

**FREDERICK COUNTY BOARD OF APPEALS**  
**STAFF REPORT FOR AUGUST 27, 2020 @ 7pm**

<u>Case Number:</u>	B-19-20-08 (B260074)
<u>Applicant:</u>	Christopher Morgan
<u>Appeal:</u>	Requesting a Special Exception for a Limited Agricultural Activity in the Residential Districts.
<u>Location:</u>	The Property is described as 6657 Clifton Road, Frederick MD 21703, Tax Map 99, Lot 72806, Tax ID 24465853, 1.15 Acres, Zoned - Low Density Residential (R1)
<u>Planning Region:</u>	Middletown
<u>Zoning District:</u>	Low Density Residential (R1)
<u>Comp. Plan Designation:</u>	Rural Residential
<u>Applicable Ordinances:</u>	Sec. 1-19-3.210 Special Exceptions Sec. 1-19-8.325 Limited Agricultural Activity in the Residential Districts Sec. 1-19-11.100 Definitions

**Background:**

The subject parcel is zoned Low Density Residential (R1) and contains 1.15 acres.

Ordinance Section 1-19-11.100 defines *AGRICULTURAL ACTIVITY, LIMITED* as “The keeping of farm animals in residential districts on lots with less than 3 acres. Apiaries are excluded from this definition.”

Ordinance Section 1-19-11.100 defines *FARM ANIMALS* as “Those animals ordinarily found on a farm, including but not limited to: horses, ponies, sheep, goats, bulls, buffalo, cows, steers, rabbits raised for commercial purposes, turkeys, pigs, ducks, geese, chickens and guinea hens.”

**Proposal:**

The Applicant who is a renter of this home and property, is requesting Special Exception approval for a Limited Agricultural Activity for the purpose of keeping chickens, on a residential lot that has less than 3 acres.

The Applicant has submitted a site plan showing that the proposed pen area will meet the 50 foot setback requirement. (Attachment 1) The applicant is proposing no more than 10 chickens and no roosters. The applicant has provided a notarized letter from the property owner (Attachment 2), granting permission for Mr. Morgan to raise chickens on this property.

**General Criteria – Special Exception:**

- 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 is the renter who has a notarized letter from the homeowner, Holley O'Brien, allowing for this activity to occur. (Attachment 2)**

- 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 this Rural Residential area with larger lots and the raising of chickens with adequate setbacks should not create any conflicts with neighboring properties.**

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 that they understands this and has voiced intent with all property neighbors.**

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 understand this requirement.**

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 understand this requirement.**

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

**The applicant states that they understands this requirement. The road to which the private residence resides is on a private drive.**

- 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 understand this requirement.**

- 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 applicant understands this requirement.**

- 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

**The applicant understands this requirement.**

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 understands this requirement.**

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

**The applicant understands this requirement.**

- 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 this requirement is understood, the area will not exceed what is being requested in this activity.**

- 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 understands this requirement.**

- 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.

**The applicant understands this requirement.**

### **Limited Agricultural Activity in The Residential Districts.**

A limited agricultural activity shall be permitted in the residential districts where the following provisions are met:

- A. The keeping of farm animals in conjunction with a single family residence, on lots less than 3 acres, shall be permitted in residential districts provided that no pens, stalls, or runs will be located closer than 50 feet of any lot line (see also § [1-19-8.240](#)).

**The applicant states that they understand this and will comply with the 50 ft. minimum distance from property lines requirement. (Attachment 1)**

- B. All criteria in § [1-19-3.210](#) and all other provisions of this chapter shall be met.

**The applicant understands this requirement.**

- C. The limited agricultural activity shall not cause any odor, dust, smoke, vibration or unreasonable noise which can be detected at or beyond the property line.

