



CITY OF PATASKALA BOARD OF ZONING APPEALS

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

STAFF REPORT

March 14, 2023

Variance Application VA-23-002

Applicant:	Adam Craycraft - Columbus Hardscapes, LLC.
Owner:	Jenese Bandy
Location:	2010 Pine Hills Drive, Pataskala, OH 43062 (PID:064-068322-00.406)
Acreage:	+/- 0.25-acres
Zoning:	R-15 – Medium-High Density Residential
Request:	Requesting approval of a Variance from Section 1221.07(e)(1) of the Pataskala Code to allow for a residential patio to encroach two (2) feet within a recorded easement.

Description of the Request:

The Applicant is seeking approval of a Variance from Section 1221.07(e)(1) of the Pataskala Code to allow for a residential patio to encroach into a recorded easement.

Staff Summary:

The 0.25-acre property located at 2010 Pine Hills Drive is currently occupied by a 2,406-square foot single-family home built in 2019. The property is Lot 36 of the Ravines at Hazelwood Part 3 subdivision. Access to the property is via a concrete driveway onto Pine Hills Drive.

The Applicant is requesting a Variance from Section 1221.07(e)(1) of the Pataskala Code to allow for a patio which has already been constructed to encroach two (2) feet into a recorded easement. Section 1221.07(e)(1) states “Decks and patios shall not be located in a recorded easement”.

During a routine permit audit, the Zoning Inspector discovered a permit, which had yet to be approved, for a patio at 2010 Pine Hills Drive. It was noted on the Application that the permit could not be approved as submitted, as the patio encroached within a recorded easement, and that the Applicant would either need to revise to proposed patio or receive a Variance to allow it to be within the easement. An email had been sent on July 1, 2021, informing the Applicant of the above.

The property was inspected on February 6, 2023 where it was found that the patio had been installed in the original location as proposed on the submitted, and yet-to-be approved permit application and was given a courtesy notification advising the property owner that an approved permit is required prior to the construction of a patio, and that a Variance would be needed to allow for the patio in its current location. As such, the Applicant has submitted this Variance request.

According to the Narrative Statement as submitted by the Applicant, the request is being made to allow an encroachment of roughly two (2) feet into the recorded easement.

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

As mentioned above, Section 1221.07(e)(1) of the Pataskala Code states that no patio or deck shall be located within a recorded easement. Within this lot, there is a five (5) foot wide easement that runs along the west side property line in which the constructed patio encroaches two (2) feet into. Said easement is not a specific easement, but a general easement for the construction, operation and maintenance of all public (water and sewer) and quasi-public (electric, gas, internet, etc.) utilities. The Variance request is to allow for a two (2) foot encroachment into the easement.

Upon reviewing the approved Construction Plan drawings, Staff determined that there are no water and/or sewer lines within the easement. However, it is possible that there is underground electric, telecommunication, gas, and/or other lines within the easement. That being said, by placing a portion of the patio within the recorded easement, the Applicant and Property Owner shall understand that if any public agency or utility which has the right to access said easement need to in the future to repair, replace, maintain, etc. the infrastructure that may be within the easement; the patio or a portion thereof may be demolished in order to access said infrastructure, and the public agency or utility would not be liable to replace it.

Zoning Inspector (Full comments attached)

Discovered permit application #20-549 during a permit audit, which had never been processed. Applicant had been notified on July 1, 2021 that a Variance would be required, or a revised site plan submitted, in order to approve the Application. Upon inspection on February 6, 2023 it was found that the patio had been constructed without an approved Patio Permit. A courtesy notification was made on that date, followed by a courtesy letter on the 14th of February and then a violation letter on the 22nd of February.

City Engineer (Full comments attached)

Should the Variance be granted it is recommended that the property owner be responsible for any and all damage as a result of encroaching within the easement.

Other Departments or Agencies

No other comments from applicable Departments or Agencies were received.

Surrounding Area:

Direction	Zoning	Land Use
North	R-15 – Medium-High Density Residential	Single-Family Home
East	R-15 – Medium-High Density Residential	Single-Family Home
South	R-15 – Medium-High Density Residential	Reserve Area (Open Space)
West	R-15 – Medium-High 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-23-002:

- None

Department and Agency Review

- Zoning Inspector – See attached.
- 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. Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Code Department within one (1) year of the date of approval.
2. The Property Owner shall understand that if any public agency or utility which has the right to access said easement need to in the future to repair, replace, maintain, etc. the infrastructure that may be within the easement; the patio or a portion thereof may be demolished in order to access said infrastructure, and the public agency or utility would not be liable to replace it.
3. The Property Owner shall be responsible for any and all damages as a result of encroaching within the easement.

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 1221.07(e)(1) of the Pataskala Code for variance application VA-23-002 ("with the following conditions" if conditions are to be placed on the approval)."

From: [Felix Dellibovi](#)
To: [Jack Kuntzman](#)
Subject: RE: Pataskala BZA Review Memo for 03-14-2023
Date: Wednesday, February 22, 2023 2:20:36 PM
Attachments: [VA-23-001\(1\).png](#)
[VA-23-001\(2\).png](#)
[FW FW Pataskala Zoning - 2010 Pine Hills Drive - Patio.msg](#)
[image003.png](#)

VA-23-001:

A driveway permit application (#21-136) was submitted on 3/15/2021 where a concrete driveway was to be installed on the property located at 163 Meadow Way. Under the conditions section of the permit, it was stated that the "driveway shall be finished in concrete within one (1) year from date of approval". The permit application was approved on 3/23/2021. *(See attached pictures VA-23-001(1) and VA-23-001(2))*

During a routine permit audit, it was discovered that the permit application was never final inspected. Upon inspection of the property on 1/18/2023 it was observed that half of the driveway was made concrete; however, the other half of the driveway was left as gravel.

A courtesy notification was given on 1/18/2023 advising that constructing a gravel driveway in a platted subdivision is prohibited; pursuant to Section 1291.02(A)(4) of the City Codified Ordinances. A courtesy letter advising the previously mentioned code violation was sent on 1/27/2023, and a violation letter was sent on 2/6/2023.

VA-23-002:

While conducting a routine audit of previous years permit applications, I came across patio permit application #20-549 for the property located at 2010 Pine Hills Drive. This permit was submitted on 9/1/2020 and never processed due to the property owner needing a variance in order to proceed with the patio. Upon inspection of the property on 2/6/2023 it was observed that a patio had been installed but did not have the approved permit. Part of the patio was constructed in the easement. An email was sent out by the Planning and Zoning Clerk Lisa Paxton on 7/1/2021 inquiring if the patio was still being constructed and advising that they would need an updated site plan due to the patio being in the easement. *(See attached email)*

A courtesy notification was made on 2/6/2023 advising that a zoning permit is required for the construction of a patio per Section 1209.02 of the City Codified Ordinances. A courtesy letter advising the previously mentioned code violation was sent on 2/14/2023, and a violation letter was sent on 2/22/2023.

CU-23-001:

I received a complaint regarding a dog daycare business that was being operated without proper permitting on the property located at 239 Sims Road. A courtesy notification was made on 1/23/2023 advising that operating a business in a residential district requires a conditional use per Section 1267 of the City Codified Ordinances. A courtesy letter was sent on 1/27/2023 advising the previously mentioned code violation, and a violation letter was sent on 2/6/2023.

From: [Scott Haines](#)
To: [Jack Kuntzman](#)
Cc: [Lisa Paxton](#)
Subject: RE: Pataskala BZA Review Memo for 03-14-2023
Date: Monday, March 6, 2023 2:34:54 PM
Attachments: [image001.png](#)

CAUTION: This email message came from an external (non-city) email account. Do not click on any links within the message or attachments to the message unless you recognize the sender's email account and trust the content.

Jack

Verdantas has reviewed the BZA Memo and offer the following comments:

1. **VA-23-001**
 - a. No Engineering Related Comments
2. **VA-23-002**
 - a. Should the variance be granted it is recommended the property owner be responsible for any and all damage as a result of encroaching within easement.
3. **VA-23-003**
 - a. No Engineering Related Comments
4. **VA-23-004**
 - a. Comment was made during Preliminary Plan review intersections must remain tangent for 100' per code. The plan lacked detail to confirm.
 - b. The reason behind this code requirement is intersection site distance. Should the variance be granted, the developer should provide intersection site distance triangles, profiles and/or mitigation.
5. **VA-23-005**
 - a. We do not see an engineering concern granting this variance. Ruby Road shall be a through movement and shall not have stop signs placed on Ruby Road at Fannin Drive or Waterlily Way.
6. **VA-23-006**
 - a. We do not see an engineering concern granting this variance due to the 3 radii in question are all oversized compared to the city's minimum.
7. **CU-23-001**
 - a. No Engineering Related Comments

