

# COUNTY OF YORK

## MEMORANDUM

**DATE:** January 3, 2012 (PC Mtg. 1/11/12)  
**TO:** York County Planning Commission  
**FROM:** Amy M. Parker, Senior Planner  
**SUBJECT:** Application No. UP-801-12, J.H. Mitchell III

### ISSUE

This application seeks a Special Use Permit, pursuant to Section 24.1-407(b)(2) of the York County Zoning Ordinance, to authorize an accessory apartment in a detached structure in conjunction with an existing single-family detached home on a 0.51-acre parcel of land located at 103 Cove Drive (Route 767).

### DESCRIPTION

- Property Owner: J.H. Mitchell III
- Location: 103 Cove Drive
- Area: Approximately 0.51 acre
- Frontage: Approximately 197 feet on Cove Drive (Route 767) and approximately 106 feet on Seaford Road (Route 622)
- Utilities: Public water and sewer
- Topography: Flat
- 2025 Land Use Map Designation: Low Density Residential
- Zoning Classification: RR – Rural Residential  
FMA – Floodplain Management Area
- Existing Development: Single-family detached home and detached structure
- Surrounding Development:
  - North: Vacant land across Seaford Road
  - East: Single-family detached homes
  - South: Single-family detached homes
  - West: Single-family detached homes across Cove Drive

- Proposed Development: Accessory apartment in a detached structure in conjunction with an existing single-family detached home

## **BACKGROUND**

The existing house was constructed in 1961, and the applicant purchased the property in 2001. In 2006, the applicant applied for a building permit for a two-story detached garage containing a full bath on the second floor. Review by Zoning and Code Enforcement staff indicated that the full bath would cause the space to be considered an accessory apartment in accordance with Zoning Ordinance definitions. In order to issue the permit for a garage only, the Building Regulation Division approved the permit for a garage with only a half bath.

In September 2011, a complaint was received by Zoning and Code Enforcement that the garage was being used for residential purposes. Inspection by Building Regulation staff indicated that the structure contained a living area and full bath on the second floor, which makes the space an accessory apartment in accordance with Zoning Ordinance definitions. The applicant submitted a revised building permit application indicating a full bath on the second floor of the detached structure, and submitted the Special Use Permit application following notification by Zoning and Code Enforcement staff that the permit was required for the apartment. The applicant was also informed by the Building Code Official of building code concerns that need to be resolved. A proposed approval condition addresses this issue.

## **CONSIDERATIONS/CONCLUSIONS**

1. The detached two-story garage is located on the west side of the principal dwelling and has access via a driveway off Cove Drive. The apartment is located on the second floor of the structure. The ground floor is used for vehicle storage.
2. Detached accessory apartments in the RR zoning district on parcels of less than one acre require a Special Use Permit and cannot exceed 800 square feet or 35% of the principal structure floor area, whichever is less. The applicant's floor plans indicate that the apartment (which the applicant indicates will be used for family members or guests of the occupants of the principal dwelling) contains approximately 649 square feet of habitable floor space – or 19% of the floor area of the 3,332-square foot home – and therefore is below the maximum size limits set forth in the Zoning Ordinance. The Virginia Uniform Statewide Building Code's definition of habitable space excludes bathrooms, closets, utility rooms, stairs, etc.
3. Performance standards for accessory apartments are set forth in Section 24.1-407 of the Zoning Ordinance and have been included as conditions in the proposed resolution of approval. These provisions require occupancy only by family members or guests of the occupant of the principal dwelling and prohibit the apartment from being rented separate from the principal dwelling. They also limit the maximum number of accessory apartments to one per single-family detached dwelling and require adequate provisions for off-street parking. With regard to parking, staff

estimates that the existing driveway and parking bays on the ground floor of the detached garage are adequate to accommodate parking for both the principal dwelling and the accessory apartment.

4. The property is located within the FMA, Floodplain Management Area overlay district. Therefore, construction of the garage and accessory apartment must be in compliance with the requirements of Section 24.1-373 of the Zoning Ordinance. A proposed approval condition addresses this issue.
5. The property is located within the Resource Management Area as defined in the Chesapeake Bay Protection Act (CBPA). Construction plans for the garage were reviewed and approved in accordance with applicable CBPA regulations in 2003.

### **RECOMMENDATION**

Staff believes the subject property can accommodate the accessory apartment with no adverse impacts on surrounding properties and that it will comply with all applicable zoning regulations. Therefore, based on the considerations and conclusions as noted, staff recommends that the Commission forward this application to the Board of Supervisors with a recommendation of approval subject to the conditions contained in proposed Resolution No. PC12-2.

AMP

Attachments:

- Zoning map
- Property survey
- Floor plans
- Proposed Resolution No. PC12-2