



## CITY OF PATASKALA BOARD OF ZONING APPEALS

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

### STAFF REPORT

March 8, 2022

#### Variance Application VA-22-006

<b>Applicant:</b>	Benjamin Pacheco Robles
<b>Owner:</b>	Jose Montoya
<b>Location:</b>	3994 Hazelton-Etna Road SW (PID: 064-142848-00.002)
<b>Acreage:</b>	+/- 5.14-acres
<b>Zoning:</b>	AG – Agricultural
<b>Request:</b>	Requesting approval of two (2) Variances, the first from 1221.05(D)(1) to allow for the Principal Structure to be located behind an Accessory Building. The second, from Section 1225.05(C)(2) to allow for a reduced side yard setback from 50-feet to 20-feet for Principal Structures.

#### Description of the Request:

The applicant is seeking approval of two (2) Variances. The First, from Section 1221.05(D)(1) to allow for the Accessory Buildings on the lot to be located in-front of the Principal Structure. The Second, from Section 1225.05(C)(2) to allow for a reduced side yard setback for the Principal Structure.

#### Staff Summary:

The 5.-14-acre property located at 3994 Hazelton-Etna Road is currently occupied by two (2) Accessory Structures; a 1,584-square foot barn and a 2,688-square foot barn. One (1) of these barns is located in the middle of the lot, approximately 100-feet from edge of Hazelton-Etna Road SW, with the second barn being located just to the north. Access to the property is via a gravel driveway off of Hazelton-Etna Road SW. The property is zoned AG – Agricultural. The lot is an existing-non-conforming lot, as it does not meet the minimum lot size requirement of the AG district, that being 10-acres (Section 1225.05(B)).

It is Applicant's intention to construct a new single-family dwelling on the lot. The proposed residence will be situated 200-feet from the East front property line, 197' 3 7/8" from the North side property line, approximately 500-feet from the West rear property line, and 20-feet from the South side property line. A new concrete driveway, partially replacing the existing gravel driveway, will be installed to the new structure. Pursuant to Section 1225.05(C)(2) of the Pataskala Code, the required side yard setback for Principal Structures in the AG – Agricultural district is 50-feet.

According to the Narrative Statement submitted by the Applicant, the Property Owner was not aware of the zoning restrictions at the time of purchase. The Applicant believes that the requested Variance is not substantial, that the Property Owner would like to keep the existing barns on the property, and that the new structure would compliment the existing barns. Further stated, the Applicant believes that they could meet the required side yard setback, however, by doing so would place the new residence in an unappealing position to the Property Owner. The Applicant also believes the request Variance(s) will not be detrimental to the use or development of adjacent property and would not significantly alter the character of the neighborhood.

**Staff Review:** *The following review does not constitute recommendations but merely conclusions and suggestions from staff.*

As mentioned above, Section 1225.05(C)(2) of the Pataskala Code requires that Principal Structures within the AG – Agricultural zoning district shall be no closer than 50-feet to a side yard property line. As proposed, the new residence will be set back only 20-feet from the South side property line, therefore; the Variance request is for a reduction of the side yard setback by 30-feet, or a 60% decrease.

Additionally, Section 1221.05(D)(1) of the Pataskala Code states that an Accessory Building shall be located even with or behind the front of a principal structure within the side or rear yard. There are currently two (2) existing barns on the property, which are existing non-conforming structures as Pataskala Code also requires that an Accessory Building may not be constructed without first having a Principal Structure on the property (Section 1225.05(D)(4)). By constructing a Principal Structure on the lot, the lot in whole shall be brought into Compliance with the Pataskala Code, which would necessitate that the new structure be located in front of the existing accessory buildings, however, this would not be possible without a further Variance, as by doing so would locate the Primary Structure within the required front yard setback.

The other options for the Applicant to be compliant with Pataskala Code would be to demolish both existing Accessory Buildings, so that the Primary Structure would not be behind them. However, as the Applicant stated in their Narrative, the Property Owner would like to retain the existing barns. The Applicant could also rotate the house or place it completely behind the existing Accessory Buildings as to meet the required 50-foot side yard setback, however, the Applicant further stated that doing so would place the home in an unappealing position, with the main view from the home being oriented towards the side of the barns.

