

PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a non-conforming use for a marina and residence and to determine whether the existing piers can be removed and replaced.

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

I, or we, agree to pay expenses of the 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.

I/We do 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 Petition.

Contract Purchaser: _____
(Type or Print Name)
Signature _____
Address _____
City and State _____
Attorney for Petitioner: _____
Robert J. Romadka/John Contrum
(Type or Print Name)
Signature _____
Address _____
City and State _____
809 Eastern Boulevard
Baltimore, Maryland 21221
Attorney's Telephone No.: 686-8274

Legal Owner(s): _____
Robert W. Love, Sr.
(Type or Print Name)
Signature _____
Isabel Love
(Type or Print Name)
Signature _____
1767 North Point Creek Road
Address Phone No. _____
Baltimore, Md. 21219
City and State _____
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Name _____
Address _____
Phone No. _____

ORDERED By The Zoning Commissioner of Baltimore County, this 9th day of February, 1981, 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 17th day of March, 1981, at 9:30 o'clock A.M.

William E. Hammond
Zoning Commissioner of Baltimore County.

Z.C.O.-No. 1 (over)

RE: PETITION FOR SPECIAL HEARING
SE/S of North Point Creek,
209.30' NE of South Cove Rd.,
15th District

ROBERT W. LOVE, SR., et ux,
Petitioners

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Deputy People's Counsel

John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 23rd day of February, 1981, a copy of the foregoing

Order was mailed to Robert J. Romadka, Esquire and John Contrum, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorneys for Petitioners.

John W. Hession, III

Zoning Description

Beginning for the same on the southeast side of North Point Creek Road at the distance of 209.30 feet northeast from South Cove Road Extended. Being lot #773 in the recorded Plat of Lodge Forest Subdivision, Liber 8, Folio 86/87. Also known as 7767 North Point Creek Road, 15th Election District. Containing approximately 0.44 acres.

PETITION FOR SPECIAL HEARING 15th District

ZONING: Petition for Special Hearing
LOCATION: Southeast side of North Point Creek, 209.30 feet Northeast of South Cove Road
DATE & TIME: Tuesday, March 17, 1981 at 9:30 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a non-conforming use for a marina and residence and to determine whether the existing piers can be removed and replaced.

All that parcel of land in the Fifteenth District of Baltimore County

Being the property of Robert W. Love, Sr., et ux, as shown on plat plan filed with the Zoning Department

Hearing Date: Tuesday, March 17, 1981 at 9:30 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

BY ORDER OF
WILLIAM E. HAMMOND
ZONING COMMISSIONER
OF BALTIMORE COUNTY

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353
WILLIAM E. HAMMOND
ZONING COMMISSIONER

Robert J. Romadka, Esquire
John Contrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

March 2, 1981

RE: Petition for Special Hearing
SE/S North Point Creek, 209.30'
NE of S. Cove Rd - Robert Love, et ux
Case No. 81-161-SPH

Dear Sirs:

This is to advise you that \$55.75 is due for advertising and posting of the above-property.

Please make check payable to Baltimore County, Maryland and remit to Sondra Jones, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Very truly yours,
William E. Hammond
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 097210

DATE March 16, 1981 ACCOUNT 01-662

AMOUNT \$55.75

RECEIVED FROM Robert Love
FOR Adv. & Posting for Case No. 81-161-SPH

330328 17

55.75

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 15 Date of Posting 2/24/81
Posted for Petition for Special Hearing
Petitioner Robert W. Love, Sr., et ux
Location of property SE/S of N. P. Creek, 209.30' NE of S. Cove Rd.
Location of Signs 809 Eastern Boulevard, Baltimore, Md. 21221
Remarks: 809 Eastern Boulevard, Baltimore, Md. 21221
Posted by Peter Max Zimmerman Date of return 3/1/81
Number of Signs 2
M. H. Cook Rd.

CERTIFICATE OF PUBLICATION

TOWSON, MD. February 26, 1981
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on or about the 26th day of February, 1981, the first publication appearing on the 26th day of February, 1981.

THE JEFFERSONIAN
S. Leach, Jr., Manager
Cost of Advertisement, \$ 21.00

PETITION FOR SPECIAL HEARING
15th District
Beginning for the same on the southeast side of North Point Creek Road at the distance of 209.30 feet northeast from South Cove Road Extended. Being lot #773 in the recorded Plat of Lodge Forest Subdivision, Liber 8, Folio 86/87. Also known as 7767 North Point Creek Road, 15th Election District. Containing approximately 0.44 acres. Being the property of Robert W. Love, Sr., et ux, as shown on plat plan filed with the Zoning Department.
Hearing Date: Tuesday, March 17, 1981 at 9:30 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.
BY ORDER OF
WILLIAM E. HAMMOND
Zoning Commissioner of Baltimore County
Feb. 26.

February 17, 1981

Robert J. Romadka, Esquire
John Contrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

NOTICE OF HEARING

RE: Petition for Special Hearing - SE/S North Point Creek, 209.30' NE of S. Cove Rd - Robert W. Love, Sr., et ux
Case No. 81-161-SPH

TIME: 9:30 A.M.

DATE: Tuesday, March 17, 1981

PLACE: ROOM 106 COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE, TOWSON, MARYLAND

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 095163

WILLIAM E. HAMMOND
ZONING COMMISSIONER OF BALTIMORE COUNTY

DATE Feb. 17, 1981 ACCOUNT 01-662

AMOUNT \$25.00

RECEIVED FROM John B. Contrum, Esquire
FOR Filing Fee for Case No. 81-161-SPH

VALIDATION OR SIGNATURE OF CASHIER

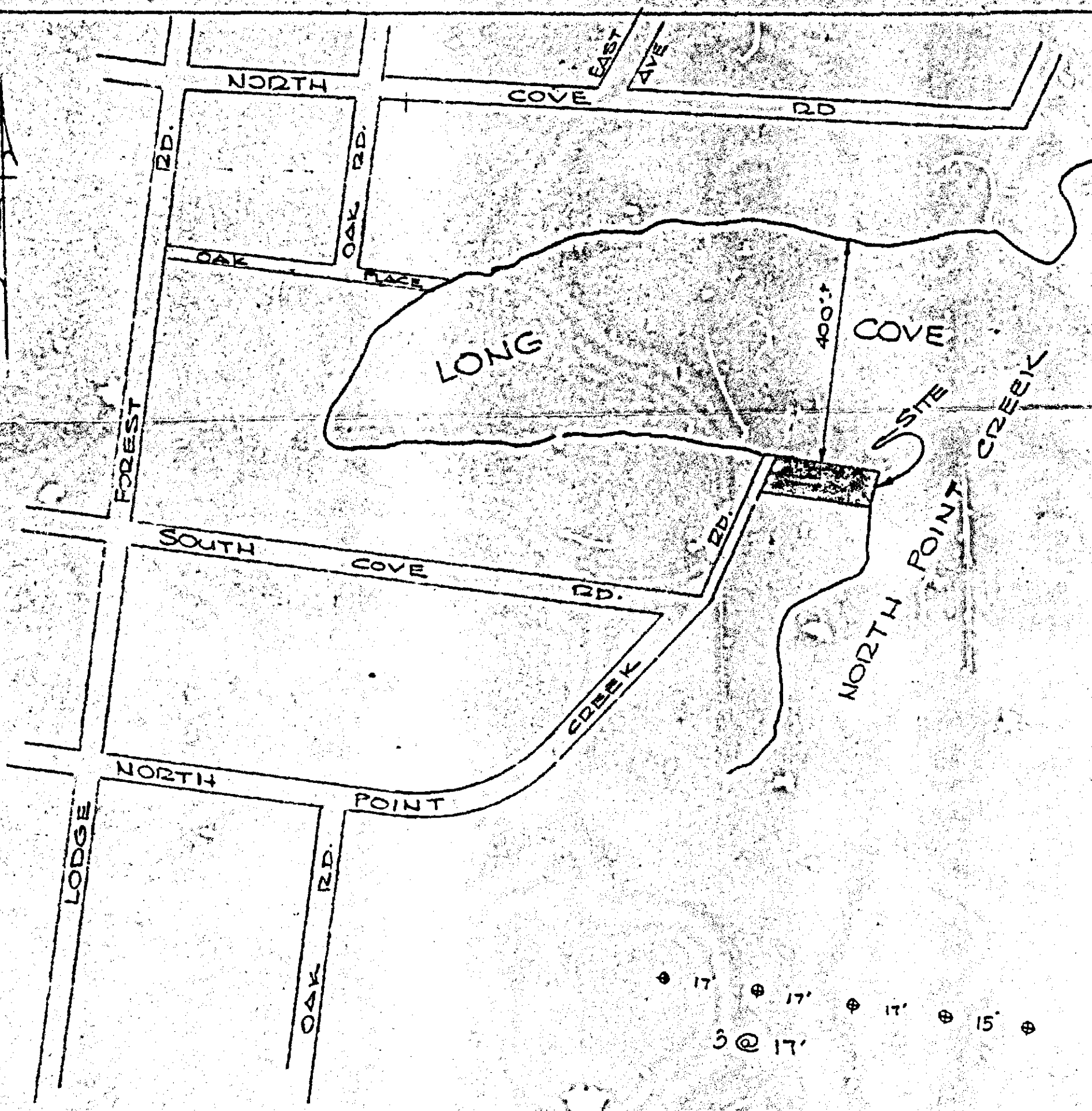
The Essex Times
Essex, Md., Feb. 26, 1981

This is to Certify, That the annexed

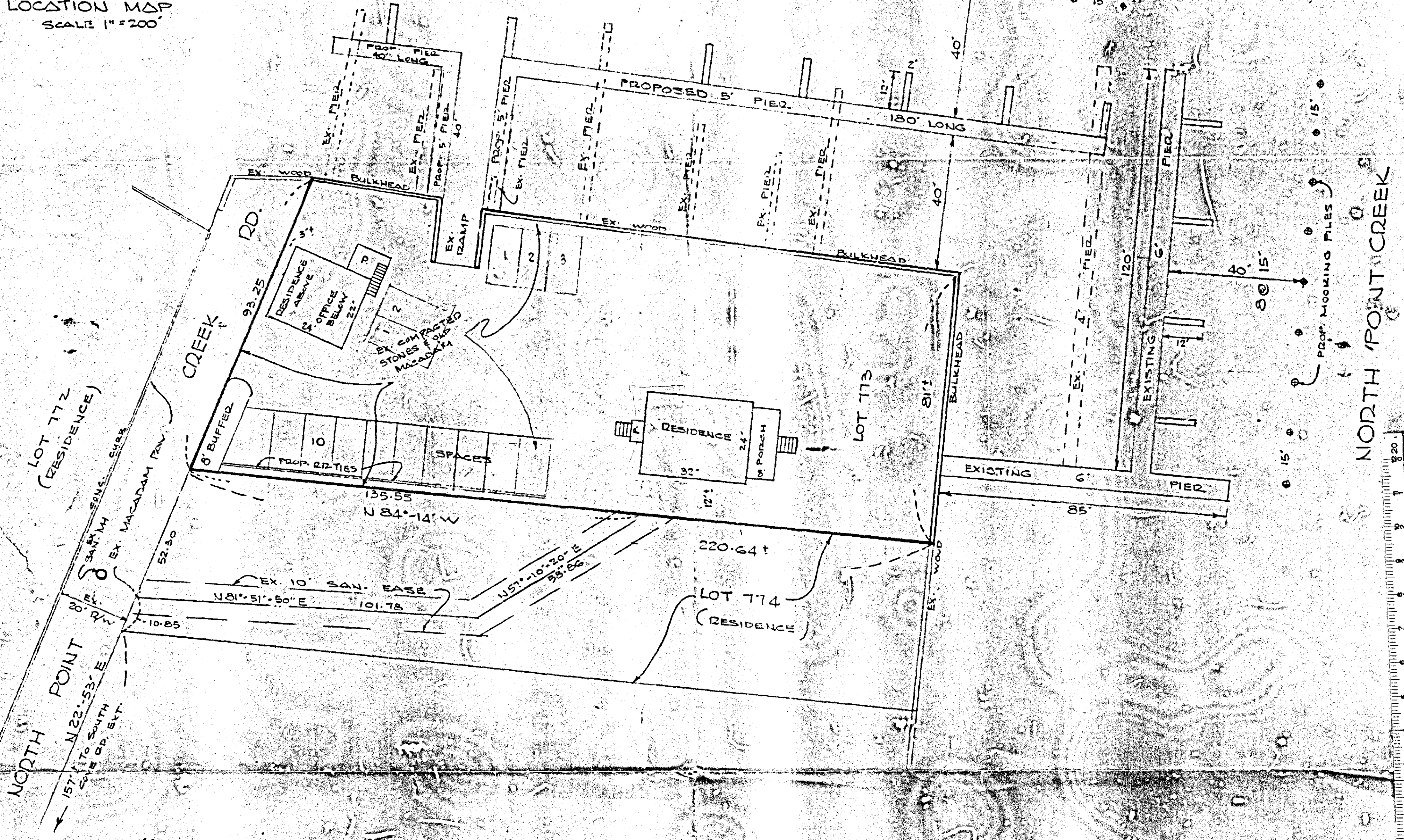
was inserted in The Essex Times, a newspaper printed and published in Baltimore County, once in each of two successive weeks before the 17th day of March, 1981.
John B. Contrum, Jr. Publisher.

Petition For Special Hearing 15th District

Zoning: Petition for Special Hearing
Location: Southeast side of North Point Creek, 209.30 feet Northeast of South Cove Road
Date & Time: Tuesday, March 17, 1981 at 9:30 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:
Petition for Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a non-conforming use for a marina and residence and to determine whether the existing piers can be removed and replaced.
Beginning for the same on the southeast side of North Point Creek Road at the distance of 209.30 feet northeast from South Cove Road Extended. Being lot #773 in the recorded Plat of Lodge Forest Subdivision, Liber 8, Folio 86/87. Also known as 7767 North Point Creek Road, 15th Election District. Containing approximately 0.44 acres. Being the property of Robert W. Love, Sr., et ux, as shown on plat plan filed with the Zoning Department.
Hearing Date: Tuesday, March 17, 1981 at 9:30 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.
BY ORDER OF
WILLIAM E. HAMMOND
Zoning Commissioner of Baltimore County



LOCATION MAP
SCALE 1"=200'



EXISTING USE - MARINA & RESIDENCE
 PROPOSED USE - SAME
 EXISTING ZONING - D2.55
 PROPOSED ZONING - SAME
 AREA OF LOT - 0.44 AC.

PARKING DATA

RESIDENCES - 3 EX. SPACES
 CUSTOMERS - 12 EX. SPACES

No. OF EXISTING SLIPS - 23
 No. OF PROPOSED SLIPS - 23
 No. OF BOATS TO BE STORED OUT OF WATER - 8

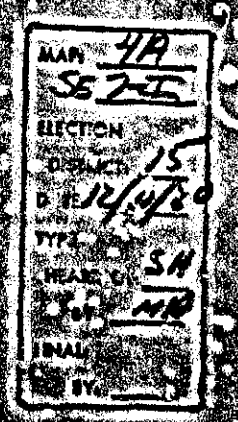
ITEM 111

PUBLIC WATER & SEWERAGE NOW SERVICE LOT

OWNER
 ROBERT LOVE SR.
 1161 NORTH POINT CREEK RD.
 BALTIMORE, MARYLAND 21219

LOT 773, REVISED PLAT
LODGE FOREST

PLAT BOOK 8/SC-81
 15TH DISTRICT, BALTIMORE COUNTY, MARYLAND
 SCALE - 1"=20'
 DATE - 11/21/80



Frank S. Love
 FRANK S. LOVE
 1277 NEIGHBORS AVE.
 BALTIMORE, MD 21221



CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL GENERAL

DOCKET 16 PAGE 126 CASE NO. 85CG3266 CATEGORY: APPEAL

IN THE MATTER OF THE APPLICATION OF ROBERT W. LOVE, SR., ET UX, FOR A SPECIAL HEARING TO DETERMINE A NONCONFORMING USE FOR A MARINA AND RESIDENCE, AND WHETHER EXISTING PIERS CAN BE REMOVED AND REPLACED, 32/5 NORTH POINT CREEK ROAD, 209.30' NE OF SOUTH COVE ROAD, 15th DISTRICT

ATTORNEY: DiNenna, Mann, & Breschi
S. Eric DiNenna
406 W. Penna. Ave. (4) 296-6820

BOARD OF APPEALS OF BALTIMORE COUNTY
(BALTIMORE COUNTY, MARYLAND)

4/14/86 DE W. Love to Board

(1) October 17, 1985 Appellant's Appeal from decision of Board of Appeals of Baltimore County & Petition fd.
(2) October 18, 1985 - Certificate of notice fd
(3) Nov. 15, 1985 - Transcript of Record fd.
(4) Nov. 15, 1985 - Notice of Filing of Record fd.
(5) Dec. 6, 1985 - Amended Answer of the County Board of Appeal fd.
(6) Feb 26, 1986 - Appellant's memorandum fd.
(7) Mar. 14, 1986 - App. of Malcolm F. Spicer, Jr. and Thomas J. Bollinger for Appellee and Same Day Answer fd.
(8) Mar. 14, 1986 - Appellee's Memorandum fd.
Apr. 1, 1986 Hon. John E. Raine, Jr. Hearing had. Decision of the Board of Appeals is Reversed. Opinion to be filed.
(9) Apr. 9, 1986 - Order of Court that the Decision of the County Board of Appeals is Reversed fd. (JER)

RECEIVED COUNTY BOARD OF APPEALS
15 APR 15 P 12 23

16/12/86
16/12/86
16/12/86

IN THE MATTER OF THE APPLICATION OF ROBERT W. LOVE, SR., ET UX, FOR A SPECIAL HEARING TO DETERMINE A NONCONFORMING USE FOR A MARINA AND RESIDENCE, AND WHETHER EXISTING PIERS CAN BE REMOVED AND REPLACED, 32/5 NORTH POINT CREEK ROAD, 209.30' N. OF SOUTH COVE ROAD, 15th DISTRICT

CASE NO. 81-161-SPH

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
Case No.: 85CG3266

ORDER

This matter having come before the Court upon the Appeal of Robert W. Love, Sr., on April 1, 1986, the Court having reviewed the transcript, exhibits and full record, and having heard argument from counsel, therefore

IT IS ORDERED this 9th day of April, 1986, that the County Board of Appeals' Decision and Opinion of September 20, 1985 is hereby reversed and,

IT IS FURTHER ORDERED that the subject property enjoys a non-conforming use for a marina and shall not expand beyond 25% of the linear footage of the piers, existing as of the date of the hearing before the County Board of Appeals.

John E. Raine
JUDGE

RECEIVED COUNTY BOARD OF APPEALS
16 APR 12 P 12 37

FILED APR 9 1986

ROBERT W. LOVE

#81-161-SPH

Feb. 9, 1981 Petition filed
July 29, 1983 Z.C. DENIED PETITION
Aug. 9 Appealed to C.P. of A.
Sept. 20, 1985 Board Ordered that nonconforming use for a marina is not approved and existing piers cannot be replaced, nor is any marina use approved - FURTHER ORDERED that nonconforming use for a residence is approved. Therefore, SPH GRANTED IN PART and DENIED IN PART.
Oct. 17 Order for Appeal filed in the Circuit Court (File #85-CG-3266)
Nov. 15 Record of proceedings filed in the Circuit Court
Dec. 5 Letter received from Mr. DiNenna requesting Z.C. file and exhibits be sent to Circuit Court
" 6 Additional record of proceedings filed in Circuit Court
Apr. 9, 1986 Board REVERSED by the Circuit Court (Judge John E. Raine, Jr.) 4/17/86 - cc: A. Jablon
Bettye DuBois
J. Hoswell

COURT
DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

406 WEST PENNSYLVANIA AVE
TOWSON, MARYLAND 21204
(301) 296-6820

February 24, 1986

Clerk
Circuit Court for Baltimore County
P.O. Box 6754
County Courts Building
Towson, Maryland 21204

RE: Case No.: 85CG3266

Dear Mr. Clerk:

Enclosed herewith please find the Appellant's Memorandum, in accordance with Maryland Rule B12, for filing.

