

Introduced Nov. 4, 2019
Public hearing Nov. 18, 2019
Council action Dec. 2, 2019
Executive action Dec. 6, 2019
Effective date Feb. 5, 2020

County Council of Howard County, Maryland

2019 Legislative Session

Legislative day # 13

BILL NO. 65 - 2019 (ZRA - 189)

Introduced by: David Yungmann

AN ACT amending the Howard County Zoning Regulations to authorize the hearing authority to reduce the setback for buildings and parking uses associated with Commercial Athletic Facilities to no less than 25 feet if the petition includes detailed plans for screening that presents an attractive and effective visual barrier for neighboring properties; and generally relating to Commercial Athletic Facilities Conditional Uses.

Introduced and read first time November 4, 2019. Ordered posted and hearing scheduled.

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on November 18, 2019.

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on December 2, 2019 and Passed Passed with amendments _____, Failed _____

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 4th day of December, 2019 at 3 a.m. (p.m.)

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive December 6, 2019

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1
2 *Section 1. Be it enacted by the County Council of Howard County, Maryland, that the Howard*
3 *County Zoning Regulations are hereby amended as follows:*

4
5 *By Amending:*

6 *Section 131.0: "Conditional Uses"*

7 *Subsection O. "New Conditional Use Categories"*

8 *Number 1. "Athletic Facilities, Commercial"*

9
10 **HOWARD COUNTY ZONING REGULATIONS**

11
12 **SECTION 131.0: Conditional Uses**

13
14 **O. New Conditional Use Categories**

15 **1. Athletic Facilities, Commercial**

16 b. ~~[[Buildings]]~~ (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SECTION,
17 BUILDINGS and parking uses shall be at least 75 feet from a residential lot or parcel.

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

23 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this*
24 *Act shall become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on December 6, 2019.

Diane Schwartz Jones
Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

Sayers, Margery

From: Yungmann, David
Sent: Wednesday, November 20, 2019 11:24 AM
To: Susan Garber; CouncilMail
Subject: RE: In opposition to CB 65-2019

Susan,

Your concerns are confusing since you object to it benefitting only one property owner but are worried about it chipping away protections for other properties. We specifically limited this change to this single Conditional Use. BTW, this is not a subdivision, it's a Conditional Use.

Most Conditional Uses originate when a property or business owner has an idea and demonstrates to county authorities that it could benefit the community. An active youth sports coach from my neighborhood came up with this idea to address a critical community need. He spent the money to create the Conditional Use and will be the first to go through the approval process. However, I am already discussing with another property owner and am hopeful that a few will end up being created. There is tremendous demand and not much profit to be made in this type of operation so we need property owners who are willing to do something good for the community.

Please keep in mind that this is not the ZRA to create a new Conditional Use or approve one, it's a minor technical revision. In this case the set-back is from a farm under common ownership and not even close to a home. We did not ask that it be set 25 feet, rather kept it at 75 feet unless the authority saw it appropriate to reduce it. It's common for a council member to introduce a ZRA for small things.

David Yungmann
Howard County Council – District 5
(410) 313-2001
<https://cc.howardcountymd.gov/Districts/District-5>

From: Susan Garber <buzysusan23@yahoo.com>
Sent: Monday, November 18, 2019 2:04 PM
To: CouncilMail <CouncilMail@howardcountymd.gov>
Subject: In opposition to CB 65-2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council members,

I see no reason to continue legislating ZRAs designed to benefit a single owner and single situation—in effect 'doing a constituent a favor'. Such favors are not easily available to all. In this case, it appears that the owner should simply subdivide his property before proceeding and follow existing regulations. Our existing regulations, particularly those dealing with Conditional Use, are already chipping away any protections for other properties.

Sincerely,

Susan Garber

Sayers, Margery

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Sincerely,

Susan Garber



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 4:15 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.

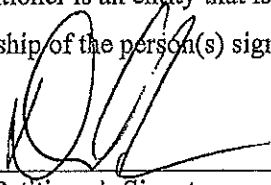
After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file

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

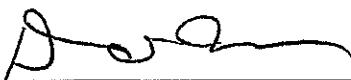
6-4-19
Date

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.



