

ALLEGANY COUNTY BOARD OF ZONING APPEALS

**IN RE: APPLICATION OF
ROBERT SIMPSON
FOR SPECIAL EXCEPTION**

*

Case No.: 968

*

Hearing date: 11/3/2021

* * * * *

FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the “Board”) upon Robert Simpson’s request for a special exception for a storage building greater than 1200 square feet in the “R-1” – Residential Zoning District.

A field inspection of the subject property was conducted by the members of the Board. 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 November 3, 2021, 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 at Mr. Simpson’s residence at 12724 Darrow’s Avenue, Cumberland, Maryland 21502. The proposed use will be located on the south western terminus of Cecil Avenue: 700’ SW of Watson Street. The property is located at the Applicant’s home and is in Allegany County Maryland.

The proposed use is a detached garage exceeding 1200 square feet on the first floor. The Applicant plans to use the garage for personal use and will include the storage of vehicles and other items as necessary. No commercial activities shall be conducted on this site.

The Board considered the 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 detached garage greater than 1200 square feet in the first floor area is a special exception use in the "R-1" Zoning District in accordance with Section 360, Attachment 2, Table 1, of the Ordinance.

2. The lot size is approximately 1.01 acres.

3. The proposed use meets all the requirements of the existing zoning code in regard to set back requirements found in Code Section 360-125.

4. The garage will be approximately 40' x 48'.

5. The proposed meets all of the requirements of the existing zoning code in regard to set back requirements found in code section 360.125

6. 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.

7. There are no streams within 50 feet of the site upon which the proposed use will be placed.

8. The Applicant does not plan to use the garage for commercial purposes.

9. The Board found that a standard site plan is required for this 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 360-143 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 witnesses appeared nor evidence was presented in opposition to the request for special exception. Based upon the evidence presented by the applicant and the site visit, the Board found no evidence of a site-specific adverse impact.

CONCLUSIONS

Based upon the findings set forth above, the Board voted at the conclusion of the hearing on November 3, 2021, 3-0 in favor of granting the Applicant's request for a special exception for a detached garage greater than 1200 square feet in first floor area in the "R-1" 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. 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: 

Mark Farris, Chairman

Copies to: See Attached List
Attachment: Exhibits List

BOARD OF ZONING APPEALS

FOR ALLEGANY COUNTY, MARYLAND

CASE# 968
MR. ROBERT SIMPSON

NOVEMBER 3RD, 2021

EXHIBITS LIST

FINAL

- A. An Allegany County *Land Use Permit Summary* covering a *Land Use Permit Application* and assorted administrative documents [e.g. invoice(s), receipt(s), etc.]
- B. *Site Plan* (Note: *Plan* is ASCD approved).
- C. Completed *Petition for a Special Exception*.
- D. [Portion] Allegany County Tax Map for property identification.
- E. An *Adjoining Property Owners List* completed and signed by the Applicant.
- F. A *Notification of the Hearing*, with attached distribution list, dispatched to adjoining and adjacent property owners by the Secretary of the Board.
- G. *Notification of Hearing* dispatched to the Applicant by Secretary of the Board
- H. *Inter Office Memo*, prepared by the LDS office, distributed to the necessary *release agents* notifying them of this Case, date, time and requesting comment.
- I. *Public Notification*, dispatched to the Cumberland Times/News, for the purposes of notifying the general public of the hearing date, time and location.
- J. *Page 2D* of Saturday, October 16th, 2021, edition of the Cumberland Times/News, verifying that the *Public Notification* for Case 968 was published.
- K. Email, dated October 14th, 2021, from Mark McKenzie - SHA, with statement "... no comment..." regarding Case 968.
- L. Memorandum dated November 2nd, 2021, from James A. Squires Jr., Secretary to the Allegany County Board of Zoning Appeals, regarding *site development plan* requirements.

Mr. Brandon Abe et ux
14011 Brant Road SW
Cumberland, MD 21502

Mr.. Bryan Cain et ux
14800 Friendship Court SW
Cresaptown, MD 21502

Mr. Daniel Knieriem et ux
14800 Weitzel Boulevard SW
Cresaptown, MD 21502

Mr. Raymond Lehman II
13823 Cecil Avenue SW
Cumberland, MD 21502

Mr. Dwylin Miller et ux
106 S Whippoorwill Drive
Ridgeley, WV 26753

Mr. Arthur Simpson et ux
14802 Friendship Court SW
Cumberland, MD 21502

Mr. Jerred Wagner et al
13821 Cecil Avenue SW
Cumberland, MD 21502

Honorable Jacob Shade
Allegany County Commissioners
701 Kelly Road - Suite 408
Cumberland, MD 21502

Maildata BOZA Case 968
Hearing: November 3rd, 2021