



IN RE: PETITION FOR VARIANCE

NW/S Belair Road, 475' S of the c/l

Pinedale Drive (9402 Belair Road) 11th Election District 5th Council District

Javad Varzandeh, et al Petitioners

- * BEFORE THE
- * ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * Case No. 03-371-A

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Javad Varzandeh and Guity Varzandeh, and the Contract Lessee, Khashayar Varzandeh. The Petitioners seek relief from Section 450.4.5(m) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a freestanding, illuminated sing of 14 sq.ft. in lieu of the maximum allowed 8 sq.ft., wall-mounted or projecting, non-illuminated sign in an R.O.A. zone. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Javad Varzandeh, Khashayar Varzandeh and Nicole Varzandeh, property owners. Appearing in opposition to the request was William M. Libercci, a representative of the Perry Hall Improvement Association.

The subject property under consideration is a rectangular shaped parcel located on the northwest side of Belair Road, south of Pinedale Drive, across from its intersection with Darnall Road in Perry Hall. The property contains a gross area of 0.468 acres, more or less, zoned R.O.A. and is improved with a one-story stucco building which was previously used as a single family dwelling; however, is proposed to be converted for use as an assisted living facility for up to 10 beds (residents). Interestingly, the Petitioners own the adjacent property, known as 9404 Belair Road, which was also previously used as a single family dwelling; however, is now used as an

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assisted living facility for up to 11 beds (residents). The building on the subject property contains 2,418 sq.ft. in area and will be internally modified to accommodate the proposed use. The site plan also shows that the property features a circular driveway that provides access and egress through two curb cuts on Belair Road.

The proposed assisted living facility is permitted by right and is not the subject of the instant request. Rather, the relief requested relates to a proposed sign for the subject use. In this regard, the Petitioners submitted a series of photographs and drawings of the proposed sign. The sign will be approximately 5.5 feet tall and 4 feet wide and will advertise the name of the proposed facility as Ma Maison Senior Assisted Living Facility, with the street address and telephone number below. The Petitioners also propose illuminating the sign. Photographs of a similar sign that advertises the law offices of Fick and Petty in the Towson area were submitted at the hearing.

The Petitioners offered a number of reasons in support of the variance. First, they noted that a photographic studio across the street features a sign in the front yard which is larger than that proposed at the subject site. More importantly, the Petitioners argued that a readily apparent means of identification of the site is necessary. They indicated that ambulances and other emergency vehicles are frequently called to the site to treat the elderly residents. The Petitioners believe that the proposed sign is necessary to more readily identify the location of the site and eliminate confusion and unnecessary delay of treatment. It was also indicated that immediate neighbors of the property have registered no objection to the proposed sign.

Mr. Libercei appeared on behalf of the Perry Hall Improvement Association and offered several reasons in opposition to the request. He noted that the testimony and evidence presented by the Petitioners was not legally sufficient to support the request. I agree. As is well settled, variance relief can be granted only if the requirements of Section 307 of the B.C.Z.R. have been satisfied. Those requirements have been clarified by the appellate courts of this state, most notably in Cromwell v. Ward, 102 Md. App. 691 (1995). In Cromwell, the Court of Special Appeals of Maryland indicated that variance relief can be granted in Baltimore County only upon a showing that the subject property has a unique characteristic which justifies the need for the

variance. In this regard, there was no testimony offered that the subject property is unique or that a practical difficulty and unreasonable hardship would result if strict compliance with the regulations were required. Indeed, Ms. Varzandeh indicated that the property is not unique. The record of the case will show that the property is similar to others in the neighborhood and thus the proposed sign is needed to distinguish the site.

Although I appreciate the practical reasons that the Petitioners have offered in support of their request, I cannot ignore the clear mandate of the B.C.Z.R. and case law. Although some means of signage to advertise the site and direct emergency vehicles to its location may well be necessary, the proposed sign is simply too large and inappropriate for this site. Moreover, a negative Zoning Advisory Committee (ZAC) comment was submitted by the Office of Planning noting that there is no logical justification for an illuminated sign that would add to the visual clutter along Belair Road in this vicinity. Thus, I am persuaded to deny the requested variance

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22 day of April, 2003 that the Petition for Variance seeking relief from Section 450.4.5(m) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a freestanding, illuminated sing of 14 sq.ft. in lieu of the maximum allowed 8 sq.ft., wall-mounted, or projecting, non-illuminated sign in an ROA zone, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

Any appeal of this decision must be entered within thirty (30) days of the date hereof.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

ORDER REC

Date

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IN THE MATTER OF
THE APPLICATION OF
JAVAD AND GUITY VARZANDEH -LEGAL
OWNERS; KHASHAYAR VARZANDEH - C.P.
FOR VARIANCE ON PROPERTY LOCATED
ON THE NW/S BELAIR ROAD, 475' SW OF
PINEDALE DRIVE (9402 BELAIR ROAD)
11TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

- * BEFORETHE
- * COUNTY BOARD OF APPEALS
- * OF
- * BALTIMORE COUNTY
- * CASE NO. 03-371-A

OPINION

This case comes before the Baltimore County Board of Appeals on a timely appeal brought by the Petitioner, Khashayar Varzandeh, and Javad and Guity Varzandeh, legal owners, resulting from a decision by the Zoning Commissioner, dated April 22, 2003, to deny a Petition for Variance seeking relief from § 450.4 (m) of the *Baltimore County Zoning Regulations* (BCZR) to approve a freestanding, illuminated sign of 14 square feet in lieu of the maximum allowed 8 square-foot wall-mounted or projected, non-illuminated sign in an R.O.A. zone.

The subject property is located at 9402 Belair Road, 11th Election District, 5th Councilmanic District.

A public hearing before the Board of Appeals was held on December 30, 2003. A public deliberation followed on January 29, 2003. The Petitioners/Legal Owners represented themselves. Peter Max Zimmerman, People's Counsel for Baltimore County, appeared on behalf of that office.

The Petitioner, Khashayar Varzandeh, was the first and only witness to testify for the Petitioner. Mr. Varzandeh explained that he wanted the sign so that emergency vehicles could find his assisted living facility on the subject property. He reiterated that his request is for a 14 square-foot double-sided sign, made of redwood, that would be illuminated by spotlights on the ground. As Petitioner's Exhibit #1, the witness submitted a plat illustrating the subject property, the location of the sign, and an elevation drawing of the proposed sign.

Mr. Varzandeh also presented the Board with a series of photographs (Petitioner's

residences at 9402 and 9404 Belair Road for their current use. He admitted, however, that he had not looked into the sign regulations. He also agreed that the proposed sign could act as advertising as well as designating the location.

To begin his case, People's Counsel submitted an ADC map of the area, the assessment and taxation information and map relative to the subject property, the zoning map and the GIS aerial map to clarify the location of the subject property. (People's Counsel Exhibits #1-4)

Mr. Zimmerman then called Lynn Lanham as his first witness. Ms. Lanham testified that she is the section chief of development review in the Baltimore County Office of Planning. She is a registered landscape architect and has worked for Baltimore County for 13 years.

She stated that she and community planner Karen Brown had visited the subject site, reviewed the zoning on the property, reviewed the sign regulations, and issued the official comment of non-support for the variance request, dated February 25, 2003, in the normal course of business. (People's Counsel Exhibit #5).

Ms. Lanham explained that the Office of Planning's basis for not supporting the sign rests in the Master Plan and the Belair Road Corridor study. Both these documents recommend reducing "visual clutter" by reducing the number and size of signs along Belair Road. According to Ms. Lanham, this area in particular remains primarily residential.

She testified that the R.O.A. zoning of the subject property functions to retain a residential appearance which is highly compatible to surrounding residentially zoned neighborhoods. Therefore, the law does not permit freestanding signs on R.O.A. zoned properties.

In Ms. Lanham's opinion, 9402 Belair Road is similar to adjacent properties with good

visibility in both directions and with the required residential setback from the road. Further Ms. Lanham stated that the spirit and intent of the R.O.A. zoning and the attendant sign regulations prohibiting freestanding signs is to keep the residential appearance and not to allow commercial intrusions. The same logic applies to illuminated signs which likewise are not permitted in the R.O.A. zones.

Ms. Lanham stated that her research of County records back through 2001 found no approvals for sign variances of the type requested by the Petitioner.

On cross-examination by the Petitioner, Ms. Lanham agreed that Belair Road has clusters of commercial development while other portions are largely residential, such as the area between Pinehill and Pinedale Roads where the subject site is located.

The next witness was William Libercci. Mr. Libercci appeared as a representative of the Perry Hall Improvement Association and presented the appropriate credentials to speak for that group (People's Counsel Exhibit #13). Mr. Libercci attended the Zoning Commissioner's hearing and presented the concerns of the community at that time. The concerns remain the same in the hearing before the Board: the appearance of the property and the statutory requirements of a change of use under R.O. or R.O.A.

Mr. Libercci stated that his organization supports the R.O.A. zoning and that they are sympathetic to the change to business use. They want, however, for the sign regulations and the R.O.A. zoning regulations to be strictly enforced. In the opinion of the Perry Hall Improvement Association, there is nothing unique which sets the subject site apart from its neighbors; therefore it does not qualify legally for a variance as requested. The community organization opposes the granting of this variance.

On cross-examination by Mr. Varzandeh, Mr. Libercci noted that the Perry Hall Improvement Association has never supported a sign variance in the R.O.A. zone.

In closing argument the Petitioner reiterated his need for the sign variance as requested to assure the safety of the assisted living residents in case of emergency.

Mr. Zimmerman in turn argued that freestanding, illuminated signs are not permitted in the R.O.A. zone where the subject site is located. Further the Petitioner, in Mr. Zimmerman's opinion, has not met the burden to show that the subject property is unique under the law, which would qualify the property for a variance.

Section 450.4.a of the BCZR permits signs in the R.O.A. zone to be wall-mounted and up to 6 square feet in size. The regulations do not permit a freestanding sign nor one that is illuminated. (People's Counsel Exhibit # 7 & #8).

Section 307 of the BCZR permits granting of a variance of this regulation upon certain terms and conditions, which in pertinent part in this case, allow a variance where special circumstances or conditions exist that are peculiar to the land that is the subject of the variance requested, and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship.

The burden to establish special circumstances or conditions was clarified by the Court of Special Appeals in *North v. St. Mary's County*, 99Md. App 502 (1994), when Judge Cathell stated:

An applicant for variance bears the burden of overcoming the assumption that the proposed use is unsuited. That is done, if at all, by satisfying fully the dictates of the statute authorizing the variance.

Under the Court of Special Appeals decision in Cromwell v. Ward, 102 Md.App. 691

(1995), which sets forth the legal benchmark by which a variance may be granted, the Board of Appeals, hearing the case *de novo*, is given the task of interpreting regulations and statutes where issues are debatable in the light of the law. The first burden on the Petitioner for variance is to prove that the property is unique. This standard must be met before other parts of the variance requirements can be properly considered.

The Court defined the term "uniqueness" and 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 has 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.

After a thorough review of the evidence and testimony before us, the Board finds unanimously as a matter of fact that the Petitioner has not met the burden as required for a variance under BCZR 307.1 and the standards of *Cromwell v. Ward*.

