

**ANDERSON TOWNSHIP BOARD OF ZONING APPEALS  
OCTOBER 6, 2022**

The Anderson Township Zoning Appeals held a regular meeting, duly called, on October 6, 2022, at 5:30 p.m. at the Anderson Center. Present were the following members:

**Paul Sheckels, John Halpin, Paul Sian, Jeff Nye, and Brian Johnson, Alternate**

Also, present when the meeting was called to order, Sarah Donovan, Assistant Director, Brendan Cloutier, CO-OP, Lauren Gleason, Planner I, and Chris Cavallaro, Planner I. 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. Sheckels**: 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. Sheckels**.

**Approval of Agenda**

**The Agenda for October 6, 2022 was approved by unanimous consent with no objections from the Board.**

**Approval of Minutes**

**The Minutes for August 4, 2022 were approved by unanimous consent with no objections from the Board.**

**The Minutes for September 1, 2022 were approved by unanimous consent with no objections from the Board.**

**Consideration of Case 25-2022 BZA**

**Mr. Cavallaro** stated that the public hearing was for Case 25-2022. The request was filed by Amanda and David Scheller, property owners, located at 8506 Forest Rd, (Book 500, Page 112, Parcel 51) zoned “A-2” Residence.

**Mr. Cavallaro** stated that the applicant is requesting a conditional use to allow a Short Term Rental (STR). Short Term Rentals are a conditional use in a single-family zoning district, per Article 5.4, I, 15 of the Anderson Township Zoning Resolution. The definition of a ‘Short Term Rental’ is as follows: *The rental of a primary residence or portion thereof for a period of less than 30 nights, for which the guest compensates a hosting platform, owner, or lessee of the unit.*

**Mr. Cavallaro** stated that the tract size was .52 acres and had approximately 76’ of frontage on Forest Road. The topography was flat. The surrounding property to the north, south, east, and west is “A-2” Residence.

**Mr. Cavallaro** stated that the applicant had proposed to operate a Short Term Rental in an existing single-family residence. The applicant has not proposed any changes to the exterior of the property.

**Mr. Cavallaro** stated that the house was constructed in 1951 and the current property owner purchased the property in March of 2022. On August 5, 2022, the Township received a complaint of a Short Term Rental at the property and a violation letter was sent on August 11, 2022. Ms. Sheller stopped in the office on August 15, 2022, to discuss how to resolve the violation.

**Mr. Cavallaro** In April 2020, the Anderson Township Board of Trustees adopted text amendments to the Zoning Resolution which made Short Term Rentals a conditional use in single-family residence zoning districts.

**Mr. Cavallaro** To authorize by the grant of a special zoning certificate after a 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, 8 as well as the designated specific criteria for specific uses (Short Term Rental) contained in Article 5.4, I, 15.

**Mr. Cavallaro** stated the spirit and intent: 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.

**Mr. Cavallaro** stated the no adverse effect: The proposed Short Term Rental would not have an adverse effect upon adjacent property, or the public health, safety, and general welfare. The applicant has indicated that the property has multiple exterior motion-triggered cameras watching over the entire property. The applicants live next door to the property and can monitor it.

**Mr. Cavallaro** stated the protection of public services: The proposed Short Term Rental will respect natural, scenic, and historic features of significant public interest. The applicant has not changed the exterior of the existing single-family residence.

**Mr. Cavallaro** stated the consistent with adopted Township plans: The proposed Short Term Rental is consistent with the Anderson Township Zoning resolution as the short-term rental is compliant with the height and setback requirements for the property.

**Mr. Cavallaro** stated the conditional use is in accordance with the following areas of the Township's Comprehensive Plan: The project is consistent with the following goal and initiative in the "Housing" chapter in the 2022 Comprehensive Plan, which states: "Anderson Township is home to diverse housing options to meet changing demographics and market demands" and "Encourage the development and redevelopment of a variety of housing styles and densities in appropriate areas of the township". This property is designated for a single-family residential use on the Future Land Use Map, staff feels as though the proposed Short Term Rental is consistent with this use classification.

**Mr. Cavallaro** stated that Short-term Rental (f), (h), (l), (m), (s), (v), (x), (z); (f) Parking shall not be permitted in the area defined as the front yard setback of the existing zone district. In

compliance. (h) The vehicular use area shall be located and designed so as to minimize impact on the neighborhood. In compliance. (l) Measures shall be taken to minimize the impact of potential nuisances such as noise, odor, vibration, and dust on adjacent properties. Compliant – the applicant has established quiet hours, no parties or events, and no smoking or drugs. There is an electronic locking system and cameras on site. Applicants live at the residence directly west of the property and will be notified of any potential nuisances. (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. Compliant – no proposed changes to the existing structure other than fresh paint when needed. (s) All exterior lighting shall be directed away from adjacent residential properties. Compliant – no changes to lighting proposed. (v) The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents along with a structured procedure whereby resident's grievances may be filed with the Township and resolved by the facility. Compliant – contact information has been distributed to surrounding neighbors and property owners who live next door. (x) Meals shall be served only to guests or residents of the facility and not to the general public. Compliant – no meals will be served. (z) An emergency response plan shall be submitted detailing safety measures and response procedures. Compliant – an emergency plan is provided with emergency information. The property is equipped with fire extinguisher, smoke detectors, and carbon monoxide detector.