September 5, 2019

TECHNICAL STAFF REPORT

Planning Board Meeting of September 19, 2019

Case No./Petitioner: ZRA-189 – David Yungmann

Request: Amend Section 131.0.O.1.b. to eliminate the 75-foot setback between properties under common ownership and to allow the Hearing Authority to reduce the 75-foot setback to no less than 25 feet if the use is screened from neighboring properties by landscaping and a fence/wall.

I. BACKGROUND AND HISTORY OF EXISTING ZONING REGULATIONS

In 2016, Council Bill 60-2016/ZRA-165 added *Athletic Facilities, Commercial*, as a Conditional Use in RC and RR zoning districts as shown below:

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. Buildings and parking uses shall be at least 75 feet from a residential lot or parcel.
- 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.

II. DESCRIPTION AND EVALUATION OF PROPOSAL

This section contains the Department of Planning and Zoning (DPZ) technical evaluation of ZRA-189. The Petitioner's proposed amendment text is attached as Exhibit A, Petitioner's Proposed Text.

The Petitioner contends that commercial uses in the rural west require flexibility regarding setbacks due to the nature of rural development, which can consist of numerous residential, agricultural, and commercial buildings spread throughout a property. Pursuant to Sec. 131.0.D, variances may not be granted to the requirements of Sec. 131.0.N and O. However, the Hearing Authority may reduce setbacks where specifically identified in the Conditional Use criteria. Therefore, the Petitioner proposes the following amendments to add flexibility for Commercial Athletic Facilities in complying with the 75-foot Conditional Use setback.

Sec. 131.0.O.1.b.1

The Petitioner proposes to eliminate the 75-foot setback requirement between properties that on the date of Conditional Use approval are under common ownership.

DPZ does not recommend eliminating this requirement because a property could be sold or transferred before the Conditional Use is established. Consequently, a new owner may not be aware of the Conditional Use and its approved location on or near an intervening property line. Further, if the second proposed text amendment, described below, can provide setback relief it is unclear why additional relief is necessary.

Sec. 131.0.O.1.b.2

The Petitioner proposes to allow the Hearing Authority to reduce the 75-foot setback to no less than 25 feet if the use is screened from neighboring properties by landscaping and a fence/wall.

This amendment provides the Hearing Authority the discretion, with public input, to require an appropriate separation distance and screening to mitigate the potential impacts of the proposed use. This is consistent with other commercial Conditional Use categories permitted in RC/RR, such as Funeral Homes and Kennels, that allow the Hearing Authority to reduce setbacks. Therefore, DPZ supports the proposed amendment.

III. GENERAL PLAN

The Petitioner asserts that ZRA-189 is also in harmony with the Parks and Recreation section of Chapter 8, Public Facilities and Services of the PlanHoward 2030 General Plan. Although this section only focuses on public parks and recreation facilities, one policy addresses an overall need for more recreation options in the future.

Policy 8.13

“Enhance community recreational opportunities.”

The Petitioner states that amending the Zoning Regulations to allow non-public recreational facilities is in harmony with General Plan policies. In addition, the Petitioner notes that allowing non-public recreational facilities provides additional recreational opportunities at no cost to the County. DPZ concurs that the proposed ZRA is in harmony with the General Plan and will allow for additional recreational opportunities for county residents, specifically in rural areas.

IV. RECOMMENDATION

For the reasons noted above, the Department of Planning and Zoning recommends that the ZRA-189 be **APPROVED WITH MODIFICATIONS**, as described above and drafted in Exhibit B.

Approved by:


Valdis Kazdins, Director

9/5/19

Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

Exhibit A

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

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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.

Exhibit B

DPZ'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.

(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.

(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.




HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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FAX 410-313-3467
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Subject: Planning Board Recommendation
ZRA-189 (David Yungmann)

To: Recipients of Planning Board Recommendations

From: Toni Sieglein 
Division of Public Service and Zoning Administration

Date: October 21, 2019

Attached is the Planning Board Recommendation for ZRA-189. Should you have any questions, please contact this office at 2350.

cc: Diane Jones, County Council
Gary Kuc, County Solicitor
David Moore, Office of Law
Howard County Council
Robin Regner, Administrative Assistant to Zoning Board
Jennifer Sager, Legislative Coordinator
Theodore Wimberly – Legislative Assistant

:tms
Attachment

1 DAVID YUNGMANN , * BEFORE THE
2 PETITIONER * PLANNING BOARD OF
3 ZRA-189 * HOWARD COUNTY, MARYLAND

4 * * * * *

5 MOTION: Amend Section 131.0.o.1.b to allow the Hearing Authority to reduce setbacks for
6 Commercial Athletic Facility Conditional Uses to no less than 25 feet if an attractive
7 and effective visual buffer is provided.

