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MELVIN KABIK, et ux

Appellant

vs.

BALTIMORE COUNTY BOARD

OF APPEALS

Appellee

IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY

ZONING OFFICE

CASE NO. 89-CG-1736

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OPINION and ORDER

A hearing in this Appeal from the Board of Appeals for Baltimore County (hereinafter referred to as "Board") was held and argument of Counsel for all parties presented on September 21, 1989. The Court reviewed the transcript of the proceedings before the Board and the various Exhibits received, the Memoranda submitted by Counsel and the Opinion of the Board dated April 20, 1989.

The Appellants are property owners who filed a Petition for Special Exception seeking to erect a twelve foot by twenty-five foot outdoor advertising sign on the north side of Frederick Road between Prospect Avenue on the west and the intersection of Paradise Avenue on the east. The property upon which the sign is proposed is at the west end of a commercial shopping strip which runs along the north side of Frederick Road and is otherwise surrounded by residential zoning and use on all sides. (T. 15-18) The property on the south side of Frederick Road across from the neighborhood shopping strip is zoned and used residentially. (T. 32-34) The proposed sign would face

toward east bound traffic on Frederick Road and would be illuminated by mercury lamp directed from the pole into the sign. (T. 28)

The Board of Appeals, in denying Appellant's Special Exception, determined that the proposed sign created an adverse effect upon the unique property surrounding the proposed site which was different in kind or degree than that inherently associated with such a use regardless of its location within the commercial zone, and would not only dwarf the subject site by its size and illumination, but would also impact the surrounding residential properties. (Opinion p. 4)

As a result of these findings, notwithstanding compliance with Baltimore County Zoning Regulation 413.3, the Board held that Appellants had failed to show that their proposed use was not detrimental to the health, safety and general welfare of the community, and denied Appellant's Petition. (Opinion p. 4)

Appellants raise two issues on appeal, namely:

- 1) That the Board erred in admitting into evidence the Paradise-East Catonsville Enhancement Study; and
- 2) That the Board's denial of the Special Exception was unsupported by any probative evidence, and, consequently, was arbitrary and capricious.

Over Appellants' objection (T. 61-63), the Board admitted into evidence the Paradise-East Catonsville Enhancement Study and considered testimony related thereto presented by representatives of Baltimore County's Office of Planning and Zoning and Economic

Development Commission. Appellants' contention with respect to the inadmissibility of the revitalization plan hinges on the "hearsay nature" of the Plan and the inability of Appellants to cross-examine the Study's author.

Appellants admit that the rules of evidence are not applied as strictly in administrative proceedings as in judicial trials. Appellants contend, however, that when the Board holds a hearing and decides disputed adjudicative facts based upon evidence and a record, a reasonable right of cross-examination must be allowed the parties.

In support of their contention, Appellant's cite Tron vs. Prince George's County, 69 Md. App. 256. In Tron, the Administrative Board admitted into evidence the reports of three doctors who had examined the Appellant, but whose examinations were confined

"...to Appellant's physical condition and did not address the issue of whether Appellant's disability was service related or not. The booklet, however, did contain an Opinion from the Medical Advisory Board's Chairman, Dr. Weintraub. Despite never having seen, examined or treated Appellant, Dr. Weintraub concluded, based on the reports of Drs. Mendelsohn, Absendschein and Lourie, that Appellant's disability was not service-connected. This booklet was introduced into evidence over the objection of Appellant's Counsel who argued, inter alia, that there existed no opportunity to cross-examine any of the doctors whose views were not illicit in live testimony." (pp. 260-261)

Thus, the testimony presented in Tron, supra, all of which was presented in the booklet and by way of medical reports, was the

only testimony presented against Appellant and was the very basis of the decision of the Administrative Board which denied Appellant relief. (pp. 260-261)

It was in the above context where that Court of Special Appeals quoted from Dembeck vs. Ship Building Corporation, 166 Md. 21 (1933), at p. 26:

"Under such circumstances, there would seem to be a clear denial to the Claimant of a right, recognized and enforced in all courts wherein truth and justice is the objective, for the parties to the cause to be confronted with the witnesses against them, and an opportunity to test the correctness or truthfulness of the evidence by cross-examination"

Such is not the situation in the instant case. The Paradise-East Catonsville Enhancement Study concerned a revitalization plan for a specifically defined area, which included the site of Appellants' proposed sign. The Study did not specifically address the issue in this case, but included this general area of Frederick Road as the subject of an official area Master Plan approved by the Baltimore County Planning Board in 1982 and by resolution of the Baltimore County Council thereafter. (T. 50-51)

The revitalization plan included certain goals and objectives for this general area of Frederick Road, as well as strategies and proposals to meet these goals and objectives. With adoption of the revitalization study by the Baltimore County Council, the Plan became part of the Comprehensive Zoning for Baltimore County. See, Baltimore County Charter, Section 523.

The evidence with respect to the relationship between Appellants' proposed sign and the revitalization plan was presented through witnesses who testified before the Board. Those witnesses were subject to cross-examination regarding whether the proposed sign was compatible with or inconsistent with the revitalization plan. Those witnesses were subject to cross-examination as to the opinions which they expressed. The revitalization plan was not the disputed adjudicative fact. The relationship of the proposed sign to the goals and objectives of the Plan was the matter for consideration. On this matter, live testimony was presented and the witnesses were subject to cross-examination.

For the above reasons, the Board committed no error in admitting the Paradise-East Catonsville Enhancement Study over Appellants' objection.

As to Appellant's second contention, the findings of the Board are clearly supported by substantial, material and probative evidence in this case. William Huey of the Baltimore County Office of Planning and Zoning testified that the proposed sign was not consistent with the Paradise-East Catonsville Enhancement Study, that this study had already been implemented by streetscaping and enhancement on the south side of Frederick Road and was approaching completion on the north side. (T. 52-53) He further testified that the sign was out of scale and would add clutter to what was an acceptable condition for the area without Appellant's proposed billboard. (T. 54)

Kimberly Piper of the Baltimore County Economic Development Commission testified that significant revitalization efforts had already been undertaken in the Paradise-East Catonsville Study area, with \$119,000 already spent on the south side and \$424,000 on the north side of Frederick Road. (T. 87)

Ms. Piper further testified on page 88 of the transcript,

"We (Economic Development Commission) are opposed to it. The Office's primary function is to work with designated revitalization areas, to work with the character of the neighborhood, the character they provide, the character that's there, provide assistance to improve the neighborhood, to keep its character, and to keep the health of the area which impacts directly on the health of the resident area surrounding it."

