



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

Paul J. Schwab, III
February 2, 2000
Page 2

February 2, 2000

Paul J. Schwab, III, Esquire
Azrael, Gann and Franz
101 E. Chesapeake Avenue
Fifth Floor
Baltimore, Maryland 21286

Dear Mr. Schwab:

RE: Zoning Verification, 6159 B Edmondson Ave., 1st Election District

The subject property is zoned M.R. with a small central portion of M.L.R.

In our telephone conversation of January 27, 2000, you described the proposed use of the property as wholesale distribution of building materials.

The first definition applies to building and construction equipment storage.

This use is part of the definition of contractors equipment storage yard as defined in Section 101 of the Baltimore County Zoning Regulations as follows:

"CONTRACTOR'S EQUIPMENT STORAGE YARD - The use of any space, whether inside or outside a building, for the storage or keeping of contractor's equipment or machinery, including building materials storage, construction equipment storage or landscaping equipment and associated materials. [Bill No. 149-1987]"

The above use is NOT allowed in a M.R. or M.L.R. zone.

Our records show five zoning hearings that have been held for this property: 5550, 65-79-SPH, 69-14-SPH, 84-191-SPHA, and 85-273-A.

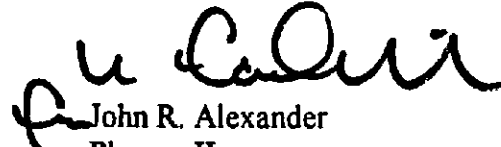
None of these hearings address the use of the property for building materials storage. I have included the definition of warehouse from the same section of regulations so that you can compare.

"WAREHOUSE - A building or part of a building used or intended to be used primarily for the storage of goods or chattels that are to be sold retail or wholesale from other premises or sold wholesale from the same premises; for the storage of goods or chattels to be shipped on mail order; for the storage of equipment or materials to be used or installed at other premises by the owner or operator of the warehouse; or for similar storage purposes. (The term "warehouse" does not include a retail establishment whose primary purpose is for the sale of goods or chattels stored on the premises; however, nothing in this definition is meant to exclude purely incidental retail sales in warehouses. Further, the term does not include a truck terminal, at which any storage is minor, transitory and merely incidental to the purpose of facilitating transportation of goods or chattels.) [Bill No. 18-1976]"

There appears to be no outstanding violations of the property.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

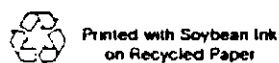
Sincerely,


John R. Alexander
Planner II
Zoning Review

JRA:kew

c: Zoning Case 85-273-A, 84-191-SPHA, 69-14-SPH, 65-79-SPH, 5550

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Department of Permits and
Development Management

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County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmilandacq@co.ba.md.us

February 2, 2000

Paul J. Schwab, III, Esquire
Azrael, Gann and Franz
101 E. Chesapeake Avenue
Fifth Floor
Baltimore, Maryland 21286

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Paul J. Schwab, III
February 2, 2000
Page 2

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Sincerely,

John R. Alexander
John R. Alexander
Planner II
Zoning Review

JRA:kew

c. Zoning Case 85-273-A, 84-191-SPHA, 69-14-SPH, 65-79-SPH, 5550

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 078651

DATE 1/27/00 ACCOUNT 601-6150
AMOUNT \$ 400.00 (M.R.)
RECEIVED FROM: W. J. Schwab, III
FOR: 5550 Southwestern Blvd

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION



AZRAEL GANN+FRANZ

January 24, 2000

HAND DELIVERED

Mr. Arnold Jablon, Director of
Permits and Development Management
Room 111, 111 West Chesapeake Avenue
Baltimore, Maryland 21204

Re: Zoning Verification for 6159 B Edmondson Avenue,
Catonsville, Maryland 21228

Dear Mr. Jablon:

I am requesting a zoning verification with respect to the property 6159 B Edmondson Avenue, Catonsville, Maryland 21228 outlined in yellow on the attached sheet. My firm's check in the amount of \$40.00 payable to Baltimore County, Maryland, accompanies this letter.

If you have any questions or need any additional information, please contact me.

Very truly yours,

AZRAEL GANN & FRANZ, LLP

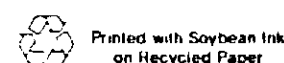
Paul J. Schwab, III

PJS:jhw
Encs.

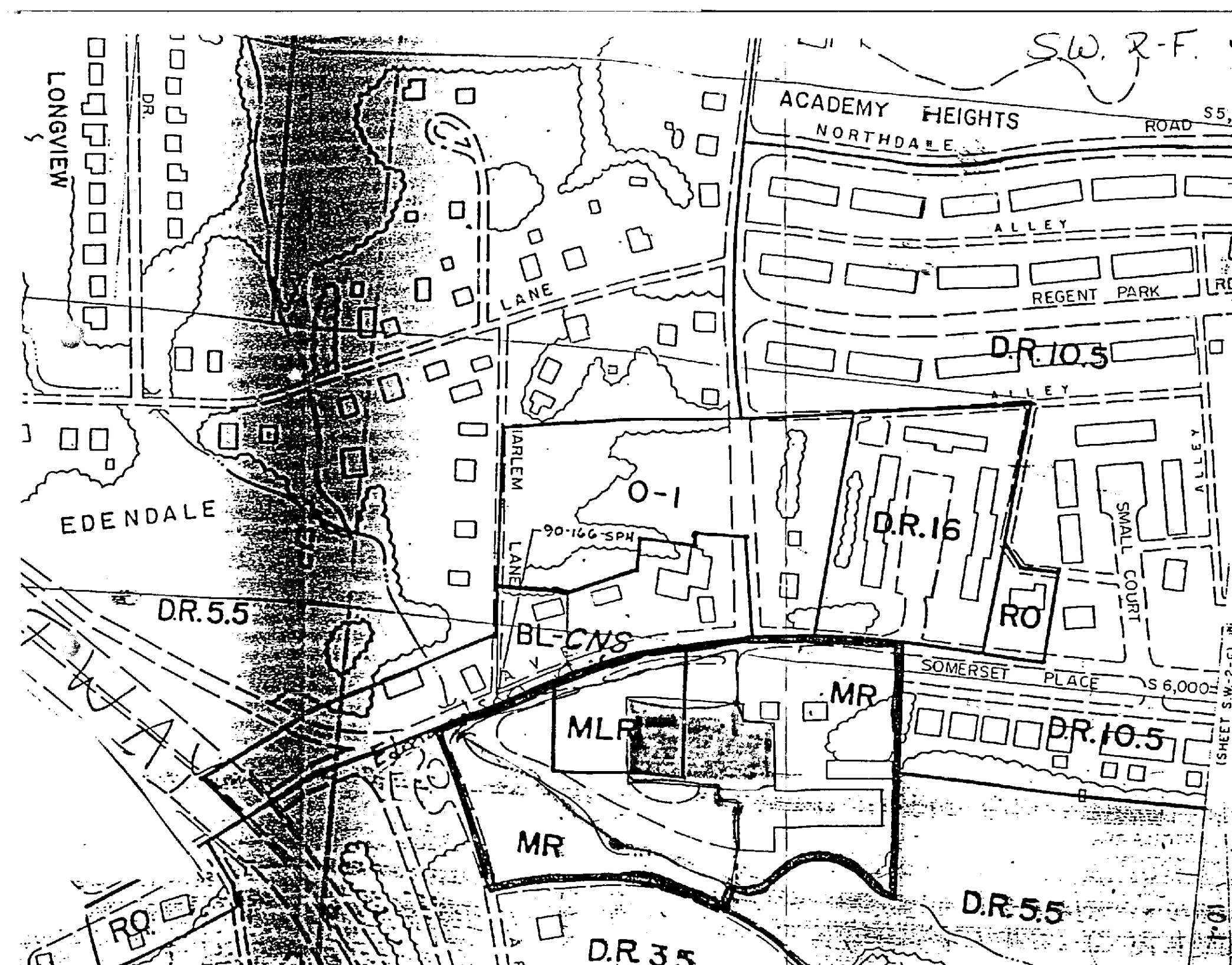
*Where's Dist. of
Bldg. Plans.*

101 EAST CHESAPEAKE AVENUE - FIFTH FLOOR
BALTIMORE, MARYLAND 21286
410.821.6800 - FACSIMILE: 410.821.1255

Census 2000 For You, For Baltimore County Census 2000



Come visit the County's Website at www.co.ba.md.us



PETITION FOR ZONING VARIANCE 85-273-A

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, 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 413.6.b.2 B.C.Z.R. to allow erection of on-site business sign of 100 feet in elevation in lieu of the permitted six feet above the grade level of the street and from Section 413.6.b.1 to permit a sign of 400 square feet per face in lieu of the permitted 25 square of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty) Compliance with Regulation 413.6 would make visibility of the proposed sign impossible from adjacent roadways, thus imposing practical difficulty and hardship upon Seven-Up Bottling Company of Baltimore, Inc.

