

IN THE MATTER OF	*	BEFORE THE
SEMINARY GALLERIA, LLC, LEGAL OWNERS	*	BOARD OF APPEALS
AND PETITIONERS FOR VARIANCE ON	*	
THE PROPERTY LOCATED AT 1407, 1411,	*	OF
1419, 1421, 1429, 1433, AND 1447 YORK ROAD	*	
9 TH ELECTION DISTRICT	*	BALTIMORE COUNTY
3 RD COUNCILMANIC DISTRICT	*	
	*	Case No.: 16-106-A

* * * * *

OPINION

This matter comes to the Board of Appeals on appeal by Protestants of approval of a Petition for Variance that was granted on February 26, 2016 by the Administrative Law Judge ("ALJ") in accordance with the Baltimore County Zoning Regulations (B.C.Z.R.) §450.4. Petitioner submitted a redlined petition seeking only two (2) variances:

1. From Section 450.4, Attachment 1, Section 7(b)(IX) for a freestanding joint identification sign with sign copy a minimum of 3 inches in height in lieu of the required 8 inches in height for sign copy; and
2. From Section 450.4, Attachment 1, Section 7(b)(IX) to permit a third joint identification sign on a property with 2 frontages.

Hearings were held before the Board on November 16, 2016 and April 5, 2017. The Petitioner was represented by David Karceski, Esquire and Adam Rosenblatt, Esquire of Venable, LLC. The Protestants were represented by J. Carroll Holzer, Esquire. Deputy People's Counsel, Carole Demilio also participated in the hearing in opposition to the requested relief. A public deliberation was held on April 26, 2017.

PRODECURAL HISTORY

In 2015, Petitioner filed a request for variance and special hearing to keep three (3) signs that existed on the property at issue. *See* Case Number 2015-0226-SPHA. At that time, the Administrative Law Judge ("ALJ"), granted variances for two (2) freestanding joint identification signs but denied relief for the third sign, ruling that it was an individual tenant or "enterprise sign"

not permitted in combination with a joint identification sign on the same frontage of a multi-tenant shopping center. *Id.* That ruling was not appealed.

In the case at bar, Petitioner requests variance relief to convert the enterprise sign to a joint identification sign, alleging that it will help identify the location of less visible tenants in the rear of the property. When originally filed in Case No. 16-106-A, the Petitioner proposed to enlarge the size of the sign and, in turn, requested an additional variance for more than five (5) lines of text. At the hearing before this Board, Petitioner explained that they were reducing the size of the sign back to the existing 26 square feet and were withdrawing the request for additional lines of text.

ARGUMENTS

I. UNIQUENESS

As is well established in the tenets of Maryland zoning jurisprudence, before a variance may be granted, there must be a determination that the property at issue is unique. *See Trinity Assembly of God of Balt. City, Inc. v. People's Counsel for Balt. County*, 407 Md. 53 (2008); *Cromwell v. Ward*, 102 Md. App. 691 (1995). As enunciated in *Trinity Assembly of God*, to be deemed unique, a property must "have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, sub-surface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." *Id.* at 81.

Petitioners presented testimony from Mitchell Kellman, a land use and zoning expert, to make its argument that the property at issue was unique. Mr. Kellman testified that the property is of an irregular shape, describing it as a "boot" shape not present on other properties in the immediate area. Additionally, Mr. Kellman explained that the property has an unusually long depth on the Seminary Avenue side of the property, away from York Road, the main arterial roadway on which the shopping center fronts. Addressing the topography of the property, Mr.

Kellman testified that the property has more than a fifty (50) foot change in elevation from the northwest corner down to the southeast corner in the rear of the site. *See* Petitioner's Exhibit 9. Mr. Kellman addressed the contention by Protestants that the slope affects a number of properties on the east side of York Road in Timonium, by stating that this property is uniquely affected by the significant change in grade that runs directly through the center of the site. Mr. Kellman testified that neighboring properties had a gentler slope. He further clarified that because of this drastic elevation change, it causes tenant spaces to be completely hidden from York Road.

Mr. Kellman further testified that the property's frontage on York Road, which is approximately 450 feet, is unusually long and allows this property to have three (3) separate freestanding signs without violating Section 450.5.B.4.a of the BCZR, which requires spacing of at least 100 feet between freestanding signs on a single premises. Additionally, the Seminary Avenue frontage, which is over 600 feet in length, is bordered by residential zoning, which zones do not permit installation of a commercial sign, thus requiring all of the properties signage for the 1000+ feet of the property's frontage must be placed along York Road in the commercially zoned portion of the site.

Protestants presented the testimony of Mr. Max Collins to dispute the Petitioner's claim that the slope on the site is a unique feature under variance standards. Mr. Collins testified that the slope at issue was at the site of the Galleria Tower and not near the basement space which is located underneath the row of shops and Atrium which the Petitioner claims requires the additional signage due to its location. While the Board finds Mr. Collins' description of the property to be factually correct, we do not find the factual distinction to defeat the argument that the sloping grade of the property is a unique topographical condition, which satisfies the requirements enunciated in *Trinity Assembly of God*.

II. PRACTICAL DIFFICULTY

In order for a sign variance to be approved, in addition to a finding of uniqueness, the Petitioner must also show that strict compliance with the Zoning Regulations would result in practical difficulty. *Cromwell v. Ward*, 102 Md. App. 691, 698 (1995).

The Petitioner presented testimony from Lori Kapruan and Ashley Zito, respectively the Property Manager and Leasing Representative for the property, which attempted to explain the difficulty in leasing certain parts of this shopping center without the sign at issue. Ms. Kapruan testified that there are 25 more tenant spaces than panels on the existing signs. She also explained that this particular sign serves the special purpose of providing visibility to some of the center's more challenged tenant spaces.

Ms. Zito testified that sign placement is often the first question a potential tenant asks when viewing the lower level space of the Atrium building. Ms. Zito alleged that this space is completely hidden from both York Road and Seminary Avenue, and without a guaranteed panel on this smaller, separate sign, it has been impossible to lease the lower level space. She further testified that placement on the existing joint identification signs, even if panels were available, would be insufficient to lease this space.

Mr. Kellman argued that the practical difficulty is a direct result of the property's unique physical characteristics and is not due to any actions of the owner. Specifically, when the property was first developed under Baltimore County's County Review Group ("CRG") process, a substantial portion of the northern half of the property had a residential zoning designation. Consequently, the former owners were forced to construct the building perpendicular to York Road, rather than parallel, where each tenant space would have been more easily visible to motorists on York Road.

Mr. Kellman further testified that the visibility of the lower level Atrium space is significantly hampered by the topography of the site. Petitioners offered photos into evidence. Those photos reveal that portions of the Galleria tower building face the same difficulty due to the

topography of the site, as the parking area and entrance are located approximately 40-50 feet below York Road in the rear of the property. *See* Petitioner's Exhibits 11A-C.

Protestants raise the point that the Petitioner has failed to clearly explain why a tenant occupant of the basement space could not have its name on signs already existing on the property. Protestants argue that there is no legal requirement granting every occupant of a property, individual signage. Additionally, Protestants make the point that how space in a property is divided among tenants is a private matter between landlord and tenant. Just because a landlord has created a large basement space, not visible from the road, does not translate into the automatic granting of a sign variance. While the Board does recognize the validity of these points, the Petitioner has not recently rearranged space in the building creating this need for additional signage for the basement space. The basement space has been in existence for some time. The sign at issue, though previously a changeable copy sign, was in existence to serve that space. The Board finds compelling the testimony provided by the Petitioner as to the hardship in leasing the space at issue without the availability of additional signage, and further finds that strict compliance with the zoning regulations regarding signage would result in practical difficulty as contemplated in *Cromwell*.

III. STRICT HARMONY WITH THE SIGN REGULATIONS AND THE IMPACT ON THE SURROUNDING NEIGHBORHOOD

Petitioner further argues that the sign in question has been in place for many years pursuant to a valid permit. Petitioner notes that as the sign permit reveals, the sign was previously an electronic "changeable copy" sign where the wording could be changed on the face of the sign. Petitioner is now proposing to keep the sign the same size, but to remove the changeable copy element, which they argue will reduce "clutter" along York Road. Petitioners argue that this proposal balances the interest in advertising tenant spaces that are located in the heart of the York Road commercial corridor with the interest in decreasing the amount of artificial light and wording that previously existed on the changeable copy sign. Petitioners also note that the spacing of the

Petitioner's signs matches the spacing of the three (3) businesses across the street (Lutherville Car Care, Friendly's and Exxon). In conclusion Petitioners contend that the proposed sign is not "excessive or incompatible" within the meaning of Section 450.1.D of the BCZR, and complies with the spacing requirements in Section 450.5.B.4.a of the BCZR.

Protestants take issue with Mr. Kellman's contention that the sign at issue does not cause visual clutter and they believe that the three signs on properties across York Road have the same spacing as the signs on the property at issue, is irrelevant. The Board agrees with the Petitioners and is not persuaded that the use of the sign that was previously used on the property creates injury to public health, safety and welfare.

IV. COLLATERAL ESTOPPEL AND RES JUDICATA

During the first day of hearing, the Board considered that since there was a Final Order declaring that the property at issue in this matter was unique for purposes of granting a sign variance (Case No. 2015-0226-SPHA), whether the Petitioner was required to prove uniqueness again in this case in light of the tenets of *collateral estoppel* and *res judicata*. After arguments and case law were presented by Deputy People's Counsel arguing that *collateral estoppel* and *res judicata* did not apply, Petitioners chose to submit evidence of uniqueness in their case. In finding that the evidence presented by the Petitioners met the burden established in *Cromwell*, the Board will not address the *collateral estoppel* and *res judicata* issues.

CONCLUSION

The Board finds that the property at issue is unique and that the Petitioner would experience a practical difficulty due to the reason stated above if it would be required to remove the existing sign. Additionally, the Board finds that the variance can be granted in harmony with the spirit and the intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

ORDER

THEREFORE, IT IS THIS 17th day of August, 2017 by the

Board of Appeals of Baltimore County

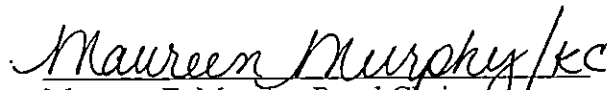
ORDERED that the redlined Petition for Variances:

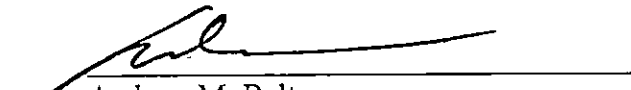
1. From Section 450.4, Attachment 1, Section 7(b)(IX) for a freestanding joint identification sign with sign copy a minimum of 3 inches in height in lieu of the required 8 inches in height for sign copy; and
2. From Section 450.4, Attachment 1, Section 7(b)(IX) to permit a third joint identification sign on a property with 2 frontages;

be and the same are hereby GRANTED.

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

Benfred B. Alston was a Board member and participated in the hearings in this matter on November 16, 2016, and April 5, 2017 and the public deliberation held on April 26, 2017.



Board of Appeals of Baltimore County

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August 17, 2017

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The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: In the Matter of: *Seminary Galleria, LLC*
Case No.: 16-106-A

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,

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: Anthony Giulio/Seminary Galleria, LLC
Andrea Van Arsdale, Director/Department of Planning
Lawrence Stahl, Managing Administrative Law Judge
Arnold Jablon, Deputy Administrative Officer, and Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

Dulaney Valley Improvement Association, Inc.
Maxwell R. Collins, II, Esquire
Michael Pierce
Robert Cordes, M.D.
Lori Kapraun/Hill Management

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Seminary Galleria, LLC

16-106-A

DATE: April 26, 2017

BOARD/PANEL: Maureen E. Murphy, Panel Chairman
Andrew M. Belt
Benfred B. Alston

RECORDED BY: Tammy A. McDiarmid, Legal Secretary

PURPOSE: To deliberate the following:

Petition for Variance relief from Section 450.4, Attachment 1 of the BCZR to:

- 1) From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with a sign copy a minimum of 3" in height in lieu of the permitted 5 lines of text and required 8" in height for sign copy (Sign No. 2); and
- 2) From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board discussed the history of the case. The Petitioners were granted a Variance in 2015 for two signs, and at that time the property was found to be unique. The current case before the Board is to permit a third sign.
- At the hearing before the Board there was discussion regarding *res judicata* on the issue of uniqueness. Following the hearing, People's Counsel submitted a letter citing the Forks case and arguing that *res judicata* does not automatically apply because of a prior finding of uniqueness. In response to the letter, Petitioner agreed to present testimony and evidence on uniqueness.
- The Board discussed the Forks case and found that the case concerned a time variance – how much the property/neighborhood had changed since the prior finding of uniqueness. The Board found that there was no change in the core operative facts regarding uniqueness of the subject property.
- At the hearing the Petitioner's expert presented evidence showing that the property drops substantially and is oddly shaped. The property has long frontage on Seminary Avenue, but borders residential property. No expert testimony was presented by the Protestants.
- The Board applied the standards of Cromwell and found there is evidence of uniqueness due to the odd shape and topography of the parcel. The Board noted there was no evidence that the neighborhood or property has changed since the 2015 case.
- The Board discussed practical difficulty. A portion of the building, which is a Commercial Shopping Center, is shielded from the thoroughfare. Tenants/customers cannot see the space without a sign, and accordingly the space cannot be rented. The Board found no self-imposed hardship.

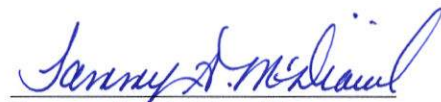
DECISION BY THE BOARD MEMBERS:

The Board found that the property meets the uniqueness and practical difficulty criteria of Cromwell v. Ward.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the requested relief.

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 A. McDiarmid



Board of Appeals of Baltimore County

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April 7, 2017

NOTICE OF DELIBERATION

IN THE MATTER OF: Seminary Galleria, LLC
1407 York Road
16-106-A 9th Election District; 3rd Councilmanic District

Re: Petition for Variance relief from Section 450.4, Attachment 1 of the BCZR to:
1) From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with a sign copy a minimum of 3" in height in lieu of the permitted 5 lines of text and required 8" in height for sign copy (Sign No. 2); and
2) From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

2/26/16 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was GRANTED.

This matter having been heard on November 16, 2016 and concluded on April 5, 2017, a public deliberation has been scheduled for the following:

DATE AND TIME: WEDNESDAY, APRIL 26, 2017 at 9:30 a.m.

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

**NOTE: Closing briefs are due on Wednesday, April 12, 2017 by 3:00 p.m.
(Original and three [3] copies)**

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. ATTENDANCE IS NOT REQUIRED AND PARTICIPATION IS NOT ALLOWED. A WRITTEN OPINION AND/OR ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Notice of Public Deliberation
In the matter of: Seminary Galleria, LLC
Case No: 16-106-A
April 7, 2017
Page 2

c:	Counsel for Petitioner Petitioner	: David H. Karceski, Esquire : Seminary Galleria, LLC c/o Anthony Giulio, General Manager
	Counsel for Protestants/Appellants Protestants/Appellants	: J. Carroll Holzer, Esquire : Dulaney Valley Improvement Association, Inc. and Maxwell Collins, II, Esquire
	Office of People's Counsel/Appellant	: Carole S. Demilio, Esquire/Deputy People's Counsel
	Lori Kapraun, Property Manager/Hill Management	Robert Cordes, M.D. Michael Pierce
	Lawrence M. Stahl, Managing Administrative Law Judge Arnold Jablon, Director/PAI Nancy West, Assistant County Attorney	Andrea Van Arsdale, Director/Department of Planning Michael Field, County Attorney, Office of Law



SEMINARY GALLERIA, LLC
(1407, 1411, 1419, 1421, 1443, 1447
York Road)
8th Election District
3rd Council District

* BEFORE THE
* BOARD OF APPEALS
* FOR BALTIMORE COUNTY
*
* Case No. 2016-106-A

SEMINARY GALLERIA, LLC
Petitioner

*
*
*

* * * * *

POST-HEARING MEMORANDUM

Petitioner, Seminary Galleria, LLC, by undersigned counsel, hereby submits this Post-Hearing Memorandum in support of the above-referenced Petition for Variances and states as follows:

INTRODUCTION

This case involves a variance request for a twenty six (26) square foot sign now serving Seminary Galleria, the mixed-use commercial center located at the southeast corner of York Road and Seminary Avenue in the Timonium area of Baltimore County. See Petitioner's Exhibit 1. This is one of those difficult "legitimizing existing conditions" cases where a commercial center had a validly issued sign permit in place for a number of years but was forced over the past year to bring the sign into compliance with the current version of the sign regulations contained in Section 450 of the Baltimore County Zoning Regulations ("BCZR"). As explained at the two (2) hearing dates, which took place on November 16, 2016 and April 5, 2017, there are no valid nonconforming signs in Baltimore County due to a sunset provision contained in Section 450.8 of the BCZR. The only options for a sign that was compliant under the prior sign regulations but is not compliant with the current code are to (1) remove the sign, or (2) file for

zoning relief to retain the sign. As this sign is extremely important to the Petitioner, they chose to seek zoning relief to keep the sign in place.

PRODECURAL HISTORY

In 2015, Petitioner filed a request for variance and special hearing to keep three (3) signs that existed on this property to serve the commercial center. *See* Case Number 2015-0226-SPHA. The Administrative Law Judge (“ALJ”), John E. Beverungen, granted variances for two (2) freestanding joint identification signs but denied relief for the third sign, ruling that it was an individual tenant or “enterprise sign” not permitted in combination with a joint identification sign on the same frontage of a multi-tenant shopping center. *Id.* The ruling was not appealed, and there is now a final order approving variances for the two (2) joint identification signs at Seminary Galleria.

Petitioner now requests variance relief to convert the enterprise sign to a joint identification sign that will serve its most visually challenged tenant spaces. When originally filed in Case No. 2016-106-A, the Petitioner proposed to enlarge the size of the sign and, in turn, requested an additional variance for more than five (5) lines of text. At the hearing before the Board, Petitioner explained that they were reducing the size of the sign back to the existing 26 square feet and were withdrawing the request for additional lines of text. Petitioner submitted a redlined petition seeking only two (2) variances:

1. From Section 450.4, Attachment 1, Section 7(b)(IX) for a freestanding joint identification sign with sign copy a minimum of 3 inches in height in lieu of the required 8 inches in height for sign copy; and
2. From Section 450.4, Attachment 1, Section 7(b)(IX) to permit a third joint identification sign on a property with 2 frontages.

See Petitioner's Exhibit 2.

At the outset of the first hearing, the Board made a determination that because there is a final order declaring that this property is unique for purposes of granting a sign variance (Case No. 2015-0226-SPHA), the Petitioner did not need to prove uniqueness again in this case.

Following the first hearing date, Deputy People's Counsel submitted a letter attaching case law and arguing that the prior decision did not provide any preclusive effect for this case and that Petitioner should again have to prove that the property is unique in a zoning sense.¹ While Petitioner does not believe that there is any difference in the factors that made this property unique in the first variance case, in the interest of simplifying the legal issues in this matter, they agreed to present testimony of uniqueness at the second hearing.

Over the course of the two (2) days of hearings, Petitioner presented four (4) witnesses: Bernt Peterson, the professional landscape architect who prepared the site plan for the Petitioner, Lori Kapruan, the Property Manager for Seminary Galleria, Ashley Zito, the Leasing Representative for Seminary Galleria, and Mitch Kellman, who provided expert testimony regarding the burden of proof in this case. The Petitioner presented uncontradicted testimony that this request meets all legal requirements and should be granted.

LEGAL ARGUMENT

I. COLLATERAL ESTOPPEL AND RES JUDICATA

a. Impact of the 2015 variance case on uniqueness

The Board recognized that the Protestants might be precluded from arguing that the property is not unique in the current case when they failed to appeal the prior decision of the ALJ granting sign variances after a finding of uniqueness. Collateral estoppel, or issue preclusion, is a doctrine that bars a party from re-litigating an issue that he or she has already litigated unsuccessfully in another action. *Culver v. Maryland Ins. Com'r*, 175 Md. App. 645, 653 (2007). The Protestants were parties to the 2015 case and accepted the decision without appealing. As they were unsuccessful in convincing the ALJ that the property is not "unique" in a zoning sense, this doctrine arguably prevents the Protestants from attempting to re-litigate the uniqueness issue in the case at hand.

¹ It must be noted that when asked point blank at the first hearing how uniqueness was any different in this case than in the 2015 variance case, neither the Protestants' counsel nor Deputy People's Counsel had any substantive response.

Petitioner recognizes the potential for further appeals in this case, which Deputy People's Counsel stressed would be much more likely if this case is decided on a legal issue such as collateral estoppel. Accordingly, Petitioner agreed to present evidence of uniqueness at the second hearing and did not rely solely on the doctrine of res judicata or collateral estoppel to prove their case. There is now substantial evidence in the record on which the Board can decide in favor of Petitioner on the merits.

b. Res Judicata does not bar Petitioner from seeking this relief

After the Board suggested that the Protestants might be estopped from arguing uniqueness in this case, counsel for the Protestants briefly attempted to make a counter argument that the Petitioner is precluded from seeking relief for the third joint identification sign when their request for an enterprise sign was denied in the first variance case. This argument misses the mark, as the Petitioner is not attempting to present a new argument that could or should have been raised in the enterprise sign case. Instead, they have reconfigured the sign and are seeking a different type of relief to place a third joint identification sign on the property. This is not the same cause of action, and therefore does not meet the first element of res judicata. *See Gonsalves v. Bingel*, 194 Md. App. 695 (2010) (holding that the claim presented in the second action must be identical to the one determined in the prior adjudication).

II. THE PROPERTY IS UNIQUE IN A ZONING SENSE

To be unique, a property must "have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, sub-surface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." *See Trinity Assembly of God of Balt. City, Inc. v. People's Counsel for Balt. County*, 407 Md. 53, 81 (2008).

Testimony from Mitch Kellman, who was accepted as a land use and zoning expert with particular knowledge of the standards for filing and obtaining sign variances, revealed that the property meets this burden. Initially, the property is of an irregular shape, which Mr. Kellman

likened to a “boot” shape not seen on any other properties in the area. The property has an unusually long depth on Seminary Avenue, away from York Road, the primary arterial street on which the shopping center fronts.

In terms of topography, the property has more than a fifty (50) foot change in elevation from the northwest corner down to the southwest corner in the rear of the site. *See* Petitioner’s Exhibit 9. While the Protestants attempted to argue that the slope affects a number of properties on the east side of York Road in Timonium, Mr. Kellman testified that this property is uniquely affected by the significant change in grade that runs directly through the center of the site. The neighboring Heaver Plaza, for example, has a gentle slope running through the property. In contrast, Seminary Galleria has a drastic elevation change that causes tenant spaces to be completely hidden from York Road. The photographs introduced as Petitioner’s Exhibit 11A-C demonstrate the type of severe topography that runs through the center of this site, making it unique from any property in the surrounding area.²

Mr. Kellman also testified that the long frontage on York Road, which is approximately 450 feet, is unusually long and allows this property to have three (3) separate freestanding signs without violating Section 450.5.B.4.a of the BCZR, which requires spacing of at least 100 feet between freestanding signs on a single premises. Finally, the Seminary Avenue frontage, which is over 600 feet in length, is bordered by residential zoning, which zones do not permit installation of a commercial sign. Accordingly, all of the signage for the 1000+ feet of the property’s frontage must be placed along York Road in the commercially zoned portion of the site.

Consistent with Section 307.1 of the BCZR, and the case law cited herein, these factors collectively prove that “special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request.”

² The Protestants’ only other attempted comparison to this site was Ridgely Plaza, which actually sits higher than York Road and is more visible from the street than it would be under flat conditions.

III. A PRACTICAL DIFFICULTY WILL RESULT IF THE VARIANCES ARE DENIED

Section 307.1 of the BCZR provides that a variance can only be granted where “strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.” The terms “practical difficulty” and “unreasonable hardship” are stated in the ordinance disjunctively. For area variances, the lesser practical difficulty standard applies. *Cromwell v. Ward*, 102 Md. App. 691, 698 (1995). Sign variances are deemed to be an “area” variance, which only require a finding of a practical difficulty. *Anderson v. Board of Appeals*, 22 Md. App. 28, 39 (1974). The lesser burden is applicable because the impact of an area variance is viewed as being much less drastic than that of a use variance. *Id.*

Testimony from Lori Kapruan and Ashley Zito, respectively the Property Manager and Leasing Representative for the property, revealed the difficulty in leasing this shopping center without the sign in question. Ms. Kapruan testified that there are 25 more tenant spaces than panels on the existing signs. She also explained that this particular sign serves a special purpose, as it provides visibility to some of the center’s more challenged tenant spaces.

Ms. Zito explained that sign placement is often the first question a potential tenant asks when viewing the lower level space of the atrium building. This space is completely hidden from both York Road and Seminary Avenue, and without a guaranteed panel on this smaller, separate sign, it has been impossible to lease the lower level space. Placement on the existing joint identification signs, even if panels were available, would be insufficient to lease this space. Additionally, the Galleria building is set back hundreds of feet from York Road and certain larger tenant spaces in the building cannot be leased absent placement on the sign in question.

Mr. Kellman’s testimony confirmed that the practical difficulty is a direct result of the property’s unique physical characteristics and is not due to any actions of the owner. Specifically, when the property was first developed under Baltimore County’s County Review

Group ("CRG") process, a substantial portion of the northern half of the property had a residential zoning designation. *See* Petitioner's Exhibit 8 (zone line highlighted in green). As a commercial building cannot be constructed in a residential zone, the former owners were forced to construct the building perpendicular to York Road, rather than parallel, where each tenant space would have been more easily visible to motorists on York Road.

Several exhibits highlighted the impact that this configuration has on the visibility of a number of tenant spaces. For example, Petitioner's Exhibit 3A is a photograph taken from the York Road sidewalk facing the wall-mounted signs on the retail strip of the center that runs perpendicular to York Road. The signs cannot be read in this photograph. If the signs are not legible to a pedestrian standing on the closest sidewalk, a driver in a moving car on York Road cannot be expected to see the wall-mounted signs.

Mr. Kellman also testified that the visibility of the lower level atrium space is significantly hampered by the topography of the site. Protestants submitted photographs of the entrance to this space as Protestants' Exhibits 6G-H. Mr. Collins, who testified for the Protestants, admitted that York Road is completely hidden from the entrance to this tenant space and cannot be seen in the photographs. Portions of the Galleria tower building face the same difficulty due to the topography of the site, as the parking area and entrance are located approximately 40-50 feet below York Road in the rear of the property. *See* Petitioner's Exhibits 11A-C.

The uncontradicted testimony of the Petitioner's witnesses confirmed that the shape and topography, among other physically challenging characteristics, cause challenges to visibility that create a practical difficulty to the owners of the commercial center.

IV. THE VARIANCES CAN BE GRANTED IN STRICT HARMONY WITH THE SIGN REGULATIONS AND WILL NOT HAVE ANY NEGATIVE IMPACT ON THE SURROUNDING NEIGHBORHOOD

The sign regulations recognize the delicate balance between promoting large and small businesses in Baltimore County (Section 450.1.B) and ensuring that signage remains of an

appropriate size and scale (Section 450.1.C). The proposal in this case furthers the intent of these regulations.

The sign in question has been in place for many years pursuant to a valid permit. *See* Petitioner's Exhibit 4.³ As the permit reveals, the sign was previously an electronic "changeable copy" sign where the wording could be changed on the face of the sign. *Id.* Petitioner is now proposing to keep the sign the same size, but to remove the changeable copy element to reduce "clutter" along York Road. *See* Petitioner's Exhibit 1B. This proposal balances the interest in advertising tenant spaces that are located in the heart of the York Road commercial corridor with the interest in decreasing the amount of artificial light and wording that previously existed on the changeable copy sign. The proposal strikes a balance that fulfills the spirit and intent of the sign regulations.

Perhaps the most telling exhibit is Petitioner's Exhibit 11E, which shows a view of the three (3) signs that front York Road on the Seminary Galleria property. The photo also shows a view of the signage for the commercial properties across York Road. The spacing of the Petitioner's signs matches the spacing of the three (3) businesses across the street (Lutherville Car Care, Friendly's and Exxon). The property has a unique amount of frontage, so that the signs on the Galleria property are all advertising businesses located on the single parcel, yet are spaced in line with the businesses across York Road that are located on three (3) separate parcels. The proposed sign is not "excessive or incompatible" within the meaning of Section 450.1.D of the BCZR, and complies with the spacing requirements in Section 450.5.B.4.a of the BCZR. The sign has never had any negative impact on the surrounding community and will not

³ This permit was issued to relocate an existing validly permitted sign for the widening of York Road.

have any such impact in the future, particularly with the removal of the portion of the sign that contained electronic changeable copy.

CONCLUSION

For the reasons stated herein, Petitioner respectfully requests that the relief outlined in Petitioner's Exhibit 2 be granted.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify on this 12th day of April, 2017, that a copy of the foregoing Post-Hearing Memorandum was mailed to:

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508 Fairmont Avenue
Towson, MD 21286

Carole Demilio, Esq.
Deputy People's Counsel
105 W. Chesapeake Avenue
Towson, MD 21204



Adam M. Rosenblatt

RE: PETITION FOR VARIANCE
1411, 1419, 1421, 1429, 1433, 1447, 1407 York Road;
NE corner of York Road & Seminary Avenue
9th Election & 3rd Councilmanic Districts
Legal Owner(s): Seminary Galleria, LLC
Petitioner(s)

BEFORE THE
BOARD OF
APPEALS FOR
BALTIMORE COUNTY
2016-106-A



* * * * *

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

I. INTRODUCTION AND PEOPLE'S COUNSEL'S POSITION

Petitioner, Seminary Galleria LLC, seeks a variance for a third joint identification sign on a site that permits only two, one per frontage. The site is located at the corner of York and Seminary Roads. It is improved with office and retail buildings constructed more than likely by Petitioner in 1982. Two joint identifications signs are located on the York Road side. There are also several building name, tenant name, and numeral wall mounted signs.

For purposes of this Memorandum, the improvements are referred to as follows: the **Galleria Tower** high rise building, parallel to York toward the northeastern end; the **Atrium** mid-rise building, parallel to York toward the southwestern end; one floor **Strip Shops**, perpendicular to York, between the Galleria Tower and Atrium toward the southern end. A surface parking lot runs along Seminary and York to the interior improvements; in addition, parking is provided between the Atrium and York Road. Parking also exists on two levels to the south of the Galleria Tower on the eastern border. Generally offices are located in the Galleria Tower and Atrium and retail in the Strip Shops. Well-settled residential communities are located east and north of the site. Commercial and office uses are to the south and west. The basement space is located under the Strip shops and part of the Atrium. It does not extend under the Galleria Tower. The elevator in the Atrium accesses the basement as well as a separate exterior door adjacent to the rear parking lot. There are two entrances to the Atrium, one on the

northern side and one on the western side facing York Road. Both doors adjoin surface parking.

As to the terrain, York Road consists of peaks and valleys from the County line to the Pennsylvania border, including cresting from the Beltway to Seminary.

Signage is not automatically included in the lease and is negotiated between the landlord and tenant. The two existing joint identification signs on the site contain the name of some, but not all the tenants. There are also wall-mounted signs with individual tenant names. Tenants pay an additional fee for signage. According to Petitioner's witnesses, some tenants decline signage. Both the Galleria Tower and Atrium names and addresses are on the buildings. Each building has a sophisticated touch Directory Sign in the lobby. The Directory contains a list of all the tenants on the site and provides directions to the specific destination.

The lease management company's employee, Ms. Ashley Zito, testified the likely tenant for the basement space is a gym/fitness center. Petitioner claims the tenant wants a separate free-standing sign on York Road, allegedly because of the location of the rental space. BCZR permits joint identification signs for office/retail shopping centers but prohibits separate enterprise signs for individual tenants. This comports with the stated purpose of avoiding sign clutter. BCZR § 450.1.D & E. Petitioner's goal is to get the best leasing deal and satisfy the tenant. These economic motives are irrelevant to variance relief. Property owners must operate within the zoning regulations for signs unless there is an unusually unique feature of the land that presents a practical difficulty to conduct a reasonable use of the site. Cromwell v. Ward 102 Md. App. 691 (1995). Petitioner has failed to satisfy the interrelated uniqueness test and the practical difficulty test. First, the Petitioner must prove uniqueness. If there is none, the relief is denied at this juncture. If there is evidence of uniqueness, it has to cause such a practical difficulty that a variance is necessary for a reasonable use, not merely a desired use. A practical difficulty created by the property owner does not qualify. Here the Petitioner likely constructed the site in this manner as admitted in Petitioner's case.

The sign regulations are found in BCZR § 450 *et. seq.* Commercial signs are regulated by size and height, not by the number of tenants in the shopping center. The number of all permitted signs and the height of the lines on the freestanding signs are also regulated. The landlord can design the sign with as many or as few spaces for its tenants, as long as the sign and letters are within the permitted parameters. There are no exceptions for tenants' preferences, better leasing rates or fees for the landlord, or an abundance of tenants on the site. Furthermore, a variance must be scrutinized beyond the already strict standards in BCZR § 307.1 and Cromwell and its progeny. BCZR §450.8.A.1 states:

"In considering requests for special exceptions and variances, the provisions of this section shall be strictly construed, unless the demonstrable effect of a liberal construction will prevent or reduce the confusion and visual clutter caused by excessive signage."

And to be sure this section receives its due consideration in this case, Judge Harrell in Trinity v. People's Counsel 407 Md. 53 (2008) emphasized its significance as quoted later in the Memorandum on page 9.

II. FACTUAL ANALYSIS

Let's review Petitioner's evidence in light of the unassailable, objective conditions on the site, and the legal standards:

1. Ms. Zito and the property manager, Ms. Lori Kapraun, testified a third joint identification sign is necessary because the leased space is located in the basement and a sign would provide exposure to the traffic on York Road. But this is counter to the landlord's practice, where the existing freestanding signs only state the name of the tenant, not the specific suite. And some tenants have no sign yet visitors find them because the buildings have a prominent exterior wall mounted address and the lobby directory. The basement space here can be accessed from the upper parking lots and the Atrium elevator or the lower parking lot and the separate entrance. Ms. Zito claims the upper parking lot is restricted to certain tenants but that's a factor created by the landlord; if this presents a difficulty for the basement tenant it is self-imposed by Petitioner/landlord.

Petitioner makes it sound more complicated and unusual than exists in the business world. Many, if not most commercial office buildings, utilize the lower level space. (Both the Board and People's Counsel had offices in the lower level of the Court House, where public hearings and meetings were held). Mr. Kellman did not dispute examples of a deli in a Towson proper building and a pharmacy in a West Street building as examples. There is nothing unique about such structures, nor does the layout create a practical difficulty, a strict standard in variance law. Sign variances are not granted to make the landlord's leasing experience easier or more profitable.

2. Petitioner claims the slope on the site is a unique feature under variance standards. Mr. Max Collins refuted the claim and pointed out the slope is at the site of the Galleria Tower and not near the basement space under the Strip shops and Atrium. Petitioner's picture of the outside staircase is misleading and deceptive. The basement space is not tucked away in a steep slope as Petitioner would have the Board believe. The basement is located toward the front (west) of the site on a slight grade. Moreover, it is apparent from Mr. Collins' testimony, and certainly the Board's own knowledge which it can consider, that many if not most commercial developments along the York Road corridor in the County are on slopes of some degree. This does not make Petitioner's site unique, nor does it even relate to the need for an additional sign on York Road. As long ago as Easter v. Mayor & City Council 195 Md. 395 (1950), the Court of Appeals described the heavy burden of proof on an applicant for a variance,

"The burden of showing facts to justify an exception or variance rests upon the applicant, and it must be shown that the hardship affects the particular premises and is not common to other property in the neighborhood."

Mr. Collins pointed out it makes more sense to erect a wall mounted sign over the separate entrance to the basement and/or small directory signs on the upper parking lot. Such signs would actually direct visitors to the location and create less visual clutter. A fitness center is a destination driven business. It is rather incredulous to suggest the members of the fitness center will not be able to locate the space.

3. Petitioner failed to state a single reason why the basement tenant could not have its name on the existing signs. Furthermore, Petitioner's witness, Ms. Ashley Zito from

Hill Management, testified regarding her familiarity with a prospective tenant's needs and lease requirements, including signage. But astonishingly she had no idea of the total number of spaces on the two joint existing signs *vis a vis* the number of tenants in the buildings, or even if the Atrium Building's name had the building name on a wall-mounted sign. (It does – see Protestants' Exhibit D).

Mr. Mitch Kellman admitted permitted signs are based on size, not the number of tenants. BCZR does not guarantee a sign for every tenant. The existing approved joint identification signs are the maximum permitted (one sign was approved for a height exceeding the BCZR limit). How any landlord, including the Petitioner here, decides to divide the space on the sign is a private matter between landlord and tenant. But it must operate within the zoning law. Otherwise, every landlord could seek additional signs or larger signs if it increases the number of tenants within the confined structure (s) on the site. Moreover, the fact that Petitioner here requires the tenant to pay for signage space, or perhaps to extract higher rents, are economic factors of no consequence in a variance request.

4. Ms. Kapraun, the property manager, testified the sign is necessary because the basement has no visibility from York Road. Surely, Petitioner cannot claim every commercial business or office has, or is entitled to, visibility from the road or street. To refute Petitioner's misleading impression, Mr. Collins presented pictures of leased space in the shopping center north of the site on the east side of York at Ridgeley. Several businesses in the shopping center are not visible from York Road and even from areas of the parking lot; to assist visitors in locating these businesses, the landlord erected a tasteful wall mounted sign on the former Mars Supermarket building.

Petitioner's Center has the name Galleria and the address, 1407-1447 on one of the existing signs (Petitioner's Exhibit 5A). All businesses on the site can be located with this identification and the wall mounted numbers and names on the buildings. BCZR states the purpose of a joint identification sign is to display “. . . the identity of a multi-occupant nonresidential development such as a shopping center, office building . . .” It is not for advertisement. (See Enterprise sign definition “. . . otherwise advertise the

products or services . . .”). Ms. Zito’s and Ms. Kapraun’s testimony was based primarily on the desire of the tenant/landlord to advertise. But enterprise signs, as Judge Beverengun ruled below in this case, are prohibited on shopping center sites. There was no credible evidence why the fitness center name can’t be included on the existing joint identification signs with the other tenants.

III. LEGAL ANALYSIS AND VARIANCE LAW

Planning and Zoning, including sign regulation, is delegated to the Baltimore County Council under the Express Powers Act (Annotated Code of Maryland Article 25A Section 5 (X)). This authority is not of recent vintage. Local regulation of signage is a consistent function of government, regardless of trends in sign advertising, design, materials and technology. Signage control is integral to zoning. Not surprisingly we find that “Municipal regulation of advertising signs began before comprehensive zoning.” Salkin, American Law of Zoning 5th Section 26:1. “By the 1960’s, there was widespread approval of sign regulations in general, and a growing acceptance of aesthetics as a legitimate objective of the police power.” (citations omitted). *Id.*

Anderson’s treatise 3, American Law of Zoning 4th § 16.07 (1996) says:

... municipal ordinances which regulate the height, size, and construction of signs are upheld where the restrictions are reasonable. Such regulations have a reasonable relation to public safety and are within the police power.

* * *

Ordinances limiting signs to a height of 5 feet, 7 feet, 16 feet, 22 feet, and 45 feet have been upheld.

Regulations have been approved which restrict the size, shape, materials, and weight of signs. Ordinances have been approved which limit signs to 200 square feet, 100 square feet, 40 square feet, 10 square feet, four square feet, and even one square foot. But such ordinances must be reasonable, and must be applied in a fair and reasonable manner. (Footnotes with case citations omitted).

Sign controls serve legitimate public interests in traffic safety and aesthetics. In Metromedia, Inc. v. City of San Diego 453 U.S. 390, 101 S. Ct. 2882 (1981), involving billboard controls, Justice White wrote, at 101 S.Ct. 2892-93:

Nor can there be substantial doubt that the twin goals that the ordinance seeks to further – traffic safety and the appearance of the city – are substantial goals. It is far too late to contend otherwise with respect to either traffic safety, Railway Express

Agency, Inc. v. New York, or aesthetics, see Penn Central Transportation Co. v. New York City ...; Village of Belle Terre v. Boraas ...; Berman v. Parker ...”

In American Legion Post v. City of Durham 239 F.3d 601 (4th Cir. 2001), the Court sustained municipal controls even on the size and height of American flags,

“The district court correctly found that under relevant Supreme Court and Fourth Circuit precedent, a community’s interest in preserving its aesthetic character is indeed a ‘substantial interest.’ See Members of the City of Los Angeles v. Taxpayers for Vincent 466 U.S. 789 (1984) (stating that ‘[I]t is within the constitutional power of the City to improve its appearance’); Arlington Cty. Republican Comm. v. Arlington Cty. 983 F.2d 587 (4th Cir. 1993) (stating that traffic safety and aesthetics are ‘substantial government goals). Vincent clearly forecloses the argument that the City’s interest is insubstantial; the Vincent court stated that ‘municipalities have a weighty, essentially esthetic interest in proscribing intrusive and unpleasant formats for expression; sufficient to pass muster under the time, place, and manner test. Taxpayers for Vincent, 466 U.S. at 806.”

In accordance with federal caselaw, the **Statement of general findings and policies** in BCZR § 450.1.D. confirms that aesthetics play a role in sign regulation:

“Baltimore County’s appearance is marred, property values and public investments are jeopardized, scenic routes are diminished, and revitalization and conservation efforts are impeded by excessive signage and incompatible signage.”

The Court of Appeals reiterated the strict standards in Trinity v. People’s Counsel, 407 Md. 53, 79 (2008), a Baltimore County sign variance case. Writing for the Court in Trinity, Judge Harrell applied the law of variances in Maryland:

“More than a decade ago, Judge Dale R. Cathell, now retired from this Court and while a member of the Court of Special Appeals, noted that the Zoning Code’s general variance provision essentially requires a petitioner to demonstrate two things: (1) uniqueness of the property and (2) practical difficulty or unreasonable hardship. Cromwell, 102 Md.App. at 698–99, 651 A.2d at 427–28. He elaborated:

The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is-in and of itself-unique and unusual in a manner different from the nature or surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon the property. Unless there is a finding that the property is unique, unusual or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, i.e., a determination of whether practical difficulty and/or unreasonable hardship, resulting from a disproportionate impact of the ordinance caused by the property’s uniqueness, exists. Further consideration must then be given to the general purposes of the zoning ordinance.

Id. at 694–95, 651 A.2d at 426 (italics omitted). Similarly, this Court, interpreting Baltimore City's zoning code, said generally that a variance requires “proof of ‘urgent necessity, hardship peculiar to the particular property, and a burden upon the owner not justified by the public health, safety and welfare.’ ” *Kennerly v. Mayor of Balt.*, 247 Md. 601, 606–07, 233 A.2d 800, 804 (1967) (quoting *Mayor of Balt. v. Polakoff*, 233 Md. 1, 9, 194 A.2d 819, 824 (1963)).

To be “unique,” a property must “have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, sub-surface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.” *Lewis v. Dept. of Natural Resources*, 377 Md. 382, 434, 833 A.2d 563, 594 (2003) (italics omitted) (quoting *North v. St. Mary's County*, 99 Md.App. 502, 514, 638 A.2d 1175, 1181 (1994)).”

The Maryland approach tracks the national pattern. In general, the purpose of variance law is to allow relief so an owner has some reasonable use of his property. See 2 Salkin, *American Law of Zoning* 5th, § 13:1 (2009). A key point is that the property owner’s inability to comply with zoning law for the purpose of a *selected use* does not justify a variance. Otherwise, a variance would have to be granted in every case; and zoning law would collapse. Even if we posit that the “practical difficulty” test does not equate to a “taking” test, it is still a very strict test.

As the Court wrote in **Carney v. Baltimore** 201 Md. 130, 137 (1952),

“The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant, inasmuch as the aim of the ordinance is to prevent exceptions as far as possible, and a liberal construction allowing exceptions for reasons that are not substantial and urgent would have the tendency to cause discrimination and eventually destroy the usefulness of the ordinance.”

The Court quoted this language from **Carney** in **Montgomery County v. Rotwein** 176 Md. App. 716, 732 (2006). As a corollary, the potential additional expense of compliance does not justify a variance. Variance claims should not be based on financial considerations. **Burns v. Mayor & City Council** 251 Md. 554 (1968); **Daihl v. County Board of Appeals** 258 Md. 157 (1970).

In **Trinity**, Judge Harrell recited with approval the Board of Appeals’ findings that “ . . . denial of the requested variances would not cause practical difficulty for Trinity because Trinity has been successful as an endeavor with its two current signs and because

its sanctuary can be identified by eastbound travelers on the Beltway.” *Id.* 84. He also stated:

“The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances.” *Cromwell v. Ward*, 102 Md. App. 691, 703 (1995).”

In addition to the uniqueness and practical difficulty standards in the variance statute (BCZR § 307.1), the Sign Regulations discountenance any deviation from the permitted signs with this admonition in BCZR § 450.8A.1:

“In considering requests for special exceptions and variances, the provisions of this section [the sign law] shall be strictly construed . . .”

Judge Harrell emphasized its significance in a sign variance by explaining that while the sign regulations allow a variance, the authorization is “tempered” by BCZR §450.8A.1. *Id.* 80. He also approved the Board’s reliance on this provision as an indication of the legislature’s policy:

“The Board also cited factual and policy findings made by the County Council when it enacted the Sign Law. Those findings, the Board observed, demonstrate the Council’s desire to foreclose “excessive and incompatible signage,” which is distracting to motorists and causes property values to depreciate. The Board concluded that granting the requested variances would be at odds with the legislative expression, especially in light of the further rejoinder that the Board strictly construe the Sign Law when entertaining a variance request.” *Trinity*, *supra* 85.

BCZR requires consideration of the purpose and intent of the sign regulations, including the detailed findings and policies in § 450.1 A-G and § 450.8A.1. For added emphasis the Council added that these regulations “ . . . are intended to be the least restricting means . . .” to achieve the goals. § 450.1.G.

BCZR § 307.1 states, in pertinent part:

“The Zoning Commissioner of Baltimore County, and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, and from sign regulations only in cases where special circumstances exist that are peculiar to the land or structure which is the subject of the variance request 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, off-street parking or sign regulations, and only in such manner as to

grant relief without injury to the public health, safety, and welfare. They shall have no power to grant any other variances.” Emphasis supplied.

Mr. Kellman claims he considered §450.8.A.1 but never explained how this request met the test. He stated the signs all comply with the 100 ft separation between signs but the distance standard is irrelevant because it is not a pass for more signs than permitted by the regulation. Moreover, Mr. Kellman failed to explain how a third freestanding sign on the site is not visual clutter. The first consideration should be why a third sign is justified, not the spacing. The argument that three signs exist across York Road is misleading and irrelevant. Mr. Kellman admitted there is one lawful sign for each of the three separate lots and businesses, as permitted. There is no comparison.

III. RES JUDICATA IS NOT APPLICABLE

The Board, *sua sponte*, ruled the finding of uniqueness by the Administrative Law Judge for different variances for this site must be applied to the current case under the doctrine of *res judicata*. Our office objected. The reason for the objection is a simple and straightforward legal analysis, based on long-standing applicable law and common sense:

“Doctrine of *res judicata* is intended to prevent multiplicity of litigation and to avoid vexation, costs, and expenses incident to more than one suit on same cause of action.” . . . “*Res judicata* principles are justified on sound and obvious principle of judicial policy that **losing litigant** deserved no rematch after defeat fairly suffered, in adversarial proceedings, on issue identical in substance to the one he or she subsequently seeks to raise.” Maryland Digest, Judgment, § 540 quoting Maryland State Dept. of Educ. V. Shoop, 119 Md App. 181, cert denied 349 Md. 495. (1998). (emphasis added).

The point is the “losing litigant” cannot re-litigate a final judgment on the same criteria raised or that should have been raised at the prior litigation. But common sense says the “winning” litigant is not going to re-litigate a successful case. If the winning litigant files another case for the same site it’s obviously for a different cause of action. *Res judicata* does not bar (or favor) the same party bringing a new cause of action. A new cause of action requires new evidence from both sides as Judge Kehoe recognized in Forks of the Patuxent v. Nat’l Waste Mgrs. 230 Md. App. 349 (2016).

More to the point particularly in variance cases, the Petitioner must demonstrate the alleged uniqueness causes the practical difficulty for which variance relief is

warranted. Unique for a particular variance does not mean unique for different variances or for all time. The Petitioner has to meet that burden of proof for every new cause of action.

In Trinity, the Court of Appeals discussed the interrelation of uniqueness to the relief requested:

“In *Umerley v. People's Counsel for Balt. County*, the Court of Special Appeals opined that a zoning authority must determine, as part of its uniqueness inquiry, whether “the uniqueness or peculiarity of the property causes the zoning provision [at issue] to have a disproportionate impact.” 108 Md. App. 497, 506, 672 A.2d 173, 177 (1996). Assuming that a disproportionate impact must be found before a local zoning authority may grant a variance, it is a logical fallacy to say that the Board erred on this score. The disproportionate impact consideration, if viable, exists because of the notion that it is not enough for a landowner or user to show merely that the property is somehow physically peculiar or unique; she, he, or it also must prove, to the satisfaction of the tribunal, a connection between the property's inherent characteristics and the manner in which the zoning law hurts the landowner or user. Where a property's physical peculiarities do not cause the landowner to suffer disproportionately due to application of the zoning enactment in question, the property is not “unique” in the law of variances. For example, if a property has physical characteristics that might justify variance relief from drainage or sewage regulations, those attributes probably would have no bearing on how the property is affected by an ordinance establishing the maximum height for a fence.” (emphasis added).

In the Forks case, the CSA and Judge Kehoe reaffirms and we repeat the discussion in our letter to the Board dated April 10, 2017:

The Court of Special Appeals (J. Kehoe) issued a recent decision (Forks of the Patuxent v. Nat'l Waste Mgrs. 230 Md. App. 349 (2016), which held that *res judicata* can apply to cases where the prior zoning relief was DENIED but does not apply in a subsequent variance request where the prior application was GRANTED. In Forks on page 372, Judge Kehoe explained *res judicata* does not relieve the Petitioner of its burden of proof of all the elements where a prior variance was granted for the same site. Referring to cases cited by the Petitioner, the Court stated:

“In its cross-appeal, National argues that the Board's decision constitutes an “impermissible change of mind” from the prior decisions of the Board. We do not agree.

The cases cited by National—*Gerachis v. Montgomery County Board of Appeals*, 261 Md. 153, 156, 274 A.2d 379 (1971); *Whittle v. Board of Zoning Appeals*, 211 Md. 36, 49–50, 125 A.2d 41 (1956); *Polinger v. Briefs*, 244 Md. 538, 541, 224 A.2d 460 (1966); and *Surkovich v. Doub*, 258 Md. 263, 274–75, 265 A.2d 447 (1970)—stand for the proposition that if a zoning board denies an application, the principle of administrative *res judicata* bars the board from

subsequently granting an identical application absent a showing of changed circumstances. *See, e.g., Gerachis*, 261 Md. at 156, 274 A.2d 379.¹⁶

These cases all involve situations in which the initial application was *denied*. In this case, the initial applications were *granted*. National points no case holding that administrative *res judicata* applies to such cases. Moreover, its argument overlooks the fact that additional evidence was presented to the Board in this case by both parties.”

We argued *res judicata* does not apply because the current case is for a difference variance than those granted by the ALJ. It’s fundamental that a request for a different sign is a new cause of action. This also comports with Judge Kehoe’s recognition that the purpose of the rule of *res judicata* is that a losing litigant cannot continuously pursue the same cause of action. The Maryland Appellate Court understood this since the 19th century. An interesting quote is found in an 1868 case:

“The law, in dispensing even-handed justice to all, has wisely taken care “ut sit finis litium,” and if matters, which have been once solemnly decided, could be again drawn into controversy, there would be no end of litigation. Mr. Greenleaf has happily said, “justice requires that every cause be once fairly and impartially tried; but the public tranquility demands that having been once so tried, all litigation of that question and between the same parties should be closed forever.” McKinzie v. Baltimore & O.R. Co. 28 Md. 161, 168 (1868). (emphasis added).

SUMMARY

The variance for a third joint identification sign here must be decided on the merits – that is, it is the Petitioner’s burden to prove the site is unique and the uniqueness causes the sign regulation limiting the site to two freestanding signs, one per frontage, to so disproportionately affect this site that the use is jeopardized. This is a successful center. Ms. Zito just signed four new tenants. Some rental spaces are not as attractive as others – that’s a fact of doing business and how the landlord choses to construct or market the space – not how the BCZR sign law applies. The variance here should be denied on the merits. Recently the CBA denied a variance for an existing sign on Reisterstown Road that is 70 sq. ft in lieu of the permitted 50sq. ft. There the citizens opposed a much larger sign variance, but did not take a position on the existing sign as a reasonable consideration for the CBA. (Case 2017-023-SPHA).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of April, 2017, a copy of the foregoing Memorandum of People's Counsel for Baltimore County was mailed to J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, Maryland 21286 and David Karceski, Esquire, and Adam Rosenblatt, Esquire, Venable, LLP, 210 W. Pennsylvania Avenue, Suite 500, Towson, Maryland 21204, Attorney for Petitioner(s).

