3/25/09

IN THE MATTER OF
THE APPLICATION OF
STEVE B. FADER, AUTO PROPERTIES, LLC
- OWNERS/PETITIONERS FOR VARIANCE
ON PROPERTY LOCATED ON THE
E/S OF HARFORD RD, 260' S OF EAST AVE.

3001 EAST AVENUE
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

- * BEFORE THE
- COUNTY BOARD OF APPEALS
- * OF
- * BALTIMORE COUNTY
- * CASE NO. 02-471-A

ORDER OF THE BOARD ON REMAND FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY PURSUANT TO ORDER OF THE COURT OF SPECIAL APPEALS

This Board issued an Order on March 8, 2004 by unanimous decision denying the following requests: 1) variance to 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; 2) to permit frontage on a highway without pedestrian or vehicle access; and 3) requested is permission to continue to use three existing illuminated wall-mounted enterprise signs in lieu of the maximum permitted "0".

The Board's Order was appealed to the Circuit Court for Baltimore County on April 5, 2004. On August 16, 2004, after oral argument, the Circuit Court Affirmed the Board's March 8, 2004 Order as to Case No. 02-471-A. The Circuit Court decision was appealed to the Court of Special Appeals of Maryland on September 14, 2004.

On August 25, 2006, the Court of Special Appeals issued its decision Affirming the Judgment of the Circuit Court in part and reversing in part; that portion of the Judgment relating

to the requested variance for wall signs and the frontage requirement was vacated and remanded to Circuit Court with instructions to remand to the Board of Appeals for dismissal of those two variances as moot; and that portion denying the variance from height and area restrictions is affirmed.

On January 17, 2007, Judge John Grason Turnbull, II, of the Baltimore County Circuit Court, consistent with the Court of Special Appeals decision, remanded the case back to the County Board of Appeals for further proceedings.

The Board, therefore, will issue an Order consistent with the directives of the Court of Special Appeals and the Circuit Court for Baltimore County to dismiss as most the requested variance for wall signs and the frontage requirement.

ORDER

IT IS, THEREFORE, THIS 25th day of March, 2009, by the Board of Appeals of Baltimore County, on remand from the Circuit Court for Baltimore County ORDERED that the decision to deny the Petitioners' request for variance to 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; and to permit frontage on a highway without pedestrian or vehicle access is AFFIRMED; and it is further

ORDERED that the requested permission to continue to use three existing illuminated wall-mounted enterprise signs in lieu of the maximum permitted "0" be and the same is hereby DISMISSED AS MOOT.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Dawrence M. Stahl, Panel Chairman

Maureen E. Murphy

Andrew E. Belt



The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND

CHAMBERS OF JOHN GRASON TURNBULL, II CIRCUIT ADMINISTRATIVE JUDGE AND COUNTY ADMINISTRATIVE JUDGE

COUNTY COURTS BUILDING TOWSON, MARYLAND 21204 410-887-2647

AUTO PROPERTIES LLC.

IN THE

Petitioner

CIRCUIT COURT

VS.

FOR

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

BALTIMORE COUNTY

Respondent

CASE NO. 03 C 04 3662

IN THE MATTER OF AUTO
PROPERTIES LLC FOR SIGN

VARIANCES AT EAST AVENUE AND HARFORD ROAD ON (02-471-A)

APPEAL FROM THE COUNTY BOARD OF APPEALS FOR

BALTIMORE COUNTY

ORDER

Pursuant to the Order of the Court of Special Appeals of Maryland,

It is this day of January, 2007,

ORDERED, by the Circuit Court for Baltimore County, that the Appeal Case be, and the

same is hereby REMANDED to the Board of Appeals for Baltimore County.

JOHN GRASON TURNBULL, II

Judge

Copies sent to: John H. Zink, Esquire

Peter M. Zimmerman, Esquire/Carole S. Demilio, Esquire



County Board of Appeals of Baltimore County

JEFFERSON BUILDING SECOND FLOOR, SUITE 203 105 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND, 21204 410-887-3180 FAX: 410-887-3182

March 25, 2009

Carole S. Demilio
Deputy People's Counsel
for Baltimore County
Jefferson Building
105 West Chesapeake Avenue
Towson, MD 21204

RE: In the Matter of: Auto Properties, LLC; Steve B. Fader – Legal Owner /Petitioner Case No. 02-471-A

Dear Ms. Demilio:

Enclosed please find a copy of the Order of the Board on Remand fro the Circuit Court for Baltimore County Pursuant to Order of the Court of Special Appeals, issued this date by the Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa R. Shelton. Administrator

view R. Shelton

Enclosure

c: John H. Zink, III, Esquire
Robert A. Hoffman, Esquire
Pat Keller, Planning Director
William J. Wiseman, III, Zoning Commissioner
Timothy M. Kotroco, Director /PDM
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

	02-471-A	3001 East Avenue Auto Properties, LLC Baltimore, MD 21234 Steve B. Fader – Legal Owner
	4/25/2002	Petition for Variance filed by Steven B. Fader, Auto Properties, LLC requesting to permit a double faced illuminated freestanding enterprise sign with a height of 30 ft ilo req'd 25 ft, and to permit a face area of 100 sq. ft. ilo 50 sq. ft.; and to permit frontage on highway without pedestrian or vehicle access and continued use of three exsisting illuminated wall-mounted enterprise signs, ilo zero signs permitted.
	6/26/2002	Deputy Zoning Commissioner's Order - GRANTED w/restrictions
	7/3/2002	Notice of Appeal filed by Peoples Counsel.
	6/26/2003	NOTE: File was not sent to Board of Appeals until this date.
	March 8, 2004	Opinion Issued By The Board Of Appeals / DENIED
	April 2, 2004	Petition for Judicial Review filed by John H. Zink and Robert A. Hoffman, Esquire, on L. Auto Properties.
	April 9, 2004	BOA received Petition
	April 15, 2004	Certificate of Notice filed
	August 16, 2004	Order from Judge Kahl, Circuit Court for Baltimore County that the denial by the Board variances requested by Petitioner be AFFIRMED
	September 14, 2004	Petitioner filed a Notice of Appeal to the Court of Special Appeals.
/	Aug. 25, 2006	Court of Special Appeals issued its decision. Judgment of the Circuit Court for Baltimor AFFIRMED in part and REVERSED in part; that portion of the judgment relating to the variances for wall signs and the frontage requirement is VACATED; case REMANDED court with instructions to REMAND the case to the Board of Appeals for dismissal of the part of the p

March 25, 2009

variance requests as MOOT; and that portion of the judgment that AFFIRMED the denia variance from height and area restrictions applicable to freestanding signs is AFFIRMEI

Order issued in accordance with the Remand from the Court of Special Appeals.

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1595

September Term, 2004

AUTO PROPERTIES, LLC,

ν.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Barbera, Meredith, Bloom, Theodore G., (Retired, Specially Assigned),

JJ.

Opinion by Meredith, J.

Filed: August 25, 2006

An automobile dealership sought three Baltimore County zoning variances in connection with several signs that the owners thought necessary for the enterprise. After the variances were denied by the Zoning Board of Appeals, the dealership petitioned for judicial review as to one of the three requested variances, but changed its position on the other two. Arguing that the other requests had stemmed from an overly-cautious reading of the law, Auto Properties contended that the other two variance requests were submitted in error, were not necessary, and should have been ruled moot by the Board of Appeals. The circuit court affirmed the Board of Appeals on all counts, but we shall rule in favor of the auto dealership as to the wall signs. Accordingly, we shall affirm in part and reverse in part the ruling of the circuit court.

Facts

Appellant, Auto Properties, LLC, is the owner and operator of Heritage Honda, an automobile dealership located on East Avenue in Baltimore County, near the intersection of Harford Road and I-695. In 2002, having relocated its business to that location, appellant sought three zoning variances: one to allow a freestanding sign larger and taller than that allowed by local regulation, one to allow the freestanding sign on a parcel "fronting" on a road without pedestrian or vehicle access, and one to permit the continued use of three wall-mounted signs that had already been installed. The deputy zoning commissioner granted the three variances, and People's Counsel for Baltimore County, appellee

here, appealed to the Board of Appeals. After a hearing, the Board denied all three variances on March 8, 2004. The Board found that the parcel in question was not unique or unusual as to size, shape, or topography, and that there was no justification for a variance under the criteria established in *Cromwell v. Ward*, 102 Md. App. 691 (1995). Auto Properties filed for judicial review in the circuit court, and on August 16, 2004, the Circuit Court for Baltimore County affirmed the Board's denial of the variances. Auto Properties filed this timely appeal.

Questions Presented

- 1. Did the Board of Appeals erroneously apply the facts and law to deny a variance from height and area restrictions applicable to freestanding signs?
- 2. Did the Board of Appeals erroneously deny variances for (1) a freestanding sign located where there is "frontage on a highway without pedestrian or vehicular access." and (2) to permit "three existing illuminated wall-mounted" signs?

Standard of Review

In recognition of the expertise of administrative agencies in interpreting their own rules and regulations, courts have held that the decision of an administrative agency is prima facie correct and carries with it the presumption of validity. Bulluck v. Pelham Wood Apartments, 283 Md. 505, 512 (1978). On appeal, judicial review of an administrative agency's fact finding is narrow in scope. Liberty Nursing Ctr., Inc. v. Department of Health and Mental Hygiene 330 Md. 433, 442 (1993). The reviewing court is limited to the record

made before the administrative agency, and is restricted to determining whether a logical mind reasonably could have reached the same factual conclusion as the administrative agency. Liberty Nursing Ctr., Inc., 330 Md. at 443.

When determining whether an agency's factual finding should stand, the applicable standard of review is the substantial evidence test. Department of Health & Mental Hygiene v. Reeders Mem. Home Inc., 86 Md. App. 447, 452 (1991). "Substantial evidence" is defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Maryland Shipbuilding & Drydock Co. v. Maryland Comm'n on Human Relations, 70 Md. App. 538, 551, cert. denied, 310 Md. 130 (1987).

On issues of law, "[w]hen we review an administrative agency's order, we make sure that it is not premised upon an error in law." Alviani v. Dixon, 365 Md. 95, 109 (2001), citing Ad + Soil, Inc. v. County Commissioners of Queen Anne's County, 307 Md. 307 (1986). Nonetheless, "... an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by the courts." Bd. of Physician Quality Assurance v. Banks, 354 Md. 59, 69 (1999). In Banks, the Court further stated: "... the expertise of the agency in its own field should be respected." Id. More recently, the Court of Appeals has quoted Banks at length and re-emphasized that the courts should not seek to substitute their judgment for that of

executive branch agencies, because such action would not be consistent with the principle of separation of powers. Maryland Aviation Admin. v. Noland, 386 Md. 556, 573 (2005).

Discussion

I. Denial of the Variance

The requirements for a variance are clear:

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

Baltimore County Zoning Regulations, Section 307.

This Court discussed the application of those criteria in the Cromwell case cited by the Board of Appeals. Cromwell contains an extensive review of the law relating to zoning variances, and reiterates the principle that "a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist ... before any consideration will be given to whether practical difficulty or unnecessary hardship exists." Cromwell, supra, 102 Md. App. at 722.

Appellant contends, as it did before the Board of Appeals, that "the unique topographical features and location of the dealership property" merited a variance from the sign regulations. In particular, the dealership and its main building are hard to see

from Harford Road, the main traffic artery in the area, because of the local topography and because a gas station lies between the dealership and Harford Road. The dealership is actually on, and entered from, East Avenue, around the corner from the gas station.

In effect, appellant is arguing that the unique attributes of its property which merit a variance are its visibility from a nearby thoroughfare. Nevertheless, the Board found that "traffic headed north on Harford Road going over the Beltway should have no particular difficulty locating the dealership." The Board made this finding after reviewing plats of the dealership, still photographs of the area, and videotape. The Board also heard testimony that the topography of the area was typical for that part of Baltimore County, and that other automobile dealers had lots that were difficult to see from main avenues. The Board also noted that an existing sign at the Harford Road-East Avenue intersection would direct drivers to the dealership. The Board clearly based its decision on substantial evidence in the record; how the Board weighed that evidence is not for us to second-guess. What matters is that the Board had substantial evidence on which to base its conclusion, and we will therefore not disturb that conclusion.

Moreover, as the Board noted, the passage of the relevant zoning regulations preceded appellant's purchase of the property. To the extent that a practical difficulty exists because of a conflict between appellant's preferred use and the zoning

regulations, it was entirely foreseeable before the purchase of the land, and was therefore self-inflicted. Consequently, it cannot be grounds for a variance. Cromwell, supra, 102 Md. App. at 724.

II. Unnecessary Variances - Preservation/Review

Appellant's second question presented relates to a claimed mistake. Appellant contends that its requests for variances regarding a freestanding sign "where there is frontage on a highway without pedestrian or vehicle access" and for three wall-mounted signs were based on its own mis-reading of the zoning regulations. Appellant now contends these variances were actually not necessary, and the Board should therefore have treated them as moot, instead of denying them.

If appellant is correct that the requested variances were not needed, there is support for its position that the requests should have been dismissed as moot as in Friends of the Ridge v. Baltimore Gas and Electric, 352 Md. 645 (1999). In that case, BGE had sought a variance to install a new power substation. To accommodate new equipment, BGE had purchased additional land adjacent to the parcel on which the old substation sat. BGE asked for a variance from the lot-line setback requirement of the individual lots, and the variance was granted by the Board of Appeals. That decision was upheld by the circuit court and by this Court, and appealed again to the Court of Appeals by the neighbors.

The Court of Appeals held that no variance was actually needed, because the equipment met the setback requirement from the exterior of the combined parcel which BGE had created by using the smaller contiguous lots for a single purpose. The Court of Appeals therefore remanded the case to the Board of Appeals to strike the variance request on the grounds of mootness. Although one of BGE's witnesses at the original Board of Appeals hearing had opined that no variance was needed, and the Board agreed, the Board granted the variance anyway on BGE's request. BGE in fact did not raise the issue of mootness before this Court; it was discussed for the first time by the Court of Appeals.

In this case, appellant also sought a variance, which it now claims is unnecessary. Unlike BGE, appellant did raise the mootness issue at the circuit court level. We agree with the circuit court that the holding of Friends of the Ridge allows appellant to seek to correct allegedly unnecessary rulings on the unnecessary variance requests.

III. Number of Signs - Statutory Interpretation

The circuit court in this case, however, found that the variances were needed by appellant, and that appellant's original reading of the relevant zoning code had been correct. Our review of such a ruling of law is de novo, owing no deference to the legal interpretation adopted by the circuit court. (Although Alviani and Banks direct us to defer to some degree to an administrative

agency's interpretation of a statute which it administers, the Board of Appeals in this case expressed no opinion regarding the interpretation of section 450 of the BCZR. Its sole basis for denying all three requested variances was the lack of unique attributes of the property in question; it did not address the meaning of section 450.)

Section 450 of the Baltimore County Zoning Regulations (BCZR) regulates business signs. Within section 450 is a table that "specifies the allowable combinations of sign classes and sign types, along with the use, permit, area, height, and other pertinent limitations." The table contains nine columns, labeled I-IX in roman numerals. Section 450.4.F reads:

Maximum No./Premises(VI): The entries in this column establish the maximum number of separate signs in a given 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.

Both freestanding and wall-mounted signs are listed under class 5, "Enterprise." Paragraph 5(a) allows three wall-mounted signs, no more than two on each facade, for an enterprise in an area zoned B.M. (as is Heritage Honda). A business zoned B.M. may also have one freestanding sign per "frontage" under paragraph 5(b), awning signs (as defined in section 450.5.B.1) under paragraph 5(c), and a new vehicle dealership may have one freestanding sign "not to exceed 50 square feet" and 25 feet in

height under paragraph 5(g). The specific authorization for the auto dealer's freestanding sign (of the specified size) in paragraph 5(g) made appellant's requested variance from the paragraph 5(b) frontage requirements unnecessary and therefore moot.

The Court of Appeals in Engineering Management Services, Inc.,

v. Maryland State Highway Association, 375 Md. 211 (2003), listed

what it called "the six principal tenets of statutory

interpretation":

- [1] The cardinal rule of construction of a statute is to ascertain and carry out the real intention of the Legislature.
- [2] The primary source from which we glean this intention is the language of the statute itself.
- [3] In construing a statute, we accord the words their ordinary and natural signification.
- [4] If reasonably possible, a statute is to be read so that no word, phrase, clause, or sentence is rendered surplusage or meaningless.
- [5] Similarly, wherever possible an interpretation should be given to statutory language which will not lead to absurd consequences.
- [6] Moreover, if the statute is part of a general statutory scheme or system, the sections must be read together to ascertain the true intention of the Legislature.

Id. at 224-25.

Regarding the last point, the Court of Appeals has stated: "A clearly worded statute must be construed without 'forced or subtle interpretations' that limit or extend its application [but] ... All parts of a statute are to be read together to determine intent, and reconciled and harmonized to the extent possible. ... If reasonably

possible, a statute should be read so that no part of it is rendered nugatory or superfluous." Condon v. State, 332 Md. 481, 491 (1993).

The Court of Appeals also noted, in Whiting-Turner Contracting v. Fitzpatrick, 366 Md. 295, 301-02 (2001), that any inquiry into the intention of the legislature "begins with the words of the statute... And, when they are clear and unambiguous, ends there as well... Only if the words of the statute are ambiguous need we seek the legislature's intent in the legislative history or other extraneous sources." But when such ambiguity exists, "the court, in seeking to ascertain legislative intent, may consider the consequences from one meaning rather than another, and adopt that construction which avoids an illogical or unreasonable result, or one which is inconsistent with common sense." Kaczorowski v. City Council of Baltimore, 309 Md. 505, 515 (1987).

We are left then to interpret the sentence in the zoning code that states: "Unless otherwise provided, the maximum number of signs applies to any combination of signs included in each separate lettered paragraph under Column II." The circuit court interpreted that to mean that the maximum number of signs that fell under class 5 was the lowest number allowed to any type of sign under any paragraph. Because paragraph 5(g) allows only one freestanding sign, the circuit court concluded that the maximum number of signs overall was one, and therefore no wall signs could be permitted

once the single freestanding sign had filled the available quota, even though paragraph 5(a) specifically allows a maximum of three wall-mounted signs.

We do not read the statute as providing for only one class 5 sign. Such a reading would bar more than one wall sign under any circumstances, as the limit in 5(g) remains one, whether used or not. That would render the allowance of up to three wall signs a nullity, an interpretation we seek to avoid. It would also lead to the absurd consequences noted by the circuit court of virtually every automobile dealer in Baltimore County being in violation of the law. As noted in Kaczorowski and in Engineering Management, supra, we are allowed to take such consequences into account when interpreting a statute that is otherwise, as the circuit court noted, "not a model of legislative clarity or logic."

We instead read the provision to mean that the maximum number of signs permitted in any sub-class includes any and all types of sign in that sub-class, and those sublimits establish the "formula" for determining an overall class limit described in the statute. Under that reading, the three permitted wall signs are not reduced by the presence of anything but other wall signs (although the limit on freestanding signs for automobile dealers in 5(g) would still overlap with the limit on freestanding signs for business in the B.M. zoned areas under 5(b).) This construction is consistent with the plain meaning of the chart, which includes numeric limits

in each paragraph but (for classes with more than one paragraph) no limit for the class as a whole. It is also produces a result consistent with common sense.

Appellant is therefore correct that its request for a variance relating to the number of wall signs was unnecessary and moot and should have been dismissed on those grounds by the Board of Appeals.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED IN PART AND REVERSED IN PART: THAT PORTION OF THE JUDGMENT RELATING TO REQUESTED VARIANCES FOR WALL SIGNS AND THE FRONTAGE REQUIREMENT VACATED: CASE REMANDED TO COURT WITH INSTRUCTIONS TO REMAND THE CASE TO THE BOARD OF APPEALS FOR DISMISSAL OF THOSE TWO VARIANCE REQUESTS AS MOOT; AND THAT PORTION OF THE JUDGMENT THAT AFFIRMED THE DENIAL OF THE VARIANCE FROM HEIGHT AND AREA RESTRICTIONS APPLICABLE TO FREESTANDING SIGNS IS COSTS TO BE DIVIDED EQUALLY BETWEEN APPELLANT AND APPELLEE.

9/14/04

AUTO PROPERTIES LLC

Petitioner/Appellant

٧.

PEOPLE'S COUNSEL FOR **BALTIMORE COUNTY**

Respondent/Appellee

IN THE MATTER OF AUTO PROPERTIES LLC FOR SIGN VARIANCES AT EAST AVENUE AND HARFORD ROAD, ON APPEAL FROM THE COUNTY **BOARD OF APPEALS FOR BALTIMORE COUNTY**

- IN THE
- **CIRCUIT COURT**
- **FOR**
- **BALTIMORE COUNTY**

CASE NO.: 3-C-04-003662 AE

SEP 15 2004

BALTIMORE COUNTY *BC%ARD OF APPEALS

NOTICE OF APPEAL

Auto Properties, LLC, Petitioner and Appellant, by John H. Zink, III with Venable LLP, in accordance with Maryland Rule 8-201, files this Notice of Appeal from the Order of Judge Christian M. Kahl dated August 16, 2004, and filed on August 17, 2004, affirming the decision of the Baltimore County Board of Appeals denying certain variances. This appeal is to the Court of Special Appeals of Maryland.

> John/H. Zink, /II Venable LLP

210 Allegheny Avenue

P.O. Box 5517

Towson, MD 21285-5517

(410) 494-6254

Attorney for Auto Properties, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1471 day of September, 2004, the Notice of

Appeal was mailed via first class mail to:

Peter Max Zimmerman, Esq. Carole S. Demilio, Esq. People's Counsel for Baltimore County Old Court House, Room 47 400 Washington Avenue Towson, MD 21204

Theresa R. Shelton, Legal Secretary County Board of Appeals Old Courthouse, Room 49 Towson, MD 21204

John H. Zink, III

AUTO PROPERT LS LLC

IN THE

Petitioner CIRCUIT COURT

PEOPLE'S COUNSEL FOR FOR

BALTIMORE COUNTY

Respondent

IN THE MATTER OF AUTO PROPER-

TIES LLC FOR SIGN VARIANCES

AT EAST AVENUE AND HAR-

FORD ROAD, ON APPEAL FROM

THE COUNTY BOARD OF

APPEALS FOR BALTIMORE COUNTY

BALTIMORE

COUNTY

CASE NO.

3-C-04-003662 AE

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:

> "[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

- 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

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 bay 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

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7/1/04

IN THE PETITION OF AUTO PROPERTIES, LLC *
FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF APPEALS *
OF BALTIMORE COUNTY

IN THE

CIRCUIT COURT

IN THE CASE OF **STEVE B. FADER, AUTO*** PROPERTIES, LLC, LEGAL OWNERS/PETITIONERS
FOR VARIANCE ON PROPERTY LOCATED ON THE *
E/S OF HARFORD ROAD, 260' S OF EAST AVENUE
(3001 EAST AVENUE)

*

FOR

11th Election District, 6th Councilmanic District

BALTIMORE COUNTY

Case No. 02-471-A
Before the County Board of Appeals

Case No.: 03-C-04-3662

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM IN ANSWER TO PETITIONER'S MEMORANDUM

STATEMENT OF THE CASE

Petitioner, Auto Properties, LLC, doing business as Heritage Honda, filed four sign variances for the Honda dealership located at 3001 East Ave, one block off 9200 Harford Road in Parkville. Petitioner requests a free standing sign 30 feet high in lieu of the 25 feet permitted and 100 square feet area in lieu of the 50 square feet permitted. Additionally, Petitioner requests three-illuminated wall mounted enterprise signs none of which are permitted. No enterprise sign other than one 50 square feet sign per automobile franchise is permitted for a new car dealership. The Deputy Zoning Commissioner granted the variances. A timely appeal was filed by People's Counsel. The variance requests were also opposed by the Office of Planning for Baltimore County, and the Greater Parkville Community Council. A hearing was held before the County Board of Appeals ("CBA" "Board") on December 8, 2003, before three senior Board members. In

a unanimous decision, the CBA denied all requested variances, finding the property was not unique, and moreover, there was no practical difficulty or hardship. Petitioner filed an appeal to the Circuit Court.

