

PETITION OF BRITTANY * IN THE
PARTNERSHIP, A MARYLAND * CIRCUIT COURT
GENERAL PARTNERSHIP, BY * FOR
APARTMENT SERVICES, INC. * BALTIMORE COUNTY
AGENT FOR BRITTANY * Case No.: 94 CV 5508
* * * * *

Statement of the Case

This case comes before the Court on the Petition of Brittany Partnership (hereinafter Brittany) requesting review of the decision by the Board of Appeals. Peoples Counsel filed a Cross-Appeal contesting on different grounds the decision of the Board.

Statement of Facts

Brittany operates the Brittany Apartments located off of Old Court Road near to the Baltimore Beltway in Baltimore County. The apartment complex is wooded and not visible from any major thoroughfare. The only entrance is from Greenwood Road, a no-thru street. Testimony at all previous hearings was that all attempts by Brittany to secure a location for a sign on Old Court Road have been fruitless. The only major thoroughfare to which the Brittany property is adjacent is the Beltway, which the property overlooks. Consequently, more than 20 years ago the former owners erected a 120 square foot sign on the Brittany property, which in blue letters on a white background announces to the world the otherwise unseen location of the apartments.

5/28/95

Baltimore County Zoning Regulations (hereinafter BCZR) in section 413.1D set forth the signage permitted to apartment complexes. This regulation permits only one sign of 15 square feet total area. A single citizen's complaint of the two decade old oversized sign set the Office of People's Counsel into battle. After notification of a zoning violation the Brittany filed a Request for Variance in relation to all three signs on its property. After a hearing before the Deputy Zoning Commissioner a variance for all three signs was granted in a written Opinion and Order dated June 23, 1993. The People's Counsel appealed and the County Board of Appeals held a hearing on April 7, 1994. Following this hearing the Board of Appeals issued the Opinion and Order which is the subject of the present appeal.

The Board of Appeal's Order grants the variance without condition as to the two, smaller, entrance signs on Greenwood Road. This variance is not contested in the present appeal. As to the larger "Beltway sign," the Board granted the variance with four conditions:

1. The existing location of the sign abutting the Beltway right-of-way emphasizes an advertising purpose, which it is not to be under the reasons for granting the variance. Therefore, the Directional-identifier Sign should be relocated 50 ft. south from its present location to a position approximate to the Brittany building.
2. The replacement sign should be permanent in appearance and aesthetically agreeable in graphic design.
3. No references such as "Now Renting" nor other commercial references shall be included. The sign is to be strictly directional-identifier.
4. The area of the sign, minus the present advertising of the existing sign, shall not exceed 96 sq. ft.

The Court now turns its attention to Brittany's claim that the first condition of the Board of Appeals is arbitrary and capricious. This condition would require that Brittany relocate the sign 50 feet south of its present location. After careful review of the record, this Court can find no testimonial or other evidence produced before the Board which can support such a condition. There is no evidence of the topography of the area. No evidence of the relative elevation of the proposed site and the surrounding trees. Most importantly there was no opportunity for either party to present evidence, or any evidence that the Board considered the impact of such a condition. After finding that a variance was required by the unique location and condition of the property the Board acted in a way which the Petitioner has proffered would render the sign utterly useless. The Court, therefore, finds that the decision of the Board of Appeals in requiring that portion of the first condition relating to moving of the sign only is arbitrary, capricious, and unsupported by any evidence.

It is, therefore ORDERED that appeal by Peoples Counsel is DISMISSED. The variance granted by the Board is hereby AFFIRMED, with condition number one STRICKEN as it relates to the moving of the sign only, and conditions numbered two, three and four remaining in effect.

Dated: February 17th, 1995

CC: Chairman William T. Hackett
Peter Max Zimmerman
Anthony J. DiPaula

Alfred L. Brennan, Sr.
Judge Alfred L. Brennan, Sr.

Standard of Review

The standard of review to be applied by this Court in reviewing the decision of the ALJ is governed by the Administrative Procedure Act. Codified as 10-201 et seq. of the State Government Article of the Annotated Code of Maryland, the Administrative Procedure Act provides limited judicial review of administrative findings and decisions.

The decision of an administrative agency may not be overturned if it is supported by substantial evidence, see Hoyt v. Police Comm'r of Baltimore City, 279 Md. 74 (1977); Maryland Racing Comm'n v. McGee, 212 Md. 69 (1957); Steamship Trade Ass'n of Baltimore v. David, 190 Md. 215 (1948); Brown v. Maryland Unemployment Compensation Bd., 189 Md. 233 (1947); Heath v. Mayor of Baltimore, 187 Md. 296 (1946); Heaps v. Cobb, 185 Md. 372 (1945), is not arbitrary or capricious, see Bullock v. Pelham Woods Apartments, 283 Md. 505 (1978), and is based upon a proper construction of the law, see Hackley v. City of Baltimore, 70 Md. App. 111 (1987). Since the agency is recognized to have special expertise in its field of endeavor, see O'Donnel v. Bassler, 289 Md. 501 (1981), a decision by the agency is considered prima facie correct and is presumed valid by reviewing courts, see State Comm'n on Human Relations v. Washington County Community Action Council, Inc., 59 Md. App. 451 (1984); Nationwide Mutual Ins. Co. v. Ins. Comm'r., 67 Md. App. 727 (1986).

Section 10-215(g) of the State Government Article sets forth the grounds upon which this Court may reverse or modify an administrative decision as follows:

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF BRITTANY PARTNERSHIP,
A MARYLAND GENERAL PARTNERSHIP, BY
APARTMENT SERVICES, INC.,
AGENT FOR BRITTANY
9640 Doeraco Road
Timonium, Maryland 21093

AND

PETITION OF PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY
Room 47, 400 Washington Avenue
Towson, Maryland 21204

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

IN THE CASE OF: IN THE MATTER OF
BRITTANY PARTNERSHIP FOR VARIANCES
ON PROPERTY LOCATED ON THE NORTH SIDE
OF OLD COURT ROAD, 36' NORTHWEST OF THE
CENTER LINE GREENWOOD ROAD
(BRITTANY APARTMENTS)
3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT
CASE NO. 93-411-A

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 and Harry E. Buchheister, Jr., constituting a majority of the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review 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 Zoning Administration and Development Management and the Board of Appeals of Baltimore County:

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CLERK OF COURT

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(g) Decision - In a proceeding under this section, the court may:
(3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision of the agency:
(i) is unconstitutional;
(ii) exceeds the statutory authority or jurisdiction of the agency;
(iii) results from an unlawful procedure;
(iv) is affected by any other error of law;
(v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
(vi) is arbitrary or capricious.
Md. Code Ann., State Gov't. 10-215(g) (1993).

Opinion and Order

The variance for the Beltway sign is contested by both parties. Brittany brought this Appeal arguing that the first condition of the Board, requiring the sign to be moved 50 feet south of its present location, is arbitrary and capricious. The People's Counsel filed a Cross-appeal in which they argue that the Board's decision must be overturned, because the Board improperly applied BCZR, section 307's standard for the granting of a variance.

Maryland Code Ann. Article 66B, section 1.00(j) sets forth the definition of, and standard under which, a variance may be granted.

"Variance" means a modification only of density, bulk, or area requirements in the zoning ordinance where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the ordinance would result in either, as specified by the local governing body in a zoning ordinance, unnecessary hardship or practical difficulty.

This statute is largely mirrored in BCZR, section 307 which provides in relevant part that variances shall be granted

only in cases where special circumstances or conditions

93-411-A, Brittany Partnership
File No. 94-CV-05508/83/392

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ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
OFFICE OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
OF BALTIMORE COUNTY

No. 93-411-A

May 18, 1993	Petition for Variance to allow two (2) apartment entrance single-face signs each with a total square footage of 8.42 sq. ft. and a third sign of 120 sq. ft. (24 sq. ft. of which is directional) in lieu of one (1) sign of the size permitted (15 sq. ft.).
June 3	Certificate of Posting of property.
June 3	Publication in newspapers.
June 21	Hearing held on Petition by the Deputy Zoning Commissioner.
June 23	Order of the Deputy Zoning Commissioner in which Petition for Variance was GRANTED.
July 12	Notice of Appeal filed by People's Counsel for Baltimore County.
April 7, 1994	Hearing before the Board of Appeals.
May 13	Opinion and Order of the majority of the Board in which the Petition for Variance was GRANTED with conditions and recommendations. (Dissenting Opinion of S. Diane Levero.)
June 13	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Edward C. Covehey, Jr., Esquire and Anthony J. DiPaula, Esquire, on behalf of Brittany Partnership.
June 15	Certificate of Notice sent to interested parties.
June 22	Second Petition for Judicial Review filed in the Circuit Court for Baltimore County by People's Counsel.
July 11	Second Certificate of Notice sent to interested parties.
August 4	Motion to Extend the Time for Transmittal of the Record filed by Anthony DiPaula, Esquire.
August 8	Motion granted by the Circuit Court for Baltimore County to extend transmittal time

for filing to September 12, 1994.

September 12 Transcript of testimony filed.

Petitioner's Exhibits No. 1 - Plan prepared by George W. Stephens & Associates.
2-Photos
A-Entrance sign 8.42 sq. ft. at Old Court and Greenwood.
B-Left-hand entrance sign.
C-Larger sign at rear of property.
3-Aerial photo of location.
4A-Versailles Apt. sign.
4B-Colony Apt. sign.
5-Traffic Analysis for Brittany Apts. - 1993.
6-Traffic Analysis for Brittany Apts. - Jan., Feb. & March, 1994.
7-Letter from State Highway Admin. 8/4/93 to Kotroco.
8-Inter-office memo 6/8/93 to Arnold Jablon from Jeff.

People's Counsel Nos. 1-Advertisement from Sun for Brittany Apts., Feb. 6, '94.
2-ADC Map, P. 25, showing directions outlined in blue.
3-Letter from Gary Bowman to Demilio 4/4/94.
4-Excerpt from the Annotated Code of Md. (2nd pg. of Bowman ltr).

September 12, 1994 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.

Respectfully submitted,

Charlotte E. Radcliffe
Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals of Baltimore
County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: Anthony J. DiPaula, Esquire
People's Counsel for Baltimore County
Brittany Partnership c/o Apartment Services, Inc.

PETITION OF BRITTANY PARTNERSHIP, A MARYLAND GENERAL PARTNERSHIP, BY APARTMENT SERVICES, INC., AGENT FOR BRITTANY 9640 Deereco Road Timonium, MD 21093
FOR JUDICIAL REVIEW OF THE DECISION OF THE BALTIMORE COUNTY BOARD OF APPEALS Old Courthouse, Room 49 400 Washington Avenue Towson, Maryland 21204
IN THE CASE OF THE APPLICATION OF BRITTANY PARTNERSHIP FOR VARIANCES ON PROPERTY LOCATED ON THE NORTH SIDE OF OLD COURT ROAD 36' NORTHWEST OF THE CENTER LINE GREENWOOD ROAD (BRITTANY APARTMENTS) 3RD ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT AGENCY CASE NO. 93-411-A

MOTION TO EXTEND THE TIME FOR TRANSMITTAL OF THE RECORD

Brittany Partnership, Appellant, by its undersigned counsel, moves pursuant to Rule 7-206(d) for an order extending the time for transmittal of the record in this case, and for reasons, states:

1. That Rule 7-206(c) provides that the agency, or in this case the Board of Appeals, shall transmit to the Clerk of the Circuit Court the record of the proceedings within sixty (60) days after receiving the first Petition for Judicial

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Review. The first Petition for Review was filed on June 14, 1994, and notice from the Board was mailed on June 15, 1994.

2. That the time for transmittal of the record expires on or about August 12, 1994.

3. That at the time this appeal was filed, Petitioner simultaneously filed a Motion for Immediate Remand which was deemed appropriate at the time, in the hopes that time and expense could be saved all parties by having the matter simply remanded to the Board for further proceedings before addressing the appeal on the merits. That Motion was argued before the Honorable J. William Hinkel on August 2, 1994, but was denied.

4. That an additional thirty (30) days is now necessary to complete the preparation of the transcript and for the Board to assemble the record for transmittal to the court.

WHEREFORE, the Appellant moves that this Honorable Court extend the time for transmittal of the record for thirty (30) days from August 12, 1994 to September 12, 1994, and for such other and further relief as deemed requisite.

Anthony J. DiPaula
Anthony J. DiPaula
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(410) 828-9441

2

MEMORANDUM OF AUTHORITIES

Rule 7-206(d)
Jacobex v. High Hill Realty, Inc., 22 Md. App. 115 (1974).

Anthony J. DiPaula
Anthony J. DiPaula

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 4 day of August, 1994, a copy of the foregoing Motion to Extend Time for Transmittal of the Record was mailed, first class, postage prepaid to Carole S. Demilio, Deputy People's Counsel for Baltimore County, Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland 21204 and to the Baltimore County Board of Appeals, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland 21204.

Anthony J. DiPaula
Anthony J. DiPaula

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PETITION OF BRITTANY PARTNERSHIP, A MARYLAND GENERAL PARTNERSHIP, BY APARTMENT SERVICES, INC., AGENT FOR BRITTANY 9640 Deereco Road Timonium, MD 21093
FOR JUDICIAL REVIEW OF THE DECISION OF THE BALTIMORE COUNTY BOARD OF APPEALS Old Courthouse, Room 49 400 Washington Avenue Towson, Maryland 21204
IN THE CASE OF THE APPLICATION OF BRITTANY PARTNERSHIP FOR VARIANCES ON PROPERTY LOCATED ON THE NORTH SIDE OF OLD COURT ROAD 36' NORTHWEST OF THE CENTER LINE GREENWOOD ROAD (BRITTANY APARTMENTS) 3RD ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT AGENCY CASE NO. 93-411-A

ORDER

Upon consideration of the Motion to Extend Time for Transmittal of the Record, it is this 8th day of August, 1994, by the Circuit Court for Baltimore County,

ORDERED, that the Motion be and is hereby granted; and IT IS FURTHER ORDERED, that the time for transmittal of the record in this case be and is hereby extended to September 12, 1994.

Anthony J. DiPaula
JUDGE

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COVAHEY & BOOZER, P.A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410 828-9441

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER
MARK S. DEVAN
ANTHONY J. DIPULA
THOMAS R. DORE
ROGER J. SULLIVAN
* ALSO ADMITTED TO O.C.B.A.

FAX 410-823-7530

August 17, 1994

County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

ATTN: Kathleen C. Weidenhammer, Administrative Assistant

RE: COUNTY BOARD OF APPEALS CASE NO.: 93-411-A
BRITTANY PARTNERSHIP
CIRCUIT COURT CASE NO.: 94CV05508

Dear Kathy:

Enclosed please find an Order from the Circuit Court for Baltimore County extending the time for transmittal of the record in this case to September 12, 1994.

Very truly yours,

Anthony J. DiPaula
Anthony J. DiPaula

AJD/ds
8'ds.102
enclosure

cc: Brittany Partnership (with enclosure)
Carolyn Peatt (with enclosure)

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**IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY**

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
ROOM 47, OLD COURTHOUSE
400 WASHINGTON AVENUE
TOWSON, MD 21204

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washington Avenue, Towson, MD 21204

IN THE CASE OF: IN THE MATTER OF BRITTANY PARTNERSHIP FOR VARIANCES ON PROPERTY LOCATED ON THE NORTH SIDE OF OLD COURT ROAD, 36' NORTHWEST OF THE CENTER LINE GREENWOOD ROAD (BRITTANY APARTMENTS) 3RD ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT CASE NO. 93-411-A

CIVIL
ACTION
No. 94-CV-05508
/83/392

SECOND CERTIFICATE OF NOTICE

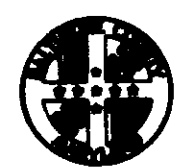
Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, William T. Hackett and Harry E. Buchheister, Jr., constituting a majority of the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, 400 Washington Avenue, Towson, MD 21204, Petitioner; Anthony J. DiPaula, Esquire, COVAHEY & BOOZER, P.A., 614 Bosley Avenue, Towson, Maryland 21204, Counsel for Brittany Partnership; Brittany Partnership c/o Apartment Services, Inc., 9640 Deereco Road, Timonium, Maryland 21093; a copy of which Second Notice is attached hereto and prayed that it may be made a part hereof.

Charlotte E. Radcliffe
Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 - Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Second Certificate of Notice has been mailed to Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, 400 Washington Avenue, Towson, MD 21204, Petitioner; Anthony J. DiPaula, Esquire, COVAHEY & BOOZER, P.A., 614 Bosley Avenue, Towson, Maryland 21204, Counsel for Brittany Partnership; Brittany Partnership c/o Apartment Services, Inc., 9640 Deereco Road, Timonium, Maryland 21093, this 11th day of July, 1994.

Charlotte E. Radcliffe
Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 - Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

July 11, 1994

Anthony J. DiPaola, Esquire
COVAHEY & BOOZER, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: Civil Action No. 94-CV-05508
BRITTANY PARTNERSHIP

Dear Mr. DiPaola:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on June 24, 1994 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 83/392/94-CV-05508.

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

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

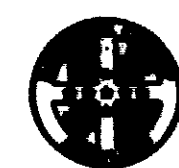
Enclosure

cc: Brittany Partnership
c/o Martha Poehler
Apartment Services, Inc.
James Matis/GW Stephens, Jr.,
and Associates, Inc.
Patrick Keller
Lawrence E. Schmidt
W. Carl Richards, Jr./ZADM
Docket Clerk /ZADM
Arnold Jablon /ZADM

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MICROFILMED



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

July 11, 1994

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Civil Action No. 94-CV-05508
BRITTANY PARTNERSHIP

Dear Mr. Zimmerman:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs 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 within sixty days, in accordance with Rule 7-206(c).

