

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
ROBERT V. JONES	*	CASE NO.: 4164
	*	
(Special Exception – NAR)	*	

* * * * *

OPINION

The Cecil County Board of Appeals (the “Board”) is now asked to consider the application of Robert V. Jones, representing Randall and Susan Strock (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 located at 76 & 80 Old Hilltop Road, Conowingo, MD 21918, consisting of approximately 5.11 acres and designated as Parcels 312 & 332, Block 5 on Tax Map 16 in the Sixth Election District of Cecil County (the “Property”), in an area zoned Northern Agricultural Residential (“NAR”) 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 NAR 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.

Attorney Robert V. Jones appeared and testified that the Applicants seek a renewal of the special exception they were granted per File Number 4023 to operate a design and manufacturing facility where Randall will design and assemble odor removal filters for sewage pumping stations. Jones testified that there are no employees, and the home occupation has had no material change since it was originally approved in 2020. The business operations do not change the residential character of the Property as all business activities are conducted indoors. No equipment or processes are used that create any detectable odor, noise or activity that would be considered a nuisance to neighboring properties. Six to eight units are built on the Property per year. Applicant testified that he has received no complaints from neighbors related to the business.

Thomas and Dorothy Short, adjoining neighbors to the Property, submitted a letter in support of the Application.

Verman and Tracy Wyant, neighbors, submitted written testimony in support of the Application.

Aaron Harding, Chief of Cecil County Department of Land Use and Development, Division of Planning and Zoning, testified that Division staff recommended approval for two years conditioned on an unauthorized storage container being removed from the Property, and the Planning Commission recommended approval for as long as the owner owns the property and operates the business conditioned on the (aforementioned) storage container being removed from the property.

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 there has been no evidence of any such threat or endangerment since the commencement of the business activity at the Property.

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 stated herein, the operations take place within the confines of the home or accessory structures on the property, are not detectable from outside and have produced no complaints in the last two years in operation.

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

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. There will be little to no traffic related to the home occupation – buyers typically do not come to the property and deliveries to the property are no more frequent or different in nature than any residential parcel delivery.

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 the NAR zone, an area suitable to the use with a special exception.

2. The home occupation will be conducted on the same property as the residence and does not change the residential character of the property.

3. There will be no advertisement for the home occupation carried out 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 largest constructed units are approximately 42” wide and 7.5 feet tall and can be stored inside until delivery.

5. Parking will be provided in accordance with Article XIV. Relatively no business-related parking will be required as the primary business operations will be focused on design and assembly, not sales/distribution. Sales are commissioned by an engineer over the phone/internet.

6. There will be 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 for a home occupation on the Property is therefore **APPROVED FOR AS LONG AS THE PROPERTY OWNER OWNS THE PROPERTY AND OPERATES THE BUSINESS CONDITIONED ON THE REMOVAL OF THE UNAUTHORIZED STORAGE CONTAINER.**

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

12/28/22
Date


Mark Saunders, Chairman