

ALLEGANY COUNTY BOARD OF ZONING APPEALS

**IN RE: APPLICATION OF
DAVID JEWELL
FOR A SPECIAL EXCEPTION**

*** Case No.: 948
* Hearing Date: 04/05/17**

* * * * *

FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the “Board”) upon David Jewell’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 March 30, 2017. 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 April 5, 2017, 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 McKenzie Tower Road; 600 feet southeast of Winchester Road, and more specifically known as 13707 McKenzie Tower Road, 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 garage, measuring 40' x 40' in dimensions. It will be approximately 24 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 (B) of the Ordinance that was in effect at the time the application was filed.

2. The lot size is approximately 2.37 acres.

3. The proposed use meets all the requirements of the existing zoning code in regard to set back requirements found in Code Section 360-86 of the Code as in effect at the time of the application.

4. The garage will be approximately 24 feet high.

5. The buildable site has a slope of less than 25 percent.

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

7. 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.

8. 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.

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 360-99 of the Ordinance to the site plan as was in effect at the time of the application, 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 of April 5, 2017, 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

BOZA Case 948
FOF Distribution List

Mr. Aaron Becker
13721 McKenzie Tower Road, SW
Cresaptown,, MD 21502

Mr. Lucas Broadwater
13619 McKenzie Tower Road, SW
Cresaptown,, MD 21502

Mr. Eric Dorman
13720 McKenzie Tower Road, SW
Cresaptown,, MD 21502

Mr. Brent Dressman
13611 McKenzie Tower Road, SW
Cresaptown,, MD 21502

Mr. David Jewell
13707 McKenzie Tower Road, SW
Cresaptown,, MD 21502

Mr. Robert Mace
11600 Maces Lane, NE
Cumberland,, MD 21502

Mr. Sterlin Rebeck
13618 McKenzie Tower Road, SW
Cresaptown,, MD 21502

Mr. Joseph Shipley
13612 McKenzie Tower Road, SW
Cresaptown,, MD 21502

Mr. Jeffery Stepp
905 Yale Street
Cumberland,, MD 21502

Mr. Kevin Trezise
13815 McKenzie Tower Road, SW
Cresaptown,, MD 21502

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

BOARD OF ZONING APPEALS

FOR ALLEGANY COUNTY, MARYLAND

CASE# 948
MICHAEL JEWELL

APRIL 5, 2017

EXHIBITS LIST

FINAL

- A. An Allegany County *Land Use Permit Summary* covering a *Land Use Permit Application, Permit Review and Approval Checklist*, and *Site Plan* (stamped Rec'vd. 3/6/2017)
- 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. *Page 7B* of Saturday, March 11, 2017, edition of the Cumberland Times/News, verifying that the *Public Notification* for Case 948 was published.
- J. Returned *Inter-Office-Memo*, dated 3/8/2017, from Mark McKenzie - SHA, stating ".. no comment..."
- K. Returned *Inter-Office-Memo*, undated, from Scott Sweitzer, AC Roads Division, noting Roads Division work executed at this site, June 2015. *IOM* includes *sketch plan* of work performed by Roads Division.
- L. LDS approved *construction drawings* and related documents.
- M. Memorandum dated 4/4/2017 from James A. Squires Jr., Division Chief, to the Allegany County Board of Zoning Appeals, regarding site development plan requirements.