

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1575

September Term, 1988

PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY

MARTIN'S, INC.

Garry,
Blom,
Fischer, JJ.

Per Curiam

Filed: August 15, 1989

The appellee, Martin's, Inc. (Martin's), operates a catering and conference facility known as "Martin's West" on its property next to the Baltimore Beltway (Interstate Route 695) along the southeast corner of Dogwood and Belmont Roads in Baltimore County. Martin's, while in the process of conducting a major renovation of the facility and perceiving that visibility of its existing sign¹ was partially obstructed by a new Beltway median barrier, intended to erect a 1,344 square foot, two-sided sign, with features to announce time and temperature, and an electronic message board. As the Baltimore County Zoning Regulations, however, restricted the maximum size of such a sign to 100 square feet,² Martin's petitioned the county to allow a sign variance. The Zoning Commissioner granted Martin's variance request in its entirety.

The appellant, People's Counsel for Baltimore County, appealed the Zoning Commissioner's decision to the Baltimore County Board of Zoning Appeals. Martin's thereupon modified its variance request. The new plan proposed two 15-foot columns, a 5 foot by 27 foot, 6 inch, two-sided "identification sign" (reading "Martin's West" in letters up

¹The existing sign has dimensions of 8 feet, 6 inches by 15 feet, is two-sided and freestanding, and faces the Beltway.

²Balto. County Zoning Reg. § 413.2 (1955).

to three feet high) mounted atop the columns, and an 8 foot, 6 inch by 7 foot, 6 inch two-sided electronic "message board" mounted atop the identification sign. Together, the identification sign and the message board comprised a total area of 742 square feet or 371 square feet per side. The Board, instead of remanding the amended variance request to the Zoning Commissioner, conducted a *de novo* hearing on whether a variance should be granted. Both sides of the dispute produced evidence before the Board relating to the necessity and safety ramifications of the proposed structure. With this evidence before it, the Board granted a variance for the identification sign but denied a variance for the message board. The Board explained its decision in a written opinion which, in pertinent part, provided:

Section 307 of the Baltimore County Zoning Regulations empowers the Board of Appeals to grant sign variances only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Furthermore, any such variance shall be granted only if in strict harmony with the spirit of said sign regulations and only in such manner as to grant relief without substantial injury to public health, safety and public welfare. They shall have no power to grant any other variances. The Board is of the opinion that the message board as proposed is strictly an advertising sign and as such should not be permitted. It is of the further opinion that the identification sign and the two columns as proposed on Petitioner's Exhibit 1 with the addition of the proper number of Beltway Exit Numbers, should be granted. In our

view, the Petitioner has not met his burden as set forth in Section 307 of the Baltimore County Zoning Regulations and further defined in *McLean v. Soley*, 270 Md. 208 (1972). It is inconceivable to this Board that any person intending to attend a function at Martin's West could fail to see not only the identification sign, but also the distinctive building that is Martin's West. To permit the message board as proposed would not only be an unnecessary advertising sign, but could in fact be distracting and potentially dangerous to the 160,000 automobiles that pass this site daily. It is therefore this Board's opinion that the variance should be granted to permit the two columns as proposed and the identification sign as proposed, but to deny the message board portion . . .

Martin's appealed the Board's denial of a variance for the message board to the Circuit Court for Baltimore County, and People's Counsel cross-appealed the Board's grant of the variance for the identification sign. The circuit court (Murphy, J.) reversed the Board's denial of the message board variance because it determined "that the Board was clearly erroneous in its finding that the message board should be disapproved because it 'could in effect be distracting and potentially dangerous' to Beltway traffic." As a consequence of its reversal of the Board's decision regarding the message board, the court remanded the case to the Board to "consider the size aspect of the sign variance now that the electronic message board has been judicially approved."

In *McLean v. Soley*, 270 Md. 208 (1972), the Court¹ enunciated the following considerations as being relevant to whether a zoning regulation poses a "practical difficulty" to a party petitioning for a zoning variance:

1. Whether compliance with the strict letter of the restrictions . . . would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
2. Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to

(Cont.)

beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, offstreet parking, or sign regulations, and only in such manner as to grant relief without substantial injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeal granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

the owner of the property involved and be more consistent with justice to other property owners.

3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Id. at 214-15 (quoting 2 Ratkopf, *The Law of Zoning and Planning*, 45-28-29 (3rd ed. 1972)).

In the case *sub judice*, the Board, noting that it was bound by the "practical difficulty" standard set forth in Section 307 and explained in *McLean*, denied the message board variance on the dual grounds that "the message board as proposed is strictly an advertising sign" and "[the message board] could in fact be distracting and potentially dangerous to the 160,000 automobiles that pass this site daily." The circuit court reversed on the sole ground that the Board "was clearly erroneous in its finding that the message board should be disapproved because it 'could in fact be distracting and potentially dangerous' to Beltway traffic."

People's Counsel presently urges that the circuit court erred in reversing the Board as to the message board. The resolution of that question turns upon a determination of whether the Board properly rejected Martin's claim that it would incur "practical difficulty" if it could not build the message board.

In appealing the circuit court's judgment, People's Counsel raises the following issues:

1. Was the Board of Appeals within reason in denying [Martin's] claim of hardship or practical difficulty?
2. Was the Board of Appeals within reason in granting a variance to expand visibility from the interstate highway after finding that [Martin's] had failed to meet the burden of proving hardship or practical difficulty?

Did the circuit court err in reversing the Board of Appeals because of its finding that the identification sign could be distracting and potentially dangerous when the Board's finding was reasonably based on the facts shown?

DISCUSSION

Scope of Review

The Board's approval of the action of the Zoning Commissioner in granting Martin's variance request. That the Board's decision was conducted by the circuit court. The precedents applicable to such cases are succinctly explicated by Judge [unintelligible] in *Carroll County Board of Zoning Appeals v. [unintelligible]*, 140 (1989).

The appellate court reviews the Board's decision. It is limited to the question whether the decision is supported by substantial evidence, if any, and is not evidence as a reasonable

mind might accept as adequate to support a conclusion." *Snowden v. Mayor & City Council of Baltimore*, 224 Md. 443, 448, 168 A.2d 390 (1961); *Bulluck v. Pelham Wood Apartments*, 283 Md. 505, 512, 390 A.2d 1119 [(1978)]. If the record is such as to have permitted "a reasonable mind reasonably [to] have reached the factual conclusion the agency reached," *Dickinson-Tidewater v. Agency*, 273 Md. 245, 256, 329 A.2d 18 (1974), then the decision is "fairly debatable" and, therefore, were it the must uphold it, even though, were it the factfinder, it would have reached a different conclusion. See *Eger v. Stone*, 253 Md. 533, 542, 253 A.2d 372 (1969). In other words, "The court may not substitute its judgment on the question [of] whether the inference drawn is the right one or whether a different inference would be better supported. The test is reasonableness, not rightness." *Snowden*, 224 Md. at 448, 168 A.2d 390.

Id. at 146.

II. The Message Board

Baltimore County Zoning Regulation § 307 provides, in pertinent part, as follows:

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances . . . only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

Section 307 further provides:

No increase in residential density (Cont.)

During the Board hearing, People's Counsel presented Eugene A. Bober, a planner with the State Office of Planning and Zoning, as a witness. Bober explained that the proposed sign, "as compared to the highway signs, would straddle two and a half lanes of the Beltway and is slightly larger than any of the Beltway signs." Bober further related that, after traversing most of the Beltway, he "was startled at how few signs there actually are on the Beltway and how little one can see from the Beltway beyond the tree line."

The following colloquy transpired between People's Counsel and Bober regarding the extent to which Martin's West was visible from the Beltway:

Q. In traveling the Beltway, you had occasion to notice the visibility from the Beltway of the various sites along the Beltway. How did the visibility of the Martin's site compare to the visibility of the other sites along the Beltway that have commercial signage?

A. Martin's West enjoys one of the best visibility -- it's one of the best and most visible sites around the Beltway from both directions, although certainly much more so from the outer loop. The parking lot and the base of Martin's West is slightly higher than the elevation of the Beltway and, as I said before, you come down the long stretch of highway and you can see Martin's West for quite a distance.

People's Counsel presented evidence before the Board which indicated that Martin's existing sign was present from either loop of the Beltway notwithstanding the new median barrier.

On the subject of the directional value of the proposed sign, Bober's testimony was as follows:

Q. Would the existence of this sign, of a sign on the Martin's West property saying "Martin's West" be helpful to the motorist traveling from Towson?

A. As an identification, yes. It wouldn't give any directional benefit.

Q. Coming from . . . on the inner loop, would the sign at Martin's be of any assistance to the motorists at all?

A. You cannot see Martin's at all before you get to Security Boulevard. So, in other words, by the time you had seen the sign, you would be past the exit.

As noted above, the Board, mindful of the standards enunciated in McLean, rejected Martin's argument that strict compliance with the relevant zoning regulation would pose a "practical difficulty" to Martin's to the extent that the Board grant a variance for the proposed message board.

Notwithstanding the propriety of the circuit court's ruling with respect to the limited issue of safety, we believe the question of whether Martin's demonstrated that the relevant zoning regulation imposed a "practical difficulty" upon it is fairly debatable. We reach this

⁵The hypothetical motorist envisioned by the question would be traveling on the Beltway's outer loop.

conclusion because, in our view, the evidence presented to the Board reasonably called into question Martin's need to enhance the visibility of its facility through construction of the proposed message board and the entire proposal's value as a directional guide. As the Board's determination was thus supported by substantial evidence, it was not for the circuit court to substitute its judgment on the issue for that of the Board. We hold, therefore, that the circuit court erred in reversing the Board's denial of a variance for the proposed message board.

III. The Identification Sign

In its written opinion, the Board held that "the identification sign and the two columns as proposed on Petitioner's Exhibit 1 . . . should be granted." The Board granted the foregoing relief after determining that Martin's had sufficiently established "practical difficulty" under McLean to the extent that "a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners." 270 Md. at 214.

People's Counsel presently avers that the Board's granting of a variance for the identification sign was not supported by substantial evidence. The crux of People's Counsel's contention on this point is that there is an inherent inconsistency in the Board's granting of a variance

to extend visibility after finding that Martin's had failed to meet its burden of "practical difficulty" with respect to a variance for the proposed message board.

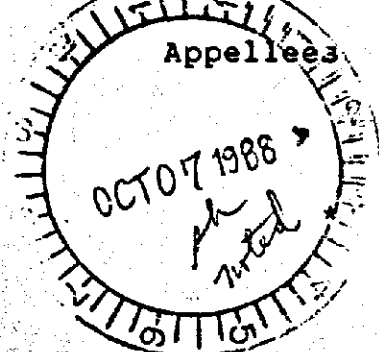
Resnick's testimony during the hearing made clear that the proposed sign was intended as a replacement for not only the facility's existing sign, but also for signage which had been attached to an exterior wall of the facility before the renovations were completed. Resnick further told the Board that the letters on the proposed identification sign were "[p]robably a lot smaller" than the letters which comprised the signage that had previously been attached to the building.

Having reviewed the record in this case, we are of the view that, contrary to the argument of People's Counsel, Martin's failure to establish the requisite "practical difficulty" with regard to a variance for the proposed message board is not determinative of the state of the evidence concerning a variance for the proposed identification sign. Moreover, we believe that Resnick's testimony made fairly debatable the issue of whether the relevant zoning regulation imposed a "practical difficulty" upon Martin's to the extent that a variance for the proposed identification sign could be granted by the Board. We hold, therefore, that the Board's determination regarding the

proposed identification sign was supported by substantial evidence.

JUDGMENT REVERSED;
CASE REMANDED TO THE
CIRCUIT COURT FOR
BALTIMORE COUNTY TO AFFIRM
THE ORDER OF THE BALTIMORE
COUNTY BOARD OF ZONING
APPEALS.
COSTS TO BE PAID
TWO-THIRDS BY THE APPELLEE
AND ONE-THIRD BY THE
APPELLANT.

MARTIN'S, INC.
Appellant
VS.
PEOPLE'S COUNSEL
FOR BALTIMORE COUNTY
Appellees
* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* CASE NO. 87 CG 4691
* ZONING CASE NO. 87-338-A



MEMORANDUM OPINION

On February 20, 1987, the Baltimore County Zoning Commissioner granted a sign variance to Martin's, Inc. On October 15, 1987 the County Board of Appeals affirmed the Commissioner's decision in part, approving a 5' by 27'6" identification sign supported by two 15 foot columns. The Board reversed that part of the Commissioner's variance permitting an 8'6" by 27'6" electronic message board to be "mounted atop this sign." Martin's has appealed from the Board's partial reversal, and requests that this Court reinstate the entire sign variance. People's counsel contends that this Court must affirm the Board of Appeals.

