



## CITY OF PATASKALA BOARD OF ZONING APPEALS

City Hall, Council Chambers  
621 West Broad Street  
Pataskala, Ohio 43062

### STAFF REPORT

June 8, 2021

#### Variance Application VA-21-020

<b>Applicant:</b>	Michael and Crystal Brendemuehl
<b>Owner:</b>	Michael and Crystal Brendemuehl
<b>Location:</b>	5100 Mink Street SW, Pataskala, OH 43062
<b>Acreage:</b>	1.36-acres
<b>Zoning:</b>	RR – Rural Residential
<b>Request:</b>	Requesting approval of a Variance from Section 1227.05(C)(2) to allow for the construction of a residence that will not meet the required side yard setback.

#### Description of the Request:

Requesting approval of a variance from Section 1227.05(C)(2) of the Pataskala Code to allow for the construction of a principal structure that will not meet the required side yard setback of the RR – Rural Residential zoning district.

#### Staff Summary:

The 1.36-acre property located at 5100 Mink Street SW is currently occupied by an approximately 200-square foot shed towards the rear (west) of the property. No other structures are currently on-site. There is approximately 150-feet of frontage on Mink Street Road SW, where access to the property is via a small gravel pull-off within the right-of-way. A creek runs through the property, starting about midway through the frontage and running across the length of the property to the west side property line.

The Applicant is proposing to construct a new single-family home on the lot. As proposed, the home would sit 150-feet back from the front property line, 30-feet from the creek to the north (about 105-feet from the north side property line), and 25-feet from the south side property line. Section 1227.05(C)(2) of the Pataskala Code requires a side yard setback of 50-feet in the RR – Rural Residential Zoning District.

A previous Variance (VA-18-003) had been approved by the Board of Zoning Appeals on March 13, 2018, for the same amount as requested with this application. VA-18-003 expired on March 13, 2019, because no permits had been received within one (1) year of the date of approval. In their Narrative Statement, the Applicant stated that due to unforeseen circumstances they had to delay construction.

As stated by the Applicant in their Narrative Statement, the reason the Variance is necessary is because the buildable area of the lot is too narrow to meet setbacks with the location of the creek on the property. Because of this, they believe that there are unique physical conditions that prohibit the property from being developed in strict conformity with Pataskala Code. They also believe the character of the neighborhood would not be altered, and that the requested variance would not impair or prohibit the development or use of adjacent property. The Applicant was aware of the zoning restrictions when the lot was purchased, however, at the time of purchase the previous Variance (VA-18-003) was still in effect.

**Staff Review:**

*The following summary does not constitute recommendations but merely conclusions and suggestions from the Staff Review, the full text of which follows the summary.*

Planning and Zoning Staff:

As mentioned above, Section 1227.05(C)(2) of the Pataskala Code requires a minimum side yard setback of not less than 50-feet in the RR – Rural Residential district. As proposed, the structure will be located 25-feet from the south side property line. Therefore, the requested variance is for a reduction of 25-feet (50%) from the requirement of the Zoning Code.

The Applicant will require a New Residential Construction Permit for the construction of the new home, at which point further information will need to be provided to ensure compliance with all applicable sections of the Pataskala Code. From the information provided by the Applicant, Staff cannot determine if other aspects of the project will meet Pataskala Code or if further variances may be required. Staff has no further comments or concerns.

Other Departments and Agencies

No other comments received.

**Surrounding Area:**

Direction	Zoning	Land Use
North	RR – Rural Residential	Agricultural
East	AG - Agricultural	Single-Family Home
South	RR – Rural Residential	Single-Family Home
West	RR – Rural Residential	Single-Family Home

**Variance Requirements:**

According to Section 1211.07(1) of the Pataskala Code, the Board of Zoning appeals shall consider the following factors when determining if an area variance is warranted:

- a. Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property;*
- b. Whether there are unique physical circumstances or conditions that prohibit the property being developed in strict conformity with the zoning regulation such that a variance is necessary to enable the reasonable use of the property;*
- c. Whether the variance requested is substantial;*
- d. Whether the essential character of the neighborhood would be substantially altered or the adjoining properties would suffer a substantial detriment as a result of the variance;*
- e. Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;*
- f. Whether the variance, if granted, will be detrimental to the public welfare;*
- g. Whether the variance, if granted, would adversely affect the delivery of government services;*
- h. Whether the property owner purchased the subject property with knowledge of the zoning restriction;*

- i. Whether the property owner's predicament can be obviated through some other method than variance;*
- j. Whether the variance, if granted, will represent the minimum variance that will afford relief and represent the least modification possible of the requirement at issue; and,*
- k. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.*

Furthermore, Section 1211.07(2) allows other factors to be considered, including comments from City staff, when determining if an area variance is warranted. The following factors from Section 1211.07(2) are applicable to Variance Application VA-21-0020:

- 1211.07(2)(a): To permit any yard or setback less than the yard or setback required by the applicable regulation.

**Department and Agency Review**

- Zoning Inspector – No comments
- Public Service – No comments
- City Engineer – No comments
- SWLCWSD – No comments
- Police Department – No comments
- West Licking Joint Fire District – No comments
- Licking Heights School District – No comments

**Conditions:**

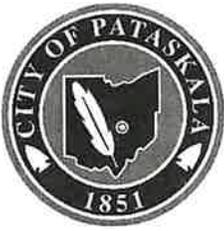
Should the Board choose to approve the applicant's request, the following modifications may be considered:

1. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department within one (1) year of the date of approval.

**Resolution:**

For your convenience, the following resolution may be considered by the Board of Zoning Appeals when making a motion:

"I move to approve variances from Section 1227.05(C)(2) of the Pataskala Code for Variance Application VA-21-020 ("with the following conditions" if conditions are to be placed on the approval)."



# CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

621 West Broad Street, Suite 2A  
Pataskala, Ohio 43062

## VARIANCE APPLICATION

(Pataskala Codified Ordinances Chapter 1211)

<b>Property Information</b>		
Address: 5100 Mink St. SW Pataskala, OH 43062		
Parcel Number: 063-141648-00.010		
Zoning: R2	Acres: 1.36	
Water Supply:		
<input type="checkbox"/> City of Pataskala	<input checked="" type="checkbox"/> South West Licking	<input type="checkbox"/> On Site
Wastewater Treatment:		
<input type="checkbox"/> City of Pataskala	<input checked="" type="checkbox"/> South West Licking	<input type="checkbox"/> On Site

<b>Staff Use</b>
Application Number: VA-21-020
Fee: \$300.00
Filing Date: 5/13/2021
Hearing Date: 6/8/2021
Receipt Number: 000019

<b>Applicant Information</b>		
Name: Michael and Crystal Brendemuehl		
Address: 130 Brandywine Dr. Unit F		
City: Westerville	State: OH	Zip: 43081
Phone: 614-620-3383	Email: CLBrendemuehl@gmail.com	

<b>Documents</b>
<input checked="" type="checkbox"/> Application
<input type="checkbox"/> Fee
<input checked="" type="checkbox"/> Narrative
<input checked="" type="checkbox"/> Site Plan
<input checked="" type="checkbox"/> Deed
<input checked="" type="checkbox"/> Area Map

<b>Property Owner Information</b>		
Name: Michael and Crystal Brendemuehl		
Address: 130 Brandywine Dr. Unit F		
City: Westerville	State: OH	Zip: 43081
Phone: 614-620-3383	Email: CLBrendemuehl@gmail.com	

<b>Variance Information</b>
Request (Include Section of Code): 1227.05 C2
Describe the Project: New residential construction, lot too narrow for building site. Reduce side variance from 50' to 25'.

