

MON 24TH MAR.

MAP 5-31
E.D. 1
DATE 1-15-87
200
1000
00



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

ARNOLD JARLOW
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

August 14, 1986

M. Albert Figinski, Esquire
36 S. Charles Street
Baltimore, Maryland 21201

RE: Petition for Special Hearing
SE corner Frederick Avenue
and Bishop's Lane
(585 Frederick Avenue)
John H. West, Jr., et al
Petitioners
1st Election District
Case No. 86-101-SPH

Dear Mr. Figinski:

Please be advised that approval of a non-conforming use as requested in the above referenced Petition for Special Hearing has been granted, in part, in accordance with the attached Order.

If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

JEAN M. H. JUNG
JEAN M. H. JUNG
Deputy Zoning Commissioner

JMH:bjs

Attachments

cc: James E. Crawford, Esquire
405 Frederick Road, Catonsville, 21228

Foster & Kleiser
P.O. Box 4868, Baltimore, 21211

Ms. Mary Ginn
606 Horncrest Road, Towson, 21204

Per Ale's Counsel

PETITION FOR SPECIAL HEARING
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 Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the continuance of the existing illuminated 12' x 25' sign structure located in a BL zone, as a non-conforming use which predates the zoning ordinance.

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

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and provisions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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

LESSEE:

Foster & Kleiser

(Type or Print Name)

Signature

P.O. Box 4868

Address

Baltimore, Maryland 21211

City and State

Attorney for Petitioner:

M. Albert Figinski

(Type or Print Name)

Signature

36 S. Charles Street

Address

Baltimore, Maryland 21201

City and State

Attorney's Telephone No.:

LEGAL OWNER(S):

JOHN H. WEST, JR., ET AL.

(Type or Print Name)

Signature

De H. West

(Type or Print Name)

Signature

4110 W. Garrison Avenue

Address

Baltimore, Maryland 21215

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 31ST 19TH day of September 1986, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 15TH 23RD day of September, March 19, 1986, at 10:00 o'clock.

Arnold Jarlow
ARNOLD JARLOW
ZONING COMMISSIONER OF BALTIMORE COUNTY

(over)

IN RE: PETITION - SPECIAL HEARING
SE corner of Frederick Avenue and Bishop's Lane (585 Frederick Avenue) 1st Election District
John G. West, Jr., et ux
Petitioners

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 86-101-SPH

The Petitioners herein request a special hearing to determine whether or not the existing illuminated 12' by 25' sign structure at the above referenced location, which is in a BL zone, may continue as a non-conforming use which pre-dates the zoning ordinance.

Testimony on behalf of the Petitioners indicated that since 1940, a large billboard has existed in the northeast corner of the property identified as 585 Frederick Avenue. A former lessee and owner of the subject property submitted an affidavit, identified herein as Petitioner's Exhibit 6 and dated June 4, 1986, which states that he leased the property in 1940 and at that time a large billboard was "positioned along the eastern property line of the premises". He further stated that the billboard continued in place during his years of ownership of the property, and he noticed "Recently" that the billboard was still on the property. Another affidavit submitted by an area resident, identified as Petitioner's Exhibit 7, stated "I am aware of a large sign that is currently located at the corner of the above-referenced address. This billboard was at its present location when I moved to Catonsville in 1943." The real estate development manager for the current lessee testified that he first saw the sign, definitely 12' by 25' in size, in 1947. He has viewed the sign each and every year since 1949 or 1950. He is unsure as to whether or not the original sign was illuminated. The sign dimensions have remained the same, and the face, trim, molding and platform have changed through the years.

ORDER RECEIVED FOR FILING
DATE 8/14/86
BY *John G. West, Jr.*

A contractor, currently remodeling the adjacent building, testified in protest as to the age of the materials in the present sign. In his opinion, no part of the sign pre-dates 1950. At the earliest, the electrical work was done when the sign was erected and dates from around 1960. He was familiar with the site in 1950, but does not remember the sign. He first noticed a billboard approximately 1960. A co-owner of the adjacent property vaguely remembers the sign in the 1960's and 1970's.

After a thorough review of the evidence and memorandum submitted, and after due consideration of the testimony presented, in the opinion of the Deputy Zoning Commissioner, a 12' by 25' sign has existed prior to 1945 at the subject location, as indicated on the plan submitted. It is unclear as to when the sign was first illuminated.

Pursuant to the advertisement, posting of property, and public hearing on the Petition and after due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the granting of the special hearing would be in strict harmony with the spirit and intent of the Baltimore County Zoning Regulations (BCZR) and would not be detrimental to the health, safety and general welfare of the community. The special hearing should therefore be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 14TH day of August, 1986 that approval of a non-conforming use for a 25' non-illuminated sign structure in the location indicated on the plan submitted, as requested in the instant Petition for Special Hearing, is hereby GRANTED in part, from and after the date of this Order, in accordance with the following continued modes of operation:

ORDER RECEIVED FOR FILING
DATE 8/14/86
BY *John G. West, Jr.*

PETITION FOR SPECIAL HEARING
1st Election District

LOCATION: Southeast Corner of Frederick Avenue and Bishop's Lane (585 Frederick Avenue)

DATE AND TIME: Tuesday, March 25, 1986, at 10:00 a.m.

PUBLIC HEARING: Room 106, County Office Building, 111 W. 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 Special Hearing for the continuance as a nonconforming use of the existing illuminated 12' x 25' sign structure located in a B.L. Zone

Being the property of John H. West, Jr., et al., as shown on plat plan filed with the Zoning Office.

In the event that this Petition(s) 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 JARLOW
ZONING COMMISSIONER
OF BALTIMORE COUNTY

ORDER RECEIVED FOR FILING
DATE 8/14/86
BY *John G. West, Jr.*

ORDER RECEIVED FOR FILING
DATE 8/14/86
BY *John G. West, Jr.*

FEB 24 1987

PETITION FOR SPECIAL HEARING
1st Election District

LOCATION: Southeast corner of Frederick Avenue and Bishop's Lane (585 Frederick Avenue)

DATE AND TIME: Tuesday, September 10, 1985 at 10:30 a.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 Special Hearing under Section 500.7 for the continuance of the existing illuminated 12' x 25' sign structure located in a B.L. zone, as a non-conforming use which predates the zoning ordinance.

