



CITY OF PATASKALA BOARD OF ZONING APPEALS

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

STAFF REPORT

July 13, 2021

Variance Application VA-21-021

Applicant:	Ben Breen
Owner:	Ben Breen
Location:	218 South Fork Circle, Pataskala, OH 43062
Acreage:	0.30-acres
Zoning:	R-7 – Village Single-Family Residential
Request:	Requesting approval of a Variance from Section 1297.02(B)(4) to allow for the installation of a swimming pool that will not be enclosed by a fence with a minimum height of five (5) feet.

Description of the Request:

Requesting approval of a variance from Section 1297.02(B)(4) of the Pataskala Code to allow for the installation of a swimming pool that will not be enclosed by a fence with a minimum height of five (5) feet.

Staff Summary:

The 0.30-acre property located at 218 South Fork Circle, in the Bright Waters subdivision, is currently occupied by a 2,336-square foot single-family home. Attached to the rear of the home is a 428-square foot deck and an approximately 144-square foot gazebo. Access is via a concrete driveway onto South Fork Circle. The property itself is located on two (2) public rights-of-way: South Fork Circle to the south, and Key Boulevard to the north. The rear (north) of the property behind the home is enclosed by an existing fence, which is 50-inches in height.

The Applicant had submitted a Swimming Pool Permit Application for a new above ground swimming pool located in the rear yard of the home, 25-feet from the west side property line and 64-feet from the north property line. However, during the review of this permit application it was found that the existing fence around the rear of the property is only 50-inches (~4.17-feet). Section 1297.02(B)(4) of the Pataskala Code requires that the pool itself, or the property on which it is located, be fenced or walled as to prevent uncontrolled access by children. Such fence or wall shall not be less than five (5) feet (60-inches) in height and maintained in good condition, and affixed with an operable self-closing gate and lock.

As stated by the Applicant in their Narrative Statement, their back yard is already fenced by approximately 300-feet of 50-inch-tall wood fencing, with chicken wire along the inside, and all gates being secured with locks. They believe that the existing fencing and security being sufficient to prevent unauthorized entry. Further stated, the Applicant believes this would not affect the character of the neighborhood, as their fence is already existing. The option to include railings, just around the pool itself, to bring it up to the minimum five (5) foot height required was considered, however, the Applicant decided to request a Variance instead.

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:

As mentioned above, Section 1297.02(B)(4) of the Pataskala Code requires that the pool itself, or the property on which it is located, be fenced or walled as to prevent uncontrolled access by children. Such fence or wall shall not be less than five (5) feet (60-inches) in height and maintained in good condition and affixed with an operable self-closing gate and lock. The existing fence is only 50-inches in height, therefore; the Variance request is for a reduction of 10-inches (16.67%) from the requirement of the Code.

The Applicant will need to receive an approved Swimming Pool Permit prior to installing the pool. From the information provided by the Applicant, the proposed pool would meet the other requirements of Chapter 1297. Staff will also perform a final inspection of the swimming pool after construction to ensure the requirements of the Pataskala Code have been met. Staff has no further comments.

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-21-021:

- None

Department and Agency Review

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

Resolution:

For your convenience, the following resolution may be considered by the Board of Zoning Appeals when making a motion:

"I move to approve variances from Section 1297.02(B)(4) of the Pataskala Code for Variance Application VA-21-021 ("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: 218 S. Fork Cir		
Parcel Number: 064-068808-00.052		
Zoning: B-7	Acres: 0.3	
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

Staff Use
Application Number: VA-21-021
Fee: \$300.00
Filing Date: 5/14/2021
Hearing Date: 6/8/2021
Receipt Number: 000025

Applicant Information		
Name: Ben Breen		
Address: 218 S. Fork Cir		
City: Pataskala	State: OH	Zip: 43062
Phone: 419 566 8221	Email: bsb21977@hotmail.com	

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

Property Owner Information		
Name: Same as Above		
Address:		
City:	State:	Zip:
Phone:	Email:	

Variance Information
Request (Include Section of Code): 1297.02 (B.4)
I am requesting a variance on the 60" fence requirement. I have my entire back yard fenced in w/ a 50" fence
Describe the Project:
I am having an 52" above ground pool put in my back yard. I am requesting a variance for the 60" fence requirement. my entire back yard is fenced in w/ almost 300' of fencing which is 50" high.
See attached for more details.

