



CITY OF PATASKALA BOARD OF ZONING APPEALS

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

STAFF REPORT

March 9, 2021

Variance Application VA-21-007

Applicant:	Jaclyn DiPietro
Owner:	Jaclyn DiPietro
Location:	5024 Summit Rd SW, Pataskala, OH 43062
Acreage:	1.377-acres
Zoning:	R-87 – Medium-Low Density Residential
Request:	Requesting approval of a Variance from Section 1221.05(E)(1) to allow for a reduced side yard setback for an accessory building.

Description of the Request:

Requesting approval of a Variance from Section 1221.05(E)(1) of the Pataskala Code to allow for a reduced side yard setback for an accessory building.

Staff Summary:

The 1.37-acre property located at 5024 Summit Road SW is currently occupied by a 2,413-square foot single-family home built in 1978, and a 392-square foot accessory building built in 1996. A 16-foot by 24-foot (384-square feet) swimming pool, with a 8-foot by 24-foot (192-square foot) deck was added in 2020 upon approval of Zoning Permit #20-277. Access to the property is via a gravel driveway onto Summit Road SW.

The Applicant had received an Accessory Building permit (#20-718) on November 19, 2020 to construct a 38'4" x 9'9" (373.75-square foot) addition to the pole barn on the property. Per the Site Plan submitted by the Applicant for permit #20-718 the addition was to be five (5) feet from the northern side property line. The application was approved as it met the applicable requirements of Chapter 1221.05 – Accessory Buildings, notably Section 1221.05(E)(1); requiring that an accessory building on a lot less than two (2) acres shall be set back from the side and rear property lines a minimum of five (5) feet.

However, the owner of the adjacent property to the north (4996 Summit Road SW) contended that the addition did not meet the required setback and encroached slightly onto their property. They furnished a survey, completed by a Registered Surveyor in the State of Ohio, dated December 22, 2020 which indicates that the addition constructed by the Applicant encroached onto their property a distance of 0.1-feet at the east end and 2.0-feet at the west end of the addition, and was not in compliance with Section 1221.05(E)(1). Because of this, and pursuant to Section 1209.15(A)(1) of the Pataskala Code, Zoning Permit #20-718 (for the addition) was rendered void.

The Applicant had to either remove the structure that now had no valid zoning permit or apply for a new zoning permit with modifications that would bring it into compliance with the provisions of the Pataskala Code. The Applicant has chosen to pursue a Variance in order to allow them to leave most of this structure, which has already been built, intact and built right up to the property line between the theirs and the adjacent property owner. To do this, Applicant stated they would reduce the length of the addition from 38-feet to 28-feet.

In the Narrative Statement submitted by the Applicant, they have stated that they constructed the addition in the location where a fence was previously located. To keep their property out of the elements, they wished to construct an addition measuring 10-foot by 38-foot. They used satellite imagery available through the Licking County Auditor's website to determine that their addition would be at least 5-feet off the property line, however, the survey performed by the neighbor after construction had commenced determined that this was incorrect. The Applicant would like to have the building remain on the property line or as close as possible.

Further stated; they believe that the requested variance will not impair the use or development of any adjacent property, will not affect the public welfare, would not adversely affect the character of the neighborhood, and that they could not put the addition anywhere else such as the opposite or rear side of the existing accessory building.

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.

Planning and Zoning Staff:

As mentioned in the Applicant's Narrative Statement, they had used the Licking County Auditor's website to determine the dimensions of the proposed addition. Staff would like to note that the information available through the Licking County Auditor's GIS system, particularly the location of property lines, is not entirely accurate due to geometric distortion (resulting images are skewed by satellite perspective, topography, rotation of earth, etc.) and when combined with the parcel data they do not line up perfectly. The most accurate way to determine the true location of property lines is to have a Registered Surveyor mark them.

Section 1221.05(E)(1) of the Pataskala Code states: "An accessory building shall be set back from the side and rear property lines a minimum of five (5) feet for lots less than two (2) acres". The Applicant is requesting a full variance from this section to have an accessory structure 0-feet from the property line, or a 100% reduction from the requirement of the Code. However, the Survey prepared for the adjacent property owner (attached to this Staff Report) identifies that the addition encroaches 0.1-feet at the front (east) side and 2.0-feet at the rear (west) side. The Applicant's plan to reduce the overall length of the structure would do nothing to eliminate the encroachment of the structure onto the adjoining property and still leave at minimum 0.1-feet over the property line. Even if the Board of Zoning Appeals were to approve a variance for the side yard setback, the plan proposed by the Applicant would not remove the encroachment. The only way to do so would be to reduce the overall width of the structure. The Board of Zoning Appeals cannot approve a variance to allow a building to encroach on a neighboring property not under the same ownership.