James Bailey, a neighbor in the area, also testified as to his concerns regarding the character of the neighborhood, the consequences to traffic on Frederick Road, if the sign were installed, and increased light on his property from the sign. (T. 73-76) He further testified as to the progress being made with the revitalization effort. (T. 73-75)

Appellants presented as witnesses, Barry Freedman, an employee with Penn Advertising of Baltimore, Inc., and Melvin Kabik, the owner of the property at issue. Both testified that the sign was within the zoning allowed and did not adversely impact on the health, safety and welfare of the general area. The Board, however, was not required to accept their testimony. There was certainly evidence offered to the contrary.

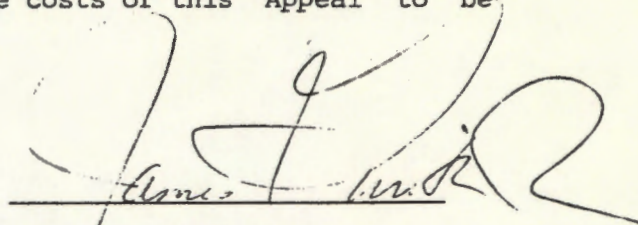
The Court of Special Appeals noted in Anderson v. Sawyer,
23 Md. App. 612 at page 617,

"If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide."

As already noted, the Paradise-East Catonsville Enhancement Study was adopted by the Baltimore County Council as an Amendment to the Comprehensive Plan. Thus, although Appellants' property on which the proposed sign was intended to be erected is properly zoned for the application of a special exception, Appellants' property is within an area which is subject to and benefits from the legislatively adopted enhancement plan.

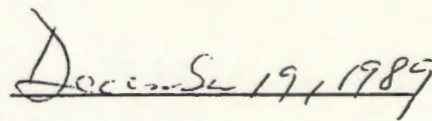
The Board had testimony regarding the adverse impact of the proposed sign on the revitalization efforts for the general area to which Baltimore County had already committed approximately \$500,000. Mr. Bailey testified to the adverse impacts anticipated by him on his property, as well as on the area within the vicinity of the proposed sign site. The Board was obviously persuaded by this evidence that the Appellants had failed to meet their burden and, as a result, were not entitled to the grant of a Special Exception. There was substantial, material and competent evidence to support the Board's decision, and, consequently, the Board's decision was not arbitrary or capricious.

For the foregoing reasons, this Court AFFIRMS the County Board of Appeals for Baltimore County, with the costs of this Appeal to be paid Appellant.



JAMES T. SMITH, JR.

JUDGE



DATE

JTS/ss

Copy: M. Albert Figinski, esq.

Lindalee M. Kiszmaul, Esq.

Peter Max Zimmerman, Esq.

IN THE MATTER OF THE APPLICATION OF MELVIN KABIK, ET UX FOR PETITION FOR SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE NORTHEAST CORNER OF FREDERICK ROAD AND PROSPECT AVENUE (6500 FREDERICK ROAD), FOR ONE ILLUMINATED 12' x 25' ADVERTISING STRUCTURE 1ST ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT

MELVIN KABIK, ET UX, PLAINTIFFS

ZONING FILE NO. 88-486-X

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

CG Doc. No. 68

Folio No. 136

File No. 89-CG-1736

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND

THE BOARD OF APPEALS FOR BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Lawrence E. Schmidt and Henry H. Lewis, 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:

ENTRIES FROM DOCKET OF BOARD OF APPEALS OF BALTIMORE COUNTY

March 30, 1988 Petition of Melvin Kabik for a special exception for one (1) illuminated 12' x 25' advertising (sign) structure.

May 24, 1988 Comments of Baltimore County Zoning Plans Advisory Committee filed.

June 21, 1988 Certificate of Posting of property - filed.

June 23, 1988 Publication in newspaper - filed.

July 13, 1988 At 9:00 a.m. hearing held on Petition by the Zoning Commissioner.

September 29 Order of the Zoning Commissioner that the Petition for Special Exception for one illuminated 12' x 25' advertising (sign) structure be DENIED.

October 24 Notice of Appeal received from Stuart R. Berger, Esquire on behalf of Petitioner.

Melvin Kabik, et ux
Case No. 88-486-X, File No. 89-CG-1736

April 12, 1989 Hearing on appeal before the Board of Appeals.

April 20 Opinion and Order of the Board ordering that the Petition for Special Exception be DENIED.

May 18 Order for Appeal filed in the Circuit Court for Baltimore County by Stuart R. Berger, Esquire on behalf of Plaintiff.

May 18 Petition to accompany Order for Appeal filed in the Circuit Court for Baltimore County.

May 22 Certificate of Notice sent to all interested parties.

June 19 Transcript of testimony filed.

Petitioner's Exhibit No. 1 - Special Exception map showing area

" 2 - Photo of subject site where sign is to be located

" 3 - A, Motor Vehicle Traffic Accidents Administrative Summary (01/01/88 to 03/31/88)

" 3 - B, Motor Vehicle Traffic Accidents Administrative Summary (04/01/88 to 06/30/88)

" 3 - C, Motor Vehicle Traffic Accidents Administrative Summary (07/01/88 to 09/30/88)

" 4 - Description of Property

" 5 - Comments of Captain Joseph Kelly dated April 5, 1988

" 6 - Comments of Creston J. Mills, Jr. of the State Highway Administration dated March 30, 1988

People's Counsel's Exhibit No. 1 - Office of Planning and Zoning comments dated May 16, 1988

" 2 - Office of Economic Development comments dated July 5, 1988

" 3 - Paradise-East Catonsville Enhancement Study

" 4 - Special Exception map showing area with notes by James Bailey

June 19, 1989 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Melvin Kabik, et ux
Case No. 88-486-X, File No. 89-CG-1736

Respectfully submitted,

Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul
County Board of Appeals

cc: Stuart R. Berger, Esquire
Phyllis C. Friedman,
People's Counsel of Baltimore County
Arnold Jablon, County Attorney

MELVIN KABIK, et ux : IN THE CIRCUIT COURT
Plaintiff/Appellant : FOR BALTIMORE COUNTY
v. : Case No. 89CG1736
BALTIMORE COUNTY BOARD OF APPEALS :
Defendant/Appellee :

ANSWER TO PETITION FOR APPEAL

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

1. That the Appellee denies the allegations made and contained in the first through second paragraphs of said Petition.
2. That the decision of the Board herein was proper and justified by the evidence before it and that the decision of the Board should therefore be sustained as being properly and legally made.

