

**ANDERSON TOWNSHIP BOARD OF ZONING APPEALS
SEPTEMBER 5, 2024**

The Anderson Township Board of Zoning Appeals held a regular meeting, duly called, on September 5, 2024, at 5:30 p.m. at the Anderson Center. Present were the following members:

Paul Sian, John Halpin, Paul Sheckels, Scott Lawrence, Jeff Nye

Also, present when the meeting was called to order, Stephen Springsteen, Planner I, Eli Davies, Planner I, and Mallory Clapp, Co-op. 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. Sian**: 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. Sian**.

Approval of Agenda

Mr. Sian noted that there had been a change between the agenda they received in their packets and the agenda given to them tonight. **Mr. Springsteen** noted that the agenda was amended to correct the requested setback for Case 21-2024 BZA. **Mr. Halpin** moved, **Mr. Nye** seconded to approve the Agenda for September 5, 2024 was approved by the Board with unanimous consent.

Approval of Minutes

Mr. Sian made a recommendation to fix the date of the meeting in the minutes. **Mr. Halpin** moved, **Mr. Nye** seconded to approve the amended minutes for the August 1, 2024, Board of Zoning Appeals meeting

Vote: 5 Yeas

Consideration of Case 19-2024 BZA

Mr. Davies introduced Ms. Clapp to the Board as the new CO-OP on staff in the Planning and Zoning Department.

Mr. Davies gave a summary of the staff report for Case 19-2024 BZA.

Mr. Nye asked if the proposed additions and renovations are compliant with the Resolution. **Mr. Springsteen** responded that as far as he knows, all submitted plans he has received from the applicant are compliant. He continued that he believes the architect recently reached out to staff and that have yet to submit any at this time and the applicant may be able to better explain where they are in the process.

Brian Gerbus, on behalf of Molly E Gerbus TR, property owner stated that they are still in the drawings phase, and he is working with his contactors to make sure the plans are compliant with the Anderson Township and Hamilton County standards. He continued that they wanted to live

on site so he'd be available for the contractors, could keep better oversight of the project, stay close to his daughter's school, and limit the inconveniences the family is . Mr. Gerbus clarified that in his application he insinuated he would be able to stay in his home during construction, which is not entirely accurate as there would be months when he would need to move out of the home completely. He stated the proposed location for the vehicle was chosen to minimize visual impact for neighbors and be in a compliant location for storage on a residential lot. He stated there are water availability challenges but that one way or another they will solve it or they won't live there. Mr. Gerbus stated that though the Resolution is clear that habitation in a recreational vehicle is not permitted, he is not trying to be deceitful and feels the intent of that is prevent more permanent habitation of recreational vehicles.

Mr. Halpin asked what type of recreational vehicle was going to be placed there. **Mr. Gerbus** stated that he hadn't purchased it yet, but he was planning on a tow behind. Mr. Halpin asked how many occupants would be in the vehicles. Mr. Gerbus stated that there would be 4 including himself, his wife, and his two daughters.

Mr. Sheckels clarified that there was a typo on the application where it stated the end date was in 2024. Mr. Gerbus responded that it was a typo and should have said 2025. Mr. Sheckels asked when he anticipated applying and if the 7 months indicated in the application is enough time. Mr. Gerbus stated that they are planning to apply in the next three weeks and that they are a little behind schedule at the moment, however, it should follow the same timeline as far as duration goes.

Mr. Nye asked what parcels he also owned. **Mr. Gerbus** stated which parcels he owns. Mr. Nye asked if the neighbor across the street shared a letter of support. Mr. Gerbus responded that he did not share a letter, but he did talk about his neighbor, Mr. Grimes. Mr. Gerbus then pointed out which properties shared their letters of support. Mr. Nye asked if the camper would be viewable from the driveway of Mr. Grimes. Mr. Gerbus stated that he had planted evergreens in front of that line of sight prior to this project to give himself and the neighbor some privacy.

Mr. Nye asked Mr. Gerbus about the neighbors to the south of him, if he knew where they were living prior to moving into their finished home or if they lived in their recreational vehicle. Mr. Gerbus stated that the property owner used the vehicle as a construction management trailer. Mr. Springsteen shared that from his understanding, the property owner informed the Township the vehicle was being used as an office space during the construction phase and was not being lived in.

Mr. Nye clarified that the neighbor to the south may or may not have previously lived in their recreational vehicle, the neighbor across the road has vegetation screening the property, the property to the north of this parcel is owned by the applicant, and the property north of applicants' other parcel shared support. Mr. Gerbus added that the property to the west is Withrow Nature Preserve and he did not have a formal letter of support from Mr. Grimes, the neighbor across the street.

