

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL
CHAGRIN FALLS, OHIO

3970

IN RE: VARIANCE REQUEST OF)
BELLNOBLE LLC FOR PROPERTY) FINAL ORDER OF COUNCIL
LOCATED AT 210 BELL STREET) AND CONCLUSIONS OF FACT
)
) ADMINISTRATIVE ORDER
) NO. 2016- 68

This matter is before the Chagrin Falls Village Council pursuant to the request of Bellnoble LLC (the "Applicant"). The Applicant proposes to replace a staircase with a ADA compliant ramp and a new staircase going in opposite directions to the existing commercial building located at 210 Bell Street, Permanent Parcel Number 932-09-005 ("the Subject Property"). The Applicant has requested variances from Section 1139.04(a) of the Village of Chagrin Falls Codified Ordinances, which requires a 30 foot front yard, and Section 1145.02(b) of the Village of Chagrin Falls Codified Ordinances, that prohibits alteration of a non-conforming building unless the additions in the original building are made to conform to the area, yard and height requirements of the District.

The Applicant indicated there was an existing staircase that ended within the right-of-way of Bell Street and there currently is no setback for this building that was constructed in 1894 and the staircase encroaches in the right-of-way and the new proposal would provide for an approximate 3 foot encroachment in the right-of-way of Bell Street.

The Board did not receive any opposition for the variance.

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 November 14, 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 210 Bell Street.
- 2) The Applicant seeks to place an ADA compliant ramp and staircase in the front yard which also encroaches on the right-of-way of Bell Street and seeks a variance of 30 feet from the 30 foot front yard setback requirement, which requires a variance from Section 1139.04(a) of the Codified Ordinances, and a variance from Section 1145.02(b) of the Codified Ordinances.

3) The Board found that the ramp and staircase would make the property more accessible to the disabled and would be an enhancement to the property.

4) The Board found that the variance would not be substantial, given the existing staircase is already encroaching into the right-of-way of Bell Street.

5) The Board found that the Applicant purchased the property with the assumption that the existing staircase, which already encroaches into the right-of-way, could be replaced and therefore had no knowledge of the zoning restriction.

6) The Board found that there were no neighbors or other residents in support of or opposed to the project.

7) The Board found that the character of the neighborhood would not be adversely affected by the variances.

8) The Board found that there would be no adverse effect on the delivery of governmental services.

9) The Board found that the request complies with the spirit and intent of the zoning requirements and that the variance is not self-created, and is intended to make the building more compliant with the Americans With Disabilities Act and that the variances requested are not self-created.

10) This Council finds that the Applicant has demonstrated a practical difficulty and the use of the Subject Property is as 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 variance 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, on the condition that the Applicant enter into a License Agreement with the Village, and as a result there would be no new adverse impact on government services.

WHEREFORE, IT IS ORDERED, that the variance from Sections 1139.04(a) and 1145.02(b) of the Codified Ordinances are hereby granted. Subject to approval by the Council of the Village of Chagrin Fall, and execution of a License Agreement be entered into by the Applicant and the Village, and subject to any further approvals required by the Village of Chagrin Falls Architectural Review Board, the Applicant may construct the project in accordance with the proposed plans upon execution of the License Agreement with the Village. This document is deemed by Council to be the final order for the variances 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 14th day of November, 2016, by a majority of the Village of Chagrin Falls Council.



Karl Maersch, President of Council

Notice mailed this 30 day of November, 2016



Clerk of Council