



CITY OF PATASKALA BOARD OF ZONING APPEALS

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

STAFF REPORT

June 3, 2020

Variance Application VA-20-006

Applicant:	Rebecca Hannah
Owner:	Rebecca Hannah
Location:	93 Harrison St SW Pataskala, OH 43062
Acreage:	+/- 0.23 acres
Zoning:	R-20 – Medium Density Residential
Request:	Requesting approval of a variance from Section 1279.03(A)(1) of the Pataskala Code to allow for a fence exceeding 48-inches in height to be erected in front of the building setback line.

Description of the Request:

The applicant is seeking a variance to allow for a fence that exceeds the 48-inch height limit to be erected in front of the building setback line.

Staff Summary:

The 0.23-acre property at 93 Harrison St SW is currently occupied by a 2,712-square foot single-family home built in 1885. The building was at one point, a church. Also present is a 540-square foot detached garage built in 2003. The property itself has three frontages: one onto Harrison St SW to the north, an alley that runs the length of the east property line, and another alley to the south.

Section 1279.03(A)(1) of the Pataskala Code states: “A fence or wall not exceeding 48-inches in height may be erected between the building setback line and a line three (3) feet toward the building setback line from the street right-of-way line”. As the property has multiple frontages along public rights-of-way, Pursuant to Section 1211.05(C)(4), the building lines for all street frontages shall be the same required for the front yard. In the R-20 District, the front yard setback is 50-feet (1231.05(C)(1)). Applying these regulations to the property, any fence erected between a line 50-feet from the property line up and up to 3-feet off the street right-of-way line must be 48-inches (4-feet) in height.

The Applicant is requesting a variance in order to construct a 6-foot (72-inches) privacy fence along the south property line bordering the alley, and a small portion along the east property line along that alley, ending at the driveway. A notch in the corner will be left open to ensure sight visibility is maintained. The fence will also be constructed along the west property line bordering the neighboring property, however this is permitted per code, and does not require a variance.

As stated in the submitted Narrative Statement, the reason for the fence height exceeding the 48-inch maximum is to allow for the area between the south side of the garage and the alley to be used as a garden, as well as for beekeeping. Pursuant to Section 506 of the Pataskala Code, any beehive on lots less than 5-acres shall be placed within a solid fence of at least 6-feet in height and located in the rear or side yard.

The applicant also stated that the taller fence is for the protection of their 3 children and 2 large dogs, and to keep predators away from their chickens. The Applicant believes the proposed location of the fence will provide ample distance for emergency vehicles and snow plows and will not impair the visibility of drivers.

The Applicant had requested the same variance in 2019, which was approved by the Board of Zoning Appeals on April 8, 2019 (VA-19-009). It was approved with the condition that the Applicant obtain all necessary permits within one (1) year of the date of approval. However, the Applicant did not apply for or receive an approved Fence Permit within that time frame, and the variance has since expired.

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

With the proposed fence location, including the notch at the southeast corner, Staff believes that there will be no issues with sight visibility at the intersection.

Staff would also like to point out that Pursuant to Section 506, any beehive must be placed within a 6-foot (72-inches) high fence. In addition, as the lot itself is only approx. 65-feet in width, and with the required front setback of 50-feet for the R-20 district, placing a 6-foot fence anywhere on the lot except on the property line adjacent to the neighboring property to the west would be impossible and/or impractical.

Staff has not identified any other concerns with the proposal.

Public Service Department

1. If the proposed fence will be within the right-of-way at any point, a right-of-way permit will be required.
2. If it is proposed that the fence will be within the right-of-way, it must remain a minimum distance of 6 feet from the edge of pavement.

No other comments from applicable Departments or Agencies were received.

Surrounding Area:

Direction	Zoning	Land Use
North	R-20 – Medium Density Residential	Single-Family Home
East	R-20 – Medium Density Residential	Single-Family Home
South	R-20 – Medium Density Residential	Single-Family Home
West	R-20 – Medium Density 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-20-006:

- None

Department and Agency Review

- Zoning Inspector – No comments
- Public Service – No comments
- City Engineer – No comments
- Health Department – No comments
- SWLCWSD – No comments
- Police Department – No comments
- West Licking Joint Fire District – No comments
- Licking Heights 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 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 variance from Section 1279.03(A)(1) of the Pataskala Code for variance application VA-20-006 ("with the following supplementary conditions" if conditions are to be placed on the approval)."

