



## CITY OF PATASKALA BOARD OF ZONING APPEALS

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

### STAFF REPORT

December 11, 2018

#### Variance Application VA-18-022

<b>Applicant:</b>	Christopher Smith
<b>Owner:</b>	Christopher Smith
<b>Location:</b>	124 Shawnee Loop North
<b>Acreage:</b>	0.36 acres
<b>Zoning:</b>	R-15 – Medium-High Density Residential
<b>Request:</b>	Requesting a variance from Section 1221.07(B)(1)(iii) of the Pataskala Code to allow for a zoning permit to be issued for a concrete patio that fails to meet the required side yard setback.

#### Description of the Request:

The applicant is seeking a variance to allow for a permit to be issued for a 1,066-square foot concrete patio that he has constructed. The patio fails to meet the required side yard setback.

#### Staff Summary:

The property currently contains a 1,949-square foot house constructed in 2003 and an approximately 165-square foot shed also constructed in 2012. The applicant has constructed a 1,066-square foot patio consisting of a 26' x 9' section along the existing deck on the north side of the house, and a 32' x 26' section to the west of that and extending 6' past the west side of the home, and 7' to the neighbors' 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. Section 1233.05(C)(2) of the Pataskala Code states the required side yard setback of the R-15 Medium – High Density Residential District as not less than 20-feet on each side.

The existing primary structure is only approximately 15-feet from the west property line, so using the regulations stated in Sections 1221.07(b)(1)(iii) and 1233.05(C)(2) of the Pataskala Code, the required side yard setback for a patio would be 15-feet. The patio, as constructed, is 7-feet from the west property line, therefore the variance request is for 8-feet from the required 15-feet.

On October 15, 2018 the Zoning Inspector delivered a notification to the property that the applicant was in violation of the Pataskala Zoning Code for building a patio without an approved zoning permit and given seven (7) days to correct the violation. The applicant met with Staff with a zoning permit application, however it was discovered that the patio failed to meet the required side yard setback for the R-15 zoning district. The applicant asked for a few days to deliberate his next steps; to either remove the section of

patio that was non-compliant or proceed with a variance. The applicant chose to proceed with a variance, as is stated in the narrative statement that was submitted.

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

Staff would like to note that the applicant has not submitted a zoning permit application and will be required to do so pending the outcome of the hearing.

Staff would also like to note that the existing home itself fails to meet the required side yard setback of 20-feet on either side, as the primary structure sits approximately 15-feet from the west property line. The applicant could have constructed a patio up to the west side wall of the house and been compliant with the Zoning Code. The potential need for a variance could also have been avoided by consulting with Staff prior to construction and obtaining a zoning permit.

No other comments were submitted by any of the applicable agencies or departments that the application was routed to.

**Surrounding Area:**

Direction	Zoning	Land Use
North	R-15 – Medium-High Density Residential	Railroad Tracks
East	R-15 – Medium-High Density Residential	Single-Family House
South	R-15 – Medium-High Density Residential	Single-Family House
West	R-15 – Medium-High Density 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-18-022:

- None

**Department and Agency Review**

- Zoning Inspector – No comments
- Public Service – No comments
- City Engineer – No comments
- 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 conditions may be considered:

1. The applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department for the 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-18-022 ("with the following supplementary 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: 124 Shawnee Loop North	
Parcel Number: 064-068808-00-122	
Zoning: R-15	Acres: .36
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-18-022
Fee: \$300.00
Filing Date: 11-15-18
Hearing Date: 12-11-18
Receipt Number: 499559

Applicant Information		
Name: Christopher "Mike" Smith		
Address: 124 Shawnee Loop North		
City: Pataskala	State: OH	Zip: 43062
Phone: 614-203-4971	Email: Theburgh75@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: Christopher "Mike" Smith		
Address: 124 Shawnee Loop North		
City: Pataskala	State: OH	Zip: 43062
Phone: 614-203-4971	Email: Theburgh75@gmail.com	

Variance Information
Request (Include Section of Code): 1221.07 "B" iii
Describe the Project: Built concrete patio on back of house to be used as a basketball court. 30' x 32' - 26' x 9' - 4" slab

## 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.

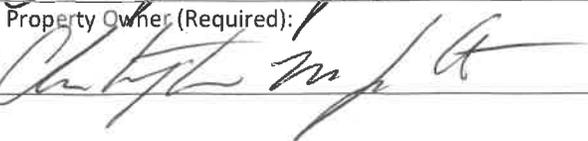
Applicant (Required):



