



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 16-2024 BZA

417 VAN VISTA DRIVE

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON JULY 11, 2024

APPLICANT: William Witschger, property owner.

LOCATION & ZONING: 417 Van Vista Drive
(Book 500, Page 74, Parcel 37) – “AA” Residence

REQUEST: A variance request for an existing 15’ x 24’ addition to an existing noncompliant detached garage located in the side yard where detached accessory buildings shall be located in the rear yard and not less than 3’ from the rear and side lot lines required per Article 5.2, A, 7 of the Anderson Township Zoning Resolution (ATZR).

SITE DESCRIPTION:

Tract Size: 0.962 Acres
Frontage: Approximately 254’ on Van Vista Drive
Topography: Property is generally flat but slopes significantly in the far back southeast corner
Existing Use: Single Family Residence

SURROUNDING CONDITIONS:	<u>ZONE</u>	<u>LAND USE</u>
North:	“AA” Residence	Single Family Residential
South:	“AA” Residence	Township Greenspace
East:	“AA” Residence	Single Family Residential
West:	“AA” Residence	Township Greenspace

PROPOSED DEVELOPMENT: The applicant is proposing to rectify any zoning issues that have arisen regarding the existing 15’ x 24’ addition to an existing detached garage located in the side (southeast) yard where accessory buildings which are not a part of the main building shall be located in the rear yard and not less than 3’ from rear and side lot lines. The applicant stated that the addition has been a useful and integral part of the property over the years which serves as essential storage space and contributes to the overall functionality (used as the property owner’s woodworking workshop) and value of the property. Additionally, the applicant is working to bring any other zoning violations found on the property into compliance with the zoning resolution.

HISTORY:

The house was built in 1950 and was purchased by the current owner in August of 1997. The detached garage in the side yard was present prior to the current property owner buying the property. In 2008, a 15' x 24' garage addition was constructed without a permit, bringing it to its current state.

During routine Greenspace inspections, an encroachment from the fence and pool was noticed and brought to the owner's attention in 2023. According to CAGIS aerials, the pool was installed around 2015. Subsequent structures were added after 2020. None were constructed with permits. Since April, 2024, the Township and property owner have been working to resolve the encroachments and zoning matters. A zoning certificate was issued for the fence and accessory structures (except the garage) on May 13, 2024. The owner has agreed to remove the pool from the property, and adjust the fence and deck to be compliant.

FINDINGS:

To authorize a variance after public hearing, the Board of Zoning Appeals shall make the findings that a property owner has encountered practical difficulties in the use of his/her property. The findings shall be based upon the general considerations set forth in Article 2.12, D, 2, b of the Anderson Township Zoning Resolution.

Staff is of the opinion that the variance is not substantial. The existing detached garage was built in the side yard (at least prior to 1997) prior to the property owner purchasing the property. The addition was added to the existing garage in 2008, bringing it to its current state.

The essential character of the neighborhood would not be altered. Lots on Van Vista tend to be more wide than deep, therefore limiting area for larger accessory structures in the rear yard compared to the side yard. Also, the property is bordered by Township Greenspace to the south and west and is located on a private drive with additional vegetation surrounding the existing garage which helps provide natural screening. These factors help to conceal the garage addition from neighboring properties.

The variance would not adversely affect the delivery of governmental services.

The property owners' predicament may not be feasibly obviated through some method other than a variance. According to the applicant, another option was to attach the garage to the house and comply with the 60' rear property line requirement. This would still not comply with the Zoning Resolution due to being short of 5'. This means the garage would have to be renovated and cut into the rear of the garage to bring it into compliance. Ultimately, this would cause undue hardship and again be detrimental to the property and its value.

Staff is of the opinion that the spirit and intent behind the zoning requirement would be observed by granting the variance. While the addition would be in the side yard compared to the rear yard, the existing garage was there prior to the property owner purchasing the property and the addition has been there since 2008. The property owner is trying to bring the property into compliance with the zoning resolution.

**STANDARDS TO
BE CONSIDERED:**

The aforementioned variance requested should be evaluated on the following criteria:

- (1) The property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
- (2) The variance is substantial.
- (3) The essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
- (4) The variance would not adversely affect the delivery of governmental services (i.e. water, sewer, garbage).
- (5) The property owner purchased the property with knowledge of the zoning restrictions.
- (6) The property owner's predicament can be feasibly obviated through some method other than a variance.
- (7) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Disclaimer: This staff recommendation is based on the facts known to the author at the time the recommendation was made. Staff attempted to use those known facts to analyze the relationship of those facts to the standards set forth in the Zoning Resolution for the particular issue and property before the BZA, and in keeping with past decisions of the BZA. The BZA members have an obligation to consider all of the evidence that is entered into this case during the BZA hearing through the sworn testimony of the witnesses, as well as the documents submitted as part of the witnesses' testimony. The staff recommendation should be considered as part of the evidence before you. The Zoning Resolution empowers the BZA to make reasonable interpretations of the Zoning Resolution, to judge the credibility and reliability of the witnesses, and to decide each case based on the evidence presented during the BZA hearing process.