Should this Variance be approved, the Applicant will need to apply for a New Residential Construction Permit. Staff has no further comments.

#### Other Departments or Agencies

No other comments from applicable Departments or Agencies were received.

**Surrounding Area:**

Direction	Zoning	Land Use
North	AG – Agricultural	Single-Family Home
East	PUD (Harrison Twp. – Planned Unit Development)	Single-Family Home
South	AG – Agricultural	Vacant
West	PDD – Planned Development District	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-22-006:

- None

**Department and Agency Review**

- Zoning Inspector – No comments
- Public Service – No comments
- City Engineer – No comments
- Pataskala Utilities – No comments
- Police Department – No comments
- West Licking Joint Fire District – No comments
- Southwest Licking School District – No comments

**Conditions:**

Should the Board choose to approve the applicant's request, the following conditions 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 two Variances; one from Section 1225.05(C)(2) and one Section 1221.05(D)(1) of the Pataskala Code for variance application VA-22-006 ("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)

Property Information	
Address: 3994 Hazelton-Etna Rd SW	
Parcel Number: 064-142848-00.002	
Zoning: A6a	Acres: 5.14 acres
Water Supply:	
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input type="checkbox"/> On Site
Wastewater Treatment:	
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input type="checkbox"/> On Site

Staff Use
Application Number: VA-22-006
Fee: 300
Filing Date: 2-11-22
Hearing Date: 3-8-22
Receipt Number: 000450

Applicant Information		
Name: Benjamin Pacheco Robles		
Address: 4100 Seigman Avenue		
City: Columbus	State: Ohio	Zip: 43213
Phone: 614.400.4005	Email: pachecoroblesbenjamin@gmail.com	

Property Owner Information		
Name: Jose Montoya		
Address: 343 Haymarket Place		
City: Gahanna	State: OH	Zip: 43230
Phone: 614.670.2371	Email:	

Documents
<input checked="" type="checkbox"/> Application
<input checked="" 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

Variance Information
Request (Include Section of Code):
1221.05 (D-1) Location. To allow for the principal structure to be behind the accessory bldgs.
1225.05 (C-2) Side yard. To reduce the side yard setback to 20 feet.
Describe the Project: New single-family dwelling

## 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:

02/01/2022

Property Owner (Required):



Date:

02/01/2022

## **NARRATIVE STATEMENT**

**ADDRESS: 3994 Hazelton-Etna Road SW**

**PARCEL(S): 064142800.002**

**OWNER: Jose Montoya**

**OWNER ADDRESS: 343 Haymarket Place, Gahanna, Ohio 43230**

**OWNER PHONE NUMBER: 614.670.2371**

**APPLICANT: Benjamin Pacheco Robles**

**APPLICANT ADDRESS: 4100 Seigman Avenue, Columbus, Ohio 43213**

**APPLICANT PHONE #: 614.400.4005**

**DATE: February 10th, 2022**

The Applicant submits this statement in support of the Variance Application. The property is located in the northeast end of the City of Pataskala and along State Route 310 (Hazelton-Etna Road SW) . The lot is currently occupied by an existing pole barn and a flat barn located towards the front of the property. The neighborhood is agricultural and residential in character and largely contains a mix of single-family residences and agricultural buildings.

The property is not within a historic district, commercial overlay, nor planning overlay. Conversely, the property is within the agricultural district (AG).

The Applicant proposes redevelopment of the property by constructing a single-family home with quality materials and design. The owner was not aware of the zoning regulations when the lot was purchased. To permit the development as proposed, the Applicant respectfully requests the following variances:

1. 1221.05(D-1) – Location. To allow for the principal structure to be behind the existing accessory buildings.
2. 1225.05 (C-2) – Side Yard. To reduce the minimum side yard of 50' to 20'.

The City of Pataskala BZA may permit a variation in the side yard, and location of the principal structure requirements with the use of a variance where there are unusual and practical difficulties in executing the zoning district provisions due to unique physical circumstances or conditions, providing such variance will not seriously affect any adjoining property or the general welfare.

