

IN THE MATTER OF  
THE APPLICATION OF  
RACHEL BREWER

(Special Exception – NAR)

\* BEFORE THE CECIL COUNTY  
\* BOARD OF APPEALS

\* CASE NO.: 4002

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\* \* \* \* \*

**OPINION**

The Cecil County Board of Appeals (the “Board”) is now asked to consider the application of Rachel Brewer for Brewers Hideaway Farm, LLC (the “Applicant”). The Applicant seeks a special exception in accordance with Article XVII, Part II, Section 311 of the Cecil County Zoning Ordinance (“Ordinance”) to operate a farmer’s market at the property located at 832 Lombard Road, Rising Sun, MD 21911, consisting of approximately 72.843 acres and designated as Parcel 83 on Tax Map 5 in the Ninth Election District of Cecil County (the “Property”), in an area zoned Northern Agricultural Residential (“NAR”) in accordance with Article V, Part I, Section 63 of the Ordinance. The Property is owned by Rodney S. and Rebecca K. Brewer, immediate relatives of the Applicant.

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 63 of the Ordinance provides:

Farmers markets may be permitted as a special exception in the NAR zone provided:

1. Any permanent structure for the display and sale of locally produced agricultural and fisheries products shall be no larger than 3000 square feet;

2. Buildings shall maintain the front yard setback for the zone in which it is located;

3. Exits and entrances shall be provided which shall be at least one hundred (1000) feet from all other intersections;

4. A minimum of three (3) off street parking spaces and one (1) space per 300 square feet of building area over 900 square feet shall be provided;

5. A minimum of one (1) self contained privy shall be maintained on the site while operation is in use;

6. No temporary structure shall be permitted for a period exceeding three (3) years, subject to renewal;

7. The farmers market is used for the sale of predominantly locally produced agricultural products.

Applicants appeared and testified that she is seeking a special exception to operate a farmers market at the Property. Applicant testified that she has sold vegetables at the Newark (Delaware) farmers market for nine (9) years and would like to expand her operation and more locally. The proposed market would operate seasonally when produce is available and sales will take place typically on Saturdays. Applicant testified she wants to maintain a small business so that the proposed operation would not expand outside the scope of the Ordinance.

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

Bryan Lightner, Zoning Administrator, testified that the Division of Planning and Zoning Staff recommended approval of the special exception for as long as the applicant operates the market and the property owners own the Property, so long as the provisions of Section 63 of the Zoning Ordinance are followed and all MALPF requirements are followed; and, the Planning Commission recommended approval of the special exception conditioned on the Applicant or an immediate family member of the Applicant retains ownership of the Property and the provisions of Section 63 of the Zoning Ordinance and all MALPF requirements are met.

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 as the Applicants testified in sufficient detail the safety precautions they intend for the operation.

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. As previously stated, the operation will be run seasonally and on a very limited basis.

3. There was no evidence indicating that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use. There is plenty of acreage surrounding the Property to buffer any noise from foot or vehicle traffic.

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. The Property is within the Agricultural Preservation District, however, there is no indication in the written or oral testimony that the farmers market would negatively impact this designation.

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. Applicant testified there is plenty of on-site parking and that she anticipates no more than six cars at any one time on the Property.

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 63.

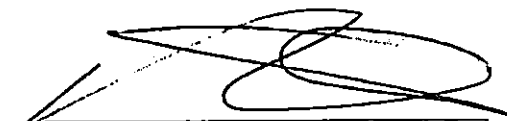
1. Any permanent structure for the display and sale of locally produced agricultural and fisheries products shall not be larger than 3000 square feet;
2. Buildings shall maintain the front yard setback for the zone in which it is located;
3. Exits and entrances shall be provided which shall be at least one hundred (100) feet from all other intersections;
4. A minimum of three (3) off street parking spaces and one (1) space per 300 square feet of building area over 900 square feet shall be provided;
5. A minimum of one (1) self contained privy shall be maintained on the site while operation is in use;
6. No temporary structure shall exist for a period exceeding three (3) years, subject to renewal;

The farmers market is to be used for the sale of predominantly locally produced agricultural products.

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 I, Section 63, of the Ordinance have been met and the application for the special exception for a home occupation on the Property is therefore **APPROVED CONDITIONED ON RACHEL BREWER OR IMMEDIATE FAMILY MEMBER OF RACHEL BREWER RETAINING OWNERSHIP OF THE PROPERTY, PROVISIONS OF ZONING ORDINANCE SECTION 63 AND ALL MALPF REQUIREMENTS BEING MET.**

All Applicants are hereby notified that they are required to obtain any and all necessary licenses and permits required for the use described herein.