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

I, or we, agree to pay expenses of above Variance 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.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s): Carpenter Realty Corp. d/b/a Seven-Up Bottling Company of Baltimore, Inc.

Contract Purchaser: (Type or Print Name) Signature Address City and State

Attorney for Petitioner: Thomas L. Hudson, Esquire (Type or Print Name) Signature Address City and State

Towson, Maryland 21204 Address Name City and State Attorney's Telephone No.: 823-4111

ORDERED By The Zoning Commissioner of Baltimore County, this 26th day of February, 1985, 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 Commission of Baltimore County in Room 106, County Office Building in Towson, Baltimore

at on the 1st day of April, 1985, at 1:30 o'clock

Zoning Commissioner of Baltimore County.

85-273-A

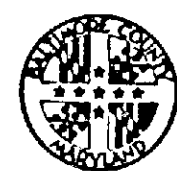
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your petition has been received and accepted for filing this 26th day of February, 1985

ARNOLD JABLON
Zoning Commissioner

Petitioner: Seven Up Bottling Co
Petitioner's Attorney: Thomas L. Hudson, Esquire



County Board of Appeals of Baltimore County

Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180

June 18, 1985

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 85-273-A CARPENTER REALTY CORP.
S/S of Edmondson Ave., 400' W of the c/l of Somerset Rd.
1st District
Variance-Business sign, 100' in lieu of 6' and 400' per face in lieu of 25 sq. ft.
4/10/85 - Z.C.'s Order - Granted w/restriction

ASSIGNED FOR: THURSDAY, SEPTEMBER 5, 1985, at 10 a.m.

cc: Thomas L. Hudson, Esq. Attorney for Petitioner
Thomas C. Nash Protestant
Tim Lawrence "
Mary Ginn "
Carpenter Realty Corp. Owner
Jim Mohler
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer
Phyllis C. Friedman People's Counsel

June Holmen, Secretary

494-3180

County Board of Appeals

Room 219 Court House

TOWSON, MARYLAND 21204

July 9, 1985

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #109

CASE NO. 85-273-A CARPENTER REALTY CORP.
S/S Edmondson Ave., 400' W of the c/l of Somerset Rd.
1st District
Variance-Business sign, 100' in lieu of 6' and 400' per face in lieu of 25 sq. ft.
4/10/85 - Z.C.'s Order - Granted w/restriction

The above case, scheduled for hearing on THURSDAY, SEPTEMBER 5, 1985, at 10 a.m., HAS BEEN POSTPONED by the Board at the request of counsel for the Petitioner, and

REASSIGNED FOR: THURSDAY, AUGUST 22, 1985, at 10 a.m.

cc: Thomas L. Hudson, Esq. Attorney for Petitioner
Thomas C. Nash Protestant
Tim Lawrence "
Mary Ginn "
Carpenter Realty Corp. Owner
Jim Mohler
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer
Phyllis C. Friedman People's Counsel

June Holmen, Secretary



BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

March 28, 1985

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #202 (1984-1985)
Property Owner: Seven Up Bottling Co. of Baltimore, Inc.
S/S Edmondson Ave. 400' W. from centerline
Somerset Rd.
Acres: 1.2
District: 1st

Dear Mr. Jablon:

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 Comments:

Since no public facilities are affected, this office has no comment.

Very truly yours,

JAMES A. MARBLE, P.E., Chief
Bureau of Public Services

JAM:EAM:PWO:ss

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 22, 1985

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

ofo
Nicholas B. Condonari
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Thomas L. Hudson, Esquire
210 Allegheny Avenue, P.O. Box 5517
Towson, Maryland 21204

RE: Item No. 202 - Case No. 85-273-A
Seven Up Bottling Co. of Baltimore, Inc.
Variance Petition

Dear Mr. Hudson:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following 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 suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

NICHOLAS B. CONDONARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: Gerhold, Cross & Etzel
412 Delaware Avenue
Towson, Md. 21204



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211
NORMAN E. GENDER
DIRECTOR

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

3/11/85

Re: Zoning Advisory Meeting of 3/11/85
Item #202
Property Owner: Seven Up Bottling Co. of Baltimore, Inc.
Location: S/S Edmondson Ave. W of Somerset Rd.

Dear Mr. Jablon:

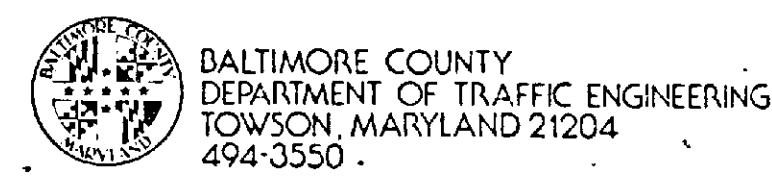
The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- (X) There are no site planning factors requiring comment.
- (X) A County Review Group Meeting is required.
- (X) A County Review Group Meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- () This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- (X) A record plat will be required and must be recorded prior to issuance of a building permit.
- (X) The access is not satisfactory.
- (X) The circulation on this site is not satisfactory.
- (X) The parking arrangement is not satisfactory.
- (X) Parking calculations must be shown on the plan.
- (X) This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- (X) Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-98 of the Development Regulations.
- (X) Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- (X) The amended Development Plan was approved by the Planning Board on
- (X) Landscaping: Must comply with Baltimore County Landscape Manual. The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is
- (X) The property is located in a traffic area controlled by a "D" level intersection as defined by Bill 178-79, and as conditions change traffic capacity may become more limited. The Basic Services Areas are re-evaluated annually by the County Council.
- () Additional comments:

cc: James Hoswell
Eugene A. Rober
Chief, Current Planning and Development

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit



STEPHEN E. COLLINS
DIRECTOR

February 28, 1985

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 197,200,201,202,203,204,205, and 206. ZAC-Meeting of January 29, 1985
Property Owner:
Location:
Existing Zoning:
Proposed Zoning:

Acres:
District:

Dear Mr. Jablon:

The Department of Traffic Engineering has no comments for item numbers 197,200,201,202,203,204,205, and 206.

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineering Assoc. I

MSF/cmm

4/1
PS-273-A

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
Zoning Commissioner
TO: _____ Date: March 20, 1985

Norman E. Gerber, Director
FROM: Office of Planning and Zoning

SUBJECT: Zoning Petition No. 85-273-A

It is this office's opinion that all of the requested variances should be denied. A sign of 100 feet in height would not be appropriate in view of its visual impact on the nearby residential areas. Further, this office is of the opinion that the standards set forth in the Baltimore County Zoning Regulations provide adequately for signage.

Norman E. Gerber
Norman E. Gerber, Director
Office of Planning and Zoning

NEG:JGH:sm

LAW OFFICES

COOK, HOWARD, DOWNES & TRACY

210 ALLEGHENY AVENUE
P.O. BOX 5517
TOWSON, MARYLAND 21204

June 21, 1985

County Board of Appeals of Baltimore County
Room 200, Court House
Hearing Room 218
Towson, Maryland 21204

Re: Carpenter Realty Corp.
Case No.: 85-273-A
Hearing Date: 9/5/85, 10:00 a.m.
Our File No.: 7815/14247

Dear Sirs:

I attach a copy of the notice of assignment for the above referenced case.

I must request a postponement rescheduling because I will be out-of-town from Wednesday, September 4 through Monday, September 9, 1985. The reason for my absence is a vacation which is scheduled the same time every year.

Please set a new date for this hearing.

Thank you. Please call me if you have any questions.

Sincerely,

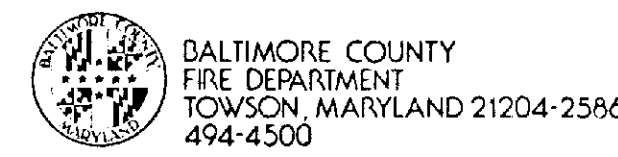
Thomas L. Hudson
Thomas L. Hudson

TLH/ddw

Enclosure

cc: Carpenter Realty Corp.
Robert A. Hoffman, Esquire

RECEIVED
COUNTY BOARD OF APPEALS
JUL 11 - 1 P 2 20



PAUL H. REINCKE
CHIEF

February 8, 1985

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Seven Up Bottling Company of Baltimore, Inc.

Location: S/S Edmonson Avenue 400' W. from c/l Somerset Road
Item No.: 202 Zoning Agenda: Meeting of 1/29/85

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 _____ EXCEEDS the maximum allowed by the Fire Department.

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

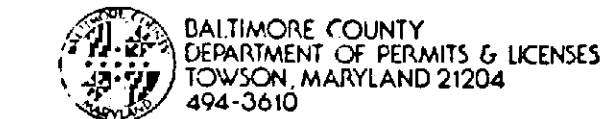
() 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

() 6. Site plans are approved, as drawn.

(X) 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWED BY: *Ray W. Kemmer* Noted and Approved: *Ray W. Kemmer*
Planning Group Fire Prevention Bureau
Special Inspection Division

/mb



February 19, 1985

TED ZALESKI, JR.
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 202 Zoning Advisory Committee Meeting are as follows:

Property Owner: Seven-Up Bottling Company of Baltimore, Inc.
Location: S/S Edmonson Avenue 400' W. from c/l Somerset Road
Existing Zoning: M.L.R. & M.R.
Proposed Zoning: Variance to permit an on-site business sign of 100' in elevation in lieu of the permitted 6' above the grade level of the street and to permit a sign of 400 sq. ft. per face in lieu of the permitted 25 sq. ft.

Acres: 1.2
District: 1st.

The items checked below are applicable:

() All structures shall conform to the Baltimore County Building Code 1981/Council Bill 4-81 and the Baltimore County Zoning Ordinance and other applicable Codes.

() A building/sign permit shall be required before beginning construction.

() Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/are not required. Non-reproduced seals and signatures are required on Plans and Technical Data.

() Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer Seal are required to file a permit application.

() An exterior wall erected within 6'0" for Commercial uses or 3'0" for One & Two Family use group of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0" of lot lines. A firewall is required if construction is on the lot line, see Table 401, line 2, Section 1407 and Table 1402, also Section 503.2.

() Requested variance appears to conflict with the Baltimore County Building Code, Section/s _____.

() A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.

() Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that, the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 401.

() Comments - Article 19 as amended in Bill 4-82 is applicable. See Sections 1900.0, 1901.0, 1903.0, 1905.0, 1906.1, 1907.0, 1911.0, 1914.0.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review) at 111 V. Chesapeake Ave., Towson.

Very truly yours,

Charles E. Kurbas
Charles E. Kurbas, Chief
Plans Review



Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204
494-2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

August 12, 1985

The Honorable
William T. Hackett, Chairman
County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

RE: Carpenter Realty Corp., Petitioner
Zoning Case No. 85-273-A

Dear Chairman Hackett:

It has just come to my attention that the hearing in the above-captioned matter has been postponed from Thursday, September 5, 1985, and reassigned for Thursday, August 22, 1985, at 10 a.m.

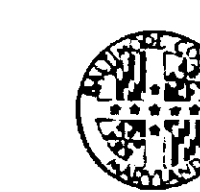
Since Mr. Zimmerman will be on vacation and I will be out of town on Thursday, August 22nd, I respectfully request that the hearing on that day be postponed.

Very truly yours,

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

cc: Thomas L. Hudson, Esquire
Thomas C. Nash
Tim Lawrence
Mary Ginn

RECEIVED
COUNTY BOARD OF APPEALS
JUL 15 12 P 3 50



County Board of Appeals of Baltimore County

Room 200 Court House (Hearing Room #218)

Towson, Maryland 21204

(301)484-3180

August 15, 1985

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 85-273-A

CARPENTER REALTY CORP.

FOR - VARIANCE - Business sign 100' in lieu of 6' and 400' per face in lieu of 25 sq.ft.

S/S Edmonson Avenue 400'
W of c/l of Somerset Road
1st District

4/10/85 - Z.C. GRANTED w/restriction

Scheduled for hearing on Thursday, August 22, 1985 at 10 a.m. has been POSTPONED at the request of People's Counsel, and by agreement of counsel has been

REASSIGNED FOR:

THURSDAY, SEPTEMBER 26, 1985 at 10 a.m.

cc: Thomas L. Hudson, Esquire	Counsel for Petitioner
Carpenter Realty Corp.	Petitioner
Thomas C. Nash	Protestant
Tim Lawrence	"
Mary Ginn	"
Jim Mohler	"
Phyllis Cole Friedman	People's Counsel
Norman E. Gerber	
James G. Hoswell	
Arnold J. Blon	
Jean M. H. Jung	
James E. Dyer	

Edith T. Eisenhart, Adm. Secretary

RE: PETITION FOR VARIANCE : BEFORE THE COUNTY BOARD OF APPEALS
S/S of Edmondson Ave., : OF BALTIMORE COUNTY
400' W of the Centerline
of Somerset Rd., 1st Dist.
CARPENTER REALTY CORP., : Zoning Case No. 85-273-A
Petitioner :

PEOPLE'S COUNSEL'S MEMORANDUM

I.

The County Board of Appeals should deny the requested sign variance because:

1. The size of the proposed sign is gross and outrageous;
2. The request is for the convenience of the business and unrelated to any characteristic of the property;
3. The neighborhood will be adversely affected; and
4. An ugly precedent will be set in this area for signs in proximity to the Beltway.

II.

Because of the importance of this case, and the need to define and understand the application of variance law generally and the "practical difficulty" standard particularly, it is appropriate to review the case law.

The Court of Appeals most recently had occasion to analyze area variance under Baltimore County Zoning Regulations 307 in McLean v. Soley, 270 Md. 208, 310 A.2d 783 (1973) and announced the following standard:

- "1) Whether compliance with the strict letter of the restrictions would unreasonably prevent use of the property for a permitted purpose;

- 2 -

- 2) Whether substantial justice would be done consistent with interests of other property owners in the neighborhood; and
- 3) Whether the spirit of the ordinance will be observed and the public safety and welfare secured."

This standard necessarily incorporates the reasoning and understanding developed in earlier decisions.

In Carney v. City of Baltimore, 201 Md. 130, 93 A.2d 74 (1952), the Court of Appeals addressed "practical difficulty" in reference to an exception from rear yard restrictions in Baltimore City. The Carneys proposed an addition, a first-floor bedroom, because of the condition of Mrs. Carney, who had difficulty climbing stairs. After noting that the need for the exception must be "substantial and urgent and not merely for the convenience of the applicant," the Court defined "practical difficulties or unnecessary hardships" as involving a "burden...upon the individual property" related to "its unique situation and the singular circumstances," which "would constitute an entirely unnecessary and unwarranted invasion of the basic right of private property." 93 A.2d, at 77. The denial of the exception was affirmed.

III.

Here, the 7-Up Bottling Plant has prospered for many years and has worked out an accommodation with the residential neighbors, including some compromise and adjustment. The Petitioner already has signs on the wall of its plant as well as a free-standing sign on Edmondson Avenue.

Its latest request for this incredibly large 400 square foot illuminated sign is prompted by the ridiculous assertion that trucks arriving from

- 3 -

other states lose their way in transit to the plant. This has absolutely nothing to do with any defect at the 7-Up property, which sits on a major arterial road and fairly close to the Beltway. Apparently, the Petitioner feels incapable of solving the problem by the communication of simple instructions to the customers or suppliers experiencing loss of direction. But this is no legal justification for a variance. Rather, the requested sign is a kind of luxury item and proposed with total insensitivity to the character of the neighborhood, whose representatives were eloquent in their opposition. Moreover, if this sign is permitted, then the precedent would be set to litter this area with signs along the Beltway, a clearly undesirable result.

Under the circumstances of this case, the variance should certainly be denied.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 17th day of October, 1985, a copy of the foregoing People's Counsel's Memorandum was mailed to Thomas L. Hudson, Esquire, and Robert A. Hoffman, Esquire, 210 Allegheny Ave., P.O. Box 5517, Towson, MD 21204, Attorneys for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

PETITION FOR VARIANCES * BEFORE THE
South Side Edmondson Avenue * COUNTY BOARD
400 feet west of the center * OF APPEALS OF
line of Somerset Road * BALTIMORE COUNTY
1st Election District * Case No.: 85-273-A
CARPENTER REALTY CORP., *
Petitioner *

MEMORANDUM IN SUPPORT OF PETITION FOR VARIANCES

Carpenter Realty Corp., doing business as 7-Up Bottling Company of Baltimore, Inc., Petitioner, by its attorneys, Thomas L. Hudson, Robert A. Hoffman and Cook, Howard, Downes & Tracy, in support of its Petition for Variances states the following:

This case comes before the County Board of Appeals of Baltimore County (the "Board") pursuant to an appeal filed by People's Counsel from a decision of the Zoning Commissioner granting certain variances for a business sign to be located at the 7-Up Bottling Plant ("7-Up") on Edmondson Avenue. The variances requested are for a business sign in an MLC zone one hundred feet in height in lieu of the permitted six feet and four hundred square feet per face in lieu of the permitted twenty-five square feet per face.

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OCT 17 1985

Petitioner submits that the following summary of testimony presented supports its request for variances to permit this sign.

Prior to taking testimony, Counsel for Petitioner made an opening statement outlining the Zoning History on this property. Briefly, a portion of 7-Up's property was rezoned to MLC from MR on the 1984 Comprehensive Maps specifically to allow for this sign. The Zoning Commissioner had previously determined in Case No. 84-191-SPHA that signs are not permitted in MR zones, thus prompting the request of the County Council to rezone a small portion of the 7-Up property.

