

IN THE MATTER OF
THE APPLICATION OF
NANCY J. MURPHY

* BEFORE THE CECIL COUNTY
* BOARD OF APPEALS
* CASE NO.: 3664

(Low Density Residential – LDR)

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OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Nancy J. Murphy (the “Applicant”). Applicant seeks to renew a special exception to operate an art studio as a home occupation on property owned by Thomas H. and Nancy J. Murphy located at 105 Brantwood Drive, Elkton, Maryland 21921, designated as Parcel 528 on Tax Map 38 in the Second Election District of Cecil County (the “Property”), in an area zoned Low Density Residential (“LDR”) 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 she operates an art studio out of an out building on the Property. She works in acrylics, designs her own frames, makes her own jewelry, and otherwise creates her art in whatever way that she is inspired to so do. She testifies that she does not advertise and that the art studio does not attract crowds. The Board adopts and renews its findings from the Opinion issued on Applicant's original special exception.

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 density restrictions are amenable to the proposed use.
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 an art studio 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. There is no indication that the continued 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. Based upon the evidence presented, the Board finds that the continued operation of an art studio 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 LDR zone is no different than the impact of the operation of a home occupation in other areas of the LDR 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.

12/23/13
Date


Mark Saunders, Acting Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: Nov. 2013
 FILE NO. 3664

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

RECEIVED
 OCT 8 2013

FILED: 10/2/13
 AMOUNT PD: \$250.00
 ACCEPTED BY: CSH

A. APPLICANT INFORMATION

Nancy J. Murphy CECIL COUNTY OFFICE OF
 PLANNING & ZONING
 APPLICANT NAME - PLEASE PRINT CLEARLY
105 Brintwood Dr. Exton MD 21921
 ADDRESS CITY STATE ZIP CODE
Thomas J. Murphy for Nancy J. Murphy Phone 315-408-9033
 APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Thomas H. & Nancy J. Murphy
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
105 Brintwood Dr. Exton MD 21921
 ADDRESS CITY STATE ZIP CODE
Thomas J. Murphy for Nancy J. Murphy (C) 315-408-9033
 PROPERTY OWNER SIGNATURE PHONE NUMBER

C. PROPERTY INFORMATION

105 Brintwood Dr. Exton MD 2ND 2-030497
 PROPERTY ADDRESS CITY STATE ELECTION DIST. ACCT. NUMBER
38 11 528 32 .6427 LDR
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

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

Special Exception renewal for an art studio.

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

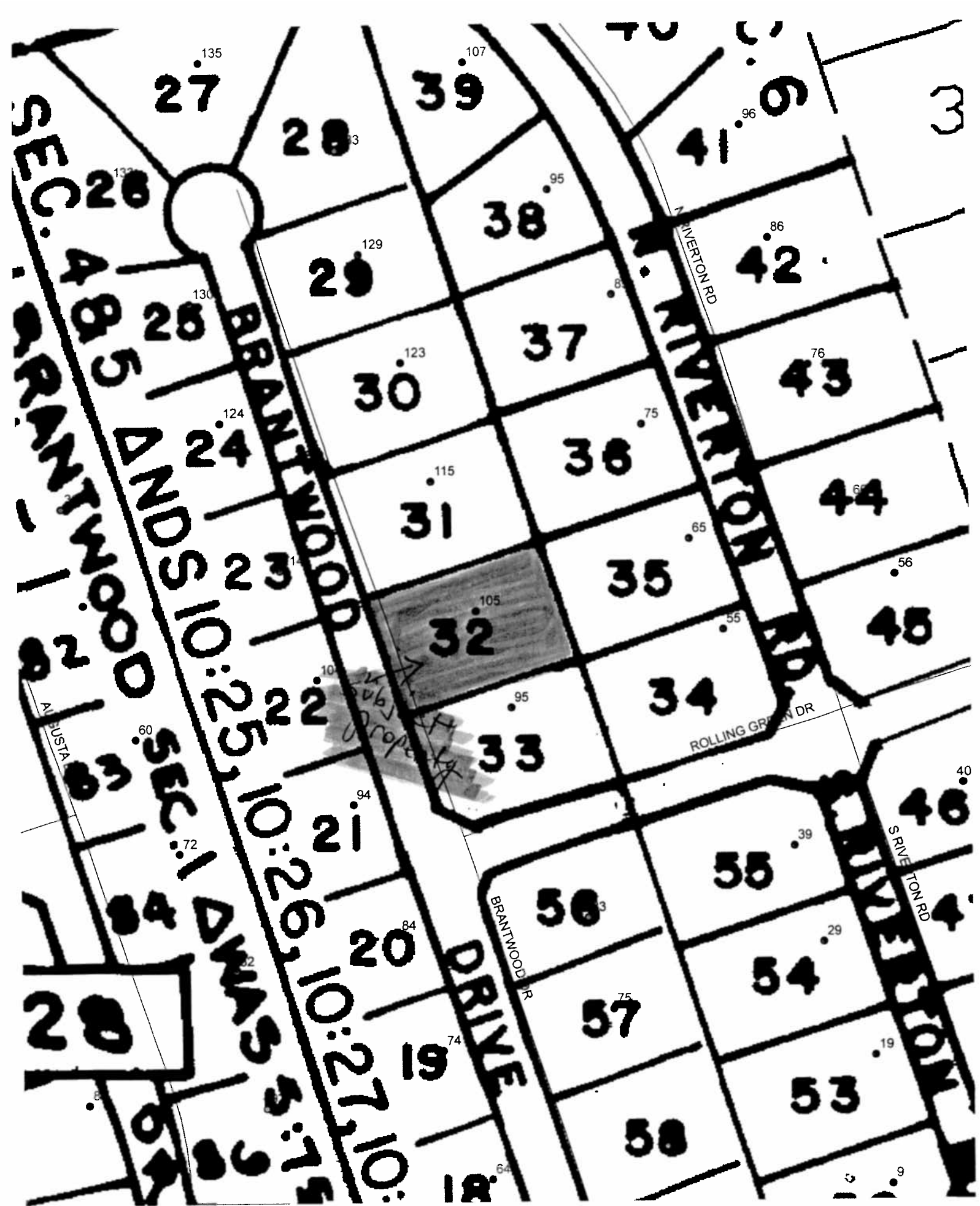
If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE: Section 79

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: 3569
Approval for 2 yrs.

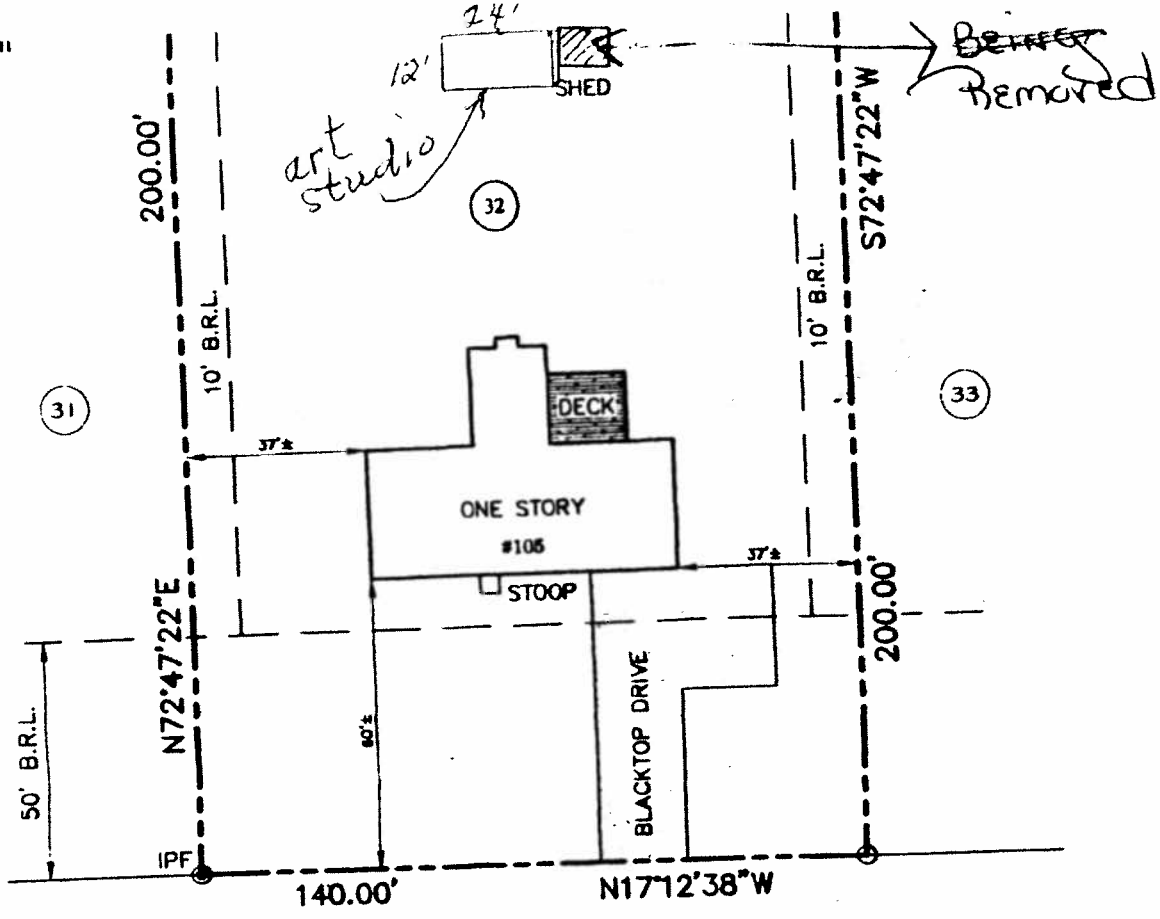
I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

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:



map 38 / parcel 528
lot 32

file # 3614
Thomas H. + Nancy J. Murphy



Brantwood Drive
(50' wide)

Location Plan
for
Thomas H. Murphy and Nancy J. Murphy
105 Brantwood Drive
Lot 32, Brantwood, Section 5
Second Election District
Cecil County, Maryland

with:
Settlement office of
The Kirsh Law Firm
North East, Maryland
410-287-1510

Any encroachments shown or not shown on this plan are based upon found control points. Changes could occur if a boundary survey is completed.

THE PELSA COMPANY

CONSULTANTS & SURVEYORS

610 PEOPLES PLAZA
(302) 634-3771

NEWARK, DE 19702
(410) 398-3800

[Signature]
Approved: Property Line Surveyor

THIS PLAN IS OF BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER, TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH THE CONTEMPLATED TRANSFER, FINANCING, REFINANCING. THIS PLAN IS NOT A PROPERTY SURVEY. NO FURTHER IMPROVEMENTS SHOULD BE MADE FROM IT.

Degree of Accuracy 3'± Marsh _____ Rural _____ Suburban X Urban _____ Date 04/19/11 Scale 1" = 40' Project Number Mo11-0318

201106702