



# STAFF REPORT

## MORGAN COUNTY PLANNING COMMISSION

**PETITION FOR: CONDITIONAL USE – ACCESSORY DWELLING  
VARIANCE – MINIMUM SQUARE FOOTAGE**

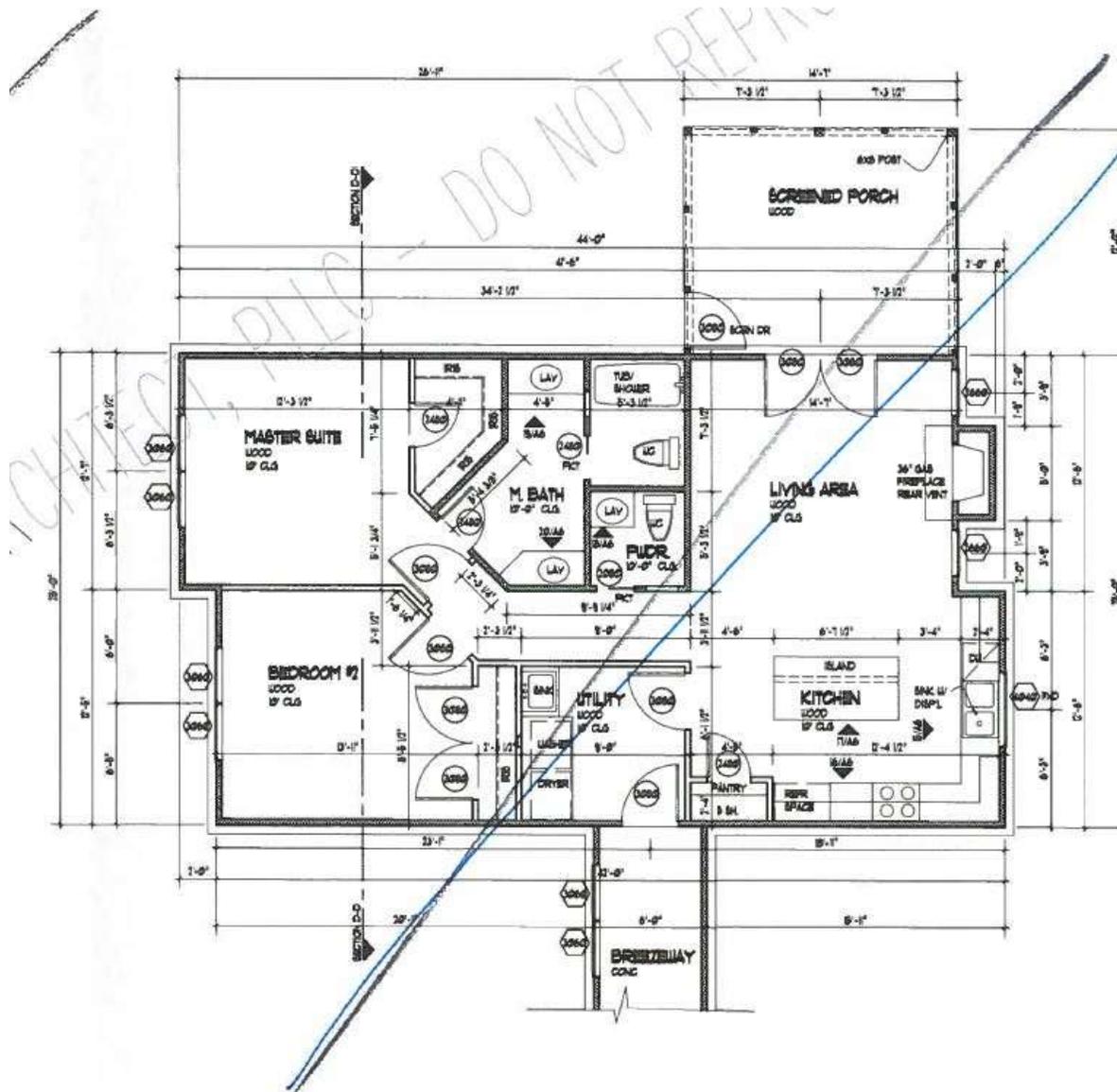
Property location:	3371 Fairplay Road
Property tax parcel:	009-019D
Acreage:	11.57
Applicant:	Allen Dial
Applicant's Agent:	
Property Owner:	Allen Dial
Existing Use:	Residence under construction
Proposed Use:	Residence with accessory dwelling
Variance Requested:	Increase the minimum square footage of an accessory dwelling

