

## **Attachment A - Staff Analysis**

**To:** Albemarle County Board of Supervisors  
**From:** Lea Brumfield, Senior Planner II  
**Date:** January 20, 2021  
**Re:** SE202000021 Milton Ridge  
**Owner:** Michael and Patricia Phillips  
**TMP:** 07900-00-00-043S0  
**Magisterial District:** Scottsville

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

The applicants are seeking a homestay zoning clearance and special exception for an existing homestay within an existing accessory structure (Attachment B). 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 to abutting property owners. Approval of this special exception would allow the existing homestay to come into compliance.

The structure and guest parking used for the homestay are less than 125 feet from the front property line with Milton Road (100 feet +/-) and side southwestern property line (35 feet +/-). The homestay and parking comply with the 125' setback from all other property lines.

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

The five-acre property is located at 1819 Milton Road. The nearest house is located across Milton Road, 230 feet away from the homestay, and the next nearest houses are located more than 270 feet away from the homestay. The homestay is located in an accessory structure between the existing house and Milton Road, and is visible to the nearest neighboring house. There is currently no screening between the homestay and affected property lines. The neighboring parcel to the south contains 100' of vegetation between the homestay and the next nearest house, but these plantings are not controlled by the applicant. (Attachment E)

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

The single-family dwelling was built in 2007. The accessory structure proposed for homestay use was built as a farm building from 2007 to 2010 and the interior finished for human habitation in 2011.

### **COMPLAINTS**

There are no zoning complaints listed for this parcel.

### **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 will 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.

**ADJACENT PROPERTY OWNER COMMENT:**

Notice of this special exception request was mailed to abutting property owners on December 10, 2020. The applicant included with the application two letters of support from neighboring property owners (Attachment B). One letter of support was written by the owner of the closest house west of the homestay across Milton Road, who would be most directly impacted by the approval of the homestay.

The second letter of support was written by the next closest house, directly south of the homestay.

Additionally, staff received a comment letter expressing concern from a neighbor on December 23, 2020 (Attachment F). This letter was primarily focused on the proximity of the homestay structure to the road, and compliance of the structure with setbacks and building permits. As noted above, the structure complies with setbacks applicable to an accessory structure and building permit requirements.

**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](#).

Pursuant 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.*

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 finds the following factors favorable to the request:**

1. The nearest homes are situated 230', 270', and 680' away from the homestay.
2. The homestay meets primary structure setbacks for the Rural Area (25' side setback).

3. The architecture of the homestay structure is appropriate to the rural character of the area.

**Staff finds the following factors unfavorable to the request:**

1. The structure proposed for homestay use is not screened from property lines less than 125' away from the structure.

Staff's opinion is that reducing the setback from the southwestern property line would not cause harm to the public health, safety, or welfare. However, concerns have been raised by a neighbor to the south about visibility of the homestay. Visibility could be mitigated by establishing a buffer. Therefore, staff is recommending, if the homestay is approved, that a 20' buffer/screening be established, consistent with previously approved homestays. The application meets the parking requirements of the County Code, and is pursuing all other homestay requirements (safety inspection, 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. Parking for homestay guests is limited to the existing parking areas depicted on the Parking and House Location Exhibit dated December 23, 2020.
2. A vegetative buffer at least 20' wide must be planted and maintained in the general locations shown on Attachment H - Buffer Exhibit, with screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e).

**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. Neighbor Comment Letter
- G. Buffer Exhibit
- H. Resolution