

**VILLAGE OF CHAGRIN FALLS
BOARD OF ZONING APPEALS
October 27, 2015**

Members present: Fricke, Holdren, Freshman-Johnson, Maersch
Also present: Himes, Lane, Edwards

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

Mr. Fricke said there are four members present and normally there are five. The code requires three affirmative votes for you to get passed onto Council. You are welcome to come back for a full Board but there is no guarantee we will have a full Board next month.

APPROVAL OF MINUTES

Moved by Mr. Holdren, seconded by Mr. Maersch that the minutes of the meeting held September 22, 2015 be approved. Carried. Ayes: Fricke, Holdren, Freshman-Johnson, Maersch. Nays: None.

SWEARING OF WITNESSES

All were sworn in.

KIMBERLY STEGER, 135 SOLON ROAD - REQUEST FOR A VARIANCE TO SECTION 1125.03(k)(3), AREA, YARD, AND HEIGHT REGULATIONS: MAIN BUILDINGS (PROJECTION OF BUILDING FEATURES INTO REQUIRED YARD), AND SECTION 1145.02(b), NONCONFORMING BUILDINGS, PERMANENT PARCEL NO. 932-04-009.

Mr. Himes said this property is located in our R1-50 zoning district. It is a legal nonconforming structure in that the existing dwelling's front yard setback is substandard so they have a 22 foot 4 inch front yard setback and the code requires a 30 foot front yard setback. They are proposing to add a covered front porch, which would sit in the required front yard. Our code Section 1145.02(b) requires that nonconforming dwellings, if altered, the alterations must meet the yard regulations of the district. Section 1125.03(k)(3) requires that porches that exceed 48 square feet in area have to meet the front yard setback of the main house so the proposed front porch would be required to meet the 30 foot setback. They are proposing to have a front yard setback of 16 feet 2 inches.

Mr. Himes said the code allows for up to a 6 foot projection into the required front yard for entrance features but only if that entrance feature is less than 48 square feet in total area. Since their proposed porch is about 150 square feet it exceeds the 48 square feet so that is why they are required to meet the 30 foot setback.

Mike Bonner, architect, said the porch is more of a landscape type structure. The porch they have

now is very plain and small. I've done this porch before so if you want to see it you can go over to the Tressler house at the corner of Bell Road and Cleveland Street.

Mr. Fricke asked, they had a screened in porch that is being removed at the back of the house? Mr. Bonner said yes, to make way for the addition. Mr. Fricke asked, the 16 foot 2 inches is from the lot line to the front of the furthest? The stoop won't go out as far will it? Mr. Bonner said it is only coming out 6 feet in front of the house. The porch they have right now goes out 4 feet.

Mrs. Freshman-Johnson asked, the maximum projection of the entire porch is only 6 feet at the max? Mr. Bonner said 6 feet 4 inches. Mr. Fricke said the 16 feet 2 inches is only applicable to the octagon; it is 18 feet 2 inches to the front door. Mr. Bonner said the front door is 22 feet. Mr. Fricke asked, is the octagon as small as you can have it? How did you choose the size of the octagon? Mr. Bonner said it is so that somebody would be able to sit there and it is kind of like a meeting area.

Mrs. Freshman-Johnson asked, this house is undergoing an addition in the back, which is just from a technicality perspective, that was allowed without a variance even though the building is nonconforming? Mr. Himes said right, because the dwelling is nonconforming the addition has to conform to the code. They did not need any variances for the rear addition. With a dwelling you can make additions to a nonconforming structure as long as the addition complies with the code. With an outbuilding or other structure if you add to a nonconforming accessory building you have to bring the entire building into conformance.

Mrs. Freshman-Johnson asked, if the variance wasn't approved what would you do? Have you looked at other options and what did you consider as far as look and feel to really go with the aesthetics? Mr. Bonner said we are nonconforming so what options would we have? We can't add anything, just landscape I guess.

