

M E M O R A N D U M

DATE: January 3, 2019
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2019-0062-A – Appeal Period Expired

The appeal period for the above-referenced case expired on January 2, 2019. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

/dlw

IN RE: PETITION FOR VARIANCE
(7923, 7925, & 7927 Belair Road)

14th Election District

5th Council District

FP SUB, LLC

Legal Owner

Petitioner

*

*

*

*

*

BEFORE THE OFFICE

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2019-0062-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by FP SUB LLC, legal owner of the subject property ("Petitioner"). Petitioner is requesting variance relief pursuant to the Baltimore County Zoning Regulations ("BCZR") as follows: (1) To permit a freestanding identification sign with a maximum size of 228 sq. ft. in lieu of the permitted 150 sq. ft. (Sign #1); (2) To permit a joint identification sign with a minimum sign copy of six (6) inches in height in lieu of the required eight (8) inches in height for sign copy (Sign #1); (3) To permit a joint identification sign with a minimum sign copy of 2.5 inches in height in lieu of the required eight (8) inches in height for sign copy (Sign #2); (4) To allow wall-mounted enterprise signs on building facades without separate, exterior customer entrances (Sign #3 and #4); (5) To allow wall-mounted enterprise signs to be installed in a different location than the tenant space (Sign #3 and #4); and (6) To permit two (2) additional electronic changeable copy, freestanding joint identification signs accessory to a planned shopping center for a total of four (4) on a single premises in lieu of the permitted one (1) sign (Sign #1 and #2). A site plan was marked as Petitioner's Exhibit 1.

Michael Gesell, Alex Ororbia and Michael Ogden appeared in support of the petition.

Justin Williams, Esq. represented Petitioner. There were no Protestants or interested citizens in

ORDER RECEIVED FOR FILING

Date

12/3/18

By

Den

attendance. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the reviewing County agencies.

The site is approximately 18.37 acres in size and split-zoned BR, BL & DR 5.5. A shopping center is operated at the site and features a Weis grocery store and fuel service station along with several other retail tenants. A large fitness facility will soon be added to the center, and Petitioner seeks certain changes to its existing signage to accommodate this tenant. In addition, Weis also proposes signage for the facades of its store which can be seen by motorists on Rossville Boulevard.

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).

This large parcel has an irregular shape and is therefore unique, as confirmed by similar findings in several prior variance cases. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to provide signage for its tenants. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the absence of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 3rd day of **December, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance as follows: (1) To permit a freestanding identification sign with a maximum size of 228 sq. ft. in lieu of the permitted 150 sq.

ORDER RECEIVED FOR FILING

2

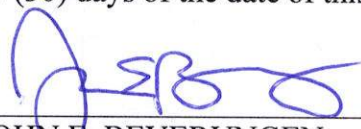
Date 12/3/18
By Sen

ft. (Sign #1); (2) To permit a joint identification sign with a minimum sign copy of six (6) inches in height in lieu of the required eight (8) inches in height for sign copy (Sign #1); (3) To permit a joint identification sign with a minimum sign copy of 2.5 inches in height in lieu of the required eight (8) inches in height for sign copy (Sign #2); (4) To allow wall-mounted enterprise signs on building facades without separate, exterior customer entrances (Sign #3 and #4); (5) To allow wall-mounted enterprise signs to be installed in a different location than the tenant space (Sign #3 and #4); and (6) To permit two (2) additional electronic changeable copy, freestanding joint identification signs accessory to a planned shopping center for a total of four (4) on a single premises in lieu of the permitted one (1) sign (Sign #1 and #2), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

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

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



JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB/sln

ORDER RECEIVED FOR FILING

Date 12/3/18
By sln



VARIANCE REVISED

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 7923, 7925, and 7927 Belair Road **which is presently zoned** BR, BL and DR5.5

Deed References: 19892/329 **10 Digit Tax Account #** 1 9 0 0 0 0 1 4 0 7

Property Owner(s) Printed Name(s) FP SUB 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. **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

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

3. X **a Variance** from Section(s)

Please see attached Sheet 1

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

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

Caroline L. Hecker / Rosenberg Martin Greenberg, LLP

Name- Type or Print

Signature

25 S. Charles St., 21st Floor

Baltimore

MD

Mailing Address

City

State

21201 / (410) 727-6600

/checker@rosenbergmartin.com

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

Please see attached Sheet 2

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature # 2

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Representative to be contacted:

Caroline L. Hecker / Rosenberg Martin Greenberg, LLP

Name - Type or Print

Signature

25 S. Charles St., 21st Floor

Baltimore

MD

Mailing Address

City

State

21201 / (410) 727-6600

/checker@rosenbergmartin.com

Zip Code

Telephone #

Email Address

CASE NUMBER 2019-0062-A

Filing Date 8/24/2018

Do Not Schedule Dates: _____

Reviewer JNP

Petition for Variance

Attached Sheet 1

Requested Variances

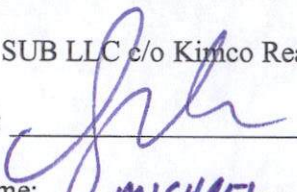
- A. The following variances are requested from Section 450.4 Attachment 1 of the Baltimore County Zoning Regulations:
1. From 1.7(b)(V) to permit a freestanding identification sign with a maximum size of 228 square feet in lieu of the permitted 150 square feet (Sign #1)
 2. From 1.7(b)(IX) to permit a joint identification sign with a minimum sign copy of six (6) inches in height in lieu of the required eight (8) inches in height for sign copy (Sign #1)
 3. From 1.7(b)(IX) to permit a joint identification sign with a minimum sign copy of 2.5 inches in height in lieu of the required eight (8) inches in height for sign copy (Sign #2)
 4. From 1.5(d)(VI) to allow wall-mounted enterprise signs on building façades without separate, exterior customer entrances (Sign #3 and #4)
 5. From 1.5(d)(V) and (d)(VI) to allow wall-mounted enterprise signs to be installed in a different location than the tenant space (Sign #3 and #4)
 6. From 1.1(c)(VI) to permit two (2) additional electronic changeable copy, freestanding joint identification signs accessory to a planned shopping center for a total of four (4) on a single premises, in lieu of the permitted one (1) sign (Sign #1 and #2)

Petition for Variance

Attached Sheet 2

Legal Owner (Petitioner):

FP SUB LLC c/o Kimco Realty Corp.

By: 

Name: MICHAEL OGDEN

Title: AUTHORIZED AGENT

33 New Hyde Park Road, Suite 100

New Hyde Park, NY 11042

Phone Number: 410-427-4478



ZONING DESCRIPTION
TAX MAP 81, PARCEL 639
THE LAND OF
FP SUB, LLC.
LIBER 19892 FOLIO 329
14TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MD

BEGINNING AT A POINT ON THE EASTERLY RIGHT-OF-WAY LIMITS OF BELAIR ROAD (U.S. ROUTE 1) (VARIABLE WIDTH RIGHT-OF-WAY), WHICH IS 0 FEET SOUTH OF THE INTERSECTION OF SAID BELAIR ROAD (U.S. ROUTE 1) AND ROSSVILLE BOULEVARD (VARIABLE WIDTH RIGHT-OF-WAY), THENCE DEPARTING SAID SOUTHERLY RIGHT-OF-WAY LIMITS AND WITH THE DIVISION LINE BETWEEN THE ROSSVILLE BOULEVARD RIGHT-OF-WAY ON THE NORTH AND THE LAND OF FP SUB, LLC. (LIBER 19892 FOLIO 329) ON THE SOUTH;

1. SOUTH 50 DEGREES – 03 MINUTES – 11 SECONDS EAST, 58.99 FEET TO A POINT, THENCE;
2. CONTINUING 70.95 FEET ALONG THE ARC OF CURVE TO THE LEFT, HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 16 DEGREES – 15 MINUTES – 36 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 58 DEGREES – 11 MINUTES – 00 SECONDS EAST, 70.71 FEET TO A POINT, THENCE;
3. CONTINUING 70.95 FEET ALONG THE ARC OF CURVE TO THE RIGHT, HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 16 DEGREES – 15 MINUTES – 38 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 58 DEGREES – 10 MINUTES – 59 SECONDS EAST, 70.71 FEET TO A POINT, THENCE;
4. CONTINUING SOUTH 50 DEGREES – 03 MINUTE – 11 SECONDS EAST, 782.52 FEET TO A POINT, THENCE;
5. CONTINUING SOUTH 39 DEGREES – 56 MINUTES – 49 SECONDS WEST, 500.00 FEET TO A POINT, THENCE;
6. CONTINUING SOUTH 02 DEGREES – 13 MINUTES – 37 SECONDS EAST, 59.79 FEET TO A POINT, THENCE;
7. CONTINUING SOUTH 29 DEGREES – 36 MINUTES – 51 SECONDS EAST, 214.50 FEET TO A POINT, THENCE;
8. CONTINUING SOUTH 15 DEGREES – 55 MINUTES – 04 SECONDS WEST, 170.90 FEET TO A POINT, THENCE;
9. CONTINUING NORTH 72 DEGREES – 38 MINUTES – 06 SECONDS WEST, 369.86 FEET TO A POINT, THENCE;
10. CONTINUING 167.96 FEET ALONG THE ARC OF CURVE TO THE RIGHT, HAVING A RADIUS OF 970.00 FEET, A CENTRAL ANGLE OF 09 DEGREES – 55 MINUTES – 16 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 67 DEGREES – 40 MINUTES – 28 SECONDS WEST, 167.75 FEET TO A POINT, THENCE;



