

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
GREGORY JESTER	*	CASE NO.: 3647
	*	
(Special Exception – RR)	*	
	*	
* * * * *		

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Gregory Jester (the “Applicant”). Applicant seeks a special exception to operate a screen printing business as a home occupation on property owned by Mark A. Spears located at 182 Pearce Creek Drive, Earleville, Maryland 21919, designated as Parcel 115, Lot 15 on Tax Map 56 in the First Election District of Cecil County (the “Property”), in an area zoned Rural Residential (“RR”) 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 he is requesting a special exception to operate a screen printing business out of the Property. Applicant also resides at the Property. The business will be operated out of the residence and will require no changes to the residence. The apparel will be sold exclusively online so there are no issues with customer parking. There will be no change in traffic to or from the Property. No signage will be used.

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 would consist of the operation of a screening press to imprint designs and logos on apparel and the subsequent sale of said apparel via the internet. The Board finds nothing in this proposed use that would constitute a danger to 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, 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 screen printing business is an impediment to the preservation of the character of

the area or to the reasonable and orderly residential development permissible within the zone. The proposed use will not change the residential character of the Property or contribute to an increase in traffic that would alter the character of the neighborhood.

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. No evidence was presented indicating that the proposed use would contribute 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 proposed 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 RR is primarily residential. Based upon the evidence presented, the Board finds that the operation of a screen printing business as contemplated by Applicant 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 RR zone is no different than the impact of the operation of a home occupation in other areas of the RR 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 the special exception under Section 79 is therefore **APPROVED** for a period of two (2) years.

7/23/12
Date


Mark Saunders, Acting Chairperson

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

RECEIVED

MEET. MONTH: June 2013
FILE NO. 3647

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

MAY 9 2013

DATE FILED: 5-9-13
 AMOUNT PD: 250.00
 ACCEPTED BY: [Signature]

CECIL COUNTY OFFICE OF
PLANNING & ZONING

Carl

A. APPLICANT INFORMATION

Gregory Jester
 APPLICANT NAME - PLEASE PRINT CLEARLY
182 Pearce Creek Dr. Earleville MD 21919
 ADDRESS CITY STATE ZIP CODE
[Signature] 443 655-7343
 APPLICANT SIGNATURE PHONE NUMBER

Mail to →

B. PROPERTY OWNER INFORMATION

Mark A. Spears
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
182 PEARCE CREEK DR. EARLEVILLE MD 21919
 ADDRESS CITY STATE ZIP CODE
Mark A. Spears 443-552-8080
 PROPERTY OWNER SIGNATURE PHONE NUMBER

C. PROPERTY INFORMATION

182 PEARCE CREEK DR 1 1-00236
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
56 3 115 15 2.14 RR
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

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

To operate a screen printing business in home, where apparel will be acquired from a wholesaler and have my company designs and logos printed on it. The apparel will be sold online only.

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 DESIGNATION

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

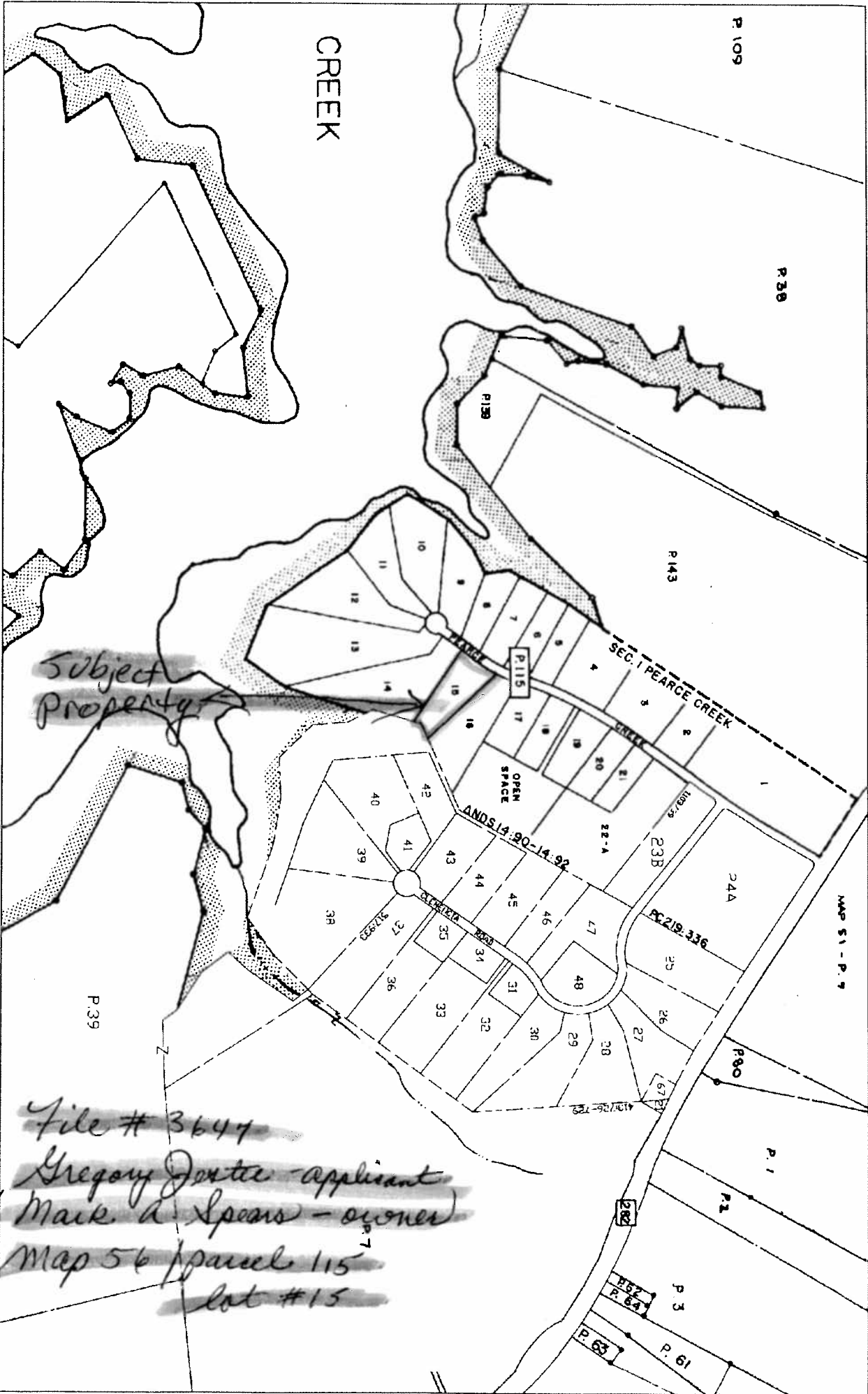
If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE: Section 79

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

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

Will unit be visible from the road? NO If yes, distance: _____
 Will unit be visible from adjoining properties? NO If yes, distance: _____
 Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____
 Number of units on property at present time: _____



CREEK

P.109

P.39

P.43

Subject Property

SEC. 1 PEARCE CREEK

ANDS 14:90-14:92

OPEN SPACE

PEARCE CREEK

PC219:336

MAP 51-P.9

P.39

File # 3644
 Gregory Dexter - applicant
 Mark A. Spears - owner
 Map 56 parcel 115
 lot #15

P.80

P.1

P.1

P.62

P.3

P.64

P.63

P.61