



CITY OF PATASKALA BOARD OF ZONING APPEALS

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

STAFF REPORT

January 12, 2021

Use Variance Application VA-20-020

Applicant:	Dan Hayes
Owner:	David Charlowe
Location:	218 Vine Street, Pataskala, OH 43062
Acreage:	0.24-acres
Zoning:	R-7 – Village Single Family Residential
Request:	Requesting a Use Variance pursuant to Section 1211.07(B) of the Pataskala Code to allow for a former church to be used as an art studio and gallery.

Description of the Request:

The applicant is seeking approval of a Use Variance to allow for the property to be used as an art studio, photography studio, and gallery.

Staff Summary:

The property in question is a corner lot; and adjacent to three (3) public rights-of-way. Vine Street to the west, an unnamed alley to the south, and an unnamed vacant alley to the east. It is currently occupied by a 2,166-square foot structure built in 1870. The building was constructed as a church, and at some point, was converted to a single-family home.

The Applicant had submitted this Variance Request for the December 8, 2020 Board of Zoning Appeals hearing. However, in order to address comments from City Staff, requested to table the application until the January 12, 2021 hearing. The Applicant has supplied an additional document (attached) providing some more information on the nature of the Use Variance Request.

The request has been amended to only include the 'photography/art studio' and remove the second 'gallery' use as requested originally. Per the Applicant; the proposed use of the property would generally involve a single photographer serving an individual or family for taking photographs on site one at a time. It is possible from time to time for these sessions to include extended family, but this would not be typical. Street parking is available which will be improved upon approval of the Use Variance Request. The Applicant believes adding parking will be necessary but suggests the City could review the parking situation after six (6) months and require the addition of parking in the rear yard if it becomes an issue in the area. Additionally, the Applicant stated that the photographer using this space may, from time to time, take natural light photographs on the property (photographs outside).

The site plan submitted with the request indicates no changes to the property. As stated in the Applicant's Narrative Statement: the owner had previously listed the property for sale as a residence with no serious offers, and now desires to lease the property to a firm of artists and photographers for use as a studio and gallery. The Applicant believes the property cannot yield a reasonable return or be used beneficially as a residence because of the type of structure currently on the lot.

Further stated; the Applicant believes the request is not substantial, the requested variance would not be detrimental to the surrounding neighborhood, and that the variance will represent the minimum affording relief and is the least modification possible. The Applicant had considered seeking approval of a Zoning Change to a commercial district; however, they were concerned that by doing so it would open the property up to uses that would have unintended consequences.

Staff Review:

The following summary does not constitute recommendations but merely conclusions and suggestions from the Staff Review, the full text of which follows the summary.

December 8, 2020 Planning and Zoning Staff Review:

The Future Land Use Map identifies this property as 'Mixed Use'; therefore, the proposed use would be in accordance with the City of Pataskala's Comprehensive Plan (2006).

The Site Plan submitted for this application indicates no changes to the property, which does raise concerns when changing the use from a single-family residence to a place of business. Particularly, Staff has questions as to parking, the type of services to be offered, number of employees, signage, etc. The type of use indicated on the Application included a Photography Studio and Art Gallery; would customers be coming to this location to have photographs taken? Where would the photos be taken, inside or outside? Would patrons be coming to the gallery to view artwork? Where will they be parking during these activities? How many employees are expected to be working there daily, and at what hours? The uniqueness of this business, location, and any Use Variance request in general warrants additional information for the Board to consider in making their determination.

Pursuant to Section 1291.16(Institutional)(5), Art Galleries require one (1) parking space per 400-square feet of gross floor area. For a 2,166-square foot building, this would require six (6) parking spaces. The location, size, and layout of any proposed parking spaces would need to be considered and reviewed for compliance with the other Requirements of Chapter 1291. Notably, when parking areas are adjacent to dwellings, they must be acceptably screened per the requirements of Chapter 1283.

Pursuant to Section 1283.07(B) of the Pataskala Code, *Conditional Uses* within the R-7 zoning district require L3 or L4 type screening in the rear and side yards when adjacent to residential uses. However, as this is a *Use Variance* and not a *Conditional Use* request, this Section would technically not apply. Depending on the intended services to be offered on the property and the parking situation, Staff believes this is something the Board may want to take into consideration.

