

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

We, Edward B. Boyle, Jr. and Carol J. Boyle, his wife, legal owners of property located at 542 Seneca Park Road, situated in Baltimore County, Maryland, hereby petition the Zoning Commissioner and/or Deputy Zoning Commissioner for a special hearing under section 500.7 of the Baltimore County Zoning Regulations to determine if the property known as lots 53, 54, and 55 of the plat of Seneca Park, adjacent to the Seneca Park Marina, is zoned for a marina.

Said property being located on the south side of Seneca Park Road, also known as Hughes Boulevard, 131 feet east of Beach Road as described in zoning petition case File Number 4241-X.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser
Address: 303 GATESWOOD RD.
Petitioner's Attorney
Protestant's Attorney

ORDERED By the Zoning Commissioner of Baltimore County, this 22nd day of August, 1971, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 24th day of August, 1971, at 10:00 o'clock, p.m.

Zoning Commissioner of Baltimore County

(over)

RE: PETITION FOR SPECIAL HEARING
under Section 500.7 of the
Zoning Regulations
5/5 Seneca Park Road (also known as
Hughes Blvd.) 131' E. of
Beach Road,
15th District
Edward B. Boyle, Jr. and
Carol J. Boyle, Petitioners
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 71-219-SPH

ORDER OF DISMISSAL

Petition of Edward B. Boyle, Jr. and Carol J. Boyle for a Special Hearing to determine if the property known as Lots 53, 54 and 55 of the Plat of Seneca Park, adjacent to the Seneca Park Marina, is zoned for a Marina.

WHEREAS, the Board of Appeals is in receipt of an Order of Dismissal of Appeal from the attorney representing the Petitioners-Appellants in the above entitled matter (a copy of which is attached hereto and made a part hereof), filed August 24, 1971.

WHEREAS, the said attorney for the said Petitioners-Appellants requests that the appeal filed on behalf of said Petitioner be dismissed and withdrawn as of August 24, 1971.

IT IS HEREBY ORDERED, this 24th day of August, 1971, that said appeal be and the same is DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John A. Slawik, Chairman

W. Giles Parker

Walter A. Ritter, Jr.

RELAND R. BOUNDS
Baltimore, Maryland

LAW OFFICE
BOUNDS & SHORT
MEDICAL CENTER WEST
5000 BALTIMORE NATIONAL PIKE
BALTIMORE, MARYLAND 21228
RIGGSWAY #8200

EAST BALTIMORE OFFICE
423 N. WATSON AVENUE
BALTIMORE, MARYLAND 21224
PE 2-2776

August 23, 1971

County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Attention: Mrs. E. Eisenhart

Re: Boyle -- Huber
Case No. 71-219-SPH

Dear Mrs. Eisenhart:

The above entitled case has been settled and we are now asking that our Appeal in this matter be dismissed. A copy of the Agreement is enclosed herewith for your information.

Thank you for your cooperation and assistance in this matter and if you require anything additional, please do not hesitate to contact us.

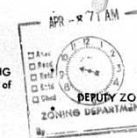
Very truly yours,

Roland R. Bounds

RRB:jk
Enclosure

cc: John J. Brennan, Esquire

PETITION FOR SPECIAL HEARING
5/5 of Seneca Park Road, 131' E of
Beach Road - 15th District
Edward B. and Carol Boyle -
Petitioners



BALTIMORE COUNTY

NO. 71-219-SPH

MESSRS. ZONING COMMISSIONER and
DEPUTY ZONING COMMISSIONER OF
BALTIMORE COUNTY:

Please enter an appeal to the County Board of Appeals on the March 7, 1971 decision and Order rendered in the above case.

Walter A. Ritter, Jr.
6630 Baltimore National Pike
Baltimore, Maryland, 21226
Telephone: 744-8200
Attorney for Edward B. and Carol Boyle

I HEREBY CERTIFY, that on this 8th day of April, 1971, a copy of the above Request for Appeal was mailed to John J. Brennan, Esquire, Loyola Federal Building, 22 West Pennsylvania Avenue, Towson, Maryland, 21204.

Walter A. Ritter, Jr.

RE: PETITION FOR SPECIAL HEARING
5/5 of Seneca Park Road, 131' E
of Beach Road - 15th District
Edward B. and Carol Boyle -
Petitioners No. 71-219-SPH
DEPUTY ZONING COMMISSIONER
OF
BALTIMORE COUNTY

The Petitioners, Edward B. and Carol Boyle, requested a Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations, to determine if the property known as Lots 53, 54, and 55 of the plat of Seneca Park adjacent to the Seneca Park Marina is zoned for a marina. The subject property is located on Seneca Creek and was the subject of a request for a Special Exception for a boat yard and marina railway in September, 1957.

