

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
 W/S 8th Avenue, 302' N c/l * ZONING COMMISSIONER
 Joppa Road (Carney Village Shopping Center) * OF BALTIMORE COUNTY
 11th Election District * Case No. 89-365 A
 6th Councilmanic District *
 Carney Village Ltd. Partnership
 Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 413.2.e to permit two (2) identification signs 265 square feet in size, per face, in lieu of the required 150 sq. feet, per face, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, Carney Village Ltd. Partnership, was represented by G. Scott Barhight, Esquire, who appeared and proffered testimony. Mr. Barhight was supported in his testimony by Mr. J. Kline of G.W. Stephens Company, Mr. Christopher C. Smith and Mr. Angelo DiAnna of Mars Supermarket, Inc. There were no Protestants.

Mr. Scott Barhight proffered the Petitioner would state that, based on his professional experience, it is his opinion that the variance would not cause any adverse impact on the health, safety and general welfare and would not create traffic congestion. He testified that the conditions delineated in Section 307.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) would be properly fulfilled. The land is zoned B.L.-C.N.S. and is improved with a shopping center. The current signage only addresses the primary tenant (Mars Supermarket). The new additional signs will be added to the current structures and no new sign post on location will be necessary.

There was testimony concerning the hardship unique to this site. Specifically, the business cannot be seen from Joppa and Harford Roads. The new signs will allow the businesses to note their presence in the Carney Village Shopping Center. The hardship is created by the fact that the land for the shopping center is lower than the road. Additional signage may be added to the existing two (2) freestanding sign structures (Mars' signs) as shown on Petitioner's Exhibit 1 such that the total square footage of each identification sign does not exceed 265 square feet, per face. The sign(s) to be added to the existing sign structures shall be of consistent color, style and shape and shall not be illuminated. The additional signage may be placed in a variety of different configurations on the existing structures and may be altered and amended from time to time, provided the signage complies with the conditions set forth herein.

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

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

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

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. 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 variances were not granted. It has been established that the requirements 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 relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of March, 1989 that the Petition for Zoning Variance from Section 413.2.e to permit two identification signs 265 sq. ft. in size, per face, in lieu of the required 150 sq. feet, per face, as more particularly described on Petitioner's Exhibit 1 be and is hereby GRANTED.

J. Robert Haines
 J. ROBERT HAINES
 ZONING COMMISSIONER FOR
 BALTIMORE COUNTY

JRH/mm
 cc: Peoples Counsel
 Mr. Clark MacKenzie, MacKenzie Properties, Inc. 2328 W. Joppa Road, Suite 200, Lutherville, Maryland 21093
 Mr. J. Kline, G.W. Stephens Co., 303 Allegheny Ave., Towson, Md. 21204
 Mr. Christopher Smith, 2328 W. Joppa Road, Towson, Md. 21204
 Mr. Angelo DiAnna, 9604 Eighth Avenue, Baltimore, Md. 21234

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21204
 (301) 887-3333
 J. Robert Haines
 Zoning Commissioner

March 23, 1989

C. Scott Barhight, Esquire
 300 Lafayette Building
 40 West Chesapeake Avenue
 Towson, Maryland 21204

Dennis F. Rasmussen
 County Executive

RE: Petition for Zoning Variance
 Case No. 89-365 A
 Carney Village Ltd. Partnership

Dear Mr. Barhight:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
 Zoning Commissioner

JRH/mm
 att:
 cc: Peoples Counsel
 Mr. Clark MacKenzie, MacKenzie Properties, Inc. 2328 W. Joppa Road, Suite 200, Lutherville, Md. 21093
 Mr. J. Kline, G.W. Stephens Co., 303 Allegheny Ave., Towson, Md. 21204
 Mr. Christopher Smith, 2328 W. Joppa Road, Towson, Md. 21204
 Mr. Angelo DiAnna, 9604 Eighth Avenue, Baltimore, Md. 21234

ORDER RECEIVED FOR FILING
 Date 3/24/89
 By [Signature]

ORDER RECEIVED FOR FILING
 Date 3/24/89
 By [Signature]

ORDER RECEIVED FOR FILING
 Date 3/24/89
 By [Signature]

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 413.2.e to permit two (2) identification signs 265 square feet in size, per face, in lieu of the required 150 square feet, per face.

Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)
 1. The tenants of the shopping center served by the proposed sign are experiencing practical difficulties and unreasonable hardships in directing customers to their respective premises as the existing identification signs do not reference the names of the tenants, other than the food market.
 2. The proposed variance will merely add lettering to the existing signs. No additional structure or obstruction to lines of sight will be added.
 3. The additional lettering will benefit the tenants and the customers, and will not injure, in any way, the public health, safety or general welfare.

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):
 Carney Village Limited Partnership
 (Type or Print Name)
 By: MacKenzie Properties, Inc., General Partner
 Signature
 Address
 City and State

Attorney for Petitioner:
 G. Scott Barhight
 Address
 City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted:
 G. Scott Barhight
 Address
 City and State

Attorney's Telephone No. (301) 832-2050

FROM THE OFFICE OF
 GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
 ENGINEERS
 P.O. BOX 6428 TOWSON, MARYLAND 21204

November 30, 1988
 Description to accompany a
 Petition for a Sign Variance.
 RE: Carney Village Shopping Center

Beginning at a point on the centerline of Eighth Avenue, located North 06° 46' 11" West 302 feet more or less from its intersection with the centerline of Joppa Road, thence in a clockwise direction:
 1) South 86° 49' 36" West 142.15 feet
 2) South 06° 46' 11" East 93.80 feet
 3) a curve having a radius of 747.00 feet, length of 101.18 feet and chord of South 39° 29' 58" West 101.10 feet
 4) South 83° 21' 45" West 100.51 feet
 5) a curve having a radius of 687.00 feet, length of 58.96 feet and chord of South 52° 27' 28" West 58.94 feet
 6) South 06° 52' 49" East 45.35 feet
 7) a curve having a radius of 758.48 feet, length of 86.23 feet and chord of North 74° 42' 15" West 86.19 feet
 8) North 06° 25' 10" West 225.43 feet
 9) South 86° 49' 50" West 30.06 feet
 10) North 61° 53' 10" West 173.81 feet
 11) North 28° 06' 50" East 224.07 feet
 12) North 87° 17' 10" East 591.98 feet
 13) South 04° 57' 26" East 276.96 feet and
 14) South 86° 49' 39" West 93 feet to the point of beginning.
 Containing 5.442 acres of land more or less.

NOTE: THIS DESCRIPTION IS FOR ZONING PURPOSES ONLY.



CERTIFICATE OF PUBLICATION

TOWSON, MD., Feb. 23, 1989
 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 Feb. 23, 1989.
 NORTHEAST TIMES
 THE JEFFERSONIAN
 S. Zebe Orlan
 Publisher

PO 09800
 reg 115277
 price \$100.05

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District 1124 Date of Posting 2/24/89
 Posted for: Variance
 Petitioner: Carney Village Limited Partnership
 Location of property: W/S 8th Ave, 302' N of Joppa Rd.
 Location of Sign: At entrance to site, 200' E of Joppa Rd. at intersection of Harford Rd., both on east side of Rd.
 Remarks:
 Posted by: [Signature] Date of return: 2/24/89
 Number of Signs: 2

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21204
 484-3333
 J. Robert Haines
 Zoning Commissioner

Carney Village Limited Partnership
 c/o Peoples Properties, Inc.
 273 W. Joppa Road
 Suite 201
 Lutherville, Maryland 21023

DATE: 3-6-89
 Re: Application for Zoning Variance
 ONE IDENTIFICATION SIGN
 W/S 8th Avenue, 302' N c/l Joppa Road
 (Carney Village Shopping Center)
 11th Election District - 6th Councilmanic District
 Petitioner(s) Carney Village Limited Partnership
 HEARING SCHEDULED FOR FEBRUARY 19, 1989 at 2:00 p.m.

Please be advised that \$130.05 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 removed 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, 1111 Towson, Maryland 21204 fifteen (15) minutes before the hearing.