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
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 26th day of May, 1989, a copy of the foregoing Answer to Petition for Appeal was hand-delivered to the Administrative Secretary, County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Ave., Towson, MD 21204; and a copy was mailed

- 2 -

to M. Albert Figinski, Esquire, and Stuart R. Berger, Esquire, Weinberg and Green, 100 S. Charles St., Baltimore, MD 21201.

Peter Max Zimmerman
Peter Max Zimmerman

IN THE MATTER OF THE APPLICATION OF MELVIN KABIK, ET UX FOR PETITION FOR SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE NORTHEAST CORNER OF FREDERICK ROAD AND PROSPECT AVENUE (6500 FREDERICK ROAD), FOR ONE ILLUMINATED 12' x 25' ADVERTISING STRUCTURE 1ST ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT

MELVIN KABIK, ET UX, PLAINTIFFS

ZONING FILE NO. 88-486-X

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

CG Doc. No. 68

Folio No. 136

File No. 89-CG-1736

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Lawrence E. Schmidt and Henry H. Lewis, 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, Mr. and Mrs. Melvin Kabik, 6500 Frederick Road, Baltimore, Maryland 21228, Petitioner/Plaintiff; Stuart R. Berger, Esquire, Weinberg & Green, 100 S. Charles Street, Baltimore, Maryland 21201, Counsel for the Petitioner/Plaintiff; Mr. Freedman, Penn Advertising of Baltimore Inc., 3001 Remington Avenue, Baltimore, Maryland 21211; Arnold G. Foreman, Esquire, c/o County Board of Appeals of Baltimore County, 111 W. Chesapeake Avenue, Room 315, Towson, Maryland 21204; and Phyllis C. Friedman, People's Counsel for Baltimore County, 111 W. Chesapeake Avenue, Room 304, Towson, Maryland 21204; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul
County Board of Appeals of Baltimore County, Room 315, County Office Building
Towson, Maryland 21204 (301) 887-3180

Melvin Kabik, et ux
Case No. 88-486-X, File No. 89-CG-1736

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Mr. and Mrs. Melvin Kabik, 6500 Frederick Road, Baltimore, Maryland 21228, Petitioner/Plaintiff; Stuart R. Berger, Esquire, Weinberg & Green, 100 S. Charles Street, Baltimore, Maryland 21201, Counsel for the Petitioner/Plaintiff; Mr. Freedman, Penn Advertising of Baltimore, Inc., 3001 Remington Avenue, Baltimore, Maryland 21211; Arnold G. Foreman, Esquire, c/o County Board of Appeals of Baltimore County, 111 W. Chesapeake Avenue, Room 315, Towson, Maryland 21204; and Phyllis C. Friedman, People's Counsel for Baltimore County, 111 W. Chesapeake Avenue, Room 304, Towson, Maryland 21204, on this 22nd day of May, 1989.

Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul, Legal Secretary
County Board of Appeals of Baltimore County



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

May 22, 1989

Stuart R. Berger, Esquire
Weinberg & Green
100 S. Charles Street
Baltimore, Maryland 21201

Re: Case No. 88-486-X
Melvin Kabik, et ux

Dear Mr. Berger:

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. In addition, the cost incurred for 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,

Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul
Legal Secretary

Encl.

cc: Mr. and Mrs. Melvin Kabik



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3160

May 22, 1989

Phyllis C. Friedman
People's Counsel of Baltimore
County
County Office Building
111 W. Chesapeake Avenue, Room 304
Towson, Maryland 21204

Re: Case No. 88-486-X
Melvin Kabik, et ux

Dear Ms. 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,

Lindalee M. Kuszmaul
Lindalee M. Kuszmaul
Legal Secretary

Encl.

cc: Mr. Freedman
Penn Advertising of Baltimore, Inc.
Mr. James Bailey
Mr. James Mohler
J. Robert Haines
Ann M. Mastarowicz
James E. Dyer
Docket Clerk - Zoning
P. David Fields
Pat Keller
Arnold Jablon, County Attorney

MICROFILMED

0366-05/17/89
AQ069:37796

MELVIN KABIK, et ux
Plaintiff/Appellant
v.
BALTIMORE COUNTY BOARD OF APPEALS
Defendant/Appellee

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

Case No. _____
Docket No. _____
Folio No. _____

PETITION FOR APPEAL

Melvin Kabik, et ux, by M. Albert Figinski, Stuart R. Berger and Weinberg and Green, his attorneys, having heretofore filed an Order for Appeal from the Opinion and Order of the County Board of Appeals of Baltimore County dated April 20, 1989, files the within Petition for Appeal, pursuant to Maryland Rule B2e, and states as follows:

1. That the Opinion and Order dated April 20, 1989, is arbitrary, illegal, and capricious.
2. That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the Petition for Special Exception be denied.

Further, the Appellants are aggrieved parties whose property interests are affected adversely by the Board of Appeals' Opinion and Order.

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05/23/89

0366-05/17/89
AQ073:37826

WHEREFORE, the Appellants respectfully request that the Order of the County Board of Appeals, dated April 20, 1989, be reversed, and the Petition for Special Exception be granted.

