

**BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL 3727
CHAGRIN FALLS, OHIO**

IN RE: VARIANCE REQUEST OF)	<u>FINAL ORDER OF COUNCIL</u>
CJB ENTERPRISES, LLC)	<u>AND CONCLUSIONS OF FACT</u>
FOR PROPERTY LOCATED AT)	
69 NORTH MAIN STREET)	<u>ADMINISTRATIVE ORDER NO.</u>
)	<u>2013- 48</u>

This matter is before the Chagrin Falls Village Council pursuant to the request of CJB Enterprises, LLC ("the applicant"). The applicant owns the existing commercial structure at 69 North Main Street ("the subject property"). The applicant has requested variances from Section 1137.04(a) of the Village of Chagrin Falls Codified Ordinances to permit the construction of a second floor deck and enclosed basement stairwell on the rear of the building. Under Section 1137.04(a), the minimum rear yard setback is five feet (5'). The second floor deck will require a rear yard setback variance of two feet four inches (2' 4"). The enclosed basement stairwell will require a rear yard setback variance of one foot two inches (1' 2").

The Village of Chagrin Falls Board of Zoning Appeals met on June 25, 2013, received evidence and testimony, and heard the arguments of the applicant. The Board of Zoning Appeals, on a vote of 3-0, recommended that Council grant the requested variances.

This Council considered the matter on July 8, 2013, upon the record created by the Board of Zoning Appeals. 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) The subject property is located on the west side of North Main Street in the Central Shopping District.
- 2) The applicant seeks to renovate the second floor of the building for a residential use and proposes to build a second floor deck that projects from the building seven feet four inches (7' 4"). The deck encroaches into the required five foot rear yard setback by two feet four inches (2' 4"). The applicant also proposes to build an enclosed basement stairwell that projects from the building six feet two inches (6' 2"). The basement stairwell encroaches into the required five foot rear yard setback by one foot two inches (1' 2").
- 3) The Board of Zoning Appeals found that the proposed deck was the smallest feasible to permit the space to be used as a deck and that the deck enhances the use of the property.

4) The Board of Zoning Appeals found that the proposed enclosed basement stairwell improves the delivery of governmental services.

5) The Board of Zoning Appeals found that granting the variances will not adversely affect the character of the neighborhood but, instead, will improve the neighborhood by adding a residential dwelling in the downtown.

6) The Board of Zoning Appeals noted that due notice was given to abutting property owners, and the only comment received was an inquiry about the stability of the rear wall of the structure, an issue not within the purview of the Board.

7) The Board of Zoning Appeals further noted that the Fire Department will review the ingress and egress at the subject property.

8) This Council finds that the proposed deck and basement stairwell are an improvement to the subject property and do not adversely affect the essential character of the neighborhood.

9) This Council finds that the applicant has demonstrated a practical difficulty in the use of the property which is a result of the strict application of the zoning ordinance.

10) This Council further finds that the variances are not substantial.

11) This Council also finds that the proposed project will not adversely affect the delivery of governmental services.

12) 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 variances. This conclusion is supported by the facts that the neighborhood will not be changed by the proposed variances. No objections have been made to the proposed variances, and the subject property will be improved by the proposed project.

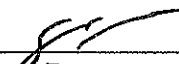
WHEREFORE, IT IS ORDERED that the variances to Codified Ordinance Section 1137.04(a), requested by the applicant, the plans for which are on file with the Building Commissioner, be and are hereby granted. The applicant may construct the proposed project in accordance with the proposed plans. This document 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

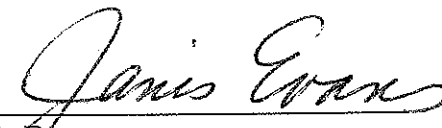
Council shall be deemed final upon the date the Clerk mails this document, as provided herein.

Adopted this 8th day of July, 2013, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

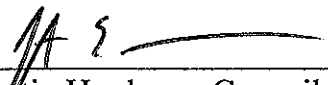
Village of Chagrin Falls Council



Steven Patton,
President of Council




Janis Evans,
Council President Pro Tem



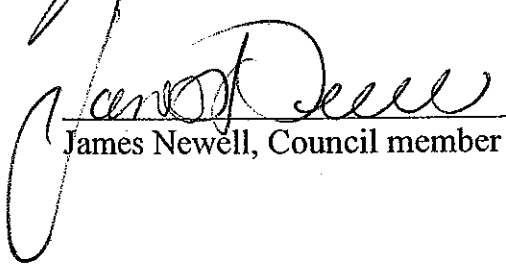
Justin Herdman, Council member



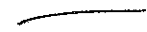
James Holdren, Council member



Janna Lutz, Council member



James Newell, Council member



Richard Subel, Council member

Notice mailed this 10 day of July, 2013.



Clerk of Council