

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

IN RE: VARIANCE REQUEST OF)	<u>FINAL ORDER OF COUNCIL</u>
ROSANNE M. PASSALACQUA)	<u>AND CONCLUSIONS OF FACT</u>
FOR PROPERTY LOCATED AT)	<u>ADMINISTRATIVE ORDER NO.</u>
WEST WASHINGTON ST.)	<u>2011- 07</u>

This matter is before the Chagrin Falls Village Council pursuant to the request of Rosanne M. Passalacqua ("the applicant"). The applicant owns the vacant parcel number 932-02-005 located at the western terminus of West Washington Street ("the subject property"). The applicant has appealed the decision of the Village administrator that the subject property does not comply with the Village's zoning Code. Alternatively, the applicant has requested a variance from Section 1125.03(c) of the Village of Chagrin Falls Codified Ordinances to permit the construction of a single family dwelling on a lot with insufficient street frontage.

The Village of Chagrin Falls Board of Zoning Appeals ("Board") met on December 28, 2010, 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 uphold the decision of the Village Administrator and grant the requested variance.

This Council considered the matter upon the record created by the Board of Zoning Appeals on January 24, 2011. 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) Parcel #932-02-005 is located at the west terminus of West Washington Street.
- 2) The applicants seek to build a single family dwelling on the lot that has 39.69 feet of street frontage in the R1-50 zoning district where the code requires fifty feet.
- 3) There is no provision of the Chagrin Falls Code that permits a lot that is nonconforming as to its street frontage to be developed without a variance being obtained. The Village Administrator did not err in this matter, and his decision is affirmed.
- 4) The Board noted that the subject property was platted in the mid 1800's and had sufficient frontage prior to 1972 when the Village vacated a portion of Church Street that

fronted the property. The Village created the conditions that, pursuant to the Village's zoning code, necessitates the granting of a variance in order for the property to be developed.

5) The Board noted that there is no requirement in the Village's Zoning Code that an owner replat or reconfigure existing, contiguous lots that do not have sufficient frontage. The applicant testified that she tried to buy the required frontage from adjacent property owners on either side and was refused.

6) Objections from the neighbors related to hillside disturbance were considered. The Board found that the lot is subject to the Village Hillside Protection Regulations, and review and enforcement of hillside protection measures are outside its purview. The Board also noted that the applicant will have to submit plans that conform to all of the Village regulations and that the Architectural Board of Review, Planning Commission, Building Department and Village Engineer will be reviewing the plans for compliance and enforcing the code.

7) The Board determined that practical difficulties are present in this case. The variance is not substantial and will not interfere with governmental services. The Police and Fire Departments have no objection to the site plan.

8) This Council further finds, as recommended by the Board, that the variance is not substantial and will not substantially change the character of the neighborhood.


9) 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 facts that the neighborhood will not be changed by the proposed variance and the nonconformity was created by the Village's conduct, not the applicant's.

WHEREFORE, IT IS ORDERED, that the variance from Codified Ordinance Section 1125.03(c) 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, 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 24th day of January, 2011, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

Village of Chagrin Falls Council

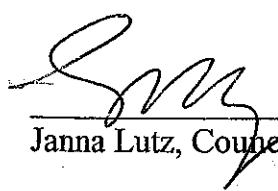


Steven Patton,
President of Council

Janis Evans,
Council President Pro Tem




Adam Jacobs, Council member



Janna Lutz, Council member

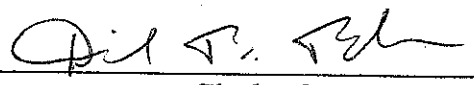
Dwight Milko, Council member

Richard Subel, Council member



Robert Williams, Council member

Notice mailed this 26 day of January, 2011.



Clerk of Council