

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT FOR OCTOBER 22, 2020 @ 7pm

Case Number: B-19-20-13 (B260326)

Applicant: Martina Rangel Navarro

Appeal: Requesting a Special Exception for a Limited Agricultural Activity in the Residential Districts.

Location: The Property is described as 4989 Woodhirst Dr., Frederick MD 21703, Map 85, Parcel 194, Tax ID# 23445050. Zoned, Low Density Residential (R1), Size, 1.84 Acres.

Planning Region: Frederick

Zoning District: Low Density Residential (R1)

Comp. Plan Designation: Rural Residential

Applicable Ordinances: 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 1.84 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 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 6 chickens and no roosters.

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 states that Arturo Vallecillo and Martina Rangel are the owners of the property

- 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.

The applicant states that the comprehensive plan designates this area as Rural Residential. The keeping of chickens on this property is consistent with the rural nature of this area.

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 it is a family backyard activity. It is a low intensity operation. I consider it is appropriate for the neighborhood considering there is a lot of new families moving in. Children need to see this kind of activity around.

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 our lot is big enough and surrounded by trees in all sides. The appropriate cleaning of the coop will avoid any smells. And my chicken flock will be small, up to 6 chickens and no roosters

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 raising chickens in my backyard activity does not require additional parking. Our driveway is two lanes 97 feet long and two additional parking spaces.

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 system is adequate for the activity.

- 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.

- 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
 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.

- 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 understands this requirement.

- 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 the proposed location is 50 feet away from lot lines. (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.

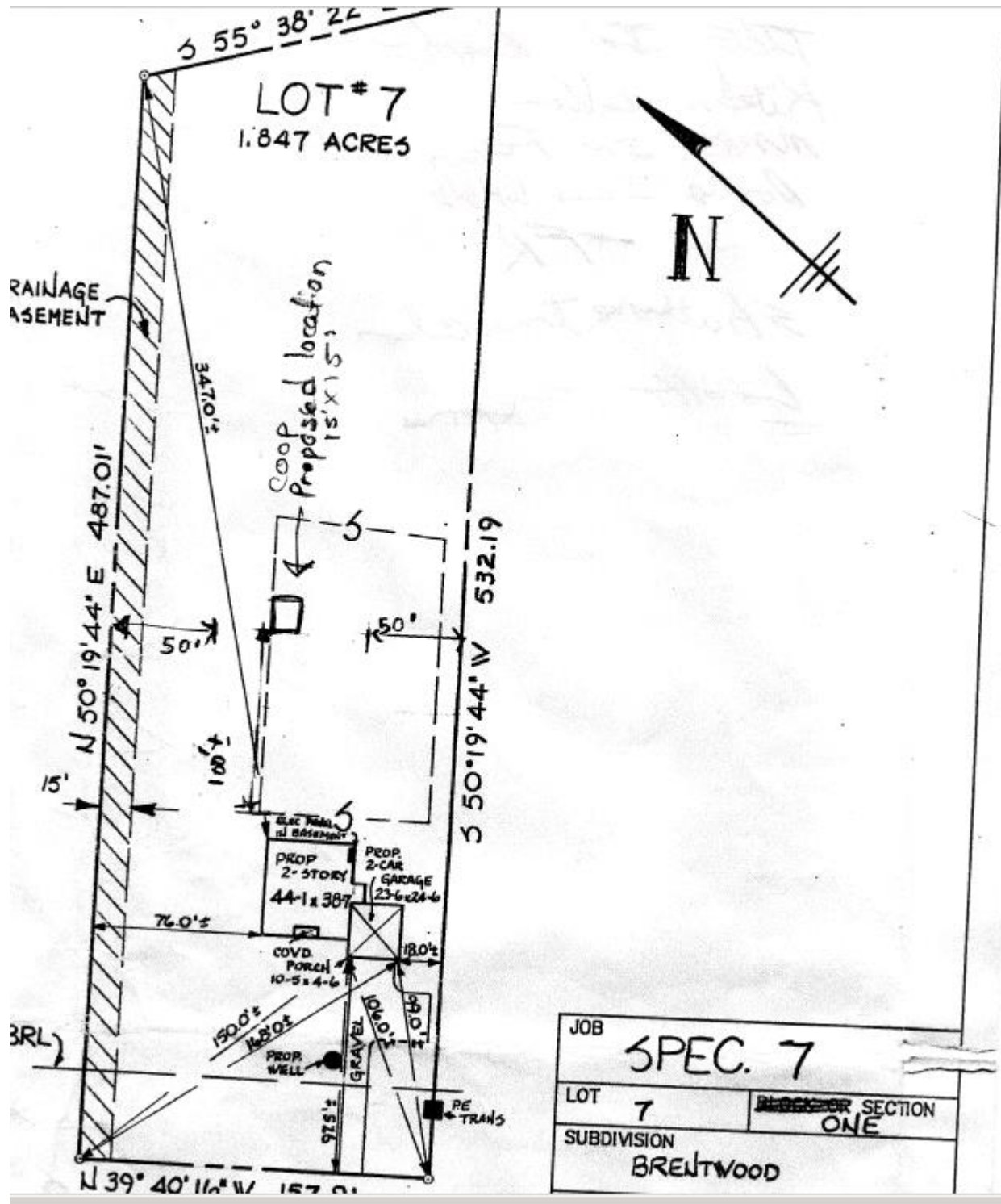
- C. The limited agricultural activity shall not cause any odor, dust, smoke, vibration or unreasonable noise which can be detected at or beyond the property line.

The applicant understands this requirement.

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 6 chickens with no roosters on their property

Attachment 1



Maps

