

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL  
CHAGRIN FALLS, OHIO

3881

IN RE: VARIANCE REQUEST OF ) FINAL ORDER OF COUNCIL  
LARRY SHIBLEY ) AND CONCLUSIONS OF FACT  
FOR PROPERTY LOCATED AT )  
41 NORTH MAIN STREET ) ADMINISTRATIVE ORDER  
) NO. 2015- 35

This matter is before the Chagrin Falls Village Council pursuant to the request of Larry Shibley ("the Applicant"). The Applicant owns the commercial building at 41 West Main Street ("the Subject Property"). The Applicant has requested variances from Section 1137.03(c)(1) and 1145.02(b) of the Village of Chagrin Falls Codified Ordinances to permit the construction of a new historically accurate parapet as part of a project to restore the building's facade. The Subject Property is a preexisting nonconforming building with an existing height of forty-two feet (42'). The new parapet would bring the building height to forty-nine feet (49'). Under Section 1137.03(c)(1), the maximum building height is forty feet (40'). Therefore, the Applicant is seeking a nine foot (9') height variance. Additionally, pursuant to Section 1145.02(b) of the Codified Ordinances, non-conforming buildings 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. The Applicant is also seeking a variance from this code requirement.

The Village of Chagrin Falls Board of Zoning Appeals met on September 22, 2015, received evidence and testimony, and heard the arguments of the Applicant. 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 west side of North Main Street.
- 2) The Applicant testified to the Board of Zoning Appeals that he researched the history of the building to determine its original design and appearance and discovered that the building had a parapet which was possibly removed in the 1940s or 1950s. The Applicant showed the Board photographs of the building from 1910 showing the building with a parapet like the one being proposed. The Applicant testified that he intends to restore the building facade to its original appearance in the interest of maintaining the history of the building and the neighborhood.
- 3) The Applicant testified that the Architectural Review Board is in favor of the proposed parapet at forty-nine feet (49').
- 4) The Applicant testified that other buildings in the neighborhood have parapets of a similar height and, therefore, the proposed parapet is in keeping with other buildings in the neighborhood.

5) The Board noted that the Village Fire Chief reviewed the plans and had no objections to the height of the parapet from a safety standpoint.

6) The Board noted that no neighbors voiced any objections to the variances.

7) The Board noted that the existing building height is nonconforming and exceeds the current maximum building height of forty feet (40') by two feet (2').

8) The Board found that the Applicant's intent in restoring the building's facade, including the addition of the parapet, is to make the building historically accurate in the interest of preserving the Village's architectural history. The Applicant's plans are supported by his historical research.

9) 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. The Board determined that to the extent the character of the neighborhood would be altered the change would be for the better, because a significant historical feature was being restored.

10) The Board found that the variance is substantial, but the proposed parapet is in keeping with the character of the neighborhood. Further, because of the shape and size of the parapet, it only reaches the full height of forty-nine feet (49') at the center of the building.

11) The Board found that granting the variances will not adversely affect the delivery of governmental services.

12) The Board found that the spirit and intent behind the zoning requirements would be observed in granting the variances.

13) The Board found that there was no evidence that the Applicant's predicament is self-created.

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. Specifically, the improvement of the property by the restoration of an historically significant feature of the building is precluded by the zoning code and the health, safety and welfare of the community is not being advanced by the strict application of the height requirement to this building.

15) This Council further finds, as recommended by the Board of Zoning Appeals, that the variances would not substantially change the character of the neighborhood and, in fact, would improve the neighborhood by returning the building to its original architectural appearance.

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 variances. This conclusion is supported by the fact that no neighbors objected to the variances and granting the variances will permit the building to be restored to its original architectural appearance.

WHEREFORE, IT IS ORDERED, that the variances from Sections 1137.03(c)(1) and 1145.02(b) of the Codified Ordinances 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 Applicant, 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

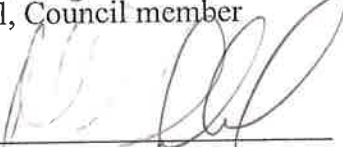
  
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Steven Patton, President of Council

  
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Janis Evans, 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 15 day of October, 2015.

  
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Clerk of Council