

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
JAY C. EMREY III	*	CASE NO.: 3697
	*	
(Special Exception – NAR)	*	
	*	
* * * * *		

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Jay C. Emrey III (the “Applicant”). Applicant seeks a special exception to allow operation of an MVA approved ignition interlock installation business on property owned by William L. and Loretta J. Sumner located at 385 Mt. Zoar Road, Conowingo, Maryland 21918, designated as Parcel 284 on Tax Map 8 in the Eighth 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 testified that the property owners previously received a special exception to operate a welding shop at the Property and did not realize that they needed another special exception to operate the ignition interlock installation business. The owners service four to five cars on a busy day, but service zero cars two to three days per week. There has been no harmful effect on property values. The owners have been doing this for about four years and have averaged about twenty cars per week.

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 special exception for as long as the property owners operate the business and own 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 suitable to the 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. 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 proposed use 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 business for a number of years 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. The Board finds that this portion of the NAR is commingled with business and residential use. Based upon the evidence presented, the Board finds that the operation of the business 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.

12/30/2014
Date

Dave Willis
Dave Willis, Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH 04 2014
FILE NO. 3697

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

DATE FILED: 9/17/14
AMOUNT PD: B 25603 17026
ACCEPTED BY: [Signature] 17026
PTHE

A. APPLICANT INFORMATION

Jay C. Emrey, III
APPLICANT NAME - PLEASE PRINT CLEARLY
153 East Main Street, Elkton, Maryland 21921
ADDRESS CITY STATE ZIP CODE
[Signature] 410-398-3536
APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION

William L. Sumner and Loretta J. Sumner
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
385 Mt. Zoar Road Conowingo Maryland 21918
ADDRESS CITY STATE ZIP CODE
[Signature] 410-378-0788
PROPERTY OWNER SIGNATURE PHONE NUMBER

C. PROPERTY INFORMATION

385 Mt. Zoar Road, Conowingo, Maryland 21918 8th 08-015902
PROPERTY ADDRESS ELECTION DISTRICT ACCT. NUMBER
8 18 284 2.771± 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)

The property owner would like to operate an MVA approved ignition interlock business from their residence as an "in home" occupation.

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. SEE ATTACHED PLAT ATTACHED

F. LAND USE DESIGNINATION

Is the 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

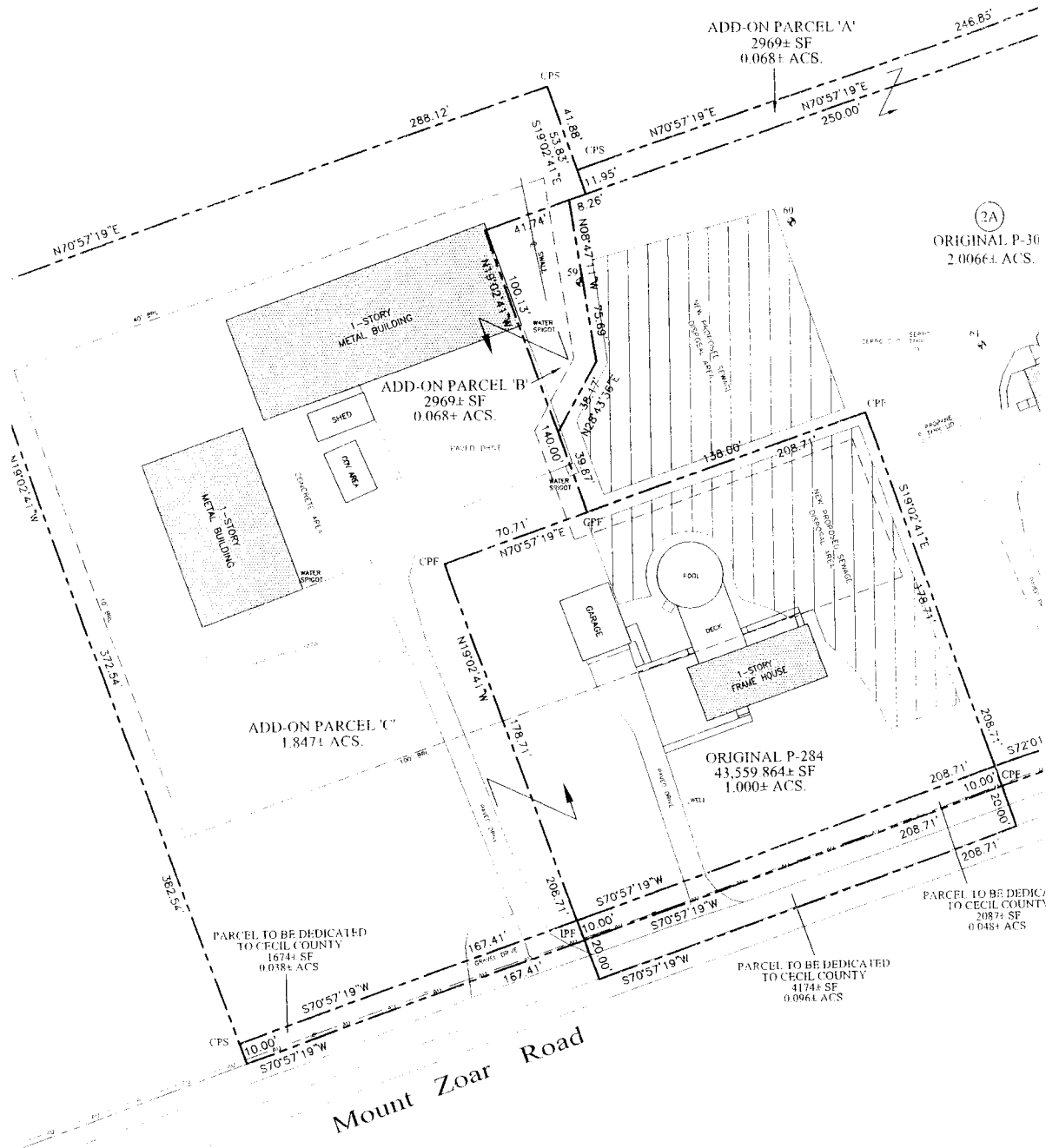
If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISIONS OF ZONING ORDINANCE: Section 79

