



## CITY OF PATASKALA BOARD OF ZONING APPEALS

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

### STAFF REPORT

November 8, 2022

#### Variance Application VA-22-027

<b>Applicant:</b>	Karen Kessler
<b>Owner:</b>	Karen Kessler
<b>Location:</b>	391 S Main Street, Pataskala, OH 43062 (PID: 064-308940-00.000)
<b>Acreage:</b>	+/- 0.13-acres
<b>Zoning:</b>	R-7 – Village Single-Family Residential
<b>Request:</b>	Requesting approval of a Variance from Section 1279.03(A)(4) of the Pataskala Code to allow for a fence to be within three (3) feet of the public right-of-way.

#### Description of the Request:

The Applicant is seeking approval of a Variance from Section 1279.03(A)(4) of the Pataskala Code to allow for the construction of a fence that will be within three (3) feet of the public right-of-way.

#### Staff Summary:

The 0.13-acre property located at 391 S Main Street is currently occupied by a 2,216-square foot single-family home constructed in 1930 and a 420-square foot detached pole garage built in 2015. The only frontage the property has is onto S Main Street to the east. The Property Owner also owns the adjacent lot to the north, on which a single-family home is located.

The Applicant would like to construct a 42-inch (3.5-foot) height white wooden fence around the front yard of the property, with a zero (0) foot setback from the front yard property line. Pursuant to Section 1279.03(A)(4) of the Pataskala Code, no fence shall be installed within three (3) feet of the front yard property line.

According to the Narrative Statement as submitted by the Applicant intends to construct a garden in the front yard of the home, and wishes to enclose it with a fence to protect it. They also stated that they believe should they be held to the three (3) foot setback, they would lose much of the front yard area.

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

As mentioned above, Section 1279.03(A)(4) of the Pataskala Code requires that no fencing shall be installed within three (3) feet of the public right-of-way. As private property begins where the public right-of-way ends, this in essence requires a three (3) foot setback from all front property lines for fences. In this location, the public right-of-way extends to one (1) foot towards the home from the sidewalk. The Applicant has requested that the fence extend to the very front of the property, with a zero (0) foot setback. Therefore, the Variance request is for a reduction is three (3) feet, or 100% of the requirement.

Public Service Department (Full comments attached)

Proposal is similar to neighboring properties and does not pose a concern.

Other Departments or Agencies

No other comments from applicable Departments or Agencies were received.

**Surrounding Area:**

Direction	Zoning	Land Use
North	R-7 – Village Single-Family Residential	Single-Family Home
East	DB – Downtown Business	United Telephone of Ohio
South	R-7 – Village Single-Family Residential	Single-Family Home
West	R-7 – Village Single-Family Residential	Single-Family Home

**Variance Requirements:**

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

- 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-22-027:

- None

**Department and Agency Review**

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

**Conditions:**

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

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

**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)(4) of the Pataskala Code for variance application VA-22-027 ("with the following conditions" if conditions are to be placed on the approval)."

**From:** [Alan Haines](#)  
**To:** [Jack Kuntzman](#)  
**Cc:** [Antonio Anzalone](#)  
**Subject:** RE: Pataskala BZA Review Memo for 11-08-2022  
**Date:** Tuesday, November 1, 2022 11:01:43 AM  
**Attachments:** [image001.png](#)

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Jack,

My comments are as follows:

1. VA-22-027
  - a. This is similar to neighboring properties and does not pose a concern.
2. CU-22-008
  - a. No comment.

Let me know if questions.

Regards,

Alan W. Haines, P.E.  
Public Service Director  
City of Pataskala

621 W. Broad St.  
Suite 2B  
Pataskala, Ohio 43062

Office: 740-927-0145  
Cell: 614-746-5365  
Fax: 740-927-0228

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**From:** Jack Kuntzman <jkuntzman@ci.pataskala.oh.us>  
**Sent:** Friday, October 21, 2022 12:11 PM  
**To:** Felix Dellibovi <fdellibovi@ci.pataskala.oh.us>; Chris Sharrock <csharrock@ci.pataskala.oh.us>; Jim Roberts <jroberts@verdantas.com>; Scott Haines <shaines@hullinc.com>; Bruce Brooks <bbrooks@pataskalapolice.net>; Doug White <DWhite@westlickingfire.org>; kperkins@laca.org; Alan Haines <ahaines@ci.pataskala.oh.us>; Kevin Miller <kevin.miller@lhschools.org>; laitken@lhschools.org; Scott Morris <smorris@lickingcohealth.org>; 'Chris Gilcher' <cgilcher@swlcws.com>  
**Subject:** Pataskala BZA Review Memo for 11-08-2022

Good Afternoon,

You are receiving this email because one or more of the Application(s) submitted for the **November 8, 2022** Board of Zoning Appeals are within your jurisdiction. Please see the list below for which Applications are being submitted for your review.