7/28/2020  
Date

  
Mark Saunders, Chairman

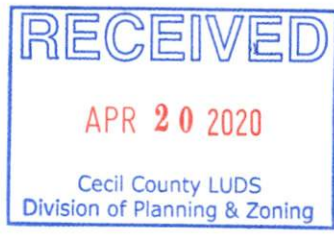


**BOARD OF APPEALS APPLICATION**  
**CECIL COUNTY, MARYLAND**

MEET. MONTH: June 2020  
 FILE NO. 4002

**THIS REQUEST IS FOR:**

- SPECIAL EXCEPTION RENEWAL
- SPECIAL EXCEPTION
- VARIANCE
- APPEAL



DATE FILED: 4/20/2020  
 AMOUNT PD: \$250.00  
 ACCEPTED BY: SB

**A. APPLICANT INFORMATION**

RACHEL BREWER for BREWERS HIDEAWAY FARM LLC  
 APPLICANT NAME - PLEASE PRINT CLEARLY

832 LOMBARD RD RISING SUN MD 21911  
 ADDRESS CITY STATE ZIP CODE

[Signature] 802 989 6852  
 APPLICANT SIGNATURE PHONE NUMBER

**B. PROPERTY OWNER INFORMATION - ALL PROPERTY OWNERS MUST SIGN**

Rodney S. Brewer Rebecca K. Brewer  
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

215 Nellies Corner Rd Rising Sun MD 21911  
 ADDRESS CITY STATE ZIP CODE

Rodney S Brewer Rebecca K Brewer 410 398 9517  
 PROPERTY OWNER SIGNATURE - ALL PROPERTY OWNERS MUST SIGN PHONE NUMBER

**C. PROPERTY INFORMATION**

832 LOMBARD RD RISING SUN, MD 9th 000739  
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

5 15 83 72.843 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)

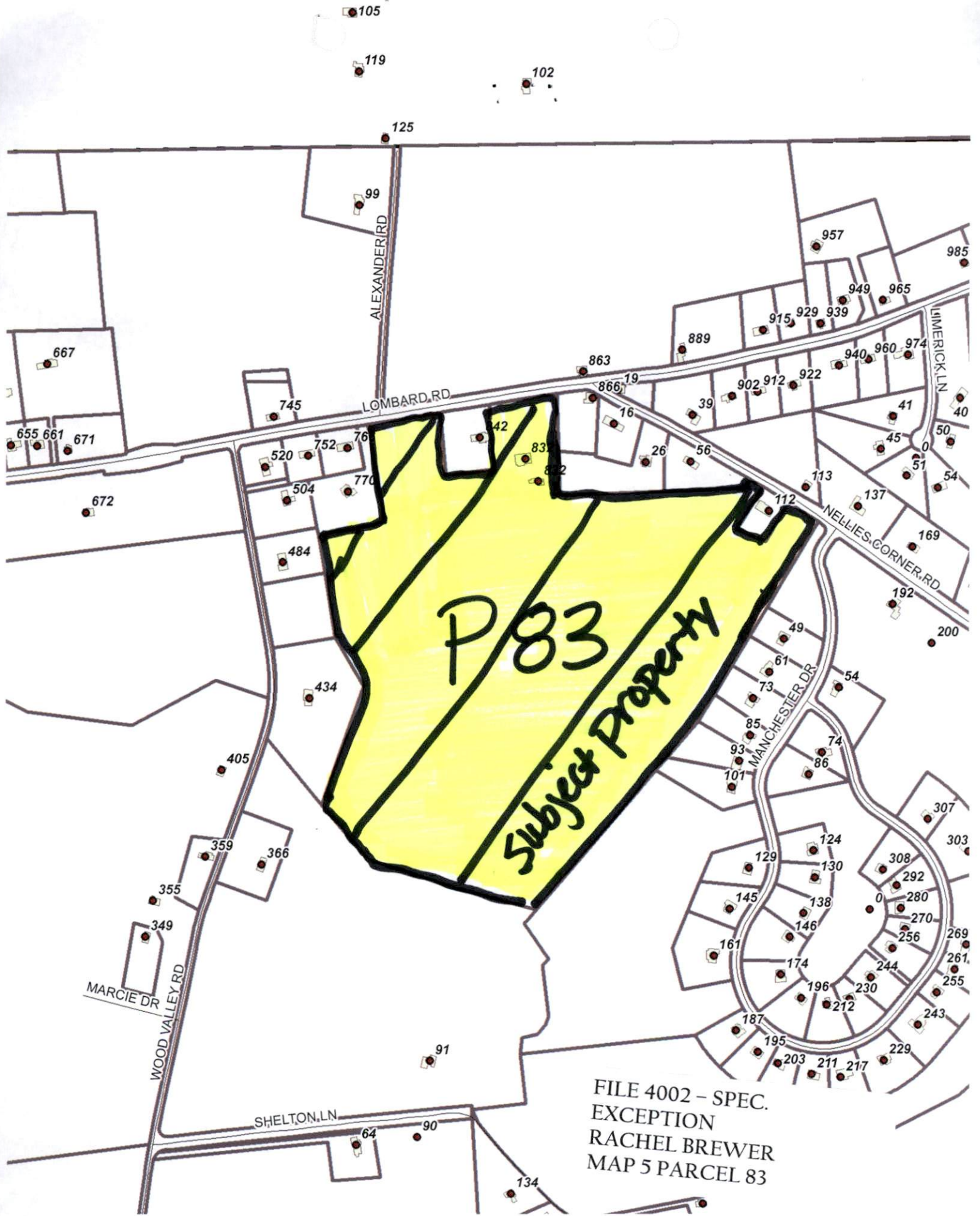
As a part of Brewers Hideaway Farm we propose to start a farm market to make our own product as well as the products of other local business (farms) available to the public. We plan to do this by selling out of our mobile farm (bus) market.  
Special Exception to operate a farmers market

**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?  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. Art. V, Pt. 1, Sect 63 / ART. XVII, Pt. 1, Sect. 307



P 83  
Subject Property

FILE 4002 - SPEC.  
EXCEPTION  
RACHEL BREWER  
MAP 5 PARCEL 83