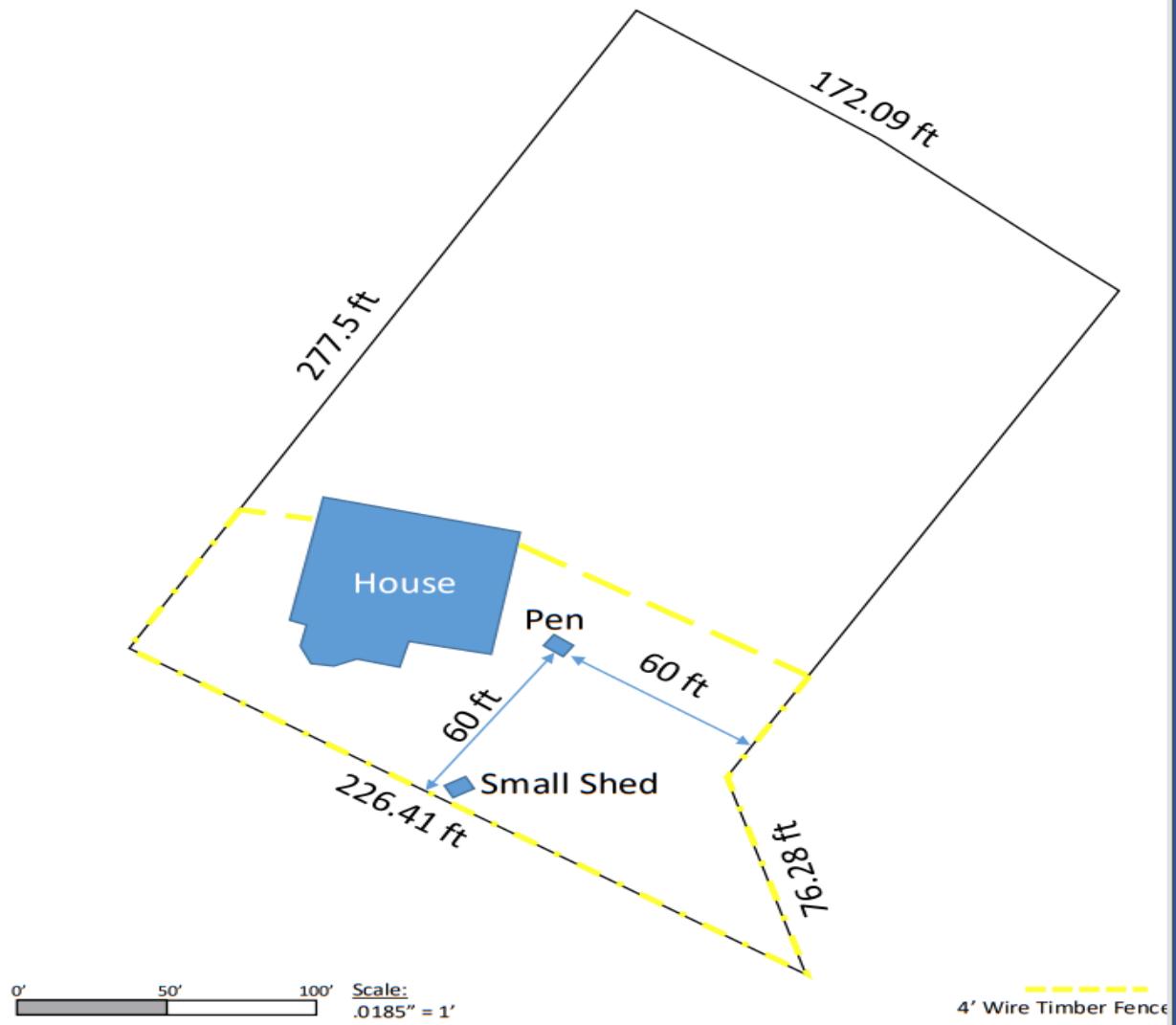
**The applicant states that they understand this requirement. The pens will be cleaned and the chickens will be well cared for.**

### **Action Required:**

Staff requests that the Board review the general and specific criteria for Special Exception under Section 1-19-3.210 (*Special Exceptions*) and Section 1-19-8.325 (*Ltd Ag Activity in the Residential Districts*) and render a decision on the applicant's request to allow no more than 10 chickens with no roosters on their property

**Attachment 1**

Scaled Drawing for 6657 S. Clifton Road, Frederick, MD 21703  
Christopher E. Morgan



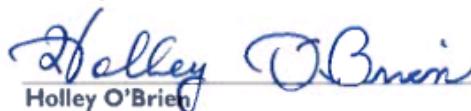
## Attachment 2

### **Approval for Tenant to pursue Limited Agricultural Activity**

I am the home owner of 6657 S Clifton Rd., Frederick, MD, 21703. I am renting the home through Classic Property Management of Frederick, MD. The current tenant, Mr. Christopher E. Morgan, is seeking approval for a limited agricultural activity to keep chickens on the property. Mr. Morgan is aware of the provisions outlined in § 1-19-8.325 and has agreed to abide strictly to them. Mr. Morgan has notified all property line neighbors and all are in agreeance with the keeping of chickens on the property.