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

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

Enclosure

Printed with Soybean Ink
on Recycled Paper

PETITION OF PEOPLE'S COUNSEL
FOR BALTIMORE COUNTY

IN THE

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF
APPEALS OF BALTIMORE COUNTY

CIRCUIT COURT

IN THE CASE OF:

FOR

IN THE MATTER OF THE APPLICATION OF
BRITTANY PARTNERSHIP FOR VARIANCES
ON PROPERTY LOCATED ON THE NORTH
SIDE OLD COURT ROAD, 36' NORTHWEST
OF CENTER LINE GREENWOOD ROAD
(BRITTANY APARTMENTS)
3rd ELECTION DISTRICT
2nd COUNCILMANIC DISTRICT

BALTIMORE COUNTY

IN THE BALTIMORE COUNTY BOARD OF
APPEALS, CASE NO.: 93-411-A

Civil No. 83/392/94-CV-05508

AMENDMENT BY INTERLINEATION

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Cross-Appellant, hereby amends its Petition for Judicial Review filed in this case on June 22, 1994, as follows:

1. By deleting in the caption, "PETITION OF BRITTANY PARTNERSHIP, A MARYLAND GENERAL PARTNERSHIP, BY APARTMENT SERVICES, INC., AGENT FOR BRITTANY", and inserting in lieu thereof, "PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY".

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of July, 1994, a copy of the foregoing Amendment by Interlineation was mailed to Edward C. Covahey, Jr., Esquire and Anthony J. DiPaola, Esquire, Covahey & Booser, P.A., 614 Bosley Avenue, Towson, MD 21204, attorneys for Brittany Partnership, and a copy was mailed to the County Board of Appeals for Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, MD 21204.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

IN THE MATTER OF THE APPLICATION OF
BRITTANY PARTNERSHIP FOR VARIANCES
ON PROPERTY LOCATED ON THE NORTH
SIDE OF OLD COURT ROAD, 36' NORTHWEST
OF CENTER LINE GREENWOOD ROAD
(BRITTANY APARTMENTS), 3rd ELECTION
DISTRICT, 2nd COUNCILMANIC DISTRICT

BEFORE THE COUNTY
BOARD OF APPEALS
BALTIMORE COUNTY
Case No. 93-411-A

ANSWER TO MOTION TO REOPEN CASE, FOR RECONSIDERATION AND/OR TO
REVISE ORDER OF MAY 13, 1994, AND FOR FURTHER HEARING

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Respondent, files this
Answer to Motion to Reopen Case filed by BRITTANY PARTNERSHIP.

Petitioner, in this matter, and states as follows:

1. That the Petitioner can comply with the conditions set forth
in the Order of the Board of Appeals.
2. That the authority of the Board of Appeals to reopen the case
is limited to Rule 10 of the Appendix of Section 2-354 of the Baltimore
County Code. Rule 10 provides as follows:

"Rule 10. Revisory power of the board.

Within thirty (30) days after the entry of an order, the
board shall have revisory power and control over the order in
the event of fraud, mistake or irregularity."

Petitioner has failed to allege in its Motion to Reopen the Case
evidence to support the authority of the Board to reopen the case; nor
has Petitioner provided evidence of fraud, mistake or irregularity.
3. That the proper procedure in this matter is for the
Petitioner to proceed with a Petition for Judicial Review, which it has
already filed with the Circuit Court for Baltimore County; the Circuit
Court has the authority to remand for further consideration.

4. That there is no provision for the Board of Appeals to reopen
the case and receive additional testimony; the Petitioner had ample
opportunity to present evidence of the topography of the site at the

hearing; the Petitioner cannot now reopen this case to present
testimony and evidence which he failed to present at the hearing of
this matter.

WHEREFORE, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY moves that the
Motion to Reopen Case, for Reconsideration and/or to Revise Order of
May 13, 1994, and for Further Hearing must be denied.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of June, 1994, a copy of the
foregoing Answer to Motion to Reopen Case, for Reconsideration and/or to
Revise Order of May 13, 1994, and for Further Hearing was mailed to Edward
C. Covahey, Jr., Esquire and Anthony J. DiPaola, Esquire, Covahey & Booser,
P.A., 614 Bosley Avenue, Towson, MD 21204, attorneys for Brittany
Partnership.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

PETITION OF BRITTANY PARTNERSHIP,
A MARYLAND GENERAL PARTNERSHIP, BY
APARTMENT SERVICES, INC., AGENT
FOR BRITTANY

IN THE

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF
APPEALS OF BALTIMORE COUNTY

CIRCUIT COURT

FOR

IN THE CASE OF:
IN THE MATTER OF THE APPLICATION OF
BRITTANY PARTNERSHIP FOR VARIANCES
ON PROPERTY LOCATED ON THE NORTH
SIDE OLD COURT ROAD, 36' NORTHWEST
OF CENTER LINE GREENWOOD ROAD
(BRITTANY APARTMENTS)
3rd ELECTION DISTRICT
2nd COUNCILMANIC DISTRICT

BALTIMORE COUNTY

IN THE BALTIMORE COUNTY BOARD OF
APPEALS, CASE NO.: 93-411-A

Civil Action No.
83/392/94-CV-05508

ANSWER TO MOTION FOR IMMEDIATE REMAND

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellee, in response to
the Motion for Immediate Remand filed by Appellant BRITTANY PARTNERSHIP
in this matter, states as follows:

1. The Appellant in this matter filed a Petition for Variance
requesting relief under the Baltimore County Zoning Regulations for a
sign located on the Appellant's property adjacent to Interstate 695;
the Variance requested relief from the height and area regulations of
the Baltimore County Zoning Regulations for an existing sign currently
in violation of the restrictions; the sign had been erected without the
necessary Zoning Variances; the de novo hearing was held before the
Board of Appeals on April 7, 1994 at which time Appellant presented
numerous witnesses in support of its Petition; that in accordance with
the open meetings law, the Board of Appeals set a deliberations date of
April 14, 1994 to render its decision; at that deliberations session,

one Board Member voted in opposition to granting the Variances and two
Board Members voted in favor of the Variances with conditions, that is,
the Appellant herein was not granted the relief requested but granted a
sign Variance conditioned upon the size of the sign, the content of the
sign and its location; that as required by law, the Board of Appeals
incorporated the majority decision in a written Opinion dated May 13,
1994 and the Dissenting Board Member submitted a written Dissenting
Opinion dated May 13, 1994.

2. That in compliance with the open meetings law contained in
State Government Volume Sec. 10-501 of the Annotated Code of Maryland,
the County Board of Appeals held public deliberations on the subject
case; that it would have been inappropriate for the Board to comment on
the location of the sign during the course of presentation of the
evidence by the parties at the C.B.A. hearing; that the Board acted
according to the provisions of the Baltimore County Code in rendering a
decision under an open meetings forum and raised the conditions
granting the sign variance; that at the time of the deliberations the
attorney for Appellant never expressed any difficulty or concern with
the location of the sign based on the topography of the site.

3. That the Appellee agrees with the allegations contained in
Paragraph 5 that the sign shall be located 50 feet southward from its
present location.

4. That Section 2-354 of the Baltimore County Code and the
Appendix thereto sets forth the rules of practice and procedure of the
County Board of Appeals; said Section and Appendix are attached hereto
and incorporated by reference as Exhibit A; that in accordance with
said Rule 10 of Appendix G, the Board of Appeals shall have advisory
power within thirty (30) days after the entry of an Order only in the

event of fraud, mistake, or irregularity; the Appellant has failed to allege nor has evidence of fraud, mistake or irregularity in the Board's Order of May 13, 1994; that the Appellee denies that the Petitioner cannot locate the sign at least 50 feet south of its present location in accordance with said Order.

5. The Appellee believes and avers that the Appellant can comply with the Order of the Board and is frustrating the Board's decision in this matter by attempting to locate the sign closer to its original location and the Beltway.

6. That there is no evidence whatsoever from the members of the Board of Appeals that it favors reopening this case for further testimony and hearing; furthermore, there is no authority for the Board of Appeals to reopen the case.

7. That one of the majority Board Members was personally familiar with the site location and the current illegal sign and was aware of the topography and site at the time said Order was drafted and signed; that Appellee further states that Appellant had ample opportunity at the hearing in this matter to present evidence of the topography of the site; he cannot now reopen this case for his failure to present said evidence.

8. That the appropriate remedy for the Appellant in this matter is to proceed with the Petition for Judicial Review before the Circuit Court for Baltimore County.

WHEREFORE, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY moves that the Motion for Immediate Remand be Denied.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILLO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

REQUEST FOR HEARING

Appellee PEOPLE'S COUNSEL FOR BALTIMORE COUNTY requests a hearing in this matter.

PETER MAX ZIMMERMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of June, 1994, a copy of the foregoing Answer to Motion for Immediate Remand was mailed to Edward C. Covahey, Jr., Esquire and Anthony J. DiPaula, Esquire, Covahey & Booser, P.A., 614 Bosley Avenue, Towson, MD 21204, attorneys for Brittany Partnership.

PETER MAX ZIMMERMAN

PETITION OF BRITTANY PARTNERSHIP,
A MARYLAND GENERAL PARTNERSHIP, BY
APARTMENT SERVICES, INC., AGENT
FOR BRITTANY

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF
APPEALS OF BALTIMORE COUNTY

IN THE CASE OF:
IN THE MATTER OF THE APPLICATION OF
BRITTANY PARTNERSHIP FOR VARIANCES
ON PROPERTY LOCATED ON THE NORTH
SIDE OLD COURT ROAD, 36' NORTHWEST
OF CENTER LINE GREENWOOD ROAD
(BRITTANY APARTMENTS)
3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT
IN THE BALTIMORE COUNTY BOARD OF
APPEALS, CASE NO.: 93-411-A

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

Civil Action No.

83/392/94-CV-05508

PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY hereby requests judicial review of the decision of the County Board of Appeals, in the case of: In the Matter of the Application of Brittany Partnership for Variances on Property Located on the North Side Old Court Road, 36' Northwest of Center Line Greenwood Road (Brittany Apartments), Case No. 93-411-A, dated May 13, 1994. PEOPLE'S COUNSEL was a party to the proceeding before the County Board of Appeals of Baltimore County in this matter.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED AND FILED
JUNE 22 1994

CAROLE S. DEMILLO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of June, 1994, a copy of the foregoing Petition for Judicial Review was mailed to Edward C. Covahey, Jr., Esquire and Anthony J. DiPaula, Esquire, Covahey & Booser, P.A., 614 Bosley Avenue, Towson, MD 21204, attorneys for Brittany Partnership.

PETER MAX ZIMMERMAN

PETITION OF BRITTANY PARTNERSHIP, A MARYLAND GENERAL PARTNERSHIP, BY APARTMENT SERVICES, INC., AGENT FOR BRITTANY 9640 Deereco Road Timonium, Maryland 21093
FOR JUDICIAL REVIEW OF THE DECISION OF THE BALTIMORE COUNTY BOARD OF APPEALS 36' NORTHWEST OF THE CENTER LINE GREENWOOD ROAD (BRITTANY APARTMENTS) 3RD ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT AGENCY CASE NO.: 93-411-A
IN THE CASE OF:
APPLICATION OF BRITTANY PARTNERSHIP FOR VARIANCES ON PROPERTY LOCATED ON THE NORTH SIDE OF OLD COURT ROAD 36' NORTHWEST OF THE CENTER LINE GREENWOOD ROAD (BRITTANY APARTMENTS) 3RD ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT AGENCY CASE NO.: 93-411-A

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

CASE NO.:
83/392/94-CV-05508

PETITION FOR JUDICIAL REVIEW

Brittany Partnership, Appellant, by its undersigned counsel, petitions for judicial review of the Order of the Baltimore County Board of Appeals dated May 13, 1994, and states:

1. That on May 13, 1994, the Board of Appeals of Baltimore County passed an Order granting certain sign variances to the Petitioner under certain "conditions and recommendations".

RECEIVED AND FILED
JUNE 15 1994

JUNE 15 1994

2. That the Appellant herein was the original Petitioner below, and was the Appellee before the Board of Appeals, an appeal having been taken by the People's Counsel for Baltimore County from the Order of the Deputy Zoning Commissioner originally granting the variances.

3. That the Petitioner herein, Brittany Partnership, has standing to seek judicial review in that it was the original Petitioner below, was the Appellee before the Board of Appeals, and appeared at all proceedings prior hereto.

4. That this Appeal is filed only as a protective measure, and attached hereto and incorporated herein by reference is a Motion for Immediate Remand for reasons more fully set forth therein.

Edward C. Covahey, Jr.

Anthony J. DiPaula
Covahey & Booser, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(410) 828-9441
Attorneys for Brittany Partnership

94-06-18.ds

2

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF BRITTANY PARTNERSHIP,
A MARYLAND GENERAL PARTNERSHIP, BY
APARTMENT SERVICES, INC.,
AGENT FOR BRITTANY
9640 Deereco Road
Timonium, Maryland 21093

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204
IN THE CASE OF: IN THE MATTER OF
BRITTANY PARTNERSHIP FOR VARIANCES
ON PROPERTY LOCATED ON THE NORTH SIDE
OF OLD COURT ROAD, 36' NORTHWEST OF THE
CENTER LINE GREENWOOD ROAD
(BRITTANY APARTMENTS)
3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT
CASE NO. 93-411-A

CIVIL
ACTION
No. 94-CV-05508
783/392

CERTIFICATE OF NOTICE

Madam Clerk:

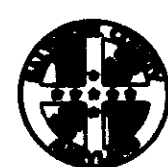
Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, William T. Hackett and Harry E. Buchheister, Jr., constituting a majority of the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Anthony J. DiPaula, Esquire, COVAHEY & BOOSER, P.A., 614 Bosley Avenue, Towson, Maryland 21204, Counsel for Petitioner; Brittany Partnership c/o Apartment Services, Inc., 9640 Deereco Road, Timonium, Maryland 21093, Petitioner; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Washington Avenue, Towson, Maryland 21204; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Charlotte E. Radcliffe
Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

93-411-A, Brittany Partnership
File No. 94-CV-05508/83/392

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Anthony J. DiPaula, Esquire, COVAHEY & BOOSER, P.A., 614 Bosley Avenue, Towson, Maryland 21204, Counsel for Petitioner; Brittany Partnership c/o Apartment Services, Inc., 9640 Deereco Road, Timonium, Maryland 21093, Petitioner; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Washington Avenue, Towson, Maryland 21204, this 15th day of June, 1994.

Charlotte E. Radcliffe
Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 15, 1994

Anthony J. DiPaula, Esquire
COVAHEY & BOOZER, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: Civil Action No. 94-CV-05508
BRITTANY PARTNERSHIP

Dear Mr. DiPaula:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs 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 within sixty days, in accordance with Rule 7-206(c).

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

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Brittany Partnership
c/o Martha Poehler
Apartment Services, Inc.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 15, 1994

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Civil Action No. 94-CV-05508
BRITTANY PARTNERSHIP

Dear Mr. Zimmerman:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on June 13, 1994 in the Circuit Court for Baltimore County from the majority decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 83/392/94-CV-05508.

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

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: James Matis/ GW Stephens, Jr.,
and Associates, Inc.
Patrick Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr./ZADM
Docket Clerk /ZADM
Arnold Jablon /ZADM

4-7-94

PETITION OF BRITTANY PARTNERSHIP, A MARYLAND GENERAL PARTNERSHIP, BY APPLICANT SERVICE, INC., AGENT FOR BRITTANY PARTNERSHIP, 3640 Deane Road, Towson, Maryland 21204

FOR JUDICIAL REVIEW OF THE DECISION OF THE BALTIMORE COUNTY BOARD OF APPEALS Old Courthouse, Room 49 400 Washington Avenue Towson, Maryland 21204

IN THE CASE OF THE APPLICATION OF BRITTANY PARTNERSHIP FOR VARIANCES ON PROPERTY LOCATED ON THE NORTH SIDE OF OLD COURT ROAD 36' NORTHWEST OF THE CENTER LINE GREENWOOD ROAD (BRITTANY APARTMENTS) 3RD ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT AGENCY CASE NO.: 93-411-A

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
CASE NO.:

MOTION FOR IMMEDIATE REMAND

Brittany Partnership, Petitioner/Appellant, by its undersigned counsel, hereby moves for immediate and/or summary remand of this action back to the Baltimore County Board of Appeals, and for reasons, states:

1. That this matter was tried before the Board of Appeals on April 7, 1994.
2. That on April 14, 1994, the parties appeared before the Board of Appeals for its public deliberations at which time the three (3) Board members publicly stated their

positions in the case. The Board voted 2 to 1 in favor of granting the sign variances requested.

3. That one of the Board members voting in favor of the grant also requested that there be certain conditions placed upon the grant, which conditions, after further deliberations with the other Board member voting affirmatively, became "conditions and recommendations" within the granting Order. A copy of the Order is attached hereto and incorporated herein by reference as Exhibit A.

4. That it was at the public deliberations hearing that it was first learned that one of the Board members felt it appropriate to require that the existing sign be moved from its present location. This issue had never come up during the course of the hearing when testimony and evidence was produced.

5. That condition No. 1 in the Board's Order as passed requires that the existing sign be relocated 50 feet southward from its present location.

6. That it is the position of the Petitioner herein that moving the sign as required is not possible due to the topography of the land and certain natural obstructions on the State Highway property between the Petitioner's property and Interstate 695 which the sign faces.

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7. That on or about June 10, 1994, Petitioner filed a Motion to Reopen Case, for Reconsideration and/or to Revise the Order of May 13, 1994, and for Further Hearing, in that it is believed and therefore averred that if given the opportunity to present testimony and evidence, topographical surveys, and photographs, the Board will revise its Order on the issue of moving the sign, and either require that it be moved to a different location, or not moved at all. A copy of the Motion to Reopen is attached hereto and incorporated herein by reference as Exhibit B.

8. That because the issue of moving the sign never came up during the hearing in the case, and essentially this condition "came out of the blue", there is no evidence in the record concerning the feasibility, advisability, or practicability of relocating the existing identification sign which has been in its present location for approximately 30 years. It is further believed and therefore averred that in the absence of such evidence in the record, the ultimate action that this Court would take would be to summarily remand the case so that the Board could take such evidence and testimony and create a complete record.

9. That it is further believed and therefore averred that the Board was and continues to be ready, willing and able

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to reopen this matter and reschedule the case for further hearing to determine whether condition No. 1 in its Order of May 13, 1994 should be revised or permitted to stand, but the docketing of this appeal became necessary as a safety measure so as not to preclude the Petitioner's ability to challenge that condition as part of the original Order should the Board later decide not to revise same, and further there is no provision for a stay of the Board's original Order pending a reconsideration of the issue.

