



Albemarle County

Legislation Details (With Text)

File #: 20-340 **Version:** 1 **Name:**
Type: Report **Status:** Work Session
File created: 5/14/2020 **In control:** Board of Supervisors
On agenda: 6/3/2020 **Final action:**
Title: Work Session on Homestay Program.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Att.A - Summary of Homestay Ordinance Amendments, 2. Att.B - Community Development Homestay Compliance/Enforcement Memo, 3. Att.C - Homestay Compliance Program Updates

Date	Ver.	Action By	Action	Result
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AGENDA DATE: 6/3/2020

TITLE:

Work Session on Homestay Program.

SUBJECT/PROPOSAL/REQUEST: Work session to 1) Provide Homestay Compliance Program updates; 2) Discuss Potential Zoning Text Amendments to Refine the Current Regulations; and 3) Discuss Process for Homestay Special Exceptions

ITEM TYPE: Regular Action Item

STAFF CONTACT(S): Walker, Kamptner, Herrick, Letteri, Filardo, Shifflett, McCulley, Lin, Svoboda, Ragsdale

PRESENTER (S): Bart Svoboda and Rebecca Ragsdale

LEGAL REVIEW: Yes

REVIEWED BY: Jeffrey B. Richardson

BACKGROUND: In 2017, the Board directed staff to identify and implement any necessary changes to the County's regulations to address transient lodging, now referred to as homestays. Homestays are an accessory use permitted only in association with a single family residence and allow rental of guest rooms for less than 30 days at a time. There are a number of homestays operating without applicable zoning clearances or failing to remit applicable taxes. This is referred to as the "compliance gap." Study of the issue led to a series of amendments to the County's Taxation, Health and Safety, Fire Protection, and Zoning regulations in 2017-2019. Detailed summaries and ordinance sections are provided as Attachment A. The Board also prioritized the Comprehensive Plan strategy related to tourist lodging and directed staff to develop a plan to bring non-compliant operators into compliance. Information about the initial compliance and enforcement plan is provided in Attachment B.

STRATEGIC PLAN: Mission: To enhance the well-being and quality of life for all citizens through the provision

of the highest level of public service consistent with the prudent use of public funds.

DISCUSSION: This work session is in response to the Board's request to review the homestay compliance program and experience with new regulations six months after implementation. Staff from Community Development and Finance have provided a detailed summary of compliance efforts in Attachment C. Based on experience with the new regulations, special exception application trends, and public input, staff recommends that the Board discuss the following topics and related questions in this work session:

1. Proactive Compliance Program Updates

In collaboration with the Department of Community Development (CDD), the Finance Department started to send homestay inquiry letters on September 3, 2019, breaking the mailings for 297 operators into four manageable increments given staff resources and expected response rates. Finance has received a 61% response rate, with an estimated revenue of \$96,997 from business licenses, business tangible personal property taxes, and transient occupancy taxes from homestay businesses.

Zoning estimates 55% of Homestay compliance issues have been resolved. This work has only been successful with a substantial commitment of CDD staff resources. This includes the temporary part-time zoning intake/compliance specialist, a dedicated Code Compliance Officer, and a Principal Planner, along with other staff support to implement the program. Proactive compliance is not sustainable through 2021 without the continuation of the third-party helper software and re-appropriation of temporary staff funding. In order for continued fair and equitable enforcement, staff recommends proactive compliance for at least another year. There are remaining listings and homestay operators to contact and continued compliance efforts needed to further close the compliance gap. After another year of the program, it can be re-evaluated for continued funding. Finance has renewed the third-party helper software for another year and Community Development will be requesting a re-appropriation of funds not used in FY 2020 to be used in FY2021 for temporary zoning assistance for this program.

2. Potential Zoning Ordinance Amendments

Based on staff experience and public requests, the following items are suggested as possible amendments to the Homestay regulations found in the Zoning Ordinance. Staff asks that after discussion, the Board advise staff if it wishes to initiate a zoning text amendment. If requested by the Board, staff will return at a future date with a work session to address the resolution of intent and scope of the amendments, along with how to accommodate that initiative within the CDD work program.

a) Should the 125' setback for Rural Area homestays and parking be revisited?

