

**VILLAGE OF CHAGRIN FALLS  
BOARD OF ZONING APPEALS  
July 23, 2019**

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

The meeting was called to order at 8:00 p.m. by Chairman Wade Fricke.

**SWEARING OF WITNESSES**

All were sworn in.

**JAMES L. BENJAMIN, 187 ROBENS COURT - AN APPEAL TO THE MAY 7, 2019  
DECISION OF THE ARCHITECTURAL REVIEW BOARD IN DENYING AN ADDITION  
TO THE EXISTING DWELLING, PERMANENT PARCEL NO. 932-04-013.**

Mr. Jamieson said I believe the legal address is 187 Solon Road according to the County records. It is in the R1-50 zoning district. It is an existing 1,408 square foot, one and a half-story residential dwelling. The property owner is proposing to consolidate two parcels to the north of the existing parcel and then propose adding a 3,400 square foot two-story addition north of the existing house. We had a historical significance report completed and then revised from Perspectus Architecture with their findings that this structure is historically significant. A zoning review of the proposed project shows compliance with the code. The Architectural Review Board met and looked at this project twice with the most recent meeting being on May 7, 2019 on a revise and resubmit. A motion was approved, two to one, to revise and resubmit plans to maintain a separate historic house with a new second house on the parcels to the north and then an appeal to the action of the ARB was received by the village on May 14, 2019.

Mr. Fricke said could a 3,400 square foot structure be built on the two lots to the north without any variances? Mr. Jamieson said right, if it is all one consolidated parcel all the setback regulations are met. The lot coverage is within the regulations.

Mr. Markowitz said your roll tonight is to determine whether the ARB erred in denying the request to build the addition to the house. The code has no specific provisions that guide you other than it is an appeal, based on error, by the applicant from the decision of the board. There is a presumption of validity in the decisions that are made by governmental agencies. The burden is on the applicant, as the appellant, to prove that the ARB failed to properly apply the code to the application and plans that were presented to the ARB. They have the burden of persuasion, as we say in the law, but they have to prove and explain to you why they believe that there was an error by the board and that the board's decision should be reversed. You have three options. The board's decision can be affirmed, it can be reversed, or you can, given certain circumstances, remand to the ARB but that would

depend on something happening tonight that I don't necessarily expect will happen like some new issue that we felt that they didn't consider.

Mr. Holdren said if this is approved, this is still a preliminary design so it would still go back to the ARB. Mr. Markowitz said they would have to go back for final approval. Mr. Holdren said then the ARB can't weigh in on the reason it was originally denied? Mr. Markowitz said the ARB would be bound by the Board of Zoning Appeals' decision.

Ms. Kraemer said there was some reference made to the ability of the applicant to build on the other two lots. That would presume that those lots were consolidated? Is that not even an issue? Mr. Jamieson said right now they are in the process of consolidation so they are not fully, legally consolidated. Mr. Fricke said but that consolidation is not something that the village opines on subjectively? They have the legal right because they own all three lots. Mrs. Freshman-Johnson said but they can't build until they combine them.

Mrs. Freshman-Johnson said the meeting minutes from the ARB are limited, unfortunately, and we have talked about this in the past that our meeting minutes are pages long because we record and the ARB does not. So, do we have any information besides the one paragraph here that talks about the specific reasons? Are we going to get that evidence today why the ARB declined? Mr. Markowitz said you could have someone who was at the meeting state what else may have been presented but it is not the kind of quality evidence we like to hear because it is essentially hearsay evidence. If there was a tape, you could certainly listen to the tape.

Rob Dubyak said I am representing Jim Benjamin. Jim purchased the three lots that were referenced earlier. They are between Solon Road and a tiny street called Robens Court. The house on one of the lots fronts Solon Road and is directly across the street from Chagrin Pet Supply. Jim changed the address from Solon Road to Robens Court, the street behind it, and the house actually faces to the rear of Robens Court. There is a reference in the ARB decision to the Robens Court neighborhood. There are only two other houses on Robens Court. One across the street which was built in 1957 and has since been added on and one next to that house that was built in 1947. Robens Court is not a cul-de-sac; there is not even a turnround. The street dead ends into a guardrail. One of the issues is when was this house built, because there is a dispute as to when the house was built. The Perspectus Report contends that the house was built in either 1917 or 1918. However, there are also a Chagrin Falls Village real-estate appraisal record which lists the house as being built in 1926. In addition, the home appears to be a model home from Sears Robuck. The style is the Vallonia and the Vallonia model home was not available until after 1921.

Mr. Holdren said what does the year have to do with it? Mr. Dubyak said if the home is more than 100 years old then it is historically significant, per the code. Mr. Holdren said if it is more than 100 years it is automatically and if it is 50-100? Mr. Dubyak said then there is a second analysis.

