

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-802-12, Nicole C. Stewart

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 0.42-acre parcel of land located at 104 Freemans Trace (Route 1661).

DESCRIPTION

- Property Owner: Nicole C. Stewart
- Location: 104 Freemans Trace (Edgewood subdivision)
- Area: Approximately 0.42 acre
- Frontage: Approximately 107 feet on Freemans Trace (Route 1661)
- Utilities: Public water and sewer
- Topography: Flat
- 2025 Land Use Map Designation: Medium Density Residential
- Zoning Classification: R20 – Medium Density Single-family Residential
- Existing Development: Single-family detached home and detached structure
- Surrounding Development:
 - North: Single-family detached homes
 - East: Single-family detached homes
 - South: Single-family detached homes
 - West: Single-family detached homes across Hampton Highway
- Proposed Development: Accessory apartment in a detached structure in conjunction with an existing single-family detached home

BACKGROUND

The existing house was constructed in 1987, and the detached garage was built in 2005. The owner purchased the subject property in 2007, and applied for a building permit that same year to convert the second floor of the garage into a game room with a half bath. The current occupants are renting the property from the applicant/owner. In September 2011, a complaint was received by Zoning and Code Enforcement that the garage was being used for residential purposes. Inspection by Zoning and Code Enforcement and Building Regulation staff indicated that the structure contained a living area and full bath, which causes the space to be considered an accessory apartment in accordance with Zoning Ordinance definitions. The applicant submitted the Special Use Permit application following notification by Zoning and Code Enforcement staff that the permit approval 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 to the rear of the property and access is via the existing driveway off Freemans Trace. The structure contains a total floor area of 1,036 square feet, of which approximately 633 square feet is currently designed for residential purposes. The ground floor also contains a single parking bay.
2. Detached accessory apartments in the R20 zoning district 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 includes floor space on both floors of the structure, contains a full bathroom and kitchen on the ground floor and a bedroom on the second floor. The apartment (which the applicant indicates will be used by family members or guests of the occupants of the principal dwelling) contains approximately 633 square feet of habitable floor space – or 26% of the floor area of the 2,428-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 single parking bay in the detached garage are adequate to accommodate parking for both the principal dwelling and the accessory apartment.

4. As with any application of this type, the County must evaluate the accessory apartment use within the context of the Zoning Ordinance and its standards. The County cannot be a party to the enforcement of any private covenants that may exist, and approval of a Special Use Permit will not relieve the applicant of any responsibilities for compliance with any such covenants.

RECOMMENDATION

Staff believes the subject property can accommodate the proposed 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. PC12-3.

AMP

Attachments:

- Zoning map
- Applicant's narrative statement
- Sketch plan
- Floor plan
- Proposed Resolution No. PC12-3