The first prong requires that the land itself of the subject property must be unique from others in the neighborhood to qualify for a variance. The testimony and evidence are substantial and uncontradicted that 9402 Belair Road is not different from the other lots in that neighborhood. All of the plats, maps and photographs introduced into evidence establish that neighboring properties are of equivalent size, nature and topography.

Having found that the first prong of the standard has not been met by the Petitioner, the Board as a matter of law need not consider practical difficulty or spirit and intent.

Therefore it is the unanimous decision of this Board to deny the request for variance seeking relief from § 450.4.5 (m) of the BCZR to approve a freestanding, illuminated sign of 14

square feet in lieu of the maximum allowed 8 square-foot wall-mounted or projected, non-illuminated sign in an R.O.A. zone.

<u>ORDER</u>

THEREFORE, IT IS THIS Sth day of Mould, 2004 by the County

Board of Appeals of Baltimore County

ORDERED that the Petitioners' request for variance from § 450.4.5 (m) of the Baltimore County Zoning Regulations to approve a freestanding, illuminated sign of 14 square feet in lieu of the maximum allowed 8 square-foot wall-mounted or projected, non-illuminated sign in an R.O.A. zone be and the same is hereby DENIED; and

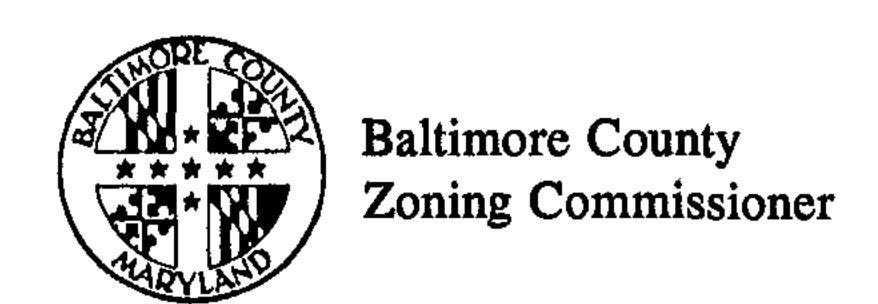
Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Lawrence S. Wescott, Chairman

Margaret Worrall

Edward W. Crizer, Jr.



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

Fax: 410-887-3468

April 22, 2003

Mr. Javad Varzandeh 9402 Belair Road Baltimore, Maryland 21236

RE: PETITION FOR VARIANCE

N/S Hunting Tweed Drive, 1860' W of the c/l Park Heights Avenue

(3214 Hunting Tweed Drive)

4th Election District – 2nd Council District

Javad Varzandeh, et al - Petitioners

Case No. 03-371-A

Dear Mr. Varzandeh:

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

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

Very truly yours,

LAWRENCE E. SCHMIDT Zoning Commissioner

for Baltimore County

LES:bjs

cc: Ms. Khashayar Varzandeh

9302 Chapel Road, Perry Hall, Md. 21128

Mr. William Libercci

19 Shawn Court, Baltimore, Md. 21236

Office of Planning; People's Counsel; Case File



Case No.

REV 9/15/98

Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 9402 Belair Rd

which is presently zoned ____

ESTIMATED LENGTH OF HEARING

Date

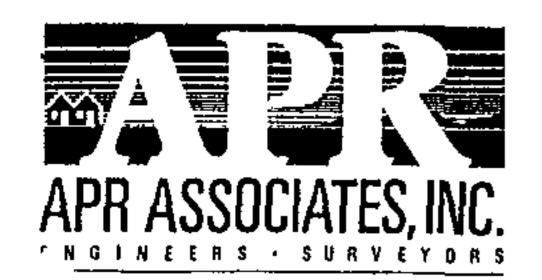
UNAVAILABLE FOR HEARING,

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, 4,5, (m)

To permit a 14 sq ft freestanding illuminated sign in lieu of the allowed 8 sq ft wall mounted or projecting non-illuminated sign in an ROA zone. of the Zoning Regulations of Baltimoré-County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) see attached Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County. I/We do 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. Contract Purchaser/Lessee: Legal Owner(s): Name - Type or Print, Name I Type or Print Signature Signature Addisess Type, of Print Telephone No. Name + arnande City State Signature Zip Code Attorney For Petitioner: Telephone No. Address Name - Type or Print Zip Code Representative to be Contacted: Signature Company Telephone No. Telephone No. Address Áddress City Zip Code State State Zip Code OFFICE USE ONLY

Reviewed By

It is proposed that a 3.5 by 4 foot sign be erected in front of 9402 Belair Road, Baltimore, Maryland 21236. This sign will make it easier for emergency and fire personnel to locate us. Because of the high speed and traffic that is generated on Belair Road, this sign will allow us more visibility. This visibility will make it safer for individuals to find us without having to slow down or impede traffic.



31

ZONING DESCRIPTION FOR 9402 BELAIR ROAD

BEGINNING at a point on the Northwesterly side of Belair Road as widened to 80 feet at the distance of 475 feet from the centerline of Pinedale Drive, 50 feet wide; thence binding along the Northwesterly side of Belair Road South 42 degrees 25 minutes 10 seconds West 151.00 feet; thence leaving Belair Road and running North 47 degrees 34 minutes 50 seconds West 135.00 feet North 42 degrees 25 minutes 10 seconds East 151.00 feet and South 47 degrees 34 minutes 50 seconds East 135.00 feet to the place of beginning; as recorded in Deed Liber 14515, Folio 296; containing 20,385 square feet or 0.468 acres more or less.

09/24/01

7427 Harford Road Baltimore, Maryland 21234-7160 (410) 444-4312 Fax: (410) 444-1647

	BALTIMORE COUNTY, MARYL D OFFICE OF BUDGET & FINANCE No. 2 MISCELLANEOUS RECEIPT	2276 PAID RELEIFT BRANCES ACTUAL TIME BRANCES
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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:

Oase: #03-371-A 9402 Belair Road N/west side Belair Road 475 feet southwest of Pinedale Drive

Drive
11th Election District
5th Councilmanic District
Legal Owner(s): Jayad and
Gulty Varzandeh
Variance: 10 permit a 14
square foot fleestanding illuminated sign in lieu of the
allowed 8 square feet wall
mounted or projection nonilluminated sign in an ROA zone.
Hearing: Tuesday, April 1,
2003 at 11:00 a.m. in
Room 407, County Courts
Building, 401 Bosley Avenue. nuð.

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) 887-6391.
JT 3/699 Mar 18 C592906

CERTIFICATE OF PUBLICATION

3/21/2003	i : ! !
THIS IS TO CERTIFY, that the annexed advertisement was pu	blished
in the following weekly newspaper published in Baltimore County	, Md.,
once in each ofsuccessive weeks, the first publication app	earing
on $3/18/_{,2003}$	<u> </u>
The Jeffersonian	
🖵 Arbutus Times	'
☐ Catonsville Times	
☐ Towson Times	
Owings Mills Times	! }
☐ NE Booster/Reporter	
☐ North County News	
	! !

LEGAL ADVERTISING

•	RE: Case No.: 03-371-A
	Petitioner/Developer:
	KHASHAYAR VARZANDETH
•	Date of Hearing/Closing: 4 103
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. BECKY HART	
Ladies and Gentlemen:	•
were posted conspicuously on the property	
9402 E	BELDIE RO

The sign(s) were posted on	3/16/03
	(Month, Day, Year)
ASE # 03-371-A	Sincerely,
	(Signature of Sign Poster and Date)
	(Signature of Sign Poster and Date) RICHARD E. HOFFMAN
	(Printed Name)
	904 DELLWOOD DR. (Address)
	FALLSTON, MO 21047
	(City, State, Zip Code) (410) 879.3122
	(Telephone Number)
· •	•

9402 BEZDIR RD. POSTED 3/16/03 Dhehalf All 3/16/03

APPEAL SIGN POSTING REQUEST

CASE NO.: 03-371-A

Javad and Guity Varzandeh - LEGAL OWNERS

9402 Belair Road, Baltimore, MD 21236

11 th ELECTION DISTRICT APPEALED: 5/13/2003			
ATTACHMENT - (Plan to accompany Petition - Petition	er's Exhibit No. 1)		
********COMPLETE AND RETURN BELOV	V INFORMATION*****		
CERTIFICATE OF PO	STING		
TO: Baltimore County Board of Appeals 400 Washington Avenue, Room 49 Towson, Maryland 21204			
Attention: Kathleen Bianco Administrator			
RE: Case No.: 03-371-A			
Petitioner/Developer:			
This is to certify that the necessary appeal sign was posted located at: $9402 \; Belain \; Rd$	conspicuously on the property		
The sign was posted on	, 2003		
By: Suy Feunl			
(Signature of Sign Poster)			
CHRY PREUND	_ 		
(Printed Name)			



DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

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

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

For Newspaper Advertising:
Item Number or Case Number; 03371 SPH
Petitioner: Khashayar Varzandeh
Address or Location: 9402 Belair Road, Balto., MD 21236
PLEASE FORWARD ADVERTISING BILL TO:
Name: Khashayar Varzandeh
Address: 4302 Chapel Road
Perry Hall, MD 21128
Telephone Number: 443-829-2631

Revised 2/20/98 - SCJ



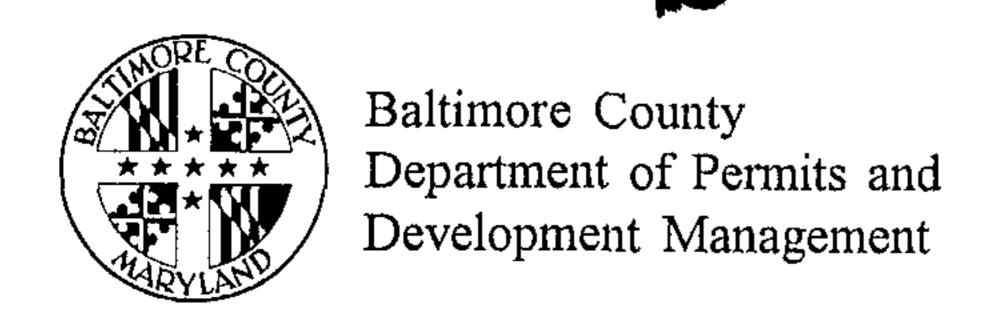
Prior to preparing the required plat, the petitioner or his engineer should contact the following agencies for pertinent data that may be required by that particular agency.

1.	Assessments	410-512-4906
2.	Bureau of Capital Projects (traffic issues)	410-887-3751
3.	Fire Department	410-887-3998
4.	State Highway Administration	410-545-5600
5 .	County Roads	410-887-3739
6.	Planning (design, screening, landscaping	410-887-3211
7 .	Building Engineer (plans)	410-887-3987
8.	Department of Environmental Protection	
	and Resource Management (DEPRM)	410-887-3980
9.	If floodplain, Dept. of Natural Resources	410-631-3902
10.	If critical area, Maryland Office of Planning	410-767-4485

MOTE: The petitioner has the responsibility to verify the location of the subject site in regards to the Chesapeake Bay Critical Area (CBCA). A critical area map is available for reference in PDM. Should the site be located in this area, the petitioner is required to meet DEPRM critical

area requirements regarding the site. PDM must have the DEPRM comments on the petitioner's request prior to the public hearing.

