



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 11-2025 BZA

161 SUNNY ACRES DRIVE

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON JUNE 5, 2025.

APPLICANT: Tom Molloy, Architect, on behalf of Anna M. Von Allmen, property owner.

LOCATION & ZONING: 161 Sunny Acres Drive
Book 500, Page 252, Parcel 61 - "AA" Residence.

REQUEST: A variance request for an addition, size 57'-4" x 52'-8", with a 20'-6" side yard setback where 25' is required per Article 3.1, D, 2, b of the Anderson Township Zoning Resolution.

SITE DESCRIPTION:

<i>Tract Size:</i>	1.04 Acres
<i>Frontage:</i>	Approximately 55' on Sunny Acres Drive
<i>Topography:</i>	Slope decreases from the south to north.
<i>Existing Use:</i>	Single Family Residence

SURROUNDING CONDITIONS:	<u>ZONE</u>	<u>LAND USE</u>
	<i>North:</i> "AA" Residence	Single Family Residence
	<i>South:</i> "AA" Residence	Single Family Residence
	<i>East:</i> "AA" Residence	Single Family Residence
	<i>West:</i> "AA" Residence	Single Family Residence

PROPOSED DEVELOPMENT: The applicant is proposing a 57'-4" x 52'-8" attached casita and attached one car garage. The proposed addition is designed to match the existing residence by painted brick veneer, matching roof shingles, and matching bay window. The proposed addition is partially encroaching on an existing storm sewer easement; however, the applicant has preliminary approval from Hamilton County to modify the easement to ensure the casita and garage are located outside of the easement.

HISTORY: The home was constructed in 1988, and the current owner purchased the property in 2021. There are three other zoning certificates on file for the property. A pool and fence zoning certificate in August of 2024, a fence zoning certificate in May of 2021 and a porch, roof, and interior renovation zoning certificate in April of 2005.

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 applicant is requesting a 4'-6" variance, giving the property a new setback of 20'-6". Due to the shape of the lot and topography, the house was constructed right at the required setback giving the property limited space for additions.

Staff is of the opinion that the essential character of the neighborhood would not be altered. The applicant has made efforts to match the addition with the house materials and is working to add vegetation to screen the neighbors from the addition.

The variance would not adversely affect the delivery of governmental services. The applicant is modifying an existing storm sewer easement on the property.

Staff is of the opinion that the property owners' predicament may be feasibly obviated through some other method other than a variance. The applicant has revised the site plan which included a reduction to a one car garage or modifying the shape and size of the addition which brought the addition closer to the 25' setback. However, the feasibility of the relocation of the garage may not be financially realistic due to the steep topography of the property.

Staff is of the opinion that the spirit and intent behind the zoning requirement may be observed by granting the variance. The variance is for less than 5 feet which would still provide sufficient distance between homes to include a vegetative buffer.

**STANDARDS TO BE
CONSIDERED:**

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

- (1) The property in question will yield a reasonable return and there can be beneficial use of the property without the variance;
- (2) The variance is not substantial;
- (3) The essential character of the neighborhood would not 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.