Mr. Maersch said I think what Mrs. Freshman-Johnson is referring to, in order to grant your variance we have to find facts in the record on each one of these factors. We have to balance these factors and show that you are on balance and entitled to a variance so when you answer every single one of them except for one with "no" it doesn't help us. Rick Miller said if you go through those a lot of them didn't apply. Mr. Maersch asked, will the property yield a reasonable return or will there be any beneficial use of the property without the variance? You answered no. You have to give us something that we can work with. Mrs. Freshman-Johnson said it is approving the aesthetics the way that you approach the house, it creates this ability to utilize a front yard. You are on a very busy road and you are not going to be hanging out in your front yard but you might sit on a porch, which would add to the use and function of your current house.

Kim Steger, 135 Solon Road, said I am from the area but I lived in Connecticut for a long time. I just love the architecture there and I had this gorgeous house in the historic district that had this full wraparound porch and it was lovely. When I come back to Chagrin Falls it just reminds me so much of that area and when Mike put that porch on I just was in love with it. I am married to that porch and I just think it balances out the entire structure. Right now I am putting an addition on the back

of the house and the front porch balances it out beautifully. Most of the people that come from Solon Road, my house sits quite up high on the right so it is kind of one of the first houses you see as you get into the Chagrin Village. I just think that it would be a beautiful structure with that front porch. The way that Mike designed it is special.

Mr. Bonner said it is a porch. You can obviously remove it if really necessary for some pertinent reason. The code is meant to be but the only thing is the house to the north of it, it is 4 feet in front of his house, the front of that house, and then the house two houses it is 9 feet from his house.

Mr. Maersch asked, have you guys been to the ARB? Mr. Bonner said yes, for the addition in the back. Mr. Maersch asked, have you been before them for this? Mr. Bonner said no because it is a variance. Mr. Maersch asked, Harry do they have to go before the ARB? Mr. Edwards said yes. Mr. Maersch said I like the front porch and I like the aesthetics of it. I know your house, I live around the corner actually and so I know it pretty well and I think it would benefit from a front porch. As I sit here today I would feel much more comfortable if you've been before the ARB because the issue we just talked about is an issue that deals with the architectural plan and the strategic plan for the village and one of the things they address is setbacks and the ARB is where that gets applied. They also have a significant amount of input on architectural choice and things of that nature. I am prepared to work on this today but I would feel more comfortable had you been before the ARB. This to me seems more of an ARB issue than a BZA issue. This is an aesthetic issue. Obviously we have to grant the variance but these sort of variances are sort of routine for us but the ARB might have very strong input on how this affects the architecture of the house.

Mr. Fricke said we can certainly make our variance contingent upon approval from the ARB. Mr. Maersch said you see applicants that are less willing to bend before the ARB or BZA if they have approval from one or the other. Sometimes it makes sense for us to put people in front of the right board first to get the right input.

Mr. Fricke said, so the variance request is, so even though it is a nonconforming use at 22 foot 4, if they are going to modify the dwelling they then have to meet the zoning requirement, which is a 30 foot setback, so they really are asking for a variance of 13 feet 10 inches. Mr. Himes said correct.

Mr. Miller said we had this lot surveyed and the pin on the corner, the west/southwest corner, we were told that the pin is the right-of-way. Now that pin is over 6 feet from the sidewalk, which we were told the inside, the house side of the sidewalk is the right-of-way. The distance from the foundation to the inside of the sidewalk is 30 feet. We have 30 feet there. We have 51 feet from the foundation of the house to the middle of the road. I still haven't been clear on what is the right-of-way whether it is the corner pin of the lot line or the right-of-way is the inside, the house side of the sidewalk. Mr. Himes said the edge of the sidewalk is kind of a rule of thumb. The public right-of-way is 60 feet wide there. The road and sidewalks are not necessarily centered on that 60 foot right-of-way so where your lot pin is is the location of your front lot. If they located those pins for this drawing that would be the front line.

Mr. Maersch asked, is the tree going to stay. Ms. Steger said absolutely.

Mrs. Freshman-Johnson said when you purchased the property there was perhaps some confusion on your part on whether or not there was enough setback based on your understanding of the right-of-way versus your understanding now, which is why you are here seeking a variance. Is that fair to summarize that discussion? Mr. Miller said we always were under the impression that the right-of-way was the inside or the house side of the sidewalk.