Also, floodplains and historic buildings should be identified. (See pages 16 and 17.)



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

Fax: 410-887-5708

March 4, 2003

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: 03-371-A

9402 Belair Road

N/west side Belair Road 475 feet southwest of Pinedale Drive

11 Election District – 5th Councilmanic District

Legal Owner: Javad and Guity Varzandeh

Variance to permit a 14-square foot freestanding illuminated sign in lieu of the allowed 8 square feet wall mounted or projection non-illuminated sign in an ROA zone.

Hearings:

Tuesday, April 1, 2003 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon

Director

AJ:rlh

C: Javad and Guity Varzandeh, 9402 Belair Road, Baltimore 21236 Khashayar Varzandeh, 4302 Chapel Road, Perry Hall 21128

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, MARCH 17, 2003.

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

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



TO: PATUXENT PUBLISHING COMPANY

Tuesday, March 18, 2003 Issue - Jeffersonian

Please forward billing to:

Khashayar Varzandeh 4302 Chapel Road Perry Hall, MD 21128

443-829-2631

NOTICE OF ZONING HEARING

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CASE NUMBER: 03-371-A

9402 Belair Road N/west side Belair R

N/west side Belair Road 475 feet southwest of Pinedale Drive

11 Election District – 5th Councilmanic District

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Military 2. Street of

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

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



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 #: 03-371-A

IN THE MATTER OF: JAVAD AND GUITY VARZANDEH -Legal Owners; Khashayar Varzandeh - Contract Purchaser 9402 Belair Road 11th Election District; 5th Councilmanic District

4/22/2003 -D.Z.C.'s Order in which Petition for Variance was DENIED.

ASSIGNED FOR:

TUESDAY, DECEMBER 30, 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 /Petitioner /Contract Purchaser Petitioners /Legal Owners : Khashayar Varzandeh

: Javad Varzandeh and Guity Varzandeh

William Libercci
Perry Hall Improvement Association

Office of People's Counsel for Baltimore County Pat Keller, Planning Director Lawrence E. Schmidt, Zoning Commissioner 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

January 2, 2004

NOTICE OF DELIBERATION

IN THE MATTER OF:

JAVAD AND GUITY VARZANDEH

<u>Case No. 03-371-A</u>

Having heard this matter on 12/30/03, public deliberation has been scheduled for the following date /time:

DATE AND TIME

THURSDAY, JANUARY 29, 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

¢:

Appellant /Petitioner /Contract Purchaser Petitioners /Legal Owners

: Khashayar Varzandeh

: Javad Varzandeh and Guity Varzandeh

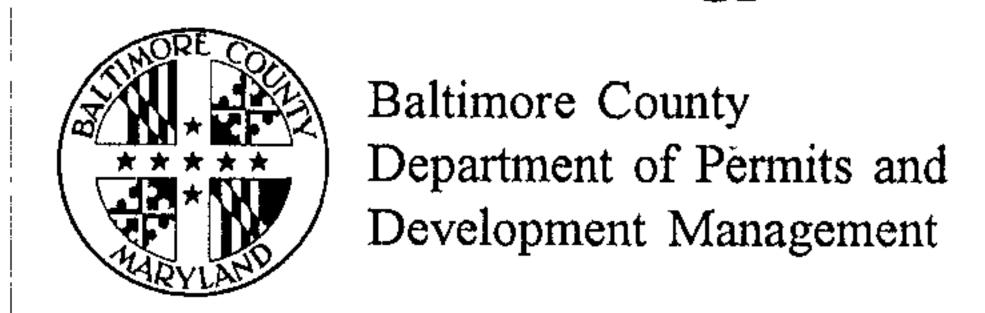
William Libercci
Perry Hall Improvement Association

Office of People's Counsel for Baltimore County Pat Keller, Planning Director Lawrence E. Schmidt, Zoning Commissioner Timothy M. Kotroco, Director /PDM

FYI copy: 4-3-7



Printed with Soybean Ink on Recycled Paper



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

March 28, 2003

Mr. and Mrs. Varzandeh 9402 Belair Road Baltimore, MD 21236

Dear Mr. and Mrs. Varzandeh:

RE: Case Number: 03-371-A, 9402 Belair Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 11, 2003.

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,

U. Carl Rilla ()

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:rlh

Enclosures

c: People's Counsel Khashayar Varzandeh, 4302 Chapel Road, Perry Hall 21128

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



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

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

February 14, 2002

ATTENTION: Rebecca Hart

Distribution Meeting of: February 18, 2003

Item No.: 361-364, 367 & 368, 370 & 371

Dear Ms. Hart:

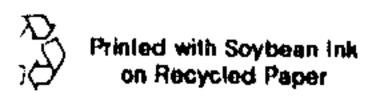
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Marshal's Office has no comments at this time.

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office

PHONE: 887-4881, MS-1102F

cc: File



Jeg 411

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: February 25, 2003

RECEIVED

FEB 2 7 2003

ZONING COMMISSIONER

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

9402 Belair Road

INFORMATION:

Item Number:

03-371

Petitioner:

Javad Varzandeh

Zoning:

ROA

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning <u>does not</u> support the petitioner's request to permit a 14 square foot freestanding illuminated sign in lieu of the maximum permitted 8 square foot wall mounted sign or projecting non-illuminated sign in an ROA zone.

Assisted living facilities are destination points, in that patrons to the facility are already aware of its location. As such, the subject sign is not necessary to attract drive-by patrons. Additionally, there is no logical justification for an illuminated sign that would negatively impact the community by adding to the visual clutter along Belair Road.

Prepared by:

Section Chief:

AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: February 25, 2003

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

9402 Belair Road

INFORMATION:

Item Number:

03-371

Petitioner:

Javad Varzandeh

Zoning:

ROA

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

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Section Chief:

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by surf our Become the high speed lines. Infact Colleges i fullivion to Rentind push of most circle back To fort us.

Robert L. Ehrlich, Jr. Governor



Audrey E. Scott
Secretary

Florence E. Burian
Deputy Secretary

Michael S. Steele Lt. Governor

February 21, 2003

Ms. Rebecca Hart
Baltimore County Department of Permits and Development Management
County Office Building
111 West Chesapeake Avenue, Room 111
Mail Stop # 1105
Towson MD 21204

Re: Zoning Advisory Committee Agenda, 02/24/03 re: case numbers 03-361-A, 03-362-SPHA, 03-363-A, 03-364-SPHA, 03-365-SPHXA, 03-366-SPH, 03-367-SPHA, 03-368-A, 03-369-A, 03-371-8PH

Dear Ms. Hart:

The Maryland Department of Planning has received the above-referenced information on 02/21/03. The information has been submitted to Mr. Mike Nortrup.

Thank you for your cooperation in this review process. Please contact me at 410.767.4550 or the above noted reviewer if you have any questions.

Sincerely,

James R. Gatto

Manager

Metropolitan Planning

. C. Giller

Local Planning Assistance Unit

cc: Mike Nortrup

RE: PETITION FOR VARIANCE * BEFORE THE

9402 Belair Road; NW/side Belair Rd, 475'

SW Pinedale Drive * ZONING COMMISSIONER

11th Election & 5th Councilmanic Districts

Legal Owner(s): Javad and Guity Varzandeh* FOR

Contract Purchaser(s): Khashayar Varzandeh

Petitioner(s) * BALTIMORE COUNTY

* 03-371-A

* * * * * * * * *

ENTRY OF APPEARANCE

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

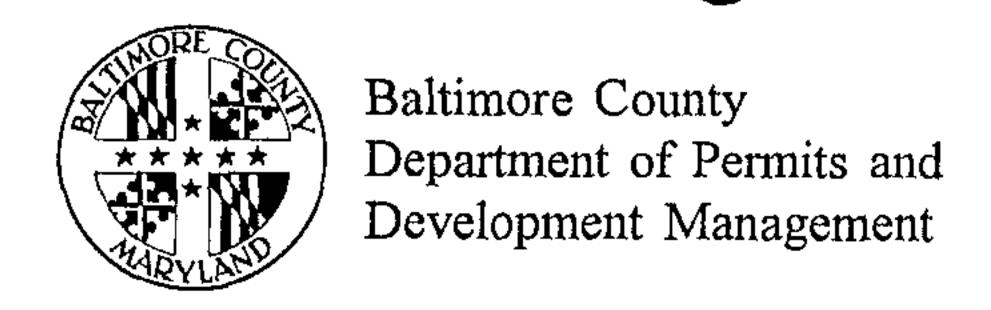
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of March, 2003, a copy of the foregoing Entry of Appearance was mailed to, Khashayar Varzandeh, 4302 Chapel Road, Perry Hall, MD 21128, Petitioner(s).

PETER MAX-ZIMMERMAN

People's Counsel for Baltimore County



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

Fax: 410-887-5708

May 16, 2003

Mr. and Mrs. Javad Varzandeh 9402 Belair Road Baltimore, MD 21236

Dear Mr. and Mrs. Varzandeh:

RE: Case No. 03-371-A, 9402 Belair Road

Please be advised that we have received your appeal of the above-referenced case filed in this office on May 13, 2003. 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:rlh

c: Lawrence E. Schmidt, Zoning Commissioner Arnold Jablon, Director of PDM People's Counsel Khashayar Varzandeh, 4302 Chapel Road, Perry Hall 21128





MINUTES OF DELIBERATION

IN THE MATTER OF:

Javad and Guity Varzandeh - Legal Owners

Case No.: 03-371-A

DATE:

January 29, 2004

BOARD/PANEL:

Margaret Worrall

MW

Lawrence S. Wescott

LSW

Edward W. Crizer, Jr.

EWC

a 14 sq.

RECORDED BY:

Theresa R. Shelton / Legal Secretary

PURPOSE: To deliberate the Petition for Variance filed by Javad & Guity Varzandeh to permit

a 14 sq. ft. freestanding illuminated sign ilo the allowed 8 sq ft wall mounted

non-illuminated sign

PANEL MEMBERS DISCUSSED THE FOLLOWING:

The burden is on the Petitioner

- The Board can only consider evidence and testimony presented
- Eromwell vs. Ward Is property unique? 1st prong
- > Very strict standard with regards to uniqueness
- County Council regulations are meant to reduce incompatible signage
- The regulations had been in place prior to the sign being placed on the property
- There is nothing preventing a sign being in place, it must comply with regulations
- Sign needed from a safety standpoint, yet address not on sign, just name and telephone number; appears to be more of an advertisement
- Petitioner did not meet burden of proof for uniqueness of property
- Issue is standard; re: Cromwell vs. Ward

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 Javad & Guity Varzandeh to permit

ft. freestanding illuminated sign ilo the allowed 8 sq ft wall mounted

non-illuminated sign 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,

Lever Shelton

Theresa R. Shelton

County Board of Appeals

BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County Interoffice Correspondence

DATE:

April 15, 2004

TO:

Timothy Kotroco, Director

Permits & Development Management

Attn.: David Duvall

FROM:

Theresa R. Shelton (TO)
Board of Appeals

SUBJECT:

CLOSED APPEAL CASE FILES

The following case(s) have been finalized and the Board of Appeals is closing the copy of the appeal case file(s) and returning the file(s) and exhibits (if applicable) attached herewith.

