



## CITY OF PATASKALA BOARD OF ZONING APPEALS

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

### STAFF REPORT

July 11, 2023

#### Variance Application VA-23-016

<b>Applicant:</b>	Ace Fence & Deck, LLC.
<b>Owner:</b>	Hussein Hartman
<b>Location:</b>	238 Vine Street, Pataskala, OH 43062 (PID: 064-309744-00.000)
<b>Acreage:</b>	+/- 0.24-acres
<b>Zoning:</b>	R-7 – Village Single-Family Residential
<b>Request:</b>	Requesting approval of a Variance from Section 1279.03(A)(1) to allow for a fence exceeding four (4) feet in height within the front building setback and a Variance from Section 1279.03(A)(4) to allow for a fence within three (3) feet of a public right-of-way.

#### Description of the Request:

Requesting approval of a Variance from Section 1279.03(A)(1) of the Pataskala Code to allow for a fence that exceeds the maximum of four (4) feet in height when within the front building setback and a Variance from Section 1279.03(A)(4) to allow for a fence within three (3) feet of a public right-of-way.

#### Staff Summary:

The 0.24-acre property located at 238 Vine Street is currently occupied by a 1,366-square foot single-family home built in 1930, and a 450-square foot detached garage built in 1950. It is a corner lot, with frontage on three (3) public rights-of-way: Vine Street to the west, an unnamed alley to the south, and unimproved right-of-way to the east. The existing home faces west onto Vine Street.

As proposed by the Applicant, their intention is to construct approximately 135-feet of six (6) foot tall privacy fence around what would be the rear yard of the home, or the east portion of the lot. The proposed fence would extend eastwards from the southeast corner of the existing detached garage along the property line, turning north and running along the eastern rear property line and terminating at the northeast corner of the property. The north side of the property is already fenced.

Section 1279.03(A)(1) of the Pataskala Code states then when within the front yard setback, fences shall not exceed four (4) feet in height. In the R-7 – Village Single-Family Residential zoning district, the required front yard setback is 25-feet. Additionally, because the lot is a corner lot, pursuant to Section 1237.05(C)(4), the same setback as required for the front yard shall apply to all sides fronting on a public right-of-way.

Section 1279.03(A)(4) states that no fence or wall may be erected within three (3) feet of the street right-of-way line.

According to the Narrative Statement as submitted by the Applicant, they would like to install the fence to increase the privacy and safety of their backyard. The Applicant does not believe that the requested Variance will cause a detriment to any neighboring property or substantially alter the character of the neighborhood, as several adjacent properties have existing six (6) foot privacy fences in similar situations.

**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 that a fence or wall may not exceed four (4) feet in height when located within the front yard setback of the zoning district. In the R-7 zoning district, the front yard setback is 25-feet (Section 1237.05(C)(1)). Additionally, because this lot is a corner lot, with frontage on multiple rights-of-way, pursuant to Section 1237.05(C)(4) of the Pataskala Code, the same setback as required by the front yard shall apply to all sides with frontage on a public right-of-way.

As such, per Code, any fence within 25-feet of a public right-of-way, in this case within 25-feet of Vine Street, the alley to the south, or the alley to the east, may not exceed four (4) feet in height. The Applicant's first request is to allow for an increase in the allowable height from four (4) to six (6) feet in height, a two (2) foot increase, or a 50% increase.

Section 1279.03(A)(4) states that no fence or wall shall be within three (3) feet of a public right-of-way. The Applicant would like to install the proposed fence along the rear (east) property line, directly on the property line adjacent to the vacant right-of-way. As such, the second request is to allow for a reduction in this requirement for the east property line from three (3) to zero (0) feet, or a 100% reduction.

Staff has no issues with this, as the vacant right-of-way is not likely to be improved or needed, but the existing alley to the south should keep the three (3) feet minimum to allow for maintenance vehicles to traverse. Note that this is measured from the property line not the edge of the pavement.

Public Service Department (Full comments attached)

Be sure to maintain a 3' setback from the south property line for the alley.

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

**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-23-016:

- None

**Department and Agency Review**

- Zoning Inspector – No comments.
- Public Service – No comments.
- City Engineer – No comments.
- Licking County Health Department– 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 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.
2. The Applicant shall maintain a three (3) foot setback from the south property line for the fence.

