

BEFORE THE VILLAGE OF CHAGRIN FALLS COUNCIL  
CHAGRIN FALLS, OHIO

3920

IN RE: VARIANCE REQUEST OF ) FINAL ORDER OF COUNCIL  
RIVERWALK AT CHAGRIN FALLS II ) AND CONCLUSIONS OF FACT  
FOR PROPERTY LOCATED AT )  
48 WEST ORANGE STREET ) ADMINISTRATIVE ORDER  
) NO. 2016- 18

This matter is before the Chagrin Falls Village Council pursuant to the request of Riverwalk at Chagrin Falls II ("the Applicant"). The Applicant seeks a variance to Sections 1125.03(j) and 1125.04(b)(3) of the Village of Chagrin Falls Codified Ordinances to allow the last phase of the Riverwalk project to be completed at the property located at 48 West Orange Street, Permanent Parcel Number 931-12-018 ("the Subject Property").

The Village of Chagrin Falls Board of Zoning Appeals met on April 26, 2016, received evidence and testimony, and heard the arguments of the Applicant's representative Robert Vitt. The Applicant indicated that the current request for variances was nearly identical to the past request that the Board and Council approved and expired, except that the current request has one less variance request and that only two variance requests are being sought at this time. Applicant is no longer requesting a variance for the right-of-way set-back.

Therefore, Applicant is seeking a variance to build a new single-family dwelling in the R2F district since the proposed dwelling is 46' high and Section 1125.03(j) limits the height of the dwelling as measured on the front elevation to 35 feet. In addition, Section 1125.04(b)(3) limits the amount of improved area designed for parking and driveways to 25% of the front yard and the Applicant is proposing coverage of 60%.

Ellen Hunt, 56 East Orange Street, spoke in opposition to the variance requests.

The Board of Zoning Appeals, on a vote of 3-1, recommended that Council grant the requested variance.

This Council held a public hearing on May 9, 2016, and considered the matter. This Order and the Conclusions of Fact are predicated upon all of the evidence and testimony on the record before Council and, in consideration thereof, the following conclusions of fact are made:

- 1) The Subject Property is located on 48 West Orange Street.
- 2) The Applicant seeks to build a new single-family dwelling in the R2F district, which requires variances from Sections 1125.03(j) and 1125.04(b)(3) of the Village of Chagrin Falls Codified Ordinances.

3) The Board found that the Village has previously approved the variances and the current request seeks one less variance than previously approved. The Board found that the reason for the current request was due to the fact that the variances had expired as work did not commence on the proposed project before the variance expiration date.

4) The Board found that the essential character of the neighborhood would not be impacted by granting the variances as this will be consistent with the project as a whole as the 6<sup>th</sup> and final building for the project.

5) The Board determined that despite notices being sent out, only one neighbor spoke in opposition to the variance requests.

6) The Board found that granting the variances will not adversely affect the delivery of governmental services.

7) The Board found that the variances, although seeming substantial, are actually very relevant to the style of condo/town home style that doesn't have a yard, but rather a front driveway that acts as a front landing pad from the street below.

8) The height of the property is consistent with the other buildings in the development and reasonable given the topography of the property.

9) The Board found that the Applicant's predicament feasibly cannot be obviated through some method other than a variance.

10) The Board found that the spirit and intent behind the zoning requirement will be observed and substantial justice done by granting the variances. The only way to obviate the problem would be not to build, which would cause the lot to be unbuildable. If the variances aren't granted, it would result in an unbuildable lot.

11) Council is persuaded that no harm will result to the neighborhood if the variances are granted.

12) This Council finds that the Applicant has demonstrated a practical difficulty in the use of the Subject Property, which is a result of the strict application of the zoning ordinance.

13) This Council further finds, as recommended by the Board of Zoning Appeals, that granting the variances will not substantially change the character of the neighborhood.

14) This Council also finds and determines that the spirit and intent of the zoning code would be observed, and substantial justice will be done, by granting the variances and that there is no adverse impact on governmental services.

WHEREFORE, IT IS ORDERED, that the variances from Sections 1125.03(j) and 1125.04(b)(3) of the Village of Chagrin Falls Codified Ordinances are hereby granted. Applicant may construct the project in accordance with the proposed plans. This document is deemed by Council to be the final order for the variance requested in this matter.

IT IS FURTHER ORDERED, that the Clerk of Council shall mail a copy of this Final Order of Council and Conclusions of Fact to the Applicant, and any other parties requesting same, by first class mail, and note the mailing date upon this Order. The decision of this Council shall be deemed final upon the date the Clerk mails this document, as provided herein.

Adopted this 9th day of May, 2016, by a majority of the Village of Chagrin Falls Council, who have subscribed their names below.

Village of Chagrin Falls Council:



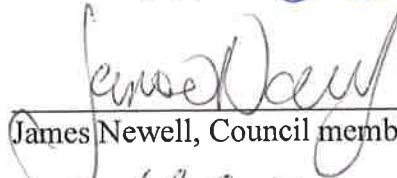
Karl Maersch, President of Council



Nancy Rogoff, Council President Pro Tem



Brett Berkobein, Council member



James Newell, Council member



Thomas Muscenti, Council member



Robert Schleper, Council member



Janna Lutz, Council member

Notice mailed this 31 day of May, 2016



Clerk of Council