**Mr. Cavallaro** stated that staff was of the opinion that the Board of Zoning Appeals applies the condition that the property either be locally owned or have a local property manager to comply with conditions "l" and "v".

**Mr. Cavallaro** stated that the aforementioned conditional use request should be evaluated on the following criteria from the Zoning Resolution: Short-term Rental (f), (h), (l), (m), (s), (v), (x), (z); In determining whether to grant a special zoning certificate, the Board shall consider and apply the following standards: 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 effect; the proposed use and development shall not have an adverse effect 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.

**Mr. Sheckels** asked if there were any questions for staff.

**Mr. Sian** asked about the complaint filed that was mentioned in the 'History' section of the staff report.

**Ms. Donovan** stated that the complaint happened prior to Ms. Gleason and Mr. Cavallaro joining the staff and that Anderson Township Planning and Zoning received a complaint regarding an Air bnb being on this property. It was an anonymous complaint and we don't know

their proximity, but we're a complaint based system, so if we receive a complaint we have to look into it. We were able to find the property on Air bnb's website.

**Mr. Sheckels** asked that the complaint was just for operating an Air bnb, not for noise or parties?

**Ms. Donovan** stated no, it's just that there was an Air bnb.

**Mr. Sheckels** asked if the appellant or appellant's representative will please come to the podium, speak their name, address, affiliation, and present their appeal.

**Mrs. Amanda Scheller** at 8492 Forest Road, also property owner of 8506 Forest Road stated that her husband (David Scheller) and herself are there to request approval of 8506 Forest Road for the conditional use as a Short Term Rental.

**Mrs. Scheller** stated her husband and herself live at 8492 Forest Road which is directly next door to 8506 Forest Road. They have lived at 8492 Forest Road for 16 years and purchased 8506 Forest Road in March 2022. Since moving in to 8492 Forest Road, always dreamed to purchase 8506 Forest Road so that one day it could serve as an accessible one-story home for their parents.

**Mrs. Scheller** stated that she and her husband grew up in Anderson Township and their parents still reside in the area. Both of their siblings reside all over the country and they (Mr. and Mrs. Scheller) are the only ones that are still in the area. If their parents need additional care in the future, they (Mr. and Mrs. Scheller) would be responsible for taking care of them. Parents are currently in good mental and physical health, so in the meantime they needed to find another solution for the property. So, with this reason, they decided to move forward with the Short Term Renting.

**Mrs. Scheller** stated this is especially because their siblings live out of town and they have limited space in their home and they wanted 8506 Forest Road to serve as a place for their family to come and stay when they come back to Cincinnati to visit. Also, they can make an adjustment where that if something does occur and they have to take in their parents, they can make that adjustment.

**Mrs. Scheller** stated that she understands what people think when they hear and Air bnb is popping up next door, they assume that it's going to turn into a loud party house, and that's absolutely not what her or her husband want, especially since they live right next door. They set up their contract and reservations to limit any impact to the neighbors or neighborhood. Some examples are, but not limited to, requiring a government ID to be issued to the person that is reserving the property for any reservation that is made. There is a two (2) night minimum that's priced to deter anyone looking to come to town to throw a party. Their contract also includes: quiet hours, no smoking or drug use on the property, renters must be 25 years old or older, limit to four (4) cars in the driveway (only allowed to be in the driveway), no parties or events (if a party or event is to happen it will result in immediate eviction), no additional guests are allowed on the property unless renters notify Mr. and Mrs. Scheller first. All of these items are listed on

the website and in the contract and the contract has to be agreed to in order to move forward with the reservation. There is also an electronic locking system to enter the home and there are multiple cameras that send notifications/ emails of movement, and also has DVR recall. With their (Mr. & Mrs. Scheller) family living directly next door, if noise, vibration, odors, noise, dust occur within the view of them or the cameras, they will be the first to know and step-in to mitigate a nuisance. The surrounding neighbors all have their cell-phone numbers and know they can reach them at any time.

**Mrs. Scheller** stated that they have a 9 (nine) and twelve (12) year old living next door at 8492 Forest Road, and with the short-term rental next door, not only do they not want guests throwing parties, but they want to make sure their children and their children's friends are safe. They've decorated and marketed the home to make it family friendly and provide things that make it more appealing to families such as: highchairs, pack and plays, toddler tables, bumpers on corners, and kids play house. Marketing has been working as seen by examples of visitors who've stayed. Wonderful way for people and families to come back to Anderson to visit and celebrate family or a break away from a different city.

