

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
<u>SECURITY SQUARE ASSOCIATES</u>	*	COUNTY BOARD OF APPEALS
- PETITIONER FOR A ZONING		
VARIANCE ON PROPERTY LOCATED	*	OF
ON THE SOUTHWEST SIDE SECURITY		
BOULEVARD AT I-695, 1374'	*	BALTIMORE COUNTY
EAST OF BELMONT AVENUE		
(6901 SECURITY BOULEVARD)	*	CASE NO. 98-297-A
1ST ELECTION DISTRICT		
1ST COUNCILMANIC DISTRICT	*	

* * * * *

O P I N I O N

This case comes to the County Board of Appeals of Baltimore County based upon an appeal by People's Counsel for Baltimore County from a decision of the Deputy Zoning Commissioner in which a Petition for Variance was granted in part and dismissed in part as moot. A public hearing was held on Thursday, September 3, 1998. Peter Max Zimmerman, People's Counsel for Baltimore County was the Appellant; and Michael P. Tanczyn, Esquire, represented the Petitioner. Public deliberation was held on September 17, 1998.

Subsequent to opening statements by Mr. Zimmerman and Mr. Tanczyn, the Petitioners offered three witnesses in support of their request for variance. Mr. John C. Mellema, Jr., a licensed property line surveyor, testified as to his qualifications, familiarity with Baltimore County Zoning Regulations, and was accepted without objection as an expert in the field of land surveying. A number of exhibits were offered into evidence. Petitioner's No. 1, a plat of the subject property, and Petitioner's Exhibit No. 2, a detail of the current signage along with a substantial number of other photographs which reflected the site and various roadway systems which provided entry either into or around the shopping mall.

Mr. Mellema described the general area of the Social Security mall and surrounding area. The location is currently zoned B.M.-

C.T. district and encompasses about 90 acres. He opined that there is no general residential visibility from the mall, and that the roads leading to it involve ramps at different elevations. He also stated that the location of the Mall is severely obscured from ongoing traffic employing the numerous exhibits to substantiate his observations. Petitioner's Exhibit No. 4 reflected a topographical map (1F and 1G) which also demonstrated an aerial balloon which was used to determine the height factor which the proposed sign would have to extend and also reflected a rather high embankment with the Baltimore Beltway lower than Interstate 70. Petitioner's Exhibit No. 5 reflected views from Rolling Road leading to the Mall; Petitioner's No. 6 reflected a view from the Mall and Route 70; Petitioner's No. 7 was an Economic Impact Statement reflecting efforts made to revitalize the Mall; and Petitioner's Exhibit No. 10 reflected photographs taken on July 9, 1998 with various views of the Mall, all of which were described in detail by the witness. The pictures were taken around 1:30 p.m. and reflected a number of trees that are located on the State's right-of-way and cannot be eliminated or reduced to give any suitable visibility as to road travellers.

Petitioner's Exhibit No. 11, taken also on July 9, 1998, reflected views from Interstate 70 which clearly showed that the Mall is not plainly visible eastbound to the Baltimore Beltway (east/west) and only one shop mall roof has sight visibility. Petitioner's Exhibit No. 12 also reflected Interstate 70 to the Baltimore Beltway, 695 North, shown with the mall behind the existing trees hardly within sight of traffic. Petitioner's Exhibit No. 13 reflected photographs taken at 3:30 p.m. at the Mall, on the Mall lot where the proposed sign would be placed with

the existing trees shown in the State right-of-way. Petitioner's No. 14 reflected the proposed sign with the new Social Security logo to be employed to identify the Mall. The witness described the dimensions of the proposed signage, the need for a new traffic identification for the mall via the logo, and how the sign would stabilize the declining mall patronage and lure new customers who lacked knowledge of the Mall's existence because of its obscure location coupled with existing traffic patterns. The witness reflected the difficulty of finding the Mall if one was not familiar with the general location. The primary access was by way of Security Boulevard with a gentle decline, with most traffic going around the ramp from Interstate 695 and Interstate 95.

Mr. Mellema stated that the practical difficulty if the proposed signage was limited to 20 feet in height according to current Baltimore County signage regulations; Mr. Mellema described Petitioner's Exhibit 13 which was a photograph taken on August 20, 1998, approximately at 3:30 p.m. at the Mall in the precise location where the proposed sign would be erected. It also demonstrated the trees in the State right-of-way with the Baltimore Beltway to the right. Petitioner's Exhibit No. 14 reflected the proposed sign with the Social Security logo. Mr. Mellema also referred back to Petitioner's Exhibit No.1 from which he described the difficulty in the shopping mall's visibility and the fact that you were required to go around the ramp to 695 and I-70 in order to gain entrance, with the area generally sloping. He also described the proposed signage in detail and stated that with the present restrictions they were limited to a 20-foot height, and if the Petitioners were held to that particular height, the sign would have no visibility and would not be of any value to attracting

customers to the shopping center. He stated that the photographs reflecting the blue test balloon were taken at speed limits of 55 miles per hour covering the area around the Mall with radio contact being maintained with personnel who would raise and lower the balloon depending upon the visibility from the various locales which the automobile was patrolling. Mr. Mellema opined that based on his observations the requested height was the minimum size that could be employed in order to be of any value to the Petitioner. He again described the procedures employed to determine the appropriate height as having a car drive around the various roadways to ascertain the minimum height at which the balloon could be seen by the travelling public, with the balloon being raised and lowered as the car travelled each area. If a patron of the Mall missed the turn-off to I-70, the first turn-around access back was at Route 29, a considerable distance away to the west of the Mall.

Mr. Zimmerman, on cross-examination, questioned Mr. Mellema concerning his general knowledge of the area, the fact that the topography of the land had not significantly changed from the time the mall had started up, the history of the site, and the extent to which other centers could request such variances along the beltway, which was acknowledged at the present time as generally being free of any sign clutter.

Ms. Deirdre Moore also testified in support of the proposed variance. She has had extensive experience in the management of malls for 11 years, and has been vice president and general manager of the Social Security Mall since May 1985. A number of exhibits were entered into evidence without objection. Petitioner's Exhibit No. 15 reflected an aerial view of the Mall in 1996, the day after Thanksgiving (commonly known as "Black Friday"), taken in the

afternoon which reflected a parking lot approximately 40 percent empty. Petitioner's Exhibit No. 16 reflected a photograph taken the day after Thanksgiving in 1995, the same time of day, again reflecting a minimal number of cars parked on the lot. The day after Thanksgiving is acknowledged as the heaviest shopping day of the calendar year. Petitioner's Exhibit No. 17, taken on August 20, 1998, was also taken around 3:30 p.m. in the afternoon and reflected the parking lot from Penny's to Sear's virtually empty. Petitioner's Exhibit No. 18 represented a substantial number of other malls in Baltimore County and photos taken by the same witness on August 21, 1998. The purpose of the photos was to demonstrate to the Board members both the accessibility and the basic visibility of these malls with emphasis on the fact that most have clear exits from the Baltimore Beltway. The witness explained that all were built subsequent to the Social Security Mall. Ms. Moore opined that she was the individual who had driven the test car along different routes during the balloon height testing from distances of approximately one mile away from the Mall. She confirmed the testimony of Mr. Mellema that the essential purpose of the test was to determine how low the balloon would have to be lowered in order to achieve maximum visibility from the various roadways leading to and passing the Mall. The witness testified that the Mall management had expended over \$1,000,000 to revitalize the Mall and introduced Petitioner's Exhibit No. 7 which reflected the comprehensive plan to rehabilitate the Mall replete with the new identifying Social Security Shopping Center logo. In addition, the witness explained that a completely new security program had been initiated and that the new signage was being considered at a cost factor in excess of \$200,000. Ms. Moore

related her first experience, when relocating to the Baltimore area, in trying to find the Mall; and how difficult it was considering the confusing roadway system. She also related in detail the length to which the Mall management had gone via local focus groups to ascertain problem areas in attracting customers, and that these groups had identified severe problems concerning the Mall and, in particular, its location, and also confusing the Mall with the nearby Westview Shopping Center. She also described the efforts made to assist in the Mall rehabilitation with a direct mail campaign to the immediate neighborhood residents and establishing a new WEB site which had been recently opened up.

