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ORDER ON BOARD OF APPEALS REMAND

Case No. 05-447-SPHA comes before this Zoning Commissioner as a remand from the Board of Appeals for previously filed Petitions for Variance and Special Hearing by George R. Norris, Inc., legal owner, and Norris Colonial, LLC, doing business as Norris Honda, contract purchaser, the Petitioners. The Petitioners requested variance relief for a new Honda dealership on the property to be located at 901 Merritt Boulevard in eastern Baltimore County. The original variance relief requested from the Baltimore County Zoning Regulations (B.C.Z.R.) is as follows: 1) from Section 450.4.5.a of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow two freestanding enterprise signs with sign face areas of 100 sq. ft. (Sign 1) and 71.5 sq. ft. (Sign 2) in lieu of the allowed one sign of 50 sq. ft.; 2) from Section 450.4.5.g to allow a freestanding enterprise sign height of 31 feet (Sign 1) in lieu of the maximum allowed 25 feet; 3)

from Section 450.4.3 to allow directional signage with sign face areas of 12 sq. ft. (Sign 3), 66 sq. ft. (Sign A), and 16 sq. ft. (Signs B, C, D, E, F, and G) in lieu of the permitted 8 sq. ft.; and 4) from Section 450.4.5.a to allow a total of three wall-mounted enterprise signs (Signs 7, 8, and 9) on the front (west) façade, in lieu of the two permitted wall-mounted enterprise signs. By way of the Petition for Special Hearing, Petitioners requested an amendment to the site plan approved in prior Case No. 99-512-SPHA.

Case No. 99-512-SPHA comes before this Zoning Commissioner as a remand from the Board of Appeals for previously filed Petitions for Variance and Special Hearing by George R. Norris, Inc., legal owner/Petitioner. The Petitioner requested variance relief for an existing Ford dealership and a used car facility located at 901 Merritt Boulevard and 1123 Old North Point Road to accommodate three freestanding signs with a total sign face area of 207.75 square feet in lieu of the one (1) sign of 50 square feet and to permit a sign height of 36 feet, 4 inches in lieu of the maximum allowed 25 feet. By way of the Petition for Special Hearing, Petitioner also requested an amendment to the site plan approved in prior Case No. 97-445-A.

Petitioners' requests for variances and special hearing relief were granted by the Zoning Commissioner on August 20, 1999, in Case No. 99-512-SPHA and on June 9, 2005, in Case No. 05-447-SPHA. Thereafter, the cases were appealed to the Board of Appeals by the Office of People's Counsel. The Board had granted a request for postponement made by Petitioner in Case No. 99-512-SPHA, which case was, therefore, still pending before the Board. Prior to the hearings before the Board, the Petitioners and People's Counsel agreed that the Petitioners would modify the request for variances in Case No. 05-447-SPHA, withdraw their request for variances in Case No. 99-512-SPHA, and People's Counsel would not continue its appeals before the Board in Case Nos. 05-447-SPHA and 99-512-SPHA. The Board of Appeals remanded both cases to this Commission for resolution.

The terms of the agreement are as follows:

The Petition for Variance in Case No. 05-447-SPHA shall be amended to revise the request as follows for the Merritt Boulevard property:

- a) A variance for a single freestanding enterprise sign accessory to the Honda dealership, with an area of 64 sq. ft. in lieu of the permitted 50 sq.ft.; Petitioner agrees to comply with the height limitation of 25 ft. in BCZR 450.4.5.(g).
- b) A variance for directional signage with sign face areas of 12 square feet, 66 square feet and 16 square feet in lieu of the permitted 8 square feet per sign.
- c) A variance for three wall-mounted enterprise Honda signs on the front façade in lieu of two wall-mounted enterprise signs.
- d) Petitioner agrees to withdraw the three variances for two freestanding signs with face areas of 100 sq. ft and 71.5 sq. ft., and for a height for variance of 31 ft.

Petitioners further agree the two existing Ford freestanding signs and any other existing Ford dealership signs on the Merritt Boulevard property are nonconforming and subject to BCZR 450, including but not limited to the abatement provisions in BCZR 450.8.D., and that no variances are being requested or granted for these signs.

People's Counsel does not take a position on the variances for directional signage in paragraph (b) as not being in the public interest in this case.

People's Counsel cannot consent to the variances for the wall-mounted signs requested in paragraph (c) in light of the Circuit Court decision in Case No. 03-C-04-3662, pending before the Court of Special Appeals.

Upon further review and discussions, Petitioner's attorney and People's Counsel agree that the Petitions in Case No. 99-512-SPHA shall be amended to revise the request as follows:

- a) The Petition for Variance for the three freestanding signs shall be withdrawn; the two Ford freestanding signs are nonconforming and have been addressed in paragraph 6; the third freestanding sign is addressed in paragraph 9c below.
- b) The Petitioner agrees to promptly apply for a special exception to operate a used car dealership for 1123 Old North Point Road for a Budget Used Car dealership, under BCZR 236.4.

- c) Petitioner agrees the freestanding sign presently located on the aforesaid Old North Point Road property, and any other existing signs on this property, are nonconforming, and subject to BCZR 450, including but not limited to the abatement provisions in BCZR 450.8.D, and that no variances are being requested or granted for these signs.
- d) The Petition for Special Hearing to amend Case No. 97-445-A shall be granted to the extent necessary to comport with the relief requested in this Joint Motion to Remand.

Petitioner further agrees to amend its site plan in Case No. 05-447-SPHA in accordance with this Motion and to submit the same to the Zoning Commissioner.

People's Counsel is satisfied that the revised petition and site plan in Case No. 05-447-SPHA will be in the public's interest.

The most efficient way to present the revised petition for review is to present it to the Zoning Commissioner, who is familiar with the case, for a hearing and for an Amended Order.

The Board remanded the cases to this Commission for further hearing, which was conducted on November 23, 2005. Appearing at the hearing on behalf of the variance and special hearing requests was David H. Karceski, Esquire representing the Petitioners. David N. Cook and Mitchell J. Kellman were also in attendance on behalf of Petitioners. People's Counsel, Peter Max Zimmerman, did not appear at the remand hearing in view of the outlined understandings.

The Petitioners, by way of testimony and evidence, submitted a redlined two-page amended site plan in Case No. 05-447-SPHA, which incorporates the terms of the agreement entered into by the Petitioners and People's Counsel, set forth above. This new site plan marked as Petitioners' Exhibit No. 5 calls for the removal of the "freestanding Certified Used Cars" sign and specifies the amended dimensions of the freestanding "Honda New Cars" sign, as required by the agreement. No other changes to the requested signage in Case No. 05-447-SPHA are necessary, pursuant to the Joint Motion to Remand. In Case No. 99-512-SPHA, all existing signage, pursuant to the Joint Motion for Remand, associated with the existing Ford dealership

 and separately operated used car operation located at 901 Merritt Boulevard and 1123 Old North Point Road are subject to the sign abatement provisions of Section 450 of the Zoning Regulations.

Findings of Fact and Conclusions of Law

I find that the amended site plan submitted, which was accepted into evidence and marked as Petitioners' Exhibit No. 5 in Case No. 05-447-SPHA, incorporates the terms and conditions of the agreement between People's Counsel and the Petitioners as provided for in the Joint Motion Remand Order to the Board of Appeals, which was granted. The request for two freestanding signs having been withdrawn, the amended freestanding signage request before this Commission is for a variance to allow a 64 sq. ft. sign in lieu of the permitted 50 sq. ft. from Section 450.4.I.5(g);

As noted previously in this Commission's Order of June 9, 2005, I found that variance relief was appropriate for the reasons given (Case No. 05-447-SPHA). I determined that special circumstances or conditions exist that are peculiar to the land or structure supporting the variance request as the property is unique from a zoning standpoint. I also concluded that the Petitioners would suffer hardship if the regulations were strictly enforced. Indeed, the national Honda campaign requires these signs.

Finally, I decided that the variance can be granted within the spirit and intent of the regulations and there is no adverse impact on the community for the signs.

Pursuant to the hearing held on the Petitions in Case Nos. 05-447-SPHA and 99-512-SPHA, and after considering the testimony and evidence offered, I find that Petitioners' amended Petition for Variance and Petition for Special Hearing should be GRANTED in Case No. 05-447-SPHA and Petitioner's Petition for Special Hearing should be granted in Case No. 99-512-SPHA.

THEREFORE, IT IS ORDERED, in Case No. 05-447-SPHA, by the Zoning Commissioner for Baltimore County this day of December, 2005, that the Petition for Special Hearing seeking approval of an amendment to the site plan approved in prior Case No. 99-512-SPHA, in accordance with and as indicated on Petitioners' Exhibit 5, be and is hereby GRANTED; and

IT IS FURTHER ORDERED in Case No. 05-447-SPHA that the amended Petition for Variance seeking relief as follows: 1) from Section 450.4.5.g of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow one freestanding enterprise sign with a sign face area of 64 sq. ft. (Sign 1) in lieu of the allowed 50 sq.ft. not to exceed 25 feet in height; 2) from Section 450.4.3 to allow directional signage with sign face areas of 12 sq. ft. (Sign 3), 66 sq.ft. (Sign A), and 16 sq.ft. (Signs, B, C, D, E, F, and G) in lieu of the maximum permitted 8 sq.ft. per sign; and 3) from Section 450.4.5.a to allow a total of three wall-mounted enterprise signs (Signs 7, 8, and 9) on the front (west) façade, in lieu of the two permitted wall mounted enterprise signs, in accordance with and as indicated on Petitioners' Exhibit 5, be and is hereby GRANTED; and

IT IS FURTHER ORDERED in Case No. 99-512-SPHA that the Petition for Variance filed is hereby WITHDRAWN; and

IT IS FURTHER ORDERED in Case No. 99-512-SPHA that the Petition for Special Hearing for an amendment to the site plan approved in Case No. 97-445-A is hereby GRANTED.

Zoning Commissioner for Baltimore County

Robert A. Hoffman, Esquire and David H. Karceski, Esquire Venable, LLP, 210 Allegheny Ave., Towson, Md. 21204 Mr. David N. Cook, V.P., George R. Norris, Inc. 901 Merritt Boulevard, Baltimore, Md. 21222

Peter Max Zimmerman, Esquire, Office of People's Counsel; Case File

Baltimore County, Marylana



OFFICE OF PEOPLE'S COUNSEL

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

> 410-887-2188 Fax: 410-823-4236

PETER MAX ZIMMERMAN People's Counsel CAROLE S. DEMILIO Deputy People's Counsel

November 18, 2005

RECEIVED

NOV 1 8 2005

BALTIMORE COUNTY BOARD OF APPEALS

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

Re:

In the Matter of: George R. Norris, Inc by David Cook,

Vice President, Petitioner

Case Nos.: 99-512-SPHA & 05-447-SPHA

Dear Ms. Bianco:

Enclosed please find a Joint Motion to Remand for filing with regard the above-referenced case, along with a proposed order.