Respectfully submitted,

M. Albert Figinski
M. Albert Figinski

Stuart R. Berger
Stuart R. Berger

Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8662

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of May, 1989, a copy of the foregoing Petition for Appeal was hand-delivered to the Administrative Secretary, County Board of Appeals, County Office Building, Room 315, 111 West Chesapeake Avenue, Towson, Maryland 21204; and a copy was mailed, first class and postage prepaid, to Phyllis Cole Friedman and Peter Max Zimmerman, Esquires, People's Counsel for Baltimore County, Room 223, Courthouse, Towson, Maryland 21204.

Stuart R. Berger
Stuart R. Berger

MICROFILMED

- 2 -

0366-05/17/89
AQ069:37796

MELVIN KABIK, et ux
Plaintiff/Appellant
v.
BALTIMORE COUNTY BOARD OF APPEALS
Defendant/Appellee

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

Case No. _____
Docket No. _____
Folio No. _____

ORDER FOR APPEAL

Melvin Kabik, et ux, notes an appeal to the Circuit Court for Baltimore County, pursuant to § 10-215(b), State Govt. Art., Md. Code and Maryland Rule B-4, from the Opinion and Order rendered by the County Board of Appeals of Baltimore County dated April 20, 1989. A copy of the Baltimore County Board of Appeals' Opinion and Order is attached hereto as Exhibit A.

Respectfully submitted,

M. Albert Figinski
M. Albert Figinski

Stuart R. Berger
Stuart R. Berger

Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8662

MICROFILMED

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05/23/89

0366-05/17/89
AQ069:37796

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of May, 1989, a copy of the foregoing Order for Appeal was hand-delivered to the Administrative Secretary, County Board of Appeals, County Office Building, Room 315, 111 West Chesapeake Avenue, Towson, Maryland 21204; and a copy was mailed, first class and postage prepaid, to Phyllis Cole Friedman and Peter Max Zimmerman, Esquires, People's Counsel for Baltimore County, Room 223, Courthouse, Towson, Maryland 21204.

Stuart R. Berger
Stuart R. Berger

IN THE MATTER OF THE
APPLICATION OF MELVIN KABIK,
ET UX FOR PETITION FOR SPECIAL
EXCEPTION ON PROPERTY LOCATED
ON THE NORTHEAST CORNER
FREDERICK ROAD AND PROSPECT
AVENUE (6500 FREDERICK ROAD),
FOR ONE ILLUMINATED 12' x 25'
ADVERTISING STRUCTURE
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY

Case No. 88-486-X

OPINION

This case comes before the Board as an appeal from the decision of Zoning Commissioner Haines dated September 29, 1988, wherein he denied the Petition for Special Exception to allow one illuminated 12' x 25' advertising sign structure. The Petitioners were represented by counsel at the Hearing before this Board and the Office of the People's Counsel appeared in opposition to the Petition.

On behalf of the Petitioners, Mr. Barry Freedman of Penn Advertising of Baltimore, Inc. testified. Mr. Freedman has been in the outdoor advertising business for ten years and is currently Director of the Corporate Development Section of Penn Advertising, the Contract Lessee for this project. He testified that a 12' x 25' unipole sign was proposed to be constructed on site. The sign would be single face towards eastbound traffic on Frederick Road and would be illuminated by a mercury lamp directed from the pole onto the sign. He opined that the light would not reflect into adjacent properties and that the installation of the sign at this location would not be detrimental to the health, safety and general welfare of the locale. He also testified as to the absence of outdoor advertising signs in this proximity. Lastly, Mr. Freedman offered that the sign would not detrimentally affect traffic on Frederick Road near this site.

Melvin Kabik, et ux
Case No. 88-486-X

Melvin Kabik, the owner of the property, also testified. He stated that he owned the subject property in addition to the adjoining property which houses a supermarket and liquor store. He stated that his businesses had no parking problems and the possible loss of one space due to the construction of this sign would not detrimentally affect the parking or traffic situation. As did Mr. Freedman, Mr. Kabik submitted that the granting of the Petition would not adversely affect the health, safety or general welfare of the community.

In opposition to the project, the People's Counsel offered William P. Huey, of the Office of Planning and Zoning. He confirmed his department's opposition to this sign based in part upon the Paradise-East Catonsville Enhancement Study. This advisory study proposes an enhancement of this area by revitalizing the commercial strips along Frederick Road to make them blend well with the surrounding residential community. In Mr. Huey's view, construction of this sign would be inconsistent with the spirit of that plan and not harmonious with the residential community.

Also testifying was Kimberlee Piper of the Baltimore County Economic Development Commission. She testified as to the extensive work already completed under the enhancement plan and the County's ongoing proposal to revitalize the area. As was the case with Mr. Huey, Ms. Piper opined that the granting of the Petition would be a step backwards and inconsistent with the revitalization. A neighborhood resident, James Bailey of 6507 Frederick Road also testified. Mr. Bailey lives on Frederick Road directly across from the site on the edge of the surrounding residential community. He testified as to the detrimental impacts which he fears on his adjacent property which would result from the construction of the sign. His chief concern is to preserve the esthetic character of the neighborhood. He is also wary of the consequences

Melvin Kabik, et ux
Case No. 88-486-X

of traffic on Frederick Road, as well as increased light onto his property from the sign.

It is clear that the proposed sign complies with Section 413.3 of the Baltimore County Zoning Regulations (hereinafter BCZR). Nonetheless, we are obligated to consider if this special exception is permissible under Section 502.1 of the BCZR. Of the factors noted therein, the Board is particularly cognizant of 502.1(a) which provides that the special exception will not "be detrimental to the health, safety or general welfare of the locality involved". As has been well documented and stated in Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981), the Board must determine if the Petition for Special Exception has any adverse effects on the neighboring properties above and beyond those inherently associated with such a special exception use irrespective of its location in the zone.

In Holbrook v. Board of County Comm'rs., 70 Md. App. 207, 211, 520 A.2d 1096 (1987), the Court of Appeals further defined this standard. In that case, which arose from Cecil County, the Court was asked to consider a similar special exception statute. Specifically, the Cecil County Zoning Ordinance provided that a special exception could be provided only if not detrimental to the public health, safety or general welfare. (See Section 7.07 (A) Cecil County Zoning Ordinance (1979, as amended)).

