

IN THE MATTER OF  
THE APPLICATION OF  
KATLYN JO DIETZ

\* BEFORE THE CECIL COUNTY  
\* BOARD OF APPEALS  
\* CASE NO.: 3645

(Special Exception -- UR)

\*  
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\* \* \* \* \*

**OPINION**

The Cecil County Board of Zoning Appeals (the "Board") is now asked to consider the application of Katlyn Jo Dietz (the "Applicant"). Applicant seeks to renew a special exception to operate a beauty salon as a home occupation on property held as a Life Estate by Jean M. Dietz located at 7 Mechanics Valley Road, North East, Maryland 21901, designated as Parcel 230 on Tax Map 31 in the Fifth Election District of Cecil County (the "Property"), in an area zoned Urbanized Residential ("UR") in accordance with Article V, Part V, Section 79 of the Cecil County Zoning Ordinance (the "Ordinance").

Section 79 of the Ordinance provides:

Home occupations may be permitted in the RMU zone and permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR, MH, RM, and MEA zones provided that:

1. Home occupations are in the same building as the residence, and do not change the residential character and appearance of the dwelling.
2. No type of advertisement for the home occupations shall be carried out on the property, except one (1) unlighted sign identifying the home occupation, limited to three (3) square feet in size.
3. No goods for sale or rent shall be stored on the property in a manner as to be seen from off the premises.
4. Parking is provided in accordance with Article XIV.

5. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit.

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 testified that the beauty salon has been operated at the Property pursuant to the previously granted special exception for approximately 17 months. The beauty salon operated by Applicant consists of one chair and Applicant has no plans to expand. The business is operated out of the same building as the residence, is handicapped accessible, and has off-street parking available.

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 renewal of the special exception for as long as the Applicant operates the business and the property owner owns the property.

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 an area where residential and business uses are commingled.

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. The business use does not create pollution in the form of noise, light, or particulate matter. There is nothing in the nature of the proposed home occupation that would diminish or impair property values in the neighborhood.

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 operation of a single chair beauty salon is an impediment to the preservation of the 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 Applicant has operated the beauty salon for the last seventeen months with no evidence that said use contributes to an increased burden upon public facilities or municipal services.

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 UR is commingled with business and residential use. Based upon the evidence presented, the Board finds that the operation of a single-chair beauty salon 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 UR zone is no different than the impact of the operation of a home occupation in other areas of the UR zone.

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 79 is therefore **APPROVED** for as long as the Applicant operates the business and the property owner owns the Property.

7/23/13  
Date

  
Mark Saunders, Acting Chairperson

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

MEET. MONTH: June 2013  
FILE NO. 3645

THIS REQUEST IS FOR:  
SPECIAL EXCEPTION RENEWAL    
SPECIAL EXCEPTION    
VARIANCE    
APPEAL

Received  
APR 29 2013

DATE FILED: 4/29/13  
AMOUNT PD: 1250.00  
ACCEPTED BY: JB Cash

mail  
TO →

**A. APPLICANT INFORMATION**

Kentlyn Jo Dietz Cecil County Office  
of Planning & Zoning  
APPLICANT NAME - PLEASE PRINT CLEARLY  
7 Mechanics Valley Rd. North East MD 21901  
ADDRESS CITY STATE ZIP CODE  
[Signature] 443-945-6117  
APPLICANT SIGNATURE PHONE NUMBER

**B. PROPERTY OWNER INFORMATION**

Jean M. Dietz Life Estate  
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY  
7 Mechanics Valley Rd. North East MD 21901  
ADDRESS CITY STATE ZIP CODE  
Jean M. Dietz 410-287-5487  
PROPERTY OWNER SIGNATURE PHONE NUMBER

**C. PROPERTY INFORMATION**

7 Mechanics Valley Rd 05 058023  
PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER  
0031 4 0230 N/A .391 UR  
TAX MAP # BLOCK PARCEL LOT# #ACRES ZONE

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

Continue to run a Salon Business  
that's been open for 17 months.

**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:** Section 79

**H. SPECIAL EXCEPTION RENEWAL** - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: 3545  
Handicap Ramp / 1-Chair Salon / off-street parking

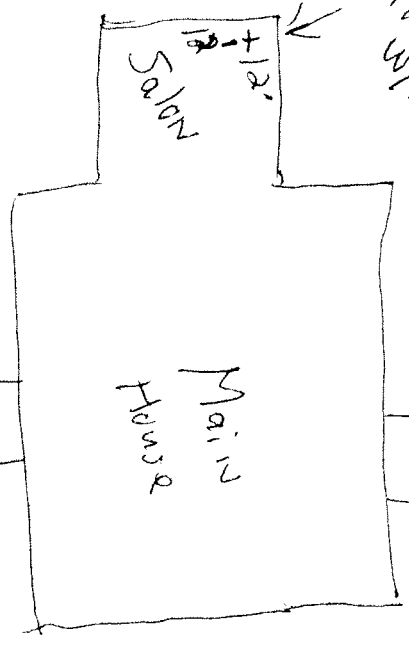
**I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME** - Please fill out the following information:

Will unit be visible from the road? \_\_\_\_\_ 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: \_\_\_\_\_

(5,200 sq Foot)

Back Yard

Addition w/ Full Bathroom



Front Yard

Mechanics Valley Rd

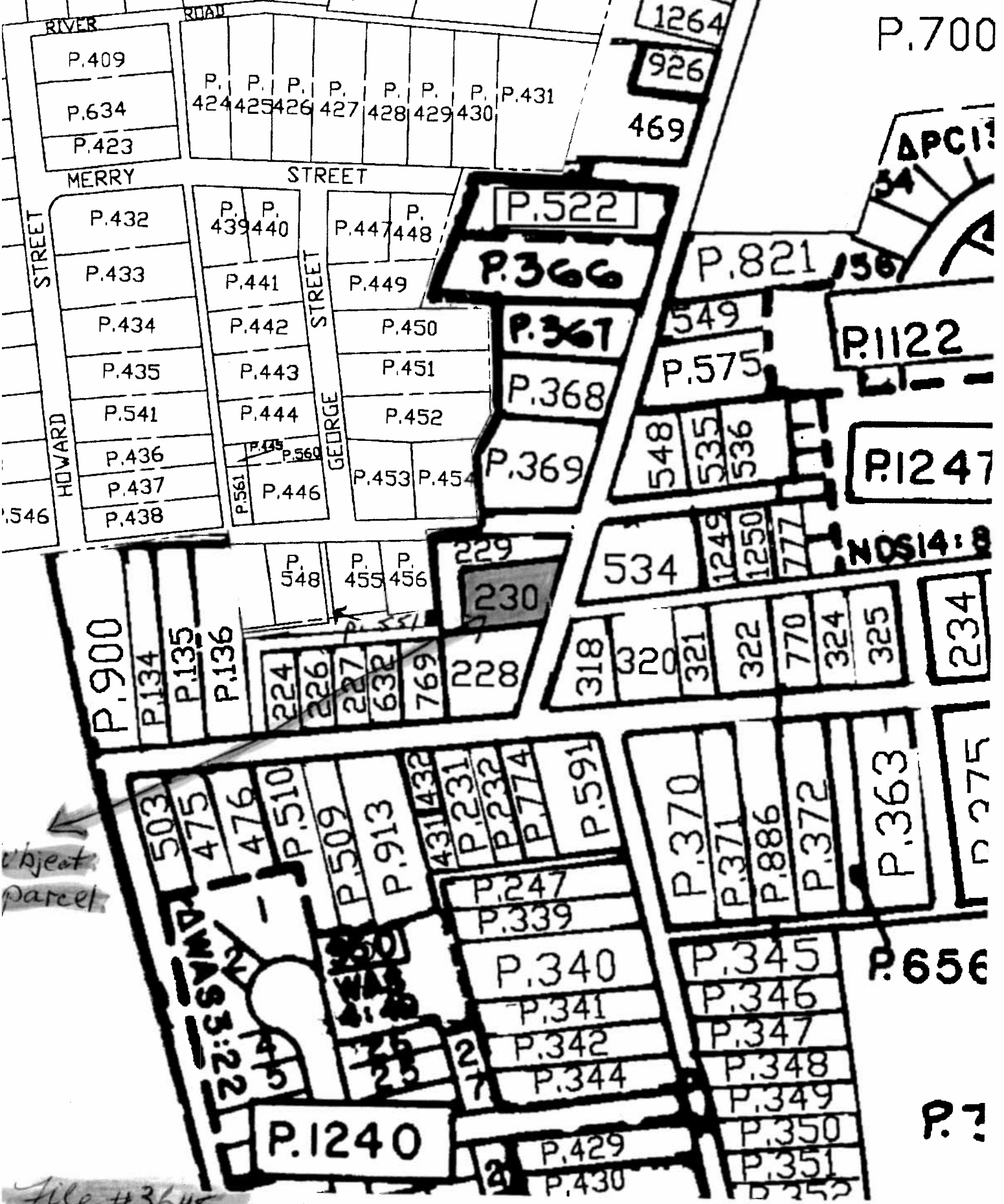
Parking for 4 Cars

Parking for 4-5 Cars

Jeffro Street

Town

MILL ROAD  
P.700



Object parcel

File #3645  
Jean M. Dietz / map 31 / parcel 230