

## **Attachment A - Staff Analysis**

<b>STAFF PERSON:</b>	Rebecca Ragsdale, Principal Planner
<b>BOARD OF SUPERVISORS:</b>	April 7, 2021
<b>PROJECT:</b>	SE202100003 Warren Mill
<b>PROPERTY OWNERS:</b>	Lisa and Daniel Schneider
<b>LOCATION:</b>	9810 Warren Ferry Road
<b>TAX MAP/PARCEL:</b>	13500-00-00-02900
<b>MAGISTERIAL DISTRICT:</b>	Samuel Miller

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

The applicant is seeking a homestay zoning clearance and special exception to allow for the rental of up to five guest rooms within an existing house. (Attachment B). The zoning ordinance regulations found in County Code §18-5.1.48 (Attachment C) require 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 is approximately 57' from the southern side property line and 123' from the northern side property line. The house complies with the required 125' setback from the rear and front property lines. The parking used for the homestay is approximately 6' from the northern side property line and complies with the required 125' setback from all other side, front, and rear property lines.

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

The existing house used for the homestay is a historic grist mill building. The exact construction date is not known but believed to be circa 1793. Also located on the property is an accessory structure, where the owners reside during rental of the house. A variance was approved (VA198800030) in 1998 to reduce the required accessory structure setback from 6' to 0' for construction of a farm building, now used as a guest cottage.

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

The property consists of 11.71 acres and contains an existing house with five bedrooms and an accessory guest cottage with two bedrooms. Ballinger Creek runs along the southern property line. Beyond the creek are CSX railroad tracks, and the James River is less than a quarter mile from the property. The property is wooded along the southern property line. Parking for homestay guests is located in front of the home. The nearest neighboring homes are more than 300 feet away. Along the northern property line, a railroad parcel is between the homestay property and the closest neighbor. The property to the south is 511.39 acres and is under a conservation easement with The Nature Conservancy. (Attachments D and E)

The property, along with surrounding properties, is located in the Southern Albemarle Rural Historic District and contains contributing structures. The Department of Historic Resources survey form indicates the follow historical significance:

Surveyor Assessment: Colonel M.H. Merchant, local resident, says that a mill has been in this location since as early as 1793 (source not known)., per recon. survey. This mill was built circa 1800 (possibly 1792 according to the tax assessment), which is within the period of significance for the Southern Albemarle

Rural Historic District and therefore is contributing to the district. It is a representative example of a large brick grist mill from the late 18th and early 19th centuries in Albemarle County.

**COMPREHENSIVE PLAN:** The property is designated Rural Area in the Comprehensive Plan and also contains a historic resource. Relevant Comprehensive Plan strategies and objectives are below.

#### Historic, Cultural, and Scenic Resources

Strategy 2b: Continue to find ways for preservation of historic structures and sites to be financially viable for property owners. Rehabilitation, restoration, and maintenance of historic structures can be costly. These high costs combined with limited options for using historic properties, particularly in the Rural Areas where the majority of the County's historic buildings are located, threaten these valuable resources. A greater variety of allowable uses for historic buildings and sites could encourage historic property owners to spend the money required to maintain, rehabilitate and restore these buildings. Objective 5 in the Rural Area Chapter provides guidance for use of restaurants and artist residencies in the Rural Area. Additional uses that can be accommodated in older buildings and sites while maintaining conformity with Rural Area goals, objectives, and strategies should be considered.

#### Rural Area

Strategy 3a: Promote reuse of historic structures that support agricultural and forestal uses in the Rural Area. While valued by residents and tourists alike, historic buildings and sites can sometimes pose challenges for owners. Large farmhouses and historic mansions can be expensive to maintain and, at times, additional income is needed to ensure that historic buildings do not fall into disrepair. Historic buildings and sites can be maintained for their original use, such as a home, or converted to income producing properties, such as a restaurant at a crossroad community or a bed and breakfast. Care is needed when a building converts from one use to another to ensure that the historic integrity of a site is retained.

Objective 4: Promote rural and historic landscapes that enhance visitors' experience and give historic sites as authentic a setting as possible. Tourism is a vital part of Albemarle County's economy. Within the confines of the existing goals for the Rural Area, tourism provides for economic vitality and is a benefit to the County. Agriculture, historic and scenic preservation, and the maintenance of rural character help to create authentic rural places. It is important 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.

#### **ABUTTING PROPERTY OWNER COMMENTS:**

Notice to abutting property owners was mailed on February 19, 2021. Staff received two responses. One e-mail, from the abutting property owner to the south, was primarily general questions. The second e-mail was from the property owner to the north, where the closest neighbors reside. They had shared concerns with the homestay operator in the past, including occasional or one time issues with noise, guests mistaking their driveway for the homestay, drones, shooting, dogs trespassing onto their property, events, and rental of the guest cottage. While the neighbors have been in communication with the homestay operators, who have addressed the concerns promptly, they also wanted to bring some of these concerns to the County's attention during the special exception review. The homestay owners have indicated

that some of the activity was not guest activity but related to their personal use of the property (gun fire), and that the drone activity was related to a realtor flying the property since it has been listed on the market for sale. While issues may have arisen in the past, the neighbor does not wholly object to the homestay continuing, but would like some limitations.

### **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. To address concerns that have been raised and because of the proximity of the structure to the northern abutting property, staff does not recommend use of the guest cottage for homestay rental. If homestay guest rooms is limited to the main house, the former gristmill, and guest activity in the courtyard, guest activity would be buffered from the adjoining neighbor by the guest cottage and the vegetative buffer. While there is an existing buffer between the northern neighbor and parking areas, it should be supplemented with evergreen trees to provide screening of parking areas. This is a recommended condition of approval. Staff believes that Ballinger Creek, the stream buffer, and topography mitigate the homestay to the southern abutting property. Parking is also screened from the southern property line by existing vegetation.

Staff's opinion is that authorizing the homestay with reduced setbacks from the side property lines would not cause detriment to abutting lots or cause harm to the public health, safety, or welfare. This opinion is based on several factors favorable, including the unique characteristics of the homestay property, such as the landscape screening. Staff has advised the applicant that special events are not permitted. The application will meet all other requirements of the County Code (including parking, safety inspection, and addressing).

**RECOMMENDATION:**

Staff recommends that the Board adopt the attached resolution (Attachment F) 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 March 15, 2021.
2. Homestay ~~rental~~ use is limited to five guest rooms within the existing house,~~as~~ depicted on the Parking and House Location Exhibit dated March 15, 2021.
3. The existing screening, as depicted on the Parking and House Location Exhibit dated March 15, 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 Proposed Homestay
- C. County Code § 18-5.1.48 Homestay Zoning Regulations
- D. Location Map
- E. Parking and House Location Exhibit
- F. Resolution