

ALLEGANY COUNTY BOARD OF ZONING APPEALS

**IN RE: APPLICATION OF
ROBERT GARDNER
FOR A SPECIAL EXCEPTION**

* **Case No.: 926**
* **Hearing Date: 06/06/12**

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FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the "Board") upon Robert Gardner's request for a special exception for a residential storage building greater than 900 square feet in first floor space in the "R" - Residential Zoning District.

A field inspection of the subject property was conducted by the members of the Board on May 31 and June 2, 2012. The purpose of the field inspection was to familiarize the Board members with the site layout in order for them to develop an understanding as to where the proposed use would be located and as to whether the proposed use would be constructed in compliance with the terms of the Zoning Ordinance.

At the hearing on June 6, 2012, the Board considered the attached list of exhibits which consisted of information gathered by the Division Chief and information provided by other agencies and individuals.

The proposed use will be located on the southeast corner of Mapleview and Harwood Drives; ½ mile Northeast of Maryland Route 55 and more specifically known as 16349 Harwood Drive Southwest, Frostburg, Maryland. The Applicant's home is located on the same property as the proposed use.

The proposed use is a three car garage. It will be a two story garage measuring 24 feet by 42 feet. It will be approximately 22 feet high at its highest point. The Applicant plans to use

the first floor of the garage to store gardening equipment and to house a personal workshop and to use the second floor as a personal office. No commercial activities shall be conducted on the site.

The Board considered testimony presented at the hearing in order to ascertain whether the proposed use would meet the standards and criteria of the Zoning Ordinance. The Board's findings are as follows:

1. A residential storage building greater than 900 square feet in first floor area is a special exception use in the "R" Zoning District in accordance with Section 141-92(B) of the Ordinance.
2. The lot size is approximately 298 feet by 317.7 feet, or approximately 1 acre.
3. The proposed structure will be set back at a minimum of 25 feet from the right of way and 50 feet from the center of Mapleview Drive.
4. The side yard will be approximately 30 feet wide on the east side and approximately 30 feet on the west side. The rear yard will be several hundred feet wide.
5. The garage will be approximately 22 feet high at its highest point.
6. The buildable site has a slope of less than 25 percent.
7. There are no streams within 50 feet of the site upon which the proposed use will be placed.
8. There are no designated wetlands or habitats for threatened or endangered species within 50 feet of the site where the proposed use will be located.

9. The Applicant does not plan to utilize any billboards. The Applicant does not plan to use any exterior lighting other than a single watt light bulb in a lamp beside the entrance to the garage.
10. The Board found that a standard site plan is required for the use due to the fact that the use would not involve the construction of a building larger than 2,500 square feet, the movement of 250 or more cubic yards of earth, and/or the disturbance of 20,000 square feet of surface area. Having made that determination, the Board applied the criteria of Section 141-113 of the Ordinance to the site plan which was submitted by the Applicant. The Board found that the site plan met those criteria.

Based upon the foregoing findings, the Board found that the Applicant will comply with the criteria of the Zoning Ordinance. Having made that determination, the Board next considered whether “the facts and circumstances indicate that the particular special exception use and location proposed would cause an adverse effect upon adjoining and surrounding properties unique and different, in kind or degree, than that inherently associated with such a use, regardless of its location within the zone ...”. Brandywine Enterprises v. County Council for Prince Georges County, 117 Md. App. 525 (1997).

No evidence of site-specific adverse impact was presented. The Board found that there was no evidence offered to show that the site would cause any site-specific adverse impacts.

The Board also agreed that a special condition should be imposed. In the event that the construction of the garage damages the condition of the road from its current condition, the Applicant will be responsible for the repair of the road. The portion of road for which the

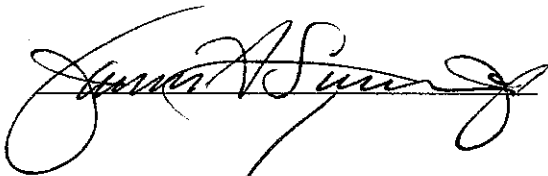
Applicant will be responsible is that portion of the construction site to the Applicant's property line.

CONCLUSIONS

Based upon the findings set forth above, the Board voted at the conclusion of the hearing of June 6, 2012, 3-0 in favor of granting the Applicant's request for a special exception for a residential storage building greater than 900 square feet in first floor area in the "R" Zoning District. As a condition to the granting of the Board's approval, the Applicant will be required to comply with the terms and criteria of the Zoning Ordinance at all times. As a special condition, the Applicant must repair any damage to the road from the construction vehicles. The Applicant must also obtain the approval of all State, County, and municipal agencies whose approvals are required for the conduct of the proposed use, including, but not limited to, Soil Conservation District, Allegany County Health Department, ACDPW Roads Division, Zoning Certification, Building Codes Compliance, House Numbering, Floodplain Management, Subdivision Review and Structural/Electrical Inspection Agency.

ATTEST

BOARD OF ZONING APPEALS



By: 
Julia Williams, Chairperson

Copies to: See Attached List
Attachment: Exhibits List