

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Donnelly Advertising Corp. legal owner... 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 special exception to the Baltimore County Zoning Regulations, Chapter 33-2, to allow the erection of a twelve by twenty-five foot illuminated advertising structure, on a parcel of property located 145 feet south of Leland Avenue and 40 feet east of Martin Boulevard, in the 15th Election District of Baltimore County.

See attached description

for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for Donnelly Advertising Corp.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Donnelly Advertising Corp. Special Exception advertising, posting, etc., upon filing of this petition, and further 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.

Donnelly Advertising Corp.
Contractor
Address 3001 Pennington Ave.
Baltimore, MD 21202

Robert A. Miller
Legal Owner
Address 10101 Greenfield Rd.
Baltimore, MD 21202

ORDERED By The Zoning Commissioner of Baltimore County, this 3rd day of August, 1977, 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 held before the Zoning Commissioner of Baltimore County in Room 164, County Office Building in Towson, Baltimore County, on the 17th day of October, 1977, at 10:30 o'clock.

Shirley De Krom
Zoning Commissioner of Baltimore County.

(over)

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE
Beg. 145' S. of Leland Avenue and : COUNTY BOARD OF APPEALS
40' E. of Martin Boulevard :
15th Election District :
OF
Pennsylvania Railroad : BALTIMORE COUNTY
Petitioner :
Donnelly Advertising Corporation of Md. : No. 74-100-X
Contract Lessee :

OPINION

This case comes before the Board on an appeal by the Protestor from an Order of the Zoning Commissioner dated October 3, 1974 granting a special exception for a twelve by twenty-five foot illuminated advertising structure, on a parcel of property located 145 feet south of Leland Avenue and 40 feet east of Martin Boulevard, in the 15th Election District of Baltimore County.

There was little testimony presented before this Board, pro or con, relative to the compliance with the requirements of Section 502.1 of the Zoning Regulations of Baltimore County in order to permit a special exception, other than the comments of the Zoning Advisory Committee, which were not adverse in character. There was one protestor appearing in this case, Mr. James E. Bishop, an adjacent property owner, who complained that the proposed sign would obstruct any advertising which he might place on the building which he proposes to erect on his property. He, however, likewise did not present any testimony which would be adverse to the proposed special exception within the context of the Zoning Regulations.

The Zoning Commissioner, therefore, correctly found that the prerequisites of Section 502.1 of the Baltimore County Zoning Regulations had been met.

However, the problem now arises as to whether or not the provisions of Section 413.3b of the Baltimore County Zoning Regulations would prevail requiring a variance in order to erect the proposed structure. The Zoning Commissioner found, from the memorandum submitted by the Petitioner's counsel and argument thereon, that the provisions of that section would not be applicable to the instant case, and by some rationale unclear to the Board, "but would not prevail hereafter". The Board has reviewed the file and the memoranda submitted in this case, and is satisfied that the provisions contained in Section

Pennsylvania Railroad - No. 74-100-X

413.3b of the Baltimore County Zoning Regulations were in effect, as evidenced by copy of the 1971 edition, and that said Regulations had been lawfully enacted in 1955, even though through some omission said Regulations had not appeared in the printed Regulations until the 1971 edition. In any event, this was prior to the filing of the petition in the instant case. The Board is troubled by the situation pointed out by the Petitioner's counsel that once again we have a section (413.3b) of the Baltimore County Zoning Regulations, 1971 edition, which apparently sprang "Phoenix-like", as it had not been in prior editions of the Code, and even had not been in the initial 1955 edition in the same form; and further, that there seems to be no authority for its existing in its present form.

However, the Board feels that while this is a significant and salient point, it does become moot in view of that portion of Section 413.3b, which consistently indicates in all the editions of the Baltimore County Zoning Regulations that "no such signs shall be permitted to front on, face or be located within 250 feet from the right of way from any expressway or other controlled access-type highway". The evidence before this Board is that the proposed structure to be erected is approximately 40 feet east of Martin Boulevard. Martin Boulevard is a dual lane divided highway terminating on the south in a cloverleaf intersection with Eastern Boulevard Extended, and on the north at U.S. Route 40 (also at an uncontrolled cloverleaf junction). Said Martin Boulevard, in its length of several miles, contains only two intersections, both signalized and containing merging lanes for egress and ingress not controlled by the signals, and further, there exist service type roads running parallel to the described Martin Boulevard. It is therefore the opinion of the Board that Martin Boulevard was designed, constructed, and is, in fact, a controlled access-type highway, and accordingly would be subject to a setback of 250 feet for the proposed structure under Section 413.3b of the Baltimore County Zoning Regulations in the 1955 edition, or any edition printed thereafter.

Therefore, the Board finds that the special exception petitioned for in the instant case is subject to the requirements of a 250 foot setback, as indicated in Section 413.3b of the Baltimore County Zoning Regulations, and would therefore require a variance, as well as a special exception. A variance was not petitioned for and there was no

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testimony presented in support thereof. Consequently the petition will be denied.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 14th day of May, 1975, by the County Board of Appeals ORDERED, that the Special Exception petitioned for be and the same is hereby DENIED.

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Robert A. Miller
Chairman
John A. Miller
Member

DESCRIPTION OF PROPERTY:

Beginning at a point located 166 feet measured in a southeasterly direction along the R/W of Martin Boulevard from the extended center line of Leland Avenue, and 40 feet east of Martin Boulevard, thence running northeasterly 25 feet to a point, thence southeasterly 10 feet to a point, thence southwesterly 25 feet to a point, thence running northwesterly 10 feet to the point of beginning.

1965 Balto Co. Code § 332(i)

324 TITLE 30
costs of the appeal against any party to the appeal except the appellant.

(i) The County Commissioners shall keep in a separate book all rules, regulations and restrictions adopted by them from time to time under the authority of this sub-heading, and any amendments or supplements thereto, and shall cause copies to be printed and made available for general distribution. Any such printed copy, together with any amendments and supplements, when certified as correct by the Chief Clerk of the County Commissioners, shall be deemed prima facie evidence thereof in any judicial proceedings in the State.

The County Commissioners shall have the power to employ or authorize the employment of such officials, engineers, stenographers, secretaries or other assistants necessary for the proper administration of regulations and restrictions adopted under the authority of this sub-heading to pay, or provide for the payment of salaries and expenses incurred in connection therewith; to impose reasonable charges and fees for service rendered by the administrative officials, and to levy taxes for the payment of salaries and expenses herein authorized.

(j) Any violation of regulations and restrictions adopted pursuant to this sub-heading shall be a misdemeanor, punishable by a fine not to exceed One Hundred Dollars (\$100.00) or by imprisonment not to exceed thirty days, or both fine and imprisonment. Any person who shall violate such regulations and restrictions shall be deemed guilty of a separate offense for every day that such violation shall continue.

(k) The County Commissioners, the Zoning Commissioner and the Board of Zoning Appeals, or any of them, or any person whose property is affected by any violation including shutting and adjacent property owners, whether specially damaged or not, may maintain an action in the Circuit Court for Baltimore County for an injunction enjoining the erection, construction, reconstruction, alteration, repair or use of buildings, structures and land in violation of regulations and restrictions adopted pursuant to this sub-heading.

Zoning in Baltimore County was initiated by Chapter 218 of the Acts of 1938. This action is referred to and implicitly held valid in Field v. Code, 244 Ga. 121, 261 S.W.2d 230, sustaining the general validity of zoning regulations adopted thereafter. The case specifically upholds the requirement of a special permit for construction of utility lines.

Exhibit 1

1958 Balto Co. Code § 34-8

§ 34-8 ZONING § 34-9

proceedings under this section shall have the preference over all other civil actions and proceedings.

An appeal may be taken to the court of appeals of the state from any decision of the circuit court for the county refusing a decision of the board of zoning appeals. In such cases the court of appeals shall not award costs of the appeal against any party to the appeal except the appellant. (Balto Co. Code, 1958, sec. 3-6; 1955, sec. 3-2; 1951, ch. 217, sec. 724; 1945, ch. 202, sec. 725; 1935, ch. 369, sec. 369 (d); 1932, ch. 633, sec. 369 (f); 1933, ch. 631, sec. 366 (g).)

Sec. 34-3. Record and copies of rules, regulations, etc.; certified copies of rules, etc., as evidence in employment and compensation of personnel.

