

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
SARAH ROBERTS AGOSTINO	*	CASE NO.: 4254
	*	
(Special Exception – RR)	*	
	*	
* * * * * *	*	* * * * * *

OPINION

The Cecil County Board of Appeals (the “Board”) is now asked to consider the application of Sarah Roberts Agostino (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 291 Ches Haven Road, Earleville, Maryland 21919, and designated as Parcel 82, Lot 201 on Tax Map 60 in the First 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. The Property is owned by the Applicant and Salvatore Agostino, who properly signed the Board of Appeals Application File No. 4254 (the “Application”).

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 November 27, 2023 that she seeks a special exception to operate an online sales business from the Property to sell vintage and antique jewelry. Witness testified that the home business will be administrative only as orders will be placed over the Internet. Deliveries will be similar in size and frequency to those typical of a residential property and then shipped to the end user using USPS, UPS or FedEx or drop shipped directly to the customer. No structural changes will need to be made to the home to accommodate the business operations, and the Applicant will be the only employee.

Applicant provided diagram of the Property along with the Application showing that the home office will be located inside of an existing detached garage. There will be no clients visiting the Property, and therefore, no need for additional parking.

No additional witnesses spoke in favor or in opposition of the Application.

Aaron Harding, Division Chief, 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. The business is an online retail market with orders being delivered to the buyer so that there will be no clientele on the premises at any time. There is no

evidence of any dangerous activity that would occur at the Property as jewelry is being purchased and resold only.

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 the business will operate online.

3. There was no evidence indicating that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use. The business office will be located inside of the detached garage, requiring no construction and causing no other disturbance to the area. There will be no signage at the property because the business will operate on the Internet. Based on testimony of the Applicant and the conclusions described in this and the previous two paragraphs, the Board finds that the business will be undetectable from outside of the home and will have no impact on neighboring 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. Customers will not visit the property, and deliveries will be consistent in frequency and nature to that of any typical residential property. 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 in the Critical Area and the 100-year floodplain, however

there is no potential impact related to these designations for the Board to consider. The Property is not in an Agricultural Preservation District.

6. The proposed use will, in all other respects, conform to the applicable regulations of the RR zone.

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. No additional ingress and egress is needed to accommodate the proposed use because the operations conducted onsite will be administrative only. Witness testified that all business would be conducted online and via standard mail deliveries, therefore, no increased traffic to the area is anticipated.

9. The proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County. The type of business proposed is permitted by special exception in the RR zone.

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. As previously stated, home occupations of a retail nature are permitted by special exception in the RR zone.

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 (garage) and not injurious to the enjoyment by neighboring property owners of their properties.

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. Items sold are ordered from a wholesaler or other retailer and shipped directly to the buyer.


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. Any products sold that would be stored onsite will be done so 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.

12/19/2023
Date


Mark Saunders, Chairman

RECEIVED

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: NOV 2023
FILE NO. 4254

OCT 11 2023

Cecil County LUDS
Division of Planning & Zoning

DATE FILED: 10/11/23
AMOUNT PD: \$250
ACCEPTED BY: JB

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL ()
- SPECIAL EXCEPTION ()
- VARIANCE ()
- APPEAL ()

A. APPLICANT INFORMATION - ALL APPLICANTS MUST SIGN

Sarah Roberts Agostino
 APPLICANT NAME - PLEASE PRINT CLEARLY

291 Ches Haven Road Earleville MD 21919
 ADDRESS CITY STATE ZIP CODE

S Roberts Agostino
 APPLICANT SIGNATURE PHONE NUMBER 410-404-3524

B. PROPERTY OWNER INFORMATION - ALL PROPERTY OWNERS MUST SIGN

Sarah Agostino (O'Brien) + Salvatore Agostino
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

291 Ches Haven Road Earleville MD 21919
 ADDRESS CITY STATE ZIP CODE

S Agostino / S Agostino
 PROPERTY OWNER SIGNATURE PHONE NUMBER 410-404-3524/410-708-2710

C. PROPERTY INFORMATION

291 Ches Haven Road
 PROPERTY ADDRESS ELECTION DIST. 01 ACCT. NUMBER 009125

0060 0014 0082 201
 TAX MAP BLOCK PARCEL LOT # #ACRES ZONE RR

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

I'd like to buy and sell vintage + antique jewelry online. There would be zero impact on neighbors or neighborhood because I will use existing space to run the business (no modifications) and it won't create traffic due to online-only sales.

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: YES NO
- 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. XVII Part II Section 311, Art II Part III Section 79

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

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

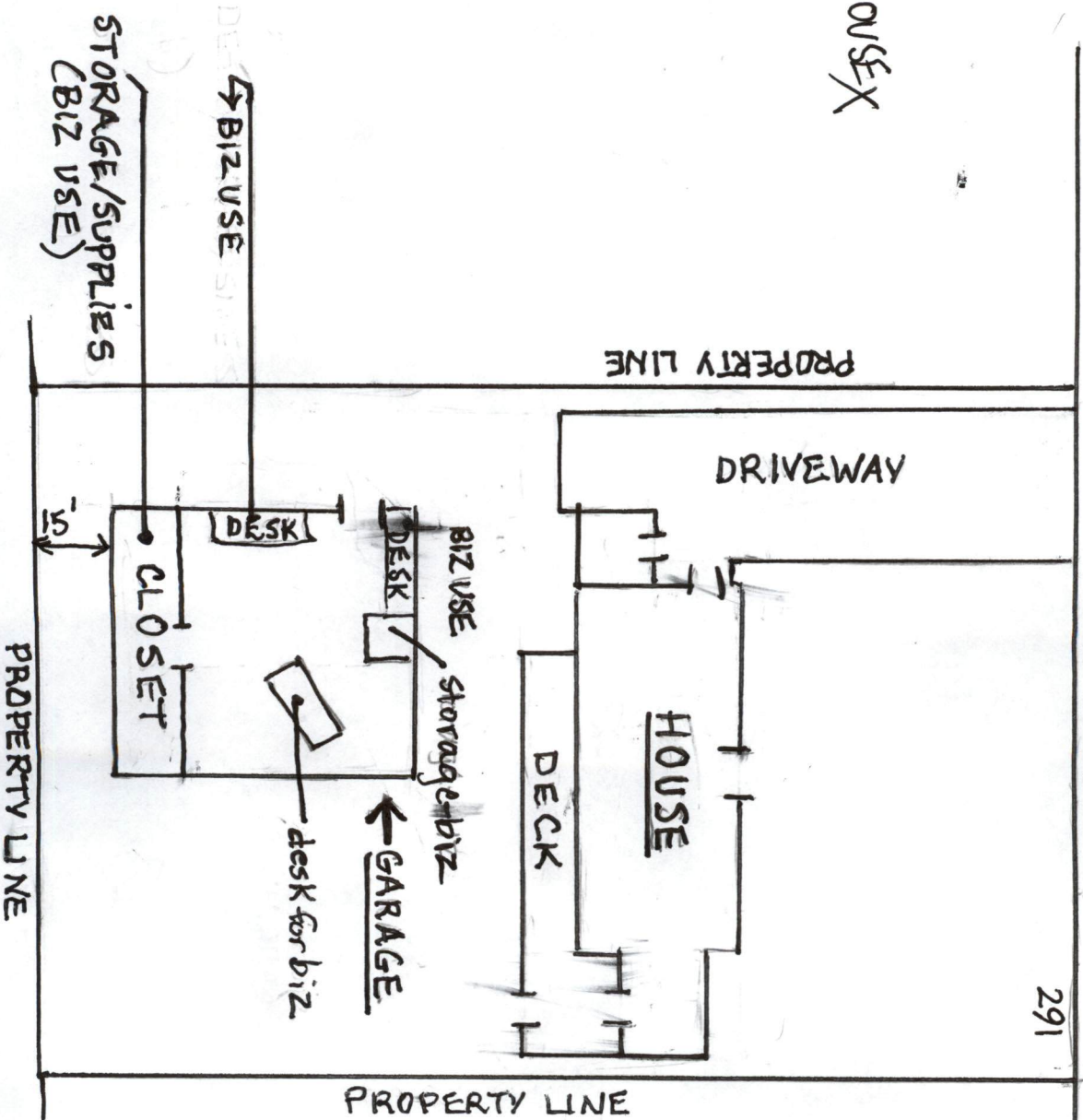
- Will unit be visible from the road? _____ If yes, distance: _____
- Will unit be visible from adjoining properties? _____ If yes, distance: _____
- Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____
- Number of units on property at present time: _____

291 Ches Haven Road, Earleville, MD 21919

CHES HAVEN RD.

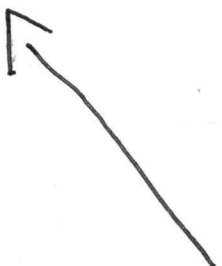
291

HOUSE X



X HOUSE

Operation of business
 would be confined to
 detached garage (existing).





FILE 4254 - SP. EXCEPTION
 SARAH ROBERTS AGOSTINO
 MAP 60 PARCEL 82 LOT 201