**Mrs. Scheller** requested approval of 8506 Forest Road for the conditional use as a Short Term Rental. Thank you very much.

**Mr. Sheckels** asked if there were any questions from the board.

**Mr. Nye** stated that one of the things when we approve conditional uses or variances, they run with the property, not with the owner. So, if we approve this and you sold it tomorrow, next year, next decade, it's approved. I think we have some authority to place some conditions on that, such as you can use the Short Term Rental as long as you live next door, is that a condition you are open to in this sort of situation?

**Mrs. Scheller** stated that she would prefer 'the area', they (she and her husband) don't plan to leave Cincinnati, and plan is to stay at 8492 forever. So, yes, but could it be something like 'greater Cincinnati area' and be able to set up some additional things for the property to make sure they can step in. They wouldn't ever go anywhere far, but it could be maybe down the street.

**Mr. Nye** stated that he understands and appreciates what she was saying. We struggle with making sure we protect the neighborhood.

**Mrs. Scheller** stated absolutely that she appreciates that, she lives here.

**Mr. Nye** stated okay, understood thank you.

**Mr. Sheckels** asked any other questions from the board.

**Mr. Sian** asked to clarify that Mrs. Scheller is self-managing this correct.

**Mrs. Scheller** stated yes.

**Mr. Sheckels** asked if there was anyone who'd like to speak in support of the appeal, please come to the podium and state your name, address, and relationship to the property.

**Mrs. Sherry Snider**, property owner (with husband) of 8489 Forest Road, stated this home is across the street from the Schellers, Mr. and Mrs. Snider also own property that is across the street from 8506 Forest Road, 8507 Forest Road and have a family member that lives there. She completely supports the Scheller's in their Short Term Rental proposal, they are amazing neighbors that take wonderful care of their property and have no concerns that they will do anything differently at 8506 and feel confident that if there were ever any issues to arise that they would take care of them quickly. They (she and her husband) also happen to live in the Cincinnati area but have no relatives that live here... so when they come in we would love to have the option to have their (Mr. and Mrs. Snider's) relatives stay at 8506 Forest Road and rent from the Schellers. It's a win-win for them, and she hopes that the Board of Zoning Appeals will support their proposal.

**Mr. Sheckels** asked if there were any questions from the board.

**Mr. Sheckels** asked if there was anyone else who'd like to speak in support of the appeal.

**Mr. Sheckels** asked if there was anyone who'd like to speak in opposition to the appeal.

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

**The public hearing was closed at 5:55 pm.**

#### **Deliberation of Case 25-2022 BZA**

The board discussed the conditional use request for a Short Term Rental located at 8506 Forest Rd, (Book 500, Page 112, Parcel 51) zoned "A-2" Residence. Short Term Rentals are a conditional use in a single-family zoning district, per Article 5.4, I, 15 of the Anderson Township Zoning Resolution. The definition of a 'Short Term Rental' is as follows: The rental of a primary residence or portion thereof for a period of less than 30 nights, for which the guest compensates a hosting platform, owner, or lessee of the unit. The board discussed in detail and took a straw vote.

Vote:                      3 Yeas  
                                    2 Nays

**Mr. Nye** Motioned  
**Mr. Sian** Seconded

**Mr. Johnson - Nay**  
**Mr. Nye - Yea**  
**Mr. Sian - Yea**

**Mr. Halpin - Yea**  
**Mr. Sheckels - Nay**

**Mr. Sian** moved to come out of executive session, **Mr. Halpin** seconded the motion.

#### **Consideration of Case 26-2022 BZA**

**Mr. Cavallaro** stated that this public hearing was for case 26-2022 BZA. The request was filed by Don Thomas, land lease holder, located at 7150 Ragland Rd., #23, (Book 500, Page 230, Parcel 011-) zoned "A" Residence.

**Mr. Cavallaro** stated that the applicant is requesting a variance to allow a new addition with a front yard setback of 11'-3" where 50' is required, per Article 3.3, C, 2 of the Anderson Township Zoning Resolution.

**Mr. Cavallaro** stated that the tract size is 1.12 acres, and approximately 112' on a private drive within the Hermitage Club. The topography slopes from the northwest to the southeast downhill to a wooded creek. The existing use is Single Family Residence. The surrounding land use conditions are to the north: "A" Residence Single Family Residences, south: "A" Residence Single Family Residences, east: "A" Residence Single Family Residences and to the west "A" Residence Single Family Residences.