The county shall keep in a separate book all rules, regulations and restrictions adopted by them from time to time under the authority of this title, and any amendments or supplements thereto, and shall cause copies to be printed and made available for general distribution. Any such printed copy, together with any amendments and supplements, when certified as correct by the Chief Clerk of the county shall be deemed prima facie evidence thereof in any judicial proceedings in the state.

The county shall have the power to employ or authorize the employment of such officials, engineers, stenographers, secretaries or other assistants necessary for the proper administration of regulations and restrictions adopted under the authority of this title to pay, or provide for the payment of salaries and expenses incurred in connection therewith; to impose reasonable charges and fees for service rendered by the administrative officials, and to levy taxes for the payment of salaries and expenses herein authorized. (Balto Co. Code, 1958, sec. 3-6; 1955, sec. 3-2; 1951, ch. 217, sec. 724; 1945, ch. 202, sec. 725; 1935, ch. 369, sec. 369 (d); 1932, ch. 633, sec. 369 (f); 1933, ch. 631, sec. 366 (g).)

Sec. 34-6. Penalty for violations of regulations, etc. Any violation of regulations and restrictions adopted pursuant to this title shall be a misdemeanor, punishable by a fine not to exceed one hundred dollars or by imprisonment not to exceed thirty days.

* For cases involving this petition to this section on appeal, see Rosen v. Board of Zoning Appeals of Baltimore Co. et al., 379 Md. 428, 427 A.2d 141 and Little Falls Association et al. v. Board of Zoning Appeals, 299 Md. 304, 141 A.2d 519.

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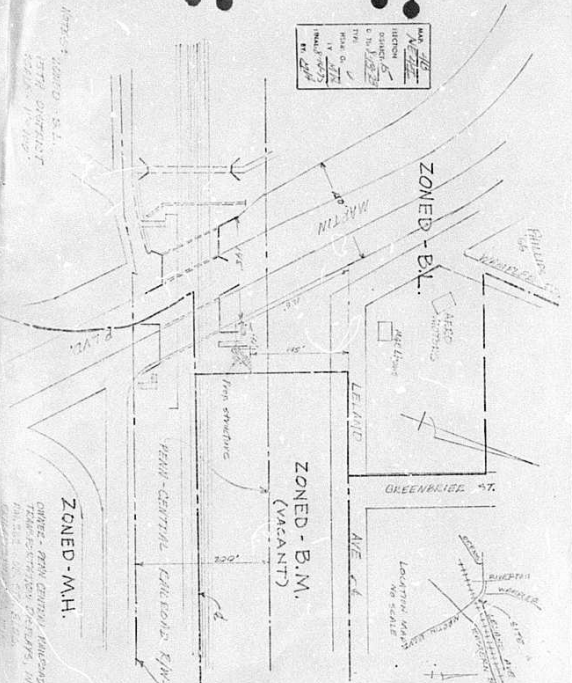
Exhibit 2

ORDER RECEIVED FOR FILING

74-100-X-1919

74-100-X-1919

10:30 A
10/17/73



IN RE : BEFORE THE
PETITION FOR : BOARD OF APPEALS
SPECIAL EXCEPTION :
NO. 74-100-X : OF
Penn Central Railroad : BALTIMORE COUNTY

PETITIONER'S MEMORANDUM IN RESPONSE
TO MEMORANDUM IN OPPOSITION TO PETITION

This memorandum is intended to supplement the Memorandum in Support of Petition, submitted at the Board's hearing after having been prepared for and submitted to the Zoning Commissioner of Baltimore County, and, also, to rebut the Memorandum in Opposition to Petition filed by the Deputy People's Counsel.

Memoranda of each side and the testimony before the Board on February 20, 1975 disclose that the sole possible ground for the denial of the Petition is one of law. This Board must determine what is the governing version of Section 413.3b. The Board must decide whether a special exception can be granted; if that decision is positive, the special exception should be issued because there has been no evidence presented of any detrimental effect to the health, safety and welfare of the community if the Petition be granted. Various reports of County departments in evidence show no adverse effect if the Petition is granted.

The legal issue in this matter is one which, happily, is rarely presented. Deputy People's Counsel admits that the "Black Book," published almost simultaneously with the enactment

County as law. 5/

Petitioner would urge that, if its arguments are insufficient to convince the Board that it should not apply the Red Book version, the hearing be re-opened to allow Petitioner to summon the alleged custodian of the disinterred enrolled copy and test the authenticity of it, trace its chain of custody, and seek to discover why the "Blue Book" version (printed pursuant to the same section relied upon by People's Counsel to assert the Planning Commission as proper repository) is incompatible with the alleged 1955 bill.

MELNICOVE, GREENBERG, KAUFMAN &
WEINER, P.A.

M. Albert Fejnski
M. ALBERT FEJNSKI
10 Light Street, Suite 1200
Baltimore, Maryland 21202
727-2800

Attorney for Petitioner

5/ In this regard, recall that Mr. Walker testified that at the time the 1955 law was enacted the County distributed a mimeograph version of Section 413 which sufficed until the Black Book made its appearance. Mr. Walker read into the record the mimeographed Section and it was the version which appeared in the Black Book.

of the 1955 zoning ordinance, contains a very different version of Section 413.3b than does the "Red Book," published 16 years after the 1955 ordinance. To mitigate the disparity, Deputy People's Counsel argues that the Black Book publication was "in error" and that the true copy of the law reposes with the County Planning Commission. 2/ From this premise, Deputy People's Counsel urges denial of the Petition on the basis of the compatibility between the "Red Book" and the County Planning Commission's copy of the 1955 law. Such argument, we must assert, misses the mark for several reasons.

First, even if we assume that an enrolled version of the 1955 law was found in the Planning Office, no answer has been made to Petitioner's argument 3/ which assumed, arguendo, that the "Red Book" was the accurate statement of the 1955 law. The teaching of *Pease v. Peck*, 18 How. (59 U.S.) 595 (1855) is not as limited as Deputy People's Counsel asserts. The slumber of County authorities for 16 years, in effect, nullified the viability of the "manuscript statute" which was "disinterred" 4/ from the lumber room of ancient documents. Long acquiescence in a statute as printed and distributed by proper authorities,

1/ No mention is made by Deputy People's Counsel of the "Blue Book", published in 1964, and containing the version of Section 413.3b printed earlier in the "Black Book".

2/ There has been no assertion that there was ever an amendment to Section 413.3b.

3/ Memorandum in Support of Petition, p.6-8.

4/ Both sides have cited *Marino v. City of Baltimore*, 215 Md. 206, 220 (1957) where the Court of Appeals wrote "...a prior exception granted by the Board does not control the granting of a subsequent exception." The rule is clear. Petitioner's memorandum, however, does show 4 instances when an outdoor advertising sign was placed within 100 feet of a dual highway. These instances are not cited in derogation of Marino, but do clearly demonstrate that the Black and Blue Books were, in fact, acted upon for a very long period of time.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of March, 1975, a copy of the foregoing Petitioner's Memorandum in Response to Memorandum in Opposition to Petition was mailed to James E. Bishop, 1411 Clearview Road, Edgewood, Maryland 21040 and Charles E. Kountz, Deputy People's Counsel, County Office Building, Towson, Maryland 21204.

M. Albert Fejnski
M. ALBERT FEJNSKI

amount, in the teaching of *Pease v. Peck*, to a ratification of the contemporaneous printed version, or raises an estoppel to deny its validity. Compare *O.P. Corporation v. Village of North Palm Beach*, 278 So.2d 593 (Fla. 1973); *Edel v. Filer Township, Manistee County*, 49 Mich.App. 210, 211 N.W.2d 547, 549 (1973); *Taylor v. Schlemmer*, 353 Mo. 687, 183 S.W.2d 913 (1944); *City of Creston v. Center Milk Products Co.*, 243 Iowa 611, 51 N.W.2d 463 (1952). In each of these cases, a technical challenge to a printed or published or long acted upon zoning ordinance was denied because of the time that had elapsed from publication to challenge, i.e. in each case, more than 10 years. Analogously, Petitioner asserts that the 16 years that passed between enactment and the allegedly correct publication worked to effect an estoppel upon the authorities to deny them the right to act without notice, i.e., publication of a new version of Section 413.3b without explanation, or hearings. Clearly, no notice or hearings were ever held on the "Red Book" version. See Memorandum in Support of Petition, p.5-6.