Mr. Bruce D. Lyons, Executive Vice President of Social Security Associates, and a resident of Chevy Chase, Maryland, described his duties within the Mall management group and outlined the evolution of the Mall since 1972, which he explained had undergone a number of changes in both ownership and management. He stated that in 1990 the Hochschild-Kohn department store had gone out of business; that Montgomery Wards had taken over the location; and that Wards was currently in Chapter 11 proceedings and undergoing extensive operational changes. He opined as to the steady decline in overall Mall business since the early 1990s, much of which he attributed to the Mall's demographic posture. Some of the problems, he acknowledged, were due to previous management's long-distance approach since they were not located in Baltimore and failed to be cognizant of the problems. Conditions had deteriorated to a point that Baltimore County Government reduced the Mall's assessment from \$58,000,000 to \$44,000,000 where it stood at the present time. Because of the continued slippage, the Mall's management turned to focus groups to assist in identifying

the Mall's problems, and universally these groups cited the Mall's location and poor visibility from the Baltimore Beltway, Interstate 70 and other roads in close proximity. Mr. Lyons acknowledged that the Hecht Company and Sears, Penny's and Wards were presently the primary anchor stores. Sears and Hecht's were in basically good health and busy; however, Penny's and Wards were problem areas. Again, he stated that Wards had been in Chapter 11 since November 1997, and that the Mall did not own that particular store; that the Mall's management was trying to get Penny's to re-open their second level which had been closed due to poor sales; Penny's had made an effort to convert that space to storage space, which fell through because the floor capacity was not sufficient to accommodate the weight factor. At the present time, it was not being used. Mr. Lyon stated his experience in mall management over 35 years and his efforts to revitalize older malls. The principal source again was third party consultants and a considerable number of focus groups. He stated that he had observed the focus groups in action, and, again, their conclusion was that a principal cause of declining patronage was the logistics of finding the Mall which was also confirmed by the third party consultants. He related in detail the difficulties he encountered in locating the Mall during this first visit to the Baltimore area. He indicated that he missed the Mall and had gone to the Westview Shopping Center. A considerable portion of his testimony related to the fact that it was important to rehabilitate the Mall and that the proposed sign would be of invaluable assistance in attracting shoppers to the Mall along with the new logo, and that without it the Mall's management would have difficulty in attracting such customers and also new tenants to occupy those stores which were currently vacant within the Mall.

A considerable portion of his testimony related to the difference in the malls which are situated along the Baltimore Beltway. He indicated that many were not comparable to the size of the Security Mall and that the only visible area location problem was one that existed at this particular shopping center. He stated that the sign was a critical matter, again pointing to the focus groups and their conclusions concerning the difficulty locating the Mall and that the location of the proposed sign would encourage other tenants to occupy current vacancies. He again basically proffered the same testimony as Mr. Mellema relative to the embankments, trees shielding the Mall, and the complexity of the roadway system which often confused the shoppers and the number of customers which were lost because of the nearby Westview mall visibility and accessibility.

Mr. Lyons acknowledged on cross-examination that the present management group acquired the property in May 1997 and while no traffic counts had actually been made, he was depending considerably upon the consultant's advice and also the information provided by the focus groups. He indicated that there was no community opposition to the proposed signage and, in fact, the surrounding community was in support of it.

That concluded the Appellant's case-in-chief.

Mr. Zimmerman offered one witness, Mr. Edward Meckel, the GIS Base Administrator for Baltimore County. He testified as to the accuracy of the exhibits provided by People's Counsel, Exhibits No. 1 through No. 9, which were GIS maps of a number of other malls located in Baltimore County, and also People's Counsel Exhibit No. 10 which reflected the present shopping center location. It was the consensus of Mr. Meckel that this Mall was not particularly

difficult to locate based on his personal knowledge since he drives passed the Mall almost every night on the way to his home in Westminster and that, based on his observations, some of the other malls reflected on the exhibits had visibility problems which did not prevent customers from locating the malls. Essentially he felt that each mall had some visibility problems but did acknowledge that Social Security had its own particular problems.

The Board members have reviewed their hearing notes, the evidence and exhibits submitted at the hearing, along with a review of the applicable statutory and case law. No protestants appeared at the Deputy Zoning Commissioner's hearing, and the proposed variances were supported by the local councilmanic representative, along with the Baltimore County Planning Office and community groups, and while no objections were raised by any Baltimore County department, People's Counsel acted judiciously and in a responsible manner to oppose the request and offer substantive objections to the variance proposed. The Board may grant a request for variance from sign regulations "where special circumstances or conditions exist that are peculiar to the land...and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship..." [Baltimore County Zoning Regulations, Section 307]. Under the law, a variance from sign regulations is considered to be an "area" variance, the general impact of which is considered to be less drastic than that of a "use" variance.

The Board has for guidance in such matters case law as stated in Cromwell v. Ward, 102 Md.App. 691 (1995), which requires a determination by the Board as to whether or not there is any "uniqueness" in the subject property; and if the Petitioner can

initially establish that criteria, it is necessary to move forward relative to the second requirement as to "practical difficulty," always keeping in mind that if a variance is granted it constitutes a use that is prohibited and presumed to be in conflict with the local ordinance established by the County Council. In North v. St. Mary's County, 99 Md.App. 502 (1994), the Court held that "...the 'unique' aspect of a variance requirement does not refer to the extent of improvements on the property, or upon neighboring property. 'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."

The question before the Board, therefore, is whether the subject property is "unique, unusual, or different" that satisfies the requirements of the Cromwell and North cases previously cited. The Board clearly concludes that the subject site meets these requirements. The testimony of Mr. Mellema, Ms. Moore, and Mr. Lyons offered by the Petitioner in support of the variance was forthright and convincing in describing the shopping mall, the focus groups outlining the difficulty in locating the mall, confirmed by the consultants, and an abundance of photographs entered into evidence without objection that visually portray the site's location from a considerable number of site views (Petitioner's Exhibits No. 10 through No. 18) along with a plat of

the site (Petitioner's Exhibit No. 1), and an aerial view (Petitioner's No. 3) and Petitioner 's Exhibit No. 4 reflecting how high a balloon would have to be extended before the proposed signage would be visible from the roadway system leading to the Mall. All these exhibits clearly reflect the difficulty of Mall visibility from the existing roadway systems. It was obvious to the members of the Board.that despite the immensity of the shopping mall, which covers over 90 acres, with 120 shops, 5,700 parking spaces, and over 1.2 million square feet, the Mall continues to remain virtually "invisible" to the motoring public. The testimony and evidence also clearly demonstrated that the shopping mall is situated on a site which is considerably lower in elevation than the roadway network that virtually surrounds it. In addition, problems exist with embankments and trees and foliage which, acting as a natural shield, prevent motorists from recognizing the site. Plainly stated, with permitted speeds on the Baltimore Beltway, Interstate I-70, the Mall is quite difficult to see from these roads, and once the turn-off is missed, one must travel a considerable distance before turning around to gain entry back into the Mall.

People's Counsel offered a series of exhibits (People's Counsel No. 1 through No. 9) reflecting aerial photos provided by the Baltimore County OIT/GIS Services Unit, two taken in March 1995 and the remainder taken in March 1996 of several other shopping centers reflecting their configuration along the Baltimore Beltway. The Board considered these in reaching its decision. However, a number of these malls were considered local malls and not a regional facility such as the subject site. The Board did not have any difficulty in accessing the uniqueness of the Security Mall

based on its topography and roadway system. People's Counsel also offered the testimony of Edward Merkle, GIS Database Administrator for Baltimore County with the Office of Information & Technology, who stated that he passes the Social Security Mall daily on his way to his home in Westminster, and that he did not have any difficulty in being aware of the existence of the Mall and believed the aeriels of the other malls confirmed his belief. However, a number of the Board members, based on their personal observations actually using the same roadway system, reflected during their deliberation difficulty in the Mall's visibility from the Baltimore Beltway or interstate road system. The Board, therefore, concluded that the first test of uniqueness had been established by the Petitioner.

