

Attachment A - Staff Analysis

To: Albemarle County Board of Supervisors
From: Rebecca Ragsdale, Principal Planner
Date: May 6, 2020
Re: HS201900027 Homestay Special Exception Pop's Cottage
Owner: Ninfa R., Rose A. & Salvatore J. Profaci
TMP: 08800-00-00-006B0
Magisterial District: Samuel Miller

APPLICANT'S PROPOSAL:

The applicants are seeking a Homestay zoning clearance and special exception for an existing Homestay that includes rental of one guest room within a detached accessory structure. (Attachment B). The Zoning Ordinance regulations found in County Code §18-5.1.48 (Attachment C) 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 a special exception is approved by the Board after notice has been provided to abutting property owners. Approval of this special exception will bring the existing Homestay into compliance.

The existing accessory structure and guest parking used for the homestay are less than 125 feet from the northern property line (30 feet +/- for the structure and 110 feet +/- for parking) shared with 2098 Red Hill Road. The house and parking comply with the 125-foot setback from all other property lines.

CHARACTER OF THE AREA:

The 2.60 acre property is located at 2136 Red Hill Road. The nearest houses are located more than 300 feet away from the homestay. There is a wooded buffer located on the homestay property along the northwestern property line that mitigates visibility of the homestay and parking. (Attachment D)

PLANNING AND ZONING HISTORY:

The existing house and accessory structure, which is used for the homestay, were built in 1964.

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 Albemarle.

ADJACENT PROPERTY OWNER COMMENT:

Notice of this special exception request was mailed to abutting property owners on April 8, 2020. Staff has not received any questions or comments from that mailing.

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 northern property line would not cause detriment to abutting lots or cause harm to the public health, safety, or welfare for rental of one guest room. This opinion is based on several factors favorable, including the unique characteristics of the Homestay property. The affected house is more than 125 feet away from the residence used for a Homestay. 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 F) to approve the Homestay special exception, subject to the following conditions:

1. The Homestay use is limited to one (1) guest room within the existing residence as depicted on the Parking and House Location Exhibit dated April 9, 2020.
2. Parking for Homestay guests is limited to the existing parking areas as depicted on the Parking and House Location Exhibit dated April 9, 2020.
3. The existing 20' vegetative buffer located along the northwestern property as depicted on the Parking and House Location Exhibit dated April 9, 2020 line may not be disturbed and must be maintained with screening according to County Code § 18-32.7.9.7.

ATTACHMENTS:

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