### Summary

Allen Dial is requesting conditional use approval for an accessory dwelling to be attached to his primary dwelling located on 11.5 acres at 3371 Fairplay Road.



The building permit for the primary dwelling has already been issued and construction has started. At the time the staff report was written, the slab had been inspected. The applicant submitted a separate site plan showing the location of the house and attached accessory dwelling.



The floorplan is for the attached accessory dwelling. The plan was submitted as part of the main set of plans. When told they could not construct the accessory dwelling without conditional use approval, a line was drawn through the accessory plan to indicate that it was not to be constructed.

The proposed plan is 1,044 heated square feet with a 175 square foot screened porch. The total heated and unheated together is 1,219 square feet. The Morgan County Zoning Ordinance allows a maximum of 800 heated square feet and a maximum total of 1,000 square feet.

The accessory dwelling has only 2 doors into the space: one from the screened porch in the back and one from the garage that is shared with the main house.



## Criteria for Consideration

### Section 21.3.1 Required Findings from Conditional Use Approval from the Morgan County Zoning Ordinance:

1. Adequate provision is made by the applicant to reduce any adverse environmental impacts of the proposed use to an acceptable level;
2. Vehicular traffic and pedestrian movement on adjacent streets will not be substantially hindered or endangered;
3. Off-street parking and loading, and the entrance to and exit from such parking and loading, will be adequate in terms of location, amount and design to service the use;
4. Public facilities and utilities are capable of adequately serving the proposed use;
5. Granting the request would not be an illogical extension of a use which would introduce damaging volumes of (1) agricultural, (2) commercial, (3) industrial, or (4) high density apartment use into a stable neighborhood of well-maintained single family homes, and likely lead to decreasing surrounding property values, neighborhood deterioration, spreading of blight, and additional requests of a similar nature which would expand the problem;
6. Granting the request would not lead to congestion, noise and traffic hazards or overload public facilities, current or planned;
7. Granting the request would conform to the general expectation for the area population growth and distribution according to the Comprehensive Land Use Plan;
8. Granting the request would not lead to a major negative change in existing (1) levels of public service, (2) government employees or (3) fiscal stability;
9. Granting the request would not have a “domino effect,” in that it becomes the opening wedge for further rapid growth, urbanization or other land-use change beyond what is indicated in the Comprehensive Land Use Plan.

### From the Morgan County Zoning Ordinance. Section 20.3.1, Required Findings for Variance Approval:

1. There are extraordinary and exceptional conditions pertaining to the property because of size, shape and topography;
2. The literal application of this Ordinance would create an unnecessary hardship;
3. A variance would not cause substantial detriment to public good and impair the purposes and intent of this Ordinance;
4. A variance would not confer upon the property of the applicant any special privilege denied to other properties in the district;
5. The special circumstances surrounding the request for the variance are not the result of acts of the applicant;
6. The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by conditional use in the district;
7. The zoning proposal is consistent with all standards and criteria adopted by Morgan County; The variance is the minimum variance that will make possible an economically viable use of the land, building or structure

## Staff Comments

This is the third accessory dwelling application we have seen since the ordinance changed for accessory dwellings. This one is considerably different from the other two in that the accessory dwelling is attached to the main dwelling and residents for the second house are not only identified but involved in the construction process. Prior to the ordinance change, an accessory dwelling was not questioned if it was attached to the main dwelling, as the connected roof deems them one structure according to building code. The connection, or combining of dwellings however, did not stop people from building the second dwellings for rental space. In this instance, the active participation of the accessory dwelling's proposed residents minimizes the possibility of the space being constructed solely for rental income. Due to these factors, Staff has no issues with the accessory dwelling conditional use request. The applicant has requested the ability to construct the dwellings concurrently, and Staff is supportive of that request.

