

**VILLAGE OF CHAGRIN FALLS
BOARD OF ZONING APPEALS
August 27, 2019**

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

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

APPROVAL OF MINUTES

Moved by Ms. Kraemer, seconded by Mr. Holdren that the minutes of the meeting held April 23, 2019 be approved. Carried. Ayes: Fricke, Freshman-Johnson, Holdren, Kraemer, Lipp. Nays: None.

Moved by Ms. Kraemer, seconded by Mr. Holdren that the minutes of the meeting held May 28, 2019 be approved. Carried. Ayes: Freshman-Johnson, Holdren, Kraemer, Lipp. Abstain: Fricke. Nays: None.

SWEARING OF WITNESSES

All were sworn in.

KATHRYN DEMERIT, 470 WALTERS ROAD - REQUEST FOR A VARIANCE TO SECTION 1125.03(h), AREA, YARD, AND HEIGHT REGULATIONS: MAIN BUILDINGS, PERMANENT PARCEL NO. 932-13-007.

Mr. Jamieson said this is a house in the R1-60 zoning district. The applicant is proposing to demolish an existing attached garage and would like to construct a larger attached garage. The plan review showed that one variance would be needed to the rear yard depth requirement. A minimum of 40' is required for rear yard depth. With the proposed addition their yard depth will be 34', 9" so they are requesting a variance of 5', 3" to the rear yard setback requirement. This project first was presented for preliminary approval at the ARB meeting on October 16, 2018. They were advised to revise and resubmit based on comments the board gave. They submitted a second preliminary application to the ARB on August 20th where they were granted preliminary approval for the new garage addition.

Matt Ross, 15897 Sylvan Drive, Russell Township, said the structure was built in 1927 and we have an existing garage that is 23' but the actual available parking is 18', 3. With two vehicles ranging from the width of 6', 6 to 6', 8 they can not park both cars in there as it is right now. What we are proposing is to have 23' of available parking area to safely get both cars in there. The steps are going to be taken out but the structural wall is going to remain. The proposed amount of feet we feel is

very reasonable in terms of getting two cars in and out of the garage safely. The closest house from the rear is 81', 5" from the property line. We feel the spirit and intent of the rule is still going to be upheld because we are not asking to build a 3-car garage that is disproportionate to the site. It is very proportionate to the architecture and geometry and size.

Mr. Fricke said I am having a hard time envisioning a new garage and a covered porch. Where is the covered porch? Mr. Ross said the covered porch is off to the side right there. That is not part of the side yard. We are not encroaching on the side yard, just the rear yard. So that is covered but it is open on the sides. Mrs. Freshman-Johnson said if you drove into the doors of the garage it is on the other side? Mr. Ross said correct. Ms. Kraemer said behind? Mr. Ross said yes.

Mr. Fricke said you are asking for a variance of 5', 3", how did you determine the distance from the house towards Bell? Mr. Ross said one was to fit the cars safely and also using with the radius of their drive so that they can come in and turn in without having to do a three point turn to be able to come in and get in there conveniently and safely and especially in the Winter. The second part of it was determining keeping it proportionately with the rest of the building itself not making it too large. Mr. Fricke said is it 29', 6 3/4"? Mr. Ross said the interior space is 28', 4 1/2" but the 29' is the exterior. Mr. Fricke said the porch that runs along the whole distance as well? Mr. Ross said correct. The actual slab does but the actual porch structure is actually behind. The roof would not encroach past the setback. Mr. Fricke said it is only the slab that is encroaching, a portion of it. Mr. Ross said correct. Ms. Kraemer said is it actually a part of the garage or is it a part of the slab that is the encroaching feature? Mr. Ross said the garage and the slab would be too.

Mr. Ross said the 29' is not all usable because we have the entrance to the house and there is really no reasonable way to relocate the entry. Mr. Fricke said so you are talking about 29' less the entrance? Mr. Ross said yes, the entrance is 6'.

Mr. Fricke said I looked briefly, remind me what is on the back of the property line? Mr. Ross said there is a wooden fence and it is a little bit wooded.

Mrs. Freshman-Johnson said you mentioned that the house was built in 1927, did the ARB review this as a historical house? Mr. Ross said yes, and it was determined that it wasn't. There is a full report.

Kathleen Atkinson, 465 Bell Street, said there is not a wooden fence behind my property, there is a chain link fence so currently I have green space behind my property, which is where this proposed structure is being discussed. Given the size of the structure, the location, the proximity to the property line I would ask for screening to be placed at the rear property line.

