

**FREDERICK COUNTY BOARD OF APPEALS**  
**STAFF REPORT FOR August 22, 2019 @ 7pm**

**Case Number:** **B-19-27 AP# 19676**

**Appellant:** **Christy Bosher**

**Appeal:** **Requesting a Special Exception in accordance with the Frederick County Zoning Ordinance, Section, 1-19-3.210 and Section 1-19-8.321, to permit the construction of an Accessory Dwelling Unit greater than 800 square feet.**

**Location:** **Property identified as 5720 Nottingham Place, Adamstown, MD 21710, Tax Map 0103, Parcel 0159 Tax ID # 01-038966. Lot Size, 30,416 Sq. Ft.**

**Planning Region:** **Brunswick**

**Zoning District:** **Low Density Residential (R3)**

**Comp. Plan Designation:** **Rural Residential**

**Applicable Ordinances:** **Sec. 1-19-3.210 Special Exceptions  
Sec. 1-19-8.321 Accessory Dwelling Units Greater Than 800 Square Feet**

**Background:**

The subject parcels are zoned Low Density Residential (R3) and contains approximately 30,416 Sq.Ft.

Ordinance Section 1-19-8.321 requires that Accessory Dwelling Unit larger than 800 square feet require Special Exception approval 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 is proposing to create an Accessory Dwelling Unit larger than 800 Square Feet within the existing home on this property. The existing home is 5,504 square feet in size. It has a footprint of 2,104 square feet. The Accessory Dwelling Unit will be 1,642 Square Feet in size and encompasses the basement of the home.

### **1-19-3.210. SPECIAL EXCEPTIONS**

(A) An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.

**This special exception is being made by me Christy Bosher the property owner.**

(B) A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that

(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 proposed ADU is consistent with the Frederick County Comprehensive Plan in that it promotes affordable housing as well as senior housing opportunities and maximizes the efficient and functional use of county infrastructure by creating housing opportunities without creating new developments or conversion of agricultural lands.**

(2) The nature and intensity of the operations involved in or conducted in connection 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 the permit is to put in an in law suite in the basement in a 1,642 square foot space inside the current home with no changes to the exterior of the home.**

(3) Operations in connection 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 states that the proposed location will not have an adverse effect like 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.**

(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 there is a parking space with off street parking for this ADU that complies with the regulations of this chapter and will be screened from adjoining residential uses. The entrance and exit drives are laid out so as to achieve maximum safety.

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

The Applicant states that the road providing access to my home is adequate to serve the site for the intended use.

(C) In addition to the general requirements listed above, uses requiring a special exception shall be subject to the specific requirements for each use outlined in §§ [1-19-8.320](#) through [1-19-8.355](#) of this Code.

The Applicant states the use requiring a special exception will be subject to the specific requirements for each use outlined in §§ 1-19-8.320 through 1-19-8.355 of this Code. I agree to these terms.

(D) A special exception approval may be granted in accordance with the general and specific requirements enumerated in this section. The Board of Appeals may, in addition to other requirements imposed under this chapter and is hereby authorized to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the general neighborhood, and its residents or workers. Violation of such additional conditions, when made a part of the terms under which the special exception permit is granted, is a violation of this chapter and may be grounds for termination of the special exception.

The Board of Appeals may in addition to other requirements impose to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the neighborhood, and its residents or workers. The additional conditions will be abided by. I agree to these terms.

(E) The Board of Appeals shall not grant a special exception unless and until:

(1) A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested; and

An application for special exception was submitted by me the owner of the dwelling Christy Bosher, to put an in law suite, ADU, in the basement of my home.

(2) A public hearing has been held; and the Board had made a finding of fact that the special exception requested meets the general and specific requirements outlined in this section.

A public hearing will be held on August 22, 2019.

(F) The grant of special exception may include approval of customary incidental accessory uses as reviewed and approved by the Zoning Administrator.

The Applicant states that I am applying for special exception to put an in law suite in my basement for my elderly mother.

(G) No use or activity permitted as a special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. All enlargements, extensions, and changes in use shall require grants of special exception, as in the case of an original petition.

The Applicant states that the activities permitted as a special exception will be within the limits authorized in the grant of special exception. If extensions or changes in use need to be made I will apply for grants of special exception as in the case of an original petition.

(H) If a grant of special exception is denied, no new petition for the denied use on the same property shall be accepted by the Board of Appeals for 1 year after the date of denial of the petition.

The Applicant states that they understand that if the special exception is denied no new petition for this denied use on this property shall be accepted by the Board of Appeals for 1 year after the date of denial of the petition.

(I) A decision of the Board of Appeals granting a special exception will be void 5 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months. (Ord. 77-1-78, § 40-91(B), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 00-28-270, 9-7-2000; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 09-27-531, 11-3-2009; Ord. 14-23-678, 11-13-2014)

The Applicant states that they understand this special exception will be void after 5 years from the date of approval unless the use is established a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision.

#### **-1-19-8.321. ACCESSORY DWELLING UNITS GREATER THAN 800 SQUARE FEET.**

The following provisions shall apply to all accessory dwelling units greater than 800 square feet in the RC, A, R1, R3, R5, R8, R12, R16, VC, MXD, PUD and MX districts.

(A) Only 1 accessory dwelling unit may be created on a lot.

The Applicant states there is no ADU currently on the property

(B) Accessory dwelling units greater than 800 square feet shall be allowed in single-family dwellings, in an accessory structure, or built as a separate accessory structure, on a single-family lot.

The Applicant states the proposed ADU, greater than 800 square feet, is located in single family dwelling on 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 I reside in the principal dwelling. My mother will reside in the ADU.

(D) There must be at least 1 additional parking space provided for the accessory dwelling unit. On-street parking may be utilized to meet this requirement.

The Applicant states there is one additional parking space provided for the ADU.

(E) An 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 the proposed ADU 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 the renting of ADU is not being contemplated. It is to be used to care for aging parent.

(G) The owner of the principal residence shall file an annual statement with the Zoning Administrator verifying that the conditions under which the special exception was granted remain the same.

I agree to file an annual statement with zoning administrator verifying that conditions remain the same under which the ADU was granted.

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

I agree to inform any potential future owner of this requirement.

(I) Due to the nature of this use, site plan approval can be granted by the Zoning Administrator in lieu of the Planning Commission.

I understand this statement

(J) An accessory dwelling unit meeting the provisions of § 1-19-8.212 shall be considered a permitted accessory use and therefore not subject to this section.

The Applicant states the proposed ADU is ~1,642 square feet. We are submitting this application for a special exception. The total area of house including the basement is 5,042 square feet.

**Action Needed:**

Staff requests that the Board review the request for Special Exception as per Sections 1-19-3.210 (*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 for an Accessory Dwelling Unit 1,642 Square Feet in size and encompasses the basement of the home.

**SITE MAPS**