Very truly yours,
10/1
S. ERIC DINENNA

SED:kar
Enclosure

cc: County Board of Appeals
Thomas J. Bollinger, Esquire
Robert W. Love, Sr.

RECEIVED COUNTY BOARD OF APPEALS
15 FEB 26 A 11:25 C

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

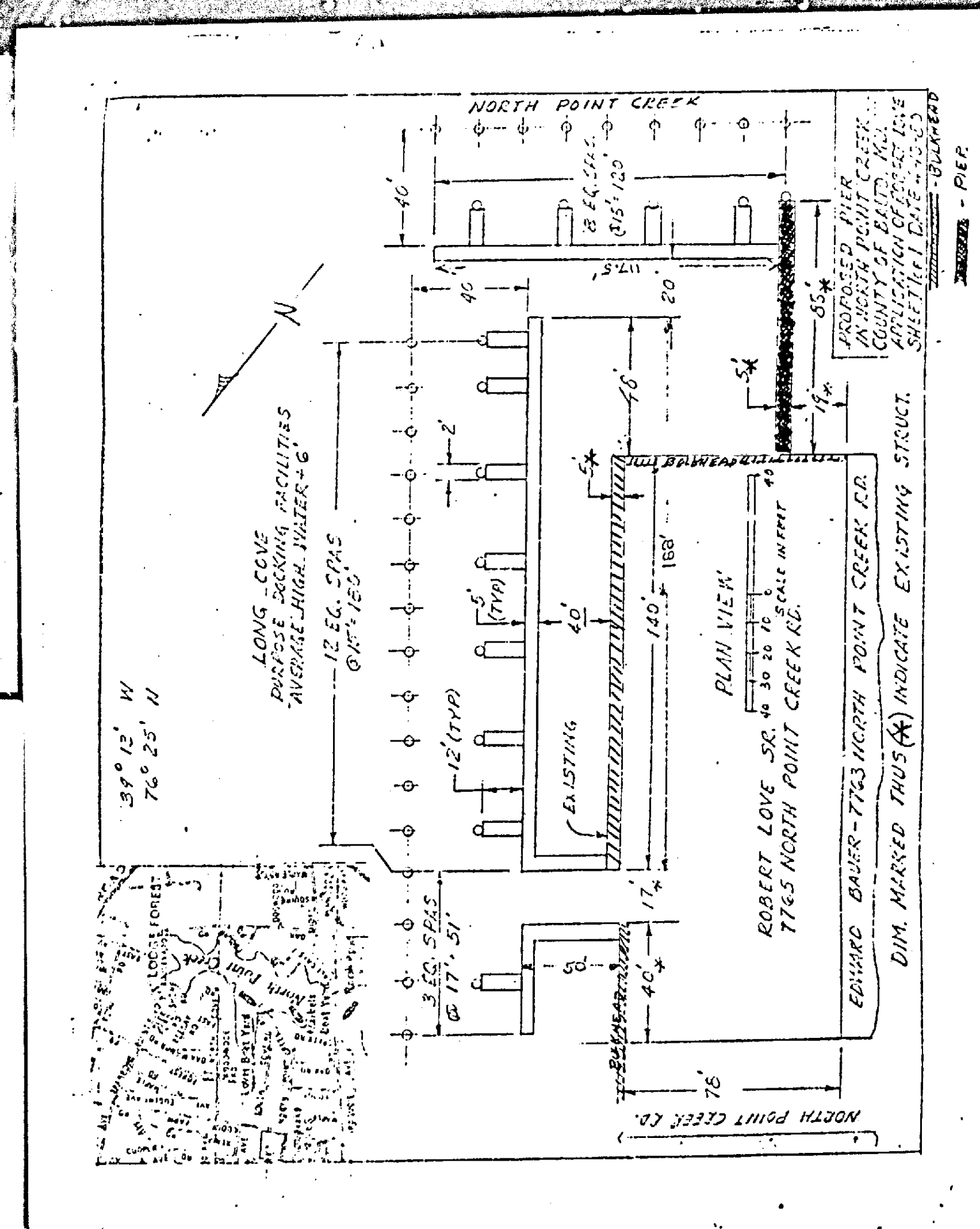
Your Petition has been received this 2 day of December, 1986.*
Filing Fee \$ 25.00 Received: ☒ Check
Cash, ☐
Other, ☐

Item # 115

Petitioner Robert W. Love
Submitted by Robert W. Love
Petitioner's Attorney B. Rowan Reviewed by

William E. Hammond, Zoning Commissioner

*This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.



CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bailey Avenue
Towson, Maryland 21204-0754
December 2, 1986

TO: S. Eric DiNenna, Esq.
County Board of Appeals of Baltimore Co.
Thomas J. Bollinger, Esq.

FROM: Kathy Bushion - 494-2660
Assignment - Jury - Moore
Marcia Fennell
Assistant Clerk Typist
Irene Summers - 494-2661
Assignment - Non-Jury - Moore
Freddie Grove
Assistant Clerk Typist

RE: NON JURY - 85 CG 3266 - ROBERT W. LOVE, SR. ET UX VS BOARD OF APPEALS
HEARING DATE: Tuesday, April 1, 1986, @ 9:30 a.m.
ON THE FOLLOWING: Appeal: 1 hour

UPON RECEIPT OF THIS NOTICE, Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.
POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments - Joyce Grimm - 494-3497.
SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CICONE. Please direct all inquiries to the attention of John Adams.
SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

CASE NO. 85-CG-3266 AT LAW

ROBT. W. LOVE, SR. VS.

RECEIVED FROM THE COUNTY BOARD OF APPEALS
EXHIBITS, BOARD'S ANSWER & TRANSCRIPT FILED
IN THE ABOVE ENTITLED CASE. ALSO FILED
IS THE ZONING COMMISSIONER'S FILE AND
EXHIBITS.

Date: 12/6/86

James Butler
Clerk's Office

PETITION MAPPING PROGRESS SHEET

FUNCTION	Well Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: <u>W. C.</u>			Revised Plans:							
Previous case:			Change in outline or description							
			Map # 4A							

Item 115

IN THE MATTER OF THE APPLICATION OF ROBERT W. LOVE, SR., ET UX FOR A SPECIAL HEARING TO DETERMINE A NONCONFORMING USE FOR A MARINA AND RESIDENCE, AND WHETHER EXISTING PIERS CAN BE REMOVED AND REPLACED SE/S NORTH POINT CREEK ROAD 209.30' NE OF SOUTH COVE ROAD 15th DISTRICT

APPELLANT'S MEMORANDUM

NOW COMES Robert W. Love, Sr., et ux, Petitioner below and Appellant herein, by S. Eric DiNenna, P.A. and S. Eric DiNenna, in compliance with Maryland Rule B-12, files the following Memorandum:

BACKGROUND

This matter comes before this Honorable Court upon the appeal of Robert W. Love, Sr. (hereinafter known as "Love") from the denial of his Petition for Special Hearing to determine the nonconforming use for a Marina and a Residence and whether existing piers can be removed and replaced, for a property located and known as 7767 North Point Creek Road, in Baltimore County, Maryland. By Opinion and Order dated September 20, 1985, the County Board of Appeals ordered that the nonconforming use for a Marina not be approved and that the existing piers cannot be replaced nor is any Marina use approved. It is further ordered that the nonconforming use for a Residence is approved and this portion of the Order is not the subject of the appeal before this Honorable Court.

STATEMENT OF FACTS

Mr. and Mrs. Love purchased the subject property in 1951, and Mr. Love indicated that he was familiar with the property as far back as 1943, describing the several piers located on the subject property and that during the period of time between 1945 and the time he purchased the property in 1951, boats were stored and moored at the subject property. (T-8 & 9) This same subject property came before the Zoning Commissioner for Baltimore County, Commissioner John G. Rose, in 1964, and as a result of a hearing conducted thereon, issued an Order in Case No. 65-12-V. (See Petitioner's Exhibit One in the Zoning Commissioner's file). Also attached hereto is a copy of Commissioner Rose's Order and Opinion of August 5, 1964.

The noted decision of Commissioner Rose, on August 5, 1964, in Case No. 65-12-V, recognized the existence of the Marina at the time. He indicated that the testimony "indicated that some boats have been stored on the subject property for some years." This was a violation hearing, Commissioner Rose did not find the subject property in violation of the Baltimore County Zoning Regulations in 1964. The notes in the Commissioner's file at that time indicates that there was considerable evidence produced by the Zoning Inspector and by a Complainant, Mr. Daffron, indicating the presence of a marina use on Mr. Love's property. There was no denial by Mr. Love at that time he rented space for boats but he did deny the operation of a boatyard (as presently defined). No repairs were being made on boats on the subject property at that time nor have any repairs been made since that time. It did not accommodate a marine railway and it should be further noted, that the hearing on the marina use as a violation at that time was sought by Mr. Love in order to establish the legality of his operation. At the time of the hearing before Commissioner Rose, the use of the property that was established by Mr. Rose necessitated a special exception in that zone. Mr. Rose's decision did not require the acquisition of a special exception and accordingly, only by acceptance of a non-conforming use, could Commissioner Rose permit Mr. Love to allow others to keep their boats on the subject property. He, of course, permitted the Marine operation to continue.

The Opinion of the Zoning Commissioner in Case No. 65-12-V is entitled to great weight in this case. It is worthy to note that the parties hereto, are essentially the same parties as in the case before Commissioner Rose in 1964.

The testimony throughout the hearing before the County Board of Appeals in the case at bar, indicated a continuation of the subject property as a Marina since 1960. The County Board of Appeals found this fact.

Accordingly, the Board was in error in its interpretation of the Baltimore County Zoning Regulations in that Mr. Love established a non-conforming use at least since 1960 and furthermore from all the facts presented before the County Board of Appeals, since prior to 1945.

Mr. Love's placement of the existing piers do not expand beyond twenty-five (25%) percent, he is maintaining the same number of boat rental slips, namely twenty-five (25), that existed in 1964, and has established that the property has not changed its use since that date.

Mr. Love indicated that since 1964, and since the hearing before the Honorable John G. Rose, he has operated a Marina at the subject location, renting approximately twenty-three (23) boat slips; that said operation of a Marina has been continuous and uninterrupted since that date. Even prior to August 5, 1964, the subject property was used as a Marina, as indicated in the Petitioner's Exhibit Four of the Zoning Commissioner's file (an aerial photograph) showing boats tied up to the subject property. This aerial photograph was taken in 1954. (T-17) Mr. Love further testified that since prior to 1945 to the present date, there has continuously been stored on and adjoining the property, boats of a recreational Marine craft type and that said use has been continuous since that date to the present time. (T-18 & 19) Mr. Love further testified that the structure of the new piers would be four hundred eighteen (118) feet, replacing the present four hundred eight (408) feet piers. (T-25)

Your Petitioner, Mr. Love, introduced Affidavits from three individuals who indicated that the subject property had been used for the storage of boats since approximately 1934 to 1939 to the present date (T-35 & 36)

Protestants of the subject Petition, indicated that Mr. Love's boat was stored on the subject property, prior to his ownership, in 1950, in addition to other boats owned by the property owner at that time. (T-41) They indicated that the property was used for swimming and that boats were in fact stored there for various periods of time since that time period. Throughout the testimony by Protestants, they identified, through the various exhibits in the file, and that are before this Court, that there were piers existing at the subject property and that there was storage of boats at various different times.

In the Board's Opinion, it found that a Marina has existed since 1960 and that it rejected the testimony that a Marina has existed at the subject property since and continuously since 1945. It is interesting to note that the testimony of Mrs. Gintling, Protestant, feels that there should be no piers on the subject property and the piers should be torn down. (T-58 & 59) Let the record note that there is no complaints by Mrs. Gintling since she resided onto her subject property in 1950.

ARGUMENT

A nonconforming use, was defined in the Baltimore County Zoning Regulations, as adopted in 1945, as:

The Court is well aware of the law in its review power of an Administrative Board's Decision. The question on judicial review is whether or not such action is arbitrary, discriminatory, or fairly debatable. Stratakis v. Beauchamp, 268 Md. 643 (1973).

"It is not the function of the Courts to zone or rezone and the Courts will not substitute their judgment for the expertise of the zoning officials. Only when there is no room or reasonable debate or where the record is the void of substantial supporting facts, are the Courts justified in revising a decision of an administrative body or in declaring its action arbitrary, capricious or illegal."

Germanko vs. County Board of Appeals of Baltimore County, 257 Md. 706 PG. 711, (1970).

See also, France v. Shapiro, 248 Md. 335, (1968).

Furthermore, in order to justify a reversal of an administrative Board's decision, the record in the proceedings would have to show that its action was unsupported by competent material and substantial evidence. Prince George's County v. Meininger, 264 Md. 148 (1972).

The most explicit definition of "substantial evidence test" is found in the case of Board of County Commission of Prince George's County v. Oak Hill Farms, Inc., 232 Md. 274 (1963), where at page 280, the Court said:

"...substantial evidence has been held to mean more than a scintilla and was such evidence 'as a reasonable mind might accept as adequate to support a conclusion'...and enough to justify, if the trial were to jury, a refusal to direct a verdict..."

Furthermore, "fairly debatable" can be defined as testimony from which a reasonable man could come to a different conclusion. In such a matter, the Court will not substitute its judgment for that of the administrative body. Edgar v. Stove, 253 Md. 533 (1969).

There was "substantial (and sufficient) evidence" presented by the Petitioner to the County Board of Appeals to establish that a non-conforming use for a Marina has existed since 1945. Without prejudice, it is obvious that the Marina use has existed since 1960. The continuous use of this property as a Marina since 1960, the adoption of the Baltimore County Zoning Regulation, establishing a Marina as a special exception in 1963 as well as defining what a marina and a boatyard are, Commissioner Rose's decision in 1964, clearly, shows that the Board's decision was arbitrary, capricious or illegal.

"24. Non-conforming use: a building or land occupied by a use that does not conform to the provisions of the regulations for the zone in which is located."

Section XI of the 1945 Regulations indicates that:

"A lawful non-conforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such non-conforming use to a conforming use, or any attempt to change from such non-conforming use to a different non-conforming use or any discontinuance of such non-conforming use for a period of one year, or in case a non-conforming structure shall be damaged by fire or otherwise to extent of seventy-five (75%) percent of its value, the right to continue to resume such non-conforming use shall terminate, provided, however, that any such lawful non-conforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original non-conforming use."

The Zoning Regulations as adopted in 1955 and as amended in 1976, defines a non-conforming use as:

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

Baltimore County Zoning Regulations, 1955, as amended. Section 104 of the Baltimore County Regulations, indicates:

"A non-conforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such non-conforming use to any other use whatsoever, or any abandonment or discontinuance of such non-conforming use for a period of one year or more, or in case any non-conforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost, the time of such loss, the right to continue or resume such non-conforming use shall terminate. No non-conforming building or structure and no non-conforming use of a building, structure, or parcel of land, shall hereafter be extended more than twenty-five (25%) percent of the ground floor area of building so used." (B.C.Z.R.; 1955, as amended).

The burden of proving a non-conforming use is on the claimant of the use, in this case, Love. This burden necessarily includes the burden of establishing the existence of a non-conforming use at the time of the passage of the prohibiting zoning ordinance. An important way of meeting this burden is to show that the existence of the use was known to the neighbors at the critical time. Calhoun v. County Board of Appeals of Baltimore County, 262 Md. 265 (1971).

In the instance case, not only does the Petitioner, but do the Protestants indicate the storage of boats and the mooring of boats on the subject property has existed for many years. The County Board of Appeals, in its Opinion,

For the foregoing reasons, it is respectfully requested by your Petitioner, Appellant, that the County Board of Appeals' decision dated September 20, 1985, be reversed.

S. ERIC DINENNA
S. ERIC DINENNA, P.A.
406 W. Pennsylvania Avenue
Towson, Maryland 21204
296-6820
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of February, 1986, a copy of the foregoing Appellant's Memorandum was mailed, postage prepaid to County Board of Appeals, Room 200, Court House, Towson, Maryland 21204, and Thomas J. Bollinger, Esquire, County Attorney's Office, Court House, Towson, Maryland 21204.

S. ERIC DINENNA

though rejecting a non-conforming use, does say that the Marina's existence commenced in 1960.

By County Council Bill 64, enacted in 1963, a regulation was added to the Baltimore County Zoning Regulations, requiring that a "boatyard" and a "Marina" necessitated a special exception in a residential zone, and also by that same Bill, defined each.

A "boatyard" is defined as:

"A commercial or non-profit boat basin with facilities for one or more of the following: sale, construction, repair, storage, launching, bathing, securing, refueling and general servicing of marine craft of all types."

A "Marina" is defined as:

"A modern boat basin, restricted to recreational marine craft of all types, with facilities for one or more of the following: bathing, launching and securing such craft, and permitting incidental minimum provisions for refueling and emergency servicing and also out of land (out of water) storage as provided in §47.7."

Prior to 1963, there was no definition for either a boatyard or a Marina.

Pursuant to the 1945 zoning regulations, Section XIII, A. 18 provided that a boatyard and/or marine railway for sale, repair and storage of water craft, not exceeding sixty (60) feet in length when tidal waters, necessitated a special permit.

It is obvious from the 1945 Regulation, that the necessity of acquiring a special permit was for a much more intense operation, anonymous to the modern day definition of a "boatyard". In 1963, the Baltimore County Council, in its wisdom, recognized the differences between the two uses, adopting the present day regulations. It should be noted that the 1945 Regulation states a "railway", states that the use of selling, repairing, and storage of water craft necessitates the special permit. A review of the current definition of a "boatyard" contains the same words such as sale, repair and storage. These words are conspicuous by their absence in the definition of "Marina". The County Council recognized the established use of Marinas prior to 1963 and in the adoption of Bill 64, determined that their use should be regulated. Any uses as defined, in "Marina" existing prior to that time, pursuant to the Baltimore County Zoning Regulations, had a right to continue in accordance with §104 of the Baltimore County Zoning Regulations.



County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180

November 16, 1984

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(B). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 81-161-SPH

ROBERT W. LOVE, SR. ET UX

SE/s North Pt. Creek Rd., 209.30' NE of South Cove Rd.

15th District

SPH-Nonconforming use for a marina and residence; removal and replacement of existing piers

7/29/83 - Z.C.'s Order - DENIED

TUESDAY, JANUARY 22, 1985, at 10 a.m.

ASSIGNED FOR:

cc: John Nowicki, Esq.

Counsel for Petitioners

Robert W. Love, et ux

Petitioners

Mrs. Pearl Gintling

Protestant

Thomas J. Bollinger, Esq.

Office of Law

N. E. Gerber

J. Hoswell

J. E. Dyer

Arnold Jablon

Arlene January

June Holmen, Secy.

