

IN THE MATTER OF

\*

BEFORE THE CECIL COUNTY

THE APPLICATION OF

\*

BOARD OF APPEALS

DOUGLAS DAY

\*

CASE NO.: 3689

\*

(Special Exception – NAR)

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**OPINION**

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Douglas Day (the “Applicant”). Applicant seeks a special exception to permit a single-wide or double-wide trailer as a residence for an immediate family member due to hardship on property owned by Douglas Day located at 1118 Shady Beach Road, Elkton, Maryland 21921, designated as Parcel 654 on Tax Map 36 in the Fifth Election District of Cecil County (the “Property”), in an area zoned Northern Agricultural Residential (“NAR”) in accordance with Article V, Part V, Section 82 of the Cecil County Zoning Ordinance (the “Ordinance”).

Sections 70 and 71 of the Ordinance provide:

Section 70. Dwelling – Manufactured Home – Double Wide

1. Double-wide manufactured homes shall be permitted as a principal structure, tenant house, or guest house in the NAR, SAR, RR, LDR, ST, VR, UR, RM, RMU and MEA zones, provided:

- a. The home has a length not less than 40 feet and a width not less than 24 feet;
- b. The pitch of the home's roof has a minimum vertical rise of three (3) feet for each twelve (12) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction with a minimum four (4) inch roof overhang;
- c. The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in

composition, appearance, and durability to the exterior siding commonly used in standard residential construction;

- d. The home is enclosed by a continuous, permanent masonry foundation, unpierced except for required ventilation and access installed under the home; and
- e. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

2. Double-wide manufactured homes may be permitted as a Special Exception in the EMU, BG, BI, M1, M2 and MEA zones as on-site security provided that the unit is not on a permanent foundation.

3. Double-wide manufactured homes shall be permitted in the EMU, BL, BG, BI, MB, M1, and M2 zones provided that the unit is for the owner/operator or employee of an on-site business and the conditions set forth in 1.a. through 1.e above are met.

4. Double-wide manufactured homes may be permitted as a Special Exception in the NAR and SAR zones for an employee of an agricultural operation conducted on a parcel where the manufactured home is to be located, provided that the home is not on a permanent foundation.

5. Double-wide manufactured homes may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, or UR zones, when not on a permanent foundation, and in the MH zone provided that it is not on a permanent foundation and if a manufactured home presently exists on the property, provided the Board of Appeals finds that a hardship exists involving a member of the immediate family.

#### Section 71. Dwelling - Manufactured Home - Single-wide

1. A single-wide manufactured home may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, and UR zones provided that the manufactured home is for an employee of an agricultural operation conducted on the parcel where the manufactured home is to be located.

2. A single-wide manufactured home may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, and UR zones provided that the Board of Appeals finds that a hardship exists involving a member of the immediate family. For purposes of this provision, "immediate family" shall only include a child, grandchild, parent or grandparent, step child or step parent.

3. A single-wide manufactured home may be permitted as a Special Exception in the BL, BG, BI, EMU, M1, M2 and MEA zones provided that the manufactured home is for the purposes of providing security for a business or industry conducted on the parcel where the manufactured home is to be located.

4. A single wide manufactured may be permitted as a special exception in the MH zone provided that a manufactured home presently exists on the property and provided that the Board of Appeals finds that a hardship exists involving a member of the immediate family. For the purposes of this provision, "immediate family" shall only include a child, grandchild, parent or grandparent, step child or step parent.

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 owns the property. Applicant's wife's elderly and infirm parents suffer economic hardship. Applicant testified that he has Health Department approval to tie into existing septic and well system. The Property consists of 18 acres and there is sufficient space for the requested trailer.

Clifford Houston of the Cecil County Department of Planning and Zoning testified that the Office of Planning and Zoning recommended approval of the application for special exception renewal for 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 installation of either a single or double-wide trailer on the Property. 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 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. No evidence was presented indicating that the use would be injurious to the peaceful use and enjoyment of other properties 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 permission of a single or double-wide trailer 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.

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 subject property is in an RR zone. No evidence was presented to indicate that the use will not conform to the applicable regulations of said 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 RR zone is no different than the impact of the proposed use 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 not been met and the

application the special exception under Section 70 and/or 71 is therefore **APPROVED** for so long as the Applicant's in-laws occupy the proposed single or double wide trailer.

9/23/2014  
Date

David Willis, Jr.  
David Willis, Chairperson

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

T. MONTH: Aug  
 FILE NO. 3689

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

DATE FILED: 7/16/14  
 AMOUNT PD: \$ 250.00  
 ACCEPTED BY: CEH

**A. APPLICANT INFORMATION**

DOUGLAS DAY  
 APPLICANT NAME - PLEASE PRINT CLEARLY  
1118 Shady Beach RD Elkton MD 21921  
 ADDRESS CITY STATE ZIP CODE  
[Signature]  
 APPLICANT SIGNATURE 443-553-0509  
 PHONE NUMBER

**B. PROPERTY OWNER INFORMATION**

DEBORAH DAY  
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY  
1118 Shady Beach RD Elkton MD 21921  
 ADDRESS CITY STATE ZIP CODE  
[Signature]  
 PROPERTY OWNER SIGNATURE 443-553-0508  
 PHONE NUMBER

**C. PROPERTY INFORMATION**

1118 Shady Beach RD North EA MD 05 123585  
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER  
0036 24 0654 1A 18.66 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 provide medical + housing assistance for Debbie's elderly disabled parents

**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:        YES   X   NO  
 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 71.2

**H. SPECIAL EXCEPTION RENEWAL** - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL:       

**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? Yes If yes, distance: 325'  
 Distance to nearest manufactured home: Access over rd Size/Model/Year of Unit: 16'x70' single wide => 2005 +  
 Number of units on property at present time: 0



