



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT  
**CASE NUMBER 17-2025 BZA**  
**7793 FOXTRAIL LANE**  
FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON JUNE 5, 2025.

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APPLICANT:	Tejal R. Bhatt, property owner.		
LOCATION & ZONING:	7793 Foxtrail Lane (Book 500, Page 190, Parcel 290) – “B” Residence		
REQUEST:	A variance request for an 8-foot-tall privacy fence in the side yard where fences in the side yard cannot exceed 4’ in height and must be at least 75% open per Article 5.2, A, 9 of the Anderson Township Zoning Resolution.		
SITE DESCRIPTION:	Tract Size:	0.5 acres	
	Frontage:	Approximately 213.85’ on Foxtrail Ln and 46.82’ on Asbury Rd.	
	Topography:	Relatively flat	
	Existing Use:	Single-Family Residence	
SURROUNDING CONDITIONS:		<u>ZONE</u>	<u>LAND USE</u>
	North:	“B” Residence	Single-Family Residence
	South:	“B” Residence	Single-Family Residence
	East:	“B” Residence	Single-Family Residence
	West:	“B” Residence	Single-Family Residence
PROPOSED DEVELOPMENT:	The property owner would like to keep an existing 8-foot-tall privacy fence in the side yard. It was stated in the application that it is believed that the fence was erected by 1992. The property owner has stated the intention of the fence is for privacy, comfort, and noise reduction from I-275.		
HISTORY:	<p>The residence was built in 1978 and the current property owner purchased the property in 2011. There are two zoning certificates on file for the property. A zoning certificate for a 4’ split rail fence in 2005 and a zoning certificate for an accessory structure in 2007.</p> <p>In 2020, the owner of the property contacted P&amp;Z inquiring about replacing their split rail fence. While preparing a site plan for them, we noticed a possible encroachment on a Township Openspace Parcel on CAGIS. The Township owns an approx. 12’ strip of land out to Asbury that attaches to a larger open space parcel that is parallel to I-275. This open space parcel was obtained by the Township from Great Parks in 2009. The listed owner of 7793 Foxtrail, Ms. Bhatt purchased the home in 2011 and her husband felt that most of the encroachments took place prior to their purchase. However, there was an acknowledgement the roof over their deck was “squared off” in repairing damage after the 2015 tornado. This created an encroachment onto the Township parcel in addition to the fence being installed on Township property.</p> <p>In order to resolve the encroachments, the Township was willing to sell this 12’ strip to Ms. Bhatt. However, during a title search, a conservation easement on the property was found that prohibited the property from being sold for use as private property. At the request of the Township, Great Parks terminated the easement which took several years to complete. In August, 2024, the Township received a Quit Claim Deed and Termination</p>		

of Easement from Great Parks which will allow the property to transfer. A purchase and sales agreement was prepared pending a BZA decision on the fence, however, it expired in September 2024. The Township is aware of this request.

**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 may be substantial. The height of the fence is double the height restriction in the side yard, and additionally the fence is completely closed off as opposed to 75% open. The fence does border the rear yard of the adjacent property which could have a 6' tall solid fence.

The essential character of the neighborhood may not be altered, and adjoining properties would not suffer a substantial detriment as a result of the variance. The fence has been in place since at least 2011 and possibly as early as 1992.

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

The property owner's predicament may not be feasibly obviated through some method other than a variance. Vegetation may be used to provide the privacy that a fence does, however, it may not be as effective as a 8-foot-tall privacy fence for noise reduction.

Staff is of the opinion that the spirit and intent behind the zoning requirement may be observed by granting the variance. The height exceeds the maximum number of height for a fence in any portion of residential or commercial property, however the fence is shorter than the noise barrier wall along I-275 in this area.

**STAFF  
RECOMMENDED  
CONDITIONS:**

Should this variance request be approved, staff recommends the following condition:

- (1) The property shall be transferred to the applicant. If a transfer is not completed, the fence shall be relocated to the applicant's property line.

**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.*