**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) and 1279.03(A)(4) of the Pataskala Code for variance application VA-23-016 ("with the following conditions" if conditions are to be placed on the approval)."

**From:** [Antonio Anzalone](#)  
**To:** [Jack Kuntzman](#); [Felix Dellibovi](#); [Trent Howell](#); [Jim Roberts](#); [Scott Haines](#); [Bruce Brooks](#); [Doug White](#); [Kevin Miller](#); [laitken@lhschools.org](#); [kperkins@laca.org](#); [Scott Morris](#); [Alan Haines](#)  
**Cc:** [Scott Fulton](#); [Lisa Paxton](#)  
**Subject:** RE: Pataskala BZA Review Memo for 07-11-2023  
**Date:** Friday, June 30, 2023 1:54:17 PM

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Jack,

Please see the Public Service Department's response below, in red.

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: [aanzalone@ci.pataskala.oh.us](mailto:aanzalone@ci.pataskala.oh.us)

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**From:** Jack Kuntzman <jkuntzman@ci.pataskala.oh.us>  
**Sent:** Thursday, June 22, 2023 9:43 AM  
**To:** Felix Dellibovi <fdellibovi@ci.pataskala.oh.us>; Trent Howell <thowell@ci.pataskala.oh.us>; Jim Roberts <jroberts@verdantas.com>; Scott Haines <shaines@hullinc.com>; Bruce Brooks <bbrooks@pataskalapolice.net>; Doug White <DWhite@westlickingfire.org>; Kevin Miller <kevin.miller@lhschools.org>; laitken@lhschools.org; kperkins@laca.org; Scott Morris <smorris@lickingcohealth.org>; Alan Haines <ahaines@ci.pataskala.oh.us>; Antonio Anzalone <aanzalone@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 07-11-2023

Good Morning Everyone,

You are receiving this email because one or more of the Application(s) submitted for the **July 11, 2023** Board of Zoning Appeals are within your jurisdiction. Please see the list below for which Applications are being submitted for your review.

**VA-23-015:** Felix Dellibovi, Verdantas, Bruce Brooks, Doug White, Kevin Miller, Scott Morris, Public Service Department  
**No Comment.**

**VA-23-016:** Felix Dellibovi, Verdantas, Trent Howell, Bruce Brooks, Doug White, Kasey Perkins, Public Service Department  
**Be sure to maintain the fence line 3' off the southern property line.**



## 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: 238 Vine Street	
Parcel Number: 064-309744-00	
Zoning: <u>R-7</u>	Acres: <u>0.24</u>
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: <u>VA-23-016</u>
Fee: <u>300</u>
Filing Date: <u>6-15-23</u>
Hearing Date: <u>7-11-23</u>
Receipt Number: <u>001184</u>

Applicant Information		
Name: Ace Fence & Deck LLC		
Address: 400 S Broad Street		
City: Lancaster	State: OH	Zip: 43130
Phone: 740-653-3325	Email: <u>permits@fenceinstall.com</u>	

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: Hussein Hartman		
Address: 238 Vine Street		
City: Pataskala	State: OH	Zip: 43062
Phone: 740-644-7359	Email: <u>hhartman319@gmail.com</u>	

Variance Information
Request (Include Section of Code): <del>Section 1237.05(C)(1)-Setback</del> <del>Section 1279.03(A)(1)-Height</del>
<u>Section 1279.03(A)(1) to allow for a fence exceeding 4' in height within the front yard setback</u>
<u>Section 1279.03(A)(4) to allow for a fence within 3' of the R/W</u>
Describe the Project: <u>Install approx 135' of 6' tall ACQ PT Privacy fence</u>

## 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):

*Angie Adkins*

Date:

6-9-23

Property Owner (Required):

*Hussien Hartman*  
Hussien Hartman (Jun 9, 2023 15:06 EDT)

Date:

06-09-23






# Pataskala Variance Application

Final Audit Report

2023-06-09

Created:	2023-06-09
By:	Angie Adkins (angie@fenceinstall.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAyZ-QLJdmzimeVOih8Fc6JK3sqjblnDfl

