

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL 3808
CHAGRIN FALLS, OHIO

IN RE: VARIANCE REQUEST OF)	<u>FINAL ORDER OF COUNCIL</u>
ORANGE WEST PROPERTIES, LLC)	<u>AND CONCLUSIONS OF FACT</u>
FOR PROPERTY LOCATED AT)	
22 WEST ORANGE STREET)	<u>ADMINISTRATIVE ORDER NO.</u>
)	<u>2014- 46</u>

This matter is before the Chagrin Falls Village Council pursuant to the request of Orange West Properties, LLC ("the Applicant"). The Applicant is the owner of the property located at 22 West Orange Street (the "Subject Property"). The Applicant has requested variances from Sections 1141.02(a)(1) and 1141.05 of the Village of Chagrin Falls Codified Ordinances to permit the uses of a restaurant, an office and a glass studio at the Property without the provision of all of the necessary on-site parking facilities required by the Village's Zoning Code. The Applicant also seeks variances from Section 1137.04(b), which requires a buffer area of ten feet (10') between the parking area and public rights-of-way on Williams Street, West Orange Street, and North Main Street and from the abutting residential properties to the north. Due to existing conditions, the proposed plan provides for no buffer area along Williams Street, West Orange Street and North Main Street and a one foot six inch (1' 6") buffer area from abutting residential properties at the north property line. The proposed plan also has an access drive whose centerline is located twenty-three feet (23') from the intersection of Williams and West Orange Streets, and Section 1141.09(c) requires a setback of fifty feet (50'). Therefore, the Applicant is requesting a variance of twenty-seven feet (27') from this requirement.

Section 1141.02(a)(1) requires accessory off-street parking facilities to be provided in conformance with the schedule in Section 1141.05. A certain number of parking spaces is required as a condition precedent to the occupancy of a building or whenever the use of an existing building is changed to a use that requires more parking spaces under the Code. The restaurant, glass studio and office building must provide eighty-eight (88) parking spaces, and the proposed parking plan provides only thirty (30) spaces on site, which necessitated a variance for fifty-eight (58) spaces.

The Village of Chagrin Falls Board of Zoning Appeals met on June 24, 2014, received evidence and testimony, and heard the arguments of the Applicant. The Board of Zoning Appeals, on a vote of 5-0, approved a motion to recommend that Council grant the requested variances.

This Council considered the matter upon the record created by the Board of Zoning Appeals on July 14, 2014. 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 is located within the Retail Business District.
- 2) The Applicant seeks to use the existing building for a restaurant, glass studio and office. The previous tenant used the Subject Property for retail sales and services.
- 3) The Applicant plans to pave and stripe the existing parking area and to improve the building facade for the proposed restaurant, glass studio and office uses at the Property. Council

finds this to be an improvement both to the site and for the benefit of the neighborhood.

4) The Applicant's representatives testified that valet and overflow parking is available at a nearby parking deck of the Step North Building, that has the same ownership as the Applicant, which can provide additional parking spaces in the evening.

5) The Board of Zoning Appeals noted that the buffer area variances sought from Section 1137.04(b) are due to existing conditions at the Subject Property.

6) The Board of Zoning Appeals found that there is no increase in total square footage of the building, but only a change in the use of the retail space to restaurant, glass studio and office uses.

7) The Board of Zoning Appeals found that the variances from Sections 1137.04(b) and 1141.09(c) regarding the required buffer areas and the centerline of the access drive to the nearest intersecting street represent existing nonconforming conditions at the Subject Property and are only necessary because of the change of use of the Subject Property.

8) The Board of Zoning Appeals found that the variance from Section 1141.05 regarding the required number of parking spaces is substantial at 58 spaces, but that the proposed parking plan which provides for overflow parking, including valet parking at the Step North property which is also owned by the Applicant lessens the nature of the variance. The Board of Zoning Appeals recommended that the granting of the variance be conditioned upon a parking plan that includes a permanent valet parking arrangement for the Step North property.

9) This Council finds that the parking requirement causes a practical difficulty for the Applicant which can be alleviated only by the granting of a variance to the parking requirements. If the site is to be put to the requested permitted and productive use, which is a use that would be permitted without a variance for parking if the property were located in the Central Shopping District, a variance to the parking requirement must be granted.

10) This Council also finds and determines that the availability of spaces at the Step North building, that is provided at no charge to the public and can be managed to provide parking for the Property, is a significant factor in this case that warrants the granting of the variance relative to the parking space requirements. Council requests that any signs in the Step North parking facility be modified to reflect that the public is not prohibited from parking in the facility at times and locations that will not interfere with its primary and secondary usages.

11) This Council further finds that a 58 parking space variance (which would be substantial in another context) is not substantial in this case, given the proximity of parking available for this usage of this Property during peak usage hours.

12) This Council also finds that while overflow parking from this site will likely park on other Village streets, this is ameliorated by the fact that during peak hours valet parking will allow the cars coming to this site to be parked at the Step North building, not on the Village streets. It is a condition of this variance that the spaces on the upper deck of the Step North parking facility be reserved in the evening for the use by the valet parking for the Subject Property when valet parking is being provided during evening hours.

13) This Council finds that with respect to the variances for the buffer area and access drive, the Applicant has demonstrated a practical difficulty resulting from the strict application of the zoning ordinances because the Property has been vacant for five years, and the Applicant has finally found tenants to lease the space. In addition, a buffer area variance was granted by the Village in 1988, and conditions at the property have not changed since the time of that prior approval, which warrants the grant of a variance at this time.

14) This Council finds that granting the variance will not adversely affect the delivery of governmental services.

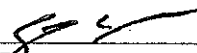
15) This Council finds that due to the preexisting conditions at the Subject Property, the Applicant's predicament cannot feasibly be obviated through some method other than the requested variances.

WHEREFORE, IT IS ORDERED, that the variances to Sections 1137.04(b), 1141.05 and 1141.09, requested by the Applicant, the plans for which are on file with the Building Commissioner, are hereby granted.

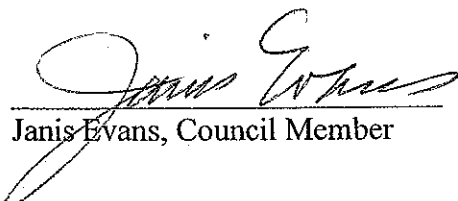
IT IS FURTHER ORDERED, that this document is deemed by Council to be the final order in this matter and that the Clerk of Council shall mail a copy of this Final Order of Council and Conclusions of Fact to the Applicant, and any other parties requesting same, by first class mail, and note the mailing 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 14th day of July, 2014, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

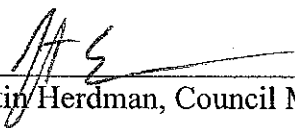
Village of Chagrin Falls Council



Steven Patton,
President of Council



Janis Evans, Council Member



Justin Herdman, Council Member

Janna Lutz, Council Member

Thomas Muscenti, Council Member



James Newell, Council Member

Richard Subel, Council Member

Notice mailed this 13 day of August, 2014.



Clerk of Council