11. CONTINUING NORTH 11 DEGREES – 23 MINUTES – 31 SECONDS WEST, 854.73 FEET TO A POINT, THENCE;
12. CONTINUING SOUTH 37 DEGREES – 53 MINUTES – 04 SECONDS WEST, 103.86 FEET TO A POINT, THENCE;
13. CONTINUING NORTH 49 DEGREES – 56 MINUTES – 59 SECONDS WEST, 166.66 FEET TO A POINT, THENCE;
14. CONTINUING 96.30 FEET ALONG THE ARC OF CURVE TO THE LEFT, HAVING A RADIUS OF 11,399.66 FEET, A CENTRAL ANGLE OF 00 DEGREES – 29 MINUTES – 02 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 38 DEGREES – 43 MINUTES – 17 SECONDS EAST, 96.30 FEET TO A POINT, THENCE;
15. CONTINUING NORTH 86 DEGREES – 08 MINUTES – 09 SECONDS EAST, 22.24 FEET TO A POINT, THENCE;
16. CONTINUING SOUTH 49 DEGREES – 59 MINUTES – 22 SECONDS EAST, 13.00 FEET TO A POINT, THENCE;
17. CONTINUING NORTH 40 DEGREES – 00 MINUTES – 38 DEGREES EAST, 71.50 FEET TO A POINT, THENCE;
18. CONTINUING NORTH 12 DEGREES – 36 MINUTES – 33 SECONDS WEST, 21.21 FEET TO A POINT, THENCE;
19. CONTINUING 292.14 FEET ALONG THE ARC OF CURVE TO THE LEFT, HAVING A RADIUS OF 11,386.16 FEET, A CENTRAL ANGLE OF 01 DEGREES – 28 MINUTES – 12 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 40 DEGREES – 11 MINUTES – 59 SECONDS EAST, 292.13 FEET TO A POINT, THENCE;
20. CONTINUING NORTH 83 DEGREES – 35 MINUTES – 28 SECONDS EAST, 40.62 FEET TO THE POINT OF BEGINNING

CONTAINING 800,253 SQUARE FEET OR 18.37 ACRES.

he Daily Record

11 East Saratoga Street
 Baltimore, MD 21202-2199
 (443) 524-8100

<http://www.thedailyrecord.com>

Order #: 11635934
 Case #: 2019-0062-A
 Description:

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in The Daily Record, a daily newspaper published in the State of Maryland 1 times on the following dates:

11/9/2018



Darlene Miller, Public Notice Coordinator
 (Representative Signature)

NOTICE OF ZONING HEARING CASE NUMBER: 2019-0062-A

Baltimore County**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: 2019-0062-A

7923, 7925 & 7927 Belair Road

E/s Belair Road at the corner of the S/s of Rossville Boulevard
 14th Election District - 5th Councilmanic District

Legal Owners: FP SUB LLC c/o Kimco Realty, Corp.

Variance to 1. To permit a freestanding identification sign with a maximum size of 228 sq. ft. in lieu of the permitted 150 sq. ft. (Sign # 1). 2. To permit a joint identification sign with a maximum sign copy of six (6) in. in height in lieu of the required eight (8) in. in height for sign copy (Sign # 1). 3. To permit a joint identification sign with a minimum sign copy of 2.5 in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #2). 4. To allow wall-mounted enterprise signs on building facades without separate, exterior customer entrances (Sign #3 and #4). 5. To allow wall-mounted enterprise signs to be installed in a different location than the tenant space (Sign #3 and #4). 6. To permit two (2) additional electronic changeable copy, freestanding joint identification signs accessory to a planned shopping center for a total of four (4) on a single premises in lieu of the permitted one (1) sign (Sign #1 and #2).

Hearing: Thursday, November 29, 2018 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE. FOR SPECIAL ACCOMMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3301.

n9

15-11-11
15-11-11

15-11-11 15-11-11 15-11-11 15-11-11 15-11-11

15-11-11 15-11-11 15-11-11 15-11-11 15-11-11
15-11-11 15-11-11 15-11-11 15-11-11 15-11-11
15-11-11 15-11-11 15-11-11 15-11-11 15-11-11

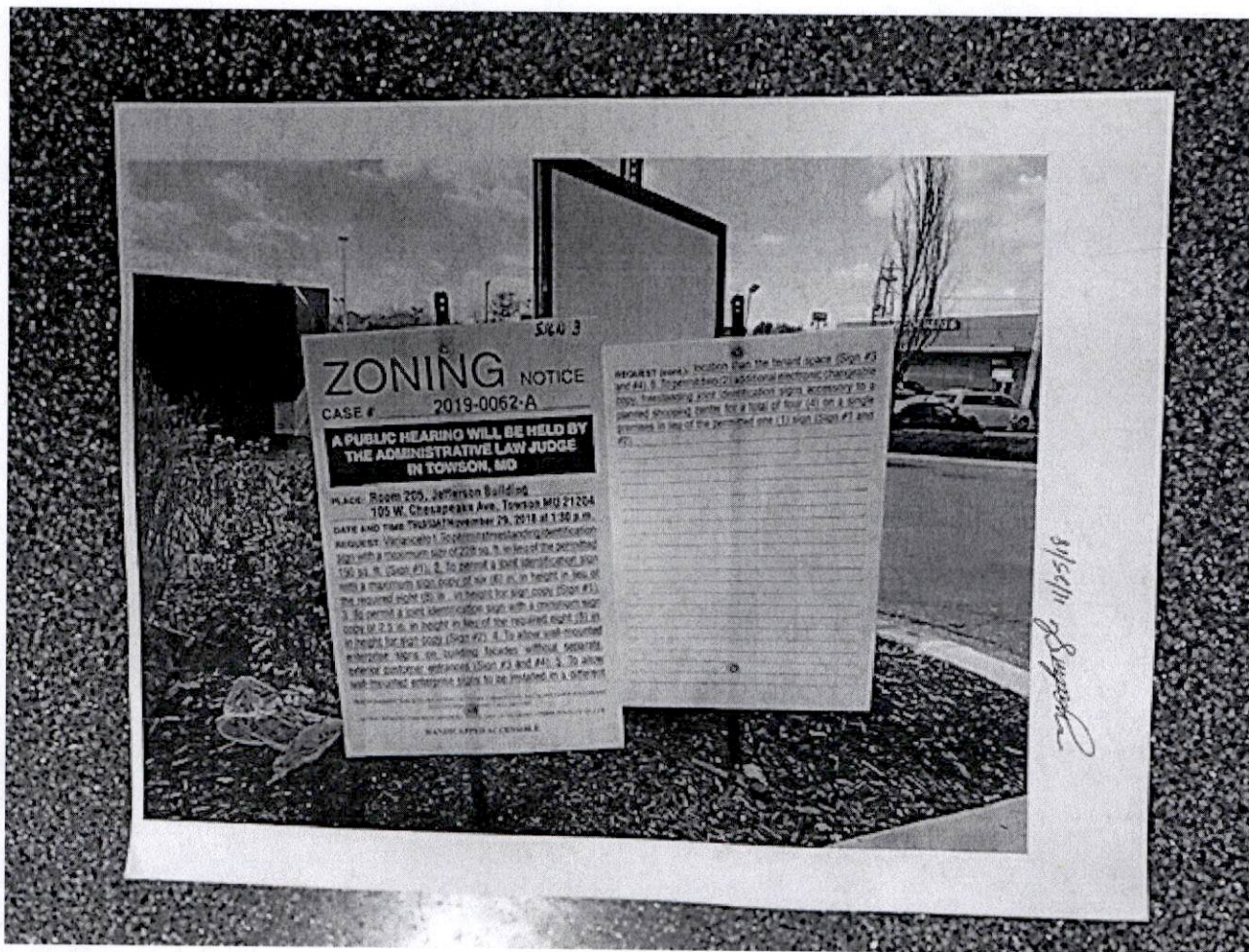
15-11-11 15-11-11 15-11-11 15-11-11 15-11-11
15-11-11 15-11-11 15-11-11 15-11-11 15-11-11
15-11-11 15-11-11 15-11-11 15-11-11 15-11-11
15-11-11 15-11-11 15-11-11 15-11-11 15-11-11
15-11-11 15-11-11 15-11-11 15-11-11 15-11-11

15-11-11 15-11-11 15-11-11 15-11-11 15-11-11
15-11-11 15-11-11 15-11-11 15-11-11 15-11-11

JS 11-29-18
1:30 PM

From: Marty Ogle <mert1114@aol.com>
Sent: Sunday, November 25, 2018 7:30 PM
To: Administrative Hearings
Subject: 2019-0062-A

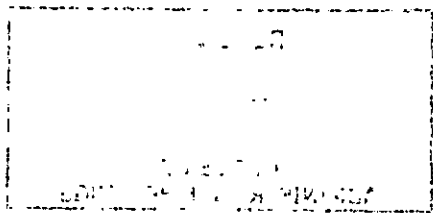
2nd set of certificates



RECEIVED

NOV 26 2018

OFFICE OF
ADMINISTRATIVE HEARINGS



CERTIFICATE OF POSTING

CASE NO. 2019-0062-A

PETITIONER/DEVELOPER

ROSENBERG MARTIN

GREENBERG LLP

DATE OF HEARING/CLOSING

11/29/18

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT

COUNTY OFFICE BUILDING ROOM 111

111 WEST CHESAPEAKE AVENUE

ATTENTION :

LADIES AND GENTLEMAN :

THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON
THE PROPERTY LOCATED AT

7923, 7925, 7927 BELAIR RD SIGN #3
ROSSVILLE BLVD ENTRANCE

THIS SIGN(S) POSTED ON November 7, 2018 November 25, 2018
(MONTH, DAY, YEAR)

SINCERELY,

Martin Ogle 11/1/18

SIGNATURE OF SIGN POSTER

MARTIN OGLE

9912 MAIDBROOK ROAD

PARKVILLE, MD. 21234

443-629-3411

RECEIVED
NOV 26 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

CERTIFICATE OF POSTING

CASE NO. 2019-0002-A
PETITIONER/DEVELOPER
ROSEWELL MARTIN
BREENSELL LLP
DATE OF HEARING/CLOSING
11/29/19

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE
ATTENTION:

LADIES AND GENTLEMAN:

THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON
THE PROPERTY LOCATED AT

7923, 7925, 7927 BELAIR RD SIGN #2
BELAIR RD. ENTRANCE

THIS SIGN(S) POSTED ON November 7, 2018 November 25, 2018
(MONTH, DAY, YEAR)

