

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
JONATHAN SEIDENBERG AND JEN PODOS	*	CASE NO.: 3981
(Special Exception – LDR)	*	

\* \* \* \* \*

**OPINION**

The Cecil County Board of Appeals (the “Board”) is now asked to consider the application of Jonathan Seidenberg and Jen Podos (the “Applicants”). The Applicants seek a special exception renewal in accordance with Article XVII, Part II, Section 311 of the Cecil County Zoning Ordinance (“Ordinance”) to operate a home occupation at the property they own located at 100 Williams Road, Elkton, MD 21921, consisting of approximately 5.527 acres and designated as Parcel 575, Block 10, on Tax Map 38 in the Second Election District of Cecil County (the “Property”), in an area zoned Low Density Residential (“LDR”) in accordance with Article V, Part III, Section 79 of the Ordinance.

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.

Article V, Part III, Section 79 of the Ordinance provides:

Home occupations may be permitted as a Special Exception in the LDR zone provided that:

1. Home occupations are conducted on the same property as the residence and do not change the residential character of the property;

2. No type of advertisement for the home occupation 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; and

5. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable from adjoining properties.

Applicant appeared and testified that he is seeking to renew a special exception to operate a yoga and meditation studio. Applicant testified that the class sizes are small – typically no more than five people.

No witnesses testified in favor of or in opposition to the application.

Bryan Lightner, Zoning Administrator, testified that the Division of Planning and Zoning Staff and the Planning Commission recommended approval of the special exception renewal for as long as the applicant owns the Property and operates the home occupation.

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

1. That granting the special exception will not be detrimental to or endanger the public health, safety, or general welfare.

2. There was no evidence indicating that the use will be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor was there any evidence to demonstrate that such use will substantially diminish or impair property values in the neighborhood, nor will the proposed use materially increase traffic to or from the Property.

3. There was no evidence indicating that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use.

4. 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. Based on the foregoing, the Board finds that the proposed use will be consistent with the current use of the Property.

5. The proposed use will not adversely affect critical natural areas or areas of ecological importance. The Property is not in the Critical Area, the Critical Area Buffer, or the 100-year floodplain.

6. The proposed use will, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. The particular use proposed at the particular location proposed, will 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.

Further, the Board makes the following findings pursuant to Section 79.

1. That the proposed use is on a property in an area suitable to the use.
2. The home occupation is conducted on the same property as the residence and does not change the residential character of the property.

3. No type of advertisement for the home occupation is carried out on the property.
4. There are no goods for sale or rent stored on the property that can be seen from off the premises.
5. Parking is provided in accordance with Article XIV.
6. There is no equipment or processes used which create noise, vibration, glare, fumes, odors, or electrical interference detectable from adjoining properties.

For the reasons stated above, by unanimous vote, the Board is satisfied that the requirements of Article XVII, Part II, Section 311 and Article V, Part III, Section 79, of the Ordinance have been met and the application for the special exception renewal for a home occupation on the Property is therefore **APPROVED FOR AS LONG AS THE APPLICANT OWNS THE PROPERTY AND OPERATES THE HOME OCCUPATION.**

Applicant is hereby notified that he is required to obtain any and all necessary licenses and permits required for the use described herein.

1/28/2020  
Date

  
Mark Saunders, Chairman

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

MEET. MONTH: Dec 2019  
FILE NO. 3981

**RECEIVED**  
NOV 07 2019  
Cecil County LUDS  
Division of Planning & Zoning

- THIS REQUEST IS FOR:
- SPECIAL EXCEPTION RENEWAL
  - SPECIAL EXCEPTION
  - VARIANCE
  - APPEAL

DATE FILED: 11/11/19  
AMOUNT PD: 8222.00  
ACCEPTED BY: JB

**A. APPLICANT INFORMATION**

Jonathan Seidenberg & Jen Podos  
 APPLICANT NAME - PLEASE PRINT CLEARLY

100 Williams Rd. Elkton MD 21921  
 ADDRESS CITY STATE ZIP CODE

[Signature] Jen Podos  
 APPLICANT SIGNATURE PHONE NUMBER 410-937-4287

**B. PROPERTY OWNER INFORMATION**

Jonathan Seidenberg & Jen Podos  
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

100 Williams Rd. Elkton MD 21921  
 ADDRESS CITY STATE ZIP CODE

[Signature] Jen Podos  
 PROPERTY OWNER SIGNATURE PHONE NUMBER 410-937-4287

**C. PROPERTY INFORMATION**

100 Williams Rd Elkton, MD 2nd 028573  
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

38 10 575 5.527 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)

see attached SPECIAL EXCEPTION RENEWAL FOR A 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.**

N/A

**F. LAND USE DESIGNATION**

Is property in the Critical Area?  YES  NO  
 If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: \_\_\_\_\_

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:** ART. V, PT III, 5.79 / ART. XVII, PT. II, 5.311

