

CITY OF PATASKALA BOARD OF ZONING APPEALS

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

STAFF REPORT

September 12, 2023

Variance Application VA-23-022

Applicant: Ursula & Morgan Kemp

Owner: Ursula & Morgan Kemp

Location: 253 Monarch Drive, Pataskala, OH 43062 (PID: 063-140160-00.107)

Acreage: +/- 0.21-acres

Zoning: PDD – Planned Development District

Request: Requesting approval two (2) Variances. The first, from Section 1297.02(B)(2) to

allow for reduced setbacks for a private swimming pool, and the second, also from Section 1297.02(B)(2) to allow for reduced setbacks for pump and filter

installations.

Description of the Request:

Requesting approval of two (2) variances. The first, from Section 1297.02(B)(2) to allow for reduced setbacks for a private swimming pool, and the second, also from Section 1297.02(B)(2) to allow for reduced setbacks for pump and filter installations.

Staff Summary:

The 0.21-acre property located at 253 Monarch Drive is currently occupied by a 2,560-square foot single-family home built in 2003, as well as an existing shed of an unknown size at the rear southwest corner of the house. Access is via the lot's only frontage onto Monarch Drive, and the property backs up to Reserve A of the Glenbrooke Subdivision to the south.

As proposed, the Applicant would like to install an in-ground private swimming pool within the back yard of their home. The footprint of the pool, including decking around the pool itself, is proposed at 16-feet by 40-feet. This footprint will be set back from the west side property line 10.5-feet, 16-feet from the south rear property line, 24.5-feet from the east side property line, and 13.9-feet from the rear of the existing home. The Applicant is unsure as to the final size of the pool and deck area, however, it would fit within the proposed footprint as shown on the site plan.

There is an existing 10-foot-wide easement across the rear of the property, and the proposed pool footprint would be 6-feet from the edge of this easement. Pursuant to Section 1297.02(B)(2) of the Pataskala Code, any pool, including any walks, paved areas, and appurtenances thereto shall be located a minimum of 10-feet from any property line and 10-feet from any easement.

The pump and filter installation for the proposed swimming pool will be located on a 6-foot by 8-foot pad adjacent to the existing accessory building on the lot. This pad will be located 10-feet from the east side property line. Further stated in Section 1297.02(B)(2); all pump and filter installations shall be a minimum of 20-feet from any property line.

According to the Narrative Statement as submitted by the Applicant, they are limited in the amount of space within their back yard to locate a swimming pool because of their existing porch off the rear of the home. Additionally, as stated by the Applicant, most modern pool filter pumps and heaters are quiet and the units they would be using only emit between 45-60 decibels of noise, which is lower than or equal to the level of noise generated by normal conversation (60 decibels). The noise would further be buffered by their existing fence and trees. The Applicant further believes that the requested variances will not alter the character of the existing neighborhood or cause a detriment to surrounding properties, that the variance(s) would not be detrimental to the public welfare, and that the property was purchased without knowledge of the zoning restrictions.

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

As mentioned above, the 16'x40' box is the proposed footprint of the pool and pool deck area. The eventual area may be less than the proposed footprint, but it would be within the boundaries of dimensions listed on the plan if the variances are approved.

Variance #1: Section 1297.02(B)(2) states that all pools, walks, paved areas, and other appurtenances thereto must be a minimum of 10-feet from any property line *or* an easement. The proposed pool boundaries will be 10-feet from the nearest property lines; however, it will only be 6-feet from the existing easement across the rear of the property. Therefore, the variance request is for a reduction in the minimum setback required from an easement by 4-feet, or a 40% decrease. Per the plat, the easement is a general easement "for the construction, operation, and maintenance of all public and private utilities".

Variance #2: Section 1297.02(B)(2) further states that all pump and filter installations shall be a minimum of 20-feet from a property line. As proposed, the pad for the pump and filter installations are 10-feet from the east side property line. Therefore, the variance request is for a reduction of 10-feet in the minimum setback for pump and filter installations, or a 50% decrease.

