

**BEFORE THE OFFICE OF ZONING  
AND ADMINISTRATIVE HEARINGS OF  
MONTGOMERY COUNTY, MARYLAND**

**IN THE MATTER OF THE** )  
  
**APPLICATION OF** )  
  
**BYRD FAMILY LIVING TRUST** )      Application No. CU 25 - \_\_\_\_  
  
**FOR A CONDITIONAL USE FOR A** )  
  
**MAJOR IMPACT HOME OCCUPATION** )

**APPLICANT’S STATEMENT OF JUSTIFICATION**

**I.      APPLICANT’S INFORMATION**

The Applicant, Byrd Family Living Trust (“Byrd family”), owns the property at 23230 Ridge Road, Germantown (“Subject Property”) on which members of the family, including Katie Byrd, operates Clarksburg Plumbing, LLC as a home occupation. The Byrd family seeks conditional use approval to operate their plumbing business as a major home occupation.

**II.     SUBJECT PROPERTY**

The Subject Property is a 5.81 acre kite-shaped lot located at 23230 Ridge Road in Germantown. It is improved by a one and half story single family residence, a detached carport, and a detached workshop structure. The property is located in the RC (Rural Cluster) zone. Katie Byrd, a member of the Byrd family, has operated Clarksburg Plumbing, LLC, a plumbing business, at the Subject Property for many years.

**III.    ZONING AND LAND USE HISTORY**

The Subject Property is located in the RC (Rural Cluster) zone. Major Home Occupations are permitted in the RC zone by conditional use. As noted previously, Clarksburg Plumbing has operated at the subject property for several years.

**IV.    SURROUNDING NEIGHBORHOOD**

As the zoning vicinity map included with this application depicts, the Subject Property abuts single family residential properties to the north and to the south also in the RC zone. The Property also abuts on its western edge a large expanse of public park land known as the “Arora Hills” Local Park containing a tributary of the Great Seneca Creek. To the east, across Ridge Road, the Property confronts Grey Goose Farm, which sells wholesale garden and landscaping

supplies, across Ridge Road, and is located in the AR (Agricultural Reserve) zone. To the south of the Subject Property, along Ridge Road, is the Arora Hills master planned community, located in the PD (Planned Development) zone. Several other small businesses, including Smiley Jump, Electronic Service Center, EAH Landscaping Services, and M&F Carpet Cleaners are located within close proximity to the Subject Property.

## **V. APPLICANT'S PROPOSAL**

No physical changes to the property or the structures thereon are proposed. The applicant merely wishes to continue operating its plumbing business on the Subject Property. Currently, Clarksburg Plumbing operates out of a small office space in the dwelling. Residential use of the structure predominates within the building. Because of the nature of the plumbing business, customers do not visit the Subject Property. Rather, employees make service calls directly to customer's properties. However, there is a modest waiting area in the entrance of the dwelling for the rare occasion when customers do visit the property or when an employee visits management for a personnel matter.

There are two driveways on the Subject Property: the shorter, southern driveway leads to a carport adjacent to the house. A longer northern driveway leads from Ridge Road to the rear yard of the Subject Property. A large Butler building/garage and a gravel parking area is located in the rear yard. The Subject Property's northern abutting neighbor's driveway connects to the longer driveway on the Subject Property.

The general hours of operation for Clarksburg Plumbing are 7:30AM to 4:30PM, Monday through Friday. A variation to that rule is that one or two days per week the apprentice plumbers arrive at 6:00 or 6:30AM for training and they then travel directly to a job site either with their mentor or on their own.

Clarksburg Plumbing has a total of twenty-five employees. Most of those employees drive their own vehicles directly to job sites and do not visit the headquarters except for rare occasions like a meeting with senior management or an "all hands" meeting conducted once per month as described as follows: On the last Tuesday of the month, at the end of the work day, all company employees meet for professional training purposes, to discuss work load issues and to assess the status of current and future work assignments. That meeting for most employees is the only time that they are on the property during the work week.

Regarding equipment, Clarksburg Plumbing owns seven (7) vehicles. One work truck remains on the property in the event of emergencies or breakdowns while the other six (6) trucks are "take home" trucks for employees. Maintenance and fueling of those trucks is conducted off site by contracted vehicle maintenance specialists.