Mr. Dubyak said specifically, Section 1146.05 defines what a historic significant property is. There are three specific factors. The first one is, is it listed individually in the National Register of Historic

Places? It is not. Or, it can be preliminarily determined by the Ohio Historic Site Preservation Advisory Board as meeting the requirements for individual listings on the National Register. It does not meet that requirement either. In the Perspectus report, Ms. Sloan concludes that it appears to be eligible for the National Registry but that is not the standard, at least under the village's code. Under the second factor, it basically asks if it is in one of the specific three historic districts, which it is not, or whether it is in a registered historic district or a district preliminarily determined by the Ohio Historic Site Preservation Advisory Board to qualify as a registered historic district. It does not meet either of those requirements either. So then we go to paragraph three, which states consistent with the criteria used to determine National Register eligibility, possesses one or more of the following attributes. It appears that the only one that is applicable, in this case, is under (c)(1), that it is a structure which embodies the distinctive local characteristics of a type, period, or method of construction. As a side note, the Perspectus report references that the home is listed on the Ohio Historic Inventory. While an application was done, it is not listed on the Ohio Historic Inventory. When looking at whether this home embodies the distinctive local characteristics of a type, period, or method of construction, obviously it is important to look at the local characteristics.

Mr. Dubyak said the home in question is the structure in the center of the picture and you can see a half circular driveway with a car in it. Above that is Solon Road. You can see a portion of Solon Road in front of condominiums and, not in the picture but directly across from the subject home, is Chagrin Pet Supply. If you look at the surrounding area you can see directly to the south of the property line, the condominiums on Solon Road. Just to the east of the condominiums are the three large homes off of Monticello Drive. Two of them, in this picture, were built in 1966 and one was built in 1967. Across from the subject parcel are the two homes on Robens Court. The one directly across was built in 1957 and it has an addition that makes the structure 107 feet long, approximately the same length as the proposed addition. The house next to that, just to the north, is again a home that was built in 1947. The subject home is facing Solon Road so the back of the home is on Robens Court.

Mrs. Freshman-Johnson said so you are showing this evidence to say it couldn't have been built in 1917 if this plan, that it was built from, didn't come out until 1936? Mr. Fricke said it says 1921 right below it. Mr. Dubyak said yes.

Ms. Kraemer said there is nothing on the real estate documents that indicate that it is a Vallonia style; it just looks like it? Mr. Dubyak said Steve is going to opine on that.

Mr. Dubyak said the standards of review, of the ARB, are set forth in Section 1146.04 of the code. Under Section 1146.04 the standards of review set forth certain considerations and require the ARB to follow the guidelines set forth in Section (d). Steve will discuss the applicable factors under (d) including number 3 arguably the most important one, compatibility of the proposed addition. It is Mr. Benjamin's position that the ARB did not properly follow these standards of review set forth in the code and that the BZA should reverse the decision of the ARB. The ARB's decision is a little confusing but it appears that they concluded that the subject home was a historic home on an R1-50 smaller lot with neighboring small lots expressing the intent of the village for small scale homes in

the Robens Court neighborhood. The decision then goes on to suggest that building a new home on or both of the adjacent lots would be consistent with the code. In the Perspectus report Ms. Sloan concluded that the proposed addition, that is being submitted to the board, would have an adverse affect on the historical significance of the home but then, a couple lines later, recommends reducing the footprint, massing, and position. Based on all this, we believe that the ARB's decision is not only inaccurate but contradictory to the code.

Steve Ciciretto, Architect, said I believe that the street and the references on the historic report are slightly askew whereas Ms. Sloan's report directly addresses this house in relation to Olive Street. We see it as an area that is isolated. We started looking at this as doing an addition and recognizing that it is a significant addition on this home. How do we make that work knowing the background and my history with Chagrin Falls and my sensitivity to scale? If this home were on Olive Street or on one of the small streets that are around there without the other homes that are immediately adjacent to it we might take a different approach than we did on this home. We did an addition recognizing that there are some very unique qualities to the Craftsman style home. We presented that addition to the ARB in an informal conceptual review. They had some input and asked us about taking a look at scale and some of the issues. Their concern is that when you add a significant addition to a smaller home it becomes subordinate to the addition and although there is some truth to that I think that you can clearly differentiate what the qualities are of that original home that makes it unique and not lose that. Architecture is fairly subjective so we understand that not everyone has the same opinion. We also took the opportunity to meet with the ARB and their advisors at the site. They offered some opinions about how they would approach it and it varied from don't even touch this house to let it go and just do an addition. You can design the same exact house 10 feet away from it and meet the setbacks and you will have a successful project. Whether these homes are linked in the fashion that we suggested or whether they stand independently the neighborhood ends up the same. There is no difference for the neighborhood. One of the suggestions that we received was to instead of budding the addition directly to the original structure find a way to incorporate a design that would add a link, a separation between those two buildings and come up with a plan that would then show off the qualities of the original house but still feel like it is an important structure. We did that and came back with an idea and there was long discussion about that but in the end the architect on the board voted to approve that design and the two citizens that serve on the board voted against it. They asked us to really consider not touching that original home.

Mr. Ciciretto said the home across the street is quite large. It is not a small scale Olive Street home and is in direct proportion. It is about 105-107 feet across and our proposed building would be the same so it is not significantly larger than the other home in the neighborhood already. You can tell from some of the houses on Monticello and the condominiums that abut it that the scale of this home could be quite different if it were on Olive Street. I would not be suggesting that we do this addition on Olive Street.

Mr. Ciciretto said it was a little misleading to me in the direction that the ARB was taking when they referenced Ms. Sloan's report. It really was taking the context of this small house, ignoring the houses that are adjacent to it, and relating it to the houses on Olive Street. Unfortunately, those are

not the houses that are in close proximity or contiguous to this property. I think that I will agree with Ms. Sloan's assessment that there are some certain qualities of this home that need to be recognized and worked with. I don't think it needs to be stuck in that small scale that it is. In addition to that process that we went through, we talked about how much of the home should be preserved and saved. The Vallonia model is a direct footprint of the home and the footprint, if you were to walk through it, you would understand that it is not the Vallonia model, it is a copy of it. The home does have some value and some maintenance that we would address.

Mr. Fricke said when you first saw the existing house, did you say voila', this is the Vallonia model? Mr. Ciciretto said no, it was something I had to research during the process. Mr. Fricke said when you first saw it did you think this is a Sears home? Mr. Ciciretto said I did not think that it was a Sears home but I did think it was a home of some quality. It was a good example of a Craftsman style home. One of the things that we also do is address the village's design guidelines. Whether it was a Sears home or just a Craftsman design home the qualities are there that this should be maintained and these are viable qualities.

Mr. Ciciretto said the board thought that maybe the massiveness could be scaled back a bit. We started looking and said this is a story and a half house we would like to do a story and a half house that has the roof bearing at first floor height and the garage sort of symmetrical. In this design we had the floors of the houses lined up and that certainly has an effect on the roof line and the pitch of the height. They asked if there is a way that we can kind of lower this pitch and so you get to kind of the rendering that you have in front of you. In between that time we lowered the mass of the garage, we dropped the floor line a couple of feet and that would have given them the same uses of the interior space with it a little bit scaled down and they were pleased that we were making attempts to work with them on reducing the size and the mass.

Ms. Kraemer said in that drawing, the structure on the left is the current house from the back. Mr. Fricke said from Robens Court. Ms. Kraemer said but now you are turning it around. Mr. Ciciretto said yes. Our thought process was that for us to access the house from Solon Road would mean clearing all the trees on the hillside so we decided that it makes much more sense to just turn the house around using components from the back porch and some of the other elements.

Mr. Ciciretto said the Chagrin Falls guidelines are kind of set up to be more effective to add on in generally the style that the house is. So we started looking at that but what happens is when we pull the building apart it creates a big court yard so if this addition is set back say 15'-20' from the front of the house my contention is that you don't see that immediately because we never see houses and buildings and rarely do we see them in two elevations. So when you are looking at this house as you approach whether this addition is there or whether it is not there made a difference to the ARB. They said if that addition isn't there, you could build this structure. If the addition is there, you can't build that structure. I contend that there is really no difference because once this building is landscaped you may not even know that this addition is there but you would see all of the detail of the original house. So, if you were studying the historic nature of the house you could see every detail. We thought that this looked like the rear of the house and it wasn't very appropriate for the front of our

new house so we offered them two scenarios. One where it is exactly the same except we would remove this sort of porch that is a little out of style and character with the rest of the house and we basically gave them an alternate that if you want we won't touch that house on the outside. The length itself is actually there already. The dining room has a 2' overhang so the intent was to just extend that over and that becomes sort of the passageway to the master suite. By using the old house it allows us to use about 1,000 square feet that is dedicated to the master bedroom to that house. It allows us to reduce the size of the house that we would have to build to make up for it on the next lot. If we kept this house and we wanted to build a similar structure that the ARB said they would be fine with it would actually have to be enlarged to compensate for the loss of the space of this house. It is kind of an important detail because one of the issues with this site that we have touched on, but haven't really responded on, is that there is a dramatic topography issue on the west side of this lot and our position, a little bit contrary to the ARB's, is that we would like to save those trees and that hillside as it is so that today when the house is done anyone driving down Solon Road wouldn't even know there was anything else done up there. The ARB is taking the position that if you need to build a bigger house to compensate for saving the little house you should do that and if that means tearing down the houses, the trees, and building on the hillside you should do that and you have the right to. Mr. Benjamin and I agree that it would be better to incorporate these two homes together leaving all of the discernable aspects of this house so that someone that is studying the history of homes in Chagrin Falls could know exactly what was there and yet make it a functional house for this kind of living.