The Accessory Building Permit approved and subsequently voided identifies the dimensions of the structure as 9'9" x 38'4", however, the narrative statement submitted as part of this Variance Application identifies a total width of 10', and length of 38'. Additionally, the Applicant submitted a copy of their Title Survey as part of this Variance Application which they received when the home was purchased. This survey was not known to Staff when the Applicant applied for the original Accessory Building Permit, and it shows that the rear (west) corner of the existing Accessory Building is only 9.3-feet from the northern side property line. The Survey completed by the adjacent

property owner shows a 2.0-foot encroachment, which would leave a total dimension of approximately 11.3-feet. Staff would like clarification on the actual dimensions of the structure, especially with such close proximities to the property line.

Should the Board of Zoning Appeals choose to approve this Variance request, the Applicant will need to submit a new Accessory Building Permit Application for approval. Given the close proximity of the structure to the property line, Staff believes that a post-construction survey is warranted to ensure that the structure does not encroach onto the neighboring property.

Other Departments and Agencies

No other comments received.

Surrounding Area:

Direction	Zoning	Land Use
North	R-87 – Medium-Low Density Residential	Single-Family Home
East	RR – Rural Residential	Single-Family Home
South	R-87 – Medium-Low Density Residential	Single-Family Home
West	R-87 – Medium-Low 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-21-007:

- 1211.07(2)(A): To permit any yard or setback less than the yard or setback required by the applicable regulation.

Department and Agency Review

- Zoning Inspector – No comments
- Public Service – No comments
- City Engineer – No comments
- SWLCWSD – No comments
- Police Department – No comments
- West Licking Joint Fire District – No comments
- Licking Heights School District – No comments

Conditions:

Should the Board choose to approve the applicant's request, the following modifications may be considered:

- 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.
- The Applicant shall submit, in writing, how they plan to remove the encroaching structure as the plan proposed in this Variance Request will not resolve the issue.
- The Applicant shall furnish a survey, completed by a Registered Surveyor in the State of Ohio, to the Planning and Zoning Department after construction has been completed.

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 1221.05(E)(1) of the Pataskala Code for Variance Application VA-21-007 ("with the following conditions" if conditions are to be placed on the approval)."

Plat of Survey

City of Pataskala, County of Licking, State of Ohio, part Section 15 in the Second Quarter, Township 1N, Range 15W, of the United States Military Lands.

PROPERTY LOCATION:

Being a Re-Survey of 1.377 Acre parcel conveyed to Martin & Julie Poole, as recorded in Instrument No. 2015-12310028453, in the Licking County Deed Records, and being all of Auditor's P.P.N. 063-140358-01.000.

Stacie D. Riggle
5.209 Acres

BASIS OF BEARING

The bearings of this plat are based on the centerline of Summit Road (Co. Road 26)(60' Wide R/W), as being S 04°39'35" W, and is an assumed Meridian used to denote angles only.

Instrument No. 2019-08070016114
P.P.N. 063-140358-07.000

LEGEND

- - 5/8" o.d. Iron Pin Found
- - 3/4" o.d. Iron Pipe Found
- ⊙ - 5/8" x 30" rebar w/red cap labeled "S.A. England #7452"

Jaclyn S. Depietro
1.377 Acres
Instrument No. 2019-07030013261
P.P.N. 063-140358-04.000

2.0' encroaches

other's frame
building

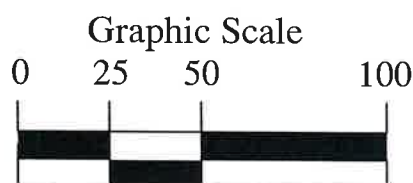
2.88'

24.4'

0.1'
encroaches

metal
bldg.
48.5'
32.4'

1.92'
residence
64.8'



1 Inch = 50 Feet



400.00'

30.00'

centerline

S 04°39'35" W 150.00'

SUMMIT ROAD (Co. Road 26)(60' Wide R/W)

S 85°20'25" E

400.00'

30.00'

N 04°39'35" E 150.00'

Martin & Julie Poole
1.377 Acres
Instrument No. 2015-12310028453
P.P.N. 063-140358-01.000

Joseph R. Spybey
5.034 Acres
Instrument No. 2018-11080023712
P.P.N. 063-140358-09.000

PREPARED BY:

S.A. ENGLAND SURVEYING
Professional Land Surveying
P.O. Box 1770
Buckeye Lake, Ohio 43008
PHONE: 740-323-0644
WWW.SURVEYOHIO.COM

I hereby certify that an actual survey was made of the premises, and that this plat is correct to the best of my knowledge.

Date

12/22/20
Scott A. England, P.S.

Ohio Registered Surveyor #S-7452



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: 5024 Summit rd. SW	
Parcel Number: 063-140358-04.000	
Zoning: R-87	Acres: 1.377
Water Supply:	
<input type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input checked="" type="checkbox"/> On Site
Wastewater Treatment:	
<input type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input checked="" type="checkbox"/> On Site

Staff Use
Application Number: YA-21-007
Fee: 300
Filing Date: 2-10-21
Hearing Date: 3-9-21
Receipt Number: 21673

Applicant Information		
Name: Jaclyn DiPietro		
Address: 5024 Summit rd. SW		
City: Pataskala	State: OH	Zip: 43002
Phone: 614-330-9886	Email: jaclyn.dipietro@yahoo.com	

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

Property Owner Information		
Name: Jaclyn DiPietro		
Address: 5024 Summit rd SW		
City: Pataskala	State: OH	Zip: 43002
Phone: 614-330-9886	Email: jaclyn.dipietro@yahoo.com	

Variance Information
Request (Include Section of Code):
Describe the Project:
added a carport to the detached garage

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:

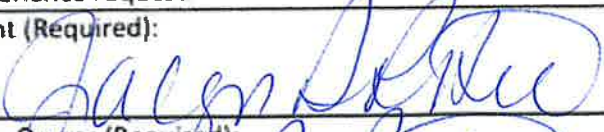
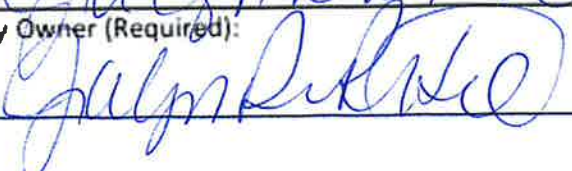
- All property lines and dimensions
- Location and dimensions of all existing and proposed buildings and structures.
- Setbacks from property lines for all existing and proposed buildings, structures and additions
- Easements and rights-of-way
- Driveways
- Floodplain areas
- Location of existing wells 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: 2-10-2021
Property Owner (Required): 	Date: 2-10-2021

We are asking for a variance because we added a carport/lean-to onto our detached garage that is on the property line.

We are asking to leave it there or as close as possible. It is 10ft wide by 38 ft long. There was a old broken fence before. We took down the old fence and decided to put up a lean-to to keep stuff out of outside elements.

The fenced area before was 10ft wide by 28ft long. We looked on the auitors website for the property line, it showed the fence was not on the property line. After the building was complete we found out that it sits on the property line and in the back corner it is just over the property line. We are going to make it 28ft long to insure we are off of the neighboring property. We are asking for the variance to leave it on the property line or as close as possible.

A) Yes

B) Yes, that is why we are asking for the variance.

C) Yes

D) No

E) No, it will not impair the use or development of the adjacent property once we fix the back corner.

F) No, This does not affect the public welfare

G) No, it will not affect the delivery of governmental services. It is not in the way of anything.

H) No

I) No, we can not add this to the other side or back side of the garage do to large trees.

J) Yes

K) Yes

We had an old broken 6 foot tall privacy fence on the North side and midway across to our detached garage that was there since we moved into our home in 2013 and was built by the previous owner(s). We stored things inside the fence but had to be covered by a tarp to keep out of the elements. We looked on the auditor's website at our property and decided to replace the fence with a lean-to for more outdoor storage for lawn equipment, garbage cans, etc. The lean-to is in the exact spot the fence was previously but 10 feet longer. We built the lean-to in place of the old fence and plan on building a privacy fence along the property line. We spent extra money building the lean-to to match and blend in with the existing garage. On the auditors website it shows that we were nowhere close to the property line. After we got our permits, had inspections and the lean-to was done we found out that we had built it on the property line. Zoning code says it needed to be 5 feet off the property line. If we were to do that it would only be 5 foot wide and we would not be able to use it for our intended purpose and all of our invested money would be lost. Once we build the privacy fence we would incorporate the side of the lean-to with the fence. The lean-to is 10 foot wide by 38 foot long which is the length of our detached garage. The lean-to has gutters that run down the side and across the back and drains on the backside of the garage which allows for no water drain off onto the adjoining property. We would like to leave it if possible.









Red circles
are where the
old fence post were



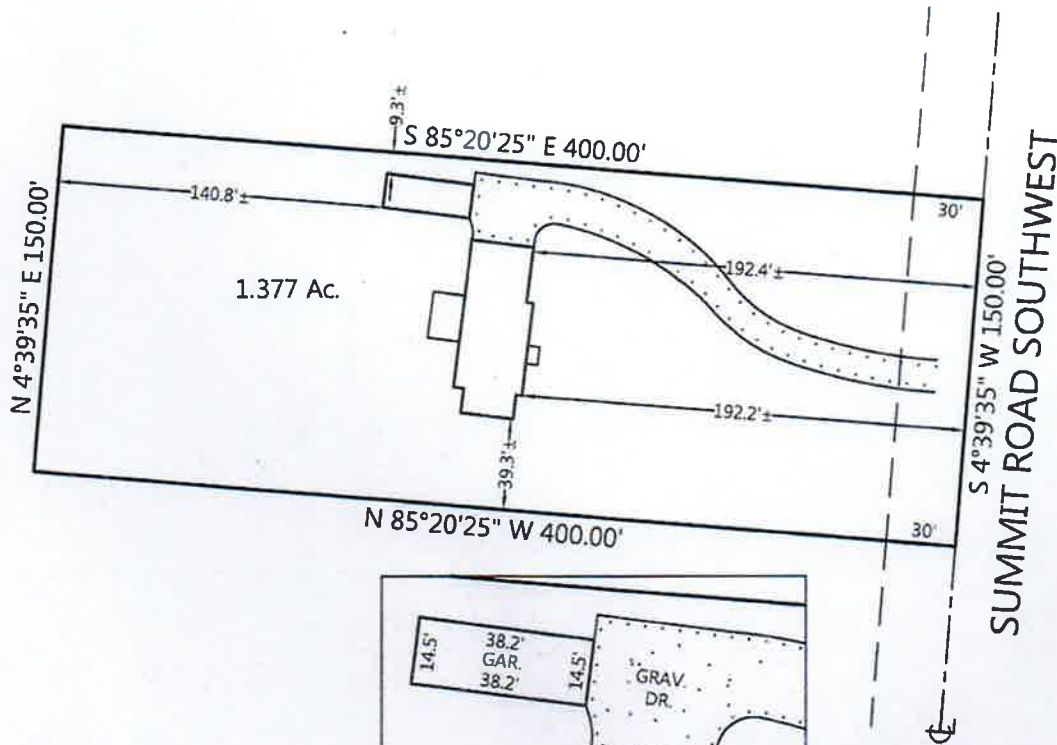
Ohio
Title

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STARS
SURVEY TRACKING
AND
RETRIEVAL SYSTEM
www.surveystars.com



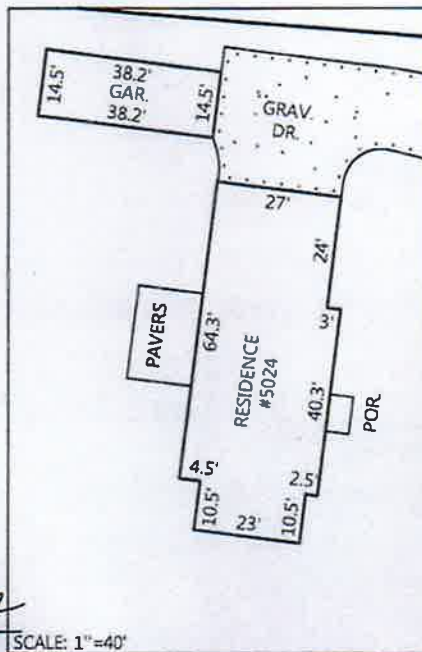
PROPERTY ADDRESS: 5024 SUMMIT ROAD SOUTHWEST, PATASKALA, OHIO 43062

SURVEY NUMBER: 1905.6752



David B. McCoy

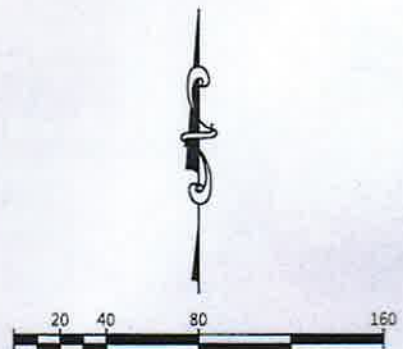
THIS PLAT IS NOT TO BE USED TO ERECT
FENCES OR OTHER STRUCTURES, AND MAY
NOT SHOW ALL EASEMENTS AFFECTING THE
SUBJECT TRACT



SCALE: 1" = 40'

LSGI#: 19056752

Handwritten signature and date 6/28/19



SCALE: 1" = 80'

POINTS OF INTEREST: NONE VISIBLE.



EXHIBIT "A"

LEGAL DESCRIPTION

Case Number: 19-0574

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

Being a tract of land situated in Section fifteen (15) in Quarter Township two (2), Township one (1), Range Fifteen (15), of the United States Military Lands, Lima Township, Licking County, State of Ohio, said tract being part of that land deeded to James L. Wilcox and recorded in Deed Volume 749, Page 205, in Licking County Recorder's Office, and being more particularly described as follows:

Beginning at a spike in the centerline of Summit Road being North 4 deg. 39' 35" East a distance of 1028.23 feet from a spike (found) at the point of intersection of the centerline of Havens Corners Road (County Road 38) and the centerline of Summit Road (County Road 26);

thence from said place of beginning South 4 deg. 39' 35" West along the centerline of Summit Road and the easterly boundary of Section 15 a distance of 150.00 feet to a spike;

thence North 85 deg. 20' 25" West a distance of 400.00 feet (passing over an iron pin at 30.00 Feet) to an iron pin;

thence North 4 deg. 39' 35" East a distance of 150.00 feet to an iron pin;

thence South 85 deg. 20' 25" East a distance of 400.00 feet (passing over an iron pin at 370.00 feet) to the place of beginning, containing 1.377 acres, more or less.

5024 Summit Road, Pataskala, OH 43062
Parcel Number: 063-140358-04.000

KNOW ALL MEN BY THESE PRESENTS, 5024 Summit Road LLC, an Ohio limited liability company, for valuable consideration paid, grants, with general warranty covenants, to Jaclyn S. DiPietro, the following Real Property:

See Exhibit A attached hereto and made a part hereof.

Subject to the following: The lien of any taxes and assessments not now due and payable; zoning ordinances and regulations; legal highways; restrictions, conditions, reservations and easements of record; and all coal, oil, gas and other mineral rights and interests previously transferred or reserved of record.

Parcel Number: 063-140358-04.000

Address: 5024 Summit Road, Pataskala, OH 43062

Last Transfer: Instrument Number 200503300009148, Licking County, Ohio Records.

Executed by **Andrew Buechel, Member of Anjohn Properties, LLC, the Sole Member of 5024 Summit Road LLC**, this 28th day of June, 2019.

5024 Summit Road LLC

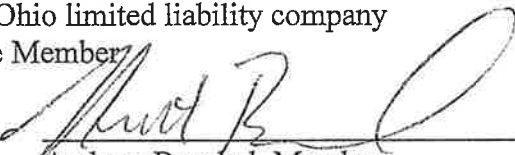
an Ohio limited liability company

By: Anjohn Properties, LLC

An Ohio limited liability company

Its: Sole Member

By:


Andrew Buechel, Member

State of Ohio)

County of Licking) SS:

The foregoing General Warranty Deed was acknowledged before me by **Andrew Buechel, Member of Anjohn Properties, LLC, the Sole Member 5024 Summit Road LLC**, on behalf thereof, this 28th day of June, 2019.



LARRY F. SHAFER
Attorney At Law
Notary Public - State of Ohio
My Commission Has No Expiration
Date Section 147.03 O.R.C.


NOTARY PUBLIC 19-0574

This Instrument Prepared by Larry F. Shafer, Attorney at Law
55 S. Main St., Ste. C., PO Box 356, Johnstown OH 43031 (740) 967-5555



Dog License
February 17th



Downloads



Forms



GIS



Homestead

