

**ANDERSON TOWNSHIP BOARD OF ZONING APPEALS
APRIL 6, 2023**

The Anderson Township Board of Zoning Appeals held a regular meeting, duly called, on April 6, 2023, at 5:30 p.m. at the Anderson Center. Present were the following members:

Steve Haber, Paul Sian, John Halpin, and Paul Sheckels, Brian Johnson, Alternate

Also, present when the meeting was called to order Chris Cavallaro, Planner I, Paul Drury, Director of Planning and Zoning, Ashley Reynolds, CO-OP, and Gary Powell, Anderson Township Legal Counsel. A list of citizens in attendance is attached.

Staff and members of the public were asked to raise their right hand and swear or affirm to the following oath as read by **Mr. Haber**: Do you swear or affirm, to tell the truth, the whole truth and nothing but the truth, so help you, God?

Staff and those testifying replied "yes" to the oath issued by **Mr. Haber**.

Approval of Agenda

The Agenda for April 6, 2023 was approved by unanimous consent with no objections from the Board.

Approval of Minutes

The Minutes for March 2, 2023 were approved, Mr. Sian moved to approve, and Mr. Halpin seconded the motion.

**Vote: 4 Yeas
 1 Abstain (Mr. Johnson)**

Consideration of Case 9-2023 BZA

Mr. Halpin and Mr. Johnson recused themselves from Case 9-2023 BZA.

Mr. Drury gave a summary of the staff report for Case 9-2023 BZA.

Mr. Haber asked if there were any questions from the board. None.

Catherine Halpin, 7024 Morfield Dr., PTO President of Sherwood Elementary, stated that the PTO has worked very hard to work towards obtaining and building an outdoor learning area.

Mr. Haber moved to close the public hearing with unanimous consent with no objections from the Board.

The public hearing was closed at 5:44PM.

Deliberation of Case 9-2023 BZA

The Board discussed a variance request to allow a 28' x 28' accessory structure located in the front yard where accessory structures are only permitted in the rear yard, per Article 5.2, A, 7 and Article 5.4, I, 10 of the Anderson Township Zoning Resolution.

Mr. Sheckels Motioned to grant a 28' x 28' accessory structure with the condition that it be consistent with 2/9/2023 plans, with construction started in a year and completed within two years. **Mr. Sian** Seconded

Vote: **3 Yeas**
 2 Abstain, (Mr. Halpin and Mr. Johnson)

Consideration of Case 10-2023 BZA

Mr. Drury gave a summary of the staff report for Case 10-2023 BZA.

Mr. Haber asked if there were any questions from the board. None?

Mr. Jeffrey Conrad, 2003 Forestcrest Way, property owner, stated that he and his wife purchased the property in 1983 and at the time, there were two farms in proximity to their property that had chickens, etc.

Mr. Conrad stated that in 1987, Anderson Township approved a Zoning ordinance with a 100' setback, but their property already had a variance according to Ohio law Section 713.15. **Mr. Gary Powell, Township Legal Counsel** replied that it would not be a variance, but a non-conforming use and as far as he could determine, there is no record of a non-conforming use certificate for the property.

Mr. Powell clarified that Section 713.15 does not apply to Ohio Townships. Section 519.19 would more accurately describe nonconforming use of buildings and land not affected by zoning.

Mr. Haber wanted to clarify that the applicant is asking for a variance and not a nonconforming use. **Mr. Powell** responded that he had not seen any evidence from the applicant's application or from phone conversations with the Conrad's that they were seeking a non-conforming use certificate.

Mr. Sian asked for clarification that there is a reference to a tool shed, and if that where the chickens are being kept. **Mr. Conrad** replied that is where the chickens sleep at night.

Mr. Conrad stated that other properties near his are aesthetically worse looking than his. **Mr. Conrad** mentioned that he completed a statistical analysis of the Township and surrounding neighborhoods that has shown a general increase in property values. **Mr. Johnson** asked how long he has owned the property. **Mr. Conrad** answered since 1983.

Mr. Johnson asked (inaudible). **Mr. Conrad** replied with '...about the same time.'

