



CITY OF PATASKALA BOARD OF ZONING APPEALS

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

STAFF REPORT

December 13, 2016

Variance Application VA-16-029

Applicant:	C. Daniel Hayes, Attorney at Law
Owner:	Suzanne M. Hayes
Location:	377 S. Main St.
Acreage:	0.31 Acres
Zoning:	DB – Downtown Business
Request:	Requesting a variance from Section 1221.05(D)(1) of the Pataskala Code to allow an accessory building to be located in the front yard.

Description of the Request:

The applicant is seeking a variance to construct an 8' x 12' (96 square feet) garden shed in the front yard of the property.

Staff Summary:

The applicant owns a 0.31-acre lot that contains a 2,302 square foot house built in 1904 and a 352 square foot garage built in 1910. The applicant is proposing to construct an 8' x 12' (96 square foot) accessory building on the west portion of the property approximately 10 feet off of the Wood Street property line, which essentially functions as the back yard. The property contains street frontage on three sides which the code requires a front yard. According to Section 1221.05(D)(1) of the Pataskala Code, an accessory building shall be located even with or behind the front of a principal structure within the side or rear yard.

Staff Review:

The following review does not constitute recommendations but merely conclusions and suggestions based on the summary

The staff does not see an issue with the proposed location of the shed given that many of the properties in the immediate area have an accessory building that does not meet the front yard requirements. In addition, the applicant is one of the few in area to have street frontage on three sides of the property, which creates additional hardship. There are no known easements on the property and the proposed location of the shed would not interfere with utilities. The portion of Walnut Street abutting the property is not a through street.

Surrounding Area:

Direction	Zoning	Land Use
North	DB – Downtown Business	Dentist Office
East	DB – Downtown Business	Floral Shop
South	R-7 – Village Single Family Residential	Single-Family House
West	DB – Downtown Business R-7 – Village Single Family Residential	Single-Family House

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-16-029:

- None

Department and Agency Review

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

Modifications:

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

1. The applicant shall construct the accessory building as submitted within one (1) year of the date of approval.
2. The applicant shall obtain all necessary permits from the City of Pataskala prior to construction of the accessory building.

Resolution:

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

"I move to (approve/disapprove) variance from Section 1221.05(D)(1) of the Pataskala Code for variance application VA-16-029 ("with the following modifications" if modifications are to be placed on the approval)."



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Pataskala, Ohio 43062

VARIANCE APPLICATION

(Pataskala Codified Ordinances Chapter 1211)

Property Information		Staff Use
Address: 377 S. Main Street		Application Number:
Parcel Number: 064-30388-00.000		VA-16-029
Zoning: DB	Acres: <1 0.31	Fee:
Water Supply:		\$300
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking	<input type="checkbox"/> On Site
Wastewater Treatment:		Filing Date:
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking	11-8-2016
<input type="checkbox"/> On Site		Hearing Date:
		12-13-16


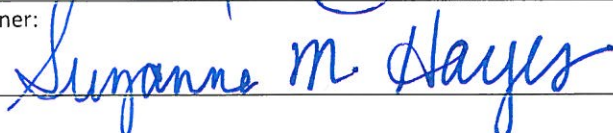
Applicant Information		
Name: C. Daniel Hayes, Attorney at Law		
Address: 195 E. Broad St.		
City: Pataskala	State: OH	Zip: 43062
Phone: 740-927-2729	Email: dan@hayesoffices.com	

Owner Information		
Name: Suzanne M. Hayes		
Address: 377 S. Main St.		
City: Pataskala	State: OH	Zip: 43062
Phone: 740-964-1901	Email: smh43062@gmail.com	

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

Variance Information
Request (Include Section of Code): Owner seeks permission to build garden shed (8'x12') behind home. Due to fact that property has frontage on 3 of 4 sides, entire parcel is considered 'front yard' under code. Pat.Ord. 1221.05 prohibits acc. bldg. in front ya
Describe the Project: Project is an 8'x12' garden shed to be erected on the NW corner of property. Shed will have a gable roof and will be designed and built in such a way to compliment the historic nature of the parcel as a whole.