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.

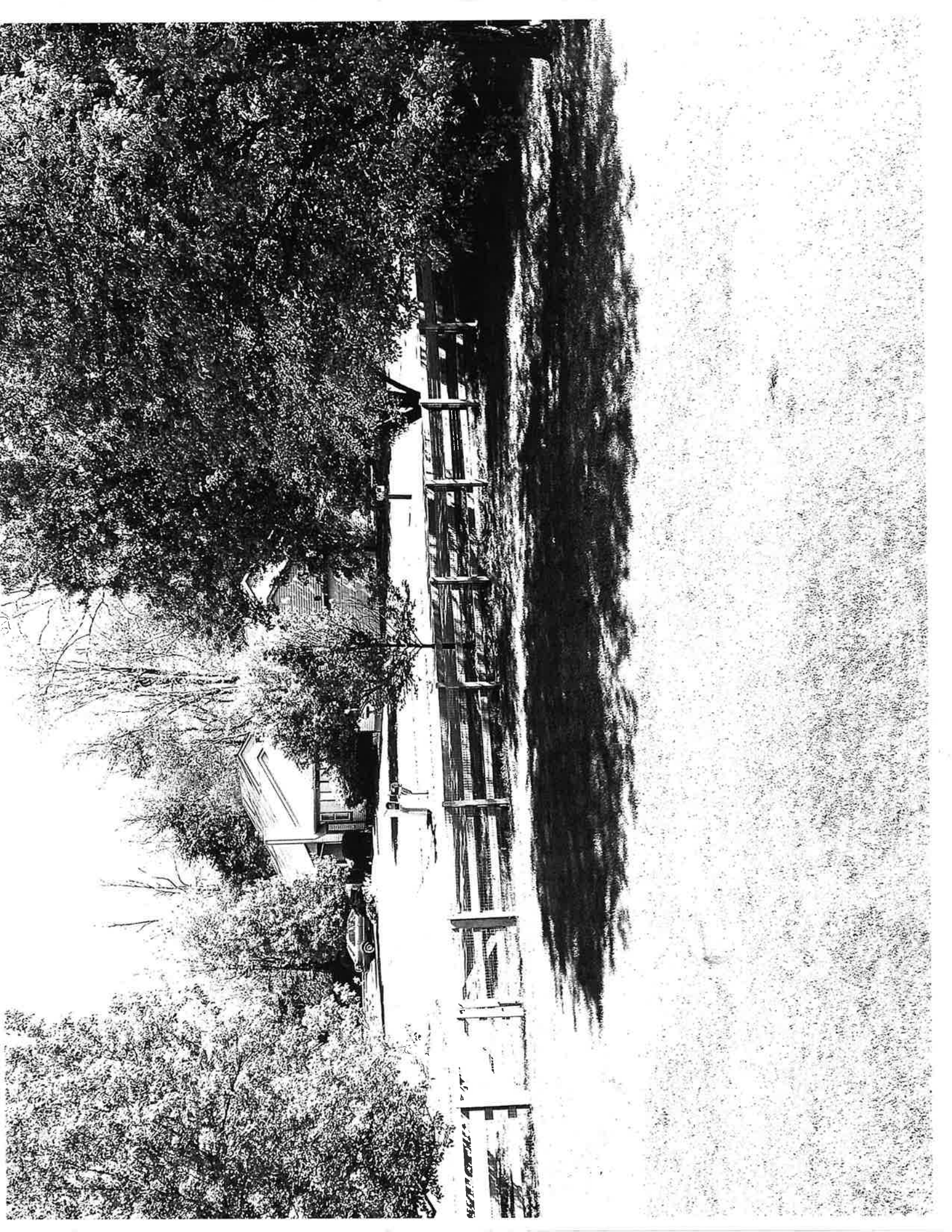
Applicant (Required): 	Date: 5/13/21
Property Owner (Required): 	Date: 5/13/21

