

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF RICHARD D. NIEHAUS, JR.

ET AL.

7525 Belair Road

Baltimore, Maryland 21236

FOR JUDICIAL REVIEW OF THE

ORDER AND OPINION OF COUNTY BOARD OF

APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 49

400 Washington Avenue

Towson, Maryland 21204

CIVIL ACTION NO.

03-C-96-13013

IN THE CASE OF RICHARD D. NIEHAUS, JR. *

ET AL.

Case No.: 96-260-SPH

ORDER

The within matter having come before the Court on the merits of the Petitioner's appeal from the decision of the Board of Appeals for Baltimore County, and argument of counsel having been considered in connection with the matter, it is therefore, this Aday of July, 1997, by the Circuit Court for Baltimore County: ORDERED:

That the decision of the Board of Appeals in the within matter is hereby affirmed for the reasons stated on the record in open court on July 3, 1997; and it is further

ORDERED:

That the effect of this Order be and the same is hereby 2. stayed for a period not to exceed thirty (30) days from the date of this Order or until such time as an appeal is noted to the Court of Special Appeals from this Order.

THE PROPERTY OF THE PARTY OF TH

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY PETITION OF RICHARD D. NIEHAUS, JR., ET AL 7525 Belair Road Baltimore, Maryland 21234 FOR JUDICIAL REVIEW OF THE DECISION OF CIVIL THE COUNTY BOARD OF APPEALS ACTION No. 3-C-96-13013 OF BALTIMORE COUNTY Room 49, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 IN THE CASE OF: IN THE MATTER OF RICHARD D. NIEHAUS, JR., ET AL FOR A SPECIAL HEARING ON PROPERTY AND FILED LOCATED ON THE SOUTHEAST SIDE OF BELAIR ROAD, 80' NE OF BELHAVEN DRIVE (7525 BELAIR ROAD) 14TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT CASE NO. 96-260-SPH

> PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Charles L. Marks, Margaret Worrall, and Harry E. Buchheister, Jr., constituting 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 Department of Permits and Development Management and the Board of Appeals of Baltimore County:

> ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

No. 96-260-SPH

Petition for Special Hearing filed by the December 14, 1995 owners of the property, Richard Dun Mienbuse, Jr., Robert S. Niehaux CEland AStephen Niehaus, and Contract Lessee, Bruse Benkert, seeking approval to use property zoned B.M., Publication in newspapers. BALTIMORE COUNTY

January 25, 1996

96-260-SPH, Richard D. Niehaus, Jr., et al File No. 3-C-96-013013

January 26, 1996 Certificate of Posting of property. ZAC Comments. February 5 Hearing held on Petition by the Zoning February 12 Commissioner. Order of the Deputy Zoning Commissioner in March 20 which Petition for Special Hearing was DISMISSED WITH PREJUDICE. Notice of Appeal filed by John A. Austin, April 15 Esquire, on behalf of Richard D. Niehaus, Jr., et al. Hearing before the Board of Appeals. September 25 Deliberation conducted by the Board. October 23 Opinion and Order of the Board in which the December 12 Petition for Special Hearing was DENIED. Petition for Judicial Review filed in the December 24 Circuit Court for Baltimore County by John A. Austin, Esquire, on behalf of Richard D. Niehaus, Jr., et al. Copy of Petition for Judicial Review received December 26 by the Board of Appeals from the Circuit Court for Baltimore County. Certificate of Notice sent to interested December 27 parties. Transcript of testimony filed. January 27, 1997 Petitioner's Exhibits No. 1-Three photos of bldg. 2-Series of photos of lab, mtsl & flash art 3-Safe Tattooing 4-Review of tattooing for customers 5-Notice about sterilization given to customer 6-How to care directions 7-Release form 8-For identification 9-What to look for introduction to customers 10-Petitions of Support 11a-Plat of Property 11b-Copies of Graphic Designs

96-260-SPH, Richard D. Niehaus, Jr., et al File No. 3-C-96-013013

People's Counsel's Exhibits No. 1A-1D - Rule 8 material

January 27, 1997

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, Legal Secretary
County Board of Appeals of Baltimore
County, Room 49, Basement - Old Courthouse

400 Washington Avenue

Towson, MD 21204 (410) 887-3180

cc: John A. Austin, Esquire
Edwin Shapiro, Esquire
Richard D. Niehaus, Jr., et al
People's Counsel for Baltimore

People's Counsel for Baltimore County Virginia W. Barnhart, County Attorney

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF RICHARD D. NIEHAUS, JR.

ET AL

7525 Belair Road

Baltimore, Maryland 21234

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 RICHARD D. NIEHAUS, JR., ET AL

FOR A SPECIAL HEARING ON PROPERTY

LOCATED ON THE SOUTHEAST SIDE OF BELAIR

ROAD, 80' NE OF BELHAVEN DRIVE

(7525 BELAIR ROAD)

14TH ELECTION DISTRICT

6TH COUNCILMANIC DISTRICT

CASE NO. 96-260-SPH

CIVIL ACTION

No. 3-C-96-13013

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Charles L. Marks, Margaret Worrall, and Harry E. Buchheister, Jr., constituting 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, John A. Austin, Esquire, 101 E. Chesapeake Avenue, Suite 200A, Towson, Maryland 21286, and Edwin Shapiro, Esquire, Suite 320 Nottingham Centre, 502 Washington Avenue, Towson, Maryland 21204, Esquire, Counsel for Petitioner; Richard D. Niehaus, Jr., 7525 Belair Road, Baltimore, Maryland 21236, Petitioner; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, Maryland 21204; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

RECEIVED AND FILED A. SH

96 DEC 27 PM 3:21 Charlotte E. Radcliffe, Legal Secretary County Board of Appeals, Room 49 -Basement Old Courthouse, 400 Washington Avenue Towson, MD 21204 (410) 887-3180

96-260-SPH, Richard D. Niehaus, Jr., et al File No. 3-C-96-013013

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to John A. Austin, Esquire, 101 E. Chesapeake Avenue, Suite 200A, Towson, Maryland 21286, and Edwin Shapiro, Esquire, Suite 320 Nottingham Centre, 502 Washington Avenue, Towson, Maryland 21204, Esquire, Counsel for Petitioner; Richard D. Niehaus, Jr., 7525 Belair Road, Baltimore, Maryland 21236, Petitioner; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, Maryland 21204, this 27th day of December, 1996.

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

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF RICHARD D. NIEHAUS, JR. ET AL.

7525 Belair Road

Baltimore, Maryland 21236

FOR JUDICIAL REVIEW OF THE ORDER AND OPINION OF COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 49 400 Washington Avenue

CIVIL ACTION NO.

03-C-96-13013

IN THE CASE OF RICHARD D. NIEHUAS, JR. * ET AL.

Case No.: 96-260-SPH

Towson, Maryland 21204

PETITION FOR JUDICIAL REVIEW

Richard D. Niehaus, Jr., Petitioner, by his undersigned counsel, petitions this Honorable Court for judicial review pursuant to Rule 7-202 of the Maryland Rules of Procedure of the opinion and order of the County Board of Appeals of Baltimore County of December 12, 1996.

- 1. Your Petitioner was a party to all of the proceedings before the Agency and to all proceedings conducted before the County Board of Appeals.
- 2. The above-referenced decision of the Board of Appeals contains numerous errors of fact and of law with respect to the proper application of the provisions of the Baltimore County Code referenced in the opinion particularly as these sections are applied to the facts and evidence presented at the time of the hearing.
- 3. The decision of the Board of Appeals was arbitrary and capricious and contrary to the evidence that was presented at the

1

time of the hearing concerning the issues of whether a tattoo parlor is a permitted use in a_B.M. zone.

- 4. That the decision of the Board of Appeals was contrary to the evidence that was presented, all of which demonstrated, without contradiction, that a tattoo parlor should be permitted in a B.M. zone, either in the classification of a residential art salon, or another appropriate zoning classification.
- 5. The decision of the Board of Appeals constitutes an unconstitutional taking of the Petitioner's property without due process, as this ruling effectively deprives him of profitable use of the subject property by its holding that there is no zoning classification applicable to a tattoo parlor.
- 6. And for such other and further reasons as will be assigned at the time of a hearing on this appeal.

JOHN/A. AUSTIN

101/#. Chesapeake Avenue

Suite 200A

Towson, Maryland 21286

410-821-9632

EDWIN SHAPIRO

Suite 320 Nottingham Centre

502 Washington Avenue

Towson, Maryland 21204

410-828-7090

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of December, 1996, a copy of the foregoing Petition for Judicial Review was mailed,

postage prepaid, to: People's Counsel for Baltimore County, 400 Washington Avenue, Towson, Maryland 21204.

JOHN A AUSTIN

IN THE MATTER OF THE BEFORE THE

THE APPLICATION OF

RICHARD D. NIEHAUS, JR, ET AL * COUNTY BOARD OF APPEALS

FOR A SPECIAL HEARING ON

PROPERTY LOCATED ON THE SOUTH * OF

OF BELHAVEN DRIVE

EAST SIDE BELAIR ROAD, 80' NE

(7525 BELAIR ROAD) 14TH ELECTION DISTRICT

6TH COUNCILMANIC DISTRICT

*

OPINION

BALTIMORE COUNTY

CASE NO. 96-260-SPH

This case comes to the County Board of Appeals of Baltimore County based on an appeal from the Deputy Zoning Commissioner's Order of March 20, 1996, in which a Petition for Special Hearing was dismissed with prejudice, citing Case No. 96-107-SPH and the Deputy Zoning Commissioner's interpretation that a tattoo parlor was not permitted in the B.M. zone, nor by Special Exception.

The Appellants /Petitioners were represented by John A. Austin, Esquire; Protestants appeared pro se; and Carole S. Demilio, Deputy People's Counsel, participated in these proceedings on behalf of the Office of People's Counsel for Baltimore County.

Two witnesses testified on behalf of the Petitioners. Mr. Bruce Benkert testified concerning the tattoo parlor. He stated that he currently resided at 7525 Belair Road, 21236, and also operated the tattoo business at that address. He lived in the building with his girlfriend and two children. Their living quarters included three bedrooms, a bath and a kitchen.

He testified that he had started the tattoo business on the premises on October 1, 1995. He has been performing his tattooing skills for 3-1/2 years, and had training in art classes in high school. At the present time, there were two employees on the site besides himself, one who handled the front office and clerical functions, and another individual who assisted him in his tattooing

work. He stated the nature of his tattoo operation; a substantial number of exhibits relative to the general nature of tattooing; and how he conducted his business. He opined that the tattoo business is not regulated by the Baltimore County Health Department, but that he personally oversees the business to make sure that all precautions are taken to insure that the health, general welfare and safety of his customers are always protected. No one under 16 years of age is tattooed; and minors must have their parents written permission along with the parent's approval of the tattoo to be applied, and the parent(s) must be physically present when The Petitioner went into considerable the work is performed. detail as each exhibit was offered concerning when and how the tattooing was accomplished; and, specifically the safety precautions and procedures he employed to make sure that no infection could possibly occur. He stated that he had not had any complaints concerning his work or any client calls relative to the tattooing and subsequent infection or illness as a result of his skill, and further that there had been no immediate neighborhood complaints concerning the conduct of his clients.

The Petitioner also testified at length concerning his art work, and explained the nature of interchange and sales of original tattoos and designs. Both he and his apprentice are involved in designing original tattoo works, which are subsequently sold throughout the United States to other individuals in the profession. He also explained the nature of reworking tattoos, and redoing old ones, which would entail new designs. He explained that frequently his customers purchase "flash designs" on both a local and worldwide basis, via mail-order catalog and trade

conventions. He stated that his future plans involved moving into the areas of glass staining, silk screening, amd air brushing, all of which would involve original works of art. The site in question, he related, was in a general area of other commercial businesses. Across the street was a McDonald's, nearby the Fullerton Savings and Loan Association, the Fullerton Supply Company, and an art supply store, and what he believed to be an assisted living residence just up the street. Again, he emphasized that there had been no neighborhood complaints concerning his trade or his clientele.

On cross-examination by Deputy People's Counsel, Mr. Benkert testified that he had rented the premises for one year with a 30year option. He stated that modifications had been done within the building on the same floor to accommodate his living quarters there but that no permit had been obtained to do the work. He stated that the apartment took up approximately 1,200 sq. ft.; and, within the same building, was a small "ma and pa" mortgage company; and the building owner, Mr. Niehaus, operated a small floral shop in the basement. In total, three businesses operated out of the facility, in addition to the upstairs apartment, with a parking lot that could accommodate between 40 and 50 cars. The property is set on a lot approximately 1/2 acre in size, with 100-foot side setback from neighboring buildings. He testified that, after the tattooing work had been performed, the used needles were all transported to Franklin Square Hospital for disposal purposes. Mr. Benkert testified that when he initially started the tattoo business, the entire building was used for commercial purposes. He also stated that he performs around 125 to 150 tattoos a month on his clients;

and his hours were from 11:00 a.m. to 9:00 p.m., Monday through Saturday. No work was performed on Sundays.

Mr. Richard D. Niehaus also testified on behalf of the Appellant. He resides at 2921 Glenmore Avenue, and operated the "Town and Country Flowers" business out of the basement of 7520 Belair Road. He stated that this was essentially a retail operation occupying about 2,000 sq. ft. When he first bought the building in 1974, a beauty shop had operated out of the present space used by the tattoo parlor. That shop continued in business until September 1995, when the tattoo parlor opened in October The rear of the building was used by a husband and wife mortgage company, which occupied about 1,000 sq. ft. He stated that originally he had had apprehensions when considering renting the property to Mr. Benkert, but that he had been an excellent tenant; and, because he worked out of the same building, he had the opportunity to daily conduct observations of how Mr. Benkert handled his business, and to his knowledge there had never been any customer or client complaints. He stated that the plat by Hicks Engineering was "perfect" (Appellant's Exhibit #10). He testified that the building had never been used as a residence since he owned it until Mr. Benkert had moved in.

Deputy People's Counsel offered Ms. Lorraine Gordon as a witness. Rule 8 of the Board's Rules was complied with, and Ms. Gordon testified on behalf of the Linover Improvement Association. She stated that the Association consisted of about 450 members, and produced the necessary documentation to speak on behalf of the Association and their objection to the operation of the tattoo parlor in the B.M. zone. She opined that the Association became

aware of the tattoo parlor when Mr. Benkert posted a sign. That prompted a call to the Zoning Office and they advised her that a tattoo parlor was not legal in the B.M. zone. Ms. Gordon testified that the building, to the best of her knowledge, had never been used as a residence; and that the portion of Belair Road in which the shop was located was almost totally "commercial" in nature. She stated that she has been a registered nurse for 21 years and had worked at Johns Hopkins Hospital for 16 1/2 years and was presently a school nurse for St. Michael's Roman Catholic School located a few blocks away. She questioned Mr. Benkert's statements concerning needle disposal; and did not believe that Franklin Square Hospital would accept such bio-hazardous waste material. She stated that Mr. Benkert was not a member of the Linover Community Association; and that the Association's primary concerns were in the areas of (1) illegal property use relative to the B.M. zone, (2) health issues in applying the tattoos, and (3) if approval were given, that such tattoo salons could exist anywhere in a B.M. zone, applying the "residential art salon" interpretation.

On cross-examination by Mr. Austin, Ms. Gordon testified that she lived on Leslie Avenue about 1/2 mile from the subject property and had been a school nurse since 1992 when the County pulled their nurses out of parochial schools. She stated that she had not worked for any hospitals since 1988. She also testified that she had not actually been in the tattoo parlor and to the best of her knowledge no member of the association had visited the parlor. Mr. Austin raised an objection to the proposed entry into evidence of a letter written by Mr. Carl Richards, a copy of which had been

received by Mr. Austin just one day prior to the hearing from People's Counsel. The objection was sustained and People's Counsel produced Mr. John Lewis who worked in the building in which the hearing was held, so that Mr. Austin would have the opportunity to cross-examine. Mr. John Lewis stated that he was with the Department of Permits & Development Management and with the Zoning Review Section, working with that department for about 10 years. He is involved in the review and control of commercial and residential development. He opined that residences were permitted if in existence in buildings before they became commercially zoned. However, to establish a residence in a commercial building, a special exception was required. He stated that a dwelling unit was specifically defined by the Baltimore County Zoning Regulations (BCZR) under Section 101, Definitions, "A building or portion thereof which provides living facilities for one or more families." He also addressed the attention of the Board members to Section 1B01.1(C) of the BCZR, "Uses permitted by Special Exception" in all D.R. zones, subject to the restrictions specified therein; and, that there was no provision for a tattoo parlor or salon. He further stated that the department had taken the position that a tattoo parlor or salon did not come within the definition of a "residential art salon", section 230, "Uses Permitted in a B.L. Zone." On cross-examination, Mr. Lewis stated that he knew nothing about the instant case and that he had no part in preparing Mr. Richards' letter of September 20 which was offered as People's Counsel's Exhibit No. 2. Mr. Austin re-called Mr. Niehaus who testified that prior to his purchase of the premises, an elderly lady had resided in the building, that the house was built in 1922,

and that the owners had raised their family therein. He further testified that in 1970, an addition had been placed on the property, and that he had lived there in 1989 for almost a year during his marital separation; that the building was now divided into four sections, each with different entrances, and that the building lends itself to either commercial or residential uses. Both counsel presented oral closing statements to support their viewpoints.

On Wednesday, October 23, 1996, the Board conducted a public deliberation of the case, having individually reviewed their notes, exhibits, applicable statutes and case law.

This case was heard by the Board on a "de novo" basis. It is an unusual case in that there was no hearing by the Deputy Zoning Commissioner, Timothy Kotroco, in Case No. 96-260-SPH, since the Deputy Zoning Commissioner relied on a previous decision by the Zoning Commissioner, Lawrence E. Schmidt, in Case No. 96-107-SPH, and his own interpretation that a tattoo salon was not a permitted use in the B.M. zone, nor is it permitted by special exception. This Board, of course, is not bound by that decision or interpretation. It is unquestioned factually that the subject property is located in a B.M. zone (Business Major). The BCZR specifies and regulates, under section 233, the uses that have been permitted by the County Council in enacting the legislation. The BCZR states that "the following uses only are permitted." This sentence continues with specific identification of those uses which are permitted as of right, or by special exception, in the B.M. zone. The word "only" means "without others; or anything further, alone, solely, exclusively." Therefore, if the use is not

Case No. 96-260-SPH Richard D. Niehaus, Jr., et al designated, it is simply not allowed.

Very clearly, a "tattoo parlor" or "tattoo salon" is not listed among the permitted uses within Section 233 of the BCZR, nor are they to be uncovered in a search of Section 101, which defines phrases and words used throughout the BCZR. This Board is constrained to follow the rationale employed by the Maryland courts as offered in Kowalski v. Lamar, 25 Md.App. 493 (1975). In that case, involving statutory interpretation, the Court stated that "these sections established that the only uses permitted...are those designated as uses permitted as of right and uses permitted by special exception. Any uses other than those permitted and being carried on as of right or by special exception are prohibited." The applicable section of the BCZR (Section 102.1) has not been amended, modified, or stricken since decided by the Court nor has there been any reversal, so that the Kowalski case still holds as a guiding force for this body.

Counsel for the Appellant argues that a tattoo salon can appropriately come within the definition of a residential art salon. Under Article I, General Provisions, BCZR, a residential art salon is defined as "a portion of a dwelling unit used for the exhibition and sale of original works of art. For the purposes of these regulations, an 'original work of art' shall include a numbered reproduction, a series of no more than 50 which reproduction is individually signed by the artist. A 'residential art salon' shall not include a photographic studio." Section 101 [Definitions] BCZR, defines a dwelling as a "building or a portion thereof which provides living facilities for one or more families." While an attempt was made by the Petitioner to show that the

subject building was at one time used as a residence, there was sufficient testimony and evidence to demonstrate to the Board that the building in question is primarily functional as a commercial facility; and not a dwelling unit. There exists within the structure a mortgage company, a floral operation and the tattoo The building is within a commercialized area of Belair Road; and there was evidence that the unit upstairs was converted to an apartment subsequent to the Deputy Zoning Commissioner's ruling in March 1996 without proper permits being issued by the County or zoning approval obtained. Mr. Niehaus himself originally stated that the building had not been used as a residence since his ownership which went back to 1974, although on cross-examination he modified that statement. Clearly the building is not a primary dwelling facility so that even if a tattoo salon fell within the definition of a residential art salon which is a permitted under Section 233.1, it falls short in the applicability of the "dwelling" requirement of the regulation. While there may have been an attempt to change the commercial nature of the building to accommodate the definition of a "residential art salon," it is the conclusion of the Board that the attempt was in violation of the zoning regulations, and performed without Baltimore County permit authority. Additionally, the definition of a residential art salon requires that "original works of art shall include a numbered reproduction from a series of no more than 50, which reproduction is individually signed by the artist." Testimony and evidence produced at the hearing revealed examples of artwork and "flash designs" which customers could purchase on site (Appellant's No.

2). However, there was no substantive testimony or evidence

produced that satisfies that requirement of the regulation. The question of whether or not a tattoo salon can be interpreted as a "residential art salon" is debatable. Based on the weight of the evidence and testimony produced at the hearing, the Board concluded that the Appellant's primary focus at the subject location is one of selling a professional service [tattooing] of transferring works of art by "marking or coloring the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars." (Webster's 3rd New International Dictionary) The definition of a "residential art salon" requires the "sale of While there may be the sale of some original works of art." original works of art on the premises (flash designs, etc.), the primary function of the shop is not the sale of the artworks, but rather the sale of the service in transferring the artwork to the skin of the client. The Board does not question but that the flash designs are artistic in nature and that the art of tattooing has become quite acceptable by all segments of the public. The Board greatly impressed by Mr. Benkert's testimony was and representations, along with the evidence submitted concerning the extraordinary measures he takes to protect the general health, safety and welfare of his clients in a field that is generally unregulated by both State or local laws. There was also no doubt in the minds of the Board members that mere objection to the existence of tattoo parlors as detrimental to the community interest, without substantive proof or evidence, does not disqualify them as a legitimate business and service offered to those who seek out such services. However, it is not the function of this Board to usurp the prerogative of the County Council in

determining what is or is not a permitted use in a B.M. zone by administrative fiat. Based on the testimony and evidence produced at the hearing, it is a subject that the membership of the tattooing trade should be left to pursue in the halls of the legislative chambers to address the need for inclusion in the current B.M. zoning regulations.

The Board therefore disapproves the use of a subject property zoned B.M. for a tattoo salon, in that such tattoo salons are not permitted under the Baltimore County Zoning Regulations in a B.M. zone, nor are they permitted by special exception; and will so order.

ORDER

IT IS THEREFORE this 12th day of December, 1996 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing filed in Case No. 96-260-SPH to approve the use of the subject property zoned B.M. as a tattooing salon be and the same is hereby DENIED.

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

Charles L. Marks, Acting Chairman

Margaret Worrall

Harry E. Buchheister, Jr



County Board of Appeals of Baltimore County

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

December 12, 1996

John A. Austin, Esquire 101 E. Chesapeake Avenue Suite 200-A Towson, MD 21286

RE: Case No. 96-260-SPH
Richard D. Niehaus, Jr., et al
-Petitioner

Dear Mr. Austin:

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.

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 and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Wery truly yours, Charles E. Radchy & Rathleen C. Bianco

Legal Administrator

encl.

Messrs. Richard D. Niehaus, Jr., Robert S. cc: Niehaus, and Stephen M. Niehaus J. Kevin Wight /Hicks Eng. Bruce Benkert /Contract Lessee Paul G. Monaghan, Sr. Lorraine Gordon / Mr./Mrs. Robert J. Vernier Linover Improvement Association The Hon. Thomas Bromwell The Hon. Kathy Klausmeier People's Counsel for Baltimore County Pat Keller, Director /Planning Lawrence E. Schmidt /Zoning Commissioner Arnold Jablon, Director /PDM Virginia W. Barnhart, County Attorney

IN RE: PETITION FOR SPECIAL HEARING

SE/S Belair Road, 80' NE of

Belhaven Drive (7525 Belair Road) 14th Election District 6th Councilmanic District

Richard D. Niehaus, Jr., et al

Petitioners

* BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

* Case No. 96-260-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing for that property known as 7525 Belair Road, located across from its intersection with Belhaven Road, in the vicinity Fullerton. The Petition was filed by the owners of the property, Richard D. Niehaus, Jr., Robert S. Niehaus, and Stephen M. Niehaus, and the Contract Lessee, Bruce Benkert. The Petitioners seek approval to use the subject property, zoned B.M., for a Tattoo Salon. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Richard Niehaus, Jr., property owner, Bruce Benkert, Contract Lessee, and J. Kevin Wight, a representative of Hicks Engineering, who prepared the site plan for this project. Appearing in opposition to the request were Lorraine Gordon and Paul G.Monaghan, Sr., nearby residents of the surrounding community.

Prior to taking any testimony on this matter, and as a preliminary issue, a discussion ensued regarding the permissibility of a tattoo parlor in a B.M. zone. After discussing this issue with the Petitioners and advising them of Zoning Commissioner Lawrence E. Schmidt's decision in

SA FILING ORDER AECE

Case No. 96-107-SPH in which he found as a matter of law that tattoo salons are not permitted in any capacity, either by right, or by special exception, in a B.M. zone, the Petitioners' request for special hearing was dismissed.

In reviewing Mr. Schmidt's Findings of Fact and Conclusions of Law in Case No. 96-107-SPH, and my own interpretation of the B.C.Z.R., I hereby find consistently with Mr. Schmidt that a tattoo salon is not a permitted use in a B.M. zone, nor is it permitted by special exception. As such, the relief requested in the Petition for Special Hearing shall be dismissed with prejudice.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be dismissed with prejudice.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this ______ day of March, 1996 that the Petition for Special Hearing seeking approval to use the subject property, zoned B.M., for a Tattoo Salon, be and is hereby DISMISSED WITH PREJUDICE.

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

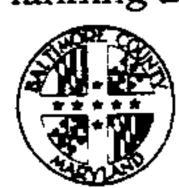
TMK:bjs

ORDER RECEIVED FOR FILLING
Date
Ogto

- 2-



Baltimore County Government Zoning Commissioner Office of Planning and Zoning



Suite 112 Courthouse 400 Washington Avenue Towson, MD 21204

March 20, 1996

(410) 887-4386

Messrs. Richard D. Niehaus, Jr., Robert S. Niehaus, and Stephen M. Niehaus 7525 Belair Road Baltimore, Maryland 21236

RE: PETITION FOR SPECIAL HEARING
SE/S Belair Road, 80' NE of Belhaven Drive
(7525 Belair Road)
14th Election District - 6th Councilmanic District
Richard D. Niehaus, Jr., et al - Petitioners
Case No. 96-260-SPH

Dear Messrs. Niehaus:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been dismissed 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. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

cc: Mr. Kevin Wight, Hicks Engineering, Inc. 200 E. Joppa Road, Suite 402, Towson, Md. 21286

Mr. Bruce Benkert, 5415 Hillburn Road, Baltimore, Md. 21214

Mr. Paul G. Monaghan, Sr., 8 Chesley Avenue, Baltimore, Md. 21206

Ms. Lorraine Gordon, c/o Linover Improvement Association,

P.O. Box 16952, Baltimore, Md. 21206

Mr. & Mrs. Robert J. Vernier, 16 Belhaven Drive, Baltimore, Md. 21236

People's Counsel; Case File



ORDER RECEIVED

Petition for Special Hearing

to the Zuming Commi	reading of Dagring Count
for the property located at	7525 BELAIR ROAD

which is presently zoned BM-C5-2

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the

This Petition shall be filed with the Department of Permits & Development Management

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

To Permit A Tattoo SACON IN A 13MM Zone.

