

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL
CHAGRIN FALLS, OHIO

3679

IN RE: VARIANCE REQUEST OF)
MICHAEL AND KATHY CORKRAN) FINAL ORDER OF COUNCIL
FOR PERMANENT PARCEL) AND CONCLUSIONS OF FACT
NUMBER 932-02-005)
) ADMINISTRATIVE ORDER
) NO. 2012- 59

This matter is before the Chagrin Falls Village Council pursuant to the request of Michael and Kathy Corkran ("the applicants"). The applicants own a vacant residential lot known as permanent parcel number 932-02-005 ("the subject property"). The applicants propose to build a new dwelling on the subject property.

Section 1353.08 of the Village Building Code establishes a River Buffer setback. The minimum boundary of the River Buffer area is set at 120 feet in a horizontal plane outward from the normal low water mark of the stream channel. Because a portion of the proposed dwelling, principally the garage, extends into the River Buffer and the grading around the new dwelling extends into the River Buffer by approximately five feet (5'), the applicants are requesting a variance of thirty feet (30') from Section 1353.08.

The Village of Chagrin Falls Board of Zoning Appeals met on November 27, 2012, received evidence and testimony, and heard the arguments of the applicants. The Board of Zoning Appeals, on a vote of 4-0, approved a motion to recommend a variance of thirty feet (30') from Section 1353.08 establishing the River Buffer setback, whereby the applicants may construct a dwelling within ninety feet (90') of the river in substantial conformance to the site plan submitted to the BZA and perform related grading. No trees will be removed in the remaining ninety feet (90') of River Buffer, except as necessary for the approximately five feet (5') of over-dig area required to construct the garage.

Council met on December 10, 2012 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) While the subject property consists of approximately three and four tenths (3.4) acres, the property is divided by the Chagrin River and, thus, only eighty-three one-hundredths (0.83) of an acre piece of the property located at the extreme end of West Washington Street and bordered on the northwest by the Chagrin River will be used for the new dwelling.

2) The applicants seek to build a new dwelling on the subject property with an attached garage that is ninety feet (90') from the edge of the river and to grade around the new dwelling which

will extend into the River Buffer setback by approximately five feet (5').

3) The BZA noted that the variance criteria for this Building Code requirement are related to flood hazards and are not the "practical difficulty" standard required for Zoning Code variances.

4) The BZA noted that approximately eighty percent (80%) of the proposed dwelling is located outside the River Buffer setback and approximately twenty percent (20%), primarily the garage, is located inside the River Buffer setback. The BZA took note of the neighbor's concern of the slope stability along the south property line.

5) The BZA is satisfied that the applicants are taking all necessary precautions to minimize damage due to flooding and that the variance relieves pressure on the hillside and impact on old growth trees located there.

6) The BZA found that the area being disturbed for the construction of the new dwelling is approximately nineteen one-hundredths (.19) of an acre, below the maximum of twenty-two one-hundredths (.22) of an acre permitted by the Code.

7) The BZA found that the new dwelling construction site is fourteen feet (14') above the river level and ten feet (10') above the sandy river level.

8) The BZA found that the property is insurable through FEMA's flood insurance program.

9) The BZA noted that while a smaller dwelling may avoid the need for a variance, such a factor is not part of the River Buffer variance test.

10) The BZA made clear its intent to grant relief from the River Buffer setback for the site plan presented and that this variance does not allow full relief from the River Buffer for matters that have not been presented in the site plan. The applicants may construct a dwelling in substantial conformance with the site plan submitted with the application.

11) This Council further finds, as recommended by the BZA, that the requested River Buffer variance meets the standards for such a variance and will not result in increased flood heights, additional threats to public safety or extraordinary public expense and is located above the Base Flood Elevation.

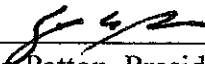
WHEREFORE, IT IS ORDERED, that the variance requested by the applicants from the River Buffer requirement be and is hereby granted. The applicants may construct the project in accordance with the proposed plans relative to the River Buffer. This document is deemed by Council to be the final order in 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 December, 2012, 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



Michael Chess, Council member

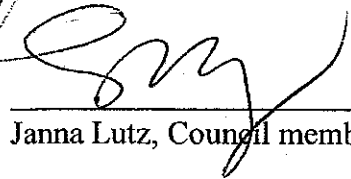


James Newell, Council member



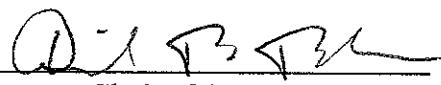
James Holdren, Council member

Richard Subel, Council member



Janna Lutz, Council member

Notice mailed this 18 day of December, 2012.



Clerk of Council