

#### CITY OF PATASKALA BOARD OF ZONING APPEALS

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

#### **STAFF REPORT**

June 13, 2023

#### **Variance Application VA-23-013**

Applicant: John Luebbe III, Connie Luebbe

Owner: John Luebbe III, Connie Luebbe

Location: Locati

00.000)

**Acreage:** +/- 0.224-acres

**Zoning:** R-15 – Medium-High Density Residential

**Request:** Requestion approval of two (2) Variances; the first from Section 1223.05(C)(2)

for reduced side yard setbacks, and the second from Section 1221.07(b)(1)(iii)

to allow for a patio to encroach into the side yard setback.

#### **Description of the Request:**

Requestion approval of two (2) Variances; the first from Section 1223.05(C)(2) for reduced side yard setbacks, and the second from Section 1221.07(b)(1)(iii) to allow for a patio to encroach into the side yard setback.

#### **Staff Summary:**

The 0.224-acre property located on North End Drive is currently vacant and undeveloped. It is lot 22 of the Beeson's Subdivision, platted in 1954, and is existing non-conforming as it does not meet the minimum requirements of the R-15 – Medium-High Density Residential zoning district; Those being: a minimum lot width of 100-feet and a minimum lot size of 10,000-square feet (currently: 75-foot lot width, 9757.44-square feet in area).

The Applicant is proposing to construct an attached two-family dwelling on the lot. As shown on the provided site plan, the structure on Lot 22 (northernmost lot) will be set back from the front (east) property line a distance of 35-feet, 17.5-feet from the side (south) property line, approximately 17.5-feet from the side (north) property line, and an unknown distance from the rear (west) property line (although per plan, it is outside the required 25-feet setback). Each unit will have its own private driveway onto North End Drive, along with a side patio to be enclosed by a fence and/or wall.

Pursuant to Section 1233.05(C)(2) of the Pataskala Code, the minimum required setback for the R-15 – Medium-High Density Residential zoning district is 20-feet. The proposed distance on both the north and south sides is 17.5-feet.

The side yard patios for the unit on Lot 2 will extend four (4) feet beyond the exterior wall of the units, encroaching into the side yard setback on the north side, and the sideyard setback on the south side. Pursuant to Section 1221.07(b)(1)(iii), patios shall meet the required side yard setbacks of the zoning district, *or*, shall not extend further into the side yard setback that the principal structure; whichever is less. As the patio is not compliant with either of those qualifications, a Variance is required.

According to the Narrative Statement as submitted by the Applicant, the Applicant believes the request(s) are warranted, as Lot 22 is an existing non-conforming lot, being narrower and smaller in area than required by the R-15 zoning district. Further stated, the Applicant noted that in 2016 and 2018, the Board of Zoning Appeals approved setback Variances for front and side yard setbacks for similar two-family attached dwellings on Beeson Avenue and Vine Street, the next streets to the west of this location.

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

In total there are two (2) Variance requests for Lot 22. They are listed below:

Variance #1: Request for a Variance from Section 1233.05(C)(2) to allow for a reduced side yard setback on both the north and south sides of the structure. Per Code, this is 20-feet, and as proposed the structure is at 17.5-feet. Therefore, the Variance request is for a reduction of 2.5-feet. or a 12.5% decrease.

Variance #2: Request for a Variance from Section 1221.07(b)(1)(iii) to allow for a patio to encroach beyond the exterior wall of the home, into the side yard setback a distance of four (4) feet.

Should the request(s) be approved, the Applicant will need to submit a New Residential Construction Permit Application with plans, and Impact Fees prior to commencing construction.

#### City Engineer (Full comments attached)

Proper Drainage shall be maintained. The improvements should not alter the drainage path offsite

#### <u>Public Service Department (Full comments attached)</u>

As long as drainage is maintained, no comment.

#### Other Departments or Agencies

No other comments from applicable Departments or Agencies were received.

#### **Surrounding Area:**

Direction	Zoning	Land Use
North	GB – General Business	Single-Family Home
East	R-15 – Medium-High Density Residential GB – General Business	Vacant Animal Hospital of Pataskala
South	R-15 – Medium-High Density Residential	Vacant (Proposed Two-Family Attached)
West	R-15 – Medium-High Density 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 con 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-23-013:

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. Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Code Department within one (1) year of the date of approval.
- Proper drainage shall be maintained.