8
9 ACTION: *Recommended approval; Vote 5-0.*

10 * * * * *

11
12 RECOMMENDATION

13
14 On September 19, 2019, the Planning Board of Howard County, Maryland, considered the petition of
15 David Yungmann (Petitioner) to amend Section 131.0.O.1.b of the Howard County Zoning Regulations
16 related to the *Athletic Facilities, Commercial* Conditional Use category. Zoning Regulation Amendment-189
17 (ZRA 189) proposed to eliminate the 75-foot setback between properties under common ownership and to
18 allow the Hearing Authority to reduce the 75-foot setback to no less than 25 feet if the use is screened from
19 neighboring properties by landscaping and a fence/wall.

20
21 The Planning Board considered the petition and the Department of Planning and Zoning (DPZ)
22 Technical Staff Report and Recommendation. DPZ recommended approval of ZRA 189, with modifications.
23 DPZ supported allowing the Hearing Authority to reduce the 75-foot setback to 25 feet if screening is
24 provided. However, DPZ did not support the proposal to eliminate the 75-foot setback between properties that
25 are under common ownership on the date of Conditional Use approval. DPZ cited concerns with eliminating
26 setbacks entirely based on ownership, since Conditional Uses have at least two years from the date of
27 approval to be established and properties can be sold prior to establishment.

28 Mr. Yungmann testified that the Conditional Use category of Indoor Commercial Athletic Facilities
29 was created for a specific use on a property. Even though many conditional use categories provide discretion
30 to the Hearing Examiner to modify setbacks, this discretion was not included for the Indoor Commercial
31 Athletic Facility use category. Mr. Yungmann stated that he would like to solve the situation at this property
32 to fulfill a community need for more athletic facilities in western Howard County. He further explained that
33 while he does not find it warranted to impose setbacks on adjacent parcels that are in common ownership,
34 DPZ's recommended modification could solve the issue depending on the decision of the Hearing Examiner.

1 One person testified in support of the ZRA, stating that the last time the County comprehensively
2 examined conditional uses was 1992 and it is not uncommon to look at regulations that pertain to a certain
3 case to fix a problem, rather than waiting for the next Comprehensive Rezoning process.

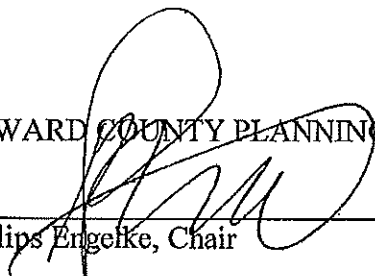
4 Board Discussion and Recommendation

5 During work session, the Board discussed issues with eliminating setbacks for adjacent parcels under
6 common ownership and expressed concerns that parcels could be sold at some point in time. The Board also
7 acknowledged that adjacent parcels under common ownership could be combined or the use could be
8 established over both properties, so the setback would no longer apply. The Board generally supported
9 leaving the setback decision to the Hearing Examiner as proposed in DPZ's modification.

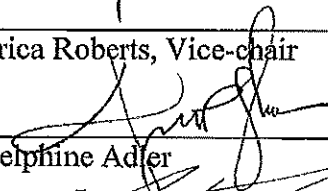
10 Mr. Coleman motioned to approve the DPZ modification to ZRA 189. Mr. McAliley seconded the
11 motion, which passed 5-0.

12 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 17th day of
13 Oct. 2019, recommends that ZRA-189, as modified by the Department of Planning and Zoning,
14 be Approved.


15
16
17 HOWARD COUNTY PLANNING BOARD

18
19 
Phillips Engelke, Chair

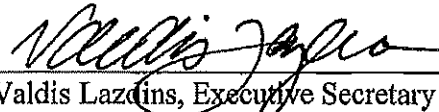
20
21 Erica Roberts, Vice-chair

22
23 
Delphine Adler

24
25 
Ed Coleman

26
27 
Kevin McAliley

28
29
30 ATTEST:

31 
32 Valdis Lazdins, Executive Secretary