At that time the Zoning Commissioner, Wilkie H. Adams, granted unto the Petitioner, Katherine E. Stevens, a boat yard or marina railway on a parcel of land known as Lots 53 thru 60. This Order is dated September 18, 1957, and a copy is attached hereto.

At the time of the granting of the Special Exception, a boat yard was operation and continues to be operated to the present day on the Lots known as 56 thru 60. There is no doubt from the evidence presented by the Petitioners and their witnesses, that the boat yard was in operation. The Petitioners attempted to show changes in ownership of the subject property or parts thereof.

The present land owner, Mr. Henry H. Huber, wishes to extend the present facilities to include the Lots known as 53, 54, and 55. The Petitioners and other residents maintain that these Lots by not being put to use as a marina within one (1) year of September 18, 1957, as then provided by the Baltimore County Zoning Regulations, the use was abandoned. The Petitioners further raised the issue that notice was not afforded residents of the area of the 1957 request.

At the conclusion of the Petitioners' case, the property owner, through his attorney, stated their case without submitting any evidence through witnesses.

Without reviewing the evidence further in detail, but based on all the evidence presented at the hearing, the Deputy Zoning Commissioner must reach the

Following conclusions:

- That zoning is concerned with the use of the land and not the ownership.
- That the Deputy Zoning Commissioner cannot inquire as to the facts and conclusions reached by the then Zoning Commissioner, Wilkie H. Adams.
- The stated three (3) lots, 53 thru 55, are part of the overall tract which was the subject of the Petition and Order of September 18, 1957, and therefore cannot be segregated at this time.
- There is no provision in the Baltimore County Zoning Regulations as to an abandonment of the use of a Special Exception save for an entirely different use.

The property owners of this subject tract thru the years, evidently did not wish to extend the boat yard until the present time. Since the boat yard or marina was in use at the time of the September 18, 1957, Order, the entire tract is to be considered used as a boat yard, although a part of the tract was reserved for future expansion.

Therefore, it is ORDERED this 9th day of March, 1971, that by reason of evidence presented at the public hearing, pursuant to Section 500.7 of the Baltimore County Zoning Regulations the subject property is zoned by way of a Special Exception for a boat yard and marina.

It is further ORDERED that the Petition for a Special Hearing should not be renewed as it is dismissed and after the date of this Order.

Walter A. Ritter, Jr.

Mr. Henry H. Huber, Jr.
Box 518, N.W., 216
Baltimore, Maryland 21220

January 11, 1971

Mr. Henry H. Huber, Jr.
Box 518, N.W., 216
Baltimore, Maryland 21220

Re: Permit Application 2501/ 425015/2
Location: 5/5 Seneca Park Road
District 15, Precinct 11

Dear Sir:

On January 6, 1971 you filed the above referenced applications for a plan, bulkhead and dredging.

At the time you filed you said the property was residential. The Planning Department has now informed us that this is commercial and the application has to be handled as a commercial.

Please submit 1 (one) set of professional drawings with seal and signatures and official data sheets with seal and signatures and the 6 (six) site plans, as required by the Zoning Department. Please send them to Mr. Joseph H. Helms and refer to the above application numbers.

I am enclosing the form for you and will keep your application and plans until you submit the data sheets to the Planning Department.

If you have any questions please contact Mr. William Rogers, Planning Department, at 744-2511.

Very truly yours,

Joseph H. Helms

OWNERSHIP RECORD

Lot No.	53	54	55	56	57	58	59	60
1953	L.C. Johnson	L.E. Johnson	I.M. Johnson	MURL E. & PATH. E. DEWITT	9/84	9/84	9/84	9/84
1956	MURL E. & PATH. E. DEWITT	9/84	9/84	9/84	9/84	9/84	9/84	9/84
1964	KATH. E. & PATH. E. DEWITT	9/84	9/84	9/84	9/84	9/84	9/84	9/84
1965	9/84	9/84	9/84	9/84	9/84	9/84	9/84	9/84
1967	9/84	9/84	9/84	9/84	9/84	9/84	9/84	9/84
1968	9/84	9/84	9/84	9/84	9/84	9/84	9/84	9/84
1971	9/84	9/84	9/84	9/84	9/84	9/84	9/84	9/84

NOV 03 1971

THIS AGREEMENT, Made this 27th day of June, 1971, by and between HENRY H. HUBER, JR. and MARY L. HUBER, his wife, hereinafter called "party of the first part", and EDWARD S. BOYLE, JR. and CAROL BOYLE, his wife, hereinafter called "party of the second part".

