

**VILLAGE OF CHAGRIN FALLS  
BOARD OF ZONING APPEALS  
May 28, 2019**

Members present: Freshman-Johnson, Holdren, Kraemer, Lipp  
Also present: Jamieson, Markowitz

The meeting was called to order at 8:00 p.m. by Secretary Rachel Freshman-Johnson.

**APPROVAL OF MINUTES**

Moved by Ms. Kraemer, seconded by Mr. Holdren that the minutes of the meeting held December 18, 2018 be approved. Carried. Ayes: Freshman-Johnson, Holdren, Kraemer. Abstain: Lipp. Nays: None.

Moved by Ms. Kraemer, seconded by Mr. Holdren that the minutes of the meeting held January 22, 2019 be approved. Carried. Ayes: Freshman-Johnson, Holdren, Lipp. Abstain: Kraemer. Nays: None.

Moved by Ms. Kraemer, seconded by Mr. Holdren that the minutes of the meeting held February 26, 2019 be approved. Carried. Ayes: Freshman-Johnson, Holdren, Kraemer, Lipp. Nays: None.

**SWEARING OF WITNESSES**

All were sworn in.

**MIKE AND COURTNEY MARCHETTI, 395 EAST WASHINGTON STREET - REQUEST FOR A VARIANCE TO SECTION 1145.02(b), NONCONFORMING BUILDINGS: ADDITIONS, PERMANENT PARCEL NO. 932-11-007.**

Mr. Jamieson said the applicants are proposing alterations to a preexisting nonconforming detached garage in the R1-60 zoning district. The proposed scope of work includes restructuring the roof, replacing the existing windows, adding one additional window, adding a man door, and replacing the exterior siding. Section 1145.02(b) covers the requirements for nonconforming buildings and alterations. The additional window, man door, and replacement roof structure are considered alterations based on the definition in Section 1301.02. This project did go before the ARB who granted them preliminary approval as presented with removal of the central round window at the facade.

George Clemens, architect, said this project is technically an alteration but essentially the nature of the project is to restore this historic garage. It is close to the property line. Doing a new garage is going to throw it off the property line and probably be wider so that is considered a less desirable

alternative. We are not changing the shape of the structure in any way and we are keeping the historic details. We are just trying to make it a little bit more functional and it is long enough that you could put an additional car in the back. The foundation and the roof were in terrible shape. This disrepair was something that came to them with the property when they purchased it two years ago. Another substantial aspect of this is that we will probably remove the entire roof structure and replace it.

Michael Marchetti said the roof is dilapidated and is already falling in. We are afraid that next Winter it is going to go and it is a liability.

Mr. Holdren said why is this a nonconformity? Because of the side yard setback? Mr. Marchetti said yes.

Mrs. Freshman-Johnson said just to confirm, the garage will be the exact same footprint, the exact same height, and the exact same width. Unfortunately, because of the window and door it is considered alterations, which is why it strikes needing the variance. Mr. Clemens said correct.

Mrs. Freshman-Johnson said if you were to build a freestanding two-car garage, does this meet the width? It is smaller than a regular two-car now? Mr. Clemens said yes, it is not a typical two-car width. It is eighteen feet four. Mrs. Freshman-Johnson said it is smaller than a standard garage because of the way this property and the driveway work so they are just going to repair the existing footprint.