In the Holbrook case, the Court of Appeals considered a special exception which would allow a permanent trailer to be located immediately adjacent to a substantial single family residence. The Court, in affirming the Board's denial of the permit, stated "In summary, where the facts and circumstances indicate that the particular special exception use and location proposed would cause an adverse effect upon adjoining and surrounding properties unique and

- 2 -

Melvin Kabik, et ux
Case No. 88-486-X

different, in kind or degree, than that inherently associated with such a use regardless of its location within the zone, the application should be denied." We find, as a matter of fact, that the character of the proposed sign creates such an adverse effect upon the unique properties surrounding this site. It is clear that the proposed sign will not only dwarf the subject site by its size and illumination but will also impact the surrounding residential properties. Notwithstanding its compliance with BCZR 413.3, the scope of the proposal is inconsistent with this locale. The Board is therefore persuaded, under the holdings enunciated by the Board of Appeals in Schultz, as affirmed in Holbrook, that the Petitioners have not met their burden and that this Petition for Special Exception should be DENIED.

ORDER

It is therefore this 20th day of April, 1989 by the County Board of Appeals of Baltimore County, for the foregoing reasons as set forth in the Opinion of this Board, ORDERED that the Petition for Special Exception to permit a single illuminated 12' x 25' advertising structure on the subject property be and the same is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt
Lawrence E. Schmidt

Henry H. Lewis
Henry H. Lewis



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

April 20, 1989

Stuart R. Berger, Esquire
100 S. Charles Street
Equitable Tower II Building
Baltimore, Maryland 21201-3060

Re: Melvin Kabik, et ux
Case No. 88-486-X

Dear Mr. Berger:

Enclosed please find a copy of the Opinion and Order issued this date by the County Board of Appeals in the subject case.

Sincerely,

Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul
Legal Secretary

Enclosure

cc: Mr. and Mrs. Melvin Kabik
Mr. Freedman
Mr. James Bailey
Mr. James W. Mohler
People's Counsel of Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
✓ Docket Clerk
Arnold Jablon, County Attorney

12-1-88

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE COUNTY BOARD OF APPEALS
NE/Corner of Frederick Road &
Prospect Ave. (6500 Frederick Rd.): OF BALTIMORE COUNTY
1st Election District
1st Councilmanic District : Zoning Case No. 88-486-X
MELVIN KABIK, et ux, Petitioners :

ENTRY OF APPEARANCE

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

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

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 7th day of December, 1988, a copy of the foregoing Entry of Appearance was mailed to Stuart R. Berger, Esquire, 36 S. Charles St., Sixth Floor, Baltimore, MD 21201-3060; Mr. Freedman, Penn Advertising of Baltimore, Inc., 3001 Remington Ave., Baltimore, MD 21211; and Mr. James Bailey, 6507 Frederick Rd., Catonsville, MD 21228.

Phyllis Cole Friedman
Phyllis Cole Friedman

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
NE/Corner Frederick Road and * ZONING COMMISSIONER
Prospect Avenue
(6500 Frederick Road) * OF BALTIMORE COUNTY
1st Election District
1st Councilmanic District * Case No. 88-486-X
Melvin Kabik, et ux
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception to permit an illuminated 12' x 25' advertising sign structure to be located on the subject property, as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Mr. Melvin Kabik, appeared, testified and was represented by Stuart R. Berger, Esquire. Mr. Freedman, a representative of Penn Advertising of Baltimore, Inc., the Contract Lessee of the subject property, also appeared and testified on behalf of the Petition. James Bailey appeared and testified as a Protestant.

Testimony indicated that the subject property, known as 6500 Frederick Road, is zoned B.L. and is improved with a used auto sales dealership. The subject property is located at the intersection of Frederick Road and Prospect Avenue. The Petitioners have agreed to allow Penn Advertising, Inc. to erect a billboard sign on their property between the used auto sales building and the grocery store on the adjacent property. The proposed sign will be of the size and design consistent with the billboard-type of sign used by Penn Advertising, Inc. throughout the greater Baltimore Metropolitan area.

The Petitioners' witnesses testified that they believe the proposed use on the subject property will not adversely impact the requirements set forth in Sections 413.3 and 502.1 of the Baltimore County Zoning

Regulations (B.C.Z.R.). Mr. Kabik stated he was confident no harm would come to any other land owners and that the proposed sign meets the requirements of Section 413.3 and 502.1 of the B.C.Z.R. He further stated that the parking lot is not used much and the possibility of losing one parking space is unimportant.

Mr. Bailey testified as to the requirements of Section 502.1. He testified that in his opinion the proposed sign will be detrimental to the general welfare of the community due to its size and its offensive nature to the residential properties both to the north and south of the subject site. Mr. Bailey further testified that in his opinion the sign will be offensive and inconsistent with the development of the area, and therefore, harmful to the community's general welfare. Mr. Bailey believes that the proposed sign would create congestion in the roads, specifically, Frederick Road, due to the poor line of sight and the inability of motorists to view the sign until immediately upon it. He believes that traffic will be slowed and back-ups will result in order to read the billboard advertisement. Mr. Bailey testified extensively as to his belief that the sign would create a great deal of interference in the adequate light and air provisions set forth in Section 502.1. Specifically, he is opposed to the sign as it will be illuminated all night hours and will cause an overflow of light onto nearby residential properties. He also believes the sign will be a detriment to the parking lot on the property and will make unavailable at least one if not more of those parking spaces.

