ANDERSON TOWNSHIP BOARD OF ZONING APPEALS
SEPTEMBER 1, 2016

The Anderson Township Board of Zoning Appeals held its regular monthly meeting, duly called, on September 1, 2016, at 5:30 p.m. at the Anderson Center, 7850 Five Mile Road, Cincinnati, Ohio. Present were the following members:

Fred Heyse, Steve Haber, Paul Sian, Yan Nasilevich,

Also, present when the meeting was called to order, Paul Drury, Director, and Betty Cowan, Secretary. A list of citizens in attendance is attached.

Mr. Heyse called the meeting to order, welcomed attendees, and called for swearing in. Persons testifying were asked to stand, raise their right hands and swear or affirm to the following oath as read by Mr. Heyse: Do you swear or affirm, to tell the truth, the whole truth and nothing but the truth, so help you God?

The Board made a motion approve the Agenda as submitted.
Vote: 4Yeas

Mr. Heyse appointed Mr. Haber to be secretary for this evening.

Consideration of Case 8-2016 BZA,

Paul Drury read the staff summary for an appeal filed by Robert M. and Jill A. Storer, property owners, located at 655 Nordyke Road, and described in book 500, page 114, parcel 019, and zoned "AA" Residence.

Mr. Drury stated that applicant requested the Board of Zoning Appeals to grant two variances: Request A: A variance request for a fence height of 6' and solid in the front yard area where a maximum of 4' and 75% open is permitted, per Article 5.2 (A) (9); and Request B: A variance request for an existing accessory building to be located in the front yard, where one is only permitted in the rear yard, per Article 5.2 (A) (7).

Mr. Drury stated that the tract size was approximately 3.96 acres. The frontage was approximately 20' of frontage on Nordyke Road. The topography was flat. The zoning for the surrounding properties to the north, south, east, and west was "AA" Residence.

Mr. Drury stated that the applicant had proposed to replace an approximately 104' long 6' high privacy fence that has collapsed from age and to keep the accessory structure in its current location.

Mr. Drury stated that a zoning certificate was approved in December 2002 approving the construction of the current home with the condition that the existing garage be removed, moved, or go through the BZA process to gain approval. None of these things were ever done by the previous homeowner, however. The issue resurfaced when the current owner inquired to replacing the privacy fence.

Mr. Drury stated the findings for Request A: Staff finds that the variance is not substantial. The starting point of the fence is approximately 400' off Nordyke Road. The essential character of the neighborhood would not be substantially altered and adjoining properties will not suffer a substantial detriment as a result of the variance. The proposed fence is to replace a fence of the same height and type that blocks the view for the property and adjoining properties of the rear Hamilton County Park District Building which includes dumpsters and portable restrooms. The variance will not adversely affect the delivery of governmental services. The property owner's predicament cannot be feasibly obviated through some method other than a variance. Landscaping would not be sufficient in blocking the view of the adjacent property. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. As aforementioned, the starting point of the fence is located approximately 400' off Nordyke Road.

Mr. Drury stated the findings for Request B: Staff finds that the variance is not substantial. The existing garage is located approximately 568' off Nordyke Road and is located behind neighboring garage. The essential character of the neighborhood would not be substantially altered and adjoining properties will not suffer a substantial detriment as a result of the variance. The existing garage is partially shielded by a tree line on the north side and is located behind a neighboring garage. The variance will not adversely affect the delivery of governmental services. The property owner's predicament cannot be feasibly obviated through some method other than a variance. The existing garage could not be feasibly moved to the rear yard and demolition would be costly. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. The existing garage is located behind a neighboring garage.

Mr. Heyse stated that he lived in this area and was on the distribution list of notification but was not familiar with this case and was able to

make a decision on this case. The board members concurred in this assessment.

Robert Storer, property owners, of 655 Nordyke Road, stated Mr. Drury explained the case very well. The previous owner never let us know about this and we would like to keep the existing garage.

Mr. Heyse asked what type of fence you were proposing. **Mr. Storer** replied standard 6' tall privacy fence, dog-eared.

Mr. Haber asked if there is other fencing. **Mr. Storer** replied they have no other fence. The fence you are speaking of belongs to the Park District.

The public hearing was closed at 5:45 p.m.

