



## CITY OF PATASKALA BOARD OF ZONING APPEALS

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

### STAFF REPORT

October 9, 2018

#### Variance Application VA-18-019

<b>Applicant:</b>	Dan Dustin
<b>Owner:</b>	Dan Dustin
<b>Location:</b>	78 Granville Street
<b>Acreage:</b>	0.18 acres
<b>Zoning:</b>	R-7 – Village Single Family Residential
<b>Request:</b>	Requesting a variance from Section 1221.07(B)(1)(iii) of the Pataskala Code to allow for the construction of a patio that would fail to meet the required side yard setbacks.

#### Description of the Request:

The applicant is seeking a variance to allow for 14' x 14' concrete patio to be constructed that would fail to meet the required side yard setbacks.

#### Staff Summary:

The property currently contains a 1,582-square foot house constructed in 1930 and a 432-square foot barn also constructed in 1930. The applicant is proposing to construct a 14' x 14' (196-square foot) patio that will be setback 1 foot from the west (side) property line. According to Section 1221.07(b)(1)(iii) decks and patios shall meet the required side yard setbacks of the zoning district in which they are located or shall not extend further into the side yard setback than the principal structure on the lot, whichever is less. According to Section 1237.05(C)(2) of the Pataskala Code the required side yard setbacks of the R-7 Village Single Family Residential District are 7 feet on each side. Therefore, the variance request will be for 6 feet. The proposed patio will meet all other regulations.

In August of 2018 the Zoning Inspector received an OUPS notification and went to the property. He informed the applicant of the need for a zoning permit prior to the construction of a patio, which the applicant submitted on August 27, 2018. After Staff reviewed the application it was determined that the proposed patio would fail to meet the required side yard setbacks, and the applicant was notified.

According to the narrative, the application was denied, and that the applicant was unaware of the zoning restrictions and setback requirements. The applicant also notes that the purpose of the patio is to add extra entertainment space for their 4 children and add value to the home. In addition, the applicant does not believe that the proposed patio will negatively affect the surrounding neighbors. Included with the application was a signed letter from Nancy Clark, the neighbor to the immediate west at 84 Granville St, stating that she and her husband have no problems with the proposed patio.

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

Staff would like to note that the Patio Permit Application was not denied but is being held on file pending the approval or disapproval of a variance by the Board of Zoning Appeals.

Staff would also like to note that due to the dimensions of the lot in question, layout of existing structures, and the setback requirements of the R-7 zoning district, there are very few places that a patio of the proposed size could be installed without requiring a variance. Several emails, phone calls, and a few in-person meetings were held between the applicant and staff to discuss the proposed patio, and the possibility of changing the location and dimensions of the patio as to eliminate the need for a variance. The applicant decided to proceed with a variance for the patio as was proposed in the Patio Permit Application.

The City Engineer has commented that the applicant should insure the current drainage pattern is not altered with the improvements.

**Surrounding Area:**

Direction	Zoning	Land Use
North	DB – Downtown Business	Vacant Commercial Building
East	DB – Downtown Business	Single-Family House Garage
South	R-7 – Village Single Family Residential	Single-Family House
West	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-18-019:

- None

**Department and Agency Review**

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

**Supplementary 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 prior to construction of the patio.
2. The applicant shall insure the proposed patio

**Resolution:**

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

"I move to approve variance from 1221.07(B)(1)(iii) of the Pataskala Code for variance application VA-18-019 ("with the following supplementary conditions" if conditions are to be placed on the approval)."

**From:** Scott Haines  
**To:** [Jack Kuntzman](#)  
**Cc:** [Scott Fulton](#); [Lisa Paxton](#); [Jim Roberts](#); [Alan Haines](#)  
**Subject:** October BZA Review Memo  
**Date:** Wednesday, September 26, 2018 9:42:13 PM

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Jack,

Jobes Henderson has reviewed the agenda items for the October BZA Meeting. We offer the following comments:

VA-18-018

1. The applicant indicates that they do not expect significant impact to the traffic flow of Mink Street.
2. The applicant indicates the restrictions of no more than 12 customers per day to be a negative restriction for home occupancy.
3. The applicant does not indicate the number of customers per day that is anticipated with the business. With this omission we cannot accurately determine if traffic will be significantly impacted on Mink Street.