Carole S. Demilio

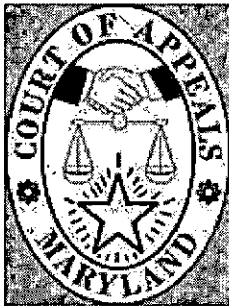
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HOURS OF OPERATION: 8:00 A.M. - 4:30 P.M.



Court of Appeals

ROBERT C. MURPHY COURTS OF APPEAL BUILDING

PETITIONS FOR WRIT OF CERTIORARI

September Term, 2016

Granted February 3, 2017

Richard Ceccone v. Carroll Home Services, LLC - Case No. 85, September Term, 2016

Issue – Courts and Judicial Proceedings – Did the trial court err by dismissing the case due to a consumer contract's time limitation clause where that clause contradicts the Statute of Limitations in Md. Code Ann, Courts & Judicial Proceedings, 5-101?

Timothy Alan Moats v. State of Maryland - Case No. 89, September Term, 2016

Issues – Criminal Law – 1) Does an individual's suspected involvement in a crime and a police officer's belief that a cell phone could be used in that crime, without more, constitute probable cause to search and seize that individual's cell phone? 2) Does the good faith exception to illegal searches and seizures apply in this case?



National Waste Managers, Inc. Chesapeake Terrace v. Forks of the Patuxent Improvement Association, Inc. et al. - Case No. 90, September Term, 2016

Issues – Zoning & Planning – 1) Did CSA err in failing to reverse the Board's action and in failing to remand the case with instruction to the Board to grant National Waste Managers' ("NWM") fourth variance request? 2) Did CSA err in remanding the case for consideration of whether NWM's variance was necessary? 3) Did CSA err in construing the county variance statute and in denying preclusive effect to prior adjudications and findings of the Board?

Donta Newton v. State of Maryland - Case No. 86, September Term, 2016

Issue – Criminal Law – Did CSA err in reversing the trial court's determination that trial counsel, appellate counsel and the trial court committed reversible error in permitting alternate jurors to be present during jury deliberations?

Karla Louise Porter v. State of Maryland - Case No. 88, September Term, 2016

Issues – Criminal Law – 1) Did CSA improperly apply harmless error review when, rather than considering the effect of an erroneous imperfect self-defense instruction on the jury's verdict, it applied de novo review to the trial court's underlying decision to grant the instruction – a question not before it- resolved that issue in favor of the State, and retroactively determined that the jury would have convicted if the trial had unfolded as CSA believed it should have? 2) If so, did CSA err when it found the provision of legally erroneous instruction on imperfect self-defense harmless beyond a reasonable doubt?

Sage Title Group, LLC v. Robert Roman - Case No. 87, September Term, 2016

Issues – Torts – 1) Did CSA err in creating an "escrow account" exception to the rule against conversion claims involving comingled funds? 2) If an employee violates company policy without breaking the law, is a later serious crime foreseeable to the employer? 3) Must the doctrine of unclean hands/*in pari delicto*, which is a question for the court, be invoked in a Rule 2-519 motion before submission to the jury? 4) Can a defendant in a conversion claim for money avoid liability with a "commingling" defense if that defendant was entrusted with specific, identifiable funds and agreed with the plaintiff to place those funds in an escrow account to which only plaintiff would have access? 5) Was CSA correct to find that expert testimony was necessary to prove Respondent's negligence claim, where Petitioner wrongfully transferred Respondent's money to third parties without Respondent's authority? 6) Was CSA correct to find that Petitioner preserved for review its argument that its employee's conduct was not foreseeable and, therefore, not within the scope of his employment, when no such argument was made at any time before Petitioner's motion for judgment notwithstanding the verdict?

Theodore Scott v. State of Maryland - Case No. 91, September Term, 2016

Issues – Criminal Law – 1) Where the State fails to prove the existence of a prior conviction for purposes of imposing a mandatory sentence pursuant to Md. Code Ann., Criminal Law § 14-101, is the State barred from attempting to prove the prior conviction on remand for resentencing under the Double Jeopardy Clause of the Fifth Amendment and/or the Md. common law prohibition against double jeopardy? 2) If so, did CSA err in holding that the State was not barred from attempting to prove the existence of a prior conviction of Petitioner on remand for resentencing? 3) Did the trial court err in resentencing when it concluded it did not have the discretion to make the remanded sentence run concurrently with other sentences that were not remanded for resentencing on appeal? 4) Did CSA err in holding that the issue in question 3 had not been preserved for appellate review?

Timothy Stevenson v. State of Maryland - Case No. 92, September Term, 2016

Issues – Criminal Law – 1) Did the search warrant applications establish a sufficient nexus between the alleged crimes and Petitioner's cell phone, such that the warrant-issuing judges had a substantial basis for finding probable cause? 2) Did the trial court err in denying petitioner's motion to suppress the fruits of a search conducted pursuant to the warrant? 3) If the warrant-issuing judges did not have a substantial basis for finding probable cause, did police nonetheless rely on the warrants in good faith?

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[t=default+frontend&output=xml+no+dtd&proxystylesheet=Maryland+Judiciary+Search&rc=1&filter=0&proxycustom=%3CHOME/%3E](http://googleout4.courts.state.md.us/search?t=default+frontend&output=xml+no+dtd&proxystylesheet=Maryland+Judiciary+Search&rc=1&filter=0&proxycustom=%3CHOME/%3E))

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([https://www.youtube.com/channel/UC0W3o0c4l-](https://www.youtube.com/channel/UC0W3o0c4l-UgHS-RG8nqMCO)

[UgHS-RG8nqMCO](https://www.youtube.com/channel/UC0W3o0c4l-UgHS-RG8nqMCO))



(<http://www.mdcourts.gov/rss.xml.html>)



(<https://twitter.com/MDJudiciary>)



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 31, 2017

NOTICE OF REASSIGNMENT – DAY 2

IN THE MATTER OF: Seminary Galleria, LLC
1407 York Road
16-106-A 9th Election District; 3rd Councilmanic District

Re: Petition for Variance relief from Section 450.4, Attachment 1 of the BCZR to:
1) From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with a sign copy a minimum of 3" in height in lieu of the permitted 5 lines of text and required 8" in height for sign copy (Sign No. 2); and
2) From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

2/26/16 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was GRANTED.

This matter was assigned for Thursday, January 26, 2017 and was postponed. By agreement of Counsel it has been

REASSIGNED FOR: WEDNESDAY, APRIL 5, 2017, AT ^{9:00}~~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. Parties should consider the advisability of retaining an attorney.
 - Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
 - 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.
- NEW!** Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- NEW!** Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington, Administrator

Notice of Reassignment – ~~Exhibit~~ 2
In the matter of Seminary Galleria, LLC
Case No: 16-106-A
January 31, 2017
Page 2

c:	Counsel for Petitioner Petitioner	: David H. Karceski, Esquire : Seminary Galleria, LLC c/o Anthony Giulio, General Manager
	Counsel for Protestants/Appellants Protestants/Appellants	: J. Carroll Holzer, Esquire : Dulaney Valley Improvement Association, Inc. and Maxwell Collins, II, Esquire
	Office of People's Counsel/Appellant	: Carole S. Demilio, Esquire/Deputy People's Counsel
	Lori Kapraun, Property Manager/Hill Management	Robert Cordes, M.D. Michael Pierce
	Lawrence M. Stahl, Managing Administrative Law Judge Arnold Jablon, Director/PAI Nancy West, Assistant County Attorney	Andrea Van Arsdale, Director/Department of Planning Michael Field, County Attorney, Office of Law

Krysundra Cannington

From: Krysundra Cannington
Sent: Wednesday, March 29, 2017 3:11 PM
To: 'Carroll Holzer'
Cc: Rosenblatt, Adam M.; Carole Demilio; Karceski, David H.; Rebecca Wheatley
Subject: RE: Seminary Galleria, LLC April 5

Counsel,

Please be advised we will begin the hearing at 9:00 on Wednesday, April 5, 2017. Additionally, in light of the previously mentioned term expiration, we will need to hold the public deliberation before the end of the month of April. Therefore, at the conclusion of this matter on April 5th, closing memoranda will be due on April 12, 2017 by 3:00 p.m.

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
410-887-3180

From: Carroll Holzer [mailto:jcholzer38@gmail.com]
Sent: Wednesday, March 29, 2017 2:15 PM
To: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Cc: Rosenblatt, Adam M. <AMRosenblatt@venable.com>; Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Karceski, David H. <DKarceski@venable.com>
Subject: Re: Seminary Galleria, LLC January 26, 2017

Folks
I prefer 8:30 am as start time.
Carroll

On Wed, Mar 29, 2017 at 2:00 PM, Rebecca Wheatley <rwheatley@baltimorecountymd.gov> wrote:

The early start works for our office as well.

Rebecca Wheatley, Legal Secretary

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Wednesday, March 29, 2017 2:15 PM
To: Rebecca Wheatley
Cc: Rosenblatt, Adam M.; Krysundra Cannington; Carole Demilio; Karceski, David H.
Subject: Re: Seminary Galleria, LLC January 26, 2017

Folks

I prefer 8:30 am as start time.

Carroll

On Wed, Mar 29, 2017 at 2:00 PM, Rebecca Wheatley <rwheatley@baltimorecountymd.gov> wrote:

The early start works for our office as well.

Rebecca Wheatley, Legal Secretary

People's Counsel for Baltimore County

105 West Chesapeake Avenue, Suite 204

Towson, Maryland 21204

(410) 887-2189 Direct Dial

(410) 887-2188 Office

(410) 823-4236 Fax

From: Rosenblatt, Adam M. [mailto:AMRosenblatt@Venable.com]
Sent: Wednesday, March 29, 2017 2:00 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Karceski, David H. <DKarceski@Venable.com>
Cc: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Seminary Galleria, LLC January 26, 2017

The early start, either 8:30 or 9:00, will work for our team.

Krysundra Cannington

From: Rebecca Wheatley
Sent: Wednesday, March 29, 2017 2:01 PM
To: Rosenblatt, Adam M.; Krysundra Cannington; Carroll Holzer; Carole Demilio; Karceski, David H.
Subject: RE: Seminary Galleria, LLC January 26, 2017

The early start works for our office as well.

Rebecca Wheatley, Legal Secretary
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2189 Direct Dial
(410) 887-2188 Office
(410) 823-4236 Fax

From: Rosenblatt, Adam M. [mailto:AMRosenblatt@Venable.com]
Sent: Wednesday, March 29, 2017 2:00 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Karceski, David H. <DKarceski@Venable.com>
Cc: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Seminary Galleria, LLC January 26, 2017

The early start, either 8:30 or 9:00, will work for our team.

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

AMRosenblatt@Venable.com | http://secure-web.cisco.com/14rluWyAXzQZjyKZ_ aiGpzBkqN0kY5XJN83esLObN9cumU5yJBxijEYEWljoclcNjt6SelHVetDAfxu_84_gsGOXpglCQLq7rIrZluhJXkZM6ZkeD0XFaxDGCUL2SvpxUXnp_1IJjpa9YnvDjw5MS9BoMI9S9w2ZUVg6Oy1F-Y8ODk2m2--rMHpvoWnldR7HhmoNsM3hLNwTWvvjkLU0YYd01boAsLdxFLywiHqNfL9h71EiaNzK1rHfg4nLiYGXFfJZFcFZJWbdhjJVC2H2FP17G7Ehhqrn70TwLlvhHTw-xcDX2wYWzs0AloLylxuom4gBIYW3GkGGZcwTLDm_n2Nerna2Zw65QPrWvleluwkqN1Kvmj1aNLyCJgeckKOeW_UEDtFfbwvce99ZqwATtDYYZPg60RsGXrEQaHogYS6OI3QdGV7KbA9SI7dAzytoN29bAz1qtlrOc3xp5I3g/http%3A%2F%2Fwww.Venable.com

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Wednesday, March 29, 2017 1:15 PM
To: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>; Carroll Holzer <jcholzer38@gmail.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Karceski, David H. <DKarceski@Venable.com>
Cc: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Seminary Galleria, LLC January 26, 2017

Counsel,

The Board is concerned about the possibility of postponing this matter. As you may be aware, Panel Member Ben Alston is up for reappointment. His term expires April 30, 2017.

Krysundra Cannington

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Wednesday, March 29, 2017 2:00 PM
To: Krysundra Cannington; Carroll Holzer; Carole Demilio; Karceski, David H.
Cc: Rebecca Wheatley
Subject: RE: Seminary Galleria, LLC January 26, 2017

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210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

AMRosenblatt@Venable.com | http://secure-web.cisco.com/13i3iOeLbERN4dL_Qc4bdHIT7YIzfDEC6Ddrp03RvMavabLTBZ1YyULaEolpEJrOUqONEI3aQ-YNxfqKAGr9mS3YrQ6nviECHmVJ_hVL52iLBYTilIqvr0siFgo6PKYxlYc6NI7IJ6PrP4rubTrLRrouY6Qz4LH9kdKHMr2o0wAhVM3KuaU0q9Mz9OEUEAw33bkOGUMXwSViKa7IWtVa4Usx121gaFOkHX3Klg40BXcsSQzWjs4tYkzaC0bSo6E6DzDjZk2fewSqckDUz88QH6FOq65eir9L0ZDyJ8L2fu8fB6yRqePLGznDeDnYKT4GfU5iCeKVI0I6BQgQZii_Robvg2Z7pDUA8rUrpHSIqNEgRRJ5zIzGJp_lve84bgySpWkDQPdh4UPJpE6B5H36aHWAtXad2bapFZNUrySMFWb7Gm3F661m0q2ZnImceqcdFoUjSfFR8IEi5SP6xtUMxQ/http%3A%2F%2Fwww.Venable.com

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If I remember correctly, this is a day 2 and no one anticipates having this matter last the full day. The Board has suggested that we start early on April 5th, at 8:30 or 9:00 a.m. to allow enough time for this matter to conclude and allow Mr. Holzer to make it to the Circuit Court for Baltimore City before 2:00 p.m.

Please advise immediately if you have any objection to holding the hearing from 8:30 or 9:00 a.m. to 12:00 or 12:30 p.m.

Thank you for your attention and cooperation in this matter.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

Krysundra Cannington

From: Krysundra Cannington
Sent: Wednesday, March 29, 2017 1:15 PM
To: 'Rosenblatt, Adam M.'; Carroll Holzer; Carole Demilio; Karceski, David H.
Cc: Rebecca Wheatley
Subject: RE: Seminary Galleria, LLC January 26, 2017

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The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
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Confidentiality Statement

This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

From: Rosenblatt, Adam M. [mailto:AMRosenblatt@Venable.com]
Sent: Wednesday, March 29, 2017 11:03 AM
To: Carroll Holzer <jcholzer38@gmail.com>; Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Karceski, David H. <DKarceski@Venable.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Seminary Galleria, LLC January 26, 2017

Krysundra Cannington

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Wednesday, March 29, 2017 11:03 AM
To: Carroll Holzer; Krysundra Cannington
Cc: Karceski, David H.; Carole Demilio; Rebecca Wheatley
Subject: RE: Seminary Galleria, LLC January 26, 2017

Ms. Cannington,

We are writing to oppose Mr. Holzer's request to postpone this matter, which is currently set for April 5. If you recall, this case has been postponed numerous times, including at least one time because Mr. Holzer had a scheduling conflict, one time because Ms. Demilio was sick, and most recently due to a scheduling conflict with a Board member. The April 5 hearing date was set on January 31, and we are just now receiving this postponement request seven (7) days before the scheduled hearing.

Rule 2.c of the Rules of Practice and Procedure of the Baltimore County Board of Appeals states as follows:

No postponement shall be granted within fifteen (15) days prior to the hearing date except in extraordinary circumstances and for a reason satisfactory to the board, given by the party requesting such postponement indicating that the circumstances requiring the postponement are of an unusual and ordinary nature.

While Mr. Holzer has indicated that the Circuit Court did not check with him before scheduling a conflicting hearing on April 5, the appropriate action now would be to explain to the Court that he is already scheduled to be in a hearing that day and needs to reschedule the Circuit Court case. The Petitioners are experiencing a hardship as they are unable to lease a portion of their shopping center without utilizing the sign that is at issue in this case, and postponing this matter any further would cause additional prejudice to the Petitioners. Additionally, this case has already had one hearing date, and the passing of time is making it extremely difficult for the attorneys to present the case and for the Board members to retain the information that was presented many months ago.

We would greatly appreciate the Board keeping the April 5 hearing date so that we can present the remaining testimony in this case. Thank you for your time and consideration.

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
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From: Carroll Holzer [mailto:jcholzer38@gmail.com]
Sent: Tuesday, March 28, 2017 12:46 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>; Karceski, David H. <DKarceski@Venable.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: Re: Seminary Galleria, LLC January 26, 2017

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Tuesday, March 28, 2017 12:46 PM
To: Krysundra Cannington
Cc: Rosenblatt, Adam M.; Karceski, David H.; Carole Demilio; Rebecca Wheatley
Subject: Re: Seminary Galleria, LLC January 26, 2017
Attachments: Joan's Circuit Ct Hearing_2017_03_27_22_57_56_656.pdf

Sunny

Sterling just got off the phone with Tammy. He was going over the trial schedule and noticed that late last week we got a Notice of a Hearing at the Circuit Court for Baltimore City for April 5. This is a complex case involving an Open Meetings issue. Since the time that I said that April 5 was open, the City Circuit Court set in Case No. 24-C-17-000244 without asking if the calendar were open.

Therefore, I respectfully request that the April 5 hearing be postponed. I am available the week of April 25 and May 2, 2017. I will be in Florida April 7 thru April 23. I regret any inconvenience.

Respectfully,
Carroll

On Mon, Jan 30, 2017 at 11:17 AM, Krysundra Cannington <kcannington@baltimorecountymd.gov> wrote:

Good morning,

Please be advised the following dates are currently available for the Seminary Galleria matter. March 2, April 5, 6, 11, and 12.

Please advise as soon as possible regarding your availability.

Thank you in advance for your prompt responses.

10:12 - Adam 3/29/17
Rosenblatt
responding in
writing

Galleria

CIRCUIT COURT FOR BALTIMORE CITY

Marilyn Bentley
Clerk of the Circuit Court
Courthouse East
111 North Calvert Street - Room 462
Baltimore, MD 21202-
410-333-3722, TTY for Deaf: (410)-333-4389

J Carroll Holzer Esq
Holzer And Lee
The 508 Building
508 Fairmount Avenue
Towson MD 21286-5448

NOTICE OF MOTIONS HEARING

IN RE: Joan L. Floyd, Et Al Vs Baltimore City Council
Case No: 24-C-17-000244 OC Old Case No:
C I V I L

The above-referenced case has been assigned for

Motion Hearing (Civil)

on April 5, 2017 at the following time and place:

Time: 02:00PM
Room: 528
Place: Courthouse East
111 North Calvert Street
Baltimore MD, 21202-

Counsel must notify all necessary parties to appear at the time and place described above.

Please note that the time allotted for motions hearings shall not exceed one-half hour. If it is expected that hearing will take more than one half hour, please notify the assignment office at (410) 333-3755.

There will be no court reporter present at the motions hearing unless specifically requested. Although many courtrooms have electronic recording equipment available, you should contact the office of the court reporter at (410) 396-5010 if you anticipate the need for a transcript.

Any request for accommodation under the Americans With Disabilities Act should be directed to the Administrative Office of the Circuit Court for Baltimore City by calling (410) 396-5188, or TTY for hearing impaired: (410) 396-4930.

Requests for postponements are heard daily at 1:45 p.m. in Room 231 Courthouse East, 111 North Calvert Street.

****THIS NOTICE OF THE DATE, TIME AND LOCATION OF THE EVENT
SUPERSEDES ALL PREVIOUS NOTICES****

Date Issued: 03/23/17 (Batch)

Krysundra Cannington

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Tuesday, January 17, 2017 4:23 PM
To: Krysundra Cannington
Subject: RE: Seminary Galleria - Day 2
Attachments: 14590336-v1-Response Letter to Board of Appeals (Seminary Galleria).PDF

Hi Sunny,

I am attaching our letter responding to Carol Demilio's letter. As I will likely miss you if I try to walk over now, I will bring you a hard copy tomorrow. I have emailed the letter to all opposing counsel as well.

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

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From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, November 17, 2016 8:35 AM
To: J. Carroll Holzer, Esquire (jcholzer38@gmail.com) <jcholzer38@gmail.com>
Cc: Karceski, David H. <DKarceski@Venable.com>; Rosenblatt, Adam M. <AMRosenblatt@Venable.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Subject: Seminary Galleria - Day 2

Good morning Mr. Holzer,

I hope you are feeling better today. After the hearing yesterday, I briefly discussed dates for day 2 with Ms. Demilio, Mr. Karceski, and Mr. Rosenblatt. I then discussed those dates with the Board. The dates currently available for Day 2 of the Seminary Galleria variance request are:

January 18, 25, 26, and February 1, 2017.

As always the hearing would begin at 10:00 a.m.

Please let me know as soon as possible if these dates work for you.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County

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January 17, 2017

Hand-Delivered

Maureen Murphy, Chair
Baltimore County Board of Appeals
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

Re: Seminary Galleria, LLC
Location: 1407, 1411, 1419, 1421, 1443, 1447 York Road
Case No.: 2016-106-A

Dear Ms. Murphy:

We are writing to respond to the January 9, 2017 letter from Deputy People's Counsel concerning the need to prove uniqueness as part of the above-referenced variance petition.

As you may recall, the Administrative Law Judge ("ALJ") approved variances for two (2) freestanding signs last year on the same property that is the subject of this second variance case. At the first hearing, the Board held that, because there was a recent, final order determining that the property is unique for purposes of evaluating sign variances, the Petitioners did not have to again prove uniqueness in this case. Protestants' counsel and People's Counsel were given several opportunities to explain to the Board why they believed that uniqueness was any different in this case than it was in the case in which the ALJ approved the sign variances last year, and they were unable to explain a single difference that could persuade this Board to reach a different conclusion. Now, relying on a recent Court of Special Appeals case, People's Counsel again asks the Board to hold that the Petitioners must prove uniqueness in this case.

While the case cited by People's Counsel is distinguishable (the Court determined that because "compatibility" was a factor in the case, and neighborhoods change over time, the prior administrative finding was stale and needed to be reevaluated in that case), it may actually be easier and more efficient for all parties to simply put on evidence of uniqueness when this case reconvenes on January 26, 2017. A seemingly simple variance case has turned into a complex matter in which the Protestants intend to argue principles of res judicata and potential violations of the Open Meetings Act stemming from the Board's decision not to require the Petitioners to

January 17, 2017

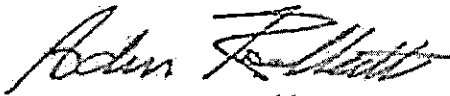
Page 2

again prove uniqueness in this case. These issues could all be mooted by presenting evidence of uniqueness.

While we greatly appreciate the Board's willingness to make a legal ruling with respect to uniqueness in an attempt to expedite this matter, we believe that the issue can be resolved through the testimony of one (1) witness on January 26, which should only take approximately ten (10) minutes beyond what the witness was already planning to explain to the Board. Accordingly, in the interest of simplifying the legal issues in this case, the Petitioners are willing to present evidence and to have the Board make a legal ruling as to the uniqueness of the property as it relates to the sign variance in this case.

Thank you again for your time and consideration.

Very truly yours,



Adam M. Rosenblatt
David H. Karceski

cc: Carole S. Demilio, Esq.
J. Carroll Holzer, Esq.



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

January 9, 2017

HAND-DELIVERED
Maureen Murphy, Chair
County Board of Appeals of Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204



Re: Seminary Galleria, LLC
1411, 1419, 1421, 1433, 1447, 1407 York Road
Case No.: 2016-106-A

Dear Ms. Murphy:

I am writing to ask reconsideration of your interlocutory ruling in the aforementioned case. You will recall you raised the application of *res judicata* in favor of the property owner. The CBA ruled that Administrative Judge Beverungen's finding of uniqueness of the site to support granting a different variance applied to the current variance request. In other words, the CBA held the site is unique for the current variance request for a third joint identification sign. We adamantly disagreed that *res judicata* applies in this fashion in this case.

The Court of Special Appeals (J. Kehoe) issued a recent decision (Forks of the Patuxent v. Nat'l Waste Mgrs. 230 Md. App. 349 (2016), attached, which held that *res judicata* can apply to cases where the prior zoning relief was DENIED but does not apply in a subsequent variance request where the prior application was GRANTED. In Forks on page 372, Judge Kehoe explained *res judicata* does not relieve the Petitioner of its burden of proof of all the elements where a prior variance was granted for the same site. Referring to cases cited by the Petitioner, the Court stated:

"In its cross-appeal, National argues that the Board's decision constitutes an "impermissible change of mind" from the prior decisions of the Board. We do not agree.

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The cases cited by National—*Gerachis v. Montgomery County Board of Appeals*, 261 Md. 153, 156, 274 A.2d 379 (1971); *Whittle v. Board of Zoning Appeals*, 211 Md. 36, 49–50, 125 A.2d 41 (1956); *Polinger v. Briefs*, 244 Md. 538, 541, 224 A.2d 460 (1966); and *Surkovich v. Doub*, 258 Md. 263, 274–75, 265 A.2d 447 (1970)—stand for the proposition that if a zoning board denies an application, the principle of administrative res judicata bars the board from subsequently granting an identical application absent a showing of changed circumstances. *See, e.g., Gerachis*, 261 Md. at 156, 274 A.2d 379.¹⁶

These cases all involve situations in which the initial application was *denied*. In this case, the initial applications were *granted*. National points no case holding that administrative res judicata applies to such cases. Moreover, its argument overlooks the fact that additional evidence was presented to the Board in this case by both parties.”

We argued *res judicata* does not apply because the current case is for a difference variance than those granted by the ALJ. This also comports with Judge Kehoe’s recognition that presentation of additional significant evidence prevents application of *res judicata*.

In light of this case, we request reconsideration of the Board’s ruling and a reversal of its finding that Petitioner need not prove uniqueness in the current case. Also, I believe the issue of open meetings violation raised by Mr. Holzer would be moot if the interlocutory order is reversed. We are raising this issue between hearing dates in the interest of judiciary efficiency and fairness to the Petitioner’s attorneys to afford them the opportunity to present their evidence on the merits at this hearing.

There is no dispute that in a *de novo* hearing, the Petitioner has the burden of proof. We maintain our position on the merits of the Petition: the variance should be denied, the site is not unique and no practical difficulty exists. We are prepared to present those arguments to the CBA on January 26th.

Thank you for your attention to this matter.

Very truly yours,



Carole S. Demilio

Deputy People’s Counsel for Baltimore County

CSD/rmw

cc: J. Carroll Holzer, Esquire
David Karceski, Esquire
Adam Rosenblatt, Esquire

230 Md.App. 349
Court of Special Appeals of Maryland.

Forks of the Patuxent Improvement
Association, Inc., et al.
v.
National Waste Managers/Chesapeake Terrace

No. 361, Sept. Term, 2015

October 25, 2016

Synopsis

Background: Landowner sought judicial review of county board of appeals' decision denying landowner's application for variance to extend time period for obtaining construction permits for landfill. The Circuit Court, Anne Arundel County, vacated the board's decision. Association opposed to application appealed, and landowner cross-appealed.

Holdings: The Court of Special Appeals, Kehoe, J., held that:

[1] board's evenly divided vote constituted a denial of application;

[2] any lack of diligence by landowner was insufficient basis for denial;

[3] board improperly applied requirement that it grant only minimum variance required;

[4] board improperly applied requirement that variance not substantially impair the appropriate use or development of surrounding properties; and

[5] board was not barred from denying application based on administrative res judicata.

Vacated and remanded.

West Headnotes (8)

[1] **Administrative Law and Procedure**

◊ **Scope**

When the Court of Special Appeals reviews the final decision of an administrative agency, it looks through the trial court's decision, and, although applying the same standards of review, independently evaluates the agency decision.

Cases that cite this headnote

[2] **Administrative Law and Procedure**

◊ **Substantial evidence**

Administrative Law and Procedure
◊ **Law questions in general**

In reviewing a final decision of an administrative agency, the Court of Special Appeals' review is limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions and if the administrative decision is premised upon an erroneous conclusion of law.

Cases that cite this headnote

[3] **Administrative Law and Procedure**

◊ **Theory and grounds of administrative decision**

A reviewing court may not uphold an agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.

Cases that cite this headnote

[4] **Zoning and Planning**

◊ **Voting; bias and disqualification**

County board of appeals' evenly divided vote on landowner's application for variance to extend time period for obtaining construction permits for landfill constituted a denial of the application; evenly divided board decision

demonstrated that landowner did not satisfy its burden of proof on all questions of fact.

Cases that cite this headnote

[5] **Zoning and Planning**

◊ **Landfills and waste disposal; junkyards**

Any lack of diligence on part of landowner in obtaining construction permits for landfill was insufficient basis for county board of appeals to conclude that landowner did not face unnecessary hardship, as ground for issuance of new variance to extend time period for obtaining permits; diligence was relevant only if landowner could have obtained permits during two-year period of landowner's prior variance if it had acted diligently, but prevailing faction of board did not address the issue.

Cases that cite this headnote

[6] **Zoning and Planning**

◊ **Landfills and waste disposal; junkyards**

County board of appeals improperly applied zoning requirement that the board grant only the minimum variance necessary to afford relief in determining that landowner was not entitled to renewed variance for two-year extension of period for obtaining construction permits for landfill because permitting process could not be completed within two years; requirement precluded board from granting more relief than necessary, rather than precluding relief if more time was necessary to complete permitting process than was requested for variance.

Cases that cite this headnote

[7] **Zoning and Planning**

◊ **Landfills and waste disposal; junkyards**

County board of appeals improperly applied zoning requirement that a variance not substantially impair the appropriate use or development of surrounding properties in denying landowner's request for variance to extend time period for obtaining construction

permits for landfill because lengthy pendency of application for construction of the landfill created uncertainty among neighboring property owners; uncertainty was not, by itself, a sufficient basis to deny variance, but rather proper analysis was whether proposed use of project site as landfill was incompatible with surrounding neighborhood as it existed at the time.

Cases that cite this headnote

[8] **Zoning and Planning**

◊ **Effect of determination; res judicata and collateral estoppel**

County board of appeals was not barred, based on principle of administrative res judicata, from denying landowner's application for variance to extend time period for obtaining construction permits for landfill based on fact that board had granted landowner's applications for variance in the past; the principle generally applied the reverse scenario, where past applications were denied, and then subsequent application was granted without showing of changed circumstances, and, in any event, additional evidence was presented by both landowner and opposing parties at hearing that resulted in denial of landowner's application.

Cases that cite this headnote

*38 Appeal from the Circuit Court for Anne Arundel County, Paul G. Goetzke, Judge

Attorneys and Law Firms

Argued by: P. Tyson Bennett (Carney, Kelchan, Bresler, Bennett & Scherr, LLP on the brief) all of Annapolis, MD, for Appellant.

Argued by: Susanne K. Henly & Steven P. Resnick both of Annapolis, MD and both on the brief, for Appellee.

Krauser, C. J., Kehoe, Leahy, JJ.

Opinion

Opinion by Kehoe, J.

This judicial review action is the latest episode of a prolonged effort by National Waste Managers/Chesapeake Terrace ("National") to construct and operate a rubble landfill on a large tract of land near Odenton, Maryland. In 2013, National applied for a variance to extend the time period for obtaining construction permits for the project. The variance application found its way to the Anne Arundel County Board of Appeals. The Forks of the Patuxent Improvement Association, Inc. (the "Association"), as well as several individuals, opposed the variance.

Four members of the Board participated in the hearing. After the hearing, the Board was evenly divided: two members of the Board (the "Approving Members") were in favor of granting the application and two members (the "Denying Members") voted to deny it. The Board concluded that the evenly-divided vote constituted a denial and entered an administrative order to that effect.

National filed a petition for judicial review in the Circuit Court for Anne Arundel County. The court concluded that: (1) the evenly-divided Board decision had the effect of denying the application; (2) the court's focus should be on the reasoning and findings of the Denying Members because their decision was dispositive on the application; and (3) the Denying Members applied erroneous standards to the evidence. The court set out its view of the appropriate legal standards, vacated the Board's decision, and remanded the matter to the Board for further proceedings consistent with its opinion.

The Association¹ appealed the court's judgment and poses one issue, which we have re-worded:

*39 Did the Board's evenly-divided 2-2 vote constitute a denial of National's application for a variance?

National filed a cross-appeal and presents three questions, which we have consolidated and re-phrased:

Did the circuit court err in vacating and remanding the Board of Appeals' decision rather than

reversing the Board's decision and ordering the Board to approve the variance application?

As we will explain, we agree with the circuit court's conclusions that the case must be remanded but see the relevant legal issues somewhat differently than did the circuit court and the members of the Board. Therefore, we will vacate the court's judgment and remand this case for further proceedings consistent with this opinion.

Background

National owns a 481-acre tract of land in Anne Arundel County (the "Project Site"). In 1993, National applied for and received a special exception and variances from the Board to construct and operate a rubble landfill and a sand and gravel operation on the Project Site. The Board's approval was affirmed by the Court of Appeals in *Halle v. Crofton Civic Ass'n*, 339 Md. 131, 661 A.2d 682 (1995). After obtaining the zoning approval, National had 18 months to obtain a construction permit for the project; if it failed to do so, the special exception would lapse, unless it obtained a variance for an extension of time. See Anne Arundel County Code § 18-16-405.²

In order to obtain a construction permit from the County, National needed a solid waste refuse disposal permit from the Maryland Department of the Environment (the "MDE"). The MDE's review process for such permits consists of five phases. In summary, the phases are as follows:

1. Phase I centers on gathering basic information, such as the project's intended objectives, location, etc. This phase also gathers and compiles existing data about the site. The MDE circulates this information to various local, State, and Federal agencies for review and comment and to determine whether the site is suitable for the intended use. See COMAR 26.04.07.14.

2. Phase II consists of a hydrogeological investigation. The applicant is required to identify and analyze groundwater and geological conditions on the site. This report is also sent to local, State, and Federal agencies for review and comment. See COMAR 26.04.07.15.

3. Phase III entails engineering design. This phase takes all of the information *40 gathered, especially the hydrogeological information from Phase II, and designs a landfill with these considerations in mind. See COMAR 26.04.07.16.

4. Phase IV is a review stage. The MDE uses this period to review all the information from Phases I-III to ensure that all of the statutory and regulatory requirements have been met. It then begins to prepare any and all documents it will need to present to the public on the proposed permit. During this phase, the MDE also drafts a proposed permit for the site.

5. Phase V is the public comment stage. The MDE advertises and holds a hearing on the draft permit and invites the public to submit comments on the proposal. After the public comments are received, the MDE engages in a final review, and then either issues the permit as is, issues it with modifications, or denies the permit.

National began this process in 1991, in conjunction with its then-pending application for a special exception. In 1994, however, the MDE suspended review because the County had amended its Solid Waste Management Plan to omit any reference to the Project Site.³ Litigation between National and the County on the amendment culminated in National's favor by means of an unreported decision of a panel of this Court in *National Waste Managers, Inc. v. Anne Arundel County*, No. 810, September Term, 1997, filed March 25, 1998 ("*National I*"). The County then took the position that National's special exception permit had lapsed pursuant to a prior version of what is now County Code § 18-16-405. This resulted in another lawsuit, which was also finally resolved in National's favor by our decision in *National Waste Managers, Inc. v. Anne Arundel County*, 135 Md.App. 585, 763 A.2d 264 (2000) ("*National II*").⁴ In *National II*, we held that the 18-month time limit in what is now County Code § 18-16-405 was tolled during the pendency of the litigation between National and the County. *Id.* at 614, 763 A.2d 264.

In 2001, MDE resumed its process of reviewing National's proposal. MDE was unable to complete its review within the 18-month period set out in County Code § 18-16-405.⁵ Therefore, National filed for a variance for an extension of time to begin construction in 2003. In 2004, the variance

was granted. The Board of Appeals found that exceptional circumstances, namely MDE's ongoing review of the Project Site, made it impossible for National to implement the previously approved special exceptions and variances within the allotted time and that an extension of two years was the minimum necessary to afford relief to National.

Between 2004 and 2013, National filed three more variance applications for extensions of time, each based upon assertions that, although it had pursued its permit from MDE with due diligence, the agency had been unable to complete its review and approval process. The Board of Appeals *41 approved the first two variance requests in 2006 and 2011. The extension granted in 2011 expired on January 3, 2013.

In its current variance application, National sought an additional two year extension to obtain the necessary permits. An administrative hearing officer granted the application after a public hearing. The County Code provides that aggrieved persons may appeal an AHO's decision to the Board, which conducts its own *de novo* proceeding. County Code § 18-16-402. Appellants filed such an appeal.

The Board's hearing in this case began on June 6, 2013 and was completed on October 15th of that year. The Board issued an evenly divided 2-2 decision on December 27, 2013. The Approving Members voted to grant the application and the Denying Members voted to deny it. After summarizing the evidence presented to the Board, and explaining the differing conclusions that each group drew from that evidence, the Board concluded:

The legal effect of the inability of the Board to reach a majority is that [National] did not meet [its] burden of persuasion and the request for variances for time extension must be denied. When an appeal of this nature is placed before the Board, it is heard *de novo*, and the burden of proof and persuasion is placed upon [National]. See *Montgomery County Board of Appeals v. Walker*, 228 Md. 574, 180 A.2d 865 (1962); *Lohrmann v. Arundel Corp.*, 65 Md.App. 309, 500 A.2d 344 (1985). If a majority is not persuaded upon substantial

evidence, the application must be denied. *Id.*

National filed a petition for judicial review of the Board's decision in the circuit court. It presented a variety of arguments to the circuit court, but only two of them are relevant to the current appeal: (1) whether the Board's evenly-divided vote had the legal effect of denying National's application; and (2) whether the Denying Members applied the correct legal standard in assessing the evidence. On the first issue, the circuit court concluded that the Board's 2-2 vote constituted a denial of the application. However, on the second issue, the court concluded that the Denying Members relied on an erroneous legal standard. Thus, the court vacated the Board's decision and remanded the case for reconsideration. The Association has appealed, and National cross-appealed, the circuit court's judgment.

Analysis

Standard of Review

[1] [2] [3] When this Court reviews the final decision of an administrative agency, we "look through" the circuit court's decision, and, although applying the same standards of review, independently evaluate the agency decision. *People's Counsel for Baltimore County v. Surina*, 400 Md. 662, 681, 929 A.2d 899 (2007). In this exercise, our review is "limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law." *Id.* at 682, 929 A.2d 899 (citation and quotation marks omitted). Finally, "[a] reviewing Court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency." *Eastern Outdoor Advertising Co. v. Mayor & City Council of Baltimore*, 128 Md.App. 494, 516, 739 A.2d 854 (1999) (quotation marks and citation omitted).

I.

[4] The Association contends that the Board's 2-2 evenly-divided vote on National's application had the legal effect of denying National's variance application. The "42

Association relies on this Court's decision in *Lohrmann v. Arundel Corp.*, 65 Md.App. 309, 500 A.2d 344 (1985) for support. We agree that our prior decision is dispositive as to the legal effect of an evenly-divided decision by an administrative agency.

Lohrmann was not a judicial review proceeding but rather was an appeal from a declaratory judgment to the effect that an evenly-divided decision of the Anne Arundel County Board of Appeals left the decision of the administrative hearing officer in effect. *Id.* at 311-12, 500 A.2d 344. In our analysis, we began by noting that, pursuant to the County's charter, the Board of Appeals exercises original *de novo* jurisdiction over all matters that come before it. *Id.* ⁶ We concluded that, because the Board was exercising original jurisdiction:

[I]t was as though the zoning officer had made no decision. In that situation, [the applicant] had the same burden it had before the zoning officer—"the burden of proof (including the burden of going forward with the evidence and the burden of persuasion) of all questions of fact." [County Code] § 13-341.2(a) *The evenly-divided Board decision demonstrates that it did not meet that burden. Accordingly, the effect of the Board's action was to deny [the applicant's] request for a special exception.*

Lohrmann, 65 Md.App. at 319-20, 500 A.2d 344 (citation omitted, emphasis added).

In its cross-appeal, National asserts that *Lohrmann* is not controlling because "the Court of Appeals on two occasions addressed cases involving 'split votes' in *de novo* appeals to Boards of Appeal, from decisions of zoning hearing officers." National cites *Levy v. Seven Slade, Inc.*, 234 Md. 145, 198 A.2d 267 (1964) and *Stockdale v. Barnard*, 239 Md. 541, 212 A.2d 282 (1965), in support of this proposition. National concedes, however, that the *Lohrmann* Court distinguished both *Levy* and *Stockdale* because in neither case "was an issue raised as to the effect of a split decision on a *de novo* administrative appeal. No doubt for that reason the Court of Appeals did not address that issue, instead of treating the cases as though they involved non-*de novo* appeals." *Lohrmann*, 65 Md.App. at 316 n.3, 500 A.2d 344.

Lohrmann's scholarly and well-reasoned analysis is as cogent today as it was when the opinion was filed more than thirty years ago. We see no reason to

depart from our long-established holding. Because the Denying Members prevailed in rendering their decision on National's application, it is their factual findings and conclusions of law that we will review in determining whether the Board erred in denying the application. See *Mombee TLC, Inc. v. Mayor and City Council of Baltimore*, 165 Md.App. 42, 884 A.2d 748 (2005) ("[N]o principled legal distinction can be drawn between what is required of a prevailing majority in rendering its decision and that which is required of a prevailing minority in imposing its will Therefore, ... just as a prevailing majority must do, a prevailing minority must ... issue findings of fact and conclusions of law.").

We now turn to what is the dispositive issue in this case, namely, whether the Denying Members' decision was supported by a "reasonable basis in fact" and was not arbitrary or capricious.

II.

Our analysis begins with County Code § 3-1-207, which sets out the criteria by "43 which the Board is to decide whether to issue a variance. The statute states in pertinent part:

(a) Generally. The Board of Appeals may vary or modify the provisions of Article 18 of this Code when it is alleged that practical difficulties or unnecessary hardships prevent carrying out the strict letter of that article, provided the spirit of law shall be observed, public safety secured, and substantial justice done. A variance may be granted only upon an affirmative finding that:

(2) because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship, and to enable the applicant to develop the lot.

(c) Required findings. A variance may not be granted under subsection (a) or (b) ⁷¹ unless the Board finds that:

(1) the variance is the minimum variance necessary to afford relief;

(2) the granting of the variance will not:

(i) alter the essential character of the neighborhood or district in which the lot is located;

(ii) substantially impair the appropriate use or development of adjacent property;

(iii) reduce forest cover in the limited and resource conservation areas of the critical area;

(iv) be contrary to acceptable clearing and replanting practices required for development in the critical area or bog protection area; or

(v) be detrimental to the public welfare. ⁸

As the applicant, National "has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact." County Code § 18-16-301.

The Denying Members found that:

(1) there were no "exceptional circumstances that would create practical difficulties or unnecessary hardship for [National] to develop the lot within the time frames previously granted by the Board" because National had not been diligent in pursuing the MDE application;

(2) the two year variance requested by National was insufficient to complete the review process with MDE and obtain final County permits; and

(3) the prolonged uncertainty created by the application, already pending for 12 years, has negatively affected the surrounding community and "[b]y allowing further time extensions, this project, which has no end in sight, will continue to burden this community and alter the essential character and development of the surrounding neighborhoods."

In its brief, the Association asserts that *Lohrmann* requires reversal of the circuit court's judgment because "the evenly-divided Board of Appeals decision means "44 that [National] did not meet its burden of proof or persuasion[.]" For its part, National contends that the

Denying Members' findings were entirely unsupported by evidence in the record, were irrelevant, or both.

In addressing these contentions, we will examine each of the bases that the Denying Members relied on in arriving at their conclusion and in so doing will address: (1) the weight the Board should give to National's "due diligence," or the lack thereof, in deciding whether exceptional circumstances exist that have created practical difficulties for National's development of Project Site; (2) the meaning of the requirement that the variance be the "minimum necessary to afford relief;" and (3) the proper frame of analysis to determine whether granting the variance would either "alter the essential character of the neighborhood," or "substantially impair the appropriate use or development of adjacent property[.]"

Diligence

[5] On January 3, 2011, the Board granted a variance which allowed National two additional years, that is, until January 3, 2013, to obtain the necessary permits. The Denying Members concluded that National failed to demonstrate that it would suffer unnecessary hardship because it had failed to diligently pursue its approvals in this period. The evidence before the Board was mixed.

At the hearing, National called Edward Dexter, the chief of MDE's landfill review program, as a witness. Dexter testified that the period of time MDE took to review landfill applications varied, "but usually ... three to seven [years] is typical." Although his testimony was guarded as to the specifics, Dexter indicated that a previous environmental consultant hired by National to coordinate its application process had not been entirely satisfactory but that National had hired a different consultant shortly after the Board granted the 2011 variance.

Veronica Foster, a registered civil engineer who is the current "team leader" for National's efforts to obtain the MDE permits, testified that the prior team leader retired in 2011 "for a number of reasons, including his health." A letter dated December 20, 2012 from Dexter to National's counsel stated that "[o]ver the last year, ... National has been actively pursuing this application." Foster took charge of the project in January, 2012. Additionally, Dexter testified that National had, "generally speaking," been diligent in pursuing approval since 2001. With

regard to the past two years, Dexter further testified that National had "been aggressively pursuing" the project.

John Fury, a member of the County's planning staff, prepared a report for the Board's use in the variance hearing. The report stated that "[i]t is evident that the applicant has been diligently pursuing project approval through the [MDE] since the original special exception and variance approvals were granted in 1993."

None of this evidence was contradicted or challenged by the opponents to the variance. Even so, the Denying Members were not convinced. Their opinion identified two reasons for their conclusions. First, the Denying Members identified what they saw as a pattern of foot-dragging on National's part in response to requests for additional information from MDE:

[National] received a letter from MDE on March 3, 2011 raising 28 specific items. [National] did not respond until over a year later on March 22, 2012. MDE responded on July 19, 2012 with a request to supplement data from 2004. [National] did not meet with MDE until September 2012 and it took until March *45 1, 2013 to receive approvals to begin the process necessary for [National] to supply MDE with additional information requested.

Second, the Denying Members referenced National's failure to pursue the remaining County permits while MDE's review was on-going.

National had the burden of production and persuasion. Our assessment of the evidence before the Board is that National met its burden of production, but that National's failure to pursue the County permits at the same time as it was seeking the MDE approvals was a basis from which a fact-finder could conceivably conclude that National had not been diligent in pursuing the permits with MDE in 2011.

Nonetheless, the Denying Members' conclusion was problematic because it did not connect any lack of diligence on National's part with the unnecessary hardship

standard under County Code § 3-1-207(a)(2). A lack of diligence in itself is insufficient to conclude that National did not face an unnecessary hardship. A lack of diligence is relevant only if National could have obtained the permits within the 2011–2013 time period if it had acted diligently. The Denying Members did not address this issue.

The Minimum Variance Necessary

[6] The Denying Members concluded that a variance for an additional two years was not the minimum variance necessary to grant relief to National. They reasoned that, if the past is an accurate predictor of the future, National will have neither MDE nor final County approval within two years. Therefore, they reasoned, the application failed to satisfy County Code § 3-1-207(e) (1)'s requirement that the Board grant only the minimum variance necessary to afford relief to the applicant. We disagree with the Denying Members' interpretation of the "minimum variance necessary" requirement and with their application of that statutory standard to the evidence in this case.

We will start with the evidence. Dexter, the MDE official supervising the review of National's application, testified that he anticipated that the MDE would complete its Phase III review in calendar year 2013,⁹ and all of the remaining phases within two years. Veronica Foster, National's land fill design expert and the team leader for the project, agreed. Linton Pumphrey, the Association's expert, testified that the project also required additional permitting from the County and that the County process would take approximately three years. Finally, Fury, the representative of the County's planning staff, testified that he agreed with Pumphrey and that obtaining all necessary permits could take up to four to six additional years. Nonetheless, Fury recommended that any variance granted by the Board be for two years, to be consistent with the Board's prior practices. (Fury's recommendation also had the perhaps not entirely coincidental effect of holding National's feet to the fire with regard to diligently pursuing the necessary permits.) We turn to the applicable law.

Section 3-1-207(a) authorizes the Board to grant variances to alleviate "practical difficulties or unnecessary hardships ... provided the spirit of law shall be observed, public safety secured, and substantial justice done[.]" In

the context of the facts before the Board in this case, the variance can be granted only if there are "exceptional circumstances other than financial *46 considerations[.]" Section 3-1-207(a)(2). If these criteria, as well as the others contained in the statute, are satisfied, then the Board may grant a variance that is the minimum necessary to avoid the "practical difficulties or unnecessary hardship[s]" that have been demonstrated by the applicant. In other words, the "minimum variance necessary" provision prohibits the Board from granting *more* relief than is necessary to avoid the relevant practical difficulty or relevant hardship.

When we apply the appropriate legal test to the evidence before the Board, we conclude that there was no evidence that the permitting process could be completed in less than two years. But the Denying Members turned the statutory standard on its head, concluding that the "minimum necessary" requirement was not satisfied because it was likely that MDE would require *more* than two years to complete its review of the Project Site. This is not the proper frame of analysis, and thus the Denying Members' denial of the variance based on the "minimum necessary" criterion was error.

The Essential Character of the Neighborhood / Impairing the Use and Development of Surrounding Properties / Detrimental to the Public Welfare

[7] The Denying Members concluded that granting "the requested variances to the time limits for the implementation and completion" of the landfill project "will alter the essential character of this neighborhood,"¹⁰ "will substantially impair the appropriate use or development of surrounding properties,"¹¹ and will therefore be "detrimental to the public welfare."¹² Their reasoning for each conclusion was essentially the same (emphasis added):

This community has been evolving and changing in the 20 years since the initial grant of the special exceptions and the variances for this project. As such, the community has been actively awaiting the finalization of this project during that time frame and diligently pursued [its] status[.]. By allowing further time extensions, this project, which has no end in sight, will continue to burden this community and alter the essential character and development of the surrounding neighborhoods.

By allowing further extensions, the development of adjacent properties will continue to be affected as community members and developers of the area wonder whether or not they will eventually live near or adjacent to a landfill.

The time extension will be detrimental to the public welfare.

As we understand the Denying Members' analysis, they concluded that:

(1) the continuing pendency of National's rubble landfill application by itself would alter the essential character of the neighborhood; and

(2) granting the variance—and thus extending the period in which National's application will be pending—would be detrimental to the public welfare because property owners and residents of the surrounding area would remain uncertain as to whether the project will be constructed.

We do not agree with the Denying Members' logic. That the application is pending, by itself, does not change the character of the neighborhood. We doubt that residents' uncertainty as to whether *47 the rubble landfill project will ever be operational is a sufficient basis to deny the application without evidence that the uncertainty has affected property values.

In this context, our predecessors' analysis in the landmark decision of *Anderson v. Sawyer*, 23 Md.App. 612, 613, 329 A.2d 716 (1974), is instructive. In *Anderson*, this Court examined a decision by the Baltimore County Planning Board denying a special exception application to build a funeral home in an area zoned for residential use. At issue was whether the psychologically depressing effect of living next to a funeral home, and the potential effect that a funeral home might have on the value of surrounding properties, was sufficient to deny the application. *Id.* at 624, 329 A.2d 716. We determined that "the bald allegation that a funeral home use is inherently psychologically depressing and adversely influences adjoining property values, as well as other evidence which confirms that generally accepted

conclusion, is insufficient to overcome the presumption that such a use promotes the general welfare of a local community." *Id.* at 625, 329 A.2d 716.

All pending development projects, at least projects as massive as the one proposed by National, create uncertainty among neighboring property owners. Nonetheless, the County Council has authorized the Board to extend the time frame for obtaining permits through the variance process. *Anderson* was a special exception case and this appeal involves a variance, and we recognize that the statutory criteria are somewhat different. Nonetheless, *Anderson's* underlying logic remains pertinent. We conclude that uncertainty created by National's pending application among neighboring property owners is not, by itself, a sufficient basis to deny the variance.

However, we do not agree with the Approving Members' reasoning as to the statutory criterion that the variance must not "alter the essential character of the neighborhood." The Approving Members concluded that it was inappropriate to consider whether the proposed use will adversely impact the surrounding neighborhood (emphasis added, citation omitted):

The granting of the requested variance to the time limits ... will not alter the essential character of this neighborhood. [W]e find that the character of the neighborhood is that of mixed uses that range from rural residential to commercial resources in the Odenton community. The Petitioners have an approved, lawful special exception on this site. The approved use of this property as a sand and gravel operation and a rubble landfill is known within the community and, we believe is part of the character of the community. Our focus here is not on the special exception for the rubble land fill ... but rather, on whether a variance to permit a 2 year extension will change the character of the neighborhood. The current variance does nothing more than give Petitioners additional time to finalize State approval and obtain County permits. Therefore, we do not find that the time extension will alter the essential character of the neighborhood.

The time extension will not be detrimental to the public's welfare. No traffic will result from the grant of the time extension. No impacts to water will result from the grant

of the time extension. ... The variances merely permit the applicant to complete the application process. ... The original 1993 decision determined that these uses have public benefit and are needed. We make no decision on the merit of the underlying special exception and associated variances.

*48 The problem with the Approving Members' analysis is that it treated the variance as an end in itself and overlooked the fact that the purpose of the variance is to permit National to build its project if it eventually obtains the necessary permits.

From our perspective, both the Denying Members and the Approving Members missed the proper frame of analysis for determining whether granting the variance will alter the character of the neighborhood, adversely impact adjacent properties, or be detrimental to the public welfare. The Denying Members noted in their opinion that the "community has been evolving and changing in the 20 years since the initial grant of the special exceptions and variances for this project." The Approving Members, in effect, concluded that changes in the neighborhood were irrelevant. Neither faction of the Board examined whether changes in the community rendered National's proposed use of the Project Site as a rubble landfill incompatible with the surrounding neighborhood as it *currently exists*. We conclude that this is the proper frame of analysis for deciding whether granting the variance will alter or adversely impact the surrounding neighborhood or be detrimental to the public welfare.

Our conclusion is grounded in Maryland case law which requires that a special exception only be granted when the proposed use is compatible with the use and the uses of surrounding properties. As the Court explained in *People's Counsel for Baltimore County v. Loyola College*, 406 Md. 54, 106, 956 A.2d 166 (2008) (emphasis added):

The local legislature, when it determines to adopt or amend the text of a zoning ordinance with regard to designating various uses as allowed only by special exception in various zones, considers in a generic sense that certain adverse effects, at least in type, potentially associated with (inherent to, if you will) these uses are likely to occur wherever in the particular zone they

may be located That is why the uses are designated special exception uses, not permitted uses. The inherent effects notwithstanding, the legislative determination necessarily is that the uses conceptually are compatible in the particular zone with otherwise permitted uses and with surrounding zones and uses already in place, *provided that, at a given location, adduced evidence does not convince the body to whom the power to grant or deny individual applications is given that actual incompatibility would occur.*

The critical importance of compatibility between existing uses and the proposed use is certainly reflected in Anne Arundel County's variance criteria. An incompatible project will "alter the essential character of the neighborhood ... in which the lot is located,"¹³ and will "substantially impair the appropriate use and development of the surrounding property."¹⁴

The reasoning of the Board when it granted National's special exception application in 1993 conformed to this principle. The judicial review proceeding arising out of the Board's grant of National's special exception and variance application in 1993 culminated in *Halle v. Crofton Civic Association*, 339 Md. 131, 661 A.2d 682 (1995). In its opinion affirming the Board's decision, the Court commented:

After three months of deliberation, an on-site visit by the members of the Board to the property, and a review of the record taken as a whole—consisting of more than 2,000 pages of transcribed *49 testimony and voluminous documents—the Board determined that the landfill would advance the public welfare of the County. It recognized the need for the landfill, *concluded that its location was well suited to the use, and determined that the special exception and variance proposals would benefit the vicinal community by reclaiming*

and restoring previously mined ravines and properties "cratered" up to the property line.

Id. at 137, 661 A.2d 682 (emphasis added).

The Approving Members were concerned about the propriety of relitigating the 1993 special exception application in the 2013 variance hearing. But deciding whether the landfill project remains compatible with the surrounding neighborhood is not an attack upon the validity of the Board's 1993 decision. Instead, it is a recognition that a neighborhood may change over time and that a use that was compatible when the special exception was originally granted may no longer be compatible when the variance to extend the time to obtain the permits is sought.

We conclude that the requirements for granting a variance in County Code § 3-1-207 pertaining to the surrounding neighborhood, adjacent properties, and public welfare are intended to ensure that a variance for an extension of time should be granted only if the previously approved special exception use continues to be compatible with the surrounding area. The applicant bears the burden of demonstrating to the Board that its proposed project remains compatible. To the extent that surrounding properties have been developed in ways that may not be compatible with a rubble landfill, the validity of the Board's determination of compatibility is undercut. At some point, the disconnect between what is currently in the neighborhood and what had been in the neighborhood when the permit was granted will become significant enough that it will no longer be appropriate to continue to extend the time for National to obtain its permits. At that point—and sooner or later that point will be reached—it will be necessary for National to start again from scratch. In this regard, National cannot be faulted for any delay prior to 2001 because that delay was the result of unsuccessful legal challenges mounted by the County. *See National II*, 135 Md.App. at 614, 763 A.2d 264. Therefore, the 20 year time-frame used by the Denying Members was inappropriate.

On remand, as part of its analysis of the statutory criteria¹⁵ contained in § 3-1-207(e), the Board must consider whether there have been sufficient actual changes to the neighborhood surrounding the Project Site that occurred during or after 2001 to render National's

special exception no longer compatible with the current established character of the neighborhood.

III.

[8] In its cross-appeal, National argues that the Board's decision constitutes an "impermissible change of mind" from the prior decisions of the Board. We do not agree.

*50 The cases cited by National—*Gerachis v. Montgomery County Board of Appeals*, 261 Md. 153, 156, 274 A.2d 379 (1971); *Whittle v. Board of Zoning Appeals*, 211 Md. 36, 49–50, 125 A.2d 41 (1956); *Polinger v. Briefs*, 244 Md. 538, 541, 224 A.2d 460 (1966); and *Surkovich v. Doub*, 258 Md. 263, 274–75, 265 A.2d 447 (1970)—stand for the proposition that if a zoning board denies an application, the principle of administrative res judicata bars the board from subsequently granting an identical application absent a showing of changed circumstances. *See, e.g., Gerachis*, 261 Md. at 156, 274 A.2d 379.¹⁶

These cases all involve situations in which the initial application was *denied*. In this case, the initial applications were *granted*. National points no case holding that administrative res judicata applies to such cases. Moreover, its argument overlooks the fact that additional evidence was presented to the Board in this case by both parties. Additionally, as we have explained, one of the issues that the Board must address is whether the proposed rubble landfill meets the compatibility criteria of County Code County § 3-1-207(e)(i) and (ii). In that context, administrative findings as to compatibility made in prior variance proceedings years earlier may be stale.

IV.

In conclusion, we hold that:

(1) The Board was correct when it concluded that the evenly-divided vote of its members constituted a denial of National's variance application.

(2) The relevant period to measure National's diligence or lack thereof is 2011–2013, which was the extension period granted by the Board's most recent variance. Furthermore, a finding of a lack of diligence is insufficient to deny a variance; the Board must also find that the

lack of diligence caused an undue delay in MDE's review process.

(3) National's requested relief in the variance application, namely, that the Board allow it two additional years to obtain all required permits, did not violate the "minimum variance necessary" restriction of County Code § 3-1-207. The Denying Members' conclusion to the contrary was legally erroneous.

(4) Both the Denying Members and the Approving Members used incorrect legal analyses to determine whether granting the variance application would change the essential character of the neighborhood, impair the use and development of surrounding properties or otherwise

be detrimental to the public welfare. The proper frame of analysis must take into account whether the special exception remains compatible with the surrounding area as the area has changed since 2001.

THE JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY IS VACATED AND THIS CASE IS REMANDED TO IT IN ORDER FOR THE CIRCUIT COURT TO REMAND THIS CASE TO THE BOARD FOR PROCEEDINGS CONSISTENT WITH THIS OPINION. APPELLEE TO PAY COSTS.

All Citations

230 Md.App. 349, 148 A.3d 36

Footnotes

- Several individuals, Ullis Fleming, Catherine Fleshman, Robert Fleshman, Sr., Diana Lane, Gregory Lane, Andrew Meyer, Sue Ellen Meyer, Michael Murphy, Stacy Murphy, Ann Marie Thomas, and Leon Thomas, also appealed the court's judgment. We gather that they are members of the Association.
- The Anne Arundel County Zoning Ordinance has been amended on numerous occasions in the years since National's application was first granted. Neither party suggests any of these amendments affect the appropriate legal analysis. We will refer to the current version of the County Code.
County Code § 18-16-405 states in pertinent part:
§ 18-16-405. Time period after which variances and special exceptions are void.
(a) Expiration by operation of law. A variance or special exception that is not extended or tolled expires by operation of law unless the applicant within 18 months of the granting of the variance or special exception (1) obtains a building permit or (2) files an application for subdivision. Thereafter, the variance or special exception shall not expire so long as (1) construction proceeds in accordance with the permit
* * * *
(c) Extension by variance. An applicant may file an application for a variance to extend the time periods set forth in subsection (a).
- MDE may not issue a permit for a proposed landfill unless the project is consistent with the county's Solid Waste Management Plan. *See Environmental Law Article § 9-201(a)(3)(ii)*.
- There was additional litigation regarding National's proposed rubble fill. It is described in *National II*, 135 Md.App. at 591–97, 763 A.2d 264.
- Because of the passage of time and changing regulations, MDE required National to perform additional geological and groundwater studies. Evidence before the Board in the current proceeding indicated that obtaining this information took several years.
- Section 603 of the County Charter provides, in pertinent part, that "[a]ll decisions by the County Board of Appeals shall be made after notice and hearing de novo upon the issues before said Board."
- Subsection (b) sets out criteria for variances from the County's critical area and bog protection program.
- The parties do not dispute that the Board has the authority to grant a time variance. *See Lanzaron v. Anne Arundel County*, 402 Md. 140, 143, 935 A.2d 689 (2007) ("We hold that the variance power at issue in this case authorized the Board to issue time variances, and that under the language used here, the general variance power found in Article 3 reaches all provisions in Article 28 of the Anne Arundel County Code (the Zoning Code) except where the general power is restricted by specific language limiting the general variance power.")
- The record indicates that Phase (I) is the most complex and time-consuming stage of MDE's review process.
- Section 3-1-207(e)(2)(i).
- Section 3-1-207(e)(2)(ii).

- 12 Section 3-1-207(e)(2)(v).
- 13 BCC § 3-1-207(e)(2)(i).
- 14 BCC § 3-1-207(e)(2)(ii).
- 15 County Code Section 3-1-207(e) states in pertinent part:
 - (e) Required findings. A variance may not be granted ... unless the Board finds that:
 - (1) the variance is the minimum variance necessary to afford relief;
 - (2) the granting of the variance will not:
 - (i) alter the essential character of the neighborhood or district in which the lot is located;
 - (ii) substantially impair the appropriate use or development of adjacent property;
 - (iii) reduce forest cover in the limited and resource conservation areas of the critical area;
 - (iv) be contrary to acceptable clearing and replanting practices required for development in the critical area or bog protection area; or
 - (v) be detrimental to the public welfare.
- 16 National also cites *Gaywood Ass'n v. Metropolitan Transit Authority*, 246 Md. 93, 227 A.2d 735 (1967), but the relevant issue in *Gaywood Ass'n* was whether a decision by one administrative agency, the Public Service Commission, constituted administrative *res judicata* with regard to an application made to a separate agency, the Metropolitan Transit Authority. *Id.* at 100, 227 A.2d 735. The Court did not resolve the question because it decided the appeal on other grounds. *Id.*

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Monday, January 09, 2017 2:36 PM
To: Krysundra Cannington
Subject: Fwd: Seminary Galleria, LLC - Case No.: 2016-106-A
Attachments: 20170109115902958.pdf

Sunny

Could you please forward this response to Ms. Murphy, Chair of the Board of Appeals?

Ms. Murphy

On behalf of my clients, Dulaney Valley Improvement Assn., and Maxwell Collins, Esq., we wish to adopt and concur with the Office of People's Counsel's letter to you dated Jan. 9, 2017 and the accompanying decision of Forks of the Patuxent v. National Waste Managers, 230 Md App 349 on the issue of res judicata.

Thanks,

Carroll Holzer

----- Forwarded message -----

From: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Date: Mon, Jan 9, 2017 at 12:36 PM
Subject: Seminary Galleria, LLC - Case No.: 2016-106-A
To: "Carroll Holzer (jcholzer38@gmail.com)" <jcholzer38@gmail.com>, "Karciski, David H." <DKarciski@venable.com>, "amrosenblatt@Venable.com" <amrosenblatt@venable.com>

Good Afternoon,

Attached please find the letter our office filed with the Board of Appeals today relating to the above-mentioned case. A hardcopy will follow by U.S. mail.

If you have any trouble viewing the document, please let our office know.

Thank you for your consideration.

Rebecca M. Wheatley, Legal Secretary
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2189 Direct Dial
(410) 887-2188 Office

(410) 823-4236 Fax

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www.baltimorecountymd.gov <<http://www.baltimorecountymd.gov>>

--

Very truly yours,

J. Carroll Holzer

Krysundra Cannington

From: Krysundra Cannington
Sent: Tuesday, January 31, 2017 8:12 AM
To: 'Rosenblatt, Adam M.'; Carroll Holzer
Cc: Karceski, David H.; Carole Demilio; Rebecca Wheatley
Subject: RE: Seminary Galleria, LLC January 26, 2017

Good morning,

April 5th it is. I will get the notice out.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

From: Rosenblatt, Adam M. [mailto:AMRosenblatt@Venable.com]
Sent: Monday, January 30, 2017 5:33 PM
To: Carroll Holzer <jcholzer38@gmail.com>; Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Karceski, David H. <DKarceski@Venable.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Seminary Galleria, LLC January 26, 2017

We are available April 5-6 but would prefer April 5.

Thank you,

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

AMRosenblatt@Venable.com | http://secure-web.cisco.com/19RNEVLgeiEt7K_k9XFvhOh7wjbFqsPbnNGEFnQ6ArkpOOHm_p3ua3TsYO9RmRxxprRVJTVa-cuLR_RVeG0Kfk7VdX0qTxwJtW7wsynC4H7QyrWrpFiAsswRwE6MOjRbENgSA2ZX-qAsH6GPYVFBVKI12BKxqbTmlLHTa_NQhdbotZKG6j4-dsOwAe6n1-sOvVL_3Og4UcFW8DZELzilH9rofXD5lxs1aBWH5IRiC8CPTSbZlxAMoQ9ZdQblgh4XyNQaG-wFB_shbKDsvg4qjViDFfSeDu9D7Atp4_fnlbj90DCBB5pG7jbjMYG7NrZXU9GNJNq1dl60rNWfdWUpnQVYGuZkbWW8RI2iMXYoJ3ljhdml-QgTcU7dUZxXYZzW1srCmcMCPEZuhP13UTfT9mhW8lbmaXtXzZlfoYAnGgBxJFawnPxl6ucShEs-f4zW_hpgOYZJGbsPb37vxplQ/http%3A%2F%2Fwww.Venable.com

From: Carroll Holzer [mailto:jcholzer38@gmail.com]
Sent: Monday, January 30, 2017 3:46 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>; Karceski, David H. <DKarceski@Venable.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: Re: Seminary Galleria, LLC January 26, 2017

Krysundra Cannington

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Monday, January 30, 2017 5:33 PM
To: Carroll Holzer; Krysundra Cannington
Cc: Karceski, David H.; Carole Demilio; Rebecca Wheatley
Subject: RE: Seminary Galleria, LLC January 26, 2017

We are available April 5-6 but would prefer April 5.

Thank you,

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

AMRosenblatt@Venable.com | http://secure-web.cisco.com/19RNEfVLgeiEt7K_k9XFvhOh7wibFqsPbnNGEFnQ6ArkpOOHm_p3ua3TsYO9RmRxxprRVJTVa-cuLR_RVeG0Kfk7VdX0qTxwJtW7wsvnC4H7QyrWrpFiAsswRwE6MOjRbENGSA2ZX-qAsH6GPYVFBVKI12BKxqbTmlLHTa_NQhdbotZKG6j4-dsOwAe6n1-sOvvL_3Og4UcFW8DZELzjIH9rofXD5lxs1aBWH5IRiC8CPTSbZlxAMoQ9ZdQblgh4XyNQaG-wFB_shbKDsvg4qjViDFfSeDu9D7Atp4_fnlbj90DCBB5pG7jbjMYG7NrZXU9GNJNq1dl60rNWfdWUpnQVYGuZkbWW8RI2iMXYoJ3ljhdml-QqTcU7dUZXCXYZzW1srCmcMCPEZuhP13UTft9mhW8lbmaXtXzZlfoYAnGgBxJFawnPxI6ucShEs-tf4zW_hpgOYZJGbsPb37vxplQ/http%3A%2F%2Fwww.Venable.com

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Sent: Monday, January 30, 2017 3:46 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>; Karceski, David H. <DKarceski@Venable.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: Re: Seminary Galleria, LLC January 26, 2017

Folks

Carroll Holzer is not available on March 2 because he will be at a hearing in Calvert County, MD. The April dates are good.

Thanks,

Sterling Leese

On Mon, Jan 30, 2017 at 11:17 AM, Krysundra Cannington <kcannington@baltimorecountymd.gov> wrote:

Good morning,

Please be advised the following dates are currently available to reschedule Day 2 in the Seminary Galleria matter. March 2, April 5, 6, 11, and 12.

Please advise as soon as possible regarding your availability.

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Monday, January 30, 2017 3:46 PM
To: Krysundra Cannington
Cc: Rosenblatt, Adam M.; Karceski, David H.; Carole Demilio; Rebecca Wheatley
Subject: Re: Seminary Galleria, LLC January 26, 2017

Folks

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Thanks,
Sterling Leese

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Please advise as soon as possible regarding your availability.

Thank you in advance for your prompt responses.

Sunny

Krysundra "Sunny" Cannington

Administrator

Board of Appeals of Baltimore County

The Jefferson Building, Suite 203

Krysundra Cannington

From: Rebecca Wheatley
Sent: Monday, January 30, 2017 12:09 PM
To: Krysundra Cannington; Rosenblatt, Adam M.; Karceski, David H.; J. Carroll Holzer, Esquire (jcholzer38@gmail.com); Carole Demilio
Subject: RE: Seminary Galleria, LLC January 26, 2017

Sunny,

As of right now, we are available all of the possible dates.

Rebecca Wheatley, Legal Secretary
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2189 Direct Dial
(410) 887-2188 Office
(410) 823-4236 Fax

From: Krysundra Cannington
Sent: Monday, January 30, 2017 11:17 AM
To: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>; Karceski, David H. <DKarceski@Venable.com>; J. Carroll Holzer, Esquire (jcholzer38@gmail.com) <jcholzer38@gmail.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>
Cc: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Seminary Galleria, LLC January 26, 2017

Good morning,

Please be advised the following dates are currently available to reschedule Day 2 in the Seminary Galleria matter. March 2, April 5, 6, 11, and 12.

Please advise as soon as possible regarding your availability.

Thank you in advance for your prompt responses.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

Confidentiality Statement

Krysundra Cannington

From: Krysundra Cannington
Sent: Monday, January 30, 2017 11:17 AM
To: 'Rosenblatt, Adam M.'; Karceski, David H.; J. Carroll Holzer, Esquire (jcholzer38@gmail.com); Carole Demilio
Cc: Rebecca Wheatley
Subject: RE: Seminary Galleria, LLC January 26, 2017

Good morning,

Please be advised the following dates are currently available to reschedule Day 2 in the Seminary Galleria matter. March 2, April 5, 6, 11, and 12.

Please advise as soon as possible regarding your availability.

Thank you in advance for your prompt responses.

Sunny

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From: Rosenblatt, Adam M. [mailto:AMRosenblatt@Venable.com]
Sent: Wednesday, January 25, 2017 9:44 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Karceski, David H. <DKarceski@Venable.com>; J. Carroll Holzer, Esquire (jcholzer38@gmail.com) <jcholzer38@gmail.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>
Cc: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Seminary Galleria, LLC January 26, 2017

Hi Sunny,

Krysundra Cannington

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Wednesday, January 25, 2017 9:44 AM
To: Krysundra Cannington; Karceski, David H.; J. Carroll Holzer, Esquire (jcholzer38@gmail.com); Carole Demilio
Cc: Rebecca Wheatley
Subject: RE: Seminary Galleria, LLC January 26, 2017

Hi Sunny,

As we have a number of attorneys and witnesses for this case, I am hoping you can email us a list of available dates that we can try to confirm with our teams.

Thank you as always for your assistance,

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

AMRosenblatt@Venable.com | http://secure-web.cisco.com/1FRJd06GyYV3L9LNoLtofAAzD5I7dVTW2bwsNoMUn9iCKtAmz7evtdxuUTDAM5CILDfmSQmA0rtRx2qENsOnwrKTQUZ2L-Bfk_M70pV-YvnFWEJpWiXQjiNmsPnSHw93ghbaYTQ2TnoR1Ow1lSuy3q6J3VUxbC35_tvqo-2e6HwxbufDEKKQfO3N0CrB8DeVW0L8hKpkIzYsxznzc6eXesQOb-o9S5dbQD2Uu6GuKILS3bbqif2NNuenRHESIITIAOIyUj-YR8DZyR-F37FPayu_00M65mBhXyoxDfekZv2-OhlWy4WQ40f9NGEDVNiP4RtCgPL0S5gZWaL8SNhtTA32WXWJ8WvUTbC-O3kpYfJNrS-Zmx-VE7e0iCWKBEV_ZJPnKP_rieNiWMu5yGYOra34HFzDLaOByONx6f4EnTQsqgTDII9_Jw2uIIc-JstYn9KoDzqsU4ZKci2g/http%3A%2F%2Fwww.Venable.com

From: Krysundra Cannington [mailto:kannington@baltimorecountymd.gov]
Sent: Friday, January 20, 2017 9:46 AM
To: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>; Karceski, David H. <DKarceski@Venable.com>; J. Carroll Holzer, Esquire (jcholzer38@gmail.com) <jcholzer38@gmail.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>
Cc: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: Seminary Galleria, LLC January 26, 2017

Good morning Counsel,

I have been advised that one of the Board members has a conflict with the hearing on Thursday, January 26, 2017. Since this is a continuation of a previous day, we have to postpone the hearing. I am working with the Board to determine available dates. In the meantime, attached please find a pdf copy of the Notice of Postponement.

We apologize for the inconvenience. Please do not hesitate to contact me with any questions.

Sunny

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

Krysundra Cannington

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Wednesday, January 25, 2017 9:44 AM
To: Krysundra Cannington; Karceski, David H.; J. Carroll Holzer, Esquire (jcholzer38@gmail.com); Carole Demilio
Cc: Rebecca Wheatley
Subject: RE: Seminary Galleria, LLC January 26, 2017

Hi Sunny,

As we have a number of attorneys and witnesses for this case, I am hoping you can email us a list of available dates that we can try to confirm with our teams.

Thank you as always for your assistance,

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

AMRosenblatt@Venable.com | http://secure-web.cisco.com/1FRJd06GyjYV3LI9LNoL_tofAAzD5I7dVTW2bwsNoMUn9iCKtAmz7evtdxuUTDAM5CILDfmSQmA0rtRx2qENsOnwrKTQUZ2L-Bfk_M70pV-YvnFWEJpWiXOjiNmsPnSHw93ghbaYTQ2TnoR1Ow1ISuy3q6J3VUxbC35_tvqo-2e6HwxbufDEKKQfO3N0CrB8DeVWOL8hKpkIzYsxznzc6eXesQOb-o9S5dbQD2Uu6GuKILS3bbqif2NNuenRHESIITIAOIyUj-YR8DZyR-F37FPayU_00M65mBhXyoxDfekZv2-OhjWy4WQ40f9NGEDVNiPf4RtCgPL0S5gZWaL8SNhtTA32WXWJ8WvUTbC-O3kpYfJNrS-Zmx-VE7e0jCWKBEV_ZJPnKP_rieNiWMu5yGYOra34HFzDLaOByONx6f4EnTQsqgTDII9_Jw2ullC-JstYn9KoDzqsU4ZKci2g/http%3A%2F%2Fwww.Venable.com

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Friday, January 20, 2017 9:46 AM
To: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>; Karceski, David H. <DKarceski@Venable.com>; J. Carroll Holzer, Esquire (jcholzer38@gmail.com) <jcholzer38@gmail.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>
Cc: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: Seminary Galleria, LLC January 26, 2017

Good morning Counsel,

I have been advised that one of the Board members has a conflict with the hearing on Thursday, January 26, 2017. Since this is a continuation of a previous day, we have to postpone the hearing. I am working with the Board to determine available dates. In the meantime, attached please find a pdf copy of the Notice of Postponement.

We apologize for the inconvenience. Please do not hesitate to contact me with any questions.

Sunny

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

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TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

January 20, 2017

NOTICE OF POSTPONEMENT

IN THE MATTER OF: Seminary Galleria, LLC
1407 York Road
16-106-A 9th Election District; 3rd Councilmanic District

Re: Petition for Variance relief from Section 450.4, Attachment 1 of the BCZR to:
1) From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with a sign copy a minimum of 3" in height in lieu of the permitted 5 lines of text and required 8" in height for sign copy (Sign No. 2); and
2) From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

This matter was assigned for Thursday, January 26, 2017 and has been postponed by the Board. This matter will be rescheduled for a later date.

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- 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.

NEW! Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.

NEW! Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information,* including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Petitioner Petitioner	: David H. Karceski, Esquire and Adam Rosenblatt, Esquire : Seminary Galleria, LLC c/o Anthony Giulio, General Manager
Counsel for Protestants/Appellants Protestants/Appellants	: J. Carroll Holzer, Esquire : Dulaney Valley Improvement Association, Inc. and Maxwell Collins, II, Esquire
Office of People's Counsel/Appellant	: Carole S. Demilio, Esquire/Deputy People's Counsel

Notice of Postponement
In the matter of: Seminary Galleria, LLC
Case number: 16-106-A
January 20, 2017
Page 2

Lori Kapraun, Property Manager/Hill Management
Robert Cordes, M.D.
Michael Pierce

Andrea Van Arsdale, Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

Krysundra Cannington

From: Krysundra Cannington
Sent: Friday, January 20, 2017 9:46 AM
To: Adam Rosenblatt Esquire; David Karceski, Esquire; J. Carroll Holzer, Esquire (jcholzer38@gmail.com); Carole Demilio
Cc: Wheatley, Rebecca
Subject: Seminary Galleria, LLC January 26, 2017
Attachments: Notice of Postponement.pdf

Good morning Counsel,

I have been advised that one of the Board members has a conflict with the hearing on Thursday, January 26, 2017. Since this is a continuation of a previous day, we have to postpone the hearing. I am working with the Board to determine available dates. In the meantime, attached please find a pdf copy of the Notice of Postponement.

We apologize for the inconvenience. Please do not hesitate to contact me with any questions.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

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TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

November 18, 2016

NOTICE OF ASSIGNMENT – DAY 2

IN THE MATTER OF: Seminary Galleria, LLC
1407 York Road
16-106-A 9th Election District; 3rd Councilmanic District

Re: Petition for Variance relief from Section 450.4, Attachment 1 of the BCZR to:
1) From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with a sign copy a minimum of 3" in height in lieu of the permitted 5 lines of text and required 8" in height for sign copy (Sign No. 2); and
2) From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

2/26/16 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was GRANTED.

Having not reached a conclusion at the close of the hearing on November 16, 2016, a second hearing date has been

ASSIGNED FOR: **THURSDAY, JANUARY 26, 2017, 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. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
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NEW! Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington, Administrator

Notice of Assignment — 2
In the matter of Seminary Galleria, LLC
Case No: 16-106-A
November 18, 2016
Page 2

c:	Counsel for Petitioner Petitioner	: David H. Karceski, Esquire : Seminary Galleria, LLC c/o Anthony Giulio, General Manager
	Counsel for Protestants/Appellants Protestants/Appellants	: J. Carroll Holzer, Esquire : Dulaney Valley Improvement Association, Inc. and Maxwell Collins, II, Esquire
	Office of People's Counsel/Appellant	: Carole S. Demilio, Esquire/Deputy People's Counsel
	Lori Kapraun, Property Manager/Hill Management	Robert Cordes, M.D. Michael Pierce
	Lawrence M. Stahl, Managing Administrative Law Judge/ Arnold Jablon, Director/PAI Nancy West, Assistant County Attorney	Andrea Van Arsdale, Director/Department of Planning Michael Field, County Attorney, Office of Law

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Thursday, November 17, 2016 1:12 PM
To: Krysundra Cannington
Cc: MRCII
Subject: Re: Seminary Galleria - Day 2

Dear Krysundra:

We are available on **Thursday, January 26, 2017.**

If anything changes, please let me know.

Thank you.

On Thu, Nov 17, 2016 at 8:35 AM, Krysundra Cannington <kcannington@baltimorecountymd.gov> wrote:

Good morning Mr. Holzer,

I hope you are feeling better today. After the hearing yesterday, I briefly discussed dates for day 2 with Ms. Demilio, Mr. Karceski, and Mr. Rosenblatt. I then discussed those dates with the Board. The dates currently available for Day 2 of the Seminary Galleria variance request are:

January 18, 25, 26, and February 1, 2017.

As always the hearing would begin at 10:00 a.m.

Please let me know as soon as possible if these dates work for you.

Thank you,

Sunny

Krysundra "Sunny" Cannington

Administrator

Board of Appeals of Baltimore County

The Jefferson Building, Suite 203

105 W. Chesapeake Avenue

Towson, MD 21204

Phone: 410-887-3180

Fax: 410-887-3182

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--
Very truly yours,



Board of Appeals of Baltimore County

JEFFERSON BUILDING
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TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 24, 2016

NOTICE OF REASSIGNMENT

IN THE MATTER OF: Seminary Galleria, LLC
1407 York Road
16-106-A 9th Election District; 3rd Councilmanic District

Re: Petition for Variance relief from Section 450.4, Attachment 1 of the BCZR to:
1) From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with a sign copy a minimum of 3" in height in lieu of the permitted 5 lines of text and required 8" in height for sign copy (Sign No. 2); and
2) From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

This matter was assigned for Tuesday, August 9, 2016 and was postponed.
By agreement of Counsel it has been

REASSIGNED FOR: **WEDNESDAY, NOVEMBER 16, 2016, 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. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- 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).
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NEW! Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.

NEW! Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

c: See attached Distribution List

Notice of Reassignment
In the matter of: Seminary Galleria, LLC
Case number: 16-106-A
August 24, 2016
Page 2

c:	Counsel for Petitioner Petitioner	: David H. Karceski, Esquire : Seminary Galleria, LLC c/o Anthony Giulio, General Manager
	Counsel for Protestants/Appellants Protestants/Appellants	: J. Carroll Holzer, Esquire : Dulaney Valley Improvement Association, Inc. and Maxwell Collins, II, Esquire
	Office of People's Counsel/Appellant	: Carole S. Demilio, Esquire/Deputy People's Counsel
	Lori Kapraun, Property Manager/Hill Management	Robert Cordes, M.D. Michael Pierce
	Lawrence M. Stahl, Managing Administrative Law Judge Arnold Jablon, Director/PAI Nancy West, Assistant County Attorney	Andrea Van Arsdale, Director/Department of Planning Michael Field, County Attorney, Office of Law

Krysundra Cannington

From: Krysundra Cannington
Sent: Thursday, August 18, 2016 8:30 AM
To: 'Karciski, David H.'; Carole Demilio; Carroll Holzer
Subject: RE: Seminary-Galleria Future Dates

Good morning,

Upon review of your emails it looks like the earliest dates that work for all parties are November 16 and 17.

I will check these dates with the Board and get the Notice out as soon as possible.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

From: Karciski, David H. [mailto:DKarciski@Venable.com]
Sent: Wednesday, August 17, 2016 1:27 PM
To: Carole Demilio <cdemilio@baltimorecountymd.gov>; Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>
Subject: RE: Seminary-Galleria Future Dates

Hello Sunny

As of today, we are available on November 9, 10, 15, 16, and 17.

Thank you,

David

David Karciski, Esq. | Venable LLP
t 410.494.6285 | f 410.821.0147 | m 443.956.7425
Towson: 210 W. Pennsylvania Avenue, Ste. 500, Towson, MD 21204
Baltimore: 750 East Pratt Street, Ste. 900, Baltimore, MD 21201

From: Carole Demilio [mailto:cdemilio@baltimorecountymd.gov]
Sent: Tuesday, August 16, 2016 9:52 AM
To: Karciski, David H. <DKarciski@Venable.com>; Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>
Subject: RE: Seminary-Galleria Future Dates

Krysundra Cannington

From: Karceski, David H. <DKarceski@Venable.com>
Sent: Wednesday, August 17, 2016 1:27 PM
To: Carole Demilio; Krysundra Cannington; Carroll Holzer
Subject: RE: Seminary-Galleria Future Dates

Hello Sunny

As of today, we are available on November 9, 10, 15, 16, and 17.

Thank you,

David

David Karceski, Esq. | Venable LLP
t 410.494.6285 | f 410.821.0147 | m 443.956.7425
Towson: 210 W. Pennsylvania Avenue, Ste. 500, Towson, MD 21204
Baltimore: 750 East Pratt Street, Ste. 900, Baltimore, MD 21201

From: Carole Demilio [mailto:cdemilio@baltimorecountymd.gov]
Sent: Tuesday, August 16, 2016 9:52 AM
To: Karceski, David H. <DKarceski@Venable.com>; Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>
Subject: RE: Seminary-Galleria Future Dates

Sunny,

I have spoken with Ms. Demilio and checked her calendar. The following dates work for her calendar:

Nov. 1, 2, 3, 16, 17 and 29.

Thank you for your consideration.

Rebecca M. Wheatley, Legal Secretary
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2189 Direct Dial
(410) 887-2188 Office
(410) 823-4236 Fax

From: Karceski, David H. [mailto:DKarceski@Venable.com]
Sent: Tuesday, August 16, 2016 8:45 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carole Demilio

<cdemilio@baltimorecountymd.gov>, Carroll Holzer <jcholzer38@gmail.com>

Subject: RE: Seminary-Galleria Future Dates

The other October dates do not work.

I will check on the November dates.

Thank you,

David

From: Krysundra Cannington [<mailto:kcannington@baltimorecountymd.gov>]

Sent: Tuesday, August 16, 2016 8:27 AM

To: Karceski, David H. <DKarceski@Venable.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>

Subject: RE: Seminary-Galleria Future Dates

Good morning,

Did October 25, 26, or 27 work?

If not, you can choose from November 1, 2, 3, 9, 10, 15, 16, 17, 22, 23, or 29.

Please let me know which dates work best.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

From: Karceski, David H. [<mailto:DKarceski@Venable.com>]

Sent: Monday, August 15, 2016 3:57 PM

To: Carole Demilio <cdemilio@baltimorecountymd.gov>; Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>

Subject: RE: Seminary-Galleria Future Dates

Hello Sunny

The 13th of October would have worked for us, but does not for Ms. Demilio. Would you please suggest a few more dates?

Thank you,

David

From: Carole Demilio [<mailto:cdemilio@baltimorecountymd.gov>]
Sent: Monday, August 15, 2016 9:03 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Karceski, David H. <DKarceski@Venable.com>; Carroll Holzer <jcholzer38@gmail.com>
Subject: RE: Seminary-Galleria Future Dates

Good Morning Sunny,

I have spoken with Ms. Demilio and after checking her calendar, she is available October 5, 25, 26, and 27th.

Thank you for your consideration.

Rebecca M. Wheatley, Legal Secretary
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2189 Direct Dial
(410) 887-2188 Office
(410) 823-4236 Fax

From: Krysundra Cannington
Sent: Friday, August 12, 2016 10:43 AM
To: Karceski, David H. <DKarceski@Venable.com>; Carroll Holzer <jcholzer38@gmail.com>
Cc: Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: RE: Seminary-Galleria Future Dates

David,

An email went out first thing this morning. Mr. Holzer is not available the week of October 17th. (He previously provided this information while scheduling another case. I forgot.)

The dates to look at are October 4, 5, 12, 13, 25, 26, and 27. (My calendar shows Rosh Hashanah falls on October 3 and 4 and Yom Kippur is October 12.)

I apologize for the confusion. Please let me know which of these dates work best.

Thank you,

Sunny

From: Karceski, David H. [<mailto:DKarceski@Venable.com>]
Sent: Friday, August 12, 2016 10:30 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>
Cc: Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: RE: Seminary-Galleria Future Dates

Hello Sunny

October 18th and 20th work for my client.

Thanks and have a nice weekend.

David

From: Krysundra Cannington [<mailto:kcannington@baltimorecountymd.gov>]
Sent: Thursday, August 11, 2016 3:42 PM
To: Carroll Holzer <jcholzer38@gmail.com>
Cc: Carole Demilio <cdemilio@baltimorecountymd.gov>; Karceski, David H. <DKarceski@Venable.com>
Subject: RE: Seminary-Galleria Future Dates

Hello Counsel,

It appears none of the September dates work.

We currently have October 18, 19, 20, 25, 26, and 27 available on our calendar.

Please let me know what works best for you.

Thanks,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

From: Carroll Holzer [<mailto:jcholzer38@gmail.com>]
Sent: Thursday, August 11, 2016 1:59 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Carole Demilio <cdemilio@baltimorecountymd.gov>; Karceski, David H. <DKarceski@venable.com>
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Therefore, I suggest setting the hearing(s) in after Oct. 11, 2016.
Respectfully,

Carroll

----- Forwarded message -----

From: **Robert Cordes** <cordesra@comcast.net>

Date: Tue, Aug 9, 2016 at 11:21 AM

Subject: Seminary-Galleria Future Dates

To: Carroll Holzer <jcholzer38@gmail.com>

Cc: Max Collins <collinsagas@aol.com>

Hi Mr. Holzer,

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Sincerely,

Robert A. Cordes, M.D.

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Very truly yours,

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Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Tuesday, August 16, 2016 3:01 PM
To: Krysundra Cannington
Subject: Galleria Dates

Sunny

All the dates you sent us this morning are GOOD except November 10, 2016 on the Seminary Galleria matter.

--

Very truly yours,

J. Carroll Holzer

Krysundra Cannington

From: Carole Demilio
Sent: Tuesday, August 16, 2016 9:52 AM
To: Karceski, David H.; Krysundra Cannington; Carole Demilio; Carroll Holzer
Subject: RE: Seminary-Galleria Future Dates

Sunny,

I have spoken with Ms. Demilio and checked her calendar. The following dates work for her calendar:

Nov. 1, 2, 3, 16, 17 and 29.

Thank you for your consideration.

Rebecca M. Wheatley, Legal Secretary
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2189 Direct Dial
(410) 887-2188 Office
(410) 823-4236 Fax

From: Karceski, David H. [mailto:DKarceski@Venable.com]
Sent: Tuesday, August 16, 2016 8:45 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>
Subject: RE: Seminary-Galleria Future Dates

The other October dates do not work.

I will check on the November dates.

Thank you,

David

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Tuesday, August 16, 2016 8:27 AM
To: Karceski, David H. <DKarceski@Venable.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>
Subject: RE: Seminary-Galleria Future Dates

Good morning,

Did October 25, 26, or 27 work?

If not, you can choose from November 1, 2, 3, 9, 10, 15, 16, 17, 22, 23, or 29.

Please let me know which dates work best.

Sunny

Krysundra "Sunny" Cannington
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410-887-3180

From: Karceski, David H. [<mailto:DKarceski@Venable.com>]
Sent: Monday, August 15, 2016 3:57 PM
To: Carole Demilio <cdemilio@baltimorecountymd.gov>; Krysundra Cannington <kcannington@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>
Subject: RE: Seminary-Galleria Future Dates

Hello Sunny

The 13th of October would have worked for us, but does not for Ms. Demilio. Would you please suggest a few more dates?

Thank you,

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From: Carole Demilio [<mailto:cdemilio@baltimorecountymd.gov>]
Sent: Monday, August 15, 2016 9:03 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Karceski, David H. <DKarceski@Venable.com>; Carroll Holzer <jcholzer38@gmail.com>
Subject: RE: Seminary-Galleria Future Dates

Good Morning Sunny,

I have spoken with Ms. Demilio and after checking her calendar, she is available October 5, 25, 26, and 27th.

Thank you for your consideration.

Rebecca M. Wheatley, Legal Secretary
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2189 Direct Dial

(410) 887-2188 Office
(410) 823-4236 Fax

From: Krysundra Cannington
Sent: Friday, August 12, 2016 10:43 AM
To: Karceski, David H. <DKarceski@Venable.com>; Carroll Holzer <jcholzer38@gmail.com>
Cc: Carole Demilio <cdemilio@baltimorecountymd.gov>
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Subject: RE: Seminary-Galleria Future Dates

Good Morning Sunny,

11:00

Holzer

8/12/16

yes

10/4 & 10/5

10/25, 26 & 27

NO

10/12 & 10/13

11:00

H0136x

8/12/10

294

10/4 2 10/2

10/22 90223

0/1

10/12 2 10/13

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From: Krysundra Cannington
Sent: Friday, August 12, 2016 8:19 AM
To: 'Carroll Holzer'
Cc: David Karceski, Esquire; Carole Demilio
Subject: RE: Seminary-Galleria Future Dates

Carroll - I received your voicemail. Sorry about that, I apparently missed my note that you are out that week.

Counsel,

Can you please check your availability on October 25, 26, and 27. I could also do October 4, 5, 12, or 13. (Rosh Hashanah and Yom Kippur both fall in those dates.)

Sunny

From: Carroll Holzer [mailto:jcholzer38@gmail.com]
Sent: Thursday, August 11, 2016 3:57 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Subject: Re: Seminary-Galleria Future Dates

Sunny
Thanks for the quick response.
Sterling

On Thu, Aug 11, 2016 at 3:41 PM, Krysundra Cannington <kcannington@baltimorecountymd.gov> wrote:

Hello Counsel,

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Board of Appeals of Baltimore County

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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

June 8, 2016

NOTICE OF POSTPONEMENT AND REASSIGNMENT ON THE RECORD APPEAL

IN THE MATTER OF: Seminary Galleria, LLC
1407 York Road
16-106-A 9th Election District; 3rd Councilmanic District

Re: Petition for Variance relief from Section 450.4, Attachment 1 of the BCZR to:
1) From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with a sign copy a minimum of 3" in height in lieu of the permitted 5 lines of text and required 8" in height for sign copy (Sign No. 2); and
2) From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

This matter was assigned for Thursday, July 7, 2016 and has been postponed. It has been

REASSIGNED FOR: TUESDAY, AUGUST 9, 2016, AT 10:00 A.M.

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

NOTICE:

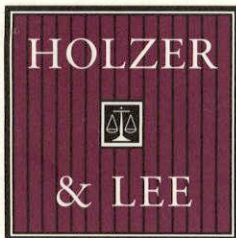
- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
 - Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
 - No postponements will be granted without sufficient reasons; said requests must be in writing 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.
- NEW!** Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- NEW!** Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

**Krysundra "Sunny" Cannington
Administrator**

Notice of Postponement and Reassignment
In the matter of: Seminary Galleria, LLC
Case number: 16-106-A
June 8, 2016
Page 2

c:	Counsel for Petitioner Petitioner	: David H. Karceski, Esquire : Seminary Galleria, LLC c/o Anthony Giulio, General Manager
	Counsel for Protestants/Appellants Protestants/Appellants	: J. Carroll Holzer, Esquire : Dulaney Valley Improvement Association, Inc. and Maxwell Collins, II, Esquire
	Office of People's Counsel/Appellant	: Carole S. Demilio, Esquire/Deputy People's Counsel
	Lori Kapraun, Property Manager/Hill Management	Robert Cordes, M.D. Michael Pierce
	Lawrence M. Stahl, Managing Administrative Law Judge Arnold Jablon, Director/PAI Nancy West, Assistant County Attorney	Andrea Van Arsdale, Director/Department of Planning Michael Field, County Attorney, Office of Law



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

~~XXXXXXXXXXXXXXXXXXXX~~

E-Mail: jcholzer38@gmail.com

June 1, 2016
#8167

RECEIVED
JUN 3 2016

BALTIMORE COUNTY
BOARD OF APPEALS

Ms. Krysundra "Sunny" Cannington
Administrator
Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Second Floor, Suite 203
Towson, Maryland 21204

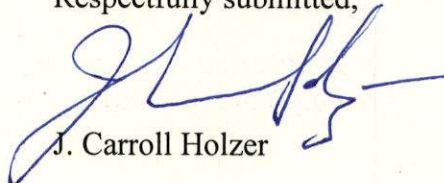
RE: *In the Matter of 16-106-A
Seminary Galleria, LLC
1407 York Road
9th Election District, 3rd Councilmanic District
Petition for Variance
Assigned Date: Thursday, July 7, 2016 at 10:00 a.m.*

Dear Ms. Cannington:

Please be advised that I received a Notice of Hearing from the Circuit Court for Baltimore City *In the Matter of: The Petition of Douglas M. Armstrong, et al.*, Case No.: 24-C-15-006204 AA. Please be advised that the attached Notice of Hearing/Trial scheduled under the Civil Trial – Fast Track for **Thursday, July 7, 2016 at 9:00 a.m.** in the Courthouse East in Baltimore City. This matter has involved the Baltimore City Office of Law, Adam S. Levine, Esquire and Sandra Gutman, Esquire and the Court specially scheduled this case for **Thursday, July 7, 2016 at 10:00 a.m.**

I would therefore request a postponement of the Board's Hearing of Seminary Galleria, LLC, scheduled for the same day, **Thursday, July 7, 2016 at 10:00 a.m.** I will be most happy to work with you and David Karceski, Esquire to promptly reschedule the Board's Hearing of the Seminary Galleria, LLC case.

Respectfully submitted,



J. Carroll Holzer

JCH:mlg

cc: David H. Karceski, Esquire
Carole S. Demilio, Esquire
Mr. Maxwell Collins, II, Esquire



1st 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

April 11, 2016

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Seminary Galleria, LLC
1407 York Road
16-106-A 9th Election District; 3rd Councilmanic District

Re: Petition for Variance relief from Section 450.4, Attachment 1 of the BCZR to:
1) From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with a sign copy a minimum of 3" in height in lieu of the permitted 5 lines of text and required 8" in height for sign copy (Sign No. 2); and
2) From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

2/26/16 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was GRANTED.

ASSIGNED FOR: **THURSDAY, JULY 7, 2016, 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.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Petitioner Petitioner	: David H. Karceski, Esquire : Seminary Galleria, LLC c/o Anthony Giulio, General Manager
Counsel for Protestants/Appellants Protestants/Appellants	: J. Carroll Holzer, Esquire : Dulaney Valley Improvement Association, Inc. and Maxwell Collins, II, Esquire
Office of People's Counsel/Appellant	: Carole S. Demilio, Esquire/Deputy People's Counsel
Lori Kapraun, Property Manager/Hill Management	Robert Cordes, M.D. Michael Pierce
Lawrence M. Stahl, Managing Administrative Law Judge Arnold Jablon, Director/PAI Nancy West, Assistant County Attorney	Andrea Van Arsdale, Director/Department of Planning Michael Field, County Attorney, Office of Law

CIRCUIT COURT FOR BALTIMORE CITY

Lavinia Alexander
Clerk of the Circuit Court
Courthouse East
111 North Calvert Street - Room 462
Baltimore, MD 21202-
410-333-3722 TTY for Deaf: (410)-333-4389

J Carroll Holzer Esq
Holzer And Lee
The 508 Building
508 Fairmount Avenue
Towson MD 21286-5448

NOTICE OF HEARING/TRIAL

IN RE: In the Matter of the Petition of Douglas M Armstrong, et al
Case No: 24-C-15-006204 AA
C I V I L

You are hereby NOTIFIED TO APPEAR in court for

~~Civil/Trial~~ - Fast Track

on July 7, 2016 at the following time and place:

Time: 09:00AM
Room: 403 - Assignment Office
Place: Courthouse East
111 North Calvert Street
Baltimore MD, 21202-

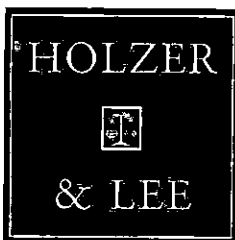
Counsel must notify all necessary parties to appear at the time and place described above.

Any request for accommodation under the Americans With Disabilities Act should be directed to the Administrative Office of the Circuit Court for Baltimore City by calling (410) 396-5188, or TTY for hearing impaired: (410) 396-4930.

Request for postponements are heard daily at 1:45 p.m. in Room 231 Courthouse East, 111 North Calvert Street.

Date Issued: 05/17/16

cc:
CC: Adam S Levine Esq
Sandra Gutman Esq



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

~~XXXXXXXXXXXXXXXXXXXX~~

E-Mail: jcholzer38@gmail.com

June 1, 2016

#8167

Ms. Krysundra "Sunny" Cannington
Administrator
Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Second Floor, Suite 203
Towson, Maryland 21204

RE: *In the Matter of 16-106-A*
Seminary Galleria, LLC
1407 York Road
9th Election District, 3rd Councilmanic District
Petition for Variance
Assigned Date: Thursday, July 7, 2016 at 10:00 a.m.

Dear Ms. Cannington:

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I would therefore request a postponement of the Board's Hearing of Seminary Galleria, LLC, scheduled for the same day, **Thursday, July 7, 2016 at 10:00 a.m.** I will be most happy to work with you and David Karceski, Esquire to promptly reschedule the Board's Hearing of the Seminary Galleria, LLC case.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "J. Carroll Holzer", written over a horizontal line.

J. Carroll Holzer

JCH:mlg

cc: David H. Karceski, Esquire
Carole S. Demilio, Esquire
Mr. Maxwell Collins, II, Esquire



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

April 11, 2016

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Seminary Galleria, LLC
1407 York Road
16-106-A 9th Election District; 3rd Councilmanic District

Re: Petition for Variance relief from Section 450.4, Attachment 1 of the BCZR to:
1) From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with a sign copy a minimum of 3" in height in lieu of the permitted 5 lines of text and required 8" in height for sign copy (Sign No. 2); and
2) From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

2/26/16 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was GRANTED.

ASSIGNED FOR: **THURSDAY, JULY 7, 2016, 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.

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For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Petitioner : David H. Karceski, Esquire
Petitioner : Seminary Galleria, LLC c/o Anthony Giulio, General Manager

Counsel for Protestants/Appellants : J. Carroll Holzer, Esquire
Protestants/Appellants : Dulaney Valley Improvement Association, Inc. and
Maxwell Collins, II, Esquire

Office of People's Counsel/Appellant : Carole S. Demilio, Esquire/Deputy People's Counsel

Lori Kapraun, Property Manager/Hill Management Robert Cordes, M.D. Michael Pierce

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



KEVIN KAMENETZ
County Executive

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

March 25, 2016

RECEIVED
MAR 25 2016

BALTIMORE COUNTY
BOARD OF APPEALS

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

Peter Max Zimmerman, Esquire
Office of People's Counsel
105 W. Chesapeake Ave., Room 204
Towson, Maryland 21204

RE: **APPEAL TO BOARD OF APPEALS**
Case Nos. 2016-0106-A
Location: 1407 York Road

Dear Counsel:

Please be advised that appeals of the above-referenced case was filed in this Office on March 23, 2016 and March 24, 2016. 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", is written over a horizontal line.

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/sln

c: David Karceski, Esquire, Venable, 210 W. Pennsylvania Avenue, Suite 500,
Towson, Maryland 21204
Maxwell Collins, 11 Greenspring Road, Lutherville, MD 21093



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

March 24, 2016

CAROLE S. DEMILIO
Deputy People's Counsel

RECEIVED

MAR 24 2016

OFFICE OF ADMINISTRATIVE HEARINGS

Hand-delivered
Arnold Jablon, Director
Department of Permits, Approvals & Inspections
111 W. Chesapeake Avenue
Towson, MD 21204

Re: PETITION FOR VARIANCE
Seminary Galleria, LLC – Legal Owner/Petitioner
1407 York Road
Case No.: 2016-106-A

Dear Mr. Jablon:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals of the Opinion and Order dated February 26, 2016 by the Baltimore County Administrative Law Judge in the above entitled case.

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

Very truly yours,

A handwritten signature in blue ink that reads "Peter Max Zimmerman".

Peter Max Zimmerman
People's Counsel for Baltimore County

A handwritten signature in blue ink that reads "Carole S. Demilio".

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: David Karceski, Esquire
J. Carroll Holzer, Esquire

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

No. 120070
Date: 3/23/14

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
01	806	010		6050				2105.00

Total: 2105.00

Rec From: B. HANEY Valley Improvement Assoc.
For: 1407 YORK Rd
Case # 2011-0106-A
CH 1739

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

CASHIER'S
VALIDATION

MAR 23 2016

**IN RE: PETITION FOR VARIANCE *
(1407 York Road)**

BEFORE THE

OFFICE OF ADMINISTRATIVE HEARINGS

*

OFFICE OF

9th Election District

*

ADMINISTRATIVE HEARINGS

3rd Council District

*

FOR BALTIMORE COUNTY

Seminary Galleria, LLC

Legal Owner/Petitioner

Case No. 2016-0106-A

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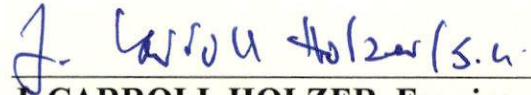
*

NOTICE OF APPEAL

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC., P.O. Box 102,
ACTING PRESIDENT P.J. CONNOLLY, JR., 1305 Charmuth Road; and
INDIVIDUAL MAXWELL R. COLLINS, II, ESQ., 11 Greenridge Road, all of
Lutherville, MD 21093, Appellants, *by J. Carroll Holzer, Esquire*, feeling aggrieved by
the Decision of the Administrative Law Judge in this matter, notes an appeal of the
Administrative Law Judge's February 26, 2016 Opinion & Order entered in the above-
captioned matter and attached hereto. This appeal, noted within thirty (30) days of the
Final Order, now seeks review by the Baltimore County Board of Appeals.

Appellants were parties below and fully participated in the proceedings. Filed
concurrently with this Notice of Appeal is a check payable to "Baltimore County" to
cover costs and a copy of the ALJ Opinion and Order.

Respectfully submitted,

Handwritten signature of J. Carroll Holzer in blue ink.

J. CARROLL HOLZER, Esquire

Holzer & Lee

508 Fairmount Avenue

Towson, Maryland 21286

410-825-6961

Attorney for Appellants

CERTIFICATE OF SERVICE

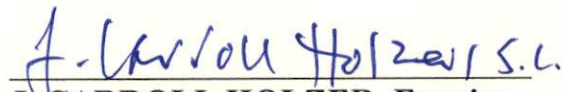
I HEREBY CERTIFY on the 23rd day of March, 2016 a copy of the foregoing

Notice of Appeal was mailed first class, postage prepaid, to:

Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Second Floor, Suite 203
Towson, Maryland 21204

Peter Max Zimmerman, Esquire
Office of People's Counsel
105 W. Chesapeake Ave., Room 204
Towson, Maryland 21204

David Karceski, Esquire
Venable
210 W. Pennsylvania Ave. #500
Towson, Maryland 21204

Handwritten signature of J. Carroll Holzer in blue ink.

J. CARROLL HOLZER, Esquire

IN RE: PETITION FOR VARIANCE

(1407 York Road)

9th Election District

3rd Council District

Seminary Galleria, LLC

Legal Owner

Petitioner

*

*

*

*

*

BEFORE THE OFFICE

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2016-0106-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Seminary Galleria, LLC, owner of the subject property ("Petitioner"). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §450.4 as follows: (1) from 7 (b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy of a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 in. in height for sign copy (Sign No. 2); and (2) from 7 (b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2). A site plan was marked as Petitioner's Exhibit 1A & 1B, with the signage details shown on the latter exhibit.

Laurie Kapraun, property manager with Hill Management, appeared in support of the Petition. David H. Karceski, Esq. represented the Petitioner. Several members of the community attended the hearing and objected to the requests. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 9.54 acres and is zoned BL and DR 5.5. The Galleria

shopping center and office complex is located at the site. Petitioner seeks variance relief with respect to an existing freestanding sign, shown on the plan as Sign 2. In a recent case, Petitioner was denied special hearing relief to permit the continued use of this freestanding sign, which at the time was categorized as an enterprise sign; i.e., it related to only one entity, a health club that was formerly a tenant at the site. That petition was denied because the Regulations do not permit both enterprise and joint identification signs along the same frontage, unless a pad site is at issue. As Ms. Kapraun explained, Petitioner proposes to “repurpose” the sign as a joint identification sign, for which variance relief is sought.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. The property is unique based on several attributes: i.e., its size, shape and topography. Perhaps more to the point, the subject property was held to be unique in Case No. 2015-0226-SPHA, and that finding was not appealed. As such, it is applicable herein based on collateral estoppel and/or *res judicata*. Seminary Galleria, LLC v. Dulaney Valley Improv. Ass’n, Inc., 192 Md. App. 719, 736 (2010). If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be required to remove the existing sign, which was erected lawfully pursuant to a permit issued in 2006. Petitioner’s Exhibit 4. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

THEREFORE, IT IS ORDERED, this 26th day of February, 2016, by the Administrative

Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") §450.4 as follows: (1) from 7 (b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy of a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 in. in height for sign copy (Sign No. 2); and (2) from 7 (b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

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

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:/sln

**IN RE: PETITION FOR VARIANCE *
(1407 York Road)**

9th Election District
3rd Council District

Seminary Galleria, LLC
Legal Owner/Petitioner

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2016-0106-A

* * * * *

NOTICE OF APPEAL

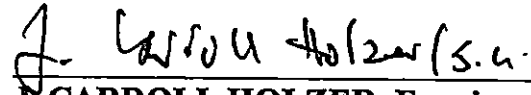
DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC., P.O. Box 102,
ACTING PRESIDENT P.J. CONNOLLY, JR., 1305 Charmuth Road; and
INDIVIDUAL MAXWELL R. COLLINS, II, ESQ., 11 Greenridge Road, all of
Lutherville, MD 21093, Appellants, *by J. Carroll Holzer, Esquire*, feeling aggrieved by
the Decision of the Administrative Law Judge in this matter, notes an appeal of the
Administrative Law Judge's February 26, 2016 Opinion & Order entered in the above-
captioned matter and attached hereto. This appeal, noted within thirty (30) days of the
Final Order, now seeks review by the Baltimore County Board of Appeals.

Appellants were parties below and fully participated in the proceedings. Filed
concurrently with this Notice of Appeal is a check payable to "Baltimore County" to
cover costs and a copy of the ALJ Opinion and Order.

RECEIVED
MAR 28 2016

**BALTIMORE COUNTY
BOARD OF APPEALS**

Respectfully submitted,



J. CARROLL HOLZER, Esquire

Holzer & Lee

508 Fairmount Avenue

Towson, Maryland 21286

410-825-6961

Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 23rd day of March, 2016 a copy of the foregoing

Notice of Appeal was mailed first class, postage prepaid, to:

Baltimore County Board of Appeals

Jefferson Building

105 West Chesapeake Avenue

Second Floor, Suite 203

Towson, Maryland 21204

Peter Max Zimmerman, Esquire

Office of People's Counsel

105 W. Chesapeake Ave., Room 204

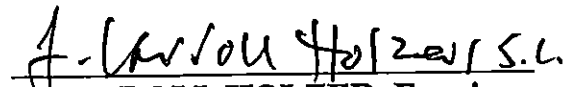
Towson, Maryland 21204

David Karceski, Esquire

Venable

210 W. Pennsylvania Ave. #500

Towson, Maryland 21204


J. CARROLL HOLZER, Esquire

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1407 York Road)		
9 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Seminary Galleria, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0106-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Seminary Galleria, LLC, owner of the subject property ("Petitioner"). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §450.4 as follows: (1) from 7 (b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy of a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 in. in height for sign copy (Sign No. 2); and (2) from 7 (b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2). A site plan was marked as Petitioner's Exhibit 1A & 1B, with the signage details shown on the latter exhibit.

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shopping center and office complex is located at the site. Petitioner seeks variance relief with respect to an existing freestanding sign, shown on the plan as Sign 2. In a recent case, Petitioner was denied special hearing relief to permit the continued use of this freestanding sign, which at the time was categorized as an enterprise sign; i.e., it related to only one entity, a health club that was formerly a tenant at the site. That petition was denied because the Regulations do not permit both enterprise and joint identification signs along the same frontage, unless a pad site is at issue. As Ms. Kapraun explained, Petitioner proposes to “repurpose” the sign as a joint identification sign, for which variance relief is sought.

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- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
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Petitioner has met this test. The property is unique based on several attributes: i.e., its size, shape and topography. Perhaps more to the point, the subject property was held to be unique in Case No. 2015-0226-SPHA, and that finding was not appealed. As such, it is applicable herein based on collateral estoppel and/or *res judicata*. Seminary Galleria, LLC v. Dulaney Valley Improv. Ass’n, Inc., 192 Md. App. 719, 736 (2010). If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be required to remove the existing sign, which was erected lawfully pursuant to a permit issued in 2006. Petitioner’s Exhibit 4. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

THEREFORE, IT IS ORDERED, this 26th day of February, 2016, by the Administrative

Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") §450.4 as follows: (1) from 7 (b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy of a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 in. in height for sign copy (Sign No. 2); and (2) from 7 (b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

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

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:/sln



KEVIN KAMENETZ
County Executive

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

February 25, 2016

David H. Karceski, Esquire
210 W. Pennsylvania Avenue
Suite 500
Towson, Maryland 21204

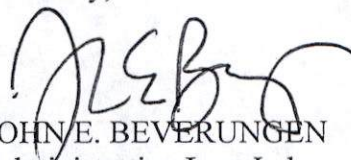
RE: Petition for Variance
Case No. 2016-0106-A
Property: 1407 York Road

Dear Mr. Karceski:

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,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh
Enclosure

c: Maxwell Collins, 11 Greenspring Road, Lutherville, MD 21093

IN RE: PETITION FOR VARIANCE

(1407 York Road)

9th Election District

3rd Council District

Seminary Galleria, LLC

Legal Owner

Petitioner

*

BEFORE THE OFFICE

*

OF ADMINISTRATIVE

*

HEARINGS FOR

*

BALTIMORE COUNTY

*

CASE NO. 2016-0106-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Seminary Galleria, LLC, owner of the subject property ("Petitioner"). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §450.4 as follows: (1) from 7 (b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy of a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 in. in height for sign copy (Sign No. 2); and (2) from 7 (b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2). A site plan was marked as Petitioner's Exhibit 1A & 1B, with the signage details shown on the latter exhibit.

Laurie Kapraun, property manager with Hill Management, appeared in support of the Petition. David H. Karceski, Esq. represented the Petitioner. Several members of the community attended the hearing and objected to the requests. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 9.54 acres and is zoned BL and DR 5.5. The Galleria

ORDER RECEIVED FOR FILING

Date

2/26/16

By

Sen

shopping center and office complex is located at the site. Petitioner seeks variance relief with respect to an existing freestanding sign, shown on the plan as Sign 2. In a recent case, Petitioner was denied special hearing relief to permit the continued use of this freestanding sign, which at the time was categorized as an enterprise sign; i.e., it related to only one entity, a health club that was formerly a tenant at the site. That petition was denied because the Regulations do not permit both enterprise and joint identification signs along the same frontage, unless a pad site is at issue. As Ms. Kapraun explained, Petitioner proposes to "repurpose" the sign as a joint identification sign, for which variance relief is sought.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. The property is unique based on several attributes: i.e., its size, shape and topography. Perhaps more to the point, the subject property was held to be unique in Case No. 2015-0226-SPHA, and that finding was not appealed. As such, it is applicable herein based on collateral estoppel and/or *res judicata*. Seminary Galleria, LLC v. Dulaney Valley Improv. Ass'n, Inc., 192 Md. App. 719, 736 (2010). If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be required to remove the existing sign, which was erected lawfully pursuant to a permit issued in 2006. Petitioner's Exhibit 4. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

THEREFORE, IT IS ORDERED, this 26th day of February, 2016, by the Administrative

ORDER RECEIVED FOR FILING

Date 2/26/16

By den

Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") §450.4 as follows: (1) from 7 (b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy of a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 in. in height for sign copy (Sign No. 2); and (2) from 7 (b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

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



JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:/sln

ORDER RECEIVED FOR FILING

Date 2/26/16
By sen



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 1407, 1411, 1419, 1421, 1429, 1433, and 1447 York Road which is presently zoned BL, DR5.5
Deed References: 13148-443 10 Digit Tax Account # 1900014867, 1900014868
Property Owner(s) Printed Name(s) Seminary Galleria LLC

(SELECT THE HEARING(S) BY MARKING ☒ 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
2. ☐ a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for
3. ☒ a Variance from Section(s)

SEE ATTACHED

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
(Indicate 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:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

David H. Karceski, Esquire

Name- Type or Print

Signature Venable LLP

210 W. Pennsylvania Ave., Ste. 500 Towson MD

Mailing Address City State

21204 410-494-6285 dhkarceski@venable.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

See Attached

Name #1 - Type or Print Name #2 - Type or Print

Signature #1 Signature #2

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

David H. Karceski, Esquire

Name - Type or Print

Signature Venable LLP

210 W. Pennsylvania Ave., Ste. 500 Towson MD

Mailing Address City State

21204 410-494-6285 dhkarceski@venable.com

Zip Code Telephone # Email Address

CASE NUMBER 2016-106-A Filing Date 10/29/15

Do Not Schedule Dates:

Reviewer JCM

REV. 10/4/11

Date 2/26/16

By Sen

**ATTACHMENT
TO PETITION FOR VARIANCE**

1407, 1411, 1419, 1421, 1429, 1433 and 1447 YORK ROAD

The following variances are requested from Section 450.4, Attachment 1 of the BCZR:

1. From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign No. 2).
2. From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

**ATTACHMENT
TO PETITION FOR VARIANCE**

1407, 1411, 1419, 1421, 1429, 1433 and 1447 YORK ROAD

Legal Owners (Petitioners):

Seminary Galleria LLC

By: _____


Anthony Giulio, General Manager
9640 Deerco Road
Timonium, Maryland 21093
(410) 561-1300

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.

CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS

4692 MILLENNIUM DRIVE, SUITE 100
BELL CAMP, MARYLAND 21017

October 21, 2015

ZONING DESCRIPTION

1407 - 1447 YORK ROAD

Beginning at a point on the easterly right-of-way of York Road which is of varying width, said point being South 58 degrees 49 minutes 51 seconds East 82.37 feet more or less, from a point formed by the intersection of the centerlines of York Road and Seminary Avenue, thence leaving said point of beginning, along the following 21 courses:

1. Running thence and binding on the easterly right-of-way of York Road North 27 degrees 47 minutes 3 seconds East 27.43 feet to a point on the southerly right-of-way of Seminary Avenue which is of varying width, running thence and binding on said southerly right-of-way
2. North 80 degrees 15 minutes 54 seconds East 120.86 feet, running thence
3. along a curve to the left with a radius of 1361.46 feet and a distance of 253.52 feet, running thence
4. along a curve to the left with a radius of 1375.76 feet and a distance of 58.164 feet, running thence
5. North 67 degrees 12 minutes 18 seconds East 241.28 feet, running thence leaving said right-of-way of Seminary Avenue
6. South 21 degrees 56 minutes 49 seconds East 609.6 feet, running thence
7. South 68 degrees 03 minutes 08 seconds West 240.00 feet, running thence
8. South 21 degrees 56 minutes 50 seconds East 186.60 feet, running thence
9. South 68 degrees 03 minutes 10 seconds West 69.29 feet, running thence
10. South 21 degrees 56 minutes 50 seconds East 15.00 feet, running thence
11. South 68 degrees 03 minutes 10 seconds West 50.38 feet, running thence
12. North 21 degrees 51 minutes 11 seconds West 102.22 feet, running thence
13. North 68 degrees 42 minutes 20 seconds East 20.00 feet, running thence
14. North 22 degrees 02 minutes 50 seconds West 95.6 feet, running thence
15. North 22 degrees 02 minutes 54 seconds West 190.31 feet, running thence
16. South 67 degrees 53 minutes 17 seconds West 353.22 feet to a point on the easterly right-of-way of York Road, running thence and binding on said right-of-way

17. North 12 degrees 48 minutes 35 seconds West 5.72 feet, running thence
18. South 68 degrees 07 minutes 44 seconds West 196.54 feet, running thence
19. North 21 degrees 35 minutes 08 seconds West 257.78 feet, running thence
20. North 15 degrees 52 minutes 29 seconds West 99.31 feet, running thence
21. along a curve to the left with a radius of 3487.37 feet and a distance of 93.66 feet to the point of beginning.

Being those parcels of land recorded in Deed Liber S.M. 13148, folio 443, as recorded in the Baltimore County Land Records, containing 8.813 Acres of land more or less. Also known as 1047-1447 York Road, being parcels 74, and 454 of Baltimore County tax map 61, and located within Election District #9 and Councilmanic District #3.

Note: The above description is for zoning purposes only and is not to be used for contracts, conveyances or agreements.





KEVIN KAMENETZ
County Executive

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

February 18, 2016

Seminary Galleria LLC
Anthony Giulio, GM
9640 Deereco Road
Timonium MD 21093

RE: Case Number: 2016-0106 A, Address: 1407, 1411, 1419, 1429, 1433, 1447 York Road

Dear Mr. Giulio:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 28, 2015. 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, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
David H Karceski, Esquire, 210 W Pennsylvania Avenue, Suite 500, Towson MD 21204

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor



Pete K. Rahn, Secretary
Gregory C. Johnson, P.E., Administrator

Date: 11/2/15

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

RE: Baltimore County

Item No. 2016-0106-A

Variance
Seminary Galleria LLC, Anthony Giulio.
1411, 1419, 1421, 1429, 1433, 1447, 1407 York Road
MD 45

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 11/2/15. A field inspection and internal review reveals that an entrance onto MD 45 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for 2016-0106-A, Case Number Variance.

Should you have any questions regarding this matter feel free to contact Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) X 2332 or by email at (rzeller@sha.state.md.us).

Sincerely,

A handwritten signature in blue ink, appearing to read "David W. Peake".
David W. Peake
Metropolitan District Engineer
Baltimore & Harford Counties

DWP/RAZ

My telephone number/toll-free number is _____

2-22 1/12/8

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

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

DATE: December 4, 2015

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 16-106

RECEIVED

DEC 09 2015

OFFICE OF ADMINISTRATIVE HEARINGS

INFORMATION:

Property Address: 1411, 1419, 1429, 1447, 1407 York Road
Petitioner: Seminary Galleria, LLC
Zoning: BL, DR 5.5
Requested Action: Variance

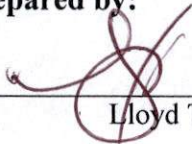
The Department of Planning has reviewed the petition for a variance to allow a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy and a third joint identification sign on a property with two frontages.

The Department objects to granting the petitioned zoning relief.

The property is subject to the Hunt Valley/Timonium Master Plan. The plan calls for improving the visual quality of York Road through, among other strategies, limits on signage. The petitioner proposes to replace the smaller sign of 16 SF with a much larger size of 70 SF. The petitioned zoning relief, if granted, would add to the visual clutter along the York Road frontage and would be contrary to the guidelines of said plan.

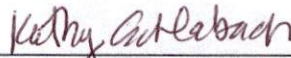
For further information concerning the matters stated herein, please contact Wally Lippincott at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Wally Lippincott
David Karceski, Venable, LLP
Office of the Administrative Hearings
People's Counsel for Baltimore County

12/28
Postponed

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

NOV 06 2015



OFFICE OF ADMINISTRATIVE HEARINGS

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: November 5, 2015

SUBJECT: DEPS Comment for Zoning Item # 2016-0106-A
Address 1407-1447 York Road
(Seminary Galleria, LLC Property)

Zoning Advisory Committee Meeting of November 2, 2015.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford Date: 11-05-2015

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For November 2, 2015
Item No. 2016-0106

DATE: November 4, 2015

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment.

A Landscape Plan that provides screening of the parking along York Road and along Seminary Avenue across from residences is required.

* * * * *

DAK
cc:file

ZAC-ITEM NO 16-0106-11022015.doc



KEVIN KAMENETZ
County Executive

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

December 10, 2015

NEW 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: 2016-0106-A

1407, 1411, 1419, 1421, 1433 & 1447 York Road
Northeast corner of York Road and Seminary Avenue
9th Election District – 3rd Councilmanic District
Legal Owners: Seminary Galleria, LLC

Variance from 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign No. 2).; from 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

Hearing: Monday, February 22, 2016 at 10:00 a.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 a horizontal line.

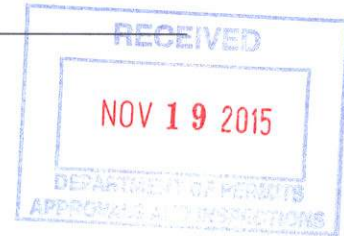
Arnold Jablon
Director

AJ:kl

C: David Karceski, 210 W. Pennsylvania Avenue, Ste. 500, Towson 21204
Anthony Giulio, General Manager, 9640 Deerco Road, Timonium 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, FEBRUARY 2, 2016**
- (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.

11/19/15
TO KL OK - he is in provide
all he is out of
town



David H. Karceski

T (410) 494-6285
F 410.821.0147
dhkarceski@venable.com

November 18, 2015

Hand-Delivered

Mr. Arnold Jablon, Director
Baltimore County Department of Permits,
Approvals and Inspections
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Galleria Shopping Center
Location: 1407, 1411, 1419, 1421, 1443, 1447 York Road
Case No.: 2016-106-A

Dear Mr. Jablon:

This firm represents Seminary Galleria, LLC, petitioner and legal owner of the above-referenced property. My client is in receipt of the Notice of Zoning Hearing issued in Case No. 2016-106-A and respectfully requests a postponement of the public hearing scheduled for Monday, December 28th, 2015. The reason for the request is that I will be out of town and unable to attend.

I appreciate your consideration of this request.

Very truly yours,

David H. Karceski

DHK:cak

cc: Mr. Alex Watkins

Kristen L Lewis

From: Karceski, David H. <DKarceski@Venable.com>
Sent: Tuesday, November 24, 2015 9:25 AM
To: Kristen L Lewis
Subject: Case No. 2016-106-A
Attachments: Galleria.pdf

Hello Ms. Lewis

I am writing to provide additional information for my request for postponement. In my November 18th letter to you, I indicated I will be "out of town". I wanted to let you know these are long-standing plans for vacation time at my in-laws' house in New Jersey. Please let me know if this information is sufficient for the postponement request.

Thank you,

David

David Karceski, Esq. | Venable LLP
t 410.494.6285 | f 410.821.0147 | m 443.956.7425
Towson: 210 W. Pennsylvania Avenue, Ste. 500, Towson, MD 21204
Baltimore: 750 East Pratt Street, Ste. 900, Baltimore, MD 21201

This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.



KEVIN KAMENETZ
County Executive

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

November 12, 2015

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: 2016-0106-A

1407, 1411, 1419, 1421, 1433 & 1447 York Road
Northeast corner of York Road and Seminary Avenue
9th Election District – 3rd Councilmanic District
Legal Owners: Seminary Galleria, LLC

Variance from 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign No. 2).; from 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

Hearing: Monday, December 28, 2015 at 2:30 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: David Karceski, 210 W. Pennsylvania Avenue, Ste. 500, Towson 21204
Anthony Giulio, General Manager, 9640 Deerco Road, Timonium 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, DECEMBER 8, 2015**
- (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.



501 N. Calvert St., P.O. Box 1377
Baltimore, Maryland 21278-0001
tel: 410/332-6000
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 3926424

Sold To:

Hill Management - CU00443404
9640 Deereco Rd
Lutherville Timonium, MD 21093-2120

Bill To:

Hill Management - CU00443404
9640 Deereco Rd
Lutherville Timonium, MD 21093-2120

Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Feb 02, 2016

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: # 2016-0106-A
1407, 1411, 1419, 1421, 1433 & 1447 York Road
Northeast corner of York Road and Seminary Avenue
9th Election District - 3rd Councilmanic District
Legal Owner(s) Seminary Galleria, LLC

Variance: from 7(b)(ix) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign No. 2); from 7(b)(vi) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

Hearing: Monday, February 22, 2016 at 10:00 a.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 2/628 Feb. 2 3926424

The Baltimore Sun Media Group

By *S. Wilkinson*
Legal Advertising

CERTIFICATE OF POSTING

2016-0106-A

RE: Case No.: _____

Petitioner/Developer: _____

Seminary Galleria, LLC

February 2, 2016

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: _____

1407, 1411, 1419, 1421, 1433 & 1447 York Road

February 2, 2016

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

Sincerely,

February 2, 2016

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

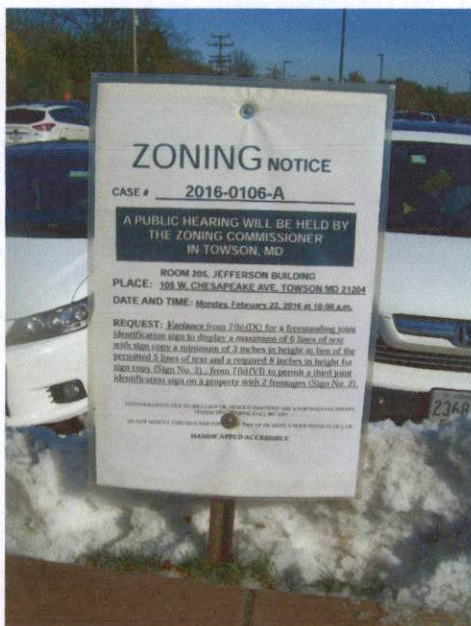
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



RE: PETITION FOR VARIANCE * BEFORE THE OFFICE
1411, 1419, 1421, 1429, 1433, 1447, 1407 York Road; *
NE corner of York Road & Seminary Avenue * OF ADMINISTRATIVE
9th Election & 3rd Councilmanic Districts *
Legal Owner(s): Seminary Galleria, LLC * HEARINGS FOR
Petitioner(s) * BALTIMORE COUNTY
* 2016-106-A

* * * * *

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

RECEIVED
NOV 02 2015

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of November, 2015, a copy of the foregoing Entry of Appearance was mailed to David Karceski, Esquire, Venable, LLP, 210 W. Pennsylvania Avenue, Suite 500, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CASE NAME Galleria
CASE NUMBER 2016-106-A
DATE 2/22/16
LET

[illegible]

CASE NAME Galleria
CASE NUMBER 2016-106-A
DATE Feb. 22, 2016

[illegible]

Address List

Petitioner:

Seminary Galleria, LLC
Anthony Giulio, General Manager
9640 Deerco Road
Timonium, MD 21093

David H. Karceski, Esquire
Venable LLC
210 W. Pennsylvania Avenue
Suite 500
Towson, MD 21204

Interested Persons:

Lori Kapraun, Property Manager
Hill Management
9640 Deereco Road
Timonium, MD 21093

Robert Cordes, M.D.
1217 Oakcroft Drive
Lutherville, MD 21093

Mike Pierce
7448 Bradshaw Road
Kingsville, MD 21087

Interoffice:

Office of People's Counsel (*Appellant*)
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Deputy Administrative Officer and Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

Protestants/Appellants:

Dulaney Valley Improvement
Association, Inc.
P.J. Connolly, Jr., Acting President
P.O. Box 102
Lutherville, MD 21093

Maxwell R. Collins, II, Esquire
11 Greenridge Road
Lutherville, MD 21093

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21286

C H E C K L I S T

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
<u>11/4</u>	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	<u>C</u>
<u>11/5</u>	DEPS (if not received, date e-mail sent _____)	<u>N/C</u>
	FIRE DEPARTMENT	
<u>12/4</u>	PLANNING (if not received, date e-mail sent _____)	<u>C</u>
<u>11/2</u>	STATE HIGHWAY ADMINISTRATION	<u>no obj</u>
	TRAFFIC ENGINEERING	
	COMMUNITY ASSOCIATION	
	ADJACENT PROPERTY OWNERS	

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT

Date:

2/2/16

SIGN POSTING

Date:

2/2/16by SSG Black

PEOPLE'S COUNSEL APPEARANCE

Yes



No



PEOPLE'S COUNSEL COMMENT LETTER

Yes



No



Comments, if any: _____

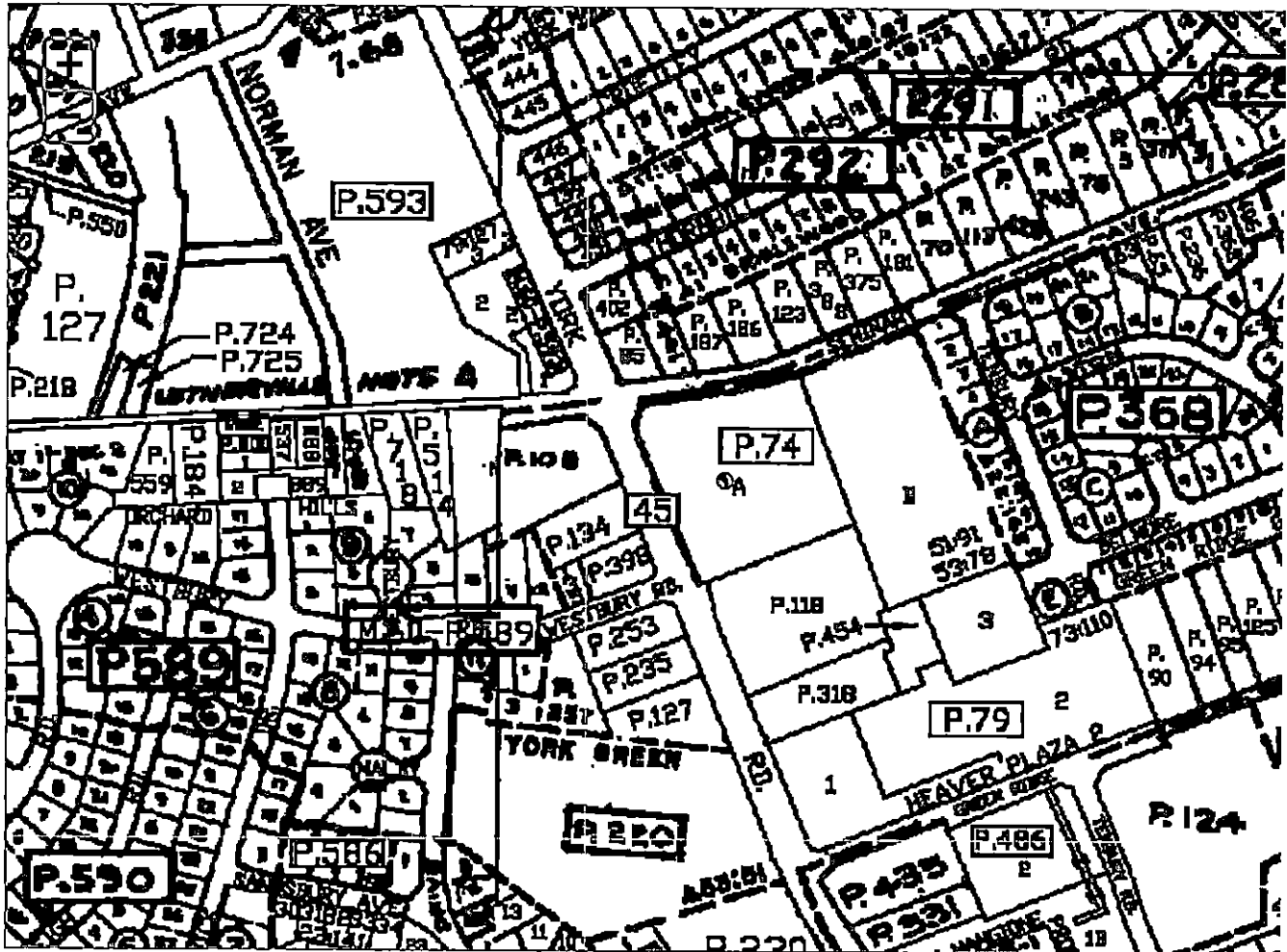
Real Property Data Search (w1)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 09 Account Number - 1900014867			
Owner Information					
Owner Name:		SEMINARY GALLERIA LLC		Use:	COMMERCIAL
Mailing Address:		216 SCHILLING CIR STE 300 HUNT VALLEY MD 21031-8632		Principal Residence:	NO
				Deed Reference:	/13148/ 00443
Location & Structure Information					
Premises Address:		1407 YORK RD LUTHERVILLE MD 21093-0000		Legal Description:	3.992 AC PARCEL A HSE #1407-29 GALLERIA
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot: Assessment Year: Plat No: Plat Ref:
0061	0019	0074		0000	A 2014 0053/0078
Special Tax Areas:			Town: NONE		
			Ad Valorem: NONE		
			Tax Class:		
Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use	
1961	76995		173,895 SF	14	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage Last Major Renovation
		RETAIL STORE			
Value Information					
	Base Value	Value As of 01/01/2014	Phase-in Assessments As of 07/01/2015 As of 07/01/2016		
Land:	5,216,800	5,216,800			
Improvements:	3,395,000	4,848,800			
Total:	8,611,800	10,065,600	9,581,000	10,065,600	
Preferential Land:	0			0	
Transfer Information					
Seller: SEMINARY LIMITED PARTNERSHIP		Date: 09/14/1998		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /13148/ 00443		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2015	07/01/2016		
County:	000	0.00			
State:	000	0.00			
Municipal:	000	0.00 0.00	0.00 0.00		
Tax Exempt:		Special Tax Recapture:			
Exempt Class:		NONE			
Homestead Application Information					
Homestead Application Status: No Application					

Baltimore County

New Search (<http://sdat.dat.maryland.gov/RealProperty/>)District: **09** Account Number: **1900014867**

The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (<http://www.plats.net>).

Property maps provided courtesy of the Maryland Department of Planning.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (<http://www.mdp.state.md.us/OurProducts/OurProducts.shtml>).

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor



Pete K. Rahn, Secretary
Gregory C. Johnson, P.E., Administrator

Date: 11/2/15

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

RE: Baltimore County
Item No. 2016-0106-A

Variance
Seminary Galleria LLC., Anthony Giallo.
1411, 1419, 1421, 1429, 1433, 1447, 1407 York Road
MD 45

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 11/2/15. A field inspection and internal review reveals that an entrance onto MD 45 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for 2016-0106-A, Case Number Variance.

Should you have any questions regarding this matter feel free to contact Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) X 2332 or by email at (rzeller@sha.state.md.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Zeller".

David W. Peake
Metropolitan District Engineer
Baltimore & Harford Counties

DWP/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: 320 West Warren Road • Hunt Valley, Maryland 21030 • Phone 410-229-2300 or 1-866-998-0367 • Fax 301-527-4690

www.roads.maryland.gov

**BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM**

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

DATE: December 4, 2015

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 16-106

INFORMATION:

Property Address: 1411, 1419, 1429, 1447, 1407 York Road
Petitioner: Seminary Galleria, LLC
Zoning: BL, DR 5.5
Requested Action: Variance

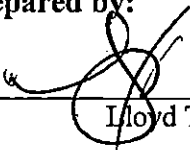
The Department of Planning has reviewed the petition for a variance to allow a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy and a third joint identification sign on a property with two frontages.

The Department objects to granting the petitioned zoning relief.

The property is subject to the Hunt Valley/Timonium Master Plan. The plan calls for improving the visual quality of York Road through, among other strategies, limits on signage. The petitioner proposes to replace the smaller sign of 16 SF with a much larger size of 70 SF. The petitioned zoning relief, if granted, would add to the visual clutter along the York Road frontage and would be contrary to the guidelines of said plan.

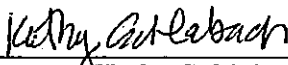
For further information concerning the matters stated herein, please contact Wally Lippincott at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Wally Lippincott
David Karceski, Venable, LLP
Office of the Administrative Hearings
People's Counsel for Baltimore County

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 2, 2016 Issue - Jeffersonian

Please forward billing to:

Alex Watkins
Hill Management Services, Inc.
9640 Deerco Road
Timonium, MD 21093

410-561-1300

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2016-0106-A

1407, 1411, 1419, 1421, 1433 & 1447 York Road
Northeast corner of York Road and Seminary Avenue
9th Election District – 3rd Councilmanic District
Legal Owners: Seminary Galleria, LLC

Variance from 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign No. 2).; from 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

Hearing: Monday, February 22, 2016 at 10:00 a.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 ACCOMODATIONS, 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.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, December 8, 2015 Issue - Jeffersonian

Please forward billing to:

Alex Watkins
Hill Management Services, Inc.
9640 Deerco Road
Timonium, MD 21093

410-561-1300

NOTICE OF ZONING HEARING

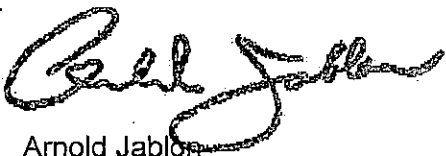
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2016-0106-A

1407, 1411, 1419, 1421, 1433 & 1447 York Road
Northeast corner of York Road and Seminary Avenue
9th Election District – 3rd Councilmanic District
Legal Owners: Seminary Galleria, LLC

Variance from 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign No. 2).; from 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

Hearing: Monday, December 28, 2015 at 2:30 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 ACCOMODATIONS, 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.

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Case Number: 2016-0106-A
Property Address: 1407-1447 YORK ROAD
Property Description: COMMERCIAL DEVELOPMENT
SHOPPING CENTER/OFFICES
Legal Owners (Petitioners): SEMINARY GALLERY, LLC
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: ALEX KATKINS
Company/Firm (if applicable): HILL MANAGEMENT SERVICES, INC.
Address: 7640 DEERCO ROAD
TIMONIUM, MARYLAND
21093
Telephone Number: 410-561-1300

APPEAL

**Petition for Variance
(1407 York Road)
9th Election District – 3rd Councilmanic District
*Legal Owners: Seminary Galleria, LLC***

Case No. 2016-0106-A

Petition for Variance Hearing (October 28, 2015)

Zoning Description of Property

Notice of Zoning Hearing (December 10, 2015)
(November 12, 2015)

Certificate of Publication (February 2, 2016)

Certificate of Posting (February 2, 2016) SSG Robert Black

Entry of Appearance by People's Counsel – November 2, 2015

Petitioner(s) Sign-in Sheet – One
Citizen(s) Sign-in Sheet – One

Zoning Advisory Committee Comments

Petitioner(s) Exhibits -

- 1A-1B. Site Plan
- 2A-2C. Photos
- 3. ZAC comment for prior #15-226
- 4. Sign permit
- 5. Petersen CV
- 6. CRG Plan
- 7. Sign distance plan
- 8. Topo. Plan

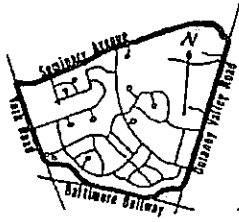
Protestants' Exhibits –

- 1. Resolutions-Dulaney Valley Improvement Ass'n
- 2. 2A-2C. Photos of signs

Miscellaneous (Not Marked as Exhibits)- Letter from David Karceski, Esq. requesting postponement, dated 11/18/15

Administrative Law Judge Order and Letter (GRANTED – February 26, 2016)

Notice of Appeal –Dulaney Valley Improvement Association on March 23, 2016
Office of People's Counsel on March 24, 2016



**Dulaney
Valley
Improvement
Association, Inc.**

P.O. Box 102 · Lutherville, MD · 21094-0102

February 8, 2016

To Whom It May Concern:

Under the provisions of Rule Eight of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, the special rule pertaining to persons appearing before the Board as a representative of the Dulaney Valley Improvement Association, Inc., hereinafter "DVIA," be it known that the members elected below

Have an accurate knowledge of the number of members in the association and the geographic limits of "DVIA;"

Are authorized to speak for and present the views of "DVIA," and

Are currently duly elected officers or members of the Board of Directors of "DVIA" and have been given the responsibility for review and action on all zoning matters brought before the Board of Directors and are acting as the zoning committee for "DVIA."

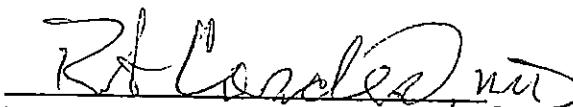
The members elected by formal resolution of the Board of Directors are:

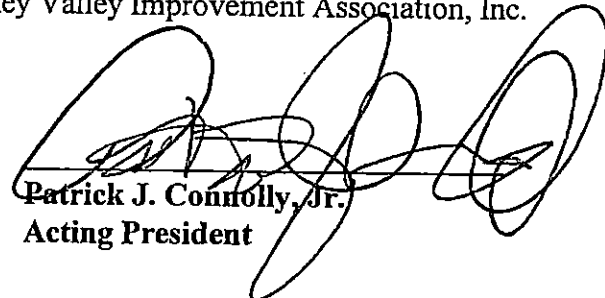
Patrick J. Connolly, Jr., Acting President, 1305 Charmuth Road, Lutherville, MD 21093
Maxwell R. Collins, II, Esquire, Treasurer, 11 Greenridge Road, Lutherville, MD 21093
Robert Cordes, MD, Acting Recording Secretary & Board Member, 1217 Oakcroft Drive,
Lutherville, MD 21093
Timothy Ruppalt, Board Member, 214 Felton Road, Lutherville, MD 21093

AS WITNESS OUR HANDS AND SEALS THIS 19th day February 2016.

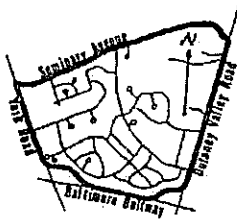
ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President

Prots. # 1



**Dulaney
Valley
Improvement
Association, Inc.**

P.O. Box 102 · Lutherville, MD · 21094-0102

8 February 2016

RESOLVED: That the position of the Association as adopted by the Zoning Committee and by the majority vote of the Board of Directors on the zoning matter known as

Case Number: 2016-0106-A

Property Location: 1407, 1411, 1419, 1421, 1429, 1433 and 1447 York Road

Legal Owners: Seminary Galleria, LLC, Anthony Giulio, General Manager

The following variances are requested from Section 450.4, Attachment 1 of the BCZR:

1. From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign Number 2).
2. From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign 2).

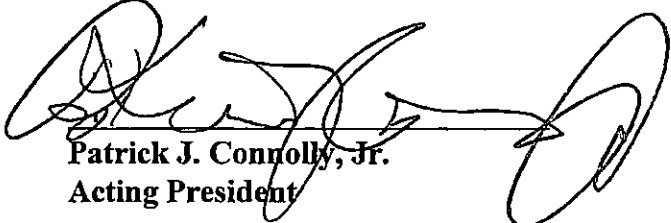
is that the Petition is **OPPOSED**.

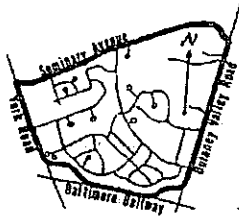
AS WITNESS OUR HANDS AND SEAL THIS 19th day of FEBRUARY 2016.

ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert A. Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President



**Dulaney
Valley
Improvement
Association, Inc.**

P.O. Box 102 · Lutherville, MD · 21094-0102

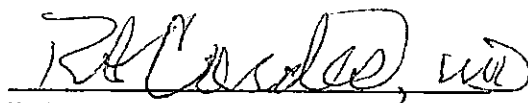
RESOLVED: After a formal motion by Maxwell R. Collins, II, Esquire, Treasurer, seconded by the Board member and Acting Corresponding Secretary, Susan Shaffer, by unanimous vote of the board, the responsibility for review and action on all zoning matters for the calendar year 2016, pursuant to Rule Eight of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, was placed in the Zoning Committee consisting of the following members, each of whom was authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

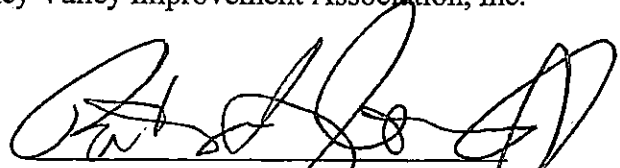
Patrick J. Connolly, Jr., Acting President, 1305 Charmuth Road, Lutherville, MD 21093
Maxwell R. Collins, II, Esquire, Treasurer, 11 Greenridge Road, Lutherville, MD 21093
Robert Cordes, MD, Acting Recording Secretary & Board Member, 1217 Oakcroft Drive,
Lutherville, MD 21093
Timothy Ruppalt, Board Member, 214 Felton Road, Lutherville, MD 21093

AS WITNESS OUR HANDS AND SEALS THIS 19th day of February 2016.

ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert A. Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President

AFFIDAVIT

STATE OF MARYLAND *
 * SS
BALTIMORE COUNTY *

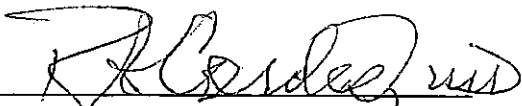
TO WIT:

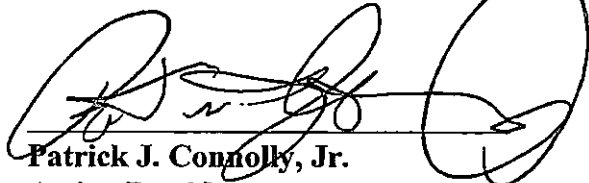
I, **Maxwell R. Collins, II, Esquire**, solemnly affirm under the penalties of perjury and on personal knowledge that I am currently a duly elected Officer and member of the Zoning Committee of the Dulaney Valley Improvement Association, Inc. for the calendar year 2016.


MAXWELL R. COLLINS, II, ESQUIRE
Treasurer

ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert A. Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President

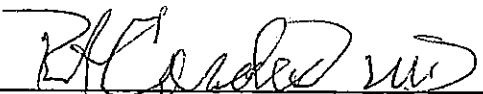
DATE: 19 FEBRUARY 2016

AFFIDAVIT

STATE OF MARYLAND *
 * SS
BALTIMORE COUNTY *

TO WIT:

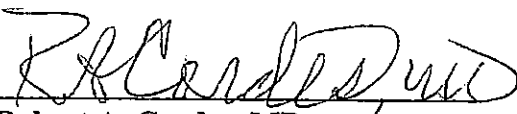
I, **Dr. Robert A. Cordes**, solemnly affirm under the penalties of perjury and on personal knowledge that I am currently a duly elected member of the Board of Directors and the Zoning Committee of the Dulaney Valley Improvement Association, Inc. for the calendar year 2016.



ROBERT A. CORDES, MD

ATTEST:

Dulaney Valley Improvement Association, Inc.



Robert A. Cordes, MD
Acting Recording Secretary



Patrick J. Connolly, Jr.
Acting President

DATE: 19 FEBRUARY 2016

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS
4692 MILLENNIUM DRIVE, SUITE 100, BELCAMP, MARYLAND 21017

CURRICULA VITAE

Bernt C. Petersen, R.L.A.

Director of Planning
George William Stephens, Jr. & Associates, Inc.

Professional Registration: Registered Landscape Architect - Maryland - No. 1095

Education:

State University of New York, College of Environmental Science and Forestry at
Syracuse – Bachelor of Landscape Architecture - 1977
Bachelor of Science, Environmental Studies -1976

~~**Professional Affiliations:** American Society of Landscape Architects,
Maryland Chapter, No. 1108847~~

Professional practice includes 30 years of experience in land planning, landscape architecture, comprehensive zoning, PUD master planning, site planning, and testimony regarding land use and zoning issues. Mr. Petersen has been practicing in the Greater Baltimore Metropolitan region since 1988 and has expertise in land planning, site planning, and zoning cases in Anne Arundel County, Baltimore County and Howard County, Maryland.

Principal duties for G. W. Stephens, Jr. & Assoc. include: supervision of site development and land planning; zoning interpretation; Community Input Meetings; Development Plan preparation and Hearing Officer's Hearings; Special Hearings and Special Exception petitions; variance request petitions and landscape plan preparation. Prior to his relocation to Maryland, Mr. Petersen practiced site design and land planning in New York and Massachusetts.

Significant local projects include: Powell Property, Forge Landing, Cedar Lane Farms P.U.D., 1400 Taylor Avenue P.U.D., Westwicke, Beachwood Estates, The Sanctuary, Kimbrook, Kopp Property, Green Spring Station, Home Depot of Owings Mills, Bel Air and Timonium, Ashland Market Place, Baker Property, Greenfields at White Marsh and The Clusters. A significant project of regional impact is Luther's Forest, a comprehensive mixed use development in Saratoga County, NY.

Mr. Petersen has prepared comprehensive-zoning petitions in Baltimore County during the 1996, 2000, 2004 & 2008 CZMP processes and has an understanding of the principles of Euclidean zoning and their application throughout the Baltimore Metro region. He has thorough experience dealing with the Baltimore County's development regulations.



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

Timothy Kotroco

TIMOTHY M. KOTROCO
DIRECTOR

BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B634113 CONTROL #: SI-1 DIST: 08 PREC: 01
DATE ISSUED: 06/15/2006 TAX ACCOUNT #: 1900014867 CLASS: 14

PLANS: CONST 1 PLOT R PLAT DATA ELEC YES PLUM NO
LOCATION: 1407 YORK RD
SUBDIVISION:

OWNERS INFORMATION

NAME: HILL MGT
ADDR: 10096 RED RUN BLVD OWINGS MILLS MD 21117

TENANT: PLANET FITNESS

CONTR: GABLE SIGNS

ENGR:

SELLR:

WORK: REMOVE EX F/S SIGN & REPLACE W/ NEW 8'X4'=32SF
15FT HGT ILLUM CHANGEABLE COPY TO BE LESS
THAN 50% OF TOTAL SIGN AREA NO STROBING,
FLASHING, BLINKING, OSCILLATING, OR GIVING TH
APPEARANCE OF MOVEMENT CAN CHANGE ONCE PER HOUR

BLDG. CODE:

RESIDENTIAL CATEGORY:

OWNERSHIP:

PROPOSED USE: RETAIL & SIGN(D/F F/S)

EXISTING USE: RETAIL

TYPE OF IMPRV: ADDITION

USE: SIGN

FOUNDATION:

SEWAGE: PUBLIC EXIST

BASEMENT:

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE:

FRONT STREET:

SIDE STREET:

FRONT SETB:

SIDE SETB:

SIDE STR SETB:

REAR SETB:



100-15-
3634113
A 548810

SIGN USE PERMIT

Permit Fees are Non-Refundable; Make Check Payable to "Baltimore County, Maryland"

PROPERTY ADDRESS 1407 YORK RD LUTHERVILLE MD 21093
BUSINESS NAME PLANET FITNESS ZONING BL
OWNER'S NAME HILL MANAGEMENT PHONE NO. _____ HISTORIC DISTRICT: ☐ Yes ☒ No
MAILING ADDRESS 10096 RED RUN BLVD OWINGS MILLS MD 21117
APPLICANT/OWNER'S AGENT Bob HELINSKI HGT G.S PHONE NO. 410 255 6400
SIGN COMPANY NAME GABLE SIGNS + GRAPHICS PHONE NO. 410 255 6400

TYPE OF SIGN:

TAX ACCOUNT NO. 09-191 00011 4867

☐ Temporary - Including Real Estate/Construction/Event Temporary Sign(s) in the Last Year: ☐ Yes ☐ No
☒ Permanent ☐ Changeable Copy ☐ Wall ☐ Face Change Only ☐ Non-Illuminated
☐ Freestanding ☒ Pylon ☐ Monument ☒ Illuminated (separate electrical permit required)
Size: 8' feet X 4' feet = 32' square feet Height: 15' feet (freestanding signs)

Property Line/Street Right-of-Way Setbacks: front _____, sides _____ and _____, and rear _____
NOTE: A construction plan, drawn to scale and clearly showing that all requirements have been met, must be attached; a site plan also must be attached for freestanding signs.

PROHIBITIONS - including roof signs (Sections 450.5.B.7 and 450.6.A, Baltimore County Zoning Regulations):

1. Signs cannot impair motorist's clear view of traffic or government signs. All signs are subject to Section 102.5, BCZR.
2. Signs cannot imitate or resemble government signs, except for private traffic control and notice signs.
3. Signs cannot be placed in or project into or above street right of way or government property.
4. Sign or framework cannot obstruct window or opening for light and air or access to building, fire hydrant, or stand pipe.
5. Vehicle cannot be parked for the purpose of displaying an attached sign.
6. Except for flags exempted, flags, pennants, ribbons, streamers, tethered balloons, laser projections, and similar objects are prohibited.
7. Portable signs are prohibited, except for A-frame and sandwich board signs issued a use permit in B.M. - C.T. zones.
8. There can be no display or simulation of moving parts or message, except for an outdoor advertising sign with tri-vision, a changeable copy sign, or a thermometer, barometer, weather vane, barber pole, or clock.

Work Description (including number of signs, special conditions, materials, locations, and size):

MOVE ILLUMINATED PYLON SIGN TO NEW LOCATION ACCORDING TO
PLAN FOR WIDENING OF YORK RD. SIGN SIZE 8' X 4' 32" HEIGHT 15'
CHANGEABLE COPY TO BE 50% OF SIGN AREA - CAN CHANGE ONCE PER HR
NOT IN-LOW NO STROBING FLASHING, BLINKING OR OSCILLATING OR
REPLACES OLD PERMIT 13628015 GIVING THE APPEARANCE
OF MOVEMENT
PLEASE PRINT OR TYPE LEGIBLY

OWNER/AGENT CERTIFICATION

I hereby certify, under penalty of law, that the proposed sign will be located so as not to violate any codes and that the information supplied is true, complete, and correct.

Bob Helinski HGT G.S
Signature

6-15-06
Date

Bob HELINSKI HGT G.S
Print/Type Name

as: White - Office; Yellow - Applicant (keep this copy for your permanent records)

Authority under Section 500.4, BCZR

PDM APPROVAL (SIGN ONLY)

Signature

Initials

Date

PETITIONER'S EXHIBIT 4

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 18, 2015

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 1407 – 1447 York Road

INFORMATION:

Item Number: 15-226

Petitioner: Seminary Galleria, LLC

Zoning: BL, DR 5.5

Requested Action: Special Hearing, Variance

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the Petition for Special Hearing to determine whether an existing, freestanding joint identification sign and an existing freestanding enterprise sign with an electronic message board should be allowed on the same frontage of a shopping center property and Petition for a Variance to allow existing freestanding joint identification signs to display a maximum of 23 lines of text at a minimum 1" text height, a height of 30' in lieu of the required 5 lines, 8" and 25' respectively and to allow a freestanding directional sign with a height of 6'2" in lieu of the maximum required 4'.

The request is necessary to meet BCZR 450.8.D, Abatement, and to be consistent with the policies of BCZR 450.1. The site is an active commercial and office center with many businesses and offices in different buildings. The signs do not appear excessive for the size and scale of the center. The signage is existing and in good condition and there are no proposed changes. The Department of Planning has no objection to the granting of the petitioned relief.

For further information concerning the matters stated herein, please contact Wallace S. Lippincott, Jr. at 410-887-3480.

Division Chief:
AVA/KS

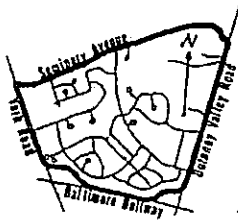
Kathy S. Nabun

cc: Wallace S. Lippincott, Jr.

PETITIONER'S EXHIBIT 2D







**Dulaney
Valley
Improvement
Association, Inc.**

P.O. Box 102 · Lutherville, MD · 21094-0102

February 8, 2016

To Whom It May Concern:

Under the provisions of Rule Eight of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, the special rule pertaining to persons appearing before the Board as a representative of the Dulaney Valley Improvement Association, Inc., hereinafter "DVIA," be it known that the members elected below

Have an accurate knowledge of the number of members in the association and the geographic limits of "DVIA;"

Are authorized to speak for and present the views of "DVIA," and

Are currently duly elected officers or members of the Board of Directors of "DVIA" and have been given the responsibility for review and action on all zoning matters brought before the Board of Directors and are acting as the zoning committee for "DVIA."

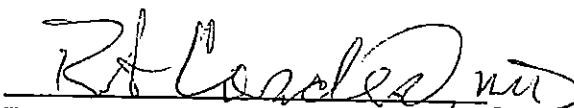
The members elected by formal resolution of the Board of Directors are:

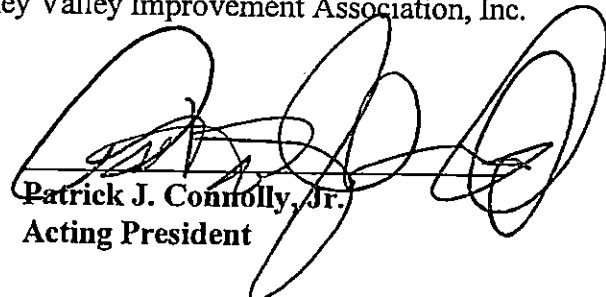
Patrick J. Connolly, Jr., Acting President, 1305 Charmuth Road, Lutherville, MD 21093
Maxwell R. Collins, II, Esquire, Treasurer, 11 Greenridge Road, Lutherville, MD 21093
Robert Cordes, MD, Acting Recording Secretary & Board Member, 1217 Oakcroft Drive,
Lutherville, MD 21093
Timothy Ruppalt, Board Member, 214 Felton Road, Lutherville, MD 21093

AS WITNESS OUR HANDS AND SEALS THIS 19th day February 2016.

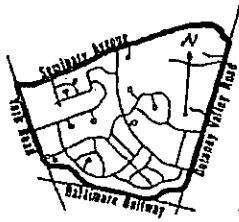
ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President

Prots. # 1



**Dulaney
Valley
Improvement
Association, Inc.**

P.O. Box 102 · Lutherville, MD · 21094-0102

8 February 2016

RESOLVED: That the position of the Association as adopted by the Zoning Committee and by the majority vote of the Board of Directors on the zoning matter known as

Case Number: 2016-0106-A

Property Location: 1407, 1411, 1419, 1421, 1429, 1433 and 1447 York Road

Legal Owners: Seminary Galleria, LLC, Anthony Giulio, General Manager

The following variances are requested from Section 450.4, Attachment 1 of the BCZR:

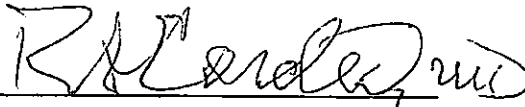
1. From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign Number 2).
2. From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign 2).

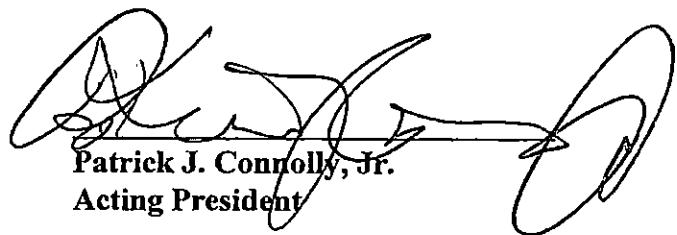
is that the Petition is **OPPOSED**.

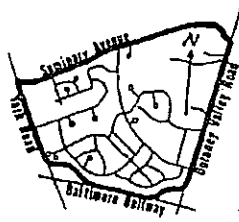
AS WITNESS OUR HANDS AND SEAL THIS 19th day of FEBRUARY 2016.

ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert A. Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President



**Dulaney
Valley
Improvement
Association, Inc.**

P.O. Box 102 · Lutherville, MD · 21094-0102

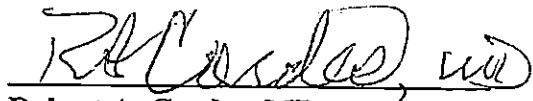
RESOLVED: After a formal motion by Maxwell R. Collins, II, Esquire, Treasurer, seconded by the Board member and Acting Corresponding Secretary, Susan Shaffer, by unanimous vote of the board, the responsibility for review and action on all zoning matters for the calendar year 2016, pursuant to Rule Eight of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, was placed in the Zoning Committee consisting of the following members, each of whom was authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

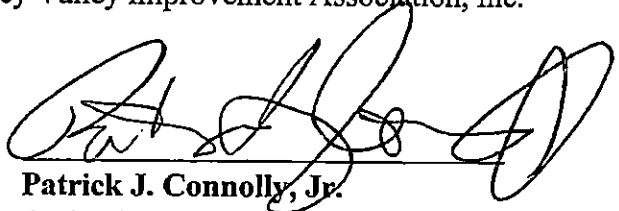
Patrick J. Connolly, Jr., Acting President, 1305 Charmuth Road, Lutherville, MD 21093
Maxwell R. Collins, II, Esquire, Treasurer, 11 Greenridge Road, Lutherville, MD 21093
Robert Cordes, MD, Acting Recording Secretary & Board Member, 1217 Oakcroft Drive,
Lutherville, MD 21093
Timothy Ruppalt, Board Member, 214 Felton Road, Lutherville, MD 21093

AS WITNESS OUR HANDS AND SEALS THIS 19th day of February 2016.

ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert A. Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President

AFFIDAVIT

STATE OF MARYLAND *
* SS
BALTIMORE COUNTY *

TO WIT:

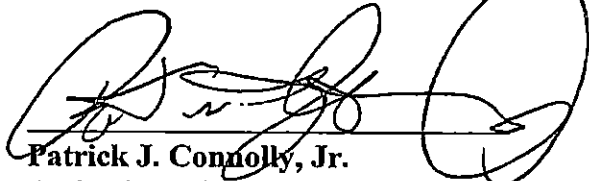
I, **Maxwell R. Collins, II, Esquire**, solemnly affirm under the penalties of perjury and on personal knowledge that I am currently a duly elected Officer and member of the Zoning Committee of the Dulaney Valley Improvement Association, Inc. for the calendar year 2016.


MAXWELL R. COLLINS, II, ESQUIRE
Treasurer

ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert A. Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President

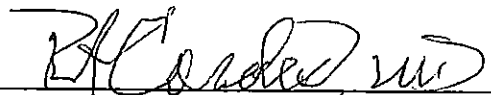
DATE: 19 FEBRUARY 2016

AFFIDAVIT

STATE OF MARYLAND *
 * SS
BALTIMORE COUNTY *

TO WIT:

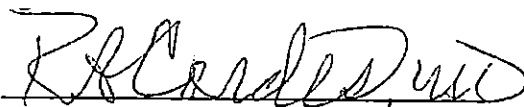
I, **Dr. Robert A. Cordes**, solemnly affirm under the penalties of perjury and on personal knowledge that I am currently a duly elected member of the Board of Directors and the Zoning Committee of the Dulaney Valley Improvement Association, Inc. for the calendar year 2016.



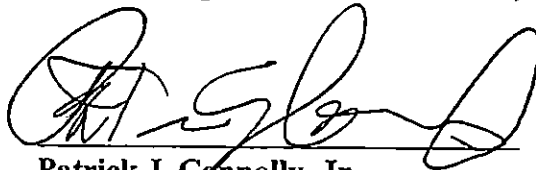
ROBERT A. CORDES, MD

ATTEST:

Dulaney Valley Improvement Association, Inc.



Robert A. Cordes, MD
Acting Recording Secretary



Patrick J. Connolly, Jr.
Acting President

DATE: 19 FEBRUARY 2016

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 18, 2015

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 1407 – 1447 York Road

INFORMATION:

Item Number: 15-226

Petitioner: Seminary Galleria, LLC

Zoning: BL, DR 5.5

Requested Action: Special Hearing, Variance

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the Petition for Special Hearing to determine whether an existing, freestanding joint identification sign and an existing freestanding enterprise sign with an electronic message board should be allowed on the same frontage of a shopping center property and Petition for a Variance to allow existing freestanding joint identification signs to display a maximum of 23 lines of text at a minimum 1" text height, a height of 30' in lieu of the required 5 lines, 8" and 25' respectively and to allow a freestanding directional sign with a height of 6'2" in lieu of the maximum required 4'.

The request is necessary to meet BCZR 450.8.D, Abatement, and to be consistent with the policies of BCZR 450.1. The site is an active commercial and office center with many businesses and offices in different buildings. The signs do not appear excessive for the size and scale of the center. The signage is existing and in good condition and there are no proposed changes. The Department of Planning has no objection to the granting of the petitioned relief.

For further information concerning the matters stated herein, please contact Wallace S. Lippincott, Jr. at 410-887-3480.

Division Chief:
AVA/KS

Kathy S. Rabun

cc: Wallace S. Lippincott, Jr.



100-15-
3634113
A 548810

SIGN USE PERMIT

Permit Fees are Non-Refundable; Make Check Payable to "Baltimore County, Maryland"

PROPERTY ADDRESS 1407 YORK RD LUTHERVILLE MD 21093
BUSINESS NAME PLANET FITNESS ZONING BL
OWNER'S NAME HILL MANAGEMENT PHONE NO. _____ HISTORIC DISTRICT: ☐ Yes ☒ No
MAILING ADDRESS 10096 RED RUN BLVD OWINGS MILLS MD 21117
APPLICANT/OWNER'S AGENT Bob HELINSKI MGT G.S PHONE NO. 410 255 6400
SIGN COMPANY NAME GABLE SIGNS + GRAPHICS PHONE NO. 410 255 6400

TYPE OF SIGN:

TAX ACCOUNT NO. 09-191 0001 4867

☐ Temporary - Including Real Estate/Construction/Event Temporary Sign(s) in the Last Year: ☐ Yes ☐ No
☒ Permanent ☐ Changeable Copy ☐ Wall ☐ Face Change Only ☐ Non-Illuminated
☐ Freestanding ☒ Pylon ☐ Monument ☒ Illuminated (separate electrical permit required)
Size: 8' feet X 4' feet = 32' square feet Height: 15' feet (freestanding signs)

Property Line/Street Right-of-Way Setbacks: front _____, sides _____ and _____, and rear _____
NOTE: A construction plan, drawn to scale and clearly showing that all requirements have been met, must be attached; a site plan also must be attached for freestanding signs.

PROHIBITIONS - including roof signs (Sections 450.5.B.7 and 450.6.A, Baltimore County Zoning Regulations):

1. Signs cannot impair motorist's clear view of traffic or government signs. All signs are subject to Section 102.5, BCZR.
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5. Vehicle cannot be parked for the purpose of displaying an attached sign.
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Work Description (including number of signs, special conditions, materials, locations, and size):

MOVE ILLUMINATED Pylon SIGN TO NEW LOCATION ACCORDING TO
PLAN FOR WIDENING OF YORK RD. SIGN SIZE 8'X4'-32" HEIGHT 15'
CHANGEABLE COPY TO BE 100% OF SIGN AREA - CAN CHANGE ONCE PER YEAR
NOT IN IL-OW NO STROBING

PLEASE PRINT OR TYPE LEGIBLY REPLACES OLD PERMIT 13628015

FLASHING, BLINKING OR OSCILLATING OR GIVING THE APPEARANCE OF MOVEMENT

OWNER/AGENT CERTIFICATION

hereby certify, under penalty of law, that the proposed sign will be located so as not to violate any codes and that the information supplied is true, complete, and correct.

Bob Helinski MGT G.S
Signature

6-15-06
Date

Bob HELINSKI MGT G.S
Print/Type Name

as: White - Office; Yellow - Applicant (keep this copy for your permanent records)

Authority under Section 500.4, BCZR

PDM APPROVAL (SIGN ONLY)

Signature

Initials

Date

PETITIONER'S EXHIBIT 4

THORNHILL RD

BL

DR 5.5

SEMINARY AVE

TENBURY RD

0905770127

AS

0913108530

0907830451

WESTBURY RD

0913201580

0919580050

RO

0905000900

DR 16

0922001000

EE F F

BL

2300011306

ROAD

ROAD

2300011305

2300011304



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

Timothy Kotroco

TIMOTHY M. KOTROCO
DIRECTOR

BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B634113 CONTROL #: SI-1 DIST: 08 PREC: 01
DATE ISSUED: 06/15/2006 TAX ACCOUNT #: 1900014867 CLASS: 14

PLANS: CONST 1 PLOT R PLAT DATA ELEC YES PLUM NO
LOCATION: 1407 YORK RD
SUBDIVISION:

OWNERS INFORMATION

NAME: HILL MGT
ADDR: 10096 RED RUN BLVD OWINGS MILLS MD 21117

TENANT: PLANET FITNESS

CONTR: GABLE SIGNS

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SELLR:

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THAN 50% OF TOTAL SIGN AREA NO STROBING,
FLASHING, BLINKING, OSCILLATING, OR GIVING TH
APPEARANCE OF MOVEMENT CAN CHANGE ONCE PER HOUR

BLDG. CODE:

RESIDENTIAL CATEGORY:

OWNERSHIP:

PROPOSED USE: RETAIL & SIGN(D/F F/S)

EXISTING USE: RETAIL

TYPE OF IMPRV: ADDITION

USE: SIGN

FOUNDATION:

SEWAGE: PUBLIC EXIST

BASEMENT:

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE:

FRONT STREET:

SIDE STREET:

FRONT SETB:

SIDE SETB:

SIDE STR SETB:

REAR SETB:

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.

CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS
4692 MILLENNIUM DRIVE, SUITE 100, BELCAMP, MARYLAND 21017

CURRICULA VITAE

Bernt C. Petersen, R.L.A.

Director of Planning
George William Stephens, Jr. & Associates, Inc.

Professional Registration: Registered Landscape Architect - Maryland - No. 1095

Education:

State University of New York, College of Environmental Science and Forestry at
Syracuse – Bachelor of Landscape Architecture - 1977
Bachelor of Science, Environmental Studies -1976

~~**Professional Affiliations:** American Society of Landscape Architects,
Maryland Chapter, No. 1108847~~

Professional practice includes 30 years of experience in land planning, landscape architecture, comprehensive zoning, PUD master planning, site planning, and testimony regarding land use and zoning issues. Mr. Petersen has been practicing in the Greater Baltimore Metropolitan region since 1988 and has expertise in land planning, site planning, and zoning cases in Anne Arundel County, Baltimore County and Howard County, Maryland.

Principal duties for G. W. Stephens, Jr. & Assoc. include: supervision of site development and land planning; zoning interpretation; Community Input Meetings; Development Plan preparation and Hearing Officer's Hearings; Special Hearings and Special Exception petitions; variance request petitions and landscape plan preparation. Prior to his relocation to Maryland, Mr. Petersen practiced site design and land planning in New York and Massachusetts.

Significant local projects include: Powell Property, Forge Landing, Cedar Lane Farms P.U.D., 1400 Taylor Avenue P.U.D., Westwicke, Beachwood Estates, The Sanctuary, Kimbrook, Kopp Property, Green Spring Station, Home Depot of Owings Mills, Bel Air and Timonium, Ashland Market Place, Baker Property, Greenfields at White Marsh and The Clusters. A significant project of regional impact is Luther's Forest, a comprehensive mixed use development in Saratoga County, NY.

Mr. Petersen has prepared comprehensive-zoning petitions in Baltimore County during the 1996, 2000, 2004 & 2008 CZMP processes and has an understanding of the principles of Euclidean zoning and their application throughout the Baltimore Metro region. He has thorough experience dealing with the Baltimore County's development regulations.







PETITIONER'S EXHIBIT 2A





GALLERIA

Case No.: 2016-106-A

Exhibit Sheet

2-26-14
Sen

Petitioner/Developer

Protestants

No. 1	1A Site plan 1B	Resolutions- Dulany Valley Improv. Ass'n.
No. 2	2A-2C Photos	2A-2C Photos of signs
No. 3	2AC comment for prior # 15-226	
No. 4	Sign permit	
No. 5	Petersen CV	
No. 6	CR6 Plan	
No. 7	sign distance plan	
No. 8	Topo. Plan	
No. 9		
No. 10		
No. 11		
No. 12		

Board of Appeals

Case No: 16-106 A

Case Name: Seriny Gallin, LLC

Exhibit List

Party: Protestants

Date: 11/10/16

[illegible]

Seminary Ave
NEXT SIGNAL

JCT

MARYLAND
131

Protestant
CBA Exhibit

29

LEASE
YORK ROAD
OFFICE / RETAIL

(410)
666-1000



www.hillmgt.com

GALLERIA

PenFed Realty

GEORGE MASON
MORTGAGE LLC
THE HEARING ASSESSMENT
CENTER, INC.

MedStar Orthopaedics

SCSPHYSICIANS
skin care specialty physicians

LUTHERVILLE COSMETIC
& FAMILY DENTISTRY

THE CREIG NORTHBROOK TEAM
of the Long & Foster Real Estate, Inc. is

SZECHUAN
HOUSE

ORTHODONTICS
Dr. Martin Y. Long

TOWSON NAILS
410-321-7979

DELI & CARRY OUT
Myles Lichtenberg

Protestant
CBA Exhibit

2b

GALLERIA



PenFed Realty

GEORGE MASON
MORTGAGE, LLC

THE HEARING ASSESSMENT
CENTER, INC.



MedStar Orthopaedics

SCSPHYSICIANS

skin care specialty physicians



LUTHERVILLE COSMETIC
& FAMILY DENTISTRY

John A. Sawchuk
D.D.S.

THE CREIG NORTHROP TEAM

of LONG & FOSTER® REAL ESTATE, INC.

SZECHUAN
HOUSE



ORTHODONTICS
Dr. Martin T. Lang



TOWSON NAILS
410-321-7979

DELI &
CARRY OUT

Law Office
Myles
Lichtenberg

Protestant
CBA Exhibit

2c



Protestant
CBA Exhibit

2d



GALLERIA
1407-1447

KAISER PERMANENTE

ERIC R. VOLK, DDS
endodontics

GEORGE MASON
MORTGAGE LLC

doodle design

THE CREIG NORTHROP TEAM
Long & Foster Real Estate, Inc.

RITE AID PHARMACY

R&P SETTLEMENT
GROUP

GALLERIA DELI

BLOCK
Advisors

JOHN A. SAWCHUK, D.D.S.
Cosmetic and Family Dentistry

CERTIFIED RARITIES

New World
tile company

WELLS
FARGO

Michael A. White D.D.S.

IvoryHouse

COCO & BUFF

TOWSON NAILS

MICHAEL P. KLAFF, D.D.S.
DENTIST

Hill
Management

Protestant
CBA Exhibit
2e



Protestant
CBA Exhibit

2f

**YOUR NAME
HERE**

Hill
Management

DAKTRONICS

GALAXY

GALLERIA

enFed Realty

JOHN MANEN
RE/MAX, LLC

MARKING ASSESSMENT
CENTER, INC.

Star Orthopaedics

PHYSICIANS

J. LOMAX
CENTURY

THE KING NORTON TEAM

CHUAN
HOUSE

ARTIST'S
LEAD

SUBWAY

TOWSON NAILS

410-221-7879

Myers
Lichtenberg

Protestant
CBA Exhibit

29

5A

GALLERIA

1407-1447

KAISER PERMANENTE

ERNO R. VOLK, D.D.S.
Endodontics

GEORGE J. MASON
MORTGAGE, LLC

doodledesign

THE NEW YORK & COMPANY, INC. & CO.

RITE AID PHARMACY

R&P SETTLEMENT GROUP

GALLERIA DELI

MARYLAND INSTITUTE
NEUROSCIENCE

BLOCK Advisors

JOHN A. SIMCHUK, D.D.S.
Cosmetic and Family Dentistry

CERTIFIED RARITIES

New World

WELLS FARGO

HWK LET

Michael A. White D.D.S.

IvoryHouse

COCO & BUFF

TOWSON NAILS

MICHAEL P. KRAFT D.D.S.
DENTIST

York & Son
3

5A FB

Protestant
CBA Exhibit

39

GALLERIA



PenFed Realty

GEORGE MASON
MORTGAGE, LLC

THE HEARING ASSESSMENT
CENTER, INC.



MedStar Orthopaedics

SCSPHYSICIANS
skin care specialty physicians



LUTHERVILLE COSMETIC
& FAMILY DENTISTRY

John A. Sawchuk
D.D.S.

THE CREIG NORTHROP TEAM

Long & Foster Real Estate, Inc.

SZECHUAN
HOUSE



RESTAURANT & CARRY-OUT

ORTHODONTICS
Dr. Martin T. Lang

SUBWAY

TOWSON NAILS
410-321-7979

DELI &
CARRY OUT



Law Office
Myles
Lichtenberg

5B

York Rel
#1

KB

Protestant
CBA Exhibit

3b

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For November 2, 2015
Item No. 2016-0106

DATE: November 4, 2015

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment.

A Landscape Plan that provides screening of the parking along York Road and along Seminary Avenue across from residences is required.

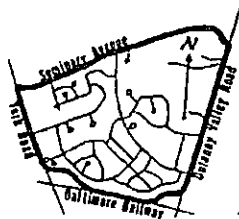
* * * * *

DAK
cc:file

ZAC-ITEM NO 16-0106-11022015.doc

**Protestant
CBA Exhibit**

4



**Dulaney
Valley
Improvement
Association, Inc.**

P.O. Box 102 · Lutherville, MD · 21094-0102

February 8, 2016

To Whom It May Concern:

Under the provisions of Rule Eight of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, the special rule pertaining to persons appearing before the Board as a representative of the Dulaney Valley Improvement Association, Inc., hereinafter "DVIA," be it known that the members elected below

Have an accurate knowledge of the number of members in the association and the geographic limits of "DVIA,"

Are authorized to speak for and present the views of "DVIA," and

Are currently duly elected officers or members of the Board of Directors of "DVIA" and have been given the responsibility for review and action on all zoning matters brought before the Board of Directors and are acting as the zoning committee for "DVIA."

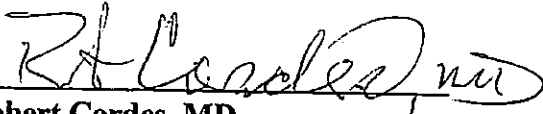
The members elected by formal resolution of the Board of Directors are:

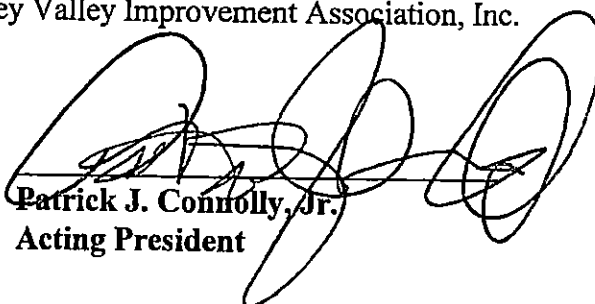
Patrick J. Connolly, Jr., Acting President, 1305 Charmuth Road, Lutherville, MD 21093
Maxwell R. Collins, II, Esquire, Treasurer, 11 Greenridge Road, Lutherville, MD 21093
Robert Cordes, MD, Acting Recording Secretary & Board Member, 1217 Oakcroft Drive,
Lutherville, MD 21093
Timothy Ruppalt, Board Member, 214 Felton Road, Lutherville, MD 21093

AS WITNESS OUR HANDS AND SEALS THIS 19th day February 2016.

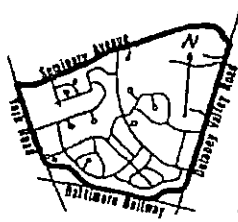
ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President

16-106(A) *Simmons*
4/5/17



**Dulaney
Valley
Improvement
Association, Inc.**

P.O. Box 102 · Lutherville, MD · 21094-0102

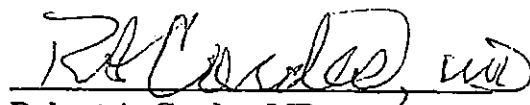
RESOLVED: After a formal motion by Maxwell R. Collins, II, Esquire, Treasurer, seconded by the Board member and Acting Corresponding Secretary, Susan Shaffer, by unanimous vote of the board, the responsibility for review and action on all zoning matters for the calendar year 2016, pursuant to Rule Eight of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, was placed in the Zoning Committee consisting of the following members, each of whom was authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

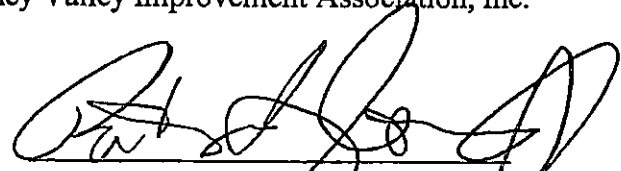
Patrick J. Connolly, Jr., Acting President, 1305 Charmuth Road, Lutherville, MD 21093
Maxwell R. Collins, II, Esquire, Treasurer, 11 Greenridge Road, Lutherville, MD 21093
Robert Cordes, MD, Acting Recording Secretary & Board Member, 1217 Oakcroft Drive,
Lutherville, MD 21093
Timothy Ruppalt, Board Member, 214 Felton Road, Lutherville, MD 21093

AS WITNESS OUR HANDS AND SEALS THIS 19th day of February 2016.

ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert A. Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President

AFFIDAVIT

STATE OF MARYLAND *
* SS
BALTIMORE COUNTY *

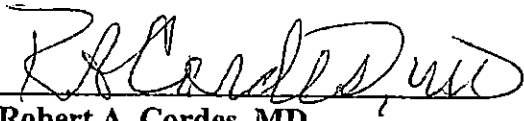
TO WIT:

I, **Dr. Robert A. Cordes**, solemnly affirm under the penalties of perjury and on personal knowledge that I am currently a duly elected member of the Board of Directors and the Zoning Committee of the Dulaney Valley Improvement Association, Inc. for the calendar year 2016.


ROBERT A. CORDES, MD

ATTEST:

Dulaney Valley Improvement Association, Inc.


Robert A. Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President

DATE: 19 February 2016

AFFIDAVIT

STATE OF MARYLAND *
* SS
BALTIMORE COUNTY *

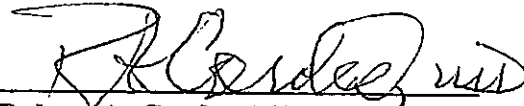
TO WIT:

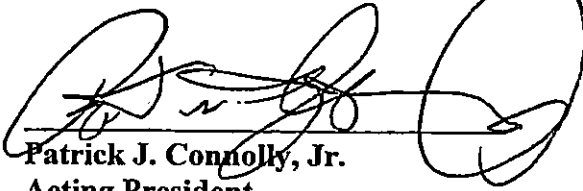
I, **Maxwell R. Collins, II, Esquire**, solemnly affirm under the penalties of perjury and on personal knowledge that I am currently a duly elected Officer and member of the Zoning Committee of the Dulaney Valley Improvement Association, Inc. for the calendar year 2016.


MAXWELL R. COLLINS, II, ESQUIRE
Treasurer

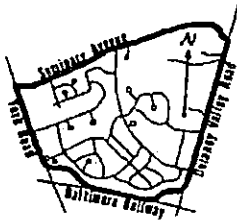
ATTEST:

Dulaney Valley Improvement Association, Inc


Robert A. Cordes, MD
Acting Recording Secretary


Patrick J. Connolly, Jr.
Acting President

DATE: 19 FEBRUARY 2016



**Dulaney
Valley
Improvement
Association, Inc.**

P.O. Box 102 · Lutherville, MD · 21094-0102

8 February 2016

RESOLVED: That the position of the Association as adopted by the Zoning Committee and by the majority vote of the Board of Directors on the zoning matter known as

Case Number: 2016-0106-A

Property Location: 1407, 1411, 1419, 1421, 1429, 1433 and 1447 York Road

Legal Owners: Seminary Galleria, LLC, Anthony Giulio, General Manager

The following variances are requested from Section 450.4, Attachment 1 of the BCZR:

1. From 7(b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign Number 2).
2. From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign 2).

is that the Petition is **OPPOSED**.

AS WITNESS OUR HANDS AND SEAL THIS 19th day of FEBRUARY 2016.

ATTEST:

Dulaney Valley Improvement Association, Inc.

A handwritten signature in black ink, appearing to read 'R. Cordes, MD'.

Robert A. Cordes, MD
Acting Recording Secretary

A large, stylized handwritten signature in black ink, appearing to read 'Patrick J. Connolly, Jr.'.

Patrick J. Connolly, Jr.
Acting President

DIRECTORY

Protestant
CBA Exhibit

6A-Q

SATURDAY
APRIL 01, 2017

10:02 AM

GALLERIA ATRIUM

1407 YORK ROAD

WELCOME



TOUCH A BUTTON TO BEGIN

BROWSE TENANTS

BROWSE INDIVIDUALS

MANAGEMENT & LEASING

AREA MAP



Building Announcements: NO ANNOUNCEMENTS AT THIS TIME. HAVE
A GREAT DAY!

A

DIRECTORY

GALLERIA ATRIUM



BROWSE TENANTS

PLEASE MAKE A SELECTION BELOW

A-C

D-F

G-I

J-L

M-N

O-R

S-U

V-Z

ALPHA
SEARCH

SATURDAY,
APRIL 01, 2017
10:02 AM

BACK | HOME

DIRECTORY

GALLERIA ATRIUM



BROWSE TENANTS

WINDRUSH BEHAVIORAL
HEALTH, LLC

SUITE
FLOOR

WINDRUSH BEHAVIORAL
HEALTH, LLC IS LOCATED NEXT
DOOR IN THE GALLERIA
TOWERS AT 1447 YORK RD,
SUITE 506.

SATURDAY,
APRIL 01, 2017
10:01 AM

[BACK](#) [HOME](#)





E

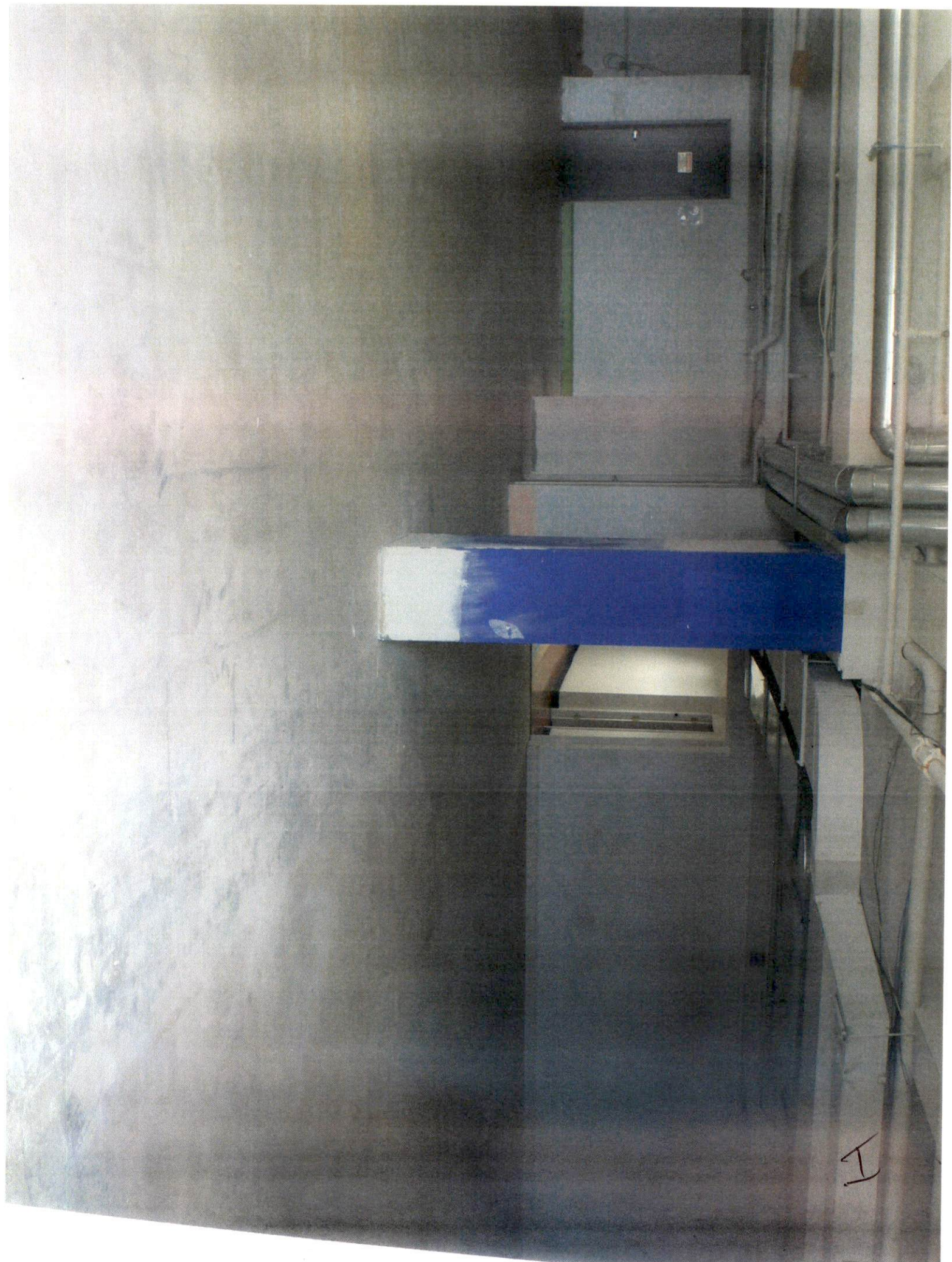




6



H











GRAND YORK
PLAZA

Grand York Interiors



ANIMAL MEDICAL CLINIC
Dr. Renee R. Chrest

HARVARD DISCOUNT
PHARMACY



me People!
ETTER
ING
on Toetinn



LIVE BETTER
HEARING

Grand York Interiors



Q



**KATZEN
EYE GROUP**

1209 YORK ROAD



Board of Appeals

Case No: 16-106-A

Case Name: Seminary Galleria, LLC

Exhibit List

Party: Petitioner

Date: 11/16/16

Exhibit No:	Description:
✓ 1a	Site Plan
✓ 1b	Site Plan
✓ 2	Amended Petition
✓ 3a-b	Photos of Site
✓ 4	Sign Use Permit
✓ 5a-b	Photos of Tent Sign ⁴ / B Sign York Road
✓ 6	Barnt C. St Petersen, C.V.
✓ 7.	Air. Plat of Area around sub, at site
✓ 8.	CEG Map - Map
✓ 9.	Site Plan / Topography + Surrounds
✓ 10.	C.V. Mitchell J. Kellman
✓ 11 A-E	Photographer of site and by Kellman in Testimony
	VERIFIED BY <u>KC</u> DATE: <u>11/17/16</u>

KC
4/6/17

Petitioner
CBA Exhibit

A-E

PETITIONER'S EXHIBIT 11 A-E

4/8/17



G
S

NO
PARKING
IN
ACCESS
AISLE

RESERVED
PARKING



MAXIMUM
FINE \$152

VAN
ACCESSIBLE

GALLERIA



PenFed Realty

**GEORGE MASON
MORTGAGE, LLC**

**THE HEARING ASSESSMENT
CENTER, INC.**



MedStar Orthopaedics

SCSPHYSICIANS
skin care specialty physicians



**LUTHERVILLE COSMETIC
& FAMILY DENTISTRY**

John A. Sawchuk
D.D.S.

THE CREIG NORTHROP TEAM

of **LONG & FOSTER** REAL ESTATE, INC.

**SZECHUAN
HOUSE**

RESTAURANT & CARRY-OUT

ORTHODONTICS
Dr. Martin T. Lang

SUBWAY

TOWSON NAILS
410-321-7979

**DELI &
CARRY OUT**



Law Office
**Myles
Lichtenberg**

**YOUR NAME
HERE**







MITCHELL J. KELLMAN
DIRECTOR OF ZONING SERVICES

*Petitioner
CBA Exhibit*

10

EDUCATION

Towson University, BA, Geography and Environmental Planning, Urban Planning
Towson University, Masters, Geography and Environmental Planning, Urban Planning

PROFESSIONAL SUMMARY

Mr. Kellman has over 25 years of experience working in zoning, subdivision, and development regulations for the public and private sector; 12 of those years were with the Baltimore County Office of Planning and Zoning. His responsibilities included review, approval and signatory powers on behalf of the Director of Final Development Plans and Record Plats. He represented the Zoning Office on the County Development Review Committee, a body reviewing the procedural compliance of all development submissions. Review of petitions and site plans filed for zoning hearing approvals were within his authority. Additionally, he supervised county review staff, met with professionals and the public on development project matters, and made determinations regarding developments and their compliance with county regulations. In working for DMW, he has extensive experience in testifying before the Baltimore County Zoning Commissioner, Hearing Officer, Administrative Law Judges, and Board of Appeals. He also regularly represents the company at the Baltimore County Development Review Committee meetings. He is also a member of Baltimore County's Design Review Panel and Landmarks Preservation Commission which formulates recommendations to the Planning staff and Administrative Law Judges.

PERSONAL AND PROFESSIONAL PARTIAL LIST OF PROJECTS

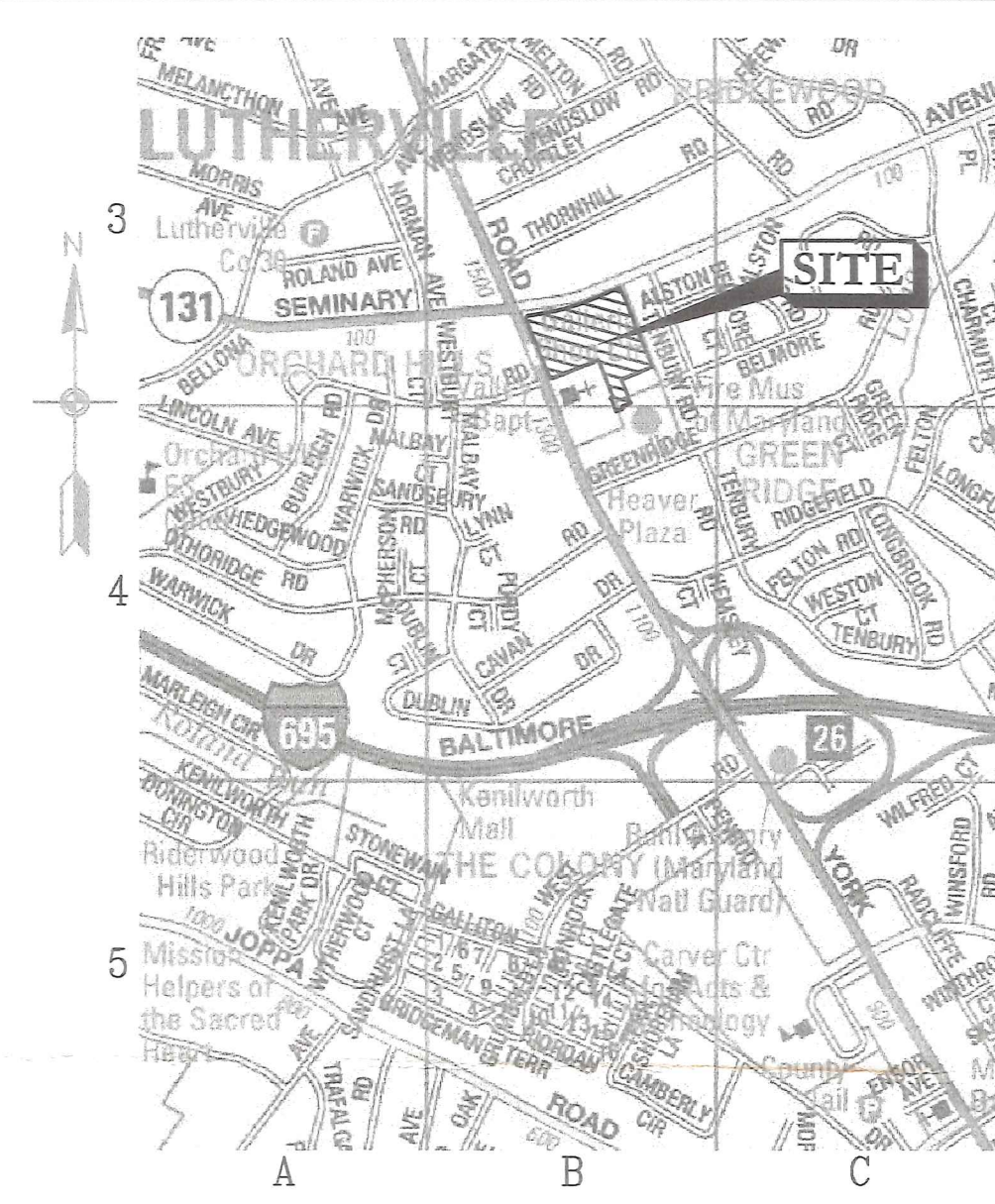
Delight Quarry, Baltimore County, MD
Hunt Valley Business Community, Baltimore County, MD
Hunt Valley Towne Centre, Baltimore County, MD
Charlestown Retirement Community, Baltimore County, MD
GBMC, Baltimore County, MD
Goucher College, Baltimore County, MD
Greenspring Quarry, Baltimore County, MD
Hopewell Point, Baltimore County, MD
Loveton Business Center, Baltimore County, MD
Notre Dame Preparatory School, Baltimore County, MD
Oakcrest Village Retirement Community, Baltimore County, MD
Sheppard and Enoch Pratt Hospital, Baltimore County, MD
Sparks Corporate Center, Baltimore County, MD
Towson Town Center, Baltimore County, MD

MEMBERSHIPS AND ASSOCIATIONS

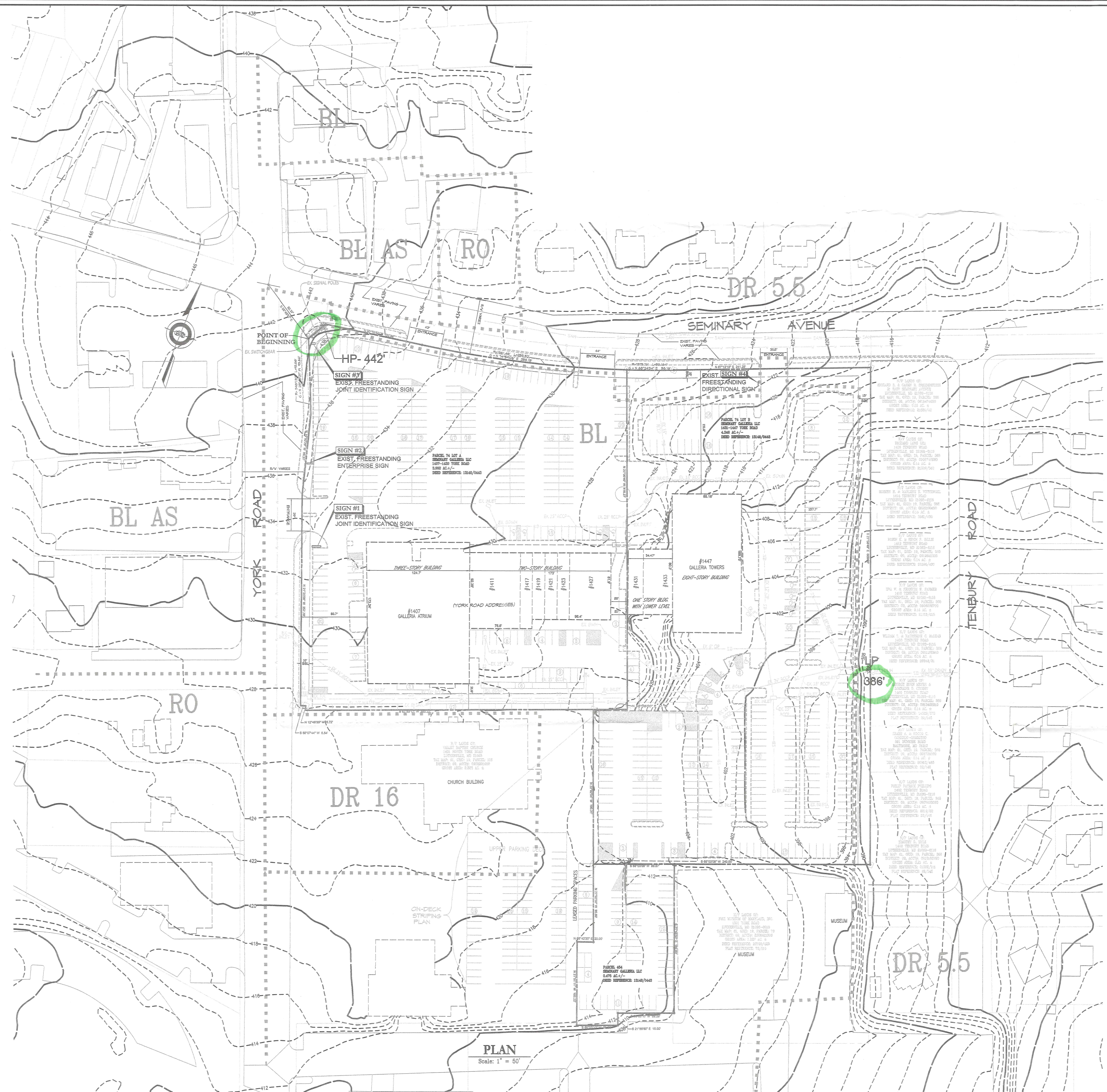
Baltimore County Design Review Panel, 2012, 2013, 2014, 2015, 2016
Baltimore County Landmarks Preservation Commission 2014, 2015, 2016
Greater Towson Committee, Government Relations Sub-Committee Chair, 2013, 2014
Greater Towson Committee Board of Directors - Secretary 2014, 2015, 2016
Leadership Baltimore County, 2013

PROFESSIONAL EXPERIENCE

Daft-McCune-Walker, Inc., Towson, MD 2000-Present
Baltimore County Office of Planning and Zoning, Permits and Development Management – Zoning Office,
Development Control, 1988-2000



VICINITY MAP
Scale: 1" = 1500'
ADC MAP #: 4579
GRID(S): B-3,
B-4



LEGEND

PROPERTY BOUNDARY	---
ADJOINER LOT LINE	---
R/W LINE	---
BUILDING SETBACK LINE	---
EXIST. BUILDING	---
EXIST. CURB LINE	---
EXIST. 2' CONTOUR	---
EXIST. 10' CONTOUR	---
ZONING LINE	---

SITE NOTES:

1. PROJECT NAME: GALLERIA SPECIAL HEARING AND VARIANCES
2. OWNER: SEMINARY GALLERIA LLC
215 SCHILLING CIRCLE, SUITE 300
HUNT VALLEY, MARYLAND 21093
3. PLAN PREPARED BY: G.W. STEPHENS, JR. & ASSOCIATES
4092 MILLENNIUM ROAD, SUITE 100
BEL CAMP, MARYLAND 21017
(410) 297-2340
4. SITE AREA
GROSS SITE ACREAGE: 15.644 S.F. = 0.54 AC. +/-
NET SITE ACREAGE: 38384 S.F. = 0.813 AC. +/-
5. EXISTING ZONING: BL, DR-3.5
6. ZONING MAP: NE 12A, NW 12A
7. GIS TILE: 081A3
8. ELECTION DISTRICT: 9
9. COUNCILMANIC DISTRICT: 3
10. TAX MAP NUMBER: 61 - PARCELS 74, 454
11. TAX ACCOUNT NUMBERS: 19000014887, 19000014888, 2000003391
12. DEED REFERENCE: 15148/0443
13. EXISTING USES: COMMERCIAL - OFFICE, RETAIL, RESTAURANT, MEDICAL OFFICE
14. PLAT REFERENCE: 53/78
15. CENSUS TRACT: 400200
16. WATERSHED: LOCH RAVEN RESERVOIR

PETITIONER'S EXHIBIT 9

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
4692 MILLENNIUM DRIVE, SUITE 100
BEL CAMP, MARYLAND 21017
(410) 297-2340



Owner
SEMINARY GALLERIA, LLC
215 SCHILLING CIRCLE
HUNT VALLEY, MARYLAND 21031-8632

NO.	DATE	REVISIONS:	BY

GALLERIA
PLAN TO ACCOMPANY PETITION FOR VARIANCES
TOPOGRAPHY EXHIBIT
1407-1447 YORK ROAD, LUTHERVILLE, MD 21093
CRG NO. 96140
ELECTION DISTRICT #9, COUNCILMANIC DISTRICT #3
BALTIMORE COUNTY, MARYLAND

Scale: 1" = 50'

Date: November 14, 2015

SCALE: 1" = 50'
DATE: 11/11/2015
JOB #: 20-1171
DES: BCP
DRN: BCP
CHK: BCP
FILE: 11/11/2015
DRAWING NUMBER: Z-4
SHEET 4 of 4

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS
4692 MILLENNIUM DRIVE, SUITE 100, BELCAMP, MARYLAND 21017

CURRICULA VITAE

Bernt C. Petersen, R.L.A.

Director of Planning
George William Stephens, Jr. & Associates, Inc.

Professional Registration: Registered Landscape Architect - Maryland - No. 1095

Education:

State University of New York, College of Environmental Science and Forestry at
Syracuse – Bachelor of Landscape Architecture - 1977
Bachelor of Science, Environmental Studies -1976

Professional practice includes 30 years of experience in land planning, landscape architecture, comprehensive zoning, PUD master planning, site planning, and testimony regarding land use and zoning issues. Mr. Petersen has been practicing in the Greater Baltimore Metropolitan region since 1988 and has expertise in land planning, site planning, and zoning cases in Anne Arundel County, Baltimore County and Howard County, Maryland.

Principal duties for G. W. Stephens, Jr. & Assoc. include: supervision of site development and land planning; zoning interpretation; Community Input Meetings; Development Plan preparation and Hearing Officer's Hearings; Special Hearing and Special Exception petitions; variance request petitions and landscape plan preparation. Prior to his relocation to Maryland, Mr. Petersen practiced site design and land planning in New York and Massachusetts.

Significant local projects include: Powell Property, Forge Landing, Cedar Lane Farms P.U.D., 1400 Taylor Avenue P.U.D., Westwicke, Beachwood Estates, The Sanctuary, Kimbrook, Kopp Property, Green Spring Station, Home Depot of Owings Mills, Bel Air and Timonium, Ashland Market Place, Baker Property, Greenfields at White Marsh and The Clusters. A significant project of regional impact is Luther's Forest, a comprehensive mixed use development in Saratoga County, NY.

Mr. Petersen has prepared comprehensive-zoning petitions in Baltimore County during the 1996, 2000, 2004 & 2008 CZMP processes and has an understanding of the principles of Euclidean zoning and their application throughout the Baltimore Metro region. He has thorough experience dealing with the Baltimore County's development regulations.

410-297-2340 • FAX 410-297-2345
www.gwstephens.com

Protestant
CBA Exhibit

6

11/10/16

GALLERIA



PenFed Realty

**GEORGE MASON
MORTGAGE, LLC**

**THE HEARING ASSESSMENT
CENTER, INC.**



MedStar Orthopaedics

SCSPHYSICIANS

skin care specialty physicians



**LUTHERVILLE COSMETIC
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**SZECHUAN
HOUSE**



RESTAURANT & CARRY-OUT

ORTHODONTICS
Dr. Martin T. Lang

SUBWAY

TOWSON NAILS
410-321-7979

**DELI &
CARRY OUT**



Law Office
**Myles
Lichtenberg**

PETITIONER'S EXHIBIT

SB
11/16/14

ST. RT. 45

YORK ROAD

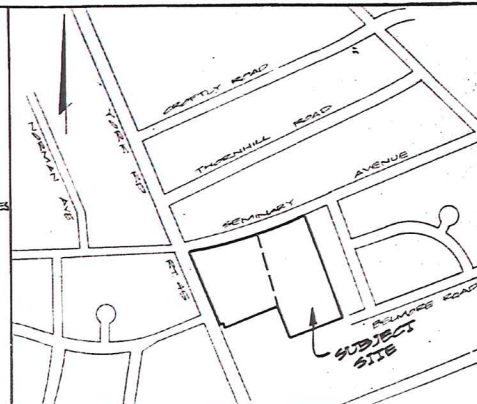
TENEBURY ROAD

SEMINARY AVENUE

PARKING SPACE DETAIL
(NO SCALE)

SOIL TYPES

SUB - SASSAFRAS URBAN LAND COMPLEX 0-5% SLOPE
JUD - JORRA URBAN LAND COMPLEX 5-15% SLOPE



LOCATION MAP SCALE: 1"=50'

BENCH MARK & ROAD ELEVATIONS
RAILROAD SPIKE IN MACADAM NORTH SIDE OF
SEMINARY AVENUE WEST OF YORK ROAD

GENERAL NOTES

- This site is not: A wetland
A critical area
An endangered species habitat
An archaeological site
A historical site
- Existing zoning: R-1, R-2, R-3
- Present use - shopping center with office and retail
- Proposed use - shopping center with office and retail
- Parking adjacent to Seminary Avenue, in the R-3.5 zone was granted by letter from the Zoning Commission.
- Deed reference - 6261/461/Record Plat 53/78.
- Account Number - 09-00-432140
- Highway widening for York Road to be offered to the State at no cost.
- ADT counts based on "Trip Generation" published by the Institute of Traffic Engineers.
- Area of site - 8.5 Acres ± (gross)
road widening - 0.15 Acres ±
Net area - 8.35 Acres ±
- Reference is directed to zoning case, 4280-2A which permitted a dry cleaning plant in the existing shopping center (use enticement).
4310 which reclassified a portion of the property from an "A" residence zone to an "E" commercial zone
465-256-24
- 3/27/85 - Zoning Commission granted S.R. for a community building and variance to permit 600 parking spaces in lieu of the required 643 spaces. Subject to the following restrictions:
1. The petitioner must comply with the restrictions set forth in Case No. 3410 which allows parking in the R-3.5 zone along Seminary Avenue within 30 days.
2. The petitioner must notify all employees and tenants that there shall be no parking in any illegal area or on the streets and shall vigorously enforce this restriction.
3. The petitioner must bear the cost of all signs needed to prevent parking of vehicles other than those of the residents on the streets adjacent to the property.
4. The variance granted herein will be valid for one year from the date of this Order, at which time the Petitioner must present evidence at a public hearing that the variance has not adversely impacted the convenient parking privilege of the residents living adjacent to and surrounding the instant property.
- 4/10/85 - Amended Order by the Zoning Commission modifying restriction #1.
4/26/85 - Amended Order by the Board of Appeals by the Dulany Valley Improvement Association.
9/10/85 - Board of Appeals ordered that motion to dismiss is denied.
12/20/85 - Board of Appeals granted special exception for community building and denied parking variance.
- Use permitted pursuant to Zoning Commission (in accordance with Case #4610) allow passenger vehicle parking in the R-3 zone portion of the property (verification made by letter dated June 15, 1985 to Halvin Burdette, Jr. from James P. Byr, zoning supervisor) subject to the following restrictions:
A-1. "Only passenger vehicles shall be permitted to use each parking area."
A-2. No service of any kind shall be extended to persons occupying vehicles in said parking space, nor shall any such space be used for automobile service or repair.
A-3. Any lighting installation shall be so arranged as to reflect the light away from the adjoining residential property and also the property on the opposite side of Seminary Avenue.
A-4. There shall be compact planting to screen the residential property on the opposite side of Seminary Avenue. Such planting shall be done at the time this property shall be used for parking and planting shall be required only for those portions of this property which shall be actually used for the parking of vehicles. These portions which must be approved for entrance and exits by the Planning Board shall not have to be screened under this provision.

NOTE: ALL FIRE LANES TO BE POSTED WITH NO PARKING SIGN.

UPPER DECK STRIPPING PLAN
SCALE 1"=40'
ACTUAL LAYOUT MAY VARY SLIGHTLY DEPENDING UPON FINAL STRUCTURAL DRAWINGS

SECTION A-A
SCALE 1"=40'

BALTIMORE COUNTY MD
COUNTY REVIEW GROUP
This Plan Was Reviewed By The CRG On
6-26-86 With The Following Action Taken
PLAN APPROVED
Plan Approved DPN [Signature]
Plan Approved OPZ [Signature]
Approval-Expiration Date 6-24-89
Plan Disapproved
Continued Mtg. Required
Plan Referred To Plan, Bd.

1ST AMENDMENT
TO CRG PLAN FOR THE GALLERIA TOWER AND THE GALLERIA
FOR ADDITION OF DECK AND REVISION OF PARKING CALCULATIONS
YORK AT SEMINARY
BALTIMORE COUNTY, MD
SCALE 1"=40'
ELECTION DISTRICT NO. 9
JUNE 20, 1986

PARKING TABULATION				
ADDRESS	FLOOR	S.F.	USE	SPACES REQ'D
#1401 YORK RD.	1ST	6,199	OFFICE 1/300	20.7
	2ND	10,011.55	RETAIL 1/200	50.1
	3RD	10,741.85	OFFICE 1/300	35.8
	4TH	1,200	RETAIL 1/200	6.0
	5TH	2,481.3	SMALL BUSINESS/BEAUTY/HAIR 1/300	8.3
	6TH	1,760	GENERAL OFFICE 1/500	3.5
	BASEMENT	10,000.61	RETAIL 1/200	50.1
#1411	1ST	5,720	RITE AID RETAIL 1/300	19.1
	2ND	1,440	REAL ESTATE OFFICE 1/300	4.8
	3RD	1,200	CARRY-OUT DELI 1/200	6.0
	4TH	1,200	RETAIL 1/200	6.0
	5TH	1,200	OFFICE 1/300	4.0
	6TH	1,200	OFFICE 1/300	4.0
	BASEMENT	4,021.5	HEALTH CLUB 1/500	8.0
#1431-1447 UNDER CONSTRUCTION	3RD	10,500	RETAIL 1/200	52.5
	4TH	5,000	RESTAURANT 1/50	10.0
	5TH	12,000	OFFICE	40.0
	6TH	12,000	OFFICE	40.0
	7TH	12,000	OFFICE	40.0
	8TH	12,000	OFFICE	40.0
	BASEMENT	12,000	OFFICE	40.0
TOTAL PARKING REQUIRED = 447 SPACES				
TOTAL PARKING SHOWN 580 (LOT) + 76 (DECK) = 656 SPACES				

PROPOSED PARKING DECK, ELEVATIONS SHOWN BELOW DECK GRADES TOP OF DECK 421 TO 425'

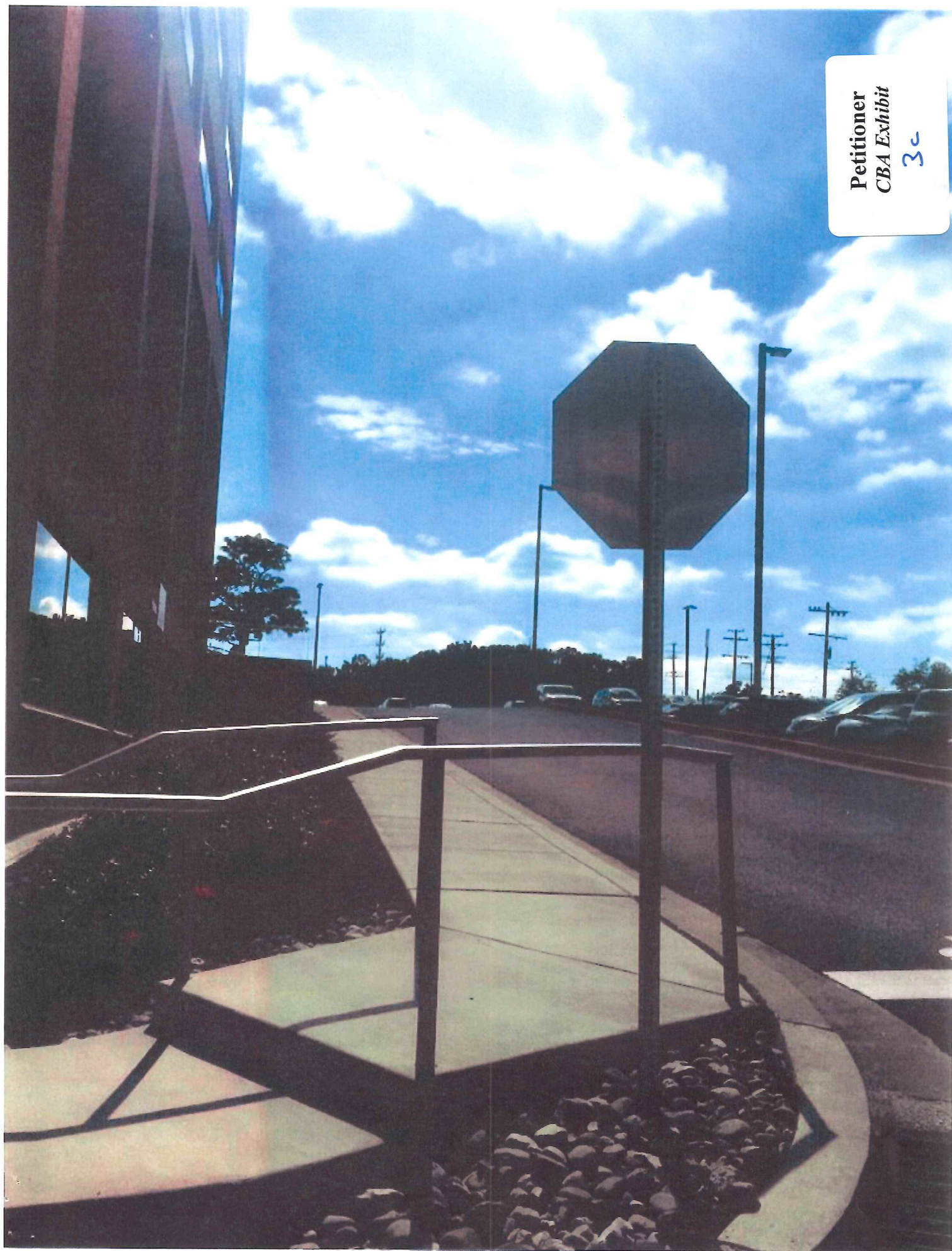
VACANT PARCEL OWNED BY 1317 YORK ROAD ASSOCIATES 6929/395

PROPOSED NEW DISTURBED AREA (PAVING LESS THAN 3000 SF)
BASEMENT FOR RAINY SEASON TO SEMINARY LTD PARTNERSHIP FROM 1317 YORK ROAD ASSOCIATES

OWNER:
SEMINARY LTD PARTNERSHIP
10 PARKS AVENUE
COCKEYSVILLE, MARYLAND
21220
666-0040
ENGINEER:
GEORGE W. STEPHENS JR.
AND ASSOCIATES INC.
303 ALLEGHENY AVE
TOWSON, MD 21204

Petitioner
CBA Exhibit
8

APPROVED BY AGENT 30, 1985



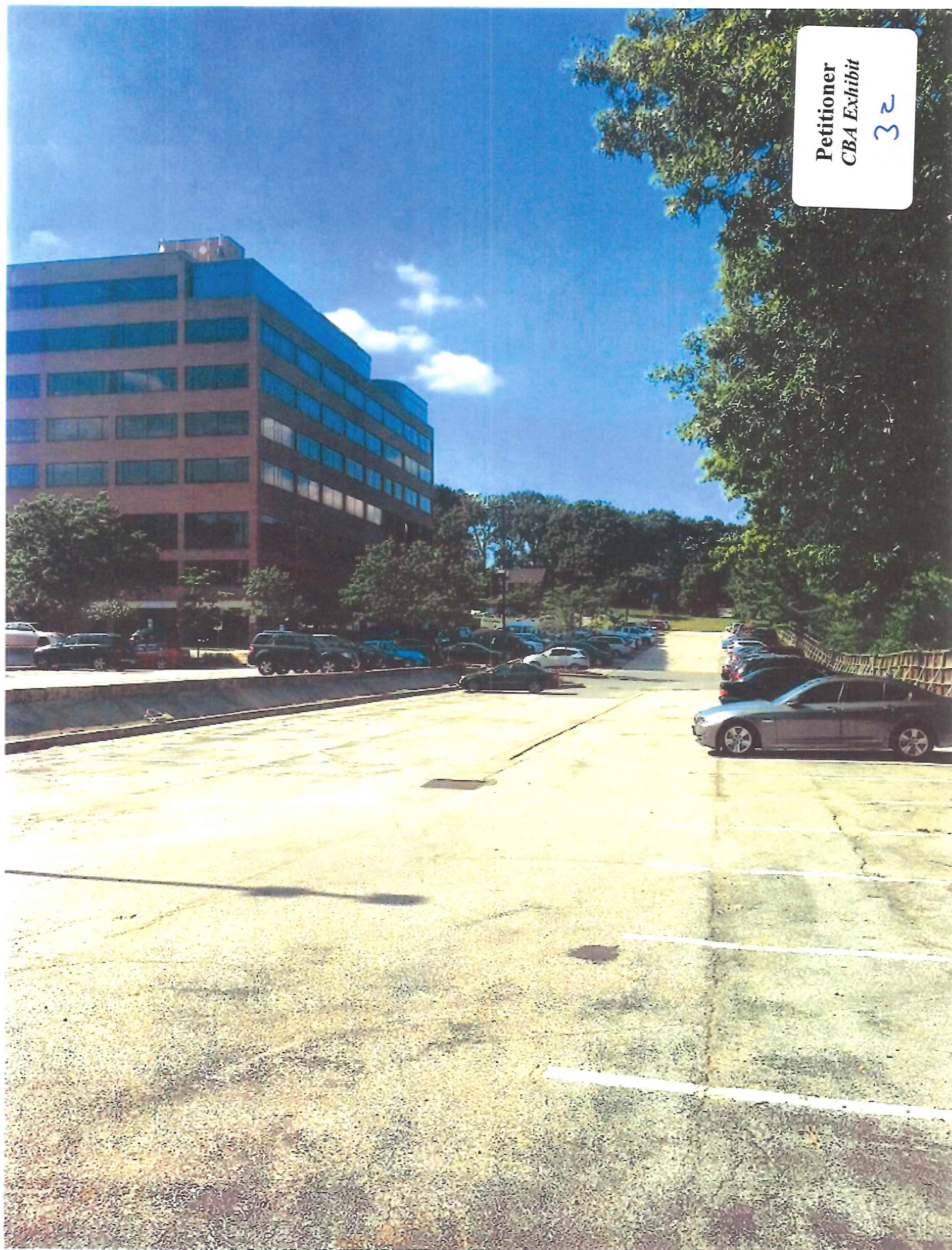


Petitioner
CBA Exhibit

32

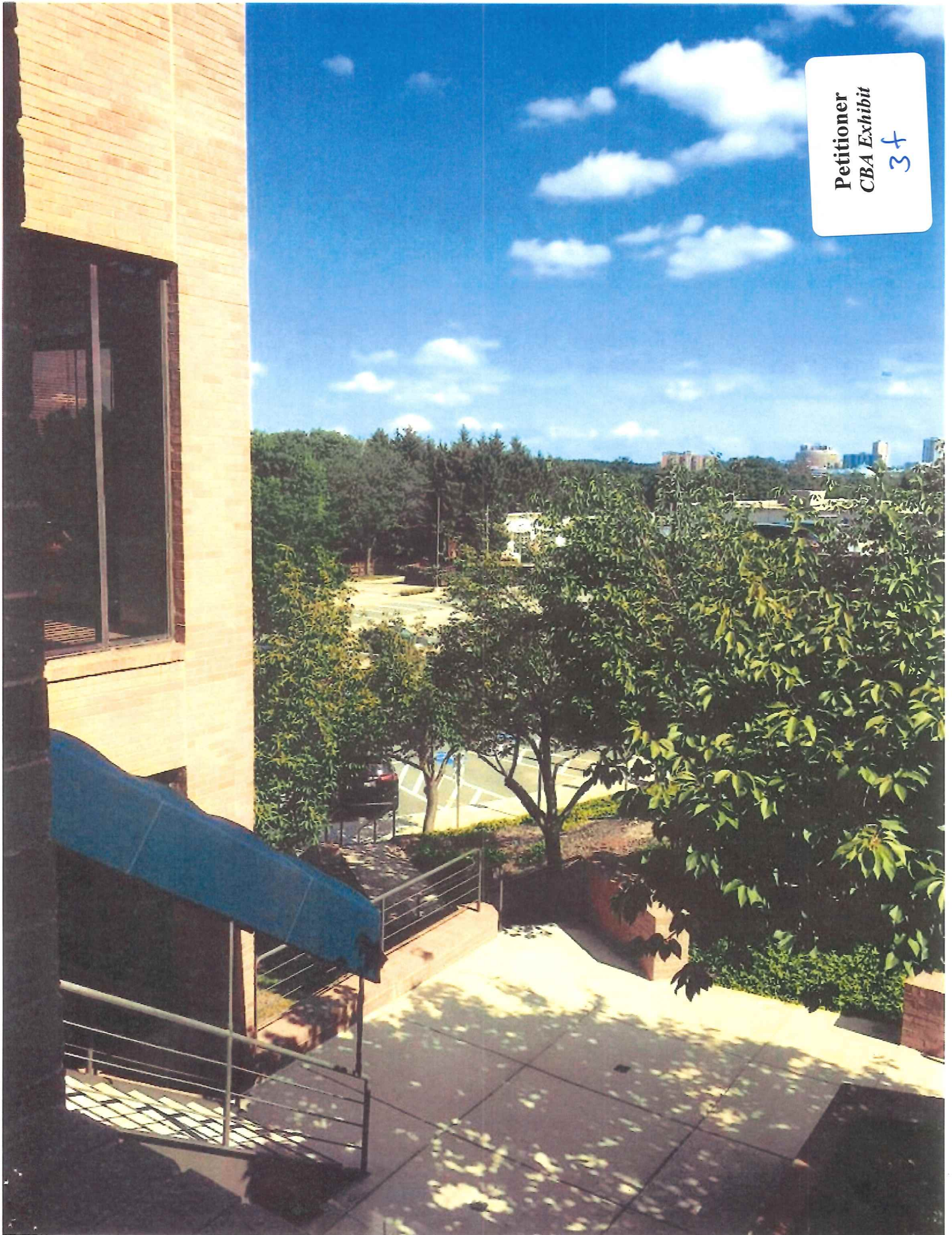
Petitioner
CBA Exhibit

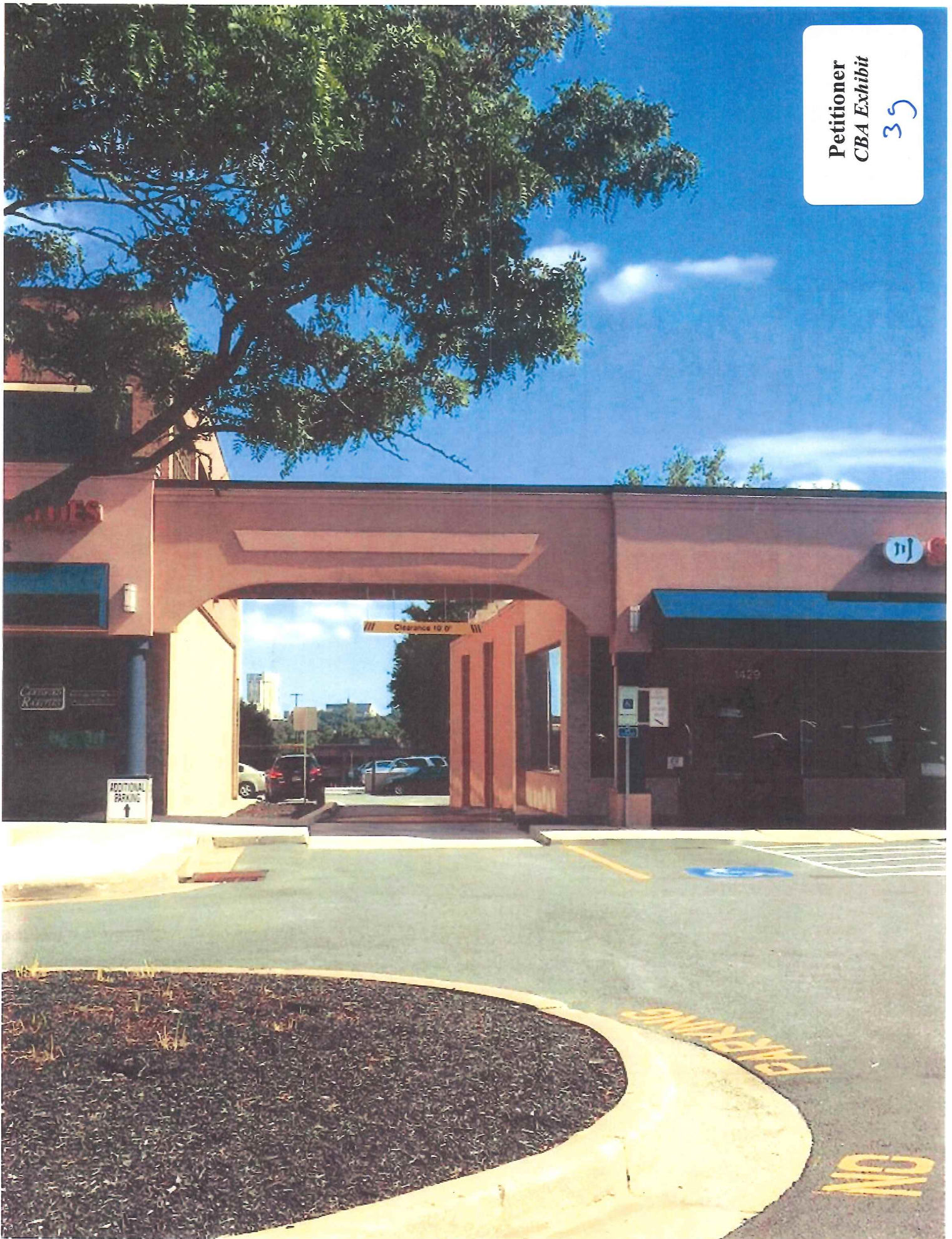
32



Petitioner
CBA Exhibit

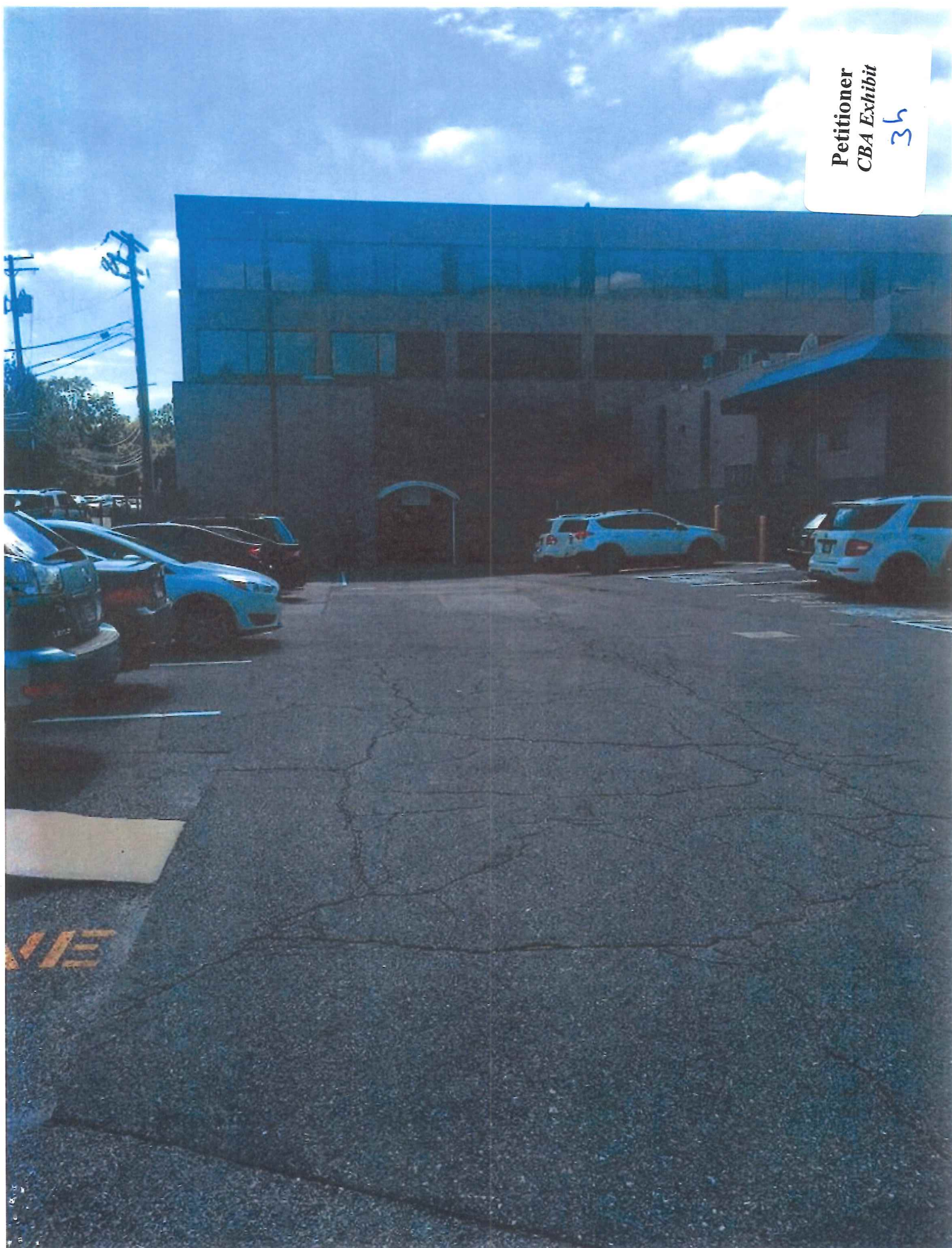
3f





Petitioner
CBA Exhibit

36





3634113
A 548810

SIGN USE PERMIT

Permit Fees are Non-Refundable; Make Check Payable to "Baltimore County, Maryland"

PROPERTY ADDRESS 1407 YORK RD LUTHERVILLE MD 21093
BUSINESS NAME PLANET FITNESS ZONING BL
OWNER'S NAME HILL MANAGEMENT PHONE NO. _____ HISTORIC DISTRICT: ☐ Yes ☒ No
MAILING ADDRESS 10096 RED RUN BLVD OWINGS MILLS MD 21117
APPLICANT/OWNER'S AGENT Bob HELINSKI MGT G.S PHONE NO. 410 255 6400
SIGN COMPANY NAME GABLE SIGNS + GRAPHICS PHONE NO. 410 255 6400

TYPE OF SIGN: TAX ACCOUNT NO. 09-191 00011 4867

☐ Temporary - Including Real Estate/Construction/Event Temporary Sign(s) in the Last Year: ☐ Yes ☐ No
☒ Permanent ☐ Changeable Copy ☐ Wall ☐ Face Change Only ☐ Non-Illuminated
☐ Freestanding ☒ Pylon ☐ Monument ☒ Illuminated (separate electrical permit required)
Size: 8' feet X 4' feet = 32' square feet Height: 15' feet (freestanding signs)

Property Line/Street Right-of-Way Setbacks: front _____, sides _____ and _____, and rear _____.
NOTE: A construction plan, drawn to scale and clearly showing that all requirements have been met, must be attached; a site plan also must be attached for freestanding signs.

- PROHIBITIONS - including roof signs (Sections 450.5.B.7 and 450.6.A, Baltimore County Zoning Regulations):
1. Signs cannot impair motorist's clear view of traffic or government signs. All signs are subject to Section 102.5, BCZR.
 2. Signs cannot imitate or resemble government signs, except for private traffic control and notice signs.
 3. Signs cannot be placed in or project into or above street right of way or government property.
 4. Sign or framework cannot obstruct window or opening for light and air or access to building, fire hydrant, or stand pipe.
 5. Vehicle cannot be parked for the purpose of displaying an attached sign.
 6. Except for flags exempted, flags, pennants, ribbons, streamers, tethered balloons, laser projections, and similar objects are prohibited.
 7. Portable signs are prohibited, except for A-frame and sandwich board signs issued a use permit in B.M. - C.T. zones.
 8. There can be no display or simulation of moving parts or message, except for an outdoor advertising sign with tri-vision, a changeable copy sign, or a thermometer, barometer, weather vane, barber pole, or clock.

Work Description (including number of signs, special conditions, materials, locations, and size):
MOVE ILLUMINATED PYLON SIGN TO NEW LOCATION ACCORDING TO
PLAN FOR WIDENING OF YORK RD. SIGN SIZE 8'X4'32' HEIGHT 15'
CHANGEABLE COPY TO BE 25% OF SIGN AREA - CAN CHANGE ONCE PER YEAR
NOT IN-LOW NO STROBING FLASHING, BLINKING OR OSCILLATING OR GIVING THE APPEARANCE OF MOVEMENT
REPLACES OLD PERMIT 13628015
PLEASE PRINT OR TYPE LEGIBLY

OWNER/AGENT CERTIFICATION

I hereby certify, under penalty of law, that the proposed sign will be located so as not to violate any codes and that the information supplied is true, complete, and correct.

Bob Helinski MGT G.S
Signature

6-15-06 Bob HELINSKI MGT G.S
Date Print/Type Name

as: White - Office; Yellow - Applicant (keep this copy for your permanent records)

Petitioner
CBA Exhibit

Authority under Section 500.4, BCZR

PDM APPROVAL (SIGN ONLY)

Signature

Initials

Date

4

11/16/16



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

Timothy M. Kotroco
TIMOTHY M. KOTROCO
DIRECTOR

BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B634113 CONTROL #: SI-1 DIST: 08 PREC: 01
DATE ISSUED: 06/15/2006 TAX ACCOUNT #: 1900014867 CLASS: 14

PLANS: CONST 1 PLOT R PLAT DATA ELEC YES PLUM NO
LOCATION: 1407 YORK RD
SUBDIVISION:

OWNERS INFORMATION

NAME: HILL MGT
ADDR: 10096 RED RUN BLVD OWINGS MILLS MD 21117

TENANT: PLANET FITNESS

CONTR: GABLE SIGNS

ENGR:

SELLR:

WORK: REMOVE EX F/S SIGN & REPLACE W/ NEW 8'X4'=32SF
15FT HGT ILLUM CHANGEABLE COPY TO BE LESS
THAN 50% OF TOTAL SIGN AREA NO STROBING,
FLASHING, BLINKING, OSCILLATING, OR GIVING TH
APPEARANCE OF MOVEMENT CAN CHANGE ONCE PER HOUR

BLDG. CODE:

RESIDENTIAL CATEGORY:

OWNERSHIP:

PROPOSED USE: RETAIL & SIGN(D/F F/S)
EXISTING USE: RETAIL

TYPE OF IMPRV: ADDITION

USE: SIGN

FOUNDATION:

SEWAGE: PUBLIC EXIST

BASEMENT:

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE:

FRONT STREET:

SIDE STREET:

FRONT SETB:

SIDE SETB:

SIDE STR SETB:

REAR SETB:

GALLERIA
1407-1447

IN KOSER PERMANENTE

ERIK R. VOLK, DDB
endodontics

GEORGE MASON
MORTGAGE, LLC

doodle design

The Center for Nonlinear Science
and Applied & Systems Risk Center, Inc. et al

RITE AID PHARMACY

R&P SETTLEMENT
GROUP

GALLERIA DELI

A MARYLAND INSTITUTE
OF NEUROSCIENCE

Advisors

JOHN A. SIBCHUK, D.D.S.
Cosmetic and Family Dentistry

CERTIFIED RARITIES

New World
Insurance

WELLS FARGO

HWK LET

Michael A. White D.D.S.

IvoryHouse

COCO & BUFF

TOWSON NAILS

MICHAEL PALAZO D.D.S.
DENTIST

PETITIONER'S EXHIBIT

5A
1/16/16

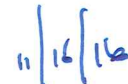




Petitioner
CBA Exhibit

3a

PETITIONER'S EXHIBIT 3A-H



**REVISED ATTACHMENT
TO PETITION FOR VARIANCE**

1407, 1411, 1419, 1421, 1429, 1433 and 1447 YORK ROAD

The following variances are requested from Section 450.4, Attachment 1 of the BCZR:

1. From 7(b)(IX) for a freestanding joint identification sign ~~to display a maximum of 6 lines of text~~ with sign copy a minimum of 3 inches in height in lieu of the ~~permitted 5 lines of text and~~ required 8 inches in height for sign copy (Sign No. 2).
2. From 7(b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2).

AMENDED 11/16/16



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 1407, 1411, 1419, 1421, 1429, 1433, and 1447 York Road which is presently zoned BL, DR5.5

Deed References: 13148-443 10 Digit Tax Account # 1900014867, 1900014868

Property Owner(s) Printed Name(s) Seminary Galleria LLC

(SELECT THE HEARING(S) BY MARKING ☒ 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
2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
3. ☒ a **Variance** from Section(s)

SEE ATTACHED

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate 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:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

David H. Karceski, Esquire

Name- Type or Print

Signature Venable LLP

210 W. Pennsylvania Ave., Ste. 500 Towson MD

Mailing Address City State

21204 410-494-6285 dhkarceski@venable.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

See Attached

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

David H. Karceski, Esquire

Name - Type or Print

Signature Venable LLP

210 W. Pennsylvania Ave., Ste. 500 Towson MD

Mailing Address City State

21204 410-494-6285 dhkarceski@venable.com

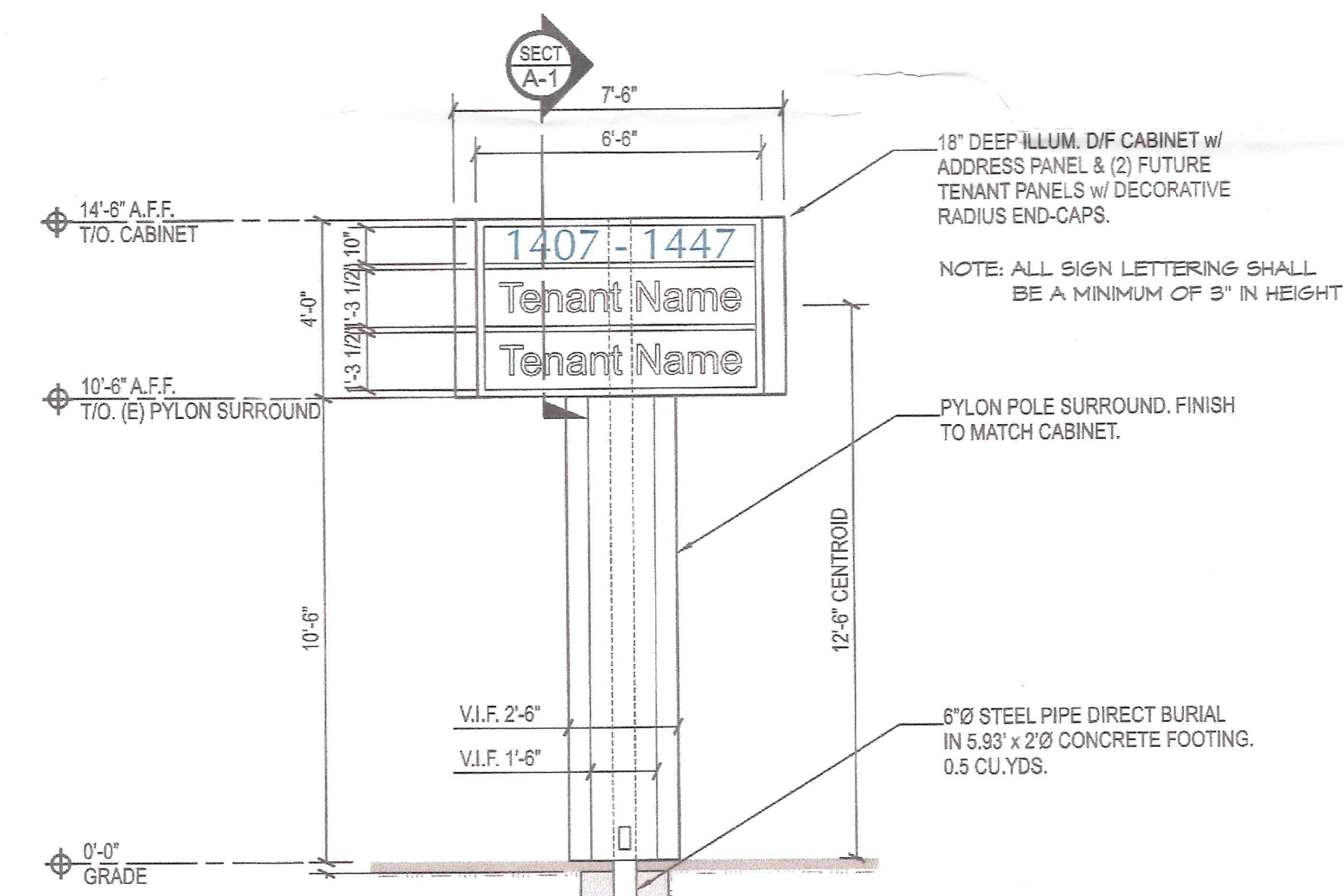
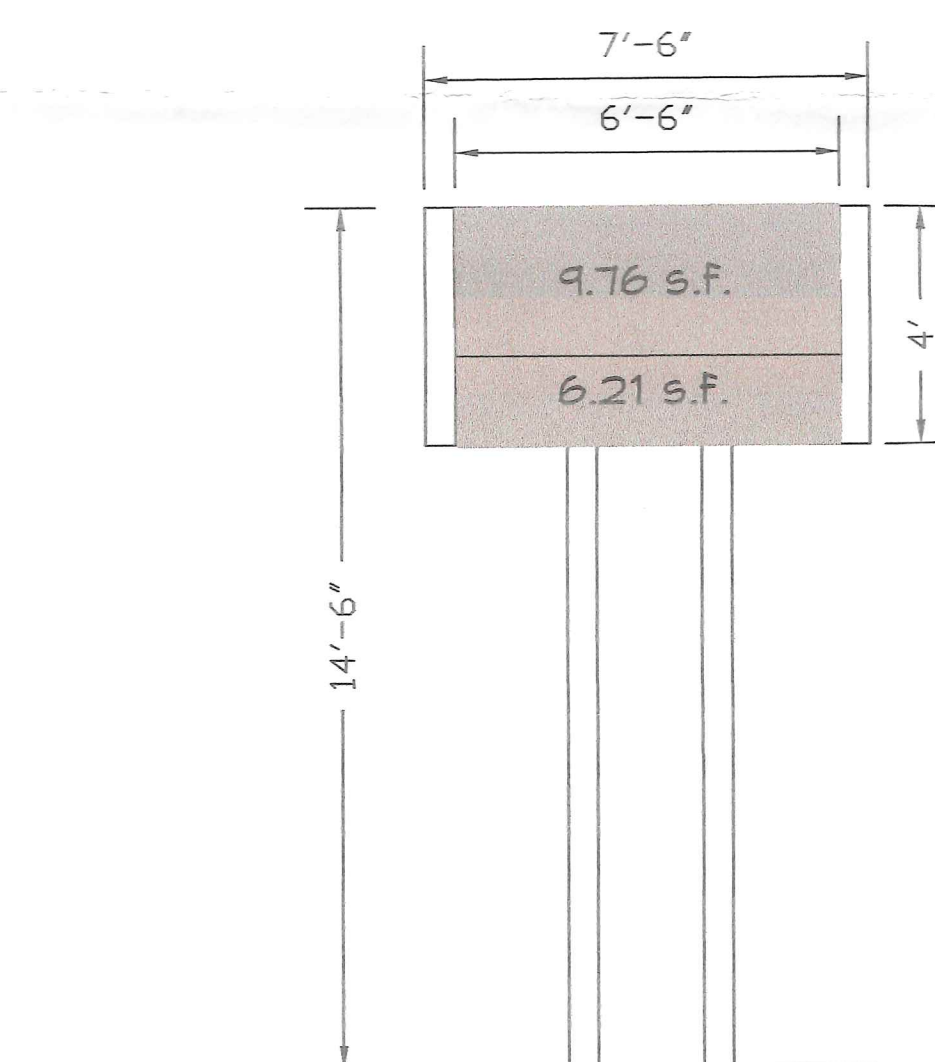
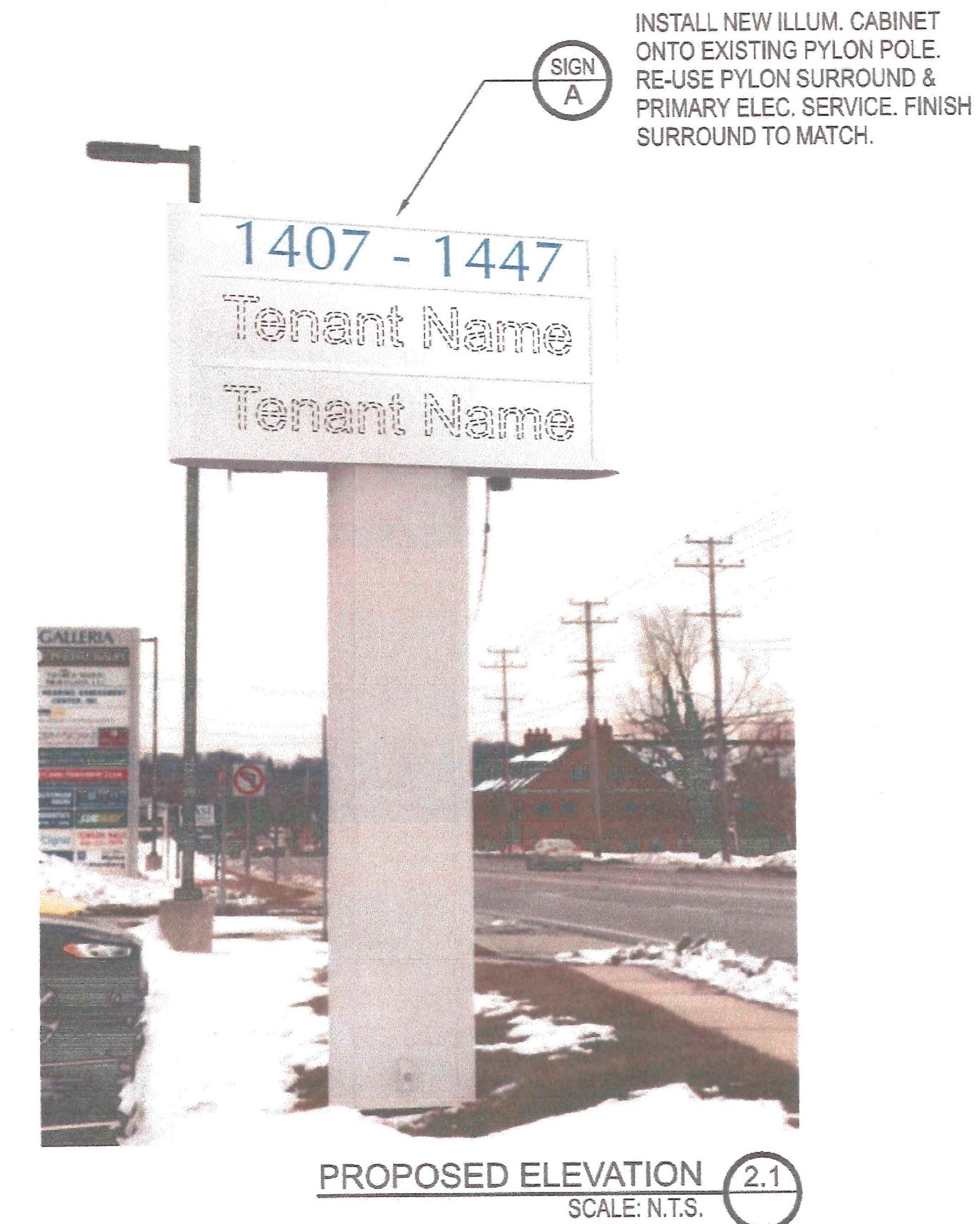
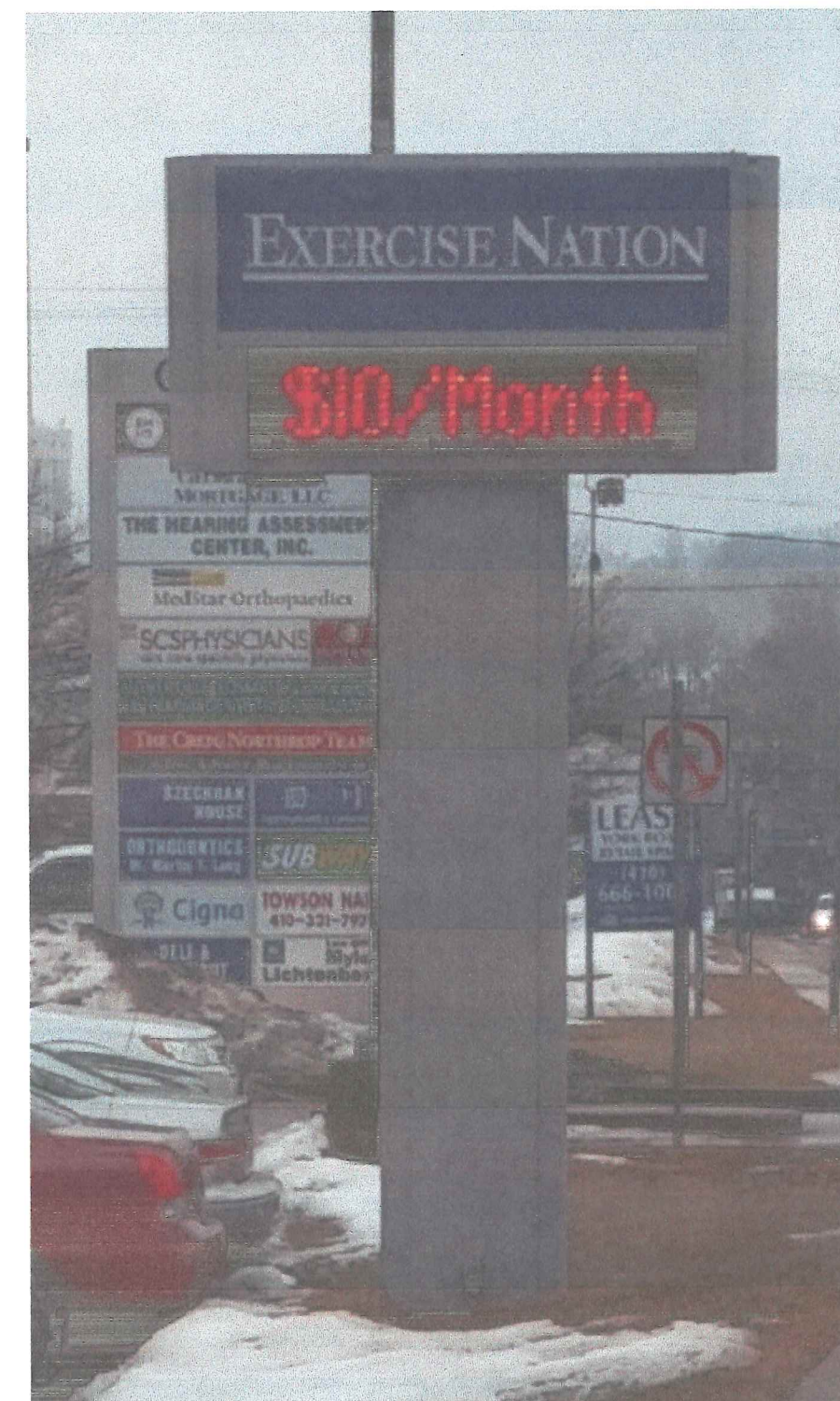
Zip Code Telephone # Email Address

CASE NUMBER 2016-0106-A Filing Date 10/28/15 Do Not Schedule Dates: _____ Reviewer _____

REV. 10/4/11

PETITIONER'S EXHIBIT 2

11/16/16



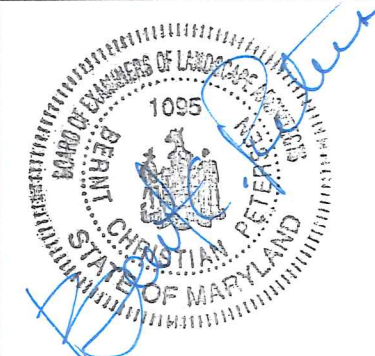
SIGN # 2
SCALE: NTS
PROPOSED
FREESTANDING
JOINT IDENTIFICATION SIGN
AREA = 26 S.F. (4 x 6.5')

PETITIONER'S EXHIBIT 18

**GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.**

CIVIL ENGINEERS & LAND SURVEYORS

4692 MILLENNIUM DRIVE, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340



Owner
SEMINARY GALLERIA, LLC
216 SCHILLING CIRCLE
HUNT VALLEY, MARYLAND 21031-8632

GALLERIA

SIGN VARIANCE - CASE NO. 2016-0106-A

SIGN #2 DETAILS

1407-1447 YORK ROAD, LUTHERVILLE, MD 21093
CRG NO. 86140
ELECTION DISTRICT #9, COUNCILMANIC DISTRICT #3
BALTIMORE COUNTY, MARYLAND

Scale: AS SHOWN

Date: November 11, 2016

SCALE: AS SHOWN
DATE: 11/ 11/ 2016
JOB #: 20-11711x
DES: BCP
DRN: BCP
CHK: BCP
FILE: 173k_Finding
DRAWING NUMBER: Z-2
SHEET 2 of 4

SCALE: 1" = 50'
DATE: 11/ 11/ 2016
JOB #: 20-11711x
DES: BCP
DRN: WJM
CHK: BCP
FILE: 11711x_Paving.dwg
DRAWING NUMBER
Z-1
SHEET 1 of 4



PETITIONER'S
EXHIBIT NO. 7



GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
4692 MILLENNIUM DRIVE, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340



KEY
SIGN LOCATION

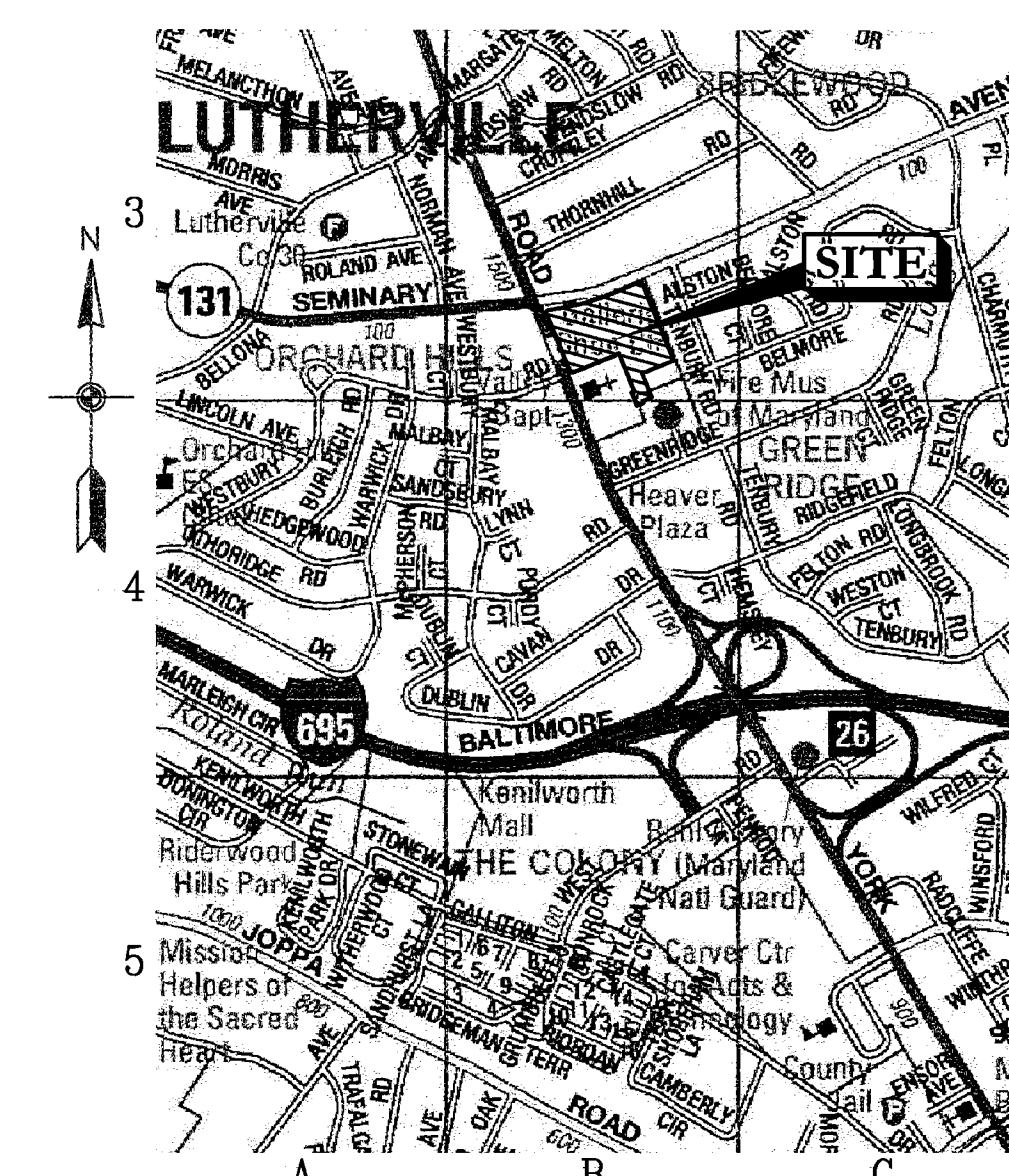
Owner
SEMINARY GALLERIA, LLC
216 SCHILLING CIRCLE
HUNT VALLEY, MARYLAND 21031-8632

NO.	DATE	REVISIONS:	BY		

GALLERIA
PLAN TO ACCOMPANY PETITION FOR VARIANCE
York Road Freestanding Sign Location Study
1407-1447 YORK ROAD, LUTHERVILLE, MD 21093
CRG NO. 86140
ELECTION DISTRICT #9, COUNCILMANIC DISTRICT #3
BALTIMORE COUNTY, MARYLAND

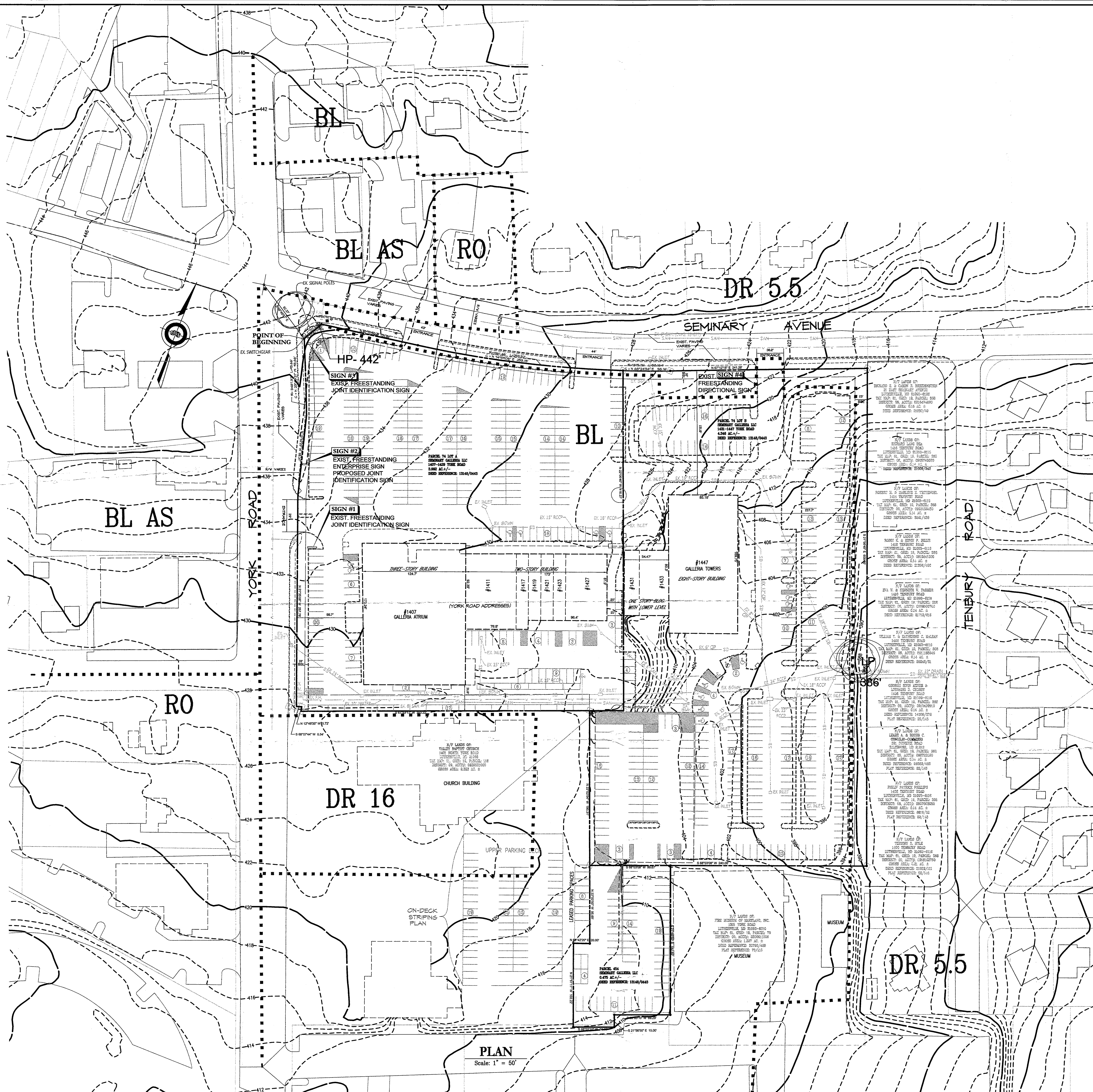
Scale: AS SHOWN
Date: February 17, 2016

SCALE: 1" = 100'
DATE: 2/17/2016
JOB #: 20-1171ix
DES: BCP
DRN: BCP
CHK: BCP
FILE: 20-1171ix
DRAWING NUMBER:
S-1
SHEET 1 of 1



VICINITY MAP

Scale: 1" = 1500
ADC MAP# : 4579
GRID(S) : B-3,
 B-4



LEGEND

PROPERTY BOUNDARY
ADJOINER LOT LINE
R/W LINE
BUILDING SETBACK LINE
EXIST. BUILDING
EXIST. CURB LINE
EXIST. 2' CONTOUR
EXIST. 10' CONTOUR
ZONING LINE

SITE NOTES:

1. PROJECT NAME: GALLERIA SPECIAL HEARING AND VARIANCES.
2. OWNER: SEMINARY GALLERIA LLC
216 SHILLING CIRCLE, SUITE 300
HUNT HILL, MARYLAND 21081
3. PLAN PREPARED BY: G.W. STEPHENS, JR. & ASSOCIATES
4692 MILLENBURY ROAD, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340
4. SITE AREA
GROSS SITE ACREAGE: 415,644 S.F. = 9.54 AC. +/-
NET SITE ACREAGE: 383994 S.F. = 8.813 AC. +/-
5. EXISTING ZONING - BL, RD-3.5
6. ZONING MAP - NE 12A, NW 12A
GIS FILE: 05143
7. ELECTION DISTRICT - 9
8. COUNCILMANIC DISTRICT - 3
9. TAX MAP NUMBER: 17 - PARCELS 74, 464
10. TAX ACCOUNT NUMBERS: 19000014767, 19000014688, 2000003391
11. DEED REFERENCE - 13148 0043
12. EXISTING USES - COMMERCIAL OFFICE, RETAIL, RESTAURANT,
MEDICAL OFFICE
13. PLAT REFERENCE - 58 / 78
14. GENUSIS TRACT - 49020
15. WATERED - LOCH RAVEN RESERVOIR

PETITIONER'S

EXHIBIT NO.

SCALE: 1" = 50'
DATE: 2/22/2016
JOB #: 20-11711
DES: BCP
DRN: WJM
CHK: BCP
FILE: 11711_TopoExhibit.dwg
DRAWING NUMBER
E-1
SHEET 1 of 1

**GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.**

CIVIL ENGINEERS & LAND SURVEYORS

4692 MILLENNIUM DRIVE, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340



Owner
SEMINARY GALLERIA, LLC
216 SCHILLING CIRCLE
HUNT VALLEY, MARYLAND 21031-8632

GALLERIA

PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING AND VARIANCES
TOPOGRAPHY EXHIBIT

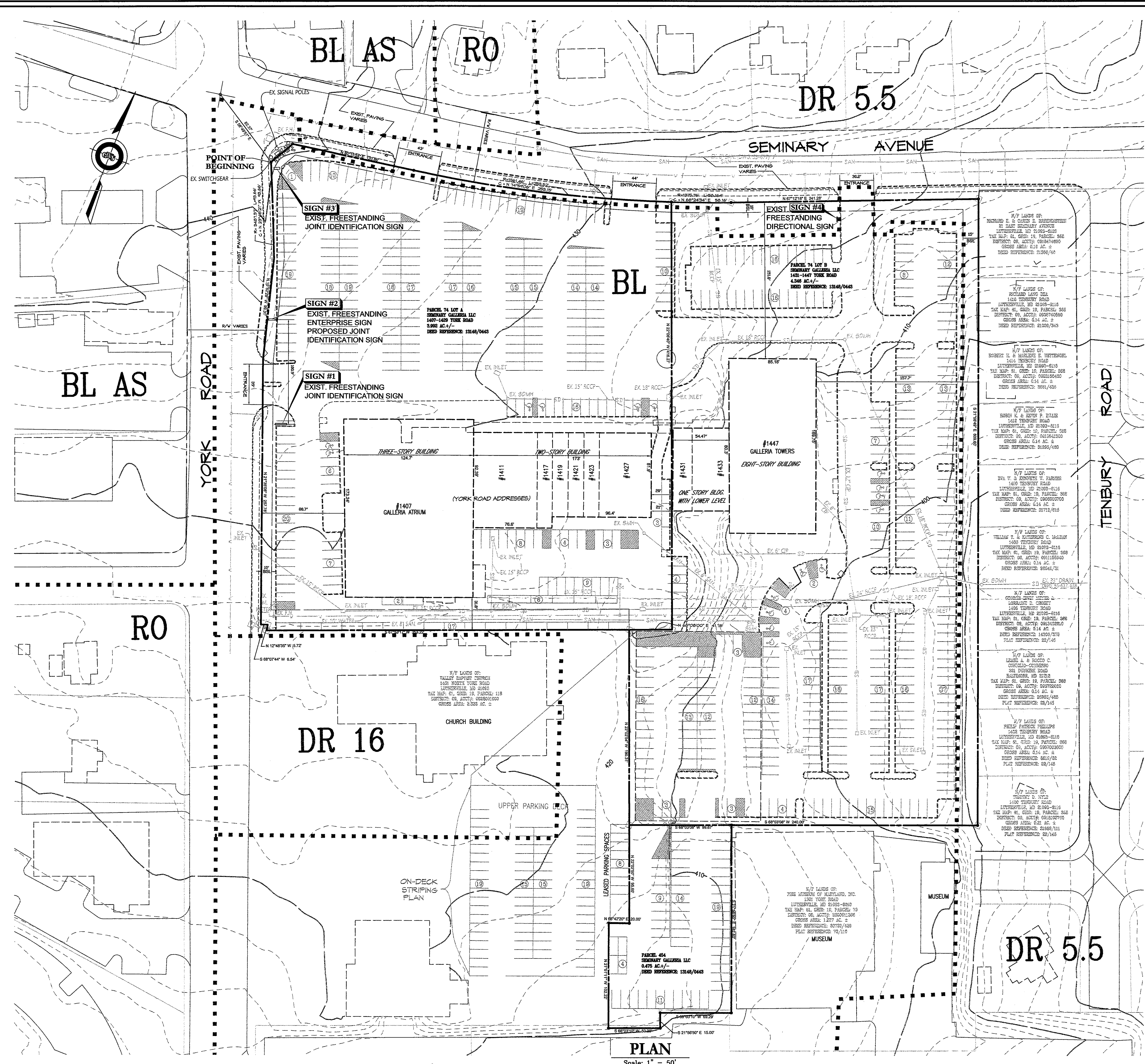
1407-1447 YORK ROAD, LUTHERVILLE, MD 21093 Scale: 1" = 50'

CRG NO. 86140

ELECTION DISTRICT #9, COUNCILMANIC DISTRICT #3

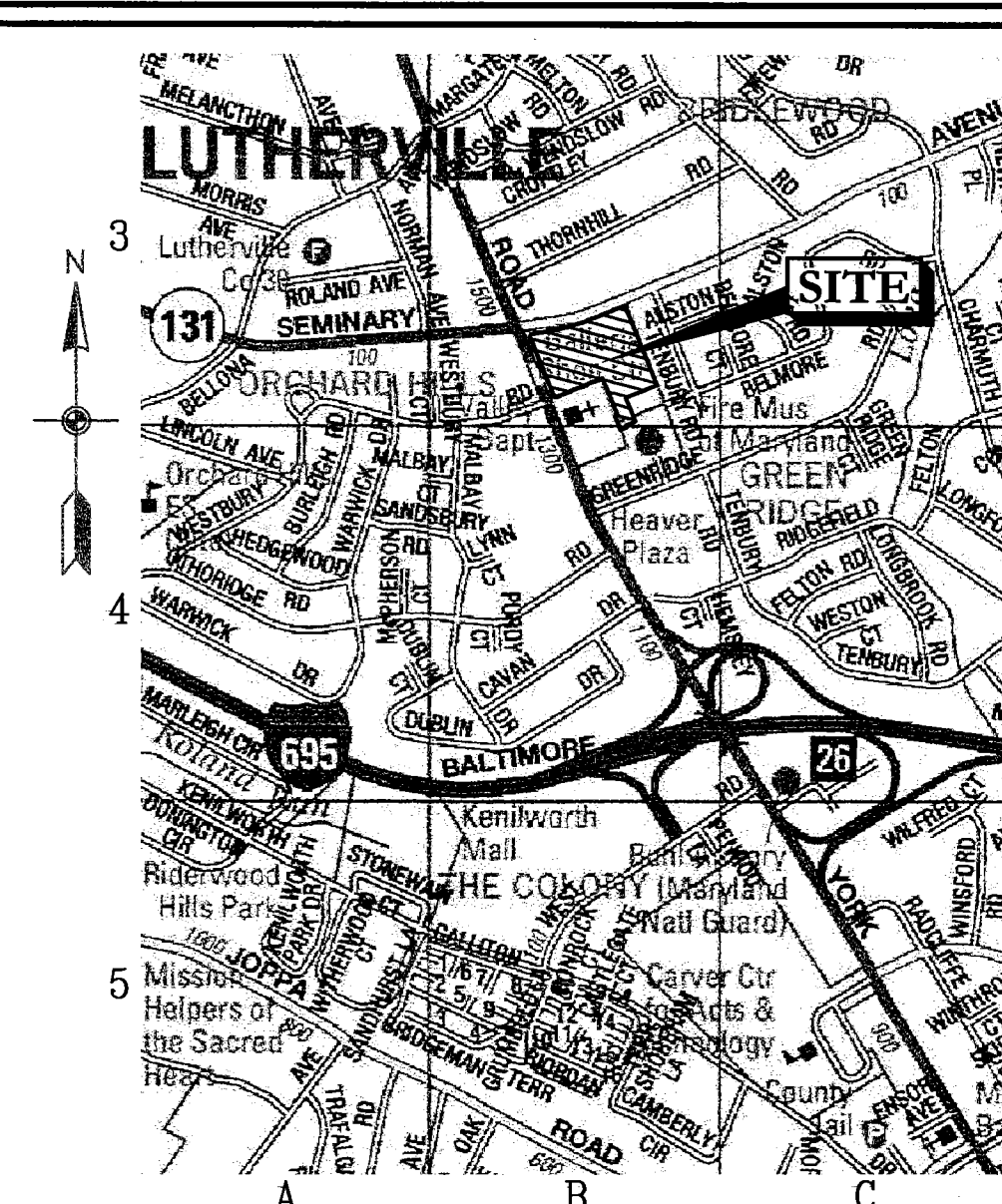
BALTIMORE COUNTY, MARYLAND Date: February 22, 2016

NO.	DATE	REVISIONS:	B
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SITE NOTES:

1. PROJECT NAME: GALLERIA SIGN VARIANCE
2. OWNER: SEMINARY GALLERIA LLC
216 SHILLING CIRCLE, SUITE 300
HUNT VALLEY, MARYLAND 21031
3. PLAN PREPARED BY: G.W. STEPHENS, JR. & ASSOCIATES
4692 MILLENNIUM ROAD, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340
4. SITE AREA
GROSS SITE ACRES: 115.644 S.F. = 9.54 AC. +/-
NET SITE ACRES: 38384 S.F. = 8.813 AC. +/-
5. EXISTING ZONING - BL, DR-3.5
6. ZONING MAP - NE 12A, NW 12A
7. GIS FILE: 061A3
8. ELECTION DISTRICT - 9
9. COUNCILMANIC DISTRICT - 3
10. TAX MAP NUMBER: 61 - PARCELS 74, 454
11. TAX ACCOUNT NUMBERS: 1900014867, 1900014868, 200003391
12. DEED REFERENCE: 13148/0443
13. EXISTING USES - COMMERCIAL - OFFICE, RETAIL, RESTAURANT, MEDICAL OFFICE
14. PLAT REFERENCE: 53/78
15. CENSUS TRACT - 490200
16. WATERSHED - LOCH RAVEN RESERVOIR
17. BUILDING HEIGHT - MAX BLDG HEIGHT PERMITTED - PER HEIGHT TENT DIMENSIONS ALLOWED
BY BCZR SECTION 231.1. ALL EXISTING BUILDINGS COMPLY.
18. PARKING REQUIRED: REQUIRED: GENERAL OFFICE @ 1 SPACE PER 300 S.F.
23,534 S.F. / 300 = 78.45 PARKING SPACES
GENERAL OFFICE @ 1 SPACE PER 500 S.F.
100,598 S.F. / 500 = 201.2 PARKING SPACES
MEDICAL OFFICE @ 1 SPACE PER 300 S.F.
67,504 S.F. / 300 = 225.01 PARKING SPACES
RETAIL @ 1 SPACE PER 200 S.F.
14,694 S.F. / 200 = 73.47 PARKING SPACES
RESTAURANT @ 1 SPACE PER 50 S.F.
5,914 S.F. / 50 = 118.28 PARKING SPACES
TOTAL PARKING SPACES REQUIRED = 697 PARKING SPACES
PROVIDED: 771 PARKING SPACES (INCL. 16 HANDICAP & 68 PARKING DECK SPACES)
19. ADC MAP NO: 4579 GRIDS B-3, B4
20. PLAT REFERENCE - E.H.J. JR. 53 FOLIO 78
21. THE SUBJECT SITE IS WITHIN A TRAFFIC DEFICIENT AREA WITH A 'D' LEVEL OF SERVICE AS SHOWN ON THE BALTIMORE COUNTY 2015 DRAFT BASIC SERVICES MAP. THE YORK ROAD / SEMINARY AVENUE INTERSECTION IS CLASSIFIED AS A 'D' LEVEL OF SERVICE INTERSECTION.
22. THERE ARE NO EXISTING WELLS OR SEPTIC DISPOSAL AREAS ON OR WITHIN 100' OF THIS SITE.
23. ZONING HISTORY
CRG PLAN NO. 86140 - SEMINARY CENTER 9/16/1982
CRG PLAN NO. 86140 - GALLERIA PHASE II 9/22/1983
CRG PLAN NO. 86140 - 1st AMENDMENT - THE GALLERIA TOWER 8/10/1985
CRG PLAN NO. 86140 - 2nd AMENDMENT - PARKING PLAN 12/1/1985
CRG PLAN NO. 86140 - 3rd AMENDMENT - PARKING ADDITION 7/3/2003
CZMP ZONING RECLASSIFICATION #3-007: RECLASSIFIED 0.47 AC. BL, 0.13 AC. DR-16 & 2.79 AC. DR-5-5 TO 2.48 AC. OF BL AND 0.91 AC. OF DR-5.5
CASE: #3410
RECLASSIFIED A PORTION OF THE PROPERTY FROM AN 'A' RESIDENCE ZONE TO AN 'E' COMMERCIAL ZONE.
USE PERMIT
USE PERMIT GRANTED BY ZONING COMMISSIONER (IN CONJUNCTION WITH CASE #410) ALLOWS PASSENGER VEHICLE PARKING IN THE DR ZONED PORTION OF THE PROPERTY. (VERIFICATION MADE BY LETTER DATED JUNE 15, 1983 TO MELVIN HERZBERGER, JR. FROM JAMES DYER, ZONING SUPERVISOR.)
CASE: 4893-XA
PERMITTED A DRY CLEANING PLANT IN THE EXISTING SHOPPING CENTER (USE EXTING.)
CASE: 1960-5016-X
7/14/1960 - ZONING COMMISSIONER GRANTED SPECIAL EXCEPTION FOR A GAS STATION (USE EXTING.)
CASE: 1961-5270-A
5/31/1961 - ZONING COMMISSIONER DENIED A VARIANCE REQUEST OF BCZR SECT. 413.2 TO PERMIT A SIGN OF 340 SQ. FT. IN LIEU OF THE ALLOWABLE 100 SQ. FT.
CASE: 1985-0256-XA
3/27/1985 - ZONING COMMISSIONER GRANTED SPECIAL EXCEPTION FOR A COMMUNITY BUILDING AND VARIANCE TO PERMIT 600 PARKING SPACES IN LIEU OF THE REQUIRED 645
4/10/1985 - AMENDED ORDER BY THE ZONING COMMISSIONER MODIFYING RESTRICTION #1 ON THE ORDER
4/28/1985 - APPEALED TO THE BOARD OF APPEALS BY THE HEBRON VALLEY IMPROVEMENT ASSOC.
5/19/1985 - BOARD OF APPEALS ORDERED THAT ACTION TO DENY BE DENIED.
12/20/1985 - BOARD OF APPEALS GRANTED SPECIAL EXCEPTION FOR COMMUNITY BUILDING AND DENIED THE PARKING VARIANCE.
CASE: 1987-0382-SPHX
4/28/1987 - SPECIAL HEARING - ZONING COMMISSIONER GRANTED A MODIFICATION TO EXPAND AND UPGRADE THE HEALTH AND FITNESS CENTER THAT WAS APPROVED IN CASE 85-265-XA, AND A SPECIAL EXCEPTION WAS APPROVED FOR A COMMUNITY BUILDING TO BE USED AS A HEALTH & FITNESS CENTER.
CASE: 2004-0052-SPHA
SPECIAL RELIEF WAS REQUESTED PER BCZR SECT. 409.9.A TO ALLOW 16 ADDITIONAL COMMERCIAL PARKING SPACES WITHIN A RESIDENTIAL ZONE. TO OBTAIN A USE PERMIT FOR A MODIFIED PARKING AND LANDSCAPING PLAN. ZONING COMMISSIONER DENIED THE REQUESTS.
THE BOARD OF APPEALS AFFIRMED THE DECISION.
CIRCUIT COURT CASE NO. 03-CV-11000 REMANDED THE CASE TO THE BOARD OF APPEALS.
9/18/2005 - BOARD OF APPEALS DENIED COMMERCIAL PARKING ADJACENT TO EXISTING COMMERCIAL PARKING ON THE SAME LOT IN A RESIDENTIAL ZONE. MODIFIED PARKING PLAN AND MODIFIED PARKING AND LANDSCAPING REQUIREMENTS FOR THE PARKING AREA. VARIANCE TO PERMIT PARKING SPACES TO BE LOCATED WITHIN 10' OF A PUBLIC STREET RIGHT-OF-WAY UTILIZING EXISTING LANDSCAPING.
CASE: 2006-0411-SPHA
7/14/2006 - D. ZONING COMMISSIONER DENIED A USE PERMIT FOR COMMERCIAL PARKING ADJACENT TO EXISTING COMMERCIAL PARKING ON THE SAME LOT IN A RESIDENTIAL ZONE. VARIANCE OF 750 PARKING SPACES IN LIEU OF THE REQUIRED 1059 FOR A SHOPPING CENTER GREATER THAN 100,000 S.F. VARIANCE FOR RTA REQUIREMENTS FOR EXISTING PARKING.
D. ZONING COMMISSIONER GRANTED A MODIFIED PARKING PLAN OF 750 PARKING SPACES. APPROVAL OF THE AMENDMENT TO ANY AND ALL PRIOR PLANS FILED IN CONNECTION WITH THE SUBJECT PROPERTY CONSISTENT WITH THE ORDER.
CASE NO. CC150822
ACTIVE ZONING VIOLATION - BCZR SECT. 450 - NON-PERMITTED SIGNS, INSPECTOR PAUL COHEN.
CASE: 2015-0226-SPHA
8/11/2015 - ADMINISTRATIVE LAW JUDGE GRANTED PETITION FOR VARIANCE FOR: (1) EXISTING FREESTANDING JOINT IDENTIFICATION SIGNS TO DISPLAY A MAXIMUM OF 23 LINES OF TEXT WITH SIGN COPY A MINIMUM OF 1 INCH IN HEIGHT IN LIEU OF THE PERMITTED 5 LINES OF TEXT AND REQUIRED 6 INCHES IN HEIGHT FOR SIGN COPY (SIGN NOS. 1 & 3); (2) FOR AN EXISTING FREESTANDING JOINT IDENTIFICATION SIGN WITH A SIGN HEIGHT OF 30 FEET IN LIEU OF THE PERMITTED 25 FEET (SIGN NO. 3); AND (3) FOR AN EXISTING FREESTANDING DIRECTIONAL SIGN WITH A HEIGHT OF 6 FEET, 2 INCHES IN LIEU OF THE PERMITTED 4 FEET (SIGN NO. 4).
8/11/2015 - ADMINISTRATIVE LAW JUDGE DENIED PETITION FOR SPECIAL HEARING TO ALLOW AN EXISTING FREESTANDING JOINT IDENTIFICATION SIGN AND AN EXISTING FREESTANDING ENTERPRISE SIGN WITH AN ELECTRONIC MESSAGE BOARD (SIGN NO. 2) ON THE SAME FRONTAGE OF SHOPPING CENTER PROPERTY.
24. THE SITE IS NOT LOCATED IN ANY DEFICIENT WATER SUPPLY AREA ON THE BALTIMORE COUNTY 2015 DRAFT BASIC SERVICES MAP.
25. THE SITE IS NOT LOCATED WITHIN A SEWER DEFICIENT AREA OR AREA OF CONCERN ON THE BALTIMORE COUNTY 2015 DRAFT BASIC SERVICES MAP.
26. FLOOR AREA RATIO (FAR)
ALLOWED - 3.0 = 1,147,224 S.F. IN THE BL ZONE
EXISTING FAR
GROSS ADJ. FLOOR AREA - 204,292 S.F. / GROSS SITE AREA IN BL ZONE - 382,408 S.F. = 0.53 FAR
27. ALL LIGHTING FIXTURES USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT THE LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.
28. THE SITE IS NOT WITHIN A 100 YR. FLOODPLAIN OR WITHIN THE C.B.C.A.



VICINITY MAP

Scale: 1" = 1500'
ADC MAP #: 4579
GRID(S) : B-3,
B-4

LEGEND

PROPERTY BOUNDARY	---
ADJOINER LOT LINE	---
R/W LINE	---
BUILDING SETBACK LINE	---
EXIST. BUILDING	---
EXIST. CURB LINE	---
EXIST. 2' CONTOUR	---
EXIST. 10' CONTOUR	---
ZONING LINE	---

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
4692 MILLENNIUM DRIVE, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340



Owner
SEMINARY GALLERIA, LLC
216 SHILLING CIRCLE
HUNT VALLEY, MARYLAND 21031-8632

GALLERIA

PLAN TO ACCOMPANY PETITION FOR VARIANCE

1407-1447 YORK ROAD, LUTHERVILLE, MD 21093
CRG NO. 86140
ELECTION DISTRICT #9, COUNCILMANIC DISTRICT #3
BALTIMORE COUNTY, MARYLAND

Scale: 1" = 50'

Date: February 16, 2016

SCALE: 1" = 50'
DATE: 2/16/2016
JOB #: 20-1171X
DES: BCF
DRN: WJM
CHK: BCF
FILE: 20-1171X
DRAWING NUMBER:
Z-1
SHEET 1 of 2

NO.	DATE	REVISIONS:	BY:



EXISTING
FREESTANDING
ENTERPRISE SIGN
AREA = 26 S.F.



PROPOSED
FREESTANDING
JOINT IDENTIFICATION SIGN
AREA = 26 S.F. (4 x 6.5')

INSTALL NEW ILLUM. CABINET
ONTO EXISTING PYLON POLE.
RE-USE PYLON SURROUND &
PRIMARY ELEC. SERVICE. FINISH
SURROUND TO MATCH.



PROPOSED SIGN 2 LOOKING SOUTH

PETITIONER'S
EXHIBIT NO. 13

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.

CIVIL ENGINEERS & LAND SURVEYORS

4692 MILLENNIUM DRIVE, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340



Owner

SEMINARY GALLERIA, LLC
216 SCHILLING CIRCLE
HUNT VALLEY, MARYLAND 21031-8632

NO.	DATE	REVISIONS:

GALLERIA

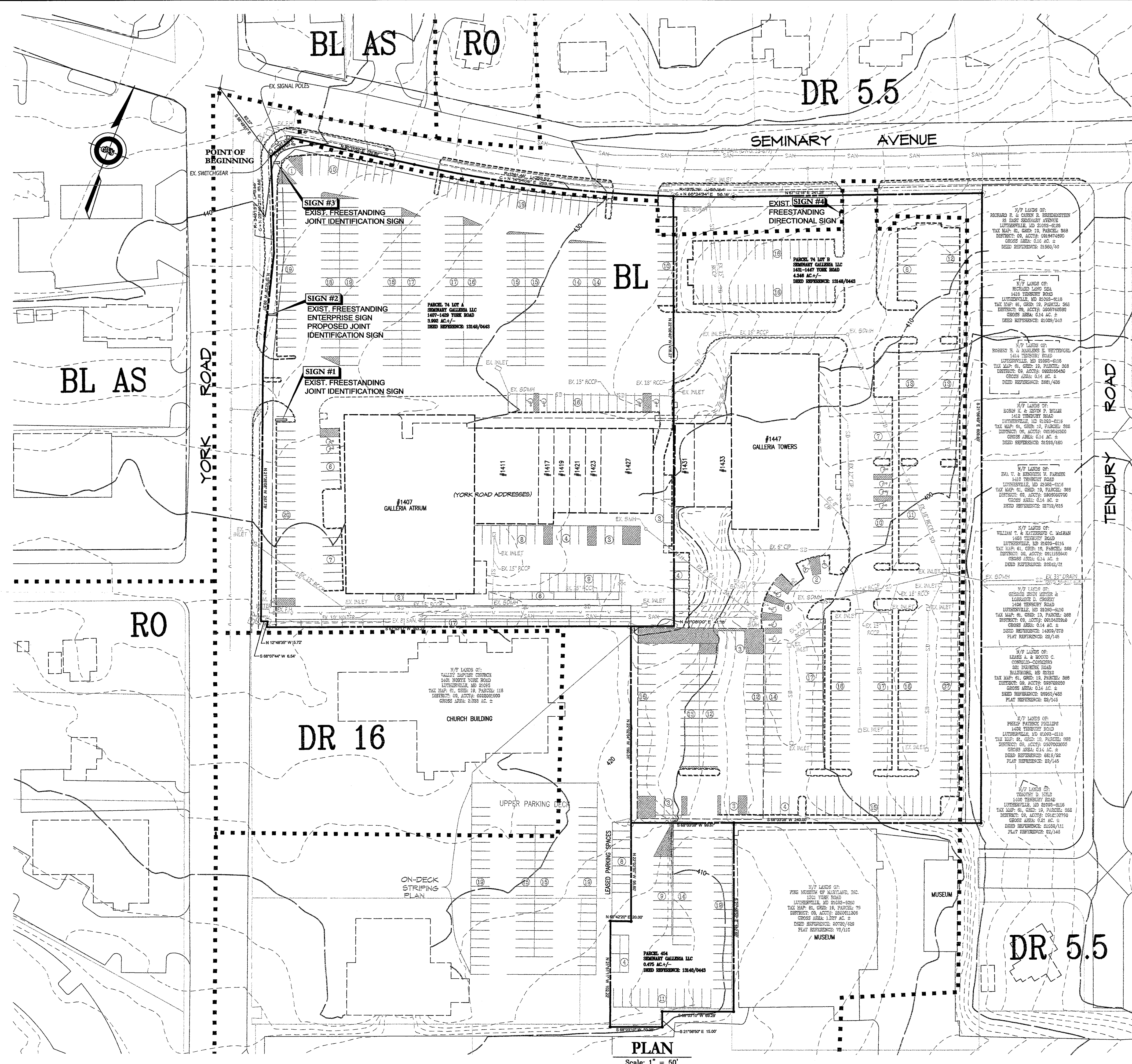
PLAN TO ACCOMPANY PETITION FOR VARIANCE SIGN DETAILS and ZONING MAP

1407-1447 YORK ROAD, LUTHERVILLE, MD 21093
CRG NO. 86140
ELECTION DISTRICT #9, COUNCILMANIC DISTRICT #3
BALTIMORE COUNTY, MARYLAND

Scale: AS SHOWN

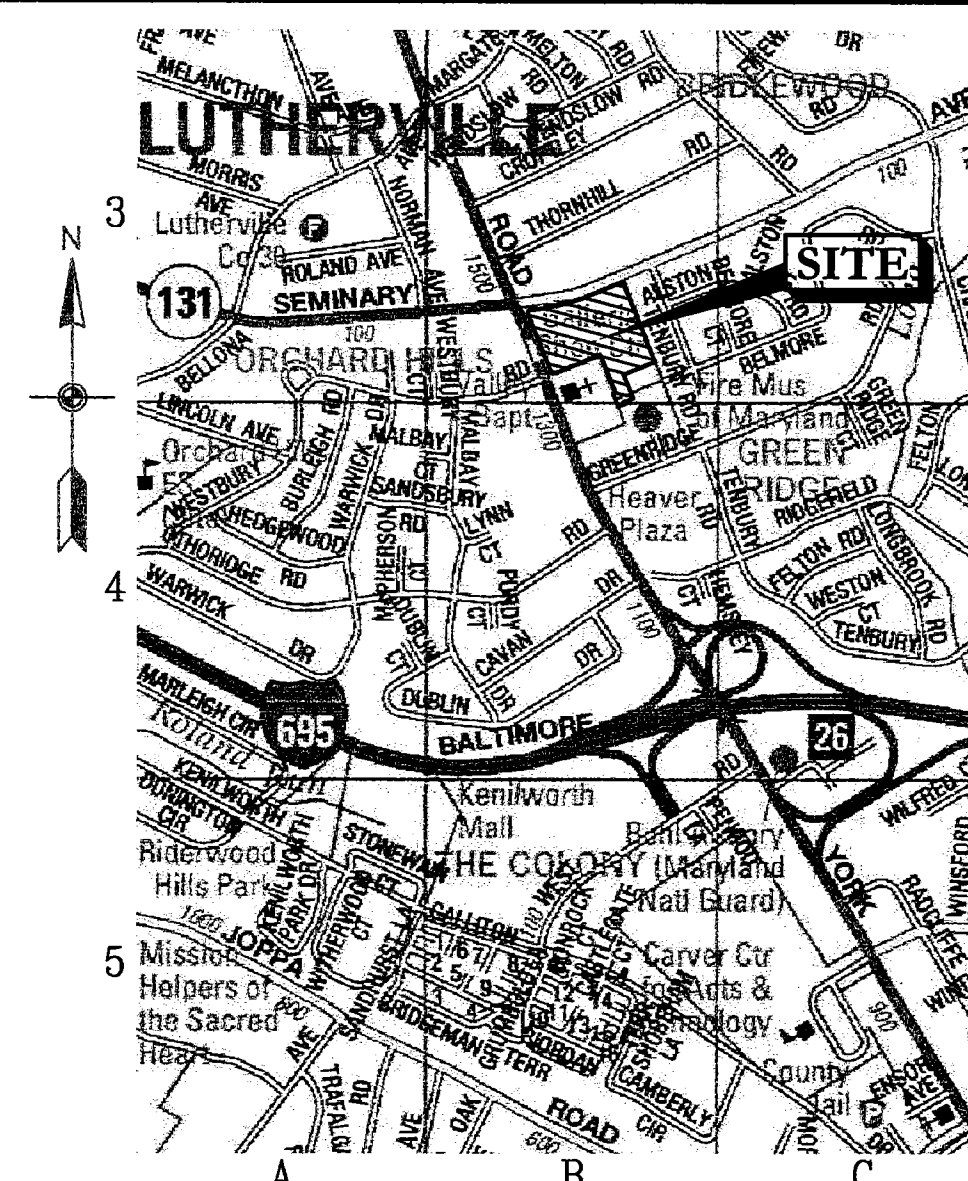
Date: February 17, 2016

SCALE: AS SHOWN
DATE: 2/17/2016
JOB #: 20-11711x
DES: BCP
DRN: BCP
CHK: BCP
FILE: 1711b_Plan.dwg
DRAWING NUMBER: Z-2
SHEET 2 of 2

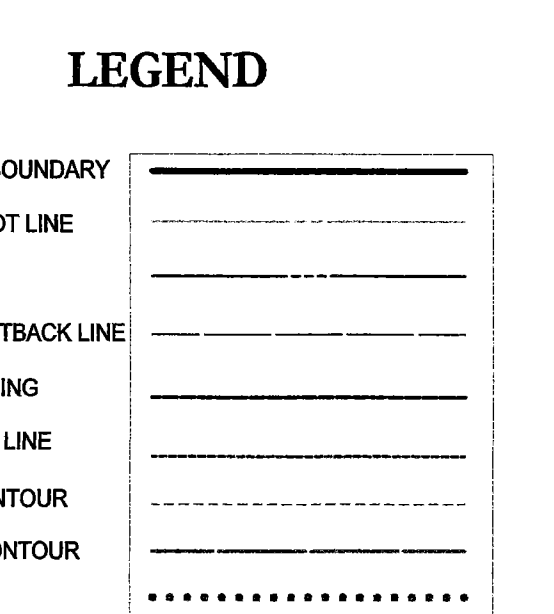


SITE NOTES:

1. PROJECT NAME: GALLERIA SIGN VARIANCE
2. OWNER: SEMINARY GALLERIA LLC
216 SHILLING CIRCLE, SUITE 300
HUNT VALLEY, MARYLAND 21031
3. PLAN PREPARER: G.W. STEPHENS, JR. & ASSOCIATES
4692 MILLENNIUM ROAD, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340
4. SITE AREA
GROSS SITE ACREAGE: 415.644 S.F. = 9.54 AC. +/-
NET SITE ACREAGE: 383.894 S.F. = 8.813 AC. +/-
5. EXISTING ZONING - BL - 8.342 AC. +/-, DR-3.5 - 0.471 AC. +/-
6. ZONING MAP - NE 12A, NW 12A
7. GIS FILE: 05143
8. ELECTION DISTRICT - 9
9. COUNCILMANIC DISTRICT - 3
10. TAX MAP NUMBER: 61 - PARCELS 74, 454
11. TAX ACCOUNT NUMBERS: 19000014867, 19000014868, 2000003391
12. DEED REFERENCE - 13149/0443
13. EXISTING USES - COMMERCIAL - OFFICE, RETAIL, RESTAURANT, MEDICAL OFFICE
14. PLAT REFERENCE - 53 / 78
15. CENSUS TRACT - 490200
16. WATERSHED - LOCH RAVEN RESERVOIR
17. BUILDING HEIGHT - MAX BLDG HEIGHT PERMITTED - PER HEIGHT TENT DIMENSIONS ALLOWED BY BCZS SECTION 23.1.1. ALL EXISTING BUILDINGS COMPLY.
18. PARKING REQUIRED - REQUIRED: GENERAL OFFICE @ 1 SPACE PER 300 S.F.
23,534 S.F. / 300 = 78.45 PARKING SPACES
GENERAL OFFICE @ 1 SPACE PER 500 S.F.
100,598 S.F. / 500 = 201.2 PARKING SPACES
MEDICAL OFFICE @ 1 SPACE PER 300 S.F.
67,504 S.F. / 300 = 225.01 PARKING SPACES
RETAIL @ 1 SPACE PER 200 S.F.
14,694 S.F. / 200 = 73.47 PARKING SPACES
RESTAURANT @ 1 SPACE PER 50 S.F.
5,914 S.F. / 50 = 118.28 PARKING SPACES
TOTAL PARKING SPACES REQUIRED = 697 PARKING SPACES
PROVIDED: 771 PARKING SPACES (INCL. 16 HANDICAP & 68 PARKING DECK SPACES)
19. ADC MAP NO: 4579 GRIDS B-3, B4
20. PLAT REFERENCE - E.H.K. JR. 53 FOLIO 78
21. THE SUBJECT SITE IS WITHIN A TRAFFIC DEFICIENT AREA WITH A 'D' LEVEL OF SERVICE AS SHOWN ON THE BALTIMORE COUNTY 2016 BASIC SERVICES MAP. THE YORK ROAD / SEMINARY AVENUE INTERSECTION IS CLASSIFIED AS A 'D' LEVEL OF SERVICE INTERSECTION.
22. THERE ARE NO EXISTING WELLS OR SEPTIC DISPOSAL AREAS ON OR WITHIN 100' OF THIS SITE.
23. ZONING HISTORY
CRG PLAN NO. 86140 - SEMINARY CENTER 9/16/1982
CRG PLAN NO. 86140 - GALLERIA PHASE II 9/22/1983
CRG PLAN NO. 86140 - 1st AMENDMENT - THE GALLERIA TOWER 8/10/1985
CRG PLAN NO. 86140 - 2nd AMENDMENT - PARKING PLAN 12/17/1985
CRG PLAN NO. 86140 - 3rd AMENDMENT - PARKING ADDITION 7/3/2003
CZMP ZONING RECLASSIFICATION #3-007- RECLASSIFIED 0.47 AC. BL, 0.13 AC. DR-16 & 2.79 AC. DR-5.5 TO 2.48 AC. OF BL AND 0.91 AC. OF DR-5.5.
- CASE - #3410
RECLASSIFIED A PORTION OF THE PROPERTY FROM AN 'X' RESIDENCE ZONE TO AN 'E' COMMERCIAL ZONE.
- USE PERMIT
USE PERMIT GRANTED BY ZONING COMMISSIONER (IN CONJUNCTION WITH CASE #3410) ALLOWS PASSENGER VEHICLE PARKING IN THE DR ZONED PORTION OF THE PROPERTY. (VERIFICATION MADE BY LETTER DATED JUNE 15, 1983 TO MELVIN HERZBERGER, JR. FROM JAMES DYER, ZONING SUPERVISOR.
- CASE - 4893-XA
PERMITTED A DRY CLEANING PLANT IN THE EXISTING SHOPPING CENTER (USE EXTNCT).
- CASE - 1960-5016-X
7/14/1960 - ZONING COMMISSIONER GRANTED SPECIAL EXCEPTION FOR A GAS STATION (USE EXTNCT).
- CASE - 1961-5270-A
5/31/1961 - ZONING COMMISSIONER DENIED A VARIANCE REQUEST OF BCZS SECT.413.2 TO PERMIT A SIGN OF 340 SQ. FT. IN LIEU OF THE ALLOWABLE 100 SQ. FT.
- CASE - 1985-0226-XA
3/22/1985 - ZONING COMMISSIONER GRANTED SPECIAL EXCEPTION FOR A COMMUNITY BUILDING AND VARIANCE TO PERMIT 600 PARKING SPACES IN LIEU OF THE REQUIRED 643.
4/10/1985 - AMENDED ORDER BY THE ZONING COMMISSIONER MODIFYING RESTRICTION #1 ON THE ORDER.
4/28/1985 - APPEALED TO THE BOARD OF APPEALS BY THE DULANEY VALLEY IMPROVEMENT ASSOC.
9/10/1985 - BOARD OF APPEALS ORDERED THAT MOTION TO DISMISS IS DENIED.
12/29/1985 - BOARD OF APPEALS GRANTED SPECIAL EXCEPTION FOR COMMUNITY BUILDING AND DENIED THE PARKING VARIANCE.
- CASE - 1997-0382-SPHX
4/29/1997 - SPECIAL HEARING - ZONING COMMISSIONER GRANTED A MODIFICATION TO EXPAND AND UPGRADE THE HEALTH AND FITNESS CENTER THAT WAS APPROVED IN CASE #5-265-XA, AND A SPECIAL EXCEPTION WAS APPROVED FOR A COMMUNITY BUILDING TO BE USED AS A HEALTH & FITNESS CENTER.
- CASE - 2004-0052-SPHA
SPECIAL RELIEF WAS REQUESTED PER BCZS SECT. 499.9.A TO ALLOW 16 ADDITIONAL COMMERCIAL PARKING SPACES WITHIN A RESIDENTIAL ZONE. TO OBTAIN A USE PERMIT FOR A MODIFIED PARKING AND LANDSCAPING PLAN. D ZONING COMMISSIONER DENIED THE REQUESTS.
THE BOARD OF APPEALS AFFIRMED THE DECISION.
CIRCUIT COURT CASE NO. 03-CV-11000 REMANDED THE CASE TO THE BOARD OF APPEALS.
9/19/2005 - BOARD OF APPEALS DENIED: COMMERCIAL PARKING ADJACENT TO EXISTING COMMERCIAL PARKING ON THE SAME LOT IN A RESIDENTIAL ZONE. MODIFIED PARKING PLAN AND MODIFIED PARKING AND LANDSCAPING REQUIREMENTS FOR THE PARKING AREA. VARIANCE TO PERMIT PARKING SPACES TO BE LOCATED WITHIN 10' OF A PUBLIC STREET RIGHT-OF-WAY UTILIZING EXISTING LANDSCAPING.
- CASE - 2006-0411-SPHA
7/14/2006 - D. ZONING COMMISSIONER DENIED: A USE PERMIT FOR COMMERCIAL PARKING ADJACENT TO EXISTING COMMERCIAL PARKING ON THE SAME LOT IN A RESIDENTIAL ZONE. VARIANCE OF 750 PARKING SPACES IN LIEU OF THE REQUIRED 1089 FOR A SHOPPING CENTER GREATER THAN 100,000 S.F.; VARIANCE FOR RTA REQUIREMENTS FOR EXISTING PARKING.
D. ZONING COMMISSIONER GRANTED: A MODIFIED PARKING PLAN OF 750 PARKING SPACES; APPROVAL OF THE AMENDMENT TO ANY AND ALL PRIOR PLANS FILED IN CONNECTION WITH THE SUBJECT PROPERTY CONSISTENT WITH THE ORDER.
- CASE NO. CC1500821
ACTIVE ZONING VIOLATION - BCZS SECT. 490 - NON-PERMITTED SIGNS, INSPECTOR PAUL COHEN.
- CASE - 2015-0226-SPHA
6/11/2015 - ADMINISTRATIVE LAW JUDGE GRANTED PETITION FOR VARIANCE FOR: (1) EXISTING FREESTANDING JOINT IDENTIFICATION SIGNS TO DISPLAY A MAXIMUM OF 23 LINES OF TEXT WITH SIGN COPY A MINIMUM OF 1 INCH IN HEIGHT IN LIEU OF THE PERMITTED 5 LINES LINES OF TEXT AND REQUIRED 8 INCHES IN HEIGHT FOR SIGN COPY (SIGN NOS. 1 & 3); (2) FOR AN EXISTING FREESTANDING JOINT IDENTIFICATION SIGN WITH A SIGN HEIGHT OF 30 FEET IN LIEU OF THE PERMITTED 25 FEET (SIGN NO. 3); AND (3) FOR AN EXISTING FREESTANDING DIRECTIONAL SIGN WITH A HEIGHT OF 6 FEET, 2 INCHES IN LIEU OF THE PERMITTED 4 FEET (SIGN NO. 4).
6/11/2015 - ADMINISTRATIVE LAW JUDGE DENIED PETITION FOR SPECIAL HEARING TO ALLOW AN EXISTING FREESTANDING JOINT IDENTIFICATION SIGN AND AN EXISTING FREESTANDING ENTERPRISE SIGN WITH AN ELECTRONIC MESSAGE BOARD (SIGN NO. 2) ON THE SAME FRONTAGE OF SHOPPING CENTER PROPERTY.
- CASE - 2016-0106-A
2/29/2016 - ADMINISTRATIVE LAW JUDGE GRANTED PETITION FOR VARIANCE FOR: (1) A FREESTANDING JOINT IDENTIFICATION SIGN TO DISPLAY A MAXIMUM OF 5 LINES OF TEXT WITH SIGN COPY A MINIMUM OF 3 INCHES IN HEIGHT IN LIEU OF THE PERMITTED 5 LINES OF TEXT AND REQUIRED 8 INCHES IN HEIGHT FOR SIGN COPY; (2) TO PERMIT A THIRD JOINT IDENTIFICATION SIGN ON A PROPERTY WITH 2 FRONTAGES.
24. THE SITE IS NOT LOCATED IN ANY DEFICIENT WATER SUPPLY AREA ON THE BALTIMORE COUNTY 2016 BASIC SERVICES MAP.
25. THE SITE IS NOT LOCATED WITHIN A SEWER DEFICIENT AREA OR AREA OF CONCERN ON THE BALTIMORE COUNTY 2016 BASIC SERVICES MAP.
26. FLOOR AREA RATIO (FAR)
ALLOWED - 3.0 = 1,147,224 S.F. IN THE BL ZONE
EXISTING FAR
GROSS ADJ. FLOOR AREA - 204,292 S.F. / GROSS SITE AREA IN BL ZONE - 382,408 S.F. = 0.53 FAR
GROSS ADJ. FLOOR AREA USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT THE LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.
28. THE SITE IS NOT WITHIN A 100 YR. FLOODPLAIN OR WITHIN THE C.B.C.A.

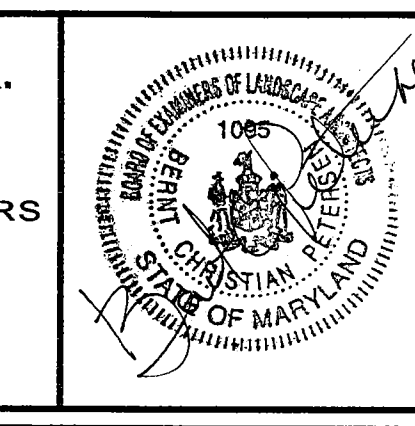


VICINITY MAP
Scale: 1" = 1500'
ADC MAP # : 4579
GRID(S) : B-3,
B-4





**GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.**
CIVIL ENGINEERS & LAND SURVEYORS
4692 MILLENNIUM DRIVE, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340



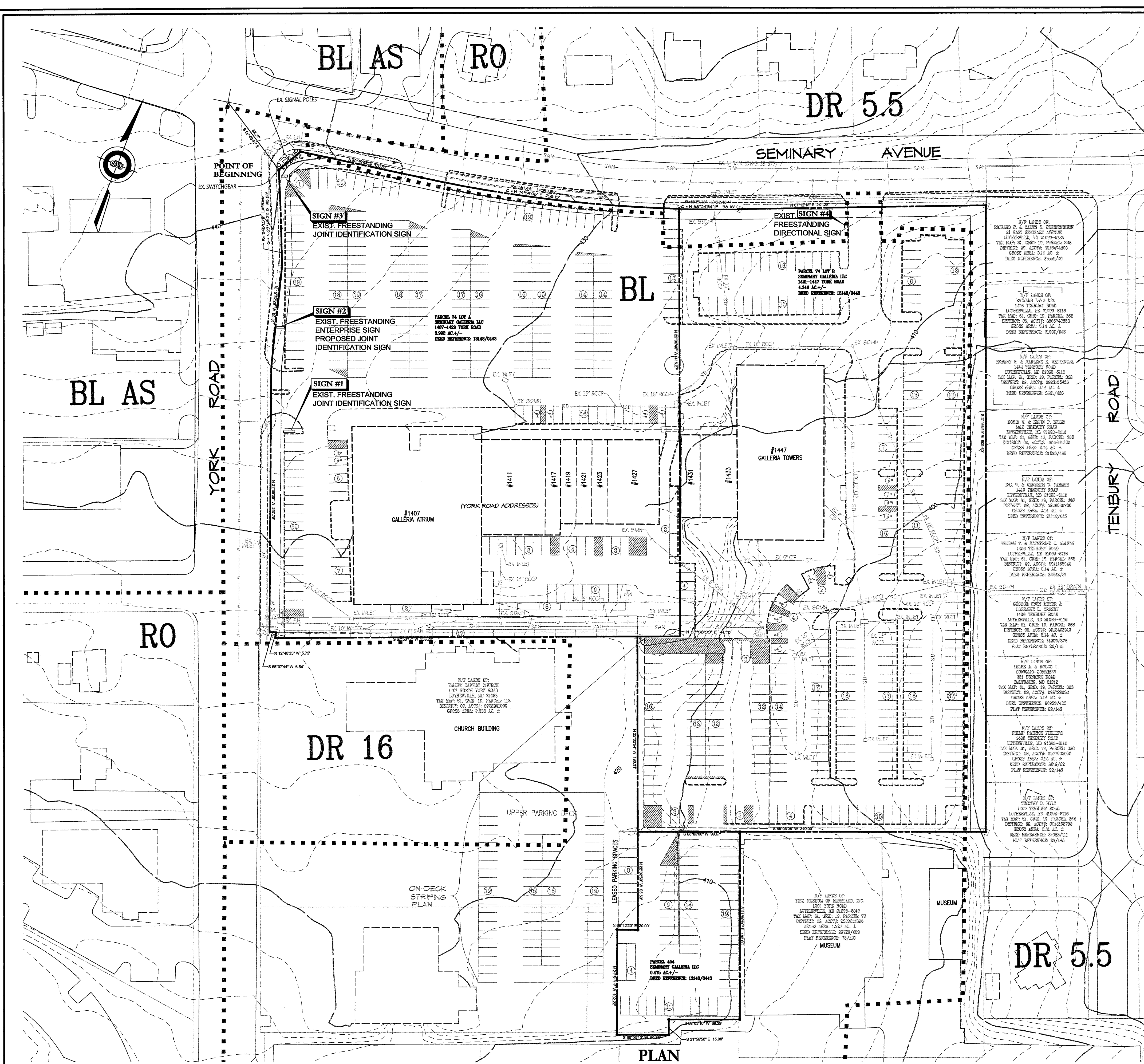
Owner
SEMINARY GALLERIA, LLC
216 SHILLING CIRCLE
HUNT VALLEY, MARYLAND 21031-8632

NO.	DATE	REVISIONS:	BY

GALLERIA
PLAN TO ACCOMPANY PETITION FOR VARIANCE
1407-1447 YORK ROAD, LUTHERVILLE, MD 21093
CRG NO. 86140
ELECTION DISTRICT #9, COUNCILMANIC DISTRICT #3
BALTIMORE COUNTY, MARYLAND

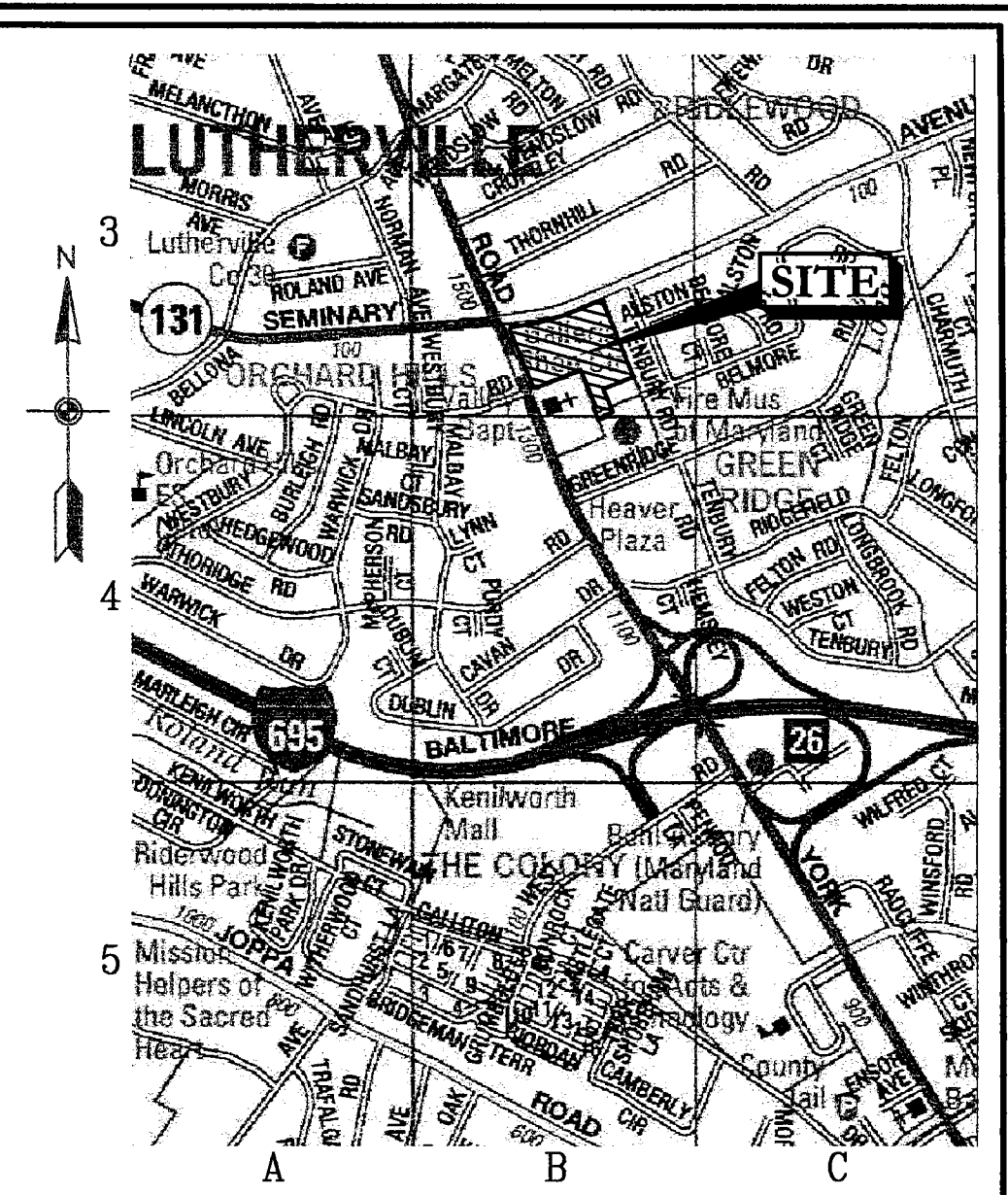
Scale: 1" = 50'
Date: November 11, 2016

SCALE: 1" = 50'
DATE: 11/11/2016
JOB #: 20-1711X
DES: BCP
DRN: WJM
CHK: BCP
FILE: 2016-0106-A
DRAWING NUMBER:
Z-1
SHEET 1 of 4



SITE NOTES:

1. PROJECT NAME: GALLERIA SIGN VARIANCE
2. OWNER: SEMINARY GALLERIA LLC
216 SHILLING CIRCLE, SUITE 300
HUNT VALLEY, MARYLAND 21031
3. PLAN PREPARED BY: G.W. STEPHENS, JR. & ASSOCIATES
4692 MILLENNIUM ROAD, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340
4. SITE AREA
GROSS SITE CREAGE: 415,644 S.F. = 9.54 AC. +/-
NET SITE CREAGE: 383,894 S.F. = 8.813 AC. +/-
5. EXISTING ZONING - BL - 8.342 AC. +/-, DR-3.5 - 0.471 AC. +/-
6. ZONING MAP - NE 12A, NW 12A
7. GAS FILE: 06143
8. ELECTION DISTRICT - 9
9. COUNCILMANIC DISTRICT - 3
10. TAX MAP NUMBER: 61 - PARCELS 74, 454
11. TAX ACCOUNT NUMBERS: 19000014867, 19000014868, 2000003391
12. DEED REFERENCE - 13148, 0143
13. EXISTING USES - COMMERCIAL - OFFICE, RETAIL, RESTAURANT, MEDICAL OFFICE
14. PLAT REFERENCE - 53 / 78
15. CENSUS TRACT - 490200
16. WATERSHED - LOCH RAVEN RESERVOIR
17. BUILDING HEIGHT - MAX BLDG HEIGHT PERMITTED - PER HEIGHT TENT DIMENSIONS ALLOWED
BY BCZR SECTION 231.1. ALL EXISTING BUILDINGS COMPLY.
18. PARKING REQUIRED - REQUIRED: GENERAL OFFICE @ 1 SPACE PER 300 S.F.
23,534 S.F. / 300 = 78.45 PARKING SPACES
GENERAL OFFICE @ 1 SPACE PER 500 S.F.
100,598 S.F. / 500 = 201.2 PARKING SPACES
MEDICAL OFFICE @ 1 SPACE PER 300 S.F.
67,504 S.F. / 300 = 225.01 PARKING SPACES
RETAIL @ 1 SPACE PER 200 S.F.
14,694 S.F. / 200 = 73.47 PARKING SPACES
RESTAURANT @ 1 SPACE PER 50 S.F.
5,914 S.F. / 50 = 118.28 PARKING SPACES
TOTAL PARKING SPACES REQUIRED = 697 PARKING SPACES
PROVIDED: 771 PARKING SPACES (INCL. 16 HANDICAP & 68 PARKING DECK SPACES)
19. ADC MAP NO: 4579 GRIDS B-3, B4
20. PLAT REFERENCE - E.H.K. JR. 53 FOLIO 78
21. THE SUBJECT SITE IS WITHIN A TRAFFIC DEFICIENT AREA WITH A 'D' LEVEL OF SERVICE AS SHOWN ON THE BALTIMORE COUNTY 2016 BASIC SERVICES MAP. THE YORK ROAD / SEMINARY AVENUE INTERSECTION IS CLASSIFIED AS A 'D' LEVEL OF SERVICE INTERSECTION.
22. THERE ARE NO EXISTING WELLS OR SEPTIC DISPOSAL AREAS ON OR WITHIN 100' OF THIS SITE.
23. ZONING HISTORY
CRG PLAN NO. 86140 - SEMINARY CENTER 9/16/1982
CRG PLAN NO. 86140 - GALLERIA PHASE II 9/22/1983
CRG PLAN NO. 86140 - 1st AMENDMENT - THE GALLERIA TOWER 8/10/1985
CRG PLAN NO. 86140 - 2nd AMENDMENT - PARKING PLAN 12/17/1985
CRG PLAN NO. 86140 - 3rd AMENDMENT - PARKING ADDITION 7/3/2003
CZMP ZONING RECLASSIFICATION #3-007 - RECLASSIFIED 0.47 AC. BL, 0.13 AC. DR-16 & 2.79 AC. DR-5-5 TO 2.48 AC. OF BL AND 0.91 AC. OF DR-5.5.
CASE: #3410
RECLASSIFIED A PORTION OF THE PROPERTY FROM AN 'A' RESIDENCE ZONE TO AN 'E' COMMERCIAL ZONE.
USE PERMIT
USE PERMIT GRANTED BY ZONING COMMISSIONER (IN CONJUNCTION WITH CASE #3410) ALLOWS PASSENGER VEHICLE PARKING IN THE DR ZONED PORTION OF THE PROPERTY. VERIFICATION MADE BY LETTER DATED JUNE 15, 1983 TO MELVIN HERZBERGER, JR. FROM JAMES DYER, ZONING SUPERVISOR.
CASE: 4893-XA
PERMITTED A DRY CLEANING PLANT IN THE EXISTING SHOPPING CENTER (USE EXTINGUISHED).
CASE: 1960-5016-X
7/14/1960 - ZONING COMMISSIONER GRANTED SPECIAL EXCEPTION FOR A GAS STATION (USE EXTINGUISHED).
CASE: 1961-5270-A
5/31/1961 - ZONING COMMISSIONER DENIED A VARIANCE REQUEST OF BCZR SECT 413.2 TO PERMIT A SIGN OF 340 SQ. FT. IN LIEU OF THE ALLOWABLE 100 SQ. FT.
CASE: 1985-0256-XA
3/27/1985 - ZONING COMMISSIONER GRANTED SPECIAL EXCEPTION FOR A COMMUNITY BUILDING AND VARIANCE TO PERMIT 600 PARKING SPACES IN LIEU OF THE REQUIRED 645.
4/10/1985 - AMENDED ORDER BY THE ZONING COMMISSIONER MODIFYING RESTRICTION #1 ON THE ORDER.
4/26/1985 - APPEALED TO THE BOARD OF APPEALS BY THE DULANEY VALLEY IMPROVEMENT ASSOC.
5/10/1985 - BOARD OF APPEALS ORDERED THAT MOTION TO DISMISS IS DENIED.
12/20/1985 - BOARD OF APPEALS GRANTED SPECIAL EXCEPTION FOR COMMUNITY BUILDING AND DENIED THE PARKING VARIANCE.
CASE: 1997-0382-SPHX
4/29/1997 - SPECIAL HEARING - ZONING COMMISSIONER GRANTED A MODIFICATION TO EXPAND AND UPGRADE THE HEALTH AND FITNESS CENTER THAT WAS APPROVED IN CASE 85-265-XA, AND A SPECIAL EXCEPTION WAS APPROVED FOR A COMMUNITY BUILDING TO BE USED AS A HEALTH & FITNESS CENTER.
CASE: 2004-0052-SPHA
SPECIAL RELIEF WAS REQUESTED PER BCZR SECT. 409.9.A TO ALLOW 16 ADDITIONAL COMMERCIAL PARKING SPACES WITHIN A RESIDENTIAL ZONE. TO OBTAIN A USE PERMIT FOR A MODIFIED PARKING AND LANDSCAPING PLAN. D. ZONING COMMISSIONER DENIED THE REQUESTS.
THE BOARD OF APPEALS AFFIRMED THE DECISION.
CIRCUIT COURT CASE NO. 03-CR-0411000 REMANDED THE CASE TO THE BOARD OF APPEALS.
8/19/2005 - BOARD OF APPEALS DENIED COMMERCIAL PARKING ADJACENT TO EXISTING COMMERCIAL PARKING ON THE SAME LOT IN A RESIDENTIAL ZONE. MODIFIED PARKING PLAN AND MODIFIED PARKING AND LANDSCAPING REQUIREMENTS FOR THE PARKING AREA. VARIANCE TO PERMIT PARKING SPACES TO BE LOCATED WITHIN 10' OF A PUBLIC STREET RIGHT-OF-WAY UTILIZING EXISTING LANDSCAPING.
CASE: 2006-0411-SPHA
7/14/2006 - D. ZONING COMMISSIONER DENIED: A USE PERMIT FOR COMMERCIAL PARKING ADJACENT TO EXISTING COMMERCIAL PARKING ON THE SAME LOT IN A RESIDENTIAL ZONE. VARIANCE OF 750 PARKING SPACES IN LIEU OF THE REQUIRED 1059 FOR A SHOPPING CENTER GREATER THAN 100,000 S.F.; VARIANCE FOR RTA REQUIREMENTS FOR EXISTING PARKING.
D. ZONING COMMISSIONER GRANTED: A MODIFIED PARKING PLAN OF 750 PARKING SPACES. APPROVAL OF THE AMENDMENT TO ANY AND ALL PRIOR PLANS FILED IN CONNECTION WITH THE SUBJECT PROPERTY CONSISTENT WITH THE ORDER.
CASE NO. CC1500821
ACTIVE ZONING VIOLATION - BCZR SECT. 450 - NON-PERMITTED SIGNS, INSPECTOR PAUL COHEN.
CASE: 2015-0226-SPHA
8/11/2015 - ADMINISTRATIVE LAW JUDGE GRANTED PETITION FOR VARIANCE FOR: (1) EXISTING FREESTANDING JOINT IDENTIFICATION SIGNS TO DISPLAY A MAXIMUM OF 23 LINES OF TEXT WITH SIGN COPY A MINIMUM OF 1 INCH IN HEIGHT IN LIEU OF THE PERMITTED 5 LINES OF TEXT AND REQUIRED 9 INCHES IN HEIGHT FOR SIGN COPY (SIGN NOS. 1 & 3); (2) FOR AN EXISTING FREESTANDING JOINT IDENTIFICATION SIGN WITH A SIGN HEIGHT OF 30 FEET IN LIEU OF THE PERMITTED 25 FEET (SIGN NO. 3); AND (3) FOR AN EXISTING FREESTANDING DIRECTIONAL SIGN WITH A HEIGHT OF 6 FEET, 2 INCHES IN LIEU OF THE PERMITTED 4 FEET (SIGN NO. 4).
6/11/2015 - ADMINISTRATIVE LAW JUDGE DENIED PETITION FOR SPECIAL HEARING TO ALLOW AN EXISTING FREESTANDING JOINT IDENTIFICATION SIGN AND AN EXISTING FREESTANDING ENTERPRISE SIGN WITH AN ELECTRONIC MESSAGE BOARD (SIGN NO. 2) ON THE SAME FRONTAGE OF SHOPPING CENTER PROPERTY.
CASE: 2016-0106-A
2/26/2016 - ADMINISTRATIVE LAW JUDGE GRANTED PETITION FOR VARIANCE FOR: (1) A FREESTANDING JOINT IDENTIFICATION SIGN TO DISPLAY A MAXIMUM OF 6 LINES OF TEXT WITH SIGN COPY OF A MINIMUM OF 3 INCHES IN HEIGHT IN LIEU OF THE PERMITTED 5 LINES OF TEXT AND REQUIRED 9" IN HEIGHT FOR SIGN COPY; (2) TO PERMIT A THIRD JOINT IDENTIFICATION SIGN ON A PROPERTY WITH 2 FRONTAGES.
24. THE SITE IS NOT LOCATED IN ANY DEFICIENT WATER SUPPLY AREA ON THE BALTIMORE COUNTY 2016 BASIC SERVICES MAP.
25. THE SITE IS NOT LOCATED WITHIN A SEWER DEFICIENT AREA OR AREA OF CONCERN ON THE BALTIMORE COUNTY 2016 BASIC SERVICES MAP.
26. FLOOR AREA RATIO (FAR)
ALLOWED - 3.0 = 1,147,224 S.F. IN THE BL ZONE
EXISTING FAR
GROSS ADJ. FLOOR AREA - 204,292 S.F. / GROSS SITE AREA IN BL ZONE - 382,408 S.F. = 0.53 FAR
27. ALL LIGHTING FIXTURES USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT THE LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.
28. THE SITE IS NOT WITHIN A 100 YR. FLOODPLAIN OR WITHIN THE C.B.C.A.

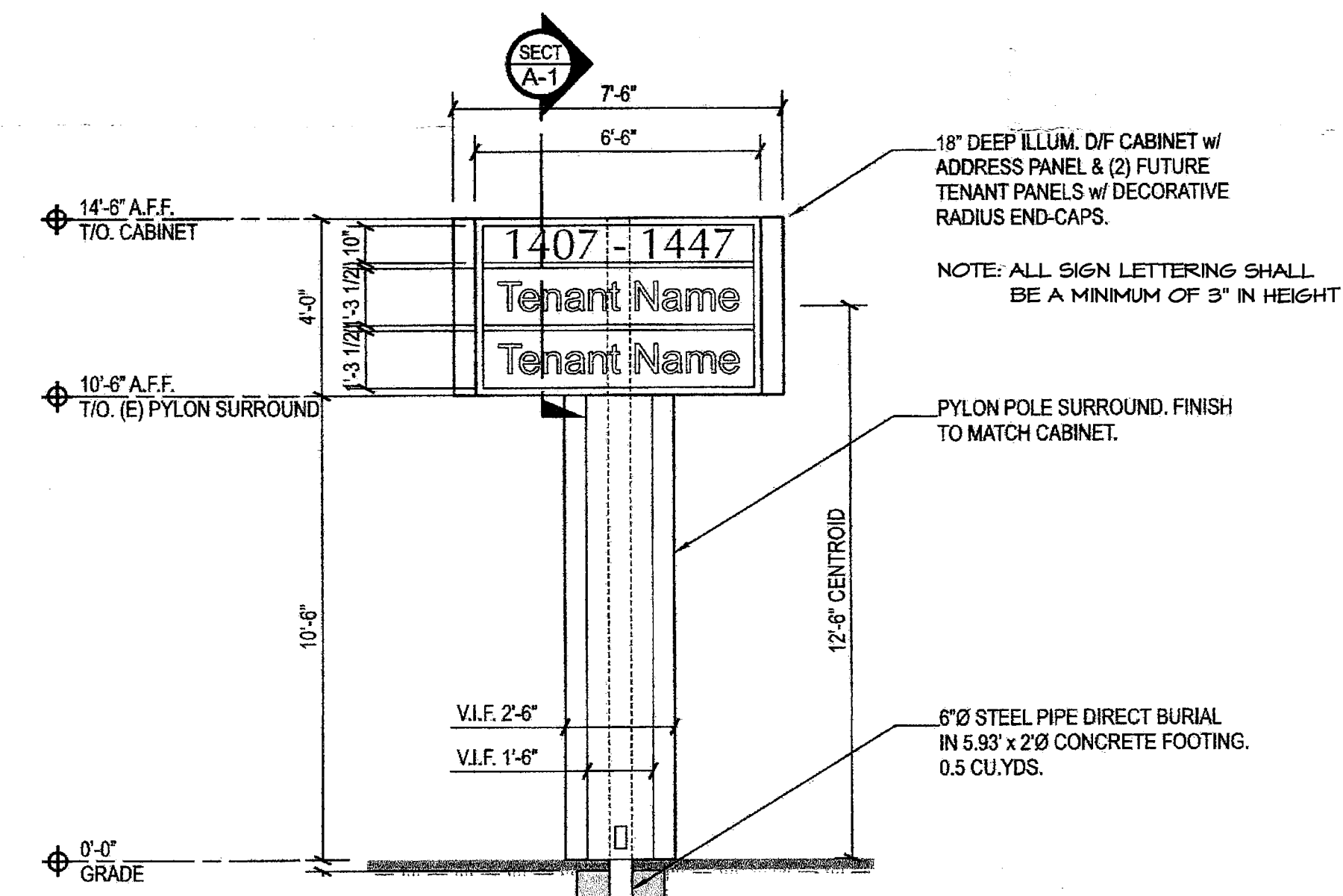
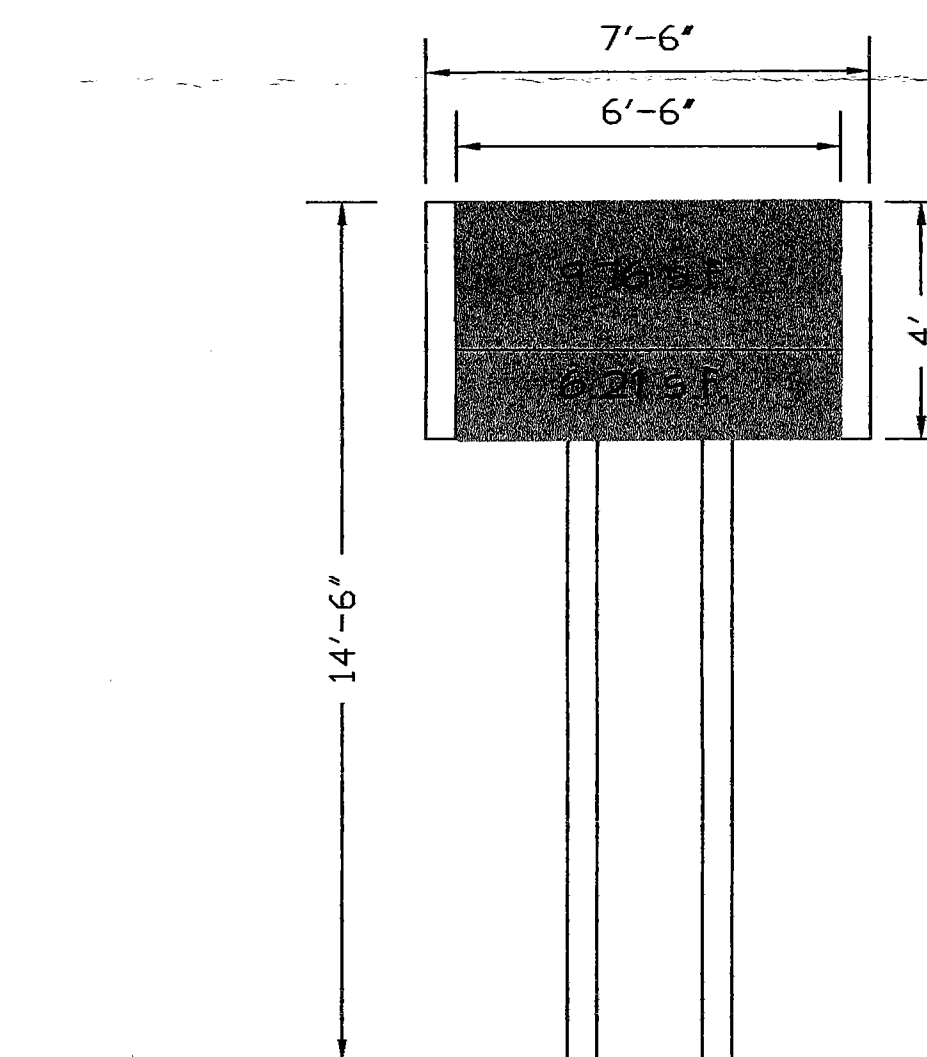
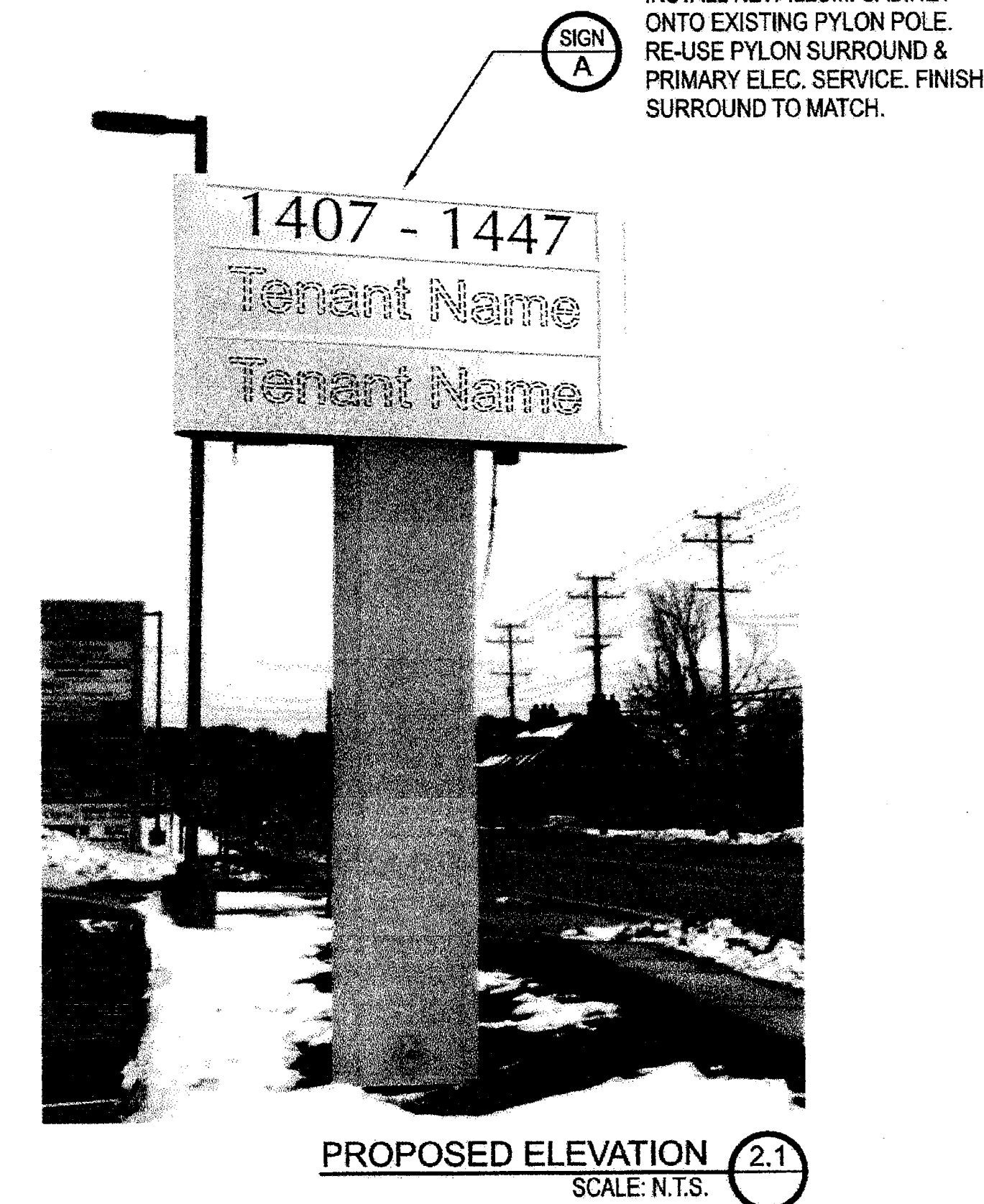
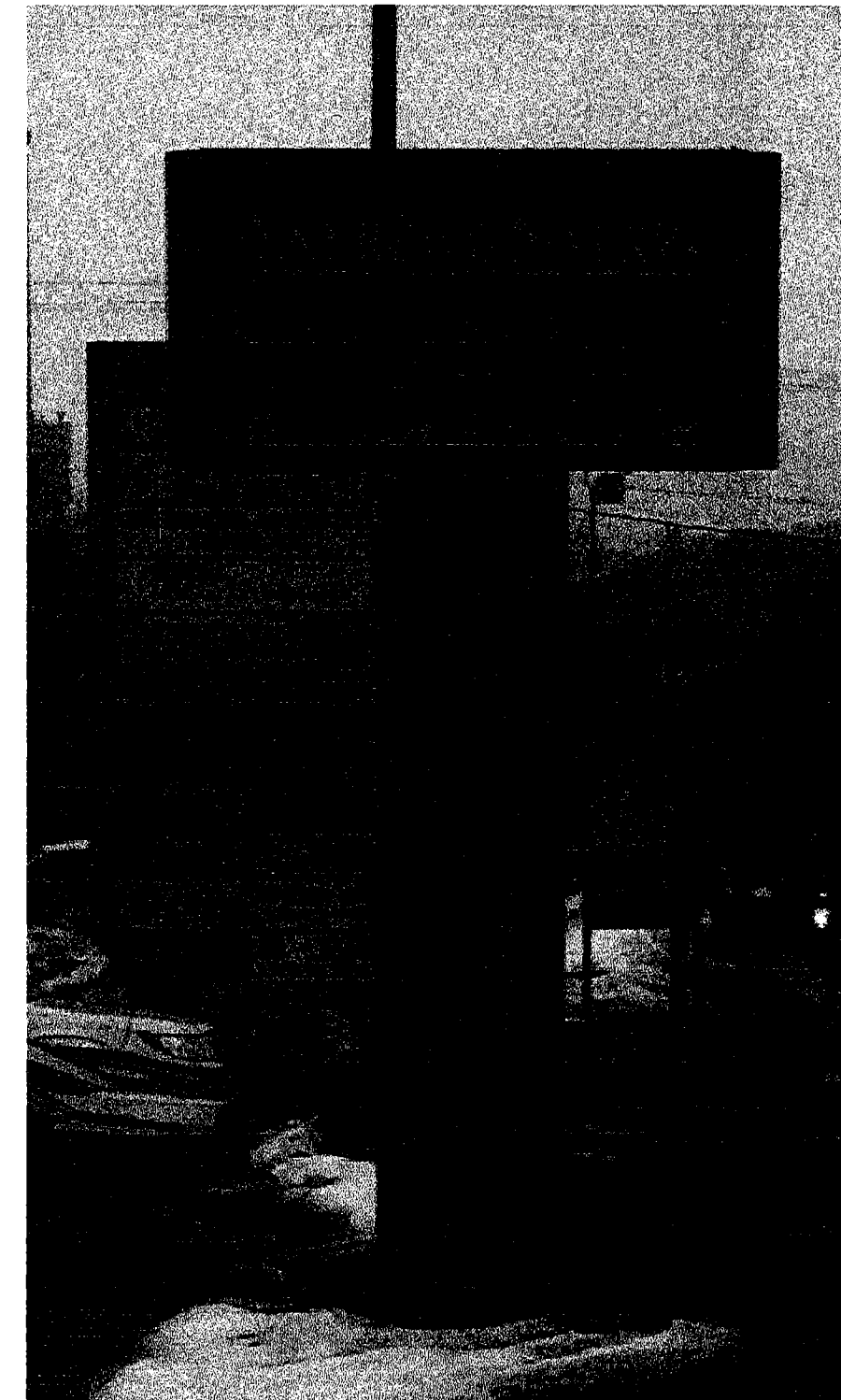


VICINITY MAP

Scale: 1" = 1500'
ADC MAP #: 4579
GRID(S): B-3, B-4

LEGEND

- PROPERTY BOUNDARY
- ADJOINER LOT LINE
- R/W LINE
- BUILDING SETBACK LINE
- EXIST. BUILDING
- EXIST. CURB LINE
- EXIST. 2' CONTOUR
- EXIST. 10' CONTOUR
- ZONING LINE



**GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.**

CIVIL ENGINEERS & LAND SURVEYORS

4692 MILLENNIUM DRIVE, SUITE 100
BELCAMP, MARYLAND 21017
(410) 297-2340



Owner
SEMINARY GALLERIA, LLC
216 SCHILLING CIRCLE
HUNT VALLEY, MARYLAND 21031-8632

GALLERIA

SIGN VARIANCE - CASE NO. 2016-0106-A

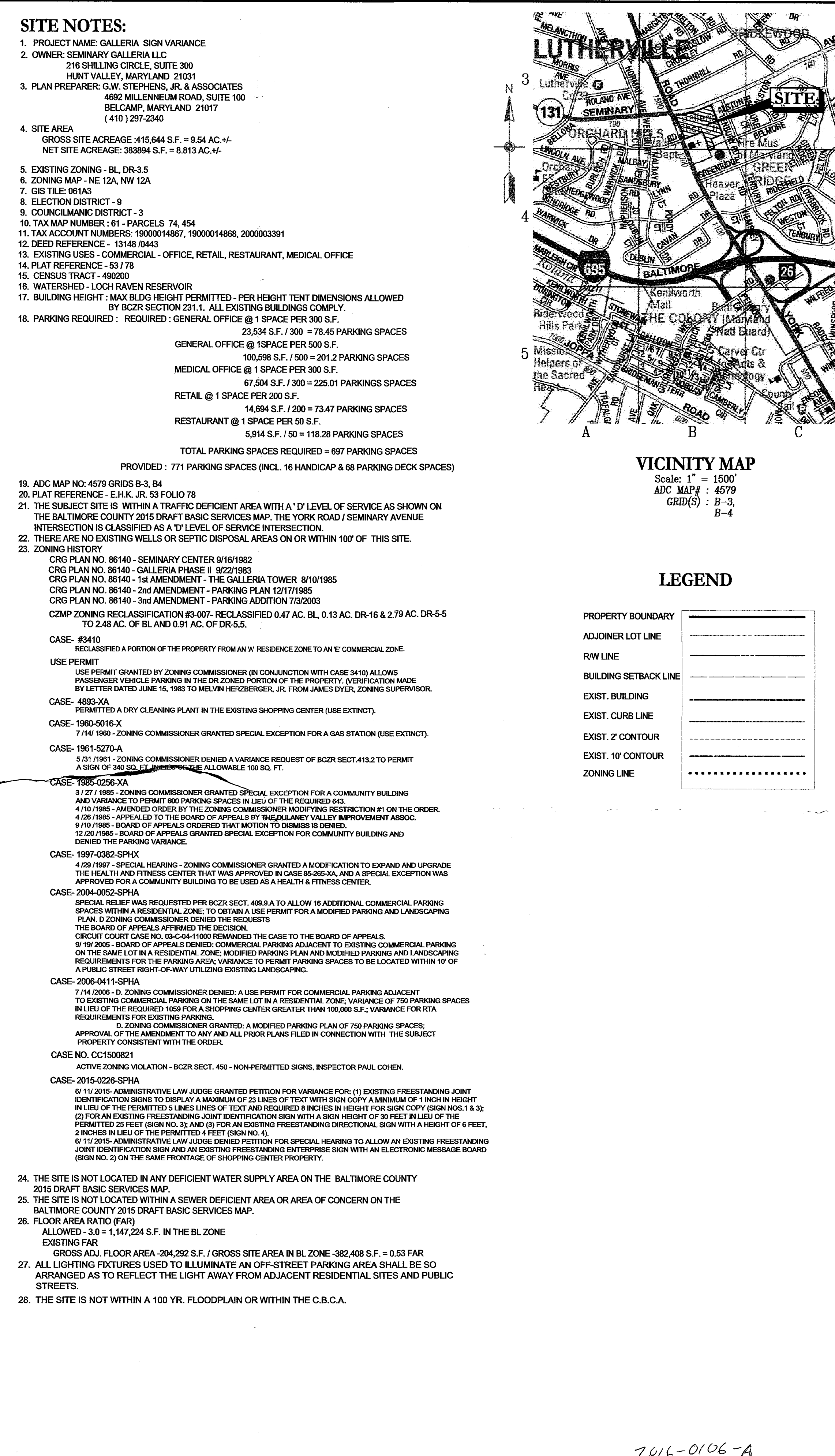
SIGN #2 DETAILS

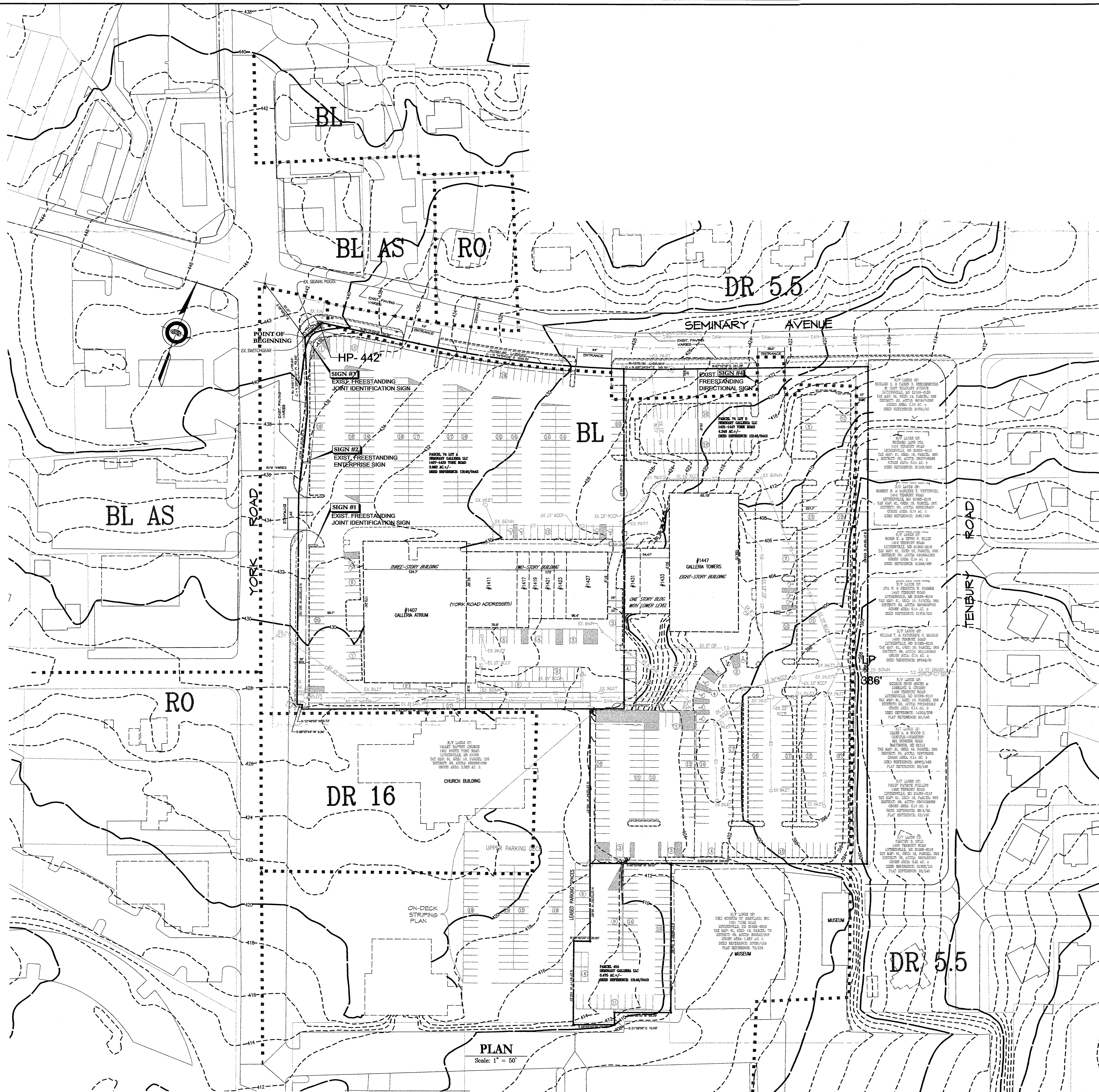
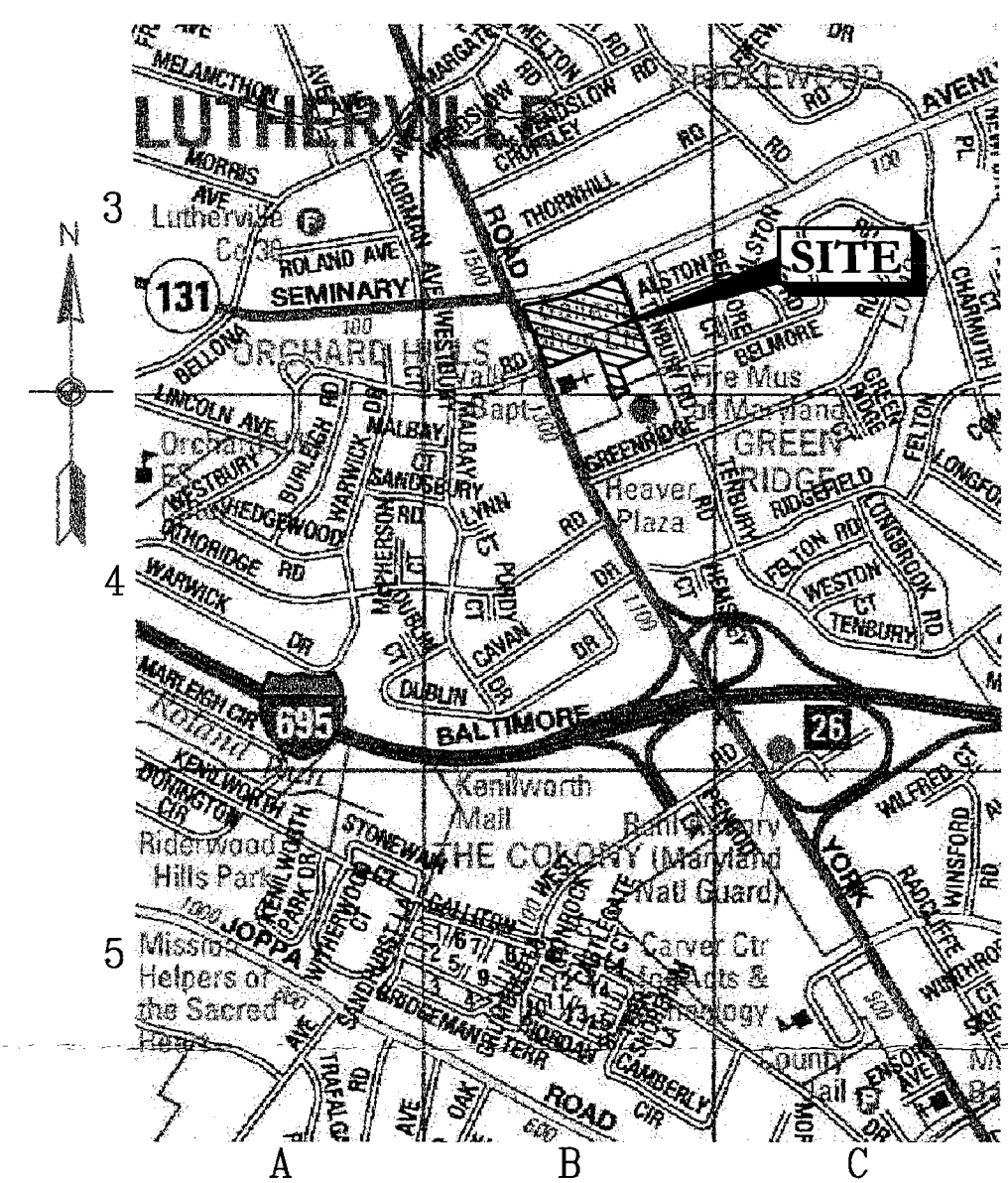
1407-1447 YORK ROAD, LUTHERVILLE, MD 21093
CRG NO. 86140
ELECTION DISTRICT #9, COUNCILMANIC DISTRICT #3
BALTIMORE COUNTY, MARYLAND

Scale: AS SHOWN

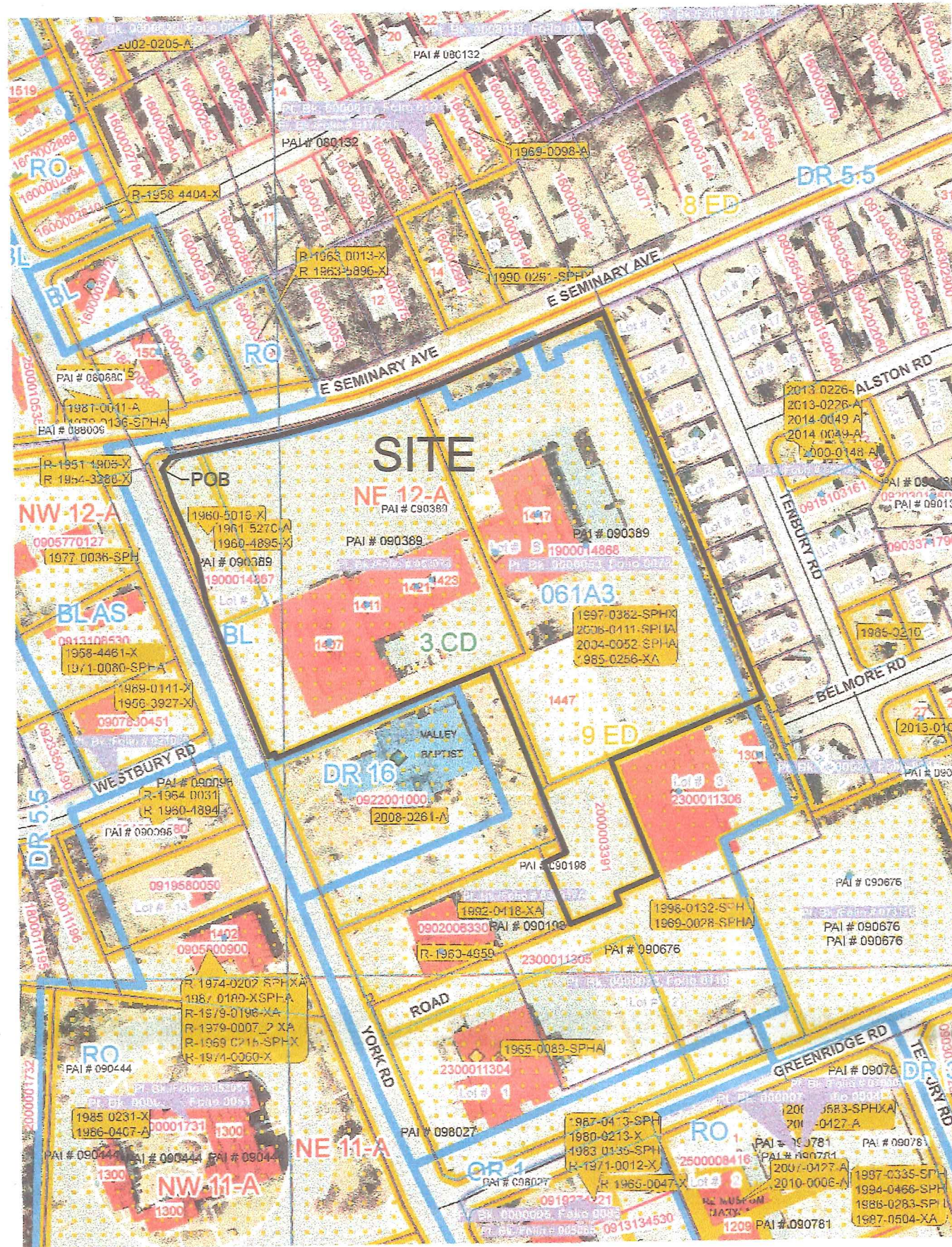
Date: November 11, 2016

SCALE: AS SHOWN
DATE: 11/ 11/ 2016
JOB #: 20-11711x
DES: BCP
ORN: BCP
CHK: BCP
FILE: 11711x_Paving
DRAWING NUMBER: Z-2
SHEET 2 of 4

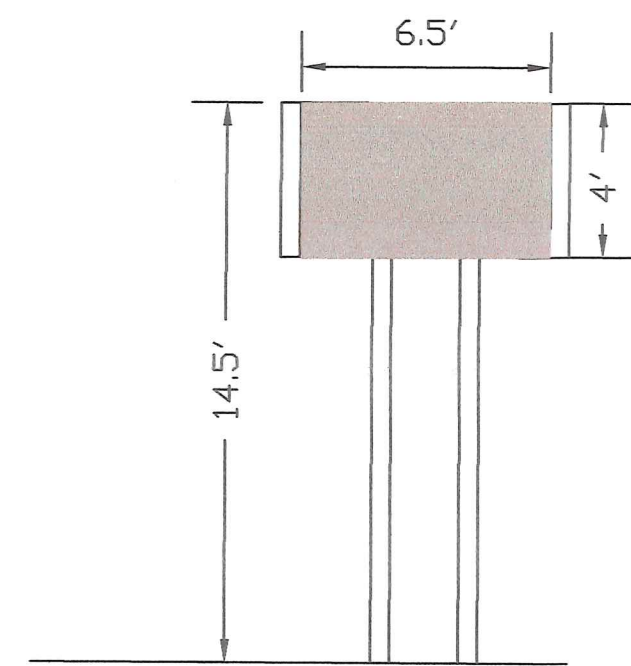




SCALE: 1" = 50'
DATE: 11/11/2015
DB #: 20-11711
CS: BCP
CN: BCP
CK: BCP
FILE: 171_TopoChains.dwg
DRAWING NUMBER:
Z-4
SHEET 4 of 4



ZONING MAP
Scale: NTS

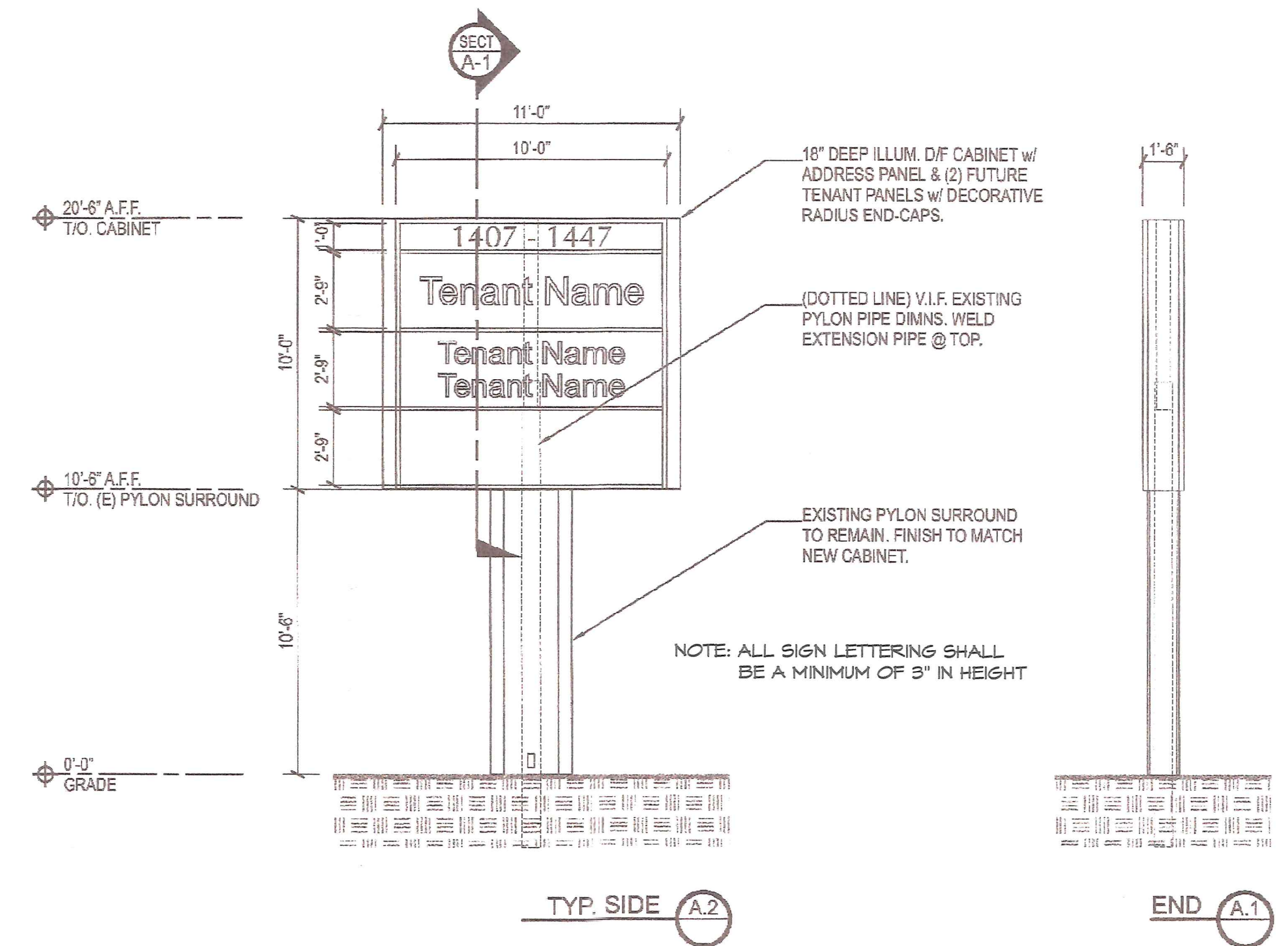


SIGN # 2
SCALE: NTS

EXISTING
FREESTANDING
ENTERPRISE SIGN
AREA = 16 S.F.



EXISTING SIGN 2 LOOKING SOUTH



SIGN # 2
SCALE: NTS

PROPOSED
FREESTANDING
JOINT IDENTIFICATION SIGN
AREA = 100 S.F.



PROPOSED ELEVATION 2.1
SCALE: N.T.S.

PROPOSED SIGN 2 LOOKING SOUTH

**GEORGE WILLIAM STEPHENS, JR.
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(410) 297-2340



Owner
SEMINARY GALLERIA, LLC
216 SCHILLING CIRCLE
HUNT VALLEY, MARYLAND 21031-8632

NO.	DATE	REVISIONS:	BY:

GALLERIA
PLAN TO ACCOMPANY PETITION FOR VARIANCE
SIGN DETAILS and ZONING MAP
1407-1447 YORK ROAD, LUTHERVILLE, MD 21093
CRG NO. 06140
ELECTION DISTRICT #9, COUNCILMANIC DISTRICT #3
BALTIMORE COUNTY, MARYLAND

Scale: AS SHOWN

Date: October 23, 2015

SCALE: AS SHOWN
DATE: 10/23/2015
JOB #: 20-1171x
DES: BCP
DRN: BCP
CHK: BCP
FILE: 10/23/2015
DRAWING NUMBER:
Z-2
SHEET 2 of 2