

3-2-98

IN RE: PETITION FOR VARIANCE
3/S Belair Road, 279' N of
Halbert Avenue
(9431 Belair Road)
11th Election District
6th Councilmanic District.

Dorothy Cunningham and
William O. Schmidbauer
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 98-198-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Dorothy Cunningham and William O. Schmidbauer, who is also Contract Lessee. The Petitioners seek relief from Sections 450.4.1 and 202.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a double-faced freestanding sign of 64 sq.ft. (32 sq.ft. per side) in lieu of the maximum permitted 6 sq.ft. The subject property and relief sought are more particularly described on the site plan submitted and photograph of the sign which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were William Schmidbauer, property owner and lessee, Nicholas Palmeri, and Stephen F. Marsalek, Esquire, attorney for the Petitioners. Appearing as a Protes-
tant in the matter was Dorothy McMann, a resident of the area and a repre-
sentative of the Perry Hall Improvement Association.

Testimony and evidence offered revealed that the subject property consists of 0.376 acres, more or less, zoned R.O.A., and is improved with a two and one-half story frame dwelling and detached two-car garage. The property is located on the east side of Belair Road not far from Joppa Road in Perry Hall. Mr. Schmidbauer testified that he is a real estate

ORDERED FILED
Date 3/2/98
By [Signature]

broker and has been in the business for 30 years. He testified that approximately 3 months ago, he relocated his offices from the 6700 block of Belair Road in Overlea to the subject site, which he co-owns with his mother, Dorothy Cunningham. Mr. Schmidbauer testified that he converted the subject dwelling into real estate offices for his company, known as Schmidbauer Realty and contracted to have a business identification sign erected in the front yard of the property adjacent to Belair Road. It is this sign which is the subject of this variance request.

Mr. Schmidbauer testified that he hired "Sign Design" for the express purpose of designing, manufacturing, and installing the business sign which now exists on his property. A photograph of the sign was submitted into evidence as Petitioner's Exhibit 1. Mr. Schmidbauer testified that Sign Design assured him that all necessary permits had been obtained for the sign and that he paid \$2,485 for the sign, which was installed in mid-October, 1997. Subsequently, during a routine inspection in the area by a Code Enforcement agent of the Department of Permits and Development Management (DPDM), Mr. Schmidbauer was advised that the sign did not comply with the new sign regulations which went into effect in late October, 1997, and that a variance would be required in order to keep the sign as it presently exists. Mr. Schmidbauer was further advised that no permit had been applied for by Sign Design. Apparently, this particular sign company has a history of misrepresenting to its customers that they will obtain all necessary permits, when in fact, they do not. Mr. Schmidbauer believes that since he relied upon the sign company to obtain the required permits, he is an innocent party in this matter and should not be penalized by being forced to replace the sign.

ORDER RECOMMENDING
3/2/98
By

Mr. Nicholas Palmeri, a resident of Perry Hall for 17 years, also testified in support of the request. Mr. Palmeri is a Lieutenant in the Baltimore County Police Department. He testified that he travels Belair Road daily and that there are many signs along this stretch of Belair Road. Mr. Palmeri believes that a small sign at this location would be a traffic hazard, given that motorists travel at a higher rate of speed than the posted 40 MPH limit.

As noted above, Ms. Dorothy McMann appeared in opposition to the relief requested. Ms. McMann is a resident of the area and an active member of the Perry Hall Improvement Association. Ms. McMann believes that the size of the subject sign should be reduced to comply with the new sign regulations. She indicated that she and others have spent many years formulating a new sign law for Baltimore County and believes that no variance should be granted to that newly passed legislation. Ms. McMann also believes that Mr. Schmidbauer can effectively identify his business at this location with the permitted 6 sq.ft. sign.

Mr. Schmidbauer countered Ms. McMann's position and argued that the permitted 6 sq.ft. sign would not be of sufficient size to identify his business, given its location. He noted that Belair Road in this area is a four-lane highway with a center left-turning lane for a total of five lanes. Motorists traveling along this portion of Belair Road do, in fact, travel at a high rate of speed. Mr. Schmidbauer believes that motorists traveling at speeds approaching 50 mph would not readily see a 2' x 3' identification sign. Furthermore, he noted that the very length of his name would be difficult to incorporate into a smaller identification sign. He believes that the existing sign will provide a safer means of identifica-

tion in that motorists will have sufficient notice of the location of his business and be able to slow down to make the turn.

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

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

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

After due consideration of the testimony and evidence presented by both sides in this matter, I am persuaded to grant the variance. In my opinion, the permitted 2' x 3' sign along this five-lane highway at this location would not be sufficient to adequately identify Mr. Schmidbauer's business, given the rate of speed at which motorists travel in this area. Furthermore, I believe that it would be difficult to incorporate the name of his business onto a smaller sign. Mr. Schmidbauer testified that he believed that Sign Design had obtained the necessary permits and proceeded to have the sign installed in good faith. To require strict compliance with the new zoning laws would result in a practical difficulty and unreasonable hardship upon the Petitioner. However, while the existing sign

ORDER RECEIVED FOR FILING

Date

By

should be permitted to remain, I do believe it should be removed from its pole mounts and converted to a ground-mounted sign. Furthermore, I believe that some landscaping around the base of the sign would be appropriate to soften the sign's impact on the surrounding locale. Therefore, as a condition of the relief granted, the Petitioner will be required to modify the sign as set forth above. In my view, the granting of the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

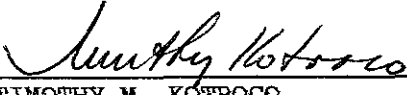
Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 2nd day of March, 1998 that the Petition for Variance seeking relief from Sections 450.4.1 and 202.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a double-faced free-standing sign of 64 sq.ft. (32 sq.ft. per side) in lieu of the maximum permitted 6 sq.ft., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioner may apply for his sign permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Within thirty (30) days of the date of this Order, the Petitioner shall submit to this Deputy Zoning Commissioner for review and approval a schematic drawing which shows the conversion of the subject sign from a post-mounted sign to a ground-mounted sign. Said drawing shall also include the landscaping proposed to be installed around the base of this sign. All modifications to the sign, including landscaping, shall be performed within thirty (30) days of the date of my review and approval of the schematic drawing.

3) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.



TIMOTHY M. KOTROCO

Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER # 3/2/98
Date 3/2/98
By [Signature]

RE: PETITION OF DOROTHY CUNNINGHAM
AND WILLIAM O. SCHMIDBAUER

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

IN THE MATTER OF THE APPLICATION OF
**DOROTHY CUNNINGHAM AND WILLIAM O.
SCHMIDBAUER** FOR A ZONING VARIANCE
on property located on the south side Belair Road,
278 feet north of Halbert Avenue
11th Election District, 6th Councilmanic District

Case No. 98-198-A before the
County Board of Appeals of Baltimore County

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

Civil No. 3-C-98-12704

RECEIVED
COUNTY BOARD OF APPEALS

00 FEB 18 PM 1:10

ORDER

Upon review of the record, having heard oral argument on February 2, 2000, it is, this
14 day of February, 2000, by the Circuit Court for Baltimore County,

ORDERED, for reasons stated in the Court's oral opinion, attached hereto, that the Order
of the County Board of Appeals dated November 25, 1998, denying the Petition for Zoning
Variance, be and is hereby AFFIRMED.

True Copy Test
SUZANNE MENCH, Clerk

Per Gonella P. Hall
Assistant Clerk

Robert E. Cadigan
ROBERT E. CADIGAN, Circuit Judge

FILED FEB 16 2000

cc: Marcalik, Demilio

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
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-98-012704

TO: BOARD OF APPEALS OF BALTIMORE COUNTY
Old Courthouse Room 49
400 Washington Ave Deputy Zoning Comm
Towosn, MD 21204

CIRCUIT COURT FOR BALTIMORE COUNTY
Clerk of the Circuit Court,
Suzanne Mensh
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754

Received From: Carl M Leuba
Address: 7100 Oliverwood Road
Baltimore, MD 21220

03-C-00-001591

Clerk Fee - Civil Filing Fee - New Case	CK	\$80.00
MARYLAND LEGAL SERVICE	CK	\$10.00
Sub Total		\$90.00

----MOP-----AMOUNT----

CK	\$90.00
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TOTAL DUE	\$90.00
CASH RECEIVED	\$0.00
CASH DUE	\$0.00
CHANGE	\$0.00

COMMENT:
in the matter of schwind

Receipt #200000003096
Cashier: JJ CCBACOX080
02/18/00 11:10am

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
Maryland Toll Free Number (800) 938-5802

02/18/00

Case Number: 03-C-98-012704 AE
Date Filed: 12/23/1998
Status: Closed/Active
Judge Assigned: To Be Assigned,

In The Matter of: Dorothy Cunningham

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	98-198-A
Case Folder ID	C98012704V01

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
PET 001	Cunningham, Dorothy		CT DO 02/03/00	12/23/98
	Mail 9431 Belair Road	12/23/98		
	Baltimore, MD 21236			
	Attorney: 0006857 Marsalek, Stephen F		12/23/98	
	Stephen F Marsalek, P. C.			
	Suite 1303			
	28 Allegheny Avenue			
	Towson, MD 21204-3919			
	(410)321-9300			
PET 002	Schmidbauer, William O		CT DO 02/03/00	12/23/98
	Mail 9431 Belair Road	12/23/98		
	Perry Hall, MD 21236			
	Attorney 0006857 Marsalek, Stephen F		12/23/98	

Stephen F Marsalek, P. C.
Suite 1303
28 Allegheny Avenue
Towson, MD 21204-3919
(410)321-9300

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
ITP 001	Board Of Appeals Of Baltimore County Mail: Old Courthouse Room 49 400 Washington Ave Deputy Zoning Comm Towson, MD 21204	12/23/98	CT DO 02/03/00	12/23/98
ITP 002	Peoples Counsel For Baltimore County Mail: Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204	08/03/99	CT DO 02/03/00	01/04/99
Attorney: 0005744 Demilio, Carole Deputy People's Counsel For Baltimore County Room 47, Old Courthouse 400 Washington Avenue Towson, MD 21204 (410)887-2188			03/05/99	
ITP 003	Eckard, Dennis Capacity, Indiv/V P & Zoning Committee Chairman Of Perry Hall Improvement Assn Mail: 39 Bangert Avenue Perry Hall, MD 21128	08/03/99	CT DO 02/03/00	01/04/99
Attorney: 0005744 Demilio, Carole Deputy People's Counsel For Baltimore County Room 47, Old Courthouse 400 Washington Avenue Towson, MD 21204 (410)887-2188			03/05/99	

CALENDAR EVENTS

Date	Time	Dur	Cer	Evnt	Lvl	Atty	Jdg	Day	Of	RsIt	By	ResultDt	Jdg	T	Notice	Rec	User	ID
06/28/99	11:30A	02Q	yes	MOTN	D		TBA	01	/01	CON	C	02/02/00	BEC		04/08/99	Y	CAH	
Stenographer(s) Patricia M. Campbell																		
08/06/99	09:30A	06H	yes	CIVI	D		TBA	01	/01	RES	C	06/23/99		P			KLS	KLS
08/23/99	09:30A	06H	yes	CIVI	D		TBA	01	/01	VAC	C	07/02/99		P	06/23/99		KLS	GB
10/21/99	09:30A	06H	yes	CIVI	D		TBA	01	/01	POS		10/19/99	JGT	P			GB	FG

Date Time Dur Cer Evnt Lvl Atty Jdg Day Of Rslt By ResultDt Jdg T Notice Rec User ID

02/02/00 09:30A yes CIVI D BEC 01 /01 CON C 02/03/00 P KGR

JUDGE HISTORY

JUDGE ASSIGNED Type Assign Date Removal RSN

TBA To Be Assigned. J 12/23/98

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0001000	Petition for Judicial Review with exhibits Filed by PET001-Cunningham, Dorothy, PLT001-Schmidbauer, William O	12/22/98	12/23/98	PET001	TBA	02/03/00	KH PH
0001001	Answer Filed by ITP003-Eclard, Dennis, ITP002-Peoples Counsel For Baltimore County.	12/31/98	01/04/99	ITP003	TBA	02/03/00	SD PH
0002000	Motion for Summary Judgment** Filed by PET001-Cunningham, Dorothy, PET002-Schmidbauer, William O	02/25/99	02/26/99	PET001	TJB Denied	06/11/99	PH JH
0003000	Motion to Strike Appellant's Motion for for Summary Judgment and Answer to Motion for Summary Judgment. Filed by ITP002-Peoples Counsel For Baltimore County, , ITP003-Eclard, Dennis	03/04/99	03/05/99	ITP002	TJB Denied	06/11/99	DR JH
0004000	Amendment by Interlineation	03/08/99	03/09/99	ITP002	TBA	02/03/00	LG PH
0005000	Request for Hearing/SJ	02/25/99	03/19/99	PET001	TBA	02/03/00	PH PH
0006000	Hearing Notice	04/08/99	04/08/99	000	TBA	04/08/99	CAH CAH
0007000	Transcript of Record from Adm Agency *	04/19/99	04/21/99	ITP001	TBA	02/03/00	DFF PH
0008000	Notice of Transcript of Record Sent	04/21/99	04/21/99	ITP001	TBA	04/21/99	DFF DFF
0009000	Notice of Transcript of Record Sent	04/21/99	04/21/99	ITP002	TBA	04/21/99	DFF DFF
0010000	Notice of Transcript of Record Sent	04/21/99	04/21/99	PET001	TBA	04/21/99	DFF DFF
0011000	Scheduling Order	05/05/99	05/05/99	000	TBA	05/05/99	KLS KLS

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User	ID
0012000	Motion To Extend The Time For Filing Memorandum. Filed by PET001-Cunningham, Dorothy, PET002-Schmidbauer, William O	05/20/99	05/20/99	PET001	BEC Granted	05/20/99	JH	JH
0012001	*Answer/Opposition with Request for Hearing (Petitioners have until June 15,1999 to file said Memorandum) per TJB	05/19/99	05/20/99	ITP002	TJB Granted	06/11/99	MJ	JH
0013000	Hearing Notice	06/23/99	06/23/99	000	TBA	06/23/99	KLS	KLS
0014000	Scheduling Order	07/19/99	07/19/99	000	TBA	07/19/99	GB	GB
0015000	Respondents People's Counsel, et al's Memorandum	08/03/99	08/03/99	ITP002	TBA	08/03/99	DR	DR
0016000	Hearing Notice	10/28/99	10/28/99	ITP001	TBA	10/28/99	KGR	KGR
0017000	Open Court Proceeding February 2, 2000 Hon. Robert E. Cadigan. Hearing had. Order to be filed.	02/02/00	02/02/00	000	BEC	02/03/00	EL	PH
0018000	Order affirming decision of the BOA	02/03/00	02/03/00	000	BEC Granted	02/03/00	PH	PH
0019000	Order affirming decision	02/16/00	02/16/00	000	BEC Granted	02/16/00	PH	PH

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
SLMR	Set List For Motions	CANCEL	03/19/99	22	no	no	MJSM	D	000	000
1ANS	1st Answer Tickle	CLOSED	12/31/98	0	no	no	DANS	D	001	001
SLTR	Set List For Trial	DONE	12/31/98	0	yes	yes	1ANS	T	001	001
1YRT	One Year Tickle (Jud	CLOSED	12/22/99	365	no	no	DAAA	D	000	000
SLMR	Set List For Motions	CANCEL	03/26/99	22	no	no	MSTR	D	000	000
SLMM	Set List Motions Mar	DONE	11/20/01	999	yes	yes	DARH	D	000	000
SLMR	Set List For Motions	CANCEL	06/11/99	22	no	no	SLMM	T	000	000
SLMH	Set List For Motions	CANCEL	05/19/99	0	no	no	SLMM	T	000	000
SLTR	Set List For Trial	CANCEL	10/19/99	0	yes	no	CIVI	S	000	000
EXPU	Exhibit Pickup Notic	CLOSED	04/03/00	30	no	no			000	000

Code Tickle Name	Status Expires	#Days	AutoExpire	GoAhead From	Type Num Seq
EXP0 Exhibit Pickup Notic	CLOSED 04/16/00	30	no	no	000 000

EXHIBITS

Line #	Marked	Code Description	SpH Sloc	NoticeDt	Disp Dt	Dis By
Offered By: ITP 001 Board Of Appeals Of Baltimore						
000		B BOX 132/CBA TRANSC	B			

DIFFERENTIATED CASE MANAGEMENT**TRACKS AND MILESTONES**

Track R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 05/05/99 Order Date 07/19/99
Start Date : 05/05/99 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322C	05/20/99	02/03/00	CLOSED	
All Motions (excluding Motions in Limine	12/24/99	02/03/00	CLOSED	
TRIAL DATE is	02/02/00	08/03/99	02/03/00	CLOSED

PUBLIC NOTE TITLES

- 1) 7/1/99 PLTF REQUEST P/PMT OF TRIAL DATE.

6-11-99

The Circuit Court for Baltimore County
Third Judicial Circuit of Maryland
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Thomas J. Bollinger
Judge

410-887-2693
Room 367

IN THE MATTER OF:

CASE NUMBER: 03 C 98 12704

DOROTHY CUNNINGHAM

RULING DATE: 3 JUNE 1999

HEARING DATE: N/A

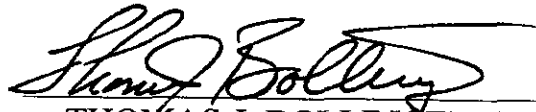
MADAM CLERK:

Please file this **RULING** and send copies to counsel of record.

RULING

Upon thorough consideration of Petitioners' Motion for Summary Judgment (Tab # 2,000) and Respondent's Motion to Strike Petitioners' Motion for Summary Judgment and Answer to Motion for Summary Judgment (Tab # 3,000), said Motion for Summary Judgment is hereby **DENIED**. Respondent's Motion to Strike is thus **MOOT**.

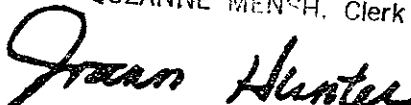
Upon thorough consideration of Petitioners' Motion to Extend the Time for Filing Memorandum (Tab # 12,000) and Respondent's opposition thereto (Tab # 12,001), said motion is hereby **GRANTED**. The Petitioners have until June 15, 1999 to file said Memorandum.



THOMAS J. BOLLINGER, JUDGE

True Copy Test

SUZANNE MENSCH, Clerk

 Per
Assistant Clerk

FILED JUN 11 1999

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
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-98-012704

TO: BOARD OF APPEALS OF BALTIMORE COUNTY
Old Courthouse Room 49
400 Washington Ave Deputy Zoning Comm
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
99 JUN 14 PM 4:22

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
DOROTHY CUNNINGHAM and
WILLIAM O. SCHMIDBAUER
9431 BELAIR ROAD
PERRY HALL, MD 21236

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

CIVIL
ACTION
No. 3-C-98-012704

IN THE CASE OF: IN THE MATTER
OF THE APPLICATION OF
DOROTHY CUNNINGHAM AND WILLIAM
O. SCHMIDBAUER - PETITIONERS
FOR A VARIANCE ON PROPERTY LOCATED
ON THE SOUTH SIDE BELAIR ROAD, 278' N
OF HALBERT AVENUE (9431 BELAIR ROAD)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
CASE NO. 98-198-A

* * * * *

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Kristine K. Howanski, Margaret Worrall, and Thomas P. Melvin, 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. 98-198-A

November, 1997

Petition for Variance filed by Stephen F. Marsalek, Esquire, on behalf of William O. Schmidbauer and Dorothy Cunningham, to permit a double face freestanding sign with a total square footage of 64 square feet (32 sq. ft. ea. side)

December 11

Certificate of Posting.

RECEIVED AND FILED
99 APR 19 PM 3:07
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

December 11, 1997	Publication in newspaper.
December 17	ZAC Comments.
December 4	Entry of Appearance filed by People's Counsel for Baltimore County.
December 30	Hearing held on Petition by the Zoning Commissioner.
March 2, 1998	Order of the Deputy Zoning Commissioner in which Petition for Variance was GRANTED with restrictions.
March 18	Notice of Appeal filed by People's Counsel for Baltimore County.
October 13	Hearing before the Board of Appeals. Public deliberation conducted at end of hearing.
November 25	Opinion and Order issued by the Board; Petition for Variance is DENIED.
December 22	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Stephen F. Marsalek, Esquire, on behalf of Dorothy Cunningham and William O. Schmidbauer.
February 23	County Board of Appeals received a copy of the Petition for Judicial Review from the Office of People's Counsel. (The Board had no knowledge of Petition filed 12/22/98, until the People's Counsel inquired about date record was due to be filed.)
February 25	Certificate of Notice sent to interested parties.

Petitioner's Exhibit Nos. 1-Permit -Sign Use - 4/1/98
2-Advisory Group Report Extract - Aug. 1997 p. 21
3-Belair Road Corridor Study Extract -p. 4 & p. 7
4-Signed petitions by local residents
5A-Photo -shows lowered sign as requested
5B-Photo -1st Preference - several doors away
5C-Photo -Specific Chiro - 9419 Belair Road
5D-Photo -1st Preference - 9423 Belair Road
5E-Photo -Lt Realty
5F-Photo -Library
5G-New Library Sign

People's Counsel Nos.	1-Bill	170-91	Original	ROA
		legislation		
	2-Pl. Brd Report	5-2-91		
	3-Bill	89-97 Amendment		
	4-ADC map			
	5-2 pg. Property Information			
	6-Planning Director's Comment			
	7-P.116-117 Master Plan RE: Belair Rd			
	8A-NE109 -Perry Hall Zoning Map			
	8B-NE119 -Perry Hall Zoning Map			
	9-1000-scale zoning map Overlea 4C			
	10-Perry Hall Improvement Association			
	2 pg. Rule 8 resolution			

April 19, 1999

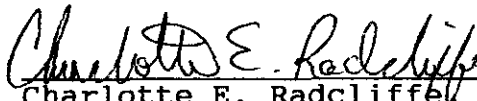
Transcript of testimony filed.

April 19, 1999

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: Stephen F. Marsalek, Esquire
People's Counsel for Baltimore County
Virginia W. Barnhart, County Attorney

Draft Copy of Peter's Response

RE: PETITION OF DOROTHY CUNNINGHAM
AND WILLIAM O. SCHMIDBAUER

*

IN THE

*

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

*

CIRCUIT COURT

*

IN THE MATTER OF THE APPLICATION
OF DOROTHY CUNNINGHAM AND WILLIAM O.
SCHMIDBAUER FOR A ZONING VARIANCE

*

FOR

on property located on the south side Belair Road,
278 feet north of Halbert Avenue
11th Election District, 6th Councilmanic District

*

BALTIMORE COUNTY

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Case No. 98-198-A before the
County Board of Appeals of Baltimore County

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Civil No. 3-C-98-12704

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* * * * *

PEOPLE'S COUNSEL, ET AL.'S
ANSWER TO MOTION FOR SUMMARY JUDGMENT

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY and DENNIS ECKARD,
Individually, and as Vice-President and Zoning Committee Chairman of the PERRY HALL
IMPROVEMENT ASSOCIATION, INC., (PHIA) Respondents/Appellees, answer as follows:

I. Introduction

1. On December 22, 1998, Petitioners filed a Petition for Judicial Review of the
November 25, 1998 Opinion and Order of the County Board of Appeals (CBA) denying a
zoning petition for sign variance.

2. Respondents, People's Counsel, Eckard, and PHIA, received copy of the Petition and filed a timely Response to the Petition on December 31, 1998, and stated therein their intent to participate in the proceedings.

3. The Petition for Judicial Review fails to certify that a copy was sent to the CBA at the time it was filed.

4. The record shows that the CBA did not receive notice of the Petition until on or about February 25, 1998. See attached CBA letter to Petitioner's counsel, Exhibit A.

5. Petitioners thereupon filed a Motion for Summary Judgment against the CBA, but wrongfully failed to serve a copy on the Respondents.

6. Fortunately, Respondents, in the course of checking the record, discovered the Motion.

7. For reasons detailed below, the Motion for Summary Judgment is irregular, in violation of the fundamental rules of judicial review of agency decisions, and directed against an agency which here is not a party but rather the decisionmaker.

II. Structure of Title 7, Subtitle 2 (Review of the Present Case)

8. Pursuant to Rule 7-202, upon the filing of a Petition for Judicial Review, the Circuit Court clerk "shall promptly mail a copy of the petition to each agency..." See Rule 7-202(d)(1).

9. The agency then, and only then, must give written notice to all other parties, Rule 7-202(d)(3), and file a certificate of compliance.

10. In the present case, the Clerk did not notify the CBA of the Petition. Meanwhile, Petitioners failed to provide any substituted notice, or to check the docket to assure that the Board received notice.

11. Pursuant to Rule 7-204, a party receiving notice from the agency may file a response and state its intent to participate in the proceedings. (In the present case, Petitioners sent People's Counsel a copy of the Petition, and Respondents filed their Response without waiting for the CBA's statutory notice.) In any event, the CBA itself is not a party and does not file any response.

12. Pursuant to Rule 7-206, the agency shall transmit the record to the Circuit Court within sixty (60) days "after the agency received the first petition for judicial review." Rule 7-206(c).

13. In the present case, the record is due to be transmitted on or about April 26, 1999.

14. Rule 7-206(a) reflects that the Petitioner must pay the expense of transcription of the testimony, if required by the agency, and unless ordered otherwise by the Court.

15. The CBA's consistent practice requires Petitioner to order the transcript and pay the cost. See Exhibit A. The record does not reflect that Petitioners have yet made arrangements for the transcript.

16. Pursuant to Rule 7-207, Petitioner must, within 30 days of transmission of the record, file a Memorandum setting forth the material facts, arguments, citations of authority, and transcript references pertinent to the merits of the Petition. Respondents may file an answering Memorandum within 30 days. See Rule 7-207(a). There are sanctions for failure to file memoranda. Rule 7-207(d). No memoranda have been filed.

17. Pursuant to Rule 7-208, the Court thereupon holds a hearing on the merits of the Petition.

18. Pursuant to Rule 7-209, the Court may affirm, reverse, modify, and/or remand the agency decision.

III. Irregularity of the Motion for Summary Judgment

19. The rules for judicial review of agency actions do not provide for "summary judgment." Rather, they provide for review of the entire record, memoranda, oral argument, and a decision on the legality of the agency decision.

20. Summary judgment applies rather to ordinary civil actions and involves review of affidavits, depositions, documents, and other discovery materials. (Rule 2-501)

21. Accordingly, the Motion for Summary Judgment here is inherently irregular.

IV. Misdirection as to Parties

22. Petitioners misnamed the agency as the "party" to whom its motion is directed.

23. In a zoning variance case, the agency is not a party. Rather, it is the quasi-judicial decisionmaker. See Adler v. Mayor of Baltimore, 242 Md. 329 (1966). This contrasts with enforcement cases, where an agency may be a party.

24. The party Respondents are the People's Counsel, Eckard, and PHIA, who participated in the trial below.

25. A Motion for Summary Judgment against the agency, therefore, is twisted and misdirected, and ignores the role and rights of the true Respondents.

V. The County Board of Appeals' Role Here

26. The CBA here had no obligation to send notice or begin steps toward transmission of the record until notified of the Petition.

27. It has not violated its obligations because the record shows it did not receive notice until February 25, 1999.

28. It was Petitioners' responsibility to check the docket to assure that the Circuit Court Clerk notified the CBA.

29. In any event, the remedy for an agency failure to transmit the record is not "summary judgment" or any other action which prejudices the rights of Respondents and overturns a proper agency decision.

30. Rather, the proper course of action is for the agency to take the necessary steps to transmit the record.

31. In the present case, it is evident that the Board of Appeals acted immediately upon receipt of the Petition to take necessary and appropriate steps toward transmission of the record, including the reminder to the Petitioners to order and pay for the transcript.

32. Therefore, Petitioners' Motion for Summary Judgment is not only inherently irregular and misdirected, but also unsubstantiated.

33. In sum, any delay in processing this petition is due to the failure of the Circuit Court Clerk to notify the CBA, and the concomitant failure of Petitioners to assure that the CBA was notified.

34. Even had the delay been due to CBA inaction, the remedy is not to overturn a lawful CBA decision on the merits, to destroy the rights of the Respondents, and to award Petitioners a variance to which they are not entitled.

VI. The Merits

35. When the Court reviews the record, holds a hearing, and considers argument, it will find that there was legally insufficient evidence to support the petition for variance, under standards articulated in Cromwell v. Ward, 102 Md.App. 691 (1995), concerning Baltimore County Zoning Regulations (BCZR) Sec. 307.1.

36. The Court will further find, under its limited scope of judicial review, that the CBA's denial was at least "fairly debatable." McLean v. Soley, 270 Md. 208 (1973).

37. On top of this, the Court will find that this particular request for sign variance was illegal on its face because:

(a) it is a request for a freestanding sign on property zoned R.O.A. (Residential-Office, Class A).

(b) freestanding signs are not allowed in the R.O.A. zone. BCZR Sec. 450.4.

(c) the zoning regulations explicitly disallow variances as to the type of sign (as distinguished from area or height) listed as permitted in the particular zone. BCZR Sec. 450.8.

38. A brief perusal of the CBA Opinion shows an accurate understanding and analysis of the variance law relevant to this case.

39. When the Court does review the record, it will find that the undisputed facts and law require affirmance of the CBA decision.

40. Indeed, the illegality of the petition for variance, and the ensuing Petition for Judicial Review, is already apparent on this record.

VII. Conclusion

41. Under all the circumstances, the Petitioners' Motion for Summary Judgment is irregular, without substantial justification, and in conflict with the fundamental nature of, and rules governing, proceedings for judicial review of agency actions.

42. The Motion for Summary Judgment is the more outrageous and vexatious because it blames the CBA for delay which the record shows not to be the CBA's fault.

43. On top of this, Petitioners failed to served Respondents with a copy of the Motion. Rule 1-321.

For all of these reasons, the Court should not only deny Petitioners' Motion, but also make a finding that the Motion was unjustified and deserving of at least a warning.

PETER MAX ZIMMERMAN
People's Counsel For Baltimore County

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

PERRY HALL IMPROVEMENT ASS'N., INC.

DENNIS ECKARD
39 Bangert Avenue
Perry Hall, MD 21128
(410) 256-6871

By: _____
DENNIS ECKARD, Vice-President and
Zoning Committee Chairman
P.O. Box 63
Perry Hall, MD 21128
(410) 256-6871

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of March, 1999, a copy of the foregoing People's Counsel, et al.'s Answer to Motion for Summary Judgment was mailed to Stephen F. Marsalek, Esq., 28 W. Allegheny Avenue, Suite 701, Towson, MD 21204, attorney for Petitioners.

PETER MAX ZIMMERMAN



County Board of Appeals of Baltimore County

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

February 25, 1999

Stephen F. Marsalek, Esquire
28 W. Allegheny Avenue Suite 701
Towson, Maryland 21204

RE: Civil Action No. 3-C-98-12704
DOROTHY CUNNINGHAM and
WILLIAM O. SCHMIDBAUER

Dear Mr. Marsalek:

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. A copy of your Petition was received by the Board on February 23, 1999.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

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

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Dorothy Cunningham and
William O. Schmidbauer

RE: PETITION OF DOROTHY CUNNINGHAM
AND WILLIAM O. SCHMIDBAUER

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

IN THE MATTER OF THE APPLICATION
OF DOROTHY CUNNINGHAM AND WILLIAM O.
SCHMIDBAUER, FOR A ZONING VARIANCE

on property located on the south side Belair Road,
278 feet north of Halbert Avenue
11th Election District, 6th Councilmanic District

Case No. 98-198-A before the
County Board of Appeals of Baltimore County

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

Civil No. 3-C-98-12704

* * * * *

REQUEST FOR HEARING

Respondents/Appellees PEOPLE'S COUNSEL FOR BALTIMORE COUNTY and
DENNIS ECKARD, Individually, and as Vice-President and Zoning Committee Chairman of the
PERRY HALL IMPROVEMENT ASSOCIATION, INC., hereby request a hearing on the
Motion for Summary Judgment and Answer thereto filed herein.

PETER MAX ZIMMERMAN
People's Counsel For Baltimore County

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

PERRY HALL IMPROVEMENT ASS'N., INC.

DENNIS ECKARD
39 Bangert Avenue
Perry Hall, MD 21128
(410) 256-6871

By: _____
DENNIS ECKARD, Vice-President and
Zoning Committee Chairman
P.O. Box 63
Perry Hall, MD 21128
(410) 256-6871

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of March, 1999, a copy of the foregoing Request for Hearing was mailed to Stephen F. Marsalek, Esq., 28 W. Allegheny Avenue, Suite 701, Towson, MD 21204, attorney for Petitioners.

PETER MAX ZIMMERMAN

2-25-99

In The Matter of

Petition of:

Dorothy Cunningham
And William O. Schmidbauer
9431 Belair Road
Perry Hall, Maryland 21236

For Judicial Review:

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

Deputy Zoning Commissioner

9431 Belair Road

Appeal No. 98-198-A

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In The Circuit Court for

Baltimore County

Case No. 03-C-98-12704

CLERK OF COURT
COUNTY OF BALTIMORE
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Motion for Summary Judgment

Appellants William O. Schmidbauer and Dorothy Cunningham, pursuant to *Maryland Rule* §2-501, moves for Summary Judgment in their favor against the Board of Appeals for Baltimore County, since there is no genuine dispute as to any material fact and movants are entitled to a judgment as a matter of law because:

1. That the gravamen of the controversy at bar is that the petitioners/appellants claim the right to erect a visible, tasteful and appropriate sign for the premises 9431 Belair Road for the offices of *Schmidbauer Realty*.
2. Pursuant to *Maryland Rule* §7-202, Petitioners Dorothy Cunningham and William O. Schmidbauer, [hereinafter "*The Petitioners*"], in a timely manner, filed the within appeal, being an action for judicial review of the decision of the County Board of Appeals of Baltimore County, on **December 22, 1998**.

3. That upon filing the aforesaid petition for review with this Court, a copy of the appeal was mailed, postage pre-paid, to the County Board of Appeals of Baltimore County on the date of filing, *viz.* December 22, 1998.
4. Petitioners and respondents were parties before the County Board of Appeals of Baltimore County and fully participated in the proceedings.
5. That the County Board of Appeals for Baltimore County, pursuant to *Maryland Rule* §7-204(a) was **required** to file a **response** to petitioners' petition.
6. That the response by the County Board of Appeals for Baltimore County was required to be filed **within thirty (30) days** pursuant to *Maryland Rule* §7-204(c).
7. That the County Board of Appeals for Baltimore County filed **NO motion to shorten or extend the time** for filing their responsive answer.
8. That pursuant to *Maryland Rule* §7-206(c), the County Board of Appeals for Baltimore County was required "...to transmit to the circuit court, the original or a certified copy of the record of its proceedings within **sixty (60) days**..."
9. That the County Board of Appeals for Baltimore County not only failed to transmit the record within the prescribed time allotted by the *Maryland Rule* §7-206(c), but

failed to even order such transcript of the record until after the sixty (60) days had elapsed and expired.

10. That the County Board of Appeals for Baltimore County filed **NO motion to shorten or extend the time** for filing the record transcript as required by these *Maryland Rules*.

11. That this court is vested with authority to dismiss the action, or may affirm, reverse, or modify the agency's order or action pursuant to *Maryland Rule §7-209*.

WHEREFORE, appellants William O. Schmidbauer and Dorothy Cunningham, by and through Stephen F. Marsalek, their counsel, therefore pray for Summary Judgment be entered in their favor.

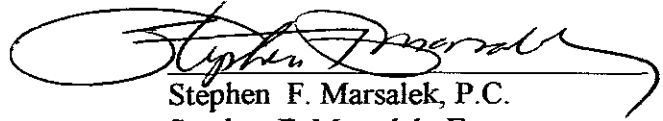

Stephen F. Marsalek, P.C.
Stephen F. Marsalek, Esq.
Suite 701, 28 Allegheny Avenue
Towson, Maryland 21204
[410] 321-9300

Request For Hearing

And, movants William O. Schmidbauer and Dorothy Cunningham respectfully request a hearing on the within motion.

Certificate of Service

I hereby certify that on this the 25th day of February, 1999, a copy of the foregoing **Motion for Summary Judgment** was mailed, postage pre-paid, to **Board of Appeals for Baltimore County**, Room 49, 400 Washington Avenue.

A handwritten signature in black ink, appearing to read "Stephen F. Marsalek", is written over a horizontal line.

Stephen F. Marsalek, P.C.

Stephen F. Marsalek, Esq.

Suite 701, 28 Allegheny Avenue

Towson, Maryland 21204

[410] 321-9300

In The Matter of

Petition of :

Dorothy Cunningham
And William O. Schmidbauer
9431 Belair Road
Perry Hall, Maryland 21236

For Judicial Review:

Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204
Deputy Zoning Commissioner
9431 Belair Road
Appeal No. 98-198-A

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* In The Circuit Court for
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* Baltimore County
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* Case No. 03-C-98-12704
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Memorandum of Law in Support

For

Motion for Summary Judgment

Appellants William O. Schmidbauer and Dorothy Cunningham, pursuant to *Maryland Rule* §2-501, submit this memorandum of law in support of their motion for Summary Judgment.

Statement of Case

1. That the gravamen of the controversy at bar is that the petitioners/appellants claim the right to erect a visible, tasteful and appropriate sign for the premises 9431 Belair Road for the offices of *Schmidbauer Realty*.
2. That a *Petition for Variance* was duly filed with the Zoning Commissioner for Baltimore County in November, 1997, and hearing was conducted by pursuant to

such application on December 30,1997,- at which permission to erect a double-faced, free standing sign containing thirty-two square feet was **approved and granted**.

3. That the decision of the Zoning Commissioner was appealed to the County Board of Appeals who, by Order of November 25,1998, reversed the decision of the Zoning Commissioner and denied the *Petition for Variance*. It is from this decision that Appellants file the instant appeal.

Statement of Material Facts As To Which

There Can Be No Genuine Dispute

4. That Pursuant to *Maryland Rule* §7-202, Petitioners Dorothy Cunningham and William O. Schmidbauer, [hereinafter "*The Petitioners*"], in a timely manner, filed the within appeal, being an action for judicial review of the decision of the County Board of Appeals of Baltimore County, on **December 22,1998**.
5. That upon filing the aforesaid petition for review with this Court, a copy of the appeal was mailed, postage pre-paid, to the County Board of Appeals of Baltimore County on the date of filing, viz. December 22,1998.
6. That Petitioners and respondents were parties before the County Board of Appeals of Baltimore County and fully participated in the proceedings.

7. That the County Board of Appeals for Baltimore County, pursuant to *Maryland Rule* §7-204(a) was **required** to file a **response** to petitioners' petition to wit:

“Any person, including the agency, who is entitled by law to be a party and who wishes to participate as a party **shall file a response** to the petition.” (*emphasis supplied*).

8. That the response by the County Board of Appeals for Baltimore County was required to be filed **within thirty (30) days** pursuant to *Maryland Rule* §7-204(c).

9. That the County Board of Appeals for Baltimore County filed **NO motion to shorten or extend the time** for filing their responsive answer.

10. That pursuant to *Maryland Rule* §7-206(c), the County Board of Appeals for Baltimore County was required “...to transmit to the circuit court, the original or a certified copy of the record of its proceedings within **sixty (60) days**...”

11. That the County Board of Appeals for Baltimore County not only failed to transmit the record within the prescribed time allotted by the *Maryland Rule* §7-206(c), but **failed to even order such transcript** of the record until after the sixty (60) days had elapsed and expired.

12. That the County Board of Appeals for Baltimore County filed **NO motion to shorten or extend the time** for filing the record transcript as required by these *Maryland Rules*.

Argument

13. *Appropriateness of Rules:* Judicial Review of Administrative Agency Decisions is governed by the *Maryland Rules*, Title 7, Chapter 200,- being the chapter upon which this motion for Summary Judgment is grounded.

14. *Purpose of Rules:* Judicial determination of the purpose of these rules were “to govern the method, manner and mechanics of appeals from administrative agencies” as set forth in *Hensley v. Bethesda Sheet Metal Co.*, 230 Md. 556, 188 A2d 290 (1963).

15. *Applicability of Rules:* The *Equal Protection Clause* of the Fourteenth Amendment of the Federal Constitution is adopted by, and integrated into the Laws of the State of Maryland, by virtue of the *Declaration of Rights*, Article 2 as set forth in the Annotated Code of the Public General Laws of Maryland, *Constitutions* article. Accordingly, any law, regulation or rule of court to which the appellant is bound must be equally applied to the appellant as well as the appellee.

16. *Failure to Adhere to Rules:* In the case of *Border v. Grooms*, 267 Md. 100, 297 A2d 81 (1972), it was HELD that where appellant had failed to file a petition for appeal setting forth the error committed by the agency until 30 days beyond the

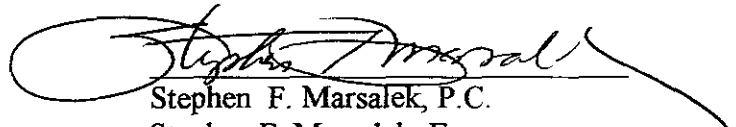
time prescribed for such filing by this Rule, a motion to dismiss was properly granted. Thus, not only is affirmative action of filing a response required [as set forth in *State Farm Mut. Auto Ins. Co. v. Insurance Comm'r*, 283 Md. 663, 392 A2d 1114 (1978)], but by failure to do so in a timely fashion as prescribed by the Rules, a party abandons his status by failing to file a pleading,- which is the holding of *Morris v. Howard Research & Dev. Corp.*, 278 Md. 417, 365 A2d 34 (1976). It was further held in the case *Clinton Community Hospital Corp. v. Maryland Comprehensive Health Planning Agency*, 31 Md. App. 265, 355 A2d 775 (1976) that an appeal to judicially review an administrative agency determination is “governed by the time limitations set forth in this Rule.”

Conclusion

17. There is no dispute that the *Maryland Rules* promulgate the procedural rules for Appellate Review in Circuit Court.
18. There is no dispute that the *Maryland Rules* provide certain time constraints which impose obligation upon litigants, whether appellant or appellee, to file pleadings and other documents within certain enumerated time parameters.
19. There is no dispute that Appellee **failed to file**, or even **attempted to file** a motion to extend the time constraints imposed by the *Maryland Rules*.

20. There is no dispute that Appellee **failed to file** responsive pleadings and failed to file the record transcript, **or even attempted to file** responsive pleadings and record transcript within the time period enunciated in the *Maryland Rules*.

21. There is no dispute that Summary Judgement should be granted in favor of Appellants since Appellee NOT ONLY failed to do that which was required of them by the *Maryland Rules*, BUT ALSO failed to **even attempt** to conform to their obligations imposed by law, and therefore Appellee, Board of Appeals of Baltimore County, **abandoned** its status as provided in *Morris v. Howard Research & Dev.*, supra.



Stephen F. Marsalek, P.C.
Stephen F. Marsalek, Esq.
Suite 701, 28 Allegheny Avenue
Towson, Maryland 21204
[410] 321-9300

Certificate of Service

I hereby certify that on this the 25th day of February, 1999, a copy of the foregoing **Memorandum of Law In Support Of Motion for Summary Judgment** was mailed, postage pre-paid, to **Board of Appeals for Baltimore County**, Room 49, 400 Washington Avenue.



Stephen F. Marsalek, P.C.
Stephen F. Marsalek, Esq.
Suite 701, 28 Allegheny Avenue
Towson, Maryland 21204
[410] 321-9300

In The Matter of

Petition of :

Dorothy Cunningham
And William O. Schmidbauer
9431 Belair Road
Perry Hall, Maryland 21236

For Judicial Review:

Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204
Deputy Zoning Commissioner
9431 Belair Road
Appeal No. 98-198-A

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In The Circuit Court for

Baltimore County

Case No. 03-C-98-12704

Order for Summary Judgment

The Circuit Court for Baltimore County, having considered the Appellants' Motion for Summary Judgment, hereby

ORDERS, ADJUDGES AND DECREES THAT:

Appellants' motion for summary judgment is hereby **granted** in favor of appellants against appellee this _____ day of _____, 1999.

Judge

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
DOROTHY CUNNINGHAM and
WILLIAM O. SCHMIDBAUER
9431 BELAIR ROAD
PERRY HALL, MD 21236

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 THE APPLICATION OF
DOROTHY CUNNINGHAM AND WILLIAM
O. SCHMIDBAUER - PETITIONERS

FOR A VARIANCE ON PROPERTY LOCATED
ON THE SOUTH SIDE BELAIR ROAD, 278' N
OF HALBERT AVENUE (9431 BELAIR ROAD)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
CASE NO. 98-198-A

CIVIL
ACTION
No. 3-C-98-012704

* * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Kristine K. Howanski, Margaret Worrall, and Thomas P. Melvin, constituting the County Board of Appeals of Baltimore County, has 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, Stephen F. Marsalek, Esquire, 28 W. Allegheny Avenue, Suite 701, Towson, Maryland 21204, Counsel for Petitioners; Dorothy Cunningham and Will O. Schmidbauer, 9431 Belair Road, Perry Hall, MD 21236, Petitioners; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Charlotte E. Radcliffe

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

RECEIVED AND FILED

99 FEB 25 PM 1:50

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Stephen F. Marsalek, Esquire, 28 W. Allegheny Avenue, Suite 701, Towson, Maryland 21204, Counsel for Petitioners; Dorothy Cunningham and Will O. Schmidbauer, 9431 Belair Road, Perry Hall, MD 21236, Petitioners ; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, Maryland 21204, this 25th day of February, 1999.

Charlotte E. Radcliffe

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



County Board of Appeals of Baltimore County

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

February 25, 1999

Stephen F. Marsalek, Esquire
28 W. Allegheny Avenue Suite 701
Towson, Maryland 21204

RE: Civil Action No. 3-C-98-12704
DOROTHY CUNNINGHAM and
WILLIAM O. SCHMIDBAUER

Dear Mr. Marsalek:

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. A copy of your Petition was received by the Board on February 23, 1999.

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,

A handwritten signature in cursive script that reads "Charlotte E. Radcliffe".

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Dorothy Cunningham and
William O. Schmidbauer



County Board of Appeals of Baltimore County

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

February 25, 1999

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-98-12704
DOROTHY CUNNINGHAM and
WILLIAM O. SCHMIDBAUER

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 22, 1998, 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-98-12704.

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

Very truly yours,

A handwritten signature in cursive script, reading "Charlotte E. Radcliffe".

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Ms. Dorothy McMann
Mr. Nicholas Palmeri
Lawrence E. Schmidt /ZC
Pat Keller /Planning
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co. Atty



Štěpán F. Maršálek P.C.**Attorney At Law**

Avocat • Abogado • Rechtsanwalt • Právník

Direct Reply To:**U.S.A. - Maryland Office**28 Allegheny Avenue, Suite 701
Towson, Maryland 21204-3919
Telephone: (410) 321-8300
Telefax: (410) 321-0061**Czech Republic-Prague Office**Na Penkral 11
140 00 Praha 4, Czech Republic
Telephone: (011-420) 02-6122-36412
Telefax: (011-420) 02-6122-2686

November 30, 1998

Re: County Board of Appeals
Case No. 98-198-A
Schmidbauer, William O.Towson Reporting Service
Attn: Shannon M. Wright
600 Baltimore Avenue
Towson, Maryland 21204
Via Fax: 410-321-0272

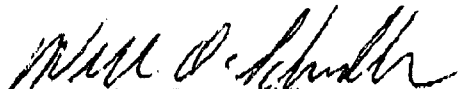
Dear Ms. Wright:

My client has advised that he wishes to appeal the decision. Would you kindly prepare the necessary transcript and advise the cost at your earliest convenience.

Thank you very much.

Very truly yours,

Stephen F. Marsalek


cc. William O. Schmidbauer

TRANSMISSION VERIFICATION REPORT

TIME: 02/24/1999 10:16
NAME: BOARD OF APPEALS
FAX : 4108873182
TEL : 4108873180

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

02/24 10:15
94103210874
00:00:27
01
OK
STANDARD
ECM

Stephen F. Marsalek, Attorney At Law
28 W. Allegheny Ave., Suite 701
Towson, Maryland 21204
Office: 410.321.9300 FAX: 410.321.0061
Email: sfmpc@marylandlaw.com

12-22-98

In The Matter of

Petition of :

Dorothy Cunningham
And William O. Schmidbauer
9431 Belair Road
Perry Hall, Maryland 21236

For Judicial Review:

Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204
Deputy Zoning Commissioner
9431 Belair Road
Appeal No. 98-198-A

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In The Circuit Court for

Baltimore County

Case No. 03-C-98-12704

Petition For Judicial Review

Pursuant to *Maryland Rule* §7-202, Petitioners Dorothy Cunningham and William O. Schmidbauer, [hereinafter "*The Petitioners*"] original applicants and appellees before the Board of Appeals, by and through their attorney, Stephen F. Marsalek, P.C. and Stephen F. Marsalek, Esq., requests judicial review of the decision of the County Board of Appeals of Baltimore County regarding the decision of the Deputy Zoning Commissioner in case CBA 98-198-A rendered on November 25, 1998 [copy attached as *Petitioner's Exhibit One (1)*].

Petitioners were parties before the County Board of Appeals of Baltimore County and fully participated in the proceedings.

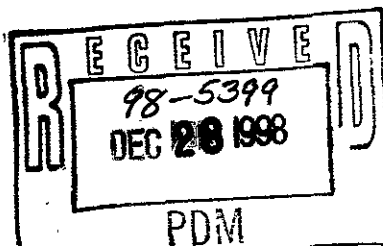
Respectfully submitted,



Stephen F. Marsalek Esq.

RECEIVED AND FILED

93 DEC 22 PM 3:21



Certificate of Service

I hereby certify that on this the 22nd day of December, 1998, a copy of the foregoing **Petition for Judicial Review** was mailed, postage pre-paid, to **Peter Max Zimmerman, Esq.**, Office of the People's Counsel, Room 47, 400 Washington Avenue, Towson, Maryland 21204, **Dorothy McMahon**, 9513 Dawnvale Road, Baltimore, Md. 21236, Baltimore County Department of Permits and Development Management, Attn: **Arnold Jablon**, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204, **Virginia W. Barnhart, Esq.**, County Attorney, 400 Washington Avenue, Towson, Maryland 21204, and **Lawrence E. Schmidt**, Zoning Commissioner, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204.



Stephen F. Marsalek, P.C.
Stephen F. Marsalek, Esq.
Suite 701, 28 Allegheny Avenue
Towson, Maryland 21204
[410] 321-9300

Petitioners' Exhibit One (1)

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
<u>DOROTHY CUNNINGHAM AND WILLIAM*</u>		COUNTY BOARD OF APPEALS
<u>O. SCHMIDBAUER -PETITIONERS</u>		
FOR VARIANCE ON PROPERTY	*	OF
LOCATED ON THE SOUTH SIDE		
BELAIR ROAD, 278' N OF HALBERT*		BALTIMORE COUNTY
AVENUE (9431 BELAIR ROAD)		
11TH ELECTION DISTRICT	*	CASE NO. 98-198-A
6TH COUNCILMANIC DISTRICT		
* * * *	*	* * * *

O P I N I O N

This matter comes on appeal filed by the Office of People's Counsel for Baltimore County from the decision of the Deputy Zoning Commissioner granting Petitioners' request for variance from Sections 450.4 and 202.3.C.1 of the Baltimore County Zoning Regulations (BCZR) by order dated March 2, 1998. Petitioners seek permission to maintain a double-faced freestanding 64 square-foot sign (32 square feet per side) in an R.O.A. zone in lieu of the maximum permitted 6 square-foot wall-mounted sign.

Petitioners, William O. Schmidbauer and Dorothy Cunningham, were represented by Stephen F. Marsalek, Esquire. Peter Max Zimmerman, People's Counsel for Baltimore County, appeared on behalf of that office.

Testimony and evidence indicated that the Petitioners acquired the subject site approximately 1-1/2 years ago and operate on the premises a real estate business which was previously located in the 6700 block of Belair Road. The lot is 0.376 acre, rectangular in shape, ordinary in topography, zoned R.O.A., and located in the 9400 block of Belair Road.

Petitioner commissioned "Sign Design" in September 1997 to design and manufacture a double-faced 64 square-foot sign

IN THE MATTER OF * BEFORE THE
 THE APPLICATION OF *
 DOROTHY CUNNINGHAM AND WILLIAM* COUNTY BOARD OF APPEALS
 O. SCHMIDBAUER -PETITIONERS
 FOR VARIANCE ON PROPERTY * OF
 LOCATED ON THE SOUTH SIDE *
 BELAIR ROAD, 278' N OF HALBERT* BALTIMORE COUNTY
 AVENUE (9431 BELAIR ROAD)
 11TH ELECTION DISTRICT * CASE NO. 98-198-A
 6TH COUNCILMANIC DISTRICT
 * * * * *

O P I N I O N

This matter comes on appeal filed by the Office of People's Counsel for Baltimore County from the decision of the Deputy Zoning Commissioner granting Petitioners' request for variance from Sections 450.4 and 202.3.C.1 of the Baltimore County Zoning Regulations (BCZR) by order dated March 2, 1998. Petitioners seek permission to maintain a double-faced freestanding 64 square-foot sign (32 square feet per side) in an R.O.A. zone in lieu of the maximum permitted 6 square-foot wall-mounted sign.

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Case No. 98-198-A /Dorothy Cunningham and William O. Schmidbauer² identifying the subject site as "Schmidbauer Realty," listing both the telephone number and street address. This sign was subsequently installed in mid-October of 1997. The Petitioner indicated the cost associated with this sign to be \$2,485.00 and that all proper permits were to have been obtained by "Sign Design." However, testimony indicated that permits were never applied for nor obtained by the sign company.

Shortly after the sign was installed, the Petitioner was cited by a Code Enforcement Agent with the Department of Permits and Development Management (PDM) indicating a variance was needed, as the sign did not meet current regulations; thus the reason for the petition on appeal. Petitioner through his witnesses opined the existing sign was needed for clients to safely identify the subject site due to the vehicular traffic on Belair Road which reaches speeds in excess of 40 miles per hour.

Section 450.4.a of the BCZR permits signs in the R.O.A. zone to be wall-mounted, and up to 6 square feet in size. Petitioner is seeking a variance from these regulations. On August 4, 1997, Council Bill No. 89-97 (BCZR 450) was enacted by the County Council effective September 19, 1997, for the purpose of updating and amending the Baltimore County Zoning Regulations on permissible use of signage in Baltimore County. Contained in those regulations, Section 450.8.2 contained therein provides that no special exception or variance may be granted if it will result in the authorization of a sign class which is not otherwise permitted for a particular zone or use by Section 450.4 (Table of Sign Regulations).

This Board finds Section 450.8.2 applicable as Petitioners filed for variance relief after the effective date of Bill No. 89-97; the section does not permit a variance to be granted in the instant case insofar as the relevant zone permits a wall-mounted sign alone, not a freestanding sign. Thus, the variance cannot be permitted as it is not be in keeping with the spirit and intent of the zoning regulations.

Absent Section 450.8.2, this Board feels compelled to address the variance relief as granted below. Section 307.1 of the BCZR provides for the granting of a variance "only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request...." Under the landmark case of Cromwell v. Ward, 102 Md.App. 691 (1995), the Court of Special Appeals has clarified that the threshold requirement of uniqueness demands that there be a finding that the subject property is unique and unusual such that its uniqueness and peculiarity cause the zoning provision to impact disproportionately upon that property. Absent an initial finding of uniqueness, the inquiry under Section 307.1 stops and the variance must be denied.

Petitioners failed to present any testimony or evidence demonstrating their property was unique in such a manner that the signage requirements impact disproportionately on their property.

Accordingly, this Board must deny Petitioners' request for variance as it does not meet the requirements of Section 450 of the BCZR or Section 307.1.

O R D E R

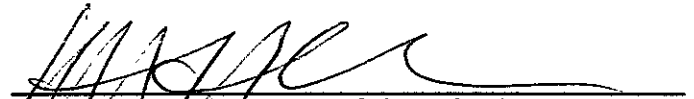
THEREFORE, IT IS THIS 25th day of November, 1998 by
the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance seeking relief from
Sections 450.4 and 202.3.C of the Baltimore County Zoning
Regulations to permit a free-standing sign of 64 square feet total
in lieu of the maximum permitted 6 square feet total for a wall-
mounted sign be and is hereby DENIED; and it is further

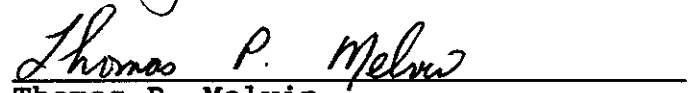
ORDERED that the subject sign shall be removed within 30 days
of the date of this Order.

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


Kristine K. Howanski, Chairman


Margaret Worrall


Thomas P. Melvin

11/19/1998 14:56

41088731

BOARD OF APPEALS

PAGE 04

Case No. 98-198-A /Dorothy Cunningham and William O. Schmidbauer4

O R D E R

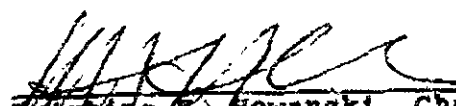
THEREFORE, IT IS THIS _____ day of _____, 1998 by
the County Board of Appeals of Baltimore County

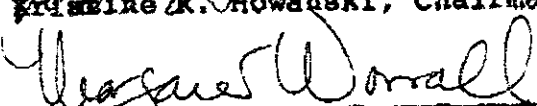
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Regulations to permit a free-standing sign of 64 square feet total
in lieu of the maximum permitted 6 square feet total for a wall-
mounted sign be and is hereby DENIED; and it is further

ORDERED that the subject sign shall be removed within 30 days
of the date of this Order.