Consideration of Case 9-2016 BZA,

Paul Drury read the staff summary for an appeal filed by Michael Mauch, RWA Architects, on behalf of Coldstream Country Club, property owner, located 400 Asbury Road, described in book 500, page 181, parcels 001 & 026, and zoned "AA" Residence.

Mr. Drury stated that applicant requested the Board of Zoning Appeals to grant the authorization of a conditional use permit for various improvements to the Coldstream Country Club. A variance is also being requested for the construction of a pool area within the 100-foot setback requirement, per Article 3.1 (E) (4).

Mr. Drury stated that the tract size was approximately 190 acres. The frontage on the western property was approximately 1,750' of frontage on Asbury Road and 450' on Ayers Road. The eastern property was 2710' on Asbury Road. The topography was rolling. The zoning for the surroundings properties to the north was "A" Residence and to the south, east and west was "AA" Residence.

Mr. Drury stated that the applicant had proposed to replace an existing 1960 swimming pool, diving well, baby pool and associated shade structure with a new swimming pool with attached diving area, detached baby pool and associated shade structure, and relocate the existing children's play equipment (Request A). The applicant is also proposing the addition of three new platform tennis court to replace an existing hard tennis court north of the existing pool, with a deck addition off the

north end of the pool building for viewing (Request B). Finally, the applicant is proposing a new Indoor Golf Training Facility for year round practice. The facility will have four practice / teaching bays facing southeast and will be compatible with the existing clubhouse (Request C).

Mr. Drury stated that Coldstream Country Club was established in 1960 and has had four requests before the BZA since the adoption of Anderson Township's Zoning Resolution in 1987. The first, case #27-95, allowed for the construction of the existing pool building within the 100-foot setback requirement. The next two, Case #12-96 and #14-97, allowed for the construction of other additional buildings within the 100-foot setback requirement. The last case, Case #5-10, allowed the construction of two stone entry columns.

Mr. Drury stated that the following criteria are required for conditional uses per Article 5.4 of the Zoning Resolution:

Article 5.4 (I) 14. Recreation, Private or Public Community Facility, including, but not limited to:
b. Country clubs – (d), (f), (g), (h), (n), (o, ii), (p, ii), (s), (y)
c. Swimming and tennis clubs – (d), (e), (h), (i), (l), (n), (o, ii), (p, iii), (q), (r), (s), (u), (y)
d. Golf course – (b), (d), (f), (h), (p, iii), (s), (x);

Specific Criteria
b. Site shall contain a minimum of 20 acres.

Compliant
d. Any structure (except fences), parking area, or storage area shall be setback at least 100 feet from every property line.

A variance is requested for the following setbacks:
- 90.76' for the pool
- 79.49' for the kiddie pool shade structure

e. Setbacks from any adjacent residential property line shall be a minimum of 50 feet for all buildings and 25 feet for all parking areas.

Structures are compliant, no changes are proposed for the parking areas.

f. Parking shall not be permitted in the area defined as the front yard setback of the existing zone district.
Parking exists in the front yard area but no changes are proposed.

g. Use shall have direct access to a collector or arterial street.

Compliant
h. The vehicular use area shall be located and designed so as to minimize impact on the neighborhood.

Compliant - no changes proposed
i. Any use for which drop-off or pickup of children, residents, visitors, products, or emergency vehicles is a common occurrence shall provide for the separation of incoming and outgoing vehicles so as not to impede other traffic.

Compliant - no changes are proposed
l. Measures shall be taken to minimize the impact of potential nuisances such as noise, odor, vibration, and dust on adjacent properties.

More information is needed from the applicant
n. The architectural design and site layout of the structure and the location, nature, and height of any walls, screens, and fences are to be compatible with adjoining land uses and the residential character of the neighborhood.

The design and architecture of the new indoor training facility is consistent with other structures on the Coldstream Country Club property including the Club House, Pool House, and other storage buildings. The other structures, pool, shade structure, and platform tennis, are consistent with the existing pool area. The style of the proposed fence is not noted.

o. Landscaping shall be installed in accordance with one of the following buffers:

ii. Boundary Buffer of 20 feet with 2.8 canopy trees and 8 shrubs at per 100 l.f.