10. That a summary remand of this case is appropriate in that it protects the rights of all the parties, allows the Board of Appeals the opportunity to compile a complete record which, if challenged before this Court, will support the "conditions and recommendations" that it placed upon the granting of the sign variances requested, while preserving the Petitioner's right to challenge the underlying decision, if necessary, rather than just being able to challenge the Board's action or inaction upon further hearing on a Motion to Revise at some later date.

WHEREFORE, Brittany Partnership moves that this Honorable Court:

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- A. Remand this case summarily to the Baltimore County Board of Appeals for further hearing to support condition and recommendation No. 1 of its Order of May 13, 1994; and
- B. Grant unto the Petitioner such other and further relief as the nature of its cause may require.

Edward C. Covashey, Jr.
Edward C. Covashey, Jr.

Anthony J. DiPaula
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(410) 828-9441

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 13th day of June, 1994, a copy of the foregoing Motion for Immediate Remand was hand delivered to Baltimore County Board of Appeals, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland 21204 and Carole Demilio, Deputy People's Counsel, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

Anthony J. DiPaula
Anthony J. DiPaula

94-06-19.ds

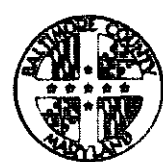
5

REQUEST FOR HEARING

Brittany Partnership, Appellant, respectfully requests a hearing on the its Motion for Immediate Remand.

Anthony J. DiPaula
Anthony J. DiPaula

8



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue
October 12, 1993

NOTICE OF POSTPONEMENT & REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH 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. 93-411-A

BRITTANY PARTNERSHIP
N/s Old Court Road, 36' NW of the c/1
Greenwood Road (Brittany Apartments)
3rd Election District
2nd Councilmanic District

VAR -Two apartment entrance signs with total square footage of 8.42 sq. ft. and a third sign of 120 sq. ft. in lieu of one sign of 15 sq. ft. as permitted for apartments.

6/23/93 -D.Z.C.'s Order in which Petition for Variance is GRANTED.

which was scheduled to be heard on October 12, 1993 was POSTPONED and reassigned on the record to the following date; and has been

REASSIGNED FOR: WEDNESDAY, JANUARY 12, 1994 at 10:00 a.m.

cc: People's Counsel for Baltimore County Appellant
Anthony J. DiPaula, Esquire Counsel for Petitioner
Martha Poehler, Exec. V.P. Apartment Services, Inc. Petitioner
James Matis /GW Stephens, Jr. & Assoc., Inc. Engineer
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue
January 13, 1994

SECOND NOTICE OF POSTPONEMENT & REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH 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. 93-411-A

BRITTANY PARTNERSHIP
N/s Old Court Road, 36' NW of the c/1
Greenwood Road (Brittany Apartments)
3rd Election District
2nd Councilmanic District

VAR -Two apartment entrance signs with total square footage of 8.42 sq. ft. and a third sign of 120 sq. ft. in lieu of one sign of 15 sq. ft. as permitted for apartments.

6/23/93 -D.Z.C.'s Order in which Petition for Variance is GRANTED.

which was scheduled to be heard on January 12, 1993 was POSTPONED and reassigned on the record to the following date; and has been

REASSIGNED FOR: TUESDAY, MARCH 29, 1994 at 10:00 a.m.

cc: People's Counsel for Baltimore County Appellant
Anthony J. DiPaula, Esquire Counsel for Petitioner
Martha Poehler, Exec. V.P. Apartment Services, Inc. Petitioner
James Matis /GW Stephens, Jr. & Assoc., Inc. Engineer
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue
January 25, 1994

THIRD NOTICE OF POSTPONEMENT & REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH 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. 93-411-A

BRITTANY PARTNERSHIP
N/s Old Court Road, 36' NW of the c/1
Greenwood Road (Brittany Apartments)
3rd Election District
2nd Councilmanic District

VAR -Two apartment entrance signs with total square footage of 8.42 sq. ft. and a third sign of 120 sq. ft. in lieu of one sign of 15 sq. ft. as permitted for apartments.

6/23/93 -D.Z.C.'s Order in which Petition for Variance is GRANTED.

which was scheduled to be heard on March 29, 1994 has been POSTPONED at the request of Counsel for Petitioner and reassigned to the following date (after Board's confirmation with Counsel); and has been

REASSIGNED FOR: THURSDAY, APRIL 7, 1994 at 10:00 a.m.

cc: People's Counsel for Baltimore County Appellant
Anthony J. DiPaula, Esquire Counsel for Petitioner
Martha Poehler, Exec. V.P. Apartment Services, Inc. Petitioner
James Matis /GW Stephens, Jr. & Assoc., Inc. Engineer
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 11, 1993

Anthony J. DiPaula, Esquire
614 Bosley Avenue
Towson, MD 21204

RE: Case No. 93-411-A, Item No. 416
Petitioner: Brittany Partnership
Petition for Variance

Dear Mr. DiPaula:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, 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 May 18, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Zoning Plans Advisory Committee Comments
Date: June 11, 1993
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

Very truly yours,

W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Coordinator

MCR:hek

Enclosures



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

HELENE KEHRING
Ms. Julia Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: +416 (107)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is 410-333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-482-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

DATE: June 8, 1993

SUBJECT: Brittany Apartments

INFORMATION:

Item Number: 416

Petitioner: Brittany Partnership

Property Size:

Zoning: D.R. 16

Requested Action:

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

Staff consistently offers its opposition to requests for sign variances in cases where the subject signs can be viewed from interstate highways. Due to the distracting nature of such signs, traffic safety and issues relating to visual clutter must be considered. In the instant case, the 120 square foot sign has existed on site for some time, and, therefore, it would not be practical or reasonable to recommend that the sign be removed.

Should the applicant's request be granted, staff recommends that any such approval be conditioned so as to prevent additional temporary signs or seasonal banners.

Prepared by: Jeffrey M. Long

Division Chief: Gary Kerna

PK/JL:lw

MICROFILMED

Pg. 1

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee Date: May 27, 1993
Captain Jerry Pfeifer
FROM: Fire Department
SUBJECT: Comments for 06/08/93 Meeting

Item 405	Building shall comply with applicable provisions of the 1991 Life Safety Code.
Item 416	No Comments
Item 417	No Comments
Item 418	No Comments
Item 419	No Comments
Item 420	No Comments
Item 421	No Comments
Item 422	No Comments
Item 423	No Comments
Item 424	No Comments

JP/dmc

RECEIVED
MAY 28 1993

ZADM

CPS-008



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 13, 1993

Anthony J. DiPaula, Esquire
Covachy & Booser
618 Rosley Avenue
Towson, MD 21204

RE: Petition for Variance
N/S Old Court Road, 36' NW of the
c/l of Greenwood Road
Brittany Apartments
3rd Election District
2nd Councilmanic District
Brittany Partnership-PETITIONER
Case No. 93-411-A

Dear Mr. DiPaula:

Please be advised that an appeal of the above-referenced case was
filed in this office on July 12, 1993 by People's Counsel. All
material relative to the case have been forwarded to the Board of
Appeals.

If you have any questions concerning this matter, please do not
hesitate to contact Julie Winiarski at 887-3353.

Sincerely,

KATHLEEN C. WEIDENHAMMER
Administrative Assistant

AJ:jaw

cc: People's Counsel

APPEAL

Petition for Variance
N/S Old Court Road, 36' NW of the c/l of Greenwood Road
(Brittany Apartments)
3rd Election District - 2nd Councilmanic District
Brittany Partnership-PETITIONER
Case No. 93-411-A

Petition(s) for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Plans Advisory Committee Comments

Petitioner(s) Sign-In Sheets

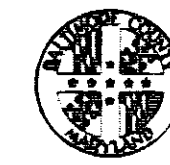
Petitioner's Exhibits: 1 - Plat to Accompany Zoning Petition
2 - The Brittany
3 - Traffic Analysis

Deputy Zoning Commissioner's Order dated June 23, 1993 (granted)

Notice of Appeal received on July 12, 1993 from People's Counsel

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

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 7, 1994

NOTICE OF DELIBERATION

As indicated at the conclusion of the hearing on April 7, 1994, the
County Board of Appeals has scheduled the following date and time for
deliberation in the matter of:

BRITTANY PARTNERSHIP -PETITIONER
CASE NO. 93-411-A

DATE AND TIME : Thursday, April 14, 1994 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

cc: People's Counsel for Baltimore County

Appellant
Anthony J. DiPaula, Esquire Counsel for Petitioner
Martha Poshler, Exec. V.P. Apartment Services, Inc. Petitioner
James Matis /GW Stephens, Jr. & Assoc., Inc. Engineer

P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Brittany Partnership (Brittany Apartments)
Case No. 93-411-A

DATE : April 14, 1994

BOARD /PANEL : William T. Hackett (WTH)
Harry E. Buchheister, Jr. (HEB)
S. Diane Levero (SDL)

SECRETARY : Kathleen C. Weidenhammer
Administrative Assistant

Those present included Anthony DiPaula, Esquire, Counsel for
Petitioner; and Carole S. Demilio, Deputy People's Counsel for
Baltimore County.

PURPOSE --to deliberate issues and matter of requested variance
for signs /petition filed by Brittany Partnership; testimony and
evidence received on April 7, 1994.

Opening comments by Chairman Hackett as to issues being deliberated,
case name and number.

WTH: Discussed review of notes; reviewed exhibits (photos, etc.); in
his opinion, large sign should remain there, but advertising
element of sign ("Now Leasing") should be deleted. Believes sign
to be unique for number of reasons: (1) Has been there since
1968; property completely hidden; requires some kind of
identification; would be hardship on petitioner if sign was
removed; (2) also unique because property just about touches the
beltway; 15-ft sign, which is what would be permitted, would be
useless in this location. Will grant variance on size of sign;
restriction that advertising element be removed; should be
directional sign only, and not advertising sign.

Summary: Petition for Variance should be granted as suggested.

SDL: Disagrees with WTH; emphasis in testimony was on need for sign;
Petitioner sought to prove that denial would cause practical
difficulty and undue hardship; sign gives directional aid to
visitors; no question that sign is important to increasing
traffic (persons inquiring about rental, etc.); testimony and
evidence show sign works for 35 percent of traffic; also, complex
is screened to make it attractive; appears to be partly self-
imposed hardship; believes Petitioner did not meet burden of
proof; would therefore deny petition for variance for Sign C;
Signs A and B can be granted.

Summary: Would deny variance for Sign C; grant for Signs A and
B only.

Deliberation /Brittany Partnership Case No. 93-411-A

HEB: Reviewed variances as requested by Petitioner for all three
signs; regarding single-faced signs at entrance, testimony
indicated that the location of these signs in place for many
years; some 400 ft from closest main access road; request is
reasonable and in his opinion granting of variance. Also
reviewed testimony and evidence regarding large sign of 120 sq.
ft. located on the Beltway property; present since the late
1960's; familiar with location; agrees that complex is screened
from public view; Petitioner's inability to utilize location on
Old Court Road for sign makes it clear that practical difficulty
would result if this requested variance was not granted.
However, existing sign as pictured on exhibit 2C is not unlike
temporary signs for advertisement purposes erected during
construction phase; existing sign appears more commercial
advertisement and not directional; also referred to other
exhibits entered (i.e., photos of Colony and Versailles apartment
complexes); discussed design, lettering, temporary lack of
Brittany sign; also believes reference to "now leasing" should be
removed (advertising not directional); also discussed possible
shadings for sign, etc.

NOTE: At this point, question raised by Ms. Demilio regarding
Chairman Hackett's final decision as to variances requested; i.e., no
determination made as to two single-faced signs.

WTH: Will grant requested variance for two small signs.

HEB: Concluded his comments; granting of the larger sign would be
conditioned on restrictions; does not agree with location; also
advertising aspect of sign.

Further deliberation continued between Board members, particularly
regarding Board's authority to impose restrictions as suggested by
HEB.

Chairman Hackett then summarized final decision reached as follows:
Will grant Petition for Variance for small signs as requested; will
grant variance for larger sign contingent upon recommendations
suggested by HEB. SDL will dissent on the granting of the large sign;
signs A & B to be granted.

Written final Opinion and Order to be issued by Board; Dissent as to
larger sign to be written by Ms. Levero; appellate period to run from
date of written Opinion and Order.

Respectfully submitted,

KATHLEEN C. WEIDENHAMMER
Administrative Assistant

Section 413--SIGNS [B.C.Z.R., 1955.]

413.1--The following signs are permitted in any zone, as limited
in Section 413.5 (see also Section 14-26 of the Baltimore County
Code, 1966, and Section 600 of these Regulations); if illuminated
they shall be of an enclosed lamp design, nonflashing, containing
no colored illumination, and may also be of the reflector type:
[B.C.Z.R., 1955 and Bill No. 172, 1977.]

A. A sign indicating the name or number of the owner and/or
premises or the accessory use of a dwelling for a home
occupation or for professional purposes, provided that such
sign shall not exceed one square foot in area: [B.C.Z.R.,
1955.]

B. One bulletin board on church, school, or college property,
not over 30 square feet in area; [B.C.Z.R., 1955.]

C. A sign on a farm, noting the sale of articles grown or
produced on the premises, provided that such sign shall not
exceed 30 square feet in area, shall be at least 10 feet from
any public right-of-way and at least 50 feet from the nearest
corner of a road intersection; [B.C.Z.R., 1955.]

D. A sign, not exceeding 15 square feet in area, in connection
with an apartment building or project in which a rental
office is located; also for a dwelling converted into a tea
room or restaurant; [B.C.Z.R., 1955.]

E. Directional or information signs of a public or quasi-public
nature, not exceeding 15 square feet in area. Such signs
shall contain no advertising matter, and shall not be
illuminated, but may be of the beaded reflector type. They
may state: [B.C.Z.R., 1955.]

1. Name or location of a community or of a public or quasi-
public institution or other building, or the name of
place of meeting of an official or civic body, such as a
Chamber of Commerce or Rotary or Kiwanis Club.
[B.C.Z.R., 1955.]

2. Temporary signs noting an event of general interest
such as a county fair, public or general election, horse
show, etc. Such sign shall be removed within ten days
after the event. B.C.Z.R., 1955.]

3. Signs-directional, informational, or warning in
character, involving no advertising aspect, and each not
exceeding 25 square feet in area. [B.C.Z.R., 1955.]

7/26/93 -Notice of Assignment for hearing scheduled for Tuesday, October
12, 1993 at 10:00 a.m. sent to following:

People's Counsel for Baltimore County
Anthony J. DiPaula, Esquire
Martha Poshler, Exec. V.P.
Apartment Services, Inc.
James Matis /GW Stephens, Jr. & Assoc., Inc.
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

10/12/93 -Scheduled for hearing. Upon notification that Mr. Jablon is party
through partnership, attempt made to substitute Clerk & Lipsitz;
attempt unsuccessful. Case therefore postponed on the record to
avoid the appearance of any conflict and reassigned to 1/12/94
at 10:00 a.m., new date having been confirmed as available for
all parties. (NO S-L-C on this case)

- Notice of PP and Reassignment sent to above parties; case reassigned
to Wednesday, January 12, 1994 at 10:00 a.m.

1/12/94 -Postponement granted on the record due to unavailability of witness;
matter to be reassigned for hearing on March 29, 1994 at 10:00 a.m.;
date confirmed with counsel. Notice of PP and Reassignment to be sent.

1/13/94 -Notice of PP and Reassignment (Second) sent to above parties; case
reset to Tuesday, March 29, 1994 at 10:00 a.m.

7/21/94 -Letter from Anthony DiPaula, Esquire, requesting consideration of a
postponement request from reassigned date of 3/29/94 due to unavailability
of witness on that date (a fact unknown at the time this date was agreed
upon) and including a copy of a letter from said witness explaining said
unavailability.

- T/C from T. DiPaula, Esq. -copy of the above request was sent to
People's Counsel, although not noted on original letter. Also --
he will get back to me early week of 1/24/94 --will verify how
long or for what exact period Ms. Poshler (witness) will be out of
town.

1/25/94 -Notice of PP and Reassignment sent to parties; case reassigned to
Thursday, April 7, 1994 at 10:00 a.m. (confirmed availability w/
Anthony DiPaula and Carole Demilio prior to rescheduling).

4/07/94 - Hearing concluded before Board; case set for public deliberation on
Thursday, April 14, 1994 at 9:30 a.m.; Notice of Deliberation sent
to parties and H.B.M.

Brittany Partnership
Case No. 93-411-A

6/10/94 -Motion to Reopen and revise and schedule for hearing filed by
Tony DiPaula, Esquire, Counsel for Petitioner; request additional
testimony/evidence be accepted by the Board regarding restriction/
condition #1 regarding moving sign 50 feet; problems due to topography,
etc.

6/13/94 -T/C from Tony DiPaula, Esquire; considering filing Petition for Judicial
Review in Circuit Court before end of day; would be requesting Ct to
remand matter to Board for purpose of reopening and taking additional
testimony/evidence regarding recommendation/condition #1 of Board's
original order. (This action would remove matter from Board's jurisdiction,
thereby making any action on previously filed Motion impossible. Will
await further comments from Counsel for Petitioner re whether or not
Petition has been filed in the Circuit Court this date.)



**Maryland Department of Transportation
State Highway Administration**

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

People's Counsel
EX 3

April 4, 1994

Ms. Carol Demilio
Baltimore County Peoples Council Office
Old Courthouse - Room 47
400 Washington Avenue
Towson, Maryland 21204

RE: Board of Appeals
Case No.: 93-411-A

Dear Ms. Demilio:

This is a follow up to our recent telephone conversation concerning regulations governing on-premise signs adjacent to interstate highways.

The Annotated Code of Maryland, Section 8-744, (copy enclosed), states that on-premise signs near interstate highways are permitted, if they are erected in accordance with local zoning laws and ordinances. We also request local subdivisions to submit copies of all proposed sign permit applications to this office, for review and approval.

I hope that I have adequately addressed your concerns. Please feel free to contact me, if you have any further questions.

Sincerely,
Gary W. Bowman, Chief
Outdoor Advertising Section

GWB:lrg

Enclosure: Annotated Code of Md. 8-744

My telephone number is (410) 333-1640
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

§ 8-744. Regulation of on premise outdoor signs.