**Mr. Cavallaro** stated the applicant had proposed the construction of a new addition (including carport, pantry, laundry room, and family room) to be located in the front yard setback of Lot #23 of the Hermitage Club. The applicant is proposing a front yard setback of 11'-3" where 50' is required. The existing home is non-conforming and currently has a setback of 25'. Also, the existing home sits on an angle compared to the drive where the new addition would have a setback of 25'-7" to the north and 11'-3" to the northwest. For the purposes of determining a 'front yard setback', the 11'-3" is used. The carport area of the new addition is located in the northwest portion of the addition that would cause the front yard setback to be changed to 11'-3'. The applicant stated that the structure will copy the historic nature of the home which includes uplifted gables and continuing the roofline of the porch on the ground level. The addition will include a fourth uplifted gable. The area is heavily wooded with a downward sloping property from the road.

**Mr. Cavallaro** stated that the property was developed as a single-family residence within the Hermitage Club. The Hermitage Club is a corporation founded around 1920, owning 244-acres of wooded land in Anderson Township. Twenty-seven members jointly own the property, and each member leases one acre as a personal leasehold and residence.

**Mr. Cavallaro** stated that the majority of homes were constructed prior to current Anderson Township Zoning Regulations and have nonconforming front yard setbacks. The Hermitage Club Architectural Committee and the Board of Directors have approved the proposed addition to the structure at 7150 Ragland #23.

**Mr. Cavallaro** stated that in April 2022, the Board of Zoning Appeals heard Case 8-2022 where Lot #22 of the Hermitage Club (located to the northwest of Lot #23) requested a variance for a new single-family house with a front yard setback of 34'-9" where 50' is required. The new residence would be 18' further from the private drive than the previous residence. The variance was granted with two conditions.

**Mr. Cavallaro** stated 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 variance is appropriate in the location proposed. The finding shall be based upon the general considerations set forth in Article 2.12, D, 2, b.

**Mr. Cavallaro** stated that staff is of the opinion that the variance would not be substantial. While the front yard setback would become 11'-3" when it is now 25' (nonconforming), the proposed addition will copy the historic nature of the home which is on a private drive and neighbors cannot directly view the house. There are only six (6) additional homes that this private drive serves past lot #23.

**Mr. Cavallaro** stated that 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 applicant has proposed the design of the new addition to keep in character of the historic nature of the current home. Further, Mr. Robert Cuti, Vice President of the Hermitage Club, has written a letter of support for the new addition.

**Mr. Cavallaro** stated that the variance would not adversely affect the delivery of governmental services.

**Mr. Cavallaro** stated that the property owner's predicament could not be feasibly obviated through some method other than a variance. The property is located on heavily wooded lot, especially to the south and east parts of the lot with slightly steep grade from the private drive to the proposed location for the addition. The driveway is located to the west (comes in at an angle from the northwest). There is also a covered porch that surrounds three sides of their property to the northwest, southwest, and southeast. The proposed location on the northeast side, is the only feasible area to locate an addition without destroying portions (or all) of the home and its historical nature

**Mr. Cavallaro** stated that staff is of the opinion that the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance based on the following: The new addition would be architecturally similar to the existing home, the letter of support from the Hermitage Club Vice-President, the existing home is already nonconforming with a front yard setback of 25', whereas 50' is required. The current request is for 11'-3" front yard setback; this setback is to a private drive that serves six (6) additional homes.

**Mr. Cavallaro** stated that the aforementioned variance requested should be evaluated on the following criteria: 1) The property in question would yield a reasonable return or whether there can be any beneficial use of the property without the variance. 2) The variance was 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.

**Mr. Sheckels** asked if there were any questions for the staff.

**Mr. Sheckels** asked if the appellant or appellant's representative would please come to the podium, speak their name, address, affiliation, and present their appeal.

**Mr. Don Thomas** property owner (with wife) at 7150 Ragland Road Lot #23, stated he is seeking a zoning variance. As mentioned the Hermitage Club is a group of 27 stockholders who own approximately 244 acres of land in Anderson Township as well as a few parcels in Village of Newtown. Each stockholder owns their own home located on this property and we have a 99-year lease which they receive for \$1. The Hermitage Club is the lesser of their properties and maintains the right to approve or disapprove any addition, fence, paint color, or any other changes to the exterior of the leasehold. Club bylaws established an architectural committee that is charged with working with members who wish to make changes. The chair of this committee is a retired well-known architect. This committee then makes a recommendation to the board of directors who have the final right to approve or disapprove changes. The Board of Directors for the Hermitage Club approved the proposal for Lot #23 on August 30<sup>th</sup> 2022, in their board meeting and he enclosed a letter from the board Vice President Bob Cuti indicating board approval. He (Mr. Thomas) stated he currently serves as president to the board, he did not vote on the proposal or participate in the meeting; he left the meeting and did not participate in discussion.

