

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL
CHAGRIN FALLS, OHIO

3610

IN RE: VARIANCE REQUEST OF) FINAL ORDER OF COUNCIL
MUSCA PROPERTIES, LLC) AND CONCLUSIONS OF FACT
FOR PROPERTY LOCATED AT)
154 BELL STREET) ADMINISTRATIVE ORDER NO.
PERMANENT PARCEL NO. 932-08-005) 2011-69

This matter is before the Chagrin Falls Village Council pursuant to the request of Musca Properties LLC ("the applicant"), owner of the property located at 154 Bell Street ("the subject property"). The applicant has requested a variance from Section 1141.02(a) of the Village of Chagrin Falls Codified Ordinances to permit a medical office use in the subject property.

Section 1141.02(a) requires accessory off-street parking facilities to be provided in conformance with the schedule in Section 1141.05 as a condition precedent to the occupancy of such building or use whenever the use of an existing building is changed to a use requiring more parking facilities.

The schedule in Section 1141.05 requires medical and dental offices to provide one parking space for each seventy-five (75) square feet of floor area. Floor area is defined in Section 1141.04(b) as the following:

Total area of all the floors measured from the exterior faces of the building. Where building floor area is designated as the standard for determining parking space requirements, floor area shall be the total of all floor areas of the building, excluding stairwells and elevator shafts, mechanical equipment rooms and utility rooms; provided however, that such exclusions shall not exceed fifteen percent (15%) of the total floor area.

The applicant is required to provide twenty-one (21) parking spaces and seventeen (17) parking spaces are available. The applicant, therefore, is requesting a four (4) parking space variance.

The Village of Chagrin Falls Board of Zoning Appeals met on October 25, 2011, received evidence and testimony, and heard the arguments of the applicant. The Board of Zoning Appeals, on a vote of 4-0, approved a motion to recommend that Council grant the requested variance.

This Council considered the matter upon the record created by the Board of Zoning Appeals on November 14, 2011. 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 within the Retail Business District.
- 2) The applicant seeks to use a unit of the strip center for a medical office that will provide cosmetic procedures supervised by a physician. The previous tenant was also a medical office

consisting of a chiropractic clinic. The February 5, 2001, parking variance that was granted to the chiropractic clinic was restricted to use of the property as a chiropractic clinic and, therefore, is not applicable to the applicant. The applicant seeks a new variance that is similar to what was granted for a chiropractic clinic.

3) The Board of Zoning Appeals noted that the Zoning Code required the previous tenant to provide twenty-three (23) parking spaces and that a six (6) parking space variance was granted as the previous tenant had ten (10) available spaces and an additional seven (7) spaces were allocated to the chiropractic clinic in the strip center parking lot. The proposed use by the applicant due to changes in the definition of floor area in Section 1141.04(b), enacted in 2003 and after the granting of the previous variance, must provide twenty-one (21) parking spaces for the one thousand five hundred seventy-five (1,575) square feet that will be occupied after deducting storage space.

4) The Board of Zoning Appeals noted that seventeen (17) spaces are currently provided and, therefore, a variance is required for the four (4) spaces that the applicant is deficient.

5) The Board of Zoning Appeals heard testimony that the new use will have light traffic due to the private nature of the procedures and will have three (3) to four (4) employees.

6) The Board of Zoning Appeals found that there have been no complaints about lack of parking during the tenure of the previous medical office use.

7) The Board of Zoning Appeals noted that the requested variance will not alter the character of the neighborhood and would in fact improve it by filling a vacant storefront. The Board of Zoning Appeals noted that the operator of an adjacent retail business testified in support of the variance.

8) This Council finds that the applicant has demonstrated a practical difficulty in the use of their property resulting from the strict application of the Zoning Code.

9) This Council further finds, as recommended by the Board of Zoning Appeals, that the variance is not substantial and is less than the previously approved variance for the subject property.

10) This Council also finds that character of the area will not be substantially altered and that the adjoining retail properties will not suffer a detriment as a result of the variance.

11) This Council, noting that the intent of the off-street parking requirements is to ensure that there is sufficient parking in the Retail Business District, also finds that the spirit and intent of the Zoning Code would be observed, and substantial justice will be done, by granting the requested variance.


WHEREFORE, IT IS ORDERED, that the variance requested by the applicant, the plans for which are on file with the Building Commissioner, be and is hereby granted. 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 14th day of November, 2011, 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




Jan Evans, Council President Pro Tem



Adam Jacobs, Council member



Janna Lutz, Council member



Dwight Milko, Council member



Richard Subel, Council member



Robert Williams, Council member

Notice mailed this 17 day of November, 2011.



Clerk of Council