THE SIGN REGULATIONS

BCZR 450 *et seq* contain the sign regulations for all zones and all uses. The table in 450.4 specifies sign classes and sign types, along with other limitations and requirements. All of these are listed on the table as nine columns, I-IX; furthermore, BCZR 450.4 A.- I describes these categories.

The signs at issue here are in the enterprise sign class, "meaning an accessory sign which displays the identity and which may otherwise advertise the products or services associated with the individual organization." (BCZR 450.5) An enterprise sign "accessory to new or used vehicle dealership" is a separate use in Column III of the Table. (BCZR 450.5 (g) attached). It permits a freestanding sign, 50 square feet in area, 25 feet in height, illuminated, and with the additional limitation in Column IX, "A new motor vehicle dealership may display one sign not to exceed 50 square feet." (emphasis added). This limits the number of enterprise signs to one per franchise, prohibits the three wall-mounted enterprise signs requested by Petitioner, and limits the height and size of the free standing sign. (Petitioner also owns the adjacent Heritage Chrysler dealership on the north side of East Avenue. It also has an access off East Avenue. This is a separate franchise with its own signs).

It should be noted there was testimony at the hearing about a "directional sign" for the Honda dealership located at the intersection of Harford Road and East Avenue. The Board of Appeals also referred to this sign. Directional signs, "meaning a sign intended principally for traffic control or to provide directions to an entity, activity or area elsewhere on the same premises" are permitted in addition to the single enterprise sign at the site. (See Table of Sign Regulations Class 3 "Directional"). Assuming the directional sign or signs on the site comply with the restrictions enumerated, they are not in dispute in this case.

STATEMENT OF THE FACTS AND OVERVIEW

Petitioner erected three illuminated wall-mounted signs on the main building without zoning approval, and prior to the Deputy Zoning Commissioner hearing. Wall-mounted enterprise signs are not permitted at a used or new car dealership. Additionally, Petitioner constructed the freestanding sign at his own risk, before the appeal period expired from the Deputy Zoning Commissioner's decision. The freestanding sign is double the size and 5 feet higher than permitted.

The Honda dealership is located on a 5 acre parcel on the south side of East Avenue, about 300 feet off Exit 31 ramp, (Harford Road) Baltimore Beltway. I-695. Petitioner has been operating the Honda dealership there since May, 2000. (T.,67) Petitioner did not file the Petition for a sign variance until 2 years later.

The main Honda showroom building is 26,000 square feet and well over 20 feet high. It is clearly visible from Harford Road. The area between the building and Harford Road serves as an outdoor parking lot/showroom for the automobile inventory, complete with lighting and banners. The site is located on the corner of Harford Road and East-

Avenue, a well known east bound corridor that intersects northbound Harford Road. The site is split zoned B.M.-A.S. and B.M.

Mr. Jerome Fader testified. He is the President of Atlantic Automotive, the parent company of Heritage Honda. Auto Properties, LLC, owned by Mr. Fader, has title to the site and leases to Heritage Honda. Mr. Fader testified the Honda dealership outgrew its location on York Road in Towson. He purchased the present site in 1999, well after the enactment of the current sign legislation in 1997, as part of his Heritage complex on Harford Road. Part of the complex was the former Doug Griffith Honda Dealership, also purchased by Mr. Fader's company. The Doug Griffith dealership goes back here at least 20 years. The site is improved with several buildings, both existing and newly constructed by Petitioner. It is a long-standing recognizable auto dealer operation in this block of Harford Road and East Avenue in Parkville.

Fader described the volume of advertising Heritage Honda initiates, including radio, television, newspapers, and the Yellow Pages. (T. 5, 17-19). Most citizens in the County are familiar with the Heritage name and the nature of the ads, according to Fader. (T.23-24). It appears media advertising is their focus.

According to Fader, the "standard sign" for Honda consists of the trademark colors (blue and white), logo ("H") and lettering. The size and height are optional. (T 21). There was no evidence from Petitioner that a sign with the logo, lettering and colors could not be constructed in conformity with the zoning regulations. Even so, the County Council is the authority for zoning laws under the police powers of the state, not businesses and developers. (See Express Powers Act, Ann. Code of Md., Section 5).

PETITIONER'S WITNESSES

Mr. Thomas Church, the civil engineer, testified for Petitioner. He claimed the variances should be granted because a gas station is located on the northeast corner of Harford and East Avenue. The gas station is on a relatively small fraction of land (1/2 acre compared to the 5 acre Honda site), has been there for at least 20 years, consists of typical, small, service station building and pumps. It does not impede Honda's considerable frontage along Harford Road. Petitioner decided to locate the showroom closer to the rear of the site. It cannot now rely on its own design to create its alleged uniqueness and practical difficulty. It, is well settled a self-created hardship will not support a variance.

In Cromwell v. Ward, 102 Md. App. 90 (1995), Judge Cathell refers to Marino v. Mayor and City Council of Baltimore, 215 Md. 206, 218, 137 A.2d 198 (1957):

"[I]t was incumbent upon the Marinos to have shown . . . (ii) that the difficulties or hardships were peculiar to the property in question in contrast with those of other property owners in the same district, and (iii) that the hardship was not the result of the applicants' own actions. (emphasis added).

Church also alleges the location next to an I-695 exit ramp is unique. (T. 37). But the Planning Department witness, Lynn Lanham pointed out other businesses similarly situated throughout the County. (T. 106). As to geographic conditions on the site, even Mr. Church admitted the elevation is not unusual and does not impede the operation of the business. (T. 34).

Mr. Dennis Turnbaugh from Heritage testified the "brand sign" is important, but never suggested size and height were factors. He offered no additional testimony on the

crucial variance standards. He admitted other businesses in the County are located on streets off major corridors like Harford Road, and that the Mobil station was there when Petitioner purchased the site. (T. 90-91).

PEOPLE'S COUNSEL'S WITNESSES

Lynn Lanham, Section Chief of Development Review for the Baltimore County Office of Planning, testified that commercial corridors are located off "all of the interchanges to the Beltway". (T. 106, 107), and the topography on Harford Road here is like "many commercial corridors". (T. 106). She stated it is not unusual for businesses to have ingress and egress off a street that intersects a commercial corridor. (T. 107). Ms. Lanham stated the signs requested here conflict with the Master Plan 2010, which stresses the need to improve and enhance commercial corridors and to reduce visual clutter. (T. 104, 110). Ms. Lanham opined the freestanding sign permitted by the Regulations is appropriate for a commercial corridor and meets the business needs of a car dealership. She noted automobile dealers throughout Baltimore County are subject to the same sign regulation and have been able to operate. (T.105,106). Ms. Lanham considers the sign package here to be "excessive." (T. 105), noting Petitioner's freestanding sign "is larger than, probably, anything else there in the area" (T. 113) and that it "shouts in its size" (T. 114). Ms. Lanham testified the dealership is clearly visible to northbound and southbound motorists on Harford Road and that a lower sign would work just as well, if not better (T. 115). Moreover, the permitted freestanding sign would be just as visible as the proposed sign to motorists on the exit ramp. (T. 116). Ms. Lanham also pointed out the numerous banners and poles erected by Heritage are not

only prohibited under BCZR 450, but actually interfere with a freestanding sign. (T. 118-119).

Ms. Ruth Baisden, President of the Greater Parkville Community Council, testified to the Association's opposition to the variance relief. Contrary to the Petitioner's description, she denied Harford Road crests significantly here (T. 142) and asserted the car dealership is easily recognizable from Harford Road (T. 144, 160-161). She pointed out the Heritage complex occupies a significant portion of the north and south sides of East Avenue and Harford Road, and is a visible and identifiable auto area (T. 146). The relatively large size of the Heritage property compared to other business in the area makes the site more noticeable. (T.153). Ms. Baisden refuted the Mobil station here creates a unique situation and pointed out other "commercial behind commercial" businesses off Harford Road. (T.147, 150). Separately, she pointed out the three illuminated wall-mounted signs on the large showroom building not compatible with the residences adjoining the site (T. 170).

The Greater Parkville Community Council does not oppose <u>all</u> variances as Petitioner claims. Ms. Baisden made it clear that her organization's Board will appear in opposition to variances "unless [the variance is] specifically voted acceptable by the Board." (T. 167-168). The Community Council's position that few variances are warranted comports with Judge Cathell's Opinion in Cromwell at 711:

"One indication of the general rule that variances are rarely appropriate is that, in our review of the reported Maryland cases since the creation of the state zoning enabling act in 1927, we have found only five reported Maryland cases in which the grant of a variance has been affirmed or the denial of a variance has been reversed."

Judge Cathell distinguished those five cases. None are for sign variances and none support Petitioner's case here.

Here, the Board considered and weighed all the testimony, made factual findings, and was not persuaded by Petitioner's case. Case law is firm that an appellate court must defer to an administrative agency's fact-findings and conclusions.

PETITIONER DISREGARDS & DISTORTS SIGN LAWS; FAILS TO SATISFY VARIANCE STANDARDS

That was the sum of Petitioner's case on the variance. It is defective on multiple grounds.

I. Petitioner raises for the first time in its Memorandum, that the wall-mounted signs are permitted by right and no variance is needed. Petitioner did not take this position at the CBA hearing or before the Deputy Zoning Commissioner. It made no attempt to amend its Petition for Variance which requests a variance "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 permitted." "...If the appellees honestly believed that a tenancy by the entireties interest were [sic] involved here it is strange they did not raise that contention earlier...Be that as it may, estoppel by admission or by pleading has long been recognized in this State...the Court of Exchequer... was quoted as saying. 'A man shall not be allowed to blow hot and cold, to claim at one time and deny at another.'" (citations omitted) People's Counsel v. Magione 85 Md.App. 738 (1991). The record discloses little if any testimony by Petitioner on the wall-mounted signs. Certainly, there was no evidence of

practical difficulty. Reacting to this fatal flaw in its case, Petitioner changes its stripes, alters course, and argues in the Memorandum a variance is not needed. Its arguments is legally in error. BCZR clearly prohibits the wall mounted enterprise signs. Petitioner's argument in its Memorandum is a red-herring and a disguise of the straight-forward issues presented at the Board under the unambiguous sign statute for car dealers in BCZR 450.5 (g).

Furthermore, its position violates every principle of statutory construction and contradicts Column VI and Column IX for a new car dealership when it claims BCZR 450.4.5 (a) (b) permits three wall-mounted enterprise signs, one per façade, and one free-standing enterprise sign per frontage.

Column VI "Maximum No./Premises" is clear: "One [enterprise] for each franchise agreement held by the dealership." It is undisputed the only franchise here is for the new car Honda dealership. BCZR 450.4 F. defines Column VI: The entries in this column establish the maximum number of separate signs in a given class [enterprise] 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 [i.e. free-standing, wall-mounted]. . ." Petitioner erroneously claims the three wall-mounted enterprise signs permitted in BCZR 450. 5 (a) also apply to new car dealerships in the business zones. But the intent of Column VI and the specific language here overrides the language for general enterprise signs relied on by Petitioner. In other words, BCZR 450 creates sign provisions either for the business in a

zone or for specific uses, irrespective of the zone. One or the other applies. Here, because BCZR provides for the specific use (vehicle dealership) all auto dealerships are governed by BCZR 450.5 (g) and not the general enterprise sign provisions for businesses in the commercial zones.

Furthermore, Column IX "Additional Limitations" reinforces Column VI by stating: "A new motor vehicle dealership may display one sign not to exceed 50 square feet." BCZR 450.4 I. defines Column IX: "The entries in this column indicate additional limitations or identify cross-references to applicable sign provisions elsewhere in Section 450." The "one sign" permitted for a car dealership here is limited in Column V to 50 square feet. Petitioner is not entitled to a second free-standing sign permitted for businesses other than car dealerships in the commercial zones.

BCZR 450.5 (b). Petitioner takes this section out of context and fails to consider the entire statutory scheme in order to serve its own purposes. For unknown reasons, Petitioner refers to "frontage" in its Petition for Variance, but it was never discussed in the testimony. Frontage refers to a site's lot line co-terminous with the street or right of way boundary (BCZR 450.3). It is a factor in determining the number and size of signs under other sign provisions for commercial uses. It is not a factor for signs at a new or used car dealership. In other words, regardless of road frontage, a car dealer is permitted one 50 square foot sign per franchise.

In its Memorandum, Petitioner introduces the frontage issue as justification for a larger and taller sign. It refers to a provision in the sign legislation that has no application

to the use here. It muddles the application and interpretation of the appropriate sign law (450.5(g), distracts the Court from evidence in the record, and tries to disguise the confusing and erroneous language in the Petition for Variance as a basis to grant the variances.

Petitioner's position is in direct conflict with the canons of statutory construction and ignores the plain meaning of the statute.

The goal of statutory construction is to discern legislative purpose through review of language, history, and context. It comprises all relevant parts or sections of the legislation. It relies on long-standing canons of statutory construction.

In <u>Kaczorowski v. Baltimore</u>, 309 Md. 505, 513-16 (1987), the Court stated that legislation "... usually has some objective, goal, or purpose. It seeks to remedy some evil, to advance some interest, to attain some end." 309 Md., at 513. Judge Adkins wrote:

"Moreover, despite Kaczorowski's pleas that we examine the trees so closely that we do not see the forest, the plain-meaning rule does not force us to read legislative provisions in rote fashion and in isolation. What we are engaged in is the divination of legislative purpose or goal... The 'meaning of the plainest language' is controlled by the context in which it appears." 309 Md., at 514.

He referred to Justice Holmes' concept that "the general purpose is a more important aid than any rule which grammar or formal logic may lay down." *Ibid.* He gave examples where legislative history was critical to proper interpretation.

"The purpose, in short, determined in light of the statute's context, is the key. And that purpose becomes the context within which we apply the plain-meaning rule. Thus 'results that are unreasonable, illogical or inconsistent with common sense should be avoided... with the real legislative intention prevailing over the intention indicated by the literal meaning." 309 Md., at 516.

the Deputy Zoning Commissioner's decision is a subtle insinuation that the CBA decision is erroneous if it conflicts with his decision. This is contrary to principles of administrative law. The Deputy Zoning Commissioner's opinion carries no weight in a zoning case before the CBA. It is not a factor for the Board to explain or rely on.

Judge Moylan explained the scope of the *de novo* hearing in Pollard's Towing v. Berman's Body Frame & Mechanical 137 Md. App. 277, 288 (2001):

"Boehm v. Anne Arundel County 54 Md. App. 497, 511 (1983) elaborated on a *de novo* hearing:

A trial or hearing 'de novo' means trying the matter anew as if it had not been heard before and as if no decision had been previously rendered.

As such, unless otherwise limited by statute or court rule, a *de novo* hearing is an entirely new hearing at which time all aspects of the case should be heard anew as if no decision had been previously rendered.

In <u>Lohrmann v. Arundel Corp.</u> 65 Md. App. 309, 319 ... (1985), we further observed:

In effect, then, in this case the Board was exercising what amount to original jurisdiction. It was as though the zoning officer had made no decision."

THE FACTS AND EVIDENCE IN PERSPECTIVE

The CBA was not persuaded the site was unique or that uniqueness created practical difficulty to authorize any variance from the Regulations for the wall-mounted signs or the free-standing sign. Petitioner never proved the property is unique under the standards in Cromwell v. Ward, 102 Md. App. 90 (1995), the first prong of the statutory variance test. The Petitioner's witnesses showed nothing more than the property is located a block off Harford Road, and there is a business adjacent to the site. It is situated no differently than hundreds, if not thousands, of other similarly situated businesses in Baltimore County. No one suggested the site has "an inherent characteristic not shared by other properties in the area. ..." Cromwell, p. 710.

The testimony of the principals or employees of Petitioner was self-serving and lacking in probative value to the variance standards. It is irrelevant what signs Honda Corporation offers or prefers. The Baltimore County Council is the constituted authority of the County in control of planning and zoning, not Honda or its dealers. (See Board of County Comm'rs v. Gaster, 285 Md. 233, 249 (1979)). BCZR 450.1F "Baltimore County has a substantial interest in promoting the public health, safety and general welfare by reducing or eliminating excessive and incompatible signage". Moreover, even if a factor, the testimony here was weak and conflicting. Petitioner's witness admitted the focus for advertising is the logo, colors and style, not size. (T. 87). Some Honda signs are smaller and shorter (T.73). The signs are made to order by outside sign

companies and can presumably be constructed in compliance with the sign laws. (T10). There is no practical difficulty for Honda to follow the sign law. Heritage Honda can operate here within the Regulations. Other businesses have operated at this site for some time. The Petitioner is not asked to operate without a sign altogether. The Petitioner wants more and bigger signs as a perceived convenience and as an advertising tool. The Court of Appeals has rejected such requests because their essence is relative advantage or convenience to the property owner. Marino, supra; Cleland v. City of Baltimore, 198 Md. 440 (1951); Pem Constr. Co. v. City of Baltimore, 233 Md. 372 (1964). This is another reason to affirm the CBA decision.

Appellate courts have, in this connection, rejected variance claims based on financial or revenue considerations. <u>Burns v. Mayor & City Council</u>, 251 Md. 554 (1968); <u>Daihl v. County Board of Appeals</u>, 258 Md. 157 (1970); <u>Cromwell</u>, *supra*, quoting <u>Xanthos v. Board of Adjustment</u>, 685 P.2d 1032, 1037 (1985):

"Hardship is not demonstrated by economic loss alone... Every person requesting a variance can indicate some economic loss. To allow a variance any time any economic loss is alleged would make a mockery of the zoning program."

Moreover, Petitioner presented irrelevant testimony to mislead the CBA and create a favorable impression of Heritage Honda. Honda's cost to renovate and locate the business, the number of employees and the impact on the County's economy are all extraneous to a variance case. All businesses could point to anticipated success for everyone involved. In <u>Umerley v. People's Counsel</u>, 108 Md. App. 497 (1996), the Court

of Special Appeals held economic contributions did not excuse or relax variance standards for a large Baltimore County trucking operation.

There is no dispute the site has been zoned for business use for many years. The County Council and the Office of Planning and Zoning (OPZ) determined through several comprehensive zoning cycles that it is perfectly suitable for commercial use. The Doug Griffith Honda Dealership, purchased by Petitioner, operated on East Avenue and Harford Road for at least twenty years. Many properties in the County have some constraints and many are comparable to the subject site. The constraints alleged by Petitioner's witnesses did not deter Petitioner from purchasing and operating at this location, even before a Petition for Variance was filed.

Opposing witnesses pointed out other businesses a block off Harford Road or adjacent to beltway exist ramps that function under current sign laws. As Ms. Lanham pointed out, the Petitioner itself created a distraction from a free-standing sign here with the numerous banners that are illegal. In her opinion, a 25-ft sign in conformity with the Regulations would avoid some of the taller banner clutter and be more visible to the passing motorist.

There was no evidence that compliance with the law "would unreasonably prevent [Petitioner] from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome" the first criteria for practical difficulty under BCZR 307.1 and McLean v. Soley, 270 Md. 208, 213-14 (1973).

The second McLean criterion requires comparison of justice to the Petitioner with in the neighborhood. The opposing witnesses testified

that the variances here conflict with the Master Plan and the community organization's goals to improve the commercial corridors, including reduction in sign clutter. The variances requested also conflict with the language in the sign law itself and the spirit and intent of the law. Petitioner mistakenly argues that BCZR 450. G authorizes the variance, while ignoring the other equally important criteria listed in the "Statement of General Findings and Policies" in BCZR 450.1.C-E: "The amount of signage in Baltimore County is excessive...[thereby] reducing the effectiveness of signs" "...revitalization and conservation efforts are impeded by excessive signage and incompatible signage...[which are] contrary to the goals of the County Master Plan..."

These "findings and policies" provide the historical context for the statute.

The end product of these considerations is the sign legislation. In other words, the Council considered all the factors in BCZR 450.1 G. 1 & 2 cited by Petitioner and determined that a 50 ft., 25 high sign per automobile dealer franchise is fair, reasonable and "the least restricting" sign on balance with the health, safety and welfare of the citizens of the County. The variance standard is not relaxed by the language in 450.1G.1 and 2, as Petitioner suggests. Rather, as the CBA correctly pointed out on page 13 of its Opinion, the sign regulations raise the bar in reviewing a variance case:

"The County Council, in adopting this legislation, even added BCZR 450.8A.1 by stating that 'in considering requests for special exceptions and variances, provisions of this section shall be strictly construed, unless the demonstrable effect of a liberal construction would prevent or reduce the confusion and visual clutter caused by excessive signage."

Here, Petitioner wants three signs where only one is permitted, and a sign double in size and 20% higher than what the statute allows for all car dealers. As Ms. Lanham from Planning pointed out the proposed free-standing sign "... is larger than, probably, anything else in the area." (T.113).

The Board's interpretation and application of the sign legislation satisfies the third McLean criteria - whether "the spirit of the ordinance will be observed and public safety and welfare secured." The evidence offered by Petitioner contradicts the spirit and intent of BCZR 450. There was no credible rebuttal to the overwhelming opposition testimony of the adverse effects on public safety and welfare. The County Council recognized the need to "eliminate unsightly . . . signs which tend to diminish private and public investments in . . . highways . . . " BCZR 450.1 G. Lyn Lanham from OPZ stated, "We are trying to improve the look of the commercial corridors, and the addition of additional signs and large signs are what we consider visual clutter . . . " (T. 104). She also noted the Master Plan 2010, pp. 162-168 supports improvement of the commercial corridors at this location, including reduction of visual clutter. (T. 109-110). Furthermore, the CBA noted the testimony of Ruth Baisden of the Greater Parkville Community Council that the proposed signs are not harmonious with the existing neighborhood, nor in proportion to other signs in the area. (CBA Opinion, p. 14).

In <u>Daihl v. County Board of Appeals of Baltimore County</u>, 258 Md. 157, 265 A.2d 227, 231-32 (1970), the Court discussed "the detriment to the applicant must be weighed against the benefit to the community in maintaining the general plan." This led the Court to reverse the CBA's approval

of industrial zone setback variances. Here, the purpose of the sign legislation would be frustrated by granting variances for larger, higher and multiple signs for businesses. The Council determined that auto dealerships in the County could be easily located and identified with a 50 square foot sign, 25 ft high. There is no evidence that this dealership cannot operate under BCZR 450 et seq

THE BOARD'S OPINION.

Petitioner's evidence of uniqueness and practical difficulty simply did not persuade the Board. Rather, the Board reviewed the video, photographs and testimony and concluded these facts did not satisfy the uniqueness standards in Cromwell. (Opinion, p. 10). The Board concluded the highway light poles and traffic signal are not obstructions that make the site unique and "justify a variance". (Opinion, p. 11.). Additionally, the Board held the retaining wall along I-695 exit ramp is a non- issue since the wall and fencing "give way to a considerable stretch of area unfettered . . ." making a legal free-standing sign perfectly visible from the top of the ramp and northbound on Harford Road. (Opinion, p. 10).

Similarly, the Board was not persuaded by Church's testimony that a gas station on adjoining property makes the site unique. The CBA was aware of Church's testimony that there is no difference in elevation between the site and the station. (T. 34), the Honda building is actually higher than the gas station (T.46). The Board pointed out a motorist would not be confused about the entrance to Honda with the directional sign at Harford and East Avenue. (Opinion p.10,11). Even so, the Board put the gas station in the proper context of the law. On page 8 of its Opinion, the Board correctly cites <u>Cromwell. p. 710</u>

that "the unique aspect of a variance request does not refer to the extent of improvements upon the property, or upon neighboring properties." The Board went on to note on page 11 the proper criteria under Cromwell do not exist here - there was no evidence that the size, shape or topography of the site is unusual or unique.

Petitioner failed to establish a legal basis under BCZR 307.1 to grant a variance. The testimony of People's Counsel's witnesses refuted every claim made by Petitioner. It served to make the CBA's factual findings and/or determinations of mixed issues of law and fact fairly debatable, and sustainable on appeal.