The variance request may be more complicated. The proposed dwelling is roughly 200 square feet larger than is allowed. No justification was given as to why the space needed to be larger. Prior to the ordinance change, no limit was placed on the size of an accessory dwelling if it was attached to the main dwelling. The new ordinance language limits an accessory dwelling to 800 square feet regardless of whether it is separate, connected or integrated. Questions should be asked at the meeting of the applicant as to why the space must be larger than allowed. Consideration should be given whether the request would constitute a precedent and, if so, whether the specifics of this request (connected, limited access, main entrance through shared space) are enough to justify a precedent.

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ATTN: Morgan County Planning Commission  
Re: Conditional Use Approval Application  
Date: August 6th, 2019

To Whom it May Concern at the Morgan County Planning Commission:

This letter is intended to supply the appropriate information to the necessary parties, in order to obtain a Conditional Use Permit for 11.573 acres, Tax Parcel 009019-D, located on Fairplay Rd, in Morgan County, Georgia, owned by Allen & Stephanie Dial. The reason for request of this Conditional Use Permit is to construct an attached In-Law Suite, with a foundation of a monolithic slab for the land owner's elderly parents to live in full time. This will allow Mr. & Mrs. Dial to care appropriately for the living and medical needs of Mrs. Dial's parents, and will be the home of permanent residence for all.

The Criteria(s) for Conditional Use will be met as follows:

1. Adequate provision will be made by the applicant to reduce any adverse environmental impacts of proposed use to an acceptable level by following all environmental rules, regulations, and laws carefully.
2. Vehicular traffic and pedestrian movement on adjacent streets will not be substantially hindered or endangered, as the residents of in the in law suite will be retired, and will not be travelling to and from the residence often.
3. Off-street parking and loading, and the entrance to and exit from such parking and loading, will be adequate in terms of location, amount and design to service the use for the applicable structure.
4. Public facilities and utilities are capable of adequately serving the proposed use of the structure.
5. Granting the request would not be an illogical extension of a use which would introduce damaging volumes of (1) agricultural, (2) commercial, (3) industrial, or (4) high density apartment use into a stable neighborhood of well maintained, single family homes, and likely lead to decreasing property values, neighborhood deterioration, spreading of blight, and additional requests of a similar nature which would expand the problem.;
6. Granting the request would not lead to congestion, noise and traffic hazards or overload public facilities, current or planned;
7. Granting the request would conform to the general expectation of the area population growth and distribution according to the Comprehensive Land Use Plan;
8. Granting the request would not lead to a major negative change in existing (1) levels of public service (2) government employees or (3) fiscal stability;
9. Granting the request would not have "domino effect", in that it becomes the opening wedge for further rapid growth, urbanization or other land-use change beyond what is indicated in the Comprehensive Land Use Plan.

In addition, as detailed in Chapter 7.2, Accessory Dwellings, it is stated that one accessory dwelling unit is permitted as subordinate to an existing single family dwelling provided certain requirements are met.

The Criteria(s) for Conditional Use will be met as follows:

1. The accessory dwelling will be constructed after the principle dwelling has received its Certificate of Occupancy. This applies to accessory dwellings constructed in accessory buildings , including architectural structures. We have applied for a variance to this condition. Please see the variance application.
2. The accessory dwelling unit shall be owned by the same person as the principal dwelling.
3. No more than one accessory dwelling unit shall be permitted on a single deeded lot in conjunction with the principal dwelling unit. An accessory dwelling may be in a freestanding building, a basement or above a garage. Even if included within the principal swelling, there shall be only one accessory dwelling per lot. Each accessory dwelling shall have an exterior entrance that does not require the accessory dwelling resident to access the unit through the primary dwelling.
4. Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit without meeting the requirements associated with the zoning district classification.
5. The accessory dwelling shall comply with all requirements of the county health department for on-site sewerage and well regulations. The Septic Permit has been paid for and issued.
6. Accessory dwelling units shall be a minimum of 300 square feet and a maximum of 800 square feet for heated square footage, and a maximum of 1000 square feet total, including heated and unheated square footage. We have applied for a variance to this condition. Please see variance application.
7. The accessory dwelling will be constructed with a monolithic slab foundation
8. The accessory dwelling will not be served by a driveway separate from that serving the principal dwelling
9. The accessory dwelling will adhere to the parking and setback requirements and height restrictions for the district in which they are to be located.
10. The accessory dwelling will be attached to the main dwelling.
11. The accessory dwelling will be constructed out of traditional building materials.
12. A Variance Application has been submitted to seek approval for increased heated & unheated square footage along with approval for Morgan County Building Department to issue a building permit upon approval of Conditional Use Permit, and Variances to Conditional Use Permit. Allowing construction of accessory dwelling prior to Certificate of Occupancy to main dwelling.

Thank you for your time and consideration of this application,

Allen & Stephanie Dial

ATTN: Morgan County Planning Commission  
Re: Application for Variance to Zoning Ordinance , Section 20.3.1

Date: August 6th, 2019

To Whom it May Concern at the Morgan County Planning Commission:

This letter is intended to supply the appropriate information to the necessary parties, in order to apply for a Variance to Zoning, Section 20.3.1, for the 11.573 acres, Tax Parcel 009019-D, located on Fairplay Rd, in Morgan County, Georgia, owned by Allen & Stephanie Dial. The first reason for request of this Zoning Variance is to increase the maximum heated square footage to 1,044 square feet, and to allow for the maximum square footage combined heated and unheated square footage to be 1,219 square feet. The second reason for application for variance is to allow issuance of conditional dwelling building permit to be issued upon conditional use permit approval and applied for variances. Concurrent construction of both the main dwelling and the in law suite will prove to be most cost effective for the land owners, and also decrease the time of active construction zones in the area, along with allowing Mr. & Mrs. Dial to begin assisting in the care of Mr. & Mrs. Sweat as soon as possible, alleviating hardships upon Mr. & Mrs. Sweat and all members of their families.

The Criteria(s) for Variance of Zoning will be met as follows:

1. There are not extraordinary and exceptional conditions pertaining to the property because of size, shape and topography.
2. The literal application of this ordinance would create an unnecessary hardship for the owners of this property. When this property was purchased by the land owners, Mr. & Mrs. Dial, their plans for construction on the property included the investment of Eddie & Elese Sweat, ages 70 & 72, respectively. Mr. Sweat has an aortic aneurysm, spinal stenosis, and has 6 stents in his heart. Mrs. Sweat has fibromyalgia. As Mrs. Dial is the oldest daughter of her parents, her family has mutually planned for Mr. & Mrs. Sweat to reside on the Dial's property, living in an in law suite built during the construction of the new main dwelling on the property, in order to allow Mr. & Mrs. Dial to assist in the medical and day to day care of Mr. & Mrs. Sweat as they continue to age.
3. A variance would not cause substantial detriment to the public good and impair the purposes and intent of this Ordinance.
4. A variance would not confer upon the property of the applicant any special privilege denied to other properties in the district.
5. The special circumstances surrounding the request for variance are not the result of acts of the applicant.
6. The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by conditional use in the district.
7. The zoning proposal is consistent with all standards and criteria by Morgan County;
8. The variance is the minimum variance that will make possible an economically viable use of the land, building or structure.

Thank you for your time and consideration of this application,

Allen & Stephanie Dial

# FAIRPLAY ROAD

Driveway

30.9'  
34.9'

25.9'  
44.9'

21.1'  
38.8'

62.9'  
48.7'

Main House & Garage  
In Law Suite  
Detached Garage



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