



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 24-2024 BZA

6537 KENTUCKYVIEW DRIVE

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON NOVEMBER 7, 2024.

APPLICANT: Timothy M. Burke of Manley Burke, on behalf of Todd and Callista Daniels, property owners.

LOCATION & ZONING: 6537 Kentuckyview Drive
(Book 500, Page 403, Parcels 32 and 33) – “A” Single Family Residence

REQUEST: A conditional use request for a Short-Term Rental (STR) facility at the premises designated as 6537 Kentuckyview Drive, per Article 5.4, I, 15 of the Anderson Township Zoning Resolution.

SITE DESCRIPTION:
Tract Size: 1.143 acres
Frontage: Approximately 187.78’ on Kentuckyview Drive.
Topography: Slight sloping from front yard to home, steeper in rear of the property.
Existing Use: Single Family Residence

SURROUNDING CONDITIONS:	<u>ZONE</u>	<u>LAND USE</u>
North:	“A” Residence	Single Family Residence
South:	“E” Business	Vacant Lot
East:	“A” Residence	Single Family Residence
West:	“A” Residence	Single Family Residence

PROPOSED DEVELOPMENT: The applicant is requesting to continue the operation of an existing Short-Term Rental in a single-family residence. The applicant has not proposed any changes to the exterior of the property. The applicant has indicated they plan to continue to use short term rental platforms, such as Airbnb and VRBO.

HISTORY: The home on the property was constructed in 1973 and purchased by Todd and Callista Daniels in 2020. A zoning certificate for the in-ground pool and fence was issued in 2020 as well.

In 2023, the property owners hired a contractor to add a dividing wall in their basement creating an additional two rooms. The property owners assumed the contractor would handle permitting, which was not the case.

In September 2024, a noise complaint was filed with the Hamilton County Sheriff’s Department. As a result of this incident, a subsequent zoning complaint was filed with Township staff about the presence of a short-term rental. Staff’s understanding is the short-term rental has ceased receiving new reservations since the property owners received the notice of violation from Anderson Township Planning and Zoning. Upon notice that a building permit was not on file for the basement renovation, the property owners reported locking the rooms in question and amending the online postings to reflect the decrease in rooms and capacity for guests until the issue is resolved.

FINDINGS: To authorize by the grant of a special zoning certificate after a public hearing, the Board of Zoning Appeals shall make a finding that the proposed conditional use is appropriate

in the location proposed. The findings shall be based upon the general considerations set forth in Article 2.12, D, 8 as well as the designated specific criteria for specific uses (Short Term Rental) contained in Article 5.4, I, 15.

General Considerations in Article 2.12, D, 8

Spirit and Intent: The proposed use and development would comply with the spirit and intention of the Zoning Resolution and with district purposes by meeting the conditional use standards.

No adverse effect: The proposed Short-Term Rental would not have an adverse effect upon adjacent properties, or the public health, safety, and general welfare. The BZA 24-2024 applicant has proposed no significant changes to the outside appearance of the home to keep the house consistent with the character of the neighborhood. The applicant has stated that the house and landscaping will be professionally maintained. The applicant has stated they intend to address noise concerns by adding a noise meter to the property and modifying rental rules to discourage future noisy behavior.

Protection of Public Services: The applicant is not proposing any exterior changes, therefore it will respect natural, scenic, and historic features of significant public interest. Granting a conditional use will not impact governmental services.

Consistent with Adopted Township Plans: The conditional use is in accordance with the following areas of the Township's Comprehensive Plan:

The project is consistent with the following goal and initiative in the "Housing" chapter in the 2022 Comprehensive Plan, which states:

Goal: "Anderson Township is home to diverse housing options to meet changing demographics and market demands."

Goal: "The Township will ensure upkeep and maintenance of existing housing stock."

Initiative 4.1.3: "Encourage the development and redevelopment of a variety of housing styles and densities in appropriate areas of the Township"

This property is designated for single-family residence use on the Future Land Use Map, which was updated and approved with the 2022 Comprehensive Plan Update; staff believes that the proposed Short-Term Rental is consistent with this use classification.