"If there is some evidence pointing in each direction, the issue is, by definition, 'fairly debatable,' and the decision of the administrative agency, whichever way it goes, and may not be reversed on judicial review as having been arbitrary or capricious." (Futoryan v. Baltimore. 150 Md. App. 157 (2003)).

There is no error of law here to review. The CBA decision is on sound legal ground. There can be no question the CBA applied the proper provisions of the sign law. An automobile dealership is a specific use under BCZR 450.5 (g). It allows for a specific enterprise sign of a specific size and height. It prohibits more than one enterprise sign on the premises. It does not permit the wall-mounted signs requested here. Petitioner filed its Petition and presented its case in the context of these provisions. Any suggestion that other Regulations apply is a desperate measure that confuses the issues and masks the lack of evidence to support the variances. As stated in Schultz v. Pritts 291 Md. 1 (1981)

and repeated in <u>Futoryan v. Mayor and City Council of Baltimore</u> 150 Md.App. 157, 177, 819 A.2d 1074 (2003), the burden of proof in a zoning case is on the petitioner.

The Board's Opinion is an excellent analysis of the facts, interpretation and application of the statute. This is a classic zoning variance case where the issues on appeal are factual, not legal. The overwhelming appellate decisions, discussed in the following sections, require deference to the Board's fact-finding and application of the law. Once the Board determined the site is not unique, it did not need to make a finding on the second prong – practical difficulty. Cromwell, supra.

SCOPE OF JUDICIAL REVIEW

In <u>Snowden v. City of Baltimore</u>, 224 Md. 443, 448 (1961), Judge Hall Hammond, later Chief Judge, explained the essential principles:

"The judicial function in appeals from an administrative agency is well established and defined. The court will correct illegal actions and those which are arbitrary and unreasonable because they are not based on substantial evidence but it will not substitute its own independent examination or its own judgment on the facts for those of the agency by which the carrying out of state policy has been delegated.

The heart of the fact-finding process is often the drawing of inferences from the facts. The administrative agency is the one to whom is committed the drawing of whatever inferences reasonably are to be drawn from the factual evidence. 'The Court may not substitute its judgment on the question whether the inference drawn is the right one or whether a different inference would be better supported.' The test is reasonableness, not rightness."

In Eger v. Stone, 253 Md. 533, 542 (1969), the Court elaborated:

"We have made it quite clear that if the issue before the administrative body is 'fairly debatable,' that is, that its determination

involved testimony from which a reasonable man could come to different conclusions, the courts will not substitute their judgment for that of the administrative body, in the absence of an unconstitutional taking of property for public use without the payment of just compensation."... [Citations omitted].

"This rule will be adhered to even if we were of the opinion that the administrative body came to a conclusion we probably would not have reached on the evidence."

In <u>Board of County Comm'rs. v. Holbrook</u>, 314 Md. 210, 218 (1988) the Court quoted <u>Snowden</u>. The Court further explained in <u>Board of Physicians Quality</u> <u>Assurance v. Banks</u>, 354 Md. 59 (1999):

"A court's role in reviewing an administrative agency decision is narrow...; it 'is limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised on an erroneous conclusion of law...." 354 Md. at 67-68.

"In applying the substantial evidence test, a reviewing court decides 'whether a reasoning mind could have reached the factual conclusion the agency reached.'... A reviewing court should defer to the agency's fact-finding and drawing of inferences if they are supported by the record... A reviewing court 'must review the agency's decision in the light most favorable to it;... the agency decision is *prima facie* correct and presumed valid, and... it is the agency's province to resolve conflicting evidence' and to draw inferences from that evidence." 354 Md. at 68.

"...Despite some unfortunate language that has crept into a few of our opinions, a 'court's task on review is not to "substitute its judgment for the expertise of those persons who constitute the administrative agency,"... 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... McCullough v. Wittner, 314 Md. 602, 612, 552 A.2d 881, 886 (1989) ('The interpretation of a statute by those officials charged with administering the statute is ... entitled to weight'). Furthermore, the expertise of the agency in its own field should be respected." (citations omitted).

A few years later, Judge Cathell referred approvingly to <u>Banks</u> in <u>Marzullo, supra</u> at 171.

The Court of Appeals built on <u>Banks</u>, and the deference given to the administrative agency's application of the law in the most recent <u>Fosler v. Panoramic Design, LTD</u>, 376 Md. 118, 136 (2003). The <u>Fosler court</u>, citing <u>Marzullo</u>, *supra*, recognized the deference given to an agency, such as the Board of Appeals, in administering the zoning regulations when it stated:

"(When construing a statute intended to be administered by an administrative agency, courts normally give significant weight to an agency's interpretation of the statute.)"

In <u>Riffin v. People's Counsel for Baltimore County</u> 137 Md.App. 90, 93-94, 767 A.2d 922 (2001), Judge Moylan stated for the Court of Special Appeals that:

"With regard to the standard of review to be applied in a case such as this, we explained in Stover v. Prince George's County, 132 Md. App. 373, 380-81, 752 A.2d 686 (2000), that:

[w]hen reviewing a decision of the administrative agency, this Court's role is "precisely the same as that of the circuit court." "Judicial review of administrative agency action is narrow. The court's task on review is *not* to 'substitute its judgment for the expertise of those persons who constitute the administrative agency."

Rather, "[t]o the extent the issues on appeal turn on the correctness of an agency's findings of fact, such findings must be reviewed on the substantial evidence test." The reviewing court's task is to determine "whether there was substantial evidence before the administrative agency on the record as a whole to support its conclusions." The court cannot substitute its judgment for that of the agency, but instead must exercise a "restrained and disciplined judicial judgment so as not to interfere with the agency's factual conclusions." (Citations omitted; emphasis supplied)."

In Futoryan v. Mayor and City Council of Baltimore 150 Md.App. 157, 177, 819 A.2d 1074 (2003), Judge Moylan quoted Bowman Group v. Moser, 112 Md. App. 694, 699 (1996):

"In zoning matters, the zoning agency is considered to be the expert in the assessment of the evidence, not the court."

In <u>Finucan v. Board of Physicians</u>, 380 Md. 577, 590 (2004), the Court of Appeals again stated:

"It is well settled that the State Judiciary's role in reviewing an administrative agency's adjudicatory, decision is limited, . . . We, therefore, give considerable weight to the administrative agency's interpretation and application of the statute that the agency administers. . . . Furthermore, the expertise of the agency in its own field of endeavor is entitled to judicial respect."

THE QUALITY OF SUBSTANTIAL EVIDENCE

In Futoryan, supra at 157, Judge Moylan further said:

"As to the quality of "substantial evidence," Judge Harrell had earlier described that quality in *Friends of the Ridge v. Baltimore Gas and Electric Co.*, 120 Md. App. 444, 466, 707 A.2d 866 (1998), vacated in part, 352 Md. 645, 724 A.2d 34 (1999):

The substantial evidence standard applicable to the Board's findings of fact and resolution of mixed questions of law and fact, sometimes referred to as the "fairly debatable" test, is implicated by our assessment of whether the record before the Board contained at least "a little more than a scintilla of evidence" to support the Board's scrutinized action. If such substantial evidence exists, even if we would not have reached the same conclusions as the Board based on all the evidence, we must affirm. Stated another way, substantial evidence pushes the Board's decision into the unassailable realm of a judgment call, one for which we may not substitute our own exercise of discretion. (Emphasis supplied)."

THE BURDEN OF PERSUASION; THE EFFECT WHERE THE AGENCY IS NOT PERSUADED

In <u>Pollard's Towing v. Berman's Towing</u> 137 Md.App. 277, 768 A.2d 131 (2001), Judge Moylan illuminated 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 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.

He quoted Starke v. Starke, 134 Md.App. 663 (2000) and italicized, 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."

DECISIONS ON ZONING SPECIAL EXCEPTIONS AND VARIANCES

CBA zoning decisions on special exceptions and variances must be judged according to the above principles. Schultz v. Pritts 291 Md. 1 (1981) and People's Counsel v. Mangione 85 Md. App. 738 (1991) along with Eger and Futoryan, supra, are illustrative special exception cases. Riffin, supra, and Red Roof v. People's Counsel 96 Md. App. 219 (1993) apply the limited scope of review to affirm the Baltimore County CBA's denial of variances. Meanwhile, Cromwell v. Ward 102 Md. App. 691 (1995) and Umerley v. People's Counsel 108 Md. App.

497 (1996) reversed the grants of variances for lack of sufficient evidence.

Cromwell emphasized that variances under BCZR 307.1 should rarely be granted.

THE LAW OF VARIANCES APPLIED

BCZR 307.1 states that the CBA may grant variances:

"... only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship."

This standard requires proof of the following:

- 1. That the land or structure is "unique," a zoning term of art;
- 2. That the uniqueness "results" in "practical difficulty" pertinent to zoning compliance; and
- 3. That there is true "practical difficulty," another zoning term of art; and

The purpose of variance law is to allow relief so that a property owner has some reasonable use of his property. See 3 Young, <u>Anderson's American Law of Zoning 4th</u>, Sec. 20.02 (1996):

The underlying purposes of administrative relief have been discussed in an earlier chapter, but specifically, with respect to variances, it is said that a variance is 'designed as an escape hatch from the literal terms of the ordinance which, if strictly applied, would deny a property owner all beneficial use of his land and thus amount to confiscation.'

It may be that BCZR 307.1 does not go so far as to require proof of confiscation to justify a variance. Nevertheless, the first McLean criterion connotes some degree of oppression in the unreasonable prevention of a use for a permitted purpose.

The first inquiry here is whether the property is peculiar or "unique." If evidence of uniqueness is insufficient or unpersuasive, the inquiry ends there. Cromwell v. Ward 102 Md. App. 691 (1995); Umerley v. People's Counsel 108 Md.App. 497 (1996); Riffin v. People's Counsel 137 Md. App. 90 (2001). If this threshold is passed, the further question is whether the unique condition results in "practical difficulty." McLean v. Soley 270 Md. 208, 213-15 (1973).

UNIQUENESS DEFINED AND ANALYZED

The word "unique" is defined strictly. Otherwise, anyone could make some sort of claim. In <u>Cromwell</u>, 102 Md.App. at 710 (1995), the Court stated:

"In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property.

'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."

THE CBA DECISION THAT PETITIONER FAILED TO PROVE UNIQUENESS

On this record, the County Board of Appeals finding that Petitioner did not meet the burden of proof on uniqueness was legally correct, and at the very least reasonable or fairly debatable. The Petitioner's case was no better than the cases presented in <u>Cromwell v. Ward</u> and <u>Umerley v. People's Counsel</u>, where the Court of Special Appeals found it necessary to reverse the grants of variances for lack of

sufficient evidence of uniqueness. The proof was also no better than the proof in Riffin v. People's Counsel, where the same court affirmed the denial of a variance.

Even assuming the Court were to view the evidence as fairly debatable, the CBA was not persuaded. As Judge Moylan said in Pollard's Towing, this is a discretionary judgment that is virtually unreviewable. The agency that hears the witnesses and reviews the documentary evidence is simply not obligated to be persuaded. There is an element of credibility in every case. Even had Mr.Church provided substantial evidence of uniqueness, the Board would not have to believe him. But here there was no evidence to meet any of the uniqueness criteria. All the variances must be denied on this finding, a factual conclusion reached by the CBA on fairly debatable evidence. There was no need to address practical difficulty.

THE CBA DECISION THAT PETITIONER FAILED TO PROVE PRACTICAL DIFFICULTY

Even if the Board had found uniqueness, there was no genuine proof of practical difficulty. There was nothing to show that the variances are consistent with the sprit and intent of the law. The CBA findings are supported by the record, by its own description of the testimony, and by the discussion in <u>Cromwell v. Ward.</u>

<u>Cromwell</u>, still a key case on Baltimore County variance law, goes at great lengths, with deep historical analysis, to explain that variances are rarely justified, and certainly not for the advantage or convenience of a property owner.

Petitioner's presentation rests on a false and dangerous myth that convenience or opinion of the property owner is paramount to the impact on the community. This conflicts not only with the "practical difficulty" standard articulated in case law, but also with the essential purpose of zoning as an exercise of the police power: to protect the public health, safety, and welfare.

The second of the McLean v. Soley criteria calls for balancing of justice to the applicant and justice to the property owners in the neighborhood. The third criterion involves consistency with "the spirit of the ordinance" and the "public safety and welfare." This embraces both the impact on the neighbors and the spirit and harmony of the comprehensive zoning plan on the neighborhood. The Court's discussion in McLean included the value of adjoining property. The main point, however, is that inquiry into impact on adjoining property is broad. The concept of public safety and welfare is not subject to evisceration by hypertechnical objections by a zoning applicant. The CBA should give broad scope and ample weight to testimony by experts, neighbors and area residents concerning the detrimental impact on the neighborhood.

SUMMARY

This is a straightforward zoning variance case. The issues for review are factual and entitled to deference on appeal. Mixed questions of law and fact are also entitled to deference by an appellate court. There is no legal issue to review under a different standard. The CBA Opinion is both specific as to findings and comprehensive and thorough in its scope. Nothing is left to guesswork or

speculation. The Board reviewed all the evidence in light of the variance standards in the applicable statutes and case law, made its findings, and explained its reasoning. It couldn't have been more clear or specific. It is a model administrative agency decision. The CBA decision should be affirmed under the well-settled principles on scope of judicial review.

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 1st day of July, 2004, a copy of the foregoing People's Counsel for Baltimore County's Memorandum was mailed to:

John H. Zink, III, Esquire Robert A Hoffman, Esquire Venable, LLP 210 Allegheny Avenue Towson, MD 21204 Kathleen C. Bianco, Administrator County Board of Appeals 400 Washington Avenue, Room 49 Towson, Maryland 21204

CAROLE S DEMILIO

Deputy People's Counsel for Baltimore County



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

PETER MAX ZIMMERMAN People's Counsel

July 1, 2004

CAROLE S. DEMILIO
Deputy People's Counsel

Chief Clerk, Civil Division Circuit Court for Baltimore County County Courts Building 401 Bosley Avenue Towson, MD 21204

Hand-delivered



BALTIMORE COUNTY BOARD OF APPEALS

Re:

Petition for Judicial Review of the Decision

of the County Board of Appeals

In the Matter of Auto Properties, LLC

Case Number: 03-C-04-3662

Dear Sir or Madam:

Enclosed please find the People's Counsel for Baltimore County's Memorandum to be filed with regard to this case. If you have any questions or concerns, please contact my office.

Thank you for your consideration.

Very truly yours,

Carole S. Demílio

Deputy People's Counsel for Baltimore County

CSD/rmw Enclosures

cć:

John H. Zink, III, Esquire Robert A Hoffman, Esquire

Kathleen C. Bianco, Administrator

4/1/04

IN THE PETITION OF <u>AUTO PROPERTIES, LLC</u> FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN THE

CIRCUIT COURT

IN THE CASE OF <u>STEVE B. FADER, AUTO</u>

*
PROPERTIES, LLC, LEGAL OWNERS/PETITIONERS
FOR VARIANCE ON PROPERTY LOCATED ON THE *
E/S OF HARFORD ROAD, 260' S OF EAST AVENUE
(3001 EAST AVENUE)

*

FOR

11th Election District, 6th Councilmanic District

BALTIMORE COUNTY

Case No. 02-471-A
Before the County Board of Appeals

Case No.: 03-C-04-3662

RESPONSE TO PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, in accordance with Maryland Rule 7-204, submits this response to the Petition for Judicial Review filed by AUTO PROPERTIES, LLC, and states that it intends to participate in this action for Judicial Review. The undersigned participated in the proceeding before the County Board of Appeals.

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

/ لَمَارِينَ	•
	day of April, 2004, a copy of the foregoing

Response to Petition for Judicial Review was mailed to:

John H. Zink, III, Esquire Robert A Hoffman, Esquire Venable, LLP 210 Allegheny Avenue Towson, MD 21204 Kathleen C. Bianco, Administrator County Board of Appeals 400 Washington Avenue, Room 49 Towson, Maryland 21204

CAROLE S DEMILIO

Deputy People's Counsel for Baltimore County



County, Maryland

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

April 7, 2004

CAROLE S. DEMILIO Deputy People's Counsel

Chief Clerk, Civil Division Circuit Court for Baltimore County County Courts Building 401 Bosley Avenue Towson, MD 21204

Hand-delivered

RECEIVED
APR 0 7 2004

BALTIMORE COUNTY BOARD OF APPEALS

Re:

Petition for Judicial Review of the Decision

of the County Board of Appeals

In the Matter of Auto Properties, LLC

Case Number: 3-C-04-3662

Dear Sir or Madam:

Please file the enclosed please find the Response to Petition for Judicial Review. If you have any questions or concerns, please contact my office.

Thank you for your consideration.

Very truly yours,

Carole S Demilio

Deputy People's Counsel for Baltimore County

Cardo S. Dandie Buil

CSD/rmw Enclosures

cc:

John H. Zink, Esquire Robert A Hoffman

Kathleen Bianco, CBA Administrator

4/2/04

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY PETITION OF AUTO PROPERTIES, LLC 23 Walker Avenue

Pikesville, Maryland 21208

FOR JUDICIAL REVIEW OF THE DECISION OF THE

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Old Courthouse, Room 49

400 Washington Avenue

Towson, Maryland 21204

IN THE CASE OF THE APPLICATION OF

STEVE B. FADER, AUTO PROPERTIES, LLC

- OWNERS/PETITIONERS FOR VARIANCE

ON PROPERTY LOCATED ON THE

E/S OF HARFORD RD, 260' S OF EAST AVE.

3001 EAST AVENUE

11TH ELECTION DISTRICT

6TH COUNCILMANIC DISTRICT

CASE NO. CBA-02-471-A

C-04-3662

CIVIL

ACTION

No.

PETITION FOR JUDICIAL REVIEW

Petitioner Auto Properties, LLC, legal owner, by John H. Zink, III and Robert A. Hoffman with Venable LLP, its attorneys, in accordance with Maryland Rule 7-202, requests judicial review of the decision by the County Board of Appeals of Baltimore County, dated March 8, 2004, denying the Petition for Variance in Case No. CBA-02-471-A. Petitioner was a party to the agency proceedings.

Respectfully submitted,

Jan H. Zirk III / Shice

APR 0 9 2004

BALTIMORE COUNTY BOARD OF APPEALS JOHN H. ZINK, III

S

ROBERT A. HOFFMAN
Venable LLP
210 Allegheny Avenue
P. O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ______ day of April, 2004, a copy of the foregoing PETITION FOR JUDICIAL REVIEW was mailed to Carole S. Demilio, Esquire, Office of People's Counsel, 400 Washington Avenue, Towson, Maryland 21204; and to Kathleen C. Bianco, Administrator, County Board of Appeals of Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland 21204.

John H. ZINK, III

TO1DOCS1/DHK01/#181249 v2

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-04-003662



BALTIMORE COUNTY BOARD OF APPEALS

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE Old Courthouse Room 49 400 Washington Avenue Baltimore, MD 21204

3/8/04.

IN THE MATTER OF

THE APPLICATION OF

STEVE B. FADER, AUTO PROPERTIES, LLC*

COUNTY BOARD OF APPEALS

ON PROPERTY LOCATED ON THE

E/S OF HARFORD RD, 260' S OF EAST AVE.

3001 EAST AVENUE

11TH ELECTION DISTRICT

6TH COUNCILMANIC DISTRICT

* CASE NO. 02-471-A

OPINION

This case comes to the Baltimore County Board of Appeals by way of an appeal from a decision by the Deputy Zoning Commissioner relative to a variance issue. That Order and Opinion was issued under date of June 26, 2002. An appeal was made by the Baltimore County Office of People's Counsel on July 3, 2002 and the appropriate notification given to Counsel for the Petitioner. Unfortunately, several months transpired until June 26, 2003 when People's Counsel for Baltimore County wrote to the Chairman of this Board noting the fact that the Office of People's Counsel had appealed the case but that it had not been scheduled on the docket of the Board of Appeals. The Chairman of this Board responded to People's Counsel on the afternoon of June 26, 2003, noting that the Board had never received the necessary file from Baltimore County's Department of Permits and Development Management (PDM) and that, since the Board had no record of the appeal being filed nor having received the PDM file, "our records do not indicate that this file was ever 'logged in' for Board action."

Accordingly, PDM was notified, their file sent over to the Board and subsequently received. The case was scheduled for public hearing on December 8, 2003. At that time, J.

Allan Cohen, Esquire, appeared on behalf of the Petitioner; and Carole S. Demilio, Esquire, Deputy People's Counsel for Baltimore County, appeared on behalf of that Office. Neither counsel desired an opening statement.

Mr. Jerome Fader was the first witness called by Mr. Cohen. He is the President and Chief Operating Officer of Auto Properties, LLC, the Petitioner and legal owner of the property in question. He described his operation as one of selling both new and used automobiles, along with various methods of the company's advertising. He described the general location of the car operation as being off the outer loop of the Baltimore Beltway going west to the Harford Road exit, going north on Harford Road. He described the embankment that precludes drivers from seeing the Heritage building as they come off the exit ramp. He opined that the car operation had previously been located on York Road and had outgrown that location and facility, and because of increasing volume, the Honda organization had requested that the firm relocate to accommodate their growth. Mr. Fader commented that improvements made on the new facility on Harford Road had cost approximately \$3,500,000 and that the variance request had been made because customers had difficulty in locating the business. The main part of the car building is situated back of Harford Road, with a gasoline service station located directly in front of the building. Access to the building is via a right turn on East Avenue, located just a short distance beyond the exit ramp on Harford Road and the gasoline service station, by approximately 300 feet. The witness explained that if you go beyond East Avenue, you will head north on Harford Road until you reach Joppa Road, then would have to turn south to reach the

Heritage facility by a left turn on East Avenue. He had discussed with Mr. Tom Church, professional engineer, the possibility of a sign that would assist motorists in locating the dealership.

On cross-examination by Ms. Demilio, People's Counsel Exhibits #1 and #2 (A and B) were introduced reflecting an ADC map of the general area and the dealership location off Exit 31 of the Baltimore Beltway and additional signs off the exit on East Avenue that were directional. Mr. Fader acknowledged that the entire Heritage land area encompassed 15 acres. He indicated that the company does extensive radio and TV advertising, Yellow Pages, and printed advertisements in the newspapers.

People's Counsel Exhibit #3 consisted of Yellow Pages advertising. Mr. Fader acknowledged that the existing signs were installed after the new sign laws were enacted by the Baltimore County Council; that Honda does have smaller signs that could be used that would satisfy the Honda sign requirements. The sign currently existing on the property near the exit ramp was the one finally considered by he and Mr. Church after walking the site with his engineer. He acknowledged that the Honda operation is "tucked away behind the main building," and that there were other mounted signs on the site. All were required by Honda and their franchise agreement. He acknowledged that Heritage is a well-known and prominent name in the Baltimore area.

Mr. Tom Church also testified. He is president of Development Engineering

Consultants on York Road. He stated that he had prepared the site plan on April 19, 2002

(Petitioner's Exhibit #1). He related his professional background and that he was a

registered professional engineer in the State of Maryland. He was familiar with the site and essentially described the area, and in particular the Heritage site. He opined concerning the height of the Honda building as you come off the exit ramp; and the hindering location of the gas station as you head north and the 300 feet before you come to East Avenue which permits entry to the facility. The site is split-zoned, B.M.-A.S. and B.M. Mr. Church had met with the Honda field representative and both walked the site. They mutually agreed that a sign of 30 feet instead of 20 feet was required in order to permit visibility; and 100 square feet in lieu of 50 square feet. Petitioner's Exhibit #2 was introduced and discussed as signage available to the Honda franchise operation. Mr. Church opined that the slope and wall coming off the Beltway, the location of the gas station, and limited sight distance on Harford Road between the exit ramp and East Avenue constituted uniqueness and that the dealership suffered hardship because of customer difficulty in locating the site.