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

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

		legal owner(s) of the property which is the subject of this Petition.
	Contract Purchaser/Lessee: Mr. B'5 TATTOOS	Legal Owner(s)
	Bruce Benkert 4110 668 3567 (Type or Print Name) Bulle Bunkert Signature	RICHARD D. NIEHAUS, JR. (Type oi) Print playle) Signature
	4207 GLENMORE AUC Address	ROBERT S. NIEHAUS/STEPHEN M. NIEHAUS
	$\frac{\mathcal{B}_A/T}{City} \qquad \frac{\mathcal{M}_D}{State} \qquad \frac{\partial 1006}{Zipcode}$	Signature Signature
	Attorney for Petitioner	(410) 426- 8503 (Ho) 7525 BELAIR ROAD (410) 665-3311 (WO) Address Phone No
FILING	(Type or Print Name)	BALTIMORE MD. 2-12-36 City State Zipcode Name, Address and phone number of representative to be contacted.
S/S	Signature	J. KEVIN WIGHT-HICKS ENG.Co., INC.
VED F	Address . Phone No.	Name ZOOE, JOPPA ROAD, SUITE 40Z (410)494-0001 Address OFFICE USE ONLY
CEI	State Zipcode	ESTIMATED LENGTH OF HEARING Unavailable for Hearing
H.		the following dates Next Two Months
		REVIEWED BY: DATE 1/3/96

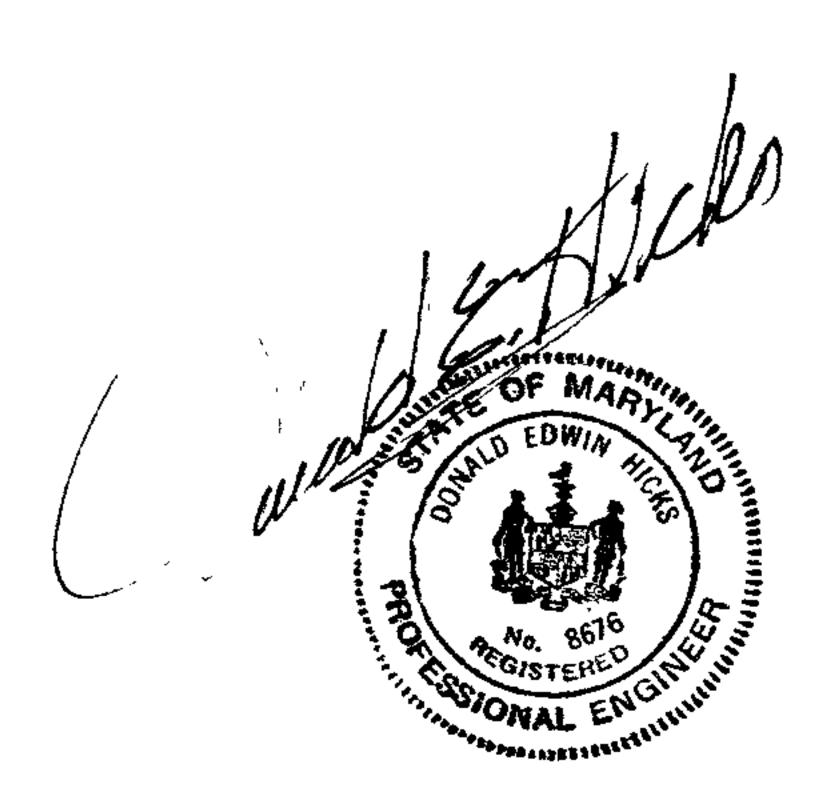
76-260-5PH

ZONING DESCRIPTION

Beginning at a point on the southeast side of Belair Road, 60' wide, at a distance 80' more or less northeast of the centerline of Belhaven Drive, 50' wide. Thence the following courses and distances:

- 1) N 47° 05'E, 100'; 2) S 48° 45'E, 200'; 3) S 47° 05'W, 100';
- 4) N 48° 45' W, 200' to the place of beginning as recorded in deed Liber 7076, Folio 848.

Being lots 9 and 10 on the plat of the property of William J. Biddison and John S. Biddison, recorded among the Land Records of Baltimore County in plat book J.W.S. No. 2, folio 390. Containing 0.46 Ac., more or less. Also known as 7525 Belair Road and located in the fourteenth election district.



ZONING DEPARTMENT OF BALTIMORE COUNTY Towner, Maryland

District_LLL	Date of Posting 4/18/96
Posted for:	
Petitioner: Richard Nio Saus,	do etal
Petitioner: Aigherd Nio Mausy Location of property: 7575 Bilair Rus	SE/5:
Location of Signe Tacing Tood Uby	on property being appealed
Remarks:	***************************************
A	575796
Posted by Signature	Date of return:

Number of Signe:

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towner, Maryland

			1 /
District		Date of Posting	1/26/96
Posted for:	Special Hearing		7
Petitioner:	Richard D. Niehaus, Jr., Robe	rt S. Niehaus &	Stephen M. Niehaus
Location of	Mr. B's Tattoos/Bruce Benkert 7525 Belair Road		
~		+ 1 -	
Location of	Smalthached to Permanen Grond of Blag	Alga Tost	
Remarks:			
	Signature	Date of return:	
Number of	Signe:		

BALTIMORE (JNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT
DATE # 19/96 ACCOUNT ROO1-7120
RECEIVED John A. Hostin, Esquire
7525 BELTIN KOAD
DISTRIBUTION VALIDATION OR SIGNATURE OF CASHIER WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER
BALTIMORE CUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT
DATE # 19/96 ACCOUNT ROO1-7120
RECEIVED OKA A Austin Laguine
7525 BELATE WORKS 12011111
DISTRIBUTION VALIDATION OR SIGNATURE OF CASHIER VALIDATION OR SIGNATURE OF CASHIER

	`V⊥i∟ AC	TION #	3-C-9	0=1301			
					NIEHAUS.	, JR.,	ET AL
11	1 THE P	WIIPK	<u> </u>				
A) E)	PPEALS XTRACT	EXHIB & TRA	ITS, BO NSCRIPT D CASE	FILE AND	BOARD CORE RECORE D IN THE	ΙE	-
Ĉ	OMMISS	IONER	S FILE	AND	XHIBITS	.	
	ō	lerk's	offic	e <i>J</i>			
	rates	•					
		 					
		.	, -	- 4 - K	grade out to the		•
		, . ~ · · ·	, -	- 1 - K	e new to the tage		
~ 4 1 71840	DE . OU			- 1 - K-			A & 87 5
BALTIMO	RE COUN	NTY, MAR	RYLAND	- 1 - K	tar or tar		17/
OFFICE OF	F FINANCE	NTY, MAR	RYLAND E DIVISION		Ħo.		
OFFICE OF	RE COUNT FINANCE	NTY, MAR	RYLAND E DIVISION CEIPT	76-	No.		
OFFICE OF	F FINANCE ANEOUS	NTY, MAR	RYLAND E DIVISION CEIPT		No.		7171 PH
DATE	F FINANCE ANEOUS	NTY, MAR	RYLAND E DIVISION CEIPT	76-	No.		
DATE	F FINANCE ANEOUS 3-96	NTY, MAR	RYLAND E DIVISION CEIPT	76-	No Z 60		
DATE	F FINANCE ANEOUS 3-96	NTY, MAR	RYLAND E DIVISION CEIPT	76-	No.		
DATE	F FINANCE ANEOUS	TY, MAR REVENUE CASH RE	RYLAND E DIVISION CEIPT	76-	No 260 615		
DATE	F FINANCE ANEOUS	TY, MAR	RYLAND E DIVISION CEIPT ACCOUN	76-6 17-51-6	- 260 615 55.60		
DATE	F FINANCE ANEOUS	TY, MAR	RYLAND E DIVISION CEIPT ACCOUN	76-6 17-51-6	- 260 615 55.60		
DATE	F FINANCE ANEOUS	TY, MAR	RYLAND E DIVISION CEIPT ACCOUN	76-6 17-51-6	No 260 615		
DATE	F FINANCE ANEOUS	TY, MAR	RYLAND E DIVISION CEIPT ACCOUN	76-6 17-51-6	- 260 615 55.60		
DATE	F FINANCE ANEOUS	TY, MAR	RYLAND E DIVISION CEIPT ACCOUN	76-6 17-51-6	- 260 615 55.60		
DATE	F FINANCE ANEOUS	TY, MAR	RYLAND E DIVISION CEIPT ACCOUN	76-6 17-51-6	- 260 615 55.60		
DATE	F FINANCE ANEOUS	TATALA	RYLAND E DIVISION CEIPT ACCOUN	76-	10. 35.60 35.6		

PETITION OF: Richard Niehaus, Jr., et al

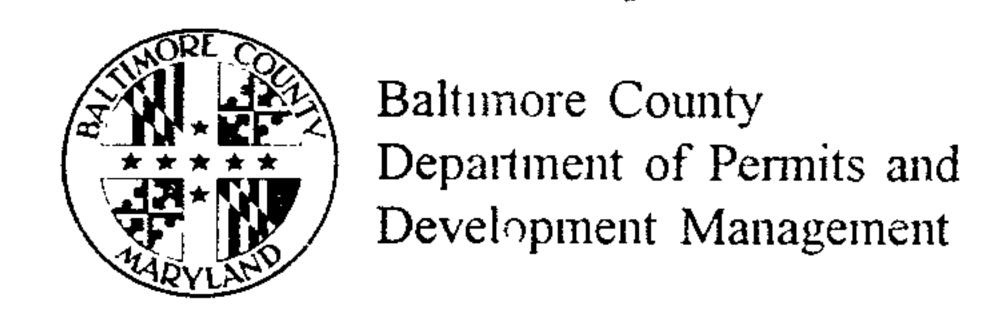
Belleven Line 14th Election District 6th Councilmant Legal Owner(s)
Richard D. Meliaus, Jr., Robent S. Mienaus, and Stephen M. Mienaus 118, Old Countrouse. LAWRENCE E. SCHMOT Zoning Commissioner for Baltimore County NOTES: (1) Hearings are Handicapped Accessible, for special accommodations Please Call 887-3353. (2) For information concerning the File and/or Hearing, Please Call 887-3391. 1/204 Jan 25

CERTIFICATE OF PUBLICATION

$\sqrt{1-1}$
TOWSON, MD., /25, 1996
THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper published
n Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on $1/25$, 19 96.
weeks, the first publication appearing on $1/25$, 1996.

THE JEFFERSONIAN,

LEGAL AD. - TOWSON



Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR
For newspaper advertising:
Item No.: 256 Petitioner: Nie haus, Richarl Tr.
Location: 7525 Bc/air P.L.
PLEASE FORWARD ADVERTISING BILL TO:
NAME: Nichard Dr.
ADDRESS: 7325 Bolaic Fl.
Bulto. Mu. 21236
PHONE NUMBER: (410).665-33//



Baltimore County
Department of Permits and
Development Management

Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

January 19, 1996

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: 96-260-SPH (Item 256)

7525 Belair Road

SE/S Belair Road, 80¹ NE of c/l Belhaven Drive 14th Election District - 6th Councilmanic

Legal Owner: Richard D. Niehaus, Jr., Robert S. Niehaus, and Stephen M. Niehaus

Contract Purchaser: Mr. B's Tattoos/Bruce Benkert

Special Hearing to permit a tatto salon.

HEARING: MONDAY, FEBRUARY 12, 1996 at 2:00 p.m. in Room 118, Old Courthouse.

Arnold Jablon

Director

cc: Richard D. Niehaus, et al

J. Kevin Wight/Hicks Eng. Co., Inc.

Bruce Benkert

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.
- (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

TO: PUTUXENT PUBLISHING COMPANY

January 25, 1996 Issue - Jeffersonian

Please foward billing to:

Richard Niehaus, Jr. 7525 Belair Road Baltimore, MD 21236 665-3311

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

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

or

CASE NUMBER: 96-260-SPH (Item 256)

7525 Belair Road

SE/S Belair Road, 80' NE of c/l Belbaven Drive

14th Election District - 6th Councilmanic

Legal Owner: Richard D. Niehaus, Jr., Robert S. Niehaus, and Stephen M. Niehaus

Contract Purchaser: Mr. B's Tattoos/Bruce Benkert

Special Hearing to permit a tatto salon.

HEARING: MONDAY, FEBRUARY 12, 1996 at 2:00 p.m. in Room 118, 0ld Courthouse.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

(2) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

2/4/4/6

February 9, 1996

NOTICE OF REASSIGNMENT

Rescheduled from 2/12/96

CASE NUMBER: 96-260-SPH (Item 256)

7525 Belair Road

SE/S Belair Road, 80' NE of c/l Belhaven Drive

14th Election District - 6th Councilmanic

Owners: Richard D. Niehaus, Jr., Robert S. Niehaus, and Stephen M. Niehaus

Contract Purchaser: Mr. B's Tattoos/Bruce Benkert

Special Hearing to permit a tatto salon.

HEARING: FRIDAY, MARCH 1, 1996 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

ARNOLD JABLON DIRECTOR

cc: Richard D. Niehaus, Jr., et al Bruce Benkert

Hicks Eng. Co., Inc.