- a. The reason I am asking for a variance from the 60" fence requirement is because I already have my entire backyard fenced in (almost 300') with a 50" wooden fence. Furthermore, all the gates that I have for this fence are locked with a pad lock, and the fence also has chicken wire on the inside of it to prevent anything from being able to enter through it. Having to raise this fence to 60" would force me to incur an enormous financial burden.
- b. The backyard of my property is already completely enclosed with a 50" wooden fence. There is no way for any individual to access my backyard since all the gates are locked with a pad lock.
- c. I feel this variance request is justified in that I already have my entire backyard enclosed with a 50" wooden fence.
- d. Surrounding properties would not be affected by this request, as I already have a wooden fence in my backyard.
- e. The variance will not impair the appropriate use or development of adjacent property.
- f. This variance request will not be detrimental to the public.
- g. This variance will not effect the delivery of governmental services since my current fence is already in place.
- h. I am requesting this variance prior to having my pool installed.
- i. I could try and figure out a way to extend my current fence, however this would not be economically feasible. Also, if I put "railings" up around the pool, aesthetically this would not be appealing to the neighbors.
- j. The relief from 60" to 50" for the fence height would be sufficient.
- k. I feel this request is justifiable since I already have my entire backyard enclosed with a wooden fence.

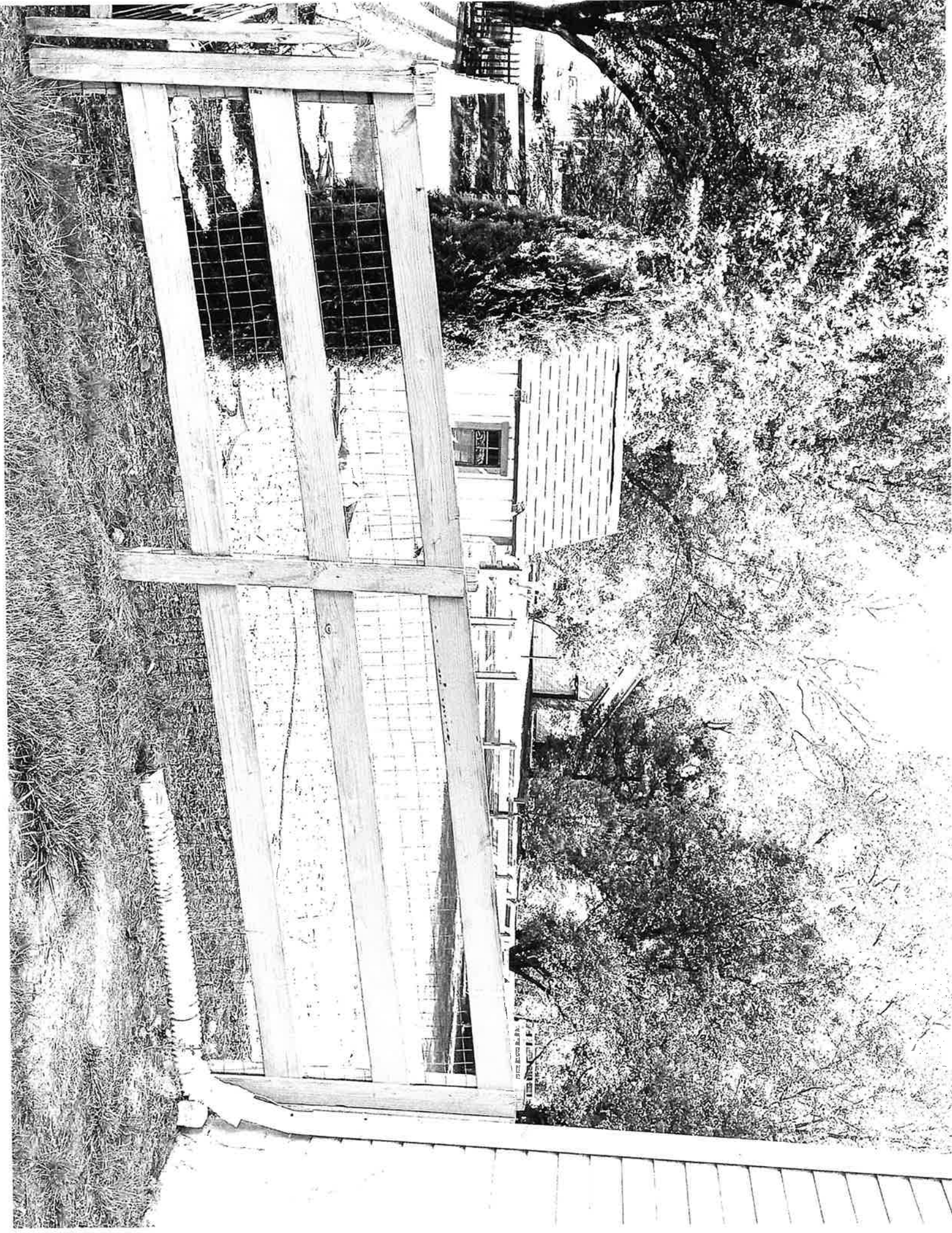


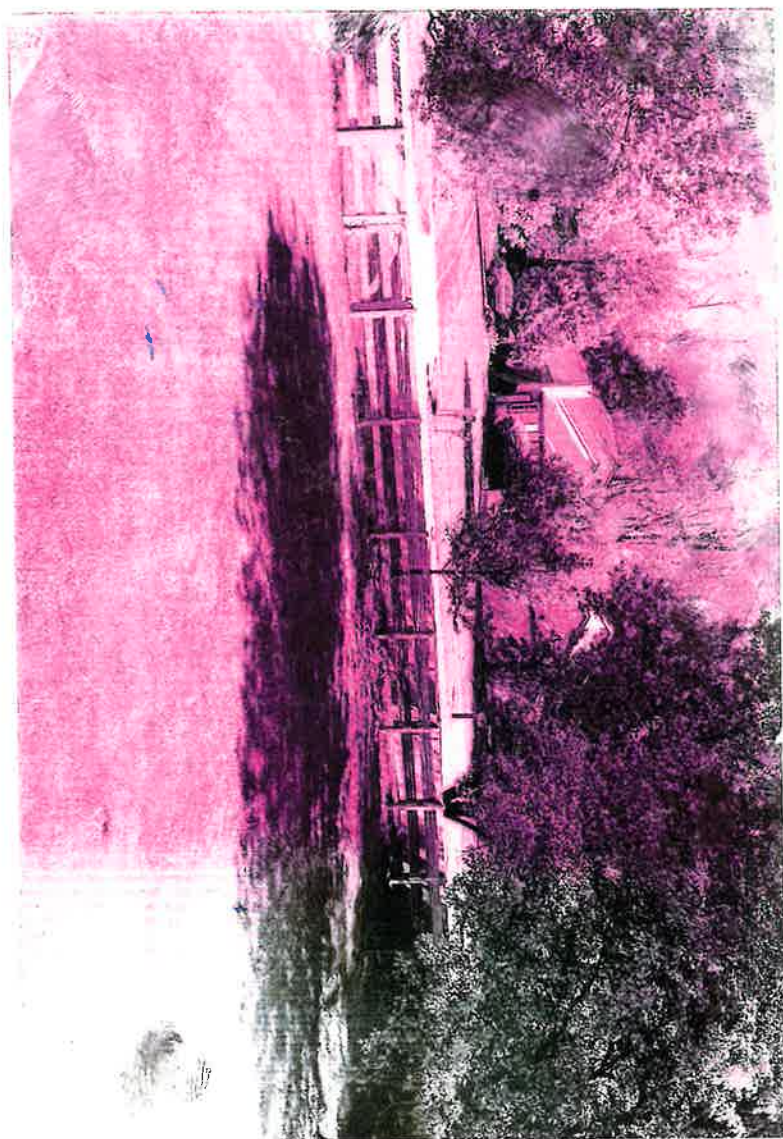


24'









