

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL  
CHAGRIN FALLS, OHIO

3862

IN RE: VARIANCE REQUEST OF ) FINAL ORDER OF COUNCIL  
PATRICIA AND ANDREW BURNIGHT ) AND CONCLUSIONS OF FACT  
FOR PROPERTY LOCATED AT )  
220 SENLAC HILLS DRIVE ) ADMINISTRATIVE ORDER  
 ) NO. 2015- 16

This matter is before the Chagrin Falls Village Council pursuant to the request of Patricia and Andrew Burnight ("the Applicants"). The Applicants own the residence at 220 Senlac Hills Drive Street ("the Subject Property"). The Applicants propose to add a roof structure to an existing patio and fireplace in the rear yard of the Subject Property.

The Subject Property is in the R1-100 Zoning District. Section 1125.03(h) of the Codified Ordinances requires a rear yard setback fifty feet (50'). The Applicants are requesting a variance from the setback requirement to construct a roof structure over the existing patio of fifteen feet ten inches (15' 10"), with a resulting rear yard setback thirty-four feet two inches (34' 2").

The Village of Chagrin Falls Board of Zoning Appeals met on April 28, 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 variance to Section 1125.03(h) for the rear yard setback.

This Council met on May 11, 2015 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 Subject Property is located on Senlac Hills Drive at the terminus of Highland Lane.
- 2) The existing rear patio and outdoor fireplace currently encroach into the rear yard setback, but under the Codified Ordinances a patio is not subject to the setback requirements.
- 3) The Applicants seek to improve the existing rear patio by adding a roof structure and making required improvements to the outdoor fireplace, specifically increasing the height of the chimney due to the new roof structure, so that this outdoor space can be used as a three season living area.
- 4) The Board noted that the Subject Property has an unusual shape, specifically it has a skewed rear property line which results in the rear yard setback line falling much closer at the northwestern corner of the house where the existing patio is located.

- 5) The Board found that if the patio was located on the other side of the house, a variance would not be required, but because the garage is located on the other side of the house it would not be reasonable to locate the patio behind the garage. The existing patio is accessed by french doors from the kitchen.
- 6) The Board found that the Architectural Board of Review unanimously approved the Applicants' patio project.
- 7) The Board found that the neighbors were notified of the variance and the Board's hearing, but no neighbors attended the hearing or objected. The Applicants presented a letter from their neighbors Mr. and Mrs. Gaskin who support the project.
- 8) The Board found that the variance is substantial but that the nature and extent of the variance is mitigated by the fact that the project is in keeping with the character of the neighborhood, the rear lot line is skewed and the garage is located on the other side making the existing patio the most reasonable place for a patio since it is accessed by french doors from the kitchen.
- 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 because the project is consistent with the character of the house and the neighborhood.
- 10) The Board found that the Applicants' predicament cannot feasibly be obviated through some method other than the variances because, again, the patio cannot logically be located behind the garage even though doing so would not require a variance.
- 11) This Council finds that the Subject Property will yield a reasonable return and there can be a beneficial use of the Subject Property without the variances, but that the patio project enhances the house and is in keeping with the character of the neighborhood.
- 12) This Council finds that the Applicants have demonstrated a practical difficulty in the use of the Subject Property, which is a result of the strict application of the Zoning Ordinance and caused largely by the skewed rear property line.
- 13) This Council further finds that the Applicants' predicament cannot be feasibly obviated through some method other than the variances because the patio can only be reasonably located in its existing location and the variance is required due to the skewed rear property line.
- 14) This Council also finds that granting the variance will not aversely affect the delivery of governmental services.
- 15) 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.

- 16) This Final Order and Conclusion of Fact is further supported by the fact that the Subject Property will be improved by the proposed project if the variance is granted.

WHEREFORE, IT IS ORDERED, that the variance from Section 1125.03(h) of the Codified Ordinances be and are hereby granted. The Applicants 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 11<sup>th</sup> day of May, 2015, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

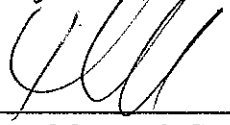
Village of Chagrin Falls Council

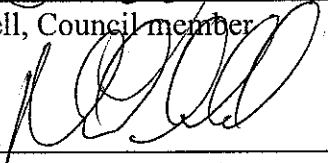
  
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Steven Patton, President of Council


  
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Jan 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 May, 2015.

  
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Clerk of Council