16/106

CASE NO. 81-161-SPH

IN THE MATTER OF THE APPLICATION OF ROBERT W. LOVE, SR., ET UX. FOR A SPECIAL HEARING TO DETERMINE A NONCONFORMING USE FOR A MARINA AND RESIDENCE, AND WHETHER EXISTING PIERS CAN BE REMOVED AND REPLACED SE/S NORTH POINT CREEK ROAD 209.30' NE OF SOUTH COVE ROAD 15th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Case No.: 85CG3266

ORDER

This matter having come before the Court upon the Appeal of Robert W. Love, Sr., on April 1, 1986, the Court having reviewed the transcript, exhibits and full record, and having heard argument from counsel, therefore

IT IS ORDERED this 9th day of April, 1986, that the County Board of Appeals' Decision and Opinion of September 20, 1985 is hereby reversed and,

IT IS FURTHER ORDERED that the subject property enjoys a non-conforming use for a marina and shall not expand beyond 25% of the linear footage of the piers, existing as of the date of the hearing before the County Board of Appeals.

John E. Rains
JUDGE

S. ERIC DINENNA
Approval as to Form

THOMAS J. BOLLINGER
Approval as to Form

FILED APR 9 1986

7554
represent to Parties

IN THE MATTER OF THE APPLICATION OF ROBERT W. LOVE, SR., ET UX. FOR A SPECIAL HEARING TO DETERMINE A NONCONFORMING USE FOR A MARINA AND RESIDENCE, AND WHETHER EXISTING PIERS CAN BE REMOVED AND REPLACED SE/S NORTH POINT CREEK ROAD 209.30' NE OF SOUTH COVE ROAD 15th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Case No.: 85CG3266

AMENDED ANSWER OF THE COUNTY BOARD OF APPEALS

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Lawrence E. Schmidt and Diana K. Vincent, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith file additional record of proceedings had in the above entitled matter:

Zoning Commissioner's file, including exhibits (#81-161-SPH) which also includes original Z. C. file #65-12-V.

Dec. 6, 1985 Additional record of proceedings filed in the Circuit Court for Baltimore County.

Respectfully submitted

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

cc: S. Eric DiNenna, Esq.
Thomas J. Bollinger, Esq.
Mrs. Pearl Gintling

7/30/85

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS IN CASE #81-161-SPH - ROBERT LOVE, ET UX

PETITIONER'S EXHIBITS #1 - Original file from Zoning Office, case #65-12-V, Robert Love

" " #2 - Corps of Engineers report, 5/8/80

" " #3 - Plat

" " #4 - Large aerial photo

" " #4a to 4F Small photos

" " #5 Deed 7/11/51

Protestants " #1 - Permit & Plat - US Army Corps of Engineers

" " #2a to 2 d - Small photos

" " #3 a to 3 c - Small photos

S. Eric DiNenna

Released by authority of William R. Evans, Board Member

William R. Evans

In the matter of Robert W. Love, Sr. et al

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Docket 16 Folio 126

Case No. 85CG3266

NOTICE OF FILING OF RECORD

To: S. Eric DiNenna June W. Holmen
406 W. Penna. Ave. (04) Mail Stop 2205

In accordance with Maryland Rule of Procedure 812, you are notified that the record in the above entitled case was filed on Nov. 15, 1985

FILED NOV 15 1985

455

IN THE MATTER OF THE APPLICATION OF ROBERT W. LOVE, SR., ET UX. FOR A SPECIAL HEARING TO DETERMINE A NONCONFORMING USE FOR A MARINA AND RESIDENCE, AND WHETHER EXISTING PIERS CAN BE REMOVED AND REPLACED SE/S NORTH POINT CREEK ROAD 209.30' NE OF SOUTH COVE ROAD 15th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Case No.: 85CG3266

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Lawrence E. Schmidt and Diana K. Vincent, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

Case No. 81-161-SPH

February 9, 1981 Petition of Robert W. Love, Sr., et ux, for a special hearing for a nonconforming use for a marina and residence and to determine whether the existing piers can be removed and replaced, 15th District

February 9 Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for March 17, 1981, at 9:30 a.m.

February 26 Certificate of Publication in newspaper - filed

February 28 Certificate of Posting of property - filed

Robert W. Love, Sr., et ux
Case No. 81-161-SPH

February 25, 1981 Comments of Baltimore County Director of Planning - filed

March 6 Comments of Baltimore County Zoning Plans Advisory Committee - filed

March 17 At 9:30 a.m. hearing held on petition by Zoning Commissioner.

July 29, 1983 Order of Zoning Commissioner DENYING the Petition for Special Hearing.

August 9 Order for Appeal to County Board of Appeals from Order of Zoning Commissioner by John B. Gentrup, Esq., on behalf of Petitioners.

August 7, 1985 Hearing on appeal before County Board of Appeals

September 20 Order of County Board of Appeals ordering that the nonconforming use for a marina is not approved and that the existing piers cannot be replaced, nor is any marina use approved; and FURTHER ORDERED that the nonconforming use for a residence is approved. Therefore, the petition for a special hearing is hereby GRANTED IN PART and DENIED IN PART.

October 17 Order for Appeal filed in the Circuit Ct. for Baltimore County by S. Eric DiNenna, Esq., on behalf of Petitioners Appellants.

October 17 Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County.

October 18 Certificate of Notice sent to all interested parties.

November 15, 1985 Transcript of testimony filed

Petitioners' Exhibit No. 1 - Plat

" " " 2, 2A, 2B, 2C - Four Photos

" " " 3 - Letter to Mr. DiNenna from Harry Iman.

" " " 4 - Letter to Mr. DiNenna from Walter Fisher.

" " " 5 - Letter to E. DiNenna from Ralph Dearmont.

" " " 6 - Petition

" " " 7 - Photo, Love property

" " " 8 - Letter to Mr. DiNenna from Louis F. Markel.

Robert W. Love, Sr., et ux
Case No. 81-161-SPH

County Exhibit No. 1 - 1957 Aerial photo of site.

" " " 2 - Letter to Mrs. Gintling from Lillian Papko, 2/8/61.

" " " 3 - Photo

" " " 4 - Photo

" " " 5 - Photo

" " " 6 - Photo

" " " 7 - Photo

" " " 8 - Photo

" " " 9 - Petition of adjacent neighbors.

November 15, 1985 Record of proceedings filed in the Circuit Court for Baltimore County.

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations whenever directed to do so by this Court.

Respectfully submitted,

June W. Holmen
County Board of Appeals of Baltimore County

cc: S. Eric DiNenna, Esq.
Thomas J. Bollinger, Esq.
Mrs. Pearl Gintling

IN THE MATTER OF THE APPLICATION OF ROBERT W. LOVE, SR., ET UX. FOR A SPECIAL HEARING TO DETERMINE A NONCONFORMING USE FOR A MARINA AND RESIDENCE, AND WHETHER EXISTING PIERS CAN BE REMOVED AND REPLACED SE/S NORTH POINT CREEK ROAD 209.30' NE OF SOUTH COVE ROAD 15th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Case No.

ORDER FOR APPEAL

MR. CLERK:

Please enter an Appeal pursuant to Rule 812 on behalf of Robert W. Love, Sr., et ux, Petitioner below and Appellant herein, from the Opinion and Order of the Board of Appeals of Baltimore County passed in the above case on September 20, 1985, as to the Board's denial of a non-conforming use for a marina.

The undersigned certifies that on the 17th day of October, 1985, a copy of this Order for Appeal was served on the Board of Appeals for Baltimore County prior to the filing of this Order for Appeal.

S. ERIC DINENNA
DINENNA, MANN & BRESCHI
406 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 296-6820
Attorneys for Appellant

RECEIVED
COUNTY BOARD OF APPEALS
NOV 17 11:02

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 17th day of October, 1985, a copy of the Order for Appeal was mailed, postage prepaid to County Board of Appeals, Room 200, Court House, Towson, Maryland 21204, Thomas J. Bollinger, Esquire, County Attorney's Office, Court House, Towson, Maryland 21204 and Mrs. Pearl Gintling, 7718 North Point Creek Road, Baltimore, Maryland 21219, Protestant.

S. ERIC DINENNA
Of Counsel for Appellant

-2-

IN THE MATTER OF THE APPLICATION OF ROBERT W. LOVE, SR., ET UX FOR A SPECIAL HEARING TO DETERMINE A NONCONFORMING USE FOR A MARINA AND RESIDENCE, AND WHETHER EXISTING PIERS CAN BE REMOVED AND REPLACED SE/S NORTH POINT CREEK ROAD 209.30' NE OF SOUTH COVE ROAD 15th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No.

PETITION OF APPEAL

Robert W. Love, Sr., et ux, Petitioner below and Appellant herein, pursuant to Rule B2.e petitions the Court regarding the September 20, 1985 Opinion and Order of the County Board of Appeals of Baltimore County and says:

1. By Opinion and Order dated September 20, 1985, (the Order) the County Board of Appeals of Baltimore County (the Board) determined that a non-conforming use for a marina is not approved and does not exist on the subject property.
2. That said Board determined that the property does enjoy a non-conforming use for two residences on a single lot and that this determination is not yet being appealed by this Petitioner/Appellant.
3. That the Petitioner/Appellant submits that the Board's Order is erroneous in that:
 - a. The Board's Decision is in conflict with the Maryland law and Baltimore County law requiring non-conforming uses;

RECEIVED
COUNTY BOARD OF APPEALS
OCT 17 1985

- b. That the Board's legal decision is not supported by the Findings of Fact;
- c. That the Board's decision is illegal, invalid, arbitrary and capricious.

WHEREFORE, your Petitioner/Appellant petitions this Court to reverse the Board's Order of September 20, 1985 and grant the Petitioner/Appellant such other and further relief as his cause may require.

S. ERIC DINENNA
DINENNA, MANN & BRESCHI
406 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 296-6820
Attorneys for Appellant

CERTIFICATE OF MAILING

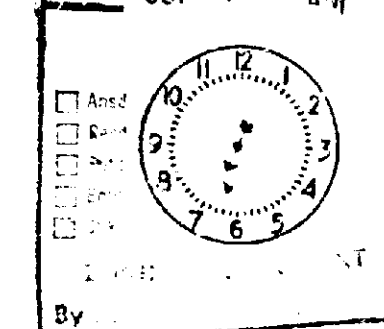
I HEREBY CERTIFY that on this 17th day of October, 1985, a copy of the foregoing Petition of Appeal, was mailed, postage prepaid to County Board of Appeals, Room 200, Court House, Towson, Maryland 21204, Thomas J. Bollinger, Esquire, County Attorney's Office, Court House, Towson, Maryland 21204 and Mrs. Pearl Gintling, 7718 North Point Creek Road, Baltimore, Maryland 21219, Protestant.

S. ERIC DINENNA
Of Counsel for Appellant

-2-

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
October 18, 1985



Thomas J. Bollinger, Esq.
Office of Law
Court House
Towson, Md. 21204

Dear Mr. Bollinger: Re: Case No. 81-161-SPH Robert W. Love, Sr., et ux

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June W. Holmen
June W. Holmen, Secretary

Encl.
cc: Mrs. Pearl Gintling
Norman E. Gerber
James Howell
Arnold Jablon
Jean Jung
James Dyer

IN THE MATTER OF THE APPLICATION OF ROBERT W. LOVE, SR., ET UX FOR A SPECIAL HEARING TO DETERMINE A NONCONFORMING USE FOR A MARINA AND RESIDENCE, AND WHETHER EXISTING PIERS CAN BE REMOVED AND REPLACED SE/S NORTH POINT CREEK ROAD 209.30' NE OF SOUTH COVE ROAD 15th DISTRICT

ROBERT W. LOVE, SR., ET UX, PETITIONERS-APPELLANTS

ZONING FILE NO. 81-161-SPH

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

CG Doc. No. 16

Folio No. 126

File No. 85-CG-3266

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Lawrence E. Schmidt and Diana K. Vincent, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Robert W. Love, Sr., et ux, 7767 North Point Creek Rd., Baltimore, Md. 21219, Petitioners-Appellants; S. Eric DiNenna, Esq., 406 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Petitioners-Appellants; Mrs. Pearl Gintling, President, North Point Peninsula Community Coordinating Council, 7718 North Point Creek Rd., Baltimore, Md. 21219, Protestant; and Thomas J. Bollinger, Esq., Office of Law, Court House, Towson, Md. 21204, Assistant County Attorney for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June W. Holmen
June W. Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
Telephone - 494-3180

Robert W. Love, Sr., et ux
Case No. 81-161-SPH

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Robert W. Love, Sr., et ux, 7767 North Point Creek Rd., Baltimore, Md. 21219, Petitioners-Appellants; S. Eric DiNenna, Esq., 406 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Petitioners-Appellants; Mrs. Pearl Gintling, President, North Point Peninsula Community Coordinating Council, 7718 North Point Creek Rd., Baltimore, Md. 21219, Protestant; and Thomas J. Bollinger, Esq., Office of Law, Court House, Towson, Md. 21204, on this 18th day of October, 1985.

June W. Holmen
June W. Holmen
County Board of Appeals of Baltimore County



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

October 18, 1985

S. Eric DiNenna, Esq.
406 W. Pennsylvania Ave.
Towson, Md. 21204

Dear Mr. DiNenna: Re: Case No. 81-161-SPH Robert W. Love, Sr., et ux

In accordance with Rule B-7 (c) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June W. Holmen
June W. Holmen, Secretary

Encls.
cc: Robert W. Love, Sr., et ux

October 18, 1985

BILLED TO: S. Eric DiNenna, Esq.
406 W. Pennsylvania Ave.
Towson, Md. 21204

Cost of Certified Documents in Case No. 81-161-SPH \$36.00
Robert W. Love, Sr., et ux
SE/s North Point Creek Rd.
209.30' NE of South Cove Rd.
15th District

MAKE CHECKS PAYABLE TO: Baltimore County, Maryland

SENT TO: County Board of Appeals
Rm. 200, Court House,
Towson, Md. 21204

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCIAL SERVICES DIVISION
MISCELLANEOUS CASH RECEIPT

No. 85192

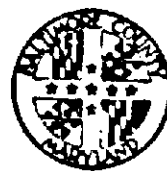
DATE Nov. 16, 1985 ACCOUNT 01.712

AMOUNT \$ 36.00

RECEIVED FROM S. Eric DiNenna, Esq., 406 W. Penna. Ave. (21204)
for Certified documents, Case No. 81-161-SPH
Robert W. Love, Sr., et ux

B 8125*****36601a =156F

VALIDATION OR SIGNATURE OF CASHIER



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

September 20, 1985

S. Eric DiNenna, Esquire
406 W. Pennsylvania Avenue
Towson, MD 21204

Re: Case No. 81-161-SPH
Robert W. Love, Sr.

Dear Mr. DiNenna:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secy.

Enclosure

cc: Robert W. Love, Sr., et ux
Mrs. Pearl Gintling
Thomas J. Bollinger, Esquire
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer

Online's desk

IN THE MATTER OF THE APPLICATION OF ROBERT W. LOVE, SR., ET UX FOR A SPECIAL HEARING TO DETERMINE A NONCONFORMING USE FOR A MARINA AND RESIDENCE, AND WHETHER EXISTING PIERS CAN BE REMOVED AND REPLACED SE/S NORTH POINT CREEK ROAD 209.30' NE OF SOUTH COVE ROAD 15th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
NO. 81-161-SPH

OPINION

This case comes before the Board on an appeal from the Opinion and Order of the Zoning Commissioner, dated July 29, 1983. In his Order, the Zoning Commissioner denied the petition of Robert Love for a special hearing and held that a nonconforming use for a marina and residence did not exist. Further, the Zoning Commissioner ordered that the existing piers on the subject property could not be replaced. Although the decision of the Zoning Commissioner was published in 1983, the case was not heard by this Board until August 7, 1985. This delay was caused by postponements, two resulting from changes in the counsel representing the Petitioner and also from the Petitioner's poor health.

Before reviewing the testimony of this case, an understanding of the geography of this area is in order. The Petitioner resides in the development known as "Lodge Forest". His waterfront property is located at the point where Long Cove and North Point Creek come together. His lot is bordered by Long Cove on the north and North Point Creek on the east. There seems little dispute among all concerned that the Petitioner has kept

ROBERT W. LOVE, SR. - #81-161-SPH

2.

his boat, and those of his tenants, tied to the piers extending into North Point Creek. The issue involves the Petitioner's use of the waterfront on Long Cove. On that frontage, the Petitioner wishes to replace several piers to upgrade his marina operation. The length of time his operation has existed and the nature of the operation itself are in dispute.

Before this Board and in support of his petition, Robert Love testified. He stated that he has owned the property since 1951 but has been familiar with it since the 1940's. The sum and substance of his testimony was that since at least 1945, recreational boats have been launched from and moored at the Long Cove waterfront side of this property. Further, said use has been consistent and continuous and was never abandoned. The Petitioner further testified that his petition seeks to change and improve the configuration of the existing piers. The current piers, due to normal wear and tear, need replacing. Under the proposal, the existing two piers will be replaced by two new piers. The new configuration will be parallel to the property as opposed to the current perpendicular alignment, and the total length will be 418 feet as opposed to the present 408 feet. This will allow pier access to deeper water.

Two witnesses appeared on behalf of the Petitioner, Robin Skanda and David Jonah. Ms. Skanda, the granddaughter of Mr. Love, testified as to the continued marina use during her memory (20 years), and Mr. Jonah

ROBERT W. LOVE, SR. - #81-161-SPH

3.

testified as to need for this facility.

In opposition to the petition, numerous neighbors appeared and/or testified at the hearing. These included long time residents on both the north and south shore of Long Cove. Additionally, a petition in opposition to the proposal was presented by a resident from across North Point Creek. Many of these witnesses were long time residents of this locale. These witnesses were consistent in their testimony that the first use of this property by nonresidents to lease slips and moor their boats was in the early 1960's. Prior to that time, they testified, there was no boat storage on the Long Cove side of the subject property. Rather, this portion of the waterfront was used for swimming by residents of the area.

In addition to the testimony, there were a number of exhibits presented to the Board, including numerous photographs of the property taken over the years. Also introduced were affidavits and letters from individuals familiar with the property. These photos and correspondence were conflicting as to when boats were first stored on the property.

Also of note is the Zoning Commissioner's file, #65-12-V. This file involves a complaint by neighbors about the property which was made in 1964. Notes Zoning Commissioner Rose in his Opinion of August 5, 1964: "The testimony indicated that some boats have been stored at the subject property for some years". Regretfully, further definition of this period is not

ROBERT W. LOVE, SR. - #81-161-SPH

4.

provided.

However, after reviewing all of the evidence, we find, as a matter of fact, that the current marina use commenced on or about 1960. In our view, the Petitioner has not produced sufficient testimony to support his contention that the present use existed prior to 1945.

Notwithstanding this finding, the Petitioner argues that because of the evolution of Baltimore County zoning law, the critical date in determining whether a nonconforming use exists should be 1963. Baltimore County zoning regulations were first passed in 1945. Later, in 1955, a comprehensive recodification of the zoning regulations was passed. However, it was not until 1963 that the use of property as a marina was defined (See §101, Baltimore County Zoning Regulations). Consequently, the Petitioner argues, the critical date for establishing a nonconforming use should be 1963, when this use was first defined.

We reject this argument. In Phillips vs. Zoning Commissioner of Howard County 225 Md 102, 169 A 2d 410 (1961) a similar situation existed. There, zoning regulations were first promulgated in 1948. At that time, the term "junk yard" was not defined. This definition was added in 1954. In its Opinion, the Court of Appeals noted the critical date for establishing a nonconforming use was 1948. This reasoning was later repeated by the Court in Arundel Corp. vs. Board of Zoning Appeals of Howard County 255 Md 78, 257

ROBERT W. LOVE, SR. - #81-161-SPH

5.

A 2nd 142 (1971).

Therefore, based upon our finding that this use did not exist prior to 1945 we hold that the Petitioner has not established a nonconforming use and, therefore, we must order that the petition for a special hearing for the marina must be denied.