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


Priscilla K. Howanski, Chairman


Margaret Worrall


Thomas P. Melvin

*Original for MW (Keb)
Hold in file of Our attention copy only*



County Board of Appeals of Baltimore County

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

November 25, 1998

Stephen F. Marsalek, Esquire
28 Allegheny Avenue, Suite 1301
Towson, MD 21204

RE: Case No. 98-198-A
Dorothy Cunningham and
William O. Schmidbauer -Petitioners

Dear Mr. Marsalek:

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, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Redcliffe for

Kathleen C. Bianco
Administrator

encl.

cc: Mr. William O. Schmidbauer
Ms. Dorothy Cunningham
Ms. Dorothy McMann
Mr. Nicholas Palmeri
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Code Enforcement Division /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney





Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

March 2, 1998

Stephen F. Marsalek, Esquire
28 Allegheny Avenue, Suite 1301
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
S/S Belair Road, 278' N of Halbert Avenue
(9431 Belair Road)
11th Election District - 6th Councilmanic District
Dorothy Cunningham and William O. Schmidbauer - Petitioners
Case No. 98-198-A

Dear Mr. Marsalek:

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

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. William O. Schmidbauer
10 Bangert Avenue, Perry Hall, Md. 21128

Ms. Dorothy McMan
9513 Dawnvale Road, Perry Hall, Md. 21236

Mr. Nicholas Palmeri
3714 Parkhurst Way, Perry Hall, Md. 21236

Code Enforcement Division, DPDM
People's Counsel; Case Files





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9431 Belair Road, Baltimore, Md. 21236

which is presently zoned ROA

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 Variance from Section(s)

450.4.I and 202.3.C.1, BCZR

To permit a double face freestanding sign with a total square footage of 64 square feet (32 sq. ft. ea. side)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Our sign contractor, *Sign Design*, was engaged to fabricate and install a sign for our new office. While in our office before witnesses, he telephoned the County Zoning Office to confirm size and placement at this specific location and was told that this sign conformed not only to existing regulations, but to the new regulations as well. Because of the speed along the Belair Road corridor, a small sign conforming to present regulations, affixed to the structure, even if perpendicular, is not be visible. Thus, this sign is essential for the survival of our business.

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

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

Contract Purchaser/Lessee:

William O. Schmidbauer

(Type or Print Name)

Signature

9431 Belair Road

Address

Baltimore, Maryland 21236

City

State

Zipcode

Attorney for Petitioner

Stephen F. Marsalek

(Type or Print Name)

Signature

28 Allegheny Avenue, Suite 1301

Address

Towson, Maryland

Phone No

21204

City

State

Zipcode

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

Legal Owner(s):

Dorothy Cunningham

(Type or Print Name)

Signature

William O. Schmidbauer

(Type or Print Name)

Signature

9431 Belair Road

410-256-7200

Address

Phone No

Baltimore, Maryland 21236

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

William O. Schmidbauer

Name

9431 Belair Road

410-256-7200

Address

Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL

OTHER

REVIEWED BY:

DATE



Printed with Soybean Ink
on Recycled Paper

Revised 9/5/95

98-198-A

ORDER RECEIVED FROM FILING

3/20/90
BETTER



ZONING DESCRIPTION

ZONING DESCRIPTION FOR #9431 BELAIR ROAD
(address)

Beginning at a point on the SOUTH side of
(north, south, east or west)

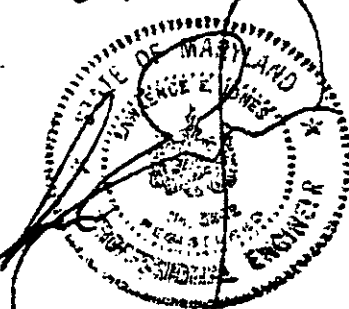
BELAIR ROAD which is 110 FEET
name of street on which property fronts (number of feet of right-of-way width)

wide at the distance of 278.0 FEET NORTH of the
(number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street HALBERT AVENUE

WHICH IS 30.0 FEET WIDE. BEING THAT UNRECORDED LOT OF GROUND WHICH BY DEED DATED JUNE 5, 1997 WAS RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER 12230, FOLIO 225 WAS GRANTED TO DOROTHY L. CUNNINGHAM AND DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE SOUTH SIDE OF BELAIR ROAD 278.0 FEET NORTH OF THE CENTERLINE OF HALBERT AVENUE AND RUNNING THE FOLLOWING COURSES AND DISTANCES
1) SOUTH 43°-50'-EAST - 164.0'. 2) NORTH 49°-EAST - 100.0'
3) NORTH-43°-50'-WEST-164.0' - 4) SOUTH-49°-WEST-100.0'
TO THE POINT OF BEGINNING AND CONTAINING - 16,400 S.F.
OF LAND, ALSO KNOWN AS #9431 BELAIR ROAD AND LOCATED IN THE 11TH ELECTION DISTRICT, 6TH COUNCILMANIC DISTRICT

FOR ZONING PURPOSES
JONES ASSOCIATES



98-198-A

PETITION OF: D. Cunningham & W. Schmidbauer

CIVIL ACTION # 3-C-98-012704

DOROTHY CUNNINGHAM and
IN THE MATTER OF WILLIAM O. SCHMIDBAUER

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

R. P. Law

Clerk's Office

Date: 4/19/99

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 046746

DATE 11-20-97 ACCOUNT 1001-E150

AMOUNT \$ 250.00

RECEIVED FROM: W. SCHMIDBAUER — 9431 BELAIR RD.

FOR: UAC. (020)

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

Jan

PAID RECEIPT

PROCESS ACTUAL TIME

11/21/1997 11/20/1997 15:07:27

REF 0006 CASHIER CLERK ENL DRAWER 1

5 MISCELLANEOUS CASH RECEIPT

Receipt # 014767 UPLN

CR NO. 046746

250.00 CHECK

Baltimore County, Maryland

CASHIER'S VALIDATION

三、

Case #98-198-A
9431 Belair Road
S/S Belair Road, 278' +/- N of
centerline Halpert Avenue
11th Election District
5th Councilmanic District
Legal Owner(s):

Variance: to permit a double face freestanding sign with a total square footage of 64 square feet (32 square feet each side).

Hearing: Tuesday, December 30, 1997 at 11:00 a.m.
Room 457, County Court
Bldg. 401 Duxley Avenue.

NOTES: (1) Hearings are Handicapped Accessible; for special accommodation. Please Call (410) 867-3353.

12/057 Dec. 11 C19466

A. Henickson
LEGAL AD. - TOWSON

CERTIFICATE OF POSTING

RE: Case No.: 98-198-A

Petitioner/Developer: W. SCHMIDBAUER, ETAL
S.F. MARSALEK, ESQ

Date of Hearing/Closing: 12/30/97

@ 11⁰⁰ AM R.M. 407 C.C.B.
401 BOSLEY AVE.

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at #9431 BELAIR ROAD.

The sign(s) were posted on 12/11/97
(Month, Day, Year)

Sincerely,

Patrick M. O'Keefe 12/12/97

(Signature of Sign Poster and Date)

Patrick M. O'Keefe

(Printed Name)

523 Penny Lane

(Address)

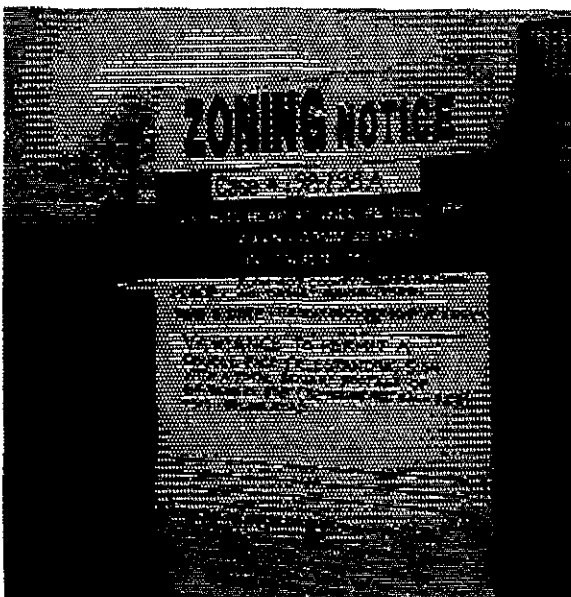
Hunt Valley, MD 21030

(City, State, Zip Code)

(410) 666-5366

(Telephone Number)

Page (410) 905-8571



98-198A
#9431-BELAIR RD, P-12/11/97
W. SCHMIDBAUER H-12/30/97

CERTIFICATE OF POSTING

RE: Case No.: 98-198-A

Petitioner /Developer: _____

CUNNINGHAM & SCHMIDBAUER

Date of Hearing/Closing: _____

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the
necessary sign(s) required by law were posted conspicuously on the
property located at 9431 BELAIR RD.

The sign(s) were posted on _____

4/22/98

(Month, Day, Year)

Sincerely,

Gary C. Freund 4/22/98

Signature of Sign Poster and Date

GARY C. FREUND
Printed Name

Address

City, State, Zip Code

Telephone Number



Baltimore County
Department of Permits and
Development Management

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 (responsibility of which, lies with the petitioner/applicant) 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 advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

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.: 198

Petitioner: William O. Schmidbauer

Location: 9431 BELAIR ROAD, PERRY HALL, Md. 21236

PLEASE FORWARD ADVERTISING BILL TO:

NAME: William O. Schmidbauer

ADDRESS: 9431 BELAIR ROAD, PERRY HALL, Md. 21236

PHONE NUMBER: 410.256.7200

AJ:ggs

(Revised 09/24/96)

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 98-198-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: A VARIANCE TO PERMIT A DOUBLE FACE
FREESTANDING (8'x) SIGN WITH A TOTAL SQUARE
FOOTAGE OF 64 SQUARE FEET. ADDITIONAL

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

TO: PATUXENT PUBLISHING COMPANY
December 11, 1997 Issue - Jeffersonian

Please forward billing to:

William O. Schmidbauer 410-256-7200
9431 Belair Road
Perry Hall, MD 21236

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-198-A

9431 Belair Road

S/S Belair Road, 278' +/- N of centerline Halpert Avenue

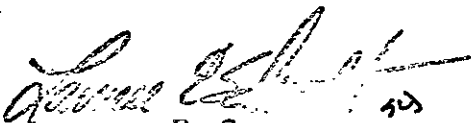
11th Election District - 5th Councilmanic District

Legal Owner: Dorothy Cunningham & William O. Schmidbauer

Contract Purchaser: William O. Schmidbauer

Variance to permit a double face freestanding sign with a total square footage of 64 square feet (32 square feet each side).

HEARING: Tuesday, December 30, 1997 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue.



LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS
PLEASE CALL 410-887-3353.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-
887-3391.



Baltimore County
Department of Permits and
Development Management

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

November 26, 1997

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-198-A

9431 Belair Road

S/S Belair Road, 278' +/- N of centerline Halpert Avenue

11th Election District - 5th Councilmanic District

Legal Owner: Dorothy Cunningham & William O. Schmidbauer

Contract Purchaser: William O. Schmidbauer

Variance to permit a double face freestanding sign with a total square footage of 64 square feet (32 square feet each side).

HEARING: Tuesday, December 30, 1997 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

c: Dorothy Cunningham
William Schmidbauer
Stephen F. Marsalek, Esquire

- NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY DECEMBER 15, 1997.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.





County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

August 7, 1998

NOTICE OF ASSIGNMENT

CASE #: 98-198-A

IN THE MATTER OF: DOROTHY CUNNINGHAM AND WILLIAM O.
SCHMIDBAUER -Petitioners 9431 Belair Road
11th Election District; 6th Councilmanic

(Petition for Variance GRANTED by D.Z.C.)

ASSIGNED FOR:

TUESDAY, OCTOBER 13, 1998 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

cc: Appellant

: Peter Max Zimmerman /People's
Counsel for Baltimore County
Carole S. Demilio /Deputy
People's Counsel

Counsel for Petitioner
Petitioner

: Stephen F. Marsalek, Esquire
: William O. Schmidbauer and
Dorothy Cunningham

Dorothy McMann
Nicholas Palmeri

Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Code Enforcement Division /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney





Baltimore County
Department of Permits and
Development Management

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

December 17, 1997

Stephen F. Marsalek, Esquire
28 Allegheny Avenue, Suite 1301
Towson, MD 21204

RE: Item No.: 198
Case No.: 98-198-A
Petitioner: D. Cunningham, et al

Dear Mr. Marsalek:

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 November 1997.

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 Roslyn Eubanks in the zoning office (410-887-3391).

Sincerely,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits
and Development Management

Date: December 10, 1997

FROM: Arnold F. "Pat" Keller, III, Director
Office of Planning

SUBJECT: 9431 Belair Road

INFORMATION

Item Number: 198

Petitioner: Cunningham/Schmidbauer Property

Zoning: ROA

Requested Action: Variance

The Office of Planning does not support the Petition for Variance to allow a sign of 64 square feet (32 square feet each side). Section 202.3.C.1 of the Baltimore County Zoning Regulations states the following: "... one stationary outside identification sign is permitted, provided that the sign is not illuminated, is wallmounted or projects from the building and **does not have a surface exceeding six square feet on each ...**" A surface area of 32 square feet per side is far in excess of the BCZR requirements and defeats the purpose of Section 202, which attempts to create an office environment that is compatible with adjacent residential uses.

Prepared by: *Jeffrey W. Long*

Division Chief: *Gary L. Kerns*

AFK/JL



Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Parker F. Williams
Administrator

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

RE: Baltimore County 11/28/97
Item No. 198 JCM

Dear Ms. Eubanks:

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

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: Dec 9, 1997

FROM: R. Bruce Seeley *RBS/90*
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: Dec 1, 1997

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:

191

192

192

199

193

200

194

RBS:sp

BRUCE2/DEPRM/TXTS8P

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

December 10, 1997

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 December 1, 1997

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:

190, 194, 195, 197, 198 and 200

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 887-4861, MS-1102F

cc: File



B A L T I M O R E C O U N T Y , M A R Y L A N D

I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director
 Department of Permits & Development
 Management

Date: December 8, 1997

FROM: *pub* Robert W. Bowling, Chief
 Bureau of Developer's Plans Review

SUBJECT: Zoning Advisory Committee Meeting
 for December 8, 1997
 Item Nos. 191, 194, 195, 196, 198,
 and 200

The Bureau of Developer's Plans Review has reviewed the subject zoning item, and we have no comments.

RWB:HJO:jrb

cc: File

ZONE1208.NOC

ATTN
KEVIN
GAMBRILL

BALTIMORE COUNTY, MARYLAND

for Jim
12/30

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits
and Development Management

Date: December 10, 1997

FROM: Arnold F. "Pat" Keller, III, Director
Office of Planning

SUBJECT: 9431 Belair Road

INFORMATION

Item Number: 198

Petitioner: Cunningham/Schmidbauer Property

Zoning: ROA

Requested Action: Variance

The Office of Planning does not support the Petition for Variance to allow a sign of 64 square feet (32 square feet each side). Section 202.3.C.1 of the Baltimore County Zoning Regulations states the following: "... one stationary outside identification sign is permitted, provided that the sign is not illuminated, is wallmounted or projects from the building and **does not have a surface exceeding six square feet on each ...**" A surface area of 32 square feet per side is far in excess of the BCZR requirements and defeats the purpose of Section 202, which attempts to create an office environment that is compatible with adjacent residential uses.

Prepared by: Jeffrey W. Long

Division Chief: Gary L. Kerns

AFK/JL

RE: PETITION FOR VARIANCE * BEFORE THE
9431 Belair Road, S/S Belair Road, *
278' +/- N of centerline Halpert Avenue * ZONING COMMISSIONER
11th Election District, 5th Councilmanic *
Legal Owner(s): Dorothy Cunningham and * OF BALTIMORE COUNTY
William Schmidbauer * CASE NO. 98-198-A
Contract Purchaser(s): William Schmidbauer *
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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO

Deputy People's Counsel

Room 47, Courthouse

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of December, 1997, a copy of the foregoing Entry of Appearance was mailed to Stephen F. Marsalek, Esq., 28 Allegheny Avenue, Suite 1301, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN



Code Enforcement

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMO

DATE: 12/3/97

TO: Carl W. Richards
Zoning Supervisor

FROM: James H. Thompson
Code Enforcement Supervisor

RE: Item No. 98-198

Violation Case No. 97-3624

Location of Violation: 9431 Belair Rd 21236

Defendant: Dorothy L. Cunningham

Address: 9431 Belair Rd / Schmidbauer Realty

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 persons:

Name: Perry Hall Improvement Assoc.
c/o D. Marks, Corres. Sec.

Address: PO Box 63
Perry Hall Md 21228-0063

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

Inspector

W. Asikowski

lmh/LB



Baltimore County, Maryland

TO WORK

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 18, 1998

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR VARIANCE
9431 Belair Road, S/S Belair Road, 278' N of
Halbert Avenue
11th Election District, 6th Councilmanic
D. CUNNINGHAM & WM. SCHMIDBAUER, Petitioners
Case No. 98-198-A

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Order dated March 2, 1998 of the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

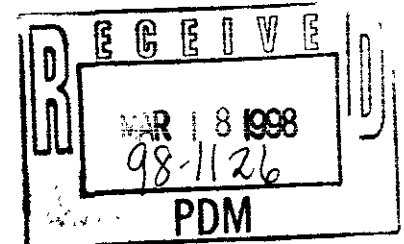
Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf

cc: Stephen F. Marsalek, Esq.
Attorney for Petitioners
Ms. Dorothy McMann
Perry Hall Improvement Assn.





Baltimore County
Department of Permits and
Development Management

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

March 23, 1998

Stephen F. Marsalek, Esquire
28 Allegheny Avenue, Suite 1301
Towson, MD 21204

RE: Petition for Zoning Variance
Case No.: 98-198-A
9431 Belair Road
11c6
William Schmidbauer and Dorothy
Cunningham - Petitioners

RECEIVED
COUNTY BOARD OF APPEALS
98 MAR 26 AM 11:23

Dear Mr. Marsalek:

Please be advised that an appeal of the above referenced case was filed in this office on March 18, 1998 by Peter Max Zimmerman and Carole S. Demilio on behalf of People's Counsel. 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 call the Board of Appeals at 410-887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:rye

c: Ms. Dorothy McMann
Mr. Nicholas Palmeri
Code Enforcement Division, PDM
People's Counsel



APPEAL

Petition for Zoning Variance
S/S Belair Road, 278' N of Halbert Avenue
(9431 Belair Road)
11th Election District - 6th Councilmanic District
Dorothy Cunningham and William O. Schmidbauer - Petitioners
Case Number: 98-198-A

Petition for Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits: 1 - Pictures of Schmidbauer Realty Sign
 2A-E - Five Pictures of Various Signs
 3 - Sign Design Proposal
 4 - Plat to Accompany Petition for Variance

Two Pictures of Baltimore County Public Library, Perry Hall Branch, Sign

Advisory Group Report, Master Plan 2010 Perry Hall-White Marsh Growth Area
Update, dated August, 1997

Draft of Belair Road Corridor Study

Letter from Stephen F. Marsalek, Esquire to Timothy M. Kotroco, Deputy Zoning
Commissioner, dated December 30, 1997

Deputy Zoning Commissioner's Order dated March 2, 1998 (Granted)

Notice of Appeal received on March 18, 1998 from Peter Max Zimmerman and Carole
S. Demilio on behalf of People's Counsel

c: Stephen F. Marsalek, Esq., 28 Allegheny Avenue, Suite 1301, Towson, MD 21204
Mr. William O. Schmidbauer, 10 Bangert Avenue, Perry Hall, MD 21128
Ms. Dorothy McMann, 9513 Dawnvale Road, Perry Hall, MD 21236
Ms. Dorothy Cunningham, 9431 Belair Road, Baltimore, MD 21236
Mr. Nicholas Palmeri, 3714 Parkhurst Way, Perry Hall, MD 21236
Code Enforcement Division, PDM
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

Case No. 98-198-A

VAR -To permit double-faced freestanding sign of 64 sq. ft. (32 sq. ft. per side) ilo maximum permitted 6 sq. ft.

3/02/98 -D.Z.C.'s Order in which Petition for Variance was GRANTED.

8/07/98 -Notice of Assignment for hearing scheduled for Tuesday, October 13, 1998 at 10:00 a.m. sent to following:

Peter Max Zimmerman /People's
Counsel for Baltimore County
Carole S. Demilio /Deputy
People's Counsel
Stephen F. Marsalek, Esquire
William O. Schmidbauer and
Dorothy Cunningham
Dorothy McMann
Nicholas Palmeri
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Code Enforcement Division /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

10/13/98 -Hearing concluded; deliberated; variance denied. Order to be issued; appellate period to run from date of written order. (K.W.M.)

Civil Action No. 3-C-98-012704

November, 1997 Petition for Variance filed by Stephen F. Marsalek, Esquire, on behalf of William O. Schmidbauer and Dorothy Cunningham, to permit a double face freestanding sign with a total square footage of 64 square feet (32 sq. ft. ea. side)

December 4 Entry of Appearance filed by People's Counsel for Baltimore County.

December 30 Hearing held on Petition by the Zoning Commissioner.

March 2, 1998 Order of the Deputy Zoning Commissioner in which Petition for Variance was GRANTED with restrictions.

March 18 Notice of Appeal filed by People's Counsel for Baltimore County.

October 13 Hearing before the Board of Appeals. Public deliberation conducted at end of hearing.

November 25 Opinion and Order issued by the Board; Petition for Variance is DENIED.

December 22 ✓ E Petition for Judicial Review filed in the Circuit Court for Baltimore County by Stephen F. Marsalek, Esquire, on behalf of Dorothy Cunningham and William O. Schmidbauer.

February 23 County Board of Appeals received a copy of the Petition for Judicial Review from the Office of People's Counsel. (The Board had no knowledge of Petition filed 12/22/98, until the People's Counsel inquired about date record was due to be filed.)

February 25 Certificate of Notice sent to interested parties.

April 19, 1999 ✓ Transcript of testimony and Record of Proceedings filed in the CCT.

Feb. 16, 2000 ✓ E Order issued by the CCT (Cadigan); decision of the CBA is AFFIRMED.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Dorothy Cunningham and William O. Schmidbauer
- Petitioners Case No. 98-198-A

DATE : October 13, 1998 /at conclusion of hearing

BOARD /PANEL : Kristine K. Howanski, Chairman (KKH)
Thomas P. Melvin (TPM)
Margaret Worrall (MW)

SECRETARY : Kathleen C. Bianco
Administrator

PURPOSE: To deliberate Case No. 98-198-A /Petition for Variance /Dorothy Cunningham and William O. Schmidbauer - Petitioners to permit double-faced, freestanding sign of 64 sq ft (32 sq. ft. per side) in lieu of maximum permitted 6 sq ft.

KKH: We will be deliberating Case No. 98-198-A. This is regarding the Petition for Variance for the Schmidbauer property, and this is on appeal from the granting of the variance below. Ms. Worrall, if you want to go first?

MW: I think it's important initially to note that the issues here are purely legal ones. We need to determine what is permitted; signage in ROA not permitted under the law. Certainly nothing in the evidence or testimony before us today to disagree that the Schmidbauer Realty Company is a reputable business and an asset to the Perry Hall community.

Similarly, Mr. Schmidbauer has had installed an attractive sign with attractive landscaping. The problem is that no matter how attractive the business and sign, in my opinion, this type of sign is simply not permitted on ROA -- it's freestanding and too large. ROA zone is limited to 6 sq. ft. and wall mounted.

The Petitioner has requested a variance for illuminated sign. Property was zoned ROA when Schmidbauer purchased it 1.5 years ago. Mr. Schmidbauer improved the property and hired a contractor to install the sign. Testimony is consistent that the contractor said he had obtained all necessary permits. Unfortunately, it appears he had not done so. That is not the case before us; no case with the contractor is before us. The Petitioner has, on the other hand, filed for a variance in November 1997 and, therefore, even though the sign was already erected, this, in my mind, comes under the new sign regulations effective in mid September 1997.

Petitioner fails on two counts of the law, 450.8; even if we did not have this new law, under variance standard, Cromwell v. Ward, I still feel that the variance would have to be denied. Nothing in the evidence or testimony showing uniqueness compared to other properties in neighborhood; standard to abide by. Appears that all ROA zoned property in

the area are the same; no evidence to the contrary. If that element is not met, then practical difficulty or unreasonable hardship and spirit and intent are not to be considered. Therefore, again, as I said, in my opinion, no basis for granting the sign.

TPM: Basically, Margaret, you covered everything. I concur with the same facts that you came up with and would deny the request.

KKH: I have to agree as well, although I have to say I find this case frustrating. First of all, that down below there was no discussion of Cromwell v. Ward, even though that is the obvious standard if you go that far. I do agree they fall under the current statute -- did file for variance after effective date of bill. It's clear that is the law that applies.

I do agree as well that it fails on both counts -- first, not something permitted in the first instance and secondly, by definition, type of variance requested here goes beyond what is permitted in that area. It's not a request for larger sign against building; freestanding sign; would have to fail on those counts.

Even considering the old bill, there is Cromwell v. Ward -- would seem to be some understanding of difficulty and hardship, but the very first prong of Cromwell is that the property is unique. No evidence to uniqueness put forth by the Petitioner. In fact, some evidence that property is not at all unique put on by People's Counsel. Would not even go further with a consideration.

There was testimony that Mr. Schmidbauer is very good resident of the area; that was not the issue at all. This Board would concur - evidence was clear that he is a conscientious owner; does the right thing. But owners are held to know the law and do what is correct under the law.

MW: Important to note -- in terms of a lot of the testimony concerning what the law said and if it is a good law -- it's not within our jurisdiction to determine whether the law is a good law or not; duty of the County Council; they write the laws.

KKH: County Council has to grapple with that -- that is not properly in front of the Board. While I do find it personally regrettable in terms of how obviously conscientious petitioner seems to be, I don't think we are at liberty to grant a variance on this particular piece of property in the form it was presented.

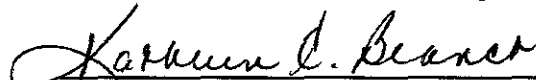
We will have no choice but to issue a written opinion and

Deliberation /Dorothy Cunningham and William O. Schmidbauer
Case No. 98-198-A /Minutes of Deliberation

order denying the variance. Any person feeling aggrieved will have 30 days from the date of the written opinion from which to file an appeal.

NOTE: This document confirms for the file that public deliberation was held this date in the subject matter and a final decision rendered in which the requested variance relief was granted.

Respectfully submitted,



Kathleen C. Bianco
Administrator

In The Matter of

Petition of :

Dorothy Cunningham
And William O. Schmidbauer
9431 Belair Road
Perry Hall, Maryland 21236

For Judicial Review:

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

Deputy Zoning Commissioner

9431 Belair Road

Appeal No. 98-198-A

* In The Circuit Court for

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Baltimore County

Case No. 03-C-98-12704

Request for Postponement

To the Honorable Judges of Said Court:

RECEIVED
COUNTY BOARD OF APPEALS
99 OCT 18 PM 12:58

1. **Trial on the Merits** are presently scheduled for **October 21, 1999**, at 9:30 A.M.
at 401 Bosley Avenue, Towson, Maryland 21285 by **Petitioner's Counsel**,
Stephen F. Marsalek, to postpone and re-schedule the within matters since
Petitioner is unavailable and out of town at the date and time appointed for this
hearing.



Stephen F. Maršálek, Esq.
Suite 701, 28 Allegheny Avenue
Towson, Maryland 21204
[410] 321-9300

Certificate of Service

I hereby certify that a copy of the within request for postponement has been mailed to Board of Appeals of Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland 21204, by first class U.S. Mail, postage prepaid, this 14th day of October, 1999.

A handwritten signature in black ink, appearing to be "S. M. [unclear]", written over a horizontal line.

RE: PETITION OF DOROTHY O. CUNNINGHAM
AND WILLIAM O. SCHMIDBAUER

IN THE

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

CIRCUIT COURT

IN THE MATTER OF THE APPLICATION
OF DOROTHY CUNNINGHAM AND WILLIAM O.
SCHMIDBAUER FOR A ZONING VARIANCE

FOR

on the property located on the south side Belair Road,
278 feet north of Halbert Avenue

11th Election District, 6th Councilmanic District

BALTIMORE COUNTY

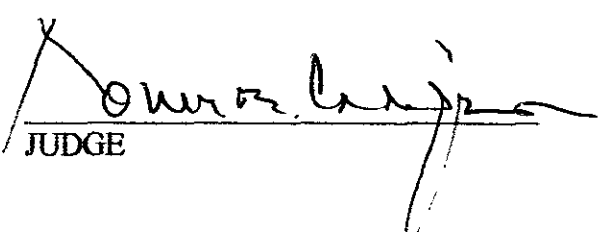
Case No. 98-198-A before the
County Board of Appeals of Baltimore County

Civil No. 3-C-98-12704

ORDER

The Motion for Extension to File the Memorandum in the above entitled case, having been
read and considered, it is this 19 day of May, 1999,

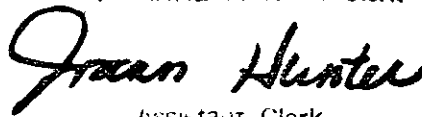
ORDERED, that the time for filing the memorandum be hereby extended for forty-five (45)
days.


JUDGE

FILED MAY 20 1999

True Copy Test

SUZANNE HENCH, Clerk

 Per.
Assistant Clerk

99 MAY 21 PM 12:55
RECEIVED
COUNTY BOARD OF APPEALS

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
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-98-012704

TO: BOARD OF APPEALS OF BALTIMORE COUNTY
Old Courthouse Room 49
400 Washington Ave Deputy Zoning Comm
Towson, MD 21204

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
Maryland Toll Free Number (800) 938-5802

RECEIVED
COUNTY BOARD OF APPEALS
99 NOV -1 PM 2:38

N O T I C E O F H E A R I N G / T R I A L

Case Number: 03-C-98-012704
Administrative Agency : 98-198-A
C I V I L

In The Matter of: Dorothy Cunningham

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO: Board Of Appeals Of Baltimore County
Old Courthouse Room 49
400 Washington Ave Deputy Zoning Comm
Towosn, MD 21204

You are hereby NOTIFIED TO APPEAR before a Judge of the:

CIRCUIT COURT FOR BALTIMORE COUNTY
County Courts Building
401 Bosley Avenue
Towson, Maryland 21285-6754

Court date:
February 2, 2000
At: 09:30 AM
Civil Non-Jury Trial
1 HOUR APPEAL

PLEASE NOTE: All counsel are expected to confer with each other with regard to the assigned trial date and to advise the court and other parties of any pre-existing conflict promptly.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3081, or or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Application for postponement must be made in writing with copies to all attorneys.

Please refer to Information Desk for Court Room Designation.

Assignment Clerk: Rushton Kathy
Assignment Office Phone: (410)-887-2660

Date Issued: 10/28/99

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
Maryland Toll Free Number (800) 938-5802

N O T I C E O F H E A R I N G / T R I A L

Case Number: 03-C-98-012704
Administrative Agency : 98-198-A
C I V I L

In The Matter of: Dorothy Cunningham

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

TO: Board Of Appeals Of Baltimore County
Old Courthouse Room 49
400 Washington Ave Deputy Zoning Comm
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
99 JUN 24 PM 1:46

You are hereby NOTIFIED TO APPEAR before a Judge of the:

CIRCUIT COURT FOR BALTIMORE COUNTY
County Courts Building
401 Bosley Avenue
Towson, Maryland 21285-6754

Court date:
August 23, 1999
At: 09:30 AM
Civil Non-Jury Trial
1 HOUR; APPEAL. NOTE: TRIAL DATE HAS BEEN RESET DUE
TO COURT CALENDAR.

PLEASE NOTE: All counsel are expected to confer with each other with regard to the assigned trial date and to advise the court and other parties of any pre-existing conflict promptly.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3081, or or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Application for postponement must be made in writing with copies to all attorneys.

Please refer to Information Desk for Court Room Designation.

Assignment Clerk: Kathleen L. Smith
Assignment Office Phone: (410)-887-2660

Date Issued: 06/23/99

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
Maryland Toll Free Number (800) 938-5802

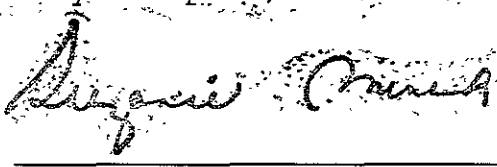
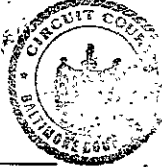
N O T I C E O F R E C O R D

Case Number : 03-C-98-012704
Administrative Agency : 98-198-A
C I V I L

In The Matter of: Dorothy Cunningham

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 19th day of April, 1999.

Suzanne Mensh
Clerk of the Circuit Court, per D.F.

Date issued: 04/21/99

TO: BOARD OF APPEALS OF BALTIMORE COUNTY
Old Courthouse Room 49
400 Washington Ave Deputy Zoning Comm
Towson, MD 21204

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF
DOROTHY CUNNINGHAM

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*
*

03-C-98-012704

* * * * *

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
(Hearing)

February 2, 2000
Towson, Maryland

BEFORE: THE HONORABLE ROBERT E. CADIGAN

APPEARANCES:

On behalf of the Petitioner:

STEPHEN F. MARSALEK, Esquire

On behalf of Respondent:

PETER MAX ZIMMERMAN, Esquire
CAROLE DEMILIO, Esquire

FILED FEB 03 2000

Patricia M. Dudzinski
Official Court Reporter

COURT'S OPINION

THE COURT: In the Red Roof Inns v. People's Counsel case, 96 Md. App. 219, the court set out the standard for judicial review as applied to decisions of administrative agencies in general, and to those of zoning boards in particular, and stated that once a decision has been rendered by the zoning authority, it must be affirmed by the reviewing court if it is, in the language of the case, "fairly debatable."

In the Eger v. Stone case, 253 Md. 533, the Court of Appeals defined the term "fairly debatable" stating:

We have made it quite clear that if the issue before the administrative body is "fairly debatable," that is, that its determination involved testimony from which a reasonable man could come to different conclusions, the courts will not substitute their judgment for that of the administrative body, in the absence of an unconstitutional taking of private property for public use without the payment of just compensation.

In reviewing the zoning authority's decision, the court must consider all of the evidence in the administrative record. The reviewing court's role,

1 however, is confined to determining the legality of the
2 procedure employed and whether the decision was fairly
3 debatable in the light of the evidence adduced before
4 the zoning authority.

5 This court has reviewed the administrative
6 record, and as previously stated, has reviewed the
7 memorandums^K submitted by Petitioner and People's counsel
8 as well as applicable cases.

9 The Court finds that the issue before the
10 before the Board of Zoning Appeals was fairly debatable.
11 The Petitioner sought the variance after the effective
12 date of Bill 89-97, and found that that Section,
13 450.8.2, was applicable.

14 The County Board of Zoning Appeals also
15 addressed the issue as to whether or not a variance
16 would be appropriate even under the old law. The Zoning
17 Board found, of course, that the new law was applicable,
18 but in determining whether or not there was anything
19 unique about this particular property, under the
20 Cromwell case and others, the Board determined that
21 even under the old law, there was no proof that this
22 property was unique in any way.

23 So under the standard of review that this
24 court must follow, I affirm the decision of the County
25 Board of Appeals finding that it was fairly debatable as

1 that term is defined in the Eger case.

2 All right. Thank you, gentlemen.

3 Mr. Zimmerman, would you prepare the order for
4 my signature, please.

5 MR. ZIMMERMAN: Yes, your Honor.

6 (End of Proceedings.)

7 *R. Z. Zimmerman* 2/23/2000
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13 **True Copy Test**
14 GUZARBE MENSHI, Clerk
15 *Guzarbe Menshi*
16 Per Assistant Clerk
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REPORTER'S CERTIFICATE

I, Patricia M. Dudzinski, an Official Court Reporter of the Circuit Court for Baltimore County, do hereby certify that I recorded stenographically the proceedings in the matter of Dorothy Cunningham, on February 2, 2000 before the Honorable Robert E. Cadigan.

I further certify that the page numbers 1 through 5 constitute the official transcript of proceedings as transcribed by me from my stenographic notes to the within typewritten matter in a complete and accurate manner.

In Witness Whereof, I have affixed my signature this 3rd day of February, 2000.

Patricia M. Dudzinski
Patricia M. Dudzinski
Official Court Reporter

Stephen F. Marsalek P.C.

Attorney At Law

Avocat • Abogado • Rechtsanwalt • Právník

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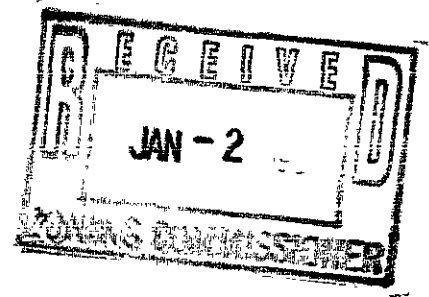
Telefax: [011- 420] 02 - 6122 - 2686

December 30, 1997

In Reference: Case 98-198-A

Petition for Variance-Schmidbauer

Timothy M. Kotroco, Deputy Zoning Commissioner
Suite 405, Zoning Commissioner's Office
401 Bosley Avenue
Towson, Maryland 21204



Dear Mr. Kotroco:

As promised, I enclose a duplicate copy of the DRAFT Belair Road Corridor Study and page twenty-one (21) of the Advisory Group Report compiled by County Office of Planning as offered into evidence by Ms. McMahon during the course of today's hearing. Again, I renew my objections to the introduction of this material since both are unsigned, one is clearly labeled *Draft*, and the other is but one (1) single page (PAGE 21) extracted from a significantly larger work which was NOT introduced.

In reviewing these two (2) documents however, I made several observations which clearly have a significant bearing on this present case:

1. Both the County, and the Community recognize and support business usage along this stretch of the Belair Road Corridor.
2. While there was some difference of opinion as to whether the posted speed limit was 40 M.P.H. or 45 M.P.H., it was generally agreed by the Petitioner's witnesses and Ms. McMahon, the opposition's only advocate, that the general speed of traffic along this four-lane stretch of highway is generally 50 to 55 M.P.H.

While my client, the petitioner recognizes and concedes that his sign exceeds the technical specifications permitted in this ROA Zone, *Variances* from present sign regulations are lawfully permitted where there is either undue hardship, or in cases of practical difficulty. We respectfully maintain that the Schmidbauer Variance Petition qualifies on both grounds for the following reasons:

1. To permit and encourage "business office" usage along this major thoroughfare, without affording such offices the opportunity to erect reasonable and visible signage evidencing their presence is an absurd

non-sequitur. It is not at all dissimilar from issuing a side arm pistol to a County police officer for protection and law enforcement, but prohibiting him from loading its magazine with bullets. It is axiomatic that business and professional offices require reasonable advertisement and marketing in order to establish and maintain a presence in the community. Existing signage regulations frustrate, discourage and inhibit the reasonable use of these premises as an office and thus creates undue hardship on the business entrepreneur.

2. Not only do these new signage regulations impact this particular property, they impact the other neighboring businesses along this strip.
3. This hardship was not the result of the petitioner's own creation which will be addressed in the following paragraphs.

Variances can also be granted when situations pose *practical difficulty*. Certainly, such a situation is evidenced here. Not only is there a practical difficulty, but there is a *mathematical impossibility* as well! Let me explain:

1. Business offices are confined to 6 square feet of signage affixed to an office building. This presents as a sign measuring 2 feet by 3 feet.
2. According to the plat accompanying the Variance Petition, the set-back of the present premises (9431 Belair Road) is approximately forty (40) feet from the easterly edge of Belair Road.
3. The southerly most tip of the front of the building (presumably where a *zoning permissible* sign could be erected) is situated only ten (10) feet from the southerly boundary line of the one-hundred foot wide lot on which it stands. It is unanimously agreed that vehicular speed in this vicinity is not less than 50 M.P.H. Thus, a motor vehicle traveling at the rate of 50 M.P.H. travels at the rate of **73.33 feet per second**. Accordingly, a vehicular-borne client traveling in the "flow of traffic" is afforded **ABOUT ONE-HALF (1/2) OF ONE (1) SECOND** to identify this business office by an obscure, albeit *zoning permissible sign* located forty (40) feet from the highway, and SAFELY execute a turn into the office driveway! Thus, the impracticality and impossibility of the present regulations is clearly evident under such circumstances.

It was generally conceded by all those present that in formulating the new sign regulations, that the County Council did not appear to adjust for speed limits or consider other relevant factors including set backs and nature of the thoroughfare along which the premises are located. Admittedly, present regulations would be appropriate and likely acceptable in a single-lane, secondary roadway such as Darnall Road or

Pinedale Drive (also ROA zoned) where speed limits and roadway widths are confined, and half of that along Belair Road.

As a life-long (59 years) resident of this particular community and as a professional Real Estate Broker/business owner, this Petitioner is mindful and sensitive to the demands of the business owner, as well as those of a concerned member of the community. While Mr. Schmidbauer recognizes and subscribes to the need for, and enforcement of uniform legislation, he also offers that nearly every property, with virtually no exception, along this stretch of Belair Road Corridor has been transformed to business office use, and maintains that tasteful and attractive signage is critical to his and other business survival. And such signage should likely achieve some uniformity in order to minimize a "carnival-type" atmosphere within the neighboring community as might appear from illuminated and unattractive "commercial-type" signs or billboards.

If we might be so bold as to make recommendations: we offer that business enterprise is the very life-blood of the County revenue, and therefore business growth and development is the critical essence of progress and therefore should be ENCOURAGED. Testimony presented that Mr. Schmidbauer's business employs some forty (40) voters supporting this community by payment of taxes and neighboring business patronage. Tensions between business growth and residential needs admittedly should be balanced and consonant so that neither achieves a prejudicial advantage. Thus, since the nature of this corridor has evolved into a nearly exclusive business usage, perhaps effort should be made NOT to prohibit reasonable and adequate signage as existing regulations present, but rather to mitigate toward tasteful uniformity so that the needs of both business and residential members might be addressed and served.

Since the new County signage regulations narrowly and inadequately fail to address clear distinctions in speed limit, road type and width and a host of other factors, the only redress which my client may presently seek is by way of VARIANCE which is lawfully permitted under such circumstances. County Zoning and Planning Officials and Boards should seemingly and hopefully muster the courage to recognize and grant such variances where strict application of present regulations advance an absurd and hazardous result for the safety and good of the community which it serves.

In concluding, I stress that all of the material presented in this letter is supported by the testimony of those in attendance. I am taking the liberty of forwarding a copy of this letter to Ms. McMahon for her, and her committee's review and perhaps comment or rebuttal. I also forward a copy of this letter to the Office of the County Executive since decisions of this magnitude dramatically impact all levels of his constituency.

Very truly yours,



Stephen F. Marszalek

Encl.

cc. Ms. McMahon, Mr. Schmidbauer & County Executive

Transportation Findings

1. Belair Road is a major, north/south radial highway leading into Baltimore City and Harford County. It serves significant urban commuter traffic, and it is classified as a Principal Arterial on the 1993 Federal Highway Functional Classification Map.
2. Within the study area, existing Belair Road generally is a four-lane, undivided roadway contained within an average 60 foot right-of-way.
3. The 1994 Traffic Volume Map prepared by the State Highway Administration shows Average Daily Traffic (ADT) counts on Belair Road to be 23,475 vehicles per day south of Joppa Road/Ebenezer Road and 31,975 vehicles per day north of Joppa Road/India Avenue.
4. The final Environmental Impact Statement (1989) for the ultimate improvement of Belair Road from Silver Spring Road to MD 152 provides the following traffic volume forecasts for Belair Road for the year 2015:

<u>Location</u>	<u>2015 ADT</u>
I-695 to Silver Spring Road	65,000
Silver Spring Road to Ebenezer Road	53,000
Ebenezer Road to Joppa Road	60,000
Joppa Road to Chapel Road	52,000

5. The east/west traffic movements through, and at the fringes of, the study area are primarily provided by: (1) White Marsh Boulevard, (2) Joppa Road West/Ebenezer Road, (3) Silver Spring Road, (4) Chapel Road, (5) Klausmier Road, and (6) Joppa Road East. These roads are classified on the 1993 Federal Highway Functional Classification Map as follows: White Marsh Boulevard is a Freeway-Expressway; Joppa Road West is a Principal Arterial; Ebenezer Road, Silver Spring Road, Chapel Road, and Klausmier Road are Minor Arterials; and Joppa Road East is a Collector.
6. Signalized intersections exist at the following locations:
 - a. Wholesale Club Drive
 - b. Dunfield Road/Ramp B
 - c. St. Joseph's Church entrance
 - d. Silver Spring Road
 - e. Perry Hall Square Shopping Center entrance

- f. Joppa Road/Ebenezer Road
 - g. Joppa Road/India Avenue
 - h. Chapel Road/Baker Lane
7. Vehicular movement on Belair Road is influenced primarily by four major factors: (1) high traffic volumes, (2) large mix of local and through traffic, (3) large amount of strip commercial development, and (4) problems created by numerous at-grade roadway and driveway connections.
 8. The Baltimore County Master Plan (1990) identifies the widening of Belair Road from I-695 to the Harford County line as a programmed transportation project (see page 118). The Master Plan also identifies a number of proposed road improvements that are partly located within the study area. The upgrading of Klausmier Road from Belair Road to Gunview Road is included as a programmed transportation project, however, this project was deleted from the Capital Improvements Program in FY 1992. The following improvements are proposed as non-programmed projects:
 - a. Widen Ebenezer Road from Belair Road to Honeygo Boulevard.
 - b. Widen Chapel Road from Belair Road to Joppa Road.
 - c. Upgrade Joppa Road from Belair Road to Philadelphia Road.
 9. The reconstruction of Belair Road from I-695 to White Marsh Boulevard (i.e., just south of the study area) is in the Secondary Construction Program of the Maryland Department of Transportation (MDOT) 1995 Consolidated Transportation Program (CTP). Construction began in the fall of 1993 on the project to widen Belair Road to six lanes, with a seven lane section from south of Martin Avenue to Putty Hill Road. It is anticipated that the project will be completed in late 1995.
 10. The reconstruction of Belair Road from White Marsh Boulevard (southern study area boundary) to MD 152 (in Harford County) is in the Secondary Development and Evaluation Program of the 1995 CTP. The status of this project and interim improvements are as follows:
 - a. Final review plans for the ultimate improvement of the segment of Belair Road extending from White Marsh Boulevard to north of Silver Spring Road have been completed by the State Highway Administration. The

final design will consist of a six lane divided highway (seven lanes from Slater Avenue to south of Silver Spring Road) with turn lanes and local intersection improvements. The typical right-of-way section will be 104 feet. Construction of this project will be on hold until construction funding becomes available.

- b. A Final Environmental Impact Statement for the ultimate improvement of Belair Road from Silver Spring Road to MD 152 was completed in 1989. The selected alternative consists of a six lane divided highway within approximately 106 feet of right-of-way. There is no funding for the final design, right-of-way acquisition, or construction at this time.
- c. As an interim improvement, the segment of Belair Road extending from White Marsh Boulevard to Joppa Road/Ebenezer Road was resurfaced in 1994. This project also included minor safety, curbing, and drainage improvements.
- d. As an interim improvement, the segment of Belair Road extending from south of Joppa Road/Ebenezer Road to north of Cliffvale Road (north of the study area) will be widened to five lanes. The typical right-of-way section is 90 feet. This project is included in the Secondary Construction Program of the 1995 CTP. Construction is scheduled to begin in the summer of 1995 and to be completed in December 1996. This project will cause the removal of three existing buildings on Belair Road: Schaffer's Tavern (northwest corner of Belair Road and Joppa Road West), Little Shop of Dough (northeast corner of Belair Road and Joppa Road East), and the old Klausmier and Sons Building (170' north of Walter Avenue).

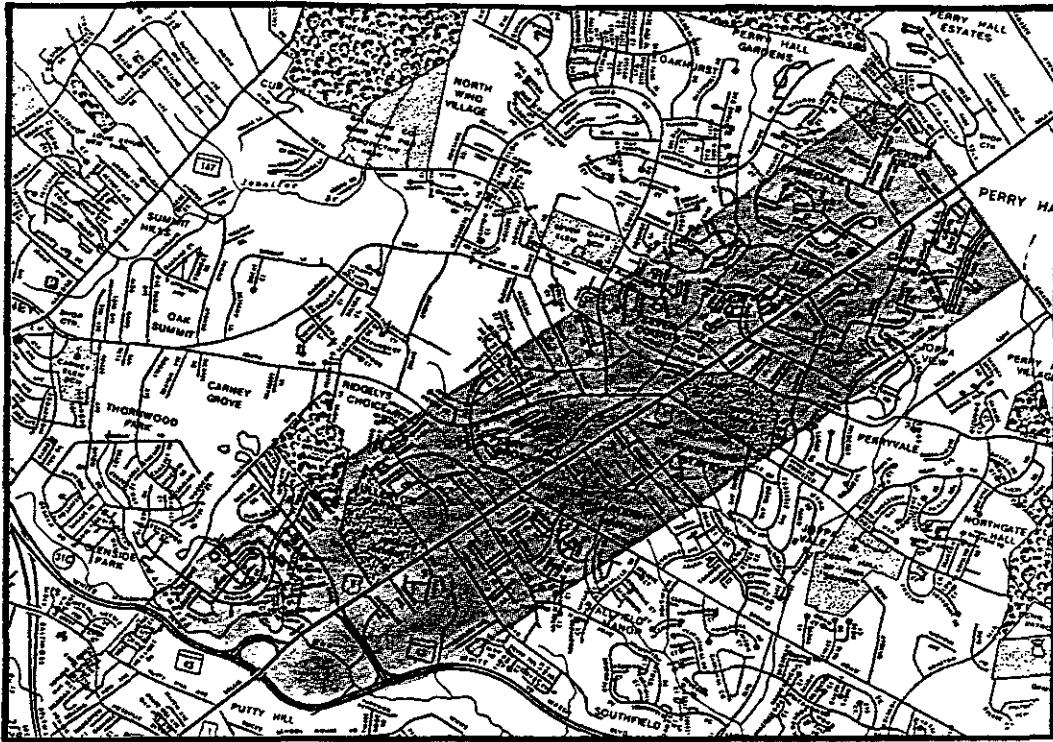
RECOMMENDED ZONING GUIDELINES

The guidelines set forth below should be used in making decisions concerning the rezoning of properties located in the Perry Hall-White Marsh Growth Area. All rezoning requests should be reviewed by the Office of Planning, the Planning Board, and the County Council or Board of Appeals for conformance with these guidelines. Also, zoning issues should be initiated in the 2000 Comprehensive Zoning Map Process in accordance with these guidelines.

The following **guidelines** are recommended:

1. Zoning requests will be reviewed for conformance with the Master Plan objectives, policies, and actions for the Perry Hall-White Marsh Growth Area.
2. Generally, residential zoning densities should not be increased unless compatible with the surrounding neighborhood.
3. Existing residential zoning along Perry Hall Boulevard and Rossville Boulevard should remain with no changes in zoning to commercial or office classifications.
4. Existing commercial zoning should remain along Belair Road and at the White Marsh Town Center.
5. Generally, existing industrial zoning should remain south of Fitch Avenue and Rossville Boulevard between Lillian Holt Drive and Belair Road.
6. Increases in zoning density or intensity should not be considered along Babikow Road, King Avenue, Bucks School House Road, White Marsh Road, Fitch Avenue, and Ridge Road. Each of these roads need improvements and none are included in the current six year capital budget.
7. The rezoning of parcels to industrial or commercial should take into consideration the potential effects of the zoning reclassification on adjacent residential communities.
8. Residentially zoned sites along both sides of Belair Road between Minte Drive and Chapel Road/Baker Lane should be rezoned ROA. The ROA classification will allow the conversion of existing residential uses to offices while maintaining the existing residential character. Requests for other zoning classifications should not be granted unless it can be demonstrated that ROA zoning is inappropriate. In such cases RO zoning should be considered in lieu of ROA.
9. Sites that are presently zoned ROA and RO along both sides of Belair Road between Minte Drive and Chapel Road/Baker Lane should not be rezoned to a business classification.
10. Underutilized Automotive Service (AS) zoning should be removed from locations that are inappropriate for the development of service stations or car washes.
11. Additional areas for the AS district along Belair Road and Philadelphia Road are not appropriate.

DRAFT



BELAIR ROAD CORRIDOR STUDY

BELAIR ROAD CORRIDOR STUDY

May, 1995

D R A F T

Prepared by the Baltimore County
Office of Planning and Zoning
County Courts Building, Room 406
Towson, Maryland 21204

TABLE OF CONTENTS

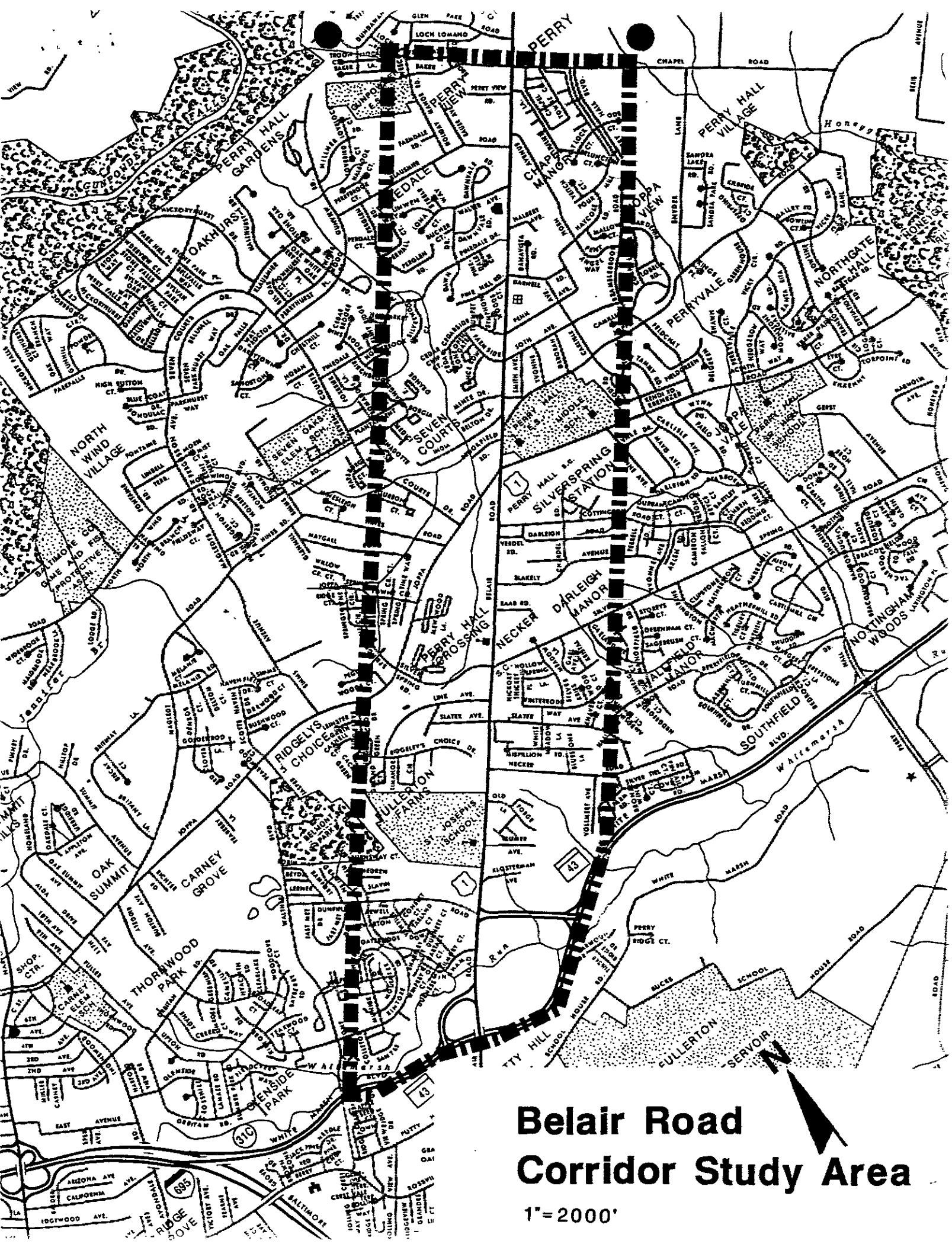
Introduction	1
Land Use Findings	3
Zoning Findings	7
Transportation Findings	11
Recommended Zoning Guidelines	14

Introduction

This draft of the corridor study for Belair Road contains findings on land use, zoning, and transportation conditions and presents recommended guidelines for zoning map amendments. The study is intended to be used as a tool for raising issues and making decisions in the 1996 Baltimore County Comprehensive Zoning Map Process.

Belair Road is a state highway also known as US Route 1. The study area extends north from the bridge over White Marsh Boulevard to the intersection of Belair Road and Chapel Road/Baker Lane, a distance of approximately 3.1 miles. The corridor study focuses on lots with frontage on Belair Road, however, the study area extends beyond the frontage lots for reference and orientation and to consider potential impacts.

The origin of the corridor study is related to the Baltimore County Master Plan (1990) which calls for a corridor plan for Belair Road. The Master Plan makes the following recommendation regarding requested zoning changes along Belair Road: "Pending the completion of a corridor plan, the County will continue to resist requests to extend commercial zoning along Belair Road except in situations where the proposal would clearly be in the public interest by demonstrably improving the appearance and traffic flow on Belair Road" (see page 117).