Thank you for your consideration.

Sincerely,

Carole S. Demilio

Deputy People's Counsel for Baltimore

County

CSD\rmw Enclosures

cc:

David Karceski, Esquire

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REMAND ORDER TO ZONING COMMISSIONER

This matter comes before this Board on appeal in two cases filed by the People's Counsel for Baltimore County from decisions of the Zoning Commissioner dated June 9, 2005 and August 20, 1999 in which the subject request for variances and special hearings were approved. In both cases, People's Counsel filed timely appeals to this Board.

On November 18 2005 the parties submitted a Joint Motion for Remand. The purpose of the Motion is to afford the Zoning Commissioner the opportunity to consider a revised site plan and specified conditions in both cases.

Upon consideration of said request for REMAND, therefore, it is this day of

ORDERED that said request be and is hereby GRANTED; and it is further

Case No. 99-512-SPHA and Case No. 05-447-SPHA

ORDERED that the above captioned cases are REMANDED to the Zoning Commissioner for Baltimore County for proceedings and further review consistent with the purposes stated in the Joint Motion for Remand.

COUNTY BOARD OF APPEALS OF

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wrence M. stahl, Chairman

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ORDERED that said request be and is hereby GRANTED; and it is further

Upon consideration of said request for REMAND, therefore, it is this _____ day of

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JOINT MOTION TO REMAND

People's Counsel for Baltimore County and Petitioners, by their attorneys Robert A. Hoffman and David H. Karceski and Venable, LLP, move to remand this case to the Zoning Commissioner, and state as follows:

- 1. People's Counsel appealed the June 9, 2005 approval of the sign variances in Case 05-447-SPHA. The sign request is in conjunction with a proposed new car Honda dealership, and a proposed special exception for an existing used car dealership, in addition to the existing Ford new car dealership
- 2. There is pending before the County Board of Appeals Case 99-512-SPHA for sign variances for the same site. At that time, a new car Ford dealership was operating at the site; Petitioner sought a postponement in order to seek rezoning to Business Roadside (B.R.) for 1123 Old North Point Road, which was granted in the Comprehensive Zoning Map Process in 2000 as Issue #7-039.
- 3. The parties desire to address both pending cases in this remand.

- 4. The site consists of two separate parcels, 901 Merritt Boulevard which is split zoned BL/BM, on which the new car Ford and Honda dealerships will operate, and 1123 Old North Point Road, zoned BR, on which a Budget Used Car dealership operates and for which a special exception will be requested.
- 5. Upon further review and discussions, Petitioners' attorney and People's Counsel agree that the Petition for Variance in Case 05-447 SPHA shall be amended to revise the request as follows for the Merritt Boulevard property:
 - (a) A variance for a single freestanding enterprise sign accessory to the Honda dealership, with an area of 64 sq. ft in lieu of the permitted 50 sq. ft.; Petitioner agrees to comply with the height limitation of 25 ft. in BCZR 450.4.5.(g).
 - (b) A variance for directional signage with sign face areas of 12 square feet, 66 square feet and 16 square feet in lieu of the permitted 8 square feet per sign.
 - (c) A variance for three wall-mounted enterprise Honda signs on the front façade in lieu of two wall-mounted enterprise signs.
 - (d) Petitioner agrees to withdraw the three variances for two freestanding signs with face areas of 100 sq. ft. and 71.5 sq. ft, and for a height for variance of 31 ft.
- 6. Petitioner agrees the two existing Ford freestanding signs and any other existing signs on the Merritt Boulevard property are nonconforming and subject to BCZR 450, including but not limited to the abatement provisions in BCZR 450.8. D., and that no variances are being requested or granted for these signs.
- 7. People's Counsel does not take a position on the variances for directional signage in paragraph 5 (b) as not being in the public interest in this case.
- 8. People's Counsel cannot consent to the variances for the wall-mounted signs requested in paragraph 5 (c) in light of the Circuit Court decision in Case 03-C-04-3662, attached hereto, pending before the Court of Special Appeals.
- 9. Upon further review and discussions, Petitioners' attorney and People's Counsel agree that the Petitions in Case 99-512 SPHA shall be amended to revise the request as follows:
 - (a) The Petition for Variance for the three freestanding signs shall be withdrawn; the two Ford freestanding signs are nonconforming and have been addressed in paragraph 6; the third freestanding sign is addressed in paragraph 9c below.
 - (b) The Petitioner agrees to promptly apply for a special exception to operate a used car dealership for 1123 Old North Point Road for a Budget Used Car dealership, under BCZR 236.4.

- (c) Petitioner agrees the freestanding sign presently located on the aforesaid Old North Point Road property, and any other existing signs on this property, are nonconforming, and subject to BCZR 450, including but not limited to the abatement provisions in BCZR 450.8. D., and that no variances are being requested or granted for these signs.
- (d) The Petition for Special Hearing to amend Case 97-445-A shall be granted to the extent necessary to comport with the relief requested in this Joint Motion to Remand.
- 10. Petitioner agrees to amend its site plan in accordance with this Motion and to submit the same to the Zoning Commissioner if the Joint Order to Remand is approved by the CBA.
- 11. People's Counsel is satisfied that the revised petition and site plan will be in the public interest.
- 12. The most efficient way to present the revised petition for review is to present it to the Zoning Commissioner, who is familiar with the case, for a hearing and for an Amended Order.

WHEREFORE, People's Counsel and Petitioner request that the case be remanded to the

Zoning Commissioner for further proceedings consistent with this Motion.

Peter Max 4/nynem Peter Max Zimmerman, Esquire

People's Counsel for Baltimore County

.

Carole S. Depailio, Esquire

Deputy People's Counsel for Baltimore

County

400 Washington Avenue, Room 47

Towson, Maryland 21204

410-887-2188

· ·

Venable, LLP

210 Allegheny Avenue Towson, MD 21204

Attorney for Petitioners

d H. Karceski, Esquire

Robert A. Hoffman, Esquire

AUTO PROPERTIES LLC	*	IN THE
Petitioner V	*	CIRCUIT COURT
PEOPLE'S COUNSEL FOR	*	FOR
BALTIMORE COUNTY Respondent	*	BALTIMORE
IN THE MATTER OF AUTO PROPER-	*	COUNTY
TIES LLC FOR SIGN VARIANCES AT EAST AVENUE AND HAR-	*	CASE NO.
FORD ROAD, ON APPEAL FROM	sk	2 C 04 002(C2 AE
THE COUNTY BOARD OF APPEALS FOR BALTIMORE		3-C-04-003662 AE
COUNTY	*	

OPINION AND ORDER OF COURT

Petitioner is the owner of a property comprising some 4.162 acres, located the northeast corner of Harford Road and I-695 Exit 31B, on which is a Honda motor vehicle dealership trading as Heritage Honda. Vehicular access to the dealership is not available directly from Harford Road due to the parcel's proximity to the exit ramp of I-695; motorists must turn easterly into East Avenue from Harford Road to approach the dealership at 3001 East Avenue. Having relocated the former Griffith Honda from York Road in Towson to the new site, Petitioner filed on April 25, 2002 a Petition for Variance with the Zoning Commissioner of Baltimore County, requesting the following variances:

1. "[T]o permit a double-faced illuminated freestanding enterprise sign with a height of 30 feet in lieu of the maximum height of 25 feet, and to permit an area/face of 100 square feet in lieu of the maximum area/face of 50 square feet. (Total area for both faces is 200 square

feet);"

- 2. "and to permit frontage on a highway without pedestrian or vehicular access;"
- 3. "and ...to permit the continued use of three (3) existing illuminated wall-mounted enterprise signs (accessory to a new vehicle dealership), in lieu of the maximum 0 signs permited." (sic)

The purpose of the second request is not clear to the Court, nor is it clear that it is the proper subject of a variance request, but it seems likely to be based upon the language contained in the table of sign regulations in Section 450 of the Baltimore County Zoning Regulations ("BCZR") pertaining to free-standing signs in the B.M. and other zones, permitting such signs of 100 square feet "if the premises has more than 300 feet of frontage". "Frontage" is defined in Section 450.3 as follows: "A lot line of a premises which is co-terminous with a right-of-way line of a highway to which the premises has or would be allowed pedestrian or vehicular access." This request appears not to have been pursued before the Deputy Zoning Commissioner, and was not mentioned by him in his ruling, in which he granted the other requested variances.

On December 2, 2003, a hearing was conducted by the County Board of Appeals ("CBA"), and on March 8, 2004, after public deliberations were held on January 27, the CBA entered an Opinion unanimously denying all of the requests, giving rise to the Petitioner's application for Judicial Review. Counsel appeared in this Court on August 11, 2004 to argue the matter.

SCOPE OF REVIEW

The scope of judicial review is narrow. The Court must affirm the decision of

the administrative agency where it is fairly debatable with respect to the agency's findings of fact and inferences drawn therefrom. See *Board of Physicians Quality Assurance v. Banks*, 354 Md. 59 (1999); *Board of County Commissioners v. Holbrook*, 314 Md. 210 (1988); *Eger v. Stone*, 253 Md. 533 (1969); *Snowden v. City of Baltimore*, 224 Md. 443 (1961).

The scope of review is likewise narrow with respect to the application of law to the facts and/or to mixed questions of law and fact. Stover v. Prince Georges County, 132 Md. App. 373 (2000); Caucus Distributors v. Maryland Sec. Comm'r, 105 Md. App. 25 (1995); Maryland State Police v. Lindsey, 318 Md. 325 (1990); Baltimore Lutheran H. S. v. Employment Security Admin., 302 Md 649 (1985); Ramsay, Scarlett & Co. v. Comptroller, 302 Md. 825 (1985). Even with regard to matters of legal interpretation, the scope of review remains narrow. In Banks, supra, the Court focused on matters of legal interpretation. Judge Eldridge wrote:

"Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts... Furthermore, the expertise of the agency in its own field should be respected...(legislative delegations of authority to administrative agencies will often include the authority to make 'significant discretionary policy determinations.')...." 354 Md. at 69. (Citations omitted).

Accordingly, where there is room for interpretation, the courts "ordinarily give some weight" to agency construction of the statute. *Magan v. Medical Mutual Liab. Ins. Co.*, 331 Md. 535 (1993). In *Magan*, Judge McAuliffe wrote:

"The degree of weight to be given an administrative interpretation varies according to a number of factors, including whether the interpretation has resulted in a contested adversary proceeding or rule-making process, whether the interpretation has been publicly established, and the consistency and

length of the administrative interpretation or practice. Comptroller v. John C. Louis Co., 285 Md. 527, 544-45 (1979)."

