

**FREDERICK COUNTY BOARD OF APPEALS**  
**STAFF REPORT FOR JUNE 25, 2020 @ 7pm**

**Case Number:** B-20-02 B258859

**Appellant:** Channy Phan

**Appeal:** Requesting approval of a Special Exception to permit an Accessory Dwelling Unit Greater than 800 sq.ft. in accordance with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Ordinance. The ADU is 1319 sq.ft.

**Location:** Property is described as 3204 Jefferson Pike, Jefferson MD, 21755, Tax Map 84, Parcel 0083, Tax ID# 14328564, Zoned - Agricultural (A)

**Planning Region:** Brunswick

**Zoning District:** Agricultural (A)

**Comp. Plan Designation:** Agricultural

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

**Background:**

The subject parcel is zoned Agricultural (A) and contains approximately 3.04 acres.

Ordinance Section 1-19-8.321 requires that Accessory Dwelling Unit (ADU) larger than 800 square feet require Special Exception approval from the Board of Appeals.

The proposed accessory dwelling unit is 1,319 sq.ft. and will be constructed as part of the main dwelling. ADU's greater than 800 sq.ft. are a permitted use as a special exception subject to site development plan approval.

## **Proposal**

The applicant is proposing to construct a single family home with an Accessory Dwelling Unit greater than 800 sq.ft. attached. The main home which the applicant is proposing to live in is 3,806 sq.ft. Attached to this home is the ADU 1,319 sq.ft. in size. The total size of the home including the ADU is 5,125 sq.ft.

### **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.

**The applicant states that he (Channy Phann) is the owner of the property requesting for the special exception.**

- (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 request ADU attached to the main house is consistent with the Frederick County Comprehensive Plan in that it promotes affordable housing for senior citizens and maximizing the efficient and functional use of the county infrastructure by creating housing opportunities without creating new developments or conversion of agriculture land.**

- (2) The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relations to it are such 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 proposed ADU will be use strictly as residential with no business or commercial operation of any kind and in harmony with the surrounding residential homes.**

- (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 use of the ADU will not add to increase or create any noise, fumes, vibration or other ill effects on the neighboring properties, and will be consistent with the surrounding residential use. The applicant states that his family has strong desire to live in a quiet and peaceful country life.**

- (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 there will be plenty of parking to accommodate the main house and the ADU in the driveway next to the three car garages.**

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

**The applicant states that his elderly parents will have the same access to the property via the existing easement driveway connecting to Jefferson Pike which is adequate to handle the additional vehicle from the ADU.**

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

**The Applicant agrees and understands this.**

- (D) The 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 may deem necessary to protect the 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 Applicant agrees and understands this.**

- (E) The Board of Appeals may not grants 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

**The Applicant agrees and understands this.**

- (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.

**The Applicant agrees and understands this.**

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

**The Applicant agrees and understands this.**

- (G) No use of activity permitted as a special exception shall be enlarged or extended beyond the limited 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 agrees and understands this.**

- (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 agrees and understands this.**

- (I) A decision of the Board of Appeals granting a special exception will be void 5 years from the 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 the 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 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

**The Applicant agrees and understands this.**

**Sect. 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, RS, RS, R12, R16, VC, MXD, PUD and MX districts.

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

**The Applicant states that 3204 Jefferson Pike, Jefferson, MD 21755 (Tax Map 0084, Parcel 0083, 3.04 Acres, Grace Estates, Lot 3) zone for residential use will only contain 1 accessory dwelling unit attached to the main house in line with the submitted site plan.**

- (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 that the ADU (1,319 square feet) greater than 800 square feet attached to the main house (3,806 square feet) total 5,125 square feet will be built on lot 3 of Grace Estates parcel 0083 as shown on the site plan.**

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

**The Applicant states that he and his family intend to live in the main house lot 3 of Grace Estates parcel 0083.**

- (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 that there are plenty of off street parking space to accommodate the ADU on the driveway near the three cars garages.**

- (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(8).