... Councilman Bartenfelder's Office



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204

Hearing Room - Room 48 (410) 887-3180 Old Courthouse, 400 Washington Avenue

June 10, 1996

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), BOARD'S RULES OF PRACTICE & PROCEDURE, APPENDIX C, BALTIMORE COUNTY CODE.

CASE NO. 96-260-SPH

RICHARD D. NIEHAUS, JR., ET AL -Petitioners SE/s Belair Road, 80' NE of Belhaven Drive (7525 Belair Road) 14th Election District

SPH -To approve use of subject property zoned B.M. for a tattoo salon.

3/20/96 -D.Z.C.'s Order in which Petition for Special Hearing was DISMISSED WITH PREJUDICE, citing Case No. 96-107-SPH and D.Z.C.'s interpretation of BCZR; not permitted in B.M. zone, nor permitted by special exception.

ASSIGNED FOR:

WEDNESDAY, SEPTEMBER 25, 1996 at 10:00 a.m.

6th Councilmanic District

cc: John A. Austin, Esquire Counsel for Appellants / Petitioners Messrs. Richard D. Niehaus, Jr.,

Robert S. Niehaus, and

Stephen M. Niehaus

Appellants /Petitioners

Bruce Benkert /Contract Lessee

J. Kevin Wight Hicks Engineering, Inc.

Paul G. Monaghan, Sr. Lorraine Gordon /

Protestant Protestant

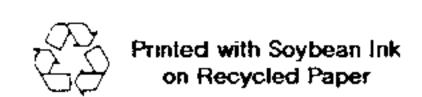
Linover Improvement Association

Mr. & Mrs. Robert J. Vernier

Protestants

People's Counsel for Baltimore County Pat Keller Lawrence E. Schmidt Arnold Jablon, Director /PDM Virginia W. Barnhart, County Attorney

> Kathleen C. Bianco Administrative Assistant







County Board of Appeals of Baltimore County

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

September 25, 1996

NOTICE OF DELIBERATION

Having concluded the hearing in this matter on September 25, 1996, the Board has scheduled the following date and time for deliberation in the matter of:

> RICHARD D. NIEHAUS, JR., ET AL Case No. 96-260-SPH

Wednesday, October 23, 1996 at 9:30 a.m. DATE AND TIME

Room 48, Basement, Old Courthouse LOCATION

John A. Austin, Esquire cc:

Messrs. Richard D. Niehaus, Jr.,

Robert S. Niehaus, and

Stephen M. Niehaus

Bruce Benkert /Contract Lessee

J. Kevin Wight

Counsel for Appellants / Petitioners

Appellants /Petitioners

Hicks Engineering, Inc.

Paul G. Monaghan, Sr.

Lorraine Gordon /

Linover Improvement Association

Mr. & Mrs. Robert J. Vernier

Protestant Protestant

Protestants

People's Counsel for Baltimore County Pat Keller Lawrence E. Schmidt

Arnold Jablon, Director /PDM

Virginia W. Barnhart, County Attorney

Copies to: C.W.B.

Kathleen C. Bianco Legal Administrator





Baltimore County Department of Permits and Development Management

Permits and Licenses
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3900

Fax: (410) 887-2824

February 5, 1996

Mr. Bruce Benkert 4207 Glenmore Avenue Baltimore, Maryland 21206

RE: Item No.: 256

Case No.: 96-260-SPH

Petitioner: B. Benkert, et al

Dear Mr. Benkert:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on January 3, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw Attachment(s)

124/96 TO 68

Richard D. Niehaus, et al 7525 Belair Road Baltimore, MD 21236

Case Number 96-260-SPH Item 256

January 24, 1996

Baltimore County Dept. of Permits and Development Management County Office Building 111 West Chesapeake Ave. Towson, MD 21204

Dear Mr. Arnold Jablon,

Today I received the notice of hearing for my property, I called your office and spoke to a very pleasant lady that explained to me that to request a postponment I must do in writing. Our hearing is presently scheduled for Monday, February 12, 1996. My brothers and I are in the flower business with the hearing scheduled two days before Valentine's Day it would be impossible for us to attend, Monday afternoon. The lady in your office explained that she could re-schedul us for hopefully early March. I informed Bruce Benkert, the operator of Mr B's Tatoo about the need for a postponement and also spoke to Kevin Wight with Hicks Eng. Co, Inc. by telephone this afternoon. I will also provide him with a copy of this letter.

Should you have any questions concerning this matter please don't hesitate to contact me at the address above or you may reach me by telephone at (410) 665-3311. Thank you.

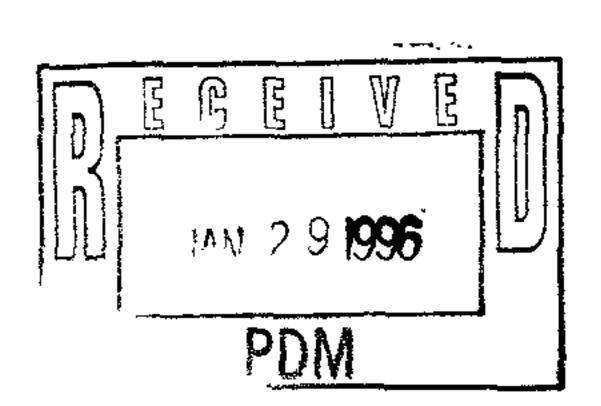
All Villan

merely yours:

Richard D. Niehaus

cc: Mr. Bruce Benkert

Mr. J. Kevin Wight, Hicks Eng. Co, Inc.



BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: Jan. 26, 1996 Zoning Administration and Development Management

FROM Development Plans Review Division

RE: Zoning Advisory Committee Meeting for January 22, 1996
Item No. 256

The Development Plans Review Division has reviewed the subject zoning item. The residential properties in the rear must be buffered. A landscape plan should be submitted for review.

RWB:sw

Baltimore County
Department of Permits & Development Management
111 West Chesapeake Avenue
Towson Maryland 21204
(410) 887-3351

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Larry E. Schmidt

DATE:

January 23, 1996

Zoning Commissioner

76-260.

FROM:

James H. Thompson - DJT

Code Enforcement Supervisor

SUBJECT:

ITEM NO .:

256

PETITIONER:

Mr. B's Tattoos/Bruce Benkert

VIOLATION CASE NO.: C-96-2434

LOCATION OF VIOLATION:

7525 Belair Road

SE/S Belair Road, 80' c/l Belhaven Drive

Baltimore, Maryland 21236 13th Election District

DEFENDANTS:

Richard D. Niehaus, Jr.

Robert S. Niehaus Stephen M. Niehaus

Mr. B's Tattoos/Bruce Benkert

7525 Belair Road

Baltimore, Maryland 21236

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s):

NAME

ADDRESS

Joseph Bartenfelder, Councilman

M.S. 2201

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Code Enforcement Supervisor, so that the appropriate action may be taken relative to the violation case.

JHT/DJT/hek

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

ro: Arnold Jablon,	Director, PDM	DATE:	January	18,	1996			
FROM: Arnold F. 'P	at' Keller, III, Director, PO							
SUBJECT: 7525 Belair Road								
INFORMATION:								
Item Number:	256							
Petitioner:	Niehaus Property		<u> </u>					
Property Size:	Property Size:							
Zoning:	BM-AS							
Requested Action:	Special Hearing		· 		_			
dearing Date:/								
SUMMARY OF RECOMMENDATIONS:								
-	of the Zoning Commissioner's decis re is no need to provide a comment .							

Prepared by:

PK/JL

Division Chief:

Baltimore County Government Fire Department



700 East Joppa Road Towson, MD 21286-5500 Office of the Fire Marshal (410) 887-4880

DATE: 01/17/96

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF JAN. 16, 1996.

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

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

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:253, 254, 255, 256, 257, 258,259, 260, 261, 263 AND 264.

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 887-4881, MS-1102F



David L. Winstead Secretary Hal Kassoff Administrator

1-16-96

Ms. Joyce Watson Baltimore County Office of Permits and Development Management County Office Building, Room 109 Towson, Maryland 21204

RE:

Baltimore County Item No. 256 (MJ/L)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval, as a field inspection reveals the existing entrance(a) onto WE/US #/ 3 are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA 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,

Engineering Access Permits

Division

BS

RE: PETITION FOR SPECIAL HEARING 7525 Belair Road, SE/S Belair Road,	*	BEFORE THE
80' NE of c/l Belhaven Drive, 14th	*	ZONING COMMISSIONER
Election District, 6th Councilmanic		
	*	OF BALTIMORE COUNTY
Legal Owners: R.D. Niehaus, Jr., et al.		
Contract Purchaser: Mr. B's Tattoos/	*	CASE NO. 96-260-SPH
Bruce Benkert		
Petitioners	*	

* * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice 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

People's Counsel for Baltimore County

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 <u>13</u> day of February, 1996. a copy of the foregoing Entry of Appearance was mailed to J. Kevin Wight, Hicks Eng. Co., Inc., 200 E. Joppa Road, Suite 402, Towson, MD 21204, representative for Petitioner.

PETER MAX ZIMMERMAN

BALTIMORE COUNTY, MARYLAND Inter-Office Memorandum

DATE:

September 20, 1996

TO:

Carole S. Demilio

Deputy People's Counsel

FROM:

W. Carl Richards, Jr.

Zoning Supervisor Zoning Review, PDM

SUBJECT:

Petition for Special Hearing (96-260-SPH)

7525 Belair Road

Robert Richard & Stephen Niehaus/Mr. B's Tattoos - Petitioners County Board of Appeals Hearing Date: September 25, 1996

14th Election District; 6th Councilmanic District

As per your telephone conversation and memo yesterday, the following can be confirmed:

- Since 1966, when I began working in the zoning office, to the best of my knowledge, tattooing or a tattoo parlor use has not been permitted in any zone NOR has the use been interpreted by the staff, policy, or otherwise, to be permitted in any zone.
- 2. Beginning on March 30, 1955, the zoning regulations are inclusive in that only those uses which are listed are permitted, either by right or by special exception. This fact was echoed in recent legislation effective on December 28, 1995 by County Council Bill #180-95 (see Section 229.1.C). Only between January 2, 1945 and March 30, 1955 were there exclusive sections of the BCZR (permitting all uses except those listed).
- 3. Not withstanding the above, and after being informed by the staff, any person has the right to petition the zoning commissioner pursuant to Section 500.7. Occasionally they may be successful; i.e., when the use is not listed in the BCZR and the request is for an accessory use which is not the permitted principal use of the premises. Where an accessory use is permitted by public hearing (in similar cases), signs visible outside are not permitted.

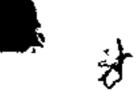
WCR:scj



Baltimore County
Department of Permits and Development Management
Bureau of Code Enforcement
111 West Chesapeake Avenue
Towson, Maryland 21204

CODE VIOLATION NOTICE ROBERT NIETHAUS DATE: 11-2-55 NAME: RICHARD NIETHAUS JR ADDRESS: 7525 BELAIR RD CITY-ZIP: BALTO, MD. 21236 RE: Case No. 96-2434 LOCATION: 7525 BECAIR RD DISTRICT: 14 Dear MR NIETHAUS In accordance with the Baltimore County Code, Article IV, Section 402. (d), an inspection was conducted of This inspection revealed violation(s) according to the following code(s): the above location, zoned Baltimore County Zoning Regulations (BCZR), Section 102.1. Building Code of Baltimore County, Maryland, Section 102.1. Livability Code, Baltimore County, Section 18-68. Other The following correction(s) is/are required: THE OPERATION OF A TATTOO PARLOR REGUIRES A PUBLIC HEARING FOR A SPECIAL EXCEPTION. PLEASE FILE FOR THE EXCEPTION WITHIN 30 DAYS OR DISCONTINUE OPERATION. TEMPORARY SIGNS (BANNERS INCLUDED) REQUIRE USE PERMITS PLEASE BOTHIN TEMPORAY SIGN PERMITS WITHIN 30 DAYS The above violation(s) must be corrected on or before 12-7-95or further legal action will proceed, in which you may be subject to a civil penalty. Should you need further clarification, please contact _, Code Inspector, at (410) 887- <u>335/</u>

D. TAYLOR DAVI) TAYLOR





Baltimore County Department of Permits and Development Management

Permits and Licenses
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3900

Fax: (410) 887-2824

April 19, 1996

Mr. Paul G. Monaghan, Sr. 8 Chesley Avenue Baltimore, MD 21214

Ms. Lorraine Gordon c/o Linover Improvement Association P.O. Box 16952 Baltimore, MD 21206

Mr. and Mrs. Robert J. Vernier 16 Belhaven Drive Baltimore, MD 21236

Re: Petition for Special Hearing
SE/S Belair Road,
80' NE of Belhaven Drive
7525 Belair Road
14th Election District
6th Councilmanic District
Richard D. Niehaus, Jr. et al Petitioners
Case No. 96-260-SPH

Dear Mr. Monaghan, Ms. Gordon, and Mr. and Mrs. Vernier:

Please be advised that an appeal of the above-referenced case was filed in this office on April 15, 1996 by John A. Austin, Esquire on behalf of Richard D. Niehaus, Jr. et al - Petitioners. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals, "Board".

If you have any questions concerning this matter, please do not hesitate to contact the Board at 887-3180.

ARNOLD JARLON

Director

Department of Permits and Development Management

AJ:nmn

c: Mr. Kevin Wight
Mr. Bruce Benkert
People's Counsel



County Board of Appeals of Baltimore County

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

December 27, 1996

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

> RE: Civil Action No. 3-C-96-013013 RICHARD D. NIEHAUS, JR.

Dear Mr. Zimmerman:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on December 24, 1996, 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. 3-C-96-013013.

