



**PETITION TO AMEND THE
ZONING REGULATIONS OF
HOWARD COUNTY**

DPZ Office Use Only:
Case No. ZRA- 171
Date Filed: 8-29-16

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: Amend Section 131.0, to add a Conditional Use for "School, Instructional" that will be permitted for properties adjoining a non-residential zoning district or an existing conditional use in R-20 Districts.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. Petitioner's Name Olenka Stasyshyn

Address 10207 Baltimore National Pike, Ellicott City, MD 21042

Phone No. (W) (410) 404-3305 (H) _____

Email Address olenkabren@verizon.net

3. Counsel for Petitioner Sang W. Oh, Esquire, Talkin & Oh, LLP

Counsel's Address 5100 Dorsey Hall Drive, Ellicott City, Maryland 21042

Counsel's Phone No. (410) 964-0300

Email Address soh@talkin-oh.com

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed _____

To permit owners of property adjoining a non-residential zoning district or an existing conditional uses in the R-20 zone to petition for a conditional use that would allow them to operate an instructional school to teach music, dance, martial arts, yoga, and/or meditation practice. This conditional use would limit any proposed structure to 5,000 square feet or smaller, set the hours of operation at the time of approval, and include criteria that would require that structures be compatible with the character of residential and commercial properties in the vicinity of the site.

2016 AUG 29 AM 11:41

HOWARD COUNTY COUNCIL
RECEIVED

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County. See attached Supplemental Statement

[You may attach a separate document to respond to Section 5. If so, this document shall be titled "Response to Section 5"]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. See attached Supplemental Statement

[You may attach a separate document to respond to Section 6. If so, this document shall be titled "Response to Section 6."]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) See attached Supplemental Statement

[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes.

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

See attached Supplemental Statement

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. None

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in [[Double Bold Brackets]]. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

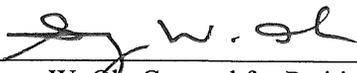
After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.
12. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Olenka Stasyshyn
Petitioner's name (Printed or typed)


Petitioner's Signature

8/26/16
Date


Sang W. Oh, Counsel for Petitioner

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

FEE

The Petitioner agrees to pay all fees as follows:

Filing fee.....\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night.....\$510.00*

The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

APPLICATIONS: One (1) original plus twenty four (24) copies along with attachments.

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised:07/12

T:\Shared\Public Service and Zoning\Applications\County Council\ ZRA Application

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

PETITIONER: Olenka Stasyshyn

DISCLOSURE OF CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR PARTY OF RECORD: Olenka Stasyshyn

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
<u>n/a</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Printed Name: Olenka Stasyshyn
Signature: Olenka Stasyshyn
Date: 8/26/16

**Petition to Amend the Zoning Regulations
Of Howard County**

Supplemental Statement

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with the current General Plan for Howard County.

The proposed Zoning Regulation Amendment is necessary to increase the availability and accessibility of instructional schools in Howard County, and is in harmony with many of the policy goals presented in PlanHoward 2030 (“PlanHoward”). First, consistent with Policy 8.13, the proposed amendment will enhance community recreational opportunities by expanding the availability of music, dance, martial art, yoga, and meditation instruction throughout the County. Under current zoning, instructional schools are relegated to commercial zones and not integrated within residential communities, despite the low intensity of the use. PlanHoward explicitly recognizes the relationship between accessibility of recreational activities and quality of life. PlanHoward at 113. By allowing schools that will provide instruction in music, dance, and other skill-based exercises in residential zones, residents will have greater and more convenient access to healthy activity and enrichment, both for themselves and their children.

Second, the proposed amendment is in harmony with Policy 10.3, which encourages policy-makers to “[e]xpand the range and scope of community planning to identify... services...or other amenities that would create more complete communities and reflect community diversity.” In terms of the intensity of the use, instructional schools are entirely compatible with residential zones and are comparable to child day care facilities and other home occupations, which have consistently been permitted as a conditional use in such zones. Similarly, many of the kinds of instruction included within the definition “instructional schools” can easily be accommodated, and often are taught, within the home of the instructor. Instructional schools are an appropriate service to be incorporated into residential zones for the purpose of creating more complete communities that reflect community diversity.

