

Attachment A - Staff Analysis

STAFF PERSON:	Rebecca Ragsdale, Principal Planner
BOARD OF SUPERVISORS:	August 19, 2020
PROJECT:	SE202000001
APPLICANT:	Phillip Bobbs
PROPERTY OWNERS:	Matthew L. & Suzanne G. Crane
LOCATION:	888 Woodlands Road
TAX MAP/PARCEL:	04400-00-00-012N1
MAGISTERIAL DISTRICT:	Jack Jouett

APPLICANT'S PROPOSAL:

The applicant proposes a homestay with up to two guest rooms in the lower level of an existing single-family dwelling (888 Woodlands Road). Two special exception requests are associated with this proposed homestay (Attachment B):

1. Reduction in Minimum Yard for a Homestay- County Code § 18-5.1.48 (Attachment C) requires a minimum yard of 125 feet from all property lines for parking and structures used for a Homestay in the Rural Areas (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. The dwelling proposed for homestay rental does not meet the minimum 125-foot yard requirements from the western side property line. The closest portion of the house is 15 feet+/- from the property line. Parking for the proposed homestay use does not meet the minimum 125-foot yard setback requirements from either the western property line (50 feet+/-) or the front property line (90 feet+/-) with Woodlands Road.
2. Owner-occupancy -County Code § 18-5.1.48(a) requires owner-occupancy for a Homestay. County Code § 18-5.1.48(i)(1)(iv) allows this provision to be waived through the special exception process. The property is owned by Matthew L. & Suzanne G. Crane, who reside on Earlysville Road in Albemarle County. Phillip Bobbs, a tenant of the Cranes, would be present during the proposed homestay rentals.

ZONING AND PLANNING HISTORY:

The existing house was built in 1969 and remodeled in 2015. The house pre-dates current RA zoning and does not conform to current RA side setbacks along the western property line. The carport is 15 feet +/- from the side property lines, while the required setback is 25 feet.

Zoning Complaints (ZVIO201900321) - Since November 2019, various complaints have been filed with the County regarding homestay rental. A homestay use was found operating without a zoning clearance and without an owner residing on the property and present during rental. A notice of violation was issued. The homestay listing was removed and the property was no longer rented, at least temporarily, to abate the violation. However, the listing was reactivated and homestay rental resumed. Following staff contact with the owner again, explaining what the next steps would be in this violation, the listing was removed. The tenant indicated that any activity observed since June 30, 2020 was visiting friends/family and not homestay guests.

CHARACTER OF THE AREA:

The property is 3.15 acres in size and contains one residence. It is situated approximately one mile east of the intersection of Woodlands Road and Free Union Road, and approximately 2.5 miles west of Woodlands Road's intersection with Earlysville Road. Properties to the east and west are two-acre residentially developed lots. The property to the north is a residentially developed 5-acre lot. The subject property and adjoining residential properties are fairly wooded. Properties immediately to the south across from the residence are undeveloped pasture and are 50 acres in size. The closest neighboring house (2814 Cola Woods Lane) is located approximately 160 feet from the closest point of the residence proposed for homestay use. Other homes are located 200 feet+ to 300 feet+ from the proposed homestay. The property is wooded along the property lines and there is a fence between the upper and lower levels of the property. Ample parking is located off-street in front of the home. (Attachment E and F)

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 would conflict with these overall goals of the Comprehensive Plan. The Homestay is proposed within an existing structure 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.

ABUTTING PROPERTY OWNER COMMENTS:

Notice to abutting property owners was mailed on July 1, 2020. Several e-mails and letters of concern have been received from property owners (2814 and 2815 Cola Woods Lane) to the west of the proposed homestay. Concerns include, among others, noise, walking on neighbors' driveways, parking in a neighbor's driveway, renters mistaking a neighbor's house for the homestay rental, dogs running over to a neighbor's property, and overflowing trash. (Attachment C-Neighbor Comments)

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](#).

Under 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.*

Pursuant to County Code §18-33.49(B), the Board is not required to make specific findings in support of its action. The Board may approve, approve with conditions, deny, or defer this application. Staff analysis of each special exception request is below.

1. Reduction in Minimum Yard for a Homestay- County Code § 18-5.1.48 (Attachment C) requires 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. The dwelling proposed for homestay rental does not meet the minimum 125 foot yard requirements from the western side property line and the closest portion of the house is 15 feet+/- from the property line. Parking for the proposed homestay use does not meet the minimum 125 foot yard requirement from the western property line (50 feet+/-) or the front property line (90 feet+/-) with Woodlands Road. Guest rooms and parking for homestay rental would be located in the lower level of the home, which is screened from the western property line by topography, vegetation, and an existing fence. That portion of the structure is more than 50 feet away from the western property line and the entrance and guest activity area are approximately 70 feet away. Staff believes if managed properly, a homestay limited to two guest rooms and limited to no more than four occupants located in the lower level of the home could operate with no detrimental impacts to neighbors. However, the current tenant (Mr. Bobbs) has a history of compliance issues and there are documented neighbor concerns with past homestay guests. Therefore, staff does not recommend approval of this special exception.
2. Owner-occupancy -County Code § 18-5.1.48(a) requires homestays to be owner-occupied. County Code § 18-5.1.48(i)(1)(iv) allows this provision to be waived through the special exception process. The property is owned by Matthew L. & Suzanne G. Crane, who reside on Earlysville Road in Albemarle County. Phillip Bobbs, a tenant of the Cranes, would be present during the proposed homestay rentals. Special exceptions to owner-occupancy are intended primarily for estates or large farms that would have a tenant manager residing on the property. Staff believes that a special exception in this case would not be consistent with the purpose and intent of the homestay regulation. While the property owners (the Cranes) have been responsive and tried to address concerns with the tenant (Mr. Bobbs), there have been continued compliance issues with the property and documented impacts to abutting properties.

RECOMMENDED ACTION:

Based on the neighbor concerns and documented impacts, and inconsistency with the purpose and intent of homestays, staff recommends denial of the proposed special exceptions.

Suggested Motion: I move to adopt the resolution attached to the staff report as Attachment G, in order to deny the requested homestay special exceptions, for the reasons outlined in the staff report.

ALTERNATE ACTION:

If the Board instead chooses to **approve** the requested special exceptions, staff recommends the following conditions:

1. The Homestay use is limited to two (2) guest rooms within the existing residence as depicted on the Parking and House Location Exhibit dated July 27, 2020.
2. The Homestay use is limited to four (4) occupants.
3. Homestay guest rooms must be located within the lower level of the dwelling.
4. Parking for homestay guests is limited to the front of the dwelling as depicted on the Parking and House Location Exhibit dated July 27, 2020.
5. The existing fence and existing vegetative buffer located along the western property line, as depicted on the Parking and House Location Exhibit dated July 27, 2020, 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.

Suggested Alternate Motion: I move to adopt an alternate resolution to approve the requested special exceptions, subject to the suggested conditions contained in the staff report.

ATTACHMENTS:

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