



CITY OF PATASKALA BOARD OF ZONING APPEALS

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

STAFF REPORT

December 1, 2021

Variance Application VA-21-030

Applicant:	Aaron Crater
Owner:	Aaron Crater
Location:	186 Cedar Street (PID: 064-310608-00.000)
Acreage:	+/- 0.18-acres
Zoning:	R-7– Village Single-Family Residential
Request:	Requesting approval of three (3) variances from Sections 1279.03(A)(1), 1279.03(A)(4) and 1279.03(A)(5) in order to erect a fence within the front yard setback that exceeds four (4) feet in height, is within three (3) feet of the public right-of-way and will not conform to the sight visibility triangle.

Description of the Request:

The applicant is seeking approval of three (3) variances. The first, from Section 1279.03(A)(1) in order to erect a fence that exceeds the maximum height permitted within the front yard setback. Second, from 1279.03(A)(4) for said fence to be within three (3) feet of the public right-of-way. And lastly, from Section 1279.03(A)(5) for said fence to not meet the traffic sight triangle visibility requirements.

Staff Summary:

The 0.18-acre property located at 186 Cedar Street is currently occupied by a 1,382-square foot single-family home built in 1890. The property is a corner lot, as it has frontage on multiple public rights-of-way: Cedar Street to the south, an unnamed gravel alley to the east, and a vacant alleyway to the north. Currently, there is no private off-street parking for the primary residence.

The Applicant is proposing to install a wood privacy fence, six (6) feet in height, around the rear yard of the existing home. However, Pursuant to Section 1237.05(C)(4) of the Pataskala Code, when adjacent to multiple public rights-of-way, the same setbacks shall apply as required for the front yard, which in the R-7 – Village Single-Family Zoning District is 25-feet (Section 1237.05(C)(1)). Section 1279.03(A)(1) of the Pataskala Code states: “A fence or wall not exceeding 48-inches 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. Applying these regulations to the property, any fence erected between a line 25-feet from the property line up and up to 3-feet off the street right-of-way line shall only be 48-inches (4-feet) in height.

The proposed fence will start just in front of the existing east entryway into the house adjacent to the alley, run parallel to said alley to the rear property line, before turning and running along the rear property line, and then back to the house along the west side property line.

According to the Narrative Statement submitted by the Applicant, the purpose of the fence is to provide privacy as well as a secure open space for their dog. The Applicant believes that a four (4) foot fence would not provide the needed privacy and security, as their dog could get over a four (4) foot fence. Furthermore, the Applicant believes the requested Variance is not substantial, will not alter the character of the neighborhood, and will substantially or permanently impair the use or development of adjacent properties. The Applicant also believes that the property is unique, considering that it borders three (3) public rights-of-way, one being an unused alley.

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: "A fence or wall not exceeding 48-inches 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. The Applicant is proposing to construct a six (6) foot fence directly on the property line. Therefore, the Variance request is for an additional two (2) feet in height from the maximum of four (4), or a 50% increase.

Furthermore, Pursuant to Section 1279.03(A)(4) No fence or wall shall be erected within three (3) feet of the street right-of-way line. As the Applicant has proposed to install the fence directly on the property line, they will need a full Variance of three (3) feet from this requirement, or 100%. On the northern property line, adjacent to the unused alley, Staff has no concerns about this. However, on the side adjacent to the existing alley on the east, Staff would like to ensure that consideration is given to the City's ability to maintain the alleyway, such as access for maintenance vehicles like snowplows. A possibility could be to have the fence wrap around the existing entryway to the home on the east to provide a direct access to the rear yard, and then have the fence move back to three (3) feet from the right-of-way for the remainder of its distance.

Section 1279.03(A)(5) of the Pataskala Code requires that all fences and walls shall meet the traffic sight visibility triangle requirements of Section 1283.06(14). That being, a "sight triangle" within which no structures shall be permitted, as formed by measuring 35-feet along curb lines from both directions at the intersection and connecting these points. As the alleyway to the north is currently unused, the Applicant is requesting a Variance from this section in order to have their fence "squared off" as opposed to including the "notch" that would be typical of fences at an intersection. Staff has no concerns with the requested Variance.