#### **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 1233.05(C)(2) and Section 1221.07(b)(1)(iii) of the Pataskala Code for variance application VA-23-013 ("with the following conditions" if conditions are to be placed on the approval)."

 From:
 Scott Haines

 To:
 Jack Kuntzman

 Cc:
 Lisa Paxton; Scott Fulton

**Subject:** RE: Pataskala BZA Review Memo for 06-13-2023

**Date:** Sunday, June 4, 2023 8:09:45 PM

Attachments: <u>image001.png</u>

<u>CAUTION:</u> 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

Verdantas has reviewed the BZA Memo and offer the following comments:

- 1. VA-23-011
  - a. No Engineering Related Comments
- 2. **VA-23-012** 
  - a. Proper Drainage shall be maintained. The improvements should not alter the drainage path offsite.
- 3. **CU-23-004** 
  - a. No Engineering Related Comments
- 4. **VA-23-013** 
  - a. Proper Drainage shall be maintained. The improvements should not alter the drainage path offsite.
- 5. **CU-23-005** 
  - a. No Engineering Related Comments
- 6. **VA-23-014** 
  - a. No Engineering Related Comments

#### Thanks

#### Scott R. Haines, PE, CPESC

#### **Senior Project Manager**

O. 740.344.5451 | D. 740.224.0839

1555 W. Main Street, Newark, Ohio 43055

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

**Sent:** Tuesday, May 16, 2023 10:44 AM

**To:** Felix Dellibovi <fdellibovi@ci.pataskala.oh.us>; Scott Haines <shaines@hullinc.com>; Jim Roberts <jroberts@verdantas.com>; Trent Howell <thowell@ci.pataskala.oh.us>; Chris Sharrock <csharrock@ci.pataskala.oh.us>; Bruce Brooks <bbrooks@pataskalapolice.net>; Doug White <DWhite@westlickingfire.org>; kperkins@laca.org; Kevin Miller <kevin.miller@lhschools.org>; laitken@lhschools.org; Antonio Anzalone <aanzalone@ci.pataskala.oh.us>; Alan Haines <ahaines@ci.pataskala.oh.us>; Scott Morris <smorris@lickingcohealth.org>

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

**Subject:** Pataskala BZA Review Memo for 06-13-2023

From: Antonio Anzalone

To: Scott Fulton; Felix Dellibovi; Scott Haines; Jim Roberts; Trent Howell; Chris Sharrock; Bruce Brooks; Doug White;

kperkins@laca.org; Kevin Miller; laitken@lhschools.org; Alan Haines; Scott Morris

Cc: <u>Jack Kuntzman</u>; <u>Lisa Paxton</u>

**Subject:** RE: Pataskala BZA Review Memo for 06-13-2023

**Date:** Tuesday, May 30, 2023 11:28:24 AM

Attachments: <u>image001.png</u>

Scott.

Please see Public Service Department's comments below.

Thank you,

#### **Antonio Anzalone**

Assistant City Engineer City of Pataskala 621 W. Broad Street, Suite 2B Pataskala, Ohio 43062

Office: 740.927.3873 Cell: 740.652.0685

Email: <u>aanzalone@ci.pataskala.oh.us</u>

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

**Subject:** Pataskala BZA Review Memo for 06-13-2023

Good Morning Everyone,

You are receiving this email because one or more of the Application(s) submitted for the **June 13, 2023** Board of Zoning Appeals are within your jurisdiction. Please see the list below for which Applications are being submitted for your review.

**VA-23-011:** Felix Dellibovi, Verdantas, Trent Howell, Bruce Brooks, Doug White, Kasey Perkins, Public Service Department

No Comment

**VA-23-012:** Felix Dellibovi, Verdantas, Trent Howell, Bruce Brooks, Doug White, Kasey Perkins, Public Service Department

As long as drainage is maintained, no comment.

**CU-23-004:** Felix Dellibovi, Verdantas, Trent Howell, Bruce Brooks, Doug White, Kasey Perkins, Public Service Department

No Comment

**VA-23-013:** Felix Dellibovi, Verdantas, Trent Howell, Bruce Brooks, Doug White, Kasey Perkins, Public Service Department

As long as drainage is maintained, no comment.