It is clear that the B.C.Z.R. permits the use proposed in a B.L. zone by special exception. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied. Further, it is equal-

ly clear that the proposed use would be detrimental to the primary uses in the vicinity.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. In fact, the Petitioner has not shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have an adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will be detrimental to the health, safety, or general welfare of the locality, and will tend to create congestion in roads, streets, or alleys therein. It will be inconsistent with the purposes of the property's zoning classification, and inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the evidence and testimony presented, it appears that the Petition for Special Exception should not be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, it appears that the requirements of Section 502.1 have not been met and the health, safety, and general welfare of the community shall be adversely affected. Therefore, the relief requested in the special exception should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 29th day of September, 1988 that the Petition for Special Exception to permit an illuminated 12' x 25' advertising sign structure to

be located on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

JRH:bjs

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

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

September 29, 1988

Stuart R. Berger, Esquire
36 S. Charles Street
Baltimore, Maryland 21201

RE: PETITION FOR SPECIAL EXCEPTION
NE/Corner Frederick Road and Prospect Avenue
(6500 Frederick Road)
1st Election District - 1st Councilmanic District
Melvin Kabik, et ux - Petitioners
Case No. 88-486-X

Dear Mr. & Mrs. Kabik:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

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

JRH:bjs

cc: Mr. Freedman
Penn Advertising of Baltimore, Inc.
3001 Remington Avenue, Baltimore, Md. 21211

Mr. James Bailey
6507 Frederick Road, Catonsville, Md. 21228

People's Counsel

File

MICROFILMED

PETITION FOR SPECIAL EXCEPTION

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 Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for One (1) illuminated 12' x 25' advertising (sign) structure

MAP	5023E
E.D.	2A
DATE	5-18-78
200	12'
1000	X
DP	

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

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

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/Lessee:
 Penn Advertising of Baltimore, Inc.
 (Type or Print Name)
 Signature: Stuart R. Berger
 3001 Remington Avenue
 Address
 Baltimore, Maryland 21211
 City and State

Legal Owner(s):
 Melvin Kabik, et al.
 (Type or Print Name)
 Signature: Melvin Kabik
 Ruth Kabik
 (Type or Print Name)
 Signature:

Attorney for Petitioner:
 Stuart R. Berger, Esq.
 (Type or Print Name)
 Signature: Stuart R. Berger
 6 South Charles Street
 Address
 Baltimore, Maryland 21201
 City and State
 Attorney's Telephone No.: (301) 332-8562

ORDERED BY THE Zoning Commissioner of Baltimore County, this 30th day of MARCH, 1988, 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 10th day of JUNE, 1988, at 10 o'clock A.M.

ESTIMATED LENGTH OF HEARING (-1/2HR) + 15 MIN.
 AVAILABLE FOR HEARING
 MON./TUES./WED. - NEXT TWO MONTHS
 ALL OTHER
 REVIEWED BY: JRH DATE 3-15-88

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 1st Date of Posting: 11-29-88
 Posted for: Special Exception
 Petitioner: Melvin Kabik, et al.
 Location of property: N.E. corner of Frederick Road and Prospect Ave.
Armenia (6500 Frederick Road)
 Location of Sign: Front window of above Petition
6500 Frederick Road
 Remarks:
 Posted by: J. Robert Haines Date of return: 12-2-88
 Number of Signs: 1

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 30th day of March, 1988.

Petitioner: Melvin Kabik, et al.
 Petitioner's Attorney: Stuart R. Berger

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

Sign Location -- 6504 FREDERICK ROAD

BEGINNING AT A POINT LOCATED ON THE NORTH SIDE OF FREDERICK ROAD (66 FEET WIDE), 122 FEET EAST OF THE CENTERLINE OF PROSPECT AVENUE (50 FEET WIDE) AND 51.5 FEET FROM THE CENTERLINE OF FREDERICK ROAD AND THENCE RUNNING THE FOLLOWING COURSES AND DISTANCES: 1) NORTHWESTERLY A DISTANCE OF 10 FEET TO A POINT, THENCE 2) NORTHWESTERLY A DISTANCE OF 30 FEET TO A POINT, THENCE 3) SOUTHWESTERLY A DISTANCE OF 10 FEET TO A POINT, THENCE 4) SOUTHEASTERLY A DISTANCE OF 30 FEET TO THE BEGINNING.

Property Description

Beginning at a point on the northeast corner of Frederick Road and Prospect Avenue thence running north-east along Prospect Avenue a distance of 123 feet thence running south-east a distance of 94 feet thence running south-west a distance of 90 feet to a point on the north side of Frederick Road 129 ft. east of the centerline of Prospect Avenue thence running west along Frederick Road west a distance of 102 ft. to the point of beginning.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 1st Date of Posting: June 21-88
 Posted for: Special Exception
 Petitioner: Melvin Kabik, et al.
 Location of property: N.E. corner of Frederick Road and Prospect Ave.
(6500 Frederick Road)
 Location of Sign: Front window of above Petition
6500 Frederick Road
 Remarks: Filed 2nd time August 15-88 for same hearing date of June 2-88
 Posted by: J. Robert Haines Date of return: June 24-88
 Number of Signs: 1

"DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD., June 23, 1988
 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 23, 1988

THE JEFFERSONIAN,

S. Zetke Orlin
 Publisher

33.75

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
 COUNTY COURTS BUILDING
 401 Bosley Avenue
 P.O. Box 6754
 Towson, Maryland 21285-6754
 June 21, 1989

TO: M. ALBERT FIGINSKI, ESQ.
 STUART R. BERGER, ESQ.

COUNTY BOARD OF APPEALS
 PHYLLIS COLE FRIEDMAN, ESQ.

RE: NON JURY 89CG-1736 MELVIN KABIK VS. BALTIMORE COUNTY BOARD OF APPEALS

HEARING DATE: THURSDAY, SEPTEMBER 21, 1989 @ 9:30 A.M.

ON THE FOLLOWING: APPEAL 1 HOUR

Please see the below notations.

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

If the above Hearing Date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS PRIOR TO 20 DAYS OF TRIAL should be directed to the attention of Irene Summers. POSTPONEMENTS WITHIN 20 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments-Joyce Grimm-887-3497.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

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

J. Robert Haines
 Zoning Commissioner
 Penn Advertising of Baltimore, Inc.
 3001 Remington Avenue
 Baltimore, Maryland 21211

Re: Petition for Special Exception
 CASE NUMBER: 88-486-X
 NEC Frederick Road and Prospect Avenue
 (6500 Frederick Road)
 1st Election District - 1st Councilmanic
 Petitioner(s): Melvin Kabik, et al.
 Lessee: Penn Advertising of Baltimore, Inc.
 HEARING SCHEDULED: WEDNESDAY, SEPTEMBER 7, 1988 at 10:00 a.m.

Gentlemen:
 Please be advised that \$83.36 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

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

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

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

JRH:gs
 cc: Stuart R. Berger, Esq.