Second, Deputy People's Counsel relies upon the Planning Commission as the proper repository for the enrolled bill on authority of Baltimore County Code (1968), Sections 22-29. The Code, however, shows, on its face, that this section was introduced into the laws of the County in 1960, i.e., five years after the date of the ordinance. In 1955, the Planning Commission was not the repository. Rather, the 1955 law read:

"(1) The County Commissioners shall keep in a separate book all rules, regulations and restrictions adopted by them from time to time under the

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RE: PETITION FOR SPECIAL : BEFORE THE
EXCEPTION : ZONING COMMISSIONER
Beginning 145' S of Leland Avenue :
and 40' E of Martin Boulevard - : OF
15th Election District :
Pennsylvania Railroad - Petitioner :
NO. 74-100-X (Item No. 19) : BALTIMORE COUNTY

The Petitioner requests a Special Exception for one 12 foot by 25 foot Illuminated Advertising Structure on a parcel of property located 145 feet south of Leland Avenue and 40 feet east of Martin Boulevard, in the Fifteenth Election District of Baltimore County.

Without reviewing the evidence in detail but based on all the evidence presented at the hearing, in the judgment of the Zoning Commissioner, the prerequisites of Section 502.1 have been met and, therefore, the request for the Special Exception should be granted.

The sole question before the Zoning Commissioner is whether or not the provisions of Section 413.3b. of the Baltimore County Zoning Regulations would have to be met, namely, a request for a Variance pursuant thereto.

The Zoning Commissioner is in receipt of a meticulous memorandum of law in support of the subject Petition, filed by Counsel for the Petitioner and supporting the allegation that the request for the Variance is not necessary.

The Zoning Commissioner feels that the Counsel's position is well founded in this particular set of circumstances, but would not prevail hereafter.

The Zoning Commissioner is willing to grant this requested Special Exception without the necessity of a Variance as required under Section 413.3b.; however, it must be understood by the Petitioner that all further requests of similar circumstances must include the necessary Variances as provided in the aforesaid Section of the Baltimore County Zoning Regulations.

authority of this sub-heading, and any amendments or supplements thereto, and shall cause copies to be printed and made available for general distribution. Any such printed copy, together with any amendments and supplements, when certified as accurate by the Chief Clerk of the County Commissioners, shall be deemed prima facie evidence thereof in any judicial proceedings in the State."

1955 Balto. Co. Code §532(i)

A xerox copy of the relevant page of the 1955 Code is attached hereto as Exhibit 1. The 1958 version of the Code is nearly identical, except the "county", rather than the County Commissioners, is given the duty. A xerox copy of the relevant page of the 1958 Code is attached hereto as Exhibit 2. Under either the 1955 or 1958 version, adopted zoning rules, etc. were to be "printed and made available for general distribution". The "Black Book" was "printed" and generally distributed pursuant to the County Code then in effect. Indeed, in 1964, the Blue Book was printed and generally distributed by the authority of Section 22-29, i.e. the same authority relied upon by Deputy People's Counsel. Relevant xeroxed pages from that printing were attached as Exhibit B to the Memorandum in Support of Petition, and are attached hereto as Exhibit 3A through 3F. Note that this edition terms itself "Second Edition" and the concluding paragraph of the Preface represents that the second edition was "an up to date edition of the 1955 text." The Blue Book version of Section 413.3b is identical to the Black Book and both are at odds with the "Red Book". The printings previous to the "Red Book" make representations which cast doubt on the notion that the document reposing in the Planning Commission should bind the

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Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 3rd day of October, 1974, that the Special Exception for one 12 foot by 25 foot Illuminated Advertising Structure should be and the same is GRANTED, from and after the date of this Order, subject to the approval of a site plan by the Department of Public Works and the Office of Planning and Zoning.

H. W. H.
Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE: October 3, 1974

BY: John P. Hays

ORDER RECEIVED FOR FILING

DATE: October 3, 1974

BY: John P. Hays

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AUG 27 1975

IN RE :
PETITION FOR SPECIAL EXCEPTION :
NO. 74-100-X : BALTIMORE COUNTY

MEMORANDUM IN SUPPORT
OF PETITION

Petitioner seeks a Special Exception under the Zoning Regulations of Baltimore County to construct a 25' by 10' outdoor advertising sign at a point 40 feet from Martin Boulevard, a dual highway in the eastern part of the County. The billboard structure would be located in a B. L. Zone, near the Penn-Central right-of-way. Various Departments of the County have reviewed the application and their reports to the Zoning Commissioner disclose no adverse health, safety, traffic, sewage or other effects, if the petition is granted. One Protestant appeared at the hearing on this application. That Protestant, the owner of adjoining property, alleged that the zoning regulations of the County precluded the construction of the contemplated billboard, relying on Zoning Regulations, Interim Edition 1971 (Red Book), Section 413.3b, which reads:

"No such sign shall be permitted to front on, face or be located within 250 feet of the right-of-way of any expressway or other controlled-access-type highway, or within 100 feet of the right-of-way of any other dual highway."

If the quoted zoning regulation is validly in force, the petition must be denied. Petitioner, however, contends that for the reasons set forth herein the quoted interim regulation is no bar to the Special Exception sought by this petition, and that

Mr. Scheerer's possession accurately portrays the enrolled regulations.

If the 1955 Black Book contains the enrolled version of the regulations adopted March 30, 1955, the Red Book version may not be properly applied by the Zoning Commissioner because the version of Section 413.3b contained in the "Red Book" has not been properly adopted as provided in the Baltimore County Code.

Baltimore County Code, Section 22-20(a) (1972 Supp.), directs the Planning Board to recommend to the County Council "from time to time...zoning regulations...." Section 22-21 of the Code (1972 Supp.) provides for certain mandatory notice and hearings on any "final report of the planning board recommending adoption of any zoning regulations".

The 1971 Interim Report ("Red Book") does not qualify under either Code section. First, it is merely an interim, not a final, report. Second, it has never been subjected to the notice and hearings provided for in the Code. The notice and hearing requirements are mandatory under any construction of the Code and may not be ignored. See *Crozier v. Co. Comm. Fr. George's Co.*, 202 Md. 501, 506 (1953); *Reed v. Pres of North East*, 226 Md. 229, 247-50 (1961); *Baker v. Montgomery County*, 241 Md. 178, 184 (1966). Cf. *Trustees v. Baltimore County*, 221 Md. 550, 571-2

2/ The only source alleged for the "Red Book" version is the 1955 Resolution. No one has suggested or pointed to any amendment adopted by the legislative body of the County subsequent to March 30, 1955 which has any bearing on Section 413.3b.

because there is no showing of adverse effects resulting from this Special Exception, the petition should be granted.

The power to determine what situations shall be considered in the category of special exceptions is a legislative function of the county council, *Marek v. Baltimore County Bd. of Appeals*, 218 Md. 351, 357 (1958), but the zoning commissioner is authorized to determine, as to particular situations, when a special exception is appropriate under the legislative classification. Baltimore County Code, Section 22-23 (1972 Cum. Supp.). In performing his function, the commissioner must act within the prescribed rules established by legislative prerogative, *Dohres v. Schwartzman*, 191 Md. 19 (1948); *Carney v. City of Baltimore*, 201 Md. 130 (1953). The zoning authorities cannot prescribe limitations not authorized by the zoning ordinance, *Restivo v. Princeton Const. Co.*, 223 Md. 516, 522-3 (1961); *Maryland Advertising Co. v. M & CC of Baltimore*, 199 Md. 214 (1952); 23 M.L.E., Zoning & Planning, §22, p.467, §25, p.474.

The 1971 printing found in the "Red Book" is not the initial publication of zoning regulations in Baltimore County. The "Red Book" was preceded by two loose-leaf publications, the "Black Book" of 1955, and the "Blue Book" of 1964 which purported to be a Second Edition to the 1955 edition. The 1955 printing

1/ The Baltimore County Code (1968), Sec. 22-29, provides:

"The office of planning and zoning shall keep in a separate book all rules, regulations and restrictions adopted by the county council from time to time under the authority of this title, and any amendments or supplements thereto, and shall cause copies thereof to be printed

continued

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(1960); *Bishop v. Bd. of Co. Comm'rs*, 230 Md. 494, 503-4 (1963).

