



## CITY OF PATASKALA BOARD OF ZONING APPEALS

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

### STAFF REPORT

August 11, 2020

#### Variance Application VA-20-012

<b>Applicant:</b>	Ronald Rhoads
<b>Owner:</b>	Ronald and Eva Rhoads
<b>Location:</b>	90 Railroad Street SW, Pataskala, OH 43062
<b>Acreage:</b>	0.20-acres
<b>Zoning:</b>	R-20 – Medium Density Residential
<b>Request:</b>	Requesting approval of a variance from Section 1231.05(C)(1) to build a deck that will fail to meet the required front yard setback of 50-feet.

#### Description of the Request:

The Applicant is seeking approval of a 47-foot variance from Section 1231.05(C)(1) of the Pataskala Code in order to construct a deck that will fail to meet the required 50-foot front yard setback of the R-20 zoning district.

#### Staff Summary:

Currently, the property at 90 Railroad Street is occupied by a 1,429-square foot single-family home built in 1998 and a 96-square foot shed. The property is adjacent to two (2) Public Right-of-ways: Railroad Street to the east and 2<sup>nd</sup> Avenue to the South. Access to the home is via a concrete drive with access onto both Right-of-ways. The lot itself is a Nonconforming Lot of Record, being that it does not meet the minimum requirements for lot area or lot width for the zoning district in which it is located. Those being: a lot width of 100-feet throughout and a minimum lot area of not less than 20,000-square feet (0.46-acres). Currently, the lot is only 50-feet wide and has an area of 8,712-square feet.

In addition to this, the existing structure is also nonconforming. The minimum setbacks of the R-20 zoning district are: 50-feet from a front property line, 20-feet from a side property line, and 25-feet from a rear property line. Also, as the property is a corner lot and adjacent to two (2) Public Right-of-ways, the structure shall have the same minimum setback distances from all street right-of-way lines as required for the front yard. Currently, the structure is only 14-feet from the front property line on 2<sup>nd</sup> Avenue, 34.5-feet from the front property line on Railroad Street, and 6.5-feet from the north side property line. The rear yard setback from the west property line is in compliance at 75-feet.

The Applicant is proposing to construct a 11' x 14'. Or 154-square foot, deck on the south side of the existing home, 20" above the ground, with a 36" tall railing. There will be steps on the east and west sides of the deck. The deck will be set back from the front property line on 2<sup>nd</sup> Avenue a total of three (3) feet. It will be in the middle of the south face of the structure, 24 feet from the west face of the home and 22 feet from the east.

The Applicant stated that they do not believe the requested variance will not be detrimental to the character of the neighborhood, will not be detrimental to the public welfare, will not adversely affect the delivery of government services, and that their predicament could not be obviated through some other method other than a variance.

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

Planning and Zoning Staff

Pursuant to Section 1221.07(b)(1)(i) of the Pataskala Code, decks and patios in residential zoning districts shall meet the front yard setbacks. As mentioned in the Staff Review, the front yard setback of the R-20 zoning district is 50-feet. As the current structure is existing nonconforming at only 14-feet from 2<sup>nd</sup> Avenue, and further expansion to the south would require a variance. The Applicant is proposing a deck that will extend 11-feet from the south face of the existing structure, leaving only a three (3) foot setback between the deck and the front property line on 2<sup>nd</sup> Avenue. Therefore; the Applicant is requesting a variance of 47-feet from the required 50-feet, or a 94% reduction.

The east front yard setback on Railroad Street is also existing nonconforming, at only 34.5-feet, however, with the deck being inset from the east face of the house a proposed 22-feet, the total setback of the deck from the front property line on Railroad Street will be 54.5-feet, which is compliant.

Although the deck will only be three (3) feet from the front property line on 2<sup>nd</sup> Avenue, the property line is only where the City's Right-of-Way begins. Currently the existing house sits approximately 37.5-feet from the edge of 2<sup>nd</sup> Avenue, and with an 11' x 14' deck, the deck will be 27.5-feet from the edge of the road.

Staff has not identified any other concerns with the proposal.

Other Departments or Agencies

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-20-009:

- 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
- 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 a variance from Section 1231.05(C)(1) of the Pataskala Code for variance application VA-20-012 ("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)

<b>Property Information</b>		
Address: 90 Railroad St SW		
Parcel Number: 063-15046-00.000		
Zoning: R-20	Acres: 0.2000	
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

<b>Applicant Information</b>		
Name: Ronald W & Eva J Rhoads		
Address: 90 Railroad St SW		
City: Pataskala	State: OH	Zip: 43062
Phone: 614 214 9487	Email: rcrhoads1@yahoo.com	

<b>Property Owner Information</b>		
Name: Ronald & Eva Rhoads		
Address: 90 Railroad St SW		
City: Pataskala	State: OH	Zip: 43062
Phone: 614 214 9487	Email: rcrhoads1@yahoo.com	

<b>Staff Use</b>
Application Number: VA-20-12
Fee: 300
Filing Date: 6-25-20
Hearing Date: 8-11-20
Receipt Number: 21342

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

<b>Variance Information</b>
Request (Include Section of Code): 1231.05 (C1) Build a deck
Describe the Project: 14'x11' deck on South Side of house 20" from ground with 36" high railing. Steps on East and West Side of deck. 1" plywood for deck flooring.