**CU-23-005:** Felix Dellibovi, Verdantas, Trent Howell, Bruce Brooks, Doug White, Kasey Perkins, Public Service Department

No Comment

**VA-23-014:** Felix Dellibovi, Verdantas, Bruce Brooks, Doug White, Kevin Miller, Scott Morris, Public Service Department

No Comment

If you have any comments or concerns regarding these applications, please have them submitted to me **no later than Monday, June 5, 2023**. They will be included in the Staff Report that is given to the Board members. If you have questions regarding these applications, feel free to contact me. A link to download the applications is below.

BZA Review Memo for 06-13-2023

Thank you for your assistance.

JACK R. KUNTZMAN
City Planner
City of Pataskala
621 West Broad Street, Suite 2-A
Pataskala, Ohio 43062
Phone: 740-964-1316



#### 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: Lot 22 North End Prive Patarkala			Application Number:
	72-00.000		VA-23-013
Zoning: R-15	Acres:	5.42	Fee:
Water Supply:			300
City of Pataskala	South West Licking	On Site	Filing Date:
Wastewater Treatment:			5-9-23 Hearing Date:
City of Pataskala	South West Licking	On Site	
			le -13-23 Receipt Number:
Applicant Information			
Name: John Luabhe.	Ylonnie Lueb	br	601118
Address: 401 Ame & le	ssom Rol. Sw.		
City: Detus Kalu	State: Oh.b	Zip: 43862 D Luebbe longanies. C	Documents
Phone: 614-582-3632	Email: UL	Luebbe Componies.	Application
011 001 7021		<u>,                                    </u>	Fee
Property Owner Information			Narrative
Name: SAME			Site Plan
Address:			7 Deed
City:	State:	Zip:	Area Map
Phone:	Email:		7
			_
Variance Information			
Request (Include Section of Code):	War Lunces F.	- Please	Side Yesd
	S-et backs	- Please	See Attacked
Describe the Project:	e ATTacked		
The state of the s			

#### **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;
  - 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: <a href="https://apps.icounty.com/recorder/recording-search/">https://apps.icounty.com/recorder/recording-search/</a>

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: <a href="https://www.lickingcountyohio.us/">https://www.lickingcountyohio.us/</a>

Signatures	
I certify the facts, statements and information provided on and attached to this application are true knowledge. Also, I authorize City of Pataskala staff to conduct site visits and photograph the prope	e and correct to the best of my erty as necessary as it pertains
to this variance request.	
Applicant (Required):	Date: 5-9 2023
Property Owner (Required): John Lendy Har	Date: 5 - 9 - 2023

#### **Variance Application**

#### Lots 13 and 22 Beeson's Subdivision

#### Zoned R-15

#### Background Information:

Lots 13 and 22 are located in Beeson's Subdivision that was platted in 1954. Lot 13 is 65' wide by 130' deep, or approximately 8450 square feet. Lot 22 is 75' wide by 130' deep, or approximately 9750 square feet.

Lots 13 and 22 are zoned R-15. Under the current R-15 zoning, lots are required to be 100' wide and have a lot area of 15,000 square feet (1233.05(B). Thus, Lots 13 and 22 are non-conforming lots under R-15.

The zoning code permits buildings to be erected on each non-conforming lot of record at the effective date of the zoning code even though such lots fail to meet the requirements for area or width or both for the district in which such lots are located. Thus lots 13 and 22 do not need variances for lot width or area (1285.05)

In the R-15 District, the front yard setback is 35', the side yard setback is 20' and the rear yard setback is 25'. The lots in Beeson's Subdivision are platted to have 35' front yard setbacks with a 10' building line adjacent to Third Street.

Section 1221.07(b)(1)(iii) states: "Decks and patios shall meet the required side yard setbacks of the zoning district in which they are located or shall not extend further into the side yard setback than the principal structure on the lot, whichever is less".

