

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Kelly Hanley Pontiac, Inc., legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 413.2 f. to permit a second (other) business sign on the described premises having an area of one hundred thirty-seven (137) square feet in lieu of the required one hundred (100) square feet.

1. The requested variance and proposed sign is superior from an aesthetic standpoint than if the Regulations were strictly followed.
2. The requested variance and proposed sign is superior from an aesthetic standpoint than if the Regulations were strictly followed.
3. For such other and further reasons as may be shown at the time of the hearing hereon.

See attached description

Property is to be posted and advertised as prescribed by Zoning Regulations. If we agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, we agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

KELLY HANLEY PONTIAC, INC.
By: Charles B. Kelly, Jr.
Contract purchaser
Charles Kelly, Pres. Legal Owner
Address: 8803 Bel Air Road
Baltimore, Maryland 21238

Protestant's Attorney

ORDERED By The Zoning Commissioner of Baltimore County, this 23rd day

of August, 1972, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County on the 26th day of October, 1972, at 10:15 o'clock

James D. Nolan
Zoning Commissioner of Baltimore County.

(over)

RE: PETITION FOR A VARIANCE : BEFORE THE
SE side of Belair Road 340' SW : DEPUTY ZONING
of Ebenezer Road - 11th District : Kelly Hanley Pontiac, Inc. :
Petitioner : COMMISSIONER
NO. 73-103-A (Item No. 38) : OF
: BALTIMORE COUNTY

This Petition represents a request for a Variance from the sign area requirements. The sign in question advertises a new car agency located on the southeast side of Belair Road, approximately three hundred and forty (340) feet southwest of Ebenezer Road.

The Petitioner is specifically requesting a Variance to Section 413.2 which states:

"Other business signs (not exceeding three on any premises) may be used if limited to a total area of 100 square feet in Business Zones, and 200 square feet in M.L. and M.H. Zones."

The Petitioner has presently erected two (2) signs of identical area (one hundred and thirty-seven (137) feet) on the above described property. A permit was issued for the erection of one (1) sign. The second sign, however, was delivered and erected in error. This was brought about by the confusion that resulted when employees of the original sign company, because of illness, called in a second sign company to complete the improvements on the subject property.

The Petitioner's case consisted of four (4) witnesses, namely, Mr. Charles Kelly, President of Kelly Hanley Pontiac, Inc., Mr. Eugene Raphael, a Registered Professional Land Surveyor, who testified concerning the engineering aspects of the situation, Mr. Roger C. Jones, of the Tri-State Sign Company, Inc. who testified as to the details concerning the sign and, finally, a real estate broker, Mr. Walter McGuire, who covered the real estate factors involved in this requested Variance.

Mr. Kelly noted that a permit had been issued for one hundred and thirty-seven (137) square foot sign as the primary sign, while a second sign

of one hundred (100) square feet was called for. However, before the first sign company delivered and installed the two (2) signs, illness intervened, and a second sign company, Tri-State Sign Company, Inc. took over the job. It was found when the signs were actually delivered to the site that two (2) signs, each having one hundred and thirty-seven (137) square feet in area, had been furnished.

Mr. Raphael, the engineer, after reviewing his qualifications, and his participation in many zoning matters, including the earlier obtaining of zoning for the overall property, covered the various engineering aspects of the case.

Mr. Roger Jones, a veteran of the sign business for over twelve (12) years and a specialist in design, pointed out that the subject sign is a General Motors Corporation design and is a standard throughout the country. Mr. Jones noted the great practical difficulty and unreasonable hardship in requiring this sign to be removed, and he also pointed out the esthetic considerations which indicate that two (2) signs of equal size should be utilized. He indicated as well that removal of the existing sign would place Kelly Hanley in an inferior position as far as other businesses in the neighborhood are concerned, and that two (2) such signs would be permitted were the site developed for two (2) separate businesses, each having one hundred fifty (150) feet in frontage.

Mr. Walter McGuire, a well known Baltimore County realtor and appraiser, testified as the final witness for the Petitioner. After describing the neighborhood he pointed out that he had carefully examined the neighborhood on the day preceding the hearing and that in his opinion as a professional realtor and appraiser the two (2) signs as erected would have no adverse effect upon area real estate values or other area real estate considerations. He stated that in his opinion the signs were esthetically balanced and pleasing and of benefit, both to Kelly Pontiac as well as the general public using these facilities, and the Perry Hall community. As did the other witnesses in the

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case, he pointed out the great practical difficulty and unreasonable hardship that would result if the second sign was caused to be removed. The Petitioner respectfully submits that in view of the essentially favorable Zoning Advisory Committee Comments, as well as the very complete testimony of the Petitioner and his expert witnesses, and the lack of any intent to deliberately violate the zoning laws that the subject Variance requested should be granted, particularly in view of the great difficulty and unreasonable hardship which would flow from requiring the second sign to be scrapped and a sign of lesser size, and lesser esthetic qualities and balance, to be substituted in its place.