## "Pataskala Variance Application" History

-  Document created by Angie Adkins (angie@fenceinstall.com)  
2023-06-09 - 4:52:56 PM GMT- IP address: 174.97.48.33
-  Document emailed to Hussein Hartman (hhartman319@gmail.com) for signature  
2023-06-09 - 4:53:47 PM GMT
-  Email viewed by Hussein Hartman (hhartman319@gmail.com)  
2023-06-09 - 5:11:03 PM GMT- IP address: 74.125.215.4
-  Document e-signed by Hussein Hartman (hhartman319@gmail.com)  
Signature Date: 2023-06-09 - 7:06:08 PM GMT - Time Source: server- IP address: 166.137.83.43
-  Agreement completed.  
2023-06-09 - 7:06:08 PM GMT



Adobe Acrobat Sign

6-14-2023

City of Pataskala Variance Request Narrative

Re: 238 Vine Street

To whom it may concern,

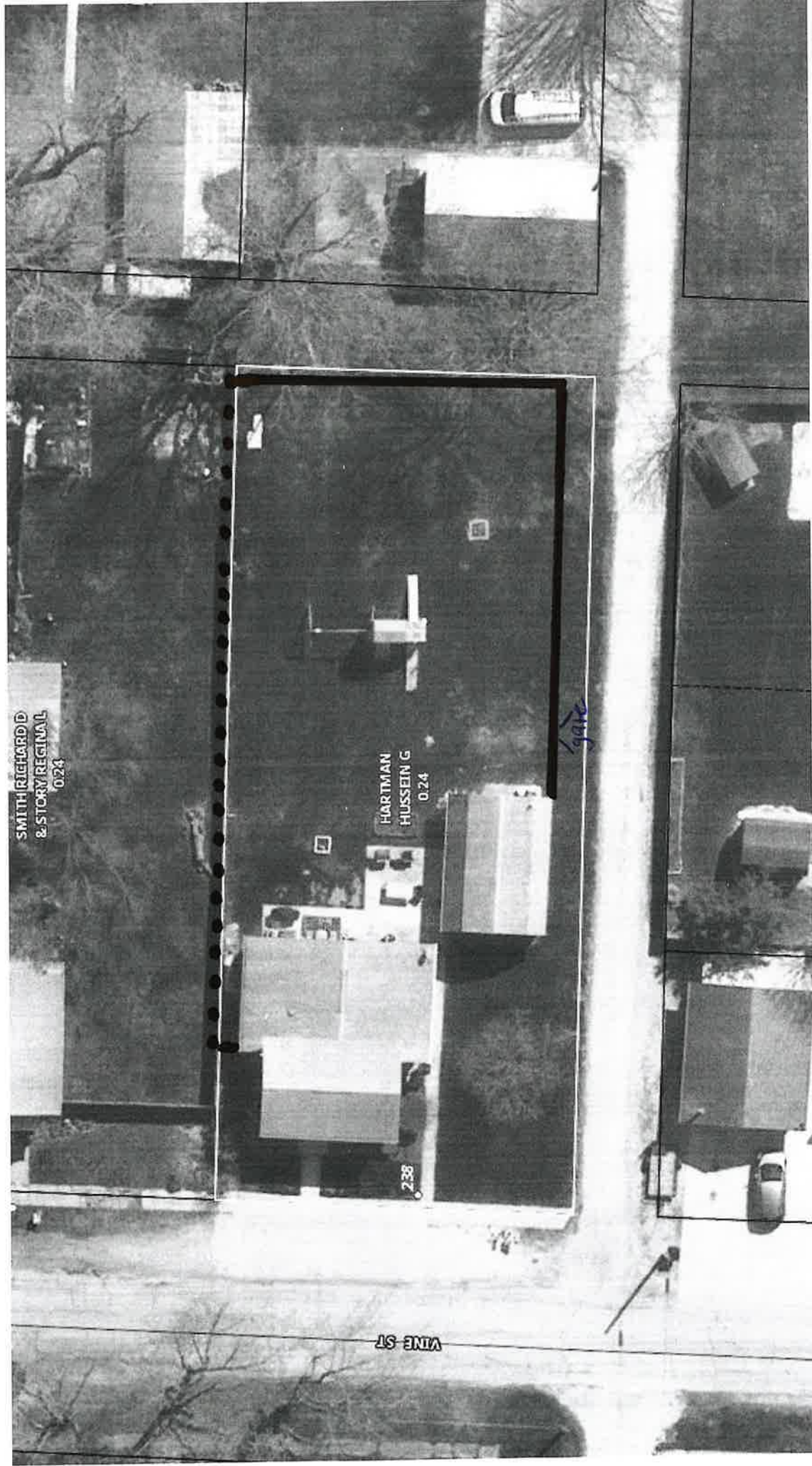
We are requesting a variance for a fence installation at 238 Vine Street for the following reasons:

Without variance, a large portion of the yard will not be useable.

The alley in the back is not in use as an alley.

The aesthetics of the neighborhood will not be changed, as the two adjacent properties both have 6' privacy fences that are on property lines.

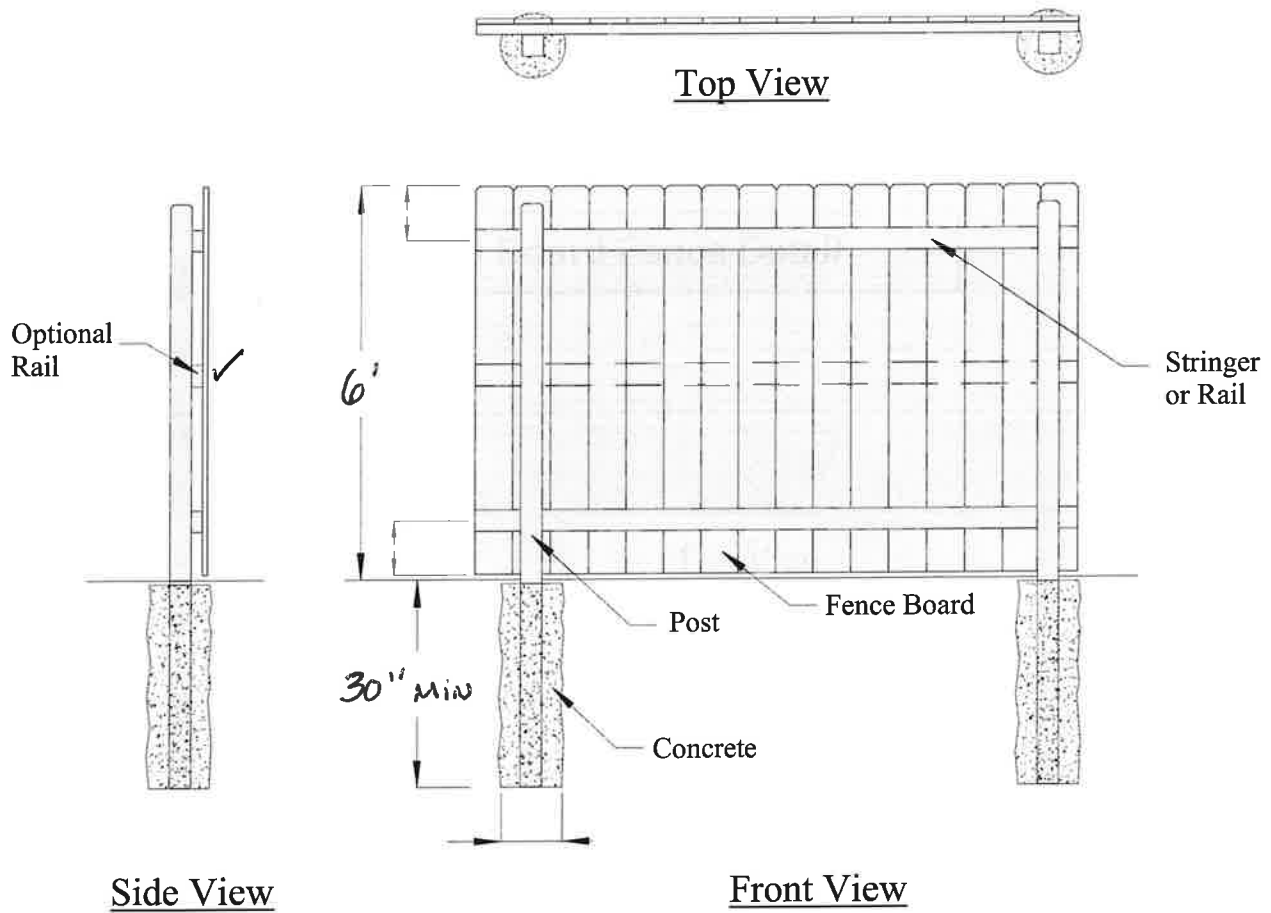
Pursuant to Section 1237.05(C)(4) of the Pataskala Code, when adjacent to multiple public rights-of-way, (the unnamed alley to the south and the vacant alley to the east of 238 Vine Street) the same setbacks shall apply as required for the front yard, which in the R-7 – Village Single-Family Zoning District 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 (4 feet) in height** may be erected between the building setback line and a line 3' feet toward the building setback line from the street right-of-way line." Applying these regulations to this property, any fence **erected between the 25' setback line and property line and 3-feet off the street/alley right-of-way line shall only be 48-inches (4-feet) in height.**