In administrative proceedings in Maryland concerning the grant of a variance or special exception, the "substantial evidence" and "fairly debatable" standard is applicable. e.g., *Schultz v. Pritts*, 291 Md. 1 (1981); *Turner v. Hammond*, 270 Md. 41 (1973). The "fairly debatable" standard was defined in *Eger*, *supra*:

"If the issue before an administrative body is 'fairly debatable,' that is, that its determination involved testimony from which a reasonable man could come to different conclusions, the Court will not substitute its judgment for that of the administrative body,... even if the administrative body came to a conclusion which [the Court] probably would not have reached on the evidence."

See also Germenko v. County Board of Appeals of Baltimore County, 257 Md. 706 (1970). Accord, Ginn v. Farley, 43 Md. App. 229 (1979); Board of County Comm'rs for Prince Georges County v. Meltzer, 239 Md. 144 (1965).

In Prince Georges County v. Meininger, 264 Md. 148, 152 (1972), it was held that the "substantial evidence" requirement in a case of denial was satisfied by little more than a "scintilla of evidence" because the burden of proof is on the appellant. The zoning agency's decision should be affirmed unless there is "no evidence at all" to support the decision. Rockville Fuel & Feed Co. v. Board of Appeals, 257 Md. 183,193 (1970). These and other cases indicate that an administrative appellant has a very heavy burden to demonstrate as arbitrary an agency finding that the applicant did, or, especially, did not, sufficiently prove his case. In Pollard's Towing v. Berman's Towing, 137 Md. App. 277 (2001), Judge Moylan discussed the function of the reviewing court when an agency is simply not persuaded by the petitioner. He wrote:

"In this case, all that was required was that the Board be not persuaded that there was a need for additional towing service. To the extent that its finding was weightier than that, the incremental weight was surplusage. Far less is required to support a merely negative instance of non-persuasion than is required to support an affirmative instance of actually being persuaded of something." 137 Md. App. at 289.

Judge Moylan also quoted *Starke v. Starke*, 134 Md. App. 663 (2000), at 137 Md. App. 290:

"[I]t is far easier to sustain as not clearly erroneous the decisional phenomenon of not being persuaded than it is to sustain the very different decisional phenomenon of being persuaded... Mere non-persuasions... require nothing but a state of honest doubt. It is virtually, albeit perhaps not totally, impossible to find reversible error in that regard."

DISCUSSION

The Court has had an opportunity to review and consider the transcript of the CBA hearing of December 3, 2003, the exhibits in evidence before it, the minutes of the public deliberation, and its Opinion of March 8, 2004. The Court has also carefully considered the thorough memoranda filed by the Petitioner and Respondent, and the oral arguments of counsel presented at the hearing on August 11. The CBA's Opinion accurately summarizes the evidence before it, and the Court will not reiterate it here. It appears to the Court that substantial evidence exists in the record which could support the granting of the free-standing sign variance, had the CBA decided to do so. It, of course, did not.

Before discussing the propriety of failure to grant that variance, however, the Court believes it appropriate to deal with Petitioner's argument that its third request, to retain the three wall-mounted illuminated signs presently being

displayed, was unnecessary and should not have been part of its Petition. Respondent argues, first, that Petitioner is estopped from taking this position once having requested this variance and pled the need for it, and, second, that BCZR Section 450.4.5.(g) controls and limits a vehicle dealership to one sign only; thus if a free-standing sign is erected, no other signs of any category are permitted that dealership.

As to Respondent's first argument, the Court is not persuaded that estoppel by pleading bars Petitioner from seeking to correct what it perceives to be a legal error. Clearly, it did not bar the Court of Appeals from remanding to the CBA the variance requested by Baltimore Gas & Electric Company in *Friends of the Ridge v. BG&E*, 352 Md. 645 (1999), having found it legally unnecessary, with instructions to vacate the rulings thereupon. In the case *sub judice*, Petitioner obtained new counsel after the matter was decided by the CBA, who, on review of the BCZR, concluded that the third request for variance was legally unnecessary. Under the circumstances, Petitioner should not be barred from seeking to correct an apparent misunderstanding of the requirements of the BCZR by his engineer or trial counsel.

As to Respondent's second argument that Section 450.4.5 (g) of the BCZR controls the wall-mounted signs, this Court reluctantly agrees. The plain language of the ordinance and its included table seem to indicate that the provision limiting automobile dealerships to one sign for each franchise, refers solely to free-standing enterprise signs. Section 450.4.5 (a) permits in the B.M. and certain other zones up to three wall-mounted enterprise signs, with no more than two on a facade, with a Use Permit only. Section 450.4.5 (a) dies not appear in any way limited or controlled by Section 450.4.5 (g). However, a separate provision of the ordinance, BCZR Section 450.4.F., although not a model of legislative clarity or logic, appears

to make the limitation of one sign per franchise set forth in column VI of 450.4.5.(g), and the Additional Limitations of Column IX thereof, override all other Sections, including 450.4.5.(a). Section 450.4.F explains column VI:

F. Maximum No./Premises (VI): The entries in this column establish the maximum number of separate signs in a given class, [here the "Enterprise" class] or the formula for determining the maximum number, which may be displayed on a single premises. Unless otherwise provided, the maximum number of signs applies to any combination of signs included in each separate lettered paragraph under Column II....

Column IX of 450.4.5.(g) reads:

A new motor vehicle dealership may display one sign not to exceed 50 square feet.

Section 450.4.I explains Column IX:

I. Additional Limitations (IX): The entries in this column indicate additional limitations or identify cross-references to applicable sign provisions elsewhere in Section 450.

Accordingly, the BCZR seem to provide that, should an automobile dealership choose to erect a free-standing enterprise sign on its premises, it can display no other enterprise signs of any type, even one which would identify its franchise brand or dealership name upon the building itself. In the case *sub judice*, if Petitioner is permitted a sign such as that which it has erected, which displays only the franchise brand and its logo, it cannot continue to display its own trade name, Heritage Honda, upon the structure of the building, but must function for all intents and purposes anonymously, as an unidentified Honda dealership. If this interpretation is what the Baltimore County Council intended, then most County

automobile dealerships are probably in violation of Section 450, and potentially face prosecution accordingly. If this is not the Council's intent, the BCZR should be redrafted and clarified.

With respect to the issue of Petitioner's first requested variance, for the free-standing sign to exceed permitted height and face area, the CBA was, quite simply, not persuaded from the evidence that the Petitioner's property is unique, or that such uniqueness, if found to exist, creates practical difficulty. The grant of a variance is a two-step process, with the first step being concerned only with whether the site is unique. Judge Cathell, then a member of the Court of Special Appeals, wrote for that Court in *Cromwell v. Ward*, 102 Md. App. 691 (1995):

"We conclude that the law in Maryland and in Baltimore County under its charter and ordinance remains as it has always been — a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinances's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists..."

Here, although there is, as previously noted, substantial evidence in the record on the issue of uniqueness, that evidence failed to persuade the CBA. This Court cannot substitute its judgment for that of the CBA even if that evidence would be persuasive to the Court. In this scenario, the Petitioner's burden is nearly, if not totally insurmountable, as discussed by Judge Moylan in *Pollard's Towing, supra*. The CBA cannot be found to have erred because it rejected, did not believe, or was unpersuaded by the evidence before it. Accordingly, the essential lynchpin of the structure supporting the grant of the variance sought, does not exist, and the request must fail.

The denial by the CBA of the variances requested by Petitioner must be, and it is hereby, AFFIRMED, and it is SO ORDERED, this 16 Day of August, 2004.

Christian M. Kahl, Judge

cc: Carole S. Demilio, Esquire
John H. Zink, III, Esquire
Kathleen C. Bianco, Administrator, CBA
Chairman, Baltimore County Council

JRUER RECEIVED FOR FILING

IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE – SE/S Merritt Blvd.,
650' SW of the c/l North Point Road and
561' S of North Point Boulevard
(901 Merritt Blvd. & 1123 Old North Pt. Rd.
15th Election District

15th Election District
7th Councilmanic District

George R. Norris, Inc.
Petitioners

- * BEFORE THE
- * ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
 - Case No. 99-512-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject properties, George R. Norris, Inc., by David N. Cook, Vice President, through their attorney, Timmy F. Ruppersberger, Esquire. The Petitioners request a special hearing to approve an amendment to the previously approved site plan in Case No. 97-445-A, and a variance from Section 450.4.5.g of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit three (3) freestanding signs totaling 207.75 sq.ft. in lieu of the one sign of 50 sq.ft. total permitted, and to permit a sign height of 36 feet, 4 inches, in lieu of the maximum allowed 25 feet for one sign, only. The subject properties and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing held in this case were David Cook, Vice President of George R. Norris, Inc., property owners, Tim Whittie, Professional Engineer who prepared the site plan for this property, and Robert A. Hoffman, Esquire and Timmy Ruppersberger, Esquire, attorneys for the Petitioners. There were no Protestants or other interested persons present.

An examination of the site plan discloses that the subject properties are two parcels located adjacent to one another near the intersection of North Point Road and Merritt Boulevard in eastern Baltimore county. Lot 1 (901 Merritt Boulevard) is a triangular shaped parcel containing

Sate Link Ently Figh Filling

approximately 6.86 acres and is predominantly zoned B.M. (Business-Major), with a small portion zoned B.L. (Business-Local). Lot 1 is improved with three buildings which are used in conjunction with the operation of the Norris Ford Automobile Dealership. The largest building contains showroom and office space, a service department and a parts department. The second building contains the body shop, and the third building is a small trailer-type structure which is used as the Used Car Sales office. In addition to these buildings, most of Lot 1 is improved with a macadam paved surface for parking and automobile display.

Lot 1 is separated from Lot 2 by a narrow, in-fee strip owned by the Union Trust Company of Maryland and subject to an easement in favor of the Baltimore Gas and Electric Company. Aerial photographs submitted at the hearing show that this strip is occupied by a series of electrical transmission towers and overhead wires. A portion of the ground below these towers has been improved with a parking lot, which is used by Norris Ford for the storage of automobiles.

On the other side of this strip is located Lot 2. Lot 2 consists of 4.71 acres in area and is zoned entirely B.M. It has frontage on Old North Point Road and bears the address 1123 Old North Point Road. That building is improved with a parts and storage building and macadam-paved surface.

As shown on the site plan, the properties have a significant zoning history. Most recently, the Petitioners came before Deputy Zoning Commissioner Timothy M. Kotroco in prior Case No. 97-445-A seeking relief for a new identification sign to be located on Lot 1. At that time, the Petitioners were in the process of renovating and updating the property and in conjunction with those improvements, proposed to replace an existing sign. The new sign would be larger in area and taller in height than the existing sign, which had apparently existed on the property for over 30 years. Deputy Commissioner Kotroco granted the relief requested by his Order dated June 3, 1997.

