

**VILLAGE OF CHAGRIN FALLS  
BOARD OF ZONING APPEALS  
May 26, 2020**

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

The virtual meeting was called to order at 7:30 p.m. by Chairman Wade Fricke.

**APPROVAL OF MINUTES**

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

Moved by Mrs. Freshman-Johnson, seconded by Ms. Kraemer that the minutes of the meeting held November 26, 2019 be approved. Carried. Ayes: Fricke, Freshman-Johnson, Holdren, Kraemer. Abstain: Rockey. Nays None.

Moved by Ms. Kraemer, seconded by Mr. Holdren that the minutes of the meeting held February 25, 2020 be approved. Carried. Ayes: Fricke, Freshman-Johnson, Holdren, Kraemer, Rockey. Nays None.

**SWEARING OF WITNESSES**

All will be sworn in before they speak.

**DENNIS AND LAURA BOWER, 60 SOUTH FRANKLIN STREET - REQUEST FOR A VARIANCE TO SECTIONS 1125.04(a)(1), 1125.04(a)(2), AND 1125.04(a)(5), AREA, YARD, AND HEIGHT REGULATIONS: ACCESSORY STRUCTURES, AND SECTION 1148.05(b), FENCES, WALLS, AND HEDGES PERMITTED: RESIDENTIAL DISTRICTS, PERMANENT PARCEL NO. 932-03-014.**

Mr. Jamison said the applicant is proposing to build four accessory structures in their rear yard which consists of a detached garage, a potting and garden shed, a patio pergola, and a garden wall. This is in the R1-50 zoning district. They are before us today for a total of four code sections that require a variance. The first is section 1125.04(a)(1), the area, yard, and height regulations for accessory buildings. This pertains to detached garage size. The minimum interior dimensions of a detached garage shall be 20 feet in length in 19 feet in width as a minimum. The proposed garage is 20 feet in length and only 14 feet in width, so the proposed garage is five feet under the minimum requirement. The next variance is section 1125.04(a)(2), which is also the accessory structures, detached garages. And it says the detached graduates for each lot shall not exceed 700 square feet in total area of the structure. That is for all of the accessory structures together on the lot and when you add all four of these as well as the driveway, all accessory structures in the rear lot add up to 968.25 square feet. So this exceeds our code requirement by 268.25 square feet. The third variance involved is the minimum distance of the detached garages and accessory buildings from the rear lot line. The code

requires 20 feet plus the average front yard setback of the adjoining lots having street frontage on the street opposite the front line of the through lot. The average front yard setback is 12.75 feet. Therefore, the minimum rear lot line setback required would be a total of 32.75 feet. The proposed garage structure in the back has a setback of 14.5 feet, which is under the required setback requirement by 18.25 feet. Also, the proposed potting in garden shed building has a setback of 15 feet, which is under the required setback by 17.75 feet. The fourth and final variance, to section 1148.05(b), fences, walls, and hedges are permitted in residential districts requiring the maximum height of 6 feet for these structures, fences, walls, and hedges. The proposed brick garden wall is 8 feet in height, which is over the maximum height requirement by 2 feet.

Ms. Kraemer said Rob, you talked about calculating the driveway as part of the excess footage of the accessory structures. My understanding was that all or part of that driveway was going to be gone or is it a different driveway? Mr. Jamieson said it is going to be the driveway that is an existing driveway. Part of that is going to remain, I believe. Ms. Kraemer said if it is calculated into the excess, we probably should know about it. Mr. Jamieson said I will have to verify that, but I'll do that as we start to bring the maps up.

Mr. Fricke said all that being said, thank you Rob for that background. I guess, at this point, we will turn it over to the applicant for their presentation. Before someone speaks, we'll have the law director swear in the speaker.

Bill Childs, Dennis and Laura Bower, Brenda Anthony, and Virginia Burt were sworn in by Mr. Markowitz.

Virginia Burt, Virginia Burt Designs, said I think the first piece is we have this gorgeous heritage Italianate house. This is a signature house in your beautiful village. And I'll just say that the idea here is to create an Italianate garden. So the first piece is, what is an Italianate garden? I think, more than anything else, is that it has an axial geometry, it has a Vista, it has geometric patterned beds, and it was designed to be inspiring on your ground that has a water feature. It has steps and it leads you down into the literally a series of green rooms. So I think the first piece is and to answer some of the questions in relation particular to the items on the agenda. The first piece, and there was a question and I'll just answer that about the driveway. There is an existing driveway that extends all the way from Walnut Street to the accessory or small existing garage that used to be, in this diagram, it's called the terrace. There is a terrace in the upper right hand corner, or Northeast corner of the back garden. So there's the existing driveway. And I'll answer one of the questions about the about the existing drive and one of the things I'll mention, if you do the statistics one of the pieces is we currently show that the proposed accessory structures are over what would be allowable under the bylaw. However, what we are doing is actually reducing the overall amount of space that is already taken up by the accessory structure and the existing driveway. The existing driveway is 1,178 square feet. We're removing that and as you can see the proposed accessory structures, when you add all of those together, we're at 1081.25 now. So I'm just saying the existing driveway is considered an accessory structure, it is over your amount. We're actually reducing it by 9% less by the accessory structures that we show here. I think then the other part you can see this strong axial relationship from the existing house all the way down into the gardens. So you step down from the existing house, across the existing porch onto, and I need to call it a bit of an overlook.

You have a pair of steps that divide and take you down onto the lawn terrace. The little bit of Italian there that turrets or plateau or the lawn terrace, the sunny terrace, say grass terrace. Then you step down again into a garden that is a strolling garden left and right, a beautiful water feature, and you step under into the shade of the pergola. All of that is to say that the pergola, once you're under the pergola, there's also a brick wall at the edge. And this is the law that we're speaking of, that is in the letter was shown at 8 feet. We actually have dropped the height of that to 7 feet to align with the lintels of the garage, which you'll see in the sections in the moment. Mr. Fricke said is it possible for you to circle or do something else to show exactly? I see the green line you've put in there, but the wall is where the green line ends or is there a way you can circle it. Ms. Burt said that is correct. I think that the next piece, and what I will mention about, just by getting rid of that driveway, we've actually decreased the amount of coverage in the back garden. Then the next piece is how do we define? You know, this is a through lot. We go all the way from Franklin all the way back to Walnut Street. We have moved our garage and potting shed. Those are the two white rectangles. Bill, if you could just show what those are. Those two have been moved to be setback now 20 feet from the property line, which takes it back slightly 6 feet behind the adjacent house of 14 foot three. But what that does is create a consistency of streetscape all the way along Walnut. And it gives, by having the brick wall, the two buildings, what we're able to do is create a consistent architectural theme along that streetscape.

Ms. Kraemer said was there a previous garage or no? Ms. Burt said the previous garage is all the way into the interior of the property. Mr. Childs said this is the interior, this is the existing garage. Ms. Kraemer said and that remains? Mr. Childs said correct. Ms. Burt said accessible from the front, yes. Ms. Kraemer said is it currently accessible from the back as well through that driveway? Ms. Burt said that is correct. Mrs. Bower said It's currently a drive-through garage. Part of what we're proposing is to close off the back garage door that's facing Walnut Street on the existing garage, removing that entire driveway that leads to it and removing the garage door on the backside. So it would only be accessed from the front as it already is.

Ms. Burt said I think if we could go to the elevations, which would be the next page after this, I believe. Mr. Jamieson said which one do you want to see? Ms. Burt said the one with the colored elevations. So elevation AA, what would that shows you is the two garages in the wall and how we have created a niche detail in the wall so that two things happen. The first one is the niche, I mean by dropping the wall to 7 feet, what that does is actually align the top of the wall with the tune lintels, the stone lintels above the doors of the garage. So again, architectural consistency, the ability to unify and create, for lack of a better term, a catcher's mitt both for the streetscape as one walks by. So the public gets something beautiful as well as the interior of the garden. Mr. Fricke said did you just say that the wall is 7 feet high. Mr. Burt said yes, we dropped it from eight down to seven. Ms. Kraemer said so that variance is only for one foot, not two? Ms. Burt said that is correct. Mr. Fricke said and while we're on that, what would be the impact of making that 6 feet and not needing a variance request for that particular feature? Ms. Burt said it will shrink. I'm going to say it this way, there's two things that happen. The first one is it will no longer aligned with the quality of and the symmetry of the door lintels above the garage doors. So as soon as we start to do that there is not a continuous line there, number one. Number two, it will diminish the size and scale of the niche that is proposed and suddenly it will look out of scale. On the inside, the other part that

happens is that because of the sloping garden, and again it creates a, there's an opportunity when we're talking about Italianate gardens, the true relationship from the upper area of the porch looking down into the garden it will really diminish the ability for that garden to feel its strength as a, and I'm going to say it this way, as a catcher's mitt and it's literally the end of the Vista for the people who live inside. So there are a number of architectural design reasons why one would do that and why it's important to keep it at 7 feet.