Moved by Ms. Kraemer, seconded by Mr. Holdren that we approve the variance request, at 395 East Washington Street, to Section 1145.02(b) for nonconforming buildings for the repair and restructuring of the garage at that location. In terms of the variance requested, it is relative to not any change in the size or shape of the garage but the addition of a window and a door and obviously with the leaning garage and a caving in roof this would be an improvement to the structure. If you look at the variance requirements, will the property yield a reasonable return? It is in disrepair and unsafe, which nobody can deny and the variance would allow the owner to repair in the same footprint as it currently exists. The variance request is substantial but that is relative to the current location of the garage. It will not change the essential character of the neighborhood but support the house that it is related to and create a safer environment. The variance would not adversely affect the delivery of governmental services and certainly when the property owner purchased the property they were aware that they had a garage issue but they most likely were not aware that there were some restriction related to the current location of the garage in terms of repair or replacement. There is not an alternative in terms of solving the situation other than repair of the garage. This variance request does support the spirit and intent of the zoning requirement in terms of improving the quality of the structure and the surrounding neighborhood. I don't think that the circumstances are self-created. Obviously they knew that there was some disrepair but that shouldn't prevent an owner from purchasing a property. For those reasons, I think that we should approve the variance request for this 395 East Washington Street garage.

Lipp: Aye.

Freshman-Johnson: Aye.

Holdren: Aye.

Kraemer: Aye.

Mrs. Freshman-Johnson said this action will be final within fifteen days unless appealed to Council by a petition of three or more Council members.

**PALMER AND DIANA DEPETRO, 206 EAST WASHINGTON STREET - REQUEST FOR A VARIANCE TO SECTION 1145.02(b) NONCONFORMING BUILDINGS: ADDITIONS, AND SECTION 1125.04(a)(6), AREA, YARD, AND HEIGHT REGULATIONS: ACCESSORY STRUCTURES: MAXIMUM HEIGHT, PERMANENT PARCEL NO. 932-19-013.**

Mr. Jamieson said the applicants are proposing an addition to a detached preexisting nonconforming garage. The scope of work includes raising the roof 6". Section 1145.02(b) covers additions to nonconforming buildings and Section 1125.04(a)(6) covers the area, yard, and height regulations of accessory structures. The setback for this property would be 4' based on the height. This is the nonconformity of how it stands today. There is a little greater setback requirement because of the proposed height.

Ms. Kraemer said do we know what it is increased to? Mr. Clemens said the closest this garage comes to the lot line is 7" or 8". This is the actual survey; .68" that would be about 8" and then almost to the 1.98' is the distance from the lot line on the back corner. Mrs. Freshman-Johnson said and that exists today? Mr. Clemens said yes. Mrs. Freshman-Johnson said the only thing that is really changing in the footprint is really the height but because height is changing the setback is greater. Mr. Clemens said the garage is about 18' wide and my clients are having a hard time using this with two cars and getting out of the cars. He said there is also an alteration. Ms. Kraemer said it is that plus the height. Mr. Clemens said we are 6" over the height so you could argue that that is not a substantial variance. It does increase what would be required for the side setback so that variance goes to 3', 4" from the 4' required.

Mr. Clemens said the garage is very close to an existing, neighboring garage. Mrs. Freshman-Johnson said they actually share a driveway. Mr. Clemens said they are interested in both unifying the garage, making it more functional, and that you could actually put like a play room up above. They don't have much of a basement so that would give them an overflow of space for kids. It does show a bathroom up there; that is pretty typical for the rec room and all that stuff. We are making the space so that you can kind of run your car on the diagonal and get out of it in this area and also for a little more storage and for the rec room bathroom.

Mrs. Freshman-Johnson said is there a second usable floor on this garage now? Mr. Clemens said yes, there is an unfinished loft.

Ms. Kraemer said is it a one-car garage or a two-car garage? Mr. Clemens said it is a small two-car garage.

Mr. Clemens said it is not a great looking garage now and we are trying to bring up closer to the look of the house. We are adding front facing windows with continuing to have a little bit of a low roof there and windows facing the side yard.

Mrs. Freshman-Johnson said I think this is the one where the ARB recommended to the BZA. Mr. Jamieson said the ARB's motion was to grant preliminary approval of the plans presented with the restudy of window trim to simplify the garage door detail with recommendation to BZA for approval of the variances as submitted.