VA-18-019

1. The applicate shall insure the current drainage pattern is not altered with the improvements.

VA-18-020

We have no engineering related comments on this application.

Thank you for the opportunity to review these items and please contact us if there are any questions on our comments or if we can help in any other way.

**Scott R. Haines, P.E., CPESC**

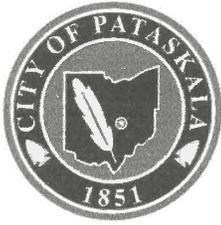
Project Manager

**HULL** | Newark, Ohio

Environment / Energy / Infrastructure

o: 740-344-5451 | f: 740-344-8659

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[web](#) | [directions to offices](#)



# 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: 78 Granville Street, Pataskala, OH 43062	
Parcel Number: 064-310908-00.000	
Zoning: R-7	Acres: 0.18
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-18-019
Fee: \$300
Filing Date: 9-14-18
Hearing Date: 10-9-18
Receipt Number: 22984

Applicant Information		
Name: Dan Dustin		
Address: 78 Granville Street		
City: Pataskala	State: OH	Zip: 43062
Phone: 740 358 6917	Email: dandustin82@gmail.com	

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

Property Owner Information		
Name: Dan Dustin		
Address: 78 Granville Street		
City: Pataskala	State: OH	Zip: 43062
Phone: 740 358 6917	Email: dandustin82@gmail.com	

Variance Information
Request (Include Section of Code): Requesting a variance of 6 feet from the 7 feet required side yard setback. Pursuant to section 1237.05C2
Describe the Project: Installing a 14' x 14' concrete patio

## 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.*

**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:

9/4/18

Property Owner (Required):



Date:

9/4/18

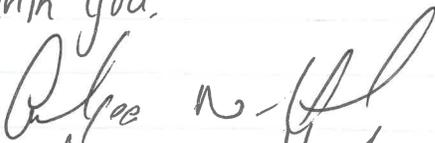
## 78 Granville st Patio

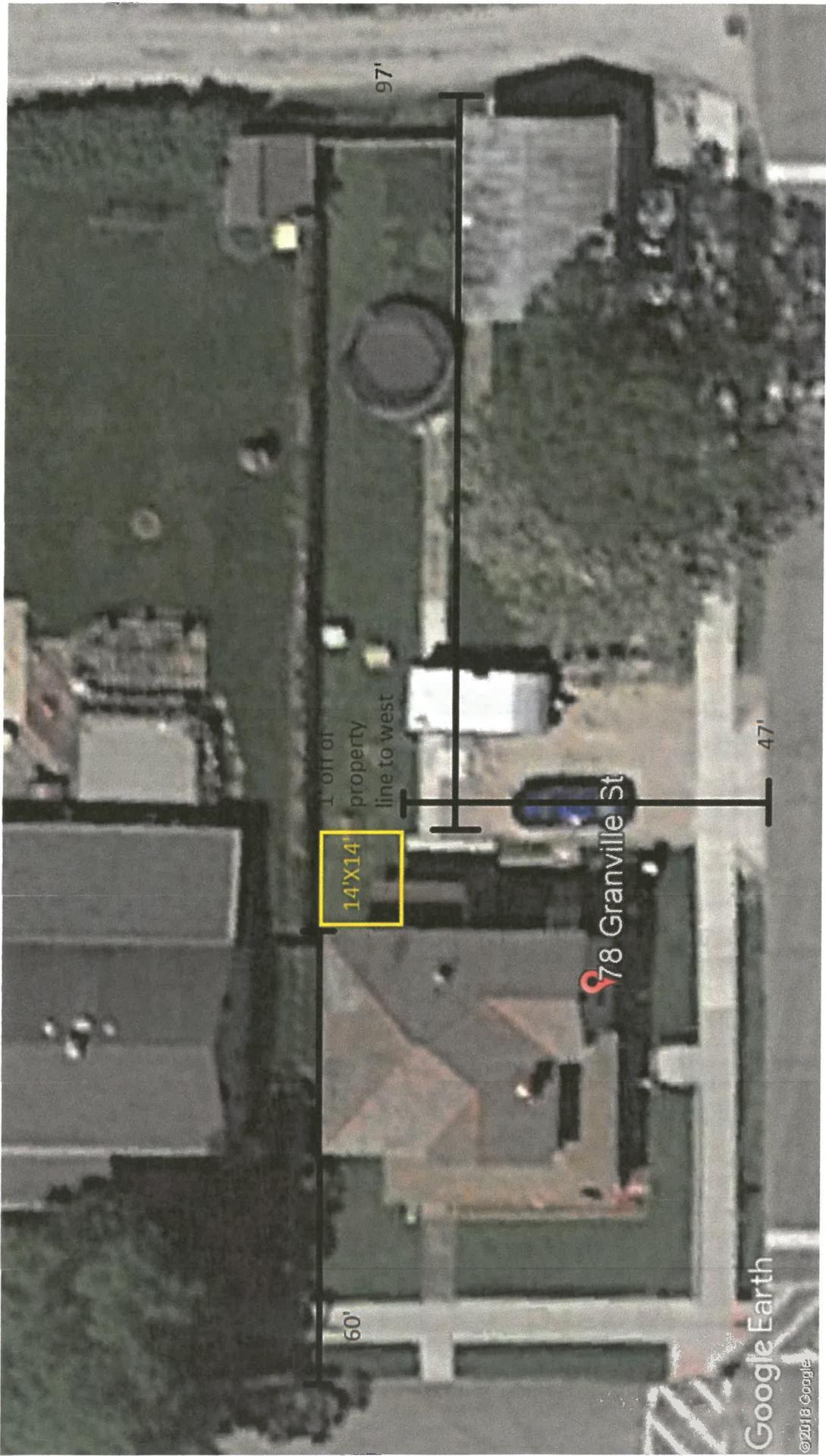
The beginning of September my husband and I decided to submit an application for a permit to add a concrete patio in our backyard. The thought of extra entertaining space for our 4 children and adding value to our home seemed like a great investment.

Our permit was denied. We then found out about zoning and setback laws. The site plan for the patio exceeds the side yard setback laws which should be 7 feet from the property line.

We decided to pursue the variance because we are confident the patio will not negatively effect our surrounding neighbors. Along with increasing our families outdoor living space.

Thank you.

  
Audrey N. Harlan



1' offset  
property  
line to west

14'X14'

97'

60'

78 Granville St

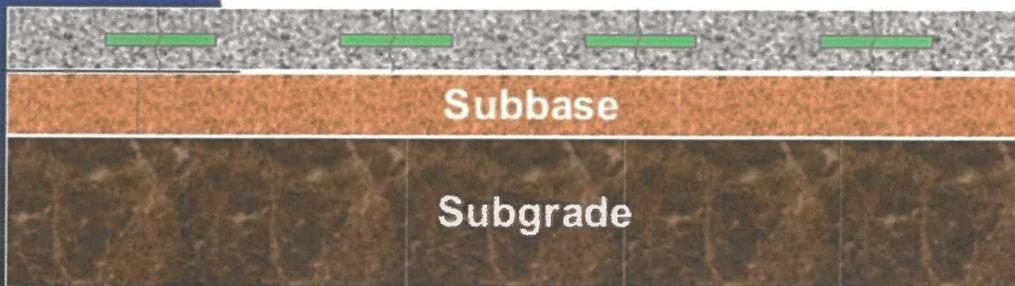
47'

Google Earth  
©2018 Google



# Subgrade and Subbases

For Concrete Pavements



CONDITIONAL APPROVAL FOR THIS TRANSFER  
CORRECTION REQUIRED FOR NEXT TRANSFER  
WILLIAM G. LOZIER, LICKING COUNTY ENGINEER

*unfb. 5-18-15*  
*Missing plat reference*  
*& poor bearings*



201505180009606  
Pgs: 2 \$28.00 T20150011435  
05/18/2015 2:02PM BXHAYES TITLE  
Bryan A. Long  
Licking County Recorder