Ms. Kraemer said why was it originally 8 feet? Ms. Burt said we hadn't finished the design of the garage doors yet. And when we first went in, so we refined the garage doors and that 7 feet, that alignment was important.

Mr. Childs said I think Chagrin Falls is a very pedestrian oriented community and I think these type of design elements to get them correct for pedestrians walking by is important because if it is lowered to 6 feet, then you basically almost have the ability, if you are 6 feet or taller, to look over the wall versus it should be a piece that you can fill the height and the scale of it as you walk past. So I think it distracts or doesn't really solidify the design if it's too low especially from a pedestrian scale.

Ms. Burt said I think if we could also show, so knowing the height of the wall here, if we could go down to the elevation that is just below this one, Rob, if I could ask for you to just scroll down and maybe shrink out just a little bit. So you can see too, to Bill's point, you can see what 7 feet looks like in relation to a person out on the street. It is not overbearing and it gives us an opportunity to have that beautiful niche as well. Because as soon as you shrink that it becomes out of scale, I think is the part that I want to emphasize. Brenda, do you want to speak to the two garden sheds? Can we go to the next two drawings please, Rob?

Ms. Anthony said certainly, as Virginia mentioned, the style of the existing home it is a historically significant Italianate home. We wanted to represent that in the accessory structures so they have some of that Italianate characteristic, tall, slender structure, and tall, slender windows. The windows are proportionate in scale to the ones on the home. A Hip roof. The roof will be slate to match the existing home brick exterior. Could you go to maybe the the elevations of the buildings? Over the doors and windows we've done a small pediment that is similar in character to the ones that are on the existing home. The idea here was just to do a structure that compliments the existing Italianate home, but without all of the decorative details that the existing home would have because it wouldn't be appropriate for these small garden type structures to have all the brackets and everything that's on the home. Just enough to compliment the existing home.

Mr. Fricke said wow did you arrive at the final dimensions of the shed and the garage structure? Ms. Anthony said The two structures are nearly identical, as you can see. The zoning does require a garage to be 19 feet in width. However, this is not the primary garage for the home. The home already has a two-car garage. This is an accessory garage. We wanted to keep it again, Italianate in character are tall and slender. If you're familiar with the existing home or if Rob can advance one more sheet, you can see we have an elevation of the back of the home, very tall, very slender. There is a height limit in the code as well, so we went as tall as we were allowed to and we had to keep it tight in order to maintain a slender appearance so that the proportions are relative to the character of the existing home. Ms. Kraemer said is the

intention to park a car in that garage? Ms. Anthony said yes, you can fit a small car in the garage. Ms. Kraemer said has the ARB looked at these drawings? Ms. Anthony said yes, they have and we did receive an enthusiastic preliminary approval. Mr. Jamieson said preliminary approval was granted on February 18th of 2020.

Mr. Holdren said Rob, I have a question. As far as the the distance, the rear yard setback, we are using 14.5 feet, but the fence or wall is within that? Is there a reason why that is not being considered? Because it is a fence? Mr. Jamieson said correct. The setback for the fence is different than the other structures for a building.

Mrs. Freshman-Johnson said I was also curious why you're looking at that as similar topic. I didn't see anything a variance about the fence, which is really a wall which has no. There always needed to be certain amount of visibility in a fence in our requirement. You can't have it solid, but does this not qualify for that? Mr. Jamieson said I don't believe so. We did address that when we did the review. And I could go back and find that exact reasoning for that. Mrs. Freshman-Johnson said I don't know if maybe Dale had some insight on this wall not being a fence.

Mr. Rockey said fences have to have 30% airspace to let light through. That's why we do those shadow box fencing. When you see a 6 foot privacy fence, is that a shadow box? Not a standard board on board fence? Mrs. Freshman-Johnson said right. So how does this one not have that requirement? Mr. Jamieson said I'm looking up the regulations for walls because I think it's looked at differently. Mrs. Freshman-Johnson said we don't get many walls. Ms. Burt said It's an important thing in an Italianate garden that they actually have garden walls as part of it. Mr. Jamieson said I do have an answer regarding the fence or a wall. It is under 1148.02, the definition of a wall is a solid barrier constructed of wood, masonry, or other material. And they consider a solid fence is considered a wall. Now this could, because it's made of masonry, it is considered a wall. So we treated it as a wall when we looked at the at the entire zoning review. Mrs. Freshman-Johnson said and it meets all code? Mr. Jamieson said Yes, with the exception of the height. Ms. Kraemer said the only issue with that wall to the extra foot above the required 6 feet. Mr. Jamieson said correct. Mr. Fricke said and actually 1148.07 it says walls greater than 6 feet in height or in excess of 100 square feet will be subject to review by the ARB. Design and construction such walls shall be approved by the ARB and consideration of the factors of safety and visual impact. So, presumably the ARB already opined on the wall itself. Ms. Kraemer said did they opine on it at 8 feet or 7 feet? Ms. Burt said they opined on 7 feet and they loved it.

Mr. Fricke said can you touch on the location of each, the garage and the garden shed. Why can't they be pushed? Can the whole thing be pushed up 5 feet or 8 feet or something closer to the house and how you came up with the scaling that you did?

Ms. Burt said this is all about a series of proportions. So literally, what we're looking to do is create the invitation down into the garden. And if I put the sheds any further to the East or into the garden, what begins to do is it starts to for shorten that overall axial relationship. The more you for shorten it, it creates a disadvantage to the overall quality of it. The lawn terrace is designed in sacred geometry, so it's using sacred geometry proportions of one to 1.618 that are

found in nature and it gives you a series of garden rooms. If I start to push the two buildings into the middle of it, well it all becomes about those two buildings instead of it being about a garden. What we're looking to do is create a series of spaces, if you will, both entering from Walnut and also as you experienced them looking from the inside of the house. And that happens in all seasons by for shortening that or moving those closer, it begins to destroy the integrity of the overall series of experiences and spaces.

Mr. Childs said I'd also like to comment that if you pull that back anymore, you start to lose that essence of the streetscape. This street, you have house, house, then you have basically a hole or a void and then you have house, house. So this basically is a place marker for that. Typically there would probably be a house here. And so being in the historic district, we felt that it would be a good solution to be in an Italian home to do this Italian garden and then do these little sheds that help keep that streetscape, which I think is really important in a historic district. And I also think it's important because it gives a unique kind of feature that kind of ties in with a lot of the nice historic houses trying to keep the architecture and the detailing. And I still think it's a really an experience of a pedestrian walking through the town to see this neat Italian garage, shed and this wall with this niche in this possible sculpture in it.

Ms. Anthony said Bill, you stole the words right out of my mouth. I was going to say a void in the streetscape and also the lovely trees that really has added onto the outside of the wall adds to that experience for the pedestrian. In addition to these structures, we're just doing a little bit of minor work over at the existing garage that I mentioned previously where we're removing that entire existing driveway that Virginia has replaced with this natural pathway. And removing the back garage door and just adding a small man door at the back. That's really the extent of the architectural impact.

Mr. Childs said the last thing I'd like to comment on is I really don't think this project would endanger the health, safety, or general welfare of the public. Actually, I think it would be inspiring to them when they're taking their walks and give them gratification of the architecture and the gardens.

Mr. Jamieson said I have a question for Virginia. When I did the zoning review on this map that's on the screen now, I measured out the setback distances and I based the zoning review letter on that. And it looked like the setback from the line to the garage is about a 14.5 feet in this distance when I measured that to scale. And then I looked at the the potting and garden shed and measured that at 15 feet on this version. When I just looked at the color version that was submitted with the variance, it looks like, and I haven't had a chance to do the scale measurement, but it looks like from the property line back that the 20 foot rear setback is maintained for both structures. Was there an alteration or moving those buildings back a little?

Ms. Burt said yes, we moved them back for several reasons. I think that the first one was it was an early drawing that we had sent into you and as we did design development we were able to go back to the wall. The roof was shown and we had measured to the roofline instead of the actual face. And then, we also moved it back so we can be sure that a car can park between the sidewalk and the single-car garage in case it was waiting there just for a temporary moment

before it went into the garage. So we just wanted to be sure that we had that space and also, it allowed us to respond to your request and your letter to move it back.

Mr. Jamieson said and, for clarification, the way I interpret it it does meet a 20 foot yard setback. However, when you have the through lots that goes between street frontages it's requirement for the rear lot line 20 feet plus the average front yard setback of the adjoining lots having street frontage on the street. So the requirement of the rear lot line, 32.75 feet, still stands. Although, the amount of variance required is less for the three structures for the garage, the potting shed, and the pergola. Instead of being at the 14 or 15 foot level, it is now back to 20 feet. But the overall requirement is still 32.75 feet.

Ms. Kraemer said how do we view that in terms of a variance? Mr. Jamieson said it's still the same section. Ms. Kraemer said I know, but in terms of the amount of the variance that's being requested? Mr. Jamieson said I am calculating that right now. Mr. Rockey said what's the use of the garages and the potting shed? They're 19 feet long, is that correct? Ms. Anthony said they are 20 feet long by 14 feet wide. Mr. Rockey said okay. I'm just trying to figure out where exactly that 30 foot wall, let's call it 33 feet to make it easy, would be on this line. Mr. Jamieson said it looks like it would be roughly half.