Mr. Dennis Turnbaugh, divisional president of Honda, testified in support of the variances requested. He oversees nine Honda dealerships and described the relocation of the present dealer from Towson in May 2002. Seventy-five individuals are employed at the Harford Road site. The hours of operation are 7:30 a.m. to 9:30 p.m., Monday to Friday; 8:00 a.m. to 6:00 p.m. Saturday; and this includes servicing of vehicles. The Honda business comes from name recognition, advertising, TV /radio, and Yellow Book. He opined that the present large Honda sign was erected after the Deputy Zoning Commissioner's Opinion was issued. He stated that the company had not had any complaints about the location or size of the exterior signs. He acknowledged that he was

aware that Honda permitted a variety of signs and that he did meet with Mr. Church on site, and they mutually determined the position and size of the present sign at the exit ramp.

Petitioner's Exhibit #4 was introduced and discussed. Again, the service station in front of the building was stated to be a problem because individuals getting off the ramp did not have sufficient time to observe the Heritage facility in the rear of the service station, and if they went passed East Avenue, they had to go up to Joppa Road and then head south to make a left entry into East Avenue. Mr. Turnbaugh also cited the gas station and its canopy and the crest of the hill as obstacles limiting visibility of the Honda operation. He stated that the relief requested was minimal and would not create a hardship.

On cross-examination by Ms. Demilio, the witness acknowledged that the Honda Corporation did offer smaller identification signs, and it was a local decision to go with the larger signage. He also acknowledged that the property was purchased with the full knowledge of the presence of the existing service station.

The Board viewed Petitioner's Exhibit #5, a videotape (without sound) describing the character and nature of the location of the facility and various means of entry. The Petitioners rested their case.

Ms. Lynn Lanham, Office of Planning, was called as a witness by Deputy People's Counsel. Ms. Lanham is a 13-year veteran with the department and is Chief of Development Review. On May 17, 2002, she issued her comments relative to the signage (People's Counsel Exhibit 5). She was very familiar with the site and the new County Council signage legislation and the functions of the commercial corridor districts. She

stated that a 25-foot sign would be satisfactory with a 50-foot face and that all dealerships are now limited with respect to signage. In her opinion, such dealerships can satisfactorily operate and function within the current sign regulations. She opined that the topography was not dissimilar to other exit ramps off the Baltimore Beltway and that similar conditions existed along that roadway. She indicated that you can see Honda Motors going east on the inner loop of the Baltimore Beltway and that while Parkville is, in itself, in the Parkville Community Revitalization Area, it is also in the Parkville Commercial Corridor as referenced in 2010 Master Plan (pages 162-163) to support her comments.

On cross-examination, the witness acknowledged that the dealership was larger than most and that the Maryland Department of Motor Vehicles required a sign indicating the nature of the dealership.

Ms. Ruth Baisden, President of the Greater Parkville Community Council, also testified after "Rule 8" papers (Board's Rules of Practice and Procedure, "Rule 8. Special rule pertaining to persons appearing before the board as representatives of civic or improvement associations") were submitted and accepted. Her group is an umbrella organization consisting of seven independent community groups altogether totaling 394 members. She described the efforts of the organization to maintain stability in the Parkville Commercial Corridor and that she had personally taken a large number of photographs to establish what her organization considered overplay with the existing Honda sign and the character of the residential community on East Avenue. She also described the Honda site as an extremely large one that dominated the Harford Road corridor, behind the service

Station and East Avenue. It was a commercial venture exactly as was the Mobil Service Station in front of the facility. It was her opinion that the Honda sign on Harford Road was quite visible as you head north as well as the sign at the corner of Harford Road and East Avenue. The present sign regulations would easily afford visibility as desired by the Petitioner, as she described the series of photographs entered into evidence (Petitioner's Exhibits 7A –8).

On cross-examination, Ms. Baisden stated that she lived below the Baltimore Beltway on Taylor Avenue and was familiar with the community. She is a volunteer individual in the organization and took the photographs while walking the area. She had personally met with Mr. Turnbaugh and felt that the dealership could live with the existing sign regulations and without variances being granted. Ms. Baisden indicated her concerns relative to the large freestanding sign and that the community also had concerns relative to the illumination as to the residents on East Avenue.

In lieu of a Brief, the Board heard oral argument. Mr. Cohen cited the ramp location, wall barrier, and service station as factors in uniqueness and cited the *McLean v*. *Soley* case [276 Md. 208 (1973)] and conditions needed to establish hardship.

Ms. Demilio cited lack of uniqueness, hardship, and that the Petitioner could easily live with the present signage as enacted by the Baltimore County Council.

The Board has carefully considered the totality of the testimony and evidence presented at the public hearing held on December 3, 2003. The three panel members who heard the case are the senior members of the Board, each serving 9 years on the Board of

Appeals, and are well aware of statutory and case law that governs the granting of variances in the State of Maryland and Baltimore County. The Board commended counsel for their mutual professionalism in presenting their respective cases. The Board is required to apply the law of variances as prescribed by *Baltimore County Zoning Regulations* (BCZR) § 307.1. That legislation requires the Board to grant variances from "height and area regulations, and from sign regulations only in cases where special circumstances exist that are peculiar to the land or structure which is the subject of the variance request, where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship...and any such variances shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and welfare. They shall have no power to grant any other variances."

As to "special circumstances that exist that are peculiar to the land or structure," the Maryland Court of Appeals in *Cromwell v. Ward*, 102 Md.App. 691 (1995) has provided direction as to the interpretation of that phrase.

In the zoning context, the "unique" aspect of a variance request does not refer to the extent of improvements upon the property, or upon neighboring properties. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."

The Board has also received direction from the Court of Appeals in McLean v.

Solely, 270 Md. 208 (1973) relative to the criteria to establish "practical difficulty."

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

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

The first requirement obviously imposed on the Board is to determine whether or not, as a finder of fact, uniqueness is present as to the land or structure. In this case, the Petitioner is requesting a variance to 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; and to permit frontage on a highway without pedestrian or vehicle access. Also requested is permission to continue to use three existing illuminated wall-mounted enterprise signs in lieu of the maximum permitted "0."

The first variance which has been requested is off of the outer loop of the Beltway (exit 31) that leads to Harford Road, north. It is contended by the Petitioners that physical constraints hinder the driving public (going west on the Beltway) and leaving via exit 31

(north on Harford Road) from visual contact of Petitioner's facility. These consist of trees and a wall off the ramp and a highway sign reflecting the exit from northbound Harford Road leading to 695 east toward Towson, obstructing the view of said property as one approaches from a northbound direction.

To this end, the Board found of considerable assistance the videotape (Petitioner's Exhibit #5) and the photographs admitted as People's Counsel Exhibit #7 (consisting of 12 photographs), as well as photographs submitted as Petitioner's Exhibit #4 (consisting of 11 photographs). It is obvious to the Board that there does exist at the Petitioner's property abutting the ramp a large concrete wall that would preclude a driver coming off the exit ramp to Harford Road from seeing the "Heritage Honda" building and wall signage (Petitioner's Exhibit #7B). However, it is also quite evident that as one progresses to the end of the ramp, the concrete wall and wire fencing give way to a considerable stretch of land area unfettered and cars very visibly to the right on the Heritage lot where the large sign for which a variance is being requested presently stands. Traffic coming off the ramp must halt, or at least slow down, because of the presence of a traffic signal near the exit ramp (People's Counsel Exhibit #7C, D, E and F); also see Petitioner's Exhibit #4D). Following the exit there is a Mobil gas station on Harford Road that lies in front of Petitioner's property which is alleged to obstruct the dealership for the approximate 300 feet from the ramp to East Avenue, where the driving public must turn right to gain entry to the dealership. However, at the corner of East Avenue and Harford Road, there does already exist a very visible "Heritage -Chrysler Honda"

directional sign considerably large enough to provide direction for anyone heading north on Harford Road or coming off the Beltway ramp to locate the dealership. Once on East Avenue, no problem exists.

The Board has reviewed Petitioner's Exhibit #1A, the plat of the subject property (April 19, 2002) and revised April 22, 2002; Honda exterior signage available (Petitioner's Exhibit #2); and a scale drawing of the sign erected (Petitioner's Exhibit #3), along with exhibits offered by People's Counsel (People's Counsel #1, a copy of the ADT map reflecting the location of the site; People's Counsel #2 [A & B], a Department of Taxation and Assessment map; and ad from the Yellow Pages telephone directory, People's Counsel Exhibit #3; 1,000-scale zoning map (People's Counsel Exhibit #4); and comments from the Baltimore County Office of Planning dated May 17, 2002 (People's Counsel #5); and a 200-scale zoning map (People's Counsel #8).

It is evident to the Board that individuals coming to the dealership are traveling by way of automobile. Petitioners indicate in their advertising that they are located off exit 31 of I-695. Based upon a review of the evidence, the Board has concluded that traffic headed north on Harford Road going over the Beltway should have no particular difficulty locating the dealership, that the highway light poles and traffic signal are not such an impediment as to justify a variance, and the property on which the present large freestanding sign is located is not unique or unusual as to "shape, size, or topography," to justify a variance in this instance. While based on the criteria established by *Cromwell v. Ward*, the Board is not required to proceed further; nevertheless, comment is made

relative to other factors that would cause the Board to reject the variance request.

The testimony reflects that the Petitioner was well aware of the subject location when the property was purchased consisting of a rather large site encompassing approximately 15 acres. The Board notes that the purchase was made subsequent to the passage of by the Baltimore County Council of the new "comprehensive sign legislation," [Bill 89-97, codified in BCZR § 450.

The Council's Statement of General Findings and Policies includes:

- 450.1.C: The amount of signage in Baltimore County is excessive. Excessive signage unduly distracts drivers and pedestrians, thereby creating traffic and safety hazards, impairing the utility of the highway system, and reducing the effectiveness of signs and other devices necessary for directing and controlling traffic.
- 450.1.D: Baltimore County's appearance is marred, property values and public investments are jeopardized, scenic routes are diminished and revitalization and conservation efforts are impeded by excessive signage and incompatible signage.
- 450.1E: The existence of excessive and incompatible signage is contrary to the goals of the county master plans, as adopted and amended. Included among these goals are:
 - 1. Improved quality of commercial corridors, including signage.
 - 2. Improved compatibility between industrial and residential uses, including signage.
 - 3. Enhanced control of placement, size and design of commercial corridor signage.
- 450.1F: In light of the above, Baltimore County has a substantial interest in promoting the public safety, health, and general welfare by reducing or eliminating excessive and incompatible signage.

450.1G: To that end, these regulations are intended to be the least restricting means to achieve the following:

- 1. Eliminate and restrict signs which constitute an actual or potential distraction or other hazard to the safe operation of motor vehicles or the safe passage of pedestrians.
- 3. Eliminate unsightly, incongruous signs which tend to depreciate or diminish private and public investments in buildings, sites, and highways or hinder or discourage the improvement of residential, business and industrial properties.

The legislative history of that legislation indicates that it was the final product of an intense study that was conducted by various organizations, both commercial and community, and also included representatives from the sign industry itself. With the legislation in place, the Board is required to examine most carefully any signage that would require a variance. The County Council, in adopting this legislation, even added BCZR § 450.8A.1 by stating that "in considering requests for special exceptions and variances, provisions of this section shall be strictly construed, unless the demonstrable effect of a liberal construction would prevent or reduce the confusion and visual clutter caused by excessive signage."

In the instant case, the large freestanding sign was erected after the Deputy Zoning Commissioner made his ruling with the caveat that:

1. The Petitioners may apply for their 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 such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

The Petitioners proceeded to erect the sign with full knowledge of the possible consequences of their actions based upon the appeal filed by People's Counsel on July 3, 2002. The Board also notes the comments made by the Office of Planning on May 17, 2002 (People's Counsel Exhibit #5) in which that office "did not support the request to permit the new freestanding sign," citing that the visual clutter it would create would not be in keeping with the Master Plan 2010 policies for improving the appearance of the commercial corridors."

The Board also notes that the resolution offered before the Deputy Zoning

Commissioner as Protestants' Exhibit #1, a Resolution by the Greater Parkville

Community Council, as to their position concerning signage and clutter along the

commercial corridor, noting that careful consideration must be given to "the scale, height,

proportions, massing, and detailing of buildings shall be in proportion to those existing in
the existing neighborhood."

The Board concurs with the objections of the Protestants that the present signage erected subsequent to the Deputy Zoning Commissioner's decision is unduly large, and a smaller sign in conformity with the present signage legislation will accomplish sufficient identification to the motoring public and no undue hardship is imposed by denial of the variance. the present signage violates the spirit and intent of the County Council's legislation, and for the reasons cited, the Board will accordingly deny the Petitioner's variance requests.

ORDER

THEREFORE, IT IS THIS Sth. day of March, 2004 by the County Board of Appeals of Baltimore County

ORDERED that the Petitioners' request for variance to 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; and to permit frontage on a highway without pedestrian or vehicle access. Also requested is permission to continue to use three existing illuminated wall-mounted enterprise signs in lieu of the maximum permitted "0" be and the same is hereby **DENIED**.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY A

Lawrence M. Stahl, Panel Chair

Margaret Worrall

Charles L. Marks



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

March 8, 2004

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

> RE: In the Matter of: Auto Properties, LLC; Steve B. Fader – Legal Owner /Petitioner Case No. 02-471-A

Dear Ms. Demilio:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Block W/ths

Administrator

Enclosure

c: J. Allan Cohen, Esquire
Steven B. Fader /Auto Properties LLC
Heritage of Towson, Inc. t/a Heritage Honda
Jerry Fader
Tom Church, P.E.
Meg O'Hare
Ruth Baisden
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James Thompson, CIE /PDM
Timothy M. Kotroco, Director /PDM

6/26/02

IN RE: PETITION FOR VARIANCE
E/S of Harford Road, 260' S of
East Avenue, relocated 3001 East Avenue
11th Election District
6th Councilmanic District
(3001 East Avenue)

Auto Properties, LLC, Legal Owner and Heritage of Towson, Inc., t/a Heritage Honda, Lessee

Petitioners

BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

CASE NO. 02-471-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owner of the subject property, Auto Properties, LLC and the lessee of the site, Heritage of Towson, Inc., t/a Heritage Honda. The Petitioners are requesting a variance for property located at 3001 East Avenue in the Parkville area of Baltimore County. The variance request is to permit a double faced illuminated freestanding enterprise sign with a height of 30 ft. in lieu of the maximum height of 25 ft. and to permit an area face of 100 sq. ft. in lieu of the maximum area face of 50 sq. ft. and to permit frontage on a highway without pedestrian or vehicular access. In addition, the Petitioners are requesting permission to continue to use 3 existing illuminated wall-mounted enterprise signs in lieu of the maximum permitted 0.

Appearing at the hearing on behalf of the variance request were Tom Church, the professional engineer who prepared the site plan of the property, Jerry Fader, appearing on behalf of the automobile dealership, Rich Keeney, Dennis Turnbaugh and John Burcham. Appearing at the hearing in opposition to the Petitioners' request were Ruth Baisden and Meg O'Hare.

Testimony and evidence indicated that the property, which is the subject of this variance request, is located on the northeast corner of the intersection of Harford Road and the exit ramp

TO 6/26/07

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from the Baltimore Beltway. The property is bounded to the north by East Avenue. Recently, the Petitioner herein, Heritage of Towson, renovated the subject property in order to accommodate their Honda Automobile Dealership. This Honda Dealership was formerly located on York Road in Towson. However, the owner of the dealership, Mr. Fader, has chosen to relocate this Honda Dealership to the subject site. His testimony revealed that he has spent close to \$3.5 million dollars in furtherance of renovating the subject property in order to accommodate this new use. The Honda Dealership is open for business and the property owner is now desirous of erecting an identification sign on the property in the area depicted on the site plan. In addition, the Petitioners are requesting permission to continue to use three existing wall-mounted enterprise signs.

The testimony offered by the Petitioners indicated that the subject automobile dealership is unique in that it does not have access directly to Harford Road. The exit ramp from the Baltimore Beltway to Harford Road does not afford the Petitioner direct access. Access to the property is by way of East Avenue. This unusual manner of access to the Honda Dealership has created confusion with the many customers who come from around the Baltimore area to do business at this dealership. Additional difficulty in finding this dealership is caused by the location of an existing gasoline service station located on the southeast corner of the intersection of Harford Road and East Avenue. The automobile dealership sits behind this gasoline station, thereby causing problems with visibility. Mr. Fader, as well as others testifying, indicated that it is very important for customers to identify the location of this dealership in a sufficient amount of time to allow them to make their turn onto East Avenue and into the site. The freestanding enterprise sign, in the opinion of those testifying at the hearing, would provide sufficient notice to motorists of the location of this Honda Dealership.

As stated previously, Ms Ruth Baisden and Meg O'Hare attended the hearing in opposition to the Petitioners' request. These individuals object to the size and location of the sign proposed by Heritage Honda. They believe that a smaller sign could be located on the property and accomplish the same purpose. They, therefore, ask that the variance be denied and a smaller sign located on the property.

After considering the testimony and evidence offered both in support and in opposition to the Petitioners' request, I find that the variance to allow the freestanding enterprise sign with a height of 30 ft. and an area/face of 100 sq. ft. should be approved. Furthermore, the Petitioners shall be permitted to keep and maintain the 3 wall-mounted signs on the existing dealership building.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioners and their property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioners 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 Petitioners seek 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.

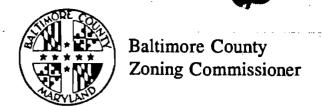
THEREFORE, IT IS ORDERED this I day of June, 2002, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Sections 450.3 and 450.4.5.(g), to permit a double-faced, illuminated freestanding enterprise sign with a height of 30 ft. in lieu of the maximum height of 25 ft. and to permit an area face of 100 sq. ft. in lieu of the maximum area face of 50 sq. ft.; to permit frontage on a highway without pedestrian or vehicular access; and for permission to continue to use 3 existing illuminated wall-mounted enterprise signs in lieu of the maximum permitted 0, be and is hereby GRANTED, subject, however, to the following restriction which is a condition precedent to the relief granted herein:

- 1. The Petitioners may apply for their 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 such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition:
- 2. The Petitioners shall be required to remove all temporary signs and banners from the subject property, including those banners and signs located on the fence along the exit ramp from the Baltimore Beltway.

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

TMK:raj



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

Fax: 410-887-3468

June 26, 2002

J. Allan Cohen, Esquire The Cohen Law Firm 23 E. Centre Street Baltimore, Maryland 21202

> Re: Petition for Variance Case No. 02-471-A

Property: 3001 East Avenue

Dear Mr. Cohen:

Enclosed please find the decision rendered in the above-captioned case. The petition for variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

Timothy M. Kotroco

Deputy Zoning Commissioner

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TMK:raj Enclosure

Copies to:

Jerry Fader 8000 Sunstone Circle Baltimore, MD 21208

Tom Church, P.E. 6603 York Road Baltimore, MD 21212

Ruth Baisden 7706 Oak Ave Baltimore, MD 21234

Meg O'Hare 3012 Summit Ave Baltimore, MD 21234



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 3001 East Avenue

which is presently zoned ______ BM & DR S.S.

This Petition shall be filed with the 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) 450.3 and 450.4.5. (g) to 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), and to permit frentage on a highway without pedestrian or vehicular access, and of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

SEE ATTACHED TOON! INVATION SHEET **

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.

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Attorney For Petitioner:		. : -		
J. Allan Cohen, Esquire		1.	•	
Name / Type or Print				_
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THE COHEN LAW FIRM A Profess	cional Cor	porati	on.	
Company		_		
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Contract Purchaser/Lessee:

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

Legal Owner(s):

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Signature SIEVEN B. FADER	:		
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Representative to be Con	<u>itacted:</u>		•
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Thomas Church			
Name			
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Reviewed By <u>JNP</u>	Date	4/2	702

* CONTINUATION SHEET FOR ADDITIONAL VARIANCE REQUESTS - From Page 1

Section 450.4,5 (a) 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 O signs permited.

** PETITION FOR SIGN VARIANCE FOR "HONDA" SIGN

#2 CONTINUATION SHEET - For Page 1

SIGN VARIANCE REQUEST - To allow a variance to erect a free-standing commercial enterprise sign accessory to a new or used automobile dealership at 3001 East Avenue, Baltimore County MD. The requested sign would stand Thirty (30) feet tall, which is Five (5) feet taller than permitted by Baltimore County Zoning Regulation Section 450.4.G, and would be Ten (10) feet by Ten (10) feet in area representing One Hundred (100) square feet, which is Fifty (50) square feet larger than permitted by Baltimore County Zoning Regulation Section 450.4.E. See attached Diagram.

A)

Said property is unique, unusual, and different from the surrounding properties such that the uniqueness causes the zoning provision to impact more on the subject property than on surrounding properties. Said property is located on the corner of East Avenue and Harford Road and sits in such a location that it is topographically lower than the surrounding properties.

Petitioners property sits just beyond the crest of a hill on Harford Road in such a way that the properties to Petitioners north completely obstruct the view of Petitioners property from southbound Harford Road. Petitioners property has a gradient that causes the southeast corner of Petitioners property to sit some sixteen (16) feet lower than the northwest corner. The only access to Petitioners property is from East Avenue, which sits to the north of Petitioners property. There is no east-west street on the south side of Petitioners property due to the proximity of I-695. Petitioners property is not visible from southbound Harford road due to the crest of the hill and other obstructions that block visibility. The topographical nature of Petitioners property means that strict compliance with Baltimore County Zoning Regulations will not afford Petitioner with the ability to make itself known to individuals operating motor vehicles on Harford Road.

B)

- 1. Strict compliance with Baltimore County Zoning Regulations would result in practical difficulty for Petitioner.
- (i) Strict compliance with the requirements of the Zoning Regulations would unreasonably prevent the use of the property for it's permitted purpose and will render conformance unnecessarily burdensome. Due to the lack of visibility of the Petitioners actual structure, Petitioner must rely on it's identification sign entirely to both inform current customers of their location and to attract new customers. Petitioner has a great deal of experience in the operation of automobile dealerships and many customers become aware of automobile dealerships for the first time by seeing them from the roadway. Petitioner therefore relies heavily on visibility to promote the dealerships success.

To the immediate north of the Petitioner's property lies a Mobil gas station, situated on the same side of Harford Road, that sits topographically six (6) to

eight (8) feet higher in elevation than the adjoining edge of Petitioners property. Said Mobil gas station has a canopy approximately eighteen (18) feet high that obstructs the view of Petitioners property from southbound Harford Road. Said Mobil gas station also has a gasoline price sign, on the southwesternmost corner of it's property that obstructs the view of Petitioners property. A white fence stands just beyond the southern edge of the Mobil gas station parking lot that further impairs visibility of Petitioners premises. Traveling southbound on Harford Road, Petitioners premises is not visible to individuals operating motor vehicles on Harford Road until it has been passed. Petitioner is required to rely solely on their identification sign to inform present and potential customers traveling southbound of it's location.

Beyond the Mobil station to the north lies a commercial corridor lined by telephone poles on the southbound side of Harford Road, and by lightposts on the northbound side. Some of these lightposts carry banners that extend out from the post itself and in effect screen Petitioners property further from view. Individuals operating motor vehicles approaching from southbound Harford road are unable to see Petitioners property.

To the south of the property is an exit ramp leading from 695 East to Northbound Harford Road. The exit ramp is lined with trees which obstruct the view of Petitioners property. Beyond said exit ramp to the south lies I-695, and Harford Road extends over I-695 continuing southward. A highway sign indicating the exit from Northbound Harford Road leading to I-695 East towards Towson obstructs the view of said property approaching from Northbound Harford Road. Highway lightposts and a traffic signal facing Northbound traffic on Harford Road further impede visibility.

(ii) The variance requested in this Petition is the minimum that will afford the Petitioner relief. Petitioner is a Honda Automobile dealership and is limited in the types and designs of signage it can use so as to conform to a national advertising scheme. One larger and several smaller signs are available as part of Honda's advertising campaign, but the sign requested is the minimum that will afford the needed visibility to Petitioners premises.

