

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND SPECIAL EXCEPTION</b>		
<b>(23 W. Aylesbury Road)</b>	*	OFFICE OF
8 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	ADMINISTRATIVE HEARINGS
American Lubrication Equipment, Inc.		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Baltimore Recreation, LLC		
<i>Lessee</i>	*	<b>Case No. 2014-0081-SPHX</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Special Exception filed by Thomas C. Kleine, Esquire, on behalf of the legal owner, American Lubrication Equipment, Inc. and Baltimore Recreation, LLC, Lessee (“Petitioners”). The Petition for Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to approve a modified parking plan associated with Applicant’s proposed use (Indoor Trampoline Park). In addition, a Petition for Special Exception was filed to use the herein described property for Commercial Recreational Facility (Indoor Trampoline Park).

Appearing at the public hearing in support of the requests were C. Franklin Eck, Jr., Eben Eck, Braden Holcomb, Joe Caloggero and Mitch Kellman from Daft McCune Walker, Inc. the firm that prepared the site plan. Thomas C. Kleine, Esquire, appeared as counsel and represented the Petitioners. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. No Protestants or interested citizens attended the hearing, and the file does not contain any letters of opposition.

The only substantive Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR) on October 8, 2013, indicating that a landscape

plan must be received and approved prior to the issuance of any permits the Department of Planning (DOP) submitted a comment on October 28, 2013, indicating that “this proposal is appropriate for the area.”

Testimony and evidence offered at the hearing revealed that the subject property is 3.346 ± acres and is zoned ML-IM. The site is improved with a commercial building, which previously was used as a business office for American Lubrication Equipment Corp. The space is now vacant, and the Lessee has proposed to operate a commercial recreational facility on site. Mr. Holcomb, a manager of the Lessee, indicated that this will be the first indoor trampoline park in Baltimore County, although a similar facility opened in Columbia Maryland within the last few months. As noted in the DOP’s ZAC comment, there are two other commercial recreational facilities (a gymnastics arena and rock climbing facility) within ¼ mile of the subject property, and both are also zoned ML-IM

### **Special Hearing**

The Petitioners seek approval of a modified parking plan, which would allow off street parking to be provided at a ratio of 2 spaces per 1,000 square feet of gross floor area. Counsel for Petitioners noted that in a recent case, the undersigned approved a modified parking plan for a commercial recreational facility on similar terms. See Case No.: 2013-0007-SPH.

In support of the relief, Petitioners submitted a report of Joseph Caloggero, P.E., with The Traffic Group. Exhibit 2. Mr. Caloggero opined that the “proposed parking for the Sky Zone (trampoline park) is sufficient.” Id. In his report, Mr. Caleggero cites a study prepared by RK Engineering Group, Inc. (Included in Exhibit 2) which examined three trampoline park facilities in California. The study found that the “weighted average peak parking rate for all

three (3) locations for Saturday, June 11, 2011 is 2.08 parking spaces per thousand square feet of gross floor area.”

Based on this evidence - - as well as Mr. Holcomb’s experience with other Sky Zone franchised facilities indicating that such a parking ratio is sufficient - - I believe providing parking at a 2 space per 1,000 square feet gross floor area ratio would be acceptable. The parking facility proposed, as shown on the plan, will not be detrimental to the health, safety or general welfare of the community, as evidenced by the lack of County and/or community opposition. The patrons of the facility will be (in large part) children, who of course do not drive. Instead, they will be dropped off and picked up by their parent(s), meaning that there will be frequent “turnover” of spaces, even during peak times. I believe Petitioners have satisfied the requirements of B.C.Z.R. §409.8 (incorporated by reference in B.C.Z.R. §409.12), and would experience an undue hardship if the regulations were strictly interpreted.

### **Special Exception Standards**

Special exception uses are presumptively valid and consistent with the comprehensive zoning plan, People’s Counsel v. Loyola College, 406 Md. 54, 77 n. 23 (2008), and no evidence was offered here to rebut the presumption. Mr. Kellman testified, via proffer, the Petitioners satisfied the criteria set forth in B.C.Z.R. §502.1 and I concur. Similar facilities in the area operate pursuant to special exception, and the proposed use would provide increased opportunities for healthy activity and recreation, which will benefit the area.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioners’ Special Hearing and Special Exception requests should be granted.

THEREFORE, IT IS ORDERED this 13<sup>th</sup> day of December, 2013, by this Administrative

Law Judge, that Petitioner's request for Special Hearing to approve a modified parking plan associated with Applicant's proposed use (Indoor Trampoline Park), be and is hereby APPROVED, and parking shall be provided at a rate of not less than 2 spaces per 1,000 square feet of gross floor area, and

IT IS FURTHER ORDERED that the Petition for Special Exception to use the herein described property for a Commercial Recreational Facility (Indoor Trampoline Park), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Special Exception granted herein must be utilized within two years of the date hereof, unless extended by subsequent Order.
3. The Special Exception area, in which all commercial recreational facility uses and activities must take place, is the approximately 1.9 acre parcel highlighted on the site plan (Exhibit 1).
4. Petitioners must submit for approval by Baltimore County, prior to the issuance of any permits, a landscape plan.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

\_\_\_\_\_  
Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB/sln