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

Very truly yours,

Charlotte E. Radcliffe

Legal Secretary

Enclosure

c: Lorraine Gordon /
 Linover Improvement Association
Paul G. Monaghan, Sr.
Mr./Mrs. Robert J. Vernier
Lawrence E. Schmidt /Zoning Commissioner
Arnold Jablon /PDM
Virginia W. Barnhart, County Attorney



County Board of Appeals of Baltimore County

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

December 27, 1996

John A. Austin, Esquire 101 E. Chesapeake Avenue Suite 200A Towson, MD 21286

Edwin Shapiro Suite 320 Nottingham Centre 502 Washington Avenue Towson, MD 21204

RE: Civil Action No. 3-C-96-013013 RICHARD D. NIEHAUS, JR., ET AL

Dear Counsel:

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

Legal Secretary

Enclosure

Richard D. Niehaus, et al

6/10/96 -Notice of Assignment for hearing scheduled for Wednesday, September 25, 1996 at 10:00 a.m. sent to following:

John A. Austin, Esquire
Messrs. Richard D. Niehaus, Jr.,
Robert S. Niehaus, and
Stephen M. Niehaus
Bruce Benkert /Contract Lessee
J. Kevin Wight /Hicks Engineering, Inc.
Paul G. Monaghan, Sr.
Lorraine Gordon /
Linover Improvement Association
Mr. & Mrs. Robert J. Vernier
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

^{9/25/96 -}Hearing held before the Board; concluded and record closed. Scheduled for public deliberation on October 23rd. Notice to be sent.

^{9/25/96 -}Notice of Deliberation sent to parties; scheduled for Wednesday, October 23, 1996 at 9:30 a.m.

^{10/23/96 -}Deliberation concluded. Petition for Special Hearing DENIED by unanimous decision of Board. Written Opinion /Order to be issued; appellate period to run from date of that written Order. (C.W.B.)

RICHARD D. NIEHAUS, JR., ET AL 7525 Belair Road

3-C-9<u>6-13013</u>

December 14, 1995 Petition for Special Hearing filed by the owners of the property, Richard D. Niehause, Jr., Robert S. Niehaus, and Stephen M. Niehaus, and Contract Lessee, Bruce Benkert, seeking approval to use property zoned B.M., for a Tattoo Salon.

February 12 Hearing held on Petition by the Zoning Commissioner.

March 20 Order of the Deputy Zoning Commissioner in which Petition for Special Hearing was DISMISSED WITH PREJUDICE.

Esquire, on behalf of Richard D. Niehaus, Jr., et al.

September 25 Hearing before the Board of Appeals.

October 23 Deliberation conducted by the Board.

December 12 Opinion and Order of the Board in which the Petition for Special Hearing was DENIED.

December 24 Petition for Judicial Review filed in the Circuit Court for Baltimore County by John A. Austin, Esquire, on behalf of Richard D. Niehaus, Jr., et al.

December 26 Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.

December 27 Certificate of Notice sent to interested parties.

January 27, 1997 $\sqrt{}$ Transcript of testimony filed; Record of Proceedings filed in the Circuit Court.

August 11, 1997 P Opinion issued by the Circuit Court for Balto. Co.; decision of the CBA is AFFIRMED (Lawrence R. Daniels, J.)

APPEAL

Petition for Special Hearing SE/S Belair Road, 80' NE of Belhaven Drive 7525 Belair Road 14th Election District - 6th Councilmanic District Richard D. Niehaus, Jr., et al - Petitioners Case No. 96-260-SPH

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

/Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

/Petitioner(s) and Citizen(s) Sign-In Sheets

/ Plan to Accompany Special Hearing (Not Marked as Exhibit)

Zoning Map to Accompany Special Hearing (Not Marked as Exhibit)

One Miscellaneous Letter of Opposition (Not Marked as Exhibit)

Deputy Zoning Commissioner's Order dated March 20, 1996 (Dismissed with Prejudice)

Notice of Appeal received on April 15, 1996 from John A. Austin, Esquire on behalf of Richard D. Niehaus, Jr. et al - Petitioners

c: Mr. Kevin Wight, Hicks Engineering, Inc., 200 E. Joppa Road, Suite 402, Towson, MD 21286

Mr. Bruce Benkert, 5415 Hillburn Road, Baltimore, MD 21214 Mr. Paul G. Monaghan, Sr., 8 Chesley Avenue, Baltimore, MD 21206

Ms. Lorraine Gordon, c/o Linover Improvement Association, P.O. Box 16952, Baltimore, MD 21206

Mr. and Mrs. Robert J. Vernier, 16 Belhaven Drive, Baltimore, MD 21236

Messrs. Richard D. Niehaus, Jr., Robert S. Niehaus, and Stephen M. Niehaus, 7525 Belair Road, Baltimore, MD 21236

*John A. Austin, Esquire, The Legg Mason Center, 600 Washington Avenue, Suite 203, Towson, MD 21204 People's Counsel of Baltimore County, M.S. 2010

Timothy M. Kotroco, Request Notification:

Deputy Zoning Commissioner

Arnold Jablon, Director of PDM

Copies

Delgale Kathy Klausmeier 9500 BelAire Rd Barto MD 21236

Senator Thomas Brumwell P.W. Senate Office Big. Annapolis, MD 21401

CIRCUIT COURT FOR BALTIMORE COUNTY Suzanne Mensh

Clerk of the Circuit Court County Courts Building 401 Bosley Avenue P.O. Box 6754

Towson, MD 21285-6754

(410)-887-2601, TTY for Deaf: (800)-735-2258

08/19/97

Case Number: 03-C-96-013013 AE

Date Filed: 12/24/96 Status: Closed/Active

Reference Number: 96-260-SPH Judge Assigned: To Be Assigned,

In The Matter Of: Richard D Niehaus Jr

CASE HISTORY

OTHER REFERENCE NUMBERS

Description Number Reference Number 96-260-SPH

INVOLVED PARTIES

Type Num Name(Last,First,Mid,Title) Dispo Entered CT DO 08/12/97 12/24/96 PET

001 Niehaus, Richard D. Jr

Capacity Petitioner

Attorney: 0024054 Austin. John A 101 E Chesapeake Avenue

Surte 200-A

Towson, MD 21286

(410)821-9632 0028390 Shapiro, Edwin

Law Offices Of Edwin Shapiro 502 Washington Avenue Nottingham Center Ste 320 Towson, MD 21204 (410)828-7090

002 Benkert, Bruce PET

Attorney 0024054 Austin, John A

101 E Chesapeake Avenue

Sunte 200-A

Towson, MD 21286 (410)821-9632

COUNTY BOARD OF

APPEALS

CT DO 08/12/97 07/22/97

03-C-96-013013 Date: 08/19/97 Time: 08:10 Page:

0028390 Shapiro, Edwin
Law Offices Of Edwin Shapiro
502 Washington Avenue
Nottingham Center Ste 320
Towson, MD 21204
(410)828-7090

Type Num Name(Last, First, Mid, Title) Dispo Entered

ITP 001 County Board Of Appeals Of Baltimore County

CT DO 08/12/97 12/24/96

Attorney 0005744 Demilio, Carole Room 47, Courthouse

400 Washington Avenue Towson, MD 21204 (410)887-2188

0029075 Zimmerman, Peter M 606 Baltimore Ave Suite 204 Towson, MD 21204

ITP 002 Linover Improvement Association Inc

CT DO 08/12/97 01/28/97

P 0 Box 16952

Baltimore, MD 21206

(410)296-2424

Served On. Lorraine Gordon

CALENDAR EVENTS

Date Time Dur Cer Evnt Jdg L Day Of Rslt By ResultDt Jdg T Notice Rec

Stenographer(s): Debbie Lambert

09/08/97 09.30A 002 yes CITR LRD 01 /01 F

JUDGE HISTORY

JUDGE ASSIGNED Type Assign Date Removal RSN

TBA To Be Assigned. J 12/24/96

DOCUMENT TRACKING

Num/Seq	Description	Filed	Received	•	Routed	_	Closed		
001000	Petition for Judicial Review		12/24/96 TBA				08/12/97		
001001	Answer	01/07/97	01/06/97 TBA	ITP001			08/12/97	ΚP	PH

Page: 3

03-C-96-013013 Date: 08/19/97 Time: 08:10

Num/Seq	Description	Filed	Received		Party	Routed	Ruling	Closed	Use	r ID
001002	Answer	01/28/97	01/24/97	TBA	ITP002			08/12/97	ΚP	PH
002000	Notice of Appeal Sent	01/28/97	01/28/97	ТВА	PET001	01/28/97		01/28/97	JH	JH
003000	Notice of Appeal Sent	01/28/97	01/28/97	TBA	ITP001	01/28/97		01/28/97	JH	JH
004000	Transcript of Record from Adm Agency **	01/28/97	01/27/97	TBA	000			08/12/97	JH	PH
005000	Notice - Recpt of Record of Proceedings ** copies sent	01/28/97	01/27/97	TBA	000			08/12/97	JH	PH
006000	Joint Stipulation for Extension of Time to File Memoranda and Memorandum.	03/14/97	03/12/97	TBA	PET001			03/14/97	DFF	DFF
007000	Scheduling Order	04/02/97	04/02/97	TBA	000	04/02/97		04/02/97	JD	JD
008000	Memorandum Of Peoples Counsel	04/21/97	04/18/97	TBA	ITP001			04/21/97	СВ	CB
009000	Correspondence, fd.	07/02/97		TBA	ITP001			07/02/97	MR	MR
010000	Open Court Proceeding lawrence R. Daniels. Hearing had Orde	07/03/97 r to be f		LRD	000			08/12/97	ΚV	PH
011000	Request for Hearing (Motion to Revise, Alter or Amend Judgme Alternative, Motion for Rehearing). File Richard D. Jr. PETOO2-Benkert, Bruce	nt, or in			PET001			08/12/97	DFF	PH
012000	Motion to Revise, Alter or Amend Judgment, or in the Alternative, Motion PET001-Niehaus, Richard D. Jr. PET002-Ber	for Rehea	ring). Fil		_			08/12/97	DFF	PH
012001	Answer*	08/11/97	08/08/97	TBA	ITP001			08/12/97	SD	PH
013000	Order affirming decision	08/12/97		LRD	000		Granted	08/12/97	PH	PH
014000	Supplemental Motion To Revise Alter Or **Amend Judgment Or In The Alternative, S Filed by PET002-Benkert, Bruce, PET001-N	Motion Fo	r Rehearir	ng	PET002				JH	JН
015000	Request for Hearing ** on Motion Filed by PET002-Benkert, B Richard D, Jr		08/15/97 001-Niehau		PET002				JH	JH
016000	sent docket entries board of appeals	08/19/97		TBA	000				LC	LC

03-C-96-013013	Date:	08/19/97	Time: 08:10	Page: 4
----------------	-------	----------	-------------	---------

TICKLE

Code Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Туре
1YRT One Year Tickle (Jud	CLOSED	12/24/97	365	no	no	DAAA	D
1ANS 1st Answer Tickle	CLOSED	01/06/97	0	no	no	DANS	D
SLTR Set List For Trial	DONE	01/06/97	0	yes	yes	1ANS	Т
SLMM Set List Motions Mar	DONE	04/15/00	999	уęs	yes	DANS	D
SLMR Set List For Motions	CANCEL	08/12/97	22	no	no	SLMM	T
SLMH Set List For Motions	CANCEL	08/08/97	0	no	no	SLMM	T
EXPU Exhibit Pickup Notic	OPEN	10/11/97	30	no	no		
SLMR Set List For Motions	OPEN	09/06/97	22	no	no	MMOT	D
SLMM Set List Motions Mar	OPEN	05/10/00	999	yes	no	DRHR	D

EXHIBITS

Line # Marked Code Description SpH Sloc NoticeDt Disp Dt Dis By

Offered By ITP 001 County Board Of Appeals Of Ba

000 B BOX 471/ZOANING EX B

DIFFERENTIATED CASE MANAGEMENT TRACKS AND MILESTONES

Track · R1 Description · EXPEDITED APPEAL TRACK Custom · Yes

Assign Date: 04/02/97 Order Date . 04/02/97

Start Date · 04/02/97 Remove Date ·

Milestone	Scheduled	Target	Actual	Status
~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~				
Motions to Dismiss under MD. Rule 2-322(		04/17/97	08/12/97	CLOSED
All Motions (excluding Motions in Limine		05/24/97	08/12/97	CLOSED
TRIAL DATE is	07/03/97	07/01/97	07/03/97	REACHED

SECRETARY



#### COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

#### MINUTES OF DELIBERATION

IN THE MATTER OF: Richard D. Niehaus, Jr., at al -Petitioners

Case No. 96-260-SPH

DATE : October 23, 1996 @ 9:30 a.m.

BOARD / PANEL : Charles L. Marks (CLM)

Harry E. Buchheister, Jr. (HEB)
Margaret Worrall (MW)

Legal Administrator

Kathleen C. Bianco

At the deliberation this date, Petitioner was present with Counsel; also in attendance were Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel; as well as various interested citizens.

PURPOSE --to deliberate issues and matter of petition presented to the Board; testimony and evidence received at hearing on September 25, 1996. Written Opinion and Order to be issued by the Board.

CLM: Good Morning! We are here this morning to deliberate Case No. 96-260-SPH on a Petition filed by the Appellant which involves a special hearing. The State of Maryland requires that these deliberations and discussions be in a public forum. That is the purpose of our meeting today; to discuss this particular case and reach our own particular conclusions.

Since the time of the original hearing, all three Board members have had an opportunity to review their individual notes taken and review all exhibits and evidence presented at hearing, and also any statutory or case law applicable to this matter, and reach an independent conclusion, independent and separate from the other. We will express those views today before you.