Having examined the entire record and having considered argument of counsel, this Court is persuaded that the Board of Appeals was clearly erroneous in its finding that the message board should be disapproved because it "could in fact be distracting and potentially dangerous" to beltway traffic. As long as Martin's complies with its agreement to refrain from continually

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changing the message board, any danger of motorist distraction is so negligible as to be nonexistent. If the message at issue in this case is so "potentially dangerous" it should not be approved, we ought to immediately tear down every electronic sign that can be seen by anyone travelling on a public road.

It is of no consequence that the message appears in lights or that the message board has the capability to deliver continually changing messages. A sign variance that should otherwise be granted cannot be denied because of a mere possibility that the applicant could subsequently use the sign in violation of whatever conditions and limitations are placed on the variance.

A remand to the Board of Appeals is necessary because the Board approved of a 5' by 27'6" sign. It did not consider whether a 13'6" by 27'6" sign should be approved. This Court's reversal of the Board's arbitrary finding that the message board is potentially dangerous does not simultaneously establish the reasonableness of the total sign size approved by the Commissioner. On remand, the Board must consider the size aspect of the sign variance now that the electronic message board has been judicially approved.

ORDER

For the reasons set forth above,

IT IS THIS 4th DAY OF October 1988,

BY THE CIRCUIT COURT FOR BALTIMORE COUNTY

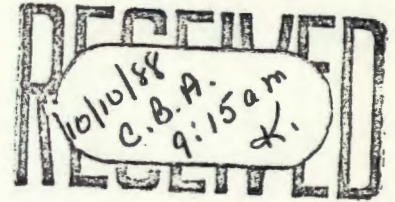
ORDERED that the Board of Appeal's rejection of the message

board portion of the Zoning Commissioner's sign variance be and the same is hereby **REVERSED**; and it is further ORDERED that the case be and the same is hereby REMANDED to the Board of Appeals for a review of the Zoning Commissioner's sign variance now that the message board portion (as modified by Martin's agreement to refrain from continually changing its messages) has been judicially approved.

Joseph F. Murphy
JUDGE

True Copy Test
For
S. Samuels
Deputy Clerk

Rec'd. 10-7-88
C.B.A. 245g
DJ

File

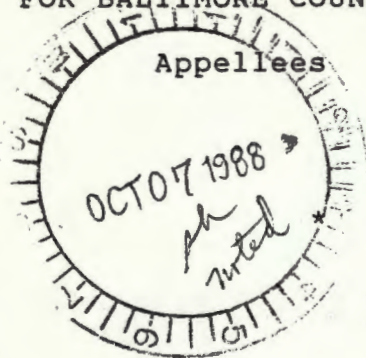
MARTIN'S, INC.

Appellant

VS.

PEOPLE'S COUNSEL
FOR BALTIMORE COUNTY

Appellees



* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* CASE NO. 87 CG 4691

ZONING CASE NO. 87-338-A

* * * * *

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changing the message board, any danger of motorist distraction is so negligible as to be nonexistent. If the message at issue in this case is so "potentially dangerous" it should not be approved, we ought to immediately tear down every electronic sign that can be seen by anyone travelling on a public road.

It is of no consequence that the message appears in lights or that the message board has the capability to deliver continually changing messages. A sign variance that should otherwise be granted cannot be denied because of a mere possibility that the applicant could subsequently use the sign in violation of whatever conditions and limitations are placed on the variance.

A remand to the Board of Appeals is necessary because the Board approved of a 5' by 27'6" sign. It did not consider whether a 13'6" by 27'6" sign should be approved. This Court's reversal of the Board's arbitrary finding that the message board is potentially dangerous does not simultaneously establish the reasonableness of the total sign size approved by the Commissioner. On remand, the Board must consider the size aspect of the sign variance now that the electronic message board has been judicially approved.

ORDER

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IT IS THIS 4th DAY OF October 1988,

BY THE CIRCUIT COURT FOR BALTIMORE COUNTY

ORDERED that the Board of Appeal's rejection of the message

board portion of the Zoning Commissioner's sign variance be and the same is hereby REVERSED; and it is further

ORDERED that the case be and the same is hereby REMANDED to the Board of Appeals for a review of the Zoning Commissioner's sign variance now that the message board portion (as modified by Martin's agreement to refrain from continually changing its messages) has been judicially approved.

Joseph F. Murphy J
JUDGE

True Copy Test

SUSANNE M. MURPHY, Clerk

For

S. Samuels

Deputy Clerk

Rec'd. 10-7-88
C.B.A. 2:45 p.m.



County Board of Appeals of Baltimore County
Room 200, Court House
Towson, Maryland 21204
(301) 494-3180
November 23, 1987

Phyllis C. Friedman
People's Counsel of Baltimore County
Rm. 223, Old Court House
Towson, MD 21204

Re: Case No. 87-338-A
Martin's, Inc.

Dear Mrs. Friedman:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

June Holmen
June Holmen, Secretary

Enclosures

MARTIN'S, INC., : IN THE CIRCUIT COURT
Appellant : FOR BALTIMORE COUNTY
v. : AT LAW
PEOPLE'S COUNSEL FOR : Docket No. 48
BALTIMORE COUNTY, : Folio No. 161
Appellee : File No. 87CG4691

NOTICE OF CROSS-APPEAL

Please note a cross-appeal from that portion of the decision in the above-captioned matter of the County Board of Appeals dated October 15, 1987, in which a variance was granted for an identification sign of five feet by twenty-seven feet six inches.

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 18th day of November, 1987, a copy of the foregoing Notice of Cross-Appeal was served on the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Julius

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COUNTY BOARD OF APPEALS
NOV 18 1987

W. Lichter, Esquire, and Howard L. Alderman, Jr., Levin, Gann & Hankin, P.A., Suite 113, 305 W. Chesapeake Ave., Towson, MD 21204, Attorneys for Petitioner.

Phyllis Cole Friedman
Phyllis Cole Friedman

MARTIN'S, INC., : IN THE CIRCUIT COURT
Appellant : FOR BALTIMORE COUNTY
v. : AT LAW
PEOPLE'S COUNSEL FOR : Docket No. 48
BALTIMORE COUNTY, : Folio No. 161
Appellee : File No. 87CG4691

PETITION ON CROSS-APPEAL

People's Counsel for Baltimore County, Protestant below and Appellee/Cross-Appellant herein, having heretofore filed a Notice of Cross-Appeal from that portion of the decision in the above-captioned matter of the County Board of Appeals dated October 15, 1987, in which a variance was granted for an identification sign of five feet by twenty-seven feet six inches, in compliance with Maryland Rule B-4(c), files this Petition on Cross-Appeal setting forth the grounds upon which this Cross-Appeal is taken:

1. That the Board had no legally sufficient evidence upon which to grant the Petitioner a variance for a five feet by twenty-seven feet six inches identification sign.

2. That the above portion of the Order of the Board was arbitrary, capricious and not based on legally sufficient evidence.

WHEREFORE, the Appellee Cross-Appellant prays that the portion of the decision of the County Board of Appeals which

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granted a variance for a five feet by twenty-seven feet six inches identification sign under date of October 15, 1987 be reversed and that the denial of the variance to permit the message board be affirmed.

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 18th day of November, 1987, a copy of the foregoing Petition on Cross-Appeal was served on the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Julius W. Lichter, Esquire, and Howard L. Alderman, Esquire, Jr., Esquire, Levin, Gann & Hankin, P.A., Suite 113, 305 W. Chesapeake Ave., Towson, MD 21204, Attorneys for Petitioner.

Phyllis Cole Friedman
Phyllis Cole Friedman

MARTIN'S, INC., : IN THE CIRCUIT COURT
Appellant : FOR BALTIMORE COUNTY
v. : AT LAW
PEOPLE'S COUNSEL FOR : Docket No. 48
BALTIMORE COUNTY, : Folio No. 161
Appellee : File No. 87CG4691

ANSWER TO PETITION ON APPEAL

People's Counsel for Baltimore County, Protestant below and Appellee/Cross Appellant herein, answers the Petition on Appeal heretofore filed by the Appellant, viz:

That People's Counsel denies each and every Paragraph 1 through 3 of the Petition on Appeal.

WHEREFORE, People's Counsel prays that the decision of the County Board of Appeals of Baltimore County be affirmed insofar as it denied the requested electronic message board sign. At the same time, for reasons stated in the Cross-Appeal, People's Counsel prays that the decision of the Board to grant the variance for the identification sign be reversed.

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

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I HEREBY CERTIFY that on this 18th day of November, 1987, a copy of the foregoing Answer to Petition on Appeal was served on the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Julius W. Lichter, Esquire, and Howard L. Alderman, Jr., Levin, Gann & Hankin, P.A., Suite 113, 305 W. Chesapeake Ave., Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman

494-2188

IN THE MATTER OF : IN THE
THE APPLICATION OF : CIRCUIT COURT
MARTIN'S, INC., : FOR
FOR VARIANCE ON PROPERTY : BALTIMORE COUNTY
LOCATED ON THE SOUTHWEST : AT LAW
CORNER OF BELMONT AVENUE :
AND LOGWOOD ROAD :
1st ELECTION DISTRICT :
1st COUNCILMANIC DISTRICT :
MARTIN'S, INC., PETITIONER- : CG Doc. No. 48
PLAINTIFF : Folio No. 161
ZONING FILE NO. 87-338-A : File No. 87-CG-4691

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Lawrence E. Schmidt and Harry E. Buchheister, Jr., 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, Martin's, Inc., (Preston Greene, V.P.), 7000 Security Blvd., Balto., Md. 21207, Petitioner-Plaintiff; Julius W. Lichter, Esq. and Howard L. Alderman, Jr., Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioner-Plaintiff; and Phyllis C. Friedman, Esq., Rm. 223, Old 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

Martin's, Inc.
File No. 87-338-A

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Martin's, Inc., (Preston Greene, V.P.), 7000 Security Blvd., Balto., Md. 21207, Petitioner-Plaintiff; Julius W. Lichter, Esq. and Howard L. Alderman, Jr., Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioner-Plaintiff; and Phyllis C. Friedman, Esq., Rm. 223, Old Court House, Towson, Md. 21204, on this 6th day of November, 1987.

June Holmen
June Holmen
County Board of Appeals of Baltimore County

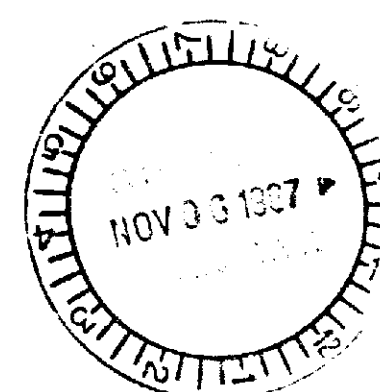
MARTIN'S, INC.,
Appellant
v.
PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY
Appellees

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY AT LAW
* Docket No: 45
* Folio No: 161
* File No: 57004191

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NOTICE OF APPEAL

Please note an Appeal from the decision in the above-captioned matter of the County Board of Appeals dated October 15, 1987 by Martin's, Inc.



Julius W. Lichter
Julius W. Lichter

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.
LEVIN, GANN & HANKIN, P.A.
Suite 113
305 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 321-0600

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of November, 1987, a copy of the foregoing Notice of Appeal was mailed, postage prepaid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and to Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, both of Room 223, Court House, Towson, Maryland 21204.

Julius W. Lichter
Julius W. Lichter

MARTIN'S, INC.,
Appellant
v.
PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY
Appellees

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY AT LAW
* Docket No: 49
* Folio No: 161
* File No: 57004191

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PETITION ON APPEAL

Martin's, Inc., by its attorney Julius W. Lichter and Levin, Gann & Hankin, P.A., petitioner below and appellant herein, having heretofore filed a Notice of Appeal from the decision in the above-captioned matter of the County Board of Appeals dated October 15, 1987, files this Petition on Appeal setting forth the grounds upon which this appeal is taken, and says:

1. That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the electronic message board sign as proposed by the petitioner is strictly an advertising sign.
2. That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the electronic message board portion of the sign as proposed could be distracting and potentially dangerous to automobiles that pass this site.
3. That because the County Board of Appeals had no evidence

-1-

upon which to base the above conclusions, their decision is illegal, arbitrary and capricious.

WHEREFORE, Appellant prays that the decision of the Board of Appeals of Baltimore County, dated October 15, 1987, be reversed, and that the action of the Zoning Commissioner of Baltimore County, dated February, 1987, granting the variance for the proposed sign be affirmed and reinstated.

Julius W. Lichter
Julius W. Lichter

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.
LEVIN, GANN & HANKIN, P.A.
Suite 113
305 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 321-0600

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of November, 1987, a copy of the foregoing Petition on Appeal was mailed, postage prepaid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and to Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, both of Room 223, Court House, Towson, Maryland 21204.

Julius W. Lichter
Julius W. Lichter

-2-

COPY

MARTIN'S, INC.,
Appellant
v.
PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY
Appellees

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY AT LAW
* Docket No: _____
* Folio No: _____
* File No: _____

NOTICE OF APPEAL

Please note an Appeal from the decision in the above-captioned matter of the County Board of Appeals dated October 15, 1987 by Martin's, Inc.