Signage, while not required for the purposes of this Use Variance Request, would be regulated differently than other business uses, as the property falls within the Historic Old Village Center, as specified under Section 1295.14(a)(9). Staff would like the Applicant to keep this in mind when designing any potential signage.

January 12, 2021 Planning and Zoning Staff Review:

The Applicant has provided some responses to the concerns staff raised in the December 8, 2020 review; namely that the requested use for an 'art gallery' has been removed. As such, the additional parking required under 1291.16 for the 'art gallery', as identified above, would not apply. Section 1291.16 of the Pataskala Code does not identify the required number of spaces for a use like a

Photography Studio, however, Section 1291.02(A)(1) of the Pataskala Code states: “No building, structure, or use shall be established, developed, erected or substantially altered, unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this Code”. Meaning that some form of off-street parking shall be provided. The Applicant has suggested that the Use Variance Request could be reviewed within six (6) months of the date of approval, at which point the Applicant would either need to provide off-street parking, or request a Variance from this section of code to continue utilizing only street parking.

The Applicant also stated they will be improving the available street parking; however, Staff would like to note that any and all improvements that take place within the public right-of-way must be approved by the Public Service Director, and as any improvements to street parking would be within the public right-of-way, the parking would be available to anyone, and shall not be exclusive to this property, employees, or customers.

Staff feels that a Use Variance would be preferable to a Rezoning in this location, as Rezoning the property to any of the commercial zoning districts (LB, GB, PRO) would open up the possibility for any of the Permitted Uses in those districts to become available, which may be inappropriate for the characteristics of the surrounding neighborhood.

As far as similar non-permitted uses of residentially zoned property in the vicinity of the parcel in question, the only notable one is the Pataskala Masonic Lodge to the north, also on Vine Street. The Masonic Lodge property is zoned R-7, in which NAICS 813410 – Civic and Social Organizations, is a Non-Permitted use. However, in this case the Masonic Lodge has been located there for some time, and is an Existing Non-Conforming Use (i.e. “grandfathered” in).

Other Departments and Agencies:

No other comments were received.

Surrounding Area:

Direction	Zoning	Land Use
North	R-7 – Village Single-Family Residential	Single-Family Home
East	R-7 – Village Single-Family Residential	Single-Family Home
South	R-7 – Village Single-Family Residential	Single-Family Home
West	R-7 – Village Single-Family 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:

- *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;*
- *Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;*
- *Whether the variance, if granted, will be detrimental to the public welfare;*
- *Whether the variance, if granted, would adversely affect the delivery of government services;*
- *Whether the property owner purchased the subject property with knowledge of the zoning restriction;*
- *Whether the property owner's predicament can be obviated through some other method than variance;*
- *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,*
- *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-20-020:

- None

Use Variance Requirements:

According to Section 1211.07(B) of the Pataskala Code, use variances shall be allowed only in the most extreme of circumstances and only upon a showing of unnecessary hardship. No unnecessary hardship shall exist where:

- *The Applicant/Owner created the alleged hardship;*
- *The Board finds that the application is primarily made for purposes of convenience or profit; or*
- *A substantial ground offered in support of an application for a Use Variance is the existence of other non-conforming use of neighboring lands, structures, or buildings in the same district or in other zoning districts.*

It is the intention of the Use Variance requirements to prevent property owners from attempting to request a use variance rather than engage in the rezoning process.

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
- Southwest Licking School District – No comments

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.
2. After a period of six (6) months from the date of approval, the Applicant shall either provide off-street parking in accordance with Chapter 1291 of the Pataskala Code, or request a Variance from Section 1291.02(A)(1).