Petitioner first presented testimony by Mr. Edgar L. Poist, General Manager of 7-Up. Mr. Poist testified that although 7-Up has been operating at this location since 1936, it does not have adequate signage to permit out-of-state carriers who deliver bottles and other products to the plant (delivery occurs approximately seventeen times per day) to locate 7-Up from the Baltimore Beltway and Exit 14 onto Edmondson Avenue.

In Mr. Poist's opinion, if these variance were not granted to permit this sign, Petitioner would suffer an undue hardship and practical difficulty in attempting to operate its bottling plant efficiently. Further, Mr.

Poist testified that the proposed sign would not have any adverse impact upon the surrounding community.

Petitioner next called Mr. Harry Connolly, a sign manufacturer, as its next witness. Mr. Connolly described the sign and submitted as Petitioner's Exhibit Two a drawing of the proposed 7-Up sign.

Mr. Connolly then described the design and engineering of the sign as well as its safety features. He further testified that the sign would be internally illuminated and would not affect surrounding neighborhoods.

Mr. Connolly then described a "sign - hoist test" in which a four hundred square foot white "poster" was raised to one hundred feet at the proposed location of the sign. On the face of that white poster was painted a one hundred square foot black square. The photographs of the proposed sign, submitted as Petitioner's Exhibit Five, clearly show that a sign of one hundred feet in height and four hundred square feet per face is necessary to allow out-of-state carriers to locate 7-Up.

Finally, Mr. Connolly was of the opinion that if the variances were not granted a practical difficulty or undue hardship would result and that the sign would have no adverse impact on the public health, safety or welfare of the locality.

As its last witness, Petitioner called John Weston Guckert, who was qualified and accepted as an expert in traffic engineering.

Mr. Guckert's testimony can best be summed up by quoting from his written report submitted as Petitioner's Exhibit Six. That report reads in pertinent part as follows:

Based on data that I have gathered, it is my opinion that the placement of the sign will not have an adverse effect on traffic along either the Baltimore Beltway or Edmondson Avenue and that there will be a positive benefit by the placement of the sign by providing guidance to out-of-state truckers who will have a destination to the bottling plant. Due to landscaping and topography, the bottling plant cannot be seen from the Beltway.

People's Counsel as its witnesses presented Mr. James Hoswell and several residents from the neighborhood surrounding 7-Up.

None of People's Counsel's witnesses felt that 7-Up required a sign one hundred feet in height and four hundred square feet per face. Each witness also contended that the sign, if erected, could be seen from various residences and that the purpose of the sign was merely for advertising 7-Up products and was not for directional purposes.

In rebuttal, Petitioner presented further testimony by Mr. Connolly who restated the directional benefit of the sign for out-of-state carriers, as well as confirming by the sign-hoist test that this sign could not be seen from any residences in the neighborhood. In fact, Petitioners Exhibit Seven is a photograph taken from Mr. Thomas Nash's (a witness and protestant below) back yard. As depicted by the photograph, nothing can be seen through the dense foliage which separates 7-Up's property from Mr. Nash's property.

Petitioners in this case are seeking variances from sign regulation §413.6.b.1 and 2 of the Baltimore County Zoning Regulations (B.C.Z.R.) pursuant to the power to grant variances found at §307 B.C.Z.R.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McClellan v. Soley, 270 Md. 208 (1973). It is clear from the testimony and evidence presented before the Board that a practical difficulty or unreasonable hardship would result if these variances were not granted. It was established through testimony that if these variances were not granted Petitioner would be unreasonably prevented from erecting a sign for directional purposes.

Further, testimony supported a conclusion by this Board that the variances requested will not be detrimental to the public health, safety or general welfare and will not be contrary to the spirit and intent of the Baltimore County Zoning Regulations.

For these reasons, Petitioner respectfully requests that the variances be granted as requested.

Respectfully submitted,

Thomas L. Hudson
THOMAS L. HUDSON

Robert A. Hoffman
ROBERT A. HOFFMAN
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
301-823-4111
Attorneys for the Petitioner

6

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 3rd day of October, 1985, a copy of the foregoing Memorandum in Support of Petition for Variances was mailed to Phyllis Cole Friedman, People's Counsel and Peter Max Zimmerman, Deputy People's Counsel, Old Courthouse, Second Floor, Towson, Maryland 21204.

Robert A. Hoffman
ROBERT A. HOFFMAN

7

IN THE MATTER OF THE APPLICATION OF CARPENTER REALTY CORP. FOR VARIANCE FROM SECTION 413.6.b.2 AND SECTION 413.6.b.1 OF THE BCZR, SOUTH SIDE OF EDMONDSON AVE., 400 FEET WEST OF C/L OF SOMERSET ROAD

1ST ELECTION DISTRICT

BOARD OF APPEALS, CASE NO. 85-273-A

CARPENTER REALTY CORP., APPELLANT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Case No.

ORDER FOR APPEAL

MR. CLERK:

Please enter an appeal in the above captioned case from the Order of the County Board of Appeals of Baltimore County dated November 25, 1985, case no. 85-273-A.

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COUNTY BOARD OF APPEALS
JUL 24 1985

Thomas L. Hudson
THOMAS L. HUDSON
Robert A. Hoffman
ROBERT A. HOFFMAN
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
301-823-4111

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 23rd day of December, 1985, a copy of the foregoing Order for Appeal was hand delivered to The County Board of Appeals of Baltimore County, Room 200 Courthouse, Towson, Maryland 21204; and also mailed to Phyllis Cole Friedman and Peter Max Zimmerman, Peoples' Counsel, 2nd Floor, Old Courthouse, Towson, Maryland 21204.

Robert A. Hoffman
ROBERT A. HOFFMAN

2

IN THE MATTER OF THE APPLICATION OF CARPENTER REALTY CORP. FOR VARIANCE FROM SEC. 413.6.b.2 AND SEC. 413.6.b.1 OF THE BCZR, S/S OF EDMONDSON AVE., 400' W. OF C/L OF SOMERSET ROAD 1st DISTRICT

CARPENTER REALTY CORP., PETITIONER-PLAINTIFF

ZONING FILE NO. 85-273-A

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

CG Doc. No. 19

Folio No. 26

File No. 85-CG-4116

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, LeRoy B. Spurrier, and Diana K. Vincent, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Thomas L. Hudson, Esq. and Robert A. Hoffman, Esq., 210 Allegheny Ave., P. O. Box 5517, Towson, Md. 21204, Counsel for Petitioner-Plaintiff; Carpenter Realty Corp. d/b/a, Seven-Up Bottling Co. of Baltimore, Inc., 6159 Edmondson Ave., Balto., Md. 21228, Petitioner; Mr. Jim Mohler, 7 Somerset Rd., Balto., Md. 21228; Thomas C. Nash, 17 Somerset Rd., Balto., Md. 21229, Protestant; Tim Lawrence, 129 Arbutus Ave., Balto., Md. 21228, Protestant; Ms. Mary Ginn, 606 Horncrest Rd., Towson, Md. 21204, Protestant; and Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
June Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
494-3180

Carpenter Realty Corp.
Case No. 85-273-A

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Thomas L. Hudson, Esq., and Robert A. Hoffman, Esq., 210 Allegheny Ave., P. O. Box 5517, Towson, Md. 21204, Counsel for Petitioner-Plaintiff; Carpenter Realty Corp. d/b/a, Seven-Up Bottling Co. of Baltimore, Inc., 6159 Edmondson Ave., Balto., Md. 21228, Petitioner; Mr. Jim Mohler, 7 Somerset Rd., Balto., Md. 21228; Thomas C. Nash, 17 Somerset Rd., Balto., Md. 21229, Protestant; Tim Lawrence, 129 Arbutus Ave., Balto., Md. 21228, Protestant; Ms. Mary Ginn, 606 Horncrest Rd., Towson, Md. 21204, Protestant; and Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, on this 26th day of December, 1985.

June Holmen
June Holmen
County Board of Appeals of Baltimore County

IN THE MATTER OF THE APPLICATION OF CARPENTER REALTY CORP. FOR VARIANCE FROM SECTION 413.6.b.2 AND SECTION 413.6.b.1 OF THE BCZR, SOUTH SIDE OF EDMONDSON AVE., 400 FEET WEST OF C/L OF SOMERSET ROAD

1ST ELECTION DISTRICT

BOARD OF APPEALS, CASE NO. 85-273-A

CARPENTER REALTY CORP., APPELLANT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

C.G. Docket No.: 19

Folio No.: 26

Case No.: 85-CG-4116

PETITION OF APPEAL

Carpenter Realty Corp., by Thomas L. Hudson, Robert A. Hoffman and Cook, Howard, Downes & Tracy, in support of its Order for Appeal, states the following:

1. That Appellant, on December 23, 1985, filed an Order of Appeal from the Opinion and Order of the County Board of Appeals of Baltimore County (the "Board") dated November 25, 1985, in Case Number 85-273-A, in which the Board denied Appellant's Petition for Variances to permit a business sign 100 feet high in lieu of the permitted 6 feet and 400 square feet in area in lieu of the permitted 25 square feet on property located on the south side of Edmondson Avenue, 400 feet west of the center line of Somerset Road, in the First Election District of Baltimore County.

