



## CITY OF PATASKALA BOARD OF ZONING APPEALS

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

### STAFF REPORT

October 13, 2020

#### Variance Application VA-20-016

<b>Applicant:</b>	Scott Mueller
<b>Owner:</b>	Scott Mueller
<b>Location:</b>	28-34 Klema Drive, Pataskala, OH 43062
<b>Acreage:</b>	2.27-acres
<b>Zoning:</b>	M-1 – Light
<b>Request:</b>	Requesting a variance from Section 1251.05(C)(1) of the Pataskala Code to permit an existing structure to encroach into the required 50-foot front yard setback of the M-1 District by 1’2”

#### Description of the Request:

The Applicant is requesting approval of a variance of 1’2” (14-inches) from Section 1251.04(C)(1) of the Pataskala Code to bring an existing commercial structure into compliance.

#### Staff Summary:

The 2.27-acre property located at the northeast corner of Klema Drive W and Cypress Street SW is currently occupied by two (2) commercial structures. The 12,022-square foot western building was built in 2006 and has four (4) units. The 10,944-square foot eastern building has three (3) units, and was built later, in 2018. Vehicle parking is available on the outermost faces of the buildings, and along the north of the asphalt paved area. Access to the property is via two (2) access drives; one (1) on Klema Drive W, and one (1) on Cypress Street SW.

The original building was approved to be built with a front yard setback from Cypress Street SW of 50-feet. According to the narrative statement submitted by the Applicant, an as-built survey was never done after this. Subsequently, the previous property owner sold the property to the Applicant in 2010. In 2018 the Applicant constructed a second building on the property, and their bank required them to perform an as-built survey. This survey showed that the original building was constructed approximately 14-inches into the required 50-foot front yard setback of the M-1 – Light Manufacturing District.

The Applicant stated in their Narrative that the purpose of this variance is to comply with the bank’s requirement that all buildings on the property be code compliant. They also feel this is not a substantial request, and that it would not be detrimental to the surrounding properties or general welfare of the public as the building has existed in its current form for 15 years without issue.

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

Planning and Zoning Staff

Pursuant to Section 1251.05(C)(1) of the Pataskala Code, the required front yard setback of the M-1 – Light Manufacturing Zoning District is 50-feet. The Applicant is requesting a variance of 1’2” (14-inches) from that requirement, or a 2.4% decrease in the required setback.

There is a 50-foot Utility and Storm Drainage Easement on the south side of this property, lining up with the 50-foot required front building setback. The Southwest Licking Community Water & Sewer District has confirmed that their utilities are not within this easement and are on the opposite side of the street (See attached).

Based on the information submitted by the Applicant, Staff has no other concerns with the proposal.

Southwest Licking Coumminty Water & Sewer District

- The District does not have any comments regarding Variance Application VA-20-016. All District utilities are on the opposite side of Klema Drive.

City Engineer

- In light of the fact that the building is existing, and the case is to clean up a set-back violation for an existing structure, we do not have any engineering comments on this case.

Other Departments of Agencies

No comments were submitted.

**Surrounding Area:**

Direction	Zoning	Land Use
North	M-1 – Light Manufacturing	Industrial
East	M-1 – Light Manufacturing	Industrial
South	M-1 – Light Manufacturing	Industrial
West	M-1 – Light Manufacturing	Industrial

**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:

- Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property;*
- 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;*
- Whether the variance requested is substantial;*
- 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-20-016:

- None

#### **Department and Agency Review**

- Zoning Inspector – No comments
- Public Service – No comments
- City Engineer – See attached
- SWLCWSD – See attached
- 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. None

#### **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 1251.05(C)(1) of the Pataskala Code for variance application VA-20-016 ("with the following conditions" if conditions are to be placed on the approval)."

**From:** [Chris Gilcher](#)  
**To:** [Philip Wagner](#); [Jack Kuntzman](#); [Scott Fulton](#); [Steven Blake](#); [Jim Roberts](#); [Bruce Brooks](#); [Doug White](#); [Alan Haines](#)  
**Cc:** [LINDA AITKEN](#)  
**Subject:** RE: Pataskala BZA Review Memo for October 13, 2020  
**Date:** Wednesday, September 16, 2020 1:54:05 PM  
**Attachments:** [image001.png](#)

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Jack,

The District does not have any comments regarding Variance Application VA-20-016. All District utilities are on the opposite side of Klema Drive.