**VA-22-024:** Felix Dellibovi, Chris Sharrock, Verdantas, Bruce Brooks, Doug White, Kasey Perkins, Alan



# CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

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

## VARIANCE APPLICATION

(Pataskala Codified Ordinances Chapter 1211)

<b>Property Information</b>	
Address: 391 S MAIN ST	
Parcel Number: 064-308940-00-000	
Zoning: R7 - VILLAGE SUBURBAN	Acres: 0.13
Water Supply:	
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input type="checkbox"/> On Site
Wastewater Treatment:	
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input type="checkbox"/> On Site

<b>Staff Use</b>
Application Number: VA-22-027
Fee: \$300 Cash or <input checked="" type="radio"/> Check
Filing Date: 10-14-22
Hearing Date: 11-8-22
Receipt Number: 000885

<b>Applicant Information</b>		
Name: KAREN KESSLER		
Address: 391 S MAIN ST		
City: PATASKALA	State: OH	Zip: 43062
Phone: 614-314-4121	Email: KARENKAYKESSLER@GMAIL	

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

<b>Property Owner Information</b>		
Name: SAME		
Address:		
City:	State:	Zip:
Phone:	Email:	

<b>Variance Information</b>
Request (Include Section of Code): REQUEST RELIEF FROM 3 FT FENCE SET BACK ON EAST AND SOUTH PROPERTY LINES
Describe the Project: INSTALLATION OF WHITE WOODEN 42" TRADITIONAL PICKET VICTORIAN FENCING TO ENCLOSE FRONT GARDENS. FENCE COORDINATES WITH PERIOD DESIGN OF HOUSE AND PENDING TRADITIONAL GARDEN DESIGNS. (EAST) FRONT YARD IS CURRENTLY 12'6" DEEP AND PROP. LINE IS APPROX 1' OFF (WEST) A 3' SETBACK WOULD REDUCE THE FRONT YARD TO ONLY 8' (2/3) OF ITS CURRENT DEPTH. REQUESTING VARIANCE FROM SETBACK ON EAST AND SOUTH LINES.

Revised October 26, 2018 Additional Information on Back of Page

## 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:

10-14-2022

Property Owner (Required):

Date:

10-14-2022

**October 13, 2022**

**Pataskala Fence Variance Application Narrative Portion**

**391 South Main Street, Pataskala, Ohio**

**NARRATIVE STATEMENT**

As the property owner of 391 South Main Street (as well as the northern adjoining property at 387 South Main Street), I am requesting a variance from the 3 ft fence setback requirement on the eastern and southern boundaries of my property in order to install a 42" white wooden, Victorian fence to enclose my front yard area. This fence will attach to the northern and southern front corners of the home and extend to the front sidewalk across the eastern (along Main Street) boundary, enclosing only the small front yard area of the property, and not any portions of the side yards. This fence will enhance the aesthetics of the planned front yard Victorian style flowering gardens, as well as provide a safety barrier for the 5 year old child who resides in my home - as it will include a wooden, coordinating swing gate leading from the public sidewalk to the property's front door/porch area.

The property survey indicates (2012, included) that the current southern property lines show that the home at 391 is built slightly over the property located next door (399), a property owned and maintained by First Presbyterian Church. I removed a small suspended conservatory which extended even further over the southern property line upon acquiring the home, thereby reducing the encroachment to the best of my ability. The church and I have a congenial working relationship and they are aware of my desire to install the small section of shared fencing attached to the front of the house.

