PETITION OF COLONIAL STOLER, LLC FOR JUDICIAL REVIEW OF THE DECISION OF THE BOARD OF APPEALS FOR BALTIMORE COUNTY	*	IN THE
	*	CIRCUIT COURT
	*	FOR
IN THE MATTER OF COLONIAL SOLER, LLC	*	BALTIMORE COUNTY
4th Election District, 2nd Councilmanic District	*	
	*	
Case No. 2017-023 SPHA Before the County Board of Appeals	*	Case:03-C-17-006561

* * * * * * * * * * * * *

ORDER

This matter came before the Court for a hearing on the *Petition for Judicial Review* filed by Colonial Stoler, LLC, Petitioner. Upon consideration of the record, the Petitioner's *Memorandum in Support of Petition for Judicial Review*, and arguments of Counsel, for the reasons stated on the record in open court, it is this 19th day of January, 2018, by the Circuit Court for Baltimore County, hereby

ORDERED, that the Order of the Board of Appeals of Baltimore County dated June 9, 2017 is AFFIRMED.

H. Patrick Stringer, Judge

Copies were sent to: Marvin Singer, Esq.
Carole DeMilio, Esq.

True Copy Test
JULIE L. ENSOR, Clerk
Per _____
Assistant Clerk
FILED JAN 23 2018

RECEIVED
JAN 25 2018
BALTIMORE COUNTY
BOARD OF APPEALS

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

Case Number: 03-C-17-006561

TO: BOARD OF APPEALS OF BALTIMORE COUNTY
Jefferson Bldg, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

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

01/25/18

Case Number: 03-C-17-006561 AA OTH
Date Filed: 07/07/2017
Status: Closed/Inactive
Judge Assigned: To Be Assigned,
Location :
CTS Start : 07/07/17 Target : 01/03/19

In the Matter of Colonial Stoler L L C

C A S E H I S T O R Y

RECEIVED
JAN 29 2018
BALTIMORE COUNTY
BOARD OF APPEALS

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	17-023-SPHA
Case Folder ID	C17006561V01

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. / Addr Update	Entered
PET	001	Colonial Stoler L L C	Party ID: 2371429	BT DO 01/23/18	07/11/17
		Mail: 11311 Reisterstown Rd Owings Mills, MD 21117	07/11/17		07/11/17 JBJ
		Attorney: 0014781 Singer, Marvin I 201 North Charles Street Suite 1501 Baltimore, MD 21201 (410)685-1111	Appear: 07/11/2017		07/11/17
ADA	001	Board Of Appeals Of Baltimore County	Party ID: 2371431	BT DO 01/23/18	07/11/17

RECEIVED
JAN 29 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Mail: Jefferson Bldg. Suite 203 07/11/17 07/11/17 JBJ
105 W. Chesapeake Avenue
Towson, MD 21204

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. / Addr Update	Entered
ITP	001	Peoples Counsel For Baltimore County Party ID: 2374548		BT DO 01/23/18	07/21/17

Attorney: 0029075 Zimmerman, Peter M Appear: 07/21/2017 07/21/17
People's Counsel For Baltimore County
105 West Chesapeake Ave.
Room 204
Towson, MD 21204
(410)887-2188

CALENDAR EVENTS

Date	Time	Fac	Event Description	Text	SA	Jdg Day	Of Notice	User ID
Result		ResultDt	By Result Judge	Rec				
01/17/18	09:30A	CR05	Civil Non-Jury Trial	Y		HPS 01 /01		KGR JRM
Held/Concluded		01/22/18	E H.Stringer, Jr.	Y				

Stenographer(s): Court Smart

DISPOSITION HISTORY

Disp Date	Disp Code	Description	Stage Code	Description	User	Activity Date
01/23/18	DO	Decree or Order	BT	BEFORE TRIAL/HEARING	RB	01/23/18

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned,	J	07/11/17	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
00001000	Petition for Judicial Review	07/07/17	07/11/17	PET001	TBA	01/23/18	JBJ RB
00001001	Response to Petition for Judicial	07/18/17	07/21/17	ITP001	TBA	01/23/18	CMS RB

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
	Review*							
00002000	Certificate of Compliance	07/14/17	07/19/17	ADA001	TBA		01/23/18	MEC RB
00003000	Transcript of Record from Adm Agency	09/08/17	09/11/17	000	TBA		01/23/18	EMH RB
00004000	Notice of Transcript of Record Sent	09/11/17	09/11/17	ADA001	TBA		09/11/17	EMH
00005000	Notice of Transcript of Record Sent	09/11/17	09/11/17	ITP001	TBA		09/11/17	EMH
00006000	Notice of Transcript of Record Sent	09/11/17	09/11/17	PET001	TBA		09/11/17	EMH
00007000	Scheduling Order	09/26/17	09/26/17	000	TBA		09/26/17	KGR
00008000	Stipulation for Extension of Time for the Filing of Memoranda Filed by PET001-Colonial Stoler L L C, ADA001-Board Of Appeals Of Baltimore County	10/05/17	10/10/17	PET001	TBA		10/10/17	RB
00009000	Memorandum In Support of Petition For Judicial Review	11/14/17	11/16/17	PET001	TBA		11/16/17	BT
00010000	Open Court Proceeding January 17, 2018 Hon. H. Patrick Stringer, Jr. Hearing had in re: Petition for Judicial Review. Arguments heard. The order of the Board of Appeals of Baltimore County dated Juned 9, 2017 is AFFIRMED for reasons stated on the record in open court. Order signed.	01/17/18	01/22/18	000	HPS		01/23/18	JRM RB
00011000	Order affirming decision of the Board of Appeals of Baltimore County dated June 9, 2017	01/23/18	01/23/18	000	HPS	Affirmed	01/23/18	RB
00012000	DOCKET ENTRIES SENT TO BOARD OF APPEALS	01/25/18	01/25/18	000	TBA			DS

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	07/18/17	0	no	no	DANS	D	1	001
1YRT	One Year Tickle (Jud	CLOSED	07/07/18	365	no	no	DAAA	D	1	000
SLTR	Set List For Trial	CANCEL	07/18/17	0	yes	no	1ANS	T	1	001
SLTR	Set List For Trial	CANCEL	09/08/17	0	yes	no	DTRA	D	3	000

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 09/26/17 Order Date : 09/26/17
Start Date : 09/26/17 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(		10/11/17	01/23/18	CLOSED
All Motions (excluding Motions in Limine		12/08/17	01/23/18	CLOSED
TRIAL DATE is	01/17/18	12/25/17	01/22/18	REACHED

ACCOUNTING SUMMARY

NON-INVOICED OBLIGATIONS AND PAYMENTS

Date	Rcpt/Initials	Acct	Desc	Oblig	Payment	Total	MOP	Balance
07/07/17	201700021373/MAD	1265	MLSC	.00	55.00	-55.00	CK	-55.00
07/07/17	201700021373/MAD	1603	RIF-New Case	.00	30.00	-30.00	CK	-85.00
07/07/17	201700021373/MAD	1102	CF-Civil Fil	.00	80.00	-80.00	CK	-165.00
07/11/17		1603	RIF-New Case	30.00	.00	30.00		-135.00
07/11/17		1265	MLSC	55.00	.00	55.00		-80.00
07/11/17		1102	CF-Civil Fil	80.00	.00	80.00		.00

Invoice Due Date: 01/24/18 INVOICE# 2018000116/SAP TOTAL: $10.00 STATUS: Invoice Mailed
PARTY : Colonial Stoler L L C
MAIL-TO: Marvin I Singer

Invoice Created on 01/24/18
Invoice Mailed on 01/24/18

Date	Rcpt/Initials	Acct	Desc	Oblig	Payment	Total	MOP	Balance
07/11/17		1500	Appearance F	10.00	.00	10.00		10.00

CV

CIRCUIT COURT FOR BALTIMORE COUNTY

Case #:	F	Date Filed:
03-C-17-006561	01	07/07/2017

Case Type:
Administrative Agency Appeal

In the Matter of Colonial Stoler L L C

C17006561V01

Petitioner: Colonial Stoler L L C

Petitioner's Attorney:	Phone No.:	Fax No.:
Marvin I Singer Esq	(410)685-1111	(410)685-2372

CIRCUIT COURT FOR BALTIMORE COUNTY

CIRCUIT COURT FOR BALTIMORE COUNTY
JULIE L. ENSOR, CLERK
COUNTY COURTS BUILDING
401 BOSLEY AVENUE
TOWSON, MD 21285
PHONE: (410) 887-2601
TTY: (800) 735-2258

BILL OF COSTS

In the Matter of Colonial Stoler L L C

Invoice No. 2018000116
Case No. 03-C-17-006561
Date: 01/24/2018

Date	Receipt #	Item	Assessed	Payment	Balance
07/11/17		Appearance Fee	10.00		10.00
			TOTAL DUE:		10.00

- - - -

PETITION OF COLONIAL STOLER, LLC FOR JUDICIAL REVIEW OF THE DECISION OF THE BOARD OF APPEALS FOR BALTIMORE COUNTY	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
IN THE MATTER OF COLONIAL SOLER, LLC	*	
4th Election District, 2nd Councilmanic District	*	
Case No. 2017-023 SPHA Before the County Board of Appeals	*	Case:03-C-17-006561

* * * * * * * * * * * * *

ORDER

This matter came before the Court for a hearing on the *Petition for Judicial Review* filed by Colonial Stoler, LLC, Petitioner. Upon consideration of the record, the Petitioner's *Memorandum in Support of Petition for Judicial Review*, and arguments of Counsel, for the reasons stated on the record in open court, it is this 19th day of January, 2018, by the Circuit Court for Baltimore County, hereby

ORDERED, that the Order of the Board of Appeals of Baltimore County dated June 9, 2017 is AFFIRMED.

H. Patrick Stringer, Judge

Copies were sent to: Marvin Singer, Esq.
Carole DeMilio, Esq.

RECEIVED
JAN 29 2018
BALTIMORE COUNTY
BOARD OF APPEALS

FILED JAN 23 2018

NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 BOSLEY AVENUE
P.O. BOX 6754
TOWSON, MARYLAND 21285-6754

Board Of Appeals Of Baltimore County
Jefferson Bldg, Suite 203
105 W. Chesapeake Avenue
Towson MD 21204

Assignment Date: 09/26/17

Case Title: In the Matter of Colonial Stoler L L C
Case No: 03-C-17-006561 AA

The above case has been assigned to the EXPEDITED APPEAL TRACK. Should you have any questions concerning your track assignment, please contact: the DCM Office at (410) 887-3233.
You must notify the DCM Office within 15 days of the receipt of this Order as to any conflicts with the following dates:

SCHEDULING ORDER

1. Motions to Dismiss under MD. Rule 2-322(b) are due by..... 10/11/17
2. All Motions (excluding Motions in Limine) are due by..... 12/08/17
3. TRIAL DATE is..... 01/17/18
   Civil Non-Jury Trial; Start Time: 09:30AM; To Be Assigned; 1/2 HOUR ADMINISTRATIVE APPEAL

Honorable Kathleen Gallogly Cox
Judge

Postponement Policy: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponement must be submitted in writing with a copy to all counsel/parties involved. All requests for postponement must be approved by the Judge.

Settlement Conference (Room 507): All counsel and their clients MUST attend the settlement conference in person. All insurance representatives MUST attend this conference in person as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected. (Call [410] 887-2920 for more information.)

Special Assistance Needs: If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Civil Assignment Office at (410)-887-2660 or use the Court's TDD line, (410) 887-3018, or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Voluntary Dismissal: Per Md. Rule 2-506, after an answer or motion for summary judgment is filed, a plaintiff may dismiss an action without leave of court by filing a stipulation of dismissal signed by all parties who have appeared in the action. The stipulation shall be filed with the Clerk's Office. Also, unless otherwise provided by stipulation or order of court, the dismissing party is responsible for all costs of the action.

Court Costs: All court costs MUST be paid on the date of the settlement conference or trial.

Camera Phones Prohibited: Pursuant to Md. Rule 16-109 b.3., cameras and recording equipment are strictly prohibited in courtrooms

RECEIVED
SEP 28 2017
BALTIMORE CITY
BOARD OF APPEALS

and adjacent hallways. This means that camera cell phones should not be brought with you on the day of your hearing to the Courthouse.

cc: Marvin I Singer Esq
cc: Peter M Zimmerman Esq
Issue Date 09/26/17

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

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

Case Number: 03-C-17-006561 AA
Administrative Agency : 17-023-SPHA
C I V I L

In the Matter of Colonial Stoler L L C

Notice

Pursuant to Maryland Rule 7-206(f), you are advised that the Record of Proceedings was filed on the 8th day of September, 2017.

Julie L. Ensor
Clerk of the Circuit Court, per EMH

Date issued: 09/11/17

TO: BOARD OF APPEALS OF BALTIMORE COUNTY
Jefferson Bldg, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

RECEIVED
SEP 13 2017
BALTIMORE COUNTY
BOARD OF APPEALS

BOARD OF TRUSTEES
BALTIMORE COUNTY
SEP 18 2013
RECEIVED

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

September 8, 2017

VIA HAND-DELIVERY
Civil Clerk
Circuit Court for Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

RE: In the matter of: Colonial Stoler, LLC – Legal Owner
Civil Action No.: 03-C-17-006561
Board of Appeals Case No.: 17-023-SPHA

Dear Clerk:

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

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

Very truly yours,

Tammy A. Zahner

Tammy A. Zahner
Legal Secretary

Enclosures

c: Marvin I. Singer, Esquire
Barry Stoler/Colonial Stoler, LLC
George Harman/Reisterstown-Owings Mills-Glyndon Coordinating Council
Office of People's Counsel
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

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
PETITION OF: COLONIAL STOLER, LLC	*	
FOR JUDICIAL REVIEW OF THE OPINION OF THE BOARD OF APPEALS OF BALTIMORE COUNTY JEFFERSON BUILDING – ROOM 203 105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204	*	CIVIL ACTION NO. : 03-C-17-006561
IN THE MATTER OF: COLONIAL STOLER, LLC – LEGAL OWNER FOR PROPERTY LOCATED AT 11311 REISTERSTOWN ROAD	*	
4TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	
BOARD OF APPEALS CASE NO.: 17-023-SPHA	*	

* * * * * * * * * * * * *

FILED
2017 SEP -8 AM 11:05
CIRCUIT COURT
BALTIMORE COUNTY

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

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

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

July 22, 2016	Petition for Special Hearing under Section 500.7 of the BCZR to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. as determined under the County's interpretation of the required area which includes the entire structure. In the alternative, a Petition for Variance to permit a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted.

August 2, 2016	Entry of Appearance filed by People's Counsel for Baltimore County.
August 24, 2016	Notice of Zoning Hearing
September 1, 2016	Certificate of Publication in newspaper
September 5, 2016	Certificate of Posting
September 14, 2016	ZAC Comments
September 23, 2016	Hearing held before the Office of Administrative Hearings.
September 29, 2016	Opinion and Order issued by the Administrative Law Judge wherein the Petition for Special Hearing to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. under the County's interpretation of the required area which includes the entire structure was DENIED, and the Petition for Variance to permit a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted was DENIED.
October 10, 2016	Motion for Reconsideration filed by Marvin I. Singer, Esquire, on behalf of Colonial Stoler, LLC, Petitioner.
October 14, 2016	Order on Motion for Reconsideration issued by the Administrative Law Judge wherein the Motion was DENIED.
October 25, 2016	Notice of Appeal filed by Marvin I. Singer, Esquire on behalf of Colonial Stoler, LLC, Petitioner.
October 25, 2016	Appeal received by the Board.
October 28, 2016	Notice of Assignment issued by the Board.
January 19, 2017	Board convened for a Hearing.

Exhibits submitted at Hearings before the Board of Appeals:

Petitioner's Exhibit No.

1 – BCZR Section 450.3, Signs, Area
2 – Rendering of Sign
3 – Plat for Site
4 – Small photo of existing sign
5 – Large Google photo of existing sign
6 – Large Google photo of Reisterstown Road, southern direction
7 – Large Google photo of Reisterstown Road, past site

8 – Large Google photo of Reisterstown Road, northern direction (site not depicted)
9 – Photo of Toyota sign for comparison (IDENTIFICATION ONLY – NOT ADMITTED)
10 – COMAR 11.12, Department of Transportation, Motor Vehicle Administration – Licensing of Businesses and Occupations

People's Counsel's Exhibit No.
1 – BCZR Section 450.8, Signs, Administration and Compliance
2 – 4-69.9 and 469.10 of the Zoning Commissioner's Policy Manual
3 – Site Plan (Aerial)
4 – Zoning Map

February 22, 2017	Memorandum of People's Counsel for Baltimore County.
February 22, 2017	Memorandum on behalf of Petitioner filed by Marvin E. Singer, Esquire.
March 30, 2017	Board convened for Public Deliberation.
June 9, 2017	Opinion and Order issued by the Board wherein the Petition for Special Hearing to permit a sign of 45 square feet in lieu of the 225 square feet as determined by the County was DENIED; and the Petition for Variance to permit erection of the aforementioned 225 square foot sign in lieu of the 50 square feet permitted was DENIED; and the oral amendment requesting a Variance to permit a sign that is 70 square feet in lieu of the permitted 50 square feet and that is 27 feet high in lieu of the 25 feet permitted was DENIED.
July 7, 2017	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Marvin I. Singer, Esquire on behalf of Colonial Stoler, LLC, Petitioner/Appellant.
July 13, 2017	Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.
July 14, 2017	Certificate of Compliance sent to all parties and interested persons.
July 18, 2017	Letter to Board from Marvin I. Singer, Esquire, ordering the transcript.
July 18, 2017	Response to Petition for Judicial Review filed by People's Counsel for Baltimore County.

September 8, 2017 Transcript of testimony filed.

September 8, 2017 Record of Proceedings filed in the Circuit Court for Baltimore County.

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

Tammy A. Zahner

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

c: Marvin I. Singer, Esquire
Barry Stoler/Colonial Stoler, LLC
George Harman/Reisterstown-Owings Mills-Glyndon Coordinating Council
Office of People's Counsel
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

PETITION OF **COLONIAL STOLER, LLC**, FOR JUDICIAL REVIEW OF THE DECISION OF THE BOARD OF APPEALS FOR BALTIMORE COUNTY	*	IN THE CIRCUIT COURT
IN THE MATTER OF COLONIAL STOLER, LLC LEGAL OWNERS, PETITION FOR SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED AT 11311 REISTERSTOWN ROAD	*	FOR BALTIMORE COUNTY
4th Election District, 2nd Councilmanic District	*	Case No. 03-C-17-006561
Case No.: 2017-023-SPHA Before the County Board of Appeals	*	

* * * * * * * * * * * * * *

RESPONSE TO PETITION FOR JUDICIAL REVIEW

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
JUL 18 2017
BALTIMORE COUNTY
BOARD OF APPEALS

Carole S Demilio

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

RECEIVED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of July 2017, a copy of the foregoing Response to Petition for Judicial Review was mailed to:

Marvin Singer, Esquire
201 N. Charles Street, Suite 1501
Baltimore, Maryland 21201

Baltimore County Board of Appeals
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel for Baltimore County

Law Offices
MARVIN I. SINGER
Suite 1501
201 North Charles Street
(410) 685-1111 Baltimore, Maryland 21201 Fax (410) 685-2372
MISlaw1@yahoo.com

July 18, 2017

RECEIVED
JUL 19 2017
BALTIMORE COUNTY
BOARD OF APPEALS

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

Re: Colonial Stoler, LLC
Board of Appeals Case No. 17-023-SPHA
Circuit Court Case No. 03-C-17-006561

Dear Ms. Zahnr:

This will acknowledge receipt of your letter date July 14th and the enclosed Certificate of Compliance. As I indicated in a telephone conversation with your office last week, I wish to proceed with the preparation of the transcript of the proceedings before the Board. I would appreciate your advising me of a qualified transcriptionist.

Should anything further be required please advise me. Thank you for your attention to this matter.

Yours very truly,

Marvin I. Singer

MIS/m

Cc: Peter M. Zimmerman, Esq. and
Carole S. Demilio, Esq.

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

July 17, 2017

Marvin I. Singer, Esquire
Law Offices of Marvin I. Singer
201 North Charles Street, Suite 1501
Baltimore, Maryland 21201

Re: In the Matter of: *Colonial Stoler, LLC*
Case No. 17-023-SPHA

Dear Mr. Singer:

I am in receipt of your request for transcript in the above referenced matter. Please be advised that we have sent the recording to the typist listed below.

The typist has been instructed to contact you by phone upon receipt of the recording. She will be able to provide you with the estimated cost, and required deposit. I have advised her that the original transcript is due to the Board no later than September 1, 2017.

Please direct all payments and questions regarding the transcript to the typist listed below.

Very truly yours,

Tammy A. Zahner
Legal Secretary

Typist:	Christine Leary
Mailing Address:	8200 Featherhill Road, #204, Perry Hall, MD 21128
Telephone #:	(443) 622-4898
E-mail:	*crleary1@verizon.net*

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County

Phone: 410-887-3180 Fax: 410-887-3182

To: Chris Leary

From: Tammy Zahner, Legal Secretary

Date: July 14, 2017

Re: In the matter of: *Colonial Stoler, LLC*
Case No.: 17-023-SPHA

Enclosed is the recording from the above referenced case. The Board members who sat on this case are James H. West, Chairman; Jason S. Garber, took exhibits; and Joseph L. Evans operated CourtSmart.

I have enclosed a copy of the Address list for your convenience. Marvin I. Singer, Esquire represented Colonial Stoler, LLC, Petitioner; George Harman, Protestant appeared on behalf of the Reisterstown-Owings Mills-Glyndon Coordinating Council; and Carole S. Demilio, Esquire appeared on behalf of the Office of People's Counsel.

Mr. Singer is requesting the transcript of the hearing and is responsible for the cost. Please contact him with the estimated cost, and required deposit, if any. His contact information is below.

The hearing lasted approximately 2-1/2 hours. This case is on appeal to the Circuit Court, and the original transcript is to be returned to the Board no later than September 1, 2017.

Please let us know if you have any questions.

Thank you,

Tammy

Tammy Zahner

Marvin I. Singer, Esquire
Law Offices of Marvin I. Singer
201 North Charles Street, Suite 1501
Baltimore, Maryland 21201
(410) 685-1111
MISlaw1@yahoo.com

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
COLONIAL STOLER, LLC *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE BOARD OF APPEALS NO. : 03-C-17-006561
OF BALTIMORE COUNTY *
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF:
COLONIAL STOLER, LLC – LEGAL OWNER *
FOR PROPERTY LOCATED AT
11311 REISTERSTOWN ROAD *

4TH ELECTION DISTRICT *
2ND COUNCILMANIC DISTRICT

*

BOARD OF APPEALS CASE NO.: 17-023-SPHA

* * * * * * * * * * * *

FILED
2017 JUL 14 AM 9:49
CIRCUIT COURT
BALTIMORE COUNTY

CERTIFICATE OF COMPLIANCE

Madam Clerk:

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

Marvin I. Singer, Esquire
201 North Charles Street
Suite 1501
Baltimore, MD 21201

Barry Stoler
Colonia Stoler, LLC
11275 Reisterstown Road
Owings Mills, MD 21117-1906

George Harman
5429 Weywood Drive
Reisterstown, MD 21136

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

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

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

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

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

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

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

I HEREBY CERTIFY that on this 14th day of July, 2017 a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.

Tammy A. Zahner

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

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

July 14, 2017

Marvin I. Singer, Esquire
201 North Charles Street
Suite 1501
Baltimore, Maryland 21201

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

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-17-006561
In the Matter of: Colonial Stoler, LLC – Legal Owner
Board of Appeals Case No.: 17-023-SPHA

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on July 7, 2017 by Marvin I. Singer, Esquire on behalf of Colonial Stoler, LLC, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. Mr. Singer, having taken the appeal on behalf of his client, is responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

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

Please be advised that the ORIGINAL transcript must be provided to the Board of Appeals no later than SEPTEMBER 1, 2017 so that it may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.

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

Very truly yours,

Tammy A. Zahner
Legal Secretary

Duplicate Original Cover Letter
Enclosure

c: Barry Stoler/Colonial Stoler, LLC
George Harman/Reisterstown-Owings Mills-Glyndon Coordinating Council
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

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

July 14, 2017

Marvin I. Singer, Esquire
201 North Charles Street
Suite 1501
Baltimore, Maryland 21201

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

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-17-006561
In the Matter of: Colonial Stoler, LLC – Legal Owner
Board of Appeals Case No.: 17-023-SPHA

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on July 7, 2017 by Marvin I. Singer, Esquire on behalf of Colonial Stoler, LLC, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. Mr. Singer, having taken the appeal on behalf of his client, is responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

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

Please be advised that the ORIGINAL transcript must be provided to the Board of Appeals no later than SEPTEMBER 1, 2017 so that it may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.

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

Very truly yours,

Tammy A. Zahner
Legal Secretary

Duplicate Original Cover Letter
Enclosure

c: Barry Stoler/Colonial Stoler, LLC
George Harman/Reisterstown-Owings Mills-Glyndon Coordinating Council
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

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
PETITION OF: COLONIAL STOLER, LLC	*	
FOR JUDICIAL REVIEW OF THE OPINION OF THE BOARD OF APPEALS OF BALTIMORE COUNTY JEFFERSON BUILDING – ROOM 203 105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204	*	CIVIL ACTION NO. : 03-C-17-006561
IN THE MATTER OF: COLONIAL STOLER, LLC – LEGAL OWNER FOR PROPERTY LOCATED AT 11311 REISTERSTOWN ROAD	*	
4TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	
BOARD OF APPEALS CASE NO.: 17-023-SPHA	*	

* * * * * * * * * * * *

CERTIFICATE OF COMPLIANCE

Madam Clerk:

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

Marvin I. Singer, Esquire
201 North Charles Street
Suite 1501
Baltimore, MD 21201

Barry Stoler
Colonia Stoler, LLC
11275 Reisterstown Road
Owings Mills, MD 21117-1906

George Harman
5429 Weywood Drive
Reisterstown, MD 21136

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

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

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

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

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

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

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

I HEREBY CERTIFY that on this 14th day of July, 2017 a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.

Tammy A. Zahner

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

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
PETITION OF COLONIAL STOLER, LLC
11311 Reisterstown Road
Owings Mills, Maryland 21117

FOR JUDICIAL REVIEW OF THE DECISION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

CIIVIL ACTION NO.
C-17-6561

FILED
2017 JUL -7 PM 3:06
CIRCUIT COURT
BALTIMORE COUNTY

IN THE MATTER OF
COLONIAL STOLER, LLC-LEGAL OWNERS
AND PETITIONERS FOR SPECIAL HEARING
AND VARIANCE FOR THE PROPERTY
LOCATED AT 11311 Reisterstown Road
Case No. 17-023-SPHA

4th Election Distrct
2nd Councilmanic District

1000

PETITION FOR JUDICIAL REVIEW

Petitioner, Colonial Stoler, LLC, by its undersigned attorney, pursuant to Md. Rule 7-202, hereby requests judicial review of the Order and Opinion of the Board of Appeals of Baltimore County dated June 9, 2017 in the above-entitled proceedings.

Petitioner was a party to the agency proceedings

RECEIVED
JUL 13 2017
BALTIMORE COUNTY
BOARD OF APPEALS

MARVIN I. SINGER
201 North Charles Street Suite 1501
Baltimore, Maryland 21201
(410) 685-1111
(410) 685-2372 (Fax)
MISlaw1@yahoo.com

Attorney for Petitioner

Board of appeal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of July, 2017 a copy of the foregoing Petition for Judicial Review was delivered to the Board of Appeals of Baltimore County, Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204, and a copy mailed to Peter M. Zimmerman, Esq. and Carole S. Demilio, Esq., Office of Peoples Counsel, Jefferson Building, Suite 204, 105 West Chesapeake Avenue, Towson, Maryland 21204.

MARVIN I. SINGER

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
PETITION OF COLONIAL STOLER, LLC
11311 Reisterstown Road
Owings Mills, Maryland 21117

FOR JUDICIAL REVIEW OF THE DECISION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

CIIVIL ACTION NO.

IN THE MATTER OF
COLONIAL STOLER, LLC-LEGAL OWNERS
AND PETITIONERS FOR SPECIAL HEARING
AND VARIANCE FOR THE PROPERTY
LOCATED AT 11311 Reisterstown Road
Case No. 17-023-SPHA

4th Election Distrct
2nd Councilmanic District

PETITION FOR JUDICIAL REVIEW

Petitioner, Colonial Stoler, LLC, by its undersigned attorney, pursuant to Md. Rule 7-202, hereby requests judicial review of the Order and Opinion of the Board of Appeals of Baltimore County dated June 9, 2017 in the above-entitled proceedings.

Petitioner was a party to the agency proceedings

MARVIN I. SINGER
201 North Charles Street Suite 1501
Baltimore, Maryland 21201
(410) 685-1111
(410) 685-2372 (Fax)
MISlaw1@yahoo.com

Attorney for Petitioner

RECEIVED
JUL 13 2017
BALTIMORE COUNTY
BOARD OF APPEALS

RECEIVED
JUL 13 2017
RAY TAYLOR COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of July, 2017 a copy of the foregoing Petition for Judicial Review was delivered to the Board of Appeals of Baltimore County, Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204, and a copy mailed to Peter M. Zimmerman, Esq. and Carole S. Demilio, Esq., Office of Peoples Counsel, Jefferson Building, Suite 204, 105 West Chesapeake Avenue, Towson, Maryland 21204.

MARVIN I. SINGER

Law Offices
MARVIN I. SINGER
Suite 1501
201 North Charles Street
(410) 685-1111 Baltimore, Maryland 21201 Fax (410) 685-2372
MISlaw1@yahoo.com

RECEIVED
JUL 07 2017
BALTIMORE COUNTY
BOARD OF APPEALS

July 7, 2017

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

Attn: Civil Dept.

Re: Colonial Stoler, LLC
Petition for Judicial Review

Dear Clerk:

Enclosed for filing are the original and one copy of the Petition for Judicial Review of the Order and Opinion of the Board of Appeals of Baltimore County. Also enclosed is a check in the amount of $165.00 in payment of the filing fee.

Please date stamp the additional copy of the Petition and return it to the messenger. Should anything further be required please contact me.

Thank you for your attention to this matter.

Yours very truly,

Marvin I. Singer

Cc: Board of Appeals of Baltimore County (w/encl) via messenger
Peter M. Zimmerman, Esq. and Carole S. Demilio, Esq. via First-Class Mail

DELIVERED BY MESSENGER

MIS/m
Encls.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
PETITION OF COLONIAL STOLER, LLC
11311 Reisterstown Road
Owings Mills, Maryland 21117

FOR JUDICIAL REVIEW OF THE DECISION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

CIIVIL ACTION NO.

IN THE MATTER OF
COLONIAL STOLER, LLC-LEGAL OWNERS
AND PETITIONERS FOR SPECIAL HEARING
AND VARIANCE FOR THE PROPERTY
LOCATED AT 11311 Reisterstown Road
Case No. 17-023-SPHA

4th Election Distrct
2nd Councilmanic District

PETITION FOR JUDICIAL REVIEW

Petitioner, Colonial Stoler, LLC, by its undersigned attorney, pursuant to Md. Rule 7-202, hereby requests judicial review of the Order and Opinion of the Board of Appeals of Baltimore County dated June 9, 2017 in the above-entitled proceedings.

Petitioner was a party to the agency proceedings

MARVIN I. SINGER
201 North Charles Street Suite 1501
Baltimore, Maryland 21201
(410) 685-1111
(410) 685-2372 (Fax)
MISlaw1@yahoo.com

Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of July, 2017 a copy of the foregoing Petition for Judicial Review was delivered to the Board of Appeals of Baltimore County, Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204, and a copy mailed to Peter M. Zimmerman, Esq. and Carole S. Demilio, Esq., Office of Peoples Counsel, Jefferson Building, Suite 204, 105 West Chesapeake Avenue, Towson, Maryland 21204.

MARVIN I. SINGER

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 9, 2017

Marvin I. Singer, Esquire
Law Offices of Marvin I. Singer
201 North Charles Street, Suite 1501
Baltimore, Maryland 21201

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

RE: In the Matter of: *Colonial Stoler, LLC*
Case No.: 17-023-SPHA

Dear Counsel:

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

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

Very truly yours,

Sunny Cannington /tam

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Duplicate Original Cover Letter

c: Barry Stoler/Colonial Stoler, LLC
George Harman/Reisterstown-Owings Mills-Glyndon Coordinating Council
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

IN THE MATTER OF COLONIAL STOLER, LLC -LEGAL OWNERS AND PETITIONERS FOR SPECIAL HEARING AND VARIANCE FOR THE PROPERTY LOCATED AT 11311 REISTERSTOWN ROAD	*	BEFORE THE BOARD OF APPEALS OF
4TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	BALTIMORE COUNTY
	*	CASE NO. 17-023-SPHA

* * * * * * * * * * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County (the "Board") as a *de novo* appeal from an original hearing before Administrative Law Judge John E. Beverungen. The Petitioner (hereinafter "Stoler") seeks permission to replace its sign at its Lexus dealership on Reisterstown Road. As an initial matter, Stoler sought a ruling that the definition of sign size in the BCZR means that its proposed new sign is permitted by right. Assuming, however, that the proposed sign is not permitted by right under the current regulations, Stoler alternatively seeks a variance from the zoning regulations to allow the construction of its proposed sign. Judge Beverungen found that the County's standing interpretation of the definitions of "area", "face", "message", and "sign" in BCZR § 450.3 precludes the Stoler sign. In addition, he found that Stoler's request for a variance does not meet the requirements under *Cromwell v. Ward*, 102 Md. App. 691 (1995). Stoler thereafter noted a timely appeal to the Board of Appeals.

A *de novo* hearing before the Board was held on January 19, 2017. As an initial matter, Stoler sought to amend its request for a variance to include a request for a variance for its present sign, which is much smaller than Stoler's proposed new sign, but which is presently nonconforming. People's Counsel objected on procedural grounds. We determined that Stoler's amended request for variance relief is simply a "lesser included" version of its original variance

request. As such, we held that it is not the kind of amendment which constitutes a substantive change, requiring separate notice, petition, and hearing at the ALJ level. *See e.g. McLean v. Soley*, 270 Md. 208 (1973). Accordingly, we allowed Stoler to pursue its additional variance request at the Board of Appeals level.

Stoler's counsel made an excellent presentation, and if this were simply a matter of aesthetics, the Board would rule in Stoler's favor. Further, as Stoler's counsel pointed out, there are a number of automobile dealership signs on Reisterstown Road which are similar in size and appearance to the sign Stoler seeks in this case, lending a level of equitable appeal to Stoler's position. Nonetheless, the Board believes that the law clearly requires it to rule against Stoler on all three substantive grounds for relief sought in its Petition.

Stoler called two witnesses, Mitchell Kellman and Michael Meagher. Mr. Kellman is Director of Zoning Services for Daft-McCune-Walker, Inc, an entity which provides support services to businesses seeking zoning relief. In brief, Mr. Kellman established that the present Lexus sign was erected in 1992. It stands 27 feet high and, under the prevailing size definition in the BCZR, it is 70 square feet. Today's zoning requirements limit such signs to 50 square feet. BCZR § 450.5(g). Because the zoning requirements limiting the size of signs, like Stoler's, to 50 square feet came into effect in 1997, the Stoler sign was pre-existing and nonconforming. The BCZR provides a 15-year grace period for businesses to bring their signs into compliance. Since Stoler erected its sign in 1992, it has not altered the sign, and the BCZR grace period expired in 2012.

In his testimony, Mr. Kellman described Stoler's proposed new sign. It is to be a large solid structure in the shape of the Lexus device used in the automobile in place of the ignition key (hereinafter referred to as "key"). The proposed "key sign" is 25 ft. high and 9 ft. wide, amounting

to 225 square feet. In the middle of the proposed key sign, in white letters, is to be the word "Lexus". If one were to draw a perimeter around the portion of the sign that contained only the word "Lexus", the area inside that perimeter would be 45 square feet. Later testimony by Mr. Meagher, the general manager of the Stoler dealership on Reisterstown Road, established that this key shape is, in effect, a Lexus icon or insignia and the branding symbol by which Stoler's customers, and any possible Lexus customer nationwide, could identify this, or any, Lexus dealership.

The BCZR § 450.3 defines the "area" of sign as "[t]he number of square feet within the perimeter of one contiguous rectangle enclosing the face of the sign". The definition further states that the "area" is ". . . differentiated from the structure supporting it or upon which it is erected." The "face" is the flat surface "within a continuous perimeter enclosing the outer limits of the message of a sign." The sign's message is "[a] communication, statement or display of information or ideas through written words, letters, numerals, images, illumination or theme comprising the face of the sign". The definition further indicates that the message is "distinguishable" from the structure and the supporting apparatus of the sign. Finally, for our purposes, a "sign" is "[a]ny structure or other object, or part thereof, which displays any word, illustration, decoration or other symbolic representation which: A. Is used or intended to inform, advertise or otherwise attract attention or convey a message regarding a . . . commercial. . . place. . ."

Clearly, the entirety of proposed structure is a "sign." More to the point, under the County interpretation, the proposed new sign would be 225 square feet instead of the permitted 50 square feet, because, in this instance, the entire structure itself is the "message". The entire sign is in the symbolic shape of a Lexus key. It is the icon by which Lexus is to be identified nationwide. As

such, in this instance, the "face" and the "message" are the same. Thus, according to the County, the new sign was not permitted.

Stoler argued that only the word Lexus on this new sign was the "message". An imaginary perimeter could be drawn around that word, and the area inside that perimeter is only 45 square feet. Thus, according to Stoler, its proposed sign is permitted by right because it is less than the 50 square feet maximum allowed by law. According to Stoler, the balance of the edifice – namely, the Lexus key-shaped object upon which the word "Lexus" was imposed – was simply a "supportive element" without message content or meaning.

Stoler's position is incorrect. The testimony from Stoler's own witnesses established, without question, that the entire piece was intentionally shaped like the Lexus key so that the sign in its entirety would be, and become, the symbolic representation of the Lexus brand. There is, according to the testimony, a nationwide Lexus effort to make the shape of this entire sign into a symbolic representation of the Lexus brand. On this issue, Mr. Meagher stated: "[The sign's purpose is] the branding...There is a difference between advertising and branding . . . The car key that you get is that sign..." This testimony established that under any definition of area, face, and message, the entire Lexus sign – in the shape of the Lexus key – is the message; it is the symbol being communicated. Thus, the testimony established beyond all doubt that the entire edifice is the sign, and not simply the small area created by a perimeter around the word Lexus. As a result, any claim that there is ambiguity in the definition of "area", "size", "message" or the application of those definitions is irrelevant. Even if one were to accept the Stoler interpretation on the critical definitions – and this Board does not – the proposed sign is unpermitted because, as established factually by the Stoler testimony, the entire edifice is the message rather than it being a supporting structure for the single word "Lexus".

As an alternative, Stoler has requested a variance that would permit construction of the sign. Again, if this were solely a question of aesthetics, the Board would happily grant a variance. Unfortunately, the Board is required to apply the variance principles as stated in *Cromwell v. Ward*, 102 Md. App. 691 (1995) and codified in BCZR § 307.1. A basic requirement is that the proponent of the variance demonstrate that the lot is unique and the "uniqueness" creates a practical difficulty in the use of the lot without the grant of a variance. In this matter, there is absolutely nothing about Stoler's lot that makes it unique. Further, the testimony established that Stoler's customers have had no difficulty in finding the Stoler Lexus dealership and there has been no apparent impediment to its business (even if financial hardship could satisfy the practical difficulty requirement, which, under *Cromwell*, it cannot). *See Cromwell*, 102 Md. App. at 703-21. The Board thus concludes that Stoler has failed to carry its burden of proof to show uniqueness and practical difficulty that are requirements for variance relief.

Finally, as indicated above, Stoler has requested a more limited variance for its present sign. This variance would allow for Stoler to continue to use a sign, as it has since 1992, which is 70 square feet in size, rather than the permitted 50 square feet, and which is 27 feet high in lieu of the permitted 25 foot height. Again, however, Stoler cannot show that its site is unique and that that uniqueness causes a practical difficulty, as required under *Cromwell*. Accordingly, the amended request for a variance must also be denied.

ORDER

THEREFORE, IT IS THIS 9th day of June, 2017 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing pursuant to BCZR § 500.7 to permit a sign of 45 square feet in lieu of the 225 square feet as determined by the County is hereby **DENIED**; and it is further

ORDERED that the Petition for Variance to permit erection of the aforementioned 225 square feet sign in lieu of the 50 square feet permitted is **DENIED**; and it is further

ORDERED that the oral amendment requesting a Variance to permit a sign that is 70 square feet in lieu of the permitted 50 square feet and that is 27 feet high in lieu of the 25 feet permitted, is **DENIED**.

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

BOARD OF APPEALS
OF BALTIMORE COUNTY

James H. West, Panel Chairman

Joseph L. Evans

Jason S. Garber

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Colonial Stoler, LLC 17-023-SPHA

DATE: March 30, 2017

BOARD/PANEL: James H. West, Panel Chairman
Jason S. Garber
Joseph L. Evans

RECORDED BY: Tammy A. McDiarmid, Legal Secretary

PURPOSE: To deliberate the following:

Petition for Special Hearing pursuant to § 500.7 of the BCZR to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. as determined under the County's interpretation of the required area which includes the entire structure; *or in the alternative*
Amended Petition for Variance to permit a sign of 69-1/2 sq. ft. in lieu of the 50 sq. ft. permitted.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board discussed the Petition for Special Hearing. The Board noted that the reason for the sign request is due to the national rebranding of Lexus, and the shape of the structure is of the key used in Lexus automobiles. Although the Board feels that the proposed sign is more aesthetically pleasing, they must apply the law.
- The Petitioner argues that the "area" of the sign is only 45 sq. ft. People's Counsel argues that the "area" includes the entirety of the sign. The Board reviewed Section 450.3 which defines the "area" as including all features of the sign.
- The Board then discussed the Amended Petition for Variance. The Board noted that the original Petition for Variance was to permit a sign of 225 sq. ft., but the Petition was amended to request a sign of 69-1/2 sq. ft. in lieu of the 50 sq. ft. permitted.
- The Board noted that the Petitioner has a difficult standard to meet when a variance request is protested. The Board applied the standards of Cromwell and found there is no evidence of uniqueness or hardship.

DECISION BY THE BOARD MEMBERS:
The Board determined that the County's interpretation of Section 500.7 is correct, and the area of the sign is 225 sq. ft. The Board also finds that the property does not meet the uniqueness criteria of Cromwell v. Ward.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY 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

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

January 25, 2017

NOTICE OF DELIBERATION

IN THE MATTER OF: Colonial Stoler, LLC
11311 Reisterstown Road
17-023-SPHA 4th E; 2nd C

Re: Petition for Special Hearing pursuant to § 500.7 of the BCZR to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. as determined under the County's interpretation of the required area which includes the entire structure; *or in the alternative*

Petition for Variance to permit a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted.

9/29/16 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was DENIED; and the Petition for Variance was DENIED.

10/14/16 Order on Motion for Reconsideration issued by the ALJ wherein the Motion was DENIED.

This matter having been heard and concluded on January 19, 2017, a public deliberation has been scheduled for the following:

DATE AND TIME: THURSDAY, MARCH 30, 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, February 22, 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

c: Counsel for Petitioner/Legal Owner : Marvin I. Singer, Esquire
Petitioner/Legal Owner : Colonial Stoler, LLC

Protestant : Reisterstown-Owings Mills-Glyndon Coordinating Council
George Harmon

Mitchell Kellman/Daft McCune Walker, Inc.
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Michael Field, County Attorney, Office of Law

Office of People's Counsel
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney

Law Offices
MARVIN I. SINGER
Suite 1501
201 North Charles Street
Baltimore, Maryland 21201
MISlaw1@yahoo.com

(410) 685-1111

Fax (410) 685-2372

February 22, 2017

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

RECEIVED
FEB 22 2017
BALTIMORE COUNTY
BOARD OF APPEALS

In The Matter of Colonial Stoler, LLC
Case No. 17-023-SPHA

Gentlemen:

Enclosed are an original and three copies of the Memorandum on Behalf of Petitioner in the above-entitled case, together with copies of the relevant exhibits.

Respectfully,

Marvin I. Singer

Cc: Peter Max Zimmerman, Esq. and
Carole S. Demilio, Esq. (w/encls.)
George Harman (w/encls.)

RECEIVED
FEB 22 2017
MALTIMORE COUNTY
BOARD OF APPEALS

RECEIVED
FEB 22 2017
BALTIMORE COUNTY
BOARD OF APPEALS

BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY

IN THE MATTER OF:
Colonial Stoler, LLC
11311 Reisterstown Road
4th E, 2nd C

Case No.: 17-023 SPHA

MEMORANDUM ON BEHALF OF PETITIONER

STATEMENT OF THE CASE

This case involves an application to replace an existing sign at the Len Stoler Lexus dealership on Reisterstown Road in Owings Mills for a more modern sign, as required by the manufacturer. The message panel, as depicted on the drawing in evidence (Pet. Exh. 2), displays the brand name and logo, and comprises forty-five square feet. The entire supporting structure, including the message panel, measures nine feet in width and twenty-five feet in height, with a total area of two hundred twenty-five feet.

The sign would be located in the same spot as the existing sign.

The special hearing before the Administrative Law Judge pertained to the method of computation of the area of the sign, pursuant to Sec. 450.3 A. of the Zoning Regulations. Petitioner asserts that the proper method of computation, pursuant to the Regulation, results in an area of forty-five square feet, less than the fifty square feet permitted. The alternate request sought a variance to permit a sign of two hundred twenty-five square feet which included the size of the entire structure, under the County's interpretation of the zoning regulation in question.

ARGUMENT – COMPUTATIO OF SIGN AREA

The central issue in this case is the manner of computing the area of a commercial sign at an automobile dealership for purposes of erecting a Lexus sign in the size and design required by the manufacturer. The point of departure for consideration of the issue is Section 450.3 of the Zoning Regulations, which states, in pertinent part, as follows:

AREA

The number of square feet within the perimeter of one continuous rectangle enclosing the face of a sign. Except in the case of a wall-mounted sign, "area" includes the surface of all integral color, framing or other design feature by which sign is differentiated from the structure supporting it or upon which it is erected. "Area" does not include:

A. Any structural, supporting or decorative features which are not part of the message of the sign;

B. Architectural features of the building upon which the sign may be erected, provided that such features are distinguishable from the sign by means of differences of color or similar attributes; or

C. Air spaces located between freestanding signs of different classes which are erected on a common or shared supporting structure.

FACE

The flat planar surface within a continuous perimeter enclosing the outer limits of the message of a sign.

MESSAGE

A communication, statement or display of information or ideas through written words, letters, numerals, symbols, images, colors, illumination or theme comprising the face of a sign. The "message" may be distinguishable from the structural and supportive elements of the sign.

SIGN

Any structure or other object, or part thereof, which displays any word, illustration, decoration or other symbolic representation which.

A. Is used or intended to inform, advertise or otherwise attract attention or convey a message regarding an activity, condition or commercial or noncommercial organization, person, place or thing.

B. Has a "face" that is "visible" from a "highway" as each of these terms is defined in this section.

The basis for denial by the Administrative Law Judge as to Petitioner's computation of the area of the sign, as requested in the Special Hearing, was that he felt "obliged to defer to the zoning staff's long-standing interpretation of the sign regulations." (Opinion and Order at 2). As discussed herein, there is no factual dispute as to the physical characteristics of the sign, nor that the county has interpreted the regulation as stated by the Administrative Law Judge. However, the interpretation of such a regulation, as in the case of interpretation of a statute, is a question of law and does not involve determination of any factual issues.

The pertinent portions of that Regulation are the definitions of "Area" and "Message"; and Petitioner asserts that a reading of the clear and unambiguous working there produces a result contrary to the County's interpretation. Well- established law runs counter to that view, as the meaning of the Regulation is a matter of law, and the deference referred to is not applied in an instance such as this where the wording of the Regulation is stated so explicitly.

A starting point is the holding by the Court of Appeals in *Scheve v. Scheve*, 328 Md. 363, 614 A.2d 582 (1992), to the following effect:

> In construing a legislative enactment the fundamental judicial task is to determine and effectuate the legislature's intent, and indeed the very language of the statute serves as the primary source of the legislature's intent. To accomplish this task "the words of the

> statute are to be given their ordinary and natural import." (Citations omitted.) 614 A.2d at 586-87.

Previously, the Court had expressed the principle without qualification:

> ...In construing [the statute], the real and actual intent of the legislature must be ascertained. The primary source for determining the legislature's intent is the language of the statute itself which should be construed according to its ordinary and natural import. A statute should not be construed by forced or subtle interpretations designed to extend or limit the scope of its operation. Thus, where statutory language is plain and free from ambiguity and expresses a definite and sensible meaning, no construction or clarification is needed or permitted. (Citations omitted.)

Comptroller of the Treasury v. Fairchild Industries, Inc., 303 Md. 280, 493 A.2d 341 at 343 (1985). More recently, the standard was succinctly stated in *Gwin v. Motor Vehicle Administration*, 385 Md. 440, 869 A.2d 822, 835 (2005): "Moreover, principles of statutory construction dictate that where the language of a statute is clear, courts may not insert or omit words to make the statute express an intention not evident in its original form. *Bridges [v. Nicely],* 304 Md. at 10-11, 497 A.2d at 147."

A fuller exposition of the controlling law with respect to statutory interpretation is found in *Addison v. Lochearn Nursing Home*, 411 Md. 251, 983 A.2d 138, 153 (2009).