Documents to Submit
Variance Application: Submit 14 copies of the variance application.
Narrative Statement: Submit 14 copies of a narrative statement explaining the following: <ul style="list-style-type: none"> • 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: <ol style="list-style-type: none"> <i>Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property without the variance;</i> <i>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;</i> <i>Whether the variance requested is substantial;</i> <i>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;</i> <i>Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;</i> <i>Whether the variance, if granted, will be detrimental to the public welfare;</i> <i>Whether the variance, if granted, would adversely affect the delivery of governmental services;</i> <i>Whether the property owner purchased the subject property with knowledge of the zoning restriction;</i> <i>Whether the property owner's predicament can be obviated through some other method than variance;</i> <i>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,</i> <i>Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.</i>
Site Plan: Submit 14 copies of a site plan to scale of the subject property indicating the following: <ul style="list-style-type: none"> • All property lines and dimensions • 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 at www.lcounty.com/rec .
Address List: Submit one copy of a list of all property owners and addresses of those owning property within 200 feet or two parcels from any point on the subject property line, whichever creates more property owners. This list must be in accordance with the Licking County Auditor's current tax list and must be submitted on mailing labels.
Area Map: Submit 14 copies of an area map from the Licking County Engineer's office showing the area encompassed by the address list. Area maps can be obtained at www.lcounty.com/taxparcelviewer/default .

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: 	Date: 11-7-16
Owner: 	Date:

NARRATIVE RELATING TO VARIANCE APPLICATION

PROPERTY OWNER: SUZANNE M. HAYES

As indicated in the application, the owner of the property wishes to construct a garden shed at her private residence. The property is zoned DB but is, and has always been, used as a single family residence. Besides the principal residence, there is presently a detached one car garage and a play structure on the property. Consequently, the addition of a garden shed would be permitted under the code. That said, due to the nature of the property and an unintended consequence of code language, the owner is unable to construct a shed without a variance because the property has no 'rear yard' from a technical standpoint. In summary, the code defines a front yard as a yard that has road frontage. Because this particular property has road frontage on three of its four boundary lines all of the property's yards are technically 'front yards.'

Code section 1221.05(D) does not permit the construction of an accessory building in a 'front yard.'

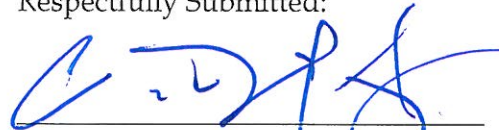
The proposed location of the shed in this case is in the rear corner of what any reasonable person would consider the 'rear yard' of the subject property.

Section 1211.01 Factors:

- a) While the shed will not necessarily add substantial property value to the parcel, the code as it is written substantially limits the beneficial use of the property in question. Without a variance, said limitations will detrimentally impact the owner's beneficial use of the property when compared with other residential property located within the city.
- b) As indicated, there are unique circumstances in this application in relation to the layout of the lot and the definition of 'front yard.'
- c) The variance requested is not substantial as it will result in what is typically allowed upon most residential lots.
- d) Granting the variance will not impact the character of the neighborhood and no adjoining properties would suffer a detriment.
- e) Granting the variance will not impact the appropriate use or development of the neighboring parcels.
- f) Granting the variance will have no impact on the public welfare.
- g) Granting the variance will not impact the delivery of governmental services.

- h) The property owner did not purchase the property with the understanding that her back yard fell within the technical definition of 'front yard' under the Pataskala Zoning Ordinances.
- i) The only other way to obviate the owner's predicament would be to change the definition of 'front yard' under the zoning code.
- j) The variance requested would represent the minimum variance that would afford relief and represents the least modification possible of the requirement at issue.
- k) The spirit and intent of the zoning requirement is not harmed by the requested variance and granting same would afford the owner justice as she is simply seeking the same property rights as most every other residential property owner in the City of Pataskala.

