



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 17-2021 BZA

2574 LITTLE DRY RUN ROAD

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON OCTOBER 7, 2021

**APPLICANT:** Emily Handke of Emily Handke Design, on behalf of Brian & Sarah Blazer, Property Owners

**LOCATION & ZONING:** 2574 Little Dry Run Road  
(Book 500, Page 220, Parcel 192) – “A-2” Retail

**REQUEST:** A conditional use and variance request to allow for a new single-family residence with an Accessory Apartment with a rear yard setback of 18’-3” where 35’ is required per Article 3.4, C, 2 c of the Anderson Township Zoning Resolution. Per Article 5.4, I, 1, Accessory Apartments are a conditional use in the “A-2” Residence Zoning District as defined in Article 6.1, as follows:

*“A single dwelling unit apartment intended for use as a complete independent living facility that is in the same structure as, under the same ownership as, and subordinate to a residence constructed as a single-family residence, and with one of the two dwelling units occupied as the principal residence of the owner.”*

**SITE DESCRIPTION:**  
*Tract Size:* 0.762 Acres  
*Frontage:* Approximately 16’ on Little Dry Run  
*Topography:* Lot slopes down to the east  
*Existing Use:* Vacant

<b>SURROUNDING CONDITIONS:</b>	<u>ZONE</u>	<u>LAND USE</u>
North:	“A” Residence	Single Family Residences
South:	“A-2” Residence	Single Family Residences
East:	“A-2” Residence	Single Family Residences
West:	“A-2” Residence	Single Family Residences

**PROPOSED DEVELOPMENT:** The applicant is proposing to construct a new single-family residence on a vacant lot with a rear yard setback of 18’-3” where 35’ is required per Article 3.4, C, 2, c of the Anderson Township Zoning Resolution. The applicant is also proposing an Accessory Apartment as a separate dwelling unit on the 2<sup>nd</sup> floor of the single-family house, which would be accessed by an exterior staircase in the rear yard area.

The lot would be accessed by the existing gravel private drive, which is in a driveway easement, on the west property line of the lot. The applicant is proposing to pave the portion of the driveway within the easement with asphalt and with concrete by the proposed house and garage area.

There is currently a shed in the front yard area of the property which would be demolished by the applicant prior to construction of the house.

**HISTORY:**

The lot is currently a vacant panhandle lot off of Little Dry Run Road and was purchased by the current owner in May 2021. According to Hamilton County Auditor records, the parcel was created with a minor land division in 1966.

The lot is accessed by a gravel private drive that also provides access to the single-family residence south of the property in question at 2570 Little Dry Run Road. The house at 2570 Little Dry Run Road was constructed in 1947 and was granted a variance with Case 9-2011 BZA for the existing pool in the side yard area.

The applicant submitted a rear yard setback variance application for Case 17-2021 BZA for the September 2, 2021 BZA meeting. However, the case was continued to the October meeting after it was determined that the proposal included the Accessory Apartment conditional use a week prior the meeting. After being continued, a revised letter and architectural plans / elevations were submitted by the applicant.

**FINDINGS:**

To authorize by the grant of a special zoning certificate after public hearing, the Board of Zoning Appeals shall make a finding that the proposed conditional use is appropriate in the location proposed. The findings shall be based upon the general considerations set forth in Article 2.12, D, 2, a as well as the designated specific criteria for specific uses (Accessory Apartment) contained in Article 5.4, I, 1. In addition, the applicant is requesting a variance from Article 3.4, C, 2, c of the Zoning Resolution, for which the findings will be based upon the standards set forth in Article 2.12, D, 2, b.

**CONDITIONAL USE  
FINDINGS:**

General Considerations in Article 2.12, D, 2, a:

*Spirit and Intent: The proposed use and development shall comply with the spirit and intention of the Zoning Resolution and with District purposes.*

The proposed use and development would comply with the spirit and intention of the Zoning Resolution and with District purposes by meeting the conditional use standards.

*No Adverse Effect: The proposed use and development shall not have an adverse effect upon adjacent property, or the public health, safety, and general welfare.*

The proposed single-family house and Accessory Apartment would not have an adverse effect upon adjacent properties, as the proposed staircase to the Accessory Apartment would be shielded by the existing vegetative screen. Further, the applicant stated in the submittal letter that additional vegetation would be planted.