As to the practical difficulty aspect, because a variance from sign regulations is deemed to be an "area" variance, the impact of which is viewed as being much less drastic than that of a "use" variance, the petitioning party needs only to show practical difficulty, the lesser standard of proof, to be entitled to relief. McLean v. Soley, 270 Md. 208, 213-14, 310 A.2d 783 (1973) Additionally, in Anderson v. the Board of Appeals, 22 Md. App. 28, 39, 322 A.2d 220 (1994), the Maryland Court of Appeals established a criteria for determining what constitutes "practical difficulty."

- 1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted use or would render conformity with such restrictions unnecessarily burdensome.
2. Whether grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved, and be more consistent with justice to other property owners.
3. Whether relief can be granted in such fashion that the

spirit of the ordinance would be observed and the public safety and welfare secured. 270 Md. 208, 214-215, 310 A.2d 783

The Board in assessing the Petitioner's request, and in viewing the shopping mall site, in conjunction with the balloon testing and viewable site distance from various positions, is convinced that the Petitioner's request is necessary and proper to afford the travelling public along the existing roadway system sight visibility and identification to reasonably find and patronize the Mall. The height and size of the proposed sign is simply not one for the convenience of the Petitioner. The Board concludes that the signage is needed to attract shoppers into an area not easily visible as presently configured with the existing roadway system. The photographs and the testimony presented at the hearing clearly demonstrate to the Board that the excessive lower elevation of the site, coupled with screening by trees and foliage, are both natural and topographical conditions that do result in a unique situation in that strict compliance with the existing zoning ordinance does constitute a practical difficulty for the Petitioner. The Board considered the testimony and evidence reflecting other malls along the Baltimore Beltway and has concluded that the inability of potential customers to locate this particular site is a decisive factor in the failure of the Mall to attract customers despite an extensive revitalization plan (Petitioner's Exhibit No. 9). These factors do indeed place the Mall at a distinct disadvantage when compared to other such malls along the Baltimore Beltway. Zoning matters depend upon the unique facts and circumstances of a particular location and must be analyzed individually.

In reaching its decision, the Board very carefully considered

the testimony of those witnesses in support of the variance; and that testimony more than adequately supported the Petitioner's position that the proposed signs were principally for directional purposes of locating the Mall and advertising via the sign logo was an incidental function. Considering the overall factual aspects of the hearing, the Board has concluded that the proposed signage would provide substantial directional value to passing motorists via the present roadway system, and, without its erection, the site is not adequately marked to provide guidance to highway motorists.

The Board therefore concludes that the existing sign restrictions do significantly hinder the shopping mall's efforts to attract shoppers to warrant approval of the zoning variance. In conclusion the Board is not unmindful of the position of People's Counsel relative to any precedent that might be established by its decision in this case, and other commercial activities located along what is presently considered to be a "clutter-free" beltway. However, the Board also recognizes that each case must be judged solely upon the unique facts, conditions and circumstances of a particular location, and each case must be analyzed individually. Sufficient evidence has been presented in the instant case to support the findings of the Board.

O R D E R

THEREFORE, IT IS THIS 22nd day of October, 1998 by
the County Board of Appeals of Baltimore County

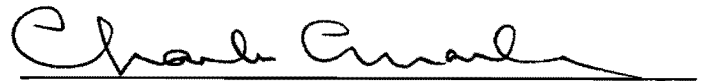
ORDERED that the Petition for Variance in Case No. 98-297-A to permit a freestanding, illuminated, double-faced sign of 260 sq. ft. per face (520 sq. ft. total) with a height of 102 feet in lieu of the maximum permitted 25-foot height, in accordance with Petitioner's Exhibit No. 1, be and the same is hereby **GRANTED**; and

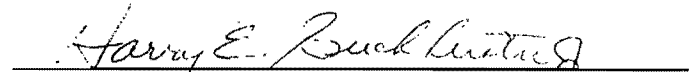
it is further

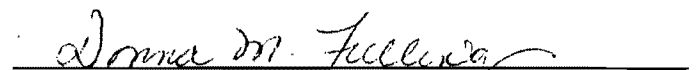
ORDERED that the subject property complies with the frontage requirements set forth in the Baltimore County Zoning Regulations, and, as such, the alternative relief to permit the proposed sign to be located along an interstate ramp for a shopping center located in a B.M. zone, C.T. district, be and is hereby **DISMISSED** as moot.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Charles L. Marks, Panel Chairman


Harry E. Buchheister, Jr.


Donna M. Felling

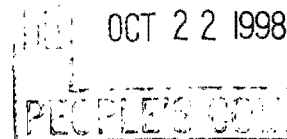


County Board of Appeals of Baltimore County

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

October 22, 1998

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



RE: Case No. 98-297-A
Security Square Associates -Petitioner

Dear Mr. Zimmerman:

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. 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. Radcliffe for

Kathleen C. Bianco
Administrator

encl.

cc: Michael P. Tanczyn, Esquire
Bruce D. Lyons, Executive Vice President
Security Square Associates
Deirdre Moore
John C. Mellema, Jr.
Jamie Gilbert /EDC
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

*Public interest does not
warrant appeal. Also, res. of*

*bad precedent
PMZ*



3/31/98

IN RE: PETITION FOR VARIANCE	* BEFORE THE
SW/S Security Boulevard at I-695	
1374' E of Belmont Avenue	* DEPUTY ZONING COMMISSIONER
(6901 Security Boulevard)	
1st Election District	* OF BALTIMORE COUNTY
1st Councilmanic District	
	* Case No. 98-297-A
Security Square Associates	
Petitioners	*

* * * * *

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, Security Square Associates, by MDR Security Square L.P. and MDR Security Square, Inc., General Partners, and Sears Roebuck & Company, through their attorney, Michael P. Tanczyn, Esquire. The Petitioners seek relief from the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a freestanding, illuminated, double-faced sign of 260 sq.ft. per face (520 sq.ft. total) with a height of 102 feet in lieu of the maximum permitted 25-foot height, and to confirm compliance with frontage requirements as to the placement of the proposed sign, or, in the alternative, to allow the sign to be located along an interstate ramp for a shopping center located in a B.M. zone, C.T. District, pursuant to Section 450.4.7.b.V, VI and VII. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Bruce Lyons, Executive Vice President for Security Square Associates, Owners of the subject property, Deirdre Moore, Manager for Security Square Mall, Robert de Lapeyrouse, John C. Mellema, Jr., Registered Property Line Surveyor who prepared the site plan for this property, Jamie Gilbert, a representative

of the Baltimore County Economic Development Commission, and Michael P. Fanczyn, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is the site of the Security Square Mall, which is located adjacent to I-695, I-70 and Security Boulevard in Owings Mills. Currently, the Mall contains several anchor tenants such as the Hecht Company, J.C. Penney, Montgomery Wards, and Sears as well as many smaller retail establishments located within the Mall itself. The Owners of the property have undertaken a \$2 million renovation of the subject property in an attempt to improve tenant occupancy and provide a better shopping environment for its customers. Proposed renovations include extensive landscaping efforts, increased security and parking, as well as a new sign package for the overall site. This sign package includes a very tall identification sign which the Petitioners wish to place in a strategic location adjacent to I-695, I-70 and Security Boulevard in order to provide adequate notice and identification for motorists travelling along those roadways.

The testimony and evidence offered by the representatives for the Mall demonstrated that the shopping center sits at a much lower elevation than the surrounding road configurations. Trees and embankments also shield the visibility of the Mall from those highways. Thus, the Petitioners believe that a sign of sufficient height and size is necessary to identify the Mall's location to motorists traveling along those interstate highways. An aerial photograph of the property and my site visit thereto corroborated the testimony presented by the Petitioners' witnesses that the subject property is difficult to see from the surrounding roadways. Thus, it appears

that the relief requested is necessary and meets the spirit and intent of the zoning regulations.

