



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 12-2026 BZA

7006 MARTHA ROAD

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON JUNE 4, 2026

APPLICANT: Danielle Donley, property owner

LOCATION & ZONING: 7006 Martha Road
(Book 500, Page 272, Parcel 45) – “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:
Tract Size: 0.239 Acres
Frontage: Approximately 51’ on Martha Rd.
Topography: Relatively flat, downhill slope at the northern end of the property
Existing Use: 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 plans to replace and relocate an existing 6’ high privacy fence along the driveway in the side and rear yard area of the property. She also plans to add 78’ of 4’ tall three-rail fencing in her rear yard from the garage to the back right corner of the residence. The existing privacy fence follows the edge of the driveway, and the applicant plans to realign the privacy fence along the western property line.

Per Article 5.2, A, 9, fences outside of the rear yard are limited to 4’ tall, 75% open, so a variance is needed to approve the section of the privacy fence in the side yard.

HISTORY: According to the Hamilton County Auditor’s website, the residence on the property was constructed in 1929. A Zoning Certificate was issued in 2001 for a fence in the location of the current privacy fence. This fence was approved to be 4’ high, 75% open in the side yard and a 6’ high privacy fence in the rear yard. However, Google street view imagery shows that a 6’ high privacy fence was constructed in the side yard of the property along the driveway since at least 2009. The current owner bought the property in 2016. On May 5, 2026, a BZA

application was made for a variance to permit the replacement and realignment of the existing privacy fence along the driveway side of the property.

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 substantial. The existing and proposed fences are 6' tall privacy fences, where only 4' tall, 75% open fences are permitted outside of the rear yard. The privacy fence extends through the whole length of the side yard.

Staff is of the opinion that the essential character of the neighborhood might be altered, and adjoining properties might suffer a substantial detriment as a result of the variance. The non-compliant 6' privacy fence has existed in this location for at least 15 years, and the proposed relocation is in relatively the same location. However, there are no examples of approved privacy fences in the side yard in this area of the Township, so approving this fence may alter the character of the neighborhood.

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, but the property owner expressed concern that vegetative screening would not be sufficient in managing the neighboring property's invasive vegetation.

Staff is of the opinion that the spirit and intent behind the zoning requirement might not be observed by granting the variance. While the property owner has a reasonable interest in privacy of their property and managing vegetation from adjacent properties, the regulations are clear that only 4' high, 75% open fences are permitted in the side yard. Although there has been a fence in this location for many years, longevity of a violation does not alone justify its continuation.

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.