> ...We begin our analysis by first looking to the normal, plain meaning of the language of the statute, reading the statute as a whole to ensure that "no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory." If the language of the statute is clear and unambiguous, we need not look beyond the statute's provisions and our analysis ends. In construing a statute, "[w]e neither add nor delete words to a clear and unambiguous statute to give it a meaning not reflected by the words the Legislature used or engage in forced or subtle interpretation in an attempt to extend or limit the statute's meaning." ("[T]his Court . . . first will look to the normal, plain meaning of the langue, and, if the language is clear and unambiguous, it will not look past those terms.") (internal quotations omitted); ("When interpreting a statute, the ordinary,

> popular understanding of the English language dictates interpretation of its terminology.") (internal quotations omitted); ("The words of the statute should be given their ordinary and commonly understood meaning"); ("[T]he Court considers the language of an enactment in it is natural and ordinary signification. A corollary to this rule is that if there is no ambiguity or obscurity in the language of a statute, there is usually no need to look elsewhere to ascertain the intent of the General Assembly.") . . . . (Citations omitted.)

Against that backdrop, and consistent with the expressed policy, are the decisions illustrating where, as here, deference to the interpretation of a statute or regulation is inappropriate. Summarizing a court's role in reviewing an issue of statutory interpretation, the Court of Special Appeals, in *The New Parkman Housing Ltd. Partnership v. St. Dept. of Assessments & Taxation*, 98 Md. App. 431, 633 A.2d 495, 497 (1993) ruled "we are not bound by the decision of the agency, but may substitute our interpretation of the statute for that of the agency." The Court observed that the purpose of the statute was a focus point, the language employed was paramount. "Although where the langue of the statute is unambiguous and consistent with the statute's apparent purpose, words will be accorded their ordinary meaning." *Id.*

And it is important to note that subparagraph A. of the definition for Area is very specific. Thus, the rule stated in *DeJarnette v. Federal Kemper Ins. Co.*, 299 Md. 708, 475 A.2d 454, 459 (1984) is pertinent, to the effect that a "cardinal rule of statutory construction that specific terms prevail over the general language of a statute."

To adopt the County's interpretation is to effectively excise from the Regulation's definition of area the exclusion found in subparagraph A, relating to "any structural, supporting or decorative features which are not a part of the message." It is thus evident that granting deference results in the subparagraph being rendered totally ineffective. Any such interpretation

which runs counter to the rules of statutory construction is invalid and should not be recognized. Such is the teaching of the decision in *Patterson Park Public Charter School v. The Baltimore Teachers Union*, 399 Md. 174, 923 A.2d 60 (2007).

> . . . In conducting statutory interpretation, our primary goal is always "to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by a particular provision, be it statutory, constitutional or part of the Rules." We begin our analysis by first looking to the normal, plain meaning of the language of the statute, reading the statute as a whole to ensure that **"no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory."** Further, whenever possible an interpretation should be given to the statutory provisions which does not lead to absurd consequences. ([T]he statute must be given a reasonable interpretation, "not one that is illogical or incompatible with common sense."). **If the language of the statute is clear and unambiguous, we need not look beyond the statute's provisions and our analysis ends. . . .**

923 A.2d at 74. (Emphasis supplied.) (Citations omitted.)

The regulation here under consideration fulfills those requirements, and the legislative purpose is to exclude from computation of the area those parts of the statute "not a part of the message."

Our appellate courts have consistently expressed the limitations upon granting deference to administrative interpretations of statutes or regulations. The Court of Appeals stated in *Atlantic, Gulf & Pacific Co. v. State Dept. of Assessments & Taxation,* 252 Md. 173, 249 A.2d 180, 183 (1969). "It is well-settled that where the language of a statute is clear and unambiguous, an administrative interpretation contrary to that clear and unambiguous meaning will not be given effect by this Court." More recently, the Court of Special Appeals was equally explicit. In *Mueller v. People's Counsel of Baltimore County,* 177 Md. App. 43, 934 A.2d 974 (2007) the Court ruled as follows:

> . . . But, "[w]e are less deferential in our review . . . of the legal conclusions of the administrative body and may reverse those

> decisions where the legal conclusions reached by that body are based on an erroneous interpretation or application of the zoning statutes, regulations, and ordinances relevant and applicable to the property that is the subject of the dispute."

934 A.2d at 997 (Citations omitted.)

The principle was distinctly set forth in *Belvoir Farms Homeowners Assn. v. North*, 355 Md. 259, 734 A.3d 227 (1999), as follows:

> Generally, a decision of an administrative agency, including a local zoning board, **is owed no deference when its conclusions are based upon an error of law**. ("[W]e may reverse an administrative decision premised on erroneous legal conclusions." (Emphasis supplied).

734 A.2d at 232. (Citations omitted.) *Belvoir* was cited to the same effect in *Talbot County v. Miles Point Property, LLC,* 415 Md. 372, 2 A.3d 344, 351 (2010).

Thus, it is inappropriate to consider deference to the zoning staff's practice where, as here, the wording of the Regulation is so clear and explicit. That is the teaching of the holdings of our appellate courts.

Difficulties arise when an attempt is made to put into practice implementation of the Regulation, as endorsed by the Administrative Law Judge. In the Order on Motion for Reconsideration it was stated that "a structural support pole on which a sign was located would not be included in the area calculations. But the zoning office here determined the color and design of the sign face was integral to the message (i.e., 'Lexus') and so should be part of the sign 'area'". Needless to say, such a view alters the meaning of the wording of the Regulation where none is needed, and is expressly prohibited by applicable law.

Moreover, the question that such an interpretation presents is at what point does a pole assume the proportion or characteristic to such an extent as to properly become a part of the calculation of the area of a sign? If a pole is eight inches in circumference, is that sufficient; or

one that is twenty-four inches around suffice, or one that is fifty inches expand into the realm of being restricted? What role does the color of the pole or other supporting structure play in determining the area? It is instructive to compare such subjective decisions with the express wording of the Regulation: "'Area' does not include: A. Any structural, supporting or decorative features which are not part of the message of the sign." That wording does not permit the fine distinction or calculations necessary to the interpretation advanced by the County. .

The structural or supporting features of the Lexus sign contain no wording at all, display no "information or ideas", and thus are not part of the "message." The zoning staff is effectively adding meaning to the Regulation, without actual wording, in violation of the explicit prohibition in case law against doing so.

At the same time the zoning staff has rendered nugatory subparagraph "A" of the definition of Area in the Zoning Regulation, in disobedience of the clear mandate of the law. "We construe the [language of a statute] so as to give effect to each word so that no word, clause, sentence or phrase is rendered superfluous or nugatory." *McHale v. DCW Dutchship Island, LLC*, 415 Md. 145, 999 A.2d 969 at 965 (2010). Any reviewing authority, whether this Board or a court, is set adrift when seeking to apply such subjective and vague standards, where none are needed, nor permitted. There is absolutely no ambiguity in the wording of the Regulation.

The "normal, plain meaning" of the Regulation needs no artificial construction to ascertain its meaning. The word "message" is defined, stating, in part, "The 'message' may be distinguishable from the structural and supporting elements of the sign." That definition is complimentary to the definition of "area" which specifically excludes elements which the zoning staff now includes. Thus it is more than apparent that those parts of the sign impart no information, and by definition, play no role in computing its area.

As reflected in the decisions cited hereinabove, the long line of cases by our appellate courts do not permit the kind of interpretation applied to the Regulation by the County. Expanding the principle somewhat, the Court of Appeals ruled as follows:

> When attempting to ascertain the meaning of a statute, "we first look to the normal, plain meaning of the language. . . . If that language is clear and unambiguous, we need not look beyond the provision's terms. . . ." *Bienkowski v. Brooks, 386* Md. 516, 536, 873 A.2d 1122, 1134 (2005); *Davis v. Slater*, 383 Md. 599, 604, 861 A.2d 78, 81 (2004). "Moreover, when the meaning of a word or phrase in a constitutional or statutory provision is perfectly clear, this Court has consistently refused to give that word or phrase a different meaning on such theories that a different meaning would make the provision more workable, or more consistent with a litigant's view of good public policy, or more in tune with modern times, or that the framers of the provision did not actually mean what they wrote." *Bienkowski,* 386 Md. 537, 873 A.2d 1134

Debbas v. Nelson, 389 Md. 364, 885 A.2d 802 at 812 (2005) *See also Grandison v. State*, 390 Md. 412, 889 A.2d 366 at 383 (2005) (Reconsideration denied Feb. 3. 2006).

The firmness of the application of the principle was explained in *State Farm Mutual Automobile Ins. Co. v. DeHann*, 393 Md. 163, 900 A.2d 208 at 212 (2006), where the Court emphasized that its interpretation must conform to well-settled principles of statutory construction. *Id.*

> "As we have so often stated, 'the cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature." *Oaks v. Connors,* 339 Md. 24, 35, 660 A.2d 423, 429 (1995). To begin with, we must consider the plain language of the statute. As noted in *Chesapeake & Potomac Telephone Co. v. Director of Finance for Mayor and City Council of Baltimore*, 343 Md. 567, 683 A.2d 512 (1996), 'we begin our inquiry with the words of the statute and, ordinarily, when the words of the statute are clear and unambiguous, according to their commonly understood meaning, we end our inquiry there also.' *Chesapeake & Potomac Telephone,* 343 Md. at 578, 683 A.2d at 517; *see also Jones v. State*, 336 Md. 255, 261, 647 A.2d 1204, 1206-07 ('If the words of the statute, construed according to their common and

> everyday meaning, are clear and unambiguous and express a plain meaning, we will give effect to the statute as it is written.'). Moreover, '[w]here the statutory language is plain and unambiguous, a court may neither add nor delete language so as to 'reflect an intent not evidenced in that language.'" *Chesapeake & Potomac Telephone*, 343 Md. at 579, 683 A.2d at 517 (quoting *Condon v. State*, 332 Md. 481, 491, 632 A.2d 753, 755 (1993)).

The same principle had previously been applied in *Department of Motor Vehicles v. The Greyhound Corp.*, 247 Md. 662, 234 A.2d 255, (1967), where the Court observed that although the legislature may have intended otherwise, that is not what is said in the statute under consideration. Holding that "a statute could not be added to by judicial construction", *id* at 668, earlier authority was quoted to the following effect:

> "However, construing a statute liberally and adding to it, by judicial fiat a provision which the Legislature did not see fit to include are not one and the same thing. A stated by Justice Brandeis, for the Court, in *Iselin v. United States*, 270 U.S. 245, 251: 'What the Government asks is not a construction of a statute, but, in effect, an enlargement of it by the court, so that what was omitted, presumably by inadvertence [in that case], may be included within its scope. To supply omissions transcends the judicial function."

Id. at 668.

The ability to legally erect the proposed sign is not grounded upon whether it is economically beneficial to the dealership, nor whether it presents an improved design or is more attractive. Though those conditions may be present, the overriding issue is the plain meaning of the Zoning Regulation in question, as expressed by the County Council. As the cases cited herein demonstrate, the words employed are given their plain meaning, and there is no need to speculate as to other possible meanings or results when the intent is made evident by the wording employed.

Accordingly, the meaning of the regulation, as expressly stated, grants Petitioner a right to have a sign where its area for the message excludes the entire structure. It is a legal right, to be utilized and not diminished by a contrary interpretation, the basis of which is entirely absent from the wording employed by the County Council.

The plain meaning of the wording in question flows naturally from the policy statement in Sec. 450.1 of the Regulations. Signs are said to "advance the health" of the County's economy. "Because signage is necessary for the success and growth of businesses in the county, the regulation of signage must reasonably accommodate the needs of the business community." The businesses referred to are said to create "jobs and job opportunities, developing under-utilized and revitalizing depresses areas, and providing an expanded tax base." The interpretation of the sign regulation advanced by People's Counsel is scarcely in accord with the expressed policy of promoting economic health in the County. To the contrary, the effect is to stifle economic vitality.

People's Counsel's reliance on the opinion in *Anne Arundel County v. City of Annapolis*, 352 Md. 117, 721 A.2d 217 (1998) fails to provide support for the argument advanced. The Court of Appeals cited a host of decisions supporting its ruling as follows:

> We have said that "[t]he cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature." Legislative intent must be sought in the first instance in the actual language of the statute, "giving those words their ordinary and natural meaning." Furthermore, where the statutory language is plain and free from ambiguity and expresses a definite and simple meaning, courts normally do not look beyond the words of the statute itself to determine legislative intent.

721 A2.d at 220 (Citations omitted). The opinion by Judge Cathell added the appropriate admonition that construction of a statute which is unreasonable, illogical, unjust or inconsistent with common sense should be avoided. *Id.*

More recently, the Court of Appeals steadfastly followed the principles of statutory construction in *Williams v. State of Maryland*, 385 Md. 50, 867 A.2d 305 (2005). Under a differing factual scenario, the holding there is most compelling:

> Once again, we are called upon to construe and apply a statute. The overreaching standard in any such analysis may be stated succinctly: "Our preeminent goal is to discern and implement legislative intent, and, to do that, we begin with the plain meaning of the statutory language. **If the intent is clear from that language, there is no need to search further.**" We find that is the case here.

(Emphasis supplied.) (Citations omitted.) 867 A.2d at 310.

The continuing vitality of the rule as to statutory interpretation is demonstrated by the most recent decision by the Court of Appeals in *Kor Ko Ltd. v. Md. Dept. of the Environment*, Md. (No. 23, Sept. Term 2016, January 25, 2017). The holding there made clear that deference to an administrative regulation is recognized where the agency is interpreting "its own regulation." In the present case the zoning regulation was not promulgated by the Zoning Office, but rather was enacted by the County Council. Echoing the Court's many prior rulings, it was there stated:

> When interpreting statutes, we seek to ascertain and implement the will of the Legislature. Our first step toward that goal is to examine the text. If the language of the statute is unambiguous and clearly consistent with the statute's apparent purpose, our inquiry as to legislative intent ends ordinarily and we apply the statute as written, without resort to other rules of construction. ...

The legislative process mandates that the County Council establish policy and write the Zoning Regulations, not the Zoning Office. The duty of that office to administer the regulations does not translate into unfettered discretion to alter the clear meaning of the wording here under

consideration. It must unfailingly adhere to the law, and apply the clearly stated requirements and policy established by the County Council.

The County's interpretation of Sec. 450.3 essentially adds working contrary to that which is stated. If the County Council had intended the entire structure to be included in the area of the sign, it would have been exceedingly easy to so state, i.e. "the area of a sign shall include the entire structure on which the message is presented." Instead, the wording enacted provides a definition for "area" that is opposed to any such provision.[1]

The overriding issue is the meaning of the exclusionary wording of the definition of Area in the Regulation. It is important to note there is not anything distinctive about the colors of the proposed structure with reference to the "message", as opposed to the "Lexus" wording and logo. The testimony established that the colors and design of the present sign are entirely different from that proposed, thus there is no consistent theme or color scheme connecting one to the other. Only the name and logo identify the brand, and constitute the message.

AMENDEMENT

People's Counsel objected to Petitioner's amendment reducing the size of the proposed sign. Notably, no claim of prejudice or delay was, or could be raised by the amendment. No substantive change in the sign is proposed other than the reduction in size. The nature and location of the sign remained the same, as well as its orientation or relationship to Reisterstown Road, and the site itself. The County's review process would be the unnecessary, and underlying considerations would remain unchanged. No principled reason exists to deny the amendment.

Important also is the fundamental law in Maryland with respect to permitting amendments, expressed in Md. Rule 2-341, as applied to cases in the circuit courts. Citing the

[1] It is appropriate to point out that the speculation by the individual witness that a reading of the Regulation, other than as proposed by the County, could result in a supporting structures of 10,000 square feet, is illogical and inconsistent with common sense.

Rule, the Court of Special Appeals, in *E. G. Rock, Inc. v. Danly*, 98 Md. App. 411, 633 A.2d 485 (1993), ruled as follows:

> ...We have previously stated that this rule indicates great liberality in the allowance of amendments, in order to prevent the substantial justice of a cause from being defeated by formal slips or **slight variances**. . . . 633 A2.d 493 (Emphasis supplied.)

Rule 2-341 was again considered by the Court in *Bayly Crossing v. Consumer Protection Division,* 188 Md. App. 299, 981 A.2d 777, 794 (2009), (reversed in part on other grounds 417 Md. 128), where it recognized that "It has long been the policy of Maryland courts to freely allow amendments in order to promote justice." Significantly, as applicable to the present case, the Court recognized that while Rule 2-341 does not apply to administrative proceedings, there was "no reason to depart from its guiding principles" there. *Id.*

In conformity with the basic philosophy expressed by the many decisions on the issue, and the explicit holdings as exemplified by the cited cases, the amendment should be permitted.

VARIANCE

The authority to grant a variance from the Zoning Regulations stems from Sec. 307.1, where practical difficulty exists as a result of strict compliance with the sign regulations. And it has long been recognized that the standards applied to an area variance, such as in the present case, are more relaxed than those applied to use variances because the impact of an area variance is viewed as being much less drastic than that of a use variance. *Alviani v. Dixon*, 365 Md. 95, 775 A.2d 1234, 1248 (2001).

The initial inquiry is whether the property is unusual, as compared to other properties in the neighborhood topography and obstructions by nearby properties are recognized as factors to be considered. *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 434 (1995). Mitchell Kellman

described the rolling nature of Reisterstown Road in the area, with the subject property located at the base between two hills, with the resulting need for prospective customers to readily and safely locate the dealership. See COMAR 11.12.02 N: "The signs shall be of a size so as to make them reasonably legible from the street or highway." (Pet. Exh. 10) Although other nearby commercial uses have existing signage, they are not as numerous as on the side of the highway as the site in question. The topography of the road in addition to the obstructing signs, as depicted, satisfy the *Cromwell v. Ward* test. Notably, the proposed sign is over two feet in height less than the existing sign.

The amendment seeks an area of the sign of 69.5 square feet on two poles. As proposed, the replacement sign's structure is different.. Moreover, the sign fully satisfies the County's policy with respect to commercial signs, as expressed in Sec. 450.1 of Zoning Regulations, which states, in part: "Because signage is necessary for the success and growth of business in the county, the regulation of signage must reasonably accommodate the needs of the business community." Those needs are the basis of the jobs provided and taxes generated by the dealership, the success of which is contributed to by adequate signage.

The second prong of the *Cromwell* test, if the first is satisfied, is whether the practical difficulty results in a disproportionate impact caused by the regulations. And further consideration must also be given to the general purposes of the Zoning Regulations. *Cromwell,* 651 A.2d at 426.

It is apparent that the request herein satisfies the "spirit and intent" of the sign area regulation, and may be granted "without injury to public health, safety and general welfare." Sec. 307.1, Zoning Regulations.

The discussion herein as to the request for a variance should not, in any way, be viewed as a preferred alternative to a rejection of the County's interpretation of the regulations pertaining to computation of the area of the sign.

CONCLUSION

The principles of law thus enunciated, which have consistently been applied, combine to demonstrate quite clearly that the area of the Lexus sign under consideration here is such as not to be require a variance. The explicit language of the Regulation permits no doubt as to its meaning, thus no construction or clarification is needed nor permitted.

The obvious barrier to giving effect to the County's position is the fact that giving deference to the Zoning Office's rejection of the actual meaning of the Regulation is legally untenable. Absolutely no deference is to be accorded to an administrative interpretation or application of this zoning regulation when based upon a legal conclusion. In other words, the administrative conclusion here is a matter of law, and is not entitled to any degree of deference.

The foregoing discussion as to the proper computation of the proposed sign's area, and whether any deference is due to the County's legal interpretation of the regulation, is intended to demonstrate that the overwhelming weight of authority precludes any such deference.

Accordingly, Petitioner respectfully requests that the area of the Lexus sign be determined to be the 45 square foot rectangle containing the "Lexus" lettering and logo, pursuant to Sec. 450.3 of the Zoning Regulations, and thus no variance is required.

Alternatively, based upon the cited case law, the requested amendment should be permitted; and the factual circumstances herein warrant the granting of the variance.

Respectfully submitted,

MARVIN I. SINGER
201 North Charles Street, Suite 1501
Baltimore, Maryland 21201
(410) 685-1111
(410) 625-2372 (Fax)
MISlaw1@yahoo.com

Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of February, 2017 copies of the foregoing Memorandum were delivered or mailed by first-class mail, postage prepaid to the following:

Peter Max Zimmerman, Esq.
Carole S. Demilio, Esq.
People's Counsel for Baltimore County
Room 204
105 West Chesapeake Avenue
Towson, MD 21204

George Harman
5429 Weywood Drive
Reisterstown, MD 21136

MARVIN I. SINGER

PETITIONER'S LIST OF EXHIBITS

EXHIBIT NO.

1. Zoning Regulation – Sec. 450.3
2. Rendering of Lexus Sign
3. Site Plat (Not Included)
4. Photograph of Existing Sign
5. Photograph of Reisterstown Road – View Toward North
6. Photograph of Reisterstown Road – View Toward South
7. Photograph of Reisterstown Road – View Toward South, Past Site
8. Photograph of Reisterstown Road - View Toward North
9. Photograph of Toyota Sign (Not Included)
10. COMAR Regulation 11.12.02

AREA

The number of square feet within the perimeter of one continuous rectangle enclosing the face of a sign. Except in the case of a wall-mounted sign, "area" includes the surface of all integral color, framing or other design feature by which sign is differentiated from the structure supporting it or upon which it is erected. "Area" does not include:

A. Any structural, supporting or decorative features which are not part of the message of the sign;

B. Architectural features of the building upon which the sign may be erected, provided that such features are distinguishable from the sign by means of differences of color or similar attributes; or

C. Air spaces located between freestanding signs of different classes which are erected on a common or shared supporting structure.

FACE

The flat planar surface within a continuous perimeter enclosing the outer limits of the message of a sign.

MESSAGE

A communication, statement or display of information or ideas through written words, letters, numerals, symbols, images, colors, illumination or theme comprising the face of a sign. The "message" may be distinguishable from the structural and supportive elements of the sign.

Petitioner
CBA Exhibit

TV work file

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

RECEIVED
JUL 14 2017
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

July 14, 2017

Marvin I. Singer, Esquire
201 North Charles Street
Suite 1501
Baltimore, Maryland 21201

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

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-17-006561
In the Matter of: Colonial Stoler, LLC – Legal Owner
Board of Appeals Case No.: 17-023-SPHA

File

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on July 7, 2017 by Marvin I. Singer, Esquire on behalf of Colonial Stoler, LLC, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. Mr. Singer, having taken the appeal on behalf of his client, is responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

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

Please be advised that the ORIGINAL transcript must be provided to the Board of Appeals no later than SEPTEMBER 1, 2017 so that it may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.

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

Very truly yours,

Tammy A. Zahner
Legal Secretary

Duplicate Original Cover Letter
Enclosure

c: Barry Stoler/Colonial Stoler, LLC
George Harman/Reisterstown-Owings Mills-Glyndon Coordinating Council
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

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
	*	
PETITION OF: COLONIAL STOLER, LLC	*	
FOR JUDICIAL REVIEW OF THE OPINION OF THE BOARD OF APPEALS OF BALTIMORE COUNTY JEFFERSON BUILDING – ROOM 203 105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204	*	CIVIL ACTION NO. : 03-C-17-006561
	*	
IN THE MATTER OF: COLONIAL STOLER, LLC – LEGAL OWNER FOR PROPERTY LOCATED AT 11311 REISTERSTOWN ROAD	*	
4TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	
	*	
BOARD OF APPEALS CASE NO.: 17-023-SPHA		

* * * * * * * * * * * *

CERTIFICATE OF COMPLIANCE

Madam Clerk:

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

Marvin I. Singer, Esquire
201 North Charles Street
Suite 1501
Baltimore, MD 21201

Barry Stoler
Colonia Stoler, LLC
11275 Reisterstown Road
Owings Mills, MD 21117-1906

George Harman
5429 Weywood Drive
Reisterstown, MD 21136

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

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

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

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

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

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

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

I HEREBY CERTIFY that on this 14th day of July, 2017 a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.

Tammy A. Zahner

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

TO WQL

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

RECEIVED
SEP 11 2017
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

September 8, 2017

VIA HAND-DELIVERY
Civil Clerk
Circuit Court for Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

RE: In the matter of: Colonial Stoler, LLC – Legal Owner
Civil Action No.: 03-C-17-006561
Board of Appeals Case No.: 17-023-SPHA

Dear Clerk:

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

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

Very truly yours,

Tammy A. Zahner

Tammy A. Zahner
Legal Secretary

Enclosures

c: Marvin I. Singer, Esquire
Barry Stoler/Colonial Stoler, LLC
George Harman/Reisterstown-Owings Mills-Glyndon Coordinating Council
Office of People's Counsel
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

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
	*	
PETITION OF: COLONIAL STOLER, LLC	*	
FOR JUDICIAL REVIEW OF THE OPINION OF THE BOARD OF APPEALS OF BALTIMORE COUNTY JEFFERSON BUILDING – ROOM 203 105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204	*	CIVIL ACTION NO. : 03-C-17-006561
	*	
	*	
	*	
IN THE MATTER OF: COLONIAL STOLER, LLC – LEGAL OWNER FOR PROPERTY LOCATED AT 11311 REISTERSTOWN ROAD	*	
	*	
4TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	
	*	
BOARD OF APPEALS CASE NO.: 17-023-SPHA		

* * * * * * * * * * * * *

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

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

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

July 22, 2016	Petition for Special Hearing under Section 500.7 of the BCZR to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. as determined under the County's interpretation of the required area which includes the entire structure. In the alternative, a Petition for Variance to permit a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted.

August 2, 2016	Entry of Appearance filed by People's Counsel for Baltimore County.
August 24, 2016	Notice of Zoning Hearing
September 1, 2016	Certificate of Publication in newspaper
September 5, 2016	Certificate of Posting
September 14, 2016	ZAC Comments
September 23, 2016	Hearing held before the Office of Administrative Hearings.
September 29, 2016	Opinion and Order issued by the Administrative Law Judge wherein the Petition for Special Hearing to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. under the County's interpretation of the required area which includes the entire structure was DENIED, and the Petition for Variance to permit a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted was DENIED.
October 10, 2016	Motion for Reconsideration filed by Marvin I. Singer, Esquire, on behalf of Colonial Stoler, LLC, Petitioner.
October 14, 2016	Order on Motion for Reconsideration issued by the Administrative Law Judge wherein the Motion was DENIED.
October 25, 2016	Notice of Appeal filed by Marvin I. Singer, Esquire on behalf of Colonial Stoler, LLC, Petitioner.
October 25, 2016	Appeal received by the Board.
October 28, 2016	Notice of Assignment issued by the Board.
January 19, 2017	Board convened for a Hearing.

Exhibits submitted at Hearings before the Board of Appeals:

Petitioner's Exhibit No.

1 – BCZR Section 450.3, Signs, Area
2 – Rendering of Sign
3 – Plat for Site
4 – Small photo of existing sign
5 – Large Google photo of existing sign
6 – Large Google photo of Reisterstown Road, southern direction
7 – Large Google photo of Reisterstown Road, past site

8 – Large Google photo of Reisterstown Road, northern direction (site not depicted)
9 – Photo of Toyota sign for comparison (IDENTIFICATION ONLY – NOT ADMITTED)
10 – COMAR 11.12, Department of Transportation, Motor Vehicle Administration – Licensing of Businesses and Occupations

People's Counsel's Exhibit No.
1 – BCZR Section 450.8, Signs, Administration and Compliance
2 – 4-69.9 and 469.10 of the Zoning Commissioner's Policy Manual
3 – Site Plan (Aerial)
4 – Zoning Map

February 22, 2017	Memorandum of People's Counsel for Baltimore County.
February 22, 2017	Memorandum on behalf of Petitioner filed by Marvin E. Singer, Esquire.
March 30, 2017	Board convened for Public Deliberation.
June 9, 2017	Opinion and Order issued by the Board wherein the Petition for Special Hearing to permit a sign of 45 square feet in lieu of the 225 square feet as determined by the County was DENIED; and the Petition for Variance to permit erection of the aforementioned 225 square foot sign in lieu of the 50 square feet permitted was DENIED; and the oral amendment requesting a Variance to permit a sign that is 70 square feet in lieu of the permitted 50 square feet and that is 27 feet high in lieu of the 25 feet permitted was DENIED.
July 7, 2017	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Marvin I. Singer, Esquire on behalf of Colonial Stoler, LLC, Petitioner/Appellant.
July 13, 2017	Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.
July 14, 2017	Certificate of Compliance sent to all parties and interested persons.
July 18, 2017	Letter to Board from Marvin I. Singer, Esquire, ordering the transcript.
July 18, 2017	Response to Petition for Judicial Review filed by People's Counsel for Baltimore County.

September 8, 2017 Transcript of testimony filed.

September 8, 2017 Record of Proceedings filed in the Circuit Court for Baltimore County.

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

Tammy A. Zahner

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

c: Marvin I. Singer, Esquire
Barry Stoler/Colonial Stoler, LLC
George Harman/Reisterstown-Owings Mills-Glyndon Coordinating Council
Office of People's Counsel
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

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 11311 Reisterstown Rd. **which is presently zoned** BR

Deed References: 19598-00093 10 Digit Tax Account # 2100012552

Property Owner(s) Printed Name(s) Colonial Stoler LLC

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

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

1. X **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve the requested variance, computing the area of the proposed sign pursuant to the provisions of Sec. 450.3 A.

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

3. X **a Variance** from Section(s) See attached addendum.

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

Legal Owners (Petitioners):

Colonial Stoler LLC By:
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Member
Signature # 2

11275 Reisterstown Road
Mailing Address City State

Owings Mills, MD
21175 / 410-356-7000 /
Zip Code Telephone # Email Address

Attorney for Petitioner:

Marvin I. Singer
Name- Type or Print

Signature

201 N. Charles St. #1501 Balto., MD 21201
Mailing Address City State

21201 / 410-685-1111 / MISlaw1@yahoo.com
Zip Code Telephone # Email Address

Representative to be contacted:

Sameas Attorney
Name – Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 9-29-16
BY

CASE NUMBER 2017-0023-SPHA Filing Date 7/23/2016 Do Not Schedule Dates: _____ Reviewer _____

REV. 10/4/11

ADDENDUM TO REQUEST FOR VARIANCE
11311 REISTERSTOWN ROAD
Case No. 2017-0023-SPHA

Variance Request – Section 450.4 Attachment 1 #5(g)

MJK To request a variance permitting a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted by Sec. 450.4, or

Special Hearing

In the alternative, permitting a sign of 45 sq. ft. in lieu of the 225 sq. ft. under the County's interpretation of the required area including the entire structure, which is the subject of the requested Special Hearing, as set forth herein.

APPEAL

Petitions for Special Hearing and Variance
(11311 Reisterstown Road)
4th Election District – 2nd Councilmanic District
***Legal Owner*: Colonial Stoler, LLC**
Case No. 2017-0023-SPHA

Petition for Variance Hearing (July 22, 2016)

Zoning Description of Property

Notice of Zoning Hearing (August 24, 2016)

Certificate of Publication (September 1, 2016)

Certificate of Posting (September 3, 2016) –Linda O'Keefe

Entry of Appearance by People's Counsel – August 2, 2016

Petitioner(s) Sign-in Sheet – One
Citizen(s) Sign-in Sheet – One

Zoning Advisory Committee (ZAC) Comments

Petitioner(s) Exhibits:
1. Plan
2. Sign Detail

Miscellaneous (Not Marked as Exhibits)- Prior Zoning Order No.: 99-201-A

Administrative Law Judge Order and Letter (DENIED – September 29, 2016)

Motion for Reconsideration filed by Marvin I. Singer, Esq. (October 10, 2016)

Order on Motion for Reconsideration- (DENIED- October 14, 2016)

Notice of Appeal – Marvin I. Singer, Esq. (October 25, 2016)

DAFT McCUNE WALKER

Description

To Accompany Petition

For a Variance and/or Special Hearing

Baltimore County, Maryland

Election District 4 Councilmanic District 2

11311 Reisterstown Road

Beginning for the same at the end of the second of the following two courses and distances measured from the point formed by the intersection of the centerline of Reisterstown Road with the centerline of High Falcon Road; (1) Northeasterly along the centerline of High Falcon Road 218.00 feet, more or less; thence leaving said centerline and running (2) Southeasterly 30.00 feet, more or less, to the point of beginning; thence leaving said point of beginning and running with a portion of the Southeast side of said High Falcon Road (1) North 44 degrees 23 minutes 10 seconds East 116.74 feet; thence (2) South 70 degrees 00 minutes 20 seconds East 95.05 feet; thence (3) South 66 degrees 48 minutes 25 seconds East 482.73 feet; thence (4) South 46 degrees 15 minutes 12 seconds West 537.67 feet; thence (5) North 44 degrees 13 minutes 22 seconds West 286.76 feet; thence (6) North 46 degrees 00 minutes 20 seconds East 200.00 feet; thence (7) North 45 degrees 36 minutes 50 seconds West 238.11 feet to the point of beginning; containing 4.085 acres, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

July 25, 2016

Project No. 16022 (L16022)

STATE OF MARYLAND
MICHAEL DAVID MARTIN
No. 21234
PROFESSIONAL LAND SURVEYOR

7.25.16

2017-0023-SPHA

501 Fairmount Avenue, Suite 300, Towson, MD 21286 p: 410 296 3333 f: 410 296 4705 www.dmw.com

KEVIN KAMENETZ
County Executive

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

October 25, 2016

Marvin I. Singer, Esq.
201 N. Charles Street, #1501
Baltimore, Maryland 21201

RECEIVED
OCT 25 2016
BALTIMORE COUNTY
BOARD OF APPEALS

RE: **APPEAL TO BOARD OF APPEALS**
Case No. 2017-0023-SPHA
Location: 11311 Reisterstown Road

Dear Mr. Singer:

Please be advised that an appeal of the above-referenced case was filed in this Office on October 25, 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,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/sln

c: Baltimore County Board of Appeals
People's Counsel for Baltimore County
Mitchell Kellman, 501 Fairmount Avenue, Suite 300, Towson, Maryland 21286
George Harman, 5429 Weywood Dr., Reisterstown, Maryland 21136

IN RE: **PETITIONS FOR SPECIAL HEARING AND VARIANCE**	*	BEFORE THE
(11311 Reisterstown Road)	*	OFFICE OF
4th Election District		
2nd Council District	*	ADMINISTRATIVE HEARINGS
Colonial Stoler, LLC		
Owner	*	FOR BALTIMORE COUNTY
Petitioner		
	*	**Case No. 2017-0023-SPHA**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Colonial Stoler, LLC, legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. as determined under the County's interpretation of the required area which includes the entire structure. In the alternative, a Petition for Variance seeks to permit a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted. A site plan was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing in support of the requests were Barry Stoler and Mitchell Kellman. Marvin I. Singer, Esq. represented the Petitioner. George Harmon, on behalf of the Reisterstown-Owings Mills-Glyndon Coordinating Council, opposed the request. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR), concerning landscaping and lighting requirements.

The subject property is 4.085 acres in size and is zoned BR. A Lexus automobile dealership ("Len Stoler Lexus") is operated at the property. Counsel indicated the manufacturer

has adopted new branding and logos, and that the applicable agreements require franchisees to install new signage at the dealership.

SPECIAL HEARING

Petitioner's counsel and Mr. Kellman met with County zoning staff to discuss the petition. The County determined - - in keeping with its long-standing policy - - the sign area included the entire 9' x 25' structure shown on the plan. Petitioner contends the sign area should only include the approximate 45 sq. ft. rectangle containing the "Lexus" script and logo, and the special hearing request seeks confirmation of this interpretation.

The resolution of this issue involves several definitions found in the sign regulations, including: "area," "face," "message," and "sign." B.C.Z.R. §450.3. The determination of a sign's "area" involves drawing a rectangle around the "face" of the sign. The face is the flat surface containing the "message of the sign." Under the Regulations the "message" includes not only "written words" and "symbols," but also "colors, illumination or theme comprising the face of a sign." According to Mr. Kellman, County staff believed the color, design and theme of the sign were integral to the message it delivered; i.e., the "Lexus" brand.

While there are reasonable arguments on both sides, I believe under Maryland law I am obliged to defer to the zoning staff's long-standing interpretation of the sign regulations. Mr. Kellman confirmed the calculation of the sign area in this case was consistent with the agency's procedure and determination in similar cases. As Maryland's highest court has held, the "interpretation of a statute by the agency charged with its administration is entitled to great deference, especially when the interpretation has been applied consistently and for a long period of time." *BGE v. Public Service Comm'n.*, 305 Md. 145, 161 (1986).

VARIANCE

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).

While the dimensions of the property are somewhat irregular, the site does not have any truly inherent characteristics (i.e., size, shape, topography, etc.) that would render it unique under Maryland law. The petitioner must establish the property is unique or peculiar in a way that is unlike other properties in the neighborhood. In a contested case requiring a rigorous application of the variance standard, the petitioner faces an uphill battle. In fact, I was unable to locate a Maryland appellate court opinion from the last twenty years which upheld the grant of a variance. Under Maryland law, variances should be granted "sparingly" since it is "an authorization for [that] ...which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 699.

THEREFORE, IT IS ORDERED this **29th** day of September, **2016**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. under the County's interpretation of the required area which includes the entire structure, be and is hereby DENIED.

IT IS FURTHER ORDERED the petition for variance to permit a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted, be and is hereby DENIED.

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: **PETITIONS FOR SPECIAL HEARING AND VARIANCE**	*	BEFORE THE
(11311 Reisterstown Road)	*	OFFICE OF
4th Election District		
2nd Council District	*	ADMINISTRATIVE HEARINGS
Colonial Stoler, LLC		
Owner	*	FOR BALTIMORE COUNTY
Petitioner		
	*	**Case No. 2017-0023-SPHA**

* * * * * * * *

ORDER ON MOTION FOR RECONSIDERATION

Petitioner in the above case sought variance and special hearing relief in connection with a proposed freestanding sign at a Lexus automobile dealership. Both requests were denied in an Order dated September 29, 2016. Petitioner seeks reconsideration of the ruling on the petition for special hearing, which pertains to the calculation of the sign area.

Petitioner's primary argument is that the Administrative Law Judge should not defer to the zoning office's interpretation of the regulations concerning the "area" of a sign. Petitioner's expert agreed the zoning office adhered in this case to its longstanding pattern and practice in calculating the sign area. The zoning office determined the entire face of the sign (rather than just the 45 sq. ft. rectangle containing the "Lexus" lettering and logo) must be included in the area calculation since the color and design of the structure constituted part of the sign's message.

Petitioner contends this interpretation disregards "exclusion A" found in the definition of "area" at B.C.Z.R. § 450.3. I respectfully disagree. That provision would exclude from the calculation any support structures or features which "are not part of the message of the sign." Id. (emphasis added). For example, a structural support pole on which a sign was located would not be included in the area calculation. But the zoning office here determined the color and design

of the sign face was integral to the message (i.e., "Lexus") and so should be part of the sign "area."

The Zoning Commissioner's Policy Manual, at p. 4-69.9 (a copy of which is attached hereto), Example 5, shows how the area of a Volvo automobile dealership sign is calculated, and I believe the zoning office's interpretation is consistent with this example.

WHEREFORE, IT IS ORDERED this **14th** day of **October, 2016**, by this Administrative Law Judge, that the Motion for Reconsideration be and is hereby DENIED.

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

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

September 14, 2016

Colonial Stoler LLC
11275 Reisterstown Road
Reisterstown MD 21175

RE: Case Number: 2017-0023 A, Address: 11311 Reisterstown Rd

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on July 22, 2016. 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Marvin I Singer, Esquire, 201 N Charles Street, Suite 1501, Baltimore MD 21201

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

State Highway Administration
Maryland Department of Transportation

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

Date: 8/1/16

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

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the Case number referenced below, which was received on 8/1/16. A field inspection and internal review reveals that an entrance onto MD140 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance, Case Number 2017-0023-SPHA.

Colonial Stoler LLC, Leonard Stoler, Member
11311 Reisterstown Road.
MD140.

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,

Richard A. Zeller

Wendy Wolcott, PLA
Acting Metropolitan District Engineer – District 4
Baltimore & Harford Counties

WW/RAZ

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: August 4, 2016

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For August 08, 2016
Item No. 2017-0023

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

If granted, the petitioner must contact Jim Hermann, the County Landscape Architect to discuss planting and lighting in conjunction with new signage.

* * * * * *

DAK:CEN
cc:file

ZAC-ITEM NO 16-0023-08082016.doc

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: August 22, 2016

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 17-023

INFORMATION:
Property Address: 11311 Reisterstown Road
Petitioner: Colonial Stoler, LLC
Zoning: BR
Requested Action: Variance

The Department of Planning has reviewed the petition for variance to permit a sign of 225 sq. ft. in lieu of the permitted 50 sq. feet and in the alternative, the petition for special hearing permitting a sign area of 45 sq. ft. under the County's interpretation of the required area including the entire structure.

A site visit was conducted on August 10, 2016.

The Department has no objection to granting the petitioned zoning relief.

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

Prepared by:

Lloyd T. Moxley

Division Chief:

Kathy Schlabach

AVA/KS/LTM/ka

c: Bill Skibinski
Colonial Stoler, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

CASE NO. 2017- C023 SPHA

CHECKLIST

Comment Received	Department	Support/Oppose/ Conditions/ Comments/ No Comment
8-4-16	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	C
_____	DEPS (if not received, date e-mail sent _____)	_____
_____	FIRE DEPARTMENT	_____
8-22-16	PLANNING (if not received, date e-mail sent _____)	no Obj
8-1-16	STATE HIGHWAY ADMINISTRATION	no Obj
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. 1999-0201-A)

NEWSPAPER ADVERTISEMENT Date: 9 M-1-16

SIGN POSTING Date: 9 M-3-16 by O'Keefe

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

Real Property Data Search (w4) Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map View GroundRent Redemption View GroundRent Registration

Account Identifier: **District - 04 Account Number - 2100012552**

Owner Information

Owner Name:	COLONIAL STOLER LLC	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	11275 REISTERSTOWN RD OWINGS MILLS MD 21117-1906	**Deed Reference:**	/19598/ 00093

Location & Structure Information

Premises Address:	11311 REISTERSTOWN RD 0-0000	**Legal Description:**	4.0316 AC NES REISTERSTOWN RD 183 SE HIGHFALCON RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0058	0007	0369		0000				2017	Plat Ref:

Special Tax Areas:		**Town:**	NONE
		Ad Valorem:	
		Tax Class:	

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
1990	35939		4.0300 AC	06

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
		AUTO SHOWROOM				2001

Value Information

	Base Value	Value As of 01/01/2014	Phase-in Assessments As of 07/01/2016	As of 07/01/2017
Land:	1,119,400	1,119,400		
Improvements	4,347,100	4,347,100		
Total:	5,466,500	5,466,500	5,466,500	
Preferential Land:	0			

Transfer Information

Seller: COLONIAL STOLLER PARTNERSHIP	Date: 02/12/2004	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /19598/ 00093	Deed2:
Seller: COLONIAL STOLLER PARTNERSHIP	Date: 06/29/1989	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /08214/ 00267	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2016	07/01/2017
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Tax Exempt:	Special Tax Recapture:
Exempt Class:	NONE

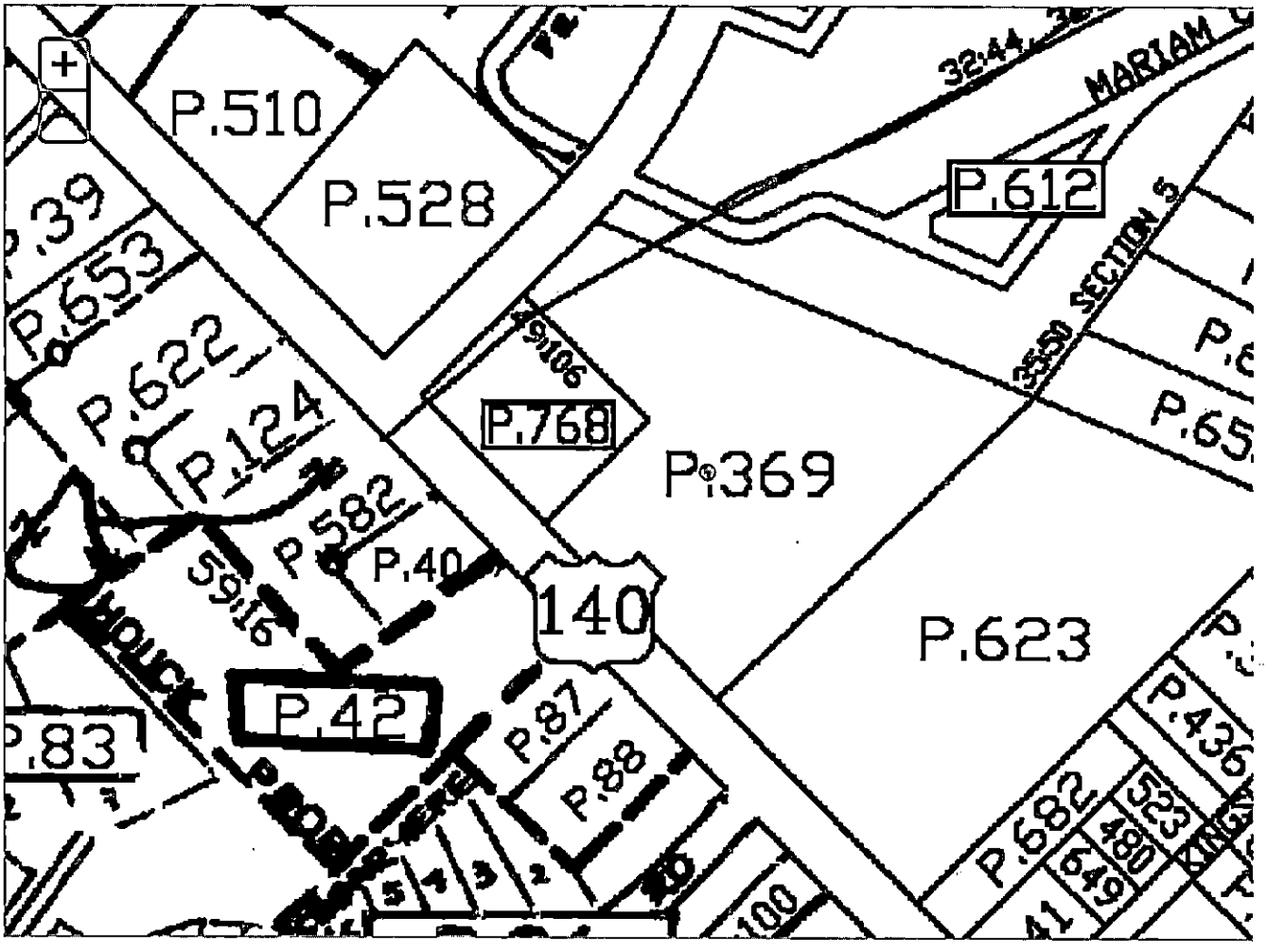
Homestead Application Information

Homestead Application Status: No Application

Baltimore County

New Search (http://sdat.dat.maryland.gov/RealProperty)

District: **04** Account Number: **2100012552**



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).

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: August 22, 2016

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 17-023

INFORMATION:
Property Address: 11311 Reisterstown Road
Petitioner: Colonial Stoler, LLC
Zoning: BR
Requested Action: Variance

The Department of Planning has reviewed the petition for variance to permit a sign of 225 sq. ft. in lieu of the permitted 50 sq. feet and in the alternative, the petition for special hearing permitting a sign area of 45 sq. ft. under the County's interpretation of the required area including the entire structure.

A site visit was conducted on August 10, 2016.

The Department has no objection to granting the petitioned zoning relief.

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

Prepared by:

Lloyd T. Moxley

Division Chief:

Kathy Schlabach

AVA/KS/LTM/ka

c: Bill Skibinski
Colonial Stoler, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

TO: PATUXENT PUBLISHING COMPANY
Thursday, September 1, 2016 Issue - Jeffersonian

Please forward billing to:
Marvin I. Singer, Esq. 410-685-1111
201 North Charles Street, Ste. 1501
Baltimore, MD 21201

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: 2017-0023-SPHA
11311 Reisterstown Road
NW/s Reisterstown Road, 235 ft. SE of centerline of Highfalcon Road
4th Election District – 2nd Councilmanic District
Legal Owners: Colonial Stoler, LLC

Special Hearing, in the alternative, permitting a sign of 45 sq. ft. in lieu of the 225 sq. ft. under County's interpretation of the required area including the entire structure, which is the subject of the requested Special Hearing as set forth herein. **Variance** requesting a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted.

Hearing: Friday, September 23, 2016 at 11:00 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.

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: 2017-0023-SPHA

Property Address: 11311 Reisterstown Rd. Owings Mills

Property Description: Zoned Commercial (BR) Automobile Dealership

Legal Owners (Petitioners): Colonial Stoler LLC

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Marvin I. Singer, Esq.

Company/Firm (if applicable): _____

Address: 201 North Charles Street Suite 1501

Baltimore, MD 21201

Telephone Number: 410-685-1111

Revised 5/20/2014

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 11311 Reisterstown Rd. which is presently zoned BR
Deed Reference 13-00093 10 Digit Tax Account # 2100012552
Property Owner(s) Name(s) Colonial Stoler LLC

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

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

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

The undersigner should approve the requested variance, computing the proposed sign pursuant to the provisions of Sec. 450.3 A.

1. X **on** under the Zoning Regulations of Baltimore County to use the herein described property for

or

m Section(s) See attached addendum.