2. That the Order of the Board is arbitrary, capricious and unreasonable.

3. That the said Order is contrary to the weight of the evidence presented to the Board.

4. And for such other and further reasons as will be presented in Appellant's memorandum and at the hearing on this Appeal.

WHEREFORE, Appellant respectfully requests this Honorable Court pass an Order reversing the Order of the County Board of Appeals; or such other and further relief as may be appropriate.

Thomas L. Hudson
THOMAS L. HUDSON
Robert A. Hoffman
ROBERT A. HOFFMAN
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
301-823-4111
Attorney for the Appellant

Rec'd. 10/31/85
3:45 PM (J.H.)

2

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 14th day of December, 1985, a copy of the foregoing Petition for Appeal was hand-delivered to the County Board of Appeals of Baltimore County, Room 200 Courthouse, Towson, Maryland 21204; and mailed to Phyllis Cole Friedman and Peter Max Zimmerman, Peoples Counsel, 2nd Floor, Old Courthouse, Towson, Maryland 21204.

ROBERT A. HOFFMAN

IN THE MATTER OF THE APPLICATION OF CARPENTER REALTY CORP. FOR VARIANCE FROM SECTIONS 413.6.b.1 & 2 OF THE BALTIMORE COUNTY ZONING REGULATIONS, 5/8 OF EDMONDSON AVE., 400' W OF C/L OF SOMERSET RD., 1st Election District : IN THE CIRCUIT COURT : FOR BALTIMORE COUNTY : Case No. 85-CG-4116

CARPENTER REALTY CORPORATION, Appellant

People's Counsel for Baltimore County, Protestant below and Appellee herein, answers the Petition of Appeal in the above-entitled matter, as follows:

1. Appellee admits Paragraph 1 of the Petition.
2. Appellee denies Paragraphs 2 through 4 of the Petition.
3. In further answering, Appellee states that the decision of the Board of Appeals was reasonable and based on legally competent and substantial evidence.

WHEREFORE, Appellee prays that the Court affirm the decision of the County Board of Appeals of Baltimore County.

Phyllis Cole Friedman
People's Counsel for Baltimore County
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

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FEB 14 1986

- 2 -

I HEREBY CERTIFY that on this 14th day of January, 1986, a copy of the foregoing Answer to Petition of Appeal was mailed to Thomas L. Hudson, Esquire and Robert A. Hoffman, Esquire, Cook, Howard, Downes & Tracy, 210 Allegheny Ave., P. O. Box 5517, Towson, MD 21204, Attorneys for Appellant.

Peter Max Zimmerman
Peter Max Zimmerman

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COUNTY BOARD OF APPEALS
FEB 14 1986

CARL L. BERNHOLD
PHILIP K. CROSS
JOHN E. ETZEL
JAMES B. ULICH
GORDON T. LANGDON

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

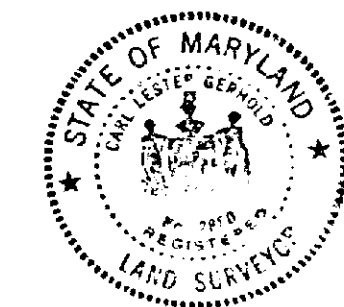
SHERRILL
PAUL H. BOLLINGER
FRED H. BOLLINGER

Zoning Description

All that piece or parcel of land situate, lying and being in the First Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point in the center of Edmondson Avenue at the distance of 400 feet measured southwesterly along the center of Edmondson Avenue from a point in line with the center of Somerset Road and running thence and binding in the center of Edmondson Avenue, Southwesterly by a line curving toward the left having a radius of 1432.40 feet for an arc distance of 210.00 feet, thence leaving said Avenue and running the three following courses and distances viz: South 5 degrees 38 minutes East 180.20 feet, North 84 degrees 09 minutes 20 seconds East 230.00 feet and North 5 degrees 50 minutes 40 seconds West 250.00 feet to the place of beginning.

Containing 1.2 Acres of land more or less.



IN THE MATTER OF THE APPLICATION OF CARPENTER REALTY CORP. FOR VARIANCE FROM SECTION 413.6.b.1 OF THE BCZ, SOUTH SIDE OF EDMONDSON AVE., 400 FEET WEST OF C/L OF SOMERSET ROAD : IN THE : CIRCUIT COURT : FOR : BALTIMORE COUNTY

1ST ELECTION DISTRICT : C.G. Docket No.: 19
BOARD OF APPEALS, CASE NO. : Folio No.: 26
85-273-A : Case No.: 85-CG-4116

CARPENTER REALTY CORP., APPELLANT

NOTICE OF DISMISSAL

Appellant, Carpenter Realty Corp., by Thomas L. Hudson, Robert A. Hoffman and Cook, Howard, Downes & Tracy, hereby withdraws and dismisses its appeal from the Opinion and Order of the County Board of Appeals of Baltimore County (the "Board") dated November 25, 1985, in Case Number 85-273-A, and is joined in this Notice of Dismissal by Peoples Counsel of Baltimore County, the party in opposition below.

Thomas L. Hudson
THOMAS L. HUDSON
Robert A. Hoffman
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
301-823-4111
Attorney for the Appellant

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COUNTY BOARD OF APPEALS
A 851
True Copy Test
EUGENE HEKAHLIN, JR., Clerk
Deputy Clerk

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 21st day of January, 1986, a copy of the foregoing Notice of Dismissal was mailed to the County Board of Appeals of Baltimore County, Room 200 Courthouse, Towson, Maryland 21204; and mailed to Phyllis Cole Friedman and Peter Max Zimmerman, Peoples Counsel, 2nd Floor, Old Courthouse, Towson, Maryland.

ROBERT A. HOFFMAN

IN THE MATTER OF THE APPLICATION OF CARPENTER REALTY CORP. FOR VARIANCE FROM SECTION 413.6.b.1 OF THE BCZ, SOUTH SIDE OF EDMONDSON AVE., 400 FEET WEST OF C/L OF SOMERSET ROAD : IN THE : CIRCUIT COURT : FOR : BALTIMORE COUNTY

1ST ELECTION DISTRICT : C.G. Docket No.: 19
BOARD OF APPEALS, CASE NO. : Folio No.: 26
85-273-A : Case No.: 85-CG-4116

CARPENTER REALTY CORP., APPELLANT

NOTICE OF DISMISSAL

Appellant, Carpenter Realty Corp., by Thomas L. Hudson, Robert A. Hoffman and Cook, Howard, Downes & Tracy, hereby withdraws and dismisses its appeal from the Opinion and Order of the County Board of Appeals of Baltimore County (the "Board") dated November 25, 1985, in Case Number 85-273-A.

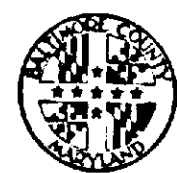
Thomas L. Hudson
THOMAS L. HUDSON
Robert A. Hoffman
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
301-823-4111
Attorney for the Appellant

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COUNTY BOARD OF APPEALS
FEB 17 1986

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 16th day of January, 1986, a copy of the foregoing Notice of Dismissal was mailed to the County Board of Appeals of Baltimore County, Room 200 Courthouse, Towson, Maryland 21204; and mailed to Phyllis Cole Friedman and Peter Max Zimmerman, Peoples Counsel, 2nd Floor, Old Courthouse, Towson, Maryland.

ROBERT A. HOFFMAN



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

November 25, 1985

Phyllis Cole Friedman
People's Counsel of Baltimore County
Room 223 Courthouse
Towson, MD 21204

Re: Case No. 85-273-A
Carpenter Realty Corp.

Dear Mrs. Friedman:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Enclosure

cc: Thomas L. Hudson, Esquire
Thomas C. Nash
Mr. Tim Lawrence
Ms. Mary Ginn
Carpenter Realty Corp.
Mr. Jim Mohler
Norman E. Gerber
James C. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer

IN THE MATTER OF THE APPLICATION OF
CARPENTER REALTY CORP.
FOR VARIANCE FROM §413.6.b.2
AND §4.3.6.b.1 OF THE BCZR
S/S OF EDMONDSON AVE. 400'
W. OF C/L OF SOMERSET ROAD
1st DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
NO. 85-273-A

OPINION

This case comes before the Board on appeal from the decision of the Zoning Commissioner granting the Petitioner a variance, with restrictions, for a business sign. The request is for a business sign 100 feet in lieu of 6 feet and 400 square feet per face in lieu of 25 square feet, on property located on the south side of Edmondson Avenue 400 feet west of the centerline of Somerset Road, in the First Election District of Baltimore County.

The Board heard testimony from Mr. Edgar Lee Poist, General Manager of the 7-Up Bottling Company for forty-nine years. Mr. Poist stated that the reason for the variance request was that a sign of this magnitude is necessary to aid out of state truckers delivering supplies to the plant.