The Petitioners now come before me seeking approval of an amendment to the previously approved plan filed in that case to add three (3) new signs to advertise the business. As it was explained at the hearing, the property is unique by virtue of the fact that the overall tract is divided into two lots, one of which fronts Merritt Boulevard, and one which fronts North Point

ORDER RECEIVED FOR FILING

Road. As shown on Page 2 of the site plan, the Petitioners presently maintain two signs on Lot 1 and wishes to install a freestanding sign on Lot 2. It was indicated that this sign is necessary to identify the site from traffic on North Point Road. Obviously, the signs on Merritt Boulevard are not visible from North Point Road.

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 variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this request and that the requirements from which the Petitioner seeks relief 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 Zoning Commissioner for Baltimore County this ______ day of August, 1999 that the Petition for Special Hearing seeking approval of an amendment to the previously approved site plan in Case No. 97-445-A, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 450.4.5.g of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit three (3) freestanding signs totaling 207.75 sq.ft. in lieu of the one sign of 50 sq.ft. total permitted, and to permit a sign height of 36 feet, 4 inches, in lieu of the maximum allowed 25 feet for one sign, only, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their sign 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.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING Date
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Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

901 Merritt Blvd., 561' South of North

I/We do solemnly declare and affirm, under the penalties of

for the property located at Point Blvd./1123 Old North Point Road

which is presently zoned

This Petition shall be filed with the Department of Permits & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

To amend the Site Plan approved in Case No. 97-445-A

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Property is to be posted and advertised as prescribed by zoning regulations.

I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

			perjury, that I/w is the subject of		owner(s) of the	property which
Contract Purchaser/Lessee:			Legal Owner	<u>(s):</u>		
•			George R_Norr	is. Inc.		
Name - Type or Print			Name –/Type)o		1	
			By:	ust Vall	,	,
Signature			Signature Davi	d N. Cook, Vice	President	
Address		Telephone No.	Name – Type o	r Print		
City	State	Zip Code	Signature			
Attorney for Petitioner:			901 Merritt Bou	levard		410-285-0200
			Address		<u> </u>	elephone No.
Timmy F. Ruppersberger		•	Baltimore	MD	21222	
Name - Type or Print	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		City	State	Zip Co	de
To F Kaply	_		Representati	ve to be Cont	acted:	
Signature 0						
Venable Baetjer and Howard, LLP			Timmy F. Rupp	ersberger, Vena	able, Baetje <mark>r</mark> an	d Howard, LLP
Company			Name			
210 Allegheny Ave		110) 494-6200	210 Allegheny A	Ave		10) 494-6200
Address	T	elephone No.	Address		Te	elephone No.
Towson	MD	21204	Towson		MD	21204
City	State	Zip Code	City		State	Zip Code
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Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 901 Merritt Blvd., 561' South of North Point Blvd./1123 Old North Point Road

I/We do solemnly declare and affirm, under the penalties of

This Petition shall be filed with the

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which is presently zoned

BM

Department of Permits and 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)

Variance of Section 450.4.5g to permit three freestanding signs totalling 207.75 sf. in lieu of the permitted one sign of 50 sf; and to permit a sign height of 36 ft. 4 in. (one sign only) in lieu of the 25 ft. permitted.

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

to be determined at hearing

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

	is the subject of this Petition.	owner(s) or the pro	pperty winch				
Contract Purchaser/Lessee:	Legal Owner(s):						
	George B. Norris, Inc.						
Name – Type or Print	Name - Type/or Print	1					
	BY: (Jan) (and	/	U				
Signature	Signature David N. Cook, Vice	President					
	David N. Con	k					
Address Telephone No.	Name – Type or Print						
City State Zip Code	Signature						
Attorney for Petitioner:	901 Merritt Boulevard	41	0-285-0200				
Attendy for 1 outlones.	Address		ephone No.				
Timmy F. Ruppersberger	Baltimore MD	21222	•				
Name – Type or Print	City State	Zip Code					
Signature Report	Representative to be Con	tacted:					
Venable, Baetjer and Howard, LLP	Timmy F. Ruppersberger, Ven	able, Baetjer and I	Howard, LLP				
(Company	Name	-					
210 Allegheny Ave (410) 494-6200	210 Allegheny Ave) 494-6200				
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Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

901 Merritt Blvd., 561' South of North for the property located at Point Blvd./1123 Old North Point Road

which is presently zoned

 $\mathbf{B}\mathbf{M}$

This Petition shall be filed with the Department of Permits & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

To amend the Site Plan approved in Case No. 97-445-A

Property is to	be posted and advertised a	as prescribed by zoning regulations.
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I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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			George R. Nor	ris, Inc.				
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Signature			Signature Day	id N. Cook, Vice	President			
Address		Telephone No.	Name - Type o	or Print				
City	State	Zip Code	Signature					
Attorney for Petitioner:	901 Merritt Bou	levard		410-285-0200				
			Address			Felephone No.		
Timmy F. Ruppersberger			Baltimore	MD	21222			
Name - Type or Print			City	State	Zip Co	de		
Signature	·	_ 	Representati	ve to be Cont	acted:			
Venable, Baetjer and Howard, LLF) 	_ -		ersberger, Vena	ble, Baetjer ar	d Howard, LLP		
Company			Name			•		
210 Allegheny Ave Address		410) 494-6200	210 Allegheny	Ave		10) 494-6200		
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Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 901 Merritt Blvd., 561' South of North Point Blvd./1123 Old North Point Road

This Petition shall be filed with the

REV 9/15/98

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which is presently zoned

BM

Department of Permits and 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)

Variance of Section 450.4.5g to permit three freestanding signs totalling 207.75 sf. in lieu of the permitted one sign of 50 sf; and to permit a sign height of 36 ft. 4 in. (one sign only) in lieu of the 25 ft. permitted.

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

to be determined at hearing

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

			I/We do solemn perjury, that I/we is the subject of	e are the legal					
Contract Purchaser/Lessee:	i •		Legal Owner(<u>s):</u>					
		·	George R. Negri						
Name – Type or Print			Name – Type or	Print		· · · · · · · · · · · · · · · · · · ·			
Signature		······································	BY: Signature David	N. Cook, Vice	President				
Address		Telephone No.	Name – Type or	Print	······································				
City	State	Zip Code	Signature	" ' <u>' '</u> ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' '					
Attorney for Petitioner:			901 Merritt Boulevard 410-285-0200						
			Address		7	elephone No.			
Timmy F. Ruppersberger			Baltimore	MD_	21222				
Name - Type or Print			City	State	Zip Co	de			
1 CE Dagol	9/		Representativ	e to be Con	acted:				
Signature	γ								
Venable, Baetjer and Howard, LL	<u>P</u>		Timmy F. Ruppe	ersberger, Ven	able, Baetjer an	d Howard, LLP			
Company			Name						
210 Allegheny Ave Address		(410) 494-6200 Telephone No.	210 Allegheny A Address	\ve		10) 494-6200			
		•				elephone No.			
Towson	MD State	21204	Towson	······································	MD	21204			
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FREDERICK WARD ASSOCIATES, INC.

ENGINEERS
ARCHITECTS
SURVEYORS

ZONING DESCRIPTION 901 MERRITT BLVD 12TH ELECTION DISTRICT BALTIMORE COUNTY, MD 21222

Beginning for the same at a point where the east right of way line of Merritt Boulevard:

- 1) A line curving toward the right having a radius of 1849.86 for a distance of 736.56 feet (the chord of said arc bearing north 7° 25' 20" East 731.70 feet)
- 2) North 39' 04' 20' East 210.29 feet
- 3) South 14° 53' 38" East 1075.25 feet
- 4) North 73° 22' 40" West 525.25 feet to the point of beginning thereof

Containing 6.865 acres of land, more or less



MARYLAND

BEL AIR

COLUMBIA

VIRGINIA

MANASSAS

WARRENTON

99.512.5PHA



FREDERICK WARD ASSOCIATES, INC.

ENGINEERS
ARCHITECTS
SURVEYORS

ZONING DESCRIPTION 1123 OLD NORTH POINT RD 12TH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the southwestern right of way line of Old North Point Road:

- 1) South 49° 23' 41" East 284.17 feet
- 2) South 38° 26' 20" West 615.92 feet
- 3) South 34° 44' 20" West 170.97 feet to a point on the northeastern right of way line of a transmission line right of way
- 4) North 14° 25' 57" West 506.98 feet
- 5) North 75° 15' 35" East 182.52 feet
- 6) North 38° 24' 31" East 345.15 feet to the point of beginning

Containing 4.7135 acres of land, more or less.



MARYLAND

BEL AIR

COLUMBIA

VIRGINIA

MANASSAS

WARRENTON

#517

99.512.5PHA

Case No. 99-512-SPHA

GEORGE R. NORRIS, INC.

SPH -To approve amendment to previously approved site plan in 97-445-A; VAR -to permit 3 freestanding signs totalling 207.75 sq ilo one sign of 50 sf total permitted; to permit sign height of 36'4" ilo maximum allowed 25' for one sign only.

8/20/99 -Z.C.'s decision in which Petition for Special Hearing was GRANTED; Petition for Variance relief GRANTED.

2/07/2000 - Notice of Assignment for hearing scheduled for Tuesday, April 11, 2000 at 10:00 a.m. sent to following:

Peter Max Zimmerman, People's
Counsel for Baltimore Co
Carole S. Demilio, Deputy
People's Counsel
Timmy F. Ruppersberger, Esquire
and Robert A. Hoffman, Esquire
David N. Cook, Vice President
George R. Norris, Inc.
Tim Whittie, P.E.
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

3/10/00-Request for postponement filed by Timmy Ruppersberger – attempting to resolve issues; PMZ does not object to this request being granted. To be postponed and notice to be sent.

3/15/00 -Notice of Postponement sent to parties; above request granted; matter to be reassigned for hearing only upon request of either party.

11/18/05 – Joint Motion to Remand filed by C. Demilio on behalf of People's Counsel and R. Hoffman and David Karceski, Esquire on behalf of Petitioner; to be remanded to Zoning Commissioner for revised petition and site plan; hearing and amended order. Proposed Order submitted with Joint Motion. Prepared for signature. /with Case No. 05-447-SPHA.



County Board of Appeals of Baltimore County

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

FAX: 410-887-3182

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

March 15, 2000

NOTICE OF POSTPONEMENT

CASE #: 99-512-SPHA

IN THE MATTER OF: GEORGE R. NORRIS, INC., Legal
Owner /Petitioner 901 Merritt Boulevard and
1124 Old North Point Road 15th E; 7th C

(8/20/99 -Decision of the Z.C. in which Petition for Special Hearing was GRANTED; Petition for Variance relief GRANTED.)

which was assigned to be heard on 4/11/00 has been POSTPONED at the request of Counsel for Petitioner, without objection by Appellant, the Office of People's Counsel; to be reset for hearing upon request of either party.