The requested variances are variations in side yard and location requirements and are indeed warranted to alleviate a practical difficulty in the carrying out of the zoning district. This lot offers the opportunity to complement the existing barns by adding a principal structure, allowing the owner to live in the property and not be an absentee landlord. Additionally, the development is unobtrusive to the neighborhood as the house would meet the minimum 100' front setback requirements and the side yard reduction is not out-of-character in the neighborhood.

The requested variances are not substantial. The property is an existing 5.14 acre

non-conforming lot, as it does not meet the minimum requirement of the AG zoning district in which it is located. That being, a minimum lot size of 10 acres. A 10-acre lot would have much more room to easily meet a 50 foot side setback. Keeping to the 50-foot setback requirement creates a dwelling with undesirable views as it forces the house to be oriented in the east-west direction, which renders less desirable street-front appeal and the primary views become of the side of the barn and the neighboring property.

The solution proposed in the site plan, orienting the home to a north-south direction, allows for ideal views of trees in the back of property and the existing trees at the front of the property. With respect to the principal structure being in front of the existing accessory buildings, a few physical conditions limit the amount of space for the house to meet this regulation. The first challenge is that the existing barns occupy a big portion of the lot frontage. Both existing barns are in very good condition and removal of one or both would not be practical for the owners use or enjoyment of the property. Secondly, to the south of the pole barn is an existing 100-year-old tree, water pump room structure, water tap, and four more trees that leave little room for the house to be in front of the existing barns. Preserving the few existing mature trees and water taps is crucial as they give character to the site but most importantly, keeping them echoes the purpose of the AG district to preserve forestry and water resources. Lastly, there is a potential the right of way will be increased from 60 feet to 90 feet, leaving little room for the dwelling to have a front yard in the future.

The variances will not impair adequate supply of light and air to the adjacent property, unreasonably increase the congestion of public streets, increase the danger of fires, endanger the public safety, nor unreasonably diminish or impair the public health, safety, comfort or welfare of the inhabitants of the City of Pataskala.

The requested variances will not alter the essential character of the neighborhood or cause substantial detriment to adjacent properties. The lot will remain the same size as it exists today, so the reduced side yard variance will not affect the neighborhood. A previous variance VA-18-003 was previously approved for a similar side yard reduction on March 13, 2019. A previous variance VA-21-020 had been approved by the BZA on June 8th, 2021.

The requested variances will not negatively affect the delivery of governmental services. The Applicant seeks to acquire variances as the current obstacles cannot be dealt with through other means due to the site's constraints.

The Applicant respectfully requests that the City of Pataskala BZA consider the factors outlined in this proposal. In so doing, the City would find that this Applicant suffers from a practical difficulty, and conclude that denial of the requested variances would result in an unnecessary hardship.



JOSE MONTOYA  
3994 HAZELTON-ETNA ROAD SW  
PATASKALA, OH 43062

ZONING: AG - AGRICULTURAL DISTRICT

PARCEL #: 064-142848-00,002

LOT SIZE: 5.14 ACRES

PROPOSED HOUSE SQUARE FOOTAGE:  
3,429 SF

BASEMENT: 1,104 SF  
LEVEL 1: 2,210 SF  
LEVEL 2: 1,715 SF

PROJECT:

# MONTOYA RESIDENCE

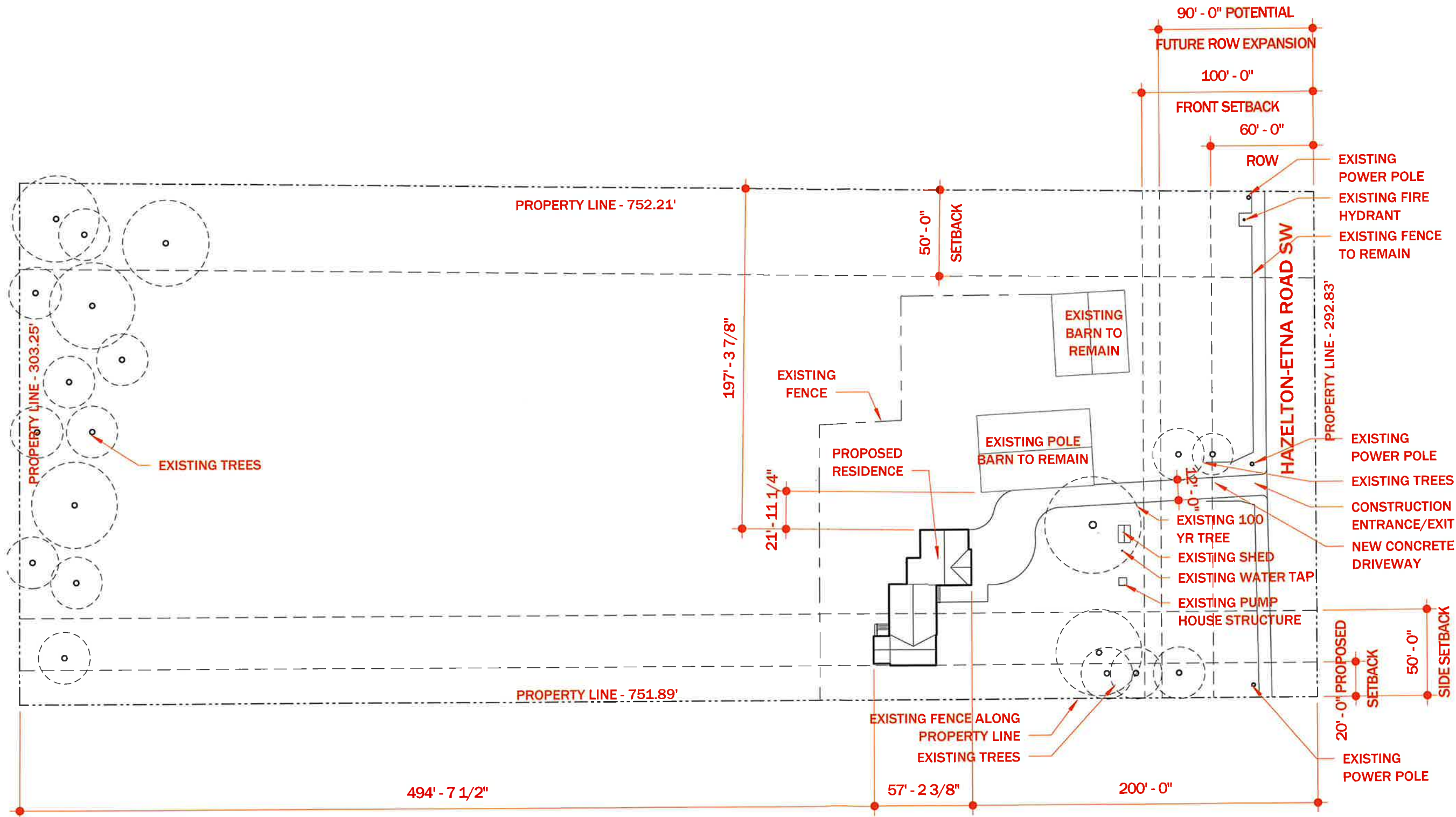
NOTES

## SITE PLAN

SCALE: 1" = 60'-0"

