

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

3684.v1

IN RE: VARIANCE REQUEST OF) FINAL ORDER OF COUNCIL
TODD GOLDSTEIN FOR PROPERTY) AND CONCLUSIONS OF FACT
ON 49 WEST WASHINGTON STREET)
) ADMINISTRATIVE ORDER NO.
) 2013- 05

This matter is before the Chagrin Falls Village Council pursuant to the request of Todd Goldstein ("the Applicant"). The Applicant owns the existing non-conforming residence at 49 West Washington Street ("the Subject Property"). The Subject Property is located on the southeast corner of West Washington Street and Crocker Alley. The Applicant has received a demolition permit and proposes to build a new single family residence with detached garage on the Subject Property. The applicant requested a variance from Section 1125.03(f) of the Village of Chagrin Falls Codified Ordinances to permit the construction of the dwelling with a front yard setback of twenty-four feet (24'). Under Section 1125.03(f), the minimum front yard setback is thirty feet (30') in the R1-50 district. The Applicant also requested a variance from Section 1125.03(k) to permit the front entrance feature to project eight feet nine inches (8'-9") into the required front yard. Under Section 1125.03(k), a projection of six feet (6') is allowed. Further, the Applicant also requested a variance from Section 1125.03(g) to permit a side yard setback of five feet nine inches (5'-9") on the west side abutting the alley. Under Section 1125.03(g), the required side yard setback is ten feet (10').

The Village of Chagrin Falls Board of Zoning Appeals met on December 18, 2012, received evidence and testimony, and heard the arguments of the Applicant. The Board of Zoning Appeals, on a vote of 4-0, recommended that Council grant the requested variances.

Subsequent to the vote of the Board of Zoning Appeals the Applicant, by and through counsel, withdrew his request for a side yard variance and asked that Council consider just the variances related to the front yard.

Council considered the matter upon the record that was created by the Board of Zoning Appeals at its meeting that was held on December 18, 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) The Subject Property is located at the southeast corner of West Washington Street and Crocker Alley.
- 2) The Applicant has received a demolition permit to demolish the existing dilapidated house and had proposed to build a new single family residence with a 24' front yard setback, 5'9" side yard setback from the alley and with a 8'9" entrance feature projection into the front yard.
- 3) The Applicant also plans to demolish the existing detached garage and to build a new detached garage, but this structure does not require any variances.

4) The proposed dwelling and attached garage were reviewed by the Architectural Board of Review, and preliminary approval was granted.

5) While the Board of Zoning Appeals had noted that the proposed dwelling improves the non-conformities of the existing house on the side yard and front yard setbacks and eliminates the existing encroachment on the east side yard, Council need only address the front yard issues because the Applicant has withdrawn the request for the side yard variance.

6) The Board of Zoning Appeals found that the front variance was not substantial because the front building line of the residence will be in line with the neighboring residences.

7) In support of the Board's conclusion, Council notes that Section 1125.03(1) of the Codified Ordinances allows the Planning and Zoning Commission, under certain circumstances, to modify the front yard setback requirement of a residence if the neighboring properties have established a different setback line from that required by the Code. Council finds that the established front setback line in the neighborhood supports the granting of the requested variances, including the limitation on projections into the front yard.

8) The Board of Zoning Appeals noted that there are no known safety issues, the proposed structure does not exacerbate any of the existing conditions, and that the proposed use is a reasonable use of the property, and the health, safety and welfare of the Village is not enhanced by the strict application of the zoning code to this property. This Council finds that the Applicant, therefore, has demonstrated a practical difficulty in the use of his property, which is a result of the strict application of the zoning ordinance.

9) This Council finds, as recommended by the Board of Zoning Appeals, that the proposed dwelling is an improvement to the Subject Property and does not adversely affect the essential character of the neighborhood.

10) While one neighbor objected to the side yard setback along the alley, the Applicant considered other ways of situating the proposed dwelling and found that the proposed location makes better use of the small lot and allows for the creation of swales to address drainage issues on the property.

11) This Council also finds that the proposed project will not adversely affect the delivery of governmental services.

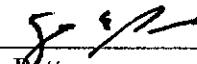
12) This Council also finds and determines, as recommended by the Board of Zoning Appeals, that the spirit and intent of the zoning code is observed, and substantial justice is done, by granting the variances. This conclusion is supported by the facts that the neighborhood will not be adversely altered by the proposed variances, the Subject Property will be improved by the proposed project, and the Applicant is seeking the minimum variances necessary to obtain a reasonable use of the property (i.e. the proposed residence).

WHEREFORE, IT IS ORDERED, that the variances to Codified Ordinance Sections 1125.03(f), and 1125.03(k), requested by the Applicant, the plans for which are on file with the Building Commissioner, be and are hereby granted - except that this approval shall only apply to the necessary front yard variances. The Applicant may construct the proposed project in accordance with the plans, provided that the Applicant complies with the side yard setback or seeks a variance if he is not able to comply with the side yard setback requirement. 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 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 January, 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

Janis Evans,
Council President Pro Tem



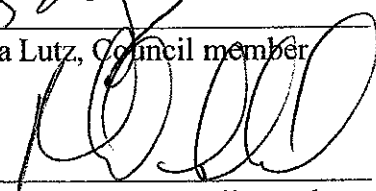
Michael Chess, Council member



Janna Lutz, Council member



James Newell, Council member

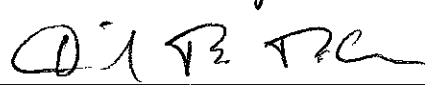


Richard Subel, Council member



James Holdren, Council member

Notice mailed this 30 day of January, 2013.



Clerk of Council