Being the property of John G. West, Jr., et al 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

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
SE Corner of Frederick Ave.
& Bishop's Lane (585 Frederick
Rd.), 1st District

JOHN G. WEST, JR., et al., Case No. 86-101-SPH
Petitioners

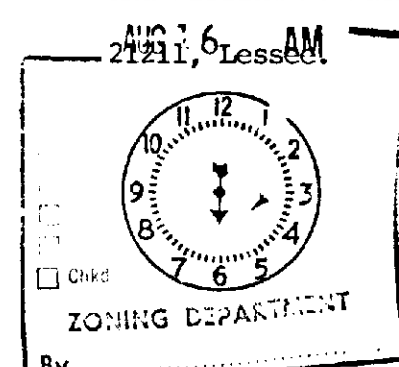
ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

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

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, MD 21204
494-2188

I HEREBY CERTIFY that on this 15th day of August, 1985, a copy of the foregoing Entry of Appearance was mailed to M. Albert Figinski, Esquire, 36 S. Charles St., Baltimore, MD 21201, Attorney for Petitioner; and William R. Walker, Foster & Kleiser, P. O. Box 4868, Baltimore, MD



Peter Max Zimmerman
Peter Max Zimmerman

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

ARNOLD JABLON
ZONING COMMISSIONER

March 13, 1986

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

M. Albert Figinski, Esquire
36 South Charles Street
6th Floor
Baltimore, Maryland 21201

RE: PETITION FOR SPECIAL HEARING
SE corner of Frederick Ave. and Bishop's Lane
(585 Frederick Ave.)
1st Election District
John H. West, Jr., et al - Petitioners
Case No. 86-101-SPH

Dear Mr. Figinski:

This is to advise you that \$12.50 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Do not remove sign from property from the time it is placed by this office until the day of the hearing itself.

Please make the check payable to Baltimore County, Maryland, and remit ding, Towson, Maryland

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

No. 018539

DATE: 3/13/86 ACCOUNT: 86-101-SPH

STAMP & POST RETURNED TO: 12.50

RECEIVED FROM: Foster & Kleiser

FOR: [Signature]

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF PUBLICATION

TOWSON, MD, March 6, 1986

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 6, 1986.

THE JEFFERSONIAN,

JB Ventral
Publisher

Cost of Advertising

22.00

86-101-SPH

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

86-101-SPH

District: 1st Date of Posting: 3-5-86

Posted for: Special Hearing

Petitioner: John H. West, Jr., et al

Location of property: SE corner of Frederick Ave. and Bishop's Lane (585 Frederick Ave.)

Location of Sign: SE corner of 585 Frederick Avenue

Remarks: [Signature]

Posted by: [Signature] Date of return: 3-7-86

Number of Signs: 1

Office of
PATUXENT
Publishing Corp.
10750 Little Patuxent Pkwy.
Columbia, MD 21044

March 6, 1986

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

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 8 day of March 1986, that is to say, the same was inserted in the issues of

March 6, 1986

PATUXENT PUBLISHING CORP.
By: [Signature]

86-101-SPH

M. Albert Figinski, Esquire
36 S. Charles St.
Baltimore, Md. 21201

August 10, 1985

NOTICE OF HEARING

RE: PETITION FOR SPECIAL HEARING
SE corner of Frederick Avenue and Bishop's Lane (585 Frederick Ave.)
1st Election District
John G. West, Jr., et al - Petitioners
Case No. 86-101-SPH

TIME: 10:30 a.m.

DATE: Tuesday, September 10, 1985

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

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

No. 008539

DATE: 8/10/85 ACCOUNT: 86-101-SPH

AMOUNT: \$12.50

RECEIVED FROM: [Signature]

FOR: [Signature]

VALIDATION OR SIGNATURE OF CASHIER

M. Albert Figinski, Esquire
36 South Charles Street
Baltimore, Maryland 21201

February 21, 1986

NOTICE OF HEARING

RE: PETITION FOR SPECIAL HEARING
SE corner of Frederick Ave. and Bishop's Lane
(585 Frederick Ave.)
1st Election District, Petitioners: John H. West, Jr., et al
Case No. 86-101-SPH

TIME: 10:00 a.m.

DATE: Tuesday, March 25, 1986

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

Attest:

cc: Foster & Kleiser
P.O. Box 4868
Baltimore, Maryland 21211

Mr. Michael Reagan
R & C Contractors
583 Frederick Road
Baltimore, Maryland 21228

Ms. Mary Ginn
606 Horncrest Road
Towson, Maryland 21204

[Signature]
Zoning Commissioner
of Baltimore County

PURCHASE REQUISITION										BALTIMORE COUNTY, MARYLAND OFFICE OF CENTRAL SERVICES	
PURCHASE REQUISITION NO. 178329										DATE: 8/10/85	
PLEASE ORDER THE FOLLOWING FOR: Zoning Office - Arnold Jablon										86-101-SPH	
BUDGET CODE	YEAR	FUND	AGENCY	PROGRAM	OBJECT	EXP CODE	SPLIT %	DELIVERY CODE	REQ. DELIVERY DATE		
10	86	01	12	02	04	80					
ITEM NO.	QUANTITY	U/M	DESCRIPTION OF MATERIAL				UNIT PRICE	TOTAL PRICE	PURCHASE ORDER NO.		
			SE corner Frederick Ave. & Bishop's Lane (585 Frederick Avenue)								
ADDITIONAL DESCRIPTION										CONTRACT NO.	
Hearing: Tuesday, September 10, 1985 at 10:30 a.m. - Petition for Special											
Hearing of John G. West, Jr., et al - 1st Election District											
Issue: August 22, 1985											
COMMODITY CODE	PURCHASE FROM				VENDOR NO.		TERMS	P.O. NO.			
50201	JEFFERSONIAN				59912						
ITEM NO.	QUANTITY	U/M	DESCRIPTION OF MATERIAL				UNIT PRICE	TOTAL PRICE	P.O. NO.		
ADDITIONAL DESCRIPTION										9999-90-000-0050	
COMMODITY CODE										PURCHASE FROM	
BUYER CODE										DATE	
APPROVED BY: AGENCY										APPROVED BY: PURCHASING	
APPROVED BY: AGENCY										APPROVED BY: PURCHASING	

FEB 24 1987

PURCHASE REQUISITION
BALTIMORE COUNTY, MARYLAND
OFFICE OF CENTRAL SERVICES

PLEASE ORDER THE FOLLOWING FOR: **Zoning Office - Arnold Jablon** DATE: **8/10/85**

BUDGET CODE: **6** YEAR: **01** FUND: **12** AGENCY: **02** PROGRAM: **04** OBJECT: **80** SPLIT: **1** DELIVERY CODE: **1** REQ. DELIVERY DATE: **8/10/85**

ITEM NO.	QUANTITY	UOM	DESCRIPTION OF MATERIAL	UNIT PRICE	TOTAL PRICE	PURCHASE ORDER NO.
1	1	EA	SE corner Frederick Ave. & Bishop's Lane (585 Frederick Avenue)			