# A0.1

DRAWN BY: Author



1

## SITE PLAN

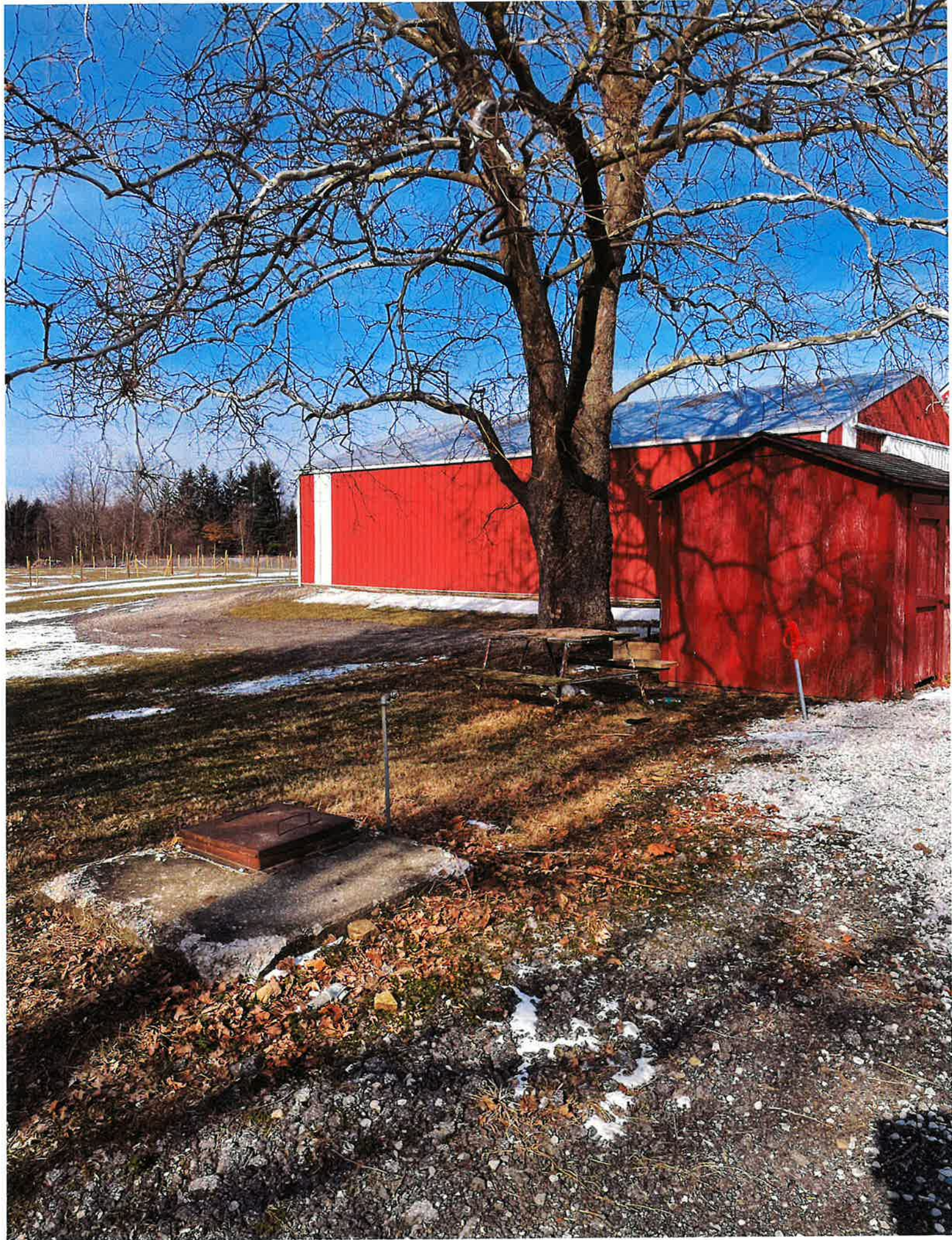
SCALE: 1" = 60'-0"