From: [Scott Haines](#)
To: [Jack Kuntzman](#)
Cc: [Scott Fulton](#); [Alan Haines](#); [Lisa Paxton](#)
Subject: RE: Pataskala BZA Review Memo for 06-09-2020
Date: Sunday, May 31, 2020 8:14:11 PM

Jack

Hull and Associates has reviewed the agenda items for the June 9, 2020 BZA Meeting and offer the following comments:

VA-20-006

1. The applicant shall ensure the fence does not encroach into the city's Right-of-Way.

VA-20-007

1. The applicant shall ensure the sign is placed outside the City's Right-of-Way
2. The applicant shall ensure the sign does not interfere with driver's sight lines on the street. **DISREGARD**

VA-20-008

1. The applicant shall ensure the fence does not encroach into the city's Right-of-Way.

CU-20-005

1. We have no engineering related comments on this application.

Thank You

Scott R. Haines, P.E., CPESC

Senior Project Manager

HULL | Newark, Ohio

Environment / Energy / Infrastructure

d: 740-224-0839 | o: 740-344-5451 | f: 614-973-9070

Follow Hull on [Facebook](#) & [LinkedIn](#)

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

From: Jack Kuntzman <jkuntzman@ci.pataskala.oh.us>

Sent: Tuesday, May 19, 2020 12:01 PM

To: Steven Blake <sblake@ci.pataskala.oh.us>; Chris Sharrock <csharrock@ci.pataskala.oh.us>; Jim Roberts <jroberts@hullinc.com>; Scott Haines <shaines@hullinc.com>; Bruce Brooks <bbrooks@pataskalapolice.net>; Doug White <DWhite@westlickingfire.org>; Philip Wagner <pwagner@lhschools.org>; kperkins@laca.org; Chris Gilcher <cgilcher@swlcws.com>; Alan Haines <ahaines@ci.pataskala.oh.us>

Cc: Scott Fulton <sfulton@ci.pataskala.oh.us>

Subject: Pataskala BZA Review Memo for 06-09-2020



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VARIANCE APPLICATION

(Pataskala Codified Ordinances Chapter 1211)

Property Information	
Address: 93 HARRISON STREET, PATASKALA 43062	
Parcel Number: 0163-144316-00.000	
Zoning: RESIDENTIAL	Acres: .23
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	

Staff Use
Application Number: VA-20-006
Fee: \$300.00
Filing Date: 5-15-2020
Hearing Date: 6-9-2020
Receipt Number:

Applicant Information		
Name: REBECCA HANNAH		
Address: 93 HARRISON ST		
City: PATASKALA	State: OH	Zip: 43062
Phone: 614-581-0323	Email: REBECCA.HANNAH426@GMAIL.COM	

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

Owner Information		
Name: AARON & REBECCA HANNAH		
Address: 93 HARRISON ST		
City: PATASKALA	State: OH	Zip: 43062
Phone: 614-581-0323	Email: REBECCA.HANNAH426@GMAIL.COM	

Variance Information
Request (Include Section of Code): TO PLACE 6FT FENCE ALONG SOUTH, WEST & SMALL PORTION OF EAST OF PROPERTY. ESSENTIAL TO KEEP WILDLIFE OUT OF GARDEN, AWAY FROM CHILDREN & PETS.
Describe the Project: WILL ALSO BE REQUIRED FOR THE ALOTTED HONEY BEES & CHICKENS ON .23 ACRE.
WOOD STRUCTURE, SOUTHEAST CORNER CUT TO ALLOW CLEAR SITE FOR DRIVERS ON ALLEY.

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 of a site plan to scale of the subject property indicating the following:

- 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 1 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 1 copy 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:

5-11-2020

Owner:



Date:

5-11-2020



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FINDINGS OF FACT

Area Variance

Hearing Date: 04/08/2019

Application Number: VA-19-009

Findings:

Pursuant to Section 1211.07(A)(1) of the Pataskala Code, the Board of Zoning Appeals (BZA) considered the following factors when determining whether the area variance you requested should be approved, approved with supplementary conditions, or disapproved. Consistent with the BZA's discussions and deliberations during the public hearing, and as set forth in the hearing minutes, the BZA finds as follows:

Yes No

- 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;*
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- 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.*

Decision:

Having considered all the evidence and testimony presented at the public hearing, the Board of Zoning Appeals:

- Disapproves your request
- Approves your request
- Approves your request with the following supplementary conditions:
 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.
 2. All items indicated by the Public Service Director in the Staff Report shall be addressed.

