

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT FOR March 28, 2019 @ 7pm

Case Number: **B-19-11 AP# 19230**

Appellant: **Stephen J. and Diane R. O'Brien, 4201
Baker Valley Road, Frederick MD 21704**

Appeal: Requesting a Special Exception in accordance with the Frederick County Zoning Ordinance, Section, 1-19-8.320 and Section 1-19-8.321, to permit the construction of an Accessory Dwelling greater than 800 square feet.

Location: Tax Map – 0095, Parcel 0016, Tax I.D. 1107197780, Zoned Agriculture (AG). 28.81 Acres.

Planning Region: **Frederick**

Zoning District: **Agricultural (AG)**

Comp. Plan Designation: **Agricultural / Rural**

Applicable Ordinances: **Sec. 1-19-3.210 Special Exceptions
Sec. 1-19-8.321 Accessory Apartments Greater
Than 800 Square Feet to be Located in an
Accessory Structure**

Background:

The subject parcels are zoned Agricultural and contains approximately 28.81 acres.

Ordinance Section 1-19-8.321 requires that Accessory Apartments larger than 800 square feet require Special Exception from the Board of Appeals.

The proposed accessory dwelling unit is larger than 800 SF and is a permitted use as a special exception subject to site development plan approval.

Proposal

The applicant seeks to demolish the existing primary residence that is approximately 3,172 square feet in total size and replace it with the proposed new home. The new home will be approximately 7,800 square feet of which approximately 1,460 square feet

will be dedicated to the ADU. The two dwellings are attached by a breezeway as shown on the site plans provided.

The goal is to be able to co-house both generations of the O'Brien family and eventually a third generation if they are blessed with children. The existing home has safety issues and is not ideal for older adults.

The applicant provides the following statement to fulfill the requirements of sections 1-19-3.210 and 1-19-8.321:

(A) Only one accessory dwelling unit may be created on a lot.

*The applicant states that there is no ADU currently on the property . There is currently an existing primary residence and a tenant house on site. The Applicant's seek to demolish the existing primary residence (**Approximately 1900 sq.ft.**) and replace it with the planned new home (see 11x17 plans).*

(B) A limited accessory dwelling unit shall be allowed within single family dwellings, in an accessory structure, or built as a separate accessory structure on a single-family lot.

The applicant states that the proposed ADU is greater than 800 square feet is to be located in a single-family dwelling on a single-family lot.

(C) The owner of the property must reside in the principal dwelling or in the accessory dwelling unit.

The applicant states that the Owner of this property will reside in the principle dwelling. Their daughter is to reside in the ADU. If resident Ownership ceases, then the use as an ADU ceases.

(D) There must be at least one additional parking space provided for the accessory dwelling unit. On-street parking may be utilized to meet this requirement.

The applicant states more than two additional off-street parking spaces are being created.

The limited accessory dwelling unit shall not exceed 800 square feet in size. An accessory dwelling unit greater than 800 square feet shall be reviewed as a special exception under § 1-19-8.321[(see also § 1-19-8.240 and § 1-19-8.321)].

The applicant states that because the proposed accessory dwelling unit is approximately 1750 square feet, the owners are submitting this application for a special exception.

- (E) A limited accessory dwelling unit located in an accessory structure or built as a separate accessory structure must comply with the accessory structure requirements of § 1-19-8.240(B).**

The applicant states that the proposed accessory dwelling unit will comply with Section 1-19-8.240(B).

- (F) ADUs are intended to serve ongoing housing needs of county residents. Short term rental of ADUs in the nature of extended stay hotels, Airbnbs, or seasonal temporary housing is not permitted.**

The applicant states that the renting of rooms is absolutely not being contemplated. This project is for family consolidation, sharing of mutual care for each other and to be together, without strangers.

- (G) The owner of the principal residence shall file an annual statement with the zoning administrator verifying that conditions remain the same under which the limited accessory dwelling unit was granted.**

The applicant states that the O'Briens will file an annual statement with the Zoning Administrator verifying the conditions under which this special exception was granted remain the same.

- (H) If the ownership of the lot changes, the subsequent owner must provide a statement as to the continued use and eligibility of the accessory dwelling unit.**

The O'Briens have agreed to inform any potential future Owner of this requirement, although the intention is that successive generations of O'Briens will continue to occupy the property.

- (I) If the Zoning Administrator, after consultation with appropriate County staff, determines that the limited accessory dwelling unit is not in compliance with the above provisions as well as all safety, health, and environmental standards, approval of the accessory dwelling unit may be revoked pursuant to § 1-19-2.210.**

This is understood by the applicant.