The distance from the current raised, stone gardens to the public sidewalk (my front yard) is only 12 feet deep. The property lines indicate that 8-12" from the sidewalk westward (into my front yard) is public right of way. If the standard 3 ft setback is necessary, approximately  $\frac{1}{3}$  of the front yard will remain OUTSIDE of the fence, leaving only an 8 ft deep front yard, accessible only through a front gate. The loss of approximately 33% of the front yard is significant, as well as creates an unattractive, difficult to maintain, and awkward Main Street aesthetic.

The lack of appropriate property divisions on the southern boundary can be traced to the original builder and his ownership of a larger lot which he subsequently divided for family members. It can be assumed that the details of property lines was not concerning to the original builder, as his immediate family members were granted the adjoining properties. Another factor was discovered when researching the encroachment issue. We were informed that the original downtown surveys were based upon the center of the railroad tracks, PRIOR to the RR tracks being moved slightly by the railways, which occurred later for reasons unknown to myself. These combined explanations justify the structure at 391 encroachment onto 399. The historic surveys show starting points as "center of RR tracks". (an interesting historic sidenote)





Proposed Fence

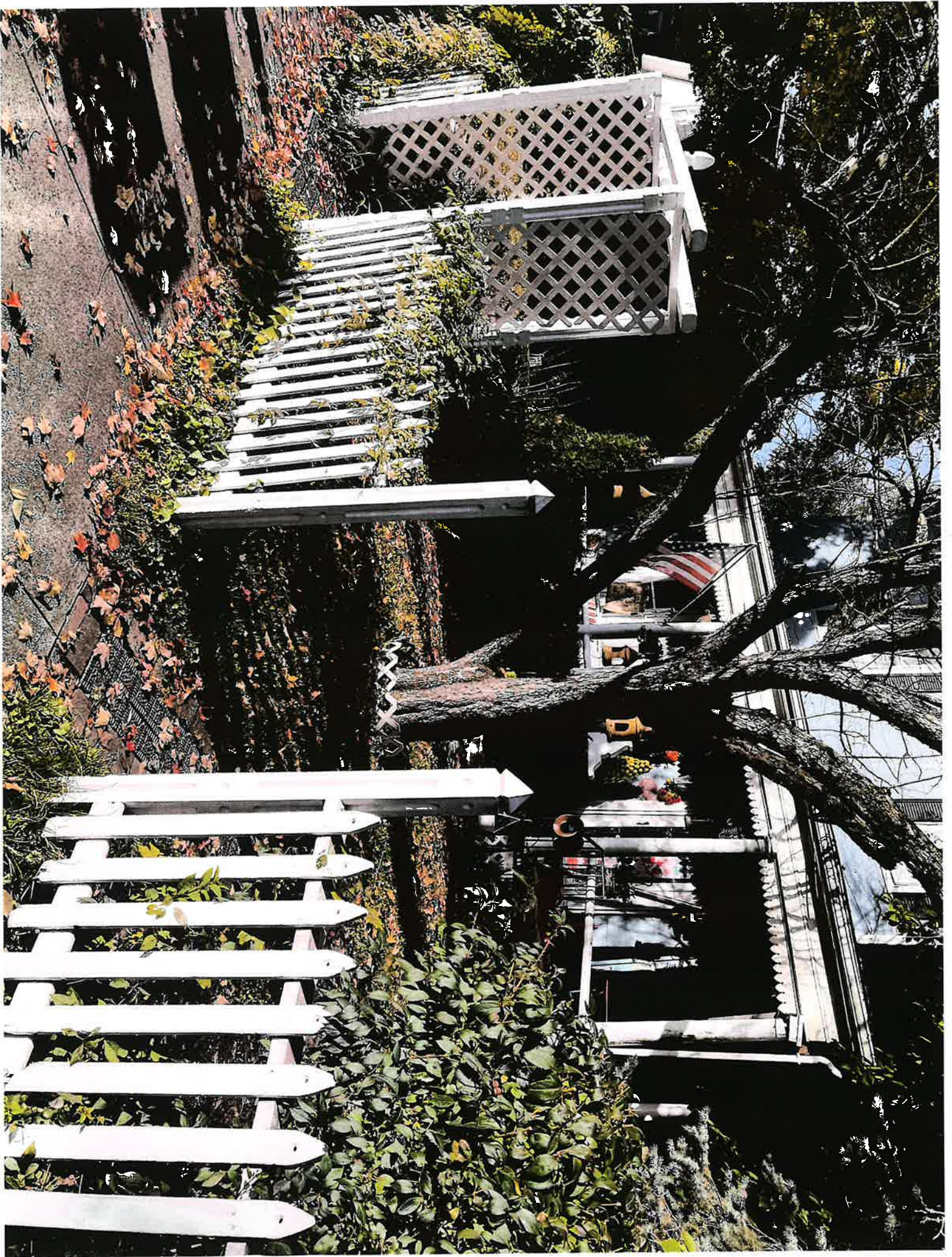




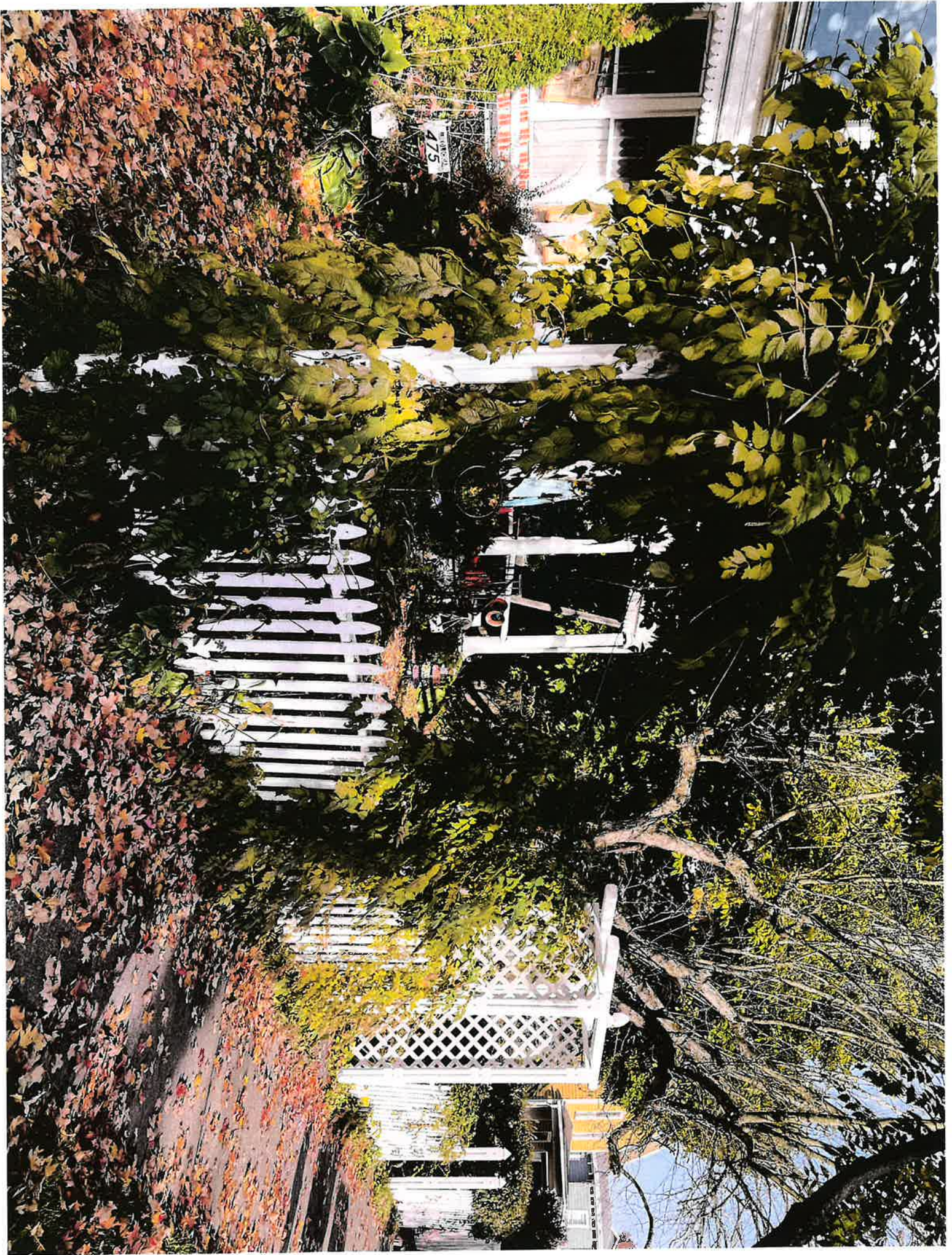




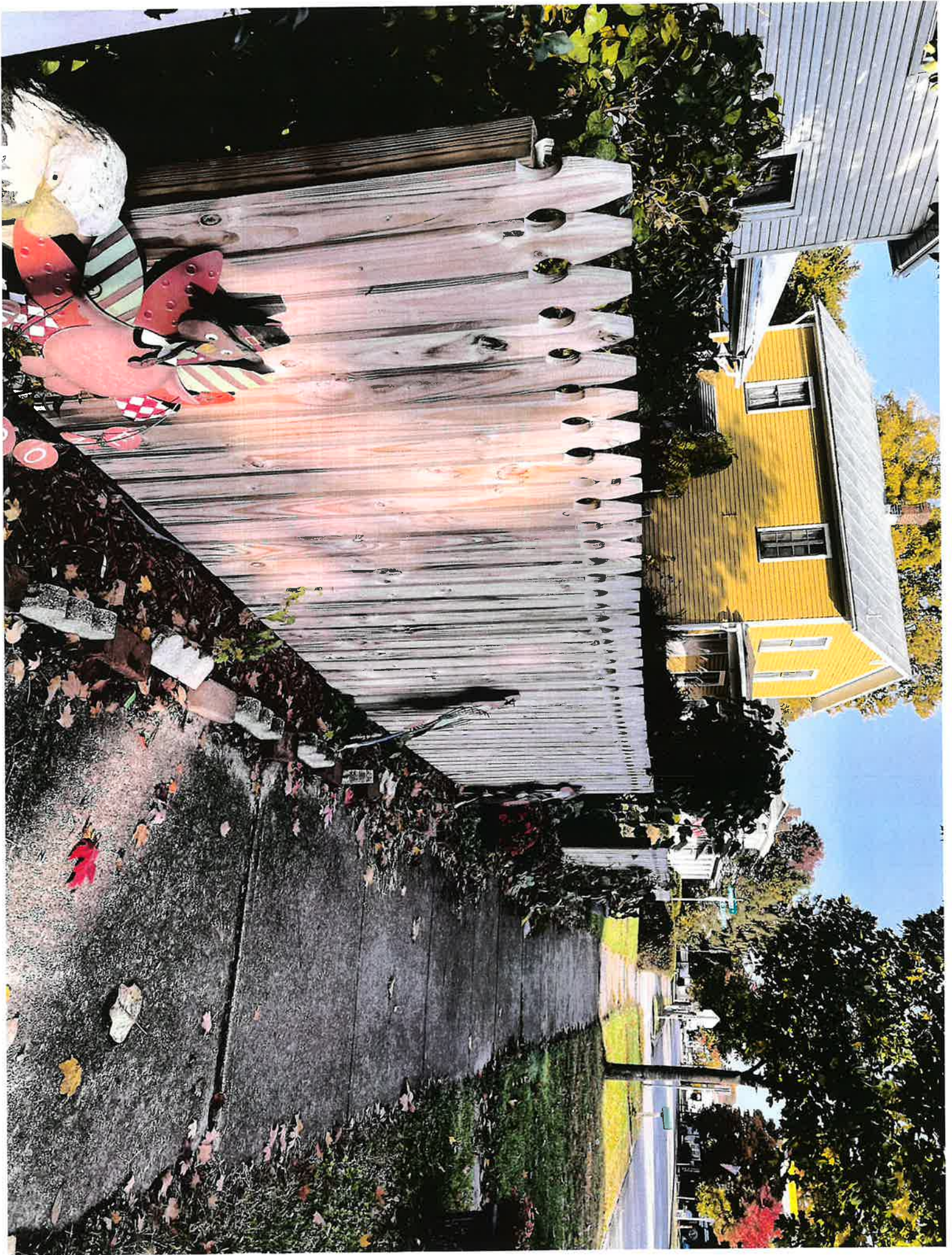








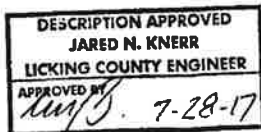












201707280015906  
Pgs: 2 \$28.00 T20170018399  
07/28/2017 3:08PM BXHAYES  
Bryan A. Long  
Licking County Recorder

## QUIT CLAIM DEED

**Gary M. Kessler**, married, for valuable consideration paid, grants to **Karen B. Kessler**, married, whose tax mailing address is 13988 Stonehenge Circle, Pickerington, Ohio 43147 the following real property:

*Situated in the State of Ohio, County of Licking, City of Pataskala and being further described on the attached Exhibit "A", incorporated herein by reference.*

Prior Deed Reference: Instrument Number 201210120023898, Licking County Recorder's Office, Licking County, Ohio  
Also known as: 391 Main Street, Pataskala, Ohio 43062  
Auditor's Parcel #064-308940-00.000

Executed this 28 day of July, 2017.

Gary M. Kessler, hereby releases all rights of dower therein.

\_\_\_\_\_  
Gary M. Kessler

State of Ohio  
County of Licking SS:

The foregoing instrument was acknowledged before me this 28 day of July, 2017 by Gary M. Kessler.

\_\_\_\_\_  
NOTARY

Prepared By:  
Sheena A. Sjöstrand-Post, Esq. through  
Hayes Law Offices, Inc., L.P.A.  
195 East Broad Street  
Pataskala, Ohio 43062



KATHY KENDALL  
Notary Public, State of Ohio  
My Comm. Expires 04-14-2019



01150583101034022000



01150583101034023000

Exhibit "A"

Situated in the State of Ohio, County of Licking, City of Pataskala, being a part of Lots 73 and 74 of Richard Connie's Addition as recorded in Plat Book 1, Page 34 and Plat Book 2, Page 26, also being all of the tract conveyed to Springleaf Financial Services of Ohio, Inc. in Instrument Number 201207300016826, all records being of the Licking County Recorder's Office, and being more particularly described as follows:

Commencing at a point at the northeast corner of said Lot 73, also being the intersection of west line of South Main Street (State Route 310), 66 feet wide and the south line of Walnut Street, 33 feet wide;

Thence, along part of the east line of said Lot 73 and part of the west line of said South Main Street, SOUTH, 25.00 feet to a found iron pipe at the northeast corner of said Springleaf Financial Services of Ohio, Inc. tract and the southwest corner of a tract conveyed to David C. and Ruth M. Ness in Instrument Number 200801170001266, being the True Point of Beginning of the parcel herein intended to be described;

Thence, continuing along part of the east line of said Lot 73 and along the east line of said Springleaf Financial Services of Ohio, Inc. tract, and continuing along part of the west line of said South Main Street, SOUTH, 42.50 feet to a found iron pipe at the southeast corner of said Lot 73 and of said Springleaf Financial Services of Ohio, Inc. tract, also being the northeast corner of Lot 75 of said Connie's Addition and the northeast corner of a tract conveyed to First United Presbyterian Church of Pataskala in Deed Book 832, Page 573;

Thence, along the south lines of said Lots 73 and 74 and of said Springleaf Financial Services of Ohio, Inc. tract, and along the north lines of said Lot 75 and 76 of said Connie's Addition and part of the north line of said First United Presbyterian Church of Pataskala tract, North 89 degrees 41 minutes 30 seconds West, 130.00 feet to a found iron pipe at the southwest corner of said Springleaf Financial Services of Ohio, Inc. tract and the southeast corner of a tract conveyed to Bonnie L. Wright and Paul M. Sheets in Instrument Number 200504250012088;

Thence, across part of said Lot 74, along the west line of said Springleaf Financial Services of Ohio, Inc. tract and along part of the east line of said Bonnie L. Wright and Paul M. Sheets tract, NORTH, 42.50 feet to a found iron pipe at the northwest corner of said Springleaf Financial Services of Ohio, Inc. tract and the southwest corner of said Ness tract;

Thence, across part of said Lot 74 and across said Lot 73, along the north line of said Springleaf Financial Services of Ohio, Inc. tract and along the south line of said Ness tract, South 89 degrees 41 minutes 30 seconds East, 130.00 feet to the True Point of Beginning, containing 0.127 Acres, subject however to all legal easements, restrictions and rights of way of record and of records in the respective utility offices.

Basis of bearings is assumed to be SOUTH on the west line of East Main Street. This description is based on a field survey by Dinan Surveying in September of 2012.



Proposed Fence