Ms. Kraemer said it needs to be 13 feet further back in order to meet the? Mr. Fricke said 12.75, I think. Mr. Jamieson said yes. Ms. Kraemer said so they are requesting a 12.75 foot for both structures? Mr. Fricke said I think that is right. Mr. Jamieson said so it is actually the potting shed looks like it's just over 20 foot, like 20 and a half foot from the rear setback line. Ms. Burt said it is 20.3 foot on the north/west corner of that potting shed. Mr. Jamieson said okay, so the amount of variance for rear yard setback would be 12.75 feet and that would cover both structures. A little less for the potting shed, but for the garage it would be 12.75 foot.

Ms. Burt said I think it really does show and I think that the important part is if you zoom out just slightly, if you could Rob, again, it's back to Bill's important point. It really does create the unity of the streetscape as you move along. As soon as you start moving those garages even further back, there's no longer a relationship of architecture to street or to sidewalk. So I am aware that we are indeed asking for a variance but it is for a, I'm gonna call it literally, it weaves in into the tapestry of your historic district. And it allows us to be able to create continuity as you walk along that experience as a pedestrian.

Ms. Kraemer said so in terms of the actual area of accessory structures, if we calculate in the renewable of the part of the existing driveway, what does that do to the amount of excess lot coverage?

Ms. Burt said so the first piece is it's 9% less coverage than what is today. So what we're saying is today's existing drive is 1,178 square feet. The total proposed structures is 10 81. So the difference there let me just do the math. I did the percentage rather than the math. So we are actually 96.75 square feet less coverage. So knowing that the allowable accessory structure area is 700. Today's 1178 is a significant day over that and we're reducing so there's more green space.

Ms. Burt said Brenda, do you want to speak just to be able to show that elevation of the doorway to show how it aligns with the windows and to gain that it was very positively approved or received by the Architectural Review Board? I don't know whether that people understood what might have been said there.

Ms. Anthony said right. So that would be about four or five pages past this if Rob could advance. This is just a little drawing showing on the bottom left hand corner you can see where the old this is the back facade of the existing house. The bottom left hand corner shows where there was previously a garage door that we're removing and just replacing with a man door in line with the one of the existing windows above. That's really the extent of what we're doing at the main house but it's just a reminder that we're, eliminating that drive through garage and all of that excessive driveway that currently exists in the back of the home in order to create this garden environment.

Mr. Rockey said why don't they have to have a variance from three and a half feet? Because it's technically a street adjacent wall to, even though it's in the back of their property, it's adjacent to the front of another street. I mean why is that different? We define front yard fences and walls and hedges have to not exceed three and a half feet. But it backs up. So my question is more kind of a logistics question. They back up to another street. We don't define it so why are we saying that this is actually not you know, they have to be 6 feet because it's technically their backyard but it's everybody else's front yard on that same street.

Mr. Jamieson said it is evaluated on the property where it sits. So if it is a rear yard fence then as long as it meets the rear yard setbacks and there's no other code language that regulates that further for a through lot, then we go by the requirement for the rear lot line.

Mr. Holdren said as far as the wall again, Rob or Harry, what does the code say as far as the distance? Because we're not even evaluating this. Could it be two feet from the property line and extend the entire length of the property? Mr. Edwards said the wall in the rear yard can be treated as a privacy fence, which has to be 3 feet off the property line.

Mr. Fricke said Rob, did we receive any letters or anything from neighbors? Mr. Jamieson said No feedback that I received.

Mr. Edwards said we did send this application to the village engineer, he reviewed it for compliance, and there are no issues with him. And also, the Bowers did a consolidation because this was four lots and now it is one.

Mr. Holdren said what is the lot coverage now. I know they don't need a variance; it is way under the 24% but does anybody know? Ms. Burt said the site stats show that the total lot coverage is 15.6% versus the allowable of 24.

Moved by Ms. Kraemer, seconded by Mrs. Freshman-Johnson that we approve the variance requests at 60 South Main Street with respect to 1125.04(a)(1)(2)(3) and 1148.05(b). With respect to the variances under 1125, (a)(1) refers to the width and length of the garage. And this is a garage which because of the nature of the design is going to be 5 feet narrower than the width that is prescribed in 1125.04(a)(1). I think with respect to the scale of the project and



the desire to mass and make proportionate the two structures and the fact that it's an accessory garage that's an appropriate variance request. I think. With respect to 1125.05(a)(2), we're looking at a lot coverage decrease even though we're in excess of what's allowed by code. It is actually a decrease because of the removal of part of the driveway, the creation of these structures. So it's actually a net reduction in the lot coverage over green space by 96.75 square feet. And with respect to 1125.04(a)(3), we're looking at an approximate 12.75 foot variance request. The required variance is 32.75 feet and we're looking at approximately a 12.75 foot variance in keeping with where these structures are going to be located to create the scale and the consistency of the garden. With respect to 1148.05(b), we're looking at a wall which is going to be a 1 foot variance over the 6 foot height requirement. And that is what the applicant is requesting. With respect to these various requests, the variance request with respect to lot coverage and the rear yard setback are relatively substantial. The wall height is not substantial and the size of the garage is less than what's prescribed by code. The essential character of the neighborhood would be altered, but I believe would be altered to the benefit of the neighborhood by granting these variance requests. I don't believe that the variance would adversely affect the delivery of governmental services. The design of this garden is an addition to what was intended when the property owner purchased the property. So perhaps they may have been aware of the zoning restrictions, it's not clear. If they're to build a garden of this size and integrity these various requests would allow it to be what the property owner intends and would be a benefit to the neighborhood. The spirit of the zoning code is met by allowing this garden to proceed as part of garden construction to proceed and it's based on circumstances of the owner wanting to enhance the property. Certainly this is not a required change to the property, but in terms of what's being requested and what's being proposed I think the granting of the variance requests are a benefit. It's not a self-created hardship. I guess the other requirements relative to a use variance are not relevant here. So for those reasons I'm moving that the Board of Zoning Appeals grant, the variances as requested.

Rockey:

So I'm going to go with a yes, I'm granting the variance. I believe that they they're doing a great job to improve the look of the street And the property. They are taking on a fair amount of financial burden and project. I believe that in terms of 1148.05, the fence, we're getting them after they're here but it does give them a slight bit more property being over into their backyard and I have visions of people walking and looking into your backyard and I'm going to keep it short. Really when it comes to the fence, that's my or the wall that is my biggest concern and that they're only exceeding about a 1 foot increment and it does make a change to basically the aesthetics of the property and because it does back up to a street, which is pretty well-traveled. I can understand the frustration or the feeling that having people peering over your wall into your backyard as you're trying to enjoy your evening is not the greatest situation. So I think it's most helpful for them and for everybody walking by.

Freshman-Johnson:

So, I loved the presentation. I love the concept. You have a beautiful lot in Chagrin. I just, I'm really struggling with practical difficulty on this. I understand that what you want to do is laid out with so much thought

and engineering and I just can't find a practical difficulty measure here. I didn't hear anything besides this is the style we want to go with. It's kind of ironic because you have the biggest lot in all of downtown and you can do a lot of different things and have a lot of different options that don't require a potting and garden shed and a wall and all these other things that create some of the variances needed. And I always try to stick with the Duncan Factors that we have to go with and I just don't feel besides desirable look and feel that there's some choices to be made here that would reduce some of the variances. And for those reasons I am voting no.

Fricke:

Rachel stole a lot of my thunder. I too, well first all I know this house. I've been to many wonderful Christmas parties many, many years ago in the house. It's absolutely a spectacular house. It's a spectacular property. I think everything that you're doing looks absolutely first rate and exceptional, extraordinary. From a practical standpoint, practical difficulty that we'd typically face is someone has a dilapidated one-car garage and they want to make it into a two-car garage. Clearly what we're looking at here are first world so-called first world issues. I guess I come at it a little differently than Rachel in the sense that, you know, that being said, and I know I have voted no on aesthetic issues in the past but I do think while the application fails on a number of the Duncan Factors, I think it fails with respect to will the property yield a reasonable return without the variance? Absolutely, It will. Is the variance substantial? I do believe some of them are substantial. Can the property owners predicament feasibly be obviated through some other method? I agree. I am no landscape expert or architectural expert, but that is a huge lot that could be done, I imagine a number of spectacularly beautiful ways. What you're proposing is spectacular. But what I ultimately conclude is A, the ARB was unanimous in its approval. B, there have been no objections from the neighbors. C, I think that the neighborhood will be, one of the factors is the essential character of the neighborhood, I think the neighborhood will be enhanced by such a beautiful series of structures. So ultimately, I have great difficulty with this but I view based on the impact of the neighborhood. The ARB unanimous approval and, no objection from the neighborhood. I would vote Yes, but I do so with significant difficulty.

