

## **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 3<sup>RD</sup>, 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 16<sup>th</sup>, 2021, edition of the Cumberland Times/News, verifying that the *Public Notification* for Case 968 was published.
- K. Email, dated October 14<sup>th</sup>, 2021, from Mark McKenzie - SHA, with statement "... no comment..." regarding Case 968.
- L. Memorandum dated November 2<sup>nd</sup>, 2021, from James A. Squires Jr., Secretary to the Allegany County Board of Zoning Appeals, regarding *site development plan* requirements.

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Cumberland, MD 21502

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Honorable Jacob Shade  
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Hearing: November 3rd, 2021