I approve of Mr. Christopher E. Morgan seeking approval for a limited agricultural activity.

Sincerely,

  
Holley O'Brien

State of Maryland,  
County of Montgomery (or City of Baltimore), to wit:

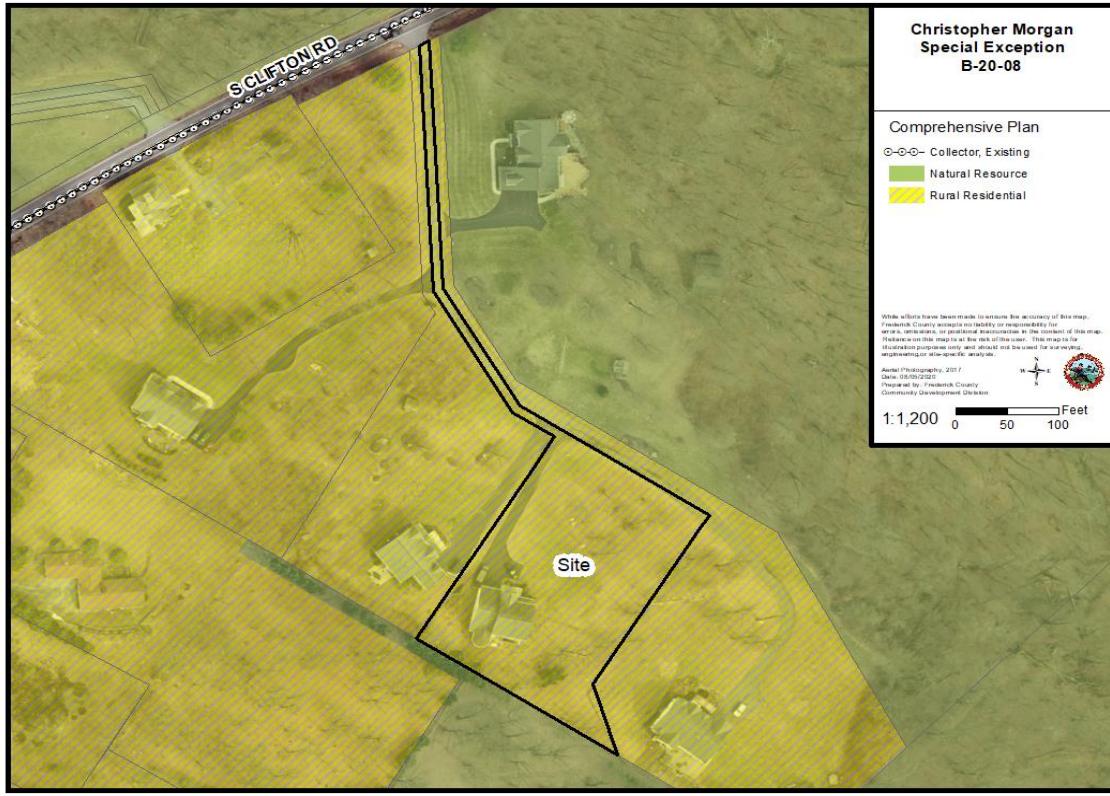
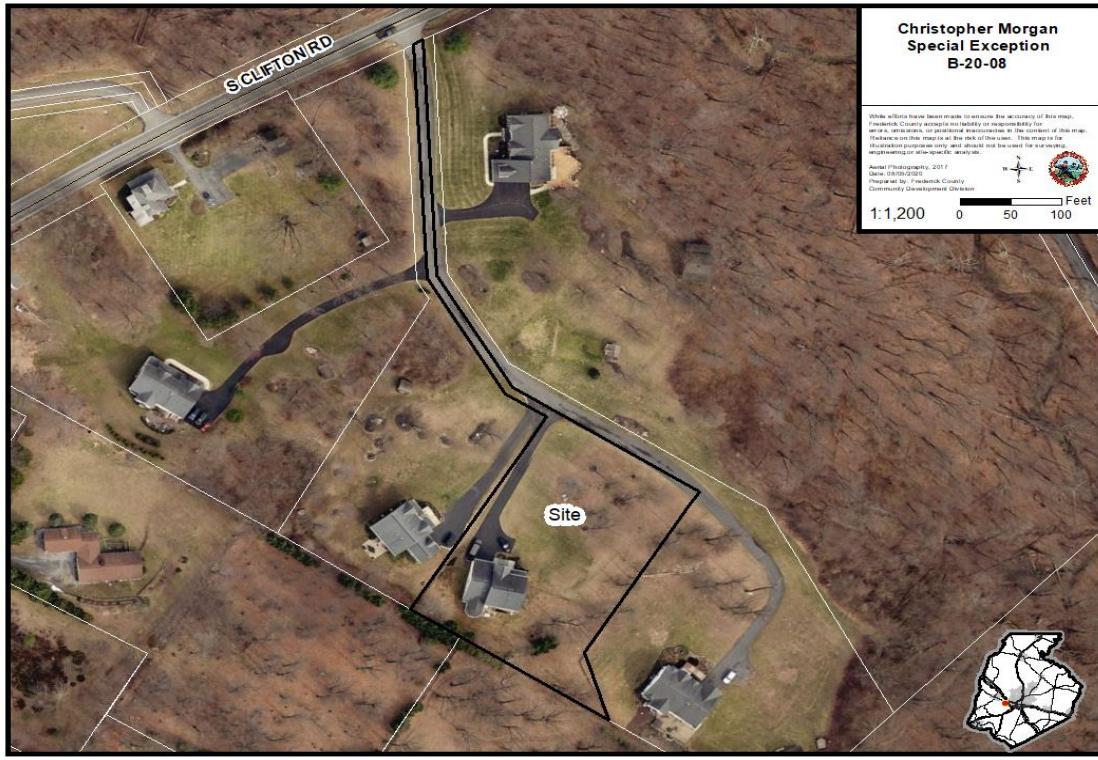
On this 4<sup>th</sup> day of May, 2020, before me, the undersigned officer, personally appeared \_\_\_\_\_ [name of person(s) who make acknowledgement], known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purpose therein contained.