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

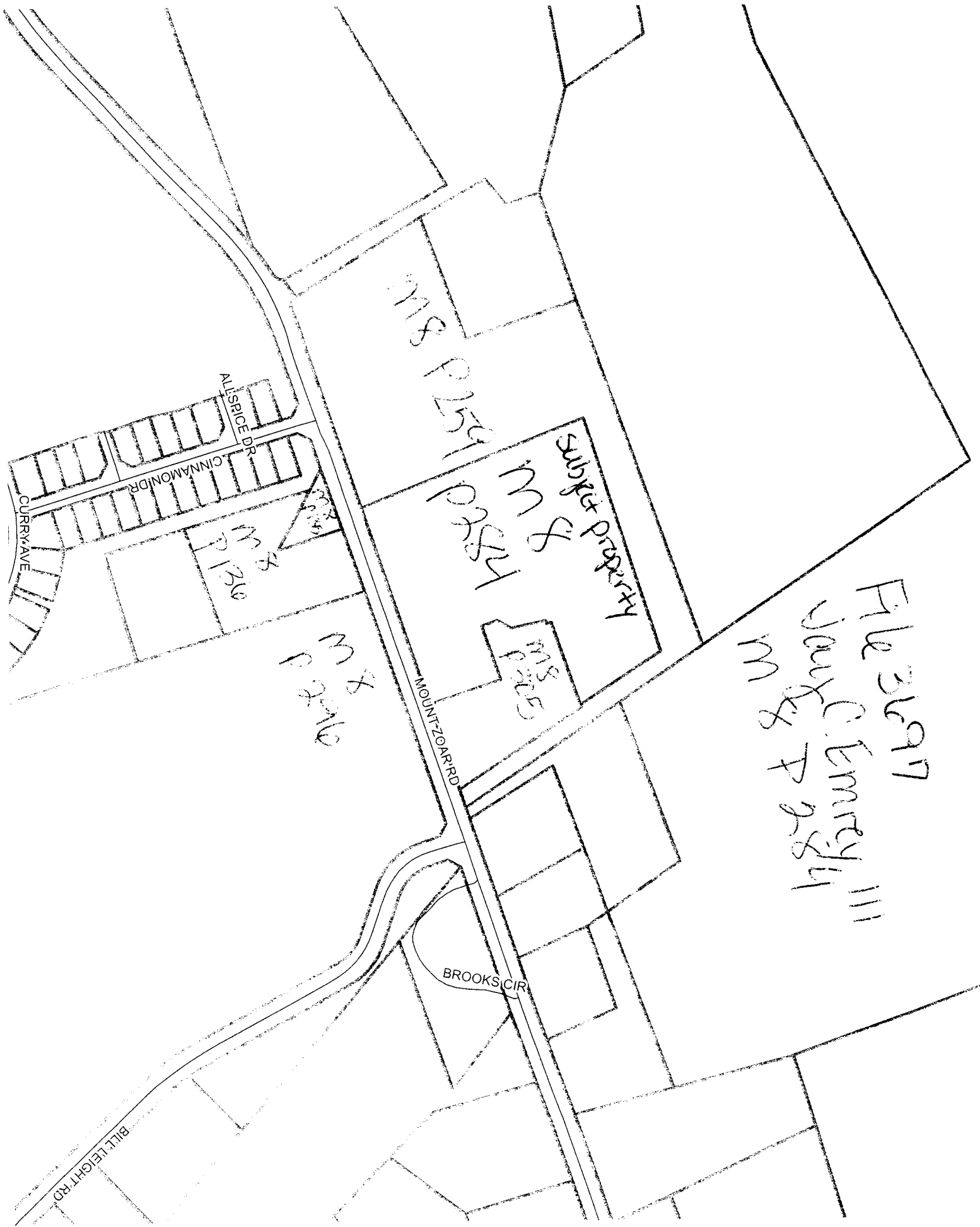
I. SPECIAL EXECPTION FOR A MANUFACTURED HOME - Please fill out the following information:

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: _____



(2A)
ORIGINAL P-36
2.0066± ACS.

DEPARTMENT OF PLANNING & ZONING 10/5/11		<h3 style="text-align: center;">SURVEYORS STATEMENT</h3> <p style="text-align: center;">THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE SEARCH & IS SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAYS, ETC. THAT ANY SUBSEQUENT</p>	CERTIFICATION IS IN REAL PROPERTY AF
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MS P 2519

MS P 2514
Subject property

MS P 2510

MS P 2511

MS P 2515

File 3697
JAMES C. Emery III
MS P 2514

BROOKS CIR

MOUNTAIN RD

ALL SPICE DR

CINNAMON DR

CURRY AVE

BILL LEIGHT RD