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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco Administrator

cc: Appellant

: Peter Max Zimmerman, People's Counsel for Baltimore Co Carole S. Demilio, Deputy People's Counsel

Counsel for Petitioner

: Timmy F. Ruppersberger, Esquire and Robert A. Hoffman, Esquire

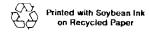
Petitioner

: David N. Cook, Vice President

George R. Norris, Inc.

Tim Whittie, P.E.

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





County Board of Appeals of Baltimore County

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

FAX: 410-887-3182

Hearing Room -Room 48 Old Courthouse, 400 Washington Avenue

NOTICE OF ASSIGNMENT

CASE #: 99-512-SPHA

IN THE MATTER OF: GEORGE R. NORRIS, INC., Legal Owner /Petitioner 901 Merritt Boulevard and 1124 Old North Point Road 15th E; 7th C

February 7, 2000

(8/20/99 -Decision of the Z.C. in which Petition for Special Hearing was GRANTED; Petition for Variance relief GRANTED.)

ASSIGNED FOR:

TÙESDAY, APRIL 11, 2000 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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

> Kathleen C. Bianco Administrator

Counsel for Petitioner

Petitioner

: Peter Max Zimmerman, People's Counsel for Baltimore Co Carole S. Demilio, Deputy People's Counsel

: Timothy F. Ruppersberger, Esquire and Robert A. Hoffman, Esquire : David N. Cook, Vice President

George R. Norris, Inc.

Tim Whittie, P.E.

Pat Keller, Director /Planning Lawrence E. Schmidt /Z.C. 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 pdmlandacq@co.ba.md.us

September 28, 1999

Timmy F. Ruppersberger, Esq. Robert Hoffman, Esq. Venable, Baetjer and Howard, LLP 210 Allegheny Avenue Towson, MD 21204

Petitions for Variance and Special Hearing, Case No. 99-512-SPHA RE: George R. Norris, Inc., Legal Owner, 7th Election District

Dear Mr. Ruppersberger:

Please be advised that an appeal of the above-referenced case filed in this office on September 10, 1999 by People's Counsel. 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 410-887-3180.

Sincerely,

Arnold Jablon

Director

AJ:qqs

George R. Norris, Inc. David Cook Tim Whittie People's Counsel



rinted with Soybean Ink

on Recycled Paper







altimore 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 September 10, 1999

CAROLE S. DEMILIO Deputy People's Counsel

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

Re: PETITION FOR SPECIAL HEARING

PETITION FOR VARIANCE

901 Merritt Boulevard & 1123 Old North Point Road,

E/S Merritt Blvd, 700' S of c/l Old North Pt Rd,

15th Election Dist., 7th Councilmanic George R. Norris, Inc., Petitioner

Case No.: 99-512-SPHA

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusions of Law dated August 20, 1999 of the Baltimore County 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

le S. Demilio

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/caf

cc: Timmy F. Ruppersberger, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioners

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DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

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IN PE: PETITION FOR VARIANCE

CI/S Merritt Boulevard, 650' SW of the c/l of North Point Road

(901 Merritt Boulevard)
15th Election District
7th Councilmanic District

George R. Norris, Inc. Petitioner

BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

Case No. 97-445-A

*****:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Variance for that property known as 901 Merritt Boulevard, located in the vicinity of North Point Road in Dundalk. The Petition was filed by the owner of the property, George R. Norris, Inc. by David N. Cook, Vice President, through their attorney, Timmy F. Ruppersberger, Esquire. The Petitioner seeks relief from Sections 413.2.F and 413.5.D of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit the replacement of an existing sign with a sign of 138.75 sq.ft. in lieu of the maximum permitted 100 sq.ft., and to permit a height for said sign of 36 feet, 4 inches, in lieu of the maximum permitted 25 feet. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were David Cook, Vice President, Tim Whittie, Professional Engineer with Frederick Ward Associates, Inc., who prepared the site plan for this property, and Robert A. Hoffman, Esquire and Timmy F. Ruppersberger, Esquire, attorneys for the Petitioner. There were no Protestants or other interested persons present.



Baltimore County Department of Permits and Development Management

Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 pdmlandacq@co.ba.md.us

July 12, 1999

NOTICE OF ZONING 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: 99-512-SPHA

901 Merritt Boulevard & 1123 Old North Point Road

E/S Merritt Boulevard, 700' S of centerline Old North Point Road

12th Election District – 7th Councilmanic District

Legal Owner: George R. Norris, Inc.

Special Hearing to amend the site plan approved in case 97-445-A. Variance to permit 3 free-standing signs totaling 207.75 square feet in lieu of the permitted 1 sign of 50 square feet and to permit a sign height of 36 feet, 4 inches in lieu of the 25 feet permitted.

HEARING:

Thursday, August 5, 1999 at 10:00 a.m. in Room 106, County Office

Building, 111 West Chesapeake Avenue

Arnold Jablon

Director

c. Timmy F. Ruppersberger, Esquire George R. Norris, Inc.

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY JULY 21, 1999.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE **ZONING REVIEW OFFICE AT 410-887-3391.**

RE: PETITION FOR VARIANCE
901 Merritt Boulevard & 1123 Old North Point Road,
E/S Merritt Blvd, 700' S of c/l Old North Pt Rd
12th Election District, 7th Councilmanic

Legal Owner: George R. Norris, Inc. Petitioner(s)

- BEFORE THE
- * ZONING COMMISSIONER
- * FOR
- * BALTIMORE COUNTY
- Case No. 99-512-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

Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this <u>15</u> day of July, 1999 a copy of the foregoing Entry of

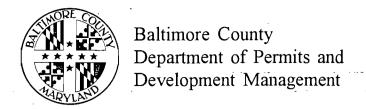
Appearance was mailed to Timmy F. Ruppersberger, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue,

P.O. Box 5517, Towson, MD 21204, attorney for Petitioners.

PETER MAX ZIMMERMAN

Politioner's CITIZEN-SIGN-IN SHEET

NAME	ADDRESS
Rob Hoteman	210 Alleghen for 2120
David Cook	210 Allegheng for 200 308 Meadowcroft Lane
Timmy Reppersberger	210 Alleghany Ar 21204
Tim Whittie P.e.	7/25 Riverwood Dr. Columbin, My 20
	1700 1000 0000
: .	



Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 pdmlandacq@co.ba.md.us

July 30, 1999

Timmy F. Ruppersberger, Esquire Venable, Baetjer and Howard, LLP 210 Allegheny Avenue Towson, MD 21204

Dear Mr. Ruppersberger:

RE: Case Number

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on June 17, 1999.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure 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 the case. All comments 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.

Very truly yours,

W. Carl Richards, Jr. Zoning Supervisor

Zoning Review

WCR:scj

Enclosures

C: George R. Norris, Inc.



700 East Joppa Road Towson, Maryland 21286-5500 410-887-4500

July 21, 1999

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

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF JULY 5, 1999

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Purpuant 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 Sinal plans for the property.

THE FIRE MARSHAL'S OFFICE HAS NO COMMENTS AT THIS TIME REGARDING THE FOLLOWING ITEM NUMBERS:

501, 502, 504, 505, 507, 508, 510, 511, (512) 513, 514, 515, 516, 512, 519, 520, 523, 524,

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 387-4881, MS-1102F

cc: File

for sk

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Date: July 12, 1999

TO: Arnold Jablon, Director

Department of Permits

and Development Management

FROM: Arnold F. 'Pat' Keller, III, Director

Office of Planning

SUBJECT: Zoning Advisory Petitions

The Office of Planning has no comment on the following petition(s): Item No(s): 507, 510, 511, 512, 513, 515, 518, 521, 522, and 523

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief:

AFK/JL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: July 13, 1999

Department of Permits & Development

Management

FROM:

Bobert W. Bowling, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

for July 12, 1999

Item Nos. 501, 502, 503, 504, 505,

507, 508, 509, 510, 511, (512), 513,

514, 516, 518, 519, 520, 521, 522,

523, 524,

and

Case Number 99-477-SPHA Windsor Commons

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Date: July 12, 1999

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

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

SUBJECT: Zoning Advisory Petitions

The Office of Planning has no comment on the following petition(s): Item No(s): 507, 510, 511, 512, 513, 515, 518, 521, 522, and 523

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief

AFK/JL



The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in <u>Towson, Maryland</u> on the property identified herein as follows:

Case: #99-512-SPHA

901 Merritt Boulevard & 1123 Old North Point Road E/S Merritt Boulevard, 700' S of centerline, Old North Point Road 12th Election District - 7th Councilmanic District Legal Owner(s): George R. Norris, Inc.

Special Hearing: to amend the site plan approved in case 97-445-A. Variance: to permit 3 free-standing signs totaling 207.75 square feet in fieu of the permitted 1 sign of 50 square feet and to permit a sign height of 36 feet, 4 inches in lieu of the 25 feet permitted.

Hearing: Thursday, August 5, 1999 at 10:00 a.m. in Room 106, County Office Bldg., 111 West Chesapeake Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County.

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at. (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 7/609 July 20 C326982

CERTIFICATE OF PUBLICATION

	TOWSON, MD.,		7/22	1999
THIS	IS TO CERTIFY, th	at the anne	exed adverti	sement was
published ir	THE JEFFERSON	AN, a week	ly newspap	er published
	Baltimore County, M		•	
weeks, the f	irst publication app	earing on _	720	1999
				,

THE JEFFERSONIAN,

LEGAL ADVERTISING

19.97 4

RE Case No. 99-512-SPHA

Petitioner/Developer G. R. NORRIS, ING.

96 P. HOFFMAN, ESQ Date of Hearing/Closing8/5/99

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 #901 NERRITT BCD.

\$ 1123 OLD NORTH POINT R.D.

