

IN THE MATTER OF  
THE APPLICATION OF  
SCOTT MILLER AND  
JAMIE MILLER

BEFORE THE CECIL COUNTY  
BOARD OF APPEALS  
CASE NO.: 3667

(Special Exception - ST)

OPINION

Application of Scott Miller and Jamie Miller (collectively, “Miller” or the “Applicant”), for a special exception to operate a home occupation business at property located at 41 Chesters Way, Elkton, Maryland 21921, which is designated as Parcel 165, Lot 11, on Tax Map 26, in the Third Election District of Cecil County (the “Property”), in an area presently zoned Suburban Transition Residential (“ST”). The property is owned by the Applicant.

This application is brought under the provisions of Article V, Part III, Section 79 and Section 54.4 Table of Permissible Uses 3.05.000 of the Ordinance, which permits a home occupation as a Special Exception in the ST zone 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 of the Ordinance; and, (5) No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit.

Article XVII, Part II, Section 311 of the Ordinance specifies that no special exception shall be approved by the Board of Appeals after considering all facts in the case unless the following findings are made:

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)

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.

Applicant requests a special exception on the Property in order to operate an in-home internet business performing gun smithing services and firearm license services such as acquisitions, transfer and firearms for customers. Scott Miller testified that he is currently employed with Terumo in Elkton, and that he has been employed with Terumo for eighteen (18) years. Mr. Miller further testified that; earlier this year, Terumo informed him that his division would be relocated to a new facility in Colorado. Mr. Miller testified that he was offered, but declined, a transfer to the new Colorado facility, and that as a result, effective December 31, 2013, he will no longer be employed with Terumo. Mr. Miller testified that he has been looking for a new job, but has had a difficult time finding a similar position with comparable salary. Mr. Miller testified that he now needs to supplement his income, and that he is taking gun smithing lessons. Mr. Miller testified that the Bureau of Alcohol, Tobacco and Firearms (the "ATF") requires that individuals who complete his course of study obtain a federal fire arm license; in order to obtain federal firearm license, Mr. Miller testified that he must affirm to the ATF that he is obtaining the license for business and not just personal use and, further, he must demonstrate to the ATF that his business complies with all local zoning laws. Mr. Miller testified that without approval of the special exception, he cannot move forward with his ATF license.

Mr. Miller testified that he doesn't have sufficient income to rent commercial space, and that he would operate his home occupation business out of the existing workshop in his home, with no renovations being necessary. Mr. Miller testified that he has discussed the home occupation with two neighbors, and that neither neighbor has an issue with him having a home based business. Mr. Miller stated that he intends to provide gun smithing lessons from his home, as well as transfers of ownership of firearms. Mr. Miller testified that, once the special exception granted, the ATF comes out to the Property and conducts an interview with the owner(s) and an inspection. Mr. Miller stated that the ATF can then do inspections at their whim and will. Mr. Miller testified that the ATF requires that firearms be kept in a safe or a locked room with keyed or code entry, not accessible to children. Mr. Miller further testified that he has a safe that he will use for firearm storage, and if that becomes inadequate, he has a storage area in the basement workshop that he can make key only entry. Mr. Miller testified that the home occupation business will have no signage, and that the home owners association (the "HOA") doesn't allow signage in any event. Mr. Miller stated that initially, he will not be advertising, except for word of mouth and business cards and, further, that if his business picks up, he will start looking for commercial space. Mr. Miller testified that he will not be carrying a retail firearms inventory; rather, he will have customers come to him on an individual basis for work.

There was no testimony in opposition to, or in favor of, the Application.

Clifford Houston, Cecil County Department of Planning and Zoning, testified that the Planning Commission recommended approval of the application for two (2) years, or as long as the Applicant owns the Property and operates the business, whichever shall

sooner occur.

From the evidence, the Board makes the following findings of facts pursuant to the requirements of Section 311:

1. That the special exception will not be detrimental to or endanger the public health, safety, or general welfare. The Applicant credibly testified that there will be no external signage and no advertising (with the exception of business cards and word of mouth) and, further, that there will be no changes to the exterior of the premises. As such, the nature of the business being conducted on the Property will not be readily ascertainable from the exterior of the premises. The Applicant further testified that there will be minimal traffic to and from the Property, which will ensure that the residential nature of the subdivision is maintained. The Applicant also credibly testified that the ATF will, prior to issuance of the license, visit and inspect the Property, and conduct interviews with the Property owners, and the Applicant testified credibly that firearms will be maintained in a locked storage safe and, should the business grow, in a locked room. Based on the foregoing, the Board finds that the home occupation will not be detrimental to or endanger the public health, safety or general welfare.

2. That there was no evidence indicating that the use will 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 Board finds that the operation will be conducted inside the dwelling situated on the Property, that the Applicant will have no signage, that customers will be seen on an individual basis, and that merchandise will be stored in a locked safe inside the dwelling. The evidence and testimony before the Board demonstrates that the home occupation will not be noticeable

from the exterior of the dwelling, and that the proposed use will not alter the residential nature and character of the subdivision.

3. There is no evidence that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use. Rather, the Board finds that the home occupation will be confined to the interior of the existing dwelling, will have no signage and will not be noticeable from the exterior of the premises, and will have little traffic, as patrons will be seen on an individualized basis.

4. That there was no evidence indicating that the use will, 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. There will be no impact on schools, and there little if any impact on police or fire protection, as a result of the proposed use. The Cecil County Health Department issued permit G6667-04 for a four (4) bedroom dwelling with an attached garage; the letter of application for the special exception does not indicate an increase in sewage flow, and the Health Department has notified the Department of Planning and Zoning that it has no objection to the special exception requested for this home occupation business.

5. That there is no evidence that the proposed use will adversely affect critical natural areas or areas of ecological importance. The Board finds that the Property is not in the critical area, the 100 year flood plain, or the Critical Area Buffer and, as set forth above, that the Health Department has no objection to this special exception.

6. That the proposed use will, in all other respects, conform to the applicable regulations of the zone in which it is located. As set forth above, the Applicant produced

testimony demonstrating precisely what type of work services will be provided under the special exception, and what items will be stored on site and offered for sale. The Applicant also provided credible testimony that there will be no signage on the Property, and that there will be little customer traffic. Based on the foregoing, the Board finds that the Applicant has met his burden as to this element.

7. That there is no evidence that the particular use proposed at the particular location proposed, will 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). As more fully set forth above, the proposed use will be largely indecipherable from the exterior of the premises, and there will be little traffic associated with the business to or from the Property. As such, the Board finds that the effect here will be no different than the effect inherently associated with this type of home occupation business irrespective of its location in the zone.

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. The Applicant will be offering merchandise for sale on an individual basis; as such, customers will be served on the Property largely on a 1:1 basis.

9. That the special exception is consistent with the objectives of the current Comprehensive Plan for the County. The proposed use is permitted as a special exception, with conditions, in the ST zone. The Applicant meets all supplemental requirements under Section 79 of the Ordinance; specifically, the Board finds from the evidence and testimony set forth above that:

(a) The proposed home occupation is in the same building as the residence, and does not change the residential character and appearance of the dwelling;

(b) There will be no exterior signage or advertising on the premises;

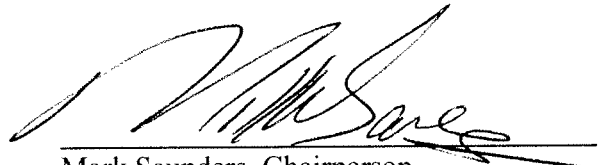
(c) No goods for sale or rent shall be stored on the property in a manner as to be seen from off the premises;

(d) There is ample parking available on the Property, and the Property provides a suitable means of ingress, egress and regress; and,

(e) There is no evidence that equipment or processes used in the business will create noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit.

For the reasons stated, by unanimous vote, the Board is <sup>CIH</sup>~~not~~ satisfied that the requirements of Sections 79, 54.4 sub-part 3.05.000, and 311, along with *Schultz v. Pritts*, 291 Md. 1 (1981) have been met, and the application is, therefore, GRANTED, for a period of two (2) years or as long as the Applicant owns the Property and operates the business, whichever shall sooner occur.