It is to be noted that the relief requested is supported by the Office of Planning and the Economic Development Commission, and that there were no adverse comments from any Baltimore County reviewing agency, nor opposition from any adjoining property owner. In addition, the Petitioners have demonstrated that the subject property has sufficient frontage to meet those requirements of the B.C.Z.R. Thus, it appears the relief requested can be granted without causing any detriment to the surrounding locale.

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, it is clear that practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the subject proper-

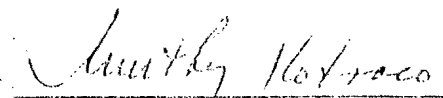
ty and that strict compliance with the zoning regulations will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent 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 31st day of March, 1998 that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a freestanding, illuminated, double-faced sign of 260 sq.ft. per face (520 sq.ft. total) with a height of 102 feet in lieu of the maximum permitted 25-foot height, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their 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.

IT IS FURTHER ORDERED that the subject property complies with the frontage requirements set forth in the B.C.Z.R., and as such, the alternative relief to permit the proposed sign to be located along an interstate ramp for a shopping center located in a B.M. zone, C.T. District, pursuant to Section 450:4.7.b.9, VI and VII, be and is hereby DISMISSED AS MOOT.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

THK:bjs



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 6901 Security Blvd., Baltimore, MD 21244

which is presently zoned BM-CT

This Petition shall be filed with the Office of Zoning Administration & 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) See attached

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

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:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

Michael P. Tanczyn
(Type or Print Name)

Signature

606 Baltimore Ave.

Suite 106

410-296-8823

Address

Phone No.

Towson,

MD

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): SECURITY SQUARE ASSOCIATES

By: MDR Security Square Limited Partnership, Managing General Partner

By: MDR Security Square, Inc. General Partner

(Type or Print Name)

By

Signature

Bruce D. Lyons

(Type or Print Name)

Sears, Roebuck & Co.

By:

Ronald P. Douglass

Signature: Vice President Real Estate

Address

Phone No.

See attached

City

State

Zipcode

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

John C. Mellema, Jr.

John C. Mellema, Sr., Inc. Land

Name

Surveyors

5409 East Drive

410-247-7488

Address

Phone No.

Balt., MD 21227

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



PROPERTY
MANAGER
VC
LEGAL
TKH

Re: Petition for Variance
Property address: 6901 Security Boulevard, Baltimore, MD 21244

Petitioners:

Security Square Associates
5454 Wisconsin Avenue, Suite 1265
Chevy Chase, MD 20815

Sears, Roebuck & Co.
B2-205A
3333 Beverly Road
Hoffman Estates, IL 60179

VARIANCE:

To allow a 102-foot high, free-standing, illuminated sign in lieu of the 25-foot maximum, with a double-faced, illuminated sign of 260 sq. feet per face in lieu of maximum 150 sq. feet, and to confirm compliance with frontage requirements or in the alternative to allow the sign requested along an interstate ramp, for a shopping center located in a BM Zone, CT District, pursuant to Baltimore County Zoning Regulations 450.4.7.b.V, VI and VII, and a variance from Baltimore County Zoning Regulations.

REASONS FOR VARIANCE:

To overcome the existing visual obstructions, natural and man-made contours, in an environmentally conscious manner, to avoid unreasonable hardship and/or practical difficulty, and for additional reasons to be presented upon hearing of the matter.

RE: PETITION FOR VARIANCE
6901 Security Blvd., W/S RW Ramp M of
I-695, 1374' E of Belmont Ave.
1st Election District, 1st Councilmanic

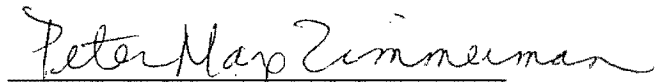
Legal Owner(s): Security Square Associates
and Sears, Roebuck & Co.
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 98-297-A

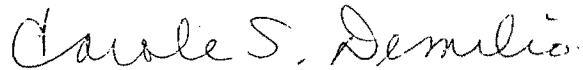
* * * * *

ENTRY OF APPEARANCE

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



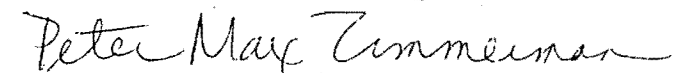
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of March, 1998, a copy of the foregoing Entry of Appearance was mailed to Michael P. Tanczyn, Esq., 606 Baltimore Avenue, Suite 106, Towson, MD 21204, attorney for Petitioners.



PETER MAX ZIMMERMAN



Baltimore County, Maryland

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

April 13, 1998

Hand-delivered

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

Re: PETITION FOR VARIANCE
6901 Security Boulevard,
SW/S Security Blvd. at I-695,
1374' E of Belmont Avenue
1st Election District
1st Councilmanic
SECURITY SQUARE ASSOCIATES and
SEARS, ROEBUCK & CO., Legal Owner/
Petitioners
Case No. 98-297-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 31, 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,

A handwritten signature in cursive script that reads "Peter Max Zimmerman".

Peter Max Zimmerman
People's Counsel for Baltimore County

A handwritten signature in cursive script that reads "Carole S. Demilio".

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/cdf

cc: Michael P. Tanczyn, Esq.
Attorney for Petitioners

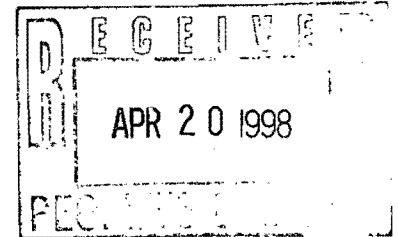
A handwritten note in cursive script that reads "Received" followed by the date "4/13/98" and a signature.



Baltimore County
Department of Permits and
Development Management

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

April 15, 1998



Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106
Towson, MD 21204

RE: Petition for Zoning Variance
Case No.: 98-297-A
6901 Security Boulevard
1c1
Security Square Associates -
Petitioners

Dear Mr. Tanczyn:

Please be advised that an appeal of the above referenced case was filed in this office on April 15, 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,

Arnold Jablon
Director

AJ:rye

c: Ms. Deirdre Moore
Mr. Jamie Gilbert
People's Counsel





County Board of Appeals of Baltimore County

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

September 4, 1998

NOTICE OF DELIBERATION:

SECURITY SQUARE ASSOCIATES -PETITIONERS
CASE NO. 98-297-A

This case, having been heard by the Board of Appeals on September 3, 1998, has been assigned the following date and time for public deliberation:

DATE AND TIME : Thursday, September 17, 1998 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

on calendar
caf

Kathleen C. Bianco
Administrator

cc: Appellant /People's Counsel : Peter Max Zimmerman, Esquire
for Baltimore County Carole S. Demilio, Esquire

Counsel for Petitione : Michael P. Tanczyn, Esquire
Petitioner : Security Square Associates
/Bruce D. Lyons, Exec. VP

Ms. Deirdre Moore
Mr. John C. Mellema, Jr.

Jamie Gilbert /EDC
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

COPIED: C.B.F.



CASE NUMBER: 98-292-A
3024 and 3026 East Avenue
NE/S East Avenue, 473' from c/I Sperl Avenue
11th Election District - 6th Councilmanic District
Legal Owner: Maurice O. Brown

Variance to allow lot widths of 51.30 feet and 50.00 feet in lieu of the required 55 feet.

HEARING: WEDNESDAY, MARCH 11, 1998 at 9:00 a.m. in Room 407, County Courts Building.

CASE NUMBER: 98-297-A
6901 Security Boulevard
W/S RW Ramp M of I-695, 1374' E of Belmont Avenue
1st Election District - 1st Councilmanic District
Legal Owner: Security Square Associates and Sears, Roebuck & Co.

Variance to allow a 102 foot high, free-standing, illuminated sign in lieu of the 25 foot maximum, with a double-faced, illuminated sign of 260 square feet per face in lieu maximum 150 square feet and to confirm compliance with frontage requirements or in the alternative to allow the sign requested along an interstate ramp.

HEARING: WEDNESDAY, MARCH 11, 1998 at 11:00 a.m. in Room 407, County Courts Building.

