

For Official Use Only	
ZBA Case Number:	06-507
Hearing Date:	9/26/2006
Ad Date:	
Amount Paid: \$1,000.00	\$ 650.00
Date Paid:	

Planning Department * 101 N. Court Street * Frederick, Maryland 21701 * 301.694.1499

ZONING BOARD OF APPEALS CONDITIONAL USE APPLICATION

Please legibly print or type the following application in its entirety. Incomplete applications will not be accepted. **Submit the twelve (12) copies** of this application, and any supporting information, along with appropriate fees, by 4:30 pm on the application deadline date.

APPLICANT INFORMATION - OWNER'S AFFIDAVIT MUST BE SUBMITTED WITH APPLICATION.	
Contact Name: Harby Tran	
Firm/Company: n/a	
Address: 300 Dill Avenue	
Phone: H:301-620-8992 M:202-487-8726	email: harby@rockwoodmarketing.com
OWNER INFORMATION	
Name: Harby Tran	
Firm/Company: n/a	
Address: 300 Dill Avenue	
Phone: H:301-620-8992 M:202-487-8726	email: harby@rockwoodmarketing.com
TYPE OF CONDITIONAL USE	
Please complete the appropriate section.	
Home Occupation LMC Section 829 Not Applicable	Name of Business: _____ Type of Business: _____ Description of Business: _____
Other LMC Section 8 Accessory Detached Dwelling Unit (ADDU) LMC Section 802	Name of Use: ADDU Type of Use: Single Family Detached Description of Use: Propose to build a garage with ADDU.

PROJECT INFORMATION

Project Location: 300 Dill Avenue, Frederick, Maryland 21701
(Street Address)

Current Zoning: R6

Current Use: Single-Family Detached

FEES

Type of Review	Fee	Total
Conditional Use Home Occupation	\$100.00	-
All other Conditional Uses	\$650.00	\$650.00

LMC Section 308(c) states that "The Zoning Board of Appeals may authorize conditional uses only when the Board finds that the following conditions exist."

(Please respond to each condition statement in the area provided - use additional paper if necessary.)

1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Code. The proposed implements policy H.2 of the Comprehensive Plan to promote the development of housing with costs that reflect the range of incomes generated within the City. This policy directs the City to permit accessory dwelling units above garages as a conditional use for all existing owner-occupied single-family lots. Further, the project adheres to all provisions of LMC Sec. 802.
2. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval. A two-car garage is considered permitted use not requiring conditional use approval, and not considered to create any greater adverse impact. The addition of an accessory dwelling unit will not create any greater adverse impact as the accessory dwelling unit will house only one individual.
3. That the proposed activity will comply with all conditions and requirements set forth in this code, including any specific standards established in Article 8 of this Code (*see 1-6 below for home occupations*). The Land Management Code Sec. 802 ACCESSORY DWELLING UNITS addresses the following specific standards that are followed and furthered as evidenced in the attached drawings:
 1. R6 zoning district permits ADDU's per Sec. 404. It is the policy of zoning determination that current R4 uses apply to R6.
 2. Not more than one accessory dwelling unit will be established on the lot.
 3. The height of the ADDU (20 ft.) does not exceed the height of the Principal Dwelling Unit (33 ft.).
 4. At six hundred and eighty (680) square feet, the proposed ADDU does not exceed a gross floor area of one-thousand (1,000) square feet or more than fifty percent (50%) of the principal structure's floor area, two-thousand two hundred and fifty-two (2,252) square feet.
 5. At least one (1) additional parking space for the ADDU will be provided in the rear yard behind the principal dwelling unit. This proposed project takes a non-conforming lot and makes it a conforming lot by adding two (2) spaces for the Principal Dwelling Unit. See Site Plan for placement of two (2) spaces allocated to the principal residence and (1) additional space allocated to the ADDU.
 6. The exterior building materials will be the same as those of the principal building. See Elevations for brick to grade and siding to match existing structure.
 7. The accessory dwelling will include a pitched roof as the one required design element. See Elevations for evidence of a pitched roof.
 8. A home occupation will not be located in the ADDU. The space will be secured by a lease agreement.

FOR HOME OCCUPATION APPLICATIONS ONLY:

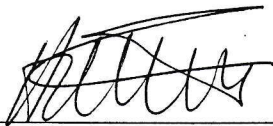
LMC Section 829(c) states that "Home occupations are permitted as a conditional use in all R, all D, NC and GC districts if all of the following conditions and requirements are met:"

(Please respond to each condition statement in the area provided - use additional paper if necessary.)

- (1) The applicant must provide guarantees that the use of a property as a home occupation will not constitute a nuisance because of increased pedestrian or vehicular traffic, noise, or other activity associated with the use of the dwelling for business purposes which may be disruptive to the residential character of the neighborhood. n/a
- (2) A home occupation must be secondary to the residential use of the property and shall be conducted totally within the dwelling. Not more than 20 percent of the floor area of the dwelling or 300 square feet, whichever is greater, may be devoted to a home occupation. n/a
- (3) Only one (1) person who is not a resident of the dwelling may be employed/work/volunteer on site in conduct of a home occupation. n/a
- (4) A home occupation may not result in any external evidence that a building is being used for any purpose other than a dwelling. n/a
- (5) Except for the permitted employee who may be employed, a home occupation may result in no vehicular traffic, except for a maximum of one (1) daily local home delivery from services such as UPS or FedEx, and in no case shall result in delivery by tractor-trailer trucks. n/a
- (6) If deemed appropriate, the Board may permit a home occupation for a specified period of time with periodic review and approval required to ensure conformity with the conditions and requirements. n/a

All correspondence will be sent to the applicant. If the owner also wishes to receive a copy, please check box: ☐

I hereby attest that the information provided on and attached to this application is complete and correct.



Signature of Applicant/Agent

8/22/06

Date

**The City of Frederick
Zoning Board of Appeals
Conditional Use Application
Supporting Documents**

Date: August 22, 2006

Name of Project: 300 Dill Avenue
Type of Project: BZA Conditional Use
Case Number:

Owners: Beth and Harby Tran
Project Address: 300 Dill Avenue
Applicant: Harby Tran
Phone: 202-487-8726
Zoning: R-6

Proposed Action: To acquire a conditional use in an R6 zone to construct a two-car garage with an Accessory Detached Dwelling Unit.

Background Information

300 Dill Avenue sits on the southwest corner of Dill Avenue and College Avenue in The City of Frederick, directly across the street from Hood College. Built in 1916, it is composed of 2,252 square feet of interior space on a 7,740 square foot lot. Presently, the owner-occupied property does not contain a garage. Because of this and a desire for an inlaw suite, the applicant wishes to construct an Accessory Detached Dwelling Unit within the boundaries of The City of Frederick Comprehensive Plan and Land Management Code.

Analysis

Section 308 of The City of Frederick Land Management Code allows the Zoning Board of Appeals to authorize conditional uses included in Section 8 of the Land Management Code only when the Board finds that all of the following conditions exist:

I. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and the Land Management Code.

II. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.

III. The proposed activity will comply with all conditions and requirements set forth in the code, including any specific standards established in Section 802 of the Land Management Code.

I. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and the Land Management Code.

The proposed implements policy H.2 of the Comprehensive Plan to promote the development of housing with costs that reflect the range of incomes generated within The City. This policy directs The City to permit accessory dwelling units above garages as a conditional use for all existing owner-occupied single-family lots. Further, the project adheres to all provisions of LMC Sec. 802.

The proposed Accessory Detached Dwelling Unit is not only in harmony with the Comprehensive Plan but will also promote its purpose and intent. The 2005 Comprehensive Plan recognizes that The City of Frederick will continue to grow but must do so with an eye towards balance, environmental concern and opportunity for all income levels.

...(The) City's population nearly doubled between 1980 and 2000 – from about 28,000 people to 53,000 people. During the same period, The City added more than 9,000 households – from 11,300 in 1980 to about 21,000 in 2000. As discussed in the Introduction to this Comprehensive Plan, The City's population is project to double again – to more than 100,000 people – by 2030, adding more than 23,000 new households. The City's job base is also expected to double during this timeframe.

Plan's Land Use (LU Chapter at Page 1) *The plan warns, however, that: (Despite) continuing growth pressures, The City has only a limited ability to accommodate new residents and businesses. A capacity analysis performed by the Maryland Department of Planning estimates that, within current municipal boundaries, The City of Frederick has developable land for only 7,000 new households – only a portion of the households that The City will need to accommodate projected growth.*

Faced with this challenge, the Plan's introduction declares that The City must “promote a diversified economic mix; and facilitate the development of an adequate housing supply for current and future city residents.” (Plan Introduction Page 2). The Introduction also encourages: “...the development of compact residential neighborhoods.” Nonetheless, the Introduction calls for the preserving and enhancing of “the quality of life in existing neighborhoods.” According to the Land Use, Page 7, it is The City's declared intent “to have mixed use, master planned developments that have compact development patterns that provide more opportunity to walk and bicycle; increase

opportunities for transit and reduce the number of vehicle trips.” In other words, The City wants to use the space it already possesses for residential use but not at the expense of quality of life. In fact, The City implicitly wants to encourage residents to live close to stores and other necessities so that they need not rely upon private vehicle transportation thus creating a greater environmental burden.

To accomplish these goals, Land Use Policy 3, Page 9, encourages *“mixed use developments, a range of housing types throughout The City...”* More particularly, The City wants to *“discourage additional low-density residential development characterized by wide streets, large lots, and deep setbacks.”* Further Land Use Policy 4, Page 10, promotes balancing *“the distribution and timing of future population and job growth in relation to the availability of existing and future infrastructure.”* Land Use Policy 13, Page 14, aims to *“(promote) the development of safe, healthy, and attractive neighborhoods”* through amongst other means, promoting *“an integrated balance of ownership, rental and public housing”* and providing *“a mix of housing styles and densities within neighborhoods and new developments.”* Land Use Policy 9, Page 12, repeats The City’s environmental concerns by directing that land patterns be developed to *“minimize the number of auto trips and that are transit supportive.”*

The Plan’s Housing Chapter, Housing Policy 1, Page 3, directs that The City *“facilitate the development of an adequate housing supply for current and future City residents”*. Housing Policy 2, Page 3, encourages The City to *“promote the development of housing with costs that reflect the range of incomes generated within The City”*. In particular, Housing Policy 2, Paragraph 7, recommends as a strategy during the update of The City’s development regulations to *“consider changing regulations to permit accessory dwelling units above garages as a special exception use for all existing owner-occupied single-family lots”*.

As said, this proposal to construct a two-car garage with dwelling space above is in harmony with the purpose and intent of the Plan. Indeed, this project actively promotes it. This is a backyard location that will not only add two indoor parking spaces, but will also allow for three new off-street exterior parking spaces. Located only a few blocks west of North Market Street, directly across the street from Hood College, it is easily within walking distance of shopping facilities and public transportation. As an apartment, it would provide a good affordable dwelling for persons just beginning their careers, students in the area, or as an inlaw suite. In other words, it allows for a person of various economic means to live in a good solid community close to many facilities. Furthermore, the additional residential dwelling space fits perfectly within the Plan’s goal of creating higher density occupancy within established areas but without any negative impact on the quality of life.

This proposed garage-apartment is also in harmony with the purpose and intent of The City of Frederick’s Land Management Code. The project falls under Section 802 of the Land Management Code and satisfies all criteria set forth. This Accessory Detached Dwelling Unit (ADDU) is a *“building that contains a dwelling unit that is accessory, supplementary, and secondary to the Principal Dwelling Unit, and that is Detached*

from the Principal Dwelling Unit." (LMC Sec 802A). It is situated in zoning district R6; it is the policy of zoning determination that current R4 uses apply to R6. We will comply by constructing no more than one ADDU on the property. The height of the ADDU, twenty feet (20 feet), does not exceed the height of our Principal Dwelling Unit, thirty-three feet (33 feet). The proposed ADDU floor area, six hundred and eighty square feet (680 square feet), does not exceed fifty percent (50%) of the Principal Dwelling Unit's floor area, two thousand two hundred and fifty-two square feet (2,252 square feet). There is at least one additional parking space to be provided (in actuality there will be five additional parking spaces – two inside and three outside, thereby transforming a non-conforming lot into a conforming lot). The exterior building materials of the ADDU are the same as those of the Principle Dwelling Unit, namely brick and siding. The ADDU will include a pitched roof as the one required design element, and will also mimic the window design of the Principle Dwelling Unit. Lastly, there will be no home occupation in the ADDU.

Accordingly, given the standards and criteria presented, this ADDU proposal is in full harmony with the purpose and intent of The City's Comprehensive Plan and Land Management Code.

II. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.

According to Charles W. Boyd, AICP, of The City of Frederick Planning Department, a two-car garage is considered permitted use not requiring conditional use approval, and not considered to create any greater adverse impact. The addition of this accessory dwelling unit will not create any greater adverse impact as it will house only one individual, as secured by a lease agreement.

The structure will be located twelve (12) feet from the neighboring house and nine (9) feet off the property line. The structure will mimic the architecture of the neighboring house, made of like materials, face the same direction (east), but will be thirteen (13) feet shorter and be set back more than seventeen (17.3) feet from the curb in order to emphasize the secondary nature of the structure.

Adding a garage and residential space in the form of an ADDU will benefit the entire area. Not only will this be in keeping with The City's Comprehensive Code and Land Management Code, but it will also lead to an attractive, well-designed dwelling that will be fully utilized. The dwelling has been designed with period architecture in mind, utilizing features from the Primary Dwelling Unit and neighboring units to not only fit the neighborhood, but to give the impression that it was always there. In order to blend with surroundings, the structure will be attractively landscaped and meticulously maintained by the land owners.

It will be a comfortable dwelling where a single person can live quietly and pay reasonable rent while working, studying, shopping, dining, recreating, and living in the area. Close proximity, a lease agreement, and strict monitoring will prevent and prohibit any noise issues. And according to Robert J. Fennel, SRA, of R.J. Fennel, Inc., Real Estate Appraisers and Consultants, such improvements to the property will most likely enhance the neighborhood and raise the value of neighboring properties.

In short, the proposed activity will not create any adverse impact on the neighbors. Just the opposite – this proposed plan will be a positive contribution to the neighborhood.

III. The proposed activity will comply with all conditions and requirements set forth in the code, including any specific standards established in Section 802 of the Land Management Code.

The Land Management Code Section 802 ACCESSORY DWELLING UNITS addresses the following specific standards:

1. ADDUs are permitted only in the zoning districts indicated in Section 404 in R4, R6, R8, R12, R20, and MU. The subject property is within the R6 zone, therefore it is permitted as a conditional use.

2. Not more than one accessory dwelling unit may be established on a lot. The applicant does not currently have an ADDU on the property and will not be allowed to have a second ADDU if this one is approved.

3. The height of the ADDU shall not exceed the height of the Principal Dwelling Unit. The proposed ADDU is twenty (20) feet in height, the Primary Dwelling Unit is thirty-three (33) feet in height, and therefore the structure meets the height condition as an ADDU.

4. ADDUs shall not exceed a gross floor area of one-thousand (1,000) square feet or more than fifty percent (50%) of the principal structure's floor area, whichever is less. At six hundred and eighty (680) square feet, the proposed ADDU does not exceed a gross floor area of one-thousand (1,000) square feet or more than fifty percent (50%) of the principal structure's floor area, two-thousand, two hundred and fifty-two (2,252). The ADDU fits the condition.

5. At least one (1) additional parking space for the ADDU shall be provided. Parking spaces shall be located in the rear yard and behind the principal building. Currently, the Principal Dwelling Unit has no off-street parking even though the parking requirements for a single family dwelling are two (2) spaces per unit. Under the ADDU requirements at least one (1) additional parking space must be provided, therefore the property needs three (3) total parking spaces. Parking spaces must be a minimum of 17 feet in length and 9 feet wide. See Site Plan to note (2) parking spaces in front of garage doors, and one (1) additional space to the side.

6. *Exterior building materials shall be the same as those of the principal building.* The exterior building materials will be the same as those of the principal building. See Elevations for brick to grade and siding to match the existing structure.

7. *An accessory dwelling shall include at least one of the following design elements: a) a pitched roof; b) a dormer located above each window; or c) windows oriented so that the length of the vertical side is at least twice, and not more than three times, the horizontal length.* The ADDU will include a pitched roof as the one required design element. In addition, it will include dormers and windows to match the Principal Dwelling Unit and well as surrounding units. Please note the attached architectural details to illustrate how this ADDU will fit into the character of the community.

8. *A home occupation may not be located in the ADDU.* The applicant has no intention of having a home occupation in the ADDU. The space will be secured by a lease agreement.

In Conclusion

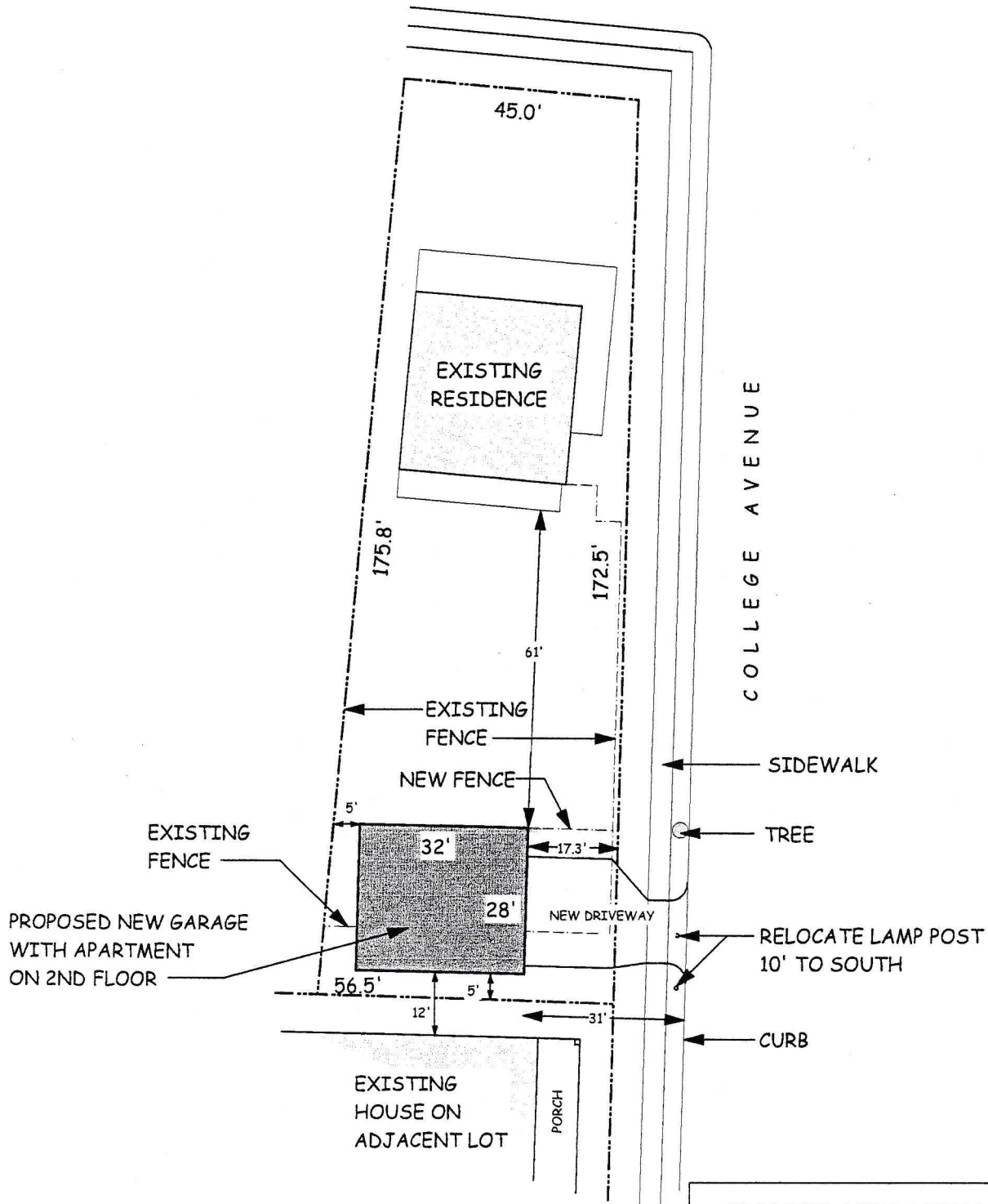
According to the Wikimedia Foundation, an international non-profit organization dedicated to the development and distribution of free encyclopedic information, the idea of integrating garage apartments (ADDUs) into urban planning is a key aspect of new urbanism. ADDUs...

- *provide affordable housing without government subsidies;*
- *promote mixed-income neighborhoods;*
- *make transit, walking, car-pooling, and bicycling more feasible;*
- *increase neighborhood and household security, companionship, and sociability;*
- *reduce community traffic problems because more employees and students can live closer to work and school;*
- *provide a relatively easy way to beneficially increase residential densities to promote transportation, local retail, and environmental objectives; often without significantly changing the character of the neighborhood;*
- *provide supplemental income for the primary household. Such income can help pay for better neighborhood/household upkeep such as home renovations and yard maintenance. They promote neighborhood stability because the additional income can help people afford to stay in their homes longer, instead of being forced to move due to unaffordable costs;*
- *provide assisted living alternatives and extended family living arrangements (senior relatives, for example, who can live near their children instead of being placed in a nursing home);*
- *discourage sprawl and promote infill development by promoting increased community population within already developed areas; and*
- *provide more tax revenue for the local government.*

Because The City understood these benefits of Accessory Detached Dwelling Units, they incorporated them in the Comprehensive Plan and the Land Management Code. This proposal is clearly in line with The City's intent and spirit of the creation of an ADDU as expressed in these documents.

DILL AVENUE

COLLEGE AVENUE



SITE PLAN

SCALE: 1" = 30'

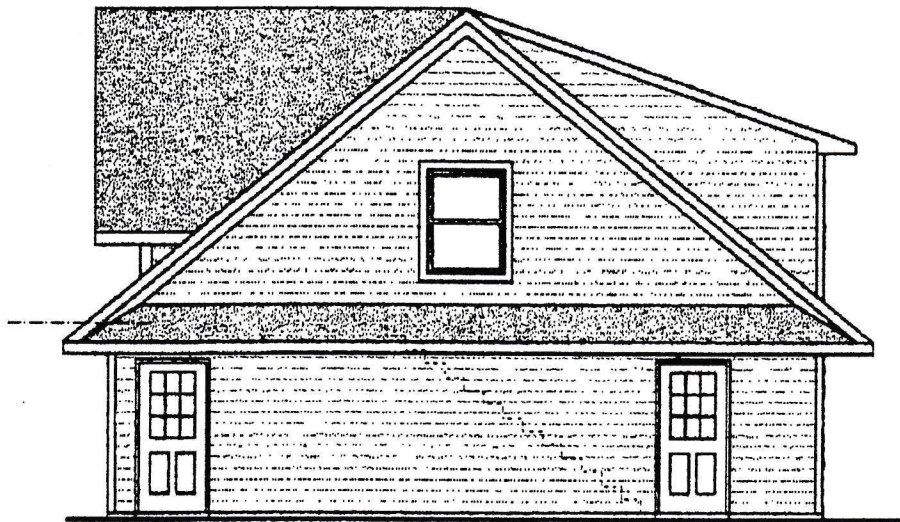


PROPOSED NEW ACCESSORY STRUCTURE
GARAGE W/ APARTMENT
TRAN RESIDENCE
300 DILL AVENUE
GLENN REYNOLDS
ARCHITECT
4/12/06



EAST ELEVATION

Brick to grade.
Siding to match existing structure.

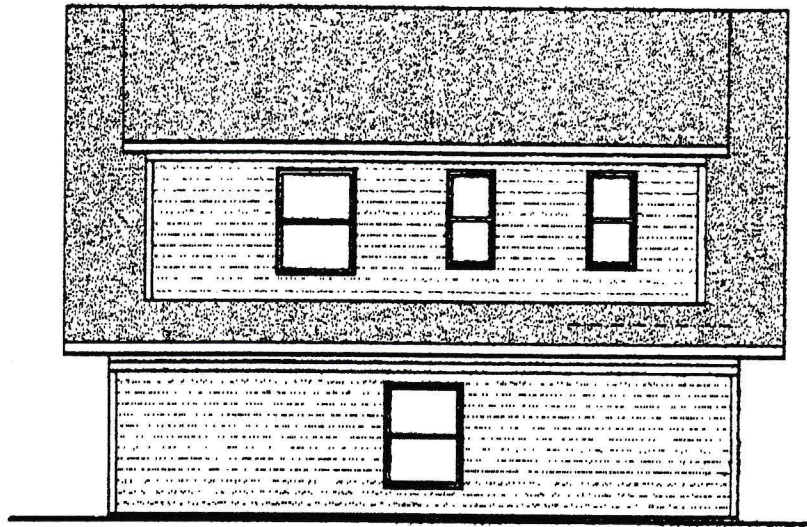


NORTH ELEVATION

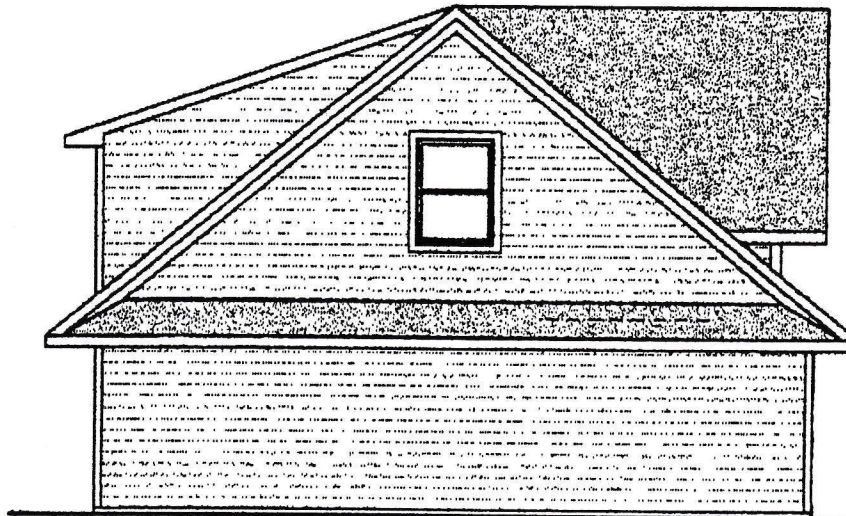
ELEVATIONS

SCALE: 1/8" = 1'-0"

GARAGE
300 DILL
GLENN REYNOLDS, ARCHITECT
2/17/06



WEST ELEVATION

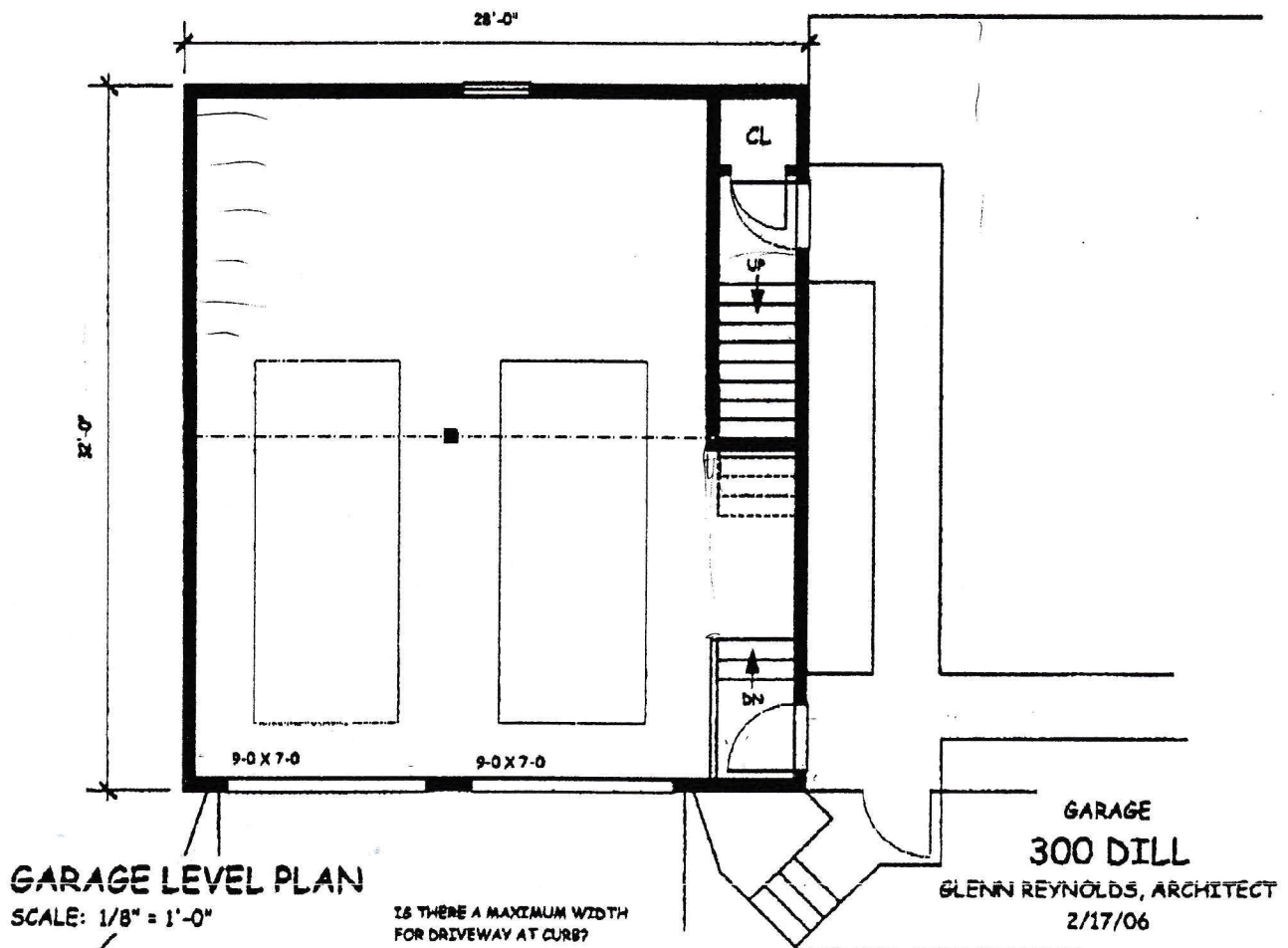
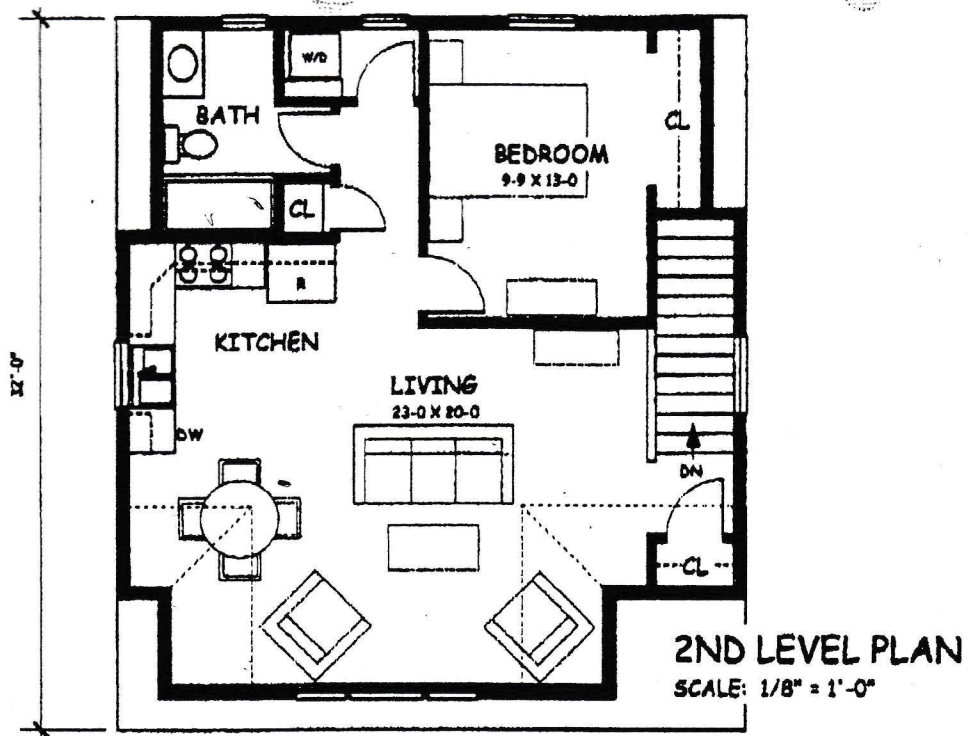