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

Legal Owners (Petitioners):

Colonial Stoler LLC By:
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Member Signature # 2

11275 Reisterstown Road
Mailing Address City Sta

Owings Mills, M
21175 / / Email Addre
Zip Code Telephone #
410-356-7000

Attorney for Petitioner:

Marvin I. Singer
Name- Type or Print

Signature

201 N. Charles St. #1501 Balto.,MD 21201
Mailing Address City State

21201 / 410-685-1111 / MISlaw1@yahoo.com
Zip Code Telephone # Email Address

Representative to be contacted:

Same as Attorney
Name – Type or Print

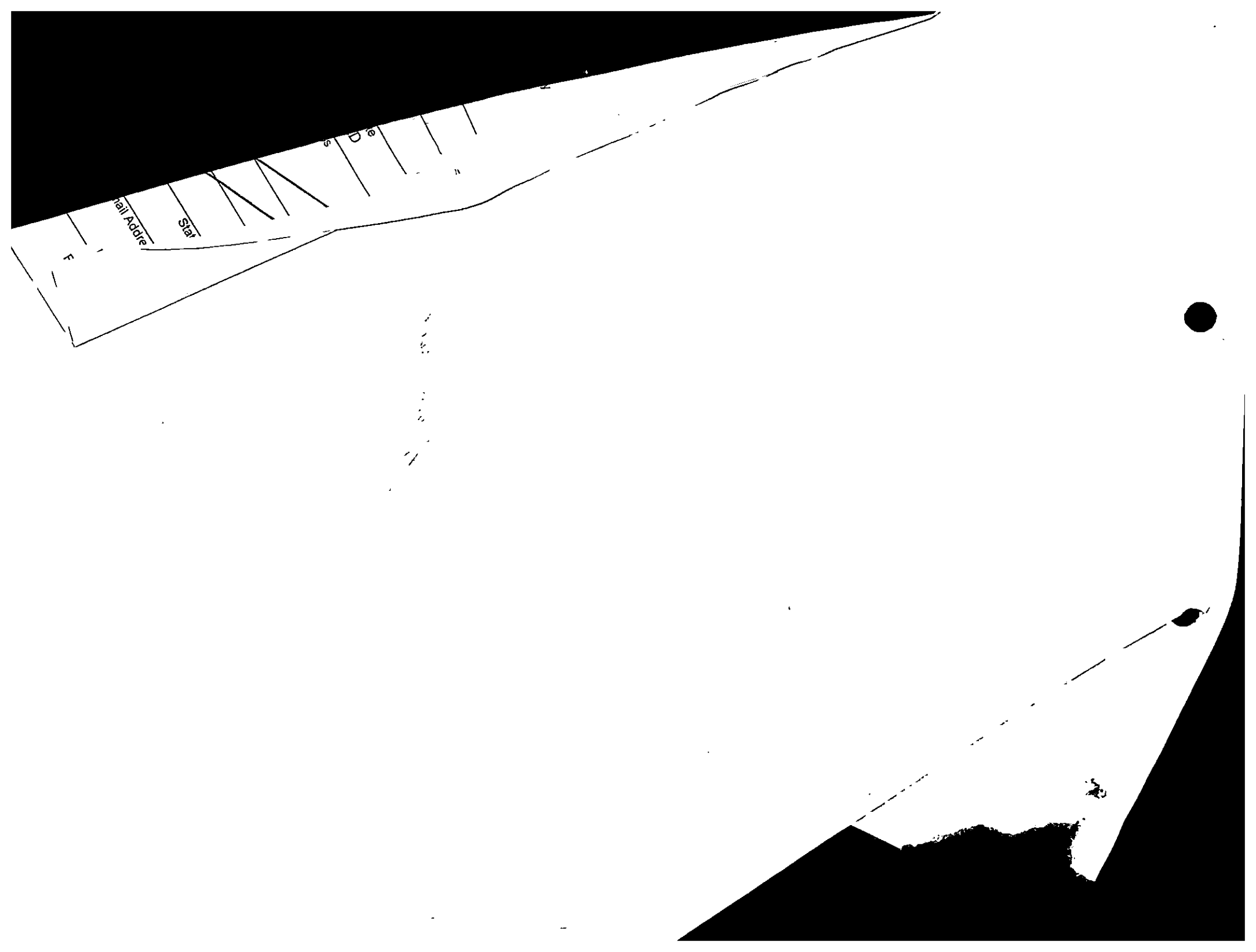
Signature

Mailing Address City

/ / E
Zip Code Telephone #

ORDER RECEIVED FOR FILING
Date 9-29-16
By sen

CASE NUMBER 2017-0023-SPHA **Filing Date** 7/22/2016 **Do Not Schedule Dates:**


Stat

ADDENDUM TO REQUEST FOR VARIANCE
11311 REISTERSTOWN ROAD
Case No. 2017-0023-SPHA

Variance Request – Section 450.4 Attachment 1 #5(g)

MJK To request a variance permitting a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted by Sec. 450.4, or

Special Hearing

In the alternative, permitting a sign of 45 sq. ft. in lieu of the 225 sq. ft. under the County's interpretation of the required area including the entire structure, which is the subject of the requested Special Hearing, as set forth herein.

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

No. 142802

Date: 7/22/16

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				1000.00

Total: 1000.00

Rec From: Marcia Simon

For: 11311 Reisterstown Rd.

7017-0023-SPHA

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

CASHIER'S VALIDATION

PAID RECEIPT
BUSINESS ACTUAL TIME DRW
7/22/2016 7/22/2016 10:05:15 1
KIG USO1 WALKIN LJR
RECEIPT # 666777 7/22/2016 OFLN
Dept 5 528 ZONING VERIFICATION
MD. 142802
Recpt Tot $1,000.00
$1,000.00 CK $.00 CA
Baltimore County, Maryland

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

№ 143308

Date: 10/25/16

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				530.00

Total: 530.00

Rec From: Marvin I Singer. Esq

For: 2017-0023-SPHA
11311 Reisterstown Rd
CK# 11242

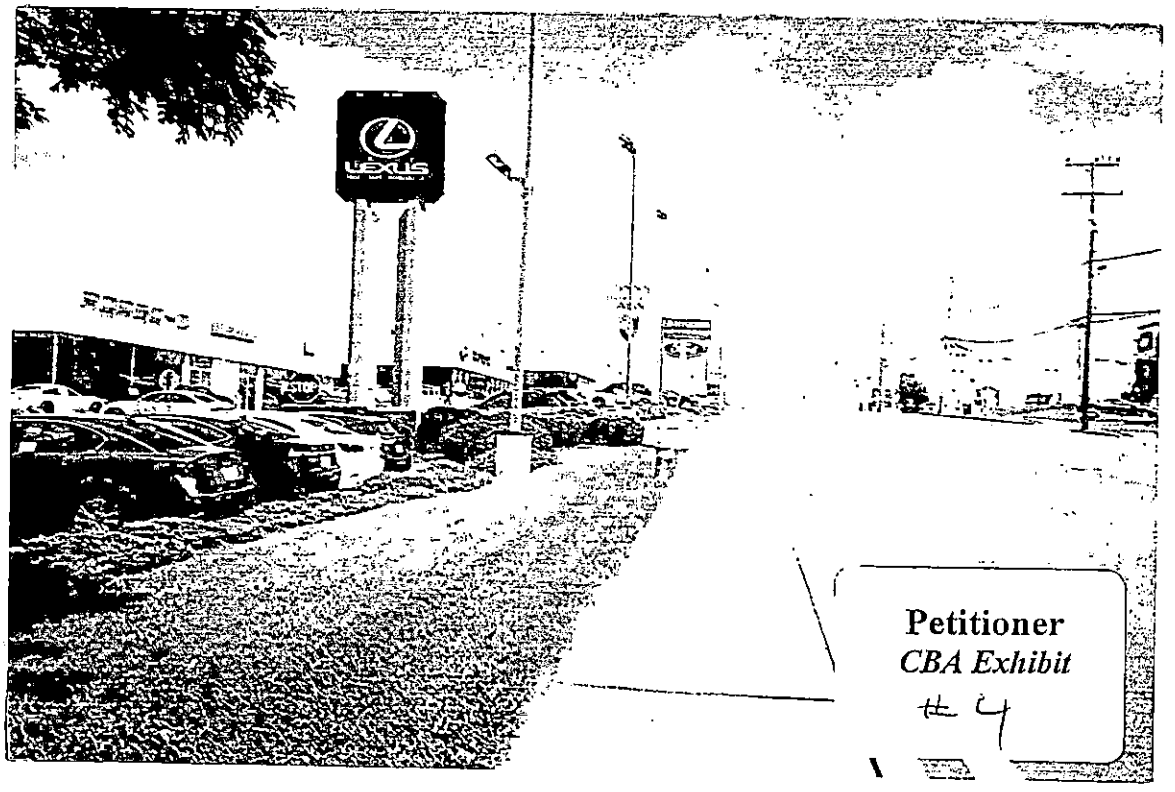
DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
10/26/2016	10/25/2016	09:25:53	2

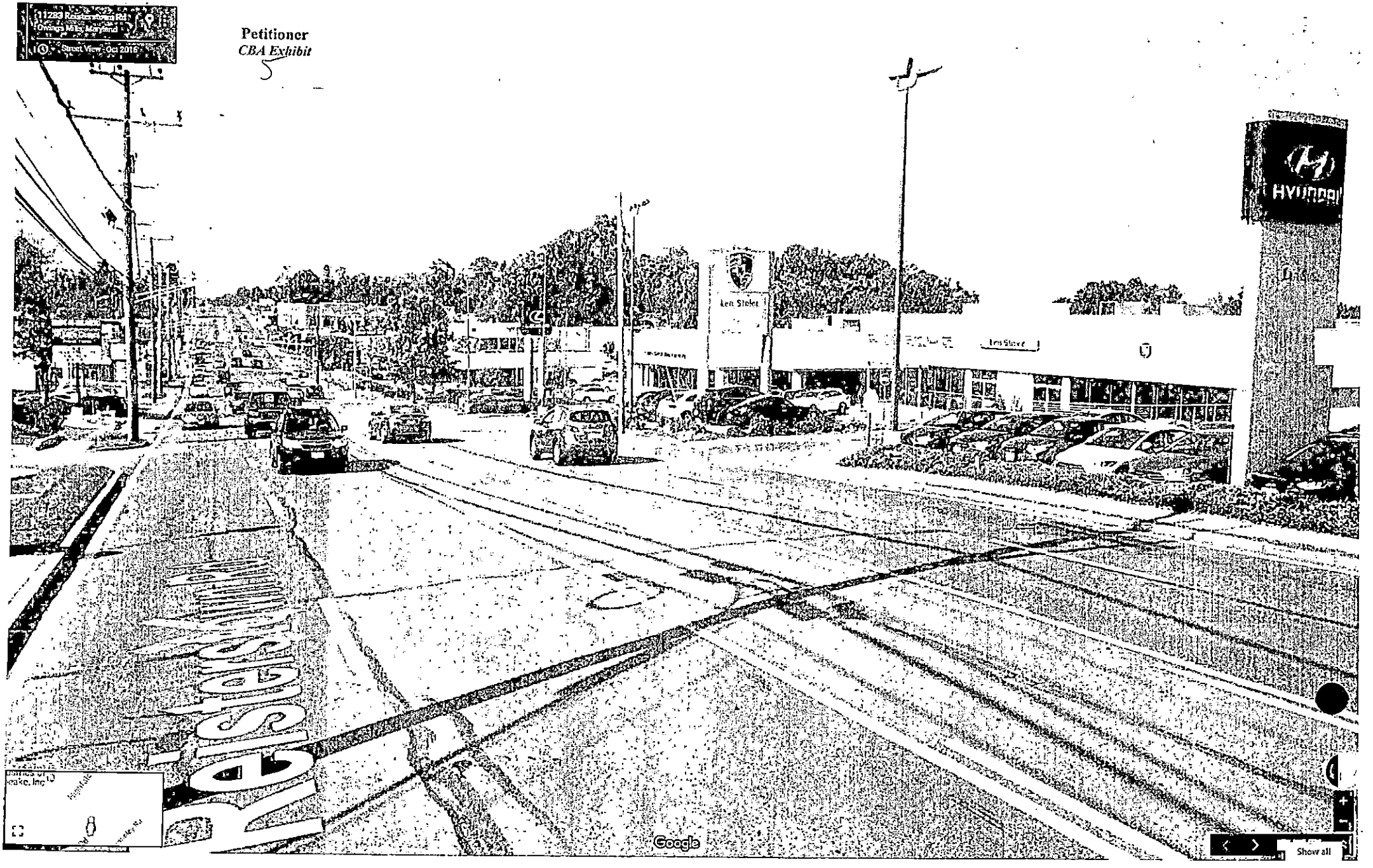
REG 0502 WALKIN JEE
>>RECEIPT # 986780 10/25/2016 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 143308
Recpt Tot $530.00
$530.00 CK $.00 CA
Baltimore County, Maryland

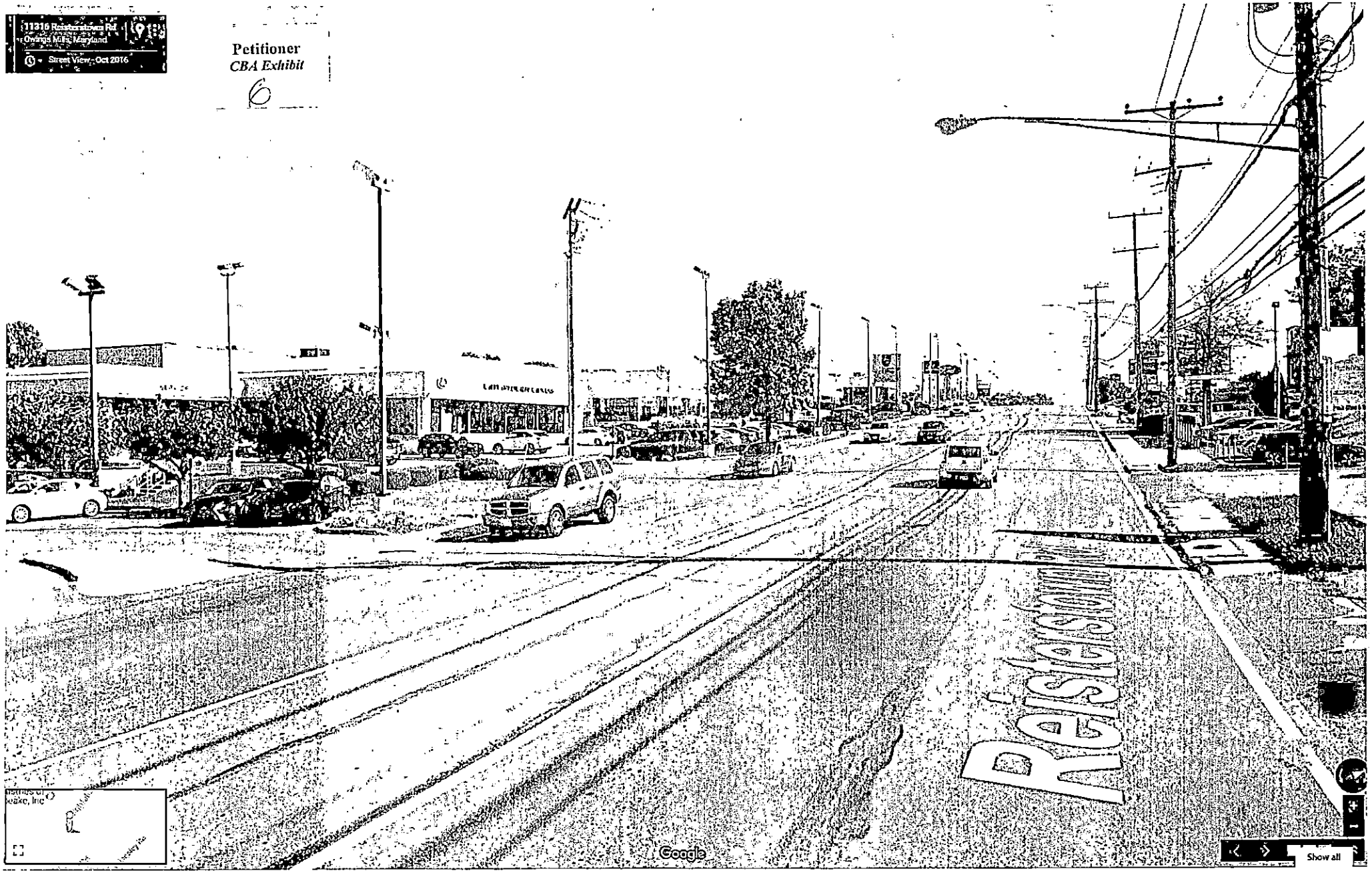
CASHIER'S VALIDATION



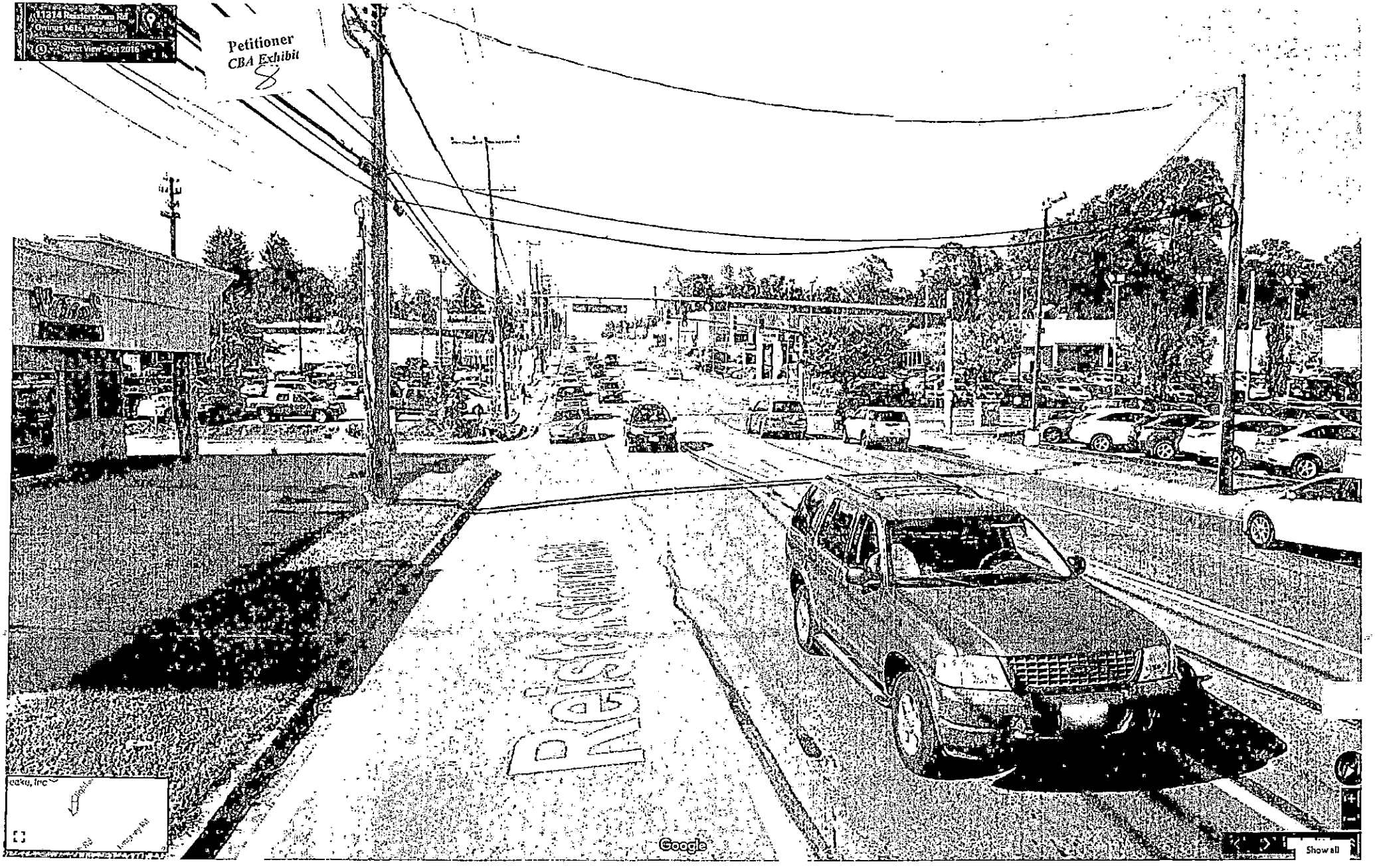
Petitioner
CBA Exhibit
4

Petitioner
CBA Exhibit
5




11316 Reisterstown Rd
Owings Mills, Maryland
Street View - Oct 2016
Petitioner
CBA Exhibit
6
Reisterstown
Google
Show all

Petitioner
CBA Exhibit
7


Petitioner
CBA Exhibit
8
Google

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 12 MOTOR VEHICLE ADMINISTRATION— LICENSING OF BUSINESSES AND OCCUPATIONS

Chapter 01 Dealers and Salesmen

Authority: Transportation Article, §§12-104(b), 13-503, 13-621, 15-102, 15-103, 15-105, 15-107, 15-108, 15-114, 15-305.1, 15-307—15-309, 15-311.1, 15-312, 15-313, 15-406, 15-408, 15-409, and 15-411; Commercial Law Article, §14-1502; Annotated Code of Maryland

.01 Dealer Licensing and Registration.

A. The Administration may refuse to grant a license to any person as a dealer or may suspend, revoke, or refuse to continue the license of a dealer already issued, unless meeting the requirements contained here.

B. A person applying for a dealer license shall submit the application on forms approved by the Administration, along with the fee as set forth in COMAR 11.11.05.

C. A dealer license shall be issued for a 2-year period.

.02 Location Requirements.

A. Each location shall be subject to inspection by an authorized representative of the Administration before approval of application for dealer registration.

B. Following approval of the application, the location shall be maintained in accordance with the applicable provisions of Transportation Article, Annotated Code of Maryland, and the regulations promulgated by the Administration. Licensees are subject to reinvestigation by authorized representatives of the Administration.

C. Only one license for the type of vehicle being offered for sale will be permitted at any one location, and once the location has been licensed, it may not be subdivided for the purpose of establishing other businesses, under separate licenses for the same type of vehicle being offered for sale, without the prior approval of the Administration. This prohibition also applies to a licensee doing business under more than one corporate structure.

D. A dealer may do business in a name or under any title or designation other than the corporation name, provided that the title or designation is not misleading. A trade or corporate name that falsely states or implies that a dealer has a special relationship or connection with a manufacturer that other dealers do not have is misleading, and an example of a title or designation that may not be adopted by a dealer. The dealer's application for license shall state the full corporate name and all "trading as" or "doing business as" names. Example: ABC Pontiac-----GMC-----Nissan-----Volvo, Inc.; T/A ABC Volvo, T/A ABC Nissan, T/A ABC Pontiac-----GMC.

E. A dealer may hold multiple licenses, for example, new or used vehicle, motorcycle, and trailer dealers' licenses, provided that all licenses are issued in the same dealership name.

Protestant
CBA Exhibit
10

F. The dealership shall face, adjoin, and be fully visible from an improved street or highway that is accessible to the public and that is identifiable by name or postal number. The street or highway shall be used by the public for vehicular travel.

G. The location shall be of a size to adequately and safely permit the display of a minimum of ten vehicles and space for customer parking.

H. The location shall meet all local zoning regulations.

I. The location shall be fully lighted.

J. The display and customer parking areas shall be adequately surfaced with an appropriate covering, subject to approval by the Administration.

K. The additional locations shall be inspected and approved by the Administration.

L. Additional locations shall meet the minimum standards set forth in applicable provisions of the Transportation Article, Annotated Code of Maryland, and the regulations promulgated by the Administration.

M. Additional locations may use registration plates issued to the primary location provided the trade name and ownership are identical to that of the primary location.

N. Signs.

(1) Appropriate dealership signs shall be permanently affixed.

(2) The signs shall be of a size as to make them reasonably legible from the street or highway.

(3) The signs shall clearly identify the business conducted at the dealership and shall adequately direct the customers to the dealership office.

(4) As to wholesale dealers, a sign is not required. However, if a sign is displayed, it:

(a) Shall be displayed at the dealership entrance;

(b) May not be larger than 6 inches in height and 18 inches in length; and

(c) May not contain any language which implies the dealership will sell to or exchange vehicles with a retail buyer.

O. As to wholesale dealers, the location shall be in a permanent building and the space used shall be:

(1) Owned or leased by the wholesale dealer;

(2) Regularly occupied and exclusively used by the wholesale dealer for dealership purposes.

.03 Office Requirements.

A. The dealership office shall be housed at the dealer's fixed location and in a substantial building adequate and appropriate for the business so conducted.

B. The dealership office shall be of sufficient size to accommodate the customers, and shall be equipped with office furniture, such as desk, chairs, and filing cabinets, and electricity, lighting, heat, and telephone, in order to reasonably conduct the dealership business.

C. A current trader's license shall be issued by the political subdivision of each location.

D. This license shall be displayed on the premises of the dealer in a conspicuous place.

.04 Exemptions.

A. If a location is otherwise adequate and appropriate, the location requirements outlined in Regulation .02F, G, I, J, and N of this chapter may be waived for wholesale dealers, for new trailer, boat trailer, motorcycle dealers, and for any person licensed as a dealer to sell

only fire, rescue, and emergency medical motor vehicles, who shall have the privilege of assigning manufacturer's certificates of origin and to issue temporary tags upon filing with the Administration a written franchise agreement from the manufacturer of the vehicles for which the dealer claims a franchise.

B. Once licensed as a dealer to sell fire, rescue, and emergency medical motor vehicles, the dealer shall be prohibited from selling any types of vehicles other than fire, rescue, and emergency medical motor vehicles until the location requirements in Regulations .02 and .03 have been met.

C. Manufacturers and distributors are exempt from location requirements for the purpose of securing Class 1A registration plates.

D. The registration of a dealer in the names of two or more persons as partners, or otherwise, may not require a reinspection on a change in ownership as long as one person named as a partner or co-owner remains as the owner, part-owner, or, in a corporation, as one of its legal officers.

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 11311 Reisterstown Road; NW/S Reisterstown Road, 235' SE of c/line of High Falcon Road 4th Election & 2nd Council manic Districts Legal Owner(s): Colonial Stoler LLC By Leonard Stoler, Member Petitioner(s)	*	BEFORE THE BOARD OF APPEALS FOR BALTIMORE COUNTY
	*	2017-023-SPHA

RECEIVED
FEB 22 2017
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * * *

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Statement of the Case

Petitioner, Colonial Stoler LLC, (Stoler) seeks to construct a 225 sq. ft. freestanding sign for a Lexus new car dealership on the east side of Reisterstown Road near its intersection with High Falcon Road. BCZR 450.4 limits these signs to 50 sq. ft. per dealership. Stoler seeks a variance for the additional 175 sq. ft., or special hearing relief that limits the measurable area to a 45 sq. ft. rectangle containing the word Lexus and the Lexus symbol. People's Counsel and two citizens oppose both petitions.

In addition to Lexus, Stoler operates several new car dealerships on separate but contagious lots totaling approximately twelve acres. There are separate signs for each of those dealerships. Stoler also operates a Lexus used car operation on the premises with a separate freestanding sign. (Pet. Exh # 5).

The Stoler representative, Michael Meagher, testified that Toyota, who manufactures the Lexus model, wants all dealers to install a uniform sign as part of its current "branding" or advertising campaign. To that end, the manufacturer designed the entire structure – color, style, size, lettering, symbol etc. The proposed sign is a solid structure which Stoler has calculated as 25 ft high and 9 ft. wide. The zoning office and the Administrative Law Judge Beverungen agree that under BCZR 450, the size is 225 sq. ft. - the sum of the height times the width. Judge Beverungen rejected Stoler's interpretation of the terms area, face and message as defined in BCZR 450, and denied the Special Hearing. He supported instead the administrative agencies' long-standing interpretation and application of these terms. Judge Beverungen included in his Opinion the excerpt in the Zoning Commissioner's Policy Manual that illustrates how the area of

freestanding signs is calculated. Judge Beverungen also denied the variance for a 225 sq.ft. sign, finding the site is not unique in any way under the standards of Cromwell v. Ward, 102 Md. App. 691 (1995).

Stoler filed a Motion for Reconsideration that was also denied.

Stoler filed an appeal to the CBA. A hearing was held on January 19, 2017. Mitchell Kellman, a zoning expert, and Michael Meagher, the general manager of the Lexus dealership testified for Stoler. Carole Demilio, Deputy People's Counsel appeared as well as George Harmon and Michael Pearce who oppose the sign as excessive and in conflict with the purpose and intent of the sign regulations. They also disagreed adamantly with Stoler's position that the sign area encompasses only the lettering and symbol.

The existing new car Lexus freestanding sign was erected in 1992 when the dealership opened. It is nearly 70 sq. ft. and 27 ft. high. As noted under BCZR 450.5 (g) the maximum size is 50 sq. ft. and the maximum height is 25 ft. Stoler did not seek a variance for the existing sign in its Petitions or at the ALJ hearing. It now seeks to amend its Petition for Variance at the CBA to request, in the alternative or in lieu, variances for the existing sign.

Argument I: A. The Plain Meaning of the Definitions of "Area" "Face" and "Message" Support the Inclusion of the Sign Structure Perimeter of 225 Sq. Ft.

The Table of Sign Regulations in BCZR 450 Attachment 1. 5 (g) regulates freestanding enterprise signs for new vehicle dealerships, including the maximum area/face, number per operation, height, and illumination. The definitions of the terms are found in BCZR 450.3. The definitions used to determine maximum size are best understood in sequence. First is "message". The message includes not only the obvious "written words, letters and numerals," but also "symbols, images, colors, illumination or theme comprising the face of a sign." Second is "face," meaning the "perimeter enclosing the outer limits of the message." Third is "area" which is "The number of square feet within the perimeter of one continuous rectangle enclosing the face of the sign" and " . . . includes the surface of all integral color, framing or other design feature by which the sign is differentiated from the structure supporting it or upon which it is erected."

Structure is not defined but commonly refers to the poles or base. A decorative feature is not defined in BCZR. It is defined in Wester's Third New International as "having a purely ornamental function . . . producing immediate sensory satisfaction without regard to meaning."

Clearly the County Council recognizes and includes color, image, and illumination in product identification and message in addition to symbols, words, letters and numerals. Mr. Meagher confirmed the Council's position; he testified Lexus wants to embody a uniform image that speaks "Lexus" – black and silver colors, and a specific shape, script and symbol. He termed it "branding" - a form of advertising for product recognition intended to be synonymous with the word Lexus. But advertising preferences, trends and nuances do not control or undermine zoning regulations. 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."

Stoler's interpretation that the sign's area is limited to a box encompassing only the word "Lexus" and the iconic symbol conflicts with the plain meaning of the terms and Mr. Meagher's testimony. The color and style of the sign are an integral part of its message – otherwise why change the existing freestanding sign that clearly includes the word Lexus and the same symbol. (Petitioner's Exh. # 4). The plain meaning of the terms in BCZR are obvious and unambiguous, and for these reasons are in line with the long standing application by Baltimore County's Department of Permits, Approvals and Inspections (PAI). Discerning the "plain meaning" does not require abandonment of logic and common sense, as Stoler would have the CBA do here.

The Court of Appeals reviewed this in depth in Kaczorowski v. Baltimore 309 Md. 505 (1987), Judge Adkins stated:

"Moreover, despite Kaczorowski's pleas that we examine the trees so closely that we do not see the forest, the plain-meaning rule does not force us to read legislative provisions in rote fashion and in isolation. What we are engaged in is the divination of

legislative purpose or goal. . . The 'meaning of the plainest language' is controlled by the context in which it appears." *Id.* 514.

He cited Justice Holmes' observation that "the general purpose is a more important aid than any rule which grammar or formal logic may lay down." *Ibid.*

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

> "While the language of the statute is the primary source for determining legislative intent, the plain meaning rule of construction is not absolute; rather the statute must be construed reasonably with reference to the purpose, aim, or policy of the enacting body. The Court will look at the larger context, including the legislative purpose, within which statutory language appears." A.A.Co. v. City of Annapolis, 352 Md. 117, 123 (1998).

> It is well settled that when the meaning of a statute – its legislative intent – is at issue, the court's inquiry begins with the words of the statute, and ordinarily, ends there... If the words... are clear and free from ambiguity we need not look further... Nevertheless, in the interest of completeness we may look at the purpose of the statute and compare the result obtained by the use of its plain language with that which results when the purpose of the statute is taken into account..., as well as such evidence as a bill's title and function paragraphs, amendments that occurred as it passed through the legislature, its relationship to earlier and subsequent legislation, and other material that fairly bears on the fundamental issue of legislative purpose or goal. ..." Tidewater, Inc. v. Mayor & City Council of Havre de Grace, 337 Md. 338, 344-45 (1995)

See also Ware v. People's Counsel for Baltimore Co. 223 Md. App. 669 (2015).

We need only look at BCZR 450.1., including E.1 to ascertain what the County Council had in mind in regulating signage, particularly on Reisterstown Road, a significant north-south corridor:

> "The existence of excessive and incompatible signage is contrary to the goals of the County Master Plan, as adopted and amended. Included among those goals are:
>
> 1. Improved quality of commercial corridors, including signage."

Under Stoler's interpretation, there would be no limit to the size of the surface that does not contain the lettering and symbol, as protestant, Mr. George Harmon aptly explained. This unintended consequence to Stoler's position cannot be ignored.

Fortunately, the County Council was not so naïve when it included in the definition of area " . . . the surface of all integral color, framing or design feature..."

In Baltimore County Coalition Against Unfair Taxes v. Baltimore County, 321 Md. 184, 203-204 (1990), the Court wrote:

> "Thus, we have said that a statute must be construed in context, because the meaning of the 'plainest language may be governed by the context in which it appears.' ... In this regard, words in a statute must be read in a way that advances the legislative policy involved... Courts may, therefore, consider not only the literal or usual meanings of those words, but their meaning and effect in the context in which the words were used, and in light of the setting, the objectives, and purpose of the enactment... More-over, in such circumstances, courts may consider the consequences that may result from one meaning rather than another, with real intent prevailing over literal intent."(emphasis added).

B. Stoler's Position conflicts with Longstanding Administrative Practice

There is no genuine dispute that the consistent administrative practice to calculate a sign's area includes the color surface as well as the portion that contains the lettering and symbol. Stoler's expert witness, Mr. Mitchell Kellman, a former Baltimore County employee, admitted this has always been the County's interpretation as well as his own interpretation in his private engineering practice. Nor did Mr. Kellman deny the County's position is consistent with the illustration in the Zoning Commissioner's Policy Manual cited by ALJ Beverungen. (PC Exh. #2). Unfortunately Stoler engages in wordplay in a desperate argument that it need not comply with the 50 sq. ft. size limitation. Stoler could not cite a single case to support its flawed interpretation, despite the plethora of sign cases that have come before the CBA. The petitioner in a *de novo* case before the CBA has the burden of proof to persuade the Board and substantiate its interpretation of the applicable regulations.

Argument II. A. Baltimore County's Variance Regulation

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.

This standard requires proof of the following:

1. That the land or structure is "unique," a zoning term of art;
2. That the uniqueness "results" in "practical difficulty" pertinent to zoning compliance;
3. That there is true "practical difficulty," another zoning term of art; and
4. That any such "practical difficulty" is not self-created, subject to recent Court of Appeals decisions.
5. That there will be no injury to the public safety, health, and welfare.

Historically, a variance functions to allow a property owner a reasonable permitted use of property. 3 Young, Anderson's American Law of Zoning 4th, § 20.02, at 411 (1996):

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

The Lexus dealership has operated successfully since 1992 without a 225 sq.ft. sign. Stoler has not only a reasonable permitted use but the use it prefers.

Argument II. B. The Three Prong Test under Maryland Case Law: Uniqueness, Practical Difficulty, Public Safety and Welfare.

Judge Cathell began his discussion of variance law in Cromwell v. Ward 102 Md. App. 691, 703 (1995) with this observation: "The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances."

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 light of these consistent and long-standing principles of variance law, there is no justification for the 175 sq.ft. variance here. On the clearly defined elements of uniqueness, Stoler's site does not differ from any other site in the area and indeed along Reisterstown Road in Baltimore County. Stoler claims the topography at this juncture makes the lot unique because it is at "the bottom of a hill". But Mr. Kellman admitted in cross examination Reisterstown Road is similarly hilly at many other places in the County. Mr. Harmon, a long time county resident, constantly travels this north–south corridor and characterizes the entire road as peaks and valleys; he stated the intersection here is no different than many other locations on Reisterstown Road. Nor was there evidence that a 50 sq.ft. sign could not be seen. Stoler's photographs confirm even the Lexus building, complete with wall-mounted signs, is visible from Reisterstown Road. Petitioner's Exh. #3.

Mr. Kellman struggled to find anything unique about the lot shape. He had to rely on an obscure and inconsequential feature at the rear of the site farthest from the road frontage where the property lines meet at less than a 90 degree angle. But this area encompasses only a small fraction of the lot and is irrelevant to the features of the road frontage where the sign is proposed. Even if the rear angle were considered unique, the appellate courts emphasize that a unique feature is not viewed in isolation. It is imperative that the uniqueness ". . . causes the zoning provision to impact disproportionately upon the property." Trinity, *supra* at 82. The unique characteristic must relate to and cause practical difficulty pertinent to zoning compliance. Often misunderstood or overlooked, the law is nonetheless settled that an essential element of a variance case is this causal connection. Mr. Kellman admitted the road frontage here is

comparable to the other properties in the area so the shape of the lot in the rear is irrelevant to the variance.

Petitioner's case likewise fails to establish a practical difficulty in selling new Lexus automobiles here if the variance is not approved. By all accounts the dealership is accessible, visible and successful. Stoler never suggested the sign variance is necessary for the public " . . . to locate facilities, goods and services without undue difficulty, danger or confusion." BCZR 450.1G.2.

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. Trinity explains the Board's criteria was consistent with the three-prong standard articulated by the Court of Appeals in 1973:

> "With respect to the practical difficulty prong of the Zoning Code's variance standards, the Board applied the factors that this Court articulated in *McLean v. Soley,* 270 Md. 208, 310 A.2d 783 (1973). In *McLean* we adopted, from Professor Rathkopf's treatise, a three-part inquiry to guide local zoning authorities in determining whether a landowner established this element:
>
> > 1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
> >
> > 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
> >
> > 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.
>
> 270 Md. at 214–15, 310 A.2d at 787 (citing 2 Rathkopf, The Law of Zoning & Planning 45–28, 29 (3d ed. 1972)).[12] The Board's use of the *McLean* test was not error. *See Red Roof Inns, Inc. v. People's Counsel for Balt. County,* 96 Md.App. 219, 225, 624 A.2d 1281, 1284 (1993) (applying *McLean* test)." *Id.* 83.

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 § 450.8.A.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." Id. 85.

Mr. Kellman admitted in cross examination that he did not review or consider BCZR 450.8.A.1. His admission undermines his opinion.

Finally, even though it is irrelevant to the zoning issues here, there is no evidence Stoler's agreement with the manufacturer even mandates the proposed sign. Mr. Meagher intimated some necessity but did not produce the agreement, was not aware of any specific language and was not a signatory to the agreement.

C. Stoler Failed to Demonstrate Both Uniqueness and Practical Difficulty

There is no dispute the burden proof in a CBA *de novo* hearing rests with the petitioner. 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."

Stoler's evidence of uniqueness was limited to shape and topography. But Mr. Kellman admitted the shape of the lot along Reisterstown Road was no different than others at this location. He also acknowledged the topography of Reisterstown Road was consistently hilly. Mr. Harmon testified Reisterstown Road features peaks and valleys

throughout its course in Baltimore County. There was no evidence or relevancy of unusual sub-surface conditions, environmental factors, historical significance, access or non-access to navigable waters, or practical restrictions imposed by abutting properties.

No one indicated the public has difficulty locating the site. In fact, Stoler has operated a successful Lexus dealership at this location for over three decades without a 225 sq. ft sign.

Argument III. Does the *De Novo* function of the County Board of Appeals afford jurisdiction to review a request to approve a lesser variance

At the CBA hearing, Stoler verbally requested approval of variances for the existing sign, presumably as alternative or in lieu of the variance requested in its petition. This relief requires a variance of no more than 70 sq. ft area in lieu of 50, and a height of no more than 27 sq. ft in lieu of 25. The CBA inquired if it can consider a request at this level or if Stoler must amend its Petition and begin anew or under a remand to the ALJ. Our office is aware of instances where the petitioner sought alternative relief for the first time at the CBA. The threshold questions to our thinking are based on proper notice and concomitant fairness to interested parties. A prerequisite to subject-matter jurisdiction in a zoning case is the public notice of the nature of the petition and issues presented. Notice is mandatory for variances, special exceptions and special hearings under BCZR 307.1, 500.5, and 500.7, respectively. Part of proper notice is a plat specifying the relief. BCZR 500.9. The site plan provides the framework for implementation and as a baseline for future zoning petitions to modify or otherwise relate to the property.

All petitions are referred to the County agencies for review. The appellate courts have upheld CBA jurisdiction, including notice and due process.

While the CBA review is *de novo* under County Charter Sec. 603 (Pollard's Towing v. Berman's Body & Mechanical 137 Md. App., 277 (2001)), the CBA nevertheless exercises appellate jurisdiction in zoning cases, apart from its original jurisdiction over petitions for zoning reclassification under Sec. 602(e). The key case is Halle Companies v. Crofton Civic Ass'n 339 Md. 131 (1995). There, the Court explained that while the CBA could accept new evidence on the relevant petition, the CBA could

not accept what amounts to a new petition or a petition beyond the scope of the original proceeding.

Baltimore County Code Sec. 32-3-301 (2003) authorizes the zoning commissioner (now ALJ, Code Sec. 3-12-104) to review and grant zoning variances and other zoning petitions and to interpret the zoning regulations. Code Sec. 32-3-302 provides detailed notice requirements, including

> "(b) *Notice.*
>
> * * *
>
> (2) The notice shall provide:
>
> (i) The address of the property under petition or, if not available, a description of the property; and
>
> (ii) The action requested by the petition."

BCZR Sec. 307.1 reinforces the notice requirement for variances,

> "Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification."

Code Sec. 32-3-509(c)(2) also compels notice of the "...action requested by the petition." In Cassidy v. Board of Zoning Appeals 218 Md. 418, 421-22 (1956), a Baltimore County case, the Court of Appeals confirmed,

> "It has been stated so frequently and so generally that the failure of an administrative official or board to give a proper notice of a hearing, required by law, is fatal to the jurisdiction of the official or the board to conduct the hearing that it requires no citation of authority to support the proposition;[1] hence, we must examine the notice and the proceedings to determine whether the Commissioner and the Board lacked jurisdiction to grant the special exception."

To sustain jurisdiction, the litigation must proceed within the framework of the notice. The notice issue overlaps with procedural due process, based on fundamental fairness. Schultz v. Pritts 291 Md. 1, 7 (1981); Ottenheimer Publishers, Inc. v. Employment Sec. Admin. 275 Md. 514, 520 (1975); Dal Maso v. Board of County Comm'rs 238 Md. 333, 337 (1965).

People's Counsel's position on so called "amendments" at the CBA level is based primarily on compliance with these standards. For this reason, new and different relief, i.e. adding variance relief in a special hearing or special exception case, or vice versa, should be re-filed or remanded with proper public notice and in some cases, a review by

County agencies. A change that increases the variance relief or requires a separate variance should also be re-filed or remanded.

On occasion, as a compromise or to improve its chance for approval, a petitioner will seek a lesser variance on the same subject at the CBA. In those cases, if our office is satisfied that the fairness threshold has been met and that interested parties are not prejudiced by a modification, we will not oppose proceeding at the CBA. We are also mindful of the language in McLean, *supra* that contemplates granting a lesser variance under the practical difficulty standard:

> **" . . . whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners. . . Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."**

In light of the above, and under the limited circumstances of this case, which should not be construed as precedent or policy, we would not oppose the CBA considering a lesser variance here for the existing freestanding sign. The Board must first be satisfied it has an adequate description of the dimensions, location and height to identify the sign. Second, the criteria in BCZR 450.8. A.1., BCZR 307.1 as well as uniqueness, practical difficulty and general welfare under Cromwell and its progeny must be satisfied. That being said, we cannot over emphasize our office's significant concern that the interpretation of the definitions proposed by Stoler in the Petition for Special Hearing are without merit and are a complete distortion of the purpose and intent of the sign regulations. For these reasons, we vehemently oppose the Petition for Special Hearing which should have no part in the consideration of either variance and must be denied.

Parenthetically, if the Board elects to consider a variance for the existing sign, Mr. Meagher testified the face of the existing sign could be replaced to incorporate the color, logo and lettering of the new branding campaign. We believe a proposed change to the face and message within the existing area, as our office and long-standing policy of PAI defines those terms and as long as the structure otherwise remains the same, does not require an additional variance. Although limited to nonconforming signs before the expiration of the abatement period in 2012, we note BCZR 450.8.C.4

"Notwithstanding the maintenance requirements of Section 450.6.C, a legally nonconforming sign may be structurally altered, replaced, relocated or otherwise changed only for the purpose of correcting nonconformity. This requirement is not applicable to changes of copy or message on the face of a legally nonconforming sign.") emphasis added.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of February, 2017, a copy of the foregoing Memorandum of People's Counsel for Baltimore County was mailed to Marvin Singer, Esquire, 201 N. Charles Street, Suite 1501, Baltimore, Maryland 21201, Attorney for Petitioner.

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel for Baltimore County

Board of Appeals of Baltimore County

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

October 28, 2016

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Colonial Stoler, LLC
11311 Reisterstown Road
17-023-SPHA 4th E; 2nd C

Re: Petition for Special Hearing pursuant to § 500.7 of the BCZR to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. as determined under the County's interpretation of the required area which includes the entire structure; *or in the alternative*

Petition for Variance to permit a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted.

9/29/16 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was DENIED; and the Petition for Variance was DENIED.

10/14/16 Order on Motion for Reconsideration issued by the ALJ wherein the Motion was DENIED.

ASSIGNED FOR: THURSDAY, JANUARY 19, 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.
- 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/Legal Owner : Marvin I. Singer, Esquire
Petitioner/Legal Owner : Colonial Stoler, LLC

Protestant : Reisterstown-Owings Mills-Glyndon Coordinating Council
George Harmon

Mitchell Kellman/Daft McCune Walker, Inc.
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Michael Field, County Attorney, Office of Law

Office of People's Counsel
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney

KEVIN KAMENETZ
County Executive

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

October 25, 2016

RECEIVED
OCT 25 2016
BALTIMORE COUNTY
BOARD OF APPEALS

Marvin I. Singer, Esq.
201 N. Charles Street, #1501
Baltimore, Maryland 21201

RE: **APPEAL TO BOARD OF APPEALS**
Case No. 2017-0023-SPHA
Location: 11311 Reisterstown Road

Dear Mr. Singer:

Please be advised that an appeal of the above-referenced case was filed in this Office on October 25, 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,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/sln

c: Baltimore County Board of Appeals
People's Counsel for Baltimore County
Mitchell Kellman, 501 Fairmount Avenue, Suite 300, Towson, Maryland 21286
George Harman, 5429 Weywood Dr., Reisterstown, Maryland 21136

RECEIVED
OCT 25 2016
OFFICE OF ADMINISTRATIVE HEARINGS

PETITIONS FOR SPECIAL HEARING AND VARIANCE	*	BEFORE THE
	*	OFFICE OF
(11311 Reisterstown Road) 4th Election District 2nd Council District Colonial Stoler, LLC Owner Petitioner	*	ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
	*	**Case No. 2017-0023-SPHA**

* * * * * * *

NOTICE OF APPEAL

Petitioner, by its undersigned attorney, appeals to Baltimore County Board of Appeals from the orders and decisions entered in the above entitled case.

MARVIN I. SINGER
201 North Charles Street Suite 1501
Baltimore, Maryland 21201
(410) 685-1111
(410) 685-2372
MISlaw1@yahoo.com
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th of October, 2016, copies of the foregoing Notice of Appeal were mailed by first-class mail, postage prepaid to Peter Max Zimmerman, Esq., People's Counsel for Baltimore County, Room 204, 105 West Chesapeake Avenue, Towson, MD 21204 and George Harman, 5429 Weywood Drive Reisterstown, MD 21136.

MARVIN I. SINGER

KEVIN KAMENETZ
County Executive

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

October 14, 2016

Marvin I. Singer, Esq.
201 N. Charles Street, #1501
Baltimore, Maryland 21201

RE: Motion for Reconsideration
Case No. 2017-0023-SPHA
Property: 11311 Reisterstown Road

Dear Mr. Singer:

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:sln
Enclosure

c: Mitchell Kellman, 501 Fairmount Avenue, Suite 300, Towson, Maryland 21286
George Harman, 5429 Weywood Dr., Reisterstown, Maryland 21136

IN RE: **PETITIONS FOR SPECIAL HEARING AND VARIANCE** (11311 Reisterstown Road) 4th Election District 2nd Council District Colonial Stoler, LLC *Owner* Petitioner	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
	*	**Case No. 2017-0023-SPHA**

* * * * * * * *

ORDER ON MOTION FOR RECONSIDERATION

Petitioner in the above case sought variance and special hearing relief in connection with a proposed freestanding sign at a Lexus automobile dealership. Both requests were denied in an Order dated September 29, 2016. Petitioner seeks reconsideration of the ruling on the petition for special hearing, which pertains to the calculation of the sign area.

Petitioner's primary argument is that the Administrative Law Judge should not defer to the zoning office's interpretation of the regulations concerning the "area" of a sign. Petitioner's expert agreed the zoning office adhered in this case to its longstanding pattern and practice in calculating the sign area. The zoning office determined the entire face of the sign (rather than just the 45 sq. ft. rectangle containing the "Lexus" lettering and logo) must be included in the area calculation since the color and design of the structure constituted part of the sign's message.