SINCERELY,

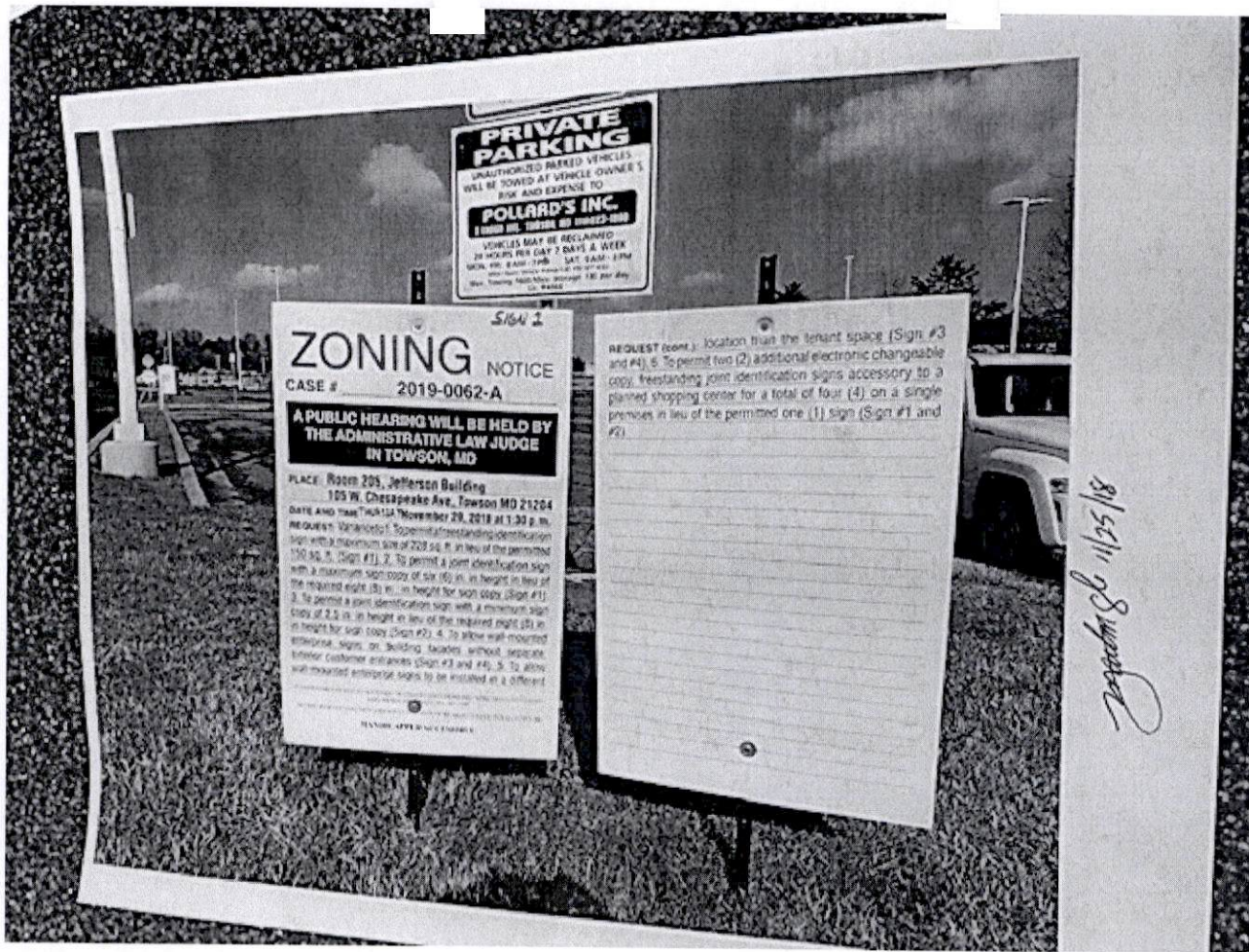
[Signature] 11/1/18
SIGNATURE OF SIGN POSTER

MARTIN OGLE
9912 MAIDBROOK ROAD
PARKVILLE, MD. 21234
443-629-3411

RECEIVED

NOV 26 2018

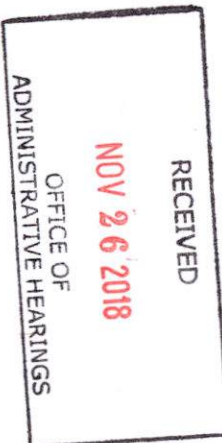
OFFICE OF
ADMINISTRATIVE HEARINGS



RECEIVED
NOV 26 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

Sent from my iPhone

6



CERTIFICATE OF POSTING

CASE NO. 2019-0002-1
PETITIONER/DEVELOPER
ROSENDELL MARTIN
BREWERLL LLP
DATE OF HEARING/CLOSING
11/29/18

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE
ATTENTION:

LADIES AND GENTLEMAN:
THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON
THE PROPERTY LOCATED AT

7923, 7925, 7927 BELAIR RD SIGN #1
FITCH AVE. EASTWEE

THIS SIGN(S) POSTED ON November 7, 2018 November 25, 2018
(MONTH, DAY, YEAR)

SINCERELY,

Martin Ogle 11/1/18
SIGNATURE OF SIGN POSTER

MARTIN OGLE
9912 MAIDBROOK ROAD
PARKVILLE, MD. 21234
443-629-3411

C E R T I F I C A T E O F P O S T I N G

CASE NO. 2019-0062-A

PETITIONER/DEVELOPER

ROSENBERG MARTIN
GREENBERG LLP

DATE OF HEARING/CLOSING

11/29/18

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE
ATTENTION :

LADIES AND GENTLEMAN :

THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON
THE PROPERTY LOCATED AT

7923, 7925 & 7927 BELAIR RD SIGN#1
FITCH AVE. ENTRANCE

THIS SIGN(S) POSTED ON November 7, 2018
(MONTH, DAY, YEAR)

SINCERELY,

 11/7/18
SIGNATURE OF SIGN POSTER

MARTIN OGLE
9912 MAIDBROOK ROAD
PARKVILLE, MD. 21234
443-629-3411

PARKING
 UNAUTHORIZED PARKED VEHICLES
 WILL BE TOWED AT VEHICLE OWNER'S
 RISK AND EXPENSE TO

POLLARD'S INC.
 3 ENSOR AVE. TOWSON, MD (410) 823-1808

VEHICLES MAY BE RECLAIMED
 24 HOURS PER DAY 7 DAYS A WEEK
 MON.-FRI. 8 AM-7 PM SAT. 9 AM-3 PM
 410-377-8122
 \$50 per day

SIGN 1

ZONING NOTICE

CASE # **2019-0062-A**

**A PUBLIC HEARING WILL BE HELD BY
 THE ADMINISTRATIVE LAW JUDGE
 IN TOWSON, MD**

PLACE: **Room 205, Jefferson Building
 105 W. Chesapeake Ave, Towson MD 21204**

DATE AND TIME: **Friday, November 29, 2018 at 1:30 p.m.**

REQUEST: Variance to 1. To permit a freestanding identification sign with a maximum size of 228 sq. ft. in lieu of the permitted 150 sq. ft. (Sign #1). 2. To permit a joint identification sign with a maximum sign copy of six (6) in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #1). 3. To permit a joint identification sign with a minimum sign copy of 2.5 in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #2). 4. To allow wall-mounted enterprise signs on building facades without separate, exterior customer entrances (Sign #3 and #4). 5. To allow wall-mounted enterprise signs to be installed in a different

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
 TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL THE DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

REQUEST (cont.): location than the tenant space (Sign #3 and #4). 6. To permit two (2) additional electronic changeable copy, freestanding joint identification signs accessory to a planned shopping center for a total of four (4) on a single premises in lieu of the permitted one (1) sign (Sign #1 and #2).

myadm sl 11/7/18

CERTIFICATE OF POSTING

CASE NO. 2019-0062-A

PETITIONER/DEVELOPER

ROSENBERG MARTIN
GREENBERG LLP

DATE OF HEARING/CLOSING

11/29/18

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION :

LADIES AND GENTLEMAN :

THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON
THE PROPERTY LOCATED AT

7923, 7925, 7927 BELAIR RD SIGN #2
BELAIR RD - ENTRANCE

THIS SIGN(S) POSTED ON November 7, 2018

(MONTH, DAY, YEAR)

SINCERELY,

Martin Ogle 11/7/18
SIGNATURE OF SIGN POSTER

MARTIN OGLE

9912 MAIDBROOK ROAD

PARKVILLE, MD. 21234

443-629-3411

ZONING NOTICE

CASE # 2019-0062-A

A PUBLIC HEARING WILL BE HELD BY
THE ADMINISTRATIVE LAW JUDGE
IN TOWSON, MD

PLACE: Room 205, Jefferson Building
105 W. Chesapeake Ave, Towson MD 21204

DATE AND TIME: Friday, November 29, 2018 at 1:30 p.m.

REQUEST: Variance to 1. To permit a freestanding identification sign with a maximum size of 228 sq. ft. in lieu of the permitted 150 sq. ft. (Sign #1). 2. To permit a joint identification sign with a maximum sign copy of six (6) in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #1). 3. To permit a joint identification sign with a minimum sign copy of 2.5 in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #2). 4. To allow wall-mounted enterprise signs on building facades without separate exterior customer entrances (Sign #3 and #4). 5. To allow wall-mounted enterprise signs to be installed in a different

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UPON DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE.