If the document in Mr. Scheerer's possession accurately portrays the March 30, 1955 Resolution, it must be noted that not only are the published "Black" and "Blue" Books at odds with the Resolution, but that the version in these two published volumes was acted upon by the zoning authorities on at least four occasions to allow placement of an outdoor advertising sign with 100 feet of a dual highway. See Order, dated January 24, 1961, in re. Special Exception No. 5186-X, granting a sign within 25 feet of Pulaski Highway; Order, dated July 5, 1962, in re. Petition for Special Exception, No. 5585-X, granting two signs within 45 and 62 feet, respectively, of Baltimore National Pike; Order of County Board of Appeals, dated February 14, 1963, in re. Special Exception, No. 5553-X, granting a sign within 50 feet of Baltimore National Pike; Order dated August 1, 1968, in re. Special Exception, No. 69-24-X, granting a sign within 72 feet of Baltimore National Pike. These actions are not cited to claim that prior exceptions control the granting of the present petition, see *Marino v. City of Baltimore*, 215 Md. 206, 220 (1957). Rather, they are cited to demonstrate that the published volumes were, in fact, acted upon for a very long period of time. In this context, the Scheerer document, if it is assumed to be the enrolled Resolution, is not controlling or valid. *Pease v. Peck*, 18 How. (59 U.S.) 595 (1855); *Town of Pacific v. Seifert*, 79 Mo. 210 (1883); *Wade v. Woodward*, 145 So. 737 (Miss. 1933).

In *Pease v. Peck*, the statute in controversy was a

is particularly relevant because the Baltimore County Code, Section 22-26 (1960), provides that the "zoning regulations adopted by the County on March 30, 1955, as amended on July 25, 1960, are hereby declared to be in full force and effect." The "Black Book" purported to be the Regulations as adopted on March 30, 1955, as amended within two years of that date, see "Preface" to "Black Book", p.iii. In that publication, Section 413.3b reads as follows:

"No such sign shall be permitted to front on, face or be located within 250 feet of the right-of-way of any expressway or other controlled-access-type highway."

The clause, found in the "Red Book", purporting to limit the erection of signs in relation to a dual highway is absent and that clause is not found anywhere within "Black Book" Section 413.3. In 1964, there was published a "Blue Book", a "second edition" of the Baltimore County Zoning Regulations "adopted March 30, 1955 containing those provisions 'with subsequent amendments through December, 1963.' The "Blue Book" version of Section 413.3b is identical to that found in the "Black Book".

1/ cont.

and made available for general distribution. Any such printed copy, together with any amendments and supplements when certified as accurate by the secretary of the county council shall be deemed prima facie evidence thereof in any judicial proceedings in this state.

[Emphasis supplied].

The predecessor requirements to this provision may be found in 1948 Baltimore County Code §36(h); 1955 Baltimore County Code §32(1); 1958 Baltimore County Code §34-3; 1966 Baltimore County Code §23-28.

2/ The entire "Black Book" text of Section 413.3 is reproduced and attached hereto as Exhibit A.

3/ The entire "Blue Book" text of Section 413.3 is reproduced and attached hereto as Exhibit B. Note that Section 413.3d prohibits an outdoor advertising sign within 100 feet of a street intersection involving a dual highway. In this petition, an intersection is involved but the proposed sign is 145 feet therefrom.

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statute of limitations of the State of Michigan. The published version differed from the manuscript of enactment found among the public archives. Mr. Justice Grier for the United States Supreme Court wrote:

"It is no doubt true, as a general rule, that the mistake of a transcriber or printer cannot change the law; and that when the statutes published by authority are found to differ from the original on file among the public archives, that the courts will receive the latter as containing the expressed will of the legislature in preference to the former. Yet, as the people who are governed by the laws, and the courts who administer them, practically know the law only from the authorized publication of them, the propriety of recurring to ancient, altered, and erased manuscripts, for the purpose of changing their construction after a lapse of thirty years and after their construction has been long settled by the courts, and has entered as an element into the contracts and business of the citizens, may well be doubted. The reception and long acquiescence in them, as printed and distributed by authority, by those who had it always in their power to alter or annul them, and did not, may justly be treated as a ratification of them in that form by the sovereign people. The maxim *communis error facit ius*, though said to be dangerous in its application, because it sets up a misconception of the law, for destruction of the law, might here find a safe and proper application, and make it one of the 'some cases' in which it is said the law so favors the public good, that it will permit a common error to pass for right."

18 How. (59 U.S.) at 596-7.

The Court simply refused to give effect to "a manuscript statute differing from the known public law" which was "disinterred from the lumber room of obsolete documents". *Id.* 599. This Supreme Court decision is aptly analogous to the present situation.

8/ The construction of a zoning ordinance or regulation is governed by the general rules applicable to the construction of statutes and ordinances. 23 M.L.E., Zoning & Planning, §12. The fact, therefore, that *Pease v. Peck* dealt with a "disinterred" statute, not a zoning regulation, does not diminish its weight for the purposes of this matter.

Counsel for Petitioner has attempted to determine the origin of Section 413.3b, "Red Book". No notation appears in the text of Section 413 indicating the legislative origin of the text. Compare Section 421 "Red Book" noting a specific Bill as the origin of that Section. The Zoning Office directed counsel to Mr. Fred Scheerer of the Baltimore County Planning Department who produced a typed, mimeographed and stapled document entitled, "Zoning Regulations for Baltimore County" which purports to contain the March 30, 1955 Resolution and Order of the County Commissioners of Baltimore County. That document contained a version of Section 413.3b identical to the "Red Book" version and in conflict with the "Black" and "Blue Book" versions.

Efforts have been made to find an enrolled copy of the resolution adopted by the County Commissioners on March 30, 1955 which created the County's zoning regulations. Attempts to find the enrolled resolution have been made by contacting the County Council, the Clerk of the Circuit Court, the State Department of Legislative Reference, and the State Library. These efforts have not been successful. In the absence of an enrolled version of the 1955 regulations, this application for special exception must be determined on either of two assumptions. On the one hand, it may be assumed that the 1955 Black Book accurately portrays the enrolled regulations. On the other hand, it may be assumed that the typed, mimeographed and stapled document in

4/ See Art. 25, §4, Md. Code.

5/ See Art. 25, §32A, Md. Code.

6/ Ibid.

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It should be ample precedent for determining that the "interim" "Red Book" Section 413.3b is not validly applied to this petition.

MELNICOVE, GREENBERG, KAUFMAN
& WEINER, P.A.

M. ALBERT FIGINSKI
10 Light Street - Suite 1200
Baltimore, Maryland 21202
727-2800

Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of April, 1974, a copy of the foregoing Memorandum in Support of Petition was mailed to James E. Bishop, 1411 Clearview Road, Edgewood, Maryland 21040, Protestant.

M. ALBERT FIGINSKI

**BALTIMORE COUNTY
ZONING REGULATIONS**

Adopted
March 30, 1955

In accordance with Title 30, Section 532(c) of the
Code of Public Local Laws of Baltimore County, (1955
Edition), with subsequent amendments a rough De-
cember, 1963.

First edition 1955
Second edition 1964

Exhibit 3A

Preface to Second Edition

The first Zoning Regulations for Baltimore County went into effect in 1945. Within a few years it became obvious they were not adequate to cope with the County's population growth and the need for greater differentiation among housing, business, and manufacturing uses. Professor Havel Shurtleff of the Massachusetts Institute of Technology was retained as a consultant to begin preliminary review of the zoning text.

In 1952 the County Commissioners acceded to the request of the Planning Commission to provide funds for studies looking toward a complete revision of the Zoning Regulations. These studies, under the direction of Malcolm H. Dill, Planning Director, continued over a period of two and one-half years, in cooperation with Augustine J. Muller, then Zoning Commissioner, and his successor, Willie H. Adams.

Many and varied interests were brought into consultation, including architects, lawyers, engineers, builders, developers, and real estate brokers, all of whom contributed substantially to formulating the Regulations. After a preliminary draft had been completed, further meetings and discussions were held. As a result of these conferences a final version was adopted by the County Commissioners on March 30, 1955.

On the whole these Regulations have provided the people of Baltimore County with a sound basis for the protection of property values and the general welfare. However, it was expected from the outset that the Regulations would have to be modified as the County grew and changed character. During the nearly nine years since the Regulations were adopted many amendments have been made. For example, the original twelve zones—six for residences, and three each for commercial and manufacturing—have been enlarged to thirteen with the adoption by the

Exhibit 3B

County Council in 1961 of the Manufacturing, Light Residential Zone.

