



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 1-2025 BZA

204 EIGHT MILE RD

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON JANUARY 2, 2025

APPLICANT: John and Linda Albers, property owners

LOCATION & ZONING: 204 Eight Mile Road
(Book 500, Page 103, Parcel 18) – “AA” Single Family Residence

REQUEST: A variance request to install an inground swimming pool, size 18’ x 40’, located in the side yard, where pools are only permitted in the rear yard, per Article 5.2, A, 7 of the Anderson Township Zoning Resolution.

SITE DESCRIPTION:
Tract Size: 3.33 Acres
Frontage: Approximately 376’ on Eight Mile Rd.
Topography: Steep slope increasing from west to east.
Existing Use: Single Family Residence

| SURROUNDING CONDITIONS: | <u>ZONE</u> | <u>LAND USE</u> |
|--------------------------------|----------------|-------------------------|
| North: | “AA” Residence | Park (Woodland Mound) |
| South: | “AA” Residence | Single-Family Residence |
| East: | “AA” Residence | Park (Woodland Mound) |
| West: | “AA” Residence | Township Greenspace |

PROPOSED DEVELOPMENT: The applicant is requesting to install an 18’ x 40’ pool in the side yard on the north of the residence. The home faces west (Eight Mile Road) and has an incline west to east. The applicant plans on installing vegetative screening along the west side of the pool along with an impervious apron area around the pool.

HISTORY: There are two zoning certificates on file for the property and one stamp off for a retaining wall in January of 2024. There was a zoning certificate for the construction of a bridge in 2019 and a zoning certificate for a new single-family residence in August of 2021. The residence is currently under construction.

On November 21, 2024, our staff received an application for an inground pool in the side yard area, and on November 25, 2024, staff issued a Notice of Refusal.

The current owners purchased the property in 2019.

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 their 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 is not substantial. The property's steep grade makes accessory structures in the rear yard difficult. Though the pool is located in the side yard of the property, the edge of pavement for the pool is setback approximately 119' from the road and 39' from the adjacent property (Great Parks of Hamilton County parcel) to the north.

Staff is of the opinion that the essential character of the neighborhood would not be altered. There is existing vegetative screening in the front yard area of the property and the applicant stated that they would be installing additional professional landscaping and screening to prevent viewing from Eight Mile Rd. The property to the north and east is a county park that is owned by Great Parks of Hamilton County with significant vegetative screening.

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

Staff is of the opinion that the property owners' predicament cannot be feasibly obviated through some method other than a variance. The applicant stated that they want to preserve as much natural land as possible, including the steep incline in the rear yard. The steep grade of the property makes the placement of the pool in any other location difficult.

Staff is of the opinion that the spirit and intent would be observed by granting the variance. The incline and creek from Eight Mile Road acts as a barrier and lends privacy to the residents on the property and mitigates the impacts on neighboring properties. Though the pool is not located in the rear yard, the location of the pool is setback significantly from any property line. Further, the variance allows the property owner to make the most appropriate use of the land given the challenges with topography on the lot.

**STANDARDS TO
BE CONSIDERED:**

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.