Julius W. Lichter
Julius W. Lichter

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.
LEVIN, GANN & HANKIN, P.A.
Suite 113
305 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 321-0600

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of November, 1987, a copy of the foregoing Notice of Appeal was mailed, postage prepaid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and to Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, both of Room 223, Court House, Towson, Maryland 21204.

Julius W. Lichter
Julius W. Lichter

COPY

MARTIN'S, INC.,
Appellant
v.
PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY
Appellees

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY AT LAW
* Docket No: _____
* Folio No: _____
* File No: _____

PETITION ON APPEAL

Martin's, Inc., by its attorney Julius W. Lichter and Levin, Gann & Hankin, P.A., petitioner below and appellant herein, having heretofore filed a Notice of Appeal from the decision in the above-captioned matter of the County Board of Appeals dated October 15, 1987, files this Petition on Appeal setting forth the grounds upon which this appeal is taken, and says:

1. That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the electronic message board sign as proposed by the petitioner is strictly an advertising sign.
2. That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the electronic message board portion of the sign as proposed could be distracting and potentially dangerous to automobiles that pass this site.
3. That because the County Board of Appeals had no evidence

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1987 NOV -5 PM 3:32

-1-

300-1 BALTIMORE COUNTY

COPY

upon which to base the above conclusions, their decision is illegal, arbitrary and capricious.

WHEREFORE, Appellant prays that the decision of the Board of Appeals of Baltimore County, dated October 15, 1987, be reversed, and that the action of the Zoning Commissioner of Baltimore County, dated February, 1987, granting the variance for the proposed sign be affirmed and reinstated.

Julius W. Lichter
Julius W. Lichter

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.
LEVIN, GANN & HANKIN, P.A.
Suite 113
305 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 321-0600

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of November, 1987, a copy of the foregoing Petition on Appeal was mailed, postage prepaid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and to Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, both of Room 223, Court House, Towson, Maryland 21204.

Julius W. Lichter
Julius W. Lichter

-2-

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204

June 26, 1987

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 #108

CASE NO. 87-338-A MARTIN'S INC.
SW/cor. Belmont Ave. and Dogwood Rd.
1st Election District

Variances-For Parking and Sign

2/20/87 - Variances granted subject to restriction

The above hearing set for Thursday, July 9, 1987, at 10 a.m. has been POSTPONED with agreement of counsel and the Board, and

REASSIGNED FOR: THURSDAY, AUGUST 20, 1987, at 10 a.m.

cc: Martin's Inc.	Petitioner
Julius W. Lichter, Esq.	Counsel for Petitioner
Phyllis C. Friedman	People's Counsel
Norman Gerber	Planning
James Hoswell	"
Arnold Jablon	Zoning
Jean Jung	"
James Dyer	"
Margaret duBois	"

June Holmen, Secretary



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
October 15, 1987

Phyllis C. Friedman
People's Counsel for Baltimore County
Court House
Towson, Md. 21204

Re: Case No. 87-338-A
Martin's, Inc.

Dear Mrs. Friedman:

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

Very truly yours,

June Holmen
June Holmen, Secretary

Encl.
cc: Martin's, Inc.
Julius W. Lichter, Esq.
Norman E. Gerber
James Hoswell
J. Robert Haines
Ann Nastarowicz
James E. Dyer
Margaret E. duBois



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
November 6, 1987

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ZONING OFFICE

Phyllis C. Friedman, Esq.
People's Counsel for Baltimore County
Court House
Towson, MD. 21204

Re: Case No. 87-338-A
Martin's, Inc.

Dear Mrs. Friedman:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen
June Holmen, Secretary

Encl.
cc: Norman E. Gerber
James Hoswell
J. Robert Haines
Ann Nastarowicz
James E. Dyer
Margaret E. duBois

IN THE MATTER OF : IN THE
THE APPLICATION OF : CIRCUIT COURT
MARTIN'S, INC. :
FOR VARIANCE ON PROPERTY :
LOCATED ON THE SOUTHWEST :
CORNER OF BELMONT AVENUE :
AND DODGWOOD ROAD : BALTIMORE COUNTY
1st ELECTION DISTRICT :
1st COUNCILMANIC DISTRICT : AT LAW
MARTIN'S, INC., PETITIONER- :
PLAINTIFF : CG Doc. No. 48
ZONING FILE NO. 87-338-A : Folio No. 161
: : : : File No. 87-CG-4691

CERTIFICATE OF NOTICE

Mr. Clerk:

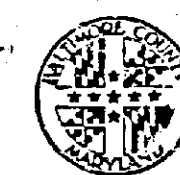
Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Lawrence E. Schmidt and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Martin's, Inc., (Preston Greene, V.P.), 7000 Security Blvd., Balto., Md. 21207, Petitioner-Plaintiff; Julius W. Lichter, Esq. and Howard L. Alderman, Jr., Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioner-Plaintiff; and Phyllis C. Friedman, Esq., Rm. 223, Old 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

Martin's, Inc.
File No. 87-338-A

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Martin's, Inc., (Preston Greene, V.P.), 7000 Security Blvd., Balto., Md. 21207, Petitioner-Plaintiff; Julius W. Lichter, Esq. and Howard L. Alderman, Jr., Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioner-Plaintiff; and Phyllis C. Friedman, Esq., Rm. 223, Old Court House, Towson, Md. 21204, on this 6th day of November, 1987.

June Holmen
June Holmen
County Board of Appeals of Baltimore County



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
November 23, 1987

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NOV 24 1987
ZONING OFFICE

Julius W. Lichter, Esq.
Howard L. Alderman, Jr., Esq.
305 W. Chesapeake Ave.
Towson, Md. 21204

Re: Case No. 87-338-A
Martin's, Inc.

Gentlemen:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen
June Holmen, Secretary

Encl.
cc: Martin's, Inc.
Norman E. Gerber
James Hoswell
J. Robert Haines
Ann Nastarowicz
James E. Dyer
Robin Clark

IN THE MATTER OF : IN THE
THE APPLICATION OF : CIRCUIT COURT
MARTIN'S, INC. :
FOR VARIANCE ON PROPERTY :
LOCATED ON THE SOUTHWEST :
CORNER OF BELMONT AVENUE : BALTIMORE COUNTY
AND DODGWOOD ROAD :
1st ELECTION DISTRICT : AT LAW
1st COUNCILMANIC DISTRICT :
PHYLLIS C. FRIEDMAN, PEOPLE'S :
COUNSEL FOR BALTIMORE COUNTY- :
PLAINTIFF : CG Doc. No. 48
ZONING FILE NO. 87-338-A : Folio No. 161
: : : : File No. 87-CG-4691

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Lawrence E. Schmidt and Harry E. Buchheister, Jr., 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, Martin's, Inc., Preston Greene, V. P., 7000 Security Blvd., Balto., Md. 21207, Petitioner-Plaintiff; Julius W. Lichter, Esq. and Howard L. Alderman, Jr., Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioner-Plaintiff; and Phyllis C. Friedman, Esq., Rm. 223, Old Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff, 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

Martin's, Inc.
Case No. 87-338-A

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Martin's, Inc., Preston Greene, V.P., 7000 Security Blvd., Balto., Md. 21207, Petitioner-Plaintiff; Julius W. Lichter, Esq. and Howard L. Alderman, Jr., Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioner-Plaintiff; and Phyllis C. Friedman, Esq., Rm. 223, Old Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff, on this 23rd day of November, 1987.

June Holmen
June Holmen
County Board of Appeals of Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

November 2, 1987

Howard L. Alderman, Jr., Esquire
Levin, Gann & Hankin
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Verification of Zoning
Martin's West
1st Election District

Dear Mr. Alderman:

Based upon the information located in this office and the Current Planning office, please be advised that the above referenced property is currently in compliance provided that the existing and anticipated future uses would be in complete conformance with the site plans and permits that accompanied the zoning hearings Case #87-338-A and #71-167-ASPH and the building permit (C-333-87). Please be advised that the message board portion of the proposed sign would not be permitted pursuant to the Board of Appeals order on October 15, 1987.

These zoning hearing cases and permit records are located in this office and the Current Planning office as permanent records of our review and final approval.

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

Sincerely,

W. Carl Richards, Jr.
W. CARL RICHARDS, JR.
Zoning Coordinator

WCR,Jr:kkb



Dennis F. Rasmussen
County Executive

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

June 26, 1987

NOTICE OF POSTPONEMENT and REASSIGNMENT
ZONING OFFICE

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 #108

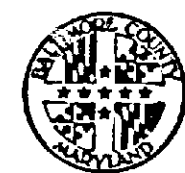
CASE NO. 87-338-A MARTIN'S INC.
SW/cor. Belmont Ave. and Dogwood Rd.
1st Election District
Variances-For Parking and Sign
2/20/87 - Variances granted subject to restriction

The above hearing set for Thursday, July 9, 1987, at 10 a.m. has been POSTPONED with agreement of counsel and the Board, and

REASSIGNED FOR: THURSDAY, AUGUST 20, 1987, at 10 a.m.

cc: Martin's Inc. Petitioner
Julius W. Lichter, Esq. Counsel for Petitioner
Phyllis C. Friedman People's Counsel
Norman Gerber Planning
James Hoswell "
Arnold Jablon Zoning
Jean Jung "
James Dyer "
Margaret duBois "

June Holmen, Secretary



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
April 17, 1987

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. 87-338-A MARTIN'S, INC.
SW/cor. Belmont Ave. and Dogwood Rd.
1st District
Variances-For parking & sign
2/20/87 - Variances granted subject to restriction

ASSIGNED FOR: THURSDAY, JULY 9, 1987, at 10 a.m.

cc: Martin's Inc. Petitioner
Julius W. Lichter, Esq. Counsel for Petitioner
Phyllis C. Friedman People's Counsel
Norman Gerber Planning
James Hoswell "
Arnold Jablon Zoning
Jean Jung "
James Dyer "
Margaret duBois "

June Holmen, Secy.

RECEIVED
ZONING OFFICE

APPEAL

Petition for Zoning Variance
SW/Corner of Belmont Avenue and Dogwood Road
1st Election District - 1st Councilmanic District
Martin's, Inc. - Petitioner
Case No. 87-338-A

Petition for Zoning Variance
Description of Property
Certificates of Publication
Entry of Appearance of People's Counsel
Zoning Plans Advisory Committee Comments
Director of Planning & Zoning Comments

Petitioner's Exhibits: 1 - Plat of Property dated November 10, 1986
2 - Vehicle Occupancy Study

Zoning Commissioner's Order dated February 20, 1987

Notice of Appeal received March 4, 1987 from People's Counsel for Baltimore County, Protestants

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, Maryland 21204

Phyllis Cole Friedman, Esquire, Appellant
People's Counsel of Baltimore County
Rm. 223, Old Courthouse, Towson, Maryland 21204

Request Notification: Norman E. Gerber, Director of Planning
James Hoswell, Office of Planning & Zoning
Arnold Jablon, Zoning Commissioner
Jean M. H. Jung, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Margaret E. duBois, Docket Clerk

CERTIFICATE OF PUBLICATION

TOWSON, MD. January 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 January 29, 1987.

THE JEFFERSONIAN,

Publisher

Cost of Advertising

24.75

PETITION FOR ZONING VARIANCES
1st Election District
Case No. 87-338-A
LOCATION: Southwest Corner of Belmont Avenue and Dogwood Road
DATE AND TIME: Wednesday, February 18, 1987, at 10:15 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 on the petition for zoning variances to permit 610 parking spaces in lieu of 914 spaces and a sign of 1,344 square feet (672 square feet on each side) in lieu of the permitted 100 square feet.

By Order of
ARNOLD JABLON
Zoning Commissioner
of Baltimore County
1796 Jan. 29

LOCATION: Southwest Corner of Belmont Avenue and Dogwood Road

DATE AND TIME: Wednesday, February 18, 1987, at 10:15 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 Zoning Variances to permit 610 parking spaces in lieu of 914 spaces and a sign of 1,344 square feet (672 square feet on each side) in lieu of the permitted 100 square feet

Being the property of Martin's, Inc., 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 JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

RE: PETITION FOR VARIANCES : BEFORE THE ZONING COMMISSIONER
SW/Corner of Belmont Ave. : OF BALTIMORE COUNTY ZONING OFFICE
and Dogwood Rd., 1st Dist.
MARTIN'S, INC., Petitioner : Zoning Case No. 87-338-A

NOTICE OF APPEAL

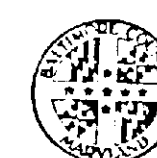
Please note an appeal from your decision in the above-captioned matter, under date of February 20, 1987, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

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 4th day of March, 1987, a copy of the foregoing Notice of Appeal was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., #113, Towson, Maryland 21204.