The following statements are provided to address the general requirements of a special exception:

- (1) The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan and of this chapter; and**

The applicant states that the use (ADU) is consistent with the Comprehensive Plan.

- (2) The nature and intensity of the operations involved in or conducted in conjunction with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and**

The applicant states that the nature and intensity of the operation involved in or conducted in conjunction with it and the size of the site in relations to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it located.

- (3) Operations in conjunction with the special exception at the proposed location shall not have an adverse effect such as noise, fumes, vibration or other characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location within the zoning district; and**

The applicant's states that the operations in conjunction with the special exception at the proposed location do not have an adverse effect such as noise, fumes, vibration of other characteristics on neighboring property above and beyond those inherently associated with the special exception at any other location within the zoning district.

- (4) Parking areas will comply with the off-street parking regulations of this chapter and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.**

The applicant states that the parking areas will comply with the off-street parking regulations of this chapter and will be screened from adjoining residential uses. The entrance and exit drive will be laid out to achieve maximum safety. Additional off-street parking spaces are planned.

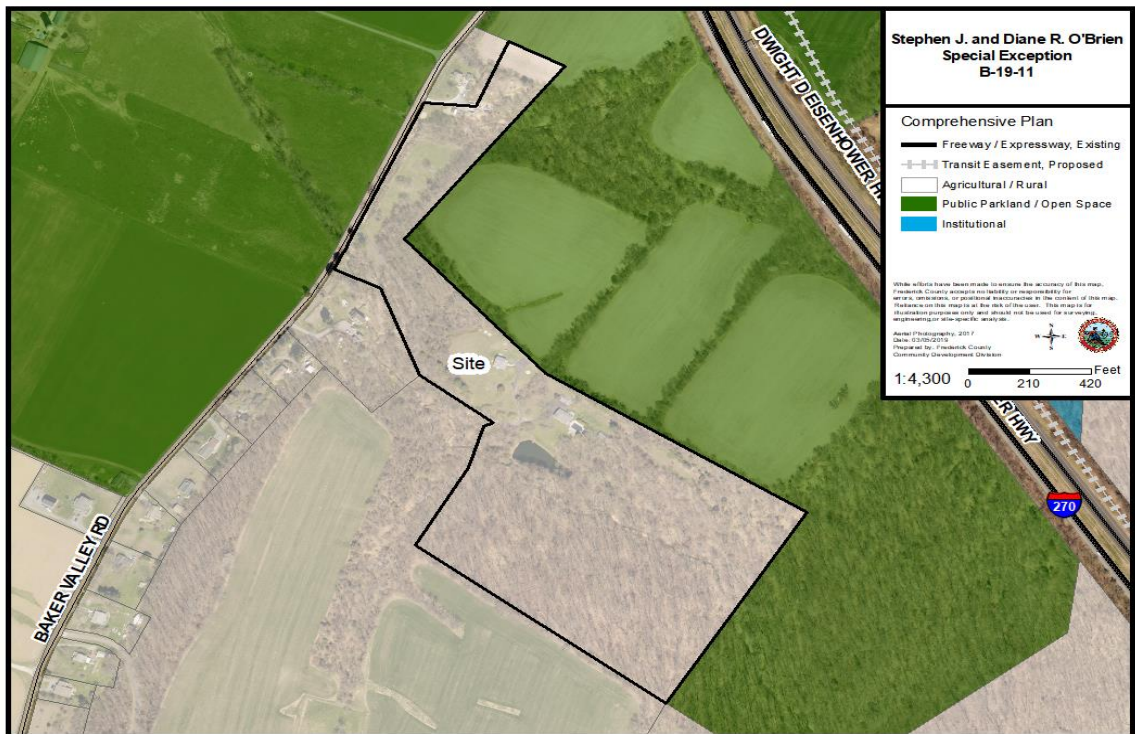
- (5) The road system providing access to the proposed use is adequate to serve the proposed building site for the intended use.**

The applicant states that the road system at (Baker Valley Road) that provides access to the proposed use is adequate to serve the proposed building site for the intended use.

Action Needed:

Staff requests that the Board review the request for Special Exception as per Sections 1-193.210 (*Special Exceptions*) and 1-19-8.321 (*Accessory Apartments Greater than 800 Square Feet located in an Accessory Structure*) and render a decision on the Applicant's request.

SITE MAPS



Maps Con't