Thanks,

CJ Gilcher  
Utilities Superintendent  
8718 Gale Road  
Hebron, Ohio 43025  
Ph: 740-928-2178 Cell: 614-348-6627



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**From:** Philip Wagner <pwagner@lhschools.org>  
**Sent:** Tuesday, September 15, 2020 1:58 PM  
**To:** Jack Kuntzman <jkuntzman@ci.pataskala.oh.us>; Scott Fulton <sfulton@ci.pataskala.oh.us>; Steven Blake <sblake@ci.pataskala.oh.us>; Jim Roberts <jroberts@hullinc.com>; Bruce Brooks <bbrooks@pataskalapolice.net>; Doug White <DWhite@westlickingfire.org>; Chris Gilcher <cgilcher@swlcws.com>; Alan Haines <ahaines@ci.pataskala.oh.us>  
**Cc:** LINDA AITKEN <laitken@lhschools.org>  
**Subject:** RE: Pataskala BZA Review Memo for October 13, 2020

Jack,

#### Variance Application – VA-20-016

As I understand matter, the request is to remedy, through a variance, a change in the 50' setback by 14". If granted, it will allow him to fix a reported error (that happened in 2006 from the previous owner) and protect the value of the property located at 28 Klema Dr. W, Pataskala.

If the preceding is accurate, the district does not have any challenges with this request.

**From:** [Jim Roberts](#)  
**To:** [Jack Kuntzman](#); [Scott Fulton](#); [Steven Blake](#); [Bruce Brooks](#); [Doug White](#); [Philip Wagner](#); [Chris Gilcher](#); [Alan Haines](#)  
**Cc:** [Scott Haines](#)  
**Subject:** RE: Pataskala BZA Review Memo for October 13, 2020  
**Date:** Wednesday, September 16, 2020 6:32:35 PM

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Jack, per your request, Hull & Associates, LLC has reviewed the one Application included of this agenda. In light of the fact that the building is existing and the case is to clean up a set-back violation for an existing structure, we do not have any engineering comments on this case.

Please let us know if you have any questions or we can help in any other way.

Thanks. Jim

**James G. Roberts, P.E.**

Vice President  
Newark Office Manager

**HULL | Newark, Ohio**

Environment / Energy / Infrastructure

o: 740-344-5451 | d: 740-224-0739

Follow Hull on [Facebook](#) & [LinkedIn](#)  
[web](#) | [directions to offices](#)

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**From:** Jack Kuntzman <jkuntzman@ci.pataskala.oh.us>  
**Sent:** Tuesday, September 15, 2020 9:55 AM  
**To:** Scott Fulton <sfulton@ci.pataskala.oh.us>; Steven Blake <sblake@ci.pataskala.oh.us>; Jim Roberts <jroberts@hullinc.com>; Bruce Brooks <bbrooks@pataskalapolice.net>; Doug White <DWhite@westlickingfire.org>; Philip Wagner <pwagner@lhschools.org>; Chris Gilcher <cgilcher@swlcws.com>; Alan Haines <ahaines@ci.pataskala.oh.us>  
**Subject:** Pataskala BZA Review Memo for October 13, 2020  
**Importance:** High

Good Morning Everyone,

You are receiving this email because one or more of the Applications submitted for the October 13, 2020 Board of Zoning Appeals is within your jurisdiction. Please see the list below for which Applications are being submitted for your review.

**VA-20-015:** Steven Blake, Jim Roberts, Bruce Brooks, Doug White, Philip Wagner, CJ Gilcher, Alan Haines

Please review the applications, and if you have any comments or concerns regarding them have them submitted to me by at least September 25<sup>th</sup>. They will be included in the Staff Report that is given to the Board members.