Date:

11-9-18

Property Owner (Required):



Date:

11-9-18

## Jack Kuntzman

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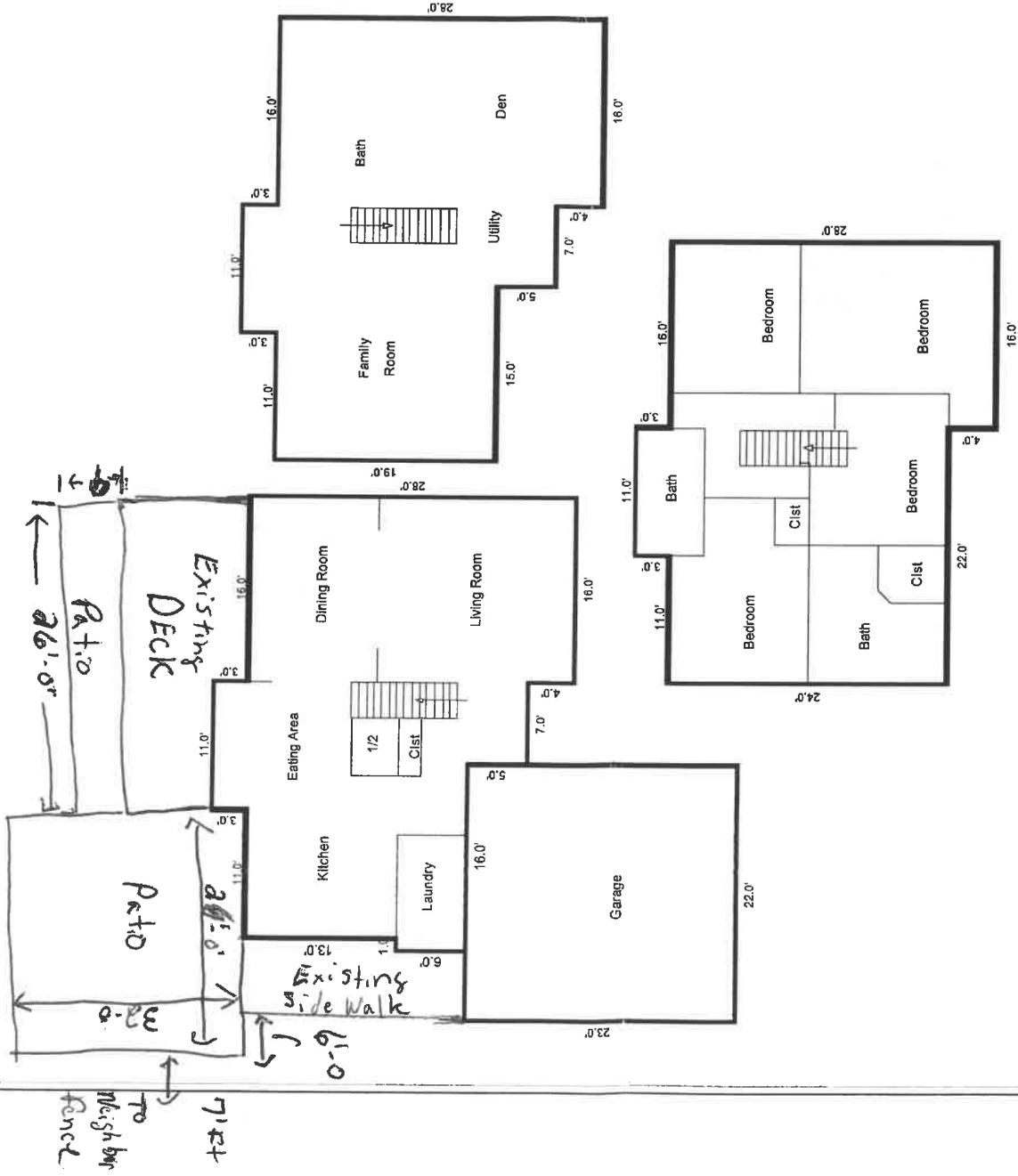
**From:** Mike Smith <theburgh75@gmail.com>  
**Sent:** Thursday, November 15, 2018 8:50 PM  
**To:** Jack Kuntzman  
**Subject:** patio variance

Poured concrete patio 32x26 and 26x9 on rear of house. I received a letter from City of Pataskala saying I needed a building permit after the work had been done. Called city office next day to resolve permit issue and found out I was too close to neighbors property line. Applied for variance hearing hoping to resolve issue.

FLOORPLAN SKETCH

Borrower: PJ & Christopher Smith  
 Property Address: 124 Shawnee Loop N.  
 City: Pataskala  
 Lender: Huntington Bank

File No.: 3-2-30  
 Case No.: 1014246-3  
 State: OH  
 Zip: 43062



Sketch by Apex IV Windows™

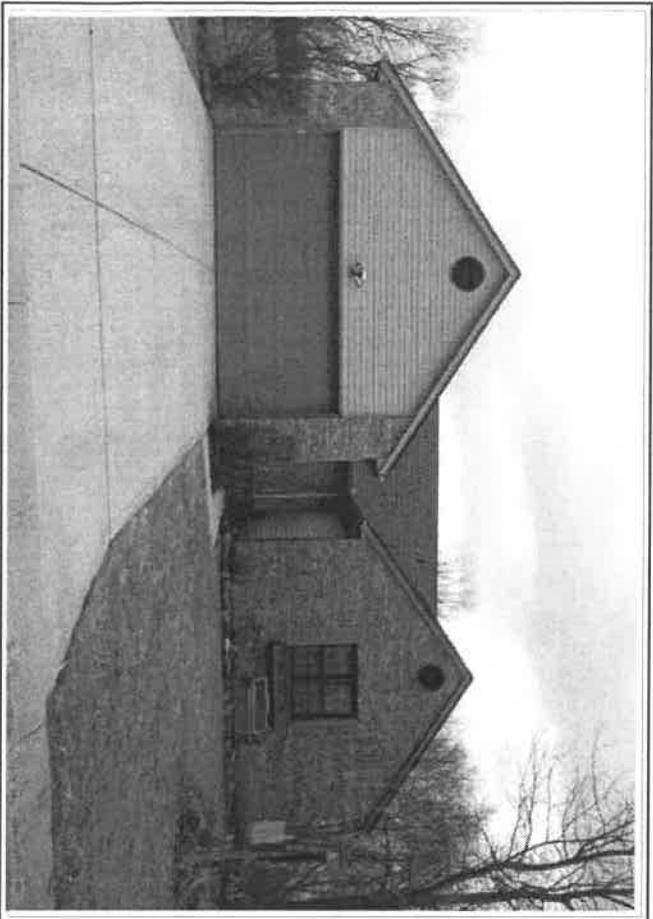
AREA CALCULATIONS SUMMARY		
Code	Description	Size
GLA1	First Floor	940.00
GLA2	Second Floor	1009.00
BSMT	Basement	934.00
GAR	Garage	506.00
<b>Totals</b>		<b>940.00</b>
<b>TOTAL LIVABLE</b>		<b>(rounded) 1949</b>

LIVING AREA BREAKDOWN		
Breakdown		Subtotals
<b>First Floor</b>		
3.0 x	11.0	33.00
6.0 x	39.0	234.00
5.0 x	23.0	115.00
13.0 x	38.0	494.00
4.0 x	16.0	64.00
<b>Second Floor</b>		
3.0 x	11.0	33.00
24.0 x	38.0	912.00
4.0 x	16.0	64.00
<b>8 Areas Total (rounded)</b>		<b>1949</b>

COMPARABLE PROPERTY PHOTO ADDENDUM

Borrower: PJ & Christopher Smith  
Property Address: 124 Shawnee Loop N  
City: Pataskala  
Lender: Huntington Bank

File No.: 3-2-30  
Case No.: 1014246-3  
State: OH  
Zip: 43062



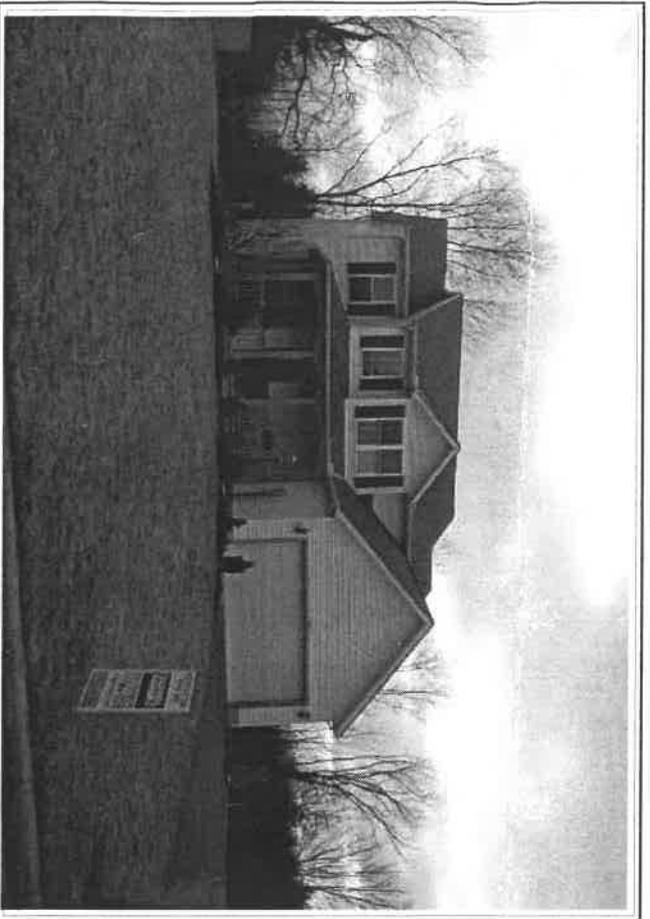
COMPARABLE SALE #4

210 S Fork Circle  
Pataskala, OH 43062  
Sale Date: 10/04/2012  
Sale Price: \$ 164,500



COMPARABLE SALE #5

227 Bluff Ridge Drive  
Pataskala, OH 43062  
Sale Date: Contingent Sale  
Sale Price: \$ 189,900



COMPARABLE SALE #6

97 Epermay Drive  
Pataskala, OH 43062  
Sale Date: Active  
Sale Price: \$ 199,900

7634AE02-CM

**GENERAL WARRANTY DEED**  
**(By a Corporation)**  
**(Ohio Revised Code 5302.05 and 5302.06)**

Jefferson Builders, Inc., a corporation organized and existing under the laws of the State of Ohio, (Grantor), for valuable consideration paid, grants with General Warranty Covenants, to Patricia J. Stillions and Christopher M. Smith (Grantee), whose tax mailing address is Wells Fargo Home Mortgage, Inc., P.O. Box 10304, Des Moines, IA 50306-0304

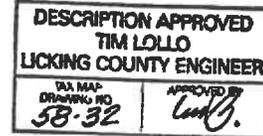
, the following REAL PROPERTY:

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

Being Lot Number One Hundred (100), of BRIGHT WATERS PHASE VI, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 15, page 30, Recorder's Office, Licking County, Ohio.

Parcel No.: 64-068808-00-122

Street Address: 124 N. Shawnee Loop Pataskala, OH 43062



Subject to taxes and assessments after date hereof, all legal highways, conditions, covenants, restrictions and easements of record, if any.

Prior Instrument of Reference: Instrument No. 200212110047428, Recorder's Office, Licking County, Ohio.

Grantor has caused its corporate name to be subscribed hereto by Tammie R. Campbell, its Closing Representative being duly authorized by resolution of its board of directors, this 11th day of March, 2004.

Date TRANSFERRED  
MARCH 18, 2004  
[Signature]  
Licking County Auditor TH

GRANTOR:

Jefferson Builders, Inc.

SEC.319.202 COMPLIED WITH  
J. TERRY EVANS, AUDITOR  
BY TH 379.80

BY: [Signature] Cl. Rep.  
Tammie R. Campbell, its Closing Representative

State of Ohio, County of Franklin, SS:

Be it remembered that on this 15th day of March, 2004, before me, a Notary Public in and for said County and State personally appeared Jefferson Builders, Inc. by Tammie R. Campbell its Closing Representative, the Grantor(s) in the foregoing deed whose identity was either known to me or proven to me by satisfactory evidence and who has/have signed the foregoing instrument and acknowledged the same as his/her/their voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal on the day and year aforesaid.

Kathie M. Edwards  
NOTARY PUBLIC

THIS INSTRUMENT WAS PREPARED BY:  
Paul V. Pavlic, Attorney at Law



KATHERINE M. EDWARDS  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
September 23, 2007