ADDITIONAL DESCRIPTION: **Hearing: Tuesday, September 10, 1985 at 10:30 a.m. - Petition for Special Hearing of John G. West, Jr., et al - 1st Election District**

COMMODITY CODE: **5020** PURCHASE FROM: **CATONSVILLE TIMES** VENDOR NO.: **737743** TERMS: **F.O.B.**

ITEM: **1** QUANTITY: **1** UOM: **EA** DESCRIPTION OF MATERIAL: **7999-90-000-0050** UNIT PRICE: TOTAL PRICE: P.O. NO.:

ADDITIONAL DESCRIPTION:

BUYER CODE: **10** TYPE CODE: **CONFIRMING TO** DATE: ACK: APPROVAL - BUDGET OFFICE:

REQUESTED BY AGENCY: **Arnold Jablon** PURCHASED BY:

APPROVED BY AGENCY: APPROVED BY PURCHASING:

CSP 001

PURCHASE REQUISITION
BALTIMORE COUNTY, MARYLAND
OFFICE OF CENTRAL SERVICES

PLEASE ORDER THE FOLLOWING FOR: **Zoning Office - Arnold Jablon** DATE: **8/10/85**

BUDGET CODE: **6** YEAR: **01** FUND: **12** AGENCY: **02** PROGRAM: **04** OBJECT: **80** SPLIT: **1** DELIVERY CODE: **1** REQ. DELIVERY DATE: **8/10/85**

ITEM NO.	QUANTITY	UOM	DESCRIPTION OF MATERIAL	UNIT PRICE	TOTAL PRICE	PURCHASE ORDER NO.
1	1	EA	SE corner Frederick Ave. & Bishop's Lane (585 Frederick Avenue)			

ADDITIONAL DESCRIPTION: **Hearing: Tuesday, September 10, 1985 at 10:30 a.m. - Petition for Special Hearing of John G. West, Jr., et al - 1st Election District**

COMMODITY CODE: **5020** PURCHASE FROM: **JEFFERSONIAN** VENDOR NO.: TERMS: **F.O.B.**

ITEM: **1** QUANTITY: **1** UOM: **EA** DESCRIPTION OF MATERIAL: UNIT PRICE: TOTAL PRICE: P.O. NO.:

ADDITIONAL DESCRIPTION:

BUYER CODE: **10** TYPE CODE: **CONFIRMING TO** DATE: ACK: APPROVAL - BUDGET OFFICE:

REQUESTED BY AGENCY: **Arnold Jablon** PURCHASED BY:

APPROVED BY AGENCY: APPROVED BY PURCHASING:

CSP 001

PURCHASE REQUISITION
BALTIMORE COUNTY, MARYLAND
OFFICE OF CENTRAL SERVICES

PLEASE ORDER THE FOLLOWING FOR: **Zoning Office - Arnold Jablon** DATE: **8/10/85**

BUDGET CODE: **6** YEAR: **01** FUND: **12** AGENCY: **02** PROGRAM: **04** OBJECT: **80** SPLIT: **1** DELIVERY CODE: **1** REQ. DELIVERY DATE: **8/10/85**

ITEM NO.	QUANTITY	UOM	DESCRIPTION OF MATERIAL	UNIT PRICE	TOTAL PRICE	PURCHASE ORDER NO.
1	1	EA	SE corner Frederick Ave. & Bishop's Lane (585 Frederick Avenue)			

ADDITIONAL DESCRIPTION: **Hearing: Tuesday, September 10, 1985 at 10:30 a.m. - Petition for Special Hearing of John G. West, Jr., et al - 1st Election District**

COMMODITY CODE: **5020** PURCHASE FROM: **CATONSVILLE TIMES** VENDOR NO.: **737743** TERMS: **F.O.B.**

ITEM: **1** QUANTITY: **1** UOM: **EA** DESCRIPTION OF MATERIAL: UNIT PRICE: TOTAL PRICE: P.O. NO.:

ADDITIONAL DESCRIPTION:

BUYER CODE: **10** TYPE CODE: **CONFIRMING TO** DATE: ACK: APPROVAL - BUDGET OFFICE:

REQUESTED BY AGENCY: **Arnold Jablon** PURCHASED BY:

APPROVED BY AGENCY: APPROVED BY PURCHASING:

CSP 001

LAW OFFICES OF
MELNICOVE, KAUFMAN, WEINER & SMOUSE, P.A.
36 SOUTH CHARLES STREET
SIXTH FLOOR
BALTIMORE, MARYLAND 21201-3060
TELEPHONE (301) 332-8500
TELECOPIER (301) 332-8504
TELEX 710-824-2414
(WRITER'S DIRECT DIAL NO.)
332-8520

APR 15 AM
ZONING DEPARTMENT

April 15, 1986

HAND DELIVERED

Jean M. H. Jung
Deputy Zoning Commissioner
Baltimore County Office of
Planning & Zoning
County Office Building
Towson, Maryland 21204

RE: Petition For Special Hearing
S.E. Corner of Frederick Avenue
and Bishop's Lane (585 Frederick
Avenue) 1st Election District
John H. West, Jr., et al.,
Petitioners
Case No.: 86-101-SPH

Dear Ms. Jung:

Pursuant to your instructions, please accept in the above-captioned Petition for Special Hearing, the enclosed Petitioners' Memorandum in Support of the Continuance of the Existing Sign Structure as a Non-Conforming Use.

Very truly yours,
M. Albert Figinski
M. Albert Figinski

MAF:sjc
Enclosure
cc: James E. Crawford, Esq.

PETITION FOR SPECIAL HEARING
S.E. Corner of Frederick
Avenue and Bishop's Lane
(585 Frederick Avenue), 1st
Election District
JOHN H. WEST, JR., et al. -
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No.: 86-101-SPH

PETITIONERS' MEMORANDUM IN SUPPORT OF THE CONTINUANCE OF THE EXISTING SIGN STRUCTURE AS A NON-CONFORMING USE

The Petitioners have sought, through a Special Hearing, the continuance of the existing illuminated 12' X 25' sign structure located in a BL zone, as a non-conforming use.

The Special Hearing was held on March 25, 1986 before the Deputy Zoning Commissioner. At the conclusion of the Special Hearing, the Deputy Zoning Commissioner requested all interested parties to file memoranda of law regarding the above-captioned matter. Instead of rehearsing all of the testimony, arguments and furor of the lengthy hearing, Petitioners, by this Memorandum, focus on several legal issues raised which compel particular response.