Public Service Director (Full comments attached)

1. Sight visibility triangle for unimproved alley not of concern
2. Fence may only encroach within the 3' limit along the side of the house where the patio is, then should return back to stay in line with the eastern edge of the house once obstacle is cleared, at a maximum distance of 10-feet past the house.

City Engineer (Full comments attached)

Given the current alley is unused, no concerns with site distance.

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	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
	R-MH – Residential Manufactured Home	Mobile Home Park

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-21-030:

- 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

Supplementary Conditions:

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

1. The Applicant shall address all comments from Planning and Zoning Staff and the Public Service Director.
2. 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 1279.03(A)(1), 1279.03(A)(4) and 1279.03(A)(5) of the Pataskala Code for variance application VA-21-030 ("with the following supplementary conditions" if conditions are to be placed on the approval)."

From: [Alan Haines](#)
To: [Jack Kuntzman](#)
Subject: RE: Pataskala BZA Review Memo for 12-14-2021
Date: Wednesday, November 24, 2021 2:05:39 PM

Jack,

My comments on the applications for the subject BZA hearing are as follows:

1. VA-21-030
 - a. Sight triangle for the unimproved alley is not of concern.
 - b. Fence may only encroach within the 3' limit along the side of the house where the patio is, then should jog back to stay in the line with the eastern edge of the house once the obstacle is cleared, at a maximum distance of 10' past the house.
2. CU-21-005
 - a. Fence along Cleveland is preferred to not extend beyond the north face of the existing building.
3. CU-21-005
 - 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

From: Jack Kuntzman <jkuntzman@ci.pataskala.oh.us>

Sent: Tuesday, November 16, 2021 2:18 PM

To: Felix Dellibovi <fdellibovi@ci.pataskala.oh.us>; Jim Roberts <jroberts@hullinc.com>; Scott Haines <shaines@hullinc.com>; Bruce Brooks <bbrooks@pataskalapolice.net>; Doug White <DWhite@westlickingfire.org>; Perkins, Kasey (Southwest Licking Local Schools) <kperkins@laca.org>; Philip Wagner <pwagner@lhschools.org>; Chris Sharrock <csharrock@ci.pataskala.oh.us>; Chris Gilcher <cgilcher@swlcws.com>; Alan Haines <ahaines@ci.pataskala.oh.us>

Cc: Scott Fulton <sfulton@ci.pataskala.oh.us>; Lisa Paxton <lpaxton@ci.pataskala.oh.us>

Subject: Pataskala BZA Review Memo for 12-14-2021

Good Afternoon,

From: [Scott Haines](#)
To: [Jack Kuntzman](#)
Subject: RE: Pataskala BZA Review Memo for 12-14-2021
Date: Monday, December 6, 2021 10:28:53 AM

CAUTION: This email message came from an external (non-city) email account. Do not click on any links within the message or attachments to the message unless you recognize the sender's email account and trust the content.

Jack

Apologize for the late response, Hull offers the following response:

VA-21-030: Given the current alley is unapproved, we do not have a concern with sight distance.

CU-21-005: No Engineering Related Comments

CU-21-006: No Engineering related Comments

Thanks

Scott R. Haines, P.E., CPESC

Senior Project Manager

HULL | Newark, Ohio

Environment / Energy / Infrastructure

d: 740-224-0839 | o: 740-344-5451 | f: 614-360-0023

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[web](#) | [directions to offices](#)

From: Jack Kuntzman <jkuntzman@ci.pataskala.oh.us>

Sent: Wednesday, November 17, 2021 3:36 PM

To: Felix Dellibovi <fdellibovi@ci.pataskala.oh.us>; Jim Roberts <jroberts@hullinc.com>; Scott Haines <shaines@hullinc.com>; Bruce Brooks <bbrooks@pataskalapolice.net>; Doug White <DWhite@westlickingfire.org>; Perkins, Kasey (Southwest Licking Local Schools) <kperkins@laca.org>; Philip Wagner <pwagner@lhschools.org>; Chris Sharrock <csharrock@ci.pataskala.oh.us>; Chris Gilcher <cgilcher@swlcws.com>; Alan Haines <ahaines@ci.pataskala.oh.us>

