

IN THE MATTER OF
THE APPLICATION OF
CYNTHIA WITKOWSKI

(Special Exception – LDR)

* BEFORE THE CECIL COUNTY
* BOARD OF APPEALS
* CASE NO.: 3671
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OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Cynthia J. Witkowski (the “Applicant”). Applicant seeks a special exception to make hand crafted items to sell on the internet and at craft shows as a home occupation on property owned by Cynthia J. Witkowski and Kevin Witkowski located at 121 Woodall Road, Perryville, Maryland 21903, designated as Parcel 189 on Tax Map 35 in the Fifth 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 her business would be making hand crafted items to sell on the internet and at craft shows. There would be a minimum number of customers coming to the home. There would be no signage at the home for the business. The business is operated out of the same building as the residence. 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 request for special exception for two (2) 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. No evidence was presented establishing the existence of such a detriment or endangerment.
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 craft making 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.
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.

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 operation of a craft making business as contemplated by Applicant is not inconsistent with the requirements of the LDR zone.

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 a special exception under Section 79 is therefore **APPROVED** for two (2) years.

3/25/14
Date


Mark Saunders, Acting Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: Feb. 2014
 FILE NO. 3671

Received

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL ()
- SPECIAL EXCEPTION (X)
- VARIANCE ()
- APPEAL ()

JAN 15 2014

DATE FILED: 1/15/14
 AMOUNT PD: \$ 250.00
 ACCEPTED BY: [Signature]

Cynthia J. Witkowski

Cecil County Office
 of Planning & Zoning

A. APPLICANT INFORMATION

CYNTHIA WITKOWSKI
 APPLICANT NAME - PLEASE PRINT CLEARLY

121 Woodall Rd. Perryville MD 21923
 ADDRESS CITY STATE ZIP CODE

Cynthia Witkowski 410-287-4806
 APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Kerin G Witkowski and Cynthia J (Fisher) Witkowski
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

121 Woodall Rd Perryville MD 21923
 ADDRESS CITY STATE ZIP CODE

Kerin G Witkowski 410-287-4806
 PROPERTY OWNER SIGNATURE PHONE NUMBER

Cynthia J. Witkowski

C. PROPERTY INFORMATION

121 Woodall Rd. 05 034655
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

0035 16 0189 - 0.1951 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)

I would like to run a business selling items such as jewelry, candle holders, note cards, calendars and items of that sort. I would be doing internet sales and craft shows.

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? no 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

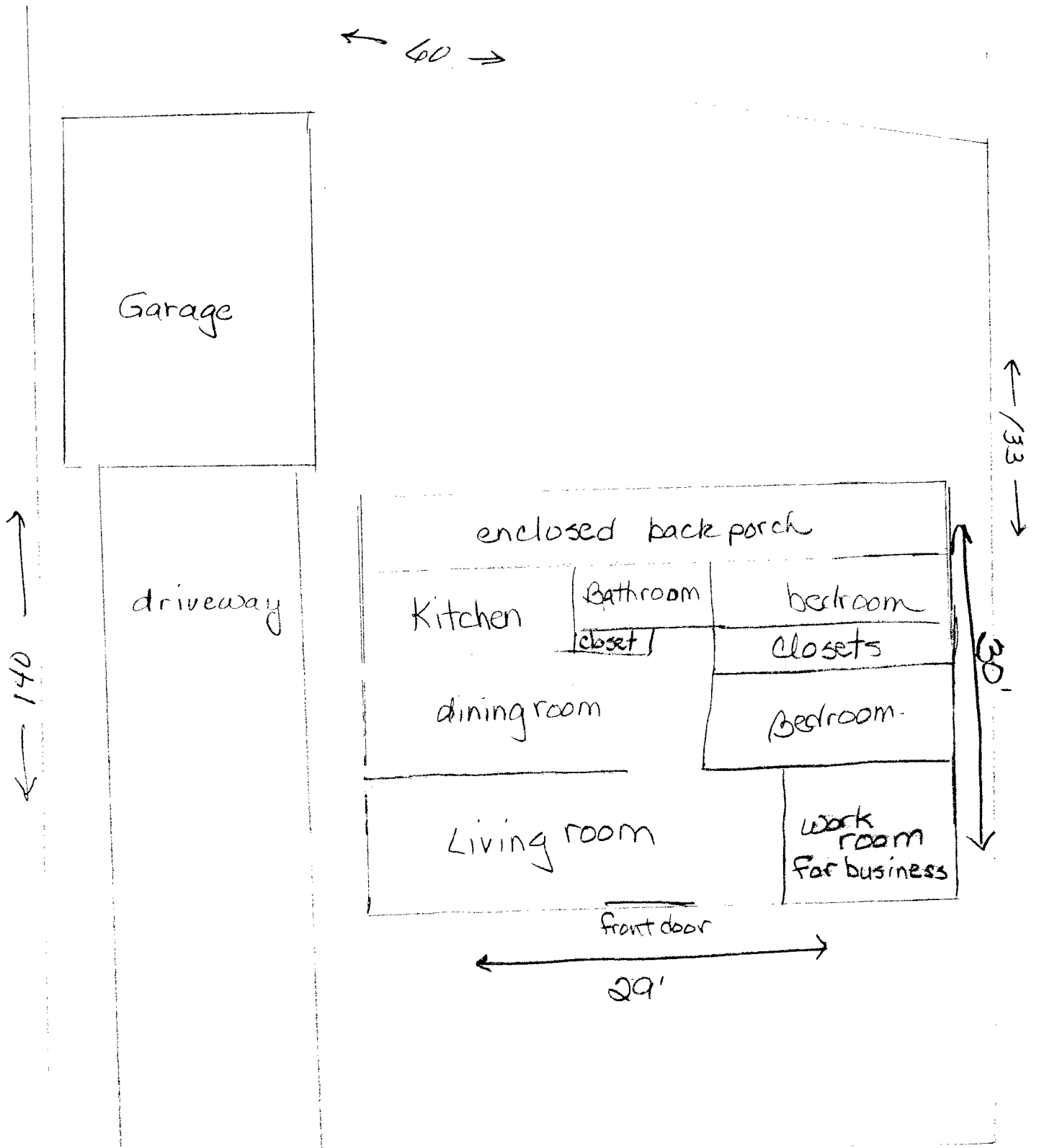
H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

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: _____



Woodall Road

File # 3671

Kevin L. + Cynthia J. Witkowski

Map 35
parcel 189

P. 182

Subject property

P. 285