The Board also notes that in his petition the property owner seeks a nonconforming use for a residence on the subject site. Based upon the uncontradicted evidence and testimony presented; that two dwellings have existed on this site since the early 1940's, we believe that a nonconforming use exists and the special hearing for a residence should be granted, and will so order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 20th day of September, 1985, by the County Board of Appeals, ORDERED that the nonconforming use for a marina is not approved and that the existing piers cannot be replaced, nor is any marina use approved; and

IT IS FURTHER ORDERED that the nonconforming use for a residence is approved. Therefore, the petition for a special hearing is hereby GRANTED IN PART and DENIED IN PART.

ROBERT W. LOVE, SR. - #81-161-SPH

6.

Any appeal from this decision must be in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

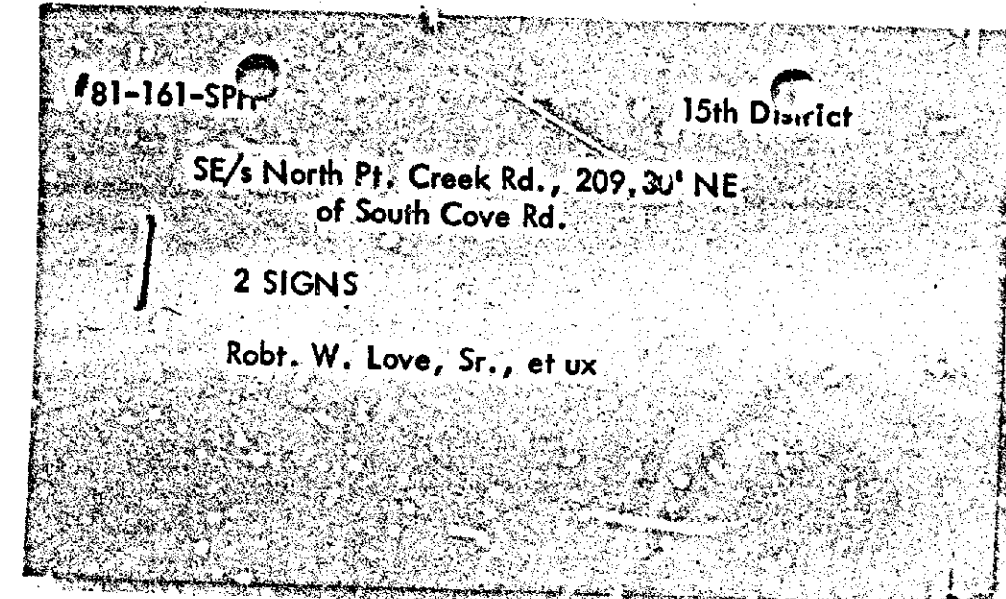
William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt
Lawrence E. Schmidt

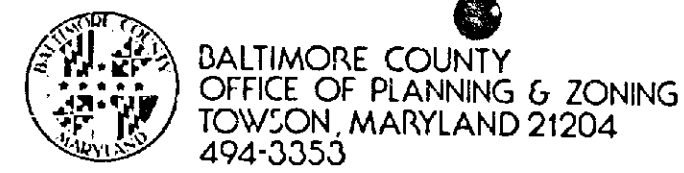
Diana K. Vincent
Diana K. Vincent

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

Date of Posting: 9/23/85
Petitioner: Robert W. Love, Sr.
Location of property: 209.30' NE of South Cove Road, 15th District
Location of Sign: 15th District
Remarks: Petitioner's appeal from the Board's decision dated 9/20/85.
Number of Signers: 2



MICROFILMED



ARNOLD JADION
ZONING COMMISSIONER

August 12, 1983

Mrs. Pearl Gintling, President
North Point Peninsula Community
Coordinating Council
7718 North Point Creek Road
Baltimore, Maryland 21219

Re: Petition for Special Hearing
SE/4 of North Point Creek Road,
209.30' NE of South Cove Rd.
Robert W. Love, Sr., et ux - Petitioners
Case No. 81-161-SPH

Dear Mrs. Gintling:

Please be advised that an appeal has been filed by the petitioners' attorneys, Robert J. Romadka and John B. Gontrum, from the decision rendered by the Zoning Commissioner of Baltimore County, in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the County Board of Appeals.

Sincerely,

Arnold Jasion
Arnold Jasion
Zoning Commissioner

AJaj

cc: John W. Hessian, III, Esquire
People's Counsel

MICROFILMED

PETITION FOR SPECIAL HEARING * BEFORE THE
SE/4 of North Point Creek Rd. * ZONING COMMISSIONER
209.30' NE of South Cove Road *
15th Election District * OF
Robert W. Love, Sr., et ux * BALTIMORE COUNTY
Petitioners *
No. 81-161-SPH (Item No. 115) *

ORDER FOR APPEAL

Mr. Commissioner:

Please note an appeal from your decision in the above-entitled matter under date of July 29, 1983 to the County Board of Appeals.

John B. Gontrum
JOHN B. GONTRUM
ROMADKA, GONTRUM, HENNEGAN & FOOS
809 Eastern Boulevard
Baltimore, Maryland 21221
686-8274
Attorney for Petitioners

I HEREBY CERTIFY that on this 11th day of August, 1983, a copy of the foregoing was mailed to John W. Hessian, III, People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204.

John B. Gontrum
JOHN B. GONTRUM

BALTIMORE COUNTY, MARYLAND No. 119466
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

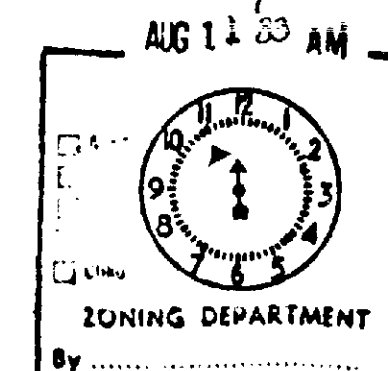
DATE 8/11/83 ACCOUNT WE A-01-615-000

AMOUNT \$85.00

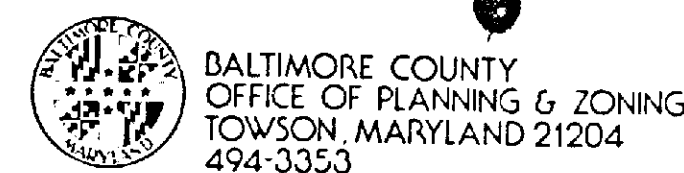
RECEIVED FROM John B. Gontrum, Esquire
FOR Appeal fee on Case 81-161-SPH
(Robert W. Love, Sr., et ux)

6 668*****855000 5122A

VALIDATION OR SIGNATURE OF CARRIER



MICROFILMED



WILLIAM E. HAMMOND
ZONING COMMISSIONER

July 29, 1983

Robert J. Romadka, Esquire and
John B. Gontrum, Esquire
Germania Federal Building
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petition for Special Hearing
SE/4 of North Point Creek Road,
209.30' NE of South Cove Road -
15th Election District
Robert W. Love, Sr., et ux -
Petitioners
NO. 81-161-SPH (Item No. 115)

Gentlemen:

I have this date passed my Order in the above referenced matter in accordance with the attached.

Very truly yours,

William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

WEH/srl

Attachments

cc: Mrs. Pearl Gintling, President
North Point Peninsula Community
Coordinating Council
7718 North Point Creek Road
Baltimore, Maryland 21219

John W. Hessian, III, Esquire
People's Counsel

MICROFILMED

RE: PETITION FOR SPECIAL HEARING : BEFORE THE
SE/4 of North Point Creek Road, : ZONING COMMISSIONER
209.30' NE of South Cove Road - :
15th Election District : OF
Robert W. Love, Sr., et ux - :
Petitioners : BALTIMORE COUNTY
NO. 81-161-SPH (Item No. 115) :
::: :::

The petitioners herein, Robert W. Love, Sr. and Isabel Love, seek to establish the existence of a nonconforming use for a marina and residence on the subject property, zoned D.R. (Density, Residential) 5.5, and to determine whether the existing piers can be removed and replaced. The instant hearing was precipitated by a complaint of an alleged zoning violation occurring on property known as 7767 North Point Creek Road. As a result of a hearing (Case No. 81-68-V), it was determined that the matter would be held sub curia pending a decision regarding the existence of a nonconforming use.

A review of the Zoning Office records disclosed that on May 25, 1964, Richard H. Daffron alleged that "...more than six boats of all sizes are now docked at this address [7765 North Point Creek Road]..." and that "...there is evidence of a commercial operation..." (Petitioners' Exhibit 1 - Case No. 65-12-V). The Buildings Inspector Zoning Report dated June 17, 1964, stated the nature of the violation was "Using [r]amp + storage of boats" and under comments stated:

"I talked to Mr. Love regarding the alleged violation. Mr. Love stated they they are not doing any work on the boats and that there has not been too many boats stored [W]ould like to have a hearing so that he would know exactly what he can do there."

The Complaint Form dated June 10, 1964, purported to be signed by Inspector Richardson on June 17, 1964, indicated that Mr. Daffron requested a recheck of the property "...as more than six boats of all sizes are not docked at this address..." and alluded to a photograph as being attached to a letter. On August 5, 1964, the then Zoning Commissioner, John G. Rose, rendered a decision which stated, in part:

"The testimony indicated that some boats have been stored at the subject property for some years. However, Captain Robert W. Love is hereby directed that he is not to make any repairs except on his own boats. Only tenants that may rent or sub-rent the property from Captain Love may repair boats at the subject property. Captain Love is

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, PA
JAMES L. MANN, JR., PA
GEORGE A. BRESCHI, PA

406 WEST PENNSYLVANIA AVE
TOWSON, MARYLAND 21204
(301) 296-6820

ROBERT A. BRESCHI

December 3, 1985

Chairman
County Board of Appeals
Court House
Towson, Maryland 21204

RE: Case No. 81-161-SPH
Robert W. Love, et ux.
Special Hearing

Dear Mr. Chairman:

In am receipt of the certificate of copies of the proceedings forwarded to the Circuit Court for Baltimore County with reference to the above-captioned matter. I note that the file of the Zoning Commissioner was not forwarded, and in accordance with your rules, that file became a part of your record without an objection being made to it.

Accordingly, I would respectfully request that a copy of that file with all exhibits be forwarded to the Circuit Court for this Appeal to be heard in totality.

By copy of this letter, I am advising Mr. Thomas J. Bollinger, attorney for the County, and if he has any problem with reference to this, I would ask that he contact us immediately.

Thank you for your cooperation and if you have any questions concerning this matter, do not hesitate to call upon me.

Very truly yours,

S. Eric Dinenna
S. ERIC DINENNA

SED:bk
cc: Thomas J. Bollinger, Assistant County Attorney
Mr. Robert Love, Sr.

MICROFILMED

ORDER RECEIVED FOR FILING

DATE July 29, 1983
BY *John W. Hessian*
ADMINISTRATIVE ASSISTANT

- 2 -

MICROFILMED

ORDER RECEIVED FOR FILING

DATE July 29, 1983
BY *John W. Hessian*
ADMINISTRATIVE ASSISTANT

MICROFILMED

- 3 -

ROBERT W. LOVE, SR. * BEFORE THE
and * ZONING COMMISSIONER
ISABEL LOVE, his wife * OF BALTIMORE COUNTY
SE/S NORTH POINT CREEK ROAD * Case No. 81 161 SPH
209.30' NE of S. COVE ROAD *
* * * * *

STATEMENT OF THE CASE

This case arises from a Petition for Special Hearing filed by Robert Love, Sr. and Isabel Love, his wife, to establish a non-conforming use for a marina and residence at property known as 7767 North Point Creek Road. The property was posted with notice of the hearing and publication was made. Testimony was taken and exhibits were introduced at a hearing in March before the Zoning Commissioner. A subsequent hearing was held in April to introduce aerial photographs of the property.

STATEMENT OF FACTS

The subject property is described as Lot 773 of the Revised Plat. of Lodge Forest, recorded among the Land Records of Baltimore County in Plat. Book 8, pages 86-87. The waterfront site is located at the termination of North Point Creek Road into Long Cove and is situated at the junction of Long Cove and North Point Creek. See Petitioner's Exhibits 3 and 4.

The site is improved by two residences and a gravel parking area. A bulkhead extends along the waterfront of the property. Seven piers or catwalks extend from the property into Long Cove. These piers vary in size. A concrete boat ramp goes into Long

ROBERT J. ROMADKA
ATTORNEY AT LAW
BETHESDA, MARYLAND

MICROFILMED

Cove. An L-shaped pier extends from the subject property into North Point Creek.

Long Cove has become very shallow in recent years. On some days the wind blows the water completely out of the creek. On other days at low tide the bulkhead is entirely exposed and the bottom extends out for several feet from the shore. Heavy siltation within the past several years has caused the bottom to slope very gradually so that in some places the shallow water of less than a foot extends out from the shore for ten yards. It simply is not possible to anchor boats safely in such shallow water.

During the 1940's and 1950's Long Cove was much deeper. Small craft could be run up on the beaches before construction of the bulkhead. Larger craft would anchor to stakes located on a sand bar at the mouth of Long Cove. People would then wade to shore or be taken to shore in small dinghies. The sand bar can be seen in the 1955 picture taken for Baltimore County. (Pet. Ex. 8). After the bulkhead was erected, boats were tied directly to it. There was sufficient depth along the length of the shoreline to accommodate small craft at the bulkheads. Larger craft could tie up at one of the piers along the shore. As the pictures taken in May, 1980 illustrate, however, the piers at their current length now do not provide sufficient depth for the safe docking of larger boats. (Pet. Ex. 1a-f).

At the hearings Petitioners presented the testimony of Mr. Love, Mr. Fisher and Mr. DeArment. Mr. Love testified that he and his wife purchased the property in 1951. He was familiar with the site for several years prior to his purchase of it.

MICROFILMED

ROBERT J. ROMADKA
ATTORNEY AT LAW
BETHESDA, MARYLAND

He testified that prior owners had kept others' boats for hire and had rented out boats. After 1951 he ran a charter fishing service from the site and continuously allowed others to store their boats at the site for a slight fee. Furthermore, he leased the residence on the site to a family which conducted crabbing operations from the property and from time to time the boats of other crabbers would be stored on the site. At no time did Mr. Love permit boat repairs to be made.

Over the years the number of boats stored at the site varied. Sometimes boats would be left for a season. Other times boats would be left for shorter periods. Obviously, the marina use was seasonal with more boats stored in the water during the summer than during the winter months. There were always a few boats kept on shore. Mr. Love also testified that over the years the boats had been located along the entire shoreline of the property. Piers extend out from the corners of the property, and it was his recollection that the property had always been utilized to this degree.

Mr. Love further testified with respect to the gradual siltation of the river and the need to effectively "move the shoreline out" by building longer piers to reach deeper water. In June, 1980 he applied to the Army Corps of Engineers for permits to rebuild and replace existing piers out into deeper water so that the original capacity of the piers and shoreline could be utilized. Due to the shallowness of the water along the bulkhead it could no longer be used to tie up boats. The design of the new piers did no more than delineate the same use that had always existed on the property. Mr. Love testified that from time to

ROBERT J. ROMADKA
ATTORNEY AT LAW
BETHESDA, MARYLAND

MICROFILMED

time as many as twenty-some boats may have used the shoreline and piers to dock. Since the purchase of the property by Mr. Love, he testified this use had been continuous and uninterrupted.

Mr. Fisher testified that he had been a resident of Long Cove since 1935. He lives several houses down from the subject property on the same side of the cove. He testified that over the years the waterway has become more shallow rendering much of the shoreline useless for docking. He recalled when boats had been tied to stakes offshore of the Love property prior to the construction of the bulkhead and people waded to shore. He testified that for as long as he could recall, but since before 1945, the Love property had been used to store boats. From time to time numerous boats would utilize the property as a marina.

Mr. DeArment testified that he had once rented a fishing boat from a previous owner of the property in the early 1940's. At that time there were several boats kept on the property for rental. He too testified with respect to the current problems with shallow water and the need to extend the piers out further.

Petitioner's Exhibits not only show the current state of the property (Ex. 4) and the current proposals for it (Ex. 2, 3) but also depict and describe the prior use of the property. Exhibit 1 for Petitioners, the 1964 zoning violation file, reflects the fact that at that time the property was used extensively for a marina. The case was started by a complaint from Mr. Daffron, a Protestant at this hearing, who testified with respect to the storage of boats on the property and in the water. The file reflects that Mr. Love requested a hearing to settle the

MICROFILMED

ROBERT J. ROMADKA
ATTORNEY AT LAW
BETHESDA, MARYLAND

-5-

permissibility of the use. Zoning Commissioner Rose apparently found the marina use acceptable but forbade any use of the property as a boatyard.

Petitioner's Exhibit 5, an aerial photograph, dated April 1, 1955, taken for Baltimore County, depicts the property as described by the testimony of Mr. Love with the ramp, bulkhead and pier into the cove and another pier into North Point Creek. The picture also shows the sand bar by the light-colored water at the mouth of Long Cove.

Protestants, all of whom live on the opposite side of Long Cove from the Love property, testified that it was not until the late 1950's-early 1960's that a bulkhead and pier was built on Long Cove. Mr. Daffron testified that there was no such construction until around 1960. He introduced four photos. Exhibit 2A was taken in 1947, and it appears to indicate a pier and ramp into Long Cove. Two 1955 pictures (Ex. 2B, D) also appear to indicate two piers or catwalks and a ramp into Long Cove. Mr. Daffron admitted the early existence of a ramp on Long Cove.

Mrs. Godwin also introduced pictures taken in the 1950's indicating several piers and boats in Long Cove. (Ex. 3A, 3C). She testified, however, that there were no boats, no ramp, and no piers on the property until the 1960's. Mrs. Godwin's pictures also appear to depict stakes in the water off the sand bar near the Love property.

Mrs. Gettling initially testified that there was no construction at all from the Love property into Long Cove until the 1960's. She later conceded that the picture exhibits might show

MICROFILMED

ROBERT J. ROMADKA
ATTORNEY AT LAW
BETHESDA, MARYLAND

-6-

construction in Long Cove earlier than her recollection allowed.

DISCUSSION

I. HAVE PETITIONERS ESTABLISHED THE EXISTENCE OF A NON-CONFORMING USE OF A MARINA IN A RESIDENTIAL ZONE?

Petitioners have established the continuous and uninterrupted existence of a marina use on the subject property since the early 1940's. The Baltimore County Zoning Regulations, herein-after cited as B.C.Z.R. define a non-conforming use as follows:

"A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A nonconforming use is one which is established prior to the date of the ordinance and is a nonconforming use."

Section 104.1 of the Zoning Regulations further states: "A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming use is damaged by fire or other casualty, the structure shall be replaced within a period of six months at a cost of seventy-five (75) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereinafter be extended more than 25% of the ground area of buildings so used."

Council Bill No. 18-76, Sec. 3.

Council Bill No. 18-76, Sec. 5.

The first Zoning Regulations in Baltimore County were enacted in 1945. Any use in existence prior to the 1945 enactment of the Zoning Regulations became a lawful use, either permitted by the

MICROFILMED
ROBERT J. ROMADKA
ATTORNEY AT LAW
BETHESDA, MARYLAND

B.C.Z.R. or by non-conforming use provisions.

Although non-conforming use provisions have existed since the enactment of comprehensive zoning, definitions of marina and boatyard uses have not always existed. In fact, it was not until 1963 that the marina definition became a part of the Zoning Regulations. Section 13.18 of the 1945 B.C.Z.R. stated that a special permit was needed for boatyard operations in a residential zone. No definition was given for the term "boatyard." No mention was made of a marina use.