BOARD OF APPEALS CASE NUMBER	<u>PDM</u> FILE NUMBER	NAME	LOCATION
03-216-A	03-216-A	ESTATE OF JOHN C. DUNN	4104 KLAUSMIER ROAD
03-217-A	03-217-A	ESTATE OF JOHN C. DUNN	4104 KLAUSMIER ROAD
03-371-A	03-371-A	JAVAD AND GUITY VARZANDEH	9402 BELAIR ROAD

SUBJECT FILE(S) / EXHIBIT(S) ATTACHED; Attachment:



P.O. Box 63 Perry Hall, Maryland 21128

http://www.bcpl.net/~phia

phia@mall.bcpl.net

RESOLVED: That at the Board of Directors meeting of the Perry Hall Improvement Association held on Sunday, January 5, 2003, it was decided by the Association that responsibility for review and action on all zoning matters for the period 2003-2004 be placed in the Zoning, Development, and Permits Committee consisting of the following members, each of whom is hereby authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

Chairman William Libercei; Debra Beaty Dennis Eckard Brenda Ward Howard Wille, Sr.

David Marks, president of the Perry Hall Improvement Association (ex officio committee member)

As witness our hands and seal this 5th day of January, 2003.

ATTEST:

Perry Hall Improvement Association

Wayne Rice, Secretary

David Marks, President

AFFIVADIT

STATE OF MARYLAND	;
BALTIMORE COUNTY, SS:	
	,
To WIT:	
	·
I hereby swear under penalty of	perjury that I am currently a duly elected member of the
	mittee of the Perry Hall Improvement Association.
ATTEST:	Perry Hall Improvement Association
	Marit De
want ha	New -
Wayne Rice, Secretary	David Marks, President
	•
13. A	
Date: January 5, 2003	



P.O. Box 63 Perry Hall, Maryland 21128

Wayne Rice, Secretary

http://www.bcpl.net/~phla

phla@mall.bcpl.net

	the Perry Hall Improvement Association as adopted boundaries on the zoning matter known as:
9402 Belair Road Signage	
is that:	
The PHIA opposes the illumination of the	e sign.
As witness our hands and seal this 28	day of, 2003.
ATTEST:	Perry Hall Improvement Association
wane Ru	Daniel
Wayne Rice, Secretary	David Marks, President

DATE	CASE NUMBER	CASE NAME

PETITIONER'S SIGN-IN SHEET

							Nicole Varzanden	ICHASHAYAR VARZANDER	H	William Klasecci	NAME
							9402 Ballaur Kd	19402 Belair RD	9402 Belows Rd.	19 ShAWAICT	ADDRESS
							Balto 17712 21236	Balta MO 21236	Balle MD 21236	139476 md 21236	CITY, STATE, ZIP
							11	Kashyvahotmail.co		mada BILL @ ACC. COM	E- MAIL

MAMATSON Senior Assisted Living

10248-0545

haltim of cassisted iving . Cost

QU, #3

December 29, 2003

Baltimore, County MD

Dear Sir or Madam:

Please be advised that the sign Mr. Khashayar Varzandeh has for Ma Malson is very necessary. The most important reason for Mr. Varzandeh to have a sign for his assisted living quarters is for the paramedics or fire department from Baltimore County. The elderly people living in this establishment need emergency care occasionally and time is of the essence. Having the buildings easily marked for the emergency vehicle operators could be the difference between a life and death situation for those living or working at this establishment. Bel Air Road is so commercialized that it is critical to have appropriate signage. The relatives who visit the people who live at Ma Maison also need to be able to see a sign to mark where they are going in order to have safe entry and exit from the Bel Air Road corridor. There are several other assisted living quarters in and around my home and all of them have appropriate signage. Please see to it that Mr. Varzandeh is allowed to keep his sign. It is most important to the residents and the community.

Sincerely,

Crusia. N. Welling
Anna M. Welling

Parkville, MD

December 29, 2003

To: Baltimore County Zoning Board

From: Betty Morris

This letter is in support of Ma Maison Assisted Living being able to post a sign with the name of the facility on the front lawn.

My Mother has been a resident at Ma Maison's for three years and it is very necessary for friends and family, especially from out of town, to have a sign that can be easily seen from Belair Road to identify the home they are going to visit. Even more importantly the sign is needed for paramedics when they are called to give medical attention to a resident.

This area of Belair Road has many commercial establishments and is not strictly a residential community, thus a sign is not detracting from the aesthetics of the area.

I feel a sign is very much needed for this assisted living facility.

Thank you.

Betty Morris

May 22, 2003

TO WHOM IT MAY CONCERN:

My mother resides at Ma Maison Assisted Living Facility and has for more than a year. Upon her transfer to Ma Maison, all members of my family had problems finding its location since they do not have a sign. To this day, many of the people who are kind enough to visit my mother, still experience problems in locating it. On several occasions, it was necessary for paramedics to be called to either render care to my mother or transport her to a hospital. It was brought to our attention that the paramedics were delayed in arriving at Ma Maison because they could not find it. This is of great concern to me and my family since we believe that Ma Maison's location should be clearly marked to guarantee the speed of the care that is necessary to treat my mother. It should also be taken into consideration that, without a sign, traffic on Belair Road, which is already treacherous, will be even more negatively affected by those who are slowing down to find house numbers.

Please also consider that a sign would not only assist family, friends, and the emergency vehicles, but it would also make the general community aware of this medical facility for those who may need it in the future. For your information, my mother receives the best care possible at Ma Maison.

In a commercially-zoned area, how can Baltimore County ignore the need for a sign for such a worthy business? There are much larger signs for such businesses as a portrait studio, an insurance business, a candle/carpet business, and a consignment shop.

I, therefore, implore you to reconsider the decision of the zoning commissioner and grant the Petition for Variance as filed by the owners of Ma Maison. Doing so would be in the best interest of all of Baltimore County.

Sincerely,

Margaret K. Carvella

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December 27, 2004

Tom Mitchell 312 Overbrook Road Baltimore, MD 21212

Mr. and Mrs. Khashayar Varzandeh Ma Maison 9404 Belair Road Baltimore, MD 21236

Dear Khashy and Nicole,

I am writing to urge you to petition the Baltimore County Zoning Commission to permit you to properly mark the entrance to Ma Maison. As you know, my mother, Estelle Mitchell has been a resident there now for well over a year. During that time, I have visited her at least twice a week, and often after dark. I am alerting you to the need for constructing a *lighted* sign in front that is large enough to help identify the residence. Despite my having visited so many times, I still find it difficult to identify the small yellow sign posted in front. Even after so many trips, I still find myself passing by, only to have to continue farther up Belair road and turn around.

It is virtually impossible to slow down far enough in advance in the left lane going north in order to recognize the turn in from the middle lane. Cars are traveling closely behind and when I do slow down they are following at such a high rate of speed that I fear getting rear-ended. Frequently the drivers will blow their horn, urging me to pick up speed. While I use the sign at the fire station as a marker to tell me Ma Maison is coming up on the left, I nevertheless miss the turn and find myself too far beyond to pull into the left turn lane. This is particularly a problem at night when the small yellow sign is not visible until I'm too close to slow down and turn.

I am confident that if something is not done to mark the entrance better with a larger, lighted sign, a serious accident is waiting to happen. I have almost been rear-ended three times in the past couple of months, despite my having signaled a left turn, albeit somewhat late, given that I could not find the entrance.

Not only do I have trouble finding Ma Maison, but my mother's relatives who visit from Virginia have even more difficulty. Each time they have visited, they tell me they have traveled beyond the turn, only to have to turn around a few blocks north to try and find it again, coming south. In fact, they have told me they missed it as well coming south, once having already passed it going north.

Not only is a sufficiently large enough sign necessary to help visitors locate Ma Maison, but an even more compelling reason is that emergency response personnel have difficulty locating the residence. Again, this is particularly true at night. Even when the emergency vehicle drivers are familiar with the location, they still have trouble finding the entrance. An ambulance driver from Franklin Square Hospital who transported my mother in an emergency, told me of the difficulty he had in locating the residence. While he didn't miss the entrance on this occasion, he indicated the difficulty the drivers have, particularly at night, in finding the turn. In such an emergency, minutes, and even seconds may count in saving a life of resident there. It is essential that everything possible be done to reduce the time needed to respond in such a crisis. Given the age and frailty of the residents, and the frequency of emergencies there, it is only a question of when, not if, the minutes will matter in saving a loved one's life at Ma Maison.

I know how concerned both of you are in maintaining a safe environment for your residents and family and I am hoping that you will be able to persuade the Commission to allow an exception for the signage regulations. A clear, recognizable sign is clearly needed to avert an accident at the entrance of Ma Maison.

Please let me know if I may help in any way to persuade the Commission of the urgency of this matter.

Sincerely.

Tom Mitchell

P.S. Thank both of you so much for the care and love that you and your staff give to my mother.

To whom it may concern, In regards to ma maison assisted living home located 9404 Belair Rd Kerry Hall, Baltimore Country, Md having a pign to inducated its location verses not able to have a sign. This greatly concerns me as my mon is living there. Should 911. need to be called for her or any other resident, the sign would certainly docating the proper address. We time may be a matter of life or death, the wasted momenta of perhaps passing the address could very well matter. It is also helpful for any wends or relatives to locate the I am very confused as to why the pign(s) indicating Maison phould be removed as there are many other businesses with signer in front of their litetion. Example dented, certified public