**The Applicant states he fully understands and agrees to the requirements of the Frederick County Zoning Ordinance, Sect. 1-19-8.240, and the proposed Accessory Dwelling Unit meets all the requirements of Sect. 1-119-240(8).**

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

**The Applicant states that the ADU will not be for rental, lease, and any kind of short term stay. The main purpose of the ADU is to give back to his parents whom took care of him over the years.**

- (G) The owner of the principle residence shall file an annual statement with the zoning administrator verifying that the conditions under which the special exception was granted remain the same.

**The Applicant states that he will file an annual statement with the Frederick County Zoning Administrator verifying that the conditions under which the special exception was granted remain the same.**

- (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.

**The Applicant agrees and understands this.**

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

**The Applicant agrees and understands this.**

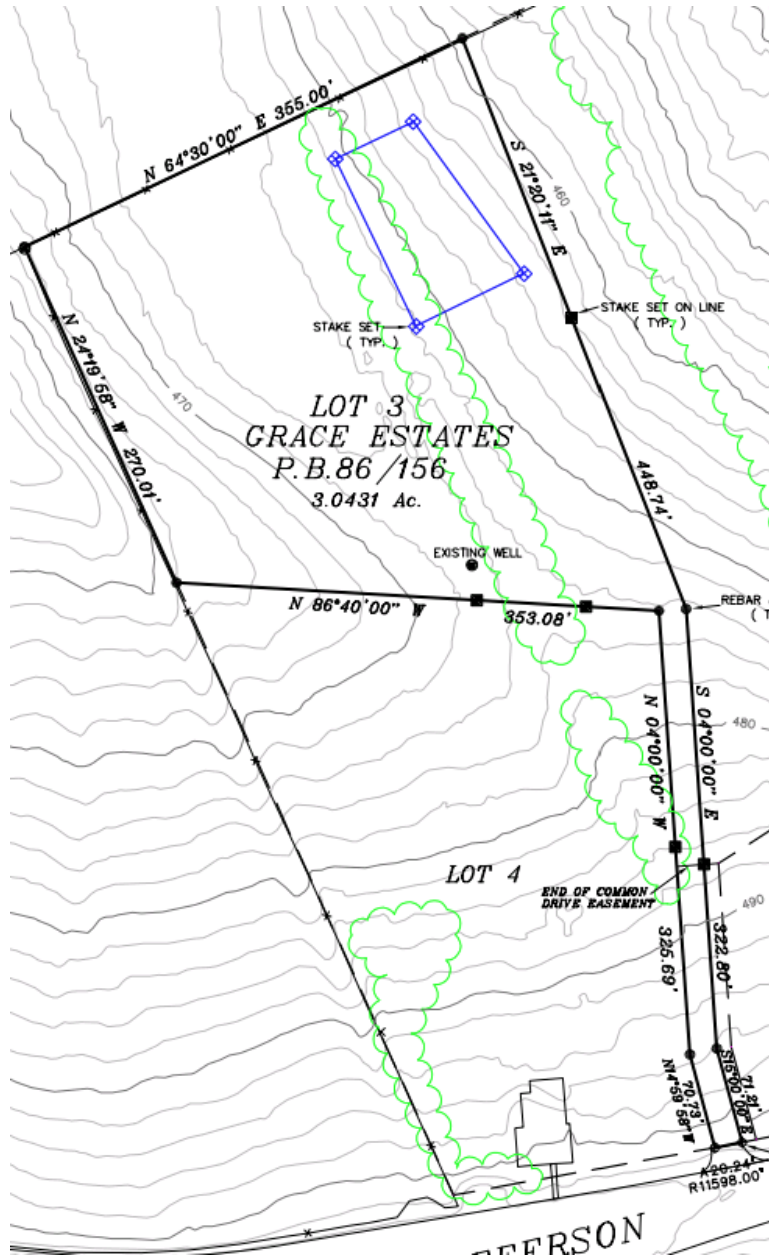
- (J) An ADU meeting the provisions of Sect. 1-19-8.212 shall be considered a permitted accessory use and therefore not subject to this section.

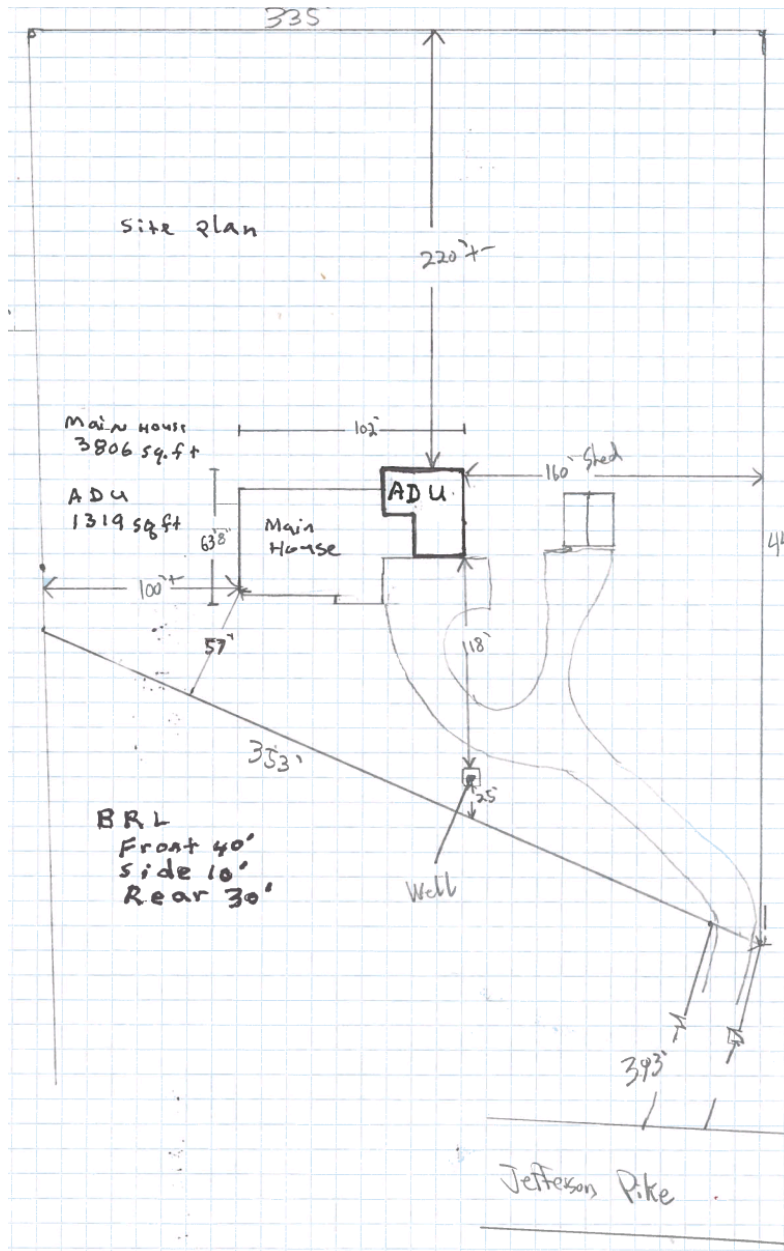
**The Applicant agrees and understands this.**

**Action Needed:**

Staff requests that the Board review the application for Special Exception per Sections 1-19-3.210 (Special Exceptions) and 1-19-8.321 (Accessory Dwelling Unit Greater than 800 Square Feet) to construct an ADU 1,319 sq.ft. in size, attached to the main home which is 3,806 sq.ft. in size, bringing the total size of the main home including ADU to 5,125 sq.ft. and render a decision on the Applicant's request.









# **SITE MAPS**