In addition to testimony by these witnesses, the Petitioner's attorney noted that the Zoning Advisory Committee had no adverse comment to make with regard to site planning factors as they relate to their particular agencies.

Without reviewing the evidence in detail but based on all the evidence presented at the hearing, it is the opinion of the Deputy Zoning Commissioner that strict compliance with the Baltimore County Zoning Regulations would result in a practical difficulty and the requested increase in sign area, with certain restrictions, would not be detrimental to the health, safety and general welfare of the community.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 30 day of November, 1972, that the herein Petition for a Variance to Section 413.2 to permit a second sign (other business sign) on the herein described premises with an area of one hundred and thirty-seven (137) square feet instead of the permitted one hundred (100) square feet should be and the same IS GRANTED from and after the date of this Order, subject to the following restrictions:

1. That no other permanent or portable signs of any type shall be located or erected on the subject premises at any future date, except

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2. That only those promotional or temporary seasonal signs described in Section 413.4 be hereafter permitted as conditioned in said Section. Any future deviation or violation to this Section shall be considered a violation of this Order and shall become immediately subject to the fine as set forth in Section 503 of the Baltimore County Zoning Regulations, subject, however, to a hearing and conformation of the violation by the appropriate District Court of Maryland.
3. Approval of a site plan by the Bureau of Public Services and the Office of Planning and Zoning.

James D. Nolan
Deputy Zoning Commissioner of Baltimore County

E. F. RA'HEL & ASSOCIATES
Registered Professional Land Surveyors
301 COURTLAND AVENUE
TOWSON, MARYLAND 21204

OFFICE 402-3000

RESIDENCE 771-4542

August 9, 1972

DESCRIPTION TO ACCOMPANY PETITION VARIANCE FOR SIGN

BEGINNING for the same at a point on the southeast side of Belair Road as now widened, said point being 340 ft. ± southwesterly from the intersection formed by the southeast side of Belair Road and centerline of Ebenezer Road, said point being also 542°44'35"W 54 ft. from the intersection of the southeast side of Belair Road as now widened and the 3rd line of the land which by deed dated October 14, 1971 and recorded among the Land Records of Baltimore County in Liber OTG 5225 folio 617 was conveyed by Maryland Title Guarantee to Perry Hall Limited Partnership, running thence on the southeast side of Belair Road as now widened 542°44'35"W 20 ft. thence leaving the southeast side of Belair Road for lines of division the three following courses and distances: 1) 553°52'25"E 20 ft. 2) N42°44'35"E 20 ft. and 3) N53°52'25"W 20 ft. to the place of beginning.

CONTAINING 400 square feet more or less.

BEING part of the land which by deed dated October 14, 1971 and recorded among the Land Records of Baltimore County in Liber OTG 5225 folio 617 was conveyed by Maryland Title Guarantee to Perry Hall Limited Partnership.



Eugene F. Raphael
Registered Professional
Land Surveyor #2266

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. S. Eric DiNanno, Zoning Commissioner Date: October 25, 1972
FROM: Norman E. Garber, Office of Planning
SUBJECT: Petition 73-103-A. Southeast side of Belair Road 340 feet, more or less, Southwest of Ebenezer Road.
Petition for Variance for a Sign.
Kelly Hanley Pontiac, Inc. - Petitioner
11th District

HEARING: Thursday, October 26, 1972 (10:15 A.M.)

The staff of the Office of Planning and Zoning will offer no comment on this petition at this time.



BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

September 18, 1972

James D. Nolan, Esq.,
204 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Variance Petition
Item 38
Kelly, Hanley, Pontiac, Inc.

Dear Mr. Nolan:

The Zoning Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

The subject property is located on the southeast side of Belair Road, approximately 340 feet southwest of Ebenezer Road. The subject property is improved with a new Kelly Hanley Pontiac automobile agency and is directly adjacent to the Perry Hall Shopping Center on the northeast side. There is residential property to the southwest and residential dwellings and a Drive-in on the opposite side of Belair Road. The petitioner's request is for a second business sign to permit an area of 137 square feet instead of the 100 square feet required.

