

IN THE MATTER OF
THE APPLICATION OF
KATHLEEN LECLAIRE

(Special Exception – RM)

* BEFORE THE CECIL COUNTY
* BOARD OF APPEALS
* CASE NO. 4028
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* * * * *

OPINION

The Cecil County Board of Appeals (the “Board”) is now asked to consider the application of Kathleen LeClaire (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 home occupation at the property she owns located at 26 Ridge Run Rd., North East, MD 21901, and designated as Parcel 1326, Lot 5 on Tax Map 31 in the Fifth Election District of Cecil County (the “Property”), in an area zoned High Density Residential (“RM”) 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 RM 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 via Zoom teleconference (due to the COVID-19 pandemic restrictions placed upon the State of Maryland via Governor Hogan's Stay At Home Order of March 30, 2020) that she seeks a special exception to operate an online sales business from the Property to sell her original art work. Witness testified that all activities related to the creation of the paintings would take place indoors, and there would rarely, if ever, be visitor traffic in or out of the studio. Applicant stated the paint used in the production of the art is odorless, there would be no signage on the Property, and deliveries would be made via regular or standard commercial mail delivery; therefore, the business would be practically undetectable from outside of the home.

No other 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 for two years.

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. Based on testimony of the Applicant, the operation of the business will be undetectable from outside of the home.

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 not in the Critical Area, Floodplain or Agricultural Preservation District.

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. Witness testified that all business

would be conducted online and via standard mail deliveries, therefore, no increased traffic to the area is anticipated.

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.

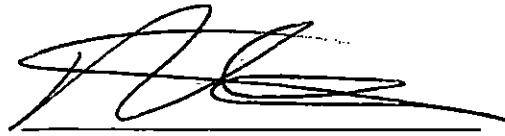
1. That the proposed use is on a property in an area suitable to the use.
2. The home occupation will be conducted on the same property as the residence and does not change the residential character of the property. As previously stated, the Board is satisfied with the Applicant's testimony that the operation of the business will be undetectable from outside the home.
3. Any advertisement for the home occupation carried out on the property will meet the requirements of this Section of the Ordinance. Witness testified there will be no signage on the outside of the home.
4. There will be no goods for sale or rent stored on the property that can be seen from off the premises. All items for sale would be stored in the home until it is sold.
5. Parking will be provided in accordance with Article XIV. No parking will be required since sales will be conducted online and delivery by mail.
6. There will be no equipment or processes used which create noise, vibration, glare, fumes, odors, or electrical interference detectable from adjoining properties. All art materials and activities related to the production of the art will be contained indoors.

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 for a home occupation on

the Property is therefore **APPROVED FOR TWO YEARS.**

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

10/27/2020
Date


Mark Saunders, Chairman

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: Sept 2020
 FILE NO. 4079
RECEIVED
 DATE FILED: 8/12/2020
 AMOUNT PD: 16,250.00
 ACCEPTED BY: _____
 Cecil County LUDS
 Division of Planning & Zoning

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

A. APPLICANT INFORMATION

KATHLEEN LECLAIRE
 APPLICANT NAME - PLEASE PRINT CLEARLY
26 RIDGE RUN ROAD, NORTH EAST, MD 21901
 ADDRESS CITY STATE ZIP CODE
Kathleen LeClaire 631 291 3695
 APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION - ALL PROPERTY OWNERS MUST SIGN

GERARD AND KATHLEEN LECLAIRE
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
26 RIDGE RUN ROAD, NORTH EAST, MD 21901
 ADDRESS CITY STATE ZIP CODE
[Signature] 631 291 2735
 PROPERTY OWNER SIGNATURE - ALL PROPERTY OWNERS MUST SIGN PHONE NUMBER
Kathleen LeClaire

C. PROPERTY INFORMATION

26 RIDGE RUN RD, NORTH EAST MD 5 101689
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
31 23 1326 5 RM
 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 SEPARATE SHEET
A SPECIAL EXCEPTION TO OPERATE 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.