CASE NUMBER: 98-298-X
10 Ritters Lane
SW/S Reisterstown Road, 165' NW of c/I Ritters Lane
4th Election District - 3rd Councilmanic District
Legal Owner: Susan Cohen Sidney
Contract Purchaser: Brian P. Bystry

Special Exception for a Class "B" office building.

HEARING: WEDNESDAY, MARCH 11, 1998 at 2:00 p.m. in Room 407, County Courts Building.

CASE NUMBER: 98-291-SPHXA
711 Walker Avenue
S/S Walker Avenue, 929.21' W of Banbury Road
9th Election District - 4th Councilmanic District
Legal Owner: The Estate of John G. Luntz
Contract Purchaser: Cooperative Services, Inc.

Special Hearing to approve that the subject property, to be used as housing for the elderly, comports with the compatibility review requirements. Special Exception for housing for the elderly. Variance to permit RTA building and parking setback distances as close as 46 feet (east side) and 25 feet (west side) in lieu of the required 75 feet; to permit RTA buffer setback distance as close as 25 feet (east side) and 9, 16, and 21 feet (west side) in lieu of the required 50 feet; to permit RTA building height of 48 feet in lieu of the required 35 feet; to permit freestanding sign with area of 12 square feet, one side, illuminated in lieu of wall-mounted, projecting sign with a maximum area of one square foot; and to permit a finding of compatibility in a D.R.-5.5 zone.

HEARING: MONDAY, MARCH 16, 1998 at 9:00 a.m. in Room 407, County Courts Building.



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Peter M. Zimmermann
People's Counsel

FROM: S. G. Samuel Moxley *SGM*
Councilman, First District

SUBJECT: Security Square Mall

DATE: May 5, 1998

Following up on your telephone conversation, I attempted to reach you but, unfortunately you were out of the office for a few days. In discussion with my assistant, Bryan Sheppard, I have learned that the People's Counsel is planning to appeal the Security Square Mall sign exception. Why in this world would the People's Counsel waste both taxpayer money and Security Square Mall Corporation money in appealing this sign, when no one came out to oppose this matter. I am totally at a loss to understand why we are attempting to increase spending for such a situation. In a County that is trying to be so business friendly and enforce the law, I cannot see when an organization has met the letter of the law, and an exemption has been granted, why the government would take exception to said exemption.

I would appreciate a prompt written response.

SGM:pln
pc: The Honorable C. A. Dutch Ruppertsberger
County Executive
Robert L. Hannon, Executive Director
Department of Economic Development
ZIMMERMA.MEM

BALTIMORE COUNTY, MARYLAND

INTEROFFICE MEMORANDUM

TO: THE HONORABLE STEPHEN G. SAMUEL MOXLEY,
COUNCILMAN, FIRST DISTRICT

FROM: PETER MAX ZIMMERMAN, PEOPLE'S COUNSEL *PMZ*

SUBJECT: PETITION FOR ZONING VARIANCE - 6901 SECURITY BLVD.,
SECURITY SQUARE ASSOCIATES AND SEARS, ROEBUCK & CO.,
PETITIONERS, CASE NO. 98-297-A

DATE: MAY 5, 1998

As I explained to your staff, our office felt obligated to appeal the height variance for the proposed new Security Square Mall sign of 102 feet in place of the limit of 25 feet under the 1997 County Council bill. For over a decade, our office has opposed the proliferation of signs in the vicinity of Baltimore County's interstate highways which do not meet the applicable standards. Several of these cases arose in the southwest quadrant of I-695 and one pertained to Martin's West, nearby the subject site.

While we recognize the concern and efforts regarding revitalization of Security Square Mall, we were not shown any evidence to differentiate this case from past cases. If the proposed sign is allowed for advertising purposes, then every shopping center and other business in proximity to interstate highways could also be entitled to substantial variances from the standards.

At your staff's request, we enclose the following decisions:

I. Court of Special Appeals of Maryland

1. Red Roof Inns, Inc. v. People's Counsel for Baltimore County,
96 Md.App. 219, 624 A.2d 1281 (1993) - Interstate 83, Timonium.

INTEROFFICE MEMORANDUM - MAY 5, 1998
TO COUNCILMAN STEPHEN G. SAMUEL MOXLEY FROM PETER
MAX ZIMMERMAN, PEOPLE'S COUNSEL

2. People's Counsel for Baltimore County v. Martin's, Inc.,
Unreported, No. 1575, September Term, 1988 - Interstate 695, Woodlawn.

3. Rock Church of Baltimore, Inc. v. People's Counsel for Baltimore County, Unreported, No. 1284, September Term, 1988 - Interstate 695, Loch Raven Blvd. & Cromwell Bridge Road.

II. Circuit Court for Baltimore County

4. In the Matter of the Application of Joseph R. Rudick, Case No. 87-CG-1038, August 7, 1987 - Interstate 695, Washington Blvd.

III. County Board of Appeals

5. In the Matter of the Application of S.S.E. Associates Partnership, Case No. 87-110-A, March 26, 1987 - Interstate 695 and Interstate 95.

6. In the Matter of the Application Carpenter Realty Corp., Case No. 85-273-A, November 25, 1985 - Interstate 695, Edmondson Avenue.

While each case has its own set of facts and circumstances, the decisions essentially disallow sign variances which are promotional in nature and which are unrelated to directional purposes for motorists on local roads.

We are available at your convenience to discuss the matter further.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE MEMORANDUM

TO: THE HONORABLE STEPHEN G. SAMUEL MOXLEY,
COUNCILMAN, FIRST DISTRICT

FROM: PETER MAX ZIMMERMAN, PEOPLE'S COUNSEL

SUBJECT: PETITION FOR ZONING VARIANCE - 6901 SECURITY BLVD.,
SECURITY SQUARE ASSOCIATES AND SEARS, ROEBUCK & CO.,
PETITIONERS, CASE NO. 98-297-A

DATE: MAY 7, 1998

I am sorry I was unable to reach you by telephone last week. After a follow-up conversation with Bryan Sheppard on Monday, May 4, I prepared a memorandum outlining the essential reasons why our office felt obligated to appeal the proposed sign variances for Security Square Mall.

Unfortunately, that memorandum, dated May 5, crossed in the mail with your memorandum to me of the same date. Accordingly, I am delivering an additional copy herewith to your Catonsville office.

I would appreciate the opportunity to speak with you to further clarify the context and legal aspects which we considered. In addition, if you believe it appropriate, we will supplement the written response.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE MEMORANDUM

TO: THE HONORABLE STEPHEN G. SAMUEL MOXLEY,
COUNCILMAN, FIRST DISTRICT

FROM: PETER MAX ZIMMERMAN, PEOPLE'S COUNSEL *PMZ*

SUBJECT: PETITION FOR ZONING VARIANCE - 6901 SECURITY
BLVD., SECURITY SQUARE ASSOCIATES AND SEARS,
ROEBUCK & CO., PETITIONERS, CASE NO. 98-297-A

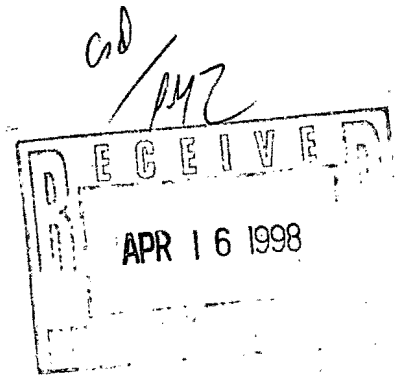
DATE: NOVEMBER 16, 1998

Following up my conversation with Bryan Sheppard of your office, I am enclosing the County Board of Appeals Opinion dated October 22, 1998 in this case. In view of the public interest considerations, our office is taking no further action. We hope that Security Square Mall continues to be successful in its revitalization efforts.

