

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

IN RE: RIVER BUFFER VARIANCE)	<u>FINAL ORDER OF COUNCIL</u>
REQUEST OF STEPHEN AND)	<u>AND CONCLUSIONS OF FACT</u>
CHRISTINE MIGNONA)	
FOR PROPERTY LOCATED AT)	<u>ADMINISTRATIVE ORDER NO.</u>
430 SOLON ROAD)	<u>2011-61</u>

This matter is before the Chagrin Falls Village Council pursuant to the request of Stephen and Christine Mignona ("the applicants"). The applicants own property at 430 Solon Road on the bank of the Chagrin River ("the subject property"). The applicants have requested a variance from Section 1353.08 of the Chagrin Falls Codified Ordinances, which establishes a minimum river buffer of one hundred and twenty feet (120') (the "River Buffer").

The standard for granting a variance from the requirements of Chapter 1353, including Section 1353.08, can be found in Section 1353.05(a)(5) of the Chagrin Falls Codified Ordinances. This section provides that "[v]ariations shall be granted upon a determination that: A. The granting of a variance will not result in increased flood heights beyond that which is allowed in this chapter, additional threats to public safety, extraordinary public expense, create nuisances, or conflict with subsection (a)(6) hereof, or existing local laws or ordinances; and, B. The structure or other development is protected by methods to minimize flood damages."

The Village of Chagrin Falls Board of Zoning Appeals met on September 27, 2011. Applicant Christine Mignona is a member of the Board of Zoning Appeals. Ms. Mignona, consequently, did not participate in the hearing on this matter and was not in attendance at the September 27, 2011, meeting. The Board received evidence and testimony and heard the arguments of applicant Mr. Stephen Mignona and provided an opportunity for project opponents to address the Board. There was no opposition testimony. The Board of Zoning Appeals, on a vote of 4-0, recommended that Council grant the requested variance.

This Council met on October 10, 2011, and considered the matter upon the record created by the Board of Zoning Appeals. This Order and the 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 property is located on the bank of the Chagrin River and the existing dwelling on the property was constructed prior to the adoption of Chapter 1353. The existing dwelling is entirely within the River Buffer.
- 2) The purpose of Chapter 1353 is to preserve the buffer area in its natural state. The subject property is fully developed and no natural buffer to the river remains. No trees will be removed to construct the proposed addition.
- 3) The applicants propose to build a family room addition and deck on the existing dwelling ("proposed project"). The proposed project will sit at an elevation of eight hundred fifty feet (850'). The base flood elevation is approximately eight hundred forty feet (840'). The proposed project is outside the flood hazard.

4) Section 1353.05 of the Chagrin Falls Codified Ordinances governs flood hazard issues. No river buffer exists on the subject property and the structure sits approximately ten feet above the base flood elevation. Council finds, therefore that the proposed project will not result in the following: 1) increased flood heights beyond that which is allowed by Chapter 1353; 2) additional threats to public safety; 3) extraordinary public expense; or 4) the creation of a nuisance.

5) Council also finds, consistent with Section 1353.05(a)(6), that:

(A) the proposed project will not increase the danger that materials may be swept onto other lands to the injury of others;

(B) the proposed project will not endanger life and property due to flooding or erosion damage;

(C) the proposed project will not increase the risk of flood damage to the subject property;

(D) the structure on the subject property was constructed prior to the enactment of Chapter 1353 and entirely within the River Buffer and, therefore, there is no alternative location on the subject property for the proposed project; and

(E) the safety of access to the property in times of flood for ordinary and emergency vehicles is not altered by the proposed project.

WHEREFORE, IT IS ORDERED, that the variance to Chagrin Falls Codified Ordinance Section 1353.08, requested by the applicants, the plans for which are on file with the Building Commissioner, be and is hereby granted. The applicants may construct the proposed addition and porch. This document is deemed by Council to be the final order in this matter.

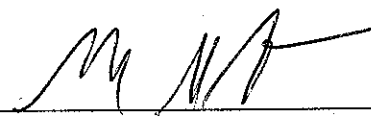
IT IS FURTHER ORDERED, that the Clerk of Council shall mail a copy of this Final Order of Council and Conclusions of Fact to the applicants, and any other parties requesting same, by first class mail, and note the mailing date upon this order. The decision of this Council shall be deemed final upon the date the Clerk mails this document, as provided herein.

Adopted this 10th day of October, 2011, 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



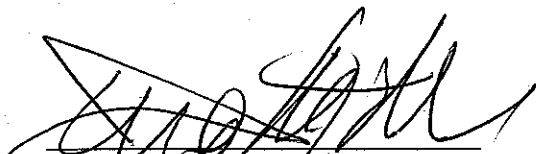
Adam Jacobs, Council member

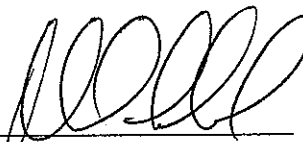


Janis Evans, Council President Pro Tem



Janna Lutz, Council member


Dwight Milko, Council member


Richard Subel, Council member


Robert Williams, Council member

Notice mailed this 11 day of October, 2011.


Clerk of Council