According to his testimony, verbal directions to dispatchers have on occasion been insufficient in helping the truckers locate the facility.

Several residents of the area took the stand to object to the erection of the sign. Their testimony indicated that the plant already has a number of signs clearly denoting the facility and that a sign of such magnitude would, in their opinion, be for the purpose of advertising the bottling

CARPENTER REALTY - #85-273-A

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company's product to the traffic traveling the Beltway and not for directional purposes. Additionally, they felt the proposed sign would not be in keeping with the largely residential complexion of the rest of the neighborhood.

As stated in the People's Counsel's Memorandum, when considering a petition for a variance, local authorities must consider McLean v. Soley, 270 Md. 208, 310 A.2d 793 (1973) which states the following criteria:

- 1) Whether compliance with the strict letter of the restrictions would unreasonably prevent use of the property for a permitted purpose;
- 1) Whether substantial justice would be done consistent with interests of other property owners in the neighborhood; and
- 3) Whether the spirit of the ordinance will be observed and the public safety and welfare secured.

The Board feels that the Petitioner has not met the above standards. Strict compliance with §307 of the Baltimore County Zoning Regulations (BCZR) would not prevent use of the property for its permitted use as a bottling facility. The plant has operated without the sign for at least forty-nine years and there is no evidence to indicate that without the proposed sign it could not continue its operation.

Justice consistent with the interests of other property owners clearly would not be served, as per the testimony of nearby property owners. The proposed illuminated sign erected eighty feet in the air would not only be

CARPENTER REALTY - #85-273-A

3.

unsightly but would actually illuminate the rooms of several nearby homes.

Unquestionably, denial of the variance would be in keeping with the spirit of the law, which is to grant variances only in cases where strict compliance would result in a practical difficulty or unreasonable hardship. The plant has operated successfully for many years and it will undoubtedly continue to do so.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 25th day of November, 1985, by the County Board of Appeals, ORDERED that the variance petitioned for, be and the same is hereby DENIED.

Any appeal from this decision must be in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Diana K. Vincent
Diana K. Vincent

LeRoy E. Sprueller
LeRoy E. Sprueller



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

May 9, 1985

Thomas L. Hudson, Esquire
210 Allegheny Avenue
P. O. Box 5517
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
S/S of Edmondson Avenue,
400' W of the Centerline
of Somerset Road
1st Election District
Carpenter Realty Corp. - Petitioner
Case No. 85-273-A (Item #202)

Dear Mr. Hudson:

Please be advised that an appeal has been filed by the People's Counsel for Baltimore County from the decision rendered by the Zoning Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the County Board of Appeals.

Sincerely,

Arnold Jablon
ARNOLD JABLON
Zoning Commissioner

AJ:hg

cc: Thomas C. Nash
17 Somerset Road
Baltimore, Maryland 21228

Mr. Tim Lawrence
129 Arbutus Avenue
Baltimore, Maryland 21228

Ms. Mary Ginn
606 Horncrest Road
Towson, Maryland 21204

RE: PETITION FOR VARIANCES
S/S of Edmondson Ave.,
400' W of the Centerline
of Somerset Road,
1st District

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY

CARPENTER REALTY
CORPORATION, Petitioner

Case No. 85-273-A

NOTICE OF APPEAL

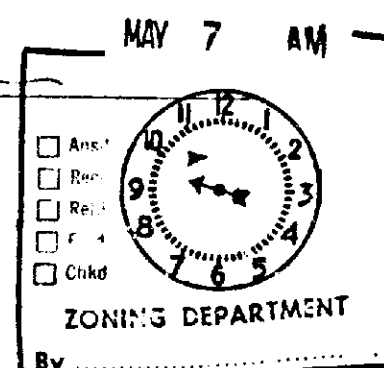
Please note an appeal from your decision in the above-captioned matter, under date of April 10, 1985, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 6th day of May, 1985, a copy of the foregoing Notice of Appeal was mailed to Thomas L. Hudson, Esquire, and Robert A. Hoffman, Esquire, 210 Allegheny Ave., P. O. Box 5517, Towson, Maryland 21204.

Peter Max Zimmerman
Peter Max Zimmerman



IN RE: PETITION ZONING VARIANCES
S/S of Edmondson Avenue, 400'
W of the centerline of
Somerset Road - 1st Election
District

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY

Carpenter Realty Corporation,
Petitioner

Case No. 85-273-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests variances to permit a freestanding business sign of 400 square feet per face instead of the permitted 25 square feet and to stand 100 feet above grade level rather than the permitted 6 feet, as shown on Petitioner's Exhibit 1.

The Petitioner, by its General Manager, Edgar L. Poist, appeared and testified and was represented by Counsel. Carl Gerhold, a registered land surveyor, and Harry Connelly, the sign manufacturer, appeared and testified on behalf of the Petitioner. Thomas C. Nash and Tim Lawrence, neighbors, and Mary Ginn and Kay Turner of Towson, representing County-wide community groups, appeared in opposition.

Testimony indicated that the Petitioner has had its bottling plant on the subject site since 1936 and needs a sign of sufficient size and height to provide identification of its location from the Baltimore Beltway, approximately 600 feet away. There are no means of identification presently available to out-of-the-area drivers. Without a sign, drivers often get lost and make wrong turns on Edmondson Avenue, and the need for a sign is self-evident. The Petitioner had a helicopter hover at 80 feet and 100 feet above the street in order to determine at what height a sign could be seen from the Beltway. It was determined that it could not be seen at 80 feet but that it could at 100 feet. The Protestants oppose the sign on both general and more provincial terms. Both Mr. Lawrence and Mr. Nash project damage to both property values and to

their properties should the sign fail. Mr. Lawrence also believes that a hazardous situation would be created by those drivers attempting to locate the sign while traveling at highway speed on the Beltway.

Mr. Connelly with extensive experience in signs countered by substantiating the safety of the sign.

The Petitioner seeks relief from Section 413.6.b.1 and 2, pursuant to Section 307, Baltimore County Zoning Regulations (BCZR).

An area variance may be granted where strict application of the zoning regulation would cause practical difficulty to the petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the petitioner must meet the following:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances were granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variances were not granted. It has been established that the requirement from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variances requested should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 10th day of April, 1985, that the Petition for Zoning Variances to permit a freestanding business sign 100 square feet per face instead of the permitted 25 feet and to stand 100 feet above grade level rather than the permitted 6 feet be and the same is hereby GRANTED, from and after the date of this Order, subject to the following:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

[Signature]
Zoning Commissioner of
Baltimore County

Ad/srl

cc: Robert A. Hoffman, Esquire
Mrs. Mary Ginn
Mr. Thomas C. Nash
Mr. Tim Lawrence
People's Counsel

ORDER RECEIVED FOR FILING

DATE April 11, 1985
BY [Signature]
CLERK

- 3 -

PETITION FOR VARIANCES
1st Election District
LOCATION: South side Edmondson Avenue, 400 ft. West from the centerline of Somerset Road
DATE AND TIME: Monday, April 1, 1985 at 1:30 P.M.
PUBLIC HEARING: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:
Petition for Variances to allow erection of on-site business sign of 100 ft. in elevation in lieu of the permitted 6 ft. above the grade level of the street and to permit a sign of 400 sq. ft. per face in lieu of the permitted 25 sq. ft.

Being the property of Carpenter Realty Corp. as shown on the plat filed with the Zoning Office.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

March 28, 1985

Thomas L. Hudson, Esquire
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204

RE: Petition for Variances
S/S Edmondson Ave., 400' W from the
c/l of Somerset Road
Carpenter Realty Corp.-Petitioner
Case No. 85-273-A

Dear Mr. Hudson:

This is to advise you that \$43.75 is due for advertising and posting of the above property.

This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

[Signature]
ARNOLD JABLON
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 005370
DATE April 1, 1985 ACCOUNT 8-01-615-000
AMOUNT \$43.75
RECEIVED Robert Hoffman, Esquire
FOR advertising and posting Case 85-273-A
(Carpenter Realty Corp.)
B D11*****1000016 50121
VALIDATION OR SIGNATURE OF CASHIER

PETITION FOR VARIANCES
LOCATION: South side Edmondson Avenue, 400 ft. West from the centerline of Somerset Road
DATE AND TIME: Monday, April 1, 1985 at 1:30 P.M.
PUBLIC HEARING: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:
Petition for Variances to allow erection of on-site business sign of 100 ft. in elevation in lieu of the permitted 6 ft. above the grade level of the street and to permit a sign of 400 sq. ft. per face in lieu of the permitted 25 sq. ft.
Being the property of Carpenter Realty Corp. as shown on the plat filed with the Zoning Office.
The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

Office of
PATUXENT
Publishing Corp.
10750 Latta Parkway
Columbia, MD 21044

March 14 19 85

THIS IS TO CERTIFY, that the annexed advertisement of
PETITION FOR VARIANCE

was inserted in the following:
☒ Catonsville Times
☐ Arbutus Times

weekly newspapers published in Baltimore County, Maryland once a week for one successive weeks before the 16 day of March 1985, that is to say, the same was inserted in the issues of

March 14, 1985

PATUXENT PUBLISHING CORP.
By *[Signature]*

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY, IN EQUITY

Plaintiff

Defendant

vs.