Holdren:

I agree with what everybody has said so far. To me this is four different variances, some are pretty easy to grant and some aren't. As far as the the accessory structures, I think overall you are reducing the amount of coverage So I think that, in my mind, is you meet all the Duncan Factors or most of them and so I'd vote yes for that. The garage size, you're making it smaller, which is also helping your accessory structure coverage. So I would vote yes for that one. The fence is 1 foot taller than our code that allows. I don't think that's a major variance. As far as the

distance to the rear lot rear yard setback, our code talks about because this is a rear lot on a street, that the neighbors that's their front yard, that all of the structures have to be 20 feet behind the average of their front yard setbacks. I think this is for a reason. I think neighbors don't want, I mean, our code shows that neighbors wouldn't want a garage next to them so I do think this is the reason our code is in there and the reason there is a 20 foot setback. I do of course think this is very beautiful and it will increase the aesthetic of the neighborhood. This is not just an ugly garage that's going there. So this one I have a really hard time with but I guess looking at all the Duncan Factors, this I guess all the good does still outweigh the bad, so I would vote aye, yes.

Kraemer: I would vote aye for the reasons stated. I am compelled by the fact that there aren't neighbors that are protesting and that the ARB enthusiastically supported the project and that the applicant also has made some efforts to reduce the scale, the amount of variances in terms of the actual setbacks and some of the lot coverage has been reduced. I agree that certainly this is not a, you know, we have to replace something that's falling down; this is an enhancement to a property. But looking at the overall project and requests that have been made, I would vote aye for the reasons stated.

Mr. Fricke said your request for variances passed four to one. This action will be final within fifteen days unless appealed to Council by a petition of three or more Council members.

**LINDA FOX, 65 CHURCH STREET - REQUEST FOR A VARIANCE TO SECTION 1145.02(b), NONCONFORMING BUILDINGS AND STRUCTURES, PERMANENT PARCEL NO. 932-01-032.**

Mr. Jamieson said this is a residential structure in the R1-50 zoning district. It's proposed alterations to the rear of the structure enclosing a three season room and then adding a small bump-out to one of the rear facing rooms. There's one variance required, that's to 1145.02(b), additions to nonconforming buildings and structures. This house, as it sits now, encroaches into the rear yard a total of 14 feet and nine inches into the 30 foot required rear yard and the lot size is 925 square feet under the minimum required 6,000 square foot for a lot in this zoning district. They received preliminary approval from the ARB on February 18th, 2020. And here's the marked up plans. Actually, if I go to the preliminary, the circled area shows the two walls of the back corner of the house that are now screened in. They are proposed to be made part of the solid part of the house for year-round use. And here's the detail of where the bump-out section will be located for that rear bedroom.

Mrs. Freshman-Johnson said is the variance for the lot coverage, for the size of the lot? It's just nonconforming or is it for a rear setback? Mr. Jamieson said it's for the additions to a nonconforming structure. Mrs. Freshman-Johnson said so it's just an existing nonconforming structure, but do they need the rear setback. Mr. Jamieson said well they don't as far as the building as it sits now. The proposed alterations do not extend any further past the existing house now. So when you see where my cursor is now, that's the existing rear wall of the house.

Right now there is a screened in area. The applicant can describe with more detail that they're closing that at the same level as the back wall and then the bump-out for the rear bedroom will actually be under the existing rear setback for that wall of the house. But they are considered alterations to a nonconforming structure.

Mr. Markowitz swore in Linda Fox and Phil Koepf.

Mr. Koepf said Linda purchased this house knowing it was a very tiny little house but she wanted to be in the village and she lives alone. She took this project on and has been thinking about what she wanted to do and what she needed to kind of make single-floor living. There's a small bedroom on the first floor that's existing and there's a small closet underneath the stairs that go up to the second floor bedrooms. So we talked about how do we accomplish getting just a little bit more closet space, but save the light that's coming in from the East. That's the Eastern elevation into that bedroom. And the way to do that was to either hang or put a small foundation under this bump-out. The reason it's not all closet is because we really want to keep some light in the small bedroom. But it will make it a much more functional space. The existing, what we're calling a TV room, is not a screened in porch. It may have originally been a screened in porch when the garage and porch were added but it's fully enclosed; it's a three season room. What Linda would like to do is be able to insulate it, get rid of some of the glass, open the what's now a pair of French doors into the kitchen, get rid of that just to make it a case opening so that it's a little bit bigger space. It's a tiny little room, but it's a tiny little house so proportionally it works quite well. If you look at the rear elevation of what is now the enclosed porch, the window that is there, the door is where the door is in the existing porch. The window that I placed was offset from center line of the Gable in the rear. That's been moved over. The center line of that window right there, Rob had his hand on it, is centered. It's moved over that way. That was primarily what was discussed. I have drawings ready to go back to the ARB where we are considering a window on this elevation. Linda would prefer that it not be there; that's where the couch is going to go. It's 15 feet from the neighbors. In the ARB's presentation, I have this blank wall or a wall with a window in it that would be the same size as the window on the rear elevation. Other than that, nothing has changed. The reason we're here is because anything we do to this house because it is, the lot is under the minimum lot coverage by 900 feet, I think. I can tell you from a historical standpoint that it wasn't originally that. It originally ran straight through to the alley and then at some point they, they took the rear part of this lot and added it to the rear part of the lot on the house around the corner that runs parallel to the alley. So the nonconforming part from a setback, what happened 50 years before we had zoning and then when this garage was added, the garage and porch was added, I believe it was in compliance prior to the addition of the garage. I don't know if it was done in 1990. I don't know whether it went before the Board of Zoning Appeals and they granted the variance that took it and added another 410 square feet and took it from 24% up to the 32.6% that it is now. What we have here it is we're not encroaching any more than with the bump-out then when the rest of the structure already is. It's an addition of 10 square feet to accommodate some closets.

Moved by Mrs. Freshman-Johnson, seconded by Ms. Kraemer to approve the variance requested for a 65 church Street. For Section 1145.02(b), alterations to an existing nonconforming structure. The property currently is under the minimum 6,000 square foot lot and they are requesting to close in a screened porch as well as bump-out a little part of the

bedroom in the back. The existing house already is beyond or equal to both of these locations that are being impacted. The property yielding a reasonable return. It will actually add some feasibility space to a very small conservative house and adding a closet to a bedroom for use as well as converting only a three season room to a full-time location usage in the house. The variance is not substantial. It's adding a total of 10 feet to the entire house footprint with the bump-out and then the screens just become walls creating some privacy in the home but not impacting any other house line towards any lot area. It would not adversely affect delivery of government services. The property owner purchased this property and is just trying to make best use of all that space. The predicament cannot be feasibly obviated through other means without just keeping it the way as it is. And the spirit of the zoning would be observed if we approved this area. For all those reasons. I make this motion.

Mr. Fricke said Rob, we didn't receive anything from any of the neighbors, correct? Mr. Jamieson said that's correct.

Kraemer: I vote aye, for the reasons stated. This is a variance request just based on the fact that the lot coverage and the location of the existing house makes it necessary when there's any kind of change to request a variance and this does not, in any way, impact the existing lot coverage or and it also meets all of the all of the Duncan Factors in terms of character of the neighborhood, delivery of governmental services and feasibly couldn't change this house in any other way. It's a minimal impact on the on the existing footprint of the house. So, for those reasons, I would also vote aye.

Rockey: So I'm going to vote to approve this based on the fact that it doesn't really impact any of the Duncan Factors and that this is pretty much the only way to add some usability to the house without a major change to the inside of the house. And, the fact that it's not by any of the neighbors and it's a tight lot.

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

Fricke: I think this is one of those rare applications that checks every single box of the Duncan Factors so I would vote aye, for all the reasons stated in the motion.

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

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

**PAUL SEEGOT, 17 RIVER STREET - REQUEST FOR A VARIANCE TO SECTION 1145.02(b), NONCONFORMING BUILDINGS AND STRUCTURES, AND SECTION 1151.02, ESTABLISHMENT OF BUFFER AREA SETBACK AND BOUNDARY, PERMANENT PARCEL NOS. 932-06-047 AND 932-06-048.**

Mr. Jamieson said this is commonly known as the former Jekyll's restaurant property. The building itself is located in the retail business zoning district, and actually the entire property covers three parcels numbers, 932-06-047, 932-06-048, and 932-06-049. And actually there is a split on the side part of one of the parcels between retail business and central shopping. But all the work that's being proposed here is in the retail business part of the property. The applicant is proposing some window additions, the addition of a garage door on the side facing the patio, and a rear deck extension across the rear of the structure. As you all probably recall from my emails, originally there was the rear deck extension was not part original zoning review letter. It was added at a later time and a revised letter was sent out. There are three variances that would be required for this project. One of which was just unveiled today as we did further review. The first section is 1145.02(b), nonconforming buildings and structures. The existing restaurant building at 17 River is considered nonconforming because it doesn't meet the required front yard and side yard setback distances. So all of the changes, the window additions, garage door, and the deck extension are all considered alterations to a nonconforming structure. The next variance required would be to Section 1151.02, the river buffer or riparian setback buffer distance. That buffer required is set by code is a 120 foot from the low watermark of the stream channel. The proposed new rear deck extension is approximately 7 feet from the low watermark of the Chagrin River, which is 113 feet under the required setback distance. The final variance required would be to Section 1151.03, the permitted uses for riparian buffer zone. The use of our expansion of a nonconforming use of a restaurant while it's allowed in retail business it's not allowed in the riparian setback. So, we felt that after further review that this section may apply. This section was not originally included in our notice that was mailed out to the public and posted publicly and Dale Markowitz is going to review the options before us on handling that one specific variance out of the three required. The ARB did provide an approval at the May 5th meeting of the proposed project as it's drawn. They were not aware of the latest variance for the use in the riparian buffer, the 1151.03. That was just revealed today.