The proposed sign in question has already been erected on the subject site apparently in violation of the Baltimore Building Code and the Zoning Regulations. As there are no site problems that can be reflected or corrected on a revised site plan, this Committee has no other alternative other than to accept this petition for filing.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30, nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,
John J. Dillon, Jr.
Chairman
Zoning Advisory Committee

JJD:JO
Enclosure

JAN 31 1973

THE JEFFERSONIAN
Bank Street
Manager

BEFORE THE
PETITION No. 73-103-A
Southeast side of Belair Road
340 feet, more or less,
Southwest of Ebanzer Road
PETITION FOR VARIANCE FOR A SIGN
KELLY HANLEY PONTIAC, INC.
Petitioner Case No. 73-103-A

PETITIONER'S MEMORANDUM

The Petitioner, Kelly Hanley Pontiac, Inc., by its attorneys, James D. Nolan and Nolan, Plumbhoff & Williams, respectfully submit the within Memorandum for the consideration of the Deputy Zoning Commissioner.

STATEMENT OF THE CASE

The above-entitled case represents a Petition by the Corporate Petitioner for a Variance to permit a second business sign having a square footage of 137 sq. ft. in lieu of the required 100 sq. ft., due to practical difficulty and unreasonable hardship which would result from strict enforcement of the Regulations.

STATEMENT OF THE FACTS

Following appropriate advertising and posting of the subject property a hearing was held before Deputy Zoning Commissioner James E. Dyer on Thursday, October 26, 1972, at 10:15 A.M. No one appeared in protest of this Variance at the hearing, and the Office of Planning and Zoning offered no comments on the Petition by its Memorandum dated October 25, 1972.

The Zoning Advisory Committee Comments dated September 18, 1972, were in all respects favorable, as follows:

LAW OFFICE
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

LAW OFFICE
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& WILLIAMS
TOWSON, MD.

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& WILLIAMS
TOWSON, MD.

LAW OFFICE
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

1. The Bureau of Engineering stated that the subject Petition would have no effect on utilities or highway improvements;
2. The Department of Traffic Engineering stated that no traffic problems could be anticipated as flowing from the requested Variance;
3. The Department of Health stated that no health hazards were to be anticipated; and
4. The Project Planning Division of the Office of Planning and Zoning stated that there were no site planning factors requiring comments involved in the subject Petition.

The Petitioner's case consists of four (4) witnesses, namely, Mr. Charles Kelly, President of Kelly Hanley Pontiac, Inc., Mr. Eugene Raphael, a Registered Professional Land Surveyor, who testified concerning the engineering aspects of the situation, Mr. Roger C. Jones, of the Tri-State Sign Company, Inc. who testified as to the details concerning the sign and, finally, a real estate broker, Mr. Walter McGuire, who covered the real estate factors involved in this requested Variance.

Mr. Charles Kelly first sketched the long history of Kelly Pontiac in Baltimore City, and he then detailed its move to the Perry Hall section with the sanction of area residents and neighborhood improvement associations. Using the zoning plat prepared by Mr. Raphael's office, which was offered as Petitioner's Exhibit 1, Mr. Kelly indicated that the property enjoyed 300 ft. of frontage on Belair Road and he went on to explain how two (2) signs, each having 137 sq. ft. of area were erected on the property as a result of a chain of events which will be explained in the course of this Memorandum. (Mr. Kelly noted that a permit had been issued for a 137 sq. ft. sign as the primary sign, while a second sign of 100 sq. ft. was called for. However, before the first sign company delivered and installed the two (2) signs, illness intervened, and a second sign company, Tri-State Sign Company, Inc.

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took over the job. It was found when the signs were actually delivered to the site that two (2) signs, each having 137 sq. ft. in area, had been furnished. At this point, the Petitioner's attorney, not the present counsel, advised the Petitioner to go ahead and install the existing signs and then seek a Variance for the second sign. The witness indicated that he did not realize the seriousness of such a course of action as a zoning violation, and that it was done primarily as a result of the cost and expense entailed in returning the sign and the cost and expense which would have been entailed in having a second sign fabricated to replace the first one incorrectly delivered. Mr. Kelly went on to indicate that the sign would in no way interfere with the neighborhood, traffic on Belair Road, area utilities, or any other area benefit, but rather would in fact be of benefit to the neighborhood since having two (2) signs of an identical size on a 300 ft. frontage would bring about esthetic balance, and both signs could then be clearly seen in time by drivers approaching from both directions to allow a proper and safe turn into the property.

Mr. Raphael, the engineer, after reviewing his qualifications, and his participation in many zoning matters, including the earlier obtaining of zoning for the overall property, covered the various engineering aspects of the case. He first of all noted that Kelly Hanley Pontiac is a cooperative type of property owner and a responsible area citizen in that Kelly Hanley had cooperated fully with Baltimore County, the State Highway Administration, as well as the various utility companies, in providing a deceleration lane or driveway primarily for the use of the shopping center and northbound traffic on Belair Road, with little, if any, benefit to the new car agency. Mr. Raphael then went on to state that these two (2) signs would in no way interfere with traffic, road improvements, but rather would, in fact, be esthetically pleasing

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to the plant and facilities, since they would properly balance each other on this extensive frontage. It was Mr. Raphael's opinion that it would cause extensive practical difficulty and unreasonable hardship and great expense on Kelly Pontiac to require the existing second sign to be removed and a second sign of lesser size to be substituted, which, in the process, would result in a lack of esthetic balance. A possible problem for southbound traffic entailed in having a smaller sign was also noted by Mr. Raphael.

The third witness, Mr. Roger Jones, a veteran of the sign business for over twelve (12) years and a specialist in design, pointed out that the subject sign is a General Motors Corporation design and it is a standard throughout the country. He also testified that General Motors had engaged another sign company to do this work and it had been determined that a 245 sq. ft. sign and a second 137 sq. ft. sign would at first be used, but this was later changed to two (2) signs, each having 137 sq. ft. in area. Prior to being unable to fulfill the contract, the first company had prepared elevation drawings, as well as the electrical layout, and by the time Tri-State entered the matter the die was cast. (Mr. Jones noted the great practical difficulty and unreasonable hardship in requiring this sign to be removed, and he also pointed out the esthetic considerations which indicate that two (2) signs of equal size should be utilized. He indicated as well that removal of the existing sign would place Kelly Hanley in an inferior position as far as other businesses in the neighborhood are concerned, and that two (2) such signs would be permitted were the site developed for two (2) separate businesses, each having 150 ft. in frontage.) As previously pointed out, Mr. Jones also noted that should the existing second sign be ordered to be removed, the expense of such removal would fall on Kelly Hanley Pontiac, rather than upon General Motors.

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(Mr. Walter McGuire, a well known Baltimore County realtor and appraiser, testified as the final witness for the Petitioner. After describing the neighborhood he pointed out that he had carefully examined the neighborhood on the day preceding the hearing and that in his opinion as a professional realtor and appraiser the two (2) signs as erected would have no adverse effect upon area real estate values or other area real estate considerations. He stated that in his opinion the signs were esthetically balanced and pleasing and of benefit, both to Kelly Pontiac as well as the general public using these facilities, and the Perry Hall community. As did the other witnesses in the case, he pointed out the great practical difficulty and unreasonable hardship that would result if the second sign was caused to be removed. The Petitioner respectfully submits that in view of the essentially favorable Zoning Advisory Committee Comments, as well as the very complete testimony of the Petitioner and his expert witnesses, and the lack of any intent to deliberately violate the zoning laws that the subject Variance requested should be granted, particularly in view of the great difficulty and unreasonable hardship which would flow from requiring the second sign to be scrapped and a sign of lesser size, and lesser esthetic qualities and balance, to be substituted in its place.)

Respectfully submitted,

James D. Nolan

Nolan, Plumbhoff & Williams
Attorneys at Law
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

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CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11P Date of Posting: Oct. 5-72
Posted for: Kelly Hanley Pontiac, Inc.
Petitioner: Kelly Hanley Pontiac, Inc.
Location of property: SE 1/4 of Belair Rd. 340' x 137' of Ebanzer Rd.
Location of Sign: 137' x 137' sign on East side of Belair Rd.
Remarks: Fairly balanced and pleasing to the eye.
Posted by: Fred H. Hines Date of return: 10-12-72

James D. Nolan, Esq.
204 W. Pennsylvania Avenue
Towson, Md. 21204
BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing
this 29th day of August 1972.

ERIC O'BRIEN
Zoning Commissioner

Petitioner: Kelly Hanley Pontiac, Inc.
Petitioner's Attorney: James D. Nolan

Reviewed by: [Signature]
Advisory Committee

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 5056
DATE: Oct. 3, 1972 ACCOUNT: 01-662
AMOUNT: \$25.00
DISTRIBUTION: WHITE - CASHIER, YELLOW - CUSTOMER
Messrs. Nolan, Plumbhoff & Williams
204 W. Penna. Ave.
Towson, Md. 21204
Petition for Variance for Kelly Hanley Pontiac, Inc.
#73-103-A

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 5720
DATE: Oct. 26, 1972 ACCOUNT: 01-662
AMOUNT: \$56.00
DISTRIBUTION: WHITE - CASHIER, YELLOW - CUSTOMER
Messrs. Nolan, Plumbhoff & Williams
204 W. Penna. Ave.
Towson, Md. 21204
Advertising and Posting of property for
Kelly Hanley Pontiac, Inc.
#73-103-A

PETITION MAPPING PROGRESS SHEET

FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Per a number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: [Signature]										
Previous case: [Signature]										
Revised Plans: Change in outline or description										
Map #										

JAN 31 1973