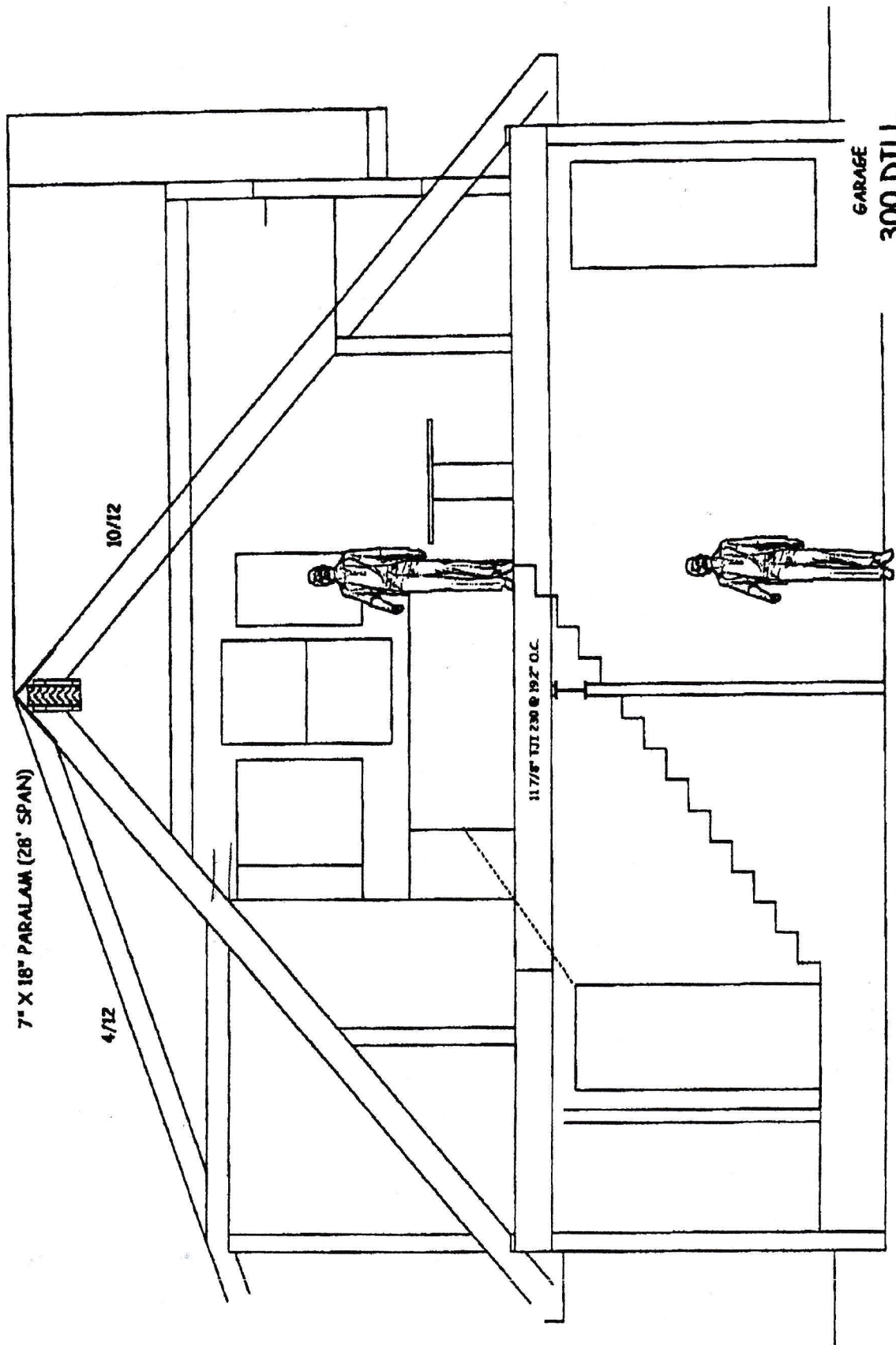
SOUTH ELEVATION

ELEVATIONS

SCALE: 1/8" = 1'-0"

GARAGE
300 DILL
 GLENN REYNOLDS, ARCHITECT
 2/17/06





GARAGE

300 DILL

GLENN REYNOLDS, ARCHITECT

2/17/06

SECTION COMPOSITE

SCALE: 1/4" = 1'-0"

Petition Objections/Rebuttal

1. In Section 802, Section (b), ADDUs are not approved for R-6 zoning. 300 Dill Avenue is zoned R-6.

R6 Zoning district permits ADDUs per Section 404 of the LMC, Use Regulations. The zoning board has ruled that current R-4 uses apply to R-6. Furthermore, Table 404-1 Use Matrix, Residential Uses, Accessory Detached Dwelling Unit, clearly states that ADDUs are "permitted by right" in R-6 zones.

2. The proposed ADDU will significantly and negatively impact the character of the neighborhood, specifically 302 Dill Ave and 301 College Ave.

LMC Section 308(c) states that "The proposed structure in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval." A two-car garage is considered a permitted use not requiring conditional use approval, and not considered to create any greater adverse impact. The addition of an ADDU will not create any greater adverse impact, as it will house only one individual on a landlord-occupied lot.

A. Incompatible relationship with adjacent properties.

Conscientious efforts have been made to incorporate architectural features similar in design and construction to surrounding structures. The architect's goal was to design a structure that appears to have been built during the same period in conformance with the styles of adjacent properties.

B. Compromised privacy for existing residents.

The neighborhood and specifically 302 Dill Ave's privacy will not be compromised, as the proposed structure is located adjacent to 302 Dill Ave's two-car garage in the back of their lot at least 175 feet from their principal residence. The ADDU was designed with the resident of 301 College Ave in mind. To begin, the ADDU entrance will be located on the opposite side of the structure from 301 College Ave. In addition, frosted glass is intended to be installed in the ADDU's south side windows, allowing light to enter while blocking any view of 301 College Ave. These features were planned as a means of minimizing any privacy compromises.

C. Compromised light for existing residents.

The neighborhood and specifically 302 Dill Ave's light will not be compromised, as the proposed structure is located adjacent to their two-car garage in the back of their lot at least 175 feet from 302 Dill Ave's principal residence. The ADDU is proposed to be located on the north side of 301 College Ave. The north side of 301 College Ave is situated so that it currently does not receive any direct light as the sun passes overhead east to west. A large tree stands next to the proposed site not two feet from the property line, overlapping the roofline of 301 College Ave. This tree currently blocks much of the indirect light into the north side of the building. In order to construct the garage and ADDU, this tree will be removed. With this tree removed and the proposed structure built five feet from the property line, more light should enter the windows of 301 College Ave than is currently available.

D. Compromised solar access for existing residents.

See answer to C.

E. Compromised air circulation for existing residents.

The neighborhood and specifically 302 Dill Ave's air circulation will not be compromised, as the proposed structure is located adjacent to 302 Dill Ave's two-car garage in the back of their lot at least 175 feet from their principal residence. While it is difficult to measure and quantify air circulation, the ADDU is proposed to be located twelve feet from the north side of 301 College Ave (five feet from the property line),

which should allow for ample air flow and minimize any compromises to air circulation.

F. Destruction of at least two large old trees.

Only one tree will be removed to allow for the proposed structure, not two. Because this tree is located on the applicant's property, its removal should be at the applicant's discretion. The neighborhood and specifically 302 Dill Ave's character will not be compromised by the removal of this tree, as the tree is located adjacent to 302 Dill Ave's two-car garage in the back of their lot at least 175 feet from their principal residence. It is the applicant's belief that the removal of this tree will enhance the light, solar access, and air circulation at 301 College Ave while minimizing potential property damage due to falling leaves, branches, and other debris. In addition, the applicant intends to fully landscape the area surrounding the proposed structure with shrubbery, flowering plants, and ornamental trees.

G. Removal/relocation of existing City streetlight post.

The proposed off street access will require the relocation of an existing City streetlight post from its current location to a new location ten feet to the south. Because it is only ten feet from its original location, it is believed by Bill Sheetz in the Department of Public Works that street and sidewalk luminosity will not be compromised. Following his direction, a master electrician will work within the permitting process in conjunction with the City Engineering Department to conduct the relocation in accordance with all city codes and requirements. This activity should in no way significantly or negatively impact the character of the neighborhood, 302 Dill Ave, or 301 College Ave.

H. Creation of street access on College Avenue on the side of 301 College Ave.

The street access, proposed to be located on the applicant's property, should in no way significantly and negatively impact the character of the neighborhood, 302 Dill Ave, or 301 College Ave. Street access acceptability is determined and permission to cut the curb is granted by the City Engineering Department after a traffic study confirms that ingress and egress does not present a danger to traffic on College Ave.

3. The neighborhood is comprised of almost 100% owner occupied homes. This type of housing is inconsistent and incompatible with the older existing homes and undermines the integrity of this historic neighborhood.

It is unknown how the petitioners define the neighborhood boundaries, but a quick search of tax records for properties on Dill Ave, College Ave, North College Avenue, West College Ter, Rockwell Ter, Rosemont Ave to Shifferstadt, Lindbergh Ave, Grove Blvd, the 200 block of West 5th St, the 200 block of West 2nd St, Elm St, Magnolia Ave, and Fairview Ave yielded 74 properties that contain at least one rental unit (15 on Dill, 7 on College, 1 on N College, 4 on W College, 4 on Rockwell, 3 on Rosemont to Shifferstadt, 2 on Lindbergh, 2 on Grove, 10 on the 200 block of W 5th, 4 on the 200 block of W 2nd, 3 on Elm, 5 on Magnolia, 14 on Fairview). With such a large number of rentals in the neighborhood, it appears the neighborhood is NOT comprised of almost 100% owner occupied homes and that the proposed ADDU is in fact consistent and compatible with the neighborhood mix. In addition, 300 Dill Ave will continue to be an owner occupied home. From an aesthetic point of view, the applicant relied upon the experience and expertise of local architect, Glen Reynolds, for design consistency and compatibility with the older existing homes in order to maintain the integrity of the neighborhood.

Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation
FREDERICK COUNTY
Real Property Data Search

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[New Search](#)
[Ground Rent](#)

Account Identifier: District - 02 **Account Number -** 082497

Owner Information

Owner Name: TRAN, HARBY ROCKWOOD & BETH ANN
Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 300 DILL AVE
 FREDERICK MD 21701-8516
Deed Reference: 1) / 4682/ 753
 2)

Location & Structure Information

Premises Address 300 DILL AVE
 FREDERICKL 21701
Legal Description LT 45 X 172
 300 DILL AVE.
 FREDERICK

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No: Plat Ref:
413	1	260						2	
Special Tax Areas				Town Ad Valorem Tax Class	FREDERICK CITY FRED CITY DIST 1 FIRE TAX				
Primary Structure Built				Enclosed Area		Property Land Area			County Use
1916				2,252 SF		7,740.00 SF			
Stories		Basement		Type				Exterior	
2		YES		STANDARD UNIT				BRICK	

Value Information

	Base Value	Value As Of	Phase-in Assessments	
		01/01/2005	As Of	As Of
			07/01/2005	07/01/2006
Land:	114,350	213,950		
Improvements:	158,440	229,570		
Total:	272,790	443,520	329,700	386,610
Preferential Land:	0	0	0	0

Transfer Information

Seller: AIRD ROBT A & JUDY A
Type: IMPROVED ARMS-LENGTH
Date: 06/21/2004
Deed1: / 4682/ 753
Price: \$425,000
Seller: SAXA, A MARYLAND LTD PART
Type: IMPROVED ARMS-LENGTH
Date: 12/09/1981
Deed1: / 1162/ 442
Price: \$72,000
Seller:
Type:
Date:
Deed1:
Price:
Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2005	07/01/2006
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

September 7, 2006

Re: Application number 06507

Project: 300 Dill Avenue

Dear Neighbor,

I am applying to the City of Frederick Zoning Board of Appeals for approval of a conditional use at 300 Dill Avenue, Frederick, Maryland 21701 for the purposes of building an Accessory Detached Dwelling Unit. You are invited to attend the scheduled public meeting in support or in opposition of this request. Meeting details are as follows:

Meeting Date: September 26, 2006

Meeting Time: 7:00 PM

Meeting Location: Frederick City Hall Board Room; 101 North Court Street

If you have any further questions about this request, please contact the Case Planner or me by phone at the numbers listed below:

Applicant's name and phone number: Harby Tran 202-487-8726

Case Planner's name and phone number: Sonja Ingram 301-694-1831

Sincerely,

Harby Tran

The City of Frederick
Zoning Board of Appeals
Conditional Use Application
Background Information

300 Dill Avenue sits on the southwest corner of Dill Avenue and College Avenue in The City of Frederick, directly across the street from Hood College. Built in 1916, it is composed of 2,252 square feet of interior space on a 7,740 square foot lot. Presently, the owner-occupied property does not contain a garage. Because of this and a desire for an inlaw suite, the applicant wishes to construct an Accessory Detached Dwelling Unit within the boundaries of The City of Frederick Comprehensive Plan and Land Management Code.

STATEMENT OF OBJECTION re:
Zoning Board of Appeals
Conditional Use Application Case Number 06-507

The applicant, Harby Tran, has asked for approval of an Accessory Detached Dwelling Unit (ADDU) to be constructed at the rear of 300 Dill Avenue, his primary residence. I am strongly opposed to this proposal for several reasons, which will be explained in the text that follows.

I must first state my objection to the consideration of this application by the Zoning Board of Appeals (ZBA) in the first place. The property in question is located in an area zoned R6. At the time of application, August 22, 2006, ADDU's were not a permitted use in R6 zoning. During a Mayor and Board meeting on September 7, an ordinance was proposed, "For the purpose of amending the Land Management Code (LMC) to reference the R6 zoning District appropriately throughout the document." This ordinance inserted R6 zoning in 13 different areas of the LMC that were not previously included. One of the amendments referenced the inclusion of ADDU's in R6, so clearly they were not a permitted use at the time of this application.

Additionally, this was but one of 57 items being presented for change in order to correct errors in the LMC. I proffer to you that the change was made as a part of a blanket rewrite without opportunity for public testimony in either favour or opposition of the change. According to Section §306 of the LMC entitled "Land Management Code Amendment and Rezonings":

(d) Notice of Application and Public Hearing by the Planning Commission

(1) Following acceptance of a proper application for a zoning map or text amendments, the Planning Department shall introduce the proposed rezoning at the next Planning Commission meeting. The first public hearing by the Commission shall be within 45 days of the filing of the application. Notice shall conform to §301(b), Table 301-2.

(2) The Planning Commission shall hold two public hearings. Any interested person shall have the right to appear and testify at the hearings. The Department shall keep a complete and permanent record of all testimony. The Commission may order a continuance of a hearing for a specified reason to a specified date, time, and place.

To the best of my knowledge, as I have attended several Planning Commission hearings in the past months, the change in the permitted uses for R6 zoning were neither raised nor discussed at these public hearings. Had it been, I can assure you that many residents of my neighborhood would have been present to testify against the inclusion of ADDU's.

