



CITY OF PATASKALA BOARD OF ZONING APPEALS

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

STAFF REPORT

May 11, 2021

Variance Application VA-21-018

Applicant:	Arica McKenzie
Owner:	Arica McKenzie
Location:	124 Lincoln Street, Pataskala, OH 43062
Acreage:	0.16-acres
Zoning:	R-7 – Village Single-Family Residential
Request:	Requesting approval of a Variance from Section 1279.03(A)(2) to allow for the construction of a fence that exceeds the maximum height when in the front yard.

Description of the Request:

Requesting approval of a Variance from Section 1279.03(A)(2) to allow for the construction of a fence that exceeds the maximum height allowable when in front of the building setback line.

Staff Summary:

The 0.16-acre property located at 124 Lincoln Street is current occupied by a 1,388-square foot single-family home built in 1920 and a 1,044-square foot accessory building built in 1970. It has frontage along three (3) public rights-of-way: Lincoln Street to the south, an unnamed alley to the west, and an unnamed alley to the north. The western alleyway is currently graveled, while the northern alleyway is vacant. Access to the property is via a gravel driveway onto Lincoln Street.

The Applicant is proposing to construct a six (6) foot tall wood privacy fence along the west and north property lines, connecting to the existing house and accessory building, as well as a section of fence between the house and the accessory building.

As stated in the Applicant's Narrative Statement, the purpose of the fence is because they own dogs which could easily jump over a four (4) foot tall fence. They believe the essential character of the neighborhood would not be substantially altered or that adjoining properties would suffer a detriment because many neighboring properties already have fences. Further stated, the Applicant also believes the variance is not substantial, that the variance would not be detrimental to the public welfare, and that the variance would represent the least modification that will afford relief.

Staff Review:

The following summary does not constitute recommendations but merely conclusions and suggestions from the Staff Review, the full text of which follows the summary.

Planning and Zoning Staff:

Section 1279.03(A)(1) of the Pataskala Code states that a fence or wall, not exceeding 48-inches (4-feet) in height may be erected between the building setback line, and a line three (3) feet in from the street right-of-way line. No fence shall be within three (3) feet of the street right-of-way line. In the R-7 – Village Single-Family Residential zoning district in which the property is located, the front building setback line is 25-feet.

Additionally, Section 1237.05(C)(4) of the Pataskala Code states that when a lot has frontage along one or more public rights-of-way, the minimum setback distance from all street rights-of-way shall be as required for the front yard. Meaning, that any fence within 25-feet of Lincoln Street, or both alleyways, is limited to only four (4) feet in height. The Applicant is requesting a variance from Section 1279.03(A)(1) of the Pataskala Code to construct a fence that is six (6) feet tall within the front yard setback.

Section 1279.03(A)(5) states that all fences and walls shall meet the traffic sight triangle visibility requirements of Section 1283.06-14, which requires a sight triangle be maintained at street intersections by measuring at least 35-feet along curb lines and connecting these points. Fences would be prohibited within this triangle, meaning the Applicant would have to “notch” the corner of the fence to provide visibility at the intersection of the two alleyways. However, as the northern alleyway is not actually in use as a roadway, nor are there any plans in the future to construct a roadway, there is no intersection to maintain visibility at. Staff believes that an additional variance is warranted, from Section 1279.03(A)(5), to allow the Applicant to construct the fence as proposed. The Public Service Director has agreed with Planning and Zoning Staff regarding this, and his comments are below. A possible condition has been added to address this.

Should the variance(s) requested be approved, the Applicant will require a Fence Permit. From the information provided through the variance application, Staff has no other concerns.

Public Service Department

- a. If both alleys, along and behind the alley were improved, there would be a concern about sight distance; however, as only the alley along the side of the property is improved, there is no concern. While it is unlikely that the City would ever need, or want, to improve the alley behind this property, if that ever does occur, then any sight distance issues would at that time need considered, and the proposed fence would need to be modified accordingly.
- b. As long as this right is reserved, and this caveat understood, there are no concerns with the proposed fence.

Other Departments and Agencies

No other comments received.

Surrounding Area:

Direction	Zoning	Land Use
North	R-7 – Village Single-Family Residential	Single-Family Home
East	R-7 – Village Single-Family Residential	Single-Family Home
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-21-018:

- 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
- South West Licking Local School District – No comments

Conditions:

Should the Board choose to approve the applicant's request, the following modifications 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.
2. The Board of Zoning Appeals shall approve a Variance from 1279.03(A)(5) of the Pataskala Code until such time as the alley is improved.
3. The Applicant shall agree that the City of Pataskala reserves the right to improve the alleyway along the northern rear property line, and should said alleyway be improved, then the Applicant shall modify the fence to meet the sight triangle requirements of 1279.03(A)(5).

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-21-018 ("with the following conditions" if conditions are to be placed on the approval)."