For purposes of further appeal by any party aggrieved by this Decision, the decision of the Board of Zoning Appeals shall be deemed final upon transmission by the Zoning Clerk by ordinary mail service.

DESCRIPTION APPROVED
JARED N. KNERR
LICKING COUNTY ENGINEER

Approved By JW Jul 17, 2018

01150554003016016000

TRANSFERRED

Jul 17, 2018

Michael L. Smith

LICKING COUNTY AUDITOR
SEC 319.902 COMPLIED WITH
MICHAEL L. SMITH

By: KAE 288.00

InstrID:201807170014499	7/17/2018
Pages:2	F: \$28.00 3:02 PM
Bryan A. Long	T20180010120
Licking County Recorder	

(space above this line reserved for county engineer, county auditor and county recorder)

GENERAL WARRANTY DEED

RALPH C. SWARTZ and NANCY A. SWARTZ, HUSBAND AND WIFE ("Grantors"), of Licking County, for valuable consideration paid, grant, with general warranty covenants, to **AARON W. HANNAH and REBECCA A. HANNAH** ("Grantees"), for their joint lives, remainder to the survivor of them, whose tax mailing address is C/O USAA FEDERAL SAVINGS BANK 10750 MCDERMOTT FREEWAY, SAN ANTONIO, TX 78288, the following real property:

Situated in the State of Ohio, County of Licking and in the former Township of Lima, now by merger, City of Pataskala:

Being Lot Number Forty-Six (46) in William W. McMillen's Addition to the Village of Summit Station, Ohio, as the same is numbered and delineated on the recorded plat of said Addition as laid out by said William W. McMillen in December, 1889, in Plat Book 3, Page 16, Recorder's Office, Licking County, Ohio.

Prior Instrument Reference: Document NO. 200301290004377
Parcel No.: 063-144336-00.000
Property Address: 93 Harrison Street, Pataskala, OH 43062

Exceptions to the general warranty covenants: (a) such encroachments and recorded restrictions, easements and conditions, including without limitations subsurface rights, which do not materially adversely affect the Property's user or value; (b) zoning ordinances, if any; (c) taxes and assessments, whether general or special, which are a lien on the Property but are not yet payable; (d) all coal, oil, gas, and other mineral rights and interests previously transferred or reserved of record.

MAIL TO: LANDESL TITLE
961 N. HAMILTON RD., #100
GAHANNA, OH 43230

64-34931

Executed this 9th day of July, 2018

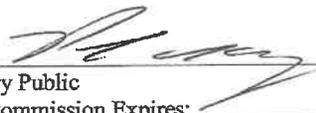

_____(SEAL)
RALPH C. SWARTZ


_____(SEAL)
NANCY A. SWARTZ

STATE OF OHIO }
COUNTY OF LICKING } ss

BE IT REMEMBERED, That on this 9th day of July, 2018, before me, a Notary Public in and for said County and State, personally came RALPH C. SWARTZ and NANCY A. SWARTZ, HUSBAND AND WIFE, the Grantors in the foregoing deed, who acknowledged the signing of the same to be their voluntary act and deed.

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



Notary Public
My Commission Expires: _____

This instrument prepared by:
The Wietelmann Law Firm, LLC
c/o LandSeI Title Agency, Inc.
961 N. Hamilton Road, Suite 100
Gahanna, Ohio 43230
Phone: 614-266-8165

File No. GH-34931



PAUL S. WITTENBERG
Notary Public
In and for the State of Ohio
My Commission Expires
June 20, 2021

OnTrac Property Map



May 11, 2020

- Street Number Only
- Centerline Labels



- Sales - 2020
- Owner Name & Acres
- Interstate/US/State Route
- County Road



- Other Road Type
- Driveway
- Interstates
- Municipal Corporations
- Jurisdictional Townships

Licking County Auditor GIS

LICKING COUNTY TAX MAP

— = 6 FOOT FENCE
 # = GATE