Mr. Holdren asked, where is the right-of-way? Is it the house side of the sidewalk? Mr. Himes said no, it is approximately 10 feet inside of the sidewalk, the house side of the sidewalk. Their pins would be located right where the side lot line and the right-of-way meet. Mrs. Freshman-Johnson asked, so it is a 13 foot 10 inch variance we are seeking? Mr. Himes said correct.

Mr. Bonner said if you look at the house we have a 4 foot porch on it already. We are just coming out another 2 feet so it is not going to be like they are right on top of that sidewalk. Plus, there is plenty of room to landscape.

Moved by Mrs. Freshman-Johnson, seconded by Mr. Maersch to approve the variance for the residents at 135 Solon Road. We have an existing legal nonconforming dwelling and need a variance to Section 1145.02(b) of the code to alter the legal nonconforming building as well as Section 1125.03(k)(3) for porches that exceed 48 square feet in total. They must create a conforming building. The property is seeking this variance for the porch in order to create a more aesthetic looking house. This house exists on a very unique area of Chagrin Falls on a busy road and the front of it is facing this busy road. Without a use of the length of the house to make it smaller to avoid the variance it would not be able to seat people and it would essentially be just a walk-up front stoop as they have today. So in order to improve the aesthetics, match the architecture of the village, and add to the value and enhancement of the house they are requiring the larger projection and porch size. Although the variance may seem substantial, at 3 feet 10 inch from the front yard setback of 13 foot 10 inches, as far as the setback from the front yard however, it is just in an aesthetic porch almost like a landscaping feature. It is not actually creating a building that is coming out that much further. It is still in line with a 6 foot projection, which is normal for any stoop or other porch that is less than 48 square feet. So, essentially they are just expanding that across the front of the house to match the architecture and fit in with more modern design and architecture. The essential character of the neighborhood would be enhanced by the improvements made to this house. It should go on record to note that all of the neighbors have noticed and nobody has spoken against this variance. It would not adversely affect the delivery of governmental services in either way. The property owner also purchased this property with some confusion on the right-of-way and the code variance that would be required to enhance this property's porch. We have established that the variance would indeed be larger than they originally thought when purchasing the house. The only obviated mechanism is to really just keep the stoop where it is and not enhance the neighborhood and the value of the house. The spirit and intent of the zoning requirement would be observed by granting the variance to enhance our community and make this house a more up to date and beautiful place to live. For all these reasons, I propose the variance.

Maersch: I am going to vote aye. This is a close call for me. If this were on some other road other than Solon Road I might be voting no. That is a unique street, I know it well. I think what you are doing is going to improve the aesthetics of the house. Having said that, I do know that our overall guidelines for the village prefer to not have houses be far closer to the street than the neighboring structures and I think we are exacerbating an already unfortunate situation with your neighboring structures. I do find the variance to be substantial. I find that that is outweighed by the essential character of the neighborhood being improved and I also find that the spirit and intent behind the zoning requirement, which is in my view to have people modernize their houses and make them more family friendly, are met by granting this variance. For those reasons, I vote aye.

Fricke: I too would vote aye. I would add that I would like to make my vote conditional upon the ARB approval of the final plan and I also would note that the current house structure has a setback of only 22 feet 4 inches to the front stoop area so I am looking at 22/4 versus the 16/2 and I too would conclude that it is substantial but I conclude that it is less substantial because of that factor so I would vote aye.

Freshman-Johnson: I just want to reiterate the facts of the substantial variance because I think that is the biggest point here, although in numbers it might seem material and substantial. We are talking about an open air structure that if cut in half would essentially not need a variance at all because it meets the projection of a regular stoop. It is just that they would like to draw it out across the front of the house to enhance the feel and the ability to actually sit there and enjoy the community rather than standing in a front yard that does line a busy street. So, with the approval of the ARB contingent, I vote aye.

Holdren: For all the reasons they have already stated and most importantly I do think the spirit and intent of the zoning requirement will be observed so I do vote aye. I would like to point out again that this is 14 feet although it is substantial but it is only increasing your current position by 2 feet so I do not think that is substantial. Aye.

Mr. Himes said this will go to Council for final action on Monday, November 9, 2015 at 8:00 p.m.

The meeting adjourned at 8:29 p.m.

Wade Fricke, Chairman
lgb