Belair Road Corridor Study Area

1"=2000'

Land Use Findings

1. Table 1 shows the distribution of various land use categories according to their respective amounts of front footage along Belair Road within the study area. To summarize:
 - a. A diverse mixture of land uses exist between White Marsh Boulevard (southern boundary) and Chapel Road/Baker Lane (northern boundary).
 - b. The primary uses are commercial and residential. As general land use categories, commercial uses and residential uses respectively occupy 40 percent and 24 percent of the total frontage.
 - c. Single family detached residential is the largest single use (19% of all frontage) followed by general commercial (15%) and vacant land (14%). Other single land use categories accounting for at least ten percent of the total frontage are institutional (11%) and community commercial (10%).
 - d. General commercial uses are the most prevalent type of commercial development on Belair Road (15% of all frontage) followed by community commercial (10%), office commercial (8%), and automotive commercial (6.7%).
 - e. Transportation is a major land user. An extensive network of public and private roads intersect with Belair Road. Also, two major power lines cross Belair Road. Together, roads and power lines and their related rights-of-way account for more than ten percent of the total frontage.
 - f. Very little frontage is used for single family attached housing, multifamily housing, and industrial purposes.
2. Single family detached dwellings are located throughout the corridor along Belair Road, but the vast majority are located north of the Minte Drive intersection. Most of the single family detached dwellings front on, and have direct access to, Belair Road. The only significant exception is the Cedarside Farm development where the dwellings along Belair Road are on either reverse frontage lots or corner lots and no dwellings face, nor have direct access to, Belair Road. Virtually all of the single family detached dwellings along Belair Road appear to be in good condition.
3. Commercial uses are located throughout the corridor along Belair Road, but they are most prevalent south of the Minte Drive intersection. There are three major commercial nodes: (1) Joppa Road/Ebenezer Road, (2) Silver Spring Road, and (3) White Marsh Boulevard.

4. The largest concentration of general commercial development on Belair Road is the Perry Hall Crossing Shopping Center located at the northwest corner of Belair Road and Silver Spring Road.
5. Significant general commercial developments affecting Belair Road, but having little or no direct frontage include:
(1) BJ's Wholesale Club (Wholesale Club Drive), Perry Hall Square Shopping Center (Ebenezer Road), and Festival at Perry Hall Shopping Center (Joppa Road west of Belair Road).
6. Many general commercial uses are located adjacent to residential areas. Such a situation, depending upon the nature and characteristics of the commercial uses, can create an adverse impact on residential properties.
7. All community commercial uses and the vast majority of office commercial uses are located north of Necker Avenue/Ridgely's Choice Drive.
8. Automotive commercial uses on Belair Road consist of five service stations, five service garages, and one vehicle sales establishment. All but three of these uses are located south of the Joppa Road/India Avenue intersection.
9. Many single family detached houses on Belair Road have been converted to commercial uses but still maintain a residential character. There are 40 such conversions in the study area. All but four of the conversions are located north of Silver Spring Road. More than half of the conversions are for office uses.
10. Several institutional uses are scattered along Belair Road. They include seven churches, the Perry Hall Elementary School, a fire station, an ambulance service, a library, and a community care facility. The largest institutional use is the St. Joseph's Catholic Church located in the southern part of the corridor opposite Plumer Avenue. Most of the institutional uses are well established and can be expected to continue at their present locations.
11. The majority of vacant land located along, or having direct access to, Belair Road is concentrated at four locations:
 - a. On the east side, between Louisa Avenue (to the south) and Plumer Avenue (to the north).
 - b. On the west side, north and south of Ridgely's Choice Drive (6.5 acres).
 - c. On the east side, south of Necker Avenue (1.1 acre).
 - d. On the east side, behind the frontage lots north of Silver Spring Road and south of Raab Avenue (2.7 acres).

12. Sites on the Maryland Historical Trust (MHT) Inventory are listed below. With the possible exception of Site No. BA2625, none of the sites meet the criteria for inclusion on the Baltimore County Landmarks List or the National Register of Historic Places.

MHT		
Site No.	Name	Address
BA 2619	St. Joseph's R.C. Church: Parish Hall (1925)	8416 Belair Road
BA 2620	St. Joseph's R.C. Church: Old Parochial School (1869)	8418 Belair Road
BA 2622	Perry Hall Center (Former Elementary School)	9325 Belair Road
BA 2623	De Gruchy Wheelwright Shop	9533 Belair Road
BA 2624	Germanstown Building Association (now J.R. Mechanical)	9537 Belair Road
BA 2625	St. Michael's Lutheran Church and Cemetery (1925)	9534 Belair Road

13. The surrounding area behind the frontage properties on either side of Belair Road is overwhelmingly residential. Although there are a number of townhouse and apartment developments, the predominate type of housing in terms of acreage is single family detached.

Table 1

Existing Land Use Along Belair Road, 1994
Belair Road Corridor Assessment

LAND USE	FRONT FOOTAGE	PERCENT OF TOTAL FRONTAGE
Residential	8,030	24.4
Single Family Detached	6,260	18.9
Single Family Attached	1,245	3.8
Multifamily	525	1.6
Institutional	3,560	10.8
Commercial	13,130	39.8
Office ¹	2,785	8.4
Community ²	3,375	10.2
General ³	4,770	14.5
Automotive ⁴	2,200	6.7
Industrial	110	0.3
Transportation	3,430	10.4
Roads ⁵	2,655	8.1
Power Line	775	2.4
Vacant	4,710	14.3
Total	32,970	100.0

¹ Office commercial uses include business or professional offices and medical offices.

² Community commercial uses include retail and personal service establishments and restaurants (except fast-food restaurants) with a gross floor area not exceeding 5,000 square feet. Banks with no more than two drive-through lanes are also included. Not included, however, are all such uses located in a shopping center anchored by one or more large retail stores.

³ General commercial uses include fast-food restaurants, taverns, and all other commercial uses not considered as office, automotive, or community commercial uses.

⁴ Automotive commercial uses include service stations, service garages, and vehicle sales establishments.

⁵ Does not include Chapel Road/Baker Lane (northern boundary) and White Marsh Boulevard (southern boundary).

Source: OPZ in-house information and September 1994 field survey.

Zoning Findings

1. Table 2 shows the distribution of various zoning classifications according to their respective amounts of front footage along Belair Road within the study area. To summarize:
 - a. Eleven different zoning classifications exist between White Marsh Boulevard (southern boundary) and Chapel Road/Baker Lane (northern boundary). The number of zoning classifications by general categories are as follows: Residential (3), Office (2), Business (5), and Industrial (1).
 - b. Business and Residential zoning is predominant. These general categories respectively account for 49 percent and 31 percent of the total frontage. Also, there is a substantial amount of Office zoning (19%) but very little Industrial zoning (0.3%).
 - c. Commercially zoned land includes both the Business and Office classifications. Nearly 70 percent of the land along the corridor is zoned for commercial purposes.
 - d. D.R.5.5 and B.L. are the primary single zoning classifications with each accounting for 19 percent of the total frontage. Other single classifications accounting for at least 10 percent of all frontage are B.L.-A.S. (17%), R-O (16%), and D.R.16 (10%).
 - e. B.L.-A.S. is the County's zoning classification which permits service stations. The large amount of frontage zoned B.L.-A.S. (i.e., 5,715 feet or 17% of all frontage) appears to be very excessive. The five existing service stations may be sufficient to meet the needs of local residents and commuters.
 - f. Most of the office zoning is R-O. There is also a small amount of R-O-A zoning. The R-O-A zone is a relatively new classification that became available as a zoning option during the 1992 Comprehensive Zoning Map Process. It is more restrictive than R-O zoning.
2. Business zoning is located throughout the corridor along Belair Road, but it is generally concentrated in three extensive areas:
 - a. In the southern portion: on the east side, between White Marsh Boulevard (to the south) and Louisa Avenue (to the north); on the west side, between White Marsh

- Boulevard (to the south) and Stillmeadow Road (to the north).
- b. In the central portion: on the east side, between Slater Road (to the south) and north of Joppa Road (to the north); on the west side, between south of Ridgely's Choice Drive (to the south) and north of India Avenue (to the north).
 - c. In the northern portion on the east side, between Klausmier Road (to the south) and Chapel Road (to the north).
3. B.L.-A.S. zoning appears to encompass many parcels of land that are not well suited for service station development (e.g., small lots, interior lots, and lots adjacent to residential properties).
 4. Office zoning is interspersed throughout the corridor along Belair Road, but it is less prevalent south of Silver Spring Road.
 5. The substantial concentrations of vacant land noted in Land Use Finding 11 are zoned as follows:
 - a. The land referenced in 11.a is zoned mostly R-O and D.R.5.5 and partly D.R.16.
 - b. The land referenced in 11.b is zoned B.L.
 - c. The land referenced in 11.c is zoned D.R.5.5.
 - d. The land referenced in 11.d is zoned mostly R-O and partly D.R.5.5.
 6. The surrounding area behind the frontage properties on either side of Belair Road is overwhelmingly zoned Residential with three notable exceptions:
 - a. The B.R. zoned area south of Ramp B (of White Marsh Boulevard) and bordered by White Marsh Boulevard on the south and the east and by the power transmission lines on the west (i.e., the area largely occupied by BJ's Wholesale Club and ABC Pools).
 - b. Land on both sides of Joppa Road between Belair Road (to the east) and Seven Courts Drive (to the west) is zoned B.R., B.L., and B.L.-A.S.
 - c. The site of the Perry Hall Square Shopping Center on the south side of Ebenezer Road is zoned B.L.-C.C.C.

7. There appears to be one significant intrusion of Business zoning into the surrounding residential community. That is a vacant, 1.73 acre B.L. zoned parcel located behind McDonald's and sandwiched between the single family detached dwellings along India Avenue (to the south) and the townhouses along Minte Drive (to the north).
8. No C.B. or B.L.R. zoning exists at this time. These classifications only recently became available for rezoning actions. They are more restrictive than the County's B.L., B.M., and B.R. classifications.
9. There are no special zoning classifications tailored to the unique needs and problems of Belair Road.
10. Historically, there has been very strong pressure for rezoning the land along Belair Road. From 1988 to 1995 there were 70 rezoning requests involving frontage properties within the study area. In slightly more than half of those cases (53%), the requests resulted in a zoning change. Generally, the changes resulted in the rezoning of properties from a Residential classification to a Business or Office classification. The zoning changes were almost evenly split between Business and Office zoning. Business zoning was granted in 20 cases while Office zoning was granted in 16 cases, and in one case the change was partly Business and partly Office.

Table 2
Existing Zoning Along Belair Road, 1994
Belair Road Corridor Assessment

ZONING	FRONT FOOTAGE ¹	PERCENT OF TOTAL FRONTAGE
Residential	10,320	31.3
D.R.3.5	550	1.7
D.R.5.5	6,355	19.3
D.R.16	3,415	10.4
Office	6,365	19.3
ROA	1,240	3.8
RO	5,125	15.5
Business	16,180	49.1
BL ²	6,205	18.8
BL-AS	5,715	17.3
BL-CCC	270	0.8
BM	1,705	5.2
BR	2,285	6.9
Industrial	105	0.3
ML	105	0.3
Total	32,970	100.0

¹Includes land lying within the rights-of-way of intersecting roads but does not include Chapel Road/Baker Lane (northern boundary) and White Marsh Boulevard (southern boundary).

²Includes the narrow strip of DR 16 zoning on the Perry Hall Crossing Shopping Center property.

Source: The Official Zoning Map of Baltimore County, September 1994.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** April 19, 2000
Permits & Development Management

FROM: Charlotte E. Radcliffe 
County Board of Appeals

SUBJECT: Closed File:
Case No. 98-198-A /Dorothy Cunningham and
William O. Schmidbauer

Since the above captioned case has been completed in the upper courts, we are hereby closing and returning herewith, our case file along with the original record which was returned to the Board's office by John Almond, Records Manager /CCT.

Attachment: (File No. 98-198-A)

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

Dorothy McMann

ADDRESS

9513 Dawnvale Rd 21236



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

WILLIAM SCHMIDBAUER 10 BANGERT AVE
PERRY HALL MD.
21128

Nicholas R. Palmeri

3714 Parkhurst Way
Perry Hall MD 21236

STEVE TRANSALK

28 Allegany Aven.

21004

Patrick O'Keefe

523 Penny Ln 21030



11-G

Plat to accompany Petition for Zoning Variance ☒ Variance ☐ Special Hearing

PROPERTY ADDRESS: 9431-BELAIR ROAD, BALTO., MD

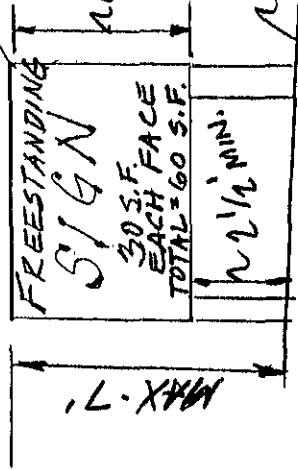
Subdivision name: PERRY HALL VICINITY

21236

plat book# , folio# , lot# , section#

OWNER: DOROTHY CUNNINGHAM % WILLIAM O. SCHMIDBAUER

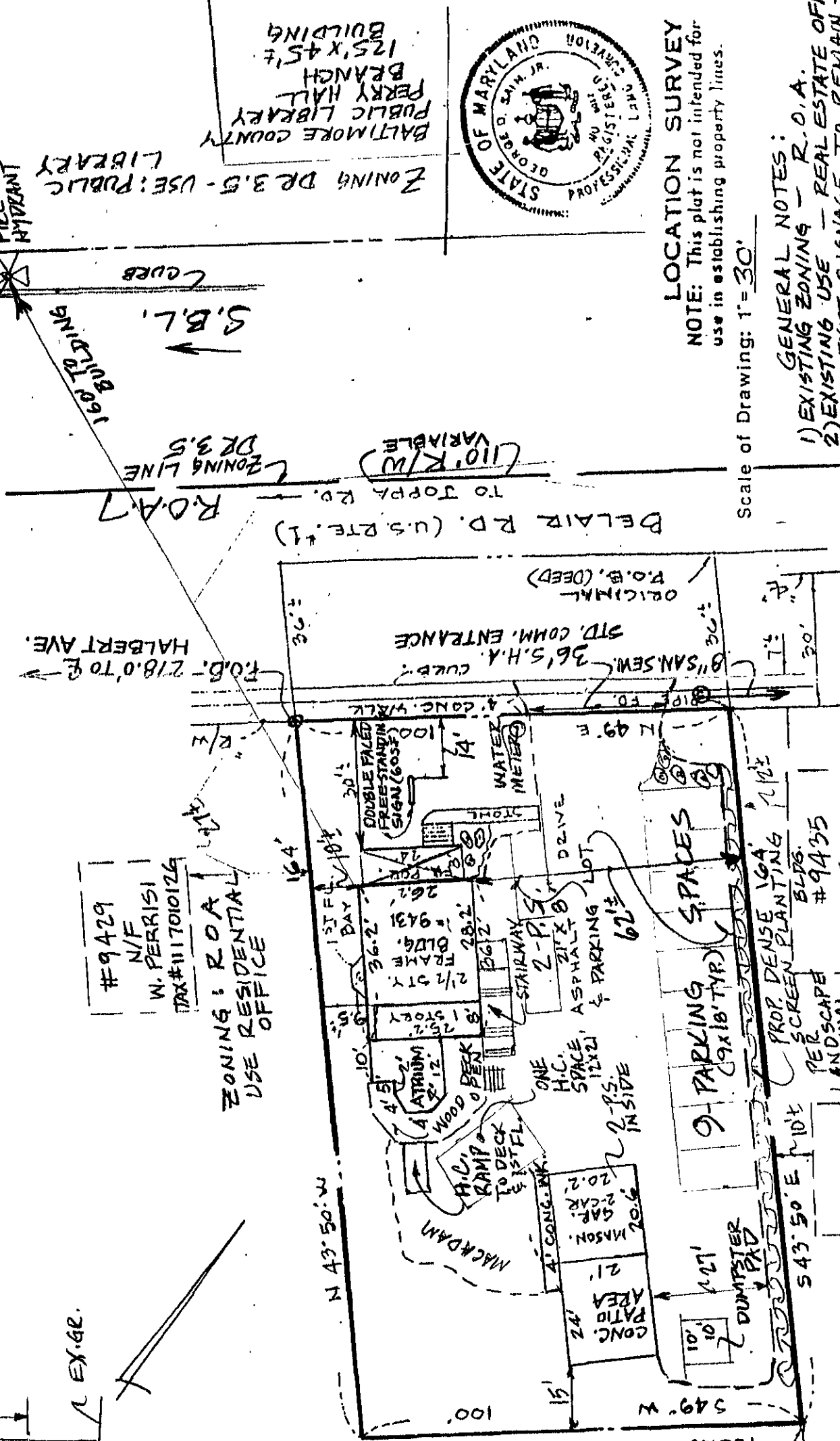
NOTE: THE SUBJECT OF THIS VARIANCE IS THE ONSITE SIGN #9431 BELAIR RD.



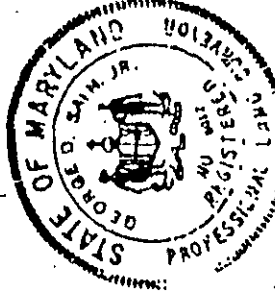
TYPICAL SIGN 1"=50'

#9429 N/F W. PERRISI TAX #1117010126 ZONING: R.O.A. USE RESIDENTIAL

OPEN FIELD DR 3.5 ZONING LINE W. PERRISI N/F TAX #11-17010126 R.O.A. ZONE



ZONING DE 3.5 - USE: PUBLIC LIBRARY PERRY HALL BRANCH 125' X 45' BUILDING



LOCATION SURVEY NOTE: This plat is not intended for use in establishing property lines.

Scale of Drawing: 1"=30'

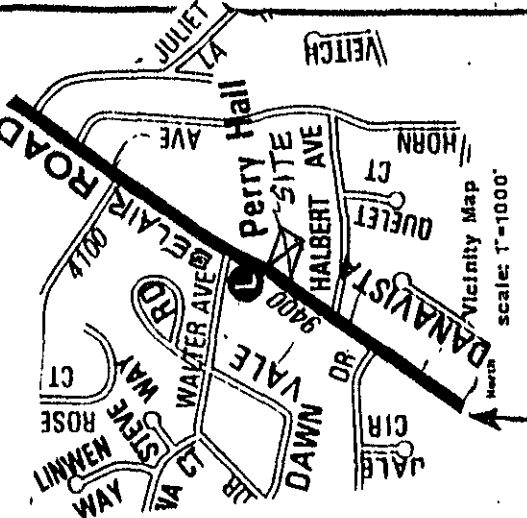
GENERAL NOTES:

- 1) EXISTING ZONING - R.O.A.
- 2) EXISTING USE - REAL ESTATE OFF; RESID.
- 3) ALL EXIST. SIGNAGE TO REMAIN - DOUBLE FACED FREE STANDING - TOTAL = 60 S.F.
- 4) NO BUILDING EXCEEDS 40 FEET IN HEIGHT.
- 5) DATA: A) FIRST FLOOR AREA = 1365 S.F. X 3.3/1000 = 4.5 SPACES B) SECOND FLOOR AREA = 739 S.F. C) RESIDENTIAL @ 2 P.S. D) F.A.R. = 2104 ÷ 16400 = 0.128; ALLOWED = 3.0 E) A.O.S. - N/A
- 6) ALL LIGHTING IS ATTACHED TO THE BUILDING AND DIRECTED TOWARD THE BUILDING AND SEWER
- 7) PUBLIC WATER AND SEWER SERVE THIS SITE

EX GARAGE #9435 ZONING: R.O.A. USE: VACANT FOR SALE AMBERMAN TAX #1101050050

9 PARKING SPACES (9x18' TYP) PROP. DENSE 104' SCREEN PLANTING 1 1/2' PER SCAPES LANDSCAPE MANUAL N/F

ATTORNEY: STEPHEN W. MAASALEK 28 ALLEGHENY AVE TOWSON, MD. 21204 410-321-9300
Prepared by: JONES ASSOCIATES PM. O'KEEFE-410-905-8511 HUNT VALLEY, MD. 21030
Date: 11/12/97
Bldg. #9437 (VACANT)



LOCATION INFORMATION
Election District: 11 TH
Councilmanic District: 6
1"=200' scale map#: NE 11-G
Zoning: R.O.A. 16,400 ±
Lot size: 0.376 ± acreage square feet
TAX # 1108066200
SEWER: ☒ PUBLIC ☐ PRIVATE
WATER: ☒ PUBLIC ☐ PRIVATE
Chesapeake Bay Critical Area: ☐ YES ☒ NO
Prior Zoning Hearings: NONE

Zoning Office USE ONLY!
reviewed by: ITEM #: CASE#:

DATA PARKING: 4.5 SPACES = 2.4 SPACES = 2.0 SPACES
REQ'D-TOTAL = 8.9 SPACES
SAID 9.5 SPACES
SPACES PROVIDED = 14 SPACES
(INCLUDES ONE H.C. SPACE)
SPACES TO BE PERMANENTLY STRIPPED: PAVING MACADAM
NO PERMIT ISSUED TO THE PRESENT OWNERS.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1997, Legislative Day No. 15

Bill No. 89-97

All Councilmembers

By the County Council, August 4, 1997

A BILL
ENTITLED

AN ACT concerning

Signs

FOR the purpose of updating and amending the Baltimore County Zoning Regulations concerning permanent and temporary on-premises signs and permanent off-premises signs; defining certain terms; identifying classes and structural types of signs; establishing use, area, height, number, illumination and other limitations; establishing general prohibitions and exceptions; establishing special requirements for particular classes of signs; establishing County policies concerning compliance with sign regulations; permitting certain exemptions; requiring the submission of signage information as part of the development review and approval process; and generally relating to the regulation of signs.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining INDICATES AMENDMENTS TO BILL.

I	II	III	IV	V	VI	VII	VIII	IX
Class	Structural Type	Zone or Use	Permit Req.	Area/Face	No./Prem.	Ill.	Illumination	Addit'l limits
ENTERPRISE, cont'd	(k) Free-standing	RCC, OR-1 OR-2, OT, SE, BMM, BMB, BMYC	Bldg. USE	25 sq. ft., 30 sq. ft. in SE	One per frontage	6 ft., 13 ft. in SE, 25 ft. for waterfront sign in BMM, BMB, BMYC	Yes No in RCC, CR	In SE must be compatible with building. In RCC, integrate with landscaping, and Director of Office of Planning approves location.
	(l) Wall-mounted, free-standing	Farmer's roadside stand, farm market, commercial agriculture, or farm produce stand	Bldg. USE	25 sq. ft. total for all signs	Not regulated	6 ft.	Yes	Min. 10 ft. set-back from right-of-way and 75 ft. from highway intersection centerlines
	(m) Wall-mounted, projecting	Elderly housing facility in DR, commercial use in DR, RC, ROA, RO, RCC, BMYC	Bldg. USE	8 sq. ft., 6 sq. ft. in ROA, <u>150 FT. IN DR</u>	One		No, but Yes for tearoom or restaurant	In RO, may also have 15 sq. ft. freestanding sign 6 ft. high if on principal arterial adjoining and facing non-residentially zoned property
	(n) Wall-mounted	Strip-tease business pawnshop	Use	2 sq. ft. per linear ft. of frontage, not more than 50 sq. ft.	One	Not applicable	Yes	Zoning Commissioner's hearing required for Use permit



DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
111 WEST CHESAPEAKE AVENUE
TOWSON, MD 21204
(410-887-3391)

Pet. #1

BALTIMORE COUNTY SIGN USE PERMIT

Permit Fees are Non-Refundable; Make Check Payable to "Baltimore County, Maryland"

PROPERTY ADDRESS 9431 BELAIR ROAD
BUSINESS NAME SCHMIDBAUER RENTY ZONING R.O.N
OWNER'S NAME WILLIAM SCHMIDBAUER PHONE NO. 256-7208
MAILING ADDRESS 9431 BELAIR ROAD
APPLICANT/OWNER'S AGENT OWNER PHONE NO. 256-7208
SIGN COMPANY NAME SIGN IS UP PHONE NO. _____

TYPE OF SIGN:

- ☐ Temporary - Including Real Estate/Construction/Event Temporary Sign(s) in the Last Year: ☐ Yes ☐ No
☒ Permanent ☐ Changeable Copy ☐ Wall ☐ Face Change Only ☒ Non-Illuminated
☒ Freestanding ☐ Pylon ☐ Monument ☐ Illuminated (separate electrical permit required)

Size: _____ feet X _____ feet = _____ square feet Height: _____ feet (freestanding signs)

Property Line/Street Right of Way Setbacks: front _____, sides _____ and _____, and rear _____
NOTE: A construction plan, drawn to scale and clearly showing that all requirements have been met, must be attached; a site plan also must be attached for freestanding signs.

PROHIBITIONS - including roof signs (Sections 450.5.B.7 and 450.6.A, Baltimore County Zoning Regulations):

1. Signs cannot impair motorist's clear view of traffic or government signs. All signs are subject to Section 102.5 BCZR.
2. Signs cannot imitate or resemble government signs, except for private traffic control and notice signs.
3. Signs cannot be placed in or project into or above street right of way or government property.
4. Sign or framework cannot obstruct window or opening for light and air or access to building, fire hydrant, or stand pipe.
5. Vehicle cannot be parked for the purpose of displaying an attached sign.
6. Except for flags exempted, flags, pennants, ribbons, streamers, tethered balloons, laser projections, and similar objects are prohibited.
7. Portable signs are prohibited, except for A-frame and sandwich board signs issued a use permit in B.M. - C.T. zones.
8. No display or simulation of moving parts or message, except for an outdoor advertising sign with tri-vision, a changeable copy sign, or a thermometer, barometer, weather vane, barber pole, or clock.

Work Description (including number of signs, special conditions, materials, locations and size):

64 sq ft allowed per. Variance 98-198-A
Installation must be completed within 30 days
of this permit issuance.

PLEASE PRINT OR TYPE LEGIBLY

OWNER/AGENT CERTIFICATION

I hereby certify under penalty of law that the proposed sign will be located so as not to violate any codes and that the information supplied is true, complete, and correct.

William O. Schindbauer
Signature

4/1/98
Date

WILLIAM OTTO SCHMIDBAUER
Print/Type Name

Copies: White - Office; Yellow - Applicant (keep this copy for your permanent records)

REV 11/97

Authority under Section 500.4, BCZR		
PDM APPROVAL (SIGN ONLY)		
<u>[Signature]</u> Signature	<u>CR</u> Initials	<u>4-1-98</u> Date

Per. # 2

ADVISORY GROUP REPORT

**MASTER PLAN 2010 PERRY HALL-WHITE MARSH
GROWTH AREA UPDATE**

COMPILED BY

THE BALTIMORE COUNTY OFFICE OF PLANNING

AUGUST 1997

RECOMMENDED ZONING GUIDELINES

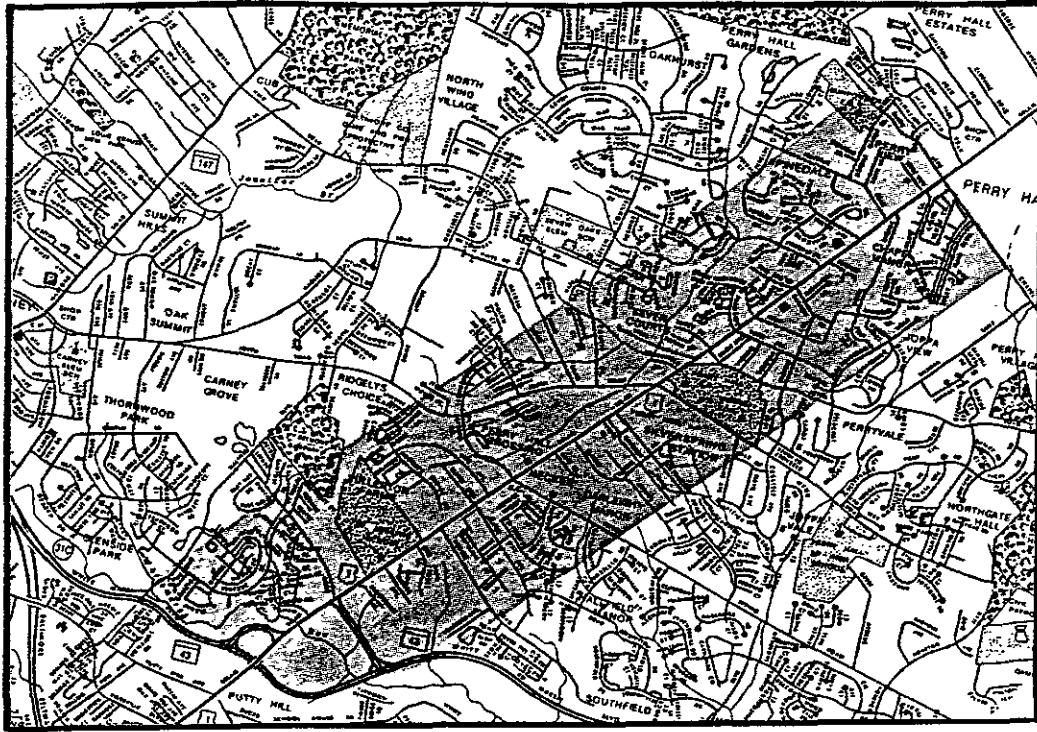
The guidelines set forth below should be used in making decisions concerning the rezoning of properties located in the Perry Hall-White Marsh Growth Area. All rezoning requests should be reviewed by the Office of Planning, the Planning Board, and the County Council or Board of Appeals for conformance with these guidelines. Also, zoning issues should be initiated in the 2000 Comprehensive Zoning Map Process in accordance with these guidelines.

The following guidelines are recommended:

1. Zoning requests will be reviewed for conformance with the Master Plan objectives, policies, and actions for the Perry Hall-White Marsh Growth Area.
2. Generally, residential zoning densities should not be increased unless compatible with the surrounding neighborhood.
3. Existing residential zoning along Perry Hall Boulevard and Rossville Boulevard should remain with no changes in zoning to commercial or office classifications.
4. Existing commercial zoning should remain along Belair Road and at the White Marsh Town Center.
5. Generally, existing industrial zoning should remain south of Fitch Avenue and Rossville Boulevard between Lillian Holt Drive and Belair Road.
6. Increases in zoning density or intensity should not be considered along Babikow Road, King Avenue, Bucks School House Road, White Marsh Road, Fitch Avenue, and Ridge Road. Each of these roads need improvements and none are included in the current six year capital budget.
7. The rezoning of parcels to industrial or commercial should take into consideration the potential effects of the zoning reclassification on adjacent residential communities.
8. Residentially zoned sites along both sides of Belair Road between Minte Drive and Chapel Road/Baker Lane should be rezoned ROA. The ROA classification will allow the conversion of existing residential uses to offices while maintaining the existing residential character. Requests for other zoning classifications should not be granted unless it can be demonstrated that ROA zoning is inappropriate. In such cases RO zoning should be considered in lieu of ROA.
9. Sites that are presently zoned ROA and RO along both sides of Belair Road between Minte Drive and Chapel Road/Baker Lane should not be rezoned to a business classification.
10. Underutilized Automotive Service (AS) zoning should be removed from locations that are inappropriate for the development of service stations or car washes.
11. Additional areas for the AS district along Belair Road and Philadelphia Road are not appropriate.

Per. #3

DRAFT



BELAIR ROAD CORRIDOR STUDY

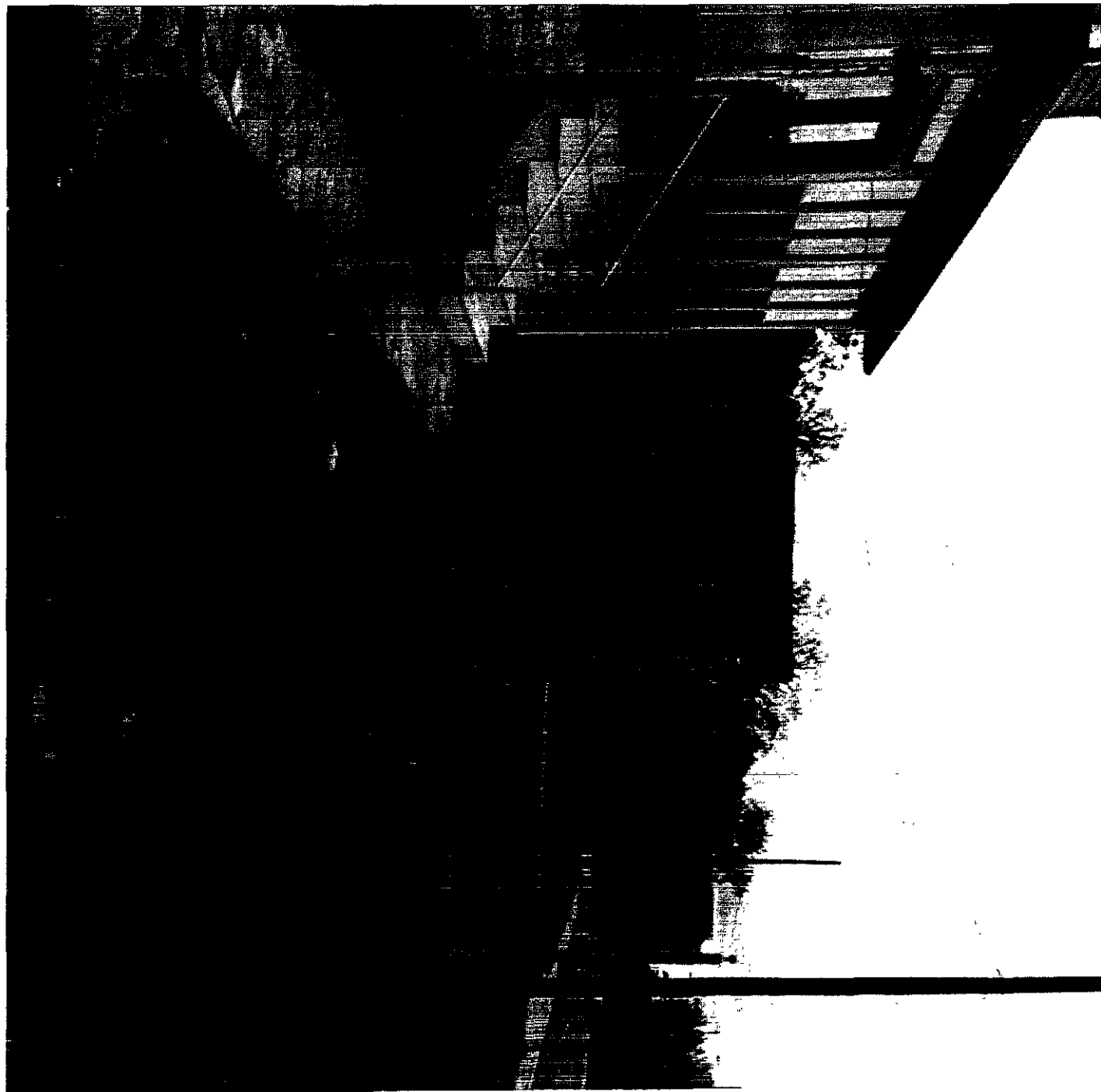
MAY 1995

Baltimore County Office of Planning and Zoning

4. The largest concentration of general commercial development on Belair Road is the Perry Hall Crossing Shopping Center located at the northwest corner of Belair Road and Silver Spring Road.
5. Significant general commercial developments affecting Belair Road, but having little or no direct frontage include:
(1) BJ's Wholesale Club (Wholesale Club Drive), Perry Hall Square Shopping Center (Ebenezer Road), and Festival at Perry Hall Shopping Center (Joppa Road west of Belair Road).
6. Many general commercial uses are located adjacent to residential areas. Such a situation, depending upon the nature and characteristics of the commercial uses, can create an adverse impact on residential properties.
7. All community commercial uses and the vast majority of office commercial uses are located north of Necker Avenue/Ridgely's Choice Drive.
8. Automotive commercial uses on Belair Road consist of five service stations, five service garages, and one vehicle sales establishment. All but three of these uses are located south of the Joppa Road/India Avenue intersection.
9. Many single family detached houses on Belair Road have been converted to commercial uses but still maintain a residential character. There are 40 such conversions in the study area. All but four of the conversions are located north of Silver Spring Road. More than half of the conversions are for office uses.
10. Several institutional uses are scattered along Belair Road. They include seven churches, the Perry Hall Elementary School, a fire station, an ambulance service, a library, and a community care facility. The largest institutional use is the St. Joseph's Catholic Church located in the southern part of the corridor opposite Plumer Avenue. Most of the institutional uses are well established and can be expected to continue at their present locations.
11. The majority of vacant land located along, or having direct access to, Belair Road is concentrated at four locations:
 - a. On the east side, between Louisa Avenue (to the south) and Plumer Avenue (to the north).
 - b. On the west side, north and south of Ridgely's Choice Drive (6.5 acres).
 - c. On the east side, south of Necker Avenue (1.1 acre).
 - d. On the east side, behind the frontage lots north of Silver Spring Road and south of Raab Avenue (2.7 acres).

Zoning Findings

1. Table 2 shows the distribution of various zoning classifications according to their respective amounts of front footage along Belair Road within the study area. To summarize:
 - a. Eleven different zoning classifications exist between White Marsh Boulevard (southern boundary) and Chapel Road/Baker Lane (northern boundary). The number of zoning classifications by general categories are as follows: Residential (3), Office (2), Business (5), and Industrial (1).
 - b. Business and Residential zoning is predominant. These general categories respectively account for 49 percent and 31 percent of the total frontage. Also, there is a substantial amount of Office zoning (19%) but very little Industrial zoning (0.3%).
 - c. Commercially zoned land includes both the Business and Office classifications. Nearly 70 percent of the land along the corridor is zoned for commercial purposes.
 - d. D.R.5.5 and B.L. are the primary single zoning classifications with each accounting for 19 percent of the total frontage. Other single classifications accounting for at least 10 percent of all frontage are B.L.-A.S. (17%), R-O (16%), and D.R.16 (10%).
 - e. B.L.-A.S. is the County's zoning classification which permits service stations. The large amount of frontage zoned B.L.-A.S. (i.e., 5,715 feet or 17% of all frontage) appears to be very excessive. The five existing service stations may be sufficient to meet the needs of local residents and commuters.
 - f. Most of the office zoning is R-O. There is also a small amount of R-O-A zoning. The R-O-A zone is a relatively new classification that became available as a zoning option during the 1992 Comprehensive Zoning Map Process. It is more restrictive than R-O zoning.
2. Business zoning is located throughout the corridor along Belair Road, but it is generally concentrated in three extensive areas:
 - a. In the southern portion: on the east side, between White Marsh Boulevard (to the south) and Louisa Avenue (to the north); on the west side, between White Marsh



1. The first part of the document is a list of the names of the people who were present at the meeting. The names are listed in alphabetical order.

Proposal

Page No. 1 of 1 Pages

SIGN DESIGN
1108 CLAYTON RD.
JOPPA, MARYLAND 21085
Phone 679-9793

PROPOSAL SUBMITTED TO		PHONE	DATE
Schmidbauer Realty		410-661-4600	August 23, 1997
6711 Belair Road		JOB NAME	New sandblast sign for office
Baltimore, MD. 21206		JOB LOCATION	SAME
PROJECT	DATE OF PLANS	JOB PHONE	
DWF/KA			

We Propose hereby to furnish material and labor — complete in accordance with specifications below, for the sum of:

Two thousand -four hundred -eighty-five 00/100 Dollars (\$ 2485.00)
 Payment to be made as follows **WITH INSTALLATION** **PLUS APPLICABLE SALES TAX**

50% down payment remainder upon completion

Material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from specifications requiring extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurances. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature

Donald W. Fortney
Donald W. Fortney

Note: This proposal may be withdrawn by us if not accepted within 3 days.

I hereby submit specifications and estimates for:

PHASE I

Design and fabricate from 2"x6"x8' #1 grade clear redwood one (1) 4'x8' sign scalloped and double sided

Boards will be planed, assembled and glued with mitre joints and dowels

After assembling sign will be cut out and sanded to 320 grade finish

Sign will then be vulcanized and cut out and designed per customer specifications (see picture)

Sign will be sandblasted using 200 lb pressure and Black Beauty aggregate with relief of approximately 1/4"

Sign will then be primed & coated with industrial enamel

Letters will then be gold leafed where necessary.

PHASE II

Design and fabricate two (2) 4'x8'x10' Wolmanized poles with placard head and colonial ball

After poles are assembled they will be primed and coated with same industrial enamel (white)

Poles will then be precision drilled and doweled for installation to sign

STANDARD CONTRACT CLAUSES:

Digging Clause: Sign Design, Inc., is not responsible for any rocks or obstacles at the digging site which may prohibit the digging of the footer. Customer is responsible for any additional costs incurred to complete excavation of footer under these conditions.

Licensing & Permits: Customer is responsible for securing any and all licensing and permits necessary and required for this contract.

Electric Source: Customer is responsible for providing electrical source to sign.

Retention Clause: If sign (s) are not paid in full on day of completion sign (s) becomes property of Sign Design, Inc., and will be removed when deemed necessary by Sign Design, Inc., unless other payment arrangements are stated in this contract. If sign (s) is removed due to lack of payment reinstallation will be a firm fee of a \$300.00 minimum.

Installation: sign (s) will be completed and installed within 30 working days from the day downpayment is received.

Acceptance of Proposal — The above prices, specifications

MAILED 11/11

No premises may display a special event or commercial special event sign for more than 60 days in any calendar year.

3. A special event or political campaign sign may be erected as an off-premises sign on private property with the permission of the property owner.
- F. Temporary signs in general. Except for political campaign and real estate signs, a use permit must be issued for all temporary signs and must include the dates for display, subject to the terms and conditions established by the Director of the Department of Permits and Development Management. Any entity identified on a temporary sign may be held responsible for removal of the sign. [Bill No. 136-1997]

450.8 Administration and compliance.

A. Interpretation.

1. In considering requests for special exceptions and variances, the provisions of this section shall be strictly construed, unless the demonstrable effect of a liberal construction will prevent or reduce the confusion and visual clutter caused by excessive signage.
 2. No special exception or variance may be granted if it will result in the authorization of a sign class which is not otherwise permitted for a particular zone or use by Section 450.4.
 3. A sign for which a special exception, development plan, use permit or variance has been approved prior to the effective date of Bill No. 89-1997 may be erected in accordance with the sign provisions in effect at the time of said approval, subject to the abatement provisions of Section 450.8.D.
- B. Abandoned signs. In order to prevent blight in established communities, diminution of property values, hazards of personal injury or damage to adjacent properties, the provisions of Section 450.8.B shall be construed, to the greatest extent possible, to require the removal of abandoned signs at the earliest possible moment.
1. A temporary sign is considered abandoned on the seventh consecutive day following the conclusion of the event or activity to which it pertains.
 2. A permanent sign is considered abandoned one year after the commercial or noncommercial organization to which it was accessory permanently ceases operating.
 3. An outdoor advertising sign is considered abandoned 180 days after its owner has ceased to display a message thereon.

BALTIMORE COUNTY ZONING REGULATIONS

TABLE OF SIGN REGULATIONS
PERMANENT SIGNS
 (continued)

I	II	III	IV	V	VI	VII	VIII	IX
Class	Structural Type	Zone or Use	Permit Required	Maximum Area/Face	Maximum No./Premises	Height	Illumination	Additional Limitations
ENTERPRISE, (cont'd)	(i) Wall-mounted	Accessory or auxiliary commercial use within building in OR-1, OR-2	Use	5 square feet per use; maximum 25 square feet per building entrance	One per accessory or auxiliary commercial use	Not applicable	Yes	
	(j) Wall-mounted	S-E; office or retail or service use in R.A.E. Zones	Use	2 square feet	One at each exterior entrance to a separate entity within the building	Not applicable	No	
	(k) Free-standing	R.C.C., OR-1, OR-2, O.T., S-E, B.M.M., B.M.B., B.M.Y.C.	Use	25 square feet; 30 square feet in S-E	One per frontage	6 feet; 13 feet in S-E; 25 feet for waterfront sign in B.M.M., B.M.B., B.M.Y.C.	Yes. No in R.C.C., C.R.	In S-E must be compatible with building. In R.C.C., integrate with landscaping and Director of Office of Planning approves location
	(l) Wall-mounted; freestanding	Farmer's roadside stand, farm market, commercial agriculture or farm produce stand	Use	25 square feet total for all all signs	Not regulated	6 feet	Yes	Minimum 10 feet setback from right-of-way and 75 feet from highway intersection center lines
	(m) Wall-mounted; projecting	Elderly housing facility in D.R., commercial use in D.R., R.C., R-O-A, R.O., R.C.C., B.M.Y.C.	Use	8 square feet; 6 square feet in R-O-A, 1 square foot in D.R.	One		No, but Yes for tearoom or rest-aurant	In R-O, may also have 15 square feet freestanding sign 6 feet high if on principal arterial adjoining and facing non-residentially zone property
	(n) Wall-mounted	Strip-tease business, pawnshop	Use	2 square feet per linear feet of frontage, not more than 50 square feet	One	Not applicable	Yes	Zoning Commissioner's hearing required for use permit

Section 40-4.1

R.O.A. Sign

MR. DOUGLAS B. RILEY, COUNCILMAN

BY THE COUNTY COUNCIL, OCTOBER 7, 1991

A BILL ENTITLED

AN ACT concerning

Zoning Regulations - R-O-A Zone

FOR the purpose of creating the R-O-A Zone in the Baltimore County

Zoning Regulations which will allow for the conversion of homes into offices; stating findings of the County Council; defining terms; authorizing certain uses in the zone by right or by special exception; providing sign, bulk regulation, and parking requirements for the zone; providing for a review of conversion plans; conforming certain provisions of the development regulations; and generally relating to uses in R-O-A zones.

BY repealing and re-enacting, with amendments,

Section 100.1.A.2 and Section 101, the definitions of "Office Building, Class A" and "Residential Zone" Baltimore County Zoning Regulations, as amended

BY adding

Section 202

Baltimore County Zoning Regulations, as amended

BY repealing and reenacting, with amendments,

Section 409.7.B.

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments

Section 26-282(a)

Title 26 - Planning, Zoning and Subdivision Control

Baltimore County Code, 1988

WHEREAS, the Baltimore County Council has received a final report from the Planning Board, dated July 18, 1991, concerning the subject legislation and held a public hearing on the report on September 26, 1991, now therefore

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.



1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2. COUNTY, MARYLAND, that Section 100.1.A.2. and Section 101, the
3. definitions of "Office Building, Class A" and "Residential Zone" of the
4. Baltimore County Zoning Regulations, as amended, be and they are hereby
5. repealed and reenacted, with amendments, to read as follows:

6. Section 100 - Zones and Districts: Boundaries.

7. 100.1--Baltimore County is hereby divided into zones and
8. districts in accordance with this subsection.

9. A. Zones.

10. 2. Zones are classified as follows:

11.	R.C.2	(Resource Conservation--agriculture)
12.	R.C.3	(Resource Conservation--deferral of planning and development)
13.	R.C.4	(Resource Conservation--watershed protection)
14.	R.C.5	(Resource Conservation-- rural residential)
15.	R.C.20	(Resource Conservation--critical area) {Bill No. 6, 1989}
16.	R.C.50	(Resource Conservation--critical area agricultural) {Bill No. 6, 1989}
17.	R.C.C.	(Resource Conservation--commercial) {Bill No. 103, 1988}
18.	D.R.1	(Density Residential, 1.0 dwelling unit per acre)
19.	D.R.2	(Density Residential, 2.0 dwelling units per acre)
20.	D.R.3.5	(Density Residential, 3.5 dwelling units per acre)
21.	D.R.5.5	(Density Residential, 5.5 dwelling units per acre)
22.	D.R.10.5	(Density Residential, 10.5 dwelling units per acre)
23.	D.R.16	(Density Residential, 16.0 density units per acre)
24.	R.A.E.1	(Residential, 40.0 density units per acre)
25.	R.A.E.2	(Residential, 80.0 density units per acre)
26.	R-O	(Residential-Office, 5.5 dwelling units per acre)
27.	R-O-A	(RESIDENTIAL-OFFICE, CLASS A OFFICE)
28.	O-1	(Office Building)
29.	O-2	(Office Park)
30.	O.T.	(Office and Technology)
31.	B.L.	(Business, Local)
32.	B.M.	(Business, Major)
33.	B.R.	(Business, Roadside)
34.	M.R.	(Manufacturing, Restricted)
35.	M.L.R.	(Manufacturing, Light, Restricted)
36.	M.L.	(Manufacturing, Light)
37.	M.H.	(Manufacturing, Heavy)

38. Section 101 - Definitions.

39. Office Building, Class A: A principal building that was
40. originally constructed as a 1-family or 2-family detached dwelling and
41. that is converted BY PROPER PERMIT to office use without any external
42. enlargement for the purpose of creating the office space or otherwise
43. accommodating the office use. For the purposes of this definition,

MR. DOUGLAS B. RILEY, COUNCILMAN

BY THE COUNTY COUNCIL, OCTOBER 7, 1991

A BILL ENTITLED

AN ACT concerning

Zoning Regulations - R-O-A Zone

FOR the purpose of creating the R-O-A Zone in the Baltimore County

Zoning Regulations which will allow for the conversion of homes into offices; stating findings of the County Council; defining terms; authorizing certain uses in the zone by right or by special exception; providing sign, bulk regulation, and parking requirements for the zone; providing for a review of conversion plans; conforming certain provisions of the development regulations; and generally relating to uses in R-O-A zones.

BY repealing and re-enacting, with amendments,

Section 100.1.A.2 and Section 101, the definitions of

"Office Building, Class A" and "Residential Zone"

Baltimore County Zoning Regulations, as amended

BY adding

Section 202

Baltimore County Zoning Regulations, as amended

BY repealing and reenacting, with amendments,

Section 409.7.B.

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments

Section 26-282(a)

Title 26 - Planning, Zoning and Subdivision Control

Baltimore County Code, 1988

WHEREAS, the Baltimore County Council has received a final report from the Planning Board, dated July 18, 1991, concerning the subject legislation and held a public hearing on the report on September 26, 1991, now therefore



EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

1. CONVERSION FROM RESIDENTIAL TO OFFICE USE WILL NOT CAUSE SERIOUS
2. DISRUPTION IN TRAFFIC FLOW.
3. 202.3--USE REGULATIONS.
4. A. USES PERMITTED BY RIGHT. THE FOLLOWING USES, ONLY,
5. ARE PERMITTED BY RIGHT IN ANY R-O-A ZONE:
6. 1. USES PERMITTED BY RIGHT AND AS LIMITED IN
7. D.R. 3-5 ZONES.
8. 2. CLASS A OFFICE BUILDINGS CONTAINING OFFICES,
9. AND THEIR ACCESSORY USES INCLUDING SURFACE PARKING, BUT NOT INCLUDING
10. PARKING AS A PRINCIPAL USE , EXCEPT AS PROVIDED UNDER SECTION
11. 409.7.B.2.
12. 3. A SINGLE FAMILY OR TWO FAMILY DETACHED DWELLING
13. IN WHICH A PORTION OF THE BUILDING IS CONVERTED TO OFFICES AND A
14. PORTION IS USED FOR A DWELLING, WITHOUT ANY EXTERNAL ENLARGEMENT
15. , EXCEPT AS PERMITTED AND CONDITIONED BY SECTION 202.5, FOR THE
16. PURPOSE OF CREATING OFFICE SPACE OR OTHERWISE ACCOMMODATING THE OFFICE
17. USE. RESIDENTIAL EXPANSION IS SUBJECT TO THE CONDITIONS OF SECTION
18. 202.3.B. AND 202.5.
19. 4. THE RECONSTRUCTION OF A CLASS A OFFICE BUILDING
20. WHICH IS DESTROYED BY FIRE OR OTHER CASUALTY, SUBJECT TO THE
21. CONDITIONS OF SECTION 202.6.
22. B. USES PERMITTED BY SPECIAL EXCEPTION. USES
23. PERMITTED BY SPECIAL EXCEPTION AND AS LIMITED IN D.R.3.5 ZONES, ONLY,
24. ARE PERMITTED BY SPECIAL EXCEPTION. ANY DWELLING WHICH IS UNDER
25. APPLICATION FOR EITHER A CHANGE IN ZONING CLASSIFICATION TO R-O-A OR
26. FOR A CONVERSION FROM A RESIDENTIAL USE TO AN OFFICE USE AFTER
27. OBTAINING THE R-O-A ZONING CLASSIFICATION SHALL REQUIRE A SPECIAL
28. EXCEPTION IF THE DWELLING HAS BEEN ENLARGED IN FLOOR AREA BY TEN
29. PERCENT OR MORE WITHIN A PERIOD OF FIVE YEARS PRIOR TO THE DATE OF
30. APPLICATION FOR CHANGE OR CONVERSION.
31. C. SIGNS AND OFF-STREET PARKING REQUIREMENTS.
32. 1. IN ADDITION TO SIGNS PERMITTED UNDER SUBSECTION
33. 413.1, ONE STATIONARY OUTSIDE IDENTIFICATION SIGN IS PERMITTED,
34. PROVIDED THAT THE SIGN IS NOT ILLUMINATED, IS WALL-MOUNTED OR PROJECTS
35. FROM THE BUILDING AND DOES NOT HAVE A SURFACE AREA EXCEEDING SIX SQUARE
36. FEET ON EACH SIDE. NO OTHER SIGNS OR DISPLAYS OF ANY KIND VISIBLE
37. FROM OUTSIDE THE BUILDING ARE PERMITTED.
38. 2. OFF-STREET PARKING SPACES SHALL BE PROVIDED IN
39. ACCORDANCE WITH SECTION 409, BUT NO STRUCTURED PARKING IS PERMITTED,

1. EXCEPT FOR A RESIDENTIAL GARAGE, THAT WAS CONSTRUCTED AS AN ACCESSORY
2. USE TO THE DWELLING PRIOR TO ITS CONVERSION TO A CLASS A OFFICE
3. BUILDING.

4. A. PARKING AREAS SHALL BE SCREENED IN
5. ACCORDANCE WITH THE LANDSCAPE MANUAL;

6. B. PARKING SHALL BE SETBACK AT LEAST 10 FEET
7. FROM THE PROPERTY LINE EXCEPT THAT IF THE PROPERTY LINE ABUTS AN ALLEY,
8. NO SETBACK IS REQUIRED PROVIDED THAT THE ALLEY DOES NOT ABUT A FRONT OR
9. SIDE YARD OF A RESIDENTIALLY USED PROPERTY;

10. C. NOTWITHSTANDING THE PROVISIONS OF
11. SECTION 307; PARKING SHALL BE LOCATED IN THE SIDE OR REAR ONLY
12. , UNLESS OTHERWISE APPROVED BY THE ZONING COMMISSIONER PURSUANT TO
13. SECTION 307.

14. D. NOTWITHSTANDING THE PROVISIONS OF SECTION
15. 307, THE ZONING COMMISSIONER MAY NOT PERMIT A VARIANCE OF MORE THAN ONE
16. PARKING SPACE BELOW THE NUMBER REQUIRED BY THESE REGULATIONS.

17. 202.4--BULK REGULATIONS OF R-O-A ZONES. USES PERMITTED BY
18. RIGHT OR BY SPECIAL EXCEPTION ARE GOVERNED BY THE FOLLOWING BULK
19. REGULATIONS:

20. A. RESIDENTIAL USES AND NEW STRUCTURES ACCESSORY TO
21. CLASS A OFFICE BUILDINGS ARE GOVERNED BY THE BULK REGULATIONS OF THE
22. D.R. ZONE CLASSIFICATION IN PLACE AT THE TIME WHEN THE R-O-A ZONE WAS
23. APPLIED , SUBJECT TO COMPLIANCE WITH SECTION 202.6. IF A D.R. ZONE
24. WAS NOT IN PLACE AT THE TIME THAT THE R-O-A ZONE WAS APPLIED, THE BULK
25. REGULATIONS OF THE D.R.3.5 ZONE , AS SET FORTH IN SECTION 1B02.3C.1,
26. SHALL GOVERN. THE PROVISIONS OF SUBSECTION 1B01.1.B. (RESIDENTIAL
27. TRANSITION AREAS AND USES PERMITTED THEREIN) SHALL APPLY IN THE R-O-A
28. ZONE TO THE DEVELOPMENT OF ANY USE OTHER THAN A SINGLE FAMILY HOME OR
29. THE CONVERSION OF A HOME TO A CLASS A OFFICE BUILDING.

30. B. CLASS A OFFICE BUILDING THEMSELVES, WHICH BY
31. DEFINITION MAY NOT BE ENLARGED. ARE NOT SUBJECT TO BULK REGULATIONS,
32. NOR ARE UNENLARGED STRUCTURES ACCESSORY TO THE ORIGINAL BUILDING.

33. C. THE RECONSTRUCTION OF AN EXISTING CLASS A OFFICE
34. BUILDING WHICH IS DESTROYED BY FIRE OR OTHER CASUALTY MAY NOT INCREASE
35. THE SIZE OR GROSS FLOOR AREA OF THE STRUCTURE OR ALTER THE LOCATION OF
36. THE STRUCTURE, WITHOUT A SPECIAL HEARING SUBJECT TO THE
37. LIMITATIONS CONTAINED IN SECTION 104.2.

38. 202.5--SUBMITTING PLAN FOR CONVERSION. A NEW BUILDING OR
39. PART OF A BUILDING TO BE USED AS A DWELLING MUST BE OCCUPIED AS A

1. RESIDENTIAL USE FOR FIVE YEARS BEFORE SUBMITTING A PLAN FOR CONVERSION
2. TO A CLASS A OFFICE BUILDING, SUBJECT TO DOCUMENTATION OF COMPLIANCE
3. WITH THE RESIDENTIAL USE REQUIREMENT IN THIS SECTION. THE USE OR
4. DEVELOPMENT OF ANY PROPERTY IN AN R-O-A ZONE MAY NOT BE CHANGED FROM
5. THAT EXISTING ON THE EFFECTIVE DATE OF THE CLASSIFICATION'S APPLICATION
6. TO THAT PROPERTY, EXCEPT IN ACCORDANCE WITH A PLAN APPROVED BY THE
7. COUNTY REVIEW GROUP AS PROVIDED IN TITLE 26, ARTICLE V OF THE BALTIMORE
8. COUNTY CODE, UNLESS THE CHANGE IN USE IS CONFINED TO A CHANGE IN THE
9. NUMBER OF DWELLING UNITS IN ACCORDANCE WITH THE PROVISIONS OF SECTION
10. 402.

