

IN RE: PETITIONS FOR SPECIAL HEARING * AND SPECIAL EXCEPTION (1924 Greenspring Drive) * Wilmer Realty, LLC, <i>Legal Owner</i> * Titan Games, <i>Lessee</i> * <i>Petitioners</i> *	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY Case No. 2013-0007-SPHX
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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Hearing and Special Exception filed by Jennifer R. Busse, Esquire, on behalf of Wilmer Realty, LLC, Legal Owner, and Titan Games, Lessee, (the “Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), if required, to amend/update the approval provided in prior companion zoning cases (08-143-SPH and 08-144-SPHX) permitting various parking requirements and arrangements. In addition, a Petition for Special Exception was filed to permit a Commercial Recreational Facility (indoor game playing, club and party meeting space, and a showroom space for associated products and materials), pursuant to § 253.2.D.3 of the B.C.Z.R.

Appearing at the public hearing in support of the requests were Roger Cassell, Kurt Pierson, Mike Gioioso, Jon DiVirgilio, and Rick Richardson, with Richardson Engineering, LLC, the consulting firm that prepared the site plan. Jennifer R. Busse, Esquire, with Whiteford, Taylor & Preston, LLP, appeared as counsel and represented the Petitioners. Eric Rockel appeared as an interested citizen. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. The file does not contain any letters of opposition.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

The subject property is just over two (2) acres in size and is located in a business park in Timonium. The Petitioner proposes to operate a facility (housed in a 4,000 square foot space on the second story of a warehouse building) that will attract niche hobbyists who hold meetings and competitions involving battlefield recreations with small scale action figurines. The photos submitted at the hearing reflect that the “battlefields” are situated on elevated platforms, much like a seasonal train garden display. Exhibits 3A-D. The Petitioner testified that the facility will not have coin operated amusement devices (i.e., video poker machines).

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. Petitioners’ expert, Mr. Richardson, testified via proffer that the project would satisfy Section 502.1 of the B.C.Z.R., and I concur, based upon the same factors Mr. Richardson recited in his testimony. Most importantly, he described the proposed operation as a “destination” use, in that the business will be patronized by a group of hobbyists, many of whom know each other. In addition, Mr. Richardson noted that the business would not generate a large volume of traffic, and that it is located a good distance off of York Road, and would therefore not contribute to the heavy traffic load on that thoroughfare.

Special Hearing

Petitioners have also requested special hearing relief, primarily at the urging of County zoning officials. Their concern was whether approval in the present case would in any way

impact upon the alternative parking arrangements for other commercial users at 1928 and 1930 Greenspring Drive approved in Case Nos. 08-143-SPH and 08-144-SPHX. Mr. Richardson explained, and it is clearly detailed on the site plan, that the 40 spaces dedicated to those businesses were excluded from the parking calculations for the present site. See Exhibit 1, note 17. As such, I do not believe the approval in this case will in any way impact those prior zoning orders, and special hearing relief is therefore not required.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioners' Special Exception request should be granted, subject to the comments and conditions which follow.

THEREFORE, IT IS ORDERED this 11th day of September, 2012, by this Administrative Law Judge, that Petitioners' request for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), be and is hereby DISMISSED without prejudice, given that such relief is unnecessary in the present case;

IT IS FURTHER ORDERED that Petitioners' Special Exception request from § 253.2.D.3 of the B.C.Z.R., to permit a Commercial Recreational Facility (indoor game playing, club and party meeting space, and a showroom space for associated products and materials), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for their 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. Unless extended by subsequent Order, the special exception approval granted herein must be utilized within two (2) years from the date hereof.

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/dlw