* Includes newspaper advertising, posting and re-posting.

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

J. Robert Haines
 Zoning Commissioner

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Exception
 CASE NUMBER: 88-486-X
 NEC Frederick Road and Prospect Avenue
 (6500 Frederick Road)
 1st Election District - 1st Councilmanic
 Petitioner(s): Melvin Kabik, et al.
 HEARING SCHEDULED: FRIDAY, JUNE 10, 1988 at 10:00 a.m.
 Special Exceptions One (1) illuminated 12' x 25' advertising (sign) structures.

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

J. ROBERT HAINES
 Zoning Commissioner of Baltimore County

cc: Penn Advertising of Baltimore, Inc.
 Melvin Kabik
 Stuart R. Berger, Esq.
 File

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

DATE: 10-25-88 ACCOUNT: 001-006-6150
 AMOUNT: \$ 115.00

RECEIVED FROM: STUART BERGER (#332-5562)
HONORARY

FOR: APPEAL FILING - CASE # 88-486-X
MELVIN KABIK - PETITIONER

8 8 021 *****115000 264F
 VALIDATION ON SIGNATURE OF CASHIER

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

DATE: 3-15-88 ACCOUNT: R-01-615-000
 AMOUNT: \$ 100.00

RECEIVED FROM: Penn Advertising
Item # 339

FOR: Zoning Special Exception Filing Fee Commercial

8 8 042 *****100000 615F
 VALIDATION ON SIGNATURE OF CASHIER

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

J. Robert Haines
Zoning Commissioner

May 25, 1988

NOTICE OF HEARING



Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Exception
CASE NUMBER: 88-486-X
NEC Frederick Road and Prospect Avenue
(6500 Frederick Road)
1st Election District - 1st Councilmanic
Petitioner(s): Melvin Kabik, et ux
HEARING SCHEDULED: WEDNESDAY, JULY 13, 1988 at 9:00 a.m.

Special Exception: One (1) illuminated 12' x 25' advertising (sign) structure.

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

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Penn Advertising of Baltimore, Inc.
Stuart R. Berger, Esq.
Melvin Kabik, et ux
File

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

J. Robert Haines
Zoning Commissioner

July 1, 1988

NOTICE OF POSTPONEMENT



Dennis F. Rasmussen
County Executive

This will acknowledge receipt of the postponement request from () Petitioner(s), () Protester(s), and/or (X) the Attorney for Petitioner or Protester.

As such, the following case originally scheduled for July 13, 1988 will not proceed on that date. You will be timely notified of the new hearing date.

Case number:	88-486-X	and	88-487-X
Petitioner(s):	Melvin Kabik		Richard Kim
Location:	6500 Frederick Rd		7028 Liberty Road
	Lessee: Penn Advertising of Baltimore, Inc.		

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner for
Baltimore County

cc: Stuart R. Berger, Esq.
Melvin Kabik, et ux
Richard Kim, et ux
File

RECORDED

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

J. Robert Haines
Zoning Commissioner

July 14, 1988

NOTICE OF HEARING

(NO POSTPONEMENT FROM THIS DATED WILL BE GRANTED)



Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

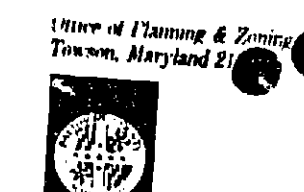
Petition for Special Exception
NEC Frederick Road and Prospect Avenue
(6500 Frederick Road)
1st Election District - 1st Councilmanic
Petitioner(s): Melvin Kabik, et ux
Lessee: Penn Advertising of Baltimore, Inc.
HEARING SCHEDULED: WEDNESDAY, SEPTEMBER 7, 1988 at 10:00 a.m.

Special Exception: One (1) illuminated 12' x 25' advertising (sign) structure.

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

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

RECORDED



Re: 88-486-X and 88-487-X
Copy of September 7, 1988 Hearing Notice
mailed to Petitioners, Attorney Berger,
and to the following:

Mr. James Bailey
3800 Frederick Road
Catonville, Maryland 21228

Liberty Communities Development Corp.
3800 Frederick Road
Randallstown, Maryland 21122

Mr. Judith Berger
Locke's Improvement Association
3800 Lockwood Highway
Baltimore, Maryland 21207

Mr. George L. Rawson
Maryland Department of Transportation
State Highway Administration
2220 N. Jones Road
Brooklandville, Maryland 21022

Mr. Susan Thornton
Peluxent Publishing Company
477 Walden Choice Lane, Suite 220
Baltimore, Maryland 21224

Mr. Rick Johnson
42 Briarwood Road
Catonville, Maryland 21228

Photocopy of actual mailing envelopes.



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-3360 887-3180

HEARING ROOM -
Room 301, County Office Building

January 23, 1989
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). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 88-486-X MELVIN KABIK, ET UX
NE/cor Frederick Road and Prospect Avenue
(6500 Frederick Road)
1st Election District
1st Councilmanic District
SE -One illuminated 12' x 25' advertising
sign structure
9/29/88 -Z.C.'s Order that special exception is
DENIED.

ASSIGNED FOR: WEDNESDAY, APRIL 12, 1988 at 10:00 a.m.

cc: Stuart R. Berger, Esquire Counsel for Appellant /Petitioner
Mr. & Mrs. Melvin Kabik Appellants /Petitioners
Penn Advertising of Balto, Inc.
(Mr. Freedman)
Mr. James Bailey
Mr. James W. Mohler
People's Counsel for Baltor. County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Mastarowicz
James E. Dyer
Docket Clerk -Zoning
Arnold Jablon, County Attorney

Kathleen C. Weidenhammer
Administrative Secretary

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 24, 1988

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

cc:

Stuart R. Berger, Esquire
36 South Charles Street
Baltimore, Maryland 21201

RE: Item No. 339 - Case No. 88-486-X
Petitioner: Melvin Kabik, et ux
Petition for Special Exception

Dear Mr. Berger:

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. 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:dt

Enclosures

RECORDED



Maryland Department of Transportation State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

March 30, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
At: James Dyer

RE: Baltimore County
Property Owner
Melvin Kabik
Zoning Meeting 3/29/88
W/S/ C of Frederick Road
Maryland Route 144
and Prospect Avenue
Item #339

Dear Mr. Haines:

After reviewing the submittal for special exception for one (1) illuminated 12' x 25' advertising sign, the State Highway Administration-Bureau of Engineering Access Permits has the following comments.

