeking a variance because it is a solid fence. But why don't we choose to look at, if it makes sense, to say we are looking at whether it is, the location of the fence is fine. It is a question of whether it can be solid or not. Mr. Darden said the location would change our parking layout that is why I was under the understanding that Council approved the variance of where it is going to be located it is just that they couldn't approve it being solid. That is all we are requesting. Two of the neighbors are here out of the three property owners and I am assuming they are here in support. We did come to an agreement on a few other things regarding the parking lot and having a solid fence was one of the items we had discussed.

Mr. Williams said my only question really had to do with the specific nature of the variance request,

which is the 25% visibility requirement for a solid fence. Is the reason for the solid fence, is that a compromise or a response to the neighbors concern over light? Mr. Darden said it was a compromise and we discussed it. We would prefer a solid fence as would they for when the cars are parking there because the parked cars are going to park up against and facing the fence. With having the little gap in there when cars are pulling in or out the light could shine through. Also, it will block sound and look better. Currently there is a solid fence there now in major disrepair. To soften it up on the neighbors side we are going to plant three Evergreens along there as well and we got permission from the property owner right next door, Susan Metallo at 194 Low Street.

Mr. Williams asked, how long is the fence going to be and how long is that property line? Mr. Darden said I don't know off the top of my head. Mr. Himes said the length of the parking spaces along there is about 70 feet.

Mrs. Freshman-Johnson asked, how high is the fence supposed to be? Mr. Fricke asked, six feet you think? Mr. Darden said I think that is what is proposed.

Ron Bomback, 174 Low Street, spoke in favor of the solid fence.

Mr. Fricke said, just to be clear, the letter that you submitted that is signed by the Bombacks, Susan Metallo, the Blacks, and Mr. Darden will be part of our record. The village isn't a party to that agreement so we look at this as evidence that the neighbors are happy but as far as what all is set forth in here we don't have anything to do with that. We view this as in support of the application.

Moved by Mr. Williams, seconded by Mr. Herdman to recommend to Council approval of the variance request by Spillway LLC at 218 Cleveland Street, the variance request to Section 1148.03(c)(1), which has to do with the nature of a fence along the west property line of their parking lot and their property there at the corner of Cleveland Street and Low Street. This section of our code requires a minimum of 25% air and light visibility to pass through for the fence. The applicant is requesting a solid fence and a fence that will be approximately 70 feet long and 6 feet high. This variance request is in response to an agreement and discussion with neighbors over how to minimize the impact of light from cars and sound from cars coming and going from that parking lot. I would also like to add that there is an agreement between the neighbors and Spillway, LLC, which is attached to our findings of fact here and will be included with our minutes. Additionally, the applicant is going to plant greenery, shrubbery, and trees to soften the appearance of the solid fence as well. Will the property yield a reasonable return or will there be any beneficial use of the property without the variance? Yes it would, but again, in response to the neighbors I think the applicant satisfies that. Is the variance substantial? No, in this particular application the variance request is insubstantial. Would the essential character of the neighborhood be substantially altered or would adjoining properties suffer a substantial detriment as a result of the variance? In fact, the neighbors are claiming that if we hold the applicant to the 25% minimum air pass through in the fence that it will be detrimental to them. So, granting a variance to make it a solid fence actually will improve the quality of the neighborhood. Would the variance adversely affect the delivery of governmental services? No, it won't. It is a single fence with no closed ends. There shouldn't be

an issue there. Did the property owner purchase the property with knowledge of the zoning restriction? Yes he did. Can the property owner's predicament feasibly be obviated through some method other than a variance? No, if he is going to satisfy the concerns of the neighbors the solid fence is really required. How would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting a variance? Yes, substantial justice will be done because in granting this variance not only will we support the neighbors concerns but we will also be substantially improving the quality of the neighborhood overall.

Williams: Aye.

Loomis: Aye.

Fricke: Aye, for the reasons of the motion.

Freshman-Johnson: Aye.

Herdman: Aye.

Mr. Himes said this will go to Council for final action on Monday, February 10, 2014 at 8:00 p.m.

The meeting adjourned at 8:40 p.m.

Wade Fricke, Chairman

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