

Attachment A - Staff Analysis

STAFF PERSON: Rebecca Ragsdale, Principal Planner
BOARD OF SUPERVISORS: March 17, 2021
PROJECT: SE202000025 Break Heart Studio Homestay Special Exception
PROPERTY OWNER: Mark Slezak/Kirsten Gelsdorf
LOCATION: 5525 Break Heart Road
TAX MAP/PARCEL: 02600-00-00-020B0
MAGISTERIAL DISTRICT: White Hall

APPLICANT'S PROPOSAL:

The applicant is seeking a homestay zoning clearance and special exception for the rental of up to two guest rooms within an existing house. (Attachment B). County Code § 18-5.1.48 (Attachment C) requires a minimum yard of 125' from all property lines for parking and structures used for a homestay in the RA zoning district. County Code § 18-5.1.48 allows that setback to be reduced if a special exception is approved by the Board and after notice has been provided to abutting property owners.

The existing house used for the homestay is less than 125' from the southern rear and eastern side property lines, with distances of approximately 63' to the rear and 25' to the side.

CHARACTER OF THE AREA:

The property is 3.50 acres and is located off Break Heart Road, approximately two miles from its intersection with Browns Gap Turnpike. (Attachment D-Location Map) The property is mostly wooded, with the house located at the rear of the lot. The property to the south shares the property lines that are the subject of this special exception request. That parcel is 54.83 acres, with one house currently under construction. Mixed vegetative screening exists on the applicant's property along the shared property lines.

PLANNING AND ZONING HISTORY:

The single-family dwelling was constructed in 2011 and includes an attached studio.

COMPREHENSIVE PLAN:

The property is designated as Rural Area in the Comprehensive Plan. This designation includes preservation and protection of agricultural, forestal, open space, and natural, historic, and scenic resources. The Rural Area chapter of the comprehensive plan recognizes tourism as a vital part of the County's economy, but urges care that tourist activities not overwhelm or negatively affect the very resources that make rural Albemarle attractive to residents and tourists. Staff does not believe the homestay use would conflict with these overall goals of the Comprehensive Plan. The homestay is proposed within an existing residential neighborhood and as an accessory use to the residence. It is not expected to cause impacts to the RA.

ADJACENT PROPERTY OWNER COMMENT:

Notice of this special exception request was mailed to the one abutting property owner on February 12, 2021. There have been no objections received and one letter of support. (Attachment E)

ANALYSIS OF THE SPECIAL EXCEPTION REQUEST:

Special exceptions are subject to approval by the Board under County Code § 18-33.49:

Sec. 33.49 - Action by the Board of Supervisors.

The Board of Supervisors shall act on an application for a special exception as follows:

- A. *Action* . The Board may either approve the application, deny the application, or defer action to either allow changes to be made to the application or any proposed conditions prior to final action by the Board, or to refer the matter to the Commission for further consideration and recommendation within the time for an action provided in subsection (D).
- B. *Factors to be considered* . In acting on a special exception, the Board shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter, provided that the Board shall not be required to make specific findings in support of its action.
- C. *Conditions* . In approving a special exception, the Board may impose reasonable conditions to address any possible impacts of the special exception. Except as the Board may specify in a particular case, any condition imposed on a special exception shall be deemed to be essential and nonseverable from the special exception itself. Any condition determined to be unreasonable, invalid, void, or unlawful shall invalidate the special exception.
- D. *Time for action* . The Board shall act on an application for a special exception within 90 days after the application is determined to be complete. The 90-day period may be extended if the applicant requests a deferral pursuant to [Section 33.52](#).

According to County Code § 18-5.1.48(i)(2), special exceptions may be granted after notice to abutting property owners upon consideration of the following factors:

- (i) *There is no detriment to any abutting lot; and*
- (ii) *There is no harm to the public health, safety, or welfare.*

According to County Code § 18-33.49(B), the Board is not required to make specific findings in support of its action. Staff's opinion is that authorizing the homestay use with reduced setbacks from the southern rear and eastern side property lines would not cause detriment to the abutting lot or cause harm to the public health, safety, or welfare. This opinion is based on several favorable factors, including the unique characteristics of the homestay property, especially the landscape screening located on the applicant's property. The application meets all other requirements of the County Code (including parking, safety inspection, and addressing).

RECOMMENDATION:

Staff recommends that the Board adopt the attached resolution (Attachment G) to approve a homestay special exception, subject to the following conditions:

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the Parking and House Location Exhibit dated February 21, 2021.
2. The existing screening, as depicted on the Parking and House Location Exhibit dated February 21, 2021, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.

ATTACHMENTS:

- A. Staff Analysis
- B. Applicant's Request
- C. County Code § 18-5.1.48 Homestay Zoning Regulations
- D. Location Map
- E. Email of Support
- F. Parking and House Location Exhibit dated February 21, 2021
- G. Resolution