In other words, the applicant's proposal was submitted when this was NOT a permitted use. At best, he should have to re-file the application under the current standards. (However, I should point out that as published for public use on the City's website, nowhere is there a text amendment in the LMC that shows this is now a permitted use in R6.) However, if the ZBA chooses to hear this application based on the fact that a future (to the application) change in language allowed the use, they must also take into consideration that there is forthcoming more future language that will, in all likelihood, prohibit construction of ADDU's in existing neighborhoods. That is addressed later in this report. I also suggest to you that the inclusion of ADDU's in R6 Zoning was an error, based on those future plans for changes in the permitted uses of ADDU's.

Next I will speak to the personal impact this project has on my home. I am the resident at 301 College Avenue, which sits directly behind the Tran residence at 300 Dill Avenue. My home faces College Avenue, and the north side of my home faces the Tran's backyard. My home was built around 1920, and was placed on a triangular piece of land at the point where College Avenue and McClellan Alley intersect. Because of the unique

placement of my home, I have only five feet of property on the north side of the house. (See the holly tree at the property line by the center window) On that side of the house there are nine windows; three basement windows, three first floor windows, and three second story windows.



According to the applicant's site plan, his structure will be built five feet from my property line. That is a distance of ten feet between the structures, not twelve as stated in the application. Regardless of that two foot difference, because of the height and depth of the structure, all nine of my windows with a northern exposure will be blocked. That renders two bedrooms, a dining room (that extends front to back of my house) and my basement recreation room, bathroom, and laundry room void of sun, light, air, view, and breeze. The reality of the structure will manifest with my entire view from the north side being a brick wall. I know you have visited the site and have seen the external impact. I invite you to visit my home to see the impact from within my living space. Additionally, I do not have central air conditioning in my home, and rely heavily on air circulation in the summer to keep my living space at a reasonable temperature. That option will be severely hampered by this structure.

On the subject of compatibility and scale, the project is also in conflict. My house is 26 feet wide. The proposed garage is 28 feet wide, two feet wider than my home. I do not know the exact height of my house, but it is a small two story bungalow, and is not as tall as 300 Dill Avenue. The height of the proposed garage will be about the same height as my house, if not taller. While the design may be based on the architecture in the surrounding neighborhood, the scale is not.

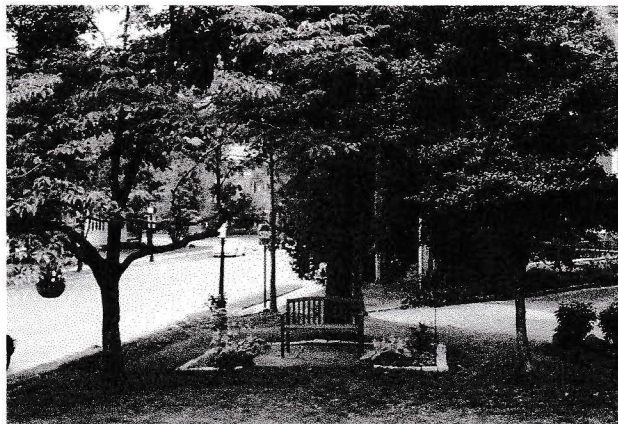




Rendering of proposed structure next to 301 College Avenue

Street access is another issue. The garages that do exist in this immediate area have alley access. 300 Dill Avenue has no alley access, and so they have proposed to cut into the curb at College Avenue to create access. Consequently, there will be a wide paved driveway leading to the structure that is directly visible and adjacent to my front porch. I currently enjoy an unobstructed view of College Avenue up to and across Dill Avenue. I spend a great deal of time on my porch, in all seasons. It is the primary reason I bought the house in the first place. Cars parked in the driveway will be directly in my view, and will appear as if parked in my side yard. In order to make this access, a City street lamp will have to be relocated 10 feet south of its current location. This will result in the light being placed almost directly in front of the north corner of my porch, causing excessive light onto my dining room and outdoor living space at night. This creates a privacy issue for me. Additionally, cars pulling in and out of the driveway and garage, a tenant coming and going, and the resident using the garage space as a workshop (which he has made clear to me personally is one of his goals) also compromises my privacy.

The applicant also talks about property values. The house I live in sat on the market for over six months without selling. This was two and a half years ago, in the midst of the real estate boom. One of the key reasons that it did not sell easily was because of the uniquely shaped lot on which it sits. The backyard is essentially a small parking pad that abuts up to McClellan Alley. It is virtually non-existent. I have a side yard on the south side that functions as most people would use a backyard. McClellan Alley also borders the length of my side yard.



As I mentioned earlier, the north side of my house has only five feet of property. However, because the property at 300 Dill Avenue sits about 175 feet north of my property line, my house appears to have normal proportion and scale in the neighborhood. I have talked with several real estate agents, including the one who I purchased the house from, and they all expressed an opinion that by crowding up to the side of my house, the proposed garage would most likely hurt my property value.

In summary, this garage, if allowed to be built, will dwarf my house, sit so close to it as to create a two story alley in this single family neighborhood, create more activity that will intrude upon my privacy, and decrease the value of my primary source of financial worth. I cannot stress to you enough how detrimental it will be to me personally.

Enough said about my personal case. This is really an issue that will adversely affect many established neighborhoods in our City.

The applicant purports that his proposed use is in harmony with policy H.2 set forth in the 2004 City of Frederick Comprehensive Plan (Comp Plan). However, his assertion that the Comp Plan *"...directs the City to permit accessory dwelling units above garages..."* is a misstatement. The plan makes a recommendation, not a directive, that the City *"...consider changing regulations to permit accessory dwelling units above garages as a special exception use for all existing owner-occupied single-family lots."*

Indeed, the City did consider it, and continues to consider it at this juncture. I have been in attendance at a number of Planning Commission meetings in the last several weeks where the very concept of ADDU's was being revisited in an attempt to clarify language and restrict their use. The current language in the Land Management Code (LMC) is very vague and permissive. At the August 14, 2006 Planning Commission Public Hearing, a staff report was discussed that stated, *"... the (Planning) Commission found the existing language for ADDU's in the Land Management Code was difficult to apply to submitted applications and less than what they expected."*

At this meeting, there was in depth discussion by the Planning Commission members about proposed restrictions on the use and construction of ADDU's, and testimony from residents of Baker Park. All testimony from residents was in strong opposition to ADDU's in existing neighborhoods. Mr. Michael Watkins, at the point, proposed that ADDU's should only be allowed in new development. At that point the Commission agreed and asked staff to prepare a revised report, outline standards for ADDU's in new development only, so they could be reviewed at the next meeting.

This application was mentioned at that meeting in the context of a pending action based on the existing language. A proposal was then made to have the City Attorney look into the possibility of tabling the application until the language was revised, since it appeared that it would not be a valid use under the new regulations. I was not apprised of that outcome; however we are here today, so I can presume there was no action taken to delay this.

I was also in attendance on the September 14 Development Review Committee meeting where ADDU's continued to be discussed. At that point there had been a staff report prepared based on Mr. Watkins recommendation and Planning Commission agreement. The report dealt entirely with ADDU's in new development only, and there was a proposal to remove all R zoning from eligibility. Offline discussions revealed as well, that the original intent for ADDU's when first proposed was for new construction only, and was not to be considered in existing neighborhoods. Somehow that concept was morphed during the LMC process. I think it is critical the ZBA be aware of the position taken by the Planning Commission, and weigh heavily their opposition to this proposed use.

In addition, Section 308 of the LMC states:

(c) Criteria

The Zoning Board of Appeals may authorize conditional uses only when the Board finds that the following conditions exist.

(1) The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Code.

As stated in the 2004 Comp Plan, "... in addition to accommodating new residential growth, the Comprehensive Plan addresses the preservation of existing housing stock." "The historic core has the oldest housing stock in the City, and this stock is valuable specifically because of its historic nature." 300 Dill Avenue and 301 College Avenue, as well as the surrounding Baker Park neighborhood, are located in the National Register District as designated by the National Trust for Historic Preservation (*Frederick Historic District (Boundary Increase)*) (added 1988 - District - #88000713). Additionally, this is an area currently being considered for designation by the City of Frederick as a Conservation District. These homes were built primarily in the 1920's, and have just as much historical significance for Frederick as the Fredericktowne Historic Preservation District. To allow the character, density, and scale of structures to change would destroy the integrity of a recognized historic area. This is certainly not in harmony with either the purpose or the intent of the Comp Plan.

(2) The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.

The use and operation of a rental property does create greater adverse impact on the use and operation of the property in question, as well as the adjacent property. A tenant, his vehicle, and his visitors will most certainly change the character of the property. The staff report indicates that, "The Board will need to make findings on whether or not the proposed garage/ADDU would create and adverse impact on the neighborhood" While I understand your responsibility and authority, who better demonstrates the negative impact but the very occupants of the affected neighborhood? These residents, by protest here and signatures on petitions, have indicated that it would create significant negative impact.

Furthermore, not only the structures are historic, but the trees as well. The tree that the applicant proposes to remove is an old maple, five feet in circumference. It is a beautiful specimen and has probably been there for at least 40 years, probably longer. It is but one of hundreds of old stately trees that grace our neighborhood and provide beauty and shade.

As you may know, a petition opposing this application has been circulated through our neighborhood by Jean O'Conner and me, with help from others. The applicant has submitted a document rebutting the assertions in the petition. I will take this opportunity to reinforce them, as I was the author. The petition language follows:

We, the undersigned, are strongly opposed to the proposed garage and rental apartment construction at 300 Dill Avenue in the City of Frederick, MD. Our objections are primarily these:

- 1. The construction is proposed under Section 802 of the City of Frederick's Land Management Code (LMC), entitled "Accessory Detached Dwelling Units". In Section 802, Section (b), ADDU's are not approved for R6 zoning. 300 Dill Avenue is zoned R6.*
- 2. This proposed ADDU will significantly and negatively impact the character of the neighborhood, in particular, the properties located at 302 Dill Avenue and 301 College Avenue. The areas of impact are at least:*
 - a. Incompatible relationship with adjacent properties*

- b. *Compromised privacy for existing residents*
 - c. *Compromised light for existing residents*
 - d. *Compromised solar access for existing residents*
 - e. *Compromised air circulation for existing residents*
 - f. *Destruction of at least two large old trees*
 - g. *Removal/relocation of existing City streetlight post*
 - h. *Creation of street access on College Avenue on the side of 301 College Avenue*
3. *Insertion of a rental unit in a neighborhood that is comprised of almost 100% owner occupied homes. This type of housing is inconsistent and incompatible with the older existing homes, and undermines the integrity of this historic neighborhood.*

Exhibit C is the signed petition with 72 signatures, representing 60 separate residences in the immediate neighborhood of the proposed project that are opposed.

Number one deals with the R6 zoning of the area. This zoning came about as the direct result of neighbors challenging the R-8 zoning that was changed from R-4 zoning without our knowledge; one of many pieces of the LMC that are now being repaired. The R6 designation was designed for our neighborhood, and applied to several others, after planning reviewed the makeup of the existing neighborhoods. The designation calls for single family homes only; no townhouses or condos. Up until September 7, R6 zoning excluded ADDU's. A massive ordinance change, which included 56 other amendments, was passed to amend the LMC. One of these items did make ADDU's in R6 a permitted use. However, since the idea of removing ADDU's from all R designated zoning is in progress, that seems to have been premature, and the actual significance may have been lost in the large number of changes being pushed through.

Number two is addressed point by point:

- a. This is a single family detached dwelling historic neighborhood. A two story garage sitting ten feet from a neighbor's house creates crowding and dwarfs the adjacent dwelling. Please see Exhibit E. Also, because of the placement of the garage, it will appear that the property at 301 College Avenue has a driveway and front load garage, which is not a compatible scenario for this neighborhood.
- b. Having a garage and driveway that will be used by three vehicles, a tenant, and the homeowners, located ten feet from my house will compromises my ability to enjoy the quiet use of my front porch. There will be additional noise, movement, and traffic literally ten feet from my porch. Had I desired this condition, I would have stayed in my townhouse. Likewise my neighbors would not have selected this neighborhood to live in.
- c. A two story structure located ten feet from my north wall will completely block sunlight from entering my windows. The maple tree there currently filters lights, but does allow sunlight into my house. No sun would enter my house from the north side if this structure is built.
- d. The same argument exists for light. That side of my house is darker than the south, because of the tree. In order to compensate for that I have switched the floor plan of my house and moved the living room from that side to the south side. I do, however, use the long room on the north side as a dining room, and that is also the room where my fireplace is located. To block all natural light from that side of the house will virtually turn that room into a cave, and unattractive for practical use. It is a small house, and so I must utilize all of my living space. My quality of life within my walls would be adversely affected

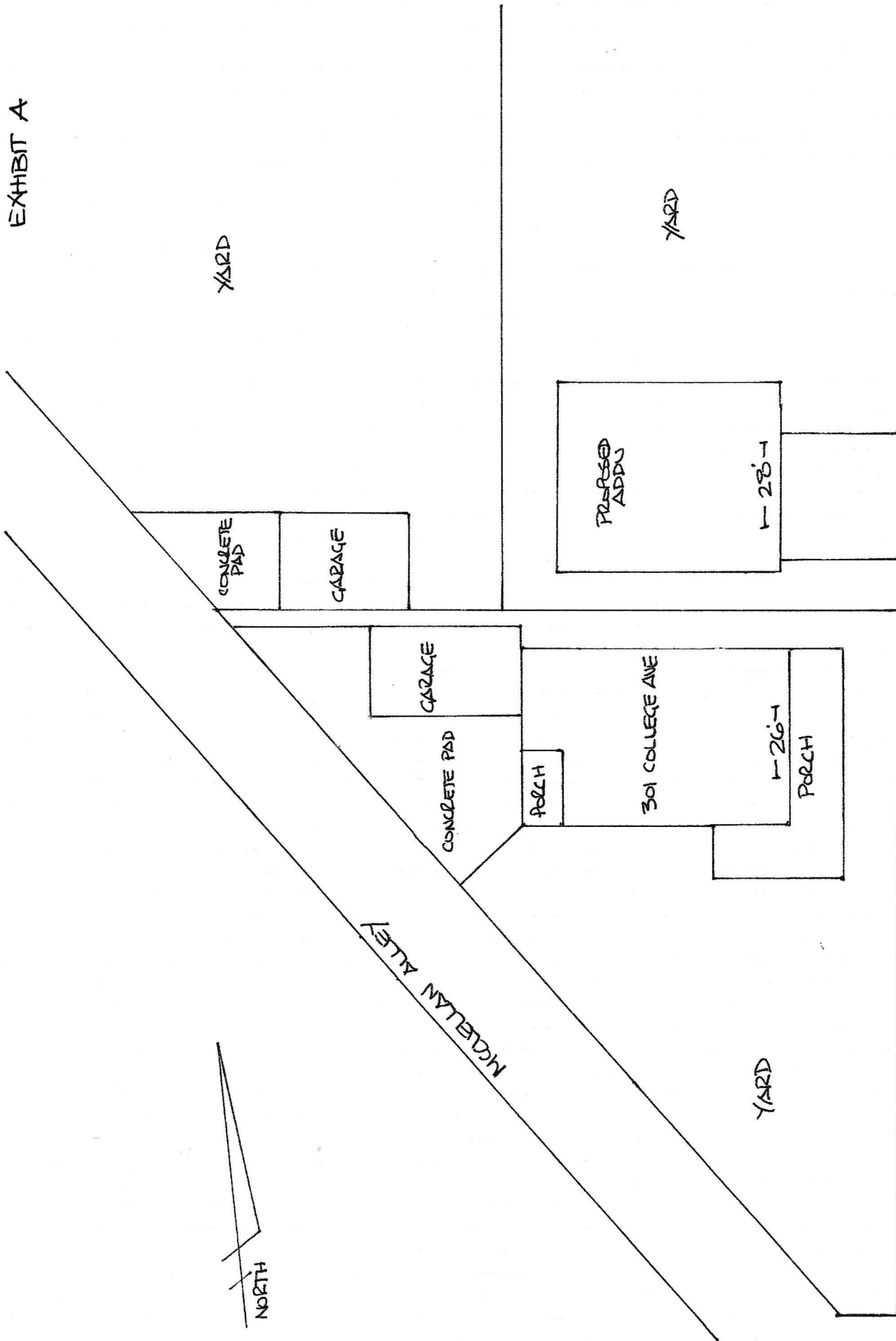
- e. As mentioned earlier, the ability to open my house to a north/south breeze is essential for maintaining a bearable comfort level in the hot weather. I am energy conscious, and rarely use my window AC units. I prefer fresh air. That option would disappear for me, and I would be forced to expend energy and money to cool my house.
 - f. In the original presentation of this concept to me by the applicant, he indicated that he would remove not only the old elm tree, but also had requested from the resident of 302 Dill Avenue permission to remove an old evergreen that is approximately 60 to 65 years old.
 - g. The city lamppost that is situated 13 feet north of my property line will be moved ten feet closer; three feet from my line. That will place the light 3 feet north and 18 feet east from the corner of my porch. It is a bright white light, and will shed an undo amount of light onto my front porch and into my windows at night.
 - h. In order to access the proposed garage, the applicant must create a new access from the side of his home on College Avenue, which is the front of my home. The applicant's site plan does not include a measurement of the width of the driveway, but it appears in scale to be about 20 feet wide, and it is 17'3" deep. This results in about 345 square feet of paving, not including the apron, which will extend into the street. All of this will sit ten feet from the side of my house. Once again, the appearance will be that of a front load garage on my property. Additionally, the private alley directly across from the proposed driveway is used frequently (at least 5-10 times per day) as a turnaround location for vehicles that apparently came down College Avenue in error, or how are turning around to take advantage of a parking space on Dill Avenue on the north side. As we are located adjacent to Hood College, there is a large volume of student traffic searching from parking. I fear that this driveway will become a heavily used turnaround point, once again creating more traffic, noise, and activity directly next to my house.
4. When assessing the homeowner occupied vs. rental properties in the neighborhood, the petition authors considered home in the immediate area of the proposal, and included homes in the R6 zoning. Of 151 properties listed in Exhibit C, ten are listed in the Maryland Real Property database as rental. That comes out to 6.6%, indicating that the homes in question are 93.4% owner occupied. That is almost 100%. Furthermore, none of those rental properties are located overtop of garages. All of them exist within the primary structure.