11. 202.6--REVIEW FOR COMPATIBILITY. ANY CONVERSION TO A CLASS
12. A OFFICE BUILDING INVOLVING CHANGE TO THE EXTERIOR OF THE DWELLING, ANY
13. NEW BUILDING TO BE USED AS A DWELLING, OR THE RECONSTRUCTION OF ANY
14. CLASS A OFFICE BUILDING WHICH HAS BEEN DESTROYED BY FIRE OR OTHER
15. CASUALTY, IS SUBJECT TO SECTION 26-282 OF THE DEVELOPMENT REGULATIONS.
16. IN ADDITION TO THE STANDARDS OF 26-282, THE DIRECTOR OF THE OFFICE OF
17. PLANNING AND ZONING SHALL CONSIDER THE COMPATIBILITY OF PROPOSED WINDOW
18. AND DOOR TREATMENTS IN RELATION TO EXISTING ADJACENT OR SURROUNDING
19. BUILDINGS.

20. SECTION 3. AND BE IT FURTHER ENACTED, that Section 409.7.B. of
21. the Baltimore County Zoning Regulations, as amended, be and it is
22. hereby repealed and re-enacted, with amendments, to read as follows:

23. 409.7--Location of Parking

24. All required off-street parking spaces shall be located
25. either on the same lot as the structure or use to which they are
26. accessory or off-site as provided for below.

27. B. (1) Except in C.T. Districts AND R-O-A and R-O
28. zones, off-site parking spaces for uses other than residential and
29. lodging shall be located within 500 feet walking distance of a building
30. entrance to the use that such spaces serve. In C.T. Districts, such
31. spaces shall be permitted within 1000 feet walking distance of the
32. building entrance. In the C.T. District of Towson, such spaces shall
33. be permitted within 1500 feet walking distance of the building
34. entrance, provided they are located within the town center boundary.
35. {In R-O zones, such spaces shall be provided on the same lot as the
36. structure or use to which they are accessory.}

37. (2) IN R-O AND R-O-A ZONES ALL REQUIRED OFF-STREET
38. PARKING SPACES SHALL BE PROVIDED ON THE SAME LOT AS THE STRUCTURE OR

1. USE TO WHICH THEY ARE ACCESSORY EXCEPT THAT IN CASES WHERE ADJACENT
2. DWELLINGS HAVE BEEN CONVERTED TO CLASS A OFFICE BUILDINGS, PARKING
3. SPACES MAY BE PROVIDED ON THE ADJACENT LOTS. THE USE OF AN OFF-SITE
4. PARKING FACILITY WHICH IS ACCESSORY TO A CHURCH OR OTHER EXISTING
5. PRINCIPAL USE MAY SATISFY THE PARKING REQUIREMENT, IF ~~LOCATE~~
6. LOCATED NO MORE THAN 500 FEET FROM THE LOT.

7. SECTION 4. AND BE IT FURTHER ENACTED, that Section 26-282(a) of
8. Title 26 - Planning Zoning and Subdivision Control, of the Baltimore
9. County Code, 1988, be and it is hereby repealed and re-enacted, with
10. amendments, to read as follows:

11. Sec. 26-282. Development in RCC, R-O, R-O-A, O-1, O-2, or OT
12. zone and CR Districts.

13. (a) (1) Development of property in AN R-O-A ZONE AND an
14. R-O zone shall be appropriate to the specific circumstances of the
15. site, taking into account surrounding uses; tree preservation;
16. protection of watercourses and bodies of water from erosion and
17. siltation; and safety, convenience, and amenity for the neighborhoods.

18. (2) In determining the appropriateness of A NEW
19. DWELLING, THE RECONSTRUCTION OF A CLASS A OFFICE BUILDING WHICH
20. INVOLVES CHANGES TO THE EXTERIOR OF THE DWELLING BUILDING, OR
21. THE DEVELOPMENT OF class B office buildings, design elements of
22. proposed buildings shall be evaluated in relation to existing adjacent
23. or surrounding buildings. Unless determined otherwise by the director
24. of the office of planning and zoning to be considered appropriate, new
25. buildings shall be similar to existing ones in the following respects:

26. a. Height;
27. b. Bulk and general massing;
28. c. Major divisions or rhythms of the facade;
29. d. Proportion of openings (window-wall-relation);
30. e. Roof treatment;
31. f. Materials, colors, textures;
32. g. General architectural character:
33. 1. Horizontal or vertical emphasis;
34. 2. Scale;
35. 3. Stylistic features and themes - porches,
36. colonnades, pediments, cupolas, cornices,
37. coins, detail, and ornament;
38. h. Relation to street;
39. i. Exterior lighting. Buildings shall not be
40. lighted on the exterior, and any lighting provided for safety reasons
41. should be minimized and directed away from adjoining residential
42. property.

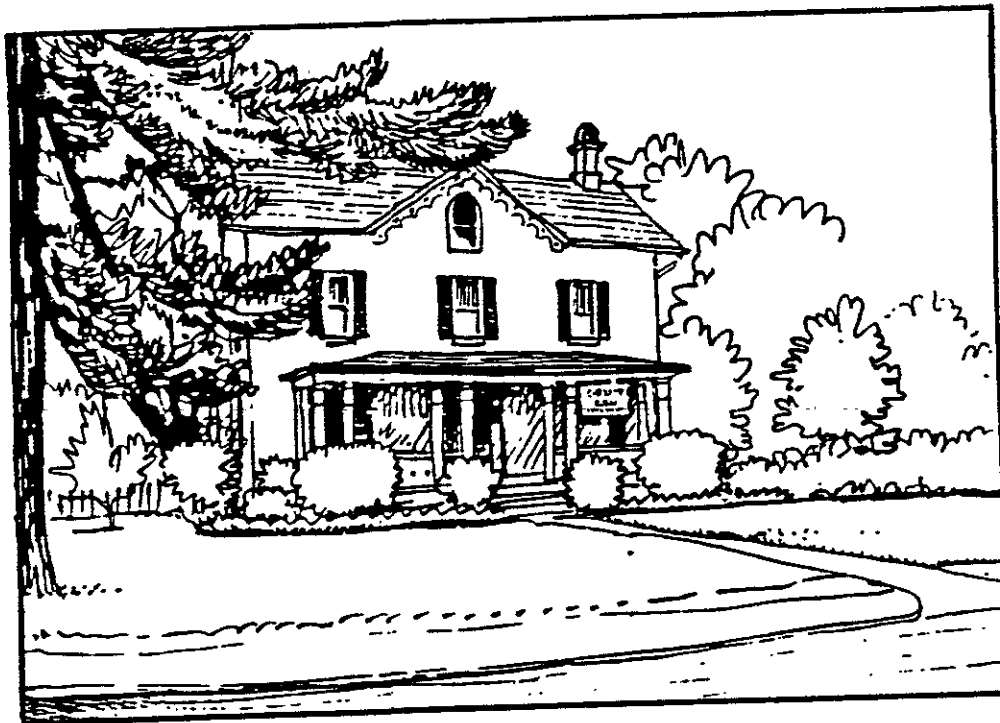
43. Section 5. And be it further enacted, that this Act shall take
44. effect forty-five days after its enactment.

P.C. #2

NOTE:

A Public Hearing will be held on this Report on June 6, 1991 in Room 106 of the County Office Building, 111 West Chesapeake Avenue, Towson, at 6:00 p.m.

**Proposed Amendments To
The Baltimore County
Zoning Regulations
Regarding**



A RESIDENTIAL-OFFICE, CLASS A ZONE

**A Planning Board
Public Hearing Report**

May 2, 1991



**PROPOSED AMENDMENTS TO THE
BALTIMORE COUNTY ZONING REGULATIONS
REGARDING THE CREATION OF A
RESIDENTIAL-OFFICE, CLASS A ZONE**

A Staff Report Submitted May 2, 1991
Accepted By The Planning Board on May 2, 1991 for Public Hearing

PROJECT DESCRIPTION

This project is in response to a request from the Planning Board for the staff to consider the creation of a new zone which would permit only those uses permitted in Density Residential zones and the conversion of dwellings to offices.

DISCUSSION

The Residential-Office (R-O) Zone was created by Council in 1980 to provide zoning for areas which are predominantly residential but where residential use of some lots is no longer feasible because of changing conditions in the surrounding area. Since 1980, R-O zoning has been applied in areas throughout the County. An example of the application of R-O zoning is West Towson, the blocks immediately west of the County government campus. In this neighborhood, homes have been converted to offices, in particular to law offices because of proximity to the Courts. Some new office buildings have been built. Some homes have been maintained as dwellings, providing a balance between residential and office uses.

A home converted to an office, with no enlargement, is considered a "Class A office building." Class A office buildings are permitted by right in R-O zones. Any new office building in the R-O zone is permitted only by special exception. These buildings are considered "Class B Office Buildings." The regulations for Class B office buildings were revised in 1988 to provide stricter limits with regard to mass and bulk of the buildings and design guidelines for compatibility with surrounding uses.

The revised R-O regulations have been instrumental in giving the County more control over the design of new buildings in R-O zones. However, there are some residential areas where permitting new office buildings could lead to commercialization, eroding the quality of the neighborhood. Often, these are homes on the edges of neighborhoods which are located near centers of commercial or nonresidential activities. In these cases, applying the R-O zone classification can encourage the spread of nonresidential development, instead of serving as a buffer between office and residential uses.



Several jurisdictions have zoning classifications which are essentially residential, but permit the conversion of homes to offices as a principal use. A zone of this kind can be used to give an alternative use without allowing the disruption of a new building. This type of zone could be especially useful in older established areas where community conservation and stabilization is critical. The zone could also be helpful for historic districts or isolated, large historic homes to allow use alternatives while maintaining the character and appearance of the area. In the County, a zone of this kind could also be used to replace existing R-O zoning in certain areas.

Staff recommends that the County create a zone which would allow the conversion of homes, without enlargement, to offices. The development of new office buildings would not be permitted. In addition to Class A Office Buildings, the zone would permit uses allowed in the D.R. 3.5 zone. The bulk and area requirements of D.R. zones, including the Residential Transition Area (R.T.A.) which provides for buffers between single family homes and unlike buildings would be applied in the R-O-A zone. The R.T.A. buffer would not be applied between Class A office buildings and single family homes since the exterior appearance of the home would not be changed. The R.T.A. buffer would be applied however, if land zoned R-O-A was used for the development of townhomes close to single family homes.

To help assure that the residential character of the area will be retained, the intensity of the use of a Class A office building in the R-O-A zone would be limited by strict parking controls. All parking would need to be provided on the site, lots could not be converted to principal use parking lots and parking structures would not be permitted (except for residential garages). Further, the Zoning Commissioner could not grant a variance for more than one parking space less than the number required by Section 409.

To prevent the development of buildings ostensibly for dwellings but actually planned for use as an office building, Section 22-104 of the Development Regulations (Compatibility) would be applied to the development of any new house or the reconstruction of a Class A Office Building as part of the County Review Group plan review process. It is also recommended that the home be used for five years as a dwelling before it can be converted to offices.

Converting a house to an office use may mean that most of the lot surrounding the house will need to be paved to provide parking and driveways. This would defeat the zone's intention of preserving residential character. Common use agreements for adjacent driveways; reducing driveway width requirements in this zone; designing the parking area to provide as much green space as possible and making full use of any alleys would mitigate the amount of paving. The zone should not be applied in cases where the lot will be too small to provide access and parking.

RECOMMENDATION

The Office of Planning and Zoning recommends that the Baltimore County Zoning Regulations, as amended be further amended by creating a new Residential Office-Class A Office Building (R-O-A) Zone:

Section 202--RESIDENTIAL-OFFICE, CLASS A OFFICE ZONE (R-O-A) Zone

100.1 Declaration of Findings

- A. Residential use of certain sites may not be economically feasible in some predominantly moderate-density residential areas that are immediately adjacent to commercial or other nonresidential uses;
- B. Neither business zoning nor high-density residential zoning nor residential-office zoning which permits new office buildings on those sites is appropriate; and
- C. With appropriate restrictions, houses converted to offices are suitable, economically feasible uses of such sites.

100.2--Statement of Legislative Policy. The R-O-A zoning classification is established, pursuant to the findings stated above, to accommodate single family, duplex and two family detached houses converted to office buildings in predominantly residential areas on sites that, because of adjacent nonresidential activity, heavy commercial traffic, or other similar factors, can no longer reasonably be limited solely to uses allowable in moderate-density residential zones. It is further the intent of Council that the residential appearance of the existing structure and the residential setting of any building converted to offices be maintained in the R-O-A zone so that the converted dwelling will be highly compatible with neighboring residential property. To maintain residential character, Council does not intend that lots be developed or redeveloped solely for the purpose of providing parking in the R-O-A zone. The R-O-A zone shall only be applied to sites which are large enough or designed in such a way that parking and access can be accommodated without sacrificing the residential character of the site and where the conversion from residential to office use will not cause serious disruption in traffic flow.

100.3--Use Regulations.

- A. Uses Permitted by Right. The following uses, only, are permitted by right in any R-O-A zone;
 - 1. Uses permitted by right and as limited in D.R. 3.5 zones.

2. Class A office buildings containing offices, and their accessory uses including surface parking, but not including parking as a principal use.

3. A single, family or two family detached dwelling in which a portion of the building is converted to offices and a portion is used for a dwelling, without any external enlargement for the purpose of creating office space or otherwise accommodating the office use.

4. The reconstruction of a Class A office building which is destroyed by fire or other casualty.

B. Uses Permitted by Special Exception. Uses permitted by special exception and as limited in D.R. 3.5 zones, only.

C. Signs and Off-Street Parking Requirements.

1. In addition to signs permitted under Subsection 413.1, one stationary outside identification sign is permitted, provided that the sign is not illuminated, is wall-mounted or projects from the building and does not have a surface area exceeding six square feet. No other signs or displays of any kind visible from outside the building are permitted.

2. Off-street parking spaces shall be provided in accordance with Section 409 except that all required parking spaces shall be provided on the same lot as the structure or use to which they are accessory and no structured parking shall be permitted, except for a residential garage.

a. Parking areas shall be screened in accordance with the Landscape Manual;

b. Parking shall be setback at least 10 feet from the property line except that if the property line abuts an alley, no setback is required;

c. Parking shall be located in the side or rear of the lot, only;

d. Notwithstanding the provisions of Section 307 (Variances) the Zoning Commissioner shall not permit a variance of more than one parking space below the number required by these Regulations.

100.4--Bulk Regulations of R-O-A zones. Uses permitted by right or by special exception are governed by the following bulk regulations:

- A. Residential uses and new structures accessory to Class A office buildings are governed by the bulk regulations of the D.R. zone classification in place at the time when the R-O-A zone was applied. If a D.R. zone was not in place at the time that the R-O-A zone was applied, the bulk regulations of the D.R.3.5 zone shall govern. The provisions of Subsection 1B01.1.B (Residential Transition Areas) shall apply in the R-O-A zone).
- B. Class A office buildings themselves, which by definition may not be enlarged, are not subject to bulk regulations, nor are unenlarged structures accessory to the original building.
- C. The reconstruction of an existing Class A office building which is destroyed by fire or other casualty may not increase the size or gross floor area of the structure or alter the location of the structure, without a special hearing.

100.5- The use or development of any property in an R-O-A zone may not be changed from that existing on the effective date of the classification's application to that property, except in accordance with a plan approved by the County Review Group as provided in Title 22, Article IV of the Baltimore County Code, unless the change in use is confined to a change in the number of dwelling units in accordance with the provisions of Section 402.

100.6 Any new building to be used as a dwelling, or the reconstruction of any Class A Office Building which has been destroyed by fire or other casualty, shall be subject to Section 22-104(a) of the Development Regulations.

100.7 Any dwelling which is under application for either a change in zoning classification to R-O-A or for a conversion from a residential use to an office use after obtaining the R-O-A zoning classification shall require a special exception if the dwelling has been enlarged in floor area by ten percent or more within a period of five years prior to the date of application for change or conversion. A new building to be used as a dwelling must be occupied as a residential use for five years before submitting a plan for conversion to a Class A Office Building.

The Office of Planning and Zoning recommends further that Section 22-104 of the Development Regulations (County Code, Article IV, Title 22) be amended to complement the foregoing changes to the Zoning Regulations, as follows:

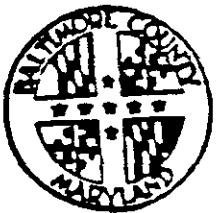
Sec. 22-104. Development in R-O-A, R-O, O-1, O-2, or OT zone.

- (a) (1) Development of property in an R-O-A zone and an R-O zone shall be appropriate to the specific circumstances

of the site taking into account surrounding uses; tree preservation; protection of watercourses and bodies of water from erosion and siltation; and safety, convenience, and amenity for the neighborhoods.

- (2) In determining the appropriateness of a new dwelling, the reconstruction of a Class A office building or the development of a Class B office building, design elements of proposed buildings shall be evaluated in relation to existing adjacent or surrounding buildings. Unless determined otherwise by the director of the Office of Planning and Zoning to be considered appropriate, new buildings shall be similar to existing ones in the following respects:

- (i) Height
- (ii) Bulk and general massing
- (iii) Major division or rhythms of the facade
- (iv) Proportion of openings (window-wall-relation)
- (v) Roof treatment
- (vi) Materials, colors, textures
- (vii) General architectural character
 - a) Horizontal or vertical emphasis
 - b) Scale
 - c) Stylistic features and themes - porches, colonnades, pediments, cupolas, cornices, quoins, detail and ornament
- (viii) Relation to street
- (ix) Exterior lighting. Buildings shall not be lighted on the exterior and any lighting provided for safety reasons should be minimized and directed away from adjoining residential property.



Baltimore County Government
Office of Planning and Zoning
Towson, MD 21204
887-3211

~~P.C.~~ #3
P.C.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1997, Legislative Day No. 15

Bill No. 89-97

All Councilmembers

By the County Council, August 4, 1997

A BILL
ENTITLED

AN ACT concerning

Signs

FOR the purpose of updating and amending the Baltimore County Zoning Regulations concerning permanent and temporary on-premises signs and permanent off-premises signs; defining certain terms; identifying classes and structural types of signs; establishing use, area, height, number, illumination and other limitations; establishing general prohibitions and exceptions; establishing special requirements for particular classes of signs; establishing County policies concerning compliance with sign regulations; permitting certain exemptions; requiring the submission of signage information as part of the development review and approval process; and generally relating to the regulation of signs.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining INDICATES AMENDMENTS TO BILL.

1 h. [Accessory signs (see Section 413);] SIGNS, SUBJECT TO SECTION 450.

2 Section 200--R.A.E.1 Zones--Residence, Apartment, Elevator.

3 200.2 Use Regulations in R.A.E. 1 Zones.

4 B. Supplementary use regulations.

5 4. Sign and Display Regulations. [No sign or display of any kind visible from
6 outside the building shall be permitted, except such signs as are permitted under Section 413.1.]

7 SIGNS ARE PERMITTED, SUBJECT TO SECTION 450.

8 Section 201--R.A.E. 2 Zones--Residence, Apartment, Elevator.

9 201.2 Use Regulations in R.A.E. 2 Zones.

10 B. Supplementary use regulations.

11 4. Sign and display regulations. [In addition to signs permitted under Section
12 413.1, one stationary outside identification sign at each exterior entrance to an office or to a retail
13 or service use shall also be allowed, provided that such sign: does not exceed three square feet in
14 area, if self-illuminated; is not illuminated by other than an enclosed lamp; is of the non-flashing
15 type; and does not project more than six inches from the building. Further, for each building
16 containing uses permitted under subparagraphs 2 and 3 of paragraph A, one directory sign listing
17 such uses and their locations shall be permitted; such sign shall not have a surface area exceeding
18 in square feet the product of the number of establishments listed times 1 ½. No other signs or
19 display of any kind visible from outside the building shall be permitted.] SIGNS ARE
20 PERMITTED, SUBJECT TO SECTION 450.

21 Section 202--Residential-Office, Class A Office Zone (R-O-A) Zone.

22 202.3--Use Regulations.

1 C. Signs and off-street parking requirements.

2 1. [In addition to signs permitted under Subsection 413.1, one stationary outside
3 identification sign is permitted, provided that the sign is not illuminated, is wall-mounted or
4 projects from the building and does not have a surface area exceeding six square feet on each
5 side. No other signs or displays of any kind visible from outside the building are permitted.]

6 SIGNS ARE PERMITTED, SUBJECT TO SECTION 450.

7 Section 204--R-O (Residential Office) Zones.

8 204.3 Use Regulations.

9 C. Signs and off-street parking requirements.

10 1. [In addition to signs permitted under Subsection 413.1, one stationary outside
11 identification sign is permitted, provided that the sign is not illuminated, does not project more
12 than six inches from the building, and does not have a surface area exceeding eight square feet.
13 No other signs or displays of any kind visible from outside the building are permitted, except that
14 along a principal arterial an additional free-standing sign with a surface area of no more than 15
15 square feet per side is also allowed if there is adjacent non-residentially-zoned frontage.] SIGNS
16 ARE PERMITTED, SUBJECT TO SECTION 450.

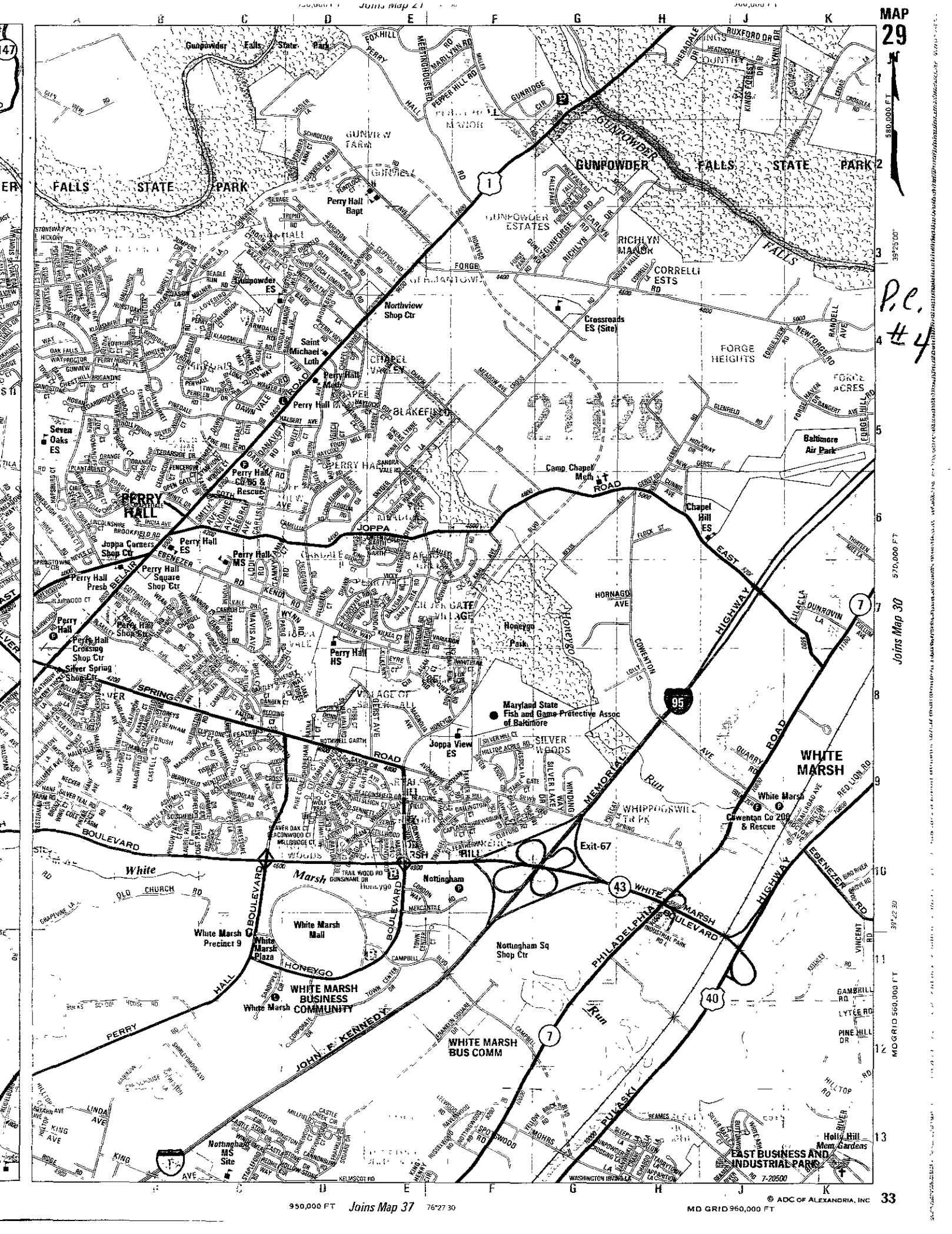
17 Section 205--OR-1 (Office Building - Residential) Zones.

18 205.3 Use Regulations of OR-1 Zones.

19 C. Supplementary use Regulations (see also Section 208):

20 [3. Outdoor signs or display for office buildings. In addition to the temporary real
21 estate signs and the temporary construction signs permitted under Section 413.1:

22 a. One stationary building identification sign on each office building is



P.C.
#4

P.C. #5

Real Property
InformationMaryland Department of Assessments and Taxation
Real Property System[\[Go Back\]](#)

BALTIMORE COUNTY

[\[Start Over\]](#)

District: 11 Acct No: 1108066200

Owner Information

Owner Name: CUNNINGHAM DOROTHY L Use: Commercial
 SCHMIDBAUER WILLIAM OTTO
 Mailing Address: 9431 BELAIR RD Principal
 BALTIMORE, MD 21236-1505 Residence: NO

Transferred

From: CUNNINGHAM DOROTHY L Date: 12/22/97 Price: \$0

Deed Reference: 1) 1/2566/ 38 Potential Tax Liability:
 2) 1/2230/ 208 * NONE *

Tax Exempt: NO
 Class:

Location Information [View Map]

Premise Address: 9431 BELAIR RD Legal Description:
 00000-0000 ES BELAIR RD
 9431 BELAIR RD
 Zoning: ROA 5280 N JOPPA RD

Map	Grid	Parcel	Subdiv	Sect	Block	Lot	Group	Plat Num:
72	2	681					80	Plat Ref: /

Special Tax Areas Town:
 Ad Valorem:

Primary Structure Data		Property Land Area:	County Use
Year Built	Enclosed Area		
	1656 Sq Ft	16700.0 Sq Ft	06

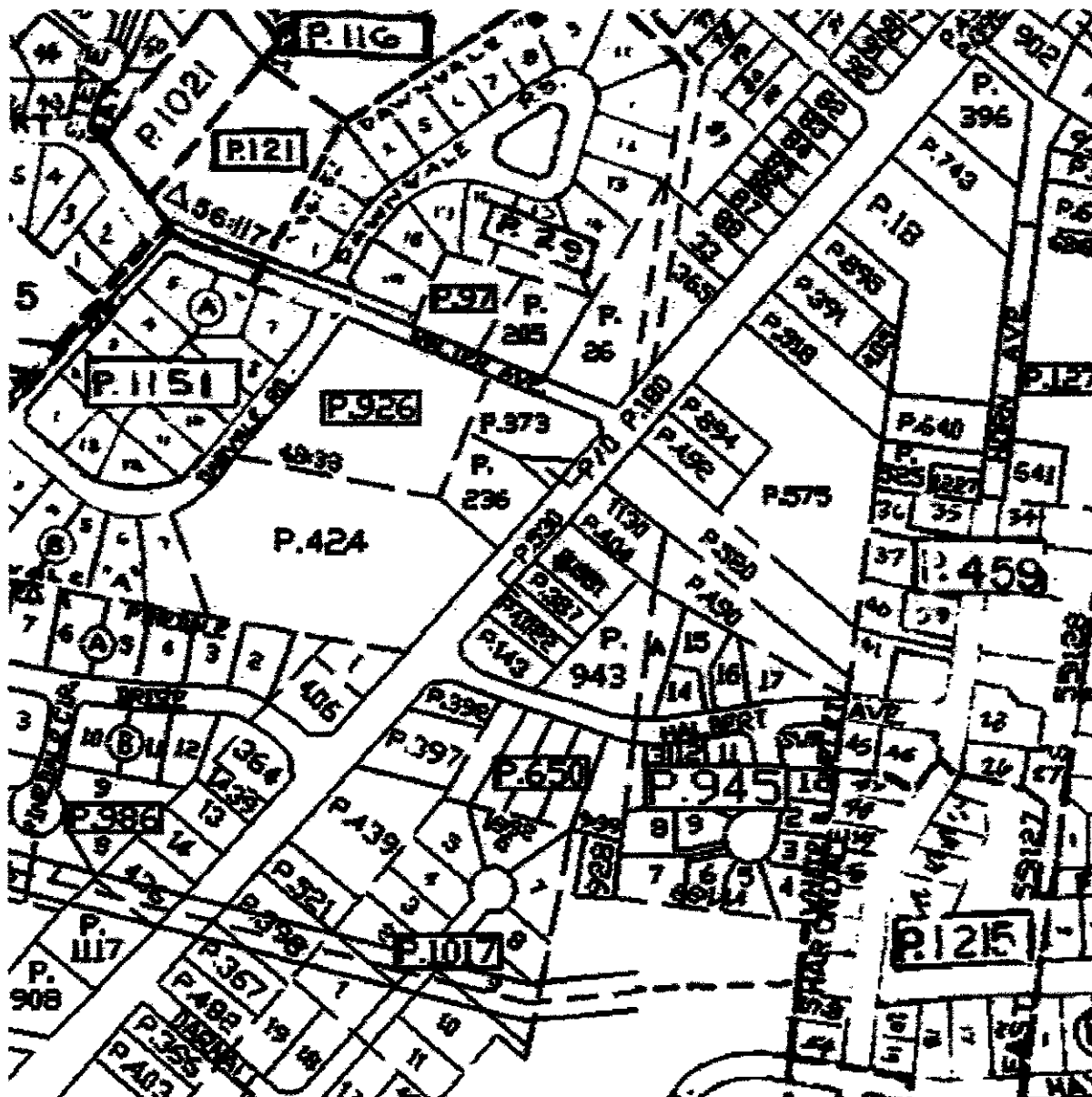
Value Information

	Base Value	Current Value	Phase-In Value	Phase-in Assessments	
		As Of	As Of	As Of	As Of
		01/01/98	07/01/99	07/01/98	07/01/99
Land:	114120	86700			
Impts:	87040	87300			
Total:	201160	174000	174000	69600	69600
Pref Land:	0	0	0	0	0

Partial Exempt Assessments

	Code	07/01/98	07/01/99
County	000	0	0
State	000	0	0
Municipal	000	0	0

[\[Go Back\]](#)[\[Start Over\]](#)



For more information on electronic mapping applications, visit the Maryland Office of Planning web site at www.op.state.md.us.

P.C. # 6

CD/PMZ

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits
and Development Management

Date: December 10, 1997

FROM: Arnold F. "Pat" Keller, III, Director
Office of Planning

SUBJECT: 9431 Belair Road

INFORMATION

Item Number: 198
Petitioner: Cunningham/Schmidbauer Property
Zoning: ROA
Requested Action: Variance

The Office of Planning does not support the Petition for Variance to allow a sign of 64 square feet (32 square feet each side). Section 202.3.C.1 of the Baltimore County Zoning Regulations states the following: "... one stationary outside identification sign is permitted, provided that the sign is not illuminated, is wallmounted or projects from the building and **does not have a surface exceeding six square feet on each ...**" A surface area of 32 square feet per side is far in excess of the BCZR requirements and defeats the purpose of Section 202, which attempts to create an office environment that is compatible with adjacent residential uses.

Prepared by:

Jeffrey W. Long

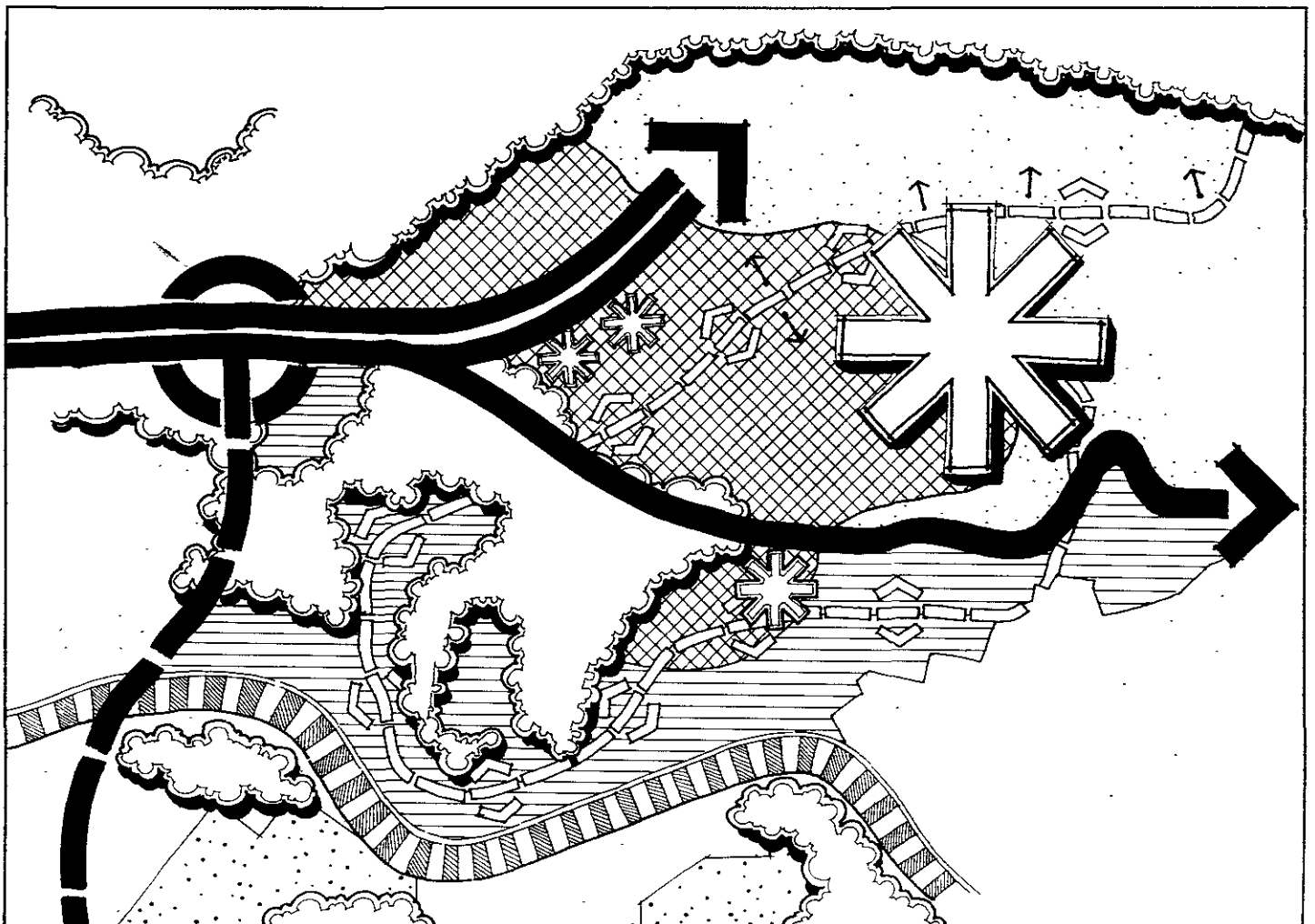
Division Chief:

Gary L. Kerns

AFK/JL

Master Plan

Baltimore County 1989–2000



As adopted February 5, 1990

Eastern Sector

establish a strong merchants association through the Office of Economic Development to promote and market the area.

Long-Term

The County will actively promote alternative uses for underused buildings. However, long-term solutions will depend upon the findings of the Revitalization Plan Update.

ISSUE: Continuing Revitalization in Overlea - Fullerton

The Overlea - Fullerton business area consists of a traditional commercial core at the City/County line with strip commercial development extending to the northeast along Belair Road. The revitalization district is a relatively simple one experiencing difficulty competing with larger suburban shopping facilities to the north. Interest could be generated in the local shopping district by some innovation and creativity.

The original Revitalization Plan, within the Belair Road Study adopted in 1980, continues to be relevant. In the last eight years very little real revitalization was done, other than some streetscape work along Belair Road.

ACTIONS:

Short-Term

- complete Phase I of Belair Road streetscape, beginning at the City/County line.
- negotiate with the MTA on behalf of a local merchant to occupy a new commercial space inside the old trolley car loop still used by MTA buses. The building is in disrepair, but could be maintained by the tenant in exchange for a reduction in rent.

Long-Term

- organize a strong merchant's association.
- establish signage/design guidelines with funding sources for building renovation or expansion.
- implement signage including Baltimore County entryway markers.
- investigate what retail or other uses would be complementary, and help the area market space for those needs.

ISSUE: Initiating Revitalization in Parkville

The commercial core of Parkville is located along Harford Road, between the Beltway and the city line. Strip commercial development extends from the Beltway northward.

The area has not been a part of the revitalization program to

this point and a comprehensive plan is needed to give direction to the revitalization efforts. In the interim, some minor improvement would make a significant impact.

The commercial area appears to be basically healthy and the business association is active and eager to participate in revitalization efforts. At this time the most significant issues are deterioration of infrastructure, parking and traffic concerns, need for pedestrian amenities and beautification.

ACTIONS:

Short-Term

- develop village logo and begin to promote its widespread use
- reevaluate metered parking and no parking zones.
- clear up signage to reduce clutter and to provide adequate directional signage.
- provide additional pedestrian amenities, primarily waste receptacles, benches and telephones.
- reconfigure and beautify central parking area to serve as attractive focal point for the center of Parkville.
- conduct a comprehensive study of the area and formulate a plan to guide implementation of significant capital improvements in Parkville.

Long-Term

- assist the business association to market the areas and to evaluate the most effective means of organizing their group.
- design and install streetscape improvements.
- develop design standards to encourage compatible development and redevelopment.

COMMERCIAL CORRIDOR IMPROVEMENTS

As indicated at several other points in this Master Plan, the primary function of arterial highways should be to accommodate the steady flow of through traffic rather than providing access to abutting properties. The Eastern Sector has its share of arterial highways compromised by strips of conflicting commercial development.

This development is in many cases a nuisance to adjoining residential areas. The alternative use, more commercial development, would merely compound the traffic and other conflicts.

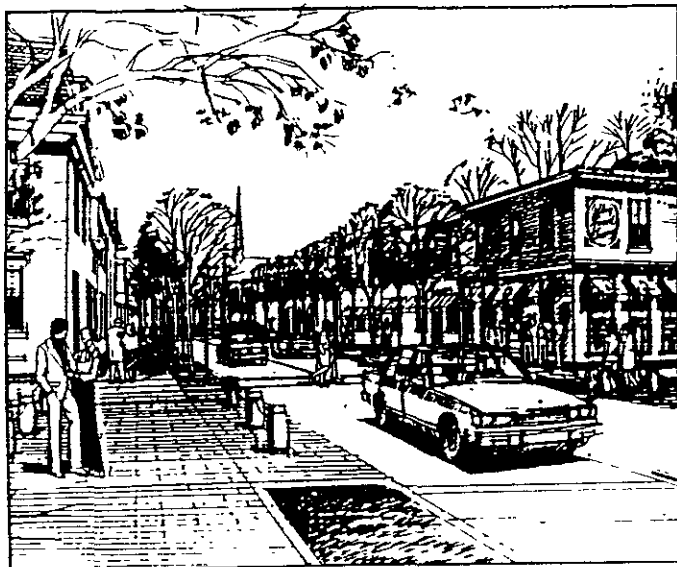
Creative solutions to these design, land use and traffic situations are needed as much in the Eastern Sector as elsewhere in the County.

ISSUE: Belair Road

This four lane highway carries exceptionally heavy traffic along most of its seven miles through the Eastern Sector. Intense commercial development occupies much of its frontage, especially south of Joppa Road, but there are also many existing residences and even some undeveloped land, particularly north of Forge Road.

The southern segment of Belair Road, between the City/County line and the Beltway, contains the commercial core of the Overlea Revitalization District. The streetscape and improvements in this area should be continued, but the commercial uses should not be allowed to extend any further into adjoining residential areas.

Northeastward from the Beltway (all the way to the Falls), Belair Road forms the northwestern boundary of the Perry Hall - White March Growth Area. Because of the need to complete the major road network within the Growth Area



of the traffic circulating within this large, rapidly growing area is forced to use Belair Road for local trips. This compounds the congestion from the heavy volumes of commuter traffic, and increases the danger of turning movements to and from the adjoining businesses. The State has scheduled a massive road widening project for Fiscal Year 1993, which will cost more than \$21 million just for the 2.1 mile segment from the Beltway to Silver Spring Road.

ACTIONS:

1. Because so many of the existing homes and businesses are close to the present curb line on Belair Road, the ultimate effects of the widening project are not yet known. The County will work with the State Highway Administration in preparing a corridor plan to identify the appropriate future land uses along Belair Road. The land use and zoning implications of widening Belair Road, including the loss of frontage for residences, relocation possibilities for commercial and residential uses negatively affected by the widening, and land assembly opportunities, will be examined. The Plan will be coordinated with the Maryland Department of Transportation's planning and construction schedule for Belair Road.
2. Pending the completion of a corridor plan, the County will continue to resist requests to extend commercial zoning along Belair Road except in situations where the proposal would clearly be in the public interest by demonstrably improving the appearance and traffic flow on Belair Road.

ISSUE: Philadelphia Road

Originally the principal route northeastward from Baltimore, Philadelphia Road is principally a local service road. The 10 mile segment of Philadelphia Road through the Eastern Sector is principally commercial southwest of Rossville Boulevard. Northeastward, it is bordered by a variety of scattered uses including much open, undeveloped land.

The situation is expected to change, however. Between Rossville Boulevard and the Gunpowder Falls, Philadelphia Road lies within the Perry Hall - White Marsh Growth Area. Since the land use patterns east of Kennedy Highway have been confirmed through the 1988 Comprehensive Zoning, it is clear Philadelphia Road will eventually have to be improved to accommodate the anticipated traffic. This Plan will also include the area from Rossville Boulevard west to the city line with recommendations made regarding the future use of land within the corridor. The Plan should be completed before the 1992 Comprehensive Zoning Process.

ACTION:

In cooperation with the State Highway Administration, community organizations and affected landowners, the County will prepare a corridor plan dealing with future land use, community protection, thoroughfare and intersection improvements, and the unique needs of subareas within the corridor.

ISSUE: Pulaski Highway

Built in the 1940s to be a safe, modern, high speed replacement for carrying the interstate traffic then using narrow, winding Philadelphia Road, Pulaski Highway has evolved a character quite different from the attractive cross-country motorway originally envisioned. Pulaski Highway has become lined by a hodge-podge of business, trucking and manufacturing activities.

Development along Pulaski Highway has resulted in the same type of safety and visual problems afflicting Belair Road and other arterial highways in the County. The Pulaski Highway

situation has three key elements that might result in a much improved corridor in the segment northeastward from Martin Boulevard.

First, Pulaski Highway retains almost all of its original wide, grassed median strip. There is still a very significant opportunity to add trees and other dense landscaping that will substantially improve safety as well as appearance.

To the extent the Worldbridge Project fulfills its promise of becoming a major east coast international trade and tourism center, it will inevitably stimulate demand for restaurants, hotels, service stations and many other elements of the "hospitality" industry. The Pulaski Highway corridor is relatively remote from most residential areas. It is bordered by many economically marginal uses, and much sparsely developed frontage. Its present zoning could lead to strip commercial development. A more positive alternative would be a carefully designed and controlled high quality redevelopment for visitor services linked to the general I-95 traffic as well as to Worldbridge.

Pulaski Highway's future is linked to the Perry Hall - White Marsh Growth Area, for which it forms the eastern boundary. As reaffirmed in this Master Plan, the general area between Philadelphia Road and Pulaski Highway, which is also traversed by the CSX railroad mainline, should house a major part of the Growth Area's industrial development. Given careful attention to design and buffering, this concept is compatible with the idea of high quality redevelopment for tourism services.

ACTION:

As part of the detailed analysis of the effects and opportunities associated with the Worldbridge project, the County will devise feasible mechanisms to facilitate the redevelopment and general upgrading of quality along Pulaski Highway. Particular attention will be given to early action on intensive landscaping and signage control.

ISSUE: Eastern Avenue and Boulevard

The corridors of generally continuous commercial uses and the challenges for improvement along Eastern Avenue occur in three principal segments: through Essex from Back River to Marlyn Avenue, along Eastern Boulevard from Marlyn Avenue to Middle River, and from the east side of Martin State Airport to Bowley's Quarters Road.

ACTIONS:

1. The County will work with the business community for street-scaping, landscaping, signage control and other improvements along Eastern Boulevard from Marlyn Avenue to Middle River.
2. In evaluating the possible impact of commercial development stimulated by the Worldbridge project, the County will be particularly attentive to preventing strip commercial development eastward from Martin Airport.

ISSUE: North Point Boulevard

The North Point corridor essentially consists of two generally parallel highways traversing the spine of the Patapsco Neck from Eastpoint to Edgemere. The original Old North Point Road is basically a local street still retaining some residential uses among the small businesses. Its replacement, North Point Boulevard, is typical of its era, with a relatively wide grassed median similar to Pulaski Highway.

North Point Boulevard, with its almost continuous shallow strips of liberal business and manufacturing zoning, developed a typical mixture of stores, service stations, small factories,

AFFIDAVIT

P.C. # 10
I.D. only

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

(check)
I hereby swear upon penalty of perjury that I am currently
a duly elected member of the (Board of Directors) (Zoning
Committee) of the Perry Hall Improvement Association, Inc.

ATTEST:

B. H. G. A.

C. Enari

Secretary

10/2/98

Wm Leberici

President

*Order
to
Gover*

Perry Hall Improvement ASSOCIATION

(not)

RESOLVED: That the position of the Perry Hall Imp. Assn
Association as adopted by the (Board of Directors) (Zoning Committee)
on the zoning matter known as:

*Appeal to 98 198A
Schmaltown Property
Balai Rd*

is that:

*any sign variance requested
on the subject property not allowed
under current signage regulation
be denied.*

AS WITNESS OUR HANDS AND SEAL THIS 12th DAY OF Oct
19 96

ATTEST: P. H. I. A. ASSOCIATION

C. Enrich
Secretary

Wm. Liburci
President

AS A RESIDENT OF PERRY HALL, I HAVE NO OBJECTION TO THE SCHMIDBAUER
REALTY SIGN LOCATED AT 9431 BELAIR ROAD.

IN MY OPINION, THE SIGN IS QUALITY MADE AND VERY ATTRACTIVE WITH A
TOUCH OF CLASS. IT IN NO WAY DEGRADES OUR NEIGHBORHOOD.

I CAN CERTAINLY UNDERSTAND THAT A BUSINESS WOULD NEED A
RECOGNIZABLE SIGN CONSIDERING THE HIGH RATE OF SPEED TRAVELING ON
BELAIR ROAD.

SINCERELY,


NAME
4101 KENNESAW RD
ADDRESS
BROOK B 21236

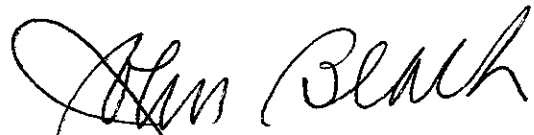
Det Ex #4
signed letters of
support

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SINCERELY,



NAME 21 Powhust Ct

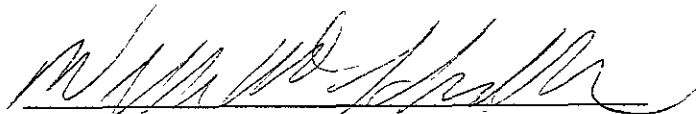
ADDRESS Suttons rd 21236

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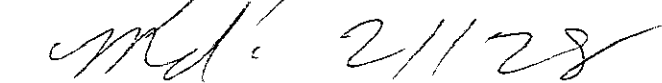
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SINCERELY,


NAME


ADDRESS

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SINCERELY,

Janice L. Calk
NAME

46 Surrey Ln
ADDRESS

Balto. MD 21236

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SINCERELY,

Anna B. Nolan

NAME

4348 Reun Ave

ADDRESS

Baltimore, MD, 21236

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SINCERELY,

Nicholas J. Tolson
NAME

4342 Penn Ave.
ADDRESS

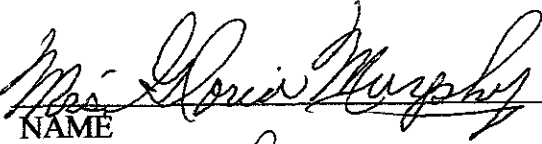
Baltimore, Md 21236

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SINCERELY,


NAME

4342 PENN AVE

ADDRESS

BALTO. MD 21236

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SINCERELY,

Frank Cappelletti
NAME
90 Lovelock Ct.
ADDRESS
Belt MD 21236

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SINCERELY,



DAVID LaRoche
NAME

31 CEDARCONE CT
ADDRESS

BALTO MD 21236

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SINCERELY,

Connie Lally
NAME

9010 Hines Rd.
ADDRESS

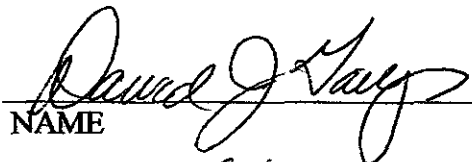
Buick, Ind. 46123

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SINCERELY,

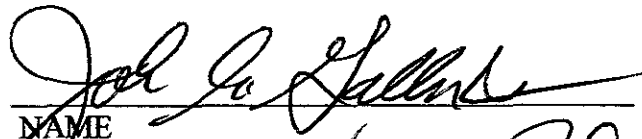

NAME
3707 Red Berry way
ADDRESS
Baltimore MD 21236

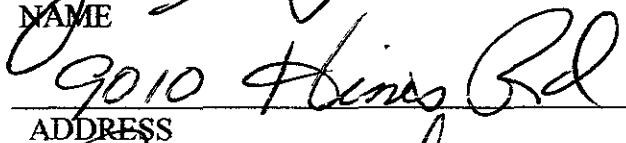
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SINCERELY,


NAME


ADDRESS



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BELAIR ROAD.

SINCERELY,

Paul Kemp
NAME

9540 Bowen Ave 21236
ADDRESS

AS A RESIDENT OF PERRY HALL, I HAVE NO OBJECTION TO THE SCHMIDBAUER REALTY SIGN LOCATED AT 9431 BELAIR ROAD.

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SINCERELY,

Leo M. Nolan

NAME

4342 Penn Ave

ADDRESS

Perry Hall, MD.

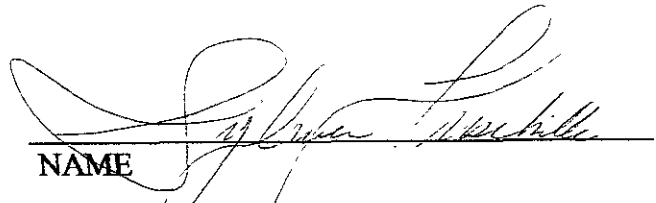
21236

AS A RESIDENT OF PERRY HALL, I HAVE NO OBJECTION TO THE SCHMIDBAUER REALTY SIGN LOCATED AT 9431 BELAIR ROAD.

IN MY OPINION, THE SIGN IS QUALITY MADE AND VERY ATTRACTIVE WITH A TOUCH OF CLASS. IT IN NO WAY DEGRADES OUR NEIGHBORHOOD.

I CAN CERTAINLY UNDERSTAND THAT A BUSINESS WOULD NEED A RECOGNIZABLE SIGN CONSIDERING THE HIGH RATE OF SPEED TRAVELING ON BELAIR ROAD.

SINCERELY,


NAME
3502 Mountree Pl.
ADDRESS
Baltimore MD 21230

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SINCERELY,

Angeline Mary Schmidbauer
NAME

10 Bangert Ave
ADDRESS

Perry Hall, Md. 21128

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I CAN CERTAINLY UNDERSTAND THAT A BUSINESS WOULD NEED A RECOGNIZABLE SIGN CONSIDERING THE HIGH RATE OF SPEED TRAVELING ON BELAIR ROAD.

SINCERELY,

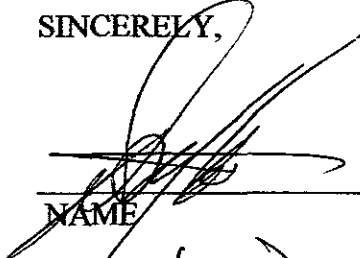
James Lombardo
NAME
428 Klausmier Rd.
ADDRESS
Balto, Md 21236

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SINCERELY,



NAME

9431 BELAIR ROAD

ADDRESS

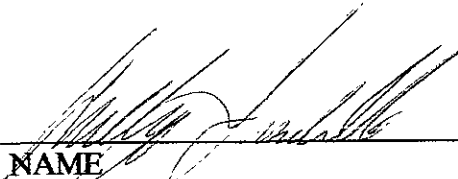
BALTIMORE, MD. 21236

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SINCERELY,


NAME

3502 Moultrie Pl
ADDRESS

Baltimore MD 21230

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SINCERELY,

Phil Lombardo
NAME

4020 KILRUSMIRE RD
ADDRESS

Baltimore MD #36

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SINCERELY,

Robert T. Cook

NAME

40 Surrig Ln

ADDRESS

Bath, MA 01506

AS A RESIDENT OF PERRY HALL, I HAVE NO OBJECTION TO THE SCHMIDBAUER REALTY SIGN LOCATED AT 9431 BELAIR ROAD.