(iii) The relief requested in this petition for variance can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare will be secured.

2. Strict compliance with Baltimore County Zoning Regulations would result in undue hardship to your Petitioner.

(i) Petitioner will be unable to secure a reasonable return or make any reasonable use of it's property. Petitioners chose this location for its automobile dealership to provide convenience to the customer and to promote roadside recognition. Furthermore, Petitioner is attempting to comply with the desires of Honda Motor Corporation who wish to keep the distribution of franchised Honda dealerships at such a level that they provide sales and service to the greatest possible regional area. Strict compliance with the Baltimore County Zoning Regulation would render Petitioners property invisible from the north and south bound Harford Road and would therefore nullify the intended primary purpose of

this particular property.

- (ii) As noted in sections A and B(1)(i), Petitioners difficulties and hardships are peculiar to the subject property in contrast with other properties in the zoning district.
- (iii) The hardships that Petitioner faces are in no way the result of any action by the Petitioner.

C.

The requested variance will not increase the residential density beyond that allowed by the zoning regulations.

D.

The relief requested in this Petition for sign variance is in strict harmony with the spirit and intent of height, area, and sign regulations. The requested sign is part of the overall advertising campaign for a new automobile dealership that will contribute to Baltimore County's economic welfare by employing approximately ninety (90) persons and expanding the Baltimore County tax base. The sign requested is the minimum that accommodates the needs of the Petitioner, a member of the Baltimore County business community.

The sign requested is not excessive and will not unduly distract operators of motor vehicles or pedestrians. It will not represent a traffic or safety hazard, will not impair the utility of the highway system, and will not reduce the effectiveness of signs and other devices necessary for directing and controlling traffic. The sign requested is the minimum sign that will allow the public to locate Petitioner's facilities and goods without undue difficulty, danger, or confusion. The requested sign will in no way be unsightly or incongruous and will not tend to depreciate or diminish private and public investments in buildings, sites, and highways or hinder or discourage the improvement of residential, business, or industrial properties.

E.

The granting of Petitioner's request for sign variance would be relief in a manner that would be without substantial injury to public health, safety, and general welfare.

DEVELOPMENT ENGINEERING CONSULTANTS, INC.

Site Engineers & Surveyors

6603 York Road Baltimore, Maryland 21212 (410) 377-2600 (410) 377-2625 Fax

ZONING DESCRIPTION

3001 EAST AVENUE

Beginning at a point on the east side of Harford Road, which is 60 feet wide, said point also being where the east side of Harford Road intersects the north side of the exit ramp of Interstate 695 (Baltimore Beltway) which is a variable width right-of-way, said point being 260 feet south of the centerline of East Avenue Relocated, which is 50 feet wide. following courses and distances: 1) North 12 degrees 58 minutes 22 seconds East 35.26 feet, 2) South 56 degrees 24 minutes 43 seconds East 143.38 feet, 3) North 33 degrees 59 minutes 03 seconds East 200.99 feet, 4) South 56 degrees 22 minutes 23 South 33 seconds East 243.43 feet, 5) degrees 29 minutes 25 seconds West 4.07 feet, 6) South 56 degrees 45 minutes 49 seconds East 24.57 feet, 7) Along a curve to the right with a radius of 30.00 feet and an arc length of 29.92 feet, 8) South 33 degrees 50 minutes 40 seconds West 204.65 feet, 9) South 56 degrees 24 minutes 43 seconds East 161.49 feet, 10) South 33 degrees 290.27 feet, minutes 07 seconds West 11) North 46 North 26 minutes 26 seconds West 78.14 feet, 12) degrees 48 95.09 feet, 13) North 61 degrees 48 minutes 26 seconds West minutes 41 seconds West 61.70 feet, 14) North 23 degrees minutes 44 seconds West 10.01 feet, 15) Along a curve to the left with a radius of 489.38 feet and arc length of 153.54 feet, 16)

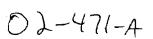
North 41 degrees 46 minutes 18 seconds West 116.33 feet, 17) North 40 degrees 42 minutes 01 seconds West 4.42 feet, 18) North 11 degrees 43 minutes 59 seconds East 24.56 feet, 19) North 19 degrees 49 minutes 45 seconds West 38.25 feet, 20) North 04 degrees 57 minutes 59 seconds West 39.51 feet, 21) North 09 degrees 07 minutes 25 seconds East 40.11 feet, 22) North 13 degrees 42 minutes 02 seconds East 26.84 feet, to the place of beginning.

Containing 181,301 square feet or 4.162 acres of land, more or less.

Also know as #3001 East Avenue and located in the 11th Election District.

00-117

April 29, 2002



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: #02-471-A

3001 Fast Avenue

F/S of Harford Road, 260' S of East Avenue, relocated 3001

11th Election District - 6th Councilmanic District

Legal Owner(s): Steven B. Fader Contract Purchaser: Heritage of Towson, Inc., t/a Heritage Honda

Variance: to 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 and to permit frontage on a highway without pedestrian or vehicular access, and to permit the continued use of three (3) existing ill wall-mounted enterprise signs (accessory to a new vehicle dealership) in lieu of the maximum 0 signs permitted.

Hearing: Monday, June 10, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bostey 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.

5/349 May 23

CERTIFICATE OF PUBLICATION

· · · · · · · · · · · · · · · · · · ·
5/23,2002
THIS IS TO CERTIFY, that the annexed advertisement was published
n the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
$\frac{523}{2002}$
☐ The Jeffersonian ☐ Arbutus Times ☐ Catonsville Times ☐ Towson Times ☐ Owings Mills Times ☐ NE Booster/Reporter ☐ North County News

LEGAL ADVERTISING

CERTIFICATE OF POSTING

CERTIFICATE OF POSTIN	G 🗬
•	RE: Case No.: 02-471-A
	Petitioner/Developer: HERIHAGE
	HONDA STEVEN B. FADER
	Date of Hearing/Closing: 6/10/02
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:	
were posted conspicuously on the proper	ty located at 300/ EAS+ AVE
The sign(s) were posted on	5/25/02 (Month, Day, Year)
	Sincerely,
	5/25/2
ONING NOTICE	(Signature of Sign Poster and Date)
	SSG ROBERT BLACK
Case # :	(Printed Name)
THE ZONING COMMISSIONER IN TOWSON , MD.	1508 Leslie Rd
	(Address)

Dundalk, Maryland 21222 (City, State, Zip Code)

(Telephone Number)

(410) 282-7940



					. '	
BALTIMORE COUNTY, MARYLANI	D No.	13310		ATA DECE	int-	
OFFICE OF BUDGET & FINANCE	No.	- Land - Jan Lan Jan - Land		HIU-NOOE!		·····; ····- ·
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DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

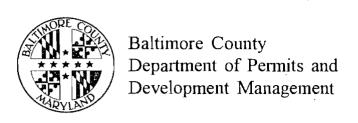
The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign 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 News	paper Advertising:
Item Numi	per or Case Number: 02-471-A
Petitioner:	AUTO PROPERTIES, LLC
Address o	r Location: #3001 EAST AVENUE
	FORWARD ADVERTISING BILL TO: DEVELOPMENT ENGINEERING CONSULTANTS, INC.
Address:	6603 YORK ROAD
- -	BALTIMORE, MD 21212
Telephone	Number:410/377-2600

Revised 2/20/98 - SCJ



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

Fax: 410-887-5708

May 16, 2002

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: 02-471-A

3001 East Avenue

E/S of Harford Road, 260' S of East Avenue, relocated 3001 East Avenue

11th Election District – 6th Councilmanic District

Legal Owner Steven B Fader

Contract Purchaser: Heritage of Towson, Inc. t/a Heritage Honda

<u>Variance</u> to 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 and to permit frontage on a highway without pedestrian or vehicular access, and to permit frontage on a highway without pedestrian or vehicular access and to permit the continued use of three (3) existing ill wall-mounted enterprise signs (accessory to a new vehicle dealership) in lieu of the maximum 0 signs permitted.

HEARING:

Monday, June 10, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon GDZ

Director

C: J. Allen Cohen, Esquire, The Cohen Law Firm, 23 E Centre Street, Baltimore 21202 Auto Properties LLC, Steven B Fader, 23 Walker Avenue, Pikesville 21208 Heritage of Towson Inc t/a Heritage Honda, Dennis L Turnbaugh, President, 3001 East Avenue, Baltimore 21234 Thomas Church, 6603 York Road, Baltimore 21212

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, MAY 25, 2002.
 - (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

Thursday, May 23, 2002 Issue – Jeffersonian

Please forward billing to:

Development Engineering Consultants Inc

Thomas Church 6603 York Road Baltimore MD 21212 410 377-2600

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: 02-471-A

3001 East Avenue

E/S of Harford Road, 260' S of East Avenue, relocated 3001 East Avenue

11th Election District – 6th Councilmanic District

Legal Owner Steven B Fader

Contract Purchaser: Heritage of Towson, Inc., t/a Heritage Honda

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

HEARING:

Monday, June 10, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley

Avenue

LAWRENCE E. SCHMIDT 6ラス 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.

APPEAL RGN POSTING REQUEST

CASE NO.: 02-471-A and 03-360-SPHA

AUTO PROFERTIES, LLC - LEGAL OWNERS

3001 East Avenue, Baltimore, MD 21234

11th ELECTION DISTRICT **APPEALED:** 7/3/2002 and 6/25/2003 ATTACHMENT - (Plan to eccompany Petition - Petitioner's Exhibit No. 1 / from (2-471-A) COMPLETE AND RETURN BELOW INFORMATION***** **CERTIFICATE OF POSTING** TO: Baltimore County Breard of Appeals 400 Washington Avenue, Room 49 Towson, Maryland 21204 A takestier: Kathlenn Bianco A denistrator 02-471-A / 03-360 SPAA RE: Petitioner/Developer: This is to certify that the necessary appeal sign was posted conspicuously on the property located at: 3001 East Ave By:



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

August 26, 2003

NOTICE OF ASSIGNMENT

CASE #: 02-471-A

IN THE MATTER OF: Auto Properties, LLC; Steve B. Fader - Legal Owner 3001 East Avenue

11th Election District; 6th Councilmanic District

6/26/02 - DZC's Order in which Petition for Variance was GRANTED with restrictions. (File received by Board of Appeals 6/26/2003)

ASSIGNED FOR:

WEDNESDAY, DECEMBER 3, 2003 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

c:

Appellant

: Office of People's Counsel

Counsel for Petitioner

: J. Allan Cohen, Esquire

Petitioner /Legal Owner

: Steven B. Fader /Auto Properties LLC

Petitioner /Contract Purchaser

: Heritage of Towson, Inc. t/a Heritage Honda

Jerry Fader Tom Church, P.E.

Meg O'Hare

Ruth Baisden

Pat Keller, Planning Director Lawrence E. Schmidt, Zoning Commissioner James Thompson, CIE /PDM Timothy M. Kotroco, Director /PDM



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

December 4, 2003

NOTICE OF DELIBERATION

IN THE MATTER OF:

AUTO PROPERTIES, LLC; STEVE B. FADER – Legal Owner

<u>Case No. 02-471-A</u>

Having concluded this matter on 12/03/03, public deliberation has been scheduled for the following date /time:

DATE AND TIME

TUESDAY, JANUARY 27, 2004 at 9:30 a.m.

LOCATION

Hearing Room 48, Basement, Old Courthouse

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco Administrator

c:

Appellant

: Office of People's Counsel

Counsel for Petitioner

: J. Allan Cohen, Esquire

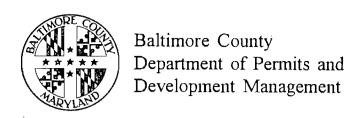
Petitioner /Legal Owner Petitioner /Contract Purchaser : Steven B. Fader /Auto Properties LLC : Heritage of Towson, Inc. t/a Heritage Honda

Jerry Fader Tom Church, P.E.

Meg O'Hare Ruth Baisden

Pat Keller, Planning Director Lawrence E. Schmidt, Zoning Commissioner James Thompson, CIE /PDM Timothy M. Kotroco, Director /PDM

Copy to: 2-3-5



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

June 7, 2002

J. Allen Cohen, Esquire The Cohen Law Firm 23 E Centre Street Baltimore MD 21202

Dear Mr. Cohen: .

RE: Case Number: 02-471-A, 3001 East Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 25 2002.

The Zoning Advisory Committee (ZAC), which consists of representatives from several 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 this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr. 602

W. Carl Richards, Jr.

W. Carl Richards, Jr. Gy Supervisor, Zoning Review

WCR: gdz

Enclosures

c: Auto Properties LLC, Steven B Fader, 23 Walker Avenue, Pikesville 21208\
Heritage of Towson Inc, Dennis L Turnbaugh, President, 3001 East Avenue
Baltimore 21234
Thomas Church, 6603 York Road, Baltimore 21212
People's Counsel

Come visit the County's Website at www.co.ba.md.us



Seri Le/10

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

MAY 2 0 ZWZ

DATE: May 17, 2002

SUBJECT:

3001 East Avenue

INFORMATION:

Item Number:

02-471

Petitioner:

Auto Properties, LLC

Zoning:

BM, & BM-AS

Requested Action:

Variance

The site is within the Parkville Commercial Revitalization district. The petitioner, trading as Heritage Honda, has requested a variance in order to erect a 30-foot high free-standing double-faced enterprise sign with an area of 100 square feet per face, for a total of 200 square feet. The sign would front on the 1-695 exit ramp to northbound Harford Road.

A separate variance is requested to allow the continued use of three existing wall mounted enterprise signs on the building occupied by the automobile dealership known as Heritage Honda. These wall-mounted signs are quite visible from both northbound and southbound Harford Road and provide very effective business identification.

SUMMARY OF RECOMMENDATIONS:

This office supports the petitioner's request for the continued use of the three wall mounted signs. However, this office does not support the request to permit the new freestanding sign. This office has determined that the requested sign area, and height are not warranted. The visual clutter that it would create would not be in keeping with the Master Plan 2010 policies for improving the appearance of the commercial corridors.

Prenared by:

Section Chief:

AFK/LL:MAC

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Arnold Jablon

FROM:

R. Bruce Seeley 285 \ TET

DATE:

June 6, 2002

Zoning Petitions

Zoning Advisory Committee Meeting of May 6, 2002

SUBJECT: NO COMMENTS FOR THE FOLLOWING ZONING ITEMS:

460,462,465-469,471



Maryland Department of Transportation State Highway Administration

Parris N. Glendening Governor John D. Porcari Secretary Parker F. Williams Administrator

Date: 5.2.01

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County

Item No. 471

JHP

Dear. Mr. Zahner:

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

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

1

L. J. Hall Kenneth A. McDonald Jr., Chief Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

Arnold Jablon, Director

DATE: May 29, 2002

Department of Permits & Development

Management

FROM:

Robert W. Bowling
Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

for May 6, 2002

Item No. 460, 461, 462, 463, 464, 465, 466, 467, 468, 469

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

RWB: CEN Cc: file



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

May 7,2002

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DistrIBUTION MEETING OF May 6, 2002

Item No.: See Below

Dear Mr. Zahner:

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

The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

460-462, 464-468, 470 & 471

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office PHONE 887-4881, MS-1102F

cc: File

RE: PETITION FOR VARIANCE 3001 East Avenue, E/S Harford Rd, 260' S of East Ave. Relocated 3001 East Ave. 11th Election District, 6th Councilmanic

Legal Owner: Auto Properties, LLC Contract Purchaser: Heritage of Towson, Inc. Petitioner(s) BEFORE THE

* ZONING COMMISSIONER

* FOR

* BALTIMORE COUNTY

Case No. 02-471-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. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

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 22nd day of May, 2002 a copy of the foregoing Entry of Appearance was mailed to J. Allan Cohen, Esq., Cohen Law Firm, 23 E. Centre Street, Baltimore, MD 21202, attorney for Petitioner(s).

PETER MAX ZIMMERMAN

Badimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

July 3, 2002

CAROLE S. DEMILIO
Deputy People's Counsel

PETER MAX ZIMMERMAN People's Counsel

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

Hand-delivered

Re: PETITION FOR VARIANCE

E/S of Harford Road, 260' S of

East Avenue, relocated 3001 East Avenue 11th Election Dist., 6th Councilmanic

Legal Owners: Auto Properties, LLC

Lessee: Heritage of Towson, Inc., t/a Heritage Honda

Case No.: 02-471-A

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated June 26, 2002 of the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

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

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Carolo S. De Miles

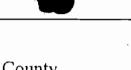
Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/pah

- 3 2002

c: J. Allan Cohen, Esquire, Cohen Law Firm, 23 E. Centre Street, Baltimore, MD 21202, Attorney for Petitioners







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 9, 2002

J. Allan Cohen, Esquire THE COHEN LAW FIRM 23 East Centre Street Baltimore, MD 21202

Dear Mr. Cohen:

RE: Case No.02-471-A, 3001 East Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on July 3, 2002 by Peter Max Zimmerman . All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Arnold Jablon

Director

AJ:ric

c: Hertiage of Towson, Dennis L. Tumbaugh, President, 3001 East Avenue, Baltimore, MD 21234 Auto Properties, L.L.C. Steven B. Fader, 23 Walker Avenue, Pikesville, MD 21208 Thomas Church, 6603 York Road, Baltimore, MD 21212 People's Counsel

APPEAL

Petition for Variance
3001 East Avenue
E/S of Harford Road, 260' S of East Avenue,
11th Election District – 6thCouncilmanic District
Steve B. Fader, Auto Properties, LLC – Legal Owner
Case No.: 02-471-A

Petition for Variance (4/25/02)

Zoning Description of Property

Notice of Zoning Hearing (06/10/02)

Certification of Publication (05/23/02)

Certificate of Posting (5/29502 posted SSG Robert Black)

Entry of Appearance by People's Counsel (5/22/02)

Petitioner(s) Sign-In Sheet (1 Page)

Protestant(s) Sign-In Sheet (None)

Citizen(s) Sign-In Sheet (1 Page)

Zoning Advisory Committee Comments

Petitioners' Exhibits:

- 1. Plat to Accompany Petition for Variance
- 2. Scale Honda Exhibit1:48 File Name: HO 10X10 30' OAH, Plastii-Line, Inc.
- 3. Petition Exhibit 3-A Copy of Photographs
- 4. Petition Exhibit 3-B Copy of Photographs
- 5. Petition Exhibit 3-c Copy of Photographs

Protestants' Exhibits:

1. Protestant's Exhibit #1 Resolution, Greater Parkville Community Council

Deputy Zoning Commissioner/Order dated 6/26/02 – GRANTED with Restrictions)

Notice of Appeal received on 7/3/02 from, Peter Max Zimmerman, People's Counsel Baltimore County

 J. Allan Cohen, Esquire, THE COHEN LAW FIRM, 23 East Centre Street Baltimore, MD 21202
 Auto Properties, L.L.C. Steven B. Fader, 23 Walker Avenue, Pikesville, MD 21208
 Thomas Church, 6603 York Road, Baltimore, MD 21212
 People's Counsel of Baltimore County, MS #2010
 Timothy M. Kotroco, Deputy Zoning Commissioner
 Arnold Jablon, Director of PDM

date sent: 7/11/02 rjc

APPEAL

Petition for Variance
3001 East Avenue
E/S of Harford Road, 260' S of East Avenue,
11th Election District – 6thCouncilmanic District
Steve B. Fader, Auto Properties, LLC – Legal Owner
Case No.: 02-471-A

Petition for Variance (4/25/02) Zoning Description of Property Notice of Zoning Hearing (06/10/02) Certification of Publication (05/23/02) Certificate of Posting (5/29502 posted SSG Robert Black) Entry of Appearance by People's Counsel (5/22/02) Petitioner(s) Sign-In Sheet (1 Page) Protestant(s) Sign-In Sheet (None) Citizen(s) Sign-In Sheet (1 Page) **BALTIMORE COUNTY BOARD OF APPEALS** Zoning Advisory Committee Comments Petitioners' Exhibits: Plat to Accompany Petition for Variance 2. Scale Honda Exhibit1:48 File Name: HO 10X10 30' OAH, Plastii-Line, Inc. 3. Petition Exhibit 3-A Copy of Photographs Petition Exhibit 3-B Copy of Photographs Petition Exhibit 3-c Copy of Photographs

Protestants' Exhibits:

Deputy Zoning Commissioner/Order dated 6/26/02 – GRANTED with Restrictions)

Protestant's Exhibit #1 Resolution, Greater Parkville Community Council

Notice of Appeal received on 7/3/02 from, Peter Max Zimmerman, People's Counsel Baltimore County

J. Allan Cohen, Esquire, THE COHEN LAW FIRM, 23 East Centre Street Baltimore, MD 21202

Auto Properties, L.L.C. Steven B. Fader, 23 Walker Avenue, Pikesville, MD 21208

Thomas Church, 6603 York Road, Baltimore, MD 21212 People's Counsel of Baltimore County, MS #2010 Timothy M. Kotroco, Deputy Zoning Commissioner

Arnold Jablon, Director of PDM

J. Allan Cohen, Esquire
The Cohen Law Firm
23 E. Centre Street
Baltimore, Maryland 21202

C:

Jerry Fader 8000 Sunstone Circle Baltimore, MD 21208 Tom Church, P.E. 6603 York Road Baltimore, MD 21212

Ruth Baisden 7706 Oak Ave Baltimore, MD 21234 Meg O'Hare 3012 Summit Ave Baltimore, MD 21234 HERITAGE OF/TOWSON DENNIS L TUMBAUGH, PRI 3001 EAST AVENUE ALTIMORE MD 21234

STEVEN B FADER, MANAGING MEMBER AUTO PROPERTIES LLC 23 WALKER AVENUE BALTIMORE MD 21208

Baltimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

PETER MAX ZIMMERMAN People's Counsel

June 26, 2003

CAROLE S. DEMILIO
Deputy People's Counsel

Lawrence Stahl, Chairman Board of Appeals for Baltimore County 400 Washington Avenue, Room 49 Towson, MD 21204 Timothy Kotroco, Director Department of Permits & Development 111 W Chesapeake Avenue Towson, MD 21204

Re:

Auto Properties, LLC; Steve B. Fader - Legal Owner

Case No.: 02-471-A

Dear Mr. Stahl/Mr. Kotroco:

Gentlemen, our office filed an appeal in this case on July 9, 2002. In reviewing our docket, we noticed that this case has not been processed and scheduled for hearing.

Enclosed is the notice we received from the Director of Permits and Development Management (PDM) dated July 9, stating that all materials relative to the case were forwarded to the Board. We assumed, therefore, that the case would be scheduled in due course.

In any event, please process and schedule this case for hearing as soon as possible.

Very truly yours,

ILIN 2-6 CODS

BALTIMORE COUNTY BOARD OF APPEALS Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Demilio

Deputy People's Counsel for Baltimore County

PMZ/CSD/rmw Enclosure

cc: J. Allan Cohen, Esquire

Case No. 02-471-A

VAR – To permit a double faced illuminated freestanding enterprise sign with a height of 30' ilo maximum height of 25'; and to permit area face of 100 sf ilo maximum area face of 50 sf; and to permit frontage on a highway without pedestrian or vehicular access. Also, to continue to use 3 existing illuminated wall-mounted enterprise signs ilo maximum permitted 0.

6/26/2002 – D.Z.C.'s decision in which Variance requests were GRANTED with restrictions.

NOTE: While the appeal in this matter was filed on July 3, 2002, the file was received by this office on June 26, 2003, after an inquiry as to the status of the case was made by People's Counsel in June of 2003.

8/26/03 - Notice of Assignment sent to following; hearing assigned for Wednesday, December 3, 2003 at 10 a.m.:

Office of People's Counsel
J. Allan Cohen, Esquire
Steven B. Fader /Auto Properties LLC
Heritage of Towson, Inc. t/a Heritage Honda
Tom Church, P.E.
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James Thompson, CIE /PDM
Timothy M. Kotroco, Director /PDM

12/03/03 – Board convened for hearing (Stahl, Worrall, Marks); concluded this date; closing arguments presented; to be deliberated on 1/27/04; notice to be sent.

12/04/03 – Notice of Deliberation sent to parties; assigned for Tuesday, January 27, 2004 at 9:30 a.m. FYI copy to 2-3-5.

1/27/04 - Board convened for deliberation (Stahl, Worrall, Marks); unanimous decision that variance request is denied. Written Opinion/Order to be issued; appellate period to run from date of written Order. (5)

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF:

AUTO PROPERTIES LLC

Legal Owners

3001 East Avenue

Pikesville, MD 21208

FOR JUDICIAL REVIEW OF THE OPINION OF *

THE COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

OLD COURTHOUSE, ROOM 49

400 WASHINGTON AVENUE

TOWSON, MARYLAND 21204

IN THE MATTER OF

AUTO PROPERTIES LLC

Legal Owners

3001 East Avenue

Pikesville, MD 21208

11TH ELECTION DISTRICT

 6^{TH} COUNCILMANIC DISTRICT

CASE NO.: 02-471-A

CIVIL ACTION No. <u>3-C-04-3662</u>

RECEIVED AND FILED 2004 APR 14 A 11: 14

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

John H. Zink III, Esquire Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204

Robert A. Hoffman, Esquire Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204 Auto Properties LLC / CB o.: 02-471-A Civil Action No.: C-04-3662

Steven B. Fader, Managing Member
Auto Properties, LLC, 23 Walker Avenue, Baltimore, MD 21208

Dennis L. Turnbaugh, President Heritage of Towson, 3001 East Avenue, Baltimore, MD 21234

Tom Church, P.E. 6603 York Road, Baltimore, MD 21212

Ruth Baisden 7706 Oak Road, Baltimore, MD 21234

Meg O'Hare 3012 Summit Avenue, Baltimore, MD 21234

Jerry Fader 8000 Sunstone Circle, Baltimore, MD 21208

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

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

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

Theresa R. Shelton, Legal Secretary County Board of Appeals, Room 49 Old Courthouse, 400 Washington Avenue Towson, MD 21204 (410-887-3180)

Thurw R. Shelten

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to John H. Zink III, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204; Robert A. Hoffman, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204; Steven B. Fader, Managing Member, Auto Properties, LLC, 23 Walker Avenue, Baltimore, MD 21208; Dennis L. Turnbaugh, President, Heritage of Towson, 3001 East Avenue, Baltimore, MD 21234; Tom Church, P.E., 6603 York Road, Baltimore, MD 21212;

Auto Properties LLC / CB p.: 02-471-A

Civil Action No.: C-04-3662

Ruth Baisden, 7706 Oak Road, Baltimore, MD 21234; Meg O'Hare, 3012 Summit Avenue, Baltimore, MD 21234; Jerry Fader, 8000 Sunstone Circle, Baltimore, MD 21208; Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204; Carole S. Demilio, Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, this 14th day of April, 2004.

Thousa R. Chelton

Theresa R. Shelton, Legal Secretary County Board of Appeals, Room 49 Old Courthouse, 400 Washington Avenue Towson, MD 21204 (410-887-3180)



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

April 14, 2004

John H. Zink III, Esquire Robert A. Hoffman, Esquire Venable, LLP 210 Allegheny Avenue Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-04-3662

Petition for Judicial Review

Auto Properties LLC 3001 East Avenue Case No.: 02-471-A

Dear Messrs. Zink and Hoffman:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

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

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with the Maryland Rules.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton Legal Secretary

Shelton

/trs

Enclosure

c: Steven B. Fader

Peter Max Zimmerman / People's Counsel for Baltimore County



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

April 14, 2004

Peter Max Zimmerman Carole S. Demilio People's Counsel for Baltimore County Old Courthouse, Room 47 400 Washington Avenue Towson, Maryland 21204

> RE: Circuit Court Civil Action No. 3-C-04-3662

> > Petition for Judicial Review

Auto Properties LLC 3001 East Avenue Case No.: 02-471-A

Dear Mr. Zimmerman and Ms. Demilio:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on April 2, 2004, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-04-3662.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton

R. Sheltow

Legal Secretary

/trs Enclosure Peter Max Zimmerman Carole S. Demilio People's Counsel for Baltimore County April 14, 2004 Page Two

c:

John H. Zink III, Esquire
Robert A. Hoffman, Esquire
Steven B. Fader, Managing Member
Auto Properties
Dennis L. Turnbaugh, President
Heritage of Towson
Tom Church, P.E.
Ruth Baisden
Meg O'Hare
Jerry Fader
Pat Keller, Director/Planning
James Thompson, CIE / PDM
Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director/PDM

,					
IN THE CIRCUIT COURT	*				
FOR BALTIMORE COUNTY					
	*				
PETITION OF:					
AUTO PROPERTIES LLC	*				
Legal Owners					
3001 East Avenue	*				
Pikesville, MD 21208					
				•	
FOR JUDICIAL REVIEW OF THE OPINION OF	*	CIVIL ACTION			
THE COUNTY BOARD OF APPEALS		No. <u>3-C-04-3662</u>			
OF BALTIMORE COUNTY	*				
OLD COURTHOUSE, ROOM 49	ale.				
400 WASHINGTON AVENUE	*				
TOWSON, MARYLAND 21204					
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IN THE MATTER OF AUTO PROPERTIES LLC	*		- 11	5	çeuri Y
Legal Owners	•		FILED	ڼه	
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PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

Auto Properties LLC / CB o.: 02-471-A

Civil Action No.: C-04-3662

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

No. 02-471-A

April 25, 2002

Petition for Variance filed by Auto Properties, L.L.C., Legal Owner; Heritage of Towson, Inc., t/a Heritage Honda, Contract Purchaser, through The Cohen Law Firm, Attorney for Petitioner, to permit a double faced illuminated freestanding enterprise sign with a height of 30 feet ilo the req'd 25 feet and to permit an area/face of 100 sq. ft. ilo the req'd 50 sq. ft. and to permit frontage on a highway without pedestrian or vehicular access and to permit the continued use of three (3) existing illuminated wall-mounted enterprise signs, ilo zero signs permitted.

May 22

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

May 23

Publication in newspaper

May 29

Certificate of Posting.

June 7

ZAC Comments.

June 10

Hearing held before the Deputy Zoning Commissioner

June 26

Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commissioner. Petition for Variance is Granted with restrictions.

July 3

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

December 3, 2003

Hearing held before the Board of Appeals.

Petitioner's Exhibits

1	Plat of subject proprty – April 19, 2002; revised April 22, 2002
---	--

2 Graphic with types of Honda signs available

3 Scale drawing of sign erected

4A - K Photographs with descriptions

5 Video tape of location

Protestant's Exhibit

1 ADT Map

2A Maryland Department of Assessment and Taxation Real Property Data Search – District 11 – Account Number 230004453 Auto Properties LLC / CB. 10.: 02-471-A

Civil Action No.: C-04-3662

	2B ·	Maryland Department of Assessment and Taxation Real Property Data	1
		Search – District 09 – Account Number 0923157080	
	3	Advertisement in Yellow Book	1
	4	1000 Scale Zoning Map	ı
	5	Inter-Office Correspondence dated May 17, 2002 from Arnold F. 'Pat	1
		Keller III, Director, Office of Planning to Arnold Jablon, Diretor,	
		Department of Permits and Development Management	
6 <i>A</i>	A - C	Rule 8 papers - Greater Parkville Community Council	
7P	$\lambda - L$	Photographs with descriptions	
	8	2000 Comprehensive Zoning Map - October 10, 2000 (200 scale)	

January 27, 2004 Public Deliberation concluded by the Board.

March 8 Opinion and Order issued by the Board of Appeals; Petition for Variance

is DENIED.

April 2 Petition for Judicial Review filed in the Circuit Court for Baltimore

County by John H. Zink III, on behalf of Auto Properties, LLC, Petitioner.

April 9 Copy of Petition for Judicial Review received from the Circuit Court for

Baltimore County by the Board of Appeals.

April 14 Certificate of Notice sent to interested parties.

April 29 Transcript of testimony filed.

May 4 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Theresa R. Shelton, Legal Secretary

County Board of Appeals, Room 49 Basement Old Courthouse, 400 Washington Avenue Towson, Maryland 21204 (410-887-3180)

c: John H. Zink III, EsquireRobert A. Hoffman, EsquirePeople's Counsel for Baltimore County

PETITION OF: AUTO PROPERTIES

CIVIL ACTION NO.: 3-C-04-3662

MATTER OF: AUTO PROPERTIES

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

C. Christensen

CLERK'S OFFICE

DATE: MAY 4, 2004

ů,

CIRCUIT COURT FOR BALTIMORE COUNTY Suzanne Mensh Clerk of the Circuit Court County Courts Building

401 Bosley Avenue P.O. Box 6754

Towson, MD 21285-6754

(410)-887-2601, TTY for Deaf: (800)-735-2258 Maryland Toll Free Number (800) 938-5802

08/25/04

Case Number: 03-C-04-003662 AE

Date Filed: 04/02/2004 Status: Closed/Active

Judge Assigned: To Be Assigned,

Location :

In The Matter Of: Auto Properties L L C

CASE HISTORY

OTHER REFERENCE NUMBERS

Description Number

Case Folder ID C04003662V01

Administrative Agency CBA-02-471-A

RECEIVED
AUG 2 6 2004

BALTIMORE COUNTY BOARD OF APPEALS

INVOLVED PARTIES

Type Num Name(Last.First.Mid.Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET 001 Auto Properties L L C	Party ID: 0663018	CT DO 08/17/04	04/05/04
Mail: 23 Walker Avenue Baltimore. MD 21208	04/05/04	04/05/04 CS	04/05/04 CS
Attorney: 0016339 Zink. John H Venable. Baetjer & Howard. LLP PO Box 5517 210 Allegheny Avenue Towson. MD 21285-5517 (410)494-6200	Appear: 04/02/2004		04/05/04
RES 001 County Board Of Appeals Of Baltimore Cou	unty The	CT DO 08/17/04	04/05/04

Party ID: 0663019

03-C-04-003662 Date: 08/25/04 Time: 07:18 2 Page:

Mail: Old Courthouse Room 49

04/05/04

04/05/04 CS

04/05/04 CS

400 Washington Avenue

Baltimore. MD 21204

Attorney: 0029075 Zimmerman, Peter M

Appear: 04/09/2004

04/09/04

People's Counsel For Baltimore County

Room 47 Courthouse 400 Washington Ave Towson, MD 21204 (410)887-2188

0804268 Demilio, Carole S

Deputy Peoples Counsel Old Courthouse Room 47 400 Washington Ave Towson, MD 21204 (410)887-2188

Appear: 04/09/2004

04/09/04

CALENDAR EVENTS

Date Time Dur Event Description Text SA Jdg Day Of Notice User ID

ResultDt By Result Judge Rec Result

<u>.....</u> 08/11/04 09:30A 02Q Civil Non-Jury Trial Y CMK 01 /01 KLS DM Conclude 08/11/04 E C.Kahl Y

Stenographer(s): Anthony M. Greaver

DISPOSITION HISTORY

Disp Disp Stage

Date Code Description Code Description

08/17/04 DO Decree or Order CT AFTER TRIAL/HEARING

JUDGE HISTORY

Type Assign Date Removal RSN JUDGE ASSIGNED

J 04/05/04 TBA To Be Assigned.

DOCUMENT TRACKING

Num/Seq Description	Filed	Entered	Par t y	Jdg Ruling	Closed	User	· ID
0001000 Petition for Judicial Review	04/02/04	04/05/04	PET001	ТВА	08/17/04	CS	PH
0001001 Answer	04/07/04	04/09/04	RES001	TBA	08/17/04	РН	PH

03-C-04-003662 Date: 08/25/04 Time: 07:18 Page: 3

Num/Seq Description	Filed	Entered	Party	Jdg Ruling	Closed	User	- ID
0002000 Certificate of Notice	04/14/04	04/15/04	000	ТВА	08/17/04	PKE	PH
0003000 *Transcript of Record from Adm Agency	05/04/04	05/05/04	RES001	ТВА	08/17/04	CS	РН
0004000 Notice of Transcript of Record Sent	05/05/04	05/05/04	PET001	TBA	05/05/04	CS	CS
0005000 Notice of Transcript of Record Sent	05/05/04	05/05/04	RES001	ТВА	05/05/04	CS	CS
0006000 Scheduling Order	05/10/04	05/10/04	000	TBA	05/10/04	KLS	KLS
0007000 Memorandum with exhibits	06/03/04	06/09/04	PET001	ТВА	06/09/04	PKE	PKE
0007001 Memorandum in response	07/01/04	07/07/04	PET001	ТВА	08/17/04	PH	PH
0008000 Open Court Proceeding August 11. 2004. Hon. Christian M. Kahl. Administrative Appeal. Ruling held sub cu	Hearing h			CMK .	08/17/04	DM	РН
0009000 Order affirming decision	08/17/04	08/17/04	000	CMK Granted	08/16/04	РН	PH
0010000 DOCKET ENTRIES TRANSFERRED TO BOARD OF APPEALS	08/24/04	08/24/04	000	ТВА		JD	JD

TICKLE

Code Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS 1st Answer Tickle	CLOSED	04/07/04	0	rio	no	DANS	D	001	001
1YRT One Year Tickle (Jud	CLOSED	04/02/05	365	no	no	DAAA	D	001	000
EXPU Exhibit Pickup Notic	CLOSED	10/16/04	30	no	no			000	000
SLTR Set List For Trial	Done	04/07/04	0	yes	yes	1ANS	T	001	001

EXHIBITS

Line # Marked	Cod	de Description	spH	Sloc	NoticeDt	Disp	Dt	Dis	Ву
Offered By:	RES 001	County Board	Of Appeals (of Ba					
000	В	BOX 407/CBA	TRANSC	В					

03-C-04-003662 Date: 08/25/04 Time: 07:18 Page: 4

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes

Assign Date: 05/10/04 Order Date: 05/10/04

Start Date : 05/10/04 Remove Date:

Milestone Scheduled Target Actual Status

Motions to Dismiss under MD. Rule 2-322(05/25/04 08/17/04 CLOSED

All Motions (excluding Motions in Limine 07/02/04 08/17/04 CLOSED

TRIAL DATE is 08/11/04 08/08/04 08/11/04 REACHED

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258

Maryland Toll Free Number (800) 938-5802

02/05/08

Case Number: 03-C-04-003662 AE

Date Filed: 04/02/2004 Status: Closed/Active

Judge Assigned: To Be Assigned,

Location :

CTS Start :

Target :

In The Matter Of: Auto Properties L L C

CASE HISTORY

OTHER REFERENCE NUMBERS

Description Number

Case Folder ID C04003662V01

Administrative Agency CBA-02-471-A

INVOLVED PARTIES

Type Num Name(Last, First, Mid, Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET 001 Auto Properties L L C	Party ID: 0663018	CT DO 01/17/07	04/05/04
Mail: 23 Walker Avenue Baltimore, MD 21208	04/05/04	04/05/04 CS	04/05/04 CS
Attorney: 0016339 Zink, John H . Venable LLP	Appear: 04/02/2004		04/05/04
P O Box 5517 210 Allegheny Avenue Towson, MD 21285-5517			•

RES 001 County Board Of Appeals Of Baltimore County The

(410)494-6254

CT DO 01/17/07

.04/05/04

Party ID: 0663019

03-C-04-003662 02/05/08 Date: Time: 10:39 Page:

Mail: Old Courthouse Room 49

04/05/04

04/05/04 CS

04/05/04 CS

400 Washington Avenue

Baltimore, MD 21204

Appear: 04/09/2004

04/09/04

People's Counsel For Baltimore County

Room 47 Courthouse 400 Washington Ave Towson, MD 21204 (410)887-2188

Attorney: 0029075 Zimmerman, Peter M

0804268 Demilio, Carole S

Appear: 04/09/2004

04/09/04

Deputy Peoples Counsel Old Courthouse Room 47 400 Washington Ave Towson, MD 21204 (410)887-2188

CALENDAR EVENTS

Text SA Jdg Day Of Notice User ID Time Fac Event Description

ResultDt By Result Judge Rec

08/11/04 09:30A CR05 Civil Non-Jury Trial

CMK 01 /01

KLS

Held/Concluded 08/11/04 E C.Kahl

Y

Stenographer(s): Anthony M. Greaver

DISPOSITION HISTORY

Disp	Disp			Stage			Activity
Date	Code	Description		Code	Description	User	Date
08/17/04	DO .	Decree or Order	•	CT	AFTER TRIAL/HEARING	PH	08/17/04
01/17/07	DO	Decree or Order		CT	AFTER TRIAL/HEARING	PH	01/17/07

JUDGE HISTORY

JUDGE ASSIGNED Type Assign Date Removal RSN TBA To Be Assigned, 04/05/04

DOCUMENT TRACKING

Num/Seq Description Filed Entered Party Jdg Ruling Closed User ID 0001000 Petition for Judicial Review 04/02/04 04/05/04 PET001 TBA 08/17/04 CS PH 0001001 Answer 04/07/04 04/09/04 RES001 TBA 08/17/04 PH PH 0002000 Certificate of Notice 04/14/04 04/15/04 000 - TBA 08/17/04 PKE PH 0003000 *Transcript of Record from Adm Agency 05/04/04 05/05/04 RES001 TBA 08/17/04 C5 PH 0004000 Notice of Transcript of Record Sent 05/05/04 05/05/04 PET001 TBA 05/05/04 CS CS 0005000 Notice of Transcript of Record Sent 05/05/04 05/05/04 RES001 TBA 05/05/04 CS CS 0006000 Scheduling Order 05/10/04 05/10/04 000 05/10/04 KLS KLS 0007000 Memorandum with exhibits 06/03/04 06/09/04 PET001 TBA 06/09/04 PKE PKE 0007001 Memorandum in response 07/01/04 07/07/04 PET001 TBA 08/17/04 PH PH 08/11/04 08/11/04 000 08/17/04 DM PH 0008000 Open Court Proceeding CMK August 11, 2004. Hon. Christian M. Kahl. Hearing had in re: Administrative Appeal. Ruling held sub curia. 0009000 Order affirming decision -08/17/04 08/17/04 000 CMK Granted 08/16/04 PH PH 0010000 DOCKET ENTRIES TRANSFERRED TO BOARD OF 08/24/04 08/24/04 000 01/17/07 JD PH TRA APPEALS 0011000 *Notice of Appeal to COSA or COA 09/14/04 09/14/04 PET001 TBA 01/17/07 MRS PH (12/335)0012000 Pre Trial Hearing Letter Issued 09/15/04 09/15/04 000 09/15/04 ED ED 0013000 Order to proceed w/out prehearing conf. 11/08/04 11/08/04 000 01/17/07 ED 'PH TBA 0014000 Original Record sent to COSA 01/04/05 01/04/05 000 TBA 01/17/07 ED PH sent by certified mail, 1 volume, 1 transcript, brown envelope containing exhibits, #7099 3220 0003 8140 9818 0015000 Mandate Received from Court of Special 01/12/07 01/12/07 000 01/17/07 PH PH Appeals affirming in part and reversing in part; that portion of the judgment relating to the requested variances for wall signs and the frontage requiremnt is vacated; case remanded to that court with instruction to remand to the B O A for dismissal as specified

01/17/07 01/17/07 000

JGT Granted

03-C-04-003662

0016000 Order remanding case

Date:

02/05/08

Time: 10:39

Page:

01/17/07 PH

3

03-C-04-003662

Date: 02/05/08

Time: 10:39

TICKLE

Cc	ode	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Туре	Num	Seq
1 A	NS	1st Answer Tickle	CLOSED	04/07/04	0	no	no	DANS	D	001	001
1 Y	'RT	One Year Tickle (Jud	CLOSED	04/02/05	365.	no	no	DAAA	D	001	000
EX	PU	Exhibit Pickup Notic	CLOSED	10/16/04	30	no	no			000	000
EX	PU	Exhibit Pickup Notic	CLOSED	03/18/07	3.0	no	no			000	000
SI	TR	Set List For Trial	Done	04/07/04	0	yes	yes	1ANS	T	001	001

EXHIBITS

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

Offered By: RES 001 County Board Of Appeals Of Ba

000 B REMANDED TO BOA

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK

Assign Date: 05/10/04 Order Date : 05/10/04

Start Date : 05/10/04 Remove Date:

Scheduled Target Actual Status Milestone Motions to Dismiss under MD. Rule 2-322(05/25/04 08/17/04 CLOSED

All Motions (excluding Motions in Limine 07/02/04 08/17/04 CLOSED 08/11/04 08/08/04 08/11/04 REACHED TRIAL DATE is

ACCOUNTING SUMMARY

NON-INVOICED OBLIGATIONS AND PAYMENTS

Page:

• 03-C-04-003662 Date: 02/05/08 Time: 10:39 Page: 5

Date	Rcpt/Initials	Acct	Desc	Debit	Credit	Method Balance
			`			
	,					
08/26/04	200400016915/EH	1102	CF-Civil Fil	00	80.00	CK -80.00
08/26/04	200400016915/EH	1500	Appearance F	.00	10.00	CK -90.00
08/26/04	200400016915/EH	1265	MLSC	.00	10.00	CK -100.00
08/26/04	200400016915/EH	1500	Appearance F	. 00	10.00	CK -110.00
09/14/04	200400018014/JJ	1101	CF-Civil Fil	.00	60.00	CK -170.00
09/14/04	200400018014/JJ	1999	CTSPAPP	.00	50.00	CK -220.00

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

(410)-887-2601, TTY for Deaf: (800)-735-2258 Maryland Toll Free Number (800) 938-5802

04/24/09

Case Number: 03-C-07-004972 AA OTH Date Filed: 05/02/2007

Status: Closed/Active

Judge Assigned: To Be Assigned,

Location :

CTS Start : 05/02/07 Target : 10/28/08

In the Matter of Auto Properties L L C

CASE HISTORY

OTHER REFERENCE NUMBERS

Description Number 03-360SPHA Administrative Agency Administrative Agency 06-109SPH Case Folder ID C07004972V01



INVOLVED PARTIES

Type Num Name(Last, First, Mid, Title)	Addr Str/End	Pty Disp. Addr Update	Entered
PET 001 Auto Properties L L C	Party ID: 1134935	BT DO 04/24/09	05/07/07
Mail: 23 Walker Ave Baltimore, MD 21208	05/07/07		05/07/07 RA
Attorney: 0024987 Jablon, Arnold Venable LLP 210 Allegheny Ave Towson, MD 21204 (410)494-6298	Appear: 05/07/2007		05/07/07
ADA 001 Baltimore County Board Of Appeals The	Party ID: 1134945	BT D0 04/24/09	05/07/07

03-C-07-004972

Date: 04/24/09

Time: 14:30

Mail: 400 Washington Avenue

05/07/07

05/07/07 RA

Page:

Old Court House Towson, MD 21204

Attorney: 0029075 Zimmerman, Peter M

Appear: 06/04/2007

06/09/07

People's Counsel For Baltimore County 105 West Chesapeake Ave.