Petitioner contends this interpretation disregards "exclusion A" found in the definition of "area" at B.C.Z.R. § 450.3. I respectfully disagree. That provision would exclude from the calculation any support structures or features which "are not part of the message of the sign." Id. (emphasis added). For example, a structural support pole on which a sign was located would not be included in the area calculation. But the zoning office here determined the color and design

ORDER RECEIVED FOR FILING
Date 10/14/16
By DLM

of the sign face was integral to the message (i.e., "Lexus") and so should be part of the sign "area."

The Zoning Commissioner's Policy Manual, at p. 4-69.9 (a copy of which is attached hereto), Example 5, shows how the area of a Volvo automobile dealership sign is calculated, and I believe the zoning office's interpretation is consistent with this example.

WHEREFORE, IT IS ORDERED this **14th** day of **October, 2016**, by this Administrative Law Judge, that the Motion for Reconsideration be and is hereby DENIED.

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 10/14/16
By Sln

TABLE-DEFINITION OF COLUMNS- The following table specifies the allowable combinations of sign classes and sign types, along with locational, dimensional and other pertinent conditions, as follows:

Column:

A. Class - Refers to the overall purpose and general character of the entire sign.

B. Structural Type - Identifies the structural type(s) that may be used to display signs of the given class, subject to the requirements in the succeeding columns. (See definitions of types on Page 4.)

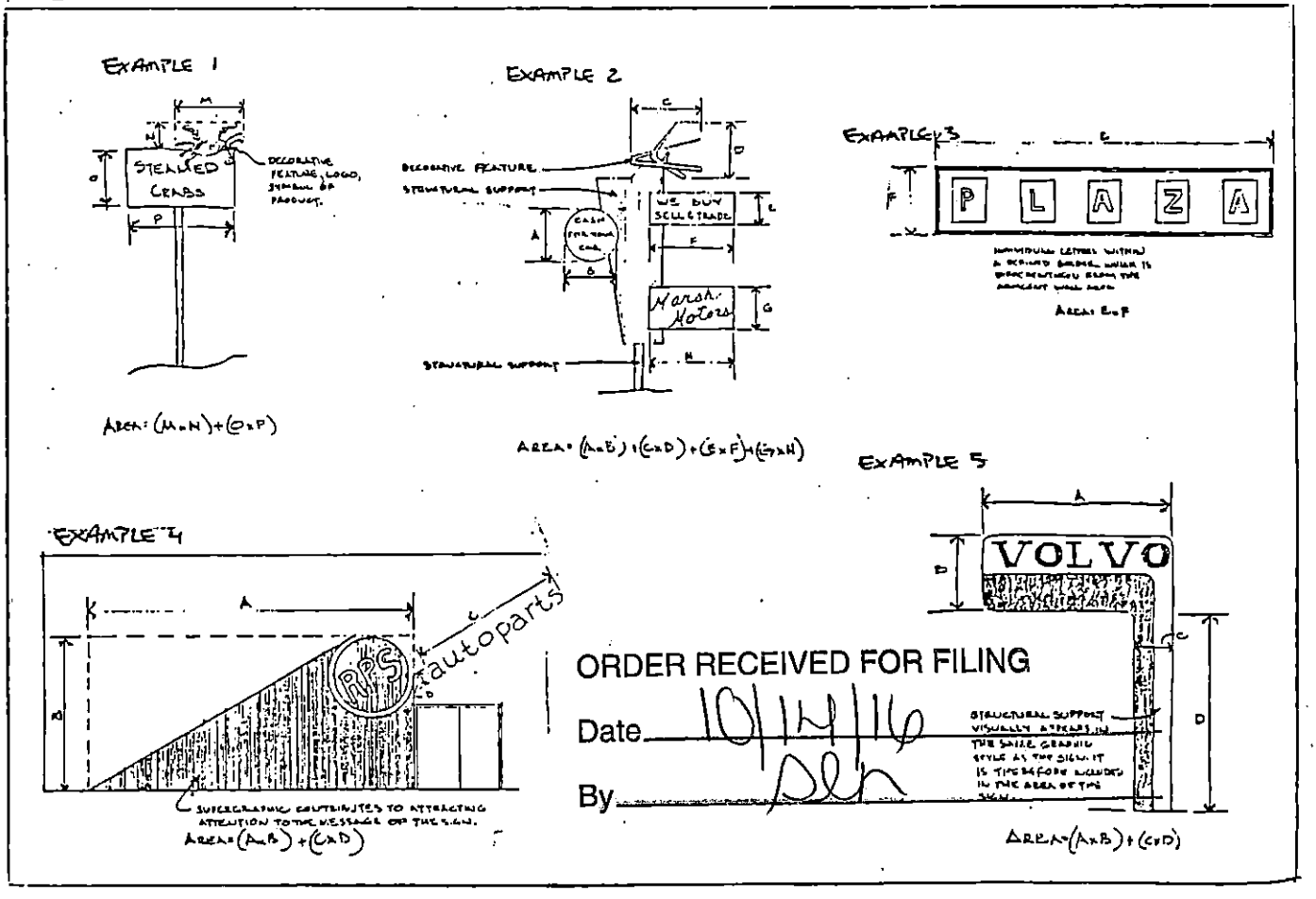
C. Zone or Use - Defines the zone(s) wherein signs of the class and type combination(s) may be displayed. In certain cases, the permissibility is granted for a sign in conjunction with a particular type of land use, as identified in this column, in whichever zone(s) such use is permitted.

D. Permit Required - A "Bldg." entry indicates that a Building Permit must be obtained for each sign. A "None" entry indicates that a Building Permit is not required, provided that the sign complies with all other applicable provisions of these Regulations. An "SE" indicates that each such sign is permitted only as a Special Exception use authorized pursuant to Section 502. A "Use" entry indicates that a permit pursuant to Section 500.4 must be obtained for each such sign.

If the proposed sign(s) will be accessory to a structure, use or development that otherwise is required to obtain a building or use permit or development approval, all pertinent information regarding the sign(s) must be included as part of the otherwise-required application(s).

E. Maximum Area or Face - Defines the maximum number of square feet, or the rule for calculating the maximum number, that may be included within the face of any single permitted sign of the given class, regardless of the type; the number is not to be interpreted as a separate limit for each type identified in Column B, but the maximum area may be divided among more than one sign to the extent permitted in Column F. Subject to the limit in Column F regarding the maximum number of signs, compliance with the maximum area is determined by the following rules:

DETERMINING AREA - EXAMPLES



ORDER RECEIVED FOR FILING
Date 10/12/16
By DLH

RECEIVED

OCT 12 2016

OFFICE OF ADMINISTRATIVE HEARINGS

Law Offices
MARVIN I. SINGER
Suite 1501
201 North Charles Street
Baltimore, Maryland 21201
MISlaw1@yahoo.com

(410) 685-1111

Fax (410) 685-2372

October 10, 2016

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

Re: Petitions for Special Hearing and Variance
Case No. 2017-0023-SPHA
Property: 11311 Reisterstown Road

Dear Judge Beverungen:

Enclosed is the Motion for Reconsideration on behalf of the Petitioner in the above-entitled case.

Respectfully submitted,

Marvin I. Singer

Cc: Barry Stoler
Peter Max Zimmerman, Esq.
Mitchell Kellman
George Harman
All with copies of Motion

MIS/m
Encl.

IN RE:

PETITIONS FOR SPECIAL HEARING AND VARIANCE	*	BEFORE THE
(11311 Reisterstown Road) 4th Election District 2nd Council District Colonial Stoler, LLC *Owner*	*	OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
Petitioner	*	Case NO.: 2017-0023-SPHA

****

MOTION FOR RECONSIDERATION

Petitioner, by its attorney, Marvin I. Singer, respectfully moves for reconsideration of the denial of the relief requested in the Petition for Special Haring, as to a determination of the method of computing the area of the sign in question. The factual circumstances are not in dispute, and the issue is construction of the Sec. 450.3 of the Baltimore County Zoning Regulations.

The pertinent portions of that Regulation are the definitions of "Area" and "Message"; and Petitioner asserts that a reading of the clear and unambiguous wording there produces a result contrary to the County's interpretation. The cornerstone of the Opinion is the determination that the "zoning staff's long-standing interpretation of the sign regulations" is entitled to "deference". Well established law runs counter to that view, as the meaning of the Regulation is a matter of law.

A starting point is the holding by the Court of Appeals in *Scheve v. Scheve*, 328 Md. 363, 614, A.2d 582 (1992), to the following effect:

> In construing a legislative enactment the fundamental judicial task is to determine and effectuate the legislature's intent, and indeed the very language of the statute serves as the primary source of the legislature's intent. To accomplish this task "the words of the

> statute are to be given their ordinary and natural import. (Citations omitted.) 614 A.2d at 586-87.

Previously, the Court had expressed the principle without qualification:

> ...In construing [the statute], the real and actual intent of the legislature must be ascertained. The primary source for determining the legislature's intent is the language of the statute itself which should be construed according to its ordinary and natural import. A statute should not be construed by forced or subtle interpretations designed to extend or limit the scope of its operation. Thus, where statutory language is plain and free from ambiguity and expresses a definite and sensible meaning, no construction or clarification is needed or permitted. (Citations omitted.)

Comptroller of the Treasury v. Fairchild Industries, Inc., 303 Md. 280, 493 A.2d 341 at 343 (1985). More recently, the standard was succinctly stated in *Gwin v. Motor Vehicle Administration*, 385 Md. 440, 869 A.2d 822, 835: "Moreover, principles of statutory construction dictate that where the language of a statute is clear, courts may not insert or omit words to make the statute express an intention not evident in its original form. *Bridges,* 304 Md. at 10-11, 497 A.2d at 147."

A fuller exposition of the controlling law with respect to statutory interpretation is found in *Addison v. Lochearn Nursing Home*, 411 Md. 251, 983 A.2d 138, 153.

> ...We begin our analysis by first looking to the normal, plain meaning of the language of the statute, reading the statute as a whole to ensure that "no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory." If the language of the statute is clear and unambiguous, we need not look beyond the statute's provisions and our analysis ends. In construing a statute, "[w]e neither add nor delete words to a clear and unambiguous statute to give it a meaning not reflected by the words the Legislature used or engage in forced or subtle interpretation in an attempt to extend or limit the statute's meaning." ("[T]his Court . . . first will look to the normal, plain meaning of the language, and, if the language is clear and unambiguous, it will not look past those terms.") (internal quotations omitted); ("When interpreting a statute, the ordinary,

> popular understanding of the English language dictates interpretation of its terminology.") (internal quotations omitted); ("The words of the statute should be given their ordinary and commonly understood meaning"); ("[T]he Court considers the language of an enactment in it is natural and ordinary signification. A corollary to this rule is that if there is no ambiguity or obscurity in the language of a statute, there is usually no need to look elsewhere to ascertain the intent of the General Assembly.") . . . .

Against that backdrop, and consistent with the expressed policy, are the decisions illustrating where, as here, deference to the interpretation of a statute or regulation is inappropriate. Summarizing a court's role in reviewing an issue of statutory interpretation, the Court of Special Appeals, in *The New Parkman Housing Ltd. Partnership v. St. Dept. of Assessments & Taxation*, 98 Md. App. 431, 633 A.2d 495, 497 ruled "we are not bound by the decision of the agency, but may substitute our interpretation of the statute for that of the agency." The Court observed that the purpose of the statute was a focus point, the language employed was paramount. "Although where the langue of the statute is unambiguous and consistent with the statute's apparent purpose, words will be accorded their ordinary meaning." *Id.*

And it is important to note that subparagraph A. of the definition provisions of Area are very specific. Thus, the rule stated in *DeJarnette v. Federal Kemper Ins. Co.*, 299 Md. 708, 475 A.2d 454, 459 is pertinent, to the effect that a "cardinal rule of statutory construction that specific terms prevail over the general language of a statute."

To adopt the County's interpretation is to effectively excise from the Regulation's definition of area the exclusion found in subparagraph A, relating to "any structural, supporting or decorative features which are not a part of the message." It is thus evident that granting deference results in the subparagraph being rendered totally ineffective. Any such interpretation which runs counter to the rules of statutory construction is ineffective and should not be

recognized. Such is the teaching of the decision in *Patterson Park Public Charter School v. The Baltimore Teachers Union*, 399 Md. 174, 923 A.2d 60 (2007).

> . . . In conducting statutory interpretation, our primary goal is always "to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by a particular provision, be it statutory, constitutional or part of the Rules." We begin our analysis by first looking to the normal, plain meaning of the language of the statute, reading the statute as a whole to ensure that **"no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory."** Further, whenever possible an interpretation should be given to the statutory provisions which does not lead to absurd consequences. ([T]he statute must be given a reasonable interpretation, "not one that is illogical or incompatible with common sense."). **If the language of the statute is clear and unambiguous, we need not look beyond the statute's provisions and our analysis ends. . . .**

923 A.2d at 74. (Emphasis supplied.) (Citations omitted.)

The regulation here under consideration fulfills those requirements and the legislative purpose to exclude from computation of the area those parts of the sign "not a part of the message."

Our appellate courts have consistently expressed the limitations upon granting deference to administrative interpretations of statutes or regulations. In *Dept. of Motor Vehicles v. The Greyhound Corp.*, 247 Md. 662, 234 A.2d 255 (1967) the Court of Appeals held that the construction of a statute by an agency "is persuasive only and not binding on this court." 247 Md. at 669. See also *Atlantic, Gulf & Pacific Co. v. State Dept. of Assessments & Taxation,* 252 Md. 173, 249 A.2d 180, 183. "It is well-settled that where the language of a statute is clear and unambiguous, an administrative interpretation contrary to that clear and unambiguous meaning will not be given effect by this Court." More recently, the Court of Special Appeals was equally explicit. In *Mueller v. People's Counsel of Baltimore County,* 177 Md. App. 43, 934 A.2d 974 (2007) the Court stated:

> . . . But, "[w]e are less deferential in our review . . . of the legal conclusions of the administrative body and may reverse those decisions where the legal conclusions reached by that body are based on an erroneous interpretation or application of the zoning statutes, regulations, and ordinances relevant and applicable to the property that is the subject of the dispute."

934 A.2d at 997 (Citations omitted.)

The principle was distinctly set forth in *Belvoir Farms Homeowners Assn. v. North*, 355 Md. 259, 734 A.2d 227 (1999), as follows:

> Generally, a decision of an administrative agency, including a local zoning board, is owed no deference when its conclusions are based upon an error of law. ("[W]e may reverse an administrative decision premised on erroneous legal conclusions.". . .

734 A.2d at 232. (Citations omitted.) *Belvoir* was cited to the same effect in *Talbot County v. Miles Point Property, LLC,* 415 Md. 372. 2 A.2d 344, 351 (2010).

The pertinent definitions found in Regulation 450.3 are as follows:

AREA

The number of square feet within the perimeter of one continuous rectangle enclosing the face of a sign. Except in the case of a wall-mounted sign, "area" includes the surface of all integral color, framing or other design feature by which sign is differentiated from the structure supporting it or upon which it is erected. "Area" does not include:

A. Any structural, supporting or decorative features which are not part of the message of the sign;;

B. Architectural features of the building upon which the sign may be erected, provided that such feature are distinguishable from the sign by means of differences of color or similar attributes; or

C. Air spaces located between freestanding signs of different classes which are erected on a common or shared supporting structure.

FACE

The flat planar surface within a continuous perimeter enclosing the outer limits of the message of a sign.

MESSAGE

A communication, statement or display of information or ideas through written words, letters, numerals, symbols, images, colors, illumination or theme comprising the face of a sign. The "message" may be distinguishable from the structural and supportive elements of the sign.

SIGN

Any structure or other object, or part thereof, which displays any word, illustration, decoration or other symbolic representation which.

A. Is used or intended to inform, advertise or otherwise attract attention or convey a message regarding an activity, condition or commercial or noncommercial organization, person, place or thing.

B. Has a "face" this is "visible" from a "highway" as each of these terms is defined in this section.

There is a total absence in those definitions of anything which would detract from the exclusion, in computing the area of a sign, of those features stated in subparagraph A. of the Area definition. That conclusion is heightened by the distinction in the Message definition, to the effect that the message "may be distinguishable from the structural and supportive elements of

the sign." Those provisions are "clear and unambiguous", and accordingly, an administrative interpretation contrary to such language "will not be given effect" by a reviewing court. *Atlantic, Gulf, supra.*

CONCLUSION

Petitioner earnestly urges reconsideration of the denial of the ruling as to the interpretation requested in the Petition for Special Hearing. Further Petitioner respectfully requests approval of a 45 sq. ft. sign, on the basis that deference to the zoning staff's interpretation of the regulation is unwarranted by controlling law, as set forth hereinabove. In short, granting of deference in these circumstances is prohibited by unyielding principles established by case law.

Respectfully submitted,

MARVIN I. SINGER
201 North Charles Street, Suite 1501
Baltimore, Maryland 21201
(410) 685-1111
(410) 625-2372 (Fax)
MISlaw1@yahoo.com

Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of October, 2016 a copy of the foregoing Motion for Reconsideration was mailed by first-class mail, postage prepaid to George Harman, 5429 Wegwood Drive, Reisterstown, MD 21136.

MARVIN I. SINGER

KEVIN KAMENETZ
County Executive

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

September 29, 2016

Marvin I. Singer, Esq.
201 N. Charles Street, #1501
Baltimore, Maryland 21201

RE: Petitions for Special Hearing and Variance
Case No. 2017-0023-SPHA
Property: 11311 Reisterstown Road

Dear Mr. Singer:

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:sln
Enclosure

c: Mitchell Kellman, 501 Fairmount Avenue, Suite 300, Towson, Maryland 21286
George Harman, 5429 Weywood Dr., Reisterstown, Maryland 21136

IN RE: **PETITIONS FOR SPECIAL HEARING AND VARIANCE**	*	BEFORE THE
(11311 Reisterstown Road)	*	OFFICE OF
4th Election District		
2nd Council District	*	ADMINISTRATIVE HEARINGS
Colonial Stoler, LLC		
Owner	*	FOR BALTIMORE COUNTY
Petitioner		
	*	**Case No. 2017-0023-SPHA**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Colonial Stoler, LLC, legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. as determined under the County's interpretation of the required area which includes the entire structure. In the alternative, a Petition for Variance seeks to permit a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted. A site plan was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing in support of the requests were Barry Stoler and Mitchell Kellman. Marvin I. Singer, Esq. represented the Petitioner. George Harmon, on behalf of the Reisterstown-Owings Mills-Glyndon Coordinating Council, opposed the request. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR), concerning landscaping and lighting requirements.

The subject property is 4.085 acres in size and is zoned BR. A Lexus automobile dealership ("Len Stoler Lexus") is operated at the property. Counsel indicated the manufacturer

ORDER RECEIVED FOR FILING
Date 9-29-16
By DLH

has adopted new branding and logos, and that the applicable agreements require franchisees to install new signage at the dealership.

SPECIAL HEARING

Petitioner's counsel and Mr. Kellman met with County zoning staff to discuss the petition. The County determined - - in keeping with its long-standing policy - - the sign area included the entire 9' x 25' structure shown on the plan. Petitioner contends the sign area should only include the approximate 45 sq. ft. rectangle containing the "Lexus" script and logo, and the special hearing request seeks confirmation of this interpretation.

The resolution of this issue involves several definitions found in the sign regulations, including: "area," "face," "message," and "sign." B.C.Z.R. §450.3. The determination of a sign's "area" involves drawing a rectangle around the "face" of the sign. The face is the flat surface containing the "message of the sign." Under the Regulations the "message" includes not only "written words" and "symbols," but also "colors, illumination or theme comprising the face of a sign." According to Mr. Kellman, County staff believed the color, design and theme of the sign were integral to the message it delivered; i.e., the "Lexus" brand.

While there are reasonable arguments on both sides, I believe under Maryland law I am obliged to defer to the zoning staff's long-standing interpretation of the sign regulations. Mr. Kellman confirmed the calculation of the sign area in this case was consistent with the agency's procedure and determination in similar cases. As Maryland's highest court has held, the "interpretation of a statute by the agency charged with its administration is entitled to great deference, especially when the interpretation has been applied consistently and for a long period of time." *BGE v. Public Service Comm'n.*, 305 Md. 145, 161 (1986).

ORDER RECEIVED FOR FILING
Date 9-29-16
By

VARIANCE

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).

While the dimensions of the property are somewhat irregular, the site does not have any truly inherent characteristics (i.e., size, shape, topography, etc.) that would render it unique under Maryland law. The petitioner must establish the property is unique or peculiar in a way that is unlike other properties in the neighborhood. In a contested case requiring a rigorous application of the variance standard, the petitioner faces an uphill battle. In fact, I was unable to locate a Maryland appellate court opinion from the last twenty years which upheld the grant of a variance. Under Maryland law, variances should be granted "sparingly" since it is "an authorization for [that] …which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 699.

THEREFORE, IT IS ORDERED this **29th** day of September**, 2016**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a sign of 45 sq. ft. in lieu of the 225 sq. ft. under the County's interpretation of the required area which includes the entire structure, be and is hereby DENIED.

IT IS FURTHER ORDERED the petition for variance to permit a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted, be and is hereby DENIED.

ORDER RECEIVED FOR FILING
Date 9-29-16
By

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 9-29-16
By sln

PLEASE PRINT CLEARLY

CASE NAME 2017-0023-SPHA
CASE NUMBER COLONIAL STOLER LLC
DATE 9-23-16

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
MARVIN SINGER	201 N. CHARLES ST.	BALTO. MD. 21201	MSinger@yahoo.com
BARRY STOLER	11311 REISTERSTOWN RD.	OWINGS MILLS, 21117	
MITCHELL KELLMAN	501 Fairmount Ave, Ste 300	Towson, MD 21286	MKellman@dmw.com

PLEASE PRINT CLEARLY

CASE NAME Colonial Stoler LLC
CASE NUMBER 2017-0023 SPHA
DATE 23 Sept 2016

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
George Harman	5429 Weywood Dr.	Reisterstown, MD 21136	harmangeorge@hotmail.com

KEVIN KAMENETZ
County Executive

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

September 14, 2016

Colonial Stoler LLC
11275 Reisterstown Road
Reisterstown MD 21175

RE: Case Number: 2017-0023 A, Address: 11311 Reisterstown Rd

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on July 22, 2016. 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Marvin I Singer, Esquire, 201 N Charles Street, Suite 1501, Baltimore MD 21201

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

State Highway Administration
Maryland Department of Transportation

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

Date: 8/1/16

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

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the Case number referenced below, which was received on 8/1/16. A field inspection and internal review reveals that an entrance onto MD140 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance, Case Number 2017-0023-SPHA.

Colonial Stoler LLC, Leonard Stoler, Member
11311 Reisterstown Road.
MD140.

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,

Richard A Zeller

Wendy Wolcott, PLA
Acting Metropolitan District Engineer – District 4
Baltimore & Harford Counties

WW/RAZ

9-23

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: August 22, 2016

FROM: Andrea Van Arsdale
Director, Department of Planning

RECEIVED
AUG 31 2016
OFFICE OF ADMINISTRATIVE HEARINGS

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 17-023

INFORMATION:
Property Address: 11311 Reisterstown Road
Petitioner: Colonial Stoler, LLC
Zoning: BR
Requested Action: Variance

The Department of Planning has reviewed the petition for variance to permit a sign of 225 sq. ft. in lieu of the permitted 50 sq. feet and in the alternative, the petition for special hearing permitting a sign area of 45 sq. ft. under the County's interpretation of the required area including the entire structure.

A site visit was conducted on August 10, 2016.

The Department has no objection to granting the petitioned zoning relief.

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

Prepared by:

Lloyd T. Moxley

Division Chief:

Kathy Schlabach

AVA/KS/LTM/ka

c: Bill Skibinski
Colonial Stoler, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: August 4, 2016

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For August 08, 2016
Item No. 2017-0023

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

If granted, the petitioner must contact Jim Hermann, the County Landscape Architect to discuss planting and lighting in conjunction with new signage.

* * * * * *

DAK:CEN
cc:file

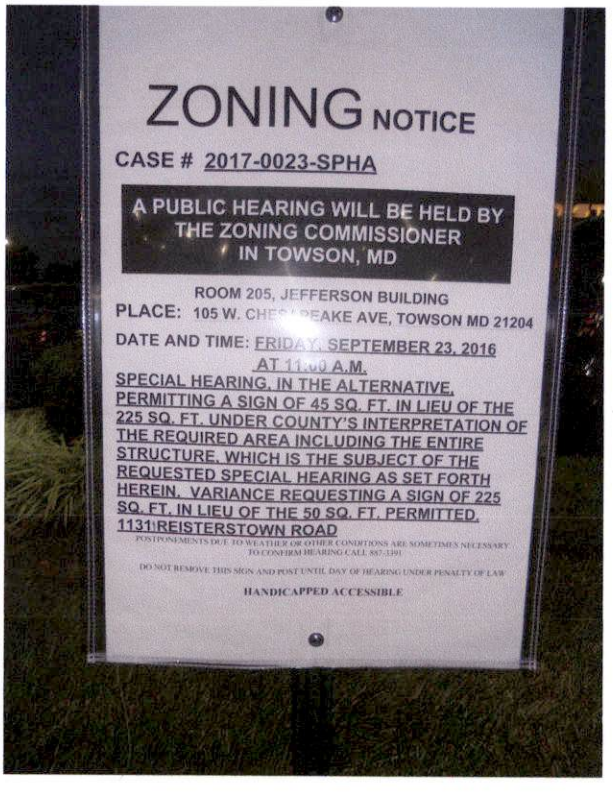
ZAC-ITEM NO 16-0023-08082016.doc

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS
DATE: 9/5/2016
Case Number: 2017-0023-SPHA
Petitioner / Developer: MARVIN I. SINGER, ESQ. ~ COLONIAL STOLER
Date of Hearing (Closing): SEPTEMBER 23, 2016

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
11311 REISTERSTOWN ROAD

The sign(s) were posted on: SEPTEMBER 3, 2016



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 – 666 – 5366
(Telephone Number of Sign Poster)

THE BALTIMORE SUN MEDIA GROUP

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

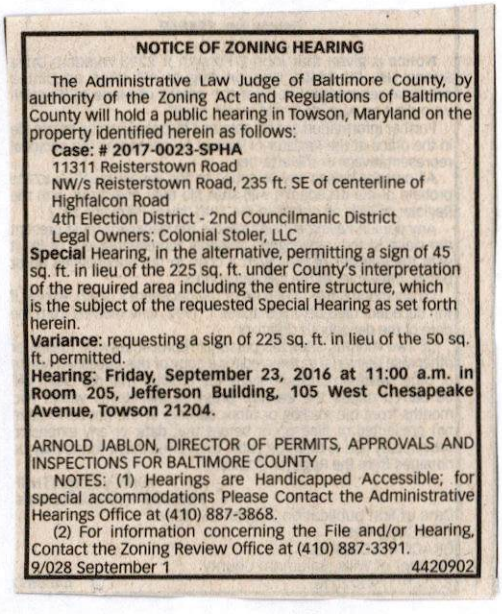
WE HEREBY CERTIFY, that the annexed advertisement of Order No 4420902

Sold To:
Martin Singer Esq - CU00558448
201 N Charles St
Ste 1501
Baltimore,MD 21201-4130

Bill To:
Martin Singer Esq - CU00558448
201 N Charles St
Ste 1501
Baltimore,MD 21201-4130

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

Sep 01, 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: # 2017-0023-SPHA
11311 Reisterstown Road
NW/s Reisterstown Road, 235 ft. SE of centerline of Highfalcon Road
4th Election District - 2nd Councilmanic District
Legal Owners: Colonial Stoler, LLC

Special Hearing, in the alternative, permitting a sign of 45 sq. ft. in lieu of the 225 sq. ft. under County's interpretation of the required area including the entire structure, which is the subject of the requested Special Hearing as set forth herein.

Variance: requesting a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted.

Hearing: Friday, September 23, 2016 at 11:00 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.

9/028 September 1 4420902

The Baltimore Sun Media Group

By S. Wilkinson

Legal Advertising

KEVIN KAMENETZ
County Executive

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

August 24, 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 NUMBER: 2017-0023-SPHA
11311 Reisterstown Road
NW/s Reisterstown Road, 235 ft. SE of centerline of Highfalcon Road
4th Election District – 2nd Councilmanic District
Legal Owners: Colonial Stoler, LLC

Special Hearing, in the alternative, permitting a sign of 45 sq. ft. in lieu of the 225 sq. ft. under County's interpretation of the required area including the entire structure, which is the subject of the requested Special Hearing as set forth herein. **Variance** requesting a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted.

Hearing: Friday, September 23, 2016 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director

AJ:kl

C: Marvin Singer, 201 N. Charles Street, #1501, Baltimore 21201
Colonial Stoler, LLC, 11275 Reisterstown Road, Owings Mills 21175

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, SEPTEMBER 3, 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.

RE: PETITION FOR SPECIAL HEARING AND VARIANCE	*	BEFORE THE OFFICE
11311 Reisterstown Road; NW/S Reisterstown Road, 235' SE of c/line of High Falcon Road	*	OF ADMINSTRATIVE
4th Election & 2nd Councilmanic Districts	*	HEARINGS FOR
Legal Owner(s): Colonial Stoler LLC by Leonard Stoler, Member	*	BALTIMORE COUNTY
Petitioner(s)	*	2017-023-SPHA

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S Demilio

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

RECEIVED
AUG 02 2016

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of August, 2016, a copy of the foregoing Entry of Appearance was mailed to Marvin Singer, Esquire, 201 N. Charles Street, Suite 1501, Baltimore, Maryland 21201, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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 11311 Reisterstown Rd. **which is presently zoned** BR

Deed References: 19598-00093 10 Digit Tax Account # 2100012552

Property Owner(s) Printed Name(s) Colonial Stoler LLC

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

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

1. X **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve the requested variance, computing the area of the proposed sign pursuant to the provisions of Sec. 450.3 A.

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

3. X **a Variance** from Section(s) See attached addendum.

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

Legal Owners (Petitioners):

Colonial Stoler LLC By:
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Member Signature # 2

11275 Reisterstown Road
Mailing Address City State

Owings Mills, MD
21175 / 410-356-7000 /
Zip Code Telephone # Email Address

Attorney for Petitioner:

Marvin I. Singer
Name- Type or Print

Signature

201 N. Charles St. #1501 Balto., MD 21201
Mailing Address City State

21201 / 410-685-1111 / MISlaw1@yahoo.com
Zip Code Telephone # Email Address

Representative to be contacted:

Sameas Attorney
Name – Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 9-29-16
By

CASE NUMBER 2017-0023-SPHA **Filing Date** 7/27/2016 **Do Not Schedule Dates:** _____ **Reviewer** _____

REV. 10/4/11

ADDENDUM TO REQUEST FOR VARIANCE
11311 REISTERSTOWN ROAD
Case No. 2017-0023-SPHA

Variance Request – Section 450.4 Attachment 1 #5(g)

MJK To request a variance permitting a sign of 225 sq. ft. in lieu of the 50 sq. ft. permitted by Sec. 450.4, or

Special Hearing

In the alternative, permitting a sign of 45 sq. ft. in lieu of the 225 sq. ft. under the County's interpretation of the required area including the entire structure, which is the subject of the requested Special Hearing, as set forth herein.

DAFT McCUNE WALKER

Description

To Accompany Petition

For a Variance and/or Special Hearing

Baltimore County, Maryland

Election District 4 Councilmanic District 2

11311 Reisterstown Road

Beginning for the same at the end of the second of the following two courses and distances measured from the point formed by the intersection of the centerline of Reisterstown Road with the centerline of High Falcon Road; (1) Northeasterly along the centerline of High Falcon Road 218.00 feet, more or less; thence leaving said centerline and running (2) Southeasterly 30.00 feet, more or less, to the point of beginning; thence leaving said point of beginning and running with a portion of the Southeast side of said High Falcon Road (1) North 44 degrees 23 minutes 10 seconds East 116.74 feet; thence (2) South 70 degrees 00 minutes 20 seconds East 95.05 feet; thence (3) South 66 degrees 48 minutes 25 seconds East 482.73 feet; thence (4) South 46 degrees 15 minutes 12 seconds West 537.67 feet; thence (5) North 44 degrees 13 minutes 22 seconds West 286.76 feet; thence (6) North 46 degrees 00 minutes 20 seconds East 200.00 feet; thence (7) North 45 degrees 36 minutes 50 seconds West 238.11 feet to the point of beginning; containing 4.085 acres, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

July 25, 2016

Project No. 16022 (L16022)

STATE OF MARYLAND
MICHAEL DAVID MARTIN
No. 21234
PROFESSIONAL LAND SURVEYOR

7.25.16

2017-0023-SPHA

501 Fairmount Avenue, Suite 300, Towson, MD 21286 p: 410 296 3333 f: 410 296 4705 www.dmw.com

fio
12/23

IN RE: PETITION FOR VARIANCE
N/S Reisterstown Road, 540' SE of
the c/l High Falcon Road
(11275 Reisterstown Road)
4th Election District
3rd Councilmanic District

Leonard Stoler
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 99-201-A
*

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Leonard Stoler, through his attorney, Marvin I. Singer, Esquire. The Petitioner seeks relief from Section 238.2 of the Baltimore County Zoning Regulations to permit a side yard setback of 0 feet in lieu of the required 30 feet for a proposed 52' x 13' addition. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Barry Stoler, Edwin S. Howe, Professional Engineer who prepared the site plan of the property, and Marvin I. Singer, Esquire. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property consists of a gross area of 4.04 acres, more or less, zoned B.R. and is the site of the Len Stoler Automobile Dealerships, comprised of Lexus, Chrysler, Ford, Plymouth, Porche and Audi vehicles. The Petitioner is desirous of constructing a small, 680 sq.ft., addition to the southeast side of the existing Chrysler Building, identified as 11309 Reisterstown Road, just south of High Falcon Road. The proposed addition will house parts and supplies for the Chrysler automobiles sold from this site. However, the existing building is located on two separate parcels, one of which is owned by Colonial Stoler Partnership,

and the other, owned by Len Stoler, Inc. Thus, the variance relief being requested is from an interior lot line separating two properties owned or controlled by the Stoler family.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
>
> 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
>
> 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

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

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the subject property and that strict compliance with the zoning regulations will unduly restrict the use of the land due to the special conditions unique to this particular parcel. Given the overall development of the site, and the fact that the variance is from an interior lot line, I am persuaded to grant same. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of January, 1999 that the Petition for Variance seeking relief from Section 238.2 of the Baltimore County Zoning Regulations to permit a side yard setback of 0 feet in lieu of

the required 30 feet for a proposed 52' x 13' addition, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

Timothy Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Board of Appeals

Case No: 17-023 SPHA Case Name: Colonial Storer

Exhibit List

Party: People's Counsel Date: 1/19/17

Exhibit No:	Description:	ADMIT
✓ 1	~~§~~ 450.8 BCZR	✓
✓ 2	4-69.9 + .10 - of Zoning Commissioner's Policy Manual (2 pages)	✓
✓ 3	Site Plan (Aerial) county.	✓
✓ 4	Zoning Map	✓
	VERIFIED BY KC DATE: 1/25/17	

PC-1

Baltimore County, MD
Wednesday, January 18, 2017

ARTICLE 4. Special Regulations

SECTION 450. Signs

§ 450.8. Administration and compliance.

A. Interpretation.

1. 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.

2. No special exception or variance may be granted if it will result in the authorization of a sign class which is not otherwise permitted for a particular zone or use by Section 450.4.

3. A sign for which a special exception, development plan, use permit or variance has been approved prior to the effective date of Bill No. 89-1997 may be erected in accordance with the sign provisions in effect at the time of said approval, subject to the abatement provisions of Section 450.8.D.

B. Abandoned signs. In order to prevent blight in established communities, diminution of property values, hazards of personal injury or damage to adjacent properties, the provisions of Section 450.8.B shall be construed, to the greatest extent possible, to require the removal of abandoned signs at the earliest possible moment.

1. A temporary sign is considered abandoned on the seventh consecutive day following the conclusion of the event or activity to which it pertains.

2. A permanent sign is considered abandoned one year after the commercial or noncommercial organization to which it was accessory permanently ceases operating.

3. An outdoor advertising sign is considered abandoned 180 days after its owner has ceased to display a message thereon.

4. An abandoned sign shall be removed by the owner of the premises or the owner of the sign if different from the owner of the premises. If an abandoned sign is not removed, it may be removed by the county in a manner provided by law. In the case of an abandoned freestanding sign which is not a contiguous sign, all structural framework or supporting elements other than the foundation upon which the sign is erected must also be removed.

C. Nonconforming signs.

1. A sign violating any provision of Section 450 shall be considered:

a. A legally nonconforming sign if the sign was lawfully erected and complies with all applicable sign laws and regulations in effect prior to the effective date of Bill No. 89-1997; or

People's Counsel
CBA Exhibit

b. An illegal sign, if the sign was not lawfully erected, is in violation of applicable sign laws and regulations in effect prior to the effective date of Bill No. 89-1997 or is prohibited under Section 450.6.A.

2. A legally nonconforming sign may continue to exist, subject to the maintenance requirements of Section 450.6.C and the abatement requirements in Section 450.8.D.

3. An illegal sign must be removed in accordance with the abatement provisions in Section 450.8.D.

4. Notwithstanding the maintenance requirements of Section 450.6.C, a legally nonconforming sign may be structurally altered, replaced, relocated or otherwise changed only for the purpose of correcting nonconformity. This requirement is not applicable to changes of copy or message on the face of a legally nonconforming sign.

5. A sign accessory to a nonconforming use is also considered nonconforming if the sign does not comply with Section 450. Termination of the right to continue the nonconforming use pursuant to Section 104 of these regulations also terminates the right to maintain the sign.

6. A person desiring a determination on a nonconforming sign may petition the Zoning Commissioner in accordance with Section 500.7 of these regulations.

7. A sign that is legally nonconforming solely because of a change in the "urban area" boundary pursuant to 23 U.S.C. Section 101(A) or the Annotated Code of Maryland is not subject to the abatement requirements of Section 450.8.D.

8. There are a small number of nonconforming signs that are of such extraordinary significance to the county or the community that removal would be detrimental. At least 14 days prior to the adoption of Bill No. 89-1997, or at any time thereafter, the owner of a nonconforming sign may request an exemption from the abatement provisions of 450.8.D based on the historical, traditional, cultural or aesthetic value of the sign. In making a determination, the Director of the Department of Planning shall consider the significance of the sign, its conformity to the Master Plan, as amended, and the difficulty of making the sign structurally sound without substantially destroying its character. If the Planning Board approves an exemption from the provisions of Section 450.8.D, the sign shall remain exempt from the provisions of Section 450 if the sign is relocated or if the use to which the sign is accessory changes; however, the sign shall be subject to repair and removal if the Director of Permits, Approvals and Inspections determines that the sign is damaged or deteriorated to the extent that it constitutes an imminent danger to the public safety.
[Bill Nos. 122-2010; 55-2011]

D. Abatement.

1. Because the indefinite continuation of many nonconforming signs would perpetuate conditions contrary to the policies expressed in Section 450.1.A, all nonconforming signs except as provided herein must be brought into compliance or be removed within a certain time limit. Fairness will be enhanced in the future through uniform application of these regulations. Sign owners will be encouraged to comply with Section 450 and will be given a reasonable time period to recover their investments in existing signage. Therefore, except for enterprise signs in residential zones, temporary signs, and legally nonconforming signs erected prior to 1960 along numbered U.S. Highways, excluding U.S. Route 1, all legally nonconforming signs, including those approved by variance pursuant to Section 307 of these regulations, must be removed, at no expense to the County, no later than 15 years from the effective date of Bill No. 89-1997.

[Bill No. 42-2014[1]]

[1] *Editor's Note: Section 2 of Bill No. 42-2014 stated that it would take effect 8-18-2014 and would apply retroactively to legally nonconforming signs, as provided in the bill.*

2. A legally nonconforming sign which must be removed may continue to exist if the sign is brought into, and thereafter remains, in compliance with the provisions of Section 450.

3. A sign shall be removed on the effective date of Bill No. 89-1997 if the sign:

   a. Was not lawfully erected or is in violation of the applicable sign laws and regulations in effect prior to the effective date of Bill No. 89-1997;

   b. Is abandoned pursuant to Section 450.8.B;

   c. Violates Section 450.6.A.1 through 7;

   d. Is damaged or deteriorated to the extent that it constitutes an imminent danger to the public safety.

4. Notwithstanding the provisions of Section 104.1 concerning nonconforming uses, a sign must be removed or brought into compliance with Section 450 by the 180th day after the effective date of Bill No. 89-1997 if the sign:

   a. Violates Section 450.6.A.8 by having illegal moving or changeable parts;

   b. Violates Section 450.6.B by having improper illumination; or

   c. Is an enterprise sign in a residential zone or a temporary sign.

5. [Bill No. 139-2006]

   a. Unless precluded by state law, the Director of Permits, Approvals and Inspections may hold the owner of a sign or any entity identified on a sign responsible for removal of the sign if removal is required under these regulations. The sign may also be removed by the County in any manner provided by law.
   [Bill No. 122-2010]

   b. The Director may hold the property owner or the campaign treasurer responsible for removal of political signs.

6. Notwithstanding the provisions of Section 104.1 concerning nonconforming uses, a sign must be removed or brought into compliance with Section 450 by the 180th day after the effective date of Bill No. 106-2008 if the sign:
   [Bill No. 106-2008]

   a. Is an electronic changeable copy sign.

   b. Is an enterprise window sign.

TABLE-DEFINITION OF COLUMNS- The following table specifies the allowable combinations of sign classes and sign types, along with locational, dimensional and other pertinent conditions, as follows:

Column:

A. Class - Refers to the overall purpose and general character of the entire sign.

B. Structural Type - Identifies the structural type(s) that may be used to display signs of the given class, subject to the requirements in the succeeding columns. (See definitions of types on Page 4.)

C. Zone or Use - Defines the zone(s) wherein signs of the class and type combination(s) may be displayed. In certain cases, the permissibility is granted for a sign in conjunction with a particular type of land use, as identified in this column, in whichever zone(s) such use is permitted.

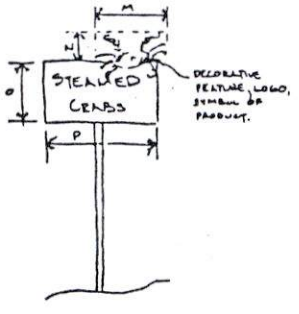
D. Permit Required - A "Bldg." entry indicates that a Building Permit must be obtained for each sign. A "None" entry indicates that a Building Permit is not required, provided that the sign complies with all other applicable provisions of these Regulations. An "SE" indicates that each such sign is permitted only as a Special Exception use authorized pursuant to Section 502. A "Use" entry indicates that a permit pursuant to Section 500.4 must be obtained for each such sign.

If the proposed sign(s) will be accessory to a structure, use or development that otherwise is required to obtain a building or use permit or development approval, all pertinent information regarding the sign(s) must be included as part of the otherwise-required application(s).

E. Maximum Area or Face - Defines the maximum number of square feet, or the rule for calculating the maximum number, that may be included within the face of any single permitted sign of the given class, regardless of the type; the number is not to be interpreted as a separate limit for each type identified in Column B, but the maximum area may be divided among more than one sign to the extent permitted in Column F. Subject to the limit in Column F regarding the maximum number of signs, compliance with the maximum area is determined by the following rules:

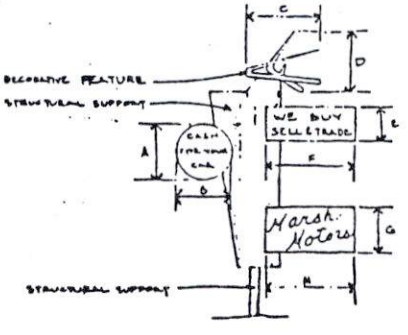
DETERMINING AREA - EXAMPLES

EXAMPLE 1



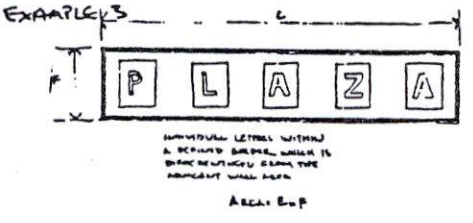
AREA = (M × N) + (O × P)

EXAMPLE 2

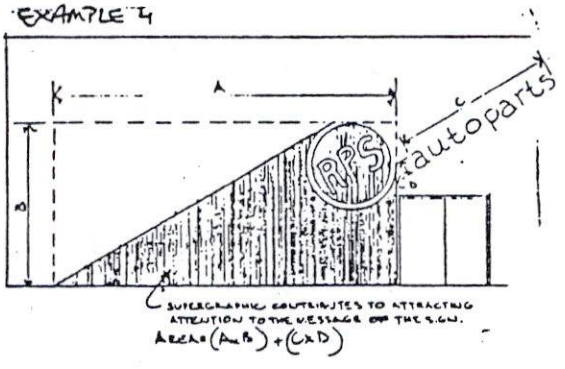


AREA = (A × B) + (C × D) + (E × F) + (G × H)

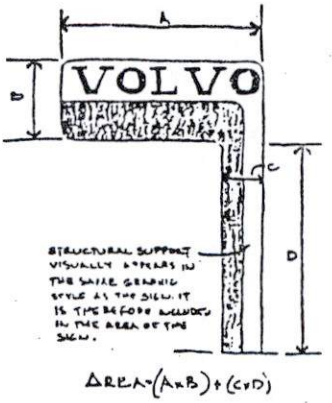
EXAMPLE 3



EXAMPLE 4



EXAMPLE 5



People's Counsel
CBA Exhibit
2

1. "Area" as pertaining to the maximum number of square feet allowed to constitute the face of a sign:

   a. Means the sum of the surface areas included within a continuous perimeter formed by one or more contiguous rectangles that enclose the outer limits of every writing, illustration and symbol comprising the message of the sign; and

   b. Includes the surface area of all integral color or framing or other material by which the sign is differentiated from the structure on which it is erected; and

   c. Does not include any structural, supporting, or decorative features that are not intended to comprise part of the message of the sign; unless in the judgment of the Zoning Commissioner, the size is greater than that necessary to support the sign. See the following cases: 88-291XSPHA
   88-386SPHA
   88-432SPHA
   89-66SPHA

2. "Face" means the full surface area of a complete, separate sign as displayed for viewing including the space between and around individual letters, figures or designs as determined by the Zoning Commissioner. Each face of each permitted sign is measured and counted to determine compliance.

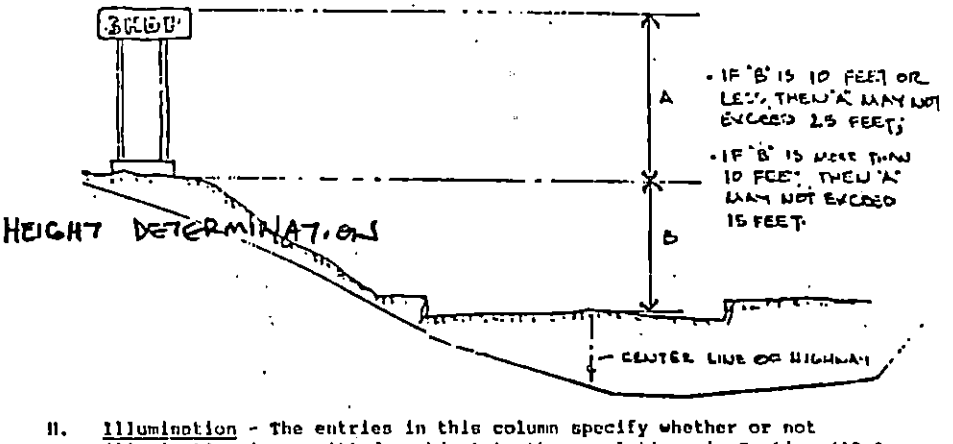
F. Maximum Number/Premises - Subject to the rules for Column E regarding measuring and counting, the entries in this column define the maximum number of separate signs of the given class, or the rule for calculating the maximum number, that may be displayed on a single premises. Unless otherwise explicitly stated, number is not to be interpreted as a separate limit for each type identified in Column B.

Double-faced, triple-faced, cube, and other multi-faced signs require that all sides or faces be counted in computing the total square footage. However, each face does not constitute a separate sign towards the total number of signs permitted. Multi-faced signs could be permitted if the total square footage does not exceed the maximum.

See the following cases: 85-110
85-113SPH
86-19XA
87-66-A7
88-250SPHA

The term "frontage" in this column means a lot line of the premises that is conterminous with a right-of-way line of a highway to which the premises has or would be allowed either pedestrian or vehicular access.

G. Maximum Height - The entries in this column specify the maximum allowable height. "Height" means the vertical distance between the highest point on a sign and either (a) the finished grade at the base of the sign or (b) the elevation at the centerline of the nearest adjoining highway other than a highway built as an elevated structure, whichever measurement allows the greater elevation for the sign.



HEIGHT DETERMINATIONS

H. Illumination - The entries in this column specify whether or not illumination is permitted, subject to the regulations in Section 413.1. If illuminated, they must be of an enclosed lamp design, non-flashing and non-colored; or the beaded reflector type and must be located to avoid glare or reflection onto adjacent roads or residences. (See also discussion of electronic signs on Page 8.)

I. Special Conditions - The entries in this column specify limitations on the allowed signage or provide cross-reference to applicable provisions in the B.C.Z.R. or the Zoning Commissioner's Policy Manual (Z.C.P.M.).