## Documents to Submit

**Variance Application:** Submit 1 copy of the variance application.

**Narrative Statement:** Submit 1 copy of a narrative statement explaining the following:

- The reason the variance is necessary
- The specific reasons why the variance is justified as it pertains to Section 1211.07 of the Pataskala Code:
  - a) *Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property without the variance;*
  - b) *Whether there are unique physical circumstances or conditions that prohibit the property from being developed in strict conformity with the zoning regulation such that a variance is necessary to enable the reasonable use of the property;*
  - c) *Whether the variance requested is substantial;*
  - d) *Whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance;*
  - e) *Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;*
  - f) *Whether the variance, if granted, will be detrimental to the public welfare;*
  - g) *Whether the variance, if granted, would adversely affect the delivery of governmental services;*
  - h) *Whether the property owner purchased the subject property with knowledge of the zoning restriction;*
  - i) *Whether the property owner's predicament can be obviated through some other method than variance;*
  - j) *Whether the variance, if granted, will represent the minimum variance that will afford relief and represent the least modification possible of the requirement at issue; and,*
  - k) *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.*
- A use variance must also meet the requirements described in Section 1211.07(B) of the Pataskala Code.

**Site Plan:** Submit 1 copy (unless otherwise directed by staff) of a site plan to scale of the subject property indicating the following:

- All property lines and dimensions
- Location and dimensions of all existing and proposed buildings and structures.
- Setbacks from property lines for all existing and proposed buildings, structures and additions
- Easements and rights-of-way
- Driveways
- Floodplain areas
- Location of existing wells and septic/aerator systems.
- Any other information deemed necessary for the variance request

**Deed:** Provide a copy of the deed for the property with any deed restrictions. Deeds can be obtained from the Licking County Recorder's website here: <https://apps.lcounty.com/recorder/recording-search/>

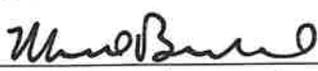
**Area Map:** Submit 1 copy of an area map showing the property and the surrounding area. Area maps can be obtained from the Licking County Auditor's website here: <https://www.lickingcountyohio.us/>

## Signatures

I certify the facts, statements and information provided on and attached to this application are true and correct to the best of my knowledge. Also, I authorize City of Pataskala staff to conduct site visits and photograph the property as necessary as it pertains to this variance request.

Applicant (Required):

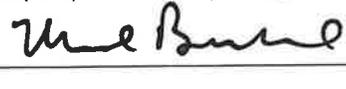
Date:

5/12/21

Property Owner (Required):

Date:

5/12/21

Variance Narrative:

- Building site distance from creek south to property line is 115'. Building code calls for 25' from creek and 50' from side property line, which leaves 40' for a home site. By reducing side set back to 25' would allow 65' to build a home.
- a. Without the variance, the lot is too narrow to build a family home that complies with the deed restrictions and would be comparable to the homes in the area. The orientation of the home would not be able to match the other homes either as it would have to have a garage facing the road instead of the front of the home. Additionally, due to flooding from the creek there is a necessity that the house be farther from the creek which adds to the need for the variance.
- b. Yes, there is a creek that runs through the property which limits the buildable area.
- c. Yes
- d. No
- e. No
- f. No
- g. No
- h. Yes, but at the time it was purchased, there was an active variance that had already been approved to allow for a home to be built, Application Number: VA-18-003. The previous variance contained the same request as the current variance request. Due to unforeseen delays we were unable to build before the previous variance expired.
- i. No
- j. Yes
- k. Yes, it would increase tax base.

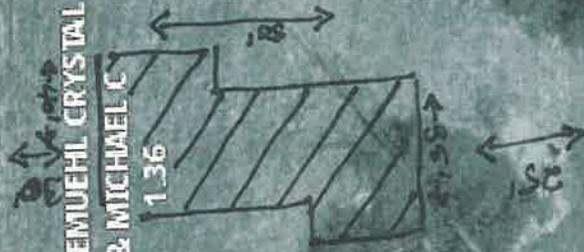
5080

121.08'

5100

150'

BRENDEMEHIL CRYSTAL  
L & MICHAEL C



361.94'

312.95'

321.95'



**Prepared By**

Lynne C. McVay  
3983 State Route 95  
Perrysville, OH 44864

**After Recording Return To**

Crystal L Brendemuehl  
130 Brandywine Dr. #F  
Westerville, OH 43081

TRANSFERRED  
Date Dec 6 2018  
*Mandi Smith*  
Licking County Auditor  
SEC. 319.202 COMPLIED WITH  
MICHAEL L. SMITH, AUDITOR  
BY: JAE 35.40