Jessica Conrad, 2003 Forestcrest Way, resident, stated that the property owner is asking for either a variance or grant a nonconforming use to the property and that these requests were made clear to **Mr. Powell** during their phone conversations. **Mr. Powell** replied that in the phone conversation he specifically asked whether the property owners were asking for a

variance or granting of a nonconforming use and it was confirmed that they were requesting a variance. **Ms. Conrad** answered that both were requested during the phone conversation and that multiple witnesses heard the requests. **Mr. Powell** replied that he disagreed with **Ms. Conrad**.

Ms. Conrad stated that having chickens and beekeeping is becoming more popular and then provided examples of how other local jurisdictions regulate similar uses on residential properties. **Ms. Conrad** stated that having backyard chickens has been linked to helping reduce mental stress and stated that her chickens are her therapy and have helped her to the point of being removed from prescribed medication. If they are required to remove the chickens and honeybees from their property, that this would be a violation of HIPAA (Health Insurance Portability and Accountability Act) laws as well as a violation of the ADA (American Disabilities Act).

Mr. Halpin asked which act the Board would be breaking if they required the chickens and bees to be removed, **Ms. Conrad** stated the American Disabilities Act.

Mr. Haber asked **Mr. Powell** to confirm that the Board is hearing a variance request and not a nonconforming use. **Mr. Powell** confirmed that the hearing of Case 10-2023 is for a variance for the property of 2003 Forestcrest. **Mr. Halpin** asked to clarify what action could be taken by the property owners if they were denied a variance. **Mr. Powell** explained that a neighboring property owner, or the property owner of 2003 Forestcrest, could appeal the decision to the Hamilton County Court of Commons Pleas, request a zoning text amendment change by the Township, or apply for a nonconforming use with the Township.

Carrol Williams, 7990 Clough Pike, property owner, stated she is in favor of the chickens and welcomes the honeybees and chickens.

Patty Reed, 6089 Salem Road, owner of Save Your Bees, stated that there are dozens of similar beehives throughout Anderson Township and if properly taken care of bees are not harmful or aggressive towards humans unless provoked.

Anna D' Emirnio, 2028 Forestcrest, resident stated that in previous years a bee's hive was beginning to form on their property. **Mr. Sian** asked what happened to the hive. She replied that her family was able to remove the hive from the tree.

Mr. Conrad asked **Ms. D' Emirnio** who specifically it was her family spoke with from the Conrad family about removing the bees from their property (2028 Forestcrest).

Mr. Conrad asked why is a setback important or required for bees, if bees can travel up to three miles?

Mrs. Reed stated that bees swarm because they run out of space and look for places to relocate the hive, which is probably what happened in the case of 2028 Forestcrest. **Mrs. Reed** stated that the swarm of bees mention at 2028 Forestcrest could have come from anywhere.

Linda D' Eriminio, 2028 Forestcrest Way, property owner clarified that there was a physical structure created by the swarm of bees on her property.

Mr. Conrad reiterated his initial testimony. **Mr. Halpin** asked Mr. Conrad how many chickens are located on the property. Mr. Conrad replied with 10 chickens and no roosters.

Mrs. Linda D' Eriminio stated that when they first moved into her property, she could hear crowing from roosters but did not know where they were located. **Ms. Conrad** replied that many properties in Anderson have roosters and that they have not had any roosters at 2003 Forestcrest for several months. **Mr. Halpin** asked how many bee boxes are located at 2003 Forestcrest. Ms. Conrad responded with two bee boxes.

Mr. Powell asked **Ms. Conrad** if she knew if it was a family member who responded to the bee swarm at 2028 Forestcrest, Ms. Conrad stated that when her family receives inquiries to remove hives, they temporarily store the bees at their property at 2003 Forestcrest.

Amanda Conrad, 2003 Forestcrest Way, resident stated she is a beekeeper and averages about 12-15 calls a year to remove bee swarms from properties.

Mr. Powell asked for clarification of where the proposed location of the beehives are going to be located at 2003 Forestcrest, **Ms. Jessica Conrad** answered that they are proposing to move the hives to behind the house in the rear yard area.

Mr. Powell asked for clarification of the location of the "tool shed". **Mr. Conrad** stated that the cage is a dog run. **Mr. Sheckels** asked for clarification of are animals housed in the structures and **Mr. Conrad** answered, "yes". **Ms. Jessica Conrad** stated of the "tool shed" does have tools and that the chickens have free access to enter and leave on their own throughout the day and stay in the "tool shed" overnight.