The sign(s) were posted on

7/21/99 (Mont), Day, Year)

PATRICK M. O'KEEFE

(Printed Name)

PENNY LANE

(Address)

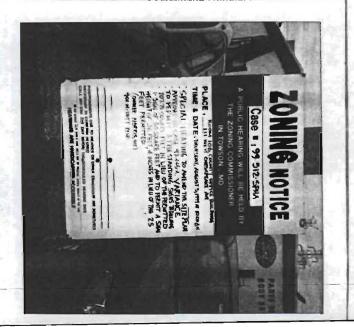
HUNT VALLEY, MD. 21030 (City, State, Zip Code)

410-666:5366 ; CELL-410-905-8571

(Telephone Number)



99-512-SPHA



TO: PATUXENT PUBLISHING COMPANY

Tuesday, July 20, 1999 Issue - Jeffersonian

Please forward billing to:

Barbara W. Ormord

410-494-6201

Venable

210 Allegheny Avenue Towson, MD 21204

NOTICE OF ZONING 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: 99-512-SPHA

901 Merritt Boulevard & 1123 Old North Point Road

E/S Merritt Boulevard, 700' S of centerline Old North Point Road

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Building, 111 West Chesapeake Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

#512

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

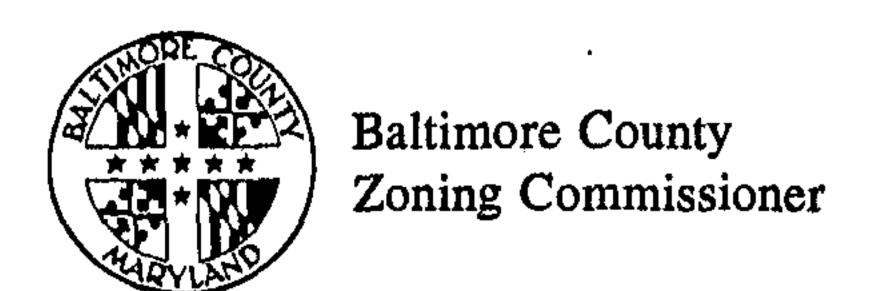
ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) 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 the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:
Item Number or Case Number: 99-512-A Petitioner: George R. Novvis, Inc.
Address or Location: 901 Merritt Boulevard and 1123 old North Point t
PLEASE FORWARD ADVERTISING BILL TO:
Name: Barbara W. Ormord
Address: Venable
210 Allegeny treme, Towson, Ind 21204
Telephone Number: 410-494-62-01



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

Fax: 410-887-3468

August 20, 1999

Timmy F. Ruppersberger, Esquire Venable, Baetjer & Howard 210 Allegheny Avenue Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE SE/S Merritt Boulevard, 650' SW of the c/l North Point Road and 561' S of North Point Boulevard (901 Merritt Boulevard & 1123 Old North Point Road) 15th Election District — 7th Councilmanic District George R. Norris, Inc. - Petitioners Case No. 99-512-SPHA

Dear Ms. Ruppersberger:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have 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,

JAMES E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc: Mr. David N. Cook, V.P., George R. Norris, Inc. 901 Merritt Boulevard, Baltimore, Md. 21222

People's Counsel; Case File



210 Allegheny Avenue Post Office Box 5517 Towson, Maryland 21285-5517 (410) 494-6200, Fax (410) 821-0147 www.venable.com



OFFICES IN

MARYLAND WASHINGTON, D.C. VIRGINIA

Writer's Direct Number: 410-494-6201



June 23, 1999

HAND DELIVERED

Mr. W. Carl Richards
Department of Permits and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Re:

Zoning Case No.: 99-512-SPHA

Petitioner: George R. Norris, Inc.

Dear Mr. Richards.

Enclosed please find three Variance and Special Hearing Petitions which have been prepared on the new zoning forms. Please substitute these forms for those currently on file.

Once again, I apologize for this oversight.

If you have any questions, please give me a call.

Sincerely,

Barbara W. Ormord

Legal Assistant

BWO

Enclosures

cc: Robert A. Hoffman, Esquire

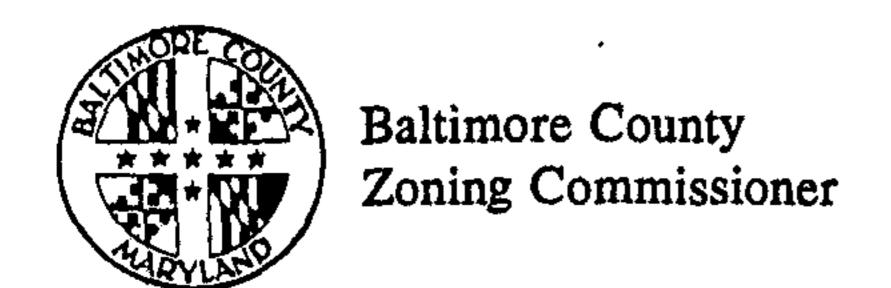
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99-1706

JUN 2 3 1999

DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT



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

Fax: 410-887-3468

August 20, 1999

Timmy F. Ruppersberger, Esquire Venable, Baetjer & Howard 210 Allegheny Avenue Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE SE/S Merritt Boulevard, 650' SW of the c/l North Point Road and 561' S of North Point Boulevard (901 Merritt Boulevard & 1123 Old North Point Road) 15th Election District – 7th Councilmanic District George R. Norris, Inc. - Petitioners Case No. 99-512-SPHA

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Very truly yours,

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc:

Mr. David N. Cook, V.P., George R. Norris, Inc. 901 Merritt Boulevard, Baltimore, Md. 21222

People's Counsel; Case File

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FREDERICK WARD ASSOCIATES, INC.

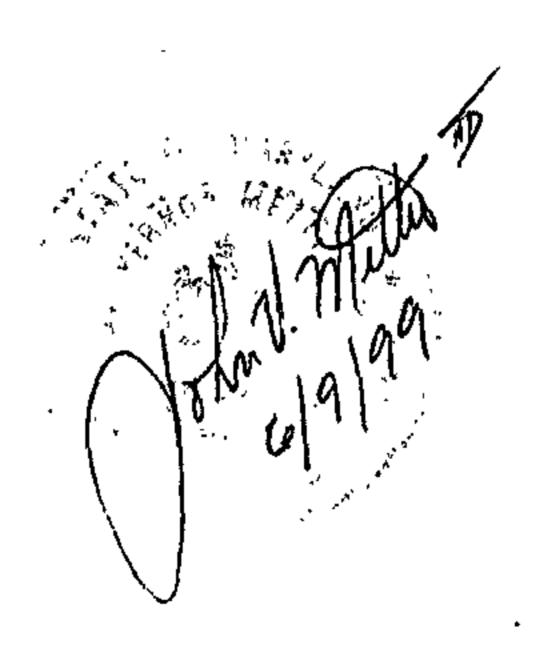
ENGINEERS ARCHITECTS SURVEYORS

ZONING DESCRIPTION 901 MERRITT BLVD 12TH ELECTION DISTRICT BALTIMORE COUNTY, MD 21222

Beginning for the same at a point where the east right of way line of Merritt Boulevard:

- A line curving toward the right having a radius of 1849.86 for a distance of 1) 736.56 feet (the chord of said arc bearing north 7° 25' 20" East 731.70 feet)
- 2) North 39' 04' 20' East 210.29 feet
- 3) South 14° 53' 38" East 1075.25 feet
- 4) North 73° 22' 40" West 525.25 feet to the point of beginning thereof

Containing 6.865 acres of land, more or less



MARYLAND

BEL AIR

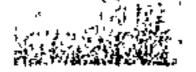
COLUMBIA

VIRGINIA

MANASSAS

WARRENTON

99.5/2.5PHA



FREDERICK WARD ASSOCIATES, INC.

ENGINEERS ARCHITECTS

SURVEYORS

ZONING DESCRIPTION 1123 OLD NORTH POINT RD 12TH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the southwestern right of way line of Old North Point Road:

- South 49° 23' 41" East 284,17 feet 1)
- 2) South 38° 26' 20" West 615.92 feet
- South 34° 44' 20" West 170.97 feet to a point on the northeastern right of 3) way line of a transmission line right of way
- 4) North 14° 25' 57" West 506.98 feet
- 5) North 75° 15' 35" East 182.52 feet
- North 38° 24' 31" East 345.15 feet to the point of beginning 6)

Containing 4.7135 acres of land, more or less.

MARYLAND

BEL AIR

COLUMBIA

VIRGINIA

MANASSAS

WARRENTON

#512

99.512.5PHA

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

Case: #99-512-SPHA

901 Merritt Boulevard & 1123 Old North Point Road E/S Merritt Boulevard, 700' S of centerline Old North Point Road 12th Election District - 7th Councilmanic District

Legal Owner(s): George R. Norris, Inc.

Special Hearing: to amend the site plan approved in case

97-445-A. Variance: to permit 3 free-standing signs totaling
207.75 square feet in lieu of the permitted 1 sign of 50 square feet
and to permit a sign height of 36 feet, 4 inches in lieu of the 25 feet

permitted.
Hearing: Thursday, August 5, 1999 at 10:00 a.m. in Room 106, County Office Bidg., 111 West Chesapeake Avenue, LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For Information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391. JT 7/609 July 20

CERTIFICATE OF PUBLICATION

TOWSON, MD. 122	. 1999
THIS IS TO CERTIFY, that the annexed advert	isement was
published in THE JEFFERSONIAN, a weekly newspar	
in Towson, Baltimore County, Md., once in each of	successive
weeks, the first publication appearing on	

THE JEFFERSONIAN,

LEGAL ADVERTISING

Ap & B

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Date: July 12, 1999

TO: Arnold Jablon, Director

Department of Permits

and Development Management

FROM: Arnold F. 'Pat' Keller, III, Director

Office of Planning

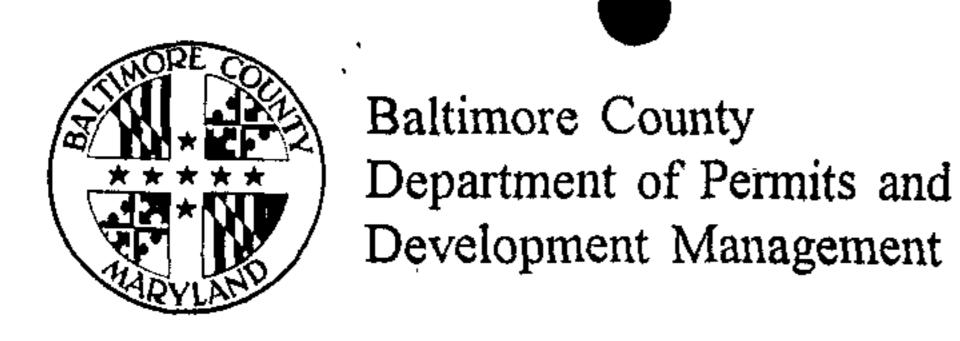
SUBJECT: Zoning Advisory Petitions

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If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief:

AFK/JL



Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 pdmlandacq@co.ba.md.us

July 30, 1999

Timmy F. Ruppersberger, Esquire Venable, Baetjer and Howard, LLP 210 Allegheny Avenue Towson, MD 21204

Dear Mr. Ruppersberger:

RE: Case Number

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on June 17, 1999.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure 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 the case. All comments 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.