Finally, the proposed amendment promotes “location efficient” housing by locating instructional schools in closer proximity to students and encouraging less reliance on our roads. Under existing zoning, many of the activities included in the proposed definition are only permitted in the B-2, NT, and related overlay districts. As a result, students of these disciplines customarily have to drive a significant distance to attend classes, often during rush hour time periods. Allowing instructional schools in the R-20 zone as a conditional use would broaden the availability of such schools and decrease the distance any given student would need to travel to attend classes.

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of “...preserving and promoting the health, safety and welfare of the community.” Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A.

Instructional schools such as those included under the proposed amendment are commonly “priced out” of the commercial districts for which they are zoned. The proposed amendment will preserve and promote the health, safety and welfare of the community by increasing the availability of these health and enrichment activities. Furthermore, music instruction may only be offered in districts that allow Commercial Schools by right¹ and is not permitted under any existing conditional use. This is overly restrictive and, in light of the high rents noted above, will ultimately operate to limit the ability of Howard County students to receive private musical instruction.

Under the current Zoning Regulations, instructional schools for activities such as dance, martial arts, or yoga are subsumed within the definition of “Athletic Facility, Commercial”, which includes rock climbing gyms, weight training centers, swimming pools, and other more intense uses. This over-broad definition arbitrarily includes all indoor exercise activities without differentiation for intensity of use. In failing to allow flexibility for the placement of these less intense indoor activities, existing zoning regulations fail to adequately address the full spectrum of athletic instruction, some of which would be entirely appropriate for residential zones.

Instructional schools are distinguishable from the other uses listed under “Athletic Facility, Commercial” and should not be limited to this definition.² First, unlike other athletic facilities that may have a steady flow of participants from open to close, instructional schools operate under a regimented schedule of classes or lessons that may, in the conditional use context, be limited with regard to size and/or frequency of classes. Second, a large proportion of instructional school students are school-aged children compared to athletic facilities that cater primarily to adults. As noted above, instructional schools are more appropriately compared to private schools or child day care facilities than the general category of “athletic facilities”. The proposed amendment corrects this over-generalization.

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s).

As stated throughout this supplement, this ZRA will operate to increase the availability of athletic, recreational, and enrichment activities for Howard County youth and adults. While Howard County has adopted numerous policies to promote healthy lifestyles, this amendment would incorporate that policy goal into the county’s zoning regulations where it is otherwise absent. Instructional schools provide educational, disciplinary, and health benefits to students both in and out of the classroom. Consistent with everything else Howard County is doing to promote healthier living, the proposed amendment will aid in the accessibility of instructional schools and allow them to be built closer to those who use them.

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes. If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the

¹ Musical instruction for groups of six or less may be offered as a “Home Occupation”.

² Note: This ZRA does not amend the definition of “Athletic Facility, Commercial”.

nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

The proposed amendment would potentially impact all properties in the R-20 zone that are adjoining a non-residential zoning district or an existing conditional use, but only insofar as the property owner would be able to petition for approval of this conditional use. As with all conditional uses, any petition under this amendment would be evaluated for compliance with the proposed criteria and adverse impacts above and beyond those ordinarily associated with the use. The criteria included in the proposed amendment would mitigate against most adverse impacts associated with the proposed use, including sound, light, and traffic.

Proposed Text
CONDITIONAL USE ZRA

Amend Section 131.0.N. as follows:

49. School, Instructional

A Conditional Use may be granted in the R-20 District for schools providing instruction in music, dance, martial arts, yoga, and meditation practice, provided that:

- a. The parcel adjoins a non-residential zoning district or a property for which a conditional use has been granted.
- b. The proposed structure does not exceed 5,000 square feet.
- c. Parking areas shall be located and landscaped to minimize their visibility from adjacent residential properties.
- d. Reasonable standards for hours of operation shall be proposed by the petitioner and established by the Hearing Authority for each use.
- e. The design of proposed structures or additions to existing structures shall be generally compatible in scale and character with residential and commercial properties in the vicinity of the site, as demonstrated by architectural elevations or renderings submitted with the petition.

RENUMBER SUBSEQUENT CONDITIONAL USES ACCORDINGLY