

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

3705

IN RE: VARIANCE REQUEST OF WEST COTTAGE, LLC FOR PROPERTY LOCATED AT 47 WEST COTTAGE STREET)))))	<u>FINAL ORDER OF COUNCIL AND CONCLUSIONS OF FACT ADMINISTRATIVE ORDER NO. 2013- 26</u>
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This matter is before the Chagrin Falls Village Council pursuant to the request of West Cottage, LLC ("the Applicant"). The Applicant owns the existing vacant parcel at 47 West Cottage Street ("the Subject Property"). The Applicant has requested a variance from Section 1125.03(f) of the Village of Chagrin Falls Codified Ordinances to permit a new dwelling with a front yard setback of eighteen feet (18'). Under Section 1125.03(f), the minimum front yard setback is thirty-five feet (35'). Therefore, a variance of seventeen feet (17') is needed to construct the proposed dwelling on the Subject Property.

The Village of Chagrin Falls Board of Zoning Appeals met on April 2, 2013, received evidence and testimony, and heard the arguments of the Applicant. The Board of Zoning Appeals, on a vote of 5-0, recommended that Council grant the requested variance.

This Council considered the matter on April 8, 2013, upon the record created by the Board of Zoning Appeals. This Final Order of Council and 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 a vacant lot located on the south side of West Cottage Street on a steep slope going down to the south from the street.
- 2) The Applicant seeks to build a new dwelling roughly on the same footprint of the previous dwelling which was demolished.
- 3) This Council finds that the proposed dwelling is an improvement to the Subject Property and will not adversely affect the essential character of the neighborhood.
- 4) The Board of Zoning Appeals determined that the proposed dwelling is in line with the prevailing front setback of the existing homes on the street. The steep slope makes it impractical to place the dwelling at the required setback. This Council finds that the Applicant, therefore, has demonstrated a practical difficulty in the use of the property, which is a result of the strict application of the zoning ordinance.
- 5) This Council further finds, as recommended by the Board of Zoning Appeals, that the variance is not substantial and that granting of the variance will improve delivery of governmental services because the proposed dwelling will provide access at the main level.

6) The Board noted that the parcel is a hillside lot and that the Village Engineer must approve the grade plan, re-vegetation plan, foundation design and hydrological controls prior to the issuance of permits. The Board also noted that the parcel was previously developed and so, there are no undisturbed areas to be protected.


7) This Council also finds and determines that the spirit and intent of the Zoning Code is observed, and substantial justice is done, by granting the variance. This conclusion is supported by the fact that the neighborhood will not be changed by the proposed variance. The Subject Property will be improved by the proposed project.

WHEREFORE, IT IS ORDERED that the variance to Codified Ordinance Section 1125.03(f), requested by the Applicant, the plans for which are on file with the Building Commissioner, be and is hereby granted. The Applicant may construct the proposed project in accordance with the proposed plans. This document is deemed by Council to be the final order in this matter.

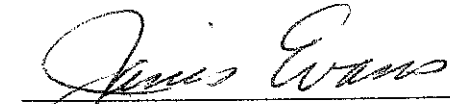
IT IS FURTHER ORDERED that the Clerk of Council shall mail a copy of this Final Order of Council and Conclusions of Fact to the Applicant, and any other parties requesting same, by first class mail, and note the mailing date upon this order. The decision of this Council shall be deemed final upon the date the Clerk mails this document, as provided herein.

Adopted this 8th day of April, 2013, 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



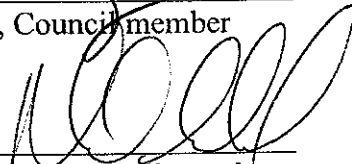
Michael Chess, Council member




Janna Lutz, Council member



James Newell, Council member



Richard Subel, Council member



James Holdren, Council member

Notice mailed this 30 day of April, 2013.



Clerk of Council