I want to caution everybody that this deliberation is not the official opinion of the Board. When we are finished, the Board will formalize its opinion and order by way of a written Opinion, and any party may appeal that decision in accordance with the Maryland Rules to the Circuit Court.

Normally, I go first in these matters, but in this particular case, I am going to defer to the other two Board members to

give their discussions first. Harry?

HEB: The matter is to approve use of a property for dermographic art work, as termed by Mr. Schmidt, in a B.M. zone that does not include tatoo art as a permitted use nor is it recognized as a specialized art work by Baltimore County.

In 1993, the Zoning Commissioner approved a use permit for a residential art salon in a B.L. zone. The art salon was in a two-story apartment building. The Zoning Commissioner determined that the art salon was a matter of use by right in the B.L. zone, but further reasoned that dermographic screen art, my term - the application of a tatoo - did constitute a work of art. Since the art salon was a portion of one of two apartment units, and tatooing was determined a work of art, he granted the Petition.

In this case, we have testimony of a similar Petition for a tatoo salon in a building that has not been residential for 20 years, but was a former dwelling, long ago, and converted for commercial business activities. Under the Zoning Commissioner's decision, the tatoo salon mentioned by Mr. Benkert may be defined as an art salon. But the site lacks a residential description. To comply, Mr. Benkert converted a former office area to a small apartment to fit a business into a dwelling. That he did this without a permit appears acceptable because, as his counsel asserts, all he did was install a kitchen sink.

Testimony and photographic exhibits give evidence of an extremely orderly arrangement and procedures receiving and treating clients in a sanitary and impeccably maintained clinical setting. It appears that Mr. Benkert has considered every precaution, especially discarding of used needles and other materials.

Testimony indicates that he has a great artistic talent and plans for expanding his business to areas pertaining to his artistic skills such as original pieces of art are very noteworthy. Mr. Benkert remarked that he has never had a complaint and his business fits in with the commercial activities along Belair Road.

From the testimony and seemingly wide acceptance today of dermographic art work, Mr. Benkert's operation of a tatoo salon appears worthy.

My concern, however, is not with the public's perception of a tatoo business but the manner in which Mr. Benkert was permitted to proceed at this location without the landlord's

inquiring into the restrictions of a B.M. zone. He had a unit to lease. The legal issues seem to have been ignored. There are no Health Department regulations, from the testimony I heard. Likewise, the disposal of used needles at Franklin Square Hospital has been questioned. The referral of Commissioner Schmidt's decision does not coincide with this appeal for a special hearing in a B.M. zone.

I am inclined to believe there is merit to the Benkert business. But until Baltimore County provides a comprehensive guideline for the establishment and operation of a tatoo salon, I think it should be denied.

MW: This has been for me, and I believe for my Board members, a very difficult case to decide. I also spent considerable time reviewing the testimony and evidence, and as Mr. Buchheister mentioned, I agree and it is my opinion also that Mr. Benkert appears to be operating his business in a most responsible manner.

However, I also cannot accept Petitioner's argument for a residential art salon, not because of the argument of what is art and what is not art, but because this building is indeed a commercial building. That is the principal use. Several other businesses are operating there, and the renovation to provide an apartment appears to be an accessory use to the principal commercial use, not the other way around.

We are charged, as Mr. Buchheister pointed out, with the legal question - it is zoned B.M.; Section 233 permits only certain uses. The <u>Baltimore County Zoning Regulations</u> are determined to be inclusive, which means, if it is not listed, it is not permitted. Since it is not a listed use in B.M. zone, it is not permitted -- I agree that Petitioner's request must be denied.

CLM: This has been an unusual case because there was no actual hearing by the Deputy Zoning Commissioner. The Petition for Special Hearing was dismissed with prejudice in which Case No. 96-107-SPH was cited -- his interpretation that a tatoo salon is not permitted in a B.M. zone or by special exception.

Our hearing is <u>de novo</u> based on appellate level. We are not bound by previous hearings or decisions made. Our function is to examine facts and circumstances of the instant case and determine appropriate decision.

The subject property is indeed located in a B.M. zone. The Baltimore County Zoning Regulations specify, in Section 233.3, what is allowed in a B.M. zone. A tatoo parlor or salon as

such is not specifically identified as a permitted use. Petitioner asserts it does qualify as a permitted use under permitted use identified as "residential art salon." Under Article I, General Provisions to the Code, Section 101, Definitions, a residential art salon is defined as:

"A portion of a dwelling unit used for the exhibition and sale of original works of art. For the purposes of these regulations, an 'original work of art' shall include a numbered reproduction from a series of no more than 50, which reproduction is individually signed by the artist. A 'residential art salon' shall not include a photographic studio."

There are a number of issues -- since zoning regulations permit operation of residential art salon in a B.M. zone, the subject property is without contradiction located in a B.M. zone -- does it qualify as a residential art salon? Is the building a portion of a dwelling unit? Under Article I, definition describes dwelling unit as:

"Dwelling: A building or portion thereof which provides living facilities for one or more families."

Mr. Benkert testified he lives in the building with his family. The tatoo shop has operated since October 1, 1995. There are three other separate businesses operating out of the building. The subject site is clearly on Belair Road in an area heavily commercial in nature, and living quarters were clearly established subsequent to the tatoo business; changes made without zoning approval or any permit for conversion. There was testimony from Mr. Niehaus that his ownership goes back to 1974 and he initially stated that the building had not been used for a residence since his ownership. But he later stated that an elderly person had lived there. With current zoning and mixed commercial use of building - tatoo operation, flower operation and mortgage business and living quarters -qualifies as one in which there are living quarters permitted only by special exception under BCZR Section 230.13.

In my opinion, there was an attempt to change commercial nature of the building, but it fails to meet the standard of being a portion of a dwelling unit lacking the appropriate zoning. Living quarters are present in a commercial building, and used to satisfy the requirements of residential art salon and the special exception required to meet circumstances.

So, initially, I would find that the building does not satisfy the requirements of being a dwelling within the definition of residential art salon if in fact a tatoo salon was within that definition.

Moving on to the question - is tatoo salon in the definition - - to do that we need to go back to the Code and case law. The County Council enacted legislation which states: "The following uses only are permitted (Section 233.3)..."

Kowalski v. Lamar, decided in 1975, continues to provide Boards of Appeals the guidelines needed to render these decisions. "Only" means without others or anything further, alone, solely, exclusively. Kowalski concludes that the only uses permitted are those uses permitted as of right or by special exception. Any use other than those permitted and being carried on as of right or by special exception are prohibited. Section 233.3 of the Code -- uses permitted by right; tatoo parlor is not specifically identified -- not allowed.

There is no doubt in my mind that the Appellant operates a first-class tatoo salon and every effort is made for a safe, regulated business; for the health, safety and welfare of his clients. He clearly focuses on these points.

There is no doubt that this specialized trend has come far in creativity and design and is sought out by all facets of our society. There are varying opinions as to whether a tatoo parlor is or is not a residential art salon. They are quite common in society. The question of whether or not a tatoo parlor can qualify under a broad definition has never been the subject matter of an appeal to this Board, but it has been the subject of zoning commissioner's decisions, both of which have had different circumstances.

It therefore becomes a question of discussing the intent of the County Council. Based on my reading of applicable statutes accompanied by the testimony and evidence — Kowalski case provides us with guidance — If tatoo parlors are permitted use, then the County Council would have specifically included it. Failing to do so, that use and any others cannot be included in B.M. zone. While there is no doubt that flash and tatoo designs are, in many cases, original works of art and are therefore exhibited and sold from the premises, the primary function is not in the exhibition and sale but the application to the skin as outlined in the exhibits, and skin reproductions are not signed by the artist. The Board cannot assume legislative prerogatives.

If it is to be permitted in a B.M. zone, it is up to the professionals in the trend to concentrate on the legislative agenda. It is perhaps an art form whose time has come, but in the instant case, I do not believe the Board can expand the definition. And even if we do so, the issue would fall because it is not operating out of a dwelling.

Therefore, I would deny the use of the subject property as a tatoo parlor.

There being no further discussion, the Board will issue a formal Opinion and Order, and the parties may take an appeal to the Circuit Court for Baltimore County within the time frame permitted by the Maryland Rules of Procedure.

We are hereby adjourned.

*********

Respectfully submitted,

Kathleen C. Bianco Legal Administrator

#### BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County Interoffice Correspondence

DATE:

April 1, 2002

TO:

Arnold Jablon, Director

Permits & Development Management

Attn.: David Duvall

FROM:

Theresa R. Shelton

Board of Appeals

SUBJECT:

Richard D. Niehaus, Jr., et al

Case No.: 96-260-SPH

Circuit Court Case No.: 03-C-96-013013

Judge Daniels of the Circuit Court issued an Order on 9/8/97, denying the appellant's petition to revise, alter or amend judgement; order affirming BOA. The case was then appealed to the Court of Special Appeals. The Court of Special Appeals issued a Mandate on 5/98 dismissing the appeal. No further appeals have been taken in this matter. The Board of Appeals is closing and returning the file that is attached herewith.

Attachment: SUBJECT FILE ATTACHED

96-1826

1/16/9

#### JOHN A. AUSTIN

ATTORNEY AND COUNSELOR AT LAW

THE LEGG MASON CENTER 600 WASHINGTON AVE., SUITE 203 TOWSON, MARYLAND 21204

(410) 821-9632 FAX (410) 494-8067

April 15, 1996

Permits and Development Management 111 W. Chesapeake Avenue Room 111 Towson, Maryland 21204

Re: Case No.: 96-260-SPH

Niehaus/Benkert

Dear Madam/Sir:

Please be advised that this office represents the Petitioners in the above-captioned matter. By this letter, my clients are hereby formally noting an appeal to the Board of Appeals for Baltimore County dismissing the Petition for Special Hearing in an Order of March 20, 1996, a copy of which is enclosed. Enclosed you will find a check in the amount of \$210.00 made payable to the order of Baltimore County, Maryland to cover the cost of the appeal.

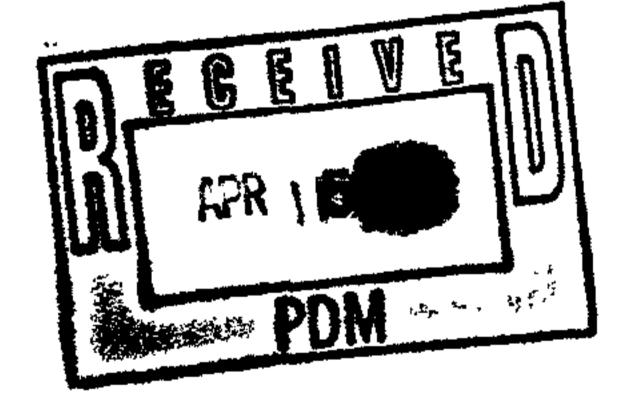
Very truly yours,

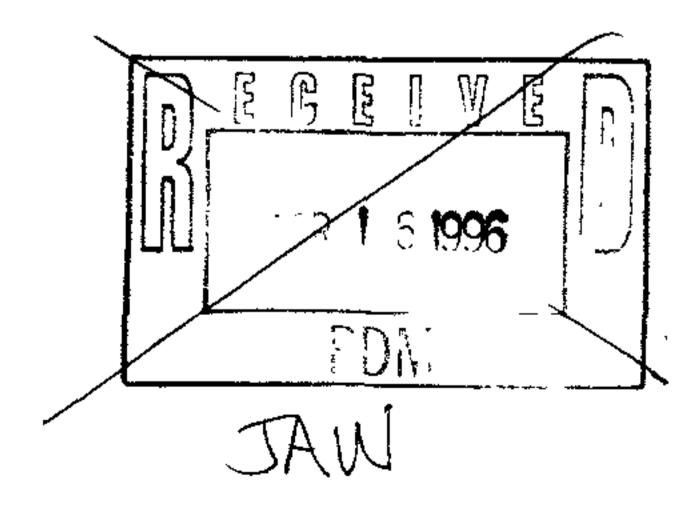
John A. Austin

JAA/afg

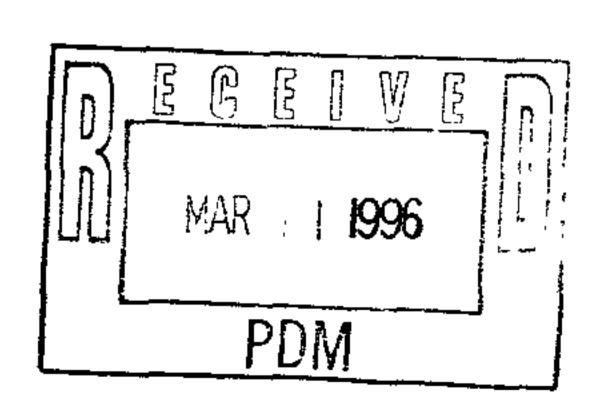
Enclosures

cc: Mr. Bruce Benkert





3/11/96 3/6/26-1000 Dear Ser We are definitely against Faring a Mrs So Tatoo Salow (Case # 96-260) in over neighborhood. In the first place. Le did not adhere to the zoneng rules when he gened his place. That, as to what hend of person is running the business. The line about I block of his boation on Belair Rd. 1 Sincerely, Mrs Robert Vernier ma Robert J. Vernier 16 Belhaven Dr. Balto, Md 21236



Can #96. 260 - SPA Ourgle's Commel Exhibits Repoles # 1 4

Repole # 2 - Anter Office Memo from Carl Michards

Case # 96 - 260-30H Petetermi - Ephelits Out 3/1 - Thu Motor of wes. 1/9/# 2 - Series Johnter of lab, mitter flack art 1 dage Fattrong 1 #4 - Review of Fattoning Ju Caratimus 185- Hoter about stewlighten geven to aistoner 16- How to Care Direction 1 +7 - Release Jorn 18- In Allen Tyrica Ca I so askat to look for Antroduction to customer 10- Petetens of sugart #112 - Lapin of Praphic along as