accountants, wearry shops, photography Dudio

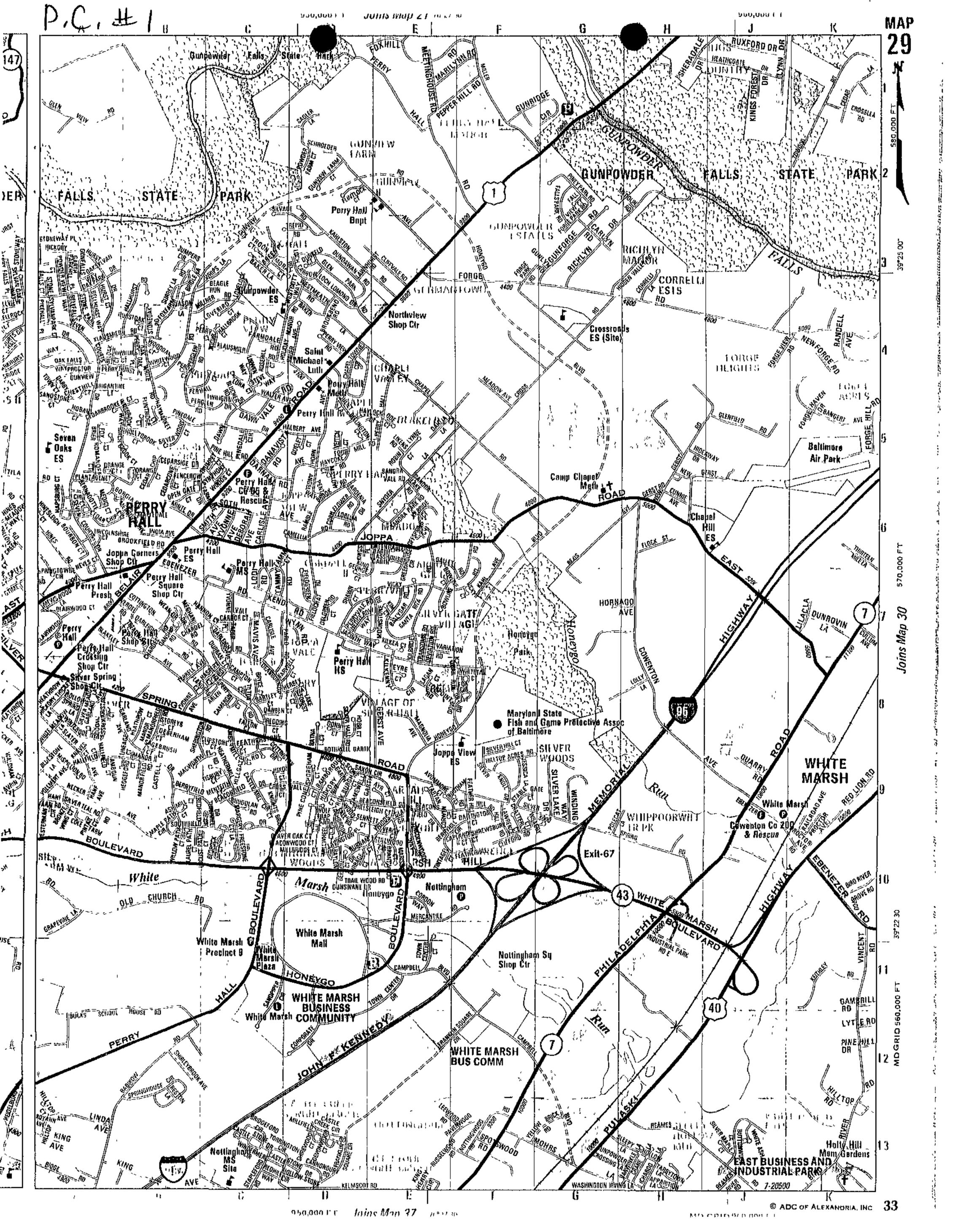
ette. I can not understand why it is a problem for a business which does operate

24 hours a day to anot the elderly to be readily earntifiable thru the help of signo indicating the name. Personally, I would take to see a larger sign, one which can be easily read from a distance and also contain the house number to make the location easily identifed. very important business

Sincerely

Karen Shephad

Ena resident of Mallaison and. Firing Figielitif I have on sweral. occasionables sisked by visitors why we do not hand a sind marking our location. With heavy traffice on Belain Rd, and the brea In which we are boated it is attremely difficult to try to read street additions Having a landmark such as a sign utall make for a safter tralled situation lince stations) would see the sign much more clearly then a street number

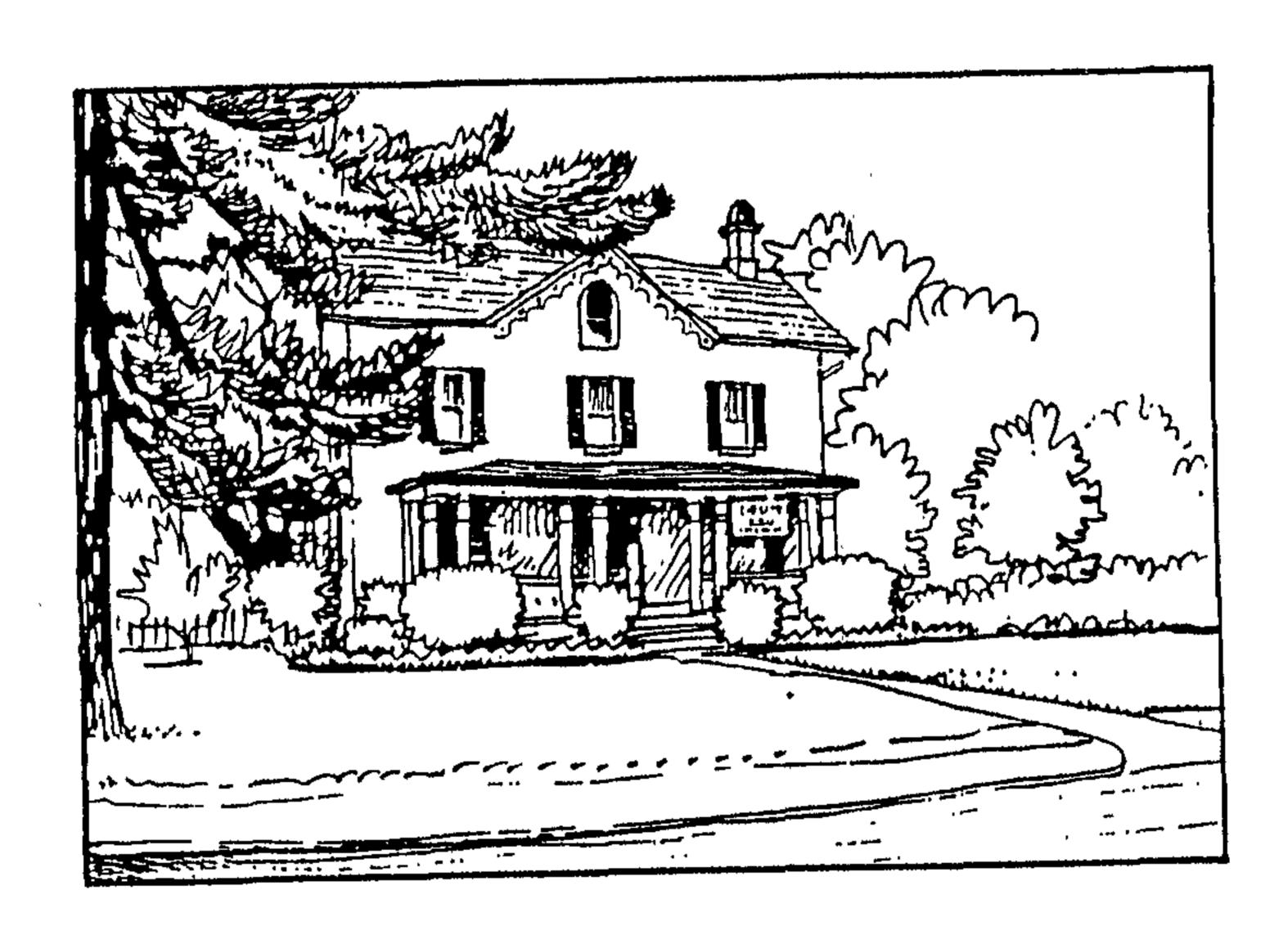


HOTE:

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

Proposed Amendments To
The Baltimore County
Zoning Regulations
Regarding

P, C, Hb



A RESIDENTIAL-OFFICE, CLASS A ZONE

A Planning Board Public Hearing Report



May 2, 1991

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

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

PROJECT DESCRIPTION

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

DISCUSSION

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

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

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

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

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

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

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

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

RECOMMENDATION

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

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

100.1 Declaration of Findings

- A. Residential use of certain sites may not be economically feasible in some predominantly moderate-density residential areas that are immediately adjacent to commercial or other nonresidential uses;
- B. Neither business zoning nor high-density residential zoning nor residential-office zoning which permits new office buildings on those sites is appropriate; and
- C. With appropriate restrictions, houses converted to offices are suitable, economically feasible uses of such sites.
- 100.2--Statement of Legislative Policy. The R-O-A zoning classification is established, pursuant to the findings stated above, to accommodate single family, duplex and two family detached houses converted to office buildings in predominantly residential areas on sites that, because of adjacent nonresidential activity, heavy commercial traffic, or other similar factors, can no longer reasonably be limited solely to uses allowable in moderate-density residential zones. It is further the intent of Council that the residential appearance of the existing structure and the residential setting of any building converted to offices be maintained in the R-O-A zone so that the converted dwelling will be highly compatible with neighboring residential property. To maintain residential character, Council does not intend that lots be developed or redeveloped solely for the purpose of providing parking in the R-O-A zone. The R-O-A zone shall only be applied to sites which are large enough or designed in such a way that parking and access can be accommodated without sacrificing the residential character of the site and where the conversion from residential to office use will not cause serious disruption in traffic flow.

100.3--Use Regulations.

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

- 2. Class A office buildings containing offices, and their accessory uses including surface parking, but not including parking as a principal use.
- 3. A single family or two family detached dwelling in which a portion of the building is converted to offices and a portion is used for a dwelling, without any external enlargement for the purpose of creating office space or otherwise accommodating the office use.
- 4. The reconstruction of a Class A office building which is destroyed by fire or other casualty.
- B. Uses Permitted by Special Exception. Uses permitted by special exception and as limited in D.R. 3.5 zones, only.
- C. Signs and Off-Street Parking Requirements.
 - 1. In addition to signs permitted under Subsection 413.1, one stationary outside identification sign is permitted, provided that the sign is not illuminated, is wall-mounted or projects from the building and does not have a surface area exceeding six square feet. No other signs or displays of any kind visible from outside the building are permitted.
 - 2. Off-street parking spaces shall be provided in accordance with Section 409 except that all required parking spaces shall be provided on the same lot as the structure or use to which they are accessory and no structured parking shall be permitted, except for a residential garage.
 - a. Parking areas shall be screened in accordance with the Landscape Manual;
 - b. Parking shall be setback at least 10 feet from the property line except that if the property line abuts an alley, no setback is required;
 - c. Parking shall be located in the side or rear of the lot, only;
 - d. Notwithstanding the provisions of Section 307 (Variances) the Zoning Commissioner shall not permit a variance of more than one parking space below the number required by these Regulations.
- 100.4-Bulk Regulations of R-O-A zones. Uses permitted by right or by special exception are governed by the following bulk regulations:

A. Residential uses and new structures accessory to Class A office buildings are governed by the bulk regulations of the D.R. zone classification in place at the time when the R-O-A zone was applied. If a D.R. zone was not in place at the time that the R-O-A zone was applied, the bulk regulations of the D.R.3.5 zone shall govern. The provisions of Subsection 1B01.1.B (Residential Transition Areas) shall apply in the R-O-A zone).

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- B. Class A office buildings themselves, which by definition may not be enlarged, are not subject to bulk regulations, nor are unenlarged structures accessory to the original building.
- C. The reconstruction of an existing Class A office building which is destroyed by fire or other casualty may not increase the size or gross floor area of the structure or alter the location of the structure, without a special hearing.
- 100.5- The use or development of any property in an R-O-A zone may not be changed from that existing on the effective date of the classification's application to that property, except in accordance with a plan approved by the County Review Group as provided in Title 22, Article IV of the Baltimore County Code, unless the change in use is confined to a change in the number of dwelling units in accordance with the provisions of Section 402.
- 100.6 Any new building to be used as a dwelling, or the reconstruction of any Class A Office Building which has been destroyed by fire or other casualty, shall be subject to Section 22-104(a) of the Development Regulations.
- 100.7 Any dwelling which is under application for either a change in zoning classification to R-O-A or for a conversion from a residential use to an office use after obtaining the R-O-A zoning classification shall require a special exception if the dwelling has been enlarged in floor area by ten percent or more within a period of five years prior to the date of application for change or conversion. A new building to be used as a dwelling must be occupied as a residential use for five years before submitting a plan for conversion to a Class A Office Building.