**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? \_\_\_\_\_ If yes, distance: \_\_\_\_\_

Will unit be visible from adjoining properties? \_\_\_\_\_ If yes, distance: \_\_\_\_\_

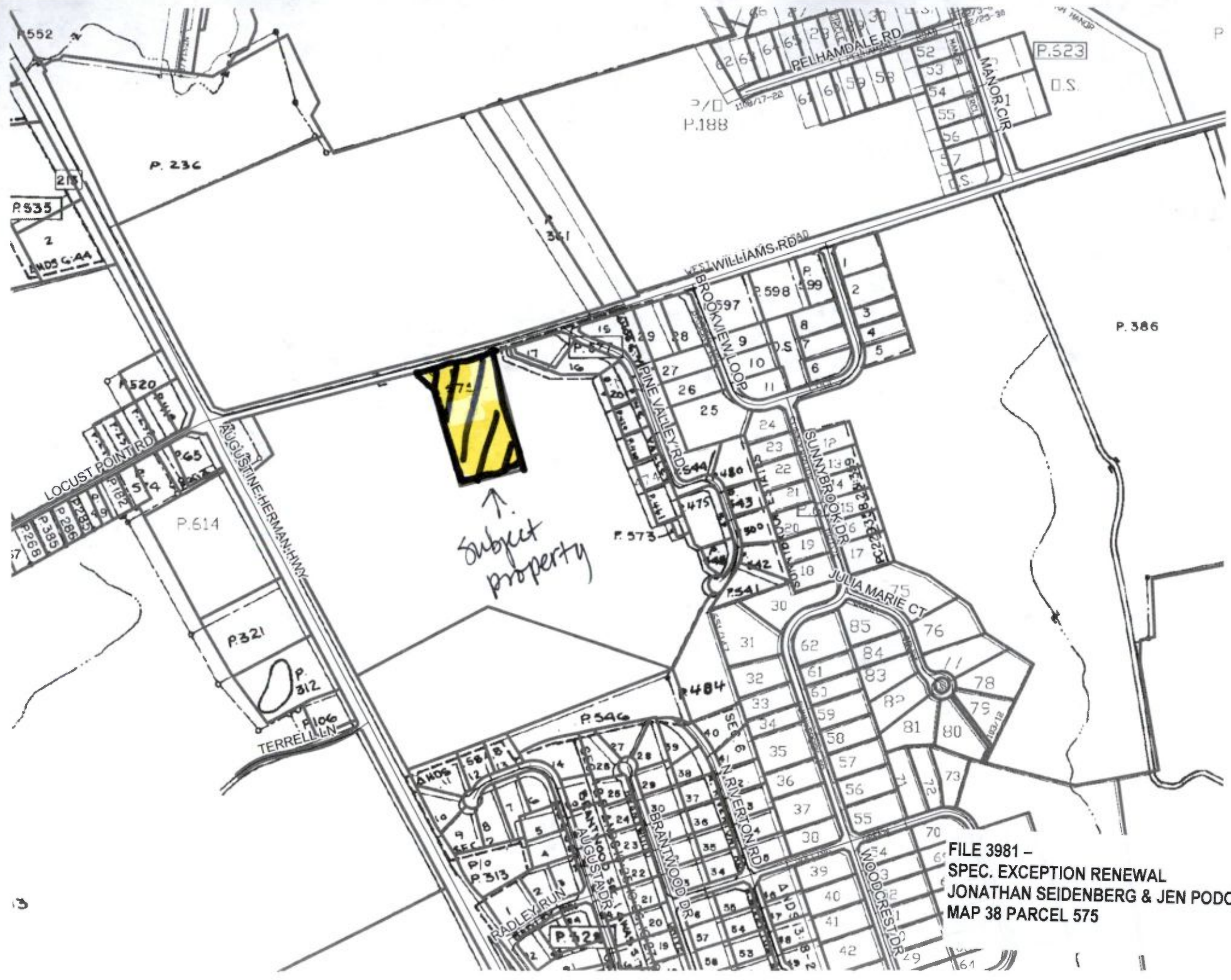
Distance to nearest manufactured home: \_\_\_\_\_ Size/Model/Year of Unit: \_\_\_\_\_

Number of units on property at present time: \_\_\_\_\_

#### D. Purpose of Application

We are requesting a renewal of our special exception, file number 3837, for our small home-based business. We currently offer small classes several times per week, such as breath-focused yoga, qigong (a Chinese gentle form of movement), and meditation. Since we opened two years ago, we have not received any complaints from local neighbors, the nearest of whom are several acres away on Pine Valley Road. There is plenty of parking on our property, and traffic flow on Williams Road is not disrupted in any way.





Subject property

FILE 3981 -  
SPEC. EXCEPTION RENEWAL  
JONATHAN SEIDENBERG & JEN PODOS  
MAP 38 PARCEL 575