BALTIMORE COUNTY, MARYLAND
 OFFICE OF FINANCE - REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT
 No. 067462
 DATE: 2/24/89 ACCOUNT: 2-01-15-000
 RECEIVED FROM: Carney Village LTD PART
 AMOUNT: \$ 130.05
 FOR: Posting & Advertising (89-365-A)
 B BODE*****1306582 3106F
 VALIDATION OR SIGNATURE OF CASHIER

ORDER RECEIVED FOR FILING
 Date 3/24/89
 By [Signature]

ESTIMATED LENGTH OF HEARING (1/2 HR.)
 AVAILABLE FOR HEARING
 MON./TUES./WED. - NEXT TWO WEEKS
 ALL OTHERS
 REVIEWED BY: [Signature] DATE: 12/29/88

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

J. Robert Haines
Zoning Commissioner

February 9, 1989

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 Zoning Variance
CASE NUMBER: 89-365-A
W/S 8th Avenue, 302' N c/1 Joppa Road
(Carney Village Shopping Center)
11th Election District - 6th Councilmanic
Petitioner(s) Carney Village Limited Partnership
HEARING SCHEDULED: FRIDAY, MARCH 10, 1989 at 2:00 p.m.

Variance to permit two (2) identification signs of 265 square feet in size, per face, in lieu of the required 150 square feet, per face.

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

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: G. Scott Barhight, Esq.
Clark MacKenzie
File

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Scott Barhight	40 W. Chesapeake Ave Towson
Jim KLINE (G.W. STEPHENS)	303 ALLEGANY AVE TOWSON
Chris Smith	2332 W. Joppa Rd. Towson
G. Scott Barhight	3601 FIGHTING HILL RD 21284

89-365-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

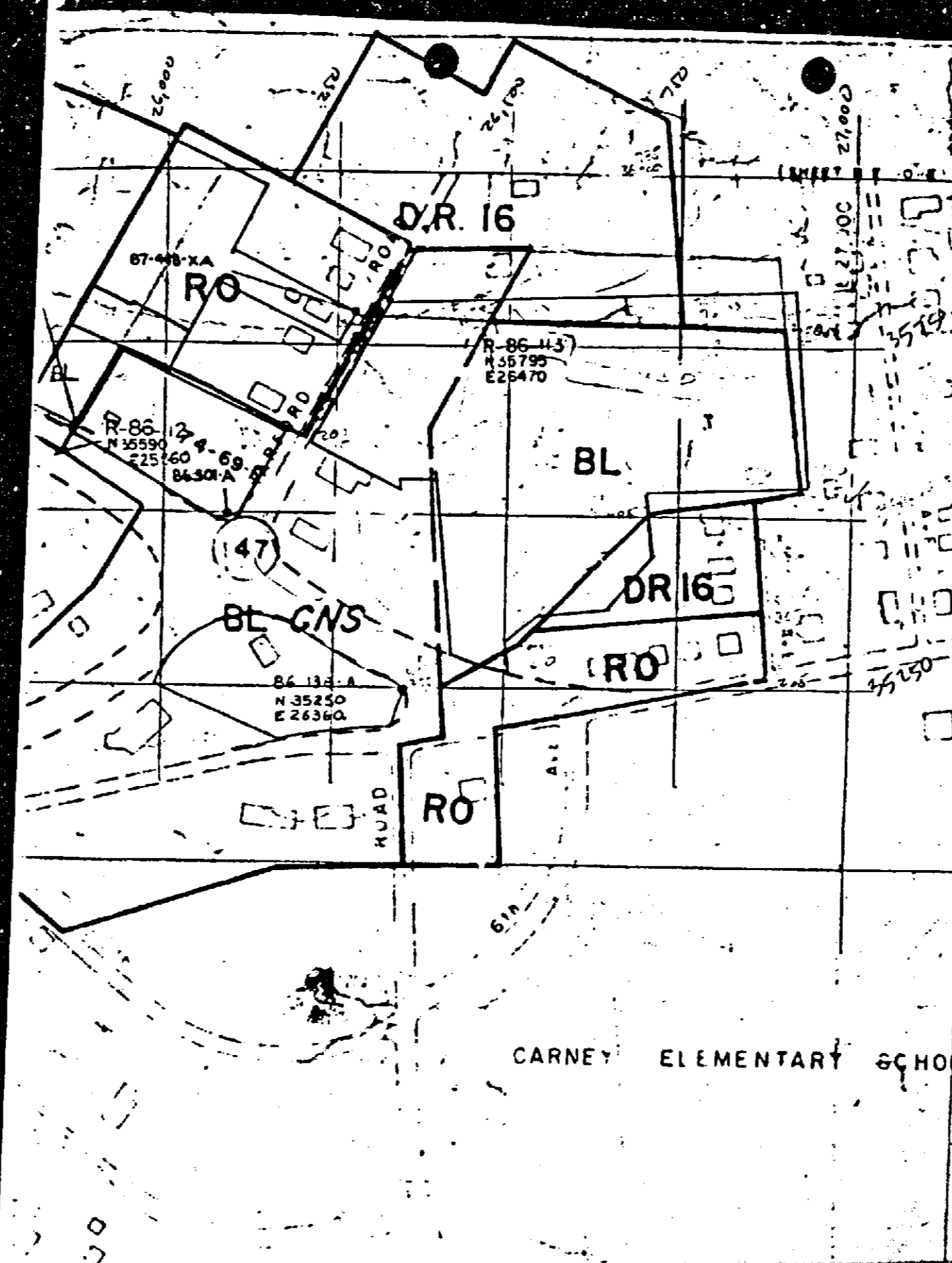
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this 11th day of January, 1989

