



PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only: Case No. ZRA- 189 Date Filed: 6-12-19

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: To amend the Howard County Zoning Regulations to authorize the Hearing Authority to reduce the required minimum setback of 75 feet from a residential lot or parcel to no less than 25 feet for the buildings and parking uses of an indoor commercial athletic facility, if the petition includes detailed plans for screening that present an attractive and effective visual buffer for neighboring properties.

[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 David Yungmann, Howard County Council, Member

Address 3430 Courthouse Drive, Ellicott City, MD 21043

Phone No. (W) 410-313-2001 (H)

Email Address dyungmann@howardcountymd.gov

3. Counsel for Petitioner David Moore, Howard County Office of Law

Counsel's Address 3430 Courthouse Drive, Ellicott City, MD 21042

Counsel's Phone No. 410-313-2101

Email Address dmoore@howardcountymd.gov

2019 JUN 12 PM 4:10 HOWARD COUNTY COUNCIL RECEIVED

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed Council Bill 60-2016 created a new Conditional Use for Indoor Athletic Facilities, Commercial Conditional Use in the RC and RR zoning districts. The specific rationale for this ZRA was included in the application for CB 60-2016, a copy of which is attached hereto. The purpose of this zoning regulation amendment is solely to correct a structure and use setback that was established as part of the approval of CB 60-2016: the structure and use setback of 75 feet to any residential lot or parcel. This setback requirement that was adopted with no ability to reduce the setback under any circumstances has proven to be unworkable and unduly restrictive. The purpose of this ZRA is to permit more flexibility for this bulk regulation, which is appropriate given that setback

requirements in the rural west are often unique and varied. Compatibility can often be accomplished with less than a 75 feet setback.

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County The justification for indoor athletic facilities is as detailed previously in the application for CB60-2016. As for the specific amendment being proposed in this ZRA, the ability of the Hearing Authority to reduce a setback for a structure or use under appropriate circumstances will not likely result in disharmony with the Howard Plan 2030.

[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 100.0.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 100.0.A. The justification for indoor athletic facilities being in harmony with preserving and promoting the health, safety, and welfare of the community and other issues as set forth in Section 100.A is as detailed previously in the application for CB 60-2016. As for the specific amendment being proposed in this ZRA, the proposed ability of the Hearing Authority to reduce a setback for a structure or use under appropriate circumstances will not result in disharmony within the community.

[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) . Allowing indoor athletic facilities in the rural west provides needed services for residents. A reduction in the required setback for structures or parking is consistent with the manner of development in the west. Structures and uses, particularly for agricultural or other commercial and industrial uses in the rural west, often necessitate greater flexibility. Buffering and screening are important, but are often achieved by methods that may be atypical elsewhere.

[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. Any RC or RR zoned property that applies for this conditional use.

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.

Each property that will apply for this conditional use would have the opportunity to seek a reduction to a structure or use setback to a lesser distance under the appropriate circumstances.

[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.

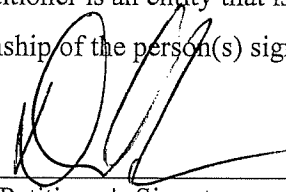
After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file

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.

David Yungmann
Petitioner's name (Printed or typed)


Petitioner's Signature

6-4-19
Date

Petitioner's name (Printed or typed)

Petitioner's Signature

Date

Petitioner's name (Printed or typed)

Petitioner's Signature

Date



Counsel for Petitioner's Signature

[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 (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

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: _____

AFFIDAVIT AS TO CONTRIBUTION

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

I, _____, the applicant in the above zoning matter
_____, HAVE _____ HAVE NOT
made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a
candidate or the treasurer of a political committee during the 48-month period before application in or
during the pendency of the above referenced zoning matter.

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

I solemnly affirm under the penalties of perjury and upon personal knowledge that the
contents of the foregoing paper are true.

Printed Name: _____

Signature: _____

Date: _____

PETITIONER: _____

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: _____

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</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: _____

Signature: _____

Date: _____

PETITIONER: _____

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

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

I, _____, the applicant in the above zoning matter
_____, AM _____ AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: _____

Signature: _____

Date: _____

Petitioner's Proposed Text

131.0.O.1.b.

[[Buildings]] (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SECTION, BUILDINGS and parking uses shall be at least 75 feet from a residential lot or parcel NOT HELD IN COMMON OWNERSHIP WITH OR OTHERWISE HELD BY AN ENTITY THAT IS OWNED BY THE PETITIONER FOR THE CONDITIONAL USE ON THE DATE OF APPROVAL OF THE CONDITIONAL USE.

(2) THE HEARING AUTHORITY MAY REDUCE THE SETBACK SPECIFIED IN THIS SECTION TO NO LESS THAN 25 FEET IF THE PETITION INCLUDES DETAILED PLANS FOR SCREENING, CONSISTING OF A COMBINATION OF A SOLID FENCE OR WALL AND LANDSCAPING OR AN EQUIVALENT COMBINATION, THAT PRESENTS AN ATTRACTIVE AND EFFECTIVE VISUAL BUFFER FOR NEIGHBORING PROPERTIES.

How The Text Would Appear If Adopted As Proposed

O. New Conditional Use Categories

Completely new Conditional Use categories established after the effective date of the current Zoning Regulations are listed below along with the zoning districts in which the Conditional Use category is permitted and the specific criteria required for approval.

1. Athletic Facilities, Commercial

A Conditional Use may be granted in the RC and RR districts for an indoor commercial athletic facility provided that:

a. A Conditional Use is not required for facilities that are reserved for use by residents of a community and their guests and are located within neighborhoods or communities where all properties are subject to recorded covenants and liens that provide for the operation and maintenance of the facilities.

b. (1) Except as provided in paragraph (2) of this section, buildings and parking uses shall be at least 75 feet from a residential lot or parcel not held in common ownership with or otherwise held by an entity that is owned by the petitioner for the conditional use on the date of approval of the conditional use.

(2) The Hearing Authority may reduce the setback specified in this section to no less than 25 feet if the petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping or an equivalent combination, that presents an attractive and effective visual buffer for neighboring properties.

- c. Reasonable standards for hours of operation shall be proposed by the petitioner and approved by the Hearing Authority.
- d. Outdoor uses, except parking uses and any outdoor lighting, shall not be permitted unless approved under the athletic facilities, outdoor Conditional Use category.
- e. The land area used for the Conditional Use shall not be subject to an ALPP purchased or other dedicated easement.
- f. The minimum lot size shall be 3 acres.