Mr. Fricke said but they would have seen the additional deck as proposed? Mr. Jamieson said yes, the plans that I'll be showing here are the ones that were presented at the ARB meeting on May 5<sup>th</sup>.

Mr. Markowitz swore in Rick Siegfried and Rick Doody.

Rick Siegfried a couple of things we are going to look at. This area right here where there used to be this fireplace and then these drop-down vinyl sheets. And we're getting rid of all that. The fireplace, there was some construction issues, it was leaking, and there was some mold. It didn't really do much from the outside and inside it overheated the seats by the bar. And we want to get rid of the vinyl, so we want to just kind of get that out of there and install windows there. You'll see when we show you the elevations. All of these vinyl drop-downs in this area and the fireplace are being eliminated and we're putting glass in. Some of it's being reused and repurposed from inside the restaurant. This is really the one variance because this is the part that's up against the street. We're not moving any walls or changing the essential character of the building. But, because it is in a nonconforming area, a nonconforming building to modify it we have to present to you guys and hopefully gain your approval for doing that. We think that eliminating that solid piece there and adding glass across here, will activate the bar inside and outside. It will just be more effective than having a fireplace there and that vinyl. So on this

elevation here, these windows here that you're seeing and where the vinyl is, that's all being removed. There are going to be three overhead garage doors in there. And again, they're overhead doors, but they're very nice overhead doors. They have a nice panel look to them. The Architectural Board liked them and we think it's a big improvement over the vinyl drop-downs.

Mr. Fricke said how will that impact the use of the inside with the garage doors there? Mr. Siegfried said it will make it warmer and friendlier in the wintertime when it is cold. It also gives a lot more flexibility because we've got that in between time and we're all Northeast Ohioians so we know what it's like. Two and a half weeks ago it snowed and today was 90 degrees. But in between there were some days when you kind of want to be able to have the ability to open, close, open, close. These vinyl drop-downs aren't quite as conducive to that. There's going to be some HVAC changes inside as well. It's going to give us clearer vision, a better looking building, a more sophisticated solution, and more flexibility throughout the season so that Rick and his team can adapt to whatever the climate is going on. We think it's good all the way around. It's a more expensive solution, but it's hopefully gonna help energize the patio and the restaurant and everything that goes along with this place. We understand that this is an iconic building and we want to improve on it. One of the other things you'll see is that in this area where I'm drawing sort of a flat circle is the addition of another small deck so that this glass here is also being changed so that you can get inside and out and there'll be a deck that you'll see in our drawings being built here, which kind of works in conjunction with what the village owns, which is where the benches are. It's just another opportunity to open up that bar and experience the river. Chagrin Falls is all about the river and the falls. So we've got kind of a lost opportunity there a part of the year and the ability to open that up is going to be really an enhancement to this bar function that's going on here on the East end of the building.

Mr. Fricke said so Rick, other than what you just described with this additional deck, the garage doors are a climate control and not a seating change? It won't impact or allow you to have more seating at all? It's just a climate issue more than anything else? Mr. Siegfried said, exactly. It is not anyone's intent to increase seating. This plan decompresses the interior with some different style and the seats are a little more spread out. What we're really trying to do is just bring the inside out, the outside in, and take more advantage of this fantastic site that's juxtaposed to the river this way and give the guests a better opportunity to experience the river, the surroundings, and the best that Chagrin Falls has to offer. Here you get another view of where this upper deck is going to go. It's not very big, it's not big at all. But again, it gives us the opportunity to open this wall up. People can step out there, be in the bar, step out, here are the falls, experience it and just enjoy the ambiance of everything that is that part of town. This stairway goes away. So what happens with this new deck that we're proposing is that it basically connects this existing deck and this existing deck and you'll see it better in the drawings. So this is already here, we're going to put a new piece in that's nine feet wide and connect those two. There are going to be some posts that go down to the ground, which is part of what we need to do to support this. To the best of our knowledge, we are out of the floodway, out of the flood plain, and it will help actually block this view. This is not the best view of this building along the back here; we've got some exposed concrete. You can see these windows that exist. That's where the floor is at kind of where the concrete stops and the stone starts. So by putting that deck in there, we're going to block some of that view, the posts and cross brace. We're going to kind of stop that view into there. The awning that you're going to

see adjacent to the existing frame for the awning is also going to help kind of break that big facade up. And then there's going to be a sign also up here, which was originally part of the plan when it became Jekyll's but it just never happened. So if you sort of zoom in on the deck area there a little bit, this is what we're proposing. So while we're close to the edge of the river, sort of, we're way up above it and the property line goes out to the middle of the river, so it's not really a property setback or anything. The area various and the use various, I understand it. Rob and I had had a talk about that today. We're really asking for the same thing if you need the area you need to use, if you need to use you need the area. The other new piece of deck is this little tiny bit right here and again, you can see there's a door that goes out there and some folding glass doors and it just gives people an opportunity to come out here and stand and have a look while they're at the bar waiting to go to their table or. So it's just another way to get that ambiance going because it's probably the best view of the falls in town and there's a lot of good views of it. That's what we're trying to capture there. We hope you will agree that it will make the building better. It's a wonderful building, it is very iconic, and everyone knows it. We just want to make it even better as we go through this process with Doody and his group to move in and operate this. He's a long time Chagrin guy who has been operating out of the village for 15, 18, 20 years.

Mr. Fricke said how many tables do you think will be added on this proposed deck? Mr. Siegfried said so on the lower deck we've got four deuces and on the upper part we'll probably put two or three deuces or a couple of fours or something. So I don't think we're going to add more than 20 seats and if you look at what's going on inside, you'll see that it's a lot less compressed and we'll take those seats out because we know that parking is a very sensitive subject and I think if we can do this work and get the same numbers that Jekyll's used to get when it was full, everybody will be very happy.

Mrs. Freshman-Johnson said so there's no net new capacity being added? Mr. Siegfried said no net seating proposed, no. Everyone has agreed at this point that we're not looking to add seats; we're looking to make it nicer.

Ms. Kraemer said the new deck is connecting to existing decks? Rick Doody said correct, on the lower level.

Mr. Doody said so everything we've tried to do in this restaurant, I've said I think to this group before, this is not a great time to open a restaurant. A lot of people think we're crazy. We're partnering with Joe and Rick on this from Hyde Park. They're our partners in this venture. While we're not significantly changing the restaurant structurally or physically, we are trying to enhance and make everything more about the water and the view. We think that's probably the best selling point of this location and the best selling point of any restaurant in Chagrin Falls is it's all about the water. What we're trying to do is that you can see we put that serpentine booth in there and those are just two tops facing out that can see the falls. The same goes with along the back perimeter over there by the kitchen. There was a wall there right between the bar and the dining room before that kind of divided the restaurant and we've removed that wall. We've removed the hostess stand and we got rid of a wine display and just moved the hostess stand over where the wine display is. We're trying to make it more inviting, which everybody tries to do and they open a restaurant. The bar was I think closed up in the Winter



with those vinyl drop-downs and sort of an unusual configuration that it had before. We tried to simplify it and square it off. We've actually increased the amount of room for our bartenders more than we have for our guests. The upper deck was sort of brought up by my contractor when we started doing the demo here. He said, what you really should think about is a deck here because really before when this restaurant was Jekyll's you couldn't see the waterfall from the bar. It was very, very difficult and we hope to change that.

Mr. Fricke said Rick, are you referring to, on this on this diagram, the area of stair removal? That's the deck you're talking about to enhance? Mr. Doody said yeah, it's quite small. It is maybe 200 square feet, maybe 250. We can get you that. Mr. Siegfried said not even that; it's about 180. Mr. Doody said it is more like 15 by 10.

Mr. Fricke said Rob, that project there in of itself does not require a variance? Mr. Jamieson said it's still an alteration to a nonconforming building so it's still part of the prints. Mr. Siegfried said wait, if I'm not mistaken, almost this entire building is inside the riparian setback. Mr. Jamieson said so right here, where my cursor is, is the approximate edge of the water of the river. And I do have here the flood map showing some elevations. The elevations aren't really the question. The question is the waterline and 120 foot in from that. So that covers the majority of the entire building. Mr. Siegfried said we're way above the bottom of the river, the water lines. Mr. Jamieson said and you're a foot above the flood plain.