Mr. Nye moved to close the public hearing. **Mr. Halpin** seconded the motion.

The public hearing was closed at 5:53 PM.

Deliberation of Case 19-2024 BZA

The Board discussed a variance request to allow habitation in a recreational vehicle where habitation in a recreational vehicle is not permitted per Article 5.3, I, 1, b of the Anderson Township Zoning Resolution.

Mr. Nye moved to reopen the public hearing. **Mr. Halpin** seconded the motion.

Mr. Lawrence asked what his water sources are on the property. Mr. Gerbus responded that there they are on well water and have access to sewer. He continued that when he runs short on well water, he supplements with water tanks that he fills. Mr. Gerbus stated that he will have challenges with water at the site that he will need to solve, but he will solve those as needed when the time comes. Mr. Lawrence confirm that he will have a constant source of water, Mr. Gerbus responded he will have a constant source of water or he will not live on site.

Mr. Halpin asked when Mr. Gerbus plans on moving into the vehicle. Mr. Gerbus stated he would like to move in during October. Mr. Halpin asked if the between this October to next October is enough time if the Board granted the variance. Mr. Gerbus stated he is hopeful that it won't last longer than 12 months.

Mr. Nye moved to close the public hearing. **Mr. Halpin** seconded the motion.

The public hearing was closed at 6:00 PM.

The Board continued to discuss the variance request to allow habitation in a recreational vehicle where habitation in a recreational vehicle is not permitted per Article 5.3, I, 1, b of the Anderson Township Zoning Resolution.

Mr. Sheckles motioned to grant a variance request to allow habitation in a recreational vehicle where habitation in a recreational vehicle is not permitted per Article 5.3, I, 1, b of the Anderson Township Zoning Resolution, located at 6859 Five Mile Road (Book 500, Page 330, Parcel 130) submitted by Brian and Molly E. Gerbus, on behalf of Molly E Gerbus TR, property owner, zoned "AA" Residence. **Mr. Halpin** seconded.

Vote: 5 Yeas

Consideration of Case 20-2024 BZA

Mr. Davies gave a summary of the staff report for Case 20-2024 BZA.

Kacey Terry, on behalf of Michelle White, property owner stated that she agreed with what was already presented. She added that the previous variance requests for the privacy fences had in all intents established this area as a rear yard.

Mr. Halpin moved to close the public hearing. **Mr. Nye** seconded the motion.

The public hearing was closed at 6:09 PM.

Deliberation of Case 20-2024 BZA

The Board discussed a variance request for an accessory structure, a circular 18' diameter above ground pool with an attached deck, located in the front yard of a double frontage lot, per Article 5.2, A, 7 of the Anderson Township Zoning Resolution.

Mr. Nye motioned to grant a variance request for an accessory structure, a circular 18' diameter above ground pool with an attached deck, located in the front yard of a double frontage lot where accessory structures are only permitted in the rear yard per Article 5.2, A, 7 of the Anderson Township Zoning Resolution, located at 752 Pickwick Drive (Book 500, Page 111, Parcel 105), submitted by Michelle White, property owner, zoned "B" Residence. **Mr. Lawrence** seconded.

Vote: 5 Yeas

Consideration of Case 21-2024 BZA

Mr. Davies gave a summary of the staff report for Case 21-2024 BZA.

Mr. Nye asked if there was anywhere on the property that the chicken coop would be able to go and accommodate the 100 ft setback, **Mr. Davies** responded that there is not. **Mr. Springsteen** added that even if there was, the location where it would be permitted would be on a significant incline.

Rylan Babbs, property owner stated he believe the eggs for sale sign attracted the complaint. He continued that he lives in a private and there is significant vegetation that screens him from his neighbors. **Mr. Babbs** pointed out what makes up the chicken coop and what the other structures and spaces in the backyard are currently being used for. He stated that the children's playset is utilized as both a playset for his kids and a portion is used for his chickens so it operates as a dual purpose structure. **Mr. Babbs** continued to share what portion was used mostly by the chickens and what the plans were for the yard. He continued that the existing vegetation does a good job of providing privacy during all seasons. **Mr. Babbs** shared the history of the sheds that were on the property when the property was purchased, why the new structures were being proposed in the locations they were, and how each yard is effectively used. He continued discussing the existing conditions at the property which provided substantial screening for the property and significant elevation changes.