PMZ/caf

Enclosure

Law Offices
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 - (410) 296-8824
Fax: (410) 296-8827
Computer Fax: (410) 296-2848



April 14, 1998

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

COPY

Attention: Kathy Bianco

RE: Case No: 98-297A
Petition for Variance 6901 Security Boulevard,
Security Square Associates
and Sear, Roebuck and Company
Petitioners

Dear Kathy:

I represent the Petitioners in the above case. Pete Zimmerman has noted an appeal on behalf of People's Counsel dated April 13, 1998. I have told Peter I intended to ask for an expedited hearing date if possible as this sign is of great importance to my clients the Petitioners. Would you kindly call upon receiving this letter and tell me the available dates so that we can set this matter in at the earliest possible time. I cannot image that this case will take any more than one half of one day. Thank you very much for your anticipated assistance in this regard.

Very truly yours,

Michael P. Tanczyn

MPT: kc

cc: Peter Max Zimmerman ✓
People's Counsel for Baltimore County
Security Square Associates



Baltimore County, Maryland

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

FAX COVER LETTER

TO:

FRED CASCIO 750-7275

FROM:

DATE:

5/21/98

PAGES (INCLUDING THIS COVER PAGE):

6

If all pages are not received, please call
at (410) 887-2188.

CAROL FISHER

COMMENTS:

PER YOUR REQUEST, THE
ZONING COMMISSIONER OPINION
AND CBA HEARING DATE NOTICE IN
CASE NO. 98-297-A - SECURITY SQUARE
ASSOCIATES.

TRANSMISSION VERIFICATION REPORT

TIME: 05/21/1998 10:44
NAME: BOARD OF APPEALS
FAX : 4108873182
TEL : 4108873180

DATE, TIME	05/21 10:41
FAX NO./NAME	94107507275
DURATION	00:02:31
PAGE(S)	06
RESULT	OK
MODE	STANDARD
	ECM



Baltimore County, Maryland

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

FAX COVER LETTER

TO: BILL OBRECHT 944-2453

FROM: PETER ZIMMERMAN

DATE: 4/21/98

PAGES (INCLUDING THIS COVER PAGE): 5

If all pages are not received, please call CAROL FISHER
at (410) 887-2188.

COMMENTS: SEC. SQ. ASSOC. Z.C. OPINION
98-297-A

TRANSMISSION VERIFICATION REPORT

TIME: 04/21/1998 11:04
NAME: BOARD OF APPEALS
FAX: 4108873182
TEL: 4108873180

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

04/21 11:02
94109442453
00:02:01
05
OK
STANDARD
ECM

4/14/98

C:

Doug Behr

7451 ~~Kings~~ Bradshaw Rd.

Kingsville, Md. ZIP (P)
21087 CODE

Please send copy of
Security Square opinion

with cover note: for your review

PMZ

Sent 4/14

(saf)

John Lewis
Point I.D. sign, Page 44, Column 7
(Shopping Center signs)

Note: max 150 sq. ft

Bill Obrecht 944-2450

2137 Bryan Oak

FAX 410-

944-2453

Judith Berger

944-7852

M.T. opening

90 acres

Early 1970s

Regional

Largest square footage

Sears, J.C. Penney's, Wards

120 retail stores

Large parking lot

DeBartolo ~ 1972-83

Kumblat ~ 1983-1997

Food court

Move theaters (don't build)

Replacement prof. highlights

Montgomery Ward's

1997- Capital Inv. Assoc.

Turnaround

Outside consultants / focus gr.

Confusion of citizens -

Where is mall?

As it Westview

Security / landscaping

See Square - Zoning History

3920, 5562, 63-35, 73-82-A, 75-106-X
78-138 R, ~~88-200-A~~, 90-301-A



ECONOMIC IMPACT

- **Approximate Sales Volume of Shopping Center - \$200 Million**
- **Approximate Sales Tax of Shopping Center - \$10 Million**
- **Approximate Payroll of Shopping Center - \$50 Million**
- **Approximate Number of Persons Employed at Shopping Center - 3,000**
- **Real Estate Taxes Paid by Shopping Center - \$693,000**
does not include its four anchors who own their own parcel
- **GLA excluding anchors, Woolworth and General Cinemas - 266,601**
- **Occupancy not including temporary tenants - 189,087** ~~70.93%~~ 51%^h
- **Occupancy including temporary tenants - 258,259** ~~96.87%~~ 70%^h

Pages from the Past

Jean Walsh

Youth drug use was concern in the '70s, as now



One hundred years ago electricity was the subject of articles in the Feb. 19, 1898 issue of the Argus.

► C.E. Chase, our enterprising grocer, has had a graphophone placed in his store opposite the post office, and all day long it pours forth the latest songs and many funny sayings, for the amusement of patrons.

► Negotiations have been completed for the purchase of the franchises and good will of the Ellicott City Light and Power Company by the Catonsville Ice, Light and Power Company. Two thousand

dollars was the price paid. ... The Catonsville Company is a new corporation, whose plant is now being constructed for the purpose of supplying light and power in both Catonsville and Ellicott City and the surrounding territory.

25 years ago

The subjects of inadequate traffic routes and attendance at drug forums, were covered by The Catonsville Times of Feb. 22, 1973.

► Because traffic to the new Security Square shopping mall is very heavy on N. Rolling Road which in its narrow sections is inadequate to accommodate so many cars, county authorities are suggesting that shoppers use the Baltimore Beltway to Security Boulevard. ...

It is suggested that residents of Catonsville and Howard County use the Baltimore Beltway to reach Security Square rather than maneuvering on the often narrow N. Rolling Road where residents' lawns are taking a beating from tire ruts

because of inadequate lanes.

► When the forum on drug-related problems for the Catonsville Elementary PTA meeting on February 13 was planned, it was anticipated that more concerned adults than the school auditorium could accommodate might wish to attend. When that Tuesday night arrived, those who arrived were instantly interested and questioning, but there were a number of empty seats. The fact is suggestive that Catonsville doesn't have much of a drug problem, or that parents think that it doesn't.

The local discussion resource leaders who are knowledgeable in the drug misuse area, had suggestions for recognizing and helping young people who try drugs. ... In checking with local school officials, it was found that staffs of only two of the four elementary schools in the central Catonsville area had ever had a suspicion that any pupils were having effects from possible glue-sniffing.

The Catonsville Junior High

School had indicated that the drug problem there during the 1971-72 school year was heavier than usual, but that drug-use there is not as noticeable as people might think, although some pupils come to the office and admit the misuse of drugs. It was reported that at the Catonsville Senior High the teaching and administrative staff "are aware of relatively few instances of abuse at the school because the students have evidently learned how to manage it without detection."

► A community near Catonsville, where a group of parents recognize the drug problem is Arbutus. Nine months ago, several parents who were concerned about the young people who were using drugs, joined with some of the youth to talk. They call themselves "The Arbutus People" or TAP. ...

1998 NOTE: We wish that we should report that the situation had improved through the last quarter century. The problem is still in our communities.

2 The Catonsville Times February 11, 1998

ment officials \$2 million in arantees to off-on's costs," said nnon, executive ie county's eco-ment office. y ingredient in nancial package on, renovation e of equipment put [Washing-plant," Hannon

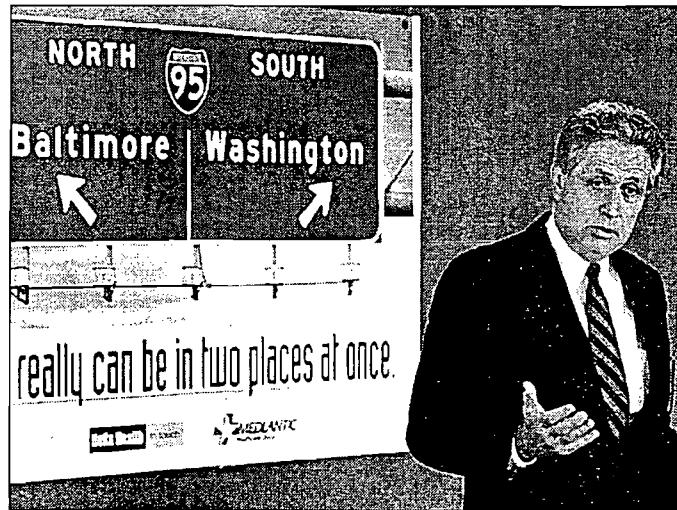
on will likely be advantage of in-roperty tax cred-the plant and its 40 acres are unty enterprise

plant employed 30 people before brewer closed it 1996.

orkers who will n the plant near represent the ee Brewery, 10c]

ing five nursing phy-sician practices, a medical equipment company, a radi-ation oncology company,

the new company. He said his work would focus on "fu-ture growth and develop-ment" and on headquarters



DOUG KAPUSTIN: SUN STAFF

The CEO: John P. McDaniel, chief executive officer of Medlantic Healthcare Group, is to be CEO of the new, seven-hospital system, which has yet to be named.

leman to fire 100 in Glen Burnie

consolidate
n operations.

