

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT FOR November 19, 2020 @ 7pm

Case Number: B-20-18 (B260487)

Applicants: Melvin and Teresa Boone

Application: Requesting approval of a Special Exception to permit an Accessory Dwelling Unit (ADU) Greater than 1000 sq. ft. in accordance with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code. The ADU is 1080 sq.ft.

Location: The property is identified as 10542 Liberty Road, Frederick, MD 21701, Tax Map 59, Parcel 0285, Tax ID #306710, 5.6 Acres

Planning Region: Walkersville

Zoning District: Agricultural (A)

Comp. Plan Designation: Agricultural

Applicable Ordinances: Sec. 1-19-3.210 Special Exceptions
Sec. 1-19-8.321 Accessory Dwelling Units Greater Than 1000 Square Feet.

Background:

The subject parcel is zoned Agricultural (A) and contains approximately 5.6 acres. (Attachment 1)

Section 1-19-8.321 of the Frederick County Zoning Code, states that an Accessory Dwelling Unit (ADU) larger than 1000 square feet requires a Special Exception from the Board of Appeals.

The Applicants previously had an Accessory Dwelling Unit approved by the BOA in 2019 (B-19-33) for 960 Sq. Ft. It was determined, after the approval, that additional square footage was needed to accommodate mobility issues for the Applicants' handicapped son, who will be living in this unit. The proposed detached accessory dwelling unit is now 1080 sq. ft and is a permitted use as a special exception subject to site development plan approval. (Attachment 1)

Proposal

The Applicants are proposing to create a 1080 square foot ADU located as shown on the Applicants' site plan. The existing home is 4,983 square feet in size and has a footprint of 3,111 square feet. The ADU will be 1080 Square Feet in size comprised of a single story double wide mobile home. (Attachment 1)

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 Applicants state that they are the Trustees of the Boone Family Trust, which owns 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 Chapter 1-19 of the County Code; and

The Applicants state 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 the County infrastructure by creating housing opportunities without creating new developments or conversion of agricultural 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 Applicants state that the proposed use will remain residential and not be used for any commercial or business operation of any kind. The proposed use will be strictly residential and will be consistent 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 Applicants state that the use of the ADU will not add to, increase, or create any noise, fumes, vibrations or other ill effects on the neighboring properties, and will be consistent with the surrounding residential uses.

(4) Parking areas will comply with the off street parking regulations of Chapter 1-19 of the County Code 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 Applicants state that the ADU will be accessed by the existing main driveway. There will be a parking area for two (2) cars on the west side of the proposed accessory structure.

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

The Applicants state that the Boone Family Trust has full use of the driveway, pursuant to an existing easement. The driveway connects to Liberty Road. Liberty Road and the existing driveway are more than adequate to handle the additional vehicles, which may be produced by the proposed accessory dwelling unit.

(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 the County Code.

The Applicants understand this requirement.

(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 Chapter 1-19 of the County Code, 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 Chapter 1-19 of the County Code and may be grounds for termination of the special exception.

The Applicants understand this requirement.

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

(1) A written application for a special exception is submitted indicating the section of Chapter 1-19 of the County Code under which the special exception is sought and stating the grounds on which it is requested; and

The Applicants understand 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 Applicants understand 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 Applicants understand this requirement.

(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 Applicants understand 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 Applicants understand this requirement.

(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 Applicants understand this requirement.

Sect. 1-19-8.321 ACCESSORY DWELLING UNITS GREATER THAN 1000 SQUARE FEET.

The following provisions shall apply to all accessory dwelling units greater than 1000 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 Applicants state that the Boone Family Trust Lot 1, on Parcel 0285 will contain only 1 Accessory Dwelling Unit, as shown the on Plat Plan. (Attachment 2).

(B) Accessory dwelling units greater than 1000 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 Applicants state that the Boone Family Trust proposed Accessory Dwelling Units is greater than 1000 square feet (1080s.ft)and will be built on lot 1 parcel 0285 as shown on the plat. (Attachment 2)

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

The Applicants state the property is owned by the Boone Family Trust and that they, Teresa and Melvin Boone, are the Trustees and that they will reside, fulltime, in the principal dwelling currently located on lot 1, Parcel 0285. (Attachment 2) The proposed accessory dwelling will be used for their adult handicapped son.

(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 Applicants state that additional off street parking space as required by the Frederick County Zoning Code, will be provided for the accessory dwelling unit. No on-street Parking will be required to meet this requirement.

(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 Applicants state that the property owner fully understand and agree to the requirements of the Frederick County Zoning Code, § 1-19-8.240, and the proposed Accessory Dwelling Unit meets all the requirements of § 1-19-240(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 Applicants state that the property owner will not rent, lease or otherwise use the proposed ADU for any short term rental, or short term stays of any kind. The proposed ADU is to be used for their adult handicapped son.

(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.

The Applicants state that the Boone Family Trust, (Theresa and Melvin Boone, Trustees) the existing property owner, 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 Applicants understand 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.

The Applicants understand this requirement.

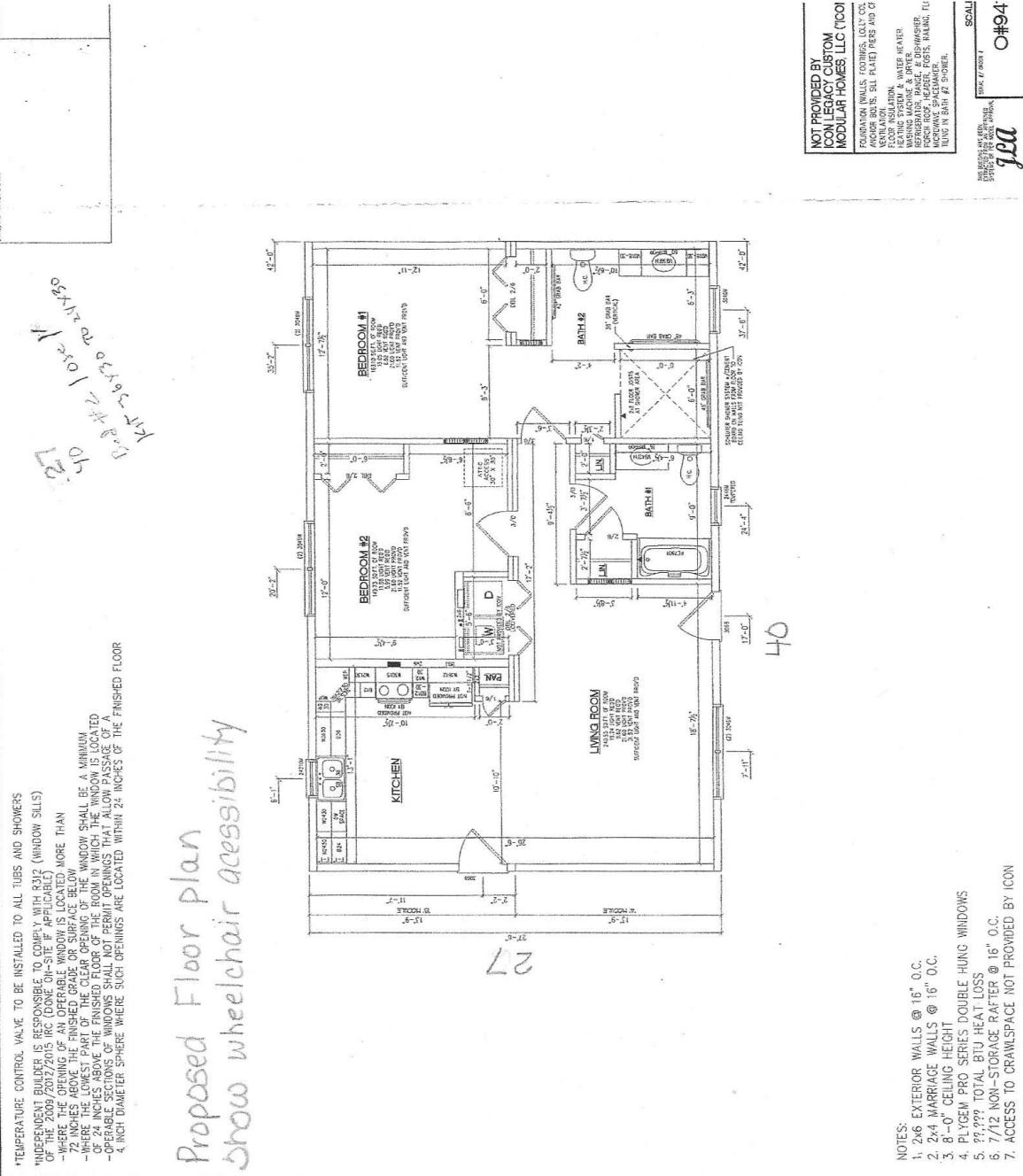
(J) An ADU meeting the provisions of § 1-19-8.212 shall be considered a permitted accessory use and therefore not subject to this section (§1-19-8.321).

The Applicants understand this requirement.

Action Needed:

Staff requests that the Board review the request for Special Exception as per Sections 1-19-3.210 and 1-19-8.321 of the Frederick County Zoning Code to construct an ADU to be located in a separate structure on the Applicants' property, totaling, 1080 square feet in size and render a decision on the Applicants' request.

Attachment 1



Attachment 2

SITE MAPS