DESCRIPTION APPROVED  
JARED N. KNERR  
LICKING COUNTY ENGINEER  
APPROVED BY  
12-6-18 JW

Space Above This Line for Recorder's Use

**OHIO QUIT CLAIM DEED**  
O.R.C. 5302.11



201812060025886

Fig:3 \$56.00 T20180018128  
12/6/2018 4:01 PM MLCRYSTAL.BR  
Bryan A. Long Licking County Recorder

STATE OF OHIO, COUNTY OF LICKING

KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of ONE DOLLAR (\$1.00) in hand paid to VIOLA M. CAVENDISH, a GRANTOR, residing at 222 BALLARD DR., County of FRANKLIN, City of GAHANNA, State of OHIO (hereinafter known as the "Grantor(s)") does hereby quitclaim to CRYSTAL L. BRENDMUEHL, a GRANTEE, and to MICHAEL C. BRENDMUEHL, a GRANTEE, residing at 130 BRANDYWINE DR, #F, County of FRANKLIN, City of GAHANNA, State of OHIO (hereinafter known as the "Grantees") all the rights, title, interest, and claim in or to the following described real estate, situated in the County of LICKING, Ohio to-wit:

Situated in the state of Ohio, County of Licking, and city of Pataskala and being further described and delineated in the Exhibit "A" attached herein.

Legal description: Sub Pataskala, Ac:1.361

Prior Deed Reference Instrument Nu. 201807270015403, Recorder's Office, Licking County, Ohio

Also known as: 5100 Mink Street SW, Pataskala, OH 43062

Auditor's Parcel Nu:063-141648-00.010

To have and to hold, the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever for the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.



0115PA00400000020000



Viola M. Cavendish  
Grantor's Signature

VIOLA M CAVENDISH  
Grantor's Name  
222 BALLARD DR.  
GAHANNA, OH 43230

STATE OF OHIO, COUNTY OF FRANKLIN

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that VIOLA M CAVENDISH whose names are signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, executed the same voluntarily on the day the same bears date.

Given under my hand this 6 day of DECEMBER, 2020.

Harry O Akrofi  
Notary Public



My Commission Expires: 9-12-2023

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## Exhibit "A"

Being situated in Range fifteen (15), Township one (1), Section thirteen (13), United States Military Lands, Lima Township, Licking County, State of Ohio and being part of that land of record in Official Records Volume 213, page 118, in the Licking County Recorder's Office and being more particularly described as follows:

Beginning for reference at the northwest corner of Section 13; thence South 00°36'00" West, along the west line of Section 13 a distance of 1,578.13 feet to a RR spike in the centerline of Havens Corners Road; thence North 77°32'46" East, along the centerline of Havens Corners Road (County Road 38) a distance of 947.84 feet to the RR spike; thence North 10°56'27" West, along the centerline of Mink Street Road (County Road 41) a distance of 403.50 feet to a point and being the true place of beginning; thence from the true place of beginning, South 79°03'33" West, a distance of 372.78 feet (passing over a ¼ inch iron pipe at 30.00 feet) to a ¼ inch iron pipe set; thence North 06°15'33" West, a distance of 221.93 feet to a ¼ inch iron pipe set; thence South 89°35'30" East, a distance of 361.74 feet (passing over a ¼ inch iron pipe set at 331.14 feet) to a RR spike in the centerline of Mink Street; thence 10°56'27" East, along the centerline of Mink Street Road, a distance of 150.00 feet to the place of beginning, containing 1.557 acres, more or less.

The description above was prepared from a survey made by Samuel W. Vance, Registered Surveyor No. 6553 in October 1989.

SUBJECT to any and all easements, rights of way, conditions and restrictions of record, all legal highways, zoning ordinances, rules and regulations.

Being the same premises conveyed to the grantors herein by deed recorded in Volume 213, page 118, of the Official Record Books of Licking County, Ohio.