At the hearing, W. R. Walker, Real Estate Development Manager for Foster & Kleiser testified on behalf of the Petitioners that the sign at issue was built by the Morton Advertising Company. Petitioners' Exhibit 3, a letter dated October 26, 1953, established that the Morton Company would use the sign for general advertising purposes. In 1955, Donnelly

LAW OFFICES OF
**MELNICOVE, KAUFMAN,
WEINER & SMOUSE, P.A.**
36 S. CHARLES STREET
BALTIMORE, MD
21201-3060

LAW OFFICES OF
MELNICOVE, KAUFMAN, WEINER & SMOUSE, P.A.
36 SOUTH CHARLES STREET
SIXTH FLOOR
BALTIMORE, MARYLAND 21201-3060
TELEPHONE (301) 332-8500
TELECOPIER (301) 332-8504
TELEX 710-824-2414
(WRITER'S DIRECT DIAL NO.)
332-8520

August 13, 1985

The Honorable Arnold Jablon
Zoning Commissioner of
Baltimore County
County Office Building
Towson, MD 21204

Re: PETITION FOR SPECIAL HEARING
SE corner of Frederick Avenue and
Bishop's Lane (585 Frederick Ave.)
1st Election District
John G. West, Jr., et al. - Petitioners
Case No. 86-101-SPH

Dear Commissioner Jablon:

I am in receipt of the notice announcing a hearing in the above-referenced matter for Tuesday, September 10, 1985, at 10:30 a.m.

As you know, I am counsel of record for Foster and Kleiser which is a party or interested person in the above proceeding. Unfortunately, I have an unavoidable conflict which will cause me to be in Annapolis at 10:00 a.m. on September 10. Since January, 1985, I have been the registered lobbyist for Maryland General Hospital. On September 10, the Senate Finance Committee will hold a hearing on proposed regulations dealing with efforts to reduce hospital capacity by voluntary efforts, mergers, consolidations and/or closures. This is a vital interest to Maryland General, and I expect to testify in Annapolis at these hearings. I should also advise you that the Annapolis hearing has been scheduled since mid-July.

I, therefore, respectfully request that the hearing scheduled for September 10 in the above-referenced matter be postponed. I recognize that my client will have to bear

Advertising Company acquired the assets of the Morton Advertising Company. Thereafter, Foster & Kleiser purchased Donnelly Advertising Company.

Mr. Walker testified that he first observed the sign in its present location in 1947 during the course of his employment for the National Outdoor Advertising Bureau.

Further, inasmuch as he was not released from military service until 1946, Mr. Walker testified that he did not have the occasion to visit or work in the Baltimore area until October, 1947.

The Petitioners presented two affidavits from individuals who observed the sign at 585 Frederick Avenue prior to Mr. Walker's first recollection of the sign in 1947. Petitioners' Exhibit Six, an affidavit of J. Carroll Busick, affirms that, in 1940, when Mr. Busick leased the service station located on the Southeast Corner of Frederick Avenue and Bishop's Lane from the Atlantic Refining Company, there was a large billboard positioned along the eastern property line of the premises.

An affidavit of Donald Lawrence Kight, Petitioners' Exhibit Seven, affirmed that Mr. Kight lived in Catonsville, Maryland from 1943-1960. As a result, he is very familiar with the property located at the Southeast Corner of Frederick Avenue and Bishop's Lane known as 585 Frederick Avenue. On the basis of the familiarity, he is aware of a large sign that is

LAW OFFICES OF
**MELNICOVE, KAUFMAN,
WEINER & SMOUSE, P.A.**
36 S. CHARLES STREET
BALTIMORE, MD
21201-3060

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

The Honorable Arnold Jablon
August 13, 1985
Page Two

the cost of a second notification and publication and that you cannot guarantee me what the new date will be. I do, however, find it necessary to ask that the September 10 date be postponed.

Very truly yours,
M. Albert Figinski
M. Albert Figinski

MAF/Ko

currently located at the corner of the above-referenced address. Significantly, his affidavit indicates that the billboard was in its present location when he moved to Catonsville in 1943.

It is well settled that a landowner's right to use his property in a particular manner is determined by the legal state of facts which exist at the time a use is commenced. 4 Rathkopf, *The Law of Zoning and Planning* at 51-36 (4th ed. 1978). If at that time, by reason of the nonexistence of a restrictive ordinance, it is determined that the landowner had the right to operate the particular use and that the municipality would have no right to stop him from doing so, then the landowner's rights to use his land in the particular manner are vested. *Id.*

The Baltimore County Commissioners adopted a comprehensive set of zoning regulations which took effect in Baltimore County on January 2, 1945. *Calhoun v. County Bd. of Appeals*, 262 Md. 265, 266, 277 A.2d 589 (1971); *Kahl v. Cons. Gas El. Lt. & Pwr. Co.*, 191 Md. 249, 251, 60 A.2d 754 (1948); *McKemy v. Baltimore County*, 39 Md. App. 257, 259, 385 A.2d 96 (1978). Section XI of the original regulations provided for the continuance of existing lawful non-conforming uses. As such, Section XI, entitled non-conforming uses, provided that:

A lawful non-conforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such non-conforming use

LAW OFFICES OF
**MELNICOVE, KAUFMAN,
WEINER & SMOUSE, P.A.**
36 S. CHARLES STREET
BALTIMORE, MD
21201-3060

to a conforming use, or any attempt to change from such non-conforming use to a different non-conforming use or any discontinuance of such non-conforming use for a period of one year ... the right to continue to resume such non-conforming use shall terminate, provided, however, that any such lawful non-conforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original non-conforming use.

1945 Baltimore County Zoning Regulations [Emphasis supplied].

Existence Of A Billboard Prior To 1945

The initial issue is whether a lawful non-conforming use existed with respect to the sign at 585 Frederick Avenue on January 2, 1945. The burden of proving the non-conforming use is on the Petitioners to establish the existence of a non-conforming use at the time of the passage of the prohibiting zoning ordinance. Calhoun v. County Bd. of Appeals, supra, 262 Md. at 267; Voel v. Mayor & C. C. of Balto., 228 Md. 283, 288, 179 A.2d 693 (1962); Lapidus v. Balt. City, 222 Md. 260, 262, 159 A.2d 640 (1960). It is well settled that the way of meeting this burden is to show that the existence of the use was known to the neighbors at the critical time. Calhoun v. County Bd. of Appeals, supra, 262 Md. at 267; Richmond Corp. v. Board of County Comm'rs for Prince George's County, 254 Md. 244, 256, 255 A.2d 398, (1969); Feldstein v. Lavale Zoning Bd., 246 Md. 204, 210, 227 A.2d 731 (1967); Voel v. Mayor & C. C. of Balto., supra, 228 Md. at 288.

