

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT FOR OCTOBER 28, 2021 @ 7pm

Case Number: B-21-19 (B266347)

Applicants(s): Mary Anne Ferguson, Esq. (Representing Paul and Susan Stull)

Appeal: Requesting a Special Exception Approval for a Limited Agricultural Activity in the Residential Districts in accordance with Section 1-19-3.210 and Section 1-19-8.325 of the Frederick County Zoning Ordinance to allow up to 2 cattle on their property and chickens with no roosters, on a residentially zoned property.

Location: The property is described as 9828 Dublin Road, Walkersville, MD 21773, Tax Map 49, Parcel 0095, Tax ID# 26484421, Zoned Low Density Residential (R-1), Size 1.99 Acres

Planning Region: Walkersville

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 and contains 1.99 acres.

Section 1-19-11.100 of the Frederick County Zoning Ordinance 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."

Section 1-19-11.100 of the Frederick County Zoning Ordinance 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 Applicants is requesting Special Exception approval for a Limited Agricultural Activity for keeping chickens, with no roosters, and 2 cattle, on a residential lot that is less than 3 acres.

The Applicants have submitted a site plan showing that the proposed pen area will meet the 50 foot setback requirement. (Attachment 1)

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 Applicants state that Paul and Susan Stull are the owners of the property for which the special exception is requested; application was filed by their attorney, Mary Ann Ferguson.

- 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 Applicants state that All animals will have access to a 24 x 8 covered walk-in two-sided structure, which is located at least 50 feet from all property lines;

The Applicants further state that all Animals will have access to fresh pasture and water, with daily supplemental feedings

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 Applicants state that the property is in proximity to other properties zoned agricultural use. The animals are quiet and should not disturb any neighbors; no roosters are going to be kept.

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 manure will be composted for use on our vegetable and flower gardens, sourced for compost to our neighbors and/or removed from the premises regularly. Composting will be done away from water sources Animals will be cared for by family members; no employees or equipment are associated with the proposed use.

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 Applicants state that the subject property is our private residence and no further parking is required beyond the existing driveway.

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

The Applicants state that Dublin Road is adequate to serve our property and provides adequate access to serve 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 Applicants state that Shelter structures will be at least 50 feet away from the property lines as indicated on the submitted drawing. The animals will not raise dust beyond the property lines, and they are quiet and rarely make noise; no roosters will be kept. We will have no employees and no equipment will used except when necessary to clean and maintain the property.

- D. A special exception approval may be granted in accordance with the general and specific requirements enumerated in Sec.1-19-3.210 of this Code. 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 Applicants state that they understand these requirements.

- 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 Sec. 1-19-3.210 of this Code..

The Applicants state that they understand these requirements.

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

The Applicants state that they understand 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 Applicants state that they 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 state that they understand 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 Applicants, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

The Applicants state that they understand 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 Applicants state that they understand this requirement and have provided a site plan showing the pen location is at least 50 ft. from all property lines.

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

The Applicants state that they understand these requirements.

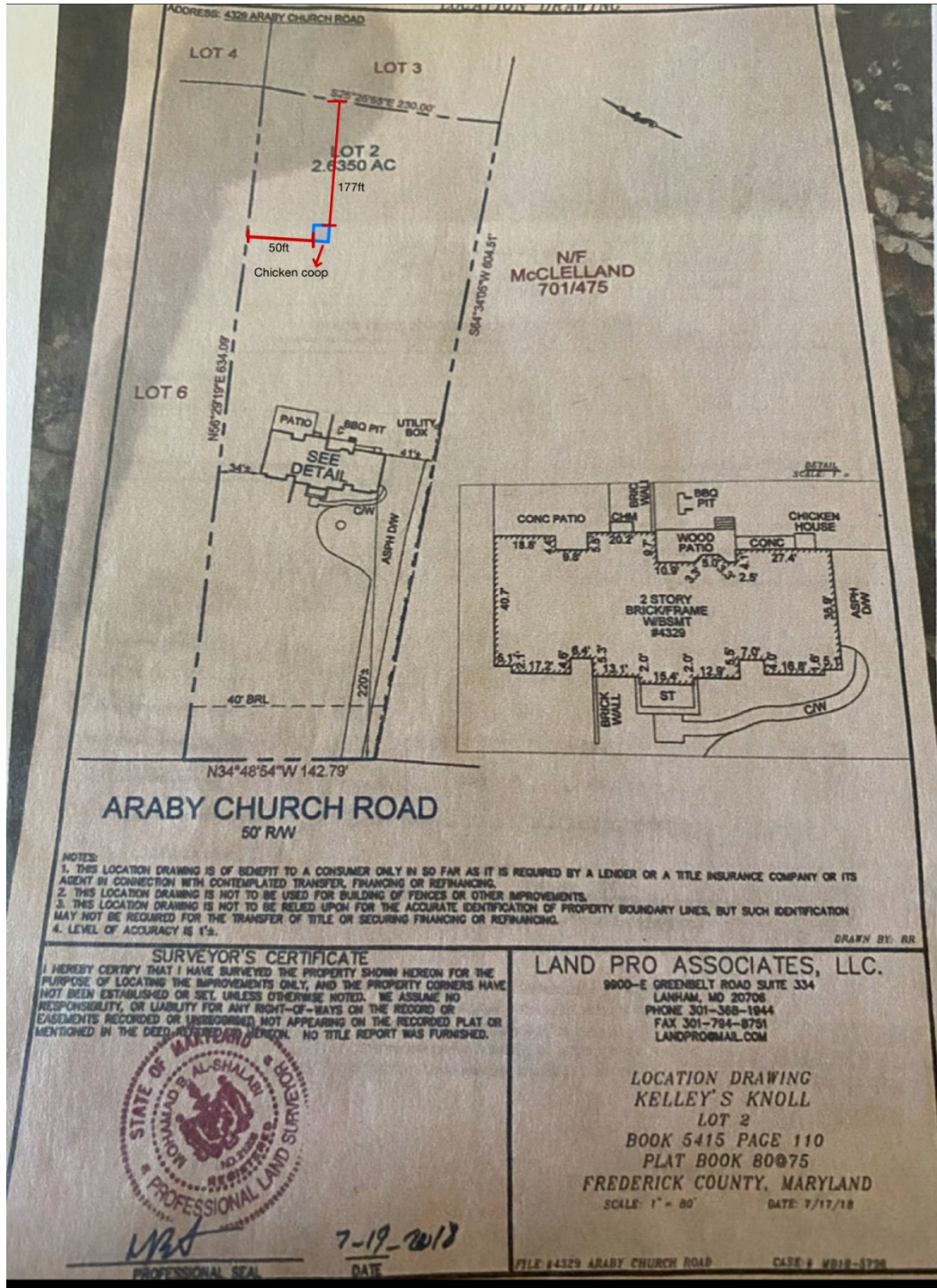
- C. The limited agricultural activity shall not cause any odor, dust, smoke, vibration or unreasonable noise, which can be detected at or beyond the property line.

The Applicants state that they understand these requirements.

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*) of the Frederick County Zoning Ordinance and render a decision on the Applicants' request to allow two cattle, chickens and no roosters on the property.

Attachment 1



GIS MAPS