WHEREAS, the party of the first part is the owner of lot Nos. 53, 54 and 55 as shown on a Plat of Seneca Park, now recorded amongst the Plat Records of Baltimore County, said lot being located on the South side of Seneca Park Road (Hughes Boulevard) 131st East, more or less, of Beach Road, in the 15th Election District of Baltimore County, Maryland, and

WHEREAS, the party of the second part is the owner of Lot No. 51 as shown on the said Plat of Seneca Park, and

WHEREAS, the party of the second part did file with the Zoning Commission of Baltimore County a Petition for Special Hearing to determine, under Section 500.7 of the Baltimore County Zoning Regulations, if the property known as lots No. 53, 54 and 55 of the Plat of Seneca Park, adjacent to the Seneca Park Marina, is zoned for a marina, and

WHEREAS, the Deputy Zoning Commissioner of Baltimore County, by his Order dated March 9, 1971, found that by reason of evidence presented in the public hearing, pursuant to Section 500.7 of the Baltimore County Zoning Regulations, the subject property is zoned by way of a Special Exception for a boat yard and marina, and further Ordered that the Petition for a Special Hearing be dismissed, and

WHEREAS, the party of the second part, feeling aggrieved by said Order, entered into a timely appeal to the County Board of Appeals of Baltimore County (Case No. 71-219-SPH), and

WHEREAS, the parties hereto have, since the Order of Denial and Filing of said appeal, as aforesaid, reached an agreement in respect to the ultimate and subsequent use and development of the subject property by the party of the first part.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

That the parties hereto, for and in consideration of the sum of One Dollar (\$1.00) in hand paid each to the other, receipt whereof is hereby acknowledged, the

mutual benefits moving from one to the other, and the covenants and agreements of each of the parties as hereinafter set forth, hereto agree as follows:

1. The said party of the first part, for themselves, the survivor of them, their assigns and the survivor's heirs, personal representatives and assigns, hereby covenants and agrees as follows, that is:

A. To erect and maintain a six foot (6') high screening fence along the entire property line which separates lot No. 52 from the subject lot No. 53;

B. To plant, maintain, nurture and encourage to grow, a dense growth of spruce, evergreen and/or hemlock trees, which are not less than 5' in height from the ground at time of planting, along the entire length of the property line separating the said lot Nos. 52 and 53;

C. That within ten feet (10') of the said property line which separates said lot Nos. 52 and 53, no building, construction, storage, harboring or other use shall be allowed or permitted to exist except the growth, planting and maintenance of said dense growth of spruce, evergreen and/or hemlock trees; it being agreed that said 10'-wide area may, however, be used for recreational purposes and/or the storage of boats as hereinafter provided, providing that such use does not interfere with, harm or in any way impede the planting, maintenance and/or growth of said dense growth of spruce, evergreen and/or hemlock trees;

D. To install and erect at their own expense a drainage ditch approximately five feet (5') wide, as specified in the Plan approved by the Permit Office of Baltimore County, which will prevent the flow of ordinary accumulation of water from or off of the property of the party of the first part onto the said lot No. 52 or the property of the party of the second part;

E. That no boat, vessel, craft or other vehicle for use in or upon water shall be stored, parked, allowed to enter upon or exist on any part of the property of the party of the first part which lies within five feet (5') of the property line which separates the said lot No. 53 from the said lot No. 52, and, further provided that in no event shall any boats or vessels, which shall exceed thirty feet (30') in length, be stored or parked adjacent to the property line which separates the said lot No. 53 and lot No. 52.

2. That the party of the second part, for themselves, the survivor of them, their assigns and the survivor's heirs, personal representatives and assigns, agree to forebear their right to proceed with their appeal from the Order of the Deputy Zoning Commissioner of Baltimore County dated March 9, 1971, in Case No. 71-219-SPH, and that simultaneously upon the execution of this Agreement, they will dismiss their appeal before the County Board of Appeals of Baltimore County.

3. It is understood and agreed that this Agreement is contingent upon the Order of the Deputy Zoning Commissioner dated March 9, 1971 in Case No. 71-219-SPH becoming final or the sustaining of the Order by a final unappealable administrative or judicial decision.

4. This Agreement shall bind the heirs, personal representatives, successors and assigns of the parties hereto and the aforesaid covenants, agreements, limitations and restrictions shall be held and construed to run with and bind the land and the properties hereinabove described and all subsequent owners and occupants thereof for a period of twenty (20) years from the date of this Agreement and shall inure to the benefit of and be enforceable by all or any of the parties of the second part, their respective successors, heirs and assigns.