The submittal for variance of a business sign has been forwarded to the State Highway Administration-Beautification Section, C/O Morris Stein (333-1642), for all comments relative to zoning.

If you have any questions, contact Larry Brocato of this office (333-1350).

Very truly yours,

Stephen J. Mills, Jr.
Acting Chief-Bureau of
Engineering Access Permits

LB/es

cc: J. Ogle
Morris Stein w/att.

RECORDED

RECEIVED
APR 4 1988

ZONING OFFICE

My telephone number is (301) 333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-3554

May 6, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, and 347.

Very truly yours,

Stephen E. Weber, P.E.
Assistant Traffic Engineer

SEN/RF/pml-b



Dennis F. Rasmussen
County Executive

RECEIVED
MAY 11 1988
ZONING OFFICE

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4900

Paul H. Reineke
Chief
J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

April 5, 1988



Dennis F. Rasmussen
County Executive

Re: Property Owner: Melvin Kabik, et ux

Location: NE/c Frederick Rd., and Prospect Ave.

Item No.: 339

Zoning Agenda: Meeting of 3/29/88

Gentlemen:

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

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

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

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

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

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

REVIEWER: *John F. O'Neill*
Noted and Approved: _____
Planning Group
Fire Prevention Bureau
Special Inspection Division

/s/

RECORDED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
Date: May 16, 1988
FROM: P. David Fields, Director
Office of Planning and Zoning
SUBJECT: Zoning Petition #88-486-A

The site is located within the boundaries of the Paradise-East Catonsville Enhancement Study. This plan, adopted by the County Council, states, in part, that "Aesthetics along the south side should be improved through the inclusion of new paving for sidewalks, landscaping, benches, and new signage." Further, "Facade guidelines for the area would focus upon sun-screening, signage, and other elements depicted in the attached graphics." Finally, "Signage is both a functional and aesthetic consideration. Commercial signs in the area are generally good, but the sizes are sometimes inappropriate for their function."

One of the purposes of the plan was to encourage uniform, aesthetically pleasing signage through a reduction of existing sign clutter and the provision for unifying and appropriate signage.

This office, therefore, is diametrically opposed to the granting of this petition.

PDF/jat

cc: Shirley Hess, People's Counsel
J. G. Roswell
Zoning File

RECORDED

CPS-008

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

J. Robert Haines
Zoning Commissioner

November 21, 1988



Dennis F. Rasmussen
County Executive

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Exception
NE/Corner Frederick Road and Prospect Avenue
(6500 Frederick Road)
1st Election District, 1st Councilmanic District
MELVIN KABIK, ET UX - Petitioner
Case No. 88-486-X

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on October 24, 1988 by Stuart R. Berger, Attorney on behalf of Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. Melvik Kabik, 6500 Frederick Rd., Balto., Md. 21228

Stuart R. Berger, 36 South Charles Street, Sixth Floor,
Baltimore, Md. 21201-3060

Mr. Freedman, Penn Advertising of Baltimore, Inc.
3001 Remington Avenue, Baltimore, Md. 21211

James Bailey, 6507 Frederick Road, Catonsville, Md. 21228

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
Date: July 5, 1988
FROM: Raymond Carignan, Director
Economic Development Commission
SUBJECT: Zoning Petition #88-486-A

The above petition is for a 12' x 25' billboard in an area known as the Paradise-East Catonsville Enhancement Study Area.

The goals and objectives of the above study are to preserve and enhance the revitalization area, a local commercial center that blends well with the nearby neighborhood. The County is spending much time and money to meet that goal and Zoning Petition #88-486-A is in opposition to that goal. Therefore, this office urges denial in granting this petition.

Raymond Carignan
RAYMOND CARIIGNAN

RDC:AJW:bb

CC: Zoning File
P. David Fields
Shirley Hess, People's Counsel

RECORDED

RECORDED
JUL 7 1988
ZONING OFFICE

CPS-008

APPEAL
Petition for Special Exception
NE/Corner Frederick Road and Prospect Avenue
(6500 Frederick Road)
1st Election District - 1st Councilmanic District
MELVIN KABIK, ET UX - Petitioner
Case No. 88-486-X
SE-One illuminated 12' x 25' advertising sign structure

Petition for Special Exception

Description of Property

Certificate of Posting

Certificate of Publication

Notice of Postponement

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1.) Drawing to accompany Petition

2.) Polaroid photograph of building location

Zoning Commissioner's Order dated September 29, 1988 (Denied)

Notice of Appeal received October 24, 1988 from Stuart R. Berger, Attorney on behalf of Petitioner

cc: Mr. & Mrs. Melvik Kabik, 6500 Frederick Rd., Balto., Md. 21228

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Baltimore, Md. 21201-3060

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Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Docket Clerk

Mr. James W. Mohler
2 N. Rolling Crossroads
Suite #203
Catonsville, MD 21228
(written request 1/11/89)

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Gwen Stephens /Zoning Office
DATE: August 28, 1991

FROM: Kathi Weidenhammer /Bd of Appeals

SUBJECT: Files Returned from Circuit Court /
Case No. 88-486-X /Kabik and No. 88-487-X /Kim

Gwen:

The attached two files were returned by the Circuit Court for Baltimore County. Both of these cases had been appealed to the Circuit Court, decisions rendered, and the files closed by this office some time ago. These files were inadvertently forwarded by the Circuit Court to People's Counsel as belonging to them and subsequently returned to this office by Shirley.

On November 13, 1989, Case No. 88-487-X (Richard Kim, et ux) was closed and the Board's copy of this file returned to the Zoning Office. Also, on January 23, 1990, Case No. 88-486-X (Melvin Kabik, et ux) was closed and our copy of the file returned to Zoning.

Should you have any questions, please call me at extension 3180.

Kathi
Attachments (2)