In 1955 the B.C.Z.R. were substantially revised. Special exceptions were established in addition to uses permitted as of right in various zones. Boatyards were permitted by special exception in residential zones along with marine railways. Neither "boatyards" nor "marina" were defined in the regulations. Section 200.6 of the B.C.Z.R. did, however, permit as of right in any residential zone any "community building, swimming pool, or other structural or land use devoted to civic, social, recreational and educational activities of the community."

County Council Bill 64, enacted in 1963, also revised the B.C.Z.R. The current definitions of "boatyard" and "marina" were added. Residential zones permitted marina and boat yard uses by special exemption. The lists of permitted uses and uses allowed by special exception were particularized. Section 200.6 was deleted. Currently a "boat yard" is defined as:

"A commercial or non-profit boat basin with facilities for one or more of the following: sale, construction, repair, storage, launching, bathing, securing, fueling and general servicing of marine craft of all types."

ROBERT J. ROMADKA
ATTORNEY AT LAW
ESSEX, MARYLAND

A "marina" is defined as:

"A modern Boat basin, restricted to recreational marine craft of all types, with facilities for one or more of the following: bathing, launching and securing such craft, and permitting incidental minimum provision for refueling and emergency servicing and also land (out-of-water) storage as provided in subsection 417.7."

In Zoning Case No. 65-12-V Zoning Commissioner Rose knew of these regulations when he considered the property of the Love marina. The notes made by Commissioner Rose indicate that there was considerable evidence produced by the Zoning Inspector and by Mr. Daffron indicating the presence of a marina use on Mr. Love's property. Mr. Love did not deny that he rented space for boats but did deny that he operated a boat yard. No repairs were made on the premises to any of the tenants' boats. The property never accommodated a marine railway. The hearing on the marina use violation had been sought by Mr. Love in order to establish the legality of the operation.

Commissioner Rose clearly felt that the marina operation constituted a non-conforming use. At the time of the hearing, the B.C.Z.R. did not permit a marina use in the zone except by special exception. No special exception had been granted to the property to that time. Only by acceptance of the non-conforming use could Commissioner Rose permit Mr. Love to allow others to keep their boats on the subject property. Commissioner Rose, of course, permitted the marina operation to continue.

The opinion of the Zoning Commissioners in Case No. 65-12-V is entitled to great weight in this case. The parties in that case are essentially the same as the parties before the

ROBERT J. ROMADKA
ATTORNEY AT LAW
ESSEX, MARYLAND

Commissioner in this case. The evidence of marina use was clear and uncontroverted. Certainly, Commissioner Rose was familiar with the recent amendments to the Zoning Regulations, and the order had to be issued with those regulations in mind.

There is no dispute that in 1964 Mr. Love kept as many as twenty boats in and about the property. Numerous piers extended into Long Cove and boats were berthed both along these piers and at the bulkhead. Mr. Love's testimony in this regard is corroborated both by the photos and by Protestants' testimony. Everyone agrees, moreover, that since 1964 marina use of the property has been continuous and uninterrupted.

There also is unanimous agreement that even prior to the 1963 zoning law change, Mr. Love had full facilities and utilized same for a marina. The operation extended over the entire shore line of the property. His facilities did not encompass the business of a boat yard but rather were intended to serve the recreation and social needs of the public. The facilities clearly seem to fall within the permitted use of Section 200.6. The definition of "marina" in 1963 echoes the theme of public recreation as opposed to the more commercial intent of a boat yard facility. There is no prohibition against a public facility of this type in either the 1955 or in the 1945 Zoning Regulations. For this reason, therefore, proof of the existence of marina use need only have been produced with respect to the premises antedating the 1963 amendments in Bill No. 64. The key dates, therefore, for the determination of the existence of a non-conforming use are the date of enactment of Bill No. 64 and the

ROBERT J. ROMADKA
ATTORNEY AT LAW
ESSEX, MARYLAND

date of Commissioner Rose's order when a non-conforming use was found to exist.

The testimony and the exhibits introduced at the hearings, however, indicate the existence of a continuous marina use even prior to 1945. The testimony of Mr. Love, Mr. Fisher, and Mr. DeArment to this fact was wholly consistent. Their testimony was supported by every piece of documentary and photographic evidence introduced at the hearing. Boats were rented from the premises prior to 1945; boats were stored both in the water and on land prior to 1945, and the use has without interruption continued since that time.

Protestants' testimony was confused. Their recollections varied and were contradicted by the pictures they introduced. Protestants were confused over the nature and extent of the facilities and over the location of them. They disputed the clear evidence of their own photographs. Admittedly, it is not critical whether a ramp was built in 1950 or not, but what weight can be given to testimony that adamantly states that something is not so, when the very photo evidence on which they rely, shows its existence? Mr. Love and the witnesses who appeared on his behalf gave testimony consistent with all the evidence.

Petitioners' evidence must also be reviewed favorably with respect to the extent of the use and with the extent of the facilities. The entire shoreline of the property has been used consistently for the mooring of boats. The number of boats varied from warm months to cold months and from week to week. Sometimes as many as twenty or more craft would utilize the facilities. The capacity of the facilities, however, has remained constant even as they have changed in form to compensate for the changing depth of water in the cove.

ROBERT J. ROMADKA
ATTORNEY AT LAW
ESSEX, MARYLAND

11. DOES A NON-CONFORMING USE ALLOW PETITIONERS TO REPAIR AND REPLACE EXISTING FACILITIES?

The repair and replacement of existing piers, catwalks and bulkhead in no way augments the scale of existing facilities and is permitted as part of a non-conforming use. It was not disputed at the hearing that the present catwalks, piers and the old bulkhead were in poor condition. Certainly, the May 1980 photographs are conclusive on this point. There also was no real dispute over the fact that Long Cove has become very shallow along Mr. Love's shoreline in recent years. The declining depth of water has endangered many of the boats moored to the existing catwalks and piers.

As depicted on Petitioners' site plan, the proposed new piers only would move the existing shoreline out to deeper water. They would also improve the appearance and make safer the existing approaches to the vessels in the water. The Petitioners, of course, are restricted to the use and operation depicted in the site plan. No more boats than indicated in the site plan are permitted.

The proposed piers do not add to the capacity of the property or constitute an otherwise impermissible expansion of the use. Over the years the entire shoreline of the property has been utilized as boats either tied up to the bulkheads, or to one of the piers located from end to end along the property of moored offshore. The use of the property has encompassed the entire property. This is not a case where over the years or by one particular pier has been used and now a new pier is constructed in addition; is this a case where an existing building is being enlarged? Mr. Love merely proposes to continue the access to the property that has always existed.

There is a distinction to be made between structures which constitute a use such as garages, warehouses, etc. and piers

ROBERT J. ROMADKA
ATTORNEY AT LAW
ESSEX, MARYLAND

or bulkheads which merely provide access to the use. The use in this case of a marina is the rental of space. Mr. Love and his predecessors have provided space for twenty-plus boats for years. He has not expanded on the capacity of the shoreline of the property. The use would intensify with seasonal changes. The capacity, however, has never changed. The proposed piers in design and intent merely move the shoreline out into deeper water to continue to provide access to the use. In this sense, therefore, the piers are not structures within the meaning of Section 104.1. Their area has no bearing on the capacity of the use itself but only on the appearance of the property and the safety of the users. By submission of the site plan, however, Mr. Love has agreed to a particular configuration and a particular maximum capacity which prevents future problems of intensification or expansion. An intensification of a non-conforming use, unless otherwise limited by a site plan, of course, is permissible so long as the nature and character of the use is unchanged and substantially the same facilities are used. See Nyburg v. Solomon, 205 Md. 150, 106 A.2d 483.

The facilities for the storage of boats in the water have existed prior to 1945. Over the years as storms have ravaged the shoreline, timbers, posts and boards have been replaced in the interest of appearance and safety. This is all that is now proposed. Section 104.1 does not address itself to the maintenance of facilities other than to replacement of business or manufacturing structures after 75% destruction. No such facilities are here at issue. These are still recreational facilities and Section 104.1 is pointed in its limiting wording. The proposed facilities should enhance the appearance of the neighborhood and conform to the residential scheme.

ROBERT J. ROMADKA
ATTORNEY AT LAW
ESSEX, MARYLAND

-13-

CONCLUSION

In conclusion, the facts of this case clearly indicate the existence of non-conforming use in accord with the site plan filed by Petitioners in this case.

Respectfully submitted,

Robert J. Romadka
Robert J. Romadka

John B. Gontum
John B. Gontum

cc: Mrs. Pearl Gitting

ROBERT J. ROMADKA
ATTORNEY AT LAW
BALTIMORE, MARYLAND

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE
TOWSON, MARYLAND 21204
(301) 296-6820

July 25, 1985

County Board of Appeals
Court House
Towson, Maryland 21204

RE: Case No.: 81-161-SPH
Robert W. Love

Dear Mr. Chairman:

This is to advise you that by agreement with counsel for Baltimore County, Thomas J. Bollinger, Esquire, I will take the deposition of the Petitioner, Robert W. Love on Wednesday, July 31, 1985 at 4:00 P.M. in my offices located at 406 W. Pennsylvania Avenue, Towson, Maryland.

The purpose of my taking Mr. Love's deposition is because of health reasons.

By copy of this letter I am notifying Mr. Bollinger of the date and time and if there is any problem on his part with that date and time he is to contact me.

I am also notifying Mrs. Pearl Gitting, who is a witness and protestant in this matter.

No other counsel is involved in the matter and accordingly the deposition will proceed as scheduled unless I hear to the contrary from Mr. Bollinger.

Thank you for your cooperation.

Very truly yours,

S. Eric Dinenna
S. ERIC DINENNA

SED:neb
cc: Thomas J. Bollinger, Esquire
cc: Mr. Robert W. Love
cc: Mrs. Pearl Gitting
cc: Towson Reporting Company

RECEIVED
COUNTY BOARD OF APPEALS
MAY 29 P 12 05 E

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE
TOWSON, MARYLAND 21204
(301) 296-6820

May 8, 1985

Mrs. Pearl Gitting
7718 North Point Creek Road
Baltimore, Maryland 21219

RE: Robert W. Love, Sr.

Dear Mrs. Gitting:

Please refer to my letter to the County Board of Appeals dated April 25, 1985, wherein I requested you contact me so that we could discuss the above-captioned matter.

As of this date, I have not heard from you and I respectfully request that you call me so that we may discuss same by phone and possibly set up a meeting to discuss the Love matter in detail.

Thank you for your cooperation.

Very truly yours,

S. Eric Dinenna
S. ERIC DINENNA

SED:bk
cc: County Board of Appeals
Case No. 81-161-SPH

RECEIVED
COUNTY BOARD OF APPEALS
MAY 9 A 10 38

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE
TOWSON, MARYLAND 21204
(301) 296-6820

April 25, 1985

Chairman
County Board of Appeals
Room 200
Court House
Towson, Maryland 21204

RE: Robert W. Love, Sr., et ux.
Special Hearing
Case No.: 81-161-SPH

Dear Mr. Chairman:

Please enter my appearance on behalf of the Petitioner, Robert W. Love, Sr. and wife concerning the above-captioned matter.

This is to advise you that I have just been retained concerning this matter and that Mr. Nowicki is no longer counsel for the Loves.

This matter is set for Tuesday, May 7, 1985, at 10:00 a.m.

I must respectfully request a postponement of that hearing on that date inasmuch as my appearance is just being entered as new counsel for the Loves. I am aware that this matter has been postponed several times in the past but I would like the opportunity to prepare adequately in order to represent the Loves as well as contact Ms. Gitting, Protestor in this matter so that we may discuss this matter prior to hearing.

Accordingly, I respectfully request this postponement and am willing to set this matter back in as soon as possible within the next several months so the matter is no longer delayed. Accordingly, if the Chairman does postpone this matter, would he be so kind as to have his office contact me so that a new date can be set for the convenience of all parties.

9/1/85

DINENNA, MANN & BRESCHI
Attorneys at Law

Chairman
County Board of Appeals
Page 2
April 25, 1985

I appreciate your cooperation in this matter.

Very truly yours,

S. Eric Dinenna
S. ERIC DINENNA

SED:bk
cc: John Nowicki, Esquire
Mr. and Mrs. Robert W. Love, Sr.
Mr. Thomas Bollinger
Mrs. Pearl Gitting
P.S. Mrs. Pearl Gitting
Dear Mrs. Gitting:

Would you be so kind as to call me upon receipt of this letter so that I may discuss this matter with you. I appreciate your cooperation. S. Eric Dinenna

RECEIVED
COUNTY BOARD OF APPEALS
MAY 29 A 10 44

JOHN W. NOWICKI
ATTORNEY AT LAW

JOHN W. NOWICKI
RICHARD V. LYNAS
BARBARA P. PINKERTON

EDGEMERE OFFICE
6916 NORTH POINT ROAD
BALTIMORE CO. MD. 21219
477-8400

February 19, 1985

BEL AIR OFFICE
321 S. MAIN STREET
BAL AIR, MD. 21014
879-0026

County Board of Appeals of Baltimore County
Room 200
Court House
Towson, Maryland 21204

RE: Robert W. Love, Sr. et ux
Case No. 81-161-SPH
Hearing Date: March 7, 1985 at 10:00 A.M.

Dear Sir/Madam:

This letter is written to respectfully request a postponement of the above referenced matter for the date and time noted above as a result of my client's continuing medical problems noted in my letter to you of January 4, 1985.

When I originally requested a postponement of this case for January 22, 1985 I was under the impression that my client's condition would improve in the immediate future and that there would be no problem with going forward at the next regularly scheduled hearing.

Unfortunately, such is not the case. I have this date confirmed with Dr. Feliciano my client's medical problems both with respect to the diabetes and swollen legs and lung problems.

Mrs. Love's condition has remained the same with respect to emphysema, being on oxygen with only Mr. Love to care for her at the house.

I realize that the County Board of Appeals must move cases along however I would wish to point out that these are medical problems totally beyond the control of either of my clients, who are both elderly.

For the reasons noted herein I would respectfully request consideration of this request. Dr. Feliciano has indicated that through continued treatment their condition should improve in the immediate future.

Sincerely,

John W. Nowicki
John W. Nowicki

JWN/cw
cc: Thomas J. Bollinger, Esquire

RECEIVED
COUNTY BOARD OF APPEALS
MAY 20 P 4 13

JOHN W. NOWICKI
ATTORNEY AT LAW

JOHN W. NOWICKI
RICHARD V. LYNAS
BARBARA P. PINKERTON

EDGEMERE OFFICE
6916 NORTH POINT ROAD
BALTIMORE CO. MD. 21219
477-8400

January 4, 1985

County Board of Appeals of Baltimore County
Room 200
Court House
Towson, Maryland 21204

RE: Robert W. Love, Sr. et ux
Case No. 81-161-SPH
Hearing Date: January 22, 1985 at 10:00 A.M.

Dear Sir/Madam:

This letter is written to respectfully request a postponement of the above referenced matter for the date and time noted above as a result of my client's currently having severe health problems.

At this time he is being treated by Dr. Hector Feliciano for both diabetes and lung problems causing shortness of breath. One of his legs is swollen, which also has a plate in it as a result of prior surgery, and he is barely able to walk.

I also wish to advise you that Mrs. Love is experiencing severe medical problems as a result of emphysema. She is not able to go out of the house at this time and is on oxygen. Mr. Love is the only one able to care for her at the house.

I would appreciate your consideration regarding this request. Hopefully my clients will improve their medical condition in the immediate future.

Sincerely,

John W. Nowicki
John W. Nowicki

JWN/cw
cc: Thomas J. Bollinger, Esquire

RECEIVED
COUNTY BOARD OF APPEALS
MAY 20 P 3 01

JOHN W. NOWICKI
ATTORNEY AT LAW

JOHN W. NOWICKI
RICHARD V. LYNAS

EDGEMERE OFFICE
6916 NORTH POINT ROAD
BALTIMORE CO. MD. 21219
477-8400

October 10, 1984

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204

RE: Case No. 81-161-SPH
Robert W. Love, Sr.
Trial Date: October 17, 1984
81-68-V, C-80-806

Dear Sir/Madam:

Please enter the appearance of John W. Nowicki as attorney on behalf of Robert W. Love, Sr.

Also, I would respectfully request a postponement in the above referenced matter as a result of my having a jury trial, Rease, et al vs. Dean, case no. 83-L-1636/150/14 scheduled in the Circuit Court for Baltimore County for October 16, 1984 which is scheduled for two days. I also would like more time to obtain Mr. Love's file from his prior attorney, John B. Gontum.

I would appreciate your advising me of this request at your earliest opportunity. Thank you for your cooperation.

Sincerely,

John W. Nowicki
John W. Nowicki

JWN:cw

RECEIVED
COUNTY BOARD OF APPEALS
OCT 11 A 11 51 E

MAY 20 1987

LAW FIRM
Romadka, Gontrum, Hennegan & Foos
GERMANIA FEDERAL BUILDING
808 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 886-8874

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN G. HENNEGAN
CHARLES E. FOOS, III

OF COUNSEL
ALFRED M. WALPERT

September 5, 1984

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204

Attn: William T. Hackett, Chairman

RE: Case No. 81-161-SPH
Robert W. Love, Sr. et ux

Dear Chairman Hackett:

I am in receipt of your letter of August 22nd. Please be advised that Mr. Love no longer wishes this firm to represent him in the above captioned case. I would therefore appreciate your striking our appearance in this matter.

Thank you for your attention and consideration in this matter.

Very truly yours,
John B. Gontrum
John B. Gontrum

JBG/msw

cc: Mr. Robert W. Love, Sr.

RECEIVED
COUNTY BOARD OF APPEALS
SEP 10 A 11 03

August 22, 1984

Robert J. Romadka, Esquire
John B. Gontrum, Esquire
808 Eastern Boulevard
Baltimore, MD 21221

Re: Case No. 81-161-SPH
Robert W. Love, Sr., et ux

Dear Sirs:

The above entitled case was appealed to this Board on August 11, 1983. It was scheduled for hearing on January 26, 1984 and postponed at your request for an additional thirty (30) days to allow Mr. Love to seek other counsel to represent him in this matter due to a possible conflict of interest that has recently arisen with this office continuing to represent Mr. Love.

Inasmuch as you have not struck your appearance nor has new counsel entered the case, we would appreciate your advice regarding this issue as we would like to schedule the case for hearing.

Thank you for a prompt response.

Very truly yours,

William T. Hackett
William T. Hackett, Chairman

cc: Robert W. Love, Sr.

LAW FIRM
Romadka, Gontrum, Hennegan & Foos
GERMANIA FEDERAL BUILDING
808 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 886-8874

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN G. HENNEGAN
CHARLES E. FOOS, III
JOANNE M. PINEGAN

January 6, 1984

OF COUNSEL
ALFRED M. WALPERT

William T. Hackett, Chairman
County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

Re: Robert W. Love, Sr.
Case No.: 81-161-SPH

Dear Mr. Hackett:

I have been requested by our client, Robert W. Love, Sr., to ask that the above case, now set for January 26, 1984 at 10:00 a.m. be postponed for an additional thirty (30) days to allow Mr. Love to seek other counsel to represent him in this matter due to a possible conflict of interest that has recently arisen with this office continuing to represent Mr. Love.

I will therefore await your further reply in this matter.

Very truly yours,

Robert J. Romadka
Robert J. Romadka

RJR:pr

cc: Robert W. Love, Sr.