Mr. Holdren said is anything being reused? Mr. Clemens said the roof is being taken off but the walls are staying so basically that is why we are 6" over that 18'. We are matching the pitch of the house off of those walls. Mr. Holdren said if you were to tear it all down and move it over would you have to pour new concrete for the driveway to hit the house? Mr. Clemens said yes. Their whole lot drops down and there is a significant structure there. We are actually going to be restructuring the floor. There is storage space underneath the garage. Moving it over would impact their rear yard greatly but also we'd have to start over and they have already put work into this. The reason we are not making this a three-car wide garage, to mitigate that we are still leaving this the same narrow width as the existing garage. Ms. Kraemer said but you are going to look way bigger than your next door neighbor, right? Mr. Clemens said but that is back a little bit. I mean yeah, but this front gable is taller but it is also the same width gable. Because the land is tricky here, that is part of why we are not adding another garage bay.

Mr. Clemens said the ARB allows, and a lot of times will approve garages that are between 18' high and 22' high in order to meet the roof slope of the house and that is what we are doing. But, since we are doing that with nonconforming we can not move it back. Mrs. Freshman-Johnson said if you had moved it away from the side yard you could have done it. Ms. Kraemer said 3' over towards the house. Mr. Clemens said correct. Ms. Kraemer said and what does the neighbor have to say about it? Mr. Clemens said we haven't gotten anything from anybody. I don't think there are any issues with it because for them it is more attractive and the addition is not affecting them at all.

There was lengthy discussion regarding living quarters on the second floor, which is not allowed.

Mr. Holdren said the required setback is 3'. Because this structure is actually 6" taller, it is allowed but therefor it must be moved an additional 6" away from the side. It should be 3', 6" and it currently is 8" therefor it is a 2', 10" variance.

Moved by Mrs. Lipp, seconded by Ms. Kraemer that the motion for a variance to 206 East

Washington Street be granted. Section 1145.02(b) and Section 1125.04(a)(6) are the relevant sections; the nonconforming building additions and the area, yard, and height regulations. The height of the roof is being raised in order to match the slope of the home, which created a situation where it is 6" over the allowed height and no variance is required for the addition to the interior section of the property. Will the property yield a reasonable return or will there be any beneficial use of the property without the variance? The current conditions are it will improve the functionality of the property by allowing the owners to have access to the automobile storage area. Is the variance substantial? It is substantial but that is mostly because it is a nonconforming use. The essential character of the neighborhood would not be substantially altered and adjoining properties, although close to the property, will not be detrimentally affected. The variance would not adversely affect the delivery of governmental services. The property owner probably did not purchase the property with knowledge of the zoning restriction because it was already a nonconforming building. The predicament likely can not be obviated through some method other than a variance due to the physical features of the yard. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting a variance. The circumstances are not self-created and do not result of the action of the property owner. So, for those reasons, I would vote that the variances be granted.

Mr. Holdren said can we add that they do not make this a rental unit or a living space?

Freshman-Johnson: I will vote aye. I want to additionally add some items discussed in the motion for this variance knowing that this won't be used as a rental. Also, we did ask why they wouldn't move the entire structure over. For a financial investment perspective it would be such a significant change not to mention not even really match the structure of the house because of the nature of the slope of the back yard would cause a lot of other issues so they did try to obviate the situation by discussing all the different options. The bays that exist today are very small. They are not really making any of those wider they are just adding on a little portion there to create access to get in and out of the cars on the left hand side and also to note that the roof going up a few inches is helping to redirect it to have the same roof line as the house in front of it the better match, which is allowable in our code and suggested by the ARB. For all those reasons and the motion, I vote aye.

Holdren: I would vote aye and I just want to add that even though this is a bigger structure the footprint is still within our code; there is no variance there. It is just keeping the same distance to the neighbor's that it currently is in the required setback.

Kraemer: Aye, for all the reasons stated.

Lipp: Aye.

Mrs. Freshman-Johnson said this action will be final within fifteen days unless appealed to Council by a petition of three or more Council members.

The meeting adjourned at 8:46 p.m.

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Rachel Freshman-Johnson, Secretary