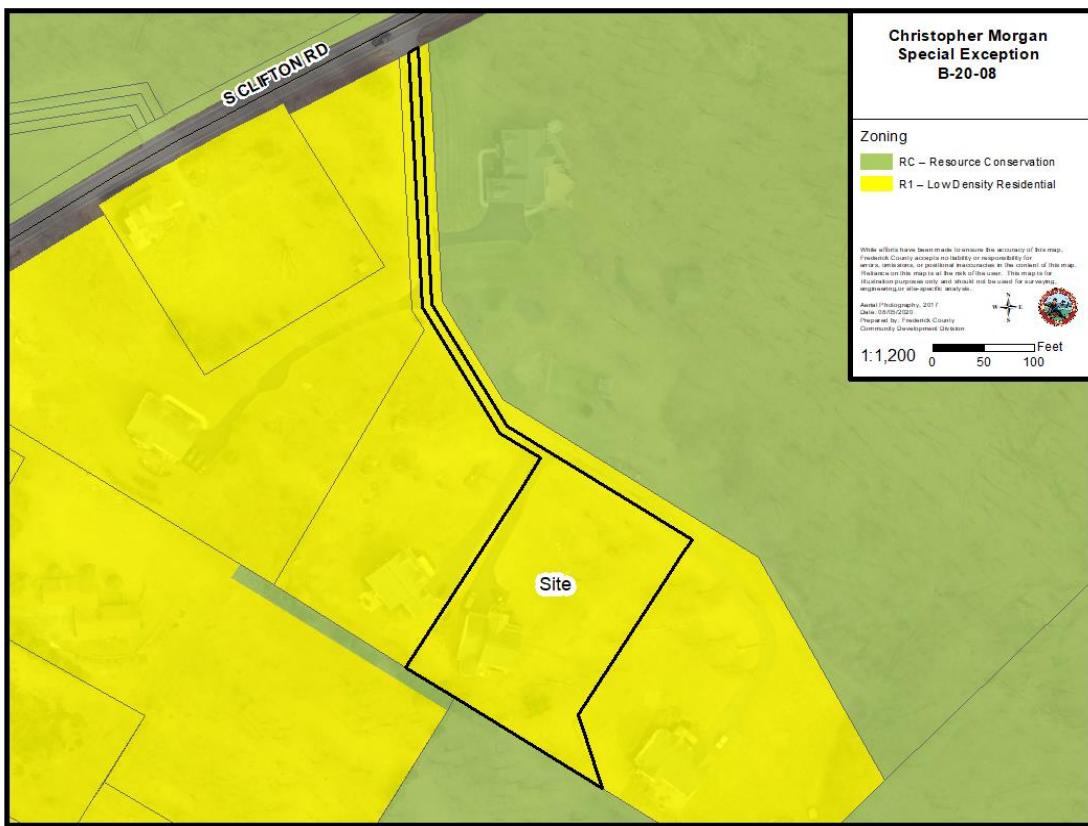
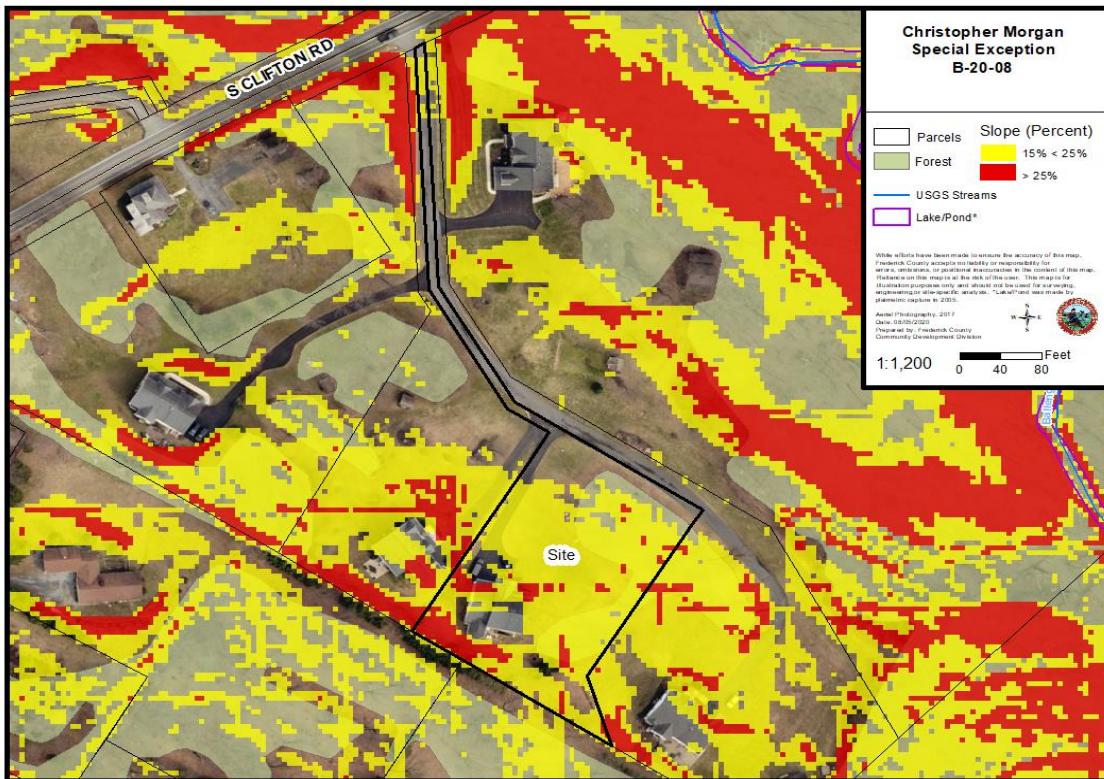
In witness whereof, I hereunto set my hand and official seal.

[Notary Seal] MANUEL T. TEKPER  
NOTARY PUBLIC, STATE OF MARYLAND  
MONTGOMERY COUNTY, MD.  
MY COMMISSION EXPIRES 11/14/2021

  
\_\_\_\_\_  
[Signature of Notary Public]  
Emmanuel Telipew  
\_\_\_\_\_  
[Printed Name of Notary Public]  
My Commission Expires: 11/14/2021

## Site Maps





(B-20-08)