# 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: 28-34 KLEMA DR WEST PATASKALA		
Parcel Number: 063-140430-00.014		
Zoning: M-1	Acres: 2	
Water Supply:		
<input type="checkbox"/> City of Pataskala	<input checked="" type="checkbox"/> South West Licking	<input checked="" 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>Staff Use</b>
Application Number: VA-20-016
Fee: 300
Filing Date: 9-9-20
Hearing Date: 10-13-2020
Receipt Number: 21494

<b>Applicant Information</b>		
Name: SCOTT MUELLER 88 CYPRESS LLC.		
Address: 141 GLADE SPRINGS DR		
City: BLACKLICK	State: OHIO	Zip: 43004
Phone: 614-561-5788	Email: skyhound50@gmail.com	

<b>Documents</b>
<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

<b>Property Owner Information</b>		
Name:		
Address: SAME AS ABOVE		
City:	State:	Zip:
Phone:	Email:	

<b>Variance Information</b>
Request (Include Section of Code): 1251.05(C)(1)
Describe the Project: I PURCHASED THIS PROPERTY 2010 NOT AWARE OF ENCRUACHMENT INTO THE EASEMENT by 1.2 FEET. THROUGH SUGGESTED VARIANCE I AM ATTEMPTING TO SOLVE THIS ISSUE PLEASE SEE A-K ON FOLLOWING PAGE

## 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):

*Scott Mueller*

*Scott Mueller*

Date:

*9/9/2020*

Property Owner (Required):

*Scott Mueller*

*Scott Mueller*

Date:

*9/9/2020*

Property address requiring variance:  
28 Klema Dr West  
Pataskala

Owner:  
Scott Mueller  
141 Glade Springs Dr  
Blacklick Ohio 43004

Request to remedy through a variance a change in the 50' setback by 14 inches  
Variance Code: Section 1251.05(C)(1) "There shall be a front yard of not less than 50 feet in depth.