**Mr. Thomas** stated both his wife and him are in their 70's and when they leased the property at 7150 Ragland Lot #23, with 2 (two) stories because it was next to their oldest daughter and 4 (four) grandchildren. All 4 (four) of their children are concerned about the steps that they walk as the bedroom is on the second story and washer and drier, as well as the garage are in the basement. When they bought this house, they told their children that they would try to set it up as single story living if that were necessary. This past year they added a bathroom on the first story as part of this process.

**Mr. Thomas** stated that 7150 Ragland Road Lot #23 is approximately 100 years old and looking at the pictures it was likely the nicest house in the Hermitage Club when it was built because originally they were hunting and fishing shacks and some were residences. Originally it was a large great room with a small kitchen and dining area that was surrounded by a porch that wrapped around three sides of the house. Parts of this porch have been winterized and used as entry room, office, dining room, and kitchen.

**Mr. Thomas** stated that he and his wife are proposing to follow the porch motif on the fourth side of the house and to add a carport and a pantry and a family room that could easily be

converted to a bedroom should either of them not be able to do stairs any longer at some point in time. Part of the proposal is also 40sqft on the second floor adjoining the second floor bathroom as a primary laundry area. This small addition would have an uplifted gable that matches the other three uplifted gables of the house. There is a single lane road that passes their house and as it was mentioned, their house already violates zoning requirements. Three (3) of the six (6) people that live beyond him are board members (of the Hermitage Club) and all voted to approve his proposal. Since they (Mr. and Mrs. Thomas) live in a heavily wooded area their house is only visible to one other house that is currently under construction, it had a variance that the Board of Zoning Appeals granted several months ago. They (Mr. and Mrs. Thomas) request that this variance is granted because it will fit with the historic nature of the home, make the home more livable for people their age, and will be of no inconvenience or distress to their neighbors.

**Mr. Thomas** stated he had one other request; as he understands if the variance is granted it lasts with the property and a year to start construction and two (2) years to complete it. Last week they released their contractor because of major disagreements over finances, they are beginning the process of finding a new one and he is concerned with that and during the recent tragedy of the hurricane in Florida that there may be issues with building materials and getting them in a timely manner. So, if this variance is to be approved, he requests two (2) years to start construction and three (3) years to complete.

**Mr. Sheckels** asked if it's two years and then an additional year to complete, just want to clarify that.

**Mr. Thomas** stated yes.

**Mr. Sheckels** asked if there were any questions from the board.

**Mr. Sheckels** asked if there's anyone who would like to speak in support of the appeal.

**Mr. Sheckels** asked if there was anyone there who would like to speak in opposition to the appeal.

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

**The public hearing was closed at 6:24 pm.**

#### **Deliberation of Case 26-2022 BZA**

The Board discussed the request for a variance for an addition located at 7150 Ragland Rd., #23, (Book 500, Page 230, Parcel 011-) zoned "A" Residence. The front yard setback would be 11' -3", where 50' is required, per Article 3.3, C, 2 of the Anderson Township Zoning Resolution. The board discussed in detail and took a straw vote.

Vote: 5 Yeas

**Mr. Sheckels** Motioned

**Mr. Sian** Seconded

**Mr. Johnson - Yea**

**Mr. Nye - Yea**

**Mr. Sian - Yea**

**Mr. Halpin - Yea**

**Mr. Sheckels – Yea**

**Mr. Nye** motioned to come out of executive session, **Mr. Sian** seconded the motion.

#### **Consideration of Case 27-2022 BZA**

**Mr. Cloutier** stated that the public hearing was for Case 27-2022. The request was filed by Joseph and Julien Kanney, property owners, located at 7711 Stoneleigh Lane, (Book 500, Page 212, Parcel 338), zoned "B" Residence.

**Mr. Cloutier** stated that the applicant is requesting a variance request for an elevated partially covered deck size 15'x 18' in the rear yard area with a setback of 20', where a 35' setback is required.

**Mr. Cloutier** stated that the tract size is .25 acres, and approximately 61.71 of frontage on Stoneleigh Lane. The topography is mostly flat and slopes to the rear. The existing use is Single Family Residence. The surrounding land use conditions are to the north: "B" Residence Single Family Residences, south: "B" Residence Single Family Residences, east: "B" Residence Single Family Residences and to the west "B" Residence Single Family Residences.

**Mr. Cloutier** stated that the applicant had proposed the construction of an elevated partially covered deck addition to the existing home located in the rear yard. The covered portion of the deck would be 15' x 18'. The structure would be constructed out of materials that match the existing single-family home and provide sunlight protection as the rear of the house faces directly west. The applicant stated that during hot summer months the existing back patio becomes unusable with their 2 young children.

**Mr. Cloutier** stated that this home was built in 2016 as part of the Hunter's Run at Anderson subdivision.

**Mr. Cloutier** stated that in October 2015, the Board of Zoning Appeals heard Case 26-2015 where 7866 Stoneleigh Lane (Fox Hollow Subdivision) requested a variance to allow a rear yard setback of 26'-7" for a 16' x 18' addition (four season room addition and two (2) uncovered decks), where a setback of 35' is required. The variance was granted with two (2) conditions.