#### PETITIONER(S) SIGN-IN SHEET

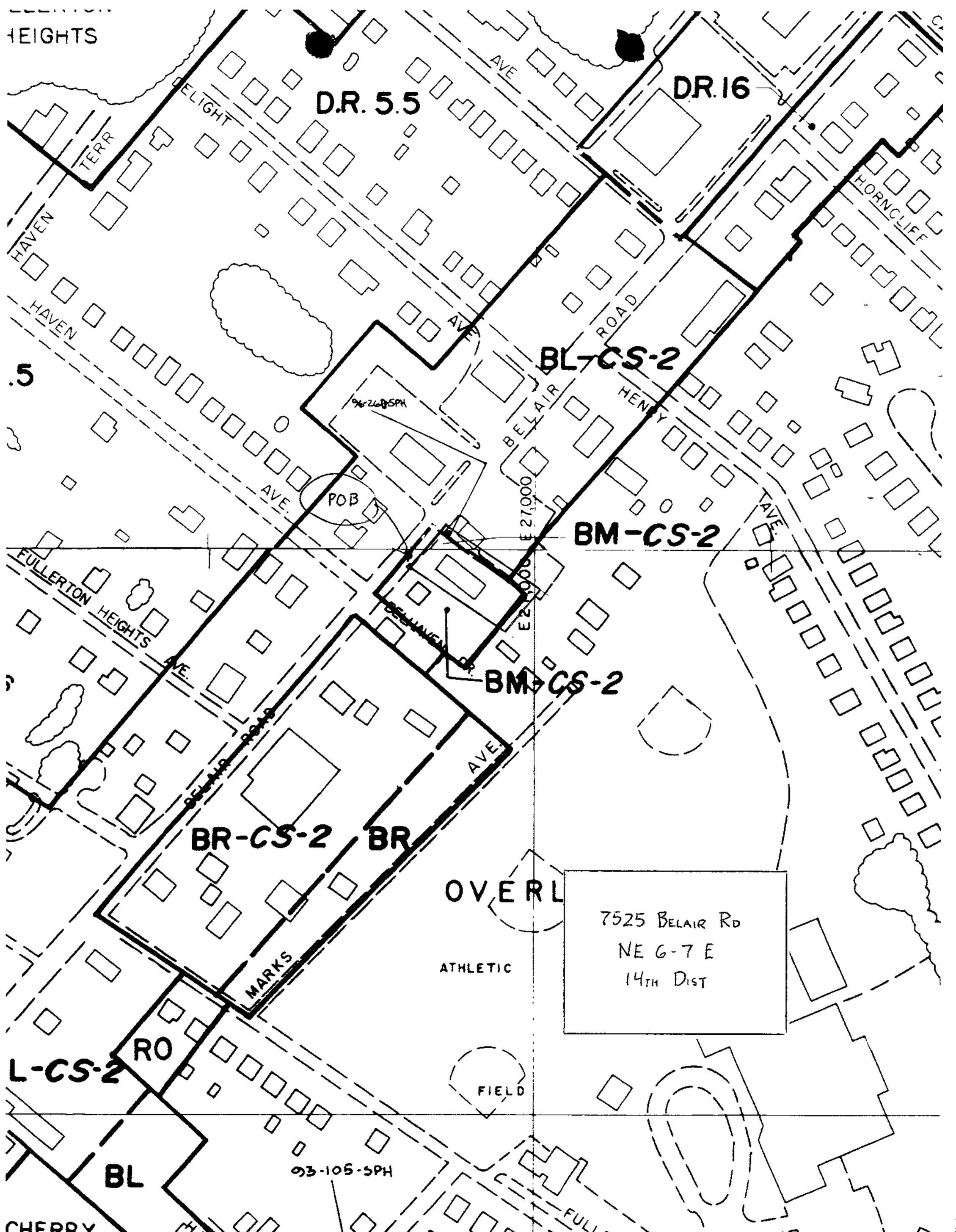
ADDRESS
HICKS ENGINEERING CO., INC., SUITE 402 200 E. JOPPA ROAD, TOWSON, MD. 21286
5415 Hillburn Rd BALT. MD 2/2/4
7525 BELAIR R.). BALT, M.) 2123
<del></del>
<del></del>
<del></del>



#### CITIZEN SIGN-IN SHEET

NAME	ADDRESS					
PAUL G. MONAGHAN SR	8 CHESLEY AUE Z1206					
Lorraine Gordon / Linove	8 CHESLEY A VE Z1206  FOVEment 0. Box 16952 Balton Md ssociation 2126					
A	ssociation 2126					
	· <del></del>					
······································	· · · · · · · · · · · · · · · · · · ·					
<del></del>						
·	·					
<u> </u>						
	_ <del></del>					
<del></del>						
	· · · · · · · · · · · · · · · · · · ·					
<del></del>						







# THE LINOVER IMPROVEMENT ASSOCIATION, INC.

P.O. Box 16952 Baltimore, Maryland 21206

Resolved: That at the first annual Executive Committee Meeting of the Linover Improvement Association, Inc. held on February 13, 1996, it was decided by the duly elected Officers and Board of Directors that responsibility for review and action on all zoning matters for the year 1996 be placed in the Executive Committee, including any action taken by the Executive Committee at the February 13, 1996 meeting.

AS WITNESS OUR HANDS THIS 21st day of February 1996.

ATTEST:

Anita Bollino, President

Gail Armiger, Secretary



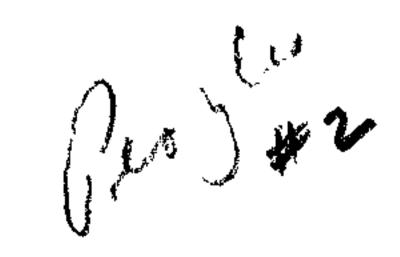




1st of 1

EX.

#### BALTIMORE COUNTY, MARYLAND Inter-Office Memorandum



SEP 2 0 1996

PEOPLE'S COUNSEL

DATE:

September 20, 1996

TO:

Carole S. Demilio

Deputy People's Counsel

FROM:

W. Carl Richards, Jr.

Zoning Supervisor

Zoning Review, PDM

SUBJECT:

Petition for Special Hearing (96-260-SPH)

7525 Belair Road

Robert Richard & Stephen Niehaus/Mr. B's Tattoos - Petitioners County Board of Appeals Hearing Date: September 25, 1996

14th Election District; 6th Councilmanic District

As per your telephone conversation and memo yesterday, the following can be confirmed:

- Since 1966, when I began working in the zoning office, to the best of my knowledge, tattooing or a tattoo parlor use has not been permitted in any zone NOR has the use been interpreted by the staff, policy, or otherwise, to be permitted in any zone.
- 2. Beginning on March 30, 1955, the zoning regulations are inclusive in that only those uses which are listed are permitted, either by right or by special exception. This fact was echoed in recent legislation effective on December 28, 1995 by County Council Bill #180-95 (see Section 229.1.C). Only between January 2, 1945 and March 30, 1955 were there exclusive sections of the BCZR (permitting all uses except those listed).
- Not withstanding the above, and after being informed by the staff, any 3. person has the right to petition the zoning commissioner pursuant to Section 500.7. Occasionally they may be successful; i.e., when the use is not listed in the BCZR and the request is for an accessory use which is not the permitted principal use of the premises. Where an accessory use is permitted by public hearing (in similar cases), signs visible outside are not permitted.

WCR:scj

Tattooing is quite safe when properly done. Inday in the 1990s, both artists and consumers are aware of the need for health standards. The key is education, and ignorance is not bliss. Bliss is knowledge. trust and peace of mind. Your chosen studio should have, among other things, a knowldegable staff.

Beyond that, certain equipment is primary to

your safety. The autoclauve is the heart of it all, is there an autoclave on the premises? Autoclaves look like everything from interstellar pressure cookers to drab toys from "Mystery Science Theater 3000," but they all perform the same function: they use steam, heat and pressure to kill any living microorganism known to science. Toaster ovens, heating units, boiling or soaking in alcohol are not acceptable substitutes. An autoclave pressurized HHCR steam heat above 270 degrees for at least 55 minutes

from a cold start.

It is the only

assurance

sterility. If you're worried or curious, don't hesitate to ask to see the autoclave. Needle and tube sets are autoclaved in special bags that have a small symbol that changes color when sterilization is complete. Artists, if you ask, will be happy to show you the symbol. Some artists clave needles separately from tubes. This should

Beyond that, your most basic standard of protection is single-service materials. Nothing—but nothing—involved in the tatooing process gets reused. Ink is dispensed into small caps which are for your use only, and the whole cap—ink and all—will be discarded after you're done. Gloves will be discarded; tongue depressors thrown away, razors, if they've been used to shave you will either be thrown away, or, if it's a straight razor, will have the

blade changed. Don't forget that the artist is there too, and he or she wants protection as much as you do. Needles are also discarded after use. Some artists break the needle with pliers immediately, while others break them all at the end of the day. Either way, clients are assured a new needle. All this is called "single service." It means that materials are used one time and one time only. It assures your safety.

Can you get AIDS? Let's put it this way—there has never been a case of AIDS traced to tattooing.

And here are the gory details of AIDS transmission: It takes 100 micro-fiters of blood and deep intra-muscular punctures to transmit the IIIV virus. This is about 10 drops of blood.

Needles used in tattooing are solid, not hollowcore like a hypo needle, which among other things makes it difficult to retain that much blood. In AIDS addition, does not live outside the body long. Hepatitis B, on the other hand, can live in dried blood for as long as ten days. In this sense. Hepatitis B is much more of a threat than IIIV. Again, the autoclave prevents any

After every tattoo, the artist should disinfect the work area with hospital-type viricidal sprays. The safety question is a matter of equal concern to tattoo artists as to clients. Through the efforts of the Alliance of

Professional Tattooists, especially, the processes, equipment and procedures are well-known and almost universally practiced. By following established procedures, artists can assure elients a safe tattoo, and clients are free from any health worries.

Safety and good health are to the benefit of us all, and white "Does it hurt?" is a question that has to be answered on a personal level, "Is it safe?" has a positive response: Yes. '*

"If you're
worried or
curious, don't
hesitate to
ask to see the
autoclave..."

About the number two question

asked after "Does it hund?" is

"Is it safe?" - When you walk into

a tattoo studio you should have

feelingabout the place. Does it

look clean? Do you get the feeling

that the artist cares about his work

environment and his work? If so,

you can bet he or she cares about

clients and their salety just as much.

Sterility is simple for tattooists to

archieve; il just talkes some time

and dedication.

Information provided by the Alliance of Professional Tattooists, Glen Burnie MD and Dr. Kris Sperry

### HOW TO CARE FOR YOUR TATTOO

The life of your tattoo is dependent upon the care it receives in the first few days. First, keep your tattoo covered with the bandage for at least 12 hours. After this time, remove the bandage. If the bandage sticks to the skin, wet the area with Luke warm water. Then proceed removing the bandage VERY carefully. Once your tattoo is exposed, wash it thoroughly with soap and water, Be sure to remove all surface blood and rinse off all of the remaining soap.

- DO NOT RE-BANDAGE YOUR TATTOO.
- DO NOT APPLY VASELINE OR ANY PETROLEUM JELLY.
- DO NOT APPLY ALCOHOL.

At this point pat lightly to dry.

• DO NOT RUB OR SCRATCH THE TATTOO.

Then with clean hands, apply a light coat of BACITRACIN OINTMENT, a minimum of three times a day.

• DO NOT LET YOUR TATTOO DRY OUT.

This ointment can be purchased at any local drug store. If a rash occurs, discontinue use. Alternatives are A and D ointment or Micotracin, or if rash persists. Dermassage Hand Lotion can be applied.

Your tattoo will develop a layer of dry skin, let this skin fall off naturally.

- DO NOT PICK AT YOUR TATTOO
- DO NOT EXPOSE TO DIRECT SUNLIGHT FOR 2 WEEKS.
- DO NOT SWIM FOR ONE WEEK.
- DO NOT SOAK IN SAUNA, STEAM OR BATH TUB FOR ONE WEEK.

After the skin has fallen off there will be a period of adjustment for the new skin. It's advisable to apply a hand lotion.

#### REMEMBER

Your tattoo is YOUR responsibility after you leave the studio, please use COMMON SENSE!

Thank you for choosing

Mr. B's Tattoo's!

I am at least 18 years old. I do not have a heart condition. I don't have epilepsy. I haven't had hepatitis within the last year. I'm not a hemophiliac (bleeder). I'm not under the influence of drugs or alcohol. To the best of my knowledge, I do not have AIDS.

To my knowledge, I do not have any physical, mental or medical impairment or disability which might affect my well-being as a direct or indirect result of my decision to have any tattoo-related work done at this time.

I agree to follow all instructions concerning the care of my tattoo while it is healing. I agree that any touch-up work needed, due to my own negligence, will be done at my own expense. I understand that if my skin color is dark, the colors will not appear as bright as they do on light skin.

Being of sound mind and body, I hereby release any and all persons representing Bruce Benkert from all responsibility. I accept any and all responsibility myself for any consequences that might stem from my decision to have any tattoo-related work done by Bruce Benkert.

I agree not to sue Bruce Benkert in connection with any and all damages, claims, demands, rights, and causes of action of whatever kind or nature, based upon injuries or property damage to, or death of myself or any other persons arising from my decision to have tattoo-related work don by Bruce Benkert.

I represent and warrant to Bruce Benkert that the following information is true and correct.