Board of Appeals

Case No: 17-023 SPHA Case Name: Colonial Stolen

Exhibit List

Party: Colonial Stolen Date: 1/19/17 Admiss

Exhibit No:	Description:	
✓ 1	Section 452.3	✓ ~~Admit~~
✓ 2	Rendering of Sign	✓
✓ 3	Plat For Site	✓
✓ 4	Small Photo of Existing Sign	✓
✓ 5	Large Google Photo of existing Sign	✓
✓ 6	Large Google Photo of Rolling Run Rd. Southern Direction	✓
✓ 7	Large Google Photo of Rolling Run Rd past Site	✓
✓ 8	Large Google Photo of Rolling Run Rd. Northern Direction (Sign not Depicted)	✓
✓ 9	Photo of Toyota Sign For Comparison	ID only not Admit
✓ 10	Comar 11.12.	✓
	VERIFIED BY KC DATE: 1/25/17	

LEXUS
PORSCHE
Petitioner
CBA Exhibit
#4

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently own and reside at 7514 (Address number) Day's Woods Court (Road or Street name)

and that this address is the subject of this variance request as required by law.

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate the hardship or practical difficulty; attach an additional sheet if needed) We wish to construct an 8' x 8' attached Breezeway and a 24' x 24' Garage to the side of our existing residence that will encroach some 23' into the 50' BRL. The present side yard setback is some 50' at its closest point to the side boundary and after the addition has been completed, this measurement will be some 27'. This hardship is peculiar to our property in contrast with other neighboring properties in the zoning district because of it's size and shape and is not the result of our own actions. Failure to grant this request for a variance would also result in our inability to make a reasonable use of our property.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, and the Affiant(s) desire to proceed with their variance request, they will be responsible for reposting the property and for payment of the advertising fees. They also understand that they may be required to provide additional information.

Dennis Kurgansky
Signature

Dennis Kurgansky
Name- print or type

Barbara Kurgansky
Signature

Barbara Kurgansky
Name- print or type

A Notary Public must complete the following section prior to the filing appointment.

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, this 13 day of July, 2016 before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared:

(Name Affiant(s) here): Beverly H. Rhodes
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Beverly H. Rhodes
Name of Notary Public

8-11-19
Commission expires

PLACE SEAL HERE:

2017-0019-A

AREA

The number of square feet within the perimeter of one continuous rectangle enclosing the face of a sign. Except in the case of a wall-mounted sign, "area" includes the surface of all integral color, framing or other design feature by which sign is differentiated from the structure supporting it or upon which it is erected. "Area" does not include:

A. Any structural, supporting or decorative features which are not part of the message of the sign;

B. Architectural features of the building upon which the sign may be erected, provided that such features are distinguishable from the sign by means of differences of color or similar attributes; or

C. Air spaces located between freestanding signs of different classes which are erected on a common or shared supporting structure.

FACE

The flat planar surface within a continuous perimeter enclosing the outer limits of the message of a sign.

MESSAGE

A communication, statement or display of information or ideas through written words, letters, numerals, symbols, images, colors, illumination or theme comprising the face of a sign. The "message" may be distinguishable from the structural and supportive elements of the sign.

Petitioner
CBA Exhibit
1

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 12 MOTOR VEHICLE ADMINISTRATION— LICENSING OF BUSINESSES AND OCCUPATIONS

Chapter 01 Dealers and Salesmen

Authority: Transportation Article, §§12-104(b), 13-503, 13-621, 15-102, 15-103, 15-105, 15-107, 15-108, 15-114, 15-305.1, 15-307—15-309, 15-311.1, 15-312, 15-313, 15-406, 15-408, 15-409, and 15-411; Commercial Law Article, §14-1502; Annotated Code of Maryland

.01 Dealer Licensing and Registration.

A. The Administration may refuse to grant a license to any person as a dealer or may suspend, revoke, or refuse to continue the license of a dealer already issued, unless meeting the requirements contained here.

B. A person applying for a dealer license shall submit the application on forms approved by the Administration, along with the fee as set forth in COMAR 11.11.05.

C. A dealer license shall be issued for a 2-year period.

.02 Location Requirements.

A. Each location shall be subject to inspection by an authorized representative of the Administration before approval of application for dealer registration.

B. Following approval of the application, the location shall be maintained in accordance with the applicable provisions of Transportation Article, Annotated Code of Maryland, and the regulations promulgated by the Administration. Licensees are subject to reinvestigation by authorized representatives of the Administration.

C. Only one license for the type of vehicle being offered for sale will be permitted at any one location, and once the location has been licensed, it may not be subdivided for the purpose of establishing other businesses, under separate licenses for the same type of vehicle being offered for sale, without the prior approval of the Administration. This prohibition also applies to a licensee doing business under more than one corporate structure.

D. A dealer may do business in a name or under any title or designation other than the corporation name, provided that the title or designation is not misleading. A trade or corporate name that falsely states or implies that a dealer has a special relationship or connection with a manufacturer that other dealers do not have is misleading, and an example of a title or designation that may not be adopted by a dealer. The dealer's application for license shall state the full corporate name and all "trading as" or "doing business as" names. Example: ABC Pontiac-----GMC-----Nissan-----Volvo, Inc.; T/A ABC Volvo, T/A ABC Nissan, T/A ABC Pontiac-----GMC.

E. A dealer may hold multiple licenses, for example, new or used vehicle, motorcycle, and trailer dealers' licenses, provided that all licenses are issued in the same dealership name.

Petitioner
CBA Exhibit
10

F. The dealership shall face, adjoin, and be fully visible from an improved street or highway that is accessible to the public and that is identifiable by name or postal number. The street or highway shall be used by the public for vehicular travel.

G. The location shall be of a size to adequately and safely permit the display of a minimum of ten vehicles and space for customer parking.

H. The location shall meet all local zoning regulations.

I. The location shall be fully lighted.

J. The display and customer parking areas shall be adequately surfaced with an appropriate covering, subject to approval by the Administration.

K. The additional locations shall be inspected and approved by the Administration.

L. Additional locations shall meet the minimum standards set forth in applicable provisions of the Transportation Article, Annotated Code of Maryland, and the regulations promulgated by the Administration.

M. Additional locations may use registration plates issued to the primary location provided the trade name and ownership are identical to that of the primary location.

N. Signs.

(1) Appropriate dealership signs shall be permanently affixed.

(2) The signs shall be of a size as to make them reasonably legible from the street or highway.

(3) The signs shall clearly identify the business conducted at the dealership and shall adequately direct the customers to the dealership office.

(4) As to wholesale dealers, a sign is not required. However, if a sign is displayed, it:

(a) Shall be displayed at the dealership entrance;

(b) May not be larger than 6 inches in height and 18 inches in length; and

(c) May not contain any language which implies the dealership will sell to or exchange vehicles with a retail buyer.

O. As to wholesale dealers, the location shall be in a permanent building and the space used shall be:

(1) Owned or leased by the wholesale dealer;

(2) Regularly occupied and exclusively used by the wholesale dealer for dealership purposes.

.03 Office Requirements.

A. The dealership office shall be housed at the dealer's fixed location and in a substantial building adequate and appropriate for the business so conducted.

B. The dealership office shall be of sufficient size to accommodate the customers, and shall be equipped with office furniture, such as desk, chairs, and filing cabinets, and electricity, lighting, heat, and telephone, in order to reasonably conduct the dealership business.

C. A current trader's license shall be issued by the political subdivision of each location.

D. This license shall be displayed on the premises of the dealer in a conspicuous place.

.04 Exemptions.

A. If a location is otherwise adequate and appropriate, the location requirements outlined in Regulation .02F, G, I, J, and N of this chapter may be waived for wholesale dealers, for new trailer, boat trailer, motorcycle dealers, and for any person licensed as a dealer to sell

only fire, rescue, and emergency medical motor vehicles, who shall have the privilege of assigning manufacturer's certificates of origin and to issue temporary tags upon filing with the Administration a written franchise agreement from the manufacturer of the vehicles for which the dealer claims a franchise.

B. Once licensed as a dealer to sell fire, rescue, and emergency medical motor vehicles, the dealer shall be prohibited from selling any types of vehicles other than fire, rescue, and emergency medical motor vehicles until the location requirements in Regulations .02 and .03 have been met.

C. Manufacturers and distributors are exempt from location requirements for the purpose of securing Class 1A registration plates.

D. The registration of a dealer in the names of two or more persons as partners, or otherwise, may not require a reinspection on a change in ownership as long as one person named as a partner or co-owner remains as the owner, part-owner, or, in a corporation, as one of its legal officers.

IN THE MATTER OF:

COLONIAL STOLER, LLC
CASE NUMBER: 17-023-SPHA

Hearing Date: January 19, 2017

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204, commencing at 10:00 AM.

PANEL PRESIDING:

JAMES H. WEST, CHAIRMAN

JASON S. GARBER, BOARD

JOSEPH L. EVANS, BOARD

PRESENT ON BEHALF OF THE PARTIES:

MARVIN I. SINGER, ESQUIRE, Attorney for Colonial Stoler, LLC

GEORGE HARMAN, for Reisterstown-Owings Mills-Glyndon Coordinating Council

CAROLE S. DEMILIO, ESQUIRE, Office of People's Counsel

Christine R. Leary
8200 Featherhill Road, #204
Perry Hall, Maryland 21128

TABLE OF CONTENTS

DESCRIPTION	PAGE
Mr. Singer's opening statement	
Ms. Demilio's opening statement	
Mitchell Kellman offered as an expert	
Mitchell Kellman accepted as an expert	
Direct exam of Mitchell Kellman by Mr. Singer	
Cross exam of Mr. Kellman by Ms. Demilio	
Re-direct exam of Mr. Kellman by Mr. Singer	
Re-cross exam of Mr. Kellman by Ms. Demilio	
Direct exam of Michael Meagher by Mr. Singer	
Cross exam of Mr. Meagher by Ms. Demilio	
Re-direct exam of Mr. Meagher by Mr. Singer	
Direct exam of George Harman by Ms. Demilio	
Cross exam of Mr. Harman by Mr. Singer	
Re-direct exam of Mr. Harman by Ms. Demilio	
Direct exam of Michael Pierce by Ms. Demilio	
Cross exam of Mr. Pierce by Mr. Singer	

(ON RECORD - 10:19:27 AM)

CHAIR: All right. Good morning, everyone. We're here in the matter of Colonial Stoler, LLC, it's at 11311 Reisterstown Road. It's case number 17-23-SPHA. This is a Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations to permit a sign of forty-five square feet in lieu of the two hundred and twenty-five square foot, feet as determined by the County's interpretation of the required area, which includes the entire structure or, in the alternative, a Petition for Variance to permit a sign of two hundred and twenty-five square feet in lieu of the fifty square feet permitted. Let's start by having the parties, with counsel, identify themselves for the record.

MR. SINGER: Marvin Singer on behalf of the Petitioner.

MS. DEMILIO: Carol Demilio, Deputy People's Counsel for Baltimore County. Good morning.

CHAIR: Good morning. All right. Mr. Singer, you want to proceed?

MR. SINGER: Yes. I'd like to just have marked as, for exhibit, my remarks (inaudible). This is just the section of 450.3 (inaudible).

BOARD: If it's to be marked as an exhibit, does Ms. Demilio have it?

MR. SINGER: I'm going to give it to her.

BOARD: Okay.

MR. SINGER: (inaudible). The first issue we wish to raise, to raise is the question of the interpretation of the area of the sign under 450.3. Petitioner's contention is that the sign is this portion with the logo and the Lexus name. The County's interpretation is that it's the entire structure from the top to the bottom, which is two hundred and twenty-five square feet. This portion in here is just about forty-five square feet.

BOARD: Do you want to make that (inaudible).

MR. SINGER: Yes, I will.

BOARD: Okay, all right.

MR. SINGER: Through Mr. (inaudible).

CHAIR: Okay. All right. So that's the, that's the issue in a nutshell?

MR. SINGER: That's the issue in a nutshell and the, the interpretation, if you will, of the regulation really hinges on the, two parts of the regulation. One is the definition of area and specifically the last sentence in the first paragraph is that area does not include and then it says any structural, supporting or decorative features which are not part of the message of the sign. And we're saying that exactly fits the description of the sign in question. This is not part of the message of the sign, it's part of the supporting structure. Then we go to the message definition and the last

sentence in the message definition, pardon me, is that it may be distinguishable from the structural and supporting elements to the sign, which recognizes what is in Subsection A, that the message part is different than the structural part and is not to be included in a calculation of the area. In effect, the County's reading of the application of what is the area of the sign is incorrect. Now, the argument that will be made and the basis of the decision by the Administrative Law Judge is that, this is the way the County does it so you give deference to the interpretation by the Administrative Agency. And that is a well-established principal of law. Overriding that, however, and the case law, which we'll present at the appropriate time, the case law is clear that a legal interpretation is not to be given any deference at all, absolutely none by the Courts because it's a legal issue and the Court's reserve the right to interpret the legal regulations apart from any deference, apart from any interpretation no matter how long standing that Administrative Agency may have given. The, the, excuse me, I have a cold. So, the deference issue is a legal one just as the interpretation of a regulation or a statute and the Courts have said that a zoning regulation is to be treated in the same way as a legislative enactment of a statute in terms of the deference issue. So, that when one reads the area definition and so forth, it's clear what is meant and the Courts have said you start at the wording of the statute, you start with the

wording of the regulation and if it's clear what is meant, you don't get any further than that. If you follow the County's interpretation to its logical conclusion, what happens is Subsection A of the area definition is stricken from the regulation because they're not giving any recognition to that at all and the prohibition against striking out any part of a statute or a regulation is prohibited. If you can't accommodate the whole enactment without striking out any part of it, then it's improper to do that and that's what the County has done. The County's interpretation says that, it doesn't mean anything, we're going to give deference to the way the County has done it, despite what Subsection A of the area definition says and the law is clear that, and the Courts have said this time and time again, that's not something you can do when you're reading a statute. If it's, if it's plain English and they use that word, that phrase, if it's plain English and plain wording, that's the way it's to be applied. So, that is the essential argument that will develop (inaudible) and then I think we also wish to amend the request for a variance down to sixty-nine and a half square feet, as an alternative. But by doing so, we don't back off from the contention that the County's interpretation is, is grossly improper and is a violation of outstanding (inaudible). Thank you.

CHAIR: Thank you, Mr. Singer. Ms. Demilio?

MS. DEMILIO: Yes, thank you. Briefly, let me just

comment that the sign law came into effect in 1997 and, frankly, I have never seen anyone attempt to interpret it the way this Petitioner wants to interpret it. We need only look at the definitions and the language, which I think is very clear, that the entire surface of this sign has to be included because the definition of message includes not only written words and letters and numerals, it also includes, excuse me, symbols, images and colors because the County was, County Council was aware of the fact that when you are designing a sign, you could, if you're not going to include images and colors or whatever under the interpretation that this Petitioner wants, you could conceivably have a sign of any size, as long as the lettering or the symbol, as he is proposing, falls within the fifty foot range which is the size for a new car dealership. So, that, first, you just have to look at the word message, that does include colors. Then if you go back and look at the word face in the definition, it includes the entire outer (inaudible) of the message of the sign. So, clearly, what they're claiming is part of the structure is really part of the message of the sign because you don't need a solid structure to mount the words Lexus or the symbol for Lexus on there. So, that's clearly a design feature and a color scheme and a struct, and not a, not something that's necessary for the structure. When they talk about structure, they're talking about the poles that hold up the

sign. And then if you look at the word area, it also talks about including the color, framing or other design feature by which the sign is differentiated from the structure. So, it, it really defies common sense to say that this is not part of the area for the sign. So, when you're looking at statutory construction, I mean, there, most of the case, all of the cases say that you have to look at the statute in the context of the, the, the language in the context of the entire statute because you, the, the legislative purpose has to be looked at whether the words are ambiguous or not ambiguous. The, the quote from *Baltimore County Coalition Against Unfair Taxes v. Baltimore County*, which is in 321 Md. 184, the Court of Appeals said the plain, the plainest language must be governed by the context in which it appears. Words in a statute must be read in a way that advances the legislative pol, policy involved. Courts that, may therefore consider not only the literal or usual meaning of those words, but their meaning and affect in the context in which the words were used in light of the setting, the objectives and the purpose of the enactment. So, we need only look at the introduction, statement of general findings and policies in Section 450.1 of the Zoning Regulations, which looks at what the County Council was trying to do when it enacted the sign legislation and it said they wanted to diminish the sign clutter. They want to reduce sign clutter because they think it's dangerous and it's unattractive, two of

the reasons in the County. So, by advancing a theory as Petitioner wants here, that you can have any size of the sign, the face of it or the area of it, as long as the, the lettering or symbols only are within the, a prescribed amount, then you are increasing sign clutter. So, that's the way, the way we have to look at this, this proposed interpretation. And I would ask the Board to pay particular attention to a recent, fairly recent sign case, by the Court of Appeals, *Trinity Assembly of God*, it's at 407 Md. 53, in which the Court there looked at the sign law for inter, they looked at the sign that was proposed there. I don't think there's any question that that sign was measured by the parameters that we suggest it should be measured to and by the policy or the, the usual way that the signs were measured by the, by the Planning Office or the Zoning Office in Baltimore County and, and as to the variance requested, Trinity Assembly of God were denied a variance for that sign and they were very clear that not only is 307 applicable, but Section 450.8(A)(1) is applicable, which even makes, adds another dimension to a variance requirement here because they said that the sign, any, in considering a request for variances, provisions of the sign law shall be strictly construed unless the proposal prevents or reduces confusion and vis, and visible clutter. Well, I think this proposal is actually doing the opposite here. So, any variance here would certainly be adding, would be in conflict with what

the 450.8(A) requires and also the purpose of the sign law. So, --

BOARD: What pages did you just cite to?

MS. DEMILIO: *Trinity Assembly of God.*

BOARD: Right, wage page --

MS. DEMILIO: You know, I copied from, let me just get --

CHAIR: Is that, that's a Baltimore County case?

MS. DEMILIO: Yes, yes.

CHAIR: Okay.

MS. DEMILIO: It was, our office participated in that, in that case, it's the church that's along 83.

MR. SINGER: I'm sorry, I can't hear you.

MS. DEMILIO: I'm sorry. It's the church that's along 83 North.

BOARD: Yes.

MS. DEMILIO: Trinity Assembly of God.

BOARD: Don't worry about it if you don't have it handy.

MS. DEMILIO: It's, well, fifty-three is where it starts.

BOARD: Okay.

MS. DEMILIO: Under the analysis section, which, oh, it's page, I'm sorry, it's page eighty.

BOARD: Yeah, I was just wondering where you, your

specific, where you were reading.

MS. DEMILIO: Yeah, I copied it from the --

BOARD: That's okay.

MS. DEMILIO: -- internet but it's page eighty.

BOARD: Okay.

MS. DEMILIO: (inaudible). And there's numerous other cases on statutory construction but the, *Board of Physicians v. Mullen*, 381 Md. 157, talks about statutory construction.

BOARD: I'm sorry, what was that cite?

MS. DEMILIO: Three fif, 381 Md. 157. We avoid constructions that are illogical, unreasonable or inconsistent with common sense and instead interpreted (inaudible) statutes as a whole, that's the whole purpose. So, you, so what, it's been suggested that you just have to look at this language in this particular definition in parsing it. That's not the way you look at interpretation of the statute. Even if it's unambiguous, you have to look at the purpose of the statute and the context in which that particular regulation is prop, is, exists. And then I think the last, there are certainly other cases on this. While the language of the statute is the primary source for determining legislative intent, the statute must be construed reasonably with reference to the purpose, aim or policy. *Anne Arundel County v. City of Annapolis*, 352 Md. 117. Another case to look at is *Tidewater v. Mayor and City*

Council, 337 Md. 338. In the interest of completely, completeness, the Court said they look at the purpose of the statute and compare the results obtained by the use of its plain language with the results when the purpose of the statute is taken into account. So, I think it's pretty clear that the application of the law as the land, as the Zoning Office and the Planning Office has been applying it, is really in strict compliance with the language and the law and is what the County Council intended so I think the proposed interpretation is taken way out of context. I think it's only for the, this, this particular Petitioner trying to expand the law so that it can get the kind of sign they want. I mean, they all want to do this. We're in here all the time on this all the time, they all want a bigger sign. But that's not the way Baltimore County runs its, or operates and the zoning laws and that's certainly not the sign law, which is numerous pages which talks over and over again giving specifics on how you should, how the law is to be applied and the statutes are applied. So, I don't think there, there's the need for a variance here and I certainly disagree with the interpretation that is being proposed by this Petitioner.

CHAIR: Okay. Thanks, Ms. Demilio. Mr. Singer, you want to call your first witness?

MR. SINGER: Yes, Mr. Kellman?

CHAIR: Stand here so you can be sworn in.

BOARD: Do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. KELLMAN: I do.

BOARD: Could you state your name and your business address for the record and, and spell your last name, please?

MR. KELLMAN: Yes. It's Mitchell Kellman, K-E-L-L-M-A-N. I am employed with Daft McCune and Walker, which is a local engineering and land development consulting firm in Towson. Our address, sometimes I have to think because we moved about two years ago, so sometimes I give my old address. But it is 501 Fairmount Avenue, Towson 21286 and we are located on Suite 300.

CHAIR: Have a seat, please.

MR. SINGER: Mr. Kellman, you've indicated your employment. What is your background in zoning, planning, land use?

MR. KELLMAN: I, I worked for Baltimore County in the, in the zoning office. When I worked back then, it was first Planning and Zoning, then it became part of, I think it was (inaudible), then PDM, but I worked with Baltimore County for approximately twelve years in the Zoning Review Office. Since leaving the County, I went to work for Daft McCune and Walker. I had some short stints where I went back to the County and to another engineering firm, Century Engineering and

I landed back at Daft McCune and Walker. I am the director of zoning services there. My job, I do file zoning petitions. I represent the company for projects that are before the Development Review Committee, the DRC. So, I really handle the local zoning and Baltimore County development process and I also from time to time do work in Howard County. I am also on the Landmark's Commission and on the Design Review Panel.

MR. SINGER: And during this time, have you been I involved in the interpretation, application of the zoning regulations of Baltimore County?

MR. KELLMAN: I have.

MR. SINGER: All right and currently, are, is your work involve, or does it touch upon the interpretation of the County Zoning Regulations?

MR. KELLMAN: It does.

MR. SINGER: And DMW was engaged to perform engineering services for this Petition, this project?

MR. KELLMAN: Yes.

MR. SINGER: All right.

MR. KELLMAN: It has.

MR. SINGER: And as part of that, that is the Lexus sign in, in question that --

MR. KELLMAN: Yes, that is the proposed Lexus sign, which will be replacing an existing Lexus sign.

MR. SINGER: All right. I'd like to have that marked

as, introduced as Plain, Petitioner's exhibit number one.

BOARD: You're on two. You had the Section --

MR. SINGER: Well, I just marked that for exhibit, I'll, but that's fine, that's one then.

BOARD: Okay.

MR. SINGER: Thank you.

BOARD: So, you, you do want this as one?

MR. SINGER: That's one.

BOARD: So, we'll make, which is two now?

MR. SINGER: The rendering of the sign.

BOARD: Okay. So, the --

MR. SINGER: If you want me to put a (inaudible).

BOARD: Yeah, why don't we do that? So, so you'll have to leave that, yeah, you'll have to leave that with the (inaudible).

MS. DEMILIO: Can I ask if Petitioner's number two is the same site plan that was submitted in the lower hearing?

MR. SINGER: Yes.

MS. DEMILIO: It's the same one?

MR. SINGER: Yeah.

MS. DEMILIO: So, I have a copy of it?

MR. SINGER: Yes.

MS. DEMILIO: Okay.

MR. SINGER: Just to be clear, Mr. Kellman, that's a copy, identical copy, of the one submitted to the County in

this case?

MR. KELLMAN: It was, it was. We just, just made another copy for this hearing for an exhibit.

MR. SINGER: And did you also prepare a plat of the site?

MR. KELLMAN: I did. Myself, I actually supervised the preparation of the plan. It was the plan to accompany the zoning Petition.

MR. SINGER: Okay and you have that copy with you?

MR. KELLMAN: I do. We can have them put it up on the board.

MR. SINGER: All right.

BOARD: Will this be Petitioner's three?

MR. SINGER: Yes, sir.

BOARD: What are we calling this, the plat?

MR. SINGER: The plat of the site.

BOARD: And Ms. Demilio, you have that?

MS. DEMILIO: Yes.

MR. SINGER: You have that?

BOARD: Here's a sticker for that.

MR. SINGER: Thank you.

BOARD: Thank you.

MR. SINGER: Where is the site located?

MR. KELLMAN: The site is located generally in, in Owings Mills. It is on the northeast side of Reisterstown

Road, just south of High Falcon Road.

MS. DEMILIO: I don't mean to interrupt, but is he accepted as an expert? Do I get, can I just ask him a question or two? Not that I object to Mr. Kellman.

CHAIR: Are you going to propose him as an expert?

MR. SINGER: Go ahead.

MS. DEMILIO: So, but I just have a couple questions, it's probably --

CHAIR: Is he, is he being proffered as an expert?

MR. SINGER: I, I, I forgot to ask him some questions. If I may?

CHAIR: You want to proffer him as an expert?

MR. SINGER: Yes, I offer, if I, one question, have you been previously, testified before the Board and before the Administrative Law Judge?

MR. KELLMAN: I have.

MR. SINGER: Have you been accepted as an expert in the application of the Zoning Regulations and land planning?

MR. KELLMAN: I have, yes.

MR. SINGER: I submit Mr. Kellman as an expert.

MS. DEMILIO: I just have three questions.

CHAIR: Sure.

MS. DEMILIO: When you were, were you with Baltimore County when Bill 89-1997, which is now Section 450 of the Zoning Regulations was enacted? Nineteen ninety-seven?

MR. KELLMAN: That's a good question. I'm not sure, I don't know. I, I, it was, it was around that time but I can't say if I was specifically with the County when, when those sign regulations came out.

MS. DEMILIO: Right. Well, were you with Baltimore County after 1997, I know you were --

MR. KELLMAN: After 1997?

CHAIR: It's always good to know the answer before you know the question.

MR. KELLMAN: I'm thinking of numbers, so bear with me. I think I left, I left the County.

MS. DEMILIO: So, you weren't, so you were not part of the County in 19 --

MR. KELLMAN: Nineteen ninety-seven.

MS. DEMILIO: Or 2000?

MR. KELLMAN: I started with the County in '85 and I think I was there for a combination of twelve years. So, it was right around that time.

MS. DEMILIO: And then you went back to the County?

MR. KELLMAN: Yes.

MS. DEMILIO: So, you were there after '97?

MR. KELLMAN: Yeah, I think I, I had left before that and then came back.

MS. DEMILIO: After?

MR. KELLMAN: Yes.

MS. DEMILIO: Okay. So, when you were with Baltimore County, did you have an occasion to review site plans for sign variances?

MR. KELLMAN: I did.

MS. DEMILIO: Including, under the statute then, 19, 1997 statute?

MR. KELLMAN: Yes.

MS. DEMILIO: Okay.

BOARD: Can I just jump in real quick so I'm, I'm clear on one point? Did, do I understand from your questions and answers here that the last time you worked for the County throughout your entire career was sometime in 1997, do you recall?

MR. KELLMAN: Yes, around that time.

BOARD: Since '97 you have not worked for the County?

MR. KELLMAN: Right.

BOARD: Okay, because I know you said you left and you came back and that's why my question is, to make sure --

MR. KELLMAN: Yes, I'm, I'm, I'm sort of losing track of years since I did go back and forth.

MS. DEMILIO: You don't have your resume with you, I guess?

MR. KELLMAN: No, I don't have my c.v. with me.

MS. DEMILIO: Okay.

BOARD: And I'm sorry, that was just to clarify,

because I know he said he had been back and forth at several points.

MS. DEMILIO: But you did review site plans for sign variances when you were with the County under Section 450?

MR. KELLMAN: I did.

MS. DEMILIO: Okay. All right and did you prepare site plans for sign variances in the private sector?

MR. KELLMAN: I have.

MS. DEMILIO: Including the area of the sign, sign areas, let's say, the --

MR. KELLMAN: Yes.

MS. DEMILIO: Okay and finally, did you visit, have you visited this site personally?

MR. KELLMAN: Yes, I actually live near the site so I go, I go by there.

MS. DEMILIO: So, you're, okay, so you've actually seen it. Okay, well, I have no problem with Mr. Kellman.

CHAIR: Okay. We'll accept Mr. Kellman as the, as an expert in zoning law

MR. SINGER: All right. Just clarification, for purposes of simplicity, can we say Reisterstown Road runs north and south?

MR. KELLMAN: Yes, it does.

MR. SINGER: All right and have you visited the site?

MR. KELLMAN: I have. I was, I was actually out

there as, as late as yesterday afternoon.

MR. SINGER: All right. Now, the proposed sign is to be located where with respect to the existing sign?

MR. KELLMAN: Same spot, pretty much, same location.

MR. SINGER: All right and did you take a history of the zoning of the site?

MR. KELLMAN: I did. As part of the requirements on the Zoning Review Office checklist, it's required to place the zoning history on the site plan.

MR. SINGER: All right and do you recall when the existing sign was erected?

MR. KELLMAN: The existing sign erected, I'm assuming it was shortly after the zoning variance, which was in 1990, the case number --

MR. SINGER: There was a variance for the sign in 1990?

MR. KELLMAN: Yes.

MR. SINGER: All right.

MR. KELLMAN: They have a case number 90-160-A.

MR. SINGER: So, the sign has been there for twenty-seven years?

MR. KELLMAN: Yes, approximately.

MR. SINGER: Approximately and what was the size of the sign that was permitted under that variance?

MR. KELLMAN: Under the variance, the sign was

allowed to have a hundred and thirty-nine square feet in lieu of a hundred feet.

MR. SINGER: And the computation of the area sign was different in those days than it is at the present?

MR. KELLMAN: It was different.

MR. SINGER: You calculated both sides of the sign?

MR. KELLMAN: Right, you added both faces together. If you had a north face and a south face, you had to add those faces all together.

MR. SINGER: So, for present purposes, we're talking about the presently existing sign of sixty-nine and a half square feet.

MR. KELLMAN: Yes, that's correct.

MR. SINGER: Pardon me. Now, you are familiar with Section 450.3?

MR. KELLMAN: I am.

MR. SINGER: And this has been, I show you a copy of it, which is Petitioner's Exhibit 1. You're familiar with that, sir?

MR. KELLMAN: I am.

MR. SINGER: All right and with respect to the area of the sign, the definition under 450.3, there was mention that, includes the surface of all integral color, frame or other design features.

MR. KELLMAN: Correct.

MR. SINGER: By which the sign is differentiated from the structure supporting it.

MR. KELLMAN: Yes.

MR. SINGER: All right and then Subsection A of, or Paragraph A, would you read that out loud, please?

MR. KELLMAN: Yes. Subparagraph A, under area states that any structural, supporting or decorative features, which are not part of the message of the sign.

MR. SINGER: And that, so the area does not include those, those, that (inaudible) --

MR. KELLMAN: A is listed because area does not include that.

MR. SINGER: All right. Do you take from that that they've carved out an exception for area?

MR. KELLMAN: Do I think they carved out an exception?

MR. SINGER: For computation of the area?

MR. KELLMAN: Yes, yes.

MR. SINGER: And, again, under the definition of message, would you read the last sentence in the definition of message?

MR. KELLMAN: The message may be distinguishable from the structural and supportive elements of the sign.

MR. SINGER: All right and do you take from that wording that it is complimentary Subsection A of the area

definition?

MR. KELLMAN: I do.

MR. SINGER: Do you find the wording between the two definitions compatible?

MR. KELLMAN: I do.

MR. SINGER: Under your reading of the, Section 450.3 and your consideration of the sign in question, do you have an opinion, in your expert opinion, of what the portion of the sign would be as opposed to the structure?

MR. KELLMAN: Yes, the portion of the sign, and can I approach the board?

CHAIR: You may.

MR. KELLMAN: The, the portion of the sign would be the panel right here that describes Lexus. It's actually the Lexus logo and then the Lexus writing underneath of it.

MR. SINGER: And the remainder of the structure is, in your opinion, what?

MR. KELLMAN: Support or just an architectural element.

MR. SINGER: How is the present sign supported?

MR. KELLMAN: The present sign is supported by two thick poles or columns and I, I, we do have some photos that we, it, that would show that Lexus sign, that may be in the background, they're not a close up but it, it does show the sign, so the Board can see how that, how it exists today.

MR. SINGER: I think I asked you that bef, before but I'm not sure. This portion that encloses, the (inaudible) encloses the logo and the Lexus wording is forty-five square feet?

MR. KELLMAN: Forty-five square feet.

MR. SINGER: And the, just so it's clear, the whole structure is black except for this silver trim?

MR. KELLMAN: That's correct.

MR. SINGER: Here. And the present Lexus sign that's existed is what color, do you recall?

MR. KELLMAN: That is I believe black and gold.

BOARD: Is the Lexus logo on both sides?

MR. KELLMAN: Yes, it is.

BOARD: Yeah.

MS. DEMILIO: I'm not sure I understand what these pictures are because I can't see any Lexus sign in here so I, I'll reserve.

MR. KELLMAN: I'll check. I thought there was a photo with a Lexus, the Lexus sign in there.

MR. SINGER: Do you have some small photos?

MR. KELLMAN: Excuse me?

MR. SINGER: Do you have some small photos?

MR. KELLMAN: I do. They're actually in my --

MR. SINGER: Okay. May he --

MR. KELLMAN: -- in my book, if the Board let's me --

CHAIR: Yes.

MR. SINGER: I show you a photograph --

BOARD: (inaudible) mark that?

MR. SINGER: -- is this an accurate depiction --

BOARD: (inaudible).

MR. SINGER: You're five steps ahead of me.

CHAIR: Right on top of it.

BOARD: Every now and again.

MR. SINGER: I'll put that on the back.

BOARD: Okay. No, that's fine.

MR. SINGER: That's number four?

BOARD: Number four.

MS. DEMILIO: Is that the small picture?

MR. SINGER: Plaintiff's number four, I show you a photograph. Is that an accurate depiction of the existing Lexus sign?

MR. KELLMAN: It is.

MR. SINGER: Offer this as Petitioner's Exhibit 4.

BOARD: We'll refer to it as the small photo existing sign.

MR. SINGER: And this is looking in a southerly direction?

MR. KELLMAN: That is looking in a southerly direction, you're correct.

MR. SINGER: On Reisterstown Road?

MR. KELLMAN: That's correct.

BOARD: Thank you.

MR. SINGER: And show you another photograph. When was this taken?

MR. KELLMAN: This was obtained yesterday.

MR. SINGER: And this is a photograph of --

BOARD: If I may, before we say this photo, can we mark that so the record will be clear. That is, which photo is this photo?

MR. SINGER: I'll describe it.

BOARD: There you go.

MR. SINGER: Is this a photograph of Reisterstown Road looking in a northerly direction?

MR. KELLMAN: In a northerly direction, you're correct.

MR. SINGER: All right and the, the Lexus sign and Lexus dealership is about midway in the middle of the photograph, is that correct?

MR. KELLMAN: That's correct. If you, if you, that's from, the actual photo, but from a distance standpoint, yes.

MR. SINGER: Yes. All right and this is an accurate depiction of the condition of the site as it existed as of yesterday?

MR. KELLMAN: Yes.

MR. SINGER: Offer this as Petitioner's Exhibit 5.

BOARD: So, all your testimony just now about this photo concerning Petitioner's exhibit number five, correct?

MR. KELLMAN: Yes.

MR. SINGER: And that will be designating the large photo of existing sign.

MR. KELLMAN: And, and the, the one thing, if I may, what I wanted to offer to the Board is, because sometimes this gets asked, it was, this was taken from Google Maps, it wasn't an actually, I didn't go out there and snapshot.

BOARD: Petition, Petitioner's exhibit number fie was taken from Google Maps?

MR. KELLMAN: Google Maps, yes.

BOARD: Whereas, Petitioner's exhibit number four was taken, this is an actual photograph?

MR. KELLMAN: (inaudible) photo, right.

MR. SINGER: But the Google Map photograph is in accord with what you saw on the ground in your recent visit?

MR. KELLMAN: Yes.

MR. SINGER: It's an accurate depiction of the, of the area and the sign?

MR. KELLMAN: Yes. Yes, especially with the existing Lexus sign.

MR. SINGER: All right. Have you investigated, strike that. This will be number six, I take it?

BOARD: Yep. Has Ms. Demilio seen this?

MR. SINGER: Yes, she has seen these. You want to see it again?

MS. DEMILIO: No, go ahead.

BOARD: And what are you labeling six, is it one or a series?

MR. SINGER: I'll describe it.

BOARD: Okay.

MR. SINGER: This is also a group of photographs?

MR. KELLMAN: Yes, it is.

MR. SINGER: And this shows Reisterstown Road looking in a southerly direction?

MR. KELLMAN: Yes, it is.

MR. SINGER: And dealerships are on the left, is that correct?

MR. KELLMAN: That's correct.

MR. SINGER: All right and --

MS. DEMILIO: Could you just clarify what dealerships, the subject, Stolers?

MR. KELLMAN: Yes, the Lexus, the Lexus of Owings Mills.

MS. DEMILIO: Lexus, okay.

MR. SINGER: And is this, is this the Lexus dealership?

MR. KELLMAN: Yes, it is.

MR. SINGER: That is the second white building on the

left? This, there's a service building and then there's the Lexus dealership, is that correct?

MR. KELLMAN: Yeah, service is attached, so.

MR. SINGER: Okay.

MR. KELLMAN: From a zoning standpoint, you consider, consider it one building but, but for functional purposes, yeah, it's the second building.

MR. SINGER: Okay. But the sign, the Lexus sign is not visible here because of the tree?

MR. KELLMAN: Yes, that's correct.

MR. SINGER: Okay and again, this is looking in a southerly direction along Reisterstown Road?

MR. KELLMAN: That's correct.

MR. SINGER: This is Petitioner's Exhibit 6.

BOARD: And this will be Google Map photo of the, of Reisterstown Road in a southerly direction with the Lexus dealership on the left side?

MR. KELLMAN: That's correct.

MR. SINGER: Number seven, I believe.

BOARD: Okay. There you are.

MR. SINGER: Another Google photograph, is that correct?

MR. KELLMAN: That's correct.

MR. SINGER: And this shows, it's taken showing Reisterstown Road looking in a southerly direction?

MR. KELLMAN: That's correct.

MR. SINGER: And this is some distance a little past the Lexus dealership?

MR. KELLMAN: Yes, that's correct, past the Lexus dealership.

MR. SINGER: And it shows the Hyundai and Ford dealerships of Stoler on the left?

MR. KELLMAN: It does.

MR. SINGER: And this is an accurate depiction of the current conditions in the area and on the, at the site?

MR. KELLMAN: Yes.

MR. SINGER: Offer this as Petitioner's Exhibit 7.

BOARD: Again, it's the same just further down the road (inaudible)?

MR. KELLMAN: Can I see that one more time? Yes.

BOARD: Okay.

MR. KELLMAN: Thank you.

BOARD: Um hm.

MR. SINGER: And then this would be Petitioner's Exhibit 8. This is also a Google photograph?

MR. KELLMAN: Yes, it is.

MR. SINGER: And this shows Reisterstown Road looking in a northerly direction?

MR. KELLMAN: It does. If I could --

MR. SINGER: And the Lexus dealership is not shown

but it would be on the right of the photograph?

MR. KELLMAN: This is in a northerly direction, but it also includes the buildings on the opposite side of Reisterstown Road.

MR. SINGER: And this is an accurate depiction of the area of the Lexus site?

MR. KELLMAN: Yes.

MR. SINGER: As it exists today?

MR. KELLMAN: The proximity of the Lexus site, because the Lexus site is not shown on this photo.

MR. SINGER: Right.

MR. KELLMAN: We're, we're beyond that, we're just north.

MR. SINGER: So, but it does show the Reisterstown Road and the area just north, at the intersection of High Falcon, which is the green sign?

MR. KELLMAN: That's correct.

MR. SINGER: And it shows the hill going further north?

MR. KELLMAN: Yes, it does.

MR. SINGER: Offer this as Petitioner's exhibit number eight. Based on the, your inspection of the site as reflected in the photographs that have been introduced into exhibit, into evidence, what can you tell us about the location of the Lexus site with respect to the topography of

Reisterstown Road to the north and to the south?

MR. KELLMAN: The topography of Reisterstown Road, and if I may approach the board again?

CHAIR: Sure.

MR. KELLMAN: The topography of Reisterstown Road, and I'll stand on the opposite side so the Board can see, is where the Stoler Ford dealership is, which is, which is south east of the Lexus site. It, it's uphill from the actual Lexus dealership so that if you're driving northerly on Reisterstown Road, you're, let's just say, at a certain level, then when you approach the Lexus dealership, you go down and then when you pass the Lexus dealership, you go down even further and like High Falcon is, is really at, at a low point before it starts rising back up again along Reisterstown Road. So, you could describe the, the Lexus location sort of like a bowl, it's the low part of, of topography along Reisterstown Road in that, in that specific area.

MR. SINGER: And the Lexus site is how far from, or how close to High Falcon Road?

MR. KELLMAN: From High Falcon Road, about two hundred and fifty feet, South High Falcon Road.

MR. SINGER: And from the photographs introduced into evidence, there's the hill from the south that goes down to where the Lexus site is and High Falcon Road?

MR. KELLMAN: That's correct.

MR. SINGER: And is there a similar hill to the north, similar topography?

MR. KELLMAN: To the north, and I approach again, pretty much starting to go uphill again. You have a Nissan dealership here, which is not owned by Stolers, it's owned by Antwerpen, and then when you go a little further north, it is the Goodwill Store, so it starts going uphill.

MR. SINGER: It goes uphill?

MR. KELLMAN: Yes.

MR. SINGER: All right and, and so the, the bottom of the topography, so to speak, between the two hills from the north and the south, would be generally in the vicinity of the Lexus site?

MR. KELLMAN: Yes, High, if I could approach?

CHAIR: Sure.

MR. KELLMAN: High Falcon and the Lexus dealership right here.

MR. SINGER: Indicating their proximity.

MR. KELLMAN: Excuse me?

MR. SINGER: Indicating their proximity.

MR. KELLMAN: Yes.

MR. SINGER: From the, let's take the hill from the, the south side. If you're on the south side of the crest of that hill, can you see the Lexus dealership?

MR. KELLMAN: It's difficult to see the dealership.

It is a, it is a --

MR. SINGER: If you want to refer to the photographs.

MR. KELLMAN: Yeah, can I go back to the photographs again? But, you are, you are going in a, you're going in this northerly direction straight and you're, you're Stoler Ford is, is along Reisterstown Road, the Porsche dealership and they're all lined up next to each other so, you know, it would be some blockage from the existing buildings.

MR. SINGER: My question was, if you're on the south side of the crest of the hill to the south, can you see the Lexus dealership?

MR. KELLMAN: From the south side --

MR. SINGER: Of the crest.

BOARD: If I can, which crest?

MR. SINGER: Of the, of the hill to the south.

BOARD: Are you talking about north of High Falcon or --

CHAIR: No, south.

MR. SINGER: No, it would be to the south. In other words, may I have the photographs, please?

BOARD: Um hm.

MR. SINGER: I'm referring to Petitioner's Exhibit 6, it shows the, the hill, the, Reisterstown Road going up to the hill to the south. This photograph looks to the south.

MR. KELLMAN: Yes, it looks to the south.

MR. SINGER: All right. If you were on the far side of the crest of that hill, my question was can you see the Lexus dealership?

MR. KELLMAN: I want to look at another --

MR. SINGER: If you're on the other side, coming from the south before you reach the top of the, that hill?

MR. KELLMAN: Yeah, I want, I want to look at the other photo that shows going, looking north because I want to be able to explain to the Board.

MR. SINGER: Well, let's take one at a time.

MR. KELLMAN: Okay.

MR. SINGER: Okay. If you're on the south side of the crest of the hill to the south of the dealership, is the dealership visible?

MR. KELLMAN: It's, it's, it's hard to see because you have the buildings that are in front --

MR. SINGER: I'm talking about the hill itself. If you're approaching the hill from the, on the south, of the, the hill on the south, coming in a northerly direction, can you see the dealership?

MR. KELLMAN: It's difficult to see.

MR. SINGER: And --

MS. DEMILIO: I have a question so can I object? When you say dealership, what are you talking about, the building or what?

MR. SINGER: The Lexus dealership.

MS. DEMILIO: Are you talking about the sign or the building or, the existing sign or the building or what?

MR. SINGER: If you're approaching from the, from the south and you haven't reached the crest of the hill, is it difficult to see the Lexus sign?

MR. KELLMAN: It is, it is.

MR. SINGER: All right. I'm referring to Petitioner's five and Petitioner's eight, exhibits. These are photographs of Reisterstown Road looking in a northerly direction?

MR. KELLMAN: That's correct.

MR. SINGER: And generally, on five, you can see the Lexus sign, is that correct?

MR. KELLMAN: You can see the Lexus sign.

MR. SINGER: Yes, to the right?

MR. KELLMAN: That's right, to the right, going north.

MR. SINGER: All right and on Petitioner's Exhibit 8, you can see the hill to the north but you can't see the Lexus dealership or the sign?

MR. KELLMAN: No, and if I could go back real quick to, to the other exhibit, which is five, you were, you were, you were going back looking in a northerly direction from the south, from the south, (inaudible). If you're looking in a

northerly direction, direction from the south side, you see a picture where you can, you can see the Lexus sign but it's really hard to depict the, whether, if it's a Lexus building or not.

MR. SINGER: Okay. But, at the view from, on Petitioner's Exhibit 5, you've already crested the southern hill?

MR. KELLMAN: That's correct.

MR. SINGER: All right. Now, this is, Petitioner's five is showing Reisterstown Road looking in a northerly direction?

MR. KELLMAN: That's correct.

MR. SINGER: With the Lexus dealership and the sign on the right?

MR. KELLMAN: That's correct.

MR. SINGER: All right and it shows, excuse me, am I correct, the hill to the north?

MR. KELLMAN: It does, it's very evidence in the photo that you could see the hill to the north.

MR. SINGER: All right and if a motorist were on the far side of that hill, were they able, be able to see the Lexus sign?

MR. KELLMAN: It would be very tough to see.

MR. SINGER: Have you undertaken an investigation of other signs for automobile dealerships in the County?

MR. KELLMAN: I have.

MR. SINGER: Okay. Do you have any photographs?

MS. DEMILIO: Objection.

CHAIR: Hold on a second.

MS. DEMILIO: I'll object. It's relevant (inaudible) we don't know what other signs are permitted or, or in compliance, or in violation. I don't know why it's relevant.

CHAIR: We'll give Mr. Singer some latitude here. I mean, I think it was just sort of a preliminary question. If he gets into specifics, we can address those as they come.

MS. DEMILIO: Okay. Thank you, Mr. Chair.

MR. SINGER: Do you have a photograph of, of such an instance?

MR. KELLMAN: I do.

MR. SINGER: And can, where is it?

MR. KELLMAN: Can I?

CHAIR: Yes, you may.

MS. DEMILIO: I object. I object for the reasons --

CHAIR: Okay.

MR. SINGER: (inaudible) lay a foundation.

MS. DEMILIO: I object for the reasons, I mean, it's Mr. Stoler so if you were, if you're trying to say it relates to his signs then, I guess we'll let it --

CHAIR: Well, Mr., Mr. Singer, what are you, what are you proposing to do with this exhibit?

MR. SINGER: I want to show that the County's application or interpretation of the regulation is inconsistent with the application and interpretation in this case.

CHAIR: Was there actually a finding? Was there, was there --

MR. SINGER: That's what I want to ask the witness.

CHAIR: Yeah, why don't you ask the question and then we'll deal with it.

BOARD: And just for the record, we're going to label this Petitioner's Exhibit 9.

MR. SINGER: For identification?

MS. DEMILIO: For i.d.?

BOARD: For iden, well, right now, everything, nothing is in evidence yet, but we can deal with that toward the end.

MR. SINGER: Okay.

CHAIR: For Exhibit 9, this is for identification and we have an objection was made. We're going to give you latitude to find out (inaudible).

MR. SINGER: When was this photograph taken?

MR. KELLMAN: This was, this was a typical Toyota sign that was, that was produced actually yesterday.

MR. SINGER: Okay and where is the location?

MR. KELLMAN: There's no, there was no, wasn't a specific location.

MR. SINGER: Okay. All right.

CHAIR: That the sign, that, that's not a particular location?

MR. KELLMAN: No.

MR. SINGER: Is this a depiction of a sign that's been approved by the County?

MR. KELLMAN: My understanding in speaking --

MS. DEMILIO: Objection. I have to object to that. We don't even, it's so speculative, first of all and he's not even, he's not even sure whether it's been approved or not approved and even so, it's irrelevant to the, I assume he's talking about, I don't know if he's talking about interpretation or variance but even so, I think it's irrelevant.

MR. SINGER: I'll rephrase the question.

CHAIR: All right. Rephrase.

MR. SINGER: What is the basis of your information about this sign?

MR. KELLMAN: The sign, the sign was, was given, the Toyota sign was given to me as an example by the Zoning Office of, of a sign that was approved that you didn't have to include that whole structure of signage. And, again, this was explained to me by somebody in the Zoning Office.

MS. DEMILIO: Objection. Hearsay.

MR. SINGER: Was this photograph given --

CHAIR: Hold on one second, Mr. Singer.

MS. DEMILIO: Objection. Hearsay, first of all, at the very least.

CHAIR: I, I, I have to sustain that objection. That is hearsay.

MR. KELLMAN: I understand.

CHAIR: I mean, if you want the person from the Zoning Office to come in and say what Mr. Kellman just said, that's fine. (inaudible) that's clearly hearsay.

MR. SINGER: This will be Protestant's exhibit for identification, number nine.

BOARD: Nine, right. Thank you.

MS. DEMILIO: I'll renew my objection to the exhibit.

CHAIR: All right.

BOARD: It's just identification.

CHAIR: The exhibit is not in at this point.

MS. DEMILIO: Right.