Mrs. Freshman-Johnson said we are not approving the plan or appealing the plan because the plan has to go for final approval and it would be one of many of these that the ARB decides. What we are still opining on and seeing is did they deem the house historical in the facts incorrectly and therefore this addition, regardless of whether it is a hallway or contiguous or whatever they decide to do, can't be done because it is impacting the historical nature. Ms. Kraemer said they basically said it virtually demolishes the property because they deemed it to be historically significant. Mr. Fricke said they also have a massing issue. Mrs. Freshman-Johnson said well they said because of the mass of the new structure it changes essentially the history of the house and therefore because it is historical you can't do it.

Mr. Markowitz said either you are going to find that the board was correct and it is historically significant, and if it is you have to go on and decide whether they properly applied the standards in Section 1146. If you find that it is not historically significant, then we are done and you are reversing the board's decision and the applicant will go back to the ARB with their final plans because it is no longer considered to be a structure that has historic significance.

Mr. Dubyak said Steve, you had indicated to the board that sometimes when additions are made they change the architectural style from the original structure. Can you just give the board a little more information understanding of how you have tried to maintain the initial structure design and the elements that you have designed to keep. Mr. Ciciretto said when Mr. Benjamin and I first got together he was kind of fond of the white farmhouse style and he asked if we could redo the whole house or do that and to this as a separate item. We had long discussions about the merits what kind

of materials we should, which we decided that there is enough historical elements from the existing building that it would be better to just use those so we took the porch element from the back and we kind of reversed it to the front of the house. When you get done walking around the house in the end what we wanted to have is good 360 degree architectural; we didn't want to have a Disney Land front that doesn't equate to what is happening to the old house. So we did pick up those kinds of elements from the existing house, some of the shapes and some of the siding.

Mr. Dubyak asked Mr. Ciciretto to explain the Preservation of Features in Section 1146.04(c)(1). Mr. Ciciretto said once we get into the design of a structure this becomes important in Chagrin Falls to recognize. Preservation of features is distinguishing original qualities and character of a historically significant property shall not be destroyed. Removal or alteration of historic material or distinctive architectural features shall be avoided. We preserved every one of the details actually on the original home and incorporated those into our architecture.

Mr. Fricke said just to be clear, we don't even get into Section 1146.04(d) if it is not a historically significant property. Mr. Ciciretto said that is correct.

Mr. Ciciretto said Section 1146.04(c)(2), Replacement of Features, basically deals with things that are damaged. They don't want you to strip off features and cover them up with aluminum siding or something like that. This doesn't actually apply because we are not removing any features or replacing them except for some routine maintenance. At the end, the appearance of the building will look exactly as it does. Sections 1146.04(c)(4)(5)(6)&(7) don't even apply to this project. Section 1146.04(c)(3), Compatibility, is alterations, additions, and new development shall be compatible in scale, material, and character with the design of the subject property and any structure more than 50 years old in proximity to the subject property. New structures may be constructed in accordance with a different architectural style than historically significant properties. Proximity is the key word there. We talked about the size and scale of the buildings on Monticello, across the street on Robens Court, and of course the Chagrin Pet & Garden. Size becomes a little bit different than on Olive Street and other places.

Mr. Dubyak said Steve, to Mr. Fricke's comment, would you say that whether the home is determined historically significant or not, that the important attributes of the home are being maintained in your design? Mr. Ciciretto said that is the point. I think that whether it meets every technical aspect of the Chagrin Falls code being historically significant, as an architect I feel that there is enough qualities to that home that it should be recognized for someone who enjoys the historic nature of Chagrin Falls.

Ms. Kraemer said is there additional information on the question of whether or not this is a historic property that we need to be presented with? Mrs. Freshman-Johnson said we have the historical report and in summary the findings were that it is 100 years old. We have heard evidence today that that is questionable because there is no specific fact of when it was built.

Mr. Dubyak said in Ms. Sloan's report, she indicates that the proposed changes that you are

suggesting to the board would have an adverse affect to the historical significance of the house. Whether it is a historically significant home or not do you believe that the changes that you are proposing to the addition would have an adverse affect on the historical significance of the home? Mr. Ciciretto said no, I don't.