Peter Max Zimmerman
Peter Max Zimmerman



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

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

February 11, 1987

Julius W. Lichter, Esquire
305 West Chesapeake Avenue
No. 113
Towson, Maryland 21204

RE: PETITION FOR ZONING VARIANCES
SW/cor. of Belmont Ave. and Dogwood Rd.
1st Election District
Martin's, Inc. - Petitioner
Case No. 87-338-A

Dear Mr. Lichter:

This is to advise you that \$60.47 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.

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

No. 33006

re County, Maryland, and remit
Tidg, Towson, Maryland

DATE: 3/11/87 ACCOUNT: 494-3353
SIGN & SEAL: Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Baltimore, Md. 21204
RECEIVED FROM: Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., Baltimore, Md. 21204
FOR: \$60.47
VALIDATION OR SIGNATURE OF CASHIER

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

February 10 19 87

THIS IS TO CERTIFY, that the annexed advertisement of
PETITION FOR ZONING 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 one day of February 19 87, that is to say,
the same was inserted in the issues of

January 29, 1987

PATUXENT PUBLISHING CORP.

By *[Signature]*

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

83-338-A

District *1st* Date of Posting *1-29-87*

Posted for: *Variances*

Petitioner: *Martin's, Inc.*

Location of property: *SW Corner of Belmont Ave and Dogwood Road*

Location of Signs: *SW Corner of Belmont Ave and Dogwood Road*

Remarks: *[Signature]*

Posted by: *[Signature]* Date of return: *Feb 6-87*

THE
TRAFFIC
GROUP
INC

VEHICLE OCCUPANCY STUDY
MARTIN'S WEST
Saturday - Feb. 7, 1987
100 Person Event

THE
TRAFFIC
GROUP
INC

Time	# People per Vehicle								Total Person	Total Vehicles	Total People/Vehicle
	1	2	3	4	5	6	7	8			
PM	Person	People	People	People	People	People	People	People			
01:30-02:00	11	18	2	2	2	0	0	0	71	35	2.0
02:00-02:30	11	2	16	2	0	0	0	0	49	22	2.2
02:30-03:00	11	6	7	0	1	1	0	0	20	13	1.5
Totals	11	19	41	4	3	3	0	0	140	70	2.0

Parking Lot Counts: # 1:30 - 35
3:00 - 101

RE: PETITION FOR VARIANCES : BEFORE THE ZONING COMMISSIONER
SW/Corner of Belmont Ave. &
Dogwood Rd., 1st District : OF BALTIMORE COUNTY
MARTIN'S, INC., Petitioner : Case No. 87-338-A

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
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 21st day of January, 1987, a copy of the foregoing Entry of Appearance was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., #113, Towson, MD 21204, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

THE
TRAFFIC
GROUP
INC

VEHICLE OCCUPANCY STUDY
MARTIN'S WEST
Sunday - Feb. 8, 1987
250 & 400 Person Events

THE
TRAFFIC
GROUP
INC

Time	# People per Vehicle								Total Person	Total Vehicles	Total People/Vehicle
	1	2	3	4	5	6	7	8			
PM	Person	People	People	People	People	People	People	People			
12:30-01:00	11	10	25	6	11	1	2	0	139	55	2.5
01:00-01:30	11	31	70	7	9	1	5	1	259	123	2.1
01:30-02:00	11	36	38	3	4	1	1	0	152	86	1.8
02:00-02:30	11	49	32	10	0	2	0	0	153	93	1.6
02:30-03:00	11	11	12	0	0	0	0	0	35	23	1.5
Totals	11	139	177	26	26	9	3	0	726	380	1.9

Parking Lot Counts: # 12:30 - 61
03:00 - 430

THE
TRAFFIC
GROUP
INC

VEHICLE OCCUPANCY STUDY
MARTIN'S WEST
Friday - Feb. 13, 1987
1000 Person Event

THE
TRAFFIC
GROUP
INC

Time	# People per Vehicle								Total Person	Total Vehicles	Total People/Vehicle
	1	2	3	4	5	6	7	8			
PM	Person	People	People	People	People	People	People	People			
07:00-07:30	11	14	23	12	7	0	0	0	104	51	2.0
07:30-08:00	11	16	68	6	5	0	1	0	196	96	2.0
08:00-08:30	11	16	15	12	9	2	0	0	288	124	2.1
08:30-09:00	11	11	44	13	11	0	1	0	168	89	2.4
Totals	11	57	270	43	27	2	2	0	776	361	2.1

Parking Lot Counts: # 7:00 - 64
9:00 - 434

Julius W. Lichter, Esquire
305 West Chesapeake Avenue
No. 113
Towson, Maryland 21204

January 9, 1987

NOTICE OF HEARING

RE: PETITION FOR ZONING VARIANCES
SW/Corner of Belmont Ave. and Dogwood Rd.
1st Election District
Martin's, Inc. - Petitioner
Case No. 87-338-A

TIME: 10:15 a.m.
DATE: Wednesday, February 18, 1987
PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

[Signature]
Zoning Commissioner
Baltimore County

No. 29863

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

DATE: 1-16/87 ACCOUNT: 01-615-000
AMOUNT: \$ 100.00
RECEIVED FROM: *Lester Cole + Hark*
FOR: *Variances # 243*
\$ 2103 ***** 2116f

THE
TRAFFIC
GROUP
INC

VEHICLE OCCUPANCY STUDY
MARTIN'S WEST
Saturday - Feb. 8, 1987
200 & 175 Person Events

THE
TRAFFIC
GROUP
INC

Time	# People per Vehicle								Total Person	Total Vehicles	Total People/Vehicle
	1	2	3	4	5	6	7	8			
PM	Person	People	People	People	People	People	People	People			
01:00-01:30	11	11	11	2	4	0	0	0	55	29	2.0
01:30-02:00	11	9	33	4	5	1	0	1	113	52	2.2
02:00-02:30	11	12	41	7	5	0	1	0	141	66	2.1
02:30-03:00	11	7	17	3	2	0	0	0	58	29	2.0
Totals	11	39	102	16	16	0	2	0	367	175	2.1

Parking Lot Counts: # 01:00 - 44
03:00 - 257

THE
TRAFFIC
GROUP
INC

VEHICLE OCCUPANCY STUDY
MARTIN'S WEST
Saturday - Feb. 14, 1987
200 Person Event

THE
TRAFFIC
GROUP
INC

Time	# People per Vehicle								Total Person	Total Vehicles	Total People/Vehicle
	1	2	3	4	5	6	7	8			
PM	Person	People	People	People	People	People	People	People			
10:30-11:00	11	7	9	2	4	1	0	0	52	23	2.3
11:00-11:30	11	7	24	5	5	0	0	1	98	42	2.3
11:30-12:00	11	5	12	4	3	0	0	0	53	24	2.2
Totals	11	19	45	11	12	1	0	0	203	89	2.3

Parking Lot Counts: # 10:00 - 51
12:00 - 249

87-136-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
2nd day of January, 1987.

Received by: James E. Dyer
Chairman, Zoning Plans
Advisory Committee

Petitioner: Martin's, Inc.
Petitioner's Attorney: Julius W. Lichter, Esquire

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 12, 1987

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue, #113
Towson, Maryland 21204

RE: Item No. 243 - Case No. 87-338-A
Petitioner: Martin's, Inc.
Petition for Zoning Variance

Dear Mr. Lichter:

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,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:kkb
Enclosures

cc: Spellman, Larson & Associates, Inc.
Jefferson Building, Suite 107
Towson, Maryland 21204

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GERDER
DIRECTOR

January 27, 1987

Re: Zoning Advisory Meeting of December 23, 1986
Item # 243
Property Owner: SW/C BELMONT AVE.
Location: 4 Dogwood Rd.
MARTIN'S INC.

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.

- () There are no site planning factors requiring comment.
- () A County Review Group Meeting is required.
- () 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.
- () A record plat 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.
- () The parking calculations must be shown on the plan.
- () This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- () Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-98 of the Development Regulations.
- () Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- () 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
- () 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.
- (X) Additional comments:
- ① - Per Landscape Manual Sec. V.A.3 - IN COMMERCIAL OFFICE
- + INDUSTRIAL ZONES INCREASES IN THE FLOOR AREA OF LESS THAN 50% SHALL REQUIRE THAT THE PORTION OF THE SITE IMPACTED CONFORM TO THE STANDARDS IN THIS MANUAL.
- ② A WAIVER OF PLAN (CRG MEETING/PROCESS) WAS GRANTED BY PLAN. DIV. 11/20/86 (SEE WAIVER FILE # W-BG-238, 4th MARTIN'S WEST.)

David Fields, Acting Chief
Current Planning and Development

cc: James Hoswell

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

January 21, 1987

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

Dear Mr. Jablon:

The Department of Traffic Engineering has no comments for items number 233, 234, 235, 237, 238, 239, 240, 241, 243, 244, 246, 248, 249, and 250.

Very truly yours,
Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate II

MSF:lt

FEB 3 1987

1-21-87
Date

BALTIMORE COUNTY DEPARTMENT OF HEALTH

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

Zoning Item # 243, Zoning Advisory Committee Meeting of 12-23-86

Property Owner: Martin's Inc. District 1

Location: Belmont Ave.

Water Supply: meteo Sewage Disposal: meteo

COMMENTS ARE AS FOLLOWS:

- (X) Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, for final review and approval.
- () Prior to new installation/s of fuel burning equipment, the owner should contact the Division of Air Pollution Control, 494-3775, to obtain requirements for such installation/s before work begins.
- () A permit to construct from the Division of Air Pollution Control is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Division of Air Pollution Control is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- () Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) facilities or other appurtenances must be submitted to the Baltimore County Department of Health for review and approval. For more complete information, contact the Recreational Hygiene Section, Division of Environmental Support Services.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with Water Resources Administration requirements.

WWQ 1, 4/86

Zoning Item # 243 Zoning Advisory Committee Meeting of 12-23-86
Page 2

- () Prior to razing of existing structure/s, petitioner must contact the Division of Water Quality and Waste Management at 494-3768, regarding removal and/or disposal of potentially hazardous materials and solid wastes.
- () Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Water Quality and Waste Management at 494-3768.
- () Soil percolation tests (have been/must be) conducted.
- () The results are valid until
- () Soil percolation test results have expired. Petitioner should contact the Division of Environmental Support Services to determine whether additional tests are required.
- () Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
- () is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted.
- () Others

Tan J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE
CHIEF

December 23, 1986

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

RE: Property Owner: Martin's Inc.
Location: SW/C Belmont Ave. & Dogwood Rd.
Item No.: 243 Zoning Agenda: Meeting of 12/23/86

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.
- () 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.

REVIEWER: C. H. O'Neil Noted and Approved: John F. O'Neill
Planning Group Fire Prevention Bureau
Special Inspection Division

/mb

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204

TED ZALESKI, JR.
DIRECTOR

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

Dear Mr. Jablon:

Comments on Item # 243 Zoning Advisory Committee Meeting are as follows:

Property Owner:
Location:
Districts:

APPLICABLE TYPES ARE CIRCLED:

- A. All structures shall conform to the Baltimore County Building Code as adopted by Council Bill #17-85, the Maryland Code for the Handicapped and Aged (A.B.S.L. #17-1 - 1980) and other applicable Codes and Standards.
- B. A building and other miscellaneous permits shall be required before the start of any construction.
- C. Residential: Two sets of construction drawings are required to file a permit application. The seal of a registered in Maryland Architect or Engineer is/are not required on plans and technical data.
- D. Commercial: Three sets of construction drawings sealed and signed by a registered in Maryland Architect or Engineer shall be required to file with a permit application. Reproduced seals are not acceptable.
- E. All Use Groups except B-4 Single Family Detached Dwellings require a minimum of 1 hour fire rating for exterior walls closer than 6'-0" to an interior lot line. B-4 Use Groups require a one hour wall if closer than 3'-0" to an interior lot line. Any wall within 25' of an interior lot line shall require a fire or party exterior wall within 3'-0" of an interior lot line.
- F. The structure does not appear to comply with Table 505 for permissible height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 101 and 505 and have your Architect/Engineer contact this department.
- G. The requested variance appears to conflict with Section(s) _____ of the Baltimore County Building Code.
- H. When filing for a required Change of Use/Occupancy Permit, an alteration permit application shall also be filed along with three sets of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are usually required. The change of the Use Group is from Use _____ to Use _____ or to Mixed Use _____. See Section 312 of the Building Code.
- I. The proposed project appears to be located in a Flood Plain, Flood Hazard Area. Please see the attached copy of Section 516.0 of the Building Code as adopted by Bill #17-85. Site plans shall show the correct elevations above sea level for the lot and the finish floor levels including basement.
- J. Comments: The existing building and the proposed additions shall comply to the height area and type of construction required for a new structure as per article 5. Handicapped space's (2% of total) shall be provided as per the State Handicapped Code.
- K. These abbreviated 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 the Applicant may obtain additional information by visiting Room 122 of the County Office Building at 111 Chesapeake Avenue, Towson, Maryland 21204. access to the various level shall be provided for the Handicapped. Signs shall comply to Article 9 and its amendments in Bill #17-85. See section 313.2 for separation of various uses.