J. Robert Haines
ROBERT HAINES
ZONING COMMISSIONER

Petitioner: MacKenzie Properties Received by: James E. Dyer
Petitioner's Attorney: G. Scott Barhight Chairman, Zoning Plans Advisory Committee

89-365 A



#270

LAW OFFICES
WHITEFORD, TAYLOR & PRESTON
300 LAFAYETTE BUILDING
40 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
301 832-2000
FAX: 301 832-2015

G. SCOTT BARHIGHT
DIRECT NUMBER
301 812-2200

March 13, 1989



The Honorable J. Robert Haines
Zoning Commissioner of Baltimore County
Office of Planning and Zoning
Towson, Maryland 21204

Re: Carney Village Limited Partnership
Petition for Zoning Variance
Case No. 89-365-A

Dear Mr. Haines:

Pursuant to your request, enclosed is a draft Order for your review. If the Order is acceptable, please execute and return a copy to my client and me.

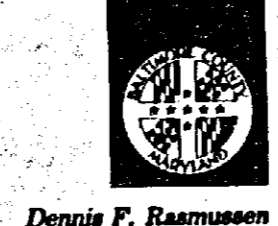
Thank you for your kind attention to this matter.

G. Scott Barhight
G. Scott Barhight

GSB:sb
Enclosure
cc: Mr. Christopher C. Smith

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

January 17, 1989



Dennis F. Rasmussen
County Executive

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

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers 266, 267, 268, 269, 270 and 271.

Richard S. Planigan
Richard S. Planigan
Traffic Engineer Associate II

MSF/lw

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 27, 1989

COUNTY OFFICE BLDG.
111 W. CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

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

G. Scott Barhight, Esquire
300 Lafayette Building
40 West Chesapeake Avenue
Towson, MD 21204

RE: Item No. 270, Case No. 89-365-A
Petitioner: MacKenzie Properties
Petition for Zoning Variance

Dear Mr. Barhight:

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.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

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

JED:ju

Enclosures



Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

January 11, 1989

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

Re: Baltimore County
Carney Village Limited Partnership
Zoning meeting 1/10/89
E/S Harford Road
MD 147
north of Joppa Road
Item #270

Dear Mr. Haines:

After reviewing the submittal for a variance to permit two (2) identification signs 265 square feet in size, per face, in lieu of the required 150 square feet, we have the following comment.

We have forwarded this plan to our Highway Beautification Section, c/o Morris Stein (333-1642) for all comments relative to zoning.

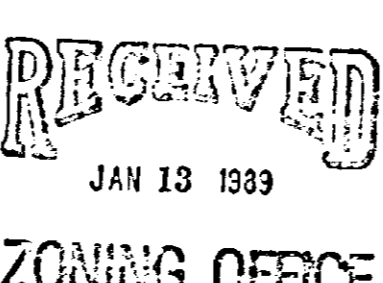
If you have any questions, contact Larry Brocato (333-1350).

Very truly yours,

Gregory J. Mills, Jr.
Gregory J. Mills, Jr.
Chief Bureau of Engineering
Access Permits

LB/es

cc: G.W. Stephens, Jr. and Associates Inc.
Mr. J. Ogle
Mr. Morris Stein w/att.



My telephone number is (301) 333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0777

**BALTIMORE COUNTY, MARYLAND
INTER OFFICE CORRESPONDENCE**

TO: Zoning Advisory Committee DATE: January 24, 1989

FROM: Robert W. Bowling, P.E.

