

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL 3874
CHAGRIN FALLS, OHIO

IN RE: VARIANCE REQUEST OF)	<u>FINAL ORDER OF COUNCIL</u>
PETER AND ROBYN SHIMRAK)	<u>AND CONCLUSIONS OF FACT</u>
FOR PROPERTY LOCATED AT)	
68 EAST ORANGE STREET)	<u>ADMINISTRATIVE ORDER</u>
)	<u>NO. 2015- 28</u>

This matter is before the Chagrin Falls Village Council pursuant to the request of Peter and Robyn Shimrak (“the Applicants”). The Applicants own a residence at 68 East Orange Street which is a preexisting nonconforming building on a preexisting nonconforming lot (“the Subject Property”). The mass of the house currently exists within the required front yard setback. The Applicants propose to construct an addition to add a family room on the rear of the house, to increase the size of the kitchen and to increase the size of the garage to store a second car.

Pursuant to Section 1145.02(b) of the Codified Ordinances, non-conforming buildings shall not be altered, added to or enlarged unless the additions and original building are made to conform to the yard, coverage and height regulations of the district in which it is located.

The Subject Property is in the R1-60 Zoning District. Section 1125.03(e) of the Codified Ordinances requires a maximum lot coverage by the main building of 20%. The existing house has a non-conforming lot coverage of 20.5%. The Applicants are seeking an additional 9% increase in the lot coverage and, thus, requesting a variance of 9.5% for a total lot coverage of 29.5 %.

Section 1125.03(f) of the Codified Ordinances requires a front yard setback of 35 feet. The Applicants are seeking a variance of 2.2 feet from this requirement because the proposed addition will extend into the required setback .

The Village of Chagrin Falls Board of Zoning Appeals met on July 28, 2015, received evidence and testimony, and heard the arguments of the Applicants. The Board of Zoning Appeals, on a vote of 4-0, recommended that Council grant the variances to Section 1125.03(e) for the lot coverage, Section 1125.03(f) for the rear yard setback, and Section 1145.02(b) for nonconforming buildings.

This Council met on August 10, 2015, 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 Subject Property is located on East Orange Street where most homes, including the house of the Applicants, were built prior to the enactment of the Zoning Code.
- 2) The Subject Property is a preexisting nonconforming house on a preexisting nonconforming lot in the R1-60 District. The lot is only ninety feet (90') deep, which

leaves only a building envelope that is only fifteen feet (15'), and the existing house currently sits within the front yard setback.

- 3) The Applicants seek to improve the existing house by adding a family room to the rear, increasing the size of the kitchen and increasing the size of the garage for the storage of a second car in a tandem arrangement.
- 4) The existing square footage of the house is approximately 1,850 square feet and the proposed addition will result in the house having a square footage of approximately 2,500 square feet.
- 5) The rear yard setback of many of the adjacent homes correspond with, or are less than, that proposed by the Applicants.
- 6) The Applicants' representative testified that the addition was designed to minimize the massing of the house so as to not negatively impact the character of the neighborhood.
- 7) The Board noted that the requested variances are appropriate because the house on the Subject Property, like the other houses on East Orange Street, currently exists within the front yard setback.
- 8) The Board found that the neighbors were notified of the variance and the Board's hearing and only one neighbor attended the hearing to inquire about the size of the garage addition, but did not expressly object to the variance.
- 9) The Board found that, given all of the facts of the case, the front yard setback variance of 2.2 feet and the lot coverage variance of 9.5% were not substantial.
- 10) The Board found that the essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment as a result of the variances because the project is consistent with the character of the house and the neighborhood and the addition will not be visible from the front of the house.
- 11) The Board found that the Applicants' predicament cannot feasibly be obviated through some method other than the variances because the Applicants cannot put any addition on the house without needing some type of variance.
- 12) This Council finds that the Subject Property will yield a reasonable return and there can be a beneficial use of the Subject Property without the variances, but that the project enhances the house and is in keeping with the character of the neighborhood.
- 13) This Council finds that the Applicants have demonstrated a practical difficulty in the use of the Subject Property, which is a result of the strict application of the Zoning Ordinance and caused by the preexisting nonconforming conditions at the Subject Property.


- 14) This Council further finds that the Applicants' predicament cannot be feasibly obviated through some method other than the variances because any addition to the house will require some type of variance.
- 15) This Council also finds that granting the variances will not adversely affect the delivery of governmental services.
- 16) This Council also finds and determines that the spirit and intent of the Zoning Code would be observed, and substantial justice will be done, by granting the variances.
- 17) This Final Order and Conclusions of Fact is further supported by the fact that the Subject Property will be improved by the proposed project if the variances are granted.

WHEREFORE, IT IS ORDERED, that the variances from Sections 1125.03(e), 1125.03(f), and 1145.02(b) of the Codified Ordinances be and are hereby granted. The Applicants may construct the 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 10th day of August, 2015, 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




 Jan Evans, Council President Pro Tem




 Justin Herdman, Council member



 James Newell, Council member



 Thomas Muscenti, Council member



 Richard Subel, Council member



 Janna Lutz, Council member

Notice mailed this 11 day of August, 2015.