Thanks

Scott R. Haines, PE, CPESC

Senior Project Manager

O. 740.344.5451 | D. 740.224.0839

1555 W. Main Street, Newark, Ohio 43055

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



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: 2010 Pine Hills Dr. Pataskala OH	
Parcel Number: 64-06832200406	
Zoning: R-15	Acres: .25
Water Supply:	
<input type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input type="checkbox"/> On Site
Wastewater Treatment:	
<input type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input type="checkbox"/> On Site

Staff Use
Application Number: VA-23-002
Fee: \$300 Cash or <input checked="" type="checkbox"/> Check
Filing Date: 2-10-23
Hearing Date: 3-14-23
Receipt Number: 000998

Applicant Information		
Name: Adam Craycraft (Columbus Hardscapes LLC)		
Address: 4655 Blacklick Eastern Rd NW		
City: Baltimore	State: OH	Zip: 43105
Phone: 380-201-2791	Email: adam@installmypatio.com	

Documents
<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

Property Owner Information		
Name: Jenese Bandy		
Address: 2010 Pine Hills Dr.		
City: Pataskala	State: OH	Zip: 43062
Phone: 740-963-0138	Email: cjenesebandy@gmail.com	

Variance Information
Request (Include Section of Code):
Describe the Project:
30'x32' paver Patio, variance encroachment Patio is roughly 1' into the easement on the west corner of the patio. Requesting variance ^{variance} for this encroachment. Roughly 2'

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:


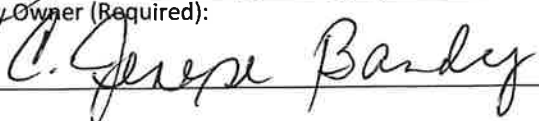
- All property lines and dimensions
- Location and dimensions of all existing and proposed buildings and structures.
- Setbacks from property lines for all existing and proposed buildings, structures and additions
- Easements and rights-of-way
- Driveways
- Floodplain areas
- Location of existing wells 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: 2-10-23
Property Owner (Required): 	Date: 2-10-23

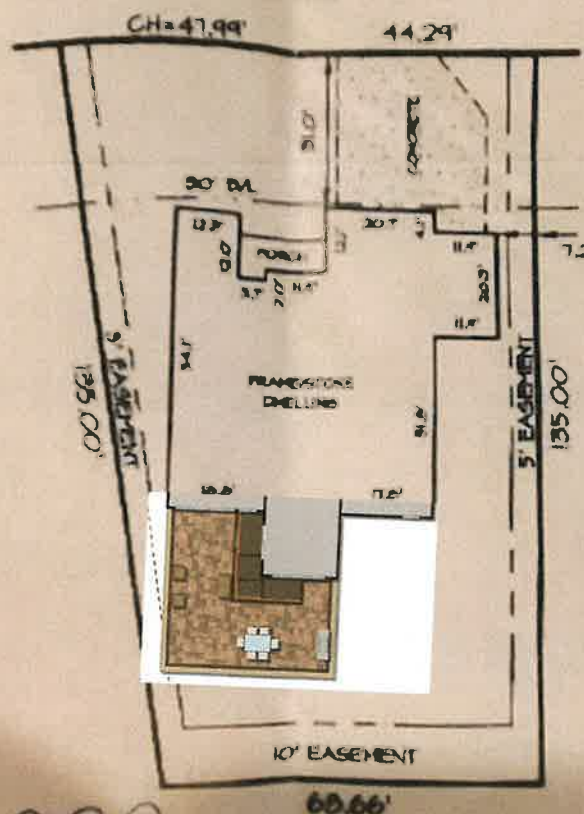


CAMPBELL &
ASSOCIATES, INC.
Land Surveying

614.785.9340
Fax: 614.785.8342
77 E Wilson Bridge Road
Suite 303
Worthington, OH 43085
<http://www.campbellsurvey.com>

MORTGAGE LOCATION SURVEY

PINE HILLS DRIVE 50'



I HAVE RECEIVED A COPY OF THIS
SURVEY AND FIND THE CONDITIONS
ACCEPTABLE TO ME.