Staff has reviewed the site plan proposed by the Applicant and has determined that it meets all other applicable sections of Pataskala Code. There are no other concerns from Planning and Zoning.

Southwest Licking Community Water & Sewer District

District has a sanitary main within the 10' easement. As long as the pool, pump, and filter are located outside the easement, there are no issues.

Other Departments or Agencies

No other comments from applicable Departments or Agencies were received.

Neighbor Comments

The Applicant has submitted signatures from five (5) neighbors stating their support for the variance. The signatures are included in this staff report.

Surrounding Area:

Direction	Zoning	Land Use
North	PDD – Planned Development District	Single-Family Home
East	PDD – Planned Development District	Single-Family Home
South	PDD – Planned Development District	Reserve Area/Stormwater Pond
West	PDD – Planned Development District	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;
- a) 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-23-022:

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.

Resolution:

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

"I move to approve two variances from Section 1297.02(B)(2) for Variance Application VA-23-022 ("with the following conditions" if conditions are to be placed on the approval)."

From: Chris Gilcher

To: Jack Kuntzman; Felix Dellibovi; Jim Roberts; Scott Haines; Trent Howell; Bruce Brooks; Doug White; Kevin Miller;

laitken@lhschools.org; kperkins@laca.org; Alan Haines; Antonio Anzalone; Scott Morris

Cc: Scott Fulton; Lisa Paxton

Subject: RE: Pataskala BZA Review Memo for 09-12-2023

Date: Tuesday, September 5, 2023 9:59:21 AM

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,

Please see below:

VA-23-019: The District does not have any comments at this time.

VA-23-022: The District has a sanitary sewer main located within the 10' easement. As long as the pool, pump, and filter is located within the confines of existing fence, the District does not have any issues with the requested variance.

Thanks,

CJ Gilcher Utilities Superintendent 8718 Gale Road Hebron, Ohio 43025 Ph: 740-928-2178



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

Sent: Tuesday, August 15, 2023 12:57 PM

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

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

Myers Surveying Company, Inc.

2740 East Main Street, Columbus 43209 (Bexley), Ohio 614-235-8677 FAX:614-235-4559

A Site Plan for Zoning prepared for and certified to:

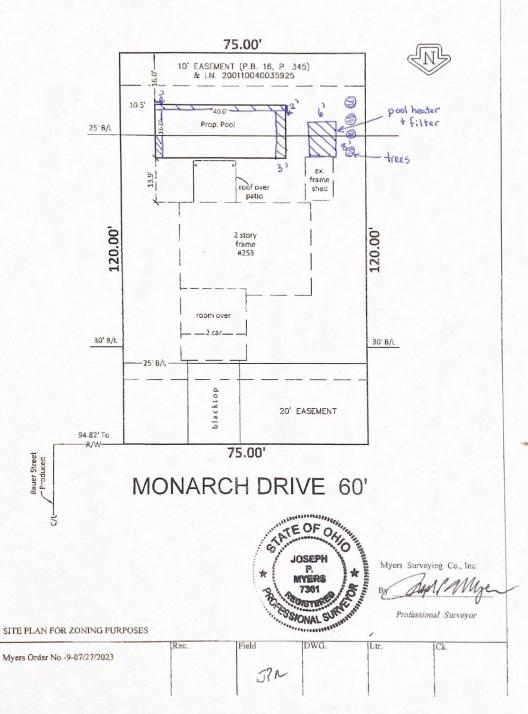
Ursula Kemp

Legal Description: Situated in The State of Ohio, County of Licking, City of Pataskala, Being Lot 94 of Glenbrooke Section 2, Phase 2,

Plat Book 16, Page 345

Posted Address: 253 Monarch Drive, Pataskala, Ohio





Dear Brandon and Tabatha Ashwood,

Morgan and I (Ursula) are applying for a variance to build a swimming pool in our backyard (253 Monarch Dr, 43062). We wanted to write to show you the site plan (attached) and see if you had any objections to it. Here are some of the main considerations that we want you to know:

- · We plan to install a privacy fence around the pool.
- The pool heater and filter will be 10 feet from our west fence, behind the trees and next to the shed on a concrete pad as shown in the site plan.
- The modern units we will use for this proposed pool build (the Tristar VS and the Hayward H150FD heater) only admit 46 and 60 decibels of noise (respectively), which is at or lower than the level of a normal conversation.
- The inground pool itself will be 14'x31'6" positioned as shown in the site plan with concrete around the outside.
- The pool will have an automatic cover when not in use to ensure safety. In case someone walks on the cover by accident, the cover will support a person's weight with no damage to the pool or the person.

Thank you for taking a moment to look over this proposed plan. If you have no objections, we are asking you to sign below to help facilitate the variance passing so this build will be possible. Thank you for considering this!

We (Brondon and Tabitha Ashwood) have considered all the aspects of the proposed pool build as listed above and have no objections to Morgan and Ursula Kemp moving forward with the pool build.

Brandon Ashwood

8/21/23 (Signature & Date)

Tabotha Hanwood

8-21-23

(Signature & Date)

labatha Ashwood

255 Monarch Dr. Pataskala, OH 43062 ADDRESS

* next door neighbor to the west

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We ADAM & RACHEL BROSIOUS	have considered all the aspects of the
proposed pool build as listed above and have no object	tions to Morgan and Ursula Kemp moving
forward with the pool build.	
1/0/5	\$\begin{align*} 21 \ 2023 \\ \(\) (Signature & Date)
Name Adam Brosious	(Signature & Bate)
Jun	8/22/23 (Signature & Date)
Name Rachel Brosious	
251 MONARCH DR. PATASKALA, 64	43062
** Xnext door neighbor to	the east

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we The Reddings	
proposed pool build as listed above and have no object forward with the pool build.	tions to Morgan and Ursula Kemp moving
Meather Redding Heather Name Redding	820 23 (Signature & Date)
Name Carl Redding	
247 Monarch Dr Pataskala	LOCT HU.

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proposed po forward with		sted above and ld.	have no o	bjections to I	Morgan and	l Ursula Ke	mp moving	
Mon Name	Dahal					(Signatur	08/11/13 re & Date)	
Name						(Signatu	re & Date)	
257	Mo	narch	Dr	Pata	skala	DH	4306	0

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Shawha Chisholm proposed pool build as listed above and have n forward with the pool build.	have considered o objections to Morgan an	The state of the s
Marrie Chish	8/22/23	(Signature & Date)
Name		(Signature & Date)
343 Bauer St. Pataskala, D	4 43062	



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
	n Dr Pataskala	OH 43062	Application Number:
Parcel Number: 063 - 140			VA-23-022
Zoning: POO	Acres: 0.21		VA- 23-022 Fee: 300
Water Supply:			300
	South West Licking	☐ On Site	Filing Date:
Wastewater Treatment:	V. S. a.		8-11-23
☐ City of Pataskala	South West Licking	☐ On Site	Hearing Date:
			9-12-23
Applicant Information			Receipt Number:
Name: Ursula and M	organ Kemp		001284
Address: 253 Monarch	Dr		
City: Pataskala	State: Ohio	Zip: 43062	Documents
Phone: 740-973-58		Kemp@gmail.com	Application
		1 0	Fee
Property Owner Information			Narrative
Name: Same as applicar	rt		Site Plan
Address:			Deed Deed
City:	State:	Zip:	Area Map
Phone:	Email:		
	<u>.</u>		
Variance Information			
Request (Include Section of Code):			
1297.02(B)	2 setback.	from easement	
	for pump and .	And the second s	
Describe the Project:		•	
see narration	ie		

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;
 - 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/

I certify the facts, statements and information provided on and attached to this application are true and co knowledge. Also, I authorize City of Pataskala staff to conduct site visits and photograph the property as ne to this variance request.	orrect to the best of my ecessary as it pertains
Applicant (Required): Ursula Kemp Ulunle / Keng Morgan Kemp Hosail 8	1-10-23
Property Owner (Required): Ursula Kemp Wishles Kemp Moigun Kemp Toggille 8.	11-2023



Dear Pataskala Planning and Zoning Board,

My husband Morgan and I (Ursula) love living in Pataskala and we are so grateful to public servants such as yourselves for all your diligent work in city planning. We realize your jobs take a great amount of effort and dedication, so we want to thank you for your consideration of our variance request.