The public hearing was closed at 6:43PM.

Deliberation of Case 10-2023 BZA

The Board discussed a variance request to allow structures incidental to the use of the land for agricultural purposes within 100' from any property line, for the property located at 2003 Forestcrest Way, per Article 3.1, C, 11, a, and Article 3.1, C, 14, e of the Anderson Township Zoning Resolution.

Mr. Sheckels Motioned to deny the variance a request to allow agricultural shelters or enclosures within 100' from any residential zoning district. **Mr. Johnson** Seconded

Vote: 5 Yeas

Consideration of Case 11-2023 BZA

Mr. Drury gave a summary of the staff report for Case 11-2023 BZA.

Mr. Haber asked if there were any questions from the board. None?

Mr. Stewart, 696 Dunwoodie, stated that at the time of the construction of the deck, he was unaware that his contractor did not receive a permit for the structure and that he wants to correct any wrongdoings and is asking for a variance on this case.

Mr. Drury stated that if approved, a condition should be put in place to apply for a building permit from the Hamilton County Building Department.

Deliberation of Case 11-2023 BZA

The Board discussed a variance request to allow two decks, both size 12' x 20', with a side yard setback of 10', where 12' is required, per Article 5.2, A, 4 and Article 5.2, A, 10 of the Anderson Township Zoning Resolution.

Mr. Sheckels Motioned to approve the variance a request to allow two decks, both size 12' x 20', with a side yard setback of 10', where 12' is required, per Article 5.2, A, 4 and Article 5.2, A, 10, with a condition to apply for a building permit with Hamilton County within 60 days. **Mr. Sian** Seconded

Vote: 5 Yeas

Consideration of Case 12-2023 BZA

Ms. Reynolds gave a summary of the staff report for Case 12-2023 BZA.

Mr. Haber asked if there were any questions from the board. None?

Mr. Eric Patterson, 325 N. Denny Rd. Wilmington, OH, contractor, stated the reasoning for the proposed location of the structure this would be the best location on the property because of the topography. The property to the north has been donated to the Township as greenspace and the foliage provides great coverage to block the view from surrounding properties and from the public road.

Mr. Haber asked **Mr. Patterson** what the use of the structure is going to be, and **Mr. Patterson** answered that this will be an area where **Mr. Bercz** will be able to store and work on his historical vehicles.

The public hearing was closed at 7:18pm.

Deliberation of Case 12-2023 BZA

The Board discussed the variance request to allow an accessory structure, detached garage, 36' x 40', in the front yard area where accessory structures are only permitted in the rear yard, for the property located at 3725 Mt. Carmel Rd. (Book 500, Page 084, Parcel 024), per Article 5.2, A, 7 of the Anderson Township Zoning Resolution
Motion?

Vote: 5 Yeas

Decision and Journalization of Case 9-2023 BZA

Mr. Sian moved, and **Mr. Halpin** seconded to approve the variance request in Case 9-2023 BZA with conditions.

Vote: 3 Yeas
2 Abstain (**Mr. Johnson** and **Mr. Halpin**)

Decision and Journalization of Case 11-2023 BZA

Mr. Sian moved, and **Mr. Halpin** seconded to approve the variance request in Case 11-2023 BZA with conditions.

Vote: 5 Yeas

Decision and Journalization of Case 12-2023 BZA

Mr. Sian moved, and **Mr. Halpin** seconded to approve the variance request in Case 12-2023 BZA with conditions.

Vote: 5 Yeas

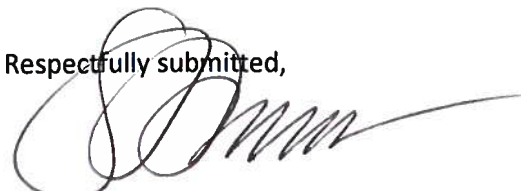
Mr. Sian was voted as the interim secretary.

Mr. Haber moved to adjourn with unanimous consent and with no objections from the Board.

The next meeting is scheduled for Thursday, May 4, 2023, at 5:30 p.m. at the Anderson Center.

The meeting was adjourned at **7:33 pm**.

Respectfully submitted,



Steve Haber, Chair