

## **Attachment A - Staff Analysis**

<b>STAFF PERSON:</b>	Rebecca Ragsdale, Principal Planner
<b>BOARD OF SUPERVISORS:</b>	April 1, 2020
<b>PROJECT:</b>	HS202000013
<b>PROPERTY OWNER:</b>	Kessler, Helen E., and Graham A.
<b>LOCATION:</b>	1315 Tilman Road
<b>TAX MAP/PARCEL:</b>	05800-00-00-066A0
<b>MAGISTERIAL DISTRICT:</b>	Samuel Miller

### **APPLICANT'S PROPOSAL:**

The applicants are seeking a Homestay zoning clearance and special exception for an existing Homestay that includes rental of five guest rooms within the residence (Attachment B). The Homestay was initially approved under the prior Bed and Breakfast regulations in 2018. The applicants would now like to offer whole-house rental. Whole house rental is rental for up to seven days per month, up to 45 days per year when the owner is not present. This requires a new Zoning Clearance and compliance with the current Homestay regulations. The Zoning Ordinance regulations found in County Code §18-5.1.48 (Attachment C) now require a minimum yard of 125 feet 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 the Board approves a special exception after notice has been provided to abutting property owners.

The existing house and guest parking are less than 125 feet from the western property line shared with 1303 Tilman Road (37 feet +/-). The house and parking comply with the 125-foot setback from all other property lines.

### **CHARACTER OF THE AREA:**

The 7.01 acre property is located at 1315 Tilman Road, just west of the intersection of Tilman Road and Owensville Road. Adjoining properties are developed residentially, and lot sizes range from 2 acres to 13 acres. The nearest house (1303 Tilman Road) is located approximately 110 feet from the Homestay. (Attachment D)

### **PLANNING AND ZONING HISTORY:**

B201600685SF- The existing single-family house, pool, and pool house were built in 2016.

ZVIO201800100- The property was being offered for rent without an approved Bed & Breakfast (BNB) permit. This violation was abated by the owners obtaining a BNB permit.

BNB201800015- A Bed & Breakfast permit to allow rental of up to five guest rooms was approved 11/16/2018.

ZVIO201900128- Concerns were raised that the owners were not present during rental. Code compliance staff verified that owners stay in the basement of the house during rental, and their listing was updated to indicate owners are present during rental.

### **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 that care be taken with tourist activities so that they do not overwhelm or negatively affect the very resources that make rural Albemarle attractive to residents and tourists. Staff does not believe the Homestay use will conflict with these overall goals of the Comprehensive Plan. The Homestay is proposed within an existing residence and

is an accessory use to the residence. It is not expected to cause impacts to the Rural Area and is supportive of tourism in western Albemarle.

**ADJACENT PROPERTY OWNER COMMENTS:**

Notice of this special exception request was mailed to abutting property owners on March 5, 2020. The abutting property owners to the west (1291 and 1303 Tilman Road), the closest neighbors to the Homestay, have offered no objection to the use, and the applicants provided those letters with their special exception application (Attachment B). Staff also received an anonymous email expressing concerns (Attachment F).

**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 reducing the setback from the western property line would not cause detriment to abutting lots or cause harm to the public health, safety, or welfare. The affected owners have offered no objection to the special exception request, and their house is located more than 100 feet away from the Homestay. The County has also not received any complaints from neighboring properties regarding the Homestay. While whole house rental allows rental while the owner is not present, the ordinance requires that the owners provide emergency contact information for the resident manager to respond to concerns in their absence. The application meets all other requirements of the County Code (parking, safety inspection, and addressing).

**RECOMMENDATION:**

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

1. The Homestay use is limited to the existing residence as depicted on the Parking and House Location Exhibit dated March 4, 2020.
2. Parking for Homestay guests is limited to the existing parking areas as depicted on the Parking and House Location Exhibit dated March 4, 2020.

**ATTACHMENTS:**

- A. Staff Analysis
- B. Applicant's Proposed Homestay and Neighbor Support Letters
- C. County Code § 18-5.1.48 Homestay Zoning Regulations
- D. Location Map
- E. Parking and House Location Exhibit
- F. Neighbor Concerns
- G. Resolution