CERTIFICATE OF PUBLICATION OF

Thomas L. Hudson, Esquire
210 Allegheny Avenue
P. O. Box 5517
Towson, Maryland 21204

March 5, 1985

NOTICE OF HEARING
RE: Petition for Variances
S/S Edmondson Ave., 400' W from the c/l of
Somerset Road
Carpenter Realty Corp. - Petitioner
Case No. 85-273-A

TIME: 1:30 P.M.

DATE: Monday, April 1, 1985

PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

[Signature]
Zoning Commissioner
of Baltimore County

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

85-273-A

District: 1st Date of Posting: 3-16-85
Posted for: Variances
Petitioner: Carpenter Realty Corp.
Location of property: S/S of Edmondson Ave. 400' W of the c/l of Somerset Road
Location of Sign: South side of Edmondson Avenue, approx. 500' West of the c/l of Somerset Road
Remarks: [Signature]
Posted by: [Signature] Date of return: 3-22-85
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD, March 14, 1985
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on March 14, 1985.
85-273-A
THE JEFFERSONIAN,
[Signature]
Publisher
Cost of Advertising
20.00

PETITION FOR VARIANCES
1st Election District
LOCATION: South side Edmondson Avenue, 400 ft. West from the centerline of Somerset Road
DATE AND TIME: Monday, April 1, 1985 at 1:30 P.M.
PUBLIC HEARING: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:
Petition for Variances to allow erection of on-site business sign of 100 ft. in elevation in lieu of the permitted 6 ft. above the grade level of the street and to permit a sign of 400 sq. ft. per face in lieu of the permitted 25 sq. ft.
Being the property of Carpenter Realty Corp. as shown on the plat filed with the Zoning Office.
The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

By Order Of
ARNOLD JABLON
Zoning Commissioner
of Baltimore County
March 14

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

85-273-A

District: 1st Date of Posting: May 21-85
Posted for: Appeal
Petitioner: Carpenter Realty Corp.
Location of property: S/S of Edmondson Ave. 400' W of the c/l of Somerset Road
Location of Sign: South side of Edmondson Avenue, approx. 500' West of the c/l of Somerset Road
Remarks: [Signature]
Posted by: [Signature] Date of return: May 24-85
Number of Signs: 1

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 003187
DATE 1/17/85 ACCOUNT 01-615-000
AMOUNT \$ 100.00
RECEIVED Cash, Howard Davis, Treas.
FOR Variance # 202
B D11*****1000016 5174F
VALIDATION OR SIGNATURE OF CASHIER

CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL GENERAL

DOCKET 19 PAGE 26 CASE NO. 85CG4116 CATEGORY APPEAL

ATTORNEYS

CARPENTER REALTY CORP
AppellantIN THE MATTER OF THE APPLICATION OF CARPENTER REALTY
CORP. FOR VARIANCE FROM SECTION 413.6.b.2 and
SECTION 413.6.b.1 of the BCRZ, SOUTH
SIDE OF EDMONDSON AVE. 400 Feet west of C/L of
Somerset Rd.

E

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
PEOPLE'S COUNSEL FOR BALTIMORE COUNTYThomas L. Hudson
Robert A. Hoffman
Cook, Howard, Downes & Tracy
210 Allegheny Ave. P.O. Box 5517
(04) 823-4111Phyllis Cole Friedman,
Peter Max Zimmerman,
Rm. 223, Court House (4) 494-2188

1-22-86 DE + Notes to Bd of Appeals.

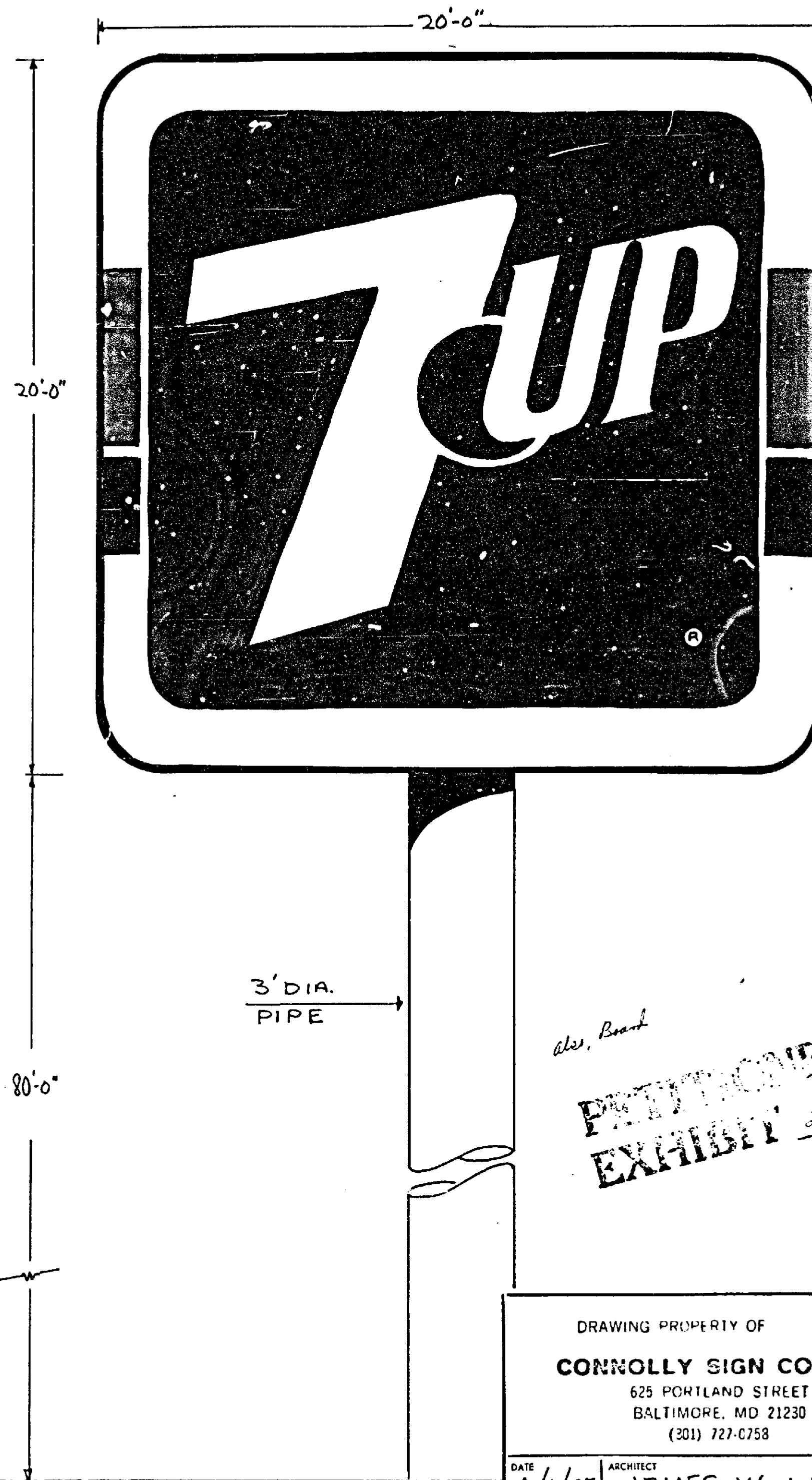
(1) Dec. 23, 1985 - Appellant's Order for Appeal from the Order
of the Co. Bd. of Appeals of Balto. Co. fd.