1/9/84
10:40

Malcolm F. Spicer, Acting County Attorney
Tom Bollinger, Assistant County Attorney
August 15, 1983

Peter Max Zimmerman, Deputy People's Counsel

Robert W. Love, Sr., et ux, Petitioners - Zoning Case No. 81-161-SPH (Item 115)

It appears that this case, being a special hearing upon nonconforming use, is within the jurisdiction of your office rather than ours. We are accordingly forwarding the decision of the former Zoning Commissioner and a copy of a letter dated August 12, 1983, advising this decision has been appealed to the County Board of Appeals.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

Enclosures

cc: County Board of Appeals

PMZ:ah

Rec'd 8-15-83
2:15 PM

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

7718 North Point Creek Rd.
Baltimore, Maryland 21219
April 29, 1961 - July 13, 1961

Mr. William Hammond
Zoning Commissioner
Baltimore County Court House
Towson, Md. 21204

RE: Case No. ~~XXXXXX~~ 81-161-SPH
7767 North Point Creek Rd
Mr. Robert W. Love

Dear Mr. Hammond,

Enclosed please find the concluding statement for the above Hearing.

Since I was given the right to rebut Mr. Gontrum's concluding statement at the hearing, I would pray your indulgence in asking for an extra week in which to reply. The statement from Mr. Gontrum has come at a very inconvenient time, due to my daughters wedding this weekend.

Very truly yours,
Pearl Gintling
Pearl Gintling

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

7718 North Point Creek Rd.
Baltimore, Maryland 21219
April 29, 1961

Continuance.....

Robert Love Hearing....

Honorable Commissioner Hammond,

First of all I'd like to point out that the action taken by the residents of Long Cove and North Point Creek; and the North Point Peninsula Community Coordinating Council, was not done as a vindictive act to spite or harm Mr. Love. The residents who testified at this hearing did so to protect their homes and property values, and to preserve the residential community in which we live. Mr. Love is entirely responsible for these proceedings by his complete disregard for his neighbors and community and his contempt for Baltimore County laws concerning zoning and proper building permits. It was this attitude of "just doing whatever he pleased" instead of following proper procedures that has created this problem at 7767 North Point Creek Rd. and in Long Cove and North Point Creek.

Mr. Love's piers, not one of the structures that he has built into the waterway is legal, all built without permits. If this Marina was legal why didn't he get permits and put the piers in properly? Was it because he knew he didn't have the proper zoning? That is probably why he was trying to get away with it again this time.

While Mr. Love tries to play on our sympathy and pleads a hardship because he is elderly and has no pension, there are others with the same problem. Commissioner Hammond, if you remember, many of our witnesses were elderly residents also, and I'd like to point out that there are others of his neighbors who are not pensioned either. Mr. & Mrs. Godwin for example who testified at this hearing. They have no pension and are depending on being able to live out their remaining years in a safe, healthy, peaceful

Page 2

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

environment. A stable residential community where they rely on seafood caught through the summer to supplement their food budget. A commercial boatyard or marina here with its noise, pollution and additional water traffic would disturb all of this. It would depreciate the property value in the community and creek, and deprive these residents of the right to enjoy their waterfront property and homes.

Many of the residents who are protesting this marina classification or nonconforming use classification at the Love property are new residents who have spent in the area of \$150,000.00 to have new homes built across North Point Creek and they are very upset at the possibility of a marina in front of their homes. Two representatives of the new home owners, Mr. Lynch and Mr. Fred Meyers were at the hearing Mar. 17 but had to leave to go back to work before they had the opportunity to testify.

All of these aforementioned property owners need to be protected against the infringement of unscrupulous persons who gradually sneak in illegal operations and eventually ruin small residential communities like ours. This protection is granted under the Baltimore County Zoning Regulations.

Mr. Love's case before this Commissioner is extremely weak, in fact there was not one concrete piece of evidence presented to show the claimed nonconforming use. According to Article 1, General Provisions Baltimore County Zoning Regulations, Section 101, Definitions.. Nonconforming Use "A legal use of a building or land that antedates the adoption of these regulations and does not conform to the use regulations for the zone in which it is located (BCZR 1955) Section 104 of the same Article states, Nonconforming uses as, "A lawful nonconforming use existing on the effective date of the adoption of these regulations (March 30, 1955) may continue; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use

Page 3

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

for a period of one year or more, etc. Commissioner Hammond, I point out there was no proof that the property at 7767 North Point Creek Rd. was ever a boatyard or marina, much less proof that a continuous operation existed as stipulated by law. (Baltimore Co. Zoning Reg. section 104, Art. 1) Neither Mr. Love nor his attorney Mr. Gontrum produced a ledger, a log book, a rent receipt book or any document to substantiate his claim. They did not even present a customer to say he rented a slip, or a boat, or storage, during the time in question from 1951 to 1960. Where is the PROOF?

The witnesses who testified for Mr. Love gave no proof that Mr. Love operated a commercial boatyard or marina. I know all three of the gentlemen who testified for Mr. Love and I can understand their testifying for him. At this time I would like to comment on Mr. D'Arment's testimony. If you remember, when I questioned Mr. D'Arment about the specific period between 1951 to 1960 as to whether or not he had paid rent, or had ever seen or heard Mr. Love collect rent from anyone for storage or for renting a boat and he said, he had not. I also asked him if he had ever seen a sign on the property "Boats for Hire" or "Boat Slips for Rent", and he said that he had not. He also admitted that he did not rent a boat from Mr. Love during that time frame although he was a frequent visitor. Mr. D'Arment's testimony proved nothing except that there were boats at Loves from time to time.

The evidence that we presented makes it very clear that there was not a boatyard, marina or boat rental business at 7767 North Point Creek Rd. between 1951 when Mr. Love purchased the property, until after December of 1960 or later.

The Baltimore County Zoning Hearing File, Case #65-12-V, July 1964 from the previous hearing before Commissioner Rose, revealed several important facts. Reports in the file indicate the problem of increasing boats at

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

7767 North Point Creek Rd. began in 1962. A letter of complaint filed by Mr. Richard Daffron, May 1964, again requests an inspection of the property because of zoning violations. (2) Inspector Richardson's report shows zone classification to be R-6 which was the old residential classification (Baltimore County Zoning Reg., Artical 1 Gen. Provisions Sect. 100-3A, Bill #100,1970 Zoning classification change R-6 the old residential classification to R 5.5) This shows no commercial zoning or nonconforming use in 1964. (3) The unusual wording of Commissioner Rose's notes on the file cover reflects Mr. Love's contention that he was only allowing his neighbors and relatives to keep their boats there as a favor. As Mr. Daffron testified here, Mr. Love even came up to him after that hearing and reassured him that, that was all he intended to do. (4) The Commissioner's order, dated Aug. 5, 1964 RE: Zoning Violation #65-12-V, that Mr. Love is directed not to make repairs except on his own boat and also directed to keep the number of visitors to a reasonable minimum. Again according to Webster's Dictionary the word visitor means "A person making a visit- a social call." This is not a term used to describe a customer of a business. (5) Had Mr. Love's property at 7767 N. Pt. Creek Rd. complied with the Nonconforming Use Classification at the time of that hearing, Commissioner Rose would have stated so in his opinion. Since Nonconforming Use was not cited in his ruling, this gives further proof that the property did not qualify for the nonconforming use classification then, so it can not possibly qualify now.

Our next evidence was the issue of the tax records. According to the records in the Baltimore County Tax Assessment Office, the property at 7767 North Point Creek Rd. had been listed in the county tax records as a residential property until the 79/80 tax year. As pointed out in my testimony the reason the change came about then was probably because in 1978 inspectors were sent to make onsite inspections. If this was a legal marina all these

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

years, it would have been listed as such on the tax records, and Mr. Love should have been paying his just taxes.

The first pictures that we submitted, although they weren't as clear as we would have liked for them to be, we must remember, these pictures were made 20 to 30 years ago. We didn't have the highly sophisticated cameras that we have today. Those pictures were not taken for the purpose of showing Mr. Love's property, it just happened to be in the background. However the Love property does show and it is very obvious that there is no boating operation there, commercial or other wise. To further prove our point, I refer to the Aerial Photograph from the Army Corp. of Engineers (I think it's our exhibit-4). This picture shows, without a shadow of a doubt that there are two boats tied up at Mr. Love's pier as of Sept. 29, 1957. These two boats are Mr. Love's boat and the 16 ft. runabout that belonged to the Popko family. The Popko family lived at 7767 N. Pt. Creek Rd. for about ten years, from 1951 when Mr. Love bought the property, to Dec. 1960, the time so crucial to this Hearing. This photo verifies that there were no other boats at that location as the Popkos stated in their letter sent to me Feb. 8, 1981. There are no other boats in the water or on land.

Last but not least is the testimony given by the neighbors. Mr. Daffron who has lived across the creek about 350 ft. away since 6/15/45 who remembers very well the property, and who testified at the 1964 hearing. Mr. Daffron testified as he did at the original hearing, stating that Mr. Love started his boat business about 1962, after Popkos moved. He knows and again said at this hearing that there were no boats or storage rentals there at 7767 N. Pt. Creek Rd., from the time he moved in until after the 60's. The Godwins also said there was no storage or rental boats at Loves when they moved in across the creek in July 1959, and that it didn't start until a few years later. Other neighbors agree with this.

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

By the way, speaking of the neighbors reminds me of comments made by Mr. Zacharka (not sure of spelling) the last person who spoke at the hearing. Those remarks were those of an uninformed person. Had he taken the trouble to attend the Community Council's public meetings he would have known that there were 25 to 30 of Mr. Love's neighbors at our meeting that objected to his so-called marina. There are some who had to work and there are some who object but are "afraid to get involved." I think I should explain here that the North Point Peninsula Community Coordinating Council tried to take care of this issue without causing a lot of hard feelings in the neighborhood. After all we are striving to benefit the community not tear it apart to win a case.

Commissioner Hammond, I am sorry to have taken so long to make my statement and I appreciate your patience, so I'll conclude as briefly as I can.

The neighbors along Long Cove and North Point Creek, and the North Point Peninsula Community Coordinating Council speaking on behalf of the community, hereby pray that the petition for Nonconforming Use at 7767 North Point Creek Rd. be denied. We ask the Commissioner to refuse granting a Nonconforming Use Classification for Love's property as it does not meet the criterion as set forth in the Baltimore County Zoning Regulations. The failure of the owner to show proof that his property was used for boat rental, storage, boatyard or marina before March 30, 1955 and his failure to prove it's continued use since that time, as called for in the zoning regulations, leaves no doubt that Mr. Robert Love has no legal right to the Nonconforming Use classification. Thus we pray you to deny Mr. Love's petition.

Further, we would like to suggest that in the best interest of the public, that Mr. Love be ordered to remove all old piers and catwalks that were illegally constructed. These structures are unsightly and dangerous

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

a menace to the public. Also that Mr. Love be ordered to remove the boats that he presently has stored on the public roadway.

Respectfully submitted,

Pearl Gintling

Pearl Gintling President, North Point
Pen. Com. Coord. Council

P.S. If I may add:

In reference to the Aerial Photographs submitted as evidence. The photo Mr. Contrum submitted, dated in 1/4/54 shows the two boats tied up to Mr. Love's pier and no other visible boats. The photo, that we submitted dated 9/29/57 shows the same thing, two boats. Considering the time lapse of over 3 1/2 years, don't you see that this confirms what we have said all along. There were two boats, Mr. Love's boat and the tenant, Mr. Popkos boat, no others at 7767 North Point Creek Rd.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. W. E. Hammond
Zoning Commissioner Date: February 25, 1981

FROM: Norman E. Gerber, Director
Office of Planning and Zoning

SUBJECT: Petition No. 81-161-SPI Item 115

Petition for Special Hearing
Southeast side of North Point Creek, 209.30 feet Northeast of South Cove Road
Petitioner- Robert W. Love, Sr., et ux

Fifteenth District

HEARING: Tuesday, March 17, 1981 (9:30 A.M.)

In view of the nature of this request (e.g., status as non-conformance), this office has no comment; however, in reviewing the plan submitted by the petitioner, it would appear that the petitioner proposes to expand the existing operation.

NEG:JCH:ab

Norman E. Gerber
Norman E. Gerber, Director
Office of Planning and Zoning

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 6, 1981

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

cc: Nicholas B. Commodari
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Robert J. Romadka/John Contrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Item No. 115
Petitioner - Robert W. Love, Sr. et ux
Special Hearing Petition

Dear Mr. Contrum:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

The subject property, currently located at the termination of North Point Creek Road is improved with two (2) dwellings and the facilities of your clients' marina. Adjacent properties are zoned D.R.5.5, as is the subject property, and are improved with dwellings.

This hearing originates because of your clients' proposal to tear down the existing piers and reconstruct them in a different configuration but keeping the same amount of slips. The property was never granted a Special Exception for a marina, and your proposal is to prove that the existing use is nonconforming and to determine whether the piers can be torn down and reconstructed.

At the time of field inspection a number of boats were stored in the area at the termination of North Point Creek Road and not on the property. These boats should be removed and located on the subject property.

Particular attention should be afforded to the comments of the Health Department and revised comments of the Department of Permits and Licenses. If you require any additional explanation regarding same, you may contact Mr. Rob Powell at 494-2762 and Mr. Ted Burnham at 494-3987, respectively.

Item No. 115
Special Hearing Petition
March 6, 1981

Enclosed are all comments submitted to this office from the committee members at this time. The remaining members felt that no comment was warranted. This petition was accepted for filing on the date of the enclosed certificate and a hearing scheduled accordingly.

Very truly yours,

Nicholas B. Commodari
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NEC:bco

Enclosures

cc: Frank S. Lee
1277 Neighbors Avenue
Baltimore, Maryland 21237

Robert J. Romadka/John Contrum, Esquire
809 Eastern Boulevard
Baltimore, Md. 21221

cc: Frank S. Lee
1277 Neighbors Avenue
Baltimore, Md. 21237

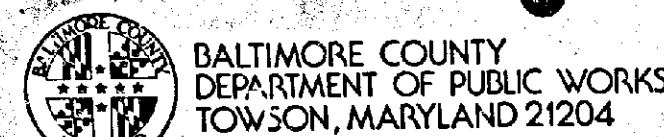
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing this 9th day of February 1981.

William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

Petitioner: Robert W. Love, Sr., et ux
Petitioner's Attorney: Romadka/Contrum

Reviewed by: *Nicholas B. Commodari*
Nicholas B. Commodari
Chairman, Zoning Plans
Advisory Committee



HARRY J. PISTEL, P.E.
DIRECTOR

January 29, 1981

Mr. William E. Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #115 (1980-1981)
Property Owner: Robert W. & Isabel Love, Sr.
S/ES North Point Creek Rd. 209.30' N/S South Cove Rd.
Acres: 0.44 Acres District: 15th

Dear Mr. Hammond:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Baltimore County highway and utility improvements are not directly involved as the buildings exist and no new building permits are required on land.

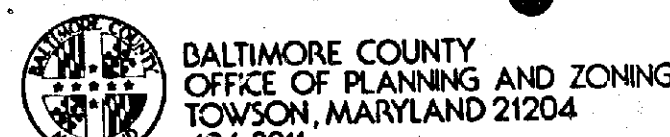
This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 115 (1980-1981).

Very truly yours,

Robert A. Morton
ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RAM:RAM:FW:ISS

A-NE Key Sheet
27 SE 33 & 34 Pos. Sheets
SE 7 I Topo
111 Tax Map



NORMAN E. GERDER
DIRECTOR

March 5, 1981

Mr. William Hammond, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #115, Zoning Advisory Committee Meeting, December 16, 1980, are as follows:

Property Owner: Robert W and Isabel Love, Sr
Location: SE/S North Point Creek 209.30' N/E South Cove Road
Acres: 0.44 acres
District: 15th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

This petition meets the requirements of the Division of Current Planning and Development.

Very truly yours,

John L. Wimbley
John L. Wimbley
Planner III
Current Planning and Development

HLW:rh



DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE & COUNTY HEALTH OFFICER

January 16, 1981

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #115, Zoning Advisory Committee Meeting of December 16, 1980, are as follows:

Property Owner: Robert W. & Isabel Love, Sr.
Location: SE/S North Point Creek 209.30' N/E South Cove Rd.
Existing Zoning: D.R. 5.5
Proposed Zoning: Special Hearing to approve a non-conforming use for a marina and residence.
Acres: 0.44 Acres
District: 15th

The marina is presently served by metropolitan water and sewer.

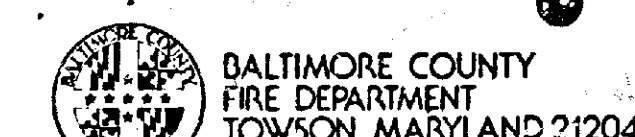
The proposed alterations and additions to the marina must be in compliance with all requirements as set forth by Article VIII (Sanitary Requirements for Boat Marinas), Sections 13-9, thru 13-101 of the Baltimore County Code, 1978 Edition. Also note that Section 13-96 (toilet facilities at marinas) specifies number and location of onshore toilet facilities depending upon location of docks and number of boating slips. It is recommended that prior to application for a building permit, the owner contact the Eastern Regional Health Center, Environmental Services Division (687-6500) and arrange for an inspection to determine if any additional toilet facilities will be necessary.

It is recommended the owner contact Maryland Department of Natural Resources, Water Resources Administration (Taves State Office Building, 580 Taylor Avenue, Annapolis, Maryland 21401) to determine if a State Wetland License is required. The owner should also contact U.S. Army Corps of Engineers (Permits Branch, Baltimore District, P.O. Box 1775, Baltimore, Maryland 21203) to determine if a Private Wetland Permit is required.

Very truly yours,

Isa J. Pyrest
Isa J. Pyrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJP/mw



PAUL H. REINCKE
CHIEF

January 27, 1981

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Robert W. & Isabel Love, Sr.

Location: SE/S North Point Creek 209.30' N/E South Cove Road

Item No.: 115 Zoning Agenda: Meeting of Dec. 16, 1980

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

() 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

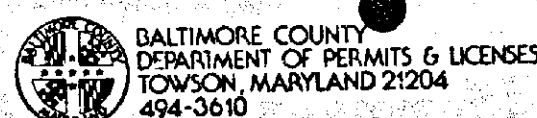
() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

Reviewed: *George M. Kaganoff*

Noted and Approved: *George M. Kaganoff*
Fire Prevention Bureau

/mb



TED ZALESKI, JR.
DIRECTOR

January 16, 1981

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #115 Zoning Advisory Committee Meeting, December 16, 1980 are as follows:

Property Owner: Robert W & Isabel Love, Sr.
Location: SE/S North Point Creek 209.30' NE South Cove Road
Existing Zoning: D.R. 5.5
Proposed Zoning: Special Hearing to approve a non-conforming use for a marina and residence.

Acres: 0.44
District: 15th

The items checked below are applicable:

X A. All structures shall conform to the Baltimore County Building Code 1978, the State of Maryland Code for the Handicapped and Age, and other applicable Codes.

X B. A building/_____ permit shall be required before beginning construction.

X C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is not required.

D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.

E. In wood frame construction an exterior wall erected within 6' 0" of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3' 0" of lot line. A minimum 8" masonry firewall is required if construction is on the lot line.

F. Requested variance conflicts with the Baltimore County Building Code, Section/s _____

G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.

H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed complies with the height/area requirements of Table 305 and the required construction classification of Table 211.

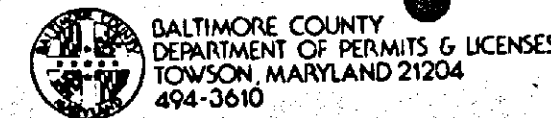
X I. Comments: All new or proposed construction of buildings shall comply with Section 319.0 of Bill 199-79.

NOTE: These comments reflect only on the information provided by the drawing submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit.
If desired additional information may be obtained by visiting Room #122 (Plans Review) at 111 West Chesapeake Ave., Towson.