#### Variance Request:

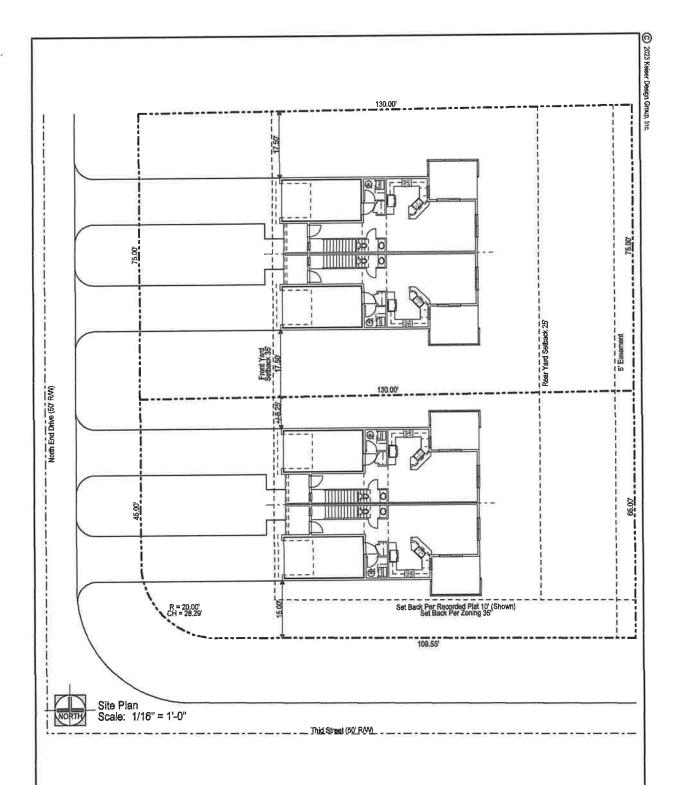
#### Lot 22 (northern lot):

- o 1223.05(C)(2) to allow for reduced side yard setbacks from 20' to 17.5'.
- 1221.07(b)(1)(iii) to allow for a patio to encroach into the side yard setback required by the zoning district by an additional amount of 4'.

#### Lot 13 (southern lot)

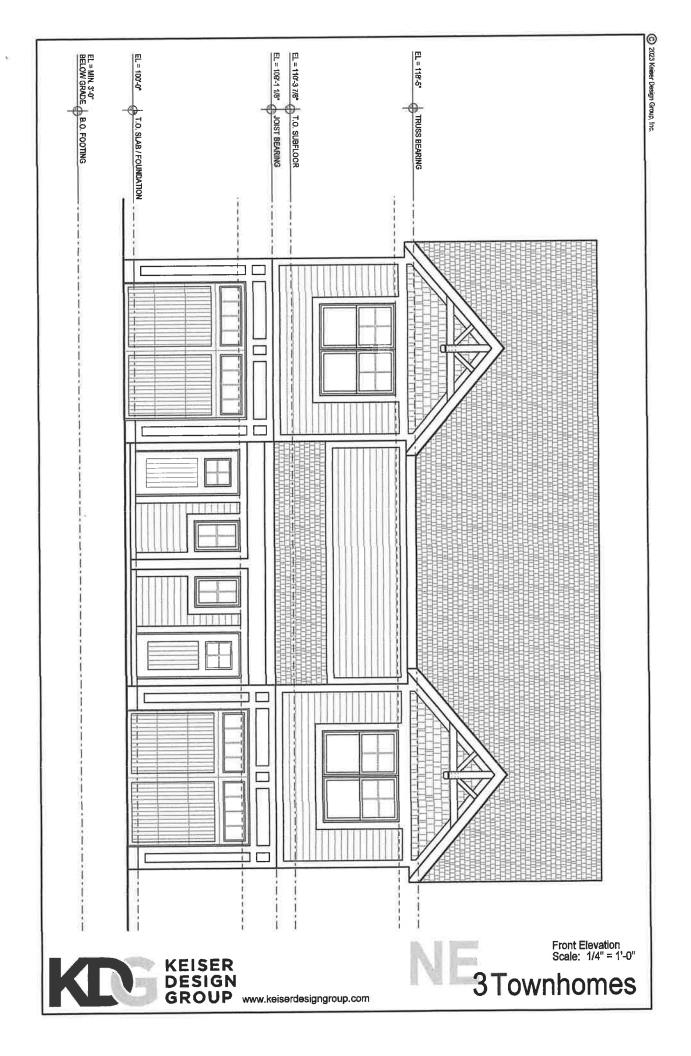
- 1223.05(C)(1) to allow for a reduced front yard setback on the south side (fronting 3<sup>rd</sup> Ave) from 35' to 15'.
- $\circ$  1223.05(C)(2) to allow for a reduced side yard setback on the north side from 20' to ~8.25'.
- o 1221.07(b)(1)(iii) to allow for a patio to encroach into the side yard setback required by the zoning district by an additional amount of 4'.
- 1221.07(b)(1)(i) to allow for a patio to encroach into the required front yard setback of the zoning district by an additional amount of 4'.

