

**BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL      3902**  
**CHAGRIN FALLS, OHIO**

<b>IN RE: VARIANCE REQUEST OF</b>	)	<b><u>FINAL ORDER OF COUNCIL</u></b>
<b>NICO COTTONE</b>	)	<b><u>AND CONCLUSIONS OF FACT</u></b>
<b>FOR PROPERTY LOCATED AT</b>	)	
<b>390 NORTH MAIN STREET</b>	)	<b><u>ADMINISTRATIVE ORDER</u></b>
	)	<b><u>NO. 2015- 56</u></b>

This matter is before the Chagrin Falls Village Council pursuant to the request of Nico Cottone (“the Applicant”). The Applicant owns the residence at 390 North Main Street (“the Subject Property”). The Subject Property is located on the east side of North Main Street in the R1-100 district. The Applicant proposes to construct a one-car addition to the existing legal non-conforming detached two-car garage located in the front yard. The Applicant has requested variances from Sections 1125.04(a)(2), 1165.04(i) and 1145.02(b) of the Village of Chagrin Falls Codified Ordinances. Under Section 1125.04(a)(2), accessory buildings, including detached garages, for each lot shall not exceed seven hundred square feet (700 sq. ft.) in total area. The Applicant proposes a total area of eight hundred ninety-two square feet (892 sq. ft.) and, thus, is seeking a variance of one hundred ninety-two square feet (192 sq. ft.). Under Section 1165.04(i), the maximum grade of the driveway shall not exceed a ten percent (10%) slope. The Applicant proposes a driveway with a maximum slope of fourteen percent (14%) and, thus, is seeking a variance of four percent (4%). Additionally, pursuant to Section 1145.02(b), non-conforming dwellings shall not be altered, added to or enlarged unless the additions are made to conform to the yard, coverage and height regulations of the district in which it is located. Therefore, the Applicant is seeking a variance from this provision to construct a one-car addition to the existing garage.

The Village of Chagrin Falls Board of Zoning Appeals met on November 24, 2015, received evidence and testimony, and heard the arguments of the applicants. The Board of Zoning Appeals, on a vote of 5-0, recommended that Council grant the requested variances.

This Council held a public hearing on December 14, 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 east side of North Main Street just south of Kenton Road in the R1-100 district. The existing detached garage is located in the front yard making it a legal non-conforming structure.

2) The Applicant proposes to construct an eleven foot (11') wide addition to the existing legal non-conforming detached two-car garage to make a three-car garage.

3) The Board of Zoning Appeals noted that the Subject Property is located on a busy street and the Applicant’s representative testified that the driveway is being rerouted to reduce the grade of the driveway from twenty-two percent (22%) to fourteen percent (14%) to provide safer egress onto Main Street.

4) The Board of Zoning Appeals finds that the Subject Property will yield a reasonable return and there can be a beneficial use of the property without the variances because the property is currently used as a residence with an attached two-car garage.

5) The Board of Zoning Appeals found that while the variance for the new driveway is substantial, the existing driveway grade is twenty-two percent (22%) and the proposed driveway grade of fourteen percent (14%) brings the Subject Property in closer conformity with the Code. The Board further found that the variance of one hundred ninety-two square feet (192 sq. ft.) regarding the total area of the garage is not substantial.

6) The Board found that granting the variances will not substantially alter the essential character of the neighborhood or cause adjoining properties to suffer a substantial detriment.

7) The Board found that the delivery of governmental services will not be adversely affected by granting the variances and will be improved by the reduction in the grade of the driveway.

8) The Board found that the property owner purchased the Subject Property with constructive knowledge of the zoning restriction.

9) The Board found that the spirit and intent behind the zoning requirement will be observed and substantial justice done by granting the variances.

10) The Board found that the variances are not based on circumstances that are self-created or exist as a result of the actions of the property owner because the existing garage is located in the front of the house and the significant slope of the lot is an existing condition.

11) The Board found that the Applicant investigated various ways to obviate the circumstances and due to the topography of the Subject Property, the only option is a variance.

12) The Board recommends that the variances be granted conditioned upon the Applicant obtaining the approval of the Architectural Review Board.

13) The Board heard no testimony against the proposed variance, and this Council is persuaded that no harm will result to the neighborhood if the variances are granted. The Board noted that this is a large property that is isolated from neighboring properties and the steep topography of the site creates a practical difficulty not of the Applicant's own making.

14) 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.

15) This Council further finds, as recommended by the Board of Zoning Appeals, that while the variance regarding the slope of the driveway is substantial, the new driveway will be in greater compliance with the Code than the existing driveway.

16) 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 variance. This conclusion is supported by the fact that the neighbors do not object to this variance.

WHEREFORE, IT IS ORDERED, that the variances from Section 1125.04(a)(2), 1165.04(i) and 1145.02(b) be and are hereby granted, subject to the Applicant obtaining approval of the design from the Architectural Board of Review, as required by law. Subject to the ABR's approval, 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 14<sup>th</sup> day of December, 2015, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.


Village of Chagrin Falls Council

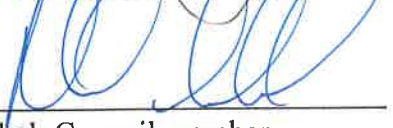
  
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Steven Patton, President of Council

  
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Janis Eyans, Council President Pro Tem

  
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Justin Herdman, Council member

  
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James Newell, Council member

  
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Thomas Muscenti, Council member

  
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Richard Subel, Council member

  
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Janna Lutz, Council member

Notice mailed this 16 day of December, 2015.

  
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Clerk of Council