MR. SINGER: And just for the record, the previous eight exhibits were introduced --

BOARD: Right, you want to move them into evidence?

MR. SINGER: Yes.

BOARD: And then, was there any objection to one through eight?

MS. DEMILIO: No, no.

BOARD: Admitted, one through eight. Nine is not.

BOARD: Could I just, I'm a little confused, if you don't mind? Number nine, this photograph, which is not in evidence, okay? I'm just trying to understand the circumstances surrounding it. You say you were given this photograph?

MR. KELLMAN: Not, not the photograph. In my conversations with --

BOARD: Okay. You don't, you don't have to tell us what they said, just --

MR. KELLMAN: Okay.

BOARD: -- what, what did you request?

MR. KELLMAN: I requested from the Zoning Office are there, specifically, are there any car dealerships that are allowed to use just the, just the, the logo, lettering and not use the colors or any kind of design as part of the sign.

BOARD: And you made this request yesterday?

MR. KELLMAN: I did.

BOARD: Okay and who did you speak with?

MR. KELLMAN: I spoke with Leonard Wazolewski (phonetic) and he is the person who handles the signs in the Zoning Office. I mean, it's primarily one person who, who handles sign variances, sign permits, in the Zoning Office.

BOARD: And do you know where this sign is actually located?

MR. KELLMAN: No, this was just a typical Toyota sign

that had a, that had a whole, that has your whole board, it's not constructed on a pole.

BOARD: Is this a sign that's actually, is it your understanding this is a sign that's actually in existence or is this just a --

MR. KELLMAN: From what I understand, it's in existence.

BOARD: But you don't know where?

MR. KELLMAN: I mean, I, I'm going to assume R&H Toyota on Reisterstown Road.

BOARD: But you actually don't know where?

MR. KELLMAN: But actually, if you, right, if you say did you go there, look at R&H, I did not.

BOARD: Okay, all right. Thank you. I just, I just, it was confusing to me, sorry.

BOARD: I'm sorry, you said you got this yesterday?

MR. KELLMAN: You know what, it was, that signage was, that, that plan for the signage was produced, produced, it was printed yesterday.

BOARD: Right. It was printed yesterday.

MR. KELLMAN: Yeah.

BOARD: Printed from you, you printed it yesterday?

MR. KELLMAN: I didn't, I had somebody do it.

BOARD: Okay.

MR. KELLMAN: One of my assistants.

BOARD: (inaudible)?

MR. KELLMAN: Yes.

BOARD: And I only ask that because there's an issue date on there September 22nd, 2016.

MR. KELLMAN: Yes, so that could have been an issue date where it was, it was posted on the website, on Toyota's website.

MS. DEMILIO: Now I'm really confused.

CHAIR: All right. Well, --

BOARD: Yeah, well, it's not in evidence.

CHAIR: -- it's not in evidence. So, Mr. Singer, go ahead. We've asked a lot of questions about something that's not even in evidence but go ahead.

MR. SINGER: That's called tangents.

CHAIR: We are on a tangent. Get back on track here.

MR. SINGER: I, I have no further questions. Thank you.

CHAIR: Thank you very much. Ms. Demilio?

MS. DEMILIO: Yes. Mr. Kellman, first of all, about Reisterstown Road, are you, are you suggesting that this is the only portion of Reisterstown Road in Baltimore County that has hills, H-I-L-L-S, is that your testimony today?

MR. KELLMAN: No, that's not the only portion that has hills.

MS. DEMILIO: Okay. So, there are other up, so it's

a roller, Reisterstown Road, really, we can consider rolling hills?

MR. KELLMAN: Yes, and Reisterstown Road is a, is a large road. However, our site in question, the locale, is where you have the hill differential.

MS. DEMILIO: But there are other locales of Reisterstown Road that have the hill, hill differential, (inaudible)?

MR. KELLMAN: Yes.

MS. DEMILIO: Yes, is that a yes?

MR. KELLMAN: Yes.

MS. DEMILIO: Okay. Now, I'm, I'm trying to understand exactly what you're requesting here today because your Petition says you, a variance for a sign of two hundred and twenty-five square feet in lieu of fifty square feet. So, can we assume, I assume I should say, that your Petitioner's exhibit number two, which you have on the board.

MR. KELLMAN: Yes.

MS. DEMILIO: Is two hundred and twenty-five square feet?

MR. KELLMAN: That's correct.

MS. DEMILIO: Okay and that's not to be confused with the existing sign, which is how tall, do you know?

MR. KELLMAN: Actually, the existing sign is taller than what we propose. The, the existing sign, the variance was

approved for twenty-seven and a half.

MS. DEMILIO: All right and --

MR. KELLMAN: Feet height.

MS. DEMILIO: -- so you're not asking for a variance for that sign today, though, are you?

MR. KELLMAN: For the existing sign?

MS. DEMILIO: Right.

MR. KELLMAN: No.

MS. DEMILIO: Okay. Now, the existing sign then, if you measure it according to today's standards is roughly seventy square feet?

MR. KELLMAN: Yes.

MS. DEMILIO: All right and you say it was constructed in 1990?

MR. KELLMAN: I'm assuming 1990 because that's when the variance was granted, about that.

MS. DEMILIO: All right. So, then can we assume that that's how long the Lexus dealership has been there?

MR. KELLMAN: Yes.

MS. DEMILIO: So, the Lexus dealership has been operating under a seventy foot square sign since 1990?

MR. KELLMAN: Yes.

MS. DEMILIO: So, all your testimony about the difficulty seeing the Lexus dealership or seeing the sign flies in the face of the fact that the dealership has been operating

there and we assume not in the red since 1990 to today, so that's what, twenty-six years?

MR. KELLMAN: Yes.

MS. DEMILIO: Okay.

MR. KELLMAN: It's also a taller sign that's there than what's proposed.

MS. DEMILIO: But, but the, you're asking for to, if we follow the policy and the interpretation that the County has given to, it's two hundred and twenty-five square feet and it's twenty-five feet tall, is that the height, of the proposed sign?

MR. SINGER: Excuse me. I had indicated without formally making an amendment that we were going to amend it down to --

CHAIR: To sixty-nine and a half feet.

MS. DEMILIO: Well, that's, I mean, we had no notice of that. I don't want to get real technical, I don't want to get real technical on you.

MR. SINGER: I mentioned it in my opening remarks.

MS. DEMILIO: But what are you asking for, either the existing sign or the proposed sign under the two interpretations because I'm --

MR. SINGER: We're asking for a variance for sixty-nine point five square feet.

MS. DEMILIO: For the existing sign?

CHAIR: I think, well, for any sign, I guess.

MR. SINGER: This, a sign of this character. Sixty-nine and a half square feet, which would be on poles. If, in fact, the Board concludes that our argument, our position with respect to the interpretation of an area is not successful. But we don't back off from our position on that.

CHAIR: Understood. So, he's orally amended his, his request for relief to ask for a variance for a sixty-nine and a half foot square foot sign.

MS. DEMILIO: All right. Even though the existing --

CHAIR: And just, just to be --

MS. DEMILIO: -- sign, even though the proposed sign only has lettering and a symbol of forty-five square feet, is that what you're saying? All right. Well, never mind. I'll, I'll withdrawal that, I'll withdrawal that question because I' not asking you a question. It's just very confusing to me what your relief is and I guess because you're trying to amend today, which is even more confusing but let me just proceed with Mr. Kellman. All right. First of all, Mr. Kellman, on that line of questioning, you will agree that under the Section 450.8, see, that's (D) under abatement, any sign that does not comply with the, with the requirements under Section 450, would have to be taken down fifteen years from the enactment of the legislation, right?

MR. KELLMAN: That's what the abatement law says, we

call it the sunset provision.

MS. DEMILIO: All right. So, the sun, so that would be 2012?

MR. KELLMAN: Yes.

MS. DEMILIO: All right and there's nothing in these regulations that gives you some kind of consideration to keep an existing sign, is there? Isn't that the purpose of the abatement sign?

MR. KELLMAN: The abatement, right, is to bring them in, either bring them into conformance with the zoning variance or, or change the sign.

MS. DEMILIO: Okay. (inaudible) so the fact that you had a, have an existing sign of sixty-nine and a half square feet or whatever, twenty-seven, doesn't give you any right to get a variance for that sign or any other sign today, are we clear on that, under the regulations?

MR. KELLMAN: It doesn't, it, it doesn't give you a legal rate, however, I may add that there are plenty of signs out there that don't conform and they're not coming in, they haven't been coming in since this, this 2012 deadline, in my opinion, the clients that I've worked with.

MS. DEMILIO: Right. But that's irrelevant because we don't know what's out there, (inaudible) --

MR. KELLMAN: Yes.

MS. DEMILIO: Otherwise, I'll recite a number of sign

cases that I've been involved in so. All right. Now, so when you prepared site plans or reviewed site plans for the area of signs that you indicated that you have done, have you ever measured the area of the sign the way this Petitioner is proposing it today?

MR. KELLMAN: In my situation, no, and I'll, if I can elaborate for the Board is, is I, I do believe that this type of sign, that a single, you know, like one panel, a continuous panel sign, is, is, is really a new type of sign where everything, everything was on hold before. This is, to me, it's a new type of sign. I mean, the, the Hyundai dealership has this single panel type sign. A Toyota sign which, you know, which wasn't admitted into evidence is, is the same thing. So, they're, they're coming up with signs that are, instead of with this pole, they're coming in with more of a modern type, more of a, like a, in my opinion, a better design sign.

MS. DEMILIO: All right. But, the, the regulations are specific on how you measure the area of a sign or the face of a sign and they have been in the past, including that entire structure, is that --

MR. KELLMAN: That, that's why we're here.

MS. DEMILIO: Okay, all right. So, isn't it up to the County Council then to change the law if they want to change how signs, the area signs are measured in terms, in, if

there should be new --

MR. SINGER: Objection. Speculative.

MS. DEMILIO: Well, no, he's supposed to be a zoning expert.

MR. SINGER: But you're asking what the County Council is going to do.

CHAIR: All right. Let's ask the question first. We didn't hear the question.

MS. DEMILIO: All right. First, as a zoning expert, who makes the, who enacts the zoning laws?

MR. KELLMAN: The County Council enacts the law.

MS. DEMILIO: All right. So, isn't it the County Council's province then to change the sign laws if, if they wish to include a different way to measure area or the (inaudible) has been doing in the past?

MR. KELLMAN: Well, --

MR. SINGER: Objection. It's speculative to ask him what the County Council might do or should do and I that's --

CHAIR: Well, I mean, I think that's sort of the question that's the heart of this case. I mean, I don't, I'm not even sure you really need to ask Mr. Kellman that question. That's, that's the legal argument that the lawyers (inaudible).

MS. DEMILIO: All right, thank you. All right, I won't ask. All right. Let's get back to this particular location. You were talking about the Lexus building which, I

assume, has been there then since 1990 as well, okay. Would you say it's a --

BOARD: I'm sorry, just to be clear. You're nodding your head yes?

MR. KELLMAN: Yeah, I'm sorry, I apologize. I'm assuming yes because that's when the sign variance came in and they had been there a little bit, you know, earlier.

MS. DEMILIO: Okay. Is that, would you say that's a typical new car show room, the, the building?

MR. KELLMAN: I, I haven't actually gone in the showroom.

MS. DEMILIO: From the outside, from --

MR. KELLMAN: I can't, I can't afford a Lexus, but, yeah, I would say that it's, it's the typical showroom but I would imagine that it's more upscale, more, more posh.

MS. DEMILIO: Do you know the size of it, how may square feet it is?

MR. KELLMAN: No, I'd have to go, refer to the plan.

MS. DEMILIO: It's a rather large size, I assume?

MR. KELLMAN: Yes.

MS. DEMILIO: Yes, okay and how, is it one story, do you know?

MR. KELLMAN: It's one story, unless, unless there's, from the inside, some dealerships have mezzanine levels inside, you know, but it, for the most part one story.

MS. DEMILIO: So, do you know the height? You don't know the height? Can you --

MR. KELLMAN: I don't know. I, I know that in the, in the business (inaudible) I give a height limitation of forty feet before you have to start measuring height (inaudible), I'm assuming it's less than forty feet.

MS. DEMILIO: Okay and are there any signs, wall mounted signs on that building?

MR. KELLMAN: There is.

MS. DEMILIO: You didn't, you don't have those on your site plan, do you? I didn't see them on the site plans.

MR. KELLMAN: No.

MS. DEMILIO: Do you, can you tell the Court what signs are on the building?

MR. KELLMAN: I, I know that there's a, a wall mounted sign on the building.

MS. DEMILIO: What's it say?

MR. KELLMAN: Lexus.

MS. DEMILIO: Okay and is there an address anywhere on the premises? Because I guess this is 11113?

MR. KELLMAN: I don't know, I don't know.

MS. DEMILIO: Did you look for an address?

MR. KELLMAN: I did not see an address.

MS. DEMILIO: Is that permitted under the zoning regulations to put an address?

MR. KELLMAN: Yes, it is.

MS. DEMILIO: And is that included in the area of the sign or is that a separate --

MR. KELLMAN: Yeah, addresses, identify addresses are, they're, they're separately, you know, it's like an exemption or whatever, not included in the sign.

MS. DEMILIO: So, they're not restricted by the sign size?

MR. KELLMAN: Addresses are not restricted by your enterprise or wall mounted business signs.

MS. DEMILIO: Are there any other, are there directional signs, do you know, or any other types of signs on the premises?

MR. KELLMAN: I'm not sure. There could be some, some directional signs that say, you know, service, or whatever, but that's a, that's a separate sign category.

MS. DEMILIO: Right, I'm just, but you haven't identified other signs here so I'm trying to --

MR. KELLMAN: Right.

MS. DEMILIO: So, is that yes or no, there are some?

MR. KELLMAN: I'm assuming there are.

MS. DEMILIO: Okay, because that's standard, right?

MR. KELLMAN: That is standard to have directional signs to, for, for, so that the traffic knows where to go for service, pickup.

MS. DEMILIO: Do you know if all the signs for the Stoler dealership is, are legal, do you know? Did you look into the history?

MR. KELLMAN: I don't know. It's, it's a separate site.

MS. DEMILIO: Well, how about this site? Did you check whether all the signs on this site are legal, other than the freestanding one that we've been talking about?

MR. KELLMAN: I did not. I, I checked for the freestanding sign.

MS. DEMILIO: All right. Have you noted, the shape of the lot for this particular dealership and this address, is it just similar to all the other ones in the area --

MR. KELLMAN: The shape of the lot?

MS. DEMILIO: Yeah, did you look at --

MR. KELLMAN: No, it's not, it's not similar to everything.

MS. DEMILIO: What's different about it?

MR. KELLMAN: Can I approach the board?

CHAIR: Yes, you may.

MR. KELLMAN: I don't know what kind of shape I can use to describe this, but the, you have your main frontage along Reisterstown Road, then you have some frontage along High Falcon and the actual block wraps around the existing used car dealership. So, in my opinion, it's, it's irregular shaped,

it's not a square or rectangle, different shape. I can't describe it, it's like an octagon or a circle, different type of shape.

MS. DEMILIO: But is it's roads, is the road frontage similar to other lots in the area though?

MR. KELLMAN: If you take the, just the, if you want to just go with the road frontage, not the shape of the lot, but just go along Reisterstown Road from here to here, yeah, they have similar road frontages.

MS. DEMILIO: And isn't that where you want to put, isn't that where the sign is proposed, on that road front?

MR. KELLMAN: Yes, it is.

MS. DEMILIO: So, it wouldn't be any different than any other lot that wants a road front sign?

MR. KELLMAN: You do have another entrance on High Falcon.

MS. DEMILIO: Right.

MR. KELLMAN: So, you do have, you do have two entrances from different streets, which is different from the other dealerships.

MS. DEMILIO: But they're not, are the, do the regulations allow a separate sign on the other entrance?

MR. KELLMAN: No, they don't.

MS. DEMILIO: When you have separate frontage?

MR. KELLMAN: They do that for shopping center signs.

They allow additional signs for, for road frontage.

MS. DEMILIO: So, where's the main entrance though, on Reisterstown Road?

MR. KELLMAN: The main entrance is off of Reisterstown Road.

MS. DEMILIO: Okay. Who designed this proposed sign for Lexus, do you know?

MR. KELLMAN: Who, who designed the proposed sign?

MS. DEMILIO: Right.

MR. KELLMAN: Lexus. I'm going to defer that to someone from Len Stoler.

MS. DEMILIO: You don't know that?

MR. KELLMAN: No, I would imagine it's the factory or whatever but I don't, I don't know.

MS. DEMILIO: Okay. So, I stated in, in some opening remarks that under your, under your, or under the Petitioner's theory here, that the sign can be any size as long as the lettering and the symbols are not, not more than the permitted amount.

MR. SINGER: I'm going to object.

MS. DEMILIO: Did you hear that, wait a minute. I didn't ask a question.

MR. SINGER: I'm going to object to the wording of the sign as opposed to the structure.

CHAIR: Let's ask, let's have the question asked and

then we can deal with the objection.

MS. DEMILIO: So, did you hear my opening remarks that under the Petitioner's proposed interpretation, the sign, and by that I mean the entire structure, can be any size as long as the lettering and the symbols are within the prescribed amount?

MR. KELLMAN: Right, that's correct.

MS. DEMILIO: So, you could, so the, what you're, you show on your Petitioner's number two is black, I'm assuming, is that the color, black?

MR. KELLMAN: Yes.

MS. DEMILIO: So, that black area could be several hundred square feet as long as the lettering and the symbols are not over fifty feet, square feet?

MR. KELLMAN: Yes. I mean, I don't know why you'd want to have a sign like this, you know? This is a consistent --

MS. DEMILIO: Wait, wait a minute. You didn't design this though?

MR. KELLMAN: I didn't.

MS. DEMILIO: So, who, so somebody wanted it bigger. Is there any limit on that black area, is what I'm suggesting, under this theory proposed by the Petitioner?

MR. KELLMAN: Under this theory, no.

MR. SINGER: Objection.

MS. DEMILIO: Okay, all right.

CHAIR: (inaudible).

MR. SINGER: Well, objection. It's asking for speculative about what someone might do in terms of a bigger sign or a smaller sign or a configuration of the sign.

CHAIR: Well, I think she's entitled to ask. I mean, he's been, you know, entered, proposed and accepted as an expert, she can ask him hypothetical questions about different things to test your theory of the case. I don't think there's anything wrong with that.

MS. DEMILIO: Mr. Kellman, did you see the --

BOARD: Excuse me, did, did you answer? Mr. Kellman, did you answer the question that she asked?

MR. KELLMAN: I, I believe I did.

BOARD: And what was the answer, I didn't hear it?

MR. KELLMAN: Can you ask again so I --

MS. DEMILIO: The question was, is under the theory proposed by the Petitioner, as long as the lettering and symbols are within the prescribed amount, which in this case is fifty square feet for a new car dealership, than the remainder of the area, which is the black, which is symbolized by black on your Petitioner's exhibit number two, can be any size whatsoever, I mean, you --

MR. KELLMAN: Well, I think if you say any size, you know, is it, is it part of the structure, you know? This is

part of the --

MS. DEMILIO: Well, I'm just asking you if that black area can be any size square feet under the Petitioner's theory?

MR. KELLMAN: If it's, if it's considered as part of the structure, yes.

MS. DEMILIO: And do you agree that on the Petitioner's exhibit number two, the, the --

BOARD: This is three.

MS. DEMILIO: I'm sorry. Is it? Is this two?

BOARD: That's two.

MS. DEMILIO: Oh, two. Okay. On Petitioner's exhibit number two, which is I think, it's, really I'm just trying to, so that you can see the sign, you know what I'm talking about?

MR. KELLMAN: Yes, underneath.

MS. DEMILIO: Okay. Now, I forgot what I was going to ask.

BOARD: Sorry.

MS. DEMILIO: That's okay. Oh, on Petitioner's exhibit number two, can the symbol and the word Lexus be constructed on the pole type of a structure as the existing sign is?

MR. KELLMAN: Could it be structured?

MS. DEMILIO: Yes.

MR. KELLMAN: It could be.

MS. DEMILIO: Okay, all right. So, you could still have the symbol and the wording within fifty square feet on poles, twenty-five feet high, yes or no?

MR. KELLMAN: You could, yes.

MS. DEMILIO: Okay. All right. Now, I also mentioned in my opening remarks, Section 450.8(A), interpretation of the zoning regulations, are you, are you familiar with that? I'll show you if you're not. I don't want to try, I'm not trying to trick you, I just. Section 440, 450, excuse me, .8(A), interpretation. I printed it out so you could take a look at it (inaudible). It's actually paragraph number one. Just paragraph number one.

MR. KELLMAN: And are you specific, A-1?

MS. DEMILIO: Yes.

MR. KELLMAN: Okay. Okay.

MS. DEMILIO: All right. Did you look at that section before you formed your opinion today?

MR. KELLMAN: I didn't specifically look at this section, no.

MS. DEMILIO: Okay. After you've seen it, do you, can you tell us how this proposed sign, which under the way the County and the inter, and the sign regulations state, it's two hundred and twenty-five square feet, can you tell, explain how that does not prevent or reduce confusion and clutter caused by excessive signage?

MR. KELLMAN: I, you know, in my opinion, you're, you're replacing a, a sign that was approved by variance and you're making it less in height. So, I think it's within the intent.

MS. DEMILIO: Wait, the current sign is six, about seventy square feet, correct?

MR. KELLMAN: That's correct.

MS. DEMILIO: And this one, under the, under what the Planning, Planning Office, Zoning Office says, is two hundred and twenty-five square feet.

MR. KELLMAN: I'm here testifying that it's only forty-five square feet.

MS. DEMILIO: Right, right. Not under the theory that's been, I don't want to say adopted, but in play by Baltimore County since 1977.

MR. KELLMAN: Understood. But I'm testifying on the forty-five square feet, which is actually smaller than what's there.

MS. DEMILIO: It's a different measurement than the County uses. The County, County Planning Office uses and Zoning Office.

MR. KELLMAN: Zoning Office.

MS. DEMILIO: (inaudible) it's different, right?

MR. KELLMAN: If the Zoning Office would have said absolutely yes, it's forty-five square feet, we wouldn't be

here.

MS. DEMILIO: Right, okay.

BOARD: Can I, do you have a copy of 450.8(A)(1)?

MS. DEMILIO: I do. I usually just don't like to put regulations into evidence.

BOARD: Right, but it's just a little hard to understand his testimony without having the --

MS. DEMILIO: I'll be happy to do that just to make it easier. This will be People's Counsel one then if that makes it easier.

BOARD: Yeah, might as well.

CHAIR: Your colleague, Mr. Zimmerman, has no (inaudible).

BOARD: Yeah, he has no compunction about that, does he?

MS. DEMILIO: I mean, I just (inaudible) or cases either, for that matter, but you know, these are administrative hearings so it's fine with me if it'll make it easier.

CHAIR: And he loves to put cases in, especially ones he won.

MS. DEMILIO: Right, right.

BOARD: If this is a good time to do this, maybe, I guess my question (inaudible) but I need to understand what you're amending in terms of your Petition.

MS. DEMILIO: Thank you.

BOARD: So, I understand that the present sign is about sixty-nine and a half square feet?

MR. SINGER: That's correct, yes.

BOARD: Under the Petition that was filed, you, you were asking for special hearing to permit a sign of forty-five square feet in lieu of the two hundred twenty-five square feet as determined under the County's interpretation of the required area, which includes the entire structure. I get that. Is that still, that is still exactly as you requested, correct?

MR. SINGER: Yes.

BOARD: Then there was a second part, which is in the alternative, Petition for variance to permit a sign two hundred twenty-five square feet in lieu of the fifty square feet permitted.

MR. SINGER: Correct.

BOARD: Where does your amendment come into play?

MR. SINGER: We're reducing the two hundred twenty-five down to sixty-nine point five.

BOARD: So, in the alternative, really --

MR. SINGER: In the alternative.

BOARD: -- you're asking that instead of two twenty-five, sixty-nine and a half and, okay. Now I understand why.

MR. SINGER: That's for the variance, as opposed to the interpretation request.

BOARD: No, and I get that now.

MR. SINGER: Okay.

BOARD: And that's where I was trying to figure out where did that play in at. I understand why.

MS. DEMILIO: But let me add though. The reason I object to that is I haven't even seen, you know, you have to submit a site plan with what that's going to look like. So, I have no idea how, we have no idea what the seventy foot looks like. I mean, are you just going to chop off something or whatever, so I, that's why we don't like amendments at this level, you know, the amendments have to go through all the agencies and then the, you know, it seems like it's a new Petition. Now, look, I don't want to be unduly burdensome to this Petitioner, but it's, I, I don't like to be sprung with something at this level because I, I don't know what you're talking about, what is seven, is it the old sign, with what, a new logo? Is it the, I mean, I think we all are entitled to see it and no one prepared any, even prepared anything for today.

CHAIR: Let me ask you this. Is it proper to seek variance relief without going through the public notice and posting?

MS. DEMILIO: No, because, I mean, usually, we don't do that for the reasons that everybody has to know what's at stake. Now, sometimes when it's a lesser variance, we would say, all right, at this level we'll allow it because all

they're doing is saying instead of twenty-seven feet, we're going to have, we're going to have twenty-six feet and so we can just picture they're reducing the size. But I don't even know what they're talking about. It's a little bit confusing what they're talking, so that's my --

MR. SINGER: I think, I think it's very clear. We're going down from two twenty-five to sixty-nine point five on the same sign, the same location.

MS. DEMILIO: But what --

MR. SINGER: So, all the other documents, the site plan and everything else, are the same, and reviewed the same, it's just the size of the sign that, being requested is being reduced.

MS. DEMILIO: Under the traditional way to measure it or under your theory of measuring it? That's the other question. I don't, that's why I don't understand, it's --

MR. SINGER: It's not a traditional, it's not a question, it's sixty-nine point five square feet. We're asking for a variance of a sign that size. That's not, it's not rocket science here.

CHAIR: Okay. Well, let's, let's keep going.

MS. DEMILIO: Okay.

CHAIR: I mean, I think that, you know, at the end of the day, we're going to have to just, you know, brief on what, what the, the legal significance of amending at this stage in

the game, where that leaves us. Because I, I, you know, I know that when you have a variance, you have to go through the posting and public notice procedures. I assume that was done for that two hundred and twenty-five foot in lieu of the fifty foot.

MS. DEMILIO: And this pres, current case, the current Petition, yes.

CHAIR: Right.

MS. DEMILIO: Yes, but --

CHAIR: So, that we haven't, we haven't, we haven't gone down that road before with regard to a sixty-nine and a half foot sign.

MS. DEMILIO: No, I mean, with all due respect, right, with all due respect, the Board is the first administrative body --

CHAIR: Understood.

MS. DEMILIO: -- to have to hear these cases.

CHAIR: No, I understand that.

MS. DEMILIO: (inaudible).

CHAIR: All right. So, I, I think we should just, you know, they, they have made their request for an amendment.

MS. DEMILIO: Right.

CHAIR: We're going to proceed with this hearing today and that issue will have to be hashed out at the conclusion of the hearing.

MS. DEMILIO: Right. All right, so --

CHAIR: But I understand what you're trying to say, Mr. Singer. I'm not, you know, I'm not saying I don't understand that, I do. But the legal import of amending at this, at this stage in the game is something that I, assuming People's Counsel is going to have an issue with at the end.

MS. DEMILIO: All right. Thank you, Mr. Chairman. Mr. Kellman, also, or did you happen to see Mr. Beverungen's decision in the, this case in the lower administrative hearing?

MR. KELLMAN: Yes.

MS. DEMILIO: Okay and did you see his, he attached an, a, a page from the Zoning Commissioner's policy manual, did you see that?

MR. KELLMAN: Yes.

MS. DEMILIO: And does, does not that, could you just tell what the policy manual is if you'll just explain very briefly?

MR. KELLMAN: The, the policy manual is, it, I believe it's still called the Zoning Commissioner's Policy Manual and what it is is, is a supplement, it was adopted by law, but a supplement to the, to the zoning regulations when, when, when different issues fall into, you know, like a gray area, the policy manual clarifies certain situations, or clarifies some regulations. It mentions anything from setbacks, density, signs, uses, everything.

MS. DEMILIO: Okay. So, I want to show you (inaudible). The first page I'm going to show you is the page attached to the decision of Mr. Beverungen. Do you, do you recognize that as an excerpt from the policy manual as what he, he relied on in his decision?

MR. KELLMAN: Yes.

MS. DEMILIO: Okay and then I'm going to show you, I think that page, if I can read the number, you can read it, you have better eyes probably, four dash --

MR. KELLMAN: 4-69.9?

MS. DEMILIO: Okay and I'm going to show you 4-69 point or .10 and ask you if that also is a, addressing the measurement of the area of a sign and the face of a sign and other illustrations on interpretating, in, interpretation of the sign regulations.

MR. KELLMAN: Yes.

MS. DEMILIO: All right and are, is the Zoning Commissioner Policy Manual consistent with Mr. Beverungen's decision?

MR. KELLMAN: Yes.

MS. DEMILIO: In this case? All right. Let me just put this in, if I may than, as two pages, People's Counsel two pages 4-69.9 and 4-69.10, sorry didn't staple them together, of the Zoning Commissioner's Policy Manual. Thank you.

BOARD: And, Mr. Singer, you had a copy?

MR. SINGER: Yes, I do.

MS. DEMILIO: If I could just have a moment just to look at my notes, please.

BOARD: Are you moving those exhibits into evidence?

MS. DEMILIO: Yes.

BOARD: Any objection?

MR. SINGER: No.

BOARD: They're in evidence.

MS. DEMILIO: Thank you.

BOARD: So admitted. Just so you guys know, just, we just drew on the ex, your Exhibit 1 just, PC-1, thinking that it was a copy that was handed to the Board (inaudible) actual exhibit. So, there's handwriting PC-1 on top of People's Counsel one.

MS. DEMILIO: Oh, okay.

BOARD: That was not there when you handed it up. That's what that refers to.

MS. DEMILIO: Okay, thank you.

CHAIR: I thought it was my individual personal copy, I was wrong.

MS. DEMILIO: Oh, well --

CHAIR: That's okay.

MS. DEMILIO: I have another one.

CHAIR: That's okay.

MS. DEMILIO: Do you want another copy?

BOARD: That's okay.

MS. DEMILIO: Just a little bit on the description here. What, do you know the speed on Reisterstown Road at this --

MR. KELLMAN: The speed?

MS. DEMILIO: The speed limit. If you don't, you don't. Not what you drive, but the speed limit.

MR. KELLMAN: I don't, I, I obey the speed limit, I obey the speed limit but I don't know the speed.

MS. DEMILIO: Okay and is there a traffic signal at the corner of Reisterstown Road and High Falcon Road?

MR. KELLMAN: There is.

MS. DEMILIO: Okay. Just a regular green, yellow, red?

MR. KELLMAN: Regular, regular, you know, traffic signal.

MS. DEMILIO: Okay.

MR. KELLMAN: Stop light, whatever you want to call it.

MS. DEMILIO: Okay and I think you mentioned in your direct testimony, there are other Stoler dealerships at this location for other man, kind of, types of cars that are sold?

MR. KELLMAN: Yes.

MS. DEMILIO: Do you know the size of the whole Stoler complex?

MR. KELLMAN: I don't know.

MS. DEMILIO: Okay.

MR. KELLMAN: I don't know.

MS. DEMILIO: If I told you twelve acres, would that surprise you?

MR. KELLMAN: Wouldn't surprise me.

MS. DEMILIO: Okay and as you're going north, are they all in the right side, is there, do you know if there's something on the, across the street?

MR. KELLMAN: If I'm going north?

MS. DEMILIO: Right.

MR. KELLMAN: The dealership is on the right hand side.

MS. DEMILIO: Okay. All Stolers is as far as you know?

MR. KELLMAN: Yes.

MS. DEMILIO: I have no further questions. Thank you.

CHAIR: Mr. Singer, you have any?

MR. SINGER: The supposed twelve acres, are they all under the same ownership in terms of the prop, real property?

MR. KELLMAN: No.

MR. SINGER: People's Counsel number two, determining the area examples, which was just shown to you.

MR. KELLMAN: Correct.

MR. SINGER: Does that constitute the County's interpretation of the zoning regulations?

MR. KELLMAN: Does it --

MR. SINGER: Does that constitute the County's interpretation of the zoning regulations?

MR. KELLMAN: Does it constitute the County's interpretation? I think the County uses that. It doesn't publicly (inaudible), you know, --

MR. SINGER: I'm talking about page 4-69.9, it says determining area examples. Is that an example of the County's application of the zoning regulations?

MR. KELLMAN: The policy manual is supposed to do that. I don't, like, I'm going to elaborate a little bit. The policy manual, I don't know when the last time it was, it was updated. I actually went back to the County at one time to work on the policy manual, which was some time ago. So, I think it's been a while before that policy manual has been updated.

MR. SINGER: The, the location of the proposed sign is, to be at the same spot as the existing sign?

MR. KELLMAN: That's correct.

MR. SINGER: Excuse me. I have no further questions.

CHAIR: Anything further?

MS. DEMILIO: Just on, on the policy manual. You're not disputing that this is a current policy manual, whether

it's been updated, regardless of the age, right?

MR. KELLMAN: That is, that is the current one.

MS. DEMILIO: Yeah.

MR. KELLMAN: I think there's two versions, an earlier one from that, from what you have, an earlier version and that's the second version.

MS. DEMILIO: And the current, and the current one?

MR. KELLMAN: Yes.

MS. DEMILIO: Okay. I have no further questions.

CHAIR: I have one question for you, Mr. Kellman. Do you have, do you have a copy of Petitioner's Exhibit 1, which is Section 450.3 there?

MR. KELLMAN: Yeah.

CHAIR: The, the part that Mr. Singer had you read, that Subparagraph A, I'm just curious. Are, are you familiar with the phrase, decorative feature?

MR. KELLMAN: Decorative feature.

CHAIR: Have you, have you had occasion to see, to, to apply in your experience a sign that includes a decorative feature that does not, that is not used to calculate the area? Because I'm just sort of wondering what --

MR. KELLMAN: In my, in my experience, I've never seen somebody call out from the Zoning Office, yes, that's a decorative feature, no, that isn't a decorative feature.

CHAIR: Okay.

BOARD: I have one just quick, quick thing if I could. The sign that's there was erected in 1990 as a result of a variance?

MR. KELLMAN: Yes.

BOARD: And it's presently not in conformity with the County requirements as the County understands them to be.

MR. KELLMAN: Right. It was allowed to exist and then in 2012, you have that sunset provision where everybody who has signs that don't conform with the current regulations, I'm going to say, are supposed to bring them up. Now, whether they do or not, I don't know.

BOARD: Okay. So, so the bottom line is though that the, if the County were to make an issue of it now, the present existing sign would have to be --

MR. KELLMAN: Have to go for a variance or --

BOARD: Or be made to conform with --

MR. KELLMAN: Fifty square feet.

BOARD: Fifty square feet, okay. All right, thank you.

CHAIR: Any other questions? Okay. Thank you, Mr. Kellman.

MR. KELLMAN: Thank you.

MR. SINGER: I'd like to introduce a COMAR regulation with respect to signs. And offer this as Petitioner's exhibit number, and I've lost count.

BOARD: Ten, ten.

MR. SINGER: Ten.

BOARD: And Ms. Demilio, you have your copy?

MS. DEMILIO: Yes.

MR. SINGER: Sir, could we have a short, like five minute recess, please?

CHAIR: Yes, that's fine. May I just (inaudible) before we break, how long do you think we're going to, we're going to go today?

MR. SINGER: I have one witness, additional, which will probably be on direct twenty minutes or so, twenty-five minutes.

CHAIR: Do you have any witnesses?

MS. DEMILIO: I have two witnesses that will probably be a total of twenty-five minutes.

CHAIR: Okay.

MS. DEMILIO: If even. We can go straight through if you want.

CHAIR: I was going to say, if you want to go straight through, I would be, I'd be fine doing that.

MS. DEMILIO: Maybe we'll be finished by 1:00, 1:30.

CHAIR: Yeah, okay. Let's do that. We'll take a five minute break and we'll reconvene.

MR. SINGER: Thank you.

(RECORDING PAUSED - 11:54:09 AM)

(ON RECORD - 12:08:27 PM)

CHAIR: Okay. We're back on the record. Mr. Singer, are you ready?

MR. SINGER: Thank you.

CHAIR: Please remain standing to be sworn.

MR. MEAGHER: Sure.

BOARD: Yes. Do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. MEAGHER: Yes, I do.

BOARD: Can you state and, state your name and provide your business address and spell your last name, please?

MR. MEAGHER: Michael Meagher, M-E-A-G-H-E-R, 11275 Reisterstown Road, that's Len Stoler Incorporated.

CHAIR: All right. You can have a seat. Thank you.

MR. SINGER: Mr. Meagher, you're familiar with the site at Reisterstown Road, which is the subject of this Petition?

MR. MEAGHER: Yes.

MR. SINGER: And you're familiar with the Lexus sign at that site?

MR. MEAGHER: Yes.

MR. SINGER: All right and that's on two poles, as shown by the photographs that you've seen this morning?

MR. MEAGHER: Yes.

MR. SINGER: All right and how long has that sign been there?

MR. MEAGHER: Roughly, 1990.

MR. SINGER: And the, the impetus for this Petition is what, a, a modernization program by Lexus?

MR. MEAGHER: Yes.

MR. SINGER: And what does that entail? Is it a national program?

MR. MEAGHER: Yes, it is. We have a, a dealer agreement with Lexus to keep our facilities maintained and to also upgrade them at time that they, they're requesting it and this sign is the first part of that modernization. There is one in existence already down in Annapolis, they're doing the process right now and that sign has been approved at that dealership there.

MR. SINGER: And are you required by your franchise agreement with Lexus to comply with their, their signage program?

MR. MEAGHER: Yes, we are.

MR. SINGER: And their modernization program?

MR. MEAGHER: Yes, we are.

MR. SINGER: And I think you said that this is the first step in the modernization program for dealerships?

MR. MEAGHER: Yes.

MR. SINGER: And what does that entail?

MR. MEAGHER: There will be a, a facelift, is what I'll call it, to the front of the building, which there will be permits and so, which we always do. We always go and make sure everything is done the right way. But there's drawings rendered now, and that will come in the next two to three years.

MR. SINGER: Okay. But this is the first step along that road?

MR. MEAGHER: That's correct.

MR. SINGER: Now, with the new sign, will there be any change in the lighting arrangement?

MR. MEAGHER: The new sign will actually be less offensive. It'll be a, it'll be a, a softer look, absolutely gorgeous the way the glow comes from it. It's modern. The way it's set up now, with the double poles which are archaic, you know, it, it's, doesn't look good at all and the way they've, they've designed it is to keep the light soft, the black at night time is, you don't see it so you just see the Lexus logo at the top. It's quite a work of art.

MR. SINGER: The photographs indicate that the present Lexus sign, the logo and the wording, is in gold, is that correct?

MR. MEAGHER: That's correct.

MR. SINGER: All right. Is there any significance to the change from the gold to the black and silver on the

proposed sign?

MR. MEAGHER: None, except more of an updated modern look as most homes have been changed also, from the gold to --

MR. SINGER: Is there any, like from a marketing point of view, is there any importance attached to the change in the colors?

MR. MEAGHER: No.

MR. SINGER: To your knowledge, is there any intent that the black and silver identify Lexus in any way?

MR. MEAGHER: No.

MR. SINGER: From the point of view of the modernization of the sign, is the silver and the black, other than the portion that shows the logo and the Lexus, intended to be part of any message?

MR. MEAGHER: No.

MR. SINGER: To, to what extent is the, presenting a modern, more modern sign to a dealership such as a high end auto dealership?

MR. MEAGHER: It's tremendously important. Our, our cars are very expensive. When you come into our store, it's pristine. The, the signage has to be able to compete with our competition and our competition already has that sign so it would be very important to comply with what Lexus wants us to do, plus the appearance on Reisterstown Road itself would certainly be better with this sign rather than two stainless

steel looking poles sticking up in the air.

MR. SINGER: I mean, you're talking, or speaking of your competition, you're talking about the Lexus dealership in Annapolis?

MR. MEAGHER: That's correct.

MR. SINGER: All right and that is in direct competition with your operations?

MR. MEAGHER: Yes.

MR. SINGER: The, the purpose in eliminating the poles, is there a economic or monetary reasoning behind that too?

MR. MEAGHER: Yes, it, it should be easier to maintain, less cleaning, rust, things of that nature, that you won't have to deal with. It's of a very modern design in both material and looks of, of the replacement and, and plus the total size of it from the pole to the top, is actually smaller than what the current sign is there.

MR. SINGER: Could I have, (inaudible) seven, the one marked for exhibit only, please?

BOARD: I believe that's --

BOARD: Nine, I think.

BOARD: -- nine.

MR. SINGER: Nine. I (inaudible). This photograph is not in, into evidence. Have you seen a similar sign yourself?

MR. MEAGHER: I see them all the time.

MS. DEMILIO: Objection.

CHAIR: Basis?

MS. DEMILIO: It's irrelevant and they're referring to this exhibit, which is, just in for i.d. I don't know what the purpose of this question is but the, whether he saw, I don't care what he saw or where he saw it, no offense, Mr. Meagher, but that we're here today on specific sign --

MR. MEAGHER: No discount for you. No, I'm just kidding, just, just a joke.

CHAIR: What is the purpose of having Mr. Meagher testify about this?

MR. SINGER: I want him to be able to identify a location at which he has seen such a sign.

CHAIR: Why is that relevant though?

MR. SINGER: It's relevant because there's a presumption of validity that the County has approved this, there's no presumption --

MS. DEMILIO: There is no (inaudible) --

CHAIR: Well, I don't think there's any, I don't think we have any testimony about that. I mean, we had some hearsay testimony from Mr. Kellman but I don't, I don't see this as being relevant to what, you know, what the issue is before us.

BOARD: I, and just to echo what you're saying, I

think they're focusing on this sign --

CHAIR: Yeah.

BOARD: -- not other, where there are other signs are, you know, have been approved, not approved or in conformity, not in conformity or whatever the case may be.

CHAIR: I mean, to the extent that, you know, you got a County official in here who has approved this sign, maybe I can see you tying the relevance into that but I don't think some employee of the Stoler operation is really the right witness for that.

MR. MEAGHER: May I say something?

CHAIR: So, we will, we will sustain the objection.

BOARD: There's no question.

CHAIR: Just wait till Mr. Singer asks you a question.

MR. SINGER: Have you, yourself, personally seen other dealerships with signs where the base includes, or base supports a portion of the sign where there's a message?

MS. DEMILIO: Objection. It's the same, it's the same issue, question, for the same reason. I object.

CHAIR: I think I would sustain the objection, Mr. Singer. I just think that, you know, we have a Stoler employee here who's testifying about their sign, that's what's before us. I don't think he's the right witness if you're going to try to argue some sort of waiver by the County --

MR. SINGER: Very well.

CHAIR: -- or some sort of different interpretation being applied by the County in different locations.

MR. SINGER: Is the black and silver merely a decorative portion of the structure?

MS. DEMILIO: Objection.

CHAIR: Basis?

MS. DEMILIO: Sorry?

CHAIR: Basis?

MS. DEMILIO: Oh, how would he know? Under what, the zoning laws? He's not, can't interpret the zoning laws, so.

CHAIR: I mean, I think, I'll overrule that one.

MS. DEMILIO: Okay.

CHAIR: I think we can let the witness testify as to his understanding.

MR. MEAGHER: I'm sorry? Go ahead.

MR. SINGER: Is the black and the silver portion of the structure a decorative feature of the structure?

MR. MEAGHER: No.

MR. SINGER: Pardon?

MR. MEAGHER: No.

MR. SINGER: Is it part of the message?

MR. MEAGHER: No.

MR. SINGER: No? So, it's black and silver just because those colors were chosen?

MR. MEAGHER: That's true.

MR. SINGER: So, in that sense, they are decorative?

MR. MEAGHER: Saying it that way, yes.

MR. SINGER: And the same way that the gold on the present sign is decorative?

MR. MEAGHER: That's correct.

MR. SINGER: Who creates these signs?

MR. MEAGHER: Lexus.

MR. SINGER: They design them?

MR. MEAGHER: Yes.

MR. SINGER: All right and they, as part of their franchise agreement, establish the need to erect them at each dealership?

MR. MEAGHER: That's correct.

MR. SINGER: I have no further questions.

CHAIR: Ms. Demilio?

MS. DEMILIO: Yes. Mr. Meagher, I'm sorry, what is your position with Lexus?

MR. MEAGHER: General manager.

MS. DEMILIO: You're not in an ownership position?

MR. MEAGHER: I'm sorry?

MS. DEMILIO: Are you in an ownership position?

MR. MEAGHER: No, I'm a managing partner without stock.

MS. DEMILIO: Wow.

MR. MEAGHER: There you go.

MS. DEMILIO: What's that mean? I'll withdraw the question. No, no, no, I don't want you to --

MR. MEAGHER: Yeah, we want to get out of here.

MR. SINGER: If you're trying to get a Lexus, it's not going to happen.

BOARD: Just to be clear, you're general manager of Len Stoler Inc.?

MR. MEAGHER: Yes.

MS. DEMILIO: Okay. Did you sign the franchise agreement?

MR. MEAGHER: No.

MS. DEMILIO: Do you have a copy of it so I can look at it today --

MR. MEAGHER: I do not.

MS. DEMILIO: Okay. All right. Now, you're saying that the Lexus, Lexus designed this sign so does that mean you can change that color to anything you want, the black?

MR. MEAGHER: No.

MS. DEMILIO: So, it has to be black?

MR. MEAGHER: That's correct.

MS. DEMILIO: Black and silver?

MR. MEAGHER: Yes.

MS. DEMILIO: It's like a team uniform, I think that's the Oakland Raiders?

MR. MEAGHER: It's their branding nationally.

MS. DEMILIO: Okay.

MR. MEAGHER: That they do at two hundred and thirty dealerships.

MS. DEMILIO: Okay. So, I guess, their, their goal is to have all the signs look the same, exactly like that?

MR. MEAGHER: Buildings and signs, it's done in business every day.

MS. DEMILIO: Okay. Now, are you familiar with the Lexus dealership in Towson at the corner of West and York Road?

MR. MEAGHER: That's where my office is.

MS. DEMILIO: Is that Stoler too?

MR. MEAGHER: Yes.

MS. DEMILIO: The one in Towson?

MR. MEAGHER: Yes.

MS. DEMILIO: And that's the, they have the sign on the pole?

MR. MEAGHER: Same sign.

MS. DEMILIO: Right, not this sign proposed?

MR. MEAGHER: No, the same sign that's in Owings Mills.

MS. DEMILIO: Okay, right. So, what are, is it your testimony then that there's nothing, you can't, that this sign, it's sort of a sign package, you have to take the whole package, the lettering, the, the black, the whatever it is?

MR. MEAGHER: It's my testimony that they have a requirement of us to make our dealerships conform to what they want their dealerships to be. We presented what we need and that's been done about eighty percent of the time around the country, maybe eighty-five.

MS. DEMILIO: You say we, I'm sorry, you mean Len Stoler?

MR. MEAGHER: We, we, yeah, we presented what we needed to put up the sign and using below the Lexus name, the word base and that's what I believe it to be, we feel that we're, we conformed to the square footage. In the, in lieu of the fact that this is not approved, we've offered, I, I got in touch with Lexus to find out if there was an alternative and that is where the other variance that we've submitted, which is using the poles, which really don't look good for the whole community but using them and just using, can I get up, I (inaudible). Using this area here, that you see here, on top of the two poles, should be allowed to do and that would be an alternative if you do not allow us to do this whole thing. So, the sign, your question earlier today was what does it look like? There it is, that's it, without that and without that.

MS. DEMILIO: So, so as I understand your testimony then, you have the flexibility to change the sign?

MR. MEAGHER: One or the other.

MS. DEMILIO: Right.

MR. MEAGHER: You know, I, I made the phone call this week to see, and it's only been used in about eight stores nationally where this is, everybody else has okayed this, so. But if we have to, that's what they will, they'll do what's called resurfacing, they'll come out and they'll take the sign and they'll make a new plastic plate with the right type of lighting and make the sign on top of the two poles that go up.

MS. DEMILIO: So, but you could actually, Mr. Kellman I think, you can sit down --

MR. MEAGHER: Okay.

MS. DEMILIO: Mr. Kellman, I think, said that the existing sign is twenty-seven feet, so I guess you could make it twenty-five feet or you could make it fifty feet and comply then too. I mean, it's just a question of putting the surface --

MR. MEAGHER: We would, it would be the same size as the sign that's currently there.

MS. DEMILIO: Because that's what you prefer?

MR. MEAGHER: That's what is the easiest thing to do --

MS. DEMILIO: Right.

MR. MEAGHER: -- to amend that sign.

MS. DEMILIO: Right, but --

MR. MEAGHER: Without getting into tearing poles down, making, or making it look, you know, not really nice at

all so that would be the less of the two options. But that would appease the manufacturer.

BOARD: And whatever you do here on Reisterstown Road is, you're going to have to do in Towson as well, is that --

MR. MEAGHER: Yes.

MS. DEMILIO: I just want to confirm that the dealership has been there since 1990, Lexus, the dealership?

MR. MEAGHER: Yes, they, Len Stoler in Reisterstown Road is one of the original ones in the country.

MS. DEMILIO: I, I thought so. Right, that was before Towson?

MR. MEAGHER: Yeah, Towson has been there twelve years.

MS. DEMILIO: Right. So, it's been a continuous business --

MR. MEAGHER: Yes, I've been with them eighteen of the, of the twenty-five and yes, it has been.

MS. DEMILIO: Okay. I have no further questions.

CHAIR: Okay. Any re-direct?

MR. SINGER: The, the position of Lexus is this sign is what they are now requesting?

