

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

3918

IN RE: VARIANCE REQUEST OF)	<u>FINAL ORDER OF COUNCIL</u>
MICHAEL AND CHRYSANTHI)	<u>AND CONCLUSIONS OF FACT</u>
WEISBURGER FOR PROPERTY)	
LOCATED AT)	<u>ADMINISTRATIVE ORDER</u>
542 NORTH STREET)	<u>NO. 2016-16</u>

This matter is before the Chagrin Falls Village Council pursuant to the request of Michael and Chrysanthi Weisburger ("the Applicant"). The Applicant proposes to replace an existing garage and build a detached garage in the side yard of the property located at 542 North Street, Permanent Parcel Number 931-23-003 ("the Subject Property"). The Applicant has requested a variance from Section 1125.04(a)(3) of the Village of Chagrin Falls Codified Ordinances to allow the construction of the garage in the side yard. In addition, a 1' variance would be necessary from the lot line if the variance for the garage in the side yard is granted.

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. The Applicant indicated that the current garage was not suitable for modern cars and that the existing garage is in relatively bad shape. Due to the topography of the lot, the garage is located in the side yard. The code requires detached garages to be located in the rear yard, which is the basis of the variance requests.

The Board did not receive any opposition for the variances.

The Board of Zoning Appeals, on a vote of 4-0, 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 542 North Street.
- 2) The Applicant seeks to replace an existing garage in the side yard of the property with a new garage in the side yard of the property, which requires a variance from Section 1125.04(a)(3).
- 3) The Board found that the topography of the lot created challenges for the construction of a garage in the rear of the property, that the existing garage is in the side yard, the Applicant is attempting to create a new structure that is usable and a better appeal to the neighborhood, and the variance sought is minimal.
- 4) The Board found that the essential character of the neighborhood would not be impacted by granting the variance.

5) The Board determined that despite notices being sent out, no neighbors objected to the variance request.

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

7) The Board found that the variances were not substantial and found that this was the best option for placement of the garage on the property.

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 the variance.

WHEREFORE, IT IS ORDERED, that the variance from Section 1124.04(a)(3) is hereby granted. Subject to approval by the Village of Chagrin Falls Architectural Review Board ("ARB"), the Applicant may construct the project in accordance with the proposed plans. This document is deemed by Council to be the final order for the variance requested 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



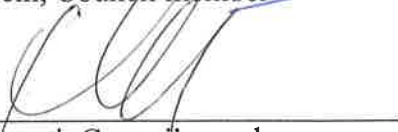
Karl Maersch, President of Council



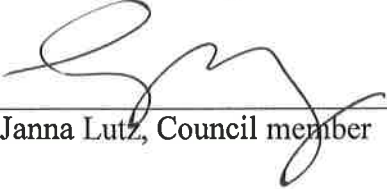
Nancy Rogoff, Council President Pro Tem



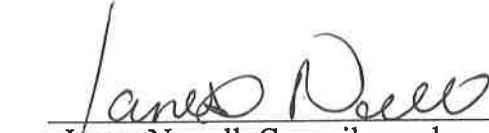
Brett Berkobein, Council member



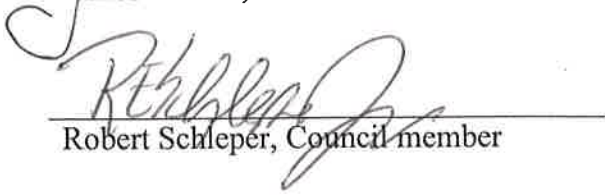
Thomas Muscenti, Council member



Janna Lutz, Council member



James Newell, Council member



Robert Schlepfer, Council member

Notice mailed this 31 day of May, 2016



Clerk of Council