RE: Meeting of January 10, 1989

The Developers Engineering Division has reviewed the zoning items for the subject meeting. We have no comments for items 268, 267, 268, 269, 270, and 271.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

Encls.

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reinecke
Chief

January 12, 1989

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Carney Village Ltd. Partnership

Location: W/S 8th Avenue, 302' N of c/1 Joppa Rd.

Item No.: 270 Zoning Agenda: Meeting of 1/10/89

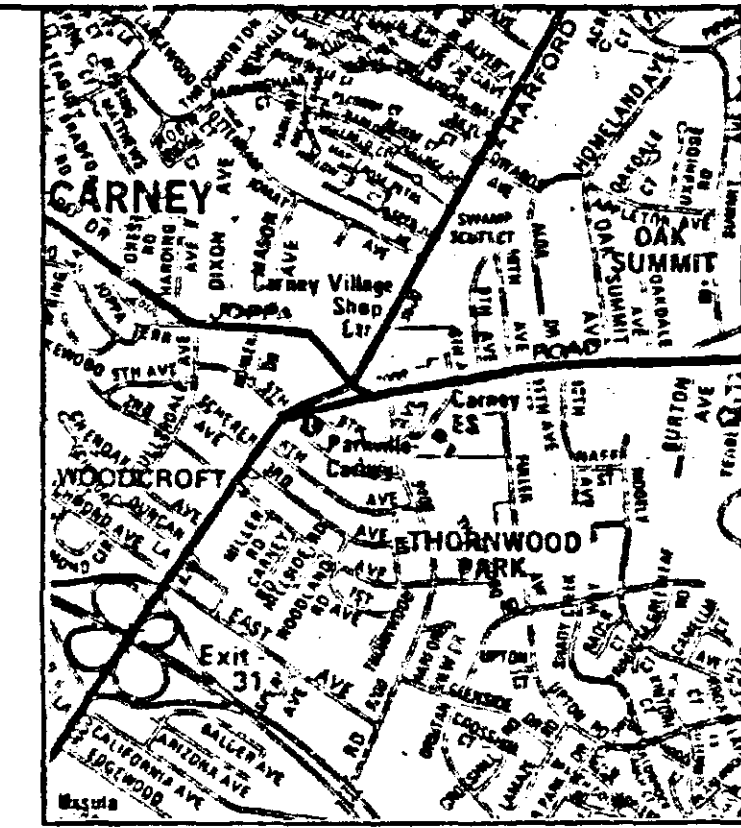
Gentlemen:

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

REVIEWER: *Paul H. Reinecke* NOTED & APPROVED: *J.P. Kelly*
Planning Group Fire Prevention Bureau
Special Inspection Division

/s/



VICINITY MAP
SCALE: 1"=2000'