Mr. Fricke said has the applicant considered screening? Mr. Ross said we would be fine with providing screening. Mrs. Freshman-Johnson said can we clarify the screening? Can you speak more to are you looking for landscaping or are you looking for fencing? Ms. Atkinson said either one but I think it is defined in the ordinances regarding screening. It is usually landscaping. I would

ask for it to be on the rear property line. There is a definition of screening in the ordinances and it has to be a certain height. Mr. Markowitz said that doesn't apply to this kind of project and a fence would have to have some opening to it. I don't think a fence would give her the visual screening that she is looking for. Ms. Kraemer said so you are talking more about landscaping. Mr. Fricke said whether it be Evergreen or something. Ms. Atkinson said yes. Mr. Fricke said that is something, I think, we have in the past conditioned granting a variance if we choose to go down that path. Mr. Fricke said is it the same on lot 457? Ms. Atkinson said if that is the lot I am thinking of, they do have a wooden fence and then it stops and then there is a chain link fence behind me. Mr. Fricke said it is wooded? Ms. Atkinson said I believe that is wooded. Mrs. Freshman-Johnson said wooded, is like is there landscaping there at all? Any trees between these houses at all? Mr. Ross said there are some trees there. Mrs. Freshman-Johnson said obviously some thin landscaping you would describe it as? Mr. Ross said yes. Ms. Demerit said we have talked about doing landscaping once we get this done. We are just talking about getting the building in first and then going the next step for the landscaping because we want it to be attractive out there not just for us but for the neighbors too. I think we will do something nicer than the wooden fence that is there now.

Moved by Mrs. Freshman-Johnson, seconded by Ms. Kraemer to make a motion for the applicant at 470 Walters Road in the removal of an existing garage and replacement of a new attached garage looking for a 5', 3" variance along the back side of the property that goes 42', 6 3/4" because they don't meet the area, yard, and setback in the rear yard, which usually requires a 40' setback and the new garage would require to not meet that setback in the rear. They did evaluate multiple options of the property to create this new garage. The current garage is not to the current modern standards of sizing and at only 18', 1 3/4" they need to expand it to 23', 1 3/4" in order to not only accommodate both cars in two bays of garage doors, but also to accommodate an ability to turn around where the garage and the entrance into the garage flows. They considered several other options, but the way the current house stands and entrance to the house the only place to replace the existing garage would be in the footprint it is and expanding it 5' into the rear yard setback. The variance actually is substantial if you consider the 5', 3" over the course of the 42' in the back if you look at percentages but again we discussed that there are no other obviated means to make that any smaller. The essential character of the neighborhood would actually not be substantially altered as they have met with the ARB and evaluated the historical nature of the house to be not historical. They have abided by the recommendation to make the garage fit with the aesthetics of the current home. They are not adding any other features in addition to this variance. It would not affect delivery of governmental services as it would provide the same access to the house for those emergency needs. The property owner perhaps not know the zoning restriction or at the time they didn't know they needed to this to fit both of their cars. We talked about the different features they had to accommodate, the radius of turning in and the ability to fit so they can't obviate the means any other way. The spirit and intent of the code would be observed by allowing the nearest neighbor is far away, however, in order to participate in the community spirit and the spirit of the code we are going to add a requirement to this variance that the owner install screening in the form of landscaping that appropriately meets both parties needs in order to create some screening to the new larger structure. The circumstances were not created on actions besides the fact that they with Winters in Ohio they would like to be able to get two cars inside a garage at one time. For all those

reasons, I submit this motion.

Mr. Fricke said should the screening be all the way across? Are you planning on screening all the way across the back of the property? You have one property owner who has asked and you have another property owner who is not here and we can't speak for those people. Ms. Demerit said currently there is some landscaping and the wooden shadow fence. The other half of the property is open and that is what we are concerned with first is getting that filled in and then having continuity for what is existing. So, there will be landscaping all across the back yard.

Mrs. Freshman-Johnson said to clarify the motion, the screening and the landscaping that we require is to screen the south east corner of the lot at a minimum. The motion will require an effective visual screening between the house and the house to the south located on 465 Bell Street.

Holdren: I vote aye, for all the reasons stated.

Kraemer: I vote aye. I agree that the variance is substantial but I think that given the distance from the other property owners and the requirement that the back of the garage be screened. I think that the other Duncan Factors have been met and that this project should be approved.

Lipp: I agree for the reasons stated as well as given the way in which the adjacent residents to the rear are situated I agree with requiring the screening behind 465 Bell Street particularly because no part of the residence or garage previously could be seen behind that home.

Freshman-Johnson: I will vote aye and just a comment about the required visual screening that before you break ground on this project I would recommend that we submit the plan for the visual screening to make sure that the variance has been met. I want to avoid the fact that you plant trees that are 2' tall saying in fifteen years they will be there so I just want the plan of what you plan on doing to be submitted to the village so that they approve that you've met the variance to provide sufficient screening.

Fricke: I vote aye for all the reasons that the other four members of the board have stated.

