



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 4-2026 BZA

2981 NEWTOWN ROAD

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON FEBRUARY 5, 2026.

APPLICANT: Katherine & Jonathan Colasurd, property owner.

LOCATION & ZONING: 2981 Newtown Road
Book 500, Page 370, Parcel 240 - "A" Residence.

REQUEST: A variance request for a new 18' x 32' inground pool, and a 5' tall privacy fence, both in the front yard where pools are required to be in the rear yard per Article 5.2, A, 7 and fences are limited to 4' tall and 75% open per Article 5.2, A, 9 of the Anderson Township Zoning Resolution.

SITE DESCRIPTION:

<i>Tract Size:</i>	0.687 Acres
<i>Frontage:</i>	Approximately 112' on Newtown Rd.
<i>Topography:</i>	Significant grade change decreasing from west to east.
<i>Existing Use:</i>	Single Family Residence

SURROUNDING CONDITIONS:	<u>ZONE</u>	<u>LAND USE</u>
	<i>North:</i> "A" Residence	Single Family Residence
	<i>South:</i> "A" Residence	Single Family Residence
	<i>East:</i> "A" Residence	Single Family Residence
	<i>West:</i> "A" Residence	Single Family Residence

PROPOSED DEVELOPMENT: The applicant is proposing a new 18' x 32' inground pool, and a 5' tall privacy fence in the front yard of the property. Due to the significant grade change on the property, there are limited locations on the lot that are flat for any accessory structures or site improvements. There is an existing, non-compliant privacy fence in portions of the front yard, which would become fully enclosed with the proposed improvements.

HISTORY: The Hamilton County Auditor lists the home as being built in 1975. There are no zoning certificates or code enforcement cases on file for this property.

Staff has also reviewed the applicant's list of properties that have pools outside of the property's "traditionally defined rear yard" in Anderson Township.

Two of the referenced pools were approved by the BZA, four pools are on corner lots and are located in the defined rear yard per zoning, two predate our zoning department, and one was approved with the construction of the house as an "interior pool".

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 applicant is requesting to locate both a swimming pool and a 5' high privacy fence in the front yard where both are prohibited. However, both the pool and the fence will be setback significantly from the property lines, with the pool having a proposed setback 140' from the right-of-way.

Staff is of the opinion that the essential character of the neighborhood might not be altered. The residence and the proposed improvements are setback from the road significantly, beyond the 50' front yard setback for residences in the zoning district. Additionally, the pool and residence are located approximately 20-24 feet higher than the level of the road with a lot of existing vegetative screening and the proposed wood privacy fence which provides plenty of separation from the road and all neighbors except the adjacent property to the north. Lastly, due to the orientation of the house, the topography of lot, and the location of the amenities on the property, the area where the proposed pool is located is the lot's functional area typically found in the rear yard.

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

Staff is of the opinion that the property owners' predicament might not be feasibly obviated through some other method than a variance. Due to the significant grade change on the property, this is the only viable location without significant earthwork.

Staff is of the opinion that the spirit and intent behind the zoning requirement might be observed by granting the variance. Although the proposed pool and fence are not compliant with the Township's zoning regulations, both are setback significantly from the roadway which may help the property match the character of the neighborhood.

**STANDARDS TO BE
CONSIDERED:**

The aforementioned variance request should be evaluated on the following criteria:

- (1) The property in question will yield a reasonable return and there can be beneficial use of the property without the variance;
- (2) The variance is not substantial;
- (3) The essential character of the neighborhood would not 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.