

**VILLAGE OF CHAGRIN FALLS
BOARD OF ZONING APPEALS
September 24, 2019**

Members present: Fricke, Holdren, Kraemer, Lipp
Also present: Bridey Matheney, Jamieson, Edwards

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

Mr. Fricke said we only have four out of the five members present tonight. In this case, three out of the four members will have to vote affirmatively in order for your variance to be granted. You can proceed tonight with the four members or you can choose to come back to the next meeting. The applicant choose to continue tonight.

SWEARING OF WITNESSES

All were sworn in.

ORANGE WEST PROPERTIES LLC, 22 WEST ORANGE STREET - REQUEST FOR A VARIANCE TO SECTION 1137.04(b), YARD AND BUFFER REGULATIONS, ACCESSORY STRUCTURES, PERMANENT PARCEL NO. 931-12-024.

Mr. Jamison said the occupant of this property is M Italian Restaurant, which is in the Retail Business Zoning District. They are proposing a new accessory structure located on the west side of their property in the side yard area. They are proposing to move an existing accessory structure forward, towards West Orange Street and construct a new cooler structure behind it. The current storage structure encroaches into the required side yard setback 2'. The existing storage shed is proposed right on the side yard lot line so they will need a variance of 5' in order to accomplish what they are proposing. Both of these structures will be within the current confines of the fence area that currently exists so they are not moving the fence; they are not proposing any changes to that.

Rick Siegfried, RSA Architects, said they need more cooler space. They have an existing service yard, which is where the fence is. There is a shed that will be relocated so that they can drop a new cooler back in the corner. You can see up in the corner there is a new cooler and this is the existing shed that is going to be relocated. All we are doing is putting a foundation under where that new cooler goes.

Mr. Fricke said are there external fans on the cooler? Mr. Siegfried said no, well there is a compressor out there but it is on the top. You can barely see the one that is there now. That fan may stick up above a little bit, the height of it, the new one. Ms. Kraemer said just the fan, not the unit itself? Mr. Siegfried said the unit may stick up like that much because the fence is 6' high. Mr. Fricke said there is a cooler there now? Mr. Siegfried said the existing cooler is underneath, there

is a roof here right now, and it is staying. Ms. Kraemer said any additional noise? Mr. Siegfried said no, they are pretty quiet. There is a compressor on top of the other cooler and nobody has said anything.

Mr. Holdren said the new one, Rob you said it is zero feet away from the side yard? Mr. Jamieson said yes. Mr. Holdren said but it is still pretty far within the fence. Is the fence off the property? Ms. Kraemer said so the fence is beyond the property line? Mr. Jamieson said it is into the side yard setback, yes. Ms. Kraemer said was there a variance for that at some point? Mr. Jamieson said I believe so, April of 2013.

Mrs. Lipp said what are the measurements of the cooler? Joe Rakoczy, RSA Architects, said the cooler is 7', 5" x 15', 9". The height of it is 8', 6 1/4". Mr. Siegfried said the fence is up the hill a little bit so there is a little more visual protection. Ms. Kraemer said the new cooler is towards the back so it 8', 6" and the fence is 6' but it is coming down hill as it goes forward to theoretically the back most part wouldn't be as visible as the front. Mr. Siegfried said right.

Moved by Ms. Kraemer, seconded by Mr. Holdren that we approve the variance request for the addition of an additional cooler in the side yard relative to the 22 West Orange Street M Italian Restaurant project. There has been a request for a 2' variance to the side yard line and a variance that would put the existing storage shed right on the side yard line. Will the property yield a reasonable return or will there be beneficial use without the variance? This is an issue related to the expanded business at the restaurant that is requiring the owner to expand their accessibility for purposes of having additional cooler space within the fenced in area that already contains an existing cooler. It might yield a reasonable return but in terms of what the property owner is requesting it is part of the need for an expanded business. I do think that it is a substantial variance based on the fact that it is a 5' variance to the side yard lot line. I think what is unusual about this situation is the you've already got a fence that fences in the entire proposed addition and it is beyond the property line so in a sense that it is not going to impact the visual appearance of that space I think it is substantial but there are other factors that alleviate it. The essential character of the neighborhood I don't think would be substantially altered based the fact that there is already an existing cooler and an existing storage shed. There might be a little elevation based on the fan that is going to be on top of the new cooler but based on the angle of the street I don't think the impact would be substantial. It is not going affect the delivery of governmental services. The property owner had knowledge of restrictions because they have been here before with respect to the entire project and needed a variance to put the existing fence in. Probably not any other feasible method by which to deal with this problem unless they wanted to try to make the existing cooler space work. I think granting the variance would allow the spirit of the zoning code to be met. I would say that the circumstances that create the need for the variance are self-created but they are based on some good use of the property for purposes of having a very active and viable business that goes on in that space. I would also indicate that it doesn't appear that the most affected neighbors have a problem with the way that this project is being done and are not objecting to it. So, for those reasons, I would propose that we grant the requested variance.

Lip: I would vote to approve the variance for the aforementioned reasons.

Fricke: I would vote aye as well. I would agree that the variance request technically is substantial but I also agree that the nature of the existing service yard is all fenced in as well as the fact that none of the neighbors have objected as well as the fact that it is not increasing any of the potential eye sore. So, I would vote aye.

Holdren: I too will vote aye. I think the essential character of the neighborhood would not be altered one bit so I think this is an easy variance to grant.

Kraemer: Aye, for the reasons 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.

The meeting adjourned at 8:17 p.m.

Wade Fricke, Chairman
lgb