PATALON III

an Co. will fire vorkers in Glen 50 in Atlanta as e distributor's nsolidate those Indianapolis. y, Mich.-based d yesterday that o a state-of-the-square-foot dis-ster in Indianap-of a push to au-distribution of

books, videos, music and software to mass retailers such as Wal-Mart Stores Inc.

"It does everything we now do by hand," said Tom Oviatt, vice president and treasurer of Handleman.

The local distribution center is on McCormick Drive in Glen Burnie. The local sales office will not be affected, Oviatt said.

Distribution center workers will receive severance packages based on years of service, he said. Severance details were not available. The cuts are expected to be completed by the end of the summer.

For the fiscal year that

ended last May, Handleman earned \$5.4 million on sales of \$1.18 billion. Profits have slumped the last several years. The company earned \$43.7 million in 1993.

On Tuesday, Handleman's shares jumped about 11 percent to close at \$11.5625 after Genesis Merchant Group Securities analyst Barry Sosnick rated the stock as a "buy" in new coverage, and said he sees the potential for the stock to rise 50 percent over the next year.

The company's shares closed yesterday at \$11.

Handleman owns the licenses to [See Layoff, 10c]

North American confident that Certiva nears FDA approval

By MARK GUIDERA
Sun Staff

North American Vaccine said yesterday that it has turned over to the Food and Drug Administration all of the additional information the agency had requested about its new whooping cough vaccine for children and is confident the drug will win U.S. marketing approval soon.

Shares in the Beltsville-based vaccine developer closed higher yesterday at \$18.125, up \$2.375, on the news.

"We feel very confident we'll have approval very soon," said Stephen M. Keith, vice president for sales and marketing for North American Vaccine.

Keith cautioned that there was no certainty that the vaccine, named Certiva, would get the green light from the FDA, but he said the company has been in close discussions with the agency and did not expect further delays.

If approved by the FDA, Certiva would be the first product the 12-year-old company, which employs 260, has won clearance to market in the United States.

The U.S. market for whooping cough vaccines is the largest, at an estimated \$300 million annually.

Pertussis strikes more than 50 million worldwide, mostly children, annually. The disease causes coughing, gasping and choking spells ending with a "whoop" of indrawn [See Vax, 8c]



ASSOCIATED PRESS

The mood in Detroit

Chrysler's employees "still will be American workers building products in America" said Stephen Yokich (right), president of the United Auto Workers union, flanked by UAW Vice President Jack Laskowski. (Article on Page 3c)

Retailing

5/8/98

New retailers coming to Security Square Mall

Eight merchants
setting up shop in
\$2 million renovation

By LORRAINE MIRABELLA
SUN STAFF

As part of a \$2 million renovation and image makeover, Security Square Mall announced new leases yesterday with eight retailers, among them the Sports Zone, a sports apparel and footwear store expanding into the Baltimore market, and Super Kids, a specialty children's store making a temporary mall location permanent.

Mall owner Capitol Investment Associates has begun changing the merchant mix to better compete with newer, more upscale malls in the region.

By fall, the mall also will get a redesigned food court centered around a huge jukebox, to add to remodeled restrooms and new signage, landscaping and security cameras.

The newly signed stores will cover 22,000 square feet at the 1.2 million-square-foot mall in western Baltimore County.

Other tenants include Shingar, a women's apparel store; Changes, which sells men's casual and dressy clothing; Silver Time, specializing in silver jewelry and watches, an AT&T kiosk and two food stalls, Vittorio's and Ocean City Fries & Dogs.

All are permanent, long-term leases — with some shifting from temporary leases — ranging from five to 10 years, said Deirdre Moore, mall manager.

"We're really looking to further [See Security, 10c]

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

413.1--The following signs are permitted in any zone, as limited in Section 413.5 (see also Section 14-26 of the Baltimore County Code, 1968, and Section 600 of these Regulations); if illuminated they shall be of an enclosed lamp design, nonflashing, containing no colored illumination, and may also be of the reflector type: [B.C.Z.R., 1955 and Bill No. 172, 1977.]

- A. A sign indicating the name or number of the owner and/or premises or the accessory use of a dwelling for a home occupation or for professional purposes, provided that such sign shall not exceed one square foot in area; [B.C.Z.R., 1955.]
- B. One bulletin board on church, school, or college property, not over 30 square feet in area; [B.C.Z.R., 1955.]
- C. A sign on a farm, noting the sale of articles grown or produced on the premises, provided that such sign shall not exceed 30 square feet in area, shall be at least 10 feet from any public right-of-way and at least 50 feet from the nearest corner of a road intersection; [B.C.Z.R., 1955.]
- D. A sign, not exceeding 15 square feet in area, in connection with an apartment building or project in which a rental office is located; also for a dwelling converted into a tea room or restaurant; [B.C.Z.R., 1955.]
- E. Directional or information signs of a public or quasi-public nature, not exceeding 15 square feet in area. Such signs shall contain no advertising matter, and shall not be illuminated, but may be of the beaded reflector type. They may state: [B.C.Z.R., 1955.]
 - 1. Name or location of a community or of a public or quasi-public institution or other building, or the name of place of meeting of an official or civic body, such as a Chamber of Commerce or Rotary or Kiwanis Club. [B.C.Z.R., 1955.]
 - 2. Temporary signs noting an event of general interest such as a county fair, public or general election, horse show, etc. Such sign shall be removed within ten days after the event. B.C.Z.R., 1955.]
 - 3. Signs--directional, informational, or warning in character, involving no advertising aspect, and each not exceeding 25 square feet in area. [B.C.Z.R., 1955.]

Stabilized Sludge: The sludge that has been treated by a process to reduce putrescibility, significantly reduce pathogenic organisms and, except for lime stabilization, reduce the folatile [sic] solids content. [Bill No. 46, 1982.]

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes. [B.C.Z.R., 1955.]

Street: A motorway which is not a freeway or expressway, but which has a right of way more than 20 feet in width. [B.C.Z.R., 1955; Bill No. 100, 1970.]

Street Line: A line which divides the right of way of a street from other property: a street right of way line. [Bill No. 111, 1958.]

Striptease Business: A commercial establishment where persons appear in a state of total or partial nudity in person or on film, slides or videotapes. For the purposes of this definition, the term "film" shall not include motion pictures rated by the Motion Picture Association of America. Such establishment shall, for example, include, but not be limited to, a restaurant, nightclub, dance club, peep show or social hall if such entertainment is provided as an accessory or principal use. A striptease business, including the building or portion thereof that contains or advertises the business, must be located at least 1000 feet from a dwelling, church, park, child care center or school existing on the effective date of this legislation and be arranged so that the interior is not visible from the outside. A striptease business may not operate between 2:00 A.M. and 6:00 A.M.

For the purpose of this definition, an establishment which is duly licensed by the Board of Liquor License Commissioners for Baltimore County and which features striptease dancing, nudity, or partial nudity as an accessory use shall not be considered a striptease establishment, except that it shall satisfy the setback limitation established hereinabove for a striptease business.

The 1,000 foot distance requirement shall be considered an area requirement and, in addition to the authority and limitations set forth in Section 307.1 of these regulations, a variance may be granted if strict compliance with said setback would result in severe economic hardship and the variance request is not based on conditions or circumstances which are the result of actions by the Petitioner. [Bill No. 137, 1990.]