(i) The taking from the owner of the outdoor sign of all interest in the sign; and

(ii) The taking from the owner of the land on which the outdoor sign is located of the right to erect and maintain outdoor signs at that location.

(3) The Administration is not required to spend any funds under the federal Highway Beautification Act of 1965 and the Federal-Aid Highway Amendment of 1974, until appropriate matching federal funds are available to this State under these acts.

(c) **Limitations.** — Compensation may not be paid for any outdoor sign erected after July 1, 1975, in violation of this part. (An. Code 1967, art. 89B, §§ 233, 233A, 233B; 1977, ch. 13, § 2.)

Cited in Mayor of Baltimore v. Foster & Kleiser, 46 Md. App. 168, 416 A.2d 762 (1980).

§ 8-745. Compensation for removal of sign adjacent to interstate highway.

(a) **Removal of signs prohibited without just compensation.** — A county or municipality may not remove an outdoor sign which is adjacent to an interstate highway and which was lawfully erected and maintained under State law and in existence on or after November 6, 1978 unless just compensation is paid by the Administration.

(b) **Expenditures contingent upon matching federal funds.** — The Administration is not required to spend any funds under this section until appropriate matching federal funds are available to the State.

TRAFFIC ANALYSIS
THE BRITTANY APARTMENTS 1993

WEEK ENDING:	Total Traffic:	No. from Sign	% from Sign
FEBRUARY			
2/04/93	15	5	
2/11/93	11	6	
2/18/93	13	6	
2/25/93	12	6	
	51	23	45%
MARCH			
3/04/93	6	2	
3/11/93	13	7	
3/18/93	10	3	
3/25/93	22	8	
	51	20	39%
APRIL			
4/01/93	22	7	
4/08/93	12	5	
4/15/93	5	2	
4/22/93	13	4	
4/29/93	12	6	
	64	24	37%
MAY			
5/06/93	9	3	
5/13/93	14	4	
5/20/93	10	4	
5/27/93	10	3	
	43	15	32%

PETITIONER'S
EXHIBIT 3

TRAFFIC ANALYSIS
THE BRITTANY APARTMENTS 1993

WEEK ENDING:	Total Traffic:	No. from Sign	% from Sign
FEBRUARY			
2/04/93	15	5	
2/11/93	11	6	
2/18/93	13	6	
2/25/93	12	6	
	51	23	45%
MARCH			
3/04/93	6	2	
3/11/93	13	7	
3/18/93	10	3	
3/25/93	22	8	
	51	20	39%
APRIL			
4/01/93	22	7	
4/08/93	12	5	
4/15/93	5	2	
4/22/93	13	4	
4/29/93	12	6	
	64	24	37%
MAY			
5/06/93	9	3	
5/13/93	14	4	
5/20/93	10	4	
5/27/93	10	3	
	43	15	32%

PET EX 5

TRAFFIC ANALYSIS
THE BRITTANY APARTMENTS 1994

WEEK ENDING:	Total Traffic:	No. from Sign	% from Sign
JANUARY			
1/06/94	7	5	
1/13/94	10	2	
1/20/94	4	4	
1/27/94	9	1	
	29	12	41%
FEBRUARY			
2/04/94	7	4	
2/10/94	11	3	
2/17/94	8	5	
2/24/94	13	4	
	39	16	41%
MARCH			
3/03/94	10	5	
3/10/94	10	6	
3/17/94	14	5	
3/24/94	15	6	
	49	22	44%

Total traffic 1994.....117
% from sign..... 42%

PET EX 6

**Maryland Department of Transportation
State Highway Administration**

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

August 4, 1993

Mr. Timothy M. Kotrocco, Deputy Commissioner
Baltimore County Zoning Administration
Development Management
111 Chesapeake Avenue
Towson MD 21204

Dear Mr. Kotrocco:

This letter is to inform you that I was asked to investigate and inspect the area concerning the "New Brittany" sign (Case No. 92-411-A, Item No. 416) for the Brittany apartments complex at 4 Deauville Court, Pikesville, Maryland 21208.

I inspected the area on July 22, 1993 and found that the sign in question is on the property that is being advertised. Therefore, it is classified as an on-premise sign and this office has no objection to the present location.

I may be contacted at (410) 321-3403 if there be any questions.

Sincerely,
Jesse L. Parker
Outdoor Advertising Inspector
District 4

JLP/min

cc: Mr. Maria Poehler, Vice President
Apartment Services
9640 Deereco Road
Timonium MD 21093
Bary W. Bowman, OA Section

8/9/93
Copy to Tony D. Parker
Ted

My telephone number is (410) 321-3403 FAX (410) 321-3004
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro • 565-0451 D.C. Metro • 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

RECEIVED AUG 6 1993

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration & Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

DATE: June 8, 1993

SUBJECT: Brittany Apartments

INFORMATION:

Item Number: 416

Petitioner: Brittany Partnership

Property Size: _____

Zoning: D.R. 16

Requested Action: _____

Hearing Date: _____

SUMMARY OF RECOMMENDATIONS:

Staff consistently offers its opposition to requests for sign variances in cases where the subject signs can be viewed from interstate highways. Due to the distracting nature of such signs, traffic safety and issues relating to visual clutter must be considered. In the instant case, the 120 square foot sign has existed on site for some time, and, therefore, it would not be practical or reasonable to recommend that the sign be removed.

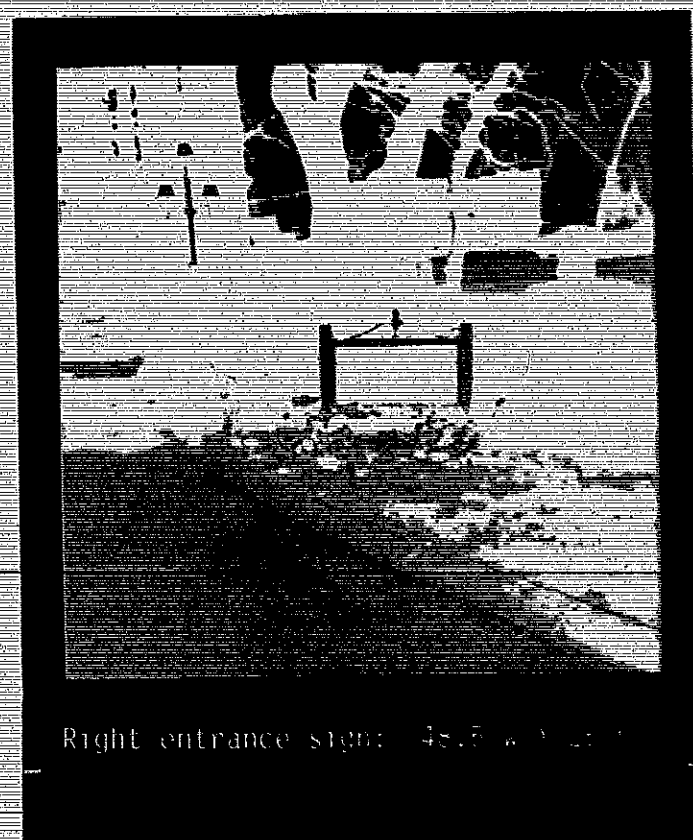
Should the applicant's request be granted, staff recommends that any such approval be conditioned so as to prevent additional temporary signs or seasonal banners.

Prepared by: Jeffery W. Long
Division Chief: Gary Kenna
PK/JL:lw

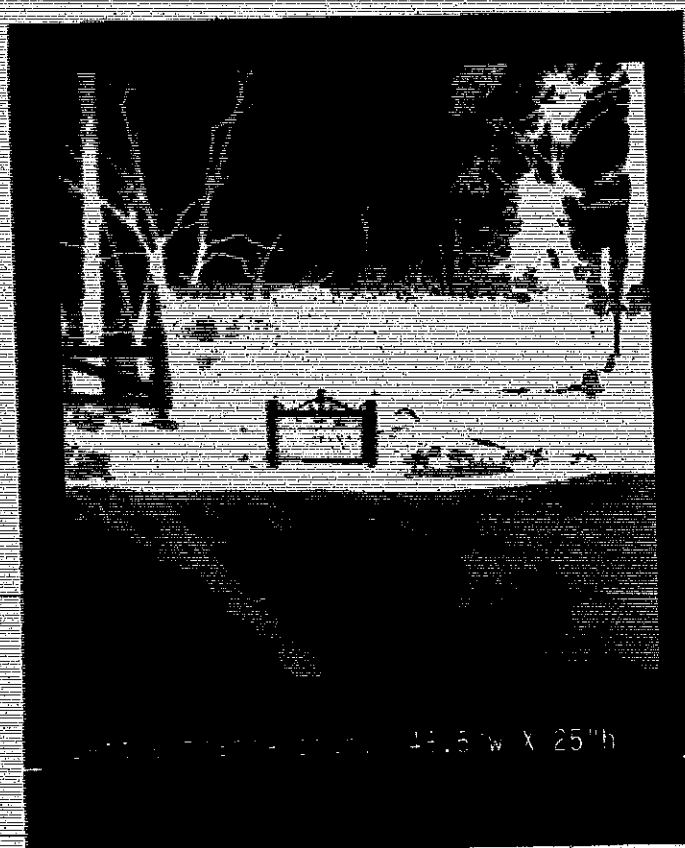
416.7AC/2AC1

Pg. 1

Petitioners 2A-2C
Photos
#15 and R
App. Easing Partnership



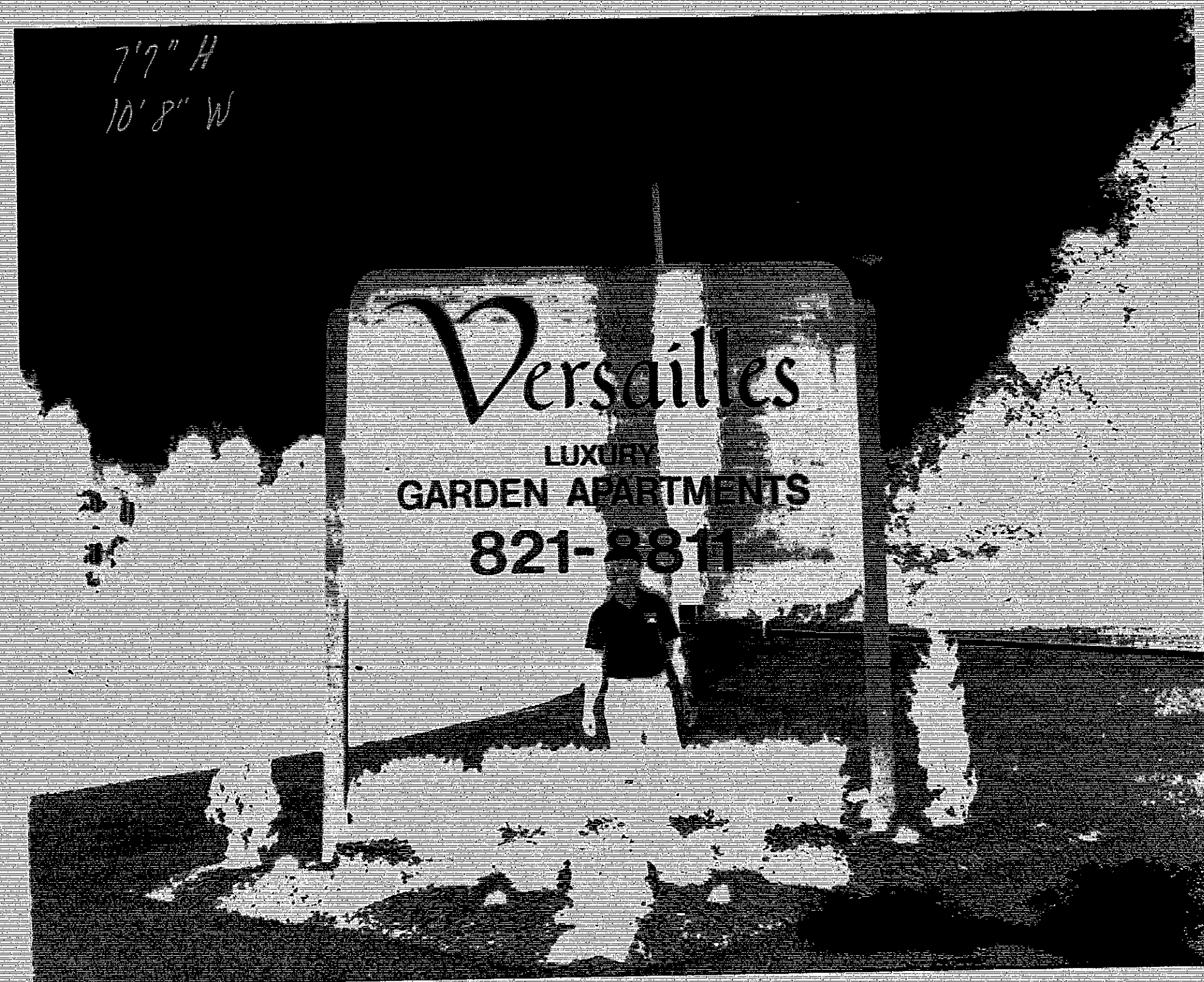
Right entrance sign: 42.5' x 12.5'



Left entrance sign: 25.5' x 25'



Sign Dimensions: 12' x 8' (96 sq. ft.)
(excluding 6' from backboard, etc.)



7'9" H
10'8" W

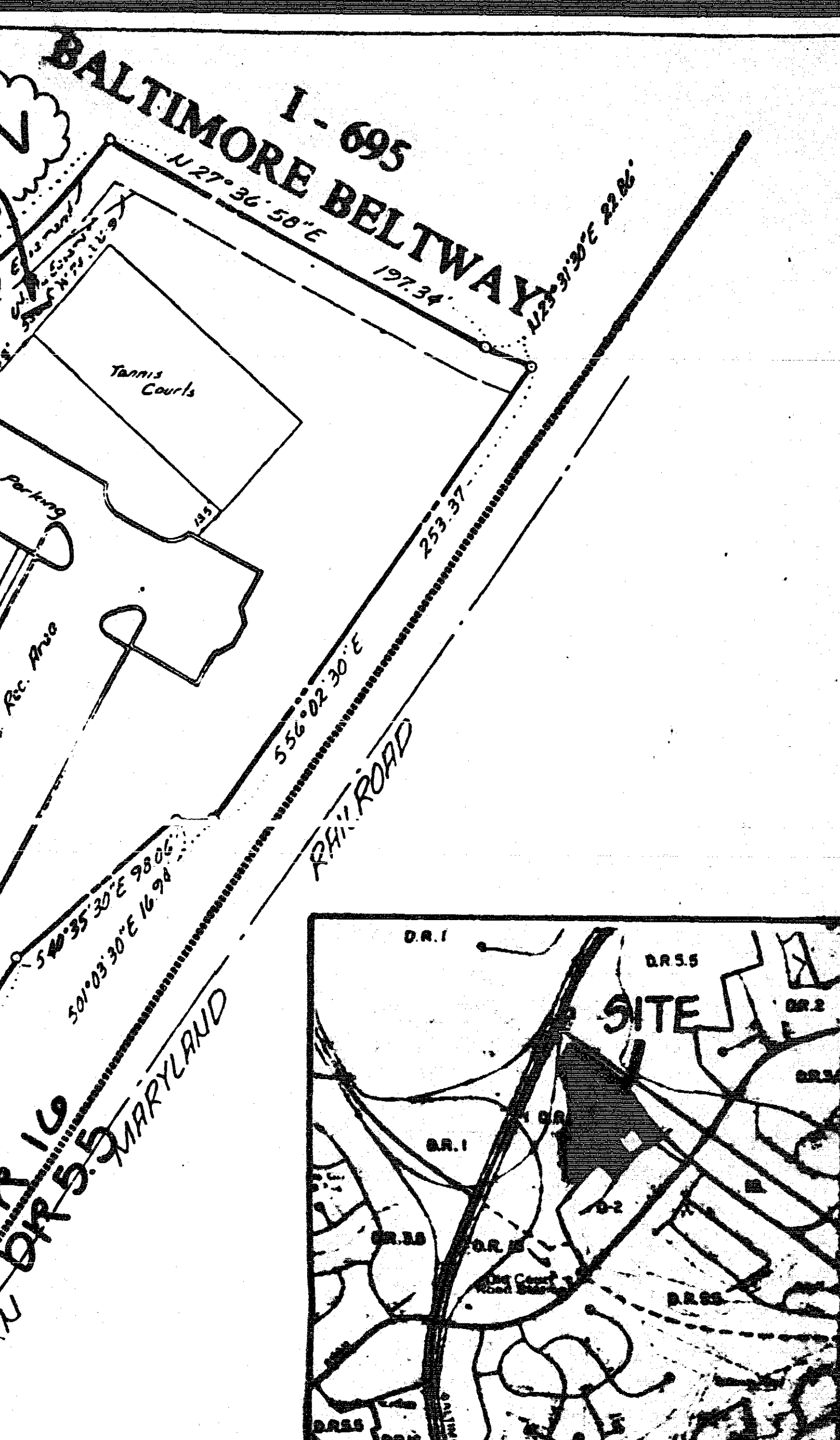
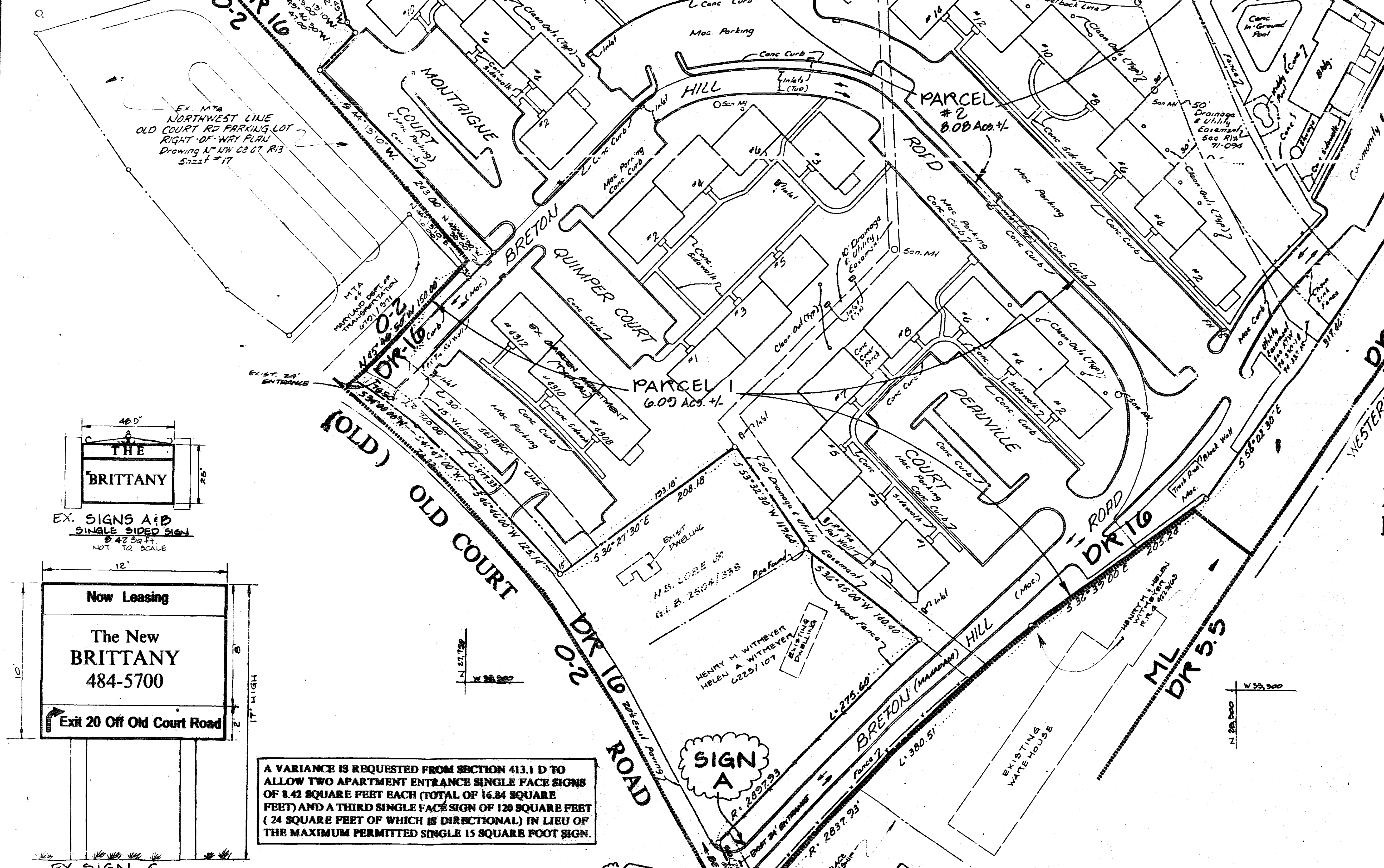