## LESS AND EXCEPT

Situated in the State of Ohio, County of Licking, City of Pataskala, being part of Section 13, Township -1, Range -15, United States Military Lands and being a part of that 1.557 acre tract, (Parcel No. 063-141648-00.010), as conveyed to Roseann C. Vojacek by deed of record in Official Record 306, Page 529, all references being to those of record in the Recorder's Office Licking County, Ohio and being more particularly bounded and described as follows:

Being a parcel of land lying on the Left of the centerline survey of LIC-CRF41-7.47 made by Jobes Henderson & Associates, Inc., as recorded in Instrument Number 20166260013677, and being located within the described points in the boundary thereof;

Commencing at the point where the existing centerline of Mink Street intersects the existing centerline of Havens Corner Road, said point being 3.36 feet Right of the proposed Mink Street centerline station 97+42.71; Thence along the existing centerline, North 7 degrees, 37 minutes, 27 seconds West, 402.95 feet to the Point of Beginning for the 0.196 acre tract herein to be described, said point marks the Southeasterly corner of said Vojacek tract and the Northeasterly corner of that 1.305 acre tract, (Parcel No. 063-141648-00.009), as conveyed to Eric J. Steinhoff and Sabrina L. Steinhoff by deed of record in Instrument Number 200506280019388, said point being centerline station 101+45.52;

Thence leaving the said centerline, along the Northerly line of said Steinhoff tract and the Southerly line of said Vojacek tract, South 82 degrees, 42 minutes, 44 seconds West, 55.00 feet to an iron pin set in the proposed Westerly right-of-way line of Mink Street, passing the existing Westerly right-of-way line at 30.00 feet, said iron pin set being 55.00 feet left of centerline station 101+45.84;

Thence leaving the Southerly line of said Vojacek tract, along said proposed Westerly right-of-way line, North 7 degrees, 37 minutes, 27 seconds West, 161.08 feet to an iron pin set in the Northerly line of said Vojacek tract and in the Southerly line of that 31.58 acre tract, (Parcel No. 063-141648-00.000), as conveyed Joseph J. & Roseann C. Vojacek, Trustees of The Joseph J. Vojacek & Roseann C. Vojacek Family Trust Dated May 15, 1997, by deed of record in Official Record 925, Page 901, said iron pin set being 55.10 feet left of centerline station 103+06.43; Thence leaving said proposed Westerly right-of-way line, along the Northerly line of said 1.557 acre tract and the Southerly line of said 31.58 acre tract, South 85 degrees, 54 minutes, 44 seconds East, 56.17 feet to the point in the centerline of Mink Street marking the Northeasterly corner of said Vojacek, 1.557 acre and the Southeasterly corner of said 31.58 acre tract, passing the existing Westerly right-of-way line at 25.59 feet, said point being centerline station 102+95.52;

Thence along the said centerline, South 7 degrees, 37 minutes, 27 seconds East, 150.00 feet to the Point of Beginning and containing 0.196 acres, more or less, of which the present road occupies 0.105 acres, more or less, leaving a net take of 0.091 acres, more or less, which is located in Licking County Auditor's Permanent Parcel Number 063-141648-00.010, according to a survey made by Jobes Henderson & Associates, Inc., during February 2013.

Grantor claims title by instrument as recorded in Official Record 306, Page 529, Licking County Recorder's Office, Licking County, Ohio.

The bearings in the above description are based on State Plane Coordinates System, Ohio South Zone.

All iron pins set at 5/8" in diameter rebar by 30" in length with red identification caps marked "J&H, PS 8283".

Subject to all valid and existing easements, restrictions, and conditions of record.

This description is based on a survey made under the direction and supervision of Jeremy L. Van Ostran, Registered Surveyor Number 8283.

LEAVING 1.361 ACRES, MORE OR LESS, IN THE LICKING COUNTY AUDITOR'S PERMANENT PARCEL NUMBER 063-141648-00.010

*5100 Mink Street SW, Pataskala, OH 43062  
Permanent Parcel Number 063-141648-00.010*