#### PLEASE PRINT:

Last	First	Initital	Age	Date
ADDRESS:				<del>,</del>
- St	reet	•	City/State	Zipcode
PHONE #	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	· <del></del>		•
I HAVE DEAD	ND UNDERS	TAND EACH O	F THE ABOVE PA	RAGRAPHS.
T TELFATS WISHED L				
TATTOO:	•		<u></u>	<u>, , , , , , , , , , , , , , , , , , , </u>
•	•			

P. A.

EX. 7

#### TO WHOM IT MAY CONCERN

RE: Mr. B's Tattoo's 7525 Belair Road Mr. Bruce Benkert Mr. Chris Baccala Baltimore Md. 21236

I am writting as a Mother and for all other Mom's who are devastated from the lost of a child.

As I came to Mr. Benkert business, the place was clean and very professional. Everyone is the place was very kind. You see we as mother's need artist, to help us too. To do art work of our child, pictures, ideas, for diffrent type of style in art for memory, stone, even a small tattoo, to hold our child's memory in our heart. To help us from the devastation.....

The clients that were in the waiting area, were all respectable people. Our working class citizens. They were there to receive somekind of joy of memories.

Mr. Benkert's business is really a help to our community.

Thank You

Irene Scheff

7117 Harford Rd.

Baltimore Md. 21234

20 ITP Out EX. 8

Minimal standards to watch for include, but are not limited to:

Make sure autoclave sterilization is the method used. Dry heat sterilizers require very long periods of sterilization time, and are not as effective as autoclaving. Sterilization is like pregnancy: either you are or you aren't. There are no almosts or in-betweens.

Make sure individual, sterilized tubes and needles are being used every time. Watch the artist set up their machine in front of you. Accept no excuses for tattoo machines that are already set up—not even when tattooing both husband and wife or boyfriend and girlfriend, no matter how intimate you are.

Check to see that individual, disposable ink caps or containers are used. Watch to see that all "left-over" pigments from previous customers are thrown away.

Disposable razors to prep the skin are best. If straight razors are used, they must have disposable blades and be disinfected after each use.

Make sure the artist is not using anything (Vaseline, inks, etc.) from a common tub or container with his or her fingers. A good rule of thumb is that all materials used on a client's tattoo should be single service.

Check the artist's hands and fingernails. They should be clean and free of inks. Mechanics shouldn't double as tattooists without washing up with germicidal soap and changing into a fresh pair of examination gloves for each customer.

We've covered the basic issues here. For specific questions, check with the artist whom you are considering. Any artists who would like to find out how to obtain more information about this most important aspect of the business, please write to the Alliance of Professional Tattooists, Inc., at:

**APT** 

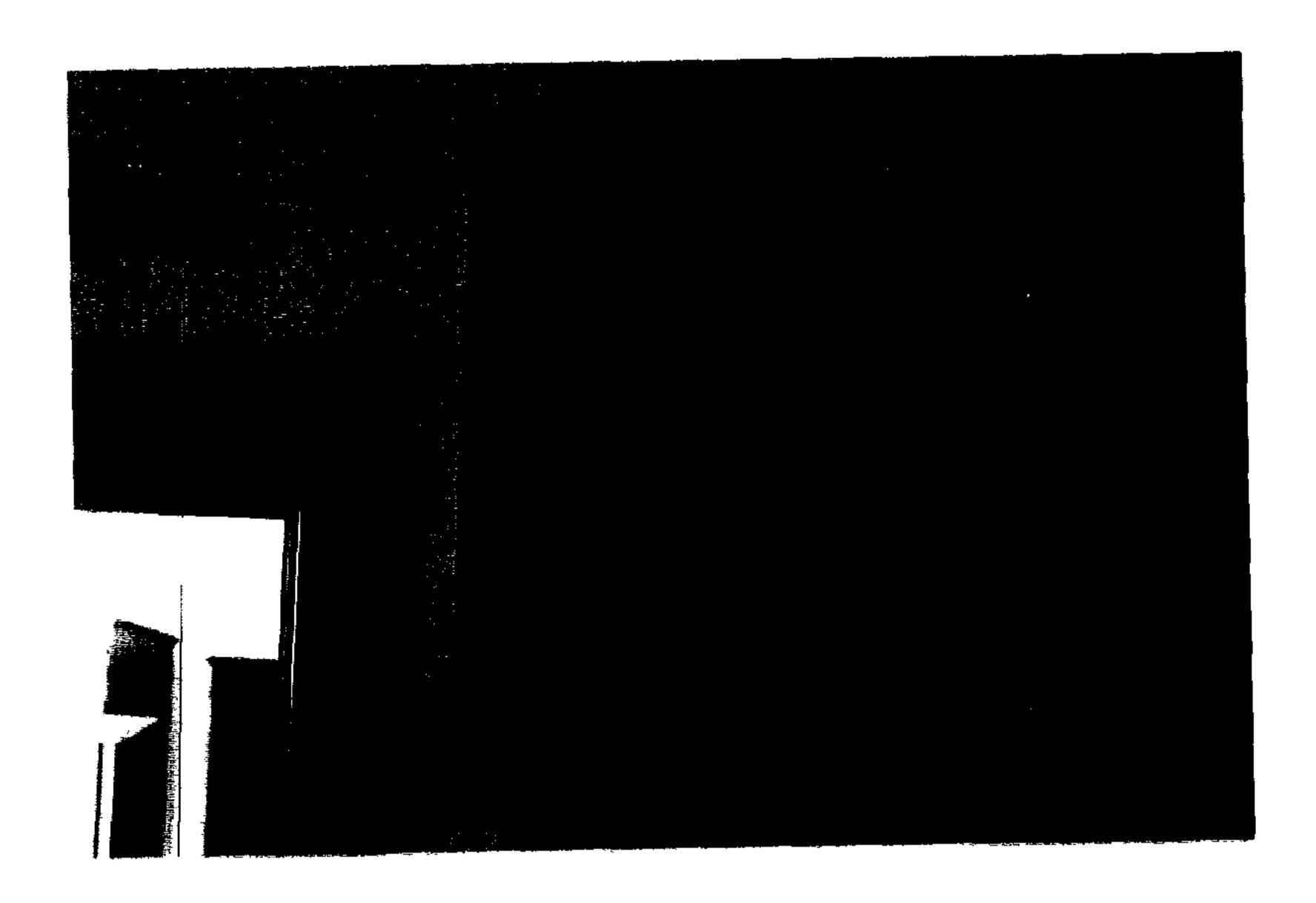
P.O. Box 1735

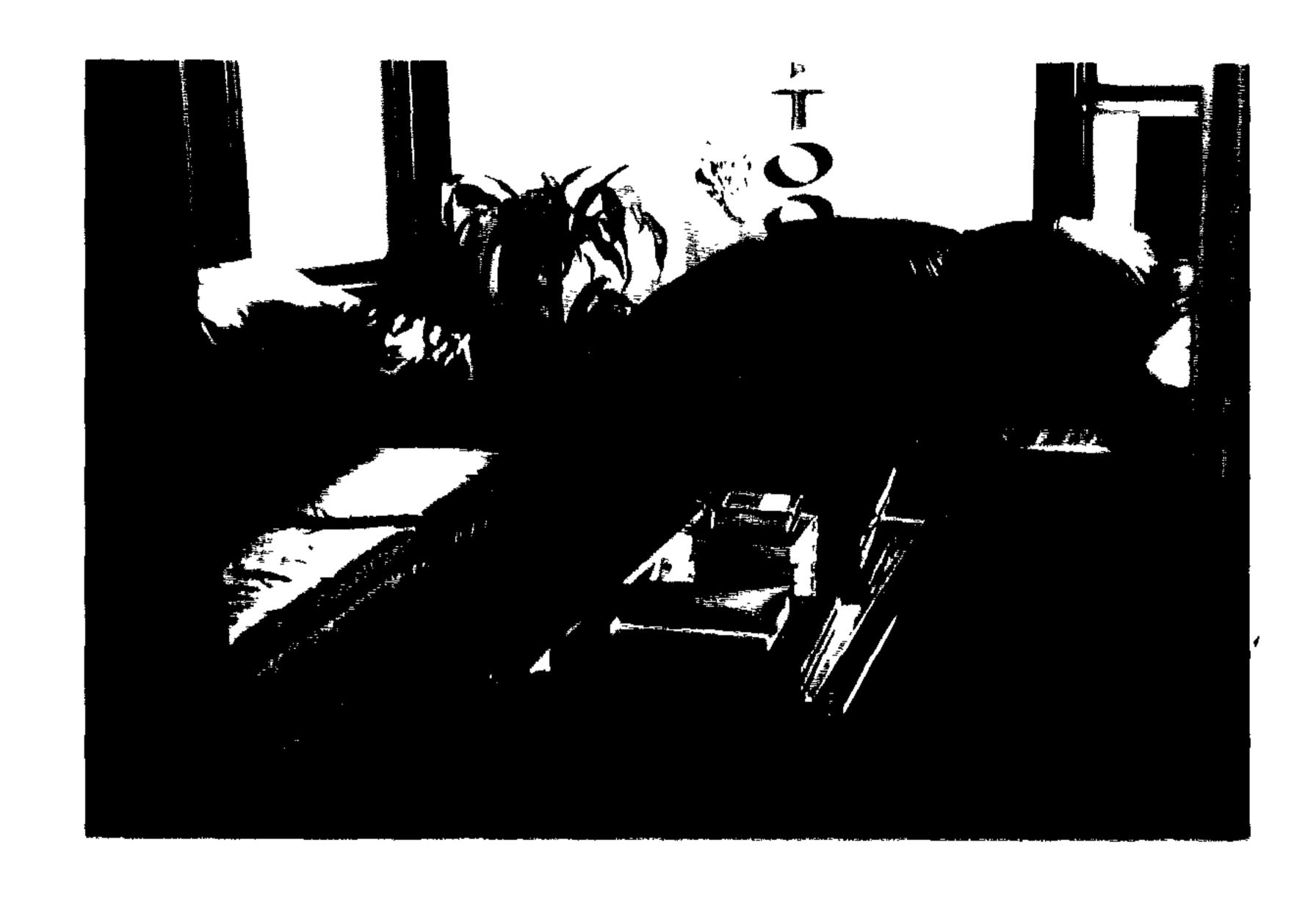
Glen Burnie, MD 21060

The APT is a non-profit, educational association.

Bob Montagna is a board member of the APT, and tattoos at Fusion of Styles Tattooing.

( EX. 9 11





Parker 2

#### JOHN A. AUSTIN

#### ATTORNEY AND COUNSELOR AT LAW

101 EAST CHESAPRAKE AVENUE BUITE 200-A TOWSON, MARYLAND 21286 (410) 821-9632 FAX (410) 494-8067

September 26, 1996

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

Re: Bruce Benkert - Mr. B's Tattoos

Gentlemen:

Enclosed you will find three copies of the exhibits to be received in the above-captioned case collectively as Petitioner's Exhibit 11. As you may recall, the originals were retrieved so that copies could be made for the Board.

Very truly yours,

John A. Austin

JAA/afg

Enclosures

(116)



•

200 KA 735 2.63 

TATTOOING.

RICHARD D. NEIHAUS, JR., * BEFORE THE

et al.

SE/S Belair Road, 80 NE of * BALTIMORE COUNTY BOARD OF

Belhaven Drive

7525 Belair Road * APPEALS OF BALTIMORE COUNTY

CASE NUMBER: 96-260-SPH * September 25, 1996

* * * * *

The above-entitled matter came on for hearing

before the Baltimore County Board of Appeals of Baltimore

County at the Courthouse, Towson, Maryland 21204 at 10:00

a.m., September 25, 1996.

* * * *

BOARD MEMBERS:

CHARLES L. MARKS, Chairman MARGARET WORRALL

HARRY E. BUCKHEISTER

APPEARANCES:

JOHN A. AUSTIN, Esquire

EDWIN SHAPIRO, Esquire

On behalf of Appellants

CAROLE S. DEMILIO, Esquire
PETER ZIMMERMAN, Esquire
On behalf of Protestants

Reported by:

Dawn L. Bendler

The Seland

## PETTITION TO KEEP MR. B'S TATTOO Shop OPEN

The below sigNATURES ATTEST THAT MR. B'S TATTOO Shop is A CLEAN AND PROFESSIONAlly RUN TATTOO ESTA blishMENT. MR. B'S TATTOOS CAUSE NO problems. To our community, And WE would like To JEE Them REMAIN A PART Of OUR COMMUNITY.

SIGNATURES. NAME / AUDRESS

Mare Schillian / 1155 QUANTRIL WAY BALT AD 21205 1933 FRAMES Rd. Bakto, md. 21222 DannyCormon Linda Carmon 3010 SOLLERS POINTRD BALT MA 21222 The Shuth Robot A Smeller 46 OAKWAY RD BALTOMP, 21093 35 may BIN ar owings W1//SMD 21117 Kober + Blooken Muchael Whittington 816 SILVER AVE Kon Setten 4102 Mary Auc Orlan Sampson 3D17 Hudson 5+ Scott Adams 54 Brook Shire Dr ROBER W WGIV. Di 214 PINEWood Rd. A Editatur L 16 N. Kressonst 2819 Celanhorst Rd Joseph Grimmett Layman Bosti. 3215 Gelm 5T 240, North Pour Rd.

Manneth Bochler 6207 Chesworth Rd

Thanks Ken PERENGEWOOD Ad

631 WYANOKEAUR

BALTIMORI; MP 21221 Balto, Md 2/206 Belti Mel. 21224 Riestamend 21236 BALTO MD 21222 BALTO. md. 21222 Balto. MD. 21224 Fin Ksburg, Md. 21048 Bolt MO. 21223

13.16 m2122 BAHM021218 Batte MO 31228 EDGETHUDOURD 310408



7525 Belair Road

Baltimore, MD 21236 Shop: (410) 668-3567 Artist: Bruce Benkert