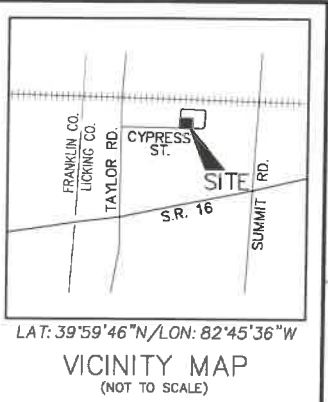
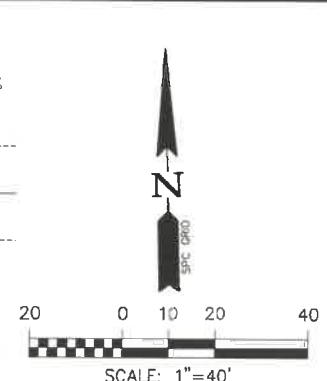
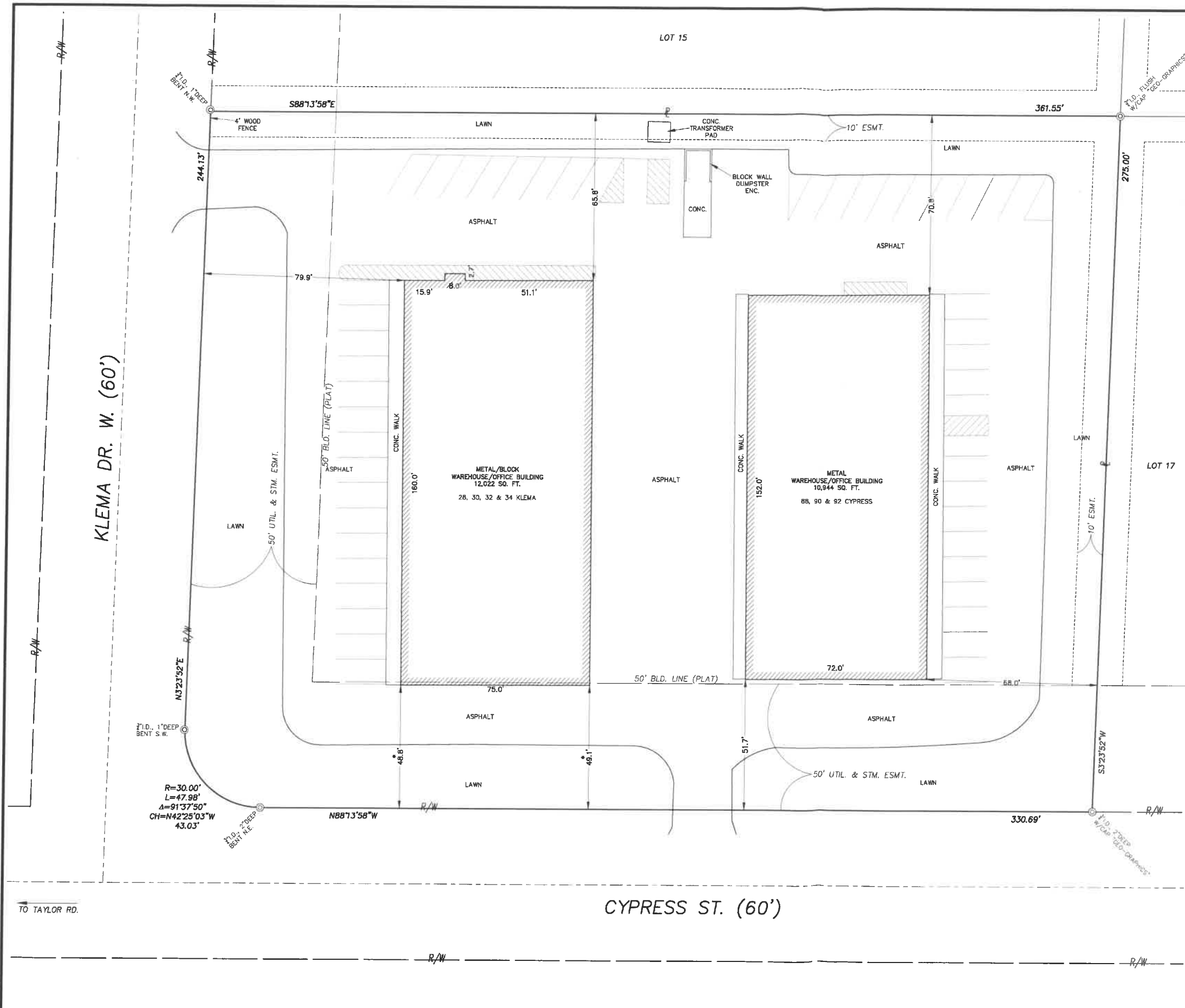
The reason for a variance is due to the original builder in 2005/6 having built the first warehouse encroaching into the building setback building it approximately 1 foot into the setback/easement of a requirement of 50'.

When we purchased the property in September of 2010 this encroachment was never realized, as there was no as built survey showing the error. In 2018 we built a second building on this property and were recently required by the bank to have an as built survey completed. It was at this time we were told that the original first building built in 2006 was built slightly into the set back of 50'.

The reason for this variance is to comply with setback requirements for the first building erected in 2006 which is encroaching into the easement/setback

- A. This variance will allow us to have complied with all code requirements for the buildings on this property. It will also satisfy the banks requirement.
- B. The building was erected 15 years ago by the original owner which was built out of setback compliance.
- C. I feel this is a non-substantial request to remedy since there is nothing but 23' of asphalt driveway alongside the building that the city had originally approved on the blueprints I was given when we purchased the property.
- D. This variance would change nothing in the neighborhood along Cypress Street SW.
- E. I do not see any way that this variance will hinder, or impair the intended use of the 50' setback or easement or any other property in the area.
- F. This variance will have no impact whatsoever to public welfare.
- G. With asphalt driveway access to all sides of the buildings there is plenty of access for all types of vehicle's including fire trucks and tractor- trailer vehicles.
- H. We had no idea that the property was encroaching into the setback or easement when purchasing this building.
- I. I cannot think of any simpler solution for this error other than a variance.
- J. A 14" variance will be more than adequate across the south end of the building that is encroaching into the 50' setback/easement.
- K. By granting this variance the city will allow us to fix a wrong and protect the value of our property investment. Justice will be done. Thank you!