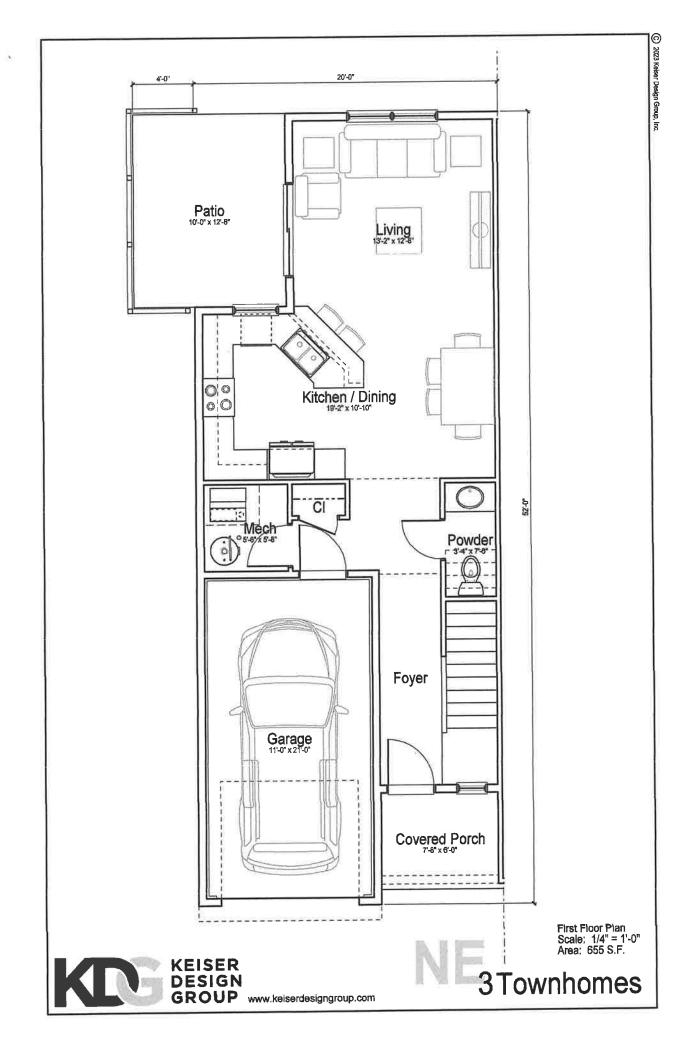
NOTE: In October 2016 and August of 2018 the Board of Zoning Appeals approved conditional uses to allow for the construction of two-family dwellings on three similar lots to the west on Beeson Avenue. Setback variances were also granted for front yard and side yard setbacks. The proposed two-family dwellings are similar in size and design of those constructed on Beeson Avenue.