Cc: Scott Fulton <sfulton@ci.pataskala.oh.us>; Lisa Paxton <lpaxton@ci.pataskala.oh.us>

Subject: RE: Pataskala BZA Review Memo for 12-14-2021

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CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

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

VARIANCE APPLICATION

(Pataskala Codified Ordinances Chapter 1211)

Property Information		Staff Use
Address: 186 Cedar St.		Application Number: VA-21-050
Parcel Number: 064-310608-00.000		Fee: \$300.00
Zoning: R-7	Acres: 0.18	Filing Date: 11/12/2021
Water Supply: <input checked="" type="checkbox"/> City of Pataskala <input type="checkbox"/> South West Licking <input type="checkbox"/> On Site		Hearing Date: 12/14/2021
Wastewater Treatment: <input checked="" type="checkbox"/> City of Pataskala <input type="checkbox"/> South West Licking <input type="checkbox"/> On Site		Receipt Number: 000344
Applicant Information		
Name: Aaron Crater		
Address: 186 Cedar St.		
City: Pataskala	State: OH	Zip: 43062
Phone: 616-773-8351	Email: aacater0620@gmail.com	
Property Owner Information		
Name: Aaron Crater		
Address: 186 Cedar St.		
City: Pataskala	State: OH	Zip: 43062
Phone: 616-773-8351	Email: aacater0620@gmail.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		
Variance Information		
Request (Include Section of Code): 1279.03(A)(1), 1279.03(A)(4), 1279.03(A)(5)		
Describe the Project: Install a 6 foot wood privacy fence around backyard.		

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:

11/12/21

Property Owner (Required):

Date:

11/12/21

Aaron Crater
186 Cedar Street
Pataskala, OH 43062

November 12, 2021

Board of Zoning Appeals
City of Pataskala
621 West Broad Street
Pataskala, OH 43062

I am the new owner of 186 Cedar Street. I am seeking to add a 6 foot tall wood privacy fence to the backyard in order to provide my dog a safe yard to play in, as well as provide me a private space to enjoy being outdoors during the nicer months.

I am requesting this variance because my lot is adjacent to an alley, and backs up to an unused and unimproved alley. The code requires that fences in these areas be no more than 4 feet in height 1279.03 (A) (1), are 3 feet or more from the alley 1279.03 (A) (2), and that there is traffic sight triangle visibility 1279.03 (A) (5).

A fence that is only 4 feet in height will not provide the privacy needed for my backyard, and will also not provide a secure area for my dog to play without an ability to get out of the yard easily. The proposed fence also needs to wrap around the existing porch on the side entrance to the house so that I have the means to let my dog out from the house directly into the yard, and so that I have an a direct egress to the backyard from the house. Because the alley behind my lot is unimproved and unused, there is no traffic using that alley. There would be no safety concerns without having the required traffic sight triangle visibility.

The specific reasons that a variance is justified as it pertains to Section 1211.07 of the Pataskala Code are as follows:

a) Upgrading the property with a fence will increase the property value as well as its functionality. Without the variance, my backyard will not be a safe area for my dog, and will not be a usable space to enjoy the outdoors with privacy.

b) As described above, this property is unique in that it is bordering 2 alleys, with 1 of them being unused. It would not be possible to install a proper privacy fence that is in strict conformity with the zoning regulation.

c) The variance being requested is not a substantial deviation from the zoning regulations. The proposed fence will be 6 feet in height, only 2 feet higher than the required 4 foot maximum. There is just over 5 feet of property on the West side of my lot next to the alley. My fence will extend 3 feet from the house, leaving a 2 foot distance from the alley, which is only 1 foot shorter than the zoning requirement. Since the unused and unimproved alley behind the lot is not in service, there is no need for traffic sight triangle visibility.

d) The essential character of the neighborhood will not be substantially altered, and the adjoining properties will not suffer a substantial detriment as a result of the variance.

- e) The variance, if granted, will not substantially or permanently impair the appropriate use or development of adjacent properties.
- f) The variance, if granted, will not be detrimental to the public welfare.
- g) The variance, if granted, will not adversely affect the delivery of governmental services.
- h) I did not purchase the property with the knowledge of these zoning restrictions.
- i) My predicament cannot be obviated through some other method than variance.
- j) This variance, if granted, will represent the minimum variance that will afford me relief and represents the least modification possible of the requirement at issue.
- k) The spirit and intent behind the zoning requirement will be observed and substantial justice will be done by granting the variance.