From: [Alan Haines](#)
To: [Jack Kuntzman](#)
Subject: RE: Pataskala BZA Review Memo for 05-11-2021
Date: Wednesday, April 28, 2021 5:55:02 PM

Jack,

I have the following comments regarding the applications for the May 11th BZA hearing:

1. VA-21-017
 - a. No comment
2. VA-21-018
 - a. If both of the alleys, along and behind the alley were improved, there would be a concern about sight distance; however, as only the alley along the side of the property is improved, I do not have this concern. While it is unlikely that the City would ever need, or want, to improve the alley behind this property, if that ever does occur, then any sight distance issues would at that time need to be considered, and the proposed fence would need to be modified accordingly.
 - b. As long as this right is reserved, and this caveat understood, I have no concerns with the proposed fence.
3. VA-21-019
 - a. No comment
4. CU-21-001
 - a. No comment
5. CU-21-002
 - a. TCOD and access management
 - i. No improvements on Broad St. have been identified that would be a benefit to the development or the City. Extending the existing, southbound, left-turn lane on Taylor Road will satisfy the TCOD and be a benefit to both the City and the development; this improvement is recommended.
 - ii. Access on Broad St. must be limited to right in/right-out only, with this location being so close to the intersection. A future cross-access, if amenable to the adjacent property owner, should be considered and planned to accommodate present and future access management needs.

Please let me know if you have any 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



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: 124 LINCOLN STREET		
Parcel Number: 064-312126-00.000		
Zoning: R-7	Acres: .16	
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

Applicant Information		
Name: Arika McKenue		
Address: 124 LINCOLN STREET		
City: PATASKALA	State: OH	Zip: 43062
Phone: 614-352-4343	Email: arika27@yahoo.com	

Property Owner Information		
Name: SAME AS APPLICANT		
Address:		
City:	State:	Zip:
Phone:	Email:	

Variance Information	
Request (Include Section of Code):	
1279.03 (A)(2) 6FT PRIVACY FENCE WOODEN	
Describe the Project:	
6FT PRIVACY FENCE REQUESTED FOR OUR DOGS THAT ARE COON BOUNDS. THEY COULD JUMP A 4FT FENCE EASILY.	

Staff Use
Application Number:
VA-21-018
Fee:
\$300.00
Filing Date:
3/19/2021
Hearing Date:
5/11/2021
Receipt Number:
21744

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

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; *property worth more with fence*
 - 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; *YES*
 - c) Whether the variance requested is substantial; *NO*
 - 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; *NO everyone around has one*
 - e) Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property; *NO*
 - f) Whether the variance, if granted, will be detrimental to the public welfare; *NO*
 - g) Whether the variance, if granted, would adversely affect the delivery of governmental services; *NO*
 - h) Whether the property owner purchased the subject property with knowledge of the zoning restriction; *YES*
 - i) Whether the property owner's predicament can be obviated through some other method than variance; *NO*
 - 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, *YES*
 - k) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. *YES*
- 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.lcountv.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):

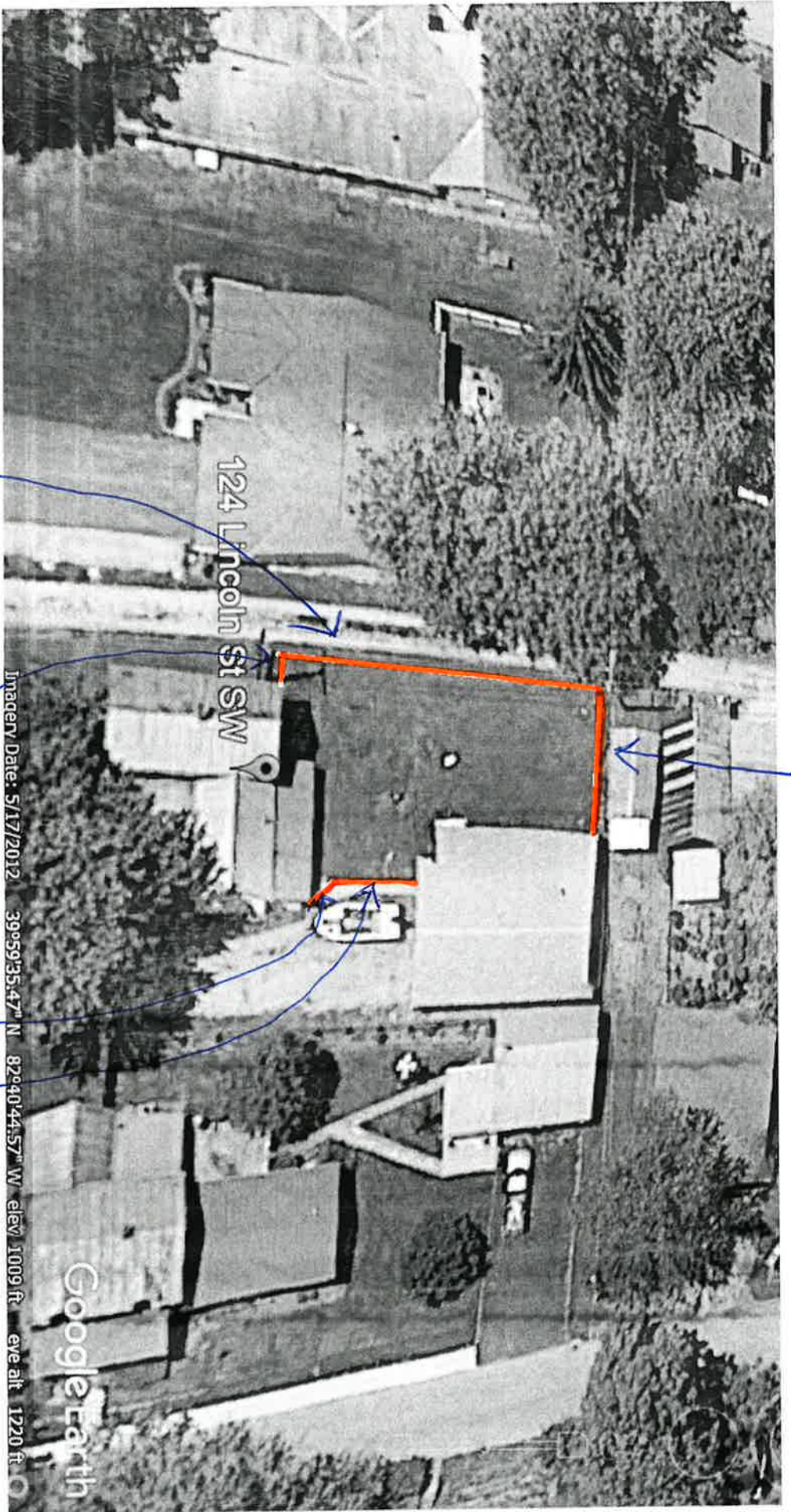
Date:

3-19-21

Property Owner (Required):

Date:

3-19-21



31 ft.

71 ft

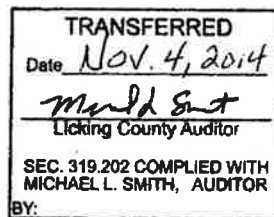
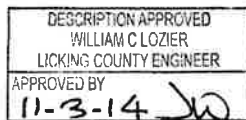
8 ft.

10 ft. gate
3 ft. gate

Imagery Date: 5/17/2012 39°59'35.47" N 82°40'44.57" W elev. 1009 ft eye alt 1220 ft

Google Earth

124 Lincoln St SW



GENERAL WARRANTY DEED

Know all men by these presents, that

Paul Zernis

a married individual, and whose spouse is signing herein to release dower rights, for valuable consideration received, hereby grants and assigns with general warranty covenants, to:

Arica L. McKenzie

whose tax-bill mailing address will be Wells Fargo Bank PO Box 10335 Des Moines, IA 50306, all interest in the following real property:

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

Being Lot Number One Hundred Thirty-five (135) except Three (3) feet off the East side of said lot, in Peter and Rockey's Addition, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 2, Page 32, Recorder's Office, Licking County, Ohio.

Property Address: 124 Lincoln Street SW, Pataskala, OH 43062
Parcel No.: 064-312126-00.000

Prior Deed Reference: Instrument No. 200511180036878 of the Licking County, Ohio records

The foregoing real property is granted by the Grantor and accepted by the Grantee subject to all the recorded reservations, conditions, limitations, highways, public roads, rights-of-way, leases, easements, restrictions, zoning ordinances, and any mineral rights severances, as well as real estate taxes and assessments both general and special, which are a lien but not yet due and payable.



And for valuable consideration received, Debra D. Zernis, the spouse of Paul Zernis, does hereby remise, release and forever quit-claim unto the grantee herein, her heirs and assigns, all her right and expectancy of Dower in the above described premises.

The Grantor herein has read this Deed and hereby acknowledges the voluntary signing hereof.

Executed on this 29th day of October, 2014.

Paul Zernis
Paul Zernis

Debra D. Zernis
Debra D. Zernis

State of OHIO)
County of FRANKLIN) ss.

Be it remembered, that on this 29TH day of October, 2014, before me, the subscriber, a Notary Public in and for said State, personally came Paul Zernis and Debra D. Zernis, the grantor(s) in the foregoing instrument, and acknowledged the signing thereof to be his/her/their voluntary act and deed.

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

Dian R. Fravel
Notary Public



DIAN R. FRAVEL
Notary Public, State of Ohio
My Commission Expires
08-02-16

This instrument prepared by: Jonathan Holfinger, Esq., The Holfinger Stevenson Law Firm Co, Ltd.

After recording, return to: Northwest Title Family of Companies, Inc., 4200 Regent Street, Suite 210,
Columbus, OH 43219 File #11-1300