Mr. Fricke said this action will be final within fifteen days unless appealed to Council by a petition of three or more Council members.

EILEEN MCFARLANE, 58 MAY COURT - REQUEST FOR A VARIANCE TO SECTION 1125.03(e), AREA, YARD, AND HEIGHT REGULATIONS: MAIN BUILDINGS AND SECTION 1145.02(b), NONCONFORMING BUILDINGS, PERMANENT PARCEL NO. 932-17-054.

Mr. Jamieson said this is in the R1-50 zoning district. The applicant is proposing to demolish an existing detached garage and construct a new attached garage as well as making some alterations to the front entry porch. There are two sections of the code requiring a variance for this proposal. The first is to Section 1125.03(e), Area, Yard, and Height Regulations: Main Buildings, the maximum lot coverage of the main building. By adding a garage to being an attached structure it is now considered part of the main building and the code requires a maximum of no more than 24% lot coverage allowed of the main building. With the addition of the new garage the proposed lot coverage of the main building will be 29.9%, requiring a variance of 5.9% of the total lot coverage requested. The second code section of noncompliance is Section 1145.02(b), Nonconforming Buildings Additions, where it states that a nonconforming building shall not be added, altered unless the addition is an original or may be conformed to code. Nonconforming buildings may be altered provided that all alterations conform to yard requirements. Proposed entry porch changes, while not enlarging the existing footprint, are considered alterations to a nonconforming building and the porch footprint is located within the requires front yard of the structure. This project was first submitted to the ARB on August 6, 2019 where it received preliminary approval of the attached garage. It again before the ARB on August 20, 2019 where it received preliminary approval of the garage demolition and approval of the new garage addition subject to approval of the variances.

Rebecca Pantuso, Clemens Pantuso Architecture, said I think it sounded a bit similar to the last project. We are here tonight so that we can have an attached garage and get in and out of the car without the elements. We have stayed out the side and rear yard setbacks. We are asking for lot coverage but it is important to note that should we be granted carving out the front entry and making that situation better then our percentage goes down but we are asking for both at the same time so we are giving you the worst case percentage. So, what is 29.9%, if you were to approve this first we'd only be asking for 28.2%. Ms. Kraemer said because the porch element is actually less encroaching than the current porch. Ms. Pantuso said because the entire existing house is in the front yard setback. Any modification we do is a variance. We are actually taking house away and carving because we want coverage at the front door. I did not want to ask for a front yard variance on a house that is this close to the street already so we opted to carve into the existing footprint.

Ms. Kraemer said was the existing garage probably encroaching in other places, right? Ms. Pantuso said yes, it has different setbacks being a detached structure and it is not counted against your lot coverage because it is detached. Mrs. Freshman-Johnson said old garage is conforming because it is detached. Mr. Fricke said it is still a single-car garage? Ms. Pantuso said yes.

Mrs. Freshman-Johnson said on the back of the house there seems to be one-story part of the house. Ms. Pantuso said it covers the rear kitchen. Mrs. Freshman-Johnson said so you couldn't utilize that square footage to assist in attaching the garage? Ms. Pantuso said we can't carve that out, we can't get rid of that part of the house. Eileen McFarlane said you can tell it was probably an addition at some point in time.

Mr. Fricke said how did you determine the size of the are between the house and the garage? Ms. Pantuso said both turning radius and function because we are only asking for a one-car garage. It

has to be this wide to cover more than 40%, of your existing house, to not ask for another variance.

Mrs. Freshman-Johnson said is there anything structurally wrong with the existing stand-alone garage? Ms. Pantuso said it is pretty deteriorated, dilapidated. The historic report actually made a recommendation to, they liked this and approved this. They said to also keep this but the ARB reviewed it and realized that it is not salvageable.

Mrs. Lipp said did you consider a new detached garage? Ms. Pantuso said no, because it is for the primary driver to get in and out of the house without slipping and falling.

Mr. Fricke said the blue shading where the garage is, the big chunk towards the house is already existing? Ms. Pantuso said no, the blue is all new. Mr. Fricke said a washer and dryer are going in there. Ms. Pantuso said yes, washer, dryer, and dogs. Mr. Fricke said is that replacing the back that is already on the house now? Ms. Pantuso said no, this is the part with that little roof line so the existing kitchen is partially under that lower sloped roof and a dining area. Mr. Fricke said what is the roof line going to be to where the washer and dryer are? Is it going to be a low level like the back room? Ms. Pantuso said this is the low slope and will wrap around and that will connect in.

