

**Office of Code Enforcement and
Community Development**

28 Curran Drive
Athens, OH 45701
(740)592-3306
(740)594-6304 Fax
<http://www.ci.athens.oh.us>



City of Athens

ATHENS, OHIO

March 27, 2025

NOTICE OF PUBLIC HEARING

Board of Zoning Appeals
28 Curran Drive
Athens, Ohio 45701

As provided for by Section 23.07.09(C) of the Athens City Zoning Code, you are hereby notified as a party of interest that an appeal has been filed by

John Brennan / Appellant
For property located at
16 Tulane Road

Appellant is requesting a variance from ACC 23.03.14 to allow a fence in the front set back and from ACC 23.10.01 Table (A) Bulk Control to allow 0 ft setback where 10 ft is required.

This case has been assigned
Case #25-01V

This meeting has been scheduled for **Tuesday, April 8, 2025**, at 7:00pm, Athens City Hall, 8 East Washington Street, Third Floor, and Athens City Council Chambers. More detailed information and plans are available for public inspection located on the City's Website, ci.athens.oh.us (Board of Zoning Appeals), and the Office of Development and Code Enforcement at 28 Curran Drive, (740) 592-3306. Anyone needing special accommodations to attend the meeting should contact the Government Channel at (740) 594-2900 or the Office of Development and Code Enforcement listed above.

NOTE: If you plan to attend, please verify that the meeting has not been postponed, cancelled or rescheduled. You may contact the Office of Development and Code Enforcement (740)592-3306.

Respectfully,
BOARD OF ZONING APPEALS

A handwritten signature in black ink that reads "Rob Delach". The signature is written in a cursive style and is positioned above a horizontal line.

Rob Delach, Chairperson

**Office of Code Enforcement and
Community Development**

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City of Athens

ATHENS, OHIO

March 27, 2025

NOTICE OF HEARING AND APPEAL

BOARD OF ZONING APPEALS
28 Curran Drive
Athens, Ohio 45701

Your appeal under the Zoning Ordinance relative to
16 Tulane Road
has been assigned Board of Zoning Appeals **Case #25-01V**

Inquiries and references should always be made to this number.

Further, you are notified to appear before the Board of Zoning Appeals, either in person or by agent or attorney, for a hearing in your case on **Tuesday, April 8, 2025**, at **7:00pm** in City Council Chambers, 8 East Washington Street, Third Floor, Athens, Ohio. Please contact our office at codeoffice@ci.athens.oh.us or by phone (740)592-3306 with any questions.

Anyone needing special accommodations to attend this meeting should contact the Government Channel at (740) 594-2900.

NOTE: If fewer than five (5) members are available for the meeting, you have the right to continue until such time as five (5) members are available to hear the case. In order to accommodate your decision prior to the meeting, you will be contacted if such a situation arises or if for some reason the meeting date, time and/or place are changed.

Respectfully,

BOARD OF ZONING APPEALS

A handwritten signature in black ink that reads "Rob Delach". The signature is written in a cursive style and is positioned above a horizontal line.

Rob Delach, Chairperson

**Office of Code Enforcement and
Community Development**

28 Curran Drive
Athens, OH 45701
(740)592-3306
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<http://www.ci.athens.oh.us>



City of Athens

ATHENS, OHIO

Form BZA-5
To be inserted one in the
Athens Messenger Newspaper

BOARD OF ZONING APPEALS
Case #25-01V

ADVERTISEMENT
Board of Zoning Appeals
28 Curran Drive, Athens, Ohio 45701

TO: The Athens Messenger

Insert the following legal notice on **March 29, 2025**

Containing all wording below the heavy-ruled line:

Issue affidavit within five (5) days of the date of notice to the Secretary of the Board setting forth a true and complete copy of said notice and the exact date on which it was published.

LEGAL NOTICE

Board of Zoning Appeals Notice is hereby given that a public hearing will be held in City Council Chambers, third floor of City Hall, by the Board of Zoning Appeals of the City of Athens on **Tuesday, April 8, 2025, at 7:00pm** on the following described property:

16 Tulane Road
Zone R1 Case #25-01V

Appellant is requesting a variance from ACC 23.03.14 to allow a fence in the front set back and from ACC 23.10.01 Table (A) Bulk Control to allow 0 ft setback where 10 ft is required.

Interested persons are requested to appear and voice their opinions with respect thereto. More detailed information and plans are available for public inspection located on the City's Website, ci.athens.oh.us (Board of Zoning Appeals), and at the Department of Development and Code Enforcement Office, located at 28 Curran Drive, Athens, Ohio. Anyone needing special accommodations to attend the meeting should contact the Government Channel at (740)594-2900.

BOARD OF ZONING APPEALS

A handwritten signature in black ink that reads "Rob Delach". The signature is written in a cursive style and is positioned above a horizontal line.

Rob Delach, Chairperson

16 Tulane Road – Case #25-01V – adjoining properties and owners

20 Tulane Road, (A028290008800),

20 N May Avenue (A028290008900)

Alan Goldsberry
20 N May Avenue
Athens, OH 45701

18 N May Avenue, (A028290009200)

Douglass Wistendahl
18 N May Avenue
Athens, OH 45701

16 N May Avenue

Lorraine Mott
16 N May Avenue
Athens, OH 45701

14 Tulane Road

Douglas Debrick
14 Tulane Road
Athens, OH 45701

4 McGuffey Lane

Paul Eschenbacher
4 McGuffey Lane
Athens, OH 45701

6 Woodside Drive

Jacob Snyder
6 Woodside Drive
Athens, OH 45701

4 Woodside Drive, (A028290000600),

(A028290000500)

Patrick Flanigan
4 Woodside Drive
Athens, OH 45701



APPEAL FROM A DECISION OF THE ZONING ADMINISTRATOR

Permit # B2A 25-00001 Date Rec'd 3-3-25

[X] (Request for Variance) [] (Request for Substitution) [] (Request for Interpretation) [] (Conditional Use)

APPLICANT: John Brennan PHONE # 740-590-0006
ADDRESS: 16 Tulane Rd. Athens Ohio 45701
OWNER: John Brennan
ADDRESS: 16 Tulane Rd. Athens Ohio 45701
PROPERTY ADDRESS: 16 Tulane Rd. Athens Ohio 45701
ZONE: R-1

I, THE UNDERSIGNED, John Brennan
HEREBY APPEAL THE DECISIONS / REVIEW OF THE ZONING ADMINISTRATOR DATED 02/11/2025
FOR DENIAL OF A ZONING PERMIT / REVIEW OF CONDITIONAL USE FOR PROPERTY LOCATED AT:
16 Tulane Rd. Athens Ohio 45701

IN ACCORDANCE WITH ALL REQUIRED INFORMATION SUBMITTED AND WITH THE ORIGINAL APPLICATION HERETO ATTACHED AND INCORPORATED INTO THE RECORD.

BY MY SIGNATURE I SWEAR OR AFFIRM THAT ALL OF THE INFORMATION PROVIDED IS TRUE AND ACCURATE.

[Handwritten signature]

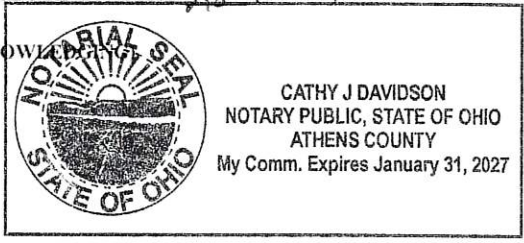
APPLICANT

STATE OF OHIO, COUNTY OF Athens

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 28th (DATE) BY

[Handwritten signature] (NAME OF PERSON ACKNOWLEDGED)
[Handwritten signature]
SIGNATURE OF NOTARY PUBLIC - STATE OF OHIO

MY COMMISSION EXPIRES: 01-31-27



PROPERTY OWNER (IF OTHER THAN APPLICANT)

STATE OF OHIO, COUNTY OF

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS (DATE) BY

(NAME OF PERSON ACKNOWLEDGING).

SIGNATURE OF NOTARY PUBLIC - STATE OF OHIO

MY COMMISSION EXPIRES:

Athens City Zoning Board of Appeal

2/28/2025

Permit # ZNC25-000005

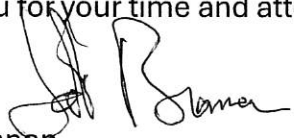
I am requesting a variance to the code that the refusal is based on. My request is largely based on the unique physical layout at the location of the setback requirement.

My small property at 16 Tulane Rd. is seven-sided and all but encapsulated. Only nine feet of the property line contacts Tulane Rd. I don't know how the "front" setback is defined but I only have access to the road at Tulane and not at all on McGuffey. Aside from my driveway, the east face of my property only contacts the city land at a surveyor's pin.

The portion of my land that is identified as not having the proper fence setback is a section that is shaped like a pie slice. The point of the "Pie", from which a ten-foot setback is being required, is at the top of a stream bed. That bed creates a small ravine which is approximately 15' across and at least 6' deep. On the other side of that ravine is a city-owned grassy section which is approximately 10' wide, and beyond that is the road surface of McGuffey Lane.

My request for a variance is that whatever purpose is intended by the setback requirement, that purpose is accomplished by the ravine/stream and the city-controlled open area beyond. The roadway is approximately more than 25' away from my property at it's closest.

Thank you for your time and attention.



John Brennan
16 Tulane Rd.
Athens, OH 45701

740-590-0006
john@brennan.net

Addendum follows.