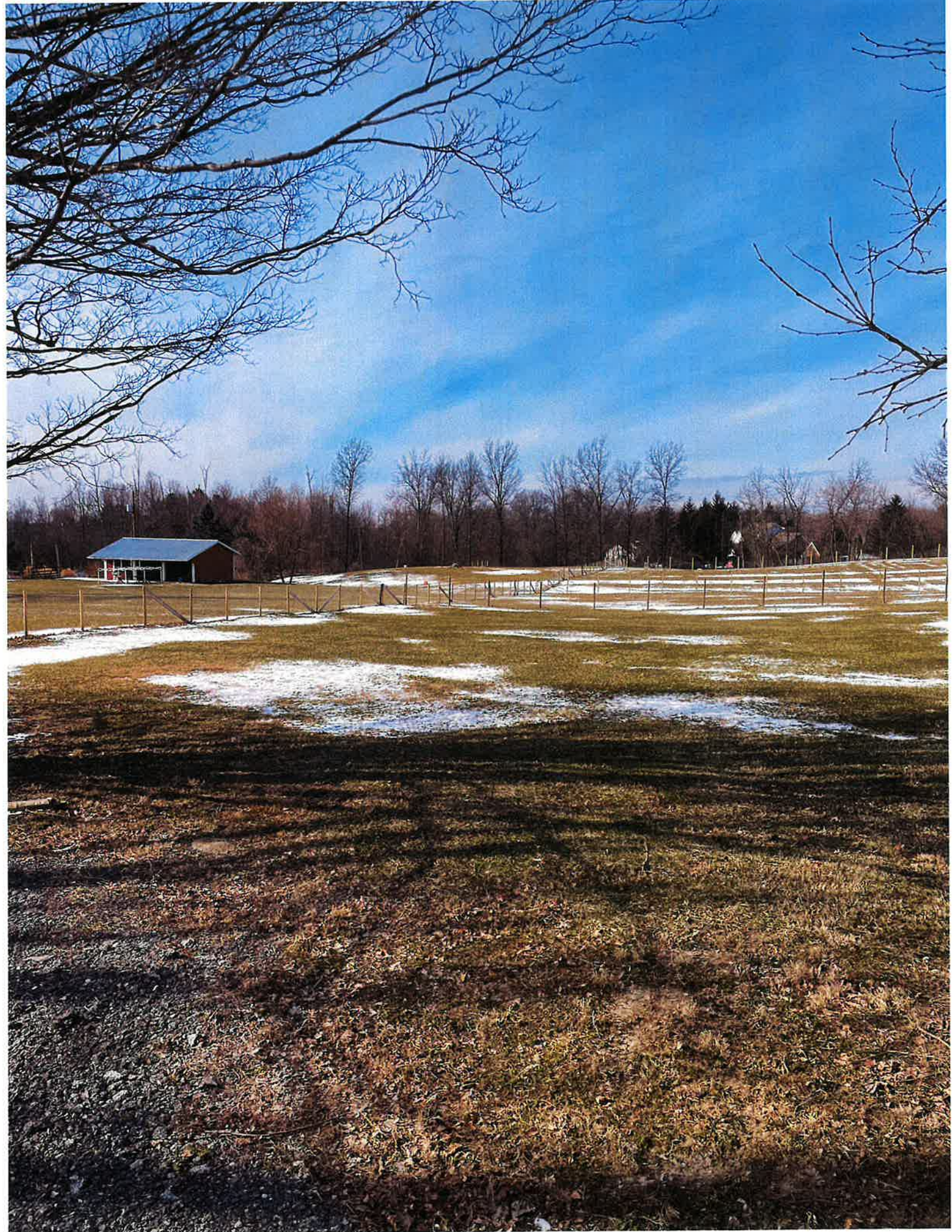


















DESCRIPTION APPROVED  
JARED N. KNERR  
LICKING COUNTY ENGINEER

Approved By JW Jun 10, 2021

0115PA00100000013000

**TRANSFERRED**

Jun 11, 2021  
Michael L. Smith  
LICKING COUNTY AUDITOR  
SEC 319.902 COMPLIED WITH  
MICHAEL L. SMITH  
By: CR 1170.00

InstrID:202106110017645	6/11/2021
Pages:3	F: \$42.00 10:06 AM
Bryan A. Long	T20210016597
Licking County Recorder	

**TRUSTEE'S DEED**  
(O.R.C. 5302.09)

FIRST OHIO TITLE INSURANCE BOX ② File 95409

**KNOW ALL MEN BY THESE PRESENTS;** that **Matthew Walter, Trustee of the Walter Keystone Inheritance Trust dated July 28, 2009**, Grantor(s), for valuable consideration paid, grant(s), with fiduciary covenants to **Jose Montoya**, Grantee(s), whose tax mailing address will be 343 Haymarket Place, Columbus, Ohio 43230, the following described real property:

**SEE ATTACHED EXHIBIT "A", incorporated herein**

Parcel Number(s): 064-142848-00.002

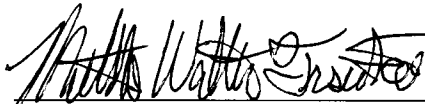
Known as: Hazelton-Etna Road (5 +/- acres)  
Pataskala, OH 43062

This conveyance is subject to all taxes and assessments which are now or may hereafter become liens on said premises, and is subject to all covenants, easements, restrictions, conditions, reservations, reverters, legal highways, zoning laws and ordinances, and governmental regulations, if any, of record, and all coal, oil, gas and other mineral rights and interests previously conveyed, transferred, or reserved of record.