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

Sec. 22-104. Development in R-O-A, R-O, 0-1, 0-2, or OT zone.

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

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

- In determining the appropriateness of a new dwelling, the reconstruction of a Class A office building or the development of a Class B office building, design elements of proposed buildings shall be evaluated in relation to existing adjacent or surrounding buildings. Unless determined otherwise by the director of the Office of Planning and Zoning to be considered appropriate, new buildings shall be similar to existing ones in the following respects:
 - (i) Height
 - (ii) Bulk and general massing
 - (iii) Major division or rhythms of the facade
 - (iv) Proportion of openings (window-wall-relation)
 - (v) Roof treatment
 - (vi) Materials, colors, textures
 - (vii) General architectural character
 - a) Horizontal or vertical emphasis
 - b) Scale
 - c) Stylistic features and themes porches, colonnades, pediments, cupolas, cornices, quoins, detail and ornament
 - (viii) Relation to street
 - (ix) Exterior lighting. Buildings shall not be lighted on the exterior and any lighting provided for safety reasons should be minimized and directed away from adjoining residential property.

Passed: 10/21/91 Effective: 12/09/91

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND LEGISLATIVE SESSION 1991, LEGISLATIVE DAY NO. 18

BILL NO. <u>170-91</u>

MR. DOUGLAS B. RILEY, COUNCILMAN

BY THE COUNTY COUNCIL, OCTOBER 7, 1991

A BILL ENTITLED

AN ACT concerning

Zoning Regulations - R-O-A Zone

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

BY repealing and re-enacting, with amendments,

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

BY adding

Section 202

Baltimore County Zoning Regulations, as amended BY repealing and reenacting, with amendments,

Section 409.7.B.

Baltimore County Zoning Regulations, as amended BY repealing and re-enacting, with amendments

Section 26-282(a)

Title 26 - Planning, Zoning and Subdivision Control Baltimore County Code, 1988

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

September 26, 1991, now therefore



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

1.	SECTION 1. BE IT ENACTE	ED BY THE COUNTY COUNCIL OF BALTIMORE
2.		100.1.2. and Section 101, the
3.		3, Class A" and "Residential Zone" of the
4.		
		ions, as amended, be and they are hereby
5.	repealed and reenacted, with an	mendments, to read as follows:
6.	Section 100 - Zones and	Districts: Boundaries.
7.		is hereby divided into zones and
8.	districts in accordance with the	
9.	A. Zones.	
10.	2. Zones are o	lassified as follows:
11.	5 A A	
ļ2.	R.C.2 R.C.3	(Resource Conservationagriculture) (Resource Conservationdeferral of
13.	R.C.4	planning and development) (Resource Conservationwatershed
14.		protection)
	R.C.5	(Resource Conservation rural residential)
15.	R.C.20	(Resource Conservationcritical area) [Bill No. 6, 1989]
16.	R.C.50	(Resource Conservationcritical area agricultural) [Bill No. 6, 1989]
17.	R.C.C.	(Resource Conservation commercial)
18.	D.R.1	[Bill No. 103, 1988] (Density Residential, 1.0 dwelling unit
19.	D.R.2	per acre) (Density Residential, 2.0 dwelling units
20.	D.R.3.5	per acre) (Density Residential, 3.5 dwelling units
21.	D.R.5.5	per acre) (Density Residential, 5.5 dwelling units
22.	D.R.10.5	per acre) (Density Residential, 10.5 dwelling units
23.	D.R.16	per acre) (Density Residential, 16.0 density units
24.	R.A.E.1	per acre) (Residential, 40.0 density units per
25.	R.A.E.2	acre) (Residential, 80.0 density units per
26.	R-O	acre) (Residential-Office, 5.5 dwelling units
27.	R-0-A	per acre) (RESIDENTIAL-OFFICE, CLASS A OFFICE)
28. 29.	0-1	(Office Building)
30.		(Office Park)
31.		(Office and Technology)
32.		(Business, Local) (Business, Major)
33.		(Business, Roadside)
34.	M.R.	Manufacturing, Restricted)
35.	M.L.R.	Manufacturing, Light, Restricted)
36.	M.L.	Manufacturing, Light)
37.	M.H.	(Manufacturing, Heavy)
38.	Section 101 - Definitions	i. (
39.	Office Building, Class A:	A principal building that was
40.	originally constructed as a 1-fa	mily or 2-family detached dwelling and
41.	that is converted BY PROPER PERM	IT to office use without any external
42.		resting the office space or otherwise
43.		or the purposes of this definition,

43.

1.	enclosure of a porch of a house OR THE ADDITION OF AN EXTERIOR STAIRWAY
2.	AT THE SIDE OR REAR OF THE BUILDING does not constitute external
3.	enlargement.
4.	Residential Zone: A zone classified as R.C., D.R., R-O-A, or
5.	R.A.E. "Zoned for residential purposes": Within a residential zone.
6.	SECTION 2. AND BE IT FURTHER ENACTED, that Section 202 be and
7.	it is hereby added to the Baltimore County Zoning Regulations, as
8.	amended, to read as follows:
•	
9.	SECTION 202RESIDENTIAL-OFFICE, CLASS A OFFICE ZONE (R-O-A)
10.	ZONE
11.	202.1 DECLARATION OF FINDINGS.
12.	A. RESIDENTIAL USE OF CERTAIN SITES MAY NOT BE
13.	ECONOMICALLY FEASIBLE IN SOME PREDOMINANTLY MODERATE-DENSITY
14.	RESIDENTIAL AREAS THAT ARE IMMEDIATELY ADJACENT TO COMMERCIAL OR OTHER.
15.	NONRESIDENTIAL USES;
16.	B. NEITHER BUSINESS ZONING NOR HIGH-DENSITY RESIDENTIAL
17.	ZONING NOR RESIDENTIAL-OFFICE ZONING WHICH PERMITS NEW OFFICE BUILDINGS
18.	ON THOSE SITES IS APPROPRIATE; AND
19.	C. WITH APPROPRIATE RESTRICTIONS, HOUSES CONVERTED TO
20.	OFFICES ARE SUITABLE, ECONOMICALLY FEASIBLE USES OF SUCH SITES.
21.	202.2STATEMENT OF LEGISLATIVE POLICY. THE R-O-A ZONING
22.	CLASSIFICATION IS ESTABLISHED, PURSUANT TO THE FINDINGS OF SECTION
23.	202.1, TO ACCOMMODATE SINGLE FAMILY, DUPLEX AND TWO FAMILY DETACHED
24.	HOUSES CONVERTED TO OFFICE BUILDINGS IN PREDOMINANTLY RESIDENTIAL AREAS
25.	ON SITES THAT, BECAUSE OF ADJACENT NONRESIDENTIAL ACTIVITY, HEAVY
26.	COMMERCIAL TRAFFIC, OR OTHER SIMILAR FACTORS, CAN NO LONGER REASONABLY
27.	BE LIMITED SOLELY TO USES ALLOWABLE IN MODERATE-DENSITY RESIDENTIAL
28.	ZONES. IT IS FURTHER THE INTENT OF THE COUNTY COUNCIL THAT THE
29.	RESIDENTIAL APPEARANCE OF THE EXISTING STRUCTURE AND THE RESIDENTIAL
30.	SETTING OF ANY BUILDING CONVERTED TO OFFICES BE MAINTAINED IN THE R-O-A
31.	ZONES SO THAT THE CONVERTED DWELLING WILL BE HIGHLY COMPATIBLE WITH
32.	NEIGHBORING RESIDENTIAL PROPERTY. TO MAINTAIN RESIDENTIAL CHARACTER,
33.	THE COUNCIL DOES NOT INTEND THAT LOTS BE DEVELOPED OR REDEVELOPED
34.	SOLELY FOR THE PURPOSE OF PROVIDING PARKING IN THE R-O-A ZONE. THE
35.	R-O-A ZONE SHALL ONLY BE APPLIED TO SITES WHICH ARE LARGE ENOUGH OR
36.	DESIGNED IN SUCH A WAY THAT PARKING AND ACCESS CAN BE ACCOMMODATED
37.	WITHOUT SACRIFICING THE RESIDENTIAL CHARACTER OF THE SITE AND WHERE THE

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

1.	EXCEPT FOR A RESIDENTIAL GARAGE, THE WAS CONSTRUCTED AS AN ACCESSORY
2.	USE TO THE DWELLING PRIOR TO ITS CONVERSION TO A CLASS A OFFICE
3.	BUILDING.
4.	A. PARKING AREAS SHALL BE SCREENED IN
5.	ACCORDANCE WITH THE LANDSCAPE MANUAL;
6.	B. PARKING SHALL BE SETBACK AT LEAST 10 FEET
7.	FROM THE PROPERTY LINE EXCEPT THAT IF THE PROPERTY LINE ABUTS AN ALLEY,
8.	NO SETBACK IS REQUIRED PROVIDED THAT THE ALLEY DOES NOT ABUT A FRONT OR
9.	SIDE YARD OF A RESIDENTIALLY USED PROPERTY;
10.	C. NOTWITHSTANDING THE PROVISIONS OF
11.	BEETION 307; PARKING SHALL BE LOCATED IN THE SIDE OR REAR ONLY
12.	. UNLESS OTHERWISE APPROVED BY THE ZONING COMMISSIONER PURSUANT TO
13.	SECTION 307.
14.	D. NOTWITHSTANDING THE PROVISIONS OF SECTION
15.	307, THE ZONING COMMISSIONER MAY NOT PERMIT A VARIANCE OF MORE THAN ONE
16.	PARKING SPACE BELOW THE NUMBER REQUIRED BY THESE REGULATIONS.
17.	202.4BULK REGULATIONS OF R-O-A ZONES. USES PERMITTED BY
18.	RIGHT OR BY SPECIAL EXCEPTION ARE GOVERNED BY THE FOLLOWING BULK
19.	REGULATIONS:
20.	A. RESIDENTIAL USES AND NEW STRUCTURES ACCESSORY TO
21.	CLASS A OFFICE BUILDINGS ARE GOVERNED BY THE BULK REGULATIONS OF THE
22.	D.R. ZONE CLASSIFICATION IN PLACE AT THE TIME WHEN THE R-O-A ZONE WAS
23.	APPLIED . SUBJECT TO COMPLIANCE WITH SECTION 202.6. IF A D.R. ZONE
24.	WAS NOT IN PLACE AT THE TIME THAT THE R-O-A ZONE WAS APPLIED, THE BULK
25.	REGULATIONS OF THE D.R.3.5 ZONE AS SET FORTH IN SECTION 1802.3C.1.
26.	SHALL GOVERN. THE PROVISIONS OF SUBSECTION 1B01.1.B. (RESIDENTIAL
27.	TRANSITION AREAS AND USES PERMITTED THEREIN) SHALL APPLY IN THE R-O-A
28.	ZONE TO THE DEVELOPMENT OF ANY USE OTHER THAN A SINGLE FAMILY HOME OR
29.	THE CONVERSION OF A HOME TO A CLASS A OFFICE BUILDING.
30.	B. CLASS A OFFICE BUILDING THEMSELVES, WHICH BY
31.	DEFINITION MAY NOT BE ENLARGED. ARE NOT SUBJECT TO BULK REGULATIONS,
32.	NOR ARE UNENLARGED STRUCTURES ACCESSORY TO THE ORIGINAL BUILDING.
33.	C. THE RECONSTRUCTION OF AN EXISTING CLASS A OFFICE
34.	BUILDING WHICH IS DESTROYED BY FIRE OR OTHER CASUALTY MAY NOT INCREASE
35.	THE SIZE OR GROSS FLOOR AREA OF THE STRUCTURE OR ALTER THE LOCATION OF
36.	THE STRUCTURE, WITHOUT A SPECIAL HEARING SUBJECT TO THE
37.	LIMITATIONS CONTAINED IN SECTION 104.2.
38.	202.5Submitting Plan For Conversion. A New Building <u>or</u>
3 9.	PART OF A BUILDING TO BE USED AS A DWELLING MUST BE OCCUPIED AS A