I ask you to consider this information on two levels; the personal impact this structure and uses will have on my quality of life, and the larger impact that will occur if this type of use is allowed in historic neighborhoods. I am equally as concerned with both, as you will see in the near future as our neighborhood continues its quest for designation as a Conservation District. Thank you for your time and consideration.

Submitted September 26, 2006
Kelly Russell
301 College Avenue
Frederick, MD 21701
301-695-6903
greekdiver@adelphia.net

Attachments:
Exhibit A - Scale drawing
Exhibit B - Petitions
Exhibit C - Table: Owner occupied vs. rental
Exhibit D - Map of "Neighborhood" as defined

EXHIBIT A



1 INCH = 20 FEET

COLLEGE AVENUE

Comments from:

Mike Nash
300 Rockwell Terrace
Frederick, MD 21701
301-662-1835

Subject: Considerations of Accessory Detached Dwelling Unit (ADDU) should satisfy the requirements for that Zoning District

1. **Conclusion:** The proposed ADDU approval is inconsistent with the Zoning District in which it is located as described in both the City's:
 - Comprehensive Plan and
 - Land Management Code.
2. **Comprehensive Plan:** Policy LU.12: Preserve and enhance the quality of life in existing neighborhoods.
Implementation Strategies 1. Reinforce existing residential neighborhoods.
3. **Land Management Code:**
 - a. **Sec 312: Zoning Board of Appeals Decisions**
 - (e) Decision Making Criteria
 - (5) The most appropriate use of land and structures in accordance with the Comprehensive Plan
(note: I believe this guidance requires consideration of the impact on the existing residential neighborhood as described above.)
 - (13) The conservation of property values
(note: I am unaware of any assessment that indicates increased density of dwelling units conserves the property value of the surrounding existing residential neighborhood.)

b. Sec 401: Establishment and Purposes of Zoning Districts

<u>District Established</u>	<u>Purpose</u>
R6 (Low Density Residential)	The R6 District is intended to provide for residences in an urban residential environment with a maximum density of six (6) dwellings per acre. ...

c. Sec 405: Dimensional and Density Regulations

(a) Generally

No building permit or zoning certificate shall be issued unless the proposed development conforms to the design regulations prescribed within the applicable zoning district. The design regulations for each district are included in Table 405-1 below.

(for Zoning District R6: Single-Family Dwelling)

Maximum Density = 6.0 dwelling units per gross acre

d. Sec 802: Accessory Detached Dwelling Units

(b) Standards

(notes:

- (i) these include allowing ADDU's as conditional use in only the zoning districts indicated which did not include R6 (possibly an oversight?)
- (ii) although selective restrictive physical considerations such as height and gross floor area are indicated, but in no case were any of the Dimensional and Density Regulations (Sec 405) associated with the Zoning District where the ADDU was to be considered reduced.

4. In summary:

- a.** An Accessory Detached Dwelling Unit is a dwelling unit.
- b.** The City's Land Management Code restricts the number of dwelling units per gross acre in the R6 Zoning District to 6.0 per gross acre
- c.** The addition of this proposed additional dwelling unit into in this existing neighborhood would exceed the dwelling density allowed by its R6 Zoning.
- d.** The addition of this proposed ADDU in this existing neighborhood would be contrary to the City's Comprehensive Plan's Policy and Implementation Strategy to "Preserve and enhance the quality of life in existing neighborhoods." by Reinforcing existing residential neighborhoods.
- e.** As you make your decision please consider your Board's Decision Making Criteria and ask yourself:
 - i. Has it been shown that approving this proposed additional dwelling unit to this location in this existing residential neighborhood is the most appropriate use of land and structures in accordance with the Comprehensive Plan?
 - ii. Has it been shown that approving this proposed additional dwelling unit would conserve the existing residential neighborhood's property values?

I believe this application fails on both criteria. I further suggest that independent of the question of should Frederick City allow any ADDU's to be constructed in an existing residential neighborhood, you should find that this ADDU, proposed to be constructed in this existing residential neighborhood, does not meet the requirements of the City's Comprehensive Plan nor of the City's Land Management Code. It is not appropriate. I ask you to reject this application.

PETITION

We, the undersigned, are strongly opposed to the proposed garage and rental apartment construction at 300 Dill Avenue in the City of Frederick, MD. Our objections are primarily these:

1. The construction is proposed under Section 802 of the City of Frederick's Land Management Code (LMC), entitled "Accessory Detached Dwelling Units". In Section 802, Section (b), ADDU's are not approved for R-6 zoning. 300 Dill Avenue is zoned R-6.
2. This proposed ADDU will significantly and negatively impact the character of the neighborhood, in particular, the properties located at 302 Dill Avenue and 301 College Avenue. The areas of impact are at least:
 - a. Incompatible relationship with adjacent properties
 - b. Compromised privacy for existing residents
 - c. Compromised light for existing residents
 - d. Compromised solar access for existing residents
 - e. Compromised air circulation for existing residents
 - f. Destruction of at least two large old trees
 - g. Removal/relocation of existing City streetlight post
 - h. Creation of street access on College Avenue on the side of 301 College Avenue
3. Insertion of a rental unit in a neighborhood that is comprised of almost 100% owner occupied homes. This type of housing is inconsistent and incompatible with the older existing homes, and undermines the integrity of this historic neighborhood.

	Signature	Street Address	Date
1.	[Signature]	408 ROCKWELL TERRACE	8/21/06
2.	[Signature]	408 ROCKWELL TERRACE	8/21/06
3.	[Signature]	301 Upper COLLEGE TERRACE	8/21/06
4.	[Signature] (RACON GEORGE)	301 UPPER COLLEGE TERRACE	9/21/06
5.	[Signature]	307 Upper College Terrace	8/21/06
6.	[Signature]	309 Upper College Terrace	8/21/06
7.	[Signature]	310 Upper College Terrace	8/21/06
8.	[Signature]	306 Upper College Terrace	8/21/06
9.	[Signature]	" " "	8/21/06
10.	[Signature]	306 N. College Pkwy	8/21/06
11.	[Signature]	311 Rockwell Terrace	8/22/06
12.	[Signature]	313 Rockwell Terrace	8/22/06
13.	[Signature]	315 Rockwell Terrace	8/22/06
14.	[Signature]	307 Rockwell Terrace	8/22/06
15.	[Signature]	303 Rockwell Terrace	8/22/06
16.	[Signature]	217 Rockwell Terrace	8/22/06
17.	[Signature]	217 Rockwell Terrace	8/22/06
18.	[Signature]	201 Rockwell Terrace	8/22/06
19.	[Signature]	204 Rockwell Terrace	8/22/06
20.	[Signature]	208 Rockwell Terrace	8/22/06

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	Signature	Street Address	Date
1.	<i>[Signature]</i>	301 College Place	8/20/06
2.	<i>Robert E. Davis</i>	301 College Place	8/20/06
3.	<i>Nancy Amadio</i>	314 N. College Pkwy	8-20-06
4.	<i>Sean O'Connor</i>	308 N. College Pkwy	8/20/06
5.	<i>Rick Firestone</i>	304 N. College Pkwy	8/20/06
6.	<i>William Amadio</i>	314 N. College Pkwy	8/20/06
7.	<i>Virginia Clark</i>	307 College Place	8/20/06
8.	<i>[Signature]</i>	307 College Pl	8/20/06
9.	<i>Don C. Davis</i>	303 College Pl	8/20/06
10.	<i>Margaret H. Hindman</i>	303 College Pl	8/20/06
11.	<i>[Signature]</i>	302 N. College Pkwy	8/20/06
12.	<i>Kathy W. Fay</i>	302 N. College Pkwy	8/20/06
13.	<i>Linda Broadnax</i>	300 Upper College Terr.	8-20-06
14.	<i>John H. Broadnax</i>	300 Upper College Terr.	8-20-06
15.	<i>John J. O'Connor</i>	308 N. College Pkwy	8-20-06
16.	<i>Elliott & Bernice Soule</i>	300 N. College Pkwy	8-21-06
17.	<i>Joanne M. Taney</i>	312 N. College Pkwy	8-21-06
18.	<i>Robert Paul Hilly</i>	305 College Place	8-21-06
19.	<i>C. Arlene Phillips</i>	305 College Place	8-21-06
20.	<i>Kittyhelle Hosford</i>	410 Rockwell Terrace	8-21-06

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[Signature]	301 COLLEGE AVENUE	8/22/06
Barbara B. [Signature]	302 College Ave	8/22/06
Christine [Signature]	302 Dill Ave.	8/23/06
[Signature]	213 Rockwell Terr.	8/23/06
[Signature]	211 Rockwell Terr.	8/23/06
Donna [Signature]	211 Rockwell Terrace	8/23/06
Mary K. (Sue) [Signature]	Chapline 215 Rockwell Terrace	8/23/06
C. S. George Jr. [Signature]	214 Rockwell Terr.	8/23/06
[Signature]	300 Rockwell Terr	8/23/06
[Signature]	302 Rockwell Terr	8/23/06
Dennis [Signature]	310 Rockwell Terrace	663-6655
[Signature]	310 Rockwell Terrace	663-6655
[Signature]	312 Rockwell Terrace	663-6049
[Signature]	312 Rockwell Terrace	663-6049
BETTY [Signature]	215 Rockwell Terrace	8/23/06
[Signature]	304 College Avenue	08/24/06
[Signature]	320 N. COLLEGE AVENUE	8-28-06
18. _____		
19. _____		
20. _____		

PETITION

We, the undersigned, are strongly opposed to the proposed garage and rental apartment construction at 300 Dill Avenue in the City of Frederick, MD. Our objections are primarily these:

1. The construction is proposed under Section 802 of the City of Frederick's Land Management Code (LMC), entitled "Accessory Detached Dwelling Units". In Section 802, Section (b), ADDU's are not approved for R-6 zoning. 300 Dill Avenue is zoned R-6.
2. This proposed ADDU will significantly and negatively impact the character of the neighborhood, in particular, the properties located at 302 Dill Avenue and 301 College Avenue. The areas of impact are at least:
 - a. Incompatible relationship with adjacent properties
 - b. Compromised privacy for existing residents
 - c. Compromised light for existing residents
 - d. Compromised solar access for existing residents
 - e. Compromised air circulation for existing residents
 - f. Destruction of at least two large old trees
 - g. Removal/relocation of existing City streetlight post
 - h. Creation of street access on College Avenue on the side of 301 College Avenue
3. Insertion of a rental unit in a neighborhood that is comprised of almost 100% owner occupied homes. This type of housing is inconsistent and incompatible with the older existing homes, and undermines the integrity of this historic neighborhood.

Signature	Street Address	Date
1. <i>[Signature]</i>	272 A Dill Ave	8-23-06
2. <i>[Signature]</i>	272 A DILL AVE FRED	8-23-06
3. <i>[Signature]</i>	276 Dill Ave Fred	8-23-06
4. <i>[Signature]</i>	278 Dill Ave Fred	8-23-06
5. <i>[Signature]</i>	286 Dill Ave, Fred, MD 21701	8-23-06
6. <i>[Signature]</i>	286 Dill Ave. Fred. MD 21701	8-23-06
7. <i>[Signature]</i>	273 Dill Ave, Frederick	8-23-06
8. <i>[Signature]</i>	404 Rockwell Terrace Fred	8-23-06
9. <i>[Signature]</i>	304 N College Pkwy, Frederick	8-23-06
10. _____		
11. _____		
12. _____		
13. _____		
14. _____		
15. _____		
16. _____		
17. _____		
18. _____		
19. _____		
20. _____		

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3. Insertion of a rental unit in a neighborhood that is comprised of almost 100% owner occupied homes. This type of housing is inconsistent and incompatible with the older existing homes, and undermines the integrity of this historic neighborhood.

Signature	Street Address	Date
1. Deanne T. Price	216 Rockwell Terrace	8/24/06
2. Serene Colman	212 Rockwell Terrace	8-29/06
3. [Signature]	216 Rockwell Terrace	8-29/06
4. Maria Thierge	267 Dill Ave	9/4/06
5. Lauren [Signature]	225 Lindbergh Ave	9/4/06
6. Sue [Signature]	225 Lindbergh Ave	9/4/06
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Good evening members of the Zoning Board of Appeals. My name is Kelly Russell, and I reside at 301 College Avenue in Frederick. I appreciate having this opportunity to speak with you tonight. I am also providing each of you a copy of my full statement, with attachments, to be included in your review and for the record. This testimony touches on some of the highlights.

I am strongly opposed to this application for several reasons. I must first state my objection to the consideration of this application by the ZBA in the first place. The property in question is located in an area zoned R6. At the time of application, August 22, 2006, ADDU's were not a permitted use in R6 zoning, so in my opinion, the application should have been denied at that time. I would now ask that you deny the application tonight based on that fact. [REDACTED]

[REDACTED] However, if the ZBA chooses to continue to hear testimony on this application, I must also ask that you also take into consideration that there is forthcoming, more language that will, in all likelihood, prohibit construction of ADDU's in all existing neighborhoods.

[REDACTED]

Because of the unique placement of my home, I have only five feet of property on the north side of the house. According to the applicant's site plan, his structure will be built five feet from my property line. That is a distance of ten feet between the structures, not twelve as stated in the application. In any case, all nine of my windows with a northern exposure will be blocked. That renders two bedrooms, a dining room, and my basement recreation room, bathroom, and laundry room void of sun, light, air, view, and breeze. Additionally, I do not have central air conditioning in my home, and rely heavily on air circulation in the summer to keep my living space at a reasonable temperature. That option will be severely hampered by this structure.

On the subject of compatibility and scale, the project is also in conflict. My house is 26 feet wide. The proposed garage is 28 feet wide, two feet wider than my home. I do not know the exact height of my house, but it is a small two story bungalow, and is not as tall as 300 Dill Avenue. The height of the proposed garage will be about the same height as my house, if not taller. While the design may be based on the architecture in the surrounding neighborhood, the scale is not, and is not compatible next to my house.