Prior instrument reference: Instrument Number 201909060018835; and Instrument Number 200908200018259; and Instrument Number 200908200018258; and Instrument Number 200009110028795, of the Records of the Office of the Recorder, Licking County, Ohio.

IN WITNESS WHEREOF, Matthew Walter, Trustee of the Walter Keystone Inheritance Trust dated July 28, 2009, has/have caused his/her/their names to be subscribed hereto this 5/13/21 day of May, 2021. <sup>13th</sup> (P)

Signed and acknowledged:



Matthew Walter, Trustee of the Walter Keystone Inheritance Trust dated July 28, 2009



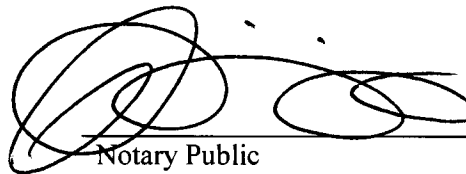
State of Ohio )

County of Licking )

) SS:

BE IT REMEMBERED, that on this 13<sup>th</sup> day of May, 2021, before me, the subscriber, a Notary Public in and for said state, personally came Matthew Walter, Trustee of the Walter Keystone Inheritance Trust dated July 28, 2009, the Grantor(s) in the foregoing deed and acknowledged the signing thereof to be their voluntary act and deed. This is an acknowledgment. No oath or affirmation was administered to the signer with regard to this notarial act.

IN TESTIMONY THEREOF, I/We have hereunto subscribed our names and affixed our official seals on the day and year last aforesaid.



Notary Public

Commission Expiration

Date:

7 | 9 | 22

This instrument was prepared by:  
Thomas J. Olix, Attorney at Law  
Olix & Associates, Co., L.P.A.  
1303 Durness Court  
Columbus, Ohio 43235  
File 95409



**EXHIBIT "A"**

Situated in the State of Ohio, in the County of Licking, and in the City of Pataskala:

Being in Lot 10, Quarter 1, Township 1, Range 15, United States Military Lands, and being a part of a 7.926 acre tract conveyed to Willard C. & Rosemary F. Fagler in Official Record Volume 785, Page 236, all records being of the Recorder's Office, Licking County, Ohio, unless otherwise noted and being more particularly described as follows:

Beginning at a Mag nail set in the centerline of State Route 310 (Hazelton-Etna Road) and the Southeast corner of said Lot 10, said point also being the Northeasterly corner of a 5 acre tract conveyed to David E. Betts, Sr. in Deed Book 566, Page 58;

Thence with the center of said State Route 310, North 00° 02' 55" East, 162.00 feet to a Mag nail set and being the Principal Place of Beginning;

Thence crossing said 7.962 acre tract with the following course, North 88° 59' 49" West 751.89 feet, passing an iron pin set at 30.00 feet to an iron pin set in the Easterly line of Lot 9 of Highland Estates Part II recorded in Plat Book 14, Page 136;

Thence with the Easterly line of said Lot 9, North 00° 02' 00" East 303.25 feet to an iron pin found at the Southwesterly corner of a 7.293 acre tract conveyed to Dean A. & Ann R. Ramsey in Official Record Vol. 651, Page 879;

Thence with the Southerly line of said 7.293 acre tract, South 88° 12' 14" East 752.21 feet passing an iron pin found at 722.21 feet to a Mag nail set in the center of State Route 310;

Thence with center of said State Route 310, South 00° 02' 55" West 292.83 feet to the Place of Beginning;

