

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
JENNIFER R. EWING	*	CASE NO.: 3678
	*	
(Special Exception – NAR)	*	

* * * * *

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Jennifer R. Ewing (the “Applicant”). Applicant seeks to renew a special exception to operate a beauty salon as a home occupation on property owned by Gregory J. and Jennifer R. Ewing located at 1540 Jacob Tome Highway, Port Deposit, Maryland 21904, designated as Parcel 586 on Tax Map 17 in the Sixth Election District of Cecil County (the “Property”), in an area zoned Northern Agricultural Residential (“NAR”) 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 appeared and was represented by Dwight Thomey, Esq. Applicant testified that the beauty salon has been operated at the Property pursuant to the previously granted special exception. At the time of the initial granting of the special exception, some neighbors expressed concerns regarding possible issues regarding traffic and parking. She further testified that there have been no traffic or parking issues to date. The salon is operated four days per week with one or two customers at the residence at a time. There is no storage on the premises and the business does not receive deliveries via truck.

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.
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 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 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. Based upon the evidence presented, the Board finds that the operation of a beauty salon as contemplated by Applicant is not inconsistent with 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 NAR zone is no different than the impact of the operation of a home occupation in other areas of the NAR zone.

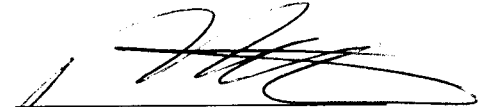
8. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets. No evidence was presented evincing issues related to traffic and parking.

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.

7/29/14
Date


Mark Saunders, Acting Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: June 2014
 FILE NO. 36078

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

DATE FILED: 5/11/14
 AMOUNT PD: \$250.00 cash
 ACCEPTED BY: CPS WTD
BTJE

A. APPLICANT INFORMATION

Jennifer Ewing
 APPLICANT NAME - PLEASE PRINT CLEARLY
1540 Jacob Tome Highway, Port Deposit, MD 21904
 ADDRESS CITY STATE ZIP CODE
 (443) 206-0538
 PHONE NUMBER
Jennifer Ewing
 APPLICANT SIGNATURE

B. PROPERTY OWNER INFORMATION

Gregory J. Ewing and Jennifer R. Ewing
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
1540 Jacob Tome Highway, Port Deposit, MD 21904
 ADDRESS CITY STATE ZIP CODE
 (410) 658-8730
 PHONE NUMBER
Gregory J. Ewing
 PROPERTY OWNER SIGNATURE

C. PROPERTY INFORMATION

1540 Jacob Tome Highway
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
 06 041728
17 22 586 1 2.7782 NAR
 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 renew special exception granted for operation of in home business - hair salon

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 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

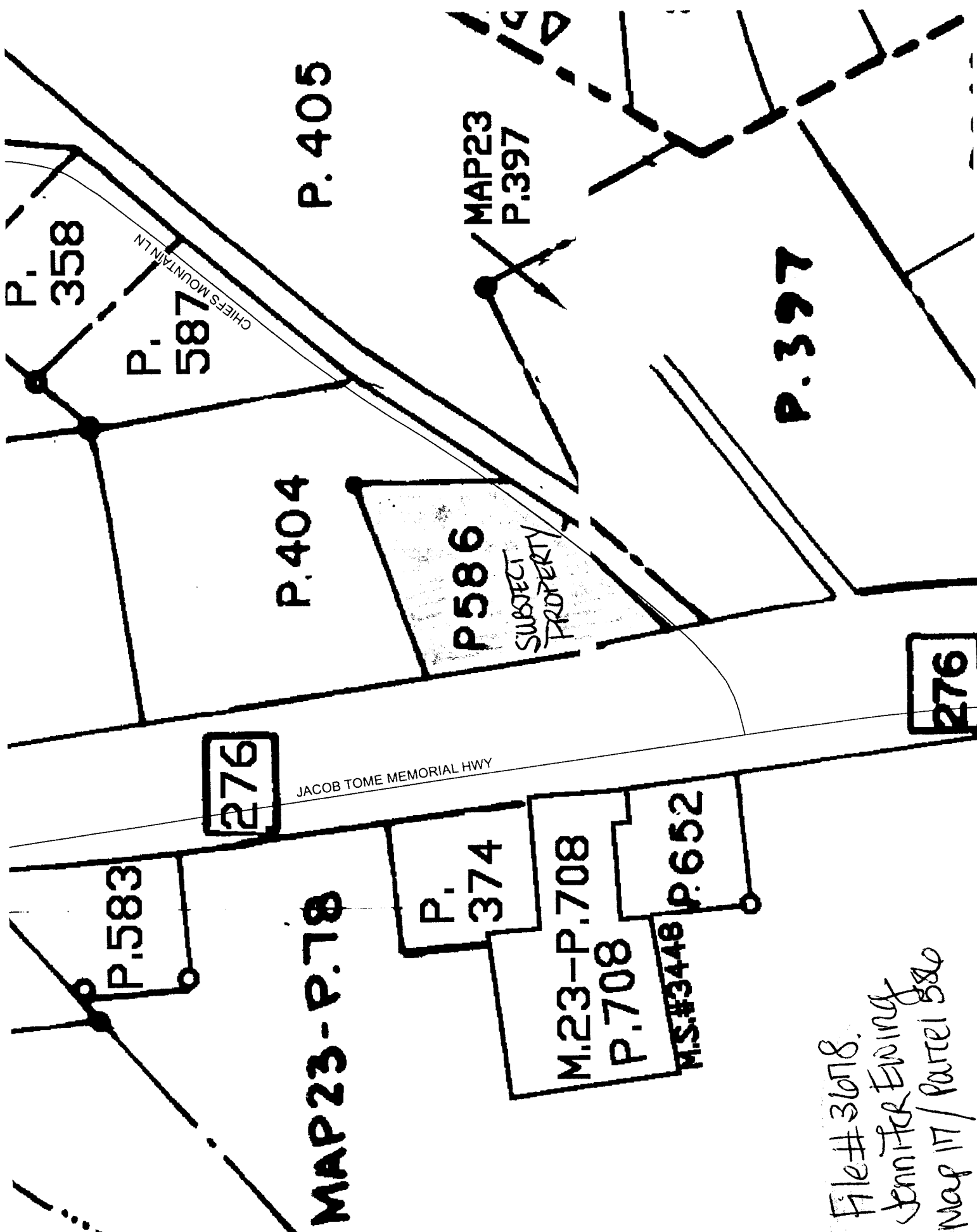
If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE: Subsection 3.05 and Section 79

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL:
Case Number 2947 Approved for two years with all trucks and equipment being stored inside the existing buildings.

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:



P. 358

P. 587

P. 405

P. 586
SUBJECT
PROPERTY

P. 404

MAP23
P.397

P. 397

P. 583

P. 374

M.23-P.708
P.708

M.S.#3448
P.652

276

JACOB TOME MEMORIAL HWY

276

MAP23 - P.78

File # 36078.
Jennifer Ewing
May 17 / Parcel 586