1/24/14  
Date

  
Mark Saunders, Chairperson



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

MEET. MONTH: Dec. 2013  
FILE NO. 3667

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

DATE FILED: 11/19/13  
AMOUNT PD: 8250.00  
ACCEPTED BY: KB CLK #1123  
Keith + TARA Miller

Received

NOV 19 2013

Cecil County Office  
of Planning & Zoning

**A. APPLICANT INFORMATION**

SCOTT AND JAMIE MILLER  
APPLICANT NAME - PLEASE PRINT CLEARLY  
41 CHESTERS WAY ELKTON MD 21921  
ADDRESS CITY STATE ZIP CODE  
Scott Miller AND Jamie Miller 443-907-8827  
APPLICANT SIGNATURE PHONE NUMBER

**B. PROPERTY OWNER INFORMATION**

SCOTT AND JAMIE MILLER  
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY  
41 CHESTERS WAY ELKTON MD 21921  
ADDRESS CITY STATE ZIP CODE  
Scott Miller AND Jamie Miller 443-907-8827  
PROPERTY OWNER SIGNATURE PHONE NUMBER

**C. PROPERTY INFORMATION**

41 CHESTERS WAY ELKTON, MD 21921 03-117154  
PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER  
26 15 11 1.69 ST  
TAX MAP # BUREK PARCEL LOT # #ACRES ZONE

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

PLEASE SEE ATTACHED SHEET.

**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 X 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 99

**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: \_\_\_\_\_

November 14, 2013

To whom it may concern,

I am submitting this application for a "Special Exception" in order to attain permission to begin a home-based gunsmith and Federal Firearms License (FFL) services business. I ask that my application be approved so that I will be better able to support my wife and two sons, as well as to maintain ownership of our home of 8 ½ years. I am going to be in need of additional income because, after 18 years of service at their facility in Elkton, my employer, Terumo Medical Corporation, has decided to relocate my business division to a new facility in Colorado. This relocation will effectively end my current employment December 31, 2013.

After giving significant thought and consideration to the prospect of relocating, and after many long discussions with my family, we have decided that moving west with my position was not what we wanted to do as we felt that it would be too disruptive to our children and be too far from our relatives to maintain healthy family relationships.

Approving my application will grant me the opportunity to fulfill a life's dream of being a self-employed business owner, while at the same time; allow me to continue to support my family and maintain our home.

I have informed my immediate neighbors of my intention to operate an at-home gunsmith and FFL services business and have received their blessing to proceed with my plans. They feel that, based on my business plan; the operation of such a business would not create any unusual circumstances within our community (i.e. traffic, crime, etc...). I ask that this information be taken into consideration when making a decision on my application.

My business plan is to have part-time hours of operation (3 or 4 days a week, about 3-4 hours each day) by appointment only. I will provide gunsmith services in our home workshop (no additions or renovations to our current home are necessary) as well as FFL services (i.e. legally approved firearms transfers, buying and selling of firearms for customers, etc...) from my home and at trade shows. I will carry little to no inventory on the premises as any firearms purchases that I make, other than personal ones, will be by customer order only. I will not carry an inventory of retail firearms on the premises.

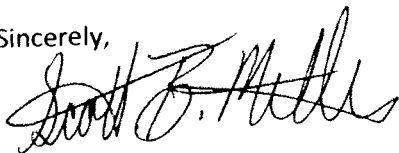
There are certain rules that apply before anyone can legally operate a gunsmith and FFL services business in the United States. One prerequisite is that you must first obtain a FFL from the U.S. Bureau of Alcohol, Tobacco, and Firearms (ATF). In order to obtain it, one must be able to demonstrate that they are in compliance with all local and state zoning laws, hence another reason that I need approval of this request for a "Special Exception" by Cecil County.

Once approved, I will be subject to random inspection by the ATF in order to insure that I am keeping thorough transaction records, as well as to make certain that I am in compliance with all regulations regarding the buying, selling, transferring, and service of firearms.

In closing, I look forward to a public hearing where I can address any questions that you may have in person and I respectfully ask that you approve my application so that I may take the next step in starting my own business.

Thank you for your time and consideration.

Sincerely,



Scott B. Miller