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 Use Variance, Pursuant to Section 1211.07(B) of the Pataskala Code, for Application VA-20-020 ("with the following 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		Staff Use	
Address: 218 VINE ST.		Application Number: VA-20-020	
Parcel Number: 064-307726-00.000		Fee: \$300	
Zoning: R7	Acres: 0.24	Filing Date: 11-13-20	
Water Supply: <input checked="" type="checkbox"/> City of Pataskala <input type="checkbox"/> South West Licking <input type="checkbox"/> On Site		Hearing Date: 12-8-20	
Wastewater Treatment: <input checked="" type="checkbox"/> City of Pataskala <input type="checkbox"/> South West Licking <input type="checkbox"/> On Site		Receipt Number: 21599	
Applicant Information			
Name: DAN HAYES - HAYES LAW OFFICES			
Address: 195 E. BROAD ST.			
City: PATASKALA	State: OHIO	Zip: 43062	
Phone: 740-927-2927	Email: DAN@HAYESOFFICES.COM		
Property Owner Information			
Name: DAVID CHARLOWE			
Address: 3041 BRADGUNDY DR.			
City: PALM BEACH GARDENS	State: FL	Zip: 33410	
Phone: 740-927-2927	Email: DAN@HAYESOFFICES.COM		
Variance Information			
Request (Include Section of Code): USE VARIANCE. CHURCH BUILDING IN R-7 (OLD VILLAGE). REQUEST TO USE AS PHOTO/ART STUDIO & GALLERY			
Describe the Project: USE VARIANCE ONLY			

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:

11-13-20

Property Owner (Required):

Date:

11-13-20

DAVID CHARLON BY [Signature]
With Approval BY [Signature]
COVID 19

NARRATIVE STATEMENT IN SUPPORT OF VARIANCE APPLICATION

218 Vine Street, Pataskala, Ohio

Use: The applicant represents the owner of one parcel of approximately 0.24 acres on Vine Street in the old village of Pataskala. The parcel is presently zoned R7. The structure on the property is a historic church building. The applicant has had the building listed for sale as a residence for some time with no serious offers to date. There are business properties in the neighborhood in close proximity to the subject parcel. A plumbing business, a public library and a masonic lodge. The applicant desires to lease the property to a firm of artists/photographers for use as a studio and gallery.

Variance Factors:

Applicant claims “practical difficulties” exist and a variance should be granted for the following reasons:

- a. The property cannot yield a reasonable return or be used beneficially without the requested variance.

Because of various factors, including the type of structure on the property and its other physical characteristics, it would take a very special buyer or tenant to realize a reasonable return or beneficial use of the property as a residence.

- b. There are unique physical circumstances and 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.

Since this is a use variance for a parcel with existing improvements, this particular 1211.07 factor is not particularly relevant.

- c. The requested variance is not substantial.

R7 Zoning allows for ‘home occupations’ as conditional uses. The use requested (an art/photo studio and gallery) is a common ‘home occupation.’ In fact there is an example of such a conditional use on the corner of Main and Mill Street in the R7 district. The only difference here is no one would be living in the property. Consequently, this is not a substantial variance request.

- d. The essential character of the neighborhood would not be substantially altered or cause adjoining properties substantial detriment.

The applicant’s request to allow an art/photo studio and gallery upon the property would be, in some cases, consistent with, and in others, less commercial than, the surrounding properties. There is a plumbing company roughly a block to the south and a masonic lodge and library in close proximity to the north. In any

event, the proposed use is a very light commercial use of the property and already being carried out in as a permitted home occupation on other R7 properties in the old village.

- e. The variance would not substantially or permanently impair the appropriate use or development of adjacent property.

The applicant's request is not an impairment to the appropriate use and enjoyment of neighboring properties or the neighborhood in general.

- f. The variance would not be detrimental to the public welfare.
- g. The variance would not adversely affect the delivery of governmental services.
- h. The owner acquired the property in 2018. At the time of purchase, the property was occupied as a residence. It was believed it could continue to be utilized in such a way but
- i. There are no reasonable alternatives to this variance request.
- j. The variance will represent the minimum variance affording relief and is the least modification possible of the requirement at issue, if any.

The applicant considered seeking a zoning change but was concerned doing so would permit uses upon the property that could result in unintended consequences. With this request, the owner is permitted to utilize the property in a manner more consistent with the improvements thereupon while not seeking a broad change in use.