Even with the prospect of completely revised Zoning Regulations emerging a few years hence from current studies authorized by the County Executive, the numerous changes make it desirable to publish an up to date edition of the 1955 text. Further interim amendments are to be expected, and, in order to provide an easy method of keeping the Regulations up to date, the loose-leaf format of the earlier edition has been repeated.

SIGNS

zoned Commercial from the corner to a point opposite any portion of such sign.

- 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.
- Multiple face sign shall be considered as one sign.

413.3—Outdoor advertising signs as defined in Section 101 are allowed only in B. L., B. M., B. R., M. L., and M. H. Zones as Special Exceptions, under the following conditions, as limited by Section 413.5.

- The total surface area of any such sign, exclusive of structural supports, and trim shall not exceed 300 square feet, except that a hand-painted custom-built sign may have a total surface area of not exceeding 500 square feet. The provisions of this sub-paragraph referring to hand-painted custom-built signs shall permit only one single face unit.
- No such sign shall be permitted to front on, face or be located within 250 feet of the right-of-way of any expressway or other controlled access type highway.
- No such sign shall be located closer to the street right-of-way line than the minimum front yard requirement for a commercial building as determined by these Regulations for the zone involved.
- No such sign shall be located on unimproved land within 100 feet at any street intersection involving a dual highway, or within 50 feet of any other intersection.
- No outdoor advertising sign shall be erected in any B. L., B. M., or B. P. Zones if at least 50% of the available

Exhibit 3D

SIGNS

frontage between streets, on that side of the street on which the sign is proposed to be located, is improved with dwelling uses.

- In any B. L., B. M., B. R. Zones, all outdoor advertising signs on vacant land shall be located not less than 500 feet apart; all such signs placed on improved commercial properties shall be spaced not less than 100 feet apart. The 100 foot spacing shall govern when improved and unimproved commercial properties are contiguous. Two signs placed approximately at right angles to the street right-of-way, either back to back or end to end, are permitted. Provisions as to spacing and location of signs shall apply separately to each side of a street.

- In any M. L. or M. H. Zone, signs shall be placed at least 1,000 feet apart on the same side of the street or highway except that 2 signs may be placed, approximately back to back, totalling 4 signs on one structure, when located approximately at right angles to the right-of-way line.

- No outdoor advertising sign erected on a roof may extend more than 16 feet above any part of the roof or parapet, except that the 16 foot limitation shall not apply to any such roof sign existing as of the date of adoption of these regulations.

- No existing outdoor advertising sign that does not comply with conditions and standards contained in this Section 413.3 shall be permitted to remain on any premises beyond the expiration date of any Special Permit by the authority of which it was erected, or if erected prior to January 2, 1945, two years after the effective date of adoption.

Exhibit 3E

SIGNS

tion of these regulations, except as noted in sub-paragraph h. above.

413.4—In addition to signs allowed in Section 413.2 and 413.3 miscellaneous temporary signs such as seasonal streamers and banners may be displayed for periods not exceeding 30 days continuously, and totalling not more than 60 days in any one year.

413.5—All business or outdoor advertising signs shall be subject to the following conditions:

- The surface area of any sign shall include the entire face or faces of the sign, and if the sign is composed of individual letters, figures, or designs, the space between and around such letters, figures or designs.
- No sign shall be placed within or project into the street right-of-way.
- Any free-standing or projecting sign within 25 feet of a street right-of-way line shall be so placed as to allow clear and ample visual sight lines for drivers entering into a street, and at intersecting streets and alleys.
- No sign erected on ground elevated above the level of the street which it abuts shall exceed 25 feet in height. No sign erected on ground below the level of the street which it abuts shall extend more than 25 feet above the level of the street which it abuts, except that in no case shall the total height of the sign exceed 35 feet.
- A sign may be illuminated, if illumination is confined to the surface of the sign the sign shall be so located and arranged as to avoid glare or reflection onto any portion of any adjacent highway, or into the path of oncoming vehicles, or onto any adjacent residential premises. No flashing or rotating illumination shall be permitted.

Exhibit 3F

SAFEMOVE MOVING AND STORAGE

The Key To A Safe Move
Local and Long Distance

1411 Clear View Road
Edgewood, Maryland 21040

November 1, 1974

Baltimore, County Office of Planning & Zoning

Dear Mr. Eric DiNenna

Inclosed is a check for \$85.00 for the seal of the petition for special exception NO. 74-100-X (item No. 19).

Very truly yours,

James E. Bishop
J. E. Bishop

M. Albert Figlianski, Esquire
Suite 1200, 10 Light Street
Baltimore, Maryland 21202

October 3, 1974

RE: Petition for Special Exception
Beginning 145' S of Leland
Avenue and 40' E of Martin
Boulevard - 15th Election District
Pennsylvania Railroad - Petitioner
NO. 74-100-X (item No. 19)

Dear Mr. Figlianski:

I have this date passed my Order in the above referenced matter. Copy of said Order is attached.

Very truly yours,

E. DiNenna
S. ERIC DI NENNA
Zoning Commissioner

SED/sw

Attachments

cc: Mr. James E. Bishop
1411 Clearview Road
Edgewood, Maryland 21040

BALTIMORE COUNTY, MARYLAND No. 16991

OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE November 6, 1974 ACCOUNT 01-662

AMOUNT \$75.00

WHITE - CASHIER DISTRIBUTION PINK - AGENCY YELLOW - CUSTOMER

Mr. James E. Bishop

Cost of Filing of an Appeal and Porting Property on Case

No. 74-100-X (item No. 19)

Beginning 145' S of Leland Avenue and 40' E of Martin

Boulevard - 15th Election District

Pennsylvania Railroad - Petitioner 75.00



AUG 27 1975

BALTIMORE COUNTY ZONING REGULATIONS

Adopted
March 30, 1955

In accordance with Title 30, Section 532(c) of the Code of Public Local Laws of Baltimore County, (1955 Edition, with subsequent amendments through December, 1963.

First edition 1955
Second edition 1964

Preface to Second Edition

The first Zoning Regulations for Baltimore County went into effect in 1945. Within a few years it became obvious they were not adequate to cope with the County's population growth and the need for greater differentiation among housing, business, and manufacturing uses. Professor Harold Shurtleff of the Massachusetts Institute of Technology was retained as a consultant to begin preliminary review of the zoning text.

In 1952 the County Commissioners acceded to the request of the Planning Commission to provide funds for studies looking toward a complete revision of the Zoning Regulations. These studies, under the direction of Malcolm H. Dill, Planning Director, continued over a period of two and one-half years, in cooperation with Augustine J. Muller, then Zoning Commissioner, and his successor, Willie H. Adams.

Many and varied interests were brought into consultation, including architects, lawyers, engineers, builders, developers, and real estate brokers, all of whom contributed substantially to formulating the Regulations. After a preliminary draft had been completed, further meetings and discussions were held. As a result of these conferences a final version was adopted by the County Commissioners on March 30, 1955.

On the whole these Regulations have provided the people of Baltimore County with a sound basis for the protection of property values and the general welfare. However, it was expected from the outset that the Regulations would have to be modified as the County grew and changed character. During the nearly nine years since the Regulations were adopted many amendments have been made. For example, the original twelve zones—six for residences, and three each for commercial and manufacturing—have been enlarged to thirteen with the adoption by the

County Council in 1961 of the Manufacturing, Light Restricted Zone.

Even with the prospect of completely revised Zoning Regulations emerging a few years hence from current studies authorized by the County Executive, the numerous changes make it desirable to publish an up to date edition of the 1955 text. Further interim amendments, one to be expected, and, in order to provide an easy method of keeping the Regulations up to date, the loose-leaf format of the earlier edition has been repeated.

SIGNS

zoned Commercial from the corner to a point opposite any portion of such sign.

- Other business signs that 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.

- Multiple face sign shall be considered as one sign.

413.3. Outdoor advertising signs as defined in Section 413.1 are allowed only in B. L., B. M., B. R., M. L. and M. H. Zones as Special Exceptions, under the following conditions, as limited by Section 413.5:

- The total surface area of any such sign, exclusive of structural supports, and the sign shall not exceed 350 square feet, except that a hand painted outdoor sign may have a total surface area of not exceeding 500 square feet. The provisions of this subsection referring to hand painted outdoor signs shall permit only one single face unit.

- No such sign shall be permitted to front a lot, face or be located within 25 feet of the right-of-way of any expressway or other controlled-access-type highway.

- No such sign shall be located closer to the street right-of-way line than the minimum front yard requirement for a commercial building as determined by these Regulations for the zone involved.

