



CITY OF PATASKALA BOARD OF ZONING APPEALS

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

STAFF REPORT

May 10, 2022

Variance Application VA-22-015

Applicant:	Brennan Dick
Owner:	Brennan Dick
Location:	7599 Hazelton-Etna Road SW, Pataskala, OH 43602 (PID: 064-153018-00.000)
Acreage:	+/- 1.51-acres
Zoning:	AG – Agricultural
Request:	Requesting approval of a Variance from Section 1279.03(A)(1) to allow for the constructing of a fence exceeding four (4) feet in height within the front yard setback.

Description of the Request:

The Applicant is seeking approval of Variance from Section 1279.03(A)(1) of the Pataskala Code to allow for the construction of a fence that will exceed the maximum height of four (4) feet when within the front yard setback.

Staff Summary:

The 1.51-acre property located at 7599 Hazelton-Etna Road SW, part of the Tatman Place 1st Addition, is currently occupied by a 1,176-square foot single-family home constructed in 1961. It is a corner lot, with frontage on both Hazelton-Etna Road SW (S.R. 310) to the west and Roy Drive SW to the south. There are two (2) access points to the property, one (1) on each frontage, with the asphalt driveway forming and “L” shape between Hazelton-Etna Road and Roy Drive. A power line currently runs through the lot, east to west, just south of the existing single-family home.

It is the Applicant’s intention is to construct a six (6) foot tall privacy fence around the rear yard of the existing home. The proposed fence will extend 79-feet from the south wall of the existing home towards Roy Drive, approximately 23-feet from the front (south) property line on Roy Drive then turning to the east and continuing back 107-feet towards the rear (east) property line before turning north and completing the loop back at the north wall of the home. In the AG – Agricultural Zoning district, the front yard setback is 100-feet, and pursuant to Section 1279.03(A)(1) of the Pataskala Code, any fence within the front yard setback shall be limited in height to four (4) feet.

According to the Narrative statement that has been Submitted by the Applicant, because of their location as a corner lot, and being unable to build a six (6) foot tall fence within 100-feet of the right-of-way, the Applicant states they would lose a large portion of their yard should they build a fence in compliance with Pataskala code. The Applicant would also like to install a pool, which pursuant to Pataskala Code, would require a fence a minimum of five (5) feet in height, which is over the maximum height permitted for the fence within the front yard setback. The Applicant believes that a six (6) foot fence is necessary to protect their children and dogs. Further stated, the Applicant believes that the requested Variance will not be detrimental to adjacent properties, and was not aware of the zoning restriction when the home was purchased.

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

As mentioned above, Section 1279.03(A)(1) of the Pataskala Code states that a fence or wall, not exceeding 48-inches (four (4) feet) in height may be erected between the building setback line and a line three (3) feet toward the building setback line from the street right-of-way line. In other words, a fence exceeding four (4) feet in height may not be constructed within the front yard setback. In the AG – Agricultural zoning district the front yard setback is 100-feet (Section 1225.05(C)(1)).

The proposed fence will be set back from the front property line 23-feet, which is 77-feet within the front yard setback, however, the Applicant is requesting a Variance from Section 1279.03(A)(1) of the Pataskala Code for the fence height. Therefore, the Variance request is for an increase in the allowable fence height when within the front yard setback from four (4) feet to (6) feet, an increase of two (2) feet or 50%.

Staff would recommend checking with the electric utility provider responsible for the power lines if the location is alright with them, and type of access requirements the electric utility provider will need. Staff has no further comments.

Other Departments or Agencies

No other comments from applicable Departments or Agencies were received.