F. LAND USE DESIGNINATION

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. II, PT. III, S. 79 / ART. XVII, PT. II, S. 311

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

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

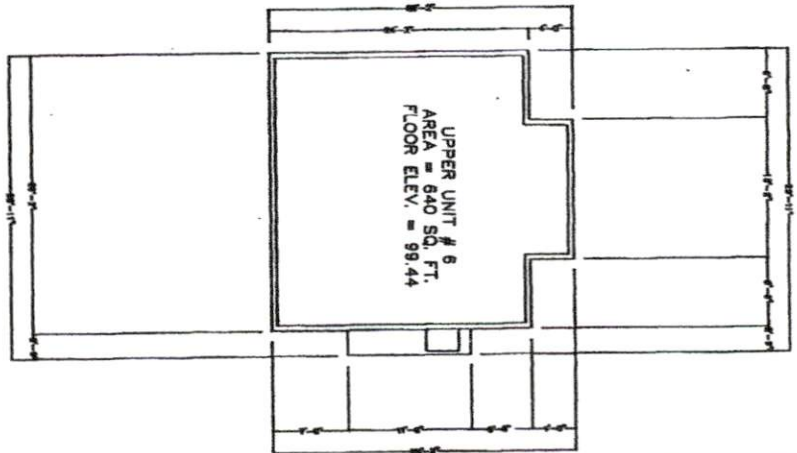
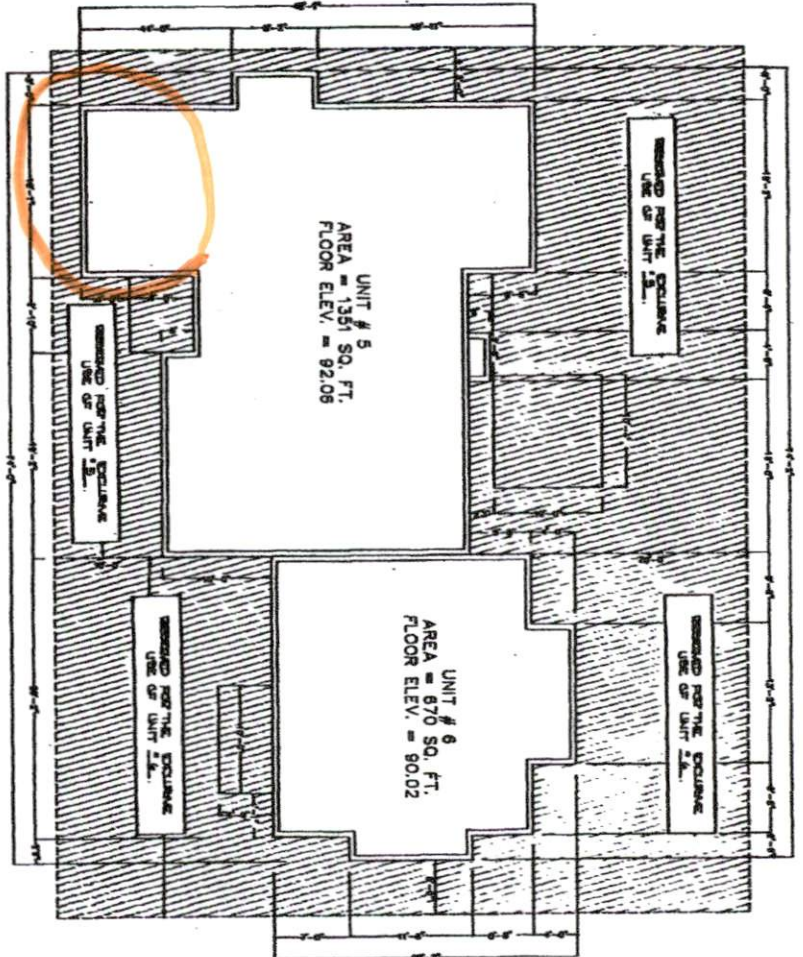
Will unit be visible from the road? Please select... N/A If yes, distance: _____
 Will unit be visible from adjoining properties? Please select. If yes, distance: _____
 Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____
 Number of units on property at present time: _____

D.

