

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

3741

IN RE: VARIANCE REQUEST OF)	<u>FINAL ORDER OF COUNCIL</u>
JAMES AND MELODY McCLURG)	<u>AND CONCLUSIONS OF FACT</u>
FOR PROPERTY LOCATED AT)	
52 SOUTH FRANKLIN STREET)	<u>ADMINISTRATIVE ORDER</u>
)	<u>NO. 2013- 62</u>

This matter is before the Chagrin Falls Village Council pursuant to the request of James and Melody McClurg (“the Applicants”). The Applicants own the residence at 52 South Franklin Street (“the Subject Property”). The Applicants propose to build an accessory building (a garage) that is seven hundred thirty-six square feet (736 sq. ft.) and twenty-two feet (22') high. The new garage will be set back four feet (4') from the rear property line.

Section 1125.04(a)(2) of the Codified Ordinances states that the total area coverage for all accessory buildings on a lot shall not exceed seven hundred square feet (700 sq. ft.). Because the Applicants propose to construct a detached garage with a total area of seven hundred thirty-six square feet (736 sq. ft.), they are requesting a variance of thirty-six square feet. (36 sq. ft.)

Section 1125.04(a)(3) of the Codified Ordinances permits accessory structures to be built not less than three feet (3') from a property line, but Section 1125.04(a)(6)(D) provides that the required setback from side and rear lot lines shall be increased by one foot (1') for each foot over fifteen feet (15') in building height. Where the computation results in a fractional unit, the requirement shall be rounded up to the closest foot. The Applicants propose to construct a twenty-two foot (22') high garage with a four foot (4') setback from the rear lot line. The Code would ordinarily require a ten foot (10') setback and, therefore, a six foot (6') variance is being requested.

The Village of Chagrin Falls Board of Zoning Appeals met on September 24, 2013, 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 1125.04(a)(2) for lot coverage and, on a vote of 4-0, recommended that Council grant the variance to 1125.04(a)(6)(D) for the rear yard setback.

This Council met on October 14, 2013 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 the southwest corner of South Franklin and Center Streets. The lot is one hundred feet (100') wide and one hundred sixty-two feet (162') deep.
- 2) The Applicants seek to build a detached garage, twenty-four feet (24') wide by thirty-two feet (32') deep and twenty-two feet (22') high with a setback of four feet (4') from the rear lot line. The existing garage is eight inches (8") over the property line.

3) Regarding the request to exceed the total area coverage for all accessory buildings on a lot, the Board found that the existing garage is eight hundred sixty-four square feet (864 sq. ft.), or 24% over that required by Code, and the proposed garage, at seven hundred thirty-six square feet (736 sq. ft.), or about 5% over that required by Code, is a reduction in the non-conformity to the coverage limit of seven hundred square feet (700 sq. ft.).

4) Regarding the rear yard setback variance, the Board found that the variance is not substantial because the proposed garage will eliminate the current non-conformity of the garage existing over the property line and be an improvement to the Subject Property.

5) Regarding the rear yard setback variance, the Board further found that the Architectural Review Board has recommended that the proposed garage have a 12/12 roof pitch which has required the setback variance due to the resulting height of the structure.

6) Council finds that the request for a setback variance is supported by the evidence. The existing garage encroaches on the neighbor's property by eight inches (8"). The proposal permits the construction of a new garage further back from the current location of the existing garage, improving the existing conditions, while also maintaining sufficient distance between the residence and the garage.

7) This Council finds that the Applicants have demonstrated a practical difficulty in the use of their property, which is a result of the strict application of the zoning ordinance. The purposes of the Zoning Code are advanced by permitting the Applicants to construct a new garage that more closely conforms with the setback and coverage requirements than the existing garage.

8) This Council further finds, as recommended by the Board of Zoning Appeals, that the requested variances are not substantial and notes that the area of the Subject Property at issue is abutted by garages on the neighboring lots.

9) This Council also finds that granting the variances will not adversely affect the delivery of governmental services.

10) 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.

11) 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 variances are granted.

WHEREFORE, IT IS ORDERED, that the variances from Section 1125.04(a)(2) and Section 1125.04(a)(3) 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 14th day of October, 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

Jan Evans, Council President Pro Tem

Justin Herdman, Council member

James Newell, Council member

James Holdren, Council member

Richard Subel, Council member

Janna Lutz, Council member

Notice mailed this ___ day of _____, 2013.

Clerk of Council