- LEGEND**
- ⊙ IRON PIPE FOUND
  - R/W ROAD RIGHT-OF-WAY
  - P PROPERTY LINE
  - X FENCE

**OWNERS**  
SCOTT S. & DONNA D. MUELLER  
INS. 201009240018929  
LOT 18  
TAX PAR. 063-140430-00.014  
2.277 AC.

**LEGAL DESCRIPTION**

SITUATED IN THE CITY OF PATASKALA, COUNTY OF LICKING, STATE OF OHIO, AND IS DESCRIBED AS FOLLOWS:

BEING LOT NUMBER EIGHTEEN (18) OF TAYLOR ROAD COMMERCIAL PARK SECTION 2, AS THE SAME ARE NUMBERED AND DELINEATED UPON THE RECORDED PLAT THEREOF, OF RECORD IN PLAT BOOK 14, PAGES 128-129, RECORDER'S OFFICE, LICKING COUNTY, OHIO.

FOR INFORMATIONAL PUPOSES ONLY:  
PROPERTY ADDRESS: 34 KLEMA DRIVE REYNOLDSBURG, OHIO 43068  
PARCEL NO.: 063-140430-00.014

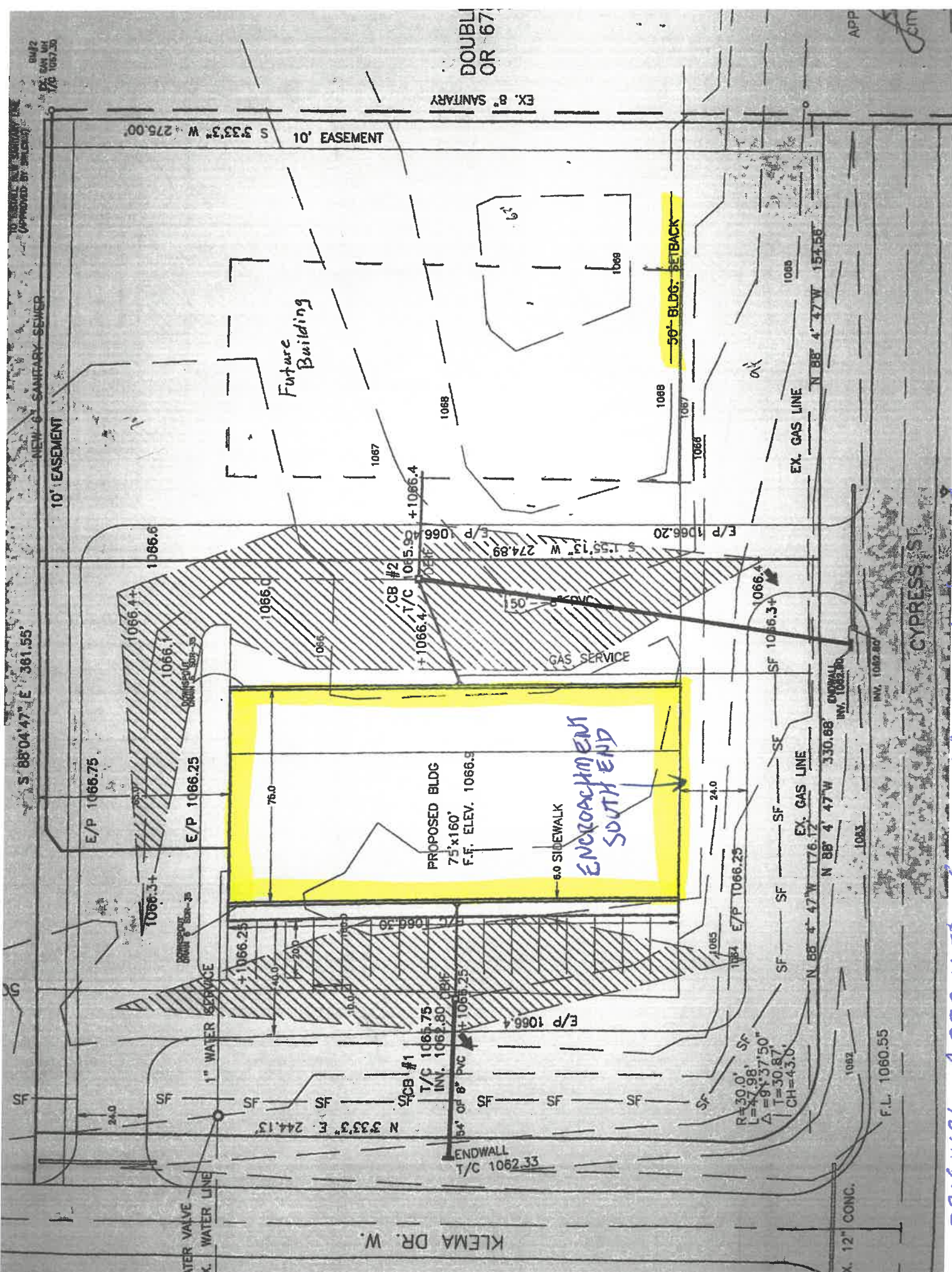
**APPARENT ENCROACHMENTS**

\* SOUTH END OF WESTERLY BUILDING OVER 50' BUILDING SETBACK LINE.

- SURVEY NOTES**
- 1) SURVEY BEARING SYSTEM REFERENCED TO STATE PLANE GRID, OHIO SOUTH ZONE, PER A VRS, GPS SURVEY.
