

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND SPECIAL EXCEPTION		
(1131 Merritt Blvd.)	*	OFFICE OF
12 th Election District		
7 th Council District	*	ADMINISTRATIVE HEARINGS
Merritt Manor, LLC		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
DMD Gyms, LLC d/b/a Gold's Gym		
<i>Lessee</i>	*	Case No. 2014-0240-SPHX

* * * * *

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 Gregory E. Rapisarda, Esquire, on behalf of the legal owner, Merritt Manor, LLC and DMD Gyms, lessee (“Petitioners”). The Petition for Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to amend Special Exception Case No. 04-145-XA and expand the existing 39,938 sq. ft. health club (Gold’s Gym) by an additional 1,393 sq. ft. for a total of 41,331 sq. ft. In addition, a Petition for Special Exception was filed to approve 1,393 sq. ft. for use as a community building (health club).

Appearing at the public hearing in support of the requests was Gregory E. Rapisarda, Esquire, from Saul Ewing, LLP. The Petition was advertised and 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. No substantive Zoning Advisory Committee (ZAC) comments were received.

Special Hearing

The subject property is zoned BL, and is improved with a strip center known as Merritt Manor Shopping Center. Gold’s Gym has operated a fitness facility at the location since 2003,

pursuant to a special exception granted in Case No. 2004-145-XA. The petition for special hearing seeks to amend the special exception granted in that earlier case, to reflect the addition of 1,393 sf. of leased area to the “special exception area.” Counsel explained a dentist is vacating his office at the shopping center, and Gold’s Gym will expand its “workout area” to include that space, as shown on the plan marked as Exhibit 1.

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. As noted, the gym has been operating as a special exception use at the location for over 10 years, and the Department of Planning indicated in its zoning comment that the “acquisition of the additional square footage will not adversely impact the health, safety and general welfare of the surrounding community.” Thus, the petition will be granted.

THEREFORE, IT IS ORDERED this 11th day of July, 2014, by this Administrative Law Judge, that the Petition for Special Hearing to amend Special Exception Case No. 04-145-XA and expand the existing 39,938 sq. ft. health club (Gold’s Gym) by an additional 1,393 sq. ft. for a total of 41,331 sq. ft., be and is hereby APPROVED;

IT IS FURTHER ORDERED that the Petition for Special Exception to approve 1,393 sq. ft. for use as a community building (health club) at 1131 Merritt Boulevard, Dundalk, Maryland 21222 (as shown on the site plan marked and admitted as Exhibit 1), 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.

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