

**BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL 3643
CHAGRIN FALLS, OHIO**

IN RE: VARIANCE REQUEST OF)	<u>FINAL ORDER OF COUNCIL</u>
MARK RODGERS AND)	<u>AND CONCLUSIONS OF FACT</u>
HOPE GUMPRECHT)	
FOR PROPERTY LOCATED AT)	
68 WEST SUMMIT STREET)	<u>ADMINISTRATIVE ORDER NO.</u>
)	<u>2012- 23</u>

This matter is before the Chagrin Falls Village Council pursuant to the request of Mark Rodgers and Hope Gumprecht ("the applicants"). The applicants own the residence at 68 West Summit Street ("the subject property"). The applicants have requested a variance from Section 1145.02(c) of the Village of Chagrin Falls Codified Ordinances to permit the moving, in part, of a non-conforming accessory structure without bringing every portion of the structure into compliance with the Zoning Code. Section 1145.02(c) provides: "A nonconforming building shall not be moved in whole or in part to any other location on the lot or other premises, unless every portion of such building so moved is made to conform to all regulations of the district in which it is to be located."

The Village of Chagrin Falls Board of Zoning Appeals met on April 24, 2012, received evidence and testimony, and heard the arguments of the applicants. The Board of Zoning Appeals, on a vote of 5-0, recommended that Council grant the requested variance.

This Council considered the matter upon the record created by the Board of Zoning Appeals on May 14, 2012. This Final Order of Council and 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) 68 West Summit Street is located on the north side of Summit Street.
- 2) The applicants seek to move an existing non-conforming accessory building, in part, to attach it to the dwelling and leave in place a part of the building to serve as a detached garage. The proposed detached garage will be set back one and eight tenths feet (1.8') from the side lot line and will be in the side yard.
- 3) The Board of Zoning Appeals noted that the structures on the subject property were constructed before the enactment of the zoning code. The existing dwelling was constructed in the 1890's, the barn was constructed sometime between 1892-1914, and the proposed detached garage was constructed sometime before 1937.

4) The Board of Zoning Appeals noted that the zoning variance application materials submitted by the applicants indicated that the applicants wish "to maintain the farm-like character of the property, which, as a historic farmstead, would likely have had accessory buildings." The Board of Zoning Appeals noted the side yard encroachment was in existence prior to the enactment of the zoning code requirement.

5) The Board of Zoning Appeals noted that the subject property is almost five (5) acres and that the proposed detached garage is approximately two hundred feet (200') from the road.

6) The Board of Zoning Appeals heard testimony against the proposed variance from the neighbor to the west but were persuaded that no harm will result to the neighborhood if the variance is granted since the largest portion of the non-conforming accessory building will be relocated to a conforming location.

7) The Board of Zoning Appeals received a letter of support of the proposed project from the neighbors to the east and residing at 52 West Summit Street.

8) The Board of Zoning Appeals noted that the proposed project will bring the dwelling and the barn into compliance with the zoning code. This Council, therefore, finds that the proposed moving of the structure is an improvement to the subject property and the requested variance is not substantial.

9) The Board of Zoning Appeals noted that the applicants cannot move the proposed detached garage to another location on the subject property because of the topography of the subject property, including a slope in the rear of the subject property. This Council finds that the applicants, therefore, have demonstrated a practical difficulty in the use of their property, which is a result of the strict application of the zoning ordinance.

10) This Council further finds, as recommended by the Board of Zoning Appeals, that the variance is not substantial and will not substantially change the character of the neighborhood as the location of the proposed detached garage will not be changed.

11) This Council also finds and determines that the spirit and intent of the zoning code is observed, and substantial justice is done, by granting the variance. This conclusion is supported by the facts that the neighborhood will not be changed by the requested variance, the accessory structures on the subject property were constructed before the enactment of the zoning code, and there is no other location, due to the topography of the subject property, to relocate the proposed detached garage.

WHEREFORE, IT IS ORDERED that the variance to Codified Ordinance Sections 1145.02(c), requested by the applicants, the plans for which are on file with the Building Commissioner, be and is hereby granted. The applicants may move part of a non-conforming

accessory structure 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 14th day of May, 2012, 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

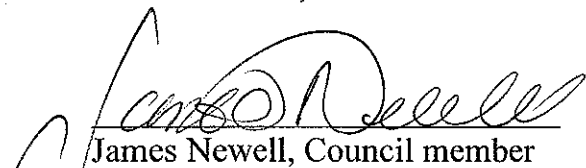
Janis Evans,
Council President Pro Tem



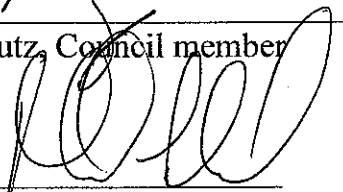
Michael Chess, Council member



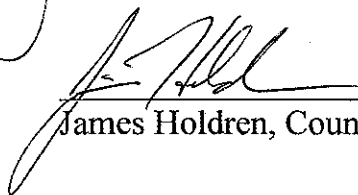
Janna Lutz, Council member



James Newell, Council member



Richard Subel, Council member



James Holdren, Council member

Notice mailed this 22 day of May, 2012.



Dil B. T. [unclear]

Clerk of Council