

IN RE: PETITION FOR SPECIAL EXCEPTION

W side of Whitehead Road, 1000 +/- feet N
of Security Blvd.
1st Election District
4th Councilmanic District
(1716 Whitehead Road)

1708-1716 Whitehead LLC
Petitioner/Legal Owner
Skateworks LLC
Lessee

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY

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* **Case No. 2009-0013-X**
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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Exception filed by the legal owner of the subject property, 1708-1716 Whitehead LLC, and the lessee, Skateworks LLC. Petitioner is requesting a Special Exception pursuant to Section 423.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an arcade located in a skating rink. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requested special exception was Petitioner Carolyn Pratt, managing member of the proposed lessee, Skateworks LLC, and Thomas A. Church, with Development Engineering Consultants, Inc., the professional engineer who prepared the site plan. Arnold Jablon, Esquire, appeared as Petitioner’s attorney. Also in attendance were David Green with the Baltimore County Office of Planning and Pierce Macgill with the Baltimore County Department of Economic Development.

Testimony and evidence revealed that the subject property is rectangular in shape, contains 3.211 acres of land and is zoned BR-IM. The property is situated on the west side of Whitehead Road, north of Security Blvd. and east of Interstate 695 in the Woodlawn area of Baltimore County. The property is improved with two abutting warehouse style buildings that are one-story each. The building that is the subject of this special exception request fronts on Whitehead Road; the second building is located to the rear of the property.

Mr. Jablon proffered the testimony of Mr. Church, who would be accepted as an expert witness and is familiar with the site and the B.C.Z.R. as it relates to the proposed use. Mr. Jablon indicated that a skating rink (roller rink) is permitted in a B.R. zone and will be the principle use at this location. Ms. Pratt is the managing member of Skateworks LLC. Skateworks LLC desires to open a skating (roller) rink at this location. Petitioner has invested substantial resources already to renovate the building and make it suitable for the proposed use. As shown on the site plan, the building is 61,542 square feet, of which 35,226 square feet will be for the skating rink. In addition to the skating rink, Petitioner also proposes an arcade. This will enable the Petitioner to generate additional revenue to finance the continued improvements to the building, as well as to provide patrons with additional entertainment options. Fifty (50) arcade machines are proposed and will be family style machines appropriate for children and teenagers. Approximately 2,125 square feet of the building is proposed for the arcade area.

Petitioner's Exhibit 2 is an aerial photograph that illustrates the commercial and industrial character of the area. Interstate 695 borders the property to the west and large commercial buildings border the property to the north, south and east. The subject property is not near residential areas so there will be no impact to residential neighborhoods. The proposed roller skating rink and the requested arcade therein has widespread support throughout the community.

In particular, the project received written support from the Woodlawn Estates Home Association (WEHA); the Woodlawn Community Education and Development Association, Inc.; the Security Woodlawn Business Association; the Honorable Adrienne A. Jones, Speaker Pro Tem of the Maryland House of Delegates, whose District includes the subject property; and the Baltimore County Office of Community Conservation. These letters were marked and accepted into evidence as Petitioner's Exhibits 3 through 7, respectively. In addition, Pierce Macgill with the Baltimore County Department of Economic Development appeared and testified in support of the project. David Green, with the Office of Planning, also appeared and expressed support for the project.

Mr. Jablon proffered that if called to testify, Mr. Church would indicate that the proposed arcade of up to 50 family oriented amusement devices would not be detrimental to the health, safety, or general welfare of the locale, nor would the arcade have any negative impacts on the community. Mr. Church would further testify that the proposed arcade use would meet all criteria set forth in Section 502.1 of the B.C.Z.R. and would be consistent with the property's zoning classification and within the spirit and intent of the B.C.Z.R.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

Based on the testimony and evidence, I am persuaded to grant the requested relief for an arcade consisting of up to 50 family oriented amusement devices that are appropriate for children and teenagers. Section 423.B of the Baltimore County Zoning Regulations (B.C.Z.R.) permits an arcade by special exception in the B.L., B.M. or B.R. Zones as the sole principal use or in

combination with one or more of the entertainment, leisure, or recreation uses provided for in Section 422.A of the B.C.Z.R.

In my judgment, the proposed arcade will not be detrimental to the community, and based on the letters in support of the skating rink project, will prove to be in an asset to the community in providing family oriented entertainment alternatives for local residences in Woodlawn.

I also find that the proposed use meets the special exception criteria set forth in Section 502.1 of the B.C.Z.R. Finally, I find that the arcade use at the subject location will not have any adverse impacts above and beyond those inherently associated with such use irrespective of its location within the zone. *See, Schultz v. Pritts*, 291 Md. 1 (1981).

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's special exception request should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 18th day of September, 2008 that Petitioner's request for a Special Exception pursuant to Section 423.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an arcade located in a skating rink be and is hereby GRANTED, subject to the following conditions:

1. Petitioner may apply for his necessary building or use permits, as applicable, and be granted same upon receipt this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner 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_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz