

1st reading _____
P&Z Action _____
2nd reading _____
3rd reading _____
Voted On _____
Ayes: _____ Nays: _____
PASSED _____ DEFEATED _____

ORDINANCE NO. 2018-29

**AN ORDINANCE
GRANTING CERTAIN VARIANCES TO DENNIS P. AND
KATHY M. GRITTON FOR AN ACCESSORY BUILDING TO
BE LOCATED AT 31599 MILES ROAD, ORANGE VILLAGE.**

WHEREAS, the Charter of Orange Village, Article III, Section 9(g), provides that Council may grant variances after public hearing where there is substantial and unreasonable hardship in carrying out the spirit and intent of the Zoning Code; and

WHEREAS, Dennis P. and Kathy M. Gritton are the owners (the “Owners”) of the property located at 31599 Miles Road, Orange Village, Ohio (the “Property”); and

WHEREAS, the Property is located in the U-1 Zoning District; and

WHEREAS, Section 1148.10(a) of the Codified Ordinances requires that accessory buildings in the U-1 Zoning District shall have a maximum height of eighteen feet (18’); and

WHEREAS, Section 1148.02(e)(1) of the Codified Ordinances requires that the total area of the accessory buildings on a property shall not exceed one thousand (1,000) square feet or one percent (1%) of the lot area, whichever is greater; and

WHEREAS, Owners have requested variances from the requirements in Sections 1148.10(a) and 1148.02(e)(1) of the Codified Ordinances to permit an accessory building height of twenty-two feet, three and one-half inches (22’ 3.5”) and a total building ground coverage of the accessory building to be one thousand one hundred fifty-eight (1,158) square feet;

WHEREAS, this Ordinance was referred to the Planning and Zoning Commission for recommendation and report;

WHEREAS, a public hearing has been held regarding this matter; and

WHEREAS, Council has adopted conclusions of fact regarding the requested variance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF ORANGE VILLAGE, CUYAHOGA COUNTY, STATE OF OHIO:

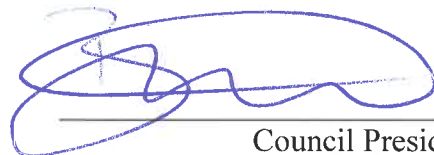
SECTION 1. That this Council grants and approves the Owners’ request for a variance from Section 1148.10(a) to permit an accessory building to be twenty-two feet three and one-half inches (22’ 3.5”) tall, in accordance with the plans on file with the Village’s Building Commissioner.

SECTION 2. That this Council grants and approves Owners' request for a variance from Section 1148.02(e)(1) of the Codified Ordinances to permit the Owners to construct an accessory building that is one thousand one hundred fifty-eight (1,158) square feet, in accordance with the plans on file with the Village's Building Commissioner.

SECTION 3. That actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Chapter 105 of the Codified Ordinances of Orange Village.

SECTION 4. That this Ordinance shall be in full force and effect at the earliest time permitted by law.

PASSED: 9-5, 2018

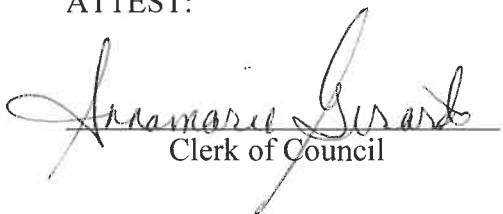


Council President

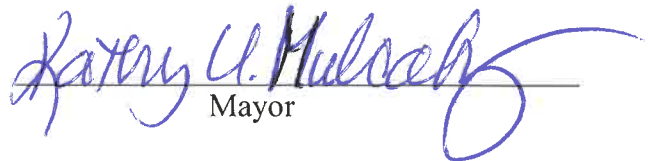
Submitted to the Mayor for approval on this 5th day of Sept., 2018

Approved by the Mayor this 5th day of September, 2018

ATTEST:



Clerk of Council



Mayor



Orange Village

4600 Lander Road • Orange Village, OH 44022 • 440-498-4400 • Fax 440-498-4404
www.orangevillage.com

DATE: AUGUST 7, 2018

TO: ALL MEMBERS OF COUNCIL

FROM: PLANNING & ZONING COMMISSION

RE: REPORT & RECOMMENDATION OF THE PLANNING & ZONING COMMISSION

ORDINANCE 2018-29

AN ORDINANCE GRANTING CERTAIN VARIANCES TO DENNIS P. AND KATHY M. GRITTON FOR AN ACCESSORY BUILDING TO BE LOCATED AT 31599 MILES ROAD, ORANGE VILLAGE.