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SINCERELY,

Mike Cook

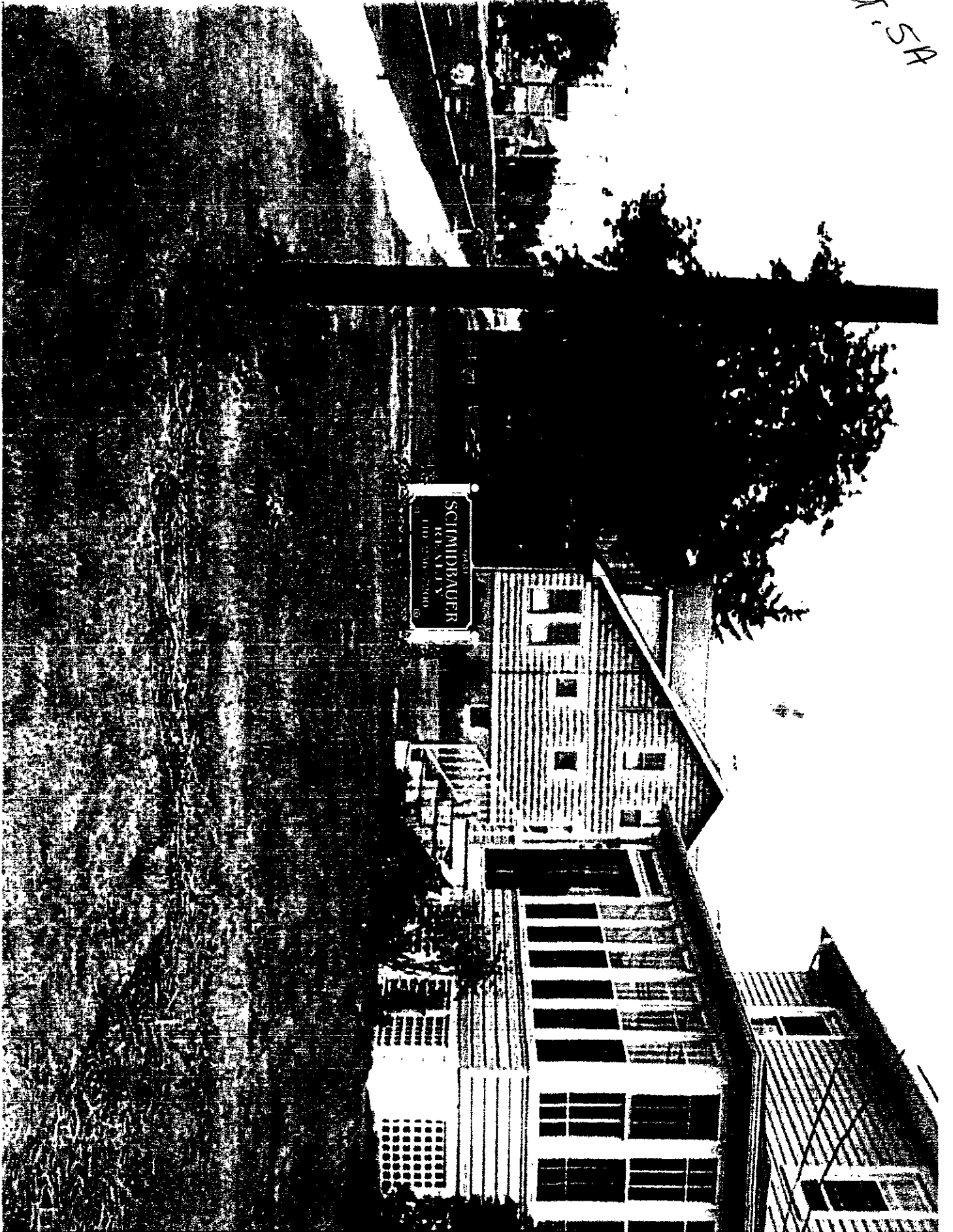
NAME

40 Surrey Lane

ADDRESS

Baltimore, Md 21236

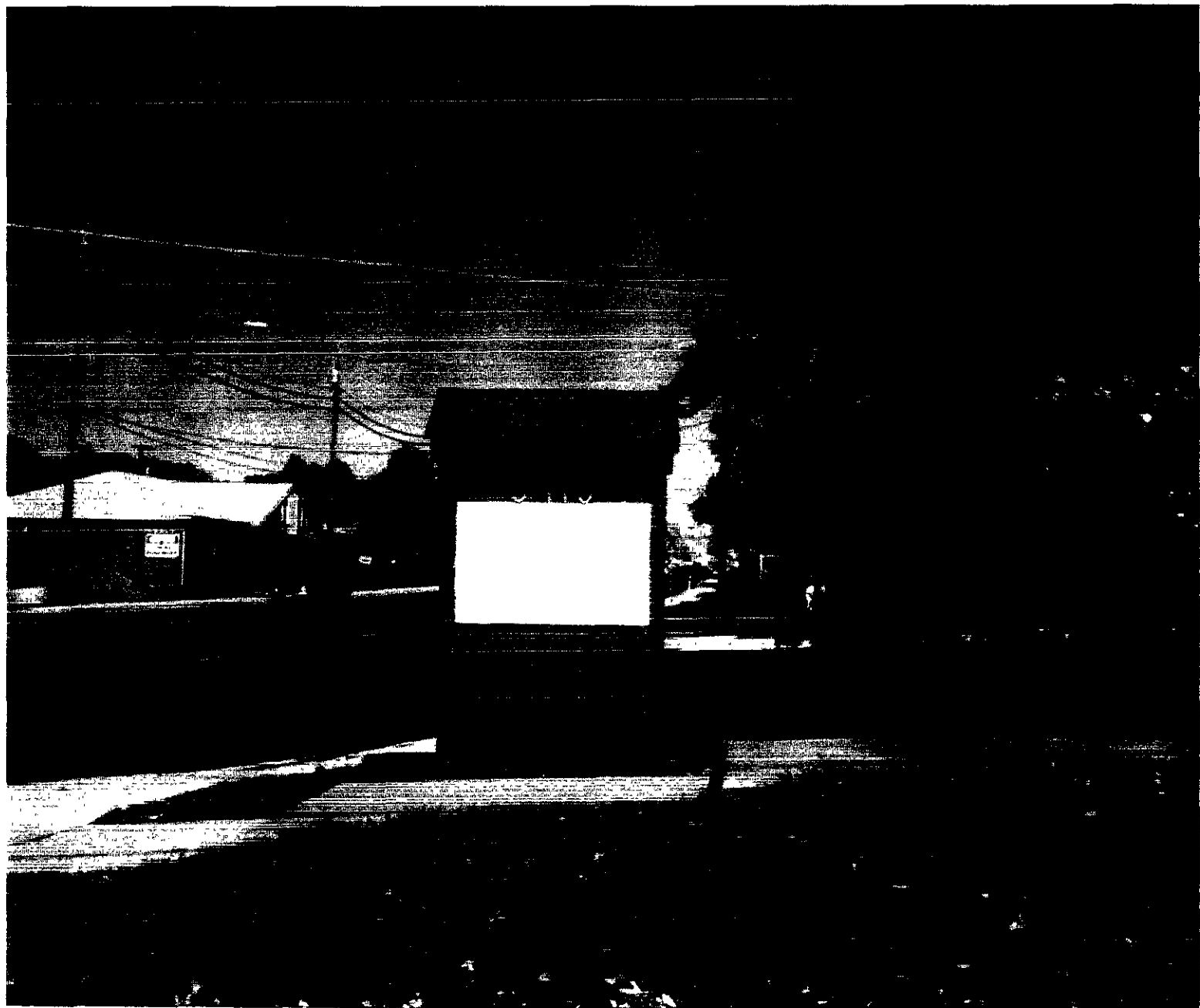
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Per. 5A



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2B

Pet. 5C



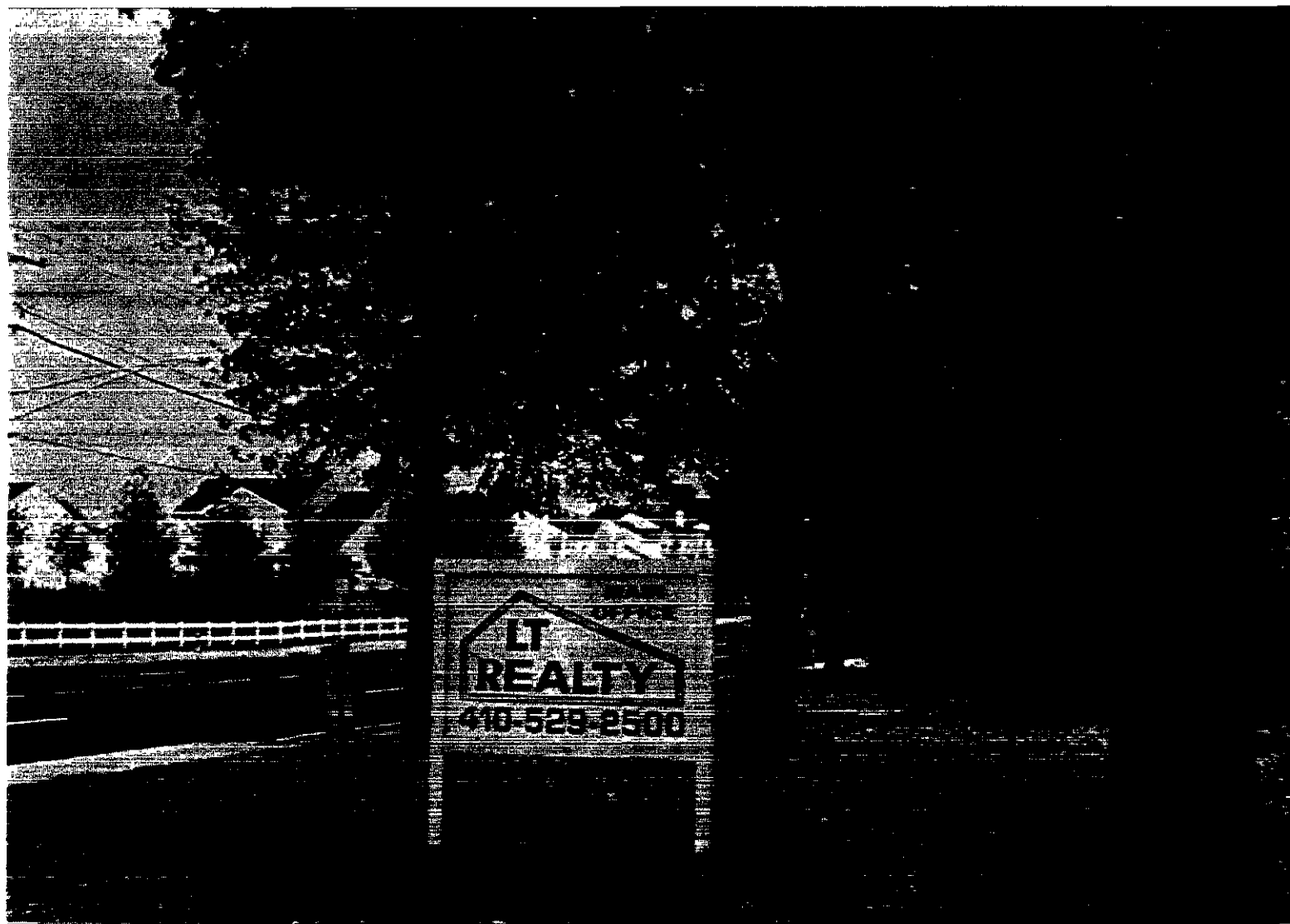
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HOLVORTH CORPORATION
529-7300
9423 BELAIR ROAD

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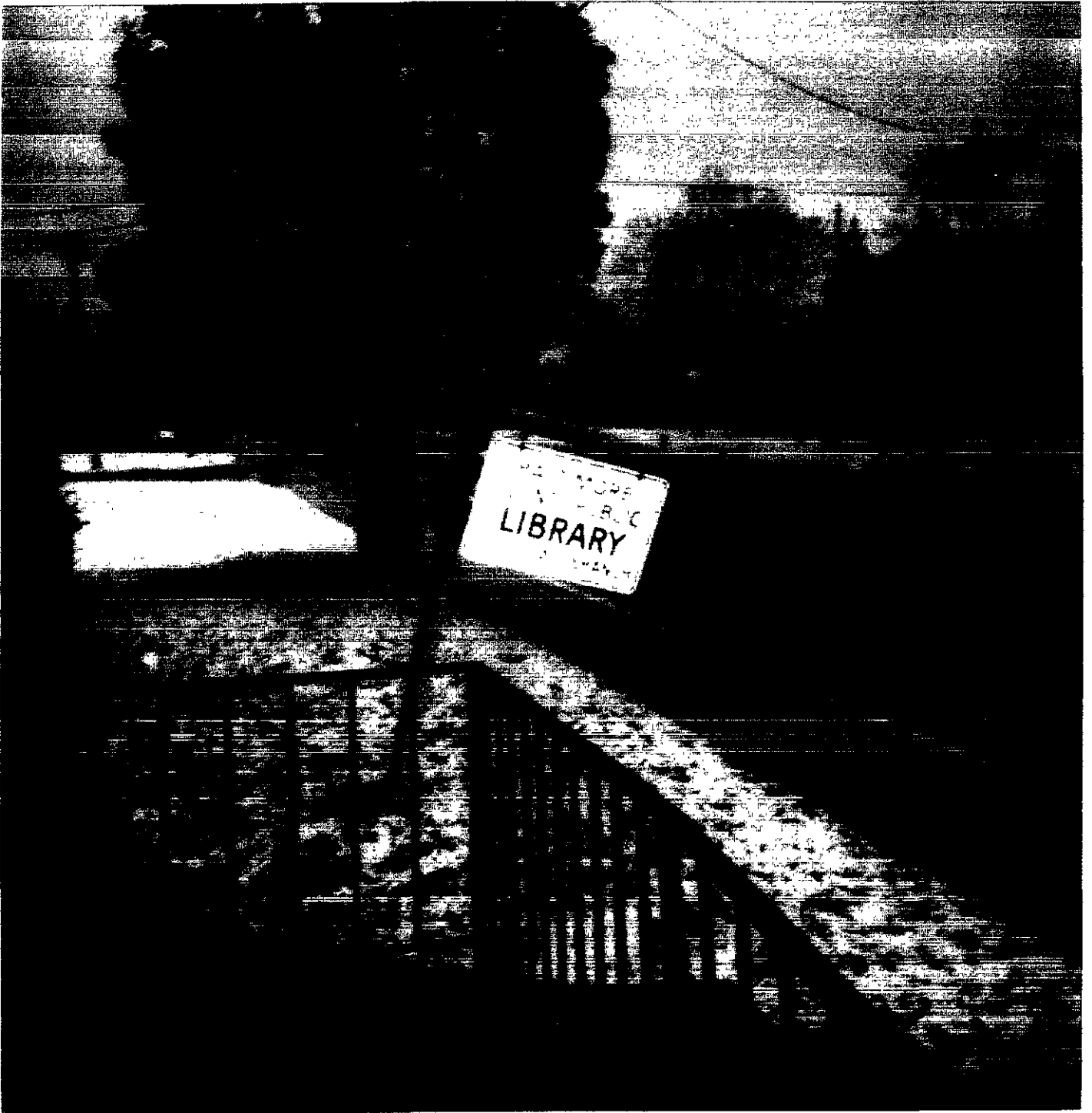


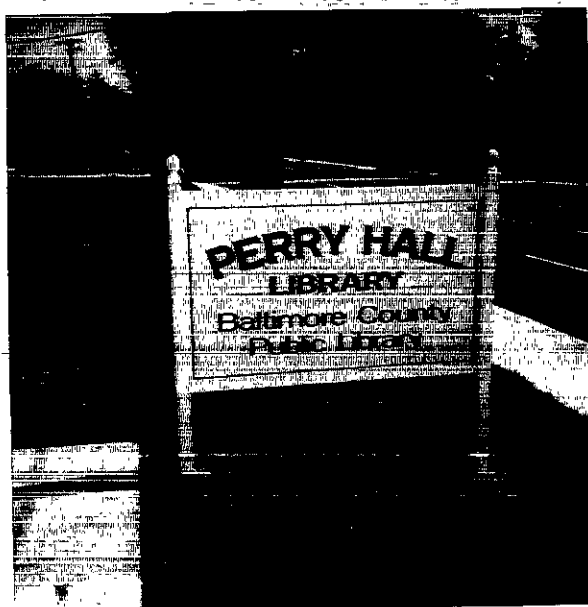
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Page 1

[1] IN THE MATTER OF: * BEFORE THE
 [2] DOROTHY CUNNINGHAM AND WILLIAM *
 [3] O. SCHMIDBAUER - Petitioners * BALTIMORE COUNTY
 [4] 9431 Belair Road, 11th Election *
 [5] District: 6th Councilmanic * BOARD OF APPEALS
 [6] Case No.: 98-198-A *
 [7] * October 13, 1998

[8] * * * * *

[9] The above-entitled matter came on for hearing
 [10] before the Baltimore County Board of Appeals
 [11] at 400 Washington Avenue, Old Courthouse, Towson,
 [12] Maryland 21204 at 10:57 a.m., October 13th, 1998.

[13] * * * * *

BOARD MEMBERS:

[14] KRISTINE K. HOWANSKI, Chairwoman
 [15] THOMAS P. MELVIN
 [16] MARGARET WORRALL

APPEARANCES:

[17] PETER MAX ZIMMERMAN, Esquire
 [18] On behalf of Baltimore County

[19] STEPHEN F. MARSALEK, Esquire

[20] On behalf of Petitioners

[21] Reported By:
 Shannon M. Wright

Page 2

[1] * * * * *
 [2]
 [3] THE CHAIRWOMAN: Okay. We're here on case
 [4] number 98-198-A in the matter of Dorothy Cunningham
 [5] and William Schmidbauer -- I hope I'm pronouncing that
 [6] correctly -- petitioners. This is on appeal from a
 [7] petition for variance which was granted by the deputy
 [8] zoning commissioner. If counsel would identify
 [9] themselves for the record.

[10] MR. MARSALEK: Steve Marsalek, 28
 [11] Allegheny Avenue, representing the petitioner.

[12] MR. ZIMMERMAN: Peter Max Zimmerman,
 [13] People's Counsel for Baltimore County.

[14] THE CHAIRWOMAN: Okay. Good morning,
 [15] gentlemen. Please have a seat and bring your parties
 [16] up here, if you want. Do you care to make an opening?

[17] MR. MARSALEK: Yes. I beg your indulgence
 [18] for one second.

[19] MR. ZIMMERMAN: I need to get my rule 8
 [20] material. May I have ten seconds? I've misplaced it.

[21] MR. MARSALEK: New legislation was adopted

Page 3

[1] by the county council on August 4th, 1997 which
 [2] dramatically impacted the sign regulations in
 [3] Baltimore County relative to an ROA zone, which is
 [4] applicable in the present case. This bill became
 [5] effective 45 days after the day of enactment. So that
 [6] would have been roughly the end of September.

[7] My client, Mr. Schmidbauer, conducts
 [8] business in the nature of a real estate office,
 [9] Schmidbauer Realty, at the particular location subject
 [10] to this case. And he contracted for cause to be
 [11] fabricated and had installed the sign prior to the
 [12] effective date of this bill.

[13] We do not dispute the fact that the
 [14] existing sign appears to violate the established
 [15] standards of the act. We were -- we had proceeded on
 [16] the basis of seeking a variance from that because of
 [17] the nature of the neighborhood.

[18] I don't -- I don't know that it's
 [19] necessarily irrelevant, but due to a misunderstanding
 [20] with the sign installer, the actual permit to install
 [21] the sign was not procured before the sign was

Page 4

[1] installed. Apparently, the guy that went over to the
 [2] county to apply for the sign found the line, and
 [3] elected not to weigh in the line, and he came back
 [4] sometime later.

[5] I do have with me a copy of the permit
 [6] that was -- that was issued to Mr. Schmidbauer
 [7] authorizing this particular sign. We argue that the
 [8] applicable standard set forth in this new regulation
 [9] is -- is far too oppressive due to the changing
 [10] application of the neighborhood, and, therefore, we
 [11] would be legitimately entitled to the variance that we
 [12] ultimately received.

[13] We use as a basis two reasons really.
 [14] Undue hardship and practical difficulty. And we're
 [15] going to show that in our presentation this morning.

[16] In the application for variance that was
 [17] tendered in November of '97, the petition was held by
 [18] the zoning commissioner December 30th of '97 which,
 [19] after receiving the wealth of testimony in that
 [20] particular case, issued a favorable finding for
 [21] Mr. Schmidbauer. And it is from that decision that

Page 5

[1] the People's Counsel has launched this appeal.
 [2] Due to this morning's delay, Mr. Zimmerman
 [3] and I have had opportunity to share a number of things
 [4] back and forth. And in the spirit of collegiality and
 [5] perhaps moving this along, rather than to go through
 [6] the painful introduction of all of this stuff, we were
 [7] just going to -- I was going to tender this to the
 [8] Board for their consideration.

[9] One would be, of course, the permit for
 [10] the sign. The second thing is an extract from the
 [11] advisory group report for the master plan 2010 Perry
 [12] Hall/White Marsh growth area update compiled by the
 [13] Baltimore Office of Planning dated August of '97.

[14] And the -- and I've highlighted for the
 [15] Board's consideration item 8 as part of the
 [16] recommended zoning guidelines of that report. Again,
 [17] I say that I've shared this with Mr. Zimmerman in
 [18] advance, and we agreed that there -- to process this
 [19] quickly, we would -- we would not do it in kind of a
 [20] conventional way.

[21] I have also a Belair Road corridor study

Page 7

[1] do, we suggest the Board make -- give it such weight
 [2] as it --

[3] THE CHAIRWOMAN: That's fine,
 [4] Mr. Zimmerman. We'll do that. And that is correct,
 [5] and we share your opinion about this. We'll have as
 [6] Petitioners' Exhibit 1 then the Baltimore County sign
 [7] use permit.

[8] MR. ZIMMERMAN: Does it have a date?

[9] THE CHAIRWOMAN: And that is 4-1-98.
 [10] Petitioners' Exhibit Number 2 will be the advisory
 [11] group report extract of the master plan, 2010 Perry
 [12] Hall/White Marsh growth area update. This is the
 [13] compilation of August of 1997, and the extract is for
 [14] page 21, recommended zoning guidelines.

[15] Then Petitioners' Exhibit Number 3 will be
 [16] the Belair Road corridor study extract. This is of
 [17] May 1995. And the extracts are, as Mr. Marsalek
 [18] indicated, from pages 4 and 7 of that study.

[19] And, finally, collectively as Petitioners'
 [20] Exhibit 4, we will have the signed petitions by local
 [21] residents. We will admit that into evidence given

Page 6

[1] that was done in May of '95. And I attached two
 [2] extracts from that as well from page 4 and page 7,
 [3] specifically item 9. And under the zoning findings,
 [4] item 1C that I've highlighted already for the Board's
 [5] consideration.

[6] Finally, I have with me a group of 22
 [7] petitions signed by local residents in the immediate
 [8] vicinity who support the sign. They were unable to
 [9] make it here this morning for this hearing. And they
 [10] asked collectively that you accept this signed
 [11] statement showing their signature, their address to
 [12] show their assent to this particular sign as
 [13] installed.

[14] THE CHAIRWOMAN: Okay.

[15] MR. ZIMMERMAN: Madam Chair, I'm not
 [16] raising any objection, although as I told
 [17] Mr. Marsalek, as to petitions, we don't think they
 [18] really are meaningful in zoning cases, that is, you
 [19] know, petitions signed by neighbors who don't show up
 [20] and testify or are not represented by an association
 [21] that has the rule 8 provisos. But we -- as we usually

Page 8

[1] that Mr. Zimmerman has not objected to it, but we
 [2] will -- and we will accord it the weight in which we
 [3] think it's entitled. I appreciate counsel for getting
 [4] that in my stipulations. We can move this along.

[5] MR. MARSALEK: I believe Mr. Zimmerman
 [6] also is going to make some introductions.

[7] THE CHAIRWOMAN: That closes your --

[8] MR. MARSALEK: Yes.

[9] MR. ZIMMERMAN: Yes, this is a case of
 [10] some significance. And the zoning history or the
 [11] history of the zoning legislation relating to signs in
 [12] the ROA zone is remarkable. This is a case involving
 [13] an ROA zone on Belair Road.

[14] Coincidentally, this Board, including two
 [15] members of the panel, had another sign case on Belair
 [16] Road in an ROA zone not too long ago, namely a case
 [17] called Norline. And because of the timing of the
 [18] filing of that case, it just predated the effect of
 [19] this -- of the new statute. So it went under the old
 [20] section 202.3C1. And their variance was denied. The
 [21] standard in 202.3C1 was six square feet sign area,

Page 9

[1] wall-mounted or projecting. And the request in that
[2] case was fifteen square feet.

[3] What happened in 1997 was that bill 89 was
[4] passed in August, effective September 19th. And it
[5] governs the present case, which was filed in November
[6] of 1997.

[7] Now, the -- the substantive standard, the
[8] six square feet, wall-mounted or projecting, remains
[9] the same. And there -- there is a chart in the new
[10] statute which I'm going to provide the Board to show
[11] that substance.

[12] But what we also find in the new statute
[13] is a section on administration and compliance which
[14] makes the review of variances even stricter than it
[15] otherwise already is under the case law. Under
[16] section 450.8 -- I'm going to review that, but first,
[17] I want to provide the Board a copy of the chart on
[18] page 4-136 as well as section 450.8.

[19] And I've already given this to
[20] Mr. Marsalek. And I have three copies, one for each
[21] panel member. If it's convenient, we can mark it.

Page 11

[1] But separately -- and I've highlighted
[2] this in yellow -- 450.8A2 says that, quote, "No
[3] special exception or variance may be granted if it
[4] will result in the authorization of a sign class which
[5] is not otherwise permitted for a particular zone or
[6] use by section 450.4," unquote.

[7] Now, I have looked through section 450.4.
[8] I've looked through the ROA zone regulations. What we
[9] find in the ROA zone regulation, by the way, is that
[10] 202.3C -- and we'll have a copy of this for you -- has
[11] been modified simply to refer to section 450.4 -- or
[12] to section 450.

[13] So if one looks in the ROA zone under the
[14] old sign section, it simply says signs are permitted
[15] as allowed in section 450. I have not found anything
[16] else in section 450 or in the chart which would allow
[17] a free-standing sign in the ROA zone. So I would have
[18] to suggest that, when all is said and done, whatever
[19] the testimony may be, as a matter of law, if this were
[20] a complaint in circuit court, I would file a motion to
[21] dismiss because the petition on its face cannot be

Page 10

[1] THE CHAIRWOMAN: It doesn't matter to me.

[2] MR. ZIMMERMAN: It's a copy from the code,
[3] from the Baltimore County zoning regulations. Yeah, I
[4] was going to suggest the Board take judicial notice.

[5] So what we find is on page 4-136 is one of
[6] the chart pages regarding enterprise signs. And
[7] subsection M -- this is section 450.4.1. Paragraph M
[8] denotes wall-mounted projecting signs, including
[9] commercial uses in ROA zones.

[10] And we find there that there is the
[11] six-square-foot standard in the ROA zone under column
[12] 5. So that's the same standard that's been carried
[13] over from the earlier law. So after all is said and
[14] done, the size and the type of sign is the same. Keep
[15] in mind that in column 2, you do not find any
[16] allowance for free-standing signs. All right?

[17] This request before you today is for a
[18] free-standing sign of 32 square feet. All right.
[19] What we also then do is go to section 450.8. And we
[20] find, first of all, that there's a new strict
[21] construction provision in section 450.8A1.

Page 12

[1] granted.

[2] This is the first time, as far as I know,
[3] that this provision of 450.8A2 has come into play at
[4] the Board of Appeals. I believe it's come into play
[5] or was raised in at least one zoning commissioner case
[6] recently involving a roof sign on another Belair Road
[7] case, not in an ROA zone, because the -- the new
[8] chart -- one of the interesting features of the new
[9] law is it does not allow roof signs. And as a result,
[10] a sign was denied. A roof sign was denied by the
[11] zoning commissioner in a recent case. I don't know if
[12] that's been appealed.

[13] So I pointed this out to Mr. Marsalek, and
[14] that would be our -- our first observation beyond
[15] that. Even -- even if that section were not here, we
[16] would be expecting the evidence to show that there's
[17] not anything truly unusual about this site; that
[18] there's no true practical difficulty as that as
[19] envisioned by the zoning.

[20] And the -- if the sign restriction in the
[21] current zoning law seems to the petitioner to be

Page 13

[1] oppressive, and if there are other offices being
 [2] converted along Belair Road, which is -- or buildings
 [3] converted to offices -- which is to be expected in the
 [4] ROA zone and perhaps in other areas as well, RO zones
 [5] as well. If these laws are too harsh, then they're
 [6] harsh for everybody. And the remedy is to go to the
 [7] county council instead of having 10 or 20 or 30 or 40
 [8] people coming in for variances.

[9] With that, I'm going to introduce various
 [10] documents at the outset, again to save time. And I've
 [11] shown them all to Mr. Marsalek. But before I do, let
 [12] me say who else is present today.

[13] We have Karen Brown from the planning
 [14] office, area planner. We also have Mr. Fred -- excuse
 [15] me. Dennis Eckard. And I did find the material
 [16] Mr. Eckard gave to me in my file. Mr. Eckard is vice
 [17] president of the Perry Hall Improvement Association.
 [18] And he has provided me with an affidavit and a
 [19] resolution -- an affidavit of his representation of
 [20] the association and a position on this case.

[21] And when I noticed the affidavit and the

Page 15

[1] MR. MARSALEK: -- the president and the
 [2] secretary are not here to testify, it would be
 [3] hearsay. We certainly can entertain, you know, the
 [4] testimony of the vice president.

[5] MR. ZIMMERMAN: Okay.

[6] THE CHAIRWOMAN: We'll deal with that when
 [7] we get to that witness.

[8] MR. ZIMMERMAN: All right. With that
 [9] done, I have a number of exhibits for the Board which
 [10] I've again provided to Mr. Marsalek already. Number 1
 [11] is bill 170-91. This is the original ROA zone
 [12] legislation. Page 4 shows the original section
 [13] 202.3C1 with the six-foot -- six-square-foot limit,
 [14] wall-mounted or projecting. I just assembled one of
 [15] those.

[16] Exhibit 2 is the planning board report
 [17] dated May 2nd, 1991 entitled "A residential office
 [18] zone, class A zone."

[19] THE CHAIRWOMAN: Very well.

[20] MR. ZIMMERMAN: Exhibit 3 is the portion
 [21] of bill 89-97 which shows the amendment of section

Page 14

[1] resolution -- I gave a copy to Mr. Marsalek -- I did
 [2] notice that the secretary of the association happens
 [3] to be Charles Marks, who is a member of the Board of
 [4] Appeals generally, but not sitting on this case. And
 [5] I felt it would be important to mention that -- to
 [6] disclose that to Mr. Marsalek so there was no question
 [7] about that.

[8] It does not appear to me that there's any
 [9] problem with that, but I felt that -- that I ought to
 [10] have that on the record. Because in zoning cases,
 [11] sometimes people complain about all sorts of things.
 [12] But Mr. Marks is the secretary of the association, and
 [13] obviously not -- not sitting on this case.

[14] THE CHAIRWOMAN: Obviously not. That's
 [15] right. Wouldn't be permitted to.

[16] MR. ZIMMERMAN: But I thought that ought
 [17] to be disclosed on the record.

[18] THE CHAIRWOMAN: Okay.

[19] MR. MARSALEK: I would just enter a
 [20] technical objection to the resolution. Since --

[21] MR. ZIMMERMAN: All right.

Page 16

[1] 202.3C1. It's pages 5 and 6 as well as the title page
 [2] of the statute.

[3] And, of course, the chart -- I have not
 [4] reproduced a second copy of the chart from the bill,
 [5] but the Board has the chart and regulations.

[6] Okay. Separately, regarding the property
 [7] itself, our Exhibit 4 would be the ADC map. We've
 [8] marked in yellow the area around Belair Road and
 [9] Halbert Avenue. This property is on Belair Road.
 [10] 9431 Belair Road north of Halbert Avenue.

[11] Our proposed Exhibit 5 is a two-page
 [12] computer printout regarding the property itself, along
 [13] with the tax map showing parcel 681. This shows the
 [14] Board the approximate location of the property on the
 [15] southeast side of Belair Road.

[16] THE CHAIRWOMAN: This is to be
 [17] collectively?

[18] MR. ZIMMERMAN: Yes. Perhaps I should
 [19] have stapled that. Here's a paper clip. What number
 [20] are we up to?

[21] MR. MELVIN: Five. Six.

Page 17

[1] MR. ZIMMERMAN: Exhibit 6 is the planning
[2] staff - planning director's comment on this case
[3] that's before us today. It actually refers to section
[4] 202.3C1. And, of course, that incorporates section
[5] 450 under the current statute.

[6] We have as proposed Exhibit 7 an excerpt
[7] of the Baltimore County master plan, pages 116 and 17
[8] regarding Belair Road.

[9] Exhibits 8A and B are the official
[10] Baltimore County zoning maps. Northeast 10G entitled
[11] Perry Hall, and northeast 11G also Perry Hall. And
[12] the reason for both maps is that you will see that the
[13] property falls very close to the corner of 10G, but
[14] off it, off the corner. And then we've marked in
[15] yellow, at the very bottom right-hand corner of map
[16] 11G, the approximate location of the property. And I
[17] think what we'll do is put that one up on the board.

[18] Do you have it marked now?

[19] THE CHAIRWOMAN: It's what, 8?

[20] MS. WORRALL: 8A and 8B.

[21] THE CHAIRWOMAN: A and B. That's fine.

Page 19

[1] where an avenue called Walker Avenue intersects Belair
[2] Road. And on the opposite side of Belair Road north
[3] of the DR35 zoning, when we get north of Walker Avenue
[4] we have DR55 zoning. It's basically a residential
[5] area with some converted residences along Belair Road
[6] into offices.

[7] So as I said, we don't think there's
[8] anything unusual about this situation. And if there's
[9] a feeling that this office and many other offices need
[10] better signage, should have better signage, we think
[11] the Board ultimately is going to find that that's for
[12] the county council to deal with. Thank you very much.

[13] THE CHAIRWOMAN: Okay. I guess for the
[14] record, we will admit 1 through 9, People's Counsel.
[15] People's Counsel 10 I suspect will be admitted once
[16] you go through the ruling and stuff with the witness?

[17] MR. ZIMMERMAN: Right.

[18] THE CHAIRWOMAN: But I will provide
[19] Mr. Marsalek the opportunity to object, and we'll deal
[20] with it at that time, because I assume they're being
[21] admitted as papers, and they are what they are. Very

Page 18

[1] MR. ZIMMERMAN: Okay. So this goes down.
[2] And we also do have, for sake of completeness,
[3] proposed Exhibit 9 as the thousand-scale zoning map
[4] that is one inch per thousand feet entitled Overlea,
[5] number 4C.

[6] Do you need to see this?

[7] MR. MARSALEK: No. I've seen it. I've
[8] seen it. That's fine.

[9] MR. ZIMMERMAN: Okay. And we will
[10] identify at this time the affidavit and resolution of
[11] the Perry Hall Improvement Association that I
[12] mentioned earlier. And that would be 12. Excuse me.
[13] Ten. Exhibit 10. A two-page exhibit.

[14] And to make a long story short, the Board
[15] will see that this property is one of a number of
[16] properties zoned ROA along Belair Road. And that the
[17] entire section here is zoned ROA on this side of
[18] Belair Road, which I have been calling southeast.

[19] Across the street, we have some DR35
[20] density residential zoning. We also have more DR35
[21] further north where an avenue called - across from

Page 20

[1] well. Your first witness.

[2] MR. MARSALEK: My first witness - I'm
[3] going to take them slightly out of order. I will
[4] introduce Karen as my first witness.

[5] THE CHAIRWOMAN: Go ahead up.

[6] K A R E N A M E R E I H N, called as a
[7] witness and having been duly sworn, testified as
[8] follows:

[9] DIRECT EXAMINATION

[10] BY MR. MARSALEK:

[11] Q. State your full name and business address
[12] for the record.

[13] A. Karen Amereihn, Schmidbauer Realty, 9431
[14] Belair Road.

[15] Q. Karen, you're employed by Schmidbauer
[16] Realty?

[17] A. Yes, I am.

[18] Q. And in what capacity?

[19] A. I'm a bookkeeper, secretary.

[20] Q. And you've been employed by

[21] Mr. Schmidbauer for approximately how many years?

Page 21

[1] A. Fifteen.

[2] Q. Now, you brought with you -- I'm going to

[3] kind of zip this through. You brought with you this

[4] morning a bunch of photographs.

[5] A. Yes, I did.

[6] Q. I would like to just -- since we only have

[7] one copy of these photographs, I wanted to just

[8] briefly show them to Mr. Zimmerman so he can take a

[9] look at them.

[10] MR. ZIMMERMAN: Are these the same ones in

[11] the file, or are these new ones?

[12] THE CHAIRWOMAN: Same ones in the file.

[13] MR. MARSALEK: They're pretty much the

[14] same ones in the file, yes. The only new one that we

[15] would -- that we would introduce is this. You'll

[16] notice where -- the initial file photo -- the stils

[17] are significantly higher. And we reduced that and

[18] landscaped it and --

[19] MR. ZIMMERMAN: Okay. Go ahead.

[20] MR. MARSALEK: And the other signs were --

[21] okay.

Page 23

[1] MR. MARSALEK: So this --

[2] THE CHAIRWOMAN: 5A? It's Exhibit 5A.

[3] Petitioners' Exhibit 5A.

[4] Q. (THE CHAIRWOMAN) So it's now

[5] freestanding, but on the ground?

[6] A. Yes.

[7] Q. (MR. MARSALEK) I have another -- I

[8] believe this is also a file photograph. And this is

[9] the First Preference sign that is just several doors

[10] away; is that correct?

[11] A. Yes, it is.

[12] Q. And that continues to exist as we stand

[13] here?

[14] A. Yes, it does.

[15] Q. And what is the address of that sign?

[16] A. 9309.

[17] Q. Okay.

[18] MR. MARSALEK: That is also, I think, in

[19] your file.

[20] MS. WORRALL: Now, wait a minute.

[21] THE CHAIRWOMAN: You had to admit it into

Page 22

[1] MR. ZIMMERMAN: Go right ahead with it.

[2] I'll stand up there.

[3] MR. MARSALEK: Okay.

[4] Q. Now, we have -- there is a -- there is, I

[5] believe, a file photograph, which would be this

[6] particular one, which would conform, I think, to this

[7] one which is Exhibit 1. Is that true?

[8] THE CHAIRWOMAN: This is Petitioners'

[9] Exhibit 1 below?

[10] MR. MARSALEK: Correct. This is an

[11] amplification of that photo.

[12] Q. Could you describe that picture to them

[13] and tell them exactly what happened?

[14] A. All right. We were asked to lower the

[15] sign. So we lowered the sign to the ground and

[16] landscaped around it.

[17] Q. And this was done in conjunction with the

[18] application for the variance?

[19] A. Yes.

[20] Q. Okay. And for the permit?

[21] A. Yes.

Page 24

[1] evidence. You can have this admitted into evidence

[2] again as a copy. That's fine.

[3] MR. MARSALEK: That would be Exhibit 2.

[4] THE CHAIRWOMAN: This would be 5B.

[5] MR. MARSALEK: 5B.

[6] MS. WORRALL: 5B.

[7] THE CHAIRWOMAN: At this point.

[8] MR. MARSALEK: Since you've already got

[9] them, we can --

[10] THE CHAIRWOMAN: 5C would be Specific

[11] Chiropractic?

[12] MR. MARSALEK: Yes. And you have this one

[13] as well?

[14] THE CHAIRWOMAN: How about if I speed it

[15] up. That's 9419. That's also Belair Road?

[16] MR. MARSALEK: Specific?

[17] THE CHAIRWOMAN: Yeah.

[18] MR. MARSALEK: Yes, that's correct.

[19] MS. WORRALL: Ninety-four what?

[20] MR. MARSALEK: Nineteen.

[21] THE CHAIRWOMAN: Nineteen.

Page 25

- [1] A. Can I say something about those two signs?
- [2] Q. Sure.
- [3] A. When I drive to work in the morning,
- [4] people are driving about 50 -- I'm driving 50. People
- [5] around me are driving 50 miles an hour. And there's
- [6] people flying by me. When I see that sign, that's
- [7] about a block and a half before our offices, and I
- [8] know to turn my signal on so somebody doesn't hit the
- [9] back of me. So thank God for that sign.
- [10] THE CHAIRWOMAN: 5D then would be First
- [11] Preference again?
- [12] MR. MARSALEK: First Preference.
- [13] Q. (THE CHAIRWOMAN) 9423?
- [14] A. Yes.
- [15] Q. Belair Road?
- [16] MS. WORRALL: Ninety-four what? I'm
- [17] sorry.
- [18] THE CHAIRWOMAN: Twenty-three. Then 5E is
- [19] this Power Comm, Inc.?
- [20] THE WITNESS: That's not the right one.
- [21] MR. MARSALEK: I don't think I have Power

Page 27

- [1] MR. MARSALEK: You've got that one?
- [2] MS. WORRALL: Is the library.
- [3] MR. MARSALEK: And this is the new library
- [4] sign.
- [5] THE CHAIRWOMAN: Okay.
- [6] Q. (MR. MARSALEK) Now, could you describe
- [7] the character of the businesses along Belair Road?
- [8] You heard Mr. Zimmerman in his opening remarks
- [9] indicate that this is predominantly residential. Is
- [10] that your --
- [11] A. Well, since we moved in, there's --
- [12] Q. Which was?
- [13] A. Well, the end of October. Or the end of
- [14] September, beginning of October.
- [15] Q. Of '97?
- [16] A. '97. There's been an insurance company
- [17] move in, a computer company, a mortgage company. And
- [18] these are all right in our vicinity. Next door to us
- [19] on both sides and down a couple.
- [20] Q. Encompassing the area that's shown on this
- [21] Belair Road corridor coming up; is that correct?

Page 26

- [1] Comm, Inc. Sorry. No. No, I don't have that.
- [2] MS. WORRALL: So we're omitting that?
- [3] THE CHAIRWOMAN: We don't have that. The
- [4] only other one I have is LT Realty. LT Realty?
- [5] MR. MARSALEK: We do have the LT Realty
- [6] sign. I think I made -- I made --
- [7] THE WITNESS: I do have it.
- [8] THE CHAIRWOMAN: We have it right now.
- [9] MR. MARSALEK: Yeah. That's fine. That's
- [10] it.
- [11] THE CHAIRWOMAN: That would be 5E. Are we
- [12] omitting Power Comm then?
- [13] MR. MARSALEK: No.
- [14] THE CHAIRWOMAN: He didn't want to.
- [15] MS. WORRALL: Then I have LT Realty as --
- [16] THE CHAIRWOMAN: 5D. If they're not
- [17] admitting LT Realty, then Power Comm is 5E.
- [18] MR. MARSALEK: Now, I have two additional
- [19] photos that -- the one photograph I would introduce as
- [20] the library photo, which looks like this one.
- [21] THE CHAIRWOMAN: We've got it.

Page 28

- [1] A. Yes.
- [2] Q. So is it -- do we understand correctly
- [3] then that it would be your testimony that since you've
- [4] moved in, in the few short months that you've been
- [5] there, roughly -- excuse me -- a year, you've got a
- [6] number of businesses moved into this area?
- [7] A. Right, yes.
- [8] Q. In terms of percentages, could you --
- [9] could you conjecture as to what the percentage of
- [10] business versus residential purely and simply on the
- [11] Belair Road corridor?
- [12] A. In the area that we're in, it's got to be
- [13] at least 99 percent, if not a hundred, right where we
- [14] are. Down about four blocks, there might be three
- [15] houses left that's residential.
- [16] Q. But in other words --
- [17] A. Where we are, it's all commercial.
- [18] Q. It's all commercial?
- [19] A. Yes.
- [20] Q. Do these buildings, these other commercial
- [21] buildings have signs on them as well?

Page 29

- [1] A. I know they have applied for signs and are
 [2] in the process of being made, as far as I know.
 [3] Q. Now, approximately when, do you know, did
 [4] Mr. Schmidbauer engage this sign work to be done?
 [5] A. It was like the beginning of September.
 [6] Q. Of '97?
 [7] A. '97.
 [8] Q. And that would have been before the --
 [9] before the effective date of this act that they're
 [10] talking about?
 [11] A. Right.
 [12] Q. And can you -- as the office manager, can
 [13] you tell us what -- what the cost of that sign was?
 [14] A. I believe it was 2700.
 [15] Q. And that was installed?
 [16] A. Yes.
 [17] Q. Now, on the two photographs that we have,
 [18] I could see that it was originally installed, perhaps,
 [19] several -- several feet above the ground, and then it
 [20] was actually lowered. Did Mr. Schmidbauer have to pay
 [21] additional --

Page 31

- [1] half before us. I put my signal on just so those
 [2] people know that -- you know, that I'm turning,
 [3] because they're moving at least 50 miles an hour. And
 [4] when I turn into that parking lot, I'm turning in that
 [5] parking lot probably at 40 miles an hour.
 [6] When I see that sign and our sign --
 [7] that's before our sign went up. People would drive
 [8] right by it and call our office. We have settlements.
 [9] They would call our office, "I can't find it. I can't
 [10] find it." And I think it's all because of the rate of
 [11] speed. And Belair Road is a busy road.
 [12] Q. Now, I'm going to show you the plat that
 [13] accompanied the petition for the zoning variance that
 [14] Mr. Zimmerman previously introduced as part of his
 [15] evidence. And this depicts the building. The sign is
 [16] shown right here in front of the building. And can
 [17] you tell me how wide this lot is according to what is
 [18] shown on this plat?
 [19] A. You talking a hundred feet? Or 549 wide?
 [20] Q. No, no. No, no. That's --
 [21] A. It's a hundred feet.

Page 30

- [1] A. Yes.
 [2] Q. -- to have that sign lowered?
 [3] A. Yes.
 [4] Q. Do you recall what that was?
 [5] A. I'm not positive about that.
 [6] Q. But I mean would it be fair to say that it
 [7] was more than a nominal sum?
 [8] A. Oh, yeah.
 [9] Q. I mean several hundred dollars?
 [10] A. Yeah, I would say several hundred.
 [11] Q. What -- you indicated earlier in your
 [12] remarks when you were -- when we first started out the
 [13] rate of speed along Belair Road at this point. Would
 [14] you again review that for us?
 [15] A. Every morning, I -- I don't know. I think
 [16] I just have a fear of being rear ended. And I look
 [17] down at my speedometer every single morning. And
 [18] they're going 50 miles an hour. A lot of people are
 [19] passing me.
 [20] So when I see that one sign, the First
 [21] Preference sign, I always -- it's about a block and a

Page 32

- [1] Q. It's a hundred feet wide. Do you know --
 [2] do you know how -- do you know how fast -- you were
 [3] testifying that at 50 miles an hour. Do you know how
 [4] many feet that is per second?
 [5] A. No, no.
 [6] MR. MARSALK: According to -- for the
 [7] record, simple mathematics. Traveling at the rate of
 [8] 50 miles an hour, that is 73.33 feet per second. So
 [9] that, in other words, the -- this is significant,
 [10] because if you look at the size of the sign that would
 [11] be permissible under these existing regulations, six
 [12] square feet would be two feet by three feet. And
 [13] should be attached to the building.
 [14] A car -- she's driving, she testified, at
 [15] the normal rate of speed in the normal flow. Now, at
 [16] 73 feet per second, if the property is only a hundred
 [17] feet wide, as shown on this map that was sealed by the
 [18] surveyor, you have less than one second to identify
 [19] the building and the address and make the swing into
 [20] the driveway as shown on this plat that's been already
 [21] introduced as evidence.

Page 33

[1] MR. ZIMMERMAN: Can we save argument for
[2] the end of the case?

[3] THE CHAIRWOMAN: Yeah. I was waiting for
[4] an objection, because it is argument. And actually it
[5] would be more than, but, still, you made your point,
[6] and it is a point for closing argument.

[7] MR. MARSALEK: Well, I understand, but I
[8] mean, in other words, since --

[9] THE CHAIRWOMAN: I understand. I hope you
[10] understand. You're making closing argument now.
[11] That's all.

[12] MR. MARSALEK: I know. I'll reserve that.

[13] THE CHAIRWOMAN: I'll certainly observe if
[14] you say -- and I'll check the calculation -- that 50
[15] miles an hour is 73.33 feet per second.

[16] MR. MARSALEK: No further questions.

[17] THE CHAIRWOMAN: Okay. Cross?

[18] CROSS EXAMINATION

[19] BY MR. ZIMMERMAN:

[20] Q. What's the speed limit on Belair Road in
[21] that area?

Page 34

[1] A. It's 40.

[2] Q. And, obviously, what you're suggesting is
[3] that nobody enforces the law?

[4] A. Every morning, I watch it.

[5] Q. The business -- the realty company that
[6] you work for, Schmidbauer Realty, was at another
[7] location before the fall or summer of last year?

[8] A. Yes.

[9] Q. Not on Belair Road?

[10] A. It was in Overlea on Belair Road.

[11] Q. It was on Belair Road?

[12] A. Yes.

[13] Q. All right. Okay. If I suggested to you
[14] that there are quite a number of residences along
[15] Belair Road in the vicinity of the subject property,
[16] would you disagree with me?

[17] A. I've tried to look for them, and I don't
[18] see them.

[19] Q. Okay. There are many houses -- many
[20] buildings that look like houses on Belair Road in that
[21] area, aren't there?

Page 35

[1] A. There are, but I know there's a lot of
[2] them that businesses moved in since we've been there.

[3] Q. Have you -- have you gone in and checked
[4] every single one in the last --

[5] A. No. They have come to me.

[6] Q. Okay. Every single one?

[7] A. No. I'm talking about the businesses that
[8] have moved in. They have come to me saying how nice
[9] our sign is and want to know --

[10] Q. Have you documented every single address
[11] along Belair Road?

[12] A. No.

[13] Q. And certainly behind the properties on
[14] Belair Road, as one goes to the rear, there are many
[15] residences, are there not?

[16] A. I would imagine so.

[17] Q. Okay. Now, mention was made in your
[18] direct testimony that Mr. Schmidbauer contracted with
[19] a sign contractor prior to the effective date of the
[20] new statute.

[21] A. Yes.

Page 36

[1] Q. Okay. And you're the office manager?

[2] A. I'm the bookkeeper.

[3] Q. Bookkeeper?

[4] A. Uh-huh.

[5] Q. Do you know whether anyone checked that
[6] under the old statute a variance was required?

[7] A. When we went to the sign company, he said
[8] he'd already talked to the county and -- just two days
[9] before, and everything was fine. And in the computer,
[10] he put it up on the screen. He said he knew exactly
[11] where the sign should be located because he had just
[12] checked into all this information. And we trusted
[13] him. That's his business.

[14] Q. Now, your office is a real estate office?

[15] A. Yes.

[16] Q. And how many people are employed there?

[17] A. Forty-five.

[18] Q. Okay. And nobody was aware of the 1991
[19] statute that limits the signs in ROA zones to six
[20] square feet? Not one of those 45 real estate
[21] professionals?

Page 37

- [1] A. Signs aren't our business. Not that kind
 [2] of a sign.
 [3] Q. Aren't real estate professionals supposed
 [4] to know something about zoning?
 [5] A. Again, we trusted the man that made the
 [6] signs, because we figured he knew more than we did.
 [7] Q. Okay. And you say that some other people
 [8] are applying for signs now in your area?
 [9] A. Yes.
 [10] Q. Are they requesting variances?
 [11] A. I don't know. They just came -- they
 [12] either called or they came in our office and said, "We
 [13] just opened an office down the street, and we really
 [14] like your sign. It really is nice looking." And, you
 [15] know, "Who did you use?" And "We're interested in
 [16] getting a sign also."
 [17] Q. Okay. So for all you know, they may be
 [18] putting up signs without the proper --
 [19] A. Well, I haven't talked to them since then,
 [20] so I don't know what they're doing.
 [21] Q. Okay. LT Realty is one of the signs you

Page 39

- [1] Schmidbauer Realty?
 [2] A. Yes.
 [3] Q. And in what capacity?
 [4] A. Manager and also a sales counselor.
 [5] Q. And were you present in the office for the
 [6] discussions with Mr. Fortney, the sign guy?
 [7] A. Yes. It was me, Mr. Schmidbauer and
 [8] Mr. Amereihn. And we were assured by the sign guy,
 [9] when we went up to talk to him about the sign, the
 [10] nature of the sign, the type of sign, that it wasn't
 [11] necessary. And he had checked with the county maybe a
 [12] few days before or whatever, that we probably didn't
 [13] need a permit. And that we would be okay with the
 [14] sign.
 [15] And, of course, he drew it up on the
 [16] computer. And we went through different styles. And
 [17] we didn't want anything to actually detract from the
 [18] area. We wanted something that was very professional.
 [19] We wanted something that looked very, very nice and of
 [20] a natural composition, which the sign is of wood.
 [21] And they did a very good job on it. I've

Page 38

- [1] mentioned, isn't it?
 [2] A. They have had their sign for a long time,
 [3] I believe.
 [4] Q. Yeah. Do you know the status of LT
 [5] Realty?
 [6] A. No, I don't.
 [7] MR. ZIMMERMAN: All right. Thank you.
 [8] That's all I have.
 [9] THE WITNESS: Thank you.
 [10] THE CHAIRWOMAN: Thank you. Any redirect?
 [11] Mr. Marsalek, do you have any redirect? Did you have
 [12] any redirect?
 [13] MR. MARSALEK: No, I don't. I'm sorry.
 [14] Mr. Graziano.
 [15] THE CHAIRWOMAN: Okay.
 [16] ALFRED GRAZIANO, called as a
 [17] witness and having been duly sworn, testified as
 [18] follows:
 [19] DIRECT EXAMINATION
 [20] BY MR. MARSALEK:
 [21] Q. Mr. Graziano, you are employed by

Page 40

- [1] had a lot of people come into the office there and
 [2] compliment it on such a real nice sign that was, you
 [3] know, installed there.
 [4] Q. Now, did Mr. -- were you present when
 [5] Mr. Fortney called over to the county?
 [6] A. No, I wasn't present when he called over
 [7] to the county. He assured us that we probably
 [8] wouldn't have a problem with it. He knew the
 [9] setbacks. He knew exactly where the sign should be
 [10] placed. He said that he had done, I believe, a job or
 [11] two for some other people along that route, and that,
 [12] you know, they were okay with their signs.
 [13] Q. Do you recall what those jobs were?
 [14] A. No, I don't. I really don't.
 [15] Q. Was he involved in the First Preference
 [16] sign, do you know?
 [17] A. I don't know that either, no.
 [18] Q. Or the LT Realty?
 [19] A. I don't know.
 [20] THE WITNESS: I'd like to interject
 [21] something here. I mean if I can.

Page 41

[1] THE CHAIRWOMAN: No, you may not.

[2] THE WITNESS: Okay.

[3] Q. Are there any other discussions that were
[4] had with Mr. Fortney either prior to or subsequent to
[5] the preparation and fabrication of this sign?

[6] A. No. We spent quite a bit of time with
[7] Mr. Fortney in the design of the sign, you know, the
[8] size of the sign. You know, different things. The
[9] graphics on the computer. It was really amazing what
[10] he did with the -- you know, the different styles and
[11] everything. And we had all agreed with actually, you
[12] know, what we wanted. Basically what we stressed was
[13] we wanted something that was very professional and
[14] would be attributable to the area.

[15] Q. In your estimation, does this sign blend
[16] suitably with the decor of the area?

[17] A. Above and beyond compared to some other
[18] signs, yes. Yes. I think our sign is much superior
[19] to some of these signs that have been up there for
[20] years, yes. It blends in with the environment. It's
[21] a very, very nice looking sign.

Page 43

[1] course, I can see the sign, which is a very good, you
[2] know, landmark there that I can turn. Because when
[3] they widened Belair Road, thank God they put in
[4] that -- you know, that turn lane there, because if
[5] they didn't, it probably would be a number of
[6] accidents.

[7] But, you know, with our sign being there,
[8] I can actually make the decision when to turn my turn
[9] signal on to get into the turn lane there to make the
[10] proper turn. But there are people coming in the
[11] opposite direction going, you know, in the excess of
[12] that speed of 40 mile an hour, yes.

[13] Q. So, perhaps, you could describe the
[14] character then of Belair Road. Belair Road used to
[15] be --

[16] A. Belair Road used to be a two-lane highway,
[17] basically speaking, which got overcrowded. And in our
[18] particular area there, the county, of course, in their
[19] wisdom seen forthright to, you know, do something with
[20] the widening of Belair Road with the amount of traffic
[21] that's going up and down there.

Page 42

[1] Q. Is it -- is the sign lighted?

[2] A. No, sign is not lighted. It is
[3] landscaped. As a matter of fact, within the permit on
[4] guidelines there, we had the sign lowered and
[5] landscaped. And when the zoning inspector came in to
[6] check and make sure what was done, he complimented us
[7] on the sign. And he was surprised to hear that there
[8] was an appeal or -- an appeal made in regards to the
[9] sign. He thought it was very, very nice what we did,
[10] and actually gave us a compliment on it.

[11] Q. You were present in the courtroom, and you
[12] heard Ms. Amereihn's testimony regarding the speed of
[13] Belair Road?

[14] A. Yes, yes, yes, yes. I --

[15] Q. Is that an accurate portrayal of what you
[16] personally have experienced on Belair Road?

[17] A. Yes, because I take Belair Road, but a
[18] shorter distance than what Ms. Amereihn does. I come
[19] from the opposite direction, from Klausmeyer Road.
[20] And coming in that direction, I've got to actually
[21] make a full turn into the office there. And, of

Page 44

[1] And I have to, you know, also attest to
[2] Ms. Amereihn's statement of, you know, how many
[3] residences are in our area there on Belair Road.
[4] Very, very few.

[5] The majority of the people that are buying
[6] the houses are buying them for commercial use. They
[7] see the opportunity there for the commercial use.
[8] And, you know, this is what's going on right now.
[9] It's a sign of the times. Belair Road is -- that
[10] particular corridor there is strictly a commercial
[11] area.

[12] Q. Now, getting back to the description of
[13] Belair Road. In other words, you testified that it
[14] was a two-lane highway. But do you mean that it's two
[15] way north and south, or --

[16] A. Well, right now it's -- as far as I'm
[17] concerned, it's a super highway compared to what it
[18] was.

[19] Q. Well, why do you make that distinction?

[20] A. Well, I make that distinction because
[21] people driving up and down Belair Road now are in the

Page 45

[1] excess of the maximum speed limit. I mean, you know,
 [2] the maximum speed limit at the present time is 40 mile
 [3] an hour. But it's very rare that you might see
 [4] someone doing 40 mile an hour.

[5] I mean, I have them whizzing by me like
 [6] anything. That's the same true as out on the Beltway
 [7] or even on 95 here. I mean, if you do the speed
 [8] limit, I mean, people are blowing their horns.
 [9] They're passing by you like you're standing still.
 [10] And this is what's become of Belair Road. Absolutely.

[11] Q. Now, when was Belair Road widened?

[12] A. As a matter of fact, when we were moving
 [13] in last year, they were still in the process of doing
 [14] some road work there. They were still in the process
 [15] of, you know, doing certain things and everything
 [16] else, yes.

[17] Q. So it seems to me then, what you've
 [18] indicated from your testimony, that there are actually
 [19] two lanes going north?

[20] A. Yes.

[21] Q. Two lanes coming south?

Page 47

[1] Q. Well, here's Belair Road.

[2] A. Okay.

[3] Q. Out here.

[4] A. Uh-huh.

[5] Q. Now, what does this plat show? Here's
 [6] Belair Road. Here's the line of Belair Road.

[7] A. Right.

[8] Q. Now, what is this in here, this area in
 [9] here?

[10] A. I believe this is the sidewalk, isn't it?
 [11] Is it not?

[12] Q. So there's a sidewalk?

[13] THE CHAIRWOMAN: Mr. Marsalek, we'll
 [14] accept that. If you have a plat and you've got the
 [15] number, you can just save those for closing arguments.
 [16] I don't think the witness --

[17] MR. ZIMMERMAN: I don't think the -- does
 [18] the plat show the front yard width?

[19] MR. MARSALEK: Uh-huh. Hundred feet.

[20] MR. ZIMMERMAN: The width. I'm sorry.

[21] The distance from the building to the street. You

Page 46

[1] A. And a turning lane.

[2] Q. And a turning lane in the center?

[3] A. Yes, yes.

[4] Q. So it's basically five full lanes?

[5] A. Yes. Right now it is. It's a very

[6] wide -- and like I said, I compare it to a super

[7] highway right now because of the conditions of the

[8] roadway. And if I'm not mistaken, I believe up in

[9] the -- above Chapel Road there, they're widening it,

[10] you know, to accommodate, you know, what they have

[11] done down here in our section there. They're in the

[12] process of widening that section up there right now.

[13] Q. Okay. Now, I have -- we were talking a

[14] moment ago about the plat that accompanied the

[15] petition for zoning variance. And you're familiar

[16] with this plat? You've seen it before, have you not?

[17] A. Yes, sir. Yes, sir. Yes, sir.

[18] Q. Now, can you tell us how far from the
 [19] street line the building is located?

[20] A. From the street line? What do you mean,

[21] "the street line"?

Page 48

[1] could get a ruler.

[2] MR. MARSALEK: Thirty feet.

[3] MR. ZIMMERMAN: Thirty feet.

[4] THE CHAIRWOMAN: We'll accept it.