## 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 *build Patio Deck*
- 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; *Yes*
  - 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; *No*
  - c) Whether the variance requested is substantial; *Yes*
  - 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; *No*
  - e) Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property; *No*
  - f) Whether the variance, if granted, will be detrimental to the public welfare; *No*
  - g) Whether the variance, if granted, would adversely affect the delivery of governmental services; *No*
  - h) Whether the property owner purchased the subject property with knowledge of the zoning restriction; *No*
  - i) Whether the property owner's predicament can be obviated through some other method than variance; *No*
  - 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, *Yes*
  - k) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. *Yes*
- 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:

*Ronald W. Phelan*

*6-25-2020*

Property Owner (Required):

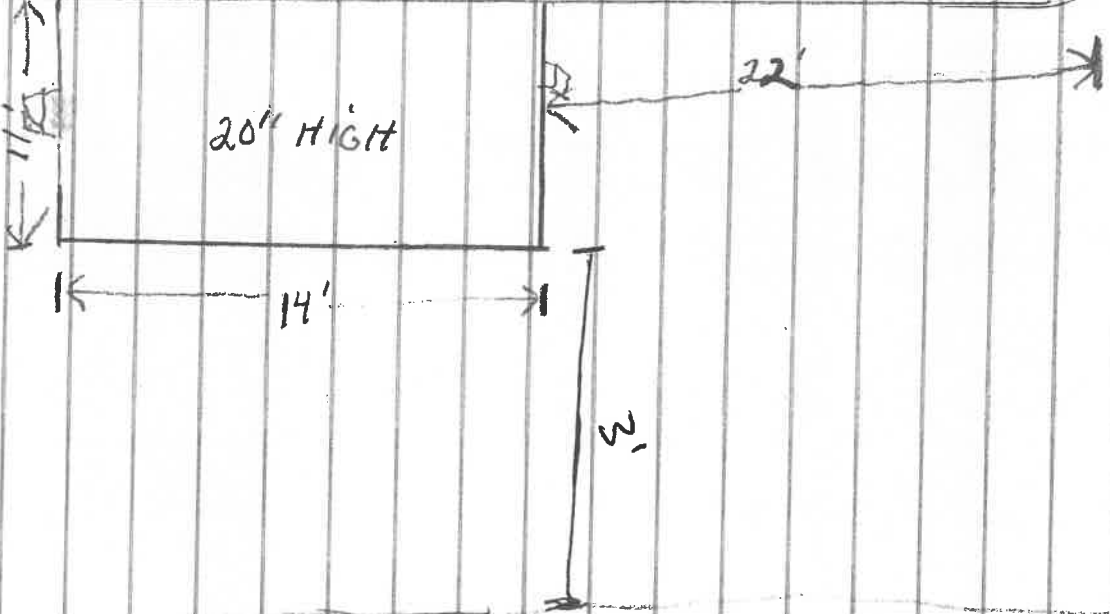
Date:

*Ronald W. Phelan*

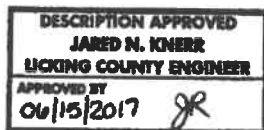
*6-25-2020*



Rail Road St



SECOND ST



201706150012545  
Pg: 2 \$28.00 T20170014365  
06/15/2017 10:56AM NEPAPEX TITLE  
Bryan A. Long  
Licking County Recorder

**GENERAL WARRANTY DEED  
\*SURVIVORSHIP\***

Know All Men by These Presents:

Thomas C. Emelgh, unmarried, (the "Grantor(s)), in consideration of Ten Dollars (\$10.00) or other good and valuable consideration to him in hand paid by Ronald W. Rhoads and Eva J. Rhoads, Husband and Wife (the "Grantee(s)), whose tax mailing address is 90 Railroad Street, Pataskala, Ohio 43062, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey, with General Warranty Covenants, to the said Grantee(s), as joint tenants with rights of survivorship, their heirs, successors, and assigns forever, the following described Real Estate:

**PLEASE SEE THE ATTACHED EXHIBIT "A"**

Subject to taxes and assessments which are now or may hereafter become liens on said premises and except conditions, restrictions and easements, if any, contained in former deeds of record for said premises, subject to all of which this conveyance is made.

Prior Instrument Reference: 200110030035597 of the Licking County County Records.

and all the Estate, Right, Title and Interest of the said Grantor(s), either in law or equity, in and to said premises; To Have and to hold the same, with all the privileges and appurtenances thereunto belonging, to said Grantee(s), their heirs, successors, and assigns forever.

In Witness Whereof, the said Grantor(s) have hereunto set his hand(s), this June 2, 2017

Thomas C. Emelgh

State of Ohio, County of Franklin, ss.

On this June 2, 2017, before me, a Notary Public, in and for said county, personally came, Thomas C. Emelgh, the Grantor(s) in the foregoing deed, and acknowledged the signing thereof to be his voluntary act and deed.



SCOTT H. BRILEY

NOTARY PUBLIC  
STATE OF OHIO

RECORDED IN  
FRANKLIN COUNTY

My Commission Expires  
August 11, 2019

Notary Public, My Commission Expires :11, August, 2019

Prepared by: E. Simon, Esq., Apex Title Agency, Ltd., 6500 Busch Blvd., Ste. 250, Columbus, OH 43229



## ***Exhibit A***

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

Being Lot Number Nineteen (19) in said Town of Columbia Center as the same is numbered and delineated upon the recorded plat of said town in the Recorder's Office, Licking County, Ohio.

Property Address: 90 Railroad Street, Pataskala, OH 43062  
Parcel Number: 083-~~150248~~-00.000  
150426

File #: 170098