Mr. Markowitz said in Ms. Sloan's report, she indicates that the proposed changes would have an adverse affect to the historical significance of the house more than doubling the home's historic footprint and massing, which would make it ineligible for a listing on the Nation Register or ineligible as a contributing building to a historic district. Do you agree that if you are doubling the footprint and massing that you are no longer eligible for the National Register? Mr. Ciciretto said I believe that is a possibility. I don't believe that this street qualifies that it would fall into a National Register Historic District. Mr. Markowitz said the last bullet point she made is that the proposed changes would have an adverse affect on proximate historically significant structures. The home is near parcels with period homes on Robens Court and Olive Street that together are eligible for listing as a NR Historic District. Do you disagree with that? Mr. Ciciretto said she would like to combine those but I don't see the qualities of the homes on Robens Court as being significantly contributed to the homes on Olive Street.

Mr. Markowitz said did you do the research to determine that this was a Vallonia? Who made that discovery? Mr. Ciciretto said it came up in discussions after the homeowner was doing his research on that. It wasn't a real important factor to me, except for the time line. Mr. Markowitz said I am trying to understand why it is that the tax duplicate shows a building on that property in 1918 or 1919. I can't imagine somebody built the house and then tore it down by 1926 and built another house. Mr. Ciciretto said that is why I think there is a gray area. Mr. Fricke said someone did write in estimate 1926. Mr. Dubyak said there certainly is no proof that is presented anywhere that the structure that was on the property in 17, 18, 19, 20, 21, 22, 23, 24, or 25 was the house that we are talking about. The evidence to the contrary is that the house that is currently on the site was either built in 1926 or sometime after 1921 but there is certainly zero evidence that the structure that we are talking about today was built in 1917. There may be some evidence that there was some structure on that parcel but there certainly is no evidence that it was this house.

Elizabeth Murphy, Perspectus Architecture, said I have a Degree in Architecture from the University of Notre Dame and a Masters Degree in Architectural Preservation. I have been practicing historic architecture for a very long time. I want to clarify some of the words that are used because it seems like some of them are taken to have a meaning other than what is put in here. Mr. Fricke said Ms. Murphy, are you referring to the actual report that was presented? That is what you are basing your testimony on? Ms. Murphy said yes. What I have in front of me is the report that you have and your ordinance. I do have one other piece of information I thought you might be interested in. In regard to the language that is used in the report, there was a concern about the word "appears" to be eligible. That is the language that is used by the State Historic Preservation Office. So, while "appears" seems to have a fuzziness to it the "appears" to be eligible is the language that is used by every State Historic Preservation Office in the country. That is a finding of eligibility or a determination that in deed the house is eligible. That wasn't meant to be a fuzzy language it was meant to be consistent

across the country. There are whole stack of OHI forms that were done for the Village of Chagrin Falls and there is, in deed, an Ohio Historic Inventory Report on this home, which concurs that it was built in 1917 and it concurs its eligibility. Mr. Fricke said where did we get this 1917 date and how do they determine that? Ms. Murphy said I do not know how Gray & Pape determined it. I know that Gray & Pape was commissioned by the village. Mr. Fricke said who is Gray & Pape? Ms. Murphy said they are historic architects and historical consultants out of Cincinnati. They were hired several years ago to do an inventory of historic properties within the village and they filled out OHI forms, which is the Ohio Historic Inventory. There is no legal connection between the OHI form and its eligibility except for another person provides a determination of eligibility and puts it in official form, and that is what the OHI form is. It is another entity stating also that it is eligible. Mr. Frick said does anyone ever verify that? Ms. Murphy said yes, but you can also argue with them. The Ohio Historic Inventory is a method that was made to speed up the review of historic structures within the state. It is a 2-page form with some very specific questions asked about historic properties. In absence of filling out a national register nomination for every property, there is the OHI form that gives some date that is factual. Mr. Fricke said do we have that form somewhere, the OHI form for this particular property? Ms. Murphy said yes, because we get them. They are part of our standard process to review a property. We make sure we check the OHI forms and that is what this first section is of the report. This is where we did our research because we could keep going forever and ever but that would cost every property owner quite a bit of money so we are very careful to be very standard about the information that we review before we do one of these reports in order to be consistent from building to building. The OHI form did say 1917 so we looked at the tax duplicates from 1917 and we also saw the appraisal that was done in 1954. So, if you are looking at research you would call the first document primary research and the second document, the appraisal, would be considered secondary research because it is not contemporary to the building of the house. Also, it did say estimate and that wasn't something that one of us wrote in there; that was something that was on the official form. Mr. Fricke said OHI form says date or period CA 1917. Just for the record what is CA? Ms. Murphy said circa, that means on or about. The deed search showed that the house was built between 1917 and 1918 so he put circa instead of saying somewhere between 1917 and 1918. Mr. Fricke said and how do we know that, what you just said the deed search showed 1917 or 1918? Ms. Murphy said because that is part of our process when we do one of these reports is that we go back and look at the deeds. Ms. Kraemer said there is a physical deed? Ms. Murphy said there is a physical deed. Ms. Kraemer said do we have a copy of it somewhere? Ms. Murphy said I don't know if I have it with me.

