

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL      3807  
VILLAGE OF CHAGRIN FALLS, OHIO

IN RE: VARIANCE REQUEST	)	<u>FINAL ORDER OF COUNCIL</u>
OF RIVER WALK AT	)	<u>AND CONCLUSIONS OF FACT</u>
CHAGRIN FALLS, LLC FOR	)	
PROPERTY LOCATED AT	)	
44 WEST ORANGE PERMANENT	)	<u>ADMINISTRATIVE ORDER</u>
PARCEL NO. 931-12-020	)	<u>NO. 2014- 45</u>

This matter is before the Village of Chagrin Falls Council pursuant to the request of River Walk at Chagrin Falls, LLC, ("the Applicant"). The Applicant owns the property at 44 West Orange Street ("the Subject Property"). The Applicant plans to construct a single-family dwelling on the Subject Property. The Applicant has requested a variance from Codified Ordinance Section 1125.03(j) to construct the proposed dwelling with a height of forty-six feet (46') where the code provides for a maximum height of thirty-five feet (35'). The Applicant has also requested a variance from Section 1125.04(b)(3) for a driveway coverage in the front yard of 60% where the code provides for a maximum driveway coverage of 25%.

The Village of Chagrin Falls Board of Zoning Appeals met on June 24, 2014. The Board received evidence and testimony and heard the arguments of the Applicant, opponents, and concerned residents. The Board of Zoning Appeals, on a vote of 4-1, recommended that Council grant the requested variances.

This Council met on July 14, 2014, 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 property slopes steeply from the northwest corner to the southeast corner and this unique topography presents a practical difficulty when attempting to develop the property in compliance with the zoning code.
- 2) The Applicant's representative, Robert Vitt, testified that the hillside will be engineered to a slope stability factor of 1.3. Village Engineer, Tim Lannon, testified that a slope stability factor of 1.3 is acceptable and is the standard required by the Village for substantial projects, such as road construction. In fact, Mr. Vitt testified that if his engineers cannot establish a stability factor of 1.3, the project will not move forward.
- 3) Mr. Vitt testified that from an engineering perspective, this project and his project on West Cottage Street at the top of the hillside at issue are related and, therefore, the engineering work necessary to stabilize the hillside requires that the proposed dwelling on West Cottage Street be constructed before the proposed dwelling on the Subject Property.
- 4) The Board of Zoning Appeals found that safe access to West Orange Street requires the driveway to have a turnaround so that vehicles do not have to back out onto the street. This Council confirms that finding.

5) The Board of Zoning Appeals found that the height of the proposed dwelling is compatible with the previous River Walk development and the driveway coverage is reasonable because of the above-stated safety factor.

6) The Board of Zoning Appeals found that the variances could be seen as substantial, but are not substantial because the variances are sought to be compatible with the existing River Walk development and to account for safe access to West Orange Street. In addition, any view impacted by the height variance is the dwelling to be constructed by the Applicant on West Cottage Street.

7) The Board of Zoning Appeals found that the variances, specifically the driveway coverage variance which will provide for a turnaround, will improve access for safety vehicles and the delivery of governmental services.

8) The Board of Zoning Appeals found that granting the variances meets the spirit and intent of the zoning restrictions because the proposed dwelling is an extension of a development that the Applicant has been working on for several years.

9) This Council finds that the character of the neighborhood will not be adversely affected by the proposed development, and the benefit to the property owner to build a reasonable development exceeds the cumulative impact of the variances.

10) The concerns of the neighbors were heard and discussed by the Board of Zoning Appeals and this Council is persuaded that no harm will result to the neighborhood if the variances are granted.

11) This Council notes that the variances proposed are substantially similar to previous variances approved for development of the Subject Property.

12) This Council finds that the Applicant has demonstrated a practical difficulty in the use of the property. A reasonable building footprint is afforded with a variance, and the intent of the ordinance maintained. As a condition of this variance, the Applicant shall engage a qualified professional engineer to prepare plans and specifications to ensure that the hillside is protected with a slope stability factor of 1.3. The Village Engineer shall review the engineering plans and specifications as required by the Village's hillside ordinance. The Village Engineer's approval is a condition of this variance.

13) The Council finds that the Applicant has demonstrated practical difficulties in the use of the property, which are a result of the strict application of the driveway coverage ordinance. A turnaround in the driveway, which requires additional pavement, is necessary to ensure that vehicles entering the property can safely exit the property onto West Orange Street. Accordingly, this Council concludes that the Applicant has established that there are exceptional circumstances which distinguish the Applicant from other property owners, who are, or who have been, required to comply with the regulation as written.

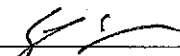
14) This Council finds that the Applicant has demonstrated practical difficulties in the use of the property, which are a result of the strict application of the height ordinance. The steep slope to the front of the property results in a high front elevation, where the measurement is taken, in relation to the overall height of the building. The neighbors' views will be substantially maintained by virtue of the neighbors' relative height above the proposed dwelling. Accordingly, this Council concludes that the Applicant has established there are exceptional circumstances which distinguish the Applicant from other property owners who are, or have been, required to comply with the regulation as written.


WHEREFORE, IT IS ORDERED, that the variances requested by the Applicant, and the plans for which are on file with the Building Commissioner, be and are hereby granted. The Applicant may construct the proposed residential dwelling 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.

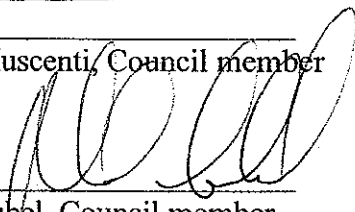
Adopted this 14<sup>th</sup> day of July, 2014, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

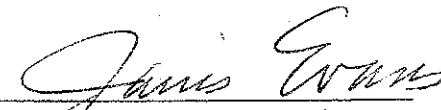
Village of Chagrin Falls Council


  
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Steven Patton,  
President of Council

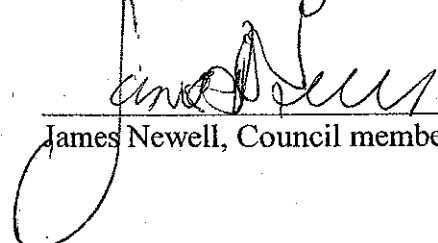
  
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Justin Herdman, Council member

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Thomas Muscenti, Council member


  
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Richard Supel, Council member

  
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Janis Evans, Council member

  
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Janna Lutz, Council member

  
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James Newell, Council member

Notice mailed this 1 day of AUGUST, 2014.



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Clerk of Council