Addendum: Addressing the six-point decision tree:

- (1) **Practical difficulty to undue hardship-** This is a small yard. The specified setback (10') reduces the size of the protected yard disproportionately to more standard yards. What the public purpose is served by requiring a setback area outside my proposed fence is unclear.
- (2) **Exceptional circumstances-** The size and configuration of the lot are exceptional. The setback area is adjacent to a stream/drainage feature with steep slopes. Additionally, open city-owned property exists beyond the stream and before the roadway.
- (3) **Preservation of equal property rights-** Many lots in the vicinity have fences that provide the opportunity to garden and have a measure of privacy. Gardening in this area without a deer fence is impractical. I am seeking the same opportunity as others in the community.
- (4) **Minimum variance-** This request for variance is for a very small area and should have no impact on the city's interests.
- (5) **Absence of detriment-** As the area in question is small and completely on my land the basis for detriment is not apparent.
- (6) **Not of general nature-** The peculiarities of this location make it unlikely to be the basis for dissimilar locations requesting variances.



APPEAL FROM A DECISION OF THE ZONING ADMINISTRATOR

In accordance with Athens City Code (ACC) Section 23.07.08 (D), the appellant must provide the following information in writing:

- *Name, address and phone number of the appellant*
- *Legal description of the property (copy of deed)*
- *Description or nature of variance requested (copy of the Zoning Administrator's decision)*
- *A fee established by ordinance plus a fee to defray the cost of legal advertising (Total \$150.00)*
- *Narrative statements establishing and substantiating that the variance conforms to the following standards:*

BULK CONTROL VARIANCES

23.07.10. Decisions of the board.

(C) Variances from the regulations of this title shall not be granted unless the BZA makes specific findings of fact, based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed in this title, if applicable, have been met by the applicant.

(1) Practical difficulty to undue hardship—Because of exceptional or extraordinary conditions pertaining to a specific piece of property, as stated in Section 23.07.03(b)(1) above, a literal enforcement of these regulations will result in practical difficulty or undue hardship that is unnecessary to the achievement of public purposes.

(2) Exceptional circumstances—There are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes or uses in the same zone.

(3) Preservation of equal property rights—Literal interpretation of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zone and the same vicinity, while a granting of the requested variance will not confer on the applicant any special privilege that is denied to other properties in the same zone and the same vicinity.

(4) Minimum variance—The variance granted is the minimum variance required to make possible the reasonable use of the property.

(5) Absence of detriment—The authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning code or the public interest.

(6) Not of general nature—The condition or situation of the specific piece of property, or the intended use of said property, for which variance is sought—one or the other or in combination—is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.

CONDITIONAL USE VARIANCES

(E) Conditionally permitted uses—General provisions: The BZA may authorize the issuance of a conditional use permit in accordance with the following provisions:

(1) Conditional uses for which a permit is issued are permitted in the zone;

(2) Each conditional use is considered as an individual case;

(3) The BZA shall find that the case conforms to the specific requirements enumerated in each section and also these standards:

(a) The conditional use complies with all applicable city regulations.

(b) The conditional use will be of such location, size, and character that it will generally be in harmony with the appropriate and orderly development of the zone. It will not be detrimental to the

orderly development of adjacent properties nor inconsistent with the city comprehensive plan.

(c) The ingress and egress from the parking area is so designed as to cause minimum interference with traffic on abutting streets.

FLOOD HAZARD VARIANCES

25.05.04. Variances.

(C) Public hearing. At such hearing the applicant shall present such statements and evidence as the board of zoning appeals requires. In considering such variance applications, the board of zoning appeals shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

- (1)** The danger that materials may be swept onto other lands to the injury of others.
- (2)** The danger to life and property due to flooding or erosion damage.
- (3)** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (4)** The importance of the services provided by the proposed facility to the community.
- (5)** The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
- (6)** The necessity to the facility of a waterfront location, where applicable.
- (7)** The compatibility of the proposed use with existing and anticipated development.
- (8)** The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (9)** The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10)** The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (11)** The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Variances shall only be issued upon:

- (1)** A showing of good and sufficient cause.
- (2)** A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- (3)** A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
- (4)** A determination that the structure or other development is protected by methods to minimize flood damages.
- (5)** A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

23.05.02. - Nonconforming uses or buildings; enlargement, substitution, etc.

(A) Substitution: When authorized by the BZA, the **substitution** for a nonconforming use of another not more objectionable nonconforming use may be made. However, in an R-Zone, no change shall be authorized to any use that is not a permitted or conditionally permitted use in any R-Zone. In a B-Zone, no change shall be authorized to any use that is not a permitted or conditionally permitted use in any B-Zone.

23.07.02 - Powers of the board: Original jurisdiction.

(B) Substitution

23.07.03. - Powers of the board: Appellate jurisdiction.

For Interpretation

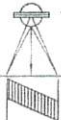
(A) Administrative review: The BZA shall have the power to hear and decide appeals, filed as hereinafter provided,

where it is alleged by the appellant that there is error in any order, requirement, decision, determination, grant or refusal made by the zoning inspector or other administrative official in the enforcement and interpretation of the provisions of the zoning code.

C. TIM NEWMAN
Professional Surveyor

66 Elmwood Place
Athens, Ohio 45701

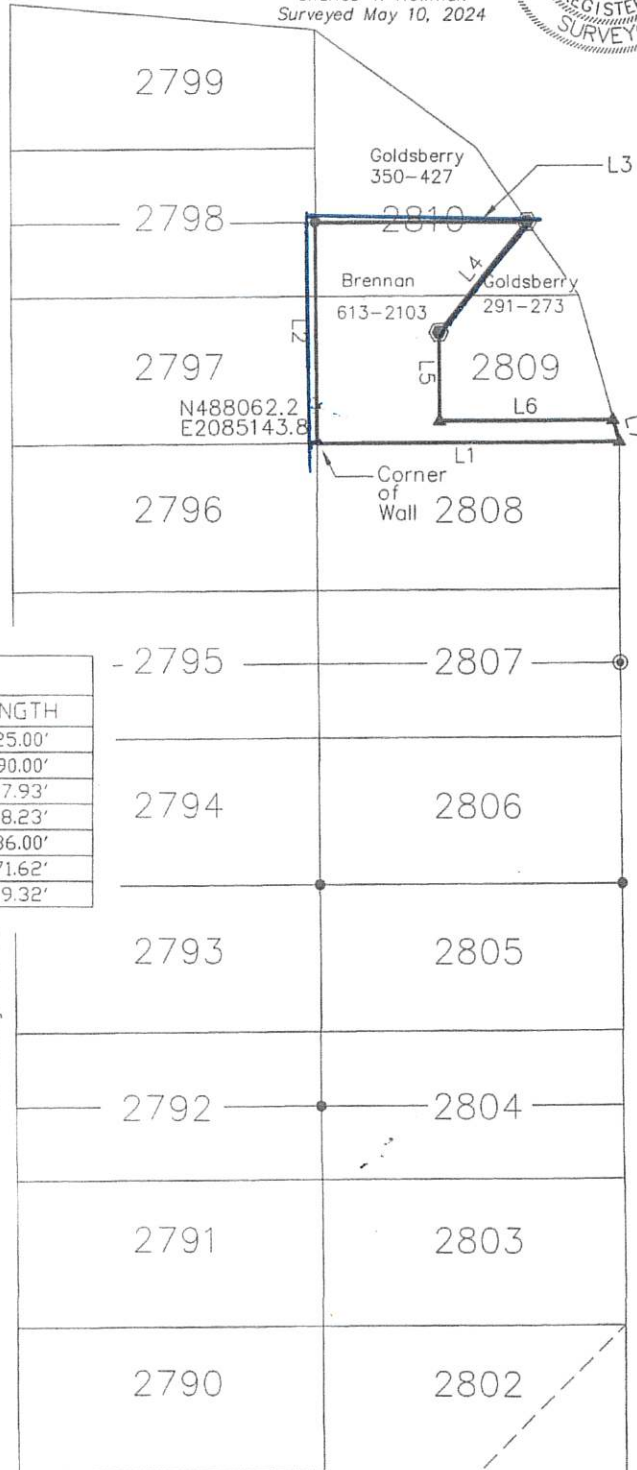
740-594-1884
740-591-5269



Basis of Bearings: NAD83 Ohio South
Cable Acres Addition

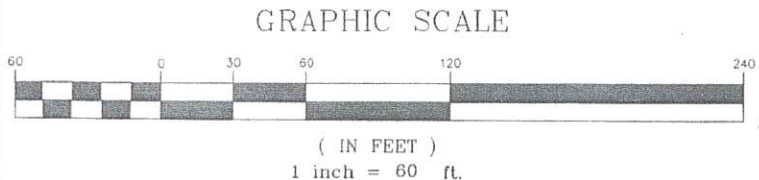
Plat of Survey of (2) existing parcels, deeded to:
John Brennan, Official Record 613, pages 2103-2104.
Parcel A028290008600 and A028290008500.
Being part of Lots 2809 and 2810 in Cable Acres Addition,
City of Athens, Ohio.

Charles T. Newman
Charles T. Newman
Surveyed May 10, 2024



LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°30'35"W	125.00'
L2	N00°29'25"W	90.00'
L3	N89°30'35"E	87.93'
L4	S38°54'32"W	58.23'
L5	S00°29'25"E	36.00'
L6	N89°30'35"E	71.62'
L7	S15°28'32"E	9.32'

- Iron Pin Found #5 rebar
- ▲ Iron Pin Found capped Castle
- ▲ Mag Nail Set
- Iron Pin Found capped Sawyer
- Iron Pin Set capped Newman



A028290009000

A028290009100

A028290009200

A028290009300

A028290008900

A028290008600

A028290008500

A028290008800

A028290008700

MCGUFFEY-LN

Cables Acres Addition

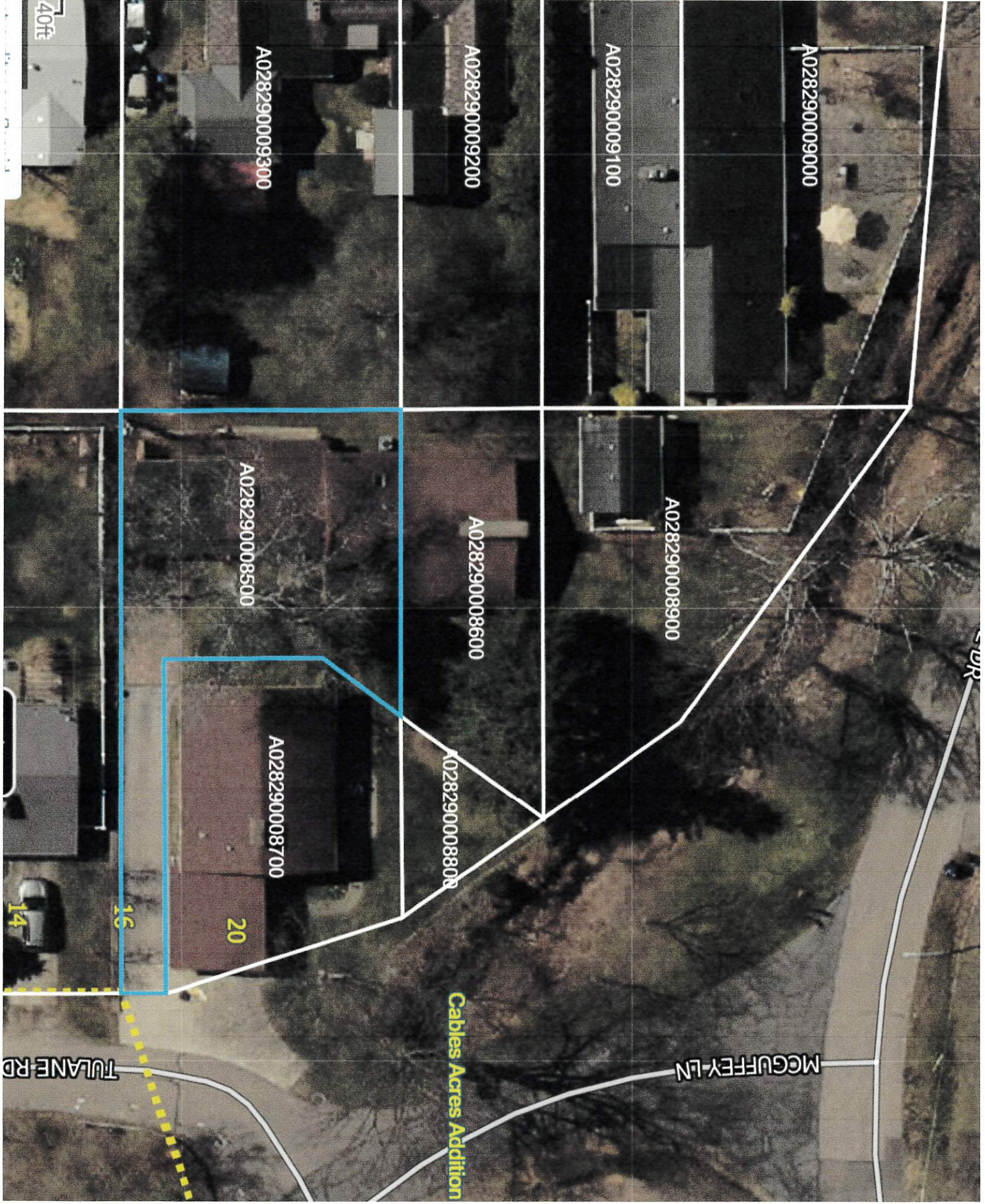
TULANE RD

14

16

20

40ft



TRANSMITTED NO. 604
SEC. 319.202 R.C. COMPLIED
WITHIN AMT. \$996.00

APR 23 2024

JILL A. DAVIDSON
AUDITOR ATHENS COUNTY, OHIO
WF TRANS FEE 1.00

202400001645
FILED FOR RECORD IN
ATHENS COUNTY, OHIO
JESSICA MARKINS, RECORDER
04/24/2024 02:47:15 PM
OR BOOK: 613 PAGE: 2103
DEED 34.00 PG: 2

202400001645
SECURE TITLE SERVICES

GENERAL WARRANTY DEED

Statutory Form
(RC 5302.05)

Wanda L. Weiser, an unmarried woman, of Athens County, Ohio, for valuable consideration paid, grants, with general warranty covenants, to John Brennan whose tax mailing address is 16 Tulane Road
Athens OH 45701, the following real property:

*** SEE "EXHIBIT A" ATTACHED HERETO AND INCORPORATED
HEREIN BY THIS REFERENCE. ***

Parcel No. A028290008600 and A028290008500
Known as: 16 Tulane Road, Athens, OH 45701

Prior Instrument Reference: Official Record 503, Page 302 of the records of Athens County, Ohio.

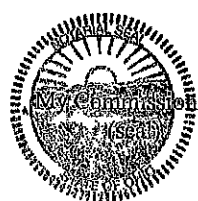
Subject to easements, leases, rights of way, conditions, reservations, and restrictions of record.

EXECUTED this 22 day of April, 2024.

Wanda L. Weiser
by Dawn L. Weiser, POA
Wanda L. Weiser
By Dawn L. Weiser, attorney in fact
Power of Attorney recorded in Volume 613,
Page 2097, Official Records of Athens County,
Ohio.

STATE OF OHIO
COUNTY OF Athens:

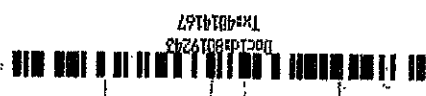
The foregoing instrument was acknowledged before me this 22 day of April, 2024, by Dawn L. Weiser, attorney in fact on behalf of Wanda L. Weiser.



BERESAA CURTIS
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES 06-26-2027

Beresaa Curtis
Notary Public

PREPARED BY: CHRISTIAN S. GERIG, ATTORNEY AT LAW, ATHENS, OHIO



Legal Description
For File: STS16759

Situated in the City of Athens, County of Athens and State of Ohio, to-wit:

Located in In Lots Nos. 2809 and 2810 in Cable Acres Addition to said City of Athens and more particularly described as follows: Beginning at an iron pin marking the Southeast corner of In Lot No. 2809 in said Addition;

Thence North 89 deg. 30' West 125.00 feet to an iron pin marking the Southwest corner of said Lot;

Thence North 0 deg. 36' East 90.12 feet to an iron pin lying 30.00 feet North of the Southwest corner of In Lot 2810;

Thence South 89 deg. 30' East parallel to and 30.00 feet North of the South line of said Lot 87.92 feet to an iron pin on the East line of said Lot;

Thence South 39 deg. 56' West 58.40 feet to an iron pin;

Thence South 0 deg. 30' West 36.00 feet to an iron pin which lies 9.00 feet North of the South line of In Lot No. 2809;

Thence South 89 deg. 30' East parallel to and 9.00 feet North of said line 71.62 feet to an iron pin on the East line of said Lot;

Thence South 14 deg. 22' East along said East line 9.32 feet to the place of beginning as surveyed by George W. Clark, August 5th, 1953. There is also conveyed to the Grantee herein, her heirs and assigns, the following easement, to-wit: There shall be and hereby is expressly reserved to Elizabeth G. Andersch, her heirs and assigns, a perpetual easement in, over and across the premises herein conveyed for the purpose of installation, maintenance, repair and removal of sewer, water and gas pipes and conduits for utility lines, such easement shall extend in an Easterly direction from the premises now owned by Elizabeth G. Andersch, being the remainder of the premises purchased by her from Julia L. Cable, et al, by deed dated June 2, 4, 6, 8, 13 and 26, 1953, and recorded in Volume 213, Page 601, Record of Deeds of Athens County, Ohio, to the East and/or Northeast boundary of the premises herein conveyed, said easement shall be located North of the residence property situated on the premises herein conveyed. Said easement is reserved in a deed from Elizabeth G. Andersch to Bertha A. Armbruster and of record in Volume 216, Page 567, Athens County Deed Records.

It is the intention to convey to the Grantee herein, her heirs and assigns, all real estate described in a deed in Volume 213, Page 601, Athens County Deed Records subject to such building restrictions as therein set-forth, excepting, however, such portion thereof as conveyed to Bertha S. Armbruster by deed of record in Volume 216, Page 567, Athens County Deed Records.

Subject to easements, leases, rights-of-way, reservations and restrictions of record.

Deed Reference: OR Book 503, Page 302

PPN: A02-82900085-00

PPN: A02-82900086-00



**ZONING PERMIT
CITY OF ATHENS, OHIO
ATHENS CITY CODE TITLE 23**

Permit #: ZNC25-000005
February 13, 2025
REFUSAL

Permit Type: Residential
Use of Building:

Project Address: 16 Tulane Road

Applicant:

John Brennan
Phone: (740) 590-0006

16 Tulane Avenue
Athens, Ohio 45701

Property Owner:

John Brennan
Phone: (740) 590-0006

16 Tulane Avenue
Athens, OH 45701

Description of Proposed Use/Scope of Project: 16 Tulane

Decision Detail: Your request for a Zoning Accessory Structure Permit has been refused in accordance with the application submitted and ACC 23.03.14 - fence not permitted beyond the front set back of the house. ACC 23.10.01 Table (A) Bulk Control. Asking for 0' where 10' is required.