Compliant through existing mature vegetation and trees
p. Signage shall be regulated as follows:
ii. One sign permitted subject to sign standards in Article 5.5, F, 3
iii.Subject to sign standards in Article 5.5, F, 4.
No additional signage was proposed with this application

q. The conditional use shall be subordinate to the principal permitted use with regard to usage and character.

Compliant
r. Outdoor playgrounds, tot lots, exercise areas, and pools shall be fully enclosed by a fence.

Compliant
s. All exterior lighting shall be directed away from adjacent residential properties.

More information is needed from the applicant
u. Proposed Security Measures shall be submitted as part of the application.

Compliant
x. Meals shall be served only to guests or residents of the facility and not to the general public.

Compliant
y. The intensity of the particular use shall be evaluated with regard to the location, size, and configuration of the tract.

Mr. Drury stated that staff was of the opinion that the location of the proposed structures, pools, shade structure, platform tennis courts, and Driving Range Facility are located to minimize and potential impact on adjacent properties. More information though is needed regarding lighting and noise, particularly generated by the platform tennis courts.

> "Request A" -- Variance from Article 5.4 (H) (d) – 100' setback for all structures

Mr. Drury stated that staff finds that the variance is not substantial. The existing kiddie pool shade structure, playset, and basketball courts range in setback of 63'-72' from Ayers Road. All proposed new construction is set back at least 80 feet from Ayers Road. The essential character of the neighborhood would not be substantially altered and adjoining properties will not suffer a substantial detriment as a result of the variance. The proposed pool and associated structures are to replace an older pool with associated structures, essentially in the same area, however with a greater setback. The variance will not adversely affect the delivery of governmental services. The property owner's predicament cannot be feasibly obviated through some method other than a variance. The dimensional variances requested result from existing underground pool equipment that would remain as part of this project. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. The variance will allow the over 50

year old pool to be upgraded in the same general location, allowing continued use of the pool house, fencing, and other existing structures.

Michael Mauch, RWA Architects, on behalf of Coldstream Country Club, property owner, located 400 Asbury Road stated he will co present this with Kevin Osterfeld. They do have some additional information to present to you tonight.

Kevin Osterfeld, presenting on behalf of Coldstream Country Club, we have different contractors here tonight to answer questions. The current hours of the tennis facility, there are none because the courts are not lit. The course was built in 1959, the pool in 1960, and the tennis courts in 1966. He stated there were 17 criteria there out of the township code that needed to be addressed and the seven specific conditions with any area variances. The 17 criteria that is under consideration according to staff's report and with staff's report 12 of those have already been met. The rest of those, D. is the 100' setback, L measures taken to reduce the impact on the nuisance request B., N talks about the architectural design and is the layout consistent with the neighborhood that is with request C, and S is the lighting directed away from adjacent properties with request. B. to address 5.4Y which is the intensity of the use. He felt there is no change to what they are doing. They are replacing the existing pool, and we have had golf practice there but now will have a building there and within the setbacks. They are replacing one tennis court with new paddle tennis courts. Request A – the encroachment, they will encroach into the setback today. They pulled some of those back. He went through the conditions in detail. He stated the heater and pumps are now underground. There is no noise but limited us as to how to shape the pool. Request B he stated they intended to add three paddle tennis courts. The reason paddle tennis is important there is a lot of demand for it. He stated that they are in a competitive environment and all country clubs have paddle tennis courts. These paddle tennis courts would be 210 feet to the nearest neighbors. Paddle tennis was a cold weather sport. They have 190 acres and there are various places to place the courts. This area made the best sense because the existing pool house has a screened in porch area for warming hut for the court which will have panels made to cover the screen area. There are existing restroom facilities and parking area. If we moved it elsewhere we have to put in all those items to accommodate which is not cost sufficient. He stated as to the noise it is a tough call and cannot give you a decimal read out. The noise level is similar to tennis and maybe a little louder. There is really no study on paddle tennis. There is existing heavy evergreen buffer. He stated on the lighting he submitted additional information one is a picture of a paddle

tennis court in play and how the modern lighting would look. The pathway by the court is dark. He showed a plan of the lumens for the lighting and explained in detail. He stated he hoped this helped satisfy the Board concerns or at least gives you enough information on the lighting. They did include photos of the light fixture, the pole is 20' high from the surface of the court, and the specs related to this.