"PLAT OF CARNEY HEIGHTS ADDITION"
W.R.C. 7/19

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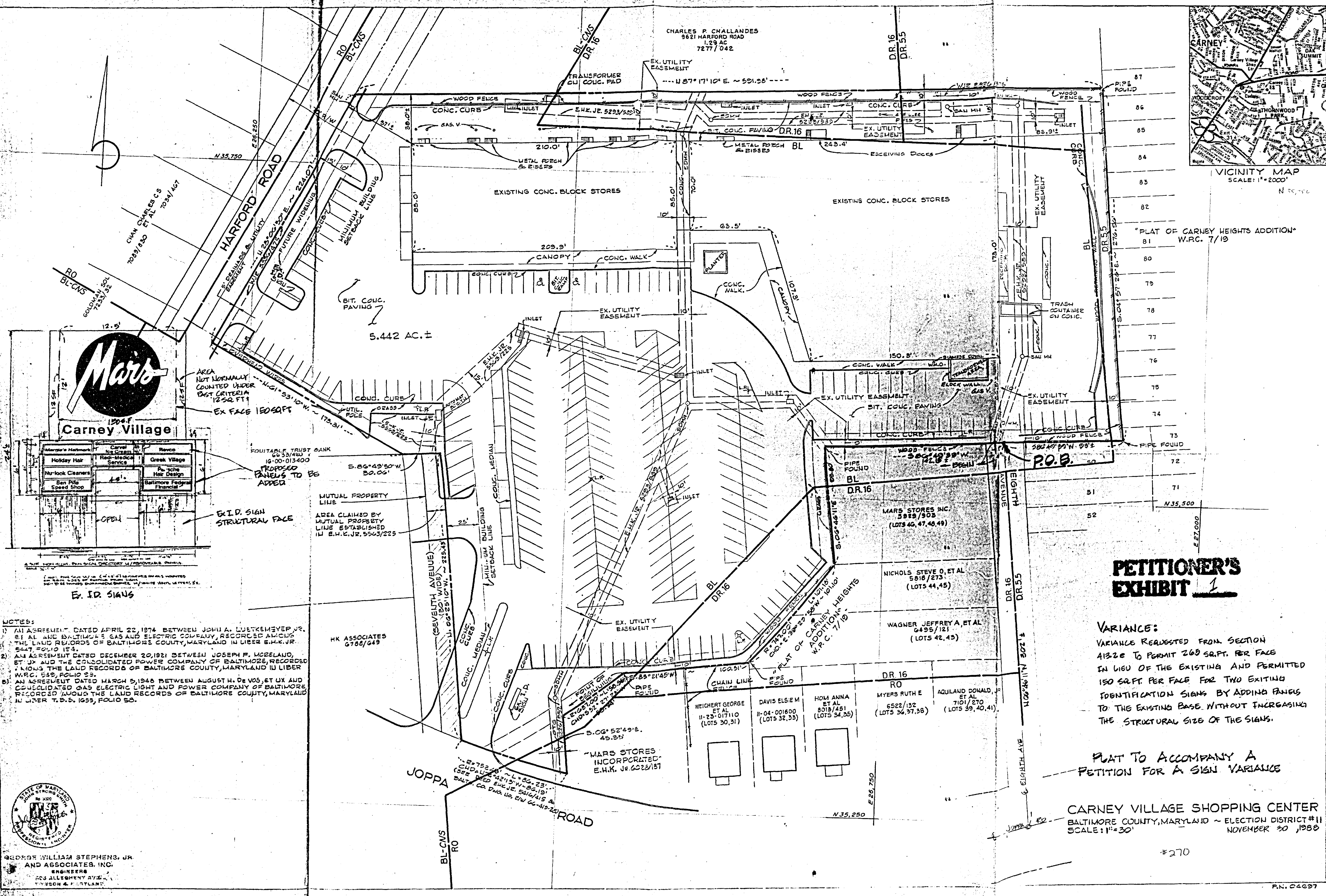
PETITIONER'S EXHIBIT 1

VARIANCE:
VARIANCE REQUESTED FROM SECTION 4132E TO PERMIT 269 SQ.FT. PER FACE IN LIEU OF THE EXISTING AND PERMITTED 150 SQ.FT. PER FACE FOR TWO EXISTING IDENTIFICATION SIGNS BY ADDING PANELS TO THE EXISTING BASE WITHOUT INCREASING THE STRUCTURAL SIZE OF THE SIGNS.

PLAT TO ACCOMPANY A
PETITION FOR A SIGN VARIANCE

CARNEY VILLAGE SHOPPING CENTER
BALTIMORE COUNTY, MARYLAND ~ ELECTION DISTRICT #11
SCALE: 1"=30'
NOVEMBER 30, 1988

#270



Carney Village

Ex. ID. SIGNS

- NOTES:**
- 1) AN AGREEMENT DATED APRIL 22, 1974 BETWEEN JOHN A. LUETKEMEYER, JR. ET AL AND BALTIMORE GAS AND ELECTRIC COMPANY, RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY, MARYLAND IN LIBER 5447, FOLIO 124.
 - 2) AN AGREEMENT DATED DECEMBER 20, 1921 BETWEEN JOSEPH F. MOBLAND, ET UX AND THE CONSOLIDATED POWER COMPANY OF BALTIMORE, RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY, MARYLAND IN LIBER W.R.C. 549, FOLIO 25.
 - 3) AN AGREEMENT DATED MARCH 5, 1948 BETWEEN AUGUST H. DE VOS, ET UX AND CONSOLIDATED GAS ELECTRIC LIGHT AND POWER COMPANY OF BALTIMORE, RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY, MARYLAND IN LIBER T.D.S. 1639, FOLIO 56.

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS
203 ALLEGHENY AVENUE
PITTSBURGH, PENNSYLVANIA