- No such sign shall be located on an unimproved lot within 100 feet at any street intersection involving a dual highway, or within 50 feet of any other intersection.

- No outdoor advertising sign shall be erected in any B. L., B. M., or B. R. Zones if at least 50% of the available

SIGNS

frontage between streets, on that side of the street on which the sign is proposed to be located, is improved with dwelling uses.

- In any B. L., B. M., B. R. Zones, all outdoor advertising signs on vacant land shall be located not less than 500 feet apart; all such signs placed on improved commercial properties shall be spaced not less than 100 feet apart. The 100 foot spacing shall govern when improved and unimproved commercial properties are contiguous. Two signs placed approximately at right angles to the street right-of-way, either back to back or end to end, are permitted. Provisions on to spacing and location of signs shall apply separately to each side of a street.

- In any M. L. or M. H. Zone, signs shall be placed at least 1,000 feet apart on the same side of the street or highway except that 2 signs may be placed, approximately back to back, totalling 4 signs on one structure, when located approximately at right angles to the right-of-way line.

- No outdoor advertising sign erected on a lot may extend more than 16 feet above any part of the roof or parapet, except that the 16 foot limitation shall not apply to any such roofline existing as of the date of adoption of these regulations.

- No existing outdoor advertising sign that does not comply with conditions and standards contained in this Section 413.3 shall be permitted to remain on any premises beyond the expiration date of any Special Permit by the authority of which it was erected, or if erected prior to January 2, 1945, two years after the effective date of such

SIGNS

tion of these regulations, except as noted in sub-paragraph b. above.

413.4.—In addition to signs allowed in Section 413.2 and 413.3 miscellaneous temporary signs such as seasonal streamers and banners may be displayed for periods not exceeding 30 days continuously, and totalling not more than 60 days in any one year.

413.5.—All business or outdoor advertising signs shall be subject to the following conditions:

- The surface area of any sign shall include the entire face or faces of the sign, and if the sign is composed of individual letters, figures, or designs, the space between and around such letters, figures or designs.

- No sign shall be placed within or project into the street right-of-way.

- Any free-standing or projecting sign within 25 feet of a street right-of-way line shall be so placed as to allow clear and ample visual sight lines for drive-ways leading into a street, and at intersections, streets and alleys.

- No sign erected on ground elevated above the level of the street which it abuts shall exceed 25 feet in height. No sign erected on ground below the level of the street which it abuts shall extend more than 25 feet above the level of the street which it abuts, except that in no case shall the total height of the structure exceed 35 feet.

- A sign may be illuminated, if illumination is confined to the surface of the sign; the sign shall be so located and arranged as to avoid glare or reflection onto any portion of any adjacent highway, or into the path of oncoming vehicles, or onto any adjacent residential premises. No flashing or rotating illumination shall be permitted.

BALTIMORE COUNTY ZONING REGULATIONS

ADOPTED BY

COUNTY COMMISSIONERS

OF

BALTIMORE COUNTY

March 30, 1955, in accordance with Title 30, Section 532 (c) of the Code of Public Local Laws of Baltimore County (1955 Edition).

1955

Michael J. Birmingham

President

Robert B. Hamill

President

Augustine J. Muller

County Commissioners of Baltimore County

Francis T. Peach

County Solicitor

George M. Berry

Deputy Solicitor

Willie H. Adams

Zoning Commissioner

PREFACE

The first Zoning Regulations to be adopted in Baltimore County went into effect in 1945. These Regulations served well enough until the tremendous growth of the County beginning about 1950 made it obvious that these Regulations were not sufficiently comprehensive to give adequate protection to the public in the large Metropolitan area which rapidly began to take shape throughout the entire suburban area of the County.

Shortly after the Election of 1950 a County administration requested the then Planning Commission to undertake studies looking toward the adoption of complete new and more comprehensive zoning regulations. These studies, under the direction and supervision of Mr. Malcolm H. Dill, then Planning Commissioner, in cooperation with Mr. Augustine J. Muller, the then Zoning Commissioner, have succeeded, as Zoning Commissioner by Mr. Willie H. Adams, continued over a period of several years. The services of Mr. Harold Shurtleff, a zoning consultant of recognized national standing were obtained and he participated in many conferences and discussions leading up to the adoption of the new Regulations.

Many varied interests were also brought into consultation including numerous architects, engineers, builders, developers and real estate brokers, all of whom contributed substantially to the Regulations as finally adopted and who are entitled to the thanks of the public for their contribution to this important undertaking. The Director of Planning and the Zoning Commissioner studied many zoning regulations from other jurisdictions and incorporated in these Regulations ideas gleaned from these sources.

After a preliminary draft of the Regulations had been completed numerous further meetings and discussions were had with various architects, builders and developers in which Mr. Malcolm H. Dill, as Director of Planning, Mr. Willie H. Adams, as Zoning Commissioner, Mr. Augustine J. Muller, as a member of the Board of County Commissioners, and former Zoning

z.c.
Exhibit "A"

Commissioner, and Mr. George M. Berry, Deputy County Solicitor, participated.

As a result of these many conferences a final draft of the new Regulations was prepared and finally adopted by the County Commissioners on March 30, 1955. We have now had more than two years of experience with these new Regulations. Some amendments have been found necessary and undoubtedly further amendments will be found desirable from time to time. On the whole, however, we believe that these Regulations have provided the people of Baltimore County with a sound basis for the protection of property values and the general welfare of the public.

Realizing that future amendments are a certainty and in order to afford an easy and economical method of keeping these Regulations up-to-date, the loose-leaf form was adopted. Recognizing the importance of keeping the public informed of current amendments and revisions these Regulations will be sold on a subscription basis, with the initial cost to include loose-leaf reprints of any amendments or revisions during the subscription period. The subscription period begins with the date of publication and terminates five years thereafter at which time the service will be made available on some different basis at a nominal cost.

The County authorities wish to extend their sincere thanks to the many persons who gave in generously of their time and effort in making these Regulations as effective and useful as we believe they are.

SIGNS

- In any business zone a sign affixed to any part of a building including a penthouse shall not extend more than 10 feet in height above any part of the roof or parapet and shall not exceed in square feet four times the length of the front building wall.
- A sign attached to the building and projecting approximately at right angles to it shall not exceed a total area of two square feet for every foot of height of the wall to which it is attached.
- No sign described in 413.2 a, b and c above shall project more than 42 inches from the building.
- An identification sign for a shopping center or other integrated group of stores or commercial buildings, not exceeding 150 square feet in area. Multiple-faced signs shall be considered as one sign. If the commercial center has access from more than one street, one such identification sign may be allowed for each street provided the latter is officially recognized as a thoroughfare, also provided that no such identification signs shall be located within 100 feet of any existing principal building on adjoining residential premises on the same side of the street. No such sign, however, shall be permitted unless the land on the opposite side of such thoroughfare is zoned Commercial from the corner to a point opposite any portion of such sign.
- 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.
- Multiple face sign shall be considered as one sign.

413.3-Outdoor advertising signs as defined in Section 101 are allowed only in B. L., B. M., B. R., M. L., and M. H. Zones as Special Exceptions, under the following conditions, as limited by Section 413.5:

SIGNS

- The total surface area of any such sign, exclusive of structural supports, and sign shall not exceed 300 square feet, except that a hand-painted custom-built sign may have a total surface area of not exceeding 500 square feet. The provisions of this subparagraph referring to hand-painted custom-built signs shall permit only one single face sign.
- No such sign shall be permitted to front on, face or be located within 250 feet of the right-of-way of any expressway or other controlled access-type highway.
- No such sign shall be located closer to the street right-of-way line than the minimum front yard requirement for a commercial building as determined by these Regulations for the zone involved.
- No such sign shall be located on unimproved land within 100 feet of any street intersection involving a dual highway, or within 50 feet of any other intersection.
- No outdoor advertising sign shall be erected in any B. L., B. M., or B. R. Zone if at least 50% of the available frontage between streets, on that side of the street on which the sign is proposed to be located, is improved with dwelling uses.
- In any B. L., B. M., or B. R. Zone, all outdoor advertising signs on vacant land shall be located not less than 500 feet apart; all such signs placed on improved commercial properties shall be spaced not less than 100 feet apart. The 100 foot spacing shall govern when improved and unimproved commercial properties are contiguous. Two signs placed approximately at right angles to the street right-of-way, either back to back or end to end, are permitted. Provisions as to spacing and location of signs shall apply separately to each side of a street.
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SIGNS

same side of the street or highway except that 2 signs may be placed, approximately back to back, having 4 signs on one structure, when located approximately at right angles to the right-of-way line.