Surrounding Area:

Direction	Zoning	Land Use
North	AG - Agricultural	Agricultural
East	AG - Agricultural	Single-Family Home
South	AG - Agricultural	Single-Family Home
West	AG - Agricultural	Single-Family Home

Variance Requirements:

According to Section 1211.07(1) of the Pataskala Code, the Board of Zoning appeals shall consider the following factors when determining if an area variance is warranted:

- Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property;*
- Whether there are unique physical circumstances or conditions that prohibit the property being developed in strict conformity with the zoning regulation such that a variance is necessary to enable the reasonable use of the property;*
- Whether the variance requested is substantial;*
- Whether the essential character of the neighborhood would be substantially altered or the adjoining properties would suffer a substantial detriment as a result of the variance;*
- Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;*
- Whether the variance, if granted, will be detrimental to the public welfare;*
- Whether the variance, if granted, would adversely affect the delivery of government services;*

- 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-22-002:

- None

Department and Agency Review

- Zoning Inspector – No comments.
- Public Service – See attached.
- City Engineer – See attached.
- Pataskala Utilities – No comments.
- Police Department – No comments.
- West Licking Joint Fire District – No comments.
- Southwest Licking School District – No comments.

Conditions:

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

1. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department within one (1) year of the date of approval.

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 1279.03(A)(1) of the Pataskala Code for variance application VA-22-015 ("with the following conditions" if conditions are to be placed on the approval)."



CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

621 West Broad Street, Suite 2A
Pataskala, Ohio 43062

VARIANCE APPLICATION

(Pataskala Codified Ordinances Chapter 1211)

Property Information	
Address: 7594 Hazelton Etna Rd SW, Pataskala, OH, 43062	
Parcel Number: 064-153018-00.000	
Zoning: AG	Acres: 1.51
Water Supply:	
<input checked="" 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 checked="" type="checkbox"/> South West Licking <input type="checkbox"/> On Site

Applicant Information		
Name: Brennan Dick		
Address: 7594 Hazelton-Etna Rd. SW		
City: Pataskala	State: Ohio	Zip: 43062
Phone: (614) 735-3217	Email: Brennan.D.20@hotmail.com	

Property Owner Information		
Name: Brennan Dick		
Address: 7594 Hazelton-Etna Rd. SW		
City: Pataskala	State: Ohio	Zip: 43062
Phone: (614) 735-3217	Email: Brennan.D.20@hotmail.com	

Staff Use
Application Number: VA-22-015
Fee: 300
Filing Date: 3-28-22
Hearing Date: 5-18-22
Receipt Number: 000547

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

Variance Information
Request (Include Section of Code): 1279.03 (A) (2)
Describe the Project: The goal is to install a 6 foot privacy fence in the front yard.

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:



03/28/22

Property Owner (Required):

Date:



03/28/22

We believe that the variance is justified for the following reasons:

- A) We can yield a reasonable return should we choose to sell the house and the buyers are looking for an enclosed back yard for children or animals.
- B) Per the code, we are unable to build a fence tall enough unless further than 100 feet from the street. This is due to us being on a corner lot and having two front yards. If the variance is not accepted we will not be able to fence in our shed and will lose half of our back yard. Due to us having a pool, we would have to build a second fence to be over 5 feet tall in order to meet the requirements of a pool permit and a fence surrounding it. We believe that if we build closer to the road with a smaller fence that we will not be able to obtain the full privacy that we would be able to obtain with a 6 foot tall privacy fence. We would also like to have a fence tall enough to keep our dogs inside and other dogs out of our yard which has been a problem recently. In addition to dogs, we would like to keep out other animals such as deer, coyotes, groundhogs, raccoons and potentially cats that have invaded our backyard. Should we be granted the variance, we would be able to use the majority of our backyard to allow the dogs and children to run around and play without the risk of going into the street or neighbors property. Lastly, our grandma is willing to dog sit if we're gone and she does not feel like she can contain the dogs should they start to chase something out of the yard.
- C) The variance is somewhat substantial but we are not asking for a full 100% variance, just from the trees towards the house as pictured on the other paper.
- D) I do not believe the character of the neighborhood would be affected as the fence will be put up properly and look professional. The fence will be on our property and on our side of the trees from our neighbors property.
- E) The variance will not impair the use of development of the adjacent property.
- F) The variance will not be detrimental to the public welfare
- G) The variance will not impact the delivery of governmental services.
- H) We had no knowledge of the zoning restriction until after we had moved in and spoke with Jack in regards to the pool permit.
- I) There are no other options that we can use other than this variance.
- J) The variance will represent the minimum that will afford relief and represent the least modification possible.
- K) The spirit and intent behind the zoning requirement would be observed and provide substantial justice by granting the variance.