Mr. Sian asked what time will they close. **Mr. Osterfeld** replied they have spoken to several of the neighbors concerned and these neighbors are members of the club. They have come to the agreement and explain this at the end of the discussion.

Mr. Sian asked what type of materials is the paddle court made of. **Mark Kebe** owner of Platform Tennis Company. He stated the structure that goes around it is a custom aluminum base and eye beams and is very solid. The ball is a rubber ball with a flocking on it (fuzzy cover). The paddles are made of a dense composite foam with like a fiber glass face on them. There is no wood on them. The screen that surrounds the court is a mesh steel wire it is similar to chicken wire. It is very thick and stretched very tight. He stated their company has never had a complaint about noise on any courts they have built.

Mr. Haber asked beside the court frame and the wire what else is shown in the picture. **Mr. Kebe** replied it is a windscreen and it is for visibility of the players.

Mr. Haber asked how high the fence goes around the court. **Mr. Kebe** replied it is 12' above the playing surface.

Mr. Haber asked how high are the light fixtures. **Mr. Kebe** replied the light are 8' above that. The height would be above grade 23½ feet.

Mr. Haber asked was the height of the fence regulated by rules and regulations. **Mr. Kebe** replied yes it is.

Mr. Heyse asked to compare noise level of pickle ball and paddleball. **Mr. Kebe** replied the reason pickle ball is so much noisier it is a plastic waffle ball and a solid wood paddle playing on an asphalt surface. The difference would be a commercial jet compared to a private jet.

Mr. Nasilevich asked did you switch out the light fixtures. **Mr. Kebe** replied yes, this is why we went to an engineering company and they stated they can design up LED fixture and the requirements were we

need a lighting with minimal light pollution. This is why we went to these type light fixtures.

Mr. Nasilevich asked what kind of night operations you have now at the pool area. **Mr. Osterfeld** replied on a very rare occasions there may be a pool party. The pool area was not lit.

Mr. Mauch asked per the letter from the neighbors he felt they were talking a different sport. If sounded like pickle ball and not paddle ball.

Mr. Heyse asked what alternatives did you look at to construct the structures (request A) to stay within the required setbacks. **Peter Swick** General Manager of Coldstream Country Club replied in the regards to the pool we did not look at many locations just because of the size of the underground cavity where the pumps are located. There was no other option. The other way would encroach on the tennis courts.

Mr. Heyse asked could you help explain what the hardship is. **Mr. Swick** replied the thought with doing just one pool and the greenspace we have within our pool complex. It frees up a little greenspace and it allows us to use one filter system and pump system.

Mr. Osterfeld stated on request C the practice facility would be compatible to other buildings and the fencing we are not making any changes. He stated we have spoken to four neighbors that would be most affected. I personally spoke to each one of them. The one immediately to the west and one at the corner of Ayers and Asbury, and one down Asbury a little bit, and the first one up Ayers Road. In terms of lighting we have worked on the lighting and we would accept a condition that the Board can put on this is that all court lighting is to be turned off no later than 10 pm Sunday through Thursday. No later than 11 pm on Friday, Saturday and Sunday, days before holidays and all holidays. For as long as the current resident 7552 Ayers Road is there. Number 2 is that Coldstream will plant up to 10 evergreens up to 15' in height and plant in designed by the current owner of 7552 Ayers Road along his east property line.

Mr. Osterfeld stated in timing they have some pool urgencies and we are hoping to get approval tonight. We could have this open by Memorial Day next year. As for the paddle tennis courts moderate approval if approved tonight we could get some of the season in this year. As for the practice building no urgency. We would also ask as a condition start within 2 years and completed within 3 years. He also stated that Coldstream biggest regret is prior to starting all of this we should have

reached out to the neighbors. This was an over sight on our part. We feel we have tried to make up for that.

Mr. Sian asked how tall the evergreen in height was. **Mr. Osterfeld** replied up to 15' feet.

Mr. Heyse asked there was no additional fencing. **Mr. Osterfeld** replied no there would be no additional fencing.