**Mr. Cloutier** stated that in June 2018, the Board of Zoning Appeals heard Case 8-2018 where 7723 Stoneleigh Lane (Hunter's Run at Anderson Subdivision, two (2) houses south of property currently requesting variance) requested a variance to allow a rear yard setback of 24' for a 14' x 21' addition (placing roof on existing patio), where a setback of 35' is required. The variance was granted with two (2) conditions.

**Mr. Cloutier** stated that 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 variance is appropriate in the location proposed. The finding shall be based upon the general considerations set forth in Article 2.12, D, 2, b.

**Mr. Cloutier** stated that staff is of the opinion that the variance could be substantial. While currently built at a setback of 35', the addition would bring the house 20' from the rear property line. Whereas all the houses (except the previously approved variances) on Stoneleigh Lane have been constructed near or at the 35' setback.

**Mr. Cloutier** stated that the essential character of the neighborhood could be substantially altered, and adjoining properties would suffer a substantial detriment as a result of the variance. All the homes on Stoneleigh Lane appear to be in line based on the location of their property lines. The property currently has a concrete patio in the location where the addition would go. By constructing this addition to the rear of the house, it will leave 20' between the rear of the existing house and the property line. Planted on the property line is a screen of Norway spruce trees, approximately 10'+ tall, which provide an effective separation between this property and the rear adjoining properties. The rear of the house, where the addition will be is slightly visible from Stoneleigh Lane. The property owner's intent is to match the addition with the existing building materials to fit the character of the neighborhood.

**Mr. Cloutier** stated that the variance would not adversely affect the delivery of governmental services (i.e. water, sewer, garbage).

**Mr. Cloutier** stated that the property owners' predicament would not be feasibly obviated through another method other than a variance. Their existing home is already 35' from the rear property line, the required rear yard setback, leaving no additional room to build an addition to the home in the rear.

**Mr. Cloutier** stated that The spirit and intent behind the zoning requirement may not be observed and substantial justice done by granting the variance. There are homes on the west side of the street of Hunter's Run, all constructed near the 35' required rear yard setback and are experiencing the same circumstances. The subdivision to the west, Foxbrook Place, is also zoned "B", however these lots are larger. While variances were a variance was granted in 20158 for 7866 Stoneleigh Lane, the rear yard setback was 26'-7", and in 2018 for 7723 Stoneleigh Lane, the rear yard set back was 24', whereas the rear yard setback being proposed for this Case (27-2022) is 20'. Staff recommends that the character of the neighborhood be maintained with the existing rear yard setback of 35' in the "B" Zoning District on Stoneleigh Lane.

**Mr. Cloutier** stated that the aforementioned variance requested should be evaluated on the following criteria: 1) The property in question would yield a reasonable return or whether there can be any beneficial use of the property without the variance. 2) The variance was 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.

**Mr. Sheckels** asked if there were any questions from the board.

**Mr. Sheckels** asked if the applicant or the appellant's representative please come to the podium and please speak their name, address, and any affiliation to the case.

**Mr. Joe Kanney** property owner of 7711 Stoneleigh Lane with his wife Julie, stated that the house was built 2016 and they moved in in 2019 with at the time their one (1) year old son. They realized that the rear of the home was unbearable with the amount of sunshine they get. They tried to go the route of purchasing a large oversize umbrella to help combat the sunshine, but realized that that was not going to be a long term solution given the amount of sunshine that they get and where the house is located. Today, their son is 4 (four) years old and a daughter that is almost two (2) years old. They are limited to only playing outside in the front yard or driveway, it can be somewhat difficult trying to keep track of a four (4) year old and two (2) year old playing in the front yard. The house is located in a cul-de-sac and while they don't see a ton of traffic, there is still some traffic coming through, so it is definitely a safety concern and if they do get the approval that it would help alleviate some of that concern with their kids outside.

**Mr. Kanney** stated as mentioned the structure would be to provide relief from the sun, a place for entertaining, and overall improve the quality of life for living in this home. He is not originally from Anderson Township, but his wife is from Anderson Township and they love the neighborhood and have great neighbors. They are willing to make the financial investment in their home because this is where they want to stay. This is a home that they see themselves living in for many, many years.