Mrs. Freshman-Johnson said Rick, can you talk more? I think the lower deck is concerning to the biggest part of this variance. I mean turning vinyl into windows and things like that is more of your decision to close things and not have the flexibility for outdoor space but the the lower deck and drilling into the side of the river and in the river buffer is a pretty significant request. We don't get it very often. Can you talk more about the engineering and what it takes? I think there's a lot of concern when you start touching environmental issues surrounding the river and the falls area. Can you talk about that? Mr. Siegfried said just for reference, this is the existing falls viewing deck that's here. This is the existing lower restaurant deck that's here and we're closer to the water. Like here, we're kind of right on top of it. Now we can go back and look at the photograph too, which would be helpful because it is really steep here. But the good news is there's a lot of rock down there too. Our deck is coming right across here and you can see how far down it goes as we go down the hill to where the river's at and we're going down with those posts. So those posts kind of go right down here and you'll see it on the elevation, but they're way up above the river and you can see the rock in here. So what really has to happen is they've got to come down through here and dig this out and it all gets dug by hand so as not to mess this up too much. It's just an interesting point, but the gentlemen that's doing the work is the same gentleman who built all the previous decks for Jekyll's earlier and for the village. So we knows his way around the side of the river here. Mrs. Freshman-Johnson said Rick, do you know when those other decks were built? Mr. Siegfried said I don't know exactly because. Mr. Doody said the building burned down eight years ago so within the last eight years. Mr. Siegfried said let's say seven because it took about a year with the insurance company. Mrs. Freshman-Johnson said those decks were built when they rebuilt after the fire, after Blake's went away? Mr. Doody said yes. Mrs. Freshman-Johnson said did they have a variance then to do these decks in the riparian buffer? Mr. Edwards said I do believe, but my memory, I can't remember back because the whole thing with Jekyll's burning down or the

restaurant prior to that, I know there was discussion about it, but I don't know for certain if there was a variance granted. Mr. Siegfried said so Harry, because we were there at the same time, I don't recall that on the back of the building we had to do much. I know that because we altered the front, we had the same kind of variance we're talking about now for the changes on the front because of the proximity of the nonconforming use to close to the road and all that. This exit exists the one, the single stair going up to the left side existed and that lower deck existed. Mr. Jamieson said I can tell you, I believe the village falls viewing area number two, is probably in excess of 20 years old that people in town might remember more accurately. But I know when we just did some replacement of the materials it was very evident that the materials were in excess of 15, 20 plus years old if not more. Mr. Siegfried said we think when this all comes in here it's going to enhance that area because we're going to block some of those views to it and clean that wall up. There's not a ton you can do with the vegetation because it's river, it's wild.

Mrs. Freshman-Johnson said can you explain a little more how you get to that deck? Are you extending the current one there that loops and just extending it all the way across so you could kind of go back and forth or is there a new entrance coming in? Mr. Siegfried said absolutely just connecting the dots, connecting one side to the other. Ms. Kraemer said it's no wider than the existing ones? Mr. Siegfried said so the existing ones about five feet wide and we're going to be nine feet wide so we're going to come out a little bit more just so you have the ability to get a small table out there. Mrs. Freshman-Johnson said yeah, it would have to be wider. Mr. Siegfried said it's not so much the extra seating out there, which will be really nice, but by having the deck there it gives you the ability, because there's new doors going in there where those windows are and then when you know you're running that lower level or you're experiencing that lower level and it's a nice day and those doors were open and you just got that sound coming in and the fresh air coming in and it just really enhances that entire lower level. It kind of makes it the place you really want to be. We're not going too crazy, we're not trying to go at 15 or 20 feet. We just want a little bit to just kind of open it up and make the river experience better.

Mr. Doody said if you're down in that basement area now it pretty much feels like a basement. Whereas, the upper floor has a lot of natural light coming through the windows, the lower level doesn't have very much lighting coming in and it feels pretty basement like, and we would like to enhance that and do more parties down there and make it a better experience for our guests and that's the reason for this.

Mr. Edwards said before it was Jekyll's, I remember distinctly that the ARB chairman was talking about that awning and he wanted to make awning cover a seasonal use. I'm going back to 2000, 2001 on that.

Mr. Fricke said Rob and Harry, could you talk about the role of the village engineer in all this and what part they would play going forward? Mr. Jamieson said sure, absolutely. If the variance is granted the next step in this is to receive detailed construction drawings to show the the method in which they plan to connect the new deck extension to the ground on anchored into the bedrock. All of that information is prepared by a geotechnical engineer and presented to the village engineer, Tim Lannon, who reviews it against our hillside protection ordinance as well as engineering principles. He has to sign off on that approval before any construction or

any building permits are issued further or any further permission from the village. So there is a pretty thorough review that's done on that based on our hillside protection ordinance to ensure that anything built in that area is built soundly and structurally correct according to sound engineering principles.

Mr. Fricke said thank you. To the applicants., if for some reason the board were to vote against the extension of the lower deck, does the rest of the project continue as you've proposed it consistent with the variances that you've requested? Mr. Doody said yeah, I guess so. I'm a little pregnant here, I have to keep going, I mean I can't stop. It would be a shame because I feel like restaurants in the Chagrin Falls area are going to suffer a lot going forward. It's one of the reasons I asked for this. I think a couple of years ago we had Pinecrest and about 2000 seats added to the east side, which it certainly had an effect on the chagrin falls sales of restaurants. My friends who own restaurants there experienced a pretty significant drought. I think restaurants are an important part of the community. I assure you I am an optimist. I'm a restaurant guy so of course I'm going to say that. But for us to be successful we need to probably do close to 60,000 or 70,000 a week to make enough money to make this worthwhile given our payroll structure. And with sort of the new reset on restaurants being down 40% to 50%, based on on where we're at and how quickly it comes back. I'm concerned, honestly. That would give me some pause. I can't really stop in the middle of this. I guess I could just open the first floor and forget about the basement all together and try to pay the bills based on that. I haven't given it much thought, honestly. I think we should have been ahead of this more probably before I came to you and had all this approved, but I didn't. I kinda felt like this made sense for the restaurant and it made sense for the village. I understand there's concerns. But you know we're not operating just as a bar, we are going to be a white tablecloth, polished casual restaurant. We're going to try to make it one of the nicest restaurants on the East side of Cleveland. We certainly have the location and we hope to have the food and service. And with the view our goal is certainly to design a restaurant that would be one of the top five restaurants on the East side if we execute well. The restaurant is being designed by my wife. Wendy Berry who did the building across the street, I think she significantly enhanced the building on the corner when she put her new design studio in and we'd like to do the same with this building. We think this building kind of has an eighties or nineties look to it. We'd like to enhance it and bring it sort of into a fresh new look, kind of like she did across the street. So that's our intent with this project.

Mr. Siegfried said so you can see that what we're proposing there, and the reason I'm bringing this up is that we have gotten the assistance of a very well known structural engineer, Isaac Lewin, who I've worked with for 35 years and Rick has worked with for 20 years. We've looked at all this in terms of stability and how it works over there and the rock. We don't have a geo-tech report yet, but we've got some pretty strong opinions from Isaac in the process how to do this. Essentially it's like the rest of it's all built. You bring some posts down, you put concrete sonotubes into the ground until you hit the rock and it's secured against the rock, but then you brace the thing back and forth. So we are very comfortable that physically this thing's not going to be moving around because there's way too much liability for all of us if it does. So again, we're at replacing those windows with doors. You can see here, there is going to be a bit of an awning again, just because of the rain issue, but it's going to be significantly structurally sound. The idea is just make that elevation consistent across there. Do you remember what the photograph you just looked at was like compared to what this will look like? I hope you would

agree that it's a pretty vast improvement across that elevation, which if you're standing on the bridge between Starbucks and Dewey's, you know the popcorn shop, everybody's looking at this. So we were very particular about it. We think it's important and we think that this will be a really good enhancement. So I hope that addresses some of the concern with the extension of the deck. And it's really a nice addition to the back.

Mr. Rockey said I have a one question. The egress that's on the the left hand side of the building as we're looking at it in this rear, who owns that entire walkway that runs all the way around to the street there? Is that all owned by you guys or is that owned by shared? How Does that whole thing work? Mr. Doody said I think we get up to an upper deck. The stairways on our level, on our property line, there's an upper deck that sort of is an observation deck, if you will, for 33 West, the office building directly to the West. And I'm actually going to rent an office in there and we signed a lease with Mr. West who owns that building to use his parking lot at night or share his parking lot with the other restaurants and theater. And so I think the upper deck is actually part of his property and they've been great to work with by the way. We've thoroughly enjoyed the relationship. Mr. Siegfried said my recollection is that going back eight years when we looked at this, because we had all property egress out of the lower level, because there's three ways out of there. There is an easement through there. There is an easement across the whole side of the building, the kitchen and everything. So that's not going anywhere. That's a required part of the egress system out of the lower level of the restaurant and I think that's been in place for a long time. Mr. Rockey said it is going to block the view, that awning that you have, from that that point is going to be blocked by your awning towards the falls though. That's why I'm asking the question, who owns that? Mr. Siegfried said no one ever owns a view unless you own the property that the view is from. But I don't think that awning is going to impact too much because it comes down low and that's a parking lot up there. Once you're inside the office building then nothing will be in the way because the deck won't come out that far.

Moved by Mr. Holdren, seconded by Mrs. Freshman-Johnson to make a motion for the first part of their presentation for changing the windows to doors and granting variances for Section 1145.02(b) because this is a nonconforming building. Any alterations need a variance. And also to Section 1151.02, because this entire building is within the 120 foot riparian setback. So I do believe that the property will yield a reasonable return without these variances. I do not feel like these variances are substantial at all. This is more of an aesthetic request. The central character of the neighborhood would actually be altered in the positive. It will kind of update the building. The variances would not adversely affect the delivery of government services. The property owner did not purchase the property with knowledge of the zoning restriction and the the owner's predicament cannot be obviated through any other method other than a variance. And the spirit and intent of the zoning requirement would be observed by granting this variance. This specific variance is not encroaching any further into any setbacks. And the variance is not based on circumstances that are self created by the property owner.

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

Fricke: I vote aye, for the reasons stated in the motion as well.

Holdren: Aye.

Kraemer: Aye, for the reasons stated.

Rockey: Aye, for the reasons stated.

Moved by Mr. Holdren, seconded by Ms. Kraemer that motion number two is for what I'm going to call the removal of stair deck. So this is the one that's just at the end of the new bar deck that's further away from the river. This motion is for a variance to Section 1145.02, which is because this is a nonconforming building so it needs a variance to be altered. And 1151.02, because it's within the 120 foot Riparian setback. Does this one need a use variance also? Mr. Markowitz said No. Mr. Holdren said so I feel that again, the property will still yield a reasonable return without this variance. I do feel like this variance is a substantial within the river setback, but on the other hand, it's actually well within the existing building; it's no closer. So on that stands, I think it's not substantial. The essential character, again, will be altered in the positive. It will not adversely affect the delivery of governmental services and the owner did not purchase the property with the knowledge of the zoning restriction. The property owner's predicament cannot be obviated through any other method other than a variance. The spirit and intent behind the zoning requirement would be observed by granting this variance. The variance is not based on circumstance that are self-created by the property owner.

Fricke: I vote ayes, for all the reasons stated in the motion.

Holdren: Aye.

Kraemer: Aye, for all the reasons stated.

Rockey: Aye, for the reasons stated.

Freshman-Johnson: I vote no. I think that we're starting to get really close to setting precedence here. I know that everybody thinks they want more outdoor space and more all these decks. It's on the river. Now the Popcorn Shop comes and says we want to deck and Starbucks comes and we want a deck and everybody around that area, the river, starts wanting more and more outdoor space. I'm worried about really adjusting too many things by setting a precedence here. How can we tell somebody else no if we say yes now? I'm going to be very weary of approving more riverside outdoor space and impacting the environmental issues, a natural place that has. So I'll vote no.

Mr. Markowitz said let me interrupt you for one second on the next one. You could break this into two separate parts, but they both would have to be voted on. So it's kind of weird because there's practical difficulty issues and then unnecessarily hardship issues tied into this particular variance because it requires the nonconforming expansion as well as the use variance into the river buffer that didn't exist before. I would take them separately and then analyze them separately. Mr. Holdren said and just for clarification, the use variance, you said and I know I

have the reasons in front of me, but you said there is a hardship that has to be proven? Mr. Markowitz said yeah, 1111.07, we need to prove that it has to be a literal application of the code that would result in an unnecessary hardship that was not self-created, is due to unique conditions existing on the property, the property cannot be used for the purposes for which it was zoned, it will not violate the spirit of the Planning and Zoning code, is the minimum necessary to avoid the unnecessary hardship, and results from special conditions unique to the property.

Mr. Fricke said Dale, do we have to check all six boxes, or like the Duncan Factors do we consider and give weight to any or all of those six? Mr. Markowitz said it is like the Duncan Factors, you do not have to find that all six exist.

Mr. Siegfried said can we talk about that for a minute before you guys do that? We are dealing with an existing building here, so obviously we can't move the building and we can't move the river and we can't change the hillside. So we're just trying to improve the things. So there is a significant hardship here in that we're inside this river buffer but we're above the flood way. We're in a part of the river that's not really all that attractive without, we can make this better by doing this. And I understand the issue about everybody and their brother wanting a deck, but I think we have some pretty unique circumstances that would be hard for everyone else in the world to copy and say, well, I have exactly what they have because no one else really does have exactly what we have. So without belaboring it and keeping us all up to midnight, I just wanted to add that in there with respect to hardship. Mr. Holdren said Rob, I have a question. I think you touched on this early on. What is the use now? I believe you said hiking. Well, let me go right to the code section under 1151.03. Permitted uses in the riparian buffer include passive recreational uses such as hiking, fishing, etc. And then the only other comment is that you're allowed to remove damaged or disease trees that are determined to be an imminent danger. That's the only mention of uses permitted in the riparian buffer. Mr. Siegfried said the addition to this deck is going to prevent no one from hiking along that bank or casting a line down into the bottom of the river from there.

Mr. Markowitz said it might help if everybody understood the intent of the riparian buffer regulations, which are in 115.01. I don't know how many of you have access to our code at the moment, but it's to achieve the following of check to limit impact of land uses on rivers in order to preserve and conserve the quality, purity, clarity, and free flowing condition of streams. Maintain natural water temperatures, preserve aquatic and terrestrial plant and animal habitat. Prevent erosion of stream banks less than the level of siltation of stream waters and preserve valuable water resources in the interest of present and future generations.

Mr. Siegfried said that's really helpful because I don't think anything we're doing here is going to decrease the water quality or take the use away from somebody and negatively impact anything that you just said.

Mr. Fricke said, okay Jim. So do you think then we'll make, per Dale's instruction or direction, we'll make a motion first as to the use and if that fails, I guess there's no need to make a second motion. And if it passes, then we move to a motion on the Duncan Factors.

Moved by Mr. Holdren, seconded by Ms. Kraemer to make a motion for the a use variance, 1151.03, because this newer, lower level deck is within the riparian 120 foot setback, and therefore, it is changing the use from, as Rob and Dale both read earlier, to a deck for a restaurant. So there's a few points that are new to us. I'll read off for everybody. Why the need of the variance is not self-created? The applicant is trying to further use the area that they have, the location that they have, and try to take advantage of the beautiful river. So I guess you can argue either way on this one if it's self-created. I will make the motion in the affirmative also, that the applicant is arguing that it's not self-created. What unique conditions exist in the property that will cause an unnecessary hardship to resolve? I guess this is more along the lines of with granting this use variance will it create any unnecessary hardships and the applicant is saying it will not. Like Rick just commented, this will not limit hiking, fishing, or anything in that area. The property cannot be used for the purpose for which it is zoned. Actually, I don't think that there are. There is access down there either with the village staircases or this property staircases. All access, I guess, would come from the river so I don't see that it would be that the property would not be used for the purpose which it's originally zoned. It'd just be a dual use. How will the spirit of the zoning resolution be observed if the variance is granted? Well I guess every structure along the river is within the uh, from Starbucks, the Popcorn Shop, Mario's, Chucks, I mean everywhere along there everybody is within it so I guess the spirit of the zoning resolution would be observed if this variance is granted just by granting another business in Chagrin. What special conditions that are unique to the property exists that result in an unnecessary hardship? Well, they obviously can't move the building away or move the deck away from the setback. I think that grants as a unique property. That was the last one.

Rockey: this is a tough one. As we stated, they can't move the building but they are asking for us to extend a porch or a deck out over the river or into the river farther than it already exists. And on that note and trying to stay with, you know, we're trying to conserve the aesthetics and the feel of the village, I am going to have to vote no, because if we grant this, we are going to have to continually grant variances for any other business that comes along that wants to do this in the future.

Freshman-Johnson: Yeah. I think, you know proving your practical difficulty is very challenging here. It's I get that, you know, everybody's looking for outdoor space and deck and it seems so great but it's 20 spaces and it's 60 days out of the year and that it's warm enough and not raining and I just don't think it changes the whole entire restaurant. It could be very fabulous the way it is. It's been fabulous for a long time. You're going to make some great upgrades. I just don't see how this makes or breaks the whole plan and it's highly setting precedence for other venues to seek potential over the river hanging type structures. And so because of those reasons, I vote no.