Ken Berry of 7552 Ayers Road stated he was the property to the west. He stated he had a problem with the process the entire time and we have come to a conclusion that light and noise are his big issue. They have agreed to plant trees and help with lighting and noise. He agreed upon a curfew on hours to help with noise issue. There is one concern you mentioned pickle ball is a loud sport and can be played on the platform courts. He stated that there should be a stipulation that pickle ball should not be played on the platform courts. Other than that, he is okay with the lighting and noise issues. If they keep all promises they stated to him he is for the proposal.

Mr. Heyse asked you are in agreement with the times they stated. **Mr. Berry** replied yes, that was his idea.

Pat Thompson of 321 Asbury Road stated he lived directly across from the driving range. He stated he felt somewhat surprised here as to what would be presented. That being the golf facility I have no problem with the golf facility and he is in favor of that. He stated noise and lighting is a big concern to him. He has a problem with the paddle tennis court. He stated with paddleball there are hundreds of problem all over the states about the noise of pickle and paddleball courts.

Penelope Thompson of 321 Asbury Road stated there were paddle courts at Coldstream about 500 feet to the east of their home by the skeet house. This was a good location and it has parking and electricity. She stated they heard this day and night from 500 yards or so away. Paddle courts are very noisy and she has played it. She stated 10 pm was too late to play paddle tennis. Weekends at 11 pm was okay. You need to consider the neighborhood.

Mr. Osterfeld rebutted to state if pickle ball being played that, we at least allow pickle ball played during daylight hours.

Mr. Heyse asked the tennis courts where pickle ball would be played are not lit – correct? **Mr. Osterfeld** replied that was correct.

Mr. Osterfeld stated in terms of putting the paddle tennis where Mrs. Thompson spoke there is a number or problems there. It is in the middle of the future golf facility, there is not enough parking, no rest rooms, and we would have to build a new building and no water down there. The cost would be too expensive to put in that location. The hours we stated has to be the times or we would not be able to have league plays often goes until 9-9:30 pm. We want to keep the 10 pm as stated earlier.

The public hearing was closed at 6:41 p.m.

Consideration of Case 10-2016 BZA,

Paul Drury read the staff summary for an appeal filed by Louis Bang, property owner, located at 8008 State Road, described in book 500, page 133, parcel 089, and zoned "B" Residence.

Mr. Drury stated that applicant requested the Board of Zoning Appeals to grant a variance request for a crushed limestone driveway where a solid surface is required, per Article 5.3 (D) (7) (a).

Mr. Drury stated that the tract size was approximately 3.4 acres. The frontage was approximately 272' of frontage on State Road. The topography was flat. The zoning for the surrounding properties to the north, south, east, and west was "B" Residence.

Mr. Drury stated that the applicant had proposed the existing limestone driveway to remain limestone.

Mr. Drury stated that a zoning certificate was approved in August 2014 approving the replacement of a farmhouse for the current residence and a detached garage. A portion of the existing driveway were highlighted as part of the plan but whether it was to be paved or not was not specified. In June 2015, a zoning certificate was issued for an attached garage addition, and eliminating the detached garage. The surface on this plan also did not specify the driveway surface (both zoning certificates are attached).

Mr. Drury stated that staff finds that the variance is substantial. All new construction is required to have a paved driveway per Article 5.3 (D) (7) (a) of the Zoning Resolution. Staff has interpreted this section to require paving if a new home is constructed or a significant improvement is made on the property such as a new garage/addition. The essential character of the neighborhood may not be substantially altered and

adjoining properties may not suffer a substantial detriment as a result of the variance. The majority of the surrounding homes have paved driveways, including older homes directly across the street, and a recently constructed home adjacent to this property in question. However, a nearby home from this property still has a gravel driveway. The property owner's predicament can be feasibly obviated through some method other than a variance by paving the driveway. The spirit and intent behind the zoning requirement would not be observed and justice would not be done by granting the variance. The zoning resolution requires all new construction to have paved driveways, which the current home is considered, although the driveway existed.

