

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

3916

<b>IN RE: VARIANCE REQUEST OF</b>	)	<b><u>FINAL ORDER OF COUNCIL</u></b>
<b>CLIFFORD AND DIANA NAZELLI FOR</b>	)	<b><u>AND CONCLUSIONS OF FACT</u></b>
<b>PROPERTY LOCATED AT</b>	)	
<b>35 HIGH COURT</b>	)	<b><u>ADMINISTRATIVE ORDER</u></b>
	)	<b><u>NO. 2016- 14</u></b>

This matter is before the Chagrin Falls Village Council pursuant to the request of Clifford and Diana Nazelli ("the Applicant"). The Applicant owns the residence at 35 High Court, Permanent Parcel Number 931-16-016 ("the Subject Property"). The Applicant has requested a variance from Section 1125.03(h) of the Village of Chagrin Falls Codified Ordinances to permit the construction of an addition to the rear of the dwelling that will encroach 3'9" into the required 40' rear yard setback as required by Section 1125.03(h).

The reason for the variance is that the Applicant desires to add a sunroom on the rear of their existing house. There is currently 8'3" to the existing rear yard setback line and the Applicant would like to add a 12' addition on the back of their house.

The Village of Chagrin Falls Board of Zoning Appeals met on April 26, 2016, received evidence and testimony, and heard the arguments of the Applicant and their representative, Phillip Koepf, architect. The Board also received a letter from an adjacent neighbor, the Dobecks, in support of the variance. Board Member Kraemer recused herself from the proceeding due to her friendship with the Applicant.

The Board of Zoning Appeals, on a vote of 3-0, recommended that Council grant the requested variance.

This Council held a public hearing on May 9, 2016, and considered the matter. 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 35 High Court.
- 2) The Applicant seeks to add a sun room to the rear of the dwelling that will encroach 3'9" into the required 40' rear yard setback as required by Section 1125.03(h).
- 3) The Board found that the topography of the lot and adjacent properties is such that it would be impossible for homes to be built behind the Applicant's home.
- 4) The Board found that the essential character of the neighborhood would not be impacted by the addition and granting the variance.
- 5) The Board determined that despite notices being sent out, no neighbors objected to the variance and an adjacent neighbor sent a letter in support of the variance.

6) The Board found that granting the variance will not adversely affect the delivery of governmental services.

7) The Board found that the rear yard setback variance was not substantial, that the Applicant explored other options and found that this was the only option for placement of the sunroom.

8) The Board found that the Applicant's predicament feasibly cannot be obviated through some method other than a variance.

9) The Board found that the spirit and intent behind the zoning requirement will be observed and substantial justice done by granting the variance.

10) The BZA heard no testimony against the proposed variance, and this Council is persuaded that no harm will result to the neighborhood if the variance is granted.

11) This Council finds that the Applicant has demonstrated a practical difficulty in the use of the Subject Property, which is a result of the strict application of the zoning ordinance.

12) This Council further finds, as recommended by the Board of Zoning Appeals, that granting the variance will not substantially change the character of the neighborhood.


13) 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 variance and that there is no adverse impact on governmental services. This conclusion is supported by the fact that the neighbors did not object to this variance.

WHEREFORE, IT IS ORDERED, that the variance from Section 1125.03(h) is hereby granted. The Applicant may construct the project in accordance with the proposed plans. This document is deemed by Council to be the final order in this matter.

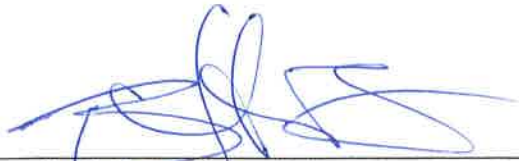
IT IS FURTHER ORDERED, that the Clerk of Council shall mail a copy of this Final Order of Council and Conclusions of Fact to the Applicants, and any other parties requesting same, by first class mail, and note the mailing date upon this Order. The decision of this Council shall be deemed final upon the date the Clerk mails this document, as provided herein.

Adopted this 9th day of May, 2016, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

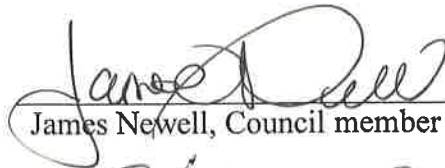
Village of Chagrin Falls Council

  
Karl Maersch, President of Council

  
Nancy Rogoff, Council President Pro Tem



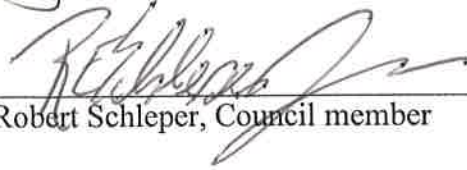
Brett Berkobain, Council member



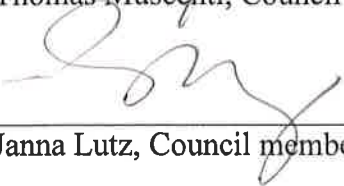
James Newell, Council member



Thomas Muscenti, Council member



Robert Schleper, Council member



Janna Lutz, Council member

Notice mailed this 31 day of May, 2016



Clerk of Council