LAW OFFICES OF
MELNICOFF, KAUFMAN,
WEINER & SMOUSE, P.A.
28 & CHARLES STREET
BALTIMORE, MD
21201-8000

- 4 -

The Petitioners have satisfied their burden of proving that the existence of the sign was known to the neighbors of the surrounding area by January 2, 1945. Mr. Walker testified that he first observed the sign in 1947, although he never had the opportunity to view the sign before October, 1947. Further, Mr. Busick, who currently resides in Catonsville, maintains that there was a large billboard positioned along the eastern property line of the subject premises when he leased the property in 1940. Finally, Mr. Kight, who moved to Catonsville in 1943, maintains that the billboard at issue was at its present location when he moved to Catonsville in 1943.

The Question Of Extension

The second issue is whether the non-conforming use has been changed or extended. It is well established that the provisions of the applicable local zoning ordinances and regulations govern whether a non-conforming use can be changed, extended, enlarged, altered, repaired, restored or recommenced after abandonment. Pr. Geo's Co. v. E. L. Gardner, Inc., 293 Md. 259, 268, 443 A.2d 114 (1982); Feldstein v. Lavale Zoning Board, supra, 246 Md. at 211; Phillips v. Zoning Commissioner, 225 Md. 102, 109, 169 A.2d 410 (1961); Board of Zoning Appeals of Baltimore County v. Que, 217 Md. 16-21-22, 141 A.2d 510 (1958). To that end, Section 104 of the current Baltimore County Zoning Regulations, entitled "nonconforming uses" provides that:

LAW OFFICES OF
MELNICOFF, KAUFMAN,
WEINER & SMOUSE, P.A.
28 & CHARLES STREET
BALTIMORE, MD
21201-8000

- 5 -

A nonconforming use [defined in Section 101 as "[a] legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use] may continue except as otherwise specifically provided in these regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more ... the right to continue or resume such nonconforming use shall terminate.

1985 Baltimore County Zoning Regulations, Section 104.

Maryland Courts generally disapprove, as a substantial departure from a vested non-conforming use, a change from a specific use to another use. Phillips v. Zoning Commissioner, supra, 225 Md. at 110. The justification for "disallowing a change from one nonconforming use to another is because the lawful nonconforming use of land 'must be held to contemplate only a continuation of substantially the same use which existed at the time of the adoption of the ordinance, and not some other and different kind of nonconforming use which the owner of land subsequently finds to be profitable or advantageous.'" Id. at 111-12, citing, In Re Botz v. Garrett, 159 S.W.2d 367, 372 (Mo. 1942) [Emphasis Supplied].

Thus, while Maryland Courts permit the continuation of a non-conforming use, they do not "permit the transmogrification of an approved non-conforming use into a new and different use." Nat'l Inst. Health Fed. Cr. Un. v. Hawk, 47 Md. App. 189, 200, 422 A.2d 61 (1980). The latter constitutes an unlawful extension of a non-conforming use. The Baltimore

LAW OFFICES OF
MELNICOFF, KAUFMAN,
WEINER & SMOUSE, P.A.
28 & CHARLES STREET
BALTIMORE, MD
21201-8000

- 6 -

County Zoning Regulations specifically prohibit any extension of a lawful non-conforming use. Section 102.1 expressly provides that "no land shall be used or occupied and no building or structure shall be erected, altered, located, or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use."

[Emphasis supplied]. The question, however, as to what is an extension or enlargement of a non-conforming use is typically one of fact. And, each case must stand on its own facts.

Phillips v. Zoning Commissioner, supra, 225 Md. at 109-10; Wilson v. Town of Elkton, 35 Md. App. 417, 425-26, 371 A.2d 443 (1977).

In contrast, an intensification of a non-conforming use is permissible "so long as the nature and character of the use is unchanged and substantially the same facilities are used." Jahnigen v. Staley, 245 Md. 130, 137, 225 A.2d 277 (1967); Wilson v. Town of Elkton, supra, 35 Md. App. at 425.

Unquestionably, the use of the sign at issue has not changed. Mr. Walker testified that, when he observed a 12' X 25' poster panel in 1947, it was used for displaying general advertising. The sign now is still used for the display of general advertising. Indeed, testimony was presented that, for four decades, the size of billboards has met a national standard, i.e., the 12' X 25' size. Inasmuch as substantially the same facilities have remained in use, it is clear that the nature and character of the use has remained unchanged. In

LAW OFFICES OF
MELNICOFF, KAUFMAN,
WEINER & SMOUSE, P.A.
28 & CHARLES STREET
BALTIMORE, MD
21201-8000

- 7 -

Nyburg v. Solmson, 205 Md. 150, 106 A.2d 483 (1954), the area of the property at issue, which was under a prior non-conforming use as a parking area for a garage was not enlarged, but the volume of cars parked thereon was increased from a small number to about thirty or fifty. Accordingly, the Nyburg Court held that the use was merely an intensification of the non-conforming use instead of an extension. See also Jahnigen v. Staley, 245 Md. 130, 225 A.2d 277 (1967) (increase in the number of rowboats rented held to be an intensification of a non-conforming use); Green v. Garrett, 192 Md. 521, 66 A.2d 412 (1949) (agreement for the use of the Baltimore stadium for the playing of professional baseball at night, produced a use greatly in excess of the former use, but still an intensification, not an extension of a use).

Similarly, there has been no expansion of the original use of the sign located at 585 Frederick Avenue. In fact, there has not even been an intensification of the non-conforming use. Prior to 1945, the sign was erected and used for general advertising purposes. Testimony at the Special Hearing revealed that the sign today is still being utilized for the same purpose.

In deciding whether the current activity is within the scope of the non-conforming use, the following factors should be considered:

1. To what extent does the current use ... reflect the nature and purpose of the original non-conforming use;

LAW OFFICES OF
MELNICOFF, KAUFMAN,
WEINER & SMOUSE, P.A.
28 & CHARLES STREET
BALTIMORE, MD
21201-8000

- 8 -

2. Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;
3. Does the current use have a substantially different effect on the neighborhood;
4. Is the current use a "drastic enlargement or extension" of the original non-conforming use.