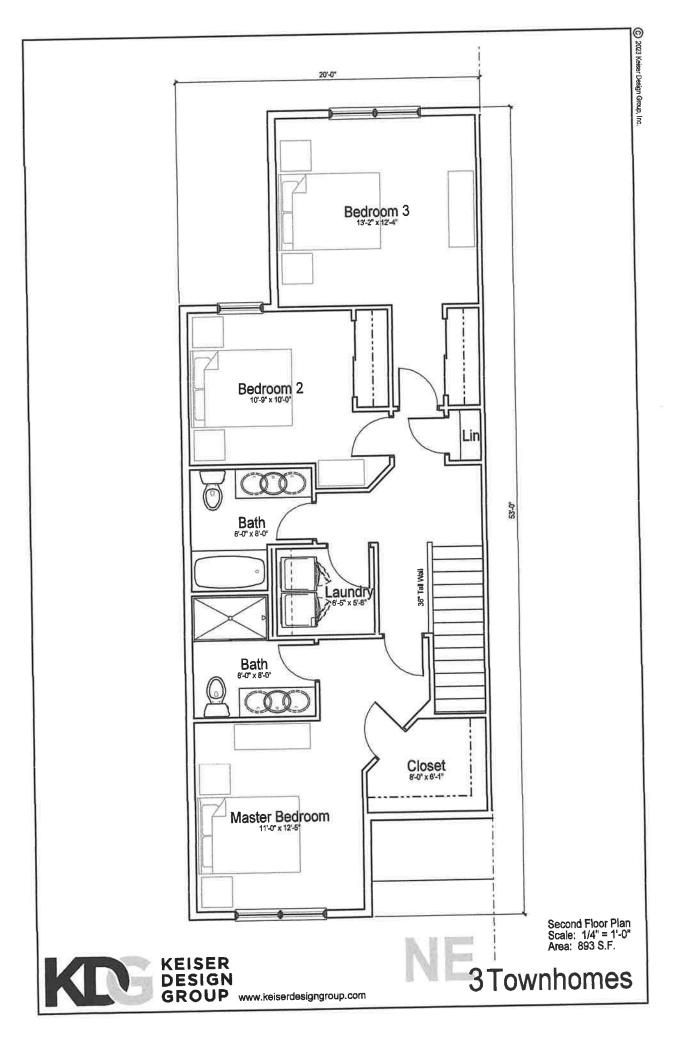












### DESCRIPTION APPROVED JARED N. KNERR LICKING COUNTY ENGINEER

Approved By JM Apr 03, 2023 01150584105143013000 01150584605143025000

#### TRANSFERRED

Apr 04, 2023
Michael L. Smith
LICKING COUNTY AUDITOR
SEC 319.902 COMPLIED WITH
MICHAEL L. SMITH
By: AB 270.00

InstrID:202304040005642 4/4/2023
Pages:3 F: \$42.00 8:47 AM
Bryan A. Long T20230006879
Licking County Recorder

## WARRANTY DEED By a Limited Liability Company FIRST ONE TITLE INSURANCE LO

File 101125

KNOW ALL MEN BY THESE PRESENTS; That Front Porch Investments, LLC, a limited liability company organized and existing under the laws of the State of Ohio, the Grantor, for valuable consideration paid, grants, with general warranty covenants, to John J. Luebbe, III and Connie S. Luebbe, husband and wife, for their joint lives, remainder to the survivor of them, Grantee(s), whose Tax Mailing Address will be 401 Apple Blossom Road, Pataskala, Ohio 43062, the following described real property:

Situated in the State of Ohio, County of Licking, and in the City of Pataskala (formerly Lima Township) and bounded and described as follows: Being a part of Quarter Township #4, Township #1, Range #15, U.S.M. Lands, and bounded and described as follows: Being Lot Number Thirteen (13) and Twenty Two (22) of Beeson's Subdivision, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 5, Page 143 and 144, Recorder's Office, Licking County, Ohio

Parcel Number(s):

064-311172-00.000

Known as:

0 North End Drive Pataskala, OH 43062

This conveyance is subject to all taxes and assessments which are now or hereafter become liens on said premises, and is subject to all covenants, easements, restrictions, conditions, reservations, reverters, legal highways, zoning laws and ordinances, and governmental regulations, if any, of record, and all coal, oil, gas and other mineral rights and interests previously conveyed, transferred, or reserved of record.

Prior Instrument Number:

Instrument Number 202102120004738 of the Records of the

Office of the Recorder, Licking County, Ohio

IN WITNESS WHEREOF, Front Porch Investments, LLC, the Grantor, has caused its name to be subscribed hereto by Randy L. Colvin, Jr., Erin C. Gervais, Michael J. Kirkwood, Robert H. Nash, III and Latrenda L. Thompson, its Authorized Members.

Signed and acknowledged:

Front Porch Investments, LLC

By: Randy L. Colvin, Jr., Authorized Member

By: Michael J. Kirkwood, Authorized Member

By: Erin C. Gervais, Authorized Member

By: Robert H. Nash, III, Authorized Member

By: Latrenda L. Thompson, Authorized Member

State of Ohio		)	
County of	Licking	)	SS

BE IT REMEMBERED, that on this 3 day of MWCH 2023, 2023, before me, the subscriber, a Notary Public in and for said state, personally came Randy L. Colvin, Jr., Erin C. Gervais, Michael J. Kirkwood, Robert H. Nash, III and Latrenda L. Thompson, Authorized Members of Front Porch Investments, LLC, the Grantor(s) in the foregoing deed and acknowledged the signing thereof to be the free act and deed of said limited liability company, pursuant to the authority of its Members, and his/her/ their free act and deed personally and as such member(s). This is an acknowledgment. No oath or affirmation was administered to the signer with regard to this notarial act.

IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Notary Public Commission Expiration Date:

This instrument was prepared by: Thomas J. Olix, Attorney at Law Olix & Associates, Co., L.P.A 1303 Durness Ct Columbus, Ohio 43235 File 101125

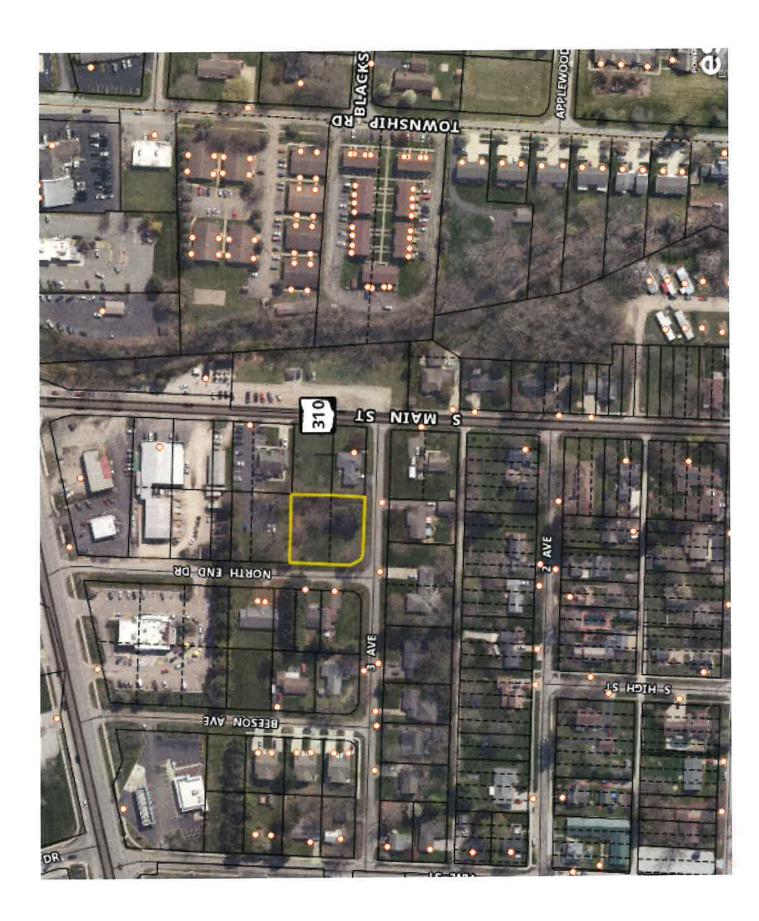


John Robey Notary Public, State of Ohio My Commission Expires May 18, 2023

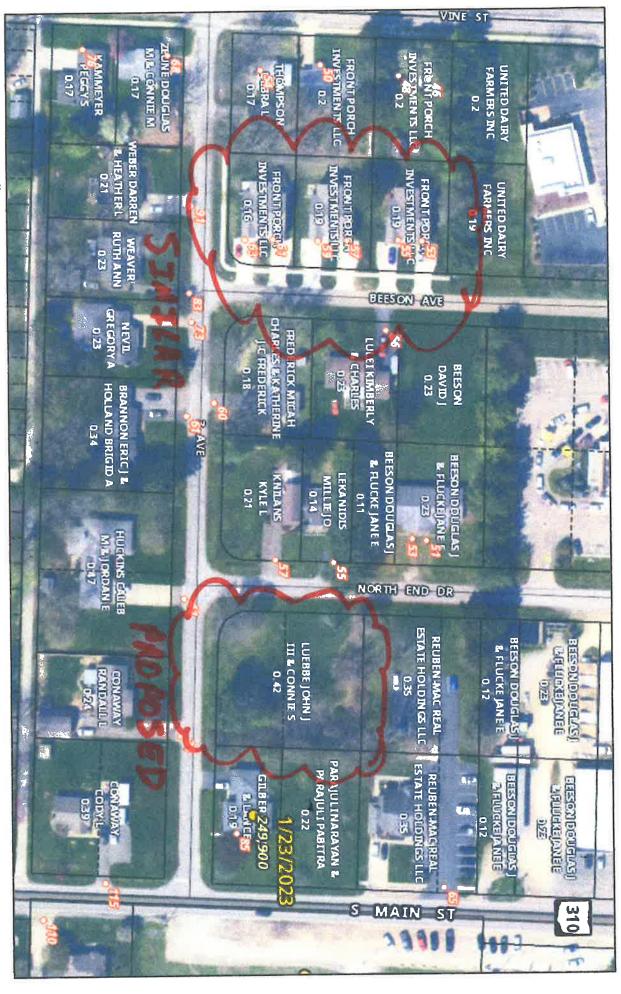
Transfer Date: 04/04/2023 Acres: 0.42 1.01 13 & 22 BEESON'S 1.5UB Search N END DR PATASKALA, OH 43062 FIND YOUR PARCEL 064-311172-00,000 LUEBBE JOHN J III & Certified Delq: No On Contract: No Bankruptcy: No Tax Lien: No Amount: 590,000 Conveyance:824 Foreclosure: No Owner Occ: No Homestead: No Improv: 50 Total: 556 900 Land: \$56 900 Valid Sale: No Taxes Other CONNIES GIS Homestead . TS NIAM S 310 Downloads Forms CAUV Dog License EWO G-**1** % 01 NORTH END DR S AVE Michael L. Smith, Auditor Roy Van Atta, Treasurer TOT BOR Card CAUV Documents Land Map Parcel Pictometry Sketch Street View Structures Taxes Taxes