OR

1. RESIDENTIAL USE FOR FIVE YEARS BEFORE SUBMITTING A PLAN FOR CONVERSION 2. TO A CLASS A OFFICE BUILDING, SUBJECT DOCUMENTATION OF COMPLIANCE З. WITH THE RESIDENTIAL USE REQUIREMENT IN THIS SECTION. THE USE OR 4. DEVELOPMENT OF ANY PROPERTY IN AN R-O-A ZONE MAY NOT BE CHANGED FROM 5. THAT EXISTING ON THE EFFECTIVE DATE OF THE CLASSIFICATION'S APPLICATION 6. TO THAT PROPERTY, EXCEPT IN ACCORDANCE WITH A PLAN APPROVED BY THE 7. COUNTY REVIEW GROUP AS PROVIDED IN TITLE 26, ARTICLE V OF THE BALTIMORE COUNTY CODE, UNLESS THE CHANGE IN USE IS CONFINED TO A CHANGE IN THE 8. NUMBER OF DWELLING UNITS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 9. 402. 10. 202.6 -- REVIEW FOR COMPATIBILITY. ANY CONVERSION TO A CLASS 11. 12. A OFFICE BUILDING INVOLVING CHANGE TO THE EXTERIOR OF THE DWELLING, ANY 13.

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

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

409.7--Location of Parking

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

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

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

1.	USE TO WHICH THEY ARE ACCESSORY EXCEPT THAT IN CASES WHERE ADJACENT
2.	
	DWELLINGS HAVE BEEN CONVERTED TO CLASS A OFFICE BUILDINGS, PARKING
3.	SPACES MAY BE PROVIDED ON THE ADJACENT LOTS. THE USE OF AN OFF-SITE
4.	PARKING FACILITY WHICH IS ACCESSORY TO A CHURCH OR OTHER EXISTING
5.	PRINCIPAL USE MAY SATISFY THE PARKING REQUIREMENT, IF LOGATE
6.	LOCATED NO MORE THAN 500 FEET FROM THE LOT.
7.	SECTION 4. AND BE IT FURTHER ENACTED, that Section 26-282(a) of
8.	Title 26 - Planning Zoning and Subdivision Control, of the Baltimore
9.	County Code, 1988, be and it is hereby repealed and re-enacted, with
10.	amendments, to read as follows:
11.	
12.	Sec. 26-282. Development in RCC, R-O, R-O-A, O-1, O-2, or OT
	zone and CR Districts.
13.	(a) (1) Development of property in AN R-O-A ZONE AND an
14.	R-O zone shall be appropriate to the specific circumstances of the
15.	site, taking into account surrounding uses; tree preservation;
16.	protection of watercourses and bodies of water from erosion and
17.	siltation; and safety, convenience, and amenity for the neighborhoods.
18.	(2) In determining the appropriateness of A NEW
19.	DWELLING, THE RECONSTRUCTION OF A CLASS A OFFICE BUILDING WHICH
20.	INVOLVES CHANGES TO THE EXTERIOR OF THE DWELLING BUILDING, OR
21.	THE DEVELOPMENT OF class B office buildings, design elements of
22.	proposed buildings shall be evaluated in relation to existing adjacent
23.	or surrounding buildings. Unless determined otherwise by the director
24.	of the office of planning and zoning to be considered appropriate, new
25.	
25.	buildings shall be similar to existing ones in the following respects:
26.	a. Height:
27. 28.	b. Bulk and general massing;
29.	c. Major divisions or rhythms of the facade; d. Proportion of openings (windows::11-malasta-).
30.	 d. Proportion of openings (window-wall-relation); e. Roof treatment;
31.	f. Haterials, colors, textures;
32.	8. General architectural character:
33.	1. Horizontal or vertical emphasis;
34. 35.	2. Scale;
36.	3. Stylistic features and themes - porches,
37.	colonnades, pediments, cupolas, cornices.
38.	coins, detail, and ornament; h. Relation to street;
39.	i. Exterior lighting. Buildings shall and be
4 0. 41.	righted on the exterior, and any lighting provided for action made
42.	should be minimized and directed away from adjoining residential property.
-	FFJ.
43.	Section 5. And be it further enacted, that this Act shall take

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

P.C. #8

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

Bill No. <u>89-97</u>

All Councilmembers

By the County Council, August 4, 1997

A BILL ENTITLED

AN ACT concerning

Signs

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

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter stricken from existing law.

Strike out indicates matter stricken from bill.

Underlining INDICATES AMENDMENTS TO BILL.

1	h. [Accessory signs (see Section 413);] SIGNS, SUBJECT TO SECTION 450.
2	Section 200R.A.E.1 ZonesResidence, Apartment, Elevator.
3	200.2 Use Regulations in R.A.E. 1 Zones.
4	B. Supplementary use regulations.
5	4. Sign and Display Regulations. [No sign or display of any kind visible from
6	outside the building shall be permitted, except such signs as are permitted under Section 413.1.]
7	SIGNS ARE PERMITTED, SUBJECT TO SECTION 450.
8	Section 201R.A.E. 2 ZonesResidence, Apartment, Elevator.
9	201.2 Use Regulations in R.A.E. 2 Zones.
10	B. Supplementary use regulations.
1 }	4. Sign and display regulations. [In addition to signs permitted under Section
12	413.1, one stationary outside identification sign at each exterior entrance to an office or to a retail
13	or service use shall also be allowed, provided that such sign: does not exceed three square feet in
14	area, if self-illuminated; is not illuminated by other than an enclosed lamp; is of the non-flashing
15	type; and does not project more than six inches from the building. Further, for each building
16	containing uses permitted under subparagraphs 2 and 3 of paragraph A, one directory sign listing
17	such uses and their locations shall be permitted; such sign shall not have a surface area exceeding
18	in square feet the product of the number of establishments listed times 1 ½. No other signs or
19	display of any kind visible from outside the building shall be permitted.] SIGNS ARE
20	PERMITTED, SUBJECT TO SECTION 450.
21	Section 202Residential-Office, Class A Office Zone (R-O-A) Zone.
22	202.3Use Regulations.

ļ	C. Signs and off-street parking requirements.
2	1. [In addition to signs permitted under Subsection 413.1, one stationary outside
3	identification sign is permitted, provided that the sign is not illuminated, is wall-mounted or
. 4	projects from the building and does not have a surface area exceeding six square feet on each
5	side. No other signs or displays of any kind visible from outside the building are permitted.]
6	SIGNS ARE PERMITTED, SUBJECT TO SECTION 450.
7	Section 204R-O (Residential Office) Zones.
8	204.3 Use Regulations.
9	C. Signs and off-street parking requirements.
10	1. [In addition to signs permitted under Subsection 413.1, one stationary outside
11	identification sign is permitted, provided that the sign is not illuminated, does not project more
12	than six inches from the building, and does not have a surface area exceeding eight square feet.
13	No other signs or displays of any kind visible from outside the building are permitted, except that
14	along a principal arterial an additional free-standing sign with a surface area of no more than 15
15	square feet per side is also allowed if there is adjacent non-residentially-zoned frontage.] SIGNS
16	ARE PERMITTED, SUBJECT TO SECTION 450.
17	Section 205OR-1 (Office Building - Residential) Zones.
18	205.3 Use Regulations of OR-1 Zones.
19	C. Supplementary use Regulations (see also Section 208):
20	[3. Outdoor signs or display for office buildings. In addition to the temporary real
21	estate signs and the temporary construction signs permitted under Section 413.1:
22	a. One stationary building identification sign on each office building is

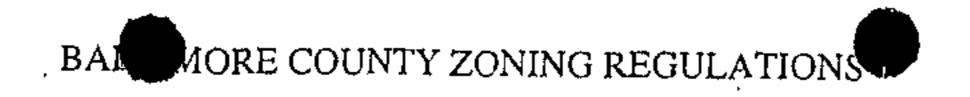


TABLE OF SIGN REGULATIONS PERMANENT SIGNS (continued)

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

10

IN THE MATTER OF * BEFORE THE THE APPLICATION OF

THOMAS C. KNOERLEIN, ET UX * COUNTY BOARD OF APPEALS

FOR A ZONING VARIANCE ON

PROPERTY LOCATED ON THE SOUTH-* OF EAST CORNER BELAIR ROAD AND

SOTH AVENUE (9217 BELAIR ROAD)* BALTIMORE COUNTY

11TH ELECTION DISTRICT * CASE NO. 97-532-A

COORCIDENTE DISTRICT ... CUSE NO. 31 335 W

OPINION

This matter comes on appeal filed by the Perry Hall Improvement Association, Inc., Fred and Margaret Levinsky, and Casimir and Bernice Piotrowski from the decision of the Deputy Zoning Commissioner granting Petitioners' request for variance from Section 202.3.C.1 of the Baltimore County Zoning Regulations (BCZR) by Order dated August 5, 1997. Petitioners seek permission to maintain a freestanding 15 square-foot sign in an R.O.A. zone in lieu of the maximum permitted 6 square-foot wall-mounted sign.

Appearing in proper person were Petitioners, Thomas C. and Leah Knoerlein. The Office of People's Counsel for Baltimore County was represented by Carole S. Demilio, Esquire.

Testimony and evidence indicated that the Petitioners acquired the subject site approximately one year ago and operate a real estate business on the premises. The lot is 0.28 acre, rectangular in shape, ordinary in topography, zoned R.O.A. and located on the southeast corner of Belair Road and Soth Avenue. Petitioners commissioned and personally erected a 15 square-foot sign in the front yard, which identifies it as the "Main Office" of "LT Realty" and lists the telephone number thereon, but not the street address.

Dorothy McMann spoke on behalf of the Perry Hall Improvement

Case No. 97-532-A Thomas C. Knoerlein, et ux -Petitioners 2
Association, which opposes the granting of variances to signage regulations.

The law permits signs in the R.O.A. zone to be wall-mounted and up to 6 square feet in size, absent a variance. Section 307.1 of the BCZR provides for the granting of such a variance "only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request..." Under the landmark case of Cromwell v. Ward, 102 Md.App. 691 (1995), the Court of Special Appeals has clarified that the threshold requirement of uniqueness demands that there be a finding that the subject property is unique and unusual such that its uniqueness and peculiarity cause the zoning provision to impact disproportionately upon that property. Absent an initial finding of uniqueness, the inquiry under Section 307.1 stops and the variance must be denied.