Ordinance No. 2018-29 was referred to the Planning & Zoning Commission on July 11, 2018 by the Council President for review and a recommendation. On August 7, 2018 a motion to recommend passage of the ordinance was made and was approved / defeated.

The vote was as follows:

Ayes: Lazar, Hitt, Kline

No: _____

Absent/Abstain: Lewis, Mayor Mulcahy

Mayor Kathy U. Mulcahy

AUGUST 7, 2018

**BEFORE THE ORANGE VILLAGE COUNCIL
ORANGE VILLAGE, OHIO**

IN RE: VARIANCE REQUEST OF)	<u>FINAL ORDER AND</u>
DENNIS P. AND KATHY M. GRITTON)	<u>DECISION OF COUNCIL</u>
FOR THEIR PROPERTY LOCATED)	
AT 31599 MILES ROAD)	<u>CONCLUSIONS OF FACT</u>
)	

This matter is before the Orange Village Council pursuant to the request of Dennis P. and Kathy M. Gritton (“Applicants”). The Applicants’ residence is on the property located at 31599 Miles Road (“Subject Property”). The Subject Property is in the U-1 Zoning District.

Section 1148.10(a) of the Codified Ordinances of Orange Village requires that accessory buildings in the U-1 Zoning District shall have a maximum height of eighteen feet (18’). Section 1148.02(e)(1) of the Codified Ordinances requires that the total area of the accessory buildings on a property in the U-1 District shall not exceed one thousand (1,000) square feet or one percent (1%) of the lot area, whichever is greater.

The Applicants are requesting a variance of four feet three and one-half inches (4’ 3.5”) from the requirement in Section 1148.10(a) of the Orange Village Codified Ordinances to allow for the construction of an accessory building, a detached garage, to be twenty-two feet three and one-half inches (22’ 3.5’) tall. The Applicants are also requesting a variance of one hundred fifty-eight (158) square feet from the limit in Section 1148.02(e)(1), to permit the proposed garage to be one thousand one hundred fifty-eight (1,158) square feet.

Ordinance No. 2018-29 is before this Council, and would, if passed, grant the requested variances.

The Orange Village Planning and Zoning Commission (“Commission”) met on August 7, 2018, received evidence and testimony, and heard the arguments of the Applicants. The Commission, on a vote of 3-0, recommended that Council pass Ordinance No. 2018-29.

This Council held a public hearing on September 5, 2018 and considered the matter. This Final Order and Decision of Council is predicated upon all 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 Miles Road in the U-1 Zoning District.
- 2) The Applicants are requesting height and area variances to permit a larger, detached garage to be located behind the Applicants residence. The larger garage is needed if the garage is to serve its intended purpose of housing the Applicants’ large motor home, along with a handicap van and vintage Oldsmobile 442.
- 3) The Applicants presented plans showing the design of the garage. The width of the building had to be widened two feet (2’) to fit the motor home, and the depth

of building is forty feet (40') so the motor home can be pulled all the way in. It is the roof pitch, which is designed to match the residence, which increases the height of the building to twenty-two feet three and one-half inches (22' 3.5').