With regard to the first factor, the current use of the sign at issue certainly reflects the nature and purpose of the original non-conforming use, i.e. an outdoor advertising sign. To that end, the current use clearly constitutes the same character, nature and kind as the original non-conforming use. Further, the current use does not have a substantially different effect on the neighborhood. The entire surrounding area of 585 Frederick Avenue is zoned BL. Similarly, in 1945, the subject area was zoned E-Commercial. As the plat of 585 Frederick Avenue indicates, the entire block surrounding the property features four gas stations, three Savings and Loan Associations, two "fast-food" establishments and several stores. The continuance of the existence of one outdoor advertising sign does not have a different effect on this neighborhood, because the neighborhood has been abundant with

LAW OFFICES OF
MELNICOFF, KAUFMAN,
WEINER & SMOUSE, P.A.
28 & CHARLES STREET
BALTIMORE, MD
21201-8000

- 9 -

commercial uses for quite some time. Finally, as discussed on Pages 5-9, supra, the current use does not constitute a drastic enlargement or extension of the original non-conforming use. Indeed, Protestants' own witness testified that the sign's wood and steel show that it had been in place since 1960, maybe even since 1955.

Conclusion

The Petitioners respectfully request that the Deputy Zoning Commissioner approve the continuance of the existing illuminated 12' X 25' sign structure located in a BL zone, as a non-conforming use which predates the 1945 zoning regulations.

Respectfully submitted,

M. Albert Figinski
M. Albert Figinski

Stuart R. Berger
Stuart R. Berger
MELNICOFF, KAUFMAN, WEINER
& SMOUSE, P.A.
600 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201-3060
301-332-8520

Attorneys for the Petitioners

LAW OFFICES OF
MELNICOFF, KAUFMAN,
WEINER & SMOUSE, P.A.
28 & CHARLES STREET
BALTIMORE, MD
21201-8000

- 10 -

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15TH day of April, 1986, a copy of the foregoing Petitioners' Memorandum in Support of the Continuance of the Existing Sign Structure as a Non-Conforming Use was mailed, postage prepaid, to James E. Crawford, Esquire, 405 Frederick Avenue, Suite 163, Baltimore, Maryland 21228.

Stuart R. Berger
Stuart R. Berger

2859f

LAW OFFICES OF
MELNICOFF, KAUFMAN,
WEINER & SMOUSE, P.A.
28 & CHARLES STREET
BALTIMORE, MD
21201-8000

- 11 -

FEB 24 1987

FEB 24 1987

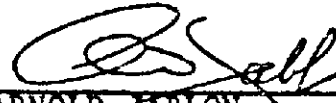
STATE HIGHWAY ADMINISTRATION OF MARYLAND											
HIGHWAY BEAUTIFICATION SECTION											
BNA FILE REF. NO.		P.O. BOX 717		707 NORTH CALVERT STREET		BALTIMORE, MARYLAND 21203		DATE			
COUNTY								05/01/75			
FOSTER & KLEISER W. H. WALKER 3201 RENINGTON AVENUE BALTIMORE, MARYLAND 21211								LIST NO.		00703	
TYPE OR PRINT											
LOCATION OF SIGN, SHOWING DISTANCE IN FEET OF NEAREST TOWN, VILLAGE, OR INTERSECTION											
CO.	ROUTE	NO.	TYPE OF SIGN	SIZE OF SIGN IN IN.	SHADE OF BACKGROUND	NO. TAGS	TAG FEE	BNA USE ONLY			
FREDERICK RD W/4 DEVELLS LELVA	H	R0149	1450	S	00350	06.00					
FREDERICK RD W/4 TWISLIE	H	R0149	1250	S	00307	06.00					
FREDERICK RD W/4 TWISLIE	H	R0149	1250	S	00398	06.00					
FREDERICK RD & CLP TLL. POLE 25700	HO	R0149	1250	S	00385	06.00					
FREDERICK RD & CLP TLL. POLE 25700	HO	R0149	1250	S	00370	06.00					
FREDERICK RD & RIVER RD	H	R0149	1250	S	00301	06.00					
FREDERICK RD 1 MARY ELICOTT CITY	H	R0149	1250	S	00372	06.00					
FREDERICK RD 1 MARY ELICOTT CITY	H	R0149	1250	S	00373	06.00					
FREDERICK RD & ILLCHESTER AVE	H	R0149	1250	S	00374	06.00					
FREDERICK RD W/4 THISTLE RD	H	R0149	1250	S	00375	06.00					
FREDERICK RD W/4 JEFFERSON RD	H	R0149	1250	S	00376	06.00					
FREDERICK RD W/4 GARAGE 25, 9 MI. HILL	H	R0149	1250	S	00377	06.00					
FREDERICK RD & LELLA	H	R0149	1250	S	00378	06.00					
FREDERICK RD & IELLA	H	R0149	1250	S	00379	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	KA	R0002	1250	S	00400	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00401	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00402	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00403	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00404	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00405	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00406	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00407	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00408	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00409	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00410	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00411	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00412	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00413	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00414	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00415	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00416	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00417	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00418	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00419	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R0151	1250	S	00420	06.00					
NORTH POINT RD W/4 W/4 W/4 HITCHER HWY	H	R015									

Case No. 86-101-SPH

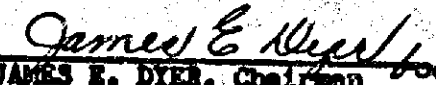
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your petition has been received and accepted for filing this
31st day of July, 1985.


ARNOLD JABLON
Zoning Commissioner

Petitioner: John H. West, Jr., et al
Petitioner's Attorney: Mr. Albert Piginaki, Esquire

Received by: 
JAMES E. DYER, Chairman
Zoning Plans Advisory Committee

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Jim E. Dyer Date January 22, 1986

FROM Jim Thompson

Case No. 86-101-SPH
SUBJECT Property Owner - John H. West, Jr., et al

Please be advised that this matter is the subject of an active violation case, 85-145-CV, 585 Frederick Road, within the District Court of Maryland.

When this matter is rescheduled for a hearing please notify:

Michael Reagan
c/o R & C Contractors
405 Frederick Road
Baltimore, Maryland 21228

JT/ls

CPS-008

 **Maryland Department of Transportation**
State Highway Administration

William K. Hoffmann
Secretary
Hal Russell
Administrator

July 18, 1985

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

Re: Item # 413
Property Owner:
John H. West, Jr., et al
Location: S/E corner
Frederick Ave. (Route 144)
and Bishop's Lane
Existing zoning: B.L.
Proposed zoning:
Special hearing for the
continuance of the
existing illuminated
12' x 25' sign structure
located in a B.L. zone
as a non-conforming use
which predates the zoning
ordinance.
District: 1st

Att: N. Commodari

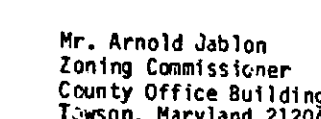
Dear Mr. Commodari:

On review of the submittal showing the existing
(12' x 25') sign outside the State Highway Administration
Right of Way, the State Highway Administration finds the
plan generally acceptable.