516N 2

REQUEST (cont.): location (C) the tenant space (Sign #3 and #4). 6. To permit two (2) additional electronic changeable copy, freestanding joint identification signs accessory to a planned shopping center for a total of four (4) on a single premises in lieu of the permitted one (1) sign (Sign #1 and #2).

ryan 11/7/18

CERTIFICATE OF POSTING

CASE NO. 2019-0062-A

PETITIONER/DEVELOPER

ROSENBERG MARTIN

GREENBERG LLP

DATE OF HEARING/CLOSING

11/29/18

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION :

LADIES AND GENTLEMAN :

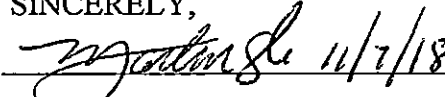
THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON
THE PROPERTY LOCATED AT

7923, 7925, 7927 BELAIR RD SIGN# 3
ROSSVILLE BLVD. ENTRANCE

THIS SIGN(S) POSTED ON November 7, 2018

(MONTH, DAY, YEAR)

SINCERELY,

 11/7/18

SIGNATURE OF SIGN POSTER

MARTIN OGLE

9912 MAIDBROOK ROAD

PARKVILLE, MD. 21234

443-629-3411

SIGN 3

ZONING NOTICE

CASE # 2019-0062-A

**A PUBLIC HEARING WILL BE HELD BY
THE ADMINISTRATIVE LAW JUDGE
IN TOWSON, MD**

PLACE: Room 205, Jefferson Building
105 W. Chesapeake Ave, Towson MD 21204

DATE AND TIME: Friday, November 29, 2018 at 1:30 p.m.

REQUEST: Variance to 1. To permit a freestanding identification sign with a maximum size of 228 sq. ft. in lieu of the permitted 150 sq. ft. (Sign #1). 2. To permit a joint identification sign with a maximum sign copy of six (6) in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #1). 3. To permit a joint identification sign with a minimum sign copy of 2.5 in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #2). 4. To allow wall-mounted enterprise signs on building facades without separate, exterior customer entrances (Sign #3 and #4). 5. To allow wall-mounted enterprise signs to be installed in a different

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOME TIMES NECESSARY.
TO CONFIRM, PLEASE CALL: 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

REQUEST (cont.): location than the tenant space (Sign #3 and #4). 6. To permit two (2) additional electronic changeable copy, freestanding joint identification signs accessory to a planned shopping center for a total of four (4) on a single premises in lieu of the permitted one (1) sign (Sign #1 and #2).

Wade 8e 11/7/18

TO: THE DAILY RECORD
Friday, November 9, 2018 - Issue

Please forward billing to:

Margaret Giordano
Rosenberg, Martin & Greenberg
25 S. Charles Street, 21st Floor
Baltimore, MD 21201

410-727-6600

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: 2019-0062-A

7923, 7925 & 7927 Belair Road

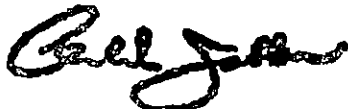
E/s Belair Road at the corner of the S/s of Rossville Boulevard

14th Election District – 5th Councilmanic District

Legal Owners: FP SUB LLC c/o Kimco Realty, Corp.

Variance to 1. To permit a freestanding identification sign with a maximum size of 228 sq. ft. in lieu of the permitted 150 sq. ft. (Sign #1). 2. To permit a joint identification sign with a maximum sign copy of six (6) in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #1). 3. To permit a joint identification sign with a minimum sign copy of 2.5 in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #2). 4. To allow wall-mounted enterprise signs on building facades without separate, exterior customer entrances (Sign #3 and #4). 5. To allow wall-mounted enterprise signs to be installed in a different location than the tenant space (Sign #3 and #4). 6. To permit two (2) additional electronic changeable copy, freestanding joint identification signs accessory to a planned shopping center for a total of four (4) on a single premises in lieu of the permitted one (1) sign (Sign #1 and #2).

Hearing: Thursday, November 29, 2018 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL 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.

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE
AND VARIANCE		
7923, 7925 & 7927 Belair Road; E/S Belair	*	OF ADMINISTRATIVE
Road at corner of the S/S of Rossville Boulevard		
14 th Election & 5 th Councilmanic Districts	*	HEARINGS FOR
Legal Owner(s): FP SUB LLC c/o		
KIMCO Realty Corporation	*	BALTIMORE COUNTY
Petitioner(s)		
	*	2019-062-A

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED

SEP 06 2018

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 6th day of September, 2018, a copy of the foregoing Entry of Appearance was mailed Caroline L. Hecker, Rosenberg Martin Greenberg, LLP, 25 S. Charles Street, 21st Floor, Baltimore, Maryland 21201, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



DONALD I. MOHLER III
County Executive

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

October 1, 2018

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: 2019-0062-A

7923, 7925 & 7927 Belair Road

E/s Belair Road at the corner of the S/s of Rossville Boulevard

14th Election District – 5th Councilmanic District

Legal Owners: FP SUB LLC c/o Kimco Realty, Corp.

Variance to 1. To permit a freestanding identification sign with a maximum size of 228 sq. ft. in lieu of the permitted 150 sq. ft. (Sign #1). 2. To permit a joint identification sign with a maximum sign copy of six (6) in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #1). 3. To permit a joint identification sign with a minimum sign copy of 2.5 in. in height in lieu of the required eight (8) in. in height for sign copy (Sign #2). 4. To allow wall-mounted enterprise signs on building facades without separate, exterior customer entrances (Sign #3 and #4). 5. To allow wall-mounted enterprise signs to be installed in a different location than the tenant space (Sign #3 and #4). 6. To permit two (2) additional electronic changeable copy, freestanding joint identification signs accessory to a planned shopping center for a total of four (4) on a single premises in lieu of the permitted one (1) sign (Sign #1 and #2).

Hearing: Thursday, November 29, 2018 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

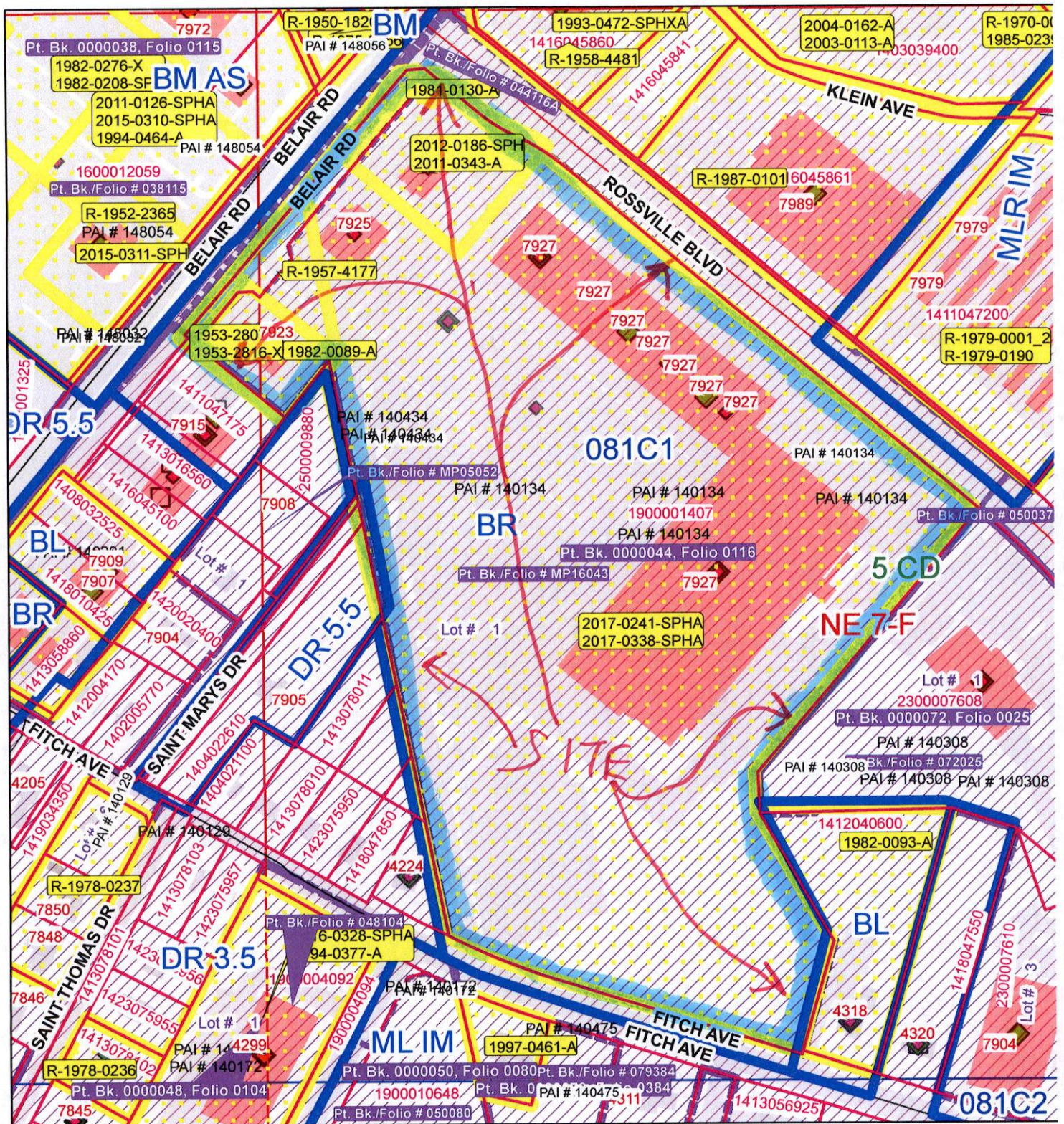
Arnold Jablon
Director

AJ:kl

C: Caroline Hecker, 25 S. Charles Street, 21st Fl., Baltimore 21201
Michael Ogden, 33 New Hyde Park Road, Ste. 100, New Hyde Park NY 11042

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, NOVEMBER 9, 2018.**
- (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.