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# OnTrac Property Map



May 9, 2023 0 Ó 0 Sales - 2023 Sales - 2022 Street Number Only Centerline Labels Interstate/US/State Route Owner Name & Acres

> County Koad 1 0.02 Miles Township Koad

Driveway Interstates

**Municipal Corporations** 

Other Road Type

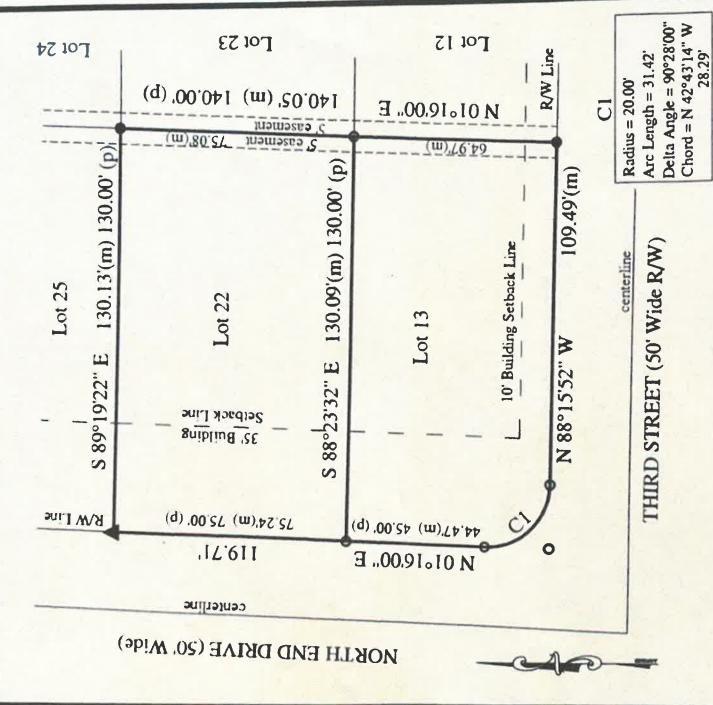
Licking County Auditor GIS

LICKING COUNTY TAX MAP

Ohio, being Lot 13 5, Pages 143-144) f Pataskala, County of Licking, State of 22 of Beesong Subdivision. (Plat Book City of Pataskala, 5

# BASIS OF BEARING

The bearings of this plat are based using the O.D.O.T. CORS Network System, Ohio State Plane Coordinates South Zone, 2011(NAD83)



## LEGEND

- Mag Nail Set
- 1" o.d. Iron Pipe Found
- 5/8" o.d. Iron Pin Found
- 3/4" o.d. Iron Pipe Found

WEGISTERED SCOTT A ENGLAND S-7452

30 Feet 30 1 Inch

9

Graphic Scale

PREPARED BY

S.A. ENGLAND SURVEYING Professional Land Surveying P.O. Box 1770

WWW.SURVEYOHIO.COM Buckeye Lake, Ohio 43008 PHONE: 740-323-0644

I hereby certify that an actual survey was made of the premises, and that this plat is correct to the best of my knowledge.

Scott A. England, P.S. Ohio Registered Surveyor #S-7452