Ms. Murphy said I would like to talk about the Sears home just a little bit. Everybody wants to think their house is a Sears home, but the fact of the matter is the Sears homes were not the top of the line and usually the Sears homes were done after they found a style that popular then they would put them together. They saw that the Craftsman bungalows were popular, in fact when I first saw the house before I knew that there had been any research done on it I said it was 1910 or 1911 because that is a very common period for the Craftsman style bungalow. To hear that this was published in 1921 really makes a lot of sense because Sears did their homework. They found out what kind of houses were being built and which ones were popular and then they put them together.

Ms. Murphy said in 1910 there was a developer who subdivided land on lot 21 of the Phelps track south of the village that was creating the new street Robens Court. And, at that time, it was called the Robens Allotment. There was already a new allotment that included Robens Court in 1910 and it was probably extended from what is already the current historic district. These were sites that were plotted out to be more of what is on Olive Street and in the historic district. To the point previously made, there were not all of the smaller houses along Olive Street carried into Robens Court and there are more houses of varying sizes on Robens Court. This house is really dated to 1917 but I don't know that that matters in the discussion of how things are compatible.

Mr. Markowitz said there is language in our code that says that it is either listed in the NRHP or preliminarily determined by the Ohio Historic Site Preservation Advisory Board as meeting the requirements for the listing on the National Register. Ms. Murphy said those are the two pieces to which she refers, however, because the listings are not yet filed the house does not meet one or two but it meets three, being eligible for either one or two. This house has a lot of integrity. There was a comment made under the (c) that it only meets one of the criteria but it actually meets six out of seven of the integrity criteria and that is also listed in her report. It is just a really nice house and I think everybody agrees with that. I don't think that is the question here. It retains six of seven aspects of historic integrity as recognized by the National Park Service when considering eligibility. That would be historic location, setting, design, materials, workmanship, and feeling. Frankly, you don't have to have six out of seven; one will do it if it is strong enough. This house really is eligible.

Mrs. Freshman-Johnson said let's pretend the house is 51 years old. Does the report change at all? Ms. Murphy said no. This report was done in February and when the report was generated we had only seen the very original drawings. There is a note on the report that says consider substantially reducing the addition's footprint, massing, or positioning so that it doesn't overwhelm the existing house. That is probably where your decision is going to be because the architect has been attempting to address that. This is a Craftsman bungalow always described as a story and a half and always has a porch so it is pretty distinct what is the front of the house. Those are the two characteristics I think that are probably in question at this point because nobody denies that the intriguing detail on the house that is being reused. When you are looking at the massing, whether you call it a story and a half or two stories, does it overwhelm? How do you address whether you are turning the house around. I think those have to be your decisions. I just wanted to make sure we were straight on the facts.

Mrs. Freshman-Johnson said what was the difference between the February report and the revised report? Ms. Murphy said the question of the date.

Mr. Markowitz said do you think this house is not a design based on the Vallonia? Ms. Murphy said that is correct, that is my opinion.

Mr. Fricke said I keep coming back to the scale and massing. Point me to where scale and massing is addressed in the standards of review. Mr. Murphy said the easiest places to find them are in Section 1146.04(c), Features and Compatibility. The standards of review in your ordinance were

based on the Secretary of Interior Standards for rehabilitation and there are ten of those and there are only seven in here because they sort of consolidated and simplified. Ms. Kraemer said yes, the Design Guidelines. Mr. Fricke said scale and compatibility has nothing to do with historic structures; this is a separate massing guideline for any property in the village. When I look at compatibility, the language in the code, it talks about alterations, additions, and new development shall be compatible in scale, material, and character with the design of such property and any historically significant property in proximity. It seems to link scale with other historic properties. Ms. Murphy said but your first concern has to be the property itself. Ms. Kraemer said do you consider the Olive Street properties to be adjacent? Ms. Murphy said yes.