The scope of the plumbing business is such that most work is conducted at a customer's site. On occasions for a large job, there may need to be precise assembly of equipment to be conducted at the headquarters and then trucked to the installation site when ready. But the Applicant does not store goods on site speculating on the future need for some particular piece of equipment. For both economic and work space reasons, Clarksburg Plumbing orders equipment on a job specific basis. In some cases the equipment is delivered directly to the job site but if

assimilation of a special piece of equipment into the packaging of an assembled piece of equipment is necessary, the equipment may be delivered to the subject property for incorporation in the fabricated piece of equipment.

A deviation from that practice occurred during the Covid 19 pandemic when water heaters became particularly difficult to obtain. In order to be able to serve its customers' needs, the Applicant prospectively over-purchased water heaters, and stored them in sea containers on the property in anticipation of future demand. The availability of water heaters is no longer a significant problem and Clarksburg Plumbing is in the process of depleting its supply of stored water heaters but the sea containers remain as a vestigial reminder of that market situation. Otherwise, no piping or plumbing materials are stored on site long term. Equipment or fixtures that can be found on the property are scheduled to soon be installed on an off-site location. No outdoor storage of products or plumbing goods occurs. There are two small garages located in the rear of the property (adjacent to the two sea containers) in which equipment (generator, backhoe, small tractor) can be sheltered for protection from weather conditions or from property damage.

## **VI. PLANNING AND ZONING CONSIDERATIONS**

### *A. Master Plan*

The Subject Property is located within the 1994 Clarksburg Master Plan ("Master Plan") planning area.

### *B. Conformance with Necessary Findings*

The applicant satisfies all criteria outlined in Section 59-7.3.1.E ("Necessary Findings") of the Montgomery County Zoning Ordinance as follows:

*1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:*

*a. satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;*

Not applicable. No previous approval on the subject site.

*b. satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets the intent of the general requirements under Article 59-6;*

The proposed use, a major home occupation, is permitted by conditional use in the RC zone in which the property is located, the intent of which is to provide designated areas of the County for a compatible mixture of agricultural uses and very low-density residential development, to promote agriculture, and to protect scenic and environmentally sensitive areas. (Section 59-3.1.6; Section 59-4.3.4). The following development standards are satisfied per the requirements of Section 59-4.3.4 for standard development in the RC zone. Based on the information in Table 1

below, the existing structures meet all of the dimensional requirements of the RC zone and the proposed conditional use will not alter the footprint of the existing structures.

<p align="center"><b><u>Table 1</u></b> <b><u>RC Zone Development Standards</u></b></p>		
<b><u>RC Development Standard</u></b>	<b><u>Required</u></b>	<b><u>Existing</u></b>
Lot Area	5 acres	5.81 acres
Lot Width at Front of Building Line	300 feet	137.6 feet*
Lot Width at Front Lot Line	300 feet	150 +/- feet*

\* The size and shape of the Subject Property predates its classification in the Rural Cluster zone.

*c. substantially conforms with the recommendations of the applicable master plan;*

As discussed above, the proposal substantially conforms to the recommendations of the Clarksburg Master Plan and is not inconsistent with the Plan's purposes.

*d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

The proposed conditional use will continue to be in harmony with the general character of the neighborhood and will not constitute a nuisance because of traffic, noise, or physical activity. The low level of intensity of the operation, as well as the lack of changes to the existing structures, will not alter the character of the surrounding area.

The subject property has been used as a plumbing business since for many years. The infrastructure for the proposed use is already in place and no alterations to the exterior are needed.

The most visible parts of the Subject Property when viewed from Ridge Road is residential in appearance, in terms of design, mass, and materials, and compares favorably with the surrounding single-family residences. The modest commercial aspects of operating a plumbing business are not out of place in the neighborhood, though, and are appropriate given the close proximity of several businesses, including Grey Goose Farm, Smiley Jump, Electronic Service Center, EAH Landscaping Services, and M&F Carpet Cleaners.

*e. will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;*

Because the proposed use is "residential" in both function and appearance, with no changes to the exterior of the existing structure and grounds of the property, the modification in use will not result in an alteration of the character of the neighborhood nor a change in the residential nature of the area. Grey Goose Farm across Ridge Road from the Subject Property has a special exception but this conditional use will not "tip that scale."