Thank you for your consideration of my request for this variance in the zoning requirements. I am excited to be a new resident of Pataskala. I look forward to finding opportunities to contribute to the community in a positive manner, and improving my new property in a way that adds value to both my property and the neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Crater', with a stylized flourish extending to the right.

Aaron Crater

MORTGAGE LOCATION SURVEY

1044-21

TITLE COMPANY: NORTHWEST TITLE
LENDER: FIRST FINANCIAL BANK
BUYER: VICTOR LOGAN JALAMOV AND MARIA CANTEMIR
SELLER: WHITNEE LEANN WEBER
DATE: 10/01/2021
ORDER NO.: 1044-21



LEGAL DESCRIPTION: BEING LOT NO. 6 OF ARNDT'S SECOND ADDITION, OF RECORD IN PLAT BOOK 3, PAGE 40, LICKING COUNTY RECORDER'S OFFICE, CITY OF PATASKALA, STATE OF OHIO.

APPARENT ENCROACHMENTS: NONE

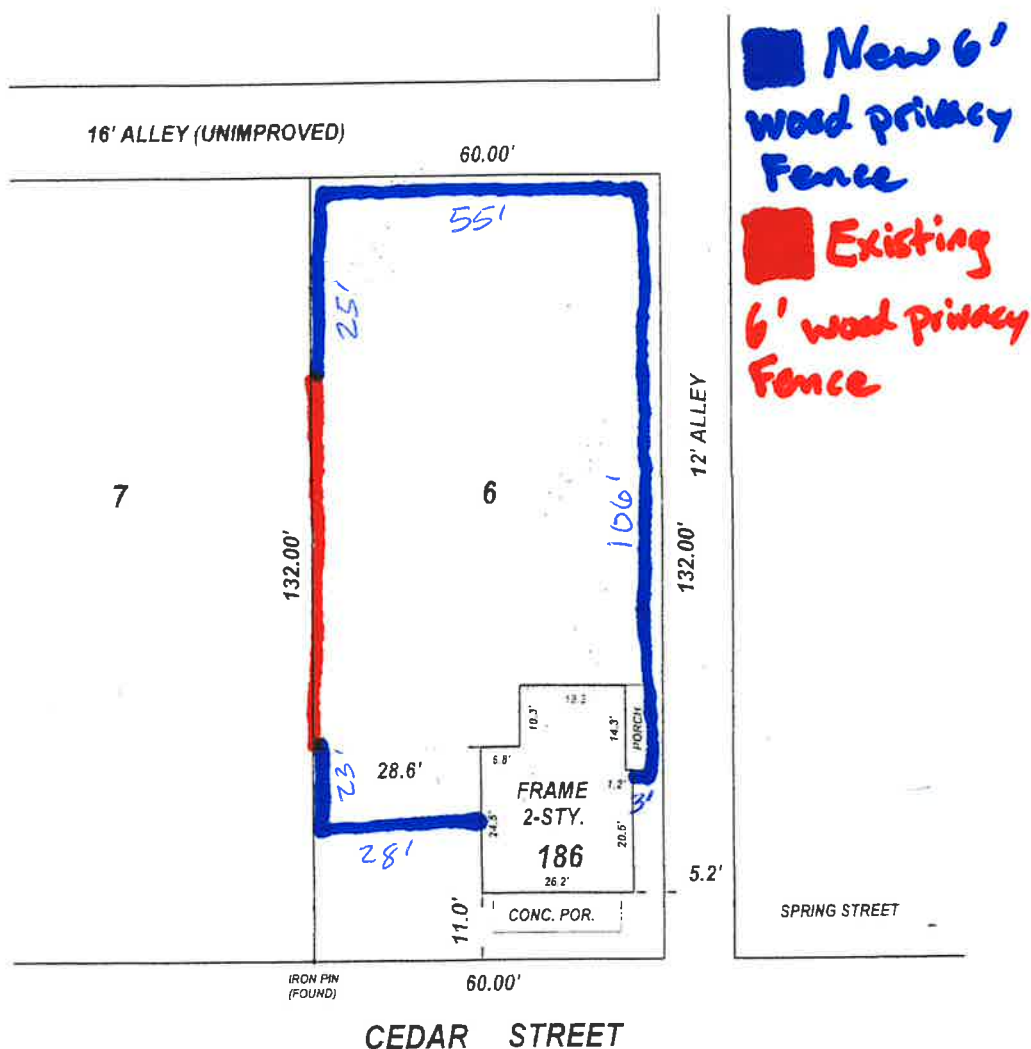
PARCEL NO.: 064-310608-00 000

TITLE CO. FILE NO.: 1-15256

SCALE: 1" = 25'

0 12.5' 25.0' 37.5'

I/WE CERTIFY THAT I/WE HAVE EXAMINED THE SURVEY FOR THE PROPERTY THAT I/WE HAVE JUST PURCHASED AND I/WE ACKNOWLEDGE RECEIPT OF A COPY OF SAID SURVEY.



COMPASS
SURVEYING
SOLUTIONS

P.O. Box 1902
Westerville, Ohio 43086-1902
Phone: (614)378-9140

CompassSurveying@hotmail.com

We hereby certify that the foregoing MORTGAGE LOCATION SURVEY was prepared in accordance with Chapter 4733-38, Ohio Administrative Code and is not a boundary survey pursuant to Chapter 4733-37 Ohio Administrative Code. This plat is prepared for mortgage loan and title purposes only and does not show the location of fences or landscaping. This plat is not to be used for the construction of any improvements. Liability for this survey limited to actual cost of survey.

By

G. Dean Erlenbach
Ohio Registered Surveyor No. 7272



GENERAL WARRANTY DEED

Know all persons by these presents, that:

Whitnee Leann Weber FKA Whitnee Leann Stoneburner

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

Aaron W. Crater

the designated Grantee herein whether one or more than one, whose tax-bill mailing address will be c/o Wright-Patt Credit Union, Inc., 3560 Pentagon Boulevard, Beavercreek, OH 45431 all interest in the following real property:

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

Being Lot Number Six (6), of ARNDT'S SECOND ADDITION, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 1, Page 189 and subsequently re-platted and made of record in Plat Book 2, Page 277, and in Plat Book 3, Page 40, Recorder's Office, Licking County, Ohio.

Property Address: 186 Cedar Street, Pataskala, OH 43062

Parcel No.: 064-310608-00.000

Prior Deed Reference: Instrument No. 202101050000272, Licking County, Ohio records

The foregoing real property is granted by the Grantor and accepted by the Grantee 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.

And for valuable consideration received, Kevin Weber, the spouse of Whitnee Leann Weber, does hereby remise, release and forever quit-claim unto the Grantee herein, and the Grantee's heirs, successors, and assigns, all his 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 12th day of November, 2021

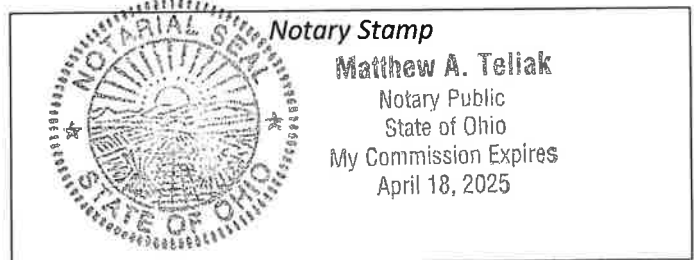

Whitnee Leann Weber


Kevin Weber

State of Ohio)
County of Franklin)

The foregoing instrument was acknowledged before me this 12th day of November, 2021 by **Whitnee Leann Weber** and **Kevin Weber**.


Notary Public



This instrument prepared by:
Stephen A. McCoy, Esq.
The Holfinger Stevenson Law Firm
1160 Dublin Road, Suite 500
Columbus, OH 43215

After recording, return to:
Northwest Title Family of Companies, Inc
c/o Matt Teliak
4151 Executive Parkway, Suite 190
Westerville, OH 43081

File #1-15256