MR. MEAGHER: That's correct.

MR. SINGER: As part of their modernization program?

MR. MEAGHER: That's correct. Just actually a requirement.

MR. SINGER: And are signs on poles, from your personal knowledge, generally on their way out?

MR. MEAGHER: I'm waiting, okay, I can go ahead and answer that, yeah.

MR. SINGER: Go ahead.

MS. DEMILIO: Look, I don't want to get picky here. I don't know if he's an, he's not a sign expert. I mean, he's a general manager of a car dealership.

CHAIR: He's been in the car business for a long time, I think he can answer that question.

MR. MEAGHER: Yeah, it's, I have forty years and, and, and I, and it's not just cars but it's all kind of marketing before that. Yes, they're on their way out. McDonald's has done away with the, with the poles and, and the brash looking signs. This sign is genuinely attractive, much more attractive than what's up there now. And I just don't, for the life of me, when I see all the other car dealership signs, I don't understand why we want to leave metal poles sticking up in the air and that's the only change. Using a black base is a much nicer way and I won't elaborate on that. But I wanted to try to make it clear because I don't think we were making it that clear to, to you when we first presented why there was a variance and that is a requirement, that sign, but I can get away with doing the smaller version.

BOARD: But you understand that aesthetics aren't

part of the, they're not necessarily part of the zoning calculus, right?

MR. MEAGHER: I understand that. But I see that sign, that sign, a lot of places. Not saying Lexus, it says Toyota, which owns us, by the way, that's why we use Toyota and that Toyota sign is at Bill Kidd's, it's all, it's in, I, I rode by it this morning at Koons. That sign only with a Toyota on top of it and, you know, the different swirl colors, so it's being put up, that's why, you know, that's why I'd like, I, I'm sorry, go ahead.

BOARD: No, no.

MR. MEAGHER: I talk too much.

BOARD: Please finish your answer.

MR. MEAGHER: That's, I'd like it put up because little things add up to car sales and add up to good businesses and we do, if any of you have been in our store in Towson, it is the best car dealership in the State of Maryland and I don't want to have a second rate sign there or in Owings Mills. So, that's the reason I'm here. Not the guy who's my boss, but he doesn't deal with it every day, I do, that's why I am a meaningful witness for this because my heart and soul and all my employees' income depends upon doing the best you can and that is the best, excuse me.

MR. SINGER: Would there ever be any attempt to expand the base of the sign other than the, above the, or

beyond the area of the message portion?

MR. MEAGHER: No, no.

MR. SINGER: I have no further questions.

MS. DEMILIO: I just have one question. So, Mr. Mayer, I take it from all --

MR. MEAGHER: It's Meagher, by the way.

MS. DEMILIO: I'm sorry.

MR. MEAGHER: That's all right. M-E-A, Meagher.

MS. DEMILIO: Meagher?

MR. MEAGHER: Yes.

MS. DEMILIO: I'm sorry.

MR. MEAGHER: That's all right.

MS. DEMILIO: (inaudible).

MR. MEAGHER: My son is an attorney, you may run into him sometimes so.

CHAIR: Is your son Tony?

MR. MEAGHER: That's him, yeah.

CHAIR: I know him.

MR. MEAGHER: Yeah, I, I, anyway, I'll leave that go but, yeah, he's, I was at my grandson's basketball game yesterday because he's a construction attorney, I was trying to get some tips on this but he wouldn't do it so, so it --

CHAIR: (inaudible).

MR. MEAGHER: Yeah, he's, he's a good, good kid.

MS. DEMILIO: Well, congratulations.

MR. MEAGHER: Thank you.

MS. DEMILIO: So, Mr. Meagher, I take it then from your testimony that the purpose of this sign is really the advertising image that you want more than anything else?

MR. MEAGHER: It's the branding image.

MS. DEMILIO: Branding.

MR. MEAGHER: Yes.

MS. DEMILIO: I call it advertising.

MR. MEAGHER: There's a difference, there's a difference between advertising and branding on --

MS. DEMILIO: Well, I have a son in advertising and branding so.

MR. MEAGHER: Well, you know, --

MS. DEMILIO: And I understand, a little bit I understand, I used the wrong word.

MR. MEAGHER: The reason that this all came about and is a renovation and the ren --

MS. DEMILIO: Right.

MR. MEAGHER: -- renovation of our car dealerships, it all started from a simple thing with Lexus was a key.

MS. DEMILIO: Right, so it's not that someone can't find you --

MR. MEAGHER: So, that is the key, the car key that you get is that sign.

MS. DEMILIO: Right.

MR. MEAGHER: Pretty, pretty cool what they've done so, they, there's a lot of thought that goes into it.

MS. DEMILIO: I understand, it's the branding. So, it's not that they can't find the dealership, it's not you can't find it.

MR. MEAGHER: No, absolutely.

MS. DEMILIO: It's just the --

MR. MEAGHER: Absolutely.

MS. DEMILIO: -- it's the branding, I get it. All right. Thank you. No further questions.

BOARD: Can I just ask one quick question?

MS. DEMILIO: You can.

BOARD: I'm sitting here waving my hand (inaudible). Right now as I understand it, the current height is twenty-seven and a half feet?

MR. MEAGHER: That's correct.

BOARD: And I understand it to be non-conforming, is that your understanding?

MR. MEAGHER: I, I assume.

BOARD: Okay.

MR. MEAGHER: I don't know that.

BOARD: If you don't know, you don't know, that's okay.

MR. MEAGHER: I don't know.

BOARD: Assuming that it is and if you were to take

the alternate relief that you're requesting, that is, I understood that it be easier just to leave the poles as is and basically put the new sign, which would be the same dimensions, sixty-nine and a half square feet, as the one that's existing, wouldn't that then mean that you would need a height variance as well?

MR. MEAGHER: I, I don't know the answer to that. My, my attorney may but I think we're, what? We're, this sign would be shorter than that one, it would probably be within the height of what the code is. If we got the new one, so --

MS. DEMILIO: Well, (inaudible) cut off some of the poles, make it --

BOARD: And, and that's where I'm going is they would have to cut down the poles.

MS. DEMILIO: Cut the poles down and make it, yeah.

MR. MEAGHER: Well, or put this one up which would be --

MS. DEMILIO: We have a difference of opinion on this.

MR. MEAGHER: I can, always have to try so.

CHAIR: Different case, different day.

BOARD: Yeah.

CHAIR: All right. Is there any other questions for Mr. Meagher?

MS. DEMILIO: No.

MR. SINGER: I have no further questions.

CHAIR: Thank you very much, Mr. Meagher.

MR. MEAGHER: Thank you for your patience.

CHAIR: Is that it for you, Mr. Singer?

MR. SINGER: Well, I'd like to formally amend, as I indicated earlier, if there's any doubt in my comment.

CHAIR: No, I think we understand now and I think that's going to, going to have to be addressed in the closing briefs that, that will be filed.

MR. SINGER: That's fine. That would be the Petitioner's case.

CHAIR: Thank you very much. Ms. Demilio?

MS. DEMILIO: Yes.

BOARD: I'm sorry, just one thing. There was COMAR 11.12 that you put in, you, we had marked as Exhibit 10 and did you want that in evidence?

MR. SINGER: Yes, I'd like to have that admitted into evidence.

MS. DEMILIO: I have a question on it because he's just going (inaudible) I don't know, but I guess I'll just let it in (inaudible) I guess the Board can read it for whatever reason.

MR. SINGER: I've highlighted the portion that's --

CHAIR: Yes.

MR. SINGER: -- rather than have to read the whole

thing.

MS. DEMILIO: I guess (inaudible) talk about or something. I'm not going to object.

CHAIR: Okay. Thank you very much.

MS. DEMILIO: (inaudible).

BOARD: Thank you.

CHAIR: All right. You can proceed with your case.

MS. DEMILIO: Yes.

CHAIR: If you would remain standing just for a moment. Thank you.

BOARD: Do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your, excuse me, knowledge and belief?

MR. HARMAN: Yes.

BOARD: Could you state your name and business address for the record and spell your last name?

MR. HARMAN: My name is George Harman, H-A-R-M-A-N. I'm residing at 5429 Weywood Drive, spelled W-E-Y-W-O-O-D, Drive, Reisterstown 21136. I am, I do work from home as a part-time consultant, otherwise I'm generally retired.

BOARD: Okay.

CHAIR: Thank you.

MS. DEMILIO: Mr. Harman, are you, are you familiar with this area of Reisterstown Road?

MR. HARMAN: I moved into the Reisterstown area in 1972 from Catonsville, Woodlawn area and I've been very familiar with the area, even before Mr. Stoler had any purchased, I don't believe he had purchased any of the properties so I've watched this site evolve over the last whatever number of years that is, forty years.

MS. DEMILIO: So, (inaudible)?

MR. HARMAN: Yes.

MS. DEMILIO: Even though you're retired, you still--

MR. HARMAN: Even though I'm retired, I, my wife and I use Reisterstown Road frequently to go shopping, areas Owings Mills and return north to the northern side of Reisterstown.

MS. DEMILIO: Just some preliminary questions. Is there anything unique or unusual about Reisterstown Road at this juncture compared to other parts of Reisterstown Road in the County?

MR. HARMAN: No, Reister, Reisterstown Road from the beltway north is generally rolling hills, some valleys a little deeper, some hills a little higher. But generally speaking, the road undulates all the way from the beltway north to where I live on Hanover Pike.

MS. DEMILIO: And are you --

MR. HARMAN: Or off of Hanover Pike.

MS. DEMILIO: All right and was there anything on the roadway that blocks the visibility of the Lexus dealership here

on Reisterstown Road?

MR. HARMAN: I'd, I'd like to be a little glib and say the thing that blocks the Lexus are the other signs for the other car dealerships on both sides of the road.

MS. DEMILIO: But if you're not being glib, is there any (inaudible) in the natural future --

MR. HARMAN: No, in the natural scheme of things, the road in that area is typical, regrettably, of most of the developed areas of Reisterstown Road.

MS. DEMILIO: So, if you were a motorist and a potential Lexus customer, would you think you'd have any trouble locating this dealership? If the sign were twenty-five feet high and fifty square feet in the area?

MR. HARMAN: Again, it's only the other signs and the multitude clutter that has occurred over the years that has made it difficult because I think the speed limit in that area is forty miles per hour and trying to navigate at forty miles an hour and looking at dozens of business entrances and exits, it's very difficult to keep your eyes on the road and on the various buildings and enterprises along that section.

MS. DEMILIO: Well, was that the basis of your concern then with this sign, is it adds to some, and for a variance, for a bigger sign, it adds to clutter?

MR. HARMAN: Yeah, that's correct. In the past --

MS. DEMILIO: You want to explain, explain that to

the Board your concern?

MR. HARMAN: For the past, well, since 1994 or thereabouts, I've been functioning in various capacities in community groups and we have been trying our best to minimize business clutter and developments and trying to direct that development in such a way that the road, the highway, are more attractive than might otherwise be. We were concerned about other roads in the Baltimore area, such as Ritchie Highway, Liberty Road, York Road, that just generally have gotten so cluttered with businesses and signs that we felt that it would be very appropriate to render an opinion in regard to this particular exceedance of the standards that exist.

MS. DEMILIO: All right. So, is it part of your concern then that the variance they're asking for or the interpretation of the sign regulations, in order to legitimize this proposed sign and get permission for it, is as to the clutter then, is that what you're saying?

MR. HARMAN: That's what we're saying. We, I'm saying personally from my experience and in talking with various community members, they likewise agree --

MR. SINGER: Objection.

MS. DEMILIO: Just what you think.

MR. HARMAN: Just what I think.

CHAIR: I'm sorry. What was the basis, what was the basis for that?

MR. SINGER: Hearsay.

MR. HARMAN: Hearsay.

MS. DEMILIO: Just keep it to your opinion.

CHAIR: All right.

MS. DEMILIO: We're interested in your opinion.

MR. HARMAN: I don't want, I don't want --

CHAIR: I'll sustain the objection. Mr. Harman, just don't quote other people.

MR. HARMAN: I understand. I, I agree that my opinion is this sign that's going from fifty to two hundred and twenty-five square feet, according to the way the County calculates, would add to the visual clutter of the view as you traverse this section of Reisterstown Road.

MS. DEMILIO: Okay. What impact, if any, do you think there would be if Mr., well, I don't want to, the Petitioners, say the Petitioner's interpretation of the sign regulations state, in his, in his view that you only measure the area of the sign that just has the lettering or the symbols on it as opposed to the entire sign, which you've indicated was the County's policy. What impact, if any, would that have on sign --

MR. HARMAN: I'm very concerned, I guess, I am very concerned that the interpretation, if it's, if their, if the Petitioner's request is granted, there would be no limit to the size of signs that could be placed along any location in

Baltimore County because if you have a huge, and I know that the testimony has been given, that there are no plans to expand the width or height of these signs. But an interpretation from this body, from this Board, that the expansion should be granted, would totally negate the intent of the regulations that currently exist. A ten thousand square foot sign with just forty-five square feet or fifty square feet of lettering could, conceivably, and the, and the absurdity of it, could occur and this could occur throughout the County. Not saying that anybody would go to that extreme, but there is no way to control the size of signs with a decision that would be favorable to the Petitioner in this particular case.

MS. DEMILIO: Okay. Do you have any other concerns that you haven't expressed?

MR. HARMAN: That's, I like that. Yes, in the, in the lower hearing, Administrative Law Judge hearing, it was raised, the question I raised concerned the potential for a line of sight visibility entering and exiting the dealership. These signs have a solid blockage at the base that might be seven, eight, ten feet wide. Cars trying to pull out onto Reisterstown Road in this particular case have limited sight already because of the general clutter of all the signs and poles that are out there. I'm concerned that without evidence being presented by traffic safety people, that signs of this proposed nature that are all of, extend all the way to the

ground level, can reduce the amount of line of sight visibility for customers and workers that try to enter and exit the site. So, we, despite the fact that poles may be on the way out, --

MS. DEMILIO: Allegedly.

MR. HARMAN: -- allegedly, we, I think that the concern should be raised as to whether or not these types of signs create some kind of traffic hazard that does not currently exist.

MS. DEMILIO: Doesn't that comport with, I'll just refer to Section 450.1(C), which in the, which is the statement of general findings and policies under the zoning, Baltimore County Zoning Regulations, which say that excessive signage unduly distracts drivers and pedestrians, thereby creating traffic and safety hazards impairing the utility of the highway system and reducing the effectiveness of the signs and other devices necessary for directing and controlling traffic. Is that what you're talking about?

MR. HARMAN: I'm, I'm concurring a hundred percent with that, that statement.

MS. DEMILIO: Okay.

CHAIR: Mr. Singer, any questions?

MR. SINGER: Yeah. You feel there's clutter on Reisterstown Road?

MR. HARMAN: Absolutely.

MR. SINGER: Due to signage?

MR. HARMAN: In many cases, due to signage.

MR. SINGER: Okay and it makes it difficult for a motorist to, to identify any particular site? It creates difficulty, isn't that, isn't that what you testified to?

MR. HARMAN: I do, I do not agree that we need more signs to make it easier.

MR. SINGER: I didn't ask you that, sir. I didn't ask you that. I asked you whether --

CHAIR: Hold on, hold on. Why don't you rephrase your question, Mr. Singer?

MR. SINGER: I asked you whether or not your testimony that there's clutter tends to make it more difficult for a motorist to see a particular site?

MR. HARMAN: That's correct.

MR. SINGER: Are you familiar with the master plan for Owings Mills?

MR. HARMAN: Baltimore County or Owings Mills? I'm not familiar with the Owings Mills Master Plan.

MR. SINGER: You're not, okay. You talked about the rolling nature of Reisterstown Road, is that right?

MR. HARMAN: Yes, that's correct.

MR. SINGER: And with respect to this site, there is a hill to the south and there's a hill to the north, is there not?

MR. HARMAN: That's correct.

MR. SINGER: If I may approach?

CHAIR: You may.

MR. SINGER: Now, if a car is entering or, or exiting, you're saying the base is an obstruction, is that right?

MR. HARMAN: I'm saying it's a potential obstruction and should be evaluated by a traffic engineer.

MR. SINGER: So, you haven't evaluated it?

MR. HARMAN: I'm not the traffic engineer to evaluate. I've raised that as a question at the lower court.

MR. SINGER: And do you know how far back the sign is from the right of way?

MR. HARMAN: I didn't measure any setbacks of the signs. I raised it as a potential question.

MR. SINGER: Now, do you object to the, the logo and the Lexus on the proposed sign, the size?

MR. HARMAN: No, it's, you say that's approximately seven, seven, well, it's seventy square feet, I believe?

MR. SINGER: No, I'm saying it's forty-five square feet.

MR. HARMAN: Forty-five square feet? That would be within the Code limits for signs at this time.

MR. SINGER: I understand that. I'm asking if you object to the size of that portion of the sign.

MS. DEMILIO: Objection. What, (inaudible)? It's an

unfair question first of all. Does he object to the logo as it looks or the size as it is on that sign? It's not clear to me.

CHAIR: I'll overrule the objection. Mr. Harman, if you have an answer, you can (inaudible) --

MR. SINGER: Do you object to the portion of the structure that has the logo for Lexus and the name?

MR. HARMAN: I assume that's similar to the current sign and has been in existence since 1990 as testified here today. So, I personally, have no objection to a sign that's that size.

MR. SINGER: Do you object to the color of black and silver?

MR. HARMAN: I'd rather have it purple and silver.

MR. SINGER: All right. I'd rather have it red and blue. My question is, do you object to silver and black?

MR. HARMAN: Of course not. It's an individual, arbitrary determination.

MR. SINGER: Well, I'm asking you for your individual arbitrary determination.

MR. HARMAN: I don't care what color it is.

MR. SINGER: Okay. So, it is, if the sign is twenty-five square feet and conforms to the County regulations in that respect, you don't object to that either?

MS. DEMILIO: Twenty-five square feet?

CHAIR: Well, that's sort of (inaudible) that sort of

the issue, Mr. Singer? I mean, what is (inaudible) I think that question is unfair.

MR. SINGER: Okay.

CHAIR: Because that's the legal issue we're trying to determine.

MR. SINGER: You object to the portion below the Lexus wording?

MR. HARMAN: I object to anything that adds to the clutter as based on the total square footage of signage on any particular car dealership.

MR. SINGER: Okay. But your answer presumed that it adds to the square footage of the sign and what I asked you particularly was whether or not you object to this portion of the structure that's below the wording, Lexus. Do, is it yes or no?

MR. HARMAN: I find that the measurements currently used by the County in determining the overall size of the sign are appropriate and should be utilized in this particular case and, and for that matter, any other case. So, I do not agree that the blank space below it should be negated as part of the size of the sign.

MR. SINGER: I'm not asking you to speak for the County, sir. I'm asking you personally have an objection to this portion of the structure that's below the Lexus word.

MS. DEMILIO: Objection. Asked and answered.

MR. SINGER: He hasn't answered it.

MS. DEMILIO: He answered it and he said he agrees with the County.

CHAIR: I guess, I, let me do this. I don't think it's relevant. I don't think whether Mr. Harman is personally offended by it or not is really relevant to what we're trying to decide here.

MR. SINGER: All right.

CHAIR: Mr. Singer, I understand why you asked the question. I mean, I think he sort of opened the door but I, it's not, it's not relevant --

MR. SINGER: I understand, sir. You speculated that the, this would open the door to signs with a base of ten thousand square feet, is that correct?

MR. HARMAN: Conceivable.

MR. SINGER: Conceivable. Have you ever seen a sign in Baltimore County that's got a base of ten thousand square feet?

MR. HARMAN: I, I couldn't say offhand but I've seen some signs along the beltway that are huge.

MR. SINGER: I'm talking about these type of signs with a base of ten thousand square feet. Have you ever seen such?

MR. HARMAN: No, but --

MR. SINGER: Thank you. You've answered the

question.

MR. HARMAN: Okay. You like the word no, okay.

MR. SINGER: I have no further questions.

CHAIR: Thank you, Mr. Singer. Ms. Demilio?

MS. DEMILIO: Yeah, Mr. Harman, one question. Do, Mr., well, let me just say this, you were, you were asked whether you thought that increasing the size of the sign in an area where there's a lot of sign clutter would then help someone find a sign, find a loc, rather find a location of the destination and do you think it's appropriate to keep increasing the size of signs exponentially in violation of the, or in violation or in excess of what is permitted by law in the County --

MR. SINGER: Objection to expotentially.

CHAIR: I think that that is the nature of legal arguments. I don't think we need Mr. Harman's answer to that question.

MS. DEMILIO: Okay, all right. Then I have no further questions. Thank you. No questions.

BOARD: Mr. Harman, are you here in your individual capacity as a neighbor, as a resident of this area?

MR. HARMAN: I've, I've, the, the true story is I've been home in bed with pneumonia for the past three weeks. I didn't have time to go to the organization's previous meeting early in January that I represent at zoning committee chairman.

BOARD: I see.

MR. HARMAN: And obtain a (inaudible).

BOARD: I see, okay.

MR. HARMAN: So, I'm here today on my own behalf.

BOARD: Okay.

MR. HARMAN: But I did want to emphas, emphasize that I have been working for community groups in the --

BOARD: In the Reisterstown area, Owings Mills area.

MR. HARMAN: -- in the Reisterstown area, since 1994.

BOARD: Okay.

MR. HARMAN: On zoning and matters relating to hearings and CZMP, things of that nature.

BOARD: Okay, thank you.

MR. HARMAN: I'm well versed in, not an expert, but I'm well versed in the way these things proceed.

BOARD: You have OJT, right.

MR. HARMAN: As Lincoln said, I've read a lot, I've listened a lot and I think I know a fair amount.

BOARD: All right, thank you.

CHAIR: Any other questions?

MR. SINGER: No.

CHAIR: Thank you, Mr. Harman. I appreciate your time.

MS. DEMILIO: Okay. Mr. Pierce?

BOARD: Do you swear and affirm under the penalties

of perjury, that the testimony you're about to give is true and correct to the best of your knowledge and belief?

MR. PIERCE: I do.

BOARD: Can you state your name and your business address for the record and spell your last name, please?

MR. PIERCE: Michael Pierce, P-I-E-R-C-E, I'm not, not living anywhere near this property, I'm at 7448 Bradshaw Road, Kingsville, Maryland and I'm retired.

BOARD: Okay, thank you.

MS. DEMILIO: So, Mr. Pierce, you're a resident of Baltimore County though?

MR. PIERCE: Yes, I am.

MS. DEMILIO: Okay and you've heard Mr. Harman's testimony, you were here, of course, all day?

MR. PIERCE: Yes.

MS. DEMILIO: Is it safe to say you agree with his testimony --

MR. SINGER: I object.

MS. DEMILIO: -- so I, so I don't have to ask you the same questions?

MR. SINGER: I'm going to object. He has no standing. He's just a member of the general public and has no particular connection with, if he's talking about the general adoption of regulations, I think it's inappropriate for him to comment, especially as to this site and he lives many miles

away.

CHAIR: Ms. Demilio, why don't you just, whatever questions you, I don't, really don't think there's much foundation or any foundation for him --

MS. DEMILIO: Well, anyone can come to the Board --

CHAIR: I understand that.

MS. DEMILIO: Right.

CHAIR: But, I mean, just to --

MS. DEMILIO: So, that's why I'm trying to get through it quickly and so I asked --

CHAIR: I mean, if the question is, do you agree with everything Mr. Harman said, I mean, I guess that's a fair question. I mean, it's not objectionable in and of itself. (inaudible).

MS. DEMILIO: Well, I don't want to, well, what, you want me to repeat all the questions? Usually I try not to do that for the Board so that --

CHAIR: I, no, and I appreciate that. I'm, he's, I mean, I guess I look at the, I don't know what Mr. Pierce's job is or what his relationship is in this case, but he lives in Kingsville.

MS. DEMILIO: Okay, I'll ask him a few preliminary. All right.

CHAIR: Mr. Harman obviously lives in close proximity.

MS. DEMILIO: All right. Mr. Pierce, let me ask you this, do you drive on Reisterstown Road?

MR. PIERCE: Yes, occasionally I have reason to drive up that way.

MS. DEMILIO: Are you familiar with this site?

MR. PIERCE: Yes, I've been familiar with it for about six years.

MS. DEMILIO: All right and are, do you object to the proposed sign of two hundred and twenty-five, roughly, square feet as opposed to the fifty square feet that's permitted by the zoning regulations?

MR. SINGER: Objection. I mean, he drives along the street, he doesn't like a sign or he doesn't like the business, there's no foundation for him expressing an opinion driving along occasionally this street.

CHAIR: I guess and in my view, it goes to the weight, you know. He's, he is a resident of Baltimore County. He says he is familiar with the site, has been for six years, he drives up and down Reisterstown Road on occasion. He can answer the question.

MR. PIERCE: Yes, my concern is obviously the, not the sign itself, but the interpretation, which is what this Board is being asked to do. It's the interpretation, which then is used for the entire County.

MR. SINGER: I'm going to object.

MR. PIERCE: That's, that's my concern.

MR. SINGER: I'm going to object that he's now proposing to answer the legal question that's before the Board with no basis for it and no qualifications to do that.

CHAIR: Can you, can you, if you could explain what, what --

MS. DEMILIO: He can answer as a lay person, otherwise, every legal --

CHAIR: I understand, but --

MS. DEMILIO: -- issue they would, you would never, he's not giving a legal opinion. As a, as, as a citizen of Baltimore County, he has the right to say that this sign, that the proposed sign and the interpretation of the regulations he finds, he finds to be concerning because of, and I don't want to put words in his mouth, and, but he's going to tell us why and I think he has every right to do that. He's not giving a legal opinion. I'm not offering him as a legal expert. So, the Board takes his testimony for --

CHAIR: Yeah, I mean, I, Mr. Singer, I, I appreciate the reason for the objection. I will allow it and I think the Board will give the testimony the weight we think it deserves.

MR. SINGER: Very well.

MS. DEMILIO: So, Mr. Pierce, from your preliminary remarks there, I assume you disagree with the interpretation that only the portion of the sign that refers to the logo and

the lettering should be considered as part of the area. Why do you object to that interpretation?

MR. PIERCE: Well, well, I guess I'll, I'll try not to give a legal opinion but it's, it's, like I said, it's serious concern that if, if that were the interpretation, that would then be applied to thousands of signs in this County, including ones right in my own neighborhood. So, I, I have to object to or have to express a deep concern with any attempt to, to redefine the County's interpretation in that way.

MS. DEMILIO: Okay and have, is it your testimony that the County's interpretation has been that the entire, entire signage, or the two hundred and twenty-five square feet that the Petitioner offered, is the way they have measured area in the past?

MR. SINGER: Objection.

MS. DEMILIO: Based on your observations of other cases? If you know, you know, if you don't, you don't.

MR. PIERCE: Based on my observations of other cases --

MR. SINGER: Well, just a minute. I object.

CHAIR: Hold on, hold on one second.

MR. PIERCE: Oh, okay.

CHAIR: There's an objection. Basis for your objection, Mr. Singer?

MR. SINGER: He's being asked what the County's

interpretation has been over a period of time. I mean, we're, we're in an area really that's the issue before the Board.

MS. DEMILIO: I'll withdraw the question.

CHAIR: Yeah, I think that --

MS. DEMILIO: I'll withdraw the question.

CHAIR: Thank you.

MS. DEMILIO: Okay.

CHAIR: Save me the trouble.

MS. DEMILIO: All right. Do you agree with, do you agree with Mr. Harman's concerns that a, the, the, if there's no limit on the size of the sign other than the lettering and the logo as proposed here, then, then you could have a sign structure, and I, by that, I don't mean the poles but I mean the, the sign itself could be of any size as long as the lettering and the logo are within the prescribed amount. Do you agree with Mr. Harman's concerns in that regard?

MR. SINGER: I would object again. He's asking did he agree that Mr. Harman's speculation?

MS. DEMILIO: No.

CHAIR: Well, I think she's asking about his personal, his personal view or concerns about Petitioner's case, and interpretation. I, the objection is overruled.

MR. PIERCE: Yes, I, I agree with Mr. Harman's concern. I have the same concern.

MS. DEMILIO: All right and Mr. Harman also had a

concern that signs of this nature, where there is, I'll call it a solid block of whatever, of whatever material could have potentially could impair the safety of motorists or pedestrians entering and exiting the site, do you have those same concerns, that there's that potential safety concern with solid signs like the one proposed?

MR. SINGER: Is that the definition of a leading question?

CHAIR: Is that, is that your objection?

MR. SINGER: Yes, sir.

MS. DEMILIO: I never objected to, all right.

CHAIR: I understand.

MR. SINGER: All right.

CHAIR: But, honestly, Ms. Demilio, I, I don't think Mr. Harman's testimony on that point was particularly relevant or persuasive because he's not, he is admittedly not a traffic engineer and has not done any measurements.

MS. DEMILIO: I know, but as a, as a driver, as a, somebody who is a driver who has concerns.

CHAIR: I understand. I mean, I think, I think we're not talking about this sign, the way it's being proposed to be located, it's just not relevant.

MS. DEMILIO: All right. All right. I'll withdraw it. I'll withdraw it. Are there any other concerns you have, Mr. Pierce, that you haven't expressed?

MR. PIERCE: Well, I have to say, I'm very concerned that the Petitioner has prevented you a, presented you a site plan which does not show all of the properties, the contiguous properties owned by Mr. Stoler and has not identified on a site plan all of the signs that currently exist on those properties. I think those two things are requirements for such a matter. I think that's a serious matter that you are not being presented with all the information related to this case.

MS. DEMILIO: Anything else?

MR. PIERCE: No.

MS. DEMILIO: All right. I have no further questions.

CHAIR: Mr. Singer?

MR. SINGER: Mr. Pierce, have you read the zoning regulations, specifically Section 450.3?

MR. PIERCE: Many, many times, yes.

MR. SINGER: All right. If I may approach the witness? The definition of area says it does not include, and you can correct me if I read it incorrectly, area does not include any structural supporting or decorative features which are not part of the message of the sign. Have you read that, sir?

MR. PIERCE: Sure.

MR. SINGER: All right and do you regard this as part of the message of the sign?

MR. PIERCE: I believe it is, yes.

MR. SINGER: What does it say to you, sir?

MR. PIERCE: I believe --

MR. SINGER: What does the, what does the parts below Lexus and to the base say to you?

MR. PIERCE: We're looking at the whole sign.

MR. SINGER: No, my question to you is what does the part of the structure that's below the word Lexus to the base say to you, what does it tell you? What information does it impart to you?

MR. PIERCE: It's part of the overall shape of the sign.

MR. SINGER: What information does it impart to you, sir, other than the fact that it's black?

MS. DEMILIO: Objection. Asked and answered.

CHAIR: Mr. Singer, I think he's answering the question to the extent he can and yeah, I think this is really in the nature of the legal argument. This is, the case, I think, is probably more akin to something like a summary judgment, the facts as they are presented aren't really in dispute it seems to me.

MR. SINGER: I agree whole-heartedly.

CHAIR: All we're talking about is a legal argument here but arguing with the witness about his interpretation of this, of this statute I don't think is going to advance the

ball.

MR. SINGER: I have no further questions.

CHAIR: Okay.

MS. DEMILIO: Nothing.

CHAIR: All right. Thank you very much, Mr. Pierce. We appreciate you participating today. Is that it?

MS. DEMILIO: Yeah. If I could just put into evidence things that I generally put in that I think may assist the Board and they're County documents. One is a site plan, I don't, I think Mr. Singer is probably familiar with the aerial site plan and if (inaudible) Stoler property outlined in yellow, which I think even Mr. Kellman identified and it's, so I'd like to offer this just as an assistance to the Board and also the zoning map. You never know where these places may be. I don't think we talked about the zoning (inaudible). This would be, the aerial would be People's Counsel?

BOARD: Three.

MS. DEMILIO: Three. Is that all right with you, Mr. Singer?

MR. SINGER: Yes.

MS. DEMILIO: No objection.

CHAIR: (inaudible) People's Counsel three, which is the aerial.

MS. DEMILIO: And County, that's a County document, and four would be the zoning map, which I'm showing to Mr.

Singer. But I only have one copy of these, so. I think I might have a little one (inaudible).

MR. SINGER: Was there any question about the zoning?

MS. DEMILIO: No, but it's always good for the Board, for the record, I think, to have it and here's the, here, I'm pointing to the site so that he can iden, he knows it's the right map.

MR. SINGER: I thought this was supposed to be a paperless society.

MS. DEMILIO: That's a joke. We think that, but I don't think (inaudible).

MR. SINGER: I have no objection.

MS. DEMILIO: Thank you.

CHAIR: Remember that, Mr. Zimmerman.

MS. DEMILIO: People's five.

BOARD: Four.

BOARD: Four.

MS. DEMILIO: Four, I'm sorry. I'm not, I don't want to junk up the record here so I want to make sure (inaudible). That's all. Thank you.

CHAIR: Thank you very much. So, I, what we generally do is just ask for a (inaudible) of closing arguments, to ask the parties to submit post-hearing briefs. I think in this case it's particularly apt because I think the, the main issue here is one of, I think everybody would agree,

legal interpretation of the statute and to that end, how much time would the parties like to submit briefs? We generally do thirty, but it could be forty-five if you would like.

MR. SINGER: Thirty days is fine.

MS. DEMILIO: Thirty is fine.

CHAIR: Thirty days. So, today is --

BOARD: The 19th.

CHAIR: -- January 19th, let's see, February, you want to do February 20th, which is a Monday?

MS. DEMILIO: Is that the holiday?

CHAIR: Oh, that is a holiday. You want the 21st then? Twenty-first is the day after --

MS. DEMILIO: Washington, or President's Day.

CHAIR: -- President's Day.

BOARD: And they'll be submitted simultaneously.

CHAIR: Simultaneously. Have them, just have them delivered to Sunny by the close of business on the 21st.

MS. DEMILIO: Three page limit, right?

MR. SINGER: Provisional three copies?

MS. DEMILIO: I'm waiting for the Board to impose --

CHAIR: Yes, if you could actually provide additional copies to the Board, three additional copies for the Board, for the Board members, that would be terrific.

MR. SINGER: That's fine.

MS. DEMILIO: I'm waiting until you impose a page

limit. Wouldn't that be a good idea?

CHAIR: Well, I don't want to, I don't want to limit anybody from saying what they feel like they need to say.

MS. DEMILIO: All right.

BOARD: But including copies of exhibits is a great idea.

CHAIR: Yeah, because generally what, what happens is they'll be, they'll be given to Sunny and then Sunny will distribute them to the members of the Board and it's very helpful to have exhibits attached that you're citing to.

MS. DEMILIO: Oh, exhibits to the memo, you mean?

CHAIR: Yes, yes.

MS. DEMILIO: Not these exhibits?

BOARD: Right.

CHAIR: No, exhibits to the memo that you're citing.

MS. DEMILIO: Okay. I'm sorry. Sure. Oh, yeah, of course.

CHAIR: Unless, you know, how we see if you've got, if you're talking about a large plat or something like that and you don't want to copy the entire thing, I understand that but to the extent you can having the exhibits is helpful.

MS. DEMILIO: Well, that's why I wanted to put in those two so that they're in the record.

CHAIR: Yes, yes.

MS. DEMILIO: As opposed to trying (inaudible) --

CHAIR: Exactly.

MS. DEMILIO: Okay, thank you.

BOARD: And one thing to address is the amended issue as well. I'm sorry to --

CHAIR: That's fine.

MS. DEMILIO: I'm still not sure I understand the, can I, can I go off the record here?

CHAIR: Yeah. Are we, are we, before we go off the record, is everybody, is everybody all set on the schedule here, when briefs are due?

MR. SINGER: Yes, sir, February 21st.

CHAIR: Yes, okay. Great.

MR. SINGER: Simultaneously.

CHAIR: All right, good. Thank you very much. You all did a terrific job presenting your cases and we appreciate the way it was done and we will go off the record now.

(OFF THE RECORD - 01:06:06 PM)

CERTIFICATE OF TRANSCRIBER

I hereby certify that the hearing in the matter of Colonial Stoler, LLC, case number 17-023-SPHA, heard before the Board of Appeals of Baltimore County, January 19, 2017 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 126 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 23rd day of July, 2017.

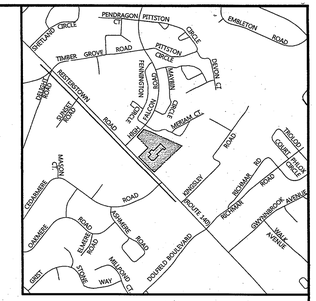
Christine R. Leary

Christine R. Leary

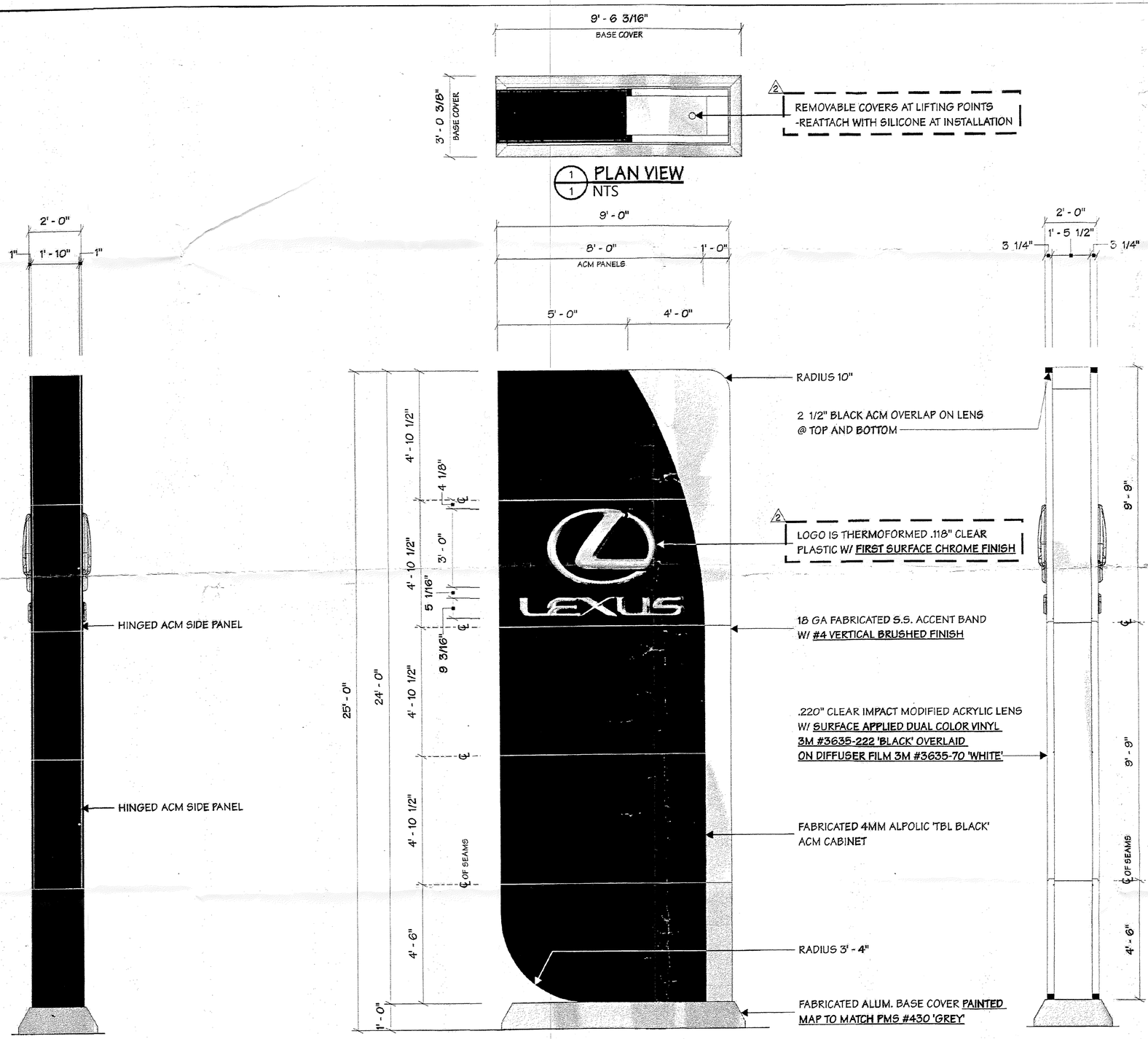
Transcriber

RECEIVED
AUG 14 2017
BALTIMORE COUNTY
BOARD OF APPEALS

Petitioner
CBA Exhibit
2



VICINITY MAP
SCALE: 1"=1000'



2/1 SIDE VIEW (LEFT)
NTS

3/1 FRONT ELEVATION
NTS

4/1 SIDE VIEW (RIGHT)
NTS

DMW
DAFT McCUNE WALKER INC
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

SIGN DETAILS

LEN STOLER LEXUS

11311 Reisterstown Road

SEAL

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW:	9/22/16	BASE:	
BID:		DRAWN:	SRB
PERMIT:		DESIGNED:	MJK
CONSTRUCTION:		CHECKED BY:	
SCALE:	NTS	DATE CHECKED:	
PROJECT NO.:	16022	DRAWING:	2 of 2

A:\16022\16022-00\ENGR\CAD FILES\SHEET FILES\16022_2_01.DWG WED, SEP 21, 2016

People's Counsel
CBA Exhibit
4

Prepared by Geographic Information Services
Baltimore County Office of Information Technology
Date: January 5, 2017
2014 Imagery

1 Inch = 140 Feet

0 70 140 280 420 Feet

People's Counsel
CBA Exhibit
3

2017-23-SPHA

11314 Reisterstown Rd
Owings Mills, Maryland
Street View - Oct 2016
Petitioner
CBA Exhibit
8
Reisterstown Rd
Google
Show all

Petitioner
CBA Exhibit
9

A:\6022\16022\DWG\RCAD FILES\SHEET FILES\6022_Z_OLD.DWG WED, JAN 18, 2017

DMW
DAFT McCUNE WALKER INC

501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

APPROVED SIGN EXAMPLE

LEN STOLER LEXUS

11311 Reisterstown Road

SEAL

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW:	9/22/16	BASE:	
BID:		DRAWN:	SRB
PERMIT:		DESIGNED:	MJK
CONSTRUCTION:		CHECKED BY:	
SCALE:	NTS	DATE CHECKED:	
PROJECT NO.:	16022	DRAWING:	1 of 1

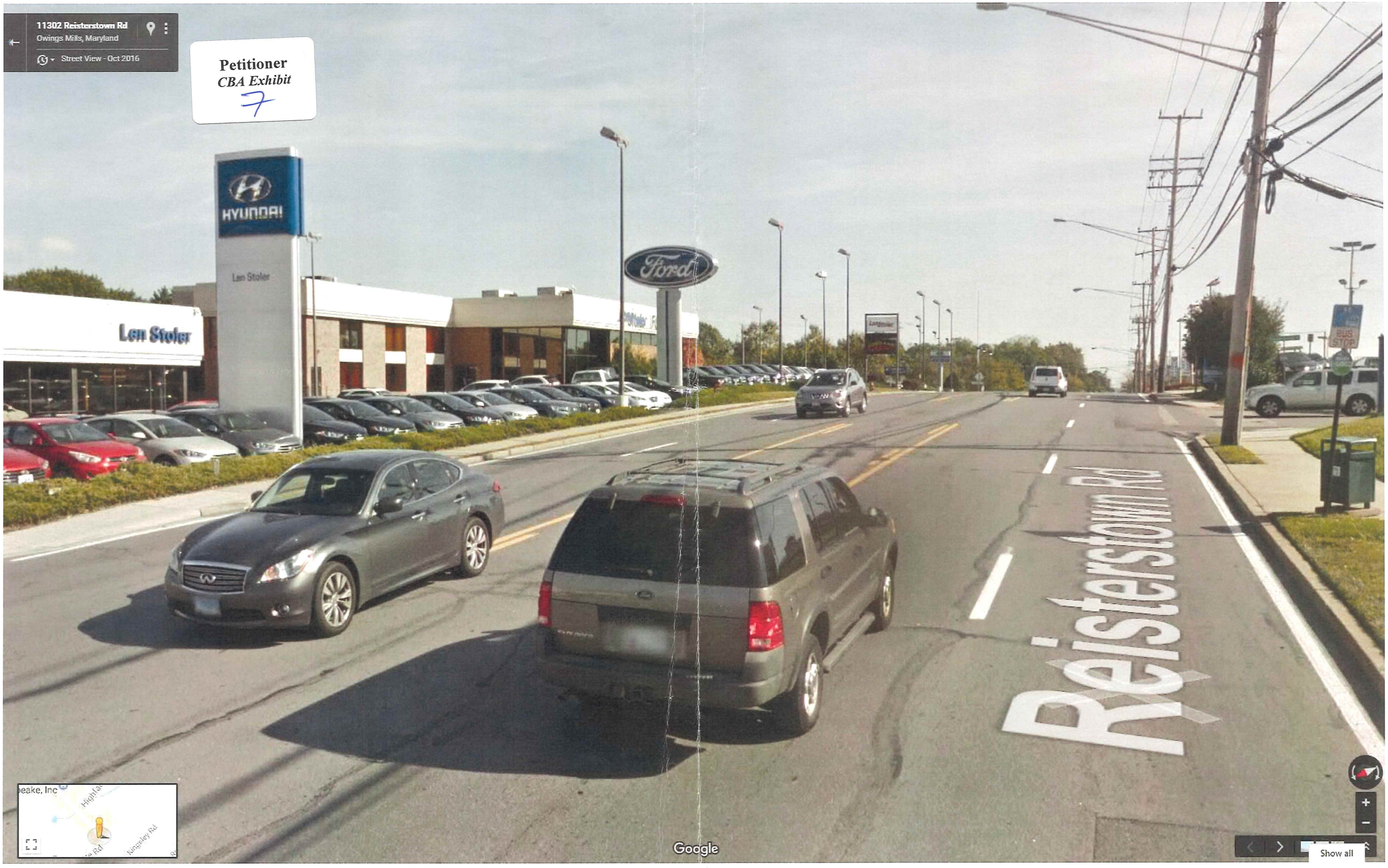
11283 Reisterstown Rd
Owings Mills, Maryland
Street View - Oct 2016
Petitioner
CBA Exhibit
5
Len Stoler
PORSCHE
Len Stoler
HYUNDAI
Len Stoler
Reisterstown Rd
Google
Show all

11316 Reisterstown Rd
Owings Mills, Maryland
Street View - Oct 2016

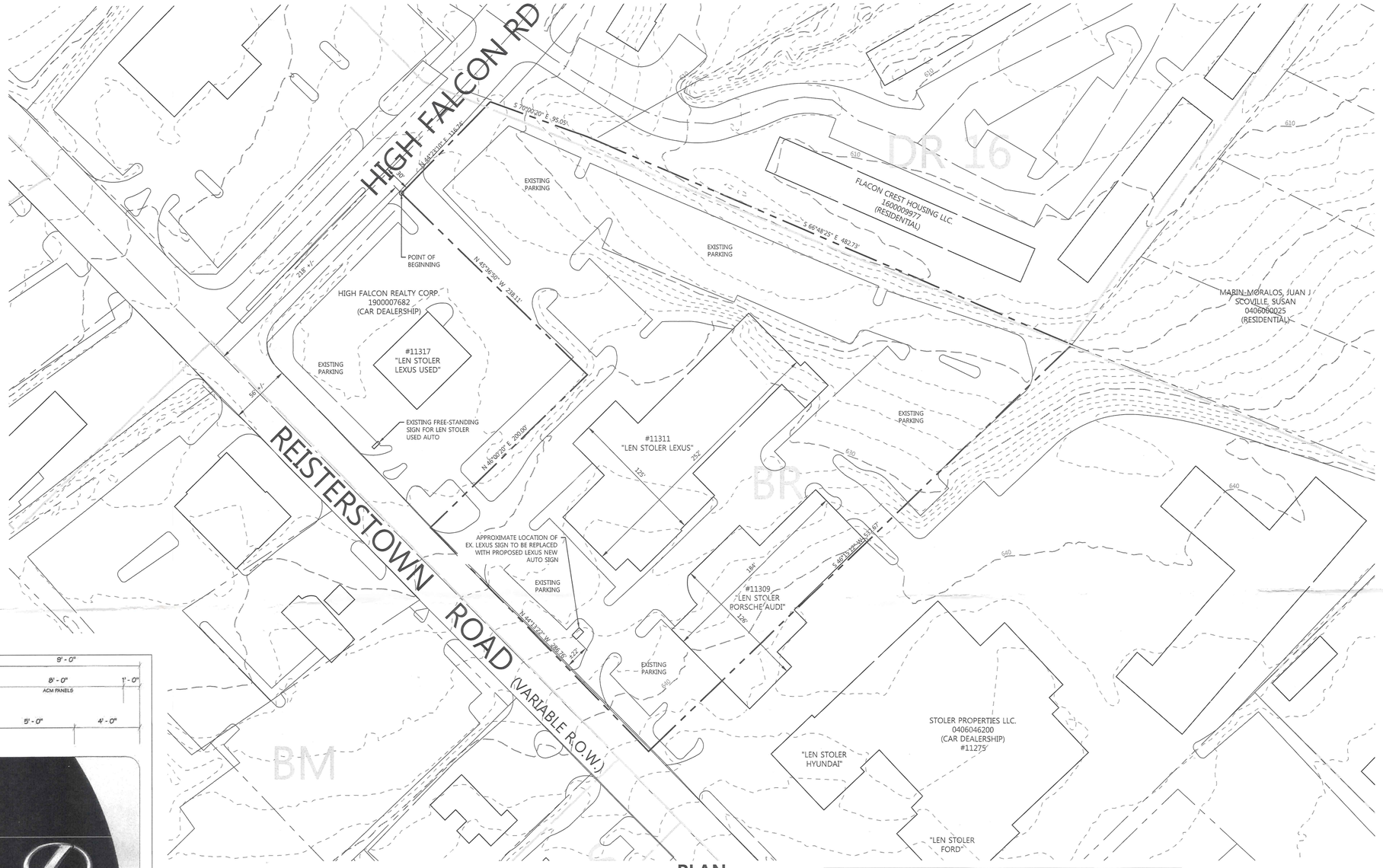
Petitioner
CBA Exhibit
6

11302 Reisterstown Rd
Owings Mills, Maryland
Street View - Oct 2016

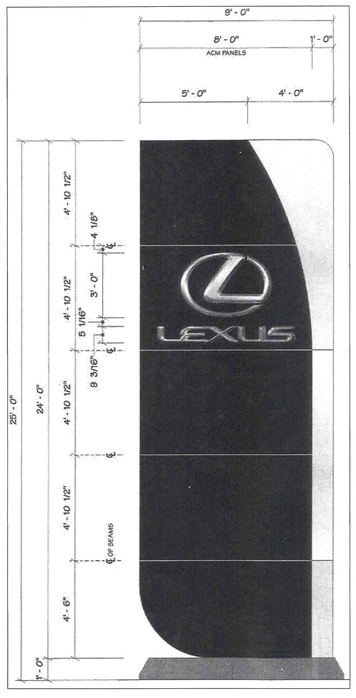
Petitioner
CBA Exhibit
7



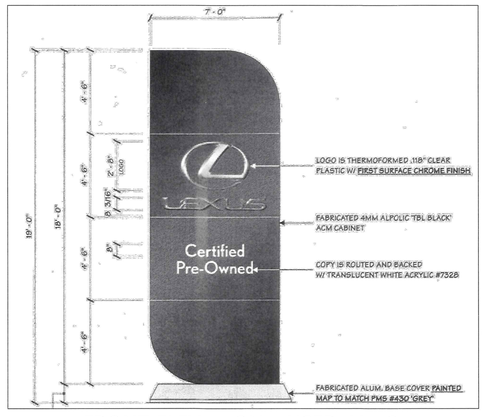
Protestant
CBA Exhibit
3



PLAN
SCALE 1"= 50'



FRONT ELEVATION - NEW AUTO
SCALE 1"= 50'

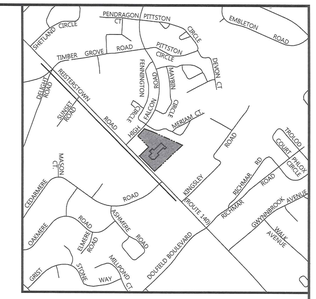


FRONT ELEVATION - USED AUTO
SCALE: NTS

ZONING HISTORY

1. 70-177-R-PROPERTY REZONED FROM R. 10 TO BR GRANTED BY THE DEPUTY ZONING COMMISSIONER ON DECEMBER 19, 1969 SUBJECT TO SITE PLAN APPROVAL BY PUBLIC SERVICES AND PLANNING AND ZONING.
2. 90-160-A-ZONING VARIANCE FOR A 1.0 FT SETBACK IN LIEU OF 30 FT, A 139 SQ FT SIGN IN LIEU OF 100 FT, A SIGN HEIGHT OF 27 FT, 10 INCHES IN LIEU OF 25 FEET, AND DISPLAY PARKING 10 FEET TO THE STREET RIGHT-OF-WAY WAS GRANTED BY THE BOARD OF APPEALS ON AUGUST 23. 1991, SUBJECT TO:
   A. THAT ALL PARKING LOT LIGHTING SHALL BE NO MORE THAN 10 FT ABOVE GRADE AND ALL EXTERIOR LIGHTING SHALL BE DIRECTED DOWNWARD AND SHALL NOT DIFFUSE INTO ANY RESIDENTIAL PROPERTY.
   B. PAGING DEVICES SHALL BE LIMITED IN USE TO MONDAY THROUGH FRIDAY 8:00AM TO 5:00PM. NO MORE THAN ONE SPEAKER SHALL BE USED ON THE SITE.