*f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*

*i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or*

*ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and*

### Traffic

As set forth in the Traffic Statement filed herewith, the proposed use does not generate enough traffic to warrant the preparation of a full-scale traffic report. Therefore, the surrounding transportation network is deemed adequate to accommodate the low volume of traffic to be generated by the use.

### Schools

School capacity is not a consideration in this case as the modest size of the operation and nature as a plumbing business will not generate additional students.

### Fire and Rescue

Montgomery County Fire Station is located three and a half miles from the Subject Property.

### Public Water and Sewer Service

Septic service presently serves the property which has public water service and is deemed to be adequate for the prepared use. There is no evidence of any treatment or flow restrictions or water pressure problems.

*g. will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:*

*i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;*

- ii. *traffic, noise, odors, dust, illumination, or a lack of parking; or*
- iii. *the health, safety, or welfare of neighboring residents, visitors, or employees.*

The operation of a commercial plumbing business in a residential zone could present compatibility and appropriateness issues. However the activity level of Clarksburg Plumbing is such that it does not present an inherent adverse effect on the surrounding neighborhood. The amount of “comings and goings” of the Applicant’s employees and the rare visits by customers, means that vehicle traffic to and from 23230 Ridge Road is modest; the Subject Property displays an attractive residential structure and an adjacent enclosed car port presenting a residential appearance to the Ridge Road right-of-way while the plumbing business features are screened by a) the residential buildings in the front along the road, b) distance and c) topography. Therefore, this home occupation use does not exhibit any operational or physical feature that reaches a level that causes an inherent adverse effect on the neighborhood.

Furthermore, there is nothing about the physical setting or the neighborhood context of this site that creates a non-inherent adverse impact.

*2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.*

As noted previously, the visible features of the property are residential in use, nature and character.

## *2. Use Standards for all Home Occupations*

*a. Screening under Division 6.5 is not required.*  
Acknowledged

*b. To maintain the residential character of the dwelling:*

*i. The use must be conducted by an individual or individuals residing in the dwelling unit.*

The dwelling unit is occupied by an employee of Clarksburg Plumbing Company and their family.

*ii. The use must be conducted within the dwelling unit or any accessory building and not in any open yard area. The use must be subordinate to the use of the dwelling for residential purposes and require no external modifications that detract from the residential appearance of the dwelling unit and the use of the structure is overwhelmingly residential in use and character.*

*iii. Exterior storage of goods or equipment is prohibited.*

The use is conducted within the dwelling unit and the work shop building in the rear yard, and not in any open yard area. The dwelling unit is used for office space and the work shop is used for assembly of plumbing fixtures to be installed at customers' sites and for employee training.

*iv. The maximum amount of floor area used for the Home Occupation must not exceed 33% of the total eligible area of the dwelling unit and any existing accessory building on the same lot, or 1,500 square feet, whichever is less.*

The floor area used for the plumbing business is minimal and does not exceed 1,500 square feet. Only the one room office and a small waiting area in the residence is used for the business, and the rest of the 2,231 square foot residence is used by the resident employee and his family.

*v. An existing accessory building may be used for the Home Occupation, but external evidence of such use is prohibited. Only one accessory building may be used and it must be an eligible area.*

The existing work shop building is in part used for tool storage and equipment assembly. No external evidence of the plumbing activities use is visible.

*vi. Equipment or facilities are limited to:*

- (a) domestic or household equipment;*
- (b) office equipment; or*
- (c) any equipment reasonably necessary for art production, handcrafts, or making beer or wine.*

Equipment in the residence is limited to domestic, household, and office equipment. Equipment associated with the plumbing business is located in the work shop building where some manufacturing equipment, and some employee plumbing installation equipment is maintained.

*vii. Any equipment or process that creates a nuisance or violates any law is prohibited in the operation of a Home Occupation.*

No equipment or process at the Subject Property creates a nuisance or violates any law.

*viii. A Home Occupation is prohibited to use, store, or dispose of:*

- (a) a quantity of a petroleum product sufficient to require a special license or permit from The Fire Marshal; or*
- (b) any material defined as hazardous or required to have a special handling license under State and County law.*

No petroleum products or hazardous materials are used, stored, or disposed of at the Subject Property.