The Zoning Ordinance regulations now requires a 125' setback for homestays and parking associated with the use from all property lines in the Rural Areas (RA) zoning district. To date, 13 special exceptions have been submitted to reduce the required setback and 12 have been approved as of May 12, 2020. More detailed special exception information is provided in Attachment B. Staff recommends revisiting the 125' setback requirement. Specific options such as additional supplemental regulations (buffer/screening requirements) and/or the applicability to homestays of less than two guest rooms may be considered at that time.

b) Should the Zoning Ordinance allow a special exception to owner-occupancy regardless of parcel size in the Rural Area zoning district?

The Zoning Ordinance regulations adopted in August 2019 added an owner-occupancy requirement for Homestays. However, under the ordinance, only Rural Area (RA) parcels less than five acres in size or Residential zoned parcels may seek a special exception to this. Staff believes this is an oversight in the ordinance and should be corrected. There is no provision in the ordinance for RA parcels greater than five acres in size to waive this requirement through the special exception process. This has impacted several family farms where ownership is a Limited Liability Company (LLC) who would like to continue Homestay uses in compliance with the Zoning Ordinance. Staff recommends the ordinance be amended to allow a special exception request to owner-occupancy for

all Homestays or for all Homestays in the Rural Areas.

- c) **Should Homestays/Whole House Rental on adjoining properties with the same owner be permitted?** Homestays are an accessory use and must be located on the same lot and accessory to the single- family residence in which the owner resides. Staff continues to receive inquiries and Homestay zoning clearance submittals from property owners who would like to have short-term rentals on a separate property that abuts the property where they reside. This topic was discussed during the zoning text amendment process in 2017 and ultimately was not a recommended change to the ordinance for several reasons. At the same time, concerns have been expressed about commercialization of the RA and properties being used solely for vacation rental purposes. The County Attorney also advised against implementing zoning regulations based on ownership of abutting properties. While the homestay ordinance could be amended to allow ownership of adjacent parcel(s), requiring staff to track ownership (among all the other homestay requirements) would make enforcement more difficult. Therefore, it is not recommended by staff.

3. Process for Special Exceptions

Since adoption of new homestay regulations in August 2019, a total of 15 special exception applications have been received, with staff being involved in many other pre-application discussions with homestay operators. The Board requested that initially homestay special exceptions be scheduled as action items so the Board could have a complete review and discussion before action. This is different than the process for other special exceptions. If staff recommends approval of other special exceptions, they are scheduled on the consent agenda for action by the Board. The Board has approved 11 homestay special exception applications with conditions, denied (1) one, and (3) three more are scheduled in June and July. Based on this experience, staff recommends that homestay special exceptions be treated similarly to other special exceptions, scheduling them on the consent agenda for action unless there are neighbor objections or unless staff recommends disapproval. In conjunction with implementation of criteria for reduction of the most commonly recurring exception (125 foot setback), this will be a better use of Board and staff time.

BUDGET IMPACT: The cost of the one-year contracted third party helper service, expiring on April 1, 2020, was \$9,465, paid with the County's Innovation Fund. The cost of extending the service through April, 2021 is approximately \$7,572.

RECOMMENDATION:

Staff recommends that the Board:

1. endorse the continued proactive compliance program, to be re-evaluated by the Board in another year;
2. direct staff to bring back a resolution of intent to amend the Zoning Ordinance related to the 125' setback requirement and owner- occupancy special exception for Rural Area parcels over five acres in size; and
3. direct staff to schedule all homestay special exceptions going forward on consent agenda unless there is neighbor objection or staff recommendation of disapproval.

ATTACHMENTS:

Attachment A - Summary of Homestay Ordinance Amendments

Attachment B - Community Development Homestay Compliance/Enforcement Memo

Attachment C - Homestay Compliance Program Updates