Fulleton Shopping Center



Publication Date: 8/24/2018



Publication Agency: Permits, Approvals & Inspections
 Projection/Datum: Maryland State Plane,
 FIPS 1900, NAD 1983/91 HARN, US Foot



0 55 110 220 330 440 Feet

1 inch = 200 feet

2019-0162-A

**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 twenty (20) 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: 2019-0062-A
Property Address: 7923, 7925 & 7927 Belair Road
Property Description: E/S of Belair Road @ Corner of S/S of
Rossville Blvd.
Legal Owners (Petitioners): FP SUB, LLC
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: Margaret Giordano
Company/Firm (if applicable): Rosenberg Martin Greenberg
Address: 25 S. Charles St.
21st Fl
Baltimore, MD 21201
Telephone Number: _____

Margaret G. Giddens
Baltimore, Md. 21201
217 71
22 S. Clark St.
Baltimore, Md. 21201

No. 173281

Date:

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
9/11/2016	9/10/2016	15:05:12	1

REC'D 4501 - WALKIN - LJR
RECEIPT # 811127 - 9/10/2018 - 01LN

01 5 526 ZONING VERIFICATION

NO. 173281

Remt Tot.	\$250.00
\$250.00	OK
	\$0.00 CA

Baltimore County, Maryland

[illegible]

Total

Rec
From:

For:

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S VALIDATION

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

No. **173206**

Date: **8/24/2018**

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 8/24/2018 8/24/2018 10:26:45 1

REC W501 WALKIN LTR

RECEIPT # 802244 8/24/2018 (ELN

Net 5 528 ZONING VERIFICATION

NO. 173206

Recpt Tot \$500.00

\$500.00 CN \$1.00 CA

Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					500.00

Total: **500.00**

Rec From: **Rosenberg, Martin & Green**

For: **Variance - 7923, 7925 & 7927 Belair Road**
2019-0062-A (FP SUB, LLC)

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**



DONALD I. MOHLER III
County Executive

November 20, 2018

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

FP SUB, LCC
C/o Kimco Realty Corp.
33 New Hyde Park Rd.
Ste 100
New Hyde Park, NY 11042

To Whom It May Concern:

RE: Case Number: 2019-0062A, Address: 7923-7927 Belair Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 24, 2018. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

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

Very truly yours,

A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", is written over a faint, circular official stamp.

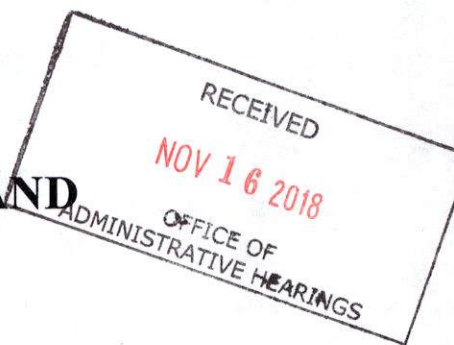
W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: MTC

Enclosures

c: People's Counsel
Caroline L. Hecker/Rosenberg Martin Greenberg, LLP 25 S. Charles St. 21st Floor Baltimore, MD 21201

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM



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

DATE: 11/15/2018

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-062

INFORMATION:

Property Address: 7923, 7925 and 7927 Belair Road
Petitioner: FP SUB, LLC c/o Kimco Realty Corp.
Zoning: BR, BL, DR 5.5
Requested Action: Variance (revised)

The Department of Planning has reviewed the revised petition for variances as listed on the attachment submitted in support of the petition and received by the Department on September 21, 2018.

A site visit was conducted on 11/1/2018.

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

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

Prepared by:

A handwritten signature in black ink, appearing to be "Lloyd T. Moxley".

Lloyd T. Moxley

Division Chief:

A handwritten signature in purple ink, appearing to be "Jenifer G. Nugent".

Jenifer G. Nugent

AVA/JGN/LTM/

c: Laurie Hay
Caroline Hecker, Rosenberg Martin Greenberg, LLP
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

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

DATE: October 1, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0062-A *revised*
Address 7923, 7925, 7927 Belair Road
(FP SUB, LLC Property)

Zoning Advisory Committee Meeting of **October 1, 2018**.

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

Reviewer: Steve Ford

11-29

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

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

DATE: September 10, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0062-A
Address 7923, 7925, 7927 Belair Road
(FP Sub, LLC Property)

Zoning Advisory Committee Meeting of **September 10, 2018.**

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

Reviewer: Steve Ford

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals

DATE: October 4, 2018

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For October 1, 2018
Item No. 2019-0055-A, 0062-A, 0081-A, 0082-A, 0083-A, 0084-SPH, 0085-A and 0086-SPH

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

*

*

*

*

*

VKD: cen
cc: file

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

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

DATE: October 1, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0062-A *revised*
Address 7923, 7925, 7927 Belair Road
(FP SUB, LLC Property)

Zoning Advisory Committee Meeting of **October 1, 2018**.

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

Reviewer: Steve Ford

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals

DATE: September 24, 2018

FROM: *VCD*
Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For September 10, 2018
Item No. 2019-0062-A, 0063-A, 0065-A, 0066-SPH, 0067-SPHX, 0068-A
and 0071-A

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

*

*

*

*

*

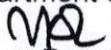
VKD: cen
cc: file

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals

DATE October 4, 2018

FROM: 
Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For September 24, 2018
Item No. 2019-0051-A, 0062-A, 0075-A, 0077-SPH and 0078-A

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

*

*

*

*

*

VKD: cen
cc: file

Date: 9/24/18

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
111 West Chesapeake Avenue
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 9/24/18. A field inspection and internal review reveals that an entrance onto US1 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance, Case Number 2019-0062-A.

*FD Sub LLC c/o Kinco Realty Corp.
Michael Ogden
7923, 7925 & 7927 Belair Road
US1*

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,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

Date: 9/7/18

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
111 West Chesapeake Avenue
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 9/5/18. A field inspection and internal review reveals that an entrance onto US consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance, Case Number 2019-0062-A.

FPSUB, LLC c/o Kimco Realty Corp.
7923, 7925, & 7927 Belair Road
US 1

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,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

CASE NAME FP SJS LLC
CASE NUMBER 2019-62-A
DATE 11/29/18

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
------	---------	------------------	----------

[illegible]

C H E C K L I S TComment
ReceivedDepartmentSupport/Oppose/
Conditions/
Comments/
No Comment10/4DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)No Comments10/11DEPS
(if not received, date e-mail sent _____)No Comment

FIRE DEPARTMENT

11/16PLANNING
(if not received, date e-mail sent _____)No Objection9/24

STATE HIGHWAY ADMINISTRATION

No Objection

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. 2017-0338-SPHA ; 2017-0241-SPHA)NEWSPAPER ADVERTISEMENT Date: 11/9/18SIGN POSTING (1st) Date: 11/7/18 by OgleSIGN POSTING (2nd) Date: 11/25/18 by OglePEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption				View GroundRent Registration			
Tax Exempt:		Special Tax Recapture:							
Exempt Class:		NONE							
Account Identifier:		District - 14 Account Number - 1900001407							
Owner Information									
Owner Name:		FP SUB LLC				Use:		COMMERCIAL	
Mailing Address:		SUITE 100 3333 NEW HYDE PARK RD NEW HYDE PARK NY 11042-1205				Principal Residence:		NO	
						Deed Reference:		/19892/ 00329	
Location & Structure Information									
Premises Address:		7927 BELAIR RD BALTIMORE 21236-				Legal Description:		18.371 AC PUTTY HILL	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0081	0011	0639		0000			1	2019	Plat Ref: 0044/0116
Special Tax Areas:				Town:		NONE			
				Ad Valorem:					
				Tax Class:					
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use	
		134819				18.3600 AC		14	
Stories	Basement	Type				Exterior	Full/Half Bath	Garage	Last Major Renovation
		SHOPPING CENTER / NEIGHBORHOOD							2018
Value Information									
		Base Value		Value		Phase-in Assessments			
				As of		As of		As of	
				01/01/2016		07/01/2018		07/01/2019	
Land:		6,764,400		6,764,400					
Improvements		7,032,400		7,032,400					
Total:		13,796,800		13,796,800		13,796,800			
Preferential Land:		0							
Transfer Information									
Seller: FULLERTON PLAZA LLC				Date: 04/14/2004			Price: \$10,799,357		
Type: ARMS LENGTH IMPROVED				Deed1: /19892/ 00329			Deed2:		
Seller: MORTGAGES GROWTH INVESTORS				Date: 03/03/2000			Price: \$8,196,250		
Type: ARMS LENGTH IMPROVED				Deed1: /14337/ 00680			Deed2:		
Seller: AETNA LIFE INSURANCE COMPANY				Date: 08/05/1987			Price: \$7,600,000		
Type: ARMS LENGTH IMPROVED				Deed1: /07631/ 00596			Deed2:		
Exemption Information									
Partial Exempt Assessments:		Class		07/01/2018		07/01/2019			
County:		000		0.00					
State:		000		0.00					
Municipal:		000		0.00		0.00			

Tax Exempt:
Exempt Class:

Special Tax Recapture:
NONE

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

JB 8-1-11

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(7923, 7925 and 7927 Belair Road)	*	OFFICE OF
14 th Election District		
5 th Council District	*	ADMINISTRATIVE HEARINGS
KIMCO Realty Corporation	*	FOR BALTIMORE COUNTY
Legal Owner		
Petitioner	*	Case No. 2017-0338-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 KIMCO Realty Corporation, legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows: (1) to permit continuance of 3 existing pad sites; and (2) to amend prior zoning orders and previously approved plans if deemed necessary.

In addition, a Petition for Variance seeks: (1) To permit two (2) freestanding enterprise signs along the site frontage in lieu of the permitted one (1) per frontage (existing pad #2); (2) To permit a freestanding enterprise sign with a maximum size of 195 sq. ft. in lieu of the permitted 75 sq. ft. (existing pad #1); (3) To permit wall mounted enterprise signs with a total square footage each of up to 4.55 times the length of the wall to which the sign is affixed converted to square footage in lieu of the permitted two (2) times the length of the wall converted to square footage (shopping center and fuel kiosk); (4) To permit two (2) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall-mounted sign (Weis Markets); (5) To permit ten (10) wall mounted enterprise signs affixed to a wall without an exterior customer

entrance. (signs L-U); (6) To permit a freestanding enterprise sign with a height of 45 ft. in lieu of the permitted 25 ft. (existing pad #1); (7) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (Salvo Auto Parts); (8) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (New Samys Liquor); (9) To permit 53 off street parking spaces in lieu of the required 91 off-street parking spaces (existing pad #2); and (10) To permit 690 off-street parking spaces in lieu of the required 766 off-street parking spaces (shopping center). A 5- sheet site plan (with signage detail) was marked and accepted into evidence as Petitioner's Exhibit 1.

