

**ALLEGANY COUNTY BOARD OF ZONING APPEALS**

**IN RE: APPLICATION OF  
SCOTT BAUER  
FOR A SPECIAL EXCEPTION**

**\* Case No.: 927  
\* Hearing Date: 11/07/12**

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**FINDINGS**

This case came before the Allegany County Board of Zoning Appeals (the "Board") upon Scott Bauer'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 November 1, 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 November 7, 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 northeast side of Watson Street at the corner of Rock Garden Road, 600 feet northwest of Brant Road, in Cresaptown, Allegany County, Maryland. The Applicant's home is located on the same property as the proposed use.

The proposed use is a garage. It will be a one story attached garage measuring 28' x 36' in dimensions. It will be approximately 25 feet high. The Applicant plans to use the garage to store personal use vehicles and gym equipment. 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 20,000 square feet.
3. The lot is no less than 100 feet wide throughout. It has 100 feet of frontage on Rock Garden Road. It has 200 feet of frontage on Watson Street.
4. The proposed structure will be set back at a minimum of 25 feet from the nearest neighboring residence.
5. The side yard will be approximately 8 feet wide on the east side and approximately 25 feet wide on the west side. The rear yard will be approximately 6 feet wide.
6. The garage will be approximately 25 feet high.
7. The proposed use will be set back approximately 60 feet from the center of the right-of-way on Rock Garden Road.
8. The buildable site has a slope of less than 25 percent.
9. There are no streams within 50 feet of the site upon which the proposed use will be placed.
10. 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.

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11. The Applicant does not plan to utilize any billboards. The Applicant does not plan to use any exterior lighting other than dusk to dawn lighting.
12. 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 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).

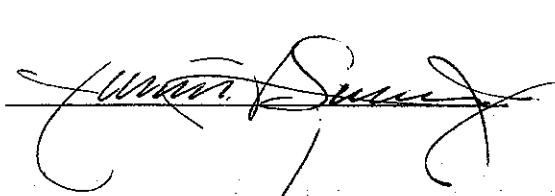
No evidence of site-specific adverse impact was presented. The Board found that there was no evidence offered to show that the site would cause any site-specific adverse impacts.

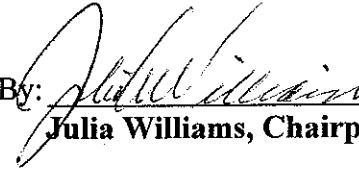
### **CONCLUSIONS**

Based upon the findings set forth above, the Board voted at the conclusion of the hearing of November 7, 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. 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

BOARD OF ZONING APPEALS  
FOR ALLEGANY COUNTY, MARYLAND

CASE# 927  
SCOTT BAUER

NOVEMBER 7<sup>TH</sup>, 2012

EXHIBITS LIST

- A. An Allegany County *Land Use Permit Summary* covering a *Land Use Permit Application, Permit Review and Approval Checklist*, and ASCD approve Site Plan.
- B. Completed *Petition for a Special Exception*.
- C. Photocopy of an Allegany County Tax Map for property identification.
- D. An *Adjoining Property Owners List* completed and signed by the Applicant.
- E. A *Notification of the Hearing*, with attached distribution list, dispatched to adjoining and adjacent property owners by the Secretary of the Board.
- F. *Notification of Hearing* dispatched to the Applicant by Secretary of the Board
- G. *Inter Office Memo*, prepared by the LDS office, that was distributed to the necessary review agents notifying them of this Case, date, time and requesting comment.
- H. *Public Notification*, dispatched to the Cumberland Times/News, for the purposes of notifying the general public of the hearing date, time and location.
- I. *Certification of Public Notice*, received from the Cumberland Times/News, certifying that the *Public Notification* was published October 13<sup>th</sup>, 2012.
- J. Returned *Inter-Office-Memo*, dated 10/26/2012, from Mark McKenzie - SHA, with comment; "... no objection..."
- K. Memorandum dated 11/05/2012, from James A. Squires Jr., Division Chief, to the Allegany County Board of Zoning Appeals, regarding site development plan requirements.
- L. Photo(s) of planned structure [Kauffman Builders]