Michael S. Flanagan

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner
FROM: Norman E. Gerber, AICP
Planning & Zoning
Date: February 10, 1987
SUBJECT: Zoning Petition No. 87-338-A

This office is not opposed to the erection of the proposed sign for the portion that identifies the businesses here; however, this office if not supportive of the top portion of the proposed sign that would display temperature, time, and daily events. We do not believe that the message board aspect is desirable both in terms of its potential distraction to motorists on the highway and in terms of the overall size of the sign (21' x 32') that we believe to be visually excessive.

Norman E. Gerber
Norman E. Gerber, AICP
Planning & Zoning

NEG:JC eds

RECEIVED
FEB 12 1987
ZONING OFFICE

CPS-008

LEVIN, GANN & HANKIN
DEC 23 1988

ZONING OFFICE

December 22, 1986

Arnold Jablon, Esquire
Zoning Commissioner for
Baltimore County
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Petition for Zoning Variance
Martin's, Inc.
Martin's West Location
Item No. 243

Dear Mr. Jablon:

This letter is being written to you to request that the hearing with regard to the above Petition be set at the earliest possible date. My client anticipates, should the variance be granted, that this facility will be closed for approximately six months so that the construction of the improvements shown on the plan accompanying the Petition can be made in the most expeditious manner. It is most important that a hearing be scheduled at the earliest date so that my client can authorize the preparation of further plans for submittal with regard to the construction and obtain the necessary financing to achieve the improvements envisioned, which are dependent upon securing the variance. The facility would be closed from July 1, 1987 through December 31, 1987. As you can see, there is not much time to complete the work program in anticipation of the schedule.

Your cooperation is urgently requested.

Sincerely,

Julius W. Lichter
Julius W. Lichter

JWL:slp

Court of Special Appeals

No. 1575, September Term, 1988

People's Counsel for Baltimore County
v.
Martin's, Inc.

DISPOSITION OF APPEAL IN COURT OF SPECIAL APPEALS:
August 15, 1989: Per Curiam filed.
Judgment reversed; case remanded to the
Circuit Court for Baltimore County to affirm
the order of the Baltimore County Board of
Zoning Appeals; costs to be paid two-thirds
by the appellee and one-third
appellant.

September 14, 1989

RECORD RETURNED TO CLERK
BALTIMORE COUNTY
TOWSON, MD 21204

BY: HAND DELIVERED
REMARKS:

- () Return to Judge
- () Return to Clerk
- () Return to Cashier
- () Transfer case to (Give to Appeals desk)
- () Index
- () Appeal to Court of Special Appeals (Give to Appeals desk)
- () Booklet entries (Give to appeals desk)
- () Judgment by Default (notify assignment office)
- () Assignment Office
- () Other (Explain)

SEP 22 1989
RECEIVED
COURT OF SPECIAL APPEALS

MARTIN'S, INC.

SW/corner of Belmont Avenue and
Dogwood Road

VAR -parking spaces and sign

CASE NO. 87-338-A

1st Election District
1st Councilmanic District

January 2, 1987

Petition filed by Martin's Inc. for variance to allow 610 parking spaces in lieu of required 914 parking spaces; variance for a sign of 1344 sq. ft. in lieu of 100 sq. ft.

February 20

Order of Z.C. that zoning variances to permit 610 parking spaces and a freestanding business sign containing 1344 sq. ft. be GRANTED subject to restrictions.

March 4

Order for Appeal to C.B. of A. from People's Counsel.

March 11

Partial dismissal of appeal from People's Counsel.

August 20

Hearing on appeal before the C.B. of A.

October 15

Order of the C.B. of A. that sign variance requested to permit two 15-foot columns and a 5 ft. by 27 ft. 6 in. i.d. sign be GRANTED and FURTHER ORDERED that variance to permit message board be DENIED.

November 5

Order for Appeal filed by Julius Lichter, Esquire and Howard L. Alderman, Esq. in CCT for BCO on behalf of Petitioner; Petition filed.

November 6

Certificate of Notice sent.

November 18

Notice of Cross Appeal filed in CCT for BCO by People's Counsel; Petition on Cross Appeal filed in CCT.

November 18

Answer to Petition on Appeal filed in CCT.

November 23

Certificate of Notice sent.

December 7

Record of Proceedings filed in CCT for BCO.

October 5, 1988

Order of the Circuit Court that the CBA's rejection of message board of ZC's sign variance is REVERSED; and that case is REMANDED to CBA for review of the Z.C.'s sign variance now that message board portion (as modified by Martin) has been judicially approved. (J. Murphy)

November 2

Notice of Appeal filed in CCT by People's Counsel to the Court of Special Appeals.

August 15, 1989

Court of Special Appeals REVERSED CCT - REMANDED to AFFIRM Board of Appeals.

CASE NO. 87-CG-4691

(18) Oct. 5, 1988 - Memorandum Opinion & Order of Court that the case be and the same is hereby REMANDED to the Board of Appeals for a review of the Zoning Commissioner's sign variance now that the message board portion (as modified by Martin's agreement to refrain from continually changing its messages) has been judicially approved fd.(JFM)

MARTIN'S INC.

Vs.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

IN THE CIRCUIT COURT

FOR

BALTIMORE COUNTY

Docket 48 Folio 161

Case No. 87 CG 4691

NOTICE OF FILING OF RECORD

TO: Julius W. Lichter
Howard L. Alderman, Jr.
Suite 113
305 W. Chesapeake Ave.
Towson, Maryland 21204
Phyllis Cole Friedman
Peter Max Zimmerman
Room 223 - Court House
Towson, Maryland 21204

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on December 7, 1987 -

Suzanne Mensch
Clerk

RECEIVED
COUNTY BOARD OF APPEALS
1987 DEC -4 P 1:01

FILED DEC 7 1987

1090

CIRCUIT COURT FOR BALTIMORE COUNTY CIVIL GENERAL

DOCKET 48 PAGE 151 CASE NO. 87-CG-4691 CATEGORY APPEAL

ATTORNEYS	
MARTIN'S INC. Appellant/Cross-Appellee	Julius W. Lichter Howard L. Alderman, Jr. Ste. 113 305 W. Chesapeake Ave. (04) 321-0600
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY Appellees/Cross-Appellant	Phyllis Cole Friedman Peter Max Zimmerman Room 223 - Court House (04)

- (1) Nov. 5, 1987 - Appellant's Order for Appeal from the Decision of County Board of Appeals & Petition fd.
- (2) Nov 6, 1987 - Certificate of Compliance fd.
- (3) Nov 13, 1987 - Correspondence fd.
- (4) Nov 16, 1987 - Certificate of Service fd.
- (5) Nov 18, 1987 - Appellee/Cross-Appellant's Answer to Petition on Appeal fd.
- (6) Nov 18, 1987 - Appellee/Cross-Appellant Notice of Cross-Appeal fd.
- (7) Nov 18, 1987 - Appellee/Cross-Appellant's Petition on Cross-Appeal fd.
- (8) Nov. 23, 1987 - Certificate of Notice fd.
- (9) Dec 7, 1987 - Transcript of Record fd.
- (10) Dec 7, 1987 - Notice Of Filing of Record fd.
- (11) Jan 6, 1988 - Deft's Memorandum fd.
- (12) January 6, 1988 - Appellant's Memorandum & Exhibits fd.
- (13) Feb 4, 1988 - Appellant/Cross Appellee's (Martin's Inc.) Response Memorandum fd.
- (14) Feb 5, 1988 - Appellant/Cross-Appellee's Memorandum to Cross-Appellee's Response Memorandum w/ Exhibits fd.
- (15) March 14, 1988 - Appellees/Cross Appellant's Reply Memorandum fd.
- (16) Oct. 5, 1988 - Proposed Memorandum Opinion & Order fd.
- (17) Oct. 5, 1988 - Correspondence to Judge Murphy fd.

CY GEN COSTS
CLERK 70.00
COPY 5.00
CHECKER 75.00
MISCELL 11/05/87

OFFICES OF THE CLERK OF THE CIRCUIT COURT FOR BALTIMORE COUNTY

County Courts Building
401 Bosley Avenue, Towson, Maryland 21204

SUZANNE MENSCH
Clerk of Court
(301) 887-2601

DATE December 4, 1989

TO: Phyllis Cole Friedman
Peter Max Zimmerman
People's Counsel Balto. Co.
Court House RM 223
Towson Maryland 21204

PLAINTIFF'S EXHIBITS
1-6 with Separate Pleadings RE: MARTIN'S INC.
from the Board of Appeals vs
and Original Transcripts. PEOPLE'S COUNSEL FOR BALTIMORE CO.

Received by: *Shirley M. Hess*
DOCKET 48 FOLIO 161
CASE NO. 87 CG 4691

The above case has been terminated and the exhibits that were introduced into evidence during the trial are being retained by this office. If no request is received within thirty (30) days of this notice to withdraw these exhibits. will be disposed of in accordance with Maryland Rule 1217 Section 2.

Very truly yours,
Suzanne Mensch, Clerk
Per *Shirley M. Hess*
Deputy Clerk

cc: SENT TO ALL PARTIES
TTY for Deaf
Baltimore Area 383-7555 • D.C. Metro 565-0451

MANDATE
Court of Special Appeals

No. 1575, September Term, 1988

People's Counsel for Baltimore County
v.
Martin's, Inc.

JUDGMENT: August 15, 1989: Per Curiam filed.
Judgment reversed; case remanded to the
Circuit Court for Baltimore County to affirm
the order of the Baltimore County Board of
Zoning Appeals; costs to be paid two-thirds
by the appellee and one-third by the
appellant.

September 14, 1989: Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: for BALTIMORE COUNTY
87CG4691

Record.....	50.00
Stenographer Costs.....	92.50
* Total *	142.50 *

In Court of Special Appeals:

Filing Record on Appeal.....	50.00
Printing Brief for Appellant.....	52.20
Portion of Record Extract--Appellant....	509.40
* Total *	611.60 *
Printing Brief for Appellee.....	66.60
* Total *	66.60 *

STATE OF MARYLAND, Set:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals, in testimony
whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this 15th day
of September A.D. 19 89

John D. Haines
Clerk of the Court of Special Appeals

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFICE.

APPEAL

Petition for Zoning Variance
SW/Corner of Belmont Avenue and Dogwood Road
1st Election District - 1st Councilmanic District
Martin's, Inc. - Petitioner
Case No. 87-338-A

Petition for Zoning Variance

Description of Property

Certificate of Posting

Certificates of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1 - Plat of Property dated November 10, 1986
2 - Vehicle Occupancy Study

Zoning Commissioner's Order dated February 20, 1987

Notice of Appeal received March 4, 1987 from People's Counsel for Baltimore
County, Protestants

Martin's, Inc. Petitioner
7000 Security Blvd. (21207)
(Preston Greene, V. P.)

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, Maryland 21204

*Phyllis Cole Friedman, Esquire, Appellant
People's Counsel of Baltimore County
Rm. 223, Old Courthouse, Towson, Maryland 21204

Request Notification: Norman E. Gerber, Director of Planning
James Hoswell, Office of Planning & Zoning
~~Arnold Jablon, Zoning Commissioner~~
~~Jean-Marc Jung, Deputy Zoning Commissioner~~
James E. Dyer, Zoning Supervisor
Margaret E. duBois, Docket Clerk

J. Robert Haines

LAW OFFICES
LEVIN, GANN & HANKIN

CALMAN A. LEVIN
STANFORD C. GANN
ROBERT M. HANKIN
MELVIN A. STEINBERG
JULIUS W. LICHTER
SIDNEY WEIMAN
ROBERT L. PRELLER
ANDREW R. SANDLER
RANDOLPH C. KNEPPER
ERIC F. WALLER
JESSE D. DELANOT
BRIAN J. FRANK
HOWARD L. ALDERMAN, JR.
STUART D. KAPLOW
JUDITH S. GANN
MARC C. GANN
* ALSO ADMITTED IN DC
* ADMITTED IN NEW YORK ONLY
* ALSO ADMITTED NEW YORK

305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
301-321-0600
TELECOPIER FAX 301-625-9050

June 25, 1987

Mr. William T. Hackett, Chairman
County Board of Appeals of Baltimore County
Room 200
Court House
Towson, MD 21204

RE: Request for Postponement
Case No. 87-338-A: Martins Inc.

Dear Mr. Hackett:

This morning, I spoke with June Holmen of your office
regarding a Request for Postponement of the above referenced
case. After conferring with you, she indicated that a
postponement would be granted if a request was received in
writing.

