

ALLEGANY COUNTY BOARD OF ZONING APPEALS

**IN RE: APPLICATION OF
BRIAN MALLOY
FOR A SPECIAL EXCEPTION**

* **Case No.: 929**

* **Hearing Date: 5/01/13**

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FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the "Board") upon Brian Malloy'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 April 25, 2013. 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 May 1, 2013, 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 northwest side of Rolling Oak Drive, 600 feet southwest of Pin Oak Court, in Ellerslie, 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 32' x 32' in dimensions. It will be approximately 20 feet high. The Applicant plans to use the garage to store personal use vehicles. 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 360-78 of the Ordinance.

2. The lot size is approximately 33,105 square feet.
3. The lot is no less than 100 feet wide throughout.
4. The proposed structure will be set back at a minimum of 25 feet from the nearest neighboring residence.
5. The proposed use appears to meet all of the setback requirements as set forth in the County zoning regulations.
6. The garage will be approximately 20 feet high.
7. The buildable site has a slope of less than 25 percent.
8. There are no streams within 50 feet of the site upon which the proposed use will be placed.

9. 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.

10. 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.

11. 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 360-99 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 May 1, 2013, 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:



William Powell, Acting Chairperson

Copies to: See Attached List
Attachment: Exhibits List