5' H
30' W





VICINITY MAP
SCALE 1" = 2000'



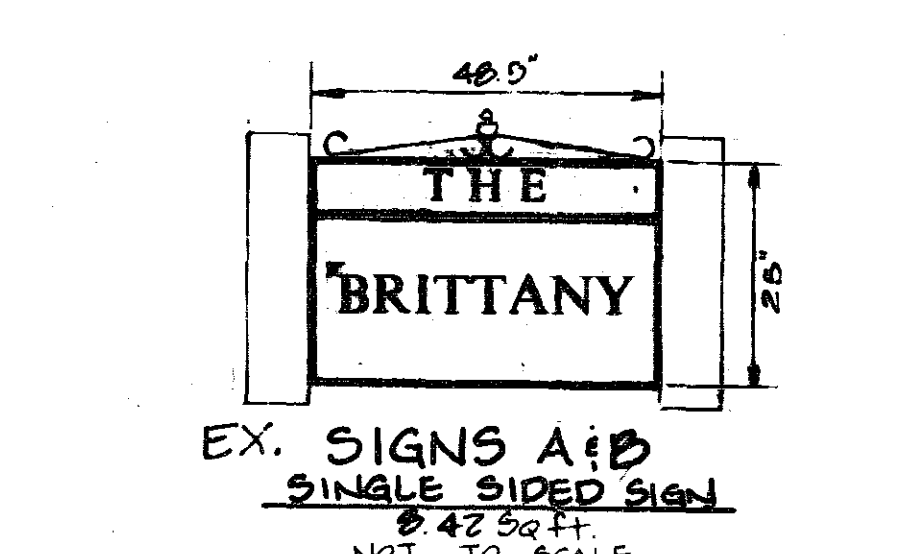
LOCATION MAP
PART OF ZONING MAP E-2
SCALE 1" = 1000'

PETITIONER'S EXHIBIT 1

SITE DATA

GROSS AREA OF SITE 14.41 ACRES
NET AREA OF SITE 14.17 ACRES
EXISTING ZONING DR 16
PRESENT USE 210 UNIT GARDEN APARTMENT COMPLEX
PROPOSED USE 210 UNIT GARDEN APARTMENT COMPLEX
PLAT REFERENCE OTG 34 FOLIO 115
DEED REFERENCE 6380/990
TAX ACCOUNT NUMBER 190002904 & 5
COUNCILMANIC DISTRICT 2
PREVIOUS COMMERCIAL PERMITS UNKNOWN
PREVIOUS ZONING HEARINGS NONE
SIGNAGE AS DETAILED HERBON
FLOOR AREA RATIO N/A
AMENITY OPEN SPACE N/A
APARTMENT BUILDING HEIGHT 35' MAX.
PARKING REQUIRED AT 1.5 SPACES PER APARTMENT = 315 SPACES
PARKING PROVIDED = 315 + SPACES
PAVING FOR PARKING SPACES IS A DURABLE AND DUST FREE SURFACE
ALL PARKING SPACES ARE PERMANENTLY STRIPED
WATER AND SEWER EXIST

ITEM # 416
93-411-A MICROFILMED
PLAT TO ACCOMPANY
ZONING PETITION FOR VARIANCES
BRITANNY APARTMENTS
BALTIMORE COUNTY, MARYLAND 3rd ELECTION DISTRICT
SCALE 1" = 50' MAY 14, 1993



EX. SIGN A/B
SINGLE SIDED SIGN
48.5" WIDE
24" HIGH
NOT TO SCALE



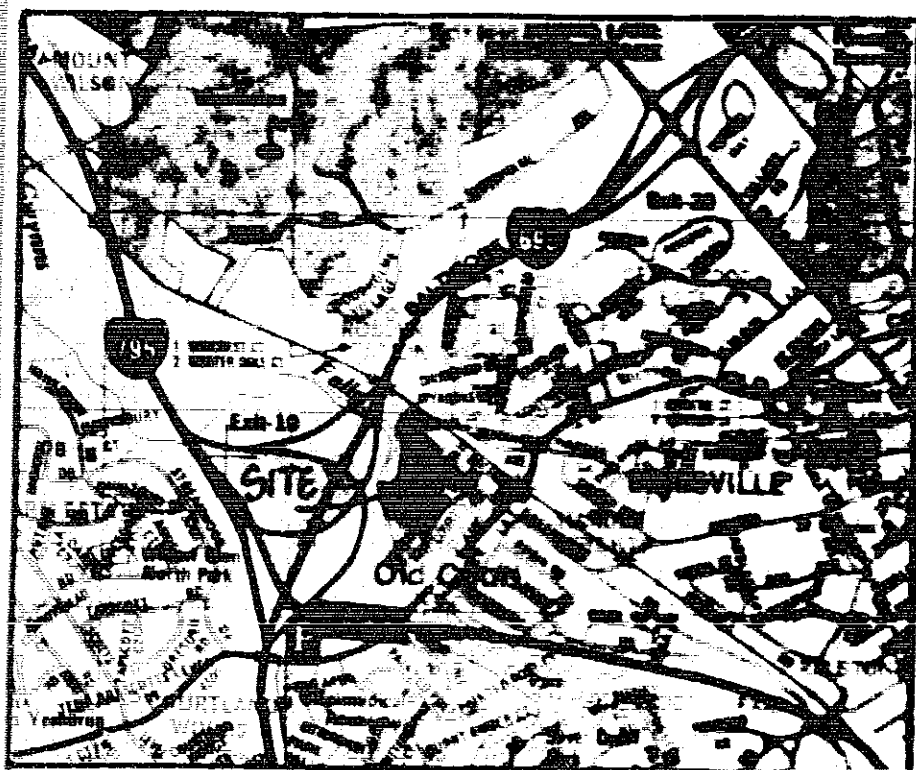
EX. SIGN C
SINGLE SIDED SIGN
12' WIDE
10' HIGH
NOT TO SCALE

A VARIANCE IS REQUESTED FROM SECTION 413.1 D TO ALLOW TWO APARTMENT ENTRANCE SINGLE FACE SIGNS OF 8.42 SQUARE FEET EACH (TOTAL OF 16.84 SQUARE FEET) AND A THIRD SINGLE FACE SIGN OF 120 SQUARE FEET (24 SQUARE FEET OF WHICH IS DIRECTIONAL) IN LIEU OF THE MAXIMUM PERMITTED SINGLE 15 SQUARE FOOT SIGN.

GWS
GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(410) 825-8120

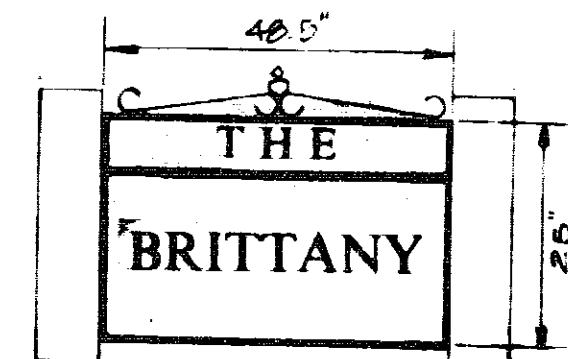
OWNER / PETITIONER
BRITANNY PARTNERSHIP
BY MARTHA POEHLER EXEC. V.P.
APARTMENT SERVICES INC.
9640 DEERCO ROAD
TIMONIUM, MARYLAND 21093

THIS PLAT IS INTENDED FOR ZONING PURPOSES ONLY AND IS NOT FOR USE IN CONVEYANCE OF PROPERTY OR AS AN EXHIBIT TO REAL AGREEMENTS.
THE INFORMATION RELATING TO THE BOUNDARY AND IMPROVEMENTS SHOWN HEREBON WAS PROVIDED BY OTHERS.

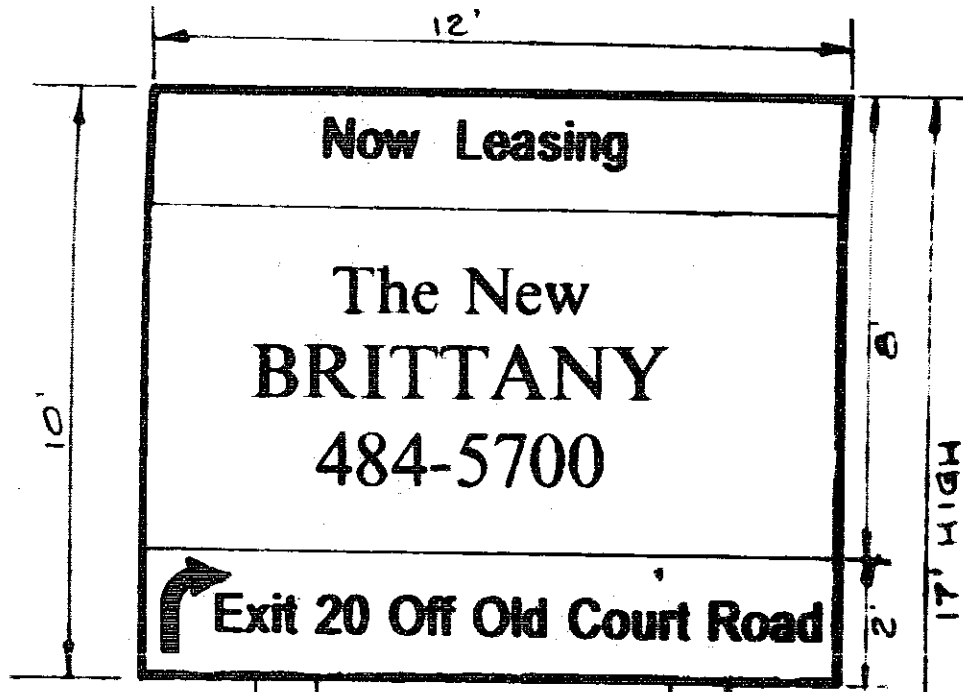


VICINITY MAP
SCALE: 1" = 2000'

EX. N.W. NORTHWEST LINE
OLD COURT RD PARKING LOT
RIGHT-OF-WAY PLAN
Drawing N.W. 02.07 R3
Sheet # 17



EX. SIGNS A & B
SINGLE SIDED SIGN
6'42" x 2'00"
NOT TO SCALE



EX. SIGN C
SINGLE SIDED SIGN
12'00" x 6'00"
NOT TO SCALE

A VARIANCE IS REQUESTED FROM SECTION 413.1 D TO
ALLOW TWO APARTMENT ENTRANCE SINGLE FACE SIGNS
OF 8.42 SQUARE FEET EACH (TOTAL OF 16.84 SQUARE
FEET) AND A THIRD SINGLE FACE SIGN OF 120 SQUARE FEET
(24 SQUARE FEET OF WHICH IS DIRECTIONAL) IN LIEU OF
THE MAXIMUM PERMITTED SINGLE 15 SQUARE FOOT SIGN.



GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(410) 825-8120



GREENWOOD ROAD
0-2
ML

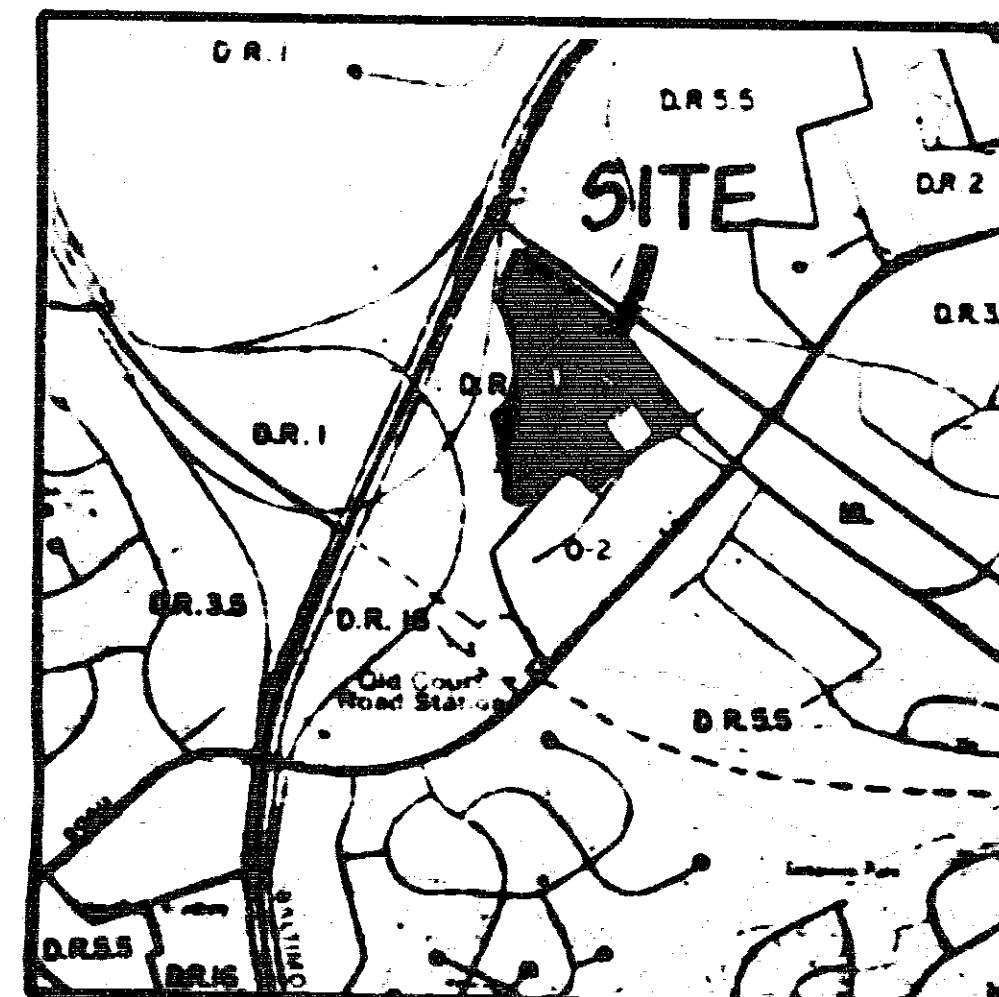
OWNER / PETITIONER
BRITTANY PARTNERSHIP
BY MARTHA POEHLER EXEC. V.P.
APARTMENT SERVICES INC.
9640 DEERCO ROAD
TIMONIUM, MARYLAND 21093

THIS PLAT IS INTENDED FOR ZONING PURPOSES
ONLY AND IS NOT FOR USE IN CONVEYANCE OF
PROPERTY OR AS AN EXHIBIT TO SPECIAL
AGREEMENTS.

THE INFORMATION RELATING TO THE BOUNDARY AND
IMPROVEMENTS SHOWN HEREON WAS PROVIDED BY OTHERS.