We currently are full-time caregivers for Morgan's father, Ellis Kemp. Both Ellis and Morgan are U.S. military veterans and unfortunately, both suffer from rheumatoid arthritis. Because of this, we are dreaming of building a pool in our backyard. We do hope to enjoy the pool with our daughter, Brielle, but we also plan to use the pool as physical therapy for Morgan and Ellis.

Unless we destroy existing structures on our property (i.e. destroy the roof over the patio and move the entire shed) the only place to build a pool is shown in the attached site plan. This proposed pool location would extend just four feet into the setback area, still keeping the pool and concrete border six feet away from the easement.

In addition, because of requirements to keep the pool accounterments 10 feet from the water's edge, the only place to put the pool filter and pump is 10 feet away from the west fence on a 6'x8' concrete pad as shown. The modern units we will use for this proposed pool build (the Tristar VS and the Hayward H150FD heater) only admit 46 and 60 decibels of noise (respectively), which is at or lower than the level of a normal conversation. Not only that, the position of the pump will be behind a fence and a grove of trees, further dampening the noise.

Because of these constraints and to avoid unnecessary hardship, this variance is necessary in order to be able to build a pool in our backyard.

- a) This variance is justified as it pertains to Section 1211.07 of the Pataskala Code.
- b) There would be a substantial burden on the property owner to tear down existing structures in order to build a pool in a different location.
- c) The variance requested is not substantial. We are asking for 4 feet (40%) into the setback area and 10 feet (50%) variance for the pool accounterments.
- d) The essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer any detriment as a result of the variance. A pool is a reasonable use of the property as over six nearby homes in the community have pools in their backyards. (such as: 117 Windward Dr, 135 Windward Dr. 324 Regency Ave, 221 Monarch Dr., 14536 Cleveland Ave, 14692 Cleveland Ave and 14232 Cleveland Ave.)
- e) The variance would not at all impair the appropriate use or development of adjacent property.
- f) The variance if granted would not be detrimental to the public welfare.
- g) The variance would not adversely affect the delivery of governmental services.
- h) The property owner purchased the property with knowledge of the easement but not of the extra 10' setback area.
- i) There is no other method than through a variance as there is no other area to build a pool.
- j) This represents the minimum variance that would afford relief and represent the least modification possible of the requirement at issue.
- k) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Myers Surveying Company, Inc.

2740 East Main Street, Columbus 43209 (Bexley), Ohio 614-235-8677 FAX:614-235-4559

A Site Plan for Zoning prepared for and certified to:

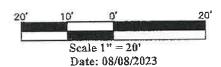
Ursula Kemp

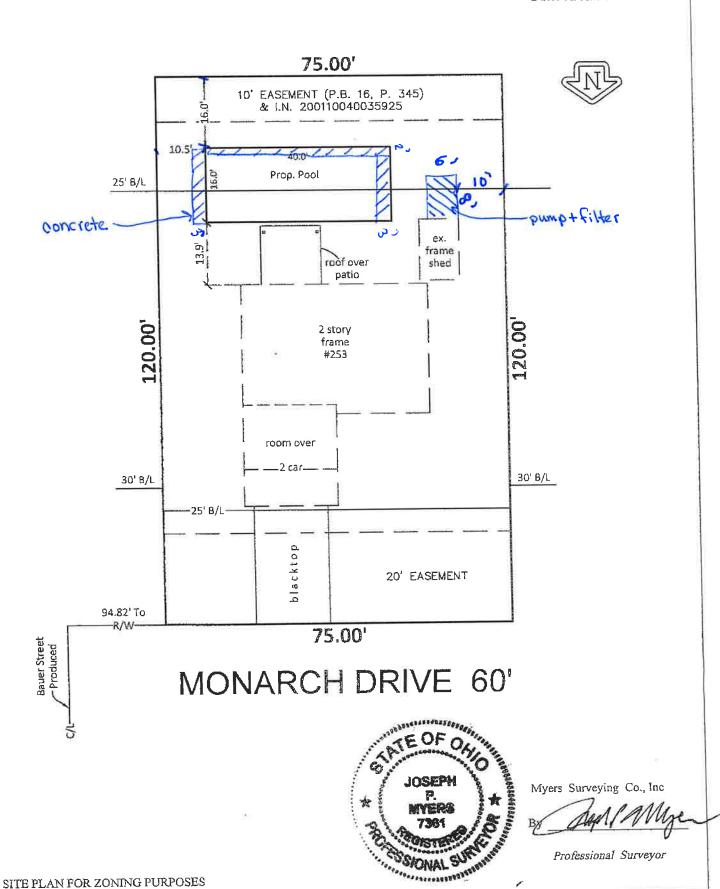
Legal Description:

Situated in The State of Ohio, County of Licking, City of Pataskala, Being Lot 94 of Glenbrooke Section 2, Phase 2,

Plat Book 16, Page 345

Posted Address: 253 Monarch Drive, Pataskala, Ohio





DWG.

Field

J?N

Rec.

Myers Order No.-9-07/27/2023

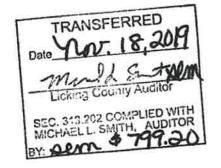
Ltr.

Ck.



\$34.00 T20190021349

11/18/2019 8:55 AM MEPCOLUMBUS T Bryan A. Long Licking County Recorder







SURVIVORSHIP DEED

Mary L. Newman and Allen M. Newman, wife and husband, of Licking County, Ohio

for valuable consideration paid, grant(s) with general warranty covenants, to

Morgan H. Kemp and Ursula J. Kemp, husband and wife, for their joint lives, remainder to the survivor of them.

whose tax-mailing address is: The Huntington National Bank, C/O CoreLogic Real Estate Tax Service, 3001 Hackberry Rd, Irving, TX 75063

The following REAL PROPERTY:

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

Being Lot Number 94, in GLENBROOKE, SECTION 2, PHASE 2, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 16, pages 345-348, Recorder's Office, Licking County, Ohio.

Parcel No: 063-140160-00.107

Property Address: 253 Monarch Drive, Pataskala, Ohio 43062

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.

Prior Instrument Reference: Instrument Number 201412080024224

Executed this 15th day of November, 2019.

Mary L. Newman

Allen M. Newman

Muselly all

STATE OF OHIO, COUNTY OF FRANKLIN, ss:

BE IT REMEMBERED, That on this 15th day of November, 2019, before me, a Notary Public in and for said county and state, personally appeared Mary L. Newman and Allen M. Newman, who represented to me to be said persons and who signed the foregoing instrument and acknowledged the same as their voluntary act and deed.

IN TESTIMONY THEREOF, I have hereunto subscribed my name and affirmed my seal on this day and year aforesaid.

Randall E Vortan Notary Public



This instrument was prepared by:
Randall E. Worth, Attorney at Law
7500 Slate Ridge Blvd., Reynoldsburg, Ohio 43068

PATASKALA, OH 4306; 253 MONARCH DR Homestead: Owner Occ. Yes Foreclosure: Certified Delq: On Contract. Bankruptcy: N Transfer Date: Amount: Conveyance: Valid Sale: Address V Improv Total: -AS-TERNO normom -COUNTRIEST - COS-Michael L. Smith, Auditor Roy Van Atta, Treasurer

Aap
BOR
Card
CAUV
Documents
Land
Map
Parcel
Pictometry
Sketch
Structures
Taxes
Transfers

Help Login