Room 204

Towson, MD 21204 (410)887-2188

0804268 Demilio, Carole S Deputy Peoples Counsel

Appear: 06/04/2007

06/09/07

Old Courthouse Room 47 400 Washington Avenue Towson, MD 21204 (410)887-2188

CALENDAR EVENTS

Time Fac Event Description

Text SA Jdg Day Of Notice User ID

Result

Date

ResultDt By Result Judge Rec

01/10/08 09:30A CR08 Civil Non-Jury Trial

MJN 01 /01 JMO

Held/Concluded

01/10/08 G M.Norman N

DISPOSITION HISTORY

Disp	Disp		Stage			Activity
Date	Code	Description	Code	Description	User	Date
÷						
02/08/09	00	Decree or Order	CT	AFTER TRIAL/HEARING	· LLM	04/24/09
04/24/09	DO	Decree or Order	BT	BEFORE TRIAL/HEARING	KGR	04/24/09

JUDGE HISTORY

Type Assign Date Removal RSN JUDGE ASSIGNED

TBA To Be Assigned,

J 05/07/07

DOCUMENT TRACKING

T	$\alpha \circ$		_

03-C-07-004972 Date: 04/24	1/09	Time:	14:30	Pag
Num/Seq Description	Filed	Entered Part	ty Jdg Ruling	Closed User ID
0001000 Petition for Judicial Review	05/02/07	05/07/07 PETO	001 TBA	02/08/09 RA LLM
0001001 Answer	06/04/07	06/09/07 ADA	001 TBA	02/08/09 TRY LLM
0002000 Certificate of notice	05/14/07	05/22/07 000	TBA .	02/08/09 SAP LLM
0003000 Transcript of Record from Adm Agency *	06/18/07	06/28/07 ADA	001 TBA	02/08/09 PKE LLM
0004000 Notice of Transcript of Record Sent	06/28/07	06/28/07 ADA	001 TBA	06/28/07 PKE
0005000 Notice of Transcript of Record Sent	06/28/07	06/28/07 PETO	001 TBA	06/28/07 PKE
.0006000 Memorandum of law with exhibit	07/12/07	07/21/07 PETO	001 TBA	07/21/07 EMH
0007000 Peoples Counsel for Baltimore County's Memorandum	08/10/07	08/18/07 ADAG	001 TBA	08/18/07 PKE
0008000 Scheduling Order	10/15/07	10/15/07 000	ТВА	10/15/07 JMO
0009000 Order of Court that the Use Permit granted for off street parking is no low valid.		02/09/08 000	MJN Granted	02/08/08 CKC
0010000 Notice of Cont. Dismissal Lack of Pros. entered in error case is now closed p decision	•		TBA:	04/23/09 KGR KGR

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Туре	Num	Seq
1ANS	1st Answer Tickle	CLOSED	06/04/07	0	no	no	DANS	D	001	001
1YRT	One Year Tickle (Jud	CLOSED	05/01/08	365	no	no	DAAA	D	001	000
35AS	35 Day Tickle After	CANCEL	06/11/07	35	no	no .	DANS	D .	000	000
ctos	Create Tickle On Ser	CANCEL	05/07/07	0	no .	no	SERV		000	000
EXPU	Exhibit Pickup Notic	CLOSED	06/23/09	30	no	no .			000	000
EXPU	Exhibit Pickup Notic	CLOSED	06/23/09	30	no	no .			000	000
NCDT	Notice Of Contemplat	CANCEL	09/04/07	120	no	no	CTOS	T	000	000
SLTR	Set List For Trial	CANCEL	06/04/07	. 0	yes	no	1ANS	T	001	001

03-C-07-004972

Date: 04/24/09 Time: 14:30

Page:

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

Offered By: ADA 001 Baltimore County Board Of App

B BOX 547/CBA TRANSC B

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1

Description: EXPEDITED APPEAL TRACK

Custom: Yes

Assign Date: 10/15/07 Order Date: 10/15/07

Start Date : 10/15/07 Remove Date:

Milestone

Scheduled Target Actual Status

Motions to Dismiss under MD. Rule 2-322(

10/30/07 02/08/09 CLOSED

All Motions (excluding Motions in Limine 12/01/07 02/08/09 CLOSED

TRIAL DATE is

01/10/08 01/13/08 01/10/08 REACHED

03-C-07-004972 Date: 04/24/09 Time: 14:30 Page: 5

ACCOUNTING SUMMARY

NON-INVOICED OBLIGATIONS AND PAYMENTS

Date Rcpt/Initials Acct Desc Debit Credit Method Balance 05/03/07 200700011042/TW 1102 CF-Civil Fil . 00 80,00 CK -80.00 05/03/07 200700011042/TW 1500 Appearance F . 00 10,00 CK -90.00 200700011042/TW 1265 MLSC .00 05/03/07 25,00 CK--115,00 · **05/0**7/07. 1102 CF-Civil Fil 80.00 . 00 -35.00 05/07/07 1500 Appearance F -25.00 10.00 . 00 05/07/07 1265 MLSC -25,00 , 00 . 00



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

June 26, 2003

HAND DELIVERED

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

RE: Auto Properties, LLC; Steve B. Fader - Legal Owner

Case No.: 02-471-A

Dear Mr. Zimmerman:

I am in receipt of your letter dated today in reference to the above referenced appeal. It is my understanding that you have previously discussed this matter with our Office Administrator on June 25, 2003 and were at that time informed that the Board had no record of ever receiving this appeal. She advised you that she would check into the matter to resolve the issue.

This office has discussed the matter with Permits and Development Management (PDM) and has determined that the original documents, necessary to file the appeal, are still located in the PDM file. There are only two scenarios for the originals to still be in the PDM file. First, upon completion of an appeal the originals are returned to PDM; and, secondly, before the appeal file is ever forwarded to the Board of Appeals. Since your inquiry is generated by the fact that the Board has not set a hearing date, it can only be deduced that the originals/PDM file was never forwarded to the Board of Appeals as an appeal. The originals were obviously not transmitted because the appeal file was not transmitted to the Board. Moreover, our records do not indicate that this file was ever "logged in" for Board action.

We have taken steps this date to obtain the appeal file from PDM, to include all of the original documents and will set a hearing date for this matter in due course.

Since your office filed the appeal, we regret the delay of almost a year in this matter and are pleased that your case supervisory system ultimately became aware of the situation.

Peter Max Zimmerman People's Counsel for Baltimore County Page Two June 26, 2003

As always, we thank you for your continued cooperation in assisting the Board in carrying out its responsibilities. If you have any questions or need any further assistance or information, please do not hesitate to call me on 410-887-3180.

Thanking you in advance for your attention to this matter. I remain,

Very truly yours,

Lawrenge M. Stahl

Chairman

Baltimore County Board of Appeals

LMS/trs

c: Timothy Kotroco, Director, PDM
J. Allan Cohen, Esquire
Carole S. Demilio, Deputy
Office of People's Counsel

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:

Auto Properties, LLC; Steve B. Fader

Case No.: 02-471-A

DATE:

 Σ^{j}

January 27, 2004

BOARD/PANEL:

Charles L. Marks

CLM

Margaret Worrall

MW

Lawrence M. Stahle

LMS

RECORDED BY:

Theresa R. Shelton / Legal Secretary

PURPOSE:

To deliberate Petition for Variance filed by Steven B. Fader, Auto Properties, LLC requesting to permit a double faced illuminated freestanding enterprise sign with a height of 30 ft ilo req'd 25 ft, and to permit a face area of 100 sq. ft. ilo 50 sq. ft.; and to permit frontage on highway without pedestrian or vehicle access and continued use of three existing illuminated wall-mounted enterprise signs, ilo zero signs permitted.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- The burden is on the Petitioner
- The Board can only consider evidence and testimony presented
- ➤ <u>Cromwell vs. Ward</u> Is property unique? 1st prong
- The Zoning Commissioner found the property unique, but did not state with specificity as to why
- Because the property does not front on Harford Road, does not make it unique
- Very strict standard with regards to uniqueness
- Property slopes down and becomes level, which does not make it unque (if the retaining wall continued all the way around and set back as to obscure the site it may be considered unique)
- County Council regulations are meant to reduce incompatible signage
- The regulations had been in place two (2) years prior to purchase of the property
- There is nothing preventing a sign being in place, it must comply with regulations
- A 7X7 sign would be within regulations

- > Special ordering a sign
- Advertising of the dealership in respect to exit from beltway disciussed
- Video provided by Petitioner discussed
- All photographs reviewed
- Petitioner's Exhibit #2 reviewed (exterior signage in stock)
- Traffic Engineering does not want people distracted by signage in the course of driving
- > Sign is big; 100 sq ft in lieu of 50 sq ft
- > Traffic signal at exit ramp discussed
- Laws in place for 2 years self-imposed hardship
- Petitioner took risk by putting up sign
- Petitioner did not meet burden of proof for uniqueness of property
- Issue is not a smaller sign; issue is standard; re: <u>Cromwell vs. Ward</u>

DECISIONS BY BOARD MEMBERS: Unanimous decision to DENY the Petitioners request for Variance. Burden was not met by the Petitioner to show that the property is unique.

FINAL DECISION: The Petition for Variance filed by Steven B. Fader, Auto Properties, LLC requesting to permit a double faced illuminated freestanding enterprise sign with a height of 30 ft ilo req'd 25 ft, and to permit a face area of 100 sq. ft. ilo 50 sq. ft.; and to permit frontage on highway without pedestrian or vehicle access and continued use of three existing illuminated wall-mounted enterprise signs, ilo zero signs permitted is DENIED.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted,

Theresa R. Shelton

County Board of Appeals

02-471-A /Heritage Auto on Harford Road at East (Carney above beltway)

People's Counsel took an appeal a year ago on this – I have no record of the file ever coming over.

He also took an appeal to (6/25) on the same property with an "03" number – Rebecca will have that number for you.

We need to find out what happened to the 02-471-A appeal and file.

kasi



PETITIONER(S) SIGN-IN SHEET

02-471-10102

John Church (DEC) John Burcham Dennis Turnhaugh Jerry Fales	ADDRESS 6603 Gork Rd. 16 Ingate Terrace 8310 Sunrise Ct. Ellicott City, M. 8000 Sunstan Circle 2128
King Keeney Keeney	4030 Forvest School And Suffiching
Keenpey	
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PLEASE PRINT CLEARLY	CITIZEN SI	GN-IN SHEET	02-471-A
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Meg O'Hare		3012 Si Ba Himo	immit Ave re MD 234
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12/03/03 @ .
1/27/04 @

EXHIBITS 10 Supplemental 1



Page 1 COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY HEARING 2 IN THE MATTER OF: 3 AUTO PROPERTIES, LLC; Steve B. Fader - Legal Owner 3001 East Avenue, 11th Election District, 6th Councilmanic District 5 CASE NO. 02-471-A 6 DECEMBER 3, 2003 9 BEFORE: LAWRENCE M. STAHL, Chairman CHARLES L. MARKS, Board Member 10 MARGARET WORRALL, Board Member 11 12 13 APPEARANCES: J. ALLAN COHEN, ESQUIRE 14 On behalf of the Petitioner 15 16 CAROLE S. DEMILIO, ESQUIRE Deputy People's Counsel 17 18 ALSO PRESENT: 19 JOHN BERTRAM 20 REPORTED BY: Susan A. Kambouris 21

Greater Parkville Community Council

Approved by the Board of Directors - January 3, 2001 Approved by the General Membership - January 10, 2001

RESOLUTION

The Greater Parkville Community Council (GPCC) is an umbrella organization consisting of community associations, civic groups, and residents living in the Parkville, Carney, and Cub Hill area of Baltimore County. A goal and purpose of the GPCC is to preserve and improve the quality of life in our residential neighborhoods so that our community remains a desirable place to live, shop, and raise a family. As such, the GPCC has been charged by the community to review proposed land-use changes and make recommendations based on the good of the community.

RESOLVED: that the position of the GPCC as adopted by the Board of Directors and general membership is as follows:

- The purpose of zoning regulations and land-use planning is to protect property values and quality of life of the surrounding property owners and community. We are a Baltimore County Community Conservation Area in which these minimum standards are critical to keeping our community viable and shall be upheld. The GPCC does not support any variances, special exceptions, use permits, or deviations from county code regulations, unless specifically voted acceptable.
- The Parkville, Carney, Cub Hill area is severely deficient of open space by the State of Maryland and Baltimore County regulation standards. Therefore, GPCC does not support any waivers of open space regulations, or any modifications of landscape buffers or RTA buffers.
- The Board of Directors and/or Zoning Committee will review proposed development plans to ensure that proposed developments do not have an adverse impact to surrounding and nearby residents or the character of the neighborhood.

As part of GPCC review and position, the community concerns that need to be addressed will involve (but not limited to) the following:

- There shall be no visual impacts from the proposed development.
- The proposed development shall have landscape and fence design that provides privacy and screening to surrounding residential properties. Maintenance requirements of buffer areas shall be stated in zoning order and development/site plan.
- A lighting plan shall be submitted and approved by the county prior to approval of a development /site plan. Light from the development shall not reflect on to residential property or surrounding roads.
- All signage shall be conducive to the surrounding residential community. New businesses shall use a joint sign, instead of separate signs for each business. This will eliminate excess sign clutter.

Prot Ex#1

Meritied 10/03/03 EVALDITS Dec, 3, 2003 UBA-02-471-A / Leniloner 1. Plat of Subject property April 19, 2002; levised April 22, 2002 2. Graphic with types of Honda signs available

3. Scale drawing of sign erected

4. A. (Identified in sheet, no grestrons) B. Mobil syn C. Mobil syr D. Dancas A E. Mobilagn F. Mobil DIGN G. Dame as A H. Dame as A I pame as A J, pame as A K. same as A 5. Video tape of location.

Resple's Councel

1. ADT map

2. At B Dept. of Taxation & Associated map

3. Ad in 2003 Yellow Pages

4. 100-Deale Zoning map

5. May 17, 2002 - OP comment

by Paster Plan Heapts p. 162=168

6. Rule 8 pages - Bonsdan

A. authory: how to a peak

B. Afridavit

C. Reschilton

>>>> may E over

P. C. Centrid, M. Photos - Dec. 2, 2003 A. From ordenalk looking south towards belivary B. From beltway ramp looking NE /D. Daone t. same uf stoplyht F. East towards Honda 9. Harford a East a forection segns
H. Harford a beltway # of signs
I. Biltway looking month
J. Harford Ed. looking south 1 K. Dame L. Looking east 8. 200 - ocale coning map

R#5

DATE: May 17, 2002

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

3001 East Avenue

INFORMATION:

Item Number:

02-471

Petitioner:

Auto Properties, LLC

Zoning:

BM, & BM-AS

Requested Action:

Variance

The site is within the Parkville Commercial Revitalization district. The petitioner, trading as Heritage Honda, has requested a variance in order to erect a 30-foot high free-standing double-faced enterprise sign with an area of 100 square feet per face, for a total of 200 square feet. The sign would front on the I-695 exit ramp to northbound Harford Road.

A separate variance is requested to allow the continued use of three existing wall mounted enterprise signs on the building occupied by the automobile dealership known as Heritage Honda. These wall-mounted signs are quite visible from both northbound and southbound Harford Road and provide very effective business identification.

SUMMARY OF RECOMMENDATIONS:

This office supports the petitioner's request for the continued use of the three wall mounted signs. However, this office does not support the request to permit the new freestanding sign. This office has determined that the requested sign area, and height are not warranted. The visual clutter that it would create would not be in keeping with the Master Plan 2010 policies for improving the appearance of the commercial corridors.

Prepared by

Section Chief:

AFK/LL:MAC:

p.c. 6A

GREATER PARKVILLE COMMUNITY COUNCIL

RESOLUTION

RESOLVED: That at the general meeting of the Greater Parkville Community Council (GPCC) held on June 12, 2003, it was decided by the Council that responsibility for review and action on all zoning and development related matters be the responsibility of the Board of Directors consisting of the following members:

Ruth Baisden, President Colleen Kelly, Vice President Robert Carpenter, Secretary Phil Lee, Treasurer Ernest Baisden, Director Charles Rehm, Director Joyce Trageser, Director Ron Pawlowski, Director Evelyn Wyszalek, Director

As witness this day of June 12, 2003.

ATTEST:

ON TE COM

Secretary

TR Carpental Ruth

Phillip Lee Board Witness President

Greater Parkville Community Council

P.C. 46B

GREATER PARKVILLE COMMUNITY COUNCIL AFFIDAVIT

STATE OF MARYLAND BALTIMORE COUNTY

TO WIT:

I here by swear upon penalty of perjury that I am currently a duly elected member of the Board of Directors of the Greater Parkville Community Council.

ATTEST:

Ruth Baisden

Greater Parkville Community Council

Secretary Robert E. CARPENTER

Board Witness

Ernest Baisden

Board-Witness
Phillip Le

June 12, 2003

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<u>Greater Parkville Community Council</u>

Approved by the Board of Directors - January 3, 2001 Approved by the General Membership - January 10, 2001

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J. ALLAN COHEN

ATTORNEY AT LAW

THE COHEN LAW FIRM A Professional Corporation

23 E. Centre Street Baltimore, Maryland 21202

02-471-A

Greater Parkville Community Council

Approved by the Board of Directors - January 3, 2001 Approved by the General Membership - January 10, 2001

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Pot Ex#1

- All rooftop equipment shall be screened so that this equipment is not visible from the ground floor window level of adjacent residents.

- The proposed streets shall be connected with the existing neighborhood road network wherever possible and the sidewalks are located to support the functional patterns of the neighborhood.

- The arrangement and orientation of proposed buildings and development/site improvements are patterned in a similar manner to those in the neighborhood.

- The scale, height, proportions, massing and detailing of the buildings shall be in proportion to those existing in the existing neighborhood.

- Any proposed business use shall architecturally blend in with the surrounding residential community. Architectural elements shall be submitted and review by the Office of Planning and the GPCC designated representatives prior to approval of site plan and permits.

- The building and parking lot layouts reinforce existing building and streetscape patterns and assure that placement of buildings and parking lots have no adverse impact on the neighborhood.

- Commercial and employee parking shall not be allowed on residentially zoned property or over flow on to residential streets.

- Where development will add more than 30 vehicles trips a day, a traffic impact study shall be required prior to the approval of development.

- Ensure that storm water drainage does not impact surrounding property owners, and nearby streams. No storm water management waivers shall be granted

- Excess noise shall be controlled and hours of truck deliveries shall be limited and not use residential streets or accept deliveries at night.

- Trash dumpsters shall not be near residential property. Maintenance requirements for picking up trash and emptying dumpsters shall be stated in zoning order and development/site plan.

As witness this day of January 10, 2001.

ATTEST:

Greater Parkville Community Council

Secretary

President

Board Witness

Board Witness

Greater Parkville Community Council AFFIDAVIT

STATE OF MARYLAND BALTIMORE COUNTY

TO WIT:

I here by swear upon penalty of perjury that I am currently a duly elected member of the Board of Directors of the Greater Parkville Community Council.

ATTEST:

Ruth Baisden

Greater Parkville Community Council

Secretary

Board Witness

Board Witness

June 11, 2001

Greater Parkville Community Council

RESOLUTION

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Phil Lee, Vice President
Robert Carpenter, Secretary
Jana Leonard, Treasurer
Ernest Baisden, Director
Colleen Kelly, Director
Ed Messier, Director

As witness this day of June 11, 2001.

ATTEST:

Greater Parkville Community Council

Secretary

President

Board Witness



People's Council Ex#7







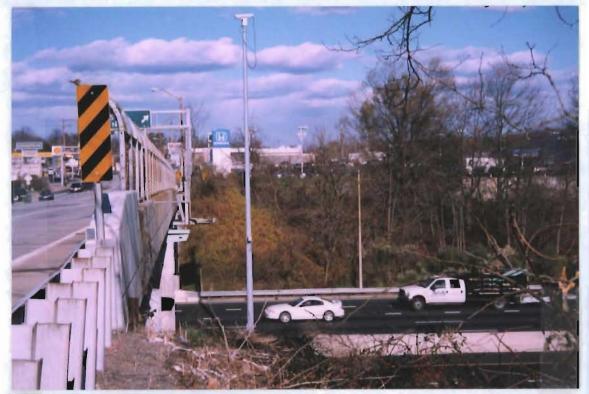








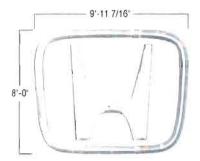








HONDA Exterior Signage



The graphic elements in the new Honda Identification Program relate to one another, creating an understandable and simple system. The signs reflect the Honda blue color or have a brushed aluminum look. All will be lit by either by internal illumination or lights positioned on the building. The materials are such that they will be able to withstand intense weather, and maintain their color. Your zone representative will help you enroll for a sign survey to determine where these signs will be place for maximum effectiveness.

Utilizing consistent sign sizes, designs, type faces and materials that complement the building design, we have developed a family of signs with a more contemporary image to communicate the Honda message.



Service Reception 2'-0'

Delivery Center

Express Change 🕏

Express Wash 🗷

Parts

Body Shop

The signs also serve to direct customers throughout the site and building. While reflecting the high design standards for both cars and facilities that continues to establish Honda as an industry leader. They will become instantly recognizable as "Honda".

The new Honda design places as much importance on the Service Department and various nontraditional service offerings as it does on the New and Used Car Departments.

Accordingly, the signs must be as dramatic, clear, informative and consistent as those identifying the sales departments.



Service Elevation

PER PROPERTY OF THE PROPERTY O

Dealer Name

Graphic Elements. Honda "H" logo, logotype, dealership name

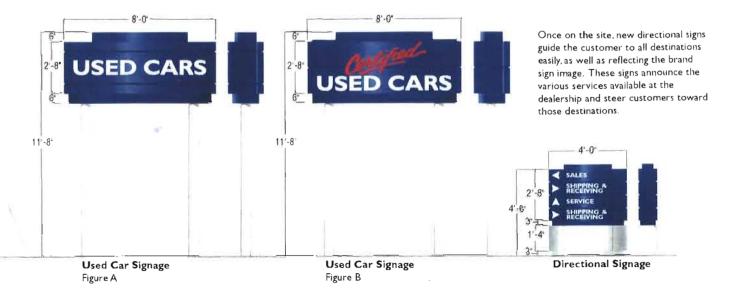
Hi-Rise Interstate Sign

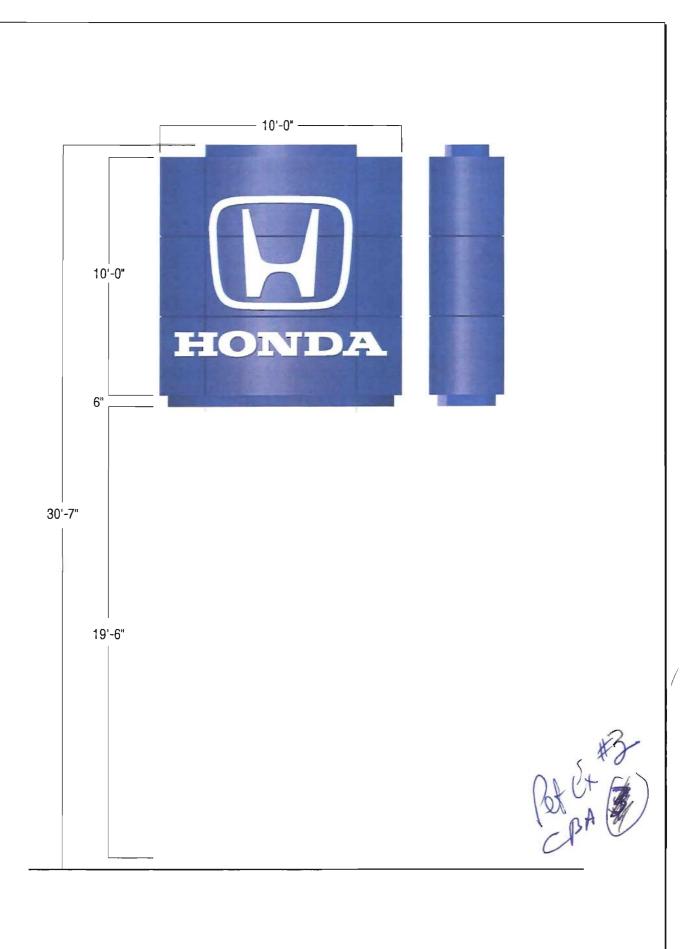
Service Center 5-2-6

As the competition for customer's attention The large pylon and monument signs make a grows more cluttered, it is important to present a strong connection to the building, as it is the first consistent brand sign in both design and location. view the customer sees upon approaching the Exterior signs, both ground mounted and building The location of the sign near the entrance to the mounted have been completely redesigned to site provides visibilty while assisting the customer create a more comprehensive, consistent and upto-date identification program that includes in gaining entrance to the site. HONDA brand, dealer identification and directional signs. You can choose which height of main pylon best The dramatic new signs reinforce the image objectives to build equaty in the Honda blue fits your area for maximum visibility. Maintenance is easy and the materials will last and keep their color, name and logo. color. These are all important factors as these signs create your customer's first impression. When the signs are effective the car buying experience is enhanced. VARIARI F POLE HONDA HONDA 19'-6" 16'-0"

Pylon Options

There is a new illuminted Used Car sign with removable panels. Figure A shows the standard Used Cars sign. Figure B represents a different panel that can be inserted in the event you become a Honda Certified Used Car dealer. Contact your Zone Representative regarding the certification process and requirements.