[5] MR. ZIMMERMAN: I don't disagree that it's
 [6] 30 feet.

[7] MR. MARSALEK: Okay.

[8] Q. Is there, in your estimation, a

[9] distinction between the properties along Belair Road

[10] and the side streets? Do they maintain the same

[11] character as the Belair Road properties?

[12] A. Well, the side streets are mostly, I

[13] believe, residential. They consist of very nice

[14] homes, and, you know, things of that nature. But

[15] Belair Road itself is far from that. It's far from

[16] that.

[17] You know, here again, too, I hate to keep

[18] repeating myself, but it's mostly all commercial along

[19] Belair Road there. And the handwriting is on the

[20] wall. It's going to stay that way. And the people at

[21] the present time are getting more money for their

Page 49

[1] houses with the understanding that, you know, it is
 [2] commercial than they would have done if it was just
 [3] residential.

[4] Q. So in your capacity as a realtor -- how
 [5] long have you been a realtor?

[6] A. Fifteen years.

[7] Q. Fifteen years?

[8] A. Yes, sir.

[9] Q. So according to your experience and
 [10] expertise on this stuff, in other words, a commercial
 [11] building is worth --

[12] A. A whole lot more, yes. Yes. Yes.

[13] Q. What would -- what would the value of a
 [14] residential home be in this area of similar size --

[15] A. On that road strictly residential?

[16] Q. No. On the back streets.

[17] A. On the back streets? You're probably
 [18] looking at about -- I'm going to say around \$150,000
 [19] or less, or maybe even a little bit more. You know,
 [20] somewhere between that figure.

[21] Q. And how would the price be affected if it

Page 50

[1] were commercial --

[2] A. Commercial, you're looking at I know
 [3] anywhere, I'm going to say around 250, 300, maybe 350.
 [4] Somewhere around there. Whatever it is the building
 [5] has to offer. Definitely. Definitely.

[6] MR. MARSALEK: No further questions.

[7] CROSS EXAMINATION

[8] BY MR. ZIMMERMAN:

[9] Q. Sir, are you a licensed real estate
 [10] salesman?

[11] A. Yes, sir.

[12] Q. Okay. When you take a real estate exam,
 [13] is it part of that exam to understand that there's
 [14] something called zoning that relates to real estate?

[15] A. Yes. I understand that, but the zoning
 [16] doesn't cover the majority of the real estate
 [17] licensing tests. There may be just a few questions
 [18] regarding zoning.

[19] Q. Okay. Did you know that signs are
 [20] regulated by zoning?

[21] A. Yes, I do.

Page 51

[1] Q. Okay. Did anyone in that office -- does
 [2] your office possess a copy of the Baltimore County
 [3] zoning regulations?

[4] A. I believe we do, yes, sir.

[5] Q. And nobody in that office opened the
 [6] regulations up to see what they were on signs in ROA
 [7] zones?

[8] A. No, sir, nobody at that time opened the
 [9] book up to see the zoning regulations. Like was
 [10] mentioned before, we went to the sign gentleman. He
 [11] assured us that we shouldn't have a problem. We went
 [12] on his word. And with his instructions did what he
 [13] told us to do. And, you know, we thought we were
 [14] okay. I mean, you know, we were, you know --

[15] Q. So as a real estate professional, it's all
 [16] right not -- it's all right not to know about the
 [17] zoning regulations or not to check them before
 [18] going --

[19] A. No, no, no, no, no, no, no. You should
 [20] know about the zoning regulations, but in this
 [21] particular case, you know, we put our trust in the

Page 52

[1] sign gentleman, because that's what we were, you know,
 [2] hiring him for, to look out for our interests.
 [3] Definitely.

[4] Q. He didn't have to take the real estate
 [5] exam?

[6] A. What's that?

[7] Q. The sign contractor doesn't have to take a
 [8] real estate exam?

[9] A. I don't think he does, no, sir.

[10] Q. As far as -- the permit that's been
 [11] introduced into evidence is dated April 1st, 1998,
 [12] correct?

[13] A. The what?

[14] Q. The permit.

[15] THE CHAIRWOMAN: Sign permit.

[16] Q. The sign permit is dated April 1st, 1998?

[17] A. As far as I know, yes, sir.

[18] Q. Yeah. Is that when the zoning inspector,
 [19] that you spoke of in your direct examination, came out
 [20] and complimented --

[21] A. I don't have the exact date when he came

Page 53

- [1] out, but --
- [2] Q. Around that time?
- [3] A. I would say probably around that time,
- [4] yes, sir.
- [5] Q. So at that point, you already had the
- [6] zoning commissioner's approval subject to this appeal?
- [7] A. Yes, sir. He complimented us on the job
- [8] that he did. We were in compliance with what we were
- [9] supposed to do. Yes, sir.
- [10] Q. Now, let me ask you this. Your property
- [11] is how far from the intersection with Halbert Avenue?
- [12] A. I'm going to say probably within a block.
- [13] Q. Okay.
- [14] A. Maybe. Somewhere around there.
- [15] Q. And that's to the south? It intersects
- [16] from on the same side of the street?
- [17] A. Yes.
- [18] Q. Now, to the north on the other side of the
- [19] street, there's an intersection between Belair Road
- [20] and Walker Avenue; correct?
- [21] A. I'm trying to think. Between Walter?

Page 55

- [1] A. Yes. But being familiar --
- [2] Q. Is that correct?
- [3] A. Yes.
- [4] Q. And from the opposite side, do people make
- [5] left turns on Belair Road into your property? Can
- [6] they do that?
- [7] A. Yes. Yes. Yes.
- [8] Q. So on the other side of the street, you
- [9] tell them to look for the library, look for the Walker
- [10] Avenue street sign; it's just a block or so beyond
- [11] that?
- [12] A. Absolutely. Sure.
- [13] Q. And if they have been to the property
- [14] once, if, unfortunately, for whatever reason they have
- [15] driven past it, whether they're being tailgated or for
- [16] whatever reason, once they get to your property -- you
- [17] know, once you've been there, you know where it is,
- [18] correct?
- [19] A. I'd say yes and no on that. Definitely.
- [20] I mean, if you're not familiar with the area -- I know
- [21] at times myself, if I have been to one property, you

Page 54

- [1] Q. Walker.
- [2] A. Walker?
- [3] Q. If you go up Belair Road --
- [4] A. Right.
- [5] Q. -- on the left-hand side, Walker Avenue
- [6] intersects with Belair Road?
- [7] A. Right.
- [8] Q. Do you agree with that?
- [9] A. Yes. It's right up from the library.
- [10] Yes, sir.
- [11] Q. About a block? two blocks?
- [12] A. Probably about a block. Within a block or
- [13] so, yes, sir.
- [14] Q. There are street signs for Walker Avenue
- [15] and Halbert Avenue, are there not?
- [16] A. Yes, there are.
- [17] Q. Okay. So for anyone to go to your
- [18] property, among other things all you have to tell them
- [19] is to look for Halbert Avenue if they're coming up
- [20] Belair Road, and you're about a block past Halbert
- [21] Avenue?

Page 56

- [1] know, one time and then if I don't go back maybe for a
- [2] short period of time, I can't say I know directly, you
- [3] know, where you turn or whatever. You know, but I
- [4] mean, if you do it maybe 10 or 15 times, I might say
- [5] yes, you're correct.
- [6] Q. Before this sign was up, has it ever
- [7] happened that somebody going to your property was lost
- [8] for the whole day and never made it?
- [9] A. Well, I don't know that.
- [10] Q. All right.
- [11] A. I don't know that. But I know from
- [12] past -- when I pass the office down where we were
- [13] at -- pardon me -- people had a problem with, you
- [14] know, trying to find our office, yes.
- [15] Q. Okay. But did it ever prevent a real
- [16] estate transaction from occurring?
- [17] A. I wouldn't say it prevented a real estate
- [18] transaction from occurring, but it has held up a real
- [19] estate transaction, yes, sir.
- [20] MR. ZIMMERMAN: That's all I have.
- [21] THE CHAIRWOMAN: Any redirect?

Page 57

[1] MR. MARSALEK: Nothing further.

[2] THE CHAIRWOMAN: Thank you very much,

[3] Mr. Graziano. Your next witness?

[4] MR. MARSALEK: I would introduce

[5] Mr. Cappeletti.

[6] THE CHAIRWOMAN: The first name of your

[7] last witness?

[8] MR. MARSALEK: Alfred.

[9] MR. ZIMMERMAN: Off the record before we

[10] start.

[11] (Discussion was held off the record.)

[12] FRANK CAPPELETTI, called as

[13] a witness and having been duly sworn, testified as

[14] follows:

[15] DIRECT EXAMINATION

[16] BY MR. MARSALEK:

[17] Q. State your name and address for the

[18] record.

[19] A. My name is Frank Cappeletti. My address

[20] is 9 Lovelock Court in Perry Hall.

[21] Q. And that's in -- you say that's in Perry

Page 59

[1] percent or more, businesses of the type of the real

[2] estate office.

[3] Q. Specifically in this particular area, how

[4] many residential properties --

[5] A. Very few. Very few that are left. The

[6] few that are left, they have "for sale" signs on them.

[7] And mostly in that area, there are offices. There's a

[8] garage, Klausmeyer garage, which is catty-corner on

[9] the same side as the library. It's mostly becoming

[10] business. There's a day care center on that side.

[11] There's a Masonic lodge. So it's mostly businesses

[12] now. Those homes are being converted to offices.

[13] Q. And has that -- was that transition pretty

[14] much spread out over the whole 24 years, or is that a

[15] fairly recent occurrence?

[16] A. It would have started years ago, but in

[17] the last year or two, it has changed dramatically,

[18] especially with the widening of the road. The traffic

[19] there is very intense. And it's -- I don't think many

[20] residents want to stay on that road in that area.

[21] MR. MARSALEK: I have nothing further.

Page 58

[1] Hall?

[2] A. Yes, sir. It's about four blocks from

[3] Mr. Schmidbauer's real estate office.

[4] Q. By chance, did you happen to sign one of

[5] those --

[6] A. Yes, I did.

[7] Q. -- one of those 22 petitions?

[8] A. Yes, I did. I'm one of the people on

[9] there.

[10] Q. And how far are you -- do you reside from

[11] the office?

[12] A. About four blocks.

[13] Q. And about how long have you lived there?

[14] A. Twenty-four years.

[15] Q. Have you observed over that 24 years a

[16] change in the character of the neighborhood?

[17] A. Definitely.

[18] Q. Could you tell us what it looked like 24

[19] years ago?

[20] A. It was mostly residential. And today in

[21] that corridor, it's -- I would say it's mostly, 50

Page 60

[1] CROSS EXAMINATION

[2] BY MR. ZIMMERMAN:

[3] Q. Belair Road's been a four-lane road for

[4] years, hasn't it?

[5] A. It was a smaller version of its present

[6] self. They have always moved fast. The corridor that

[7] we're speaking of, which goes from Joppa Road all the

[8] way to Chapel, I think it is, before there's another

[9] red light.

[10] Q. Okay.

[11] A. And people -- a lot of commuters are

[12] coming in from Kingsville. And especially in the

[13] morning rush hour, people really fly.

[14] Q. Let me read you an excerpt from the

[15] Baltimore County 1989 master plan, and see if you

[16] agree with it or not. "This four-lane highway carries

[17] exceptionally heavy traffic along most of its seven

[18] miles through the eastern sector." That was

[19] nineteen -- quote, unquote. 1989.

[20] A. Oh, yeah.

[21] Q. So it's been a heavily traveled road for

Page 61

[1] years, hasn't it?

[2] A. Yes, sir. Well, it's been heavy, and it
[3] seems to be getting heavier. I think there are
[4] about -- I know in Perry Hall, they're about built
[5] out. I don't think you can put many more people in.

[6] MR. ZIMMERMAN: Thank you. I don't have
[7] any further questions, Madam Chair.

[8] THE CHAIRWOMAN: Okay. Redirect?

[9] MR. MARSALEK: No.

[10] THE CHAIRWOMAN: Thank you very much,
[11] Mr. Cappeletti. I don't know how you are timewise.
[12] Do you want to try to put her on?

[13] MR. ZIMMERMAN: Are you finished?

[14] MR. MARSALEK: I've got Mr. Schmidbauer.

[15] MR. ZIMMERMAN: How long do you
[16] anticipate?

[17] MR. MARSALEK: I don't anticipate very
[18] long.

[19] MR. ZIMMERMAN: Might as well let the
[20] petitioner finish.

[21] MR. MARSALEK: Call Mr. Schmidbauer.

Page 63

[1] Honor, with the sign man.

[2] THE CHAIRWOMAN: I understand that, but we
[3] only have the one party here. We don't have -- I'm
[4] not -- you know, we don't have Mr. Fortney here. And
[5] if there's a problem with what he did, you have -- you
[6] have a lawsuit against him that has nothing to do with
[7] this particular case. You know what I'm saying?

[8] MR. MARSALEK: Well, I do understand, Your
[9] Honor, but for the record, I did issue a subpoena for
[10] Mr. Fortney, and he's not here this morning.

[11] THE CHAIRWOMAN: Okay. Again, like I say,
[12] if there's a problem --

[13] MR. MARSALEK: Okay.

[14] THE CHAIRWOMAN: -- just for the sake of
[15] argument, you have a lawsuit against Mr. Fortney --

[16] MR. MARSALEK: Right.

[17] THE CHAIRWOMAN: -- paying for something
[18] that never should have been constructed. That has
[19] really nothing to do with this here, other than I
[20] gathered you thought you were reasonable in relying
[21] upon his representations, that, you know, he had it

Page 62

[1] State your full name.

[2] THE WITNESS: William Schmidbauer, 10
[3] Bangert Avenue, Perry Hall, Maryland 21128.

[4] WILLIAM SCHMIDBAUER,
[5] called as a witness and having been duly sworn
[6] testified as follows:

[7] DIRECT EXAMINATION

[8] BY MR. MARSALEK:

[9] Q. You can have a seat, Mr. Schmidbauer.

[10] Now, you're the owner of a business that is subject to
[11] this appeal; is that correct?

[12] A. Yes, sir.

[13] Q. And could you tell us -- tell the Court a
[14] little bit about your discussions with Mr. Fortney
[15] of -- Sign Design is his company; is that correct?

[16] A. Yes, it is.

[17] MR. ZIMMERMAN: I'm going to --

[18] THE CHAIRWOMAN: I will sustain, because I
[19] have been listening to hearsay all morning, and you
[20] haven't objected. But it is all hearsay, and --

[21] MR. MARSALEK: He had the discussion, Your

Page 64

[1] under control, and this is okay. And I think --

[2] MR. MARSALEK: Well, I think part of those
[3] discussions were actually held in Mr. Schmidbauer's --
[4] THE CHAIRWOMAN: Right. Two people
[5] already testified to this same hearsay.

[6] MR. ZIMMERMAN: Yeah. I think the reason
[7] I objected at this point is -- well, obviously, it
[8] would be hearsay in terms of the truth of what the --
[9] of what the sign man said. And, obviously, if he said
[10] that -- if he implied that it was legal, he was wrong.

[11] But several other witnesses said that --

[12] THE CHAIRWOMAN: As I said --

[13] MR. ZIMMERMAN: -- the petitioner relied
[14] on the sign man --

[15] THE CHAIRWOMAN: -- unless he's going to
[16] say something different --

[17] MR. ZIMMERMAN: I was going to say, unless
[18] it was something different from what the others said,
[19] but if it's just that they relied on the sign
[20] contractor --

[21] THE CHAIRWOMAN: We have heard, I think,

Page 65

- [1] what I've related. If that's basically what you were
 [2] going to say.
- [3] Q. Mr. Schmidbauer, you've owned this
 [4] property how long? Between --
- [5] A. Approximately a year and a half maybe.
- [6] Q. And did you purchase it from your mother?
 [7] Did she own it for some period of time?
- [8] A. No. We bought it -- we purchased it a
 [9] year and a half ago.
- [10] Q. I see. And the nature of your business,
 [11] you employ how many people in this area?
- [12] A. Maybe it's about 45 for both offices. And
 [13] in this area, maybe it might have been about 40 in
 [14] this area right here.
- [15] Q. Do you know what your present zoning is on
 [16] this office?
- [17] A. Yes. It's ROA.
- [18] Q. It's ROA. And could you tell us what the
 [19] amount of your tax bill is?
- [20] A. Probably close to \$4,000.
- [21] Q. And is that based upon a commercial

Page 67

- [1] with the county. Make sure you get all the necessary
 [2] permits so whatever has to be done."
- [3] And our sign man was a very -- very
 [4] popular in the neighborhood. And, again, being a
 [5] broker, I did rely on this man to do the proper thing.
- [6] But at that point, we did apply for our
 [7] variance. We -- I spent an awful lot of money on this
 [8] sign. We were asked to lower it. We lowered the sign
 [9] again. Planted shrubbery. We did everything by the
 [10] book. I don't ever stray away from there.
- [11] And in reference to Soth Avenue, LT
 [12] Realty, that's different than us. They're on the
 [13] corner of a side street. And there is some
 [14] residential properties there. But with us, we're
 [15] the -- it's several ROA zoned properties, plus your
 [16] heavier commercial properties. It's quite a bit
 [17] different where we're at. And I know you're comparing
 [18] us to the Soth Avenue property. But it is -- it is
 [19] quite a bit different from where we're at up here.
- [20] It's -- Soth Avenue, there's only one ROA
 [21] property right there. The rest is residential. Up

Page 66

- [1] zoning?
- [2] A. Yes.
- [3] MR. ZIMMERMAN: Objection. Can't be based
 [4] on commercial zoning. It's not commercially zoned.
- [5] MR. MARSALEK: Well --
- [6] MR. ZIMMERMAN: It's zoned ROA.
- [7] Q. It's based on nonresidential use?
- [8] A. Think so, yes.
- [9] Q. What was your -- when you engaged the sign
 [10] man, what did you instruct the sign man?
- [11] MR. ZIMMERMAN: Objection. All right.
 [12] I'll withdraw the objection.
- [13] THE CHAIRWOMAN: Are we --
- [14] THE WITNESS: Maybe I can answer it real
 [15] quickly, if you don't mind.
- [16] THE CHAIRWOMAN: Why don't you go ahead
 [17] and give it a whirl.
- [18] A. One thing I did say in front of
 [19] Mr. Graziano and Ms. Amereihn when we were sitting in
 [20] his office, I said, "Please, I've lived here all my
 [21] life, almost 60 years. And I don't want no trouble

Page 68

- [1] with us, everything is ROA, RO or commercial. I guess
 [2] that would be all. Finished as quickly as I can.
- [3] Q. The street Halbert Avenue was mentioned as
 [4] a landmark. Halbert seems, according to the plat
 [5] anyway, to be -- to be just immediately south of your
 [6] property; is that correct?
- [7] A. It's two properties away from us on the
 [8] same side.
- [9] Q. Now, are there any properties -- to the
 [10] best of your knowledge or belief, are there any
 [11] properties on Halbert Avenue that are in this ROA
 [12] zone?
- [13] A. Yes. Yes, there are. I believe it's on
 [14] the zoning maps here.
- [15] Q. And they would then be subject to the same
 [16] zoning regulation that you're subject to out on this
 [17] super highway, Belair Road?
- [18] A. Right.
- [19] Q. And --
- [20] MR. ZIMMERMAN: I'm going to move to
 [21] strike the part of the question "super highway."

Page 69

[1] THE CHAIRWOMAN: Yeah.

[2] MR. ZIMMERMAN: I think we know what

[3] Belair Road is.

[4] MR. MARSALEK: Well, I was merely

[5] repeating --

[6] THE CHAIRWOMAN: You weren't merely

[7] repeating.

[8] MR. MARSALEK: -- what Mr. Graziano said.

[9] THE CHAIRWOMAN: And he's allowed, and he

[10] is a witness, and he has his own opinions. But you're

[11] an attorney, and you rephrase it differently. And I

[12] will sustain the objection.

[13] MR. MARSALEK: Okay.

[14] Q. How wide is Halbert? Do you know offhand?

[15] A. It is just two-way traffic, I think, on

[16] Halbert. It dead ends. Halbert Avenue dead ends.

[17] Q. When you say two, just like one lane going

[18] and one lane coming out?

[19] A. Right.

[20] Q. So it's significantly smaller than Belair

[21] Road?

Page 71

[1] THE CHAIRWOMAN: Okay. Very well.

[2] MR. ZIMMERMAN: Karen Brown, please.

[3] THE CHAIRWOMAN: All right.

[4] K A R E N B R O W N, called as a witness

[5] and having been duly sworn, testified as follows:

[6] DIRECT EXAMINATION

[7] BY MR. ZIMMERMAN:

[8] Q. Ms. Brown, please state your full name and

[9] occupation.

[10] A. Karen Brown, 5th district planner,

[11] Baltimore County Office of Planning.

[12] Q. Office of Planning?

[13] A. That's correct.

[14] Q. And briefly describe your background and

[15] experience in the profession of planning.

[16] A. Oh, my. How much time do you have?

[17] Q. Well --

[18] A. No. I would focus on Belair Road.

[19] Q. Well, I guess just briefly your academic

[20] and --

[21] THE CHAIRWOMAN: Are you going to offer

Page 70

[1] A. Right.

[2] Q. Mr. Zimmerman introduced as part of his --

[3] one of his exhibits in here -- I don't know what you

[4] call it. -- a Baltimore County or Maryland Department

[5] of Assessment & Taxation of Real Property System for

[6] this property.

[7] MR. MARSALEK: This exhibit here.

[8] THE CHAIRWOMAN: Uh-huh.

[9] Q. Could you take a look at this,

[10] Mr. Schmidbauer? Could you tell -- could you tell us

[11] what use is shown on there on that --

[12] A. It says, "Use, commercial."

[13] Q. Thank you.

[14] MR. MARSALEK: I have nothing further.

[15] THE CHAIRWOMAN: Cross?

[16] MR. ZIMMERMAN: I have no questions, Madam

[17] Chair.

[18] THE CHAIRWOMAN: Okay. Thank you very

[19] much, Mr. Schmidbauer. Would that close your case?

[20] MR. MARSALEK: That would be the end of my

[21] case.

Page 72

[1] Ms. Brown?

[2] MR. ZIMMERMAN: Excuse me?

[3] THE CHAIRWOMAN: Are you going to be

[4] offering Ms. Brown?

[5] MR. ZIMMERMAN: I will be, yes.

[6] THE CHAIRWOMAN: Have you talked to

[7] Mr. Marsalek?

[8] MR. ZIMMERMAN: I really haven't talked to

[9] Mr. Marsalek about -- about the issue of Ms. Brown's

[10] expertise. If Mr. Marsalek will stipulate that Ms.

[11] Brown is an expert planner, that will be fine. But

[12] I'm prepared to go through, at least briefly, her

[13] background and experience.

[14] THE CHAIRWOMAN: Okay.

[15] MR. MARSALEK: She didn't indicate -- I

[16] withhold my --

[17] THE CHAIRWOMAN: If you'd just briefly

[18] relate your educational background and professional

[19] background.

[20] A. I have a master's degree in planning. I

[21] spent the first five years of my employment with

Page 73

[1] Baltimore County as a legislative writer looking at
 [2] land views legislation and researching the
 [3] ramifications of land legislation. And the last three
 [4] years have been the 5th district planner.

[5] Q. Okay. Have you also been approved as an
 [6] expert witness, admitted as an expert witness before
 [7] the county Board of Appeals?

[8] A. That is correct. I did in a previous
 [9] case.

[10] MR. ZIMMERMAN: Okay. I would submit at
 [11] this time that Ms. Brown is an expert planner.

[12] THE CHAIRWOMAN: Voir dire?

[13] VOIR DIRE

[14] BY MR. MARSALEK:

[15] Q. Just very briefly. Ms. Brown, you
 [16] indicated to me or to the -- to us here today that you
 [17] were a -- you're in the 5th district?

[18] A. That's correct.

[19] Q. In -- I just happen to notice that this
 [20] property is in the 11th district. What's the -- where
 [21] is the 5th district?

Page 75

[1] regulations. So I researched the importance of land
 [2] use. And I'm very familiar of the function of certain
 [3] zones and certain zoning regulations.

[4] MR. MARSALEK: Nothing further.

[5] MR. ZIMMERMAN: Okay.

[6] THE CHAIRWOMAN: Okay.

[7] DIRECT EXAMINATION

[8] BY MR. ZIMMERMAN:

[9] Q. Ms. Brown --

[10] MR. ZIMMERMAN: Now, I take it that -- is
 [11] Ms. Brown accepted by the Board?

[12] THE CHAIRWOMAN: Yeah. I believe the
 [13] standard is whether or not she'll offer assistance to
 [14] us beyond what you have in people. And she has
 [15] established that she can offer us that assistance.
 [16] And we accept her as an expert planner in the 5th
 [17] councilmanic.

[18] MR. ZIMMERMAN: Okay.

[19] Q. Ms. Brown, are you familiar with the ROA
 [20] zone?

[21] A. Yes, I am.

Page 74

[1] A. You're speaking about the councilmanic
 [2] district. And it is within the 5th councilmanic
 [3] district. The boundaries is Silver Spring Road to the
 [4] south. It includes all of Perry Hall, Kingsville, as
 [5] well as parts of Essex and Middle River, lower Back
 [6] River Neck Road. This is all the 5th councilmanic
 [7] district.

[8] MR. ZIMMERMAN: Would it help if I mention
 [9] that the 11th refers to the election district?

[10] MR. MARSALEK: Yes. That's fine.

[11] Q. And you've worked in the capacity of a
 [12] planner for how many years?

[13] A. Altogether, roughly eight years.

[14] Q. And how long in the 5th district?

[15] A. Three years.

[16] Q. You indicated that you are also a
 [17] legislative writer?

[18] A. That's correct.

[19] Q. Was this in conjunction with your
 [20] planning?

[21] A. That is correct. I drafted land use

Page 76

[1] Q. Okay. Did your work as a legislative
 [2] draftsman happen to coincide with the development of
 [3] the ROA zone?

[4] A. Not the ROA, but I know the function, the
 [5] purpose of the ROA zone.

[6] Q. All right. And you're also familiar with
 [7] this area of Belair Road that's the subject of today's
 [8] case?

[9] A. Yes, I am.

[10] Q. Okay. And in connection with your job, is
 [11] it part of your responsibility to contribute to
 [12] reviewing the zoning petitions in the 5th councilmanic
 [13] district?

[14] A. That is correct.

[15] Q. Okay. Did you, as part of your normal
 [16] duties, work on the review of this particular zoning
 [17] petition?

[18] A. Yes, I did.

[19] Q. Okay. And did you, in fact, help to
 [20] author the director's recommendation which has been
 [21] introduced into evidence?

Page 77

- [1] A. That is correct.
- [2] Q. Okay. You've also been here in attendance
- [3] this morning listening to the testimony?
- [4] A. Yes, I have.
- [5] Q. Okay. All right. Briefly -- excuse me.
- [6] Briefly, give the Board your observation as to the
- [7] land uses and zoning found in the immediate
- [8] neighborhood of the subject property.
- [9] A. There is a strong residential character in
- [10] that area. No doubt the area is changing, but the
- [11] character of the area in that particular stretch is
- [12] still primarily residential, which is reflected in the
- [13] fact that when a new zoning designation that ceases to
- [14] be residential that, as a rule, does not get BL or any
- [15] of the commercial zones, but gets RO or ROA zoning.
- [16] That's so that it can serve as a buffer between
- [17] residential uses and commercial uses.
- [18] Q. Okay. What I wanted to show you in
- [19] conjunction with that, can -- can you locate on
- [20] People's Council Exhibit 8B the subject property and
- [21] ROA zone? So just -- I'll leave the map as it is.

Page 79

- [1] A. There's more ROA. There's residential
- [2] here. ROA here. ROA here. 35, 35, 55, ROA. There's
- [3] a little pocket of BL. ROA. The strictly commercial
- [4] is down here. And the goal was to prevent this part
- [5] of Belair Road to look like this part of Belair Road.
- [6] Q. Okay. And the part with the heavier
- [7] commercial zoning is closer to where Ebenezer Road and
- [8] Joppa Road -- really mainly to the south of that
- [9] intersection and to some extent to the north; is that
- [10] correct?
- [11] A. That's correct, yes.
- [12] Q. And, of course, this zoning map also
- [13] happens to show Soth Avenue, the intersection, the ROA
- [14] zone there the site of the earlier case that was
- [15] mentioned. Correct?
- [16] A. That's correct, yes.
- [17] Q. Now, of course, the ROA zone does permit a
- [18] certain kind of conversion to office use, does it not?
- [19] A. Yes, but the principal idea of the ROA is
- [20] that outwardly it should have all the characteristics
- [21] of a residential use. That means that if you walk

Page 78

- [1] A. This here?
- [2] Q. Yes. On Belair Road.
- [3] A. On Belair Road, there is DR35, DR35. It
- [4] is surrounded by mostly DR35. There is a little bit
- [5] of DR55, but generally it is mostly DR35. If uses are
- [6] being -- properties are being used for commercial uses
- [7] while zoned residentially, that's a zoning violation,
- [8] which is a separate issue.
- [9] But the character in which has been
- [10] reinforced by all the statements from us working with
- [11] Perry Hall, including the association during the 1996
- [12] comprehensive zoning, it was clear that this area --
- [13] the Office of Planning, along with the councilman,
- [14] along with the communities want to prevent further
- [15] commercialization of that particular stretch of Belair
- [16] Road.
- [17] Q. And to complete the point, we also have
- [18] the adjoining map, 10G. And if I can tack it to our
- [19] easel here. If you could point out to the Board the
- [20] remainder of the ROA zoning and residential zoning in
- [21] that area.

Page 80

- [1] along the street that your first impression will be
- [2] still this is a residential use, not a commercial use.
- [3] It's distinct. It's not viewed as a
- [4] commercial zone. It's viewed as an ROA. For example,
- [5] there's the RTA requirements which shows that, in the
- [6] view of the planner or the view of the regulations, it
- [7] is used as a residential zone, not as a commercial
- [8] zone.
- [9] Q. And are you familiar with the land uses in
- [10] the area around the subject property? You point out
- [11] the zoning. How would you describe the actual land
- [12] uses on the ground?
- [13] A. As you pointed out, there's a distinct
- [14] difference between the uses along Belair Road south of
- [15] Joppa and Ebenezer. That is where you have the
- [16] typical commercial corridor. As you go north, you
- [17] have a mix of residential and commercial, but most
- [18] what you see is ROA uses. You see formerly
- [19] residential homes that have been converted for office
- [20] use.
- [21] Q. You may resume the witness stand for a

Page 81

[1] moment. You mentioned a few minutes ago RTA. Those
[2] three letters stands for what?

[3] A. Residential transition area. It requires
[4] that uses that are different from a single-family home
[5] could be a different type of residential use. Like a
[6] town home or an apartment building, that they have to
[7] be set back a hundred feet from the single-family
[8] home.

[9] Q. Okay. Now, considering all that and your
[10] review of this case, what is your opinion as a planner
[11] as to whether it would be appropriate to vary the sign
[12] requirements for the subject property?

[13] A. I feel very strongly that it should not be
[14] variances (sic) for the reason that, as I mentioned
[15] before, the ROA does serve as a transition variance.

[16] Also, you're setting a precedence. Once
[17] variances have been granted, future petitioners can
[18] refer to that variance that was granted. And then it
[19] will make the work of -- years of work in regard to
[20] the zoning regulations -- not that the ROA sign
[21] regulations will change. They remain the same.

Page 83

[1] section on Belair Road in the 1989 to 2000 master
[2] plan?

[3] A. I'm familiar with it. I didn't look at it
[4] today. I looked at the Belair Road corridor study.

[5] Q. Excuse me. Excuse me. But in any event,
[6] considering the Belair Road area generally and the
[7] county's planning relating to Belair Road, how does
[8] that affect your opinion one way or the other?

[9] A. As I previously stated, we have so many
[10] commercial corridors that have been completely
[11] commercialized. And their commercial use have become
[12] the dominant use that the few roads that we have
[13] remaining, and Belair Road being -- the northern
[14] section of Belair Road being one of them, the planning
[15] office generally feels strongly to prevent the further
[16] commercialization of that particular road.

[17] Q. You mean the northern section that you
[18] pointed out still being relatively residential?

[19] A. That's correct, yes.

[20] Q. Now, the petitioners' attorney, Mr.
[21] Marsalek, has pointed out that, according to the

Page 82

[1] Nevertheless, it sets -- it sets a precedent. But --

[2] Q. Now, you've pointed out that there's an
[3] area of ROA zoning on both sides of this property that
[4] extends at least would you say for several blocks?
[5] Put it in your own words as to the extent of ROA
[6] zoning of which this property is a part.

[7] A. It's roughly a block. It's a good block.
[8] Probably a little more than a block.

[9] Q. From Walker Avenue at its northern end to
[10] below Halbert Avenue, is that about --

[11] A. That's correct, yes.

[12] Q. That's about it? Is there any -- taking
[13] that ROA zone as a focus, is there anything unusual
[14] about the subject property?

[15] A. No.

[16] Q. All right. Is the topography relatively
[17] similar to the surrounding properties?

[18] A. That's correct. There's no difference.

[19] Q. Okay. Okay. It's -- in connection with
[20] your review for today, did you also take a look at the
[21] Belair Road corridor -- excuse me -- the master plan

Page 84

[1] Belair Road corridor study, there have been a number
[2] of homes converted to office use in the ROA zone or
[3] perhaps in the RO zone as well. Is that correct?

[4] A. That's correct. And as far as planning is
[5] concerned, that's appropriate. It's not the use. The
[6] Office of Planning considers an office use
[7] appropriate. It's outward manifestations such as
[8] signage that make -- give an appearance that the land
[9] uses are changing. And signage is and sign clutter is
[10] one of the elements that contributes to the
[11] commercialization of a road.

[12] Q. Okay. Okay. And correct me if I'm wrong,
[13] but do I understand you as saying that if a variance
[14] is granted here, then any of the other properties in
[15] the ROA zone, both in this particular ROA zone or
[16] other areas of ROA zoning along Belair Road, would
[17] feel like they're entitled to variances as well?

[18] A. That's correct.

[19] Q. The petitioner also produced several
[20] photographs of existing signs nearby. I think First
[21] Preference was one. And if I can -- First Preference

Page 85

[1] and Specific -- Specific Chiropractic. This is
 [2] Petitioners' Exhibit 2A and 2B. And, of course, he's
 [3] also mentioned the library sign.

[4] A. Uh-huh.

[5] Q. Do you know whether any investigation has
 [6] been done to determine the background of the
 [7] construction of those signs; how long they have been
 [8] there; whether or not they're in conformity with the
 [9] regulations?

[10] A. I personally don't know about it. I know
 [11] of one other sign that is illegal. I think -- in my
 [12] experience in Baltimore County, you have many cases
 [13] similar to Mr. Schmidbauer, that people do it and do
 [14] not check the regulations. They do it and ask for
 [15] permission later. And sometimes or a lot of times,
 [16] they get away with it. That doesn't make it right, in
 [17] my opinion.

[18] Q. In any event, of course, the LT Realty
 [19] sign, which was also mentioned, that sign we know
 [20] about as the subject of the Norline case, correct?

[21] A. That's correct, yes.

Page 87

[1] A. I'm -- I could not answer that.

[2] Q. Okay. All right. In any event, do you
 [3] know whether or not there was any request in 1996 to
 [4] change the ROA zone along Belair Road in this
 [5] vicinity?

[6] A. There are always requests for further BL
 [7] zoning, especially in that stretch of Belair Road.
 [8] But, as a rule, the county does not grant additional
 [9] commercial zoning. It's generally RO or ROA.

[10] Q. At least with reference to this area, it's
 [11] based on your experience and the 1996 process?

[12] A. Yes. It's viewed differently --

[13] Q. Okay.

[14] A. -- from the area further to the south of
 [15] Joppa and Ebenezer.

[16] MR. ZIMMERMAN: Okay. Ms. Brown, I thank
 [17] you very much. Madam Chair, I have no further
 [18] questions.

[19] THE CHAIRWOMAN: Cross, Mr. Marsalek?

[20] CROSS EXAMINATION

[21] BY MR. MARSALEK:

Page 86

[1] Q. Okay. But the others at this point were
 [2] not -- you're not certain of the timing or the
 [3] background, correct?

[4] A. That's correct, yes.

[5] Q. Okay. But would -- would -- and I hope
 [6] this is not repetitive, but would they, in your view,
 [7] justify the variance in the present case? Would the
 [8] existence of --

[9] A. No, no. As I stated before, I feel very
 [10] strongly that -- perhaps most of them were
 [11] grandfathered. It would be worthwhile to investigate
 [12] that, but it does not justify.

[13] Q. Okay. Now, we've shown in our own
 [14] People's Council Exhibits bill 170-91, the original
 [15] bill which created the ROA legislation. When would be
 [16] the first time that the ROA zone was mapped? Do you
 [17] know? Would that have been the 1992 mapping process?

[18] A. That's correct.

[19] Q. Okay. Do you happen to know whether or
 [20] not the ROA zone that we're dealing here came in in
 [21] 1992 or 1996?

Page 88

[1] Q. Now, Ms. Brown, you indicated that you've
 [2] been in this particular district, councilmanic
 [3] district for eight years --

[4] A. No.

[5] Q. -- as a planner? Three years?

[6] A. Yes.

[7] Q. Three years?

[8] A. Yes.

[9] Q. But you've been a planner for eight years?

[10] A. Yes.

[11] Q. And I'm going to show you a document. See
 [12] if you recognize that document.

[13] A. Yes, I am familiar with that document. I
 [14] was not involved with the drafting of it, but I'm
 [15] familiar with it.

[16] Q. And could I ask you to take a look at the
 [17] item 1C there and read that?

[18] MR. ZIMMERMAN: Could you name the
 [19] document so --

[20] THE CHAIRWOMAN: For the record.

[21] MR. MARSALEK: I'm sorry.

Page 89

- [1] A. It's the Belair Road corridor study.
- [2] MR. MARSALEK: The Belair Road corridor
- [3] study, the 1995.
- [4] A. Page 7, item 1C, "Commercially zoned land
- [5] includes both the business and office classifications.
- [6] Nearly 70 percent of the land along the corridor is
- [7] zoned for commercial purposes."
- [8] Q. Thank you. And in what -- according to
- [9] this document, this draft was prepared --
- [10] A. By the Office of Planning.
- [11] Q. And what's the date on that?
- [12] A. May 1995.
- [13] Q. Now, would it be then fair to say that as
- [14] reflected in this document in 1995, three years ago --
- [15] it says "Nearly 70 percent of the land along the
- [16] corridor is zoned for commercial purposes." Is that
- [17] an accurate statement?
- [18] A. If you look at -- it's an accurate
- [19] statement.
- [20] Q. Thank you.
- [21] A. But if you look at the plan, the area that

Page 91

- [1] MR. ZIMMERMAN: It's on the ADC map.
- [2] THE CHAIRWOMAN: Yeah. It's just south of
- [3] Soth.
- [4] A. Basically what I meant was it changes, the
- [5] character changes. This is the cutoff point.
- [6] Q. Well, correct me if I'm wrong, but there
- [7] doesn't seem to be anything in this report that
- [8] narrows it or specifies it as it pertains only to that
- [9] area.
- [10] A. If you look at the map that shows -- which
- [11] outlines the area that is being studied --
- [12] Q. Let me use this one now.
- [13] A. Okay. There should be a larger map in
- [14] here.
- [15] Q. I don't recall seeing -- wait a minute.
- [16] Here it comes.
- [17] A. If you look at this entire area, there are
- [18] different parts. And they look different as far as
- [19] land use is concerned. And the cutoff point --
- [20] roughly here, you have Minta Drive. If you look at
- [21] this, this is roughly two-thirds, and this is roughly

Page 90

- [1] is involved involves that stretch that we refer to as
- [2] being very commercial south of Joppa and Ebenezer.
- [3] That is the area that it refers to. After Minta
- [4] Drive, the area changes in character.
- [5] Q. And where is Minta Drive in relation to
- [6] this map? Could you show us?
- [7] A. I'm not sure. It's -- it's roughly this
- [8] area. I cannot see. I don't know why it's not on
- [9] here. It's roughly here. I can show you my AD map.
- [10] Q. Well, we have an ADC map thing here.
- [11] A. Right here. It's not on here. I don't
- [12] know why, but it's not on here. It's north of Joppa
- [13] Road.
- [14] Q. Well, we're north of Joppa Road. It's --
- [15] A. It's roughly -- roughly -- roughly here.
- [16] It's below -- it's above -- it's not in here. I don't
- [17] know why. I mean, I can't explain whether that was --
- [18] the place is old or -- you know, but basically what
- [19] you're talking about --
- [20] THE CHAIRWOMAN: Here it is. I see it,
- [21] right here.

Page 92

- [1] one-third. Okay?
- [2] Now, if you look at the southern portion
- [3] of it, it's heavily commercial. About two-thirds of
- [4] the study area is heavily commercial.
- [5] And then the rest of it, the northern
- [6] portion of it, namely this, becomes less so. And this
- [7] is reflected in the zoning designation, ROA, which is
- [8] a residential zone. And DR55, which is -- and 35,
- [9] which are residential zones.
- [10] Q. So in other words, what you're saying is
- [11] that this report basically encompasses this area in
- [12] here?
- [13] A. That's correct, yes. Yes. Not all of
- [14] Belair Road. It studies this area that is outlined in
- [15] here.
- [16] Q. Well, there's no dispute that all of this
- [17] in here is residential.
- [18] MR. ZIMMERMAN: Objection. This
- [19] questioning is becoming incoherent, because when
- [20] you -- wait a minute. Let me -- the questioning is
- [21] referring to something in here, something in there.

Page 93

[1] It's not clear what area we're talking about. Now --

[2] MR. MARSALEK: Well, I was referring to
[3] this boundary area in here.

[4] MR. ZIMMERMAN: Well, then the questioning
[5] should refer exactly to what we're talking about, not
[6] just say, well, this in here shows this and something
[7] else there shows that. That's absolutely incoherent.

[8] MR. MARSALEK: Okay. I appreciate that.

[9] Q. In other words, what I was saying, for
[10] Mr. Zimmerman's benefit, for the Court's benefit, is
[11] that this area as delineated in this -- in this dotted
[12] portion --

[13] MR. ZIMMERMAN: Objection. He's got to be
[14] quite specific about what study, what page, what
[15] streets. It doesn't do any good to say it's in a
[16] dotted area somewhere.

[17] Q. In the Belair Road corridor study that
[18] we've been talking about for the last few moments
[19] dated May of 1995 which I began my questioning about,
[20] there is a map several pages through --

[21] THE CHAIRWOMAN: Yeah. I guess to help

Page 95

[1] A. That's correct.

[2] Q. This dotted area in this particular
[3] document -- and no other document we're referring
[4] to -- in other words, delineates a significant swatch
[5] of land?

[6] A. That's correct.

[7] Q. Which exceeds the boundaries of merely
[8] Belair Road?

[9] A. That is correct. And there's a reason for
[10] that. Because the way the road frontage is zoned has
[11] a direct impact on the properties in the rear, which
[12] is one of the reasons ROA zoning is applied. If you
[13] put BL on a road frontage and you have residential in
[14] the rear, the impact of that BL zoning is felt in the
[15] property to the rear.

[16] Q. Excuse me. But we haven't -- I have not
[17] mentioned this morning at all BL zoning. We're not
[18] here for BL zoning. We're here on ROA zoning. And
[19] that's all we're concerned about. Not BL. We're not
[20] interested in expanding this to BL zoning.

[21] Belair Road -- this area that's depicted

Page 94

[1] along. Is this page 2?

[2] MR. MARSALEK: I don't have it paginated,
[3] but that's the correct page.

[4] THE CHAIRWOMAN: Okay.

[5] MR. MARSALEK: It's this map here,
[6] Mr. Zimmerman.

[7] MR. ZIMMERMAN: Okay. And does the map
[8] have a title?

[9] MR. MARSALEK: Well --

[10] MR. ZIMMERMAN: It says "Belair Road
[11] corridor study area. One inch equals 2,000 feet."

[12] And it looks like it stems from the north on Chapel
[13] Road to the south on White Marsh Boulevard, and it's
[14] on both sides of Belair Road. That's -- I'm trying to
[15] be helpful.

[16] MR. MARSALEK: Well, thank you very much
[17] for that help.

[18] Q. So would it be -- I understand then that
[19] the -- that the dotted area reflected on the Belair
[20] Road corridor study area map, one inch equals 2,000
[21] feet?

Page 96

[1] right down the center of this map is ROA in our --

[2] A. That's correct.

[3] Q. Insofar as depicted here on the --

[4] A. That's correct.

[5] Q. So that in other words, is it fair to say
[6] that along -- just along Belair Road that it's more
[7] intensibly (sic) commercial/business uses rather than
[8] residential uses as opposed to the back end of these
[9] properties? Like Slader Avenue, Necker Avenue,
[10] Darleigh Road, Blakely. These -- would you agree that
[11] they're predominantly residential, these side streets
[12] in here that are shown in the map?

[13] A. That is correct.

[14] Q. And over here, Silver Spring? Slader?
[15] Ridgley's Choice Drive?

[16] A. That's correct. I just would like for the
[17] record that there is a difference as far as commercial
[18] zoning is concerned to the area roughly south of Minta
[19] Drive that I mentioned before, and the area along
[20] Belair Road going north where the use becomes more
[21] ROA. And ROA is a not a commercial zone.

Page 97

[1] Q. Okay. Now, how often do you go into this
[2] area, do you frequent this area?

[3] A. It depends. Generally every variance,
[4] every development, every special exception.

[5] Q. What would you say, once a month?

[6] A. At least, yes. Yes, once a month.

[7] Q. Have you personally observed, in your
[8] travels up and down Belair Road, a definite trend as
[9] outlined in this particular report, that it's more
[10] commercial along Belair Road?

[11] MR. ZIMMERMAN: Objection.

[12] A. Yes.

[13] MR. ZIMMERMAN: Again, what part of Belair
[14] Road are we talking about?

[15] MR. MARSALEK: The specific part of Belair
[16] Road that is subject to this. We're not concerned
[17] about anything south of Minta Road or north of Chapel
[18] Road. We're talking specifically about this premises.

[19] Q. So that in other words, you've heard other
[20] witnesses testify here this morning that they weren't
[21] able to really say with any specificity or couldn't

Page 98

[1] identify any residential properties at all on here.

[2] Is that a fair statement? That most of them have been
[3] converted to business use?

[4] A. I wouldn't say business uses. Office
[5] uses.

[6] Q. Office uses?

[7] A. Yes.

[8] Q. That's a fairly accurate --

[9] A. Significant amount. Yes, that's correct.

[10] Q. And from a proportion standpoint, what
[11] would you say in terms of percentages, if you can make
[12] a guess based upon your professional experience and
[13] familiarization with this area?

[14] A. Would you be specific which area you're --
[15] are you talking just the block that you're talking
[16] about, or the entire stretch going north?

[17] Q. Well, I'm talking pretty much from
[18] Ebenezer up to Chapel.

[19] MR. ZIMMERMAN: Objection. I mean, that's
[20] an area of, what, three or four miles? What are we
[21] talking about?

Page 99

[1] THE CHAIRWOMAN: Well, that's the whole
[2] Belair corridor. I would say -- I mean unless there's
[3] an actual strip on Belair Road that's DR or something,
[4] I don't know that the answer is that exciting.

[5] MR. MARSALEK: Well --

[6] MR. ZIMMERMAN: I mean, we'll stipulate
[7] that in the ROA zone, it is allowed to convert to
[8] office use. That's the purpose of the zone. And that
[9] some houses have been converted.

[10] Q. Say from Klausmeyer to wherever Minta is.
[11] Minta must be here.

[12] THE CHAIRWOMAN: That's Soth.

[13] A. Soth.

[14] Q. Soth. I don't know where I am. In here.
[15] Just in this strip. From where we are right along in
[16] here. That would be from -- say from Soth Avenue on
[17] the south on Belair Road, both the east and the west
[18] side of Belair Road, binding on the south by Soth
[19] Avenue, binding on the north by Klausmeyer. What's
[20] the nature of the properties abutting Belair Road on
[21] both the east and west side in that stretch?

Page 100

[1] A. The character of the area is residential,
[2] because ROA does not permit change of the structure
[3] itself. The character is residential. When you drive
[4] by --

[5] Q. What is the predominant use then? Is it
[6] predominantly used as residential, or is it
[7] predominantly used as office?

[8] MR. ZIMMERMAN: Objection. Are we now
[9] talking about the ROA zone, or are we now talking
[10] about the DR35 zoning that's in that area?

[11] THE CHAIRWOMAN: You're still on the ROA
[12] right on the road?

[13] MR. MARSALEK: Right on the road.

[14] THE CHAIRWOMAN: You're saying basically
[15] in the ROA zoning right there, how many of those
[16] homes, in fact, have --

[17] MR. MARSALEK: Are office uses versus
[18] residential.

[19] A. Once they have ROA zoning, they tend to be
[20] used for office use as generally people request it.
[21] But you still have residential uses along Belair Road.

Page 101

[1] And I do not contest that if given the opportunity
 [2] probably everybody would be commercial around that
 [3] road. I mean, that -- I grant you that. But that is
 [4] not the intent of the Office of Planning.
 [5] Q. From a planning perspective, is that
 [6] viewed as a bad thing?
 [7] A. Yes, if it becomes commercial, it is
 [8] viewed as a bad thing, because the Office of Planning
 [9] basically feels there is enough commercial zoning in
 [10] Baltimore County, rule of thumb. That does not mean
 [11] it never can be granted anymore, but, rule of thumb,
 [12] the Office of Planning generally feels there's enough
 [13] commercial zoning in Baltimore County. Which is why
 [14] we have ROA zoning and RO zones which allow conversion
 [15] of a residential use to an office use.
 [16] Q. Now, are you -- this is a document that
 [17] was supposedly compiled by the Baltimore County Office
 [18] of Planning. It's called "The advisory group report,
 [19] master plan, 2010, Perry Hall/White Marsh group area
 [20] update," and it's dated August 1997. Are you familiar
 [21] with that document? I only have a one-page extract

Page 103

[1] building or a structure as an office and not -- and
 [2] not permit a sign to be -- to be displayed?
 [3] The signage portion of this is where we're
 [4] coming to -- coming to focus upon. This signing
 [5] regulation, you're undoubtedly aware, allows a sign to
 [6] be fixed to the building measuring two feet by three
 [7] feet. And there's been testimony -- and I'm sure you
 [8] perfectly agree since you're familiar with this
 [9] corridor -- that these houses sit back off the street.
 [10] They're not right up on the street the way they are a
 [11] little bit further down Belair Road.
 [12] MR. ZIMMERMAN: Objection. I'm objecting
 [13] to the attorney becoming a witness. I mean --
 [14] THE CHAIRWOMAN: Why don't we get to a
 [15] question.
 [16] Q. The question is, what is -- how can
 [17] somebody allow -- in terms of business perspective
 [18] seem to be in these studies mitigating toward
 [19] business, and at the same -- by the same token,
 [20] seemingly allowing business, but at the same time
 [21] restricting the signage? Doesn't one sort of wash the

Page 102

[1] from it.
 [2] A. It's -- it says basically what I said. Do
 [3] you want me to read it?
 [4] Q. So that's -- this document is consistent
 [5] with what you were saying?
 [6] A. Yes. Because it says, as I mentioned
 [7] before, ROA classification -- I'll read the whole
 [8] thing.
 [9] Q. Well, you don't have to. Just summarize
 [10] it.
 [11] MR. ZIMMERMAN: Let the witness read it.
 [12] THE CHAIRWOMAN: At this point, I'll say
 [13] we can read it.
 [14] A. Okay. Basically it says what I stated
 [15] before. It recommends ROA zoning, because it allows
 [16] reuse of the property for office uses while-
 [17] maintaining the residential character and protecting
 [18] an area's residential uses in the rear.
 [19] Q. Okay. Well, now, in terms of dealing with
 [20] an office use, I just -- I'm trying to understand the
 [21] planning perspective. How can -- how can you use a

Page 104

[1] other?
 [2] MR. ZIMMERMAN: I object.
 [3] THE CHAIRWOMAN: I'm going to sustain that
 [4] because she's already testified to this, frankly.
 [5] MR. MARSALEK: Not the signage aspect.
 [6] THE CHAIRWOMAN: She certainly has,
 [7] because what she indicated already was that the ROA is
 [8] considered a buffer attempt so that they would
 [9] accommodate an office usage, which is less intense
 [10] than a greater commercial usage, and the condition in
 [11] order to protect the homes behind and so forth in
 [12] terms of the DR zone is that it has to appear in
 [13] character like a home.
 [14] And one of the conditions, therefore,
 [15] would then be the sign has to be flat against the
 [16] residence so that it appears more like a residence
 [17] when you drive by, as she talked about it, because
 [18] then you don't have the sign clutter and so forth
 [19] that -- let me try to get her exact words -- indeed,
 [20] that creates clutter and contributes to the
 [21] commercialization of a particular road such as this.

Page 105

- [1] And she described it as the inappropriate
 [2] outward manifestations. And so I do think she's
 [3] testified to that. And she's testified to that exact
 [4] balance you're talking about that they're trying to
 [5] create in dealing with that struggle of --
 [6] Q. What I'm struggling to get an
 [7] understanding of is, from a planning perspective, I
 [8] understand what you've said and what you've testified
 [9] to. But when you've got a corridor that is a
 [10] 50-mile-an-hour thoroughfare -- or actually posted 40,
 [11] traveling 50 on there, that the character of the
 [12] passage of that is far in excess of the typical
 [13] 25-mile-an-hour residential scenario.
 [14] So it seems that the character of the
 [15] traffic flow and the business seems to be mitigating
 [16] way beyond the -- the parameters that you've
 [17] established for residential -- for a residential
 [18] scenario.
 [19] MR. ZIMMERMAN: Objection. This is
 [20] argumentative.
 [21] Q. Do you agree?

Page 107

- [1] Bangert Avenue in Perry Hall.
 [2] Q. Okay. How long have you lived there?
 [3] A. Approximately 35 years.
 [4] Q. Okay. Are you also active in the Perry
 [5] Hall Improvement Association?
 [6] A. Yes, I am.
 [7] Q. Okay. What is your current position?
 [8] A. I'm the vice president.
 [9] Q. Okay. And for the record, give the basic
 [10] boundaries of Perry Hall.
 [11] A. There's always confusion over that, but we
 [12] try to establish it north of Silver Spring, goes out
 [13] to Route 7, follows a power line up toward the Carney
 [14] area and cuts up and goes in north of Forge Road.
 [15] Q. In any event, Belair -- does Belair Road
 [16] run through Perry Hall?
 [17] A. It's the center.
 [18] Q. Okay. And, of course, you have -- the
 [19] Perry Hall library's been mentioned and various
 [20] official departments that have the name Perry Hall,
 [21] correct?

Page 106

- [1] THE CHAIRWOMAN: I agree this is
 [2] argumentative. I'm not sure there's a question.
 [3] MR. MARSALEK: Well, there was. It was --
 [4] THE CHAIRWOMAN: Again, it sounds like a
 [5] closing argument to me, not a question to this
 [6] witness. Turn it into a question.
 [7] MR. MARSALEK: No further questions.
 [8] THE CHAIRWOMAN: That's fine, but --
 [9] MR. ZIMMERMAN: Thank you. I have nothing
 [10] further, Madam Chair. Thank you, Ms. Brown. Okay.
 [11] The last witness, unless the Board --
 [12] THE CHAIRWOMAN: Go ahead.
 [13] MR. ZIMMERMAN: Mr. Eckard.
 [14] (Discussion was held off the record.)
 [15] D E N N I S E C K A R D, called as a
 [16] witness and having been duly sworn, testified as
 [17] follows:
 [18] DIRECT EXAMINATION
 [19] BY MR. ZIMMERMAN:
 [20] Q. Please state your full name and address.
 [21] A. My name is Dennis Eckard. I live at 39

Page 108

- [1] A. Correct.
 [2] Q. Post office. All right. Have you been
 [3] given any authority to speak for the Perry Hall
 [4] Improvement Association as well as on your own behalf
 [5] here today?
 [6] A. Yes.
 [7] Q. Did the association meet to review this
 [8] zoning proposal?
 [9] A. It did.
 [10] Q. Okay. And did you then bring with you the
 [11] documents that we submitted and have identified as
 [12] People's Council Exhibit --
 [13] MR. ZIMMERMAN: Is it 10?
 [14] THE CHAIRWOMAN: Uh-huh.
 [15] A. Yes.
 [16] Q. Okay. Okay. And were you personally
 [17] there when the association considered this zoning
 [18] request?
 [19] A. When the board, yes.
 [20] Q. Excuse me. When the board considered this
 [21] request.

Page 109

[1] MR. ZIMMERMAN: I would submit that the
[2] documentation --

[3] Q. And that documentation is Exhibit 10, is
[4] it not, the two pages? The -- let me show it to you
[5] so there's no mistake. The affidavit that you are
[6] currently a member of the -- and there's written
[7] "both." Are you a member of the board of directors
[8] and zoning committee of the Perry Hall Improvement
[9] Association? Do you know who signed -- I see. This
[10] was signed by Mr. Libercci as president?

[11] A. Right.

[12] Q. All right. Can you tell me whether or not
[13] Mr. Libercci has -- why Mr. Libercci is not here and
[14] you're here today? Put it that way.

[15] A. Yes. If I may take the liberty, the
[16] person that normally would be here has -- Dorothy
[17] McMann, has resigned. That put us in somewhat of a
[18] flux. And Mr. Libercci could not make it because of
[19] an eye appointment.

[20] Q. All right. He is the president?

[21] A. Correct.

Page 111

[1] fact, it was signed -- it seems to have been executed
[2] October 15th -- or excuse me -- 13th of 1996. And I
[3] don't feel that it's relevant.

