

**VILLAGE OF CHAGRIN FALLS  
BOARD OF ZONING APPEALS  
April 22, 2014**

Members present: Fricke, Loomis, Freshman-Johnson, Herdman  
Also present: Himes, Lane

The meeting was called to order at 8:00 p.m.

**APPROVAL OF MINUTES**

Moved by Mr. Herdman, seconded by Mrs. Freshman-Johnson that the minutes of the meeting held January 28, 2014 be approved, as amended. Carried. Ayes: Fricke, Loomis, Freshman-Johnson, Herdman. Nays: None.

**SWEARING OF WITNESSES**

All were sworn in.

**ELIZABETH AND MICHAEL MACIVER, 144 ELM COURT - REQUEST FOR A VARIANCE TO SECTION 1125.03(h), AREA, YARD, AND HEIGHT REGULATIONS: MAIN BUILDINGS, PERMANENT PARCEL NO. 932-18-020**

Mr. Fricke said we are a five person board and the code requires affirmative votes of three. I mention it only because you need to get three out of four affirmative votes as opposed to three out of five. If you care to proceed we will welcome your application and if you want to wait until there are five members here you can do that as well.

The applicant decided to continue with their application tonight.

Mr. Himes said the MacIvers are applying for a variance to code section 1125.03(h) of the R1-50 code. They are proposing an addition to the back of the house for a screened porch that extends into the required 30' setback. The property does abut, in the rear, to the old railroad right-of-way that ran from South Main Street to East Washington Street. Behind that house is that old 30' right-of-way and then the Senlac Hills subdivision is behind that. They are requesting a modification of the setback to allow a 20' setback rather than a 30' setback.

Mr. Fricke asked, there is an existing structure there now that is into the setback? Mr. Himes said right, it is an existing 12' X 14' deck. Mr. Fricke asked, does the setback run up onto the railroad track or is it up into the hill? Mr. Himes said we measure from the edge of the property line, which would also be the edge of that old right-of-way. I am not sure how far back into the hillside that goes. Mr. Fricke said it is a singular variance and it is to the 30' setback. Mr. Himes said right.

Mark Brown, from Mark Brown Classic Designs, said I have done architectural work for the screened porch. I met with the Architectural Review Board on an informal basis and they seemed to have liked what we have done and didn't say anything negative about the screened porch itself. He passed out a rendition of it. One of the things about this particular situation is that it does have, to the rear of the home, this embankment for the old abandoned railroad tracks. What that does is it provides quite a barrier to, particularly, the home to the rear and that primarily is the reason for the rear yard setback requirement and they are about 170' away. He handed out some photos and described them. Mr. Brown said you can also see from these photographs that as you are on the existing deck and looking to the left or the right you really can't see the neighbor's houses. If you went out to the end of the deck you might catch a glimpse of the house but you can also see from the site plan, because the way the lot is curved, the adjacent houses really are not going to have much observation of this proposed screened porch.

Mr. Fricke asked, how much higher are you going from the current railing? Do you know how much higher the structure will be from what the railing is now? Mr. Brown said it will be an additional 11' feet higher than that railing and it is a lower pitch than the main house. It is also sort of the nature of the screened porch that it is very transparent. There are some posts and it is all open underneath and that is because there is a door underneath. It is a fairly light structure.

Mr. Herdman asked, is the elevation of the proposed new structure the same as the elevation of the existing deck? Mr. Brown said exactly the same. It is almost exactly the same size; it is a few inches larger. It is positioned nearly the same, it is just slid down a little bit further and that is to provide more light into the breakfast area. We have added a grill porch and there is a 6' slider that will bring light into the kitchen and into the informal dining area.

Mr. Fricke asked, do you know what the square footage of the existing structure is compared to what you are building? Mr. Brown said I would not be able to tell you that. Mr. Fricke said it appears to be less than 20% additional. Mr. Brown said not even that much.

Mrs. Freshman-Johnson said the square footage area of the base of the wooden deck that is there now is similar to the size, in other words, almost exactly. Mr. Fricke said it looks to me that this chunk here is existing and it is shifting over so it is comparable in size. Mr. Himes said the existing deck is 168' on 12' X 14' and the new screened in porch section would be 183 square feet and then you have the 7' X 8' wood deck, grill deck.

Mr. Brown said one of the primary reasons that the MacIvers are interested in building this screened porch, as opposed to an open deck, is that they want to be protected from the insects and they want to stay out of the sun. That is the advantage of a screened porch. The other dilemma that they have is that to have any rear yard private living they would have to go down, if they are not on the deck, a level to the lower level where the ground falls off. Making this a screened porch is an opportunity for them to have single level living, which I think is very desirable for them and for anybody in the future. It doesn't really seem to impact anybody in any negative way.

Mr. Fricke asked, to that point Ben, I assume all the neighbors were notified and did you get any feedback from anyone? Mr. Himes said all neighbors were notified and I had one phone call from the Deblaks at 185 Senlac Hills just asking what the variance was about but they didn't feel inclined to send any comments.

Mrs. Freshman-Johnson asked, does a screened in porch have different zoning requirements than a deck or is it considered the same? Mr. Himes said it would be the same; they would have to meet the setback requirements. Mrs. Freshman-Johnson said so, in other words, the current deck is in the same variance requirements essentially maybe a little less because it is over to the right and the curved nature of the lot. But, it isn't a variance situation currently. Mr. Himes said right.

Mr. Brown said there really is no other place to put a screened porch on this home. We are already nonconforming in a variety of ways and there is just no other potential place to put one. Since we are pretty much as nonconforming as the existing deck is it seems fairly harmless.

Frank Rausche, 169 Senlac Hills, said he has no objections.

Moved by Mrs. Freshman-Johnson, seconded by Mrs. Loomis to approve a setback variance for Section 1125.03(h), which normally requires a 30' variance. We are requesting a 10' variance for a 20' setback. This is a singular variance for that section only. The property is located on a lot that has a curved nature in the back as well as an embankment that goes up to quite a pitch behind and the impact of the variance is minimal considering that neither of the neighbors behind, nor to the left or right, would be able to see most, if not all, of the screened in porch that is proposed. In addition, the impact is seen as slight because the current existing structure is also nonconforming and the footprint of the new structure will go essentially in the same area moved a few feet to one side of the house. This will improve the value and living condition of the house to provide single level living since you walk in on the top floor from the front of the street and walk through to the back where this entry way to the screened in porch would be located. The neighbors that have been contacted have no negative comments and the pictures have shown support that there is little to no neighborhood impact whatsoever. For all those reasons I make a motion to approve the variance.

Loomis: Aye.

Fricke: I would just add to the motion, which I think had everything, that there was also testimony that there really is no where else to build the structure that the applicant is seeking to build. This is really limited and I think they are doing the best they can with what they have. I would vote aye.

Freshman-Johnson: Aye.

Herdman: I think the motion was said very well. In addition, I am with Mr. Fricke on that, but I did want to just point out also that it looks like the setback itself is only at one point is it the extent of 22'. It is descending from 22' from there

on out and it is actually not a substantial variance if you take into account the actual footprint of the structure that would extend into the rear building line. So, I vote aye as well.

Mr. Himes said the motion carries and goes to Council on Monday, April 28, 2014.

The meeting adjourned at 8:24 p.m.

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Wade Fricke, Chairman

lgb