DESCRIPTION APPROVED
WILLIAM C LOZIER
LICKING COUNTY ENGINEER
APPROVED BY *W.C. 8-7-14*

TRANSFERRED
Date *AUGUST 7, 2011*
Michael L. Smith
Licking County Auditor
SEC. 319.202 COMPLIED WITH
MICHAEL L. SMITH, AUDITOR
BY: *MS*



201408070014901
Page: 2 \$28.00 T20140017965
08/07/2014 10:50AM MEPKASARNET
Bryan A. Long
Licking County Recorder

LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that The Bank of New York Mellon aka The Bank of New York, as Trustee (CWALT 2004-30CB) for valuable consideration paid, grant(s) with limited warranty covenants to: Benjamin Breen and Shannon Breen, husband and wife, whose tax mailing address is: 218 S Fork Cir, Pataskala, OH 43062

the following described **REAL PROPERTY**:

RETURN TO KASARNET
530 SOUTH MAIN STREET
SUITE 1031
AKRON, OHIO 44311-4423
AKRON, OHIO 44311-4423

Situated in the County of Licking, in the State of Ohio and in the ^{CITY} Village of Pataskala:

Being Lot Number Forty-nine (49), of BRIGHT WATERS SUBDIVISION, PHASE II, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 13, Pages 356 and 357, Recorder's Office, Licking County, Ohio.

Parcel No: 064-068808-00.052

For information purposes only:

Property Address: 218 S Fork Cir, Pataskala, OH 43062

14-1702-12-A-R

Prior Instrument Reference: Instrument No./Book 201406020009821, of the Deed Records of Licking County, Ohio.

This conveyance is made subject to all legal highways and easements, all restrictions, conditions, declarations and covenants of record, all zoning restrictions and all taxes and assessments not yet payable.

3495932



01140583113356008000

Executed this 24 day of June, 2014.

The Bank of New York Mellon fka The Bank of New York, as Trustee (CWALT 2004-30CB),
By Bayview Loan Servicing, LLC as Attorney in Fact

By: [Signature]

Title: Sonia Asencio
Assistant Secretary

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI DADE)

This instrument was acknowledged before me this 24 day of June, 2014, by Sonia Asencio the Asst. Sec. of Bayview Loan Servicing, LLC as Attorney in Fact for The Bank of New York Mellon fka The Bank of New York, as Trustee (CWALT 2004-30CB).

[Signature]
Notary Public

This Instrument prepared by
The Bank of New York Mellon fka The Bank of New York, as Trustee (CWALT 2004-30CB)
4425 Ponce De Leon, 5th Floor
Coral Gables, FL 33134

File No. 14-1702-12-A-R





Michael L. Smith, Auditor
Roy Van Atta, Treasurer

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

Taxes Due July 21st



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

Search by
Address
Parcel ID

064-068808-00 057
GREEN BENJAMIN &
SHANNON
218 SOUTH FORK CIR
PATASKA, OH 43062

Acres: 0.30
Lot: 49 BRIGHT WATERS
SUB PH II

Land: \$55,100
Improvement: \$191,000
Total: \$246,100

Transfer Date: 08/07/2014
Amount: \$146,000
Compliance: 1997
Valid Sale: No
Homestead: No
Owner Occ: No
Easement: No
Certified Del: No
On Contract: No
Bankruptcy: No
Tax Lien: No