Louis Bang, property owner of 8008 State Road stated he acquired the property from his father. His father had an old farmhouse and we decided to build a new home. They did their best to keep the new house to look similar to the old one. The color, windows, and materials are similar but has a newer design. They never considered the driveway as a problem being gravel. On final inspection, they were informed it had to be a hard dustless surface. If they knew that, they would have never designed the house and driveway that way because the cost to pave 200' driveway is expensive. They would have faced the house to the front of the street where the driveway was not so long. They did not know the zoning rules at that time. He stated if he is required to pave the driveway could they leave the gravel driveway to the barn.

Mr. Heyse asked have you considered asphalt instead of a concrete driveway. **Mr. Bang** replied he would prefer concrete because blacktop or asphalt had to be maintained. He stated he looked in the township under single-family homes there was nothing about the driveways.

Penny Thompson of 321 Asbury Road stated they should allow the gravel drive it is in keeping of the old farmhouse.

Robert Jump of 8035 Blackthorn Drive stated he is a neighbor to the property. In keeping with the historical nature of Anderson Township, the property there has never been an issue with dust, the gravel has not been out in the street. He asked that they be able to keep the gravel driveway.

Andrew Wilson of 7980 State Road stated he was in favor of the gravel drive. They liked the appearance of the property and the barns there. He does not have an issue with this driveway.

The public hearing was closed at 7:06 p.m.

Deliberation of Case 8-2016 BZA

The Board discussed the fence and existing structure in front yard in detail and took a straw vote.

Deliberation of Case 9-2016 BZA

The Board discussed the pools, encroachments, paddle court and golf training building in detail, took a straw vote only on the pool, and continued Request B and C.

Mr. Heyse reopened the case.

Mr. Haber moved Mr. Sian seconded to continue Case 9-2016 BZA for Request B and Request C and asked for the following:
- Noise data from comparable sites, specifically regarding platform tennis
- Photometric plan incorporated with the site plan
- Lighting details for the exterior of the training facility building

The BZA also encouraged Coldstream Country Club to meet with the nearest residents to discuss the noise concerns and how to mitigate any potential nuisances.
Vote: 4 Yeas

Deliberation of Case 10-2016 BZA

The Board discussed the gravel driveway in detail and took a straw vote.

Decision and Journalization of Case 8-2016 BZA

Mr. Haber moved Mr. Sian seconded to Approve and Journalize Case 8-2016 BZA.
Vote: 4 Yeas

Decision and Journalization of Case 9-2016 BZA

Mr. Haber moved Mr. Nasilevich seconded to Approve Request A and Journalize Case 9-2016 BZA.
Vote: 4 Yeas

Decision and Journalization of Case 10-2016 BZA

Mr. Haber moved Mr. Sian seconded to Approve and Journalize Case 10-2016 BZA.
Vote: 4 Yeas

The next meeting was scheduled for Thursday, October 6, 2016, at 5:30 p.m. at the Anderson Center, 7850 Five Mile Road, Anderson Township, Ohio.

The meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Fred Heyse, Chair

ANDERSON TOWNSHIP BOARD OF ZONING APPEALS
ATTENDANCE SHEET
THURSDAY, SEPTEMBER 1, 2016 AT 5:30 P.M.
ANDERSON CENTER, 7850 FIVE MILE ROAD

PLEASE PRINT - THANK YOU

NAME:	ADDRESS:
MICHAEL MALICH	2771 observatory Ave. Cinti 08
JOHN ISCH	" " " " "
KENNETH WORKMAN	" " " "
Tom McCarthy	7150 NORTHWICH DR. CINT. O. 45230
Peter R-Swick	400 Asbury Rd
JIM CICCHETTI	7795 FIVE MILE RD
Matt Storer	655 Nordyke Rd
Ken Berry	7552 Ayers Rd. Cinti. O 45255
Penelope Thompson	321 Asbury Rd 45255
PAUL KITZMILLER	311 SUMMER VIEW 45255
Rob Jump	8035 Blackthorn Dr. 45255
PAT Thompson	321 Asbury Rd
EARL LINDHOLZ	903 TALL TREES DR.
TOM CRUTCHER	1473 APPLE FARM LANE
~~Marita~~ MARITA BANG	8008 STATE RD
Louis Bang	8008 STATE RD
ANDREW WILSON	7980 STATE ROAD
Kevin Osterfeld	1225 Bivy Ln.
MIKE MENTANO	7408 BAYSWATER PL
Linda Weber	7341 Riverby