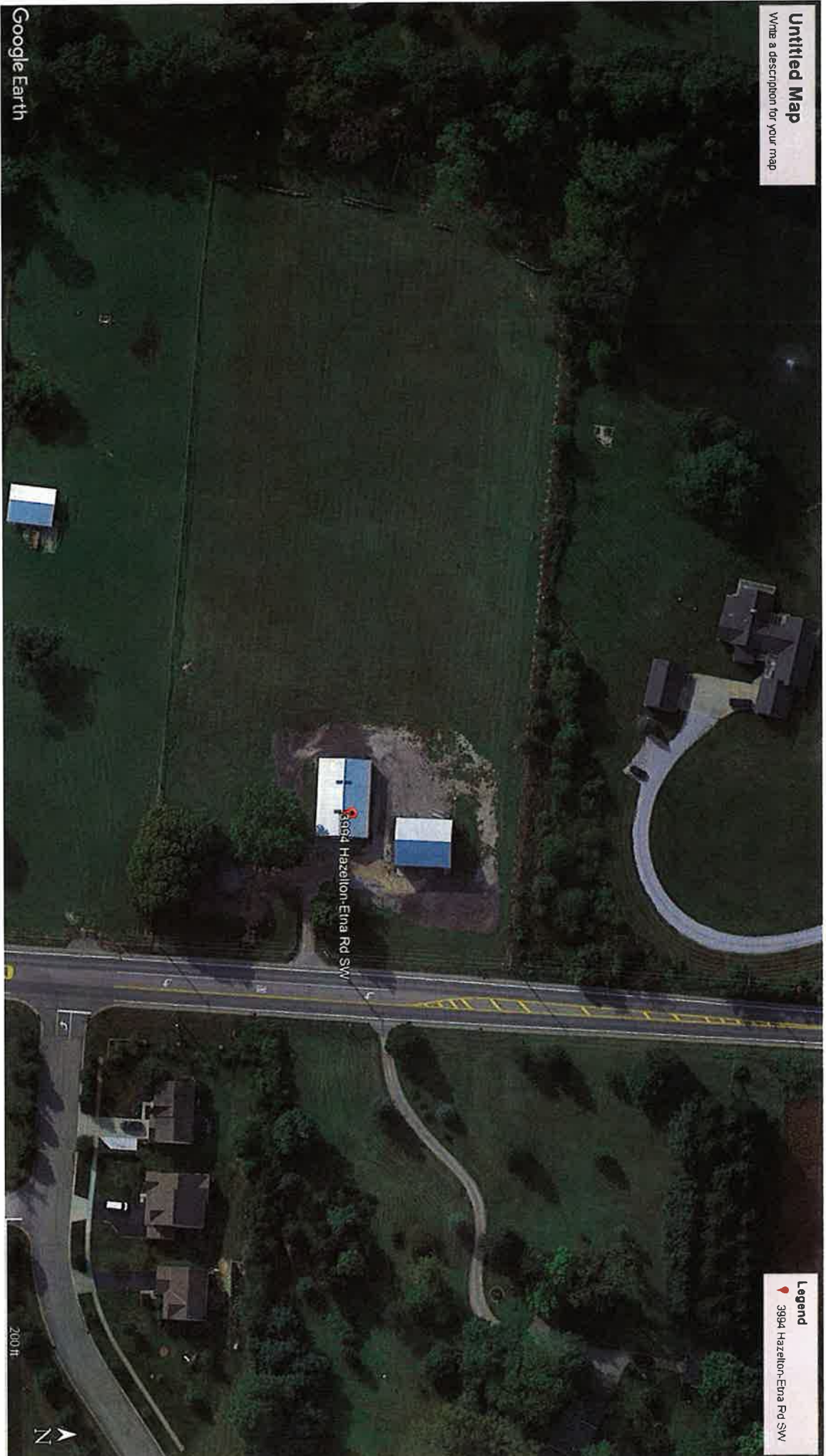
Containing 5.144 acres, more or less, subject however to all legal easements, restrictions and rights-of-way of record and records in their respective utility offices.

Iron pins set are 30" x 1" O.D. with yellow plastic caps inscribed "HYDE P.S. 7529;"

Basis of bearings for this survey is the Southerly line of Lot 10 as North 88° 48' 00" West per Deed Volume 789, Page 880.

# Untitled Map

Write a description for your map



## Legend

3994 Hazelton-Etna Rd SW

Google Earth



OnTrac Property Map



February 8, 2022

Owner Name & Acres

Centerline Labels

Interstate/US/State Route

County Road

Township Road

Other Road Type

Municipal Corporations

Jurisdictional Townships

Historical Townships Line

County Boundary

Driveway

Interstates

Parcels

Split Listed Hooks

Tract Lines

Ohio Counties

Ohio Boundary

LICKING COUNTY TAX MAP

Licking County Auditor GIS