Professional Engineer Michael Gessell appeared in support of the requests. Jennifer R. Busse, Esq. represented the Petitioner. Two neighbors attended the hearing to obtain additional information about the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 18.37 acres in size and split-zoned BR, BL and DR 5.5. The site is improved with a large strip shopping center, and along the periphery of the property are "pad sites" occupied by a fuel service station, restaurants and other retail stores. The center is being renovated, and the primary purpose of the petition is to "legitimize" existing signage. The only new signage proposed is a freestanding joint identification sign at the entrance to the center (which would replace an existing freestanding enterprise sign for the former K-Mart store) and two wall-mounted signs on the front façade of the Weis grocery store.

SPECIAL HEARING

The petition for special hearing seeks confirmation of three existing pad sites along the Belair Road frontage. These sites are occupied by Mr. Tire, Ihop restaurant and McDonalds. The DOP did not object to the special hearing request, and based on a review of the site plan I believe these three sites are far removed from the strip center stores and can be accurately identified as pad sites.

Part of the difficulty in making such a determination is that the zoning regulations do not define "pad site." In Case No. 2015-0062-SPH, the zoning review office submitted a memorandum which stated the "pad site" definition was removed years ago from the B.C.Z.R. The only references to "pad site" are found in Section 259 of the B.C.Z.R., which concerns the Md. Route 43 overlay district. The Regulations state "[f]reestanding enterprise and freestanding joint identification signs are not permitted on individual pad sites unless the signage is an existing permitted use." B.C.Z.R. §259.9.D.1. Under familiar principles of statutory construction, the implication is that such signage is permitted on pad sites not located in the Route 43 overlay district. And that is also consistent with the long-standing policy of the zoning office, which permits an owner to seek special hearing relief to approve a sign on a pad site.

VARIANCES

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).

The property has an irregular shape and there is a significant grade change at the front of the site. As such it is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to retain the existing signage. Finally, I find that the variances can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the lack of community and/or Baltimore County opposition.

In its ZAC comment, the DOP indicated it did not oppose the relief requested in the petition for a special hearing; i.e., that three pad sites exist on this property. But that agency also stated it opposed freestanding signs for the Ihop restaurant and Mr. Tire store. But, as noted above, county policy permits a freestanding enterprise sign to be erected on a pad site.

THEREFORE, IT IS ORDERED this 9th day of August, 2017, 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."): (1) to permit continuance of 3 existing pad sites; and (2) to amend prior zoning orders and previously approved plans, in accordance with the terms of this order, be and is hereby GRANTED.

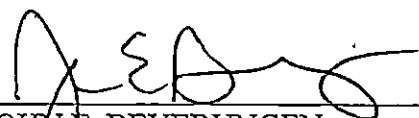
IT IS FURTHER ORDERED that the Petition for Variance: (1) To permit two (2) freestanding enterprise signs along the site frontage in lieu of the permitted one (1) per frontage (existing pad #2); (2) To permit a freestanding enterprise sign with a maximum size of 195 sq. ft. in lieu of the permitted 75 sq. ft. (existing pad #1); (3) To permit wall mounted enterprise signs with a total square footage each of up to 4.55 times the length of the wall to which the sign is affixed converted to square footage in lieu of the permitted two (2) times the length of the wall converted to square footage (shopping center and fuel kiosk); (4) To permit two (2) wall

mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (Weis Markets); (5) To permit ten (10) wall mounted enterprise signs affixed to a wall without an exterior customer entrance. (signs L U); (6) To permit a freestanding enterprise sign with a height of 45 ft. in lieu of the permitted 25 ft. (existing pad #1); (7) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (Salvo Auto Parts); (8) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (New Samys Liquor); (9) To permit 53 off street parking spaces in lieu of the required 91 off street parking spaces (existing pad #2); and (10) To permit 690 off street parking spaces in lieu of the required 766 off street parking spaces (shopping center), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. No signage shall be permitted along the Fitch Avenue frontage at the site.

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:slh

IN RE: PETITIONS FOR SPECIAL HEARING *
AND VARIANCE

(7923, 7925 & 7927 Belair Road) *

14th Election District

5th Council District *

FP SUB LLC

Legal Owner *

Weis Markets, Inc., *Lessee*

Petitioners *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2017-0241-SPHA

* * * * *

CORRECTED OPINION AND ORDER

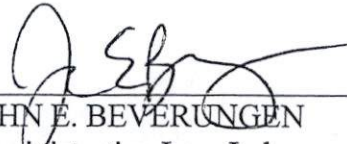
By Order dated May 3, 2017 Petitioners were granted in the above case special hearing and variance relief. On May 17, 2017, Michael Pierce filed with the Office of Administrative Hearings a letter explaining an error had been made in that order; i.e., the order cited a superseded provision in the zoning regulations. Mr. Pierce requested a revised order be issued to correct the erroneous reference to B.C.Z.R. §405.2. Having reviewed that correspondence I agree the May 3, 2017 Order should be corrected to read as follows:

THEREFORE, IT IS ORDERED this 3rd day of **May, 2017**, 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 fuel service station canopy sign with electronic changeable copy components pursuant to B.C.Z.R. §450, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance from B.C.Z.R. §405.2 to permit a fuel service station in a planned shopping center to have fuel servicing spaces within 85 feet of a D.R., R.C. or R.A.E. zoned property, in lieu of the required 100 feet, be and is hereby GRANTED.

All other terms and conditions set forth in the original Order dated May 3, 2017 shall continue in full force and effect.

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

IN RE: PETITIONS FOR SPECIAL HEARING *

AND VARIANCE

(7923, 7925 & 7927 Belair Road) *

14th Election District

5th Council District *

FP SUB LLC

Legal Owner *

Weis Markets, Inc., *Lessee*

Petitioners *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2017-0241-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 FP SUB LLC, legal owner and Weis Markets, lessee ("Petitioners"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to permit a fuel service station canopy sign with electronic changeable copy components pursuant to B.C.Z.R. §450. In addition, a Petition for Variance seeks to permit a fuel service station in a planned shopping center to be located on a lot that is within 0 ft. of a residentially zoned property in lieu of the required 100 ft. A site plan was marked and accepted into evidence as Petitioners' Exhibit 5.

Professional engineer Michael Gesell and Jack O'Hara & Alex Ororbia, Sr. (from Weis Markets) appeared in support of the requests. Caroline L. Hecker, Esq. and Justin Williams, Esq. represented the Petitioners. Two neighbors attended the hearing to express certain concerns with the requests. 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), noting landscape and lighting plans would be required.

The subject property is approximately 18.37 acres in size and is primarily zoned BR with small slivers of BL and DR 5.5. A large shopping center (166,322 sq. ft.) known as Fullerton Plaza was

constructed at the site in the 1970s. The former "anchor" tenant (K-Mart) closed its doors about 1 ½ years ago, and Weis Markets proposes to open a large (approximately 60,000 sq. ft.) grocery store in that space. As it has in many other locations, Weis proposes to open a fuel service station as an ancillary use to the grocery store. A fuel service station is permitted by right in the BR zone, since the DOP confirmed in a memorandum dated July 6, 2015 (See Exhibit 3) the Fullerton Plaza qualifies as a "planned shopping center." B.C.Z.R. §405.2.A.1.

SPECIAL HEARING

The petition for special hearing concerns the request to display gasoline price information on the service station canopy. Similar requests have been made and approved in other zoning cases, and I do not believe the signage would have any adverse impact upon the community. As Petitioners note, state law requires retailers to display fuel price information, and also exempts such signage from the requirements of local zoning laws concerning the size and number of such signs permitted. As such, the special hearing request will be granted.

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).

Petitioners have met this test. The large site is irregularly shaped and was found to be "unique" in several prior zoning cases. See Case Nos. 1981-0130-A, 1982-0089-A and 2011-0343-A. As such a similar finding is appropriate in this case. Petitioners would experience practical difficulty if the

regulations were strictly interpreted because they would be unable to construct the fuel service station, which is permitted by right under the Regulations.

Though the variance request seeks a 0 ft. setback from a residential zone boundary, this is due to the wording of the applicable regulation (B.C.Z.R. §405.2) which states "no part of the lot [may be] within 100 feet of a residentially zoned property." To be conservative Petitioners considered the "lot" to be the entire shopping center parcel, which has for many years directly abutted a residential zone. The reality is the service station itself will be over 40 ft. from the residential zone while the fuel pumps will be located at least 98 ft. from the residential zone boundary. Finally, certain conditions will be included in the order below to help ensure that granting the request will not have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED this 3rd day of May, 2017, 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 fuel service station canopy sign with electronic changeable copy components pursuant to B.C.Z.R. §450, be and is hereby GRANTED.

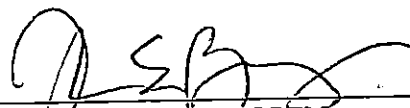
IT IS FURTHER ORDERED that the Petition for Variance to permit a fuel service station in a planned shopping center to be located on a lot that is within 0 ft. of a residentially zoned property in lieu of the required 100 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

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

2. Prior to issuance of permits Petitioners must submit for approval by the Baltimore County landscape architect landscape and lighting plans for the site.
3. The fuel service station may not have hours of operation which extend beyond those of the Weis grocery store. In other words, the fuel service station must be closed at such times as the grocery store is also closed.
4. Petitioners shall erect a fence no less than 6 feet in height along the boundary to screen the site from nearby dwellings.
5. The fuel service station must turn off all exterior lighting when it is closed for business.

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

Fullerton Plaza



EXHIBIT

2

Fullerton Plaza

Aerial View



7923 Belair Rd

Google Earth

© 2018 Google

EXHIBIT

3

tabbles

200 ft

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PLANNING

Memorandum

TO: Mitch Kellman
DMW
501 Fairmount Avenue, Suite 300
Towson, MD 21204

DATE: July 6, 2015

FROM: Andrea Van Arsdale, 
Director, Department of Planning

SUBJECT: Planned Shopping Center Designation
Fullerton Plaza
7927 Belair Road
DRC# 063015A

Staff has reviewed your request for designation as a planned shopping center. The shopping center is bordered on the north, east and west with commercial uses, to the south is a mix of residential and commercial uses. The property is zoned BL, BR and DR 5.5 and is 18.37 acres in total, the improvements upon which were constructed prior to this application. The plan submitted in support of your request does not propose new or additional access points.

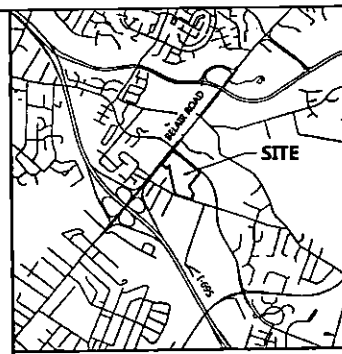
The Fullerton Plaza shopping center meets the definitional criteria of Baltimore County Zoning Regulations Section 101 as follows:

- The 18.37 acre property is listed under common ownership of FP SUB LLC in Deed Liber 19892 at Folio 329.
- The property meets the acreage requirements of at least 3 acres in net area at 18.37 acres; and,
- Buildings are served by a combination of interior service drives to access parking and buildings.
- Prior development plans approved by Baltimore County indicate a single point of access into the shopping center.

The Director of Planning has determined that your request to designate the Fullerton Plaza shopping center as a Planned Shopping Center is appropriate subject to the following:

- Before plan signature, attach a copy of this memorandum to this and any other plan submitted to Baltimore County for permit.
- Upon the issuance of and before plan signature, add the DRC number to the plan.
- Before plan signature, add in bold letters the following to the plan:





VICINITY MAP
SCALE 1"=2000'

RECEIVED

JUL 23 2015

DEPT. OF PLANNING

APPROVED AS A PLANNED SHOPPING CENTER PURSUANT TO BZCR SECTION 101
BY: *[Signature]* DATE: 7/23/15

ZONING HISTORY

ZONING CASES: 1982-0089-A (SIGNAGE) - GRANTED 3/21/1982
1981-0130-A (SIGNAGE) - GRANTED 2/21/1981
2011-0343-A (NOT SHOWN ON COUNTY WEBSITE)
2012-0186-SPH (SIGNAGE) - GRANTED 3/20/2012

GENERAL NOTES

PROPERTY OWNER: FP SUB LLC
OWNER'S ADDRESS: 3333 NEW HYDE PARK ROAD
SUITE 100
NEW HYDE PARK, NY 11042
SEA: 18.37A AC
BOL 197A SF
1900001407
BL DR 5.5

100 150
FEET

P.L. 24 246

DEPT. OF PLANNING
COUNTY

BELAIR ROAD

EX. BUILDING

EX. BUILDING

EX. BUILDING

NSP 47 23 AC

BL 45

BL 45

NSP 47 23 AC

NSP 47 23 AC

NSP 47 23 AC

NSP 47 23 AC

IN RE: **PETITIONS FOR SPECIAL HEARING *
AND VARIANCE**

(7923, 7925 & 7927 Belair Road) *

14th Election District

5th Council District *

FP SUB LLC

Legal Owner *

Weis Markets, Inc., *Lessee*

Petitioners *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2017-0241-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 FP SUB LLC, legal owner and Weis Markets, lessee ("Petitioners"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to permit a fuel service station canopy sign with electronic changeable copy components pursuant to B.C.Z.R. §450. In addition, a Petition for Variance seeks to permit a fuel service station in a planned shopping center to be located on a lot that is within 0 ft. of a residentially zoned property in lieu of the required 100 ft. A site plan was marked and accepted into evidence as Petitioners' Exhibit 5.

Professional engineer Michael Gesell and Jack O'Hara & Alex Ororbia, Sr. (from Weis Markets) appeared in support of the requests. Caroline L. Hecker, Esq. and Justin Williams, Esq. represented the Petitioners. Two neighbors attended the hearing to express certain concerns with the requests. 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), noting landscape and lighting plans would be required.

The subject property is approximately 18.37 acres in size and is primarily zoned BR with small slivers of BL and DR 5.5. A large shopping center (166,322 sq. ft.) known as Fullerton Plaza was



constructed at the site in the 1970s. The former “anchor” tenant (K-Mart) closed its doors about 1 ½ years ago, and Weis Markets proposes to open a large (approximately 60,000 sq. ft.) grocery store in that space. As it has in many other locations, Weis proposes to open a fuel service station as an ancillary use to the grocery store. A fuel service station is permitted by right in the BR zone, since the DOP confirmed in a memorandum dated July 6, 2015 (See Exhibit 3) the Fullerton Plaza qualifies as a “planned shopping center.” B.C.Z.R. §405.2.A.1.

SPECIAL HEARING

The petition for special hearing concerns the request to display gasoline price information on the service station canopy. Similar requests have been made and approved in other zoning cases, and I do not believe the signage would have any adverse impact upon the community. As Petitioners note, state law requires retailers to display fuel price information, and also exempts such signage from the requirements of local zoning laws concerning the size and number of such signs permitted. As such, the special hearing request will be granted.

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).

Petitioners have met this test. The large site is irregularly shaped and was found to be “unique” in several prior zoning cases. See Case Nos. 1981-0130-A, 1982-0089-A and 2011-0343-A. As such a similar finding is appropriate in this case. Petitioners would experience practical difficulty if the

regulations were strictly interpreted because they would be unable to construct the fuel service station, which is permitted by right under the Regulations.

Though the variance request seeks a 0 ft. setback from a residential zone boundary, this is due to the wording of the applicable regulation (B.C.Z.R. §405.2) which states “no part of the lot [may be] within 100 feet of a residentially zoned property.” To be conservative Petitioners considered the “lot” to be the entire shopping center parcel, which has for many years directly abutted a residential zone. The reality is the service station itself will be over 40 ft. from the residential zone while the fuel pumps will be located at least 98 ft. from the residential zone boundary. Finally, certain conditions will be included in the order below to help ensure that granting the request will not have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED this 3rd day of May, 2017, 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 fuel service station canopy sign with electronic changeable copy components pursuant to B.C.Z.R. §450, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a fuel service station in a planned shopping center to be located on a lot that is within 0 ft. of a residentially zoned property in lieu of the required 100 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

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

2. Prior to issuance of permits Petitioners must submit for approval by the Baltimore County landscape architect landscape and lighting plans for the site.
3. The fuel service station may not have hours of operation which extend beyond those of the Weis grocery store. In other words, the fuel service station must be closed at such times as the grocery store is also closed.
4. Petitioners shall erect a fence no less than 6 feet in height along the boundary to screen the site from nearby dwellings.
5. The fuel service station must turn off all exterior lighting when it is closed for business.

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

JEB/sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

Weis Markets ready to open new Fullerton store



A ribbon cutting ceremony Wednesday to celebrate the opening of Weis Markets' newest store in Maryland in Baltimore County.

By **David Anderson**
The Aegis

APRIL 11, 2018, 3:00 PM

Overlea residents Lana and Regis Connors got a sneak peak Wednesday in Weis Markets newest Maryland supermarket, this one in the Fullerton Plaza shopping center in Baltimore County, following a ribbon-cutting ceremony.

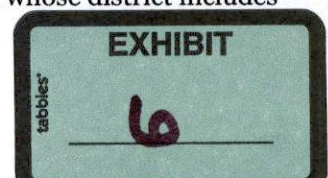
"I think it looks great," Lana Connors said as she and her husband stood among the crowd in the parking lot.

They had been eating in a nearby McDonald's restaurant when two representatives of Weis came in and informed customers about the ribbon cutting.

Those present were invited to tour the 67,500 square-foot store ahead of Thursday's 6 a.m. opening to the public. The Weis is in a refurbished Kmart anchoring the shopping center at Belair Road and Rossville Boulevard in Nottingham.

Baltimore County Councilman **David Marks**, who said he remembers shopping at the Kmart with his family as a child, said he hopes "this renovated shopping center sparks improvements along the entire Belair Road corridor."

"Kmart was a great place to shop, but Weis is going to be even better now," state Sen. Kathy Klausmeier, whose district includes Nottingham, said.



Klausmeier presented a proclamation on behalf of the **Maryland Senate**, and Dels. Jo Cluster and Christian Miele, who represent Baltimore County in Annapolis, presented a proclamation on behalf of the Maryland House of Delegates.

Al Redmer, Maryland's insurance commissioner and a former state delegate who represented the area, spoke and presented a proclamation on behalf of Gov. Larry Hogan.

"This is a great day for the community," Redmer said. "Grocery stores are great for providing good jobs in the area, it's a nice option for folks to shop, but no matter where you are in government you always want to focus on communities, community preservation and just development in and of itself will uplift this entire community, so we're very happy to have you here."

The store will have 140 full and part-time employees. It is the Pennsylvania-based Weis Markets' 52nd store in Maryland and 12th in Baltimore County, according to a company news release.

Weis has stores in seven states.

Kurt Schertle, the chief operating officer, said Maryland is second for the number of stores and first for store growth.

"I like their deli department, I like their meat department and I like their bakery department, and they give you great service, too," Lana Connors said.

Regis Connors said he likes Weis' cookies.

Lana Connors said she knows of Weis through their charitable giving, specifically donations of baked goods from the store at Harford and Joppa Roads to the Beans & Bread soup kitchen in the Fells Point section of Baltimore City, where she volunteers.

Company officials announced multiple donations to community organizations, including \$1,000 each to organizations such as the Rosedale Volunteer Fire Company, the Rosedale Public Library, the Shady Spring Police Athletic League Center, the Overlea-Fullerton Recreation Office and the Parkville High School Marching Band.