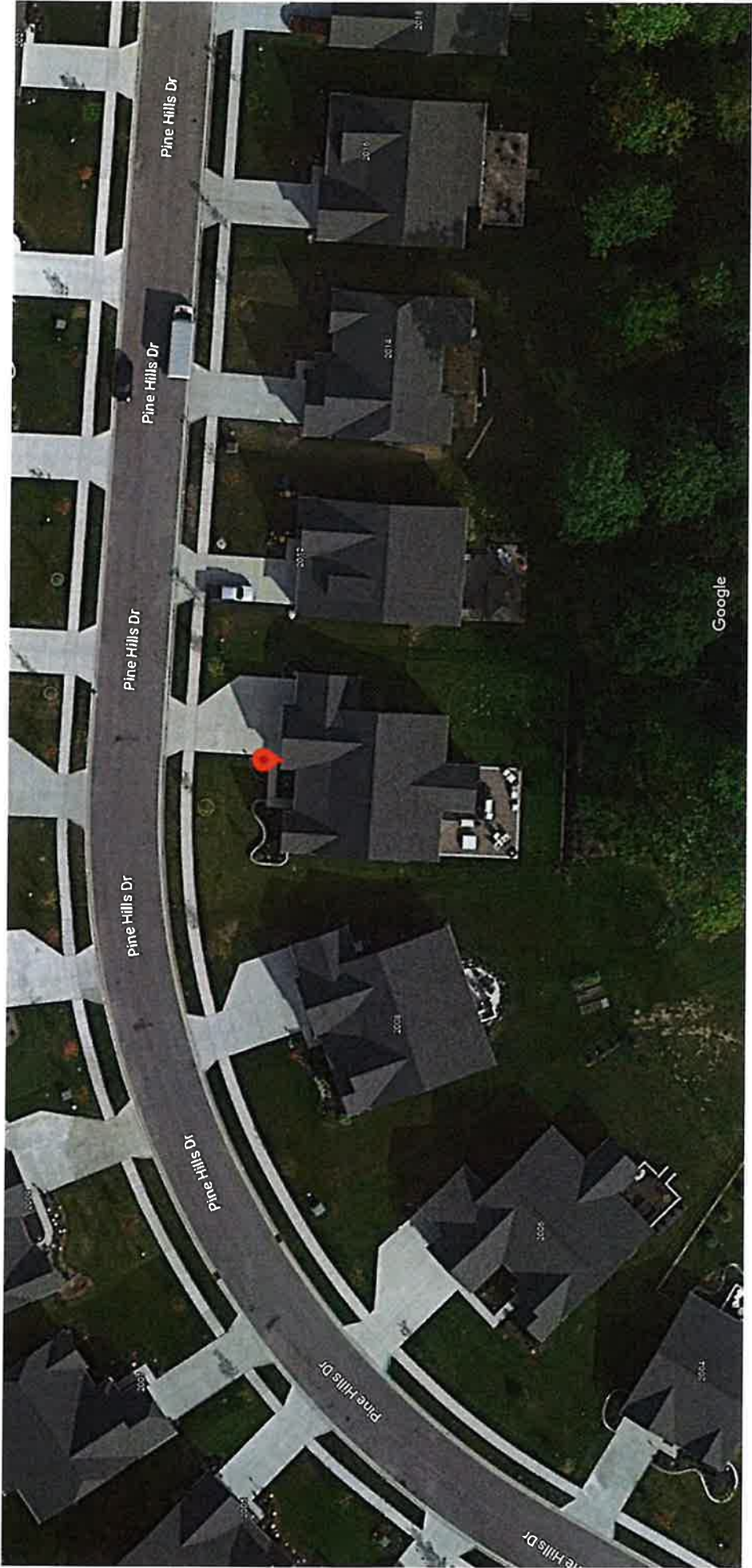
Matthew L. Campbell
SUPERVISOR

Address 2215 Pine Hills Drive

The Pavilion at Hopwood Park 3







Map data ©2023, Map data ©2023 2011



2010 Pine Hills Dr

- Directions
- Save
- Nearby
- Send to phone
- Share



FIND YOUR PARCEL
Address ▾
 Search

Trouble Searching?

064-068322-00.406
**BANDY CHERYLENE
JENESE & BENJAMIN ROY
JR**
2010 PINE HILLS DR
PATASKALA, OH 43062

Acres: 0.25
LOT 36 RAVINES AT
HAZELWOOD PT 3 (0.251
AC)

3/11/20
530,000

Land: \$60,600
Improv: \$373,200
Total: \$433,800

Transfer Date: 08/22/2019
Amount: \$475,640
Conveyance: 2780
Valid Sale: Yes

Homestead: No
Owner Occ: **Yes**

Foreclosure: No
Certified Delq: No
On Contract: No
Bankruptcy: No
Tax Lien: No

Michael L. Smith, Auditor
Roy Van Atta, Treasurer

- BOR
- Card
- CAUV
- Documents
- Land
- Map
- Parcel
- Pictometry
- Sketch
- Street View
- Structures
- Taxes
- Transfers
- Values
- Help
- Login

- BOR
- CAUV
- Dog License
- Downloads
- Forms
- GIS
- Homestead
- Taxes
- Other

FIND YOUR PARCEL

Address

Tract/Map Square Footage?