PLAT TO ACCOMPANY
ZONING PETITION FOR VARIANCES
BRITTANY APARTMENTS

BALTIMORE COUNTY, MARYLAND 3rd ELECTION DISTRICT
SCALE 1" = 50' MAY 14, 1993

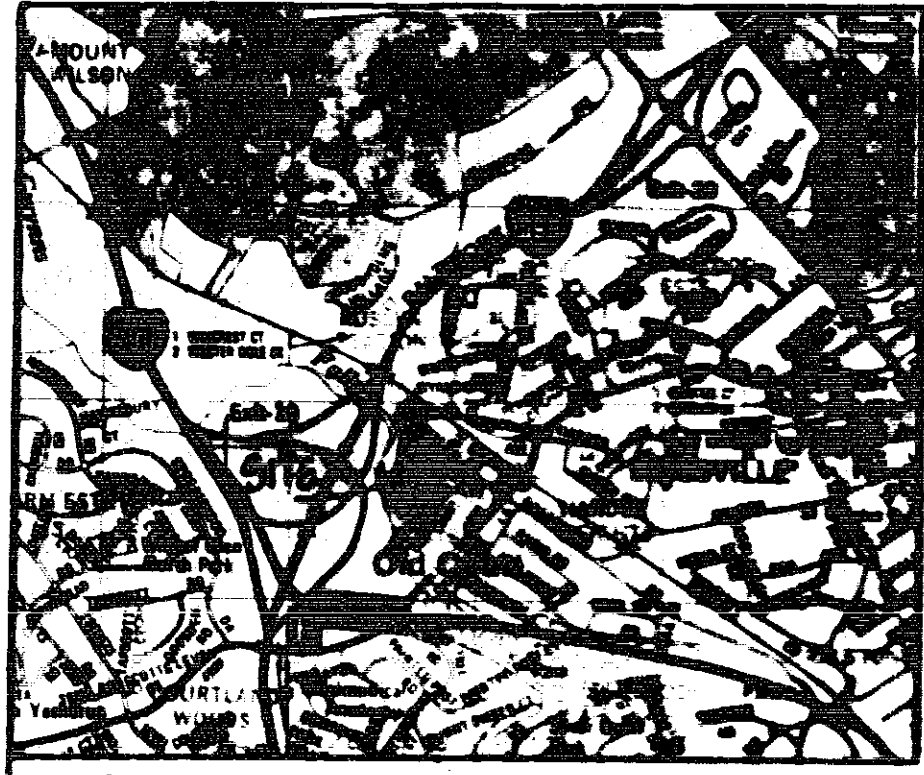


LOCATION MAP
PART OF ZONING MAP E-2
SCALE: 1" = 1000'

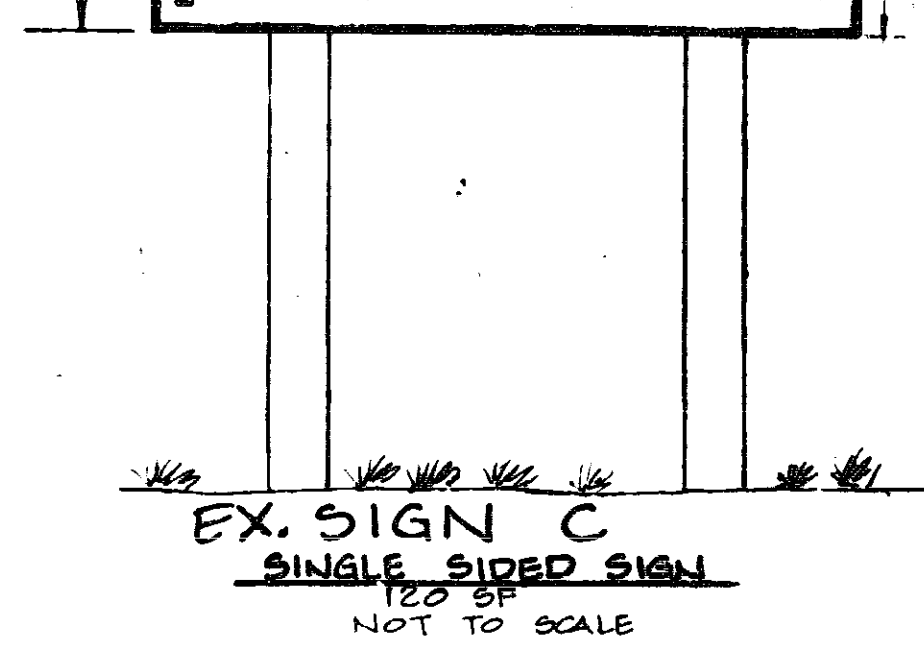
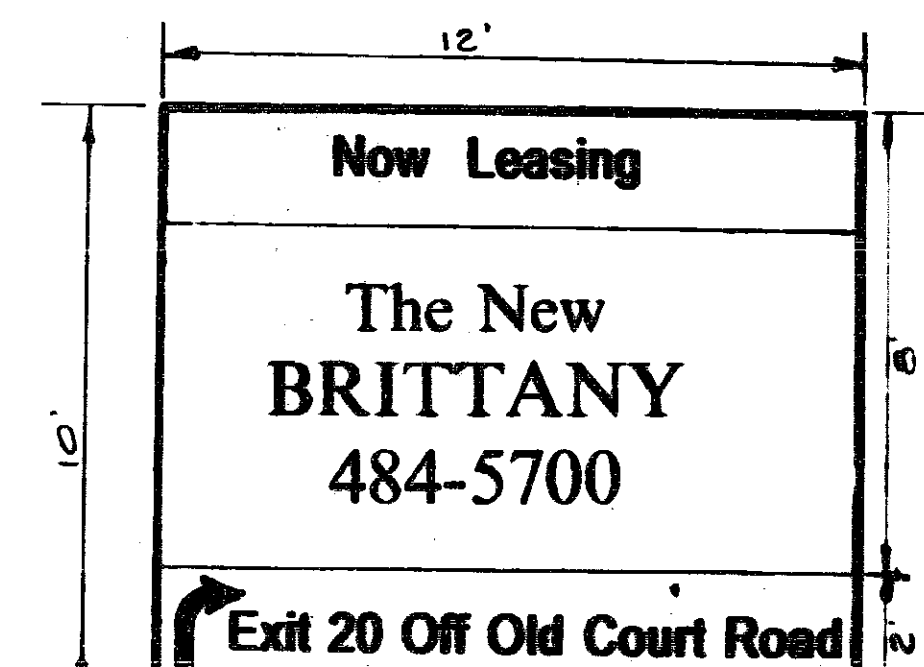
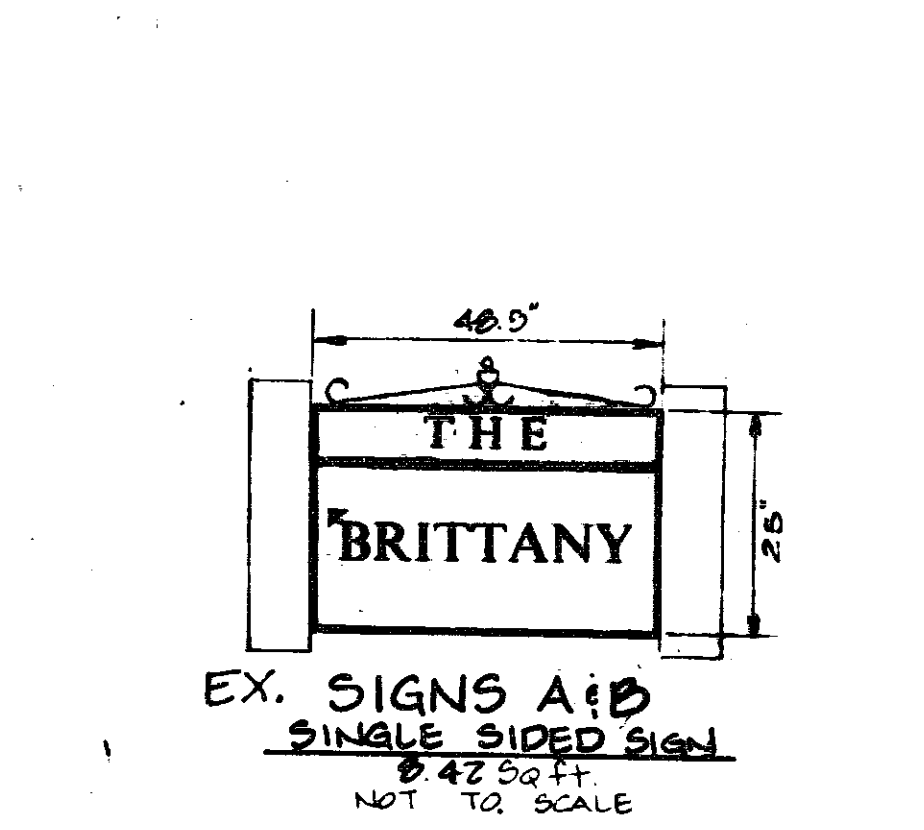
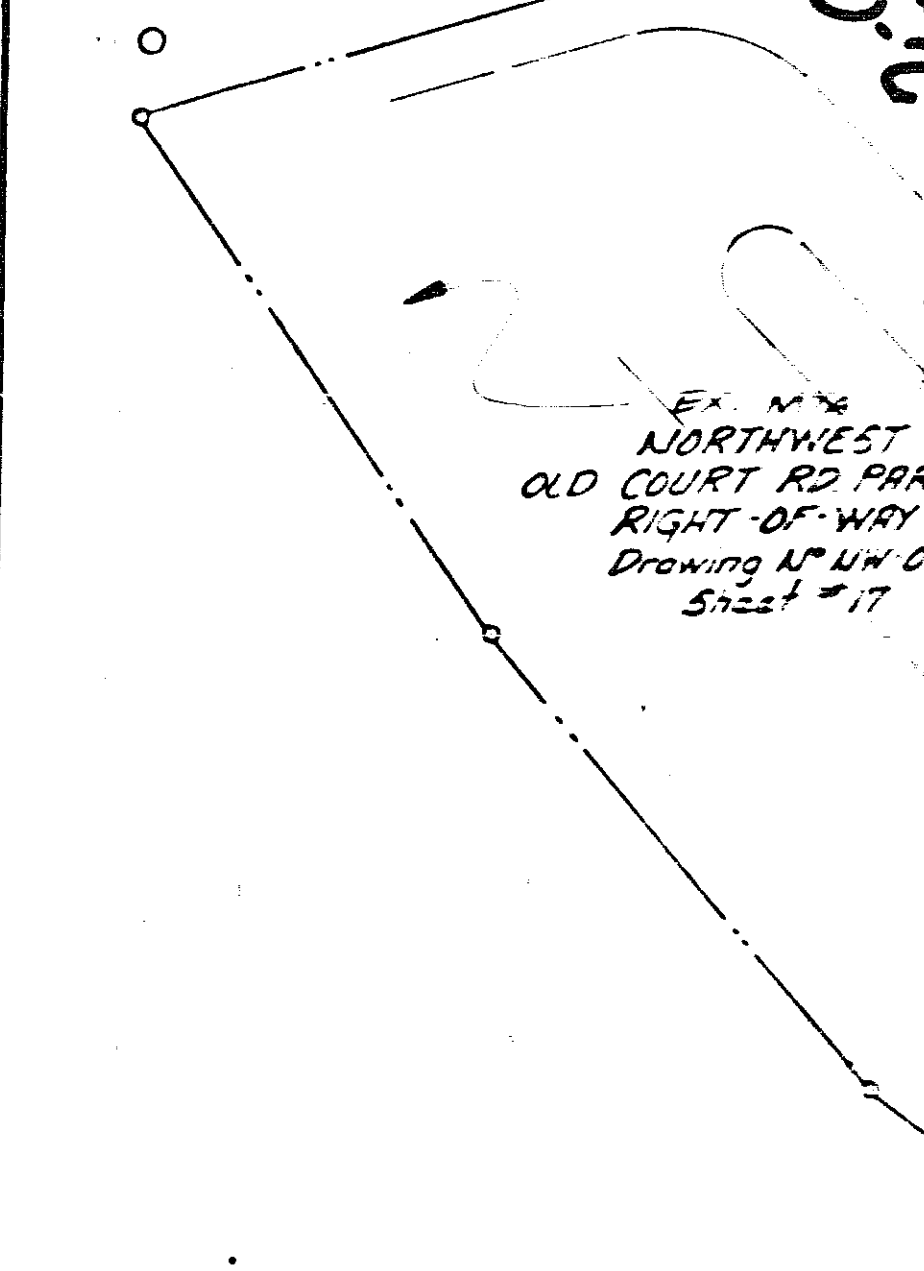
SITE DATA

GROSS AREA OF SITE 14.41 ACRES
NET AREA OF SITE 14.17 ACRES
EXISTING ZONING DR 16
PRESENT USE 210 UNIT GARDEN APARTMENT COMPLEX
PROPOSED USE 210 UNIT GARDEN APARTMENT COMPLEX
PLAT REFERENCE OTG 34 FOLIO 118
DEED REFERENCE 6302/990
TAX ACCOUNT NUMBER 1900002904 & 5
COUNCILMANIC DISTRICT 2
PREVIOUS COMMERCIAL PERMITS UNKNOWN
PREVIOUS ZONING HEARINGS NONE
SIGNAGE AS DETAILED HEREON
FLOOR AREA RATIO N/A
AMENITY OPEN SPACE N/A
APARTMENT BUILDING HEIGHT 35' MAX.
PARKING REQUIRED AT 1.5 SPACES PER APARTMENT = 315 SPACES
PARKING PROVIDED = 315 + SPACES
PAVING FOR PARKING SPACES IS A DURABLE AND DUST FREE SURFACE
ALL PARKING SPACES ARE PERMANENTLY STRIPED
WATER AND SEWER EXIST

Pet. Ex. #1



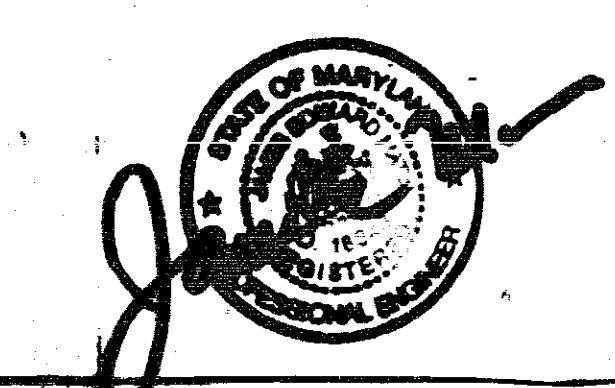
VICINITY MAP
SCALE: 1" = 2000'



Now Leasing
The New
BRITTANY
484-5700
Exit 20 Off Old Court Road

A VARIANCE IS REQUESTED FROM SECTION 413.1 D TO ALLOW TWO APARTMENT ENTRANCE SINGLE FACE SIGNS OF 8.42 SQUARE FEET EACH (TOTAL OF 16.84 SQUARE FEET) AND A THIRD SINGLE FACE SIGN OF 120 SQUARE FEET (24 SQUARE FEET OF WHICH IS DIRECTIONAL) IN LIEU OF THE MAXIMUM PERMITTED SINGLE 15 SQUARE FOOT SIGN.

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(410) 825-8120



GREENWOOD ROAD
BRETON HILL ROAD
OLD COURT ROAD

OWNER / PETITIONER
BRITTANY PARTNERSHIP
BY MARTHA POEHLER EXEC. V.P.
APARTMENT SERVICES INC.
9640 DEERCO ROAD
TIMONUM, MARYLAND 21093

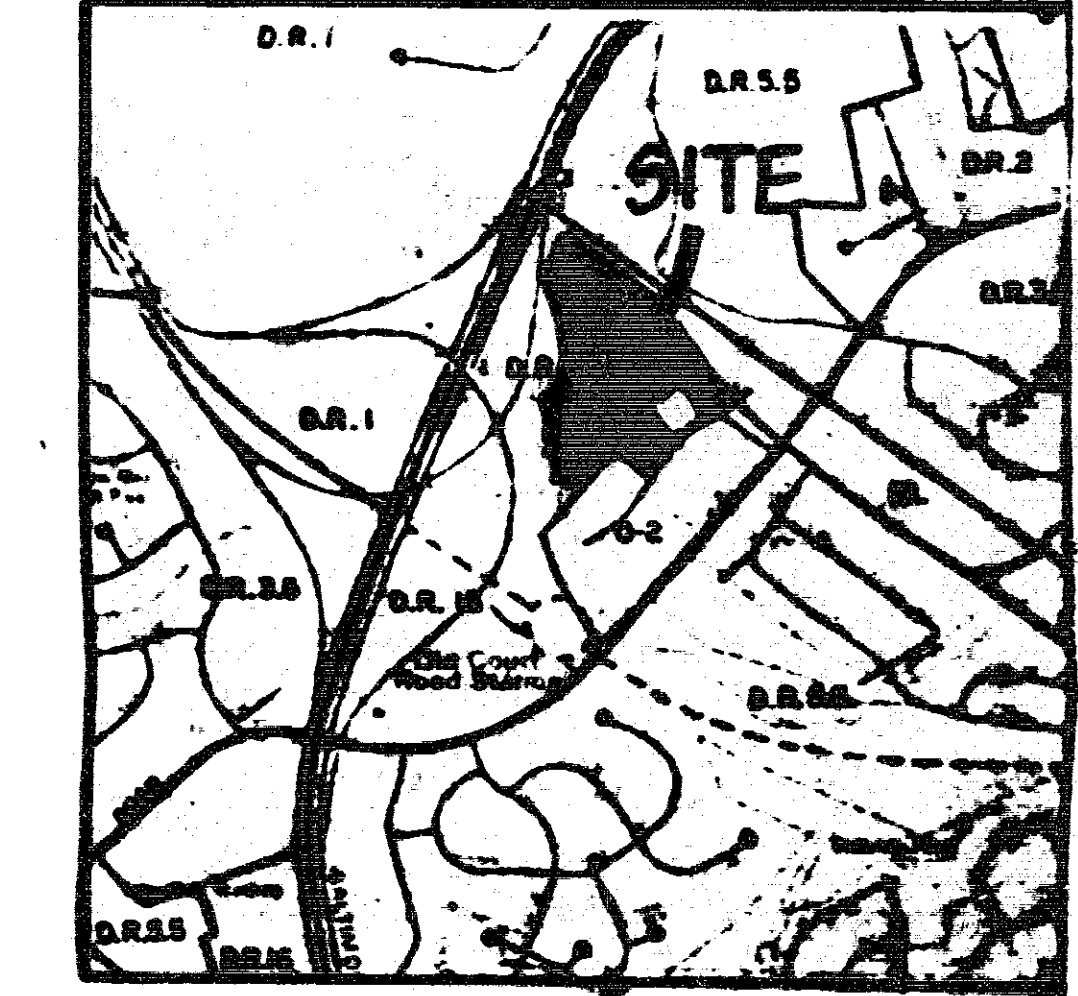
THIS PLAN IS INTENDED FOR ZONING PURPOSES ONLY AND IS NOT FOR USE IN CONVEYANCE OF PROPERTY OR AS AN EXHIBIT TO SPECIAL AGREEMENTS.