  - 2) LOT NUMBERS HEREON ARE REFERENCED TO THE PLAT "TAYLOR ROAD COMMERCIAL PARK SECTION 2" OF RECORD IN P.B. 14, PG. 128.
  - 3) SURVEYOR WAS NOT PROVIDED A TITLE COMMITMENT AS PART OF THIS SURVEY. OTHER EASEMENTS MAY EXIST ON THE PROPERTY WHICH ARE NOT SHOWN.
  - 4) SUBJECT PROPERTY IS ZONED "M-1"
  - 5) SUBJECT PROPERTY IS IN FLOOD ZONE "X" (AREAS OF MINIMAL FLOOD HAZARD), PER F.E.M.A. FIRM No. 39089C0407H, DATED 5/02/07.

<b>REVISIONS</b>	
9/07/20	ADD. DIMENSIONS, NOTES
SCALE: 1"=40'	
WLS JOB No.: 20-272	DATE OF SURVEY: 8/31/20
CLIENT: MR. SCOTT MUELLER	CLIENT P.O.: N/A
F.B./Pg.: 31/55	
This plat is based on the results of an actual field survey performed on the property under my supervision in August, 2020.	
BY: <i>Michael P. Lomano</i> OHIO PROFESSIONAL SURVEYOR No. 7711	
<b>WESTERVILLE LAND SURVEYING, LLC</b> 125 E. HOME ST. "A" WESTERVILLE, OH 43081 (614) 899-2209	
<b>BOUNDARY SURVEY</b> <b>LOT 18 ~ TAYLOR ROAD</b> <b>COMMERCIAL PARK SEC. 2</b>	
SHEET <b>1 / 1</b>	