No outdoor advertising sign erected on a roof may extend more than 10 feet above any part of the roof or parapet, except that the 10 foot limitation shall not apply to any such roof sign existing as of the date of adoption of these regulations.

No existing outdoor advertising sign that does not comply with conditions and standards contained in this Section 413.3 shall be permitted to remain on any premises beyond the expiration date of any Service Permit by the authority of which it was erected, or if erected prior to January 2, 1943, two years after the effective date of adoption of these regulations, except as noted in this paragraph b, above.

413.4-In addition to signs allowed in Section 413.2 and 413.3 miscellaneous temporary signs such as seasonal streamers and banners may be displayed for periods not exceeding 30 days continuously, and hanging not more than 60 days in any one year.

413.5-All business or outdoor advertising signs shall be subject to the following conditions:

- The surface area of any sign shall include the entire face or faces of the sign, and the sign is composed of individual letters, figures, or designs, the space between and around such letters, figures or designs.
- No sign shall be placed within or project into the street right-of-way.
- Any free-standing or projecting sign within 25 feet of a street right-of-way line shall be so placed as to allow clear and ample visual sight lines for driveways leading into a street, and at intersecting streets and alleys.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna, Zoning Commissioner Date: October 12, 1973

FROM: William D. Fromm, Director

SUBJECT: Office of Planning
Petition #74-100-X, Petition for Special Exception for Advertising Structure.
beginning 145 feet South of Leland Avenue and 40 feet East of Martin Boulevard.
Petitioner - Pennsylvania Railroad

15th District

HEARING - Wednesday, October 17, 1973 (10:30 A.M.)

The staff of the Office of Planning and Zoning has reviewed the above petition and has no comments at this time.

William D. Fromm, Director
Office of Planning

UDF:NEG:rw



BALTIMORE COUNTY ZONING ADVISORY COMMITTEE



PETITION AND SITE PLAN EVALUATION COMMENTS

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING Item 19

Donnelly Advertising Corporation of Maryland
3001 Remington Avenue
Baltimore, Md. 21211

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing

this 3rd day of August, 1973.

S. Eric DiNenna,
Zoning Commissioner

Petitioner: Donnelly Advertising Corp. of Maryland

Petitioner's Attorney:

Reviewed by
Chairman
Zoning Advisory Committee

Baltimore County, Maryland
Department Of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

Bureau of Engineering
ELLSWORTH N. RIVER, P.E. CHIEF

August 9, 1973

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #19 (1973-1574)
Property Owner: Pennsylvania Railroad
40 feet NE of Martin Boulevard, N/E
Pennsylvania Railroad right-of-way
Present Zoning: Business, Local
Proposed Zoning: Special Exception for
one (1) illuminated Outdoor Advertising
Structure
District: 15th No. Acres: 10 ft. x 25 ft.

Dear Mr. DiNenna:

The following comments are furnished in regard to the plat submitted to this Office for review by the Zoning Advisory Committee in connection with the subject item.

GENERAL:

Baltimore County utilities and highway improvements are not involved. This Office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 19 (1973-1574).

Very truly yours,

Ellsworth N. River, P.E.
Chief, Bureau of Engineering

ENCLOSURE

Key Sheet 1 N.E.
Position Sheet 13 N.E. 34
Tape Map 4-1
Tax Map 90

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

August 22, 1973

Donnelly Advertising
Corporation of Maryland
3001 Remington Avenue
Baltimore, Maryland 21211

RE: Special Exception Petition
Item 19
Pennsylvania Railroad -
Petitioners

Gentlemen:

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.

These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the appropriateness of the requested zoning.

The subject property is located 40 feet from the northeast side of Martin Blvd., and on the north side of the Pennsylvania Railroad tracks at the intersection of Leland Avenue near Wampler Road.

The petitioner is requesting a Special Exception for an outdoor advertising sign that will be located at the elevation the same as the railroad tracks that cross above Martin Blvd. Direction of the sign would be toward Martin Blvd's southbound lane.

Since this petitioner's request appears to meet the requirements of Section 413.3 and 413.5

Donnelly Advertising
Corporation of Maryland
Item 19
August 22, 1973

of the Baltimore County Zoning Regulations, this petition is accepted 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.
JOHN J. DILLON, Jr., Chairman
Zoning Advisory Committee

JJDjr:JJD

Enclosure

Baltimore County Fire Department

J. Austin Deitz
Chief

Towson, Maryland 21204

833-7310

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Mr. Jack Dillon, Chairman
Zoning Advisory Committee

Re: Property Owner: Pennsylvania Railroad

Location: 40 feet NE/s Martin Boulevard, N/s Pennsylvania Railroad
right-of-way.
Item No. 19 Zoning Agenda July 24, 1973

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead-end condition shown at _____

- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.

- () 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "The Life Safety Code", 1970 Edition prior to occupancy.
- () 6. Site plans are approved as drawn.
- (X) 7. The Fire Prevention Bureau has no comments at this time.

Reviewer:

Paul H. Kinscher
Planning Group
Special Inspection Division

Noted and

Paul H. Kinscher
Deputy Chief
Fire Prevention Bureau

ms
4/16/73

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204

DEPARTMENT OF TRAFFIC ENGINEERING

EUGENE J. CLIFFORD, P.E.
DIRECTORWM. T. MILLER
DEPUTY TRAFFIC ENGINEER

August 7, 1973

Mr. S. E. DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item 19 - ZAC - July 24, 1973

Property Owner: Pennsylvania Railroad
40 feet NE/s Martin Boulevard, N/s Pennsylvania Railroad right-of-way
Special Exception for one illuminated outdoor advertising structure
District 15

Dear Mr. DiNenna:

No traffic problems are anticipated by the requested special exception for an outdoor advertising structure.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate

MSF/gk

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF HEALTHJEFFERSON BUILDING
TOWSON, MARYLAND 21204

August 2, 1973

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item 19, Zoning Advisory Committee Meeting
July 24, 1973, are as follows:

Property Owner: Pennsylvania Railroad
Location: 40' NE/s Martin Blvd., N/S P.R.R. right-of-way
Present Zoning: Business, Local
Proposed Zoning: Special Exception for one (1) illuminated outdoor advertising structure
District: 15
No. Acres: 10' x 25'

Since this is exception for a sign, no health hazard is anticipated.

Very truly yours,

Thomas H. Devlin
Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

HVB:mas

WILLIAM D. FROMM
DIRECTOR
S. ERIC DINENNA
ZONING COMMISSIONER



August 3, 1973

Mr. S. Eric DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #19, Zoning Advisory Committee Meeting, July 24, 1973, are as follows:

Property Owner: Pennsylvania Railroad
Location: 40 feet NE/s Martin Boulevard, N/s Pennsylvania RR right of way
Existing Zoning: B.L.
Proposed Zoning: Special Exception for one (1) illuminated outdoor advertising structure
Election District: 15
No. Acres: 10 ft. X 25 ft.

This plan has been reviewed and there are no site-planning factors requiring comment.

Very truly yours,

John L. Wimbley
John L. Wimbley
Planning Specialist II
Project and Development Planning Division

BOARD OF EDUCATION
OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: 8/2/73
August 2, 1973

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Z.A.C. Meeting of: July 24, 1973

Re: Item 19

Property Owner: Pennsylvania Railroad
Location: see agenda
Present Zoning: BL
Proposed Zoning: SE for outdoor illuminating advertising structure

District: 15
No. Acres: 10x25 ft.

Dear Mr. DiNenna:

No bearing on pupil population

WNP/ml

Very truly yours,
W. Nick Petrovich
W. Nick Petrovich
Field Representative

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
SUITE 301 JEFFERSON BUILDING 100 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204
AREA CODE 301 PLANNING 484-3211 ZONING 485-3381

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Appeal
CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

H74-100-X

District: 15th Date of Posting: 11/22/74

Posted for:

Petitioner: *Penn. Railroad*Location of property: *Bay 145.5 ft. of Island on E. of E. of*Location of Sign: *Martin Blvd.*Remarks: *4.40 East of Martin Blvd.*Posted by: *Mark H. Nee* Signature Date of return: 11/28/74

This Sign was changed 10/30/74

[illegible]

OFFICE OF



ESSEX, MD. 21221 October 1, 1973

THIS IS TO CERTIFY, that the annexed advertisement of
S. Eric Dinenna, Zoning
Commissioner of Baltimore County

was inserted in THE ESSEX TIMES, a weekly newspaper published in Baltimore County, Maryland, once a week for One ~~XXXXXX~~ week/ before the 1st day of Cct., 1973 that is to say, the same was inserted in the issue/ of September 27, 1973.