The school's wind ensemble opened the ceremony with a rendition of the National Anthem.

The company also presented what store manager Bill Siegmund called "one really special donation that means a lot to this company," a \$50,000 check to the Maryland Food Bank.

Copyright © 2018, The Baltimore Sun, a Baltimore Sun Media Group publication | Place an Ad

This article is related to: **Maryland General Assembly, David Marks**

Missing comments? We've turned off comments across Baltimore Sun while we review our commenting platform and consider ways to improve the system. If you purchased points through the Solid Opinion platform and would like a refund, please let us know at circsupport@tronc.com.

IN RE: **PETITIONS FOR SPECIAL HEARING *
AND VARIANCE**

(7923, 7925 and 7927 Belair Road) *
14th Election District *
5th Council District *

KIMCO Realty Corporation *
Legal Owner *
Petitioner *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2017-0338-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 KIMCO Realty Corporation, legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows: (1) to permit continuance of 3 existing pad sites; and (2) to amend prior zoning orders and previously approved plans if deemed necessary.

In addition, a Petition for Variance seeks: (1) To permit two (2) freestanding enterprise signs along the site frontage in lieu of the permitted one (1) per frontage (existing pad #2); (2) To permit a freestanding enterprise sign with a maximum size of 195 sq. ft. in lieu of the permitted 75 sq. ft. (existing pad #1); (3) To permit wall mounted enterprise signs with a total square footage each of up to 4.55 times the length of the wall to which the sign is affixed converted to square footage in lieu of the permitted two (2) times the length of the wall converted to square footage (shopping center and fuel kiosk); (4) To permit two (2) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall-mounted sign (Weis Markets); (5) To permit ten (10) wall mounted enterprise signs affixed to a wall without an exterior customer



entrance. (signs L-U); (6) To permit a freestanding enterprise sign with a height of 45 ft. in lieu of the permitted 25 ft. (existing pad #1); (7) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (Salvo Auto Parts); (8) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (New Samys Liquor); (9) To permit 53 off street parking spaces in lieu of the required 91 off-street parking spaces (existing pad #2); and (10) To permit 690 off-street parking spaces in lieu of the required 766 off-street parking spaces (shopping center). A 5- sheet site plan (with signage detail) was marked and accepted into evidence as Petitioner's Exhibit 1.

Professional Engineer Michael Gessell appeared in support of the requests. Jennifer R. Busse, Esq. represented the Petitioner. Two neighbors attended the hearing to obtain additional information about the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 18.37 acres in size and split-zoned BR, BL and DR 5.5. The site is improved with a large strip shopping center, and along the periphery of the property are "pad sites" occupied by a fuel service station, restaurants and other retail stores. The center is being renovated, and the primary purpose of the petition is to "legitimize" existing signage. The only new signage proposed is a freestanding joint identification sign at the entrance to the center (which would replace an existing freestanding enterprise sign for the former K-Mart store) and two wall-mounted signs on the front façade of the Weis grocery store.

SPECIAL HEARING

The petition for special hearing seeks confirmation of three existing pad sites along the Belair Road frontage. These sites are occupied by Mr. Tire, Ihop restaurant and McDonalds. The DOP did not object to the special hearing request, and based on a review of the site plan I believe these three sites are far removed from the strip center stores and can be accurately identified as pad sites.

Part of the difficulty in making such a determination is that the zoning regulations do not define "pad site." In Case No. 2015-0062-SPH, the zoning review office submitted a memorandum which stated the "pad site" definition was removed years ago from the B.C.Z.R. The only references to "pad site" are found in Section 259 of the B.C.Z.R., which concerns the Md. Route 43 overlay district. The Regulations state "[f]reestanding enterprise and freestanding joint identification signs are not permitted on individual pad sites unless the signage is an existing permitted use." B.C.Z.R. §259.9.D.1. Under familiar principles of statutory construction, the implication is that such signage is permitted on pad sites not located in the Route 43 overlay district. And that is also consistent with the long-standing policy of the zoning office, which permits an owner to seek special hearing relief to approve a sign on a pad site.

VARIANCES

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).

The property has an irregular shape and there is a significant grade change at the front of the site. As such it is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to retain the existing signage. Finally, I find that the variances can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the lack of community and/or Baltimore County opposition.

In its ZAC comment, the DOP indicated it did not oppose the relief requested in the petition for a special hearing; i.e., that three pad sites exist on this property. But that agency also stated it opposed freestanding signs for the Ihop restaurant and Mr. Tire store. But, as noted above, county policy permits a freestanding enterprise sign to be erected on a pad site.

THEREFORE, IT IS ORDERED this 9th day of **August, 2017**, 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."): (1) to permit continuance of 3 existing pad sites; and (2) to amend prior zoning orders and previously approved plans, in accordance with the terms of this order, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance: (1) To permit two (2) freestanding enterprise signs along the site frontage in lieu of the permitted one (1) per frontage (existing pad #2); (2) To permit a freestanding enterprise sign with a maximum size of 195 sq. ft. in lieu of the permitted 75 sq. ft. (existing pad #1); (3) To permit wall mounted enterprise signs with a total square footage each of up to 4.55 times the length of the wall to which the sign is affixed converted to square footage in lieu of the permitted two (2) times the length of the wall converted to square footage (shopping center and fuel kiosk); (4) To permit two (2) wall

mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (Weis Markets); (5) To permit ten (10) wall mounted enterprise signs affixed to a wall without an exterior customer entrance. (signs L U); (6) To permit a freestanding enterprise sign with a height of 45 ft. in lieu of the permitted 25 ft. (existing pad #1); (7) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (Salvo Auto Parts); (8) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (New Samys Liquor); (9) To permit 53 off street parking spaces in lieu of the required 91 off street parking spaces (existing pad #2); and (10) To permit 690 off street parking spaces in lieu of the required 766 off street parking spaces (shopping center), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. No signage shall be permitted along the Fitch Avenue frontage at the site.

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:slh



RESUME

Michael J. Gesell, P.E.
Project Manager

EDUCATION:

Westminster Senior High School, Westminster, MD
Carroll County Career and Technology Center, Westminster, MD

PROJECT TESTIMONY:

Testified on behalf of Bohler Engineering in numerous municipalities before Planning Commissions, Board of Supervisors, Board of Appeals, Administrative Law Judges, and related municipal entities in Maryland, Delaware, and Pennsylvania.

EXPERIENCE:

Currently serves as a Project Manager in Bohler Engineering's Towson, Maryland Office. Experience includes over Seventeen (17) years of design and project management. Primarily responsible for design and approval for various commercial, and industrial developments. Areas of experience include site feasibility analysis and budgeting, site layout and planning, zoning and subdivision ordinance review/interpretation, horizontal and vertical roadway design, site grading, earthwork balancing and analysis, soil erosion and sediment control measures and facilities, utility design, stormwater management and water quality system designs, environmental compliance/evaluations, lighting photometric studies/design, signage compliance, landscaping design, vehicular circulation design, oversight of expediting and application approvals, and related services. Expertise includes supermarkets, service stations, maintenance facilities, restaurants, shopping centers, retail centers, car washes and other related projects in municipalities in Maryland, Delaware, and Pennsylvania.

BALTIMORE COUNTY PROJECTS OF NOTE:

- Timonium Square Shopping Center Redevelopment
- Shawan Plaza Redevelopment
- Tradepoint Atlantic – Sparrows Point - St. Johns Warehouse
- Wilkens Beltway Plaza - Redevelopment
- Multiple Quick Serve Restaurants (Chick-fil-A, Sonic)
- Multiple Fuel Service Station Projects (SMO, Royal Farms, Weis Markets)
- Multiple Pharmacy Projects
- Multiple Variance Hearing Projects (Shawan Plaza, Timonium Square, Putty Hill Plaza)

PROFESSIONAL AFFILIATIONS:

- Maryland Professional Engineer #44097
- Certified Professional in Erosion and Sediment Control (CPESC) #6145



Williams, Justin

From: Donna Bethke <ptavon@comcast.net>
Sent: Wednesday, November 14, 2018 10:42 AM
To: Williams, Justin
Subject: RE: Fullerton Plaza - New Sign Variances

Follow Up Flag: Follow up
Flag Status: Flagged

Our business members have no problem with the sign variance. Let me know what else you need from OFRBA
Donna

From: Williams, Justin [mailto:JWilliams@rosenbergmartin.com]
Sent: Monday, October 08, 2018 7:28 PM
To: ptavon@comcast.net
Cc: Giordano, Margaret <MGiordano@rosenbergmartin.com>
Subject: Fullerton Plaza - New Sign Variances

Hi Donna,

Hope you're doing well. I first reached out to you about the zoning hearing for Fullerton Plaza when Weis Markets was first getting approvals to take over the K-Mart space. I hope you and the community are pleased with the upgrades to the Center. I'm writing now because the Shopping Center owners are seeking a variances for newly proposed signage. In advance of the hearing on the variances, I'm hoping you would be willing to write another letter support as President of OFRBA.

As you may have heard, a national fitness company will be taking over the newly constructed space next to the Weis, and as a result the Shopping Center is planning to modify the existing freestanding sign at Belair Road and add a new freestanding sign at the Rossville Boulevard entrance. The size of the Belair Road freestanding sign will be slightly too large and will require a variance. Additionally, the size of some of the individual words on the Rossville Blvd sign are slightly smaller than is permitted and will require a variance. Variances are also required because the price of gas at the Weis Gas-n-Go will be on the signs.

Finally, two new Weis signs are proposed to go on the easternmost corners of the shopping center along Rossville Blvd, and they need variances because wall-mounted signs typically may only be installed near a customer entrance.

I've attached a copy of the sign plan for your reference. I remember you having difficulty opening the large file in the past, so I can send you a hard copy of that will help.

Please let me know if I can provide you with additional information. I'd be happy to draft a letter for you to put on letterhead as well.

Thanks!

Justin