OnTrac Property Map



October 2, 2021

Street Number Only

Sales - 2021

Owner Name & Acres

Centerline Labels

 Interstate/US/State Route

County Road

0 47 Feet
Township Road

Other kuāu type^{0.01}

Driveway

Interstates

Municipal Corporations

Jurisdictional Townships

LICKING COUNTY TAX MAP

Licking County Auditor GIS



202101150001491

Pgs:3 S42.00 T20210901327
1/15/2021 10:57 AM BXCROWN
Bryan A. Long Licking County Recorder

DESCRIPTION APPROVED JARED N. KNERR LICKING COUNTY ENGINEER
APPROVED BY <i>JMK</i> 1-14-21

TRANSFERRED
Date <u>JAN 15, 2021</u>
<i>Michael Smith</i> Licking County Auditor
SEC. 318.202 COMPLIED WITH MICHAEL L. SMITH, AUDITOR
BY: <i>JMK</i> 780.00

Order Number: 20752592-WES

Crown-TIA

SURVIVORSHIP DEED

Joseph Robert Cameron and Jessica Lynn Cameron, husband and wife, of Licking County, Ohio, for valuable consideration paid, grants, with general warranty covenants to Brennan Dick and Abigail Dick, for their joint lives, remainder to the survivor of them, whose tax mailing address is CrossCountry Mortgage, LLC, 6850 Miller Road, Brecksville, OH 44141 the following real property:

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

Parcel Number: 064-153018-00.000

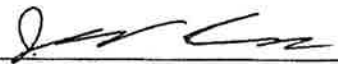
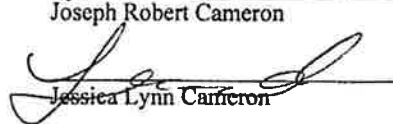
Property Address: 7599 Hazelton Etna Road SW, Pataskala, Ohio 43062

Except for the following and subject to all of which this conveyance is made: legal highways; zoning ordinances; real estate taxes and assessments which are now or may hereafter become a lien on said premises; covenants, conditions, restrictions and easements of record; and all coal, oil, gas, and other mineral rights and interests previously transferred or reserved of record.

Prior Instrument Reference: Instrument No. 201808210017417, Recorder's Office, Licking County, Ohio.

Surv-hw

Executed this 8th day of January, 2021.


Joseph Robert Cameron

Jessica Lynn Cameron

State of Ohio
County of Delaware ss:

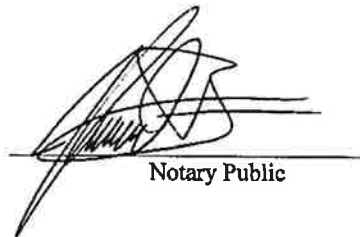
This is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act.

The foregoing instrument was acknowledged before me this 8th day of January, 2021, by Joseph Robert Cameron and Jessica Lynn Cameron.

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



JOHN D. BARONE
Notary Public, State of Ohio
My Commission Expires January 3, 2025


Notary Public

This instrument prepared by Magnuson & Barone, Attorneys at Law

Surv-hw

File No : 20752592-WES

EXHIBIT A

Situated in the State of Ohio, County of Licking, and in the City of Pataskala:

Being Lot Number 3-A, in TATMAN PLACE FIRST ADDITION REPLAT, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 15, Page 162, Recorder's Office, Licking County, Ohio.

For Informational Purposes only:

Commonly Known As: 7599 Hazelton Etna Road SW, Pataskala, OH 43062

Tax Parcel ID: 064-153018-00.000