Specific Criteria in Article 5.4, I, 15

Short-term Rental (f), (h), (l), (m), (s), (v), (x), (z)

- f. *Parking shall not be permitted in the area defined as the front yard setback of the existing zone district. This condition has been removed as a part of the approved text amendments. The amended changes have not been recorded as they are still within the 30-day appeal period. Compliant – parking will be located in driveway and on street directly in front of property. The homeowners will primarily encourage parking to be in driveway.*
- h. *The vehicular use area shall be located and designed so as to minimize impact on the neighborhood. Compliant – The applicant has stated that all cars must be parked in the driveway or directly in front of the house.*
- i. *Measures shall be taken to minimize the impact of potential nuisances such as noise, odor, vibration, and dust on adjacent properties. Compliant – The applicant has taken steps to eliminate large parties and reduce noise to maintain a typical residential environment. The property owners will be monitoring guests through noise meters, have amended their rental rules to discourage noisy behavior, and have clear lines of contact for guests.*
- m. *No exterior alterations of an existing structure shall be made that depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood. However, any improvement required by code BZA 4-2024 3 or necessitated by licensing requirements shall not be deemed incompatible. Compliant – There are no proposed changes to the existing structure.*
- s. *All exterior lighting shall be directed away from adjacent residential properties. Compliant – No changes to lighting on property is proposed. The lighting on the property is directed away from neighboring properties.*
- v. *The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents along with a structured procedure whereby resident’s grievances may be filed with the Township and resolved by the facility. Compliant -- The applicant has stated that they will provide contact information for themselves and the Township in the mailboxes of neighbors within 200ft. If any issue should arise, neighbors can contact the applicant using the posted information. The applicant will send a letter to all neighbors within 300 ft. that states there will be renters on the property at varying dates from the month of May to the month of October.*
- x. *Meals shall be served only to guests or residents of the facility and not to the general public. Compliant – No meals will be served to the general public.*
- z. *An emergency response plan shall be submitted detailing safety measures and response procedures. This condition has been removed as a part of the approved text amendments. The amended changes have not been recorded as they are still within the 30-day appeal period. Compliant – An emergency plan will be provided in the house manual. The book will contain emergency numbers. The applicant also has*

smoke detectors, carbon monoxide detectors and fire extinguishers. In the rules of the rental, the applicant adds that they be contacted if an emergency should arise.

**STANDARDS TO
BE CONSIDERED:**

The aforementioned conditional use request should be evaluated on the following criteria from Article 5.4 of the Zoning Resolution:

Short-term Rental (f), (h), (l), (m), (s), (v), (x), (z)

f. Parking shall not be permitted in the area defined as the front yard setback of the existing zone district.

h. The vehicular use area shall be located and designed so as to minimize impact on the neighborhood.

l. Measures shall be taken to minimize the impact of potential nuisances such as noise, odor, vibration, and dust on adjacent properties.

m. No exterior alterations of an existing structure shall be made that depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood. However, any improvement required by code or necessitated by licensing requirements shall not be deemed incompatible.

s. All exterior lighting shall be directed away from adjacent residential properties.

v. The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents along with a structured procedure whereby resident's grievances may be filed with the Township and resolved by the facility.

x. Meals shall be served only to guests or residents of the facility and not to the general public.

z. An emergency response plan shall be submitted detailing safety measures and response procedures.

In determining whether to grant a special zoning certificate, the Board shall consider and apply the following standards:

- (1) Spirit and intent. The proposed use and development shall comply with the spirit and intention of the Zoning Resolution and with purposes.

- (2) No adverse effect: the proposed use and development shall not have an adverse effect upon adjacent property, or the public health, safety and general welfare.
- (3) Protection of public services: the proposed used and development should respect, to the greatest extent practicable, any natural, scenic and historic features of significant public interest.
- (4) Consistent with adopted plans; the proposed use and development shall, as applicable, be harmonious with and in accordance with the general objective of the Township's comprehensive plan and/or Zoning Resolution.

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.