Very truly yours,

Charles E. Burman
Charles E. Burman, Chief
Plans Review

CEB:rrj



TED ZALESKI, JR.
DIRECTOR

March 4, 1981

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #115 Zoning Advisory Committee Meeting, March 3, 1981 are as follows:

Property Owner: Robert W & Isabel Love, Sr.
Location: SE/S North Point Creek 209.30' N/E South Cove Road
Existing Zoning: D.R. 5.5
Proposed Zoning: Special Hearing to approve a non-conforming use for a marina and residence.

Acres: 0.44
District: 15th

The items checked below are applicable:

X A. All structures shall conform to the Baltimore County Building Code 1978, the State of Maryland Code for the Handicapped and Age, and other applicable Codes.

X B. A building/_____ permit shall be required before beginning construction.

C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is not required.

D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.

E. In wood frame construction an exterior wall erected within 6' 0" of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3' 0" of lot line. A minimum 8" masonry firewall is required if construction is on the lot line.

F. Requested variance conflicts with the Baltimore County Building Code, Section/s _____

G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.

H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed complies with the height/area requirements of Table 305 and the required construction classification of Table 211.

X I. Comments: Sanitary sewerage lines and connections shall be inspected for compliance to the plumbing Code before a permit for the proposed plan is issued. The owner should call Mr. Vernon Bucher at 409-3800 for an inspection. Section 101.3, 110.1, 101.1, 101.2

NOTE: These comments reflect only on the information provided by the drawing submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit.
If desired additional information may be obtained by visiting Room #122 (Plans Review) at 111 West Chesapeake Ave., Towson.

Very truly yours,

Charles E. Burman
Charles E. Burman, Chief
Plans Review

CEB:rrj

Dear Mrs. Shilling

Yes, we were surprised to receive your letter and hope our answer may help you in your fight to stop the proposed marina.

[Mr. Papko moved to 7705 North Point Creek Road in the early part of 1951, I moved there when we married, April 4, 1952. At that time, and for the next eight years, until December 1960, Mr. Love did not store any boats at his property.

We understand from some of the neighbors on North Point Creek Road that after we moved he started storing boats and putting in a marina.

My husband had a 16 foot run about that he used, but other than that and Mr. Love's boat there were no others on the

property or tied up to the pier.]

We can understand the peoples concern in this matter as the creek is small, and certainly another marina is not needed.

Now Mrs. Shilling may I ask you a question? I am sure Edna Kopakey has told you, I was a resident of Todd's Farm, with my family the Harrisons. We moved there in 1943, my parents left in August of 1956, and are now here in Baltimore, enjoying the year around sun shine and good health since retiring. There was a family on the "B" on Todd's Farm named Shilling and they raised a boy named Marvin Lawrence, we attended Fort Howard school and graduated from Sparrow Point in '58. Marvin went into a religious order and years ago we heard he was living in Switzerland.

Are you doing any chance related

to these things? Do you know
how we could write to him?

My mother and father always
thought so much of him, and he
was one of the nicest young men
in my class.

Would certainly like to get in
touch with him, if you can be of
any help, would certainly appreciate
any information you can give.

Do hope my letter will help
you and the people of Lodge Farm.
If we can be of further help, please
don't hesitate to ask our assistance.

Sincerely
Walter and
Lillian Popko

MICROFILMED

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

7718 North Point Creek Rd.
Baltimore, Maryland 21219

REBUTTAL.....Case No. 81-161 SPH

A- Statement of the Case

- 1) This case arises as a result of action taken by the North Point Peninsula Community Coordinating Council and neighbors of Mr. Love, in complaints of zoning violations June 1960 and subsequent Zoning Violation Hearing-- 81-68V, set for Sept. 8, 1960 and after several postponements was held Dec. 12, 1960. The zoning violation hearing and the fact that Mr. Love was ordered to stop construction is what prompted this case 81-161 SPH and not Mr. Love's instigation.

B- Statement of Facts

- 1) While the first part seems correct, I find the next paragraph misleading.
- 2) The legal description of this property as registered with Baltimore County Tax Assessment Office is a "Dwelling \$6,850.00, Apartment over Garage \$2,550.00, Pier \$600.00. This information, which was bought out at the Hearing, is very important as it points out the real value of the property and the numerous piers or catwalks as described are not legal structures (all built without permits from Balto. Co. or the Army Corp. of Eng.) so should not be allowed as a Statement of Fact in this case.
- 3) Although we all admitted to some siltation in Long Cove, it is not as severe as claimed here. At the most only about 1 to 3 inches. The creek is used by other residents, the Godwins, Daffrons, Mills etc. the same as it always was and some of them have boats as large as Mr. Love's.

MICROFILMED

PAGE 2

REBUTTAL..... Case No. 81-161 SPH

As for water being blown out of the creek, that is a condition that has always existed. It is an unusual occurrence that happens maybe once a year and affects all of the creeks in the area including Old Road Bay. No matter where boats are moored they are on bottom.

- 4) While the description of Long Cove during the 1940's and 1950's may be partially accurate, the implication that "small craft could be run up on beaches" and "larger craft would anchor to stakes located on a sandbar at the mouth of Long Cove", is purely conjecture, what could be, not a fact. Mr. Contrum referred to seeing the sandbar in the 1955 picture (Pet. Ex. 6) however he fails to mention the fact that there are no boats at that sandbar or in Long Cove at Loves. The bulkhead and piers that are described here were not erected in the 40's or 50's. Petitioners Ex. 1 Zoning Case 65-12V, notes recorded by Commissioner Rose on file cover and inspectors report state that boats and piers started after the bulkhead, which was about 1960.

- 5) Mr. Love might have testified to the claimed uses in this paragraph but he had no PROOF to back up his claim. We only have Mr. Love's opinion as to the property use before he purchased it. As for his charter fishing service, he had no log showing entries of time, date and destination (which boat captains keep) of such charters. Mr. Love had no receipts for rentals of boats or storage either, so how can he claim to be operating such a business. I don't think he can. Furthermore, the Popko family that rented the property from Mr. Love from 1951 to Dec. 1960 lived there and used the property as a residence. The "crabbing operation" as described by Mr. Contrum seems like a big commercial operation; while in fact they might have sold crabs from time to time, just like most waterfront people do at some time, but this was hardly a "crabbing operation". As stated at the hearing, during the ten years the Popko

MICROFILMED

PAGE 3

Case No. 81-161 SPH

family lived at 7767 North Point Creek Rd. there was no boatyard or marina operations there. If you remember, I tried to introduce a letter from the Popko family, now living in California, but was not allowed. As for the statement that at no time did Mr. Love permit boat repairs to be made, this is untrue because although he had been ordered by Com. Rose not to allow boat repairs (Pet. Ex. 1) boat repairs have been done constantly as the protestants testified at the hearing, and are in fact still being done.

- 6) The term "over the years" is a very broad statement, what years? I object to its use here as it is an infinite connotation and sounds as though boats have been stored at the site forever, which is false. Since there is only substantial proof of boats rented or stored at this location since 1962, we can only agree to the listed uses in this paragraph after that date. We contend that no such use was made of the Love property prior to 1962. I'd also like to point out that should Mr. Love have piers extending from the corners of the property as Mr. Contrum says, he is in violation of Section 417.1 of the Baltimore Co. Zoning Regulations, which limits construction to ten feet from property line.
- 7) Mr. Contrum's description of the permit issued by the Army Corp of Engineers is not accurate. He claims the permits were to "rebuild and replace existing piers", while in fact the permit states "construct a 50 foot pier with a 40 foot L and a 12 foot catwalk; to construct a 45 foot pier with a 188 foot L and seven 12 foot catwalks (all new construction) and to rebuild an existing 85 foot pier and to construct a 117.5 foot L with four 12 foot catwalks; and to install 25 mooring pilings etc. There is only one structure, the 85 foot pier, in this permit that is being rebuilt. The rest is new construction. The design of the piers triples Mr. Love's

MICROFILMED

PAGE 4

Case No. 81-161 SPH

capacity. Again Mr. Love testified to continuous and uninterrupted use, which we the protestants claim is not true.

- 8) Mr. Fisher testified that he had been a resident of Long Cove since 1935, this is not true. Mr. Walter Fisher, who held the title of "King of the Hobos" and is known locally as a colorful character and teller of wild stories, appeared in court to testify for Mr. Love. Apparently on this particular day he was portraying his "Gary Cooper character" with his cowboy hat and boots and his "yup" and "mup" answers. His recollections were so vivid of the Love property, yet the man didn't even know the correct date as to when he became a resident on South Cove Rd. Mr. & Mrs. Jay Fisher, Walters parents, bought the property on South Cove Rd. July 24, 1937 according to the deed. It took about a year to build the house so the family moved into their new yet unfinished home in May 1938. This information is from the Fisher family records. While I tried to avoid hurting anyone's feelings, I find that I must inform you of this person's character as I feel this witness should not be given any credence.
- 9) Mr. DeArment's testimony, as stated in my closing statement, proved nothing. He said he had rented a boat once during the 40's, this hardly establishes a use. Mr. DeArment has been a lifelong friend of Mr. Love so naturally he is going to try to help him.
- 10) The Petitioners Exhibits-- There were no Exhibits to prove, depict and describe the prior use of the property. The zoning file Pet. Exhibit 1, DID NOT "reflect the fact that at that time the property was used extensively for a marina". In fact the file states boats started first report summer 1962. A letter in the file from Mr. Daffron, dated May 23, 1964 states that there was, "visual proof of more than six boats" by that time. Baltimore Co. Building Inspector Richardson reported, "four or five boats June 10, 1964." By, "July

MICROFILMED

PAGE 5

Case No. 81-161 SPH

31, 1964 there were seven cabin type boats, two runabouts and two row boats in the water; on land one runabout on trailer, one rowboat on trailer, one row boat on ground". Petitioners Exhibit 1 shows very clearly the step by step progression of the illegal establishment of a boatyard by Mr. Love in a residential zone (as recorded on the Building Insp. Zoning Report in file, Pet. Ex. 1) from the first report in 1962 to date of hearing July 64. No where in the complete file is there any indication of the "extensive use for a Marina" at the Love property. In fact there is no mention or use of the term Marina or Boatyard anywhere in the file. Here again Mr. Contrum is not stating facts, the property was listed in the file as R6 residential.

Although Mr. Love may have finally requested a hearing in 64, it only came about because zoning violations were found on his property. Mr. Contrum's assumption that "Com. Rose apparently found the marina use acceptable but forbid any use of the property as a boatyard" couldn't be farther from the facts. Zoning Com. Rose ordered, "Captain Robert W. Love is hereby directed that he is not to make any repairs except on his own boats. Only tenants that may rent or sub-rent the property from Captain Love may repair boats at the subject property. Captain Love is further directed to keep the number of visitors to a reasonable minimum; which restricts the property to normal residential waterfront use. Com. Rose made reference only to tenants and visitors and in no way found or inferred an acceptable Marina use.

- 11) Petitioners Exhibit 5, the aerial photograph shows only one pier into North Point Creek. The claimed pier and ramp into Long Cove are not visible.

MICROFILMED

- 12) The pictures submitted by Mr. Daffron; Ex. 2A taken in 47 shows exactly what he said, that there was no construction into Long

PAGE 6

Case No. 81-161 SPH

Cove and the other pictures submitted by Mr. Daffron show exactly what he claimed and not as Mr. Contrum says, "appears to indicate" anything. After all Mr. Daffron lives directly across the cove, 364 feet from the Love property, so he certainly knows what was there. During Mr. Contrum's questioning of Mr. Daffron there was agreement that there was a ramp in Long Cove now but he did not say it was there at the time of those pictures.

- 13) The pictures introduced by Mrs. Godwin may have indicated piers and boats in Long Cove but as stated at the hearing, they were not on Loves property. Those boats and piers were on neighboring property. Also, Mr. Contrum claims the pictures "appear to depict stakes in the water off the sandbar", here again he is claiming to see something that is not there.
- 14) The name is Gintling. When Mr. Contrum referred to my testimony he said, "She later conceded that the picture exhibits might show construction in Long Cove earlier than her recollection allow", apparently he interpreted what I said as meaning something other than what I meant. When we were discussing the pictures I told Mr. Contrum that he might claim all kinds of things showed in the pictures but that did not make it a fact.

C- Discussion

C-I The Petitioners HAVE NOT established the existence of a non-conforming use of a Marina in a residential zone.

- 1) The petitioners have offered NO PROOF of the use of 7767 North Point Creek Rd. since the early 1940's or the 1950's as they claim, and the burden of proof is upon their shoulders. The protestants on the other hand, have offered proof, the zoning file (Pet. Ex. 1) of the 64 hearing, pictures, testimony, information from Balto. Co. Tax records, etc. to prove this use did not exist prior to early 1960's. Therefore the property does not qualify under section 104.1

MICROFILMED

PAGE 7

Case No. 81-161 SPH

Baltimore Co. Zoning Regulations. Further, there was no proof of a continuous use of the property as a boatyard or marina after the passage of either the 1945 Balto. Co. Zoning Reg. or the 1955 B.C.Z.R. as required by section 104.1. Here again, the Love property does not comply with B.C.Z.R. so can not be classified as a non-conforming use.

- 2) Mr. Contrum referred to Section 13.18 of the 1945 B.C.Z.R., special permit was needed for boatyard operation in resid. zone. There was never a special permit granted for this property. He goes further to note- no definition was given for the term "boatyard". This is probably because there were not very many boat rental, docking and storage facilities in Balto. Co. at that time and the ones that were around were just called Boatyards. Mr. Contrum notes "no mention was made of a Marina use". The reason it wasn't mentioned is due to the fact that the term was not used in this part of the country at that time. The term marina which originated in California and Florida and indicated a more luxurious facility than a boatyard, didn't come into use in this area until about twenty years ago. Thus the definition of marina in the 63 revised B.C.Z.R. and not before.
- 3) Section 200.6 of the B.C.Z.R. did permit as a right in any residential zone certain civic, social, recreational and educational activities of the community. This section hardly refers to the use Mr. Love made of his property, as there was no consideration of the community in that operation. Mr. Love went into the boatyard business to make money for himself, not for any community enrichment.

Section 200.15 of the same 1955 Zoning Regulations "Special Exceptions: The following uses when permitted as Special Exceptions- Airport; Boarding or rooming houses; Boatyard and or Marine rail yard. This section deals specifically with Boatyards which is the use that

MICROFILMED

Case No. 81-161 SPH

- Mr. Love claims he had. The word marina was not used anywhere in the 1955 B.C.Z.R., as I explained before, the term wasn't used here.
- 4) County Council Bill 64, enacted in 1963 does define boatyard and marina but Mr. Contrum is not accurate again as he has included BATHING in both definitions. The actual wording is suppose to be Berthing, which makes a big difference. The Bill also lists boatyard and marina uses by "Special Exception" which Mr. Love does not have and never had.
- 5) In Zoning Case No. 65-12V Commissioner Rose was not considering the property of Love's Marina, the word marina was never used. That hearing was scheduled due to a zoning violation in a residential zone. There was considerable evidence produced by the Zoning Inspector and Mr. Daffron, proving that the zoning violations did indeed exist. I would like to know where in that zoning file (Pet. Ex. 1) did Mr. Contrum get the information that Mr. Love did not deny that he rented space for boats but did deny that he operated a boat yard? It is not recorded in that document.
- That 64 hearing which was a Zoning violation, due to zoning violations in a residential zone, came about because of the repeated complaints of the neighbors and evidence of violations found by the Balto. Co. Buildings Inspector. Mr. Love didn't seek out a hearing to establish the legality of the operation. He was trapped and, according to the Inspectors report, "would like to have a hearing so that he would know exactly what he can do there".
- 6) Commissioner Rose did not feel that the "Marina operation" constituted a non-conforming use. Had this been the case Com. Rose would have sited the non-conforming use from the B.C.Z.R. in his decision and orders. Com. Rose did not permit Mr. Love to allow others to keep their boats on the subject property nor did he permit the "marina" operation to continue. Com. Rose clearly ordered "Captain

Case No. 81-161 SPH

- Robert W. Love is hereby directed that he is not to make any repairs except on his own boats. Only tenants that may rent or sub-rent the property from Captain Love may repair boats at the subject property. Captain Love is further directed to keep the number of visitors to a reasonable minimum. This order does not permit Mr. Love to use his property for a boatyard or marina. Com. Rose is simply restricting him to the normal residential waterfront uses under the R-6 classification and even directs him to keep his visitors at a minimum to help protect the community.
- 7) While we agree that the Zoning Commissioner in Case No. 65-12-V is entitled to great weight in this case, we can not agree when Mr. Contrum states "The evidence of Marina use was clear and uncontroverted". This statement is not true and circumvents the actual facts. The evidence clearly shows that zoning violations of boat storage at the residential site started in early 60's and in no way implies such a use as a marina. The County and the Protestants at that 64 hearing testified of zoning violations and no mention was made of any marina use.
- 8) Everyone agreed that Mr. Love has kept boats on his property since 1964 but we also insist that this use was not legal. *The record shows 14 boats on the property in 64.*
- 9) No one agreed that Mr. Love had full facilities and utilized same for a marina prior to the 1963 zoning law change. Where did this unanimous agreement come from? The evidence at the hearing and the file of Case No. 65-12-V clearly shows the problem began with a few boats in 62, there were no "full facilities and utilized same for marina". It wasn't until 1964 that the operation expanded enough that the violations became apparent to the Co. Inspector and Mr. Love was sited for zoning violations. These violations included boats in water and on land - "using ramp and storage of boats" (Building Insp. Report... Case No. 65-12-V file) which at that

Case No. 81-161 SPH

- time would have been considered an attempt to establish a boatyard. I'm amazed at the next part of this paragraph, for Mr. Contrum to try to say that "Mr. Love" intended to serve as a public recreational facility is pure rubbish. He is really reaching when he tries to indicate that Loves property fall within the permitted uses of Section 200.6. First, Loves property was not being used as a boatyard/marina when the 1955 B.C.Z.R. were enacted. Secondly, as a matter of fact Mr. Love had no regard for the community or his neighbors when he disregarded the law and began this boatyard in a residential community. This facility was for profit, a commercial business so the property does not qualify under this section (200.6). However, as I noted earlier in C-I-3, Section 200.15 of the same B.C.Z.R. deals specifically with boatyards and requires a Special Exception which Mr. Love did not get.
- The definition of Marina in 1963 states, "A modern boat basin, restricted to recreational marine craft of all types, etc", which means that any commercial or work boats are excluded from its use. There is no mention of intent in that definition to indicate any "theme of public recreation". Evidently Mr. Contrum doesn't understand Marina and Boatyard uses, as anyone familiar with those operations know that they are strictly a commercial business.
- While there may have been no prohibition against a public facility in 1955 or the 1945 zoning regulations, this use does not apply to the Love property. There has never been any proof given at either the 64 hearing Case No. 65-12V, or the present hearing that established the property use prior to the early 60's, therefore the claimed use as a public facility in 45 and 55 must be disregarded on this evidence.
- Again, there is a claim of an existing marina antedating the 1963 Bill No. 64. This is a false statement. The evidence in Case

Case No. 81-161 SPH

- No. 65-12-V (Pet. Ex. 1) states the property was in violation of a residential zone, Marina was never mentioned. Commissioner Rose's order did not find a non-conforming use, in fact no such use was claimed or even mentioned.
- 10) I have to disagree with Mr. Contrum's claim that testimony and exhibits introduced at the hearings indicate the existence of a continuous Marina use before 1945. What evidence is he talking about? What evidence, testimony or exhibits, documentary or photographic did he produce to PROVE the continuous use of the Love property either before or after 1945? There really was None. His only exhibits were pictures showing the boatyard at present and an aerial photo. that only showed the pier in North Point Creek with two boats, Mr. Loves and Mr. Popkos, secured. While the testimony of Mr. Love "claimed" the continuous use it was just that, a claim. Mr. Love was in a position where he had to claim such use but that does not make it a fact nor the truth. Remember, Mr. Love lied on the witness stand when he said, under questioning as to why he didn't have permits for his property, that the community fought against him. The truth of the matter is he never applied, he just did whatever he pleased, setting himself above the law.
- As for Mr. Fisher, how can any credence be given to his testimony? Mr. Daffron, while he tried to help his friend his testimony didn't prove a thing. Since I have already rebutted these witnesses earlier in this statement, I MUST emphasize here, they proved nothing. The one witness we couldn't figure out was Mr. Iman, however since the hearing we have discovered his interest in this property so it's clear to us as to why he appeared for Mr. Love. Even so, his testimony didn't prove anything either as he testified as to what "could" have been.
- I would also like to add here that the claim of "Boats were rented

Case No. 81-161-SPH

- from the premises prior to 1945; boats were stored both in the water and on land prior to 1945, and the use has without interruption continued since that time", was not substantiated by any proof or evidence and in fact is not a true statement.
- 11) Petitioners Attorney is completely out of line when he tries to discredit the protestants. The only confusion at the hearing was Mr. Contrums when he was badgering Mr. Daffron in his attempt to get him to make a statement about a ramp on the property. The Protestants at this hearing were being honest and tried to be as accurate as one can be trying to recall things that happened 20, 30 and 40 years ago. After all, we were not primed as to what we were suppose to say and we had no attorney to make sure we said the "right things". This is just another tactic of Mr. Contrums to throw up a smoke screen to cloud the issue and to cover up the fact that he lacked real evidence for Mr. Love. The pictures referred to showed exactly what the protestants said, after all they lived there and surely knew what conditions existed. Mr. Contrum tried to suggest the pictures showed things that weren't there purposely to try to confuse the witnesses. The witnesses were firm in their testimony, that from 1953 when Mr. Daffron became a resident and in 1959 when Godwins moved in, there were no boats other than a boat belonging to Mr. Love and one owned by Mr. Popko in the water or stored on land at the Love property. This evidence plus the information in the zoning file (Pet Ex. 1) showing that zoning violations were found and that the problem began in 1962 when Mr. Love started bringing in boats, confirms the fact that non-conforming use can not be claimed in this case.
- 12) The petitioners evidence should be reviewed with contempt because every structure along that shoreline is unlawful, as well as the business conducted thereon.