Mr. Dubyak said under Section 1146.05, under one it says the home is listed individually in the National Register of Historic Places and it is not listed in the National Register of Historic Places, correct? Ms. Murphy said that is correct. Mr. Dubyak said and then it goes on to say or preliminarily determined by the Ohio Historic Site Preservation Advisory Board as meeting the requirements for individual listings on the National Register. You don't have any evidence that that has happened, do you? Ms. Murphy said the Ohio Historic Site Preservation Advisory Board is the board at the state level that approves a nomination before it goes to National Park Service for listing in the register. Basically that is the same thing. Mr. Dubyak said so that board hasn't preliminarily determined that this home meets the requirements. Ms. Murphy said that is correct. Ms. Sloan used the terms that the home appeared to be eligible for the National Registry. You said that is the third part of the code. Where in the code is that listed? Ms. Murphy said consistent with the criteria used to determine National Register eligibility; that would be Section 1146.05(a)(3). Mr. Dubyak said does Ms. Sloan's report indicate that any of the following attributes were met? Mrs. Murphy said yes, they embody the distinctive local characteristics of a type, period, method of construction and possess high artistic values; that is in (c). That is what Ms. Sloan says when she says that it has been determined eligible. Mr. Dubyak said but she doesn't use the code requirement and indicate that it embodies the distinctive local characteristics of a type, period, method of construction, does she? Ms. Murphy said she did that; she confirmed that it is eligible. All of these things that she does by telling you what a house is like and what its characteristics are, those show you that it fits into the criteria. Mr. Dubyak said you testified to the board earlier that the Ohio Historic Inventory form was filed with the State Historic Preservation Office? Ms. Murphy said I don't know if it has been filed. All I know is that I have received from the village the Ohio Historic Inventory forms that have been filled out by Gray & Pape. Mr. Dubyak said but you testified that it was your knowledge that that form had been filed. Ms. Murphy said that it has been filled out, they have all been filled out for hundreds of properties. Mr. Dubyak said do you have any evidence that that OHI form was filed with the state? Ms. Murphy said no, but that doesn't matter. The only point of that is that there is another opinion that it is eligible.

Mr. Dubyak said Dale, I will be submitting to the board correspondence between Mr. Benjamin and Carry Simmons, who is a National Register Technical Specialist with the State Historic Preservation Office. Mr. Benjamin emailed her and said I have attached a report stating OHI has info the home was built circa 1917 and also the Cuyahoga County records which say 1926. The Cuyahoga County Auditor's Office reflects that it was 1926 when it was built. I am trying to determine which is

correct. Her response was our data basis did not contain any additional information about the property. Whoever you spoke with here that said we did not have an OHI for the property was correct. I contacted Alice and Perspectus and she sent me a copy of the form that Chagrin Falls provided them with, which was part of a survey that was never submitted to the office. It has almost no information and no sources to where they got the circa 1917 construction date, it is undetermined. Later on in the correspondence she says the form is an OHI form but it was never submitted to our office to be added to the official inventory, think of it as a draft. Often there would be an accompanied survey report of some kind that might have information about the community and or project that caused the building to be surveyed but that is not always the case.

Suzanne Bellezza, 175 Robens Court, spoke in favor of the addition and the appeal.

Blair Obojski, 185 Robens Court, said he is concerned about the size and the construction.

Tim Ruh, 113 Olive Street, spoke in favor of the addition and the appeal.

Mr. Markowitz said there is some language in Section 1146.04(d)(1) that says any person asserting that a structure is a historically significant property bears the burden of proving the assertion by clear and convincing evidence; provided, that any structure which is more than 100 years old shall be presumed to be a historically significant property, and any party asserting that such structure is not a historically significant property shall bear the burden of proving the same by clear and convincing evidence. He said and this is something that the ARB is supposed to consider but because you are reviewing their decision you are looking at what they should have done.

Mr. Fricke said if you conclude that neither side has presented clear and convincing evidence, is it possible to remand? Ms. Kraemer said for a further determination? Mr. Markowitz said you can do that but that assumes that you believe that there is more evidence that should be considered by that board than what they already considered.

Mr. Markowitz said do you have a need to go into Executive Session? Mr. Fricke said yes, let's take 5 minutes and do that. I think it will be worth our time and everyone's time. We are going to step out and we will keep this short.

Mr. Jamison said we are back on, we convened after the executive session.

Moved by Mrs. Freshman-Johnson, seconded by Mr. Holdren that in regards to the appeal application for 187 Robens Court, the appeal of ARB's decision that warranted the house to be historical, this motion will be made in the affirmative, which indicates the approval to appeal the ARB's conclusion that the house is found to be historical. Meaning, if you vote yes you vote to appeal their decision and the house is not historical. Mr. Markowitz said not to appeal, you vote to approve their appeal. Mrs. Freshman-Johnson said approve the appeal, meaning the house is not historic. She said the board today was presented with evidence that was not clear to indicate that the house was 100 years old or more. Therefore, the board will provide this motion under the

characteristics of finding the house to be 50 years old or more. Under 1146.05 of the code, if the house is 50 years old or more the house must be found to be listed on the National Historic Register. Under 1146.05, the definition is to deem the house historical that is over 50 years old. It is whether or not it is listed individually on the National Register, which it is not. In number 2, in the boundaries of the Chagrin Falls West District, which it is not. And 3, whether it is consistent with the following criteria: a. Associated with a historical person, which it is not. b. Associated with a significant contribution in history, which it is not or c. Is a structure which 1. Embodies the distinctive local characteristics of type and 2. Represents the work of local master as defined herein and 3. possesses high artistic values. Today there was evidence supported by an expert with a historical report stating that the structure embodies the distinctive local characteristics of type, period, and method in the Craftsman style in the period of the early 1920's. However, the local street characteristic is not necessarily deemed historical on adjacent houses. The houses directly across the street and next to this are not deemed to be Craftsman style in the period nor is the street registered as a street to determine eligibility in history so there is no clear evidence that it actually embodies the distinctive local characteristics to deem it historical. Because of those reasons, the motion is put forth to conclude that this property is not historical.