Very truly yours,

W. Carl Richards, Jr. Zoning Supervisor

Zoning Review

WCR:sci

Enclosures

C: George R. Norris, Inc.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: July 13, 1999

Department of Permits & Development

Management

FROM:

Bobert W. Bowling, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

for July 12, 1999

Item Nos. 501, 502, 503, 504, 505, 507, 508, 509, 510, 511, 512, 513,

514, 516, 518, 519, 520, 521, 522,

523, 524,

and

Case Number 99-477-SPHA

Windsor Commons

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

Date: July 12, 1999

FROM: Arnold F. 'Pat' Keller, III, Director

Office of Planning

SUBJECT: Zoning Advisory Petitions

The Office of Planning has no comment on the following petition(s): Item No(s): 507, 510, 511, 512, 513, 515, 518, 521, 522, and 523

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief:

AFK/JL

RE: PETITION FOR VARIANCE
901 Merritt Boulevard & 1123 Old North Point Road,
E/S Merritt Blvd, 700' S of c/l Old North Pt Rd
12th Election District, 7th Councilmanic

Legal Owner: George R. Norris, Inc. Petitioner(s)

- * BEFORE THE
- * ZONING COMMISSIONER
- * FOR
- * BALTIMORE COUNTY
- * Case No. 99-512-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

Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15 day of July, 1999 a copy of the foregoing Entry of

Appearance was mailed to Timmy F. Ruppersberger, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue, P.O. Box 5517, Towson, MD 21204, attorney for Petitioners.

PETER MAX ZIMMERMAN

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#512



ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) 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 the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:
tem Number or Case Number: 99-512-A
Petitioner: George R. Novris, Inc.
Address or Location: 901 Mernith Boulevard and 1123 old North Point
PLEASE FORWARD ADVERTISING BILL TO: Name: Barbara W. Ormand
Address: Venable
210 Allegheny Avenue, Towson, Ind 21204
Telephone Number: 410-494-62-01



423/99

210 Allegheny Avenue Post Office Box 5517 Towson, Maryland 21285-5517 (410) 494-6200, Fax (410) 821-0147 www.venable.com OFFICES IN

MARYLAND WASHINGTON, D.C. VIRGINIA

Writer's Direct Number: 410-494-6201



June 23, 1999

HAND DELIVERED

Mr. W. Carl Richards
Department of Permits and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Re:

Zoning Case No.: 99-512-SPHA

Petitioner: George R. Norris, Inc.

Dear Mr. Richards.

Enclosed please find three Variance and Special Hearing Petitions which have been prepared on the new zoning forms. Please substitute these forms for those currently on file.

Once again, I apologize for this oversight.

If you have any questions, please give me a call.

Sincerely,

Barbara W. Ormord

Legal Assistant

BWO

Enclosures

cc: Robert A. Hoffman, Esquire

TO1DOCS1/Baw01/#85091 v1

PECEIVED

99-1706

JUN 2 3 1999

DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

APPEAL

Petition(s) for Special Hearing and Variance
901 Merritt Boulevard and 1124 Old North Point Road
E/S Merritt Boulevard, 700' S of c/l Old North Point Road
15th Election District - 7th Councilmanic District
George R. Norris, Inc., Legal Owner
Case No. 99-512-SPHA

Petition(s) for Special Hearing and Variance

Description of Property

Notice of Zoning Hearing

Certificate of Posting (Posted on 7/21/99 by Patrick O'Keefe)

Certificate of Publication (7/20/99 Jeffersonian)

Entry of Appearance by People's Counsel

Petitioner(s)' Sign-In Sheet

Protestant(s)' Sign-In Sheet: none

Zoning Advisory Committee Comments

Petitioners' Exhibits: 1, 2a, and 2b

Protestants' Exhibits: none

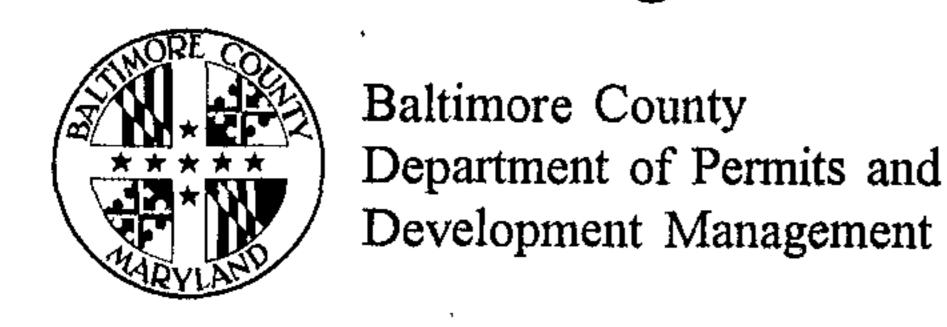
Miscellaneous (Not marked as Exhibits):
Copy of Order in Case 97-445-A
Partial copy of zoning map SE 2-F
Letter from Barbara Ormord to W. Carl Richards dated 6/23/99

Zoning Commissioner's Order dated August 20, 1999

Notice of Appeal received on September 10, 199 from People's Counsel

c:

People's Counsel of Baltimore County, M.S. 2010 Lawrence Schmidt, Zoning Commissioner Timothy Kotroco, Deputy Zoning Commissioner Arnold Jablon, Director of PDM



Director's Office County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 410-887-3353

Fax: 410-887-5708

September 24, 1999

Timmy F. Ruppersberger, Esq. Venable, Baetjer and Howard, LLP 210 Allegheny Avenue Towson, MD 21204

RE: Petition for Variance and Special Hearing, Case No.99-512-SPHA, 7th Election District

Dear Mr. Ruppersberger:

Please be advised that an appeal of the above-referenced case was filed in this office on September 10, 1999 by 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 410-887-3180.

Sincerely,

Arnold Jablon

Director

AJ:ggs

C:

People's Counsel

Baltimore County, Marylan



OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

PETER MAX ZIMMERMAN People's Counsel September 10, 1999

Deputy People's Counsel

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

Re: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
901 Merritt Boulevard & 1123 Old North Point Road,
E/S Merritt Blvd, 700' S of c/l Old North Pt Rd,
15th Election Dist., 7th Councilmanic
George R. Norris, Inc., Petitioner
Case No.: 99-512-SPHA

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusions of Law dated August 20, 1999 of the Baltimore County 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

Audé S. Demilio

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/caf

cc: Timmy F. Ruppersberger, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioners



700 East Joppa Road Towson, Maryland 21286-5500 410-887-4500

July 21, 1999

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

RF: Property Own-r: SEE BELOW

Nocation: DISTRIBUTION MEETING OF JULY 6, 1999

Item No.: SEE BELOW Coning Agenda:

Jentleman:

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

THE FIRE MARSHAL'S OFFICE HAS NO COMMENTS AT THIS TIME REGARDING THE FOLLOWING ITEM NUMBERS:

501, 502, 504, 505, 507, 508, 510, 511, (512), 513, 514, 515, 515, 519, 520, 520, 524,

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marchal Office, PHONE 387-4881, MS-11)2F

cc: File



Baltimore County Department of Permits and Development Management

Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 pdmlandacq@co.ba.md.us

July 12, 1999

NOTICE OF ZONING 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: 99-512-SPHA

901 Merritt Boulevard & 1123 Old North Point Road

E/S Merritt Boulevard, 700' S of centerline Old North Point Road

12th Election District – 7th Councilmanic District

Legal Owner: George R. Norris, Inc.

Special Hearing to amend the site plan approved in case 97-445-A. Variance to permit 3 free-standing signs totaling 207.75 square feet in lieu of the permitted 1 sign of 50 square feet and to permit a sign height of 36 feet, 4 inches in lieu of the 25 feet permitted.

HEARING: Thursday, August 5, 1999 at 10:00 a.m. in Room 106, County Office

Building, 111 West Chesapeake Avenue

Arnold Jablon

Director

c: Timmy F. Ruppersberger, Esquire

George R. Norris, Inc.

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY JULY 21, 1999.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY

Tuesday, July 20, 1999 Issue - Jeffersonian

Please forward billing to:

Barbara W. Ormord

410-494-6201

Venable

210 Allegheny Avenue Towson, MD 21204

NOTICE OF ZONING 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: 99-512-SPHA

901 Merritt Boulevard & 1123 Old North Point Road

E/S Merritt Boulevard, 700' S of centerline Old North Point Road

12th Election District – 7th Councilmanic District

Legal Owner: George R. Norris, Inc.

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HEARING:

Thursday, August 5, 1999 at 10:00 a.m. in Room 106, County Office

Building, 111 West Chesapeake Avenue

name and a the aditioner

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 069893

44.512.5PHA

500,00 CK

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHIER'S VALIDATION

528 ZUNING VERTFILMTION

105555

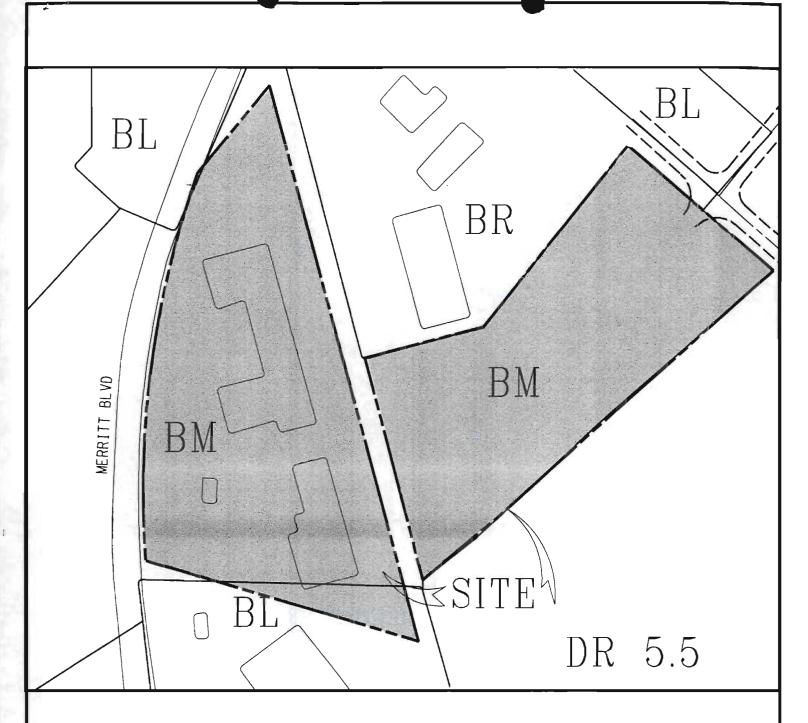
Recet Tot

Baltimore County, Waryland

TIME

HW

500,00



$\frac{ZONING}{SCALE: 1'' = 200'}$



SCALE 1"= 200'	06/09/99
DR. BY CMP	CH. BY TFW
PLAT NO.	JOB NO. 99118.00



FREDERICK WARD ASSOCIATES, INC.