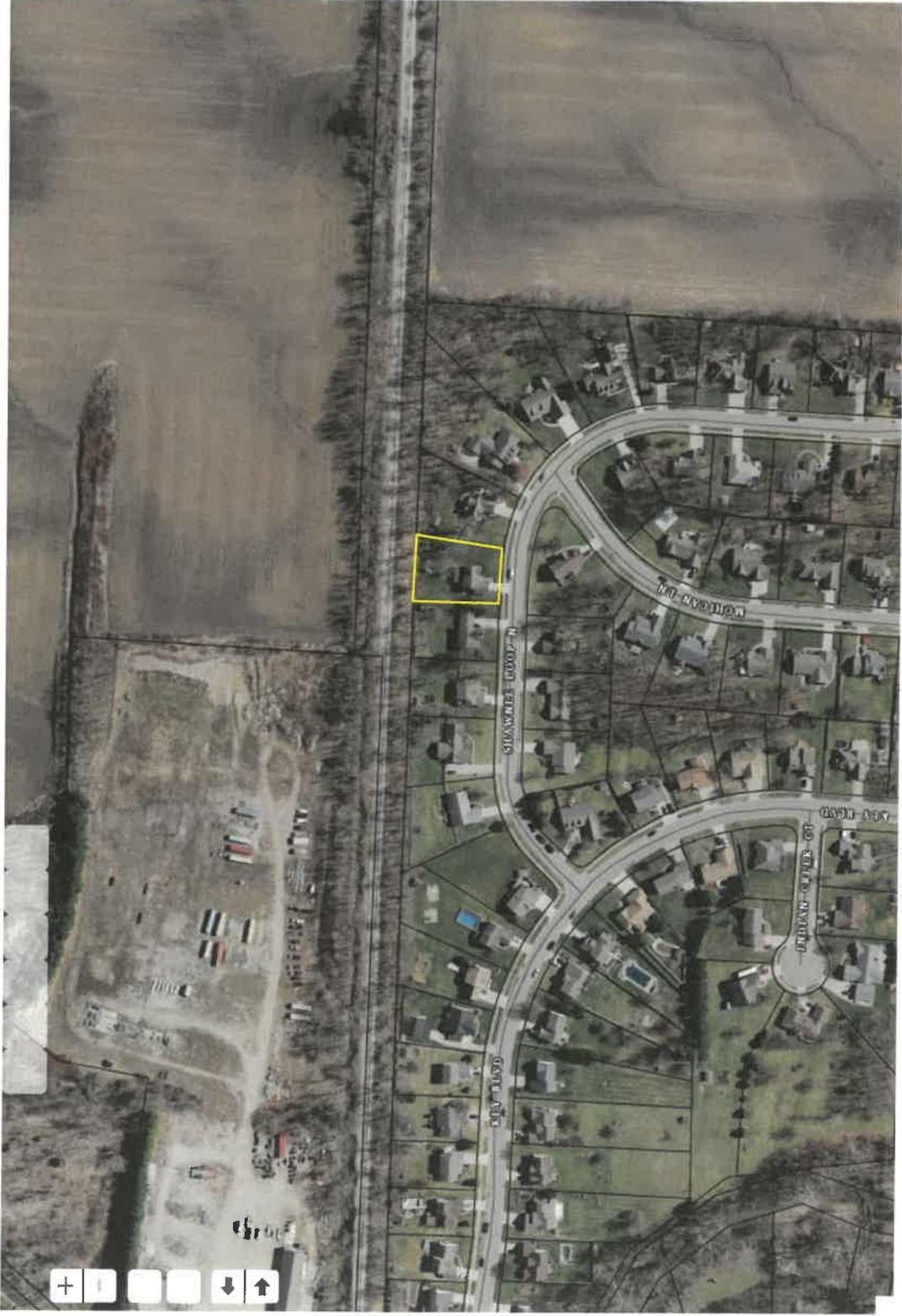
RECORDED EAST  
154 STATE RIDGE BLVD.  
COLUMBUS, OH 43260

Taxes Due February 20th

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

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

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



Search by:  
Address  
Search for:  
Trouble Searching?



064-068808-00-123  
STILLIONS PATRICIA J &  
SMITH CHRISTOPHER M  
124 SHAWNEE LOOP N  
PATASKALA, OH 43062

Acres: 0.36  
LOT: 100 BRIGHT WATERS  
SUB PH VI

Land: \$52,000  
Improv: \$161,100  
Total: \$213,100

Sale Date: 03/18/2004  
Amount: \$189,900  
Conveyance: 00944  
Valid Sale: No

Homestead: No  
Owner Occ: Yes

Foreclosure: No  
Certified Delq: No  
On Contract: No  
Bankruptcy: No  
Tax Lien: No

For questions or suggestions regarding OnTrac, contact the Licking County Auditor's Office by clicking here. By accessing or using this web site, you agree to be bound by these Terms and Conditions.  
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