For access to the ADDU, a cut into the curb at College Avenue to create access has been proposed. Consequently, there will be a wide paved driveway leading to the structure that is directly visible and adjacent to my front porch. Cars parked in the

driveway will be directly in my view, and will appear as if parked in my side yard. A City street lamp will be relocated 10 feet south of its current location, almost directly in front of the north corner of my porch. This will cause excessive light into my windows and outdoor living space at night, which is a privacy concern. Additionally, cars pulling in and out of the driveway and garage, a tenant coming and going, and the resident using the garage space as a workshop (which he has made clear to me personally is one of his goals) also compromises my privacy.

As for property value, my house sat on the market for over six months without selling. One of the key reasons that it did not sell easily was because of the uniquely shaped lot on which it sits. I have talked with several real estate agents, including the one who I purchased the house from, and they all expressed an opinion that by crowding up to the side of my house, the proposed garage would hurt my property value.

In summary, this garage, if allowed to be built, will dwarf my house, sit so close to it as to create a two story alley in this single family neighborhood, create more activity that will intrude upon my privacy, and decrease the value of my primary source of financial worth. I cannot stress to you enough how detrimental it will be to me personally.

As for the bigger picture:

The applicant's assertion that the Comp Plan *"...directs the City to permit accessory dwelling units above garages..."* is a misstatement. The plan makes a recommendation, not a directive, that the City *"...consider changing regulations to permit accessory dwelling units above garages as a special exception use for all existing owner-occupied single-family lots."*

Indeed, the City did consider it, and continues to consider it at this juncture. I mentioned future changes earlier in my testimony. I have been in attendance at a number of Planning Commission meetings in the last several months where the very concept of ADDU's was being revisited in an attempt to clarify language and restrict their use. At the August 14, 2006 Planning Commission Public Hearing, a staff report was discussed that stated, *"... the (Planning) Commission found the existing language for ADDU's in the Land Management Code was difficult to apply to submitted applications and less than what they expected."*

At that meeting, the Planning Commission discussed proposed restrictions on the use and construction of ADDU's, and heard testimony from residents of Baker Park. All testimony from residents was in strong opposition to ADDU's in existing neighborhoods. Mr. Michael Watkins, at the point, proposed that ADDU's should only be allowed in new development. The Commission agreed and asked staff to prepare a revised

report, outlining standards for ADDU's in new development only, so they could be reviewed at the next meeting.

I was also in attendance on the September 14 Development Review Committee meeting where that revised staff report was discussed. The report dealt with ADDU's in new development only, and there was a proposal to remove all R zoning from eligibility. Offline discussions revealed as well, that the original intent for ADDU's **was** for new construction only, and was **not** to be considered in existing neighborhoods. I think it is critical the ZBA be aware of the position taken by the Planning Commission, and weigh heavily their opposition to this proposed use.

Additionally the 2004 Comp Plan states, "... in addition to accommodating new residential growth, the Comprehensive Plan addresses the preservation of existing housing stock." *"The historic core has the oldest housing stock in the City, and this stock is valuable specifically because of its historic nature."* 300 Dill Avenue and 301 College Avenue, as well as the surrounding Baker Park neighborhood, are located in the National Register District as designated by the National Trust for Historic Preservation (*Frederick Historic District (Boundary Increase) (added 1988 - District - #88000713)*). Additionally, this is an area currently being considered for designation by the City of Frederick as a Conservation District. These homes were built primarily in the 1920's, and have just as much historical significance for Frederick as the Fredericktowne Historic Preservation District. To allow the character, density, and scale of structures to change would destroy the integrity of a recognized historic area. This is certainly not in harmony with either the purpose or the intent of the Comp Plan.

Section 308 (c)(2) of the LMC states, "The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval."

The use and operation of a rental property certainly creates adverse impact on the use and operation of the property in question, as well as the adjacent property. A tenant, his vehicle, and his visitors will most certainly change the character of the property. The staff report for this application indicates that, "The Board will need to make findings on whether or not the proposed garage/ADDU would create and adverse impact on the neighborhood" While I understand your responsibility and authority, who better to demonstrate the negative impact but the very occupants of the affected neighborhood? These residents, by protest here and signatures on petitions, have indicated that it would create significant negative impact.

As you may know, a petition opposing this application has been circulated through our neighborhood. The applicant has submitted a document rebutting the assertions in the petition. As I was the author of the petition, I have detailed a point by point rebuttal in my report to you, so as not to take up too much time tonight.

I ask you to consider this information on two levels; the personal impact this structure and uses will have on my quality of life, and the larger impact that will occur if this type of use is allowed in historic neighborhoods. I am equally as concerned with both, as you will see in the near future, as our neighborhood continues its quest for designation as a Conservation District. Thank you for your time and consideration. Do you have any questions for me?

CITY OF FREDERICK
BOARD OF ZONING APPEALS
PROJECT STAFF REPORT

September 26, 2006

PROJECT INFORMATION

AGENDA ITEM:
NAME OF PROJECT: 300 Dill Avenue
TYPE OF PROJECT: BZA CONDITIONAL USE
CASE NUMBER: 06-507

OWNER: Harby Tran
PROJECT ADDRESS: 300 Dill Avenue
APPLICANT: Harby Tran
PHONE: 301-620-8992
ZONING: R-6

REVIEW BY: Sonja Ingram
DATE: 12 April 2006

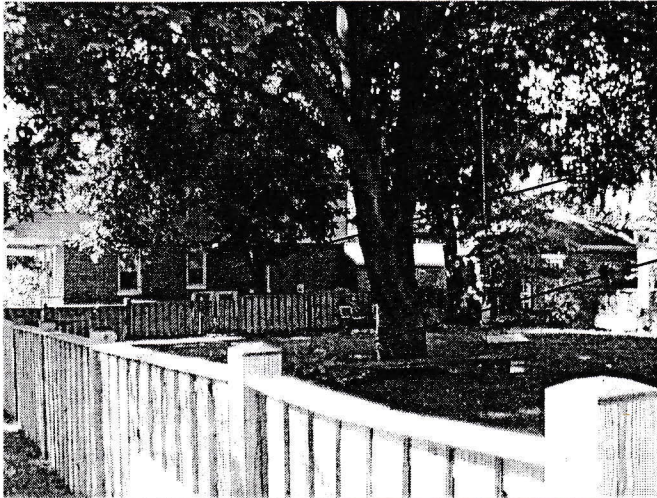
PROPOSED ACTION: To acquire a conditional use in an R6 zone to build a garage for use as an accessory detached dwelling unit.

BACKGROUND INFORMATION

300 Dill Avenue sits on the southwest corner of Dill Avenue and College Avenue and is composed of a 7,740 square foot lot with an existing 2,252 square foot house (Tax Assessments) built in 1915. The existing structure is a 2-story brick structure with a backyard. The backyard is surrounded by a wood fence. The garage/ADDU is proposed to be built in the rear of the yard area. A new driveway and curb cut will be added to access the garage from College Avenue.



Back yard of property



Adjacent House

Area of proposed ADDU

STAFF COMMENTS & ANALYSIS

Section 308 of the City of Frederick Land Management Code allows the Zoning Board of Appeals to authorize conditional uses included in Section 8 of the Land Management Code only when the Board finds that all of the following conditions exist:

- 1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and the LMC.**

Applicant response:

The proposed implements policy H.2 of the Comprehensive Plan to promote the development of housing with costs that reflect the range of incomes generated within The City. This policy directs The City to permit accessory dwelling units above garages as a conditional use for all existing owner-occupied single-family lots. Further, the project adheres to all provisions of LMC Sec. 802.

The proposed Accessory Detached Dwelling Unit is not only in harmony with the Comprehensive Plan but will also promote its purpose and intent. The 2005 Comprehensive Plan recognizes that The City of Frederick will continue to grow but must do so with an eye towards balance, environmental concern and opportunity for all income levels.

... (The) City's population nearly doubled between 1980 and 2000 – from about 28,000 people to 53,000 people. During the same period, The City added more than 9,000 households – from 11,300 in 1980 to about 21,000 in 2000. As discussed in the Introduction to this Comprehensive Plan, The City's population is project to double again – to more than 100,000 people – by 2030, adding more than 23,000 new households. The City's job base is also expected to double during this timeframe. Plan's Land Use (LU Chapter at Page 1) The plan warns, however, that: (Despite) continuing growth pressures, The City has only a limited ability to accommodate new residents and businesses. A capacity analysis performed by the Maryland Department of Planning estimates that, within current municipal boundaries, The City of Frederick has developable land for only 7,000 new households – only a portion of the households that The City will need to accommodate projected growth.

Faced with this challenge, the Plan's introduction declares that The City must “promote a diversified economic mix; and facilitate the development of an adequate housing supply for current and future city residents.” (Plan Introduction Page 2). The Introduction also encourages: “...the development of compact residential neighborhoods.” Nonetheless, the Introduction calls for the preserving and enhancing of “the quality of life in existing neighborhoods.” According to the Land Use, Page 7, it is The City's declared intent “to have mixed use, master planned

developments that have compact development patterns that provide more opportunity to walk and bicycle; increase opportunities for transit and reduce the number of vehicle trips." In other words, The City wants to use the space it already possesses for residential use but not at the expense of quality of life. In fact, The City implicitly wants to encourage residents to live close to stores and other necessities so that they need not rely upon private vehicle transportation thus creating a greater environmental burden.

To accomplish these goals, Land Use Policy 3, Page 9, encourages *"mixed use developments, a range of housing types throughout The City..."* More particularly, The City wants to *"discourage additional low-density residential development characterized by wide streets, large lots, and deep setbacks."* Further Land Use Policy 4, Page 10, promotes balancing *"the distribution and timing of future population and job growth in relation to the availability of existing and future infrastructure."* Land Use Policy 13, Page 14, aims to *"(promote) the development of safe, healthy, and attractive neighborhoods"* through amongst other means, promoting *"an integrated balance of ownership, rental and public housing"* and providing *"a mix of housing styles and densities within neighborhoods and new developments."* Land Use Policy 9, Page 12, repeats The City's environmental concerns by directing that land patterns be developed to *"minimize the number of auto trips and that are transit supportive."*

The Plan's Housing Chapter, Housing Policy 1, Page 3, directs that The City *"facilitate the development of an adequate housing supply for current and future City residents"*. Housing Policy 2, Page 3, encourages The City to *"promote the development of housing with costs that reflect the range of incomes generated within The City"*. In particular, Housing Policy 2, Paragraph 7, recommends as a strategy during the update of The City's development regulations to *"consider changing regulations to permit accessory dwelling units above garages as a special exception use for all existing owner-occupied single-family lots"*.

As said, this proposal to construct a two-car garage with dwelling space above is in harmony with the purpose and intent of the Plan. Indeed, this project actively promotes it. This is a backyard location that will not only add two indoor parking spaces, but will also allow for three new off-street exterior parking spaces. Located only a few blocks west of North Market Street, directly across the street from Hood College, it is easily within walking distance of shopping facilities and public transportation. As an apartment, it would provide a good affordable dwelling for persons just beginning their careers, students in the area, or as an in-law suite. In other words, it allows for a person of various economic means to live in a good solid community close to many facilities. Furthermore, the additional residential dwelling space fits perfectly within the Plan's goal of creating higher density occupancy within established areas but without any negative impact on the quality of life.

This proposed garage-apartment is also in harmony with the purpose and intent of The City of Frederick's Land Management Code. The project falls under Section 802 of the Land Management Code and satisfies all criteria set forth. This Accessory Detached Dwelling Unit (ADDU) is a *"building that contains a dwelling unit that is accessory, supplementary, and secondary to the Principal Dwelling Unit, and that is Detached from the Principal Dwelling Unit."* (LMC Sec 802A). It is situated in zoning district R6; it is the policy of zoning determination that current R4 uses apply to R6. We will comply by constructing no more than one ADDU on the property. The height of the ADDU, twenty feet (20 feet), does not exceed the height of our Principal Dwelling Unit, thirty-three feet (33 feet). The proposed ADDU floor area, six hundred and eighty square feet (680 square feet), does not exceed fifty percent (50%) of the Principal Dwelling Unit's floor area, two thousand two hundred and fifty-two square feet (2,252 square feet).

There is at least one additional parking space to be provided (in actuality there will be five additional parking spaces – two inside and three outside, thereby transforming a non-conforming lot into a conforming lot). The exterior building materials of the ADDU are the same as those of the Principle Dwelling Unit, namely brick and siding. The ADDU will include a

pitched roof as the one required design element, and will also mimic the window design of the Principle Dwelling Unit. Lastly, there will be no home occupation in the ADDU.

Accordingly, given the standards and criteria presented, this ADDU proposal is in full harmony with the purpose and intent of The City's Comprehensive Plan and Land Management Code.

Staff responds:

The applicant has thoroughly described how their proposed ADDU would be in harmony with the Comprehensive Plan and the LMC. Staff concurs with most of the points raised; the city's population is expected to increase dramatically over the next 30 years. The Comprehensive Plan stresses the need for affordable housing for people of all incomes to be able to reside in a solid community, close to many facilities and within established areas, but without any negative impact on the neighborhood.

One issue related to harmony with the Comprehensive Plan that may be in dispute is the applicant's proposal to have the ADDU on the side street (College Avenue), which is very close to 301 College Avenue. This may be counter to the intended harmony of the Plan by negatively impacting the neighbors.

The design of the garage is also not in keeping with the parking requirements of the Land Management Code. For this design to meet the LMC, the applicant needs to accommodate 3 parking spaces inside the garage. The Land Management Code only gives a half a credit for vehicles parked in front of garages. Section 607 (b) (b) 5 of the Land Management Code states:

(5) *Parking Space criteria:*

- A. *Garages and parking spaces shall be counted as one full space if assured access is provided. Garages and parking spaces with limited access, as a result of having access through a single counted parking space shall be counted as half (.5) space.*
- B. *Garages and parking spaces accessed sequentially through more than one counted parking space (Stacking more than two deep shall not be counted as parking spaces.)*
- C. *A parking space shall not overlap the public sidewalk area. In the event that a requirement is waived for the installation of side walks, the space where the sidewalk would have been installed , or may be installed in the future, shall not be utilized by counted parking spaces.*

2. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring special exception approval.

Applicant responds:

According to Charles W. Boyd, AICP, of The City of Frederick Planning Department, a two-car garage is considered permitted use not requiring conditional use approval, and not considered to create any greater adverse impact. The addition of this accessory dwelling unit will not create any greater adverse impact as it will house only one individual, as secured by a lease agreement.

The structure will be located twelve (12) feet from the neighboring house and nine (9) feet off the property line. The structure will mimic the architecture of the neighboring house, made of like materials, face the same direction (east), but will be thirteen (13)feet shorter and be set back more than seventeen (17.3) feet from the curb in order to emphasize the secondary nature of the structure.

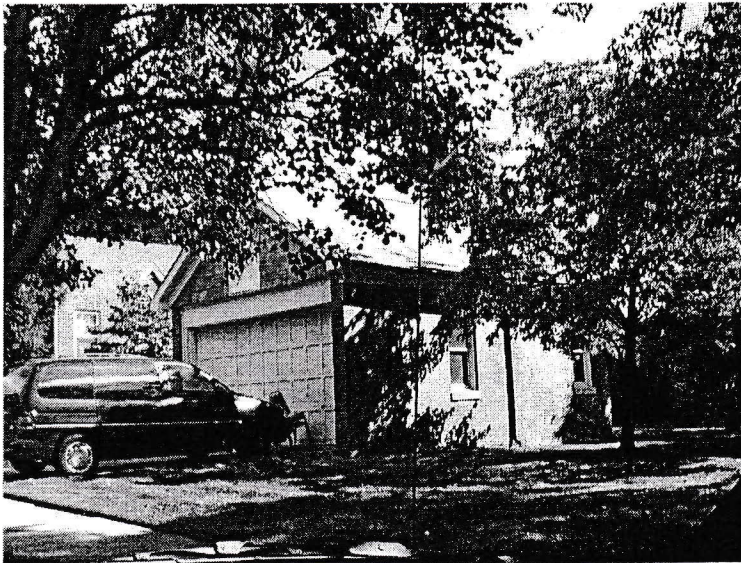
Adding a garage and residential space in the form of an ADDU will benefit the entire area. Not only will this be in keeping with The City's Comprehensive Code and Land Management Code, but it will also lead to an attractive, well-designed dwelling that will be fully utilized. The dwelling has been designed with period architecture in mind, utilizing features from the Primary Dwelling Unit and neighboring units to not only fit the neighborhood, but to give the impression that it was always there. In order to blend with surroundings, the structure will be attractively landscaped and meticulously maintained by the land owners.