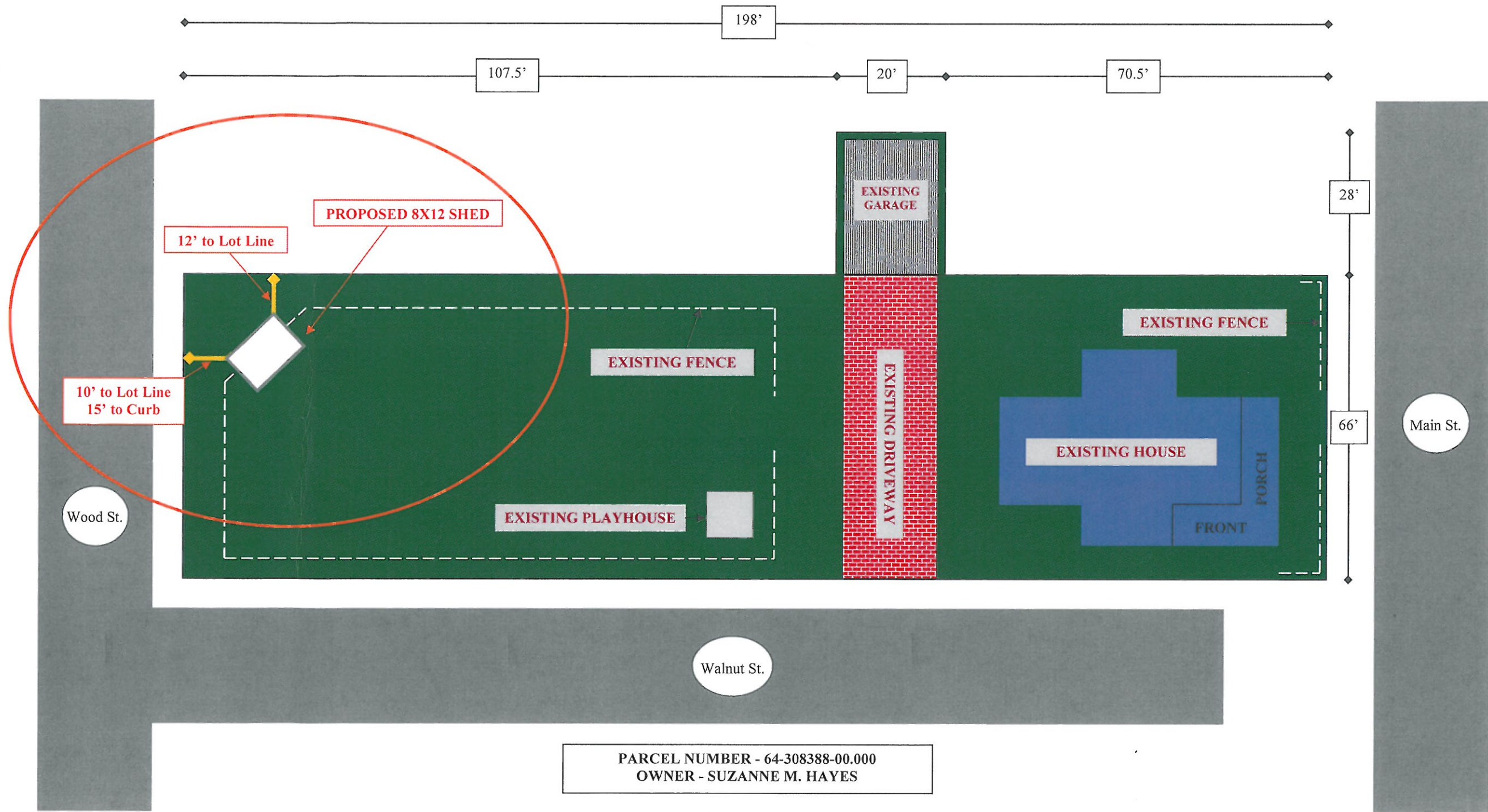
Respectfully Submitted:

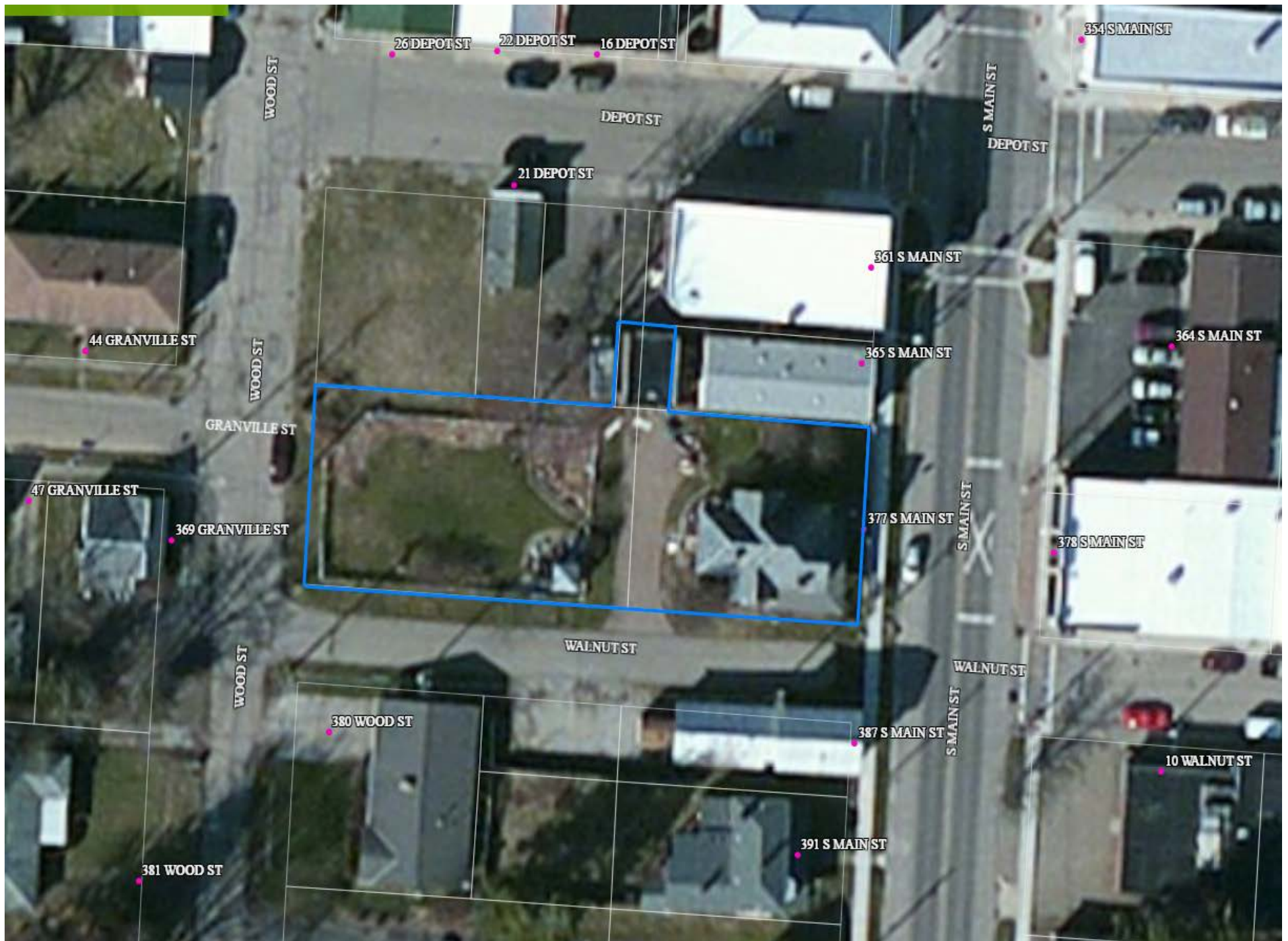


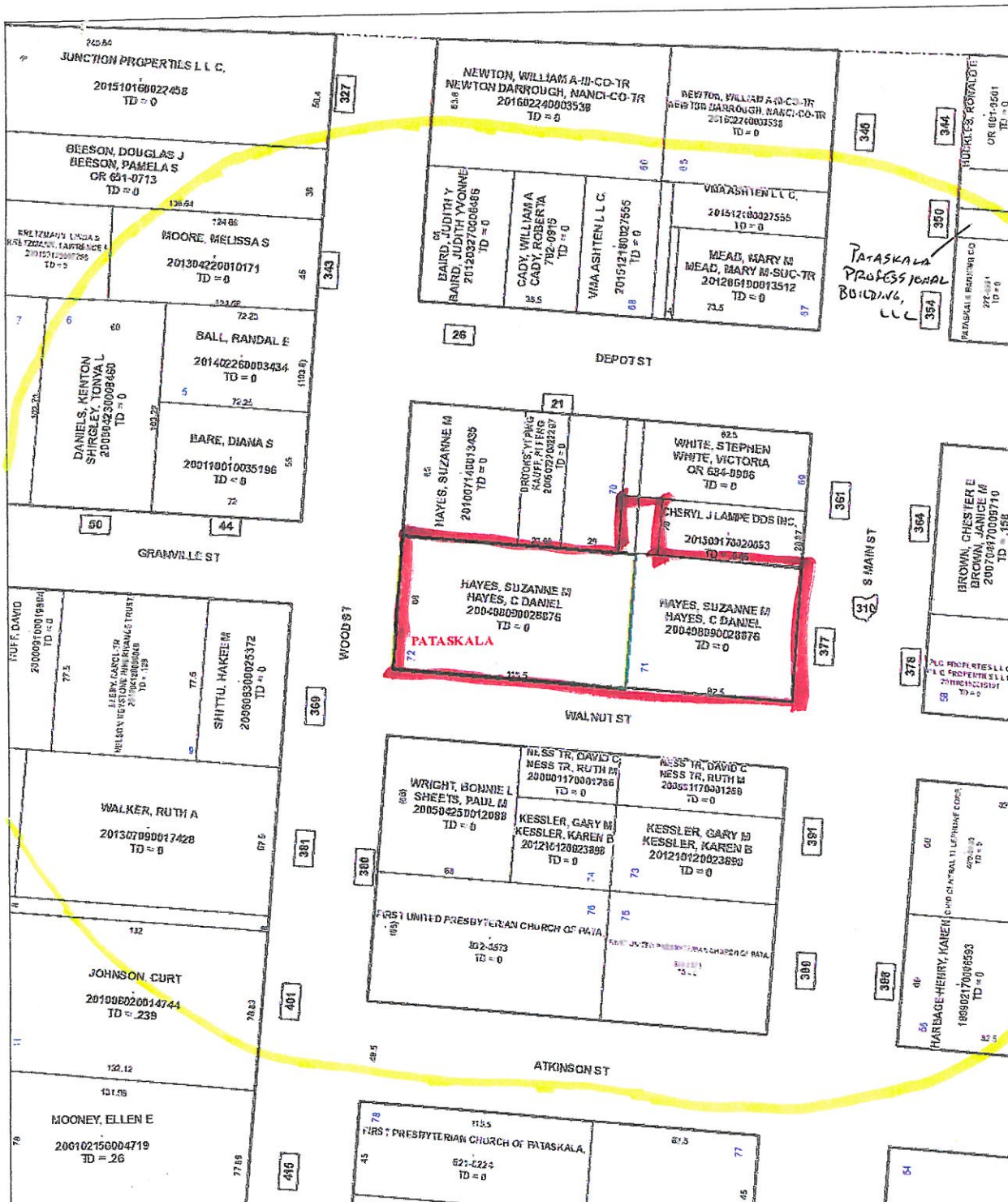
C. Daniel Hayes (0073620)

Attorney for Suzanne M. Hayes

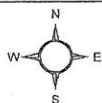
377 S. MAIN ST. - PATASKALA, O.
SITE PLAN







November 7, 2016



0 50 Feet
0.01 Miles

LICKING COUNTY TAX MAP

GENERAL WARRANTY DEED

Suzanne M. Hayes and C. Daniel Hayes, her husband, of Licking County, Ohio, for valuable consideration paid, grants with general warranty covenants to **Suzanne M. Hayes**, whose tax mailing address is Pataskala Banking Company 354 S. Main St., Pataskala, Ohio 43062, Transfer On Death to **C. Daniel Hayes**, Beneficiary, the following described real property:

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

Being further described on the attached Exhibit "A", incorporated herein by reference.

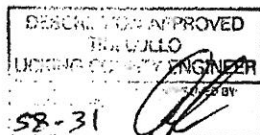
Prior Deed Reference: Instrument No. 200408090028874, Recorder's Office, Licking County, Ohio.

Also known as: 377 S. Main St. Pataskala, Ohio 43062
Auditor's Parcel #64-308388-00.000

Excepting conditions, easements, restrictions, rights of way and zoning and other governmental regulations of record and taxes and assessments not yet due and payable which Grantees assume and agree to pay as a part of the consideration herein.

C. Daniel Hayes, husband of Suzanne M. Hayes, Grantor, hereby releases all rights of dower therein.

Executed this 30th day of July, 2004.