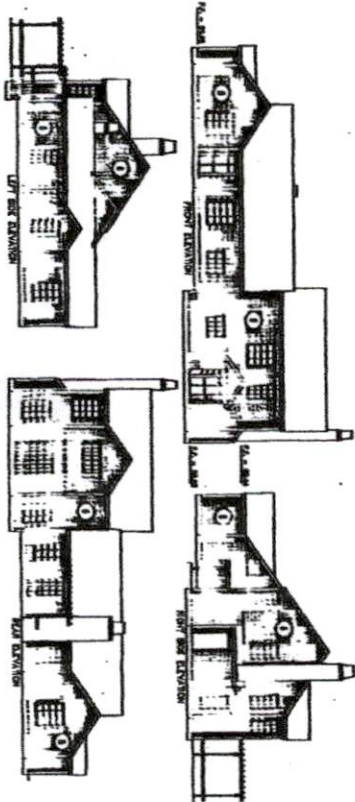
This application should be granted because it will have no effect upon the surrounding neighborhood. The home occupation would be conducted on the same property as my residence and would not change the residential character of the property. I would like to sell my paintings online to customers through ETSY. ETSY is an online company that sells handmade goods only.

When I sell a painting I will go to the post office once a day to mail it to the customer. There will be no people in or out of the house in regard to the business. No exterior signs are needed. No extra parking is needed. There will be no goods on the exterior of the property. No equipment will create noise, vibrations, glare, fumes, odors or electrical interference to any adjoining property. I use acrylic and watercolor paints which have no odors.

The guest room has been my studio for years with no problems to anyone. I would like to have a sole-proprietor home occupation business.



PLAN
SCALE: 1/8"=1'-0"



ELEVATIONS
SCALE: 1/8"=1'-0"

LEGEND
UNIT
PATIO LIMITED COMMON ELEMENT

APPROVED BY: [Signature] Chief of Planning & Zoning
 Director
 Planning & Zoning
 11-18-92
 APPROVED BY: [Signature] Chief of Design Permit Work
 Director
 Design Permit Work
 11-18-92
 APPROVED BY: [Signature] Chief County Health Department
 Director
 Health Department
 11-18-92

NOTE: All weather walls and the roof are part of Townhouse Units 5 and 6.
 NOTE: Townhouse Units 5 and 6 share common walls with the units on either side. The roof is shared with the units on either side. The roof is shared with the units on either side. The roof is shared with the units on either side.
 NOTE: Additional description of the Units and their common elements are provided in the Condominium Declaration, Section One Declaration.

RECEIVED FOR RECORD
 52 NOV 13 PM 01:32
 FEN RECORDS DIVISION
 CLERK

FINAL PLAT UNITS 5 & 6
 SECTION 1, PHASE 1
 CHESAPEAKE CLUB CONDOMINIUM
 FIFTH DISTRICT, CECIL COUNTY, MARYLAND

DATE	SCALE
OCT. 92	AS SHOWN
JOB NO.	DRAWN BY
REVISION	E. JONES
FOLDER REF.	APPROVED
228	[Signature]
DATE	REVISION

McCRONE
 ENGINEERING • ENVIRONMENTAL SCIENCES
 LAND PLANNING & SURVEYING • CONSTRUCTION SERVICES
 118 NORTH STREET
 ELKTON, MARYLAND
 (410) 398-1550



DATE

M58 SSU 1241 - 816-4

SHEET NO. 4
 CAD FILE
 FILE NO. 1271

11-18-92
 844
 810
 1241-816-4
 1271

P/O PARCEL 2A

P. 1326

PHASE 2

P. 132

ARE

FILE 4028 - SPEC.
EXCEPTION
KATHLEEN LECLAIRE
MAP 31 PARCEL 1326 LOT 5