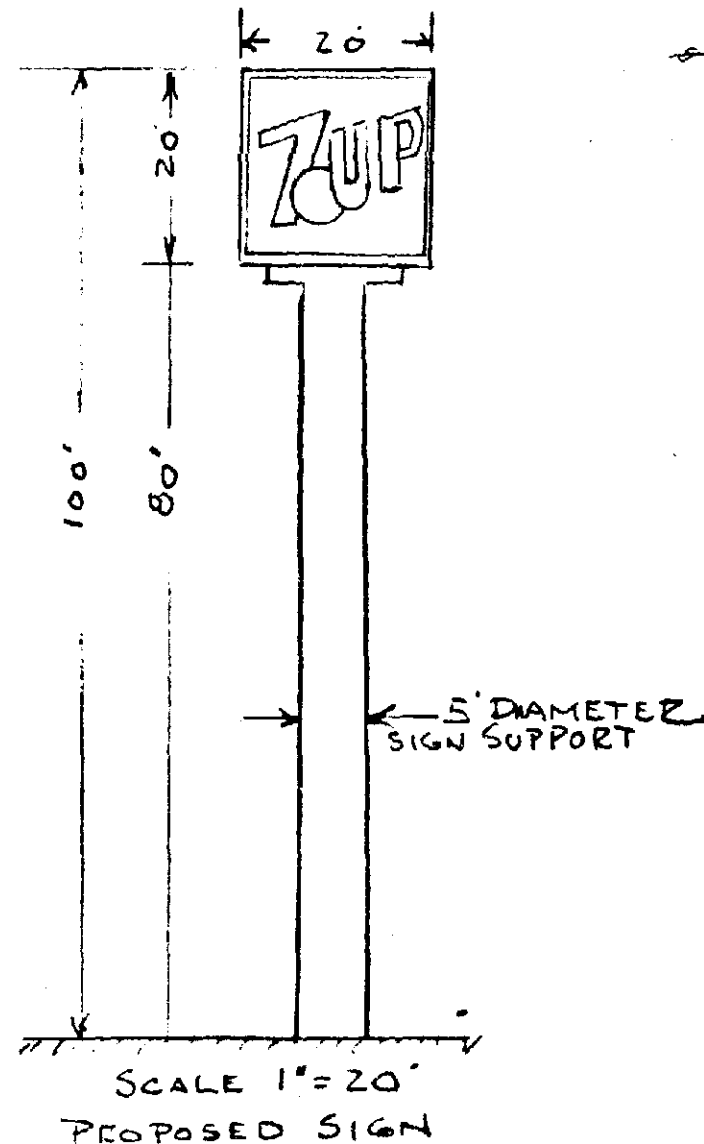
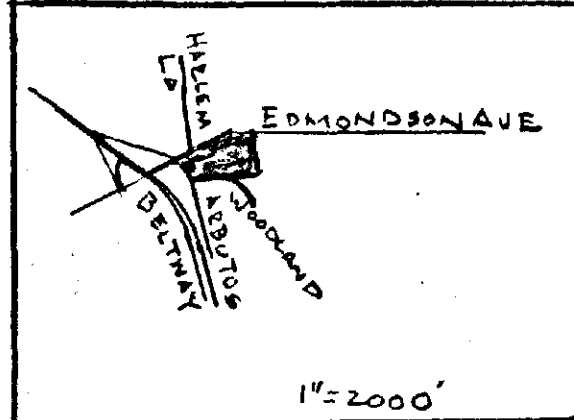
(2) Dec 26, 1985- Certificate of notice fd.

(3) Dec 31, 1985 Appellant's petition for appeal fd.

(4) Jan. 14, 1986 App. of Phyllis Cole Friedman & Peter Max Zimmerman for the
Deft. Same day Answer fd.JAN 22 1986
Dismissed
PAID SETTLED AND SATISFIED
BY PLAINTIFF'S ATTORNEYCV GEN 854116 N
COSTS 70.00
CV CLK 5.00
B LBY 5.00
CKCHECK TL 5.00
#25475 C001 R02 T15:00
12/26/85CV GEN 854116 N
CV CLK 5.00
POST 2.00
CKCHECK TL 7.00
#26572 C001 R02 T15:51
01/17/86RECEIVED
COUNTY BOARD OF APPEALS
JAN 24 A 9:51

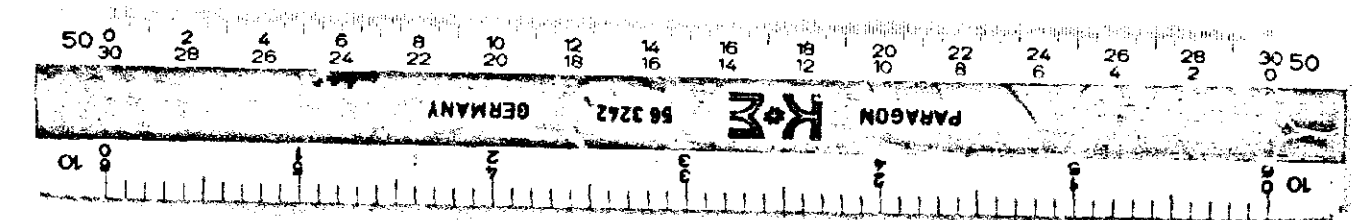
DOCKET 19 PAGE 26 CASE NO. 85CG4116





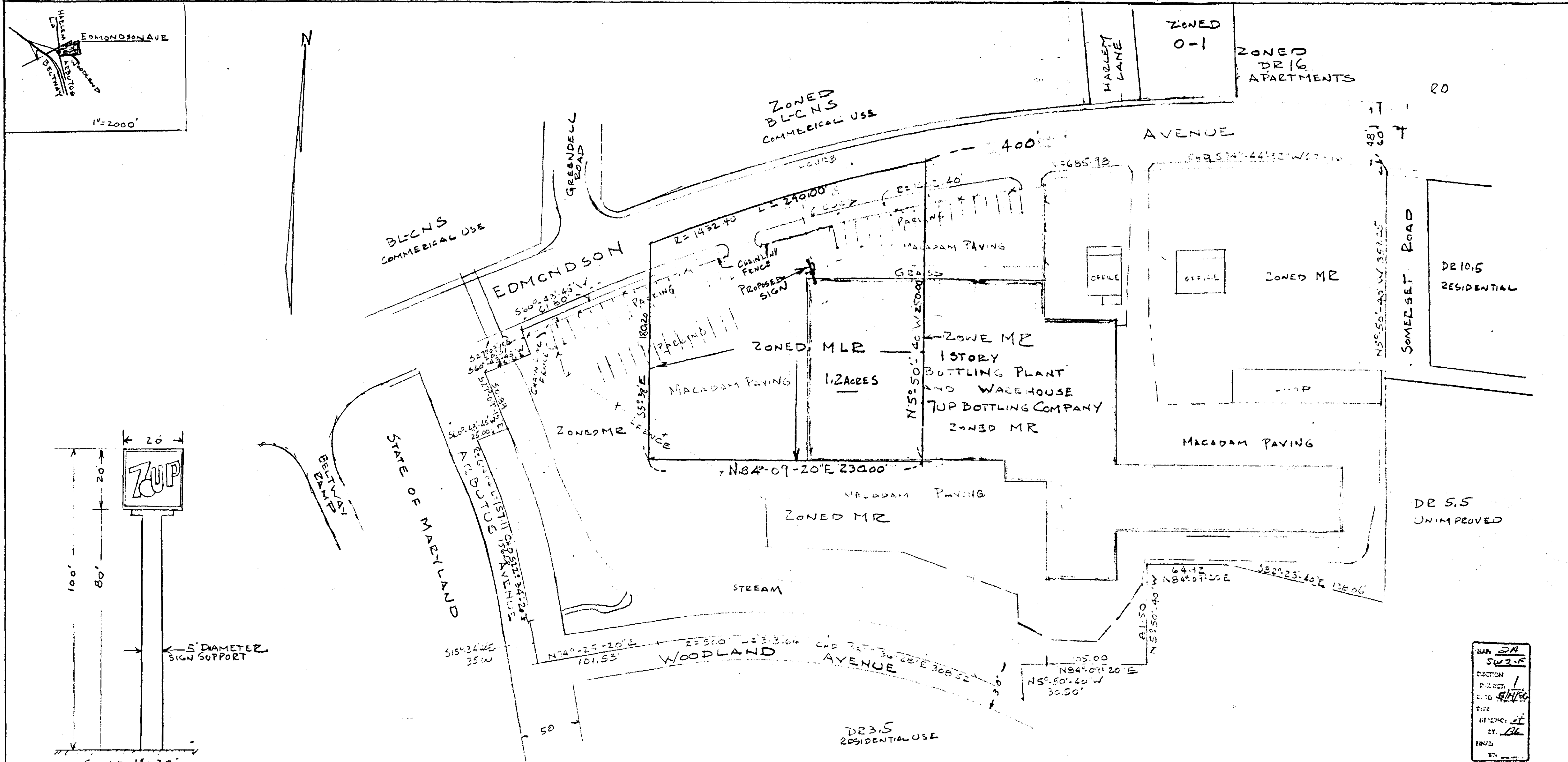
PROPOSED
VARIANCE FROM SECTION 413.6, 2
TO ALLOW ERECTION OF ON SITE
BUSINESS SIGN OF 100 FEET IN ELEVATION
IN LIEU OF PERMITTED SIX FEET ABOVE THE
GRADE LEVEL OF STREET AND FROM SECTION 413.6, 1
TO PERMIT A SIGN OF 400 SQUARE FEET PER FACE
IN LIEU OF PERMITTED 25 SQUARE FEET

ZONING PLAT
PROPERTY LOCATED
IN
1ST ELECTION DISTRICT BALTO COMD
WHOLE TRACT 5.9 ACRES ±



PETITIONER'S
EXHIBIT 1

SCALE 1" = 50' JANUARY 14, 1985
GERHOLD CROSS & ETZEL
REGISTERED LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND



DATE	2/11/85
SECTION	SW 2-F
PROJECT	1
DATE	8/1/85
TYPE	1
REVISION	1
BY	BL
THRU	
BY	

85 273-11