

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL  
CHAGRIN FALLS, OHIO

3882

IN RE: VARIANCE REQUEST OF ) FINAL ORDER OF COUNCIL  
FREDERIC HENRY ) AND CONCLUSIONS OF FACT  
FOR PROPERTY LOCATED AT )  
264 BELL STREET ) ADMINISTRATIVE ORDER  
) NO. 2015- 36

This matter is before the Chagrin Falls Village Council pursuant to the request of Frederic Henry ("the Applicant"). The Applicant owns the residence at 264 Bell Street ("the Subject Property"). The Applicant has requested a variance from Section 1125.04(b)(4) of the Village of Chagrin Falls Codified Ordinances to permit the construction of a driveway on the westerly side of the Subject Property that will be located twenty inches (20") from the residential building and will have no setback from westerly property line. Under Section 1125.04(b)(4), driveways shall be set back a minimum distance of two feet (2') from any residential building and two feet (2') from any other adjoining lot line. Therefore, the Applicant is seeking variances of four inches (4") and two feet (2') respectively.

The Village of Chagrin Falls Board of Zoning Appeals met on September 22, 2015, received evidence and testimony, and heard the arguments of the Applicants. The Board of Zoning Appeals, on a vote of 4-0, recommended that Council grant the requested variances.

This Council held a public hearing on September 28, 2015, and considered the matter. 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 Subject Property is located on the south side of Bell Street.
- 2) There is an existing accessory structure at the rear of the Subject Property near the eastern property line that is currently used as a rental unit and is a preexisting legal nonconforming use.
- 3) The existing accessory structure has three levels: a basement level with a concrete floor like a garage, a mid-level which is the level at which one enters the structure, and a third or upper level.
- 4) There is an existing driveway on the eastern portion of the Subject Property that ends in front of the accessory structure and is at the same grade as the mid-level of the accessory structure. As a result, the Applicant cannot make use of the lower level of the accessory structure as a garage and vehicles can only be parked outside.
- 5) The Applicant plans to remove the existing driveway and to replace it with green space along Bell Street.
- 6) The Applicant plans to build a new driveway on the western side of the Subject Property by extending the existing gravel driveway along that side of the house and providing direct access to the lower level of the accessory structure so that this lower level can be used as a garage.

7) The Applicant testified that the existing gravel driveway encroaches into his neighbor's yard by two feet six inches (2' 6") and he intends to maintain the current configuration of the gravel driveway because it matches the width of the existing curb cut on Bell Street. The Applicant presented the Board of Zoning Appeals with an Agreement whereby his neighbor, the owner of 260 Bell Street, has granted the Applicant permission to maintain the gravel portion of the driveway across the lot line. The Applicant testified that the remainder of the driveway will not encroach into the neighbor's yard.

8) The Applicant testified that the new driveway will permit vehicles to park in the lower level of the accessory building and will permit vehicles to turn around in the driveway and head out of the driveway on to Bell Street in a forward fashion which improves safety because the Subject Property is close to the intersection of Bell Street and Cleveland Street.

9) The Applicant testified that the Architectural Review Board is in favor of the new driveway and the elimination of the existing driveway because of the additional green space at the front of the Subject Property and the elimination of one curb cut.

10) The Board found that the Applicant considered other options including asking the Village for an easement for access to the Subject Property from Cleveland Street, but the Village did not want to grant such an easement.

11) The Board found that the essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment as a result of the variances. In fact, the neighborhood would be improved because the new driveway would permit vehicles currently parked outside to be parked inside the accessory structure. Additionally, the Board found that the character of the neighborhood would be improved with the removal of the existing driveway, with that area being made into green space. The Board further found that several neighbors attended the Board's hearing and spoke in favor of the variances.

12) The Board found that the variances are not substantial.

13) The Board conditioned its recommendation on the driveway being reviewed and approved by the Village Fire Department and Police Department and Michael Neimeier providing an easement to permit the existing gravel driveway to encroach into his yard.

14) The Board found that the spirit and intent behind the zoning requirement would be observed by granting the variances.

15) The Board heard no testimony against the proposed variances, and this Council is persuaded that no harm will result to the neighborhood if the variances are granted.

16) This Council finds that the Applicant has demonstrated a practical difficulty in the use of the Subject Property, which is a result of the strict application of the zoning ordinance.

17) This Council further finds, as recommended by the Board of Zoning Appeals, that the variances are not substantial and would not substantially change the character of the neighborhood.

18) This Council also finds and determines that the spirit and intent of the zoning code would be observed, and substantial justice will be done, by granting the variances. This conclusion is supported by the fact that no neighbors objected to the variances and the use of the Subject Property will be improved by granting the variances because the existing driveway will be removed and the area converted to green space and the new driveway will permit vehicles to be parked inside the existing accessory building.

WHEREFORE, IT IS ORDERED, that the variances from Section 1125.04(b)(4) be and are hereby granted. The Applicant may construct the 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 28<sup>th</sup> day of September, 2015, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

Village of Chagrin Falls Council

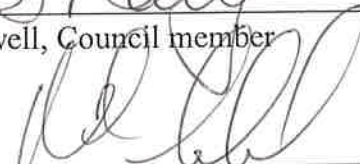
  
\_\_\_\_\_  
Steven Patton, President of Council

  
\_\_\_\_\_  
Janis Evans, Council President Pro Tem

  
\_\_\_\_\_  
Justin Herdman, Council member

  
\_\_\_\_\_  
James Newell, Council member

  
\_\_\_\_\_  
Thomas Muscenti, Council member

  
\_\_\_\_\_  
Richard Subel, Council member

  
\_\_\_\_\_  
Janna Lutz, Council member

Notice mailed this 15 day of October, 2015.

  
\_\_\_\_\_  
Clerk of Council