Protection of Public Services: *The proposed use and development should respect, to the greatest extent practicable, any natural, scenic, and historic features of significant public interest.*

The proposed single-family house and Accessory Apartment would respect natural and scenic features, as the existing vegetative buffer to the south would be preserved and shield the exterior staircase to the Accessory Apartment from the residence to the south.

Consistent with Adopted Township Plans: *The proposed use and development shall, as applicable, be harmonious with and in accordance with the general objective of the Township's Comprehensive Plan and/or Zoning Resolution.*

The conditional use is consistent with the following goals and initiatives in the "People and Housing" chapter in the 2016 Comprehensive Plan, which states:

"The Township will be comprised of high-quality neighborhoods with diverse, well-maintained housing."

"The Township should provide a variety of businesses and housing options to meet changing demographics and market demands."

"Encourage the development of a variety of housing styles and densities in appropriate areas of the township."

#### Specific Criteria

*Accessory Apartment – (m), (p,i), (q), (y)*

*(m) No exterior alterations of an existing structure shall be made that depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood. However, any improvement required by code or necessitated by licensing requirements shall not be deemed incompatible. In compliance – The accessory apartment is designed to fit in with the overall design of the house. Further, if the staircase in the rear yard were eliminated and the 2<sup>nd</sup> floor Accessory Apartment area were to be accessed from the first floor, a conditional use hearing would not be required based on the definition for Accessory Apartment in Article 6.1.*

*(p) Signage shall be regulated as follows: (i) No signs shall be erected except those exempt under Article 5.5, D, 3. In compliance – No signage is being proposed.*

*(q) The conditional use shall be subordinate to the principal permitted use with regard to usage and character. In compliance*

(y) *The intensity of the particular use shall be evaluated with regard to the location, size, and configuration of the tract.* **In the applicant's submittal, it states that the size of the Accessory Apartment would be 832 square feet and the size of the primary residence would be 5,136 square feet. However, sole access to the Accessory Apartment would be through the staircase in the rear yard area, which requires a rear yard setback variance of 18'-3" where 35' is required.**

**VARIANCE FINDINGS:**

Staff is of the opinion that the variance is not substantial due to the existing vegetative screening between the proposed house and the residence to the south. Further, the location of the proposed house is approximately 295' from the adjacent residence to the south.

The essential character of the neighborhood would not be altered and adjoining properties would not suffer a substantial detriment as a result of the variance. The house is oriented towards the private drive so the front and rear yard areas of the proposed house would function more as a side yard.

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

The property owner's predicament can be feasibly obviated through some other method other than a variance. The applicant could orient the residence to face Little Dry Run Road or reduce the size of the proposed residence to come into compliance with the setback requirements of the "A-2" Residence zoning district.

Staff is of the opinion that the spirit and intent behind the zoning requirement would be observed by granting the variance based on the vegetative screen to the south, the distance to the residence to the south and the orientation of the house towards the private drive.

**STAFF  
RECOMMENDED  
CONDITIONS**

Should this variance request be approved; Staff recommends the following conditions:

- 1) A revised site plan shall be submitted that is stamped by a Registered Surveyor.
- 2) A landscape plan shall be submitted and approved by staff prior to a zoning certificate being issued. The landscape plan should demonstrate a vegetative screen that shall be maintained on the southern portion of the property to screen the exterior staircase in the rear yard. The landscape plan shall note the location of all existing plant species and any new plant species that will screen the exterior staircase in the rear yard area.

**STANDARDS TO  
BE CONSIDERED:**

The aforementioned conditional use request should be evaluated on the

following criteria from Article 5.4, I, 1 of the Zoning Resolution:

- (1) Spirit and intent. The proposed use and development shall comply with the spirit and intention of the Zoning Resolution and with purposes.
- (2) No adverse affect; the proposed use and development shall not have an adverse affect upon adjacent property, or the public health, safety and general welfare.
- (3) Protection of public services: the proposed use and development should respect, to the greatest extent practicable, any natural, scenic, and historic features of significant public interest.
- (4) Consistent with adopted plans; the proposed use and development shall, as applicable, be harmonious with and in accordance with the general objective of the Township's comprehensive plan and/or Zoning Resolution.

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.*