



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 14-2026 BZA

6859 FIVE MILE ROAD

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON AUGUST 6, 2026.

APPLICANT:	Brian Gerbus, on behalf of Molly E Gerbus TR, property owner		
LOCATION & ZONING:	6859 Five Mile Rd. (Book 500, Page 330, Parcel 130) – “AA” Residence		
REQUEST:	A variance request for 10’ x 28’ chicken coop in the rear yard with a setback of 60’ to the rear and side property lines where 100’ is required per Article 3.1, C, 11, a.		
SITE DESCRIPTION:	<i>Tract Size:</i>	Approximately 2.119 acres	
	<i>Frontage:</i>	Approximately 257’ of frontage on Five Mile Rd	
	<i>Topography:</i>	Decrease in grade from east to west; mostly flat in center and southeast of property.	
	<i>Existing Use:</i>	Single Family Residence	
SURROUNDING CONDITIONS:		<u>ZONE</u>	<u>LAND USE</u>
	North:	“AA” Residence	Single Family Residences
	South:	“AA” Residence	Park - Withrow Nature Preserve
	East:	“AA” Residence	Single Family Residences
	West:	“AA” Residence	Single Family Residences
PROPOSED DEVELOPMENT:	The applicant is seeking to construct a 10’ x 28’ chicken coop with a 60’ rear yard setback, reduced from the required 100’ setback for agricultural structures. The applicant is also proposing a 6’ Kentucky board fenced enclosure around the chicken coop that will be located in the rear yard. When staff received and reviewed the application from the applicant, it was interpreted that the proposed 6’ Kentucky board fence was in the side yard based on the submitted site plan. After conducting the site visit and discussing the proposed fence with the property owner, it was determined that the proposed fence will be located in the rear yard and compliant with Article 5.2, A, 9 of the Anderson Township Zoning Resolution.		
HISTORY:	The house was built in 1990, and the current owner purchased the property in April of 2023. The property has 7 zoning certificates on file, three for additions on the house in July of 2013, August of 2013, and October 2024, one for a pool in September of 2023, and one for two accessory structures and a fence on the property in March of 2024, another fence permit in October of 2024, and an accessory structure permit in July of 2025. In September of 2024, the property owner received a variance to allow for habitation in a recreational vehicle where habitation in a recreational vehicle is not permitted while the home was undergoing an expansion and renovation.		
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 requested setback of 60' is a substantial reduction of the required 100' setback. However, the property that would be closest and most affected by this variance is the Withrow Nature Preserve to the south of the residence.

Staff is of the opinion that the essential character of the neighborhood might not be altered. This property has existing vegetation that helps obscure the location where the chicken coop is proposed and the chicken coop will be located approximately 185' from the right of way.

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

Staff is of the opinion that the property owner's predicament may not be feasibly obviated through some method other than a variance. The structure must be located in the rear yard and 100' from all property lines. The variance is requested for the rear property line which is adjacent to Withrow Nature Preserve and the Five Mile Creek.

Staff is of the opinion that the spirit and intent of the zoning requirement would be observed, and justice done by granting the variance. The property is located in the "AA" Residence zoning district and more rural area of the Township. The chicken coop will be located more than 150 feet from all adjacent residences and located in the rear yard of the property.

**STAFF
RECOMMENDED
CONDITIONS:**

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

1. That a modified site plan be submitted showing the 6' tall Kentucky board fence wholly located in the rear yard.
2. Consistent with plans and letter stamped received on July 13, 2026.
3. That construction shall begin within one year and be completed within two years.

**STANDARDS TO
BE CONSIDERED:**

The aforementioned variances 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 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.