

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL 3726
CHAGRIN FALLS, OHIO

IN RE: VARIANCE REQUEST OF)	<u>FINAL ORDER OF COUNCIL</u>
MICHAEL AND KATHRYN GARVEY)	<u>AND CONCLUSIONS OF FACT</u>
FOR PROPERTY LOCATED AT)	
70 E. WASHINGTON ST.)	<u>ADMINISTRATIVE ORDER</u>
)	<u>NO. 2013- 47</u>

This matter is before the Chagrin Falls Village Council pursuant to the request of Michael and Kathryn Garvey (“the applicants”). The applicants own the property at 70 East Washington Street (“the subject property”). The applicants have requested a variance from Section 1125.03(h) of the Village of Chagrin Falls Codified Ordinances to permit the construction of an unenclosed roofed porch on the rear and east side of the existing dwelling. The proposed porch stairs are located thirty and 29/100 feet (30.29') from the rear property line at the closest point. Under Section 1125.03(h), the minimum rear yard setback is forty feet (40'), but pursuant to Section 1125.03(k), the stairs may project into the required yard a maximum of three feet (3'). Therefore, the applicants are requesting a rear yard setback variance of six and 71/100 feet (6.71'). In addition, the porch is located four and 7/100 feet (4.07') from the side lot line where the Code provides for a 5 foot (5') side yard setback, but this projection of the porch is permitted under Section 1125.03(k).

The Village of Chagrin Falls Board of Zoning Appeals met on June 25, 2013, received evidence and testimony, and heard the arguments of the applicant. The Board of Zoning Appeals, on a vote of 3-0, recommended that Council grant the requested variance.

This Council considered the matter on July 8, 2013 upon the record created by the Board of Zoning Appeals. 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 on the south side of East Washington Street.
- 2) The applicants seek to build an unenclosed roofed porch on the rear and east side of the existing dwelling. The plans for the proposed project result in a rear yard setback of thirty and 29/100 feet (30.29').
- 3) The Board of Zoning Appeals noted that the existing deck to be demolished is currently located about twenty-three feet (23') from the rear lot line.

4) The Board of Zoning Appeals found that the proposed porch is more in keeping with the architecture of the house than the existing deck, and it improves the character of the historic neighborhood.

5) The Board of Zoning Appeals found that the proposed porch will provide improved access to the subject property and, thus, will enhance the delivery of governmental services.

6) The Board of Zoning Appeals found that the variance is insubstantial because the proposed porch is less nonconforming than the existing deck.

7) This Council finds that the proposed porch addition is an improvement to the subject property and does not adversely affect the essential character of the neighborhood.

8) This Council finds that the applicants have demonstrated a practical difficulty in the use of their property, which is a result of the strict application of the zoning ordinance.

9) This Council further finds, as recommended by the Board of Zoning Appeals, that the variance is not substantial.

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

11) This Council 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 proposed variance. No objections have been made to the proposed variance, and the subject property will be improved by the proposed project.

WHEREFORE, IT IS ORDERED that the variance to Codified Ordinance Section 1125.03(f), 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 project in accordance with the proposed plans. This document is deemed by Council to be the final order in this matter.

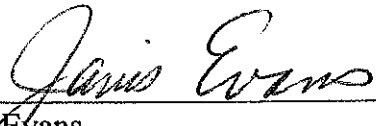
IT IS FURTHER ORDERED that the Clerk of Council shall mail a copy of this Final Order of Council and Conclusions of Fact to the applicants, and any other parties requesting same, by first class mail, and note the mailing date upon this order. The decision of this Council shall be deemed final upon the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

Adopted this 8th day of July, 2013, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

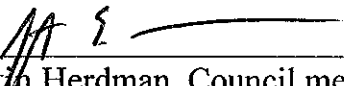
Village of Chagrin Falls Council



Steven Patton,
President of Council




Janis Evans,
Council President Pro Tem




Justin Herdman, Council member



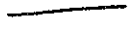
James Holdren, Council member



Janna Lutz, Council member



James Newell, Council member



Richard Subel, Council member

Notice mailed this 10 day of July, 2013.



Clerk of Council