- k. The variance request observes the spirit and intent behind the zoning requirement and would result in substantial justice being done.

The owner believes that his proposal allows him the reasonable use of his land consistent with the physical characteristics of the property and the character of the neighborhood.

City of Pataskala

Board of Zoning Appeals

In Re: AMENDMENT TO USE VARIANCE APPLICATION VA 20-020
APPLICANT/OWNER: DAVID CHARLOWE

The applicant, having an opportunity to review the December 8, 2020 staff report for the above referenced Use Variance Application, hereby amends his request as follows:

1. Seeing there is some concern with the number of people who might be at the property simultaneously, the applicant hereby removes from his application, the request to permit 'gallery' use of the building. Consequently, by virtue of this amendment, the applicant is only requesting a use variance to allow the property to be used as a photography/art studio.
2. Seeing there is some concern with the number of people who might be at the property simultaneously and questions relating to adequate parking facilities, the applicant supplements his application with the following information:
 - a. The proposed use of the property would generally involve a single photographer and an individual or family taking photographs on site at one time. It is possible, from time to time, for a photography session to include extended families, but this would not be typical.
 - b. The site offers street parking which will be improved upon approval of this application. The site also has room for parking in the rear yard. The applicant does not believe adding parking will be necessary but suggests that the City could review the parking situation after 6 months and require the addition of parking in the rear yard if it becomes an issue in the area due to the proposed use.
3. Seeing there is concern with the type of activity that may take place on the property, the Applicant supplements his application with the following information.

HAYES

LAW OFFICES, INC.
A Legal Professional Association

W SCOTT HAYES
C. DANIEL HAYES
MELINDA G. SEEDS
LAURIE R. WELLS
SHEENA A.
SJÖSTRAND-POST

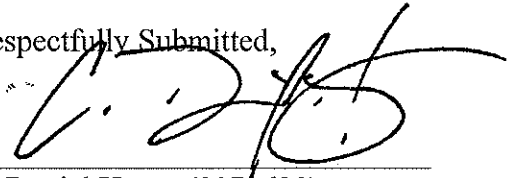
Hayes Law Offices, Inc.
A Legal Professional Association
195 East Broad Street
P.O. Box 958
Pataskala, OH 43062

Phone 740-927-2927
Toll-Free 800-536-8678
Fax 740-927-3060

www.hayesoffices.com

- a. A photographer using the space may, from time to time, take natural light photographs upon the property. Generally speaking though, photographer take natural light photographs 'on location' as directed by their clients. Their primary interest in the subject property is to have an indoor studio when the weather is not conducive to natural light photography. The building, a former church, is suited for such a use due to its large, open sanctuary (with large windows) which will permit the use of various focal length lenses indoors.
- b. As indicated above, the application has been amended to remove the request for use of the space as a 'gallery' so concerns relating to the number of people frequenting the property for this purpose are no longer an issue.

Respectfully Submitted,



C. Daniel Hayes (0073620)
Hayes Law Offices, Inc., LPA
Attorney for Applicant
195 E. Broad St.
Pataskala, Ohio 43062
740-927-2927

HAYES

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OnTrac Property Map



November 13, 2020

Centerline Labels

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

- 0 47 Feet
- Township Road
- Other Road Type
- Driveway

- Interstates
- Municipal Corporations
- Jurisdictional Townships

LICKING COUNTY TAX MAP

Licking County Auditor GIS

TRANSFERRED
Date MARCH 20, 2018
Michael L. Smith
Licking County Auditor
SEC. 319.202 COMPLIED WITH
MICHAEL L. SMITH, AUDITOR
BY: TL 255.00

DESCRIPTION APPROVED
JARED N. KNERR
LICKING COUNTY ENGINEER
APPROVED BY
J. B. 3-16-18



201803200005272
Pg:3 \$36.00 T20180003890
3/20/2018 12:41 PM MEFGREAT AMER
Bryan A. Long Licking County Recorder

GENERAL WARRANTY DEED

For valuable consideration hereunto received, be it known that the Grantor herein:

NADINE ANN STEINBRENNER NKA NADINE PERSINGER

A married person, whose husband is signing to release his dower interest, hereby grants, sells, bargains and conveys with general warranty covenants, the following described real property, to:

DAVID CHARLOWE

The tax-bill mailing address for the grantee will be:

3041 BURGUNDY DR. North, Palva Beach Gardens, FL 33410

The real property being conveyed by this Deed is more fully described as follows:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

Property Tax ID: 064-307726-00.000
Property 218 South Vine Street, Pataskala, OH 43062
Address:
Last Deed Ref: Instrument Number 200309030042657,
Recorder's Office, Licking County, Ohio

SUBJECT TO ALL reservations, conditions, limitations, highways, public roads, rights-of-way, easements and restrictions of record, zoning ordinances, if any, and real estate taxes and assessments both general and special, which are a lien but not yet due and payable.

And for valuable consideration received, Michael Persinger, the spouse of Nadine Ann Steinbrenner NKA Nadine Persinger, does hereby remise, release and forever quit-claim unto the grantee herein, his heirs and assigns, all his right and expectancy of Dower in the above described premises.



01150583601165002000

The Grantors herein have read this Deed and hereby acknowledge the voluntary signing hereof on this 26 day of February, 2018.

Nadine Ann Persinger

Nadine Ann Steinbrenner NKA Nadine Persinger

Michael Persinger

Michael Persinger

STATE OF OHIO

COUNTY OF

Franklin

:

ss

Before me, a Notary Public, in and for said County and State, personally appeared Nadine Ann Steinbrenner NKA Nadine Persinger, a married person, and Michael Persinger, her husband, the Grantors in the foregoing deed, who acknowledged the signing thereof to be her and his voluntary act and deed.

IN TESTIMONY THEREOF, I have hereunto set my hand and official seal this 26 day of February, 2018.

[Signature]
Notary Public

My commission expires: 2/21/22



Teresa D. Hostettler
Notary Public, State of Ohio
My Commission Expires
02-21-2022

This instrument prepared by:

Angela M. Byas, Esq.
Byas Law Office, Ltd.
90 Northwoods Boulevard, Suite B1-3
Columbus, OH 43235
614.496.3134 (phone)
866.442.6144 (fax)

After recording, return to:

Great American Title Agency
6800 Lauffer Road, Bldg. 2
Columbus, OH 43231

GATA #19952

EXHIBIT A

Situated in the State of Ohio, County of Licking, ^{City}~~village~~ of Pataskala and being Lot Number 48, as numbered and delineated in J.S. Green's Addition, to Pataskala, of record in Plat Book No. 2, Page 30, Recorder's Office, Licking County, Ohio. Said Lot being conveyed to Bethel Baptist Church by deed of record in Official Record 380, page 652, said lot being more particularly described as follows:

Beginning at an iron pin (1/2" re-bar) found in the southwest corner of said lot and in the east right-of-way of Vine Street;

Thence, North 0 deg. 00' 00" East with the east right-of-way of said Vine Street a distance of 66.78 feet to a chiseled "+" set in the concrete wall;

Thence, North 88 degree 19' 25" East along the north line of said Lot Number 48 a distance of 157.00 feet to an iron pin (5/8" re-bar) set in the westerly right-of-way line of 16.5 feet wide alley;

Thence, South 0 deg. 00' 00" West with the westerly right-of-way line of said alley a distance of 66.78 feet to an iron pin (5/8" re-bar) set in the northerly line of an alley;

Thence, South 88 deg. 19' 25" West along the northerly line of said alley a distance of 157.00 feet to the point of beginning;

The basis of bearings is resumed to by North 0 deg. 00' 00" East, the east right-of-way line of Vine Street.

This description is based upon records and an actual field survey made by David D. Haigh, Registered Surveyor No. 6750 on July 28, 1992.

Parcel Number: 064-307726-00.000

OnTrac Property Map



November 13, 2020



Centerline Labels

Street Number Only

Sales - 2020

Owner Name & Acres

Interstate/US/State Route

County Road

0 Township Road

Other Road Type

Driveway

Interstates

Municipal Corporations

Jurisdictional Townships

LICKING COUNTY TAX MAP

Licking County Auditor GIS