

IN THE MATTER OF  
THE APPLICATION OF  
ALFRED & MARY DIBIASO

\* BEFORE THE CECIL COUNTY  
\* BOARD OF APPEALS  
\* CASE NO.: 3638

(Special Exception – NAR)

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**OPINION**

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Alfred and Mary Dibiaso (the “Applicants”). Applicants seek to construct a special exception to hold special events on property owned by the Applicants located at 895 Middle Neck Road, Warwick, Maryland 21912, designated as Parcel 8 on Tax Map 53 in the Second Election District of Cecil County (the “Property”), in an area zoned Southern Agricultural Residential (“SAR”) in accordance with Article V, Part V, Section 102 of the Cecil County Zoning Ordinance (the “Ordinance”).

Section 102 of the Ordinance provides:

Festivals or events may be permitted as a Special Exception in the NAR and SAR zones and shall be permitted in the BG, BI, MB and OS zones provided:

1. The proposed site shall be of sufficient size to accommodate the use without adversely affecting adjacent land uses.
2. No temporary sanitary facility or trash receptacle may be located within 200 feet of an existing dwelling; no tent shall be located within 250 feet of an existing dwelling.
3. A drawing to scale shall accompany the application and shall accurately depict the standards of this section.
4. Seasonal business uses shall not exceed a total of 180 days in any 12 consecutive months.
5. Activity areas shall be at least 500 feet from a residential district.

6. A minimum of one parking space shall be provided for every 500 square feet of ground area of the total site.

In determining whether to grant an application for a Special Exception the Board must consider Section 311 of the Ordinance, which states:

No special exception shall be approved by the Board of Appeals after considering all facts in the case unless such Board shall find:

1. Such use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare.
2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor substantially diminish or impair property values in the neighborhood.
3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.
4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.
5. The use shall not adversely affect critical natural areas or areas of ecological importance.
6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.
7. That the particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. *Schultz v. Pritts*, 291 Md.1 (1981).
8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

Article XVII, Part II, Section 311, Cecil County Zoning Ordinance.

Applicant's testified that the Property is a parcel of land approximately 14 acres in size. The purpose of the special exception would be to host approximately three charitable events per year to benefit St. Jude's Children's Hospital and A.I. du Pont Hospital. The Applicants have previously held car shows displaying classic cars at the Property with a few entertainers and have received no complaints from neighbors. Ample parking is available given the size of the Property. Events are anticipated to be one-day events lasting from 9:00 a.m. until 5:00 p.m.

No further witnesses testified in favor or in opposition to the application.

Clifford Houston of the Cecil County Department of Planning and Zoning testified that the Planning Commission recommended approval of the special exception for a period of two years.

Pursuant to Section 311 of the Ordinance, the Board finds as follows:

1. The special exception is not detrimental or an endangerment to the public health, safety, or general welfare. The proposed use is on a Property in a rural area with access from a county road.
2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, or substantially diminish or impair property values in the neighborhood. As noted, the proposed site is in a sparsely populated, rural area. The Property is of sufficient size to allow for parking and entertainment without encroaching on neighbor's peaceful use and enjoyment of their properties. Applicants are proposing three events per year lasting during business hours that will not create heavy noise or traffic during evening hours.
3. The use will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the zone. The Board does not find that the hosting of three one-day events per year is an impediment to the preservation of the agricultural character of the area or to the reasonable and orderly residential development permissible within the zone.

4. The proposed use will not overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. The Applicants have hosted events at the Property before and reported no emergency calls or other incidents.

5. The continued use will not adversely affect critical natural areas or areas of ecological importance. The Property is not located in a Critical Area District.

6. The continued use will, in all other respects, conform to the applicable regulations of the zone in which it is located. The Board finds that this portion of the SAR is used largely for purposes related to agricultural and residential use. Based upon the evidence presented, the Board finds that the hosting of special events of a minimally intrusive nature as contemplated by Applicants is not inconsistent with these neighboring uses.

7. The particular use proposed at the particular location proposed will not have any adverse effects above those inherently associated with such special exception use irrespective of its location in the zone. *Schultz v. Pritz*, 291, Md. 1 (1981). The Board finds that, because of the residential density of the zone and the nature of the activities undertaken in the area, the impact of Applicant's proposed use in this particular area of the SAR zone is no different than the impact of special events hosting in other areas of the SAR.

8. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets. No evidence was presented evincing issues related to traffic and parking.

9. The use is not contrary to the objectives of the Comprehensive Plan for the County. The special exception is presumptively valid and the Board finds nothing in the record to indicate that the proposed use is contrary to the objectives of the Comprehensive Plan.

For the reasons stated above, by unanimous vote, the Board is satisfied that the requirements of Article XVII, Part II, Section 311, of the Ordinance have been met and the application for renewal of the special exception under Section 102 is therefore **APPROVED**.

6/25/2013  
Date

David Willis, Jr.  
David Willis, Chairperson

**BOARD OF APPEALS APPLICATION**  
**CECIL COUNTY, MARYLAND**

MEET. MONTH: May 2013  
 FILE NO. 3638

THIS REQUEST IS FOR:  
 SPECIAL EXCEPTION RENEWAL ( )  
 SPECIAL EXCEPTION (✓)  
 VARIANCE ( )  
 APPEAL ( )

DATE FILED: 4/8/13  
 AMOUNT PD: \$250.00  
 ACCEPTED BY: CZN

APR 8 2013

CK # 5176

**A. APPLICANT INFORMATION**

CECIL COUNTY OFFICE OF  
 PLANNING & ZONING

Alfred V. + Mary L. DiBiase  
 APPLICANT NAME - PLEASE PRINT CLEARLY  
895 Middle Nick Rd. WARWICK, MARYLAND 21912-1032  
 ADDRESS CITY STATE ZIP CODE  
Mary L. DiBiase  
 APPLICANT SIGNATURE 410-755-6129  
 PHONE NUMBER