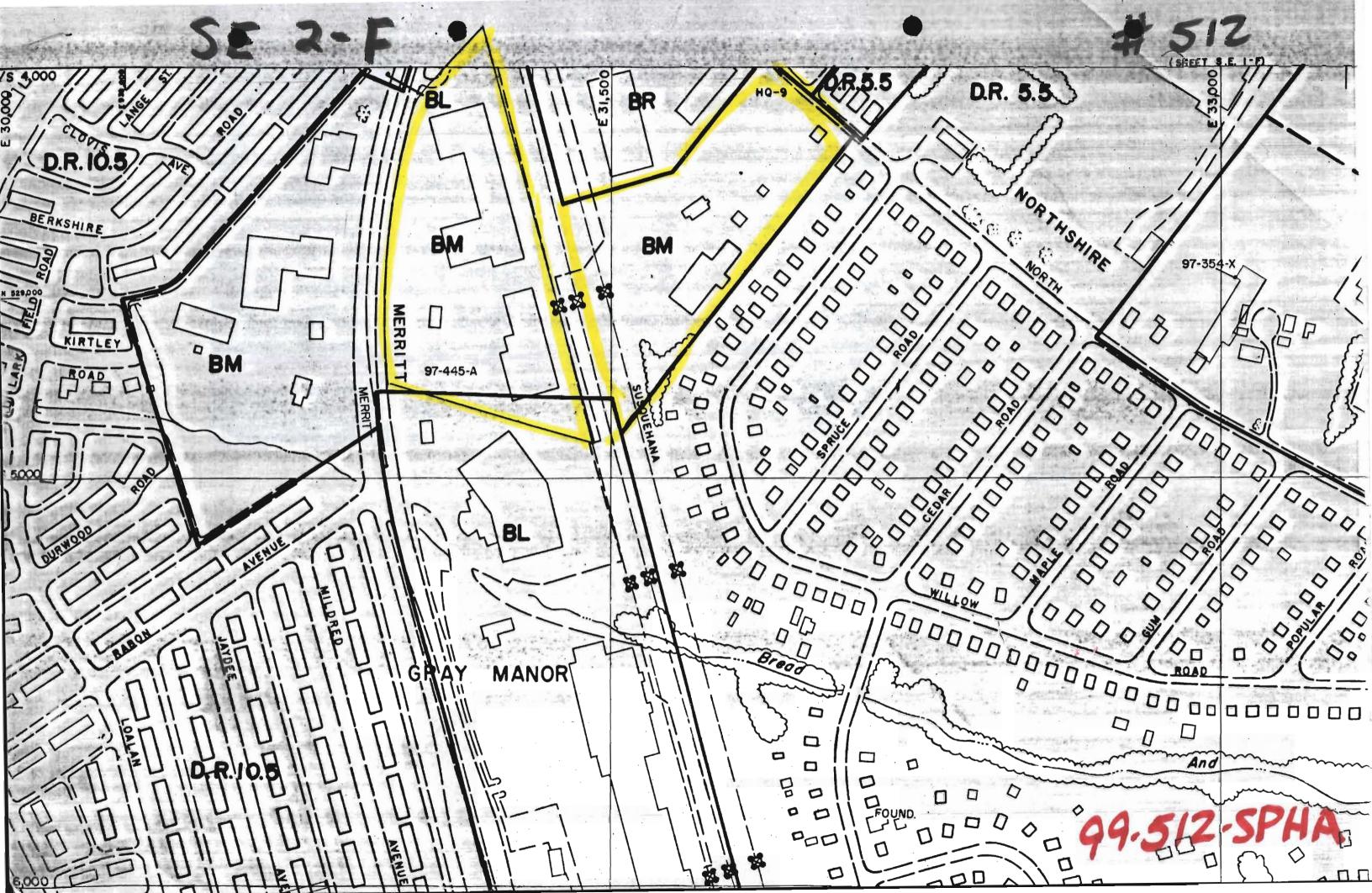
P.O. Box 727, 5 South Main Street Bel Air, Maryland 21014-0727 Phone: 410-879-2090 or 410-838-7900 Fax: 410-893-1243 Columbia, Maryland Manassas, Virginia Warrenton, Virginia

NORRIS FORD

1123 OLD NORTH POINT RD BALTIMORE, MARYLAND 21222 TWELTH ELECTION DISTRICT









1 et 2A

SEATTLE FILMWORKS CALL 1-800-FILMWORKS

PRINT 19 ROLL 08680724 (6.0058

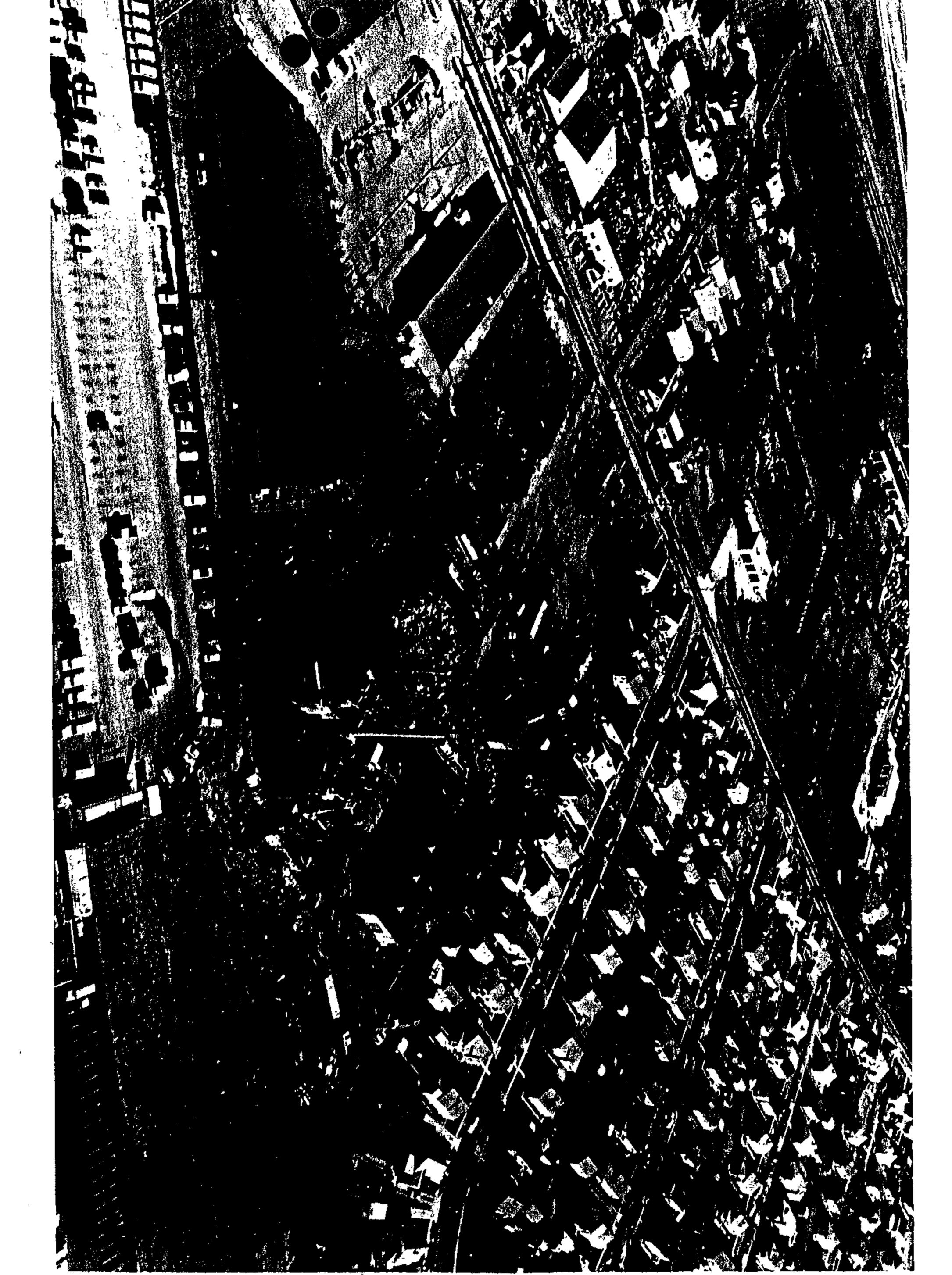


12 Vb


SEATTLE FILMWORKS CALL 1-800-FILMWORKS

RM 22 ROLL 08680724 163**07**88









36'-4" ROUND FOUNDATION | SQUARE FOUNDATION _____ - 7" THREAD
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BOLT DIAMETER — $|\Omega|$ 3 OLD NORTH PO IMORE, MARYL/ TH ELECTION [1. FRONT
ALLOWABLE 2 X 225' BL
EXISTING SIGNS
#9 BODY & PAINT
#11 USED CAR SERVICE
TOTAL 3. RIGHT SIDE ALLOWABLE 2 X EXISTING SIGNS ALLOWABLE EXISTING #7 USED CAF SITE * * * - * - - - - - * - 1 FRONT (MERRIT LOWABLE 2 X 390 ISTING SIGNAGE NORRIS FORD SI FORD SIGN 2 PARTS DEPT. 3 BODY SHOP TAL STANDING SIG OWABLE: SIGN TOTAL SIGNAGE #1 FING I.D. AR SALI FORT RD
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AND 21222
DISTRICT **--**IGN WD. WRITE **~** → # $\neg \sigma \omega$ 01 OLTS A • 0 -40 S31 IG ALE AS NOTE SIGNED BY CMP H B H H H H H H = 72.00 = 98.00 = 32.00 232.00 270.00 SQ.FT.
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SALER RECEWED FOR FILING

34

34

Road. As shown on Page 2 of the site plan, the Petitioners presently maintain two signs on Lot 1 and wishes to install a freestanding sign on Lot 2. It was indicated that this sign is necessary to identify the site from traffic on North Point Road. Obviously, the signs on Merritt Boulevard are not visible from North Point Road.

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 variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this request and that the requirements from which the Petitioner seeks relief 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 Zoning Commissioner for Baltimore County this ______ day of August, 1999 that the Petition for Special Hearing seeking approval of an amendment to the previously approved site plan in Case No. 97-445-A, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 450.4.5.g of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit three (3) freestanding signs totaling 207.75 sq.ft. in lieu of the one sign of 50 sq.ft. total permitted, and to permit a sign height of 36 feet, 4 inches, in lieu of the maximum allowed 25 feet for one sign, only, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their sign 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.

LAWRENCE E. SCHMIDT

Anno Samuel

Zoning Commissioner for Baltimore County

LES:bjs