STROMBERG PUBLICATIONS, Inc.

By Rick Morgan

ORIGINAL

**PUTTING FOR SPECIAL
RESPONSE**

HONING POINT for Special Excep-
tions for Advertising Space
LOCAL ADVERTISING SPACE
South of Leland Avenue, and
between Leland Avenue and
DATE & TIME: Wednesday, October
11, 1966, 10:00 a.m. to 12:00 p.m.
PUBLIC BUILDING Room 164, Con-
struction Department, 1000
Prime Avenue, Tower, Bismarck

The Acting Commissioner of Re-
venue is hereby inviting all persons
having Art and Exhibitions of Re-
lated Art and Exhibitions of Re-
lated Art to submit their applica-
tions for Special Exemption In-
creasing 12 to 25 Unimproved Acres

All that parcel of land in the 16
th and 17th Streets, Bismarck, North
Dakota, beginning at a point located
100 feet south of the intersection
of the 16th and 17th Streets, Bismarck,
North Dakota, and extending
south of Leland Avenue, and in
the 16th and 17th Streets, Bismarck,
North Dakota, beginning at a point
located northwesterly 31 feet to the
center of the 16th Street, Bismarck,
North Dakota, and extending
northwesterly 14 feet to the point
located northwesterly 31 feet to the
center of the 16th Street, Bismarck,
North Dakota.

Being the property of the Pennsylv-
ania State University, on plat
numbered 17, in the 16th and 17th
Streets, Bismarck, North Dakota.

Filed with the Zoning Depart-
ment

Filed Date: Wednesday, October
11, 1966, 10:00 a.m. to 12:00 p.m.
Public Hearing: Monday, October
17, 1966, 10:00 a.m. to 12:00 p.m.
Tower, Bismarck, North Dakota

B. KIRK DICKERSON
Acting Commissioner of
Revenue

Sept. 27

CERTIFICATE OF PUBLICATION

TOWSON, MD, September 27 1973

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., ~~successive weeks~~ on one time ~~successive weeks~~ before the 17th day of October, 1973, the first publication appearing on the 27th day of September.

THE JEFFERSONIAN,
Franklin D. Smith
 Manager

Cost of Advertisement, \$.....

PETITION MAPPING PROGRESS SHEET									
FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet
	date	by	date	by	date	by	date	by	date
Descriptions checked and outline plotted on map									
Petition number added to outline									
Denied									
Granted by ZC, BA, CC, CA									
Reviewed by: <u>FTH</u>	Revised Plans: Change in outline or description _____ Yes _____ No								
Previous case: _____	Map # _____								

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received* this 01 16 day of

Tuesday 1973, Item # _____
S. Eric DiNanno
Zoning Commissioner

Petitioner Donanelly Adv. Submitted by same
Petitioner's Attorney — Reviewed by ETH

* This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.

BA.TIMORE COUNTY, MARYLAND
OFFICE OF FIN. & REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 12432

DATE Sept. 24, 1973 ACCOUNT 01-662

AMOUNT \$50.00

DISTRIBUTION
WHITE CASHIER FINK AGENCY
3001 Remonding Ave.
Baltimore, Md. 21211
Petition for Special Exception for P.W.E.
#71-100-X
2843100 24 500000

YELLOW: CUSTOMER

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

No. 12489

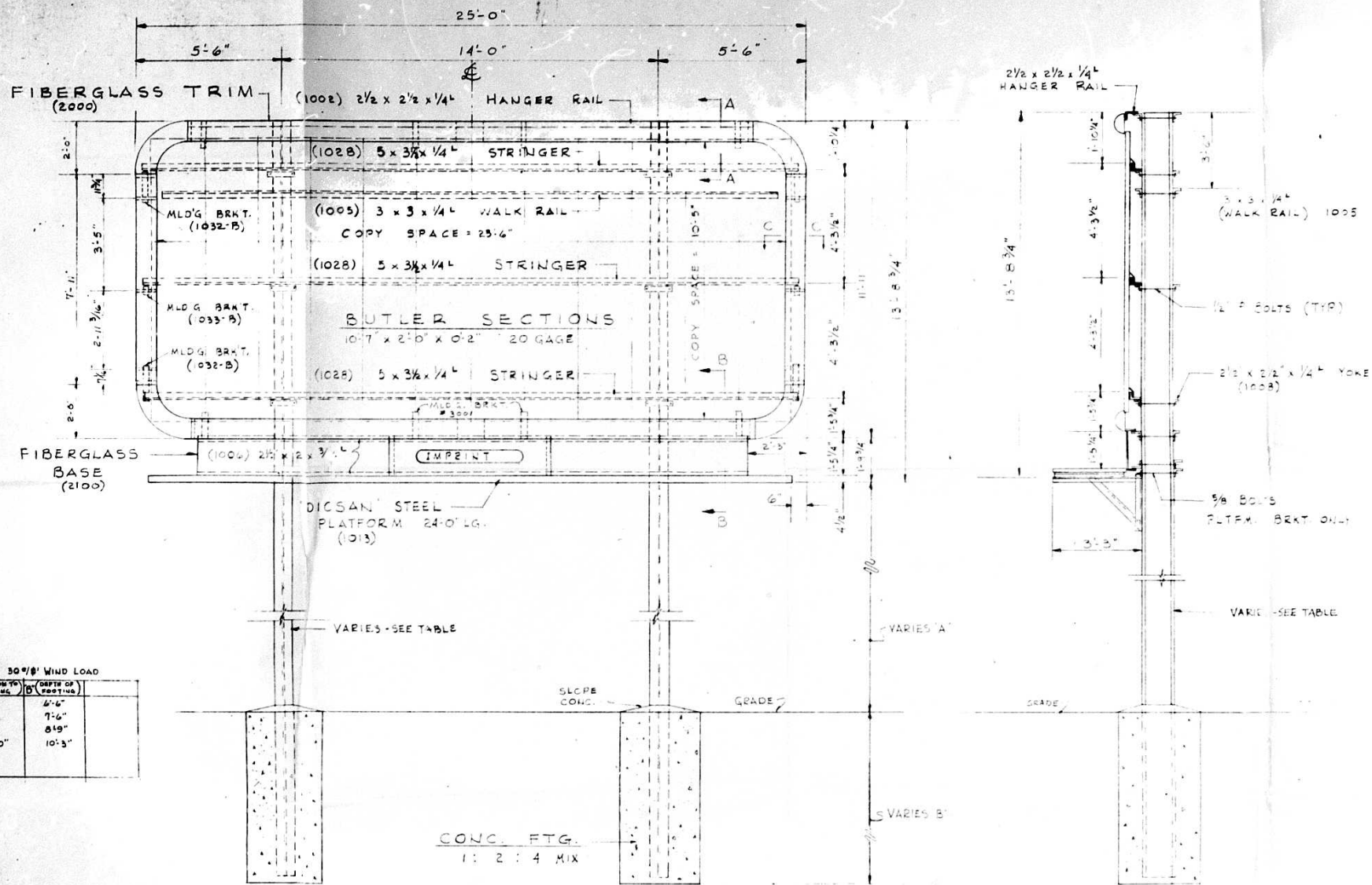
DATE Oct. 24, 1973 ACCOUNT 01-662

AMOUNT \$38.00

DISTRIBUTION
WHITE CASHIER PINK AGENCY YELLOW CUSTOMER

Donnelly Adv. Corp. of Md.
3001 Remington Ave.
Baltimore, Md. 21211

Advertising and posting of property for the P.B.S.
170-100-2 254 4 7000 24 38000



ELEVATION
OF
SIGN
SCALE: 1/2" = 1'-0"

STANDARD POSTER PANEL for BALTIMORE MARYLAND

JOHN DONNELLY & SONS
3134 WASHINGTON ST. BOSTON, MASS.

SECTION THRU SIGN
SCALE: 1/2" = 1'-0"



DAVID S. HYMAN, P.E.
2622 MARYLAND AVENUE
BALTIMORE, MARYLAND 21218

70-37 DEC 1, 1970

1/1