**B. PROPERTY OWNER INFORMATION**

Alfred V. + Mary L. DiBiase  
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY  
895 Middle Nick Rd. WARWICK, MARYLAND 21912-1032  
 ADDRESS CITY STATE ZIP CODE  
Mary L. DiBiase  
 PROPERTY OWNER SIGNATURE PHONE NUMBER

**C. PROPERTY INFORMATION**

895 Middle Nick Rd. WARWICK, MD 21912-1032 8 018456  
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER  
53 17 8 N/A 14.769 SAR  
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

**D. PURPOSE OF APPLICATION** - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

seven Special Events per year - car shows (3) -  
drive-in movies (4)

**E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.**

**F. LAND USE DESIGNINATION**

Is property in the Critical Area? \_\_\_\_\_ YES  NO  
 If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: \_\_\_\_\_  
 Is property in the 100 year Floodplain? \_\_\_\_\_ YES  NO  
 Is property an Agricultural Preservation District? \_\_\_\_\_ YES  NO

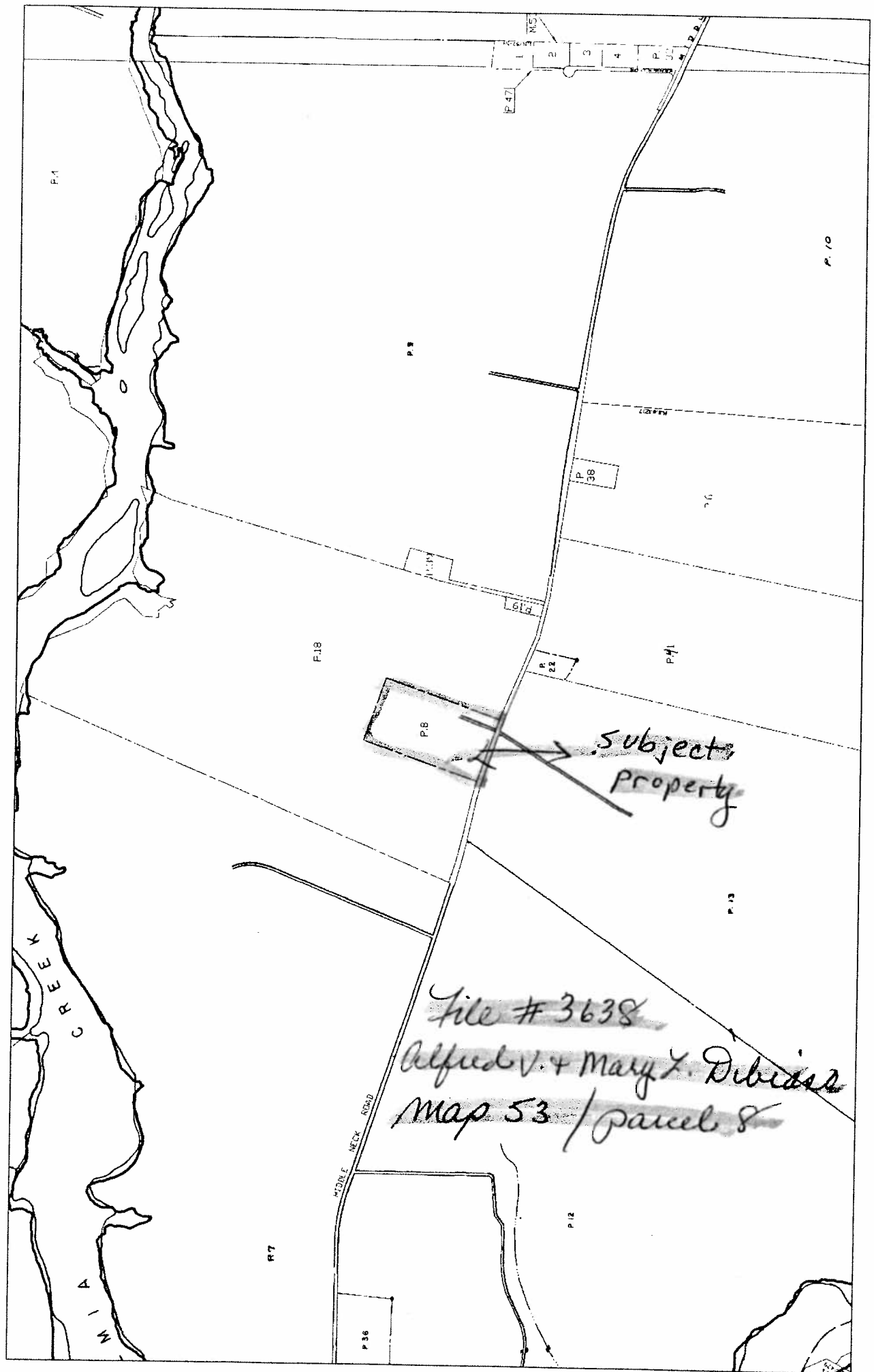
If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

**G. PROVISION OF ZONING ORDINANCE:** Art. V Section 102

**H. SPECIAL EXCEPTION RENEWAL** - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

**I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME** - Please fill out the following information:

Will unit be visible from the road? N/A If yes, distance: \_\_\_\_\_  
 Will unit be visible from adjoining properties? \_\_\_\_\_ If yes, distance: \_\_\_\_\_  
 Distance to nearest manufactured home: \_\_\_\_\_ Size/Model/Year of Unit: \_\_\_\_\_  
 Number of units on property at present time: \_\_\_\_\_



subject's  
property

File # 3638  
Alfred V. + Mary T. Dibissa  
Map 53 / parcel 8