[4] Q. (THE CHAIRWOMAN) When did you meet on
[5] this, Mr. Eckard?

[6] A. We've had discussions about this and a
[7] number of other issues over a period of time.

[8] Q. (MR. ZIMMERMAN) Was this resolution --
[9] this resolution refers to appeal number 98-198-A,
[10] correct? I'm showing you part of Exhibit 10.

[11] A. Right.

[12] Q. And as Mr. Marsalek points out, it then
[13] has a witness of hand and sealed 13th of October 1996.
[14] Of course, today is October 13th, 1998. Do you
[15] know -- do you know when this was witnessed and
[16] whether that's a misprint?

[17] A. You might call that a misprint.

[18] Q. (THE CHAIRWOMAN) Was that signed today?

[19] A. Pardon?

[20] Q. Was that signed today?

[21] A. No. Yesterday.

Page 110

[1] Q. And, of course, Ms. McMann appeared at the
[2] zoning commissioner hearing, did she not?

[3] A. Right.

[4] Q. And do your bylaws permit you as vice
[5] president to appear when the president is unavailable?

[6] A. Correct.

[7] Q. All right. And the resolution separately,
[8] that is the resolution that the association
[9] authorized?

[10] A. Right.

[11] MR. ZIMMERMAN: All right. I would submit
[12] that there's substantial compliance with the board
[13] rules allowing a community association to have a
[14] representative speak. So I would ask that Exhibit 10
[15] be admitted, and that Mr. Eckard be allowed to speak
[16] on behalf of the association.

[17] MR. MARSALEK: Well, I have no problem
[18] with Mr. Eckard testifying. I do have a problem with
[19] Mr. Eckard testifying to a document and a resolution
[20] that was passed in 1996. This has absolutely no
[21] relevance to this particular case whatsoever. In

Page 112

[1] Q. Yesterday? Okay.

[2] A. I never --

[3] MR. MARSALEK: I would just move that it
[4] not be introduced if it's -- even if it was -- it's
[5] dated today, it was -- he says --

[6] THE WITNESS: It was signed yesterday.

[7] MR. MARSALEK: However, it's dated '96.

[8] MR. ZIMMERMAN: I would just say this,
[9] that there does seem to be some question or mistake or
[10] something about that document on the dating. And what
[11] I would suggest is -- well, I would suggest we go
[12] ahead and let Mr. Eckard testify on his own behalf.

[13] THE CHAIRWOMAN: That's fine. See,
[14] otherwise, our Board's typical practice is that they
[15] have until the end of the day to cure the error and
[16] bring in proper papers. And they do have that option.
[17] And that resolution would be admitted subject if they
[18] can actually come into compliance with rule 8. Right
[19] now, there is a question with compliance with rule 8.

[20] MR. ZIMMERMAN: I think I was going --
[21] excuse me.

Page 113

[1] THE CHAIRWOMAN: That's all.

[2] MR. ZIMMERMAN: Madam Chair, I guess the
 [3] only reason I didn't suggest that, which is what we
 [4] normally do, is that I wasn't sure whether the Board
 [5] was going to be inclined to deliberate on the case
 [6] today.

[7] THE CHAIRWOMAN: I think we would like to
 [8] deliberate it today.

[9] MR. ZIMMERMAN: In that event, then I
 [10] would go ahead and -- I would just submit Mr. Eckard
 [11] as testifying on his own behalf. And that will remove
 [12] any question about the documentation.

[13] THE CHAIRWOMAN: Okay. We'll leave
 [14] Exhibit 10 in for identification purpose only. It
 [15] will not be admitted into evidence. And we will
 [16] have -- Mr. Eckard can go ahead and testify just on --
 [17] as an individual.

[18] THE WITNESS: Not as an officer of the
 [19] improvement association?

[20] THE CHAIRWOMAN: Right.

[21] MR. ZIMMERMAN: As a citizen, Mr. Eckard,

Page 114

[1] of Baltimore County and Perry Hall.

[2] THE WITNESS: I then gather that I cannot
 [3] refer back to any information that I derived from any
 [4] of our meetings?

[5] MR. ZIMMERMAN: Well, you can refer -- if
 [6] I may, I would ask you to refer to any information
 [7] that's relevant to the case that you've obtained from
 [8] wherever, but your testimony is your own testimony.

[9] THE WITNESS: Okay.

[10] Q. (MR. ZIMMERMAN) You're familiar with the
 [11] neighborhood --

[12] A. Yes.

[13] Q. -- of the subject property?

[14] A. Yes.

[15] Q. And you've been here this morning to
 [16] listen to all the testimony?

[17] A. I have.

[18] Q. Okay. How would you describe the
 [19] neighborhood on Belair Road between Halbert Avenue and
 [20] Walker Avenue?

[21] A. It's basically as it was described. It's

Page 115

[1] an area that's -- the homes are converting over to
 [2] office-type buildings, facilities.

[3] Q. Okay. And what do you find behind -- to
 [4] the rear of the properties on Belair Road?

[5] A. Strictly residential.

[6] Q. Okay. Are we talking single-family homes?

[7] A. Single.

[8] Q. Okay. In this immediate neighborhood, are
 [9] there any large apartment complexes?

[10] A. Not with --

[11] MR. MARSALEK: Objection. Relevance.

[12] A. Not --

[13] MR. ZIMMERMAN: I'm establishing the type
 [14] of residential neighborhood it is, whether it's
 [15] single-family home, whether it's town house, whether
 [16] it's apartments. Just getting information.

[17] Q. Okay. And do you know approximately how
 [18] long the residential neighborhood's been there in this
 [19] area? Are we talking about post-World War II? Are we
 [20] talking about the last 20 years?

[21] A. Prior -- according to a historian, it's

Page 116

[1] been there long before -- that stretch of land, of
 [2] road has been there prior to World War II.

[3] Q. And in terms of the residential
 [4] development that currently exists in that area around
 [5] Halbert Avenue, would you know the approximate age of
 [6] it?

[7] A. I wouldn't.

[8] Q. Okay.

[9] A. Other than it's prior to WWII.

[10] Q. The single-family homes?

[11] A. Yes.

[12] Q. Okay. Okay. Now, you're familiar, as you
 [13] said, with the homes that are being converted to
 [14] Belair -- converted to office along Belair Road as
 [15] well as the residential area --

[16] A. I am.

[17] Q. -- along both sides of Belair Road,
 [18] correct?

[19] A. Correct.

[20] Q. Are there also some areas on Belair Road
 [21] shown on the map as zone DR35 which are in residential

Page 117

[1] use?

[2] A. Yeah. There are pockets. On the opposite
[3] side of the street is strictly a -- down toward Perry
[4] Hall probably a block, it's a big development,
[5] strictly homes, where the soccer field, Lassahn field
[6] used to be. Opposite that, it's strictly homes.

[7] Q. When you say "Lassahn field," are you
[8] pointing to the south or north?

[9] A. South.

[10] Q. Right. And directly across from the
[11] subject property, we find a DR35 zoning. Do you
[12] happen to know the use across from the subject
[13] property?

[14] A. Not really, no.

[15] Q. Okay. All right. Well, then let me ask
[16] you this. What concern, if any, as a citizen do you
[17] have about the request for variance before the Board
[18] today?

[19] A. Well, it's tough to sit here and not speak
[20] about our concern from the association. So I'll try
[21] not to do that.

Page 119

[1] might not appear to be a major problem in itself,
[2] you're looking at the entire -- the overall point of
[3] view?

[4] A. Unfortunately, we have to look at it from
[5] that aspect.

[6] Q. Now, let me ask you about the First
[7] Preference sign that exists. Do you know the history
[8] of that sign; how long it's been there; whether or not
[9] it's gotten any zoning approval?

[10] A. I don't know the history. I -- I just
[11] know that they have approached what their plans are.
[12] And their plans are to get a variance for a building
[13] to add. Their plans also are to ask for a variance to
[14] move that sign on down to the property that -- where
[15] they're going to relocate. The --

[16] Q. Do you know where that new property is,
[17] that -- to which they want to relocate?

[18] A. It's close by.

[19] Q. Okay.

[20] A. Exactly where, I can't point it out.

[21] Q. Okay. Okay. All right. Unless you have

Page 118

[1] The main concern is not with the people
[2] that are here. They're in my case a neighbor.
[3] They're good people. They have a good business.
[4] They're certainly an asset to the community.

[5] The sign certainly is not a distraction
[6] visually. The concern is it's too large. It is not
[7] meeting the regulations as they are. And it's clear
[8] to me and those surrounding me that if this sign is
[9] declared okay, then there's no reason not for the
[10] First Preference sign that's currently located. And
[11] they are wanting to move and take the sign with them,
[12] which is a monstrous sign which definitely has, in my
[13] opinion, no eye appeal at all.

[14] There's no reason for them not to move
[15] that up the street when they want to make their move.
[16] So it's going to create an impossible problem for the
[17] community as far as opening up the gates.

[18] Q. Now, are you concerned about the
[19] cumulative aspect of one sign after another?

[20] A. Absolutely.

[21] Q. Okay. And while one sign in isolation

Page 120

[1] anything else specifically, I have -- I would leave it
[2] to cross exam. Do you have any additional
[3] observation? I see --

[4] A. Well, it -- as I said, with people that
[5] reviewed this, it came -- looking at a court case that
[6] was handed down regarding Cromwell and Ward, we
[7] conclude that there's nothing unique and unusual about
[8] this property from the other properties. And if you
[9] follow this court case and it doesn't meet that
[10] criteria, then it stops there.

[11] Q. Okay.

[12] A. And any particular difficulties or
[13] unreasonable hardship cannot enter into the
[14] deliberation.

[15] Q. So you are familiar, of course, with the
[16] block or blocks on Belair Road around this subject
[17] property, correct? You've -- you know where this
[18] subject property is?

[19] A. I go by it almost on a daily basis.

[20] Q. All right. From your observation, there's
[21] nothing unusual topographically or in any other

Page 121

- [1] significant way about the subject property?
- [2] A. There's nothing that I ever observed. I
- [3] mean, I have been up and down that driving. I've just
- [4] been putting signs up on properties there recently.
- [5] Q. Okay. I should ask you. What's your
- [6] business?
- [7] A. Political signs.
- [8] Q. Political signs.
- [9] A. Volunteer.
- [10] Q. Okay.
- [11] A. Which, after I look at them, I'm not sure
- [12] if I'm happy with the clutter, but they will come
- [13] down.
- [14] MR. ZIMMERMAN: All right. Thank you. I
- [15] have no further questions, Madam Chair.
- [16] THE CHAIRWOMAN: Okay. Cross?
- [17] CROSS EXAMINATION
- [18] BY MR. MARSALEK:
- [19] Q. Mr. Eckard, you testified that you've been
- [20] in the -- a resident of this area for 35 years?
- [21] A. In that area, approximately.

Page 123

- [1] the last year and a half or two years that there was
- [2] an extensive amount of money spent on the renovation
- [3] of that house?
- [4] A. No, I didn't.
- [5] MR. ZIMMERMAN: Objection to the form of
- [6] the question. It's really a statement rather than a
- [7] question.
- [8] THE CHAIRWOMAN: Well, he's allowed to ask
- [9] a leading question. I think Mr. Eckard's already
- [10] testified that they're a good property owner, you
- [11] know, in terms of how they have kept the property and
- [12] so forth.
- [13] MR. ZIMMERMAN: Right.
- [14] Q. Now, did I understand you to say in
- [15] response to your -- the People's Council that you
- [16] had -- you were not familiar with what's on the other
- [17] side of the street?
- [18] A. I am not familiar with the -- directly
- [19] across the street, no. I don't know what the usage
- [20] is.
- [21] Q. Would it surprise you to know that that's

Page 122

- [1] Q. And you said --
- [2] A. I said approximately.
- [3] Q. Okay. That's close enough. You're
- [4] familiar with this stretch you indicated; is that
- [5] correct?
- [6] A. I'm sorry?
- [7] Q. You're familiar with this particular
- [8] stretch of land?
- [9] A. Yes. I drove -- I used to work at -- I
- [10] was employed at Essex Community College for 30 years,
- [11] 29 years.
- [12] Q. In what capacity?
- [13] A. As a variety of capacities.
- [14] Administrator. Counselor. Director of Admissions
- [15] Records. Student activities. You name it. So I'd go
- [16] by there or go down Route 7, depending. So it's been
- [17] a daily occurrence.
- [18] Q. Since Mr. -- were you aware of the -- when
- [19] Mr. Schmidbauer bought this property?
- [20] A. No.
- [21] Q. Did you notice that after -- that within

Page 124

- [1] a public library?
- [2] A. Directly across?
- [3] Q. Uh-huh.
- [4] A. I wasn't sure if it was the library or if
- [5] it was the Mt. -- whatever. The --
- [6] Q. In the evidence, I presented a picture of
- [7] the front of that library. And I showed an old sign
- [8] and a new sign. Are you familiar with the changes in
- [9] the sign to the library?
- [10] A. I've noticed the signs.
- [11] Q. Could you describe the new sign to me?
- [12] A. No, I couldn't.
- [13] Q. Do you know approximately how big it is?
- [14] A. It's certainly larger than the Schmidbauer
- [15] sign, but after awhile you become immune to signs. I
- [16] do.
- [17] Q. Well, the -- okay. So if -- yet you've
- [18] become --
- [19] A. Individual signs.
- [20] Q. You've become immune to signs, yet you've
- [21] come today to testify regarding the installation of a

Page 125

[1] sign?

[2] A. I've come to -- not to the installation.

[3] It's already installed. I've come because of the
[4] variance that is being requested, which I'm opposing.

[5] It's not meeting the regulations.

[6] Q. Right. But if you're immune, why would it
[7] matter?

[8] A. Because it's not meeting the regulations.

[9] Q. Does the county sign for the library meet
[10] the regulations?[11] MR. ZIMMERMAN: Objection. We're talking
[12] about the county library. The county may not be
[13] required to --[14] THE CHAIRWOMAN: It's not here today. He
[15] certainly isn't a land planner.[16] MR. MARSALEK: Well, he's testified that
[17] he's familiar with this. He goes up and down it two
[18] or three --[19] THE COURT: I understand. He's not a
[20] land planner. He doesn't --

[21] MR. MARSALEK: Well, he's testifying as a

Page 126

[1] local resident, though.

[2] THE CHAIRWOMAN: You asked him -- you
[3] asked him whether or not he knew if this was allowed
[4] or not for the library property. And, you know, you
[5] don't expect it of your realtor clients. I certainly
[6] wouldn't expect it of the vice president of the
[7] community association, whether he knows necessarily
[8] what the regulations are or the zoning of the library,
[9] what the sign is.[10] Q. How about the Mt. Nebo lodge that you
[11] mentioned, did they get any new signage recently?[12] A. Yes. We -- that was an issue since we've
[13] entered into the association. I can talk, I guess,
[14] about that as an issue for the association.[15] Q. Did the association favor or disfavor the
[16] installation of that particular sign?[17] A. The association protested the sign, but
[18] the understanding that I have -- I am not the person
[19] that's a point man. But from what I understood, they
[20] were grandfathered because of the sign being under the
[21] old guidelines.

Page 127

[1] Q. I see.

[2] MR. MARSALEK: Nothing further.

[3] MR. ZIMMERMAN: Thank you, Mr. Eckard.

[4] THE CHAIRWOMAN: Thank you, Mr. Eckard.

[5] MR. ZIMMERMAN: Madam Chair, that is all
[6] the evidence we have.[7] THE CHAIRWOMAN: Okay. Counsel approach
[8] the bench, please.

[9] (Discussion was held off the record.)

[10] THE CHAIRWOMAN: Basically you do know the
[11] issues. Okay.[12] MR. MARSALEK: The -- in terms of the
[13] regulation to which People's Counsel referred,
[14] 450.8A2, I respectfully disagree with the -- with the
[15] indication that that is -- that that's applicable
[16] under the present circumstances, because in this -- in
[17] this situation, this sign was applied for and was
[18] installed prior to the effective date of this act.[19] And, therefore, the more stringent
[20] interpretation, as Mr. Zimmerman would argue, is
[21] inappropriate. I think that -- that the less

Page 128

[1] stringent provisions under the old 1991 act would
[2] be -- would actually be more -- would be more
[3] appropriate. And that does permit a variance.[4] I think that it's significant that -- that
[5] from the testimony from -- from the applicants'
[6] standpoint, the character of the neighborhood in this
[7] stretch of land, north of Soth Avenue and south of
[8] Chapel, has dramatically changed over even the last
[9] three to five years.[10] While I appreciate what Ms. Brown said in
[11] terms of her planning, a lot of those -- a lot of
[12] those comments were salient to cover the main
[13] footprint of the Belair corridor study area map, one
[14] inch equals 2,000. That's accurate for those side
[15] streets in there, but I would argue that there should
[16] be another standard applied to the Belair Road
[17] corridor, and that it's outside of this standard.[18] I think that it's undisputed that
[19] Mr. Schmidbauer, in an effort to follow the law to be
[20] mindful of his civic responsibilities, spent
[21] considerable sums of money, far beyond what some of

Page 129

[1] the other businesses have spent along Belair Road.
 [2] And really painfully went through the process of
 [3] having a beautiful sign installed, a tasteful sign
 [4] installed. Something that would be made of natural
 [5] wood, that would compliment the area and would not be
 [6] obtrusion.

[7] I have to say some other of the signs in
 [8] the area don't -- don't blend as well as
 [9] Mr. Schmidbauer's sign. And part of the problem is
 [10] the man's name is Schmidbauer. It's a long name. If
 [11] it were Doe, we wouldn't have that same problem. But
 [12] with as many letters as we have, Schmidbauer, you have
 [13] to have a bigger name for the sign (sic).

[14] I mean, that's a small point, but he has
 [15] traded for 20-some years, 25, 30 years as Schmidbauer
 [16] Realty. And he has a certain amount of following
 [17] based upon the fact that he's known as Schmidbauer
 [18] Realty. And he's putting that name on his sign.

[19] Now, arguably, I guess he could change his
 [20] name to Doe in order to comply with the signage
 [21] requirement. So on a little two-by-three, he can get

Page 131

[1] THE CHAIRWOMAN: Okay.
 [2] MR. ZIMMERMAN: Yes, Madam Chair, members
 [3] of the panel, this petition for variance was filed in
 [4] November of 1997 after the effective date of bill
 [5] 89-97. Whatever some contractor may have done before
 [6] then -- and the facts are a bit vague, but assuming
 [7] there was some kind of application before then, that
 [8] has no legal status.

[9] And, in fact, this petition on its face
 [10] refers to section 202.3C1 and section 450.4.1 of the
 [11] regulations. So the petition was filed within the
 [12] purview of section 450. And then -- which is part of
 [13] bill 89-97.

[14] So section 450.8 does come into play. And
 [15] I would just suggest that the language is very plain.
 [16] There's no escape from it. This is a petition for a
 [17] free-standing sign. And that is simply not the type
 [18] of sign allowed in an ROA zone. Only projecting or
 [19] wall-mounted signs are allowed.

[20] So the case ends right there. But even if
 [21] we were standing here a year or two ago and the

Page 130

[1] his name on there. But I would submit to the Board
 [2] that if you take a two-by-three sign and you make
 [3] Schmidbauer Realty on that sign that you would have to
 [4] reduce it so small to get the whole name on there that
 [5] it's not going to be at all discernible from the
 [6] street, which is some, according to the plat, 30, 35
 [7] feet away.

[8] I think that it does propose quite a bit
 [9] of hardship for him, because he brought many, many
 [10] dollars into the area. From what he paid for the
 [11] house, he improved it dramatically. He's bringing 30
 [12] to 45 people into that area on a daily basis
 [13] increasing the tax base. He's producing a great
 [14] amount of income into that area which he's returning
 [15] to the community.

[16] And I think that the Board needs to be
 [17] cognizant of that. And I think it is within its power
 [18] to grant a variance. I don't think that it's limited
 [19] by virtue of the application of 450.8 as Mr. Zimmerman
 [20] would have us believe.

[21] I have nothing further.

Page 132

[1] petition came under the old section 202.3C1, the
 [2] result would have to be the same in our view. The six
 [3] foot -- square foot limitation has not changed. Then
 [4] a year or two ago, we would have been trying the case
 [5] under -- alone under Cromwell vs. Ward, which still is
 [6] an applicable standard.

[7] There's really no evidence that the
 [8] property is unique within the ROA zone. It's like
 [9] other properties in that zone. There happens to be a
 [10] library across the street. I mean, that doesn't
 [11] really help the petitioners' case one way or the
 [12] other.

[13] And it's been pointed out -- what is
 [14] obvious was also pointed out by Ms. Brown, that if
 [15] this petition is granted, then every petition up and
 [16] down Belair Road in this ROA zone, and, for that
 [17] matter, other ROA zones, would logically be in very
 [18] strong position to be granted.

[19] And the county council has made the
 [20] decision to highly restrict the signs in the ROA zone.
 [21] And if -- if from a global point of view that seems

Page 133

[1] harsh to Mr. Schmidbauer, the answer, as I said in the
[2] opening, is to get the law changed and not to have a
[3] string of variances.

[4] I also have to say that, according to the
[5] evidence, Mr. Schmidbauer bought the property about a
[6] year and a half ago. The property was zoned ROA when
[7] he bought it so that he takes it subject to the
[8] zoning. And there's no -- there's no harshness about
[9] the situation. He would have had to get a variance at
[10] any time.

[11] So in that sense, any, quote, unquote,
[12] difficulty is self-created. And there's no evidence
[13] of practical difficulty as that term is understood in
[14] the case law in McClain vs. Zolli (phonetic). It's
[15] not a legal difficulty simply because your own needs
[16] don't happen to mesh with the statutory requirements.

[17] I think most of the petitioners' counsel's
[18] argument, final argument has really gone to the
[19] personal situation of Mr. Schmidbauer; the fact that
[20] he has a long name; the fact that he has had a nice
[21] business; the fact that he's improving the property.

Page 134

[1] And all of that may be well and good, but
[2] it's unrelated to the legal standard which is an
[3] objective standard both of the uniqueness and the
[4] practical difficulty.

[5] I think we've submitted what we think is
[6] the relevant documentation. And I know the Board has
[7] directed a brief argument, and I will, therefore,
[8] conclude now. Thank you.

[9] THE CHAIRWOMAN: Thank you. Any rebuttal
[10] or --

[11] MR. MARSALEK: (Shakes head.)

[12] THE CHAIRWOMAN: Okay. We'll recess for
[13] an hour. We'll deliberate in one hour.
[14] (Hearing concluded.)

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Page 135

[1] STATE OF MARYLAND)
[2]) ss
[3] COUNTY OF BALTIMORE)
[4] I, Shannon M. Wright, a Notary Public in and
[5] for the State and County aforesaid, do hereby certify
[6] that the foregoing is a true and accurate
[7] transcription of the proceedings indicated.
[8] I certify that I am not of counsel, attorney,
[9] or relative of any party, or otherwise interested in
[10] the event of this suit.
[11] In witness whereof, I have hereunto set my
[12] hand and affixed my notarial seal this 11th day of
[13] March 1999.

[14] _____
[15] Shannon M. Wright
[16] Notary Public

[17] My commission expires July 1, 1999.
[18]
[19]
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[21]

	105/10 400 1/8 45 3/5, 36/20, 65/12, 130/12 450 11/12, 11/15, 11/16, 17/5, 131/12 450.4 11/6, 11/7, 11/11 450.4.1 10/7, 131/10 450.8 9/16, 9/18, 10/19, 130/19, 131/14 450.8A1 10/21 450.8A2 11/2, 12/3, 127/14 4C 18/5 4th 3/1	advisory 5/11, 7/10, 101/18 affect 83/8 affected 49/21 affidavit 13/18, 13/19, 13/21, 18/10, 109/5 aforegoing 135/5 age 116/5 agree 54/8, 60/16, 96/10, 103/8, 105/21, 106/1 agreed 5/18, 41/11 Alfred 57/8 Allegheny 2/11 allow 11/16, 12/9, 101/14, 103/17 allowance 10/16 allowed 11/15, 69/9, 99/7, 110/15, 123/8, 126/3, 131/18, 131/19 allowing 103/20, 110/13 allows 102/15, 103/5 amazing 41/9 amendment 15/21 Amereihn 20/13 amount 43/20, 65/19, 98/9, 123/2, 129/16, 130/14 amplification 22/11 answer 66/14, 87/1, 99/4, 133/1 anticipate 61/16, 61/17 apartment 81/6, 115/9 apartments 115/16 appeal 2/6, 5/1, 42/8, 53/6, 62/11, 111/9, 118/13 appealed 12/12 APPEALS 1/3, 1/7, 12/4, 14/4, 73/7 appearance 84/8 APPEARANCES 1/15 applicable 3/4, 4/8, 127/15, 132/6 applicants' 128/5 application 4/10, 4/16, 22/18, 130/19, 131/7 applied 29/1, 95/12, 127/17, 128/16 apply 4/2, 67/6 applying 37/8 appointment 109/19 appreciate 8/3, 93/8, 128/10 approach 127/7 approached 119/11 appropriate 81/11, 84/5, 84/7, 128/3 approval 53/6, 119/9 approved 73/5 approximate 16/14, 17/16, 116/5 April 52/11, 52/16 area 5/12, 7/12, 8/21, 13/14, 16/8, 19/5, 27/20, 28/6, 28/12, 33/21, 34/21, 37/8, 39/18, 41/14, 41/16, 43/18, 44/3, 44/11, 47/8, 49/14, 55/20, 59/3, 59/7, 59/20, 65/11, 65/13, 65/14, 76/7, 77/10, 77/11, 78/12, 78/21, 80/10, 81/3, 82/3, 83/6, 87/10, 87/14, 89/21, 90/3, 90/4, 90/8, 91/9, 91/11, 91/17, 92/4, 92/11, 92/14, 93/1, 93/3, 93/11, 93/16, 94/11, 94/19, 94/20, 95/2, 95/21, 96/18, 96/19, 97/2, 98/13, 98/14, 98/20, 100/1, 100/10, 101/19, 107/14, 115/1, 115/19, 116/4, 116/15, 121/20, 121/21, 128/13, 129/5, 129/8, 130/10, 130/12, 130/14 area's 102/18 areas 13/4, 84/16, 116/20 arguably 129/19 argue 4/7, 127/20, 128/15 argument 33/1, 33/4, 33/6, 33/10, 63/15, 106/5, 133/18, 134/7 argumentative 105/20, 106/2 arguments 47/15 aspect 104/5, 118/19, 119/5 assembled 15/14 assent 6/12 Assessment 70/5 asset 118/4 assistance 75/13, 75/15 association 6/20, 13/17, 13/20, 14/2, 14/12, 18/11, 78/11, 107/5, 108/4, 108/7, 108/17, 109/9, 110/8, 110/13, 110/16, 113/19, 117/20, 126/7, 126/13, 126/14, 126/15, 126/17 assured 39/8, 40/7, 51/11 attached 6/1, 32/13 attempt 104/8 attendance 77/2 attest 44/1 attorney 69/11, 83/20, 103/13, 135/7 attributable 41/14 August 3/1, 5/13, 7/13, 9/4, 101/20 author 76/20 authority 108/3 authorization 11/4 authorized 110/9 authorizing 4/7 Avenue 1/8, 2/11, 16/9, 16/10, 18/21, 19/1, 19/3, 53/11, 53/20, 54/5, 54/14, 54/15, 54/19, 54/21, 55/10, 62/3, 67/11, 67/18, 67/20, 68/3, 68/11, 69/16, 79/13, 82/9, 82/10, 96/9, 99/16, 99/19, 107/1, 114/19, 114/20, 116/5, 128/7
\$150,000 49/18 \$4,000 65/20		
& 70/5		
'95 6/1 '96 112/7 '97 4/17, 4/18, 5/13, 27/15, 27/16, 29/6, 29/7		
* 1/1, 1/2, 1/3, 1/4, 1/5, 1/11, 2/1		
1 7/6, 15/10, 19/14, 22/7, 22/9 10 13/7, 18/13, 19/15, 56/4, 62/2, 108/13, 109/3, 110/14, 111/10, 113/14 10:57 1/9 10G 17/10, 17/13, 78/18 116 17/7 11G 17/11, 17/16 11th 1/2, 73/20, 74/9 12 18/12 13 1/4 13th 1/9, 111/2, 111/13, 111/14 15 56/4 15th 111/2 17 17/7 170-91 15/11, 86/14 1989 60/15, 60/19, 83/1 1991 15/17, 36/18, 128/1 1992 86/17, 86/21 1995 7/17, 89/3, 89/12, 89/14, 93/19 1996 78/11, 86/21, 87/3, 87/11, 110/20, 111/2, 111/13 1997 3/1, 7/13, 9/3, 9/6, 101/20, 131/4 1998 1/4, 1/9, 52/11, 52/16, 111/14 19th 9/4 1C 6/4, 88/17, 89/4 1st 52/11, 52/16	5 10/12, 16/1, 16/11 50 25/4, 25/5, 30/18, 31/3, 32/3, 32/8, 33/14, 58/21, 105/11 50-mile-an-hour 105/10 549 31/19 55 79/2 5A 23/2, 23/3 5B 24/4, 24/5, 24/6 5C 24/10 5D 25/10, 26/16 5E 25/18, 26/11, 26/17 5th 71/10, 73/4, 73/17, 73/21, 74/2, 74/6, 74/14, 75/16, 76/12	
2 7/10, 10/15, 15/16, 24/3, 94/1 2,000 94/11, 94/20, 128/14 20 13/7, 115/20 20-some 129/15 2000 83/1 2010 5/11, 7/11, 101/19 202.3C 11/10 202.3C1 8/20, 8/21, 15/13, 16/1, 17/4, 131/10, 132/1 21 7/14 21128 62/3 21204 1/9 22 6/6, 58/7 24 58/15, 58/18, 59/14 25 129/15 25-mile-an-hour 105/13 250 50/3 2700 29/14 28 2/10 29 122/11 2A 85/2 2B 2nd 15/17	6 16/1, 17/1 60 66/21 681 16/13 6th 1/3	
3 7/15, 15/20 30 13/7, 48/6, 122/10, 129/15, 130/6, 130/11 300 50/3 30th 4/18 32 10/18 35 79/2, 92/8, 107/3, 121/20, 130/6 350 50/3 39 106/21	7 6/2, 7/18, 17/6, 89/4, 107/13, 122/16 70 89/6, 89/15 73 32/16 73.33 32/8, 33/15	
4 6/2, 7/18, 7/20, 15/12, 16/7 4-1-98 7/9 4-136 9/18, 10/5 40 13/7, 31/5, 34/1, 43/12, 45/2, 45/4, 65/13,	8 2/19, 5/15, 6/21, 17/19, 112/18, 112/19 89 9/3 89-97 15/21, 131/5, 131/13 8A 17/9, 17/20 8B 77/20	area 5/12, 7/12, 8/21, 13/14, 16/8, 19/5, 27/20, 28/6, 28/12, 33/21, 34/21, 37/8, 39/18, 41/14, 41/16, 43/18, 44/3, 44/11, 47/8, 49/14, 55/20, 59/3, 59/7, 59/20, 65/11, 65/13, 65/14, 76/7, 77/10, 77/11, 78/12, 78/21, 80/10, 81/3, 82/3, 83/6, 87/10, 87/14, 89/21, 90/3, 90/4, 90/8, 91/9, 91/11, 91/17, 92/4, 92/11, 92/14, 93/1, 93/3, 93/11, 93/16, 94/11, 94/19, 94/20, 95/2, 95/21, 96/18, 96/19, 97/2, 98/13, 98/14, 98/20, 100/1, 100/10, 101/19, 107/14, 115/1, 115/19, 116/4, 116/15, 121/20, 121/21, 128/13, 129/5, 129/8, 130/10, 130/12, 130/14 area's 102/18 areas 13/4, 84/16, 116/20 arguably 129/19 argue 4/7, 127/20, 128/15 argument 33/1, 33/4, 33/6, 33/10, 63/15, 106/5, 133/18, 134/7 argumentative 105/20, 106/2 arguments 47/15 aspect 104/5, 118/19, 119/5 assembled 15/14 assent 6/12 Assessment 70/5 asset 118/4 assistance 75/13, 75/15 association 6/20, 13/17, 13/20, 14/2, 14/12, 18/11, 78/11, 107/5, 108/4, 108/7, 108/17, 109/9, 110/8, 110/13, 110/16, 113/19, 117/20, 126/7, 126/13, 126/14, 126/15, 126/17 assured 39/8, 40/7, 51/11 attached 6/1, 32/13 attempt 104/8 attendance 77/2 attest 44/1 attorney 69/11, 83/20, 103/13, 135/7 attributable 41/14 August 3/1, 5/13, 7/13, 9/4, 101/20 author 76/20 authority 108/3 authorization 11/4 authorized 110/9 authorizing 4/7 Avenue 1/8, 2/11, 16/9, 16/10, 18/21, 19/1, 19/3, 53/11, 53/20, 54/5, 54/14, 54/15, 54/19, 54/21, 55/10, 62/3, 67/11, 67/18, 67/20, 68/3, 68/11, 69/16, 79/13, 82/9, 82/10, 96/9, 99/16, 99/19, 107/1, 114/19, 114/20, 116/5, 128/7
	a.m 1/9 above-entitled 1/6 abutting 99/20 academic 71/19 accept 6/10, 47/14, 48/4, 75/16 accepted 75/11 accidents 43/6 accommodate 46/10, 104/9 accompanied 31/13, 46/14 accord 8/2 accurate 42/15, 89/17, 89/18, 98/8, 128/14, 135/5 act 3/15, 29/9, 127/18, 128/1 active 107/4 activities 122/15 ADC 16/7, 90/10, 91/1 add 119/13 address 6/11, 20/11, 23/15, 32/19, 35/10, 57/17, 57/19, 106/20 adjoining 78/18 administration 9/13 Administrator 122/14 Admissions admit 7/21, 19/14, 23/21 admitted 19/15, 19/21, 24/1, 73/6, 110/15, 112/17, 113/15 admitting 26/17 adopted 2/21 advance 5/18	

background 71/14, 72/13, 72/18, 72/19, 85/6, 86/3
bad 101/6, 101/8
balance 105/4
BALTIMORE 1/2, 1/7, 1/16, 2/13, 3/3, 5/13,
7/6, 10/3, 17/7, 17/10, 51/2, 60/15, 70/4, 71/11,
73/1, 85/12, 101/10, 101/13, 101/17, 114/1, 135/2
Bangert 62/3, 107/1
base 130/13
based 65/21, 66/3, 66/7, 87/11, 98/12, 129/17
basis 3/16, 4/13, 120/19, 130/12
beautiful 129/3
beg 2/17
Belair 1/2, 5/21, 7/16, 8/13, 8/15, 12/6, 13/2,
16/8, 16/9, 16/10, 16/15, 17/8, 18/16, 18/18, 19/1,
19/2, 19/5, 20/14, 24/15, 25/15, 27/7, 27/21, 28/11,
30/13, 31/11, 33/20, 34/9, 34/10, 34/11, 34/15,
34/20, 35/11, 35/14, 42/13, 42/16, 42/17, 43/3,
43/14, 43/16, 43/20, 44/3, 44/9, 44/13, 44/21, 45/10,
45/11, 47/1, 47/6, 48/9, 48/11, 48/15, 48/19, 53/19,
54/3, 54/6, 54/20, 55/5, 60/3, 68/17, 69/3, 69/20,
71/18, 76/7, 78/2, 78/3, 78/15, 79/5, 80/14, 82/21,
83/1, 83/4, 83/6, 83/7, 83/13, 83/14, 84/1, 84/16,
87/4, 87/7, 89/1, 89/2, 92/14, 93/17, 94/10, 94/14,
94/19, 95/8, 95/21, 96/6, 96/20, 97/8, 97/10, 97/13,
97/15, 99/2, 99/3, 99/17, 99/18, 99/20, 100/21,
103/11, 107/15, 114/19, 115/4, 116/14, 116/17,
116/20, 120/16, 128/13, 128/16, 129/1, 132/16
belief 68/10
Beltway 45/6
bench 127/8
benefit 93/10
big 117/4, 124/13
bigger 129/13
bill 3/4, 3/12, 9/3, 15/11, 15/21, 16/4, 65/19,
86/14, 86/15, 131/4, 131/13
binding 99/18, 99/19
bit 41/6, 49/19, 62/14, 67/16, 67/19, 78/4, 103/11,
130/8, 131/6
BL 77/14, 79/3, 87/6, 95/13, 95/14, 95/17, 95/18,
95/19, 95/20
Blakely 96/10
blend 41/15, 129/8
blends 41/20
block 25/7, 30/21, 53/12, 54/11, 54/12, 54/20,
55/10, 82/7, 82/8, 98/15, 117/4, 120/16
blocks 28/14, 54/11, 58/2, 58/12, 82/4, 120/16
blowing 45/8
BOARD 1/3, 1/7, 1/12, 5/8, 7/1, 8/14, 9/10, 9/17,
10/4, 12/4, 14/3, 15/9, 15/16, 16/5, 16/14, 17/17,
18/14, 19/11, 73/7, 75/11, 77/6, 78/19, 106/11,
108/19, 108/20, 109/7, 110/12, 113/4, 117/17, 130/1,
130/16, 134/6
Board's 5/15, 6/4, 112/14
book 51/9, 67/10
bookkeeper 20/19, 36/2, 36/3
bottom 17/15
bought 65/8, 122/19, 133/5, 133/7
Bonlevard 94/13
boundaries 74/3, 95/7, 107/10
boundary 93/3
brief 134/7
bring 2/15, 108/10, 112/16
bringing 130/11
broker 67/5
brought 21/2, 21/3, 130/9
Brown 13/13, 71/2, 71/10, 72/11
buffer 77/16, 104/8
building 31/15, 31/16, 32/13, 32/19, 46/19, 47/21,
49/11, 50/4, 81/6, 103/1, 103/6, 119/12
buildings 13/2, 28/20, 28/21, 34/20, 115/2
built 61/4
bunch 21/4
business 3/8, 20/11, 28/10, 34/5, 36/13, 37/1,
59/10, 62/10, 65/10, 89/5, 98/3, 98/4, 103/17,
103/19, 103/20, 105/15, 118/3, 121/6, 133/21
businesses 27/7, 28/6, 35/2, 35/7, 59/1, 59/11,
129/1
busy 31/11
buying 44/5, 44/6
bylaws 110/4

calculation 33/14
call 31/8, 31/9, 61/21, 70/4, 111/17
came 1/6, 4/3, 37/11, 37/12, 42/5, 52/19, 52/21,
86/20, 120/5, 132/1
capacities 122/13
capacity 20/18, 39/3, 49/4, 74/11, 122/12
Cappeletti 57/19

car 32/14
care 2/16, 59/10
Carney 107/13
carried 10/12
carries 60/16
Case 1/3, 2/3, 3/4, 3/10, 4/20, 8/9, 8/12, 8/15,
8/16, 8/18, 9/2, 9/5, 9/15, 12/5, 12/7, 12/11, 13/20,
14/4, 14/13, 17/2, 33/2, 51/21, 63/7, 70/19, 70/21,
73/9, 76/8, 79/14, 81/10, 85/20, 86/7, 110/21, 113/5,
114/7, 118/2, 120/5, 120/9, 131/20, 132/4, 132/11,
133/14
cases 6/18, 14/10, 85/12
catty-corner 59/8
ceases 77/13
center 46/2, 59/10, 96/1, 107/17
certify 135/4, 135/7
Chair 6/15, 61/7, 70/17, 87/17, 106/10, 113/2,
121/15, 127/5, 131/2
Chairwoman 1/13, 2/3, 2/14, 6/14, 7/3, 7/9, 8/7,
10/1, 14/14, 14/18, 15/6, 15/19, 16/16, 17/19, 17/21,
19/13, 19/18, 20/5, 21/12, 22/8, 23/2, 23/4, 23/21,
24/4, 24/7, 24/10, 24/14, 24/17, 24/21, 25/10, 25/13,
25/18, 26/3, 26/8, 26/11, 26/14, 26/16, 26/21, 27/5,
33/3, 33/9, 33/13, 33/17, 38/10, 38/15, 41/1, 47/13,
48/4, 52/15, 56/21, 57/2, 57/6, 61/8, 61/10, 62/18,
63/2, 63/11, 63/14, 63/17, 64/4, 64/12, 64/15, 64/21,
66/13, 66/16, 69/1, 69/6, 69/9, 70/8, 70/15, 70/18,
71/1, 71/3, 71/21, 72/3, 72/6, 72/14, 72/17, 73/12,
75/6, 75/12, 87/19, 88/20, 90/20, 91/2, 93/21, 94/4,
99/1, 99/12, 100/11, 100/14, 102/12, 103/14, 104/3,
104/6, 106/1, 106/4, 106/8, 106/12, 108/14, 111/4,
111/18, 112/13, 113/1, 113/7, 113/13, 113/20,
121/16, 123/8, 125/14, 126/2, 127/4, 127/7, 127/10,
131/1, 134/9, 134/12
chance 58/4
change 58/16, 81/21, 87/4, 100/2, 129/19
changed 59/17, 128/8, 132/3, 133/2
changes 90/4, 91/4, 91/5, 124/8
changing 4/9, 77/10, 84/9
Chapel 46/9, 60/8, 94/12, 97/17, 98/18, 128/8
character 27/7, 43/14, 48/11, 58/16, 77/9, 77/11,
78/9, 90/4, 91/5, 100/1, 100/3, 102/17, 104/13,
105/11, 105/14, 128/6
characteristics 79/20
Charles 14/3
chart 9/9, 9/17, 10/6, 11/16, 12/8, 16/3, 16/4, 16/5
check 33/14, 42/6, 51/17, 85/14
checked 35/3, 36/5, 36/12, 39/11
Chiropractic 24/11, 85/1
Choice 96/15
circuit 11/20
circumstances 127/16
citizen 113/21, 117/16
civic 128/20
class 11/4, 15/18
classification 102/7
classifications 89/5
clear 78/12, 93/1, 118/7
client 3/7
clients 126/5
clip 16/19
close 17/13, 65/20, 70/19, 119/18, 122/3
closer 79/7
closes 8/7
closing 33/6, 33/10, 47/15, 106/5
clutter 84/9, 104/18, 104/20, 121/12
code 10/2
cognizant 130/17
coincide 76/2
College 122/10
collegiality 5/4
column 10/11, 10/15
Comm 25/19, 26/1, 26/12, 26/17
comment 17/2
comments 128/12
commercial 10/9, 28/17, 28/18, 28/20, 44/6, 44/7,
44/10, 48/18, 49/2, 49/10, 50/1, 50/2, 65/21, 66/4,
67/16, 68/1, 70/12, 77/15, 77/17, 78/6, 79/3, 79/7,
80/2, 80/4, 80/7, 80/16, 80/17, 83/10, 83/11, 87/9,
89/7, 89/16, 90/2, 92/3, 92/4, 96/17, 96/21, 97/10,
101/2, 101/7, 101/9, 101/13, 104/10
commercial/business 96/7
commercialization 78/15, 83/16, 84/11, 104/21
commercialized 83/11
commercially 66/4, 89/4
commissioner 2/8, 4/18, 12/5, 12/11, 110/2
commissioner's 53/6
committee 109/8
communities 78/14
community 110/13, 118/4, 118/17, 122/10, 126/7,
130/15
commuters 60/11
company 27/16, 27/17, 34/5, 36/7, 62/15

compare 46/6
compared 41/17, 44/17
comparing 67/17
compilation 7/13
compiled 5/12, 101/17
complain 14/11
complaint 11/20
complete 78/17
completeness 18/2
complexes 115/9
compliance 9/13, 53/8, 110/12, 112/18, 112/19
compliment 40/2, 42/10, 129/5
complimented 42/6, 52/20, 53/7
comply 129/20
composition 39/20
comprehensive 78/12
computer 16/12, 27/17, 36/9, 39/16, 41/9
concern 117/16, 117/20, 118/1, 118/6
concerned 44/17, 84/5, 91/19, 95/19, 96/18,
97/16, 118/18
conclude 120/7, 134/8
concluded 134/14
condition 104/10
conditions 46/7, 104/14
conducts 3/7
conform 22/6
conformity 85/8
confusion 107/11
conjecture 28/9
conjunction 22/17, 74/19, 77/19
connection 76/10, 82/19
considerable 128/21
consideration 5/8, 5/15, 6/5
consistent 102/4
constructed 63/18
construction 10/21, 85/7
contest 101/1
continues 23/12
contracted 3/10, 35/18
contractor 35/19, 52/7, 64/20, 131/5
contribute 76/11
contributes 84/10, 104/20
control 64/1
convenient 9/21
conventional 5/20
conversion 79/18, 101/14
convert 99/7
converted 13/2, 13/3, 19/5, 59/12, 80/19, 84/2,
98/3, 99/9, 116/13, 116/14
converting 115/1
copies 9/20
copy 4/5, 9/17, 10/2, 11/10, 14/1, 16/4, 21/7,
24/2, 51/2
corner 17/13, 17/14, 17/15, 67/13
correct 7/4, 22/10, 23/10, 24/18, 27/21, 52/12,
53/20, 55/2, 55/18, 56/5, 62/11, 62/15, 68/6, 71/13,
73/8, 73/18, 74/18, 74/21, 76/14, 77/1, 79/10, 79/11,
79/15, 79/16, 82/11, 82/18, 83/19, 84/3, 84/4, 84/12,
84/18, 85/20, 85/21, 86/3, 86/4, 86/18, 91/6, 92/13,
94/3, 95/1, 95/6, 95/9, 96/2, 96/4, 96/13, 96/16,
98/9, 107/21, 108/1, 109/21, 110/6, 111/10, 116/18,
116/19, 120/17, 122/5
correctly 2/6, 28/2
corridor 5/21, 7/16, 27/21, 28/11, 44/10, 58/21,
60/6, 80/16, 82/21, 83/4, 84/1, 89/1, 89/2, 89/6,
89/16, 93/17, 94/11, 94/20, 99/2, 103/9, 105/9,
128/13, 128/17
corridors 83/10
cost 29/13
council 3/1, 13/7, 19/12, 77/20, 86/14, 108/12,
123/15, 132/19
councilman 78/13
Councilmanic 1/3, 74/1, 74/2, 74/6, 75/17, 76/12,
88/2
counsel 2/8, 2/13, 5/1, 8/3, 19/14, 19/15, 127/7,
127/13, 135/7
counsel's 133/17
counselor 39/4, 122/14
COUNTY 1/2, 1/7, 1/16, 2/13, 3/1, 3/3, 4/2, 7/6,
10/3, 13/7, 17/7, 17/10, 19/12, 36/8, 39/11, 40/5,
40/7, 43/18, 51/2, 60/15, 67/1, 70/4, 71/11, 73/1,
73/7, 85/12, 87/8, 101/10, 101/13, 101/17, 114/1,
125/9, 125/12, 132/19, 135/2, 135/4
county's 83/7
couple 27/19
course 5/9, 16/3, 17/4, 39/15, 43/1, 43/18, 79/12,
79/17, 85/2, 85/18, 107/18, 110/1, 111/14, 120/15
court 11/20, 57/20, 62/13, 120/5, 120/9, 125/19
Court's 93/10
Courthouse 1/8
courtroom 42/11
cover 50/16, 128/12
create 105/5, 118/16

created 86/15
creates 104/20
criteria 120/10
Cromwell 120/6, 132/5
Cross 33/17, 33/18, 50/7, 60/1, 70/15, 87/19,
87/20, 120/2, 121/16, 121/17
cumulative 118/19
CUNNINGHAM 1/1, 2/4
cure 112/15
currently 109/6, 116/4, 118/10
cutoff 91/5, 91/19
cuts 107/14

D

daily 120/19, 122/17, 130/12
Darleigh 96/10
date 3/12, 7/8, 29/9, 35/19, 52/21, 89/11, 127/18,
131/4
dated 5/13, 15/17, 52/11, 52/16, 93/19, 101/20,
112/5, 112/7
dating 112/10
day 3/5, 56/8, 59/10, 112/15
days 3/5, 36/8, 39/12
dead 69/16
deal 15/6, 19/12, 19/19
dealing 86/20, 102/19, 105/5
December 4/18
decision 4/21, 43/8, 132/20
declared 118/9
decor 41/16
degree 72/20
delay 5/2
deliberate 113/5, 113/8, 134/13
deliberation 120/14
delineated 93/11
delineates 95/4
denied 8/20, 12/10
Dennis 13/15, 106/21
denotes 10/8
density 18/20
Department 70/4
departments 107/20
depends 97/3
depicted 95/21, 96/3
depicts 31/15
deputy 2/7
derived 114/3
describe 22/12, 27/6, 43/13, 71/14, 80/11, 114/18,
124/11
described 105/1, 114/21
description 44/12
design 41/7, 62/15
designation 77/13, 92/7
determine 85/6
detract 39/17
development 76/2, 97/4, 116/4, 117/4
difference 80/14, 82/18, 96/17
difficulties 120/12
difficulty 4/14, 12/18, 133/12, 133/13, 133/15,
134/4
dire 73/12, 73/13
DIRECT 20/9, 35/18, 38/19, 52/19, 57/15, 62/7,
71/6, 75/7, 95/11, 106/18
directed 134/7
direction 42/19, 42/20, 43/11
Director 122/14
director's 17/2, 76/20
directors 109/7
disagree 34/16, 48/5, 127/14
discernible 130/5
disclose 14/6
disclosed 14/17
Discussion 57/11, 62/21, 106/14, 127/9
discussions 39/6, 41/3, 62/14, 64/3, 111/6
disfavor 126/15
dismiss 11/21
displayed 103/2
dispute 3/13, 92/16
distance 42/18, 47/21
distinction 44/19, 44/20, 48/9
distraction 118/5
District 1/3, 71/10, 73/4, 73/17, 73/20, 73/21,
74/2, 74/3, 74/7, 74/9, 74/14, 76/13, 88/2, 88/3
document 88/11, 88/12, 88/13, 88/19, 89/9,
89/14, 95/3, 101/16, 101/21, 102/4, 110/19, 112/10
documentation 109/2, 109/3, 113/12, 134/6
documented 35/10
documents 13/10, 108/11
Doe 129/11, 129/20
doesn't 10/1, 25/8, 50/16, 52/7, 85/16, 91/7,
93/15, 103/21, 120/9, 125/20, 132/10
dollars 30/9, 130/10

dominant 83/12
door 27/18
doors 23/9
DOROTHY 1/1, 2/4, 109/16
dotted 93/11, 93/16, 94/19, 95/2
doubt 77/10
DR35 18/19, 18/20, 19/3, 78/3, 78/4, 78/5,
100/10, 116/21, 117/11
DR55 19/4, 78/5, 92/8
draft 89/9
drafted 74/21
drafting 88/14
draftsman 76/2
dramatically 3/2, 59/17, 128/8, 130/11
drew 39/15
drive 25/3, 31/7, 90/4, 90/5, 91/20, 96/15, 96/19,
100/3, 104/17
driven 55/15
driveway 32/20
driving 25/4, 25/5, 32/14, 44/21, 121/3
drove 122/9
during 78/11
duties 76/16

E

easel 78/19
east 99/17, 99/21
eastern 60/18
Ebenezer 79/7, 80/15, 87/15, 90/2, 98/18
Eckard 13/15, 106/21
educational 72/18
effect 8/18
effective 3/5, 3/12, 9/4, 29/9, 35/19, 127/18, 131/4
effort 128/19
eight 74/13, 88/3, 88/9
elected 4/3
Election 1/2, 74/9
elements 84/10
employ 65/11
employed 20/15, 20/20, 36/16, 38/21, 122/10
employment 72/21
enactment 3/5
encompasses 92/11
Encompassing 27/20
end 3/6, 27/13, 33/2, 70/20, 82/9, 96/8, 112/15
ended 30/16
ends 69/16, 131/20
enforces 34/3
engage 29/4
engaged 66/9
enter 14/19, 120/13
entered 126/13
enterprise 10/6
entertain 15/3
entitled 4/11, 8/3, 15/17, 17/10, 18/4, 84/17
environment 41/20
envisioned 12/19
equals 94/11, 94/20, 128/14
error 112/15
escape 131/16
Esquire 1/16, 1/17
Essex 74/5, 122/10
establish 107/12
established 3/14, 75/15, 105/17
establishing 115/13
estate 3/8, 36/14, 36/20, 37/3, 50/9, 50/12, 50/14,
50/16, 51/15, 52/4, 52/8, 56/16, 56/17, 56/19, 58/3,
59/2
estimation 41/15, 48/8
event 83/5, 85/18, 87/2, 107/15, 113/9, 135/9
evidence 7/21, 12/16, 24/1, 31/15, 32/21, 52/11,
76/21, 113/15, 124/6, 127/6, 132/7, 133/5, 133/12
exam 50/12, 50/13, 52/5, 52/8, 120/2
EXAMINATION 20/9, 33/18, 38/19, 50/7,
52/19, 57/15, 60/1, 62/7, 71/6, 75/7, 87/20, 106/18,
121/17
exceeds 95/7
exception 11/3, 97/4
excerpt 17/6, 60/14
excess 43/11, 45/1, 105/12
exciting 99/4
excuse 13/14, 18/12, 28/5, 72/2, 77/5, 82/21, 83/5,
95/16, 108/20, 111/2, 112/21
executed 111/1
Exhibit 7/6, 7/10, 7/15, 7/20, 15/16, 15/20, 16/7,
16/11, 17/1, 17/6, 18/3, 18/13, 22/7, 22/9, 23/2,
23/3, 24/3, 70/7, 77/20, 85/2, 108/12, 109/3, 110/14,
111/10, 113/14
exhibits 15/9, 17/9, 70/3, 86/14
exist 23/12
existence 86/8
existing 3/14, 32/11, 84/20

exists 116/4, 119/7
expanding 95/20
expect 126/5, 126/6
expected 13/3
expecting 12/16
experience 49/9, 71/15, 72/13, 85/12, 87/11, 98/12
experienced 42/16
expert 72/11, 73/6, 73/11, 75/16
expertise 49/10, 72/10
extends 82/4
extract 5/10, 7/11, 7/13, 7/16, 101/21
extracts 6/2, 7/17
eye 109/19, 118/13

F

fabricated 3/11
fabrication 41/5
face 11/21, 131/9
facilities 115/2
fact 3/13, 42/3, 45/12, 76/19, 77/13, 100/16,
111/1, 129/17, 131/9, 133/19, 133/20, 133/21
facts 131/6
fair 30/6, 89/13, 96/5, 98/2
fall 34/7
falls 17/13
familiarization 98/13
fast 32/2, 60/6
favor 126/15
favorable 4/20
fear 30/16
features 12/8
feet 8/21, 9/2, 9/8, 10/18, 18/4, 29/19, 31/19,
31/21, 32/1, 32/4, 32/8, 32/12, 32/16, 32/17, 33/15,
36/20, 47/19, 48/2, 48/3, 48/6, 81/7, 94/11, 94/21,
103/6, 103/7, 130/7
field 117/5, 117/7
fifteen 9/2, 21/1, 49/6, 49/7
figure 49/20
file 11/20, 13/16, 21/11, 21/12, 21/14, 21/16, 22/5,
23/8, 23/19
filed 9/5, 131/3, 131/11
filing 8/18
find 9/12, 10/5, 10/10, 10/15, 10/20, 11/9, 13/15,
19/11, 31/9, 31/10, 56/14, 115/3, 117/11
finding 4/20
findings 6/3
fine 7/3, 17/21, 18/8, 24/2, 26/9, 36/9, 72/11,
74/10, 106/8, 112/13
finish 61/20
finished 61/13, 68/2
Five 16/21, 46/4, 72/21, 128/9
fixed 103/6
flat 104/15
flow 32/15, 105/15
flux 109/18
fly 60/13
flying 25/6
focus 71/18, 82/13, 103/4
follow 120/9, 128/19
follows 20/8, 38/18, 57/14, 62/6, 71/5, 106/17,
107/13
foot 132/3
footprint 128/13
Forge 107/14
form 123/5
forthright 43/19
Forty-five 36/17
found 4/2, 11/15, 77/7
four 28/14, 58/2, 58/12, 98/20
four-lane 60/3, 60/16
Frank 57/19
free-standing 10/16, 10/18, 11/17, 131/17
freestanding 23/5
frequent 97/2
front 31/16, 47/18, 66/18, 124/7
frontage 95/10, 95/13
function 75/2, 76/4
future 81/17

G

garage 59/8
gates 118/17
gather 114/2
gathered 63/20
gentleman 51/10, 52/1
gentlemen 2/15
global 132/21
goal 79/4
God 25/9, 43/3
governs 9/5

grandfathered 86/11, 126/20
grant 87/8, 101/3, 130/18
granted 27, 11/3, 12/1, 81/17, 81/18, 84/14,
101/11, 132/15, 132/18
graphics 41/9
greater 104/10
ground 22/15, 23/5, 29/19, 80/12
group 5/11, 6/6, 7/11, 101/18, 101/19
growth 5/12, 7/12
guess 19/13, 68/1, 71/19, 93/21, 98/12, 113/2,
126/13, 129/19
guidelines 5/16, 7/14, 42/4, 126/21
guy 4/1, 39/6, 39/8