Very truly yours,
Charles Lee
Charles Lee, Chief
Bureau of Engr. Access Permits
by: George Wittman

CL-GW:es
cc: J. Ogle

My telephone number is 301-659-1350
Teletypewriter for Impaired Hearing or Speech
383-7556; Baltimore Metro - 145-0451 D.C. Metro - 1-800-402-9992 Statewide Toll Free
P.O. Box 717 / 707 Noyes Carver St., Baltimore, Maryland 21203-0717



AUGUST 21, 1985

Re: Zoning Advisory Meeting of JULY 9, 1985
Item # 413
Property Owner: JOHN H. WEST, JR. & a
Location: SIE CORNER FREDERICK AVE
AND BISHOP'S LANE

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.
- () The County Review Group meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- () This is a part of a larger project. Therefore it is defined as subdivision. The plan must show the entire tract.
- () The parking lot will be required and must be recorded prior to issuance of a building permit.
- () The access is not satisfactory.
- () The circulation on this site is not satisfactory.
- () The parking arrangement is not satisfactory.
- () Parking calculations must be shown on the plan.
- () This property contains wetlands. Wetlands are defined as wetlands, and development on these soils is prohibited.
- () Construction in or alteration of the floodplain is prohibited under the provisions of Article 25.02 of the Development Regulations.
- () This site may constitute a potential conflict with the Baltimore County Master Plan.
- () The amended Development Plan was approved by the Planning Board.
- () Landscaping: Must comply with Baltimore County Landscaping Manual.
- () Landscaping: is located in a certified service area as defined by Bill 170-79.
- () Capacity Use Certificate has been issued. The certified service area is
- () The property is located in a traffic area controlled by a "X" level intersection as defined by Bill 170-79, and as conditions change, the intersection may become more limited. The basic Services Area is re-evaluated annually by the Traffic Council.

Eugene A. Sober
Chief, Current Planning and Development

CC: James Hornel



STEPHEN E. COLLINS
DIRECTOR

August 1, 1985

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

Item No. 410,412,413,414,416,417 ZAC-Meeting of July 9, 1985
Property Owner:
Location:
Existing Zoning:
Proposed Zoning:

Acres:
District:

Dear Mr. Jablon:

The Department of Traffic Engineering has no comments for item numbers 410, 412, 413, 414, 416, and 417.

Michael S. Flanigan
Traffic Engineering Assoc. II

MSE/ea



PAUL H. REINCKE
CHIEF

August 1, 1985

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

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

Location: S/E corner Frederick Avenue and Bishop's Lane

Item No.: 413 Zoning Agenda: Meeting of 7/9/85

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 or _____ 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.

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

REVIEWER: Capt Joseph Kelly 8-1-85 Noted and Approved: Errol M. Markowitz
Planning Group Fire Prevention Bureau
Special Inspection Division

154



FEB 26 1987

IN RE: PETITION - SPECIAL HEARING
SE corner of Frederick
Avenue and Bishop's Lane
(585 Frederick Avenue)
1st Election District
John G. West, Jr., et ux
Petitioners

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 86-101-SPH

The Petitioners herein request a special hearing to determine whether or not the existing illuminated 12' by 25' sign structure at the above referenced location, which is in a BL zone, may continue as a non-conforming use which pre-dates the zoning ordinance.

Testimony on behalf of the Petitioners indicated that since 1940, a large billboard has existed in the northeast corner of the property identified as 585 Frederick Avenue. A former lessee and owner of the subject property submitted an affidavit, identified herein as Petitioner's Exhibit 6 and dated June 4, 1986, which states that he leased the property in 1940 and at that time a large billboard was "positioned along the eastern property line of the premises". He further stated that the billboard continued in place during his years of ownership of the property, and he noticed "recently" that the billboard was still on the property. Another affidavit submitted by an area resident, identified as Petitioner's Exhibit 7, stated "I am aware of a large sign that is currently located at the corner of the above-referenced address. This billboard was at its present location when I moved to Catonsville in 1943." The real estate development manager for the current lessee testified that he first observed the sign, definitely 12' by 25' in size, in 1947. He has viewed the sign each and every year since 1949 or 1950. He is unsure as to whether or not the original sign was illuminated. The sign dimensions have remained the same, although the face, trim, molding and platform have changed through the years.

A contractor, currently remodeling the adjacent building, testified in protest as to the age of the materials in the present sign. In his opinion, no part of the sign pre-dates 1950. At the earliest, the electrical work was done when the sign was erected and dates from around 1960. He was familiar with the site in 1950, but does not remember the sign. He first noticed a billboard approximately 1960. A co-owner of the adjacent property vaguely remembers the sign in the 1960's and 1970's.

After a thorough review of the evidence and memorandum submitted, and after due consideration of the testimony presented, in the opinion of the Deputy Zoning Commissioner, a 12' by 25' sign has existed prior to 1945 at the subject location, as indicated on the plan submitted. It is unclear as to when the sign was first illuminated.

Pursuant to the advertisement, posting of property, and public hearing on the Petition and after due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the granting of the special hearing would be in strict harmony with the spirit and intent of the Baltimore County Zoning Regulations (BCZR) and would not be detrimental to the health, safety and general welfare of the community. The special hearing should therefore be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 11th day of August, 1986 that approval of a non-conforming use for a 12' by 25' non-illuminated sign structure in the location indicated on the plan submitted, as requested in the instant Petition for Special Hearing, is hereby GRANTED in part, from and after the date of this Order, in accordance with the following continued modes of operation:

- 1) The sign shall not exceed 12' by 25' in size.
- 2) The sign shall not be illuminated.
- 3) The sign shall be located as indicated on the plan submitted, i.e., no closer than 8 1/2 feet from the eastern property line at the end of the sign closest to Frederick Road, and 22 feet at the southern end of the sign.

John G. West, Jr.
Deputy Zoning Commissioner
of Baltimore County

PETITIONER'S
EXHIBIT 7

PETITION FOR
SPECIAL
HEARING

1st Election District - 1st
Councilmanic District
Case No. 86-101-SPH
LOCATION: North
Side of Frederick Road,
175 feet East of Oella
Avenue.

DATE AND TIME:
Wednesday, November
18, 1987, at 2:00 p.m.

PUBLIC HEARING:
Room 106, County Office
Building, 111 West
Chesapeake Avenue,
Towson, Maryland.

The Zoning Com-
missioner of Baltimore
County, by authority of
the Zoning Act and
Regulations of Baltimore
County, will hold a public
hearing.