**Mr. Kanney** stated that looking at the staff report, some of the points there, like that the character of the neighborhood could be substantially altered and the adjoining properties could suffer a detriment; the design plans were submitted to the Hunter's Run HOA and the design review board had viewed and approved it. As mentioned, the structure would have very little visibility from the street. There are a few other homes on the street like 7723 Stoneleigh Lane that received the variance in 2018 and there is no detriment to the character of the neighborhood, rather it's improved it. There are only a few homes that would have sight of the addition, there is the Foxbrook neighborhood behind their house, but there is a large row of spruce trees that are 10' -15' high that is a nice barrier between their home and the ones in Foxbrook. They do have larger lots and setbacks in Foxbrook, so he doesn't see detriment that his addition would have on those homes. Yes, there are other homes in the neighborhood that are dealing with same circumstances; their home is located on the north side of the street, but as you move further to the south, those homes receive the benefit of larger trees that weren't torn down during the construction of these neighborhoods. Those particular homes receive shade from those trees in the afternoon, whereas their home does not get any shade.

**Mr. Kanney** stated that he wanted to highlight that the predicament would not be feasibly obviated through some method other than a variance, they've tried other options and given the amount of sun they receive in the afternoon through the dinner hour, the umbrella was not a viable option for them long term. For those reasons, he requested approval of the variance to improve the quality of life for his family and for his kids would be greatly improved.

**Mr. Sheckels** asked if there were any questions from the board.

**Mr. Sheckels** asked if staff could look up the two previous cases and see what the conditions were on those. He stated that he will come back to staff later for this information.

**Mr. Sheckels** asked if there was anyone else who'd like to speak in support of the appeal, please come to the microphone, state your name, address, and affiliation.

**Mr. James Bettner**, property owner of 7723 Stoneleigh Lane, stated that he lived two (2) homes away from the Kanneys. Their project was the project that was approved in 2018 for a similar variance. To replay what he and his wife went through, they bought the home in 2016 and lived with the sun and heat and it became apparent that in order for he and his wife to really enjoy their house, they needed some relief. So that's why they requested a variance with the Board of Zoning Appeals when they did. Since then, it was right before that board meeting that there was a record high temperature on Memorial Day weekend and he thought the board recognized how hot it was that weekend. They use their addition (shade over patio) practically every night. They have children and grandchildren that love spending time there because it's outside, but still has protection from the sun, makes the backyard very enjoyable. Mr. Kanney showed Mr. Bettner the type of materials that he would be using and he thinks it's very well done and the space is very well laid out in his opinion. In addition to this, the property value effect; everyone is experiencing property value increases over here, but it's very dramatic and he thought that a part of the reason why it is for his home and neighborhood has been this addition that was put on to their house. He also stated that the Kanney's are some of the nicest folks you'll ever meet and he and his wife were fully behind this project for the Kanney's.

**Mr. Sheckels** asked if there were any questions from the board.

**Mr. Sheckels** asked if there was anyone else who'd like to speak in support of the appeal, please come to the podium, state your name, address, and affiliation.

**Ms. Jennifer Allred** property owner of 7783 Stoneleigh Lane, stated that she is the Kanney's neighbor and was on the neighborhood board when her neighbor's appeal was approved. Currently her husband is the neighborhood board president, and he has seen the plans and approved them to move forward with this variance. She also stated that she is a relator, she sells property in Anderson Township quite often and sells all over Cincinnati. This is a project that will enhance and improve the neighborhood and won't detract in it, in any shape or form. As was stated earlier, the evening sun makes the yard unusable during those evening hours, it is very hot. She stated she lives on the west side of the street and they don't have that evening sun, rather it's morning sun. They built a deck and they debated back and forth whether to go through with a variance to put a roof on their deck in order to enjoy it in the morning.

Eventually, they decided to hold off, but the structure that is being proposed for the Kanney residence is quite beneficial to the home, to the neighborhood, and the aesthetic. She sold the home in 2017 and the previous owners had a semi-permanent pergola structure and it looked tackey. She stated that having a permanent structure that matches the aesthetic of the home improves the value and does not decrease from it in any shape or form. She also stated that she thinks people have the right to enjoy their property, both inside and out, and at this moment they can't because of the conditions of the exterior. She stated she hopes they can enjoy their outdoor space as well.

**Mr. Sheckels** asked if the neighborhood association has formally reviewed and approved the plans.

**Mrs. Allred** stated yes, that is part of the process for them even to apply for a variance.

**Mr. Nye** asked what Mrs. Allred's house number was.

**Mrs. Allred** stated 7783, they are the very first house on the left coming into the neighborhood and then the street turns.

**Mr. Sheckels** asked if there was anyone else that would like to speak in support, please state your name, address, and affiliation.

**Mr. Jason Plumton**, property owner at 7724 Stoneleigh Lane, stated that it is the house directly across from the Kanney's. He stated he wanted to formally say that he wholeheartedly supports the variance mainly from a property value standpoint. He believes the property value would go up significantly now that they would be able to use and future owners will be able to use that space. He stated he wanted to reinforce the predicament; he has two young kids that play with the Kanney's kids, but unfortunately, they are bound to the front yard which is close to the street. Allowing this variance would allow them to move to the back yard, away from the street and covered in a shady area.

