



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 19-2025 BZA

1119 SUTTON ROAD

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON JULY 3, 2025

APPLICANT: Pamela & Larry Ford, property owners.

LOCATION & ZONING: 1119 Sutton Road
(Book 500, Page 411, Parcel 227) – “C” Single Family Residence

REQUEST: A variance request for a 6’ high privacy fence in the side yard where fences 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:

<i>Tract Size:</i>	0.928 Acres
<i>Frontage:</i>	Approximately 218.3’ on Sutton Rd.
<i>Topography:</i>	Relatively flat, slight slope from west to east
<i>Existing Use:</i>	Single Family Residence

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

PROPOSED DEVELOPMENT: The applicant has constructed a 6’ tall privacy fence in the side yard area of the property. The fence is a wood privacy fence with a decorative lattice on the top portion of the fence. The fence does not enclose the whole of the side yard, it extends 55’ from the primary residence to the south.

HISTORY: The residence on the property was constructed in 1914, the current property owners purchased the property in 1999. There are no zoning certificates on file.

In September of 2024, Planning & Zoning received a call regarding a 6’ privacy fence constructed in the side yard of the property. On September 30, 2024, staff confirmed the 6’ privacy fence in the side yard. On January 14, 2025, staff received an application for a zoning certificate for the 6’ privacy fence in the side yard and chicken coop located at least 100’ feet from all property lines. On January 15, 2025, staff issued a notice of refusal as the requested privacy fence in the side yard was prohibited per Article 5.2, A, 9 of the Anderson Township Zoning Resolution. Though the chicken coop may be approved administratively, there is no zoning certificate on file for the chicken coop at this time since the application was a part of the fence application and will be issued after the variance request has been resolved. On May 30, 2025, a BZA application was made for a variance to permit the 6’ privacy fence the side yard.

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 could be substantial. The fence is currently 6 feet in height and a solid fence, where the maximum height allowed is 4 feet, 75% open. However, the fence is only 55' in length, not the full width of the side yard.

Staff is of the opinion that the essential character of the neighborhood would not be altered, and adjoining properties may not suffer a substantial detriment as a result of the variance. There are at least two privacy fences in the side yard in the area, however, there is no record that these were permitted by the Anderson Township Planning and Zoning Department.

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

The property owner's predicament may be feasibly obviated through some method other than a variance. There is potential to provide privacy for the property owners through vegetative screening.

Staff is of the opinion that the spirit and intent behind the zoning requirement would not be observed by granting the variance. The Zoning Resolution is clear when it comes to style of fences, the height of fences, and where they are permitted as of right. The existing fence both exceeds the 4' maximum height in the side yard and does not meet the 75% open requirement as the fence has no gaps with the exception of the decorative lattice on the top portion of the fence.

**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.