5. The parties hereto severally expressly agree "at any breach of this Agreement is not compensable by monetary damages, that such remedy if inadequate, and that a breach hereof may be remedied by specific performance pursuant to a decree of a court of equity."

IN WITNESS WHEREOF, this Agreement has been duly executed in triplicate by the parties below the day and year first above written.

Witness
Henry H. Huber, Jr. (SEAL)
Mary L. Huber, (SEAL)
Party of the First Part
Edward S. Boyle, Jr. (SEAL)
Carol Boyle, (SEAL)
Party of the Second Part

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 27th day of June, in the year one thousand nine hundred and seventy-one, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared HENRY H. HUBER, JR. and MARY L. HUBER, his wife, and that they each severally acknowledged the foregoing Agreement to be their respective acts.

WITNESS my hand and Notarial Seal the day and year last above written.

My Commission Expires: July 1, 1974

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 28th day of June, in the year one thousand nine hundred and seventy-one, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared EDWARD S. BOYLE, JR. and CAROL BOYLE, his wife, and that they each severally acknowledged the foregoing Agreement to be their respective acts.

WITNESS my hand and Notarial Seal the day and year last above written.

My Commission Expires: July 1, 1974

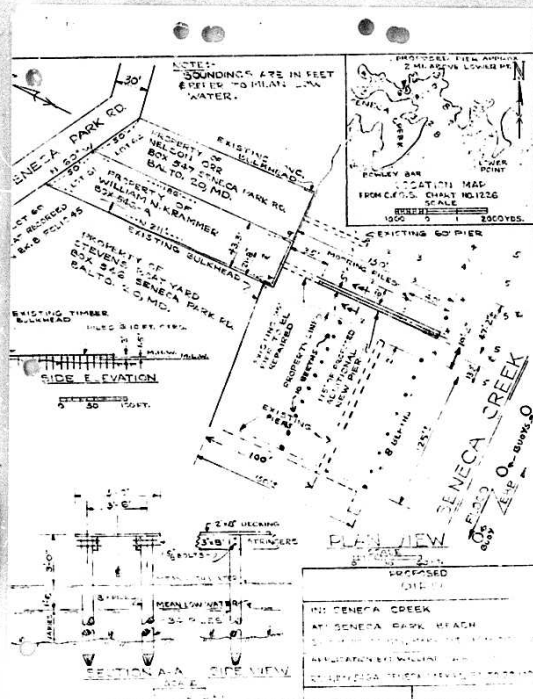
CERTIFICATE OF PUBLICATION

TOWSON, MD., February 4, 1971.

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper, printed and published in Towson, Baltimore County, Md., once to each of ... 599 ... times ... before the ... 21st ... day of ... February ... 1971, the first publication appearing on the ... 14th ... day of ... February ... 1971.

THE JEFFERSONIAN,

Cost of Advertisement, \$...



4/1/63

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Revenue Division
COURT HOUSE
TOWSON, MARYLAND 21204
DATE: Feb. 22, 1971
TO: Carl A. Boyle
385 Glenmont Road
Towson, Md. 21204
Advertising and posting of property
\$71-219-SPH
36500

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Revenue Division
COURT HOUSE
TOWSON, MARYLAND 21204
DATE: Feb. 1, 1971
TO: Carl A. Boyle
385 Glenmont Road
Towson, Md. 21204
Petition for Special Hearing for Seneca Park Marina
\$71-219-SPH
25000

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Revenue Division
COURT HOUSE
TOWSON, MARYLAND 21204
DATE: April 13, 1971
TO: Vernon G. Schneider, Esq.
4400 Baltimore National Blvd.
Baltimore, Md. 21204
Cost of appeal for Special Hearing - 8/8 Seneca Park Road
\$71-219-SPH
10000

NOV 03 1971



BEACH ROAD

SENECA PARK ROAD

50 51 52 53 54 55 56 57 58 59 60 61 62

BOLE KALE

PROPOSED
EXPANSION

SENECA PARK
MARINA

KAMICK

EXISTING
PIER

EXISTING
PIER

PRESENT
SHORELINE

PROPOSED
BULKHEAD

SHORELINE
PER PLAN

PROPOSED
PIER
AND
PILINGS

200 ft

50 ALG

20 ALG

25 ALG

10 ALG

12 ALG

18 ALG

EXISTING
PIER

EXISTING PIERS AND PILINGS

SENECA CREEK

PLAT of
LOTS 50-61
SENECA PARK
MARIANA

2-7-71

RE # 6160

MICROFILMED

Sheet # 2

SCALE 3" = 1 ft