Suzanne M. Hayes
Suzanne M. Hayes

C. Daniel Hayes
C. Daniel Hayes

State of Ohio
County of Licking SS:

Executed before me this 30th day of July, 2004 by Suzanne M. Hayes and C. Daniel Hayes, who, under penalty of perjury in violation of section 147.01 of the Revised Code, represented to me to be said person.



SERENA FRYE
Notary Public, State of Ohio
My Commission Expires
Sept. 15, 2005

[Signature]
NOTARY

Exhibit "A"

Parcel One:

Situated in the County of Licking in the State of Ohio, and in the Village (now City) of Pataskala and bounded and described as follows:

Being lots numbers 71 and 72 on the West side of Main Street in the Town of Conine (now Pataskala, Ohio) as the same are numbered and delineated on the recorded plat of said Village, in the Recorder's Office in said county.

EXCEPTING THEREFROM the following described real estate:

Situated in the Village of Pataskala, County of Licking, State of Ohio and being a part of the Lot #71 in Richard Conine's Addition to the town of Conine, know known as the Village of Pataskala, of record in Plat Book 1, page 34, in the record of Plats in the Licking County Recorders Office, and being a survey of a portion of a parcel being currently conveyed to Carolyn G. Hayes, of record in Deed Instrument Number 200307110032208 in the record of deeds in the Licking County Recorders Office and being more particularly described as follows,

Commencing, for reference, at an iron pin set marking the intersection of right-of-way lines of Main Street (66' wide) and Walnut Street (33' wide), said iron pin being the Southeast corner of Lot #71 in said Village of Pataskala, Thence, N 00° 01' 57" E along the West line of Main Street 65.18 feet to a Mag Nail set in a concrete sidewalk, the Southeast corner of and **PRINCIPLE PLACE OF BEGINNING** of the 0.001 acre parcel herein to be described;

Thence, N 89° 20' 18" W leaving the West line of Main Street and with what represents a new line that crosses over and through said parcel conveyed to Hayes 71.00 feet to an iron pin set along the common line between Lot #69 and Lot #71 in said Village, the same being the North line of said parcel conveyed to Hayes and the south line of a parcel conveyed to Pataskala Properties, of record in Deed Volume 821, page 788, the West corner of the 0.001 acre parcel herein to be described;

Thence, N 90° 00' 00" E along said Lot Line and the common line between Hayes and Pataskala Properties 71.00 feet to a Mag Nail set in a concrete sidewalk on the West line of Main Street aforementioned, the common corner to Lot #71 and Lot #69, the Northeast corner of the 0.001 acre parcel herein to be described;

Thence, S 00° 01' 57" W along Main Street 00.82 feet to the **PRINCIPLE PLACE of BEGINNING**, and as surveyed contains 0.001 total Acres or 29 Square Feet more or less. Subject to all legal easements, right-of-ways, leases, zoning ordinances, restrictions of record. (See Attached Plat).



01150583101034019000



01150583101034018000

Bearings of the above description are based on the West right-of-way line of Main Street (66' wide) as being S 00° 01' 15" W and is an assumed Meridian used to denote angles only.

Note: all Deed Volumes and Official Records and pages referenced to above are found in the Office of the Recorder, Licking County, Ohio.

Note: All iron pins SET are 5/8" O.D. iron reinforcing bars 30" long with identification caps labeled "S.A. England #7452"

The above description is based on an actual field survey of the premises by or under the direct supervision of Scott A. England, Ohio Registered Surveyor #7452 in December, 2003.

Parcel Two:

Situated in the County of Licking in the State of Ohio, and in the Village (now City) of Pataskala and bounded and described as follows:

Being a part of lots #69 and #70 in Richard Conine's addition to the Town of Conine (now Pataskala), bounded and described as follows:

Commencing at SW Corner of lot #69, thence E. along south line of said lot 11.5 feet, to SW corner of that portion of said lot now (1953) owned by L.M. Smith; thence North along W. line of said South Tract, 28 feet to NW Corner of said Smith tract; thence West, along a line parallel to South line of said Lots, 19 feet, crossing the east line of Lot #70 at 11.5 feet, to the W. line of the premises now owned by F&AM Lodge, thence South along said line fence, East line of the premises now owned by Odd Fellows Lodge Vol. 171 page 505, 28' to South line of Lot #70, thence East along south line of said Lot, 7.5 feet to the place of beginning (S.E. Corner of Lot #70, containing acre more or less.)