Mr. Martin Resnick, a principal of Martins Inc., is a member
of the Board of Regents for the Morgan State University. In that
capacity, Mr. Resnick's presence is required outside of the
Baltimore Region during the week of July 6 through July 10 to
meet with other members of other Boards of Regents. As you know,
our State Universities are at a crucial point regarding
enrollments and future programs, and it is primarily for those
reasons that Mr. Resnick feels that he should be present during
discussions with the Board of Regents.

This appeal is, however, extremely important to Martins Inc.
and their plans for expansion. We would, therefore, request that
the Board's Hearing be reassigned for a date as near in the
future as possible. In the meantime, we are participating in
negotiations with the Office of People's Counsel regarding a
possible settlement of this matter.

Should you have any questions, or need additional
information regarding this postponement or request for
reassignment, please contact me as soon as possible. For your

LEVIN, GANN & HANKIN

Mr. William T. Hackett, Chairman
Page 2
June 25, 1987

information, Mr. Lichter will be out of the country until
approximately June 7 or 8.

Very truly yours,

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.

HLA:cc

cc: Phyllis C. Friedman, People's Council

RECEIVED
COUNTY BOARD OF APPEALS
JUN 25 P 3:43

County Board of Appeals of Baltimore County

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

April 17, 1987

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. 87-338-A

MARTIN'S, INC.

SW/Cor. Belmont Ave. and Dogwood Rd.

1st District

Variances-For parking & sign

2/20/87 - Variances granted subject
to restriction

THURSDAY, JULY 9, 1987, at 10 a.m.

ASSIGNED FOR:

CC: Martin's Inc.

Julius W. Lichter, Esq.

Phyllis C. Friedman

Norman Gerber

James Hoswell

Arnold Jablon

Jean Jung

James Dyer

Margaret duBois

Petitioner

Counsel for Petitioner

People's Counsel

Planning

"

Zoning

"

"

"

June Holmen, Secy.

HAND DELIVERED

June Holmen, Secretary
County Board of Appeals of Baltimore County
Room 200
Court House
Towson, MD 21204

RE: Notice and Petition of Appeal
Martin's, Inc. - Board of Appeals Case No. 87-338-A
Circuit Court for Baltimore County Case No. 87CG4691 48/161

Dear Ms. Holmen:

Enclosed, please find a Notice of Appeal and a Petition on
Appeal in the above-referenced case. These documents were filed
with the Circuit Court for Baltimore County on November 5, 1987,
and mailed to the People's Counsel and the Deputy People's
Counsel on that date.

Should you have any questions or need additional information
regarding this Appeal, please feel free to contact me.

Very truly yours,

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.

HLA:cc

Enclosures (2)

cc: Clerk, Circuit Court for Baltimore County

RECEIVED
COUNTY BOARD OF APPEALS
JUN 25 P 3:42



County Board of Appeals of Baltimore County

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

November 6, 1987

Phyllis C. Friedman, Esq.
People's Counsel for Baltimore County
Court House
Towson, Md. 21204

Re: Case No. 87-338-A
Martin's, Inc.

Dear Mrs. Friedman:

Notice is hereby given, in accordance with the
Rules of Procedure of the Court of Appeals of Maryland, that
an appeal has been taken to the Circuit Court for Baltimore
County from the decision of the County Board of Appeals rendered
in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen
June Holmen, Secretary

Encl.

cc: Norman E. Gerber
James Hoswell
J. Robert Haines
Ann Nastarowicz
James E. Dyer
Margaret E. duBois



County Board of Appeals of Baltimore County

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

November 6, 1987

Julius W. Lichter, Esq.
Howard L. Alderman, Jr., Esq.
305 W. Chesapeake Ave.
Towson, Md. 21204

Re: Case No. 87-338-A
Martin's, Inc.

Gentlemen:

In accordance with Rule B-7 (a) of the Rules of Procedure of the
Court of Appeals of Maryland, the County Board of Appeals is required to
submit the record of proceedings of the appeal which you have taken to the
Circuit Court for Baltimore County in the above entitled matter within thirty
days.

The cost of the transcript of the record must be paid by you.
Certified copies of other documents necessary for the completion of the
record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid
in time to transmit the same to the Circuit Court not later than thirty days
from the date of any petition you file in court, in accordance with Rule B-7
(a).

Enclosed is a copy of the Certificate of Notice which has been filed
in the Circuit Court.

Very truly yours,

June Holmen
June Holmen, Secretary

Enclosures
cc: Martin's, Inc.



Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
November 23, 1987

Julius W. Lichter, Esq.
Howard L. Alderman, Jr., Esq.
305 W. Chesapeake Ave.
Towson, Md. 21204

Gentlemen:

Re: Case No. 87-338-A
Martin's, Inc.

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen, Secretary

Encl.
cc: Martin's, Inc.
Norman E. Gerber
James Hoswell
J. Robert Haines
Ann Nastarowicz
James E. Dyer
Robin Clark



COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-1180 887-3180

January 3, 1989

Leslie D. Gradet, Clerk
Court of Special Appeals
of Maryland
Annapolis, MD 21401-1698

RE: Case No. 87-CG-4691
People's Counsel for Baltimore County
v. Martins, Inc.

Dear Ms. Gradet:

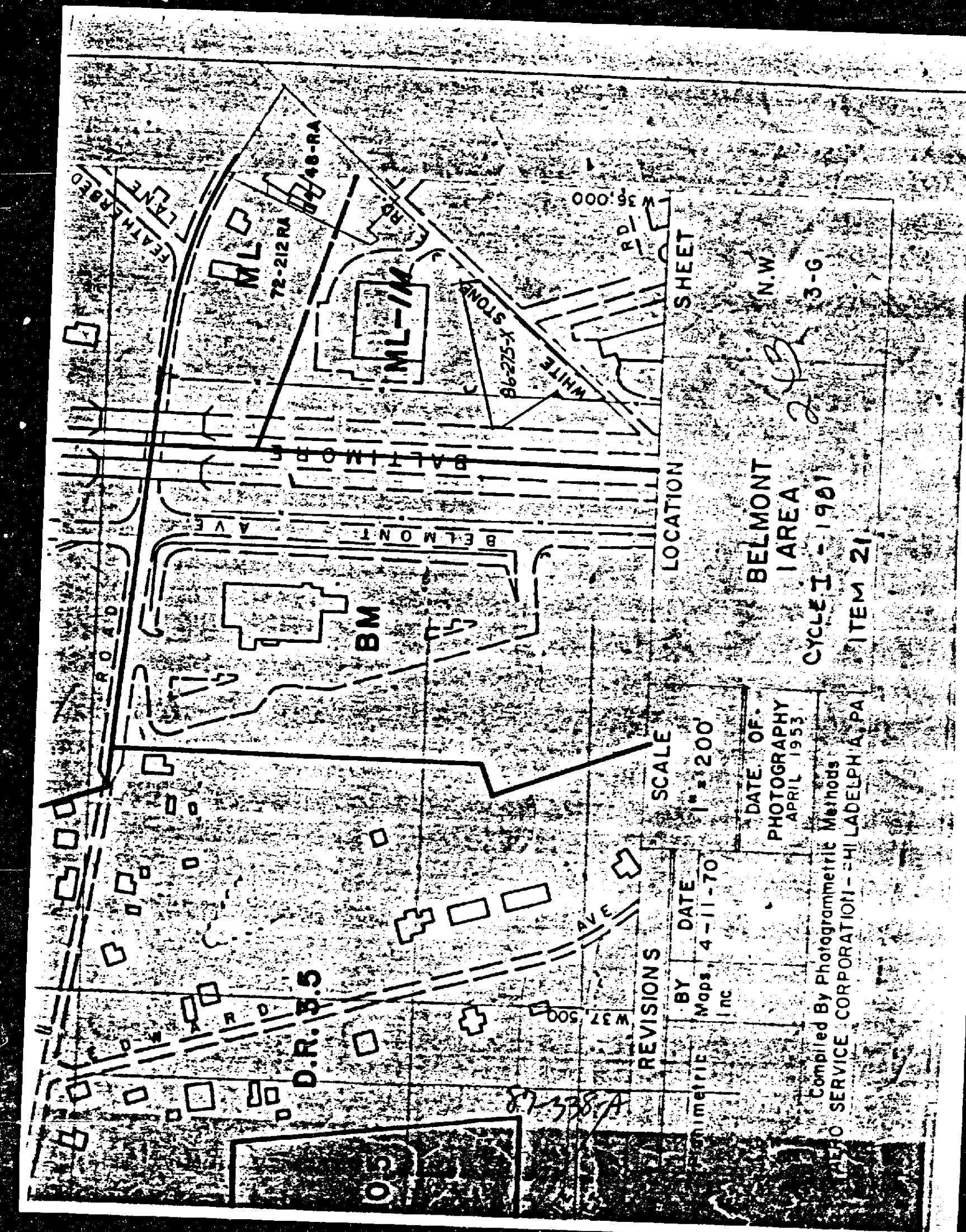
The subject case was appealed from the Circuit Court for Baltimore County to the Court of Special Appeals on November 2, 1988.

In order that we may follow this case through to its conclusion, we would appreciate your noting our request for a copy of the Opinion in this case when it is filed by the Court of Special Appeals.

Thank you for your time and attention to our request.

Very truly yours,

Kathleen C. Weidenhammer
Administrative Secretary



IN THE MATTER OF
THE APPLICATION OF
MARTIN'S, INC.
FOR VARIANCE ON PROPERTY
LOCATED ON THE SOUTHWEST
CORNER OF BELMONT AVENUE
AND DOGWOOD ROAD
1st ELECTION DISTRICT
1st COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 87-338-A

OPINION

This case comes before this Board on appeal from a decision of the Zoning Commissioner granting the requested variances on the required number of parking spaces and the size of the proposed sign. The Board notes that the Appellants have heretofore filed a dismissal of their appeal as to that portion of the petition seeking a parking variance, and therefore that issue is not before this Board. The case was heard this day in its entirety.

Petitioner presented testimony and evidence through three witnesses. Joseph Larson, a registered professional engineer, testified that he engineered the plat to accompany the zoning petition entered as Petitioner's Exhibit 1. This exhibit includes in detail, the proposed sign. Mr. Martin Resnick, the president of Martin's West, testified as to the business conducted on the site. He also described the extensive renovations being done to the property and entered Petitioner's Exhibit 2A & 2B, which portray the finished result. He further testified as to the need and the reasons for the request for the changeable message board portion of the proposed sign. Mr. Wesley Guckert, traffic expert, testified that his studies indicate that the requested sign would have no detrimental effect from the traffic adjacent to and nearby its location. This brief noting of the witnesses and their testimony in no way indicates the sum and substance of the entire testimony, which is contained fully in the transcript taken in this case.

Martin's, Inc.
Case No. 87-338-A

People's Counsel presented as their first witness, Eugene Bober, Planner for Baltimore County from the Office of Planning and Zoning. He testified to the County's opposition to the sign as proposed and the reasons for so opposing. Ellen Kelly, a representative of the Coalition for Scenic Beauty, testified as to her organization's opposition to the proposed sign and their contention that it was unattractive and unnecessary. Morris Stein, from the State Highway Administration, who is the Chief of the Highway Beautification Program, testified as to his department's opposition to the proposed sign and the possibility that road funds tied into the Highway Beautification Act could be lost if this sign as proposed was granted. The final witness was Thomas Hicks, representing the State Highway Administration and in particular, the Office of the Chief Engineer, who testified that Route 695 is designated an urban throughway over which travel 160,000 vehicles per day and it was his contention that the proposed sign would create a hazard by distracting some of this traffic. This basically concluded testimony and evidence in this case, the sum total of which is contained in the record produced at this hearing.

The Board is impressed with the renovation that Mr. Resnick is undertaking on this building as evidenced by his Exhibits 2A and 2B. When completed, this building will not only be by its striking appearance, aesthetically pleasing, but also a tremendous asset to Baltimore County. A study of Petitioner's Exhibit 1 shows two columns something over 15 feet in height supporting a 5 ft. by 27 ft. 6 in. identification sign. Mounted atop this sign, the petition seeks approval for an 8 ft. 6 in. by 27 ft. 6 in. electronic message board. Section 307 of the Baltimore County Zoning Regulations empowers the Board of Appeals to grant sign variances only in cases where

Martin's, Inc.
Case No. 87-338-A

strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Furthermore, any such variance shall be granted only if in strict harmony with the spirit of said sign regulations and only in such manner as to grant relief without substantial injury to public health, safety and public welfare. They shall have no power to grant any other variances. The Board is of the opinion that the message board as proposed is strictly an advertising sign and as such should not be permitted. It is of the further opinion that the identification sign and the two columns as proposed on Petitioner's Exhibit 1 with the addition of the proper number of Beltway Exit Numbers, should be granted. In our view, the Petitioner has not met his burden as set forth in Section 307 of the Baltimore County Zoning Regulations and further defined in McClean vs. Soley 270 MD 213 (1952). It is inconceivable to this Board that any person intending to attend a function at Martin's West could fail to see not only the identification sign, but also the distinctive building that is Martin's West. To permit the message board as proposed would not only be an unnecessary advertising sign, but could in fact be distracting and potentially dangerous to the 160,000 automobiles that pass this site daily. It is therefore this Board's opinion that the variance should be granted to permit the two columns as proposed and the identification sign as proposed, but to deny the message board portion shown on Petitioner's Exhibit 1 and will so order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 15th day of October, 1987, by the County Board of Appeals, ORDERED that the sign variance requested to permit two 15 foot plus columns and a 5 ft. by 27 ft. 6 in. identification sign be and the same is GRANTED, and

Martin's, Inc.
Case No. 87-338-A

IT IS FURTHER ORDERED that the variance to permit the message board as requested is DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt
Lawrence E. Schmidt

Harry E. Buchheiser, Jr.
Harry E. Buchheiser, Jr.