- 4) The Village has a policy of preferring that motor homes be stored inside of a garage, which conceals recreational vehicles better than landscape screening.
- 5) Members of the Architectural Board of Review commented that the roof pitch was necessary to have the garage look appropriate as a building which is accessory to the residence.
- 6) The grade of the Subject Property falls four feet (4') from the elevation at which the residence sits to the elevation at which the new garage will be constructed. Thus, from the street the accessory building will not loom over the residence, which is a ranch home.
- 7) The neighbors were provided the required notice of the proposed variance and no objections have been received by the Village from any neighbors. This absence of complaint is some evidence that the variance will not have an adverse impact on the neighboring properties.
- 8) This Council finds and determines that the proposed accessory structure, as designed, will be appropriate in the context of this site and neighborhood.
- 9) Council finds that there will be no adverse impact on neighboring properties that would result from the granting of the variances, so the strict application of the setback requirement does not advance the legitimate governmental purpose of the requirement.
- 10) Council finds that the spirit and intent of the Zoning Code are observed by granting the variance.
- 11) Council further finds that the unique topography of the Subject Property, and the roof pitch of the existing residence, are exceptional circumstances unique to the Subject Property which justify the granting of the variance that has been requested. Given the preference of the Village to have recreational vehicles parked on residential properties, to be stored inside buildings, this Council finds and determines that the requested variances should be granted.


WHEREFORE, IT IS ORDERED, that the variances for the accessory building, the plans for which are on file with the Chief Building Official, be and are hereby granted. The members of Council subscribing their names hereto will vote yes on Ordinance No. 2018-29, but this document is deemed to be the final order in this matter.


IT IS FURTHER ORDERED, that the Clerk of Council shall mail a copy of this Final Order and Decision of Council and Conclusions of Fact to the Applicant, and any other parties requesting same, by Certified Mail, return receipt requested, and enter proof of mailing in the


record of this case. The decision of this Council shall be deemed to be final upon the date the Clerk mails this document, as provided herein.

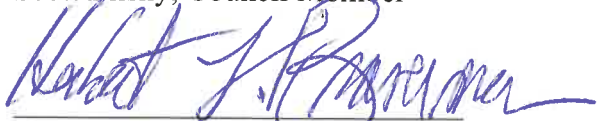
Adopted this 5th day of September, 2018, by a majority of the members of the Orange Village Council, who have subscribed their names below.

ORANGE VILLAGE COUNCIL


Brandon Duber, President of Council


Ronald Barron, Council Member


Scott Bilsky, Council Member


Herbert Braverman, Council Member


Judson Kline, Council Member


Frances Kluter, Council Member


Lisa Perry, Council Member

Notice mailed this 5th day of Sept., 2018.


Anamaria Guard
Clerk of Council

MEMORANDUM

TO: The Honorable Kathy U. Mulcahy, Mayor, Orange Village
All Members of Orange Village Council

FROM: Stephen L. Byron, Law Director

DATE: August 10, 2018

SUBJECT: Final Order and Decision of Council, Conclusions of Fact

THIS IS A CONFIDENTIAL MEMORANDUM WITHIN THE ATTORNEY-CLIENT PRIVILEGE AND IS NOT INTENDED FOR COPYING OR REVIEW BY ANYONE OTHER THAN THOSE SET FORTH IN THE CAPTION ABOVE

Attached is a draft of the Final Order and Decision of Council and Conclusions of Fact regarding the variances requested by Dennis P. and Kathy M. Gritton for their property located at 31599 Miles Road (Ordinance No. 2018-29, As Amended). The Final Order is based upon the recommendation of the Planning and Zoning Commission to Council that it grant the requested variances. If you should have any additions, deletions or corrections to this document please let me know.

PLEASE CALL ME IF YOU ARE NOT IN FAVOR OF THE REQUESTED VARIANCE.
In the absence of four (4) members requesting a different result, the current document, with any necessary revisions, should serve the intended purpose.

Council is scheduled to hold a public hearing on the requested variance at the September 5, 2018, Council meeting. A motion to adopt the Final Order will be in order at that meeting, then a motion to adopt Ordinance No. 2018-29 will be in order. Council members voting to grant the variance should vote “yes” on the Final Order and “yes” on Ordinance No. 2018-29.

Please be advised that this memorandum and the draft Final Order are subject to attorney-client privilege and will be kept in confidence by this office unless Council, by a majority vote, waives the privilege. As long as these documents are subject to the attorney-client privilege, they are NOT public records and should not be produced pursuant to a public records request nor otherwise released to any person. After the vote upon the Final Order, the Final Order will become a public record. This memorandum contains legal advice intended solely for use by the recipients hereof, and the use of this document is restricted to the recipients.

As always, if you should have any questions, please do not hesitate to contact me.