In the instant case, Petitioners failed to present any testimony or evidence demonstrating their property was unique in such a manner that the signage requirements impact disproportionately on their property. The threshold variance requirement, accordingly, was not met. The inquiry thus must stop and the variance be denied.

ORDER

THEREFORE, IT IS THIS $30\,\mathrm{th}$ day of April , 1998 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance seeking relief from Section 202.3.C of the <u>Baltimore County Zoning Regulations</u> to

permit a free-standing sign of 15 square feet total in lieu of the maximum permitted 6 square feet total for a wall-mounted sign be and is hereby DENIED; and it is further

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

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Kristine K. Howanski, Chairman

Harry E. Buchheister, Jr.

Thomas P. Melvin

D. C. #11

IN THE MATTER OF THE APPLICATION OF DOROTHY CUNNINGHAM AND WILLIAM* O. SCHMIDBAUER -PETITIONERS FOR VARIANCE ON PROPERTY * LOCATED ON THE SOUTH SIDE BELAIR ROAD, 278' N OF HALBERT* BALTIMORE COUNTY AVENUE (9431 BELAIR ROAD) 11TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT

BEFORE THE

COUNTY BOARD OF APPEALS

OF

* CASE NO. 98-198-A

OPINION

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

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

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

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

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

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

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

Case No. 98-198-A /Dorothy Cunningham and William O. Schmidbauer3

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

Absent Section 450.8.2, this Board feels compelled to address the variance relief as granted below. Section 307.1 of the BCZR provides for the granting of a variance "only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request..."

Under the landmark case of Cromwell v. Ward, 102 Md.App. 691 (1995), the Court of Special Appeals has clarified that the threshold requirement of uniqueness demands that there be a finding that the subject property is unique and unusual such that its uniqueness and peculiarity cause the zoning provision to impact disproportionately upon that property. Absent an initial finding of uniqueness, the inquiry under Section 307.1 stops and the variance must be denied.

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

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

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

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

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

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Kristine K. Howanski, Chairman

Margaret Worrall

Thomas P. Melvin

1-12 P.C. # 12

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RE: PETITION OF DOROTHY CUNNINGHAM AND WILLIAM O. SCHMIDBAUER

IN THE

FOR

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

CIRCUIT COURT

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

BALTIMORE COUNTY

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

Civil No. 3-C-98-12704

ORDER

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

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

True Copy Test

Assistant Clerk

ROBERT E. CADIGAN, Circuit Sudge

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND IN THE MATTER OF DOROTHY CUNNINGHAM 4 03-C-98-012704 6 REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS (Hearing) February 2, 2000 Towson, Maryland 9 10 BEFORE: THE HONORABLE ROBERT E. CADIGAN 11 APPEARANCES: 12 On behalf of the Petitioner: 13 STEPHEN F. MARSALEK, Esquire 14 15 On behalf of Respondent: 16 PETER MAX ZIMMERMAN, Esquire CAROLE DEMILIO, Esquire 17 18 19 20 21 22 23 24 25

Patricia M. Dudzinski Official Court Reporter

COURT'S OPINION

THE COURT: In the Red Roof Inns v.

People's Counsel case, 96 Md. App. 219, the court

set out the standard for judicial review as applied to

decisions of administrative agencies in general, and to

those of zoning boards in particular, and stated that

once a decision has been rendered by the zoning

authority, it must be affirmed by the reviewing court if

it is, in the language of the case, "fairly debatable."

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

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

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

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

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

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

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

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

that term is defined in the Eger case. All right. Thank you, gentlemen. Mr. Zimmerman, would you prepare the order for my signature, please. MR. ZIMMERMAN: Yes, your Honor. б (End of Proceedings.)

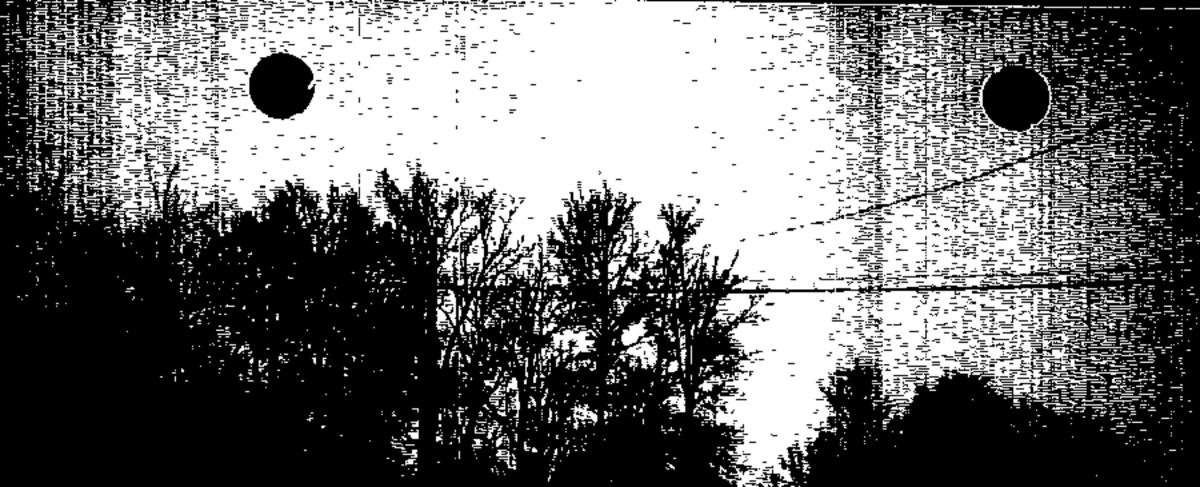
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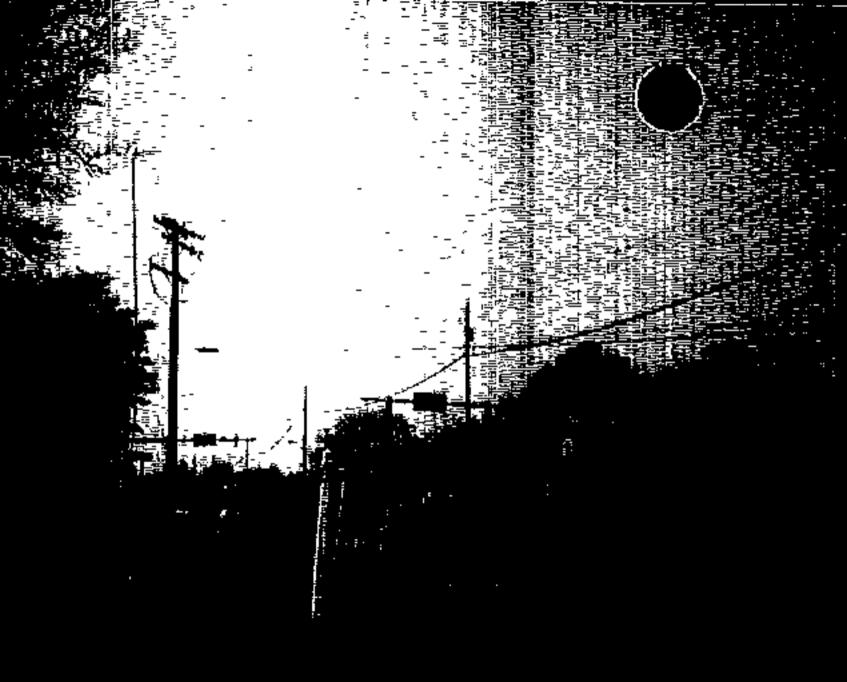
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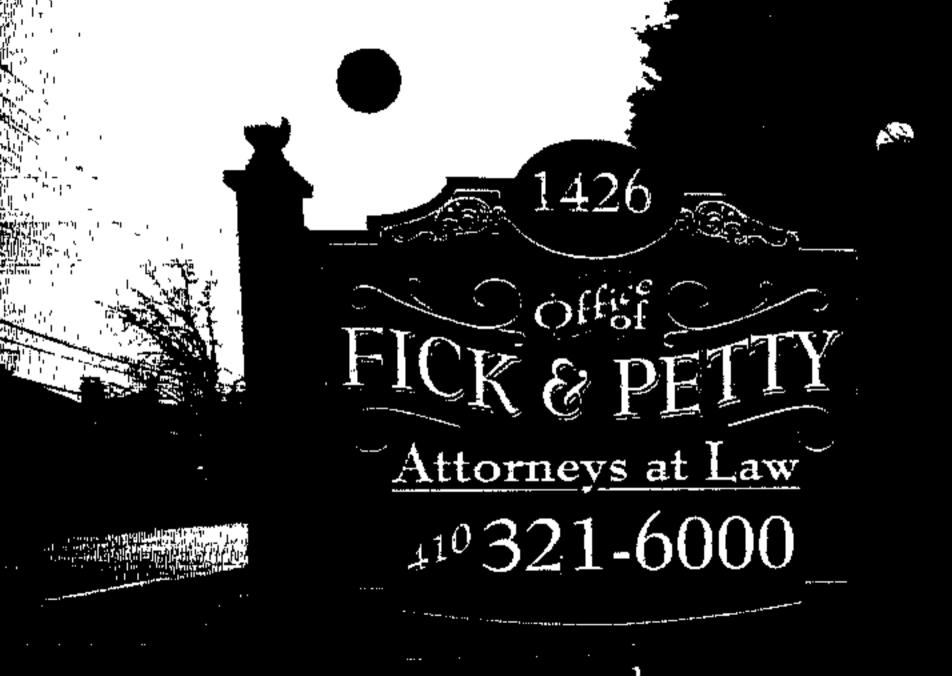








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





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Case No. 03-371-A /Javad and Guity Varzandeh -Legal Owners /Petitioners

Exhibit #2A-H) taken in March 2003 which show the site of the proposed sign as well as other signs along Belair Road near the subject site.

The Petitioner explained that the residences on the subject property and the property adjacent to it have been converted and both operate currently as assisted living facilities. He observed that one sign can serve both facilities and that internal access serves both facilities.

The Petitioner further explained that the request for the sign is based on his concern for those elderly people living in the assisted living facility. In times of emergency, Mr. Varzandeh opined, emergency vehicles and personnel have difficulty finding the facility, especially at night.

On cross-examination by Mr. Zimmerman, Mr. Varzandeh said that the subject property is owned by his father, Javad Varzandeh, who also owns 9404 Belair Road, the second assisted living facility. The Petitioner leases 9402 Belair Road from his father and has operated this assistant living facility for approximately three months.

Again in response to Mr. Zimmerman's questions, the witness said that he understood a variance was necessary for the requested sign. In the meantime he had applied for a temporary sign and was issued a permit. Mr. Varzandeh stated that he had not told the County personnel issuing that permit that a permanent sign had been denied. The current sign is 2 feet by 4 feet, freestanding, but not illuminated.

Mr. Varzandeh further testified that he had lived at the subject site for 8 to 9 years, but did not know the speed limit on Belair Road. He also indicated that, in an emergency, the community is served by fire department volunteers from Cowenton or Fullerton. He added that even though these are local people, they still have difficulty finding the assisted living facility. He noted that he had checked the zoning regulations when the decision was made to convert the