H

Halbert 16/9, 16/10, 53/11, 54/15, 54/19, 54/20,
68/3, 68/4, 68/11, 69/14, 69/16, 82/10, 114/19, 116/5
half 25/7, 31/1, 65/5, 65/9, 123/1, 133/6
Hall 13/17, 17/11, 18/11, 57/20, 58/1, 61/4, 62/3,
74/4, 78/11, 107/1, 107/5, 107/10, 107/16, 107/19,
107/20, 108/3, 109/8, 114/1, 117/4
Hall/White 5/12, 7/12, 101/19
hand 111/13
handed 120/6
handwriting 48/19
happy 121/12
hardship 4/14, 120/13, 130/9
harsh 13/5, 13/6, 133/1
harshness 133/8
hate 48/17
head 134/11
hearsay 15/3, 62/19, 62/20, 64/5, 64/8
heavier 61/3, 67/16, 79/6
heavily 60/21, 92/3, 92/4
heavy 60/17, 61/2
held 4/17, 56/18, 57/11, 64/3, 106/14, 127/9
help 74/8, 76/19, 93/21, 94/17, 132/11
helpful 94/15
higher 21/17
highlighted 5/14, 6/4, 11/1
highway 43/16, 44/14, 44/17, 46/7, 60/16, 68/17,
68/21
hiring 52/2
historian 115/21
history 8/10, 8/11, 119/7, 119/10
hit 25/8
home 49/14, 81/4, 81/6, 81/8, 104/13, 115/15
homes 48/14, 59/12, 80/19, 84/2, 100/16, 104/11,
115/1, 115/6, 116/10, 116/13, 117/5, 117/6
Honor 63/1, 63/9
hope 2/5, 33/9, 86/5
horns 45/8
hour 25/5, 30/18, 31/3, 31/5, 32/3, 32/8, 33/15,
43/12, 45/3, 45/4, 60/13, 134/13
house 115/15, 123/3, 130/11
houses 28/15, 34/19, 34/20, 44/6, 49/1, 99/9, 103/9
HOWANSKI 1/13
hundred 28/13, 30/9, 30/10, 31/19, 31/21, 32/1,
32/16, 47/19, 81/7

I

idea 79/19
identification 113/14
identified 108/11
identify 2/8, 18/10, 32/18, 98/1
II 115/19, 116/2
illegal 85/11
imagine 35/16
immediate 6/7, 77/7, 115/8
immune 124/15, 124/20, 125/6
impact 95/11, 95/14
impacted 3/2
implied 64/10
importance 75/1
impossible 118/16
impression 80/1
improved 130/11
Improvement 13/17, 18/11, 107/5, 108/4, 109/8,
113/19
improving 133/21
inappropriate 105/1, 127/21
inch 18/4, 94/11, 94/20, 128/14
inclined 113/5
incoherent 92/19, 93/7
income 130/14
incorporates 17/4
increasing 130/13
indicate 27/9, 72/15
indicated 7/18, 30/11, 45/18, 73/16, 74/16, 88/1,
104/7, 122/4, 135/6

indication 127/15
indulgence 2/17
information 36/12, 114/3, 114/6, 115/16
initial 21/16
inspector 42/5, 52/18
install 3/20
installation 124/21, 125/2, 126/16
installed 3/11, 4/1, 6/13, 29/15, 29/18, 40/3,
125/3, 127/18, 129/3, 129/4
installer 3/20
instruct 66/10
instructions 51/12
insurance 27/16
intense 59/19, 104/9
intensely 96/7
intent 101/4
interject 40/20
interpretation 127/20
intersection 53/11, 53/19, 79/9, 79/13
intersects 19/1, 53/15, 54/6
introduce 13/9, 20/4, 21/15, 26/19, 57/4
introduced 31/14, 32/21, 52/11, 70/2, 76/21, 112/4
introduction 5/6
introductions 8/6
investigate 86/11
investigation 85/5
irrelevant 3/19
isolation 118/21
issue 63/9, 72/9, 78/8, 126/12, 126/14
issued 4/6, 4/20
issues 111/7, 127/11
item 5/15, 6/3, 6/4, 88/17, 89/4

J

job 39/21, 40/10, 53/7, 76/10
jobs 40/13
Joppa 60/7, 79/8, 80/15, 87/15, 90/2, 90/12, 90/14
judicial 10/4
justify 86/7, 86/12

K

Karen 13/13, 20/4, 20/13, 20/15, 71/2, 71/10
Kingsville 60/12, 74/4
Klausmeyer 42/19, 59/8, 99/10, 99/19
knowledge 68/10
known 129/17
knows 126/7
KRISTINE 1/13

L

land 73/2, 73/3, 74/21, 75/1, 77/7, 80/9, 80/11,
84/8, 89/4, 89/6, 89/15, 91/19, 95/5, 116/1, 122/8,
125/15, 125/20, 128/7
landmark 43/2, 68/4
landscaped 21/18, 22/16, 42/3, 42/5
lane 43/4, 43/9, 46/1, 46/2, 69/17, 69/18
lanes 45/19, 45/21, 46/4
language 131/15
large 115/9, 118/6
larger 91/13, 124/14
Lassahn 117/5, 117/7
later 4/4, 85/15
launched 5/1
law 9/15, 10/13, 11/19, 12/9, 12/21, 34/3, 128/19,
133/2, 133/14
laws 13/5
lawsuit 63/6, 63/15
leading 123/9
leave 77/21, 113/13, 120/1
left 28/15, 55/5, 59/5, 59/6
left-hand 54/5
legal 64/10, 131/8, 133/15, 134/2
legislation 2/21, 8/11, 15/12, 73/2, 73/3, 86/15
legislative 73/1, 74/17, 76/1
legitimately 4/11
letters 81/2, 129/12
liberty 109/15
library 26/20, 27/2, 27/3, 54/9, 55/9, 59/9, 85/3,
124/1, 124/4, 124/7, 124/9, 125/9, 125/12, 126/4,
126/8, 132/10
library's 107/19
licensed 50/9
licensing 50/17
life 66/21
light 60/9
lighted 42/1, 42/2
limit 15/13, 33/20, 45/1, 45/2, 45/8
limitation 132/3
limited 130/18

limits 36/19
line 4/2, 4/3, 46/19, 46/20, 46/21, 47/6, 107/13
listen 114/16
listening 62/19, 77/3
little 49/19, 62/14, 78/4, 79/3, 82/8, 103/11, 129/21
live 106/21
lived 58/13, 66/20, 107/2
local 6/7, 7/20, 126/1
locate 77/19
located 36/11, 46/19, 118/10
location 3/9, 16/14, 17/16, 34/7
lodge 59/11, 126/10
logically 132/17
lost 56/7
Lovelock 57/20
lower 22/14, 67/8, 74/5
lowered 22/15, 29/20, 30/2, 42/4, 67/8

M

Madam 6/15, 61/7, 70/16, 87/17, 106/10, 113/2,
121/15, 127/5, 131/2
main 118/1, 128/12
maintain 48/10
maintaining 102/17
major 119/1
majority 44/5, 50/16
man 37/5, 63/1, 64/9, 64/14, 66/10, 67/3, 67/5,
126/19
man's 129/10
manager 29/12, 36/1, 39/4
manifestations 84/7, 105/2
map 16/7, 16/13, 17/15, 18/3, 32/17, 77/21, 78/18,
79/12, 90/6, 90/9, 90/10, 91/1, 91/10, 91/13, 93/20,
94/5, 94/7, 94/20, 96/1, 96/12, 116/21, 128/13
mapped 86/16
mapping 86/17
maps 17/10, 17/12, 68/14
MARGARET 1/14
mark 9/21
marked 16/8, 17/14, 17/18
Marks 14/3
MARSALEK 1/17, 2/10, 83/21
Marsh 5/12, 7/12, 94/13, 101/19
Maryland 1/9, 62/3, 70/4, 135/1
Masonic 59/11
master 5/11, 7/11, 17/7, 60/15, 82/21, 83/1, 101/19
master's 72/20
material 2/20, 13/15
mathematics 32/7
MATTER 1/1, 1/6, 2/4, 10/1, 11/19, 42/3, 45/12,
125/7, 132/17
MAX 1/16, 2/12
maximum 45/1, 45/2
McClain 133/14
McMann 109/17
meaningful 6/18
measuring 103/6
meet 108/7, 111/4, 120/9, 125/9
meeting 118/7, 125/5, 125/8
meetings 114/4
MELVIN 1/13
member 9/21, 14/3, 109/6, 109/7
MEMBERS 1/12, 8/15, 131/2
mention 14/5, 35/17, 74/8
mentioned 18/12, 38/1, 51/10, 68/3, 79/15, 81/1,
81/14, 85/3, 85/19, 95/17, 96/19, 102/6, 107/19,
126/11
mesh 133/16
Middle 74/5
mile 43/12, 45/2, 45/4
miles 25/5, 30/18, 31/3, 31/5, 32/3, 32/8, 33/15,
60/18, 98/20
mind 10/15, 66/15
mindful 128/20
Minta 90/3, 90/5, 91/20, 96/18, 97/17, 99/10, 99/11
minute 23/20, 91/15, 92/20
minutes 81/1
misplaced 2/20
misprint 111/16, 111/17
mistake 109/5, 112/9
mistaken 46/8
misunderstanding 3/19
mitigating 103/18, 105/15
mix 80/17
modified 11/11
moment 46/14, 81/1
money 48/21, 67/7, 123/2, 128/21
monstrous 118/12
month 97/5, 97/6
months 28/4
morning 2/14, 4/15, 6/9, 21/4, 25/3, 30/15, 30/17,
34/4, 60/13, 62/19, 63/10, 77/3, 95/17, 97/20, 114/15

morning's 5/2
 mortgage 27/17
 mother 65/6
 motion 11/20
 move 8/4, 27/17, 68/20, 112/3, 118/11, 118/14,
 118/15, 119/14
 moved 27/11, 28/4, 28/6, 35/2, 35/8, 60/6
 moving 5/5, 31/3, 45/12
 Mr. 40/4, 122/18
 Mr. Amereihn 39/8
 Mr. Cappeletti 57/5, 61/11
 Mr. Eckard 13/16, 106/13, 110/15, 110/18,
 110/19, 111/5, 112/12, 113/10, 113/16, 113/21,
 121/19, 127/3, 127/4
 Mr. Eckard's 123/9
 Mr. Fortney 39/6, 40/5, 41/4, 41/7, 62/14, 63/4,
 63/10, 63/15
 Mr. Fred 13/14
 Mr. Graziano 38/14, 38/21, 57/3, 66/19, 69/8
 Mr. Libercci 109/10, 109/13, 109/18
 Mr. Marks 14/12
 MR. MARSALEK 2/10, 2/17, 2/21, 6/17, 7/17,
 8/5, 8/8, 9/20, 12/13, 13/11, 14/1, 14/6, 14/19, 15/1,
 15/10, 18/7, 19/19, 20/2, 20/10, 21/13, 21/20, 22/3,
 22/10, 23/1, 23/7, 23/18, 24/3, 24/5, 24/8, 24/12,
 24/16, 24/18, 24/20, 25/12, 25/21, 26/5, 26/9, 26/13,
 26/18, 27/1, 27/3, 27/6, 32/6, 33/7, 33/12, 33/16,
 38/11, 38/13, 38/20, 47/13, 47/19, 48/2, 48/7, 50/6,
 57/1, 57/4, 57/8, 57/16, 59/21, 61/9, 61/14, 61/17,
 61/21, 62/8, 62/21, 63/8, 63/13, 63/16, 64/2, 66/5,
 69/4, 69/8, 69/13, 70/7, 70/14, 70/20, 72/7, 72/9,
 72/10, 72/15, 73/14, 74/10, 75/4, 87/19, 87/21,
 88/21, 89/2, 93/2, 93/8, 94/2, 94/5, 94/9, 94/16,
 97/15, 99/5, 100/13, 100/17, 104/5, 106/3, 106/7,
 110/17, 111/12, 112/3, 112/7, 115/11, 121/18,
 125/16, 125/21, 127/2, 127/12, 134/11
 MR. MELVIN 16/21
 Mr. Schmidbauer 3/7, 4/6, 4/21, 20/21, 29/4,
 29/20, 35/18, 39/7, 61/14, 61/21, 62/9, 65/3, 70/10,
 70/19, 85/13, 122/19, 128/19, 133/1, 133/5, 133/19
 Mr. Schmidbauer's 58/3, 64/3, 129/9
 MR. ZIMMERMAN 2/12, 2/19, 5/2, 5/17, 6/15,
 7/4, 7/8, 8/1, 8/5, 8/9, 10/2, 14/16, 14/21, 15/5,
 15/8, 15/20, 16/18, 17/1, 18/1, 18/9, 19/17, 21/8,
 21/10, 21/19, 22/1, 27/8, 31/14, 33/1, 33/19, 38/7,
 47/17, 47/20, 48/3, 48/5, 50/8, 56/20, 57/9, 60/2,
 61/6, 61/13, 61/15, 61/19, 62/17, 64/6, 64/13, 64/17,
 66/3, 66/6, 66/11, 68/20, 69/2, 70/2, 70/16, 71/2,
 71/7, 72/2, 72/5, 72/8, 73/10, 74/8, 75/5, 75/8,
 75/10, 75/18, 87/16, 88/18, 91/1, 92/18, 93/4, 93/13,
 94/6, 94/7, 94/10, 97/11, 97/13, 98/19, 99/6, 100/8,
 102/11, 103/12, 104/2, 105/19, 106/9, 106/13,
 106/19, 108/13, 109/1, 110/11, 111/8, 112/8, 112/20,
 113/2, 113/9, 113/21, 114/5, 114/10, 115/13, 121/14,
 123/5, 123/13, 125/11, 127/3, 127/5, 127/20, 130/19,
 131/2
 Mr. Zimmerman's 93/10
 Ms. Amereihn 42/18, 66/19
 Ms. Amereihn's 42/12, 44/2
 Ms. Brown 71/8, 72/1, 72/4, 73/11, 73/15, 75/9,
 75/11, 75/19, 87/16, 88/1, 106/10, 128/10, 132/14
 Ms. Brown's 72/9
 Ms. McMann 110/1
 MS. WORRAL 26/15
 MS. WORRAL 17/20, 23/20, 24/6, 24/19,
 25/16, 26/2, 27/2

N

name 20/11, 57/6, 57/17, 57/19, 62/1, 71/8, 88/18,
 106/20, 106/21, 107/20, 122/15, 129/10, 129/13,
 129/18, 129/20, 130/1, 130/4, 133/20
 narrows 91/8
 natural 39/20, 129/4
 nature 3/8, 3/17, 39/10, 48/14, 65/10, 99/20
 Nebo 126/10
 necessary 39/11, 67/1
 Neck 74/6
 Necker 96/9
 need 2/19, 18/6, 19/9, 39/13
 needs 130/16, 133/15
 neighbor 118/2
 neighborhood 3/17, 4/10, 58/16, 67/4, 77/8,
 114/11, 114/19, 115/8, 115/14, 128/6
 neighborhood's 115/18
 neighbors 6/19
 New 2/21, 4/8, 8/19, 9/9, 9/12, 10/20, 12/7, 12/8,
 21/11, 21/14, 27/3, 35/20, 77/13, 119/16, 124/8,
 124/11, 126/11
 nice 35/8, 37/14, 39/19, 40/2, 41/21, 42/9, 48/13,
 133/20
 Nineteen 24/20, 24/21, 60/19
 Ninety-four 24/19, 25/16

nominal 30/7
 nonresidential 66/7
 Norline 8/17, 85/20
 normal 32/15, 76/15
 normally 109/16, 113/4
 north 16/10, 18/21, 19/2, 19/3, 44/15, 45/19,
 53/18, 79/9, 80/16, 90/12, 90/14, 94/12, 96/20,
 97/17, 98/16, 99/19, 107/12, 107/14, 117/8, 128/7
 Northeast 17/10, 17/11
 northern 82/9, 83/13, 83/17, 92/5
 Notary 135/3
 notice 10/4, 14/2, 21/16, 73/19, 122/21
 November 4/17, 9/5, 131/4
 number 2/4, 5/3, 7/10, 7/15, 15/9, 15/10, 16/19,
 18/5, 18/15, 28/6, 34/14, 43/5, 47/15, 84/1, 111/7,
 111/9

O

object 19/19, 104/2
 objected 8/1, 62/20, 64/7
 objecting 103/12
 objection 6/16, 14/20, 33/4, 66/3, 66/11, 66/12,
 69/12, 92/18, 93/13, 97/11, 98/19, 100/8, 103/12,
 105/19, 115/11, 123/5, 125/11
 objective 134/3
 observation 12/14, 77/6, 120/3, 120/20
 observe 33/13
 observed 58/15, 97/7, 121/2
 obtained 114/7
 obtrusion 129/6
 occupation 71/9
 occurrence 59/15, 122/17
 occurring 56/16, 56/18
 October 1/4, 1/9, 27/13, 27/14, 111/2, 111/13,
 111/14
 offer 50/5, 71/21, 75/13, 75/15
 offering 72/4
 office 3/8, 5/13, 13/14, 15/17, 19/9, 29/12, 31/8,
 31/9, 36/1, 36/14, 37/12, 37/13, 39/5, 40/1, 42/21,
 51/1, 51/2, 51/5, 56/12, 56/14, 58/3, 58/11, 59/2,
 65/16, 66/20, 71/11, 71/12, 78/13, 79/18, 80/19,
 83/15, 84/2, 84/6, 89/5, 89/10, 98/4, 98/6, 99/8,
 100/7, 100/17, 100/20, 101/4, 101/8, 101/12, 101/15,
 101/17, 102/16, 102/20, 103/1, 104/9, 108/2, 116/14
 office-type 115/2
 officer 113/18
 offices 13/1, 13/3, 19/6, 19/9, 25/7, 59/7, 59/12,
 65/12
 official 17/9, 107/20
 Old 1/8, 8/19, 11/14, 36/6, 90/18, 124/7, 126/21,
 128/1, 132/1
 omitting 26/2, 26/12
 one-page 101/21
 one-third 92/1
 opened 37/13, 51/5, 51/8
 opening 2/16, 27/8, 118/17, 133/2
 opinion 7/5, 81/10, 83/8, 85/17, 118/13
 opinions 69/10
 opportunity 5/3, 19/19, 44/7, 101/1
 opposed 96/8
 opposing 125/4
 opposite 19/2, 42/19, 43/11, 55/4, 117/2, 117/6
 oppressive 4/9, 13/1
 option 112/16
 order 20/3, 104/11, 129/20
 original 15/11, 15/12, 86/14
 originally 29/18
 outlined 92/14, 97/9
 outlines 91/11
 outset 13/10
 overcrowded 43/17
 Overlea 18/4, 34/10
 owned 65/3
 owner 62/10, 123/10

P

pages 7/18, 10/6, 16/1, 17/7, 93/20, 109/4
 paginated 94/2
 paid 130/10
 painful 5/6
 painfully 129/2
 panel 8/15, 9/21, 131/3
 paper 16/19
 papers 19/21, 112/16
 Paragraph 10/7
 parameters 105/16
 parcel 16/13
 pardon 56/13, 111/19
 parking 31/4, 31/5
 part 5/15, 31/14, 50/13, 64/2, 68/21, 70/2, 76/11,

76/15, 79/4, 79/5, 79/6, 82/6, 97/13, 97/15, 111/10,
 129/9, 131/12
 parties 2/15
 parts 74/5, 91/18
 party 63/3, 135/8
 pass 56/12
 passage 105/12
 passed 9/4, 110/20
 passing 30/19, 45/9
 pay 29/20
 paying 63/17
 percentage 28/9
 percentages 28/8, 98/11
 period 56/2, 65/7, 111/7
 permissible 32/11
 permission 85/15
 permit 3/20, 4/5, 5/9, 7/7, 22/20, 39/13, 42/3,
 52/10, 52/14, 52/15, 52/16, 79/17, 100/2, 103/2,
 110/4, 128/3
 permits 67/2
 permitted 11/5, 11/14, 14/15
 Perry 5/11, 7/11, 13/17, 17/11, 18/11, 57/20,
 57/21, 61/4, 62/3, 74/4, 78/11, 101/19, 107/1, 107/4,
 107/10, 107/16, 107/19, 107/20, 108/3, 109/8, 114/1,
 117/3
 personal 133/19
 personally 42/16, 85/10, 97/7, 108/16
 perspective 101/5, 102/21, 103/17, 105/7
 PETER 1/16, 2/12
 petition 2/7, 4/17, 11/21, 31/13, 46/15, 76/17,
 131/3, 131/9, 131/11, 131/16, 132/1, 132/15
 petitioner 2/11, 12/21, 61/20, 64/13, 84/19
 Petitioners 1/2, 1/19, 2/6, 81/17
 Petitioners' 7/6, 7/10, 7/15, 7/19, 22/8, 23/3,
 83/20, 85/2, 132/11, 133/17
 petitions 6/7, 6/17, 6/19, 7/20, 58/7, 76/12
 phonetic 133/14
 photo 21/16, 22/11, 26/20
 photograph 22/5, 23/8, 26/19
 photographs 21/4, 21/7, 29/17, 84/20
 photos 26/19
 picture 22/12, 124/6
 place 90/18
 placed 40/10
 plan 5/11, 7/11, 17/7, 60/15, 82/21, 83/2, 89/21,
 101/19
 planner 13/14, 71/10, 72/11, 73/4, 73/11, 74/12,
 75/16, 80/6, 81/10, 88/5, 88/9, 125/15, 125/20
 Planning 5/13, 13/13, 15/16, 17/1, 17/2, 71/11,
 71/12, 71/15, 72/20, 74/20, 78/13, 83/7, 83/14, 84/4,
 84/6, 89/10, 101/4, 101/5, 101/8, 101/12, 101/18,
 102/21, 105/7, 128/11
 plans 119/11, 119/12, 119/13
 Planted 67/9
 plat 31/12, 31/18, 32/20, 46/14, 46/16, 47/5,
 47/14, 47/18, 68/4, 130/6
 play 12/3, 12/4, 131/14
 plus 67/15
 pocket 79/3
 pockets 117/2
 point 24/7, 30/13, 33/5, 33/6, 53/5, 64/7, 67/6,
 78/17, 78/19, 80/10, 86/1, 91/5, 91/19, 102/12,
 119/2, 119/20, 126/19, 129/14, 132/21
 pointed 12/13, 80/13, 82/2, 83/18, 83/21, 132/13,
 132/14
 pointing 117/8
 points 111/12
 Political 121/7, 121/8
 popular 67/4
 portion 15/20, 92/2, 92/6, 93/12, 103/3
 portrayal 42/15
 position 13/20, 107/7, 132/18
 positive 30/5
 possess 51/2
 Post 108/2
 post-World 115/19
 posted 105/10
 Power 25/19, 25/21, 26/12, 26/17, 107/13, 130/17
 practice 112/14
 precedence 81/16
 precedent 82/1
 predated 8/18
 predominant 100/5
 predominantly 27/9, 96/11, 100/6, 100/7
 Preference 23/9, 25/11, 25/12, 30/21, 40/15,
 84/21, 118/10, 119/7
 premises 97/18
 preparation 41/5
 prepared 72/12, 89/9
 presentation 4/15
 presented 124/6
 president 13/17, 15/1, 15/4, 107/8, 109/10,
 109/20, 110/5, 126/6

pretty 21/13, 59/13, 98/17
 prevent 56/15, 78/14, 79/4, 83/15
 prevented 56/17
 price 49/21
 printout 16/12
 problem 14/9, 40/8, 51/11, 56/13, 63/5, 63/12, 110/17, 110/18, 118/16, 119/1, 129/9, 129/11
 proceeded 3/15
 proceedings 135/6
 process 5/18, 29/2, 45/13, 45/14, 46/12, 86/17, 87/11, 129/2
 procured 3/21
 produced 84/19
 producing 130/13
 profession 71/15
 professional 39/18, 41/13, 51/15, 72/18, 98/12
 professionals 36/21, 37/3
 projecting 9/1, 9/8, 10/8, 15/14, 131/18
 pronouncing 2/5
 properties 18/16, 35/13, 48/9, 48/11, 59/4, 67/14, 67/15, 67/16, 68/7, 68/9, 68/11, 78/6, 82/17, 84/14, 95/11, 96/9, 98/1, 99/20, 115/4, 120/8, 121/4, 132/9
 property 16/6, 16/9, 16/12, 16/14, 17/13, 17/16, 18/15, 32/16, 34/15, 53/10, 54/18, 55/5, 55/13, 55/16, 55/21, 56/7, 65/4, 67/18, 67/21, 68/6, 70/5, 70/6, 73/20, 77/8, 77/20, 80/10, 81/12, 82/3, 82/6, 82/14, 95/15, 102/16, 114/13, 117/11, 117/13, 119/14, 119/16, 120/8, 120/17, 120/18, 121/1, 122/19, 123/10, 123/11, 126/4, 132/8, 133/5, 133/6, 133/21
 proportion 98/10
 proposal 108/8
 propose 130/8
 proposed 16/11, 17/6, 18/3
 protect 104/11
 protecting 102/17
 protested 126/17
 provide 9/10, 9/17, 19/18
 provision 10/21, 12/3
 provisions 128/1
 provisos 6/21
 public 124/1, 135/3
 purchase 65/6
 purchased 65/8
 purpose 76/5, 99/8, 113/14
 purposes 89/7, 89/16
 purview 131/12
 put 17/17, 31/1, 36/10, 43/3, 51/21, 61/5, 61/12, 82/5, 95/13, 109/14, 109/17
 putting 37/18, 121/4, 129/18

question 14/6, 68/21, 103/15, 103/16, 106/2, 106/5, 106/6, 112/9, 112/19, 113/12, 123/6, 123/7, 123/9
 questioning 92/19, 92/20, 93/4, 93/19
 questions 33/16, 50/6, 50/17, 61/7, 70/16, 87/18, 106/7, 121/15
 quote 11/2, 60/19, 133/11

raised 12/5
 raising 6/16
 ramifications 73/3
 rare 45/3
 rate 30/13, 31/10, 32/7, 32/15
 read 60/14, 88/17, 102/3, 102/7, 102/11, 102/13
 realtor 49/4, 49/5, 126/5
 Realty 3/9, 20/13, 20/16, 26/4, 26/5, 26/15, 26/17, 34/5, 34/6, 37/21, 38/5, 39/1, 40/18, 67/12, 85/18, 129/16, 129/18, 130/3
 rear 30/16, 35/14, 95/11, 95/14, 95/15, 102/18, 115/4
 reason 17/12, 55/14, 55/16, 64/6, 81/14, 95/9, 113/3, 118/9, 118/14
 reasonable 63/20
 reasons 4/13, 95/12
 rebuttal 134/9
 recall 30/4, 40/13, 91/15
 received 4/12
 receiving 4/19
 recess 134/12
 recommendation 76/20
 recommended 5/16, 7/14
 recommends 102/15
 record 2/9, 14/10, 14/17, 19/14, 20/12, 32/7, 57/9, 57/11, 57/18, 63/9, 88/20, 96/17, 106/14, 107/9, 127/9
 Records 122/15
 red 60/9

redirect 38/10, 38/11, 38/12, 56/21, 61/8
 reduce 130/4
 reduced 21/17
 reference 67/11, 87/10
 reflected 77/12, 89/14, 92/7, 94/19
 regulated 50/20
 regulation 4/8, 11/9, 68/16, 103/5, 127/13
 regulations 3/2, 10/3, 11/8, 16/5, 32/11, 51/3, 51/6, 51/9, 51/17, 51/20, 75/1, 75/3, 80/6, 81/20, 81/21, 85/9, 85/14, 118/7, 125/5, 125/8, 125/10, 126/8, 131/11
 reinforced 78/10
 relate 72/18
 related 65/1
 relates 50/14
 relation 90/5
 relative 3/3, 135/8
 relevance 110/21, 115/11
 relied 64/13, 64/19
 relocate 119/15, 119/17
 rely 67/5
 relying 63/20
 remain 81/21
 remainder 78/20
 remaining 83/13
 remains 9/8
 remarks 27/8, 30/12
 remedy 13/6
 remove 113/11
 renovation 123/2
 repeating 48/18, 69/5, 69/7
 repetitive 86/6
 rephrase 69/11
 report 5/11, 5/16, 7/11, 15/16, 91/7, 92/11, 97/9, 101/18
 Reported 1/21
 representation 13/19
 representations 63/21
 representative 110/14
 represented 6/20
 representing 2/11
 reproduced 16/4
 request 9/1, 10/17, 87/3, 100/20, 108/18, 108/21, 117/17
 requested 125/4
 requesting 37/10
 requests 87/6
 required 36/6, 125/13
 requirement 129/21
 requirements 80/5, 81/12, 133/16
 requires 81/3
 researched 75/1
 researching 73/2
 reserve 33/12
 reside 58/10
 residence 104/16
 residences 19/5, 34/14, 35/15, 44/3
 resident 121/20, 126/1
 residential 15/17, 18/20, 19/4, 27/9, 28/10, 28/15, 48/13, 49/3, 49/14, 49/15, 58/20, 59/4, 67/14, 67/21, 77/9, 77/12, 77/14, 77/17, 78/20, 79/1, 79/21, 80/2, 80/7, 80/17, 80/19, 81/3, 81/5, 83/18, 92/8, 92/9, 92/17, 95/13, 96/8, 96/11, 98/1, 100/1, 100/3, 100/6, 100/18, 100/21, 101/15, 102/17, 102/18, 105/13, 105/17, 115/5, 115/14, 115/18, 116/3, 116/15, 116/21
 residentially 78/7
 residents 6/7, 7/21, 59/20
 resigned 109/17
 resolution 13/19, 14/1, 14/20, 18/10, 110/7, 110/8, 110/19, 111/8, 111/9, 112/17
 response 123/15
 responsibilities 128/20
 responsibility 76/11
 rest 67/21, 92/5
 restrict 132/20
 restricting 103/21
 restriction 12/20
 result 11/4, 12/9, 132/2
 resume 80/21
 returning 130/14
 reuse 102/16
 review 9/14, 9/16, 30/14, 76/16, 81/10, 82/20, 108/7
 reviewed 120/5
 reviewing 76/12
 Ridgley's 96/15
 right-hand 17/15
 River 74/5, 74/6
 RO 13/4, 68/1, 77/15, 84/3, 87/9, 101/14
 ROA 3/3, 8/12, 8/13, 8/16, 10/9, 10/11, 11/8, 11/9, 11/13, 11/17, 12/7, 13/4, 15/11, 18/16, 18/17, 36/19, 51/6, 65/17, 65/18, 66/6, 67/15, 67/20, 68/1, 68/11, 75/19, 76/3, 76/4, 76/5, 77/15, 77/21, 78/20,

79/1, 79/2, 79/3, 79/13, 79/17, 79/19, 80/4, 80/18, 81/15, 81/20, 82/3, 82/5, 82/13, 84/2, 84/15, 84/16, 86/15, 86/16, 86/20, 87/4, 87/9, 92/7, 95/12, 95/18, 96/1, 96/21, 99/7, 100/2, 100/9, 100/11, 100/15, 100/19, 101/14, 102/7, 102/15, 104/7, 131/18, 132/8, 132/16, 132/17, 132/20, 133/6
 Road 1/2, 5/21, 7/16, 8/13, 8/16, 12/6, 13/2, 16/8, 16/9, 16/10, 16/15, 17/8, 18/16, 18/18, 19/2, 19/5, 20/14, 24/15, 25/15, 27/7, 27/21, 28/11, 30/13, 31/11, 33/20, 34/9, 34/10, 34/11, 34/15, 34/20, 35/11, 35/14, 42/13, 42/16, 42/17, 42/19, 43/3, 43/14, 43/16, 43/20, 44/3, 44/9, 44/13, 44/21, 45/10, 45/11, 45/14, 46/9, 47/1, 47/6, 48/9, 48/11, 48/15, 48/19, 49/15, 53/19, 54/3, 54/6, 54/20, 55/5, 59/18, 59/20, 60/3, 60/7, 60/21, 68/17, 69/3, 69/21, 71/18, 74/3, 74/6, 76/7, 78/2, 78/3, 78/16, 79/5, 79/7, 79/8, 80/14, 82/21, 83/1, 83/4, 83/6, 83/7, 83/13, 83/14, 83/16, 84/1, 84/11, 84/16, 87/4, 87/7, 89/1, 89/2, 90/13, 90/14, 92/14, 93/17, 94/10, 94/13, 94/14, 94/20, 95/8, 95/10, 95/13, 95/21, 96/6, 96/10, 96/20, 97/8, 97/10, 97/14, 97/16, 97/17, 97/18, 99/3, 99/17, 99/18, 99/20, 100/12, 100/13, 100/21, 101/3, 103/11, 104/21, 107/14, 107/15, 114/19, 115/4, 116/2, 116/14, 116/17, 116/20, 120/16, 128/16, 129/1, 132/16
 Road's 60/3
 roads 83/12
 roadway 46/8
 roof 12/6, 12/9, 12/10
 route 40/11, 107/13, 122/16
 RTA 80/5, 81/1
 rule 2/19, 6/21, 77/14, 87/8, 101/10, 101/11, 112/18, 112/19
 ruler 48/1
 rules 110/13
 ruling 19/16
 run 107/16
 rush 60/13

sale 59/6
 sales 39/4
 salesmen 50/10
 save 13/10, 33/1, 47/15
 scenario 105/13, 105/18
 SCHMIDBAUER 1/2, 2/5, 3/9, 20/13, 20/15, 34/6, 39/1, 62/2, 124/14, 129/10, 129/12, 129/15, 129/17, 130/3
 screen 36/10
 sealed 32/17, 111/13
 seat 2/15, 62/9
 second 2/18, 5/10, 16/4, 32/4, 32/8, 32/16, 32/18, 33/15
 seconds 2/20
 secretary 14/2, 14/12, 15/2, 20/19
 section 8/20, 9/13, 9/16, 9/18, 10/7, 10/19, 10/21, 11/6, 11/7, 11/11, 11/12, 11/14, 11/15, 11/16, 12/15, 15/12, 15/21, 17/3, 17/4, 18/17, 46/11, 46/12, 83/1, 83/14, 83/17, 131/10, 131/12, 131/14, 132/1
 sector 60/18
 seeking 3/16
 self 60/6
 self-created 133/12
 sense 133/11
 separate 78/8
 separately 11/1, 16/6, 110/7
 September 3/6, 9/4, 27/14, 29/5
 serve 77/16, 81/15
 set 4/8, 81/7, 135/10
 setbacks 40/9
 sets 82/1
 setting 81/16
 settlements 31/8
 seven 60/17
 Shakes 134/11
 Shannon 1/21, 135/3
 share 5/3, 7/5
 shared 5/17
 short 18/14, 28/4, 56/2
 shorter 42/18
 show 4/15, 6/12, 6/19, 9/10, 12/16, 21/8, 31/12, 47/5, 47/18, 77/18, 79/13, 88/11, 90/6, 90/9, 109/4
 shows 15/12, 15/21, 16/13, 80/5, 91/10, 93/6, 93/7
 shrubbery 67/9
 side 16/15, 18/17, 19/2, 48/10, 48/12, 53/16, 53/18, 54/5, 55/4, 55/8, 59/9, 59/10, 67/13, 68/8, 96/11, 99/18, 99/21, 117/3, 123/17, 128/14
 sides 27/19, 82/3, 94/14, 116/17
 sidewalk 47/10, 47/12
 sign 3/2, 3/11, 3/14, 3/20, 3/21, 4/2, 4/7, 5/10, 6/8, 6/12, 7/6, 8/15, 8/21, 10/14, 10/18, 11/4, 11/14, 11/17, 12/6, 12/10, 12/20, 22/15, 23/9, 23/15, 25/6,

25/9, 26/6, 27/4, 29/4, 29/13, 30/2, 30/20, 30/21, 31/6, 31/7, 31/15, 32/10, 35/9, 35/19, 36/7, 36/11, 37/2, 37/14, 37/16, 38/2, 39/6, 39/8, 39/9, 39/10, 39/14, 39/20, 40/2, 40/9, 40/16, 41/5, 41/7, 41/8, 41/15, 41/18, 41/21, 42/1, 42/2, 42/4, 42/7, 42/9, 43/1, 43/7, 44/9, 51/10, 52/1, 52/7, 52/15, 52/16, 55/10, 56/6, 58/4, 62/15, 63/1, 64/9, 64/14, 64/19, 66/9, 66/10, 67/3, 67/8, 81/11, 81/20, 84/9, 85/3, 85/11, 85/19, 103/2, 103/5, 104/15, 104/18, 118/5, 118/8, 118/10, 118/11, 118/12, 118/19, 118/21, 119/7, 119/8, 119/14, 124/7, 124/8, 124/9, 124/11, 124/15, 125/1, 125/9, 126/9, 126/16, 126/17, 126/20, 127/17, 129/3, 129/9, 129/13, 129/18, 130/2, 130/3, 131/17, 131/18
 signage 19/10, 84/8, 84/9, 103/3, 103/21, 104/5, 126/11, 129/20
 signal 25/8, 31/1, 43/9
 signature 6/11
 signed 6/7, 6/10, 6/19, 7/20, 109/9, 109/10, 111/1, 111/18, 111/20, 112/6
 significance 8/10
 signing 103/4
 signs 8/11, 10/6, 10/8, 10/16, 11/14, 12/9, 21/20, 25/1, 28/21, 29/1, 36/19, 37/1, 37/6, 37/8, 37/18, 37/21, 40/12, 41/18, 41/19, 50/19, 51/6, 54/14, 59/6, 84/20, 85/7, 121/4, 121/7, 121/8, 124/10, 124/15, 124/19, 124/20, 129/7, 131/19, 132/20
 Silver 74/3, 96/14, 107/12
 simple 32/7
 single 30/17, 35/4, 35/6, 35/10, 115/7
 single-family 81/4, 81/7, 115/6, 115/15, 116/10
 sit 103/9, 117/19
 site 12/17, 79/14
 sitting 14/4, 14/13, 66/19
 situation 19/8, 127/17, 133/9, 133/19
 six 8/21, 9/8, 16/21, 32/11, 36/19, 132/2
 six-foot 15/13
 six-square-foot 10/11
 six-square-foot 15/13
 size 10/14, 32/10, 41/8, 49/14
 Slader 96/9, 96/14
 small 129/14, 130/4
 smaller 60/5, 69/20
 soccer 117/5
 sort 103/21
 Soth 67/11, 67/18, 67/20, 79/13, 91/3, 99/12, 99/13, 99/14, 99/16, 99/18, 128/7
 sounds 106/4
 south 44/15, 45/21, 53/15, 68/5, 74/4, 79/8, 80/14, 87/14, 90/2, 91/2, 94/13, 96/18, 97/17, 99/17, 99/18, 117/8, 117/9, 128/7
 southeast 16/15, 18/18
 southern 92/2
 specificity 97/21
 specifies 91/8
 speed 24/14, 30/13, 31/11, 32/15, 33/20, 42/12, 43/12, 45/1, 45/2, 45/7
 speedometer 30/17
 spent 41/6, 67/7, 72/21, 123/2, 128/20, 129/1
 spirit 5/4
 spread 59/14
 Spring 74/3, 96/14, 107/12
 square 8/21, 9/2, 9/8, 10/18, 32/12, 36/20, 132/3
 ss 135/1
 staff 17/2
 stand 22/2, 23/12, 80/21
 standard 4/8, 8/21, 9/7, 10/11, 10/12, 75/13, 128/16, 128/17, 132/6, 134/2, 134/3
 standards 3/15
 standing 45/9, 131/21
 standpoint 98/10, 128/6
 stands 81/2
 stapled 16/19
 start 57/10
 started 30/12, 59/16
 State 20/11, 57/17, 62/1, 71/8, 106/20, 135/1, 135/4
 statement 6/11, 44/2, 89/17, 89/19, 98/2, 123/6
 statements 78/10
 status 38/4, 131/8
 statute 8/19, 9/10, 9/12, 16/2, 17/5, 35/20, 36/6, 36/19
 statutory 133/16
 stay 48/20, 59/20
 stems 94/12
 STEPHEN 1/17
 Steve 2/10
 stiffs 21/16
 stipulate 72/10, 99/6
 stipulations 8/4
 stops 120/10
 story 18/14
 stray 67/10

street 18/19, 37/13, 46/19, 46/20, 46/21, 47/21, 53/16, 53/19, 54/14, 55/8, 55/10, 67/13, 68/3, 80/1, 103/9, 103/10, 117/3, 118/15, 123/17, 123/19, 130/6, 132/10
 streets 48/10, 48/12, 49/16, 49/17, 93/15, 96/11, 128/15
 stressed 41/12
 stretch 77/11, 78/15, 87/7, 90/1, 98/16, 99/21, 116/1, 122/4, 122/8, 128/7
 strict 10/20
 stricter 9/14
 strike 68/21
 string 133/3
 stringent 127/19, 128/1
 strip 99/3, 99/15
 strong 77/9, 132/18
 structure 100/2, 103/1
 struggle 105/5
 struggling 105/6
 Student 122/15
 studied 91/11
 studies 92/14, 103/18
 study 5/21, 7/16, 7/18, 83/4, 84/1, 89/1, 89/3, 92/4, 93/14, 93/17, 94/11, 94/20, 128/13
 stuff 5/6, 19/16, 49/10
 styles 39/16, 41/10
 subject 3/9, 34/15, 53/6, 62/10, 68/15, 68/16, 76/7, 77/8, 77/20, 80/10, 81/12, 82/14, 85/20, 97/16, 112/17, 114/13, 117/11, 117/12, 120/16, 120/18, 121/1, 133/7
 submit 73/10, 109/1, 110/11, 113/10, 130/1
 submitted 108/11, 134/5
 subpoena 63/9
 subsection 10/7
 substance 9/11
 substantive 9/7
 suit 135/9
 sum 30/7
 summarize 102/9
 summer 34/7
 sums 128/21
 super 44/17, 46/6, 68/17, 68/21
 superior 41/18
 support 6/8
 surprise 123/21
 surrounded 78/4
 surrounding 82/17, 118/8
 surveyor 32/18
 suspect 19/15
 sustain 62/18, 69/12, 104/3
 swatch 95/4
 swing 32/19
 sworn 20/7, 38/17, 57/13, 62/5, 71/5, 106/16
 System 70/5

thumb 101/10, 101/11
 time 12/2, 13/10, 18/10, 19/20, 38/2, 41/6, 45/2, 48/21, 51/8, 53/2, 53/3, 56/1, 56/2, 65/7, 71/16, 73/11, 86/16, 103/20, 111/7, 133/10
 times 44/9, 55/21, 56/4, 85/15
 timewise 61/11
 timing 8/17, 86/2
 title 16/1, 94/8
 token 103/19
 topographically 120/21
 topography 82/16
 tough 117/19
 town 81/6, 115/15
 Towson 1/8
 traded 129/15
 traffic 43/20, 59/18, 60/17, 69/15, 105/15
 transaction 56/16, 56/18, 56/19
 transcription 135/6
 transition 59/13, 81/3, 81/15
 traveled 60/21
 Traveling 32/7, 105/11
 travels 97/8
 trend
 trouble 66/21
 true 12/18, 22/7, 45/6, 135/5
 trust 51/21
 trusted 36/12, 37/5
 truth 64/8
 turn 25/8, 31/4, 42/21, 43/2, 43/4, 43/8, 43/9, 43/10, 56/3, 106/6
 turning 31/2, 31/4, 46/1, 46/2
 turns 55/5
 Twenty-four 58/14
 Twenty-three 25/18
 two 4/13, 6/1, 8/14, 25/1, 26/18, 29/17, 32/12, 36/8, 40/11, 44/14, 45/19, 45/21, 54/11, 59/17, 64/4, 68/7, 69/17, 103/6, 109/4, 123/1, 125/17, 131/21, 132/4
 two-by-three 129/21, 130/2
 two-lane 43/16, 44/14
 two-page 16/11, 18/13
 two-thirds 91/21, 92/3
 two-way 69/15
 type 10/14, 39/10, 59/1, 81/5, 115/13, 131/17

unavailable 110/5
 undisputed 128/18
 uniqueness 134/3
 unreasonable 120/13
 update 5/12, 7/12, 101/20
 usage 104/9, 104/10, 123/19

vague 131/6
 value 49/13
 variance 2/7, 3/16, 4/11, 4/16, 8/20, 11/3, 22/18, 31/13, 36/6, 46/15, 67/7, 81/15, 81/18, 84/13, 86/7, 97/3, 117/17, 119/12, 119/13, 125/4, 128/3, 130/18, 131/3, 133/9
 variances 81/14
 variances 9/14, 13/8, 37/10, 81/17, 84/17, 133/3
 variety 122/13
 vary 81/11
 version 60/5
 vice 13/16, 15/4, 107/8, 110/4, 126/6
 vicinity 6/8, 27/18, 34/15, 87/5
 view 80/6, 86/6, 119/3, 132/2, 132/21
 viewed 80/3, 80/4, 87/12, 101/6, 101/8
 views 73/2
 violate 3/14
 violation 78/7
 virtue 130/19
 visually 118/6
 Voir 73/12, 73/13
 Volunteer 121/9

wait 23/20, 91/15, 92/20
 waiting 33/3
 walk 79/21
 Walker 19/1, 19/3, 53/20, 54/1, 54/2, 54/5, 54/14, 55/9, 82/9, 114/20
 wall 48/20
 wall-mounted 9/1, 9/8, 10/8, 15/14, 131/19
 Walter 53/21
 War 115/19, 116/2
 Ward 120/6, 132/5
 wash 103/21

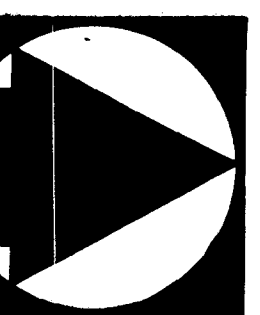
Washington 1/8
 watch 34/4
 wealth 4/19
 weigh 4/3
 weight 7/1, 8/2
 west 99/17, 99/21
 wherever 99/10, 114/8
 whirl 66/17
 White 94/13
 whizzing 45/5
 wide 31/17, 31/19, 32/1, 32/17, 46/6, 69/14
 widened 43/3, 45/11
 widening 43/20, 46/9, 46/12, 59/18
 width 47/18, 47/20
 WILLIAM 1/1, 2/5, 62/2
 wisdom 43/19
 withdraw 66/12
 withhold 72/16
 witness 15/7, 19/16, 20/1, 20/2, 20/4, 20/7, 25/20,
 26/7, 38/9, 38/17, 40/20, 41/2, 47/16, 57/3, 57/7,
 57/13, 62/2, 62/5, 66/14, 69/10, 71/4, 73/6, 80/21,
 102/11, 103/13, 106/6, 106/11, 106/16, 111/13,
 112/6, 113/18, 114/2, 114/9, 135/10
 witnessed 111/15
 witnesses 64/11, 97/20
 wood 39/20, 129/5
 word 51/12
 words 28/16, 32/9, 33/8, 44/13, 49/10, 82/5,
 92/10, 93/9, 95/4, 96/5, 97/19, 104/19
 work 25/3, 29/4, 34/6, 45/14, 76/1, 76/16, 81/19,
 122/9
 worked 74/11
 working 78/10
 World 116/2
 WORRALL 1/14
 worth 49/11
 worthwhile 86/11
 Wright 1/21, 135/3
 writer 73/1, 74/17
 written 109/6
 wrong 64/10, 84/12, 91/6
 WWII 116/9

Y

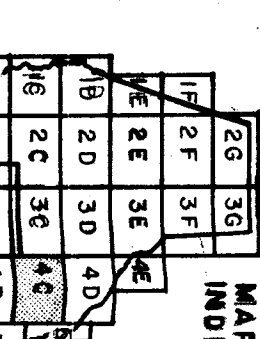
yard 47/18
 year 28/5, 34/7, 45/13, 59/17, 65/5, 65/9, 123/1,
 131/21, 132/4, 133/6
 years 20/21, 41/20, 49/6, 49/7, 58/14, 58/15,
 58/19, 59/14, 59/16, 60/4, 61/1, 66/21, 72/21, 73/4,
 74/12, 74/13, 74/15, 81/19, 88/3, 88/5, 88/7, 88/9,
 89/14, 107/3, 115/20, 121/20, 122/10, 122/11, 123/1,
 128/9, 129/15
 yellow 11/2, 16/8, 17/15

Z

ZIMMERMAN 1/16, 2/12
 zip 21/3
 Zöll 133/14
 zone 3/3, 8/12, 8/13, 8/16, 10/11, 11/5, 11/8,
 11/9, 11/13, 11/17, 12/7, 13/4, 15/11, 15/18, 68/12,
 75/20, 76/3, 76/5, 77/21, 79/14, 79/17, 80/4, 80/7,
 80/8, 82/13, 84/2, 84/3, 84/15, 86/16, 86/20, 87/4,
 92/8, 96/21, 99/7, 99/8, 100/9, 104/12, 116/21,
 131/18, 132/8, 132/9, 132/16, 132/20
 zoned 18/16, 18/17, 66/4, 66/6, 67/15, 78/7, 89/4,
 89/7, 89/16, 95/10, 133/6
 zones 10/9, 13/4, 36/19, 51/7, 75/3, 77/15, 92/9,
 101/14, 132/17
 zoning 2/8, 4/18, 5/16, 6/3, 6/18, 7/14, 8/10,
 8/11, 10/3, 12/5, 12/11, 12/19, 12/21, 14/10, 17/10,
 18/3, 18/20, 19/3, 19/4, 31/13, 37/4, 42/5, 46/15,
 50/14, 50/15, 50/18, 50/20, 51/3, 51/9, 51/17, 51/20,
 52/18, 53/6, 65/15, 66/1, 66/4, 68/14, 68/16, 75/3,
 76/12, 76/16, 77/7, 77/13, 77/15, 78/7, 78/12, 78/20,
 79/7, 79/12, 80/11, 81/20, 82/3, 82/6, 84/16, 87/7,
 87/9, 92/7, 95/12, 95/14, 95/17, 95/18, 95/20, 96/18,
 100/10, 100/15, 100/19, 101/9, 101/13, 101/14,
 102/15, 108/8, 108/17, 109/8, 110/2, 117/11, 119/9,
 126/8, 133/8



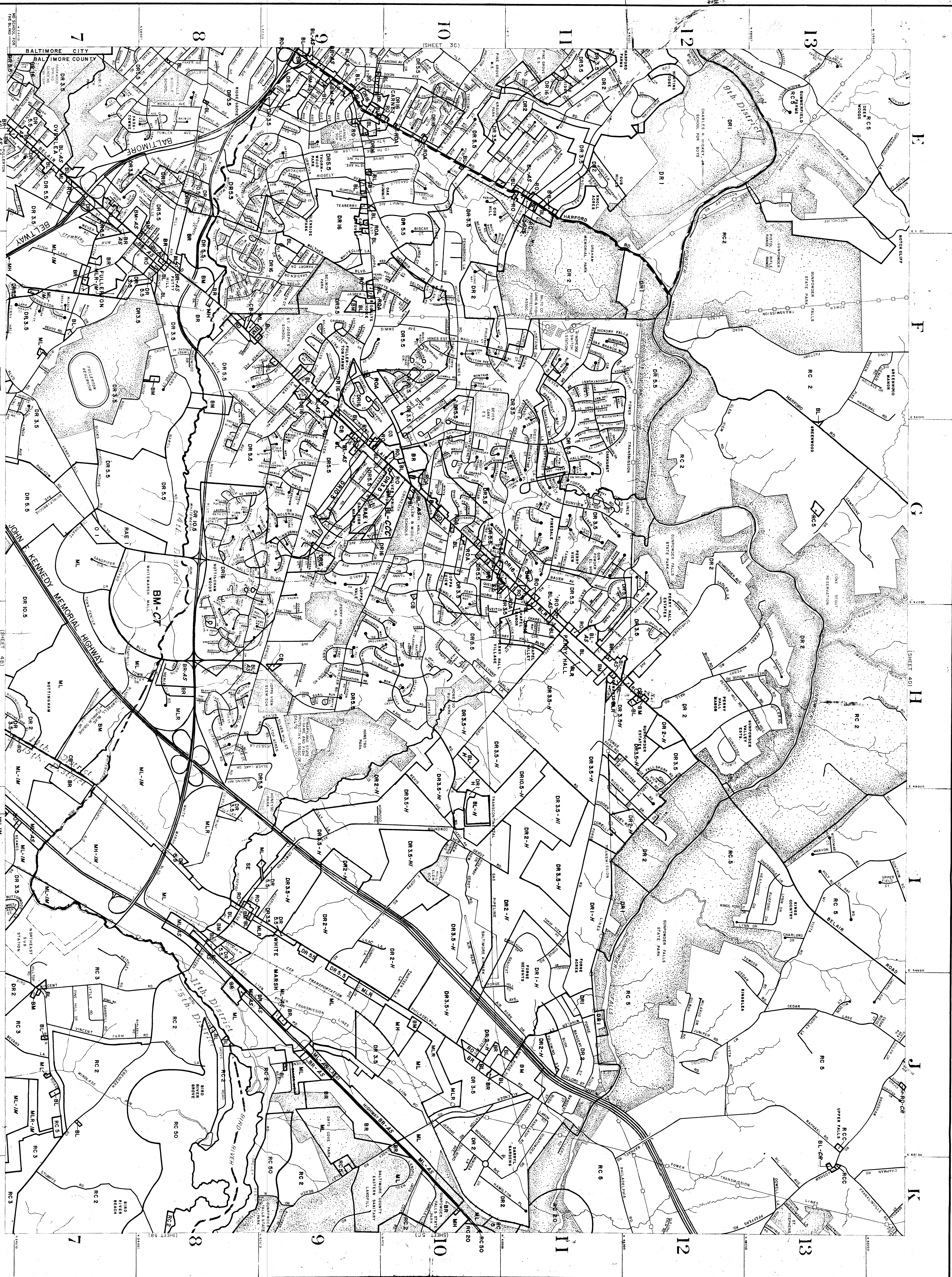
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MILES
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FEET



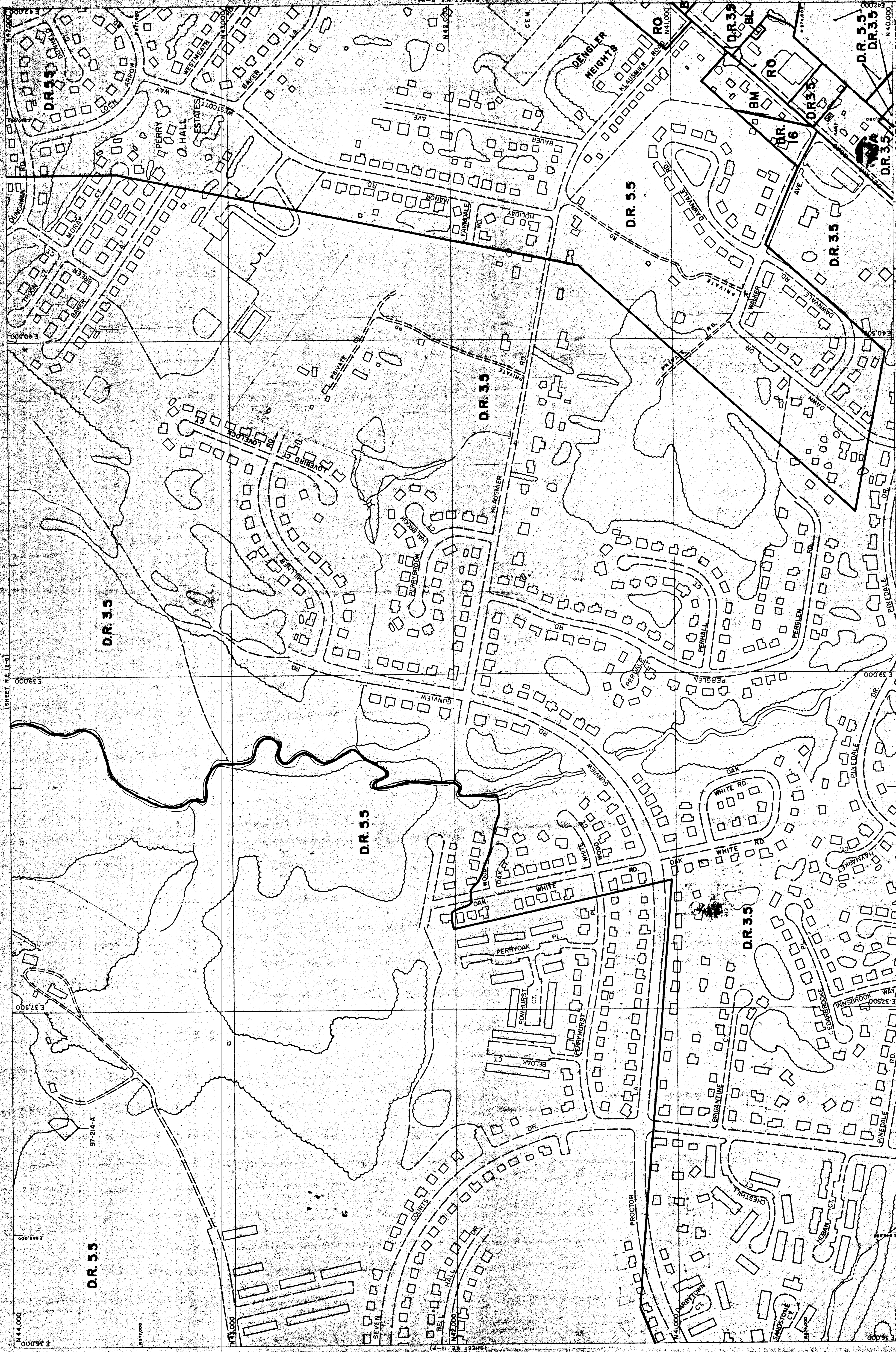
BALTIMORE COUNTY OFFICE

OVERLEA

4C



P.C.
Ex 8-



**BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP**

1996 COMPREHENSIVE ZONING MAP
ADOPTED BY
THE BALTIMORE COUNTY COUNCIL
OCTOBER 8, 1996
Bills Nos. 125-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96
Kevin Kananev
Chairman, County Council

Q - SW
M - NW
THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

SCALE
1" = 200' ±
DATE OF PHOTOGRAPHY
JANUARY 1986
LOCATION
PERRY HALL
SHEET
N E
11-G

T/C TO Marsalek
- Cee talked to Cess
@ Towson Rep.

Shannon's prep.
trans. -- he
should call Shannon
to get info on
paying for transcript.