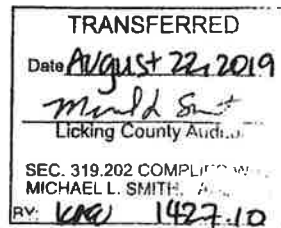
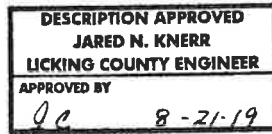
County: 03 03 03
BANDY CHERYLENE
JENESE & BENJAMIN ROY
JR
2010 PINE HILLS DR
PATASKALA, OH 43062

Acres: 1.00
Land: 1.00
Improve: 0.00
Total: 1.00
Transfer Date: 03/03/2010
Amount: \$11,111.11
Conveyance: 03/03/2010
Valid Sale: Yes
Homestead: N
Owner Occ: Yes
Foreclosure: No
Certified Delq: No
On Contract: No
Bankruptcy: No
Tax Lien: No





201908220017565

Pg: 2 \$28.00 T20190014665
8/22/2019 3:08 PM BXCROWN
Bryan A. Long Licking County RecorderReturn Documents To: NVR Title Agency, LLC, 4040 Embassy Pkwy, Suite 310, Akron, OH 44333
Order No.: 2061886**LIMITED WARRANTY DEED**

By a Corporation

KNOW ALL MEN BY THESE PRESENTS; That **NVR Inc., a Virginia Corporation, dba Ryan Homes**, the grantor, a corporation organized and existing under the laws of the State of Virginia for good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, grants with limited warranty covenants, to **Cherylene Jenese Bandy and Benjamin Roy Bandy Jr., Wife and Husband**, for their joint lives, remainder to the survivor of them the following Real Property:

Situated in the City of Pataskala, County of Licking and State of Ohio; And known as being Lot No. 36 in The Ravines at Hazelwood Part 3 as recorded in Plat Instrument No. 201901250001563 of Licking County Records, as appears by said plat, be the same more or less, but subject to all legal highways.

Parcel No: 064-068322-00.406
Known As: 2010 Pine Hills Drive, Pataskala, Ohio 43062
Tax Mailing: NVR Mortgage Finance, Inc.
Address: 555 Southpointe Blvd., Suite 300
Canonsburg, PA 15317

Subject to conditions, restrictions and easements, if any, contained in prior instruments of record.

Except taxes and assessments, if any, now a lien and thereafter due and payable.

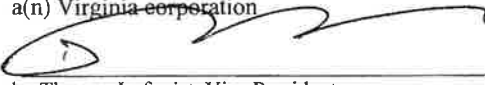
Prior Instrument Reference: Instrument No. 201903280005633 of the Deed Records of Licking County, Ohio.



0114PA010P9563036000

Signed and acknowledged this 12 day of August, 2019, by Thomas Lofquist, Vice President, of **NVR, Inc., a Virginia Corporation, dba Ryan Homes, a(n) Virginia corporation**, the grantor, thereunto duly authorized by resolution of its Board of Directors.

NVR, Inc., a Virginia Corporation, dba Ryan Homes
a(n) Virginia corporation


by Thomas Lofquist, Vice President

State of Ohio,
Franklin County, SS:

BE IT REMEMBERED, That on this 12 day of August, 2019, before me, the subscriber, a Notary Public in and for said county and state, personally came Thomas Lofquist, Vice President, of **NVR, Inc., a Virginia Corporation, dba Ryan Homes, a(n) Virginia corporation**, the Grantor in the foregoing deed, and acknowledged the signing thereof to be the free act and deed of said corporation pursuant to authority of its Board of Directors, and his free act and deed personally and as such officer.

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


Notary Public

This instrument prepared by:

Paul C. Thompson, Esq., 4040 Embassy Parkway, Suite 310, Akron, OH 44333

Return Documents To: NVR Title Agency, LLC, 2641 West Market Street, Fairlawn, Ohio 44333



NANCY V KNILL-PATTI
Notary Public
In and for the State of Ohio
My Commission Expires
September 20, 2020