Fricke: It is not important, I guess, what my opinion is. I have to look at the language and I am compelled by the testimony by Ms. Murphy and Ms. Sloan as experts that given the language to which I believe to be incredibly vague and subjective, the embodies the distinctive local characteristics of a type, period, or method of construction. I would vote no, I am not happy with the decision but I believe that again the experts have opined in a clear and convincing way that given the vague language of our code, or the language that I find to be vague, that I am compelled to say no and conclude the property to be historic under the language of our code.

Holdren: I also will vote no to your motion and I do think it is historic.

Kraemer: I also vote no. I think there was significant evidence relative to the age of the structure much closer to 100 years than to 50 years and I think we are compelled to at least look at the criteria for a structure in excess of 50 years old. I do think that under 1146.05(c)(1)&(3) that it meets those criteria at a minimum but I do think there is some confusion regarding the exact age of the structure. But, I would vote no.

Lipp: I would vote no also. I do feel the home is historical and that it appears to be eligible for listing in the National Register of Historic Places pursuant to the report by Perspectus.

Freshman-Johnson: I vote aye. I believe this house is not deemed historical based on the location and proximity of Robens Court and the houses around it not providing any similarities. I also believe that pretty soon in this town almost every house

could be qualified as this and if we set precedence to say that any house that is getting older can not be touched because of its historical value we start classifying this we are going to limit the reinvestment possibilities in this town.

Mr. Fricke said 4-1 the property is deemed to be historic.

Moved by Mrs. Freshman-Johnson, seconded by Ms. Kraemer to be in the affirmative, meaning you approve to appeal the ARB's decision to allow the changes to a historic house. The affirmative approves the appeal. The following motion to approve the appeal of the applicant at 187 Robens Court that has gone to the ARB, the Standards of Review of 1146.04. If a house is deemed historical, the Preservation and Standards of Review Guidelines must be met. The Preservation Guidelines that must be met are three; preservation of features, replacement of features, and compatibility. Today the architect gave testimony and provided a plan that shows that the preservation of all the Craftsman style features are in play changing the front of the house, which can't be seen today, to the back of the house, which becomes the front of the house preserving all the Craftsman features that are there today consistent with the architecture and style of that time and adding on into the addition the features of the Craftsman style house and not going to a different direction keeping it consistent on the front elevation. The replacement of any features that they would have to change to the front to the back of the house to keep the Craftsman roof lines consistent, the one and a half and the lowering of the garage, to be in line with the one and a half to two story changes to keep consistent with the Craftsman style and compatibility that is scale, material, and character is not significantly changing the house. The most important factor of compatibility and scale is to note that the house, if it was detached, can be 6' away from the current house, which would not change the character of the neighborhood in any way, shape, or form and could look exactly as it is today but merely within the space of 6'. Therefore, the scale of the new house would be much more consistent if combined to make a consistent view from the street and to disallow further building and further scaling on that street on those lots. And, for those reasons, the motion should be approved.

Holdren: I vote aye. I think the architect did an excellent job of considering our standards especially the scaling that Rachel talked about. I still think the ARB has to approve it so there is still going to be a lot more back and forth to make sure it stays within this code but I think overall we are approving it. I vote aye.

Kraemer: I vote aye. It is a struggle when you look at the scale of the new construction but I certainly think that the preservation of features and replacement of features and compatibility kind of out those characteristics and what has been attempted to kind of bring out the historic features of the original building in my mind to some extent out weigh that. I think also it is compelling that the owner could build a larger structure unconnected to this structure and would have probably a more negative affect on the neighborhood. So, for those

reasons, I would vote aye.

Lipp: I vote no. I agree with the ARB's concerns about the massing and scale of the home. I do feel that even though there could be a large home built next to it, if that was done it would preserve the historic Craftsman home.

Freshman-Johnson: I vote aye, for the reasons stated in the motion.

Fricke: I vote aye as well. As troubling as I find my vote on whether this was historic or not, I believe that the reasons of the motion sufficiently state compelling reasons. I also find compelling the fact that the house could be built 6' away and even larger, which there was evidence from some of the neighbors that they didn't want that to happen. And, I do think that the architect and the owner have done a good job of preserving features. I also find compelling that the front of the house actually looks into the woods so I think they have done a good job of highlighting some of these significant historical features into a modern, livable project. So, I vote aye.

Mr. Fricke 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 10:30 p.m.

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Wade Fricke, Chairman

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