TRANSFERRED  
Date *May 18, 2015*  
*Michael Smith*  
Licking County Auditor  
SEC. 319.202 COMPLIED WITH  
MICHAEL L. SMITH, AUDITOR  
BY: *MS* 432.00

### GENERAL WARRANTY DEED

**Connie B. Hale and Preston H. Hale**, wife and husband, of Licking County, Ohio, for valuable consideration paid, grants with general warranty covenants to **Daniel C. Dustin**, unmarried, remainder to the survivor of them, whose tax mailing address is *SON. 301ST, PO BOX 4300, NEWARK, OH 43058-3500*, the following real property:

*Situated in the City of Pataskala, County of Licking, and State of Ohio and further described on the attached Exhibit "A"*

Prior Deed Reference: ~~V0W0~~ 405 Pg 842 Official Records Licking County Ohio  
Also known as: *78 Granville Street, Pataskala, Ohio 43062*  
Auditor's Parcel #064-310908-00.000

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.

Executed this 15th day of May, 2015

*Connie B. Hale*  
\_\_\_\_\_  
Connie B. Hale  
*Preston H. Hale*  
\_\_\_\_\_  
Preston H. Hale

State of Ohio  
County of Licking SS:

The foregoing instrument was acknowledged before me this 15th day of May, 2015 by Connie B. Hale and Preston H. Hale.



HEIDI Y. FULTON  
Notary Public, State of Ohio  
My Comm. Expires May 6, 2020

*Heidi Y. Fulton*  
\_\_\_\_\_  
NOTARY

Prepared by:  
Laurie Wells, Esq., through  
Hayes Law Offices, INC., L.P.A.  
195 E. Broad St., Pataskala, OH 43062  
740.927.2927



01150583101163025000

EXHIBIT "A"

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

Being a part of what is known as the WESTERN ADDITION to the Village of Pataskala, Ohio, commencing at a point where the west line of High Street and the north line of Granville Street intersects or cross; thence westerly along the north line of Granville Street, forty-eight feet or thereabout to an iron pin for a corner; thence north parallel with the west line of High Street one hundred sixty feet, more or less, to the south line of a parcel of land heretofore conveyed to George E. Wells by Sarah M. Pierson and husband, thence easterly along the south line of said Wells land to the west line of said High Street; thence southerly along the said west line of High Street one hundred and sixty feet, more or less to the place of beginning.

Being a part of Lot #25 of Western Addition to the Village of Pataskala, Ohio, or Conine, Ohio, as numbered and delineated upon the recorded plat thereof, of record in Plat Book Vol. 2, Page 29, as transcribed from Plat Book Volume 1, Page 163, Recorder's Office, Licking County, Ohio.

**78 Granville Street, Pataskala, OH 43062**

**Permanent Parcel No.: 064-310908-00.000**

Taxes Due July 18th

Michael L. Smith, Auditor  
Olivia C. Parkinson, Treasurer

- BOR
- CAUV
- Dog License
- Downloads
- Forms
- GIS
- Homestead
- Taxes
- Other

- Map
- BOR
- Card
- CAUV
- Documents
- Land
- Map
- Parcel
- Pictometry
- Sketch
- Street View
- Structures
- Taxes
- Transfers
- Values
- Help**
- Login



064-310908-00.000  
**DUSTIN DANIEL C**  
 78 GRANVILLE ST  
 PATASKALA, OH 43062  
 Acres: 0.18  
 LOT 25 WESTERN .00A  
 Land: \$24,500  
 Improv: \$109,200  
 Total: \$133,700

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Sept 20, 2018

To Whom It May Concern -

Tom and Nancy Clark of  
84 Manville St. Pataskala, 740-927-2691  
We've had many conversations  
concerning the patio Andrea & Dan want  
to build on their property at 78  
Manville St. They walked us through  
all aspects of the patio they want to  
construct. Being their closest neighbors  
we have no problem building what  
they want.

Thank-you  
Nancy Clark  
Tom Clark