- = proposed fence path
- ... = Neighbor's existing fence

238 Vine Street

## Solid Board Fence Detail



Project:	Hartman 6' wood fence	
Site Location:	238 Vine Street	Date: 6-9-23
Submitted by:	ACE Fence & Deck LLC	Drawing # W-28

1x6x6 ACQ PT Privacy

DESCRIPTION APPROVED  
JARED N. KNERR  
LICKING COUNTY ENGINEER

Approved By JW Aug 29, 2019

01150583603040091000

**TRANSFERRED**

Aug 29, 2019  
Michael L. Smith  
LICKING COUNTY AUDITOR  
SEC 319.902 COMPLIED WITH  
MICHAEL L. SMITH  
By: KAE 522.60

InstrID:201908290018184	8/29/2019
Pages:2	F: \$28.00
Bryan A. Long	T20190015214
Licking County Recorder	

## GENERAL WARRANTY DEED

Know all persons by these presents, that:

**Zachary Guard and Nichole Guard**

husband and wife, the designated Grantor herein whether one or more than one, for valuable consideration received, hereby grant and assign with general warranty covenants, to:

**Hussein G. Hartman**

the designated Grantee herein whether one or more than one, whose tax-bill mailing address will be Guaranteed Rate Affinity, LLC, 4044 North Lincoln, #318, Chicago, IL 60618, all interest in the following real property:

Situated in the State of Ohio, County of Licking and in the City of Pataskala and bounded and described as follows:

Being Lot Number Ninety-one (91) in JOSEPH'S ADDITION to the said City of Pataskala, as the same is described and delineated on the recorded plat of said addition in the Recorder's Office, in Licking County, Ohio, Book 1, page 112 and incorporated in Plat Book 3, page 40.

Property Address: 238 South Vine Street, Pataskala, OH 43062

Parcel No. 064-30974400.000

Prior Deed Reference: Instrument No. 201008060015139, 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.

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

Executed on this 28<sup>th</sup> day of August, 2019.

Zachary Guard  
Zachary Guard

Nichole Guard  
Nichole Guard

STATE OF OHIO  
COUNTY OF Franklin, ss.

Be it remembered, that on this 28<sup>th</sup> day of August, 2019, before me, the subscriber, a Notary Public in and for said State, personally came Zachary Guard and Nichole Guard, the Grantor 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.

[Signature]  
Notary Public



**Douglas Lee Reisinger**  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
October 22, 2022

This instrument prepared by:  
The Holfinger Stevenson Law Firm  
1160 Dublin Road, Suite 500  
Columbus, OH 43215

File #1-12112

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

# OnTrac Property Map

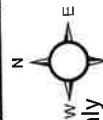


June 14, 2023

○ Street Number Only

○ Sales - 2023

○ Sales - 2022



Centerline Labels

Interstate/US/State Route

0 47 Feet  
County Road

0.01 Miles  
Township Road

Other Road Type

Licking County Auditor GIS

Driveway

Interstates

Municipal Corporations

LICKING COUNTY TAX MAP