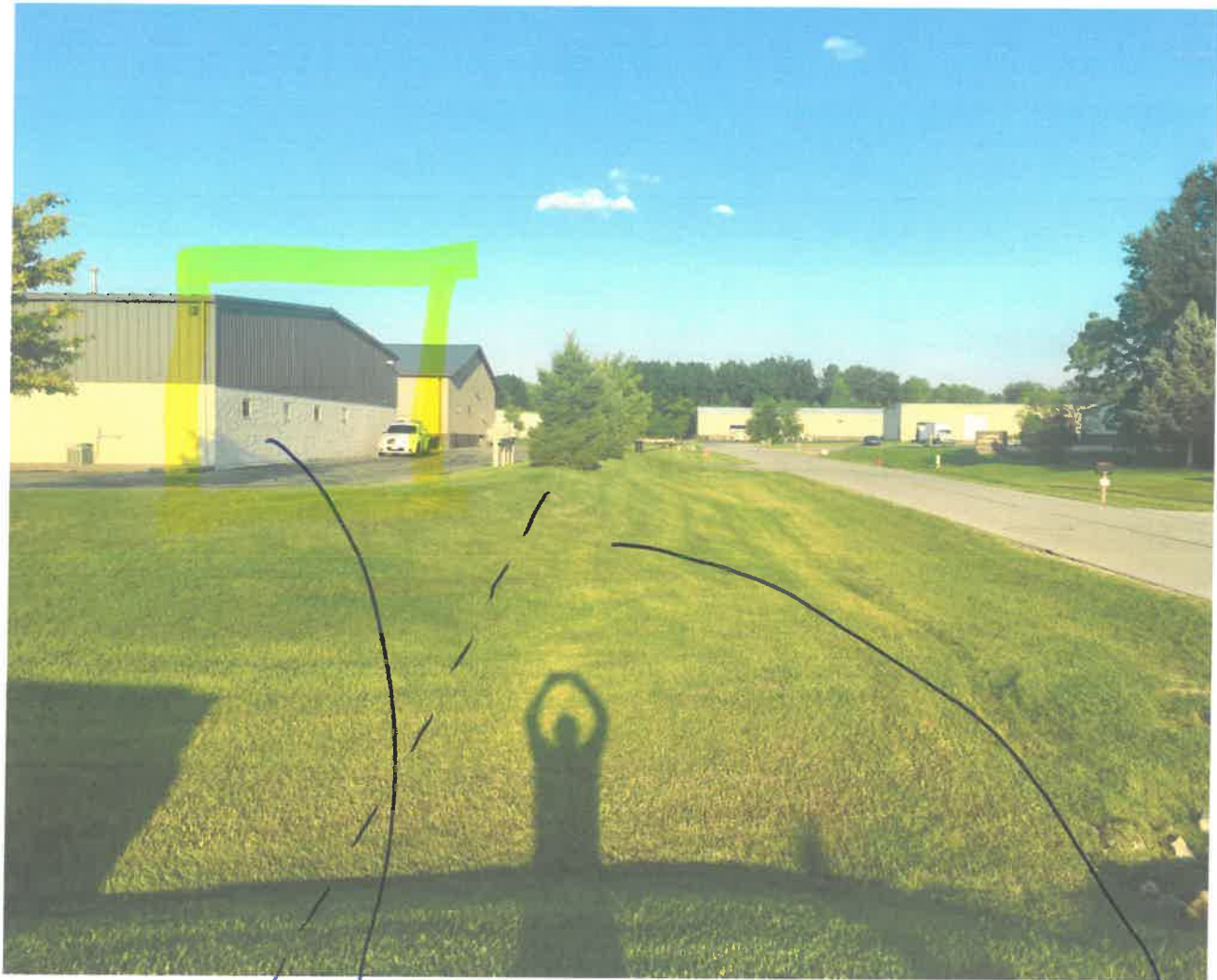




ORIGINAL APPROVED (STAMPED) DRAWINGS FOR 2006 BUILDING



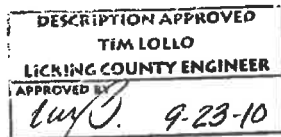
From: **Scott Mueller** skyhound50@gmail.com  
Subject:  
Date: **September 9, 2020 at 8:50 AM**  
To: **Scooter Miller** skyhound50@gmail.com



Sent from my iPhone

SOUTH SIDE OF ORIGINAL  
BUILDING

ALL UTILITIES BETWEEN  
STREET AND DASHEL  
LINE ABOVE



201009240018929  
Pg. 3 \$35.00 T20100018923  
09/24/2010 2:41PM BXTALON BOX  
Bryan A. Long  
Licking County Recorder



01150553914128005000

SEC.319.202 COMPLIED WITH  
J. TERRY EVANS, AUDITOR  
BY \$ 1000.00

TRANSFERRED  
Date September 24 2010  
J. Terry Evans  
Licking County Auditor

Order Number: 1690992

**Talon Title - W**

## GENERAL WARRANTY DEED

**Cypress Street, Ltd.**, an Ohio Limited Liability Company, for valuable consideration paid, grants, with general warranty covenants to **Scott S. Mueller and Donna D. Mueller, Husband and Wife**,

whose tax mailing address is 141 GLADE SPRINGS DR BLACKLICK OH. 43004  
~~1305 Jackson Hole Drive, Blacklick, OH 43004~~

the following real property:

"See Exhibit "A" attached hereto and made a part hereof...."

