



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

**CASE NUMBER 16-2025 BZA**

**596 SUTTON ROAD**

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

<b>APPLICANT:</b>	Matthew Motz of Peepis Properties LLC, property owner.		
<b>LOCATION &amp; ZONING:</b>	596 Sutton Road Book 500, Page 470, Parcels 80 and 344 - "A" Residence.		
<b>REQUEST:</b>	A variance and conditional use request to permit an accessory structure to be used for dwelling purposes as part of a short-term rental per Article 5.2, A, 8 and Article 5.4, I, 15 of the Anderson Township Zoning Resolution		
<b>SITE DESCRIPTION:</b>	<i>Tract Size:</i>	1.392 Acres	
	<i>Frontage:</i>	Approximately 167' on Sutton Road	
	<i>Topography:</i>	Relatively flat, slopes upward in the rear yard	
	<i>Existing Use:</i>	Single Family Residence	
<b>SURROUNDING CONDITIONS:</b>		<u>ZONE</u>	<u>LAND USE</u>
	<i>North:</i>	"A" Residence	Single Family Residence
	<i>South:</i>	"A" Residence	Township Greenspace
	<i>East:</i>	"A" Residence	Township Greenspace
	<i>West:</i>	"SF-20" (Cincinnati)	Single Family Residence
<b>PROPOSED DEVELOPMENT:</b>	<p>The applicant is proposing to include an accessory structure used as a two car garage and unpermitted loft as part of the short-term rental already approved for the house on the property.</p> <p>Using an accessory structure as a dwelling is prohibited in "A" Residence Districts under Article 5.2, A, 8 of the Anderson Township Zoning Resolution.</p>		
<b>HISTORY:</b>	<p>The property was constructed in 1940. In 2018, the current property owner (Peepis Properties LLC) purchased the property. In May 2025, the Anderson Township Board of Zoning Appeals heard Case 8-2025 BZA which approved the property for use as a short-term rental, limiting the approval to the house as the applicant had not included a request to use the accessory structure for dwelling in the application for Case 8-2025 BZA. Since the BZA meeting on 5/1/25, the applicant confirmed that he nor the Township, had any record of zoning certificates or building permits on file for using the accessory structure as a residence.</p> <p>There is no other zoning history on file for the property.</p>		
<b>FINDINGS:</b>	<p><b>Variance Criteria:</b></p> <p>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.</p>		

Staff is of the opinion that the property will yield a reasonable return without a variance being granted. As stated previously, there are no other single-family properties using an accessory structure as a dwelling unit permanently within Anderson Township that have been approved through zoning, other than nonconforming ADUs.

Staff is of the opinion that the variance is substantial. The only two provisions permitting dwelling in accessory structures is the conditional use process for a granny cottage which is limited to family members on a temporary basis, and for domestic servants in “AA” Residence zoning districts. In no other case is dwelling in an accessory structure permitted. Granting this variance would be a significant departure from the regulations for the district and the Township as a whole.

Staff is of the opinion that the essential character of the neighborhood may be altered. The applicant states that family members have been using the loft area since the 1990s as the applicant was not aware it needed zoning approval. Township staff have received no complaints as of 5/28/25. However, no other property in the Township is permitted to have dwelling in an accessory unit, and granting this variance would be a substantial change from what is currently permitted.

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

The property owner was unaware of the zoning restrictions until the hearing for Case 8-2025 BZA on May 1, 2025.

Staff is of the opinion that the property owner’s predicament cannot be feasibly obviated through some means other than a variance.

Staff is of the opinion that the spirit and intent behind the zoning requirement would not be observed by granting the variance. Anderson Township has no other properties where dwelling in an accessory structure is permitted as a permanent use. There is clearly no intent to allow ADUs in Anderson Township.

**Conditional Use Criteria:**

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 Criteria in Article 2.12, D, 8, a:

Staff is of the opinion that the proposed short-term rental would not comply with the spirit and intent of the zoning resolution and district purposes. Anderson Township has no other properties where dwelling in an accessory structure is permitted as a permanent use. Currently there is no intent to allow ADUs in Anderson Township.

Staff is of the opinion that the proposed STR may have an adverse impact on adjacent properties. The property is zoned for a single-family residence. The applicant has stated his intent to list two separate rental options for the house and for the ADU. Granting this

request without limiting operations to one reservation at a time for the property may impact adjacent properties.

Staff is of the opinion that the proposed STR will respect natural, scenic, and historic features of significant public interest. The applicant has stated that no exterior alterations or lighting changes will be made. There will be no impact to public services.

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 of the 2022 Comprehensive Plan, which states:

*"Anderson Township is home to diverse housing options to meet changing demographics and market demands"*

*"Encourage the development and redevelopment of a variety of housing styles and densities in appropriate areas of the township"*

*This property is designated for a single-family cluster residence use on the Future Land Use Map, staff feels that the proposed Short Term Rental is consistent with this use classification as long as it is limited to one reservation at a time for the whole property.*

Specific Criteria in Article 5.4, I, 15

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

*h. The vehicular use area shall be located and designed so as to minimize impact on the neighborhood. **Compliant – the applicant has stated no changes are needed from the previous request.***

*l. Measures shall be taken to minimize the impact of potential nuisances such as noise, odor, vibration, and dust on adjacent properties. **Compliant – No change from the previous request.***

*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. **The applicant is requesting permission to allow dwelling in the existing accessory structure. The accessory structure itself is compatible with the surrounding neighborhood as an accessory structure but not as a dwelling unit.***

*s. All exterior lighting shall be directed away from adjacent residential properties. **Compliant – the applicant has stated no changes to lighting proposed.***

*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 will provide contact information and Anderson Township contact information, which will be distributed to neighbors.*

*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.*

**Recommended Conditions if Approved:**

1. Submittal of an approved building permit from the Hamilton County Building Department for the loft.
2. Limit of one reservation at a time for the property

**STANDARDS TO BE  
CONSIDERED:**

The aforementioned conditional use request should be evaluated on the following criteria from 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.*

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 affect. The proposed use and development shall not have an adverse affect upon adjacent property, or the public health, safety and general welfare.

- (3) Protection of public services. The proposed use 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.

The aforementioned variance request 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 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 resolution 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.