

IN THE MATTER OF
THE APPLICATION OF
ASHLEY BENDER

* BEFORE THE CECIL COUNTY
* BOARD OF APPEALS
* CASE NO.: 4061

(Special Exception – RR)

*
*
*

* * * * *

OPINION

The Cecil County Board of Appeals (the “Board”) is now asked to consider the application of Ashley Bender (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 located along Ash Lane, consisting of approximately .63 acres and designated as Lot 37, Parcel 667, Lot 37, Block 16 on Tax Map 20 in the Third Election District of Cecil County (the “Property”), in an area zoned Rural Residential (“RR”) 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 RR 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 on March 23, 2021 via teleconference (due to Governor Hogan's COVID-19 Pandemic Stay At Home order of March 30, 2020 and subsequent revisions) that he seeks a special exception to operate auto detailing business. Applicant was represented by attorney Robert V. Jones. Applicant testified as to the following:

a. Most of the detailing would be conducted inside of the garage structure he plans to build (Applicant contemporaneously applies for a variance – File No. 4060).

b. No harsh chemicals will be used different than what would be used in cleaning products in a standard household.

c. Most of the services the home occupation will provide will be done off-site at client-specific locations. The existing business is conducted as a mobile detailing service. The addition of the home based operations would allow for the expansion of the business during the winter months when work can be done inside a garage.

d. One vehicle detail takes approximately 3-4 hours. No more than two cars would be detailed per day on site.

e. No cars would be stored onsite unless they are inside the garage.

f. No sounds or fumes would emanate from the operation that would cause detriment or nuisance to neighbors.

g. he expects the number of clients to be around ten per week.

h. There will be no signage on the Property to promote the business.

i. There will be no retail sales of any kind. The business is solely service oriented.

j. There will be no commercial delivery trucks in the area resulting from the home occupation.

Delivery of materials would arrive in standard FedEx, Amazon, UPS trucks or the like.

k. A 300 gallon water tank will contain any water runoff. No well will be installed. A hired company will come periodically to empty the tank.

l. No boats, large recreational or commercial vehicles will be serviced by the home occupation.

m. Hours of operation will be Monday through Friday between 9 am and 5 pm.

Two witnesses spoke in opposition of the Application stating concerns for water runoff and that the proposed use is in violation of the deed restrictions for the community in which the Property is situated.

Bryan Lightner, Zoning Administrator, testified that the Division of Planning and Zoning Staff recommended approval for two years, and the Planning Commission recommended disapproval of the special exception.

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 Applicant testified in sufficient detail that the operations of the business would be conducted mostly offsite, no harsh chemicals will be used and water runoff will be managed utilizing a holding tank. The Board concluded that the Applicant has taken steps to ensure the use will not endanger the public.

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. The Applicant testified, and the Board was satisfied, that the traffic to the area would experience no more than the occasional delivery by standard delivery trucks rather than large commercial vehicles and that the number of cars serviced at the site would be limited to no more than two per day, preventing excess traffic in the area.

3. There was no evidence indicating that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use. For the reasons stated in numbers 1 and 2 above, the Board finds that the proposed use will not negatively impact surrounding properties.

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. The Applicant's testimony supported that the proposed use will have little to no impact on the public facilities and services mentioned herein.

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. As stated in applicant testimony, off street parking is available on the property, cars would be stored inside while onsite, and there would be limited traffic to and from the Property at all times.

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. According to the Applicant's testimony, measures are being taken to build a suitable garage in a location that best preserves the natural environment which buffers the business operations from neighboring properties. Applicant also testified that there are several other detached garages in the area.

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 indicated previously, business operations and traffic to the Property would be limited, and no signage would be visible from the outside of the Property to reveal a commercial operation.

3. Any advertisement for the home occupation carried out on the property will meet the requirements of this Section of the Ordinance. In testimony, the Applicant stated there would be no signage present on the Property.

4. There will be no goods for sale or rent stored on the property that can be seen from off the premises. The business provides services only.


5. Parking will be provided in accordance with Article XIV and as described above. Any vehicle stored on the Property would be housed inside the garage.

6. There will be no equipment or processes used which create noise, vibration, glare, fumes, odors, or electrical interference detectable from adjoining properties. Applicant likened the activity to washing one's own personal vehicle. No additional noise, fumes, etc. would result from the activity of the business.

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 CONDITIONED UPON HOURS BEING LIMITED TO 9 A.M. TO 5 P.M MONDAY THROUGH FRIDAY, A HOLDING TANK FOR WATER USAGE AND RUNOFF CONTROL IS UTILIZED, NO WORK SHALL BE CONDUCTED ON BOATS OR CONSTRUCTION EQUIPMENT, AND A MAXIMUM OF TWO AUTOMOBILES PER DAY IS MAINTAINED.**

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

4/27/2021
Date


Mark Saunders, Chairman

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: March 2021
 FILE NO. 4061



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

DATE FILED: 2-9-21
 AMOUNT PD: \$250
 ACCEPTED BY: JB

A. APPLICANT INFORMATION

Ashley Bender
 APPLICANT NAME - PLEASE PRINT CLEARLY

223 Ash Lane Elkton MD 21921
 ADDRESS CITY STATE ZIP CODE

[Signature] 410-920-7686
 APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION - ALL PROPERTY OWNERS MUST SIGN

Alexandra Bender
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

223 Ash Lane Elkton MD 21921
 ADDRESS CITY STATE ZIP CODE

Alexandra Bender 302-561-4162
 PROPERTY OWNER SIGNATURE - ALL PROPERTY OWNERS MUST SIGN PHONE NUMBER

C. PROPERTY INFORMATION

0 Ash Lane 3rd 076571
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

0020 16 0067 37 .63 RR
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

I have a mobile detailing business. I would like to be able to detail cars in the building when its around winter and when a special application is needed. There will be no advertising, selling of any goods and no noise. Will not be late hours.

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 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. II, PT. III, S. 79 / ART. XVII, PT. II, S. 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? Please select... If yes, distance: yes

Will unit be visible from adjoining properties? Please select... If yes, distance: yes

Distance to nearest manufactured home: 200 FT Size/Model/Year of Unit: 2100sqft, single family 1977

Number of units on property at present time: 0

There will be no cars in the street or in the driveway. Only inside the Pole barn. The traffic would be light since most of my business is mobile. The building will mostly be for our personal use. Storing our cars, trucks, boat, lawn mower and so on. I wouldn't be disturbing my neighbors.

Thank you



P. 722

FILE 4061 - SPEC. EXCEPT.
ASHLEY BENDER
MAP 20 PARCEL 667 LOT 37

P. 741