Estimated Value of Improvement: \$14,000.00 **Sq. Footage of New Construction or Addition:**
Existing number of parking spaces: 2 **Proposed number of parking spaces:** 0
Setbacks (as indicated on drawing): Front: 0 ft Rear: 0 ft Left: 0 ft Right: 0 ft

Director of Development and Code Enforcement:

Approved Refused

02/11/2025

David R. Riggs, P.E.
Director of Development and Code Enforcement

Date

Office of Code Enforcement
& Community Development
28 Curran Drive
Athens, Ohio 45701
740-592-3306 (Office)
740-594-6304 (Fax)



City of Athens
Athens, Ohio

February 13, 2025

To: John Brennan
16 Tulane Road
Athens, OH 45701

Applicant Address: 740 590 0006

To: John Brennan
16 Tulane Avenue
Athens, OH 45701
Owner Address: 740 590 0006

REFUSAL

Zoning Constuction Permit - Residential Refusal Detail

Premises Address: 16 Tulane Road

Application Date: 01/24/2025

For: 16 Tulane

Decision Detail: *Your request for a Zoning Accessory Structure Permit has been refused in accordance with the application submitted and ACC 23.03.14 - fence not permitted beyond the front set back of the house. ACC 23.10.01 Table (A) Bulk Control. Asking for 0' where 10' is required.*

NOTE: *You may appeal the decision of the Zoning Inspector or request a variance from the Board of Zoning Appeals. Any appeal made from this refusal must be filed with the Secretary to the Board of Zoning Appeals within twenty (20) days after the date of this refusal. For further information, contact the Secretary to the Board of Zoning Appeals, 28 Curran Drive, Athens, Ohio and bring this notice with you. The variance request application and instructions can be found on the city's website at <http://www.ci.athens.oh.us/DocumentCenter/View/71>.*



APPLICATION for COMMERCIAL
or 1-2-3 UNIT RESIDENCE
ZONING PERMIT - CONSTRUCTION
CITY OF ATHENS, OHIO
ATHENS CITY CODE TITLE 23

(Office Use Only)
Permit # ZNC25-00005
Date Rec'd 1-24-25

Application Fee: \$80 (2.9% convenience fee if credit card is used)

* Scaled Detail Drawing Required ** Application will not be processed unless Drawing and Application Fee attached

Residential Commercial

Applicant John Brennan Phone 740-590-0006
Address 16 Tulane Rd
Property Owner (if other than applicant) NA Phone NA
Address NA

ZONING

Address of Proposed Work 16 Tulane Rd
Description of Proposed Work: New Alteration Accessory
Project Description Fence

Estimated Cost of Project \$14,000 Proposed Square Footage _____

Must be registered with the City of Athens.

*General Contractor ALCO Fence Company License # _____
*Electrician (if applicable) _____ License # _____
*Plumber (if applicable) _____ License # _____
*HVAC (if applicable) _____ License # _____

I HEREBY SWEAR OR AFFIRM THAT ALL THE INFORMATION PROVIDED AND DRAWINGS ATTACHED ARE TO THE BEST OF MY KNOWLEDGE TRUTHFUL AND ACCURATE.

Applicant Signature [Signature] Date 1/22/2025
Owner Signature [Signature] Date 1/22/2025

Other Items Required before Issuance of Permit (if applicable):

- | | | | |
|--|---|--|---------------------------------------|
| <input type="checkbox"/> Title 41 / PUD Approval | <input type="checkbox"/> Water Tap (Calculations EPW) | <input type="checkbox"/> Fire Separation Drawing | <input type="checkbox"/> Flood Hazard |
| <input type="checkbox"/> Shade Tree Commission | <input type="checkbox"/> Sanitary Sewer Tap | <input type="checkbox"/> Address Assignment | <input type="checkbox"/> Wellhead |
| <input type="checkbox"/> Land Development | <input type="checkbox"/> Storm Sewer Tap | <input type="checkbox"/> Opening (Curb Cut) | <input type="checkbox"/> BZA Approval |

All items checked above to be approved prior to final approval.

Zone: R-1 (For Office Use Only) Flood Plain: N/A Parcel Number: A028290008500

Setbacks: Front: A: 0' R: 10' Rear: A: 0' R: 0' Left: A: 0' R: 0' Right: A: 0' R: 0'

Building Lot Coverage: A: N/A R: N/A Total Lot Coverage A: N/A R: N/A Building Height: A: N/A R: N/A

Exg. # of Parking Spaces: 2 Proposed Spaces: 0 Required: 2 Total: 2

Code Officer Comments: REFUSED ACC 23.03.14 FENCE NOT PERMITTED BEYOND FRONT SET BACK OF HOUSE,
REFUSED ACC 23.10.01 TABLE(A) BULK CONTROL FRONT SET BACK ASKING 0'

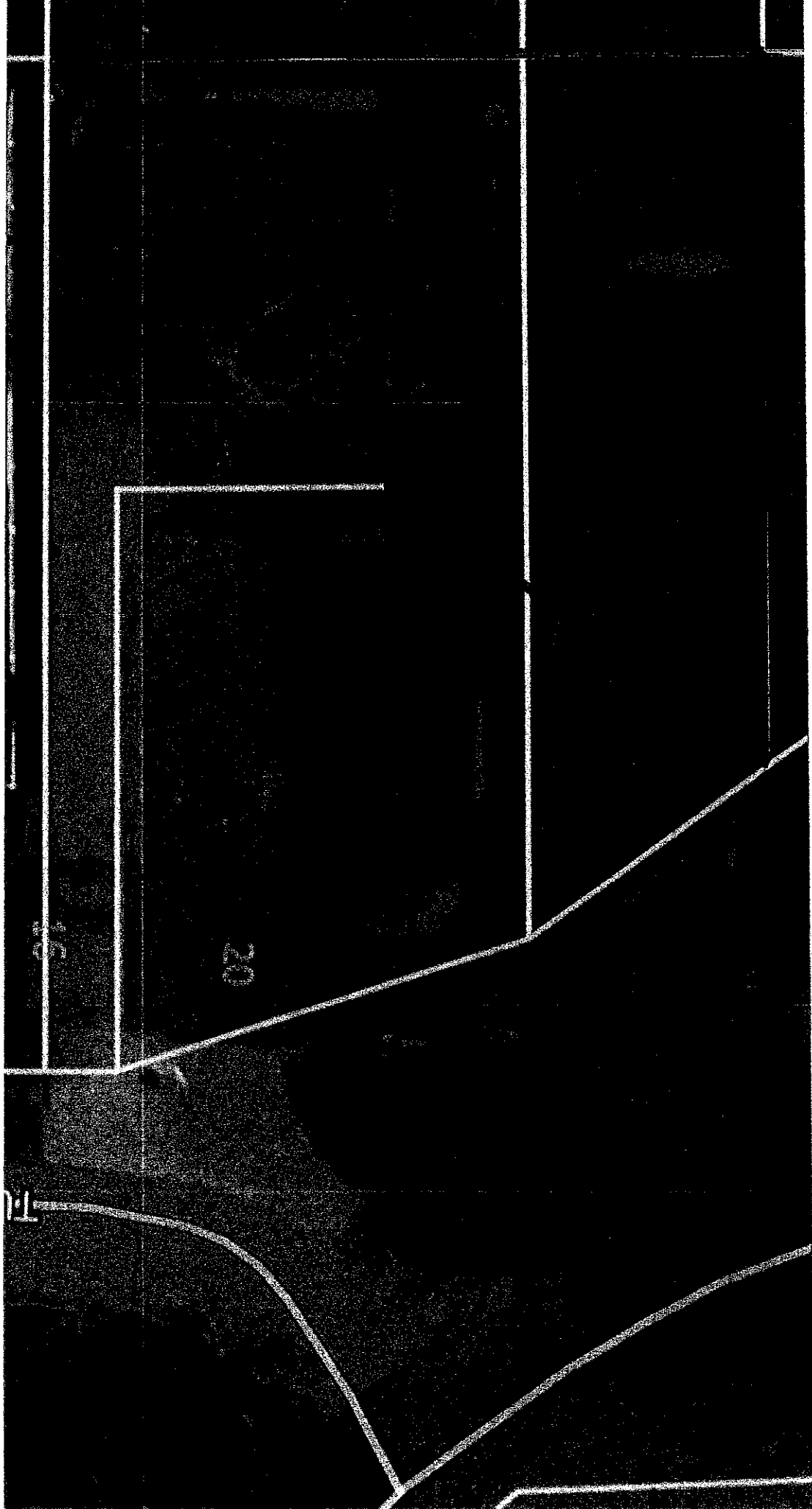
Signature: [Signature] Date: 2-5-25 Recommend: Approval Refusal W/REAR 10' REQUIRED

Zoning Administrator Comments: _____

Signature: [Signature] Date: 2/11/25 Approval Refusal

Service Safety Director Comments: _____

Signature: [Signature] Date: 2/11/25 Approval Refusal



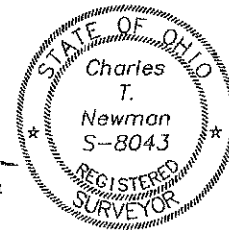
C. TIM NEWMAN

Professional Surveyor

66 Elmwood Place
Athens, Ohio 45701

740-594-1884
740-591-5269

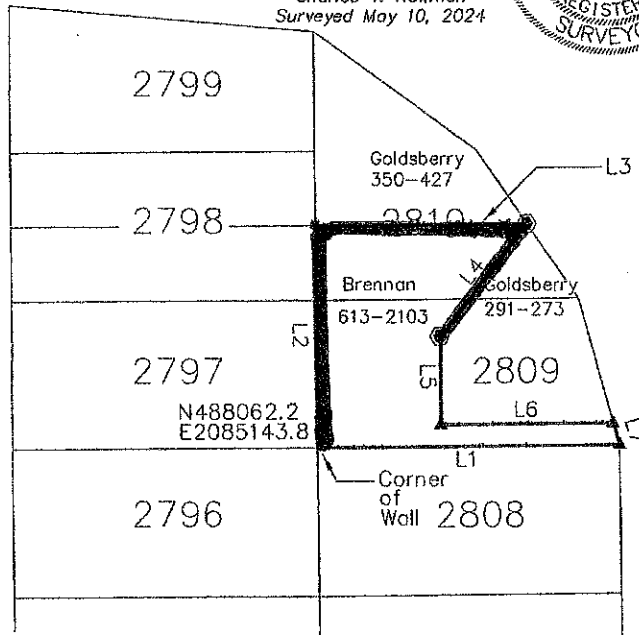
Plat of Survey of (2) existing parcels, deeded to:
John Brennan, Official Record 613, pages 2103-2104.
Parcel A028290008600 and A028290008500.
Being part of Lots 2809 and 2810 in Cable Acres Addition,
City of Athens, Ohio.



Charles T. Newman
Charles T. Newman
Surveyed May 10, 2024



Basis of Bearings: NAD83 Ohio South
Cable Acres Addition



LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°30'35"W	125.00'
L2	N00°29'25"W	90.00'
L3	N89°30'35"E	87.93'
L4	S38°54'32"W	58.23'
L5	S00°29'25"E	36.00'
L6	N89°30'35"E	71.62'
L7	S15°28'32"E	9.32'

- ⊙ Iron Pin Found #5 rebar
- △ Iron Pin Found capped Castle
- ▲ Mag Nail Set
- ⊙ Iron Pin Found capped Sawyer
- Iron Pin Set capped Newman

GRAPHIC SCALE



(IN FEET)
1 inch = 60 ft.

**Office of Code Enforcement and
Community Development**

28 Curran Drive
Athens, OH 45701
(740)592-3306
(740)594-6304 Fax
<http://www.ci.athens.oh.us>



City of Athens

ATHENS, OHIO

March 27, 2025

NOTICE OF PUBLIC HEARING

Board of Zoning Appeals
28 Curran Drive
Athens, Ohio 45701

As provided for by Section 23.07.09(C) of the Athens City Zoning Code, you are hereby notified as a party of interest that an appeal has been filed by

George Anaya / Appellant
For property located at
40 1/2 Morris Avenue

Appellant is requesting a variance from ACC 23.04.01 B6 to allow a non-owner-occupied short-term rental in an R-1 zone, and a variance from ACC 23.08.01 D to allow a short-term rental with 0 on-site parking where 2 is required.

This case has been assigned
Case #25-02V

This meeting has been scheduled for **Tuesday, April 8, 2025**, at 7:00pm, Athens City Hall, 8 East Washington Street, Third Floor, and Athens City Council Chambers. More detailed information and plans are available for public inspection located on the City's Website, ci.athens.oh.us (Board of Zoning Appeals), and the Office of Development and Code Enforcement at 28 Curran Drive, (740) 592-3306. Anyone needing special accommodations to attend the meeting should contact the Government Channel at (740) 594-2900 or the Office of Development and Code Enforcement listed above.

NOTE: If you plan to attend, please verify that the meeting has not been postponed, cancelled or rescheduled. You may contact the Office of Development and Code Enforcement (740)592-3306.

Respectfully,
BOARD OF ZONING APPEALS

A handwritten signature in black ink that reads "Rob Delach". The signature is written in a cursive style and is positioned above a horizontal line.

Rob Delach, Chairperson

**Office of Code Enforcement and
Community Development**

28 Curran Drive
Athens, OH 45701
(740)592-3306
(740)594-6304 Fax
<http://www.ci.athens.oh.us>



City of Athens

ATHENS, OHIO

March 27, 2025

NOTICE OF HEARING AND APPEAL

BOARD OF ZONING APPEALS
28 Curran Drive
Athens, Ohio 45701

Your appeal under the Zoning Ordinance relative to
40 1/2 Morris Avenue
has been assigned Board of Zoning Appeals **Case #25-02V**

Inquiries and references should always be made to this number.

Further, you are notified to appear before the Board of Zoning Appeals, either in person or by agent or attorney, for a hearing in your case on **Tuesday, April 8, 2025, at 7:00pm** in City Council Chambers, 8 East Washington Street, Third Floor, Athens, Ohio. Please contact our office at codeoffice@ci.athens.oh.us or by phone (740)592-3306 with any questions.

Anyone needing special accommodations to attend this meeting should contact the Government Channel at (740) 594-2900.

NOTE: If fewer than five (5) members are available for the meeting, you have the right to continue until such time as five (5) members are available to hear the case. In order to accommodate your decision prior to the meeting, you will be contacted if such a situation arises or if for some reason the meeting date, time and/or place are changed.

Respectfully,

BOARD OF ZONING APPEALS

A handwritten signature in black ink that reads "Rob Delach". The signature is written in a cursive style and is positioned above a horizontal line.

Rob Delach, Chairperson

Form BZA-3

**Office of Code Enforcement and
Community Development**

28 Curran Drive
Athens, OH 45701
(740)592-3306
(740)594-6304 Fax
<http://www.ci.athens.oh.us>



City of Athens
ATHENS, OHIO

Form BZA-5
To be inserted one in the
Athens Messenger Newspaper

BOARD OF ZONING APPEALS
Case #25-02V

ADVERTISEMENT
Board of Zoning Appeals
28 Curran Drive, Athens, Ohio 45701

TO: The Athens Messenger

Insert the following legal notice on **March 29, 2025**

Containing all wording below the heavy-ruled line:

Issue affidavit within five (5) days of the date of notice to the Secretary of the Board setting forth a true and complete copy of said notice and the exact date on which it was published.

LEGAL NOTICE

Board of Zoning Appeals Notice is hereby given that a public hearing will be held in City Council Chambers, third floor of City Hall, by the Board of Zoning Appeals of the City of Athens on **Tuesday, April 8, 2025, at 7:00pm** on the following described property:

40 1/2 Morris Avenue
Zone R1 Case #25-02V

Appellant is requesting a variance from ACC 23.04.01 B6 to allow a non-owner-occupied short-term rental in an R-1 zone, and a variance from ACC 23.08.01 D to allow a short-term rental with 0 on-site parking where 2 is required.

Interested persons are requested to appear and voice their opinions with respect thereto. More detailed information and plans are available for public inspection located on the City's Website, ci.athens.oh.us (Board of Zoning Appeals), and at the Department of Development and Code Enforcement Office, located at 28 Curran Drive, Athens, Ohio. Anyone needing special accommodations to attend the meeting should contact the Government Channel at (740)594-2900.

BOARD OF ZONING APPEALS

A handwritten signature in black ink that reads "Rob Delach". The signature is written in a cursive style and is positioned above a horizontal line.

Rob Delach, Chairperson

40 1/2 Morris Avenue – Case #25-02V – adjoining properties and owners

0 Verona Street (A027150001900),

3 Verona Street

Athens City School District
PO Box 9 21 Birge Drive
Chauncey, OH 45719

31 Morris Avenue

James Coady
25 W Washington Street
Athens, OH 45701

34 Morris Avenue

Jerry Jagers
34 Morris Avenue
Athens, OH 45701

35 Morris Avenue

Glenn Matlack
35 Morris Avenue
Athens, OH 45701

39 Morris Avenue, (A027140003300)

39 Morris Avenue LLC
40 Maplewood Drive
Athens, OH 45701

42 Morris Avenue

Thomas Montgomery
42 Morris Avenue
Athens, OH 45701

43 45 Morris Avenue (A027140003300)

Ittel Schriener LLC
PO Box 90
Millfield OH, 45761



APPEAL FROM A DECISION OF THE ZONING ADMINISTRATOR

(For Office Use Only) Permit # BZA25-02 Date Rec'd 3-14-25

(Request for Variance) (Request for Substitution) (Request for Interpretation) (Conditional Use)

APPLICANT: George A Anaya PHONE # 513-284-4411 ADDRESS: 40 Morris Avenue Athens Ohio 45701 OWNER: George A & Maura K Anaya ADDRESS: 40 Morris Avenue Athens Ohio 45701 PROPERTY ADDRESS: 40 Morris Avenue Athens Ohio 45701 ZONE: R1

I, THE UNDERSIGNED, George Antonio Anaya HEREBY APPEAL THE DECISIONS / REVIEW OF THE ZONING ADMINISTRATOR DATED 3/13/2025 FOR DENIAL OF A ZONING PERMIT / REVIEW OF CONDITIONAL USE FOR PROPERTY LOCATED AT: 40 1/2 Morris Avenue Athens Ohio 45701

IN ACCORDANCE WITH ALL REQUIRED INFORMATION SUBMITTED AND WITH THE ORIGINAL APPLICATION HERETO ATTACHED AND INCORPORATED INTO THE RECORD.