THE INFORMATION RELATING TO THE BOUNDARY AND IMPROVEMENTS SHOWN HEREON WAS PROVIDED BY OTHERS.

SIGN C

BALTIMORE BELTWAY
I-695
117° 36' 50" E
197.34'

93-411-A



LOCATION MAP
PART OF ZONING MAP E-2
SCALE: 1" = 1000'

SITE DATA

GROSS AREA OF SITE 14.41 ACRES
NET AREA OF SITE 14.17 ACRES
EXISTING ZONING DR 16
PRESENT USE 210 UNIT GARDEN APARTMENT COMPLEX
PROPOSED USE 210 UNIT GARDEN APARTMENT COMPLEX
PLAT REFERENCE OTG 34 FOLIO 118
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WATER AND SEWER EXIST

ADDITIONAL
ITEMS
NOT
ENTERED
AT
634
HEARING

MICROFILMED
ITEM #416

FLAT TO ACCOMPANY
ZONING PETITION FOR VARIANCES
BRITTANY APARTMENTS
BALTIMORE COUNTY, MARYLAND
3rd ELECTION DISTRICT
SCALE 1" = 30'
MAY 14, 1994

IN THE MATTER OF
THE APPLICATION OF
BRITTANY PARTNERSHIP
FOR VARIANCES ON PROPERTY LOCATED
ON THE NORTH SIDE OLD COURT ROAD,
36' NORTHWEST OF THE CENTERLINE
GREENWOOD RD. (BRITTANY APARTMENTS)*
3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO: 93-411-A

OPINION

This matter comes before the Board on appeal from the Deputy Zoning Commissioner's Order dated June 23, 1993 granting Petitioner's request for a variance from Section 413.1D to allow two (2) apartment entrance single-faced signs, each with a total area of 8 sq. ft., and a third sign of 120 sq. ft. in lieu of the one sign of 15 sq. ft. as permitted for apartments under the Baltimore County Zoning Regulations (BCZR).

Testifying for the Petitioner were James Matis, Civil Engineer; Martha Poehler, Executive Vice President of Apartment Services, Inc., which operates the Brittany Apartments and other complexes; and Sharon Galeano, the Apartment Manager in charge of Brittany.

Mr. Matis reviewed an aerial map of the location, the requested signs and the distance of the apartments from main roads. Mr. Matis described the construction of the large sign (120 sq. ft.) as a permanent sign 100 ft. from the right-of-way of the Baltimore Beltway (I-695). Petitioner Exhibits 4A and 4B showing comparable signs (10 to 20 sq. ft. smaller) were agreed as more elaborate in construction and appearance in Mr. Matis' opinion.

Martha Poehler recalled the existence of the sign to the early 1970's. She explained that the Brittany complex of 210 apartments cannot be seen from its only main access road (Old Court Road).

IN THE MATTER OF
THE APPLICATION OF
BRITTANY PARTNERSHIP
FOR VARIANCES ON PROPERTY
LOCATED ON THE NORTH SIDE OF
OLD COURT ROAD, 36' NORTHWEST
OF THE CENTER LINE OF
GREENWOOD ROAD
(BRITTANY APARTMENTS)
3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 93-411-A

DISSENTING OPINION

I respectfully dissent from the majority opinion.

I cannot agree that the Petitioner should be granted a variance from Section 413.1D of the Baltimore County Zoning Regulations to allow a 120-square-foot sign facing I-695 near the interchange with I-795.

The Petitioner sought to prove that the denial of a variance for this sign, which is eight times the size permitted for apartments, would cause practical difficulty and undue hardship.

Some testimony was given as to the efficacy of the sign in giving directional aid for visitors and deliveries to the apartments. But witnesses for the Petitioner, Martha Poehler and Sharon Galeano, emphasized in their testimony that the principal hardship would be that the denial of the variance would severely curtail the Petitioner's ability to advertise.

Ms. Poehler testified that there is no question that the sign is effective in increasing traffic, i.e., persons calling or coming in to inquire about renting an apartment.

Testimony and evidence showed that Brittany Apartments depends on the sign for approximately 35 percent of its traffic. The Petitioner argues that he needs the variance because the apartment complex is not visible from any major roadway, being set back from such roadways and further secluded by trees.

The property abuts I-695, but the owners chose to screen it from the interstate with trees. It is set well back and secluded by trees from Old Court Road. The owner apparently chose to screen it to make the apartments more attractive to renters. Therefore, if the lack of visibility from major roadways is construed as a hardship, it would seem to be, at least partly, a self-imposed hardship.

The principal hardship, therefore, would seem to be that without the sign the Petitioner

IN THE MATTER OF
THE APPLICATION OF
BRITTANY PARTNERSHIP
FOR VARIANCES ON PROPERTY
LOCATED ON THE NORTH SIDE
OF OLD COURT ROAD, 36'
NORTHWEST OF THE CENTERLINE
GREENWOOD ROAD (BRITTANY
APARTMENTS)
3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO.: 93-411-A

MOTION TO REOPEN CASE, FOR RECONSIDERATION AND/OR TO REVISE ORDER OF MAY 13, 1994, AND FOR FURTHER HEARING

Brittany Partnership, Petitioner/Appellee in this proceeding, by its undersigned counsel, moves to reopen this case, for reconsideration and/or revision of part of the Board's Order of May 13, 1994, specifically, condition and recommendation No. 1 thereof, and for further hearing, and for reasons, states:

1. That in granting the requested sign variances for the Petitioner, the Board entered certain "conditions and recommendations" with the grant, the first of which is as follows:

The existing location of the sign abutting the Beltway right-of-way emphasizes an advertising purpose, which it is not to be under the reasons for granting the variance. Therefore, the Directional-Identifier Sign should be relocated 50 ft. south from its present location to a position approximate to the Brittany building.

IN THE MATTER OF
THE APPLICATION OF
BRITTANY PARTNERSHIP
FOR VARIANCES ON PROPERTY
LOCATED ON THE NORTH SIDE
OF OLD COURT ROAD, 36'
NORTHWEST OF THE CENTERLINE
GREENWOOD ROAD (BRITTANY
APARTMENTS)
3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO.: 93-411-A

MOTION TO REOPEN CASE, FOR RECONSIDERATION AND/OR TO REVISE ORDER OF MAY 13, 1994, AND FOR FURTHER HEARING

Brittany Partnership, Petitioner/Appellee in this proceeding, by its undersigned counsel, moves to reopen this case, for reconsideration and/or revision of part of the Board's Order of May 13, 1994, specifically, condition and recommendation No. 1 thereof, and for further hearing, and for reasons, states:

1. That in granting the requested sign variances for the Petitioner, the Board entered certain "conditions and recommendations" with the grant, the first of which is as follows:

The existing location of the sign abutting the Beltway right-of-way emphasizes an advertising purpose, which it is not to be under the reasons for granting the variance. Therefore, the Directional-Identifier Sign should be relocated 50 ft. south from its present location to a position approximate to the Brittany building.

2. That for reasons of topography and other practical difficulties, this "condition and recommendation" cannot be complied with. A relocation of the principal sign as set forth in the Order, whether same is moved due south or otherwise 50 feet in a generally southward direction from its present location, places the sign on property at least 10 feet lower in elevation, and in a position where its ability to be seen from I-695 or I-795 is clearly obstructed by large trees located on the slope of the State property abutting and adjacent to the Beltway. The sign currently is located on the crest of a slope adjacent to the Brittany tennis court.

3. That June 13, 1994 is the last day to file an appeal in this matter. If filed, it is only condition No. 1 that would be challenged as unsupported by evidence in the record. Undoubtedly, the Circuit Court for Baltimore County would remand the matter to the Board for further proceedings to allow Petitioner the opportunity to present evidence on the relocation issue, something which did not come up until the original hearing was closed and Board publicly deliberated.

4. That given the opportunity now to present evidence on this issue, supported by documentation such as topographical maps and ample photographs, at least if the Board decided not to revise its Order, the record will be complete for purposes

of appeal. Additionally, Petitioner believes and avers that once additional evidence is presented, the Board will in fact, in some fashion, revise its Order.

WHEREFORE, Petitioner requests that the Board:

- Reopen the case and schedule this matter for a continued hearing to take additional testimony and evidence;
- Revise its Order to either remove condition and recommendation No. 1 in its entirety, or revise same so as to comport with the physical characteristics of the property; and
- Grant unto the Petitioner such other and further relief as the nature of its cause may require.

Anthony J. DiPaola
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(410) 828-9441

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 10th day of June, 1994, a copy of the foregoing Motion to Reopen Case, for Reconsideration and/or to Revise Order of May 13, 1994, and for Further Hearing was hand-delivered to Carole S. Demilio, Deputy

People's Counsel, Room 47, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

Anthony J. DiPaola

94-06-11.ds

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410
828-9441

ANNEX OFFICE
SUITE 101
808 BALTIMORE AVE
TOWSON, MD 21204

FAX 410-823-7530

June 10, 1994

HAND-DELIVERY

County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

ATTN: Kathleen C. Weidenhammer, Administrative Assistant

RE: CASE NO.: 93-411-A
BRITTANY PARTNERSHIP

Dear Kathy:

Enclosed please find the Motion to Reopen and to Revise which we discussed. Thank you for your assistance.

Very truly yours,

Anthony J. DiPaola

AJD/ds
6 ds.50
enclosure

cc: Carole Demilio, Deputy People's Counsel (hand-delivery)

RECEIVED
COUNTY BOARD OF APPEALS
94 JUN 10 PM 12:13

IN THE MATTER OF
THE APPLICATION OF
BRITTANY PARTNERSHIP
FOR VARIANCES ON PROPERTY
LOCATED ON THE NORTH SIDE OF
OLD COURT ROAD, 36' NORTHWEST
OF THE CENTER LINE OF
GREENWOOD ROAD
(BRITTANY APARTMENTS)
3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 93-411-A

DISSENTING OPINION

I respectfully dissent from the majority opinion.
I cannot agree that the Petitioner should be granted a variance from Section 413.1D of the Baltimore County Zoning Regulations to allow a 120 square foot sign facing I-695 near the interchange with I-795.
The Petitioner sought to prove that the denial of a variance for this sign, which is eight times the size permitted for apartments, would cause practical difficulty and undue hardship. Some testimony was given as to the efficacy of the sign in giving directional aid for visitors and deliveries to the apartments. But witnesses for the Petitioner, Martha Poehler and Sharon Galeano, emphasized in their testimony that the principal hardship would be that the denial of the variance would severely curtail the Petitioner's ability to advertise.
Ms. Poehler testified that there is no question that the sign is effective in increasing traffic, i.e., persons calling or coming in to inquire about renting an apartment.
Testimony and evidence showed that Brittany Apartments depends on the sign for approximately 35 percent of its traffic. The Petitioner argues that it needs the variance because the apartment complex is not visible from any major roadway, being set back from such roadways and further secluded by trees.
The property abuts I-695, but the owners chose to screen it from the interstate with trees. It is set well back and secluded by trees from Old Court Road. The owner apparently chose to screen it to make the apartments more attractive to renters. Therefore, if the lack of visibility from major roadways is construed as a hardship, it would seem to be, at least partly, a self-imposed hardship.
The principal hardship, therefore, would seem to be that without the sign the Petitioner

Case No. 93-411-A Brittany Partnership
would have to spend more money to advertise through newspapers and other media.
It is self-evident that a large sign is a more effective advertising tool than a small one. But zoning regulations limit the size of signs, even though the legislators who enacted these regulations must have known that they would be curbing a relatively inexpensive advertising tool.
If limiting advertising tools is construed as undue hardship, then every business could be allowed a variance to put up a large sign, thus nullifying the spirit and intent of the sign regulations.

Further, the Petitioner attempted to show that the only possible location for such a sign was on the Brittany Apartments property abutting I-695. The Petitioner conceded that he could conceivably rent space on commercial property along a nearby main thoroughfare to place a sign, but indicated in testimony that he had tried without success to rent space for such a sign. I am not persuaded that, if the Petitioner were denied the requested variance, a more diligent search for sign rental space might not meet with success.
For these reasons I believe the Petitioner did not meet the burden of proof to show practical difficulty and undue hardship. I would DENY the Petition for Variance for the 120-square-foot sign. I would GRANT the Petition for Variance for the two smaller apartment entrance signs, since their square footage together adds up to only 16.84 square feet, less than 2 square feet over the 15-square-foot limit permitted for apartments.

S. Diane Levero
S. Diane Levero

Date: May 13, 1994

IN THE MATTER OF
THE APPLICATION OF
BRITTANY PARTNERSHIP
FOR VARIANCES ON PROPERTY LOCATED
ON THE NORTH SIDE OLD COURT ROAD,
36' NORTHWEST OF THE CENTER LINE
GREENWOOD RD. (BRITTANY APARTMENTS)
3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO: 93-411-A

OPINION

This matter comes before the Board on appeal from the Deputy Zoning Commissioner's Order dated June 23, 1993 granting Petitioner's request for a variance from Section 413.1D to allow two (2) apartment entrance single-faced signs, each with a total area of 8 sq. ft., and a third sign of 120 sq. ft. in lieu of the one sign of 15 sq. ft. as permitted for apartments under the Baltimore County Zoning Regulations (BCZR).

Testifying for the Petitioner were James Matis, Civil Engineer; Martha Poehler, Executive Vice President of Apartment Services, Inc., which operates the Brittany Apartments and other complexes; and Sharon Galeano, the Apartment Manager in charge of Brittany.

Mr. Matis reviewed an aerial map of the location, the requested signs and the distance of the apartments from main roads. Mr. Matis described the construction of the large sign (120 sq. ft.) as a permanent sign 100 ft. from the right-of-way of the Baltimore Beltway (I-695). Petitioner Exhibits 4A and 4B showing comparable signs (10 to 20 sq. ft. smaller) were agreed as more elaborate in construction and appearance in Mr. Matis' opinion.

Martha Poehler recalled the existence of the sign to the early 1970's. She explained that the Brittany complex of 210 apartments cannot be seen from its only main access road (Old Court Road).

Case No. 93-411-A Brittany Partnership
Efforts to lease a location for a directional sign at Old Court and the road leading to the Brittany entrance (Greenwood Road) have been refused. The subject 8 sq. ft. signs are at the Brittany entrance some 400 ft. from the intersection of Greenwood and Old Court Roads. Consequently, there is no identification of Brittany Apartments on its main road of access. Ms. Poehler further explained the importance of keeping a regular traffic analysis at all complexes under her direction for Apartment Services, Inc. A sign at the location is essential to identify the apartments, since the scrubs and trees between Brittany and the Beltway shield the apartment complex.

Sharon Galeano further explained the use of survey forms to analyze traffic to the apartments. Local newspaper advertising was viewed as being of only limited assistance. Ms. Galeano felt the large sign was essential as a landmark locator, and should display a telephone number. She concurred with People's Counsel that the 120 sq. ft. sign also had an advertising function.

People's Counsel offered Douglas Behr, a landscape and graphic designer for Johns Hopkins University, who designs signs for public information and direction. Mr. Behr offered what he considered the essentials of a directional sign referring to National Park signs, subtle in tone and subdued in color. He likened the Petitioner's 120 sq. ft. sign to a billboard, and was concerned about proliferation if the subject sign was approved.

The law is well referenced that a variance may be granted where strict compliance with the BCZR would result in practical difficulty or unreasonable hardship. Anderson v. Board of Appeals

2

Case No. 93-411-A Brittany Partnership
Town of Chesapeake Beach, 22 Md. App. 28 (1974); McLean v. Soley, 270 Md. 208 (1973).

In regard to the two small signs at the entrance off Greenwood Road, in place for many years and secluded from the main roadway, they are reasonable and warrant the requested variance.

In consideration of testimony and evidence presented, it is also clear that a practical difficulty or unreasonable hardship would result if a variance were not granted for a sign larger than that permitted by Section 413.1D. The manner in which the Brittany Apartments are shielded by trees and scrubs, and is situated some distance from major roads, is persuasive evidence that without a large sign of identification there is a practical difficulty. The complex's seclusion from the public would obviously affect its competitiveness without a larger sign as determined by Petitioner's surveys. The 15 sq. ft. sign permitted under Section 413.1D would unduly restrict the management due to the special conditions of location peculiar to the site, specifically its lack of visibility and accessibility. The variance for the large sign should be approved. In addition, the variance requested will not be detrimental to the public health, safety and general welfare, and would not be contrary to the spirit of the BCZR, and would not result in substantial detriment to the public good. The majority of the Board in this Opinion makes note that the existing 120 sq. ft. sign gives the appearance of being temporary and more of a commercial advertisement than that of a directional sign by its present location, construction and the context of the sign's message.

3

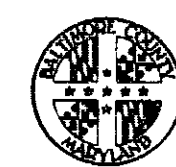
Case No. 93-411-A Brittany Partnership
ORDER
THEREFORE, IT IS this 13th day of May, 1994, by the County Board of Appeals of Baltimore County,
ORDERED that the requested variance to permit two (2) apartment entrance single-faced signs, each with a total square footage of 8.42 sq. ft. be GRANTED; and a third sign of 96 sq. ft., in lieu of 15 sq. ft. as permitted, be GRANTED, under the following conditions and recommendations:

1. The existing location of the sign abutting the Beltway right-of-way emphasizes an advertising purpose, which it is not to be under the reasons for granting the variance. Therefore, the Directional-Identifier Sign should be relocated 50 ft. south from its present location to a position approximate to the Brittany building.
2. The replacement sign should be permanent in appearance and aesthetically agreeable in graphic design.
3. No references such as "NOW RENTING" nor other commercial references shall be included. The sign is to be strictly directional-identifier.
4. The area of the sign, minus the present advertising of the existing sign, shall not exceed 96 sq. ft.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
William T. Hackett
William T. Hackett, Chairman
Harry E. Buchheister, Jr.
Harry E. Buchheister, Jr.

4



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 13, 1994

Carole S. Demilio
Deputy People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Case No. 93-411-A
Brittany Partnership

Dear Ms. Demilio:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. Also enclosed is a copy of Ms. Levero's Dissenting Opinion.

