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## FREDERICK COUNTY BOARD OF APPEALS

### March 28, 2023

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**TITLE:** **Henley - Limited Agricultural Activity**

**FILE NUMBER:** **B-24-08 (B276193)**

**REQUEST:** Requesting a Special Exception Approval for a Limited Agricultural Activity in the Residential Districts in accordance with Section 1-19-3.210, Section 1-19-8.325, and Section 1-19-11.100 of the Frederick County Code to allow up to 6 chickens, with no roosters, on a residentially zoned property containing .52 acres.<sup>1</sup>

**PROJECT INFORMATION:**

ADDRESS/LOCATION: 2792 Adams Street  
MAP/PARCEL: Tax Map 103, Parcel 0827  
COMP. PLAN: Village Center  
ZONING: (VC) Village Center  
PLANNING REGION: Adamstown  
WATER/SEWER: W-1/S-3

**APPLICANT/REPRESENTATIVES:**

APPLICANT: Jason Henley  
OWNER: Jason Henley, Ashley Henley  
ENGINEER: N/A  
ARCHITECT: N/A  
ATTORNEY: N/A

**STAFF:** Michael A. Paone, Zoning Planner

**RECOMMENDATION:** Staff recommends approval of the requested Special Exception for a Limited Agricultural Activity in the Residential Districts in accordance with Section 1-19-3.210, Section 1-19-8.325, and Section 1-19-11.100 of the Frederick County Code to allow up to 6 chickens, with no roosters, on a residentially zoned property containing .52 acres.

**Attachments:**

Attachment #1 – Property Site Plan  
Attachment #2 – Picture of Coup/Run  
Attachment #3 – Aerial Map  
Attachment #4 – Zoning Map  
Attachment #5 – Env. Features Map  
Attachment #6 – Comp. Plan Map

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<sup>1</sup> The term Applicant refers to both the Representative and the Property Owner(s).

Note: All code references herein are to the Frederick County Code, unless otherwise specified.

## **BACKGROUND**

The Property is zoned Village Center (VC), per Section 1-19-5.240.(B) of the Frederick County zoning ordinance. The (VC) is intended to reinforce and enhance the historically mixed-use areas within rural communities and designated growth areas. The district provides for the location of a variety of limited commercial uses and a range of housing types while maintaining the compatibility of new development with existing development through design standards. A mix of uses is encouraged in the village center either within a single structure or as separate uses located throughout the district.

Section 1-19-11.100 of the Frederick County Code 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.”

The Applicant is requesting 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 Code to allow up to 6 chickens, and no roosters, on the Applicant's residentially zoned property. The Applicant has submitted a site plan showing that the proposed pen area will meet the 50-foot setback requirement. (**Attachment #1**)

### **§ 1-19-3.210 - 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 the property owners are, Jason and Ashley Henley.***

- 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 Frederick County Code; and

***The Applicant states that having chickens on lots similar to theirs is not uncommon in Frederick County, is consistent with the rural nature of the area, and is consistent with the purpose and the intent of the Comprehensive Development Plan.***

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 the pen is of a size and in a location that it will be in harmony with the neighborhood and with the surrounding community. It should not have an impact on surrounding properties.***

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 chicken coop will be cleaned weekly, or more often if needed and that it will not create any noise, fumes or other matters that might adversely impact any adjacent neighbors beyond those inherently associated with the special exception.***

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 Applicant states that the approval of the application will not require any 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 approval of this application will not cause there to be a need for any changes to the property's road access and will not affect traffic. .***

- 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 the County Code.

***The Applicant states that they understand and agree to 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 Chapter 1-19 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 Chapter 1-19 and may be grounds for termination of the special exception.

***The Applicant states that they understand and agree to 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 Chapter 1-19 of the County Code 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.

***The Applicant states that they understand these requirements, they have made a written application stating the grounds upon which it is requested and are complying with the process.***

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

***The Applicant states that they understand and agree to 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 they understand and agree to 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 states that they understand and agree to 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 states that they understand and agree to this requirement.***

#### **§ 1-19-8.325 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 chickens, coop, and run are located, at a minimum of, 50 feet away from all property lines.***

- B. All criteria in § [1-19-3.210](#) and all other provisions of Chapter 1-19 of the County Code shall be met.

***The Applicant states that they understand and agree to 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 and that the chicken coop and run are located 50 feet, or more, from all property lines and will be cleaned weekly, or more often when needed. There will be no roosters. The keeping of 6 chickens and no roosters will not cause any odor, dust, smoke, vibration, or unreasonable noise which can be detected at or beyond the property line.*

Based on the findings and conclusions in the staff report, Staff does not object to the approval of the requested Special Exception for a Limited Agricultural Activity in the Residential Districts consistent with Sections 1-19-3.210, 1-19-8.325, and 1-19-11.100 of the Frederick County Code to allow up to 6 chickens, with no roosters, on a residentially zoned property containing .52 acres.

**§ 1-19-3.210. SPECIAL EXCEPTIONS.** 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.



Attachment #1 Site Plan

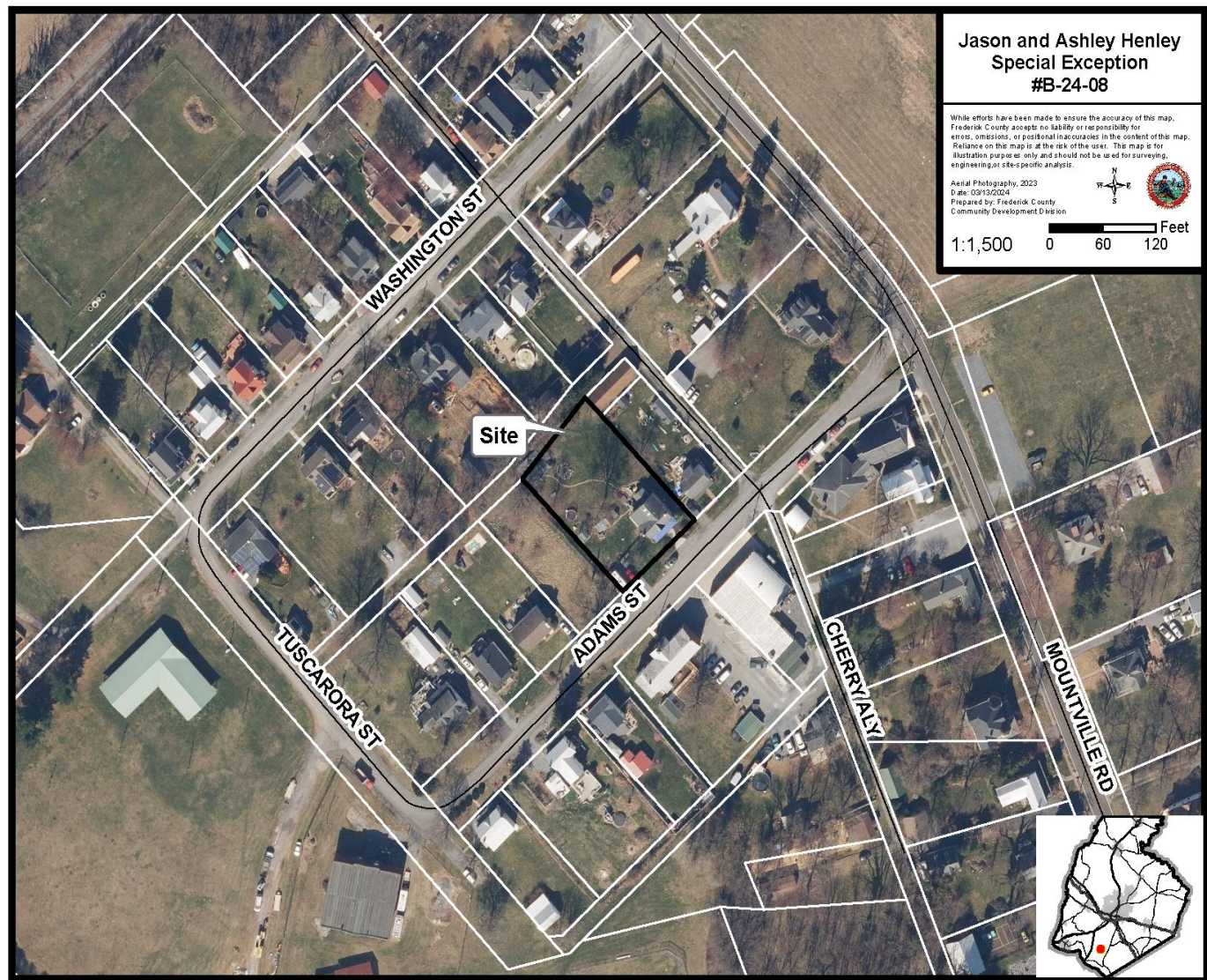


**Attachment #2: Picture of Coup/Run**



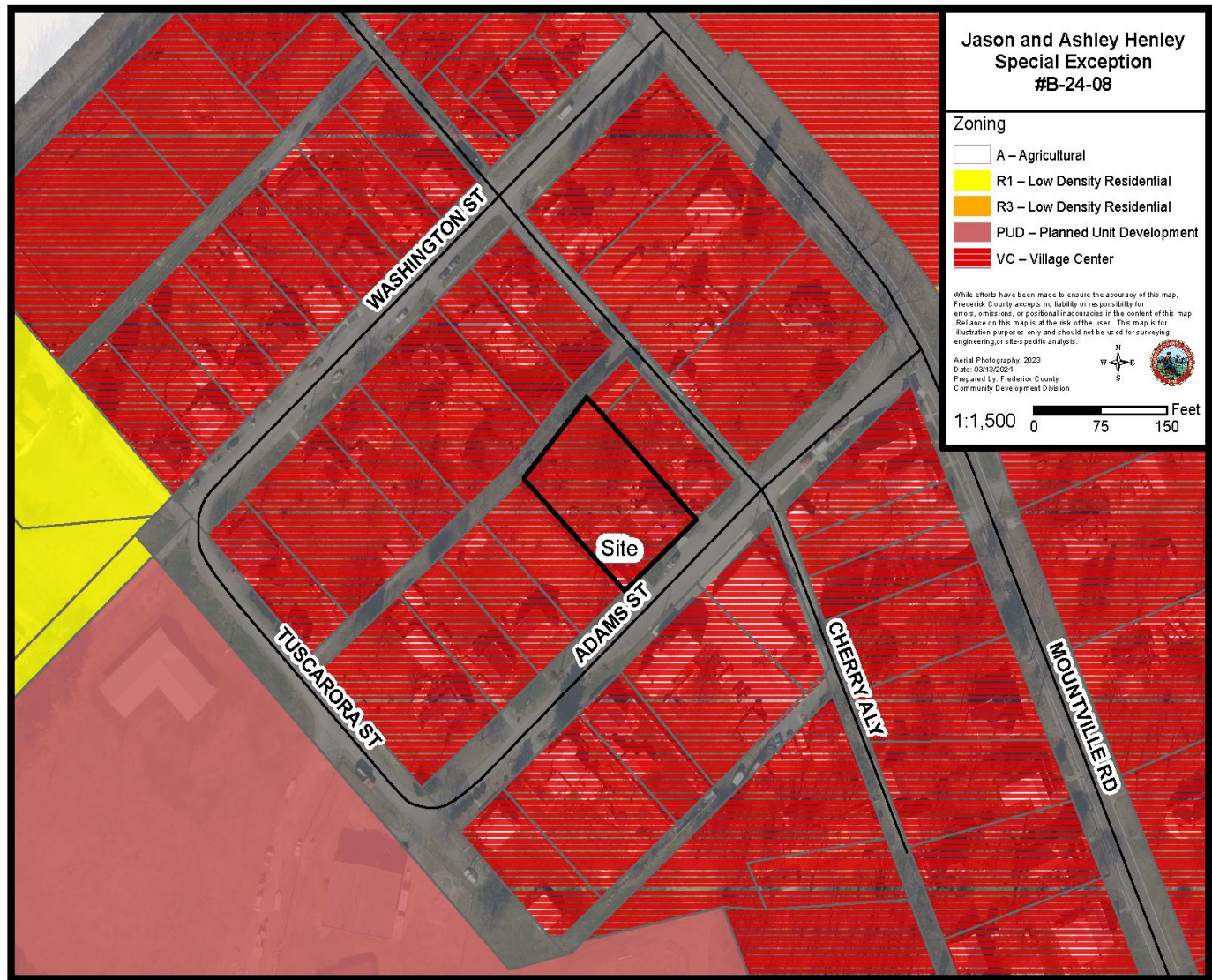


Attachment #3: Aerial Map





Attachment #4: Zoning Map





Attachment 5: Environmental Features Map





Attachment #6: Comprehensive Plan Map