BY MY SIGNATURE I SWEAR OR AFFIRM THAT ALL OF THE INFORMATION PROVIDED IS TRUE AND ACCURATE.

Signature of George A. Anaya APPLICANT

STATE OF OHIO, COUNTY OF Athens

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 14 (DATE) BY

George A. Anaya (NAME OF PERSON ACKNOWLEDGING)

Signature of Notary Public - State of Ohio



EMILY PAYNE Notary Public, State of Ohio My Commission Expires 4-10-28

MY COMMISSION EXPIRES: 4-10-28

Signature of Property Owner (if other than applicant)

STATE OF OHIO, COUNTY OF Athens

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 14 (DATE) BY

Maura K Anaya (NAME OF PERSON ACKNOWLEDGING)

Signature of Notary Public - State of Ohio



EMILY PAYNE Notary Public, State of Ohio My Commission Expires 4-10-28

MY COMMISSION EXPIRES: 4-10-28



APPEAL FROM A DECISION OF THE ZONING ADMINISTRATOR

In accordance with Athens City Code (ACC) Section 23.07.08 (D), the appellant must provide the following information in writing:

- **Name, address and phone number of the appellant**
- **Legal description of the property (copy of deed)**
- **Description or nature of variance requested (copy of the Zoning Administrator's decision)**
- **A fee established by ordinance plus a fee to defray the cost of legal advertising (Total \$150.00)**
- **Narrative statements establishing and substantiating that the variance conforms to the following standards:**

BULK CONTROL VARIANCES

23.07.10. Decisions of the board.

(C) Variances from the regulations of this title shall not be granted unless the BZA makes specific findings of fact, based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed in this title, if applicable, have been met by the applicant.

(1) Practical difficulty to undue hardship—Because of exceptional or extraordinary conditions pertaining to a specific piece of property, as stated in Section 23.07.03(b)(1) above, a literal enforcement of these regulations will result in practical difficulty or undue hardship that is unnecessary to the achievement of public purposes.

(2) Exceptional circumstances—There are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes or uses in the same zone.

(3) Preservation of equal property rights—Literal interpretation of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zone and the same vicinity, while a granting of the requested variance will not confer on the applicant any special privilege that is denied to other properties in the same zone and the same vicinity.

(4) Minimum variance—The variance granted is the minimum variance required to make possible the reasonable use of the property.

(5) Absence of detriment—The authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning code or the public interest.

(6) Not of general nature—The condition or situation of the specific piece of property, or the intended use of said property, for which variance is sought—one or the other or in combination—is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.

CONDITIONAL USE VARIANCES

(E) Conditionally permitted uses—General provisions: The BZA may authorize the issuance of a conditional use permit in accordance with the following provisions:

(1) Conditional uses for which a permit is issued are permitted in the zone;

(2) Each conditional use is considered as an individual case;

(3) The BZA shall find that the case conforms to the specific requirements enumerated in each section and also these standards:

(a) The conditional use complies with all applicable city regulations.

(b) The conditional use will be of such location, size, and character that it will generally be in harmony with the appropriate and orderly development of the zone. It will not be detrimental to the

orderly development of adjacent properties nor inconsistent with the city comprehensive plan.

(c) The ingress and egress from the parking area is so designed as to cause minimum interference with traffic on abutting streets.

FLOOD HAZARD VARIANCES

25.05.04. Variances.

(C) **Public hearing.** At such hearing the applicant shall present such statements and evidence as the board of zoning appeals requires. In considering such variance applications, the board of zoning appeals shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

- (1) The danger that materials may be swept onto other lands to the injury of others.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services provided by the proposed facility to the community.
- (5) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
- (6) The necessity to the facility of a waterfront location, where applicable.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Variances shall only be issued upon:

- (1) A showing of good and sufficient cause.
- (2) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- (3) A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
- (4) A determination that the structure or other development is protected by methods to minimize flood damages.
- (5) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

23.05.02. - Nonconforming uses or buildings; enlargement, substitution, etc.

(A) **Substitution:** When authorized by the BZA, the **substitution** for a nonconforming use of another not more objectionable nonconforming use may be made. However, in an R-Zone, no change shall be authorized to any use that is not a permitted or conditionally permitted use in any R-Zone. In a B-Zone, no change shall be authorized to any use that is not a permitted or conditionally permitted use in any B-Zone.

23.07.02 - Powers of the board: Original jurisdiction.

(B) Substitution

23.07.03. - Powers of the board: Appellate jurisdiction.

For Interpretation

(A) **Administrative review:** The BZA shall have the power to hear and decide appeals, filed as hereinafter provided,

where it is alleged by the appellant that there is error in any order, requirement, decision, determination, grant or refusal made by the zoning inspector or other administrative official in the enforcement and interpretation of the provisions of the zoning code.

Narrative in Support of Request for Variance

George A Anaya and Maura Kennedy Anaya

Parcel No. A027150004700 ("Parcel 1") 40 Morris Avenue, Athens Ohio 45701

Parcel No. A027150004800 ("Parcel 2") 40 ½ Morris Avenue, Athens Ohio 45701

The legal description of both Parcels is attached hereto as Exhibit A

Description or nature of variance requested.

The resident owners of Parcel 1 and Parcel 2 request a variance to allow the resident owners to use the carriage house on Parcel 2 as a guest house for short-term rental.

The resident owners' prior request was rejected based on inadequate parking as required by the Code and because Parcel 2 is considered "non-owner occupied." The resident owners state that there is adequate parking to comply with the code, and this variance is reasonable and necessary given the unique relationship between Parcel 1 and Parcel 2, as detailed in the Special Circumstances below.

The variance conforms to the following standards:

Parcel 1 contains the only driveway that accesses Parcel 2. The only parking area is located completely within Parcel 1. This parking area is 52 feet wide by 14 feet long. The driveway is 12 feet wide. Therefore, this parking area can accommodate four parking spaces that conform to the required Code size of 10 x 14 feet each.

Special Circumstances

Parcel 1 and Parcel 2 are uniquely situated. Parcel 1 contains the primary dwelling unit, while Parcel 2 contains a carriage house, which was historically used as a garage, workspace, and additional living space to the main house. The Parcels appear as a single, contiguous property. The Parcels were purchased together. The Athens County Auditor's records reflect a single purchase price for both Parcels combined, although the Parcels are separately appraised. When the resident owners purchased both Parcels in 2020, Parcel 2 had vehicular access through an alley. This access was eliminated when the new East Elementary School was built, landlocking the property. Access through the East Elementary Teachers parking lot could be possible; however, this is blocked by a parking bumper and parking space. This deprives the owners of the reasonable use of Parcel 2 with limited access to the back of the property and the inability to create additional parking space that would meet the requirements.

The city recently raised the taxes for Parcel 2 by designating it as "non-owner occupied." However, Parcel 2 cannot be separated from Parcel 1. Parcel 2 has no public access and, as a result, has no accessible parking. Parcel 2 has no independent water line – it is serviced by the same water line as Parcel 1. Parcel 2 has no independent electric service – it is serviced by the same meter as Parcel 1. Parcel 2 has no independent sewer drain – it is serviced by the

same drain as Parcel 1. Finally, the south wall of the carriage house sits right on the property line between Parcel 1 and Parcel 2, meaning Parcel 2 has no frontal setback from Parcel 1 whatsoever. Treating Parcel 2 as entirely independent of Parcel 1, and thus, "non-owner occupied," is impossible given the current state of utilities and the location of the carriage house.

This puts a hardship on the owners, who pay \$864 yearly in taxes, plus additional expenses in energy, water, and maintenance, for Parcel 2, which now cannot be used as anything other than storage or a quest house. As a landlocked parcel with no entrance beside the easement of the principal residence, the cost of maintaining the property is increased because of the cost of transporting lawn maintenance and other materials to the back due to the loss of access.

Rejection of the short-term rental permit deprives the owners of their property rights of the reasonable use of the land and building due to no fault of the owners. Currently, the carriage house building is not in use. It lies dormant. Additionally, it deprives the community of the taxes and benefits to the community in additional temporary housing for visitors. Not being able to utilize this property also diminishes and impairs the extra value added for specific property and community home values. It offers no risk of increasing congestion to public streets or to the safety of the public as the owners are on-site, and there is ample space to park.

When the current resident owners purchased the property, both Parcels were in deplorable condition. The resident owners have invested considerable expense in restoring the entire property, including the main home and the carriage house, which will raise the value of the neighboring houses.

Parcel 1 has a rooming house permit. Historically, the property was a rooming house for international students and university faculty. However, due to the rehabbing process, this permit has not been utilized, but the owners would like to reserve it for the future when their children leave the home.

Reasonable use of the property

The granting of the variance is necessary for the reasonable use of the land or building, which is the minimum variance that will accomplish this purpose. In fact, granting the variance allows Parcel 1 and Parcel 2 to be used as both intended and as it has been used since its construction: as an owner-occupied single residence. Allowing Parcel 2 to be treated as an independent property would put more burden on the surrounding properties, as it will require additional easements and significant utility installation.

The location of the Carriage House on Parcel 2 also significantly eliminates any additional burden on the community. The Carriage House sits at the rear of Parcel 1, adjacent to the parking area but approximately 80 feet from Morris Avenue. The rear of Parcel 2 abuts the faculty parking for East Elementary and the school garden. The front of the Carriage House is only visible from the main house and the two immediate neighbors.