Petition for Special
Hearing to approve the
continuance of the two
existing illuminated 12
foot by 25 foot outdoor
advertising signs located
in a D.R. 2 Zone as a
nonconforming use.

Being the property of
Vernon Bush, as shown
on 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 Com-
missioner will, however,
suspend any request for
a stay of the issuance of
said permit during the
period for good cause
shown. Such request
must be received in writ-
ing by the date of the
hearing and above or
made at the hearing.

By Order of:
J. ROBERT HAINES
Zoning Commissioner
of Baltimore County

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

10416 Oct 29

CERTIFICATE OF PUBLICATION

TOWSON, MD., Oct 29, 1987

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

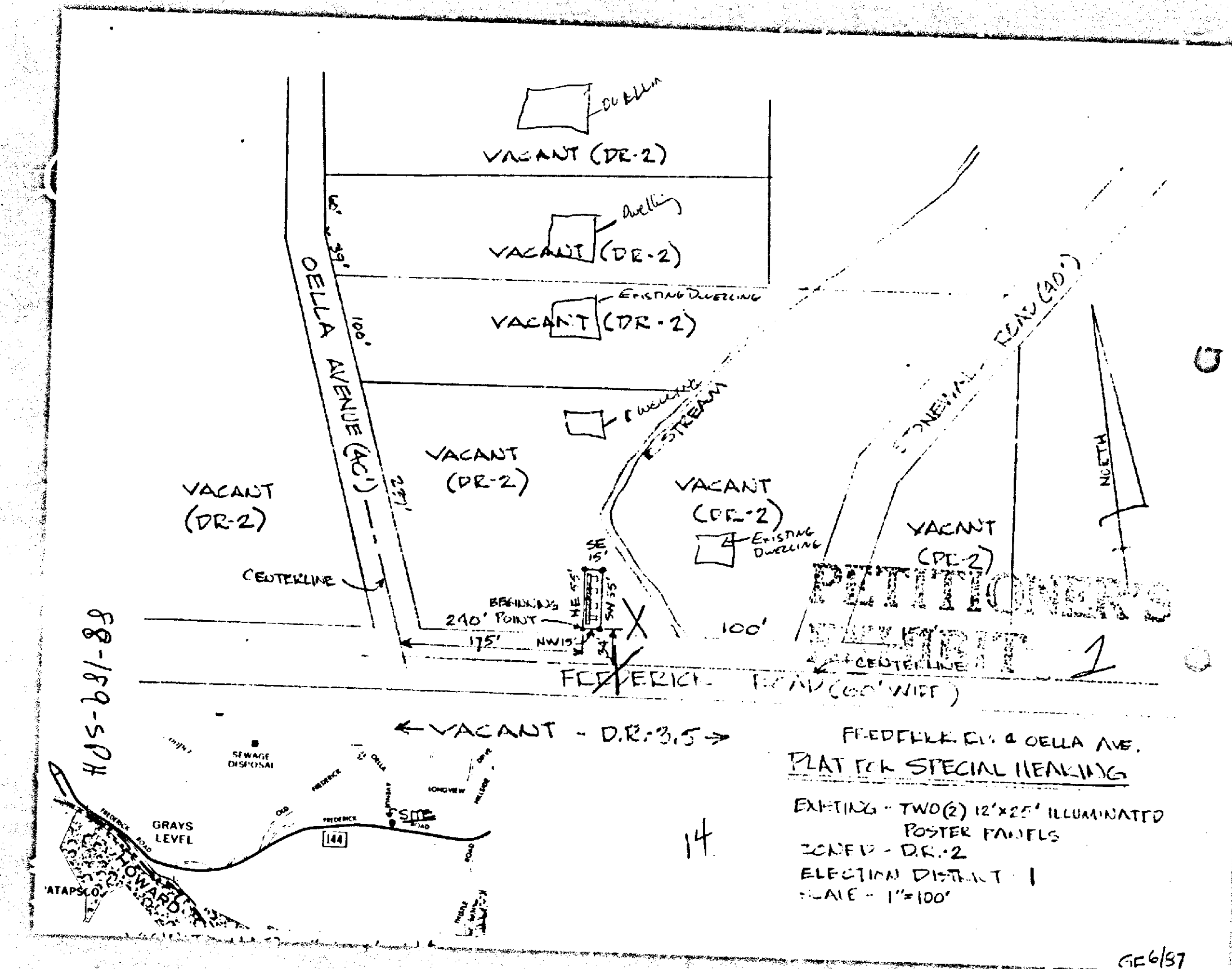
Oct 29, 1987

THE JEFFERSONIAN,

Susan Smiley O'Brien

Publisher

PETITION FOR
SPECIAL HEARING
1st Election District - 1st
Councilmanic District
Case No. 86-101-SPH
LOCATION: North Side of Fred-
erick Road, 175 feet East of Oella
Avenue.
DATE AND TIME: Wednesday,
November 18, 1987, at 2:00 p.m.
PUBLIC HEARING: Room 106,
County Office Building, 111 West
Chesapeake Avenue, Towson,
Maryland.
The Zoning Commissioner of Bal-
timore County, by authority of the
Zoning Act and Regulations of Bal-
timore County, will hold a public
hearing.
Petition for Special Hearing to ap-
prove the continuance of the two
existing illuminated 12 foot by 25
foot outdoor advertising signs lo-
cated in a D.R. 2 Zone as a noncon-
forming use.
Being the property of Vernon
Bush, as shown on 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 ap-
peal period. The Zoning Commis-
sioner will, however, suspend any
request for a stay of the issuance of
said permit during the period for
good cause shown. Such request
must be received in writing by the
date of the hearing and above or
made at the hearing.
By Order of:
J. ROBERT HAINES
Zoning Commissioner
of Baltimore County
10416 Oct 29



October 19, 1987

M. Albert Figinski, Esquire
Stuart R. Berger, Esquire
36 South Charles Street, Suite 200
Baltimore, Maryland 21201

NOTICE OF HEARING
RE: PETITION FOR SPECIAL HEARING
N/S Frederick Rd., 175' E of c/l of Oella Ave.
1st Election District - 1st Councilmanic District
Vernon Bush - Petitioner
Case No. 88-189-SPH

TIME: 2:00 p.m.
DATE: Wednesday, November 18, 1987
PLACE: Room 106, County Office Building, 111 West Chesapeake
Avenue, Towson, Maryland

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
of Baltimore County

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

No. 37715

DATE: 11/18/87 ACCOUNT: 10416
AMOUNT: \$ 40.00
RECEIVED FROM: J. ROBERT HAINES
FOR: FILING FOR SPECIAL HEARING
B 8010****100501a 007af
VALIDATION OR SIGNATURE OF CARRIER