Case No. 81-161-SPH

- C II. Petitioner does not enjoy the non-conforming use and facilities can not be repaired or replaced as they are in violation of the law.
- 1) Mr. Love has no right to replace the structures that are not even suppose to be there and further the property is residential and under B.C.Z.R. such structures or facilities are not permitted. While there was no dispute that there has been a certain amount of siltration possibly 1 to 3 inches at the most in Long Cove, we never said that the cove has become "very shallow". All of the residents along the cove still keep their boats moored to their piers just as they have always done and they aren't having any problems. The use of the cove has not changed. The so-called "declining depth" is certainly not endangering any boats moored at Mr. Loves now since he still has them tied up to the bulkhead just as he always does. If he feels those boats are endangered surely he would tie them to the end of his catwalks in deeper water.
- 2) The petitioners site plan, when checked against the knowledge of the value of every possible foot of water and dockside storage, shows a great discrepancy. There is much more than the Petitioner describes or admits. As for restrictions, Mr. Love didn't abide by Baltimore County Zoning Laws or the Commissioners Order before and he is certainly not going to change now.
- 3) The proposed plan makes it very clear that Mr. Love is increasing his possible capacity to Triple his present size. Mr. Love shows no use for three areas on his site plan which we all feel will be utilized. The proposed plan shows a 40 foot by 140 foot and a 40 foot by 40 foot area between the bulkhead and the "L" on his two piers into Long Cove, and a space of 60 by 100 feet between the "L" and bulkhead in North Point Creek. In these three areas Mr. Love could accomodate about fifty more boats than the site plan shows. It is very obvious that these valuable areas are going

Case No. 81-161 SPH

- to be utilized by Mr. Love, his heirs or assigns, and this is another reason why the community is so opposed to the establishment of this marina.
- Mr. Contrum argues, "This is not a case where over the years only one particular pier has been used and now a new pier is constructed in addition, etc.", but in reality it is the case as there is only one legal pier on the site.
- 4) To imply that Mr. Loves predecessors provided space for any boats is completely unsubstantiated and not based on the facts. While Mr. Love may have over the past 15 or 18 years provided space for an increasing number of boats to the possible 20 boats at the present time, he in NO way began that way. Judging from the information in the Zoning file Case No. 65-12-V both the use and capacity of the property has changed exceedingly since the stated use at that time. According to the file, Inspector Richardson found no violation in 63 because there were no boats there at that time. Mr. Daffrons letter, May 64 indicates six boats; Insp. Richardson found four or five June 64 when violation was found to exist. Mr. Love has continued to increase the capacity of his facility everytime he put out another catwalk or pier. Mr. Contrum sure has no concept of the waterfront and its uses, and he also shows how little he knows about his client when he assumes that because of a site plan Mr. Love will agree or comply with anything. He didn't keep his agreement with his neighbors before or abide by the Zoning Commissioners order before, why should he now? The people who know him feel that he wont.
- There can be no expansion or intensification of a non-conforming use for this property as again I repeat, it does not enjoy non-conforming use as set forth in Section 104.1 B.C.Z.R. 1955, or any prior B.C.Z.R.

Case No. 81-161-SPH

- 5) "Facilities for the storage of boats in the water have existed prior to 1945", this is a very broad statement, in reality I guess we could say that such facilities have existed in the water, now known as Long Cove, for thousands of years and were used by the Indians. Here again Mr. Contrum is reaching.
- Section 104.1 does address itself to replacement of non-conforming business or manufacturing structure. Those structures and facilities on the Love property are strictly a commercial business for Mr. Love: not a recreational facility but a boatyard/marina. The issue here is clearly a violation of the B.C.Z.R., an illegal operation in a residential zone; therefore does not qualify under 104.1 non-conforming use and certainly does not meet specifications as set forth in Sect. 200.6 and 200.15
- The proposed facility would not enhance the neighborhood, instead it would create many problems for this community. Our roads are narrow and there is very limited access, so would become hazardous with additional traffic. The noise and debris in such a small area would cause problems with the neighbors. The proposed marina on this corner would create a dangerous situation for the children who boat and swim in the creek. Residents of the area are aware of the children and watch out for them but customers of a Marina are not so careful. Their aim is to get out to their fishing or party spot as quickly as possible and they return exhausted in a hurry to dock. Older residents have invested their lifelong income into a home here planning to enjoy the quiet residential community. New residents who have just built expensive new homes across from this proposed marina are concerned at the property devaluation this would cause. For the above reasons, this facility would be very objectionable and definitely not conform to our residential scheme.

D- Conclusion

In conclusion, I must say Mr. Gontrum has done a most remarkable job of twisting words and implying circumstances to attempt to make a case for his client. In spite of this however the facts in this case prove an illegal use has been made of this property since 1964 Zoning Hearing, Case No. 65-12-V and the file shows violations for the two previous years.

That No non-conforming use exists and No special exceptions were ever granted to permit such use.

That the Petitioner can not submit a site plan for the proposed marina, under existence of non-conforming use since he does not enjoy that use.

The burden of proof is the petitioners responsibility and he has failed to present such proof.

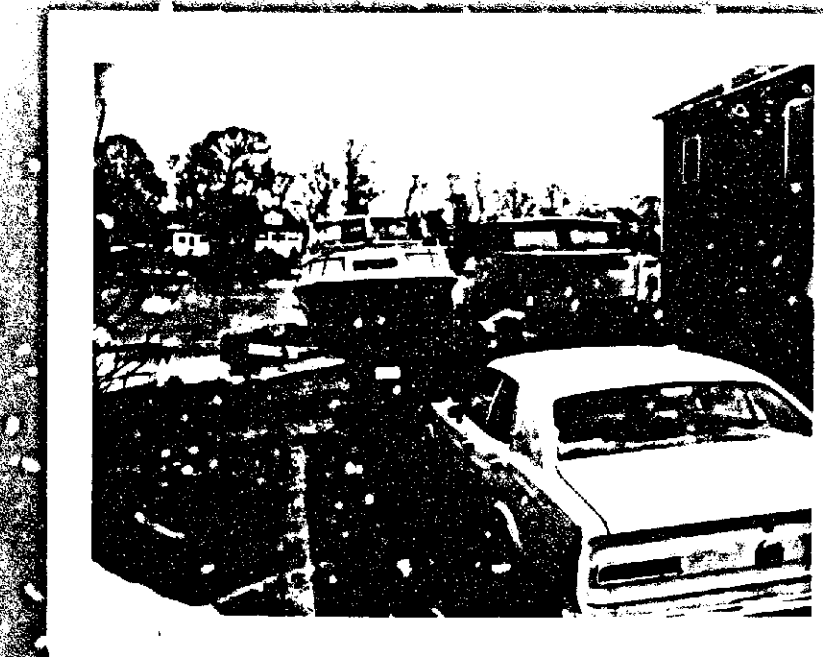
Further, the facts in this case prove that the petitioner has no rights to use 7767 North Point Creek Rd. or any part there-of for any use other than residential.

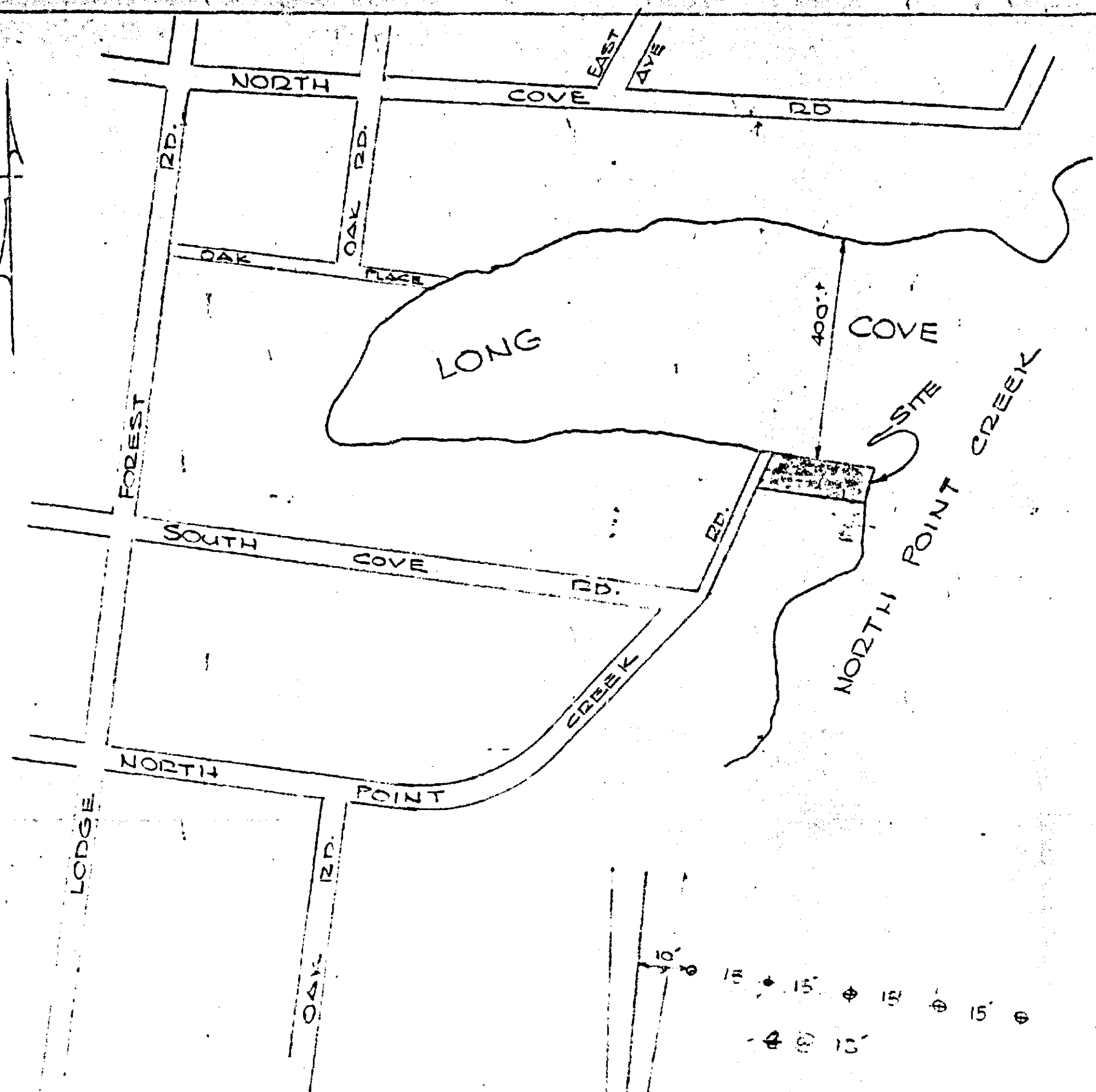
Respectfully submitted,

Pearl L. Gintling

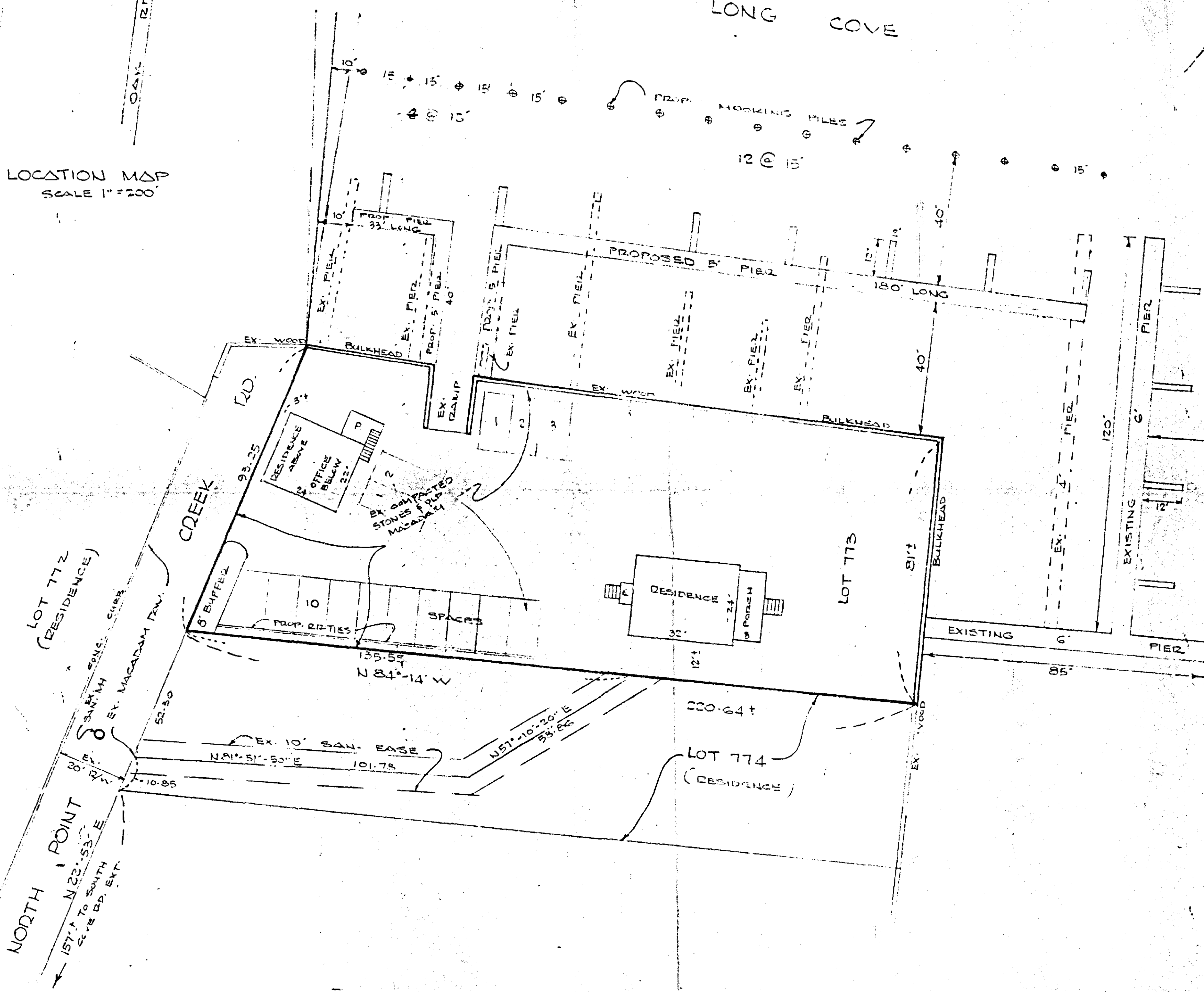
Pearl L. Gintling ...Pres. N.P.C.C.C.

P.S. In addition to the comments in this statement, I would like to point out that Mr. Love has not complied with and is in violation of the entire Section 417 Waterfront Construction (Bill No. 64, 1964) Baltimore County Zoning Regulations.





LOCATION MAP
SCALE 1"=200'



NORTH POINT CREEK

EXISTING USE - MARINA & RESIDENCE
PROPOSED USE - SAME
EXISTING ZONING - DR 55
PROPOSED ZONING - SAME
AREA OF LOT - 0.41 Ac.±

PARKING DATA

RESIDENCES - 3 EX. SPACES
CUSTOMERS - 12 EX. SPACES

No. OF EXISTING SLIPS - 23
No. OF PROPOSED SLIPS - 23
No. OF BOATS TO BE STORED OUT OF WATER - 8

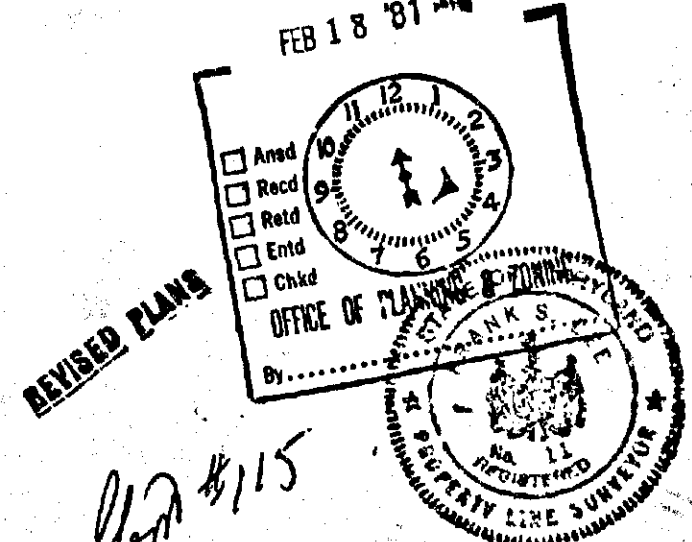
OWNER

ROBERT LOVE SR.
1167 NORTH POINT CREEK RD.
BALTIMORE, MARYLAND 21219

LOT 773 REVISED PLAT
LODGE FOREST

PLAT BOOK 8/86-87
15TH DISTRICT BALTIMORE COUNTY, MARYLAND
SCALE: 1"=20'

DATE: 11-21-80



FRANK S. LEE
1277 NEIGHBORS AVE.
BALTIMORE, MD. 21227

PUBLIC WATER & SEWERAGE NOW SERVED HOT