No Special Privileges

The granting of the variance requested will not confer on the owners any special privilege denied by this regulation to other lands, structures, or buildings in the same zone and vicinity. Parcel 2 cannot function as an independent parcel as it is; therefore, allowing it to function as a part of Parcel 1 through the requested variance will bring it more in line with the actual conditions of the property. Further, one small short-term rental will not impact the nature of the neighborhood. There are eight long-term rentals and one business within 250 feet of the property. The primary residence is large with six bedrooms and will remain one with the owners living on-site.

The above description includes the exceptional circumstances surrounding 40 Morris. Thus, granting this variance is in harmony with the desire for the community to develop, especially with the new Simpson Corridor initiative.

Preservation of Equal Property Rights

Residents in areas zoned R-1 can rent out their properties or rooms on a short-term basis. This request does not confer special privileges denied to other residential homeowners in the same zone and the same vicinity.

The variance granted is the minimum variance required to make reasonable use of the property possible.

The authorization of a variance to allow a permit for short rental use of an independent parcel will not be of detriment to adjacent properties and will not materially impair the purpose of the zoning code or the public interest. Allowing Parcel 2 to be used for short-term rental would cause far less impact on the community than forcing Parcel 2 to be treated as a non-owner occupied, independent parcel.

**Office of Code Enforcement
& Community Development**

28 Curran Drive
Athens, Ohio 45701
740-592-3306 (Office)
740-594-6304 (Fax)



**City of Athens
Athens, Ohio**

March 13, 2025

To: Maura Anaya
Applicant Address: 40 Morris Avenue
Athens, Ohio 45701

To: George Antonio Anaya and Maura Kennedy Anaya
Owner Address: 40 Morris Avenue
Athens, OH 45701

REFUSAL

Enclosed please find your refused Rental Housing Permit application. Please reference the refusal date and note that in accordance with Athens City Code 23.07.08(B), you have 20 days from the date of this refusal to file an appeal if you so choose. An appeal application has been included for your use.

Rental Housing Permit - Short Term Rental Refusal Detail

Premises Address: 40 1/2 Morris Avenue

Application Date: 10/03/2023

For: Carriage house adjacent to owner occupied home separate lot 3 parking spaces

Note: Your request for a short term rental permit has been refused in accordance with the application submitted and ACC 23.04.01 B6 & ACC 23.08.01 D. Zero on site parking where 2 are required and a non-owner occupied short term rental in an R1 Zone.

23.04.01. - R-1 Residential Zone (One-Family).

The following regulations shall apply in all R-1 Zones:

(A) Principal permitted uses:

- (1) Residential—One-family or one "housekeeping" unit detached dwellings.
- (2) Institutional and cultural—Churches and other places of worship and Sunday school buildings located not less than 20 feet from any other lot in any R-Zone, schools and colleges for academic instruction, located not less than 40 feet from any other lot, public libraries, public museums, public art galleries and similar public cultural uses, located not less than 20 feet from any other lot in any R-Zone cemeteries.
- (3) Recreational—Public parks, playgrounds, recreational and community center buildings and grounds and golf courses, country clubs, tennis courts and similar recreational uses, all of a noncommercial nature; provided that any principal building used thereon shall be located not less than 40 feet from any other lot in any R-Zone.
- (4) Essential services—(See Chapter 23.10.)
- (5) Planned Unit Development (PUD) (See Title 21.)
- (6) Residential health care facilities—Residential care facilities for the developmentally disabled, provided that such facilities comply with all federal, state and local laws and regulations.

(B) Permitted accessory uses: Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established; erected or constructed; provided, that such accessory uses shall not involve the conduct of any business, trade or industry, unless otherwise authorized herein, or any private way or walk giving access to such activity, or any sign other than authorized herein and not including the board of animals or the keeping of fowl or farm animals except in a building at least 100 feet distant from every lot line. Accessory uses may include the following:

- (1) Summer houses—Summer houses and living quarters of persons employed on the premises, without kitchen facilities and not rented or otherwise used as a separate dwelling.
- (2) Parking facilities—Garages, carports or other parking spaces for the exclusive use of residents of the premises.
- (3) Swimming pools—Swimming pools, exclusively for the use of the residents.
- (4) Professional offices and home occupations. Provided that not more than one-half of the floor area of the dwelling is devoted to such accessory use, that not more than one person who is not a resident on the premises is employed at the home; that no such use shall require exterior structural, alterations or involve construction features not customary in dwellings, and that the entrance to such office or home occupations shall be from within the dwelling.

- (5) Long-term rentals—The keeping of not more than two renters by a resident owner or the keeping of not more than three adult renters plus related children by a nonresident owner for periods of greater than 30 days. House-keeping units may not keep long-term renters. Long-term rentals must be annually permitted per provisions in Title 29 of this Code.
- (6) Short-term rentals the keeping of not more than two renters by a resident owner for periods of less than 30 days. Housekeeping units may not keep short term renters. Short term rentals must be annually permitted per provisions in Title 29 of this Code.
- (7) Trailers—Parking of a trailer in any R-zone shall be prohibited, except that one trailer may be stored as an accessory to a principal use, provided that no living quarters shall be maintained or any business conducted in connection therein while such trailer is parked or stored.
- (8) Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as business, unless otherwise authorized herein.
- (9) On premises sales (yard sales, garage sales, porch sales) may be conducted up to three times per year, not exceeding three consecutive days per sale.
- (10) Gardening, domestic animals—Gardening, the raising of vegetables, fruits or flowers and the keeping of domestic animals exclusively for the use of personal enjoyment of residents of the premises and not for commercial purposes.
- (C) Conditionally permitted uses: The following uses shall be permitted only if expressly authorized by the board of zoning appeals (hereinafter referred to as BZA) in accordance with provisions of this Code:
- (1) Recreational—Private and noncommercial recreation areas and facilities not listed above including club swimming pools, provided that no such swimming pool shall be located nearer than 100 feet from any other lot in any R-zone.
- (2) Utility stations—Static transformer stations, booster stations, and other utility stations, when operating requirements necessitate locating in an R-1 zone in order to serve the neighborhood; provided there is no yard or garage for service or storage and provided further, that the premises upon which such utility station is erected and maintained shall be appropriately landscaped and screened so as to be in harmony with the general appearance of the neighborhood.
- (3) Short-term rentals nonresident owner short term rentals - the keeping of not more than three adult renters plus related children by a nonresident owner for periods of less than 30 days on R-1 lots that abut an R-2, R-3, or any B-zone or that the principal home fronts on East State Street, Carpenter Street, Lancaster Street, or Columbus Road.

(Ord. No. 0-10-10, § I, II, 2-1-1010; Ord. No. 0-06-16, § I, 2-15-2016; Ord. No. 0-17-16, § I, 10-17-2016; Ord. No. 0-104-20, § II, 10-19-2020; Ord. No. 0-145-21, § I, 12-13-2021)

23.08.01. - Off-street parking.

Any requirements for off-street parking shall be in accordance with the following regulations:

- (A) Each off-street parking space shall have an area of not less than 150 square feet exclusive of access drives or aisles and each parking space shall have a minimum width of nine feet. There shall be adequate provision for ingress and egress to all parking spaces as determined by the zoning administrator. For one and two family dwelling units within an R-1, R-2, or R-3 zone, the required number of off-street parking places as established in the zoning code may be provided within access drives or driveways. All access drives or driveways shall not be less than ten feet wide. No access drive or driveway shall be located in any residential zone to provide access to uses other than those permitted in such zones. For residential uses in R-1, R-2, and R-3 districts driveways shall not exceed 20 feet in width at the street, or 20 percent of lot width, whichever is greater, and shall not be located between the right-of-way line and the front of a structure except in front of an attached garage, carport, or parking area.
- (B) Exclusive of hard surface driveways where parking is permitted as referenced in subsection 7.05.01(A) of this Code, off-street parking areas or parking structures for residential structures shall not be located between the required setback line and right-of-way line. On corner lots, exclusive of hard surface driveways, no off-street parking areas or parking structures for residential structures shall be located between the side street right-of-way line and the required front yard setback line for structures on the side street.
- (C) The number of off-street parking spaces required is set forth in these regulations (see Table B, Chapter 23.11). In the case of changes or additions to any existing structure or its use including requests for increased occupancy in residential uses, parking shall be required to meet the requirements for all uses of the premises. In the case of any use or combination of uses not specifically mentioned herein, the zoning administrator shall determine the number of required parking spaces based on similar or comparable use.
- (D) All permitted and required accessory off-street parking spaces, open or enclosed, shall be located on the same lot as the use to which such spaces are accessory, except that such parking may be provided within a radius of 1000 feet. The determination of distance will be the shortest from lot line to lot line. The property shall be in the same ownership as the use to which it is accessory and shall be subject to deed restrictions filed with the city, binding the owner and heirs, successors and assigns to maintain the required number of spaces available throughout the life of such use.
- (E) The number of required off-street parking spaces for a church, synagogue or house of worship may be satisfied in part or in whole by a joint use parking agreement(s) as per Section 23.08.04.

- (F) Within the B2-D downtown business zone, the off-street parking requirement for principal permitted business uses not including residential uses may be eliminated if there exists improved public parking to satisfy the requirements of Table B, Chapter 23.11.
- (G) Exclusive of portions of hard surface driveways where parking is permitted as referenced in accordance with subsection 7.05.01(A) of this Code, no person shall park a motor vehicle or motorcycle between the required setback line and right-of-way line in front of any residential structure. On corner lots, exclusive of hard surface driveways, no person shall park a motor vehicle or motorcycle between the side street right-of-way line and the required front yard setback line for residential structures on the side street.

