



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 17-2024 BZA

7867 STATE ROAD

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

APPLICANT: Nicolas A and Angela Campos, property owners.

LOCATION & ZONING: 7867 State Road
(Book 500, Page 213, Parcel 309) – “B” Residence

REQUEST: A variance request to allow a structure incidental to the use of the land for agricultural purposes within 100’ from any property line, for the property located at 7867 State Road, per Article 3.1, C, 11, a, and Article 3.1, C, 14, e of the Anderson Township Zoning Resolution.

SITE DESCRIPTION:
Tract Size: 1.03 Acres
Frontage: Approximately 130.39’ on State Road
Topography: Relatively flat, gradual slope to the south (rear) of the property
Existing Use: Single Family Residence

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

PROPOSED DEVELOPMENT: The applicant is requesting to keep an existing accessory structure, which is an enclosure for ducks, size 10’ x 20’, located 10’ from the west property line, in the rear yard area.

HISTORY: The house was constructed in 1950 and purchased by the current property owners in February, 2017. A complaint on the ducks was received by the Township on May 1, 2024 and an inspection was conducted on May 3, 2024 which confirmed the complaint.

Zoning certificates are on file for a deck in 2003 and fencing in 1990.

FINDINGS: To authorize by the grant of a special zoning certificate after public hearing, the Board of Zoning Appeals shall make a finding that the proposed variance is appropriate in the location proposed. The finding shall be based upon the general considerations set forth in Article 2.12, D, 2, b.

Staff is of the opinion that the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. The property is zoned for single-family and will yield a reasonable return without

the variance. Structures for agricultural uses are permitted on properties that are large enough to have 100' setbacks from property lines, thus minimizing any potential nuisances to adjacent properties.

Staff is of the opinion that the variance is substantial. The accessory structure (enclosure for ducks) is proposed to be in the rear yard area, located 10' from the side (west) property, where any buildings or structures incidental to the use of land for agricultural purposes, on lots of 5 acres or less, shall be set back at least one hundred (100') feet from every property line.

The essential character of the neighborhood would be altered, and adjoining properties would suffer a substantial detriment as a result of the variance. While agricultural structures and uses are permitted in residential zones, all structures must be located at least 100' from any property line. The property is only 130' wide.

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

Staff is of the opinion that the spirit and intent behind the zoning requirement would not be observed by granting the variance. Any buildings or structures incidental to the use of land for agricultural purposes, on lots of 5 acres or less, shall be set back at least one hundred (100') feet from every property line. The applicant stated that the enclosure would be located closest to the neighbor that shares ownership of the ducks, however, a variance runs with the land and not the owner. Therefore, staff feels that the variance should be evaluated on the setback to the property line, and not the adjacent owner, who could change at any point.

**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.