

CIRCUIT COURT FOR BALTIMORE COUNTY

Julie L. Ensor

Clerk of the Circuit Court

County Courts Building

401 Bosley Avenue

P.O. Box 6754

Towson, MD 21285-6754

(410)-887-2601, TTY for Deaf: (800)-735-2258

Maryland Toll Free Number (800) 938-5802

RECEIVED

JUN 03 2015

BALTIMORE COUNTY
BOARD OF APPEALS

05/29/15

Case Number: 03-C-14-013163 AA OTH

Date Filed: 12/08/2014

Status: Closed/Inactive

Judge Assigned: To Be Assigned,

Location :

CTS Start : 12/08/14 Target : 06/05/16

In the Matter of Mr Bs Tattoo And Body Piercing L C L L C, et al

C A S E H I S T O R Y**OTHER REFERENCE NUMBERS**

Description	Number
Administrative Agency	2014-0015
Case Folder ID	C14013163V01

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET 001	Mr Bs Tattoo And Body Piercing L C L L C		BT DO 05/27/15	12/10/14
		Party ID: 2077638		
	Mail: 7554 Belair Rd	12/10/14		12/10/14 BMC
	Nottingham, MD 21236			
	Attorney: 0809164 Conrad, John W	Appear: 12/10/2014		12/10/14
	3907 EASTERN AVE.			
	BALTIMORE, MD 21224			
	(410)494-4330			
PET 002	Smith, Robert A		BT DO 05/27/15	12/10/14
		Party ID: 2077639		
	Mail: 1932 Snyder Ave	12/10/14		12/10/14 BMC

Baltimore, MD 21222

Attorney: 0809164 Conrad, John W
3907 EASTERN AVE.
BALTIMORE, MD 21224
(410)494-4330

Appear: 12/10/2014

12/10/14

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET	003 Smith, Denise		BT DO 05/27/15	12/10/14
		Party ID: 2077641		
	Mail: 1932 Snyder Ave Baltimore, MD 21222	12/10/14		12/10/14 BMC
	Attorney: 0809164 Conrad, John W 3907 EASTERN AVE. BALTIMORE, MD 21224 (410)494-4330	Appear: 12/10/2014		12/10/14
RES	001 Niehaus, Richard		BT DO 05/27/15	12/10/14
		Party ID: 2077642		
	Capacity : Legal Owner Mail: 7525 Belair Rd Nottingham, MD 21236	12/10/14		12/10/14 BMC
	Attorney: 0805634 Vettori, Jason T Gildea & Schmidt, LLC 600 Washington Ave Suite 200 Towson, MD 21204 (410)821-0070	Appear: 03/23/2015		03/23/15
ADA	001 The Board Of Appeals Of Baltimore County		BT DO 05/27/15	12/10/14
		Party ID: 2077647		
	Mail: Jefferson Building 105 W. Chesapeake Ave 2nd Floor, Ste 203 Towson, MD 21204	12/10/14		12/10/14 BMC
ITP	001 Benkert, Bruce		BT DO 05/27/15	01/21/15
		Party ID: 2090031		
	Mail: 7525 Belair Road Baltimore, MD 21236	01/21/15		01/21/15 AMV
	Attorney: 0805634 Vettori, Jason T Gildea & Schmidt, LLC 600 Washington Ave Suite 200 Towson, MD 21204	Appear: 03/23/2015		03/23/15

(410)821-0070

CALENDAR EVENTS

Date	Time	Fac	Event Description	Text SA	Jdg Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec			
05/22/15	09:30A	CR04	Civil Non-Jury Trial	Y	CAC	01 /01	JMO
	Held/Concluded		05/22/15 E C.Cavanaugh	Y			
Stenographer(s): Court Smart							

DISPOSITION HISTORY

Disp	Disp		Stage		Activity
Date	Code	Description	Code	Description	User Date
05/27/15	DO	Decree or Order	BT	BEFORE TRIAL/HEARING	RB 05/27/15

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned;	J	12/10/14	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
00001000	Petition for Judicial Review	12/08/14	12/10/14	PET001	TBA	05/27/15	BMC RB
00002000	Certificate of Compliance *	12/16/14	01/05/15	ADA001	TBA	01/05/15	CPF
00003000	Notice of Intent to Participate Filed by RES001-Niehaus, ITP001-Benkert	01/14/15	01/21/15	RES001	TBA	01/21/15	AMV AMV
00004000	Transcript of Record from Adm Agency*	01/28/15	02/25/15	ADA001	TBA	05/27/15	SNW RB
00005000	Notice of Transcript of Record Sent	02/25/15	02/25/15	ADA001	TBA	02/25/15	SNW
00006000	Notice of Transcript of Record Sent	02/25/15	02/25/15	ITP001	TBA	02/25/15	SNW
00007000	Notice of Transcript of Record Sent	02/25/15	02/25/15	PET001	TBA	02/25/15	SNW
00008000	Notice of Transcript of Record Sent	02/25/15	02/25/15	RES001	TBA	02/25/15	SNW
00009000	Scheduling Order	03/03/15	03/03/15	000	TBA	03/03/15	JMO

Num/Seq Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
00010000 Entry of Appearance Filed by RES001-Niehaus, ITP001-Benkert	03/18/15	03/23/15	RES001	TBA	03/23/15	RSM RSM
00011000 Scheduling Order	03/24/15	03/24/15	000	TBA	03/24/15	MK
00012000 Memorandum in Support of Petition for Judicial Review Filed by PET001-Mr Bs Tattoo And Body Piercing L C L L C, PET002-Smith	03/27/15	03/31/15	PET001	TBA	03/31/15	AW
00012001 Answering Memorandum	04/27/15	04/28/15	RES001	TBA	05/27/15	BMC RB
00012002 Replt to respondents Answering Memorandum * Filed by PET002-Smith, PET001-Mr Bs Tattoo And Body Piercing L C L L C	05/15/15	05/18/15	PET002	TBA	05/27/15	BMC RB
00013000 Open Court Proceeding May 22, 2015. Hon. Colleen A. Cavanaugh. Hearing had. Testimony taken. Order to be filed.	05/22/15	05/22/15	000	CAC	05/27/15	KET RB
00014000 Order affirming decision of the Baltimore County Board of Appeals' November 6, 2014 decision	05/27/15	05/27/15	000	CAC Affirmed	05/27/15	RB RB
00015000 DOCKET ENTRIES SENT TO BOA	05/29/15	05/29/15	000	TBA		MH

TICKLE

Code Tickle Name	Status Expires	#Days	AutoExpire	GoAhead	From Type	Num Seq
1YRT One Year Tickle (Jud CLOSED	12/08/15	365	no	no	DAAA D	1 000
SLIL Set List - Informati	CANCEL 03/18/15	0	no	no	DAAF D	10 000
SLTR Set List For Trial	Done 01/28/15	0	yes	yes	DTRA D	4 000

DIFFERENTIATED CASE MANAGEMENT**TRACKS AND MILESTONES**

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 03/03/15 Order Date : 03/03/15
Start Date : 03/03/15 Remove Date:

03-C-14-013163 Date: 05/29/15 Time: 12:38

Page: 5

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(	03/18/15	05/27/15	CLOSED	
All Motions (excluding Motions in Limine	04/12/15	05/27/15	CLOSED	
TRIAL DATE is	05/22/15	06/01/15	05/22/15	REACHED

ACCOUNTING SUMMARYNON-INVOICED OBLIGATIONS AND PAYMENTS

Date	Rcpt/Initials	Acct Desc	Oblig	Payment	Total MOP	Balance
12/08/14	201400029457/GAL	1265 MLSC	.00	55.00	-55.00 CC	-55.00
12/08/14	201400029457/GAL	1500 Appearance F	.00	10.00	-10.00 CC	-65.00
12/08/14	201400029457/GAL	1102 CF-Civil Fil	.00	80.00	-80.00 CC	-145.00
12/10/14		1102 CF-Civil Fil	80.00	.00	80.00	-65.00
12/10/14		1265 MLSC	55.00	.00	55.00	-10.00
05/29/15		1500 Appearance F	10.00	.00	10.00	.00

Invoice Due Date: 05/29/15 INVOICE# 2015001195/SAP TOTAL: \$10.00 STATUS: Invoice Mailed
PARTY : Mr Bs Tattoo And Body Piercing L C L L C
MAIL-TO: John W Conrad

Invoice Created on 05/29/15
Invoice Mailed on 05/29/15

Date	Rcpt/Initials	Acct Desc	Oblig	Payment	Total MOP	Balance
12/10/14		1500 Appearance F	10.00	.00	10.00	10.00

5/22/15

IN THE MATTER OF
MR. B'S TATTOO AND
BODY PIERCING, LC., LLC

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
CASE NO. 03-C-14-13163

ORDER

WHEREAS, this matter came before the Court on this date for Judicial Review of the November 6, 2014 decision by the Board of Appeals for Baltimore County ("The Board"). Within its Opinion and Order, the Board approved the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Road and denied the Petitioner's request for variance to permit the location of a Tattoo and Body Piercing Parlor within 2,500 feet of the grandfathered location. All parties were present with counsel who argued each party's respective position to this Court; and

NOW THEREFORE, upon consideration of the record in this matter, together with the pleadings and oral arguments before this Court it is hereby this 22nd day of May 2015:

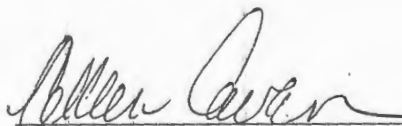
ORDERED that the Board's findings below were both reasonable and supported by substantial evidence in the record; and it is further

ORDERED that the Board's findings were premised upon the proper application and conclusions of law; and it is further

ORDERED that the Baltimore County Board of Appeals' November 6, 2014 decision to deny the Petitioner's Petition for Variance and to grant Respondent's Petition for Special Hearing and approval of the grandfathered location is hereby **AFFIRMED**.

RECEIVED
MAY 29 2015

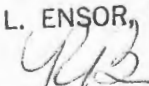
BALTIMORE COUNTY
BOARD OF APPEALS


Judge, Colleen Cavanaugh
Circuit Court for Baltimore County

True Copy Test

JULIE L. ENSOR, Clerk

Per


Assistant Clerk

FILED MAY 27 2015

CIRCUIT COURT FOR BALTIMORE COUNTY

Julie L. Ensor

Clerk of the Circuit Court

County Courts Building

401 Bosley Avenue

P.O. Box 6754

Towson, MD 21285-6754

(410)-887-2601, TTY for Deaf: (800)-735-2258

Maryland Toll Free Number (800) 938-5802

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

Case Number: 03-C-14-013163 AA

Administrative Agency : 2014-0015

C I V I L

In the Matter of Mr Bs Tattoo And Body Piercing L C L L C, et al

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 25th day of February, 2015.

Julie L. Ensor

Julie L. Ensor

Clerk of the Circuit Court, per SW

Date issued: 02/25/15

TO: THE BOARD OF APPEALS OF BALTIMORE COUNTY
Jefferson Building
105 W. Chesapeake Ave 2nd Floor, Ste 203
Towson, MD 21204

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FEB 27 2015

BALTIMORE COUNTY
BOARD OF APPEALS

CIRCUIT COURT FOR BALTIMORE COUNTY

Julie L. Ensor

Clerk of the Circuit Court

County Courts Building

401 Bosley Avenue

P.O. Box 6754

Towson, MD 21285-6754

(410)-887-2601, TTY for Deaf: (800)-735-2258

Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-14-013163

TO: THE BOARD OF APPEALS OF BALTIMORE COUNTY
Jefferson Building
105 W. Chesapeake Ave 2nd Floor, Ste 203
Towson, MD 21204

1/28/15

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
MR. B's TATTOO AND BODY
PIERCING L.C., LLC, AND
ROBERT A. SMITH, AND DENISE SMITH

FOR JUDICIAL REVIEW OF THE OPINION OF
THE BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

CIVIL ACTION
NO. : 03-C-14-013163

IN THE MATTER OF:
RICHARD NIEHAUS – LEGAL OWNER
FOR PROPERTY LOCATED AT
7525 BELAIR ROAD

14TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

BOARD OF APPEALS
CASE NO.: 14-015-SPHA

RECEIVED AND FILED
2015 JAN 28 A 11:35
CLERK OF CIRCUIT COURT
BALTIMORE COUNTY

* * * * *

**PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW JUDGE
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY**

TO THE HONORABLE, THE JUDGE OF SAID COURT:

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

**ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
OF BALTIMORE COUNTY**

July 19, 2013	Petition for Special Hearing pursuant to Section 500.7 of the BCZR to approve the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Road, within 2,500 feet of another Tattoo and/or Body Piercing Establishment at 7554 Belair Road; or, in the alternative, a Petition for Variance to permit a Tattoo and Body Piercing Establishment to be located less than 2,500 feet from another Tattoo and/or Body Piercing Establishment, pursuant to BCZR B-102(B)(2).
August 1, 2013	Entry of Appearance filed by People's Counsel for Baltimore County.
August 28, 2013	Certificate of Posting.
August 29, 2013	Certificate of Publication in newspaper
September 11, 2013	ZAC Comments.
September 17, 2013	Hearing held before the Administrative Law Judge.
September 25, 2013	Opinion and Order issued by the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, and the Petition for Variance was DENIED.
October 22, 2013	Notice of Appeal filed by Dino C. La Fiandra, Esquire, on behalf of Robert A. Smith and Denise Smith, Protestants/Appellants.
October 31, 2013	Appeal received by Board of Appeals.
November 4, 2013	Letter to Board of Appeals from Lawrence E. Schmidt, Esquire advising that he represents Richard Niehaus and Bruce Benkert.
November 15, 2013	Notice of Assignment issued by the Board. Hearing scheduled for February 5, 2014.
January 27, 2014	Letter to Board from People's Counsel for Baltimore County outlining their opposition and position on the Petition.
February 4, 2014	Letter to Board from Dine C. La Fiandra, Esquire requesting case be postponed due to settlement negotiations.
February 4, 2014	E-mail to Board from Jason T. Vettori, Esquire, indicating he has no objection to the requested postponement.

February 4, 2014	Notice of Postponement issued by the Board.
February 27, 2014	Letter to Board from Dino C. La Fiandra, Esquire requesting that case be rescheduled as the parties are unable to reach a settlement.
March 31, 2014	Notice of Reassignment issued by the Board. Hearing scheduled for May 29, 2014.
May 27, 2014	Line, Strike and Entry of Appearance filed on behalf of Protestants Robert Smith and Mr. B's Tattoo and Body Piercing L.C., LLC, striking the appearance of Dino La Fiandra, Esquire, and entering the appearance of John W. Conrad, Esquire.
May 29, 2014	Board convened for hearing.

Exhibits submitted at hearing before the Board of Appeals:

Petitioner's Exhibit No.

- 1 – Plan to Accompany Special Hearing for 7525 Belair Road
- 2 – Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law dated March 20, 1996
- 3 – Inter-Office Memorandum of September 20, 1996 to Carole S. Demilio from W. Carl Richards, Jr.
- 4 – Board of Appeals Opinion in Case No. 96-260-SPH dated December 12, 1996
- 5 – Circuit Court for Baltimore County Order dated July 30, 1997, Case No. 03-C-96-13013
- 6 – Circuit Court for Baltimore County Order dated November 21, 1997, Case No. 03-C-96-13013
- 7 – County Council for Baltimore County, Bill No. 29-98
- 8 – Letter dated March 20, 2003 to Richard D. Niehaus, Jr. from Michael Gisriel, Esquire
- 9 – Letter dated August 30, 2012 to EEP from Robert and Denise Smith
- 10 – County Council for Baltimore County, Bill No. 56-11
- 11 – County Council for Baltimore County, Bill No. 46-06
- 12 – County Council for Baltimore County, Bill No. 50-10
- 13 – Photographs of 7525 Belair Road (15 pages)
- 14 – BCZR Article 1, Section 104
- 15 – My Neighborhood Map, 7554 and 7525 Belair Road
- 16 – My Neighborhood Map, 7525 Belair Road and Fullerton Elementary School

17A – Baltimore County Code Enforcement Notice, Case No.
126441

17B – Baltimore County Code Enforcement Notice, Case No.
126441

17C – Baltimore County Code Enforcement Notice, Case No.
126441

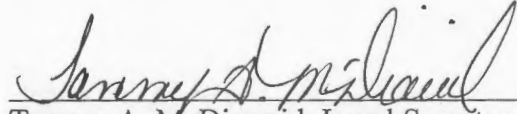
Protestants' Exhibit No.

1 – List of opponents to the Petition (17 pages)

2 – Inter-Office Correspondence dated 9/10/13 to Arnold Jablon
from Andrea Van Arsdale.

June 25, 2014	Protestants Robert Smith and Mr. B's Tattoo and Body Piercing L.C., LLC's Memorandum of Law filed by John W. Conrad III, Esquire.
June 30, 2014	Petitioners' Post Hearing Memorandum filed by Jason T. Vettori, Esquire, on behalf of Richard Niehaus, Jr. and Bruce Benkert.
August 7, 2014	Board convened for Public Deliberation.
November 6, 2014	Final Opinion and Order issued by the Board in which the Petition for Special Hearing was GRANTED; and the Petition for Variance was DENIED.
December 8, 2014	Petition for Judicial Review filed in the Circuit Court for Baltimore County by John W. Conrad III, Esquire on behalf of Robert A. Smith, Denise Smith and Mr. B's Tattoo and Body Piercing L.C., LLC, Appellants/Protestants.
December 11, 2014	Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.
December 16, 2014	Certificate of Compliance sent to all parties and interested persons.
January 28, 2015	Transcript of testimony filed.
January 28, 2015	Record of Proceedings filed in the Circuit Court for Baltimore County.

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



Tammy A. McDiarmid, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180

c: Lawrence E. Schmidt, Esquire
Jason Vettori, Esquire
John W. Conrad, III, Esquire
Richard Niehaus
Bruce Benkert
Mr. B's Tattoo and Body Piercing L.C., LLC
Robert A. Smith
Denise Smith
Carroll Pupa
Alfred Smith
Donald Hicks/Hicks Engineering Associates, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney/Office of Law



Board of Appeals of Baltimore County

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

January 28, 2015

Civil Clerk
Circuit Court for Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

RE: In the matter of: Richard Niehaus – Legal Owner
Civil Action No.: 03-C-14-013163
Board of Appeals Case No.: 14-015-SPHA

Dear Clerk:

Enclosed for filing please find the Proceedings before the Administrative Law Judge and the Board of Appeals for Baltimore County. Additionally, please allow this letter to reflect the filing of one accordion folder containing the entire Board of Appeals case file, exhibits, and transcript pursuant to Maryland Rule 7-206.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, reading "Tammy A. McDiarmid".

Tammy A. McDiarmid
Legal Secretary

tam

Enclosures

c: Lawrence E. Schmidt, Esquire
Jason Vettori, Esquire
Richard Niehaus
Bruce Benkert
Donald Hicks/Hicks Engineering Associates, Inc.
Mr. B's Tattoo and Body Piercing L.C., LLC
Office of People's Counsel
Arnold Jablon, Director/PAI
Michael Field, County Attorney/Office of Law

John W. Conrad, III, Esquire
Robert A. Smith
Denise Smith
Alfred Smith
Carroll Pupa
Lawrence Stahl, Managing Admin. Law Judge
Andrea Van Arsdale, Director/Dept. of Planning
Nancy West, Assistant County Attorney

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
MR. B's TATTOO AND BODY
PIERCING L.C., LLC, AND
ROBERT A. SMITH, AND DENISE SMITH

FOR JUDICIAL REVIEW OF THE OPINION OF
THE BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

IN THE MATTER OF:
RICHARD NIEHAUS – LEGAL OWNER
FOR PROPERTY LOCATED AT
7525 BELAIR ROAD

14TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

BOARD OF APPEALS
CASE NO.: 14-015-SPHA

CIVIL ACTION
NO. : 03-C-14-013163

* * * * *

Original Transcript

RECEIVED

JAN 14 2015

BALTIMORE COUNTY
BOARD OF APPEALS

12/16/14

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
MR. B's TATTOO AND BODY
PIERCING L.C., LLC, AND
ROBERT A. SMITH, AND DENISE SMITH

FOR JUDICIAL REVIEW OF THE OPINION OF
THE BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

IN THE MATTER OF:
RICHARD NIEHAUS – LEGAL OWNER
FOR PROPERTY LOCATED AT
7525 BELAIR ROAD

14TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

BOARD OF APPEALS
CASE NO.: 14-015-SPHA

CIVIL ACTION
NO. : 03-C-14-013163

RECEIVED AND FILED
2014 DEC 16 P 1:5
CLERK OF CIRCUIT COURT
BALTIMORE COUNTY

* * * * *

CERTIFICATE OF COMPLIANCE

Madam Clerk:

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

Lawrence E. Schmidt, Esquire
Jason Vettori, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

John W. Conrad III, Esquire
Law Offices of John W. Conrad III, LLC
3907 Eastern Avenue
Baltimore, MD 21224

Richard Niehaus
7525 Belair Road
Baltimore, MD 21236

Bruce Benkert
5807 N. Church Street
Glen Rock, PA 17327

Robert Smith
1932 Snyder Avenue
Baltimore, MD 21222

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

Lawrence M. Stahl
Managing Administrative Law Judge
The Jefferson Building, Suite 103
105 W. Chesapeake Avenue
Towson, MD 21204

Arnold Jablon, Director
Permits, Approvals and Inspections
County Office Building
111 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

Denise Smith
1932 Snyder Avenue
Baltimore, MD 21222

Mr. Carroll Pupa
212 Elinor Avenue
Baltimore, MD 21236

Alfred Smith
910 Ponca Street
Baltimore, MD 21224

Donald Hicks
Hicks Engineering Associates, Inc.
200 E. Joppa Road, Suite LL 105
Towson, MD 21286

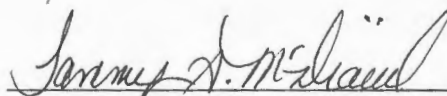
Andrea Van Arsdale, Director
Department of Planning
The Jefferson Building, Suite 100
105 W. Chesapeake Avenue
Towson, MD 21204

Nancy C. West, Assistant County Attorney
Baltimore County Office of Law
The Historic Courthouse
400 Washington Avenue
Towson, MD 21204

Michael Field, County Attorney
Baltimore County Office of Law
The Historic Courthouse
400 Washington Avenue
Towson, MD 21204

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

I HEREBY CERTIFY that on this 16th day of December, 2014 a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.



Tammy A. McDiarmid, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180



Board of Appeals of Baltimore County

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

December 16, 2014

Lawrence E. Schmidt, Esquire
Jason Vettori, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

John W. Conrad, III, Esquire
Law Offices of John W. Conrad III, LLC
3907 Eastern Avenue
Baltimore, Maryland 21224

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-14-013163
In the Matter of: Richard Niehaus – Legal Owner
Board of Appeals Case No.: 14-015-SPHA

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules that a Petition for Judicial Review was filed on December 8, 2014 by Mr. B's Tattoo and Body Piercing L.C., LLC, Robert A. Smith, and Denise Smith, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

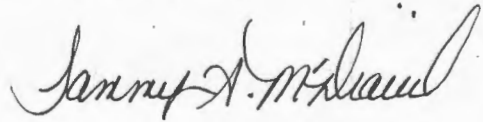
In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. Mr. B's Tattoo and Body Piercing L.C., LLC, Robert A. Smith, and Denise Smith, having taken the appeal, are responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

Courtsmart was the official record of the hearings before the Board. The disk(s) will be copied by this office and provided to you for transcription. The transcriptionist must meet the requirements set forth in Maryland Rule 16-406d(B) which states: "*a stenographer, court reporter, or transcription service designated by the court for the purpose of preparing an official transcript from the recording.*" The Board of Appeals can assist in obtaining a qualified transcriptionist upon request.

Please be advised that the ORIGINAL transcripts must be provided to the Board of Appeals no later than JANUARY 28, 2015 so that they may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,



Tammy A. McDiarmid
Legal Secretary

Duplicate Original
Enclosure

c: Richard Niehaus
Bruce Benkert
Robert A. Smith
Denise Smith
Carroll Pupa
Alfred Smith
Donald Hicks/Hicks Engineering Associates, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney/Office of Law

12/8/14

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

PETITION OF:

MR. B's TATTOO AND BODY
PIERCING L.C., LLC
7554 Belair Road
Nottingham, Maryland 21236

CIVIL ACTION

No. C-14-13163

and

ROBERT A. SMITH
1932 Snyder Avenue
Baltimore, Maryland 21222

and

DENISE SMITH
1932 Snyder Avenue
Baltimore, Maryland 21222

FOR JUDICIAL REVIEW OF THE
DECISION OF:

THE BOARD OF APPEALS OF
BALTIMORE COUNTY
Jefferson Building
2nd Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

* * * * *

IN THE MATTER OF:

RICHARD NIEHAUS - LEGAL
OWNER
7525 Belair Road
Nottingham, MD 21236

RE: Petition for Special Hearing
and/or Variance to approve
grandfathered location of existing
Tattoo and Body Piercing
Establishment within 2500 ft. of

RECEIVED

DEC 11 2014

BALTIMORE COUNTY
BOARD OF APPEALS

another Tattoo and Body Piercing
Establishment

*

5

RECEIVED AND FILED

AGENCY CASE NO. 2014-0015-SPHA

*

2014 DEC -8 A 10:32

CLERK OF CIRCUIT COURT
BALTIMORE COUNTY

PETITION FOR JUDICIAL REVIEW

Petitioners, Robert A. Smith, Denise Smith, and Mr. B's Tattoo and Body Piercing L.C., LLC, by and through their attorneys, John W. Conrad III, and the Law Offices of John W. Conrad III, LLC, pursuant to Maryland Rule 7-201, *et seq.*, hereby request judicial review of the decision of the Board of Appeals for Baltimore County, Agency Case No. 2014-0015-SPHA, issued on November 6, 2014, and in support thereof, state as follows:

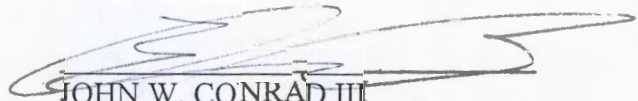
1. On July 19, 2013, Richard Niehaus, Jr., the property owner, and Bruce Benkert, the lessee, filed a Petition for Special Hearings to approve the location of a Tattoo and Body Piercing Establishment at 7525 Belair Road, Nottingham, Maryland 21236, within 2,500 ft. of a Tattoo and Body Piercing Establishment at 7554 Belair Rd.; and, in the alternative, a Petition for Variance to permit the location of the Tattoo and Body Piercing Establishment at 7525 Belair Rd. within 2,500 ft. of another Tattoo and Body Piercing Establishment at 7554 Belair Rd..
2. A hearing was held before an Administrative Law Judge who granted the request for special hearing relief and denied the request for variance relief.
3. Petitioners filed a timely appeal and a hearing was held before the Board of Appeals for Baltimore County (the "Board") on May 29, 2014.
4. On November 6, 2014, the Board granted the Petition for Special Hearings and denied the Petition for Variance.
5. Petitioners were parties to the above-referenced agency proceedings.

6. Accordingly, this Petition has been timely filed and Petitioners are entitled to judicial review of the Board's grant of the request for special hearing relief.

WHEREFORE, Petitioners respectfully request that this Honorable Court:

- a. Grant Petitioners' Petition for Judicial Review;
- b. Award such other relief to the Petitioners as this Court deems appropriate.

Respectfully submitted,

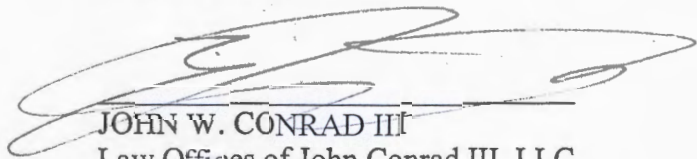


JOHN W. CONRAD III
Law Offices of John Conrad III, LLC
3907 Eastern Avenue
Baltimore, Maryland 21224
(410) 494-4330
Attorney for Petitioners

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this the 8th day of December 2014, a copy of this Petition for Judicial Review was hand delivered to the Board of Appeals of Baltimore County, Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204.

Respectfully submitted,



JOHN W. CONRAD III
Law Offices of John Conrad III, LLC
3907 Eastern Avenue
Baltimore, Maryland 21224
(410) 494-4330
Attorney for Petitioners

11/6/14

IN THE MATTER OF
RICHARD NIEHAUS – LEGAL OWNER
7525 Belair Road
Nottingham, MD 21236

RE: Petition for Special Hearing and/or Variance
To approve grandfathered location of existing
Tattoo and Body Piercing Establishment within
2500 ft. of another Tattoo and Body Piercing
Establishment

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
*
* Case No. 14-015-SPHA

* * * * *

OPINION

This case comes to the Board on appeal of the final decision of the Administrative Law Judge granting a Petition for Special Hearing to approve the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Rd. within 2,500 ft. of another Tattoo and Body Piercing Establishment at 7554 Belair Rd. and denying a Petition for Variance to permit the same establishment to be located within 2,500 ft. of 7554 Belair Rd.

A public hearing was held on May 29, 2014. The Petitioner was represented by Jason Vettori, Esquire and Smith, Gildea and Schmidt. The Protestants, Robert A. Smith and Denise Smith, his wife, were represented by John W. Conrad, Esquire. Public Deliberation was held on August 7, 2014.

Factual Background

On March 4, 1974, the Niehaus brothers purchased the property located at 7525 Belair Rd. (the "Property"). The Property is split zoned Business, Major ("BM") and Density Residential 3.5 ("DR 3.5"). In 1995, a tenant, Bruce Benkert ("Mr. Benkert"), rented the property and began to operate a Tattoo and Body Piercing Establishment known as "Mister B's Tattoo." At that time, the operation of tattoo businesses was not regulated in Baltimore County. In short, they were illegal.

In 1996, the Niehaus brothers and Mr. Benkert filed a Petition for Special Hearing seeking approval to use the Property as a tattoo business. The Zoning Commissioner dismissed the Petition on the basis that a tattoo business was not permitted use in a BM zone nor was it permitted by special exception. In an order dated December 12, 1996, this Board affirmed the Zoning Commissioner's decision. The Circuit Court denied a Petition for Judicial Review in an Order dated July 30, 1997 as well as a Motion for Reconsideration in an Order dated November 21, 1997. Notwithstanding the decisions, Mr. Benkert continued to operate the tattoo business at 7525 Belair Rd., and the County took no action to terminate the use.

On March 20, 1998, the County Council enacted Bill 29-98 which permitted new tattoo businesses in M.H. zones. It also exempted those tattoo businesses which had been in existence for 12 months before March 20, 1998, and which were located in a business or commercial zone, to remain in that business zone, as long as the business did not relocate. Section 6 of Bill 29-98 read as follows:

SECTION 6. AND BE IT FURTHER ENACTED, that this Act does not apply to a massage establishment or tattoo or body piercing establishment lawfully established in existence in a business or commercial zone for at least 12 months prior to the effective date of this Act except if a massage establishment or tattoo or body piercing establishment relocates. This Section is not intended to waive any other provision or requirement of state or county law in effect prior to the effective date of this Act.

According to the testimony of Mr. Niehaus at the hearing, he personally advocated for the enactment of Bill 29-98 to be passed so that his tattoo business would become legal.

In 2005, Mr. Benkert sold only the name "Mister B's Tattoos" as well as the telephone number associated with the name, to Protestant, Robert A. Smith ("Mr. Smith"). The art supplies used in the tattoo business were not sold to Mr. Smith nor were any other assets of the business, including tenant improvements to the Property. According to Mr. Smith, the sale of the name and telephone number was memorialized by a 1-page document. That document was not offered into

evidence. The testimony was clear however, that this document did not contain a non-compete agreement. For the next 7 years, Mr. Smith continued to operate a tattoo business from 7525 Belair Road under the name "Mister B's Tattoos" until 2012.

In 2006, the County Council enacted Bill 46-06 which amended Bill 29-98 and provided a second exception permitting tattoo businesses to relocate within a BM-CCC less than 500' from an earlier location. That Bill took effect on May 23, 2006. On October 16, 2011, the County Council then passed Bill 56-11 which repealed and re-enacted Bills 29-98 and 46-06 to include another exception for a tattoo business that relocates within 1,000 feet of a private or public school as follows:

SECTION 6. AND BE IT FURTHER ENACTED, that this Act does not apply to a massage establishment or tattoo or body piercing establishment in existence in a business or commercial zone for at least 12 months prior to the effective date of this Act except if a massage establishment or tattoo or body piercing establishment relocates other than a tattoo establishment that relocates within a BM-CCC District that is less than 500 feet removed from its earlier location OR THAT RELOCATES FROM A LOCATION WITHIN 1,000 FEET OF A PUBLIC OR PRIVATE SCHOOL TO A LOCATION WITHIN A BL, BM OR BR ZONE WHICH IS FURTHER REMOVED FROM A PUBLIC OR PRIVATE SCHOOL, BUT LESS THAN 1,000 FEET REMOVED FROM ITS EARLIER LOCATION. This section is not intended to waive any other provision or requirement of state or county law in effect prior to the effective date of this Act.

As with Mr. Niehaus, Mr. Smith testified that he was instrumental in supporting the enactment of Bill 56-11 through the County Council because he wanted to move from 7525 Belair Rd.

After the enactment of Bill 56-11, on or about September 30, 2012, Mr. Smith terminated his lease with Mr. Niehaus. He moved to 7554 Belair Road and began operating a tattoo business under the name 'Mister B's Tattoo's.' Mr. Smith testified that he believed that since 7525 Belair

Rd. was within 1,000 feet of a public school, there would no longer be a tattoo business at 7525 Belair Rd.

Shortly after receiving Mr. Smith's termination notice, Mr. Niehaus contacted Mr. Benkert, who had relocated to Florida, to see if Mr. Benkert would be interested in returning to operate the tattoo business at 7525 Belair Rd. Mr. Benkert agreed to return and Mr. Niehaus began renovations of the space. Those renovations continued from September 30, 2012 through April 1, 2013.

On April 1, 2013, Mr. Benkert resumed the tattoo business at 7525 Belair Rd. and continues to operate it under the name "Tattoos by Bee." Mr. Benkert obtained a trader's license from Baltimore County which license was signed by the zoning office, permitting the use of a tattoo business at 7525 Belair Rd.

Legal Standard

The Baltimore County Charter, Sec. 603, requires this Board to hear requests for special hearing and variances *de novo*. A hearing to request special zoning relief is proper under Baltimore County Zoning Regulations ("BCZR"), §500.7 which reads as follows:

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

* * * *

Variance relief can be requested under the Section 307.1 of the BCZR which states, in pertinent part, as follows:

...(T)he County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations...only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.... Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area...regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare....

With regard to nonconforming uses, BCZR §101.1 defines a "nonconforming use" as:

NONCONFORMING USE

A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use.

BCZR, §104.1 provides how a nonconforming use can expire:

Continuation of nonconformance; exceptions.

A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate.

BCZR 104.1 allows nonconforming uses to continue unless changed, abandoned or discontinued. The burden of establishing a nonconforming use is on the Petitioner. Such burden can be satisfied by showing that the use in question was well known throughout the neighborhood at the pertinent time. *Calhoun v. County Board of Appeals*, 262 Md. 265 (1971). Mere change in ownership does not destroy the nonconforming use. *Green v. Garrett*, 192 Md. 52 (1949). The nature and extent of the use has to have remained unchanged and substantially the same facilities have to be used throughout the years in question. *Kastendike v. Baltimore Association for Retarded Children*, 267 Md. 389 (1974).

In *Arundel Corp. v. Board of Zoning Appeals of Howard County*, 255 Md. 78 (1969), the Court of Appeals held that the use of the subject property as a quarry could not be regarded as a valid nonconforming use, although existing at the time of the adoption of a new comprehensive zoning, where such use prior to the adoption of the comprehensive zoning regulations was neither a legally permitted use nor a valid nonconforming use.

Decision

1. Did a tattoo business become a valid non-conforming use with the enactment of Bill 29-98?

Mr. Niehaus seeks approval that the tattoo business operated at 7525 Belair is grandfathered under Bills 29-98 and as amended by Bill 46-06 and Bill 56-11. Until Bill 29-98 became effective on March 20, 1998, tattoo businesses were not legal uses. Bill 29-98 as set forth above, restricted tattoo businesses to operate only in Manufacturing Heavy (MH) zones. However, it exempted a tattoo business which was located in business or commercial zone and that had been operating for at least 12 months prior to the effective date of [the] Act except if the business relocates.

The parties do not dispute that this use was not legal prior to March 20, 1998. In fact, both parties claim that the tattoo business became a legal non-conforming use on March 20, 1998. Mr. Smith contends that a tattoo business may no longer operate at 7525 Belair Rd. because he relocated the business to 7554 Belair Rd. which is within 1,000 of its earlier location per Bill 56-11.

The definition of “non-conforming use” under BCZR §101.1 states that in order to become a ‘non-conforming use’ the use has to first be a ‘legal use.’ In this case, because a tattoo business was not a legal use, Bill 29-98 could not make the use ‘non-conforming.’ Instead, Bill 29-98 made an illegal use one that is now legal.

Based on the evidence and testimony presented, the Board finds as a matter of fact that there has been a tattoo business legally operating at 7525 Belair Rd. since March 29, 1998. The facts also show that for more than 12 months prior to March 29, 1998, a tattoo business had been operating at 7525 Belair Rd. While there may have been different tenants operating the business at 7525 Belair Rd., that business did not relocate and continued to operate without interruption since March 20, 1998. The Board finds that what was relocated by Mr. Smith was the name 'Mister B's Tattoos' and a telephone number. These facts grandfathered the use at 7525 Belair Rd.

In support of this position, we weighed heavily the credible testimony of Mr. Niehaus that upon Mr. Smith's lease termination on September 30, 2012, Mr. Benkert agreed to operate the tattoo business. Renovations were made to the property and Mr. Benkert obtained a trader's license from Baltimore County which was signed off by the zoning office as to the use at that location.

We find this case and our decision to be in keeping with the holding in *Arundel Corp, supra*, when the Court of Appeals held that the use could not be 'non-conforming' if it was not a legally permitted use at the time the regulation was enacted permitting the use. Likewise, in *Lone v. Montgomery County*, 85 Md. App. 477, 496 (1990) quoting *Board of Zoning Appeals of Howard County v Meyer*, 207 Md. 389 (1955), the Court of Special Appeals explained that a nonconforming use is one that *precedes* the implementation of the zoning ordinance:

An owner of land may establish a "lawful nonconforming use" if the evidence conclusively establishes that *before and at the time of adoption of the original zoning ordinance*, he was using substantially all of his tract of land *in a then-lawful manner* for a use which by the later legislative action became nonpermitted.

(Emphasis Added).

In the unreported decision of *James G. Hammond v. Barbara R. Jung*, No. 980, Sept. Term, 2004, the Court of Special Appeals reversed this Board's decision where we found that a lawn

mower operation was a nonconforming use. The Court of Special Appeals held that this Board was clearly erroneous in so finding because that business began after the implementation of the BCZR enacted in 1945. The Court said:

The undisputed evidence established that the Property was not used for a lawn mower business when the zoning classification was enacted by the County in 1945. Indeed, such a use was not implemented until 1972. Because, by definition, a nonconforming use is one that predates the enactment of an applicable zoning ordinance, and is in existence when the zoning law is adopted, see *McKemy v. Baltimore County*, 39 Md. App. 257, 266 (1978), it follows that the lawn mower business could not have been a nonconforming use; it was not a use that existed in 1945. Instead, it was the Store, which dated to 1915, and existed when the zoning regulations were adopted, that was the nonconforming use. Moreover, the use of the Property for the Store was not abandoned, and so the Store remained a lawful nonconforming use when Hammond acquired the Property.

The Board's erroneous determination that the lawn mower business was a nonconforming use is not just an academic point. As noted, having determined that the lawn mower business was the nonconforming use, the Board went on to find that the use had lapsed. On that basis, it then concluded that appellant was not entitled to operate the lawn mower business.

As stated, a tattoo business was not a lawful use when Bill 29-98 became effective on March 20, 1998. However, as set forth above, we find that the tattoo business at 7525 Belair Rd. became a legally permitted use and was grandfathered under the exception in Bill 29-98.

2. In the alternative, is the tattoo business located at 7525 Belair Rd. a valid non-conforming use?

In the alternative, if Bill 29-98 did create a valid non-conforming use, this Board finds that the Petitioner has met the burden of proof under BCZR 104.1 that the tattoo use has continued uninterrupted for a period of one year or more and has not been abandoned or discontinued. The evidence presented reveals that at best, there was 6 months after the lease termination by Mr. Smith in September of 2012 wherein renovations were completed by Mr. Niehaus. The renovations were

complete and Mr. Benkert resumed the business no later than April 1, 2013. We also find that the renovations show an intent by Mr. Smith not to abandon or discontinue the tattoo business use at that location. *Catonsville Nursing Home v. Loveman*, 349 Md. 560, 581 (1988); *McLay v. Maryland Assemblies, Inc.*, 269 Md. 465, 466-67 (1973).

Mr. Smith argues that Bill 29-98 establishes that the non-conforming use is owned by the tattoo business and does not run with the land. This position is contrary to the law on non-conforming uses. We emphasize that Bill 29-98 and thereafter Bills 46-06 and 56-11, did not waive the application of non-conforming use case law:

This Section is not intended to waive any other provision or requirement of state or county law in effect prior to the effective date of this Act.

As the Court in *Kastendike, supra*, held:

The mere change in ownership does not destroy a nonconforming use. Consequently, a use transferred to a successor in interest will continue to be legal so long as the nature and character of that use is unchanged and substantially the same facilities are used.

Id. at 396. An “established nonconforming use runs with the land, and hence a change in ownership will not destroy the right to continue the use.” 8A McQuillin, *The Law of Municipal Corp.* §25.183.50. A “nonconforming use is not personal to the current owner or tenant, but attaches to the land itself.” 83 Am. Jur.2d, *Zoning & Planning*, §587.

Other jurisdictions addressing the relocation of nonconforming uses have similarly held that the nonconforming use may terminate. Relocation to another site or within the site may terminate the nonconforming use status. *Jones v. County of Coconino*, 35 P.3d 422 (Ariz. App. 2001) (within site); *Stuckman v. Kosciusko County Bd. of Zoning Appeals*, 506 N.E.2d 1079 (Ind. 1987) (moving automobile salvage yard to adjacent lots not allowed); *Hurley v. Town of Hollis*, 729 A.2d 998 (N.H. 1999) (relocation to new building with expanded parking lot not natural expansion).

After reviewing all of the testimony and evidence presented, the Board has determined that, if the use is non-conforming, then the Petitioner's Request for Special Hearing relief should be granted and the move by Mr. Smith to 7554 Belair Rd. did not affect the legal status of the real property located at 7525 Belair Rd.

3. Petition for Variance.

Petitioner also sought variance relief as an alternative to the request for special hearing seeking the same relief to permit the tattoo business at 7525 Belair Rd. to be located within 2,500 feet of the tattoo business located at 7554 Belair Rd. The Board finds that there was no evidence presented by the Petitioner upon which the request for variance relief could be considered. As a result, the Board will deny the request for variance relief.

ORDER

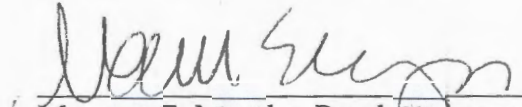
THEREFORE, IT IS THIS 7th **day of** November, 2014 by the Board of Appeals of Baltimore County

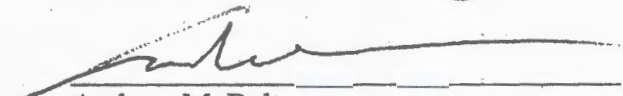
ORDERED, that the Petition for Special Hearing to approve the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Rd. within 2,500 ft. of another Tattoo and Body Piercing Establishment at 7554 Belair Rd. be, and the same is hereby **GRANTED**; and it is further,

ORDERED, that the Petition for Variance to permit the location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Rd. within 2,500 ft. of another Tattoo and Body Piercing Establishment at 7554 Belair Rd. be, and the same is hereby **DENIED**.

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

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Maureen E. Murphy, Panel Chairman


Andrew M. Belt

Panel Member Wayne R. Gioioso, Jr. resigned effective October 11, 2014.



Board of Appeals of Baltimore County

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

November 6, 2014

Lawrence E. Schmidt, Esquire
Jason Vettori, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

John W. Conrad, III, Esquire
Law Offices of John W. Conrad III, LLC
3907 Eastern Avenue
Baltimore, Maryland 21224

RE: *In the Matter of: Richard Niehaus – Legal Owner*
Case No.: 14-015-SPHA

Dear Counsel:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review** filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington Ham".

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Duplicate Original Cover Letter

c: Donald Hicks/Hicks Engineering Associates, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney/Office of Law

Richard Niehaus
Bruce Benkert
Robert A. Smith
Denise Smith
Carroll Pupa
Alfred Smith

6/30/14

IN RE: PETITION FOR SPECIAL
HEARING AND VARIANCE

7525 Belair Road

14th Election District
6th Councilmanic District

Richard Niehaus, Jr.

Legal Owner

Bruce Benkert

Lessee

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY

RECEIVED
JUN 30 2014

BALTIMORE COUNTY
BOARD OF APPEALS

*
*

Case No.: 2014-0015-SPHA

* * * * *

PETITIONERS' POST HEARING MEMORANDUM

The property owner, Richard Niehaus, Jr., and lessee, Bruce Benkert, ("Petitioners"), by Jason T. Vettori, Esquire, their attorney, submit this Post Hearing Memorandum in support of their Petition for Zoning Relief in the above referenced matter.

I. Procedural History

This matter comes before the Board as an appeal of Administrative Law Judge ("ALJ") John Beverungen's Opinion and Order dated September 25, 2013 granting certain zoning relief. As provided by Section 501.6 of the Baltimore County Zoning Regulations ("BCZR") and Section 32-3-401 of the Baltimore County Code ("BCC"), it is a *de novo* appeal.

1995 - 2005

The facts in this case are uncontroverted. The property at issue is 7525 Belair Road (the "Property"). It is split zoned Business, Major ("BM") and Density Residential 3.5 ("DR 3.5"). The Property began to be used as what is now known as a Tattoo and Body Piercing Establishment in 1995. At that time, Bruce Benkert operated the Tattoo and Body Piercing Establishment which was known as Mister B's Tattoo.

The record reflects that, in 1996, a Petition for Zoning Relief was filed. The Petitioner sought confirmation that the tattoo business was permitted as a residential art salon, since there was no use known as a Tattoo and Body Piercing Establishment at the time. In Case No. 96-260-SPH, Deputy Zoning Commissioner Timothy Kotroco dismissed with prejudice the request for special hearing relief in an Order dated March 20, 1996. Petitioner's Exhibit No. 2. An appeal was filed. The Board of Appeals denied the request for zoning relief in an Order dated December 12, 1996. Petitioner's Exhibit No. 4. In Case No. 03-C-96-13013, Circuit Court for Baltimore County Judge Lawrence R. Daniels denied the Petition for Judicial Review in an Order dated July 30, 1997. This Order was filed August 11, 1997. Petitioner's Exhibit No. 5. Judge Daniels similarly denied a Motion for Reconsideration in an Order dated November 21, 1997. This Order was filed November 24, 1997. Petitioner's Exhibit No. 6. The only evidence in the record establishes that the tattoo or body piercing establishment continued to operate from Judge Daniels' final order to the effective date of Bill No. 29-98, November 24, 1997 to March 20, 1998, respectively. Petitioner's Exhibit No. 7. During that time, the County took no action to terminate the use.

The tattoo or body piercing establishment became a legal nonconforming use when Bill No. 29-98 was enacted. What's clear from a review of the Bill is that it was amended from requiring a tattoo or body piercing establishment to be "lawfully established" to "in existence in a business or commercial zone for at least 12 months." In pertinent part, Section 6 of Bill No. 29-98 provides:

This Act does not apply to a massage establishment or tattoo or body piercing establishment ~~lawfully established~~ in existence in a business or commercial zone for at least 12 months prior to the effective date of this Act except if a massage establishment or tattoo or body piercing establishment relocates. This Section is not intended to waive any other provision of state or county law in effect prior to the effective date of this Act.¹

The evidence presented to the Board clearly indicates that the tattoo or body piercing establishment at 7525 Belair Road lied in a business or commercial zone and had been in existence for at least 12 months prior to March 20, 1998. Correspondingly, the evidence further demonstrates that Mr. Benkert ran the tattoo business from this location from 1995 until 2005.²

2005-2012

In 2005, Mr. Benkert sold his business to the Appellant, Robert A. Smith, and moved to Florida. Between 2005 and September 30, 2012, Mr. Smith continually operated a tattoo and body piercing establishment from the Property. Following the enactment of Bill No. 56-11 (Petitioner's Exhibit No. 10), Mr. Smith sent a letter dated

¹ ~~Strike-out~~ indicates matter stricken from bill. Underlining indicates amendments to bill.

² Mr. Benkert and the Property owner, Richard Niehaus, Jr., both testified that in 2003 Mr. Benkert was looking to move the tattoo business. Mr. Benkert was considering purchasing the property which was next door, a bank. Mr. Niehaus sought the advice of an attorney regarding his right to continue using his property for a tattoo business. Mr. Niehaus' attorney, Thomas J. Gisreal, wrote a letter to him dated March 20, 2003 in which he explained how the legal nonconforming use ran with the land and could not be moved by Mr. Benkert. Petitioner's Exhibit No. 8.

August 30, 2012 to Mr. Niehaus notifying him that he was terminating his lease at the Property. Petitioner's Exhibit No. 9. Mr. Smith opened up a tattoo and body piercing establishment at 7554 Belair Road on or about September 30, 2012.

Almost immediately after Mr. Smith vacated the Property, Mr. Niehaus reached out to Mr. Benkert to ascertain whether he knew anyone who might be interested in operating a Tattoo and Body Piercing Establishment on the Property. Shortly thereafter, Mr. Smith got back to Mr. Niehaus and notified him that he was interested. Mr. Niehaus and Mr. Benkert both testified that the Property was in need of repairs and presented photographs illustrating the condition of the premises after Mr. Smith left. Petitioner's Exhibit No. 13. They obtained permits to make improvements, completed the improvements and a tattoo and body piercing establishment was reopened around April 2013. The testimony and evidence clearly demonstrates that there was no abandonment or discontinuance of the nonconforming use for a period of one year or more. Petitioner's Exhibit No. 14.

On or about May 7, 2013, Mr. Niehaus received correction notices from Baltimore County. Petitioner's Exhibit No. 17. The correction notices directed Mr. Niehaus to cease all operations. In order to avoid being issued a citation and facing a code enforcement hearing, the Petitioners preemptively decided to seek zoning relief in order to continue the use. The Petitioners filed a Petition for Zoning Relief requesting special hearing relief. The request for special hearing relief was for the ALJ to approve the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525

Belair Road, within 2,500 feet of another Tattoo and/or Body Piercing Establishment at 7554 Belair Road. The request for variance relief was for the ALJ to permit a Tattoo and Body Piercing Establishment to be located less than 2,500 feet from another Tattoo and/or Body Piercing Establishment, pursuant to BCZR § 4B-102(B)(2).

A public hearing before the ALJ was held on September 17, 2013. In a decision dated September 25, 2013, the ALJ granted the request for special hearing relief finding that the Petitioners are "entitled to use the property as a Tattoo establishment, pursuant to the law of nonconforming uses." The ALJ denied the request for variance relief because he didn't believe variance relief was "appropriate in these circumstances".

On October 22, 2013, Robert A. Smith and Denise Smith ("Appellants") filed an appeal of the ALJ's decision. An evidentiary hearing before the Board was held on Thursday, June 20, 2013.

II. Question Presented

Did Bill No. 56-11 (Petitioner's Exhibit No. 10) terminate the right to continue to use the Property as a Tattoo or Body Piercing Establishment?

III. Argument

This matter comes before the Board as a request for certain zoning relief which will allow the existing Tattoo or Body Piercing Establishment to continue to operate as a legal nonconforming use (special hearing relief) or with a reduction of certain setback

restrictions (variance relief). For the foregoing reasons, the necessary zoning relief must be granted.

The use of the Property as a Tattoo or Body Piercing Establishment since 1995 is uncontroverted. Bill No. 29-98 added Article 4B, Sections 4B-101 to 4B-102, to the BCZR. While BCZR §§ 4B-101 and 4B-102 do not allow Tattoo or Body Piercing Establishments in the BM zone (only in the Manufacturing Heavy ("MH") zone), Section 6 of Bill No. 29-98 had a grandfathering clause. In Section 6, the Council provided that any "tattoo or body piercing establishment that was in existence for at least 12 months prior to" March 20, 1998 could continue to operate legally. Stated another way, Section 6 of Bill No. 29-98 created a legal nonconforming use.

The only remaining issue then is whether Bill No. 56-11 exhausted the legal nonconforming use. Mr. Smith's October 2012 departure from the subject premises, and relocation to the new store at 7554 Belair Road, did not terminate the legal nonconforming use status at 7525 Belair Road. Bill No. 56-11 repealed and re-enacted Section 6 of Bill No. 29-98, as amended by Bill No. 46-06. Substantively, Bill No. 56-11 modified the clause in Section 6 of Bill No. 29-98 which read "except if a massage establishment or tattoo or body piercing establishment relocates." In Bill No. 46-06, the clause was changed to read "except if a massage establishment or tattoo or body piercing establishment relocates, OTHER THAN A TATTOO ESTABLISHMENT THAT RELOCATES WITHIN A BM-CCC DISTRICT THAT IS LESS THAN 500 FEET REMOVED FROM ITS EARLIER LOCATION." In Bill No. 56-11, the clause was

changed to read "except if a massage establishment or tattoo or body piercing establishment relocates, other than a tattoo establishment that relocates within a BM-CCC District that is less than 500 feet removed from its earlier location OR THAT RELOCATES FROM A LOCATION WITHIN 1,000 FEET OF A PUBLIC OR PRIVATE SCHOOL TO A LOCATION WITHIN A BL, BM OR BR ZONE WHICH IS FURTHER REMOVED FROM A PUBLIC OR PRIVATE SCHOOL, BUT LESS THAN A 1,000 FEET REMOVED FROM ITS EARLIER LOCATION." It certainly appears as if the Council intended to allow the nonconforming use to be relocated. However, state and county law does not allow the Council to extinguish the vested nonconforming use in this manner. The last sentence in Section 6 of Bill No. 29-98, and the corresponding sections of Bill Nos. 46-06 and 56-11 which repealed and re-enacted Section 6, reads, "[t]his Section is not intended to waive any other provision or requirement of state or county law in effect prior to the effective date of this Act." Therefore, Section 6 of Bill No. 29-98 does not change the provisions or requirements of state and county law pertaining to nonconforming uses.

The applicable County law is as follows. BCZR § 101.1 defines nonconforming use as "[a] legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use." BCZR § 104 is entitled "Nonconforming Uses." BCZR § 104.1 provides that "[a] nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in

these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate." The evidence clearly established the tattoo use was not abandoned and, at most, it was discontinued for six (6) or seven (7) months (October 2012 - April 2013). As such, the nonconfirming use was not lost due to abandonment or discontinued use under the county regulations.

Similarly, the nonconfirming use was not lost due to abandonment or discontinued use under the applicable State law. As the ALJ stated, "the more modern trend in Maryland law does not focus solely on intent to abandon so much as the concurrence of two things: (1) an intent to abandon; and (2) some overt act or failure to act that carries the implication that the owner does not claim or retain any interest in the matter. *Catonsville Nursing Home v. Loveman*, 349 Md. 560, 581 (1998)." The testimony and evidence established that the owner began attempting to obtain a new operator for the business almost immediately after Mr. Smith vacated the Property on or about September 30, 2012. Indeed, permits were obtained to renovate the interior shortly after Mr. Smith's departure and significant renovations were completed during the few months the use was discontinued demonstrating that there was no intent to abandon the tattoo business. This Board has no evidence that the nonconforming use has been discontinued or abandoned. *McLay v. Maryland Assemblies, Inc.*, 269 Md. 465, 466-67 (1973). Abandonment cannot be found because nonconforming uses, though

disfavored, are vested rights entitled to constitutional protection. *Trip Associates, Inc. v City of Baltimore*, 392 Md. 563, 573-74 (2006). A valid nonconforming use will not be forfeited or abandoned because a business or property owner failed to secure a license to operate the business. *Mayor & City Council of Baltimore v. Dembo, Inc.*, 123 Md.App. 527 (1998).

The Council has the right to include an amortization clause, or sunset provision, which terminates a nonconforming use after a reasonable time. *Harris v. Mayor & City Council of Baltimore*, 35 Md.App. 572 (1977). However, it does not have the authority to take a nonconforming use that runs with the land from one property and give it to another without the property owners permission. Bill Nos. 29-98, 46-06 and 56-11 do not contain amortization clauses so their nonconforming use status can only be lost by abandonment, discontinuance or use or repeated County Code violations. BCZR §§ 104.1 & 104.8. Petitioner's Exhibit No. 14. The Council simply exceeded its authority in this instance.

An "established nonconforming use runs with the land, and hence a change in ownership will not destroy the right to continue the use." 8A McQuillin, *The Law of Municipal Corp.* §25.183.50. In addition, "a nonconforming use is not personal to the current owner or tenant, but attaches to the land itself." 83 Am. Jur. 2d, Zoning & Planning, § 587. Thus, Mr. Smith's move to a new location did not alter the legal status of the Property. The tattoo establishment remains a permissible legal nonconforming use at 7525 Belair Road based upon the applicable county and state laws.

III. Conclusion

Mr. Smith emphasizes how nonconforming uses are disfavored, but it is he who should be most concerned that that legal principle should be applied in this instance. The so-called "relocation" of the tattoo establishment was not authorized by the owner of 7525 Belair Road and therefore does not constitute an abandonment of the nonconforming use that has existed since the enactment of Bill No. 29-98 on March 20, 1998. Mr. Smith did not have the authority to relocate the use. To do so would constitute a taking. As such, Mr. Smith is technically operating an illegal nonconforming use. Hypothetically speaking, if Mr. Neihaus owned another piece of property and wanted to relocate this nonconforming use, he would have the authority to do so but Mr. Smith did not have the authority and therefore his use is illegal.

For the reasons stated above, this Honorable Board must grant the requested relief.

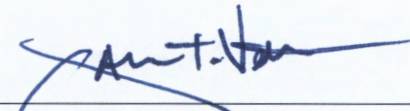
Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "J. T. Vettori", is written over a horizontal line.

JASON T. VETTORI
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 30th day of June, 2014, a copy of the foregoing Memorandum was mailed, postage pre-paid, to John W. Conrad III, 3907 Eastern Avenue, Baltimore, MD 21224; and to Peter Max Zimmerman, Esquire of People's Counsel for Baltimore County, The Jefferson Building, 105 W. Chesapeake Avenue, Room 204, Towson, Maryland 21204.



Jason T. Vettori

6/24/14

RECEIVED
JUN 25 2014

IN THE MATTER OF:
RICHARD NIEHAUS – LEGAL OWNER
BRUCE BENKERT – LESSEE
7525 Belair Road
14th Election District; 6th Councilmanic District

* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 14-015-SPHA

BALTIMORE COUNTY
BOARD OF APPEALS

**PROTESTANTS ROBERT SMITH AND
MR. B'S TATTOO AND BODY PIERCING L.C., LLC'S
MEMORANDUM AT LAW**

NOW COME Protestants, Robert Smith and Mr. B's Tattoo and Body Piercing L.C., LLC, by and through their attorneys, John W. Conrad III, and the Law Offices of John W. Conrad III, LLC, hereby request that this Honorable Board deny Petitioners Richard Niehaus and Bruce Benkert (the "Petitioners") Petition seeking to approve the location of a tattoo and body piercing establishment at 7525 Belair Road, Nottingham, Maryland 21236; or in the alternative, this Honorable Board should deny the Petitioners a variance. The Petitioners have incorrectly asserted that the nonconforming use should be allowed as a "grandfathered" use. The Petitioners' assertion fails as the nonconforming use permitted as "grandfathered" was sold and relocated pursuant to legislation and is still in operation in accordance with applicable law. As such, Petitioners abandoned and discontinued the nonconforming use, and the variance request should be denied as impermissible under the prevailing law, as more fully explained below:

INTRODUCTION

This Honorable Board should deny the Petitioners' Petition, because it conflicts with the intent of the Baltimore County Council, violates the zoning regulations and is in violation of public policy. In 1998, the Baltimore County Council only intended Baltimore County Zoning Regulation ("BCZR") § 4B-101 to confer a nonconforming use upon tattoo and body piercing establishments in existence 12 months before the enactment of Bill No. 29-98, dated March 20,

1998. The only tattoo and body piercing establishment at the premises located at 7525 Belair Road, Nottingham, Maryland 21236 ("7525 Belair Road") was "Mr. B's Tattoo and Body Piercing," which Petitioner Benkert sold to Protestant Smith in 2005. In 2012, when Protestant Smith relocated the tattoo and body piercing establishment to 7554 Belair Road, the 1998 nonconforming use ceased to exist at 7525 Belair Road.

Finally, this Honorable Board should deny the Petitioners' request for a variance to permit a new tattoo and body piercing establishment owned by Petitioner Benkert to be located 530 feet from the existing establishment owned by the Protestants located at 7554 Belair Road, as the granting of a variance would violate BCZR § 4B-102.

STATEMENT OF CASE

This appeal arises from the Petition filed by the Petitioners seeking to approve the grandfathered location of an existing tattoo and body piercing establishment at 7525 Belair Road. In the alternative, Petitioners sought a variance from § 4B-102(B)(2) to permit a tattoo and body piercing establishment to be located less than 2,500 feet from another tattoo and/or body piercing establishment owned and operated by Protestants Robert Smith and Mr. B's Tattoo and Body Piercing L.C., LLC (the "Protestants").

A hearing was held before the Honorable Administrative Law Judge John E. Beverungen who granted Petitioners Special Hearing request on the grandfathered location issue, incorrectly held that a nonconforming use runs with the land (i.e. 7525 Belair Road) and cannot be conveyed to the owner of the tattoo and/or body piercing establishment (i.e. the Protestants). However, the lower Hearing properly denied the Petitioners' request for a variance due to the location requirements of BCZR § 4B-102. The Protestants filed a timely appeal, and a de novo hearing was held before this Honorable Board on May 29, 2014.

QUESTIONS PRESENTED

1. Does a grandfathered location of previously existing tattoo and body piercing establishment exist at 7525 Belair Road, even though the original tattoo and body piercing establishment relocated to 7554 Belair Road?
2. Should a variance be given to Petitioner Benkert to permit a new tattoo and body piercing establishment owned by him to be located 530 feet from an existing establishment owned by the Protestants?

FACTS

Petitioner Niehaus is the owner of the premises located at 7525 Belair Road, which he leased to Petitioner Benkert in 1995. Petitioner Benkert opened and began operating a tattoo and body piercing establishment at 7525 Belair Road, which did business as "Mr. B's Tattoo and Body Piercing." Before 1998, tattoo and body piercing establishments were not permitted in any zone in Baltimore County. Under Bill No. 29-98, codified under BCZR § 4B-101, the Baltimore County Council (the "Council") permitted tattoo and body piercing establishments to operate only in the Manufacturing Heavy (MH) zones, which 7525 Belair Road is not. Petitioners' Exhibit 11. However, Bill No. 29-98 contained an exception that grandfathered "tattoo and body piercing establishments in business or commercial zones that had been operating for at least 12 months prior to the effective date of [the] Act," which was enacted March 20, 1998 (the "1998 nonconforming use"). *Id.* This conferred a nonconforming use upon Mr. B's Tattoo and Body Piercing, which permitted it to continue to operate its establishment from 7525 Belair Road.

In 2005, Petitioner Benkert sold Mr. B's Tattoo and Body Piercing to Protestant Smith who in turn formed a limited liability company under the laws of Maryland called "Mr. B's Tattoo and Body Piercing L.C., LLC," which is the undisputed successor-in-interest of Mr. B's

Tattoo and Body Piercing. As the successor-in-interest, Protestant Mr. B's Tattoo and Body Piercing L.C., LLC operated at 7525 Belair Road under the 1998 nonconforming use.

In 2011, Bill No. 56-11 amended BCZR § 4B-101 to permit the relocation of a "tattoo establishment" from "a location within 1,000 feet of a public or private school" to a location within a BL, BM, or BR zone which is further removed from a public or private school, but less than 1,000 feet removed from its earlier location." Petitioners' Exhibit 15. (Emphasis Added). In October 2012, under this amendment the Protestants relocated their tattoo and body piercing establishment to the premises located at 7554 Belair Road. On March 4, 2013, despite the Protestants lawful relocation to 7554 Belair Road, Petitioner Benkert opened a new tattoo and body piercing establishment at 7525 Belair Road that is 530 feet from the Protestants in violation of BCZR § 4B-102. Neither of the Petitioners had standing to obtain relief under BCZR §§ 101.1, 104.1 and 4B-101, when they filed their Petition that is the subject of the present action, as is more fully discussed below.

ARGUMENT

I. STANDARD OF REVIEW

This Honorable Board reviews appeals from the Office of Administrative Hearings *de novo* and is not bound by the record made before the governmental body from which the appeal is taken. *Boehm v. Anne Arundel County*, 54 Md. App. 497 (1983).

II. THE BALTIMORE COUNTY COUNCIL ONLY CONFERRED A NONCONFORMING USE UPON THE TATTOO AND BODY PIERCING "ESTABLISHMENT" KNOWN AS MR. B'S TATTOO AND BODY PIERCING, WHICH WAS SOLD TO THE PROTESTANTS, THEREFORE, THE PETITIONERS DO NOT HAVE STANDING TO FILE THEIR PETITION OR SEEK RELIEF FROM BCZR § 4B-101

This Honorable Board should rule that the Petitioners do not own the 1998 nonconforming use, which was only created for tattoo and body piercing "establishments," does

not run with the land but was sold to the Protestants in 2005, and was lawfully relocated under BCZR § 4B-101 to 7554 Belair Road.

a. THE 1998 NONCONFORMING USE IS OWNED BY THE ESTABLISHMENT, AND DOES NOT RUN WITH THE LAND

Generally, the lower Hearing was correct that “a nonconforming use is not personal to the current owner or tenant, but attached to the land.” See Hearing Order, dated September 25, 2013 at p. 5 (citing 83 Am.Jur.2d. Zoning & Planning, § 587). However, this general rule does not apply to BCZR § 4B-101, which expresses the Council’s legislative intent to have the nonconforming use only apply to “establishments,” not their landlords. A “nonconforming use” is “[a] legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use.” BCZR 101.1. As a matter of public policy, nonconforming uses and structures are not favored, because they conflict with the community’s zoning plans and the goal is to phase them out. *County Council of Prince George’s County v. E. L. Gardner, Inc.*, 293 Md. 259, 268 (1982). Nonconforming use statutes, like BCZR § 4B-101 and Bill 29-98, are “strictly construed” in order to effectuate the purpose of eliminating nonconforming uses.” *Mayor of Baltimore v. Byrd*, 191 Md. 632, 638 (1948)(Emphasis Added)(citations omitted). In other words, the plain language and intent of the legislation is clear that nonconforming uses are to be eliminated and not created.

The Council only intended BCZR § 4B-101 to apply to tattoo and body piercing “establishments,” not land owners. See BCZR § 4B-101(a)(“As used in this article, the following terms have the meanings indicated... TATTOO OR BODY PIERCING ESTABLISHMENT [defined as] Any establishment where a skin-penetrating adornment procedure is performed”)(Emphasis Added); See also § 6 of Bill No. 29-1998, as amended by Bill Nos. 46-06 and 56-11(“This Act does not apply to a massage establishment or tattoo or body

piercing establishment in existence in a business or commercial zone for at least 12 months prior to the effective date of this Act”(Emphasis Added). The term “establishment” is not ambiguous, and is defined as a “place of business and fixtures.” *Black’s Law Dictionary*, 682 West Publishing Company (3rd Ed. 1933)(Emphasis Added).

In 1998, the only tattoo and body piercing “establishment” that existed at 7525 Belair Road was “Mr. B’s Tattoo and Body Piercing,” then owned by Petitioner Benkert who leased from Petitioner Niehaus. Generally, a landlord does not have an interest in an establishment, even though he is the “owner of an estate in land.” *Id.* at 1068. As Petitioners’ Exhibits 11 through 15 demonstrate, in the 16 years since Bill No. 29-98 was enacted into law, the Council had several opportunities to amend BCZR § 4B-101 to expand its scope to include landowners, but declined to do so. Strictly construed the Council’s intent is that only “establishments” should have the benefit of the nonconforming use, not the establishment’s landlord.

b. PETITIONERS HAVE NO STANDING TO CHALLENGE THE PROTESTANTS’ OWNERSHIP RIGHTS IN THE 1998 NONCONFORMING USE

The Petitioners actions and testimony show that they waived and/or forfeited their right to challenge the Protestants’ ownership of the 1998 nonconforming use. Petitioner Niehaus testified before this Honorable Board that he never owned a tattoo and/or body piercing establishment, had no desire to own such an establishment, and never owned or had any ownership interest whatsoever in Mr. B’s Tattoo and Body Piercing. Furthermore, Petitioner Niehaus testified that in 2003 he consulted an attorney, Michael Gisriel, who advised him to “(1) [g]et a copy of the existing Tattoo Parlor License [belonging to Mr. B’s Tattoo and Body Piercing] from your tenant [then Petitioner Benkert]; and (2) [m]ake sure that that license is renewed by you.” Exhibit 23 (Original Emphasis). Petitioner Niehaus did not follow his

attorney's (Mr. Gisriel) advice to his detriment, thereby waiving and/or forfeiting his right to challenge Protestants claim to own the nonconforming use.

Petitioner Benkert also lacks standing, because his sale of Mr. B's Tattoo and Body Piercing to the Protestants transferred Petitioner Benkert's ownership interest and the 1998 nonconforming use to the Protestants. It is irrelevant that on March 4, 2013 Petitioner Benkert returned to 7525 Belair Road and opened a new tattoo and body piercing establishment, Tattoos By Bee, LLC, because that new establishment is barred under the timing requirements of BCZR § 4B-101 and is not located in the appropriate zone. Therefore, both Petitioners lack standing to challenge the nonconforming use at 7525 Belair Road.

III. THE 2,500 FEET RULE UNDER BCZR § 4B-102 PROHIBITS PETITIONER BENKERT FROM OPERATING A NEW TATTOO AND BODY PIERCING ESTABLISHMENT 530 FEET FROM THE PROTESTANTS ESTABLISHMENT, WHICH HAS A NONCONFORMING USE TO OPERATE

This Honorable Board should deny the Petitioners' request for a variance to permit a new tattoo and body piercing establishment owned by Petitioner Benkert to be located 530 feet from the existing establishment owned by the Protestants, because it violates BCZR § 4B-102.

a. PETITIONER BENKERT'S NEW TATTOO AND BODY PIERCING ESTABLISHMENT IS LESS THAN 2,500 FROM AN EXISTING TATTOO AND BODY PIERCING ESTABLISHMENT THAT HAS A NONCONFORMING USE

Petitioner Benkert's new tattoo and body piercing establishment located at 7525 Belair Road is only 530 feet from the Protestants already existing tattoo and body establishment located at 7554 Belair Road. BCZR § 4B-102(b)(2) requires that "a tattoo or body piercing establishment may not be located within 2,500 feet of another adult entertainment business, a massage establishment or a tattoo or body piercing establishment." (Emphasis Added). Under BCZR § 4B-101, the Protestants were permitted to relocate their establishment and nonconforming use from 7525 Belair Road to 7554 Belair Road, where they have been since

October 2012. On March 4, 2013, Petitioner Benkert opened a new tattoo and body piercing establishment, which is only 530 feet from the Protestants' establishment and in a BM and DR 3.5 zone, which is prohibited under BCZR §§ 4B-101 and 102. The Petitioners' request should be denied, because Petitioner Benkert's new tattoo and body piercing establishment violates the location requirements set forth under BCZR § 4B-102(b)(2), and it is an attempt to create a new nonconforming use which is adverse to the plain language and intent of the legislation.

b. WHAT PETITIONER BENKERT IS ACTUALLY SEEKING IS A NEW NONCONFORMING USE TO PERMIT HIM TO OPERATE A TATTOO AND BODY PIERCING ESTABLISHMENT IN A BM AND DR 3.5 ZONE

Petitioner Benkert's new tattoo and body piercing establishment operates in a BM and DR 3.5 zone, which is prohibited under BCZR § 4B-101. The continued operation of the new establishment would create a new nonconforming use, which is against public policy, as well as the plain language and intent of the legislation.

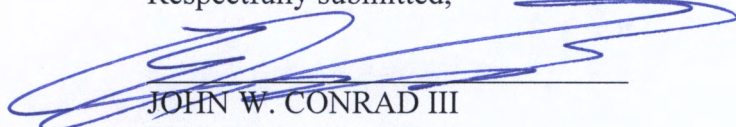
Public policy disfavors nonconforming uses, because they are contrary to the zoning plans of the community and the goal is to eliminate them over time. *Gough v. Board of Zoning Appeals*, 21 Md. App. 697 (1974) (An owner cannot extend or enlarge nonconforming uses) (Citations Omitted). Before 2005, Petitioner Benkert had a nonconforming use, which permitted him to operate Mr. B's Tattoo and Body Piercing at 7525 Belair Road. BCZR § 4B-101 only created a nonconforming use for "tattoo and body piercing establishment[s] in existence... for at least 12 months prior to the effective date of the Act," enacted on March 20, 1998. When Petitioner Benkert sold his establishment to the Protestants, he lost the benefit of the 1998 nonconforming use. Years later, when Petitioner Benkert returned to Maryland and opened a new tattoo and body-piercing establishment, Tattoos By Bee, LLC, a new nonconforming use was not created at 7525 Belair Road and he could not continue to use the nonconforming use that

he sold to the Protestants, because the Protestants relocated their establishment. As a result, the Petitioners' variance request should be denied.

CONCLUSION

For the reasons stated above, this Honorable Board should deny Petitioners Richard Niehaus and Bruce Benkert's petition to own the 1998 nonconforming use; or in the alternative, this Honorable Board should not permit Petitioners to operate a new tattoo and body piercing establishment 530 feet from the Protestants tattoo and body piercing establishment.

Respectfully submitted,



JOHN W. CONRAD III
3907 Eastern Avenue
Baltimore, Maryland 21224
410-494-4330

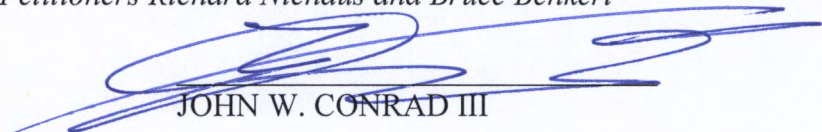
*Attorney for Protestants Robert Smith and
Mr. B's Tattoo and Body Piercing L.C., LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on the 24th day of June, 2014 a copy of the foregoing memorandum was mailed, postage prepaid to:

Jason Vettori, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

Attorney for Petitioners Richard Niehaus and Bruce Benkert



JOHN W. CONRAD III

5/27/14

IN THE MATTER OF:
RICHARD NIEHAUS – LEGAL OWNER
BRUCE BENKERT – LESSEE
7525 Belair Road
14th Election District; 6th Councilmanic District

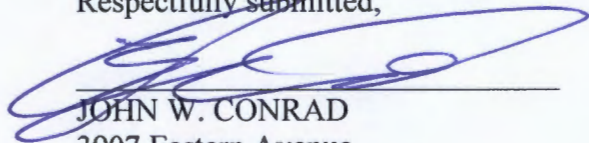
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 14-015-SPHA

LINE
STRIKE AND ENTRY OF APPEARANCE

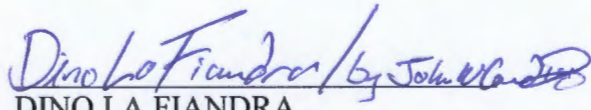
Dear Clerk,

Kindly enter my appearance on behalf of Protestants Robert Smith and Mr. B's Tattoo and Body Piercing L.C., LLC and strike the appearance of Dino La Fiandra, Esq.

Respectfully submitted,



JOHN W. CONRAD
3907 Eastern Avenue
Baltimore, Maryland 21224
410-494-4330
*Attorney for Protestants Robert Smith and
Mr. B's Tattoo and Body Piercing L.C., LLC*



DINO LA FIANDRA
Whiteford Taylor Preston
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204-5025

RECEIVED

MAY 27 2014

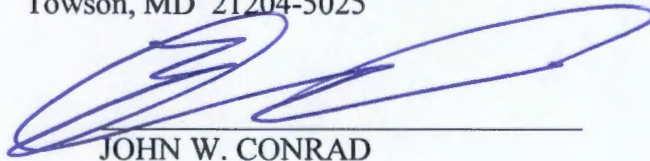
BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on the 27th day of May, 2014 a copy of the foregoing entry
of appearance was mailed, postage prepaid to:

Jason Vettori, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204
Attorney for Petitioners Richard Niehaus and Bruce Benkert

Dino La Fiandra, Esq.
Whiteford Taylor Preston
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204-5025



JOHN W. CONRAD

From: Alyssa Fiore <afiore@sgs-law.com>
To: 'Krysundra Cannington' <kcannington@baltimorecountymd.gov>, Jason Vettori...
Date: 3/28/2014 1:30 PM
Subject: RE: Case 2015-0015-SPHA 7525 Belair Road

Sunny,

Please schedule the hearing in this matter for either Wednesday, May 28, 2014 or Thursday, May 29, 2014. Those two dates work for both Mr. Vettori and Mr. La Fiandra.

Alyssa M. Fiore
Paralegal
SMITH, GILDEA & SCHMIDT, LLC
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(410) 821-0071 - fax
afiore@sgs-law.com

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-----Original Message-----

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, March 27, 2014 8:02 AM
To: Jason Vettori; Dino La Fiandra
Cc: Alyssa Fiore
Subject: RE: Case 2015-0015-SPHA 7525 Belair Road

Good Morning,

The following dates are currently available on the Board's docket. Please work together to determine the hearing date and provide me with that date. I will then provide the official hearing notice. All hearings begin at 10 a.m.

Tuesday, May 20, 2014,
Wednesday, May 21, 2014,
Wednesday, May 28, 2014, or
Thursday, May 29, 2014

Thank you for your patience in this matter. I look forward to hearing from you soon.

Sunny

Krysundra "Sunny" Cannington
Administrator

Board of Appeals of Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180

>>> Jason Vettori <jvettori@sgs-law.com> 3/26/2014 2:51 PM >>>
No problem. Thanks.

Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
Facsimile: (410) 821-0071
<http://sgs-law.com>

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-----Original Message-----

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Wednesday, March 26, 2014 2:50 PM
To: Jason Vettori; Dino La Fiandra
Cc: Alyssa Fiore
Subject: RE: Case 2015-0015-SPHA 7525 Belair Road

Jason,

I apologize for the delay. The last few weeks have gotten very busy here and I have gotten a little backed up.

I will get back to you tomorrow with some possible dates to choose from.

Sunny

>>> Jason Vettori <jvettori@sgs-law.com> 3/26/2014 2:38 PM >>>
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Sent: Thursday, February 27, 2014 11:47 AM
To: Dino La Fiandra
Cc: Jason Vettori
Subject: Re: Case 2015-0015-SPHA 7525 Belair Road

Mr. La Fiandra,

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Should you have any questions, please do not hesitate to contact me.

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Ms. Cannington,

Please see the attached letter.
Thank you.

Dino La Fiandra

Dino C. La Fiandra

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From: Krysundra Cannington
To: La Fiandra, Dino
CC: (jvettori@sgs-law.com), Jason Vettori
Date: 2/27/2014 11:46 AM
Subject: Re: Case 2015-0015-SPHA 7525 Belair Road

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To: Krysundra Cannington <kcannington@baltimorecountymd.gov>, Dino La Fiandr...
CC: Alyssa Fiore <afiore@sgs-law.com>
Date: 3/26/2014 2:38 PM
Subject: RE: Case 2015-0015-SPHA 7525 Belair Road

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Date: 3/26/2014 2:51 PM
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600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
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From: Krysundra Cannington
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CC: Fiore, Alyssa
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10/22/13

IN RE: PETITIONS FOR SPECIAL
HEARING
AND VARIANCE
(7525 Belair Road)

14th ELECTION DISTRICT
6th COUNCILMANIC DISTRICT

RICHARD NIEHAUS, *Legal Owner*
BRUCE BENKERT, *Lessee*
Appellees

ROBERT SMITH
6308 Eastern Ave.
Baltimore, MD 21224

DENISE SMITH
1923 Snyder Ave
Baltimore, MD 21222
Appellants

* BEFORE THE
*
* COUNTY BOARD OF APPEALS
*
* OF
*
* BALTIMORE COUNTY
*
* Case No: 2014-0015-SPHA
*

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*

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NOTICE OF APPEAL

The Appellants, Robert Smith and Denise Smith, by and through their attorneys Dino C. La Fiandra and Whiteford Taylor & Preston, LLP, feeling aggrieved by the decision of the Administrative Law Judge for Baltimore County from the Opinion and Order dated September 25, 2013 in the above-captioned matter, hereby note this appeal to the County Board of Appeals for Baltimore County in accordance with Baltimore County Code § 32-3-401 by filing this Notice of Appeal with the Director of the Baltimore County Department of Permits, Approvals & Inspections.

Dino C. La Fiandra
Whiteford, Taylor & Preston L.L.P.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, Maryland 21204-5025
(410) 832-2000
*Attorney for Appellants,
Robert Smith and Denise Smith*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of October, 2013, a copy of the foregoing Notice of Appeal was mailed hand-delivered to:

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

John E. Beverungen, Esq.
Administrative Law Judge for Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Dino C. La Fiandra

WHITEFORD, TAYLOR & PRESTON L.L.P.

DINO C. LA FIANDRA
DIRECT LINE (410) 832-2084
DIRECT FAX (410) 339-4031
DLafiandra@wtplaw.com

TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
MAIN TELEPHONE (410) 832-2000
FACSIMILE (410) 832-2015

BALTIMORE, MD
COLUMBIA, MD
FALLS CHURCH, VA
TOWSON, MD
WASHINGTON, DC
WILMINGTON, DE*

WWW.WTPLAW.COM
(800) 987-8705

October 22, 2013

RECEIVED

OCT 23 2013

VIA HAND DELIVERY

Arnold Jablon, Esq.

Director

Baltimore County Department of Permits, Approvals and Inspections

County Office Building

111 W. Chesapeake Avenue, Suite 105

Towson, Maryland 21204

OFFICE OF ADMINISTRATIVE HEARINGS

Re: NOTICE OF APPEAL: 7525 Belair Road; Case No. 2014-0015-SPHA

Dear Mr. Jablon:

Enclosed for filing please find the original and two (2) copies of the Notice of Appeal on behalf of the Appellants, Robert A. Smith and Denise Smith, in the above-referenced matter. I have also enclosed a check in the amount of \$265.00 to cover the filing fee. Please deliver one copy of the Notice to the Board of Appeals for Baltimore County. Please date-stamp the second copy of the Notice of Appeal and return it with our messenger.

Please do not hesitate to contact me with any questions.

Sincerely,

Dino C. La Fiandra

Enclosures

cc: Lawrence E. Schmidt, Esq.

432988

RECEIVED
OCT 23 2013

BALTIMORE COUNTY
BOARD OF APPEALS

RECEIVED
OCT 22 2013
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

9/25/13

IN RE: PETITIONS FOR SPECIAL HEARING *
AND VARIANCE
(7525 Belair Road) *
14th Election District *
6th Council District *
Richard Niehaus, *Legal Owners* *
Bruce Benkert, *Lessee* *
Petitioners *

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2014-0015-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Lawrence E. Schmidt, Esquire, of Smith, Gildea & Schmidt, LLC, on behalf of Richard Niehaus, the legal owner and Bruce Benkert, Lessee. The Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Road. In the alternative, a Petition for Variance was filed pursuant to B.C.Z.R. §4B-102(B)(2) to permit a Tattoo and Body Piercing Establishment to be located less than 2,500 ft. from another Tattoo and/or Body Piercing Establishment. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requests were Richard Niehaus, Chris Corey and Donald Hicks. Lawrence E. Schmidt, Esquire, of Smith, Gildea & Schmidt, LLC appeared and represented the Petitioners. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. Dino LaFiandra, Esquire, appeared on behalf of Mr. and Mrs. Robert Smith, who own a tattoo establishment at 7554 Belair Road, and oppose the petitions. Carroll Pupa, a member of the community, attended the hearing and also opposed the petitions.

ORDER RECEIVED FOR FILING

Date 9/25/13
By SEN

The only substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP) recommending that the Special Hearing/Variance requests be denied.

As noted during the hearing, I do not believe the petition for Variance is appropriate in these circumstances, and that petition will be denied. This case presents a legal issue that is appropriately resolved as a petition for Special Hearing: is the owner of 7525 Belair Road entitled to use the property as a Tattoo establishment, pursuant to the law of nonconforming uses.

It also bears mentioning at the outset that the comments of the DOP and community are well founded. Indeed, the County Council has determined that the concentration of tattoo, massage and adult entertainment establishments has a deleterious impact upon communities. See Bill 29-98, preamble. And if the Petitioners' property enjoys nonconforming use status, it would frustrate the goals and purpose of the Council in enacting Bill 29-98 governing tattoo establishments. But that is a recognized pitfall of nonconforming uses, which the law disfavors. Grant v. City of Baltimore, 212 Md. 301, 307 (1957) ("nonconforming uses have been a problem since the inception of zoning").

Indeed, the law contemplates that nonconforming uses will eventually cease, with the goal of preventing incompatible land uses. A nonconforming use can be extinguished in Baltimore County by abandonment or discontinuance of the use, which will be discussed below. B.C.Z.R. §104. In addition, the legislature frequently includes an "amortization" clause in new zoning laws, which grandfathers, for a reasonable period of time, a use that must then terminate. The County Council used such a clause when it enacted zoning regulations for state licensed medical clinics. In Bill 39-02, which withstood a federal court challenge, the Council permitted existing clinics to operate for 6 months before they would be required to comply with the new zoning law. At the other end of the spectrum, the Council enacted a 15 year amortization provision with

ORDER RECEIVED FOR FILING

2Date

By

9/25/13

sen

with regard to nonconforming signs. B.C.Z.R. §450.8.D. But in the various Bills enacted by the Council concerning tattoo establishments (Bills 29-98, 46-06, 56-11) an amortization clause was not included, which means that the status could be lost only by abandonment, discontinuance of use or repeated County Code violations. B.C.Z.R. §§104.1 and 104.8.

The evidence in this case established that a tattoo business has been located at 7525 Belair Road since at least 1995. Indeed, the operator of the business sought Special Hearing relief in 1996 to establish the legality of the enterprise. The petition was denied by former Deputy Zoning Commissioner Kotroco and that decision was affirmed by the County Board of Appeals and Circuit Court. Petitioners' Exhibits 4-7. The Deputy Zoning Commissioner determined that tattoo establishments were not permitted at that time by right or special exception in Baltimore County.

Then, in 1998, the first regulation to address the matter restricted such businesses to the MH zone, but at the same time the Council exempted from the law any tattoo establishment "in existence in a business or commercial zone for at least 12 months prior to" March 20, 1998. Bill 29-98, §6. The law originally grandfathered only such businesses that were "lawfully established" before enactment of Bill 29-98, although that language was removed, and such a business only needed to be "in existence" to enjoy the status. As a result of this change, the property at 7525 Belair Road became a nonconforming use even though - - as established by the Deputy Zoning Commissioner's ruling noted above - - it was not "lawfully established" at that time.

The business continued at the location from 1995-2005, at which time Mr. Benkert sold the business to Mr. Smith, who continued the tattoo business at the site until September 30, 2012. Petitioners' Exhibit 17. At that time, Mr. Smith relocated his business to a site approximately 530 feet from the former location. The new site, 7514 Belair Road, did not have the proper

ORDER RECEIVED FOR FILING

Date

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By

9/25/13

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zoning to operate a tattoo establishment, but the County Council enacted Bill 56-11, which exempted establishments (like Mr. Smith's) that relocated within 1,000 feet of its earlier location.

At this point in the chronology, the subject premises at 7525 Belair Road were vacant. The owner, Richard Niehaus, testified that he had several years prior consulted an attorney, who assured him that even if his tenant were to leave, he as owner enjoyed "a valuable nonconforming use for a Tattoo Parlor at your location." Petitioners' Exhibit 23. Mr. Niehaus testified that Mr. Smith actually vacated the subject premises in early October, 2012, and that within that same month he spoke by telephone to Mr. Benkert concerning Smith's departure and whether he (Benkert) would be interested in again operating a tattoo establishment at 7525 Belair Road. The witness stated that he undertook significant renovations to the property, and thereafter entered into a new lease with Mr. Benkert effective April 1, 2013. The tenant is again conducting a tattoo business at the property, and the petition for Special Hearing concerns the legality of that use.

Thus, the salient question is whether the nonconforming use status of 7525 that existed from the effective date of Bill 29-98 (March 20, 1998) until at least October 2012 when tenant Smith vacated the premises was lost due to abandonment, discontinuance of use or the relocation of the tenant to new quarters.

B.C.Z.R. §104.1 contemplates a "discontinuance of such nonconforming use for a period of one year or more." The evidence clearly established the tattoo use was discontinued for at most six (6) months (October 2012-April 2013). As such, the nonconforming use was not lost due to discontinued use.

The Protestants presented case law concerning abandonment of nonconforming uses, although it appears the more modern trend in Maryland law does not focus solely on intent to

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Date

9/25/13

By

sln

abandon so much as the concurrence of two things: (1) an intent to abandon; and (2) some overt act or failure to act that carries the implication that the owner does not claim or retain any interest in the matter. Catonsville Nursing Home v. Loveman, 349 Md. 560, 581 (1998).

Here, the testimony established the owner began attempting to obtain a new operator for the business almost immediately after his tenant vacated in October 2012. Indeed, within a six month time frame significant renovations were completed and a new tattoo business had opened its doors at the site. I do not believe that on these facts abandonment can be found, especially considering that nonconforming uses, though disfavored, are vested rights entitled to constitutional protection. Trip Associates, Inc. v. City of Baltimore, 392 Md. 563, 573-74 (2006).

The only remaining issue then is whether Mr. Smith's October 2012 departure from the subject premises, and relocation to the new store at 7554 Belair Road, somehow terminated the nonconforming use status at 7525 Belair Road. An "established nonconforming use runs with the land, and hence a change in ownership will not destroy the right to continue the use." 8A McQuillin, The Law of Municipal Corp. §25.183.50. In addition, "a nonconforming use is not personal to the current owner or tenant, but attaches to the land itself." 83 Am. Jur. 2d, Zoning & Planning, §587. Thus, Mr. Smith's move to the new location, enabled by Bill 56-11, did not alter the legal status of the real property, located at 7525 Belair Road.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioners' Special Hearing request should be granted.

THEREFORE, IT IS ORDERED this 25th day of September, 2013, by this Administrative Law Judge, that Petitioners' request for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve the grandfathered location

of an existing Tattoo and Body Piercing Establishment at 7525 Belair Road, be and is hereby GRANTED.

IT IS FURTHER ORDERED that Petitioners' Variance request pursuant to B.C.Z.R. §4B-102(B)(2) to permit a Tattoo and Body Piercing Establishment to be located less than 2,500 ft. from another Tattoo and/or Body Piercing Establishment, be and is hereby DENIED.

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

JEB/sln



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING

Date 9/25/13
By sln



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

September 25, 2013

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

RE: Petitions for Special Hearing and Variance
Property: 7525 Belair Road
Case No.: 2014-0015-SPHA

Dear Mr. Schmidt:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

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 Office of Administrative Hearings at 410-887-3868.

Sincerely,

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

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh
Enclosure

c: Chris Corey, 600 Washington Avenue
Towson, Maryland 21204
Donald Hicks, 200 E. Joppa Road
Towson, Maryland 21286
Dino C. LaFiandra, Esquire, 1 W. Pennsylvania Avenue
Suite 300, Towson, Maryland 21204
Robert A. Smith, 6308 Eastern Avenue
Baltimore, Maryland 21224
Carroll Pupa, 212 Elinor Avenue
Baltimore, Maryland 21236
Denise Smith, 1923 Snyder Avenue
Baltimore, Maryland 21222
Alfred Smith, 910 Ponca Street
Baltimore, Maryland 21224



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 7525 Belair Road which is presently zoned BM/DR 3.5
 Deed References: 07076/00848 10 Digit Tax Account # 1416045625
 Property Owner(s) Printed Name(s) Richard Niehaus, Jr. and Richard Niehaus

(SELECT THE HEARING(S) BY MARKING **X** AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ☒ a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Please see the attached.

2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☒ a **Variance** from Section(s)

Please see the attached

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
 (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

TO BE PRESENTED AT HEARING

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

I, or we, agree to pay expenses of above petition(s), 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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Bruce Benkert

Name- Type or Print Bruce Benkert
 Signature _____
7525 Belair Road Baltimore MD
 Mailing Address City State
21236 410-497-5231 coachbee@hotmail.com
 Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt

Name- Type or Print Lawrence E. Schmidt
 Signature _____
600 Washington Avenue, Suite 200 Towson MD
 Mailing Address City State
21204 (410) 821-0070 lschmidt@sgs-law.com
 Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Richard Niehaus, Jr. Richard Niehaus

Name #1 - Type or Print _____ Name #2 - Type or Print _____
 Signature #1 _____ Signature #2 _____
7525 Belair Road Baltimore MD
 Mailing Address City State
21236 443-838-0691 none
 Zip Code Telephone # Email Address

Representative to be contacted:

Lawrence E. Schmidt

Name - Type or Print Lawrence E. Schmidt
 Signature _____
600 Washington Avenue, Suite 200 Towson MD
 Mailing Address City State
21204 (410) 821-0070 lschmidt@sgs-law.com
 Zip Code Telephone # Email Address

CASE NUMBER 2014-0015-SPNA Filing Date 7/19/13

ORDER RECEIVED FOR FILING

Do Not Schedule Dates: 9/25/13 Reviewer JS
 Date _____

REV. 10/4/11

By den

ATTACHMENT TO PETITION FOR ZONING RELIEF

7525 Belair Road

Special Hearing relief:

1. In the alternative to the Petition for Variance, to approve the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Road, within 2,500 feet of another Tattoo and/or Body Piercing Establishment at 7554 Belair Road.
2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Variance relief:

1. In the alternative to the Petition for Special Hearing, to permit a Tattoo and Body Piercing Establishment to be located less than 2,500 feet from another Tattoo and/or Body Piercing Establishment, pursuant to BCZR B-102(B)(2).
2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

2014-0015-SP4A

**ZONING DESCRIPTION
FOR
NO. 7525 BELAIR ROAD
BALTIMORE, MD 21236-4102
6TH COUNCILMANIC DISTRICT
14TH ELECTION DISTRICT
BALTIMORE COUNTY, MD**

BEGINNING AT A POINT on the southeast side of Belair Road, which is a 60-feet wide right of way, at the distance of 395 feet, more or less, to the southwest side of Henry Avenue, which is a 30-feet wide right of way, being Lots No. 9 and No. 10, in the subdivision of the 'Property Of Wm. J. and Jno. S. Biddison', as recorded among the Land Records of Baltimore County, in Plat Book 2 at Folio 390.

CONTAINING 20,000 square feet, more or less, of land.



HICKS ENGINEERING ASSOCIATES, INC.
200 E. JOPPA ROAD - SUITE LL 105
TOWSON, MD. 21286
(410) 494-0001

Page 1 of 1

July 17, 2013

2014-0015-SPHA

CERTIFICATE OF POSTING

2014-0015-SPHA

RE: Case No.: _____

Petitioner/Developer: _____

Bruce Benkert

September 17, 2013

Date of Hearing/Closing: _____

**Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204**

Attn: Kristen Lewis:

Ladies and Gentlemen:

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

5725 Belair Rd

August 28, 2013

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

August 28, 2013

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

August 29, 2013

THIS IS TO CERTIFY, that the annexed advertisement was published in the following newspaper published in Baltimore County, Maryland, ONE TIME, said publication appearing on August 27, 2013

☐ The Jeffersonian

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: # 2014-0015-SPHA

7525 Belair Road

SE/s Belair Road, 395 ft. SW of Henry Avenue

14th Election District - 6th Councilmanic District

Legal Owner(s): Richard Neihaus & Richard Neihaus, Jr.

Contract Purchaser: Bruce Benkert

Special Hearing: to approve the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Road, within 2,500 feet of another Tattoo and/or Body Piercing Establishment at 7554 Belair Road. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County. **Variance:** to permit a Tattoo and/or Body Piercing Establishment; for such other and further relief as may be deemed necessary by the ALJ.

Hearing: Tuesday, September 17, 2013 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
JT 8/848 Aug. 27

943061

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. **94617**

Date: **10/23/13**

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	000		6150				265.00

Total: **265.00**

Rec From: **Mr BS TATTOO and Body Piercing LC**

For: **7525 Belair Rd**

CASE # 2014-0015-SPHA

CK # 2929

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

RECEIVED
 0/29/2013 10:29:00 11-10-13
 RECEIPT # 95037 10/29/2013
 5 500 UNITED STATES DOLLARS
 \$265.00
 Receipt for \$265.00
 Baltimore County, Maryland

**CASHIER'S
 VALIDATION**



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

August 5, 2013

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: 2014-0015-SPHA

7525 Belair Road

SE/s Belair Road, 395 ft. SW of Henry Avenue

14th Election District – 6th Councilmanic District

Legal Owners: Richard Neihaus & Richard Neihaus, Jr.

Contract Purchaser: Bruce Benkert

Special Hearing to approve the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Road, within 2,500 feet of another Tattoo and/or Body Piercing Establishment at 7554 Belair Road. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County. Variance to permit a Tattoo and/or Body Piercing Establishment; for such other and further relief as may be deemed necessary by the ALJ.

Hearing: Tuesday, September 17, 2013 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon", is written over the printed name and title.

Arnold Jablon
Director

AJ:kl

C: Lawrence Schmidt, 600 Washington Ave., Ste. 200, Towson 21204
Bruce Benkert, 7525 Belair Road, Baltimore 21236
Niehaus Residence, 7525 Belair Road, Baltimore 21236

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, AUGUST 28, 2013.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Board of Appeals of Baltimore County

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

November 15, 2013

NOTICE OF ASSIGNMENT

IN THE MATTER OF:

14-015-SPHA

Richard Niehaus – Legal Owner
Bruce Benkert – Lessee
7525 Belair Road
14th Election District; 6th Councilmanic District

Re: Petition for Special Hearing in alternative to Variance - to approve the grandfathered location of an existing
Tattoo and Body Piercing Establishment at 7525 Belair Road within 2500 ft of another Tattoo and
Piercing Establishment at 7554 Belair Road;
Petition for Variance in alternative to Special Hearing - to permit a Tattoo and Body Piercing Establishment
to be located less than 2500 ft from another

9/25/13 Opinion and Order of Administrative Law Judge wherein the Petition for Special Hearing was GRANTED and the Petition
for Variance was DENIED.

ASSIGNED FOR: WEDNESDAY, FEBRUARY 5, 2014, AT 10:00 A.M.

LOCATION:

Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

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 B, 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.

Krysundra "Sunny" Cannington
Acting Administrator

c: Counsel for Legal Owner/Petitioner
Legal Owner/Petitioner
Lessee

: Lawrence E. Schmidt, Esquire
: Richard Niehaus
: Bruce Benkert

Counsel for Appellants/Protestants
Appellants/Protestants

: Dino C. La Fiandra, Esquire
: Robert A. Smith and Denise Smith

Donald Hicks/Hicks Engineering Associates, Inc
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Nancy West, Assistant County Attorney

Carroll Pupa
Alfred Smith
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law



Board of Appeals of Baltimore County

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

February 4, 2014

VIA E-MAIL AND REGULAR MAIL

Dino La Fiandra, Esquire
Whiteford, Taylor & Preston, LLP
Towson Commons, Ste 300
1 West Pennsylvania Avenue
Towson, Maryland 21204

Re: In the Matter of: Richard Niehaus – Legal Owner
Bruce Benkert - Lessee
Case No.: 14-015-SPHA

Dear Mr. LaFiandra:

I am in receipt of your request for postponement dated February 4, 2014. It is my understanding that Mr. Vettori is in support of this request. This letter is to advise you that your request for a postponement of the hearing scheduled for February 5, 2014 has been granted and attached is a copy of the Notice of Postponement.

Please notify this office upon the conclusion of the negotiations at hand with regards to the appeal filed in this matter.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact this office.

Very truly yours,

Sunny Cannington

Krysundra "Sunny" Cannington
Administrator

cc: Lawrence E. Schmidt, Esquire (Via E-mail and regular mail)
Jason Vettori, Esquire (Via E-mail and regular mail)
Peter Max Zimmerman, People's Counsel for Baltimore County (via Hand Delivery)



Board of Appeals of Baltimore County

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

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

February 4, 2014

NOTICE OF POSTPONEMENT

IN THE MATTER OF:

14-015-SPHA

Richard Niehaus – Legal Owner
Bruce Benkert – Lessee
7525 Belair Road
14th Election District; 6th Councilmanic District

*This matter was scheduled to be heard on Wednesday, February 5, 2014
and has been postponed by request of Counsel.
This matter is to be Re-assigned to a later date.*

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 B, 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.

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Legal Owner/Petitioner
Legal Owner/Petitioner
Lessee

: Lawrence E. Schmidt, Esquire
: Richard Niehaus
: Bruce Benkert

Counsel for Appellants/Protestants
Appellants/Protestants

: Dino C. La Fiandra, Esquire
: Robert A. Smith and Denise Smith

Donald Hicks/Hicks Engineering Associates, Inc
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Nancy West, Assistant County Attorney

Carroll Pupa
Alfred Smith
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law



Board of Appeals of Baltimore County

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

March 31, 2014

NOTICE OF REASSIGNMENT

IN THE MATTER OF:

14-015-SPHA

Richard Niehaus – Legal Owner
Bruce Benkert – Lessee
7525 Belair Road
14th Election District; 6th Councilmanic District

Re: Petition for Special Hearing in alternative to Variance - to approve the grandfathered location of an existing
Tattoo and Body Piercing Establishment at 7525 Belair Road within 2500 ft of another Tattoo and
Piercing Establishment at 7554 Belair Road;
Petition for Variance in alternative to Special Hearing - to permit a Tattoo and Body Piercing Establishment
to be located less than 2500 ft from another

9/25/13 Opinion and Order of Administrative Law Judge wherein the Petition for Special Hearing was GRANTED and the Petition
for Variance was DENIED.

ASSIGNED FOR: THURSDAY, MAY 29, 2014, AT 10:00 A.M.

LOCATION:

Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

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 B, 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.

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Legal Owner/Petitioner
Legal Owner/Petitioner
Lessee

: Lawrence E. Schmidt, Esquire
: Richard Niehaus
: Bruce Benkert

Counsel for Appellants/Protestants
Appellants/Protestants

: Dino C. La Fiandra, Esquire
: Robert A. Smith and Denise Smith

Donald Hicks/Hicks Engineering Associates, Inc
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Nancy West, Assistant County Attorney

Carroll Pupa
Alfred Smith
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

Distribution List
Page 2
June 2, 2014

c: Counsel for Legal Owner/Petitioner
Legal Owner/Petitioner
Lessee

: Lawrence E. Schmidt, Esquire
: Richard Niehaus
: Bruce Benkert

Counsel for Appellants/Protestants
Appellants/Protestants

: John W. Conrad, Esquire
: Robert A. Smith and Denise Smith

Donald Hicks/Hicks Engineering Associates, Inc
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Nancy West, Assistant County Attorney

Carroll Pupa

Alfred Smith
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

September 11, 2013

Richard & Richard Jr. Niehaus
7525 Belair Road
Baltimore MD 21236

RE: Case Number: 2014-0015 SPHA, Address: 7525 Belair Road 21236

Dear Mssrs. Niehaus:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on July 19, 2013. This letter is not an approval, but only a **NOTIFICATION**.

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,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is written in a cursive style with a large, stylized "J" at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson MD 21204
Bruce Benkert, 7525 Belair Road, Baltimore MD 21236

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor



James T. Smith, Jr., Secretary
Melinda B. Peters, Administrator

Date: 7-30-13

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 2014-0015-SPHA
Special Hearing Variance
Richard & Richard Jr. Nicholas
7525 Belair Road
US 1

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 7-29-13. A field inspection and internal review reveals that an entrance onto US 1 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance, Case Number 2014-0015-SPHA.

Should you have any questions regarding this matter feel free to contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may email him at (rzeller@sha.state.md.us). Thank you for your attention.

Sincerely,

Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

September 10, 2013

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 7525 Belair Road

Item Number: 14-015

Petitioner: Richard Niehaus, Jr.

Zoning: BM and DR 3.5

Requested Action: Special Hearing and Variance

SUMMARY OF RECOMMENDATIONS:

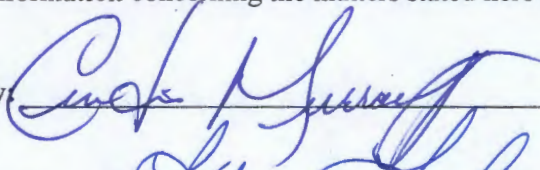
The Department of Planning has reviewed the petitioner's special hearing and variance requests along with the accompanying site plan. The requests are to approve the grandfathering of an existing tattoo and body piercing establishment within 2500 feet of another tattoo and body piercing establishment at 7554 Belair Road, or in the alternative to approve a petition for variance to approve the same, pursuant to BCZR B-102 (B)(2).

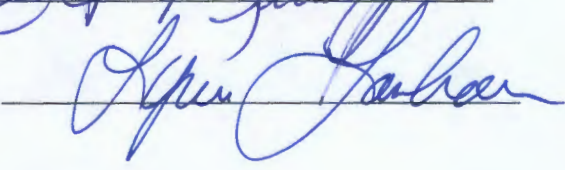
Upon review, the Department of Planning recommends that this request for special hearing/variance to allow a tattoo/body piercing establishment at 7525 Belair Road be denied for the following reasons:

1. There is an existing tattoo establishment located less than 2500 feet away from the subject property. An additional establishment at the subject location would constitute an over intensification of land use.
2. This portion of Belair Road is located in a designated Commercial Revitalization District that is undergoing intensive planning efforts through a block strategy aimed at revitalization and redevelopment of the corridor. This is a regional effort being undertaken as a joint project with Baltimore City.
3. In 2012, the Urban Land Institute participated with Baltimore County and Baltimore City in a Belair Road study which laid out recommendations for future redevelopment. The subject property is located in a block that has been identified as a priority for revitalization.

The Department of Planning opines that this use does not positively contribute to the corridor revitalization efforts. The subject use does not provide substantial employment, nor is it complementary to the types of uses that are being sought for the revitalization of the corridor that are considered walkable, small format, neighborhood oriented uses.

For further information concerning the matters stated here in, please contact Laurie Hay at 410-887-3480.

Prepared By: 

Division Chief: 
AVA/LL:cjm

RECEIVED

SEP 11 2013

OFFICE OF ADMINISTRATIVE HEARINGS

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: August 1, 2013

FROM: ^{DAK} Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 29, 2013
Item Nos. 2014-0010, 0011, 0012, 0013, 0015, 0016, 0017, 0018 and
0019.

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

DAK
cc:file

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE
AND VARIANCE		
7525 Belair Road; SE/S Belair Road;	*	OF ADMINSTRATIVE
395' SW Henry Avenue		
14 th Election & 6 th Councilmanic Districts	*	HEARINGS FOR
Legal Owner(s): Richard & Richard Jr Niehaus		
Contract Purchaser(s): Bruce Benkert	*	BALTIMORE COUNTY
Petitioner(s)		
	*	2014-015-SPHA

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party 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 and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

AUG 01 2013

.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of August, 2013, a copy of the foregoing Entry of Appearance was mailed to Lawrence Schmidt, Esquire, Smith, Gildea & Schmidt, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

KEVIN KAMENETZ
County Executive



LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

October 31, 2013

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204



RE: APPEAL TO BOARD OF APPEALS

Case No. 2014-0015-SPHA

Location: 7525 Belair Road

Dear Mr. Schmidt:

Please be advised that an appeal of the above-referenced case was filed in this Office on October 23, 2013. 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 contact the Board at 410-887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Stahl", written over a horizontal line.

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/sln

c: Baltimore County Board of Appeals
People's Counsel for Baltimore County
Chris Corey, 600 Washington Avenue
Towson, Maryland 21204
Donald Hicks, 200 E. Joppa Road
Towson, Maryland 21286
Dino C. LaFiandra, Esquire, 1 W. Pennsylvania Avenue
Suite 300, Towson, Maryland 21204
Robert A. Smith, 6308 Eastern Avenue
Baltimore, Maryland 21224
Carroll Pupa, 212 Elinor Avenue
Baltimore, Maryland 21236
Denise Smith, 1923 Snyder Avenue
Baltimore, Maryland 21222
Alfred Smith, 910 Ponca Street
Baltimore, Maryland 21224

APPEAL

Petitions for Special Hearing and Variance
(7525 Belair Road)
14th Election District – 6th Councilmanic District
Legal Owner: Richard Niehaus
Lessee: Bruce Benkert
Case No. 2014-0015-SPHA

- ✓ *Special Hearing*
Petition for Variance (July 19, 2013)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (August 5, 2013)
- ✓ Certificate of Publication (August 29, 2013)
- ✓ Certificate of Posting (August 28, 2013) by SSG Robert Black
- ✓ Entry of Appearance by People's Counsel (August 2, 2013)
- ✓ Petitioner(s) Sign-in Sheet – 1 page
- ✓ Citizen(s) Sign-in Sheet – 1 page
- ✓ Zoning Advisory Committee Comments

Petitioner(s) Exhibits -

- ✓ 1. Site Plan
- ✓ 2. Aerial Photo
- ✓ 3. Aerial Photo
- ✓ 4. Order DZC #96-260
- ✓ 5. Order CBA #96-260
- ✓ 6. Order Circuit Court # 3-C-96-13013
- ✓ 7. Order Circuit Court # 3-C-96-13013
- ✓ 8. Bill No.: 168-96
- ✓ 9. Order in # 96-107-SPH
- ✓ 10. Bill No.: 76-97
- ✓ 11. Bill No.: 29-98
- ✓ 12. Bill No.: 46-06
- ✓ 13. Bill No.: 50-10
- ✓ 14. *Opinion in Allno Enterprises v. Baltimore County*
- ✓ 15. Bill No.: 56-11
- ✓ 16. Lease July 1, 2005
- ✓ 17. 8-30-12 Letter from Robert & Denise Smith
- ✓ 18. B.C.Z.R. §104
- ✓ 19. Fiscal Note Bill # 56-11
- ✓ 20. Permit for 7554 Belair Road
- ✓ 21. July 1, 2005 Letter from E.P.P.
- ✓ 22. 22A-22D Color Photos of 7525 & 7554 Belair Road
- ✓ 23. Attorney Gisriel Letter
- ✓ 24. 24-A-24E Color photos of sub. property

Protestants' Exhibits -

- ✓ 1. Petitions with Signatures
- ✓ Miscellaneous (Not Marked as Exhibits) – Correspondence
- ✓ Administrative Law Judge Order and Letter (GRANTED September 25, 2013)
- ✓ Notice of Appeal – October 23, 2013 Appeal/Letter from Attorney Dino C. La Fiandra with Whiteford, Taylor & Preston L.L.P. / Mr. BS Tattoo and Body Piercing LC

Address List

Petitioner:

Lawrence E. Schmidt, Esquire
Jason Vettori, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Ste 200
Towson, Maryland 21204

Richard Niehaus
7525 Belair Road
Baltimore, Maryland 21236

Bruce Benkert
5807 N. Church Street
Glen Rock, Pennsylvania 17327

Donald Hicks
Hicks Engineering Associates, Inc
200 E. Joppa Road, Ste LL 105
Towson, Maryland 21286

Protestants:

John W. Conrad, Esquire
3907 Eastern Avenue
Baltimore, Maryland 21224

Robert Smith
6308 Eastern Avenue
Baltimore, Maryland 21224

Denise Smith
1932 ~~1923~~ Snyder Avenue
Baltimore, Maryland 21222

Interested Persons:

Mr. Carroll Pupa
212 Elinor Avenue
Baltimore, Maryland 21236

Alfred Smith
910 Ponca Street
Baltimore, Maryland 21224

Interoffice:

Office of People's Counsel
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

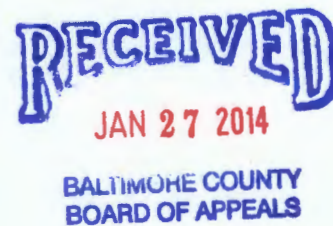
410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

January 27, 2014

Hand-Delivered
Wendy A. Zerwitz, Chairwoman
County Board of Appeals of Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204



Re: Richard & Richard Jr. Niehaus
7525 Belair Road
Case No.: 2014-015-SPHA
Hearing Scheduled : February 5, 2014

Dear Ms. Zerwitz:

Our office reviewed the appeal filed in the aforementioned case seeking approval of a tattoo business at 7525 Belair Road. We participated in a 1996 case for a tattoo establishment at this site that was denied. There, the CBA correctly ruled that tattoo businesses were not permitted in Baltimore County. (Case # 96-260-SPH). The Circuit Court affirmed the CBA in 1997. Subsequently, the County Council enacted legislation pertaining to tattoo businesses. (Bills 29-98, 46-06). The tattoo business at this site was permitted as a non-conforming use.

BCZR 101.1 defines non-conforming use.

BCZR 104 addresses non-conforming uses and structures. The activity or structure may have been legal initially but is no longer a permitted use as a result of a rezoning or other legislation. Out of fairness, the use or structure can remain as non-conforming, but only under strict conditions. See BCZR 104.1. We sometimes refer to such uses or structures as being "grandfathered."

To summarize, non-conforming uses and structures are not favored - the goal is to phase them out. Any change or expansion is limited at best, and usually prohibited. In general, a non-conforming use is not transferable to another site, but a new owner may operate the same business at the existing site as long as there are no prohibited changes or expansions. See Prince

George's County v. E.L. Gardner 293 Md. 259 (1982), In the Matter of William Lagna 2012-239-SPH (Sept. 12, 2013).

Prior to 1998, tattoo businesses were not permitted in any zone in Baltimore County. In Bill 29-98, the County Council permitted a tattoo business use to operate only in the Manufacturing Heavy (MH) zones. In Bill 46-06, the Council grandfathered tattoo establishments in business or commercial zones that had been operating for at least 12 months, even if not legally approved. Bill 46-06 did not permit such businesses to relocate, except within 500 feet of its "earlier location." Bill 56-11 maintained the grandfather provision in business or commercial zones and confirmed relocation " . . . that is less than 500 feet removed from its earlier location . . . " . Bill 56-11 also permitted a relocation for a tattoo business " . . . THAT RELOCATES FROM A LOCATION WITHIN 1,000 FEET OF A PUBLIC OR PRIVATE SCHOOL TO A LOCATION WITHIN A BL,BM,OR BR ZONE WHICH IS FURTHER REMOVED FROM A PUBLIC OR PRIVATE SCHOOL, BUT LESS THAN 1,000 FEET REMOVED FROM ITS EARLIER LOCATION."

It appears obvious to us that the Council was providing an exception to general nonconforming use law prohibiting relocation, by allowing it under limited conditions – that is, within 500 feet of the earlier location or within 1000 feet if the move takes it further from a school. The use of the phrase "earlier location" in these bills makes it clear that only one nonconforming use is permitted and this nonconforming use can relocate under limited circumstances. These bills do not permit tattoo businesses to expand or multiply. Nor were they intended to bestow grandfather status on new and subsequent tattoo establishments in the business zones when clearly Bill 29-98, codified in BCZR Article 4B, limits new tattoo businesses to the MH zone.

Here, the tattoo business at 7525 Belair Road relocated to 7554 Belair Road, a permitted move under Bills 46-06 and 56-11. But the relocation equates to and effectuates a forfeiture and termination of a tattoo business at the old location - a tattoo business is no longer permitted at 7525 Belair Road, as Petitioner requests. Otherwise stated, the legislative sequence grandfathered and protected a particular tattoo business, affording a limited and specified relation, which did not run with the original property or empower the landlord to add a new impermissible use.

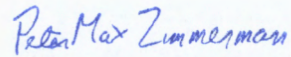
For these reasons, the Petition here should be denied.

We have attached the County Council Bills referenced in this letter.

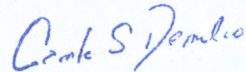
Please consider this letter as our entry of appearance. This letter serves as our position on the Petition. We note that since the Petitioner and the Protestants are represented by Counsel, our attendance at the hearing may not be necessary.

Thank you for your consideration.

Respectfully submitted,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel for Baltimore County

PMZ/CSD/rmw
Enclosures

cc: Lawrence Schmidt, Esquire
Dino LaFiandra, Esquire

**PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS REGARDING
TATTOO AND BODY PIERCING ESTABLISHMENTS**

A Staff Report of the Baltimore County Office of Planning and Zoning
September 11, 1997

PROJECT DESCRIPTION

Council Resolution 76-97 requests the Planning Board to recommend definitions for tattoo parlors and body piercing establishments and appropriate zoning classifications for such uses, including relevant conditions or restrictions. (See Attachment 1)

BACKGROUND

Tattooing refers to methods of placing an indelible mark on a person by inserting pigment under the skin or by the production of scars. Body piercing refers to piercing the skin for the purpose of insertion of any object, usually jewelry. Both tattooing and body piercing are very old techniques for personal embellishment which have been practiced for thousands of years in cultures around the world. What is new about these techniques is that they are becoming popular among more segments of the population.

As tattooing and body piercing become more popular, communities throughout the country are considering the need for regulatory change. The potential for the spread of infectious disease, especially hepatitis and HIV, is the primary concern. Fifteen states have adopted laws restricting or regulating tattooing, many of them requiring licensing and inspection to assure that the procedure will be performed in a sterile environment.

The Maryland Department of Health and Mental Hygiene requires body piercing and tattoo establishments to adhere to standard infection control measures. The standards must be posted at the place of business. The local jurisdiction has the right to investigate if there is a complaint or a suspicion that the control measures are not being followed. (COMAR 10.06.02 and .06). The standards do not apply to ear piercing when it is performed with an ear piercing gun and single use, sterile earrings.

A committee of health professionals, organized by the Baltimore County Health Department at the request of Councilman Gardina, has considered the need for further regulation of tattooing and body piercing establishments. The committee's May, 1997 report concluded that reported evidence at the federal, state and local level do *not* indicate that tattoo and body piercing cause disease outbreak. While there is potential for disease transmission, spread of infectious disease is preventable through the use of sterile, single use needles. The committee did not recommend licensing at this time because there is no epidemiological data to support expenditure for administering and inspecting such a program. The committee recommended instead that the zoning process be used to provide notification to the Health Department that a facility is being opened.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session ~~1998~~, Legislative Day No. 4

Bill No. 29-98

Councilmembers Moxley, Kamenetz, McIntire, Riley, Gardina, Bartenfelder, and DePazzo
By Request of County Executive

By the County Council, February 17, 1998

A BILL
ENTITLED

AN ACT concerning

Adult Entertainment Businesses, Massage Establishments,
and Tattoo or Body Piercing Establishments

For the purpose of amending the Zoning Regulations in order to regulate the location of adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; requiring adult entertainment businesses to obtain a license; requiring adult entertainment businesses to have a certain interior arrangement; establishing terms and renewal of the license and grounds for suspension or revocation of the license; prohibiting the transfer of a license; requiring the Director to conduct certain inspections; establishing certain criminal and civil penalties; establishing certain appeals; providing for certain application requirements; stating certain findings; defining certain terms; providing for the application of this Act; providing for the effective date of this Act; and

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.

generally relating to adult entertainment businesses, massage establishments, and tattoo or body piercing establishments.

BY repealing and reenacting, with amendments,

Section 101, definition of "Striptease Business"
Baltimore County Zoning Regulations, as amended

BY adding

Sections 4B-101 and 4B-102
Article 4B - M.H. Zones
Baltimore County Zoning Regulations, as amended

By adding

Sections 24-470 to 24-483
Article XII, Adult Entertainment Businesses
Title 24. Permits and Licenses and Business Regulation
Baltimore County Code, 1988

WHEREAS, in April of 1997, the Baltimore County Council requested the advice of the Planning Board on the issue of the regulation of adult video and book stores in Baltimore County; and

WHEREAS, the Office of Planning has issued a staff report indicating and the Council believes that there is a demonstrated need for immediate legislative action on this regulatory issue; and

WHEREAS, the Baltimore County Council finds that, in order to protect the health, safety and welfare of the county's citizens, it is necessary to allow suitable locations for certain adult entertainment businesses, massage establishments, and tattoo or body piercing establishments while limiting their adverse secondary effects on the community; and

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 8

Bill No. 46-06

Councilmembers Moxley & Gardina

By the County Council, April 17, 2006

A BILL
ENTITLED

AN ACT concerning

Tattoo Establishments

FOR the purpose of permitting certain tattoo or body piercing establishments to relocate in certain zones under certain circumstances; and generally relating to tattoo or body piercing establishments.

BY repealing and re-enacting, with amendments

Section 6 of Bill 29-98

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Section 6 of Bill 29-98 be and is hereby repealed and re-enacted, with amendments, to read as follows:

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.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2010, Legislative Day No. 11

Bill No. 50-10

Councilmembers Olszewski and Moxley

By the County Council, June 7, 2010

AN ACT concerning

Adult Entertainment Businesses

FOR the purpose of amending the definition of an adult entertainment business; regulating the location of adult entertainment businesses; regulating the location of certain other businesses in certain zones; regulating the arrangement of viewing booths; stating certain findings; providing for the application of the Act; and generally relating to adult entertainment businesses.

BY repealing and re-enacting, with amendments

Sections 4B-101 and 4B-102
Baltimore County Zoning Regulations

BY repealing and re-enacting, with amendments

Section 21-2-101 (h) and 21-2-102(b)
Article 21 - Permits, Licenses, and Business Regulation
Title 2 - Adult Entertainment Businesses
Baltimore County Code, 2003

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.

WHEREAS, in 1998, the Baltimore County Council passed Bill No. 29-98, effective March

20, 1998, to regulate the location of adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; and

WHEREAS, at that time, the County Council found that, in order to protect the health, safety and welfare of the county's citizens, it was necessary to allow suitable locations for certain adult entertainment businesses, massage establishments, and tattoo or body piercing establishments while limiting their adverse secondary effects on the community; and

WHEREAS, the County Council further found that adult entertainment businesses, massage establishments and tattoo or body piercing establishments frequently are used for unlawful sexual activities, may facilitate the transmission of diseases, contribute generally to crime; decrease property values, and adversely impact the quality of life in their surrounding areas; and

WHEREAS, many land use studies have documented the adverse secondary effects of certain adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; and

WHEREAS, in order to lessen and control these effects and to limit exposure of these businesses to children, the Council found that it was necessary to place certain restrictions on the location and arrangement of adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; and

WHEREAS, Bill 29-98 has withstood legal challenge; and

WHEREAS, the Council now finds that certain refinements are needed to that portion of the Act relating to adult entertainment businesses in order to more effectively regulate the location of such businesses and prevent the subversion of the Act's purposes; now, therefore

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND that Sections 4B-101 and 4B-102 of the Baltimore County Zoning
3 Regulations be and they are hereby repealed and re-enacted, with amendments, to read as follows:

4 §4B-101. Definitions.

5 A. As used in this article, the following terms have the meanings indicated:

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2011, Legislative Day No. 14

Bill No. 56-11

Councilmembers Bevins, Oliver & Huff

By the County Council, September 6, 2011

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations - Tattoo Establishments

FOR the purpose of permitting certain tattoo or body piercing establishments to relocate in certain zones
under certain circumstances, and generally relating to tattoo or body piercing establishments.

BY repealing and re-enacting, with amendments

Section 6 of Bill 29-98 as amended by Bill 46-06

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
2 MARYLAND, that Section 6 of Bill 29-98, as amended by Bill 46-06, be and is hereby repealed and
3 re-enacted, with amendments, to read as follows:

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.

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Richard Niehaus, Legal Owner
Bruce Benkert, Lessee **14-015-SPHA**

DATE: August 7, 2014

BOARD/PANEL: Maureen E. Murphy, Chairman
Andrew M. Belt
Wayne R. Gioioso, Jr.

RECORDED BY: Tammy McDiarmid/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Special Hearing in alternative or a Variance to approve the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Road within 2500 ft. of another Tattoo and Piercing Establishment at 7554 Belair Road.
2. Petition for Variance in alternative to Special Hearing to permit a Tattoo and Body Piercing Establishment to be located less than 2500 ft. from another.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- The Board reviewed the history of this matter. The subject property located at 7525 has been used as a tattoo and body piercing establishment since 1995. At that time, tattoo businesses were not permitted in any zone in Baltimore County. When Bill No. 29-98 was enacted the use became a permitted use, as the tattoo or body piercing establishment had been in existence for at least 12 months prior to March 20, 1998 in a business or commercial zone.
- In 2005, the owners changed but the business continued to operate at 7525 Belair Road until September 30, 2012 when Mr. Smith opened a new tattoo business at 7554 Belair Road using the name of the old business and using the old phone number. Mr. Smith relocated under the presumption that he was protected under Bill 56-11 which allowed a tattoo business to relocate from a location within 1,000 feet of a school, but less than 1,000 feet from its earlier location. Mr. Smith advocates that there can only be 1 tattoo business permitted.
- In April 2013 the Petitioner reopened a tattoo and body piercing establishment at 7525 Belair Road.
- The Petitioners argue that the non-conforming use runs with the land. The Protestants argue that the non-conforming use runs with the business and once the business relocated the non-conforming use at its original location terminated.
- The Board discussed that the relocation of the business has no effect on the former nonconforming use allowed at the location.
- The Board discussed that the use does not meet the definition of a "non-conforming use" as defined in BCZR 101.1 but rather Bill 29-98 made the tattoo business a "permitted use."
- The Board discussed that there was no testimony presented during the hearing regarding the requested variance relief.

DECISION BY BOARD MEMBERS:

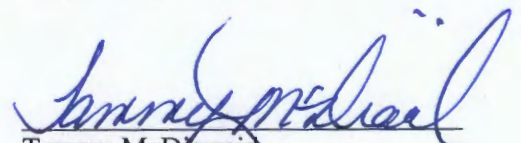
The Board determined that the tattoo business became a permitted use upon the passage of Bill 29-98 rather than a non-conforming use because the tattoo business was not legal until Bill 29-98 was passed. As long as the business was in existence in a commercial or business zone for the 12 months prior to 3/20/98, it was permitted to stay in that zone. The only exception was that if the business "relocates" it was not permitted to stay. Applying Bill 29-98 here, the business at 7525 became a legally permitted use as of 3/20/98. Although the County Counsel did not provide a time period for the relocation, the Board found that the business at 7525 did not relocate but continued to operate since 1995, even though the name and phone number was being used by Mr. Smith at another location.

In the alternative, if Bill 29-98 did create a "non-conforming use," it runs with the land, and not the business which was located on the land. The waiver provision in Bills 29-98 and 56-11 confirms that common law is not superceded or waived.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Petition for Special Hearing to approve the grandfathered location of an existing Tattoo and Body Piercing Establishment at 7525 Belair Road; and to DISMISS as moot and Petition for Variance.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above 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 the Board.

Respectfully Submitted,


Tammy McDermid



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

RECEIVED

SEP 16 2013

OFFICE OF ADMINISTRATIVE HEARINGS

14-015
1525 Belair Rd

9-16-13

John,

this case is set in for tomorrow, I believe. I located these bills - 46-06 + 56-11 after Larry Schmidt (who represents Petitioner) stopped in our office. I thought they may be helpful for the history - and BCZR doesn't always include grand father sections of the law. I told Larry Schmidt about them as well.

Also - a copy of Planning report for the file if it hasn't reached you yet.

Our office will not attend ALT hearing.

Thank you,

Carole

Bill 56-11Council District All

Councilmembers Bevins, Oliver & Huff

Zoning Regulations – Tattoo Establishments

Bill 56-11 authorizes the relocation of a tattoo establishment in certain limited circumstances.

In March 1998, the Council amended the Zoning Regulations with the passage of Bill 29-98 in order to regulate the location of adult entertainment businesses, massage establishments, and tattoo or body piercing establishments. Effective March 20, 1998, tattoo or body piercing establishments are permitted only in a M.H. Zone; additionally, they may not be located within 1,000 feet of certain types of uses or residential areas.

However, Section 6 of Bill 29-98 grandfathered-in some of these establishments. Section 6 provided, in part, that "this Act does not apply to a massage establishment or tattoo or body piercing establishment in existence in a business or commercial zone for at least 12 months prior to the effective date of this Act except if a massage establishment or tattoo or body piercing establishment relocates." Subsequently, the Council passed Bill 46-06, which amended Section 6 to permit a relocation of a tattoo establishment as long as it is less than 500 feet removed from its original location and is located in a B.M.-C.C.C. District.

Bill 56-11 further amends Section 6 of Bill 29-98 to permit a tattoo establishment to relocate from a location within 1,000 feet of a public or private school to a location within a B.L., B.M., or B.R. Zone which is further removed from a public or private school, but less than 1,000 feet removed from its original location.

With the affirmative vote of five members of the County Council and signature by the County Executive, Bill 56-11 will take effect on October 16, 2011.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 8

Bill No. 46-06

Councilmembers Moxley & Gardina

By the County Council, April 17, 2006

A BILL
ENTITLED

AN ACT concerning

Tattoo Establishments

FOR the purpose of permitting certain tattoo or body piercing establishments to relocate in certain zones under certain circumstances; and generally relating to tattoo or body piercing establishments.

BY repealing and re-enacting, with amendments

Section 6 of Bill 29-98

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Section 6 of Bill 29-98 be and is hereby repealed and re-enacted, with amendments, to read as follows:

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
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COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2011, Legislative Day No. 14

Bill No. 56-11

Councilmembers Bevins, Oliver & Huff

By the County Council, September 6, 2011

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations - Tattoo Establishments

FOR the purpose of permitting certain tattoo or body piercing establishments to relocate in certain zones
under certain circumstances, and generally relating to tattoo or body piercing establishments.

BY repealing and re-enacting, with amendments

Section 6 of Bill 29-98 as amended by Bill 46-06

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
2 MARYLAND, that Section 6 of Bill 29-98, as amended by Bill 46-06, be and is hereby repealed and
3 re-enacted, with amendments, to read as follows:

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.

SMITH, GILDEA & SCHMIDT_{LLC}

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
RAY M. SHEPARD
JASON T. VETTORI

LAUREN M. DODRILL
CHARLES B. MAREK, III
NATALIE MAYO
ELYANA TARLOW

of counsel:
DAVID T. LAMPTON

November 4, 2013

RECEIVED

NOV 5 2013

BALTIMORE COUNTY
BOARD OF APPEALS

Via First Class Mail

Krysundra Cannington
Acting Administrator
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: 7525 Belair Road
Case No. 14-015-SPHA

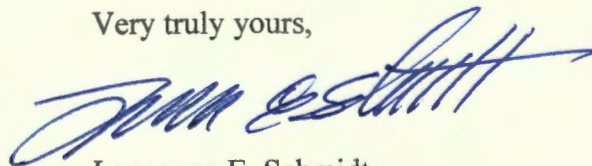
Dear Sunny,

I write by way of follow up to the Notice of Appeal which was filed in the above referenced matter on or about October 22, 2013.

Please be advised that I represent the Appellees, Mr. Richard Niehaus (property owner) and Mr. Bruce Benkert (tattoo parlor owner) in this matter. Accordingly, please be sure to include me on any notices sent.

Please call should you have any interim questions.

Very truly yours,



Lawrence E. Schmidt

LES/amf

cc: Richard Niehaus
Bruce Benkert

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
RAY M. SHEPARD
JASON T. VETTORI
DAVID W. TERRY*

*LICENSED IN MO, IL, AR ONLY

CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO
LAUREN M. DODRILL
NATALIE MAYO
ELYANA TARLOW

of counsel:

DAVID T. LAMPTON

June 30, 2014

RECEIVED
JUN 30 2014

BALTIMORE COUNTY
BOARD OF APPEALS

Via Hand Delivery

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

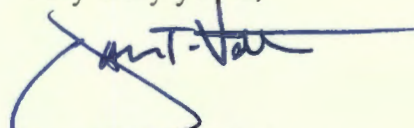
Re: 7525 Belair Road
Case No. 14-015-SPHA

Dear Sunny,

Enclosed please find an original and three (3) copies of Petitioners' Post Hearing Memorandum for filing in the above referenced matter.

Thank you for your consideration.

Very truly yours,


Jason T. Vettori, Esquire

JTV/amf

Enclosure

cc: John W. Conrad, III
Peter Max Zimmerman, People's Counsel
Richard Niehaus
Bruce Benkert

Krysundra Cannington - Case No. 14-015-SPHA (7525 Belair Rd)

From: "La Fiandra, Dino" <DLafiandra@wtplaw.com>
To: kcannington@baltimorecountymd.gov
Date: 2/4/2014 10:27 AM
Subject: Case No. 14-015-SPHA (7525 Belair Rd)
CC: jvettori@sgs-law.com; lschmidt@sgs-law.com
Attachments: CopitrakScan.pdf

Please see the attached letter.

Thanks.

Dino

Dino C. La Fiandra

Partner

Whiteford Taylor & Preston LLP

Towson Commons, Suite 300 | One West Pennsylvania Avenue | Towson, MD 21204

t: 410-832-2084 | f: 410 339-4031 | m: 443-204-3473

dlafiandra@wtplaw.com | [Bio](#) | [vCard](#) | www.wtplaw.com

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Wendy A. Zerwitz, Chairwoman
February 4, 2014
Page 2

C: Jason Vittori, Esquire Via email
Lawrence Schmidt, Esquire Via Email
Peter M. Zimmerman, Esquire (via Fax 410-823-4236)
Mr. Robert A. Smith

434416

2/4/14

9:25 Message from
Dino Lafiandra

Re: 14-015-SP41A

410-832-2084

9:27-email from Jason Vittori

9:28- Dino Lafiandra

- I returned call - need
official request for postpone
to discuss w/ chair ^{Panel} Belt

9:32-Jason Vittori

supports req for postpone-

WHITEFORD, TAYLOR & PRESTON L.L.P.

DINO C. LA FIANDRA
DIRECT LINE (410) 832-2084
DIRECT FAX (410) 339-4031
DLafiandra@wtplaw.com

TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
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FACSIMILE (410) 832-2015

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COLUMBIA, MD
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ROANOKE, VA
TOWSON, MD
WASHINGTON, DC
WILMINGTON, DE*

WWW.WTPLAW.COM
(800) 987-8705

February 4, 2014

VIA Email to Board of Appeals Administrator kcannington@baltimorecountymd.gov

Wendy A. Zerwitz, Chairwoman
County Board of Appeals of Baltimore County
105 W Chesapeake Avenue, Suite 203
Towson, Maryland 21204

Re: Case No. 2014-0015-SPHA
7525 Belair Road

Dear Ms. Zerwitz:

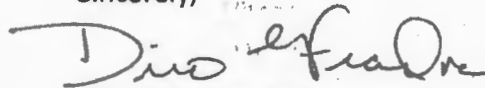
This office represents the Appellants, Robert Smith and Denise Smith, in the above-referenced matter. The matter is scheduled for hearing tomorrow, February 5, 2014.

Yesterday, I inquired of opposing counsel whether their clients would be agreeable to a discussion which may lead to a settlement of the case. Mr. Vittori indicated that they would be receptive. Therefore, my clients respectfully request that the case be rescheduled for a date in the future so that we may work now to see if there is any common ground upon which the case may be settled.

I note that Mr. Vittori emailed Ms. Carrington this morning to indicate that he his client does not object to this request.

Please let me know if you need any further information. Thank you in advance for your consideration.

Sincerely,


Dino C. La Fiandra

Attachment: Vittori Email 02/04/13

La Fiandra, Dino

From: Jason Vettori <jvettori@sgs-law.com>
Sent: Tuesday, February 04, 2014 9:27 AM
To: kcannington@baltimorecountymd.gov
Cc: La Fiandra, Dino; Lawrence Schmidt; Alyssa Fiore
Subject: Case No. 14-015-SPHA (7525 Belair Rd)

Sunny,

The above referenced matter is scheduled for a hearing tomorrow, February 5, 2014 at 10:00 a.m. I spoke with Dino LaFiandra, the attorney for the appellant, yesterday and we have both been trying to contact you since then by phone. He indicated that he would be calling you this morning to request a postponement as his client may be interested in withdrawing his appeal if further discussion between the parties is facilitated. I called again this morning and got the voicemail but did not leave a message. I figured I'd give an e-mail a try. I am aware of the Board's rules re: postponements within 15 days of the hearing, so I just wanted to put it on the record that my client has no objection to the postponement being granted. It sounds like it's worth it for everyone to give an amicable resolution a try if the appellant is proposing as much.

Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
Facsimile: (410) 821-0071
<http://sgs-law.com>

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WHITEFORD, TAYLOR & PRESTON L.L.P.

DINO C. LA FIANDRA
DIRECT LINE (410) 832-2084
DIRECT FAX (410) 339-4031
DLafiandra@wtplaw.com

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TOWSON, MARYLAND 21204-5025
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WASHINGTON, DC
WILMINGTON, DE*

WWW.WTPLAW.COM
(800) 987-8705

February 27, 2014

Wendy A. Zerwitz, Chairwoman
Board of Appeals of Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

RECEIVED
FEB 27 2014

BALTIMORE COUNTY
BOARD OF APPEALS

Re: Case No. 2015-0015 SPHA
7525 Belair Road

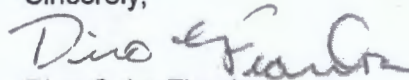
Dear Ms. Zerwitz:

This law firm represents Robert Smith and Denise Smith, the Appellants / Protestants in the above referenced matter. A hearing in the case which was originally scheduled for February 5, 2014 was postponed at my request so that the parties could pursue settlement. For reasons that I describe briefly below, I would appreciate your scheduling a new hearing in the case at the earliest possible time.

In preparing for the February 5 hearing, it appeared to my client and me that we would have a specific good faith settlement proposal for the Appellee to consider. On that basis, I requested the postponement. However, despite their efforts to craft a specific written proposal with which they are comfortable, my clients have determined they are not able to do so. By letter dated February 26, 2014, I advised the Appellants' counsel, Mr. Vettori, that my clients are not in a position to make a settlement proposal. My letter to Mr. Vettori indicated that I would offer this explanation to the Board.

I sincerely believed a postponement was warranted to pursue settlement and as an officer of the Court I would not have requested a postponement if I thought otherwise. I apologize to the Board for the inconvenience that this delay has caused.

Sincerely,


Dino C. La Fiandra

C: Jason Vettori, Esquire
Peter M. Zimmerman, Esquire

From: Alyssa Fiore <afiore@sgs-law.com>
To: 'Krysundra Cannington' <kcannington@baltimorecountymd.gov>, Jason Vettori...
Date: 3/28/2014 1:30 PM
Subject: RE: Case 2014-0015-SPHA 7525 Belair Road

Sunny,

Please schedule the hearing in this matter for either Wednesday, May 28, 2014 or Thursday, May 29, 2014. Those two dates work for both Mr. Vettori and Mr. La Fiandra.

Alyssa M. Fiore
Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
(410) 821-0071 - fax
afiore@sgs-law.com

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-----Original Message-----

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, March 27, 2014 8:02 AM
To: Jason Vettori; Dino La Fiandra
Cc: Alyssa Fiore
Subject: RE: Case 2014-0015-SPHA 7525 Belair Road

Good Morning,

The following dates are currently available on the Board's docket. Please work together to determine the hearing date and provide me with that date. I will then provide the official hearing notice. All hearings begin at 10 a.m.

Tuesday, May 20, 2014,
Wednesday, May 21, 2014,
Wednesday, May 28, 2014, or
Thursday, May 29, 2014

Thank you for your patience in this matter. I look forward to hearing from you soon.

Sunny

Krysundra "Sunny" Cannington
Administrator

From: Jason Vettori <jvettori@sgs-law.com>
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>, Dino La Fiandr...
CC: Alyssa Fiore <afiore@sgs-law.com>
Date: 3/26/2014 2:38 PM
Subject: RE: Case 2014-0015-SPHA 7525 Belair Road

Sunny,

Nearly a month has passed since your below e-mail and I haven't heard whether this matter has been rescheduled. I thought I would check back in to make sure that I am not neglecting to do anything which will result in the matter being rescheduled. Thanks.

Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
Facsimile: (410) 821-0071
<http://sgs-law.com>

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-----Original Message-----

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, February 27, 2014 11:47 AM
To: Dino La Fiandra
Cc: Jason Vettori
Subject: Re: Case 2014-0015-SPHA 7525 Belair Road

Mr. La Fiandra,

I am an receipt of your letter. I will discuss this matter with the Chairwoman and this matter will be rescheduled.

Should you have any questions, please do not hesitate to contact me.

Thank you.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180

>>> "La Fiandra, Dino" <DLafiandra@wtplaw.com> 2/27/2014 11:21 AM >>>

Board of Appeals of Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180

>>> Jason Vettori <jvettori@sgs-law.com> 3/26/2014 2:51 PM >>>
No problem. Thanks.

Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
Facsimile: (410) 821-0071
<http://sgs-law.com>

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-----Original Message-----

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Wednesday, March 26, 2014 2:50 PM
To: Jason Vettori; Dino La Fiandra
Cc: Alyssa Fiore
Subject: RE: Case 2014-0015-SPHA 7525 Belair Road

Jason,

I apologize for the delay. The last few weeks have gotten very busy here and I have gotten a little backed up.

I will get back to you tomorrow with some possible dates to choose from.

Sunny

>>> Jason Vettori <jvettori@sgs-law.com> 3/26/2014 2:38 PM >>>
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Jason T. Vettori
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600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070

From: Jason Vettori <jvettori@sgs-law.com>
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>, Dino La Fiandr...
CC: Alyssa Fiore <afiore@sgs-law.com>
Date: 3/26/2014 2:51 PM
Subject: RE: Case 2014-0015-SPHA 7525 Belair Road

No problem. Thanks.

Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
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-----Original Message-----

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, February 27, 2014 11:47 AM
To: Dino La Fiandra
Cc: Jason Vettori
Subject: Re: Case 2014-0015-SPHA 7525 Belair Road

Mr. La Fiandra,

I am an receipt of your letter. I will discuss this matter with the Chairwoman and this matter will be rescheduled.

Should you have any questions, please do not hesitate to contact me.

Thank you.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180

>>> "La Fiandra, Dino" <DLafiandra@wtplaw.com> 2/27/2014 11:21 AM >>>
Ms. Cannington,

Please see the attached letter.
Thank you.

Dino La Fiandra

Dino C. La Fiandra

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From: Krysundra Cannington
To: La Fiandra, Dino
CC: (jvettori@sgs-law.com), Jason Vettori
Date: 2/27/2014 11:46 AM
Subject: Re: Case 2014-0015-SPHA 7525 Belair Road

Mr. La Fiandra,

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Thank you.

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Dino La Fiandra

Dino C. La Fiandra

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Ms. Cannington,

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From: Krysundra Cannington
To: La Fiandra, Dino
CC: Counsel, People's; Schmidt, Lawrence; Vettori, 'Jason
Date: 2/4/2014 11:20 AM
Subject: Re: Case No. 14-015-SPHA (7525 Belair Rd)
Attachments: Ltr re postponement.pdf

Attached please find a letter indicating that your request for postponement has been granted and a Notice of Postponement. I kindly request that you advise your clients and witnesses as appropriate.

Should you have any questions, please do not hesitate to contact me.

Thank you.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
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Sherry Nuffer - Fwd: Message from 50BW-2

From: June Fisher
To: Nuffer, Sherry
Date: 9/17/2013 8:35 AM
Subject: Fwd: Message from 50BW-2
Attachments: Message from 50BW-2

Sherry, here is a letter that goes into the file. The Hearing is today. They are the same. Didn't mean to send both. Thanks.

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this email in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

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Internal Revenue Code, or (ii) promoting, marketing, or recommending to another person any transaction or matter addressed herein.

From: Krysundra Cannington
To: Fiandra, Dino La; Vettori, Jason
CC: Fiore, Alyssa
Date: 3/26/2014 2:50 PM
Subject: RE: Case 2014-0015-SPHA 7525 Belair Road

Jason,

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Overlea-Fullerton Business and Professional Association

www.ofbpa.com

September 15, 2013

Baltimore County Zoning Office
Case number is 2014-0015-SPHA

To Whom It May Concern,

The Overlea Fullerton Business and Professional Association are in opposition of Bruce Benkurt opening a Tattoo establishment at 7525 Belair Road as it is no longer zoned for that purpose.

We were in favor and supported Robert Smith, owner of Mr. B's Tattoos who has owned Mr. B's Tattoos for the past eight years and was grandfathered at 7525 Belair Rd. Mr. Smith worked with County Councilwoman Cathy Bevin's office who was very instrumental in obtaining legislation that allowed, Mr. Smith to purchase commercial property in our community, in which he moved his grandfathered business to 7554 Belair Rd just 200 yards from its original location. 7554 Belair Road is closer to other businesses and further from the school it previously bordered keeping it more in compliance with current legislation. Mr. B's is currently in a much more desirable location for the community in which it resides.

Sincerely,
On behalf of the OFBPA Board of Directors,

Donna Bethke, President
7406 Brookwood Avenue
Nottingham, MD 21236
410-665-6551
ptavon@comcast.net
www.ofbpa.com

cc: Carl Richards.....crichards@baltimorecountymd.gov
Council Bevins Office
Robert Smith

From: "Donna Bethke" <ptavon@comcast.net>
To: <crichards@baltimorecountymd.gov>, "Councilwoman Cathy Bevins" <council6...
Date: 9/16/2013 11:49 PM
Subject: Letter for Mr. B's Tattoo... Case # 2014-0015-SPHA
Attachments: Letter_Mr. B's Tattoo support_Sept. 15_2013.doc

September 15, 2013

Baltimore County Zoning Office

Case number is 2014-0015-SPHA

To Whom It May Concern,

The Overlea Fullerton Business and Professional Association are in opposition of Bruce Benkurt opening a Tattoo establishment at 7525 Belair Road as it is no longer zoned for that purpose.

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Nottingham, MD 21236

410-665-6551

ptavon@comcast.net

www.ofbpa.com

cc: Carl Richards...crichards@baltimorecountymd.gov

Council Bevins Office

Robert Smith

Donna Bethke
Overlea Fullerton Business & Professional Assoc.
<<http://www.ofbpa.com/>> www.ofbpa.com

Contact Information:

Donna Bethke
410-665-6551 (h)
410-852-0226 (c)
410-882-5194 (f)
<<mailto:ptavon@comast.net>> ptavon@comcast.net (e)
<<http://www.youravon.com/dbethke>> www.youravon.com/dbethke

Mailing Address:
7406 Brookwood Avenue
Nottingham, Maryland 21236

Krysundra Cannington - Case No. 14-015-SPHA (7525 Belair Rd)

From: Jason Vettori <jvettori@sgs-law.com>
To: "kcannington@baltimorecountymd.gov" <kcannington@baltimorecountymd.gov>
Date: 2/4/2014 9:27 AM
Subject: Case No. 14-015-SPHA (7525 Belair Rd)
CC: "dlafiandra@wtplaw.com" <dlafiandra@wtplaw.com>, Lawrence Schmidt <lschm...

Sunny,

The above referenced matter is scheduled for a hearing tomorrow, February 5, 2014 at 10:00 a.m. I spoke with Dino LaFiandra, the attorney for the appellant, yesterday and we have both been trying to contact you since then by phone. He indicated that he would be calling you this morning to request a postponement as his client may be interested in withdrawing his appeal if further discussion between the parties is facilitated. I called again this morning and got the voicemail but did not leave a message. I figured I'd give an e-mail a try. I am aware of the Board's rules re: postponements within 15 days of the hearing, so I just wanted to put it on the record that my client has no objection to the postponement being granted. It sounds like it's worth it for everyone to give an amicable resolution a try if the appellant is proposing as much.

Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
Facsimile: (410) 821-0071
<http://sgs-law.com>

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From: Krysundra Cannington
To: Fiandra, Dino La; Vettori, Jason
CC: Fiore, Alyssa
Date: 3/27/2014 8:01 AM
Subject: RE: Case 2015-0015-SPHA 7525 Belair Road

Good Morning,

The following dates are currently available on the Board's docket. Please work together to determine the hearing date and provide me with that date. I will then provide the official hearing notice. All hearings begin at 10 a.m.

Tuesday, May 20, 2014,
Wednesday, May 21, 2014,
Wednesday, May 28, 2014, or
Thursday, May 29, 2014

Thank you for your patience in this matter. I look forward to hearing from you soon.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180

>>> Jason Vettori <jvettori@sgs-law.com> 3/26/2014 2:51 PM >>>
No problem. Thanks.

Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
Facsimile: (410) 821-0071
<http://sgs-law.com>

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-----Original Message-----

From: Krysundra Cannington [<mailto:kcannington@baltimorecountymd.gov>]
Sent: Wednesday, March 26, 2014 2:50 PM
To: Jason Vettori; Dino La Fiandra
Cc: Alyssa Fiore
Subject: RE: Case 2015-0015-SPHA 7525 Belair Road

Jason,

I apologize for the delay. The last few weeks have gotten very busy here and I have gotten a little backed up.

I will get back to you tomorrow with some possible dates to choose from.

Sunny

>>> Jason Vettori <jvettori@sgs-law.com> 3/26/2014 2:38 PM >>>

Sunny,

Nearly a month has passed since your below e-mail and I haven't heard whether this matter has been rescheduled. I thought I would check back in to make sure that I am not neglecting to do anything which will result in the matter being rescheduled. Thanks.

Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
Facsimile: (410) 821-0071
<http://sgs-law.com>

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-----Original Message-----

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, February 27, 2014 11:47 AM
To: Dino La Fiandra
Cc: Jason Vettori
Subject: Re: Case 2015-0015-SPHA 7525 Belair Road

Mr. La Fiandra,

I am an receipt of your letter. I will discuss this matter with the Chairwoman and this matter will be rescheduled.

Should you have any questions, please do not hesitate to contact me.

Thank you.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

From: Krysundra Cannington
To: Fiore, Alyssa
CC: Fiandra, Dino La; Vettori, Jason
Date: 3/28/2014 1:34 PM
Subject: RE: Case 2015-0015-SPHA 7525 Belair Road

Thank you Alyssa.

I will get the Notice out on Monday.

I hope you have a great weekend.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180

>>> Alyssa Fiore <afiore@sgs-law.com> 3/28/2014 1:30 PM >>>
Sunny,

Please schedule the hearing in this matter for either Wednesday, May 28, 2014 or Thursday, May 29, 2014. Those two dates work for both Mr. Vettori and Mr. La Fiandra.

Alyssa M. Fiore
Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
(410) 821-0071 - fax
afiore@sgs-law.com

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-----Original Message-----

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, March 27, 2014 8:02 AM

To: Jason Vettori; Dino La Fiandra
Cc: Alyssa Fiore
Subject: RE: Case 2015-0015-SPHA 7525 Belair Road

Good Morning,

The following dates are currently available on the Board's docket. Please work together to determine the hearing date and provide me with that date. I will then provide the official hearing notice. All hearings begin at 10 a.m.

Tuesday, May 20, 2014,
Wednesday, May 21, 2014,
Wednesday, May 28, 2014, or
Thursday, May 29, 2014

Thank you for your patience in this matter. I look forward to hearing from you soon.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180

>>> Jason Vettori <jvettori@sgs-law.com> 3/26/2014 2:51 PM >>>
No problem. Thanks.

Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
Facsimile: (410) 821-0071
<http://sgs-law.com>

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Cc: Alyssa Fiore
Subject: RE: Case 2015-0015-SPHA 7525 Belair Road

Jason,

I apologize for the delay. The last few weeks have gotten very busy here and I have gotten a little backed up.

I will get back to you tomorrow with some possible dates to choose from.

Sunny

>>> Jason Vettori <jvettori@sgs-law.com> 3/26/2014 2:38 PM >>>

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Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
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Cc: Jason Vettori
Subject: RE: Case 2015-0015-SPHA 7525 Belair Road

Mr. La Fiandra,

I am an receipt of your letter. I will discuss this matter with the Chairwoman and this matter will be rescheduled.

Should you have any questions, please do not hesitate to contact me.

Thank you.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 387-3180

>>> "La Fiandra, Dino" <DLafiandra@wtplaw.com> 2/27/2014 11:21 AM >>>
Ms. Cannington,

Please see the attached letter.
Thank you.

Dino La Fiandra

Dino C. La Fiandra

This transmission contains information from the law firm of Whiteford, Taylor & Preston LLP which may be confidential and/or privileged. The information is intended to be for the exclusive use of the planned recipient. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately.

Circular 230 Disclosure:

To ensure compliance with requirements imposed by Treasury and the IRS, we inform you that any federal tax advice contained in this communication (including attachments) is not intended or written to be used and cannot be used for the purpose of (i) avoiding tax penalties that may be imposed under the Internal Revenue Code, or (ii) promoting, marketing, or recommending to another person any transaction or matter addressed herein.

1 **IN THE MATTER OF:**

2 **RICHARD NIEHAUS, JR. - LEGAL OWNER**

3 **BRUCE BENKERT - LESSEE**

4 **CASE NUMBER: 14-015-SPHA**

5 Hearing date: May 29, 2014

6 Pursuant to Notice, the above-entitled hearing was held
7 before the Board of Appeals for Baltimore County at the
8 Jefferson Building, Second Floor, Suite 203, 105 West
9 Chesapeake Avenue, Towson, Maryland 21204, commencing
10 at 10:02 AM.

11
12 **PANEL PRECIDING:**

13 **MAUREEN E. MURPHY, CHAIRWOMAN**

14 **WAYNE R. GIOIOSO, JR., BOARD**

15 **ANDREW M. BELT, BOARD**

16
17 **PRESENT ON BEHALF OF THE PARTIES:**

18 **ON BEHALF OF THE APPELLEES/PETITIONERS:**

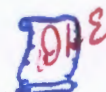
19 **LAWRENCE E. SCHMIDT, ESQUIRE**

20 **JASON VETTORI, ESQUIRE**

21
22 **ON BEHALF OF THE APPELLATES/PROTESTANTS**

23 **JOHN W. CONRAD, III, ESQUIRE**

24 -----
25 Debbie H. Eichner - 8101 Bletzer Road - Balto., 21222

 **ORIGINAL**

1 (ON THE RECORD AT 10:02 AM)

2 CHAIR MURPHY: Okay. Good morning everyone.
3 You're attending a regularly scheduled meeting of the
4 Baltimore County Board of Appeals. This is case number 14-
5 015-SPHA, Richard Niehaus and Bruce Benkert, 7525 Belair
6 Road. Petition for Special Hearing in the alternative to
7 variance it says. To approve the grandfather location of
8 existing tattoo and body piercing establishment at 7525 Belair
9 Road within 2,500 feet of another tattoo and piercing
10 establishment at 7554 Belair Road. Petition for Variance and
11 Alternative To Special Hearing to permit-- well, this says the
12 same thing. A tattoo and body piercing establishment to be
13 located less than 2,500 feet from another. The opinion of the
14 ALJ was 9/25/2013 and it was granted. The Petition for
15 Special Hearing was granted. The Petition for Variance was
16 denied. That's our hearing notice. Can we have counsel for
17 the record?

18 MR. VETTORI: Jason Vettori on behalf of the
19 Petitioner for Zoning Relief with Smith, Gildea & Schmidt.

20 MR. CONRAD: John Conrad, C-O-N-R-A-D on
21 behalf of Protestants, Rob Smith and Denise Smith.

22 CHAIR MURPHY: Okay. All right. So, we've
23 reviewed the file. This looks like a non-conforming use case.
24 That appears to us to be a non-conforming use case, right?

25 MR. VETTORI: It is. It's more or less just a

1 legal argument, but there's some facts I think we got to get in
2 here that help with the case.

3 CHAIR MURPHY: Yeah.

4 MR. VETTORI: But it's a very narrow I think.

5 CHAIR MURPHY: Well, we're de novo, so we
6 have to hear the facts, but--

7 MR. VETTORI: Absolutely. Absolutely.

8 CHAIR MURPHY: How many witnesses?

9 MR. VETTORI: Three.

10 CHAIR MURPHY: Okay. Who do you have? Do--
11 just back witnesses?

12 MR. VETTORI: I have an Engineer, the operator
13 of the tattoo parlor and the property owner where the tattoo
14 parlor is located.

15 CHAIR MURPHY: Okay. And the Engineer, is
16 there-- I'm just trying to get the variance--

17 MR. VETTORI: His testimony is going to be he
18 introduced the plan or he created the plan and that had to be
19 accompanying the Petition for Zoning Relief.

20 CHAIR MURPHY: Oh, okay.

21 MR. VETTORI: He is not going to be testifying
22 about--

23 CHAIR MURPHY: Okay.

24 MR. VETTORI: --the variance relief, about the
25 non-conforming use as any kind of expert--

CASE NAME 2014.15-SPHA
CASE NUMBER Nichols
DATE 9/17/13

[illegible]

CASE NAME 7525 Belair Rd
CASE NUMBER 2014-015-SPHA
DATE 9/17/2013

NAME _____

CITY, STATE, ZIP

E-MAIL

[illegible]

Case No.:

2014-0015-SPHA

Exhibit Sheet

Sun
9/25/13

Protestant

Petitioner/Developer

Petitions with Signatures

No. 1	Site plan
No. 2	Aerial photo
No. 3	Aerial photo
No. 4	Order DZC # 96-260
No. 5	Order CBA # 96-260
No. 6	Order Cir. Ct. # 3-C-96 13013
No. 7	Order Cir. Ct. # 3-C-96- 13013
No. 8	Bill No. 168-96
No. 9	Order in # 96-107-SPH
No. 10	Bill No. 76-97
No. 11	Bill No. 29-98
No. 12	Bill No. 46-06

Case No.:

2014-0015-SPHA

Exhibit Sheet - Continued

Petitioner/Developer

Protestants

No. 13	Bill No. 50-10	
No. 14	Opinion in <u>Allno Enter. v. Baltimore County</u>	
No. 15	Bill No. 56-11	
No. 16	LEASE July 1, 2005	
No. 17	8-30-12 Letter from Robert + Denise Smith	
No. 18	BCZR § 104	
No. 19	Fiscal Note Bill #56-11	
No. 20	Permit for 7554 Belair Rd.	
No. 21	July 1, 2005 Letter from E.P.P.	
No. 22	22A-22D Color photos of 7525 + 7554 Belair Rd.	
No. 23	Attorney Gisriel letter	
No. 24	24A-24E Color photos of sub. property	



7525 Belair Road

4400 Fullerton Avenue
Fullerton Elementary

PETITIONER'S
EXHIBIT NO. 2

405 Feet



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



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7554 Belair Road

7525 Belair Road

PETITIONER'S

EXHIBIT NO.

3



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



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IN RE: PETITION FOR SPECIAL HEARING
SE/S Belair Road, 80' NE of
Belhaven Drive
(7525 Belair Road)
14th Election District
6th Councilmanic District

Richard D. Niehaus, Jr., et al
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-260-SPH
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing for that property known as 7525 Belair Road, located across from its intersection with Belhaven Road, in the vicinity of Fullerton. The Petition was filed by the owners of the property, Richard D. Niehaus, Jr., Robert S. Niehaus, and Stephen M. Niehaus, and the Contract Lessee, Bruce Benkert. The Petitioners seek approval to use the subject property, zoned B.M., for a Tattoo Salon. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Richard Niehaus, Jr., property owner, Bruce Benkert, Contract Lessee, and J. Kevin Wight, a representative of Hicks Engineering, who prepared the site plan for this project. Appearing in opposition to the request were Lorraine Gordon and Paul G. Monaghan, Sr., nearby residents of the surrounding community.

Prior to taking any testimony on this matter, and as a preliminary issue, a discussion ensued regarding the permissibility of a tattoo parlor in a B.M. zone. After discussing this issue with the Petitioners and advising them of Zoning Commissioner Lawrence E. Schmidt's decision in

ORDER RECEIVED FOR FILING
Date - 3/20/96
By - [Signature]

PETITIONER'S

EXHIBIT NO.

5

IN THE MATTER OF THE
THE APPLICATION OF
RICHARD D. NIEHAUS, JR, ET AL
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE SOUTH
EAST SIDE BELAIR ROAD, 80' NE
OF BELHAVEN DRIVE
(7525 BELAIR ROAD)
14TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 96-260-SPH

* * * * *

O P I N I O N

This case comes to the County Board of Appeals of Baltimore County based on an appeal from the Deputy Zoning Commissioner's Order of March 20, 1996, in which a Petition for Special Hearing was dismissed with prejudice, citing Case No. 96-107-SPH and the Deputy Zoning Commissioner's interpretation that a tattoo parlor was not permitted in the B.M. zone, nor by Special Exception.

The Appellants /Petitioners were represented by John A. Austin, Esquire; Protestants appeared pro se; and Carole S. Demilio, Deputy People's Counsel, participated in these proceedings on behalf of the Office of People's Counsel for Baltimore County.

Two witnesses testified on behalf of the Petitioners. Mr. Bruce Benkert testified concerning the tattoo parlor. He stated that he currently resided at 7525 Belair Road, 21236, and also operated the tattoo business at that address. He lived in the building with his girlfriend and two children. Their living quarters included three bedrooms, a bath and a kitchen.

He testified that he had started the tattoo business on the premises on October 1, 1995. He has been performing his tattooing skills for 3-1/2 years, and had training in art classes in high school. At the present time, there were two employees on the site besides himself, one who handled the front office and clerical functions, and another individual who assisted him in his tattooing

7/30/97

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF RICHARD D. NIEHAUS, JR.
ET AL.
7525 Belair Road
Baltimore, Maryland 21236

PETITIONER'S

EXHIBIT NO. 6

FOR JUDICIAL REVIEW OF THE
ORDER AND OPINION OF COUNTY BOARD OF
APPEALS OF BALTIMORE COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

CIVIL ACTION NO.

03-C-96-13013

IN THE CASE OF RICHARD D. NIEHAUS, JR.
ET AL.
Case No.: 96-260-SPH

ORDER

The within matter having come before the Court on the merits
of the Petitioner's appeal from the decision of the Board of
Appeals for Baltimore County, and argument of counsel having been
considered in connection with the matter, it is therefore, this
30th day of July, 1997, by the Circuit Court for Baltimore County:

ORDERED:

1. That the decision of the Board of Appeals in the within
matter is hereby affirmed for the reasons stated on the record in
open court on July 3, 1997; and it is further

ORDERED:

2. That the effect of this Order be and the same is hereby
stayed for a period not to exceed thirty (30) days from the date of
this Order or until such time as an appeal is noted to the Court of
Special Appeals from this Order.

Lawrence R. Daniels
JUDGE

PETITION OF RICHARD D. NIEHAUS, JR.,
ET AL. FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE CASE OF: IN THE MATTER OF THE
PETITION OF RICHARD D. NIEHAUS, JR.,
MR. B'S TATTOOS, ET AL. FOR A SPECIAL
HEARING TO PERMIT A TATTOO SALON AT
7525 BELAIR ROAD, SE/S BELAIR ROAD,
80' NE OF C/L BELHAVEN DRIVE, 14th
ELECTION DISTRICT, 6TH COUNCILMANIC

IN THE BALTIMORE COUNTY BOARD OF
APPEALS, CASE NOS.: 96-260-SPH

* * * * *

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

3-C-96-13013

ORDER

The within matter having come before the Court on Petitioner's Motion to Revise, Alter & Amend Judgment of this Court dated July 30, 1997, and argument of counsel having been considered in connection with the matter, it is therefore, this 21st day of November, 1997, by the Circuit Court for Baltimore County

ORDER that the Motion to Revise, Alter, and Amend Judgment be, and is hereby DENIED; and it is further

ORDERED that the decision of the Circuit Court dated July 30, 1997 affirming the decision of the County Board of Appeals in the within matter, BE AND IS HEREBY AFFIRMED, for the reasons stated on the record in open court on September 8, 1997; and it is further

ORDERED that the effect of this Order be and the same is hereby stayed for a period not to exceed thirty (30) days from the date of this Order or until such time as an appeal is noted to the Court of Special Appeals from this Order.

True Copy Test

SUZANNE MENSCH, Clerk

[Signature]

NOTARY CLERK

[Signature: Lawrence R. Daniels]
JUDGE LAWRENCE R. DANIELS

NOV 24 1997

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1996, Legislative Day No: 20

Bill No. 168-96

Mr. Vincent J. Gardina, Councilman

By the County Council, November 4, 1996

A BILL
ENTITLED

PETITIONER' S

AN ACT concerning

EXHIBIT NO. 8

Tattooing of Minors

FOR the purpose of prohibiting the tattooing of minors without parental consent; ~~prohibiting~~

~~_____ tattooing except in tattooing establishments;~~ defining terms; and providing penalties.

BY adding

Section 20-15
Title 20 - Miscellaneous Provisions and Offenses
Baltimore County Code, 1988

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 20-15 be and it is hereby added to Title 20-Miscellaneous
3 Provisions and Offenses of the Baltimore County Code, 1988, to read as follows:

4 Sec. 20-15. TATTOOING OF MINORS.

5 (A) AS USED IN THIS SECTION, THE FOLLOWING WORDS HAVE THE

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

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
E/S York Road, 22 ft. South *
of Pennsylvania Avenue * ZONING COMMISSIONER
416 York Road *
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District *
Legal Owners: Janet Gorfine * CASE No. 96-107-SPH
Oppenheimer, et al *
Lessee: LVT Dermagrafix, Inc. *
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for the property located at 416 York Road in Towson. The Petitioner is filed by Janet Gorfine Oppenheimer and Lucille Gorfine Cohen, property owners. The co-Petitioner is LVT Dermagrafix, Inc., through Vincent Myers, President, Lessee. The Petition for Special Hearing seeks a finding that a tattoo and design studio is a permitted use as of right in a B.M.-C.T. zone. The Petitioner seeks such a finding under alternate theories. Specifically, that the use is allowed pursuant to Section 230.9 of the BCZR as a barber shop, beauty shop or residential art salon; pursuant to Section 230.10 as a combination of permissible uses as of right; pursuant to Section 230.11 as a permissible accessory use or structure, including business signs; or, pursuant to Section 233.2 as a printing, lithographing or publishing plant employing not more than 25 persons. The subject property is more particularly shown on Petitioners' Exhibit No. 1, the plan to accompany the Petition for Special Hearing.

Appearing at the requisite public hearing was Vincent A. Myers, President of LVT Dermagrafix, Inc., and Robin M. Myers, his wife. Also appearing in support of the Petition was Ed Massimiano and Stewart Ehrhart, business competitors of the Petitioner but supporters of his zoning request. James Mattis, who prepared the site plan, also appeared and testified in support of the Petition. The co-Petitioner was represented by Michael P. Tanczyn,

ORDER RECEIVED FOR FILING

Date

By

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1996, Legislative Day No. 12

Bill No. 76-97

Pet. # 10

Councilmembers Gardina and Kamenetz

By the County Council, June 2, 1997

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations - Residential Art Salon

FOR the purpose of clarifying the definition of a residential art salon.

BY repealing and re-enacting, with amendments,

Section 101, the definition of Residential Art Salon

Baltimore County Zoning Regulations, as amended

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
COUNTY, MARYLAND, that Section 101, the definition of Residential Art Salon, be and it is
hereby repealed and re-enacted, with amendments, to read as follows:

Section 101. Definitions.

Residential Art Salon: A portion of a dwelling unit used for the exhibition and sale of

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.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1998, Legislative Day No. 4

Bill No. 29-98

Councilmembers Moxley, Kamenetz, McIntire, Riley, Gardina, Bartenfelder, and DePazzo
By Request of County Executive

By the County Council, February 17, 1998

PETITIONER' S

A BILL
ENTITLED

EXHIBIT NO. 11

AN ACT concerning

Adult Entertainment Businesses, Massage Establishments,
and Tattoo or Body Piercing Establishments

For the purpose of amending the Zoning Regulations in order to regulate the location of adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; requiring adult entertainment businesses to obtain a license; requiring adult entertainment businesses to have a certain interior arrangement; establishing terms and renewal of the license and grounds for suspension or revocation of the license; prohibiting the transfer of a license; requiring the Director to conduct certain inspections; establishing certain criminal and civil penalties; establishing certain appeals; providing for certain application requirements; stating certain findings; defining certain terms; providing for the application of this Act; providing for the effective date of this Act; and

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.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 8

Bill No. 46-06

Councilmembers Moxley & Gardina

By the County Council, April 17, 2006

PETITIONER' S

A BILL
ENTITLED

EXHIBIT NO. 12

AN ACT concerning

Tattoo Establishments

FOR the purpose of permitting certain tattoo or body piercing establishments to relocate in certain zones under certain circumstances; and generally relating to tattoo or body piercing establishments.

BY repealing and re-enacting, with amendments

Section 6 of Bill 29-98

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 6 of Bill 29-98 be and is hereby repealed and re-enacted,
3 with amendments, to read as follows:

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.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2010, Legislative Day No. 11

Bill No. 50-10

Councilmembers Olszewski and Moxley

By the County Council, June 7, 2010

PETITIONER' S

AN ACT concerning

EXHIBIT NO. 13

Adult Entertainment Businesses

FOR the purpose of amending the definition of an adult entertainment business; regulating the location of adult entertainment businesses; regulating the location of certain other businesses in certain zones; regulating the arrangement of viewing booths; stating certain findings; providing for the application of the Act; and generally relating to adult entertainment businesses.

BY repealing and re-enacting, with amendments

Sections 4B-101 and 4B-102
Baltimore County Zoning Regulations

BY repealing and re-enacting, with amendments

Section 21-2-101 (h) and 21-2-102(b)
Article 21 - Permits, Licenses, and Business Regulation
Title 2 - Adult Entertainment Businesses
Baltimore County Code, 2003

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.

PETITIONER'S

EXHIBIT NO. 14

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

ALLNO ENTERPRISES, INCORPORATED,
Plaintiff-Appellant,

v.

BALTIMORE COUNTY, MARYLAND,
Defendant-Appellee.

No. 00-1921

LOVE ONES LINGERIE & GIFT SHOP,
INCORPORATED,
Plaintiff-Appellant,

v.

BALTIMORE COUNTY, MARYLAND,
Defendant-Appellee.

No. 00-1922

SOUTHWEST ENTERPRISES,
INCORPORATED, d/b/a Southwest
Video,
Plaintiff-Appellant,

v.

BALTIMORE COUNTY, MARYLAND,
Defendant-Appellee.

No. 00-1923

Appeals from the United States District Court
for the District of Maryland, at Baltimore.
Frederic N. Smalkin, District Judge.
(CA-99-1249-S, CA-99-1498-S, CA-99-1496-S)

Argued: April 4, 2001

Decided: June 1, 2001

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2011, Legislative Day No. 14

Bill No. 56-11

Councilmembers Bevins, Oliver & Huff

By the County Council, September 6, 2011

A BILL
ENTITLED

PETITIONER'S

EXHIBIT NO.

15

AN ACT concerning

Zoning Regulations - Tattoo Establishments

FOR the purpose of permitting certain tattoo or body piercing establishments to relocate in certain zones
under certain circumstances, and generally relating to tattoo or body piercing establishments.

BY repealing and re-enacting, with amendments

Section 6 of Bill 29-98 as amended by Bill 46-06

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
2 MARYLAND, that Section 6 of Bill 29-98, as amended by Bill 46-06, be and is hereby repealed and
3 re-enacted, with amendments, to read as follows:

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.

THIS LEASE is made as of the 15th day of JULY, 2005 by and between EASTERN PROPERTIES PARTNERSHIP, a Maryland general partnership, having an office at 7525 Belair Road, Fullerton, Maryland 21236, ("Landlord"), and THE AMERICAN TATTOO Co., ROBERT + DENISE SMITH, having an office at 6308 EASTERN AVE. BALTIMORE, MD, ("Tenant"). From and after the Lease Commencement Date, Tenant's notice address for purposes of this Lease shall be the address of the Premises.

1. Premises. Tenant hereby leases from Landlord the FIRST FLOOR FRONT OFFICE SUITE known as 7525 BELAIR RD BALTIMORE, MD 21236 (the "Premises"). The Landlord shall provide parking space for SEVEN (7) regular-size vehicles on the Premises.

2. Term. The Lease is for a term of THREE (3) years (the "Term") starting OCTOBER 1, 2005 (the "Commencement Date") and ending SEPTEMBER 30, 2008. The Tenant shall quit and surrender the Premises at the end of the term, or any renewals thereof, in as good condition as when received, less reasonable wear and tear.

3. Rent. Tenant agrees to pay without demand or setoff, as "Basic Rent" the amount of TWENTY-ONE THOUSAND SIX HUNDRED Dollars (\$21,600.00) per annum, payable in advance, on or before the first day of each month during the Term, in equal monthly installments of EIGHTEEN HUNDRED Dollars (\$1,800.00) each. Tenant's obligation to pay Basic Rent shall survive the expiration or sooner termination of this Lease. Tenant agrees to pay an addition ten percent (10%) of the monthly rent, for any month the rent is received after the fifth (5th) day of the month. In the event that the property taxes are increased, Tenant agrees to pay their pro-rata share of such increase.

4. Security Deposit. Tenant, contemporaneously with the execution of this Lease, has paid Landlord EIGHTEEN HUNDRED Dollars (\$1,800.00) as security for the performance of the terms hereof by Tenant. Tenant shall not be entitled to interest thereon. If Tenant defaults under this Lease, Landlord may apply all or any part of the security deposit for the payment of amount in default, or any other amount that Landlord may spend because of Tenant's default, or to compensate Landlord for any other loss or damage. If any portion of the security deposit is used or applied, Tenant shall immediately deposit cash with Landlord in an amount sufficient to restore the security deposit to its original amount and Tenant's failure to do so shall constitute a default hereunder by Tenant. Should Landlord find Tenant in violation of any of the terms, conditions, or covenants of this Lease and Landlord notifies Tenant in writing, Tenant shall have seventy-two (72) hours to rectify said violation.

5. Use of Premises. Tenant shall use the Premises solely for a TATTOO SHOP and will not use or permit or suffer the use of the Premises for any other purpose. Tenant agrees to comply with all applicable zoning and other laws, regulations and requirements of governmental authorities and provide and install at its own expense any additional equipment or alterations required to comply with all such laws, regulations and requirements as may be promulgated from time to time. In addition, if Tenant adds a new function to its operations or changes the use set forth in this Section, even with Landlord's consent, Tenant agrees further to

PETITIONER'S

EXHIBIT NO. 116

8-30-12

Dear EEP,

Although we told you in the past that we were moving. This letter is to inform you that we will be moving out by September 30, 2012. All of our permits have been filed and cleared to move into our new building. We want to take this time to thank you for allowing us to conduct business here. We wish you well in the future.

Thank You,

Robert A. Smith
Denise Smith
Robert and Denise Smith

PETITIONER'S

EXHIBIT NO.

17

PETITIONER' S

EXHIBIT NO.

18

Baltimore County, MD
Tuesday, September 17, 2013

ARTICLE 1. GENERAL PROVISIONS

SECTION 104. Nonconforming Uses

§ 104.1. Continuation of nonconformance; exceptions.

[Bill Nos. 18-1976; 124-1991] A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate.

§ 104.2. Restoration of damaged or destroyed structures.

[Bill No. 124-1991] A structure damaged to any extent or destroyed by fire or other casualty may be restored within two years after such destruction or damage but may not be enlarged. In the case of residentially used structures which are nonconforming in density, the number of dwelling units or density units rebuilt may be equal to but may not exceed the number of units which existed before the casualty.

§ 104.3. Limit on extension of nonconforming buildings and uses; exception.

[Bill No. 124-1991] No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307.

§ 104.4. Exception for certain office buildings.

[Bill Nos. 167-1980; 124-1991] Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception.

§ 104.5. Uses in Chesapeake Bay Critical Area.

[Bill Nos. 32-1988; 124-1991; 9-1996; 137-2004] Any use which becomes or continues to be nonconforming which exists within the Chesapeake Bay Critical Area on or after the

Bill 56-11Council District All

Councilmembers Bevins, Oliver & Huff

Zoning Regulations – Tattoo Establishments

Bill 56-11 authorizes the relocation of a tattoo establishment in certain limited circumstances.

In March 1998, the Council amended the Zoning Regulations with the passage of Bill 29-98 in order to regulate the location of adult-entertainment businesses, massage establishments, and tattoo or body piercing establishments. Effective March 20, 1998, tattoo or body piercing establishments are permitted only in a M.H. Zone; additionally, they may not be located within 1,000 feet of certain types of uses or residential areas.

However, Section 6 of Bill 29-98 grandfathered-in some of these establishments. Section 6 provided, in part, that "this Act does not apply to a massage establishment or tattoo or body piercing establishment in existence in a business or commercial zone for at least 12 months prior to the effective date of this Act except if a massage establishment or tattoo or body piercing establishment relocates." Subsequently, the Council passed Bill 46-06, which amended Section 6 to permit a relocation of a tattoo establishment as long as it is less than 500 feet removed from its original location and is located in a B.M.-C.C.C. District.

Bill 56-11 further amends Section 6 of Bill 29-98 to permit a tattoo establishment to relocate from a location within 1,000 feet of a public or private school to a location within a B.L., B.M., or B.R. Zone which is further removed from a public or private school, but less than 1,000 feet removed from its original location.

With the affirmative vote of five members of the County Council and signature by the County Executive, Bill 56-11 will take effect on October 16, 2011.

PETITIONER' SEXHIBIT NO. 19

TIME: 09:27:07 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 01/09/2012
DATE: 08/22/2013 GENERAL PERMIT APPLICATION DATA PDM 16:04:37

PERMIT #: B778793 PROPERTY ADDRESS
RECEIPT #: A650482 7554 BELAIR RD
CONTROL #: COC- SUBDIV: SW COR GLADE AV
XREF #: B778793 TAX ACCOUNT #: 1419040350 DISTRICT/PRECINCT 14 01

OWNERS INFORMATION (LAST, FIRST)

FEE: 577.00 NAME: MR B'S TATTOO AND BODY PIERCING
PAID: 577.00 ADDR: 1932 SNYDER AVE 21222
PAID BY: APPL

DATES

APPLICANT INFORMATION

APPLIED: 01/09/2012 NAME: DENISE SMITH
ISSUED: 02/15/2012 COMPANY: MR B'S TATTOO & BODY PIERCING
OCCPNY: 09/06/2012 ADDR1: 1932 SNYDER AVE
FINAL INSPECT: F ADDR2: BALTIMORE, MD 21222
INSPECTOR: 14C PHONE #: 443-850-1461 LICENSE #:
NOTES: VLC/AF

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

PETITIONER'S

EXHIBIT NO.

20

Eastern Properties Partnership
7525 Belair Road
Baltimore, MD 21236

July 1, 2005

Mr. Robert A. Smith
The American Tattoo Company
6308 Eastern Ave.
Baltimore, Maryland 2122

Dear Robert Smith,

Having purchased from Bruce and Terry Benkert, their business known as, Mister B's Tattoo, we agree to have you continue to complete the remainder of their Lease, with us. All the term, conditions, and covenants shall remain the same. The existing Lease Shall expire on September 30, 2005.

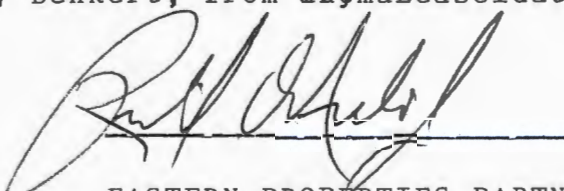
Today, we will execute a New Three Year Lease, beginning October 1, 2005, and expiring September 30, 2008. All terms, conditions, covenants shall remain the same except the monthly rent payments shall be Eighteen Hundred Dollars per month. Our new Lease has already been produced.

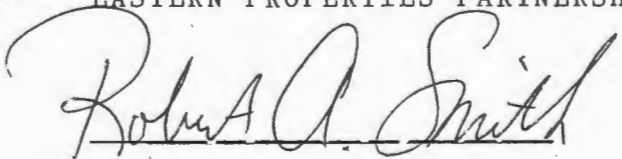
With the execution of this agreement, Eastern Properties Partnership is releasing Bruce and Terry Benkert, from ~~an~~ Lease dated July 31, 2002.

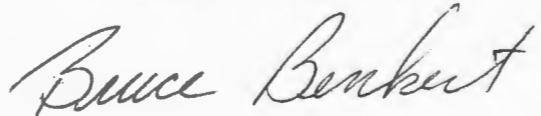
PETITIONER'S

EXHIBIT NO.

21


EASTERN PROPERTIES PARTNERSHIP


Robert A. Smith
American Tattoo Co.



RECORDING

- Multi-Track Recording
- Digital & Analog Tracking
- Mastering CD & DVD Audio
- CD & DVD Duplication
- CD Cover Photos & Layout
- Gift Certificates
- Web Page Design / Promo

HOT TRACKS



410-661-4192

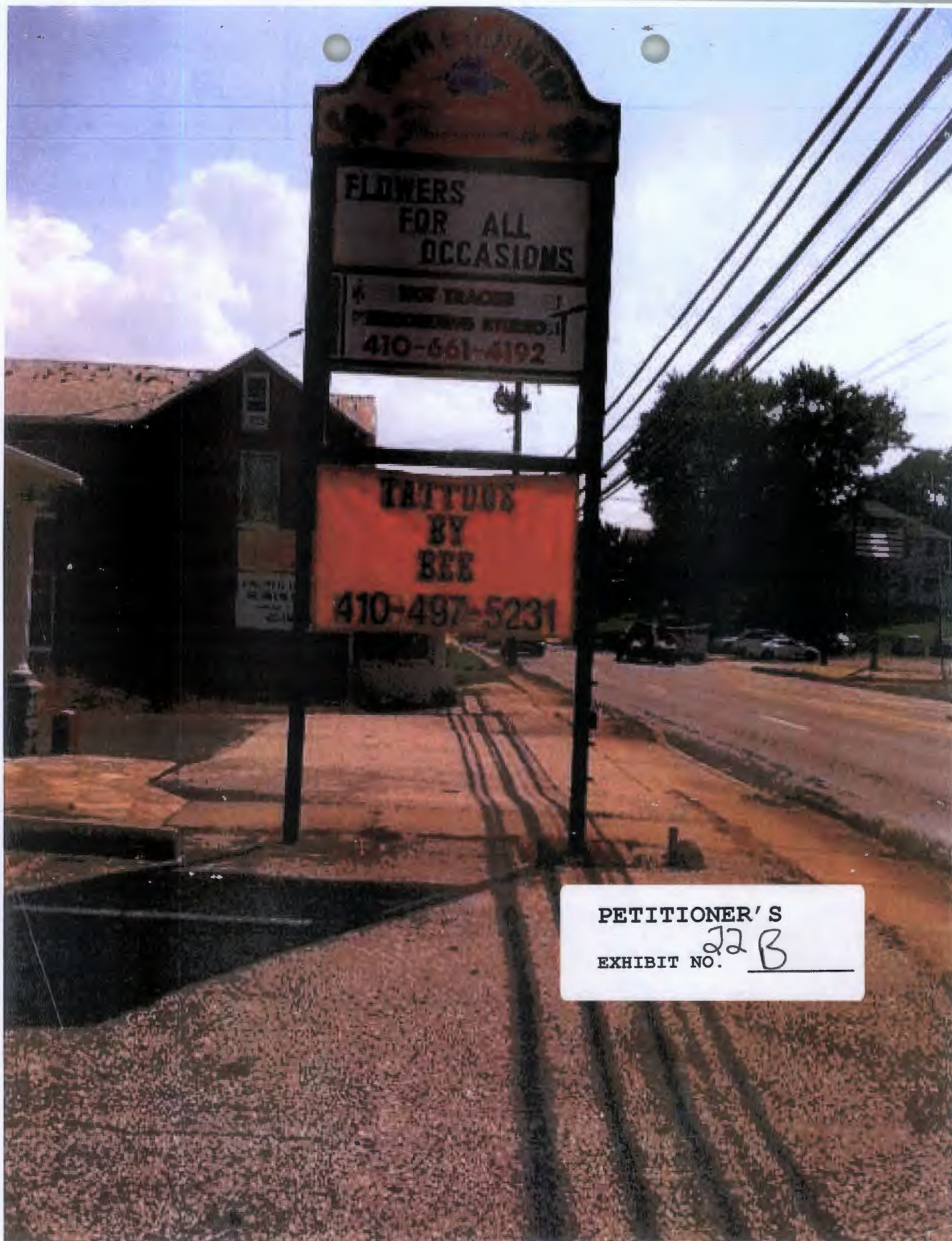
STUDIO

- Hair / Makeup
- Dress / Gown / Shoes / Hair
- Bridal / Wedding / Party / Studio
- Live Entertainment
- Weddings / Social Events
- Birth / Day / Events

TATTOOS

PETITIONER'S

EXHIBIT NO. 22A



PETITIONER'S

EXHIBIT NO.

22 B



PETITIONER'S

EXHIBIT NO. 22 C



PETITIONER'S

EXHIBIT NO. 22 D

#23

Law Offices

FOARD, GISRIEL, O'BRIEN & WARD, L.L.C.

29 West Susquehanna Avenue, Suite 302

Towson, Maryland 21204

Michael Gisriel, P.A.
mgisriel@fgow.comFax 410-823-7037
410-296-1440W. Thomas Gisriel
Of Counsel

March 20, 2003

VIA FAX NO. 410-665-3362
AND FIRST-CLASS MAILMr. Richard D. Niehaus, Jr.
Town & Country Flowers
7525 Belair Road
Baltimore, Maryland 21236Re: Continuation of the License for Tattoo Parlor
at 7535 Belair Road, Baltimore County, Maryland 21236

Dear Richard:

Pursuant to your request regarding the above-captioned matter, I have researched the matter and can report and recommend the following:

Your property located at 7535 Belair Road, Baltimore, Maryland 21236, is currently located in a Business Zone (i.e., BR). From 1996 until March, 2003, the Baltimore County Council has enacted three Bills dealing with Tattoo Parlors that have become law. County Council Bill No. 168-96 prohibited the tattooing of minors without parental consent. County Council Bill No. 76-97 clarified the definition of a Tattoo Parlor as: "Any place where an indelible work or figure is placed on a person by a needle insertion of pigment under the skin or where the skin is pierced for the purpose of inserting an object."

The most important Bill for your purposes, however, is County Council Bill No. 29-98 which took effect on April 15, 1998, and which amended the Baltimore County Zoning Regulations in order to regulate the location of Tattoo Parlors and other "Adult Entertainment Businesses".

I have copies of all three of the above Bills, i.e. County Council Bill No. 168-96, County Council Bill No. 76-97 and County Council Bill No. 29-98, if you would like to have them.

In essence, County Council Bill No. 29-98 (which is a 20-page Bill) further defines what a Tattoo Parlor is, classifies a Tattoo Parlor as an "Adult Business" and limits the location of Tattoo Parlors in Baltimore County to M.H. Zones, i.e. Manufacturing Zones.

Mr. Richard D. Niehaus, Jr.
March 20, 2003
Page Three

However County Council Bill No. 29-98 does contain language which would grandfather Tattoo Parlors existing for at least 12 months as a non-conforming use, i.e.: "This Act does not apply to a...Tattoo or body piercing establishment in existence for at least 12 months prior to the effective date of this Act except if a Tattoo or body piercing establishment relocates."

Thus my recommendation to you is: (1) Get a copy of the existing Tattoo Parlor License from your Tenant; and (2) Make sure that that License is renewed by you – even if your Tenant leaves – you have an existing and valuable non-conforming use for a Tattoo Parlor at your location, i.e. 7515 Belair Road – as long as the License stays in existence and is renewed.

I hope that this letter/memo answers your questions to your satisfaction. Please feel free to call me to discuss. To bring us current, my bill is attached – your usual prompt payment would be appreciated. Continued best regards, I remain

Very truly yours,

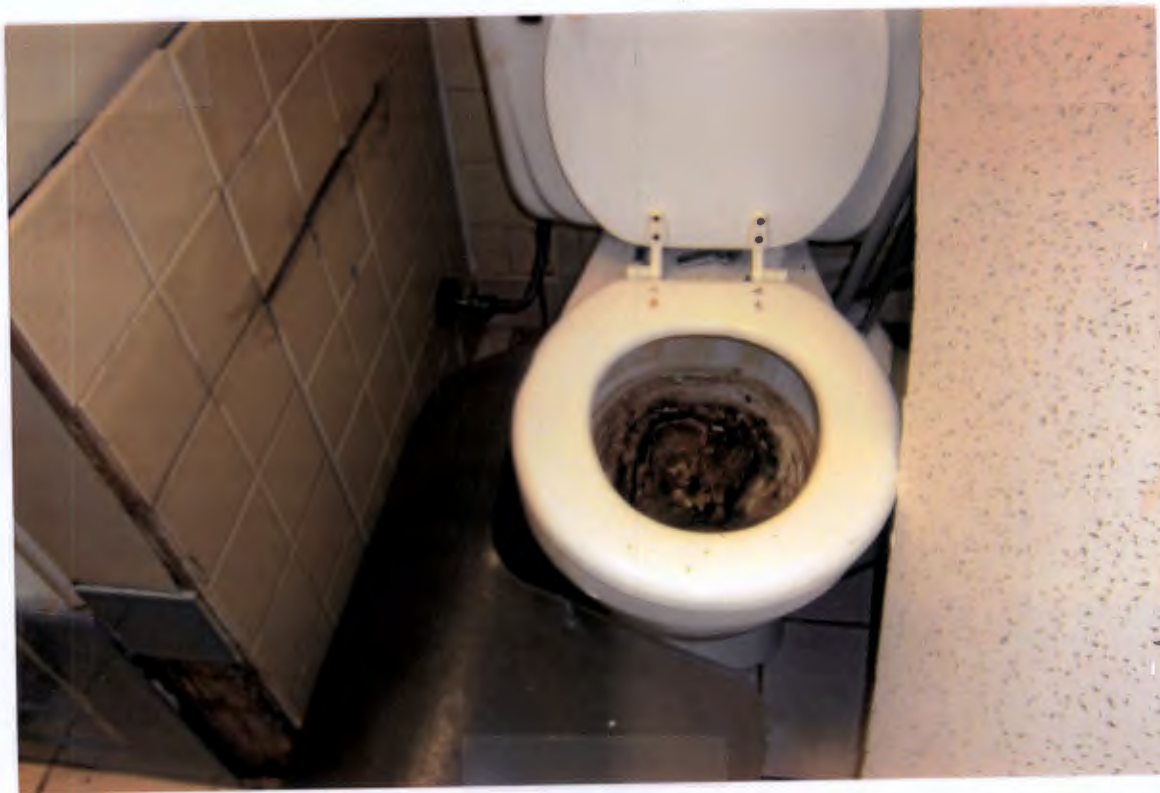
Michael Gisriel

Michael Gisriel

m

MG/mvj

Enclosure





Case No.: 2014-0015-SPHA

Exhibit Sheet

SLN
9/25/13

Petitioner/Developer

Protestant

No. 1	Site plan	Petitions with Signatures
No. 2	Aerial photo	
No. 3	Aerial photo	
No. 4	Order DZC # 96-260	
No. 5	Order CBA # 96-260	
No. 6	Order Cir. Ct. # 3-C-96 13013	
No. 7	Order Cir. Ct. # 3-C-96- 13013	
No. 8	Bill No. 168-96	
No. 9	Order in # 96-107-SPH	
No. 10	Bill No. 76-97	
No. 11	Bill No. 29-98	
No. 12	Bill No. 46-06	

Protestants' No. 1

Petition

Zoning Hearing
SEPT 17 2013

I am signing in petition of opposition of a second tattoo establishment
that Bruce Benkurt is trying to open at 7525 Belair rd.
The Overlea Fullerton Professional and Buisness Association
is in opposition of Bruce Benkurt opening a Tattoo establishment
at 7525
Belair rd. As it is no longer zoned for that purpose. We were in
favor
and supported Robert Smith owner of mr B's Tattoos who has owned
Mr Bs Tattoos for the past 8 yrs. And was grandfathered at 7525
Belair Rd. through legislation with county council woman Cathy
Bevins, Mr. Smith was able to purchase commercial property in our
community and moved his Grandfathered
buisness to 7554 Belair Rd. just 200 yds from its original
location, which is closer to other buisnesses and further from the
school it bordered before.

NAME	ADDRESS	PHONE [#] AND or Email
Walter Ransom	1208 Lakeview	443-271-3261
William Brown	4901 Challedon Rd	(410) 488-6592
Christy Hayes	2864 Hanson Rd.	443-635-5902
Roy Winkler	Northern Parkway	none
Gerrard Dunn	3511 Juneway	410-336-1310
Tia Waters	5600 Hilltop Ave	Peepump 11@Hotmail.com
Al Smith	7554 Belair Rd	443-813-5051

Petition

Zoning Hearing
SEPT 17 2013

I am signing in petition of opposition of a second tattoo establishment that Bruce Benkurt is trying to open at 7525 Belair rd. The Overlea Fullerton Professional and Buisness Association is in opposition of Bruce Benkurt opening a Tattoo establishment at 7525 Belair rd. As it is no longer zoned for that purpose. We were in favor and supported Robert Smith owner of mr B's Tattoos who has owned Mr Bs Tattoos for the past 8 yrs. And was grandfathered at 7525 Belair Rd. through legislation with county council woman Cathy Bevins, Mr. Smith was able to purchase commercial property in our community and moved his Grandfathered buisness to 7554 Belair Rd. just 200 yrds from its original location, which is closer to other buinesses and further from the school it bordered before.

NAME	ADDRESS	PHONE [#] AND or Email
Daniel Grim	11 Henry Ave.	410-870-3302
M. L. L. L.	Fullerton Ave	(410) 274-4160
JAMES NELSON	SAFFLE AVE	410-669-0165
Angela ^{Costello}	5612 WHITBY RD	443 682 4273
José Andino	5100 Kenwood Ave	443 564-8146
Sue Powell	4517 Fullerton Ave.	410-206-6677
Tony Powell	4517 Fullerton Ave	410 979 0342
Joshua Brown	443-635-5418	8 Overlea Ave
John Mills	410-804-5911	5 Elinor Ave Jmills4804 Nottingham MD, 21236
Amy Wes	410 663-2614	
Dan Deming	410-882-0482	

Petition

Zoning Hearing
SEPT 17 2013

I am signing in petition of opposition of a second tattoo establishment that Bruce Benkurt is trying to open at 7525 Belair rd. The Overlea Fullerton Professional and Buisness Association is in opposition of Bruce Benkurt opening a Tattoo establishment at 7525 Belair rd. As it is no longer zoned for that purpose. We were in favor and supported Robert Smith owner of mr B's Tattoos who has owned Mr Bs Tattoos for the past 8 yrs. And was grandfathered at 7525 Belair Rd. through legislation with county council woman Cathy Bevins, Mr. Smith was able to purchase commercial property in our community and moved his Grandfathered buisness to 7554 Belair Rd. just 200 yds from its original location, which is closer to other buisnesses and further from the school it bordered before.

NAME	ADDRESS	PHONE [#] AND or Email
Jeff Ryan	21236 23 S. PPLE Ave	443-744-1366
Mark Flaherty	33 Sipple Ave 21234	4103222553
Terry Wilson	109 Elinor Ave	443 531 3904
Sharon Moore	121 Elinor Ave	443-844-6013
Steve Paquet	306 Elinor Ave	410 661-1173
Janet Jenkins	220 Flind Ave	410-668-8531
Gerald Todd	148 Sipple Ave	tres. todd@gmail.com
Ryan Dimick	135 sipple ave	Dimick90@gmail.com
Jonh	134 Sipple Ave	443 551 9233
Irvin Gross	117 Sipple Ave	443-608-0583
R. Sharr	22 Sindle Ave	443-802-3524

Case No: 14-015 SPHACase Name: RICHARD NIEHAUS / BRUCE BENKERT

Exhibit List

Party: PETITIONERDate: 5/29/14

Exhibit No:	Description:
✓ 1	SITE PLAN 7525 BELAIR RD 2/23/96
✓ 2	DEPUTY ZONING COMMISSIONER - FINDINGS & CONCLUSIONS OF LAW 3-20-96
✓ 3	9- 20 -96 INTER-OFFICE MEMO FR. ^{CARL} RICHARDS
✓ 4	12-12-96 OPINION - BD of APPEALS
✓ 5	STAMPED CIVIL ACTION 8-11-97 ORDER 03-C-96-13013
✓ 6	STAMPED 11-24-97 ORDER 3-C-96-13013
✓ 7	2-17-98 BILL NO. 29-98
✓ 8	3-20-03 LETTER FR. MICHAEL GISRIEL
✓ 9	8-30-12 LETTER FR. ^{ROBERT & DENISE} SMITH
✓ 10	9-6-11 BILL NO. 56-11
✓ 11	4-17-06 BILL NO. 46-06
✓ 12	6-7-10 BILL NO. 50-10
✓ 13	PHOTOS OF 7525 BELAIR RD (15 PAGES)
✓ 14	BCZR ARTICLE 1 SECT 104
VERIFIED BY <u>KC</u> DATE: <u>5/30/14</u>	

Case No: 14-015 SPHACase Name: RICHARD NIEHAUS / BRUCE

Exhibit List

BENKERTParty: PETITIONERDate: 5/29/14

Exhibit No:	Description:
✓ 15	AERIAL MAP 7554 / 7525 BELAIR RD
✓ 16	AERIAL MAP 7525 BELAIR RD / 4400 FULLERTON AVE
✓ 17 ^A 17A	CODE ENFORCEMENT NOTICE - CASE NO. 126441
✓ B	5/7/13 2ND PAGE
✓ C	5/7/13 SAME
	VERIFIED BY <u>KC</u> DATE: <u>5/30/14</u>

EX
2

3/20/96

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
SE/S Belair Road, 80' NE of * DEPUTY ZONING COMMISSIONER
Belhaven Drive * OF BALTIMORE COUNTY
(7525 Belair Road) *
14th Election District * Case No. 96-260-SPH
6th Councilmanic District *
Richard D. Niehaus, Jr., et al *
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing for that property known as 7525 Belair Road, located across from its intersection with Belhaven Road, in the vicinity of Fullerton. The Petition was filed by the owners of the property, Richard D. Niehaus, Jr., Robert S. Niehaus, and Stephen M. Niehaus, and the Contract Lessee, Bruce Benkert. The Petitioners seek approval to use the subject property, zoned B.M., for a Tattoo Salon. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Richard Niehaus, Jr., property owner, Bruce Benkert, Contract Lessee, and J. Kevin Wight, a representative of Hicks Engineering, who prepared the site plan for this project. Appearing in opposition to the request were Lorraine Gordon and Paul G. Monaghan, Sr., nearby residents of the surrounding community.

Prior to taking any testimony on this matter, and as a preliminary issue, a discussion ensued regarding the permissibility of a tattoo parlor in a B.M. zone. After discussing this issue with the Petitioners and advising them of Zoning Commissioner Lawrence E. Schmidt's decision in

ORDER RECEIVED FOR FILING
Date - 3/20/96
By - [Signature]

EX 3

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: September 20, 1996

TO: Carole S. Demilio
Deputy People's Counsel

FROM: W. Carl Richards, Jr. *WCR*
Zoning Supervisor
Zoning Review, PDM

SUBJECT: Petition for Special Hearing (96-260-SPH)
7525 Belair Road
Robert Richard & Stephen Niehaus/Mr. B's Tattoos - Petitioners
County Board of Appeals Hearing Date: September 25, 1996
14th Election District; 6th Councilmanic District

As per your telephone conversation and memo yesterday, the following can be confirmed:

1. Since 1966, when I began working in the zoning office, to the best of my knowledge, tattooing or a tattoo parlor use has not been permitted in any zone NOR has the use been interpreted by the staff, policy, or otherwise, to be permitted in any zone.
2. Beginning on March 30, 1955, the zoning regulations are inclusive in that only those uses which are listed are permitted, either by right or by special exception. This fact was echoed in recent legislation effective on December 28, 1995 by County Council Bill #180-95 (see Section 229.1.C). Only between January 2, 1945 and March 30, 1955 were there exclusive sections of the BCZR (permitting all uses except those listed).
3. Notwithstanding the above, and after being informed by the staff, any person has the right to petition the zoning commissioner pursuant to Section 500.7. Occasionally they may be successful; i.e., when the use is not listed in the BCZR and the request is for an accessory use which is not the permitted principal use of the premises. Where an accessory use is permitted by public hearing (in similar cases), signs visible outside are not permitted.

WCR:scj

12/14/96

IN THE MATTER OF THE	*	BEFORE THE
THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
<u>RICHARD D. NIEHAUS, JR, ET AL</u>	*	
FOR A SPECIAL HEARING ON	*	OF
PROPERTY LOCATED ON THE SOUTH	*	
EAST SIDE BELAIR ROAD, 80' NE	*	BALTIMORE COUNTY
OF BELHAVEN DRIVE	*	
(7525 BELAIR ROAD)	*	CASE NO. 96-260-SPH
14TH ELECTION DISTRICT	*	
6TH COUNCILMANIC DISTRICT	*	
* * * *	*	* * * *

O P I N I O N

This case comes to the County Board of Appeals of Baltimore County based on an appeal from the Deputy Zoning Commissioner's Order of March 20, 1996, in which a Petition for Special Hearing was dismissed with prejudice, citing Case No. 96-107-SPH and the Deputy Zoning Commissioner's interpretation that a tattoo parlor was not permitted in the B.M. zone, nor by Special Exception.

The Appellants /Petitioners were represented by John A. Austin, Esquire; Protestants appeared pro se; and Carole S. Demilio, Deputy People's Counsel, participated in these proceedings on behalf of the Office of People's Counsel for Baltimore County.

Two witnesses testified on behalf of the Petitioners. Mr. Bruce Benkert testified concerning the tattoo parlor. He stated that he currently resided at 7525 Belair Road, 21236, and also operated the tattoo business at that address. He lived in the building with his girlfriend and two children. Their living quarters included three bedrooms, a bath and a kitchen.

He testified that he had started the tattoo business on the premises on October 1, 1995. He has been performing his tattooing skills for 3-1/2 years, and had training in art classes in high school. At the present time, there were two employees on the site besides himself, one who handled the front office and clerical functions, and another individual who assisted him in his tattooing

EX 5

7/30/97

96-260-SPH /R. D. Niehaus
CCT AFFIRMED CBA
8/11/97 (Lawrence Daniels, J)

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF RICHARD D. NIEHAUS, JR. *
ET AL.
7525 Belair Road *
Baltimore, Maryland 21236 *

FOR JUDICIAL REVIEW OF THE *
ORDER AND OPINION OF COUNTY BOARD OF *
APPEALS OF BALTIMORE COUNTY * CIVIL ACTION NO.
Old Courthouse, Room 49 *
400 Washington Avenue * 03-C-96-13013
Towson, Maryland 21204 *

IN THE CASE OF RICHARD D. NIEHAUS, JR. *
ET AL.
Case No.: 96-260-SPH *
* * * * *

ORDER

The within matter having come before the Court on the merits of the Petitioner's appeal from the decision of the Board of Appeals for Baltimore County, and argument of counsel having been considered in connection with the matter, it is therefore, this 30th day of July, 1997, by the Circuit Court for Baltimore County:

ORDERED:

1. That the decision of the Board of Appeals in the within matter is hereby affirmed for the reasons stated on the record in open court on July 3, 1997; and it is further

ORDERED:

2. That the effect of this Order be and the same is hereby stayed for a period not to exceed thirty (30) days from the date of this Order or until such time as an appeal is noted to the Court of Special Appeals from this Order.

Lawrence R. Daniels
JUDGE

PK

FILED AUG 11 1997

PETITIONER'S

EXHIBIT NO.

36

PETITION OF RICHARD D. NIEHAUS, JR.,
ET AL. FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

* IN THE
*
* CIRCUIT COURT

IN THE CASE OF: IN THE MATTER OF THE
PETITION OF RICHARD D. NIEHAUS, JR.,
MR. B'S TATTOOS, ET AL. FOR A SPECIAL
HEARING TO PERMIT A TATTOO SALON AT
7525 BELAIR ROAD, SE/S BELAIR ROAD,
80' NE OF C/L BELHAVEN DRIVE, 14th
ELECTION DISTRICT, 6TH COUNCILMANIC

* FOR
*
* BALTIMORE COUNTY
* 3-C-96-13013

IN THE BALTIMORE COUNTY BOARD OF
APPEALS, CASE NOS.: 96-260-SPH

* * * * *

ORDER

The within matter having come before the Court on Petitioner's
Motion to Revise, Alter & Amend Judgment of this Court dated July 30,
1997, and argument of counsel having been considered in connection
with the matter, it is therefore, this 21st day of November, 1997,
by the Circuit Court for Baltimore County

ORDER that the Motion to Revise, Alter, and Amend Judgment be,
and is hereby DENIED; and it is further

ORDERED that the decision of the Circuit Court dated July 30,
1997 affirming the decision of the County Board of Appeals in the
within matter, BE AND IS HEREBY AFFIRMED, for the reasons stated on
the record in open court on September 8, 1997; and it is further

ORDERED that the effect of this Order be and the same is hereby
stayed for a period not to exceed thirty (30) days from the date of
this Order or until such time as an appeal is noted to the Court of
Special Appeals from this Order.

True Copy Test

SUZANNE MENSCH, Clerk

Per *[Signature]*

NOTARY CLERK

Lawrence R. Daniels
JUDGE LAWRENCE R. DANIELS

NOV 24 1997

EX 7

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1998, Legislative Day No. 4

Bill No. 29-98

Councilmembers Moxley, Kamenetz, McIntire, Riley, Gardina, Bartenfelder, and DePazzo
By Request of County Executive

By the County Council, February 17, 1998

A BILL
ENTITLED

AN ACT concerning

Adult Entertainment Businesses, Massage Establishments,
and Tattoo or Body Piercing Establishments

For the purpose of amending the Zoning Regulations in order to regulate the location of adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; requiring adult entertainment businesses to obtain a license; requiring adult entertainment businesses to have a certain interior arrangement; establishing terms and renewal of the license and grounds for suspension or revocation of the license; prohibiting the transfer of a license; requiring the Director to conduct certain inspections; establishing certain criminal and civil penalties; establishing certain appeals; providing for certain application requirements; stating certain findings; defining certain terms; providing for the application of this Act; providing for the effective date of this Act; and

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.

EX 8

Law Offices
FOARD, GISRIEL, O'BRIEN & WARD, L.L.C.
29 West Susquehanna Avenue, Suite 302
Towson, Maryland 21204

Michael Gisriel, P.A.
mgisriel@fgow.com

Fax 410-823-7037
410-296-1440

W. Thomas Gisriel
Of Counsel

March 20, 2003

VIA FAX NO. 410-665-3362
AND FIRST-CLASS MAIL

Mr. Richard D. Niehaus, Jr.
Town & Country Flowers
7525 Belair Road
Baltimore, Maryland 21236

Re: Continuation of the License for Tattoo Parlor
at 7535 Belair Road, Baltimore County, Maryland 21236

Dear Richard:

Pursuant to your request regarding the above-captioned matter, I have researched the matter and can report and recommend the following:

Your property located at 7535 Belair Road, Baltimore, Maryland 21236, is currently located in a Business Zone (i.e., BR). From 1996 until March, 2003, the Baltimore County Council has enacted three Bills dealing with Tattoo Parlors that have become law. County Council Bill No. 168-96 prohibited the tattooing of minors without parental consent. County Council Bill No. 76-97 clarified the definition of a Tattoo Parlor as: "Any place where an indelible work or figure is placed on a person by a needle insertion of pigment under the skin or where the skin is pierced for the purpose of inserting an object."

The most important Bill for your purposes, however, is County Council Bill No. 29-98 which took effect on April 15, 1998, and which amended the Baltimore County Zoning Regulations in order to regulate the location of Tattoo Parlors and other "Adult Entertainment Businesses".

I have copies of all three of the above Bills, i.e. County Council Bill No. 168-96, County Council Bill No. 76-97 and County Council Bill No. 29-98, if you would like to have them.

In essence, County Council Bill No. 29-98 (which is a 20-page Bill) further defines what a Tattoo Parlor is, classifies a Tattoo Parlor as an "Adult Business" and limits the location of Tattoo Parlors in Baltimore County to M.H. Zones, i.e. Manufacturing Zones.

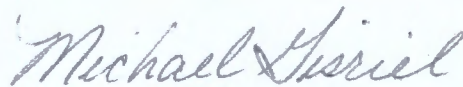
Mr. Richard D. Niehaus, Jr.
March 20, 2003
Page Three

However County Council Bill No. 29-98 does contain language which would grandfather Tattoo Parlors existing for at least 12 months as a non-conforming use, i.e.: "This Act does not apply to a...Tattoo or body piercing establishment in existence for at least 12 months prior to the effective date of this Act except if a Tattoo or body piercing establishment relocates."

Thus my recommendation to you is: (1) Get a copy of the existing Tattoo Parlor License from your Tenant; and (2) Make sure that that License is renewed by you – even if your Tenant leaves – you have an existing and valuable non-conforming use for a Tattoo Parlor at your location, i.e. 7515 Belair Road – as long as the License stays in existence and is renewed.

I hope that this letter/memo answers your questions to your satisfaction. Please feel free to call me to discuss. To bring us current, my bill is attached – your usual prompt payment would be appreciated. Continued best regards, I remain

Very truly yours,



Michael Gisriel



MG/mvj

Enclosure

EX 9

8-30-12

Dear EEP,

Although we told you in the past that we were moving. This letter is to inform you that we will be moving out by September 30, 2012. All of our permits have been filed and cleared to move into our new building. We want to take this time to thank you for allowing us to conduct business here. We wish you well in the future.

Thank You,

Robert A. Smith
Denise Smith
Robert and Denise Smith

PETITIONER'S

EXHIBIT NO.

~~17~~ 9

EX 10

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2011, Legislative Day No. 14

Bill No. 56-11

Councilmembers Bevins, Oliver & Huff

By the County Council, September 6, 2011

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations - Tattoo Establishments

FOR the purpose of permitting certain tattoo or body piercing establishments to relocate in certain zones
under certain circumstances, and generally relating to tattoo or body piercing establishments.

BY repealing and re-enacting, with amendments

Section 6 of Bill 29-98 as amended by Bill 46-06

- 1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
2 MARYLAND, that Section 6 of Bill 29-98, as amended by Bill 46-06, be and is hereby repealed and
3 re-enacted, with amendments, to read as follows:

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.

EX 11

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 8

Bill No. 46-06

Councilmembers Moxley & Gardina

By the County Council, April 17, 2006

A BILL
ENTITLED

AN ACT concerning

Tattoo Establishments

FOR the purpose of permitting certain tattoo or body piercing establishments to relocate in certain zones under certain circumstances; and generally relating to tattoo or body piercing establishments.

BY repealing and re-enacting, with amendments

Section 6 of Bill 29-98

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 6 of Bill 29-98 be and is hereby repealed and re-enacted,
3 with amendments, to read as follows:

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.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2010, Legislative Day No. 11

Bill No. 50-10

Councilmembers Olszewski and Moxley

By the County Council, June 7, 2010

AN ACT concerning

Adult Entertainment Businesses

FOR the purpose of amending the definition of an adult entertainment business; regulating the location of adult entertainment businesses; regulating the location of certain other businesses in certain zones; regulating the arrangement of viewing booths; stating certain findings; providing for the application of the Act; and generally relating to adult entertainment businesses.

BY repealing and re-enacting, with amendments

Sections 4B-101 and 4B-102
Baltimore County Zoning Regulations

BY repealing and re-enacting, with amendments

Section 21-2-101 (h) and 21-2-102(b)
Article 21 - Permits, Licenses, and Business Regulation
Title 2 - Adult Entertainment Businesses
Baltimore County Code, 2003

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.

EX 13







Baltimore County, MD
Tuesday, February 4, 2014

ARTICLE 1. GENERAL PROVISIONS

SECTION 104. Nonconforming Uses

[BCZR 1955]

§ 104.1. Continuation of nonconformance; exceptions.

[Bill Nos. 18-1976; 124-1991]

A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate.

§ 104.2. Restoration of damaged or destroyed structures.

[Bill No. 124-1991]

A structure damaged to any extent or destroyed by fire or other casualty may be restored within two years after such destruction or damage but may not be enlarged. In the case of residentially used structures which are nonconforming in density, the number of dwelling units or density units rebuilt may be equal to but may not exceed the number of units which existed before the casualty.

§ 104.3. Limit on extension of nonconforming buildings and uses; exception.

[Bill No. 124-1991]

No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307.

§ 104.4. Exception for certain office buildings.

[Bill Nos. 167-1980; 124-1991]

Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception.

7554 Belair Road

7525 Belair Road

PETITIONER'S

EXHIBIT NO.

815



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and costs.



7525 Belair Road

4400 Fullerton Avenue
Fullerton Elementary

PETITIONER'S

EXHIBIT NO.

EX 16



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and costs incurred as a result of reliance on or in connection with the use of or reliance on this data.

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204



Code Enforcement 410-887-3351
HUD Inspections 410-887-3375
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT

CORRECTION NOTICE

CASE NUMBER 126441	FA NUMBER 0356733	PROP. TAX ID 1416-045-625	ZONE BM
NAME(S): RICHARD NIEHAUS JR			
MAILING ADDRESS: ROBERT S NIEHAUS, STEPHEN M. NIEHAUS 7525 BELAIR RD			
CITY BALTIMORE	STATE MD	ZIP CODE 21236	
VIOLATION ADDRESS: SAME			
CITY BALTIMORE	STATE MD	ZIP CODE 21236	

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

- ☐ 431: Improper parked/ illegal commercial vehicle(s)
- ☐ 450: Non permitted sign(s)
- ☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s) in residential zone
- ☐ 1B01.1D: Remove open dump/ junk yard
- ☐ 102.5: Residential site line violation /obstruction
- ☐ 101; 102.1: Remove contractors equip. storage yard
- ☐ 1B01.1, ZCPM: Cease service garage activities
- ☐ 402: Illegal conversion of dwelling
- ☐ 400: Illegal accessory structure
- ☐ 415A: License/ remove untagged recreation vehicle
- ☐ 415A: Improperly parked recreation vehicle
- ☐ 415A: One recreational vehicle per property
- ☐ 100.6: Non permitted livestock / fowl / poultry
- ☐ 408B: Non permitted rooming/ boarding house
- ☐ 1B01: Non permitted private kennel. Limit 3 dogs
- ☐ 101; 102.1; ZCPM: Illegal home occupation
- ☐ 500.9 BCZR; ZCPM; BCC: 32-3-102: Violation of commercial site plan and/or zoning order
- ☐ 410A: Non permitted class II Trucking Facility

BALTIMORE COUNTY CODE (B.C.C.)

- ☐ 13-4-201(b)(d): Store garbage in containers w/tight lids
- ☐ 13-7-309; 13-7-310: Remove animal feces daily
- ☐ 13-7-310(a): Remove all trash & debris from property
- ☐ 13-7-312: Remove accumulations of debris, materials, etc
- ☐ 13-7-310(c): Cease all outside feeding of animals/birds
- ☐ 13-7-306: Cease rat harborage on premise
- ☐ 13-7-305: Eradicate all rat infestation on premise
- ☐ 13-7-112: Remove graffiti
- ☐ 35-2-301: Obtain building/ fence/ sign permit
- ☐ 35-6-105: Obtain rental housing license
- ☐ 18-2-608: Exceeding time limit, Temp. Storage Unit
- ☐ 35-2-206: Install address numbers to rear of home
- ☐ 1BC 115; BCBC 121: Remove/ Repair unsafe structure board and secure all openings to premise
- ☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height

RENTAL LIVABILITY CODE (B.C.C.)

- ☐ 35-5-203: Condemnation of structure / equipment
- ☐ 35-5-208(a): Repair exterior structure
- ☐ 35-5-209(a): Repair interior structure
- ☐ 35-5-210 (a)(c): Provide proper lighting in structure
- ☐ 35-5-211(c): Repair plumbing defects to structure
- ☐ 35-5-212: Repair heating / cooking equipment
- ☐ 35-5-213: Provide fire and safety protection
- ☐ 35-5-231.1: Provide Carbon Monoxide detectors
- ☐ 35-5-214: Remove all accumulations & storage blocking egress, stairwells, passageways, doors, windows, etc

INVESTMENT PROPERTY (B.C.C.)

- ☐ 35-2-404(a)(1)(i): Remove hazardous / unsafe condition
- ☐ 35-2-404(a)(1)(ii): Repair roof / horizontal members
- ☐ 35-2-404(a)(1)(v): Repair ext. plaster / masonry
- ☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof / foundations
- ☐ 35-2-404(a)(1)(vii): Repair ext. construction (see below)
- ☐ 35-2-404(a)(1)(3): Repair / remove defective ext. sign(s)
- ☐ 35-2-404(a)(1)(ii): Repair ext. walls / vertical members
- ☐ 35-2-404(a)(1)(iv): Repair exterior chimney
- ☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof / foundations
- ☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris
- ☐ 35-2-404(a)(4)(1)(ii): Board & secure openings

OTHER VIOLATIONS OR REMARKS: **BLZR 4B-102 (B)(2): A TATTOO OR BODY-PIERCING ESTABLISHMENT MAY NOT BE LOCATED WITHIN 2,500 FT. OF ANOTHER TATTOO OR BODY-PIERCING ESTABLISHMENT. CEASE ALL OPERATIONS.**

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204



Code Enforcement 410-887-3351
HUD Inspections 410-887-3375
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT

CORRECTION NOTICE

CASE NUMBER 126441	FA NUMBER 0356733	PROP. TAX ID 1416-045-625	ZONE BM
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MAILING ADDRESS: ROBERT S NIEHAUS ET AL 7525 BELAIR RD			
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VIOLATION ADDRESS: SAME			
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- ☐ 102.5: Residential site line violation /obstruction
- ☐ 101; 102.1: Remove contractors equip. storage yard
- ☐ 1B01.1, ZCPM: Cease service garage activities
- ☐ 402: Illegal conversion of dwelling
- ☐ 400: Illegal accessory structure
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- ☐ 35-6-105: Obtain rental housing license
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- ☐ 1BC 115; BCBC 121: Remove/ Repair unsafe structure board and secure all openings to premise
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- ☐ 35-5-208(a): Repair exterior structure
- ☐ 35-5-209(a): Repair interior structure
- ☐ 35-5-210 (a)(c): Provide proper lighting in structure
- ☐ 35-5-211(c): Repair plumbing defects to structure
- ☐ 35-5-212: Repair heating / cooking equipment
- ☐ 35-5-213: Provide fire and safety protection
- ☐ 35-5-231.1: Provide Carbon Monoxide detectors
- ☐ 35-5-214: Remove all accumulations & storage blocking egress, stairwells, passageways, doors, windows, etc

INVESTMENT PROPERTY (B.C.C.)

- ☐ 35-2-404(a)(1)(i): Remove hazardous / unsafe condition
- ☐ 35-2-404(a)(1)(ii): Repair roof / horizontal members
- ☐ 35-2-404(a)(1)(v): Repair ext. plaster / masonry
- ☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof / foundations
- ☐ 35-2-404(a)(1)(vii): Repair ext. construction (see below)
- ☐ 35-2-404(a)(1)(3): Repair / remove defective ext. sign(s)
- ☐ 35-2-404(a)(1)(ii): Repair ext. walls / vertical members
- ☐ 35-2-404(a)(1)(iv): Repair exterior chimney
- ☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof / foundations
- ☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris
- ☐ 35-2-404(a)(4)(1)(ii): Board & secure openings

OTHER VIOLATIONS OR REMARKS: **BLZR 4B-102 B(1)(f): TATTOO ESTABLISHMENT MAY NOT BE LOCATED WITHIN 1000 FT. OF RESIDENTIAL ZONE**

EX 17A

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204



Code Enforcement (410-887-3351)
HUD Inspections 410-887-3375
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT

CORRECTION NOTICE

CASE NUMBER 126 441	PA NUMBER 0356733	PROP. TAX ID 1416 -045-625	ZONING BM
-------------------------------	-----------------------------	--------------------------------------	---------------------

NAME(S) RICHARD NIEHAUS JR		
ROBERT S NIEHAUS, STEPHEN M. NIEHAUS		
MAILING ADDRESS: 7525 BELAIR RD		
CITY BALTIMORE	STATE MD	ZIP CODE 21236

VIOLATION ADDRESS: SAME		
CITY	STATE MARYLAND	ZIP CODE

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

- | | |
|---|--|
| ☐ 431: Improper parked/illegal commercial vehicle(s) | ☐ 415A: License/ remove untagged recreation vehicle |
| ☐ 450: Non permitted sign(s) | ☐ 415A: Improperly parked recreation vehicle |
| ☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s) in residential zone | ☐ 415A: One recreational vehicle per property |
| ☐ 1B01.1D: Remove open dump/ junk yard | ☐ 100.6: Non permitted livestock / fowl / poultry |
| ☐ 102.5: Residential site line violation /obstruction | ☐ 408B: Non permitted rooming/ boarding house |
| ☐ 101; 102.1: Remove contractors equip. storage yard | ☐ 1B01: Non permitted private kennel. Limit 3 dogs |
| ☐ 1B01.1, ZCPM: Cease service garage activities | ☐ 101; 102.1; ZCPM: Illegal home occupation |
| ☐ 402: Illegal conversion of dwelling | ☐ 500.9 BCZR; ZCPM; BCC: 32-3-102: |
| ☐ 400: Illegal accessory structure | ☐ Violation of commercial site plan and/or zoning order |
| | ☐ 410A: Non permitted class II Trucking Facility |

BALTIMORE COUNTY CODE (B.C.C.)

- | | |
|---|--|
| ☐ 13-4-201(b)(d): Store garbage in containers w/tight lids | ☐ 35-2-301: Obtain building/ fence/ sign permit |
| ☐ 13-7-309; 13-7-310: Remove animal feces daily | ☐ 35-6-105: Obtain rental housing license |
| ☐ 13-7-310(a): Remove all trash & debris from property | ☐ 18-2-608: Exceeding time limit, Temp. Storage Unit |
| ☐ 13-7-312: Remove accumulations of debris, materials, etc | ☐ 35-2-206: Install address numbers to rear of home |
| ☐ 13-7-310(c): Cease all outside feeding of animals/birds | ☐ 1B01.1; BCDC 121: Remove/ Repair unsafe structure |
| ☐ 13-7-306: Cease rat harborage on premise | ☐ board and secure all openings to premise |
| ☐ 13-7-305: Eradicate all rat infestation on premise | ☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height |
| ☐ 13-7-112: Remove graffiti | |

RENTAL LIVABILITY CODE (B.C.C.)

- | | |
|--|---|
| ☐ 35-5-203: Condemnation of structure / equipment | ☐ 35-5-212: Repair heating / cooking equipment |
| ☐ 35-5-208(a): Repair exterior structure | ☐ 35-5-213: Provide fire and safety protection |
| ☐ 35-5-209(a): Repair interior structure | ☐ 35-5-231.1: Provide Carbon Monoxide detectors |
| ☐ 35-5-210 (a)(c): Provide proper lighting in structure | ☐ 35-5-214: Remove all accumulations & storage blocking egress, stairwells, passageways, doors, windows, etc |
| ☐ 35-5-211(c): Repair plumbing defects to structure | |

INVESTMENT PROPERTY (B.C.C.)

- | | |
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| ☐ 35-2-404(a)(1)(i): Remove hazardous / unsafe condition | ☐ 35-2-404(a)(1)(ii): Repair ext. walls / vertical members |
| ☐ 35-2-404(a)(1)(iii): Repair roof / horizontal members | ☐ 35-2-404(a)(1)(iv): Repair exterior chimney |
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| ☐ 35-2-404(a)(1)(vii): Repair ext. construction (see below) | ☐ 35-2-404(a)(1)(viii): Remove trash, rubbish, & debris |
| ☐ 35-2-404(a)(1)(viii): Repair / remove defective ext. sign(s) | ☐ 35-2-404(a)(1)(ix): Board & secure openings |

OTHER VIOLATIONS OR REMARKS: **BCZR 4B-102 (B)(2): A TATTOO OR BODY-PIERCING ESTABLISHMENT MAY NOT BE LOCATED WITHIN 2,500 FT. OF ANOTHER TATTOO OR BODY-PIERCING ESTABLISHMENT. CEASE ALL OPERATIONS.**

Failure to comply with this correction notice, may result in a \$ **200.00** fine / penalty per day pursuant to BCC: 1-2-217; 32-3-602 and/or the County sending a contractor to correct the violation(s) at your expense. Call the assigned inspector below for more info. (See reverse side for important information)

COMPLIANCE DATE: **5, 14, 13**

INSPECTOR NAME: **FISHER**
(PRINT NAME)

5, 7, 13
ISSUED DATE

EX17 B

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204



Code Enforcement (410-887-3351)
HUD Inspections 410-887-3375
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT

CORRECTION NOTICE

CASE NUMBER 126 441	FA NUMBER 0356733	PROP. TAX ID 1416 - 045 - 625	ZONE BM
NAME(S): ROBERT S. NIEHAUS, JR. STEPHEN M. NIEHAUS			
MAILING ADDRESS: 7525 BELAIR RD			
CITY BALTIMORE	STATE MD	ZIP CODE 21236	
VIOLATION ADDRESS: SAME			
CITY	STATE	ZIP CODE	
	MARYLAND		

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| ☐ 1B01.1D: Remove open dump/ junk yard | ☐ 100.6: Non permitted livestock / fowl / poultry |
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| ☐ 101; 102.1: Remove contractors equip./ storage yard | ☐ 1B01: Non permitted private kennel. Limit 3 dogs |
| ☐ 1B01.1, ZCPM: Cease service garage activities | ☐ 101; 102.1; ZCPM: Illegal home occupation |
| ☐ 402: Illegal conversion of dwelling | ☐ 500.9 BCZR, ZCPM, BCC: 32-3-102:
Violation of commercial site plan and/or zoning order |
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| ☐ 35-2-404(a)(1)(3): Repair / remove defective ext. signs | ☐ 35-2-404(a)(1)(ii): Board & secure openings |

OTHER VIOLATIONS OR REMARKS: BCCR 4B-102 (B)(2): A TATTOO OR BODY-PIERCING ESTABLISHMENT MAY NOT BE LOCATED WITHIN 2,500 FT. OF ANOTHER TATTOO OR BODY-PIERCING ESTABLISHMENT. CEASE ALL OPERATIONS.

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COMPLIANCE DATE: 5, 14, 13

INSPECTOR NAME: FISHER (PRINT NAME)

5, 7, 13
ISSUED DATE

EX 17C

Exhibit List

Date: 5/29/14

Exhibit No:	Description:
✓ 1	PET 9-17-13 PETITION (ZONING HEARING)
✓ 2	FR. ANDREA VAN ARSDALE 9-10-13 INTER-OFFICE CORRESPONDENCE
VERIFIED BY KC	DATE: 5/30/14

Petition

EX 1
Zoning Hearing
SEPT 17 2013

I am signing in petition of opposition of a second tattoo establishment that Bruce Benkurt is trying to open at 7525 Belair rd. The Overlea Fullerton Professional and Buisness Association is in opposition of Bruce Benkurt opening a Tattoo establishment at 7525 Belair rd. As it is no longer zoned for that purpose. We were in favor and supported Robert Smith owner of mr B's Tattoos who has owned Mr Bs Tattoos for the past 8 yrs. And was grandfathered at 7525 Belair Rd. through legislation with county council woman Cathy Bevins, Mr. Smith was able to purchase commercial property in our community and moved his Grandfathered buisness to 7554 Belair Rd. just 200 yrds from its original location, which is closer to other buinesses and further from the school it bordered before.

NAME	ADDRESS	PHONE [#] AND OR Email
Walter Ransom	1208 Lake Ave	443-271-3264
William Brown	4901 Challedon Rd	(410) 488-6592
Cristy Hayes	2864 Harbord Rd.	443-635-5902
Roy Winkler	Northern Parkway	none
Gerrard Dunn	3511 Juneway	410-336-1310
Tia Waters	5600 Hilltop Ave	Peepump 11@Hotmail.com
Al Smith	7554 Belair Rd	443-813-5051
		protestant 2

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

September 10, 2013

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 7525 Belair Road

Item Number: 14-015

Petitioner: Richard Niehaus, Jr.

Zoning: BM and DR 3.5

Requested Action: Special Hearing and Variance

SUMMARY OF RECOMMENDATIONS:

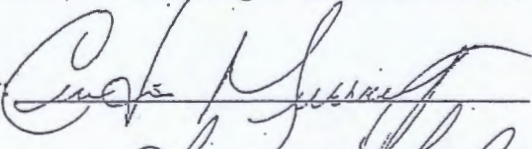
The Department of Planning has reviewed the petitioner's special hearing and variance requests along with the accompanying site plan. The requests are to approve the grandfathering of an existing tattoo and body piercing establishment within 2500 feet of another tattoo and body piercing establishment at 7554 Belair Road, or in the alternative to approve a petition for variance to approve the same, pursuant to BCZR B-102 (B)(2).

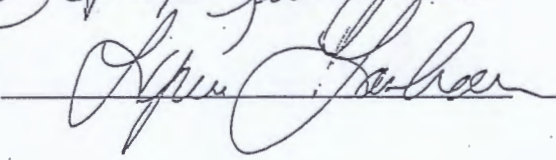
Upon review, the Department of Planning recommends that this request for special hearing/variance to allow a tattoo/body piercing establishment at 7525 Belair Road be denied for the following reasons:

1. There is an existing tattoo establishment located less than 2500 feet away from the subject property. An additional establishment at the subject location would constitute an over intensification of land use.
2. This portion of Belair Road is located in a designated Commercial Revitalization District that is undergoing intensive planning efforts through a block strategy aimed at revitalization and redevelopment of the corridor. This is a regional effort being undertaken as a joint project with Baltimore City.
3. In 2012, the Urban Land Institute participated with Baltimore County and Baltimore City in a Belair Road study which laid out recommendations for future redevelopment. The subject property is located in a block that has been identified as a priority for revitalization.

The Department of Planning opines that this use does not positively contribute to the corridor revitalization efforts. The subject use does not provide substantial employment, nor is it complementary to the types of uses that are being sought for the revitalization of the corridor that are considered walkable, small format, neighborhood oriented uses.

For further information concerning the matters stated here in, please contact Laurie Hay at 410-887-3480.

Prepared By: 

Division Chief: 
AVA/LL:cjm

p. protest
2

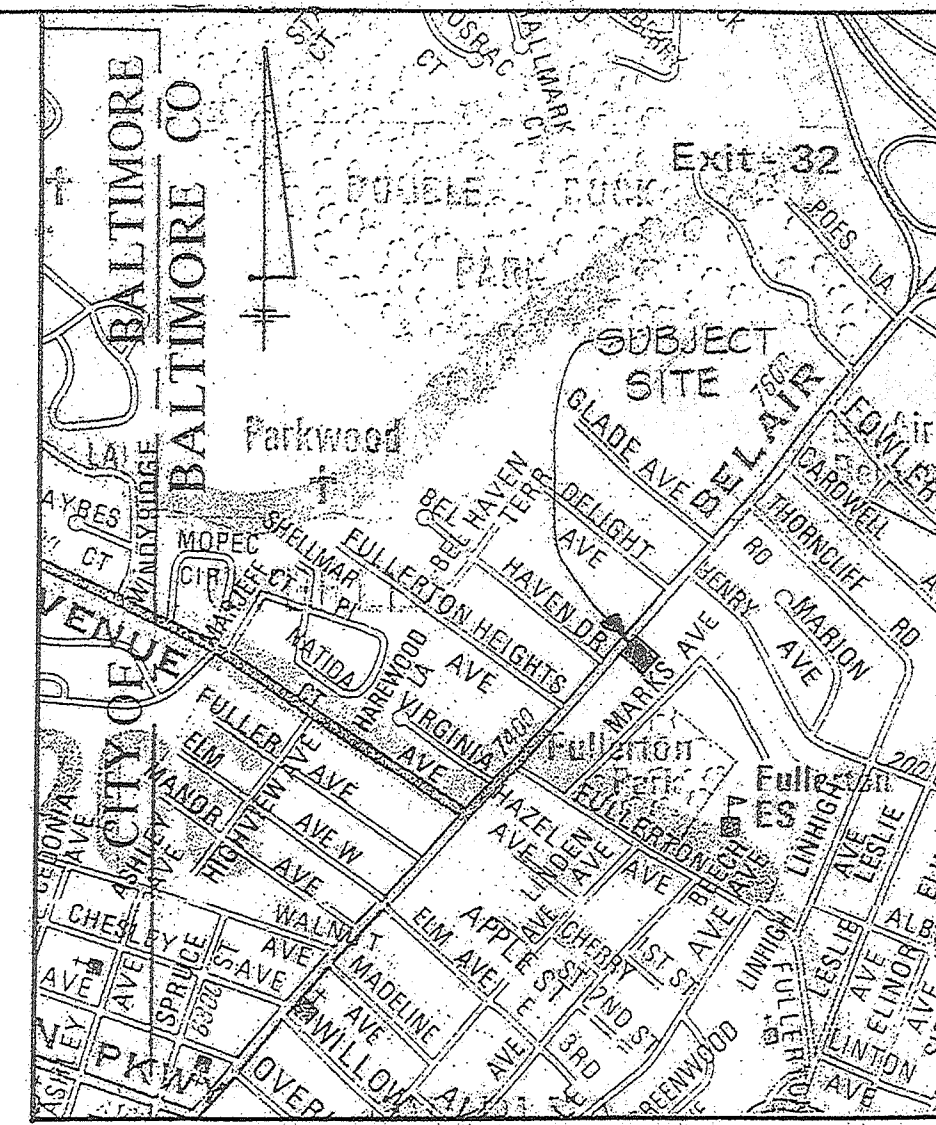
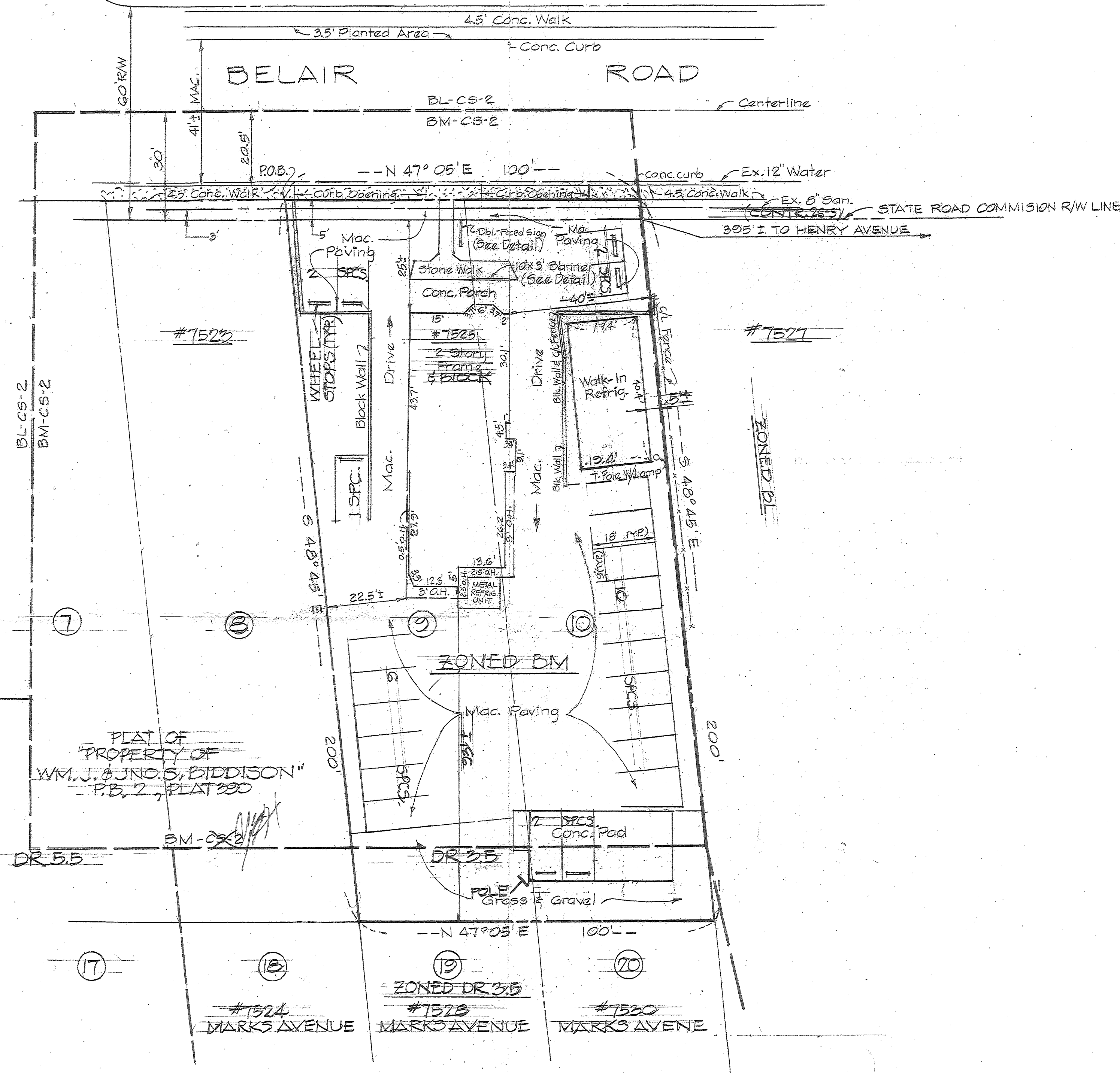
GENERAL NOTES

- DEED REFERENCE: LIBER 7076 FOLIO 848
- PLAT REFERENCE: PROPERTY OF WM. J. & JNO. S. BIDDISON
LIBER 1.W.S. NO. 2, FOLIO 390
(LOTS 9 & 10)
- TOTAL EXISTING FLOOR SPACE: 5,080 SQ. FT. ±
- FLOOR AREA RATIO: $5,080 \div 22,651 = 0.22$
- MAXIMUM PERMITTED FLOOR AREA RATIO = 4.0
- BUILDING USES AND AREAS:
BASEMENT: RETAIL FLORIST - 2,025 SQ. FT. ±
1ST FLOOR: TATTOO SALON - 1,825 SQ. FT. ±
2ND FLOOR: RECORDING STUDIO - 1,230 SQ. FT. ±
TOTAL 5,080 SQ. FT. ±
- PARKING REQUIREMENTS:
RETAIL FLORIST - $2,025 \times 5.0 = 10.13$, SAY 11 SPACES - 1,000
RECORDING STUDIO - $1,230 \times 3.3 = 4.06$, SAY 5 SPACES - 1,000
TATTOO SALON - $1,825 \times 3.3 = 6.02$, SAY 7 SPACES - 1,000
TOTAL 23 SPACES
PARKING SPACES PROVIDED 23 SPACES
- ADDITIONAL PARKING MAY BE REQUIRED IN THE FUTURE, IF USES AND/OR AREAS CHANGE.
- AMENITY OPEN SPACE IS NOT REQUIRED FOR THIS SITE.
- CURRENT ZONING: BM-CG-2 & DR-3.5
- PROPERTY AREA (NET): 0.46 AC. ±
- PROPERTY AREA (GROSS): 0.52 AC. ±
- THERE ARE NO STREAMS ON OR WITHIN 50' OF THE PROPERTY.
- CONCRETE WHEEL STOPS SHALL BE PROVIDED FOR EACH PARKING SPACE.
- ALL IMPROVEMENTS AND USES SHOWN OR REFERRED TO HEREON ARE EXISTING.
- PRIOR ZONING DECISIONS:
A) CASE NO. 96-260-SPH;
B) CASE NO. 03-C-96-013813;
C) CASE NO. 03-C-98-009188.

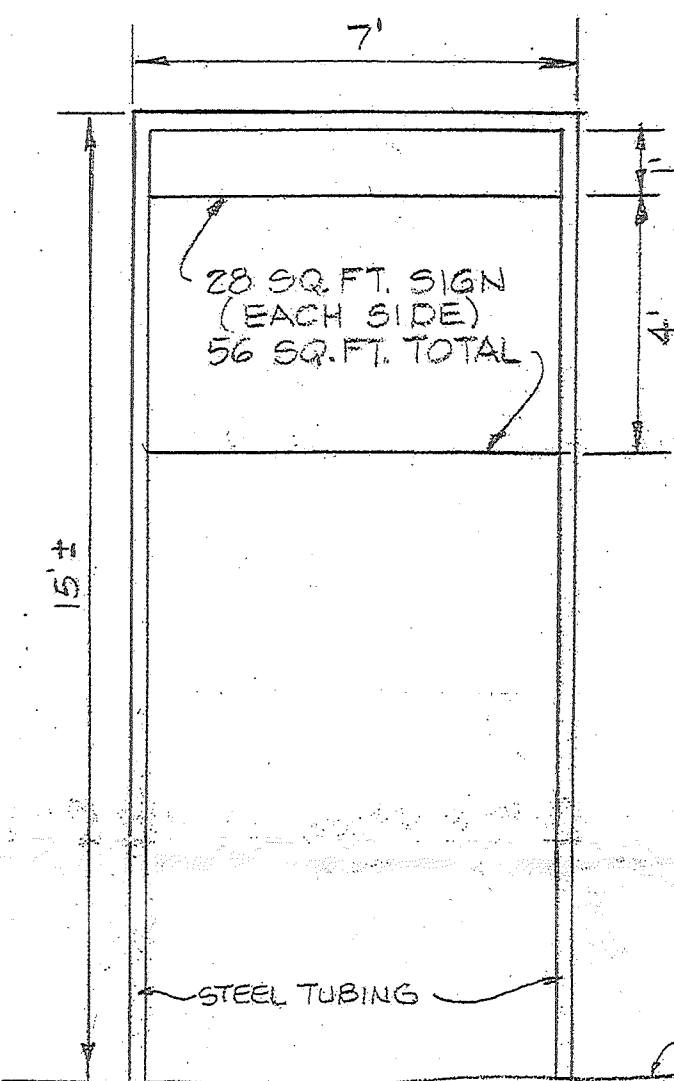
ADJOINING PROPERTY OWNERS

LOT NO.	OWNER/ADDRESS
8	EASTERN PROPERTIES PARTNERSHIP NO. 7523 BELAIR ROAD BALTIMORE, MD 21236-4102 LIBER 7376; FOLIO 127 ACCT. NO. 1402022076
9/10	NIEHAUS, RICHARD, JR. NIEHAUS, ROBERT S., ET AL NO. 7525 BELAIR ROAD BALTIMORE, MD 21236-4102 LIBER 7076, FOLIO 848 ACCT. NO. 1416045625
-	FULLERTON FEDERAL SAVINGS ASSOCIATION NO. 7527 BELAIR ROAD BALTIMORE, MD 21236-4102 LIBER -- FOLIO -- ACCT. NO. 2500002791
18	BUZZERD, JOHN M., 2 ND BUZZERD, MARGARET E. NO. 7524 MARKS AVENUE BALTIMORE, MD 21236 LIBER 29041, FOLIO 105 ACCT. NO. 1419051700
19	JENN M. DICESARE 7528 MARKS AVENUE BALTIMORE, MD 21236 LIBER 32013, FOLIO 441 ACCT. NO. 2400004558
20	DOUNG SOPHALL 7530 MARKS AVENUE BALTIMORE, MD 21236 LIBER 32405, FOLIO 47 ACCT. NO. 2400004559

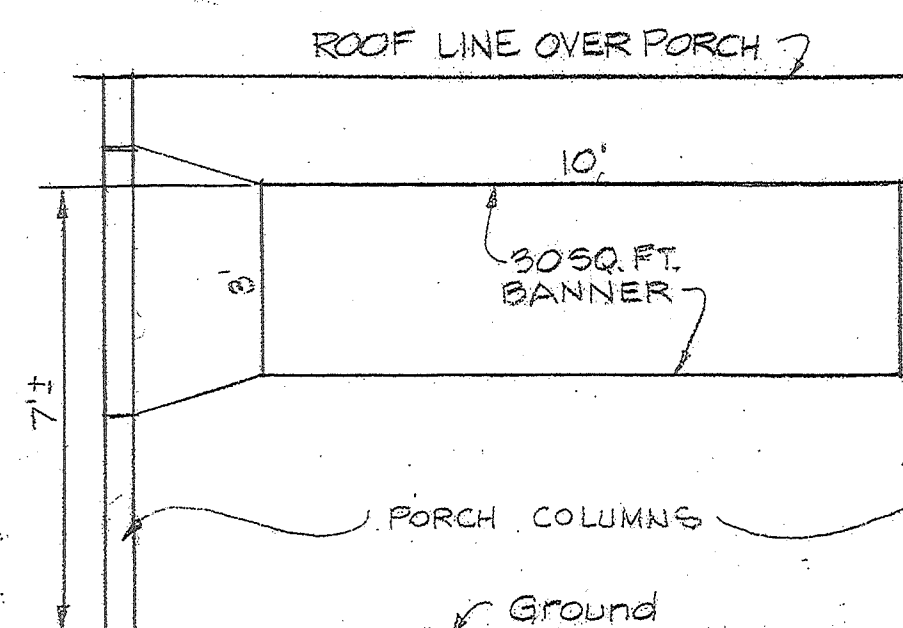
BELL HAVEN



VICINITY MAP
SCALE: 1" = 1000'



DETAIL OF EXISTING DOUBLE-FACED SIGN (NOT ILLUMINATED)
SCALE: 1" = 3'



DETAIL OF EXISTING SINGLE-FACED BANNER
SCALE: 1" = 3'

PETITIONER'S
EXHIBIT NO. No 1

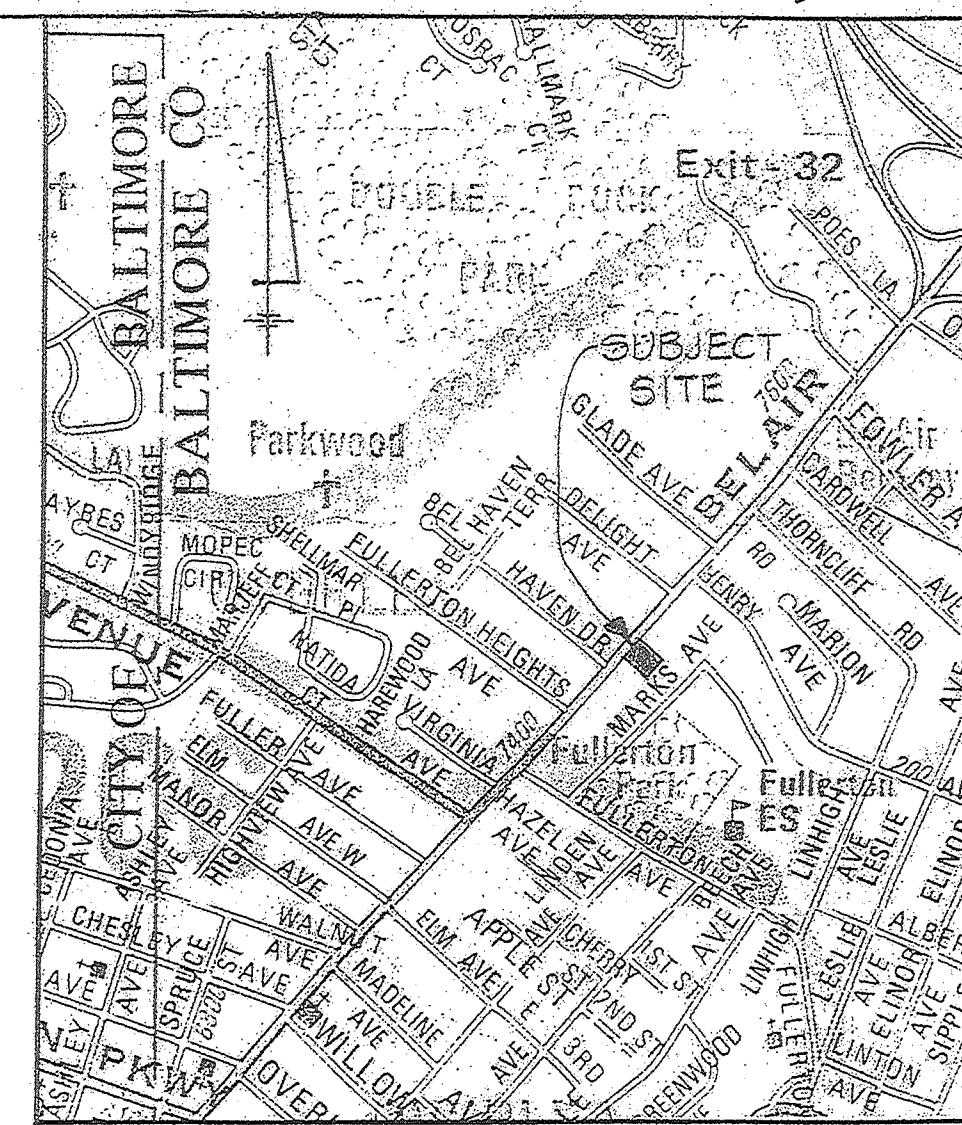
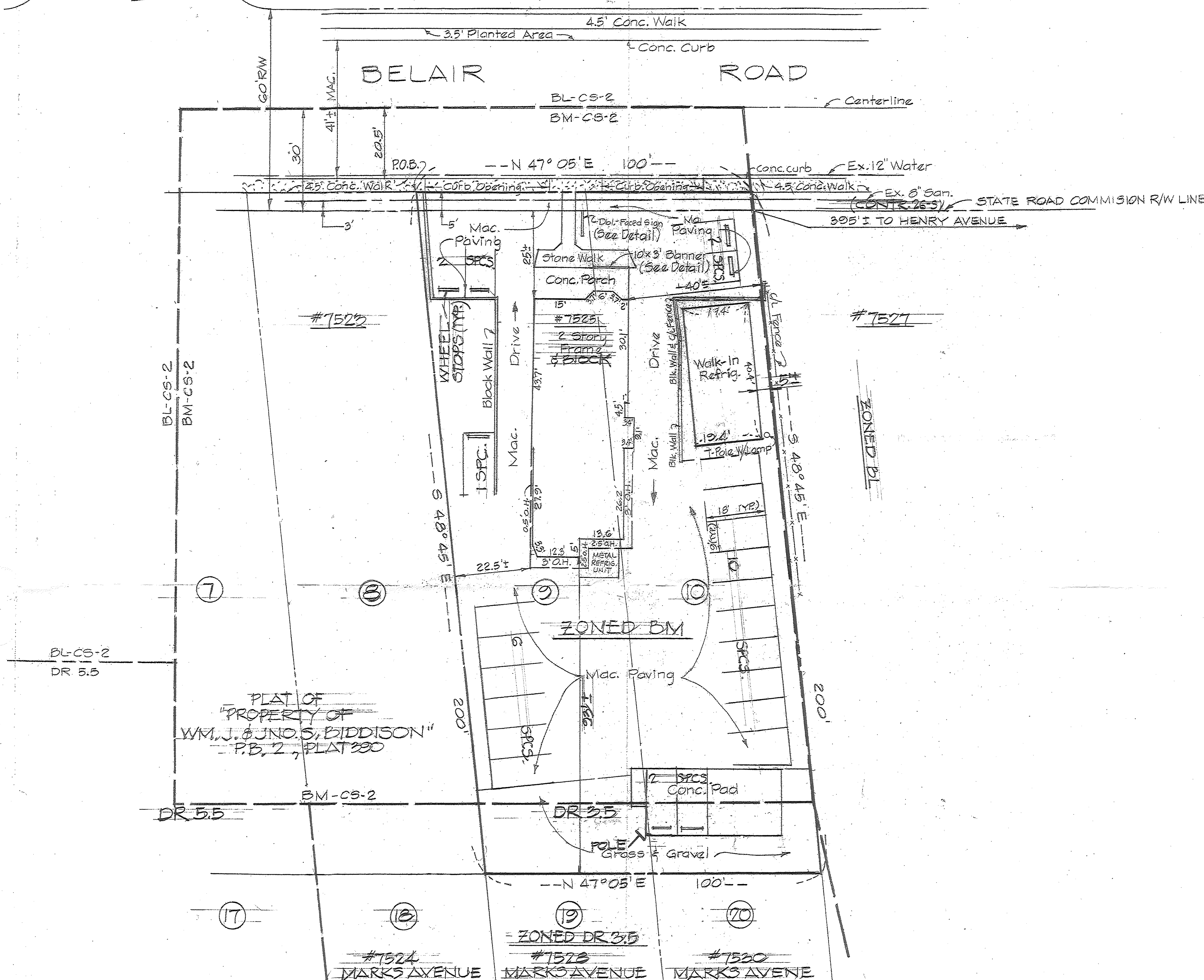
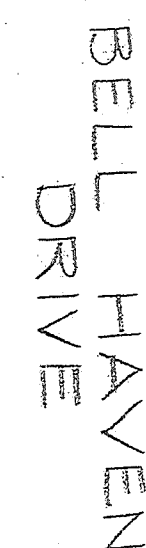
OWNER/PETITIONER
RICHARD NIEHAUS, JR., ET AL
7525 BELAIR ROAD
OVERLEA, MARYLAND 21236

PLAN TO ACCOMPANY
SPECIAL HEARING FOR
7525 BELAIR ROAD
6TH COUNCILMANIC DISTRICT
14TH ELECTION DISTRICT
BALTIMORE COUNTY, MD
SCALE: 1" = 20' DATE: JULY 10, 2003

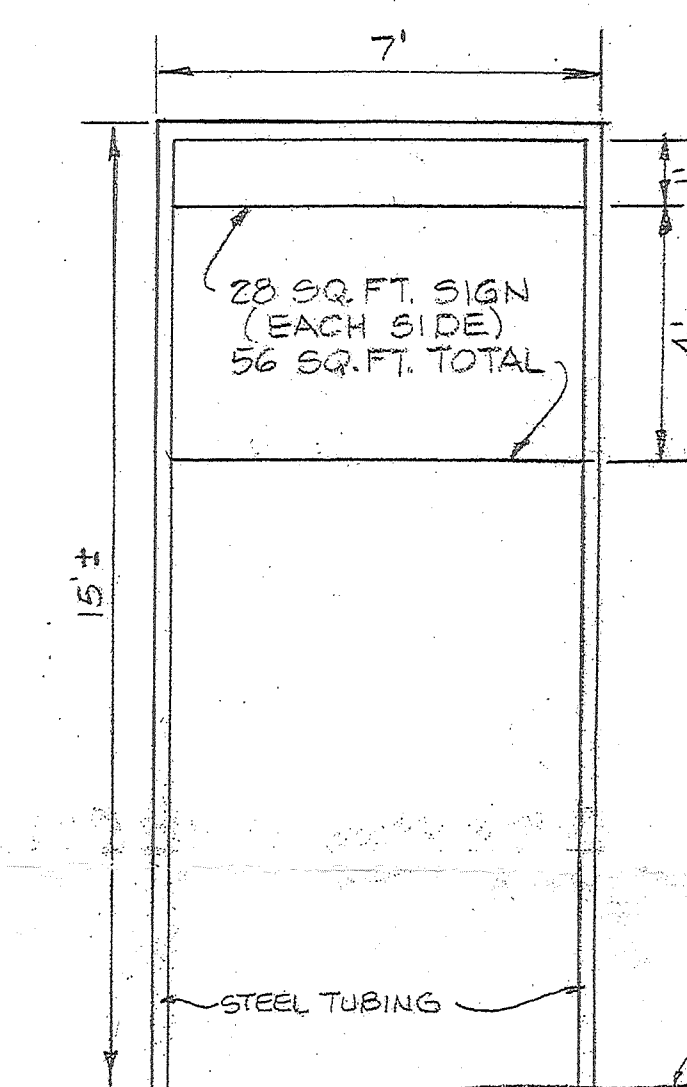
Hicks Engineering Associates, Inc.
ENGINEERS, SURVEYORS & PLANNERS
200 EAST JOFFA ROAD - SUITE 1105
TOWSON, MARYLAND 21286-3160
(410) 444-0001 FAX: (410) 821-8890

1. DEED REFERENCE: LIBER 7076 FOLIO 848
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(LOTS 9 & 10)
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A) CASE NO. 96-260-SPH;
B) CASE NO. 03-C-96-01301;
C) CASE NO. 03-C-98-00188,

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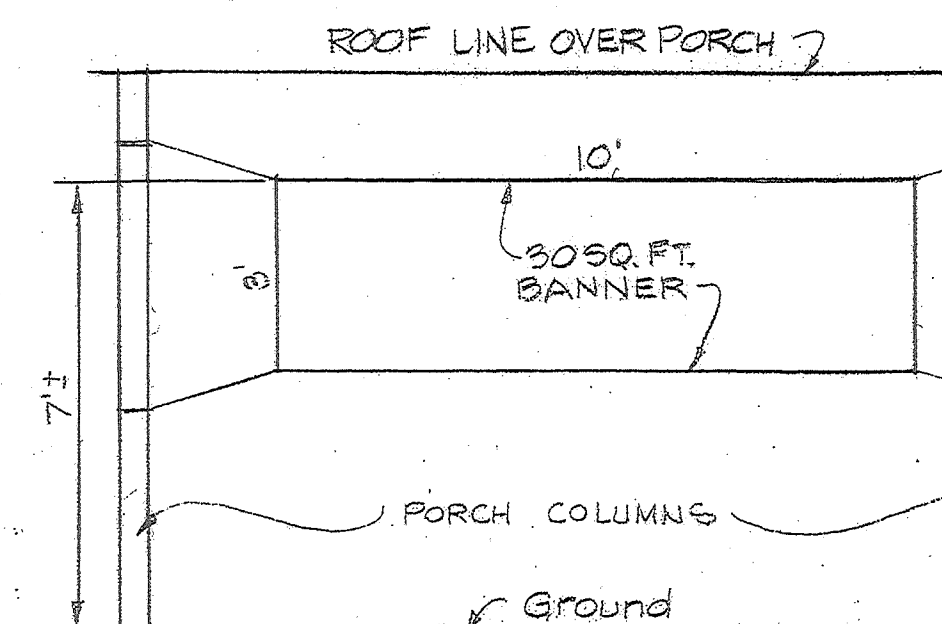


VICINITY MAP
SCALE: 1" = 1000'



DETAIL OF EXISTING
DOUBLE-FACED SIGN
(NOT ILLUMINATED)

SCALE: 1" = 3'



DETAIL OF EXISTING
SINGLE-FACED BANNER

SCALE: 1" = 3'

OWNER/PETITIONER

RICHARD NIEHAUS, JR., ETAL.
7525 BELAIR ROAD
OVERLEA, MARYLAND 21236

PLAN TO ACCOMPANY
SPECIAL HEARING FOR
7525 BELAIR ROAD

SCALE: 1"=20'

DATE: JULY 10, 1962



H Hicks Engineering Associates, Inc.
ENGINEERS, SURVEYORS & PLANNERS
200 EAST JOFFA ROAD - SUITE LL103
TOWSON, MARYLAND 21286-3160
(410) 494-0001 FAX: (410) 821-8890