(Ord. No. 0-133-21, § 1, 12-13-2021)



APPLICATION for RENTAL PERMIT

For Rental Housing
CITY OF ATHENS, OHIO
ATHENS CITY CODE TITLE 23
codeoffice@ci.athens.oh.us
740-592-3306

(Office Use Only)
Permit #: STR25-000003
Date Rec'd: March 10, 2025

Subtype: **New Rental** **New Owner** **Demographics update only** **Total Due: 175.00**
Short Term Rental

Owner Name: George Antonio Anaya and Maura Kennedy Anaya Maura Anaya

Address: 40 Morris Ave
City, State, Zip: Athens, OH 45701

Telephone #: (513) 284-4411 E-mail Address (if applicable):

Would you prefer to receive notifications by regular U.S. mail or E-mail? email

Property Manager: Maura Anaya Telephone #: (151) 328-4442 (513) 284-4411

Property Manager Address: 40 Morris Ave

Emergency Contact & Telephone #
(must be a resident of Athens County and other than the owner): Name: Mateo Anaya, Telephone #: (681) 203-4624

Property Address (include all units #'s for multiple units/buildings):
40 1/2 Morris Avenue, Athens, OH 45701

Check One:	Rental Unit 1 Number of UNITS in Building	Requested Maximum Occupancy Level of Unrelated Persons Per Unit (list each unit separately): Unit #1: Max Occupancy #1: 2 Or One Family per ACC 23.04.01(A)(1)
	-OR- Rooming House (6 or more tenants) Owner-Occupied Rooming House Short Term Rental Number of Bedrooms Rented	
		Number of Parking Spaces (to be confirmed by Inspector) Number of Parking Spaces: 4 9x12 parking spaces
		Scheduled Trash Pickup Day: Thursday

I HEREBY SWEAR OR AFFIRM THAT ALL OF THE INFORMATION PROVIDED IS TO THE BEST OF MY KNOWLEDGE TRUTHFUL AND ACCURATE, AND THAT THE PROPERTY COMPLIES WITH ATHENS CITY HOUSING CODE TITLE 29 AND ATHENS CITY ZONING CODE TITLE 23.

Owner Signature: George Antonio Anaya Date: March 05, 2025

(For Office Use Only)

Zone: R-1 Recommend: Refusal!

Exg.# of Parking Spaces: 0 onsite parking Parking Verified by Code Officer: ASW

Code Officer Signature: B.L. Miller Date: 3 Approval/Refusal: Refusal

Comments: Refused 0 onsite parking where 2 is required - Non Owner occupied
ACC 23.04.01 B6 S.F.R. in R-1
ACC 23.08.01 D

Zoning Administrator Signature: [Signature] Date: 3-10-25 Approval/Refusal: Refusal

This Conveyance has been examined and the Grantor has complied with Section 319.202 of the Revised Code

No. 518 Transfer Fee Paid \$ 700.00
J. A. Thompson, Athens County Auditor

By BD Deputy Auditor
1.00 TRANSFERRED
5-4-2020

Instrument 202000002197 OR Book Page 566 2390
202000002197
Filed for Record in
ATHENS COUNTY, OHIO
JESSICA MARKINS, RECORDER
05-05-2020 At 11:20 am.
DEED 42.00
OR Book 566 Page 2390 - 2392

202000002197
SECURE TITLE SERVICES

FIDUCIARY'S DEED

(RC 5302.09)

Kathryn S. Bendure aka Katherine S. Sweeney Bendure, Executor of the Estate of Elizabeth A. Kralik aka Elizabeth Ann J. Kralik, Deceased, Athens County Probate Court Case No. 20201015, by the power conveyed under the will, and every other power, for valuable consideration paid, grant(s), with fiduciary covenants, to **George Antonio Anaya**, whose tax mailing address is 40 Morris Ave Athens, OH 45701, the following real property:

*****SEE "EXHIBIT A" ATTACHED HERETO AND INCORPORATED
HEREIN BY THIS REFERENCE*****

Parcel No. A027150004700 and A027150004800
Known as: 40 Morris Ave., Athens, Ohio 45701

Prior Instrument Reference: Volume 310, Page 73; Volume 361, Page 71;
Official Record 130, Page 513 and Official Record 349, Page 1662 of the records of Athens County, Ohio.

Subject to easements, leases, rights of way, conditions, reservations, and restrictions of record.

EXECUTED this 30th day of April, 2020.

Estate of Elizabeth A. Kralik aka Elizabeth Ann J. Kralik, Deceased

KSBendure
By Kathryn S. Bendure aka Katherine S. Sweeney Bendure, Executor

STATE OF OHIO
COUNTY OF ATHENS

The foregoing instrument was acknowledged before me this 30th day of April, 2020 by Kathryn S. Bendure aka Katherine S. Sweeney Bendure, Executor of the Estate of Elizabeth A. Kralik aka Elizabeth Ann J. Kralik, Deceased, as the fiduciary on behalf of the estate.



LAURIE DEAL
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES
APRIL 5, 2024

[Signature]
Notary Public

PREPARED BY: CHRISTIAN S. GERIG, ATTORNEY AT LAW, ATHENS, OHIO

Legal Description
For File: STS12419

Situated in the City of Athens, County of Athens and State of Ohio, and described as follows:

First Tract:

Being that part of Lease Lot 45, Town 9, Range 14, Ohio Company's Purchase, described as follows:

Beginning at a point in the South line of said Lot, 420 feet South 86 deg. East from the Southwest corner of said Lot 45;

Thence North 4 deg. East 135.5 feet;

Thence South 86 deg. East 75 feet;

Thence South 4 deg. West 133.5 feet to the South line of said Lot;

Thence with said Lot line North 86 deg. West to the place of beginning, containing one-fourth (1/4) of an acre, more or less.

Second Tract:

Situated in Lease Lot 45, Town 9, Range 14, Ohio University Leasehold Land, and bounded and described as follows:

Beginning at a stake in the South line of said Lot, 415 feet South 86 deg. East from the Southwest corner of said Lot 45;

Thence North 4 deg. East 133.5 feet;

Thence South 86 deg. East 5 feet;

Thence South 4 deg. West 133.5 feet to the South line of said Lot;

Thence with the South line of said Lot, North 86 deg. West 5 feet to the place of beginning.

Excepting from said First Tract and Second Tract the following:

Beginning at a point 454 feet South 86 deg. East from the Southwest corner of Lease Lot 45 and in the South line of said Lease Lot;

Thence North 4 deg. East 133.5 feet;

Thence South 86 deg. East 41 feet to the Northwest corner of Brewster O. Higley's lot;

Thence South 4 deg. West 133.5 feet to the South line of said Lease Lot;

Thence North 86 deg. West 41 feet to the place of beginning, and the same being a lot fronting 41 feet on the North side of Morris Avenue in said City and extending North from said Morris Avenue 133.5 feet, together with a right of way over three and one-half (3 1/2) feet off the East side of the next adjoining 41 foot lot on the West, said right of way beginning at Morris Avenue and extending Northward ninety (90) feet as an appurtenance to said 41 foot lot, reserving, however, from the West side of the above described lot of 41 feet fronting on Morris Avenue a right of way over three and one-half (3 1/2) feet off the West side thereof and beginning at Morris Avenue extending Northward along the West side of said lot ninety (90) feet; said reservation is made for the benefit of the said Charles N. Copeland, his heirs and assigns forever, as an appurtenance to his lot which is 39 feet wide adjoining said 41 foot lot in the West; said conveyance is made upon the condition that no building is to be erected on said 41 feet lot with its west wall nearer than four and one-half (4 1/2) feet to the West line of said lots; said exception being the same premises conveyed by Charles N. Copeland and wife to William D. Bentley by deed dated March 19, 1902 and recorded in Volume 86, Page 487, Deed Records of Athens County, Ohio.

Said First Tract and Second Tract, after said exceptions, is now known as Inlot 1273 in the amended plat of Cable Heirs Addition to said City of Athens, Which plat is of record in Volume 5, Page 56, Plat Records of Athens County, Ohio.

Third Tract:

Beginning at the Northwest corner of Lot 1273 in the Cable Heirs Addition to the City of Athens, Ohio;

Thence North 5 deg. East 55 feet to Charles Henry's line;

Thence South 85 deg. East along the said Henry line 53.5 feet to the school lot;

Thence South 6 deg. 15'; East 59 feet to a stake at the Southwest corner of said school lot;

Thence North 86 deg. West 65 feet to the place of beginning.

Subject to easements, leases, rights-of-way, reservations and restrictions of record.

PPN: A02-71500047-00

PPN: A02-71500048-00

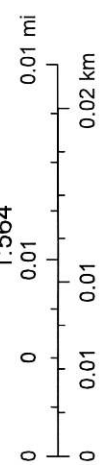
Athens County Web Map



7/2025, 1:20:27 PM

- Parcels
- thens_2024_rgb_20x.sid
- Red: Band_1
- Green: Band_2
- Blue: Band_3
- Subdivisions

1:564



Sources: Esri, Maxar, Airbus DS, USGS, NGA, NASA, CGIAR, N Robins
 NCEAS, NLS, OS, NMA, Geodatasyrisen, Rijkswaterstaat, GSA, Geola
 FEMA, Intermap, and the GIS user community