

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

RECEIVED
 HARFORD COUNTY COUNCIL
 DEC 14 2020
 ZONING BOARD OF APPEALS
 HARFORD COUNTY, MD

Case No. 5938
 Date Filed 12/14/20
 Hearing Date _____
 Receipt _____
 Fee \$400
 Type SE

Shaded areas for Office Use Only

Information to be Submitted with Application

1. A plot plan drawn to scale indicating all pertinent data.
2. A list of all adjoining property owners with mailing addresses.
3. Names and addresses of all persons having legal or equitable interest in the property.
4. All required supporting documentation or additional studies as may be required; including traffic and environmental studies, etc.

NOTE:

All applicants **MUST** schedule a pre-application meeting with the Department of Planning and Zoning prior to filing any application to the Board of Appeals.

To schedule please call **410-638-3119**.

Nature of Request and Section(s) of Code

CASE 5938 MAP 65 TYPE Special Exception
ELECTION DISTRICT 01 TAX ID 01-052012/01-051970
LOCATION Philadelphia Road, Joppa 21085
BY Edward Hutchins, Jr. et al.
Appealed because a special exception pursuant to
Sec. 267-88F(6) of the Harford County code to operate a
personal care boarding home in the R1 District requires
approval by the Board.

Owner (please print or type)

Name Edward J. Hutchins, Jr. et al. (see attached) Phone Number (410)752-7474

Address 7240 Parkway Drive 4th Floor, Hanover, Maryland 21076
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser Malisa and Steven Smith Phone Number Call attorney

Address 626 Chestnut Hill Road, Forest Hill, Maryland 21050
Street Number Street City State Zip Code

Attorney/Representative Bradley R. Stover, Esquire
Shaffer, McLaughlin & Stover, LLC Phone Number (410) 420-7992

Address 836 South Main Street, Suite 102 Bel Air Maryland 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property Two parcels located at Philadelphia Road, Joppa, Maryland 21085
Near intersectino with Clayton Road

Subdivision N/A Lot Number _____

Acreage/Lot Size 4.13/41. acres Election District 1 Zoning R1 Tax ID # 01-052012/051970

Tax Map No. 65 Grid No. 1D Parcel 822/823 Water/Sewer: Private Public

List ALL structures on property and current use: Unimproved Land

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? Yes _____ No

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ No

Is this request within one (1) mile of any incorporated town limits? Yes _____ No

Request

To operate a personal care boarding home on each of the Subject Properties in the R1 Zoning District pursuant to §267-88(F)(6).

Justification

See Attached.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

REQUEST AND JUSTIFICATION FOR A SPECIAL EXCEPTION
HARFORD COUNTY BOARD OF APPEALS STANDARD APPLICATION

Request

Special exception approval to permit a personal care boarding home uses in the R1 District §267- 88(F)(6) of the Harford County Zoning Code.

Justification – Code Application

The Subject Properties are located on Philadelphia Road, Joppa, Maryland 21085, are designated on Harford County Tax Map 65 as parcels 822 and 823, respectively, and consist of 4.13 and 4.10 acres of land, respectively (the “Subject Properties”). The Subject Properties are zoned R-1 Residential as defined in the Harford County Zoning Code. The Subject Properties are owned by Edward J. Hutchins, Jr., Karl K. Keithley, Jr., Mary Lou Keithley and Roland W. Keithley. The Applicants, Malisa and Steven Smith are the contract purchasers of the Subject Properties, and desire to develop and operate a personal care boarding home on each of the Subject Properties. It is anticipated that development will occur in two phases, with the first personal care boarding home construction on parcel 823. The proposed use requires special exception approval from the Harford County Board of Appeals, as more fully set forth in §267-88(F)(6) of the Harford County Zoning Code. The Applicants meet the requirements of that statute, namely:

- (a) The proposed use shall be located in a single-family detached dwelling.

Shown on Site Plan.

- (b) The proposed use meets the minimum lot size requirements for a conventional single-family residence in the district where located.

Shown on Site Plan.

- (c) A maximum density of 1 Boarder per 2,000 square feet of lot area shall be maintained.

Applicants anticipate 16 residents per boarding home.

- (d) Where an application is for construction of a new dwelling, the building shall be similar in appearance to other single-family dwellings in the neighborhood.

Applicants will comply.

- (e) All applicable State and County laws and regulations are satisfied.

Applicants will comply.

Justification – Limitations, Guidelines and Standards

The proposed uses will fall within the applicable limitations guidelines and standards to be adhered to by the Board of Appeals as set forth in §267-9(i):

1. The Subject Properties and uses thereon should not have an impact on the number of persons living or working in the immediate area, which consists of residential uses and other assisted living uses.
2. The proposed uses should not have any negative impact on traffic conditions. The traffic impacts will be limited to the employees working on site and family members visiting the residents of the personal care boarding homes.
3. The proposed uses should not affect the orderly growth of the neighborhood and community.
4. There will be no effect as the result of any odors, dust, gas, smoke, fumes, vibration, glare, noise as a result of the proposed uses. The uses are proposed to be located well off the State road and will be significantly buffered by wooded areas.
5. The proposed uses shall not have any adverse impact on facilities, fire protection, sewage, water, trash and garbage collection or the like. The Subject Properties shall be served by public water and sewer. The Applicants will provide for trash and garbage collection.
6. The requested use is consistent with generally accepted engineering and planning principles and practices.
7. There will be no additional impact on structures in the vicinity, such as schools, houses of worship, theaters, or hospitals, none of which are in close proximity with the Subject Properties.
8. The proposed uses are consistent with the purposes of the Code, the Master Plan and related studies for land use and the like, insofar as the proposed uses are a special exception use in the R1 district, and similar uses are located in the nearby area.
9. The proposed uses shall not have any environmental impact on any nearby sensitive features, which areas will be protected as shown on the Site Plan. There are no applicable opportunities for recreation or open space.
10. The proposed uses shall not have any negative impacts on any cultural or historic landmarks, of which none are known on the Subject Properties.

Zoning Code Requirements

Appeal from Administrative Decision/Interpretation Requirements (Article 267-7A)

- (6) Render a final written determination, within 45 calendar days of the written request, of whether a proposed use is permitted in a particular zoning district, or whether a proposed use is a legal nonconforming use upon written request of any person. The Director of Planning may determine a materially similar use exists, based on the North American Industrial Classification System (NAICS). The final written determination of the Director of Planning shall be subject to appeal to the Board by the applicant within 20 calendar days of the date of the decision.

Variance Requirements (Article 267-11)

- (A) Variances from the provisions or requirements of this Code may be granted if the Board finds that:
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of the Code would result in practical difficulty or unreasonable hardship; and
 - (2) The variance will not be substantially detrimental to adjacent properties, or will not materially impair the purpose of this Code or the public interest.

(The Board may impose such conditions as it deems necessary in each particular case. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Code.)

Special Overlay District Requirements (Article 267-62)

- (E) Natural Resources District

Variances. The Board may grant a variance to Subsection C or D upon a finding by the Board that the proposed development has been designed to minimize adverse impacts to the Natural Resources District to the greatest extent possible. Prior to rendering approval, the Board shall request advisory comments from the Director of Planning, the Soil Conservation District and the Maryland Department of the Environment.

Chesapeake Bay Critical Area Overlay District (Article 267-63)

- (1) Variances from the provisions of this section may only be granted if, due to special features of a site or other circumstances, implementation of this section or a literal enforcement of its provisions would result in unwarranted hardship to an applicant.
- (2) All applications for variances shall be reviewed by the Director of Planning for conformance with applicable provisions of this section, and a written report shall be provided to the Board of Appeals.
- (3) In granting a variance, the Board shall issue written findings demonstrating that the requested approval complies with each of the following conditions:

- (a) That special conditions or circumstances exist that are peculiar to the land or structure within the County's Critical Area, and a literal enforcement of the Critical Area Program would result in an unwarranted hardship.
 - (b) That a literal interpretation of the provisions of this section will deprive the applicant of rights commonly enjoyed by other properties in similar geographic and land use management areas within the Critical Area.
 - (c) That the granting of a variance will not confer upon the applicant any special privilege that would be denied by this section to other lands or structures within the Critical Area.
 - (d) That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.
 - (e) That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and the granting of the variance will be in harmony with the purpose and intent of this section.
 - (f) That all identified habitat protection areas on or adjacent to the site have been protected by the proposed development and implementation of either on-site or off-site programs.
 - (g) That the growth allocation for the County will not be exceeded by the granting of the variance.
 - (h) That the variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.
- I. Special exceptions. All projects requiring approval as special exceptions within the Critical Area must meet the standards of this section. The Director of Planning may require such additional information, studies or documentation deemed necessary to ensure that applicable requirements of this district are met. Applications will not be considered complete for processing until all information as required by the Director of Planning has been received.

Change/Extension of Non-Conforming Use Requirements

267-20(3) - When authorized by the Board, one nonconforming use may be substituted for another nonconforming use.

267-21(d) - The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

- (A) The proposed extension or enlargement does not change to a less restricted and more intense use.
- (B) The enlargement or extension does not exceed 50% of the gross square footage in use at the time of the creation of the nonconformity.

Special Exceptions Requirements (Article 267-87)

(a) Special exceptions require the approval of the Board of Appeals in accordance with 267-9 (Board of Appeals). The Board may impose such conditions limitations and restrictions as necessary to preserve harmony with adjacent uses, the purposes of this Code and the public health, safety and welfare.

- (b) A special exception grant or approval shall be limited to the Site Plan approved by the Board. Any substantial modification to the approved Site Plan shall require further Board approval.
- (c) Extension of any use or activity permitted as a special exception shall require further Board approval.
- (d) The Board may require a bond, irrevocable letter of credit or other appropriate guarantee as may be deemed necessary to assure satisfactory performance with regard to all or some of the conditions.
- (e) In the event the development or use is not commenced within 3 years from date of final decision, after all appeals have been exhausted, the approval for the special exception shall be void. In the event of delays, unforeseen at the time of application and approval, the Director of Planning shall have the authority to extend the approval for an additional 12 months or any portion thereof. **(See Article 267-88 for specific requirements of Special Exception uses.)**

I/We agree to provide additional information as requested by the Department of Planning and Zoning or the Hearing Examiner.

I/We do hereby declare that no officer or employee of Harford County, whether elected or appointed, has received prior hereto or will receive subsequent hereto any monetary or material consideration, any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally in connection with the submission, processing, issuance, grant or aware of the within application or petition.

I/We do solemnly declare and affirm under the penalties of perjury that this petition contains names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.

I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information and belief.

I/We agree, upon final action, to comply with all requirements or conditions imposed by the Board.

See attached

Signature of Owner *Date*

Witness *Date*

See attached

Signature of Co-Applicant *Date*

Witness *Date*

 11/19/2020

Signature of Attorney/Representative *Date*

 11/19/20

Witness *Date*

Director of Planning and Zoning *Date*

 12-14-20

Zoning Staff *Date*