*ix. Truck deliveries are prohibited, except for parcels delivered by public or private parcel services that customarily make residential deliveries.*

Acknowledged.

*x. Display or storage of merchandise to be delivered must not be visible outside of the residence and must be contained within the maximum floor area available for the Home Occupation.*

No merchandise is visible from outside the residence. All merchandise is contained within the maximum floor area available for the Home Occupation in the residence or in the work shop building.

*xi. The storage of equipment or merchandise for collection by employees who will use or deliver it at off-site locations is prohibited.*

Clarksburg Plumbing does not use the Subject Property for long term storage of materials. Some plumbing equipment is delivered to the property for assembly for use on septic projects and then is taken to a work site for installation. But no long term storage of plumbing fixtures or equipment occurs on the Property.

*xii. A second kitchen in the home for catering or making food for off-site delivery or sales is prohibited.*

No second kitchen exists.

*xiii. The maintenance or repair of motor vehicles for compensation is prohibited.*

No motor vehicles are maintained or repaired for compensation on the Subject Property.

## **5. Home Occupation (Major Impact)**

### **a. Defined**

*Home Occupation (Major Impact) means a Home Occupation that is limited to 2 non-resident employees in any 24-hour period.*

Acknowledged. Most Clarksburg Plumbing employees keep their work vehicles at their homes and do not visit the Subject Property on a daily basis. The small office operation is limited to the resident employee and no more than two non-resident employees in any 24-hour period.

### **b. Use Standards**

*ii. Where a Home Occupation (Major Impact) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:*

- (a) The maximum number of visits and deliveries is determined by the Hearing Examiner.*
- (b) An indoor waiting room must be provided.*

An indoor waiting room is provided immediately beyond the entrance of the dwelling.

*(c) In-person sale of goods is limited to:*

*(1) the products of dressmaking, hand-weaving, block-printing, the making of jewelry, pottery or musical instruments by hand, or similar arts or hand-crafts performed by a resident of the dwelling; and*

*(2) a maximum of 5 sales per month of items ordered for delivery at a later date to customers at other locations (delivery of goods must occur off-site).*

There are no in-person sales of goods on the Subject Property. Employees provide plumbing services off-site at customers' properties.

*(d) Display or storage of goods is limited to:*

*(1) the products listed in Section 3.3.3.H.5.b.iii.(a); and*

*(2) samples of merchandise that may be ordered by customers for delivery at other locations.*

*(e) Display or storage of merchandise to be delivered must not be visible outside of the residence and must be contained within the maximum floor area available for the Home Occupation.*

The minimal supplies utilized by the plumbing technicians are not visible outside of the residence and are kept in the large work shop out of view from the public. Employees keep most of their tools in their vehicles and at their own homes.

*(f) The Hearing Examiner may grant a conditional use for a Home Occupation (Major Impact) on the same site as a Home Occupation (Low Impact), a Home Occupation (No Impact), or a Home Health Practitioner if the Hearing Examiner finds that both together can be operated in a manner that satisfies Section 3.3.3.H.5 and Section 7.3.1, Conditional Use.*

Not applicable.

*(g) The Hearing Examiner must not grant a conditional use for a Home Occupation (Major Impact) where the site is already approved for any other conditional use under Section 7.3.1, Conditional Use.*

Not applicable.

*(h) The applicant must provide valid proof of home address as established by Executive regulations under Method 2 of Chapter 2 (Section 2A-15).*

Not applicable.

*(i) Screening under Division 6.5 is not required.*

Acknowledged.

*(j) In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.*

Not applicable.

### **C. CONCLUSION**

In conclusion, this application demonstrates that the proposed conditional use application for a major home occupation for a plumbing business at 23230 Ridge Road, Clarksburg meets the development standards for the underlying RC zone, satisfies the use standards for a major home occupation, meets all applicable requirements of the Zoning Ordinance, delivers compatible land use at this site, and will provide a much needed service to the surrounding area.

Respectfully Submitted,

MILLER, MILLER & CANBY

A handwritten signature in black ink that reads "JODY KLINE". The letters are bold and slightly slanted.

Jody S. Kline

A handwritten signature in blue ink. It is a cursive signature that appears to read "Shelly E. Vallone".

Shelly E. Vallone