   ON MAY 15, 1992 CIRCUIT COURT AFFIRMED THE SIGN VARIANCE BUT REVERSED THE DISPLAY PARKING VARIANCE.
3. 93-403-A-ZONING VARIANCE TO ALLOW AN OPEN PROJECTION (CANOPY) TO ENCROACH 25 FT INTO THE REQUIRED 30 FT SIDE YARD, IN LIEU OF PERMITTED 25% MAXIMUM ENCROACHMENT OF 7.5 FT WAS GRANTED ON JULY 20, 1993 SUBJECT TO THE 30-DAY APPEAL PERIOD AND LANDSCAPE APPROVAL BY THE COUNTY LANDSCAPE ARCHITECT.
4. 99-201-A-ZONING VARIANCE TO ALLOW A 0FT SIDE SETBACK IN LIEU OF 30FT WAS GRANTED BY THE DEPUTY ZONING COMMISSIONER ON JANUARY 14, 1999 SUBJECT TO THE 30-DAY APPEAL PERIOD.



VICINITY MAP
SCALE: 1"=1000'

SITE DATA:

OWNER :	COLONIAL STOLER LLC.
SITE ADDRESS: MAILING ADDRESS:	11311 REISTERSTOWN ROAD 11275 REISTERSTOWN ROAD OWINGS MILLS, MARYLAND 21117-1906
TAX ACCOUNT NUMBER: DEED REFERENCE:	2100012552 19598/00093
SITE ACREAGE :	4.085 Ac., 177,943 Sq. Ft.
ZONING CLASSIFICATION :	BR / DR-16
GIS TILE (ZONING MAP) :	058A1, 058A2
GRID :	0007
PARCEL :	0369
TAX MAP:	0058
ELECTION DISTRICT:	4
COUNCILMANIC DISTRICT	2

SITE IS SERVED BY PUBLIC WATER & SEWER

THE SITE IS NOT HISTORIC: THERE ARE NO HISTORIC BUILDINGS ON SITE

PARKING: NO CHANGE

SETBACK: NO CHANGE

AMENITY OPEN SPACE: N/A

FAR: NO CHANGE

THIS REQUEST DOES NOT IMPACT THE COUNTY BASIC SERVICE MAPS.

THIS SITE IS NOT WITHIN THE CBCA OR FLOODPLAIN HAZARD AREA

50 0 50 100 150
SCALE: 1"=50'

LEGEND

- PROPERTY BOUNDARY
- ZONING LINES
- 600 EXISTING CONTOURS
- EXISTING BUILDING

DATA SOURCE:

1. BOUNDARY INFORMATION SHOWN HEREIN IS TAKEN FROM CURRENT DEED OF RECORD.
2. IMPROVEMENTS SHOWN HEREIN ARE TAKEN FROM BALTIMORE COUNTY GIS

DMW
DAFT McCUNE WALKER INC
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

PLAN TO ACCOMPANY VARIANCE AND/OR SPECIAL HEARING

LEN STOLER LEXUS

11311 Reisterstown Road

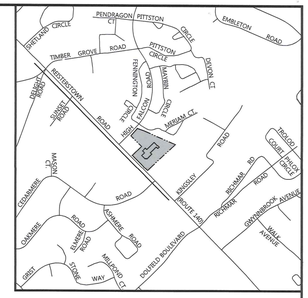
SEAL
STATE OF MARYLAND
MICHAEL DAVID MARTIN
No. 21294
PROFESSIONAL LAND SURVEYOR
THIS PLAN IS FOR ZONING PURPOSES ONLY AND DOES NOT REPRESENT A SURVEY

DATE	BY	REVISIONS

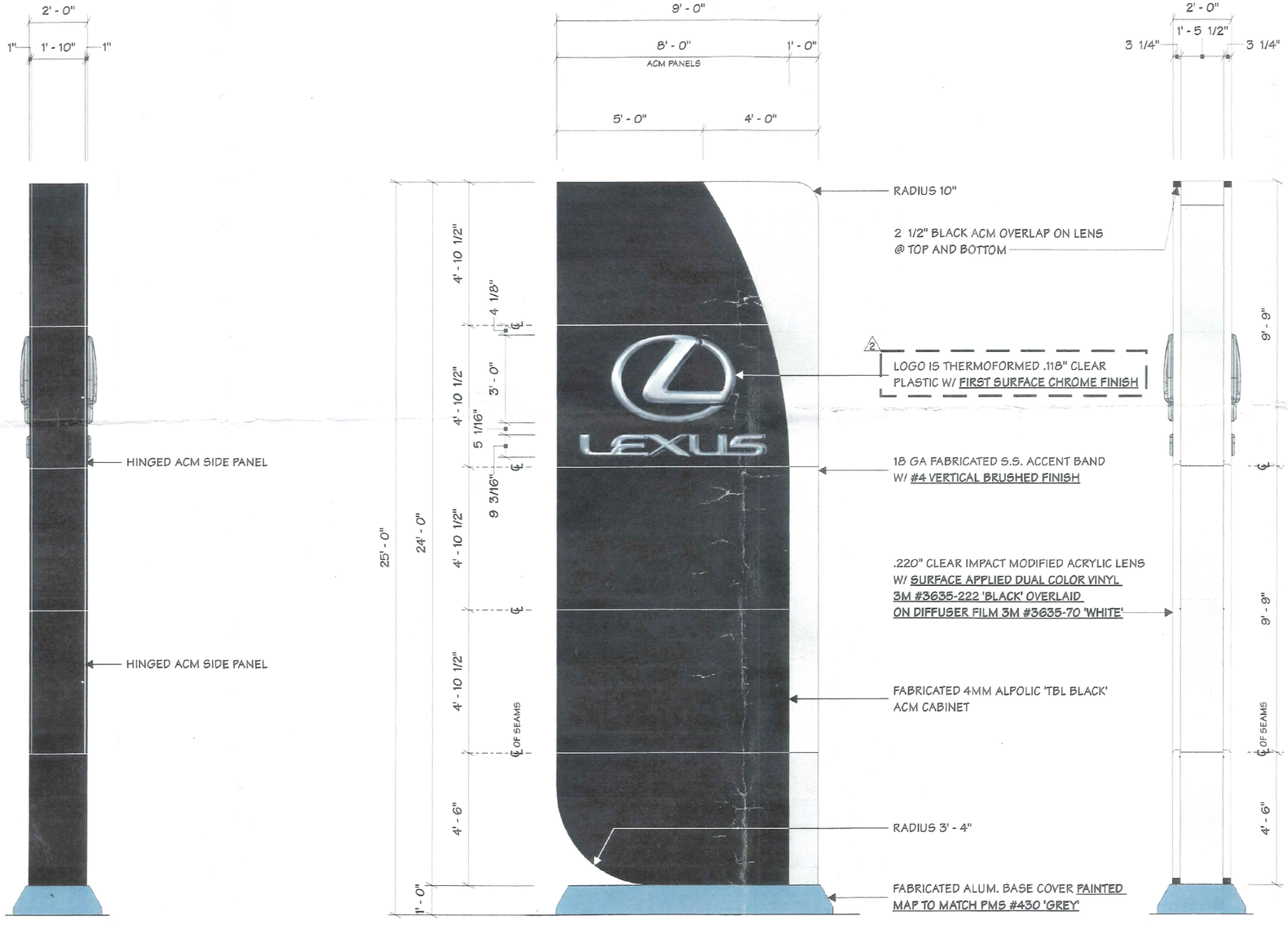
ISSUE DATES			
REVIEW:	7/25/16	BASE:	
BID:		DRAWN:	SRB
PERMIT:		DESIGNED:	MJK
CONSTRUCTION:		CHECKED BY:	MJK
SCALE:	1" = 50'	DATE CHECKED:	7/25/16
PROJECT NO.:	16022	DRAWING:	1 of 1

A:\16022\16022-ENGR\CAD FILES\SHEET FILES\16022_Z_OLD.VG WED, SEP 21, 2016

Petitioner
CBA Exhibit
2



VICINITY MAP
SCALE: 1"=1000'



1 PLAN VIEW
1 NTS

2 SIDE VIEW (LEFT)
1 NTS

3 FRONT ELEVATION
1 NTS

4 SIDE VIEW (RIGHT)
1 NTS

DMW
DAFT McCUNE WALKER INC
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

SIGN DETAILS

LEN STOLER LEXUS

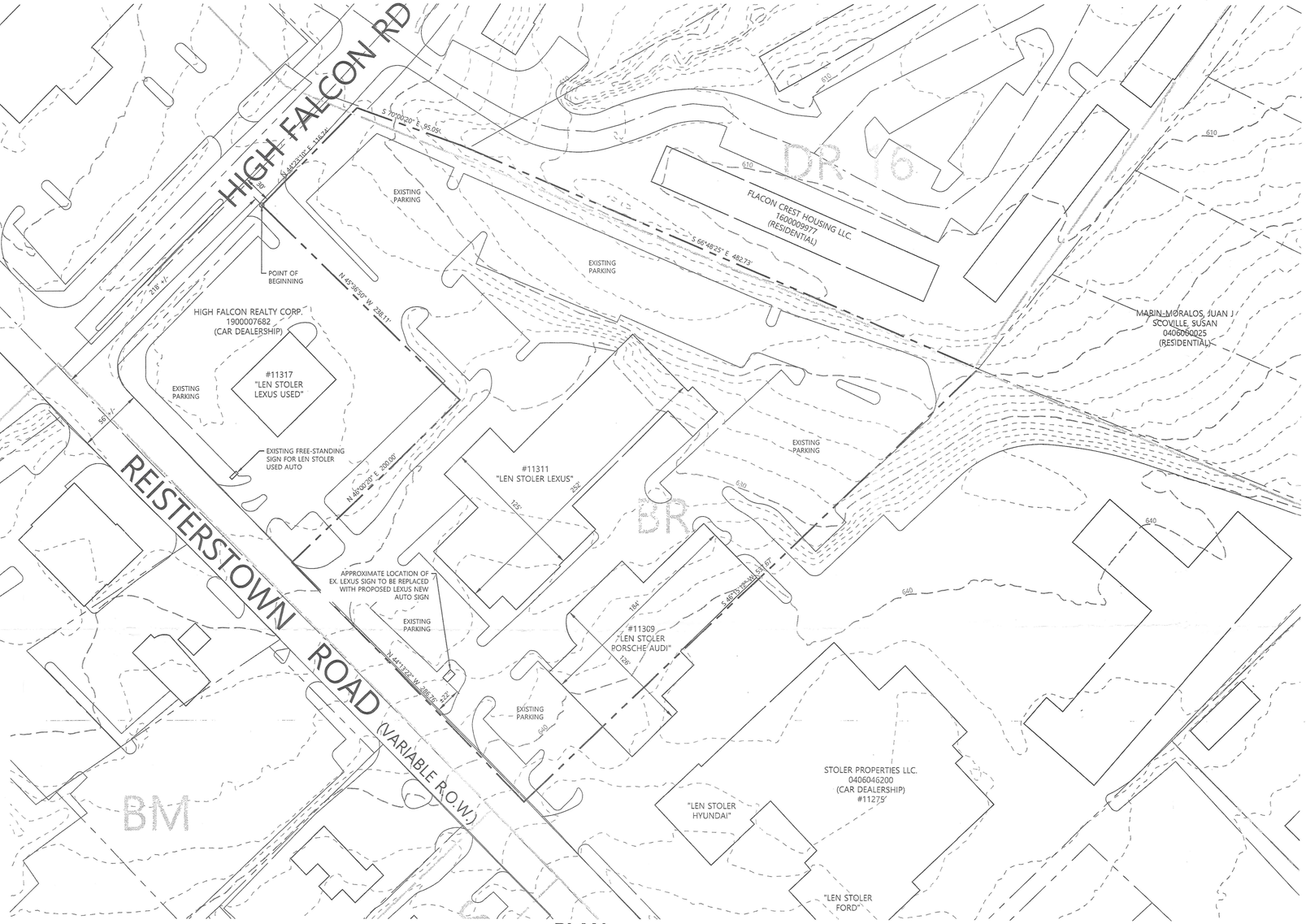
11311 Reisterstown Road

SEAL

DATE	BY	REVISIONS

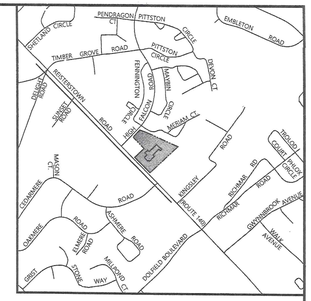
ISSUE DATES			
REVIEW:	9/22/16	BASE:	
BID:		DRAWN:	SRB
PERMIT:		DESIGNED:	MJK
CONSTRUCTION:		CHECKED BY:	
SCALE:	NTS	DATE CHECKED:	
PROJECT NO.:	16022	DRAWING:	2 of 2

AUG0221602200ENGWCAD FILES\SHEET FILES\16022-2_OLDWG WED, SEP 21, 2016



PLAN

SCALE 1"= 50'



VICINITY MAP

SCALE: 1"=1000'

SITE DATA:

OWNER :	COLONIAL STOLER LLC.
SITE ADDRESS: MAILING ADDRESS:	11311 REISTERSTOWN ROAD 11275 REISTERSTOWN ROAD OWINGS MILLS, MARYLAND 21117-1906
TAX ACCOUNT NUMBER: DEED REFERENCE:	2100012552 19598/00093
SITE ACREAGE :	4.085 Ac., 177,943 Sq. Ft.
ZONING CLASSIFICATION :	BR / DR-16
GIS TILE (ZONING MAP) :	058A1, 058A2
GRID :	0007
PARCEL :	0369
TAX MAP:	0058
ELECTION DISTRICT:	4
COUNCILMANIC DISTRICT	2

SITE IS SERVED BY PUBLIC WATER & SEWER

THE SITE IS NOT HISTORIC: THERE ARE NO HISTORIC BUILDINGS ON SITE

PARKING: NO CHANGE

SETBACK: NO CHANGE

AMENITY OPEN SPACE: N/A

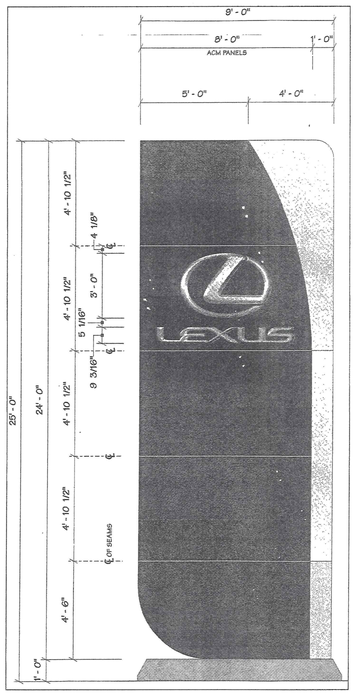
FAR: NO CHANGE

THIS REQUEST DOES NOT IMPACT THE COUNTY BASIC SERVICE MAPS.

THIS SITE IS NOT WITHIN THE CBCA OR FLOODPLAIN HAZARD AREA

50 0 50 100 150

SCALE: 1"=50'



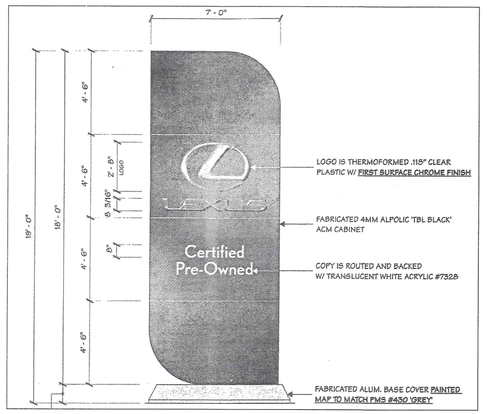
FRONT ELEVATION - NEW AUTO

SCALE 1"= 50'

ZONING HISTORY

1. 70-177-R-PROPERTY REZONED FROM R, 10 TO BR GRANTED BY THE DEPUTY ZONING COMMISSIONER ON DECEMBER 19, 1969 SUBJECT TO SITE PLAN APPROVAL BY PUBLIC SERVICES AND PLANNING AND ZONING.
2. 90-160-A-ZONING VARIANCE FOR A 1.0 FT SETBACK IN LIEU OF 30 FT, A 139 SQ FT SIGN IN LIEU OF 100 FT, A SIGN HEIGHT OF 27 FT, 10 INCHES IN LIEU OF 25 FEET, AND DISPLAY PARKING 10 FEET TO THE STREET RIGHT-OF-WAY WAS GRANTED BY THE BOARD OF APPEALS ON AUGUST 23. 1991, SUBJECT TO:
   A. THAT ALL PARKING LOT LIGHTING SHALL BE NO MORE THAN 10 FT ABOVE GRADE AND ALL EXTERIOR LIGHTING SHALL BE DIRECTED DOWNWARD AND SHALL NOT DIFFUSE INTO ANY RESIDENTIAL PROPERTY.
   B. PAGING DEVICES SHALL BE LIMITED IN USE TO MONDAY THROUGH FRIDAY 8:00AM TO 5:00PM. NO MORE THAN ONE SPEAKER SHALL BE USED ON THE SITE.

   ON MAY 15, 1992 CIRCUIT COURT AFFIRMED THE SIGN VARIANCE BUT REVERSED THE DISPLAY PARKING VARIANCE.
3. 93-403-A-ZONING VARIANCE TO ALLOW AN OPEN PROJECTION (CANOPY) TO ENCROACH 25 FT INTO THE REQUIRED 30 FT SIDE YARD, IN LIEU OF PERMITTED 25% MAXIMUM ENCROACHMENT OF 7.5 FT WAS GRANTED ON JULY 20, 1993 SUBJECT TO THE 30-DAY APPEAL PERIOD AND LANDSCAPE APPROVAL BY THE COUNTY LANDSCAPE ARCHITECT.
4. 99-201-A-ZONING VARIANCE TO ALLOW A 0FT SIDE SETBACK IN LIEU OF 30FT WAS GRANTED BY THE DEPUTY ZONING COMMISSIONER ON JANUARY 14, 1999 SUBJECT TO THE 30-DAY APPEAL PERIOD.



FRONT ELEVATION - USED AUTO

SCALE: NTS

LEGEND

- PROPERTY BOUNDARY
- ZONING LINES
- 600 EXISTING CONTOURS
- EXISTING BUILDING

DATA SOURCE:

1. BOUNDARY INFORMATION SHOWN HEREIN IS TAKEN FROM CURRENT DEED OF RECORD.
2. IMPROVEMENTS SHOWN HEREIN ARE TAKEN FROM BALTIMORE COUNTY GIS

2017-0023-SPHA

DMW
DAFT McCUNE WALKER INC
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

PLAN TO ACCOMPANY VARIANCE AND/OR SPECIAL HEARING

LEN STOLER LEXUS

11311 Reisterstown Road

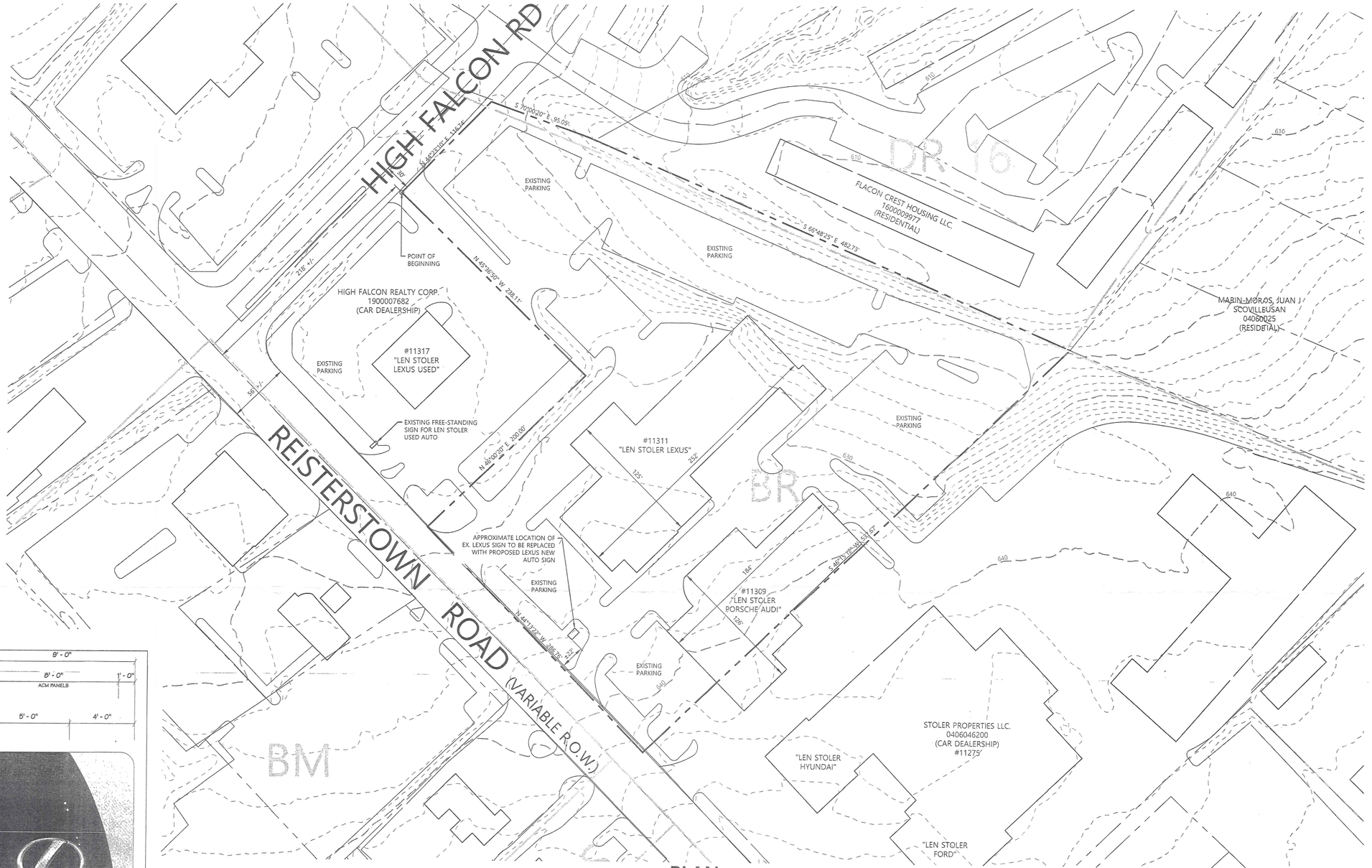
SEAL

STATE OF MARYLAND
MICHAEL DAVID MARTIN
No. 21293
PROFESSIONAL LAND SURVEYOR
THIS PLAN IS FOR ZONING PURPOSES ONLY AND DOES NOT REPRESENT A SURVEY

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW:	7/25/16	BASE:	
BID:		DRAWN:	SRB
PERMIT:		DESIGNED:	MJK
CONSTRUCTION:		CHECKED BY:	MJK
SCALE:	1" = 50'	DATE CHECKED:	7/25/16
PROJECT NO.:	16022	DRAWING:	1 of 1

AM0023860023\DWG\ACAD FILES\SHEET FILES\0023_Z_OLDWG MON, JUL 25, 2016



PLAN

SCALE 1"= 50'

VICINITY MAP

SCALE: 1"=1000'

SITE DATA:

OWNER :	COLONIAL STOLER LLC.
SITE ADDRESS: MAILING ADDRESS:	11311 REISTERSTOWN ROAD 11275 REISTERSTOWN ROAD OWINGS MILLS, MARYLAND 21117-1900
TAX ACCOUNT NUMBER: DEED REFERENCE:	2100012552 19598/00093
SITE ACREAGE :	4.085 Ac., 177,943 Sq. Ft.
ZONING CLASSIFICATION :	BR / DR-16
GIS TILE (ZONING MAP) :	058A1, 058A2
GRID :	0007
PARCEL :	0369
TAX MAP:	0058
ELECTION DISTRICT:	4
COUNCILMANIC DISTRICT	2

SITE IS SERVED BY PUBLIC WATER & SEWER

THE SITE IS NOT HISTORIC: THERE ARE NO HISTORIC BUILDINGS ON SITE

PARKING: NO CHANGE

SETBACK: NO CHANGE

AMENITY OPEN SPACE: N/A

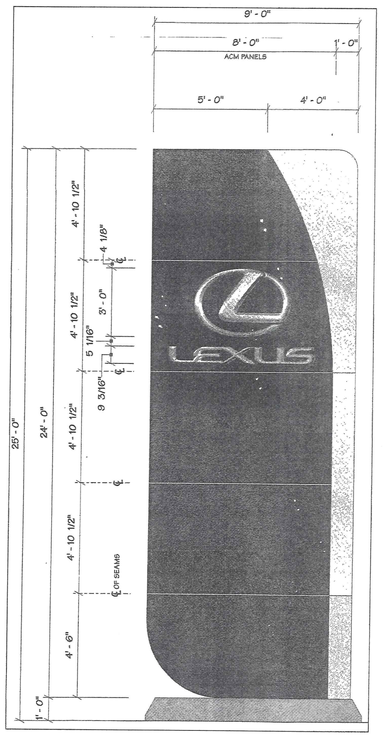
FAR: NO CHANGE

THIS REQUEST DOES NOT IMPACT THE COUNTY BASIC SERVICE MAPS.

THIS SITE IS NOT WITHIN THE CBCA OR FLOODPLAIN HAZARD AREA

50 0 50 100 150

SCALE: 1"=50'



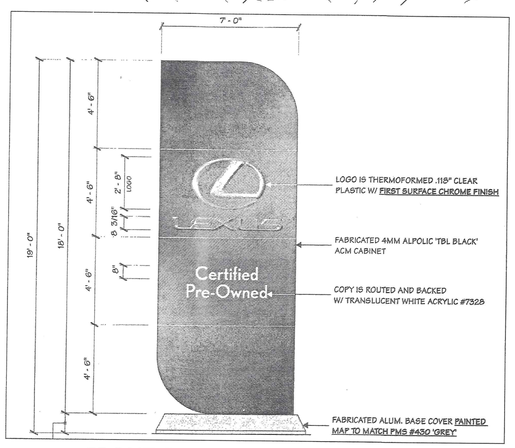
FRONT ELEVATION - NEW AUTO

SCALE 1"= 50'

ZONING HISTORY

1. 70-177-R-PROPERTY REZONED FROM R. 10 TO BR GRANTED BY THE DEPUTY ZONING COMMISSIONER ON DECEMBER 19, 1969 SUBJECT TO SITE PLAN APPROVAL BY PUBLIC SERVICES AND PLANNING AND ZONING.
2. 90-160-A-ZONING VARIANCE FOR A 1.0 FT SETBACK IN LIEU OF 30 FT, A 139 SQ FT SIGN IN LIEU OF 100 FT, A SIGN HEIGHT OF 27 FT, 10 INCHES IN LIEU OF 25 FEET, AND DISPLAY PARKING 10 FEET TO THE STREET RIGHT-OF-WAY WAS GRANTED BY THE BOARD OF APPEALS ON AUGUST 23. 1991, SUBJECT TO:
   A. THAT ALL PARKING LOT LIGHTING SHALL BE NO MORE THAN 10 FT ABOVE GRADE AND ALL EXTERIOR LIGHTING SHALL BE DIRECTED DOWNWARD AND SHALL NOT DIFFUSE INTO ANY RESIDENTIAL PROPERTY.
   B. PAGING DEVICES SHALL BE LIMITED IN USE TO MONDAY THROUGH FRIDAY 8:00AM TO 5:00PM. NO MORE THAN ONE SPEAKER SHALL BE USED ON THE SITE.

   ON MAY 15, 1992 CIRCUIT COURT AFFIRMED THE SIGN VARIANCE BUT REVERSED THE DISPLAY PARKING VARIANCE.
3. 93-403-A-ZONING VARIANCE TO ALLOW AN OPEN PROJECTION (CANOPY) TO ENCROACH 25 FT INTO THE REQUIRED 30 FT SIDE YARD, IN LIEU OF PERMITTED 25% MAXIMUM ENCROACHMENT OF 7.5 FT WAS GRANTED ON JULY 20, 1993 SUBJECT TO THE 30-DAY APPEAL PERIOD AND LANDSCAPE APPROVAL BY THE COUNTY LANDSCAPE ARCHITECT.
4. 99-201-A-ZONING VARIANCE TO ALLOW A 0FT SIDE SETBACK IN LIEU OF 30FT WAS GRANTED BY THE DEPUTY ZONING COMMISSIONER ON JANUARY 14, 1999 SUBJECT TO THE 30-DAY APPEAL PERIOD.



FRONT ELEVATION - USED AUTO

SCALE: NTS

LEGEND

- PROPERTY BOUNDARY
- ZONING LINES
- 600 EXISTING CONTOURS
- EXISTING BUILDING

DATA SOURCE:

1. BOUNDARY INFORMATION SHOWN HEREIN IS TAKEN FROM CURRENT DEED OF RECORD.
2. IMPROVEMENTS SHOWN HEREIN ARE TAKEN FROM BALTIMORE COUNTY GIS

2017-0023-SPHA

DMW
DAFT McCUNE WALKER
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, M
P: 410 296 3333 F: 410 296 4705 WWW.D

PLAN TO ACCOMPANY VARIANCE AND/OR SPECIAL HEARING

LEN STOLER LEXUS

11311 Reisterstown Road

SEAL

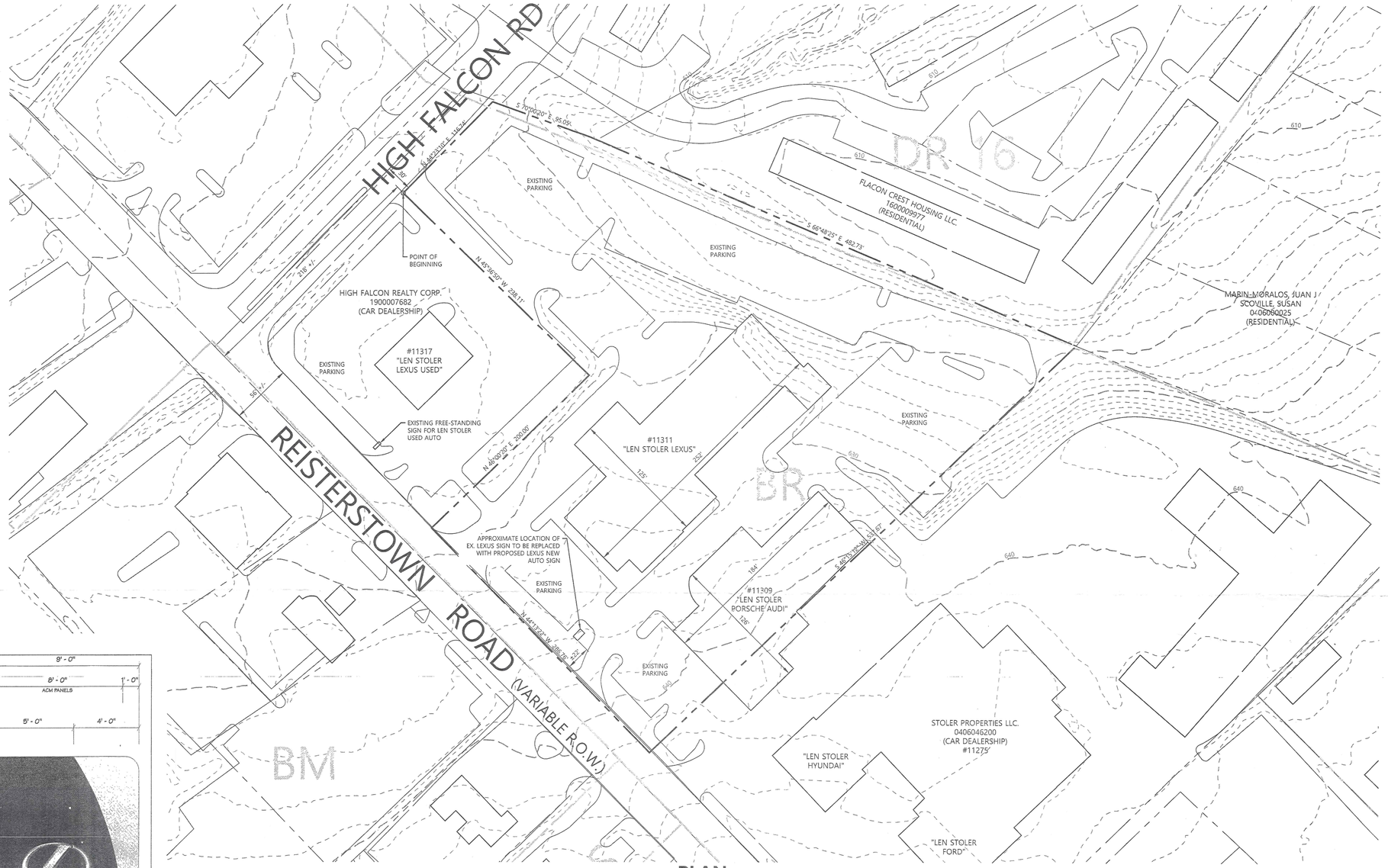
STATE OF MARYLAND
MICHAEL DAVID
No. 21727
PROFESSIONAL ENGINEER

THIS PLAN IS FOR ZONING PURPOSES ONLY AND DOES NOT REPRESENT A SURVEY

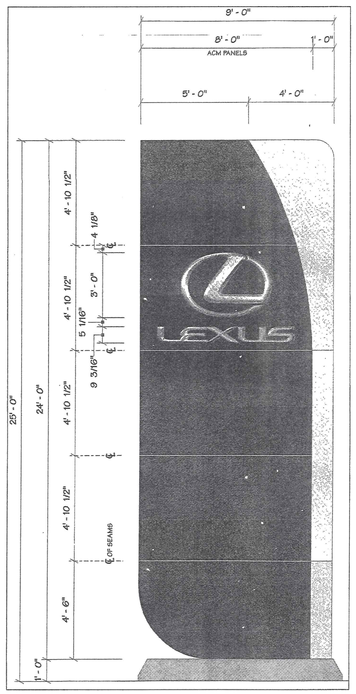
DATE	BY	REVISIONS

ISSUE DATES		
REVIEW:	7/25/16	BASE:
BID:		DRAWN:
PERMIT:		DESIGNED:
CONSTRUCTION:		CHECKED BY:
SCALE:	1" = 50'	DATE CHECKED: 7/
PROJECT NO.:	16022	DRAWING: 1 of

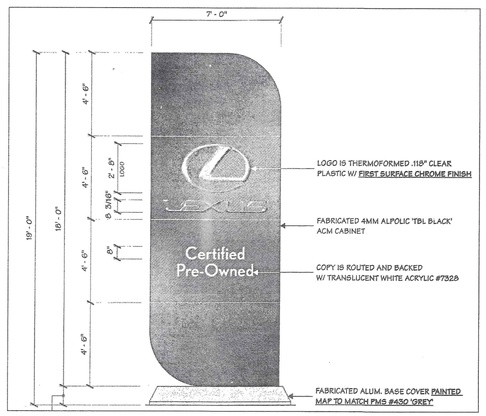
A:\16022\16022.00\ENGR\CAD FILES\SHEET FILES\16022_Z_OLD.DWG MON, JUL 25, 2016



PLAN
SCALE 1"= 50'



FRONT ELEVATION - NEW AUTO
SCALE 1"= 50'

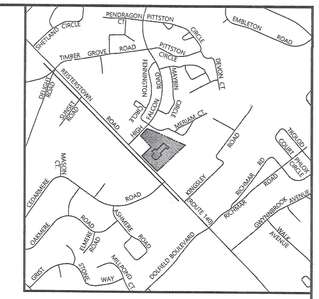


FRONT ELEVATION - USED AUTO
SCALE: NTS

ZONING HISTORY

1. 70-177-R-PROPERTY REZONED FROM R. 10 TO BR GRANTED BY THE DEPUTY ZONING COMMISSIONER ON DECEMBER 19, 1969 SUBJECT TO SITE PLAN APPROVAL BY PUBLIC SERVICES AND PLANNING AND ZONING.
2. 90-160-A-ZONING VARIANCE FOR A 1.0 FT SETBACK IN LIEU OF 30 FT, A 139 SQ FT SIGN IN LIEU OF 100 FT, A SIGN HEIGHT OF 27 FT, 10 INCHES IN LIEU OF 25 FEET, AND DISPLAY PARKING 10 FEET TO THE STREET RIGHT-OF-WAY WAS GRANTED BY THE BOARD OF APPEALS ON AUGUST 23. 1991, SUBJECT TO:
   A. THAT ALL PARKING LOT LIGHTING SHALL BE NO MORE THAN 10 FT ABOVE GRADE AND ALL EXTERIOR LIGHTING SHALL BE DIRECTED DOWNWARD AND SHALL NOT DIFFUSE INTO ANY RESIDENTIAL PROPERTY.
   B. PAGING DEVICES SHALL BE LIMITED IN USE TO MONDAY THROUGH FRIDAY 8:00AM TO 5:00PM. NO MORE THAN ONE SPEAKER SHALL BE USED ON THE SITE.

   ON MAY 15, 1992 CIRCUIT COURT AFFIRMED THE SIGN VARIANCE BUT REVERSED THE DISPLAY PARKING VARIANCE.
3. 93-403-A-ZONING VARIANCE TO ALLOW AN OPEN PROJECTION (CANOPY) TO ENCROACH 25 FT INTO THE REQUIRED 30 FT SIDE YARD, IN LIEU OF PERMITTED 25% MAXIMUM ENCROACHMENT OF 7.5 FT WAS GRANTED ON JULY 20, 1993 SUBJECT TO THE 30-DAY APPEAL PERIOD AND LANDSCAPE APPROVAL BY THE COUNTY LANDSCAPE ARCHITECT.
4. 99-201-A-ZONING VARIANCE TO ALLOW A 0FT SIDE SETBACK IN LIEU OF 30FT WAS GRANTED BY THE DEPUTY ZONING COMMISSIONER ON JANUARY 14, 1999 SUBJECT TO THE 30-DAY APPEAL PERIOD.



VICINITY MAP
SCALE: 1"=1000'

SITE DATA:

OWNER :	COLONIAL STOLER LLC.
SITE ADDRESS: MAILING ADDRESS:	11311 REISTERSTOWN ROAD 11275 REISTERSTOWN ROAD OWINGS MILLS, MARYLAND 21117-1906
TAX ACCOUNT NUMBER: DEED REFERENCE:	2100012552 19598/00093
SITE ACREAGE :	4.085 Ac., 177,943 Sq. Ft.
ZONING CLASSIFICATION :	BR / DR-16
GIS TILE (ZONING MAP) :	058A1, 058A2
GRID :	0007
PARCEL :	0369
TAX MAP:	0058
ELECTION DISTRICT:	4
COUNCILMANIC DISTRICT	2

SITE IS SERVED BY PUBLIC WATER & SEWER

THE SITE IS NOT HISTORIC: THERE ARE NO HISTORIC BUILDINGS ON SITE

PARKING: NO CHANGE

SETBACK: NO CHANGE

AMENITY OPEN SPACE: N/A

FAR: NO CHANGE

THIS REQUEST DOES NOT IMPACT THE COUNTY BASIC SERVICE MAPS.

THIS SITE IS NOT WITHIN THE CBCA OR FLOODPLAIN HAZARD AREA

50 0 50 100 150
SCALE: 1"=50'

PETITIONER'S EXHIBIT NO. 1

LEGEND

- PROPERTY BOUNDARY
- ZONING LINES
- 600 EXISTING CONTOURS
- EXISTING BUILDING

DATA SOURCE:

1. BOUNDARY INFORMATION SHOWN HEREIN IS TAKEN FROM CURRENT DEED OF RECORD.
2. IMPROVEMENTS SHOWN HEREIN ARE TAKEN FROM BALTIMORE COUNTY GIS

2017-0023-SPHA

DMW
DAFT McCUNE WALKER INC
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

PLAN TO ACCOMPANY VARIANCE AND/OR SPECIAL HEARING

LEN STOLER LEXUS

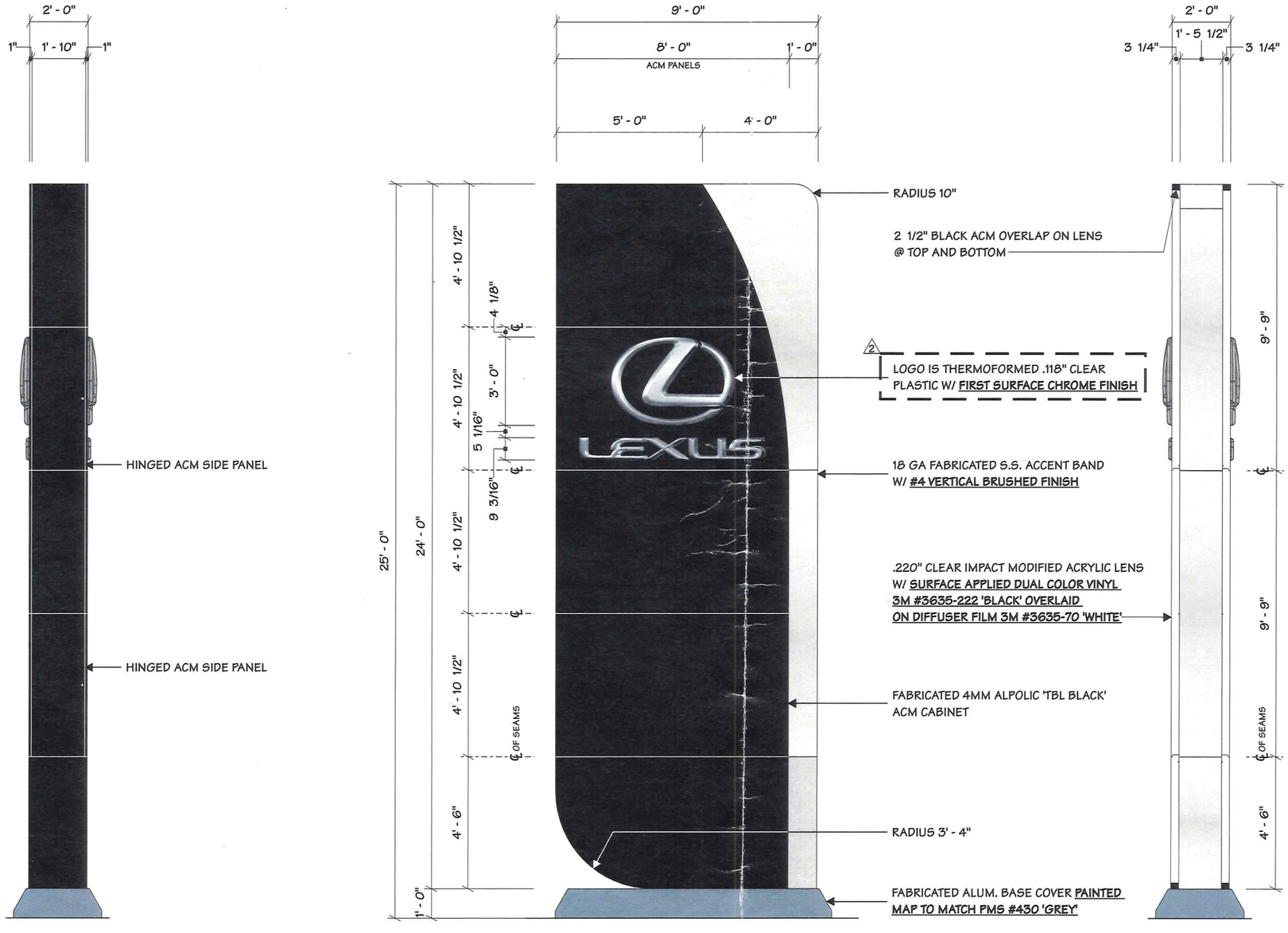
11311 Reisterstown Road

SEAL
STATE OF MARYLAND
MICHAEL DAVID MARTIN
No. 21234
PROFESSIONAL ENGINEER
THIS PLAN IS FOR ZONING PURPOSES ONLY AND DOES NOT REPRESENT A SURVEY

DATE	BY	REVISIONS

ISSUE DATES		
REVIEW:	7/25/16	BASE:
BID:		DRAWN: SRB
PERMIT:		DESIGNED: MJK
CONSTRUCTION:		CHECKED BY: MJK
SCALE:	1" = 50'	DATE CHECKED: 7/25/16
PROJECT NO.:	16022	DRAWING: 1 of 1

A:\16022\160222\04ENGR\CAD FILES\SHEET FILES\16022_Z_01.DWG MON, JUL 25, 2016



EX. 2

Architectural Graphics Incorporated
2655 International Parkway
P.O. Box 9175
Virginia Beach, VA 23450
(757)427-1900

Project Title
LEXUS

Date 10.22.13

AGI EoR M. SMITH
Lead Drafter NJC
Drawn By NJC
Project Mgr. B. ADAMS

General Sign Specifications

- ☐ Interior ■ Exterior
- ☐ Single Faced ■ Double Faced
- ☐ _____
- ☐ Non-Illuminated
- ■ Illuminated
  120 Volts _____ Amps(+/-)

Location _____
Windload _____

Drawing Revisions			
	Drawn By	Date	Change
1	NJC	03.28.14	BALLAST PLACEMENT
2	NJC	05.13.14	ADDED CAM LOCK, LENS OVERLAP, & LIFT
3	JLM	07.31.15	BASE PLATE GUSSET SPACING
4			
5			
6			
7			
8			
9			
10			

This document is the sole property of Architectural Graphics, Inc., and all design, manufacturing, reproduction, use and sale rights regarding the same are expressly forbidden. It is submitted under a confidential relationship, for a special purpose, and the recipient, by accepting this document assumes custody and agrees that this document will not be copied or reproduced in whole or in part, nor its contents revealed in any manner or to any person except for the purpose for which it was tendered, nor any special features peculiar to this design be incorporated in other projects.

Code	Type
13365	C
Sign Type P-27-25	**PG #:** 01