IN RE: PETITION ZONING VARIANCES
SW/corner of Belmont Avenue
and Dogwood Road -
1st Election District
Martin's, Inc.
Petitioner
Case No. 87-338-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests variances to permit 610 parking spaces in lieu of the required 914 spaces and a free-standing business sign containing 1,344 square feet (672 square feet per side) in lieu of the permitted 100 square feet, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, by Martin Resnick, President, and Preston Greene, Vice President, appeared and testified and was represented by Counsel. Joseph Larson, a civil engineer, and Wes Guckert, a traffic engineer, testified on behalf of the Petitioner. There were no Protestants.

Testimony indicated that the subject property, zoned B.M. and D.R.3.5 and located on Belmont Avenue and Dogwood Road, has been improved with a catering hall since 1972. The Petitioner proposes to close the facility in July, 1987 for a period of approximately six months in order to initiate and complete major renovations to both the interior and exterior of the building. A 35' x 220' addition to the west side of the existing building and a 20' x 130' addition to the north side are proposed. Presently, there are 680 parking spaces and the Petitioner will have 610 spaces after the renovations are completed.

Mr. Guckert testified that he surveyed 17 events over a six-day period, with party sizes ranging from 100 to 1,000 patrons, and found that the average vehicle brought 2.1 persons. In 1986, only five events out of 250 had over

1,100 patrons. Based on his studies, Mr. Guckert concluded that approximately 530 parking spaces would be needed for patrons, with additional spaces required for staff. The proposed 610 spaces would be more than sufficient for its needs. See Petitioner's Exhibit 2. Mr. Resnick indicated that only a couple of events, primarily political in nature, occurring every four years, overcrowd the parking area, and in those events, people come and go quickly.

The proposed sign is necessary due to the topography and location of the site. Contrary to the site plan submitted, the proposed sign will actually replace the existing sign on Belmont Avenue in its same location. It will, however, be larger and situated at a higher elevation. The property severely slopes down to Belmont Avenue and sits much lower than the Beltway (I-695), which parallels Belmont Avenue and runs past the Petitioner's property. Due to recent construction on the Beltway, median dividers were placed between the west and east bound lanes, preventing traffic proceeding northeasterly from seeing the existing sign. A larger sign is needed to enable traffic to identify Martin's location. Although a landmark to most local citizens, many patrons come from great distances and do not know its location.

The sign will include temperature and time. Although flashing signs are not permitted, pursuant to Section 413.1, Baltimore County Zoning Regulations (BCZR), a long-standing policy of the Zoning Commissioner is to permit time and temperature as public services and because these messages are not "flashing" but stationary for periods of time. Messages of events will remain stationary for longer periods of time, as presently done.

The Petitioner seeks relief from Sections 409.2.b.(3), 409.2.b.(5), 409.2.b.(6) and from Section 413.2.f, pursuant to Section 307, 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:

- whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 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
- 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 requested variances should be granted.

Therefore, it IS ORDERED by the Zoning Commissioner of Baltimore County, this 20th day of February, 1987, that the Petition for Zoning Variances to permit 610 parking spaces in lieu of the required 914 spaces and a free-standing business sign containing 1,344 square feet (672 square feet per side)

in lieu of the permitted 100 square feet be and is hereby GRANTED, from and after the date of this Order, subject to the following:

- 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.

Julius W. Lichter
Zoning Commissioner of
Baltimore County

AJ/srl

cc: Julius W. Lichter, Esquire
People's Counsel

PETITION FOR ZONING VARIANCE

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 409.2.b(3), 409.2.b(5) and 409.2.b(6) to allow 610 parking spaces in lieu of 914 parking spaces and Variance from Section 413.2.f to allow for a sign of 1,344 square feet (672 square feet on each side) in lieu of 100 square feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)
The topography of the site does not allow for appropriate identification of the facility and the improvements thereon are partially obscured by the topography.

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.

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

Legal Owner(s):
Martin's, Inc.
(Type or Print Name)
By Preston Greene Vice President
Signature _____
(Type or Print Name)
Signature _____
City and State _____

Attorney for Petitioner:
Julius W. Lichter, Esq.
(Type or Print Name)
Signature _____
305 W. Chesapeake Ave., #113
Address
Towson, Maryland 21204
City and State
321-0600
Attorney's Telephone No.

7000 Security Blvd. 265-1300
Address
Baltimore, Maryland 21207
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Julius W. Lichter, Esq.
Name
305 W. Chesapeake Ave. #113
Address
Towson, MD. 21204 Phone No. 321-0600

ORDERED By The Zoning Commissioner of Baltimore County, this 2nd day

of 1987, 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 18th day of February, 1987, at 10:15 o'clock a.m.

ESTIMATED LENGTH OF HEARING - 1/2 HR.
AVAILABLE FOR HEARING
MON./TUES./WED. NEXT TWO MONTHS
ALL OTHER (over)
REVIEWED BY: DATE 12/10/86

Martin's, Inc.
Case No. 87-338-A

February 18, 1987 At 10:15 a.m. hearing held on petition by Zoning Commissioner

February 20 Order of Zoning Commissioner that the petition for zoning variances to permit 610 pkg. spaces in lieu of required 914 spaces and a freestanding business sign containing 1344 sq. ft. (672 sq. ft. per side) in lieu of permitted 100 sq. ft. be GRANTED, subj. to restrictions.

March 4 Order for Appeal to C.B. of A. from Phyllis C. Friedman, People's Counsel for Balto. County.

March 11 Partial Dismissal of Appeal to C.B. of A. from Phyllis C. Friedman, People's Counsel for Balto. County.

August 20 Hearing on appeal before County Board of Appeals

October 15 Order of the County Board of Appeals ordering that the sign variance requested to permit two 15 ft. plus columns and a 5 ft. by 27 ft. 6 in. identification sign be GRANTED and FURTHER ORDERED that the variance to permit the message board as requested be DENIED.

November 5 Order for Appeal filed in the Circuit Ct. for Baltimore County by Julius W. Lichter, Esq. and Howard L. Alderman, Jr., Esq., on behalf of Petitioner.

November 5 Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County

November 6 Certificate of Notice sent to interested parties

November 18 Notice of Cross Appeal filed in Circuit Ct. for Baltimore by Phyllis C. Friedman, People's Counsel for Baltimore County.

November 18 Petition on Cross Appeal filed in the Circuit Ct. for Balto. County.

November 18 Answer to Petition on Appeal filed in the Circuit Ct. for Balto. County.

November 25 Certificate of Notice sent to interested parties.

December 7 Transcript of testimony filed

Petitioner's Exhibit No. 1 - Spellman, Larson Assoc. Plat, last rev. 8/20/87

" " " 2A & 2B - Photos

SPELLMAN, LARSON & ASSOCIATES, INC.

SUITE 107 - JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

ROBERT E. SPELLMAN, P.L.S.
JOSEPH L. LARSON
LOUIS J. MARCINKO
ALBERT REHY

DESCRIPTION FOR A VARIANCE TO ZONING, MARTIN'S WEST BELMONT AVENUE & DOGWOOD ROAD, FIRST DISTRICT BALTIMORE COUNTY, MARYLAND

Beginning for the same at the beginning of the cutoff connecting the South side of Dogwood Road, of irregular width, and the West side of Belmont Avenue, 60 feet wide, and running thence and binding on said cutoff South 46 Degrees 16 Minutes 35 Seconds East 44.19 feet to the West side of Belmont Avenue and running thence and binding thereon South 0 Degrees 07 Minutes 15 Seconds West 658.81 feet thence leaving the West side of Belmont Avenue and running South 65 Degrees 53 Minutes 15 Seconds West 141.09 feet North 18 Degrees 07 Minutes 10 Seconds West 219.44 feet South 68 Degrees 58 Minutes 35 Seconds West 255.61 feet North 18 Degrees 32 Minutes 40 Seconds West 453.59 feet North 86 Degrees 01 Minutes 20 Seconds East 22.51 feet and North 3 Degrees 58 Minutes 40 Seconds West 284.08 feet to the South side of Dogwood Road herein referred to and running thence and binding thereon South 84 Degrees 25 Minutes 20 Seconds East 546.15 feet and South 6 Degrees 46 Minutes 30 Seconds West 0.81 feet to the place of beginning.

Containing 7.95 acres of land, more or less.
11/12/86



RESIDENTIAL & COMMERCIAL DEVELOPMENT DESIGN • LAND SURVEYING
LAND PLANNING • SUBDIVISION LAYOUT • FEASIBILITY STUDIES • ESTIMATING
GRADING STUDIES • LOCATION SURVEYS • TECHNICAL CONSULTATION

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY,
Appellant
v.
MARTIN'S, INC.,
Appellee

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Case No. 87CG4691

NOTICE OF APPEAL

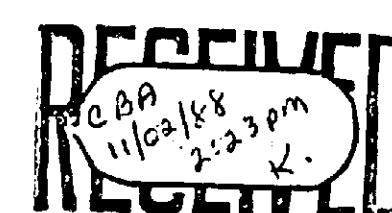
Please note an appeal to the Court of Special Appeals of Maryland from the decision of the Circuit Court for Baltimore County in the above-captioned matter, under date of October 4, 1988, and forward all papers in connection therewith to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

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

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 2nd day of November, 1988, a copy of the foregoing Notice of Appeal was mailed to Julius W. Lichter, Esquire, 305 W. Chesapeake Ave., 113 Chesapeake Bldg., Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman



IN THE MATTER OF THE APPLICATION OF MARTIN'S, INC. FOR VARIANCE ON PROPERTY LOCATED ON THE SOUTHWEST CORNER OF BELMONT AVENUE AND DOGWOOD ROAD 1st ELECTION DISTRICT 1st COUNCILMANIC DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

MARTIN'S, INC., PETITIONER-PLAINTIFF and PHYLLIS C. FRIEDMAN, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, PLAINTIFF

CG Doc. No. 48
Folio No. 161
File No. 87-CG-4691

ZONING FILE NO. 87-338-A

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Lawrence E. Schmidt and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

No. 87-338-A

January 2, 1987 Petition of Martin's, Inc., for variance from Section 409.2.b(3), 409.2.b(5) and 409.2.b(6) to allow 610 pkg. spaces in lieu of 914 pkg. spaces and variance from Sec. 413.2 f to allow for a sign of 1344 sq. ft. (672 sq. ft. on each side) in lieu of 100 sq. ft.