Fricke: Well, a couple things. One, I want to be clear just on the record, I guess, my vote in the previous, the bar deck, if you will, my understanding was if I'm mistaken so be it, but my understanding was we are literally replacing

that, which is already there in essence. We're not digging into the hillside at all so that's was the reason, in part, why I voted in favor of that motion. I to am wrestling with this one. The village takes the riparian setback very seriously and we are very serious and protecting our river. That being said, I think there's a, and I agree to that 20 spaces does that make or break this project so I really wrestle, not to get ahead of myself, with practical difficulty. However, I do think an argument can be made that there are indeed unique conditions on this property and that you already have two decks or a stairway and an existing deck that are literally can be joined with one 20 foot or whatever the exact distances section and could be done so safely, what appears to be safely, and would be opined upon by an engineer into existing rock beneath it. I don't think the same can be said for Starbucks or the Popcorn Shop or anything else that literally sits right on the river. So I guess with respect to the use variance request, I would vote aye and I would do so largely because I believe the conditions are unique on the property with respect to the preexisting deck that's already there and the topography of the land that exists. So, I would vote, and I also note that two of the six standards, there's also number six, special conditions unique to the property. I'm concerned that every Tom, Dick, or Harry is going to want a deck extending out over the river like my colleagues are, however I think this property and what's already there is unique enough that I would vote yes on the use issue.

Holdren: I'm going to vote yes. I think what Wade said is an excellent point. I also want to point out that the village viewing deck across the river is lower and closer to the river then this would be, so that also influenced my decision. But yeah, I vote yes.

Kraemer: I'm kind of surprising myself, but I think I'm going to vote yes because it looks to me like this project completes, there was a big gap in what you see from the back of the of the building and I think what this will do, even though it is the riparian zone, if we were concerned about the riparian zone we wouldn't have left the other structures be built. This was a debate we had many years ago, but I think in this instance what we're doing is connecting what's already there and I think in terms of any impact on erosion or access to the river, it's a nonissue and I think it completes the facade of the back of the structure in a way that when you're looking at it from the Popcorn Shop or from the observation deck, I think it will be an enhancement. We're having to struggle with how you maintain restaurants in an era when it's a, I don't even know how people are going to do it going forward. I think it's a real positive to try and make that happen. And I agree with Wade that it's an entirely unique situation when it comes to that structure. So, I would vote aye.



Mr. Fricke said I guess that allows us to proceed to a fourth motion from Jim, which will be on the Duncan Factors, the area variance.

Mr. Holdren said so the fourth and final motion, again, this is for the new lower deck.

Moved by Mr. Holdren, seconded by Mrs. Freshman-Johnson to make a motion to variances 1145.02(b), because this is the nonconforming building and any alteration needs a variance. And also 1151.02, because it's within the river buffer area. The property will yield a reasonable return without this variance. The variance is substantial. The whole thing is within the river buffer and it's actually, I believe it was 113 feet within it, so it's only seven feet away from the river. The essential character of the neighborhood will be substantially altered in the positive. I do agree with Lisa's comments earlier that this will kind of complete the back river view of the building. The delivery of governmental services will not be adversely affected. The property owner did not purchased the property with the knowledge of the zoning restriction. The owner's predicament can not be obviated through any other method other than a variance. The spirit and intent behind the zoning requirement would be observed by granting this variance. This variance is not based on circumstances that are self-created by the owner.

Kraemer: I vote aye, for the reasons stated. I think it meets the Duncan Factors.

Rockey: I'm going to have to vote aye, for the reasons stated.

Freshman-Johnson: I'll vote no, for the same reasons I stated before, to setting precedence and keeping things very conservative here around the river buffer.

Fricke: I think this is unique. I think this motion fails on virtually every Duncan Factor. However, I put a lot of credence in the character of the neighborhood being increased by this project as well as the preexisting deck and other issues that have already been decided before our time. I emphasize, again, I don't take the riparian issues lightly and I think this is a highly unique piece of property with a highly unique situation. But, I would caution that I think on most factors this fails. For those reasons, the character of the neighborhood and uniqueness of the property, I would vote aye.

Holdren: I vote 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.

**GREG MCCARTHY, 36 OLIVE STREET - REQUEST FOR A VARIANCE TO SECTION 1145.02(b), NONCONFORMING BUILDINGS AND STRUCTURES, PERMANENT PARCEL NO. 932-05-032.**

Mr. Jamieson said this application is for Mr. and Mrs. Brandon Zangaro. This is in the R1-50 zoning district. They're proposing a new front porch alteration and an addition of a dormer to the front of the house as well. This building this house is currently nonconforming as that it

doesn't meet the the setback distances as shown in the drawing on your screen, which show the front and rear yard setback boundaries. So, they need a variance to Section 1145.02(b) to the zoning code. This matter went before the ARB on May 5th, 2020 and they received final approval for their proposal.

Mr. Markowitz swore in Don Plunkett, Brandon Zangaro, and Greg McCarthy.

Don Plunkett said I don't know if we have a photo of the old porch, but the old porch had a bunch of closed windows. It kind of looked a vacation home you'd see on a Lake somewhere and we wanted to keep it more in character with the neighborhood and the community. The dormer is going on the back. The dormer that is there is in the front. And what we've done with the porch is we took part of it and used it, there's a mud room we added. So we've reduced the porch a little bit and we've opened it up. Probably our biggest challenge is our steps on the side elevation and we've moved them to the front, which probably adds to our noncompliance because we come out further, but we're not any further than the adjacent. It wasn't the next house, but the next two houses are out even further than we are. We are coming out on the front as opposed to the side. We're making an open porch, adding some columns, trying to give it a little more character.

Mrs. Freshman-Johnson said is it two separate lots between this house and the garage, one bedroom house or was it ever combined? Mr. Plunkett said it's never been combined and the steps actually came out the side and actually went onto the adjacent property. I don't think the owners decided what they're doing yet. Mrs. Freshman-Johnson said but they own both lots. Mr. Plunkett said they own both lots, correct. Mrs. Freshman-Johnson said it was sold together. Mr. Plunkett said yes. Mrs. Freshman-Johnson said this is a very unique property because it's really two, but it plays like one. It used to be a rental kind of combination type property. I'm very familiar with the street, but I was just curious. I knew it was sold together, I didn't know if they had actually merged the parcels. Mr. Plunkett said they have not.

Mr. Rockey said how far from the front of the house are the new stairs going to stick out? How far into the front? Mr. Plunkett said two foot, nine, three feet. Mr. Rockey said because basically you're not changing the front of the house or how close that's to the street. You're removing the windows. Mr. Plunkett said correct. Mr. Rockey said so you're going to come out three feet basically and now are you getting rid of the existing concrete walkway and you're doing a new walkway out to the sidewalk? Mr. Plunkett said we will do a new concrete walk out to the sidewalk. Right now there isn't one, there's a drive that is mostly on the other parcel that we're going to leave so they have some place to park the car if they would rent the garage separately because it has a suite above the garage and I think some of that still hasn't been totally decided how that'll work. But we wanted to get the steps off of that drive in case we do separate. I don't know going forward if you could even sell them separately. I don't know how that would work with those being different, separate parcels right now so you would think you could. By moving the steps we eliminate that issue of having steps on the neighbor's property.

Mrs. Freshman-Johnson said I am assuming the steps you're making are just standard steps as short as you can make them to get to the height you need to get to go to the existing level of where that house is? Mr. Plunkett said correct.

Mr. Fricke said I that accurate? It looks like your four steps up? Mr. Plunkett said yes. It's been a while since I worked on it. I think it's four steps up, yes. Mr. Fricke said going back to the previous drawing of the two red lines, those are the front and back rear setback? The whole house is in the front or rear setback, correct? Mr. Jamieson said that's correct.

Mr. Holdren said I understand what's going on in the front, but is there anything going on in the back or what's going on in the back of the house? Mr. Plunkett said there's a dormer where we're raising. You can see on the east elevation that portion so we have a little more headroom in the bathroom and we can do actually do a tub/shower in there.

Mr. Rockey said is that rear dormer look identical to the the front dormer? Mr. Plunkett said yes, we're keeping it the same pitch as the front dormer. Mr. Rockey said is it wider? Mr. Plunkett said yes, it runs across the entire back. We are raising the ceiling in the bedroom and then we can also, in the back bedroom we can actually put in an egress window. Mr. Fricke said it is my understanding that the ARB has passed on this? I believe it was a unanimous vote. Mr. Plunkett said yes.

Moved by Mr. Rockey, seconded by Ms. Kraemer to make a motion for a variance to Section 1145.02(b), it's a nonconforming structure that's preexisting. So whether the property in question yields a reasonable return without the variance, yes, but it will be increased adding the headroom and getting the stairs off the the neighbor's property. It's not a substantial variance. The essential character of the neighborhood will stay the same. It will not affect government services. The property owner did state that they knew there was some zoning restrictions when they purchased the property, but in this aspect there isn't much of a change. It's really not a substantial change to any of the the feasibility and there's not much they could do without variances. It uploads the spirit of the zoning requirements. The circumstances are not self-created.

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

Kraemer: Aye, for all the reasons stated.

Rockey: Aye, for the reasons in the motion.

Freshman-Johnson: Aye, for the reasons stated in the motion.

Fricke: I would also vote aye, for all the reasons in the motion and I think this is sort of a classic one that checks most, if not all the boxes. 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  
lgb