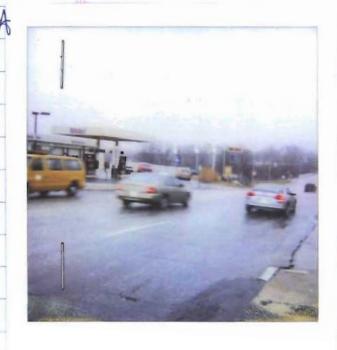


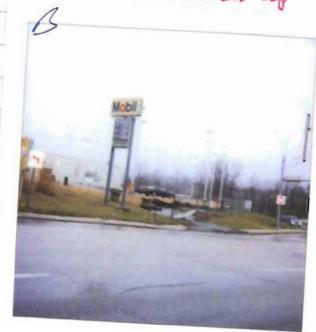


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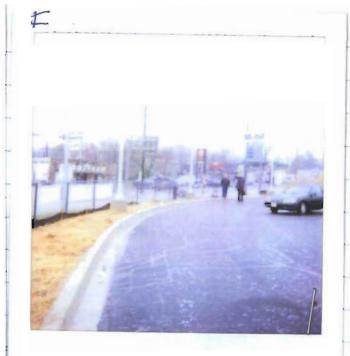




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Photograph take by JAIIA Whe on - 3/20-2002 AT

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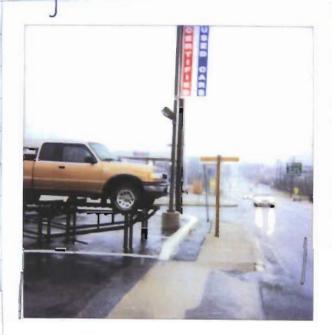


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Dealer of Frm Example

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AUTO!

DEAL

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AFEER &

www.SandSauto.com

TOWSON

Dodge • Mazda 1765 East Joppa Rd Baltimore, MD 21234 410-661-7600

DUNDALK

Toyota • Mazda • Jeep 520 Dundalk Ave Baltimore, MD 21224

PERRY HALL

Pontiac • GMC • Olds 8115 Belair Rd Fallston: MD 21047 410-661-9000

BEL AIR

Honda

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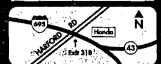
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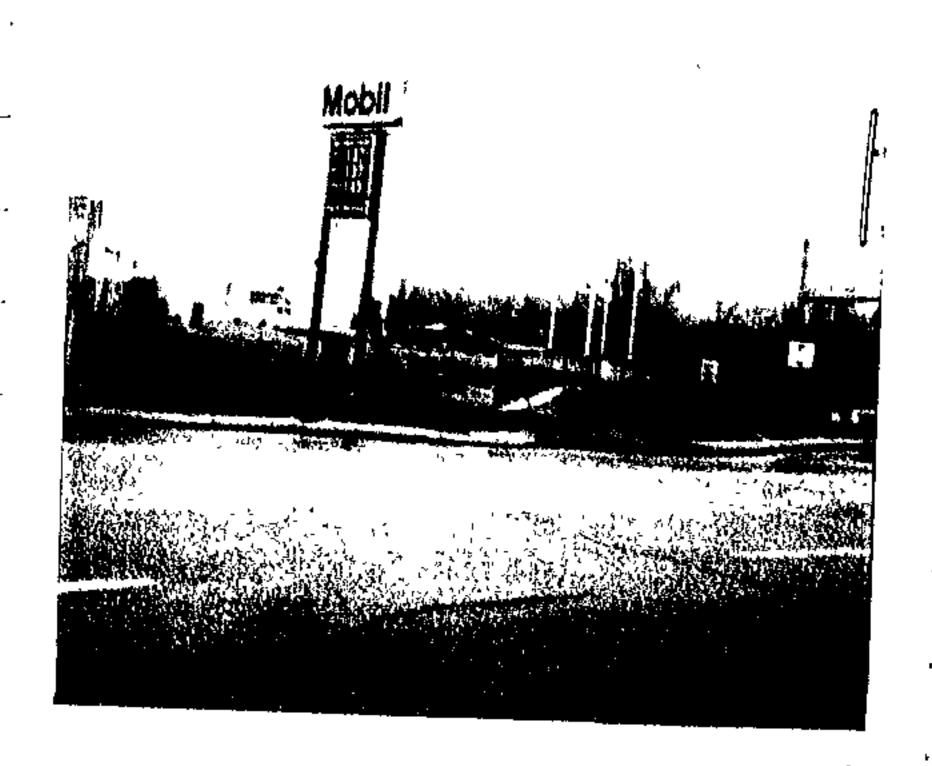
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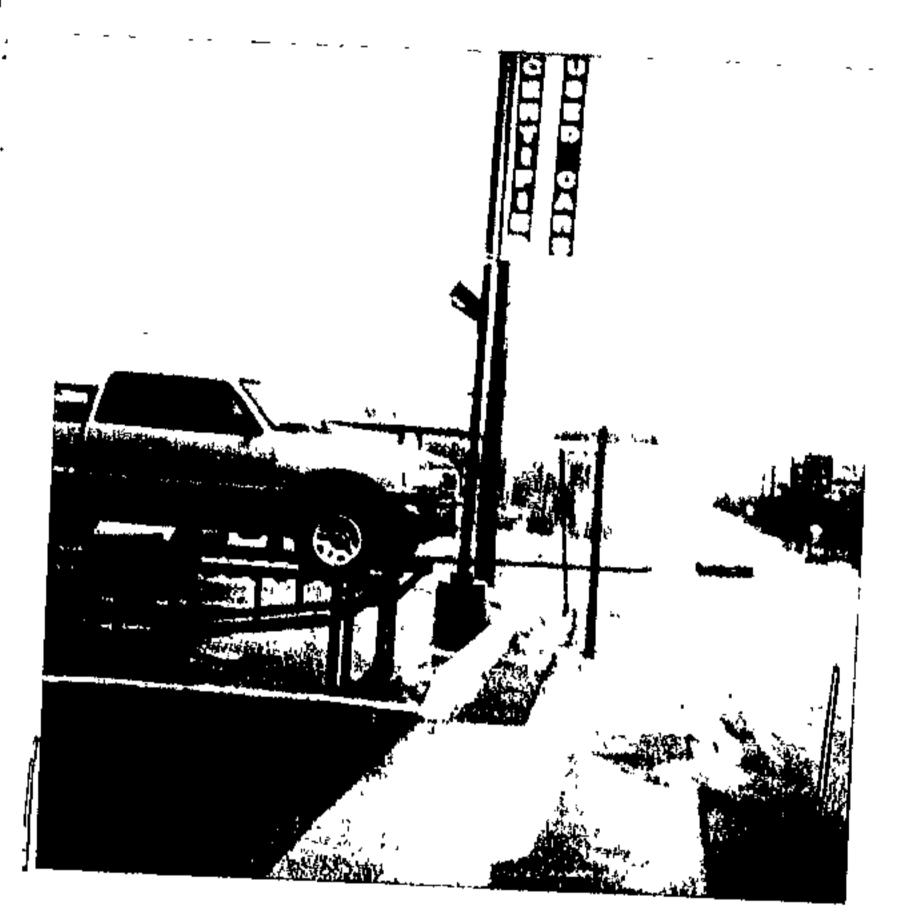
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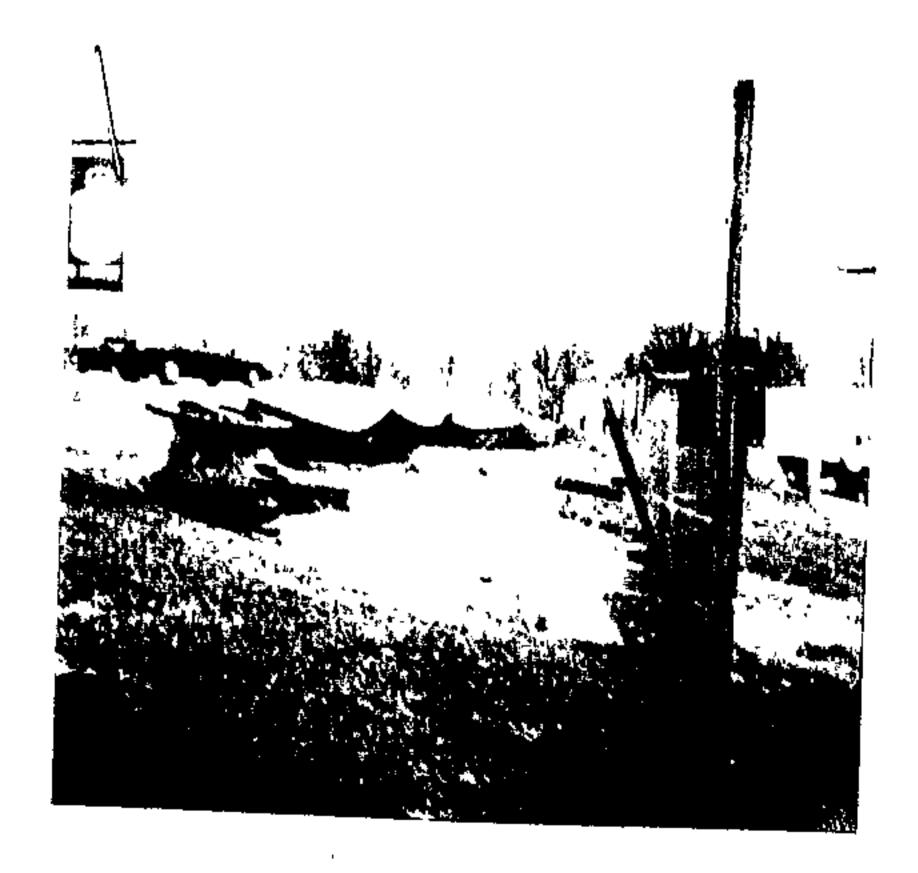
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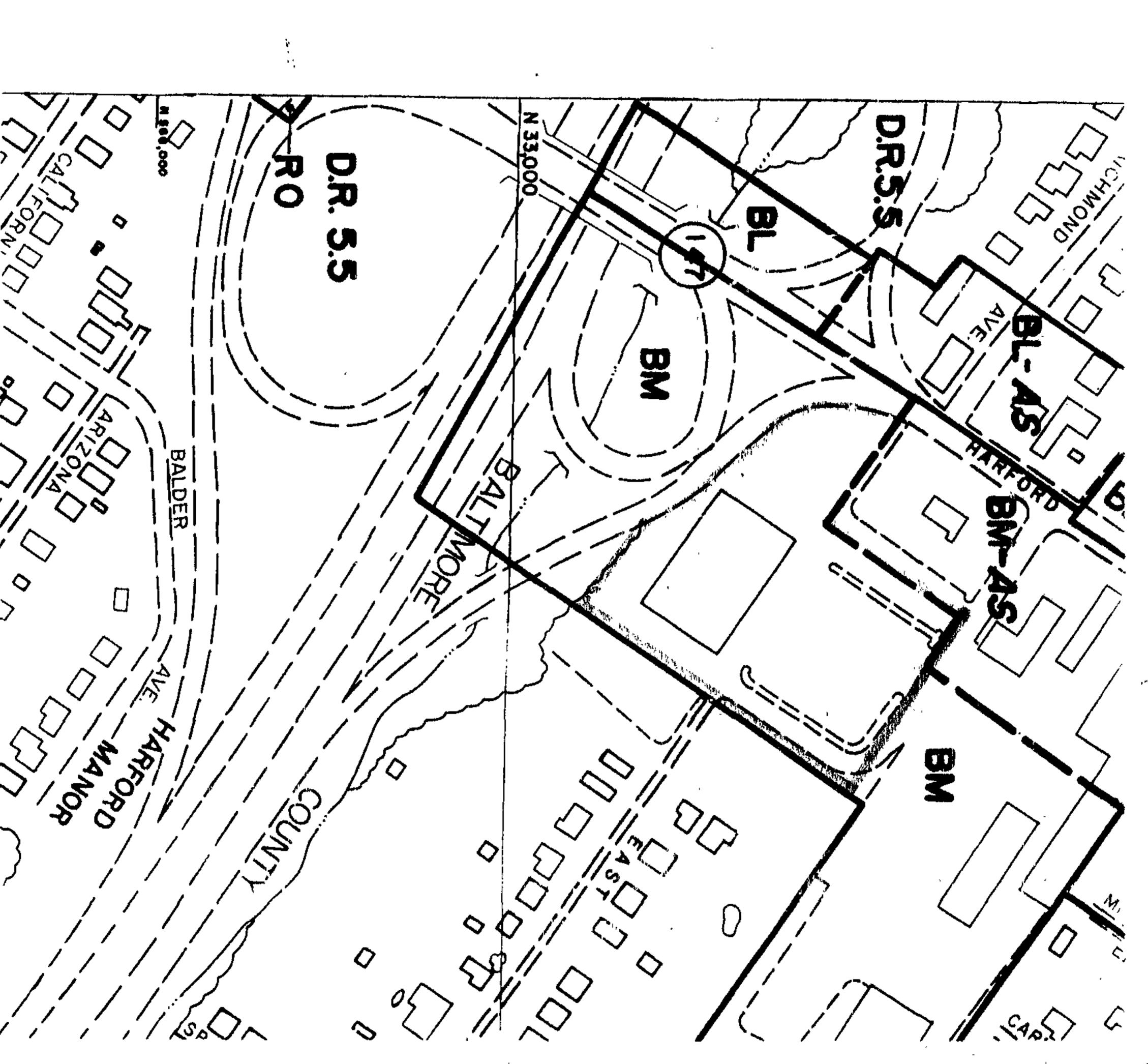




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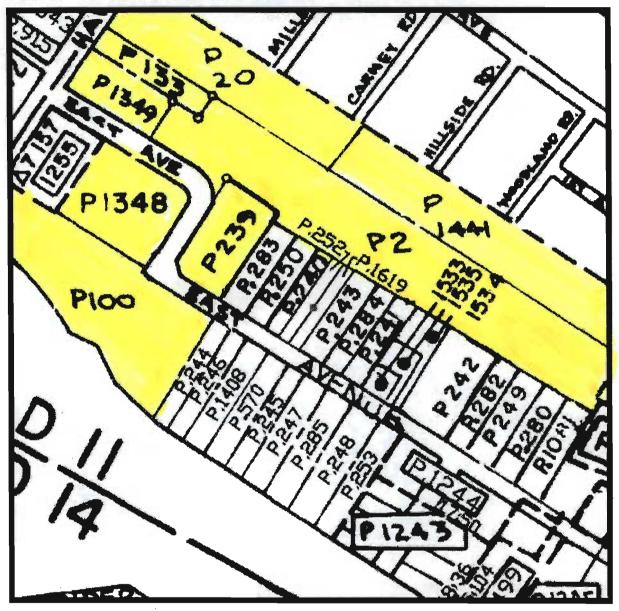
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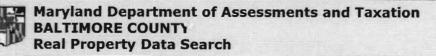
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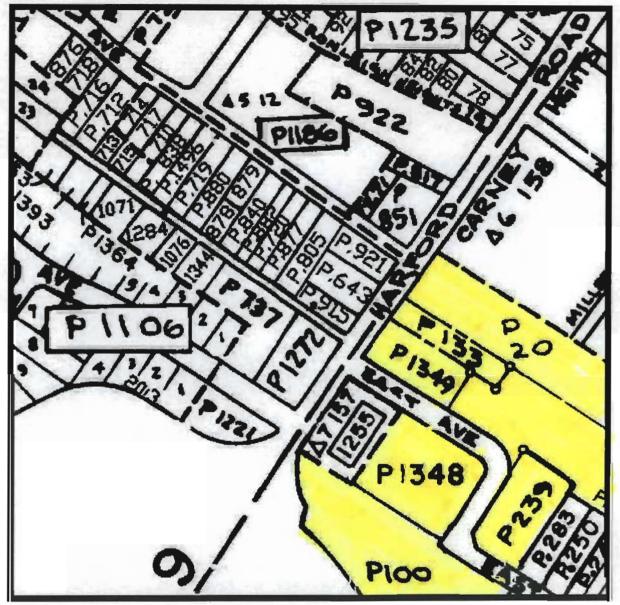
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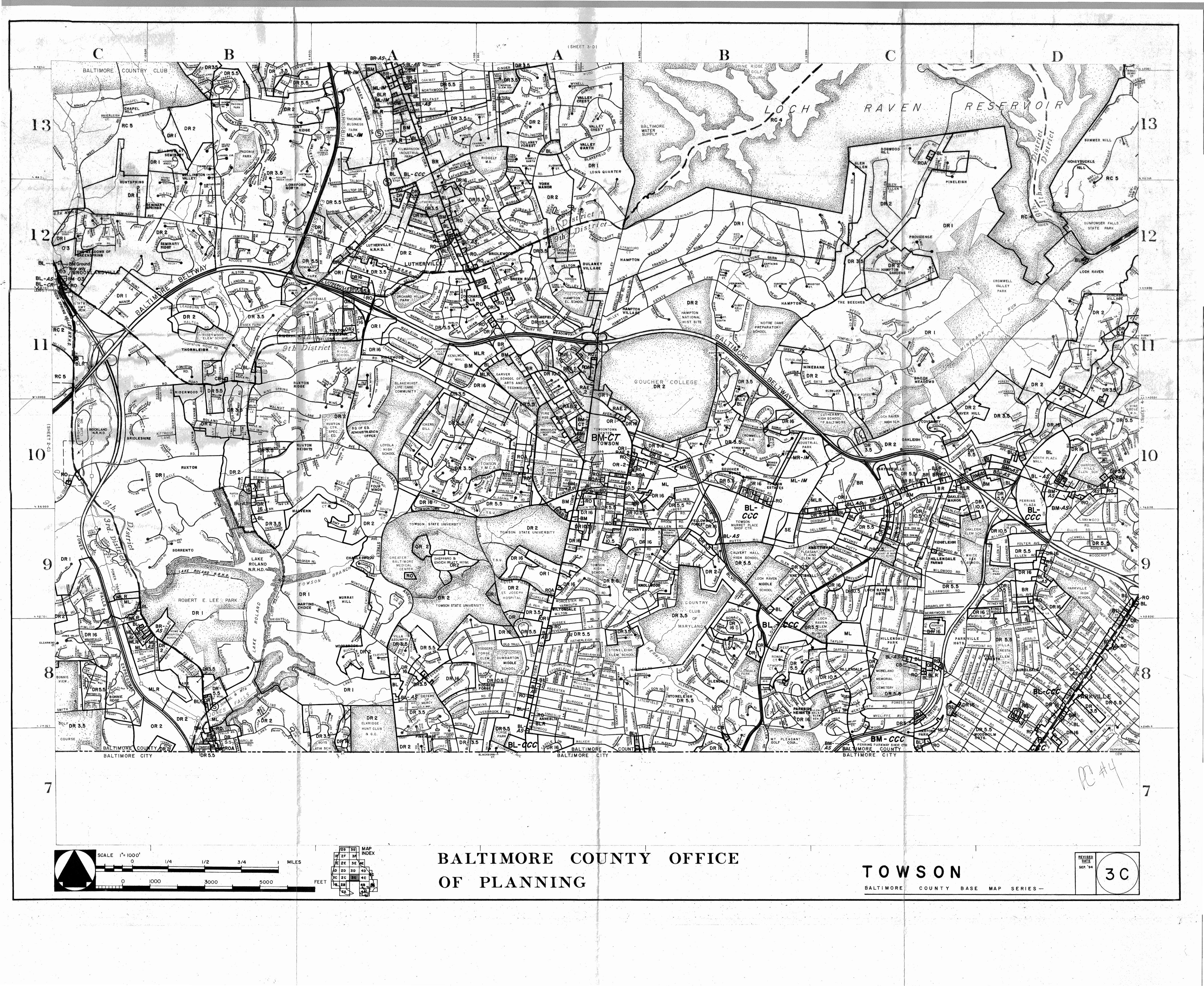
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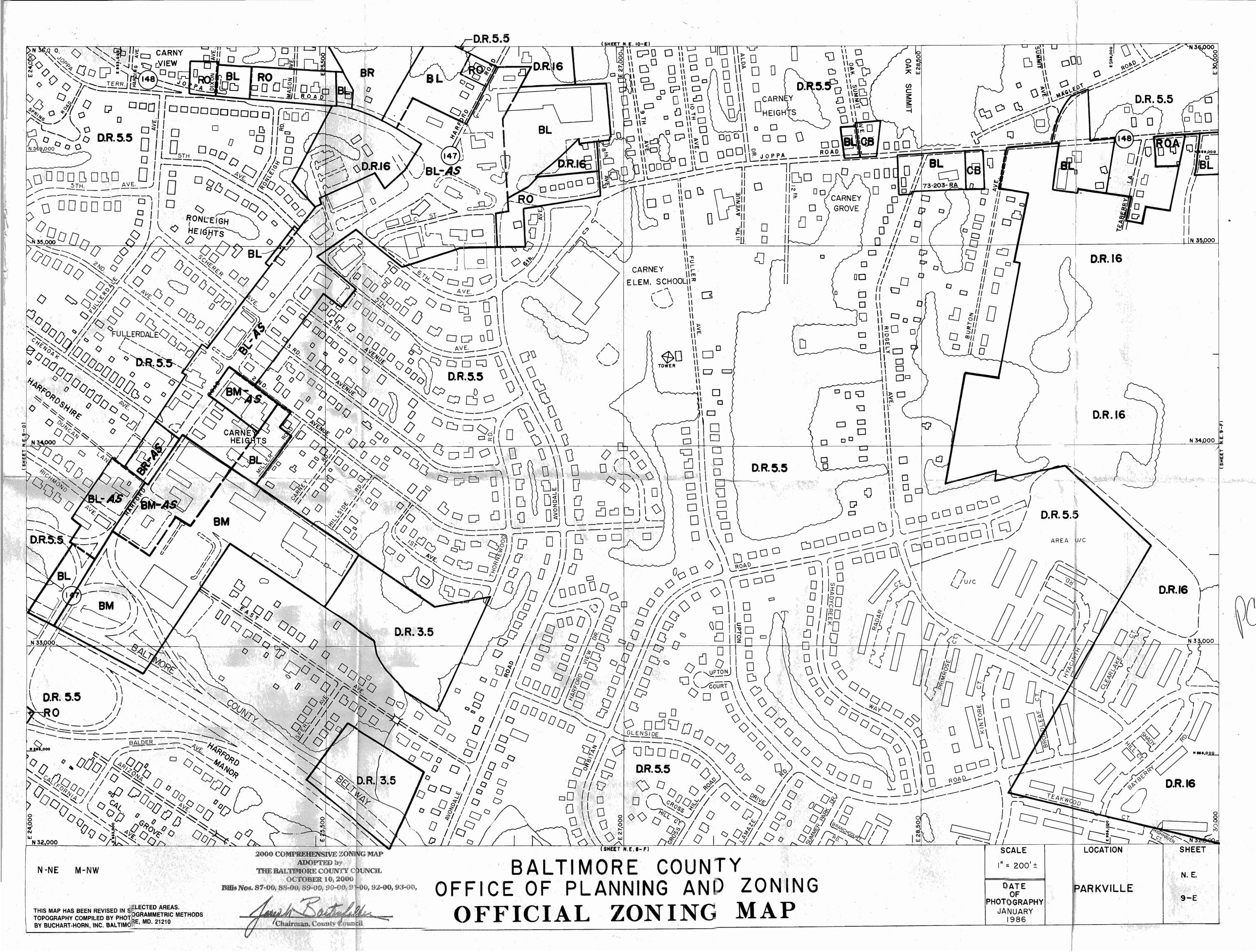
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