**Mr. Sheckels** asked if there were any questions from the board. Has the staff had the opportunity to look up the other two variances?

**Mr. Cavallaro** stated that staff did find the conditions from Case 8-2018, the first condition—construction shall be started within one year and completed within two years of the date of the decision. Second condition—substantial conformance with the plans dated April 23<sup>rd</sup> 2018. Third condition—that the addition is to remain open permanently and there will be no future addition added to the rear of the home.

**Mr. Sheckels** asked what does that mean by opened permanently, does that mean a screened in porch?

**Mr. Cavallaro** stated that we don't know the circumstances of that.

**Ms. Donvovan** stated that it is open, it doesn't have windows.

**Mr. Sheckels** asked if there was anyone that would like to speak in objection.

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

The public hearing was closed at 6:49 pm.

#### **Deliberation of Case 27-2022 BZA**

The Board discussed the variance request for an (elevated partially covered deck) addition, size 15'x 18', in the rear yard located at 7711 Stoneleigh Lane, (Book 500, Page 212, Parcel 338), zoned "B" Residence. There would be a setback of 20', where a 35' setback is required. The board discussed in detail and took a straw vote.

Vote: 5 Yeas

**Mr. Sheckels** Motioned

**Mr. Sian** Seconded

**Mr. Johnson** - Yea

**Mr. Nye** - Yea

**Mr. Sian** - Yea

**Mr. Halpin** - Yea

**Mr. Sheckels** - Yea

**Mr. Nye** moved to come out of executive session, **Mr. Sian** seconded the motion.

#### **Decision and Journalization of Case 20-2022 BZA**

**Mr. Nye** moved, and **Mr. Sian** seconded to deny Variance A (Accessory Structure/ Shade Structure) request and approve Variance B (Trellis) request in Case 20-2022 BZA with conditions.

Vote Variance A (Accessory Structure)- To Deny: 4 Yeas  
1 Abstain

Variance A- (To Deny) + Variance B (To Approve):

**Mr. Nye** Motioned

**Mr. Sian** Seconded

**Mr. Johnson** - Abstain

**Mr. Nye** - Yea

**Mr. Sian** - Yea

**Mr. Halpin** - Yea

**Mr. Sheckels** - Yea

#### **Decision and Journalization of Case 21-2022 BZA**



**Mr. Sian** moved, and **Mr. Halpin** seconded to approve the conditional use and variance requests in Case 21-2022 BZA with conditions.

Vote:                3 Yeas  
                          2 Abstain

**Mr. Sian** Motioned  
**Mr. Halpin** Seconded

**Mr. Johnson** - Abstain  
**Mr. Nye** – Abstain  
**Mr. Sian** - Yea  
**Mr. Halpin** - Yea  
**Mr. Sheckels** - Yea

#### **Decision and Journalization of Case 25-2022 BZA**

**Mr. Nye** moved, and **Mr. Johnson** seconded to approve the conditional use in Case 26-2022 BZA with conditions.

Vote:                5 Yeas

**Mr. Nye** Motioned  
**Mr. Johnson** Seconded

**Mr. Johnson** - Yea  
**Mr. Nye** - Yea  
**Mr. Sian** - Yea  
**Mr. Halpin** - Yea  
**Mr. Sheckels** - Yea

#### **Decision and Journalization of Case 26-2022 BZA**

**Mr. Nye** moved, and **Mr. Sian** seconded to approve the variance in Case 26-2022 BZA with conditions.

Vote:                5 Yeas

**Mr. Nye** Motioned  
**Mr. Sian** Seconded

**Mr. Johnson** - Yea  
**Mr. Nye** - Yea  
**Mr. Sian** - Yea  
**Mr. Halpin** - Yea  
**Mr. Sheckels** - Yea

**Decision and Journalization of Case 27-2022 BZA**

**Mr. Nye** moved, and **Mr. Sian** seconded to approve the variance in Case 27-2022 BZA with conditions.

Vote: 5 Yeas

**Mr. Nye** Motioned  
**Mr. Sian** Seconded

**Mr. Johnson** - Yea  
**Mr. Nye** - Yea  
**Mr. Sian** - Yea  
**Mr. Halpin** - Yea  
**Mr. Sheckels** – Yea

**Point of Order**

**Mr. Nye** moved to appoint Mr. John Halpin as interim secretary tonight, **Mr. Sheckels** seconded.

**Mr. Johnson** - Yea  
**Mr. Nye** - Yea  
**Mr. Sian** - Nay  
**Mr. Halpin** - Yea  
**Mr. Sheckels** – Yea

The next meeting is scheduled for Thursday, November 3, 2022, at 5:30 p.m. at the Anderson Center.

The meeting was adjourned at **7:16 pm**.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul Sheckels', written over the typed name below.

Paul Sheckels, Chair