Clark, 21 Nev. 333, 31 P. 545, 18 L.R.A. 313 (1892); *People v. Rathbone*, 145 N.Y. 434, 40 N.E. 395, 28 L.R.A. 384 (N.Y.1895); *Stork v. American Surety Co.*, 109 La. 713, 33 So. 742 (1903); *State ex rel. Gray v. Hodges*, 107 Ark. 272, 154 S.W. 506 (1913); *Clapp v. Miller*, 56 Okl. 29, 156 P. 210 (1916); *Pitsch v. Continental & Commercial National Bank*, 305 Ill. 265, 137 N.E. 198, 25 A.L.R. 164 (Ill.1922); *Harris v. Watson*, 201 N.C. 661, 161 S.E. 215, 79 A.L.R. 441 (1931); *Kip v. People's Bank & Trust Co.*, 164 A. 253, 110 N.J.L. 178 (N.J.L.1933). In *State ex rel. Summerfield v. Clark*, supra, a Nevada case, it was held that a notary public was a public officer and that the office was one of profit within the meaning of a constitutional provision similar (although more comprehensive) to Article 35 of the Maryland Declaration of Rights. Similarly, in *Harris v. Watson*, supra, a North Carolina case, it was held that the position of notary public was a public office within the meaning of a constitutional provision (prohibiting an officeholder from holding any other office or place of trust or profit) and that the officeholder, by accepting an appointment as a notary public, thereby vacated his office as a county commissioner.

We hold that Leroy C. Moser, upon accepting the appointment as a notary public and qualifying as such by taking the oath of office, thereby vacated his office as a member of the Metropolitan Commission. See *Truitt v. Collins*, 122 Md. 526, 89 A. 850 (1914).

For the reasons stated herein the order of the lower court vacating the office of the appellant as a member of the Commission will be affirmed. And, for the reasons assigned by Judge Macgill for requiring Howard County to pay the costs below, the costs on appeal shall also be paid by the County. See Maryland Rule 882a.

Order of court affirmed; the costs on appeal to be paid by the Board of County Commissioners of Howard County.

235 Md. 262
CITY OF BALTIMORE and
John Mahoney et ux.

v.
Nancy SWINSKI et al.
No. 287.

Court of Appeals of Maryland.
June 11, 1964.

Proceeding on appeal from an order of the Baltimore City Court, Joseph L. Carter, J., reversing decision of zoning commissioner granting permits for construction of apartment buildings. The Court of Appeals, Horney, J., held that construction of apartment buildings which would not physically front on boulevard that lots faced constituted violation of ordinance requiring main entrance of all buildings to face street on which their lots faced.

Order affirmed.

1. Zoning §254

Physical construction of building establishes frontage for purposes of determining whether there has been compliance with zoning ordinance governing frontage of buildings.

2. Zoning §254

Construction of apartment buildings which would not physically front on boulevard that lots faced constituted violation of ordinance requiring main entrance of all buildings to face street on which their lots faced.

John A. Dewicki, Asst. City Sol., Baltimore (Joseph Allen, City Sol., Baltimore, on the brief) for appellant City of Baltimore.

Paul T. McHenry, Jr., Baltimore, (Francis M. Connolly, Baltimore, on the brief) for appellants John Mahoney and wife.

Harry W. League, Jr., Baltimore, for appellees.

Before BRUNE, C. J., and HENDERSON, PRESCOTT, HORNEY and MARBURY, JJ.

HORNEY, Judge.

The primary question presented by this appeal is whether the zoning ordinance of Baltimore City requires the physical front of a building to face the street side of a lot.

Two lots are involved. Both are owned by John and Betty Mahoney (the Mahoneys). One lot, known as 5900 Loch Raven Boulevard, is located at the northwest corner of the boulevard and Gleneagle Road, and measures 80 feet by 130 feet, with the short side facing on the west side of the boulevard and the long side binding on the north side of the road. The other lot, known as 5904 Loch Raven Boulevard, is located 153.5 feet north of the road, and measures 73.5 feet by 130 feet, with the shorter side facing the boulevard. A vacant lot (also 73.5' x 130'), known as 5902 Loch Raven Boulevard, lies between the two lots owned by the Mahoneys.

The Mahoneys applied to the Zoning Commissioner for permits to construct on each lot a two story-four unit apartment, each with a width of 28'8" facing the boulevard and a depth of 76'8" running lengthwise towards an alley in the rear of the lots. Neither apartment physically fronts on the boulevard. The physical front of the 5900 apartment faces the road on the south side of the lot. The physical front of the 5904 apartment faces the north side of the lot. Neither of the apartments has an entrance or doorway on the boulevard side of the lot. Instead, both have entrances or doorways in the middle of one of their long sides and there are pavements leading from the entranceways to the sidewalk on the boulevard. There is also a pavement leading from the entranceway of the apartment on the corner lot to the sidewalk on the road.

The permits were granted and some of the neighborhood landowners, Nancy Swinski and others (the protestants), appealed to the Board of Municipal and Zoning Appeals, which, on finding that the building plans filed by the Mahoneys with the building engineer were in compliance with the zoning ordinance, unanimously sustained the action of the zoning commissioner. On appeal by the protestants to the Baltimore City Court, the board was reversed, and the Mahoneys (and the Mayor and City Council of Baltimore) appealed to this Court.

The apartment under construction on the corner lot has setbacks of 25 feet from the west side of the boulevard, 31 feet 4 inches from the north side of the road to the five-foot wide entranceway, 28 feet 4 inches from the west side of the alley, and 15 feet from the north side lot line. On the other lot, the apartment has set-backs of 25 feet from the west side of the boulevard, 15 feet from the south side lot line, 28 feet 4 inches from the west side of the alley, and 24 feet 10 inches from the north side lot line to the five-foot wide entranceway.

The minimum yards requirements for a lot (the size of these) located on a street (such as Loch Raven Boulevard) having a width of one hundred feet or more, calculated in accordance with the formulas set forth in §§ 24 and 28 of the zoning ordinance, are 10 feet for a front yard, 26 feet for a rear yard, and 10 feet for side yards. The ordinance defines a front yard as the space "between the front line of the building and the front line of the lot." Ord. § 48(m); a rear yard as the space "between the rear line of the building and the rear line of the lot." Ord. § 48(n); and a side yard as the space "between the

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.

IN THE MATTER OF
THE APPLICATION OF
MICHAEL G. MURPHY
FOR SPECIAL EXCEPTION ON
PROPERTY LOCATED ON THE
WEST SIDE OF BACK RIVER
NECK RD., 110' NORTH OF
THE C/L OF WILLIAMS AVE.
15th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS

OF
BALTIMORE COUNTY

No. 86-100-X

: : : : : : : : : : : :

O P I N I O N

The above captioned matter comes before this Board on appeal from a decision of the Deputy Zoning Commissioner wherein the special exception for one illuminated 12' x 25' advertising sign was granted with restrictions.

Testimony was taken and it is evident from the testimony that the Petitioner was able to comply with Section 413 of the Baltimore County Zoning Regulations. However, testimony from the tenant upon which the proposed structure would be constructed as well as two (2) adjoining property owners persuades this Board that the special exception would adversely impact the health and general welfare of the community and, therefore, the requested Petition fails to meet the requirement of Section 502.1 of the Baltimore County Zoning Regulations.

Additionally, this Board notes that the Petitioner has not contracted with the present tenant of the subject property, who according to his lease and the plats submitted, is entitled to the use of 152-154, including the driveway in question. Consequently, it would appear that the tenant is entitled to the quiet enjoyment of his property and in the absence of his agreement to permit the proposed structure, the Petitioner has no right to construct same.

O R D E R

For the reasons set forth in the foregoing Opinion, it is this 3rd day of September, 1986, by the County Board of Appeals, ORDERED that the Petition for Special Exception for one illuminated 12' x 25' advertising structure (sign) be and the same is hereby DENIED.

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 89-424-SPHX

In consideration of these circumstances, the Board is of the opinion it must deny the Motion to Dismiss the Appeal of Harry Waller and will set the case for hearing in its normal sequence.