

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

3934

<b>IN RE: VARIANCE REQUEST OF JOHN ) MICKELS AND DESIREE GRAVES FOR ) PROPERTY LOCATED AT 414 FALLS ) ROAD )</b>	)	<b><u>FINAL ORDER OF COUNCIL AND CONCLUSIONS OF FACT</u>  <u>ADMINISTRATIVE ORDER NO. 2016- 32</u></b>
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This matter is before the Chagrin Falls Village Council pursuant to the request of John Mickels and Desiree Graves (the "Applicant"). The Applicant seeks a variance to Section 1125.03(h) of the Village of Chagrin Falls Codified Ordinances to allow the construction of a 19 foot by 28 foot addition to the rear of their dwelling on the property located at 414 Falls Road, Permanent Parcel Number 931-03-054 (the "Subject Property").

The Village of Chagrin Falls Board of Zoning Appeals met on May 24, 2016, received evidence and testimony, and heard the arguments of the Applicant's representative George Clemens, Architect. The Applicant indicated that the current request for a variance from the 50 foot rear yard setback, causing an 11 foot 4 inch encroachment into the setback at the furthest corner to the rear yard setback was required due to the unusual configuration of the lot. The Applicants asserted they had practical and aesthetic reasons for trying to add additional building space on the rear of the home. Clemens indicated the Applicants are adding a porch facing Falls Road, which is a front porch and does not need a variance. The rear of the house, facing North Street, has a hillside on the other side, and the setback, according to Applicants, is not benefiting the adjoining property owner, since there is no other side to the street and there is a fairly heavily treed edge. Clemens noted that due to Village requirements, the side facing North Street is a rear yard. Upon inquiry from the Law Director, Clemens verified that they were seeking a variance to cover a deck on the rear of the building as well as the additional living space. Clemens requested that the Board grant a variance for both the deck and the additional living space, although the deck needed a lesser variance. The Applicants acknowledge that when they purchased the Subject Property they had no knowledge of the complexities of the acute nature of the lot and the need for the variance.

The Board found that proper notice was sent to all required property owners. No comments were received and no one appeared to oppose the application.

The Board of Zoning Appeals voted 5-0, to recommend that Council grant the requested variance.

This Council held a public hearing on June 13, 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 at 414 Falls Road and located in the R-1-100 Single-Family Residential District.

2) The Applicant seeks to increase the living space in the dwelling, and add a deck on the rear of the property to replace the current deck which further encroaches into the rear yard setback, which requires a variance from Section 1125.03(h) of the Village of Chagrin Falls Codified Ordinances.

3) The Board found that the essential character of the neighborhood would not be adversely impacted by granting the variance.

4) The Board determined that despite notices being sent out, no one spoke in opposition to the variance request.

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

6) The Board found that the variance is not substantial and the deck will actually encroach into the rear yard setback less than the existing deck attached to the rear of the house.

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

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

9) Council is persuaded that no harm will result to the neighborhood if the variance is granted.

10) 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.

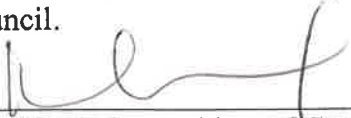
11) This Council further finds, as recommended by the Board of Zoning Appeals, that granting the variances will not substantially change the character of the neighborhood.

12) 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.

WHEREFORE, IT IS ORDERED, that the variance from Sections 1125.03(h) of the Village of Chagrin Falls Codified Ordinances is hereby granted. Applicant may construct the project in accordance with the proposed plans prepared by George Clemens. This document is deemed by Council to be the final order for the variance requested in this matter.

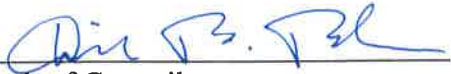
IT IS FURTHER ORDERED, that the Clerk of Council shall mail a copy of this Final Order of Council and Conclusions of Fact to the Applicant, and any other parties requesting same, by first class mail, and note the mailing date upon this Order. The decision of this Council shall be deemed final upon the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

Adopted this 13<sup>th</sup> day of June, 2016, by a majority of the Village of Chagrin Falls Council.



Karl Maersch, President of Council

Notice mailed this 16 day of June, 2016



Clerk of Council