Mrs. Freshman-Johnson said you determined where to put the garage because you added this mud room, which has a door going into the house, and I think the question was in order to create less space get rid of the laundry room, right? Put the garage closer going to the garage and not have a man door there to the laundry room, we were wondering did you consider that? Ms. Pantuso said no, because we need a laundry room on the first floor and there is no other space. I did squeeze it; there is nothing particularly generous about this. It either goes there or it becomes really tight and then I think you have a bit of an architectural problem. Ms. Kraemer said so you are going to need that lot coverage variance whether you eliminated the laundry room or not just based on the location of the garage. Ms. Pantuso said yes, I don't know that there is a different option. I actually shrunk this from a two-car garage to a one-car garage. From a real estate perspective it makes all the sense in the world to have a two-car garage.

Mr. Fricke said what is the square footage of the existing house? Ms. Pantuso said 1,207 and we are going to take away 97 square feet for the front porch, which puts us at 1,110. We are getting rid of a 220 square foot detached garage and we are adding a 292 square foot garage and 176 square foot mud room side entry, which gets us at that 28.2 lot coverage. Mr. Fricke said what will the footprint square footage be when you are done? Ms. Pantusu 1,578.

Mr. Fricke said we haven't even talked about the porch. Do you have anything you want to say about that? Ms. McFarlane said the whole front is closed in and I really wanted an open porch. It is going to be a pretty good size and it is going to add to the beauty because the other neighbors have open porches and that is what I want.

Mr. Fricke said you have an existing deck in the back, how far does that extend out? Ms. Pantuso said it is pretty big but that doesn't help us in our lot coverage. Mrs. Freshman-Johnson said I know,

but you are taking that away. Ms. Pantuso said it is approximately 150 square feet. You are taking out the deck and replacing it with the garage so your living is going to be on the porch in the front? You are not going to have a deck in the back? Ms. McFarlane said no, but I will have a small patio when you walk out of the mud room. Ms. Pantuso said between the house and the garage.

Mr. Holdren said the whole new addition is about twenty-two eight by twenty-one four? Ms. Pantuso said correct.

Wayne Bifano, 64 May Court, spoke in favor of the project and the variances.

Kathy Carroll-Lawrence, 54 May Court, spoke in favor of the project and the variances.

Moved by Mr. Holdren, seconded by Ms. Kraemer for 58 May Court they are requesting two variances. Section 1125.03(e), the code requires a 24% lot coverage and they are increasing it to 28.2%. And also Section 1145.02(b), that states that a nonconforming structure when altered must become conforming and this is existing nonconforming and it will still be existing afterwards. As far as the factors for this motion the property will yield a reasonable return whether we grant this variance or not. Whether the variance is substantial, I do think it is substantial when you look at the technical facts going from 24 to 28 is a lot for lot coverage but, as we stated a few times specifically adding about 450 square feet to the lot but they are removing, through the porch, the existing detached garage, and the deck, actually about 467 square feet so if you look at the numbers that way I do not think it is substantial. The essential character of the neighborhood would definitely not be altered with this variance. The variance would not adversely affect the delivery of governmental services. I don't believe the property owner purchased the property with the knowledge of the zoning restriction. We have discussed in detail that the property owner's predicament can not be feasibly obviated through any other means without the variance. The spirit and intent of the zoning code is observed by granting this variance. The variance is not self-created and therefore, I make the motion.

Kraemer: I would vote aye. I do think it is a substantial variance but I think that the alternatives to this particular construction are not feasible. I think that it is a compelling argument that the amount of removed structure when you look at the porch and the detached garage substantially offset the increase to the footprint of the main structure. I also think it might be helpful to consider looking at the code when it says that you don't have to calculate the square footage of a detached garage in the same manner that you calculate an attached garage. Maybe there should be some changes made. But I think the Duncan Factors have been articulated and I vote yes.

Lipp: I vote aye, for the reasons stated. I do believe it is substantial but once you consider the removal of the deck and the detached garage it does not seem as substantial as the 28.2% would indicate. I am also in favor of opening the part of the front porch. I know a lot of the front porches have been inclosed

and it is nice to see someone opening at least part of it.

Freshman-Johnson: I vote aye, for the reasons stated in the motion. Lot coverage is a serious debate all the time and especially on the streets that have close houses and tight lots as compared to some other streets so I appreciate that you've thought very hard about the different options and you worked with a local architect that really respects and understands why these rules are in place to protect the real estate here. I am also so glad you are going to get a front porch. I think you will love the front porch that is very close to the street as it is and it will give you a feel of another outdoor space to enjoy that you don't now. I appreciate that you thought about the laundry room and it is not a two-car garage it is a one-car garage and it is completely efficient. I love the investment in the real estate and you've done a good job; this is a great plan. I vote aye.

Fricke: I concur with everything my friends and colleagues have said. I actually think the essential character of the neighborhood will be enhanced, based on the testimony we heard and that is one of the factors that we consider. I vote aye.

Holdren: 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 9:02 p.m.

Wade Fricke, Chairman
lgb