Mr. Nye asked where on the property the original sheds were located. **Mr. Babbs** pointed out on the screen where in the yards they were located. **Mr. Springsteen** added that the location in the rear yard where one of the original sheds was on a significant slope. **Mr. Nye** asked how long **Mr. Babbs** had chickens on the property had, **Mr. Babbs** responded it had been about a year. He added that there were 10 hens and he believed he was following the guidelines for having chickens on the property. **Mr. Babbs** stated that he had communicated with a Anderson

Township employee about the rules, however, it was not a member of the Planning & Zoning staff. He continued that he was not intending to be deceptive, however, he sees now that he should have consulted with the Planning & Zoning staff initially. Mr. Nye asked Mr. Babbs about his understanding of the surrounding lots. **Mr. Davies** added some context of when bringing up the property map as to staff's understanding of the surrounding property information. Mr. Nye clarified that there was no risk of a new neighbor to the south and across the street with a small triangular lot. Mr. Springsteen added that the zoning is AA which would make the lot difficult to develop as it has greater lot standards. Mr. Babbs added the owner across the street owned 10 acres and the two lots to the west of his property are additionally vacant.

Mr. Sheckels asked if Mr. Babbs sells the eggs. **Mr. Babbs** stated that he tells his neighbors they are free but there is a box for money which states a dozen for \$3 to help cover costs if they feel inclined to leave some. He continued that he is happy to remove the sign if the Board should decide it should be removed.

Mr. Cluse, 601 Birney Lane, spoke in favor of the appeal. He stated it is fairly well screened by existing vegetation.

Mr. Halpin asked how long he had lived there. Mr. Cluse replied that he had lived there nearly 25 years.

Mr. Halpin moved to close the public hearing. **Mr. Nye** seconded the motion.

The public hearing was closed at 6:38 PM.

Deliberation of Case 21-2024 BZA

The Board discussed multiple variance requests to allow two accessory structures in the front and side yards, both size 12' x 12' where accessory structures are only permitted in the rear yard per Article 5.2, A, 7, and one agricultural structure, size 8' x 15', in the front yard with a proposed setback of 21' where 100' is required per Article 3.1, C, 11, a of the Anderson Township Zoning Resolution.

Mr. Nye motioned to grant multiple variance requests to allow two accessory structures in the front and side yards, both size 12' x 12' where accessory structures are only permitted in the rear yard per Article 5.2, A, 7, and one agricultural structure, size 8' x 15', in the front yard with a proposed setback of 21' where 100' is required per Article 3.1, C, 11, a, located at 595 Birney Lane (Book 500, Page 331, Parcel 87), submitted by Rylan A. Babbs, property owner, zoned "AA" Residence. **Mr. Sheckels** seconded.

Vote: 5 Yeas

Decision and Journalization of Case 19-2024 BZA

Mr. Halpin motioned to grant a variance request to allow habitation in a recreational vehicle where habitation in a recreational vehicle is not permitted per Article 5.3, l, 1, b of the Anderson Township Zoning Resolution, located at 6859 Five Mile Road (Book 500, Page 330, Parcel 130) submitted by Brian and Molly E. Gerbus, on behalf of Molly E Gerbus TR, property owner, zoned "AA" Residence, with two (2) additional conditions. **Mr. Lawrence** seconded.
Vote: 5 Yeas

Decision and Journalization of Case 20-2024 BZA

Mr. Halpin motioned to grant a variance request for an accessory structure, a circular 18' diameter above ground pool with an attached deck, located in the front yard of a double frontage lot where accessory structures are only permitted in the rear yard per Article 5.2, A, 7 of the Anderson Township Zoning Resolution, located at 752 Pickwick Drive (Book 500, Page 111, Parcel 105), submitted by Michelle White, property owner, zoned "B" Residence, with one (2) additional conditions. **Mr. Nye** seconded.
Vote: 5 Yeas

Decision and Journalization of Case 21-2024 BZA

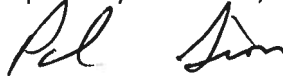
Mr. Nye motioned to grant multiple variance requests to allow two accessory structures in the front and side yards, both size 12' x 12' where accessory structures are only permitted in the rear yard per Article 5.2, A, 7, and one agricultural structure, size 8' x 15', in the front yard with a proposed setback of 21' where 100' is required per Article 3.1, C, 11, a, located at 595 Birney Lane (Book 500, Page 331, Parcel 87), submitted by Rylan A. Babbs, property owner, zoned "AA" Residence, with two (2) additional conditions. **Mr. Halpin** seconded.
Vote: 5 Yeas

Mr. Sheckels moved to adjourn, **Mr. Halpin** seconded. Meeting adjourned with unanimous consent and with no objections from the Board.

The next meeting is scheduled for Thursday, October 5, 2024, at 5:30 p.m. at the Anderson Center.

The meeting was adjourned at **7:09 pm**.

Respectfully submitted,



Paul Sian, Chair