It will be a comfortable dwelling where a single person can live quietly and pay reasonable rent while working, studying, shopping, dining, recreating, and living in the area. Close proximity, a lease agreement, and strict monitoring will prevent and prohibit any noise issues. And according to Robert J. Fennel, SRA, of R.J. Fennel, Inc., Real Estate Appraisers and Consultants, such improvements to the property will most likely enhance the neighborhood and raise the value of neighboring properties.

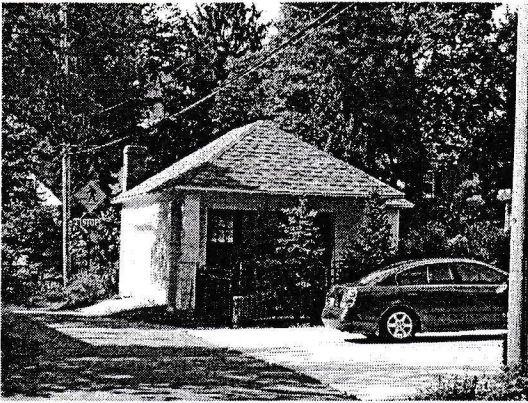
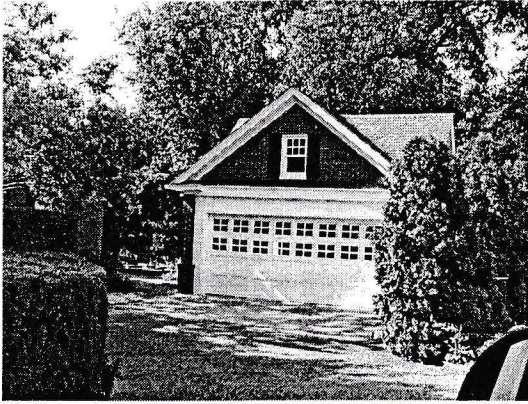
In short, the proposed activity will not create any adverse impact on the neighbors. Just the opposite – this proposed plan will be a positive contribution to the neighborhood.

Staff responds:

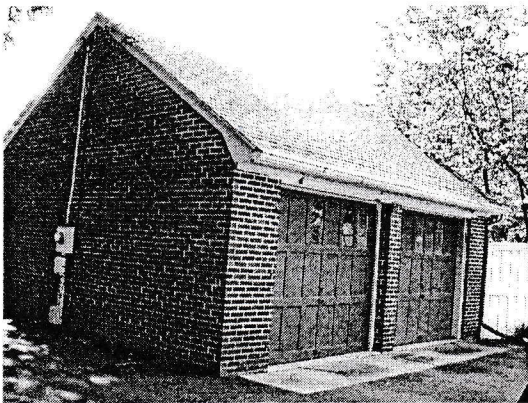
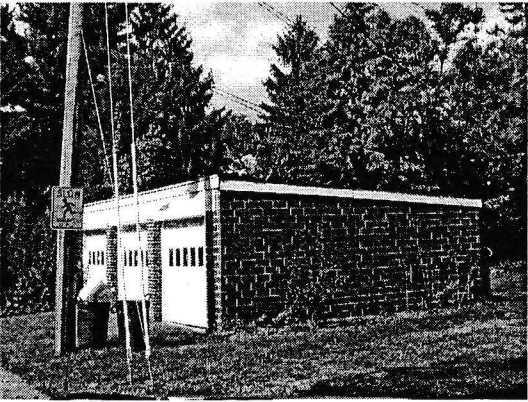
A garage will fit into the yard area meeting the required setbacks. The architectural drawings show a brick and sided (unclear of type) structure with two dormers, one facing College Avenue. Many other garages exist in the neighborhood, one of which is across the street from the proposed garage and faces College Avenue. Most of the garages in the neighborhood however are situated on alleys. The Board will need to make findings on whether or not the proposed garage/ADDU would create an adverse impact on the neighborhood since it faces a street and is not facing an alley. The existing garages in the neighborhood are also either 1-story or 1.5 stories but none appear to be 2 stories like the proposed garage.



Garage across street
from proposed garage



Other garages in
neighborhood



The existing garages in the neighborhood are a variety of styles. 1, 2 and 3-car garages exist with gable or hipped roofs. One of the garages has a flat roof. Most of these existing garages are composed of brick, with wood garage doors. Some have slate roofs. The applicant's architect has designed the proposed garage with details that would fit in with the neighborhood, with the exception of the increased height. Other elements of the building's material such as the type and material of the doors (garage and pedestrian) and the style and materials of the windows and roof should also be provided by the applicant.

One issue that may be detrimental to the neighbors is privacy issues with the neighbors. A garage without an accessory apartment would not necessarily have any issues pertaining to privacy, however a garage with an apartment may pose a problem especially for the neighbor at 301 College Avenue since the south wall of the garage will be only 12 feet from the existing house. The removal of the tree will be an unfortunate result to the garage construction, however there is no city regulation preventing the removal of trees from private property.

Also, if the ADDU is not properly managed, and given its location to the adjacent residence, a potential negative impact may occur. The ADDU would have to be carefully managed to insure that responsible tenants would be accommodating it.

3. That the proposed activity will comply with all conditions and requirements set forth in this code, including any specific standards established in Section 802 of the LMC.

Applicant and Staff responses:

- 1. ADDUs are permitted only in the zoning districts indicated in Section 404 in R4, R6, R8, R12, R16, R20 and MU.**

Applicant Response:

The subject property is within the R6 zone, therefore it is permitted as a conditional use.

Staff Response:

The subject property is within the R6 zone, therefore it is permitted as a conditional use. A text amendment was passed by the Mayor and Board adding the R6 zone into the zones applicable for ADDUs.

- 2. Not more than one accessory dwelling unit may be established on a lot.**

Applicant Response:

The applicant does not currently have an ADDU on the property and will not be allowed to have a second ADDU if this one is approved.

Staff response:

Staff agrees that the applicant does not currently have an ADDU on the property and will not be allowed to have a second ADDU if this one is approved.

- 3. The height of the ADDU shall not exceed the height of the Principal Dwelling Unit.**

Applicant Response:

The proposed ADDU is twenty (20) feet in height, the Primary Dwelling Unit is thirty three (33) feet in height, and therefore the structure meets the height condition as an ADDU.

Staff response:

Staff agrees that the proposed ADDU will not be higher than the existing structure; however it appears to be close to the height of the adjacent structure at 301 College Avenue and may somewhat dwarf this house.

- 4. ADDUs shall not exceed a gross floor area one-thousand (1,000) square feet or more than fifty percent (50%) of the principal; structure's floor area, whichever is less.**

Applicant Response:

At six hundred and eighty (680) square feet, the proposed ADDU does not exceed a gross floor area of one-thousand (1,000) square feet or more than fifty percent (50%) of the principal structure's floor area, two-thousand, two hundred and fifty-two (2,252). The ADDU fits the condition.

Staff response:

The architectural drawings show the garage's dimensions as 32 x 28 feet which is 896 square feet, rather than 680 square feet. In either case, the structure does not exceed 1,000 square feet or 50% of the principal structure.

- 5. At least one (1) additional parking space for the ADDU shall be provided. Parking spaces shall be located in the rear yard and behind the principal building.**

Applicant Response:

Currently, the Principal Dwelling Unit has no off-street parking even though the parking requirements for a single family dwelling are two (2) spaces per unit. Under the ADDU requirements at least one (1) additional parking space must be provided, therefore the property needs three (3) total parking spaces. Parking spaces must be a minimum of 17 feet in length and 9 feet wide. See Site Plan to note (2) parking spaces in front of garage doors, and one (1) additional space to the side.

Staff response:

The applicant's garage plans will provide off street parking needed to serve the main dwelling and the ADDU; however the existing plan does not meet the required 3 spaces. As stated above, the garage is a two-car garage with parking on the outside in front of the garage doors. The Land Management Code stipulates that vehicles parked outside of a garage door which block garage parking, do not count for full parking spaces. The applicant needs a 3-car garage to satisfy the parking needs of the property.

- 6. Exterior building material shall be the same as those of the principle building.**

Applicant Response

The exterior building materials will be the same as those of the principle dwelling. See Elevations for brick to grade and siding to match existing structure.

Staff Response

The materials for the garage are listed as brick and siding. The type of siding is not specified. Other elements of the building's material such as the type and material or the doors (garage and pedestrian) and the style and materials of the windows and roof should also be provided by the applicant.

7. An accessory dwelling shall include at least one of the following design elements:
- a pitched roof
 - a dormer located above each window or
 - windows oriented so that the length of the vertical side is at least twice, and not more than three times, the horizontal length.

Applicant Response:

The exterior building materials will be the same as those of the principal building. See Elevations for brick to grade and siding to match the existing structure. The ADDU will include a pitched roof as the one required design element. In addition, it will include dormers and windows to match the Principal Dwelling Unit and well as surrounding units. Please note the attached architectural details to illustrate how this ADDU will fit into the character of the community.

Staff response:

Staff agrees that the applicant's architectural drawings show pitched roofs. It appears to be a gable roof with two dormers, one on the east and a larger dormer on the west elevation. The windows also appear to be of the correct dimensions.

8. A home occupation may not be located in the ADDU.

Applicant Response:

The applicant has no intention of having a home occupation in the ADDU. The space will be secured by a lease agreement.

Staff response:

Staff agrees that no home occupation will be allowed in the ADDU. Staff recommends that if the ADDU is approved, a copy of the proposed lease be renewed by staff to insure the prohibition of a home occupation is included.

Applicants Conclusion Remarks:

According the Wikimedia Foundation, an international non-profit organization dedicated to the development and distribution of free encyclopedic information, the idea of integrating garage apartments (ADDUs) into urban planning is a key aspect of new urbanism. ADDUs...

- *provide affordable housing without government subsidies;*
- *promote mixed-income neighborhoods;*
- *make transit, walking, car-pooling, and bicycling more feasible;*
- *increase neighborhood and household security, companionship, and sociability;*
- *reduce community traffic problems because more employees and students can live closer to work and school;*
- *provide a relatively easy way to beneficially increase residential densities to promote transportation, local retail, and environmental objectives; often without significantly changing the character of the neighborhood;*
- *provide supplemental income for the primary household. Such income can help pay for better neighborhood/household upkeep such as home renovations and yard maintenance. They promote neighborhood stability because the additional income can help people afford to stay in their homes longer, instead of being forced to move due to unaffordable costs;*
- *provide assisted living alternatives and extended family living arrangements (senior relatives, for example, who can live near their children instead of being placed in a nursing home);*

- *discourage sprawl and promote infill development by promoting increased community population within already developed areas; and*
- *provide more tax revenue for the local government.*

Because The City understood these benefits of Accessory Detached Dwelling Units, they incorporated them in the Comprehensive Plan and the Land Management Code. This proposal is clearly in line with The City's intent and spirit of the creation of an ADDU as expressed in these documents.

STAFF RECOMMENDATION

This application for an ADDU appears to fulfill all the technical conditions set forth in Section 802 in the LMC. If the ADDU is approved, it is non-transferable to any subsequent property owners. Subsequent property owners must get re-approval of the ADDU if they wish to retain it.

The only questionable aspects of this request for a conditional use are the possible negative effects on the adjacent residential property at 301 College Avenue. Due to the loss of the tree and open space between the two residences, additional buffering appears warranted to mitigate the loss of privacy. Staff recommends approval of the ADDU for 300 Dill Avenue (ZBA 06-507) finding that:

- 1) The proposed application is in harmony with the Comprehensive Plan and Land Management Code and furthers the provision of alternative and affordable housing options.
- 2) The proposed ADDU complies with the standards of Section 802 of the LMC.

Conditioned upon the following:

- 1) Reduce the length (east –west axis) from 32 to 30, shrinking it down to a 30 foot width and move the structure to the north an additional 5 feet, for a total of 10 feet from the neighbor's property line.
- 2) The entrance to the ADDU must come off of College Ave.
- 3) The window facing the neighbor must be an opaque window to provide privacy for the neighbor.
- 4) The width of the garage should be extended to accommodate 3 vehicles.
- 5) A landscape plan must be submitted that includes a minimum of a two deciduous trees along the southern side, adjacent to the neighbor, and other coniferous trees and shrubs to soften the presence of the building.
- 6) A thorough description of the building materials should be submitted, including the material of the doors, windows and roof.
- 7) Review of the lease must be completed by the Planning Department.

Note: the new architectural plans must be reviewed to ensure the design is correct according to these conditions before a permit is issued.

D. Additional requirements in section 802.c.A-D. will be required at the Preliminary Plat stage.

(2) Projects that are developed with a Preliminary plan being the first formal plan of review shall be reviewed and approved by the Planning Commission for the number of ADDU's during review at the Preliminary plan stage of development. The following details must be submitted and reviewed and approved by the Planning Commission with a request for a proposal for ADDU's on lots for a subject Preliminary Plan:

A. Building envelope (s) as required by dimensional requirements of Section 405-1;

B. Existing structures on the lot (s);

C. Schematic architectural design of the ADDU and the principal structure and/or pictures of the existing structures with schematic architectural design of the proposed structures. Photographs of existing structures shall be of a size acceptable by staff to view architectural details.

D. Location of the principal or accessory structure(s) on lots adjacent to the ADDU.

~~(3) No ADDU shall be established on an existing improved lot as of August 15, 2005 or on a subdivision with less than five lots approved after August 15, 2005 unless a conditional use is approved that authorizes that use, as provided in Section 308. The Zoning Board of Appeals shall utilize the criteria listed in Section 802 (b) and Section 801 (d) - (e).~~

(4) No ADDU may be established on a lot created pursuant to a subdivision plat that is approved after August 15, 2005 and contains five or more lots, unless it is authorized by a site plan approved by the Planning Commission as provided in Section 309 and meets the requirements of Section 802.b.

STAFF COMMENTS

The proposed text amendment was constructed after review of several other communities and review of the Comprehensive Plan. There are numerous available options that can be included and any of the proposals can be revised. This text amendment was prepared for the Planning Commission's perusal and needs to be a collaborative work that will give the

Commission and the Mayor and Board of Alderman the basis to review and approve an application for an ADDU.

In some communities there are architectural review ^{ON STAFF} committees that review each application for an ADDU so that the unit will be compatible with the existing single family dwelling unit and the neighborhood.

Some of the communities reviewed ~~stated~~ that setbacks on a lot with an ADDU could not be varied by the Zoning Board of Appeals or the Planning Commission due to the recognition that an ADDU approval is a Conditional Use approval. There was, also, a concern about reducing the green or open space on the property.

One concept that has not been incorporated into this amendment is resolution of the question as to whether a single family dwelling unit can have an ADDU on the lot if the single family dwelling unit is attached, as is a townhouse. Staff noticed that the Planning Commission members appeared to have a difference of opinion on this issue, therefore there should be discussion on this issue at the public hearing. DETACHED

Finally, the readings point out that constructing an ADDU may be an expensive proposition since it is a structure and must meet all building requirements that any other housing structure meets. Impact fees should also be considered because collectively it can make a difference. Staff suggests that the ADDU have the same requirements as any single multi-family unit.

COST PROHIBITIVE

\$200 SQ FT

STAFF RECOMMENDATION

Staff recommends that between this public hearing and the next public hearing that a workshop be conducted to discuss comments that have been received from the public hearing and any revisions that the commission as a whole would like to add.

Proposed Development Standards

Proposed site and development standards for detached ADUs are as follows.

Objectives/Intent	Development Standards				
Basic site requirements help ensure space is available to fit a DADU and to maintain adequate open space	Minimum Lot Size	3,000 ft ²			
	Minimum Lot Width	25 ft			
	Minimum Lot Depth	70 ft			
	Maximum Total Lot Coverage (Including Main Structure)	35%			
	Maximum Rear Yard Coverage	40%			
Maximum heights proportionate to lot width to minimize overshadowing of existing homes and privacy of adjacent homes	Lot Width (feet)	Less than 30	30-35	36-40	Greater than 40
	Maximum Base Height (feet)	12	14	15	16
	Maximum Roof Pitch Height (feet)	15	21	22	23
	Maximum Shed or Butterfly Roof Pitch Height (feet)	15	18	19	20
Gross floor area limits help ensure that the size of DADUs are appropriate for the lot	Maximum Detached ADU Gross Floor-to-Lot-Area Ratio	ADU floor area is limited to 20% of the lot size, not to exceed 1,000 square feet including garage and storage area if part of detached ADU structure			
Setbacks ensure space is maintained between DADUs and surrounding lots	Minimum Side Yard Setback	5 ft to property line; 10 feet on corner lots			
	Minimum Rear Yard Setback	5 feet; no setback when rear lot line is adjacent to alley, 12 feet from the alley centerline when a garage faces the alley.			
Parking requirements will help maintain on-street parking availability	Off Street Parking Space	One per new unit required with some exceptions (same as for attached ADUs)			
The conversion of existing structures can result in minimal impacts and can help maintain neighborhood character.	Conversion of Existing Structures	Existing structures built before June 1, 1999, may be converted to detached ADUs, so long as the extent of nonconformity is not increased.			

Figure 3: Proposed development standards for detached ADUs.

<i>CITY OF FREDERICK</i>
<i>PLANNING COMMISSION</i>
PROJECT STAFF REPORT

September 14, 2006

Development Review Conference

PROJECT INFORMATION

NAME OF PROJECT: Revision to the Land Management Code: Accessory Detached Dwelling Units (ADDU'S) Regulations.

TYPE OF PROJECT: Zoning Text Amendment

CASE NUMBER: PC 06-430TA: Revision and additions to Section 802. a-c; Revisions and additions to Section 1002 Definitions; Accessory Detached Dwelling Unit; and addition of Property Owner. Addition to Table 404-1 to add ADDU's in the DR zoning district and add P's for Permitted Use in the R-16 & R-20 districts.

APPLICANT: Planning Commission

ADDRESS: 101 North Court Street
Frederick, Maryland 21701

PHONE NUMBER: 301-694-1499

APPLICANT'S REPRESENTATIVE: Catherine Thompson Parks.
Division Manager of Development Review

ADDRESS: 101 North Court Street
Frederick, Maryland 21701

PHONE NUMBER: 301-694-1770

PROPERTY LOCATION: Zoning text amendments are applied citywide and must not be reviewed relative to a specific property. If approved, this amendment would apply to applications for ADDU's that are submitted to the Planning Commission and the Zoning Board of Appeals for review and approval ten (10) days after the text amendment is approved by the Mayor and Board of Aldermen.

REVIEWED BY:

DATE(S):

Planning Commission Public Hearing: August 14, 2006 and September 14, 2006 (continued); proposed for October 9, 2006

Mayor and Board Workshop: November 2, 2006

PROJECT PROPOSAL

This text amendment is intended to clarify the existing text in the recently adopted Land Management Code. Sections 802. a-c and the definition of an accessory detached dwelling unit which is located in Section 1002. In addition Table 404-1 Use Matrix needs to add P's in DR, R-16 and R-20.

Background

The City's Comprehensive Plan contains a number of policies and implementation strategies that support and conflict with the concept of ADDUs.

One implementation strategy is cited as Policy H.2.7 which states:

"During the update of the City's development regulations, consider changing regulations to permit accessory dwelling units above garages as a special exception use for all existing owner-occupied single-family lots. New developments that wish to have accessory dwelling units above garages would need to have the Planning Commission approve that use at the site-plan level."

Policy LU.12: says "Preserve and enhance the quality of ^{like} existing neighborhoods."

Policy LU.14.2: says “As part of the update to the City’s development regulations, include provisions to require that new development within older residential areas reflect the existing neighborhood character in terms of bulk, size, design, and height.”

During the August 14th public hearing, the Planning Commission heard from many residents of existing older residential areas who state that they felt the ADDU concept will degrade the charm and character of their neighborhoods. After much discussion, the Planning Commission instructed staff to revise the existing text in the Land Management Code so that it would only apply to new development. In addition, they asked that the text be revised so that ADDU development would be reviewed as a permitted accessory use in new developments only. Staff has prepared the text amendment with above-referenced directives.

It should be noted that in the original text, the Zoning Board of Appeals was the agency that would review ADDUs in existing neighborhoods. Therefore, they will no longer have this responsibility if this version of the text amendment is adopted.

Conversely, the Planning Commission would review new subdivisions in TND, PND, MU or Euclidean subdivisions that were approved after the Land Management Code was adopted (August 15, 2005).

Please note that when reading the proposed text amendment, the underlining proposes new language; brackets propose deletion of existing text; and existing text remains unchanged.

Table 404-1 USE MATRIX

The use matrix for ADDU needs to be amended to add P’s (permitted use) in the R-16 and R-20. Also, a P needs to be placed in the DR district if the Commission so chooses.

Sec. 802 ACCESSORY DETACHED DWELLING UNITS

[Purpose:] This section partially implements Policy H.2 of the Comprehensive Plan to promote the development of housing with costs that reflect the range of incomes generated within the City. This policy directs the City to consider changing regulations to permit accessory dwelling units above garages as a conditional use for all existing owner-occupied single-family lots New

developments that wish to have accessory dwelling units above garages would need to have the Planning Commission approve that use at the site-plan level.

(a) Applicability

This section applies to any "accessory detached dwelling unit" (an "ADDU"). An "accessory detached dwelling unit" means a building that contains a dwelling unit that is accessory, supplementary, and secondary to the Principal Dwelling Unit, and that is detached from the Principal Dwelling Unit. ADDUs are intended to be placed on lots with a detached single family dwelling unit.

(b) Standards

- development using MU/PND/TND/DR
- (1) ADDU's are permitted only in the zoning districts indicated in Table 404-1 in DR, R-4, R-6, R-8, R-12, R-16, R-20, and MU. ~~TND/PND~~ NOT ON
LOTS RECORDED
AFTER 8/05
ELIMINATE
- (2) Not more than one accessory dwelling unit may be established on a lot.
- (3) The maximum height of the ADDU shall not exceed 50 percent of the total height of the existing principal structure.
- (4) ADDU's shall not exceed a gross floor area of one-thousand (1,000) square feet or more than fifty percent (50%) of the principal structure's floor area, whichever is less.
- (5) At least one (1) additional parking space for the ADDU shall be provided. Parking spaces shall be located in the rear yard and/ or side yards and behind the principal dwelling unit.
- (6) Exterior building materials shall be the same as those of the principal building.
- ~~(7) [An accessory dwelling shall include at least one of the following design elements:~~
- A. a pitched roof
 - B. a dormer located above each window; or
 - C. windows oriented so that the length of the vertical side is at least twice, and not more than three times, the horizontal length.]

Lots on a preliminary subdivision plat or final site plan parcel of land that is a proposed for an ADDU(s) and is part of or surrounded by an existing residential subdivision, including proposed consolidation of previously recorded lots, shall be of the same character as other lots within the existing residential block, neighborhood or subdivision, based upon the following characteristics:

- (1) alley frontage; !!
 - (2) alignment with other ADDU's;
 - (3) suitability for residential use;
 - (4) compatibility of exterior building materials;
 - (5) ratio of the area of open and green space, and
 - (6) Compatibility with architectural features of the principal structure and other adjacent lots.
- (b) The applicant shall have the burden of demonstrating to the Planning Commission that for each of the foregoing six characteristics, there is a high correlation between the characteristics of the proposed lots and those of the lots within the neighborhood, subdivision or adjacent lots. The Planning Commission may approve the preliminary plan or final site plan (whichever comes first) only after finding that it meets these criteria. If the proposed project does not meet the criteria, the Planning Commission shall deny the application.
- (c) In demonstrating that the proposed ADDU (s) meets the criteria as set forth in subsections (a) and (b) above, the applicant shall describe clearly the existing adjacent lots, neighborhood or subdivision with which the proposed lots are to be compared. The Planning Commission may accept or modify the applicant's description.
- 7 ~~(8)~~ A home occupation may not be located in the ADDU.
- 8 ~~(9)~~ The property owner must reside in the principal dwelling or the ADDU; however, a temporary absence of less than one year is permitted. During this absence, the owner's dwelling unit may not be rented. REGISTRATION?
FEE/FINE?
- 9 ~~(10)~~ The ADDU shall meet the requirements of all City codes, have adequate water and sewer hook-ups and meet all requirements for public services: such as, but not limited to school capacity, water and sewer capacity, and traffic generation. Impacts measured for an ADDU shall be the same as those required of a single multi-family unit. The parkland requirement for an ADDU may be found in Section 1008.
- 10 ~~(11)~~ Prior to building permit approval, the property owner must record a declaration of restrictions containing a reference to the deed under

which the property was acquired by the present owner and stating that:

A. The ADDU shall not be sold separately from the primary residential dwelling unit.

B. the Certificate of Use and Occupancy for the ADDU shall be in effect only so long as either principal residence, or the ADDU, is occupied by the owner of record as their principal residence.

C. The declarations in this section are binding upon all successors in ownership.

D. upon sale of the property, the new owner(s) of the subject property must file an ADDU Registration with the Planning Department acknowledging the deed restrictions on the property.

(c)Procedures

(1) [Applications for use of ADDU (s) within new developments shall be reviewed and approved by the Planning Commission at the time of the TND, PND, or Preliminary Subdivision Plat.]

A. [Schematic lot and architectural design of the ADDU (s) shall be submitted and approved by the Planning Commission as part of the Preliminary Plan approval.

B. Proposed principal dwelling units that will include ADDU (s) shall have a site plan reviewed and approved by the Planning Commission as provided in Section 309.]

(1) Applications for use of ADDU's within proposed TND, PND, or MU development shall be reviewed and approved by the Planning Commission for the number of ADDU's in the development at the master plan stage of development. The submittal shall include:

A. Density of ADDU's plus breakdown of lot distribution.

B. Notation relative to any setbacks or dimensional requirements for ADDU's.

C. Architectural drawings or renderings submitted Principal Single Family structures shall include comparable drawings for the ADDU.

D. Additional requirements in section 802.c.A-D. are required at the Preliminary Plat stage or the Final Site Plan stage: which ever occurs first.

(2) Projects that are developed with a Preliminary plan being the first formal plan of review shall be reviewed and approved by the Planning Commission for the number of ADDU's during review at the Preliminary plan stage of development. The following details must be submitted and reviewed and approved by the Planning Commission with a request for a proposal for ADDU's on lots for a subject Preliminary Plan:

A. Building envelope (s) as required by dimensional requirements of Section 405-1;

B. Existing structures on the lot (s);

C. Schematic architectural design of the ADDU and the principal structure and/or pictures of the existing structures with schematic architectural design of the proposed structures. Photographs of existing structures shall be of a size acceptable by staff to view architectural details.

D. Location of the principal or accessory structure(s) on lots adjacent to the ADDU.

(3) No ADDU shall be established on an existing improved lot approved before August 15, 2005.

(4) No ADDU may be established on a lot created pursuant to a subdivision plat that is approved after August 15, 2005 unless it is authorized by a site plan approved by the Planning Commission as provided in Section 309 and meets the requirements of Section 802.b.

Section 1002 Definitions

Accessory Detached Dwelling Unit: A detached accessory dwelling unit rented or occupied by the resident owner of a lot on which it is located with toilet and culinary accommodations, used or designated as a residence, with a separate entrance, and that is subordinate to the principal single family detached dwelling unit.

Resident owner: The person whose permanent residence is in the principal structure or the ADDU and who has title to a lot where there is a single family dwelling unit and an ADDU or a proposed ADDU.

STAFF COMMENTS

This staff report was created after the first public hearing and the Planning Commission's workshop on August 28, 2006. It is staffs' understanding that the Commission wanted to allow ADDU's:

1. on lots that contain a single family detached dwelling unit;
2. they would be permitted as a new structure or as a redevelopment of an existing detached accessory structure in the rear yard;
3. they would be permitted uses that would be approved by the Planning Commission on lots that were approved or recorded? after August 15, 2005; and
4. they would no longer be approved as conditional uses approved by the Board of Zoning Appeals.

Staff is not sure how the Commission would like to handle infill lots.

It should be noted that Section 803.a.5 limits the lot coverage to thirty percent of the required rear and side yard for accessory uses. This requirement has been in the Zoning Ordinance since 1986.

STAFF RECOMMENDATION

Staff recommends that the Commission approve the text amendment with the revisions, if acceptable.

Staff does not recommend adding a P for permitted in the Downtown Residential district at this time.

Use	RC	RO	R4	R6	R8	R12	R16	R20	PB	NC	GC	MO	M1	M2	DB	DR	DBO	MU	MXE	IST	PRK	LBCS Function	LBCS Structure	NAICS
Residential Uses																								
Accessory Apartments			C	C	C	C	C	C	P	C	C				P	C	C	P	P	C				
Accessory Detached Dwelling Unit			(P)	(P)	(P)	(P)	(P)	(P)								(P)		(P)						
Duplex					P	P	P	P							P	P	P	P				1100	1202	-
Multi-Family					P	P	P	P							P	P	P	P	P			1100	1200	
Multi-Family with Accessory Retail							C	C							P	C	C	P				-	-	-
Single-family	P	P	P	P	P	P	P	P	A						P	P	P	P				1100	1120	-
Townhouse					P	P	P	P							P	P	P	P				1100	1140	-
Two-family					P	P	P	P							P	P	P	P				1100	-	-
Accommodations and Group Living																								
Bed and breakfast inn		C	C	C	C	C	C	C	C	C					C	C	C	M					-	721191
Group Home					P	P	P	P							P	P	P	P		P		6520 6561	-	623220 623990
Hotel, Motel, and tourist court									P		P	P	P		P		P	P	P			1330	1330	-
Senior Living & Retirement Facilities					C	C	C	C							C	C		M		P		1200- 1210	-	623312
Nursing Home/Domiciliary Care/Adult Living Facility		C	C	C	C	C	C	C		C					C	C		M	C	P		1230 1250 6520	-	623110 623111 623112 623312 623311
Rooming House			C	C	C	C	C	C							P	C	P	P	C			1320	-	721310

Sec. 202 PLANNING COMMISSION

See §§176-179 of the City Charter (describing composition; appointment; term; removal; filling of vacancies; powers and duties; and compensation of the Planning Commission.)

(a) Establishment

With the enactment of the LMC the Planning Commission, as currently established and appointed under provisions of the City Charter is hereby reestablished and reappointed.

(b) Role

In accordance with the provisions of this article, the City has the power to plan and zone the city with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the city. Among other things, this planning and zoning authority may be used to promote the health, safety, morals, order, convenience, prosperity, and general welfare of the city; to provide good civic design and arrangement; to promote the wise and efficient expenditure of public funds; to make adequate provisions for traffic; to secure safety from fire, panic, and other dangers; to prevent the overcrowding of land and to avoid undue concentration of population; to provide adequate light and air; and to make adequate provision for public utilities, water, sewage disposal, parks, and other public requirements.

(c) Powers and Duties

The Planning Commission has the power and duties:

- (1) To make, amend, add and endorse a Comprehensive Plan for the physical development of the city, which is then recommended for adoption to the Mayor and Board of Aldermen.
- (2) To exercise control over subdividing in the city.
- (3) To draft for the Board of Aldermen an official map of the city.
- (4) To prepare and endorse a zoning map or disapprove a proposed change in the map, which is then recommended for adoption to the Mayor and Board of Aldermen.
- (5) To review and recommend proposed annexations into the City.
- (6) To review, approve, approve with modifications, or deny development applications.
- (7) To hear and decide conditional uses as provided for by this Land Management Code.