Parcel Number: 063-140430-00.014

Property Address: 34 Klema Drive, Reynoldsburg, Ohio 43068

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

Prior Instrument Reference: Instrument No. 200204180014786, Recorder's Office, Licking County, Ohio.

Witness its hand this 21<sup>st</sup> day of September, 2010.

Cypress Street, Ltd, an Ohio Limited Liability  
Company

BY: 

Gary C. Beckmann

Its: Member

BY: 

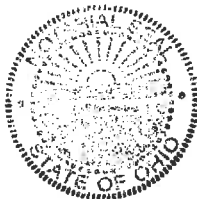
Mark V. Schillig

Its: Member

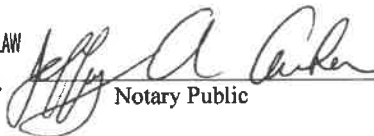
State of Ohio  
County of Franklin ss:

Be It Remembered, that on this 21<sup>st</sup> day of September, 2010, before me, the subscriber,  
a Notary Public in and for said State, personally appeared the above named Cypress Street,  
Ltd., an Ohio Limited Liability Company, by Gary C. Beckmann, its Member and  
by Mark V. Schillig, its Member, the grantors in the foregoing deed and acknowledged the  
signing thereof to be their voluntary act and deed, and the voluntary act and deed of said  
company.

In Testimony Thereof, I have hereunto subscribed my name and affixed my official seal on  
the day and year last aforesaid.



JEFFREY A. AUKER, ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
My commission has no expiration date.  
Section 147.03 R.C.

  
Notary Public

This instrument prepared by Magnuson & Barone Attorneys at Law  
570 Polaris Parkway, Suite 140, Westerville, OH 43082

## **EXHIBIT 'A'**

1690992-NE

### **LEGAL DESCRIPTION**

Situated in the City of Pataskala, County of Licking, State of Ohio, and is described as follows:

Being Lot Number Eighteen (18) of TAYLOR ROAD COMMERCIAL PARK SECTION 2, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 14, pages 128-129, Recorder's Office, Licking County, Ohio.

For informational Purposes only:

Property Address: 34 Klema Drive Reynoldsburg, Ohio 43068

Parcel No.:063-140430-00.014



View the Treasurer's message regarding 2nd half collection and COVID-19 precautions

Taxes Due July 15th

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

Map

BOR

Card

CAUV

Documents

Land

Map

Parcel

Pictometry

Sketch

Street View

Structures

Taxes

Transfers

Values

Help

Login

Search by Address

Search for:

063-140430-00.014

MUELLER SCOTT S & DONNA D

34 KLEMA DR

PATASKALA, OH 43062

Acres: 2.27

LOT 18 TAYLOR ROAD

COMMERCIAL PARK SEC

2.02, 27.7 AC

Land: \$113,500

Improv: \$786,500

Total: \$900,000

Sale Date: 09/24/2010

Amount: \$500,000

Conveyance: 2100

Valid Sale: View

Homestead: No

Owner Occ: No

Foreclosure: No

Certified Delq: No

On Contract: No

Bankruptcy: No

Tax Lien: No

063-140430-00.014

MUELLER SCOTT S & DONNA D

34 KLEMA DR

PATASKALA, OH 43062

Acres: 2.27

LOT 18 TAYLOR ROAD

COMMERCIAL PARK SEC

2.02, 27.7 AC

Land: \$113,500

Improv: \$786,500

Total: \$900,000

Sale Date: 09/24/2010

Amount: \$500,000

Conveyance: 2100

Valid Sale: View

Homestead: No

Owner Occ: No

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. Using a low screen resolution? Try our Mobile Version.