January 29 Certificate of Posting of property - filed

January 29 Publication in newspaper - filed

February 12 Comments of Baltimore County Zoning Plans Advisory Committee - filed

February 10 Comments of Baltimore County Director of Planning - filed

IN THE MATTER OF THE APPLICATION OF MARTIN'S, INC. FOR VARIANCE ON PROPERTY LOCATED ON THE SOUTHWEST CORNER OF BELMONT AVENUE AND DOGWOOD ROAD 1st ELECTION DISTRICT 1st COUNCILMANIC DISTRICT

PHYLLIS C. FRIEDMAN, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY- PLAINTIFF

ZONING FILE NO. 87-338-A

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

CG Doc. No. 48
Folio No. 161
File No. 87-CG-4691

CERTIFICATE OF NOTICE

Mr. Clerk:

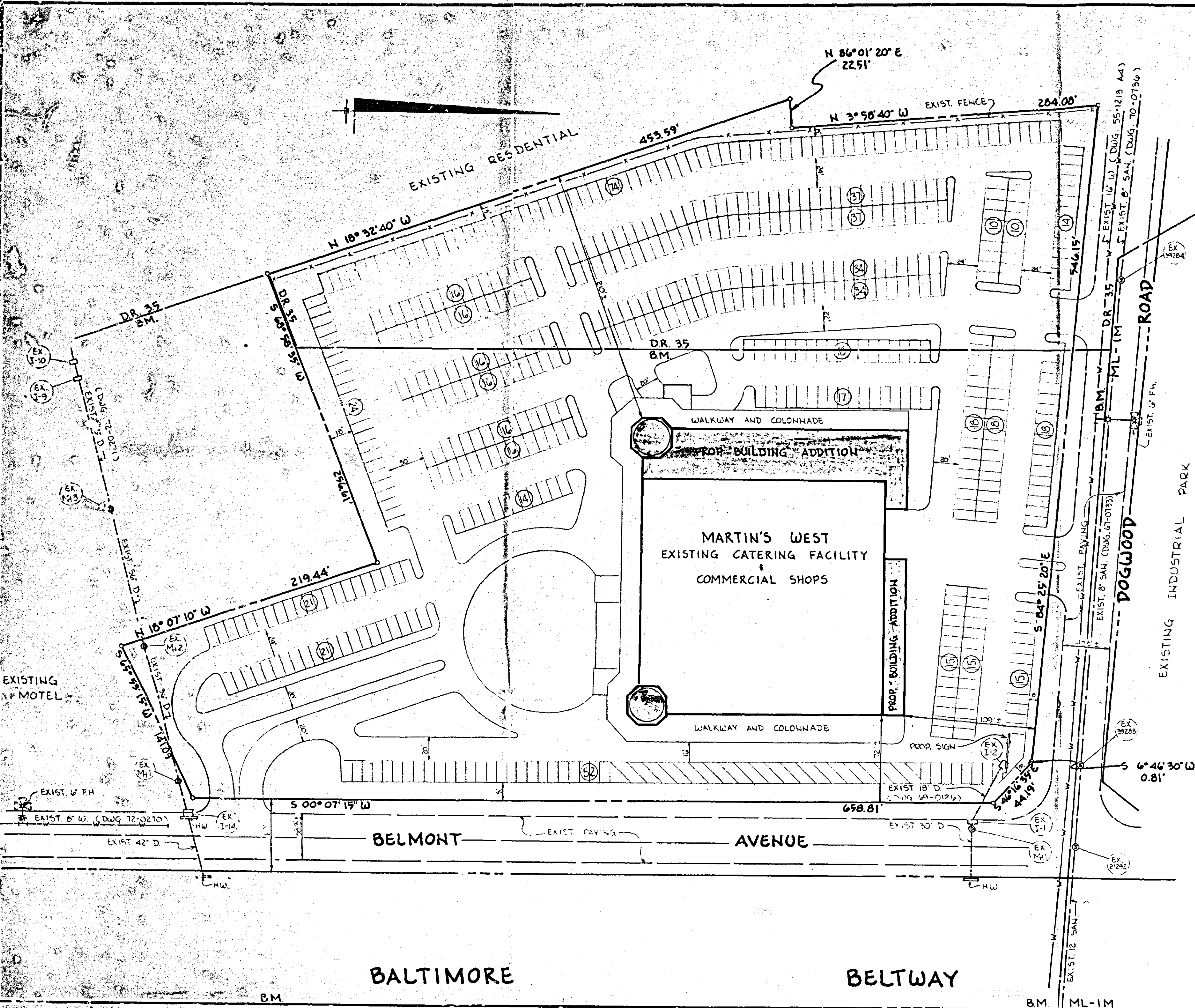
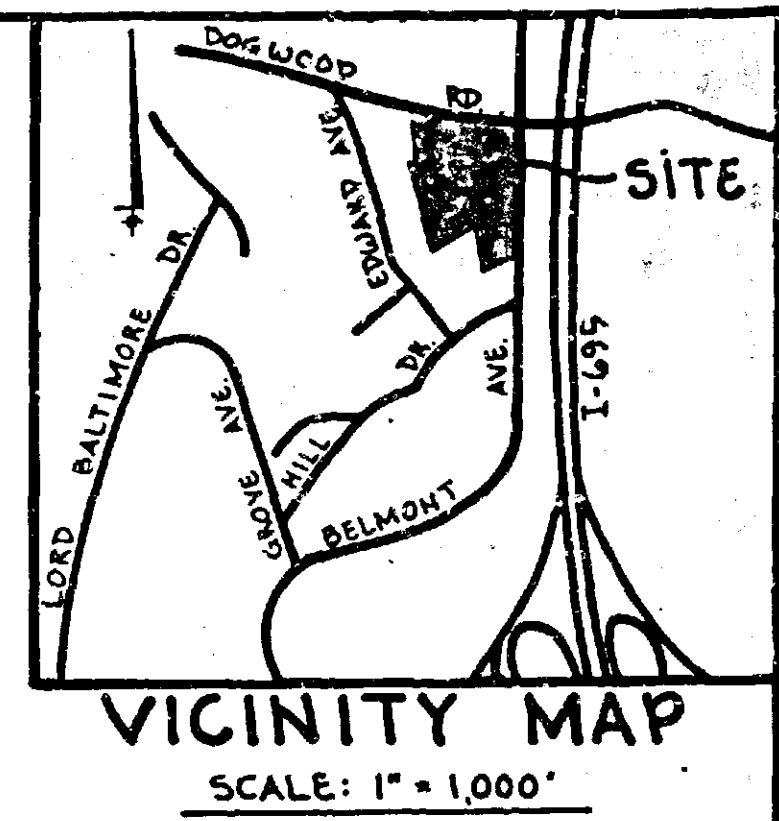
Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Lawrence E. Schmidt and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Martin's, Inc., Preston Greene, V. P., 7000 Security Blvd., Balto., Md. 21207, Petitioner-Plaintiff; Julius W. Lichter, Esq. and Howard L. Alderman, Jr., Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioner-Plaintiff; and Phyllis C. Friedman, Esq., Rm. 223, Old Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

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

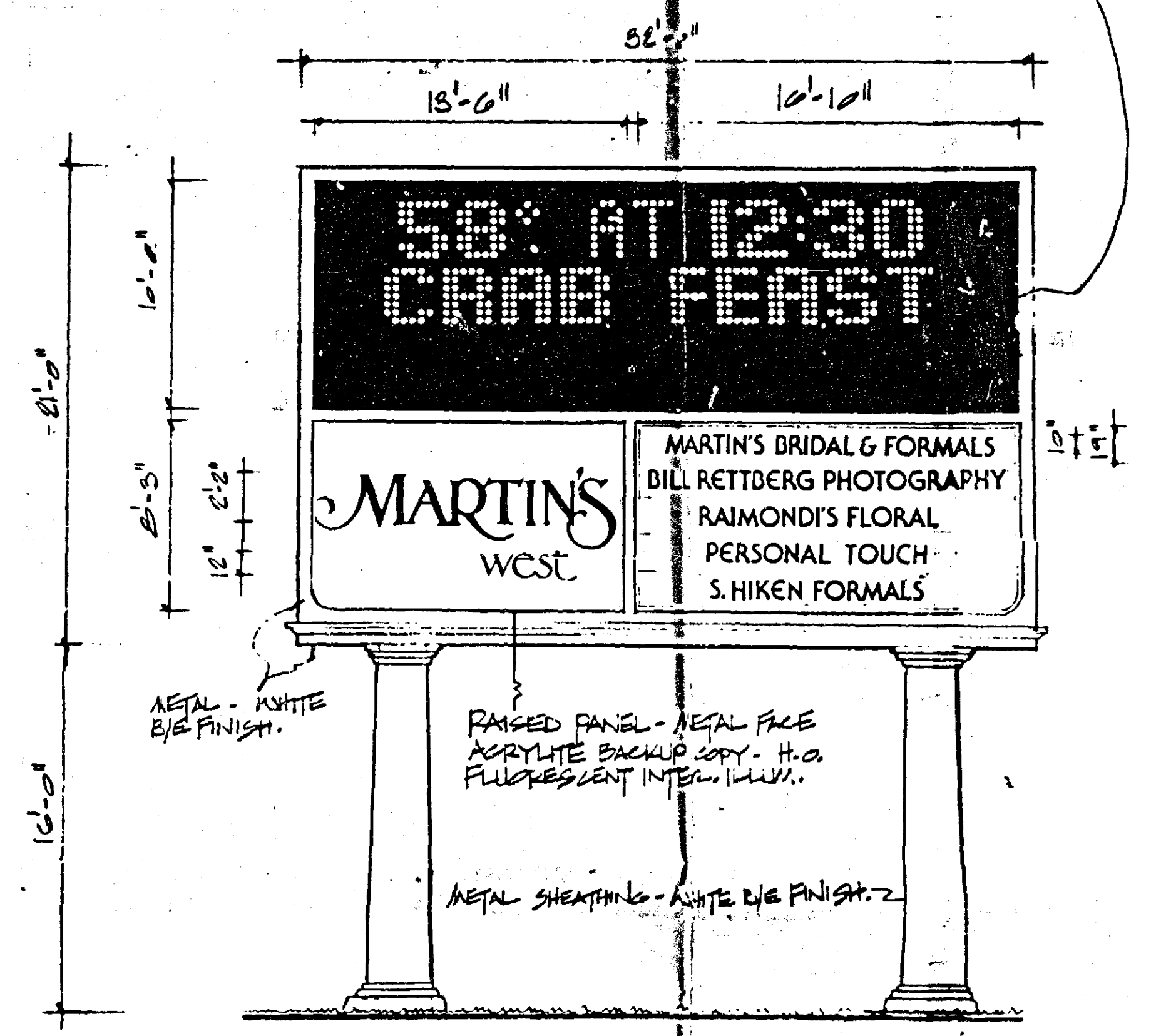
Martin's, Inc.
Case No. 87-338-A

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Martin's, Inc., Preston Greene, V.P., 7000 Security Blvd., Balto., Md. 21207, Petitioner-Plaintiff; Julius W. Lichter, Esq. and Howard L. Alderman, Jr., Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioner-Plaintiff; and Phyllis C. Friedman, Esq., Rm. 223, Old Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff, on this 23rd day of November, 1987.

Jane Holmen
Jane Holmen
County Board of Appeals of Baltimore County



MODEL 2000 MESSAGE CENTER - 120 LAMP, 4.5' x 6', IN A 24" x 80" MATELUX. 3 LINES - SIXTEEN 32" CHARACTERS PER LINE. RAISED PANEL.



DOUBLE FACE DISPLAY - 3/16" - 1/2"
SIGN FACE AREA = 1,672 SQ. FT.
TOTAL AREA = 2 x 1,672 = 1344 SQ. FT.

SITE DATA

AREA OF SITE: 3.4 AC. ±
EXISTING ZONING: BM. + DR. 3.5
EXISTING USE: CATERING FACILITY
COMMERCIAL SHOPS
PROPOSED USE: SAME
UTILITIES: EXIST. PUBLIC WATER
EXIST. PUBLIC SEWER
PARKING BREAKDOWN:
BALLROOM 12780 SF = 50 x 395 SPACES
BREAKOUT ROOMS 3190 = 50 x 64
KITCHEN + STORAGE 14970 = 50 x 299
LOBBY + SERVICE 4409 = 50 x 128
OFFICE 6637 = 500 x 13
RETAIL SHOPS 3081 = 200 x 15
TOTAL SPACES REQUIRED = 914
TOTAL SPACES PROVIDED = 610

GENERAL NOTES

- EXISTING & PROPOSED LIGHT STANDARDS - LIGHTS WILL BE AIMED AWAY FROM RESIDENTIAL USE PROPERTIES.
- PARKING AREA IS FOR PATRONS AND EMPLOYEES ONLY & WILL BE OPEN ONLY DURING OPERATIONAL HOURS.
- PARKING AREA WILL BE PAVED & DRAINED IN ACCORDANCE WITH THE ESTABLISHED POLICY OF BALTIMORE DEPARTMENT OF ENGINEERING.
- PROPOSED LIGHT POLES ALONG WEST PROPERTY LINE ADJACENT TO RESIDENTIAL AREA TO BE 8' IN HEIGHT AND DIRECTED AWAY FROM THE RESIDENTIAL AREA. ALL OTHER LIGHT POLES TO BE AS SHOWN.
- ALL THE COMMERCIAL PARKING IN THE RESIDENTIAL ZONE WILL COMPLY WITH SECTION 409.4 OF THE BALTIMORE CO. ZONING REGULATIONS.
- PARKING IN DR. 3.5 ZONE PERMITTED UNDER CASE NO 71-167 ASPH.

OWNER & DEVELOPER
MARTIN'S INC.
7000 SECURITY BOULEVARD
SUITE 316
BALTIMORE, MARYLAND
21207

REVISIONS	
NO	DATE

SPELLMAN, LARSON & ASSOCIATES, INC.
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 107, JEFFERSON BLDG., TOWSON, MD., 21204
PHONE 823-3535

243

87-338-A

PLAT TO ACCOMPANY
ZONING PETITION
FOR
SPECIAL HEARING & VARIANCE
FOR
SIGNAGE & PARKING 87-338-A

MARTIN'S WEST
DOGWOOD RD. AND BELMONT AVE.
BALTIMORE CO., MD. ELECTION DISTRICT #1

SCALE: 1" = 50'
DATE: 11-10-86
DES. BY:
DRN. BY: JMB
SHT. 1 OF 1