

ALLEGANY COUNTY BOARD OF ZONING APPEALS

IN RE: APPLICATION OF

*

Case No. 966

GEM DEVELOPMENT, INC.

*

Hearing Date: May 5, 2021

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FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the “Board”) upon Gem Development, LLC.’s request for a special exception for the expansion of a Contractor’s Storage-yard within a G-U District.

A field inspection of the subject property was conducted by the members of the Board on April 29, 2021. 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 as to whether the proposed use would be constructed in compliance with the terms of the Zoning Ordinance.

At a hearing on May 5, 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 on the north-west side of Bishop Lane, 1000 north-west of Eastman Road intersection near Cumberland election district 34.

The proposed use is for the expansion of an existing contractor storage-yard, which will be used for storage of mulch and wood chips.

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. The Contractor Storage-yard is a special exception in the “G-U” Zoning District in accordance with Code § 360-60.
2. The lot size is approximately 1.355 acres.
3. The proposed use meets all the requirements of the existing code in regard to set requirements found in Code § 360-125.
4. The proposed use will have a fifty (50) foot sectioning buffer as required in §360-135 from the eastern side of the property due to a residence east of the property.
5. The applicant does not plan to utilize any foundation of the property nor any installation of any lights, water or sewage.
6. The Board found that a minor site plan is required for this as to the intended use would disturb less than 5,000 feet of the surface area. Having made that determination, the Board applied the criteria of §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 the application will comply with the criteria of the Zoning Ordinances. 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 was presented in opposition to the requests for social exceptions. Based upon the evidence presented by the applicant and the site visit, the Board found no evidence of a sight specific adverse impact.

CONCLUSIONS

Based upon the findings set forth above, the Board voted at the conclusion of the hearing of May 5, 2020, 2-0 in favor of granting the Applicant's request for a special exception for a contractor storage-yard in the G-U 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, Social Conservation District, Allegany County Health Department, ACDPW Roads Division, Zoning Certification, Building Codes Compliance, Floodplain Management, Subdivision Review and Structural/Electrical Inspection Agency.

ATTEST



Copies to: See attached list

Attachment: Exhibits List

BOARD OF ZONING APPEALS

By: 
Mark Farris, Chairman

BOARD OF ZONING APPEALS
FOR ALLEGANY COUNTY, MARYLAND

CASE# 966
GARY MALLOW

MAY 5TH, 2021

EXHIBITS LIST
FINAL

- A. An Allegany County *Land Use Permit Summary* covering a *Land Use Permit Application* and assorted administrative documents (i.e. invoice(s), receipts, SDAT Account Summaries, etc.)
- B. *Site Plan* (entitled 'sketch plan'); accompanied by *plan of survey* (Mallow Landscaping-Coughenouer Surveying) and "Property Plat" (Bishop vs. G.E.M.)
- C. Completed *Petition for a Special Exception*
- D. Portion of an 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 6B* of Saturday, April 10th, 2021, edition of the Cumberland Times/News, verifying that the *Public Notification* for Case 966 was published.
- K. Memorandum dated May 3rd, 2021, from James A. Squires Jr., Division Chief, to the Allegany County Board of Zoning Appeals, regarding site development plan requirements.
- L. Google Earth (document) depicting subject site.
- M. *Site Plan* dated May 5th, 2021.

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BOZA Case 966
FoF Distribution List
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