Very truly yours,

Charlotte S. Kulechiff
Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Anthony J. DiPaula, Esquire
Ms. Martha Poehler
Mr. James Matis /GW Stephens, Jr.,
and Associates, Inc.
Pat Keller
People's Counsel for Baltimore County
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Printed with Soy-based Ink
on Recycled Paper

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER
N/S Old Court Rd., 36' NW of : OF BALTIMORE COUNTY
C/L of Greenwood Rd. (Brittany :
Apartments). : Case No. 93-411-A
3rd Election District
2nd Councilmanic District :
BRITTANY PARTNERSHIP, :
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.

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Carole S. Demilio
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 12th day of July, 1993, a copy of the foregoing Entry of Appearance was mailed to Anthony J. DiPaula, Esquire, Covahey & Booser, 614 Bosley Ave., Towson, MD 21204, Attorney for Petitioners.

Peter Max Zimmerman
Peter Max Zimmerman
7/12/93
ZONING OFFICE

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER
N/S Old Court Rd., 36' NW of :
C/L of Greenwood Rd. (Brittany : OF BALTIMORE COUNTY
Apartments),
3rd Election District : Case No. 93-411-A
2nd Councilmanic District :
BRITTANY PARTNERSHIP, :
Petitioners

NOTICE OF APPEAL

Please note an appeal from the decision of the Deputy Zoning Commissioner in the above-captioned matter, under date of June 23, 1993, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carol S. Deal
Carol S. Deal
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 12th day of July, 1993, a copy of the foregoing Notice of Appeal was mailed to Anthony J. DiPaola, Esquire, Covahey & Boozer, 614 Bosley Ave., Towson, MD 21204, Attorney for Petitioners.

Peter Max Zimmerman
Peter Max Zimmerman

7/12/93
27th FLOOR

IN THE MATTER OF * BEFORE THE DEPUTY
BRITTANY APARTMENTS * ZONING COMMISSIONER
NS GREENWOOD AND OLD COURT RD *
3RD ELECTION DISTRICT * FOR BALTIMORE COUNTY
2ND COUNCILMANIC *
PETITIONER: BRITTANY * CASE NO.: 92-411-A
PARTNERSHIP * ITEM NO. 416

FINDINGS OF FACT AND CONCLUSION OF LAW

The Petitioner herein requests a variance from Section 413.1D to allow two (2) apartment entrance single-faced signs, each with a total square footage of 8.42 square feet, and a third sign of 120 square feet (24 square feet of which is directional) in lieu of the one (1) sign of 15 square feet as permitted for apartments under the BCZR.

The Petitioner appeared and was represented by Anthony J. DiPaola, Esquire, Covahey & Boozer, P.A. Specifically appearing on behalf of the Petition were Martha Poehler, Executive Vice President of Apartment Services, Inc. as the agent for Brittany Partnership, the owner of the property; Sharon Galeano, the Apartment Manager in charge of this among other sites; and James E. Matis, Civil Engineer with the firm of George William Stephens, Jr. and Associates, Inc. There were no protestants.

Testimony and evidence would indicate that the larger of the three (3) signs which is located on-site and overlooks

ORDER RECEIVED FOR FILING
Date 6/23/93
By [Signature]

Interstate 695 has been in existence and in its present location for just over twenty (20) years. It was erected by the predecessors of the current owners, having been erected by the former management company, Charles Steffey & Associates. This particular site is located in a secluded area which does not front any major roadway and is essentially hidden from the general public. The Petitioner's site plan was received as Exhibit No. 1. Also submitted were three (3) photographs of the signs in question, received in evidence as Exhibits 2A, 2B, and 2C. There was also testimony and evidence produced to establish that during February through May of this year, not less than thirty-four percent (34%) of the total tenant traffic was directly attributable to the large sign. The term "tenant traffic" is intended to mean all persons inquiring about establishing residence at the Brittany, as well as those who inquire and actually become residents at the Brittany. A documentary tabulation of tenant traffic was submitted at the hearing as Petitioner's Exhibit No. 3. Testimony also established that it is only with the use of the large sign that the Brittany can remain competitive with other apartment complexes that front major travelled roadways such as Old Court Road, and maintain an occupancy rate of approximately 7.5 percent. Having to remove the sign would undoubtedly have a

2

MICROFILMED

ORDER RECEIVED FOR FILING
Date 6/23/93
By [Signature]

seriously detrimental effect on the ability of the Brittany to attract new tenants and/or maintain its current average occupancy rate. One of the features which makes this apartment community a desirable place to live, namely its seclusion, unfortunately results in difficulty in attracting tenants. There was also testimony that the existing sign assists the current residents of the Brittany with respect to providing directions for their family and guests who come to visit.

The law is well settled that a variance may be granted where strict compliance with the BCZR would result in practical difficulty or unreasonable hardship. Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974); McLean v. Soley, 270 Md. 208 (1973). After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the requested variance was not granted. It has been established that the requirement from which the Petitioner seeks relief unduly restricts the use of this property due to the special conditions unique to this particular parcel, namely its seclusion. Furthermore, the variance requested will not be detrimental to the public health, safety, and general welfare, and if the variance is granted, same would not be contrary to

3

ORDER RECEIVED FOR FILING
Date 6/23/93
By [Signature]

the spirit of the BCZR and would not result in substantial detriment to the public good.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 23rd day of June, 1993, that the Petition for Variance to permit two (2) apartment entrance single-faced signs, each with a total square footage of 8.42 square feet, and a third sign of 120 square feet (24 square feet of which is directional) instead of one sign of 15 square feet as permitted, be and is hereby granted, from and after the date of this Order.

Timothy M. Kotrocco
Timothy M. Kotrocco, Deputy
Zoning Commissioner

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

June 23, 1993

(410) 887-4386

Anthony J. DiPaola, Esquire
Covahey & Boozer
614 Bosley Avenue
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
N/S Old Court Road, 36' NW of the c/l of Greenwood Road
(Brittany Apartments)
3rd Election District - 2nd Councilmanic District
Brittany Partnership - Petitioners
Case No. 93-411-A

Dear Mr. DiPaola:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted 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 the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotrocco
TIMOTHY M. KOTROCCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

File

ORDER RECEIVED FOR FILING
Date 6/23/93
By [Signature]

93-06-29.de

4

Petition for Variance
to the Zoning Commissioner of Baltimore County
for the property located at Greenwood Rd. and (old) Old Court Rd.
(Brittany Apartments) which is presently zoned D.R. T6

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated 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 413.1D to allow two (2) apartment entrance signs with a total square footage of 8.42 square feet, and a third sign of 120 square feet (24 square feet of which is directional) in lieu of one (1) sign of the size permitted. (15 sq ft) of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) the present Zoning Regulations governing apartment signs has not been changed since originally passed in 1955 and does not meet the needs of every day society. Almost every garden apartment complex in Baltimore County is in violation because it is impossible to maintain and operate a garden apartment complex (something unheard of in 1955) with only 15 square feet of signage.

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 use to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Correct Purchase/Lease

(Type or Print Name)

Signature

Address

City

State

Zip

Address

City

State

Zip

Address

City

State

Zip

Address

City

State

Zip

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

Legal Owner(s):
Brittany Partnership, a Maryland General Partnership

By: *Martha Poehler*
Martha Poehler, Exec. V.P.
Apartment Services, Inc., Agent for Brittany

(Type or Print Name) Properties

Signature

Address

City

State

Zip

Address

City

State

Zip

Address

City

State

Zip

ORDER RECEIVED FOR FILING
Date 6/23/93
By [Signature]

ITEM #416

MICROFILMED

Description To Accompany Zoning Petition
For Sign Variance in an Existing DR T-6 Zone
Brittany Apartments

May 14, 1993

Beginning for the same at a point on the north side of (Old) Old Court Road, said point being distant 36 feet + northwesterly from the intersection of Greenwood Road and (Old) Old Court Road, running thence and binding along the north side of said (Old) Old Court Road:

- 1) South 61 degrees 28 minutes 00 seconds West 63.64 feet thence leaving said road and running thence the four following courses viz:
 - 1) by a curve to the right having a radius of 2,897.93 feet for a distance of 275.60 feet
 - 2) South 36 degrees 45 minutes 00 seconds West 140.40 feet
 - 3) South 53 degrees 32 minutes 30 seconds West 119.68 feet
 - 4) South 36 degrees 27 minutes 30 seconds East 208.18 feet to the north side of (Old) Old Court Road, thence binding on the north side of said road the three following courses viz:
 - 5) South 46 degrees 46 minutes 00 seconds West 125.14 feet
 - 6) South 41 degrees 47 minutes 00 seconds West 73.33 feet
 - 7) South 34 degrees 08 minutes 00 seconds West 76.90 feet thence leaving said north side of said road and running thence the eleven following courses viz:
 - 8) North 15 degrees 46 minutes 30 seconds West 150.00 feet
 - 9) North 44 degrees 13 minutes 10 seconds East 100.00 feet
 - 10) North 45 degrees 46 minutes 30 seconds West 35.00 feet
 - 11) South 44 degrees 13 minutes 10 seconds West 243.00 feet
 - 12) North 45 degrees 46 minutes 30 seconds East 47.00 feet
 - 13) South 44 degrees 13 minutes 10 seconds West 15.00 feet
 - 14) South 73 degrees 24 minutes 45 seconds West 73.72 feet
 - 15) North 16 degrees 35 minutes 15 seconds West 283.35 feet
 - 16) by a curve to the right having a radius of 278.10 feet for a distance of 179.86 feet
 - 17) North 16 degrees 35 minutes 15 seconds East 238.17 feet
 - 18) by a curve to the left having a radius of 351.48 feet for a distance of 450.13 feet to the east side of the Baltimore Beltway I-695, thence binding along the east side of the Baltimore Beltway the two following courses viz:
 - 19) North 27 degrees 36 minutes 58 seconds East 197.34 feet
 - 20) North 23 degrees 31 minutes 30 seconds East 22.86 feet thence leaving said Beltway and running thence the six following courses viz:
 - 21) South 56 degrees 02 minutes 30 seconds East 253.37 feet
 - 22) South 01 degrees 03 minutes 30 seconds East 16.94 feet
 - 23) South 40 degrees 35 minutes 30 seconds East 98.06 feet
 - 24) South 56 degrees 02 minutes 30 seconds East 317.46 feet
 - 25) South 36 degrees 39 minutes 00 seconds East 205.24 feet and
 - 26) by a curve to the left having a radius of 2,837.93 feet for a distance of 380.51 feet to the place of beginning.

Containing 14.17 acres of land more or less.

This description is intended for zoning purposes only and is not for use in conveyance of land.



MICROFILMED

ITEM #416

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 3rd Date of Posting: 10/14/94

Posted for: Brittany Partnership

Petitioner: Brittany Partnership

Location of property: 111 W. Chesapeake Avenue, Room 106, Towson, Maryland 21204

Location of Sign: Room 106, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204

Remarks:

Posted by: Lawrence E. Schmidt Date of return: 6/24/95

Number of Signs: 1 **MICROFILMED**

CERTIFICATE OF PUBLICATION

TOWSON, MD. June 3, 1993

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md. once in each of 1 successive weeks, the first publication appearing on June 3, 1993.

THE JEFFERSONIAN,
S. Zeke Orlov
Publisher

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, 111 W. Chesapeake Avenue in Towson, Maryland 21204, on Room 106, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, as follows:
Case: 93-411-A (Item 416)
N/S Greenwood and Old Court Road
3rd Election District
2nd Councilmanic District
Petitioner(s): Brittany Partnership
Hearing: Monday, June 21, 1993 at 11:00 a.m. in Rm. 118, Old Courthouse.
Variance to allow two apartment entrance single-face signs each with a total square footage of 8.42 square feet and a third sign of 120 square feet (23 square feet of which is directional) in lieu of one sign of the size permitted (15 square feet).
LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County
NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE. FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. 6/24/93 June 3.

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

DATE: 5-18-93 ACCOUNT: REVENUE

RECEIVED FROM: BRITTANY PARTNERSHIP

FOR: COU. VARIANCE

ITEM # 416 AMOUNT: \$ 185.00

VALIDATION OR SIGNATURE OF CARRIER: [Signature]

PETITION OF: Brittany Partnership

CIVIL ACTION # 94-CV-09508 /83/

IN THE MATTER OF BRITTANY PARTNERSHIP

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S RECORD EXTRACT & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE AND EXHIBITS

[Signature]
Clerk's Office

Date: _____

Form CA2

Sandra Sanides - 887-2660
Civil Assignment Commissioner

Joyce Grimm - 887-3497
Director of Central Assignment

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland, 21285-6754
September 23, 1994

Kathy Rushton - 887-2660
Jury Assignments - Civil

Jan Dockman - 887-2661
Non-Jury Assignments - Civil

EDWARD C. COVAHEY, JR., ESQ.
CAROLE S. DEKILLO, ESQ.
COURTBOARD OF APPEALS OF BALTO. CO.

RE: Non-Jury 94 CV 5508 - BRITTANY PARTNERSHIP VS. BALTIMORE COUNTY BOARD OF APPEALS

SETTLEMENT CONFERENCE DATE: XXXXXXXXXXXXXXXXXX

CONFERENCE FROM 10:00 AM TO 12:00 PM

All counsel and their clients MUST attend this Settlement Conference in person. All Insurance Representatives or, in domestic cases, a corroborating witness MUST attend this Settlement Conference in person. Failure of attendance in person of all parties listed above can result in sanctions being imposed, unless prior approval of the Court is obtained. THERE WILL BE NO EXCEPTIONS.

HEARING DATE: Appeal: 1 hour Thursday, January 5, 1995, @ 9:30 a.m.

WITH THE EXCEPTION OF DOMESTIC CASES, COURT COSTS MUST BE PAID ON THE DATE OF SETTLEMENT CONFERENCE OR TRIAL, UPON SETTLEMENT OF THE CASE.

POSTPONEMENT POLICIES:
UPON RECEIPT OF THIS NOTICE, Counsel shall contact each other to conform calendars for the above dates. Claim of not receiving notice will not constitute reason for postponement.
A request for postponement MUST BE MADE IN WRITING to the Assignment Office with a copy to all counsel involved.
COUNSEL MUST NOTIFY THE CIVIL ASSIGNMENT OFFICE WITHIN 15 DAYS OF RECEIPT OF THIS NOTICE AS TO ANY CONFLICTS THAT MAY EXIST WITH THE ABOVE REFERENCED DATES. OTHERWISE, IT WILL BE ASSUMED THAT THESE DATES ARE VALID AND NO POSTPONEMENT WILL BE GRANTED.
INDIVIDUALS WITH DISABILITIES, WHO MAY NEED ACCOMMODATIONS PRIOR TO COURT DATES, SHOULD CONTACT THE COURT ADMINISTRATOR'S OFFICE (887-3677) OR USE THE COURTS TDD LINE (887-3018) OR THE VOICE/TOO MD RELAY SERVICE 1-800-735-2248.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 3rd Date of Posting: 7/23/93

Posted for: Brittany Partnership

Petitioner: Brittany Partnership

Location of property: 111 W. Chesapeake Avenue, Room 106, Towson, Maryland 21204

Location of Sign: Room 106, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204

Remarks:

Posted by: Lawrence E. Schmidt Date of return: 7/30/93

Number of Signs: 1 **MICROFILMED**

Form CA4

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland, 21285-6754

Kathy Rushton - 887-2660
Jury Assignments - Civil
General Settlement Conferences

— 887-2661
Non-Jury Assignments - Civil
Special Settlement Conferences

TO: October 14, 1994

Edward C. Covahey, Jr., Esq.
Anthony J. DiPaula, Esq.
Carole S. DeKillo, Esq.
County Board of Appeals of Balto. Co.
Mail Stop 2013

RE: Non Jury 94 CV 5508 Brittany Partnership vs. Balto. County Board of Appeals

HEARING DATE: Wednesday, January 25, 1995, @ 9:30 a.m. CORRECTED NOTICE

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 30 DAYS OF TRIAL, should be directed to the attention of Irene Summers. POSTPONEMENTS WITHIN 30 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.

TO: POVERTY PUBLISHING COMPANY
June 3, 1993 Issue - Jeffersonian

Please forward billing to:

Brittany Partnership
c/o Martha Poehler
Apartment Services, Inc.
5640 Invercoe Road
Timonium, Maryland 21093
(410) 561-1600

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, 111 W. Chesapeake Avenue in Towson, Maryland 21204, or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-411-A (Item 416)
N/S Greenwood and Old Court Road
"Brittany Apartments"
3rd Election District - 2nd Councilmanic District
Petitioner(s): Brittany Partnership
HEARING: MONDAY, JUNE 21, 1993 at 11:00 a.m. in Rm. 118, Old Courthouse.

Variance to allow two apartment entrance single-face signs each with a total square footage of 8.42 square feet and a third sign of 120 square feet (23 square feet of which is directional) in lieu of one sign of the size permitted (15 square feet).

[Signature]
LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

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, 111 W. Chesapeake Avenue in Towson, Maryland 21204, or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

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Variance to allow two apartment entrance single-face signs each with a total square footage of 8.42 square feet and a third sign of 120 square feet (23 square feet of which is directional) in lieu of one sign of the size permitted (15 square feet).

[Signature]
Arnold Jablon
Director

cc: Brittany Partnership/Apartment Services, Inc.
Anthony J. DiPaula, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue
July 26, 1993

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 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. 93-411-A
BRITTANY PARTNERSHIP
N/S Old Court Road, 36' NW of the c/1 Greenwood Road (Brittany Apartments)
3rd Election District
2nd Councilmanic District

VAR - Two apartment entrance signs with total square footage of 8.42 sq. ft. and a third sign of 120 sq. ft. in lieu of one sign of 15 sq. ft. as permitted for apartments.

6/23/93 - D.Z.C.'s Order in which Petition for Variance is GRANTED.

ASSIGNED FOR: TUESDAY, OCTOBER 12, 1993 at 10:00 a.m.

cc: People's Counsel for Baltimore County Appellant
Anthony J. DiPaula, Esquire Counsel for Petitioner
Martha Poehler, Exec. V.P. Apartment Services, Inc. Petitioner
James Matlis /GW Stephens, Jr. & Assoc., Inc. Engineer
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant